

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

RECEIVED

JAN 02 2015

S.C. Supreme Court

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

v.

ADAMS GIBSON,.....RESPONDENT.

APPENDIX

JEREMY A. THOMPSON
Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
(803) 779-2555

ATTORNEY FOR RESPONDENT

ALAN WILSON
Attorney General

MARY WILLIAMS LEDDON
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

INDEX

Trial Transcript.....	1
Court of Appeals Opinion (Direct Appeal).....	1045
Brief of Petitioner (Direct Appeal).....	1055
Brief of Respondent (Direct Appeal).....	1072
Supreme Court Order (Direct Appeal).....	1099
Remittitur (Direct Appeal).....	1101
PCR Application.....	1102
Return.....	1109
Amended PCR Application.....	1115
PCR Hearing Transcript.....	1117
Memorandum (Applicant).....	1193
Memorandum (State).....	1212
Proposed Order of Dismissal (State).....	1222
Order Granting PCR.....	1244
Motion to Reconsider.....	1271
Return to Motion to Reconsider.....	1276
Order Denying Motion to Reconsider.....	1281
Clerk's Records.....	1282
SCDC Records.....	1287

1 THE COURT: ANYTHING ON THOSE QUESTIONS ASKED BY THE
2 SOLICITOR, MR. ROBERSON?

3 MR. ROBERSON: NOTHING, YOUR HONOR.

4 THE COURT: MR. JOHNSON?

5 MR. JOHNSON: NO, YOUR HONOR. THANK YOU.

6 THE COURT: YOU MAY STEP DOWN, SIR.

7 THE WITNESS: OKAY. THANK YOU. I CAN LEAVE?

8 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED,
9 SOLICITOR?

10 MR. LAKE: YES, SIR.

11 MR. ROBERSON: I NEED A CONTACT NUMBER, YOUR HONOR.

12 THE COURT: ALL RIGHT, SIR. DO YOU HAVE THAT,
13 SOLICITOR?

14 MR. LAKE: YES, SIR.

15 THE COURT: ALL RIGHT, SIR. MR. DAVIS, YOU ARE FREE TO
16 GO, BUT YOU HAVE NOT BEEN RELEASED FROM YOUR SUBPOENA. YOU
17 MIGHT BE CALLED BACK BY EITHER THE STATE OR THE DEFENSE. DO
18 YOU UNDERSTAND THAT?

19 THE WITNESS: YES, SIR.

20 THE COURT: THANK YOU VERY MUCH.

21 THE WITNESS: ALL RIGHT.

22 THE COURT: ALL RIGHT. YOUR NEXT WITNESS, SOLICITOR.

23 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL ANTONIO
24 SMITH.

25 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

1 THE COURT: YES, MA'AM.

2 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE:)

3 MS. CAMPBELL: I JUST WANTED TO MAKE SURE I HAD ENOUGH
4 WITNESSES. I DIDN'T KNOW HOW LONG YOU WANTED TO GO.

5 THE COURT: HOW MANY MORE DO YOU HAVE?

6 MS. CAMPBELL: THREE OR FOUR.

7 THE COURT: YOU'VE GOT PLENTY.

8 MR. JOHNSON: YOUR HONOR?

9 THE COURT: YES, SIR.

10 MR. JOHNSON: WOULD YOU PLEASE KEEP AN EYE ON THE
11 FOREMAN? APPARENTLY HE IS LOOKING AT THE CLOCK CONTINUOUSLY.

12 (THE BENCH CONFERENCE CONCLUDED.)

13 THE COURT: DID YOU SEND SOMEBODY AFTER YOUR NEXT
14 WITNESS?

15 MR. LAKE: YOUR HONOR, WE NEED TO CHECK.

16 ANTONIO SMITH, HAVING BEEN 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: ANTONIO SMITH.

21 DIRECT EXAMINATION

22 BY MR. LAKE:

23 Q. ANTONIO, WHAT DO THEY CALL YOU?

24 A. YO-YO.

25 Q. IF YOU WOULD JUST KIND OF LOOK TO YOUR LEFT, THERE ARE A

1 NUMBER OF INDIVIDUALS FROM WINNSBORO AND A NUMBER OF
2 INDIVIDUALS FROM RIDGEWAY. WHO ALL DO YOU KNOW WITHIN THAT
3 GROUP?

4 A. ALL OF THEM.

5 Q. AND HOW LONG HAVE YOU KNOWN ALL THOSE PEOPLE WITHIN THAT
6 GROUP?

7 A. I'VE KNOWN TORRI ALL MY LIFE. I'VE KNOWN B. FOR ABOUT
8 15 YEARS, ANTWAN ABOUT 15, DENNIS ALL MY LIFE, DEMETRIC ABOUT
9 10 YEARS, TRAMELE ABOUT 10 YEARS, MARCUS ABOUT 10, ADAMS AND
10 JACQUES AND VERNON -- ALL OF THOSE ABOUT 10 YEARS.

11 Q. AND WHERE DO YOU KNOW THESE GUYS FROM?

12 A. I KNOW MOST OF THEM FROM SCHOOL.

13 Q. AND WHERE DID YOU GO TO SCHOOL AT?

14 A. FAIRFIELD CENTRAL.

15 Q. AND WHERE DO YOU CURRENTLY RESIDE NOW?

16 A. EXCUSE ME? I LIVE IN WINNSBORO.

17 Q. YOU STILL LIVE IN WINNSBORO?

18 A. YEAH.

19 Q. AND BACK IN SEPTEMBER OF 2005 WHERE WERE YOU RESIDING?

20 A. WINNSBORO.

21 Q. LET ME TAKE YOU TO THE DATE OF THIS PARTICULAR INCIDENT.
22 DO YOU RECALL THIS PARTICULAR DAY?

23 A. YES, SIR. IT'S SEPTEMBER THE 5TH, '05, DAY BEFORE LABOR
24 DAY.

25 Q. AND WHY DO YOU REMEMBER THIS PARTICULAR DAY? WHAT

1 HAPPENED?

2 A. DENNIS IRBY WAS SHOT AND KILLED.

3 Q. AND YOU INDICATED THAT HE WAS SHOT AND KILLED? COULD
4 YOU TELL THE JURY WHAT YOU OBSERVED THAT NIGHT?

5 A. ALL RIGHT. I GOT DROPPED OFF AT CHANCE'S ABOUT 10:30
6 THAT NIGHT.

7 Q. WHY WERE YOU GOING TO CHANCE'S?

8 A. TO MEET UP WITH THOSE GUYS: TORRI, RAVARIS, ANTWAN, AND
9 DENNIS.

10 Q. DO YOU REMEMBER APPROXIMATELY WHAT TIME YOU ACTUALLY
11 ARRIVED THERE?

12 A. I'D SAY AROUND 10:30.

13 Q. AND WHO WAS THERE WHEN YOU ARRIVED?

14 A. DENNIS, ANTWAN, RAVARIS, TORRI, AND A GIRL NAMED
15 JESSICA.

16 Q. AND WAS THERE ANYONE FROM RIDGEWAY THERE AT THIS
17 PARTICULAR POINT?

18 A. NO.

19 Q. AT WHAT POINT DO YOU SEE PEOPLE FROM RIDGEWAY?

20 A. ABOUT 45 MINUTES OR AN HOUR AFTER I GOT THERE.

21 Q. AND WHAT HAPPENS AS Y'ALL ARE INSIDE THE CLUB WHEN THEY
22 FIRST GET THERE?

23 A. WHEN THEY FIRST GET THERE?

24 Q. YEAH.

25 A. THERE WAS NO PROBLEMS OUTSIDE. MARCUS TUCKER CAME TO

1 THE TABLE WHERE I WAS AT AND DECIDED THE CHAT ABOUT MAYBE 15,
2 20 MINUTES. THEN I NOTICED THIS ANIMOSITY GROWING IN THE
3 CLUB.

4 MR. ROBERSON: I DIDN'T HEAR THAT, YOUR HONOR.

5 THE COURT: ALL RIGHT. CAN YOU SPEAK UP?

6 THE WITNESS: ANIMOSITY---

7 MR. ROBERSON: OKAY.

8 THE WITNESS: ---THAT WAS GOING ON IN THE CLUB.

9 MR. ROBERSON: OKAY.

10 THE WITNESS: TORRI BOYD, HE CAME TO ME. HE WAS LIKE,
11 "ADAMS JUST SAID SOMETHING TO HIM." SO I WAS LIKE, "WHAT'S
12 THE PROBLEM?" HE SAID ADAMS TOLD HIM TO QUIT HOLLERING AT
13 HIS GIRLFRIEND.

14 BY MR. LAKE:

15 Q. AND WHEN HE SAID HIS GIRLFRIEND, WHO DID YOU THINK THAT
16 THAT WAS?

17 A. LAKISHA DAVIS.

18 Q. AND HOW LONG AFTER Y'ALL ARE IN THE CLUB AND THEY'RE
19 THERE DOES THIS CONVERSATION GO BETWEEN THESE PARTIES, THAT
20 GROUP?

21 A. I WOULD SAY ABOUT 10 MINUTES.

22 Q. DID YOU EVER ACTUALLY SEE THIS INCIDENT WHERE ADAMS
23 GIBSON SAID SOMETHING TO EITHER TORRI OR LAKISHA OR ANYTHING
24 LIKE THAT?

25 A. NO.

1 Q. AND WHAT HAPPENS AFTER TORRI TELLS YOU THIS INFORMATION?

2 A. I SEE ADAMS ON THE PHONE TELLING SOMEBODY TO COME ACROSS
3 THE STREET, COME TO CHANCE'S, GIVING DIRECTIONS. I REMEMBER
4 HIS EXACT WORDS: "I'M ACROSS THE STREET FROM THE RAMADA."

5 Q. AND AT THIS PARTICULAR TIME - LET ME ASK YOU A QUESTION
6 - DO YOU HAVE ANY GUNS?

7 A. NO.

8 Q. DOES TORRI HAVE ANY GUNS?

9 A. NO.

10 Q. WHAT ABOUT RAVARIS?

11 A. NO.

12 Q. WHAT ABOUT DENNIS?

13 A. NO.

14 Q. LET ME ASK YOU A QUESTION: YOU INDICATED YOU HAD SOME
15 CONTACT WITH THOSE OTHER GUYS. DO YOU RECALL WHETHER ANY OF
16 THOSE GUYS HAD GUNS?

17 A. I DIDN'T SEE ANY GUNS. ARE YOU TALKING ABOUT OUT OF
18 TRAMELE---

19 Q. OUT OF---

20 A. DEMETRIC, ADAMS, MARCUS TUCKER?

21 Q. YES.

22 A. I DIDN'T SEE ANY GUNS.

23 Q. AND WHERE IS LAKISHA DURING THIS ENTIRE TIME?

24 A. SHE WAS INSIDE THE BAR.

25 Q. SHE WAS INSIDE THE BAR? DO YOU EVER AT ANY POINT RECALL

1 HER LEAVING OUT OF THE BAR?

2 A. I CAN'T REMEMBER HER LEAVING OUT OF THE BAR.

3 Q. OKAY. AND AFTER THIS THING HAS KIND OF GONE ON WITHIN
4 THE CLUB, WHAT HAPPENS NEXT?

5 A. WE WAS GETTING READY TO LEAVE. ANTWAN WAS LIKE, "COME
6 ON. LET'S GO." SO WE WERE ALL GOING OUTSIDE, AND I NOTICED
7 LIKE A WHOLE LITTLE BEEF GOING ON. BAM, DEMETRIC DAVIS, HE
8 WAS KIND OF UP ARGUING WITH TORRI BOYD, TRAMELE, AND MARCUS
9 TUCKER ALL IN ONE FIGHT. I GET OUTSIDE. I'M IN THE MIDDLE
10 TRYING TO BREAK IT UP AND TELLING EVERYBODY TO CALM DOWN.
11 NEXT THING I KNOW THEY BREAK OUT IN A FIGHT. I DONE STEPPED
12 BACK. IT WAS OUT OF MY HANDS.

13 Q. DO YOU KNOW WHAT STARTED THE FIGHT OFF?

14 A. I'M GUESSING---

15 MR. ROBERSON: OBJECTION.

16 THE COURT: ALL RIGHT.

17 BY MR. LAKE:

18 Q. DO YOU KNOW WHO THREW THE FIRST PUNCH---

19 A. NO.

20 Q. ---OR DID YOU SEE WHO THREW THE FIRST PUNCH?

21 A. NO.

22 Q. OKAY. AND LET ME JUST SHOW YOU THIS DIAGRAM. SHOW THE
23 JURY EXACTLY WHERE YOU FIRST SEE WHEN YOU GET OUTSIDE WHERE
24 ALL THIS ARGUING IS GOING ON. THIS IS THE FRONT OF CHANCE'S.

25 A. THIS IS THE FRONT?

- 1 Q. YES.
- 2 A. ALL THE ARGUING IS GOING ON RIGHT UP IN HERE.
- 3 Q. AND WHERE IS DENNIS AT THIS PARTICULAR TIME?
- 4 A. I'M NOT SURE.
- 5 Q. AT WHAT POINT DO YOU SEE DENNIS AGAIN?
- 6 A. AT WHAT -- I SEE DENNIS WHEN WE FIRST CAME OUT OF THE
- 7 BAR AND HE WAS WITH ME TRYING TO BREAK IT UP ALSO. THAT'S
- 8 THE LAST TIME I REMEMBER SEEING HIM BEFORE THE FIGHT BROKE
- 9 OUT.
- 10 Q. AND DID YOU EVER SEE HIM THROWING ANY PUNCHES OR HITTING
- 11 ANYONE?
- 12 A. NO, SIR.
- 13 Q. ONCE YOU GOT OUTSIDE, WHO ELSE DID YOU SEE?
- 14 A. I SEEN SHA-SHA, JACQUES, VERNON DAVIS, ADAMS GIBSON,
- 15 MARCUS TUCKER, LAKISHA DAVIS, AND TRAMELE DAVIS.
- 16 Q. AND WHERE ARE THEY AT WHEN YOU FIRST SEE THEM?
- 17 A. RIGHT IN THE SAME AREA I JUST POINTED AT.
- 18 Q. AND DO YOU KNOW AT WHAT POINT SHA-SHA OR JACQUES GIBSON
- 19 GETS THERE?
- 20 A. YES. I REMEMBER WHEN HE WALKED IN THE BAR, AND THE GUY
- 21 - I GUESS THE BARTENDER - TURNED AROUND.
- 22 Q. OKAY. AND DO YOU KNOW HOW HE GOT THERE?
- 23 A. I DON'T KNOW EXACTLY HOW HE GOT THERE.
- 24 Q. OKAY. DID -- WERE THERE ANY PARTICULAR VEHICLES THAT
- 25 YOU REMEMBER DISTINCTIVE THAT WERE OUT THERE THAT NIGHT?

1 A. YES. ANTWAN HAD A GRAY TAHOE, AND SHA-SHA WAS DRIVING A
2 WHITE ESCORT.

3 Q. A WHITE ESCORT? LET ME SHOW YOU THAT'S BEEN MARKED AS
4 STATE'S EXHIBIT NUMBER 1 AND 2. WOULD THAT BE THE ESCORT
5 YOU'RE REFERRING TO?

6 A. YES, THAT'S IT.

7 Q. HAD YOU SEEN THAT VEHICLE BEFORE OR ANYONE DRIVING THAT
8 PARTICULAR VEHICLE BEFORE?

9 A. BEFORE THIS HAPPENED?

10 Q. YES.

11 A. YES, I HAVE.

12 Q. WHO HAD YOU SEEN DRIVING THAT VEHICLE?

13 A. ADAMS.

14 Q. HOW OFTEN DID YOU SEE ADAMS IN THAT PARTICULAR VEHICLE?

15 A. EXCUSE ME?

16 Q. HOW OFTEN HAD YOU SEEN HIM IN THAT PARTICULAR VEHICLE?

17 A. MAYBE THREE OR FOUR TIMES.

18 Q. WHERE IS THIS VEHICLE IN RELATION TO WHERE THESE
19 INDIVIDUALS ARE IN TERMS OF SHA-SHA, BAM, KARTEZ? WHERE IS
20 THIS VEHICLE AT?

21 A. WHERE IS THE VEHICLE? COULD YOU PUT THE CHART UP AGAIN?

22 Q. (THE SOLICITOR PUTS UP A CHART.)

23 A. THIS VEHICLE WAS ABOUT RIGHT HERE.

24 Q. RIGHT IN THAT AREA RIGHT THERE?

25 A. YEAH.

1 Q. AND WHO DO YOU -- WHEN THE FIGHT BREAKS OUT, WHO ALL IS
2 INVOLVED IN THE FIGHT?

3 A. RAVARIS, ANTWAN, TORRI AND DEMETRIUS AND TRAMELE AND
4 ADAMS.

5 Q. SPECIFICALLY WITH ADAMS GIBSON, WHAT, IF ANYTHING, DID
6 YOU SEE HIM DO?

7 A. HIT TORRI AND KICKING HIM.

8 Q. AND WHERE WAS TORRI WHEN HE WAS HITTING AND KICKING HIM?

9 A. ON THE GROUND FIGHTING BAM.

10 Q. SO IT'S TORRI FIGHTING BAM, AND ADAMS IS KICKING HIM?

11 A. RIGHT.

12 Q. AND WHERE IS RAVARIS ANYWHERE AT THIS PARTICULAR POINT?

13 A. I'M NOT SURE. ONLY MY EYES REALLY WAS ON BAM AND TORRI.

14 Q. AND WHY IS THIS?

15 A. BECAUSE ADAMS WAS JUMPING ON HIM AND I WAS TELLING HIM
16 TO STOP.

17 Q. AND AS YOU'RE SEEING THIS, WHAT HAPPENS NEXT?

18 A. I GO TOWARDS TORRI, DEMETRIUS, AND ADAMS. AND JACQUES
19 PULLS A GUN ON ME. HE IS STILL SITTING IN THE CAR. "YO-YO,
20 DON'T EVEN THINK ABOUT IT." SO I'M FRIGHTENED AND I BACK OFF
21 AND RUN AWAY.

22 Q. AND YOU SAY -- ARE YOU SURE IT'S JACQUES -- I MEAN,
23 JACQUES? SHA-SHA?

24 A. YEAH.

25 Q. HOW CLOSE -- USING ME AS A GAUGE, HOW CLOSE WERE YOU TO

1 SHA-SHA WHEN HE TELLS YOU, "DON'T EVEN THINK ABOUT IT"?

2 A. BACK UP A LITTLE BIT. ABOUT RIGHT THERE.

3 Q. WHEN YOU WERE APPROACHING KARTEZ, ARE YOU GOING THERE TO
4 HIT HIM?

5 A. NO, I'M GOING TO BREAK HIM UP. I DIDN'T WANT IT -- I
6 TRIED TO STOP THE FIGHT FROM THE BEGINNING.

7 Q. WHAT HAPPENS AFTER HE POINTS THE GUN AT YOU AND SAYS,
8 "YO-YO, DON'T THINK ABOUT IT"? WHAT HAPPENS NEXT?

9 A. I HEAR A GUNSHOT.

10 Q. AT THE TIME THAT YOU -- IS THIS SHOT COMING FROM JACQUES
11 AT THIS POINT?

12 A. NO.

13 Q. HOW DO YOU KNOW THAT?

14 A. I'M WATCHING THE GUN. HE GOT THE GUN ON ME. WHEN I
15 DUCKED AND HIDE, I DON'T KNOW WHAT HAPPENED AFTER THAT.

16 Q. SO THAT FIRST SET OF SHOTS, YOU'RE NOT SURE WHO SHOT
17 THAT?

18 A. RIGHT.

19 Q. DO YOU RECALL WHERE YOU ACTUALLY DUCKED AT?

20 A. PULL YOUR CHART UP.

21 Q. (THE SOLICITOR PUTS A CHART UP.)

22 A. I'D SAY UP BETWEEN HERE BECAUSE THERE WAS CARS PARKED
23 THERE.

24 Q. AND WHAT, IF ANYTHING -- I MEAN, WHAT HAPPENS NEXT AFTER
25 THAT FIRST SHOT IS FIRED?

1 A. I HEAR A COUPLE MORE.

2 Q. CAN YOU TELL THE DIRECTION IN WHICH THE SHOTS ARE COMING
3 FROM?

4 A. THAT SAME DIRECTION, THE WHITE ESCORT.

5 Q. IS THAT WHITE ESCORT WHEN THE SHOTS ARE COMING OUT -- IS
6 IT STILL IN THE SAME LOCATION WHERE YOU LAST SAW IT?

7 A. NO.

8 Q. WHERE IS IT AT AT THIS PARTICULAR POINT?

9 A. ABOUT RIGHT UP HERE.

10 Q. SO IT'S MOVED FROM WHERE YOU ORIGINALLY SAW IT TO A
11 LITTLE FURTHER DOWN?

12 A. RIGHT.

13 Q. CAN YOU SAY HOW MANY SHOTS YOU HEARD THE SECOND TIME?

14 A. ABOUT THREE OR FOUR.

15 Q. WHAT ABOUT THE FIRST TIME? HOW MANY SHOTS DO YOU THINK
16 YOU HEARD?

17 A. ABOUT THREE.

18 Q. HOW MUCH DID YOU HAVE TO DRINK THAT NIGHT?

19 A. I HAD ABOUT TWO BEERS.

20 Q. AND WHAT ABOUT THE OTHER GUYS?

21 A. I'M NOT SURE BECAUSE THEY WAS THERE BEFORE I GOT THERE.

22 Q. WERE THEY DRINKING BY THE TIME YOU GOT THERE?

23 A. YES, THEY WAS.

24 Q. WERE ANY OF THESE GUYS DRUNK OR ANYTHING LIKE THAT?

25 A. I WOULDN'T SAY DRUNK.

1 Q. HAD TOO MUCH TO DRINK?

2 A. I WOULDN'T SAY THAT.

3 Q. AT WHAT POINT DO YOU REALIZE SOMETHING HAS HAPPENED TO
4 DENNIS?

5 A. AFTER THE FIGHT WAS OVER WITH, THE WHITE ESCORT DROVE
6 OFF AND EVERYTHING WAS PRETTY CALM. AND I REMEMBER WHEN I
7 WAS HELPING TORRI, THE CHAIN BROKE. THE CHAIN WAS IN PIECES.
8 I WAS PICKING THE CHAIN UP OFF THE GROUND. I WAS LIKE,
9 "TORRI, HERE IS YOUR CHAIN." THE DUDE DENNIS WAS LIKE, "I'VE
10 BEEN SHOT," AND HE WAS SMILING LIKE I THOUGHT HE WAS JOKING
11 'TIL I TURNED AROUND AND I SEEN HIS SHIRT WAS WET.

12 Q. IT WAS WET WITH WHAT?

13 A. BLOOD.

14 Q. AND WHAT HAPPENED NEXT?

15 A. HE IS STILL STANDING THERE FOR A SECOND, AND I GUESS HE
16 STARTED TO PANIC AND HE FELL. HE WAS STILL AWOKE (SIC) THEN,
17 AND THAT GIRL, SHUNTA, I REMEMBER HER GOING OVER TO HIM AND
18 SHE WAS APPLYING PRESSURE TO HIS WOUND. AND ME AND RAVARIS,
19 WE WAS KIND OF LIKE SHAKING HIM LIKE, "SHU-SHU, QUIT PLAYING.
20 QUIT PLAYING. QUIT PLAYING." THE NEXT THING I KNOW, THE
21 LADY, THE POLICE LADY, SHE TOLD US TO BACK UP. WE COULDN'T
22 TOUCH HIM. HE WAS JUST LAYING THERE.

23 Q. SO PRIOR TO THAT, RAVARIS IS ACTUALLY SHAKING HIM.

24 A. WELL, I WOULDN'T SAY SHAKING HIM. LIKE, "WAKE UP,
25 DENNIS. WAKE UP. QUIT PLAYING, MAN. QUIT PLAYING."

1 Q. SO THE OFFICER IS TELLING YOU YOU CAN'T TOUCH HIM?

2 A. RIGHT.

3 Q. SO AT SOME POINT BECAUSE HE WAS STILL TRYING TO TOUCH
4 HIM, THE OFFICER HAD TO PUT HIM IN CUSTODY AND PUT HIM IN THE
5 BACK OF THE CAR?

6 A. RESTRAIN HIM AND PUT HIM IN THE BACK OF THE POLICE CAR.

7 Q. WAS HE UPSET?

8 A. YES.

9 Q. WAS ANYONE ELSE TRYING TO TOUCH -- DO YOU RECALL ANYONE
10 ELSE TRYING TO TOUCH DENNIS DURING THIS TIME FRAME ASIDE FROM
11 THE PERSON THAT WAS TRYING TO PUT PRESSURE ON HIM?

12 A. YEAH, THAT'S THE ONLY PERSON I CAN REMEMBER: RAVARIS
13 AND THE GIRL.

14 Q. WHERE DO THE OTHER GUYS THAT YOU OBSERVED FIGHTING --
15 WHERE DO THEY ALL GO AFTER THE SECOND SHOTS ARE FIRED?

16 A. I'M NOT SURE. I WAS HIDING.

17 Q. DO YOU EVER SEE KARTEZ AT ANY POINT AFTER THE SHOTS?

18 A. YES.

19 Q. WHERE DO YOU SEE HIM AT?

20 A. WHEN THE ESCORT MOVED OUT A LITTLE BIT, I REMEMBER
21 KARTEZ GOING IN THE PASSENGER REAR BACK DOOR.

22 Q. OF THE WHITE ESCORT.

23 A. RIGHT.

24 Q. DO YOU KNOW WHETHER HE GOT IN OR NOT?

25 A. EXCUSE ME?

1 Q. DO YOU KNOW WHETHER HE GOT IN OR NOT?

2 A. I DON'T KNOW.

3 Q. AND ABOUT HOW FAR IS THIS FROM WHEN YOU ACTUALLY SEE HIM
4 GOING TOWARD THAT PASSENGER DOOR -- ARE YOU, THE TWO YOU?

5 A. I WOULD SAY I WAS ABOUT---

6 Q. USING ME AS A GAUGE.

7 A. TWENTY FEET.

8 Q. TWENTY FEET? AND ARE YOU ABLE TO SEE OUT THERE THAT
9 NIGHT?

10 A. YEAH.

11 Q. DID ANY OF YOU GUYS FLEE THE SCENE?

12 A. NO.

13 Q. HOW DID THOSE GUYS FLEE THE SCENE?

14 A. I'M NOT SURE.

15 Q. WERE THEY GOING SLOW?

16 A. NO, THEY WERE SPEEDING. THE WHITE ESCORT WAS SPEEDING.

17 Q. WHO IS THE LAST PERSON YOU SEEN IN THAT ESCORT IN THE
18 DRIVER'S SEAT?

19 A. JACQUES.

20 Q. AND YOU GAVE A STATEMENT TO LAW ENFORCEMENT; CORRECT?

21 A. RIGHT.

22 Q. LET ME SHOW YOU THREE ITEMS: STATE'S EXHIBIT NUMBER 24,
23 25, 27, AND 28. LET ME GET YOU TO LOOK AT THOSE PARTICULAR
24 ITEMS AND I ASK YOU: DO YOU RECOGNIZE THEM?

25 A. MARCUS TUCKER.

1 Q. WHAT DO YOU RECOGNIZE THOSE PARTICULAR ITEMS ARE?

2 A. LINE-UPS.

3 Q. DO YOU RECALL WHEN THOSE LINE-UPS WERE SHOWN TO YOU?

4 A. YES.

5 Q. AND PRIOR TO SHOWING YOU THOSE LINE-UPS, WHAT, IF
6 ANYTHING, WAS SAID TO YOU?

7 A. WAS ANYTHING SAID TO ME?

8 Q. YEAH. WHAT, IF ANYTHING, WAS SAID TO YOU PRIOR TO
9 SHOWING YOU THOSE LINE-UPS?

10 A. I CAN'T REMEMBER.

11 Q. BUT YOU'VE KNOWN THESE INDIVIDUALS; CORRECT?

12 A. RIGHT.

13 Q. SPECIFICALLY, STATE'S EXHIBIT NUMBER 24, WHO DID YOU
14 IDENTIFY IN THAT PARTICULAR LINE-UP?

15 A. MARCUS TUCKER.

16 Q. AND WHAT NUMBER DID YOU USE?

17 A. NUMBER THREE.

18 Q. HOW DID YOU SIGNIFY THAT YOU IDENTIFIED THAT PARTICULAR
19 PERSON?

20 A. BECAUSE I KNOW HIM.

21 Q. DID YOU PROVIDE ANY INITIALS OR ANYTHING LIKE THAT?

22 A. YES, DATE AND TIME.

23 Q. DID YOU SIGN THAT PARTICULAR DOCUMENT?

24 A. YES.

25 Q. AND WHAT DID YOU INDICATE THAT HIS ROLE WAS OUT THERE?

1 A. FIGHTING.

2 Q. LET ME TAKE YOU TO STATE'S EXHIBIT NUMBER 25 AND LOOK AT
3 THAT DOCUMENT. WHO DID YOU IDENTIFY IN THAT DOCUMENT?

4 A. TRAMELE.

5 Q. AND DID YOU IDENTIFY HIM?

6 A. RIGHT.

7 Q. HOW DID YOU DO THAT?

8 A. SIGNED AND DATED. WELL, I KNEW HIM.

9 Q. OKAY. AND WHAT DID YOU INDICATE HIS ROLE WAS OUT THERE?

10 A. FIGHTING.

11 Q. AND LET ME GET YOU TO LOOK AT STATE'S EXHIBIT NUMBER 26.
12 DO YOU RECOGNIZE THAT ITEM ALSO?

13 A. SHA-SHA.

14 Q. AND DID YOU SIGNIFY THAT YOU KNEW WHO HE WAS?

15 A. RIGHT.

16 Q. AND WHAT DID YOU INDICATE HIS ROLE WAS OUT THERE?

17 A. POINTED A GUN AT ME.

18 Q. AND TAKE A LOOK AT STATE'S EXHIBIT NUMBER 27.

19 A. (THE WITNESS COMPLIES.)

20 Q. AND DID YOU IDENTIFY THAT PARTICULAR PERSON?

21 A. RIGHT. KARTEZ.

22 Q. AND WHAT DID YOU INDICATE HIS ROLE WAS?

23 A. FIGHTING.

24 Q. WHAT ALSO DID YOU INDICATE SHA-SHA'S ROLE WAS AT THE
25 TIME OF THIS INCIDENT?

1 A. DRIVING THE WHITE CAR.

2 Q. ALSO, TAKE A LOOK AT STATE'S EXHIBIT NUMBER 28. I'M
3 GOING TO ASK YOU: DO YOU RECOGNIZE THAT ITEM?

4 A. YES.

5 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

6 A. A GUY NAMED DEMETRIC DAVIS BUT NOT THE DEMETRIC DAVIS
7 KNOWN AS BAM.

8 Q. SO THERE ARE TWO DEMETRIC DAVISES?

9 A. RIGHT.

10 Q. DO YOU KNOW THAT PARTICULAR DEMETRIUS DAVIS?

11 A. THIS GUY HERE?

12 Q. YES.

13 A. YES.

14 Q. WHAT IS HIS NICKNAME?

15 A. I BELIEVE BAM ALSO.

16 Q. YOU'VE GOT TWO GUYS WITH THE NAME OF DEMETRIC DAVIS, AND
17 BOTH OF THEM ARE NAMED BAM.

18 A. RIGHT.

19 Q. WHICH ONE OF THOSE GUYS WAS OUT THERE THAT NIGHT?

20 A. I DON'T REMEMBER SEEING THIS GUY.

21 Q. WHAT ABOUT THE OTHER GUY?

22 A. YES, HE WAS OUT THERE.

23 Q. IS THAT WHO THE OFFICERS THOUGHT WAS THAT BAM RIGHT
24 THERE?

25 A. YES. THAT WAS THE FIRST PICTURE HE SHOWED ME, AND I HAD

1 TO CORRECT HIM AND TOLD HIM IT WAS THE WRONG BAM.

2 Q. SO YOU'RE ACTUALLY THE ONE THAT CORRECTED HIM AND TOLD
3 HIM IT WAS THE WRONG BAM?

4 A. RIGHT.

5 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
6 STATE'S EXHIBIT 26, 27, 24, AND 28 INTO EVIDENCE.

7 THE COURT: IS THERE A 25?

8 MR. LAKE: YES. I'M SORRY. IT'S -- YES, SIR.

9 THE COURT: ALL RIGHT. IT'S 24, 25, 26, 27, AND 28?

10 MR. LAKE: CORRECT.

11 THE COURT: ALL RIGHT. ALL RIGHT. MR. ROBERSON, ANY
12 OBJECTION?

13 MR. ROBERSON: NONE, YOUR HONOR.

14 THE COURT: MR. JOHNSON?

15 MR. JOHNSON: NONE, YOUR HONOR.

16 THE COURT: ALL RIGHT. 24, 25, 26, 27, AND 28 ARE IN
17 EVIDENCE WITHOUT OBJECTION.

18 (STATE'S EXHIBITS 24 THROUGH 28 WERE RECEIVED IN
19 EVIDENCE.)

20 BY MR. LAKE:

21 Q. HOW LONG ARE Y'ALL OUT THERE AT THE SCENE THAT
22 PARTICULAR NIGHT?

23 A. I'D SAY ABOUT FOUR HOURS AFTER THE SHOOTING.

24 Q. SO YOU WERE OUT THERE REAL LATE?

25 A. YEAH.

1 Q. WHEN DID YOU FIRST REALIZE THAT DENNIS HAD DIED?

2 A. AFTER -- AFTER THE INVESTIGATOR TELLS US TO GO, WE WENT
3 DOWN TO THE HOUSEBOAT. HIS MAMA AND FAMILY WAS THERE, AND
4 MS. IRBY TOLD US TO GO AHEAD ON HOME. WE HAD BEEN UP ALL
5 NIGHT. I REMEMBER THE NEXT MORNING I LAID ACROSS THE COUCH.
6 THE CELL PHONE WAS RINGING. I WOULDN'T ANSWER IT. IT WENT
7 THE RINGING. I STILL WOULDN'T ANSWER IT. SO I FINALLY
8 ANSWERED IT, AND IT DENNIS' COUSIN, ASHLEY, JUST CRYING. AND
9 THEN -- THAT WAS ABOUT 8:30 THAT MORNING.

10 Q. WHAT DID YOU DO AFTER THAT?

11 A. CRIED. MAN, I JUST CRIED. ALL THAT COULD HAVE BEEN
12 AVOIDED.

13 Q. COULD HAVE BEEN AVOIDED WHAT?

14 MR. JOHNSON: OBJECTION, YOUR HONOR. RELEVANCE.

15 MR. LAKE: I'LL STRIKE THE QUESTION, YOUR HONOR.

16 THE WITNESS: THERE SHOULD HAVE BEEN NO GUNS INVOLVED.

17 MR. JOHNSON: OBJECTION, YOUR HONOR. MOVE TO BE
18 STRICKEN.

19 THE COURT: SUSTAINED. STRUCK.

20 BY MR. LAKE:

21 Q. DO YOU KNOW AT WHAT POINT YOU REALIZED THAT A GUN WAS
22 INVOLVED IN THIS SITUATION?

23 A. WHEN SHA-SHA PUT IT ON ME AND TOLD ME, "DON'T EVEN THINK
24 ABOUT IT." THAT WAS THE EXACT WORDS, AND I WAS TRYING TO
25 TALK TO HIM: "COME ON, SHA-SHA. YOU KNOW ME, MAN. IT AIN'T

1 LIKE THAT."

2 Q. WHAT WAS HIS RESPONSE?

3 A. I DON'T REMEMBER. I REMEMBER I JUST DUCKED AND RAN.

4 Q. WERE YOU ABLE TO GIVE A STATEMENT TO LAW ENFORCEMENT
5 AGAIN? DO YOU RECALL GIVING ANOTHER STATEMENT AFTER THAT
6 PARTICULAR NIGHT?

7 A. RIGHT.

8 Q. ANTONIO, DID YOU THROW ANY PUNCHES THAT NIGHT?

9 A. I DID NOT. I DID NOT THROW NOT ONE PUNCH.

10 Q. AND WHAT WAS YOUR ROLE THAT NIGHT?

11 A. PEACEMAKER.

12 MR. JOHNSON: REPETITIVE, YOUR HONOR.

13 THE COURT: I'LL ALLOW IT. LET'S MOVE ALONG, SOLICITOR.

14 BY MR. LAKE:

15 Q. DO YOU SEE ADAMS KARTEZ GIBSON IN THIS COURTROOM?

16 A. YES.

17 Q. WHERE IS HE SEATED?

18 A. IN THE FADED BLUE SHIRT RIGHT THERE.

19 Q. DID YOU HAVE ANY PROBLEM WITH HIM PRIOR TO THAT NIGHT?

20 A. NO.

21 Q. HAVE YOU EVER HAD ANY ARGUMENTS WITH HIM PRIOR TO THAT
22 NIGHT?

23 A. YES, I HAVE.

24 Q. YOU HAVE HAD ARGUMENTS WITH HIM?

25 A. YES.

1 Q. ANY ALTERCATIONS OR ANYTHING LIKE THAT?

2 A. NO, NO ALTERCATION.

3 Q. AND WHAT WAS HIS ROLE THAT PARTICULAR NIGHT?

4 MR. ROBERSON: OBJECTION. MAY I BE HEARD, YOUR HONOR?

5 THE COURT: SOLICITOR, REPHRASE YOUR QUESTION.

6 BY MR. LAKE:

7 Q. WHAT, IF ANYTHING, THAT YOU HAVE PERSONAL KNOWLEDGE OF
8 THAT YOU OBSERVED HIM DO THAT ENTIRE NIGHT?

9 A. HITTING TORRI.

10 Q. DO YOU SEE JACQUES OR SHA-SHA IN THIS COURTROOM?

11 A. YES.

12 Q. WHERE IS HE SEATED?

13 A. BLACK JACKET.

14 Q. AT THE END OF THE TABLE OR AT THE FRONT OF THE TABLE?

15 A. END OF THE TABLE.

16 Q. AND DO YOU HAVE ANY DOUBT IN YOUR MIND ABOUT WHAT HE HAD
17 IN HIS HAND THAT HE POINTED AT YOU?

18 A. A GUN.

19 MR. LAKE: I HAVE NO FURTHER QUESTIONS.

20 THE COURT: ALL RIGHT. MR. ROBERSON, CROSS-EXAMINATION.

21 MR. ROBERSON: IF YOUR HONOR PLEASE.

22 CROSS-EXAMINATION

23 BY MR. ROBERSON:

24 Q. MR. SMITH, YOU REMEMBER TESTIFYING HERE YESTERDAY, DON'T
25 YOU?

1 A. YES.

2 Q. AND IN YOUR TESTIMONY YESTERDAY YOU NEVER TESTIFIED THAT
3 YOU SAW ADAMS GIBSON WITH A GUN ON 9/5/05.

4 A. RIGHT.

5 Q. AND THAT ON THAT NIGHT, TO THE BEST OF YOUR MEMORY, HE
6 HAD ON A WHITE TEE SHIRT AND BLUE JEANS.

7 A. IF I'M NOT MISTAKEN.

8 Q. OKAY. YOU SAID ADAMS WAS OUT THERE FIGHTING?

9 A. YES.

10 Q. DO YOU REMEMBER WHO HE WAS FIGHTING WITH?

11 A. BAM.

12 Q. HE WAS FIGHTING WITH BAM?

13 A. HE WAS FIGHTING WITH BAM.

14 Q. HE AND BAM WERE FIGHTING ONE ON ONE.

15 A. NO, HIM AND BAM WAS FIGHTING TORRI.

16 Q. OKAY. DO YOU RECALL HOW THAT ENCOUNTER BETWEEN HIM,
17 BAM, AND TORRI ENDED?

18 A. HOW IT ENDED?

19 Q. YES, SIR.

20 A. NO, I WAS DUCKING.

21 Q. YOU WERE DUCKING?

22 A. RIGHT.

23 Q. WAS ANYBODY ASSAULTING YOU AT THAT POINT IN TIME?

24 A. NO.

25 Q. YOU WERE DUCKING FOR WHAT REASON?

- 1 A. GUNSHOTS. SHA-SHA HAD JUST POINTED A GUN AT ME.
- 2 Q. OKAY. HE POINTED THE GUN AT YOU WHILE ADAMS, TORRI, AND
- 3 TRAMELE WERE FIGHTING.
- 4 A. NO. ADAMS, TORRI, DEMETRIC.
- 5 Q. OKAY. AND YOU'RE SAYING THAT IS WHEN SHA-SHA PULLED A
- 6 GUN ON YOU AND SAID, "DON'T EVEN TRY IT"?
- 7 A. RIGHT, WHEN I WAS GOING TO BREAK THEM UP.
- 8 Q. OKAY. I THOUGHT YOU SAID YOU WERE DUCKING.
- 9 A. WHEN HE PULLED THE GUN ON ME?
- 10 Q. YEAH.
- 11 A. BEFORE HE -- THE REASON WHY -- WHEN I WAS GOING TOWARDS
- 12 ADAMS, TORRI, AND DEMETRIC, THAT'S WHEN HE THROWS THE GUN ON
- 13 ME.
- 14 Q. OKAY. AND YOU WERE DUCKING FROM THE GUN, NOT BECAUSE OF
- 15 THE PHYSICAL ENCOUNTER BETWEEN THOSE THREE.
- 16 A. NO.
- 17 Q. OKAY. DO YOU KNOW HOW ADAMS LEFT THE CLUB THAT NIGHT?
- 18 A. I DO NOT.
- 19 Q. YOU DO NOT?
- 20 A. NO.
- 21 Q. OKAY. DO YOU KNOW WHAT KIND OF CAR LAKISHA DAVIS HAD?
- 22 A. NO, I DO NOT.
- 23 Q. YOU HAD NEVER SEEN HER DRIVING A CAR AT ALL.
- 24 A. YES, I HAVE SEEN HER DRIVING A CAR BEFORE.
- 25 Q. WHAT KIND OF CAR WAS IT?

1 A. IF I'M NOT MISTAKEN, IT WAS A PURPLE COUGAR, BUT THAT'S
2 BEEN LIKE BACK IN HIGH SCHOOL.

3 Q. BUT YOU HAVEN'T SEEN HER DRIVING A CAR ANY TIME WITHIN A
4 REASONABLE TIME OF 9/5/06.

5 A. NO.

6 Q. '05.

7 A. NO.

8 MR. ROBERSON: THANK YOU, SIR.

9 THE COURT: ALL RIGHT. MR. JOHNSON?

10 CROSS-EXAMINATION

11 BY MR. JOHNSON:

12 Q. MR. SMITH, THE NIGHT THAT YOU GAVE YOUR FIRST STATEMENT,
13 YOU SAID IT WAS A COROLLA CAR. IS THAT CORRECT?

14 A. RIGHT.

15 Q. AND YOU SAID IT HAD A GOLD STRIPE. IS THAT CORRECT?

16 A. RIGHT.

17 Q. AND YOU SAID THAT YOU SAW KARTEZ AND SOME OTHER PEOPLE
18 ABOUT TO FIGHT.

19 A. RIGHT.

20 Q. AND YOU STARTED GOING TOWARD THEM. AND SHA-SHA,
21 JACQUES, WAS NOT FIGHTING. ISN'T THAT TRUE?

22 A. NO, NOT THAT I CAN REMEMBER. I DIDN'T SEE ANYTHING.

23 Q. NOT THAT YOU CAN REMEMBER. HE WAS IN A CAR. ISN'T THAT
24 RIGHT?

25 A. RIGHT.

1 Q. AND AS YOU WERE APPROACHING HIS BROTHER, HE POINTED A
2 GUN AT YOU. ISN'T THAT TRUE?

3 A. TRUE.

4 Q. AND HE ASKED YOU WHAT?

5 A. "DON'T EVEN THINK ABOUT IT."

6 Q. "DON'T EVEN THINK ABOUT IT," BECAUSE HE WAS THINKING YOU
7 WERE GOING TO ATTACK HIS BROTHER. ISN'T THAT RIGHT?

8 A. I DON'T KNOW WHAT HE WAS THINKING.

9 Q. BUT YOU WERE GOING AFTER HIS BROTHER. ISN'T THAT TRUE?

10 A. TO BREAK THEM UP.

11 Q. TO BREAK THEM UP. THAT WAS YOUR PURPOSE---

12 A. RIGHT.

13 Q. ---THAT YOU WERE GOING AFTER HIS BROTHER, AND HE DIDN'T
14 SHOOT YOU. ISN'T THAT RIGHT?

15 A. NO.

16 Q. NOW, SIMULTANEOUSLY, AT THE SAME TIME THAT HE WAS
17 POINTING THE GUN AT YOU, YOU HEARD GUNSHOTS. ISN'T THAT
18 TRUE?

19 A. RIGHT.

20 Q. SO THAT MEANS SOMEBODY ELSE WAS OUT THERE SHOOTING.
21 ISN'T THAT RIGHT?

22 A. THE FIRST SHOT DIDN'T COME FROM JACQUES.

23 Q. THE FIRST SHOT -- YOU HEARD THREE OTHER SHOTS AT THE
24 TIME MY CLIENT HAD HIS GUN POINTING AT YOU. ISN'T THAT TRUE?

25 A. I DUCKED.

1 Q. BEG YOUR PARDON?

2 A. I SAID I DUCKED AND HIDE.

3 Q. YOU DUCKED AND HIDE, BUT YOU HEARD THREE SHOTS. ISN'T
4 THAT TRUE?

5 A. RIGHT. I CAN'T RECALL IF IT WAS ACTUALLY THREE, BUT I
6 HEAR GUNSHOTS.

7 Q. YOU HEARD GUNSHOTS, BUT ON SEPTEMBER 5TH YOU SAID, "I
8 SAW THE GUN. I DUCKED, AND I HEARD THREE SHOTS." DO YOU
9 REMEMBER SAYING THAT?

10 A. I DON'T REMEMBER.

11 Q. YOU DON'T REMEMBER THAT. AND THEN YOU SAID, "LATER I
12 HEARD TWO MORE SHOTS." DO YOU REMEMBER THAT?

13 A. I DON'T KNOW EXACTLY IF IT WAS TWO MORE SHOTS---

14 Q. BUT YOU HEARD---

15 A. ---BUT I REMEMBER SAYING THERE WAS MORE SHOTS.

16 Q. YOU HEARD MULTIPLE SHOTS.

17 A. RIGHT.

18 Q. AND BASED ON THAT, ISN'T IT TRUE THAT MORE THAN ONE
19 PERSON WAS OUT THERE SHOOTING THAT NIGHT?

20 A. CORRECT.

21 Q. AND DIDN'T YOU ALSO SAY, IN RESPONSE TO THE QUESTION
22 ABOUT DENNIS IRBY, "DID YOU ACTUALLY SEE WHO WAS SHOOTING?"
23 AND YOU SAID, "NO"?

24 A. NO.

25 Q. ISN'T THAT RIGHT?

1 A. RIGHT.

2 Q. YOU DON'T KNOW WHO SHOT DENNIS IRBY. YOU NEVER DID TELL
3 ANYBODY THAT, DID YOU?

4 A. NO.

5 MR. JOHNSON: NO FURTHER QUESTIONS THEN. THANK YOU.

6 THE COURT: ALL RIGHT. SOLICITOR, ANY REDIRECT?

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

8 THE COURT: ALL RIGHT, SIR... YOU MAY STEP DOWN, SIR.

9 ALL RIGHT. SOLICITOR, WE'RE GOING TO HAVE ONE MORE WITNESS.

10 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL STEPHON
11 WILLINGHAM.

12 STEPHON WILLINGHAM, JR., 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 SPELL YOUR FIRST NAME.

17 THE WITNESS: STEPHON WILLINGHAM, JR.

18 COURT REPORTER: WILL YOU SPELL STEPHON?

19 THE WITNESS: S-T-E-P-H-O-N.

20 DIRECT EXAMINATION

21 BY MR. LAKE:

22 Q. MR. WILLINGHAM, HOW ARE YOU DOING TODAY?

23 A. ALL RIGHT.

24 Q. WHERE DO YOU CURRENTLY RESIDE?

25 A. SAY THAT AGAIN.

1 Q. WHERE DO YOU LIVE?

2 A. RIDGEWAY.

3 Q. AND HOW LONG HAVE YOU LIVED IN RIDGEWAY?

4 A. NINETEEN YEARS.

5 Q. WHO DO YOU STAY THERE WITH?

6 A. MY MOM.

7 Q. AND HOW DO YOU KNOW -- IF YOU LOOK TO YOUR LEFT, HOW DO
8 YOU KNOW THOSE INDIVIDUALS FROM RIDGEWAY?

9 A. WE'RE FAMILY.

10 Q. WHEN YOU SAY FAMILY, WHAT---

11 A. WE ALL GREW UP TOGETHER.

12 Q. ALL OF YOU ALL?

13 A. ON THIS SIDE OF THE BOARD.

14 Q. SO DEMETRIC DAVIS, TRAMELE DAVIS, MARCUS TUCKER, ADAMS
15 GIBSON, JACQUES GIBSON, AND STEPHON -- I MEAN AND -- I'M
16 SORRY. VERNON DAVIS, Y'ALL ARE ALL LIKE COUSINS, I MEAN,
17 FAMILY?

18 A. YEAH, DISTANT COUSINS THOUGH.

19 Q. AND WHO WOULD YOU SAY YOU'RE CLOSEST WITH?

20 A. I MEAN, WE'RE FAMILY.

21 Q. ALL OF Y'ALL?

22 A. WE'RE FAMILY.

23 Q. WHO ARE THE PEOPLE THAT YOU HANG OUT WITH AMONGST THAT
24 GROUP?

25 A. WE'RE FAMILY.

1 Q. MR. WILLINGHAM, ISN'T IT TRUE THAT YOU'RE MAINLY HANGING
2 AROUND WITH JACQUES AND VERNON BECAUSE THEY'RE APPROXIMATELY
3 THE SAME AGE YOU ARE?

4 A. YEAH.

5 Q. THAT'S WHO YOU MAINLY HANG OUT WITH; RIGHT?

6 A. THAT'S WHO I HANG OUT WITH.

7 Q. WHERE WERE YOU AT ON SEPTEMBER THE 5TH, 2005?

8 A. WHERE WAS I AT?

9 Q. WHERE WAS YOU AT?

10 A. RESTATE THE QUESTION. I MEAN, LIKE...

11 Q. MR. WILLINGHAM, WHY ARE YOU HERE?

12 A. I MEAN, WHAT TIME?

13 Q. DO YOU KNOW WHY YOU'RE HERE?

14 A. YEAH, I KNOW WHY I'M HERE.

15 Q. WHY ARE YOU HERE?

16 A. SOMEBODY DIED.

17 Q. WHO DIED?

18 A. DENNIS IRBY.

19 Q. WHERE WERE YOU AT AT THE TIME THAT DENNIS IRBY DIED?

20 A. I WAS IN A CAR.

21 Q. WHAT CAR?

22 A. A WHITE ESCORT.

23 Q. WHO WAS DRIVING THAT WHITE ESCORT?

24 A. JACQUES.

25 Q. WHAT DO YOU KNOW JACQUES AS?

- 1 A. SAY THAT AGAIN.
- 2 Q. WHAT IS JACQUES' NICKNAME?
- 3 A. SHA.
- 4 Q. WHO ELSE WAS IN THAT CAR WITH YOU?
- 5 A. VERNON.
- 6 Q. AND WHO IS VERNON?
- 7 A. DUWOP.
- 8 Q. HOW DID YOU END UP FROM RIDGEWAY TO COLUMBIA?
- 9 A. HOW DID WE END UP FROM RIDGEWAY TO COLUMBIA?
- 10 Q. YEAH. WHAT MADE YOU COME FROM RIDGEWAY TO COLUMBIA?
- 11 A. WELL, JACQUES GOT A PHONE CALL. I DON'T KNOW WHAT WAS
- 12 SAID ON THE PHONE.
- 13 Q. WHO WAS IT FROM?
- 14 A. I GUESS IT WAS FROM HIS BROTHER.
- 15 Q. PRIOR TO THAT PHONE CALL, WERE Y'ALL PLANNING ON GOING
- 16 TO COLUMBIA?
- 17 A. NO.
- 18 Q. WERE Y'ALL PLANNING ON GOING TO CHANCE'S SPORTS BAR?
- 19 A. NO.
- 20 Q. WHAT HAPPENS AFTER -- DO YOU REMEMBER APPROXIMATELY WHAT
- 21 TIME Y'ALL COME TO CHANCE'S SPORTS BAR THAT NIGHT?
- 22 A. NO.
- 23 Q. WHAT HAPPENS ONCE Y'ALL GET THERE?
- 24 A. WE PULL UP. JACQUES GOES IN TO GET HIS BROTHER. WE
- 25 STAYED IN THE CAR, ME AND VERNON, AND AS THEY COME OUT, SOME

1 GUYS CAME UP BEHIND THEM.

2 Q. SO SHA-SHA ACTUALLY GOES INSIDE?

3 A. YEAH, HE GOES INSIDE TO GET HIS BROTHER, BUT I MEAN,
4 WHEN -- YES, HE GOES INSIDE TO GET HIS BROTHER.

5 Q. HOW LONG ARE YOU -- CAN YOU RECALL HOW LONG
6 APPROXIMATELY HE WAS ACTUALLY INSIDE THERE?

7 A. NO, I CAN'T RECALL.

8 Q. YOU CAN'T RECALL HOW LONG HE WAS APPROXIMATELY IN THERE?
9 AND AFTER THEY COME OUTSIDE, WHAT HAPPENS NEXT?

10 A. ME AND THE GUYS ARE ARGUING.

11 Q. WHO WAS ARGUING?

12 A. I DON'T KNOW WHO WAS ARGUING WITH WHO, BUT I KNOW THEY
13 WAS ARGUING.

14 Q. WHO WAS FROM RIDGEWAY THAT YOU KNEW THAT YOU SAW
15 ARGUING?

16 A. YOU'VE GOT MARCUS TUCKER. YOU'VE GOT BAM. THOSE ARE
17 THE ONES LIKE FROM RIDGEWAY THAT I SEEN.

18 Q. WHAT ABOUT KARTEZ? WHAT DID KARTEZ DO?

19 A. I DIDN'T SEE KARTEZ.

20 Q. YOU NEVER SAW KARTEZ AT ALL THAT NIGHT?

21 A. I NEVER SEEN HIM ARGUING WITH THE GROUP.

22 Q. WHERE WAS HE AT? DID HE EVER APPROACH THAT CAR WHERE
23 YOU WERE LOCATED AT?

24 A. NO.

25 Q. HE NEVER CAME TO THAT CAR AT ALL.

1 A. NO, SIR.

2 Q. NEVER WAS NEAR IT.

3 A. NO, SIR.

4 Q. FROM THE GUYS FROM WINNSBORO WHO DID YOU SEE ARGUING?

5 DO YOU KNOW ANY OF THOSE GUYS?

6 A. I MEAN, I CAN'T REALLY -- I DON'T KNOW WHO WAS ARGUING
7 WITH WHO. LIKE I SAID, I JUST HEARD A LOT OF ARGUING. YOU
8 KNOW, I DON'T KNOW WHO WAS ARGUING WITH WHO.

9 Q. AT WHAT POINT DID YOU SEE KARTEZ?

10 A. WHEN I SEEN KARTEZ, I MEAN, WE WAS -- WE WAS LEAVING, I
11 MEAN, BUT I NEVER SEEN HIM COMING TOWARDS THE VEHICLE THAT I
12 WAS IN.

13 Q. WHERE DID YOU SEE YO-YO AT?

14 A. HE MIGHT HAVE BEEN OVER THERE BY THE FIGHT. HE WAS OVER
15 BY THE FIGHT.

16 Q. AT WHAT POINT DID YOU SEE YO-YO?

17 A. HE WAS WALKING FROM THE FIGHT OVER THERE TOWARDS KARTEZ.

18 Q. SO YOU DID SEE KARTEZ.

19 A. YEAH, I SAID I SEEN KARTEZ, BUT I DIDN'T SEE HIM WITH
20 THE FIGHT ARGUING---

21 Q. ABOUT HOW FAR IS KARTEZ FROM YOU?

22 MR. ROBERSON: OBJECTION. LET HIM FINISH ANSWERING THE
23 QUESTION, YOUR HONOR.

24 THE COURT: PLEASE LET HIM FINISH ANSWERING THE QUESTION
25 BEFORE YOU ASK ANOTHER QUESTION, SIR. THANK YOU.

1 BY MR. LAKE:

2 Q. GO AHEAD.

3 A. I SAID I SEEN KARTEZ, BUT I NEVER SEEN KARTEZ ARGUING.
4 HE WAS NOT WITH THE GROUP THAT WAS ARGUING. HE WAS AWAY FROM
5 ALL THAT.

6 Q. HE WAS AWAY FROM THAT WHERE?

7 A. ON THE OTHER SIDE LIKE. I MEAN, HAVE YOU GOT A PICTURE
8 OF THE CLUB OR SOMETHING?

9 Q. THERE IT IS. USING THIS POINTER, TELL THIS JURY WHERE
10 YOU'RE GOING TO PUT KARTEZ. IF THIS IS THE FRONT OF CHANCE'S
11 SPORTS BAR HERE---

12 MR. ROBERSON: OBJECTION. LET HIM TESTIFY.

13 BY MR. LAKE:

14 Q. HERE IS THE POINTER. SHOW THE JURY WHERE YOU'RE SAYING
15 THAT KARTEZ WAS AT AWAY FROM EVERYONE ELSE.

16 A. I WOULD SAY THIS IS -- THIS IS THE CLUB RIGHT HERE;
17 RIGHT?

18 Q. YEAH.

19 A. HE WAS WAY OVER HERE.

20 Q. SO HE IS WAY OVER HERE.

21 A. YEAH, HE'S LIKE WAY OVER THERE ON THE OTHER SIDE.

22 Q. WHERE IS THAT WHITE ESCORT AT?

23 A. WE WAS DOWN FROM THAT.

24 Q. OH, Y'ALL WERE DOWN FROM THAT?

25 A. YES.

1 Q. WERE Y'ALL DOWN FROM THAT THE ENTIRE TIME?

2 A. YES, SIR.

3 Q. Y'ALL NEVER MOVED THAT CAR PRIOR TO...

4 A. NO, SIR.

5 Q. THE WHITE ESCORT NEVER MOVED.

6 A. I'M SAYING IT MOVED WHEN WE GOT READY TO GO, BUT IT

7 AIN'T MOVED...

8 Q. WELL, HOW DID Y'ALL -- DESCRIBE TO THE JURY HOW Y'ALL

9 LEFT THE SCENE THEN.

10 A. THE CAR MOVED WHEN WE LEFT THE SCENE.

11 Q. DID IT MOVE SLOW?

12 A. YEAH, WE MOVED SLOW.

13 Q. SO YOU DIDN'T SPEED OUT OF THE---

14 A. NO.

15 Q. MR. WILLINGHAM, YOU WERE CHARGED IN THIS CASE, WEREN'T

16 YOU?

17 A. YES.

18 Q. WHAT WERE YOU CHARGED WITH?

19 A. MISPRISION OF A FELONY.

20 Q. DID YOU EVER SEE SHA-SHA WITH SOMETHING IN HIS HAND?

21 A. I MEAN, I SEEN SOMETHING, BUT I CAN'T DESCRIBE WHAT IT

22 WAS.

23 Q. WHAT DID IT APPEAR TO BE?

24 A. SOMETHING BLACK.

25 Q. AND WHEN YOU SAW SOMETHING BLACK IN HIS HAND, DESCRIBE

1 WHAT WAS GOING ON.

2 A. WHEN I SAW SOMETHING BLACK IN HIS HAND, DESCRIBE WHAT
3 WAS GOING ON?

4 Q. YEAH. TELL THE JURY WHAT YOU SAW HIM DOWN WITH THAT
5 THING THAT LOOKED BLACK IN HIS HAND.

6 MR. ROBERSON: OBJECTION.

7 THE COURT: I'LL ALLOW IT. GO AHEAD, SOLICITOR.

8 THE WITNESS: I MEAN, I SEEN SOMETHING BLACK IN HIS HAND
9 AND, OF COURSE, IT WAS IN THE AIR. IT WAS POINTED TOWARDS
10 THE SKY, NOT TOWARDS -- NOT TOWARDS THE CROWD OF PEOPLE.

11 BY MR. LAKE:

12 Q. WHAT HAPPENED NEXT? AFTER YOU SAW THIS THING THAT'S
13 BLACK POINTED IN THE AIR, WHAT HAPPENED?

14 A. I MEAN, I HEARD A GUNSHOT BUT...

15 Q. DID YOU THINK THAT WAS A GUN THAT WAS IN HIS HAND?

16 A. IT COULD HAVE BEEN BUT...

17 Q. COULD HAVE BEEN. DID YOU EVER SEE HIM POINT THAT BLACK
18 THING TOWARDS YO-YO?

19 A. NO.

20 Q. YOU NEVER SAW HIM POINT IT TOWARDS YO-YO.

21 A. NO.

22 Q. SIR, ISN'T IT TRUE THAT YOU SAW YO-YO WALKING UP TOWARDS
23 KARTEZ AND THAT YOU TOLD THE POLICE THAT SHA-SHA SAID, "DON'T
24 DO IT, YO-YO"?

25 A. YEAH.

1 Q. WAS THERE SOMETHING IN HIS HAND THEN?

2 A. NO.

3 Q. THERE WAS NOTHING IN HIS HAND---

4 A. NOT THAT I CAN RECALL, NO.

5 Q. IN RELATION TO -- AT WHAT POINT THEN DID YOU SEE
6 SOMETHING BLACK IN HIS HAND THEN? WAS IT BEFORE OR AFTER HE
7 MADE THAT STATEMENT TO YO-YO?

8 MR. ROBERSON: OBJECTION, YOUR HONOR. HE ASKED HIM TWO
9 QUESTIONS.

10 THE COURT: I'M GOING TO ALLOW IT. GO AHEAD AND IF HE
11 -- THE WITNESS CAN ANSWER IF HE CAN.

12 THE WITNESS: COULD YOU REPEAT THE QUESTION AGAIN?

13 BY MR. LAKE:

14 Q. AT WHAT POINT DID YOU SEE THIS BLACK THING IN HIS HAND?
15 WAS IT BEFORE OR AFTER---

16 A. THIS WAS AFTER THE STATEMENT---

17 Q. ---HE MADE THE STATEMENT TO YO-YO?

18 A. THIS WAS AFTER THE STATEMENT. AFTER.

19 Q. HOW LONG AFTER?

20 A. I CAN'T RECALL THE TIME, MINUTES, SECONDS.

21 Q. WHAT DID YO-YO DO AFTER SHA-SHA MADE THAT STATEMENT?

22 A. HE BACKED UP.

23 Q. WHY WOULD HE BACK UP THEN?

24 A. HEY, I GUESS HIS WORDS WERE STRONGER.

25 Q. ISN'T IT TRUE HE BACKED UP BECAUSE THERE WAS SOMETHING

1 IN HIS HAND?

2 A. NO, I AIN'T GOING TO SAY THAT.

3 Q. AFTER THE -- HOW MANY SHOTS DID YOU HEAR?

4 A. MULTIPLE. A LOT.

5 Q. HOW MANY SHOTS DID YOU HEAR SPECIFICALLY APPEAR TO COME
6 FROM SHA-SHA?

7 MR. ROBERSON: OBJECTION. HE DIDN'T SAY HE HEARD A SHOT
8 COME FROM SHA-SHA.

9 THE COURT: I'M GOING TO ALLOW THE QUESTION AND SEE IF
10 THE WITNESS CAN ANSWER OR CAN'T.

11 THE WITNESS: (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)
12 HUH-UH.

13 BY MR. LAKE:

14 Q. I'M SORRY. WHAT WAS YOUR ANSWER?

15 A. I AIN'T ANSWERED THE QUESTION.

16 Q. DO YOU WANT ME TO REPHRASE THE QUESTION?

17 A. NO, I NEVER SAID THAT I HEARD -- I NEVER SAID THAT I
18 HEARD SHOTS COMING FROM JACQUES GIBSON.

19 Q. YOU DON'T COUNT THIS PART RIGHT HERE WHERE YOU SAW THE
20 THING BLACK UP IN THE -- YOU SAW SOMETHING BLACK IN HIS HAND
21 AND POINTED UP IN THE AIR AND YOU HEAR SHOTS FIRED? YOU
22 DON'T COUNT THAT?

23 A. NO, I DON'T COUNT THAT. I MEAN, IT COULD HAVE BEEN FROM
24 ANYBODY. I JUST HEARD THE SHOTS.

25 Q. WHO DID YOU LEAVE THE SCENE WITH?

- 1 A. JACQUES. ME, JACQUES, AND VERNON.
- 2 Q. WHERE DID Y'ALL -- WHERE DID Y'ALL GO AFTER THAT?
- 3 A. UP TWO NOTCH.
- 4 Q. IS THAT THE SAME WAY Y'ALL CAME?
- 5 A. I CAN'T REMEMBER.
- 6 Q. ISN'T THAT THE BACK WAY?
- 7 A. IS IT THE BACK WAY?
- 8 Q. GOING ALL THE WAY DOWN TWO NOTCH, ISN'T THAT THE BACK
- 9 WAY TO---
- 10 A. NO. IT ALL DEPENDS.
- 11 Q. ISN'T THAT THE BACK WAY TO RIDGEWAY AND WINNSBORO?
- 12 CORRECT?
- 13 A. I MEAN, IF THAT'S THE WAY YOU WANT TO TAKE, BUT---
- 14 Q. I'M ASKING YOU.
- 15 A. ---IT JUST DEPENDS ON WHERE YOU'RE GOING IN COLUMBIA.
- 16 Q. DID Y'ALL MAKE ANY STOPS OR WHAT, IF ANY, STOPS DID
- 17 Y'ALL MAKE WHEN Y'ALL WERE GOING BACK?
- 18 A. WE MADE ONE STOP.
- 19 Q. WHERE DID Y'ALL STOP AT?
- 20 A. ON THE SIDE OF CLEMSON ROAD, I GUESS.
- 21 Q. WHY DID Y'ALL STOP?
- 22 A. PROBABLY BECAUSE JACQUES HAD TO URINATE.
- 23 Q. HE HAD TO URINATE?
- 24 A. YEAH.
- 25 Q. DID YOU SEE HIM DO ANYTHING ELSE?

1 A. NO.

2 Q. WHAT DID YOU SEE HIM DO WITH THAT BLACK THING THAT YOU
3 SAW IN HIS HAND?

4 A. I DON'T KNOW.

5 Q. DID HE GET OUT OF THE CAR WITH THAT BLACK THING IN HIS
6 HAND?

7 A. NO, I DID NOT SEE HIM GET OUT OF THE CAR WITH THAT BLACK
8 THING---

9 Q. DID YOU EVER SEE---

10 A. ---IN HIS HAND.

11 Q. DID YOU EVER SEE HIM GET OUT WITH THAT BLANK THING AND
12 GO PLACE IT IN SOME WOODS?

13 A. NO, SIR.

14 MR. JOHNSON: OBJECTION, YOUR HONOR. OBJECTION. THAT'S
15 LEADING. NOBODY TESTIFIED HE PUT SOMETHING IN SOME WOODS.

16 THE COURT: SOLICITOR, ALLOW THE WITNESS TO TESTIFY,
17 PLEASE.

18 MR. LAKE: YES, SIR.

19 THE COURT: THANK YOU.

20 BY MR. LAKE:

21 Q. DID YOU HAVE ANY CONVERSATIONS? ARE Y'ALL TALKING OR
22 HAVE ANY CONVERSATIONS AS Y'ALL ARE LEAVING FROM CHANCE'S
23 SPORTS BAR ALL THE WAY UP TO RIDGEWAY? ARE Y'ALL TALKING
24 ABOUT WHAT JUST HAPPENED?

25 A. NO, WE AREN'T TALKING ABOUT WHAT HAPPENED.

1 Q. Y'ALL RIDE ALL THE WAY AND DON'T TALK ABOUT NOTHING.

2 A. NO. THE ONLY THING THAT WAS SAID IS THAT SHA-SHA WAS
3 LIKE, "I HOPE NO ONE AIN'T DEAD," AND THE REASON WHY HE SAID
4 THAT IS BECAUSE---

5 Q. WHO IS -- WHO ARE YOU TALKING ABOUT?

6 A. JACQUES.

7 Q. SAYS WHAT?

8 A. THAT I HOPE NO ONE IS NOT DEAD AND THE REASON WHY HE
9 SAID THAT IS BECAUSE WE HEARD MOST OF THE SHOTS AND WE NEVER
10 BEEN IN A SITUATION LIKE THAT BEFORE. AND WHERE I COME FROM
11 AND WHERE WE COME FROM IS A PLACE WHERE NOBODY DON'T PLAY
12 THAT: MAMAS, DADDIES, NOBODY.

13 Q. ARE YOU FINISHED?

14 A. YEAH, I'M FINISHED.

15 Q. DID YOUR MAMA AND DADDY OR ANYONE ELSE'S MAMA AND DADDY
16 KNOW THAT Y'ALL WERE OUT THERE THAT TIME OF THE NIGHT IN
17 COLUMBIA?

18 MR. JOHNSON: OBJECTION. HE KNOWS THAT'S IMPROPER.

19 THE COURT: SOLICITOR, LET'S STICK TO WHAT'S GOING ON
20 AND WHAT'S OCCURRED IN THE FACTS OF THIS CASE. THANK YOU.
21 BY MR. LAKE:

22 Q. WHERE DID Y'ALL GO AFTER YOU GOT TO RIDGEWAY?

23 A. BAM'S. I GUESS BAM'S HOUSE.

24 Q. BAM'S HOUSE?

25 A. YEAH.

1 Q. WHO ALL IS AT BAM'S HOUSE AT THIS TIME?

2 A. I DON'T KNOW.

3 Q. WHO ALL DID YOU SEE?

4 A. NO ONE.

5 Q. SO YOU SAW NO ONE.

6 A. NO, I STAYED IN THE CAR. I NEVER EXITED THE VEHICLE.

7 Q. WHERE IS KARTEZ?

8 A. I DIDN'T SEE HIM.

9 Q. YOU NEVER SAW KARTEZ ANYMORE THAT NIGHT?

10 A. NO.

11 Q. WHAT ABOUT PUNKIN, LAKISHA DAVIS?

12 A. NO, I SEEN NO ONE. I NEVER EXITED THE VEHICLE.

13 Q. AND YOUR CASE HASN'T BEEN DISPOSED OF, HAS IT? YOUR
14 CASE HASN'T BEEN DISPOSED OF. IT'S STILL PENDING; CORRECT?

15 A. I HAVE NO IDEA. ALL I KNOW IS I WAS SUBPOENAED TO COME
16 TO COURT.

17 Q. AND DO YOU SEE YOUR ATTORNEY IN THE COURTROOM?

18 A. YES.

19 Q. WHERE IS HE AT?

20 A. IN THE BACK.

21 THE COURT: SOLICITOR, LET'S STICK WITH THE FACTS OF
22 THIS CASE, PLEASE. THANK YOU. MOVE ALONG.

23 MR. LAKE: SIR, ISN'T IT TRUE THAT YOU, VERNON, AND
24 JACQUES HAD A CONVERSATION ABOUT WHAT Y'ALL ARE GOING TO SAY
25 ABOUT THIS INCIDENT?

1 MR. JOHNSON: LEADING, YOUR HONOR.

2 THE COURT: I'M GOING TO ALLOW IT. GO AHEAD.

3 BY MR. LAKE:

4 Q. ISN'T IT TRUE?

5 A. YES.

6 Q. WHEN DID Y'ALL HAVE THIS CONVERSATION?

7 A. THAT WAS THE NEXT DAY.

8 Q. AND WHAT DID YOU SAY? WHAT WAS SAID?

9 A. WHAT DID I SAY?

10 Q. WHAT DID SHA-SHA SAY?

11 A. THAT WE CAME TO PICK UP HIS BROTHER AND WE LEFT.

12 Q. LEFT OUT WHEN?

13 A. HUH?

14 Q. THAT YOU LEFT WHEN?

15 A. WE LEFT THE CLUB. WE LEFT THE SCENE.

16 Q. WHAT WAS THE PURPOSE---

17 A. WE CAME TO PICK UP HIS BROTHER AND WE LEFT THE SCENE.

18 Q. WHAT WAS THE PURPOSE OF TELLING YOU THAT?

19 A. LIKE I SAID ONCE BEFORE, WE WERE SCARED, NEVER BEEN IN A
20 SITUATION LIKE THAT BEFORE.

21 Q. LEFT BEFORE THE SHOTS WERE FIRED?

22 A. NO, THAT NEVER HAPPENED. NO, HE DIDN'T SAY NOTHING LIKE
23 THAT.

24 Q. WHAT ELSE DID HE TELL YOU TO SAY?

25 A. THAT'S IT.

1 Q. Y'ALL HAD NO OTHER CONVERSATION?

2 A. NO OTHER CONVERSATION.

3 Q. DID YOU GO TO SCHOOL THAT TUESDAY AFTER LABOR DAY?

4 A. YES, SIR.

5 Q. WHAT ABOUT SHA-SHA? DID HE GO TO SCHOOL THAT TUESDAY---

6 A. I DON'T KNOW.

7 Q. ---AFTER THIS INCIDENT?

8 A. I DON'T KNOW.

9 Q. DO YOU RECALL SEEING HIM AT SCHOOL?

10 A. WE DIDN'T GO TO THE SAME SCHOOL.

11 Q. Y'ALL DIDN'T GO TO THE SAME SCHOOL?

12 A. NO.

13 Q. WHAT SCHOOL DID YOU GO TO?

14 A. FAIRFIELD ADULT EDUCATION.

15 MR. LAKE: NO FURTHER QUESTIONS.

16 THE COURT: ALL RIGHT. CROSS-EXAMINATION, MR. ROBERSON.

17 MR. ROBERSON: IF YOUR HONOR PLEASE.

18 CROSS-EXAMINATION

19 BY MR. ROBERSON:

20 Q. MR. WILLINGHAM?

21 A. YES, SIR.

22 Q. ADAMS GIBSON DID NOT RIDE TO COLUMBIA WITH YOU IN THAT
23 WHITE FORD ESCORT.

24 A. NO, SIR.

25 Q. WHEN YOU SAW HIM THAT NIGHT, HE HAD ON A WHITE TEE SHIRT

1 AND BLUE JEANS, DID HE NOT?

2 A. YES, SIR.

3 Q. DID YOU EVER SEE ADAMS GIBSON WITH A GUN?

4 A. NO, SIR.

5 Q. DID YOU EVER SEE HIM SHOOT A GUN?

6 A. NO, SIR.

7 Q. DID YOU EVER SEE HIM FIGHTING WITH ANYBODY ON THAT
8 NIGHT?

9 A. NO, SIR.

10 Q. DO YOU KNOW WHAT KIND OF CAR LAKISHA DAVIS HAS?

11 A. NO, SIR.

12 Q. DID YOU SEE HER CAR THAT NIGHT AT ALL?

13 A. NO, SIR.

14 MR. ROBERSON: OKAY. THANK YOU, SIR.

15 THE COURT: ALL RIGHT. MR. JOHNSON?

16 MR. JOHNSON: I DON'T HAVE ANY QUESTIONS, YOUR HONOR.

17 THE COURT: ALL RIGHT. SOLICITOR, ANY REDIRECT
18 QUESTIONS ON THE QUESTIONS ASKED BY MR. ROBERSON?

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

20 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN, SIR.

21 ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY, WE ARE GOING TO
22 STOP FOR THE EVENING. NOW, A COUPLE OF THINGS. ONE, PLEASE,
23 REMEMBER WHAT I TOLD YOU ABOUT: WHEN YOU GO HOME, DON'T TALK
24 ABOUT THE CASE. DON'T ALLOW ANYBODY TO TALK TO YOU ABOUT THE
25 CASE. YOU REMEMBER THAT YOU NEED TO DECIDE THIS CASE SOLELY

1 ON THE EVIDENCE AND THE TESTIMONY AND THE DOCUMENTS THAT ARE
2 PRESENTED IN THIS COURTROOM AND FROM NO OTHER SOURCE. DON'T
3 ALLOW ANYONE ELSE TO INFLUENCE YOUR DECISION IN ANY WAY.

4 THE SECOND THING IS THERE ARE STILL A NUMBER OF
5 WITNESSES LEFT ON THE STATE'S POSSIBLE OR POTENTIAL WITNESS
6 LIST. WITH THAT, I NEED FOR YOU TO LET ANYONE THAT YOU MIGHT
7 NEED TO KNOW AT HOME THAT YOU MAY BE LATE COMING HOME
8 TOMORROW NIGHT BECAUSE IT'S MY INTENTION WE'RE GOING TO
9 FINISH THIS CASE THIS WEEK. IF WE DO THAT, IT MAY ENTAIL US
10 TO WORK LATE TOMORROW AND MAYBE WE'LL WORK LATE THE NEXT DAY.

11 SO PLEASE LET ANYBODY KNOW THAT YOU NEED TO, AND IF YOU
12 HAVE ANY QUESTION ABOUT BEING LATE, WE'RE NOT LATE RIGHT NOW.
13 ALL RIGHT? LATE MEANS A COUPLE MORE HOURS INTO THE EVENING.
14 SO PLEASE LET ANYBODY KNOW AT HOME THAT YOU NEED TO KNOW.
15 ALL RIGHT? I'LL SEE YOU BACK TOMORROW MORNING AT 9 A.M.
16 PLEASE BE BACK IN YOUR JURY ROOM AT 9 A.M. THANK YOU VERY
17 MUCH.

18 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE
19 DAY AT 5:50 P.M.)

20 THE COURT: ALL RIGHT. IS THERE ANYTHING FURTHER FROM
21 THE STATE AT THIS POINT IN TIME THAT WE NEED TO COVER?

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

23 THE COURT: MR. ROBERSON?

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

25 THE COURT: YES, SIR.

1 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE IN THE
2 HEARING OF THE COURT, THE ATTORNEYS, AND THE COURT REPORTER.)

3 THE COURT: YES, SIR.

4 MR. ROBERSON: THE FIRST THREE JURORS ARE TALKING
5 INTIMATELY AND THEY'RE LAUGHING AND THEY'RE SITTING THERE
6 LAUGHING.

7 THE COURT: WELL, NO, I THINK THEY'RE HEARING
8 EVERYTHING. NOW, I THINK IT WAS OBVIOUS THAT WHAT SOMEONE
9 SAID ON THE WITNESS STAND COULD BE INTERPRETED IN MORE THAN
10 ONE WAY AND SO I, YOU KNOW---

11 MR. ROBERSON: I'M NOTICING THEY'RE COMMUNICATING OR
12 SOMETHING, I'M TELLING YOU.

13 THE COURT: ALL RIGHT, SIR. I AM TELLING YOU---

14 MR. ROBERSON: OKAY.

15 THE COURT: ---I HAVE NOT NOTICED THAT. OKAY? I WILL
16 CAUTION EVERYONE IN THE AUDIENCE NOT TO DO SO. IF YOU WANT
17 ME TO IN THE MORNING AT 9:00, WE WILL CALL THOSE THREE JURORS
18 OUT ONE AT A TIME AND WE WILL QUESTION THEM IF YOU WANT ME TO
19 DO SO. IF YOU WANT ME TO SINGLE THEM OUT, I WILL DO SO.

20 MR. ROBERSON: NO, SIR. I THINK THIS COURT CAN EXPLAIN
21 TO THEM THAT THEIR UNDIVIDED ATTENTION IS DUE.

22 THE COURT: I HAVE NOT NOTICED IN ANY WAY THAT THEY ARE
23 NOT PAYING ATTENTION TO THIS CASE, SIR.

24 MR. ROBERSON: OKAY.

25 THE COURT: ALL RIGHT, SIR? I WILL SPECIFICALLY LOOK

1 FOR THAT TOMORROW, BUT I'M TELLING YOU I HAVE NOT NOTICED THE
2 JURORS' INATTENTION TO THIS CASE IN ANY MANNER WHATSOEVER. I
3 BELIEVE THEY ARE FULLY INVOLVED AND FULLY ATTENTIVE TO WHAT'S
4 GOING ON IN THIS CASE. ALL RIGHT?

5 MR. ROBERSON: YES, YOUR HONOR.

6 THE COURT: YES, SIR, MR. JOHNSON?

7 MR. JOHNSON: WOULD YOU PLEASE GIVE THEM AN ADMONITION?

8 THE COURT: FIRST THING WHEN WE START IN THE MORNING.

9 MR. JOHNSON: ALL RIGHT, SIR. THE SECOND -- THIS
10 DOESN'T HAVE TO BE ON THE RECORD.

11 (AN OFF-THE-RECORD DISCUSSION TOOK PLACE.)

12 THE COURT: I'LL SEE Y'ALL BACK TOMORROW MORNING AT
13 9:00. WE'LL BE AT EASE UNTIL TOMORROW MORNING. THANK YOU.

14 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:54 P.M.
15 AND RESUMED THE FOLLOWING DAY, MAY 23, 2007, AS FOLLOWS:)

16 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
17 THANK Y'ALL. ALL RIGHT. IS THE STATE READY TO PROCEED?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: ALL RIGHT. AND MR. ROBERSON?

20 MR. ROBERSON: READY, YOUR HONOR.

21 THE COURT: AND MR. JOHNSON?

22 MR. JOHNSON: YES, SIR, YOUR HONOR. YOU HAD INDICATED
23 YESTERDAY---

24 THE COURT: YES, SIR. YES, SIR, I WILL. ALL RIGHT.

25 LADIES AND GENTLEMEN, I WANT TO MAKE SURE AND TELL YOU AGAIN

1 -- WE HAD SOME INSTRUCTIONS THAT I GAVE YOU AT THE VERY
2 BEGINNING. PLEASE DO NOT IN ANY WAY HAVE ANY REACTIONS TO
3 THE TESTIMONY THAT IS BEING PRESENTED. I KNOW AT TIMES IT'S
4 SOMETIMES DIFFICULT. THERE ARE -- EVEN THOUGH THESE ARE
5 EXTREMELY SERIOUS MATTERS THAT WE ARE HAVING, SOMETIMES THERE
6 ARE AT LEAST SOME -- WHAT APPEAR TO BE HUMOROUS THINGS THAT
7 HAPPEN AND SOMETIMES THERE ARE. BUT AS BEST YOU CAN, PLEASE
8 CONTROL YOURSELF AND, ABOVE ALL, PLEASE DO NOT SHOW ANY
9 REACTION TO THE JURY. THANK YOU VERY MUCH. ASK THE JURY TO
10 COME IN, PLEASE.

11 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:18
12 A.M.)

13 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY CALL YOUR
14 NEXT WITNESS, MA'AM.

15 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
16 MARCUS TUCKER.

17 THE COURT: PLEASE COME AROUND AND BE SWORN, SIR.

18 MARCUS C. TUCKER, AFTER BEING DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 THE CLERK: HAVE A SEAT ON THE WITNESS STAND AND STATE
21 YOUR FULL NAME FOR THE RECORD, PLEASE.

22 THE WITNESS: MY NAME IS MARCUS CORNELL TUCKER.

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q. MARCUS, HOW OLD ARE YOU?

- 1 A. TWENTY-FOUR.
- 2 Q. WHERE DO YOU LIVE?
- 3 A. RIDGEWAY, SOUTH CAROLINA.
- 4 Q. HOW LONG HAVE YOU LIVED IN THE RIDGEWAY AREA?
- 5 A. SINCE I WAS BORN.
- 6 MR. ROBERSON: SINCE WHEN?
- 7 THE WITNESS: SINCE I WAS BORN.
- 8 MR. ROBERSON: OKAY.
- 9 BY MS. CAMPBELL:
- 10 Q. DO YOU KNOW DEMETRIC DAVIS?
- 11 A. YES, MA'AM.
- 12 Q. AND HOW DO YOU KNOW HIM?
- 13 A. WE WENT TO SCHOOL TOGETHER.
- 14 Q. DO YOU KNOW TRAMELE DAVIS?
- 15 A. YES, MA'AM.
- 16 Q. AND HOW DO YOU KNOW HIM?
- 17 A. THAT'S MY COUSIN. WE WENT TO SCHOOL TOGETHER ALSO.
- 18 Q. WHAT HAPPENED ADAMS GIBSON?
- 19 A. YES, MA'AM, I KNOW HIM.
- 20 Q. HOW DO YOU KNOW ADAMS?
- 21 A. WENT TO SCHOOL.
- 22 Q. DO YOU KNOW HIM BY THAT NAME OR DO YOU CALL HIM BY
- 23 ANOTHER NAME?
- 24 A. I CALL HIM KARTEZ.
- 25 Q. DO YOU KNOW HIS BROTHER?

- 1 A. YES, MA'AM.
- 2 Q. AND IS HIS BROTHER OLDER OR YOUNGER THAN ADAMS?
- 3 A. YOUNGER.
- 4 Q. DO YOU KNOW HIS NAME?
- 5 A. SHA-SHA.
- 6 Q. WHAT ABOUT A YOUNG MAN NAMED VERNON DAVIS?
- 7 A. YES, MA'AM, I KNOW HIM.
- 8 Q. AND DO YOU KNOW HIM BY A NICKNAME?
- 9 A. I CAN'T REMEMBER, BUT I KNOW HIM.
- 10 Q. AND STEPHON WILLINGHAM?
- 11 A. NO, MA'AM, I DON'T KNOW HIM.
- 12 Q. I WANT TO TURN YOUR ATTENTION BACK TO THE EVENING OF
- 13 SEPTEMBER THE 4TH. THAT NIGHT DID YOU HAVE AN OCCASION TO
- 14 COME TO COLUMBIA?
- 15 A. MA'AM?
- 16 Q. DID YOU COME TO THE COLUMBIA AREA?
- 17 A. YES, MA'AM.
- 18 Q. AND TELL THE JURY WHAT HAPPENED THAT NIGHT, HOW YOU
- 19 ENDED UP IN COLUMBIA.
- 20 A. WELL, IT WAS ON A SUNDAY, SO WE WENT TO GO HAVE SOME
- 21 DRINKS. WE WANTED TO GO HAVE SOME DRINKS, AND SO WE WENT TO
- 22 CLUB CHANCE'S.
- 23 Q. AND WHO IS WE?
- 24 A. ME, TRAMELE DAVIS, AND DEMETRIC DAVIS AND KARTEZ ADAMS.
- 25 Q. WHO WAS DRIVING THAT NIGHT?

- 1 A. LAKISHA ADAMS.
- 2 Q. LAKISHA ADAMS?
- 3 A. I MEAN, LAKISHA DAVIS. I'M SORRY.
- 4 Q. AND DO YOU KNOW: WAS IT BEFORE DARK OR AFTER DARK WHEN
- 5 Y'ALL GOT TO THE CLUB?
- 6 A. IT WAS DARK.
- 7 Q. WERE YOU PLANNING ON GOING TO CHANCE'S THAT NIGHT OR HAD
- 8 YOU PLANNED TO GO ANYWHERE ELSE?
- 9 A. NO, MA'AM. WE JUST LEFT AND PLANNED TO GO PARTYING.
- 10 Q. ONCE YOU GOT TO THE CLUB, WHAT DID YOU DO?
- 11 A. WE JUST SAT DOWN AND HAD LIKE ONE OR TWO DRINKS.
- 12 Q. WHEN YOU WENT IN THE CLUB, DID YOU SEE ANY OTHER PEOPLE
- 13 THERE THAT YOU RECOGNIZED?
- 14 A. THE BOYS THAT WE WAS FIGHTING FROM WINNSBORO.
- 15 Q. AND WHEN YOU FIRST WENT INTO THE CLUB, WHAT WAS THE
- 16 DEMEANOR LIKE? WHAT WERE Y'ALL -- WAS THERE ANY HOSTILITY
- 17 GOING ON OR ANY KIND OF---
- 18 A. I MEAN, WE WERE JUST STANDING THERE, YOU KNOW, JUST
- 19 LOOKING, JUST LOOKING. EYE CONTACT. THAT'S ALL.
- 20 Q. AND AS YOU STAYED IN THE CLUB, DID THINGS CHANGE?
- 21 A. NO, MA'AM.
- 22 Q. AT SOME POINT DID YOU LEAVE THE CLUB?
- 23 A. AFTER THEY LEFT OUT, YES.
- 24 Q. AND WHY WERE Y'ALL LEAVING THE CLUB?
- 25 A. WELL, SOME THINGS HAD HAPPENED IN THE PAST WITH MY

1 COUSIN DEMETRIC AND I THINK TORRI BOYD. THEY HAD HAD A BEEF
2 IN THE PAST, AND SO HE WAS LIKE, WELL, I'M GOING TO GET HIM.
3 I'M GOING TO FIGHT HIM OR WHATEVER.

4 Q. AND WHO HAD MADE THAT DECISION?

5 A. DEMETRIC DAVIS.

6 Q. DID YOU KNOW THAT BEFORE OR AFTER YOU WENT OUT OF THE
7 CLUB?

8 A. BEFORE WE WENT OUTSIDE.

9 Q. YOU MENTIONED EARLIER WHO -- WHEN YOU REFER TO THE
10 WINNSBORO GUYS, HOW MANY OF THEM WERE THERE? DO YOU KNOW?

11 A. ABOUT -- I THINK ABOUT FIVE -- FIVE OF THEM, FIVE OR
12 SIX.

13 Q. DID YOU KNOW ANY OF THEIR NAMES?

14 A. I JUST KNOW ONE THAT'S YO-YO AND I KNOW TORRI, TORRI
15 BOYD, AND DENNIS. I WENT TO SCHOOL WITH DENNIS.

16 Q. YOU MENTIONED THAT THE BOYS FROM WINNSBORO LEFT FIRST?

17 A. LEFT OUTSIDE?

18 Q. UH-HUH.

19 A. YES, MA'AM.

20 Q. HOW LONG AFTER THAT DID Y'ALL GO OUTSIDE?

21 A. WE WENT -- WE WAS LIKE, "THE CLUB IS ABOUT GETTING READY
22 TO CLOSE," SO WE WAS RIGHT OUT THE DOOR.

23 Q. ONCE YOU GOT OUTSIDE IN THE PARKING LOT, TELL THE JURY
24 WHAT HAPPENED.

25 A. WE STARTED ARGUING FOR LIKE -- FOR ABOUT FIVE OR TEN

1 MINUTES.

2 Q. AND WHO WAS ARGUING?

3 A. DEMETRIC DAVIS AND TRAMELE. THEY JUST HAD A COUPLE OF
4 WORDS, YOU KNOW. THEY EXCHANGED WORDS.

5 Q. DEMETRIC DAVIS AND WHO?

6 A. AND TORRI BOYD.

7 Q. AND WHEN THEY WERE HAVING WORDS, HOW WERE THEY STANDING?

8 A. JUST FACE TO FACE.

9 Q. WHERE IN THE PARKING LOT WERE THEY? DO YOU REMEMBER?

10 A. OUT LIKE IN THE MIDDLE OF THE PARKING LOT.

11 Q. WAS IT TOWARDS THE FRONT DOOR OF CHANCE'S OR TOWARDS THE
12 BACK OF THE PARKING LOT?

13 A. IT WAS TOWARDS THE FRONT DOOR.

14 Q. WHAT WERE YOU DOING WHILE THEY WERE ARGUING?

15 A. JUST STANDING. I MEAN, I SAID A COUPLE OF THINGS, BUT I
16 CAN'T REMEMBER, BUT I WAS STANDING THERE.

17 Q. WAS ANYBODY ELSE SAYING ANYTHING BESIDES THE PEOPLE YOU
18 JUST MENTIONED?

19 A. NO, NOT REALLY, NO. NO, MA'AM.

20 Q. DURING THE ARGUING, DO YOU REMEMBER SEEING LAKISHA?

21 A. WELL, THEY HAD LEFT AND CAME BACK BECAUSE THEY WENT TO
22 THE WAFFLE HOUSE, BUT SHE CAME BACK LIKE AFTER LIKE WE WAS
23 ABOUT GETTING READY TO FIGHT -- BEFORE WE WERE ABOUT GETTING
24 READY TO FIGHT.

25 Q. TELL THE JURY HOW - YOU MENTIONED YOU ARE GETTING READY

1 TO FIGHT - HOW THAT HAPPENED.

2 A. HOW IT HAPPENED WAS AFTER THE WORDS WAS EXCHANGED OR
3 WHATEVER, TRAMELE -- HE TOOK OFF HIS SHIRT AND HE JUST
4 THREW THE FIRST PUNCH.

5 Q. DO YOU REMEMBER WHO HE HIT?

6 A. I THINK IT WAS THE DUDE B. I DON'T KNOW HIS REAL NAME.

7 Q. OKAY. THEN WHAT HAPPENED?

8 A. AND THEN I STARTED FIGHTING SOME BIG FELLOW; I DON'T
9 KNOW HIS NAME EITHER. AND AFTER THAT, YOU KNOW, EVERYBODY
10 GOT THEIR MAN, I GUESS.

11 Q. DO YOU REMEMBER WHO ALL WAS FIGHTING WHO?

12 A. I KNOW DEMETRIC WAS FIGHTING TORRI, TORRI BOYD.

13 Q. AND YOU WERE FIGHTING A GUY -- YOU THINK HIS NAME WAS
14 WHAT?

15 A. I DON'T KNOW HIS NAME.

16 Q. YOU SAID B.?

17 A. NO. TRAMELE WAS FIGHTING B.

18 Q. TRAMELE WAS FIGHTING B.

19 A. YES, MA'AM.

20 Q. AND YOU DON'T KNOW THE NAME OF THE GUY YOU WERE
21 FIGHTING.

22 A. NO, MA'AM.

23 Q. LET ME ASK YOU THIS: DURING THE COURSE OF YOUR FIGHTING
24 THIS GUY, DID YOU HAVE A GUN THAT NIGHT?

25 A. NO, MA'AM.

1 Q. DID THE GUY THAT YOU WERE WITH -- WHAT, IF ANY, WEAPONS
2 DID HE HAVE, THE GUY YOU WERE FIGHTING?

3 A. AS I KNOW, HE DIDN'T HAVE NO GUN.

4 Q. OF THE TWO OF YOU IN YOUR FIGHT, DID EITHER OF YOU DO
5 ANY SHOOTING THAT NIGHT?

6 A. NO, MA'AM.

7 Q. WAS KARTEZ OUT IN THE PARKING LOT?

8 A. YES, MA'AM.

9 Q. DID YOU SEE WHERE HE WAS DURING -- WHILE YOU WERE DOING
10 YOUR FIGHTING?

11 A. HE WAS STANDING THERE, BASICALLY THAT'S ALL, JUST
12 STANDING THERE.

13 Q. YOU ALSO MENTIONED THAT YOU KNEW HIS BROTHER, SHA-SHA.
14 DID YOU SEE HIM THAT EVENING?

15 A. YES, MA'AM.

16 Q. DID YOU SEE HIM DOING ANY FIGHTING?

17 A. NO, MA'AM.

18 Q. WHERE DID YOU SEE SHA-SHA?

19 A. THE ONLY TIME I HAD SEEN SHA-SHA WAS LIKE WHEN THEY HAD
20 CAME -- WHEN HE CAME IN THE CLUB.

21 Q. AND DO YOU REMEMBER WHETHER OR NOT HE LEFT OUT OF THE
22 CLUB WITH Y'ALL?

23 A. YES, I THINK HE CAME OUT WITH US.

24 Q. DID YOU SEE YO-YO DOING ANY FIGHTING?

25 A. NO, MA'AM.

1 Q. AS YOU WERE -- WERE YOU -- TELL THE JURY HOW YOU WERE
2 POSITIONED. WERE YOU STANDING ON THE GROUND OR WHAT WERE YOU
3 DOING WHEN YOU WERE FIGHTING WITH THE GUY THAT YOU DON'T KNOW
4 HIS NAME?

5 A. WAS I STANDING ON THE GROUND?

6 Q. WERE YOU---

7 A. YES, MA'AM.

8 Q. ---UP ON THE GROUND OR WERE YOU DOWN ON THE GROUND OR
9 WHAT?

10 A. OH, I WAS UP.

11 Q. AND DO YOU KNOW EXACTLY WHAT ALL WAS GOING ON AROUND
12 YOU?

13 A. NO, MA'AM.

14 Q. TELL THE JURY WHAT HAPPENED NEXT.

15 A. WELL, AFTER ME AND THE DUDE I WAS FIGHTING, AFTER WE WAS
16 TUSSLING AROUND OR WHATEVER, I JUST HEARD SHOTS GOING OFF.
17 YOU KNOW, ALL I KNOW IS THAT THEY WERE SHOOTING AT US OR
18 WHATEVER, BUT EVERYBODY JUST BROKE OUT.

19 Q. DO YOU KNOW HOW LONG YOU HAD BEEN FIGHTING WHEN THE
20 SHOTS WENT OUT -- STARTED?

21 A. I DON'T KNOW. PROBABLY ABOUT FIVE MINUTES, SIX MINUTES,
22 SOMETHING LIKE THAT.

23 Q. ONCE THE SHOTS STARTED, DO YOU REMEMBER HOW MANY SHOTS
24 YOU HEARD? DO YOU KNOW?

25 A. IT WAS LIKE TWO OR THREE. TWO OR THREE.

1 Q. AND YOU MENTIONED JUST NOW THAT YOU SAID EVERYBODY BROKE
2 OUT?

3 A. YES, MA'AM.

4 Q. WHAT DOES THAT MEAN? WHERE DID YOU GO?

5 A. AFTER THE SHOTS WENT OFF, THEN I JUST RAN AND GOT IN THE
6 BACK SEAT OF LAKISHA'S CAR.

7 Q. WAS ANYBODY ALREADY IN THE CAR WHEN YOU GOT IN THERE?

8 A. TRAMELE. I MEAN, TRAMELE DAVIS AND DEMETRIC, THEY WAS
9 JUST GETTING IN THE BACK SEAT.

10 Q. AT SOME POINT DID YOU SEE KARTEZ AGAIN?

11 A. YEAH, HE GOT IN THE PASSENGER SIDE OF THE CAR, LAKISHA'S
12 CAR.

13 Q. WERE YOU THERE BEFORE OR AFTER HIM?

14 A. I GOT IN AFTER HIM.

15 Q. DID YOU SEE HIM ACTUALLY GET IN THE CAR?

16 A. I DIDN'T REALLY -- NO, I DIDN'T SEE HIM GET IN THE CAR.

17 Q. ONCE Y'ALL GOT IN THE CAR -- WELL, WHO WAS DRIVING?

18 A. LAKISHA DAVIS WAS DRIVING.

19 Q. AND, AGAIN, NAME THE PEOPLE THAT WERE IN THE CAR AFTER
20 THE SHOOTING.

21 A. LAKISHA DAVIS, KARTEZ GIBSON, ME, TRAMELE DAVIS, AND
22 DEMETRIC DAVIS.

23 Q. WHAT HAPPENED AFTER Y'ALL GOT IN THE CAR?

24 A. WE WENT BACK TO RIDGEWAY.

25 Q. DO YOU REMEMBER WHAT ROUTE YOU TOOK TO GET BACK TO

1 RIDGEWAY?

2 A. 77 NORTH.

3 Q. 77 NORTH?

4 A. YES, MA'AM.

5 Q. WHAT ALL WAS SAID WHILE YOU WERE IN THE CAR GOING BACK
6 TO RIDGEWAY?

7 A. NOTHING WAS SAID, JUST -- I DON'T KNOW. MY COUSINS,
8 THEY WAS SICK. THEY WAS THROWING UP OR WHATEVER, I GUESS
9 FROM DRINKING AND MOVING AROUND A LOT, AND LAKISHA WAS ASKING
10 EVERYBODY WAS THEY ALL RIGHT.

11 Q. NO ONE MENTIONED ANYTHING ABOUT THE SHOTS?

12 A. NO, MA'AM.

13 Q. WHERE DID Y'ALL GO WHEN YOU GOT BACK TO RIDGEWAY?

14 A. DEMETRIC DAVIS' HOUSE.

15 Q. AND WHERE DID -- WHO ALL GOT OUT AT DEMETRIC DAVIS'S
16 HOUSE?

17 A. LAKISHA DAVIS, TRAMELE DAVIS, ME, KARTEZ.

18 Q. AND WHERE DID EVERYONE GO?

19 A. WE WENT IN THE HOUSE.

20 Q. DID YOU DISCUSS AT THAT POINT WHAT HAD HAPPENED THAT
21 NIGHT WHEN SOMEBODY WAS SHOT AT?

22 A. NO, WE WAS JUST LIKE WHAT HAPPENED, WHO WAS SHOOTING, OR
23 WHATEVER.

24 Q. DO YOU REMEMBER WHERE KARTEZ WENT NEXT?

25 A. I THINK HE HAD WENT HOME. SAID HE WAS GOING HOME.

1 Q. DO YOU REMEMBER SEEING HIM WHILE YOU WERE AT THE CLUB
2 THAT NIGHT? DO YOU REMEMBER IN THE PARKING LOT SEEING A
3 WHITE ESCORT?

4 A. YES, MA'AM.

5 Q. AND WHOSE ESCORT WAS THAT? DO YOU KNOW?

6 A. IT'S KARTEZ' CAR.

7 Q. DO YOU KNOW WHO DROVE THAT ESCORT TO THE CLUB THAT
8 NIGHT?

9 A. I THINK SHA-SHA DROVE IT THERE.

10 Q. DO YOU KNOW WHO SHOT THAT NIGHT?

11 A. NO, MA'AM.

12 Q. BY THE TIME THAT YOU GOT TO THE CAR, HAD THE SHOOTING --
13 WAS IT OVER?

14 A. YES, MA'AM, IT WAS OVER BY THE TIME I GOT TO THE CAR.

15 Q. AND, IN FACT, YOU'VE MENTIONED THAT YOU BROKE OUT. WAS
16 THE SHOOTING OVER---

17 A. AS SOON AS THE SHOTS -- LIKE THE SECOND OR THIRD SHOT
18 JUST STOPPED, YOU KNOW, I JUST RAN.

19 Q. AND THAT'S WHEN YOU RAN.

20 A. YES, MA'AM.

21 Q. AS FAR AS YOUR PRIOR RECORD, MARCUS, I THINK YOU HAVE A
22 CONVICTION?

23 A. YES, MA'AM.

24 Q. AND WHAT WERE YOU CONVICTED OF?

25 A. POSSESSION OF COCAINE.

1 Q. AND CURRENTLY DO YOU HAVE ANY PENDING CHARGES?

2 A. JUST THE BREACH OF PEACE AND AN AGGRAVATED NATURE CHARGE
3 THAT I GOT.

4 Q. AND IS THAT THE CHARGE THAT AROSE OUT OF WHAT HAPPENED
5 THAT NIGHT?

6 A. YES, MA'AM.

7 Q. AND IS YOUR LAWYER HERE TODAY?

8 A. YES, MA'AM.

9 Q. DO YOU REMEMBER WHAT ANYBODY WAS WEARING THAT NIGHT?

10 A. THE ONLY THING I REMEMBER -- WELL, I REMEMBER WHAT
11 DENNIS HAD ON. THAT'S THE LAST THING I REMEMBER. THAT'S THE
12 ONLY THING I REMEMBER.

13 Q. WHAT DID HE HAVE ON?

14 A. HE HAD ON A SNOWMAN SHIRT, A BLACK SNOWMAN SHIRT.

15 Q. THE PERSON THAT WAS THERE THAT YOU KNEW AS KARTEZ---

16 A. UH-HUH.

17 Q. ---HOW LONG HAVE YOU KNOWN HIM?

18 A. FOR YEARS.

19 Q. OKAY. DO YOU SEE HIM HERE IN THE COURTROOM?

20 A. YES, MA'AM.

21 Q. CAN YOU POINT HIM OUT FOR THE JURY?

22 A. HE'S RIGHT THERE.

23 Q. WHAT COLOR SHIRT DOES HE HAVE ON?

24 A. BLUE.

25 Q. AND SHA-SHA, DO YOU SEE HIM HERE IN THE COURTROOM?

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 2, PAGES 558 - 1043

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 :

DIETRICH LAKE, ESQUIRE

KATHRYN "LUCK" CAMPBELL, ESQUIRE

ATTORNEYS FOR THE STATE

I.S. LEEVY JOHNSON, ESQUIRE

ATTORNEY FOR DEFENDANT JACQUES GIBSON

NATHANIEL ROBERSON, ESQUIRE

ATTORNEY FOR DEFENDANT ADAMS GIBSON

DAPHNE D. HELMS

CIRCUIT COURT REPORTER

1 A. YES, MA'AM.

2 Q. AND CAN YOU POINT HIM OUT FOR THE JURY?

3 A. RIGHT THERE WITH THE BLACK SUIT ON.

4 Q. AND WHICH SIDE OF THE TABLE IS HE ON?

5 A. THE RIGHT SIDE.

6 Q. CLOSEST OR FURTHEST TO YOU?

7 A. MA'AM?

8 Q. IS HE CLOSEST TO YOU AT THAT TABLE OR FURTHER FROM YOU?

9 A. CLOSEST.

10 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S

11 IDENTIFIED THE DEFENDANTS? THANK YOU. PLEASE ANSWER ANY

12 QUESTIONS THE DEFENSE MAY HAVE. OKAY.

13 THE COURT: ALL RIGHT. MR. ROBERSON?

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

15 THE COURT: YES, SIR.

16 MR. ROBERSON: JUST A COUPLE OF QUESTIONS, YOUR HONOR.

17 THE COURT: YES, SIR.

18 CROSS-EXAMINATION

19 BY MR. ROBERSON:

20 Q. WOULD YOU DISAGREE WITH ME IF I SAID KARTEZ HAD ON A

21 WHITE SHIRT THAT NIGHT?

22 A. YES, SIR, BECAUSE I DON'T REMEMBER.

23 Q. OKAY. WHAT COLOR CAR WAS LAKISHA DRIVING?

24 A. BURGUNDY.

25 Q. AND WHAT KIND OF CAR WAS IT?

1 A. A NISSAN ALTIMA.

2 Q. OKAY. AND KARTEZ RODE TO COLUMBIA FROM RIDGEWAY IN THAT
3 BURGUNDY ALTIMA.

4 A. YES, MA'AM. I MEAN, YES, SIR. SORRY.

5 Q. AND HE RODE BACK TO RIDGEWAY WITH YOU AND THE OTHER
6 FOLKS IN THAT ALTIMA.

7 A. YES, SIR.

8 Q. YOU DIDN'T SEE KARTEZ WITH A GUN.

9 A. NO, SIR.

10 Q. YOU DIDN'T SEE KARTEZ SHOOT A GUN.

11 A. NO, SIR.

12 MR. ROBERSON: I HAVE NOTHING FURTHER.

13 MR. JOHNSON: I HAVE NO QUESTIONS. THANK YOU SO VERY
14 MUCH.

15 THE COURT: ALL RIGHT. YOU MAY -- I'M SORRY.

16 SOLICITOR, DO YOU HAVE ANY REDIRECT ON THE QUESTIONS ASKED BY
17 MR. ROBERSON?

18 MS. CAMPBELL: NO, SIR.

19 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

20 THE WITNESS: ALL RIGHT.

21 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

22 THE COURT: IS THERE ANY EXCEPTION TO THAT, MR.

23 ROBERSON?

24 MR. ROBERSON: CONTACT NUMBER, YOUR HONOR. THAT IS ALL.

25 THE COURT: ALL RIGHT. DO Y'ALL HAVE THAT?

1 MS. CAMPBELL: WE HAVE CONTACT NUMBERS.

2 THE COURT: ALL RIGHT, SIR. MR. TUCKER, YOU ARE
3 EXCUSED, BUT YOU ARE NOT RELEASED FROM YOUR SUBPOENA.
4 THERE'S SOME POSSIBILITY YOU MIGHT BE CALLED BACK. OKAY?

5 THE WITNESS: OKAY.

6 THE COURT: THANK YOU VERY MUCH.

7 THE WITNESS: ALL RIGHT.

8 THE COURT: ALL RIGHT. SOLICITOR, WHO IS YOUR NEXT
9 WITNESS?

10 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL SHUNTA
11 WILSON.

12 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
13 YOUR FULL NAME FOR THE RECORD, PLEASE.

14 THE WITNESS: MY NAME IS SHUNTA WILSON.

15 SHUNTA WILSON, AFTER BEING DULY SWORN, TESTIFIED AS
16 FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. LAKE:

19 Q. MS. WILSON, IN WHAT CITY AND COUNTY DO YOU RESIDE?

20 A. I STAY IN COLUMBIA. I'M IN RICHLAND COUNTY.

21 Q. AND HOW LONG HAVE YOU BEEN A RESIDENT OF COLUMBIA?

22 A. ABOUT NINE YEARS.

23 Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

24 A. COMPUTER GRAPHICS ENGINEER AND BUSINESS MANAGEMENT.

25 Q. AND WHAT ABOUT YOUR -- I GUESS YOUR FAMILY BACKGROUND IN

1 TERMS OF YOUR EXPERIENCES AND THINGS OF THAT SORT?

2 A. I DON'T THINK I UNDERSTAND.

3 Q. WHAT DO YOUR PARENTS DO?

4 A. OH, MY DAD'S RETIRED MILITARY AND MY MOTHER IS RETIRED
5 MILITARY. EVERYBODY IN MY FAMILY IS PRETTY MUCH MILITARY
6 BACKGROUND.

7 Q. OKAY. AND LET ME TAKE YOU TO THE DATE OF SEPTEMBER
8 THE 5TH, 2005. WHAT DO YOU REMEMBER ABOUT THIS PARTICULAR
9 DATE?

10 A. VERY TRAGIC.

11 Q. AND COULD YOU EXPLAIN TO THE JURY WHAT HAPPENED THAT
12 PARTICULAR NIGHT AND HOW YOU BECAME INVOLVED IN THIS
13 INCIDENT?

14 A. I WAS OUT THAT NIGHT. IT WAS A COUPLE OF DAYS BEFORE --
15 IT WAS LIKE TWO DAYS BEFORE MY BIRTHDAY. I WAS BORN ON THE
16 7TH. MY GIRLFRIEND WAS TAKING ME OUT BECAUSE ONE OF MY
17 GIRLFRIENDS WAS LEAVING TO GO TO IRAQ AND SHE WANTED TO TAKE
18 ME OUT BEFORE SHE LEFT. WE WAS JUST OUT HAVING A GOOD TIME,
19 WENT TO CHANCE'S THAT NIGHT. I GOT THERE ABOUT MAYBE 10:30.

20 WE WERE SITTING TOWARDS THE FRONT OF THE CLUB AND, YOU
21 KNOW, WE HEAR A LOT OF ARGUING IN THE BACK OF THE CLUB. YOU
22 KNOW, WHEN YOU'RE OUT WITH YOUR FRIENDS AND SOMEBODY GETS IN
23 A CONFRONTATION, YOU TURN AROUND AND YOU LOOK AND LIKE, HEY,
24 WHAT'S GOING ON BACK THERE? AND YOU'LL LOOK FOR A FEW
25 MINUTES AND THEN YOU'LL TURN BACK AROUND. OH, THEY'RE JUST

1 LOUD. WELL, IT ESCALATED TO WHERE THEY TOOK IT OUTSIDE.

2 THEY GOT INTO A FIGHT. SHOTS GOT FIRED OFF AND THEN ALL THE

3 OTHER STUFF HAPPENED.

4 Q. LET ME ASK YOU A QUESTION, JUST TO KIND OF BACK UP A

5 LITTLE BIT. LET ME GET YOU TO LOOK AT A LIST OF NAMES RIGHT

6 HERE, NAMES FROM WINNSBORO AND NAMES FROM RIDGEWAY. LET ME

7 ASK YOU: DID YOU KNOW ANY OF THOSE INDIVIDUALS PRIOR TO THAT

8 NIGHT?

9 A. NO, SIR.

10 Q. HAD YOU EVER MET ANY OF THOSE INDIVIDUALS THAT

11 PARTICULAR NIGHT?

12 A. NO, SIR.

13 Q. AND ON THE NIGHT OF THIS INCIDENT, YOU INDICATED THAT

14 THERE WAS SOME -- WHAT TYPE -- DID YOU UNDERSTAND WHAT WAS

15 GOING ON OR WHAT WAS BEING SAID IN TERMS OF THIS

16 DISAGREEMENT?

17 A. NO, I DIDN'T UNDERSTAND WHAT WAS BEING SAID. I JUST

18 KNOW THAT THEY WERE ARGUING.

19 Q. AND WHAT ARE YOU DOING? ARE YOU SIMPLY LOOKING AT ANY

20 PARTICULAR PEOPLE?

21 A. I WASN'T LOOKING AT ANY PARTICULAR PEOPLE. I WAS

22 LOOKING AT THE GROUP, BUT I DID NOTICE PARTICULAR PEOPLE IN

23 THAT GROUP.

24 Q. AND WHY IS THAT?

25 A. THAT THEY WERE THE ONES DOING MOST OF THE TALKING.

1 Q. AND HOW ARE THEY TALKING?

2 A. HOW YOU DIS PEOPLE WHEN YOU'RE TRYING TO TALK JUNK TO
3 SOMEBODY OR TRYING TO GET THEM AROUSED OR TRYING TO GET THEM
4 UPSET.

5 Q. WHAT TYPE OF LANGUAGE ARE THEY USING?

6 A. I DON'T HEAR LANGUAGE. YOU CAN JUST TELL BY THE
7 GESTURES IN THEIR FACE THAT, YOU KNOW, THAT THEY'RE TALKING
8 TO SOMEBODY ELSE, THAT YOU'RE TRYING TO SAY SOMETHING TO THEM
9 MEAN.

10 Q. AND USING ME AS A GAUGE, TELL ME HOW CLOSE YOU ARE TO
11 THESE PEOPLE THAT YOU SAID THAT YOU'RE FOCUSED ON.

12 A. OKAY. FROM ME SITTING HERE, YOU STOP RIGHT THERE.

13 Q. AND EXACTLY WHERE ARE THEY AT WITHIN THE CHANCE'S SPORTS
14 BAR?

15 A. IF YOU'RE SITTING AT CHANCE'S ONCE YOU COME THROUGH THE
16 DOUBLE DOORS, YOU HAVE -- TO YOUR RIGHT ARE TWO SETS OF BIG
17 SCREEN TABLES. THERE'S LIKE SIX TABLES. I'M SITTING AT ONE
18 TABLE TOWARDS THE FAR END OF WHERE THE KITCHEN SITS AT BY THE
19 BAR, AND THERE STARTED LIKE ONE, TWO, THREE TABLES AND THEN
20 THEY'RE RIGHT BY THE FRONT DOOR.

21 Q. OKAY. AND HOW LONG ARE YOU LOOKING AT THESE
22 INDIVIDUALS?

23 A. MAYBE ABOUT TWO, THREE MINUTES.

24 Q. AND WHAT IS THE LIGHTING CONDITIONS LIKE WITHIN CHANCE'S
25 AT THIS PARTICULAR TIME?

1 A. WHERE THEY'RE STANDING AT IT'S WELL LIT VERSUS TO WHERE
2 YOU WOULD BE STANDING AT ANYWHERE ELSE IN THE BAR. IT'S
3 PRETTY LIT.

4 Q. AND IS THERE ANYTHING -- WHAT, IF ANYTHING, IS BLOCKING
5 YOUR VIEW AT THIS PARTICULAR POINT?

6 A. NOTHING. I COULD SEE THEM.

7 Q. AND AT WHAT POINT DO YOU OBSERVE OR NOTICE THAT THINGS
8 ARE TENDING TO ESCALATE?

9 A. ONE OF THE BOYS WAS GETTING TO KIND OF YELLING, AND THE
10 MANAGER, THE OWNER'S SON THAT WAS THERE THAT NIGHT THAT WAS
11 MANAGING THE CLUB -- IT WAS ACTUALLY CLOSING THAT NIGHT. IT
12 WAS THE LAST NIGHT IT WAS SUPPOSED TO BE OPEN. HE COMES OVER
13 AND HE'S LIKE, "OKAY. LOOK. IF Y'ALL CAN'T QUIET DOWN, I'M
14 GOING TO HAVE TO ASK Y'ALL TO LEAVE."

15 WELL, I GUESS THEY KIND OF DIED DOWN A LITTLE BIT, BUT
16 HE STILL HAD TO GO BACK OVER AND ASK THEM TO LEAVE, AND WHEN
17 THEY WERE LEAVING OUT YOU SEE SOMEBODY THROW THEIR HAND UP
18 JUST DA-DA-DA-DA-DA, YELLING BACK AND FORTH. HE TURNED BACK
19 AROUND AGAIN AND THERE'S STILL CONFRONTATION, AND THEN SOME
20 PEOPLE WENT OUT THAT WAY. YOU COULD HEAR SOMEBODY SAYING
21 THAT WENT TOWARDS WHERE THEY WERE GOING - BECAUSE WE DIDN'T
22 GET UP AND MOVE AT THAT TIME - WAS, "OH, THEY'RE FIGHTING."

23 SO ME AND I GIRLFRIENDS, YOU KNOW, TYPICAL PEOPLE, WE
24 GET UP TO GO SEE THE FIGHT, YOU KNOW. WE'RE ALL OUTSIDE. BY
25 THE TIME ME AND MY GIRLFRIENDS GET OUTSIDE, THEY'RE FIGHTING

1 IN FRONT OF THESE -- IN FRONT OF THE CARS OUT THERE AT
2 CHANCE'S IN THE PARKING LOT.

3 Q. AND JUST KIND OF USING THIS DIAGRAM, COULD YOU SHOW THE
4 JURY EXACTLY WHERE YOU'RE AT AND WHERE - USE THIS POINTER
5 RIGHT HERE - AND WHERE THEY ARE IN RELATION TO -- LET'S --
6 I'M SORRY.

7 A. I THINK YOU'VE GOT IT UPSIDE-DOWN.

8 Q. I HAVE IT UPSIDE-DOWN. I APOLOGIZE. THIS WOULD BE
9 CHANCE'S RIGHT THERE IN THE FRONT.

10 A. OKAY. LET'S SEE. THEY'RE FIGHTING. THERE'S A TAHOE
11 HERE AND THERE'S A RED ESCORT THERE, AND THEY WERE RIGHT IN
12 HERE. I'M STANDING RIGHT THERE, AND THEY'RE FIGHTING RIGHT
13 HERE. SO I COULD SEE THEM CLEARLY BECAUSE I'M RIGHT HERE ON
14 THAT -- OR RIGHT THERE. THEY'RE FIGHTING RIGHT IN HERE.

15 Q. AND ARE YOU INVOLVED IN ANY WAY WITHIN THIS ALTERCATION?

16 A. ONLY -- ONLY WHEN I GOT INVOLVED WAS AFTER DENNIS WAS
17 SHOT.

18 Q. AND WHAT DO YOU OBSERVE NEXT AS THESE INDIVIDUALS ARE
19 FIGHTING? WHAT ELSE DO YOU OBSERVE OUT THERE?

20 A. AS THEY WERE FIGHTING, YOU SEE A WHITE ESCORT PULL UP
21 FROM THIS WAY ALL THE WAY AROUND AND STOP ABOUT RIGHT HERE,
22 AND THEN A GIRL GETS OUT AND SHE COMES OVER. SHE'S TRYING TO
23 BREAK IT UP. THERE'S ALSO TWO OTHER GIRLS OUT THERE THAT
24 WERE FROM CHANCE'S THAT WORKED AT CHANCE'S THAT COME OUT
25 TRYING TO BREAK THE GUYS UP IN THE MIDDLE. AND THEN YOU SEE

1 ADAMS GIBSON GO ALL THE WAY TO THAT ESCORT, OPEN THE DRIVER'S
2 SIDE DOOR, SIT DOWN IN THE DOOR, REACH UNDERNEATH THE SEAT,
3 AND HE PULLS OUT A GUN. AND THEN WHERE I'M STANDING AT YOU
4 HEAR SOMEONE SAY, "OH, HE HAS A GUN." AND WE TURN AROUND AND
5 GO ON BACK INSIDE TO TRY TO GET AWAY FROM IT. I TURN AROUND
6 AND I LOOK AND I CAN SEE IT IN HIS HANDS.

7 Q. OKAY. AND AT THIS PARTICULAR POINT -- AT THIS
8 PARTICULAR POINT YOU DON'T KNOW HIS NAME; CORRECT?

9 A. NO.

10 Q. AND HOW -- THIS PARTICULAR INDIVIDUAL THAT YOU SEE WITH
11 THE GUN OUTSIDE, HAD YOU SEEN HIM BEFORE?

12 A. NO, EXCEPT FOR INSIDE CHANCE'S.

13 Q. SO YOU HAD SAW HIM EARLIER?

14 A. YES, SIR.

15 Q. AND WHAT WAS HE DOING INSIDE OF CHANCE'S?

16 A. HE WAS THE ONE ARGUING WITH THE OTHER PARTY OF GUYS.

17 Q. OKAY. AND AFTER -- AFTER YOU SEE THE GUN, WHAT HAPPENS
18 NEXT?

19 A. THEY WERE ALL TRYING TO GET BACK INSIDE CHANCE'S, AND
20 YOU SEE HEAR ABOUT FOUR OR FIVE SHOTS GO OFF AND WE ALL --
21 I'M NOT EVEN INSIDE CHANCE'S. I'M INSIDE THE FOYER. WE ALL
22 GET DOWN. BECAUSE EVERYBODY IS SO FRANTIC, YOU CAN'T GET ALL
23 THE WAY INSIDE TO TRY TO, YOU KNOW, PROTECT YOURSELF. SO WE
24 JUST GET DOWN. AND AS YOU SEE THE ESCORT SPEED OFF - BECAUSE
25 YOU COULD SEE THROUGH THOSE DOORS - YOU SEE THE ESCORT SPEED

1 OFF. AND, YOU KNOW, I COME OUTSIDE AND THE BOY IS ON THE
2 GROUND.

3 Q. WHAT, IF ANY, OTHER BACKGROUND DO -- WHAT, IF ANY,
4 BACKGROUND DO YOU HAVE IN TERMS OF WEAPONS?

5 A. MY DAD'S MILITARY. I'VE BEEN AROUND GUNS ALL MY LIFE.
6 MY EX-HUSBAND USED TO TAKE ME TO THE RANGE. I KNOW
7 DISTINCTIVE SOUNDS VERSUS OTHER SOUNDS.

8 Q. THAT FIRST SET OF SHOTS, WHAT DID YOU THINK THAT FIRST
9 SET OF SHOTS WAS?

10 A. I THOUGHT IT WAS ABOUT LIKE A .22 OR A .25 BECAUSE OF
11 THE FACT THAT IT SOUNDS MORE LIKE A TOY GUN VERSUS A NINE
12 MILLIMETER. A NINE MILLIMETER HAS MORE OF A SOLID DISTINCT
13 SOUND VERSUS A .22 OR .25.

14 Q. AND DID YOU HEAR ANY OTHER SHOTS OUT THERE THAT NIGHT?

15 A. I DID, BUT THEY WERE FURTHER AWAY.

16 Q. AND COULD YOU TELL WHAT KIND OF -- DID YOU HAVE AN
17 OPINION AS TO WHAT TYPE OF GUN THAT WAS?

18 A. NO, SIR, I DIDN'T.

19 Q. AND WHY NOT?

20 A. BECAUSE IT WAS TOO FAR AWAY.

21 Q. AND AFTER -- WHAT HAPPENS AFTER YOU'VE SEEN THE WHITE
22 ESCORT SPEED AWAY? WHAT HAPPENS NEXT?

23 A. YOU SEE THE OTHER GUYS THAT WERE ACTUALLY DOING THE
24 OTHER FIGHT TRYING TO PICK DENNIS UP OFF THE FLOOR AND THEY
25 WERE SAYING, "OH, MY FRIEND HAS BEEN SHOT," THIS, THAT, AND

1 THE OTHER. SO I GO OUTSIDE AFTER EVERYTHING HAD CLEARED OUT
2 TO SEE WHAT WAS WRONG.

3 Q. WHY DID YOU DO THAT?

4 A. BECAUSE HE WAS HURT AND I KNEW I COULD HELP HIM AND IF
5 IT WAS MY CHILD I WOULD WANT SOMEBODY TO TRY TO HELP MINE.

6 Q. WHY DID YOU THINK YOU COULD HELP HIM?

7 A. I'VE DONE C.P.R. DIFFERENT TIMES. MY DAD'S A RETIRED
8 MEDIC. MY DAD TAUGHT ME A LOT TO BE ABLE TO TAKE CARE OF MY
9 CHILD, MY COUSINS, HIM, IF THEY EVER GOT INTO SOME TYPE OF
10 SITUATION. WE DO A LOT OF OUTDOOR ACTIVITIES SO...

11 Q. AND WHAT DID YOU DO TO ASSIST DENNIS THAT NIGHT?

12 A. HE WAS LAYING ON HIS FACE AT FIRST. I TURNED HIM OVER
13 TRYING TO SEE EXACTLY WHERE HE HAD BEEN SHOT AT, AND AS I WAS
14 TURNING HIM OVER, I REALIZED THAT HE HAD A WHOLE BUNCH OF
15 BLOOD ON THE BACK OF HIS BACK. I TRIED TO SEE IF THE BULLET
16 WOUND HAD EXITED, BUT IT DIDN'T.

17 I TURNED HIM AROUND. I SAT HIM UP. I SPOKE TO HIM. I
18 WAS KEEPING TRACK OF HIS PULSE TO MAKE SURE HIS PULSE WASN'T
19 GETTING WEAK. I TRIED TO KEEP HIM TO PROP HIS HEAD UP WITH A
20 SHIRT, TRIED TO KEEP HIM TO BE ABLE TO BREATHE THROUGH HIS --
21 THROUGH HIS THROAT, YOU KNOW, HOW YOU'RE SUPPOSED TO BREATHE,
22 TRIED TO KEEP HIM STABLE UNDER THE PARAMEDICS GOT THERE.

23 Q. AND WHERE DID YOU GET THESE SHIRTS FROM THAT YOU PROPPED
24 HIM UP WITH?

25 A. HIS FRIENDS. HIS FRIENDS THAT WERE THERE.

1 Q. AND WHAT, IF ANYTHING, IS HE SAYING TO YOU DURING THIS
2 TIME FRAME?

3 A. HE JUST TOLD ME HE DOESN'T WANT TO DIE. HE JUST KIND OF
4 KEEPS REPEATING THE SAME THING THAT HE DOESN'T WANT TO DIE,
5 YOU KNOW, AND HE'S JUST WHISPERING DIFFERENT THINGS, YOU
6 KNOW, "MOM," AND HE JUST KEEPS TELLING ME HE DOESN'T WANT TO
7 DIE. I TRIED TO KEEP HIM TALKING AND TALKING AS I CAN. AS
8 LONG AS HE'S TALKING, I KNOW HE'S AT LEAST SOMEWHAT STABLE.

9 Q. AND WHEN HE'S NOT TALKING, WHAT IS HE DOING?

10 A. FAINTING, GOING OFF, DRIFTING OFF, BLACKING OUT PROBABLY
11 FROM LOSS OF BLOOD.

12 Q. AND WHAT ABOUT THE INDIVIDUALS THAT WERE TRYING TO HELP
13 HIM OUT? WHAT WERE THEY DOING AT THIS PARTICULAR POINT?

14 A. THEY'RE JUST FRANTIC. THEY JUST CAN'T BELIEVE, I GUESS,
15 THAT IT'S HAPPENED. YOU KNOW, SOME OF THEM WERE KIND OF
16 YELLING AT ME AND I'M LIKE, "OKAY. YOU'VE GOT TO CALM DOWN.
17 YOU CAN'T YELL AT ME. I'VE GOT TO CONCENTRATE ON HIM. YOU
18 KNOW, IT'S GOING TO BE ALL RIGHT. THE PARAMEDICS ARE ON
19 THEIR WAY." THEY'RE JUST AS FRANTIC -- I MEAN, I GUESS I'M
20 NOT FRANTIC BECAUSE I'M NEUTRAL. I DON'T KNOW ANY OF THEM,
21 YOU KNOW. I'M NOT PERSONALLY INVOLVED WITH ANY OF GUYS. I
22 DON'T KNOW THEM FROM A PAST EXPERIENCE. I'M JUST SOMEONE
23 NEUTRAL, SO FOR ME TO BE DISPLACED, I WOULDN'T BE.

24 Q. OKAY. AND WHAT ABOUT THE INDIVIDUALS THAT THESE GUYS
25 HAVE BEEN INVOLVED IN FIGHTS? WERE ANY OF THEM STILL OUT

1 THERE AT THIS PARTICULAR POINT?

2 A. I DIDN'T SEE THEM.

3 Q. HOW LONG WOULD YOU ESTIMATE THAT YOU WERE AT THE SCENE
4 THAT PARTICULAR NIGHT?

5 A. SOME HOURS. IT WAS A LONG TIME. I DIDN'T KEEP TRACK.
6 I DIDN'T HAVE A WATCH ON THAT NIGHT TO KNOW IN PARTICULAR HOW
7 LONG I WAS OUT THERE.

8 Q. AND HOW LONG DID IT TAKE THE PARAMEDICS OR LAW
9 ENFORCEMENT TO ARRIVE?

10 A. I'M NOT EXACTLY SURE.

11 Q. OKAY. DO YOU REMEMBER HOW LONG YOU MAY HAVE BEEN
12 WORKING ON DENNIS AT THAT TIME?

13 A. TO ME IT SEEMED LIKE FOREVER, SO I'M NOT EXACTLY SURE
14 ABOUT THAT EITHER.

15 Q. OKAY. AND WHAT HAPPENS NEXT ONCE THE INVESTIGATORS DO
16 ARRIVE?

17 A. A DEPUTY COMES UP AND SHE ASKS WHAT HAPPENED AND
18 EXPLAINED TO HER EVERYTHING I TRIED TO DO TO KEEP HIM
19 COMFORTABLE, TO KEEP HIM STABLE. THEN THE PARAMEDICS COMES
20 AND GETS HIM AND PRETTY MUCH PUTS HIM ON THE STRETCHER, YOU
21 KNOW, AND LOOKS TO SEE WHERE HIS WOUND IS AT. AFTER THAT,
22 ONCE THEY GOT HIM, I KIND OF WALKED AWAY FROM THE SITUATION,
23 AND THE DEPUTY PULLED ME ASIDE. SHE ASKED ME WHAT HAPPENED,
24 AND I TOLD HER WHAT I KNEW.

25 Q. YOU SAID YOU OBSERVED NO EXIT WOUND?

1 A. I DIDN'T SEE ONE, NO, BECAUSE I LOOKED. I PULLED HIS
2 SHIRT UP TO LOOK TO SEE IF IT MIGHT HAVE WENT OUT OF HIM, TO
3 SEE IF THERE WAS AN EXIT PUNCTURE OR SOMETHING LIKE THAT. I
4 DIDN'T SEE ONE.

5 Q. AT THIS POINT WHAT, IF ANYTHING -- WHAT, IF ANY,
6 MOVEMENTS ARE YOU TRYING TO DO WITH DENNIS?

7 A. THE ONLY MOVEMENTS I REMEMBER DOING WAS ACTUALLY TURNING
8 HIM OVER BECAUSE HE WAS ON HIS FACE AND TRYING TO KEEP HIS
9 HEAD SET UP A LITTLE BIT. THOSE ARE THE ONLY MOVEMENTS I DID
10 WITH HIM.

11 Q. OKAY. AND DO YOU RECALL EVER SPEAKING TO ANY
12 INVESTIGATORS THAT NIGHT?

13 A. YES.

14 Q. WHO DID YOU SPEAK TO?

15 A. I DON'T REMEMBER THEIR NAMES. THE ONLY ONES I REMEMBER
16 ARE MR. WILLOUGHBY AND MR. MCDANIELS.

17 Q. DESCRIBE WHAT HAPPENED WHEN YOU TALKED TO THE
18 INVESTIGATOR THAT NIGHT.

19 A. SIR?

20 Q. DESCRIBE WHAT HAPPENED WHEN YOU MET WITH THE
21 INVESTIGATOR THAT NIGHT.

22 A. AFTER I GOT IN WITH HIM, I WAS KIND OF SHOOK UP, YOU
23 KNOW, A LITTLE BIT. I EXPLAINED TO HIM EVERYTHING THAT I SAW
24 THAT HAPPENED. HE WROTE DOWN EVERYTHING FOR ME. I WASN'T
25 REQUIRED TO WRITE DOWN ANYTHING. MY MOM WAITED FOR ME

1 BECAUSE I COULDN'T DRIVE MY CAR BECAUSE I HAD A BULLET SHOVED
2 IN MY CAR AND MY TIRE WAS FLAT, SO MY MOM WAS WAITING ON ME.

3 Q. WHAT TYPE OF VEHICLE WAS THAT THAT YOU WERE DRIVING?

4 A. I DRIVE A 1997 SATURN.

5 Q. LET ME SHOW YOU WHAT'S ALREADY BEEN MARKED IN EVIDENCE
6 AS STATE'S EXHIBIT NUMBER 46 AND 44 AND ASK YOU: DO YOU
7 RECOGNIZE THE VEHICLE IN THAT CAR (CAR) -- THAT VEHICLE IN
8 THE CAR (SIC)?

9 A. YEAH, THAT'S MY CAR.

10 Q. AND WHICH TIRE WHEELS WERE SHOT OUT?

11 A. I WANT TO SAY IT WAS ON THE PASSENGER SIDE, I THINK.
12 I'M NOT EXACTLY SURE. I DON'T REMEMBER. IT WAS ONE OF MY
13 TIRES, I THINK EITHER IN THE BACK -- I THINK IT WAS IN THE
14 BACK.

15 Q. OKAY. AND THAT'S WHERE YOUR CAR WAS AT AT THE TIME ALL
16 THE SHOTS RANG OUT?

17 A. YES, SIR.

18 Q. WAS YOUR TIRE FLAT WHEN YOU GOT THERE?

19 A. SIR?

20 Q. WAS YOUR TIRE FLAT PRIOR TO GETTING THERE?

21 A. NO, SIR.

22 Q. OKAY. AND HOW DO YOU KNOW THERE WAS A BULLET IN YOUR
23 TIRE?

24 A. BECAUSE WHEN YOU LOOKED AT IT, YOU COULD STILL SEE THE
25 SHELL STUCK IN MY TIRE. YOU COULD SEE IT.

1 Q. AND WHAT DID YOU DO NEXT AS A RESULT OF -- WITH THE TIRE
2 AND THE BULLET IN YOUR TIRE?

3 A. THE NEXT DAY WE WENT AND WE -- MY BOYFRIEND AT THE TIME
4 TOOK THE TIRE OFF. WE TOOK THE TIRE UP TO WAL-MART, AND THE
5 GUYS AT WAL-MART ACTUALLY TOOK THE SHELL OUT BECAUSE WE TOLD,
6 YOU KNOW, WHAT HAPPENED AND THAT WE WOULD NEED IT OR THEY
7 MIGHT NEED IT FOR EVIDENCE. SO I TOOK IT BACK. WHEN MR.
8 MCDANIELS CAME TO MY HOUSE LATER ON, I GAVE HIM WHAT THEY
9 TOOK OUT OF MY TIRE.

10 Q. AND YOU SAID MR. MCDANIELS. WHO IS MR. MCDANIELS?

11 A. THAT GENTLEMAN RIGHT THERE.

12 Q. AND COULD YOU DESCRIBE YOUR ENCOUNTER WITH MR. MCDANIELS
13 OR SERGEANT MCDANIELS WHEN HE CAME TO SEE THAT YOU NEXT DAY?

14 A. MR. MCDANIELS -- HE WAS REALLY NICE, DOING HIS JOB, BUT
15 I JUST DIDN'T WANT TO DEAL WITH IT. MY MOM HAD ADVISED ME
16 NOT TO TRY TO GET INTO ALL THAT BECAUSE THERE'S SO MANY
17 DIFFERENT CONSEQUENCES THAT CAN HAPPEN.

18 MR. JOHNSON: OBJECTION, YOUR HONOR. HEARSAY.

19 THE COURT: ALL RIGHT. SUSTAINED. JUST STICK WITH WHAT
20 YOU DID AND WHAT YOU SAID, PLEASE.

21 BY MR. LAKE:

22 Q. OKAY. DESCRIBE YOUR DEMEANOR WHEN YOU FIRST HAD TO DEAL
23 WITH SERGEANT MCDANIELS.

24 A. VERY RELUCTANT.

25 Q. AND WHY IS THAT?

1 A. AT THE TIME I DIDN'T WANT TO GET INVOLVED.

2 Q. AND WHY DIDN'T YOU WANT TO GET INVOLVED?

3 A. BECAUSE I'M A SINGLE PARENT AND---

4 MR. JOHNSON: OBJECTION, YOUR HONOR.

5 THE COURT: I'M GOING TO ALLOW THAT. CONTINUE ON.

6 THE WITNESS: I CAN CONTINUE?

7 THE COURT: YES, MA'AM.

8 THE WITNESS: OKAY. BECAUSE I'M A SINGLE PARENT AND AT
9 THE TIME I STAYED BY MYSELF AND, YOU KNOW, YOU SEE ON T.V. A
10 LOT THAT---

11 MR. JOHNSON: OBJECTION, YOUR HONOR.

12 THE WITNESS: ---THAT THINGS---

13 THE COURT: ALL RIGHT. THAT'S FAR ENOUGH. YOUR NEXT
14 QUESTION, SOLICITOR.

15 BY MR. LAKE:

16 Q. BECAUSE YOU WERE RELUCTANT -- LET ME ASK YOU A QUESTION.
17 HOW DID -- WHERE DID YOU MEET SERGEANT MCDANIELS AT?

18 A. MY PARENTS' HOUSE.

19 Q. AND HOW DID YOU FEEL ABOUT THAT?

20 A. I WAS VERY RELUCTANT ABOUT THAT, BUT MY MOM AND MY DAD
21 WAS THERE, SO IT WAS OKAY.

22 Q. AND HOW WAS HE DRESSED WHEN YOU SAW HIM?

23 A. VERY CASUAL.

24 Q. AND HOW DID YOU FEEL ABOUT THAT?

25 A. I DIDN'T LIKE THAT EITHER.

1 Q. WHY NOT?

2 A. I FEEL IF YOU'RE COMING TO TALK TO ME ABOUT A CASE, I
3 FIGURE YOU SHOULD BE IN A SUIT. SO, I MEAN, HE JUST LOOKED
4 TOO CASUAL FOR ME FOR MY PERSONAL...

5 Q. AND AS A RESULT OF THAT, HOW DID YOU INTERACT WITH HIM
6 AT THAT PARTICULAR TIME?

7 A. VERY SHORT, REALLY JUST VERY SHORT, YOU KNOW, HOW YOU
8 WOULD REACT TO SOMEBODY IF YOU REALLY DIDN'T WANT TO DEAL
9 WITH THAT PERSON. YOU'RE JUST VERY SHORT AND VERY
10 NONCHALANT, THAT TYPE OF SITUATION.

11 Q. AND DESCRIBE WHAT HAPPENED WITH SOME OF THE THINGS THAT
12 OCCURRED WHEN YOU ACTUALLY MET WITH HIM AT THAT TIME.

13 A. I DID -- I GAVE HIM THE BULLET CASING THAT THEY TOOK
14 FROM MY TIRE. I FIGURED THEY WOULD NEED IT. WHEN HE TRIED
15 TO SHOW ME A LINE-UP, I JUST KIND OF GLANCED AT IT; I REALLY
16 DIDN'T LOOK AT IT. HE ASKED ME SOME QUESTIONS ABOUT THAT
17 LINE-UP. I REALLY DIDN'T EVEN ANSWER HIS QUESTIONS. I WAS
18 VERY NONCHALANT WITH THE QUESTIONS THAT HE ASKED ME, AND THEN
19 THAT WAS IT. MY DAD AND MY MOTHER CAME DOWN TO CHECK ON US
20 TO SEE, YOU KNOW, WHAT WAS GOING ON. MY DAD WAS IN THE NEXT
21 ROOM SO, YOU KNOW, HE KEPT A VERY OPEN EAR TO THE
22 CONVERSATION.

23 Q. AND HOW LONG WOULD YOU SAY YOUR INTERACTION WITH
24 SERGEANT MCDANIELS WAS GOING ON AT THIS PARTICULAR TIME?

25 A. I WOULD SAY HE WAS MAYBE THERE ABOUT 30 MINUTES. IT

1 DIDN'T LAST VERY LONG. IT WAS KIND OF LIKE AN IN-AND-OUT
2 SITUATION.

3 Q. DID HE TAKE A STATEMENT FROM YOU OR ANYTHING LIKE THAT?

4 A. NO.

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
6 NUMBER 33 AND I ASK YOU: DO YOU RECOGNIZE THAT PARTICULAR
7 ITEM?

8 A. YES, SIR. THAT'S THE LINE-UP THAT HE SHOWED ME THAT
9 DAY.

10 Q. AND DID YOU IDENTIFY ANYONE IN THAT PARTICULAR LINE-UP
11 AT THAT TIME?

12 A. NO, I DIDN'T.

13 Q. OKAY. WHEN WAS THE NEXT TIME YOU MADE CONTACT WITH AN
14 INVESTIGATOR?

15 A. THE NEXT DAY, MR. WILLOUGHBY -- I TALKED TO MR.
16 WILLOUGHBY.

17 Q. AND COULD YOU DESCRIBE TO THE JURY WHAT HAPPENED WITH
18 YOUR ENCOUNTER WITH MR. WILLOUGHBY?

19 A. THE ENCOUNTER WITH MR. WILLOUGHBY WAS OKAY. THE REASON
20 WHY I ENDED UP TALKING TO MR. WILLOUGHBY AND DIDN'T TALK TO
21 MR. MCDANIELS WAS I HAD TALKED TO DENNIS'S MOTHER AND I FELT
22 FOR HER, AND I JUST KIND OF FELT MORE COMPELLED TO TRY TO
23 HELP VERSUS NOT HELPING WHEN I HAD SPOKE TO MR. MCDANIELS THE
24 DAY PRIOR. SO I CALLED MR. WILLOUGHBY AND I TOLD HIM I WOULD
25 COME DOWN TO THE STATION AND I WOULD GIVE HIM AS MUCH HELP AS

1 I POSSIBLY COULD BECAUSE, YOU KNOW, I'VE GOT A CHILD. YOU
2 WOULD WANT SOMEBODY TO BE---

3 MR. ROBERSON: OBJECTION.

4 MR. JOHNSON: OBJECTION, YOUR HONOR.

5 THE COURT: I'M GOING TO ALLOW IT. CONTINUE ON.

6 BY MR. LAKE:

7 Q. AND WHEN DID YOU GO DOWN AND ACTUALLY MEET WITH HIM?

8 A. IT WAS KIND OF IN THE AFTERNOON WHEN I WENT DOWN TO SEE
9 MR. WILLOUGHBY.

10 Q. HOW LONG AFTER THE NIGHT OF THE SHOOTING DID YOU GO TO
11 SPEAK WITH MR. WILLOUGHBY?

12 A. THAT HAD TO BE LIKE 48 HOURS I THINK.

13 Q. OKAY. LET ME SHOW YOU TWO EXHIBITS, STATE'S EXHIBIT
14 NUMBER 34 AND STATE'S EXHIBIT NUMBER 35, AND ASK YOU: DO YOU
15 RECOGNIZE THOSE EXHIBITS?

16 A. THESE WERE THE TWO LINE-UPS THAT WERE SHOWN TO ME WHEN I
17 WENT DOWN TO SEE MR. WILLOUGHBY AT THE SHERIFF'S DEPARTMENT.

18 Q. DESCRIBE THAT PROCESS OF HOW THOSE LINE-UPS WERE SHOWN
19 TO YOU.

20 A. MR. WILLOUGHBY PRETTY MUCH MADE ME COMFORTABLE. HE
21 SAID, "WELL, I HAVE SOME LINE-UPS TO SHOW YOU. TAKE YOUR
22 TIME. LOOK AT THEM AND IF YOU NOTICE ANYBODY OR RECOGNIZE
23 ANYBODY..."

24 MR. JOHNSON: OBJECTION, YOUR HONOR. HEARSAY.

25 THE COURT: I'M GOING TO ALLOW THAT. I DON'T -- I DON'T

1 THINK IT'S HEARSAY.

2 THE WITNESS: HE WANTED ME TO POINT OUT WHO I SAW, WHAT
3 I KNEW, AND WHAT I SAW THAT PERSON DOING.
4 BY MR. LAKE:

5 Q. AND WERE YOU ABLE TO DO THAT IN THOSE PARTICULAR
6 LINE-UPS?

7 A. YES, SIR.

8 Q. AND HOW LONG DID IT TAKE YOU TO IDENTIFY SOMEONE IN EACH
9 LINE-UP?

10 A. NOT LONG.

11 Q. AND HOW DID YOU SIGNIFY YOUR IDENTIFICATION OF EACH
12 INDIVIDUAL?

13 A. I WROTE MY INITIALS NEXT TO THE PICTURES THAT I
14 IDENTIFIED ON BOTH -- UPON -- ON BOTH LINE-UPS.

15 Q. OKAY. AND LET ME SHOW YOU SPECIFICALLY WHAT'S BEEN
16 MARKED AS STATE'S EXHIBIT NUMBER 35 AND ASK YOU: WHO DID YOU
17 IDENTIFY IN THAT PARTICULAR CASE?

18 A. THIS -- THE LINE-UP ON 35, IT WAS NUMBER FIVE WHICH IS
19 MR. ADAMS GIBSON, AND HE WAS LABELED AS -- I LABELED HIM AS
20 DISCHARGING THE FIREARM THAT I SAW HIM WITH.

21 Q. AND WHY DID YOU INDICATE THAT IN THAT PARTICULAR
22 LINE-UP?

23 A. YOU SAID WHY?

24 Q. YES. WHAT DID YOU -- I'M SORRY. WHAT DID YOU HAVE HIM
25 DOING AGAIN - ADAMS GIBSON?

1 A. DISCHARGING A FIREARM.

2 Q. OKAY. WHO WAS THE PERSON THAT YOU IDENTIFIED IN THE
3 OTHER LINE-UP?

4 A. THAT'S JACQUES GIBSON, AND HE WAS FIGHTING.

5 Q. AND THAT'S IN STATE'S EXHIBIT NUMBER 34?

6 A. YES, SIR.

7 Q. AND LET ME ASK YOU A QUESTION ABOUT STATE'S EXHIBIT
8 NUMBER 33 AND 34. IS JACQUES GIBSON IN BOTH OF THOSE
9 LINE-UPS?

10 A. YES, SIR.

11 Q. WHAT'S THE DIFFERENCE IN THOSE TWO PARTICULAR LINE-UPS?

12 A. IN STATE'S EXHIBIT 35 VERSUS 33, 35 -- THE PHOTOS IN 35
13 ARE A LOT LARGER. HE'S IN 34, NOT 35. THEY'RE A LOT LARGER
14 AND THEY'RE NOT CROPPED. IN 33 THEY'RE CROPPED AND IT'S A
15 LOT SMALLER---

16 Q. OKAY.

17 A. ---THAN THE ONES IN 35.

18 Q. OKAY. AND YOUR IDENTIFICATION OF THOSE INDIVIDUALS,
19 WHAT IS IT BASED UPON?

20 A. WHAT I SAW THAT NIGHT.

21 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
22 STATE'S EXHIBIT NUMBER 33, 34, AND 35 INTO EVIDENCE.

23 THE COURT: ANY OBJECTION, MR. ROBERSON?

24 MR. ROBERSON: NONE, YOUR HONOR.

25 THE COURT: MR. JOHNSON?

1 MR. JOHNSON: NONE, YOUR HONOR. MAY I SEE THEM OR ARE
2 YOU GOING TO NEED THEM? DO YOU NEED THEM?

3 THE COURT: STATE'S 33, 34, AND 35 ARE IN EVIDENCE
4 WITHOUT OBJECTION.

5 (STATE'S EXHIBITS 33, 34, AND 35 WERE RECEIVED IN
6 EVIDENCE.)

7 BY MR. LAKE:

8 Q. WHAT ELSE DO YOU DO WHILE YOU'RE AT THE SHERIFF'S
9 DEPARTMENT IDENTIFYING THESE INDIVIDUALS?

10 A. JUST GOING OVER MY STATEMENT THAT I GAVE THAT EVENING,
11 AND THAT'S ABOUT IT.

12 Q. WERE YOU ABLE TO GIVE INVESTIGATOR WILLOUGHBY A
13 STATEMENT AT THAT TIME ALSO?

14 A. YES, SIR.

15 Q. JUST A FEW MORE QUESTIONS. HOW MANY PEOPLE DID YOU SEE
16 SHOOTING THAT NIGHT?

17 A. I ONLY SAW ONE.

18 Q. AND WHO IS THAT PERSON THAT YOU SAW THAT NIGHT SHOOTING?

19 A. ADAMS GIBSON.

20 Q. AND WHERE IS HE SEATED?

21 A. RIGHT IN FRONT OF ME.

22 Q. AND DESCRIBE WHAT HE'S WEARING.

23 A. HE HAS ON A BLUE-COLORED SHIRT WITH A DARK-COLORED
24 PIGMENT TIE.

25 Q. YOUR HONOR, LET THE RECORD REFLECT THAT SHE CHOSE ADAMS

1 GIBSON AS THE PERSON SHE SAW DISCHARGING A FIREARM OUT THERE.
2 THOSE SECONDS SET OF SHOTS, WERE YOU ABLE TO SEE ANYONE
3 FIRING THE SECOND SET OF SHOTS?

4 A. NO, SIR.

5 Q. DO YOU SEE THE PERSON THAT YOU HAVE IDENTIFIED AS
6 JACQUES GIBSON HERE IN COURT?

7 A. YES, SIR.

8 Q. AND WHERE IS HE SEATED?

9 A. TO THE RIGHT SIDE OF ME WITH THE BLACK SUIT.

10 Q. AND WHAT WAS HIS ROLE OUT THERE THAT NIGHT?

11 A. HE WAS OUTSIDE FIGHTING WITH THE OTHER GENTLEMEN AND
12 STUFF FIGHTING.

13 Q. BEG THE COURT'S INDULGENCE. NO FURTHER QUESTIONS.
14 PLEASE ANSWER ANY QUESTIONS THAT THE DEFENSE MAY HAVE.

15 A. YES, SIR.

16 THE COURT: ALL RIGHT. MR. ROBERSON?

17 MR. ROBERSON: IF YOUR HONOR PLEASE?

18 CROSS-EXAMINATION

19 BY MR. ROBERSON:

20 Q. GOOD MORNING.

21 A. GOOD MORNING. HOW ARE YOU?

22 Q. FINE. MS. WILSON, YOU TESTIFIED HERE ON MONDAY, DID YOU
23 NOT?

24 A. YES, SIR.

25 Q. AND YOU WERE ASKED QUESTIONS BY MYSELF, MR. JOHNSON, AND

1 THE PROSECUTION.

2 A. YES, SIR.

3 Q. AND DURING THAT TESTIMONY YOU WERE ABSOLUTELY CERTAIN
4 THAT THE PERSON YOU SAW DISCHARGING THAT FIREARM ON 9/5/05
5 WAS ADAMS GIBSON.

6 A. YES, SIR.

7 Q. AND YOU WERE ABSOLUTELY CERTAIN THAT HE HAD ON A BLACK
8 SHIRT.

9 A. YES, SIR.

10 Q. AND BLUE JEANS.

11 A. YES, SIR.

12 Q. AND THAT YOU SAW HIM GET INTO THE PASSENGER SIDE OF A
13 WHITE FORD ESCORT.

14 A. PASSENGER SIDE?

15 Q. YES, MA'AM.

16 A. OR DRIVER'S SIDE?

17 Q. DRIVER'S SIDE.

18 A. YES, SIR.

19 Q. AND REACH UNDER THE SEAT.

20 A. YES, SIR.

21 Q. AND PULL UP A .25 CALIBER PISTOL.

22 A. BETWEEN A .22 AND .25. I WAS NEVER PARTICULAR ABOUT
23 WHAT TYPE OF GUN IT WAS.

24 Q. WELL, YOU GAVE A STATEMENT TO MR. THOMAS AMARO ON 9/5/05
25 ABOUT 2:08 IN THE AFTERNOON. IS THAT NOT CORRECT?

1 A. THAT WOULD BE IN THE MORNING.

2 Q. 2:08 IN THE MORNING.

3 A. YES, SIR.

4 Q. OKAY. AND IT WAS PRETTY FRESH IN YOUR MIND AT THAT TIME
5 WHAT YOU HAD SAW AND WHAT YOU OBSERVED, DID YOU NOT?

6 A. WITH ALL HECTIC STUFF GOING ON, PRETTY MUCH, YES, SIR.

7 Q. OKAY. YOU WERE PRETTY MUCH IN CONTROL OF WHAT YOU WERE
8 DOING AND WHAT YOU WERE OBSERVING.

9 A. YES, SIR.

10 Q. IS THAT YOUR SIGNATURE?

11 A. YES, SIR.

12 Q. TELL THE LADIES AND GENTLEMEN WHAT IT IS I CIRCLED AND
13 WHAT KIND OF GUN YOU SAID THAT WAS.

14 A. WHAT DID YOU CIRCLE?

15 Q. YES, MA'AM.

16 A. A .25 CALIBER REVOLVER, ALL BLACK IN COLOR.

17 Q. AND YOU SAID THAT'S THE GUN THAT ADAMS GIBSON WAS
18 DISCHARGING THAT NIGHT; CORRECT?

19 A. YES, SIR.

20 Q. YOU DIDN'T SAY ANYTHING ABOUT A .22 AT THAT TIME, DID
21 YOU?

22 A. YES, SIR, I DID.

23 Q. I WANT YOU TO LOOK AT THAT STATEMENT AND SEE IF THAT IS
24 WHAT YOU SIGNED AND IF IT SAYS ANYTHING ABOUT A .22 CALIBER
25 PISTOL.

1 A. (THE WITNESS LOOKS AT THE DOCUMENT.) NO, IT JUST
2 MENTIONS IT'S A .25.

3 Q. BEG YOUR PARDON?

4 A. IT JUST MENTIONS A .25 CALIBER.

5 Q. OKAY. AND YOU TESTIFIED TODAY THAT YOU SAID IT WAS A
6 .22.

7 A. I TESTIFIED IT WAS A .22 OR A .25.

8 Q. BUT YOU DIDN'T SAY IT WAS A .22 OR A .25 ON THE NIGHT
9 THIS INCIDENT TOOK PLACE.

10 A. ACTUALLY ON THAT NIGHT I DIDN'T WRITE THAT DOWN, AND I
11 TOLD THE INVESTIGATOR THEN IT WAS A .22 OR A .25. HE WROTE
12 DOWN A .25 CALIBER, NOT ME.

13 Q. DID YOU READ THIS BEFORE YOU SIGNED IT?

14 A. NO, I DIDN'T, NOT REALLY.

15 Q. YOU SIGNED THIS WITHOUT READING IT.

16 A. YES, SIR, SOME OF IT I DID.

17 Q. SOME OF IT?

18 A. YEAH. THERE'S THREE DIFFERENT SIGNATURES ON THERE,
19 ISN'T IT OR ONLY ONE?

20 Q. HOW MANY TIMES DID YOU SIGN IT?

21 A. OKAY. THERE'S THREE DIFFERENT SIGNATURES ON HERE. I
22 MEAN, I SIGNED ALL THREE, BUT I MEAN, I DID NOT SAY
23 SPECIFICALLY A CALIBER, I MEAN, THAT WOULD SAY THAT, YOU
24 KNOW, OKAY, I KNOW EXACTLY WHAT TYPE OF GUN IT IS. I MADE A
25 STATEMENT TO THE POLICE OFFICER THAT IT WAS A .22 OR A .25.

1 HE WROTE DOWN .25 CALIBER; I DIDN'T.

2 Q. YOU'RE SAYING THERE'S THREE SIGNATURES ON THERE; RIGHT?

3 A. YES, SIR, THERE IS.

4 Q. HOW MANY PEOPLE WERE MAKING STATEMENTS TO THE POLICE
5 ABOUT WHAT THEY OBSERVED AT THAT TIME?

6 A. HOW MANY DIFFERENT PEOPLE?

7 Q. YEAH.

8 A. THERE WAS A LOT OF PEOPLE OUT THERE.

9 Q. I'M TALKING ABOUT WHEN YOU SIGNED THIS STATEMENT.

10 A. JUST ME.

11 Q. OKAY. SO THEN WHAT ARE YOU TALKING ABOUT THE OTHER
12 THREE STATEMENTS? THESE WEREN'T MAKING STATEMENTS TO THE
13 POLICE---

14 A. I DIDN'T SAY THE THREE STATEMENTS. I SAID THE OTHER
15 THREE SIGNATURES.

16 Q. OKAY.

17 A. THERE'S THREE SIGNATURES TO EACH PAPER THAT I'M LOOKING
18 AT.

19 Q. OKAY.

20 A. OKAY? ALL I'M SAYING IS IS THAT I SAID BETWEEN A .22 OR
21 .25. I WAS NOT PARTICULAR THAT NIGHT WHAT GUN IT WAS. I
22 JUST KNOW WHAT I HEARD. I DID NOT PUT A .25 CALIBER ON
23 THERE.

24 Q. YOU WANTED THEM TO UNDERSTAND WHAT HAD HAPPENED THAT
25 NIGHT ACCORDING TO WHAT YOU OBSERVED AND WHAT YOU HEARD. IS

1 THAT NOT CORRECT?

2 A. YES, SIR.

3 Q. AND YOU TOLD THEM THAT NIGHT ONLY A .25 CALIBER WEAPON
4 WAS USED.

5 A. SIR, I SAID THAT NIGHT IT WAS A .22 OR A .25.

6 Q. WELL, WHY DIDN'T YOU CORRECT THAT STATEMENT BEFORE YOU
7 SIGNED IT IF YOU MENTIONED TWO WEAPONS?

8 A. I THINK -- I THINK LIKE RIGHT UP UNDER HERE I MADE A
9 CORRECTION THAT I POSSIBLY MIGHT HAVE MEANT TO MAKE A
10 CORRECTION THERE, TOO, BUT LIKE I SAID ALSO, I WAS DISPLACED.
11 YOU'VE GOT A DEAD BOY OUT THERE. OKAY? HURT. I TRIED TO
12 KEEP MYSELF STABLE TO BE ABLE TO HELP HIM AND I TRIED TO KEEP
13 MYSELF STABLE BEING IN THAT TYPE OF ENVIRONMENT.

14 Q. SO YOU DID MAKE SOME CORRECTIONS ON IT.

15 A. YES, SIR, I DID.

16 Q. BUT YOU DIDN'T CORRECT IT WHEN HE MENTIONED JUST ONE
17 GUN.

18 A. WELL, I COULD HAVE BEEN DISPLACED NOT TO MAKE THE
19 CORRECTION THERE.

20 Q. WERE YOU DISPLACED WHEN YOU WERE TELLING HIM SOME OTHER
21 THINGS?

22 A. SIR?

23 Q. WERE YOU DISPLACED WHEN YOU WERE GIVING HIM THE OTHER
24 VERSION ABOUT WHAT HAPPENED?

25 A. NO, SIR.

1 Q. BUT YOU WERE JUST DISPLACED WHEN YOU WERE TALKING ABOUT
2 THE GUNS.

3 A. NO, SIR. ALL I'M SAYING IS IS THAT I DIDN'T WRITE
4 SPECIFICALLY THAT OR I DIDN'T SAY SPECIFICALLY IT WAS A .25.
5 I SAID IT WAS A .22 OR A .25. THAT IS WHAT I HEARD. THAT'S
6 THE SAME STATEMENT THAT I MADE ON MONDAY, AND THAT'S THE SAME
7 STATEMENT THAT I'M MAKING HERE TODAY.

8 Q. DID THAT OFFICER HAVE SOME REASON TO LEAVE OUT ANYTHING
9 THAT YOU SAID?

10 A. I'M NOT SAYING THAT EITHER.

11 Q. LET ME HAVE THAT THERE.

12 A. OKAY.

13 Q. AND YOU GAVE TWO STATEMENTS TO THE POLICE, DID YOU NOT?

14 A. I THINK SO.

15 Q. TWO WRITTEN STATEMENTS.

16 A. YOU MEAN SAYING THAT I WROTE THEM OR -- OR WHAT?

17 Q. STATEMENTS THAT THEY WROTE BASED ON WHAT YOU SAID TO
18 THEM.

19 A. YES, SIR.

20 Q. YOU DID.

21 A. I GAVE A STATEMENT THAT NIGHT, AND I BELIEVE I GAVE ONE
22 THE DAY I WENT DOWN TO SEE MR. WILLOUGHBY.

23 Q. YES. AND I ASKED YOU EARLIER ABOUT WHETHER OR NOT YOU
24 HAD TESTIFIED HERE EARLIER THAT WEEK -- THIS WEEK AND YOU
25 SAID YES.

1 A. YES, SIR.

2 Q. DO YOU REMEMBER MR. JOHNSON ASKED YOU WHETHER OR NOT YOU
3 HAD GIVEN THE POLICE ANY WRITTEN STATEMENTS?

4 A. I THINK I MIGHT RECALL THAT.

5 Q. AND DO YOU REMEMBER WHAT YOUR ANSWER WAS?

6 A. I THINK I REMEMBER SAYING YES.

7 Q. I WANT YOU TO READ FROM LINE 23---

8 THE COURT: MR. ROBERSON?

9 MR. ROBERSON: YES, SIR.

10 THE COURT: YOU'VE NOT FOLLOWED THE PROPER PROCEDURE,
11 SIR.

12 BY MR. ROBERSON:

13 Q. DO YOU REMEMBER MR. JOHNSON ASKING YOU WHETHER OR NOT
14 YOU HAD GIVEN ANY WRITTEN STATEMENTS TO THE POLICE?

15 A. I THINK I RECALL HIM ASKING ME ABOUT IT.

16 Q. OKAY. WELL, WAS THIS LADY SITTING HERE TAKING DOWN THE
17 TESTIMONY?

18 A. YES, SIR.

19 THE COURT: WHERE IS THE ORIGINAL DOCUMENT?

20 MR. ROBERSON: THIS IS IT.

21 THE COURT: WHO OPENED IT UP?

22 MR. ROBERSON: SHE HANDED THIS TO ME.

23 THE COURT: ALL RIGHT, SIR. LET ME SEE THE DOCUMENT.

24 YOU KNOW YOU'RE SUPPOSED TO PRESENT THOSE TO THE COURT

25 BEFOREHAND, SIR. (THE COURT LOOKS AT THE DOCUMENT.) YOU MAY

1 PROCEED.

2 MR. ROBERSON: THANK YOU, SIR.

3 BY MR. ROBERSON:

4 Q. READ FROM LINES 21 THROUGH LINE 25.

5 A. "DID YOU GIVE A WRITTEN STATEMENT THAT NIGHT?" "NO,
6 SIR, I DIDN'T." "DID YOU SUBSEQUENTLY GIVE THE POLICE A
7 WRITTEN STATEMENT?" "I DIDN'T GIVE ANY WRITTEN STATEMENTS."

8 Q. BUT YOU SIGNED TWO STATEMENTS THAT YOU GAVE TO THE
9 POLICE.

10 A. WHEN MR. JOHNSON ASKED ME THAT QUESTION ON MONDAY, I
11 THOUGHT YOU MEANT BY WRITTEN STATEMENTS THAT I MADE, NOT
12 WRITTEN STATEMENTS HOW THE WAY YOU STATED IT JUST NOW TODAY
13 IN COURT.

14 Q. BUT THEY WERE WRITTEN WHEN YOU SIGNED THEM; IS THAT NOT
15 CORRECT?

16 A. WHAT I'M TRYING TO EXPLAIN TO YOU: THE WAY I TOOK IT ON
17 MONDAY WHEN HE ASKED ME THAT QUESTION -- YOU'RE TALKING ABOUT
18 WRITTEN STATEMENTS. ANYBODY WHO SAYS WRITTEN STATEMENTS TO
19 ME IS SOMETHING THAT'S WRITTEN IN YOUR HANDWRITING, AND I
20 HAVE TO KIND OF REALLY LOOK AT AND LISTEN TO WHAT Y'ALL ARE
21 SAYING TO ME TO UNDERSTAND EXACTLY WHAT YOU MEAN BECAUSE I'VE
22 NEVER BEEN IN COURT BEFORE. SO WHEN YOU SAY WRITTEN
23 STATEMENTS, I THOUGHT YOU MEAN SOMETHING THAT I WRITE, AND
24 THE WAY YOU SAY IT TODAY IN COURT WAS DIFFERENT THAN THE WAY
25 MR. JOHNSON SAID IT ON MONDAY.

1 Q. WELL, DID YOU ASK MR. JOHNSON TO CLARIFY WHAT IT IS HE
2 WAS ASKING YOU BECAUSE YOU DIDN'T UNDERSTAND?

3 A. I THINK THERE WAS A COUPLE OF THINGS I ASKED MR. JOHNSON
4 TO CLARIFY WHEN HE WAS ASKING ME, JUST LIKE GIVING THE
5 NICKNAME FOR ONE OF HIS CLIENTS THAT I DID NOT KNOW.

6 Q. WELL, I WANT YOU TO LOOK AT THIS AND SEE IF YOU ASKED
7 MR. JOHNSON TO CLARIFY ANYTHING ABOUT THE WRITTEN STATEMENT
8 THAT YOU WERE TALKING ABOUT.

9 A. AND WHERE EXACTLY WOULD I FIND THAT AT IN HERE?

10 Q. THAT'S THE PORTION YOU'RE TALKING ABOUT THE WRITTEN
11 STATEMENTS RIGHT IN THERE.

12 A. (THE WITNESS LOOKS AT THE DOCUMENT.)

13 Q. TURN TO THE NEXT PAGE IF YOU LIKE.

14 A. (THE WITNESS COMPLIES.) JUST LIKE HERE WHEN I ASKED FOR
15 HIM TO EXPLAIN, I EXPLAINED TO HIM THAT THE STATEMENTS THAT I
16 GAVE THAT NIGHT AND THE ONES THAT I GAVE AT THE HEADQUARTERS,
17 THOSE WERE VERBAL STATEMENTS. THEY DID ALL THE WRITING.
18 THAT'S THE SAME THING I'M TRYING TO EXPLAIN TO YOU HERE JUST
19 NOW.

20 Q. WHEN YOU WERE TALKING TO THEM ORALLY, THEY WERE REDUCING
21 THOSE STATEMENTS TO WRITING FOR YOU TO SIGN. IS THAT NOT
22 CORRECT?

23 A. YES, SIR.

24 Q. SO THEN THOSE ARE THE WRITTEN STATEMENTS THAT YOU
25 SIGNED.

1 A. WELL, STILL, THAT'S ASKING ME TO BREAK IT DOWN SO I
2 UNDERSTOOD IT. THAT'S HOW COME I EXPLAINED TO YOU, OKAY, A
3 WRITTEN STATEMENT IS SOMETHING THAT I WROTE DOWN OR, YOU
4 KNOW, BECAUSE EVERYTHING I GAVE WAS VERBAL, BUT NOTHING WAS
5 DONE IN MY HANDWRITING. I SIGNED IT, YES.

6 Q. YOU SAID YOU SAW ADAMS GIBSON FIGHTING?

7 A. SIR?

8 Q. DID YOU TESTIFY ON MONDAY AND TODAY THAT YOU SAW ADAMS
9 GIBSON FIGHTING?

10 A. I SAW ADAMS GIBSON WITH THE HANDGUN. I SAW JACQUES
11 GIBSON FIGHTING.

12 Q. OKAY. WHO WAS JACQUES FIGHTING WITH?

13 A. IT WAS A SMALLER -- A SMALLER PERSON THAN HIM.

14 Q. OKAY.

15 A. AND ACTUALLY IT REALLY WASN'T A FIGHT. HE HIT THE GUY,
16 AND THE GUY HIT THE FLOOR AND HE JUST STOOD OVER HIM. SO
17 THAT'S NOT MUCH OF A FIGHT.

18 Q. DID YOU -- THEY SHOWED YOU SOME LINE-UPS WITH JACQUES
19 GIBSON AND ADAMS GIBSON IN THEM; IS THAT CORRECT?

20 A. SIR?

21 Q. WEREN'T YOU SHOWN LINE-UPS WITH ADAMS GIBSON AND JACQUES
22 GIBSON IN THOSE?

23 A. YES, SIR.

24 Q. DID THEY SHOW YOU ANY LINE-UPS TO GET YOU TO IDENTIFY
25 ANYBODY ELSE WHO WAS ARGUING OR FIGHTING ON THAT NIGHT?

1 A. I DON'T RECALL THAT.

2 Q. NOW, YOU TESTIFIED THAT YOU HAVE EXPERIENCE WITH
3 WEAPONS.

4 A. YES, SIR.

5 Q. BECAUSE YOUR FAMILY IS IN THE MILITARY.

6 A. YES, SIR.

7 Q. AND THAT YOU HAD A HUSBAND WHO WAS IN THE MILITARY.

8 A. NO, MY HUSBAND JUST HAS BEEN AROUND A LOT OF GUNS.

9 Q. A LOT OF GUNS. HAD YOU FIRED MANY GUNS?

10 A. ON ONE OR TWO OCCASIONS MAYBE.

11 Q. WHAT KIND OF GUNS DID YOU FIRE?

12 A. ONE WAS A NINE MILLIMETER AND THE OTHER ONE I THINK WAS
13 MAYBE A PISTOL.

14 Q. WHAT KIND OF PISTOL?

15 A. I'M NOT EXACTLY SURE, JUST A SMALLER FORM OF A GUN.

16 Q. BUT YOU'RE EXPERIENCED IN WEAPONS.

17 A. SIR?

18 Q. BUT YOU HAVE EXPERIENCE IN WEAPONS, AND YOU CAN'T
19 IDENTIFY THE KIND OF SMALL GUN THAT YOU FIRED.

20 A. JUST TO BE ABLE TO KNOW DISTINCTIVE SOUNDS -- IT'S NOT
21 HARD TO DETERMINE WHAT TYPE OF SOUNDS YOU HEAR. I HAVE A
22 VERY GOOD EAR. THE .22 TO A .25, THOSE SOUNDS ARE SO
23 DISTINCTIVELY DIFFERENT FROM A NINE MILLIMETER THAT YOU WOULD
24 BE ABLE TO TELL THE DIFFERENCE IF YOU WERE SOMEONE WHO IS
25 DUMBFOUNDED TO GUNS.

1 Q. OKAY. WELL, TELL THIS JURY HOW THEY CAN DISTINGUISH THE
2 SOUND FROM A .380 AS OPPOSED TO A NINE MILLIMETER.

3 A. FROM MY EXPERIENCE, THAT SMALL OF A GUN SOUNDS KIND OF
4 LIKE A TOY GUN. YOU KNOW, WHEN WE PLAYED WITH CAP GUNS WHEN
5 WE WERE LITTLE -- MOSTLY LITTLE BOYS DID, YOU KNOW, PUT A
6 LITTLE RED LITTLE THING IN THE BACK OF THE THING AND IT HITS
7 THE BACK AND IT MAKES THAT POP NOISE. IT'S A LIGHTER OR A
8 SMALLER SOUND VERSUS A NINE MILLIMETER. A NINE MILLIMETER IS
9 SO MUCH LOUDER AND SO MORE DISTINCTIVE THAN A .380 THAT HE'S
10 ASKING ME ABOUT.

11 Q. IS A .380 A SMALL CALIBER WEAPON OR IS IT IN THE SAME
12 CATEGORY AS A NINE MILLIMETER?

13 A. I WOULDN'T DISTINCTIVELY KNOW THAT.

14 Q. BUT YOU KNOW ABOUT A WEAPON FROM YOUR PARENTS BEING IN
15 THE MILITARY AND YOUR HUSBAND AND YOU DISCHARGING SOME
16 WEAPONS.

17 A. YES, SIR.

18 Q. OKAY. TELL US THE DIFFERENCE BETWEEN THE SOUND OF A
19 .3820 (SIC) AND A NINE MILLIMETER.

20 A. SIR, THE ONLY SOUNDS THAT I KNOW DISTINCTIVELY THAT I
21 KNOW I HEARD THAT NIGHT -- I KNEW WHAT IT WAS THEN. I'M NOT
22 LICENSED TO KNOW THE DIFFERENCE. I DON'T -- I'M NOT PART OF
23 RICHLAND COUNTY TO KNOW THE DIFFERENCE ALL THE TIME. I JUST
24 KNOW WHAT I HEARD AND WHAT IT SOUNDS LIKE ARE IN THE
25 DESCRIPTION THAT I GAVE YOU ON MONDAY.

1 Q. CAN YOU TELL THIS JURY THE DIFFERENCE BETWEEN THE SOUNDS
2 FROM A .44 CALIBER, A .380, A NINE MILLIMETER, AND A .22?

3 A. NO, SIR, I CAN'T.

4 Q. OKAY. DID YOU SEE HOW ADAMS GIBSON LEFT CHANCE'S ON THE
5 NIGHT OF 9/05/05?

6 A. NO, SIR, BUT I ASSUMED HE GOT IN THE ESCORT AND LEFT.

7 MR. JOHNSON: OBJECTION, YOUR HONOR. ASSUMPTION.

8 THE COURT: SUSTAINED.

9 BY MR. ROBERSON:

10 Q. DID YOU EVER SEE WHEN THE WHITE ESCORT LEFT CHANCE'S?

11 A. YES, SIR.

12 Q. DID YOU SEE ADAMS GIBSON IN THAT ESCORT?

13 A. I SAW A LOT OF PEOPLE IN THAT ESCORT.

14 Q. DID YOU SEE ADAMS GIBSON IN THAT ESCORT?

15 A. NO, SIR.

16 Q. OKAY. DID YOU TELL MR. WILLOUGHBY ABOUT HOW MANY SHOTS
17 YOU HEARD THAT NIGHT FROM THAT SMALL CALIBER GUN?

18 A. YES, SIR, I DID.

19 Q. HOW MANY?

20 A. ABOUT FOUR OR FIVE SHOTS I HEARD.

21 Q. FOUR OR FIVE. YOU WERE PRETTY CERTAIN ABOUT HOW MANY
22 SHOTS YOU HEARD WHEN YOU GAVE THAT STATEMENT TO MR.
23 WILLOUGHBY ON SEPTEMBER THE 6TH OF '05 AT 9:42 HOURS.

24 A. YES, SIR. IT'S PROBABLY ALSO, INCLUDING THE TWO FURTHER
25 SHOTS, PROBABLY ABOUT MAYBE NINE SHOTS IN TOTAL.

1 Q. OKAY. DO YOU REMEMBER TELLING HIM THAT YOU HEARD A
2 TOTAL OF NINE SHOTS THAT NIGHT?

3 A. I CAN'T COMPLETELY RECALL ALL, BUT I THINK I DID.

4 Q. OKAY. AND WOULD HE HAVE A REASON NOT TO INCLUDE IN THIS
5 STATEMENT THAT YOU HEARD A TOTAL OF NINE SHOTS?

6 A. I DON'T THINK SO.

7 Q. SO THEN IF IN YOUR STATEMENT OF THE 6TH OF SEPTEMBER AT
8 9:42 HOURS YOU SAID YOU HEARD NINE SHOTS AND HE ONLY LISTED
9 FIVE, THAT WOULD NOT BE ACCURATE IN TERMS OF WHAT YOU TOLD
10 HIM. IS THAT NOT CORRECT?

11 A. OKAY. THAT'S ONLY STATING WHAT THE FIRST -- THE FIRST
12 FIVE SHOTS I HEARD. THEN WE'RE ALSO TALKING ABOUT THE OTHER
13 TWO SHOTS THAT WERE FURTHER AWAY.

14 Q. SO THEN FIVE AND TWO IS SEVEN AND NOT NINE.

15 A. YOU'RE CORRECT ABOUT MY MATH. THE MATH IS NOT WRONG. I
16 MEAN, I CAN STILL ADD.

17 Q. YOU DID WHAT?

18 A. I CAN STILL ADD.

19 Q. SO THERE WASN'T NINE SHOTS YOU HEARD.

20 A. THERE WAS A COUPLE OF SHOTS WE HEARD FURTHER AWAY. TWO
21 OR THREE SHOTS WE HEARD FURTHER AWAY. THE FOUR OR FIVE SHOTS
22 THAT HE ASKED ME ABOUT WERE THE ONES THAT WERE CLOSER THAT I
23 KNOW I HEARD.

24 Q. HE DIDN'T ASK YOU ABOUT FOUR OR FIVE SHOTS. YOU
25 VOLUNTEERED THAT IT WAS FIVE SHOTS THAT YOU HEARD. IS THAT

1 NOT CORRECT?

2 A. FIVE. FOUR OR FIVE SHOTS THAT NIGHT, YES, SIR.

3 Q. DOES THIS STATEMENT SAY IT WAS FOUR OR FIVE OR IT SAYS
4 IT WAS FIVE?

5 A. IT SAYS FIVE.

6 Q. AND THOSE FOUR OR FIVE SHOTS THAT YOU HEARD WERE FROM A
7 SMALL CALIBER WEAPON.

8 A. YES, SIR.

9 Q. .22 OR A .25.

10 A. YES, SIR.

11 Q. I BELIEVE YOU TURNED OVER TO THE RICHLAND COUNTY
12 SHERIFF'S DEPARTMENT WHAT WAS TAKEN FROM YOUR TIRE.

13 A. YES, SIR.

14 Q. IN YOUR EXPERTISE WITH WEAPONS, COULD YOU TELL WHAT KIND
15 OF WEAPON THAT SLUG WAS FIRED FROM?

16 A. I DIDN'T EVEN LOOK AT IT.

17 Q. YOU DIDN'T LOOK AT IT?

18 A. NO, SIR.

19 Q. WHAT DID YOU DO WITH IT?

20 A. I PUT IT IN A PLASTIC BAG AND I GAVE IT TO MR. MCDANIELS
21 WHEN HE CAME TO MY HOUSE.

22 Q. OH.

23 A. A LITTLE ZIP-LOCK BAG.

24 Q. HOW DID YOU KNOW IT WAS A SLUG FROM A GUN IF YOU DIDN'T
25 LOOK AT IT?

1 A. BECAUSE WHEN THE GUYS TOOK IT OUT OF MY CAR OR TOOK IT
2 OUT OF MY TIRE, IT WAS A BULLET CASING THAT CAME OUT OF MY
3 TIRE.

4 Q. A BULLET CASING CAME OUT OF THE TIRE?

5 A. YES, SIR.

6 Q. ISN'T THE CASING THE THING -- THE LITTLE SLUG THAT'S
7 INTO -- THAT'S FIRED THAT EITHER STAYS WITH THE GUN OR KICKS
8 OUT?

9 A. YES, SIR.

10 Q. SO THE CASING WAS INSIDE THE TIRE, TOO?

11 A. IT'S JUST A PIECE OF -- NOT A PIECE OF METAL, BUT IT WAS
12 A BULLET CASING THAT WAS INSIDE OF MY TIRE THAT CAUSED MY
13 TIRE TO BE FLAT THAT NIGHT.

14 Q. DO YOU REMEMBER HOW JACQUES WAS DRESSED THAT NIGHT?

15 A. I THINK -- I THINK SO.

16 Q. HUH?

17 A. I THINK SO.

18 Q. DO YOU REMEMBER -- HOW MANY PEOPLE DID YOU SEE ARGUING?

19 A. AT WHAT PARTICULAR TIME?

20 Q. INSIDE THE CLUB.

21 A. IT WAS ABOUT EIGHT PEOPLE.

22 Q. OKAY. DO YOU KNOW ANY OF THESE PEOPLE BY A NAME?

23 A. NO, SIR.

24 Q. IF I TELL YOU TORRI BOYD WAS IN THERE THAT NIGHT
25 ARGUING, WOULD YOU REMEMBER HOW HE WAS DRESSED?

1 A. NO, SIR.

2 Q. DO YOU REMEMBER HOW ANY OF THESE PEOPLE WERE DRESSED
3 OTHER THAN JACQUES AND ADAMS?

4 A. NO.

5 MR. ROBERSON: JUST A COUPLE OF MINUTES, YOUR HONOR. A
6 FEW MORE...

7 THE COURT: YES, SIR.

8 BY MR. ROBERSON:

9 Q. MR. WILLOUGHBY ASKED YOU WHETHER OR NOT THERE WAS ANYONE
10 IN THE ESCORT WHEN -- IN THE WHITE ESCORT WHEN THE BLACK MALE
11 GOT IN THE DRIVER'S SIDE AND WENT UNDER THE SEAT. DO YOU
12 REMEMBER THAT?

13 A. I DON'T RECALL HIM ASKING ME THAT.

14 Q. READ THAT, THE TOP TWO SENTENCES.

15 A. (THE WITNESS BEGINS TO MUTTER TO HERSELF.)

16 THE COURT: READ THEM TO YOURSELF, PLEASE, MA'AM.

17 THE WITNESS: OH, OKAY. OKAY.

18 BY MR. ROBERSON:

19 Q. YOU DID NOT ANSWER HIM AS TO WHETHER OR NOT THERE WAS
20 ANYBODY ELSE IN THAT ESCORT AT THAT TIME, DID YOU?

21 A. NO, SIR, I DIDN'T.

22 Q. AND YOU SAID THERE WERE FOUR GUYS MAKING THEIR WAY TO
23 THE ESCORT.

24 A. YES, SIR.

25 Q. OKAY. SO THEN THAT WOULD MAKE IT FIVE WHEN ADAMS GIBSON

1 WAS SITTING THERE PULLING OUT A GUN; RIGHT?

2 A. OKAY.

3 Q. FIVE?

4 A. YES, SIR.

5 Q. OKAY. DO YOU REMEMBER HOW ANY OF THOSE WERE DRESSED WHO
6 WERE RUNNING TO GET INTO THAT FORD ESCORT?

7 A. NO, SIR.

8 Q. WERE THEY TALL, SHORT, LIGHT-SKINNED, DARK-SKINNED?

9 A. MY EYES WERE ONLY ON THE PERSON HOLDING THE GUN WHICH
10 WAS ADAMS GIBSON.

11 Q. OKAY. BUT YOU DON'T KNOW WHETHER OR NOT ANY OF THEM HAD
12 GUNS EITHER, DID YOU?

13 A. SIR, I ONLY SAW ONE GUN THAT NIGHT.

14 MR. ROBERSON: OKAY. I DON'T HAVE ANYTHING FURTHER,
15 YOUR HONOR.

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

17 MR. JOHNSON: THANK YOU, YOUR HONOR.

18 THE COURT: YES, SIR.

19 CROSS-EXAMINATION

20 BY MR. JOHNSON:

21 Q. MS. WILSON, HELP ME. YOU INDICATED THAT YOU WERE
22 STUDYING -- IS IT COMPUTER ENGINEERING?

23 A. I'M ACTUALLY -- I'M DOUBLE MAJORING AT MIDLANDS TECH IN
24 COMPUTER GRAPHICS ENGINEERING AND BUSINESS MANAGEMENT.

25 Q. ARE YOU A STUDENT THERE NOW?

- 1 A. YES, SIR, I AM.
- 2 Q. AND YOU'RE EMPLOYED AS ROSE'S AS A MANAGER?
- 3 A. ROSS.
- 4 Q. ROSS?
- 5 A. AS A MANAGER. YES, SIR.
- 6 Q. ROSS AS A MANAGER?
- 7 A. YES, SIR.
- 8 Q. ALL RIGHT. SO YOU'RE CURRENTLY A STUDENT AT MIDLANDS
- 9 TECH.
- 10 A. YES, SIR.
- 11 Q. OKAY. NOW, IN THIS PARTICULAR CASE ON, LET'S SEE, ONE,
- 12 TWO, THREE, FOUR -- ABOUT FIVE DIFFERENT OCCASIONS YOU HAVE
- 13 GIVEN YOUR VERSION OF WHAT HAPPENED THAT NIGHT. IS THAT NOT
- 14 TRUE?
- 15 A. AS MANY TIMES AS Y'ALL ASKED ME.
- 16 Q. NO, NOT WHEN I'VE ASKED YOU, WHEN THE INVESTIGATORS
- 17 ASKED YOU. FOR EXAMPLE, THE FIRST NIGHT OF THE INCIDENT YOU
- 18 GAVE AN OFFICER YOUR VERSION OF WHAT HAPPENED AND YOU SIGNED
- 19 A STATEMENT ABOUT WHAT YOU OBSERVED AND WHAT YOU KNEW. ISN'T
- 20 THAT TRUE?
- 21 A. YES, SIR.
- 22 Q. AND THEN MR. MCDANIELS CAME TO YOUR HOME AND ASKED YOU
- 23 SOME QUESTIONS AND YOU DIDN'T TELL HIM ANYTHING ABOUT WHAT
- 24 HAPPENED. ISN'T THAT RIGHT?
- 25 A. YES, SIR.

1 Q. AND THEN AFTER YOU TALKED TO MRS. IRBY, THE MOTHER OF
2 THE DECEASED, YOU CALLED MR. MCDANIELS. YOU WENT TO THE---

3 A. MR. WILLOUGHBY.

4 Q. MR. WILLOUGHBY.

5 A. YES, SIR.

6 Q. AND YOU WENT AND GAVE HIM A WRITTEN STATEMENT AND SIGNED
7 THAT. IS THAT NOT -- IS THAT NOT TRUE?

8 A. YES, SIR.

9 Q. AND IN ADDITION TO THAT, ON MONDAY YOU PUT YOUR HAND ON
10 THIS BIBLE TO TELL THE TRUTH. YOU TOOK THAT WITNESS CHAIR
11 AND TOLD YOUR VERSION OF WHAT HAPPENED. ISN'T THAT RIGHT?

12 A. YES, SIR.

13 Q. AND TODAY YOU ARE TELLING YOUR VERSION OF WHAT HAPPENED
14 THE FIFTH TIME. ISN'T THAT RIGHT?

15 A. YES, SIR.

16 Q. NOW, THERE HAVE BEEN INCONSISTENCIES IN YOUR FIVE
17 VERSIONS OF WHAT HAPPENED. ISN'T THAT TRUE?

18 A. I DON'T THINK I UNDERSTAND WHAT INCONSISTENCIES YOU'RE
19 TALKING ABOUT.

20 Q. OKAY. WELL, LET'S -- LET'S GO THROUGH A FEW OF THEM.
21 YOU'RE TESTIFYING TODAY THAT YOU WERE OUTSIDE WHEN YOU HEARD
22 THE SHOOTING.

23 A. THE LIKE -- IT'S NOT PARTICULARLY OUTSIDE. I MEAN, I
24 HEARD THE SHOTS. I MEAN, WE WERE ALL OUTSIDE.

25 Q. WELL, YOU KNOW THE DIFFERENCE BETWEEN THE INSIDE AND

1 OUTSIDE, DON'T YOU?

2 A. YES, SIR, I DO.

3 Q. ALL RIGHT. ALL RIGHT. WHEN THE SHOTS WERE FIRED, WERE
4 YOU INSIDE CHANCE'S OR OUTSIDE CHANCE'S?

5 A. I WAS IN SORT OF THE -- WHERE THE DOUBLE DOORS WERE.
6 THEY'RE STILL OPEN. YOU CAN STILL HEAR THE SHOTS.

7 Q. THAT IS INSIDE CHANCE'S. ISN'T THAT CORRECT?

8 A. YES, SIR.

9 Q. AND WHEN YOU HEARD THE SHOTS WHILE YOU WERE INSIDE
10 CHANCE'S, YOU DUCKED. ISN'T THAT RIGHT?

11 A. CLOSER TO THE FLOOR, YES, SIR.

12 Q. CLOSER TO THE FLOOR. AND YOU COULDN'T SEE OUTSIDE WHEN
13 YOU DUCKED CLOSER TO THE FLOOR. ISN'T THAT TRUE?

14 A. YOU CAN STILL SEE THROUGH THE DOUBLE DOORS.

15 Q. YOU COULD STILL SEE THROUGH THE DOUBLE DOORS.

16 A. YES, SIR.

17 Q. AND WHILE SEEING -- WHILE LOOKING THROUGH THE DOUBLE
18 DOORS, YOU SAW WHAT?

19 A. THE WHITE ESCORT LEAVE.

20 Q. YOU SAW THE WHITE ESCORT LEAVE.

21 A. UH-HUH.

22 Q. BEFORE THE WHITE ESCORT LEFT, THE SHOTS HAD BEEN FIRED.
23 ISN'T THAT TRUE?

24 A. YES, SIR.

25 Q. AND YOU WERE STILL ON THE INSIDE WHEN YOU NOW SAY YOU

1 HEARD THE SECOND SET OF SHOTS. ISN'T THAT RIGHT?

2 A. YES, SIR.

3 Q. AND THE NIGHT OF THE INCIDENT YOU DID NOT TELL THAT
4 OFFICER YOU HEARD TWO SETS OF SHOTS. ISN'T THAT CORRECT?
5 THE NIGHT OF THE INCIDENT YOU DID NOT TELL THE OFFICER YOU
6 HEARD TWO SETS OF SHOTS. ISN'T THAT RIGHT?

7 A. I THINK I PROBABLY GAVE A STATEMENT WHERE I ONLY HEARD
8 ONE SET OF SHOTS.

9 Q. BEG YOUR PARDON?

10 A. I SAID I THINK I GAVE A STATEMENT WHERE IT WAS ONLY ONE
11 SET OF SHOTS.

12 Q. OKAY. SO THAT'S INCONSISTENT WITH WHAT YOU'RE
13 TESTIFYING TODAY. ISN'T THAT RIGHT?

14 A. NO, NOT REALLY, MR. JOHNSON, BECAUSE WHEN YOU'RE GIVING
15 STATEMENTS YOU RECALL MORE AS YOU GO ON THROUGH TALKING TO
16 DIFFERENT PEOPLE, TRYING TO REMEMBER. THROUGHOUT THIS WHOLE
17 THING I'VE HAD TO TRY TO REMEMBER, RECALL, AND KEEP REPLAYING
18 IN MY HEAD EVERY DAY WHAT HAPPENED TO THAT BOY.

19 Q. SO YOU HAVE BEEN INFLUENCED BY WHAT OTHER PEOPLE HAVE
20 SAID; ISN'T THAT RIGHT?

21 A. I HAVEN'T BEEN INFLUENCED BY ANYBODY. I'M ONLY
22 INFLUENCED BY MY OWN MEMORY OF THINGS OF WHAT HAPPENED BACK
23 THEN.

24 Q. WELL -- AND YOUR MEMORY HAS BEEN INCONSISTENT. ISN'T
25 THAT RIGHT? BECAUSE I JUST POINTED OUT TO YOU ABOUT THE

1 SHOTS. WHEN IT WAS FRESH ON YOUR MIND, YOU DID NOT MENTION
2 ANYTHING ABOUT TWO SETS OF SHOTS; ISN'T THAT RIGHT?

3 A. AND IT WAS STILL A TRAGIC INCIDENT THAT HAPPENED THAT
4 NIGHT AND I STILL COULD THE NEXT DAY STILL GIVE A STATEMENT
5 SAYING I HEARD TWO SETS OF SHOTS, TRYING TO RECALL AND
6 REMEMBER AND CATCH MYSELF. YOU HAVE TO UNDERSTAND: I WAS
7 TRYING TO WORK WITH THE BOY THAT WAS LOSING HIS LIFE. DO YOU
8 NOT UNDERSTAND THAT? THAT'S A TRAGIC INCIDENT, AND I STILL
9 FOR ALMOST TWO YEARS HAVE TO CARRY THAT EVERY DAY.

10 Q. WELL, YESTERDAY AND THE DAY BEFORE -- WHEN YOU WERE
11 LEAVING THE BUILDING WITH TORRI BOYD, RAVARIS, ANTWAN MARTIN,
12 ANTONIO SMITH, AND DENNIS IRBY, DID YOU REMEMBER IT THEN?

13 A. YES.

14 Q. AND YOU WERE ALL UPSET OUT THERE, LAUGHING AND GIGGLING
15 ABOUT THIS COURT. WAS THAT FUNNY TO YOU OR WAS IT TRAGIC TO
16 YOU?

17 A. SIR, AIN'T ANYTHING GOING ON IN THIS TRIAL FUNNY.

18 Q. BUT YOU WERE OUT THERE YESTERDAY AND YOU'VE BEEN
19 COHORTING WITH THEM, LAUGHING AND GIGGLING ABOUT WHAT'S GOING
20 ON IN THE COURTROOM.

21 A. IT'S BECAUSE WE TRY TO KEEP EACH OTHER STABLE. YOU
22 KNOW, I DON'T SLEEP EVERY NIGHT. EVER SINCE I'VE HAD TO PULL
23 INTO THIS COURTROOM I HAVE TROUBLE SLEEPING. I CAME HERE
24 THIS MORNING TIRED BECAUSE I CANNOT SLEEP AT NIGHT. OKAY? I
25 CAN'T TAKE SLEEP AIDS. I HAVE TO MAKE IT HERE ON TIME, YOU

1 KNOW, TO BE ABLE TO DEAL WITH YOU, TO BE ABLE TO DEAL WITH
2 THE JURY, TO BE ABLE DEAL WITH MRS. IRBY HERSELF. I HAVE TO
3 SEE THIS WOMAN, HER HURT. EXCUSE ME IF I DON'T STAY IN TEARS
4 THE WHOLE ENTIRE TIME THAT I'M HERE, BUT YOU MIGHT DON'T
5 UNDERSTAND. I STILL HAVE TO DEAL WITH THIS. AND THIS IS
6 STILL TWO YEARS AGO? AND I'M STILL DEALING WITH IT.

7 YOU DON'T HAVE NIGHTMARES; I DO. YOU DON'T HAVE
8 PROBLEMS SLEEPING AT NIGHT; I DO. I HAD TO BE CALLED THE
9 NEXT DAY TELLING ME THAT HE DIED, AND I TRIED EVERYTHING I
10 POSSIBLY COULD THAT NIGHT TO HELP THAT BOY. YOU DON'T HAVE
11 TO DEAL WITH THAT ON YOUR CONSCIENCE; I DO. AND I HAVE A
12 CHILD OF MY OWN. I LOST A SON AT TWO YEARS OLD, SO I
13 UNDERSTAND HOW SHE FEELS. SO DON'T TRY TO DISCREDIT ME JUST
14 BECAUSE I'M TRYING TO MAKE EVERYTHING A LITTLE BIT EASIER ON
15 US.

16 Q. ARE YOU FINISHED?

17 A. (NO RESPONSE.)

18 Q. ARE YOU FINISHED?

19 A. NO---

20 THE COURT: ASK A QUESTION, MR. JOHNSON.

21 BY MR. JOHNSON:

22 Q. THE QUESTION IS: THE NIGHT OF THE INCIDENT AND WHEN MR.
23 MCDANIELS CAME TO YOUR HOUSE AND MR. WILLOUGHBY INTERVIEWED
24 YOU, DID YOU TELL THEM THAT INSIDE CHANCE'S THAT YOU HEARD AN
25 ALTERCATION?

1 A. JUDGE, CAN I KIND OF STEP DOWN FOR A MINUTE?

2 THE COURT: NO, MA'AM. YOU NEED TO TAKE A BREAK IS WHAT
3 YOU'RE ASKING ME?

4 THE WITNESS: YES, SIR.

5 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT BREAK FOR
6 ABOUT FIVE MINUTES. THANK YOU VERY MUCH. JURY, YOU CAN GO
7 TO YOUR JURY ROOM. YOU CAN STEP DOWN. EVERYONE ELSE REMAIN
8 SEATED.

9 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
10 10:38 A.M.)

11 THE COURT: ALL RIGHT. WE'LL TAKE A BREAK FOR ABOUT
12 FIVE MINUTES. THANK YOU VERY MUCH.

13 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

14 THE COURT: THANK YOU. YOU MAY BE SEATED. THANK Y'ALL.
15 MS. WILSON, YOU NEED TO COME BACK TO THE WITNESS STAND,
16 PLEASE, MA'AM. MR. JOHNSON, ARE YOU READY TO RESUME?

17 MR. JOHNSON: YES, SIR.

18 THE COURT: STATE?

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

20 THE COURT: MR. ROBERSON?

21 MR. ROBERSON: YES, SIR.

22 THE COURT: ASK THE JURY TO COME IN, PLEASE.

23 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
24 10:50 A.M.)

25 THE COURT: ALL RIGHT. MR. JOHNSON, YOU MAY RESUME,

1 SIR.

2 BY MR. JOHNSON:

3 Q. MS. WILSON, IS IT YOUR TESTIMONY TODAY THAT YOU HEARD
4 ARGUMENTS INSIDE THE CLUB?

5 A. YES, SIR.

6 Q. AND DO YOU KNOW WHO WAS ARGUING?

7 A. YES, SIR.

8 Q. WHO WAS ARGUING?

9 A. ADAMS GIBSON.

10 Q. ADAMS GIBSON? NOBODY ELSE WAS ARGUING?

11 A. JACQUES WAS KIND OF ARGUING BUT JUST NOT AS MUCH AS HIS
12 BROTHER.

13 Q. ALL RIGHT. JACQUES WAS IN CHANCE'S ARGUING. IS THAT
14 WHAT YOU'RE TESTIFYING TO?

15 A. YES, SIR.

16 Q. AND DO YOU KNOW WHO HIS -- HIS WORDS WERE DIRECTED AT?

17 A. I BELIEVE THE GENTLEMENS (SIC) THAT HEADS WERE TOWARD ME
18 WHEN I WAS LOOKING AT THEM; I BELIEVE THEM.

19 Q. SAY THAT AGAIN, PLEASE.

20 A. THE WAY THAT I'M SITTING IN CHANCE'S, THE ONLY FACES
21 THAT I CAN SEE WERE THE ONES THAT ARE FACING TOWARD THE
22 ARGUING PARTY.

23 Q. OKAY. AND JACQUES WAS ONE OF THOSE PERSONS INSIDE
24 CHANCE'S ARGUING.

25 A. WELL, HE'S NOT DOING TOO MUCH TALKING. LIKE I SAID, HIS

1 BROTHER IS DOING MORE TALKING THAN HE IS.

2 Q. BUT HE WAS PARTICIPATING---

3 A. YES, SIR.

4 Q. ---IN THE ARGUMENT. AND SO YOU OBSERVED INSIDE CHANCE'S
5 THAT JACQUES AND HIS BROTHER WAS IN THERE ARGUING WITH SOME
6 FELLOWS.

7 A. YES, SIR.

8 Q. AND WAS CURSE WORDS BEING USED?

9 A. SIR, I'M NOT EXACTLY SURE. I JUST SEE THE FACIAL
10 EXPRESSIONS. THEY'RE VERY STRONG FACIAL EXPRESSIONS.

11 Q. AND YOU SAID YOU WERE 10 FEET AWAY AND YOU COULDN'T HEAR
12 WHAT WAS BEING SAID?

13 A. WHAT DO YOU MEAN 10 FEET AWAY?

14 Q. I THOUGHT YOUR TESTIMONY WAS THAT YOU -- THAT YOU
15 TESTIFIED YOU WERE ABOUT 10 FEET AWAY?

16 A. I DIDN'T TESTIFY ANYTHING SPECIFIC LIKE THAT.

17 Q. OKAY. WELL, HOW---

18 A. I USED AS UPON THE DISTANCE BETWEEN ME AND THEM, BUT I
19 DIDN'T SAY SPECIFICALLY 10 FEET.

20 Q. OKAY. WELL, ABOUT HOW FAR AWAY WERE THEY?

21 A. IF I'M STANDING RIGHT HERE---

22 Q. YES, MA'AM.

23 A. DO YOU WANT TO MOVE A LITTLE BIT CLOSER FOR ME SO I CAN
24 POSITION YOU WHERE I NEED YOU TO BE? HERE. STAND RIGHT
25 HERE. BACK UP A LITTLE BIT FOR ME. A LITTLE BIT MORE. A

1 LITTLE BIT MORE. ABOUT RIGHT WHERE YOU'RE STANDING AT.

2 Q. AND YOU COULDN'T HEAR WHAT THEY WERE SAYING. THEY WERE
3 THAT CLOSE TO YOU?

4 A. THERE WAS SOME MUSIC PLAYING IN THE BAR, SIR.

5 Q. THERE WAS WHAT?

6 A. THERE WAS SOME MUSIC PLAYING IN THE BAR.

7 Q. SOME MUSIC---

8 A. AND EVERYBODY IS TALKING.

9 Q. MUSIC WAS PLAYING AND EVERYBODY IS TALKING, BUT YOU CAN
10 TELL THAT JACQUES WAS INSIDE ARGUING.

11 A. YES, SIR.

12 Q. OKAY. NOW, DID JACQUES AND HIS BROTHER COME IN AT THE
13 SAME TIME?

14 A. I DON'T KNOW, SIR.

15 Q. OKAY. WERE YOU ALREADY THERE WHEN YOU FIRST SAW THEM?

16 A. I'M NOT EXACTLY SURE.

17 Q. OKAY. ALL RIGHT. WELL, AFTER AWHILE ISN'T IT TRUE THAT
18 THEY CLOSED UP CHANCE'S? EVERYBODY HAD TO LEAVE? DID THE
19 PLACE HAVE TO CLOSE THAT NIGHT?

20 A. I GUESS.

21 Q. OKAY. YOU DIDN'T -- YOU WEREN'T AWARE THAT THEY HAD
22 CLOSED THE CLUB AT 12:00?

23 A. I WAS INSIDE OF A POLICE CAR. LIKE I SAID, AFTER WHAT
24 HAPPENED, I DON'T KNOW.

25 Q. WELL, I'M NOT TALKING ABOUT INSIDE THE POLICE CAR.

1 WE'RE STILL IN CHANCE'S. YOU'VE HEARD JACQUES ARGUING WITH
2 SOME FELLOWS INSIDE.

3 A. OKAY.

4 Q. AND THEN A LOT OF FELLOWS LEFT OUT, DIDN'T THEY?

5 A. YES, SIR.

6 Q. OKAY. AND WHEN THEY LEFT OUT, YOU WERE STILL ON THE
7 INSIDE.

8 A. THEY LEFT OUT BECAUSE THEY HAD TO LEAVE.

9 Q. WHY DID THEY HAVE TO LEAVE?

10 A. BECAUSE THEY KEPT ARGUING BACK AND FORTH BETWEEN EACH
11 OTHER AND THE MANAGER OF THE BAR AT THE TIME DIDN'T WANT THAT
12 TYPE OF ATMOSPHERE INSIDE THE CLUB.

13 Q. AND SO THE REASON THEY LEFT IS BECAUSE THE MANAGER SORT
14 OF CAME UP AND CONFRONTED THEM: IF Y'ALL ARE GOING TO ARGUE,
15 IF YOU'RE FUSSING AND ARGUING, Y'ALL ARE GOING TO HAVE TO
16 LEAVE MY CLUB.

17 A. RIGHT. THEY WERE ARGUING AND FIGHTING AND ALL THAT GOOD
18 STUFF, YEAH.

19 Q. THEY WERE ARGUING AND FIGHTING INSIDE CHANCE'S CLUB, AND
20 THE MANAGER ASKED THEM TO LEAVE. IS THAT RIGHT?

21 A. SIR, THEY WERE ARGUING. THE FIRST TIME THE BAR MANAGER
22 CAME OVER AND SAID, "LOOK. IF Y'ALL CAN'T COOL IT DOWN, I'M
23 -- Y'ALL ARE GOING TO HAVE TO LEAVE."

24 Q. OKAY.

25 A. THEY JUST KEPT GOING AT IT.

1 Q. AND YOU HEARD THE MANAGER SAY THAT.

2 A. HE'S LIKE YELLING; YOU CAN HEAR HIM.

3 Q. OKAY. ALL RIGHT.

4 A. AND HE'S CLOSER TO ME THAN HE ARE TO THEM.

5 Q. OKAY. AND SO HE'S YELLING, "IF Y'ALL ARE GOING TO KEEP
6 THAT GOING ON, Y'ALL ARE GOING TO HAVE TO LEAVE."

7 A. YEAH. YOU SEE ALL THESE HAND MOVEMENTS, YOU KNOW.

8 "Y'ALL CAN'T DO ALL THIS. Y'ALL ARE GOING TO HAVE TO GO
9 OUTSIDE MY CLUB."

10 Q. OKAY. AND THEY LEFT.

11 A. YES, SIR.

12 Q. AND YOU REMAINED INSIDE.

13 A. YES, SIR, UNTIL SOMEBODY SAID THEY WERE FIGHTING. THEN
14 ME AND MY FRIENDS GOT UP AND WE WENT TOWARDS THE DOOR TO SEE
15 THE FIGHT.

16 Q. OKAY. AND WHEN YOU GOT OUTSIDE, YOU SAW JACQUES
17 FIGHTING.

18 A. LIKE I STATED BEFORE, IT WASN'T MUCH OF A FIGHT. HE HIT
19 THE BOY. THE BOY HIT THE FLOOR, AND HE WAS JUST STANDING
20 OVER HIM.

21 Q. OKAY. BUT YOU SAW JACQUES HIT THE BOY. THE BOY HIT THE
22 GROUND, AND JACQUES WAS STANDING OVER HIM.

23 A. YES, SIR.

24 Q. ALL RIGHT. WOULD YOU STEP DOWN HERE A MINUTE, PLEASE?
25 NOW, THIS IS STATE'S EXHIBIT NUMBER 79. IT'S BEEN SHOWN TO

1 YOU BY MR. LAKE. WOULD YOU TAKE THIS POINTER FROM ME,
2 PLEASE? AND AS I -- I WAS OVER HERE AND I COULDN'T SEE. AS
3 I UNDERSTAND YOUR TESTIMONY, THE FIGHT TOOK PLACE RIGHT IN
4 FRONT OF CHANCE'S. IS THAT CORRECT?

5 A. THAT'S NOT WHAT I SAID.

6 Q. OKAY. TELL ME WHAT YOU SAID.

7 A. OKAY. WHAT I SAID WAS IS THAT I'M STANDING RIGHT HERE
8 ON THIS CURB. THESE ARE THE DOORS. THERE WAS A BROWN -- A
9 BROWN LIKE FORD TAHOE RIGHT HERE. THERE WAS A RED ESCORT
10 RIGHT HERE. THE BOYS WERE FIGHTING RIGHT IN HERE.

11 Q. COULD I HOLD THAT PEN A MINUTE? WOULD YOU TAKE THIS PEN
12 FROM ME, PLEASE? WOULD YOU---

13 MR. LAKE: YOUR HONOR, THAT'S IN EVIDENCE. I DON'T
14 THINK SHE CAN MARK ON IT.

15 THE COURT: DO YOU HAVE AN OBJECTION TO HER DOING SO?

16 MR. LAKE: YES, SIR.

17 THE COURT: ALL RIGHT, SIR. SUSTAINED.

18 BY MR. JOHNSON:

19 Q. POINT OUT AGAIN WHERE THE FIGHT WAS TAKING PLACE.

20 A. RIGHT HERE THERE IS A CURB - IT'S CONCRETE - WHERE I WAS
21 STANDING AT. THERE WAS A BROWN TAHOE SITTING RIGHT HERE, AND
22 THERE WAS A RED FORD ESCORT SITTING RIGHT HERE. THE BOYS
23 WERE FIGHTING RIGHT IN BETWEEN THERE.

24 Q. ALL RIGHT. AND SO, AS I UNDERSTAND YOUR TESTIMONY, ON
25 THIS SIDE NEAREST THE CLUB, THAT'S WHERE THE FIGHT WAS TAKING

1 PLACE.

2 A. RIGHT HERE.

3 Q. OKAY. ISN'T THAT CORRECT? ON THAT SIDE -- ON THE SIDE
4 WHERE THE CLUB IS?

5 A. YES, SIR.

6 Q. THAT'S WHERE THE FIGHT TOOK PLACE?

7 A. YES, SIR.

8 THE COURT: PLEASE SPEAK UP, MA'AM. THANK YOU.

9 MR. JOHNSON: AND THAT'S WHERE YOU SAW---

10 THE COURT: JUST A SECOND. LET HER SIT DOWN BEFORE YOU
11 ASK QUESTIONS. THANK YOU. ALL RIGHT. GO AHEAD.

12 BY MR. JOHNSON:

13 Q. AND THAT'S WHERE YOU SAW JACQUES HIT A GUY AND KNOCK HIM
14 TO THE GROUND AND STOOD OVER HIM.

15 A. YES, SIR.

16 Q. OKAY. NOW, MS. WILSON, THE NIGHT OF THIS INCIDENT YOU
17 -- AS YOU'VE INDICATED, YOU WERE A LITTLE SHAKEN. AND YOU
18 WERE TALKING TO ONE OF THE OFFICERS, AND THEY WROTE OUT A
19 STATEMENT. IS THAT NOT CORRECT?

20 A. YES, SIR.

21 Q. AND YOU SIGNED THAT STATEMENT. IS THAT NOT CORRECT?

22 A. YES, SIR.

23 Q. AND THAT STATEMENT WAS -- THEY LEFT OUT SOME THINGS, AND
24 IT WASN'T THE FULL STORY. IS THAT RIGHT? IS THAT WHAT
25 YOU'RE TESTIFYING TO TODAY?

1 A. I JUST STATED THAT IN MY STATEMENT I DIDN'T SAY .25
2 CALIBER. THAT'S ALL I'M SAYING ABOUT THAT STATEMENT.

3 Q. OKAY. BUT IN THAT STATEMENT YOU SAID THAT THE TWO GIRLS
4 WHO WERE WORKING AT CHANCE'S ALONG WITH THE MANAGER WENT
5 OUTSIDE TO THE PARKING LOT WHERE A FIGHT DEVELOPED BETWEEN
6 EIGHT PERSONS, AND EACH PERSON WAS FIGHTING ONE ON ONE. IS
7 THAT TRUE?

8 A. YES, SIR.

9 Q. AND THE EMPLOYEES OF CHANCE'S TRIED TO BREAK THE FIGHT
10 UP. IS THAT TRUE?

11 A. THE TWO GIRLS.

12 Q. THE TWO GIRLS TRIED TO BREAK THE FIGHT UP.

13 A. YES, SIR.

14 Q. AND THEN YOU SAID A BIG, HEAVY-SET MUSCULAR BLACK MALE
15 WHO WAS AROUND 235 POUNDS, 5'7" OR 5'8", AND WEARING A BLACK
16 TEE SHIRT AND BLUE - HE WAS AROUND 21 OR 22 - WAS ONE OF THE
17 GUYS FIGHTING, WALKED OVER TO A WHITE FORD ESCORT WHICH WAS
18 PARKED IN THE FRONT PARKING LOT. IS THAT RIGHT?

19 A. YES, SIR.

20 Q. SO THE PERSON YOU SAW THAT NIGHT WEIGHED ABOUT 235
21 POUNDS.

22 A. I WAS JUST GIVING A ROUGH ESTIMATE. HE WAS HEAVY.

23 Q. YOU WERE GIVING A ROUGH ESTIMATE. IS THAT RIGHT?

24 A. YES, SIR. THAT'S ALL I CAN GIVE WITHOUT KNOWING THE
25 SPECIFIC SIZE OF SOMEONE.

1 Q. BUT LATER ON YOU SAID THE NEXT DAY THAT THE PERSON WAS
2 DARK-SKINNED, 5'9", 235 POUNDS, 5'7" OR 5'8". IS THAT RIGHT?
3 I BEG YOUR PARDON. THE NEXT DAY YOU SAID 235, 5'7" OR 5'8".
4 IS THAT RIGHT?

5 A. I THINK SO.

6 Q. OKAY. NOW -- AND YOU SAID THIS PERSON OPENED THE
7 PASSENGER SIDE DOOR AND HE GOT ALL THE WAY INTO THE CAR. HE
8 REACHED DOWN AND HE GOT A .25 CALIBER REVOLVER, ALL BLACK IN
9 COLOR. IS THAT RIGHT?

10 A. I ALSO HAD A DISAGREEMENT WITH THAT, TOO, BECAUSE HE GOT
11 IN THE DRIVER'S SIDE, NOT THE PASSENGER'S SIDE. I'VE BEEN
12 MAKING THOSE CORRECTIONS MY WHOLE TESTIMONY.

13 Q. YEAH. SO -- SO WHAT THE OFFICER WROTE DOWN THAT NIGHT
14 WAS A MISTAKE.

15 A. LIKE I SAID, HE GOT IN THE DRIVER'S SIDE---

16 Q. HE GOT---

17 A. ---NOT THE PASSENGER'S SIDE.

18 Q. BUT NOT IN THE PASSENGER'S SIDE. AND THEN SOMEBODY
19 SAID, "OH, HE'S GOT A GUN."

20 A. YES, SIR.

21 Q. NOW, AT THE TIME THAT THE PERSON GOT IN THE CAR, WAS IT
22 A RED ESCORT OR A WHITE ESCORT?

23 A. IT'S A WHITE ESCORT.

24 Q. IT WAS A WHITE ESCORT.

25 A. YES.

1 Q. THE NEXT DAY DID YOU TELL ANYBODY THAT IT WAS A WHITE
2 ESCORT?

3 A. I DON'T RECALL THAT. I'M NOT EXACTLY SURE.

4 Q. OKAY. DID YOU MENTION A RED ESCORT THE NEXT DAY?

5 A. I DON'T RECALL THAT EITHER.

6 Q. OKAY. BUT YOU DID GIVE A STATEMENT THE NEXT DAY.

7 A. TO MR. WILLOUGHBY, YES.

8 Q. OKAY. AND WHEN YOU TALKED TO MR. WILLOUGHBY, DID YOU
9 TELL HIM IN WHICH DIRECTION THE ESCORT WAS HEADED? WAS IT --
10 WAS IT -- WAS IT IN THE DIRECTION -- WHEN THE SHOOTING TOOK
11 PLACE, WAS IT IN THE -- WAS THE ESCORT POINTED TOWARD THE
12 QUALITY INN OR WAS IT POINTED OUTSIDE GOING TOWARD THE EXIT
13 OF THE PARKING LOT? DO YOU REMEMBER WHICH WAY IT WAS HEADED?

14 A. WHERE I'M STANDING AT, THE FORD ESCORT WAS PARKED RIGHT
15 ABOUT HERE. SO WHEN THEY LEFT, THEY LEFT GOING OUT THIS WAY.

16 Q. AND WHEN THE SHOOTING TOOK PLACE, YOU ARE SAYING TODAY
17 THAT THE FORD ESCORT WAS OUT HERE SOMEPLACE?

18 A. IT WAS RIGHT IN HERE.

19 Q. OKAY. AND THEN YOU SAID ON SEPTEMBER 5TH, "THE MUSCULAR
20 BLACK MALE SITTING IN THE DRIVER'S SEAT FIRED ALL FOUR OR
21 FIVE SHOTS AT FOUR BLACK MALES WHO WERE STILL WALKING AWAY."
22 WAS THAT TRUE, MS. WILSON?

23 A. YES, SIR.

24 Q. YOU SAW A BLACK MUSCULAR MALE FIRE FOUR OR FIVE SHOTS
25 AT -- AT FOUR BLACK MALES WHO WERE STILL WALKING AWAY?

1 A. WHEN -- CAN I EVEN USE THE NAME? I'M NOT EXACTLY SURE.

2 Q. SURE. GO RIGHT AHEAD.

3 A. OKAY. WHEN I SAW ADAMS GIBSON SIT DOWN IN THAT DRIVER'S
4 SIDE AND REACH UNDER THE SEAT AND PULL OUT A GUN, HE STOOD UP
5 TOWARDS THE WAY THOSE BOYS WERE WALKING AWAY FROM AND POINT
6 STRAIGHT AT THEM. THAT'S THE WAY HE WAS POINTING; IT WAS
7 TOWARD THEIR DIRECTION.

8 Q. NOW, ON SEPTEMBER 6TH WHEN YOU TALKED TO MR. WILLOUGHBY,
9 DID YOU TELL HIM THAT?

10 A. I DON'T RECALL THAT. I'M NOT EXACTLY SURE IF I DID OR I
11 DIDN'T.

12 Q. WELL, I'LL BE HAPPY TO GIVE YOU A COPY OF YOUR
13 STATEMENT.

14 A. THAT'S FINE.

15 Q. OKAY. WOULD THAT REFRESH YOUR MEMORY?

16 A. YOU CAN GIVE ME THE COPY OF THE STATEMENT; THAT'S FINE.

17 Q. WOULD IT -- WOULD IT HELP YOU?

18 A. LIKE I SAID, I JUST DON'T RECALL TELLING HIM THAT OR
19 NOT.

20 Q. OKAY. THE NEXT DAY WHEN YOU TALKED TO MR. WILLOUGHBY
21 YOU DIDN'T -- THE NIGHT OF THE INCIDENT - I BEG YOUR PARDON -
22 YOU DIDN'T MENTION THE NAME OF JACQUES AT ALL, DID YOU?

23 A. NO, SIR.

24 Q. AND YOU DIDN'T MENTION THE NAME OF JACQUES WHEN MR.
25 MCDANIELS CAME TO VISIT THAT YOU FIRST DAY. ISN'T THAT TRUE?

1 A. NO, SIR.

2 Q. AND THE FIRST TIME THAT YOU MENTIONED MY CLIENT'S NAME
3 IS AFTER YOU TALKED WITH MRS. IRBY AND WENT TO THE POLICE
4 DEPARTMENT. ISN'T THAT TRUE?

5 A. NO, SIR.

6 Q. WHEN WAS THE FIRST TIME YOU MENTIONED IT?

7 A. WHAT DO YOU MEAN? I DIDN'T MENTION ANYBODY. I PICKED
8 OUT A LINE-UP.

9 Q. YOU PICKED OUT A LINE-UP.

10 A. I'M ONLY ABLE TO RECOGNIZE FACES. I DIDN'T KNOW ANY OF
11 THESE BOYS TO KNOW THEM BY NAME.

12 Q. OKAY. AND LOOKING AT STATE'S EXHIBIT NUMBER 33, THAT IS
13 THE LINE-UP MR. MCDANIELS SHOWED YOU, AND YOU DIDN'T IDENTIFY
14 ANYBODY. ISN'T THAT RIGHT?

15 A. RIGHT.

16 Q. AND THE NEXT DAY DID YOU IDENTIFY ANYBODY IN STATE'S
17 EXHIBIT NUMBER 34?

18 A. YES.

19 Q. AND WHAT NUMBER DID YOU PICK OUT?

20 A. THAT'S ONE.

21 Q. NUMBER ONE. IS THE PICTURE OF THE PERSON IN STATE'S
22 EXHIBIT NUMBER 33 IN EXHIBIT NUMBER 34?

23 A. YES, SIR.

24 MR. JOHNSON: ALL RIGHT. YOUR HONOR, MAY I HAVE THE
25 ASSISTANCE OF ONE OF MY ASSOCIATES?

1 THE COURT: YES, SIR.

2 BY MR. JOHNSON:

3 Q. COME HERE, MIKE. WOULD YOU STEP DOWN HERE A MINUTE FOR
4 ME, PLEASE? JUST HOLD THESE. HOW ABOUT TURN AROUND SO THAT
5 SHE CAN SEE WHAT'S HAPPENING. DO YOU WANT TO TAKE THIS
6 POINTER?

7 A. THAT'S NOT NECESSARY.

8 Q. OKAY. ALL RIGHT. NOW, STATE'S EXHIBIT NUMBER 33 IS
9 WHAT MR. MCDANIELS SHOWED YOU AT YOUR HOME. ISN'T THAT
10 RIGHT?

11 A. RIGHT.

12 Q. AND STATE'S EXHIBIT NUMBER 33 IS THE LINE-UP THAT YOU
13 DIDN'T PICK ANYBODY OUT. ISN'T THAT RIGHT?

14 A. SIR?

15 Q. THAT IS THE LINE-UP THAT YOU DID NOT IDENTIFY ANYBODY.
16 ISN'T THAT TRUE?

17 A. 33, RIGHT.

18 Q. 33.

19 A. RIGHT.

20 Q. AND DO THE PEOPLE IN STATE'S EXHIBIT NUMBER 33 HAVE
21 SIMILAR FEATURES?

22 A. THE ONLY PEOPLE THAT HAVE GOT SIMILAR FEATURES IS THE
23 SAME ONE AS HERE.

24 Q. SAME ONE THAT'S THERE.

25 A. RIGHT.

1 Q. AND YOU NOW KNOW THAT'S JACQUES GIBSON. ISN'T THAT
2 RIGHT?

3 A. YES, SIR.

4 Q. NOW, ISN'T IT TRUE THAT THE ONES WHERE YOU DID NOT
5 IDENTIFY, STATE'S EXHIBIT NUMBER 33, EACH ONE OF THESE
6 PICTURES ARE NUMBERED. ISN'T THAT RIGHT?

7 A. YES, SIR.

8 Q. AND IN STATE'S EXHIBIT NUMBER 33, NUMBER ONE IS NOT
9 JACQUES GIBSON, IS IT?

10 A. NO.

11 Q. NUMBER TWO IS NOT JACQUES GIBSON, IS IT?

12 A. NO.

13 Q. NUMBER THREE IS JACQUES GIBSON?

14 A. YES.

15 Q. NUMBER FOUR IS NOT JACQUES GIBSON. ISN'T THAT RIGHT?

16 A. RIGHT.

17 Q. AND NUMBER FIVE IS NOT JACQUES GIBSON. ISN'T THAT
18 RIGHT?

19 A. RIGHT.

20 Q. AND NUMBER SIX IS NOT JACQUES GIBSON. ISN'T THAT TRUE?

21 A. RIGHT.

22 Q. NOW, DID ANYBODY ASSIST YOU IN SELECTING HIS PICTURE?

23 A. NO.

24 Q. DID ANYBODY SUGGEST TO YOU---

25 A. NO.

- 1 Q. ---WHICH ONE TO PICK OUT? ALL RIGHT. NOW, LET'S LOOK
2 AT STATE'S EXHIBIT NUMBER 34. IS JACQUES GIBSON'S PICTURE IN
3 STATE'S EXHIBIT NUMBER 34?
- 4 A. YES.
- 5 Q. WHAT NUMBER IS JACQUES GIBSON'S PICTURE SHOWN IN NUMBER
6 34?
- 7 A. NUMBER ONE.
- 8 Q. HE'S NUMBER ONE.
- 9 A. YES, SIR.
- 10 Q. IN STATE'S EXHIBIT NUMBER 33 HE WAS NUMBER THREE. ISN'T
11 THAT RIGHT?
- 12 A. I'M NOT SURE WHAT NUMBER.
- 13 Q. MY POINT IS TO ASK YOU SOME QUESTIONS AND FOR YOU TO
14 ANSWER. ISN'T THAT TRUE?
- 15 A. YES, SIR.
- 16 Q. AND ARE ANY OF THE PICTURES IN STATE'S EXHIBIT NUMBER 33
17 THAT YOU GLANCED AT FIRST, ARE ANY OF THOSE PICTURES THE SAME
18 PICTURES IN STATE'S EXHIBIT NUMBER 34 EXCEPT FOR JACQUES
19 GIBSON?
- 20 A. NO.
- 21 Q. AND IN STATE'S EXHIBIT NUMBER 34 WHEN YOU PICKED OUT
22 JACQUES GIBSON, HIS PICTURE HAD BEEN MOVED FROM -- IN 33 TO
23 34 TO NUMBER ONE. ISN'T THAT RIGHT?
- 24 A. YES, SIR.
- 25 Q. DOES ANYBODY IN STATE'S EXHIBIT NUMBER 33 OR 34 LOOK

1 LIKE JACQUES GIBSON?

2 A. NOT TO ME.

3 Q. NOT TO YOU. AS A MATTER OF FACT, THIS GUY THAT'S NUMBER
4 SIX IN NUMBER -- STATE'S EXHIBIT NUMBER 34, HE HAS A BEARD,
5 DOESN'T HE?

6 A. YES.

7 Q. YOU CAN GO BACK ON THE WITNESS STAND. AND SO YOU ARE
8 TELLING US THAT NOTHING WAS DONE TO SUGGEST TO YOU THE
9 IDENTITY OF JACQUES GIBSON.

10 A. NO, SIR, IT WASN'T.

11 Q. AND THE WAY THOSE PICTURES ARE ASSEMBLED, THAT DIDN'T
12 INFLUENCE YOU AT ALL.

13 A. NO, SIR, BECAUSE THE FIRST EXHIBIT THAT YOU'RE TALKING
14 ABOUT THAT HE SHOWED ME, I DIDN'T EVEN LOOK AT IT.

15 Q. DIDN'T EVEN---

16 A. OKAY? THIS IS THE FIRST TIME THAT I HAVE EVER SEEN
17 DETAILED JUST THE DIFFERENT PICTURES. I JUST KNOW WHO IT IS.
18 I CAN IDENTIFY WHO IT IS. IF YOU SAW ME SIX YEARS FROM NOW,
19 I'LL STILL BE ABLE TO PICK HIM OUT.

20 Q. AND THE FACT THAT HIS PICTURE HAD MOVED FROM THE THIRD
21 PICTURE TO THE FIRST PICTURE, THAT DIDN'T AFFECT YOUR
22 DECISION AT ALL.

23 A. NO, SIR.

24 Q. AND THE FACT THAT HE WAS THE ONLY PERSON WHO WAS IN BOTH
25 PICTURES DIDN'T AFFECT YOUR DECISION AT ALL.

1 A. NO, SIR. AS A MATTER OF FACT, MR. MCDANIELS DIDN'T EVEN
2 SUGGEST TO ME TO TELL ME WHO WAS IN THE PICTURE WHEN HE CAME
3 TO MY HOUSE. HE SHOWED IT TO ME. I WAS RELUCTANT. YOU CAN
4 ASK ALL THREE DIFFERENT INVESTIGATORS I TALKED TO. THEY ALL
5 KNOW THAT I WAS VERY RELUCTANT TO EVEN GO INTO DEPTH WITH
6 THEM ABOUT THE SITUATION UNTIL AFTER I SPOKE TO MRS. IRBY.
7 SO I DIDN'T EVEN KNOW THE DIFFERENCES UNTIL YOU STARTED
8 POINTING THEM OUT TO ME.

9 Q. WELL, YOU KNOW THE DIFFERENCE BETWEEN A CASING AND A
10 BULLET. YOU SAY YOU'VE BEEN AROUND GUNS AND YOUR PARENTS ARE
11 IN THE MILITARY. DO YOU KNOW THE DIFFERENCE BETWEEN A CASING
12 AND A BULLET?

13 A. I'VE SEEN A BULLET. I'VE SEEN, YOU KNOW, HOW IT'S
14 ROUNDED AND HOW IT'S KIND OF HELD IN THIS LITTLE PIECE THAT
15 PROBABLY CAN COME APART OR NOT COME APART. I KNOW THAT.

16 Q. AND SO WHAT YOU SAW TAKEN OUT OF YOUR TIRE THAT NIGHT
17 WAS A CASING.

18 A. YEAH.

19 Q. OKAY. AND THAT'S WHAT YOU SAW WHEN YOU WENT TO THAT
20 TIRE COMPANY AND WHAT THEY REMOVED WAS A CASING.

21 A. YEAH, HE TOLD ME IT WAS A CASING.

22 Q. THEY TOLD YOU IT WAS A CASING. AND -- BUT YOU DIDN'T
23 LOOK AT IT.

24 A. NOT REALLY, NO, SIR.

25 Q. OKAY. AND WHOEVER REMOVED IT, WHO DID THEY GIVE IT TO?

- 1 A. THEY GAVE IT TO ME.
- 2 Q. BUT YOU DIDN'T LOOK AT IT.
- 3 A. NO.
- 4 Q. AND WHAT DID YOU DO WITH IT---
- 5 A. I GAVE IT---
- 6 Q. ---AFTER YOU DIDN'T LOOK AT IT?
- 7 A. I GAVE IT TO MR. MCDANIELS. IT STAYED IN MY PURSE UNTIL
- 8 MR. MCDANIELS CAME AND I GAVE IT TO HIM.
- 9 Q. WHEN DID HE COME?
- 10 A. LIKE THE DAY AFTER.
- 11 Q. THE DAY AFTER?
- 12 A. LATER ON THAT EVENING.
- 13 Q. LATER ON THAT EVENING.
- 14 A. KIND OF LIKE AFTERNOON SORT OF KIND OF.
- 15 Q. SO YOU KEPT IT IN YOUR PURSE ALL THAT TIME.
- 16 A. YES, SIR.
- 17 Q. AND THIS CASING WAS LEFT IN YOUR PURSE ALL THAT
- 18 AFTERNOON, AND THEN MR. MCDANIELS CAME AND PICKED IT UP.
- 19 A. YES, SIR.
- 20 Q. AND THE CASING THAT WAS TAKEN OUT OF YOUR TIRE, YOU
- 21 DIDN'T KNOW IF IT WAS A .22 OR A .25 OR A .38 OR A .45 OR
- 22 WHAT IT WAS. IS THAT RIGHT?
- 23 A. I DIDN'T LOOK AT IT, NO.
- 24 Q. ALL RIGHT. AND IT IS YOUR TESTIMONY THAT YOU DON'T KNOW
- 25 WHO FIRED ANY OF THE SHOTS.

1 A. I KNOW WHO FIRED THE FIRST SET OF SHOTS. I DO NOT KNOW
2 WHO FIRED THE SECOND SET OF SHOTS. THEY WERE FURTHER AWAY
3 FROM ME.

4 Q. OH, YOU KNOW WHO FIRED THE FIRST SET OF SHOTS. IS THAT
5 RIGHT? IS THAT RIGHT?

6 A. I KNOW WHO WAS HOLDING THE GUN.

7 Q. WHO WAS HOLDING THE GUN. DID YOU SEE ANYBODY FIRE A
8 GUN, SHOOT A GUN?

9 A. ADAMS GIBSON.

10 Q. YOU SAW ADAMS GIBSON SHOOT A GUN.

11 A. I MEAN, YOU HEAR THE SHOTS. HE'S HOLDING THE GUN.
12 WHAT...

13 Q. MY QUESTION TO YOU: DID YOU HEAR ADAMS -- DID YOU SEE
14 ADAMS GIBSON SHOOT A GUN?

15 A. (PAUSE.)

16 Q. THAT'S SIMPLE, MS. WILSON. YES OR NO?

17 A. (NO RESPONSE.)

18 MR. JOHNSON: I HAVE NO FURTHER QUESTIONS.

19 THE COURT: THANK YOU. REDIRECT, SOLICITOR.

20 MR. LAKE: NOTHING FROM THE STATE.

21 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MA'AM. THANK
22 YOU VERY MUCH. DO YOU WISH THE WITNESS TO BE EXCUSED?

23 MR. LAKE: YES, YOUR HONOR.

24 THE COURT: ANY OBJECTION, MR. ROBERSON?

25 MR. ROBERSON: CONTACT NUMBER.

1 THE COURT: DO YOU HAVE THAT, SOLICITOR?

2 MR. LAKE: YES, SIR.

3 THE COURT: ALL RIGHT. MR. JOHNSON, ANY OBJECTION?

4 MR. JOHNSON: NONE, YOUR HONOR.

5 THE COURT: ALL RIGHT. ALL RIGHT. MA'AM, JUST IF YOU
6 WOULD -- I'M SORRY. JUST ONE SECOND. YOU ARE NOT RELEASED
7 FROM YOUR SUBPOENA. YOU'RE FREE TO GO, BUT YOU'RE NOT
8 RELEASED FROM YOUR SUBPOENA. IT MIGHT BE POTENTIALLY THAT
9 YOU WOULD BE CALLED BACK. OKAY?

10 THE WITNESS: YES, SIR.

11 THE COURT: THANK YOU VERY MUCH, MA'AM. ALL RIGHT.
12 SOLICITOR, WHO IS YOUR NEXT WITNESS?

13 MS. CAMPBELL: STATE CALLS STACEY DAVIS.

14 STACEY DAVIS, AFTER BEING DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 THE CLERK: HAVE A SEAT ON THE WITNESS STAND AND STATE
17 YOUR FULL NAME FOR THE RECORD, PLEASE.

18 COURT REPORTER: COULD YOU SPELL YOUR FIRST NAME,
19 PLEASE?

20 THE WITNESS: YES, I CAN. SERGEANT STACEY DAVIS.
21 S-T-A-C-E-Y. DAVIS. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

22 DIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q. SERGEANT DAVIS, YOU'RE EMPLOYED AT RICHLAND COUNTY?

25 A. YES, MA'AM, I AM.

1 Q. WHAT DO YOUR DUTIES INCLUDE THERE, MA'AM?

2 A. I'M A ROAD SUPERVISOR AND MY DUTIES INCLUDE FIRST-LINE
3 PATROL. I WOULD BE THE FIRST PERSON THAT SOMEONE WOULD SEE
4 IF THEY CALLED FOR HELP FROM THE POLICE.

5 Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

6 A. I'VE BEEN IN LAW ENFORCEMENT FOR APPROXIMATELY 12 YEARS.

7 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR TRAINING
8 AND YOUR EDUCATION IN THE FIELD IN LAW ENFORCEMENT?

9 A. YES. I STARTED OUT IN CORRECTIONS, WENT THROUGH THE
10 SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY, TOOK SEVERAL CLASSES
11 WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT AND WHICH I'VE
12 BEEN EMPLOYED WITH THEM FOR THE PAST EIGHT YEARS AND WHICH
13 I'VE DONE SEVERAL CLASSES AS FAR AS IN SUPERVISION,
14 LEADERSHIP TRAINING CLASSES AND THINGS OF THAT NATURE.

15 Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER OF 2005.
16 WERE YOU WORKING SPECIFICALLY THE EVENING OF SEPTEMBER THE
17 4TH INTO THE EARLY MORNING HOURS OF SEPTEMBER THE 5TH?

18 A. YES, MA'AM.

19 Q. AND WHAT SHIFT WERE YOU WORKING THAT EVENING?

20 A. I WAS ASSIGNED TO THE DENTSVILLE AREA, AND IT WAS NIGHT
21 SHIFT.

22 Q. AND WHAT HOURS TYPICALLY IS THAT?

23 A. THAT IS USUALLY FROM 7 P.M. TO 7 A.M.

24 Q. THAT EVENING DID YOU HAVE AN OP -- A NEED TO RESPOND TO
25 A CALL AT CHANCE'S BAR AND GRILL?

1 A. YES, I DID.

2 Q. AND WHAT TIME WERE YOU ACTUALLY DISPATCHED THAT NIGHT?

3 A. I WAS DISPATCHED AT ABOUT 1:08 IN THE MORNING.

4 Q. AND WHAT TIME DID YOU ARRIVE AT THE SCENE?

5 A. THE SAME TIME, 1:08. I WAS VERY CLOSE IN THE AREA WHEN
6 THE CALL WENT OUT.

7 Q. TELL THE JURY HOW CLOSE YOU WERE AND WHERE YOU WERE AND
8 WHAT YOU DID.

9 A. CHANCE'S IS LOCATED AROUND TWO NOTCH AND I-77, AND WHEN
10 THE CALL WENT OUT I BELIEVE I WAS SOMEWHERE AROUND TWO NOTCH
11 AND ALPINE, HEADED IN-BOUND TWO NOTCH TOWARDS CHANCE'S
12 ALREADY.

13 Q. SO IT TOOK YOU LESS THAN A MINUTE TO GET THERE?

14 A. YES, MA'AM.

15 Q. ONCE YOU ARRIVED AT THE SCENE, DESCRIBE TO THE JURY WHAT
16 YOU SAW.

17 A. WHEN I ARRIVED ON THE SCENE, I SAW SEVERAL PEOPLE
18 GATHERED IN CHANCE'S PARKING LOT. THEY WERE GATHERED AROUND
19 AN INDIVIDUAL WHO WAS LAYING ON THE GROUND. HE WAS LAYING
20 FACE DOWN. SEVERAL PEOPLE WERE VERY UPSET. WHEN I PULLED
21 UP, THEY TOLD ME THAT I HAD JUST PASSED THE VEHICLE THAT WAS
22 INVOLVED IN A SHOOTING.

23 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S HEARSAY.

24 THE COURT: SUSTAINED.

25

1 BY MS. CAMPBELL:

2 Q. ONCE YOU -- GO AHEAD WITH WHAT YOU OBSERVED AT THE
3 SCENE.

4 A. OKAY. AND I OBSERVED A YOUNG MAN LAYING ON THE GROUND.
5 HE WAS LAYING FACE DOWN. SEVERAL PEOPLE GATHERED AROUND HIM.

6 Q. AND WHAT DID YOU DO TO TRY TO TAKE CONTROL OF THE SCENE
7 WHEN YOU ARRIVED? WERE YOU THE FIRST OFFICER ON THE SCENE?

8 A. YES, I WAS.

9 Q. WHAT DID YOU DO TO TRY TO TAKE CONTROL?

10 A. I HAD TO CALM SEVERAL PEOPLE DOWN; THEY WERE VERY
11 EXCITED. I BELIEVE THAT A LOT OF THESE PEOPLE WERE RELATED
12 TO THE PERSON THAT WAS ON THE GROUND. AS SOON AS I GOT THERE
13 AND ASSESSED IT AND SAW THAT HE -- THAT THE PERSON ON THE
14 GROUND HAD BEEN INJURED, I RENDERED ASSISTANCE, CALLED FOR
15 E.M.S. E.M.S. WAS EN ROUTE AT WHICH POINT I CALLED FOR
16 SEVERAL OTHER UNITS TO COME AND HELP ME IN ORDER TO GET CROWD
17 CONTROL, BUT I HAD TO BASICALLY CALM -- CALM A LOT OF PEOPLE
18 DOWN THAT WERE OUT THERE ON THE SCENE.

19 Q. AND, IN FACT, ONE OF THE PERSONS DID YOU HAVE TO TAKE
20 MORE EXTREME MEASURES TO CALM HIM DOWN?

21 A. YES, I DID.

22 Q. AND WHAT DID YOU HAVE TO DO?

23 A. THERE WAS ONE INDIVIDUAL WHO WAS VERY UPSET. HE -- I
24 KEPT TELLING HIM TO STAY BACK, TO GIVE THE VICTIM SOME ROOM
25 SO THAT HE COULD BREATHE, AND HE KEPT YELLING AND YELLING AND

1 YELLING, "THIS IS MY COUSIN. THIS IS MY COUSIN." AT ONE
2 POINT HE REACHED DOWN AND PICKED HIM UP, AND I HAD TO PUSH
3 HIM BACK AND TELL HIM, "NO, DON'T MOVE HIM. IT'S BEST TO
4 LEAVE HIM AND LET HIM STAY STILL." HE CONTINUED TO RUSH UP
5 AND RUN OVER TO THE VICTIM AT WHICH POINT I HAD TO HANDCUFF
6 HIM FOR THE VICTIM'S SAFETY AND THE SAFETY OF THE CRIME SCENE
7 ITSELF BECAUSE HE COULD HAVE DONE MORE HARM TO THE VICTIM BY
8 MOVING HIM.

9 Q. WAS THERE A YOUNG WOMAN ON THE SCENE THAT WAS ABLE TO
10 RENDER SOME ASSISTANCE TO THE VICTIM?

11 A. YES, MA'AM, THERE WAS.

12 Q. ONCE YOU HAD GOTTEN EVERYONE UNDER CONTROL, DID YOU TAKE
13 ANY STEPS TO SECURE THE SCENE?

14 A. YES, WE DID.

15 Q. AND WHAT DID Y'ALL DO?

16 A. ONCE WE GOT EVERYBODY UNDER CONTROL, WE ROPED THE SCENE
17 OFF. WE PUT UP OUR CRIME SCENE TAPE.

18 Q. AND WHAT AREA WAS ACTUALLY, IN YOUR OPINION AFTER
19 ASSESSING THE SITUATION, THE CRIME SCENE AREA?

20 A. THE PARKING LOT IN FRONT OF CHANCE'S CLUB.

21 Q. AFTER THAT, DID YOU HAVE AN OPPORTUNITY TO GET
22 INFORMATION FROM CERTAIN WITNESSES THERE AT THE SCENE?

23 A. I DID.

24 Q. AND IS THAT INFORMATION INCLUDED -- I BELIEVE YOU HAVE A
25 FIVE-PAGE REPORT. IS THAT CORRECT?

1 A. YES, MA'AM.

2 Q. AND WITHOUT SAYING WHAT THEY TOLD YOU, DID YOU GET
3 PERSONAL INFORMATION ABOUT POSSIBLE WITNESSES?

4 A. YES, MA'AM.

5 Q. DID YOU ALSO MAKE AN ASSESSMENT AS TO WHO HAD BEEN
6 INJURED AT THE SCENE?

7 A. YES, MA'AM.

8 Q. AND WHAT WAS THE NAME OF THE VICTIM THAT WAS MOST
9 SERIOUSLY INJURED AT THE SCENE?

10 A. DENNIS IRBY.

11 Q. DID E.M.S. RESPOND WHILE YOU WERE THERE?

12 A. YES, MA'AM, THEY DID.

13 Q. AND WAS MR. IRBY TRANSPORTED WHILE YOU WERE THERE?

14 A. YES, MA'AM, HE WAS.

15 Q. DID YOU NOTE ANYONE ELSE THAT HAD SOME INJURIES?

16 A. YES, MA'AM. THERE WAS -- ONE MOMENT, PLEASE. THERE WAS
17 ANOTHER INDIVIDUAL WHO HAD BEEN PUNCHED IN HIS FACE, AND HE
18 WAS BLEEDING FROM HIS MOUTH AREA.

19 Q. AND WHAT WAS HIS NAME?

20 A. I DO HAVE IT HERE IN MY REPORT. ONE MOMENT, PLEASE,
21 MA'AM.

22 Q. SURE. ARE YOU REFERRING TO YOUR REPORT NOW?

23 A. YES, MA'AM. (THE WITNESS LOOKS AT HER REPORT.) I
24 BELIEVE THAT WAS TORRI BOYD.

25 Q. TORRI BOYD?

1 A. YES, MA'AM.

2 Q. AND WHEN YOU ARRIVED OUT AT THE SCENE, WHO ALL WAS
3 PRESENT THAT YOU HAVE LISTED AS WITNESSES AS WELL AS VICTIMS?

4 A. ACCORDING TO MY REPORT, THE PERSONS THAT WERE ON THE
5 SCENE DURING THIS TIME WAS A SHUNTA - I BELIEVE THAT'S HOW
6 SHE PRONOUNCES IT - WILSON.

7 Q. UH-HUH.

8 A. ALSO A MELVIN DEWITT.

9 Q. UH-HUH.

10 A. ALSO RAVARIS MARTIN, ANTONIO CENTELL (PHONETIC) RUSSELL
11 SMITH, ANTWAN JERMAINE MARTIN, AND TORRI BOYD AS WELL AS THE
12 VICTIM WHO HAD BEEN SHOT.

13 Q. AND WITHOUT GOING INTO -- YOU CAN'T SAY WHAT THEY SAID
14 TO YOU, BUT DID THEY GIVE YOU INFORMATION AND WERE YOU ABLE
15 TO DEVELOP A SUSPECT THAT NIGHT?

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

17 Q. AND AS YOU -- AS THE INITIAL RESPONDING OFFICER, WHAT IS
18 YOUR PURPOSE IN THAT AND WHO DO YOU TURN THAT INFORMATION
19 OVER TO?

20 A. THAT INFORMATION WOULD BE TURNED OVER TO OUR
21 INVESTIGATIVE DIVISION.

22 Q. WHILE YOU WERE AT THE SCENE, DID OTHER UNITS, BOTH
23 UNIFORM AND INVESTIGATIVE UNITS, ARRIVE AT THE SCENE?

24 A. YES, MA'AM.

25 Q. AND WERE YOU PRESENT WHEN INVESTIGATOR DEDRA BROWN WAS

1 THERE?

2 A. YES, MA'AM.

3 Q. AND DID YOU ACTUALLY OBSERVE WHAT SHE WAS DOING WHILE
4 SHE PHOTOGRAPHED THE SCENE?

5 A. YES, MA'AM, I DID.

6 Q. WHILE YOU WERE THERE, DID YOU MAKE AN ASSESSMENT OF ANY
7 POSSIBLE EVIDENCE AT THE SCENE?

8 A. YES, MA'AM.

9 Q. AND I WANT TO TALK TO YOU A LITTLE BIT -- AT THE SCENE
10 WAS THERE ANY EVIDENCE OF ANY SHOOTING THAT YOU NOTED?

11 MR. ROBERSON: OBJECTION AS TO LEADING.

12 THE COURT: DON'T LEAD YOUR WITNESS, SOLICITOR, PLEASE.

13 BY MS. CAMPBELL:

14 Q. WHAT, IF ANY, EVIDENCE DID YOU NOTE AT THE SCENE WHEN
15 YOU GOT THERE? JUST GENERALLY TELL THE JURY.

16 A. THERE WERE CASINGS, ROUND CASINGS, ON THE GROUND. THERE
17 WAS ALSO SOME CLOTHING WITH BLOOD ON IT. THERE WAS ALSO SOME
18 OTHER CLOTHING THAT WAS ON THE OPPOSITE SIDE OF THE PARKING
19 AREA, THINGS OF THAT NATURE.

20 Q. I WANT TO TALK TO YOU FIRST -- YOU MENTIONED SOME
21 CLOTHING. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBIT NUMBER 42. DO YOU RECOGNIZE THAT?

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

24 Q. AND IN THESE INITIAL PHOTOGRAPHS I SHOW YOU, IS THIS HOW
25 THE PARKING LOT APPEARED PRETTY MUCH WHEN YOU GOT THERE?

1 A. YES, MA'AM.

2 Q. WERE THESE CARS ALL PARKED IN THOSE POSITIONS?

3 A. YES, MA'AM.

4 Q. AND I SHOW YOU THAT AND DO YOU -- AND I SHOW YOU STATE'S
5 EXHIBIT NUMBER 41.

6 A. YES, MA'AM.

7 Q. AS WELL AS STATE'S EXHIBIT 39 AND 40. WHAT DO THOSE
8 SHOW?

9 A. THESE SHOW -- DEPICT CLOTHING AS WELL AS BLOOD FROM THE
10 VICTIM.

11 Q. AND WHAT PART OF THE PARKING LOT WAS THAT IN?

12 A. THIS WAS PROBABLY APPROXIMATELY FOUR, FOUR AND A HALF
13 PARKING SPACES DOWN FROM THE FRONT OF THE CLUB.

14 Q. AND IF I HAND YOU THIS, CAN YOU POINT OUT ON STATE'S
15 EXHIBIT 79 WHERE APPROXIMATELY THAT WOULD BE LOCATED?

16 A. YES, MA'AM.

17 Q. IF THIS IS THE FRONT OF CHANCE'S HERE.

18 A. IF THIS WERE THE FRONT OF CHANCE'S?

19 Q. UH-HUH.

20 A. IT WOULD HAVE BEEN SOMEWHERE IN THIS AREA RIGHT IN HERE.

21 Q. OKAY. AND I BELIEVE EVEN IN STATE'S EXHIBIT 42, IF YOU
22 LOOK AT IT, CAN YOU SEE WHERE THE FRONT OF CHANCE'S IS?

23 A. 43?

24 Q. 42.

25 A. OR 42? YES, MA'AM.

1 Q. AND IN STATE'S EXHIBIT 42 WHAT DOES THAT SHOW?

2 A. THAT DEPICTS THE ACTUAL PARKING AREA, WHERE THE
3 CLOTHES -- WHERE THE CLOTHING WAS FOUND WHICH IS
4 APPROXIMATELY WHERE THE VICTIM WAS FOUND, RIGHT BY THE
5 CLOTHING.

6 Q. AND WERE YOU ABLE TO ABLE TO ASSESS WHOSE CLOTHING THAT
7 WAS?

8 A. YES, MA'AM.

9 Q. WHOSE WAS IT?

10 A. THE CLOTHING BELONGED TO DENNIS IRBY. WHEN I GOT THERE,
11 HE HAD THE BLACK SHIRT ON, AND E.M.S. ACTUALLY CUT THE BLACK
12 TEE SHIRT OFF OF HIM.

13 Q. YOU MENTIONED SOME ADDITIONAL CLOTHING THAT WAS FOUND IN
14 THE PARKING LOT?

15 A. YES, MA'AM.

16 Q. BEG THE COURT'S INDULGENCE. LET ME SHOW YOU STATE'S
17 EXHIBITS NUMBER 53, 52, 51, AND 50 AND JUST ASK YOU FIRST TO
18 LOOK AT THOSE.

19 A. (THE WITNESS COMPLIES.) YES, MA'AM.

20 Q. SO THOSE FAIRLY AND ACCURATELY DEPICT THE SCENE OR THAT
21 PART OF THE SCENE WHEN YOU WERE THERE THAT NIGHT?

22 A. YES, MA'AM.

23 Q. AND WHAT CLOTHING ITEMS ARE ACTUALLY DEPICTED IN THOSE
24 PHOTOGRAPHS?

25 A. A PAIR OF BOOTS AND A SHIRT.

1 Q. AND WHAT PART OF THE PARKING LOT WERE THOSE FOUND IN?

2 A. THOSE WERE FOUND RIGHT AS YOU WALK OUT OF THE CLUB JUST
3 BEFORE THE FIRST PARKING LOT TO THE -- IF YOU'RE COMING OUT
4 OF THE CLUB IT WOULD BE TO THE RIGHT.

5 Q. AND I SHOW YOU STATE'S EXHIBIT 52. IT'S A LITTLE BIT
6 DARK, BUT CAN YOU SEE IT IN THAT ONE?

7 A. YES, MA'AM.

8 Q. AND THESE OTHER ONES I SHOWED YOU, ARE THEY...

9 A. THEY'RE ACCURATE.

10 Q. OKAY. SO THAT WAS HOW THOSE ITEMS WERE FOUND?

11 A. YES, MA'AM.

12 Q. YOU MENTIONED SOME SHELL CASINGS? WHAT PARTS OF THE
13 PARKING LOT WERE SHELL CASINGS ACTUALLY FOUND IN?

14 A. THERE WERE SOME FOUND LEADING AT THE VERY EDGE OF THE
15 PARKING LOT, AND WHEN I SAY THE EDGE, I'M TALKING AS YOU COME
16 OUT OF THE CLUB LEADING AWAY FROM THE CLUB. YOU HAD A -- YOU
17 HAD SOME THERE. THEN YOU HAD SOME TRAILING OUT OR ONE OR --
18 ONE TRAILING OUT AS YOU LEAVE THE PARKING LOT, AS WELL.

19 Q. THE FIRST ONES I WANT TO TALK ABOUT ARE THE ONES THAT
20 YOU MENTIONED THAT ARE -- I SHOW YOU STATE'S EXHIBIT NUMBER
21 68. DO YOU RECOGNIZE THAT?

22 A. YES, MA'AM.

23 Q. AND IN THAT PICTURE CAN YOU SEE ACTUALLY WHERE THE FRONT
24 OF CHANCE'S IS?

25 A. I DO.

1 Q. WHAT OTHER ITEMS ARE IN THAT PICTURE?

2 A. I SEE SOME ROUND CASINGS, SOME CASINGS.

3 Q. OKAY. AND ARE THOSE MARKED IN ANY MANNER SO THAT YOU
4 CAN DRAW YOUR EYE TO THEM IN STATE'S EXHIBIT NUMBER 37?

5 A. THEY ARE.

6 Q. AND HOW ARE THEY MARKED?

7 A. THEY ARE MARKED WITH -- WITH THE IDENTIFIED CONES THAT
8 THE LAB TECHS USE TO MARK SMALL EVIDENCE SUCH AS ROUNDS AND
9 THINGS LIKE THAT SO THEY CAN COME BACK TO IT AND RETRIEVE
10 THEM.

11 Q. OKAY. I SHOW YOU SOME ADDITIONAL PHOTOGRAPHS INCLUDING
12 STATE'S EXHIBIT 65, 64, 67, 38, 63, AND 69 WHICH HAVE BEEN
13 ADMITTED INTO EVIDENCE. ARE THOSE ADDITIONAL SHOTS?

14 A. THESE ARE.

15 Q. AND CAN YOU JUST STEP DOWN AND -- YOUR HONOR, PERMISSION
16 FOR THE WITNESS TO STEP DOWN?

17 THE COURT: ANY OBJECTION, MR. ROBERSON?

18 MR. ROBERSON: NONE, YOUR HONOR.

19 THE COURT: MR. JOHNSON?

20 MR. JOHNSON: NONE, YOUR HONOR.

21 THE COURT: YOU MAY DO SO.

22 BY MS. CAMPBELL:

23 Q. IF YOU WOULD STEP DOWN AND WE'LL GO THROUGH ALL OF
24 THOSE. WHICH PART OF THE PARKING LOT IN THESE -- HOW MANY
25 SHELL CASINGS WERE THERE FIRST THAT YOU FOUND INITIALLY?

1 A. THERE ARE FOUR.

2 Q. TOTAL.

3 A. UH-HUH.

4 Q. THE AREA WE'RE TALKING ABOUT RIGHT NOW, HOW MANY WERE
5 FOUND THERE?

6 A. THREE.

7 Q. AND CAN YOU SHOW THIS JURY GENERALLY WHERE THAT AREA IS?

8 A. IF YOU'RE LOOKING AT THIS PICTURE? I'M TRYING TO---

9 THE COURT: YOU'LL HAVE TO SPEAK UP, MA'AM, SO THE COURT
10 REPORTER CAN HEAR YOU.

11 MS. CAMPBELL: LET'S CHANGE SIDES SO SHE MIGHT BE ABLE
12 TO HEAR YOU BETTER.

13 THE COURT: THERE IS AN EASEL OVER THERE, IF YOU CARE
14 TO---

15 MR. JOHNSON: MS. CAMPBELL, DO YOU WANT THAT EASEL?

16 MS. CAMPBELL: THANK YOU. I'M SORRY. LET ME PUT THIS
17 UP THERE.

18 BY MS. CAMPBELL:

19 Q. COME AROUND TO THIS SIDE SO EVERYBODY CAN SEE.

20 A. WHICH SIDE?

21 Q. WHICH PART -- THE FIRST THREE SHELL CASINGS WE WERE
22 REFERRING TO, WHERE WERE THEY FOUND?

23 A. SOMEWHERE RIGHT OVER IN HERE.

24 Q. AND I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 68.

25 WHERE -- ARE THEY MARKED ON HERE WITH THOSE LITTLE...

1 A. YES, MA'AM, THEY ARE.

2 Q. CAN YOU SHOW THE JURY WHERE THE THREE ARE THAT WE'RE
3 REFERRING TO?

4 A. (THE WITNESS INDICATES.)

5 Q. AND ANOTHER PHOTOGRAPH AT A DIFFERENT ANGLE, STATE'S
6 EXHIBIT NUMBER 60, AND DO YOU KNOW WHAT KIND OF AUTOMOBILE
7 THAT IS?

8 A. THAT APPEARS TO BE SOME KIND OF DODGE S.U.V., I BELIEVE.

9 Q. AND IS THAT HOW THE SHELL CASINGS WERE WHEN YOU GOT TO
10 THE SCENE THAT NIGHT?

11 A. YES, MA'AM.

12 Q. BUT THE MARKERS WEREN'T NEXT TO THEM. YOU DIDN'T SEE
13 THAT.

14 A. NO, MA'AM, THEY WEREN'T.

15 Q. LET ME SHOW YOU ANOTHER PHOTOGRAPH, STATE'S EXHIBIT 66
16 AGAIN. AND AGAIN---

17 A. (THE WITNESS POINTS.)

18 Q. ---IT SHOWS -- WHAT DOES IT SHOW?

19 A. IT SHOWS THE CASINGS.

20 Q. STATE'S EXHIBIT NUMBER 69, WHAT DOES THAT SHOW?

21 A. IT SHOWS CASINGS AS WELL.

22 Q. STATE'S EXHIBIT NUMBER 63 AND 38, WHAT DOES THAT SHOW?

23 A. IT SHOWS THE SAME.

24 Q. DOES IT SHOW ALL OF THEM OR ONE OF THEM OR HOW MANY?

25 A. IT SHOWS ONE.

1 Q. STATE'S EXHIBIT NUMBER 67, WHAT DOES THAT SHOW?

2 A. IT SHOWS TWO CASINGS.

3 Q. AND, AGAIN, DID ANYONE MOVE THESE CASINGS OR ANYTHING
4 BEFORE PUTTING THE MARKERS NEXT TO THEM?

5 A. NO, MA'AM, WE DID NOT MOVE THEM.

6 Q. FINALLY, STATE'S EXHIBIT 64 AND 65?

7 A. SHOWS ONE CASING IN EACH PICTURE.

8 Q. THE THREE CASINGS THAT YOU FOUND IN THIS AREA, WERE YOU
9 ABLE TO DETERMINE THERE AT THE SCENE WHAT CALIBER THEY WERE?

10 A. WE ALL CAME UP TO THE CONCLUSION THAT THEY WERE .25
11 CALIBER.

12 Q. JUST STAY RIGHT THERE FOR ONE SECOND. YOU MENTIONED
13 THAT THERE WAS AN ADDITIONAL - AND I'M SORRY; SOMEONE MIXED
14 UP THE PICTURES - CASING THAT WAS FOUND AT THE SCENE. IS
15 THAT CORRECT?

16 A. YES, MA'AM.

17 Q. AND WHAT PART OF THE PARKING LOT FIRST WAS THAT FOUND
18 IN?

19 A. I HAVE TO MAKE SURE I'VE GOT THIS DIAGRAM CORRECT. THIS
20 IS THE FRONT OF THE CLUB? IT WAS OUT A LITTLE FURTHER. IT
21 WAS GOING AWAY TOWARD...

22 THE COURT: PLEASE SPEAK UP, SERGEANT.

23 THE WITNESS: YES, SIR.

24 BY MS. CAMPBELL:

25 Q. AND WHILE YOU WERE THERE, DID INVESTIGATOR BROWN ALSO

1 PUT A MARKING NEXT TO THAT SHELL CASING?

2 A. YES, MA'AM, SHE DID.

3 Q. AND I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 71. DO
4 YOU RECOGNIZE THAT?

5 A. I DO.

6 Q. AND DOES THAT SHOW---

7 A. IT SHOWS THE ONE CASING.

8 Q. STATE'S EXHIBIT NUMBER 72?

9 A. SHOWS ONE CASING.

10 Q. BEG THE COURT'S INDULGENCE. THANK YOU. YOU CAN GO HAVE
11 A SEAT. THE FOURTH CASING THAT WAS FOUND IN A DIFFERENT PART
12 OF THE PARKING LOT, WERE YOU ABLE TO ASSESS THE CALIBER THAT
13 WAS THERE AT THE SCENE?

14 A. YES, MA'AM.

15 Q. WHAT WAS IT?

16 A. THAT WAS A NINE MILLIMETER ROUND CASING.

17 Q. WHILE YOU WERE THERE, DID YOU ALSO BECOME AWARE OF ANY
18 DAMAGE THAT MAY HAVE BEEN DONE TO SOME AUTOMOBILES?

19 A. YES, MA'AM.

20 Q. AND HOW MANY AUTOMOBILES WERE DAMAGED?

21 A. TWO AUTOMOBILES.

22 Q. WHOSE AUTOMOBILES WERE DAMAGED THAT DAY?

23 A. ONE BELONGED TO SHUNTA WILSON.

24 Q. UH-HUH.

25 A. AND ONE BELONGED TO A JASON JOHNSON.

1 Q. AND WHAT KIND OF DAMAGE DID THOSE VEHICLES SUSTAIN THAT
2 NIGHT?

3 A. THEY HAD A BULLET -- BULLET HOLES TO THE LEFT REAR TIRE.

4 Q. ON BOTH OF THEM?

5 A. ON ONE AND THE OTHER ONE WAS STRUCK ALSO. I'M NOT SURE
6 WHICH -- WHICH TIRE WAS STRUCK.

7 Q. OKAY. DURING THAT EVENING DID YOU TAKE ANY FORMAL
8 STATEMENTS FROM ANYBODY?

9 A. ANY FORMAL STATEMENTS? I DID SPEAK WITH SOME PEOPLE ON
10 THE SCENE; YES, MA'AM.

11 Q. DID YOU REDUCE ANY OF THAT TO WRITING FOR THEM TO SIGN
12 OR ANYTHING OF THAT NATURE?

13 A. NOTHING FOR THEM TO SIGN, NO, MA'AM.

14 Q. THE INFORMATION THAT YOU GATHERED THAT EVENING, WHO WAS
15 IT TURNED OVER TO?

16 A. IT WAS TURNED OVER TO THE INVESTIGATIVE TEAM.

17 Q. WERE YOU THERE WHEN THE ROUNDS WERE ACTUALLY COLLECTED?

18 A. YES, MA'AM.

19 Q. AND PACKAGED?

20 A. YES, MA'AM.

21 Q. AND WHO ACTUALLY DID THAT?

22 A. LAB TECHNICIAN DEDRA BROWN.

23 Q. AND DID YOU ACTUALLY OBSERVE HER DO ALL THAT?

24 A. YES, MA'AM, I DID.

25 Q. AND HOW WERE THE BULLETS PACKAGED WHEN SHE COLLECTED

1 THEM?

2 A. SHE PLACED THEM IN A MANILA ENVELOPE.

3 Q. AND WERE THEY ALL PUT TOGETHER OR SEPARATE?

4 A. THEY WERE INDIVIDUALLY PACKAGED.

5 Q. WERE YOU ALSO AWARE THAT SHE TOOK A SWAB FROM THE -- LET
6 ME BACK UP. DID YOU NOTICE ANY KIND OF BODY FLUIDS IN THE
7 AREA THAT HAD INDICATIONS THAT SOMEONE HAD BEEN INJURED?

8 A. YES, MA'AM.

9 Q. AND WHERE WAS THAT IN THE PARKING LOT?

10 A. IT WAS RIGHT IN THE SAME VICINITY AS THE VICTIM'S
11 CLOTHING.

12 Q. OKAY. AND DID YOU OBSERVE HER TAKE A SWAB ACTUALLY OF
13 BLOOD THERE AT THE SCENE?

14 A. I DID NOT.

15 Q. OKAY. THE CHANCE'S BAR AND GRILL AND THAT PARKING LOT,
16 IS IT HERE IN RICHLAND COUNTY?

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

18 MS. CAMPBELL: THANK YOU, MA'AM. PLEASE ANSWER ANY
19 QUESTIONS THE DEFENSE HAS.

20 THE COURT: ALL RIGHT. MR. ROBERSON?

21 MR. ROBERSON: A COUPLE OF QUESTIONS, YOUR HONOR.

22 CROSS-EXAMINATION

23 BY MR. ROBERSON:

24 Q. MS. DAVIS, IN ALL OF THOSE PICTURES, YOU ONLY COLLECTED
25 FOUR SHELL CASINGS.

1 A. I DIDN'T COLLECT ANY SHELL CASINGS, SIR.

2 Q. OKAY. YOU OBSERVED FOUR SHELL CASINGS.

3 A. YES, SIR.

4 Q. AND I BELIEVE YOU SAID YOU DETERMINED THAT NIGHT THAT
5 THREE OF THE CASINGS YOU FOUND WERE FROM A .25 CALIBER
6 PISTOL?

7 A. YES, SIR.

8 Q. OKAY. YOU DIDN'T FIND ANY -- YOU DIDN'T OBSERVE ANY
9 METAL FRAGMENTS OR ANYTHING THAT MIGHT HAVE BEEN ASSOCIATED
10 WITH A .25 CALIBER WEAPON, DID YOU?

11 A. ANY FRAGMENTS?

12 Q. YES, MA'AM.

13 A. NO, SIR.

14 MR. ROBERSON: JUST A MINUTE, YOUR HONOR.

15 THE COURT: YES, SIR.

16 BY MR. ROBERSON:

17 Q. YOU'VE INDICATED THAT YOU MADE AN INITIAL CONTACT THAT
18 NIGHT WITH ABOUT THREE OR FOUR PEOPLE AND THAT YOU HAD
19 BRIEF -- YOU HAD A BRIEF CONVERSATION WITH THEM ABOUT THE
20 INCIDENT THAT NIGHT?

21 A. I BELIEVE I SAID SEVERAL.

22 Q. SEVERAL.

23 A. I'M NOT SURE IF I NARROWED IT DOWN TO A NUMBER.

24 Q. OKAY. DID THEY COME AND VOLUNTEER TO YOU THAT THEY HAD
25 KNOWLEDGE OR DID SOMEBODY POINT THEM OUT TO YOU IS THE REASON

1 YOU MADE CONTACT WITH THOSE INDIVIDUALS?

2 A. YES, SIR. THEY BASICALLY VOLUNTEERED THE INFORMATION.

3 Q. OKAY. SHUNTA WILSON, DID SHE APPROACH YOU OR DID YOU
4 APPROACH HER?

5 A. SHUNTA WILSON WHEN I ARRIVED ON THE SCENE WAS RENDERING
6 AID TO MR. IRBY. SO I APPROACHED HER, BUT I DIDN'T APPROACH
7 HER TO HOLD A CONVERSATION WITH HER AT THAT TIME.

8 Q. OKAY. RIGHT. AND THAT'S HOW YOU IDENTIFIED HER AS
9 BEING A PERSON YOU WANTED TO GET SOME INFORMATION FROM?

10 A. YES, SIR.

11 Q. AND THERE WAS A MELVIN DEWITT? DO YOU REMEMBER HIM?

12 A. YES, SIR.

13 Q. DID HE VOLUNTARILY COME FORWARD OR HOW DID YOU MAKE
14 CONTACT WITH HIM?

15 A. WHAT YOU HAVE TO UNDERSTAND IS ON SITUATIONS LIKE THIS
16 WHEN YOU'RE THE FIRST RESPONDER, YOU WANT TO GET ALL THE
17 INFORMATION THAT YOU CAN GET FROM ANYONE ON THE SCENE. SO
18 YOU WANT TO ASK ANYBODY ON THE SCENE THAT'S STANDING AROUND,
19 "DID YOU SEE ANYTHING?" AND EVEN IF THEY DIDN'T, IF THEY MAY
20 HAVE, IF THEY WERE IN THE VICINITY, YOU STILL WANT TO ASK
21 THEM BECAUSE ONCE THAT REPORT GOES OVER TO OUR INVESTIGATIVE
22 TEAM, YOU KNOW, THAT'S A TOOL BECAUSE SOMEONE MAY REMEMBER
23 SOMETHING A DAY OR TWO LATER.

24 Q. YES, MA'AM. DO YOU REMEMBER HAVING A CONVERSATION WITH
25 MELVIN DEWITT THAT NIGHT OR YOU JUST GOT HIS NAME BECAUSE HE

1 WAS PHYSICALLY THERE?

2 A. I DO. I DID HAVE A CONVERSATION WITH HIM.

3 Q. AND HE WAS WILLING TO GIVE YOU WHATEVER INFORMATION HE
4 HAD?

5 A. YES, SIR.

6 Q. AND THE SAME THING WITH SHUNTA WILSON.

7 A. YES, SIR.

8 MR. ROBERSON: OKAY. I HAVE NOTHING FURTHER.

9 THE COURT: ALL RIGHT. MR. JOHNSON?

10 MR. JOHNSON: NO QUESTIONS. THANK YOU, SERGEANT.

11 THE COURT: ALL RIGHT, SIR. SOLICITOR, IS THERE ANY
12 QUESTIONS ON THE CROSS-EXAMINATION BY MR. ROBERSON?

13 MS. CAMPBELL: NO, SIR.

14 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MA'AM. IS
15 THERE ANY -- DO YOU WISH THE WITNESS TO BE EXCUSED,
16 SOLICITOR?

17 MS. CAMPBELL: YES, SIR, WE WOULD.

18 THE COURT: ANY OBJECTION, MR. ROBERSON?

19 MR. ROBERSON: NO OBJECTION.

20 THE COURT: MR. JOHNSON?

21 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

22 THE COURT: ALL RIGHT. SERGEANT, YOU'RE RELEASED FROM
23 YOUR SUBPOENA AND EXCUSED TO GO BACK TO REGULAR DUTIES.

24 THE WITNESS: THANK YOU, SIR.

25 THE COURT: NEXT WITNESS, PLEASE, MA'AM.

1 MS. CAMPBELL: THE STATE CALLS ZANE PADGETT.

2 ZANE PADGETT, AFTER BEING DULY SWORN, TESTIFIED AS
3 FOLLOWS:

4 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
5 YOUR FULL NAME FOR THE RECORD, PLEASE.

6 THE WITNESS: ZANE PADGETT.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q. LIEUTENANT PADGETT, WHERE ARE YOU EMPLOYED?

10 A. I'M EMPLOYED WITH THE RICHLAND COUNTY SHERIFF'S
11 DEPARTMENT.

12 Q. HOW LONG HAVE YOU BEEN WORKING THERE?

13 A. GOING ON MY 26TH YEAR.

14 Q. AND CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR
15 TRAINING AND YOUR EDUCATION?

16 A. YES, MA'AM. I'VE BEEN IN FORENSICS -- FORENSIC SCIENCE
17 DIVISION FOR 24 OF THE 26 YEARS. I'VE BEEN IN CHARGE AND THE
18 SUPERVISOR OF THE CRIME SCENE AND LATENT LAB FOR 18 YEARS.
19 I'VE BEEN THROUGH ALL BASIC SCHOOLS, ALL ADVANCED SCHOOLS FOR
20 FINGERPRINTS, FORENSICS, BLOOD PATTERN ANALYSIS, CRIME SCENE
21 RECONSTRUCTION AND SEVERAL OTHERS.

22 Q. HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN CRIME
23 SCENE INVESTIGATION?

24 A. YES, MA'AM, I HAVE SEVERAL TIMES.

25 Q. AS WELL AS FINGERPRINT COMPARISON?

1 A. YES, MA'AM, SEVERAL TIMES.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD OFFER
3 HIM AS AN EXPERT IN THAT FIELD.

4 THE COURT: ANY OBJECTION, MR. ROBERSON?

5 MR. ROBERSON: NONE, YOUR HONOR.

6 THE COURT: MR. JOHNSON?

7 MR. JOHNSON: NONE, YOUR HONOR.

8 THE COURT: ALL RIGHT. HE'S QUALIFIED TO GIVE HIS
9 OPINION IN THOSE FIELDS.

10 BY MS. CAMPBELL:

11 Q. DO YOU KNOW AN INVESTIGATOR NAMED DEDRA BROWN?

12 A. YES, MA'AM. SHE WORKED FOR ME FOR SEVERAL YEARS.

13 Q. AND WHERE IS SHE CURRENTLY?

14 A. SHE IS CURRENTLY SOMEWHERE IN THE MIDDLE EAST.

15 Q. IS SHE AVAILABLE FOR COURT?

16 A. NO, MA'AM. I HAVE NOT HEARD FROM HER SINCE SHE LEFT MY
17 OFFICE.

18 Q. WERE YOU AWARE THAT SHE RESPONDED TO A CRIME SCENE BACK
19 ON SEPTEMBER THE 5TH OF 2007?

20 A. YES, MA'AM, I AM.

21 Q. AND, IN FACT, DID SHE PROCESS THAT CRIME SCENE?

22 A. SHE DID PROCESS THE SCENE BY HERSELF; THAT IS CORRECT.

23 Q. AND COLLECT CERTAIN ITEMS OF EVIDENCE?

24 A. YES, MA'AM.

25 Q. AND INCLUDING SOME SHELL CASINGS?

1 A. YES, MA'AM.

2 Q. DID SHE GENERATE A REPORT ABOUT HER FINDINGS THERE AT
3 THE SCENE?

4 A. YES, SHE DID.

5 Q. AS WELL AS HER FOLLOW-UP?

6 A. THAT IS CORRECT.

7 Q. AND AS HER SUPERVISOR, DID YOU ACTUALLY APPROVE HER?

8 A. THAT IS CORRECT. I HAVE TO APPROVE AND REVIEW ALL
9 REPORTS OR ANALYSIS REPORTS THAT THE CRIME SCENE
10 INVESTIGATORS DO.

11 Q. AND IN REVIEWING HER REPORT, WAS THE CRIME SCENE
12 PROCESSED PROPERLY?

13 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S GOING TO BE
14 HEARSAY.

15 THE COURT: THAT'S -- HE'S ALLOWED TO GIVE HIS OPINION.
16 YOU MAY CROSS-EXAMINE HIM ABOUT THAT. THANK YOU. YOU MAY
17 PROCEED, MA'AM.

18 MS. CAMPBELL: THANK YOU.

19 BY MS. CAMPBELL:

20 Q. YOU CAN ANSWER.

21 A. YES, MA'AM. I REVIEWED THE REPORT AND FOUND IT TO BE IN
22 ADHERENCE TO OUR POLICIES AND PROCEDURES OF THE WAY THAT WE
23 SHOULD PROCESS A CRIME SCENE AND APPROVED THE REPORT.

24 Q. IN REVIEWING HER REPORT, DID SHE MAKE ANY ATTEMPTS TO
25 GET FINGERPRINTS FROM THE SHELL CASINGS SHE COLLECTED?

1 A. YES, SHE DID.

2 Q. WAS SHE ABLE TO?

3 A. NO, MA'AM.

4 Q. IS THAT UNUSUAL?

5 A. THAT IS ACTUALLY -- THAT'S USUALLY THE CASE THAT WE DO
6 NOT GET LATENT FINGERPRINTS OFF OF A FIRED SHELL CASING.

7 Q. AND WHY IS THAT, SIR?

8 A. SEVERAL REASONS. ONE, THE BRASS OR THE NICKEL OR
9 WHATEVER THE SHELL CASING IS MADE OUT OF IS REALLY NOT
10 CONDUCIVE TO LEAVE LATENT PRINTS. NUMBER TWO, ONCE IT'S
11 FIRED, IT'S HEATED UP. THAT WILL ACTUALLY HAVE A TENDENCY TO
12 DESTROY ANY LATENT PRINTS THAT ARE ON IT. IT'S A VERY SMALL
13 SURFACE. IF YOU DID GET A PRINT, THERE'S GOING TO BE VERY
14 LITTLE DETAIL TO IT.

15 WE HAVE ACTUALLY DONE RESEARCH AND FOUND OUT THAT IT'S
16 LESS THAN -- WAY LESS THAN ONE PERCENT OF GETTING A LATENT
17 OFF OF AN UNFIRED SHELL CASING, AND I ONLY RECALL ONE TIME IN
18 26 YEARS OF GETTING A PARTIAL LATENT OFF OF A FIRED SHELL
19 CASING, UNLIKE T.V., QUITE A LOT.

20 Q. I'M GOING TO SHOW YOU -- LET ME MARK THIS.

21 (STATE'S EXHIBIT 83 WAS MARKED FOR IDENTIFICATION ONLY.)

22 BY MS. CAMPBELL:

23 Q. I SHOW YOU WHAT'S BEEN MARKED AS FOR IDENTIFICATION AS
24 STATE'S EXHIBIT NUMBER 83. ARE YOU FAMILIAR WITH THAT?

25 A. YES, MA'AM. THIS IS A STANDARD PACKAGE OF EVIDENCE

1 SEALED PROPERLY, AND IT'S A LIST OF -- ITEMIZED LIST OF WHAT
2 ITEMS OF EVIDENCE ARE IN THIS PACKAGE, AND THIS IS DONE BY
3 DEDRA BROWN.

4 Q. AND IT'S NOW BEEN UNSEALED, BUT AT THE TIME IT WAS
5 SEALED AT ONE POINT?

6 A. THAT'S CORRECT.

7 Q. AND HER COLLECTION OF THOSE ITEMS, WAS THAT DONE
8 CORRECTLY?

9 A. YES, MA'AM. THIS IS DONE ACCORDING TO OUR POLICY AND
10 PROCEDURES.

11 Q. AND CAN YOU PULL OUT THE ITEMS INSIDE?

12 A. (THE WITNESS COMPLIES.)

13 Q. AND WHAT ITEMS ARE ACTUALLY INCLUDED IN THAT STATE'S
14 EXHIBIT 837

15 A. YOU ACTUALLY HAVE FOUR ITEMS IN HERE THAT ARE ALSO
16 PROPERLY SEALED INSIDE. YOU HAVE AN ITEM MARKED AS MARKER A.
17 WHICH IS ONE FIRED .25 AUTO C.T. BRAND SHELL CASING. YOU
18 ALSO HAVE ANOTHER ITEM WHICH IS IDENTIFIED AS MARKER B., ALSO
19 A FIRED .25 AUTO C.T. BRAND SHELL CASING. ITEM IDENTIFIED AS
20 MARKER C., ANOTHER FIRED .25 AUTOMATIC C.T. BRAND SHELL
21 CASING, AND ITEM MARKER I. WHICH IS ONE FIRED NINE MILLIMETER
22 LUGER BRAND SHELL CASING.

23 Q. DOES THE -- YOU CAN PLACE THEM BACK IN THERE.

24 A. OKAY.

25 Q. DOES IT INDICATE WHAT, IF ANYTHING, SHE DID WITH THOSE

1 ITEMS WHILE THEY WERE IN HER POSSESSION OR WHAT WOULD THE
2 POLICY BE?

3 A. SHE PROCESSED THEM TO ATTEMPT TO GET LATENT PRINTS OFF
4 OF THEM, AND THEN THEY WERE PLACED INTO EVIDENCE TO BE TAKEN
5 OVER OR TO BE RETRIEVED FROM EVIDENCE BY THE BALLISTICS OR
6 FIREARMS EXPERT.

7 Q. AND AT WHAT TIME DID SHE SUBMIT THOSE ACTUALLY IN THE
8 DROP BOX FOR EVIDENCE?

9 A. THESE WERE ACTUALLY DROPPED IN THE EVIDENCE DROP BOX ON
10 THE 5TH OF SEPTEMBER, 2005, THE SAME DAY AT 2300 WHICH WOULD
11 BE 11 P.M. THAT NIGHT.

12 Q. AND SHE WOULDN'T HAVE BEEN THE PERSON TO ACTUALLY TEST
13 THE BALLISTICS?

14 A. NO, MA'AM. THAT WOULD BE THE BALLISTICS EXPERT.

15 Q. SHE FOUND THESE FOUR -- IN YOUR EXPERIENCE AS AN EXPERT,
16 WHEN YOU GO TO A CRIME SCENE AND LOOK AT THINGS SUCH AS
17 PROJECTILES OR SHELL CASINGS---

18 A. YES, MA'AM.

19 Q. ---DO YOU ALWAYS -- EVEN IF THERE HAS BEEN, SAY, A
20 NUMBER OF SHOTS, DO YOU ALWAYS FIND EVERY SHELL CASING?

21 A. OH, NO, MA'AM.

22 Q. WHY IS THAT?

23 A. ESPECIALLY IF YOU HAVE -- IF YOU HAVE MULTIPLE SHOTS AT
24 A SCENE, EVEN IF YOU KNOW, SAY, 10 SHOTS WERE FIRED AT THE
25 SCENE, YOU'RE VERY LUCKY TO FIND 10 SHELL CASINGS, IF THEY'RE

1 AUTOMATICS OBVIOUSLY. SHELL CASINGS CAN GO ANYWHERE. THEY
2 CAN BE LODGED IN PEOPLES' SHOES ON THE TREADS. I'VE ACTUALLY
3 FOUND SHELL CASINGS LODGED IN TIRE TREADS THAT HAVE LEFT THE
4 SCENE. BEFORE THE SCENE IS SECURED BY LAW ENFORCEMENT,
5 PEOPLE ARE WALKING AROUND. THEY COULD KICK THEM IN THE
6 GRASS, KICK THEM OUT OF THE AREA. I'D SAY YOU'RE PRETTY
7 LUCKY MOST OF THE TIME TO FIND THEM ALL.

8 Q. AND IS IT UNUSUAL NOT TO?

9 A. NO, NOT AT ALL.

10 Q. ARE YOU FAMILIAR WITH THE TEST THAT YOU COULD TEST FOR
11 GUNSHOT RESIDUE?

12 A. YES, MA'AM.

13 Q. AND EXPLAIN TO THE JURY HOW THAT'S DONE AND WHAT IT
14 SHOWS.

15 A. WHEN A WEAPON IS FIRED, THERE'S TWO THINGS THAT ARE
16 PRODUCED OUT OF THAT WEAPON. YOU HAVE THE PRIMER MATERIAL
17 THAT IS ACTUALLY IN THE END OF THE SHELL CASING WHICH
18 ACTUALLY IGNITES THE GUN POWDER. SO YOU HAVE THAT PRIMER
19 MATERIAL THAT'S BEING IGNITED. THEN YOU ALSO HAVE THE GUN
20 POWDER THAT'S BEING IGNITED. WHEN IT PROJECTS, IT PROJECTS
21 OUT OF THE END OF THE BARREL. WHEN A GUN IS FIRED, THESE
22 GASES ACTUALLY ESCAPE OUT OF THE GUN THROUGH MICROSCOPIC
23 PARTICLES OF UNBURNT AND SOMETIMES BURNT GUN PRIMER OR GUN
24 POWDER.

25 THESE WILL ACTUALLY LODGE IN YOUR SKIN, AND THEY CAN

1 LODGE IN CLOTHING, TOO, SOMETIMES. IF YOU CAN GET TO A LIVE
2 PERSON IN A CERTAIN AMOUNT OF TIME, YOU CAN ACTUALLY DO A
3 TEST ON THEIR HANDS WHICH CONSISTS OF A STICKY PAD WHICH IS
4 REALLY A REALLY HIGH ADHESIVE TAPE AND THEN ALSO A VERY WEAK
5 SOLUTION OF NITRIC ACID. AND WHAT YOU'RE DOING IS YOU'RE
6 TRYING TO PULL THOSE PARTICLES OUT OF THE SKIN. THEN THOSE
7 CAN BE TESTED MICROSCOPICALLY TO SEE IF THE PERSON MAY HAVE
8 BEEN FIRED -- EITHER NEAR OR HAD FIRED A GUN. IT'S NON-
9 INVASIVE.

10 THE PROBLEM WITH A LIVING PERSON IS THAT WE'RE
11 CONSTANTLY GETTING RID OF SKIN CELLS, DEAD SKIN CELLS, WHILE
12 YOU'RE ALIVE. SO THERE'S A TIME LIMIT. IF YOU DON'T GET TO
13 A PERSON'S HANDS IN A CERTAIN AMOUNT OF TIME WHILE THEY'RE
14 ALIVE, YOU'RE GOING TO LOSE THAT. IT'S GOING TO GO OUT ON
15 YOU AND IT'S GOING TO DISAPPEAR.

16 Q. AND ARE YOU AWARE OF APPROXIMATELY WHAT THE TIME PERIOD
17 IS?

18 A. WE GENERALLY HAVE A TIME PERIOD OF ABOUT SIX HOURS, AS
19 LONG AS YOU'RE LIVING IN SIX HOURS. IF YOU DON'T GET TO
20 THEM, YOU'RE GENERALLY NOT GOING TO FIND ANYTHING.

21 Q. WAS A GUNSHOT RESIDUE KIT DONE IN THIS CASE ON THE
22 VICTIM?

23 A. NO, MA'AM, IT WAS NOT.

24 Q. WHY NOT?

25 A. HE WAS, I BELIEVE, IN SURGERY. HE WAS AT THE HOSPITAL.

1 THEY WERE UNABLE TO GET TO HIM, AND THEN BY THE TIME THAT WE
2 COULD HAVE GOT TO HIM, IT WOULD HAVE BEEN TOO LATE.

3 Q. AND IN, SAY, A PERSON ACCUSED OF A CRIME THAT'S NOT
4 APPREHENDED WITHIN THAT SIX HOURS, DO YOU DO THE TEST?

5 A. NO, MA'AM.

6 MS. CAMPBELL: BEG THE COURT'S INDULGENCE. YOUR HONOR,
7 AT THIS TIME WE WOULD OFFER STATE'S EXHIBIT 83 INTO EVIDENCE.

8 THE COURT: ANY OBJECTION?

9 MR. JOHNSON: WHAT IS THE NUMBER?

10 THE COURT: 83? IS THERE ANY OBJECTION?

11 MR. ROBERSON: NO, YOUR HONOR.

12 THE COURT: MR. ROBERSON, NONE?

13 MR. ROBERSON: NONE.

14 THE COURT: MR. JOHNSON?

15 MR. JOHNSON: NONE.

16 THE COURT: IT'S -- 83 IS IN EVIDENCE WITHOUT OBJECTION.

17 (STATE'S EXHIBIT 83 WAS RECEIVED IN EVIDENCE.)

18 THE COURT: ANYTHING ELSE, SOLICITOR?

19 MS. CAMPBELL: NO, SIR.

20 THE COURT: ALL RIGHT. MR. ROBERSON?

21 MR. ROBERSON: I HAVE NOTHING, YOUR HONOR.

22 THE COURT: MR. JOHNSON?

23 MR. JOHNSON: NO QUESTIONS. THANK YOU, MR. PADGETT.

24 THE COURT: ALL RIGHT. SOLICITOR, DO YOU WISH THIS
25 WITNESS TO BE EXCUSED?

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: ANY OBJECTION?

3 MR. ROBERSON: NONE, YOUR HONOR.

4 THE COURT: MR. JOHNSON, ANY OBJECTION?

5 MR. JOHNSON: NONE, YOUR HONOR.

6 THE COURT: ALL RIGHT, SIR. YOU ARE RELEASED FROM YOUR
7 SUBPOENA, AND YOU'RE RELEASED TO GO BACK TO YOUR REGULAR
8 DUTIES. THANK YOU.

9 THE WITNESS: THANK YOU, SIR.

10 THE COURT: ALL RIGHT. SOLICITOR, WHO IS YOUR NEXT
11 WITNESS, PLEASE, MA'AM?

12 MS. CAMPBELL: THE STATE WOULD CALL NEIL SCHMITZ.

13 NEIL T. SCHMITZ, AFTER BEING DULY SWORN, TESTIFIED
14 AS FOLLOWS:

15 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
16 YOUR FULL NAME FOR THE RECORD, PLEASE.

17 COURT REPORTER: AND SPELL YOUR FIRST AND LAST NAME,
18 PLEASE.

19 THE WITNESS: YES, MA'AM. IT'S NEIL THOMAS SCHMITZ.
20 N-E-I-L. AND THE LAST NAME IS S-C-H-M-I-T-Z.

21 DIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. MR. SCHMITZ, WHERE ARE YOU EMPLOYED?

24 A. RICHLAND COUNTY E.M.S.

25 Q. AND WHAT DO YOU DO THERE?

1 A. I'M A PARAMEDIC.

2 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
3 AND YOUR TRAINING AS A PARAMEDIC?

4 A. I BEGAN WITH A CLASS AT MIDLANDS, A SIX-MONTH CLASS AT
5 MIDLANDS, WHERE I -- MIDLANDS TECHNICAL COLLEGE, EXCUSE ME,
6 WHERE I GOT MY CERTIFICATION IN EMERGENCY MEDICAL TECHNICIAN.
7 AFTER THAT, I WENT TO MIDLANDS E.M.S. AND RECEIVED AN
8 ADDITIONAL SIX MONTHS OF TRAINING AND BECAME A PARAMEDIC.

9 Q. I WANT TO TURN YOUR ATTENTION BACK TO SEPTEMBER THE 5TH
10 OF 2005. DID YOU RESPOND TO AN INJURY AT THE CHANCE'S
11 PARKING LOT ON TWO NOTCH ROAD?

12 A. YES.

13 Q. AND TELL THIS JURY WHAT YOU FOUND WHEN YOU GOT THERE.

14 A. WHEN WE ARRIVED, I FOUND A 21-YEAR-OLD MALE LYING SUPINE
15 ON THE GROUND COMPLAINING OF A GUNSHOT WOUND TO HIS LEFT
16 SHOULDER, UPPER ARM.

17 Q. WAS HE BLEEDING?

18 A. YES, HE WAS.

19 Q. AND WHAT KIND OF WOUND DID YOU ASSESS HIM TO HAVE?

20 A. HE HAD A WOUND -- IT WAS ABOUT A HALF INCH IN DIAMETER
21 ON THE BACK OF HIS ARM.

22 Q. COULD YOU TELL WHETHER OR NOT FROM YOUR EXPERIENCE
23 WHETHER OR NOT IT WAS A GUNSHOT WOUND?

24 A. YES, IT APPEARED TO BE A GUNSHOT WOUND.

25 Q. AND HOW -- WHAT WAS HIS CONDITION WHEN YOU FIRST MADE

1 CONTACT WITH HIM?

2 A. HE WAS AWAKE. HE WAS SPEAKING WITH US. HE TOLD US WHAT
3 HAD HAPPENED. HE WAS ABLE TO TELL US HIS MEDICAL HISTORY AND
4 ANSWER OUR QUESTIONS THAT WE WERE ASKING HIM.

5 Q. AND WHAT, IF ANY, PROCEDURES DID YOU DO THERE AT THE
6 SCENE?

7 A. WE PLACED HIM IN FULL SPINAL PRECAUTIONS WHICH IS A
8 C-COLLAR AROUND HIS NECK, LONG SPINE BOARD. WE ALSO PLACED A
9 BAND AND A DRESSING AND A BANDAGE DRESSING OVER THE WOUND. I
10 PLACED HIM ON SOME OXYGEN, AND THEN WE BEGAN TO TRANSPORT
11 HIM.

12 Q. ONCE YOU HAD DONE THAT, YOU THEN TRANSPORTED HIM TO
13 WHICH HOSPITAL?

14 A. TRANSPORTED HIM TO RICHLAND MEMORIAL.

15 Q. ON THE WAY TO RICHLAND MEMORIAL, DID HIS CONDITION
16 CHANGE?

17 A. NOT DRASTICALLY. HE BEGAN TO -- WHEN WE, STARTED TO
18 ARRIVE AT THE HOSPITAL, HE WAS HAVING DECREASED LUNG SOUNDS
19 IN HIS LEFT CHEST. HE WAS ALSO BECOMING A LITTLE BIT
20 DIAPHORETIC WHICH IS SWEATY SKIN.

21 Q. WHAT DID THAT INDICATE TO YOU WITH YOUR TRAINING?

22 A. WELL, THE INCREASED LUNG SOUNDS WOULD INDICATE THAT
23 SOMETHING WAS CAUSING HIM TO HAVE DIFFICULTY BREATHING ON
24 THAT SIDE, THAT THE LUNG WAS NOT EXPANDING AS IT NORMALLY
25 WOULD.

1 Q. AND THE DIAPHORETIC -- I CAN'T SAY THAT VERY WELL.

2 A. DIAPHORETIC. IT'S SWEATY SKIN. IT'S -- IT WILL HAPPEN
3 WHEN THE BODY IS JUST -- IT'S A REACTION THAT THE BODY COULD
4 HAVE WHEN -- IT'S KIND OF LIKE COLD SWEATS THAT THEY'RE
5 REACTING TO, A CHANGE, AND THE BODY'S TRYING TO ADAPT TO THAT
6 CHANGE.

7 Q. WHAT TIME DID YOU ACTUALLY ARRIVE AT THE SCENE THAT
8 NIGHT?

9 A. WE ARRIVED ON THE SCENE AT 00:57.

10 Q. AND WHAT TIME DID YOU ACTUALLY LEAVE THE SCENE?

11 A. 01:21 IS WHAT'S RECORDED.

12 Q. AND WHAT TIME DID YOU ARRIVE AT THE HOSPITAL?

13 A. 01:33.

14 Q. AND THAT WOULD BE 1:33 IN THE MORNING?

15 A. YES, IT WOULD BE.

16 Q. AND 00:57 WOULD BE?

17 A. 12:57.

18 Q. 12:57 IN THE MORNING.

19 A. YES.

20 MS. CAMPBELL: THANK YOU. THAT'S ALL WE HAVE.

21 THE COURT: ANY QUESTIONS, MR. ROBERSON?

22 MR. ROBERSON: NOTHING, YOUR HONOR.

23 THE COURT: MR. JOHNSON?

24 MR. JOHNSON: NO QUESTIONS. THANK YOU, YOUR HONOR.

25 THE COURT: ANY OBJECTION TO THIS WITNESS BEING EXCUSED,

1 MR. ROBERSON?

2 MR. ROBERSON: NONE, YOUR HONOR.

3 THE COURT: MR. JOHNSON?

4 MR. JOHNSON: NONE, YOUR HONOR. THANK YOU, SIR.

5 THE COURT: ALL RIGHT, SIR. YOU ARE RELEASED FROM YOUR
6 SUBPOENA TO GO BACK TO YOUR REGULAR DUTIES, SIR.

7 THE WITNESS: THANK YOU, YOUR HONOR.

8 THE COURT: NEXT WITNESS, SOLICITOR, PLEASE, MA'AM.

9 MR. JOHNSON: YOUR HONOR, MAY I APPROACH?

10 THE COURT: YES, SIR.

11 MR. LAKE: YOUR HONOR?

12 THE COURT: Y'ALL WANT TO COME AROUND?

13 MR. JOHNSON: IT'S A PERSONAL MATTER.

14 THE COURT: Y'ALL JUST COME AROUND JUST A SECOND.

15 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

16 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
17 JURY, WE'LL TAKE A SHORT BREAK FOR ABOUT FIVE OR TEN MINUTES.
18 GO TO YOUR JURY ROOM. WE'LL COME BACK AND HEAR SOME MORE
19 WITNESSES. THANK YOU. EVERYONE ELSE REMAIN SEATED WHILE THE
20 JURY LEAVES, PLEASE.

21 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
22 11:58 A.M.)

23 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT BREAK FOR
24 ABOUT FIVE OR TEN MINUTES. 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. SOLICITOR, ARE YOU READY TO RESUME?

3 MR. LAKE: YES, SIR.

4 THE COURT: AND MR. ROBERSON?

5 MR. ROBERSON: YES, SIR.

6 THE COURT: AND MR. JOHNSON?

7 MR. JOHNSON: YES, SIR, YOUR HONOR.

8 THE COURT: ALL RIGHT. ASK THE JURY TO PLEASE COME IN,
9 SIR.

10 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
11 12:12 P.M.)

12 THE COURT: SOLICITOR, YOU MAY PROCEED.

13 MR. LAKE: THANK YOU, YOUR HONOR. THE STATE WOULD CALL
14 INVESTIGATOR DAVID GOFF.

15 DAVID GOFF, AFTER BEING DULY SWORN, TESTIFIED AS
16 FOLLOWS:

17 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
18 YOUR FULL NAME FOR THE RECORD, PLEASE.

19 THE WITNESS: DAVID GOFF.

20 DIRECT EXAMINATION

21 BY MR. LAKE:

22 Q. INVESTIGATOR GOFF, WOULD YOU TELL US WHERE YOU'RE
23 CURRENTLY EMPLOYED?

24 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT DEFENSE.

25 Q. AND WHAT ARE YOUR CURRENT DUTIES AT THE RICHLAND COUNTY

1 SHERIFF'S DEPARTMENT?

2 A. I'M A -- I'M A MAJOR CRIMES INVESTIGATOR.

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

4 A. ABOUT 12 TO 15 YEARS.

5 Q. AND WHAT DOES THAT TYPICALLY INVOLVE?

6 A. I INVESTIGATE ARSONS, ASSAULTS, HOMICIDES.

7 Q. AND LET ME TAKE YOU BACK TO SEPTEMBER 5TH OF 2005. WHAT
8 WERE -- WHAT WERE YOUR DUTIES BACK THEN?

9 A. I WAS IN MAJOR CRIMES.

10 Q. WOULD YOU EXPLAIN TO THE JURY WHAT YOUR ROLE WAS IN THIS
11 PARTICULAR CASE?

12 A. ON THIS NIGHT I WAS ONE OF THE THREE OR FOUR EVENING
13 SHIFT INVESTIGATORS THAT WERE WORKING. WE HAVE A SUPERVISOR
14 AND THREE INVESTIGATORS THAT WORK FROM THREE -- THREE OF US
15 WORK 3 TO 12, AND ONE WORKS FROM 6 TO 3.

16 Q. OKAY. AND DESCRIBE HOW YOU BECAME INVOLVED IN THIS CASE
17 AT CHANCE'S.

18 A. I RECEIVED A CALL FROM THE SERGEANT, SERGEANT TOM AMARO,
19 WHO ADVISED ME THAT HE WAS JUST NOTIFIED OF A SHOOTING AT
20 CHANCE'S AND THAT WE ALL NEEDED TO RESPOND TO THAT LOCATION.

21 Q. AND WHAT COUNTY IS THAT IN?

22 A. THAT'S IN RICHLAND COUNTY OFF OF TWO NOTCH ROAD.

23 Q. AND DO YOU REMEMBER APPROXIMATELY WHAT TIME YOU WENT OUT
24 THERE TO THE SCENE?

25 A. IF I COULD REFER TO MY NOTES.

1 Q. YES, SIR.

2 A. I GOT THERE ABOUT 1:30 IN THE MORNING.

3 Q. AND WHAT DO YOU OBSERVE? WHAT DO YOU DO ONCE YOU GET
4 THERE?

5 A. ONCE I ARRIVE, I NOTICE THERE ARE SEVERAL MARKED UNITS
6 THERE. THEY HAVE THE AREA TAPED OFF WITH EVIDENCE TAPE. THE
7 LAB UNIT, MS. DEDRA BROWN, HAD JUST ARRIVED IN FRONT OF ME.
8 I WAS THE FIRST INVESTIGATOR THAT ARRIVED.

9 Q. AND WHAT DO YOU DO ONCE YOU GET THERE?

10 A. ONCE I GOT THERE, I SPOKE TO CORPORAL STACEY DAVIS WHO
11 ADVISED ME WHAT SHE HAD. SHE HAD SOME WITNESSES THAT NEEDED
12 TO BE INTERVIEWED. I THEN SPOKE TO MS. BROWN TO SEE IF SHE
13 NEEDED ANY HELP; SHE SAID THAT SHE DIDN'T. SHE HAD ALREADY
14 STARTED MARKING SOME OF THE EVIDENCE LOCATIONS.

15 Q. AND COULD YOU EXPLAIN TO THE JURY HOW AS AN INVESTIGATOR
16 YOU INTERVIEW PEOPLE ONCE YOU ARRIVE AT THE SCENE INITIALLY?

17 A. IF ON THE SCENE IF WE'VE GOT, YOU KNOW -- I USE MY
18 VEHICLE. I WILL TAKE ONE AT THE TIME. I'LL TAKE, YOU KNOW
19 -- THERE'S REALLY NO RANDOM ORDER, NO SPECIFIC ORDER, JUST
20 THE FIRST ONE I WALKED UP TO.

21 IN THIS CASE THERE WAS ONE THAT CORPORAL DAVIS SAID HAD
22 BEEN DETAINED BECAUSE HE WAS SO UPSET. HE WAS TRYING TO
23 INTERFERE WITH THE CRIME SCENE, SO THEY PUT HIM -- PLACED HIM
24 IN THE PATROL CAR. I INTERVIEWED HIM FIRST.

25 Q. AND WHAT TYPE OF INFORMATION ARE YOU TRYING TO GET FROM

1 THESE INDIVIDUALS AS YOU'RE INTERVIEWING THEM?

2 A. THE BASICS: WHO, WHAT, WHEN, WHERE, AND HOW.

3 Q. AND HOW EXTENSIVE ARE YOUR INTERVIEWS IN THIS PARTICULAR
4 PHASE?

5 A. NOT VERY UNUSUAL -- I'M TRYING TO GET JUST ENOUGH
6 INFORMATION SO THAT I CAN, YOU KNOW, EITHER MAKE AN ARREST
7 RIGHT THERE IF THE PERSONS ARE ON THE SCENE OR GET ENOUGH SO
8 THE INVESTIGATOR WHO IS ASSIGNED THE CASE THE NEXT MORNING
9 CAN HAVE SOME PLACE TO START.

10 Q. AND SO YOU WOULDN'T BE THE ACTUAL INVESTIGATOR TO KEEP
11 THE CASE?

12 A. NOT USUALLY, NO.

13 Q. OKAY.

14 A. I'M STILL ON -- I'M STILL ON THE EVENING SHIFT, SO IT
15 WOULD BE KIND OF HARD TO WORK THE CASE BEING ON EVENING
16 SHIFT.

17 Q. AND SO IF I CHARACTERIZED IT CORRECTLY, IT'S JUST TO GET
18 THE INITIAL INFORMATION AND THEN TURN IT OVER TO THE MAIN
19 INVESTIGATOR?

20 A. THAT'S CORRECT.

21 Q. AND WHO ALL DID YOU SPEAK TO THAT NIGHT?

22 A. THE FIRST ONE I SPOKE TO WAS RAVARIS MAURICE HENRY. I
23 THEN SPOKE TO ANTONIO SMITH AND THEN AN ANTWAN MARTIN.

24 Q. AND DID YOU SPEAK TO ANYONE ELSE OUT THERE AT THE SCENE?

25 A. I SPOKE TO A GENTLEMAN BY THE NAME OF MR. JASON JOHNSON.

1 Q. AND NOT SAYING -- YOU CAN'T SAY WHAT HE SAID, BUT WHO IS
2 JASON JOHNSON?

3 A. HE WAS SOMEONE THAT WE FOUND ASLEEP IN HIS CAR WHEN THE
4 OFFICERS STARTED CHECKING THE PARKING LOT. HE DIDN'T REALIZE
5 ANYTHING HAD HAPPENED.

6 Q. AND WHAT WAS SIGNIFICANT ABOUT THE VEHICLE THAT HE WAS
7 SLEEPING IN?

8 A. THAT ONE OF THE FRONT -- ONE OF HIS TIRES WAS SHOT OUT.
9 HE HAD TO LEAVE IT THERE THAT NIGHT.

10 Q. OKAY. AND COULD YOU DESCRIBE JUST -- DID YOU -- WHAT
11 DID YOU OBSERVE IN THE PARKING LOT OF CHANCE'S?

12 A. WHEN I ARRIVED, THERE WAS SEVERAL CARS INSIDE THE ROPED-
13 IN AREA. THE PATROL CAR WAS ON THE OUTSIDE, AND THERE WAS
14 SEVERAL CARS INSIDE THE ROPED-IN AREA. THEY HAD THIS TAPED-
15 IN AREA. THERE WAS SOME CLOTHES. I DID SEE SOME BLOOD
16 PLACES ON THE PARKING LOT. I SAW SOME WHERE THE AMBULANCE
17 HAD BEEN -- HAD LEFT SOME TRASH BEHIND, AND I DID SEE SOME
18 SHELL CASINGS.

19 Q. WHAT ABOUT THE VICTIM?

20 A. THE VICTIM WAS ALREADY GONE.

21 Q. OKAY. AND COULD YOU SHOW THE JURY JUST BRIEFLY ON THIS
22 DIAGRAM WHERE YOU OBSERVED CASINGS? USE THIS AS YOUR
23 REFERENCE OF CHANCE'S SPORTS BAR.

24 A. OKAY. THERE WAS A GROUP OF SHELL CASINGS RIGHT IN THIS
25 AREA HERE. I THINK THERE WAS THREE .25 CALIBER SHELL

1 CASINGS, AND SOMEWHERE TOWARD THE BOTTOM HALF OF THE PARKING
2 LOT THERE WAS ONE NINE MILLIMETER CASING.

3 Q. AND ARE YOU FAMILIAR WITH FIREARMS AND THINGS OF THAT
4 SORT?

5 A. YES, SIR.

6 Q. HAVE YOU EVER FIRED A NINE MILLIMETER?

7 A. YES, SIR.

8 Q. HAVE YOU EVER FIRED A .25 BEFORE?

9 A. YES, SIR.

10 Q. IS THERE A -- COULD YOU DESCRIBE WHAT THE SOUND IS LIKE
11 FROM BOTH FIREARMS?

12 A. DEPENDING ON THE SURROUNDING, IN AN OPEN PARKING LOT A
13 .25 WOULD BE A -- MORE OF A POP COMPARED TO A LOUD -- LIKE
14 ALMOST A BOOM ON THE NINE MILLIMETER BECAUSE IT'S A BIGGER
15 BULLET, MORE POWER.

16 Q. AFTER YOU INTERVIEW THE PEOPLE AT THE SCENE, WHAT DO YOU
17 DO NEXT?

18 A. IF THERE'S NOTHING ELSE TO BE DONE WITH THE SCENE, HELP
19 WITH THE LAB, IF THERE'S ANYTHING THAT THEY'RE NEEDING, CHECK
20 ON THE VICTIM WHICH WE ALREADY HAD ONE OF THE OTHER OFFICERS
21 CHECKING ON HIM. WE THEN GO BACK TO THE OFFICE AND WRITE UP
22 MY NOTES AND GET READY FOR THE NEXT CALL.

23 Q. OKAY. AND WHAT DO YOU DO WITH YOUR NOTES AFTER YOU HAVE
24 DONE IT?

25 A. WE PLACE ALL -- USUALLY THE SUPERVISOR, OR WHOEVER DOES

1 IT, TAKES ALL THE NOTES AND PUTS THEM TOGETHER WITH THE
2 INCIDENT REPORT AND PLACES THEM IN WHAT WE CALL THE HOT BOX
3 FOR THE NEXT MORNING.

4 Q. WHO WAS THIS CASE EVENTUALLY ASSIGNED TO?

5 A. INVESTIGATOR SHAWN MCDANIELS.

6 Q. AND WHAT WOULD INVESTIGATOR SHAWN MCDANIELS' ROLE BE IN
7 THIS PARTICULAR CASE?

8 A. HIS ROLE WOULD BE DOING MORE IN-DEPTH INTERVIEWS, TAKING
9 WHAT WE GAVE HIM TO -- YOU KNOW, SEARCH WARRANTS OR WHATEVER
10 NEEDED TO BE DONE TO BRING THE CASE TO CLOSURE.

11 MR. LAKE: OKAY. THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT.

13 MR. LAKE: ANSWER ANY QUESTIONS---

14 THE COURT: I'M SORRY. MR. ROBERSON?

15 MR. ROBERSON: I HAVE NOTHING, YOUR HONOR.

16 THE COURT: MR. JOHNSON?

17 MR. JOHNSON: JUST A COUPLE OF QUESTIONS.

18 CROSS-EXAMINATION

19 BY MR. JOHNSON:

20 Q. MR. GOFF, I APOLOGIZE TO YOU. I COULDN'T RUN FAST
21 ENOUGH OVER THERE.

22 A. ALL RIGHT, SIR.

23 Q. JUST QUICKLY, COULD YOU POINT OUT TO ME AGAIN WHERE YOU
24 FOUND THOSE CASINGS?

25 A. YES, SIR. WHEN I PULLED---

1 Q. THE .25'S WERE FOUND WHERE, SIR?

2 A. RIGHT IN HERE, SIR.

3 Q. RIGHT IN THERE.

4 A. YES, SIR.

5 Q. AND THE NINE MILLIMETER?

6 A. WAS DOWN IN SOMEWHERE ON THE LOWER PART OF THAT SAME
7 ROAD.

8 Q. OKAY. NOW, IN TERMS OF A CRIME SCENE, DON'T Y'ALL TAKE
9 MEASUREMENTS?

10 A. THAT'S THE LAB UNIT, YES, SIR.

11 Q. THE LAB UNIT TAKES THE MEASUREMENTS?

12 A. YES, SIR. THEY TAKE MEASUREMENTS, PHOTOGRAPHS. THEY
13 HAVE -- I DON'T KNOW EXACTLY HOW THEY DO THE CRIME SCENES.

14 Q. OKAY.

15 A. THAT'S NOT MY...

16 Q. OKAY. DO Y'ALL HAVE THE EXPERTISE TO DETERMINE
17 PROJECTORY -- TRAJECTORY?

18 A. IF WE'VE GOT -- I THINK THEY COULD HAVE IF THEY HAD ONE
19 OF THE BULLETS THAT WAS, YOU KNOW, HIT. DO YOU KNOW WHAT I'M
20 SAYING?

21 Q. A BULLET THAT WAS HIT?

22 A. I MEAN, WHERE THE BULLET HIT SOMETHING. IF WE KNEW
23 ABOUT WHERE IT CAME FROM, WE COULD USUALLY TELL, YES.

24 Q. OKAY. DO Y'ALL HAVE SOME EXPERT AT THE RICHLAND COUNTY
25 SHERIFF'S DEPARTMENT THAT DOES THAT TYPE OF INVESTIGATION?

1 A. WE HANDLE IT THROUGH THE LAB AND WE HAVE THE
2 BALLISTICS---

3 Q. HANDLE IT THROUGH THE LAB?

4 A. RIGHT. YES, SIR.

5 Q. AND THAT'S THE BALLISTICS EXPERT THAT DOES THAT?

6 A. I DON'T KNOW IF THE BALLISTIC EXPERT HIMSELF WOULD DO
7 IT, BUT HE WOULD HAVE SOME INPUT ON IT, I'M SURE.

8 Q. OKAY. ALL RIGHT.

9 A. BUT I DON'T -- THAT'S SOMETHING THAT I DON'T DO. THAT'S
10 HANDLED THROUGH THE FORENSIC LAB.

11 Q. THANK YOU SO MUCH.

12 A. YES, SIR.

13 THE COURT: ANYTHING ON THOSE PARTICULAR QUESTIONS,
14 SOLICITOR?

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

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

17 THE WITNESS: THANK YOU, YOUR HONOR.

18 MR. LAKE: YOUR HONOR, MAY THIS WITNESS BE EXCUSED?

19 THE COURT: ANY OBJECTION, GENTLEMEN?

20 MR. ROBERSON: NONE, YOUR HONOR.

21 MR. JOHNSON: NONE, YOUR HONOR.

22 THE COURT: YOU'RE RELEASED FROM YOUR SUBPOENA. YOU MAY
23 GO BACK TO YOUR REGULAR DUTIES.

24 THE WITNESS: THANK YOU, SIR.

25 THE COURT: NEXT WITNESS, PLEASE, SIR.

1 MR. LAKE: YOUR HONOR, THE STATE CALLS SERGEANT JOHN
2 EWING.

3 JOHN EWING, AFTER BEING DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 THE CLERK: HAVE A SEAT IN THE WITNESS SEAT AND STATE
6 YOUR FULL NAME FOR THE RECORD, PLEASE.

7 THE WITNESS: MY NAME IS JOHN EWING.

8 DIRECT EXAMINATION

9 BY MR. LAKE:

10 Q. AND, SERGEANT EWING, WHERE ARE YOU CURRENTLY EMPLOYED?

11 A. I'M EMPLOYED WITH THE RICHLAND COUNTY SHERIFF'S
12 DEPARTMENT.

13 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE RICHLAND
14 COUNTY SHERIFF'S DEPARTMENT?

15 A. A LITTLE OVER 13 YEARS NOW.

16 Q. AND COULD YOU DESCRIBE TO THE JURY WHAT YOUR GENERAL
17 DUTIES ARE AS A SERGEANT?

18 A. I'M A SERGEANT OF THE MAJOR CRIMES DIVISION. THAT
19 INCLUDES ARMED ROBBERY, HOMICIDES, ASSAULTS, AND THINGS SUCH
20 AS THAT.

21 Q. AND HOW LONG HAVE YOU BEEN A SERGEANT DOING THIS --
22 THOSE PARTICULAR ITEMS?

23 A. IN THIS -- IN THIS DEPARTMENT I'VE BEEN A SERGEANT OVER
24 MAJORS CRIMES AND C.D.V.'S AND STUFF LIKE THAT ABOUT TWO
25 YEARS NOW.

1 Q. AND BACK ON SEPTEMBER THE 5TH, 2005, WHAT WAS YOUR ROLE?

2 A. I WAS A SERGEANT IN INVESTIGATIONS.

3 Q. OKAY. COULD YOU EXPLAIN TO THE JURY HOW YOU BECAME
4 INVOLVED IN THIS PARTICULAR INCIDENT?

5 A. YES. ON SEPTEMBER THE 6TH, 2005, I ARRIVED AT WORK AT
6 8:30 IN THE MORNING. INVESTIGATOR MCDANIELS, WHO WAS AN
7 INVESTIGATOR AT THE TIME WHO IS NOW SERGEANT MCDANIELS, ASKED
8 ME TO ASSIST HIM WITH INTERVIEWING SEVERAL INDIVIDUALS ON A
9 HOMICIDE THAT HE HAD THAT PREVIOUS NIGHT.

10 Q. AND WHO ALL DID YOU INTERVIEW?

11 A. AT THAT TIME I INTERVIEWED AN ANTONIO SMITH. HE CAME TO
12 HEADQUARTERS ABOUT 10:30 IN THE MORNING, AND I INTERVIEWED
13 ANTONIO SMITH.

14 Q. AND WITHOUT SAYING EXACTLY WHAT HE SAID, WHAT ELSE DO
15 YOU DO WHILE INTERVIEWING HIM?

16 A. WELL, AFTER I CONDUCT THE INTERVIEW -- PRIOR TO
17 CONDUCTING MY INTERVIEW WITH MR. SMITH, INVESTIGATOR
18 MCDANIELS PROVIDED ME WITH NUMEROUS PHOTO LINE-UPS AND WANTED
19 ME TO SHOW MR. SMITH THE LINE-UPS TO SEE IF HE COULD IDENTIFY
20 ANYONE THAT WAS INVOLVED WITH THE SHOOTING THAT HAPPENED AT
21 CHANCE'S CLUB.

22 Q. AND DESCRIBE THE PROCESS UNDER WHICH YOU WILL PRESENT A
23 PHOTO LINE-UP.

24 A. WHEN I SHOW PHOTO LINE-UPS, I GO THROUGH THE SAME
25 ROUTINE EVERY TIME. I LIKE TO TELL THE INDIVIDUAL THAT I'M

1 SHOWING THE LINE-UP, "I'M FIXING TO SHOW YOU A PHOTO LINE-UP.
2 THESE ARE GOING TO BE SIX PICTURES IN THIS PHOTO LINE-UP.
3 THERE'S SEVERAL THINGS YOU NEED TO KEEP IN MIND BEFORE I SHOW
4 YOU THESE PICTURES. THEY'RE BLACK AND WHITE PICTURES THAT
5 CAN MAKE A LIGHT-SKINNED PERSON LOOK LIGHTER OR DARKER. I
6 DON'T KNOW IF THIS PICTURE WAS TAKEN YESTERDAY OR FIVE YEARS
7 AGO. HAIRSTYLES CAN CHANGE. YOU COULD CUT YOUR HAIR AND YOU
8 COULD BE TOTALLY DIFFERENT. FACIAL HAIR THE SAME WAY COULD
9 BE CHANGED. AND WEIGHT. PEOPLE CAN GAIN WEIGHT AND LOSE
10 WEIGHT." AND SO THEN WHAT I'LL DO IS I'LL SAY, "I WANT YOU
11 TO LOOK AT THESE SIX PICTURES AND SEE IF YOU SEE ANY OF THE
12 INDIVIDUALS THAT WAS INVOLVED WITH THIS CASE," AND I'LL PUT
13 THE PHOTO LINE-UP DOWN IN FRONT OF THEM.

14 Q. AND WHO ALL DID YOU DO THAT TO WITHIN THIS CASE?

15 A. WHO ALL DID I SHOW LINE-UPS TO---

16 Q. YES, SIR.

17 A. WHO ALL DID I SHOW LINE-UPS TO OR WHO ALL WAS IN THE
18 LINE-UPS THAT I SHOWED?

19 Q. I'M SORRY. WHO ALL DID YOU -- WHICH INDIVIDUALS DID YOU
20 SHOW LINE-UPS TO?

21 A. ANTONIO SMITH.

22 Q. WAS HE THE ONLY PERSON THAT YOU SHOWED A LINE-UP TO?

23 A. YES.

24 Q. OKAY. AND WAS HE ABLE TO IDENTIFY INDIVIDUALS IN THOSE
25 LINE-UPS?

1 A. HE IDENTIFIED A NUMBER OF INDIVIDUALS IN THE PHOTO
2 LINE-UP.

3 Q. AND AFTER YOU HAVE INTERVIEWED ANTONIO SMITH, WHAT
4 FURTHER ROLE DO YOU HAVE IN THIS CASE?

5 A. LATER ON THE -- I WALKED IN AND OUT -- CAPTAIN STAN
6 SMITH WAS INTERVIEWING SOMEONE ELSE. I WALKED IN AND OUT OF
7 HIS INTERVIEW, BUT THE NEXT DAY I ASSISTED INVESTIGATOR
8 MCDANIELS AND INVESTIGATOR WILLOUGHBY WITH SERVING A SEARCH
9 WARRANT IN FAIRFIELD COUNTY.

10 Q. AND WHAT WAS YOUR ROLE AT THIS PARTICULAR TIME?

11 A. I WAS MERELY TO ASSIST THEM WITH SERVING THE SEARCH
12 WARRANT AND TO BE THERE IF THEY NEEDED ANY ASSISTANCE WITH
13 ANY COLLECTION OF EVIDENCE OR -- AND/OR THE INTERVIEWING OF
14 SUSPECTS.

15 Q. AND DESCRIBE WHAT HAPPENED ONCE Y'ALL ACTUALLY GOT TO
16 FAIRFIELD COUNTY.

17 A. ONCE WE GOT TO FAIRFIELD -- WITH FAIRFIELD COUNTY, WE
18 MADE CONTACT WITH THE FAIRFIELD COUNTY SHERIFF'S OFFICE. WE
19 HAD NUMEROUS OFFICERS FROM FAIRFIELD COUNTY AND INVESTIGATORS
20 TO ASSIST US. WE WENT TO JACQUES -- THE HOME THAT WE
21 BELIEVED TO BE JACQUES GIBSON AND ADAMS GIBSON'S RESIDENCE.
22 WE THOUGHT THEY WERE BOTH LIVING THERE AT THE TIME TOGETHER.

23 THE SEARCH WARRANT -- A SEARCH WARRANT WAS CONDUCTED AT
24 THAT RESIDENCE. NEITHER ONE OF THEM WERE HOME. INVESTIGATOR
25 MCDANIELS THEN HAD FAIRFIELD COUNTY GO TO I BELIEVE IT WAS

1 FAIRFIELD HIGH SCHOOL TO MAKE CONTACT WITH JACQUES GIBSON.
2 WHILE WE WERE AT THE RESIDENCE, THE FATHER CAME HOME, THE
3 HOMEOWNER CAME HOME, AND HE SAID THAT ADAMS GIBSON WAS
4 LOCATED DOWN THE ROAD AT ANOTHER ADDRESS.

5 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT WOULD BE
6 HEARSAY.

7 THE COURT: ALL RIGHT. SUSTAINED.

8 BY MR. LAKE:

9 Q. DON'T ACTUALLY SAY WHAT HE SAID, BUT BASED UPON WHAT THE
10 FATHER SAID, WHAT DID Y'ALL DO NEXT?

11 A. WE THEN WENT -- WE DIRECTED FAIRFIELD COUNTY TO GO TO
12 ANOTHER RESIDENCE DOWN THE ROAD, AND THEY MADE CONTACT WITH
13 ADAMS GIBSON AND WE WERE CONTACTED AND TOLD TO COME UP THERE
14 TO THAT RESIDENCE.

15 Q. WHAT WAS -- WHAT WAS THAT ADDRESS? DO YOU KNOW?

16 A. IF YOU'LL GIVE ME A SECOND, I'LL REVIEW MY NOTES.

17 Q. YES, SIR.

18 A. 2167 MOOD HARRISON ROAD IN WINNSBORO.

19 Q. AND WHAT WAS THE PLACE WHERE YOU INITIALLY -- WHAT WAS
20 THE ADDRESS WHERE YOU WERE INITIALLY WERE GOING TO SERVE THE
21 SEARCH WARRANT?

22 A. 2546 MOOD HARRISON, THE SAME ROAD.

23 Q. AND WHAT DID YOU OBSERVE ONCE YOU GOT TO 2167 MOOD
24 HARRISON ROAD?

25 A. I OBSERVED A WHITE FORD ESCORT IN THE -- LIKE THE LITTLE

1 PARKING AREA BESIDE THE TRAILER. IT HAD THE SOUTH CAROLINA
2 TAGS OF 806 T-H-Z -- T-H-G. 806 T-H-G.

3 Q. AND WHERE IS ADAMS KARTEZ GIBSON AT THIS PARTICULAR
4 TIME?

5 A. HE'S STANDING OUTSIDE WITH CAPTAIN SMITH OF THE
6 SHERIFF'S DEPARTMENT.

7 Q. AND WHAT DO YOU OBSERVE WHILE BEING PRESENT WHILE
8 CAPTAIN SMITH AND MR. GIBSON ARE THERE?

9 A. THEY WERE STANDING JUST A FEW FEET AWAY FROM ME, AND I
10 HEARD CAPTAIN SMITH ADVISE MR. ADAMS GIBSON OF HIS MIRANDA
11 WARNINGS AND MR. GIBSON WAS COOPERATING, THEN ASKED CONSENT
12 TO SEARCH THE RESIDENCE THAT HE WAS AT. HE GAVE CONSENT, AND
13 I WENT IN AND SEARCHED THE RESIDENCE.

14 Q. WERE YOU ABLE TO FIND ANYTHING THERE?

15 A. NO, I DIDN'T FIND ANYTHING.

16 Q. AND WHAT HAPPENED TO THE VEHICLE?

17 A. I COMPLETED WHAT'S CALLED A TOW SLIP FOR THE RICHLAND
18 COUNTY SHERIFF'S DEPARTMENT, AND THE VEHICLE WAS TOWED BACK
19 TO THE RICHLAND COUNTY SHERIFF'S DEPARTMENT FOR PROCESSING.

20 Q. WHAT INFORMATION WAS PROVIDED TO YOU ABOUT THAT
21 PARTICULAR VEHICLE?

22 A. I WAS AWARE THAT AT THE CRIME SCENE THEY WERE -- THEY
23 WERE LOOKING FOR A WHITE-COLORED VEHICLE THAT WAS POSSIBLY
24 INVOLVED WITH THE SHOOTING.

25 Q. AND WERE YOU ABLE TO -- WAS MR. GIBSON, ADAMS GIBSON,

1 ABLE TO TELL YOU EXACTLY WHAT HIS ASSOCIATION WAS WITH THAT
2 PARTICULAR VEHICLE THAT WAS IN HIS YARD?

3 A. I BELIEVE HE SAID IT BELONGED TO HIS GIRLFRIEND AT THE
4 TIME.

5 Q. WHAT DID YOU DO NEXT IN THIS CASE?

6 A. THAT DAY THAT WAS PRETTY -- I TRIED TO FOLLOW UP ON SOME
7 ADDITIONAL LEADS, AND THAT WAS PRETTY MUCH MY INVOLVEMENT
8 THAT DAY. HOWEVER, ON THE 9TH OF SEPTEMBER I -- INVESTIGATOR
9 MCDANIELS BROUGHT JACQUES GIBSON BACK TO THE RICHLAND COUNTY
10 SHERIFF'S DEPARTMENT, AND I ASSISTED MR. -- INVESTIGATOR
11 MCDANIELS IN -- I WAS RIDING WITH HIM WHEN JACQUES GIBSON WAS
12 SHOWING HIM AREAS WHERE HE SAID HE THREW THE WEAPON THAT WAS
13 INVOLVED WITH THIS AND SOME BULLETS AND SHELL CASINGS.

14 Q. AND WHAT AREAS DID YOU GO TO?

15 A. WE WENT TO -- LET ME REVIEW MY NOTES RIGHT FAST. HE
16 FIRST TOOK TO US A PLACE IN FAIRFIELD COUNTY CALLED DUTCHMAN
17 MARINA WHERE HE SAID THAT HE THREW THE GUN OFF THE BRIDGE.
18 INVESTIGATOR MCDANIELS AND I ACTUALLY GOT JACQUES OUT OF THE
19 VEHICLE. WE HAD A -- INVESTIGATOR MCDANIELS HAD A HEAVY
20 OBJECT IN HIS CAR. HE LET HIM ACTUALLY THROW THAT OBJECT
21 INTO THE WATER TO SHOW US HOW FAR HE BELIEVED THAT HE THREW
22 THE GUN.

23 AT THAT POINT WE TIED SOME CRIME SCENE TAPE ON TO THE
24 SIDE OF THE BRIDGE BECAUSE WHAT WE WANTED TO DO IS THEN HAVE
25 OUR DIVE TEAM COME OUT AND SEE IF THEY CAN LOCATE THE WEAPON.

1 AFTER LEAVING THERE, WE WENT TO AN ADDRESS OFF OF GROVER
2 WILSON ROAD. WE WENT TO GROVER WILSON ROAD, AND HE POINTED
3 OUT AN AREA ABOUT FIVE TO SIX FEET OFF THE SIDE OF THE ROAD
4 WHERE GRASS I WOULD SAY IS PROBABLY WAIST HIGH, MAYBE HIGHER,
5 WHERE HE THREW A SHELL CASING AND A PROJECT -- A SHELL CASING
6 -- FULL SHELL CASINGS AND A SPENT SHELL CASING.

7 Q. AND WHEN YOU SAY HE, WHO IS HE?

8 A. JACQUES GIBSON.

9 Q. AT THAT TIME WAS HE FULLY COOPERATIVE?

10 A. HE WAS VERY COOPERATIVE.

11 Q. DID HE APPEAR TO UNDERSTAND WHAT WAS GOING ON?

12 A. YES, HE DID.

13 Q. AND WHO WAS THE PERSON THAT SAID DUTCHMAN MARINA IS THE
14 PLACE Y'ALL NEED TO GO?

15 A. HE TOOK US THERE. THE WHOLE INTENTION WAS FOR HIM TO
16 SHOW US WHERE HE THREW GUN AT. HE GAVE US THE DIRECTIONS HOW
17 TO GET THERE, AND WE WENT TO DUTCHMAN MARINA.

18 Q. DID Y'ALL KNOW HOW TO GET THERE PRIOR TO THAT?

19 A. I HAD NEVER BEEN THERE BEFORE AND HAVEN'T BEEN THERE
20 SINCE.

21 Q. OKAY. DO YOU SEE THE PERSON IN THE COURTROOM THAT
22 YOU'VE IDENTIFIED AS JACQUES GIBSON?

23 A. I DO.

24 Q. WHERE IS HE SEATED?

25 A. RIGHT OVER HERE. HE'S WEARING A DARK-COLORED JACKET

1 WITH A BLACK TIE.

2 Q. AND ON THE WAY BACK FROM TRYING TO LOCATE EXACTLY --
3 WHAT DO Y'ALL DO WITH HIM AT THAT PARTICULAR TIME?

4 A. WELL, WE WENT BACK. WE HAD HAD HIM OUT A GOOD LITTLE
5 BIT OF TIME, SO WE DECIDED TO GET HIM SOMETHING TO EAT. SO
6 WE WENT THROUGH MCDONALD'S AND BOUGHT HIM SOME FOOD SO HE
7 COULD EAT SOME MCDONALD'S HAMBURGERS AND FRENCH FRIES.

8 Q. IS THAT INDICATED IN YOUR REPORT?

9 A. LET ME SEE. YES, IT IS.

10 Q. DID YOU EVER FIND THE PROJECTILES IN THAT AREA WHERE HE
11 INDICATED HE THREW THEM?

12 A. NO. WE LOOKED. WE LOOKED FOR A GOOD LITTLE WHILE. WE
13 COULDN'T LOCATE THEM, AND THE GRASS WAS JUST EXTREMELY TOO
14 HIGH AND THERE WAS A LOT OF DEBRIS OUT THERE, OTHER BEER CANS
15 AND STUFF SUCH AS THAT. WE COULDN'T LOCATE THE SHELL
16 CASINGS.

17 Q. AND WHAT ABOUT THE FIREARM?

18 A. TO MY KNOWLEDGE, THE FIREARM WAS NEVER RECOVERED. I
19 COULD BE WRONG ABOUT THAT, BUT I DON'T BELIEVE IT WAS.

20 MR. LAKE: BEG THE COURT'S INDULGENCE.

21 THE COURT: YES, SIR.

22 MR. LAKE: NO FURTHER QUESTIONS, YOUR HONOR.

23 THE COURT: MR. ROBERSON?
24
25

CROSS-EXAMINATION

BY MR. ROBERSON:

Q. INVESTIGATOR EWING, YOU HAD A FULLY EXECUTED SEARCH WARRANT TO SEARCH THE RESIDENCE AT 2157 MOOD HARRISON ROAD.

A. NO, SIR. IT WAS 2546 MOOD HARRISON ROAD WHERE WE BELIEVED JACQUES AND HE WERE STAYING.

Q. OKAY. AND YOU WENT THERE LOOKING FOR SPECIFIC ITEMS BASED ON WHAT YOU HAD FROM THE MAGISTRATE THAT YOU MIGHT FIND.

A. THE ITEMS THAT WERE LISTED IN THE SEARCH WARRANT WERE THE ITEMS THAT WE WERE LOOKING FOR, YES.

Q. AND WHAT WERE THEY?

A. I DON'T -- I DON'T KNOW. I WASN'T THE CASE OFFICER.

Q. BUT YOU KNEW AT THAT POINT THAT THERE WAS A CASE INVOLVING GUNFIRE AND SHOOTING.

A. YES, SIR.

Q. SO OUT OF THE SEARCH WARRANT, YOU AT LEAST ASKED TO SEARCH FOR WEAPONS.

A. I HAVEN'T SEEN IT, BUT, YES, SIR, YOU'RE CORRECT.

Q. AND FOR BULLETS.

A. YES, SIR.

Q. AND BECAUSE IDENTITY MAY HAVE BEEN A PROBLEM, CLOTHING OR ANYTHING THAT ANYBODY MADE REFERENCE TO DURING YOUR BRIEF INVESTIGATION...

A. THAT WOULD BE NORMAL PROCESS.

1 Q. AND DID YOU FIND ANY -- ANY BULLETS OR ANY GUNS AT 2546
2 MOOD HARRISON ROAD?

3 A. I KNOW THERE WAS A SHOTGUN THERE. I DON'T BELIEVE IT
4 WAS TAKEN, IF I'M NOT MISTAKEN, BUT IF I COULD LOOK AT THE
5 RETURN ON THE SEARCH WARRANT, I'D BE GLAD TO ANSWER THAT
6 QUESTION FOR YOU.

7 Q. YOU DIDN'T FIND A HANDGUN; YOU FOUND A SHOTGUN.

8 A. IT'S A SHOTGUN OR A RIFLE BUT NO HANDGUN.

9 Q. THAT'S OKAY.

10 A. NO, SIR.

11 Q. OKAY. DID YOU FIND ANY CLOTHING AT 2546 THAT MIGHT HAVE
12 BEEN CONSISTENT WITH WHAT WAS DESCRIBED IN THAT BRIEF
13 INVESTIGATION AT THAT POINT?

14 A. ONCE AGAIN, I'D HAVE TO LOOK AT THE RETURN ON THE SEARCH
15 WARRANT. WE HAD NUMEROUS PEOPLE THERE, SO I DON'T KNOW WHAT
16 EACH INDIVIDUAL FOUND.

17 Q. OKAY. BUT YOU DIDN'T FIND ANY CLOTHING OR ANYTHING.

18 A. IT WAS TWO YEARS AGO. I'D HAVE TO LOOK AT THE RETURN
19 AND THE SEARCH WARRANT.

20 Q. OKAY. DO YOU RECOGNIZE THAT?

21 A. I DO RECOGNIZE THIS. THIS IS A RETURN OF A RICHLAND
22 COUNTY SEARCH WARRANT.

23 Q. OKAY. YES, SIR. THAT DOESN'T SHOW THAT YOU RECOVERED A
24 WHITE TEE SHIRT AND BLUE JEAN SHORTS, DOES IT?

25 A. LET ME REVIEW IT RIGHT QUICK.

1 Q. GO AHEAD.

2 A. NO, SIR. IT SAYS I FOUND A PLAID SHIRT.

3 Q. OKAY. AND THEN YOU -- YOU WENT TO THE PLACE WHERE YOU
4 WERE TOLD THAT ADAMS LIVED WHICH WAS 2167 MOOD HARRISON.

5 A. THAT IS CORRECT.

6 Q. AND YOU GOT HIS CONSENT TO SEARCH THEN.

7 A. YES, SIR.

8 Q. AND YOU STILL DIDN'T FIND A .25 OR A NINE MILLIMETER OR
9 ANY KIND OF WEAPON THERE.

10 A. YOU'RE CORRECT.

11 Q. AND YOU STILL DIDN'T FIND THE WHITE TEE SHIRT AND BLUE
12 JEAN SHORTS OR ANYTHING ELSE.

13 A. THAT'S CORRECT.

14 Q. OKAY. AND HE WAS COOPERATIVE, WASN'T HE?

15 A. YES, SIR.

16 MR. ROBERSON: I HAVE NOTHING FURTHER.

17 THE COURT: ALL RIGHT. MR. JOHNSON?

18 MR. JOHNSON: NO QUESTIONS, YOUR HONOR.

19 THE COURT: ALL RIGHT, SIR. SOLICITOR, ANY QUESTIONS ON
20 THE CROSS-EXAMINATION---

21 MR. LAKE: YES, SIR.

22 THE COURT: ---BY... OKAY.

23 REDIRECT EXAMINATION

24 BY MR. LAKE:

25 Q. JUST ONE QUICK QUESTION. TAKE A LOOK AT THIS RETURN

1 AGAIN. WHAT ALL ELSE WAS RECOVERED ON THAT RETURN FOR THE
2 SEARCH WARRANT AT THAT ADDRESS? WHAT OTHER ITEMS?

3 A. A PLAID -- I BELIEVE THIS IS A PLAID SHIRT FOUND IN THE
4 DIRTY CLOTHES BIN AND A PAIR OF BLUE SHORTS, BLUE JEANS,
5 GRAY-AND-RED-STRIPE, A RED AND BROWN PLAID SHIRT, AND A .380
6 CALIBER ROUND WAS FOUND AT THE RESIDENCE.

7 Q. WHERE WAS THAT ROUND FOUND?

8 A. THE ROUND WAS ACTUALLY FOUND ON THE TOP DRESSER DRAWER
9 INSIDE THE REAR LEFT BEDROOM.

10 Q. DO YOU KNOW WHOSE BEDROOM THAT WAS OR DO YOU RECALL?

11 A. I RECALL THAT BEING MR. JACQUES GIBSON'S BEDROOM.

12 MR. LAKE: NO FURTHER QUESTIONS, YOUR HONOR.

13 THE COURT: ANY QUESTIONS ON THAT, MR. ROBERSON?

14 MR. ROBERSON: NONE, YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: NONE, YOUR HONOR. THANK YOU.

17 THE COURT: ALL RIGHT, SIR. DO YOU WISH THIS WITNESS TO
18 BE EXCUSED?

19 MR. LAKE: YES, YOUR HONOR.

20 THE COURT: ANY OBJECTION?

21 MR. ROBERSON: NO OBJECTION, YOUR HONOR.

22 THE COURT: ANY OBJECTION, MR. JOHNSON?

23 MR. JOHNSON: NONE, YOUR HONOR.

24 THE COURT: ALL RIGHT, SIR. YOU'RE RELEASED FROM YOUR
25 SUBPOENA, AND YOU MAY GO BACK TO YOUR REGULAR DUTIES. THANK

1 YOU.

2 THE WITNESS: THANK YOU, SIR.

3 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE'RE
4 GOING TO BREAK FOR LUNCH. I'M GOING TO HAVE YOU COME BACK AT
5 2:00, PLEASE. WE'LL HAVE YOU BACK IN YOUR JURY ROOM AT 2:00,
6 AND WE WILL RESUME THE TESTIMONY AT THAT POINT IN TIME. SEE
7 YOU BACK THEN. THANK YOU VERY MUCH. EVERYONE ELSE REMAIN
8 SEATED.

9 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO GO
10 TO LUNCH AT 12:39 P.M.)

11 THE COURT: ALL RIGHT. SOLICITOR, IS THERE ANYTHING WE
12 NEED TO TAKE UP PRESENTLY BEFORE WE BREAK?

13 MR. LAKE: NOTHING, YOUR HONOR.

14 THE COURT: MR. ROBERSON?

15 MR. ROBERSON: NOTHING, YOUR HONOR.

16 THE COURT: MR. JOHNSON?

17 MR. JOHNSON: NOTHING, YOUR HONOR. THANK YOU.

18 THE COURT: ALL RIGHT. I'LL SEE Y'ALL BACK AT 2:00
19 THEN. THANK YOU VERY MUCH.

20 (WHEREUPON, A LUNCH BREAK WAS TAKEN. STATE'S EXHIBITS
21 84 AND 85 WERE MARKED FOR IDENTIFICATION ONLY.)

22 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
23 THANK Y'ALL. ALL RIGHT. SOLICITOR, ARE YOU READY TO
24 PROCEED?

25 MS. CAMPBELL: YES, YOUR HONOR.

1 THE COURT: MR. ROBERSON?

2 MR. ROBERSON: YES, SIR.

3 THE COURT: MR. JOHNSON?

4 MR. JOHNSON: YES, SIR, YOUR HONOR.

5 THE COURT: ALL RIGHT. ASK THE JURY TO COME IN, PLEASE.

6 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 2:10
7 P.M.)

8 THE COURT: ALL RIGHT. SOLICITOR, YOUR NEXT WITNESS,
9 PLEASE.

10 MS. CAMPBELL: MAY IT PLEASE THE COURT? THE STATE CALLS
11 ANNA CLEMENS.

12 THE COURT: PLEASE COME AROUND TO BE SWORN.

13 ANNA CLEMENS, AFTER BEING DULY SWORN, TESTIFIED AS
14 FOLLOWS:

15 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
16 YOUR FULL NAME FOR THE RECORD.

17 COURT REPORTER: WILL YOU SPELL YOUR LAST NAME?

18 THE WITNESS: ANNA CLEMENS. C-L-E-M-E-N-S.

19 DIRECT EXAMINATION

20 BY MS. CAMPBELL:

21 Q. IS IT SERGEANT?

22 A. SERGEANT.

23 Q. SERGEANT CLEMENS, WHERE ARE YOU EMPLOYED?

24 A. THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

25 Q. WHAT DO YOU DO THERE, MA'AM?

1 A. I SUPERVISE THE CRIME SCENE AND LATENT PRINT SECTION.

2 Q. AND TELL THIS JURY WHAT YOU DO AS A SUPERVISOR AT THE
3 CRIME SCENE INVESTIGATION UNIT.

4 A. I SUPERVISE THE DAILY OPERATION OF THE LABORATORY. THIS
5 INCLUDES SCHEDULING, ORDERING SUPPLIES, THE TRAINING AND
6 TESTING OF THE INVESTIGATORS AND RESPONDING TO ANY MAJOR
7 INCIDENTS THAT WE MAY HAVE.

8 Q. TELL THIS JURY A LITTLE BIT ABOUT YOUR TRAINING AND YOUR
9 EDUCATION AS IT RELATES TO DEALING WITH CRIME SCENE
10 INVESTIGATION.

11 A. I GRADUATED FROM THE COLLEGE OF CHARLESTON IN MAY OF '95
12 WITH A BACHELOR OF SCIENCE IN PSYCHOLOGY, IN DECEMBER OF '95
13 WITH A BACHELOR OF SCIENCE IN BIOLOGY, AND THIS SUMMER I
14 COMPLETED MY MASTER'S IN FORENSIC D.N.A. AND SEROLOGY.

15 ONCE I ENTERED THE CRIME SCENE UNIT IN OCTOBER OF '98, I
16 COMPLETED THE IN-HOUSE TRAINING WITH THE DEPARTMENT ITSELF,
17 AND I ALSO COMPLETED NUMEROUS 40-HOUR COURSES SUCH AS CRIME
18 SCENE RECONSTRUCTION, BLOOD PATTERN ANALYSIS, LATENT PRINT
19 DEVELOPMENT AND COMPARISON, AND I'M A MEMBER OF THE
20 INTERNATIONAL ASSOCIATION FOR IDENTIFICATION AS WELL AS THE
21 SOUTH CAROLINA CHAPTER.

22 Q. I WANT TO TURN YOUR ATTENTION TO SEPTEMBER THE 6TH OF
23 2007. DID YOU BECOME INVOLVED IN AN AUTOPSY THAT TOOK PLACE
24 THAT DAY?

25 A. I DID. AS PART OF OUR TRAINING PROGRAM, EACH

1 INVESTIGATOR MUST BE OBSERVED COMPLETING EACH PROCEDURE,
2 WHETHER THAT'S PROCESSING A CRIME SCENE, PARTICULAR EVIDENCE,
3 OR COMPLETING AN AUTOPSY. ON THAT PARTICULAR DAY I WAS
4 OBSERVING ONE OF OUR INVESTIGATORS COMPLETING THE AUTOPSY
5 PROCEDURES.

6 Q. AND WHICH INVESTIGATOR WAS ACTUALLY THERE THAT DAY --
7 THAT DAY THAT YOU WERE TRAINING?

8 A. INVESTIGATOR MIKE BOUKNIGHT.

9 Q. AND WOULD IT BE FAIR TO SAY YOU WERE SUPERVISING HIM
10 THAT DAY?

11 A. I WAS.

12 Q. AND WHERE DID THE AUTOPSY TAKE PLACE?

13 A. AT THE RICHLAND COUNTY MORGUE.

14 Q. AND WHO WAS ACTUALLY PERFORMING THE AUTOPSY ITSELF?

15 A. DR. NICHOLS.

16 Q. DR. NICHOLS?

17 A. YES, MA'AM.

18 Q. WHEN YOU GOT TO THE AUTOPSY, DID YOU OBSERVE ANY GUNSHOT
19 WOUNDS TO THE VICTIM?

20 A. YES, MA'AM. THERE WAS A BULLET HOLE IN THE BACK SIDE OF
21 HIS LEFT SHOULDER.

22 Q. AND WERE YOU THERE DURING THE ACTUAL AUTOPSY ITSELF?

23 A. YES, MA'AM.

24 Q. WERE ANY PROJECTILES RECOVERED FROM THE BODY OF THE
25 VICTIM IN THIS CASE?

1 A. YES, MA'AM. IT WAS RECOVERED BY DR. NICHOLS AND TURNED
2 OVER TO INVESTIGATOR BOUKNIGHT.

3 Q. DO YOU KNOW WHERE IT WAS LOCATED WITHIN HIS BODY WHEN IT
4 WAS RECOVERED?

5 A. ACCORDING TO THE X-RAY, IT WAS LOCATED NEAR THE VICTIM'S
6 SPINE.

7 Q. I WANT TO SHOW YOU TWO PHOTOGRAPHS THAT HAVE ALREADY
8 BEEN PUT INTO EVIDENCE, 73 AND 74. I JUST FIRST ASK IF YOU
9 RECOGNIZE THOSE.

10 A. YES, MA'AM, THAT WOULD HAVE BEEN A PICTURE OF THE
11 PROJECTILE AFTER IT WAS RECOVERED IN THE AUTOPSY ROOM.

12 Q. AND DID Y'ALL ACTUALLY TAKE CUSTODY OF THE PROJECTILE
13 THAT DAY?

14 A. YES, MA'AM, INVESTIGATOR BOUKNIGHT.

15 Q. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT 84 FOR
16 I.D. PURPOSES. I JUST FIRST ASK YOU IF YOU RECOGNIZE THAT.

17 A. THIS WAS THE PROJECTILE THAT WAS RECOVERED BY DR.
18 NICHOLS ON SEPTEMBER 6TH, 2005, AT 10:30 A.M.

19 Q. FOR THE RECORD, WHAT WAS THE NAME OF THE VICTIM IN THIS
20 CASE?

21 A. I BELIEVE IT WAS DENNIS IRBY.

22 Q. THANK YOU. IF I MAY HAVE THE ENVELOPE, TOO. YOUR
23 HONOR, AT THIS TIME WE'D OFFER THE PROJECTILE INTO EVIDENCE.

24 THE COURT: ANY OBJECTION, MR. ROBERSON?

25 MR. ROBERSON: NO OBJECTION, YOUR HONOR.

1 THE COURT: MR. JOHNSON?

2 MR. JOHNSON: NONE. WHAT'S THE EXHIBIT NUMBER?

3 MS. CAMPBELL: 84.

4 THE COURT: STATE'S 84 IS IN EVIDENCE WITHOUT OBJECTION.

5 (STATE'S EXHIBIT 84 WAS RECEIVED IN EVIDENCE.)

6 BY MS. CAMPBELL:

7 Q. AFTER TAKING THE PHOTOGRAPH AND COLLECTING THE
8 PROJECTILE FROM THE AUTOPSY, WOULD THE PROJECTILE HAVE THEN
9 BEEN SUBMITTED TO EVIDENCE FOR FURTHER TESTING BY BALLISTICS?

10 A. YES, MA'AM.

11 Q. AND YOU DIDN'T HAVE ANY FURTHER INVOLVEMENT IN THIS
12 CASE, DID YOU?

13 A. I DID NOT.

14 MS. CAMPBELL: THANK YOU, MA'AM.

15 THE COURT: CROSS-EXAMINATION?

16 MR. ROBERSON: NOTHING, YOUR HONOR.

17 THE COURT: MR. JOHNSON?

18 MR. JOHNSON: NO QUESTIONS, YOUR HONOR.

19 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED?

20 MS. CAMPBELL: YES, SIR.

21 THE COURT: ANY OBJECTION?

22 MR. ROBERSON: NO OBJECTION, YOUR HONOR.

23 THE COURT: MR. JOHNSON?

24 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

25 THE COURT: ALL RIGHT, MA'AM. YOU'RE RELEASED FROM YOUR

1 SUBPOENA, AND YOU MAY GO BACK TO YOUR REGULAR DUTIES.

2 THE WITNESS: THANK YOU.

3 THE COURT: ALL RIGHT. SOLICITOR, NEXT WITNESS, PLEASE.

4 MS. CAMPBELL: THE STATE CALLS DAVID COLLINS.

5 DAVID J. COLLINS, AFTER BEING DULY SWORN, TESTIFIED
6 AS FOLLOWS:

7 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
8 YOUR FULL NAME FOR THE RECORD, PLEASE.

9 THE WITNESS: DAVID JEFFERY COLLINS.

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q. INVESTIGATOR COLLINS, WHERE ARE YOU EMPLOYED?

13 A. I'M EMPLOYED BY THE RICHLAND COUNTY SHERIFF'S
14 DEPARTMENT.

15 Q. AND WHAT DO YOU DO THERE, SIR?

16 A. I WORK IN THE FORENSICS -- FORENSIC SCIENCES LABORATORY
17 AS A FIREARMS AND TOOLMARKS EXAMINER.

18 Q. AS A WHAT?

19 A. FIREARMS AND TOOLMARKS EXAMINER.

20 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
21 AND TRAINING IN THAT FIELD?

22 A. I RECEIVED A BACHELOR'S DEGREE FROM THE CITADEL IN 1984
23 AND BECAME EMPLOYED BY S.L.E.D. OR THE STATE LAW ENFORCEMENT
24 DIVISION IN 1990 WHERE I BEGAN TRAINING IN THE FIELD OF
25 FORENSIC FIREARMS AND TOOLMARKS EXAMINATION. THAT TRAINING

1 PROGRAM LASTED FOR APPROXIMATELY TWO YEARS. IT'S ALL IN-
2 HOUSE TRAINING VERY MUCH LIKE AN APPRENTICESHIP THAT TRAINS
3 YOU IN THE SKILLS NEEDED FOR THAT TYPE OF ANALYSIS.

4 AFTER SUCCESSFULLY COMPLETING THAT COURSE AT S.L.E.D., I
5 WAS CERTIFIED BY S.L.E.D. AS A FIREARMS AND TOOLMARKS
6 EXAMINER AND AGAIN WAS ASSIGNED A CASELOAD OF MY OWN. MY
7 TRAINING CONTINUED IN THE FORM OF ANNUAL TRAINING SEMINARS
8 PROVIDED BY OUR PROFESSIONAL ASSOCIATION WHICH IS THE
9 ASSOCIATION OF FIREARMS AND TOOLMARKS EXAMINERS OR A.F.T.E.
10 I'VE ALSO ATTENDED FIREARMS REPAIR OR ARMORERS COURSES
11 PROVIDED BY SEVERAL FIREARMS MANUFACTURERS.

12 Q. HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN THE FIELD
13 OF FIREARMS AND TOOLMARK EXAMINATION?

14 A. YES, I HAVE. I'VE QUALIFIED AS AN EXPERT IN FIREARMS
15 EXAMINATIONS IN THE STATE COURTS OR CIRCUIT COURTS OF SOUTH
16 CAROLINA IN EXCESS OF 200 TIMES. I'VE ALSO QUALIFIED AS AN
17 EXPERT IN THE FEDERAL COURT SYSTEM AND IN THE MILITARY COURT
18 SYSTEM AND IN THE STATE COURTS OF NORTH CAROLINA AND GEORGIA.

19 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD OFFER
20 HIM AS AN EXPERT.

21 THE COURT: MR. ROBERSON?

22 MR. ROBERSON: NO OPPOSITION.

23 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

24 THE COURT: ALL RIGHT, SIR. HE'S QUALIFIED TO GIVE HIS
25 OPINION.

1 BY MS. CAMPBELL:

2 Q. I WANT TO TURN YOUR ATTENTION TO THE CASE HERE AT HAND
3 INVOLVING THE VICTIM, DENNIS IRBY. WERE CERTAIN ITEMS
4 SUBMITTED TO YOU FOR YOUR INSPECTION?

5 A. YES, THEY WERE.

6 Q. AND THE FIRST ITEMS THAT WERE SUBMITTED, I BELIEVE, WERE
7 ARE THREE FIRED .25 CALIBER -- LET ME SHOW YOU WHAT'S BEEN
8 MARKED AS STATE'S EXHIBIT 83 AND FIRST JUST ASK YOU IF YOU
9 RECOGNIZE THAT.

10 A. YES. THIS OUTER CONTAINER BEARS MARKINGS THAT I PLACED
11 ON IT AND RESEALED THE PACKAGE AND ALSO SOME LABELS THAT I
12 PLACED ON IT. IT CONTAINS A TOTAL OF FOUR PACKAGES. THREE
13 OF THESE PACKAGES CONTAIN -- WOULD CONTAIN THE .25 CALIBER
14 CARTRIDGE CASINGS THAT I EXAMINED. HOWEVER -- THEY BEAR MY
15 MARKINGS. I DON'T HAVE A MEANS OF OPENING THESE WITH ME HERE
16 ON THE STAND.

17 Q. ARE YOU AWARE OF WHAT'S IN THOSE?

18 A. BASED ON THE MARKINGS ON THE OUTSIDE OF THESE
19 CONTAINERS, THESE WOULD CONTAIN .25 CALIBER FIRED CARTRIDGE
20 CASINGS.

21 Q. IS THERE AN ADDITIONAL ITEM IN THAT?

22 A. THERE IS.

23 Q. AND WHAT IS THAT ITEM, SIR?

24 A. THIS ITEM WOULD BE A FIRED NINE MILLIMETER LUGER CALIBER
25 CARTRIDGE CASE.

1 Q. AND THOSE FOUR ITEMS WERE SUBMITTED TO YOU FOR YOUR
2 TESTING; IS THAT CORRECT?

3 A. YES, THEY WERE.

4 Q. IN ADDITION TO THAT, DID YOU ALSO RECEIVE STATE'S
5 EXHIBIT NUMBER 84 - I BELIEVE THAT'S YOUR ITEM NUMBER 20 -
6 THE PROJECTILE FROM THE AUTOPSY?

7 A. YES, I HAVE EXAMINED THIS ITEM AS WELL. IT ALSO BEARS
8 MY MARKINGS.

9 Q. AND FINALLY I SHOW YOU STATE'S EXHIBIT 85.

10 A. YES. THESE ARE TWO PROJECTILE FRAGMENTS OR PORTIONS OF
11 FIRED PROJECTILES. I'VE ALSO EXAMINED THEM.

12 MS. CAMPBELL: OKAY. YOUR HONOR, AT THIS TIME WE WOULD
13 OFFER STATE'S EXHIBIT NUMBER 85 INTO EVIDENCE.

14 THE COURT: ANY OBJECTION? MR. ROBERSON?

15 MR. ROBERSON: NONE.

16 THE COURT: MR. JOHNSON?

17 MR. JOHNSON: NONE, YOUR HONOR.

18 THE COURT: STATE'S 85 IS IN EVIDENCE WITHOUT OBJECTION.

19 MS. CAMPBELL: THANK YOU, SIR.

20 (STATE'S EXHIBIT 85 WAS RECEIVED IN EVIDENCE.)

21 BY MS. CAMPBELL:

22 Q. INVESTIGATOR COLLINS, CAN I ASK YOU THIS FIRST: WHEN A
23 GUN FIRES - AND I CALL IT A BULLET; I DON'T KNOW IF THAT'S
24 THE PROPER PHRASE - ARE CERTAIN MARKINGS LEFT ON CERTAIN
25 PARTS OF IT THAT CAN BE COMPARED LATER ON DOWN THE ROAD?

1 A. WHEN A FIREARM IS MANUFACTURED, PART OF THE
2 MANUFACTURING PROCESS INVOLVES CUTTING AWAY PARTS OF THE
3 FIREARM, BASICALLY JUST FORMING THESE PARTIAL CUTTING AND
4 CASTING OPERATIONS. THESE MANUFACTURING PROCESSES WILL LEAVE
5 BEHIND ON THOSE PARTS OF THE FIREARM MICROSCOPIC DEFECTS THAT
6 CAN BE TRANSFERRED TO THE SURFACE OF, FOR INSTANCE, A
7 CARTRIDGE CASE WHEN IT IS FIRED IN A GUN OR A BULLET WHEN IT
8 PASSES THROUGH THE BARREL OF THE FIREARM. SO BOTH OF THOSE
9 COMPONENTS, THE CARTRIDGE CASE AND THE BULLET, CAN BE MARKED
10 BY THE FIREARM IN A MANNER UNIQUE TO THAT PARTICULAR FIREARM
11 THAT WE CAN USE TO IDENTIFY IT BACK TO THAT GUN LATER.

12 Q. AND JUST BECAUSE I DON'T QUITE UNDERSTAND THIS WHOLE
13 PROCESS: WHEN YOU PUT A WHOLE BULLET INTO THE GUN, DOES THE
14 WHOLE BULLET COME OUT OR IS IT PART OF IT KEPT OR EJECTED?

15 A. WHEN YOU PLACE AN UNFIRED CARTRIDGE IN A FIREARM AND
16 FIRE IT, THE BULLET IS GOING TO PASS OUT OF THE BARREL OF THE
17 FIREARM, AND THE CARTRIDGE CASE IN THE CASE OF A SEMI-
18 AUTOMATIC FIREARM WILL BE EJECTED FROM THE GUN IF IT IS
19 FUNCTIONING PROPERLY.

20 Q. WHAT'S THE DIFFERENCE BETWEEN A REVOLVER AND A
21 SEMIAUTOMATIC HANDGUN?

22 A. A REVOLVER HAS WHAT IS KNOWN AS A CYLINDER IN IT, AND A
23 CYLINDER SERVES BASICALLY AS A MAGAZINE. THERE ARE A CERTAIN
24 NUMBER OF CHAMBERS IN THE CYLINDER, EACH ONE OF WHICH COULD
25 HOLD OR CONTAIN ONE UNFIRED CARTRIDGE. THE PRIMARY

1 DIFFERENCE FROM THE STANDPOINT OF A FIREARMS INCIDENT OR
2 INVESTIGATION IS THAT WHEN A REVOLVER IS USED, TYPICALLY THE
3 FIRED CARTRIDGE CASES REMAIN IN THE GUN. THEY HAVE TO REMAIN
4 IN THE GUN UNTIL THEY ARE MANUALLY REMOVED BY SOMEONE AFTER
5 THEY'RE FIRED.

6 A SEMIAUTOMATIC, AS A PART OF ITS FUNCTIONING, WILL
7 AUTOMATICALLY EJECT FIRED CARTRIDGE CASES AT THE SCENE. SO
8 YOU MAY NOT FIND FIRED CARTRIDGE CASINGS FROM A REVOLVER AT A
9 SCENE.

10 Q. AND WHEN -- CAN YOU PREDICT EXACTLY WHERE A CARTRIDGE
11 CASING WILL FALL OR REMAIN AT A SCENE?

12 A. CARTRIDGE CASES TYPICALLY WILL FOLLOW A FAIRLY
13 PREDICTABLE PATH IN RELATIONSHIP TO THE FIREARM FROM WHICH
14 THEY ARE FIRED. HOWEVER, THE MANNER IN WHICH THE FIREARM WAS
15 HELD, THE HEIGHT OF THE FIREARM ABOVE THE GROUND, THE TYPE OF
16 SURFACE THAT THE CARTRIDGE CASE FALLS ON TO, FOR INSTANCE
17 CONCRETE, IT'S GOING TO HAVE A DRAMATIC EFFECT ON ACTUAL --
18 ACTUALLY WHERE THOSE CARTRIDGE CASES WILL END UP AT A SCENE.
19 SO THE USE OF WHAT WE CALL AN EJECTION PATTERN ANALYSIS IS
20 VERY LIMITED IN ITS USE.

21 Q. AND IN THAT SAME VEIN, TOO, IF THERE'S A HIGH TRAFFIC
22 AREA OR A FOOT PATH -- FOOTWEAR OR CARS DRIVING THROUGH THE
23 AREA, CAN THAT EFFECT WHETHER OR NOT A CARTRIDGE CASE IS LEFT
24 AT A SCENE?

25 A. YEAH. THE CARTRIDGE CASE IS A VERY LIGHT OBJECT, AND

1 IT'S VERY EASY FOR SOMEONE WALKING PAST TO ACTUALLY KICK IT
2 OR MOVE IT OR OTHERWISE DISPLACE IT FROM AN AREA SO THAT IF
3 YOU CAN'T -- IF YOU DON'T HAVE A SITUATION WHERE YOU HAVE A
4 VERY HIGH REASONABLE EXPECTATION THAT THE CARTRIDGE CASE IS
5 WHERE IT INITIALLY HIT THE GROUND, THEN IT IS OF VIRTUALLY NO
6 USE FROM OUR STANDPOINT.

7 Q. HOWEVER, IF YOU DO FIND CARTRIDGE CASINGS AT A SCENE,
8 CAN THEY BE COMPARED, SAY, TO EACH OTHER?

9 A. THEY CAN BE, YES.

10 Q. AND IF A GUN IS RECOVERED, CAN THEY BE COMPARED TO A
11 GUN?

12 A. THEY CAN BE.

13 Q. IN THIS CASE WERE ANY GUNS EVER SUBMITTED TO YOU?

14 A. NO, I DID NOT RECEIVE ANY FIREARMS IN THIS CASE.

15 Q. THE FIRST THREE ITEMS I WANT TO TALK ABOUT, IF YOU DON'T
16 MIND OPENING THEM FOR ME, ARE THE THREE .25 CALIBER -- IS IT
17 CARTRIDGE CASING?

18 A. CARTRIDGE CASINGS, YES, MA'AM.

19 Q. AND THE FIRST THREE ITEMS THAT WE'RE GOING TO TALK ABOUT
20 ARE THESE .25 CALIBER CARTRIDGE CASINGS? IS THAT CORRECT?

21 A. THAT'S CORRECT. .25 AUTO CALIBER SPECIFICALLY IS WHAT
22 THEY'RE CALLED.

23 Q. AND I NOTICED THAT THEY'RE HOLLOW INSIDE. AND DOES THAT
24 INDICATE TO YOU WHETHER OR NOT THEY'VE BEEN FIRED?

25 A. THAT IS AN INDICATION THAT THEY HAVE BEEN FIRED AS THE

1 BULLET AND POWDER THAT WOULD HAVE BEEN CONTAINED IN THEM IS
2 NO LONGER THERE.

3 Q. UPON YOUR EXAMINATION OF THOSE THREE ITEMS, WHAT
4 CONCLUSIONS WERE YOU ABLE TO COME TO AS TO THOSE THREE ITEMS?

5 A. THE FIRST TIME THAT WE EXAMINE ANY TYPE OF WEAPONS, THE
6 FIRST THING THAT WE DO IS MAKE NOTES AS TO ITS CONDITION. IN
7 THIS CASE WE ALSO -- PART OF THAT IS WE MAKE NOTE OF THE
8 CALIBER, THE BRAND. IN THIS CASE IT'S A C.C.I. BRAND
9 AMMUNITION. AND THEN AFTER DOCUMENTING ALL OF THAT, WE WILL
10 PLACE THEM UNDER A COMPARISON MICROSCOPE.

11 WHAT THAT ALLOWS US TO DO IS TO LOOK AT TWO ITEMS
12 SIMULTANEOUSLY AT THE SAME MAGNIFICATION AND TO MOVE THEM
13 INDEPENDENTLY OF ONE ANOTHER TO LOOK FOR THESE MARKINGS THAT
14 WOULD HAVE BEEN LEFT BY THE FIREARM ON THAT CARTRIDGE CASE OR
15 BULLET AND TRY TO DETERMINE IF THOSE MARKINGS MATCH TO SUCH A
16 DEGREE THAT WE CAN DETERMINE THEY WERE FIRED BY THAT -- BY
17 THE SAME FIREARM. IF WE DON'T HAVE THE FIREARM, WE CAN STILL
18 DETERMINE IF THEY'RE ALL FROM ONE GUN OR IF WE HAVE A GUN,
19 WE'LL COMPARE THEM WITH -- WE'LL BE ABLE TO TEST CARTRIDGE
20 CASINGS THAT WE FIND IN THE GUN TO SEE IF THEY MATCH THAT
21 BULLET.

22 IN THIS CASE AFTER DOCUMENTING THE CONDITION OF THE
23 EVIDENCE, I DID EXAMINE THEM UNDER A COMPARISON MICROSCOPE
24 AND FOUND THAT BASED ON THE MARKINGS PRESENT ON THE CARTRIDGE
25 CASES THAT MATCHED THAT THEY WERE ALL FIRED BY THE SAME .25

1 CALIBER FIREARM.

2 Q. JUST FOR THE RECORD, WERE THEY ALL THE SAME BRAND OF
3 AMMUNITION?

4 A. YES, THEY ARE.

5 Q. AND THEY WERE FIRED BY THE SAME GUN?

6 A. THAT'S CORRECT.

7 Q. AND WHAT KIND OF GUN COULD HAVE FIRED THESE?

8 A. IT WOULD HAVE BEEN A .25 AUTO CALIBER SEMIAUTOMATIC
9 PISTOL. IT IS THE ONLY TYPE OF FIREARM I'M AWARE THAT CAN
10 FIRE THESE.

11 Q. AND THAT WOULD BE ONE THAT WOULD EJECT SHELL CASINGS.

12 A. THAT IS CORRECT.

13 Q. THE NEXT ITEM I WANT TO TALK ABOUT IS THAT ONE, 83.

14 SORRY. THAT GOES WITH THESE. THANK YOU.

15 A. THIS IS THE...

16 Q. OKAY. STATE'S EXHIBIT -- IT WAS IN THERE. PART OF 83,
17 THE FOURTH ITEM THAT WAS SUBMITTED FROM THE SCENE?

18 A. (THE WITNESS CUTS OPEN AN ENVELOPE THAT IS PART OF
19 EXHIBIT 83.)

20 Q. AND UPON YOUR INITIAL EXAMINATION, WHAT CONCLUSIONS DID
21 YOU COME TO AS TO THIS CARTRIDGE CASING?

22 A. MY EXAMINATION OF THAT CARTRIDGE CASE REVEALED THAT IT
23 IS A NINE MILLIMETER LUGER CALIBER CARTRIDGE CASE. IT IS
24 FIRED. AGAIN, YOU CAN SEE IT DOESN'T HAVE A BULLET IN PLACE.
25 THERE'S ALSO A FIRING PIN IMPRESSION AND ALL OF THE PRIMER

1 WHICH INDICATES IT HAS BEEN FIRED IN A FIREARM.

2 Q. AND WHAT'S THE DIFFERENCE BETWEEN A .25 CALIBER VERSUS A
3 NINE MILLIMETER?

4 A. AS YOU CAN SEE FROM THE SIZE DIFFERENCE BETWEEN THESE
5 TWO, THE .25'S ARE CONSIDERABLY SMALLER THAN THE NINE
6 MILLIMETER. THE .25 AUTO CONTAINS LESS POWDER. IT FIRES A
7 MUCH LIGHTER AND MUCH SMALLER PROJECTILE. IN THE FIREARMS
8 INDUSTRY THEY USE A TERM -- A WEIGHT MEASUREMENT KNOWN AS
9 GRAINS TO DETERMINE THE WEIGHT OF THE PROJECTILE OR THE
10 BULLET.

11 .25 AUTO CALIBER AMMUNITION TYPICALLY IS LOADED WITH A
12 50-GRAIN BULLET. NINE MILLIMETER AMMUNITION TYPICALLY STARTS
13 AT ABOUT 115 GRAINS AND CAN GO UP FROM THERE., SO IT SHOOTS A
14 HEAVIER BULLET, AND IT HAS MORE POWER BASICALLY BASED ON THE
15 FACT THAT IT HAS MORE POWDER BEHIND IT.

16 Q. AND THE SAME GUN CAN'T FIRE BOTH THESE BULLETS.

17 A. OH, NO.

18 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 84. YOU CAN
19 PULL THAT OUT.

20 A. (THE WITNESS COMPLIES.)

21 Q. THIS WAS, I BELIEVE, THE PROJECTILE FROM THE AUTOPSY?

22 A. YES. THAT'S CORRECT.

23 Q. AND WHAT EXAMINATIONS WERE YOU ABLE TO PERFORM ON THAT?

24 A. IN THE CASE OF A FIRED BULLET, WHAT I'M GOING TO DO
25 FIRST IS I'M GOING TO TAKE THE MEASUREMENTS OF IT, THE

1 DIAMETER OF IT, THE WEIGHT OF IT IN ORDER TO TRY TO DETERMINE
2 WHAT CALIBER OF FIREARM IT CAME FROM.

3 Q. AND IN THIS---

4 A. THAT---

5 Q. I'M SORRY. GO AHEAD.

6 A. THAT'S SPECIFICALLY IMPORTANT. IF YOU DON'T HAVE A
7 SUSPECT WEAPON TO COMPARE IT WITH, YOU NEED TO BE ABLE TO
8 TELL THE INVESTIGATORS WHAT TYPE OF FIREARM THEY MIGHT BE
9 LOOKING FOR.

10 Q. AND IN THIS CASE COULD YOU MAKE ANY CONCLUSIONS AS TO
11 WHAT TYPE OF FIREARM FIRED THAT?

12 A. BASED ON THE DESIGN, THE WEIGHT, AND THE DIAMETER OF
13 THIS BULLET, IT IS CONSISTENT WITH BULLETS FOUND IN A NINE
14 MILLIMETER LUGER CALIBER AMMUNITION. UNUSUAL -- IT IS
15 UNUSUAL IN THAT IT'S MADE OF A PLAIN LEAD SUBSTANCE WHICH IS
16 NOT THE TYPE OF PROJECTILE THAT YOU NORMALLY FIND IN FACTORY
17 NINE MILLIMETER LUGER CALIBER AMMUNITION, BUT IT IS FAIRLY
18 COMMON IN SOME REMANUFACTURED OR RELOADED AMMUNITION THAT IS
19 AVAILABLE IN SOME STORES.

20 I WAS ALSO ABLE TO EXAMINE THE RIFLING IMPRESSIONS ON
21 THAT BULLET TO TRY TO DETERMINE WHAT TYPE OF FIREARM COULD
22 HAVE FIRED IT. RIFLING IMPRESSIONS ARE LEFT BY GROOVES THAT
23 ARE CUT INTO THE BARREL OF THE FIREARM WHEN IT'S
24 MANUFACTURED. CERTAIN MANUFACTURERS USE A CERTAIN NUMBER OF
25 RIFLING GROOVES WITH A CERTAIN DIRECTION OF TWIST. IF IT'S A

1 SPIRAL, THEN IT HAS A CERTAIN - YOU KNOW, A SET MEASUREMENT
2 TO THAT THAT IS IMPRESSED ON THE SURFACE OF THE BULLET. BY
3 LOOKING AT THAT AND COMPARING IT WITH THE DATABASE THAT WE
4 HAVE AT THE LABORATORY, I CAN OFTEN DETERMINE A LIST OF
5 PARTICULAR BRANDS OF FIREARMS THAT COULD HAVE FIRED THAT
6 BULLET IN ADDITION TO JUST ITS CALIBER.

7 Q. THE PROJECTILE FROM THE AUTOPSY, WERE YOU ABLE TO
8 CONCLUDE WHAT KIND OF FIREARM COULD HAVE FIRED THIS?

9 A. THE RIFLING IMPRESSIONS ON THAT FIRED BULLET ARE FAIRLY
10 UNIQUE TO HAVING BEEN PRODUCED BY A HI-POINT BRAND FIREARM.

11 Q. AND WHAT WOULD THE CALIBER OF THAT FIREARM BE?

12 A. THEY'RE AVAILABLE IN A NUMBER OF CALIBERS INCLUDING NINE
13 MILLIMETER.

14 Q. AND THIS WOULD BE A NINE MILLIMETER, AND IT WOULD HAVE
15 BEEN A HI-POINT.

16 A. THAT'S CORRECT.

17 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S LEADING.

18 THE COURT: I'M GOING TO ALLOW IT.

19 MS. CAMPBELL: THANK YOU.

20 BY MS. CAMPBELL:

21 Q. FINALLY, I WANT TO TURN YOUR ATTENTION TO STATE'S
22 EXHIBIT NUMBER 85. I NOTICE YOU'RE PULLING THAT OUT OF A
23 PLASTIC BAG. IS THAT HOW IT WAS SUBMITTED?

24 A. THIS IS HOW I WOULD HAVE RECEIVED THIS ITEM, YES.

25 Q. WHAT CONCLUSIONS, IF ANY, WERE YOU ABLE TO MAKE ABOUT

1 THE -- THOSE ARE YOUR ITEMS NUMBERED 24 AND 25?

2 A. THAT'S CORRECT.

3 Q. AND STATE'S 85.

4 A. THERE ARE TWO ITEMS THERE THAT I EXAMINED. ONE OF THEM
5 IS A PIECE OF COPPER BULLET JACKET MATERIAL. BULLET JACKET
6 MATERIAL IS A COVERING THAT GOES OVER THE CORE OR THE CENTER
7 OF THE BULLET. IT IS COMMON IN MODERN FIREARMS AMMUNITION TO
8 HAVE A LEAD CORE SURROUNDED BY SOME SORT OF A HARDER
9 JACKETING MATERIAL. THIS SERVES TO PREVENT THE BARREL OF THE
10 FIREARM FROM BEING FOULED WITH A SOFTER LEAD MATERIAL IN IT
11 WHEN A BULLET FIRES THROUGH IT.

12 THE COPPER JACKETING MATERIAL I EXAMINED, AND IT WAS OF
13 VERY LIMITED USE FROM THE STANDPOINT OF AN IDENTIFICATION. I
14 -- BY LOOKING AT THIS, I REALLY WAS UNABLE TO MAKE AN
15 IDENTIFICATION OF THAT PARTICULAR ITEM BACK TO THE FIRED
16 BULLET FROM THE AUTOPSY. PART OF THE PROBLEM IS YOU'RE
17 DEALING WITH A LEAD PROJECTILE VERSUS A COPPER JACKET. THEY
18 TEND TO MARK DIFFERENTLY BY THE -- BE MARKED DIFFERENTLY BY
19 THE FIREARM THAT FIRED THEM.

20 SO I WAS UNABLE TO DETERMINE IF THAT JACKET CAME FROM
21 THE SAME FIREARM THAT FIRED THE BULLET FROM THE AUTOPSY. THE
22 MARKINGS LEFT ON THEM, THE RIFLING IMPRESSIONS, WERE SIMILAR,
23 BUT ALL THAT TELLS ME IS THAT IT COULD HAVE BEEN FIRED BY THE
24 SAME GUN OR IT COULD HAVE BEEN FIRED BY TWO GUNS WITH SIMILAR
25 RIFLING CHARACTERISTICS. BASED ON ITS SIZE AND SOME OTHER

1 CHARACTERISTICS, I WAS ABLE TO DETERMINE THAT IT WAS SIMPLY
2 TOO LARGE TO HAVE ORIGINATED FROM A .25 CALIBER FIREARM, SO
3 IT WOULD NOT HAVE ORIGINATED FROM ANY OF THE THREE FIRED .25
4 FIRED CARTRIDGE CASES.

5 Q. IT WOULD NOT HAVE ORIGINATED FROM THOSE THREE.

6 A. THAT'S CORRECT.

7 Q. WITH YOUR CONCLUSIONS, YOU MENTIONED OR YOU SAID THERE
8 WERE SIMILAR CHARACTERISTICS?

9 A. IT'S SIMILAR BUT NOT ENOUGH TO BE ABLE TO RENDER A
10 CONCLUSION AS TO WHETHER OR NOT IT WAS FIRED BY THE SAME GUN.

11 Q. NOT ENOUGH THERE. WAS THERE ANYTHING THAT WOULD SAY
12 THAT THESE WEREN'T FIRED BY THE SAME---

13 MR. JOHNSON: OBJECTION, YOUR HONOR.

14 THE WITNESS: NO.

15 THE COURT: SUSTAINED.

16 BY MS. CAMPBELL:

17 Q. WHAT, IF ANY, CONCLUSIONS CAN YOU MAKE ABOUT WHETHER OR
18 NOT THEY WERE FIRED FROM THE SAME GUN?

19 A. I WAS UNABLE TO RENDER A CONCLUSION BASED ON WHETHER
20 THEY WERE FIRED BY THE SAME GUN THAT FIRED THE BULLET FROM
21 THE AUTOPSY. HOWEVER, THERE WAS NOTHING TO INDICATE THAT
22 THERE WAS NOT. IN OTHER WORDS, THERE WERE NO EXCLUSIONARY
23 FACTORS THERE THAT WOULD HAVE PREVENTED THAT 'AS BEING A
24 POSSIBILITY. IF I COULD CONTINUE -- DO YOU WANT ME TO
25 CONTINUE ON THE OTHER ITEM THAT WAS PRESENTED?

1 Q. YES.

2 A. THE SECOND ITEM THAT IS THERE IS SIMPLY A PIECE OF LEAD
3 THAT IS CONSISTENT WITH BEING A PART OF THE BULLET CORE ON
4 THE INSIDE PORTION OF THE BULLET. AS A RESULT OF BEING THE
5 INSIDE PORTION OF THE BULLET, THAT NEVER COMES INTO CONTACT
6 WITH THE RIFLING OF THE BARREL AND, THEREFORE, NEVER RECEIVES
7 ANY MARKINGS THAT I COULD USE TO IDENTIFY WHAT FIREARM FIRED
8 IT. SO I HAVE -- OTHER THAN BASED ON ITS WEIGHT AND BEING
9 ABLE TO AGAIN EXCLUDE IT AS HAVING -- IT COULD NOT HAVE BEEN
10 FIRED FROM A .25 AUTO. BEYOND THAT, I WAS UNABLE TO
11 DETERMINE ANYTHING ABOUT ITS ORIGIN.

12 Q. BASED ON YOUR EXPERTISE, COULD IT HAVE BEEN FIRED BY A
13 NINE MILLIMETER?

14 A. IT COULD HAVE BEEN FIRED BY A NINE MILLIMETER, YES.

15 Q. AND BASED ON YOUR EXPERTISE, COULD IT HAVE BEEN FIRED BY
16 THE SAME GUN AS THE OTHER NINE MILLIMETER?

17 A. IT COULD HAVE, YES.

18 Q. AND, AGAIN, WHY IS IT YOU WEREN'T ABLE TO MAKE MORE
19 CONCLUSIONS?

20 A. IT'S SIMPLY TOO BADLY DAMAGED AND THERE'S NO RIFLING
21 IMPRESSIONS ON IT THAT I COULD USE FOR COMPARISON PURPOSES,
22 AND THERE'S SIMPLY NOT ENOUGH OF IT LEFT TO RENDER ANY MORE
23 OF A CONCLUSION.

24 Q. AS AN EXPERT IN THE FIELD OF - I CALL IT BALLISTICS BUT
25 I GUESS FIREARMS - A .25 VERSUS A NINE MILLIMETER, WHEN IT'S

1 FIRED IS THERE GOING TO BE ANY DIFFERENCE IN WHAT YOU MIGHT
2 HEAR?

3 A. JUST SIMPLY AS A FUNCTION OF THE AMOUNT OF POWDER THAT'S
4 IN THE CARTRIDGE CASE, THE .25 AUTO IS NOT GOING TO BE SIMPLY
5 AS LOUD AS A NINE MILLIMETER. AND GIVEN ITS FIRED IN THE
6 SAME ENVIRONMENT WITH THE SAME BACKGROUND NOISE, THERE SHOULD
7 BE A NOTICEABLE DIFFERENCE BETWEEN THE SOUND OF A .25 AUTO
8 AND A NINE MILLIMETER.

9 Q. AND WHICH ONE WOULD BE LOUDER?

10 A. THE NINE MILLIMETER WOULD HAVE BEEN THE LOUDER OF THE
11 TWO SIMPLY BECAUSE IT CONTAINS MORE POWDER. POWDER IS THE
12 FUEL BEHIND THE PROPELLANT, AND SO IT'S LIKE HAVING A BIG
13 FIRECRACKER VERSUS A SMALL FIRECRACKER. THERE'S A NOTICEABLE
14 DIFFERENCE IN THE SOUND LEVELS BECAUSE THERE'S SIMPLY MORE
15 EXPANDING GASES AS A RESULT OF THE FIRE AND THEN MORE NOISE.

16 Q. THERE HAVE BEEN SOME QUESTIONS ABOUT TRAJECTORY. WHEN A
17 PERSON IS SHOT, ARE YOU ABLE TO DETERMINE TRAJECTORY TO ANY
18 DEGREE OF CERTAINTY UNLESS CERTAIN FACTORS COME INTO IT?

19 A. IT'S VERY DIFFICULT WITH A PERSON BEING SHOT IF THERE'S
20 NO OTHER OBJECT THROUGH WHICH THE BULLET PASSED BEFORE
21 STRIKING THAT PERSON AS TO DETERMINE THE ORIGIN OF THAT
22 PROJECTILE.

23 Q. AND, AGAIN, IF A TIRE IS STRUCK, ARE THERE DIFFICULTIES?

24 A. YES, THERE ARE.

25 MS. CAMPBELL: THANK YOU. PLEASE ANSWER ANY QUESTIONS

1 THAT THE DEFENSE MAY HAVE.

2 THE COURT: ALL RIGHT. MR. ROBERSON?

3 MR. ROBERSON: JUST A COUPLE OF QUESTIONS, YOUR HONOR.

4 THE COURT: YES, SIR.

5 CROSS-EXAMINATION

6 BY MR. ROBERSON:

7 Q. MR. COLLINS, I BELIEVE YOU TESTIFIED ABOUT, EXCUSE ME, A
8 METAL FRAGMENT AND WHAT MAY HAVE BEEN A .25 PROJECTILE.

9 A. NO, SIR, I DIDN'T -- I NEVER HAD ANYTHING THAT WAS
10 CONSISTENT WITH A .25 CALIBER PROJECTILE SUBMITTED FOR
11 ANALYSIS.

12 Q. RIGHT. BUT YOU TESTIFIED ABOUT A PROJECTILE AND ANOTHER
13 PIECE OF METAL YOU HAD.

14 A. UH-HUH. THERE ARE -- THERE WAS ONE COMPLETE PROJECTILE
15 AND TWO SMALL FRAGMENTS OF A PROJECTILE.

16 Q. OKAY. YOU'RE NOT SAYING THAT THOSE FRAGMENTS ARE A PART
17 OF THAT SAME PROJECTILE, ARE YOU?

18 A. THE ONE PROJECTILE FROM THE AUTOPSY IS A SINGLE COMPLETE
19 PROJECTILE. THE TWO OTHER FRAGMENTS COULD HAVE ORIGINATED
20 FROM ONE PROJECTILE OR FROM TWO SEPARATE PROJECTILES.

21 MR. ROBERSON: OKAY. THANK YOU, SIR.

22 THE COURT: MR. JOHNSON?

23 MR. JOHNSON: THANK YOU, YOUR HONOR.

24

25

CROSS-EXAMINATION

1
2 BY MR. JOHNSON:

3 Q. HELP ME, MR. COLLINS. BASED ON YOUR TRAINING, BASED ON
4 YOUR EXAMINATION, IN LOOKING AT STATE'S EXHIBIT NUMBER 84 --
5 WHICH IS THE BULLET THAT YOU SAID CAME FROM DENNIS IRBY?

6 A. THAT IS MY -- THAT IS MY UNDERSTANDING; YES, SIR.

7 Q. OKAY. AND BASED ON YOUR TRAINING AND BASED ON YOUR
8 EXAMINATION, ARE YOU PREPARED TO TELL THIS JURY WHAT GUN
9 FIRED THIS BULLET?

10 A. I DO NOT HAVE THE FIREARM, SO I CANNOT TELL YOU WHICH
11 GUN FIRED THAT PROJECTILE.

12 Q. BASED ON YOUR TRAINING AND YOUR EXAMINATION, CAN YOU
13 TELL US WHEN THIS BULLET WAS FIRED?

14 A. NO, I CANNOT.

15 Q. BASED ON YOUR EXPERIENCE AND YOUR TRAINING, YOU'RE NOT
16 HERE TO TELL THIS JURY THAT THAT BULLET THERE WAS FIRED BY A
17 NINE MILLIMETER. ISN'T THAT RIGHT?

18 A. YES, I BELIEVE I CAN STATE WITH A DEGREE OF CERTAINTY
19 THAT IT WAS FIRED FROM A NINE MILLIMETER CALIBER PROJECT --
20 FIREARM.

21 Q. OKAY. HOW MANY OTHER GUNS WOULD FIRE A BULLET LIKE
22 THAT?

23 A. BASED ON MY EXAMINATION OF THAT PROJECTILE AND MY
24 CONCLUSION THAT IT WAS CONSISTENT WITH HAVING BEEN FIRED FROM
25 A NINE MILLIMETER CALIBER FIREARM MANUFACTURED BY HI-POINT,

1 IT WOULD BE A -- THAT NARROWS THE RANGE DOWN SOMEWHAT, BUT
2 THERE ARE A FAIRLY SIGNIFICANT NUMBER OF NINE MILLIMETER HI-
3 POINTS THAT CIRCULATE.

4 Q. OKAY. THAT'S WHAT I'M TALKING ABOUT. WHAT IS A
5 HI-POINT?

6 A. HI-POINT IS THE SPECIFIC BRAND OF FIREARM THAT MANU --
7 THAT WOULD HAVE FIRED THAT PROJECTILE. THIS PROJECTILE HAD A
8 SET NUMBER OF LAND AND GROOVE IMPRESSIONS ON ITS SURFACE THAT
9 ARE UNIQUE TO HI-POINT BRAND FIREARMS.

10 Q. OKAY. YOU PREPARED A WRITTEN REPORT, DIDN'T YOU?

11 A. YES, I DID.

12 Q. AND IN YOUR REPORT ISN'T IT TRUE THAT YOU SAY BASED ON
13 THE GENERAL RIFLING CHARACTERISTICS -- WHAT ARE RIFLING
14 CHARACTERISTICS?

15 A. GENERAL RIFLING CHARACTERISTICS ON A BULLET ARE SIMPLY
16 IN THIS CASE THE NUMBER OF RIFLING GROOVES THAT ARE PRESENT
17 IN THE BARREL WHICH ARE ALL VISIBLE -- THE IMPRESSIONS OF
18 THEM ARE ALL VISIBLE ON THE SURFACE OF THE PROJECTILE IN THE
19 DIRECTION OF TWIST IN COMBINATION WITH THE ACTUAL CALIBER OF
20 THE BULLET. THAT IS WHAT YOU'RE LOOKING AT FROM GENERAL
21 RIFLING CHARACTERISTICS.

22 Q. AND YOU SAID BASED ON THE GENERAL RIFLING
23 CHARACTERISTICS FOUND ON THAT BULLET THAT YOU HAVE THERE,
24 POSSIBLE MAKES OF FIREARMS THAT COULD HAVE FIRED THIS BULLET
25 INCLUDE BUT MAY NOT BE LIMITED TO THE FOLLOWING: NINE

1 MILLIMETER LUGER HI-POINT. TELL THE JURY WHAT ARE THE OTHER
2 POSSIBILITIES IN TERMS OF FIREARMS.

3 A. THERE ARE NO OTHER FIREARMS THAT I'M AWARE OF WITH THAT
4 TYPE OF RIFLING IN PRODUCTION. THE REASON THAT WE WROTE A
5 REPORT LIKE IS THAT WE -- THERE IS THE REMOTE POSSIBILITY
6 THAT SOMEBODY SOMEWHERE IN THE WORLD IS MANUFACTURING A NINE
7 MILLIMETER LUGER FIREARM WITH THE SAME RIFLING
8 CHARACTERISTICS. IT'S JUST THAT WE IN THE FIREARMS
9 EXAMINATION FIELD HAVE NOT ENCOUNTERED IT YET AND ARE NOT
10 AWARE OF IT.

11 Q. WHAT IS THE DIFFERENCE BETWEEN A -- SOMETHING BEING
12 CONSISTENT AND SOMETHING BEING CONCLUSIVE?

13 A. THE DIFFERENCE BETWEEN CONSISTENT AND CONCLUSIVE -- TO
14 ME CONSISTENT IS THAT IT IS JUST THAT. IT IS CONSISTENT WITH
15 BEING THAT TYPE OR HAVING THAT ORIGIN. THE OTHER WORDING
16 THAT I OFTEN USE IN A REPORT IS MOST CONSISTENT. MOST
17 CONSISTENT REVEALS THE POSSIBILITY THAT THERE ARE OTHER
18 POTENTIAL FACTORS OR POSSIBILITIES THAT COULD APPLY TO THAT
19 PARTICULAR ITEM OF EVIDENCE.

20 IN THIS CASE I USED THE WORD CONSISTENT. IT'S A LITTLE
21 MORE -- IT'S FIRMER THAN MOST CONSISTENT. HOWEVER, BECAUSE
22 OF VARIABLE POSSIBILITIES OF THINGS THAT CAN HAPPEN -- FOR
23 INSTANCE, NINE MILLIMETER LUGER CALIBER BULLETS CAN
24 THEORETICALLY BE LOADED INTO, FOR INSTANCE, A .38 SPECIAL
25 CARTRIDGE CASE. THAT IS THEORETICALLY POSSIBLE, BUT IT IS

1 VERY SELDOM, IF EVER, ENCOUNTERED IN AN ACTUAL INCIDENT. SO
2 THAT IS WHY YOU USE THE TERM CONSISTENT.

3 Q. SO YOU'RE SAYING THAT THE -- THIS BULLET COULD HAVE BEEN
4 LOADED IN A .38?

5 A. IT'S THEORETICALLY POSSIBLE THAT IT COULD HAVE BEEN
6 LOADED INTO A .38 SPECIAL CALIBER CARTRIDGE AS THEY'RE -- THE
7 SAME DIAMETER BULLETS ARE TYPICALLY USED IN BOTH. HOWEVER,
8 THERE'S NO INDICATION OF THAT HAVING TAKEN PLACE.

9 Q. AND IS THERE ANY INDICATION THAT IT DID TAKE PLACE?

10 A. THE FACT THAT YOU HAVE THE RIFLING CHARACTERISTICS THAT
11 ARE VERY CONSISTENT WITH THOSE PRODUCED BY HI-POINT TYPE
12 FIREARMS AND THERE ARE NO .38 SPECIAL HI-POINTS THAT I'M
13 AWARE OF IN CIRCULATION, THAT KIND OF NARROWS IT DOWN TO
14 AGAIN SPECIFICALLY BEING A NINE MILLIMETER CALIBER FIREARM.

15 Q. NOW, ACCORDING TO YOUR LIST HERE, YOU HAD THREE .25
16 FIRED CARTRIDGE CASINGS; IS THAT NOT CORRECT?

17 A. THAT IS CORRECT.

18 Q. NOW, WHICH ONE OF THESE CAME OUT OF MS. SHUNTA WILSON'S
19 TIRE?

20 A. NONE OF THE CARTRIDGE CASES CAME OUT OF THE INSIDE OF
21 TIRES THAT I'M AWARE OF. THERE WERE SOME BULLET FRAGMENTS
22 THAT MAY HAVE BEEN RECOVERED FROM THE TIRE, BUT I...

23 Q. WHERE IS THAT FRAGMENT?

24 A. THE TWO FRAGMENTS WOULD BE IN THE FAR RIGHT-HAND
25 PACKAGE.

1 Q. AND SO THEY CAME OUT OF THE TIRE?

2 A. THEY MAY HAVE COME FROM A TIRE. I'M NOT AWARE OF THEIR
3 -- I DID NOT RECOVER THEM ACTUALLY AT THE SCENE, SO I DO NOT
4 KNOW THEIR ACTUAL ORIGIN.

5 Q. WELL, WHAT ORIGINS ARE THESE?

6 A. THEY WERE SUBMITTED TO ME BY THE CRIME SCENE PERSONNEL
7 WHO WOULD HAVE RECOVERED THOSE. THEY WOULD BE---

8 Q. RECOVERED FROM WHERE?

9 A. MY UNDERSTANDING IS THEY WERE RECOVERED FROM THE CRIME
10 SCENE.

11 Q. I MEAN, YOU DON'T -- DO YOU KNOW HOW BIG -- DO YOU
12 REALIZE HOW BIG THE CRIME SCENE IS?

13 A. NO, SIR, I NEVER ACTUALLY ATTENDED THE CRIME SCENE.

14 Q. YOU NEVER DID ACTUALLY ATTEND THE CRIME SCENE.

15 A. NO, SIR.

16 Q. SO -- SO YOU'VE GOT THREE .25 CALIBER BULLETS.

17 A. CARTRIDGE CASINGS.

18 Q. CARTRIDGE CASINGS. AND YOU DON'T KNOW IF ANY OF THEM
19 WERE REMOVED FROM SHUNTA WILSON'S CAR? HOW ABOUT THE BULLET
20 THAT WAS IN JASON JOHNSON'S TIRE?

21 A. SIR, I HAVE NO INFORMATION AS TO WHERE ANY OF THESE
22 ITEMS WERE RECOVERED. THESE ARE THE ITEMS THAT I EXAMINED,
23 AND THE CRIME SCENE PERSONNEL WOULD BE THE PROPER PERSON TO
24 TESTIFY AS TO THEIR ORIGIN.

25 Q. I SEE. WELL -- WELL, BASED ON WHAT YOU DO KNOW, IS IT

1 REASONABLE TO CONCLUDE THAT YOU'VE GOT .25 CARTRIDGES, YOU'VE
2 GOT WHATEVER THIS IS, THIS BULLET, AND THEN YOU'VE GOT THIS
3 FRAGMENT? WOULD THAT INDICATE TO YOU THAT THERE WERE MORE
4 THAN TWO GUNS OUT THERE BEING FIRED THAT NIGHT?

5 A. BASED ON WHAT I HAVE PRESENTED TO ME IN EVIDENCE WHICH
6 IS ALL THAT I CAN BASE MY OPINION ON, I'D SAY THAT THERE'S
7 EVIDENCE THAT THERE WERE AT LEAST TWO FIREARMS PRESENT THAT
8 NIGHT.

9 Q. AT LEAST TWO.

10 A. AT LEAST TWO, POSSIBLY -- COULD BE POSSIBLY MORE.

11 Q. POSSIBLY?

12 A. BECAUSE I WAS UNABLE TO DETERMINE IF THE BULLET
13 FRAGMENTS, THE JACKET FRAGMENT, AND THE CORE WERE FIRED BY
14 THE SAME GUN THAT FIRED THE BULLET WHICH WAS RECOVERED FROM
15 THE BODY OF...

16 Q. BUT THE FRAGMENT THAT YOU FOUND IS CONSISTENT WITH A .25
17 OR A .22?

18 A. NO. THE TWO FRAGMENTS THAT WERE RECOVERED WERE
19 DEFINITELY NOT FROM A .25 AUTO.

20 Q. WAS IT CONSISTENT WITH A NINE MILLIMETER?

21 A. THEY COULD BE CONSISTENT WITH A NINE MILLIMETER OR
22 ANOTHER CALIBER OF FIREARM THAT FIRES A BULLET LARGER THAN A
23 .25 CALIBER.

24 Q. SO BASED ON WHAT YOU FOUND: THAT THERE COULD HAVE BEEN
25 ONE .25 AND TWO NINE MILLIMETER OR SOME OTHER TYPE OF GUNS

1 LIKE A NINE MILLIMETER.

2 A. IT'S POSSIBLE; YES, SIR.

3 Q. POSSIBLE. AND I THINK YOU SAID IN YOUR REPORT: AS A
4 RESULT, A LIST OF MAKES OF FIREARMS THAT COULD HAVE BEEN
5 FIRED, THIS ITEM WAS NOT PRODUCED. YOU DIDN'T PRODUCE THE
6 POSSIBLE LIST OF ITEMS THAT COULD HAVE -- COULD HAVE FIRED
7 ITEM 24 WHICH WAS A FRAGMENT; RIGHT?

8 A. THAT'S THE JACKET. CORRECT. YES, SIR.

9 Q. AND THE APPEARANCE AND DIMENSIONS OF THE RIFLING
10 IMPRESSIONS ON THIS ITEM WERE, HOWEVER, SIMILAR TO THE ITEMS
11 IN ITEM 20, AND IN YOUR REPORT THAT MEANS THAT THE BODY
12 REMOVED -- IT'S THE BULLET REMOVED FROM DENNIS IRBY; RIGHT?

13 A. THAT IS CORRECT.

14 Q. AND THEN YOU WENT ON TO SAY IT WAS, THEREFORE,
15 DETERMINED THAT THE FRAGMENT COULD HAVE BEEN FIRED BY THE
16 SAME FIREARM THAT FIRED THE BULLET IN IRBY OR BY ANOTHER
17 FIREARM WITH LANDS AND GROOVES OF SIMILAR DIMENSIONS.

18 A. THAT IS CORRECT.

19 Q. SO YOU CANNOT DRAW A CONCLUSION THAT THAT FRAGMENT AND
20 THE BULLET FROM DENNIS IRBY CAME FROM THE SAME GUN.

21 A. NO, I CANNOT.

22 MR. JOHNSON: ALL RIGHT, SIR. THANK YOU, SIR.

23 THE COURT: REDIRECT?

24 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS.

25

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q. WHY CAN'T YOU CONCLUDE THAT THOSE ITEMS WERE FIRED BY THE SAME GUN?

MR. JOHNSON: I DIDN'T HEAR THE QUESTION. I'M SORRY.

MS. CAMPBELL: WHY CAN'T HE CONCLUDE THAT?

THE WITNESS: AGAIN, ONE OF THE THINGS -- WE'RE DEALING WITH TWO DIFFERENT TYPES OF BULLET MATERIAL - LEAD VERSUS COPPER - WHICH TEND TO MARK IT DIFFERENTLY. ALSO, WHICHEVER FIREARM FIRED THE -- FIREARM OR FIREARMS THAT FIRED THESE ITEMS, THE MARKINGS THAT WERE LEFT BY THAT -- BY THE FIREARMS ARE VERY FAINT AND IN THIS CASE NOT WELL PRODUCED ON THESE ITEMS.

SO IT'S QUITE -- WHAT IT BOILS DOWN TO IS I DIDN'T HAVE A SUFFICIENT NUMBER OR QUALITY OF MICROSCOPIC MARKINGS LEFT BY THE GUNS OR GUN ON THESE ITEMS TO BE ABLE TO DETERMINE IF IT CAME FROM THE SAME GUN OR FROM DIFFERENT GUNS.

BY MS. CAMPBELL:

Q. IN STATE'S EXHIBIT 85, THE TWO PIECES, WHAT CONDITION ARE THOSE IN?

A. THEY'RE VERY BADLY DAMAGED. THE PROJECTILE PLATE IS SLIGHTLY OFF, AND THE LEAD CORE MATERIAL, WHICH IS UNSUITABLE FOR COMPARISON WITH ANY GUN, IS ALSO BADLY DAMAGED AND DISTORTED.

Q. FINALLY, WHAT ARE YOU ABLE TO SAY ABOUT THESE TWO ITEMS?

1 A. SIMPLY THAT THE BULLET THAT WAS RECOVERED FROM THE BODY
2 IS CONSISTENT WITH IT BEING A NINE MILLIMETER LUGER CALIBER
3 BULLET FIRED BY -- MOST CONSISTENT WITH HAVING BEEN FIRED BY
4 A HI-POINT BRAND FIREARM BASED ON ITS RIFLING. THE BULLET
5 JACKET IN THIS ENVELOPE -- WHILE THE RIFLING IMPRESSIONS ARE
6 OF THE SIMILAR DIMENSION AS THOSE ON THE BULLET FROM THE
7 AUTOPSY, I WAS UNABLE TO DETERMINE IF IT WAS FIRED BY THE
8 SAME GUN OR NOT. IT WAS DEFINITELY NOT FIRED BY THE SAME GUN
9 THAT FIRED THE .25 AUTO CARTRIDGE CASES.

10 THE BULLET CORE THAT'S IN THIS PACKAGE WAS ALSO TOO
11 LARGE TO HAVE BEEN FIRED BY THE .25 AUTO, BUT I WAS AGAIN
12 UNABLE TO DETERMINE WHAT GUN FIRED THAT OR IT -- AND WOULD
13 NOT BE ABLE TO EVEN IF I HAD THE FIREARM IN MY POSSESSION.

14 Q. ARE YOU ABLE TO SAY THESE WERE NOT FIRED BY THE SAME
15 GUN?

16 A. I'M UNABLE TO -- THERE'S NOTHING TO INDICATE TO ME OR
17 THAT -- THAT THESE WERE NOT FIRED BY THE SAME GUN.

18 Q. THANK YOU, SIR.

19 A. IT IS POSSIBLE.

20 THE COURT: ALL RIGHT. MR. ROBERSON?

21 MR. ROBERSON: NOTHING, YOUR HONOR.

22 THE COURT: MR. JOHNSON?

23 MR. JOHNSON: NOTHING, YOUR HONOR.

24 THE COURT: ALL RIGHT. DO YOU WISH THIS WITNESS TO BE
25 EXCUSED?

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: ANY OBJECTION?

3 MR. ROBERSON: NO OBJECTION.

4 THE COURT: ANY OBJECTION, MR. JOHNSON?

5 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

6 THE COURT: ALL RIGHT. YOU'RE RELEASED FROM YOUR
7 SUBPOENA, AND YOU MAY GO BACK TO YOUR REGULAR DUTIES. YOUR
8 NEXT WITNESS, SOLICITOR, PLEASE.

9 MR. LAKE: THE STATE WOULD CALL LIEUTENANT MCCOLMAN.

10 THE COURT: SOLICITOR, IF YOU DON'T MIND, SECURE THOSE
11 EXHIBITS AND GIVE THEM TO THE COURT REPORTER, PLEASE.

12 MR. LAKE: YES, SIR.

13 MS. CAMPBELL: I APOLOGIZE.

14 MARK MCCOLMAN, AFTER BEING DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
17 YOUR FULL NAME FOR THE RECORD, PLEASE.

18 THE WITNESS: LIEUTENANT MARK MCCOLMAN.

19 COURT REPORTER: WILL YOU SPELL YOUR LAST NAME, PLEASE?

20 THE WITNESS: M-C-C-O-L-M-A-N.

21 DIRECT EXAMINATION

22 BY MR. LAKE:

23 Q. LIEUTENANT MCCOLMAN, WHERE ARE YOU CURRENTLY EMPLOYED?

24 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

25 Q. AND WHAT ARE YOUR DUTIES THERE?

1 A. SEVERAL DUTIES. I'M ONE OF THE LIEUTENANTS OVER THE
2 SCHOOL RESOURCE OFFICER PROGRAM AND ALSO THE MASTER DIVERS
3 AND UNDERWATER RECOVERY UNIT.

4 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED AT THE RICHLAND
5 COUNTY SHERIFF'S DEPARTMENT?

6 A. I'VE BEEN EMPLOYED WITH THE RICHLAND COUNTY SHERIFF'S
7 DEPARTMENT OVER 14 YEARS, IN TOTAL 23 YEARS IN LAW
8 ENFORCEMENT.

9 Q. COULD YOU EXPLAIN TO THE JURY WHAT YOUR ROLE WAS IN THIS
10 PARTICULAR CASE?

11 A. WE WERE REQUESTED BY INVESTIGATIONS TO DIVE IN A BODY OF
12 WATER UP IN FAIRFIELD COUNTY FOR A MURDER WEAPON.

13 Q. AND WHAT DID YOU DO IN RESPONSE TO THAT REQUEST?

14 A. ON THE 14TH OF SEPTEMBER, 2005, WE RESPONDED TO THE
15 DUTCHMAN CREEK BRIDGE IN FAIRFIELD COUNTY ON LAKE WATEREE AND
16 GOT THERE AROUND 8:00 THAT MORNING AND SET UP OUR EQUIPMENT,
17 DONNED ON OUR GEAR, SET UP OUR SERVICE LINES, AND DEPLOYED
18 DIVERS INTO THE WATER.

19 Q. AND HOW MANY DIVERS DID YOU DEPLOY?

20 A. WE HAD SIX DIVERS RESPOND TO THE CALL, AND I DEPLOYED
21 TWO DIVERS. FIRST TWO DIVERS AND I HAD TWO BACK-UP DIVERS,
22 AND THEN I HAD A RESCUE DIVER.

23 Q. AND WHAT GENERAL AREA DID YOU SEARCH?

24 A. WE SEARCHED ON THE -- SOMEWHERE AROUND THE HALFWAY MARK
25 OF THE BRIDGE. WE WERE DIRECTED BY INVESTIGATOR MCDANIELS OF

1 A CERTAIN AREA FOR US TO CHECK.

2 Q. AND WHAT WERE THE RESULTS OF YOUR SEARCH?

3 A. THE RESULTS IS I HAD MY FIRST DIVER COME UP - SERGEANT
4 CURTIS - AND THEY USUALLY GET A TEMPERATURE AND WHAT TYPE OF
5 BOTTOM WE WERE LOOKING AT. AND, OF COURSE, WITH THE
6 VISIBILITY THAT WE USUALLY RUN INTO, WE MIGHT AS WELL CLOSE
7 OUR EYES, AND THIS WAS THE SAME WAY UP IN LAKE WATEREE. WE
8 SEARCHED WITH OUR HANDS, AND WHEN HE CAME UP HE SAID THAT
9 THERE WAS NOTHING BUT---

10 MR. JOHNSON: THAT'S HEARSAY, YOUR HONOR.

11 THE COURT: SUSTAINED.

12 BY MR. LAKE:

13 Q. YOU CAN'T REALLY SAY WHAT THEY SAID, BUT DESCRIBE THE
14 BOTTOM, AS YOU UNDERSTOOD IT, OF THAT PARTICULAR AREA IN
15 TERMS OF THE CLARITY OF IT PLUS WHAT WAS -- WHAT Y'ALL FOUND
16 UNDERNEATH.

17 A. VISIBILITY WAS ZERO, AND THE BOTTOM WAS FULL OF GLASS
18 AND NAILS AT THAT POINT WHERE THAT DIVER WAS AT.

19 Q. AND WHAT OTHER AREAS DID YOU SEARCH OR WHAT ELSE DID YOU
20 FIND AS A RESULT OF THE SEARCH?

21 A. A FEW MINUTES LATER DEPUTY BECKER SURFACED, AND WE'VE
22 GOT HIS INFORMATION. AND DUE TO THE FACT OF THE BOTTOM BEING
23 FULL OF CONCRETE AND REBAR, WE FOUND OUT LATER THAT WHEN THAT
24 BRIDGE WAS RECONSTRUCTED AFTER IT CAVED IN THAT THE
25 DEPARTMENT OF TRANSPORTATION LEFT THE OLD BRIDGE IN THE

1 WATER. THEY TORE IT DOWN AND PUT IT IN THE WATER. SO I HAD
2 DIVERS ACTUALLY REACHING IN HOLES, AND ONE ACTUALLY GOT
3 WEDGED IN BETWEEN TWO SLABS OF CONCRETE AND REBAR. AT THAT
4 POINT I SAID, "I'M NOT GOING TO KILL A DIVER OVER THIS
5 WEAPON," SO I CALLED IT.

6 Q. AND WHAT HAPPENED NEXT? AFTER YOU CALLED IT, WAS THAT
7 THE END?

8 A. WE CALLED IT. WE TOOK UP ALL OUR LINES, GATHERED ALL
9 OUR EQUIPMENT TOGETHER AND HEADED BACK TO COLUMBIA TO CLEAN
10 UP EQUIPMENT.

11 Q. AND HOW LONG WERE Y'ALL OUT THERE?

12 A. WE LEFT -- WE WERE OUT THERE APPROXIMATELY FOUR AND A
13 HALF HOURS TOTAL.

14 Q. AND IN THAT SEARCH YOU DIDN'T FIND ANYTHING PRIOR TO
15 DECIDING TO CALL IT OFF BECAUSE OF SAFETY?

16 A. NO, WE DID NOT FIND ANY WEAPON.

17 Q. AND HOW DID YOU CONDUCT THE SEARCH?

18 A. WE DID -- ON THIS OCCASION WE DID A LINE SEARCH. WE
19 HAVE SEVERAL SEARCH PATTERNS THAT WE DO. WE DO A CIRCLE
20 SEARCH. WITH A LINE SEARCH WHAT WE DO IS WE PLACE TWO
21 ANCHORS DOWN AT THE BOTTOM, TWO BUOYS THAT COME UP ON EACH
22 ANCHOR, AND WE HAVE TWO DIVERS THAT ACTUALLY RUN THAT SEARCH
23 LINE SEARCHING ON ONE HAND.

24 THE OTHER HAND IS ON THE SEARCH LINE. ONCE THEY GET TO
25 THAT ANCHOR, THEY WILL THEN MOVE THAT ANCHOR OUT FURTHER,

1 COME BACK DOWN THAT SEARCH LINE, GET TO THE OTHER ANCHOR,
2 MOVE THAT ONE OUT. AND WE CONSTANTLY WORK THAT SEARCH LINE
3 TO A CERTAIN POINT, AND THEN ONCE WE GET TO A CERTAIN POINT
4 WE'LL THEN MOVE OVER AGAIN AND BACK OUT.

5 MR. LAKE: BEG THE COURT'S INDULGENCE. NO FURTHER
6 QUESTIONS. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

7 THE COURT: MR. ROBERSON?

8 MR. ROBERSON: NONE, YOUR HONOR.

9 THE COURT: MR. JOHNSON?

10 MR. JOHNSON: NONE, YOUR HONOR.

11 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED?

12 MR. LAKE: YES, SIR.

13 THE COURT: ANY OBJECTION?

14 MR. ROBERSON: NONE, YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

17 THE COURT: ALL RIGHT, SIR. YOU'RE RELEASED FROM YOUR
18 SUBPOENA. YOU MAY GO BACK TO YOUR REGULAR DUTIES.

19 THE WITNESS: THANK YOU, YOUR HONOR.

20 THE COURT: YES, SIR. ALL RIGHT. SOLICITOR, NEXT
21 WITNESS, PLEASE.

22 MR. LAKE: THE STATE WOULD CALL DUSTIN SMITH.

23 DUSTIN W. SMITH, AFTER BEING DULY SWORN, TESTIFIED
24 AS FOLLOWS:

25 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE

1 YOUR FULL NAME FOR THE RECORD, PLEASE.

2 THE WITNESS: MY NAME IS DUSTIN WILSON SMITH.

3 DIRECT EXAMINATION

4 BY MR. LAKE:

5 Q. AND, AGENT SMITH, WHERE ARE YOU CURRENTLY EMPLOYED?

6 A. I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION,
7 MORE COMMONLY KNOWN AS S.L.E.D.

8 Q. AND WHAT ARE YOUR CURRENT DUTIES AT S.L.E.D.?

9 A. I'M A FORENSIC TOXICOLOGIST IN CHARGE OF DEATH
10 INVESTIGATION.

11 Q. AND COULD YOU EXPLAIN WHAT YOUR EDUCATIONAL BACKGROUND
12 IS?

13 A. SURE. I HAVE A BACHELOR'S IN SCIENCE IN BIOLOGY FROM
14 THE COLLEGE OF CHARLESTON WITH A MINOR IN CHEMISTRY.

15 Q. AND WHAT TRAINING HAVE YOU HAD IN FORENSIC TOXICOLOGY?

16 A. WELL, IN REGARDS TO FORENSIC TOXICOLOGY I HAVE BEEN
17 TRAINED AND CERTIFIED BY THE SOUTH CAROLINA LAW ENFORCEMENT
18 DIVISION. THIS ENTAILS TWO DIFFERENT SUBSECTIONS, ONE ON
19 ALCOHOL AND ONE ON DRUGS AND PHARMACOLOGY. IN REGARDS TO
20 ALCOHOL, I HAVE PERFORMED A SET NUMBER OF BLOOD ALCOHOL
21 ANALYSES, EACH OF WHICH HAD TO BE WITHIN A PARTICULAR RANGE.
22 I WAS THEN GIVEN A COMPETENCY TEST WHICH I PASSED, A MOCK
23 COURT WHICH I PASSED, AND I HAVE CONTINUOUSLY PROFICIENCY
24 TESTED TO INSURE THAT I MAINTAIN THE ABILITY TO BE ABLE TO DO
25 THIS WORK.

1 Q. HOW MANY TIMES HAVE YOU BEEN CALLED TO TESTIFY AS AN
2 EXPERT?

3 A. APPROXIMATELY A HUNDRED.

4 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
5 TO INTRODUCE AGENT DUSTIN SMITH AS AN EXPERT IN FORENSIC
6 TOXICOLOGY.

7 THE COURT: MR. ROBERSON?

8 MR. ROBERSON: NO OBJECTION.

9 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. HE'S QUALIFIED TO GIVE HIS
11 OPINION.

12 BY MR. LAKE:

13 Q. AGENT SMITH, WOULD YOU KIND OF EXPLAIN TO THE JURY WHAT
14 FORENSIC TOXICOLOGY IS?

15 A. SURE. A FORENSIC TOXICOLOGIST -- WELL, TOXICOLOGY IS A
16 SUBSET OF PHARMACOLOGY WHERE WE DEAL WITH INSTANCES WHERE
17 DRUGS COULD POSSIBLY BE HARMFUL. A FORENSIC TOXICOLOGIST
18 ANALYZES BLOOD, URINE, AND OTHER BODILY FLUIDS FOR THE
19 PRESENCE OF ALCOHOL, DRUGS, AND POISONS, AND THEN WE
20 INTERPRET THOSE FINDINGS IN A COURT OF LAW, IF NECESSARY.

21 Q. AND HOW DO YOU DO THAT? HOW DO YOU COLLECT THESE ITEMS
22 AND WHAT'S THE PROCESS IN WHICH YOU EXTRACT AND TEST THESE
23 ITEMS?

24 A. WELL, WE DO THAT IN QUITE A FEW DIFFERENT WAYS.
25 ESSENTIALLY WE ARE -- WE RECEIVE A BIOLOGICAL SPECIMEN FROM

1 AN OUTSIDE AGENCY IN DEATH INVESTIGATIONS NORMALLY FROM THE
2 CORONER'S OFFICE OR A PATHOLOGIST'S OFFICE. THEN WE,
3 DEPENDING ON THE TYPE OF CASE, PERFORM A BLOOD ALCOHOL OR
4 OTHER VOLATILES ANALYSES, DRUG SCREENS, AND THEN WE CONFIRM
5 OR QUANTITATE THE DRUGS AS IS NEEDED.

6 Q. LET ME REFER TO YOU YOUR S.L.E.D. LAB NUMBER L-0510518.
7 DID YOU HAVE AN OPPORTUNITY TO PERFORM A FORENSIC TOXICOLOGY
8 ON THE VICTIM, DENNIS IRBY?

9 A. YES, I DID.

10 Q. AND WHEN DID YOU DO THAT?

11 A. THE REPORT FOR THIS PARTICULAR CASE WAS GENERATED
12 SEPTEMBER 29TH, 2005, SO THAT WOULD HAVE BEEN WHEN I
13 COMPLETED THE CASE.

14 Q. DESCRIBE WHAT YOU DID IN THAT PARTICULAR CASE.

15 A. OKAY. WE WORK EACH TYPE OF DEATH INVESTIGATION CASE
16 SLIGHTLY DIFFERENT BASED ON THE CAUSE OF DEATH OR THE
17 SUSPECTED CAUSE OF DEATH. IN THIS PARTICULAR CASE IT WAS A
18 -- HOMICIDE WAS THE SUSPECTED CAUSE OF DEATH, AND WHAT WE
19 WOULD DO IN THIS PARTICULAR CASE IS WE WOULD RUN VOLATILES
20 ANALYSES ON BLOOD, URINE, OR ALCOHOL POSSI -- ACTUALLY I
21 BELIEVE ONLY BLOOD WAS AVAILABLE IN THIS CASE. SO WE RUN A
22 BLOOD ALCOHOL WHEN WE LOOK FOR ETHANOL OR DRINKING ALCOHOL.

23 WE WOULD ALSO DO A -- AT THE TIME IT WAS WHAT WE CALLED
24 A SIX-PANEL DRUG SCREEN, AND THE DRUG SCREEN IS WHERE WE DO A
25 PRESUMPTIVE TEST WHERE WE LOOK FOR SOME OF THE MORE COMMON --

1 COMMONLY PRESCRIBED DRUGS AND DRUGS OF ABUSE. AND THESE
2 PARTICULAR DRUGS THAT WE LOOKED FOR INCLUDED AMPHETAMINE,
3 METHAMPHETAMINE, BARBITURATES WHICH INCLUDES DRUGS LIKE
4 BUTALBITAL WHICH IS A HEADACHE MEDICATION, BENZODIAZEPINES
5 WHICH INCLUDES DRUGS SUCH AS XANAX OR VALIUM, CANNABINOIDS
6 WHICH IS THE FAMILY OF DRUGS THAT MARIJUANA BELONGS TO,
7 COCAINE AND/OR COCAINE METABOLITE, AND OPIATES WHICH INCLUDES
8 DRUGS SUCH AS LORTAB, VICODIN, OXYCONTIN, MORPHINE, AND THAT
9 TYPE OF DRUGS.

10 Q. AND WERE ALL THOSE PARTICULAR TESTS OR ITEMS CHECKED FOR
11 IN THIS PARTICULAR SITUATION?

12 A. YES, SIR. YES, SIR, THEY WERE. I DID A BLOOD ALCOHOL
13 ANALYSIS, AND I DID A SIX-PANEL DRUG SCREEN ON THIS
14 PARTICULAR CASE.

15 Q. AND WHAT WERE THE RESULTS OF YOUR ANALYSIS?

16 A. EVERYTHING WAS NEGATIVE. IT WAS NEGATIVE FOR ETHANOL
17 AND ALL OF THE VOLATILES THAT WE CHECK FOR, AND ALL SIX OF
18 THE DRUG SCREEN CLASSES THAT WE SCREENED WERE ALL NEGATIVE.

19 MR. LAKE: BEG THE COURT'S INDULGENCE.

20 THE COURT: YES, SIR.

21 MR. LAKE: NOTHING FURTHER. PLEASE ANSWER ANY QUESTIONS
22 THE DEFENSE MAY HAVE.

23 THE COURT: MR. ROBERSON?

24 MR. ROBERSON: NO QUESTIONS, YOUR HONOR.

25 THE COURT: MR. JOHNSON?

1 MR. JOHNSON: NONE, YOUR HONOR.

2 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED?

3 MR. LAKE: YES, SIR.

4 THE COURT: ANY OBJECTION?

5 MR. ROBERSON: NONE, YOUR HONOR.

6 MR. JOHNSON: NONE, YOUR HONOR.

7 THE COURT: SIR, YOU ARE RELEASED FROM YOUR SUBPOENA.

8 YOU MAY GO BACK TO YOUR REGULAR DUTIES.

9 THE WITNESS: THANK YOU.

10 THE COURT: NEXT WITNESS, SOLICITOR.

11 MS. CAMPBELL: THE STATE CALLS JAY RUSSELL.

12 JERRY ALLEN RUSSELL, 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 THE WITNESS: MY NAME IS JERRY ALLEN RUSSELL.

17 DIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q. INVESTIGATOR RUSSELL, WHERE ARE YOU CURRENTLY EMPLOYED?

20 A. FOREST ACRES POLICE DEPARTMENT.

21 Q. WHAT DO YOU DO THERE, SIR?

22 A. I AM A CRIMINAL INVESTIGATOR AND ALSO DO CRIME SCENE
23 ANALYSIS.

24 Q. BACK IN SEPTEMBER OF 2005, WHERE WERE YOU WORKING?

25 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

1 Q. AND WHAT WERE YOUR DUTIES THERE?

2 A. CRIME SCENE ANALYST.

3 Q. AND CAN YOU TELL US A LITTLE BIT ABOUT YOUR EDUCATION
4 AND YOUR TRAINING?

5 A. I'VE HAD TRAINING -- I GOT A FOUR-YEAR DEGREE FROM
6 COLLEGE, BUT I'VE ALSO HAD EXTENSIVE TRAINING IN CRIME SCENE
7 WHICH INVOLVES TIRE WEAR, FOOTWEAR, FINGERPRINTS, DEVELOPING
8 LATENT FINGERPRINTS, ALSO SOME TRAJECTORY FOR FIREARMS,
9 RETRIEVING PROJECTILES LIKE IN WALLS AND BEING ABLE TO TELL
10 THINGS FROM BLOOD SPATTER.

11 MR. ROBERSON: YOUR HONOR, HIS VOICE IS TRAILING OFF. I
12 CAN'T HEAR HIM.

13 THE COURT: I'M SORRY? YOU WANT THE WITNESS TO SPEAK
14 UP?

15 THE WITNESS: I'M SORRY. I'M TRYING TO ADDRESS THE
16 JURY.

17 THE COURT: ALL RIGHT. WELL, HOW ABOUT SCOOT YOUR CHAIR
18 UP CLOSER TO THE MICROPHONE? HOW ABOUT DO THAT?

19 THE WITNESS: WHERE WOULD YOU LIKE FOR ME TO START FROM?
20 BY MS. CAMPBELL:

21 Q. THAT'S OKAY. SO YOU'VE GOT EXTENSIVE TRAINING?

22 A. YES, MA'AM.

23 Q. YOUR ROLE IN THIS CASE WAS FAIRLY LIMITED?

24 A. YES, MA'AM.

25 Q. IN FACT, YOU WERE ASKED TO, I BELIEVE, PROCESS A WHITE

1 FORD ESCORT THAT HAD BEEN TOWED TO HEADQUARTERS?

2 A. YES, MA'AM.

3 Q. AND ARE YOU AWARE OF WHETHER OR NOT A CONSENT TO SEARCH
4 THAT VEHICLE HAD BEEN OBTAINED?

5 A. I WAS ADVISED THAT THERE HAD BEEN A CONSENT TO SEARCH.

6 Q. AND WHAT SPECIFICALLY WERE YOU LOOKING FOR IN THE
7 INTERIOR OF THAT VEHICLE?

8 A. FOR ANY WEAPONS OR AMMUNITION OR PROJECT -- CORRECTION,
9 NOT PROJECTILES. EMPTY SHELL CASINGS, FIRED SHELL CASINGS.

10 Q. AND WERE YOU ABLE TO RECOVER ANY FIRED SHELL CASINGS OR
11 WEAPONS FROM THAT CAR?

12 A. NO, MA'AM.

13 Q. DID ANYONE REQUEST THAT YOU PROCESS IT FOR FINGERPRINTS
14 OR ANYTHING LIKE THAT?

15 A. NO, MA'AM.

16 Q. AND WAS THERE ANY NEED FOR THAT?

17 A. NO, MA'AM.

18 MS. CAMPBELL: THANK YOU, SIR. I DON'T HAVE ANY FURTHER
19 QUESTIONS.

20 THE COURT: MR. ROBERSON?

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

22 THE COURT: YES, SIR.

23 MR. ROBERSON: I DON'T HAVE ANY QUESTIONS, YOUR HONOR.

24 THE COURT: MR. JOHNSON?

25 MR. JOHNSON: NO QUESTIONS, YOUR HONOR.

1 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED?

2 MS. CAMPBELL: PLEASE.

3 THE COURT: ANY OBJECTION?

4 MR. ROBERSON: NO OBJECTION.

5 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

6 THE COURT: YOU'RE RELEASED FROM THE SUBPOENA. YOU MAY
7 GO BACK TO YOUR REGULAR DUTIES, SIR.

8 THE WITNESS: THANK YOU, YOUR HONOR.

9 THE COURT: ALL RIGHT. SOLICITOR, YOUR NEXT WITNESS?

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

11 JASON WILLOUGHBY, AFTER BEING DULY SWORN, TESTIFIED
12 AS FOLLOWS:

13 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
14 YOUR FULL NAME FOR THE RECORD, PLEASE.

15 THE WITNESS: MY NAME IS JASON WILLOUGHBY.

16 DIRECT EXAMINATION

17 BY MR. LAKE:

18 Q. AND, MR. WILLOUGHBY, WHERE ARE YOU CURRENTLY EMPLOYED?

19 A. NATIONWIDE INSURANCE.

20 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED AT NATIONWIDE?

21 A. SINCE DECEMBER OF 2006.

22 Q. AND PRIOR TO THAT, WHERE WERE YOU EMPLOYED?

23 A. THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

24 Q. AND WHAT WERE YOUR DUTIES AT THE RICHLAND COUNTY
25 SHERIFF'S DEPARTMENT?

1 A. I WAS AN INVESTIGATOR IN THE C.I.D. DIVISION.

2 Q. AND HOW LONG WERE YOU AN INVESTIGATOR THERE?

3 A. A LITTLE UNDER TWO YEARS AT THE TIME.

4 Q. BACK IN 2005, WHAT WAS YOUR ROLE AT THE SHERIFF'S
5 DEPARTMENT?

6 A. INVESTIGATOR.

7 Q. LET ME TAKE YOU BACK TO SEPTEMBER 5TH, 2005. HOW DID
8 YOU BECOME INVOLVED IN THIS CASE?

9 A. I WAS ASSIGNED TO THIS CASE AS THE SECONDARY HOMICIDE
10 INVESTIGATOR TO INVESTIGATOR MCDANIELS WHO WAS THE PRIMARY AT
11 THE TIME.

12 Q. AND WHAT IS YOUR ROLE AS SECONDARY INVESTIGATOR?

13 A. BASICALLY WE'RE ASSIGNED ON ROTATION AS PRIMARIES AND
14 SECONDARIES, AND I BASICALLY SUPPORT THE PRIMARY
15 INVESTIGATOR. HOWEVER, HE DID FIX THE CASE TO BE HANDLED,
16 WHETHER IT BE TAKING STATEMENTS OR CONDUCTING INTERVIEWS OR
17 JUST VARIOUS EVIDENCE QUESTIONS AND THINGS OF THAT NATURE.

18 Q. AND WHAT DID YOU DO IN THIS PARTICULAR CASE? WELL, HOW
19 DID YOU BECOME INVOLVED IN THIS CASE?

20 A. BASICALLY, LIKE I SAID, WE'RE ON A ROTATION STATUS WHEN
21 WE'RE ON CALL, AND I WAS CALLED IN IN SEPTEMBER OF '05 AND
22 ASSIGNED TO THIS CASE ALONG WITH INVESTIGATOR MCDANIELS.

23 Q. AND WHAT DID YOU DO IN THIS CASE?

24 A. BASICALLY AIDED ON A SEARCH WARRANT, TOOK SOME -- WE DID
25 SOME INTERVIEWS ON SOME WITNESSES AND SOME SUSPECT

1 INTERVIEWS, TOOK STATEMENTS, SHOWED PHOTO LINE-UPS, THINGS OF
2 THAT NATURE.

3 Q. SPECIFICALLY WHAT WAS THE FIRST THING THAT YOU DID?

4 A. I'M SORRY? OH, THE FIRST THING -- THE FIRST THING I DID
5 WAS, OF COURSE, GO OUT TO THE SCENE AND CANVASS FOR ANY VIDEO
6 OR THINGS OF THAT NATURE. AFTER THAT, THE FOLLOWING DAY
7 AFTER WE WERE CALLED AND ASSIGNED TO THE CASE, I DID AN
8 INTERVIEW AND SHOWED A LINE-UP TO ONE OF THE WITNESSES,
9 SHUNTA WILSON.

10 Q. LET ME ASK YOU A QUESTION PRIOR. WERE YOU ABLE TO FIND
11 A VIDEO OR ANYTHING LIKE THAT?

12 A. I WAS NOT.

13 Q. AND WHY NOT?

14 A. THE LOCATIONS -- ONE OF THE LOCATIONS I CHECKED I
15 BELIEVE WAS A QUALITY INN WHICH IS LOCATED PRETTY CLOSE TO
16 THE INCIDENT LOCATION, AND THEY DID NOT HAVE A VIDEO SYSTEM
17 THAT WAS OPERATIONAL, ACCORDING TO THEM, AND WINGATE INN
18 WHICH WAS SOMEWHAT OF A DISTANCE AWAY DIDN'T HAVE ANYTHING
19 THAT ACTUALLY SHOWED THAT LOCATION.

20 Q. AND WHAT ABOUT CHANCE'S SPORTS BAR? DO YOU KNOW
21 WHETHER...

22 A. NO. I BELIEVE THAT HAD ALREADY BEEN CHECKED PRIOR TO ME
23 BEING ASSIGNED TO THE CASE, AND THEY DIDN'T HAVE ANYTHING---

24 Q. AND WHEN DID YOU COME INTO CONTACT---

25 A. ---TO MY KNOWLEDGE.

1 Q. I'M SORRY?

2 A. I'M SORRY. TO MY KNOWLEDGE, THEY DIDN'T. I'M NOT SURE
3 WITHOUT...

4 Q. AND DESCRIBE YOUR ENCOUNTER WITH SHUNTA WILSON.

5 A. BASICALLY THE -- YOU KNOW, I WAS ADVISED THAT SHE WOULD
6 BE COMING IN TO GIVE A STATEMENT, GIVE A FORMAL STATEMENT
7 WITH US THERE AT INVESTIGATIONS, AND I WAS ASKED IF I WOULD
8 SHOW A LINE-UP WITH HER. YOU KNOW, SHE CAME IN. I
9 INTRODUCED MYSELF, TOLD HER BASICALLY WHAT -- THAT WE WERE,
10 YOU KNOW, PLANNING ON TAKING A STATEMENT FROM HER TODAY AND
11 ALSO SHOW HER A LINE-UP.

12 Q. WHAT DID YOU DO FIRST?

13 A. I BELIEVE SHOWED HER -- OH, NO, I KNOW I SHOWED HER THE
14 LINE-UP PRIOR TO TAKING THE STATEMENT.

15 Q. AND DESCRIBE TO THE JURY THE PROCESS PRIOR TO SHOWING
16 HER THAT LINE-UP.

17 A. BASICALLY JUST TO EXPLAIN THE PROCESS TO HER, YOU KNOW,
18 JUST SAY THAT I WANT TO SHOW YOU SOME PHOTOGRAPHS. WE'D LIKE
19 YOU JUST TO TAKE YOUR TIME, OBSERVE THESE PHOTOGRAPHS IN THE
20 LINE-UP FORMAT OF THESE, YOU KNOW, INDIVIDUALS IN THE PHOTOS.
21 IF YOU SEE SOMEONE THAT YOU RECOGNIZE FROM THAT SCENE OR FROM
22 THAT INCIDENT, YOU KNOW, PLEASE INDICATE THAT TO ME. NO
23 RUSH. TAKE YOUR TIME. LOOK AT IT VERY CLOSELY. YOU KNOW,
24 MAKE SURE YOU'RE CORRECT IN IDENTIFYING ANYONE.

25 Q. AND WAS SHE ABLE TO IDENTIFY ANYONE IN THOSE LINE-UPS

1 THAT YOU SHOWED HER?

2 A. SHE WAS.

3 Q. AND HOW LONG DID IT TAKE HER TO IDENTIFY PEOPLE IN BOTH
4 LINE-UPS?

5 A. I DON'T RECALL IT TAKING HER -- TAKING HER VERY LONG AT
6 ALL. SHE LOOKED OVER THEM A LITTLE BIT AND EVENTUALLY
7 POINTED OUT THE INDIVIDUALS.

8 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED IN EVIDENCE AS
9 STATE'S EXHIBIT NUMBER 34 AND 35 AND ASK YOU: DO YOU
10 RECOGNIZE THAT -- THOSE TWO DOCUMENTS?

11 A. YES, SIR, I DO. THESE ARE THE LINE-UPS THAT I SHOWED TO
12 MS. WILSON.

13 Q. AND HOW DO YOU KNOW THAT THOSE ARE THE LINE-UPS THAT YOU
14 SHOWED TO HER?

15 A. IT'S -- BASICALLY WHAT IT HAS IS A PHOTO LINE-UP
16 AFFIDAVIT ATTACHED TO THE PHOTOGRAPHS THAT I'VE USED AND, OF
17 COURSE, I'VE WRITTEN IN THE HEADING ON IT, HAD HER SIGN IT,
18 AND MY SIGNATURE IS ON THERE AS WELL AND THESE DOCUMENTS
19 ALWAYS STAY TOGETHER.

20 Q. AND WHAT DATE WAS IT THAT YOU SHOWED HER THESE LINE-UPS?

21 A. SEPTEMBER 6TH, 2005.

22 Q. AND WHO DID SHE IDENTIFY IN THOSE LINE-UPS?

23 A. IN ONE SHE IDENTIFIED JACQUES GIBSON, AND IN THE SECOND
24 SHE IDENTIFIED ADAMS GIBSON.

25 Q. AND WHAT DID SHE SAY ADAMS GIBSON DID IN THIS PARTICULAR

1 CASE?

2 MR. ROBERSON: OBJECTION. HEARSAY.

3 THE COURT: IT'S ON THE FACE OF THE DOCUMENT. IT'S
4 ALREADY BEEN INTRODUCED WITHOUT EVIDENCE, I MEAN WITHOUT
5 OBJECTION, SO I'M GOING TO ALLOW IT.

6 THE WITNESS: SHE STATED THAT SHE OBSERVED HIM
7 DISCHARGING A FIREARM.

8 MR. LAKE: HOW DID YOU GET THAT INFORMATION AND PUT IT
9 ON THAT PARTICULAR DOCUMENT?

10 MR. ROBERSON: YOUR HONOR, MAY I BE HEARD?

11 THE COURT: REPHRASE YOUR QUESTION, SOLICITOR.

12 MR. ROBERSON: YOUR HONOR, WOULD YOU STRIKE THAT LAST
13 RESPONSE?

14 THE COURT: THERE WASN'T A RESPONSE; THERE WAS A
15 QUESTION. I SUSTAINED THE OBJECTION TO THE QUESTION. THERE
16 WAS NO RESPONSE.

17 BY MR. LAKE:

18 Q. WHAT INFORMATION DO YOU ACTUALLY PUT ON THAT PARTICULAR
19 DOCUMENT?

20 A. AND YOU'RE REFERRING TO THE LINE-UP AFFIDAVIT ITSELF?

21 Q. THE AFFIDAVIT ITSELF.

22 A. OKAY. ON THE AFFIDAVIT I WROTE IN, "COMMITTED THE CRIME
23 OF DISCHARGING FIREARM."

24 Q. AND WHAT DOES THAT INFORMATION COME FROM?

25 A. THAT COMES FROM HER STATEMENT OF WHAT SHE OBSERVED WHICH

1 BASICALLY I BELIEVE SHE WORDED IT AS SHOOTING FROM THE AREA
2 OF THE VEHICLE OR SOMETHING TO THAT EFFECT. I'D HAVE TO
3 ACTUALLY LOOK AT HER STATEMENT TO GET THE CORRECT WORD.

4 Q. AND AFTER YOU HAVE SHOWN HER THE LINE-UPS, WHAT HAPPENS
5 NEXT?

6 A. AFTER SHOWING HER THE LINE-UP?

7 Q. YES, SIR.

8 A. THAT'S WHEN I WENT AHEAD AND CONDUCTED, YOU KNOW, JUST
9 AN INTERVIEW OF HER ASKING HER WHAT -- BASICALLY WHAT
10 HAPPENED THAT EVENING, WHAT SHE OBSERVED, AND WENT AHEAD AND
11 TOOK A FORMAL STATEMENT FROM HER AT THAT TIME.

12 Q. DID YOU EVER GO TO THE SCENE? I MEAN, DID YOU EVER GO
13 OUT AND RESPOND TO THE SCENE THAT NIGHT OF THE SHOOTING?

14 A. THE NIGHT OF THE SHOOTING?

15 Q. YES, SIR.

16 A. NO, SIR.

17 Q. WHEN WAS THAT STATEMENT TAKEN FROM HER?

18 A. THE STATEMENT I TOOK FROM HER WOULD HAVE BEEN
19 SEPTEMBER 6TH, 2005.

20 Q. DO YOU RECALL WHAT, IF ANY, INFORMATION DID SHE PROVIDE
21 TO YOU IN TERMS OF THE TYPE OF VEHICLE -- I MEAN, I'M SORRY
22 -- THE TYPE OF WEAPON THAT SHE HEARD THAT NIGHT IN REFERENCE
23 TO HER STATEMENT?

24 A. REFERRING BACK TO HER STATEMENT, SHE HAD STATED IN IT
25 THAT IT SOUNDED -- THAT SHE HAD HEARD FIVE SHOTS THAT SOUNDED

1 LIKE A SMALL GUN, LIKE A .22 OR A .25.

2 Q. SO ON SEPTEMBER THE 6TH, 2005, SHE SAID IT WAS EITHER A
3 .22 OR A .25?

4 A. THAT'S CORRECT, SIR.

5 Q. AFTER TAKING HER STATEMENT -- ACTUALLY, WHERE DID YOU
6 TAKE HER STATEMENT AT?

7 A. WHERE?

8 Q. YES, SIR.

9 A. AT THE OFFICE, AT THE CRIMINAL INVESTIGATIONS DIVISION
10 OFFICE THERE AT THE RICHLAND COUNTY SHERIFF'S OFFICE.

11 Q. IS ANYONE ELSE PRESENT WHILE YOU'RE TAKING HER STATEMENT
12 OR SHOWING HER THESE LINE-UPS?

13 A. NOT IMMEDIATELY WHERE WE'RE AT AT MY DESK; IT WOULD BE
14 SHE AND I.

15 Q. OKAY. AND WHAT DO YOU DO NEXT AFTER TAKING HER
16 STATEMENT? WHAT IS THE NEXT THING YOU DO IN THIS CASE?

17 A. IN REGARDS TO MS. WILSON HERSELF, SIR?

18 Q. NO, IN TERMS -- IN REGARDS TO THE CASE ITSELF.

19 A. IN REGARDS TO THE CASE? OKAY. I THINK AFTER SHOWING
20 HER THE LINE-UPS AND TAKING HER STATEMENT, I BELIEVE I
21 INTERVIEWED RAVARIS MARTIN (SIC) OR SHOWED HIM LINE-UPS.

22 Q. AND AT SOME POINT ARE YOU INVOLVED -- I'M SORRY. STRIKE
23 THAT. DESCRIBE WHAT OCCURRED ON SEPTEMBER THE 7TH, 2005.

24 A. ON SEPTEMBER 7TH, 2005, INVESTIGATOR MCDANIELS, MYSELF,
25 AND, OF COURSE, OTHER MEMBERS OF RICHLAND COUNTY SHERIFF'S

1 DEPARTMENT AND THE FAIRFIELD COUNTY SHERIFF'S DEPARTMENT
2 EXECUTED A SEARCH WARRANT AT 2546 MOOD HARRISON ROAD UP IN
3 RIDGEWAY.

4 Q. AND WHAT WAS YOUR ROLE THEN?

5 A. JUST ASSISTING IN THE SEARCH WARRANT.

6 Q. AND WHAT DO YOU DO? WHO DO YOU COME INTO CONTACT WITH
7 WHILE IN THAT AREA?

8 A. I MEAN, I CAME INTO CONTACT WITH SOME INDIVIDUALS AT THE
9 RESIDENCE, BUT LATER ON -- ARE YOU REFERRING TO THAT LOCATION
10 OR DO YOU WANT ME TO CONTINUE?

11 Q. CONTINUE.

12 A. OKAY. LATER ON I WAS ADVISED THAT JACQUES GIBSON HAD
13 BEEN ARRESTED AT FAIRFIELD CENTRAL HIGH SCHOOL BY THE
14 FAIRFIELD COUNTY SHERIFF'S DEPARTMENT.

15 Q. AND AS A RESULT OF LEARNING THAT HE HAD BEEN ARRESTED,
16 WHERE DO YOU GO? WHAT DO YOU DO?

17 A. I WAS ADVISED TO GO TO THE FAIRFIELD COUNTY SHERIFF'S
18 DEPARTMENT TO TAKE CUSTODY OF JACQUES GIBSON AT THAT TIME FOR
19 TRANSPORTATION BACK TO RICHLAND COUNTY.

20 Q. AND COULD YOU DESCRIBE TO THE JURY WHAT THAT ENCOUNTER
21 WAS LIKE AT THAT PARTICULAR TIME?

22 A. YES. BASICALLY MR. GIBSON WAS IN CUSTODY AT THAT TIME
23 BY THE FAIRFIELD COUNTY SHERIFF'S DEPARTMENT. WHEN WE
24 ARRIVED, THEY HAD HIM SECURED OBVIOUSLY, AND WE WENT AHEAD
25 AND SEARCHED HIM AGAIN JUST PRIOR TO TRANSPORTATION, JUST A

1 GENERAL, YOU KNOW, FOR WEAPONS OR ANYTHING ON HIS PERSON LIKE
2 THAT BEFORE HE WAS RELEASED INTO OUR CUSTODY. THEN WE PLACED
3 HIM IN OUR VEHICLE TO GO BACK TO THE RICHLAND COUNTY
4 SHERIFF'S DEPARTMENT FOR FURTHER -- DO YOU WANT ME TO
5 CONTINUE DESCRIBING WHAT OCCURRED?

6 Q. WELL, PRIOR TO -- PRIOR TO GOING TO -- COMING BACK TO
7 THE RICHLAND COUNTY SHERIFF'S DEPARTMENT, WHAT DOES HE DO?
8 A. BASICALLY MR. GIBSON RETRIEVED FROM HIS PERSON, ALONG
9 WITH STATING THAT HE HAD -- HE HAD PREPARED SOMETHING OR
10 WRITTEN SOMETHING FOR US, AND HE HAD A NOTEBOOK PAPER, JUST A
11 GENERAL SHEET OF NOTEBOOK PAPER THAT HE HAD WRITTEN OUT SOME
12 STUFF ON AND SAID, YOU KNOW, THIS IS -- THIS IS FOR YOU GUYS.
13 THIS IS -- HE MAY HAVE REFERRED TO IT AS A STATEMENT. I
14 DON'T RECALL EXACTLY WHAT WORDS HE SAID, AND HE GAVE THAT TO
15 US.

16 Q. WAS THAT IN RESPONSE TO ANYTHING THAT YOU HAD SAID TO
17 HIM?

18 A. NO, SIR, IT WAS NOT.

19 Q. AND DID -- WHEN YOU WERE THERE, DID HE APPEAR TO KNOW
20 WHY YOU WERE THERE?

21 A. YES, SIR.

22 MR. JOHNSON: OBJECTION, YOUR HONOR.

23 THE COURT: I'M GOING TO ALLOW THAT QUESTION TO BE
24 ANSWERED.

25

1 BY MR. LAKE:

2 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
3 NUMBER 11 AND ASK YOU: DO YOU RECOGNIZE THAT PARTICULAR
4 DOCUMENT?

5 A. I DO, SIR.

6 Q. WHAT DO YOU RECOGNIZE IT TO BE?

7 A. THIS IS THE SHEET OF NOTEBOOK PAPER THAT MR. GIBSON
8 PRESENTED TO ME FROM HIS PERSON.

9 Q. AND IS HE UNDER ARREST AT THIS PARTICULAR TIME?

10 A. HE IS.

11 Q. DID YOU MAKE HIM ANY THREATS OR PROMISES FOR HIM TO GIVE
12 YOU THAT PARTICULAR DOCUMENT?

13 A. NO, SIR, I DID NOT.

14 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL
15 OR DRUGS AT THAT TIME?

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

17 Q. AND IN YOUR OPINION, WAS THAT DOCUMENT GIVEN TO YOU
18 FREELY AND VOLUNTARILY?

19 A. YES, SIR, IT WAS. HE PRESENTED THE DOCUMENT, AND LIKE I
20 SAID, HE MADE A COUPLE OF OTHER COMMENTS IN REGARDS TO IT AT
21 WHICH TIME I RESPONDED TO HIM THAT, YOU KNOW, WE WOULDN'T --
22 WE WOULDN'T DISCUSS ANYTHING CONCERNING THE MATTER UNTIL WE
23 ARRIVED BACK AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.

24 Q. AND WHAT DO YOU DO WITH THIS PARTICULAR DOCUMENT UPON
25 ITS RECEIPT?

1 A. WHAT DID I DO?

2 Q. YES, SIR. WHAT DO YOU DO WITH THAT DOCUMENT?

3 A. I KEPT IT AND TURNED IT OVER TO INVESTIGATOR MCDANIELS
4 ONCE WE GOT BACK TO THE SHERIFF'S OFFICE.

5 MR. LAKE: YOUR HONOR, AT THIS TIME THE STATE WOULD MOVE
6 STATE'S EXHIBIT NUMBER 11 INTO EVIDENCE.

7 THE COURT: ANY OBJECTION, MR. ROBERSON?

8 MR. ROBERSON: NONE, YOUR HONOR.

9 THE COURT: MR. JOHNSON?

10 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

11 THE COURT: IT'S IN EVIDENCE WITHOUT OBJECTION.

12 (STATE'S EXHIBIT 11 WAS RECEIVED IN EVIDENCE.)

13 MR. LAKE: THANK YOU, YOUR HONOR.

14 BY MR. LAKE:

15 Q. LET ME GET YOU TO READ WHAT THAT DOCUMENT SAYS.

16 A. ALL RIGHT. "ME AND MY BROTHER, DUWOP, WAS AT THE STORE
17 CHILLING. THEN BAM PULLED UP AND ASKED MY BROTHER DID HE
18 WANT TO GO TO THE BOWLING ALLEY, SO HE SAID, 'YES.' THEN HE
19 HAD TO RUN BY HIS HOUSE AND USE THE BATHROOM. THEN I DROP
20 HIM OFF DOWN AT BAM HOUSE. SO I WENT BACK TO THE STORE AND
21 CHILLED WITH MY FRIENDS, AND THEN I DECIDED TO TAKE BAYBA
22 (PHONETIC) HOME. AFTER I TOOK BAYBA HOME, FAT MAN CALLED ME
23 AND I TOLD HIM THAT I WOULD BE OVER. WHEN I GOT UP TO FAT
24 MAN HOUSE, WE CHILLED OUT, WATCHED T.V. THEN I SAID, 'LET'S
25 GO TO WINNSBORO.' SO WE GOT IN THE CAR AND WAS ON OUR WAY

1 WHEN I GOT IN THE TOWN OF RIDGEWAY. THAT'S WHEN MY BROTHER
2 CALLED AND TOLD ME TO COME PICK HIM UP BECAUSE BAM AND THEM
3 GOT INTO IT WITH SOME BOYS. SO I SAID I WOULD BE THERE. I
4 WOULD BE THERE IN 20 MINUTES. SO WHEN I GOT THERE I WENT IN
5 AND GOT MY BROTHER, AND THAT'S WHEN THEY STARTED ARGUING. SO
6 I WENT AND GOT IN THE CAR, AND MY BROTHER WENT AND GOT IN BAM
7 AND THEM CAR. SO I WAS LIKE, 'Y'ALL CHILL OUT,' AND THAT'S
8 WHEN THEY STARTED FIGHTING. THEN I HEARD SHOOTING, SO I
9 PULLED OFF."

10 Q. AND THAT'S WHAT HE SAID -- THAT'S WHAT HE SAYS IN THAT
11 STATEMENT?

12 A. YEAH. THAT'S HOW THAT STATEMENT READS; YES, SIR.

13 Q. HE'S ALREADY WRITTEN THIS PRIOR TO YOU MAKING ANY
14 CONTACT WITH HIM?

15 A. THAT'S CORRECT.

16 MR. JOHNSON: YOUR HONOR, THERE'S A MATTER WE'D LIKE TO
17 TAKE UP WITH THE COURT, PLEASE.

18 THE COURT: YES, SIR. ALL RIGHT. LADIES AND GENTLEMEN
19 OF THE JURY, IF YOU'D GO TO YOUR JURY ROOM FOR A FEW MOMENTS,
20 PLEASE. THANK YOU VERY MUCH.

21 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 3:26
22 P.M.)

23 THE COURT: YES, SIR, MR. JOHNSON.

24 MR. JOHNSON: YOUR HONOR, WE DID NOT GET THIS COMPLETE
25 STATEMENT, AND MR. ROBERSON AND I ARE SIMILARLY SITUATED.

1 THE ONLY PART WE GOT IS UP TO WHEN IT SAYS, "SO I SAID I
2 WOULD BE THERE IN 20 MINUTES."

3 THE COURT: ALL RIGHT. LET ME -- LET ME SEE THE
4 DOCUMENT THAT YOU HAVE. AND CAN I SEE STATE'S 11, PLEASE?

5 MR. ROBERSON: YOUR HONOR, WHAT NUMBER IS THAT EXHIBIT?

6 THE COURT: 11.

7 MR. ROBERSON: 11?

8 THE COURT: 11.

9 (MR. LAKE HANDS STATE'S EXHIBIT 11 TO THE COURT.)

10 THE COURT: ALL RIGHT. AND WHAT IS YOUR MOTION?

11 MR. JOHNSON: FOR A MISTRIAL, YOUR HONOR, FOR THEM
12 FAILING TO REVEAL ALL THIS DISCOVERY. YOUR HONOR, MAY I SEE
13 NUMBER 11?

14 THE COURT: YES, SIR.

15 MR. JOHNSON: IT'S ON THE BACK?

16 THE COURT: YES, SIR, IT'S APPARENTLY ON THE BACK.

17 MR. JOHNSON: APPARENTLY THEY FAILED TO COPY THE BACK.

18 THE COURT: ALL RIGHT, SIR. LET ME SEE 11 AGAIN,
19 PLEASE, SIR. THANK YOU. ALL RIGHT. SOLICITOR, BE GLAD FOR
20 YOU TO RESPOND.

21 MR. LAKE: YOUR HONOR, IN RESPONSE, MR. ROBERSON AND MR.
22 JOHNSON BOTH CAME TO OUR OFFICE ON THURSDAY WHERE OUR
23 INVESTIGATOR -- SERGEANT MCDANIELS WENT THROUGH EVERY PIECE
24 OF EVIDENCE, ALL THESE ITEMS, WITH THEM. HE'S INDICATED TO
25 US THAT'S WHAT HE DID. SO I WASN'T AWARE THEY ONLY HAD THE

1 FRONT COVER, BUT I KNOW THAT HE WENT THROUGH ALL THE STUFF
2 WITH THEM ON THURSDAY. I WAS PRESENT FOR SOME OF IT. HE
3 INDICATED HE'S GONE THROUGH AND SHOWN THEM EVERYTHING THAT WE
4 HAD. I KNOW I MET WITH MR. ROBERSON PREVIOUSLY TO GO THROUGH
5 THE ENTIRE FILE.

6 THE COURT: ALL RIGHT, SIR.

7 MR. JOHNSON: YOUR HONOR?

8 THE COURT: YES, SIR, MR. JOHNSON?

9 MR. JOHNSON: WE -- MR. ROBERSON AND I CAME OVER HERE
10 AND WENT THROUGH EXHIBITS. THERE WAS AN INVENTORY OF ALL
11 THEIR EXHIBITS, AND WE WENT THROUGH THOSE -- THOSE EXHIBITS
12 WITH MR. MCDANIELS. THE SHERIFF'S DEPARTMENT HAS A COPY OF
13 THE REPORT, AND THERE WERE 49 ITEMS ON THE REPORT. NONE OF
14 THEM -- NONE OF THEM INVOLVED STATEMENTS THAT HAD BEEN TAKEN
15 FROM OUR CLIENTS. I'LL BE HAPPY TO SHOW TO THE COURT WHAT WE
16 WENT OVER, THE 49 ITEMS WE WENT OVER.

17 THE COURT: WAS THIS NOT, STATE'S 11, THE SUBJECT OF A
18 JACKSON V. DENNO HEARING THAT WE HAD BEFORE THIS TRIAL
19 STARTED? IT CLEARLY WAS; CORRECT?

20 MR. JOHNSON: YES, SIR.

21 THE COURT: ALL RIGHT. AND THIS WITNESS IDENTIFIED THE
22 DOCUMENT. Y'ALL LOOKED AT IT AT THAT POINT IN TIME. YOU
23 DIDN'T THINK IT WAS IMPORTANT TO RAISE THE ISSUE AT THE TIME
24 OF THE JACKSON V. DENNO HEARING THAT WHEN Y'ALL LOOKED AT IT
25 AND SAID, OH, MY GOODNESS, I DON'T KNOW ABOUT THE SECOND PAGE

1 HERE?

2 MR. JOHNSON: YOUR HONOR, WE DID NOT SEE THE SECOND
3 PAGE; IT'S ON THE BACK. WE WERE RELYING ON WHAT THEY
4 PRESENTED TO US WHICH WAS ON THE FRONT.

5 THE COURT: ALL RIGHT. SOLICITOR, YOU INDICATED TO ME
6 SOMEONE WENT OVER THE EVIDENCE WITH THE DEFENSE ATTORNEYS.
7 WHO WAS THAT?

8 MR. LAKE: THIS WOULD BE SERGEANT MCDANIELS.

9 THE COURT: ALL RIGHT, SIR.

10 MR. LAKE: I JUST ASKED HIM SPECIFICALLY ABOUT THAT, AND
11 HE INDICATED THAT THEY REQUESTED THAT THEY LOOK AT THAT AND
12 HE HANDED IT TO THEM ON THURSDAY.

13 THE COURT: ALL RIGHT, SIR.

14 MR. JOHNSON: YOUR HONOR, LET ME UNDERSTAND THIS. MR.
15 MCDANIELS IS REPORTING TO THIS COURT THAT WE SPECIFICALLY
16 ASKED FOR THAT STATEMENT AND HE SHOWED IT TO US ON THURSDAY?

17 THE COURT: ALL RIGHT. WHAT WE'RE GOING TO DO IS WE'RE
18 GOING TO TAKE A SHORT BREAK FOR ABOUT FIVE MINUTES. THAT
19 WILL GIVE YOU, SOLICITOR, TIME TO LOOK AT YOUR RECORDS, SEE
20 WHAT YOU FORWARDED TO THE DEFENSE REGARDING THEIR RULE 5
21 DISCOVERY, WHICH I'M ASSUMING THEY SENT TO YOU, AND THEN YOU
22 CAN CHECK WITH ANYONE AS TO WHETHER OR NOT THE DEFENSE
23 ATTORNEYS WERE AWARE OF STATE'S EXHIBIT 11. WE'LL COME BACK
24 IN FIVE MINUTES AND WE'LL HAVE A SHORT HEARING ON IT. OKAY?

25 MR. LAKE: YES, SIR.

1 THE COURT: THANK YOU VERY MUCH. WE'LL BE AT EASE FOR
2 ABOUT FIVE MINUTES.

3 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4 THE COURT: ALL RIGHT. LET'S GET STARTED. ALL RIGHT.
5 SOLICITOR, ARE YOU READY TO -- MR. WILLOUGHBY, YOU NEED TO
6 STEP DOWN.

7 THE WITNESS: OKAY. I'M SORRY, SIR.

8 THE COURT: THAT'S ALL RIGHT. I DIDN'T -- I DIDN'T TELL
9 YOU THAT, BUT IF YOU DON'T MIND---

10 THE WITNESS: NOT A PROBLEM.

11 THE COURT: ---JUST STEP DOWN FOR JUST A SECOND. ALL
12 RIGHT. SOLICITOR, WHAT CAN YOU PRESENT TO ME ON STATE'S
13 EXHIBIT NUMBER 11 AS FAR AS DISCLOSING THAT TO THE DEFENSE
14 COUNSEL IN THIS MATTER?

15 MR. LAKE: YOUR HONOR, I MEAN, I WOULD CALL SERGEANT
16 MCDANIELS JUST TO GO OVER THE FACT THAT---

17 THE COURT: WELL, JUST GO AHEAD AND CALL HIM. IF YOU'RE
18 GOING TO CALL HIM, JUST CALL HIM AROUND. YOU NEED TO PLACE
19 HIM UNDER OATH, MADAM CLERK.

20 WALTER SHAWN MCDANIELS, AFTER BEING DULY SWORN,
21 TESTIFIED AS FOLLOWS IN CAMERA:

22 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
23 YOUR FULL NAME.

24

25

DIRECT EXAMINATION

BY MR. LAKE:

Q. SERGEANT MCDANIELS, WHERE ARE YOU EMPLOYED?

A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

Q. AND WHAT IS YOUR ROLE IN THIS PARTICULAR CASE?

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

Q. AND AS THE LEAD INVESTIGATOR, DID YOU AND I HAVE AN OPPORTUNITY TO MEET TOGETHER ALONG WITH THE DEFENSE COUNSEL IN THIS CASE?

A. YES, WE DID.

Q. AND WHEN DO YOU RECALL US MEETING?

A. THAT WAS LAST WEEK ON THURSDAY.

Q. AND WHAT WAS THE PURPOSE OF THAT MEETING?

A. TO SHARE THE EVIDENCE AND GO OVER THE EVIDENCE WITH YOU AND THE DEFENSE ATTORNEYS, BOTH OF THEM.

Q. AND COULD YOU DESCRIBE OR TELL YOUR HONOR WHAT HAPPENED DURING THAT TIME AS IT RELATES TO SPECIFICALLY EXHIBIT NUMBER 11, THAT YOU RECALL?

A. WHILE GOING OVER THE PHYSICAL EVIDENCE -- WHILE GOING OVER THE ACTUAL PHYSICAL EVIDENCE, ATTORNEY MR. I.S. LEEVY JOHNSON REQUESTED TO SEE THE HANDWRITTEN STATEMENT AND IN HIS WORDS, "ALLEGEDLY WRITTEN BY MY CLIENT." AND I THEN PULLED IT OUT OF THE -- THAT IS THE ONLY DOCUMENT THAT WAS ACTUALLY PULLED OUT OF THE CASE FILE, AND I HANDED IT TO HIM. HE THEN LOOKED AT IT. HE FLIPPED IT OVER AND GAVE IT RIGHT BACK TO

1 ME.

2 Q. AND WHAT ABOUT -- WAS IT MR. ROBERSON? DID HE EVER MAKE
3 ANY COMMENTS OR ASK TO SEE THAT PARTICULAR ITEM?

4 A. NO, SIR, BUT HE WAS PRESENT.

5 Q. AND HOW LONG WOULD YOU SAY THIS ENCOUNTER WITH MR.
6 JOHNSON AND MR. ROBERSON CONCERNING THIS PARTICULAR LETTER
7 LASTED?

8 A. IT WASN'T LONG. APPROXIMATELY MAYBE FIVE TO TEN
9 SECONDS.

10 Q. AND DO YOU RECALL WHEN THAT PARTICULAR ITEM WAS PROVIDED
11 TO OUR OFFICE, EXHIBIT NUMBER 11?

12 A. I TURNED IT IN 15 DAYS AFTER THE ACTUAL CASE WAS CLOSED.

13 Q. AND WHEN -- DO YOU HAVE ANY KNOWLEDGE AS TO WHEN EITHER
14 MS. CAMPBELL OR I CAME IN POSSESSION OF THE ITEM?

15 A. I DON'T HAVE ANY DIRECT KNOWLEDGE. I KNOW THAT I TURNED
16 THE CASE JACKET IN TO OUR SECRETARIES AT RICHLAND COUNTY
17 SHERIFF'S DEPARTMENT WHO MADE COPIES FOR THE SOLICITOR'S
18 OFFICE SOON THEREAFTER.

19 Q. DO YOU RECALL MEETING WITH ME AT THE SHERIFF'S
20 DEPARTMENT ALONG WITH SOME OTHER INVESTIGATORS WHERE I WENT
21 OVER THE FILE?

22 A. OH, YES, SIR. I DO RECALL THAT.

23 Q. AND DO YOU RECALL WHETHER THAT WAS ONE OF THE ITEMS THAT
24 YOU ALSO GAVE ME AGAIN?

25 A. THAT WAS ONE OF THE ITEMS; YES, SIR.

1 MR. LAKE: YOUR HONOR, I HAVE NO FURTHER QUESTIONS OF
2 THIS PARTICULAR WITNESS AS IT RELATES TO THIS.

3 THE COURT: ALL RIGHT. MR. ROBERSON, QUESTIONS THAT YOU
4 HAVE?

5 MR. ROBERSON: I DON'T HAVE ANY, YOUR HONOR.

6 THE COURT: MR. JOHNSON?

7 CROSS-EXAMINATION

8 BY MR. JOHNSON:

9 Q. MR. MCDANIELS, IT'S YOUR TESTIMONY UNDER OATH THAT YOU
10 MET WITH ME AND MR. ROBERSON LAST THURSDAY?

11 A. IT WAS THE LATTER PART OF LAST WEEK; YES, SIR.

12 Q. NOW, WAIT NOW. DIDN'T YOU JUST SAY THAT YOU MET WITH ME
13 AND MR. ROBERSON LAST THURSDAY, NOT ONLY THAT MR. LAKE'S TOLD
14 THE JUDGE THAT Y'ALL MET WITH US LAST THURSDAY; ISN'T THAT
15 TRUE?

16 A. YES, SIR.

17 Q. ALL RIGHT. AND WHERE DID WE MEET?

18 A. WE MET -- WE ORIGINALLY MADE PLANS TO MEET AT THE
19 SHERIFF'S DEPARTMENT AT 12:30. I GOT A PHONE CALL LATER ON
20 STATING THAT YOU COULD NOT MEET UNTIL 1:00, AND I HAD ADVISED
21 YOUR STAFF THAT IT WOULD BE BETTER TO MEET HERE AT THE
22 SOLICITOR'S OFFICE.

23 Q. AND ISN'T IT TRUE, MR. MCDANIELS, THAT WE MET 1:00 LAST
24 FRIDAY?

25 A. (WITNESS NODDED HEAD UP AND DOWN.)

1 MR. JOHNSON: YOUR HONOR, MAY I SHOW HIM MY CALENDAR?

2 THE COURT: JUST GO AHEAD AND ASK THE QUESTIONS.

3 THE WITNESS: ALL RIGHT. THAT'S -- THAT'S -- THAT'S
4 POSSIBLE. THAT'S WHY I STATED JUST NOW THE LATTER PART OF
5 LAST WEEK, BUT THAT IS POSSIBLE IT COULD HAVE BEEN FRIDAY.
6 BY MR. JOHNSON:

7 Q. WE MET LAST FRIDAY AT 1:00, AND WE STAYED THERE 'TIL
8 ALMOST NEARLY 2:30 TO 2:40, AND I TOLD Y'ALL I HAD TO GO TAPE
9 THE "AWARENESS" PROGRAM AT W.I.S. ISN'T THAT TRUE?

10 A. THAT IS CORRECT; YOU DID SAY THAT.

11 Q. AND I HAD TO LEAVE; ISN'T THAT RIGHT?

12 A. THAT IS TRUE. I THINK THE MIX-UP CAME IN ACTUALLY WHERE
13 -- WHEREAS THURSDAY WAS AN OPTION MEETING DAY, AND IT WAS
14 AGREED THAT FRIDAY WOULD BE THE ACTUAL CONFIRMED DAY.

15 Q. BUT WE ACTUALLY MET ON LAST FRIDAY.

16 A. WE MET FRIDAY, YES, SIR, AT 1:00.

17 Q. AND YOU SAY YOU HANDED ME THIS STATEMENT.

18 A. YES, I DID, SIR.

19 Q. DID YOU MAKE A COPY OF IT FOR ME?

20 A. YOU REQUESTED TO SEE IT, AND I LET YOU SEE IT. AND,
21 AGAIN, YOU LOOKED AT IT, FLIPPED IT OVER, AND YOU GAVE IT
22 RIGHT BACK TO ME.

23 Q. I FLIPPED IT OVER?

24 A. YES, SIR. YOU LOOKED AT IT AND YOU FLIPPED IT OVER, AND
25 YOU GAVE IT RIGHT BACK TO ME.

1 Q. NOW, MR. MCDANIELS, ARE YOU TESTIFYING THAT WHEN YOU
2 SENT THE COPY OF THAT STATEMENT TO THE SOLICITOR'S OFFICE YOU
3 COPIED THE FRONT AND THE BACK?

4 A. THEY ACTUALLY HAVE IN THEIR POSSESSION RIGHT NOW THE
5 COPIES THAT WERE GIVEN TO THEM BY OUR SHERIFF'S DEPARTMENT,
6 AND IT DOES ACTUALLY DEPICT BOTH SIDES OF THE STATEMENT.

7 YES, SIR, I AM TESTIFYING TO THAT.

8 Q. AND ARE YOU TESTIFYING THAT THE SOLICITOR'S OFFICE OVER
9 A YEAR AND A HALF AGO SENT US A COPY OF THE FRONT AND THE
10 BACK?

11 A. I CAN ONLY TESTIFY TO WHAT WE GAVE THE SOLICITOR'S
12 OFFICE, AND IN THEIR POSSESSION RIGHT NOW IS THE ACTUAL COPY
13 GIVEN TO THEM BY US WHICH ACTUALLY DEPICTS BOTH THE FRONT AND
14 BACK PART OF THAT HANDWRITTEN STATEMENT.

15 Q. BUT---

16 A. I CANNOT TESTIFY TO WHAT THEY GAVE YOU.

17 MR. JOHNSON: NO FURTHER QUESTIONS, YOUR HONOR.

18 THE COURT: ANYTHING ELSE, SOLICITOR?

19 MR. LAKE: YOUR HONOR, I JUST HAVE ONE ADDITIONAL
20 WITNESS JUST TO...

21 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN, SIR.
22 THANK YOU VERY MUCH.

23 THE WITNESS: YES, SIR.

24 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL DANA ALTON.

25 DANA ALTON, AFTER BEING DULY SWORN, TESTIFIED AS

1 FOLLOWS IN CAMERA:

2 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
3 YOUR FULL NAME FOR THE RECORD, PLEASE.

4 THE WITNESS: MY NAME IS DANA ALTON.

5 DIRECT EXAMINATION

6 BY MR. LAKE:

7 Q. MS. ALTON, WHERE ARE YOU CURRENTLY EMPLOYED?

8 A. AT THE RICHLAND COUNTY SOLICITOR'S OFFICE.

9 Q. AND WHAT IS YOUR ROLE AT THE RICHLAND COUNTY SHERIFF'S
10 DEPARTMENT (SIC)?

11 A. PARALEGAL.

12 Q. AND SPECIFICALLY WHO ARE YOU A PARALEGAL FOR?

13 A. FOR YOU, MS. CAMPBELL, AND MR. MEADORS.

14 Q. AND AS A RESULT OF YOUR ROLE, DID YOU HAVE AN
15 OPPORTUNITY TO COME INTO CONTACT WITH WHAT'S BEEN MARKED AS
16 STATE'S EXHIBIT NUMBER 11?

17 A. YES.

18 Q. AND WHEN YOU CAME INTO CONTACT WITH THAT ITEM, WHAT DID
19 YOU DO WITH IT?

20 A. I MADE A COPY, FRONT AND BACK, TO TURN OVER TO THE
21 DEFENSE.

22 Q. AND DO YOU RECALL APPROXIMATELY WHEN YOU DID THIS?

23 A. THURSDAY.

24 Q. THURSDAY OF WHEN?

25 A. OF LAST WEEK.

1 Q. WHAT, IF ANY, OTHER ITEMS DO YOU RECALL TURNING OVER TO
2 THEM?

3 A. IF I RECALL CORRECTLY, IT MAY HAVE BEEN SOME AUTOPSY
4 STUFF AND MAYBE SOME S.L.E.D. INFORMATION.

5 Q. DO YOU SPECIFICALLY REMEMBER THERE BEING A FRONT AND
6 BACK ON THIS PARTICULAR ONE?

7 A. YES, BECAUSE THIS IS THE ONLY DOCUMENT THAT HAD A FRONT
8 AND BACK, AND I HAD TO CHANGE THE COPIER.

9 MR. LAKE: NO FURTHER QUESTIONS, YOUR HONOR.

10 THE COURT: ALL RIGHT. MR. ROBERSON?

11 CROSS-EXAMINATION

12 BY MR. ROBERSON:

13 Q. YOU SAID YOU DID THAT ON THURSDAY OF LAST WEEK?

14 A. IF MY MEMORY IS CORRECT, YEAH.

15 Q. THAT WOULD HAVE BEEN THE 17TH OF MAY?

16 A. IF THAT'S THAT DATE. I'M...

17 Q. DOES THIS LOOK LIKE WHAT YOU TURNED OVER TO US?

18 A. YES.

19 Q. ON THAT DAY?

20 A. I WOULD ASSUME.

21 Q. YEAH, LOOK AT IT AND SEE.

22 A. THAT LOOKS LIKE IT, I GUESS.

23 Q. AND THERE'S A C.D. INCLUDED IN THAT.

24 A. YES.

25 Q. WHOSE HANDWRITING IS THAT?

1 A. MINE.

2 Q. OKAY. CAN I SEE THAT? TELL THE JUDGE IF THAT STATEMENT
3 REFERRED TO AS ITEM NUMBER 11 IS IN THIS PACKAGE.

4 A. AS BEING REFLECTED ON THERE?

5 Q. YES.

6 A. NO.

7 MR. ROBERSON: YOUR HONOR, MAY I LET YOU -- DO YOU WANT
8 TO SEE THIS?

9 THE COURT: WELL, I DON'T KNOW WHAT THAT IS.

10 MR. ROBERSON: THIS IS THE---

11 THE COURT: WELL, OKAY. YOU ASK HER THE QUESTIONS YOU
12 HAVE.

13 BY MR. ROBERSON:

14 Q. THIS IS THE INFORMATION THAT YOU SENT TO US ON THE 17TH
15 OF MAY THAT YOU REFERRED TO WHICH INCLUDED THIS STATEMENT.

16 A. YES, SIR.

17 Q. OKAY. AND INCLUDED IN THAT ARE SOME PHOTOGRAPHS,
18 D.N.A., AND FORENSIC/BUILDING/VEHICLE LOG.

19 A. YES, SIR.

20 Q. IT DOESN'T SAY ANYTHING ABOUT A STATEMENT.

21 A. WELL, I DON'T HAVE THE PHOTOS ON THERE EITHER, BUT THE
22 PHOTOS ARE THERE, TOO.

23 Q. THE PHOTOS ARE ON THE C.D., AREN'T THEY?

24 A. YES, SIR.

25 MR. ROBERSON: OKAY.

1 THE COURT: ALL RIGHT. MR. ROBERSON, YOUR -- YOUR
2 POSITION IS WHAT THE STATE SENT TO YOU DIDN'T HAVE STATE'S 11
3 IN IT?

4 MR. ROBERSON: THAT'S RIGHT.

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

6 MR. JOHNSON: NO QUESTIONS, YOUR HONOR. SAME POSITION.

7 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, MA'AM.

8 ANYTHING FURTHER, SOLICITOR?

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

10 THE COURT: ANY WITNESSES YOU WANT TO PRESENT REGARDING
11 THIS MISTRIAL MOTION, MR. ROBERSON?

12 MR. ROBERSON: NO, SIR.

13 THE COURT: MR. JOHNSON?

14 MR. JOHNSON: YES, SIR. YES, SIR. YES, SIR, ONE
15 WITNESS, YOUR HONOR.

16 THE COURT: ALL RIGHT, SIR.

17 MR. JOHNSON: MR. MICHAEL REEVES.

18 THE COURT: PLEASE COME AROUND, SIR.

19 MICHAEL REEVES, AFTER BEING DULY SWORN, TESTIFIED
20 AS FOLLOWS IN CAMERA:

21 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
22 YOUR FULL NAME FOR THE RECORD, PLEASE.

23 THE WITNESS: MICHAEL REEVES. R-E-E-V-E-S.
24
25

DIRECT EXAMINATION

BY MR. JOHNSON:

Q. MR. REEVES, WHERE ARE YOU EMPLOYED?

A. JOHNSON, TOAL, AND BATTISTE LAW FIRM.

Q. IN WHAT ROLE?

A. A PERSONAL INJURY PARALEGAL.

Q. ON THIS PAST FRIDAY AT 1 P.M. DID YOU ACCOMPANY ME TO
THE OFFICE OF THE RICHLAND COUNTY SOLICITOR?

A. YES, SIR.

Q. WHAT WAS THE PURPOSE FOR YOUR VISIT?

A. TO REVIEW THE EVIDENCE.

Q. AT THE TIME THAT YOU WERE PRESENT, WHO ELSE WAS IN
ATTENDANCE?

A. I BELIEVE MR. LAKE, INVESTIGATOR MCDANIELS, MR.
ROBERSON, AND YOURSELF.

Q. WERE YOU PRESENT?

A. AND MYSELF.

Q. ALL RIGHT, SIR. DURING THE COURSE OF THAT EXAMINATION
OF THE EVIDENCE, WERE WE -- WERE WE PRESENTED AN INVENTORY OF
PROPERTY?

A. YES, SIR.

Q. DID WE GO OVER EACH ITEM?

A. YES, SIR.

Q. INCLUDED IN THE ITEM -- WAS EXHIBIT 11 INCLUDED IN THE
ITEM?

1 A. I DID NOT SEE IT.

2 Q. DID MR. MCDANIELS GIVE THAT ITEM TO ME?

3 A. NO, SIR.

4 MR. JOHNSON: NO FURTHER QUESTIONS.

5 THE COURT: SOLICITOR?

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

7 THE COURT: I'M SORRY?

8 MR. LAKE: NOTHING FROM THE STATE.

9 THE COURT: ALL RIGHT, SIR. MR. ROBERSON?

10 MR. ROBERSON: NOTHING, YOUR HONOR.

11 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN, SIR.

12 MR. JOHNSON: NO OTHER WITNESSES, YOUR HONOR.

13 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. MR.

14 JOHNSON, I'LL BE GLAD TO HEAR ANY ARGUMENTS YOU MIGHT HAVE
15 REGARDING YOUR MISTRIAL MOTION, SIR.

16 MR. JOHNSON: YOUR HONOR, AS YOU ARE AWARE, IT'S
17 INCUMBENT AND IT'S THE RESPONSIBILITY OF THE PROSECUTION WHEN
18 WE DULY FILE OUR RULE 5 DISCOVERY MOTIONS TO DISCLOSE TO US
19 THE EVIDENCE -- ANY EVIDENCE IN THIS CASE. IT HAS -- IT HAS
20 BEEN THE PRACTICE OF THIS CIRCUIT TO HAVE WHAT THEY CALL AN
21 OPEN-FILE POLICY WHERE THEY SUBMIT TO US EVERYTHING THEY
22 HAVE, AND FOR THE FIRST TIME, YOUR HONOR, WE ARE SEEING HERE
23 AT -- AT THIS STAGE OF THE TRIAL THE BACK OF THIS DOCUMENT.

24 YOUR HONOR, TO BE CANDID WITH YOU I DON'T KNOW IF IT'S
25 THROUGH INTENTIONS OR INADVERTENCE THAT THE BACK WAS -- THE

1 BACK WAS NOT COPIED, BUT WE HAVE NEVER SEEN IT BEFORE.

2 THE COURT: ALL RIGHT, SIR. MR. ROBERSON, ANY
3 ARGUMENTS, YOU HAVE, SIR?

4 MR. ROBERSON: NO, SIR.

5 THE COURT: ALL RIGHT, SIR. SOLICITOR? RESPONSE?

6 MR. LAKE: YOUR HONOR, OUR ONLY POSITION WOULD BE THAT
7 WE ASK THAT YOU DENY THEIR MOTION FOR A MISTRIAL. I THINK
8 THE STATE HAS SHOWN THAT WE COMPLIED WITH DISCOVERY MOTIONS.
9 WE TURNED THESE ITEMS OVER TO THEM. WE MADE THE FILE
10 AVAILABLE. I HAVE MET WITH MR. ROBERSON -- SEPARATELY FROM
11 MR. JOHNSON AND MET WITH THEM BOTH AGAIN LAST WEEK IN
12 REFERENCE TO THE DISCOVERY AND AVAILABILITY OF ALL THE
13 EVIDENCE.

14 THIS PARTICULAR LETTER WAS REFERRED TO IN THE DISCOVERY,
15 SO IT'S NOT A SECRET THAT THERE WAS A HANDWRITTEN LETTER
16 FROM -- FROM -- IDENTIFIED AS BEING FROM JACQUES GIBSON. IF
17 THEY DIDN'T -- IF THEY ONLY HAD THE FRONT COPY OF IT, THEY
18 CERTAINLY HAD AMPLE OPPORTUNITY TO SEE THE ORIGINAL EVEN
19 THOUGH -- AND I WILL CONCLUDE THAT SERGEANT MCDANIELS HAS
20 TESTIFIED UNDER OATH THAT HE PROVIDED MR. JOHNSON WITH A COPY
21 OF THE ORIGINAL. SO I THINK THE STATE HAS COMPLIED.

22 YOUR HONOR, ALSO ON TOP OF THAT, THEY HAD AN OPPORTUNITY
23 TO OBSERVE THIS ITEM ON MONDAY WHEN WE DID THE PRETRIAL
24 MATTER. THEY DID NOT RAISE THAT ISSUE. IF THEY WOULD HAVE
25 RAISED THAT ISSUE THEN, A PROPER REMEDY AT THAT TIME WOULD

1 HAVE BEEN TO HAVE THEM HAVE AN OPPORTUNITY OR TIME TO EXAMINE
2 IT, TO DETERMINE VERACITY OF IT PRIOR TO THE STATE SEEKING TO
3 INTRODUCE IT.

4 HERE WE ARE WEDNESDAY AT THE VERY END OF THE DAY. SO
5 HAD THEY RAISED THAT ISSUE MONDAY, THIS MATTER WOULD BE A
6 MOOT POINT. I DON'T THINK THERE'S ANYTHING ADDITIONAL IN
7 THIS PARTICULAR WRITTEN STATEMENT THAT IS DIFFERENT THAN WHAT
8 HE SAID WHEN HE PROVIDED A WRITTEN STATEMENT TO SERGEANT OR
9 INVESTIGATOR WILLOUGHBY. SO I THINK THE STATE HAS COMPLIED
10 WITH WHAT'S REQUIRED UPON UP UNDER BRADY AND RULE 5.

11 YOUR HONOR, I ALSO POINT OUT I DID PROVIDE THEM WITH
12 COPIES JUST RECENTLY OF WHAT CAME OUT OF THE FILE, AND EVERY
13 ONE OF THE COPIES THAT WE HAD ALWAYS HAD FRONT AND BACK. SO
14 WE HAD MULTIPLE COPIES OF FRONT AND BACK, AND THAT'S THE WAY
15 WE PROVIDED IT TO THEM BECAUSE WE KNEW THAT THERE WAS
16 SOMETHING ON THE BACK.

17 THE COURT: ALL RIGHT, SIR. IF YOU COULD, MR. JOHNSON,
18 CAN YOU TELL ME WHAT PREJUDICE THERE IS TO YOUR CLIENT THAT
19 WOULD REQUIRE THIS COURT TO GRANT A MISTRIAL? AND CAN I HAVE
20 THAT EXHIBIT? COULD SOMEBODY HAND ME THAT EXHIBIT, PLEASE?

21 (MR. LAKE HANDS STATE'S EXHIBIT 11 TO THE COURT.)

22 THE COURT: THANK YOU. GO AHEAD, SIR.

23 MR. JOHNSON: YOUR HONOR, I CANNOT ANSWER THAT QUESTION
24 BECAUSE I DON'T KNOW WHAT THE JURY IS GOING TO THINK, BUT THE
25 STATE IS GOING TO PROFFER THREE DIFFERENT STATEMENTS, AND

1 OBVIOUSLY IT IS REASONABLE TO ASSUME THAT THEY ARE GOING TO
2 TRY TO POINT OUT CONTRADICTIONS AND INCONSISTENCIES, AND
3 THEY'RE ALSO GOING TO CONTEND THAT THIS IS A SELF-SERVING
4 STATEMENT. AND I DON'T KNOW HOW THAT IS GOING TO IMPACT THE
5 JURY, BUT I'M CONFIDENT THE IMPACT IS GOING TO BE BIAS AND
6 PREJUDICE TO MY CLIENT'S CREDIBILITY. HE'S NOT -- NOT PUT
7 HIS CHARACTER INTO EVIDENCE, AND THEY'RE GOING TO TRY TO
8 INFER THAT HE WAS FABRICATING AND THAT HE'S A LIAR AND THAT
9 HE MADE THIS STATEMENT UP.

10 THE COURT: ALL RIGHT. SO THE ENTIRETY OF THE STATEMENT
11 THAT YOU INDICATE YOU DID NOT RECEIVE IS SET FORTH ON THE
12 BACK OF STATE'S 11. IS THAT CORRECT?

13 MR. JOHNSON: YES, SIR.

14 THE COURT: AND IT SAYS, "SO WHEN I GOT THERE, I WENT IN
15 AND GOT MY BROTHER, AND THAT'S WHEN THEY STARTED ARGUING. SO
16 I WENT AND GOT IN THE CAR, AND MY BROTHER WENT AND GOT IN BAM
17 THEM CAR. SO I WAS LIKE, Y'ALL CHILL OUT, AND THAT'S WHEN
18 THEY STARTED FIGHTING. THEN I HEARD SHOOTING, SO I PULLED
19 OFF." SO THAT'S THE PART OF THE STATEMENT THAT YOU INDICATE
20 YOU DID NOT RECEIVE. IS THAT RIGHT?

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

22 THE COURT: ALL RIGHT. Y'ALL HOLD ON ONE SECOND,
23 PLEASE. ALL RIGHT. REGARDING STATE'S EXHIBIT 11, I'M GOING
24 TO RESPECTFULLY DECLINE TO GRANT YOUR MOTION FOR A MISTRIAL,
25 MR. JOHNSON AND MR. ROBERSON. FIRST, THE COURT DOES NOT FIND

1 -- DOESN'T MAKE A FINDING -- I DO NOT MAKE A FINDING OF FACT
2 REGARDING THE -- YOUR ALLEGATION THAT IT WAS NOT TURNED OVER
3 TO YOU.

4 THE EVIDENCE IS POSSIBLY OPEN TO DISCUSSION AS TO
5 WHETHER OR NOT STATE'S EXHIBIT 11 WAS FORWARDED TO THE
6 DEFENSE, BUT IT APPEARS AND THE COURT FINDS THAT THE STATE
7 COMPLIED WITH THE DICTATES OF RULE 5 AND THEIR OBLIGATION TO
8 DISCLOSE EVIDENCE MATERIAL TO THE DEFENSE OF THIS CASE. I DO
9 NOT FIND THAT THEY EITHER INTENTIONALLY OR UNINTENTIONALLY
10 FAILED TO DISCLOSE IT.

11 I FURTHER ALSO STATE THAT IT HAS NOT BEEN PRESENTED TO
12 THE COURT WHAT PREJUDICE, IF ANY, THERE IS TO THE DEFENDANTS
13 IN THIS CASE IF THE SECOND PAGE OR THE BACK PAGE OF STATE'S
14 EXHIBIT 11 WAS NOT PRODUCED. I DO NOT FIND THAT THE
15 DEFENDANTS HAVE SHOWN TO ME THAT EVEN IF THERE WAS A FAILURE
16 TO DISCLOSE IT, WHICH THE COURT DOES NOT FIND, THAT THIS
17 DEPRIVES THE DEFENDANTS OF A FAIR TRIAL IN THIS MATTER,
18 TAKING THE TOTALITY OF THE CIRCUMSTANCES AND ALL THE EVIDENCE
19 THAT HAS BEEN ALREADY PRODUCED IN THIS TRIAL.

20 I WILL STATE AN ADDITIONAL REASON FOR MY DENYING THE
21 MOTION FOR A MISTRIAL IS THE FACT THAT THE DEFENSE AT THE
22 JACKSON V. DENNO HEARING ON MONDAY HAD A FULL AND COMPLETE
23 OPPORTUNITY TO LOOK AT STATE'S 11. WHETHER THEY CHOSE TO DO
24 SO OR NOT, THAT CANNOT BE THE FAULT OF THE STATE. IT WAS
25 MARKED AS AN EXHIBIT. IT WAS DISCUSSED BY ALL THE PARTIES

1 AND THE COURT IN THAT JACKSON V. DENNO HEARING. IF THE
2 DEFENSE DID NOT AVAIL THEMSELVES THE CHANCE TO LOOK AT THE
3 DOCUMENT AT THAT POINT IN TIME, THE STATE CANNOT BE HELD
4 RESPONSIBLE FOR THAT FAILURE BY THE DEFENSE. SO THAT'S AN
5 ADDITIONAL REASON. SO -- BUT I WOULD RESPECTFULLY DECLINE TO
6 GRANT THE MOTION FOR A MISTRIAL.

7 TWO CASES -- TWO OF THE CASES -- THERE ARE A NUMBER OF
8 CASES, BUT TWO OF THE CASES I'VE USED IN COMING TO MY
9 CONCLUSION ARE STATE VERSUS GOODSON FOUND AT 277 SOUTHEAST
10 SECOND 602 AND SOUTH VERSUS GATHERS FOUND AT 369 SOUTHEAST
11 SECOND 140. ALL RIGHT. LET'S THEN -- WE WILL HAVE -- IF WE
12 CAN AND I'M SORRY -- MR. WILLOUGHBY, COULD YOU COME BACK AND
13 RETAKE THE WITNESS STAND, PLEASE, SIR? WERE THERE ANY OTHER
14 MOTIONS THAT YOU HAD BEFORE WE GET STARTED, MR. JOHNSON?

15 MR. JOHNSON: JUST PRESERVE MY OBJECTION AND TO MOVE
16 THAT THE STATEMENT BE EXCLUDED.

17 THE COURT: ALL RIGHT. THOSE -- THE MOTION THAT THE --
18 YOUR MOTION OBVIOUSLY IS PART OF THE RECORD AND IT IS
19 PRESERVED AS AN ISSUE; THERE'S NO QUESTION ABOUT THAT. AND I
20 RESPECTFULLY DECLINE TO EXCLUDE STATE'S 11 FOR ALL THE
21 REASONS I STATED BEFORE AND, SECONDLY, AND ANOTHER REASON NOT
22 TO EXCLUDE STATE'S 11 IS AT THE TIME IT WAS INTRODUCED INTO
23 EVIDENCE BY THE STATE IT WAS INTRODUCED INTO EVIDENCE WITHOUT
24 OBJECTION BY EITHER DEFENSE. BOTH PARTIES, BOTH DEFENDANTS,
25 ALLOWED THE INTRODUCTION OF STATE'S 11 INTO EVIDENCE WHEN IT

1 WAS SO MOVED INTO EVIDENCE BY THE STATE. THAT'S AN
2 ADDITIONAL REASON NOT ONLY AS TO YOUR MOTION TO EXCLUDE IT
3 BUT AS AN ADDITIONAL MOTION REGARDING THE DENIAL OF YOUR
4 MISTRIAL MOTION IN THIS MATTER. ALL RIGHT?

5 MR. JOHNSON: THANK YOU, YOUR HONOR.

6 THE COURT: OKAY. ALL RIGHT. IS THE STATE READY TO
7 RESUME YOUR QUESTIONING THEN OF THE WITNESS?

8 MR. LAKE: YES, SIR.

9 THE COURT: ALL RIGHT. AND, MR. ROBERSON, ARE YOU READY
10 TO CONTINUE?

11 MR. ROBERSON: YES, I AM.

12 THE COURT: MR. JOHNSON?

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

14 THE COURT: ALL RIGHT. VERY GOOD. ASK THE JURY TO COME
15 BACK IN, PLEASE.

16 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 4:18
17 P.M.)

18 THE COURT: ALL RIGHT. SOLICITOR, YOU MAY RESUME.

19 MR. LAKE: THANK YOU, YOUR HONOR.

20 (JASON WILLOUGHBY RETAKES THE WITNESS STAND FOR THE
21 CONTINUATION OF DIRECT EXAMINATION BY MR. LAKE WHICH WAS
22 INTERRUPTED FOR THE IN CAMERA TESTIMONY OF MR. MCDANIELS, MS.
23 ALTON, AND MR. REEVES.)
24
25

1 DIRECT EXAMINATION (RESUMED)

2 BY MR. LAKE:

3 Q. MR. WILLOUGHBY, AFTER YOU LEAVE FAIRFIELD COUNTY, WHERE
4 DO YOU GO AT THAT PARTICULAR POINT WITH MR. JACQUES GIBSON?

5 A. I TRANSPORTED HIM BACK TO THE RICHLAND COUNTY SHERIFF'S
6 DEPARTMENT.

7 Q. AND WHAT HAPPENS ONCE YOU GET BACK TO THE RICHLAND
8 COUNTY SHERIFF'S DEPARTMENT?

9 A. ONCE WE ARRIVED AT THE SHERIFF'S OFFICE, OF COURSE, MR.
10 GIBSON WAS TAKEN INSIDE, AND WE WENT TO MY DESK AND SAT DOWN
11 AND I PRODUCED AN ADVICE OF RIGHTS FORM.

12 Q. AND GENERALLY WHAT IS AN ADVICE OF RIGHTS FORM?

13 A. AN ADVICE OF RIGHTS FORM IS A FORM THAT WE PROVIDE TO
14 PEOPLE DURING AN INTERVIEW, AND IT BASICALLY PROVIDES THE
15 MIRANDA WARNINGS FOR THOSE INDIVIDUALS.

16 Q. AND AT THIS TIME IS HE STILL UNDER ARREST?

17 A. HE IS.

18 Q. AND DOES HE APPEAR TO UNDERSTAND EVERYTHING THAT YOU'RE
19 DOING?

20 A. HE DOES.

21 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBIT NUMBER 12 AND ASK YOU: DO YOU RECOGNIZE THIS ITEM?

23 A. YES, SIR, I DO. THIS IS THE ADVICE OF RIGHTS FORM THAT
24 I PROVIDED TO JACQUES GIBSON.

25 Q. AND DESCRIBE TO THE JURY WHAT YOU DID IN TERMS OF

1 ADVISING HIM OF HIS RIGHTS.

2 A. OKAY. BASICALLY I PRODUCED THE FORM TO MR. GIBSON, AND
3 I INDICATED HIS NAME IN THE TOP, THE HEADING AREA, AND, OF
4 COURSE, INDICATE THE LOCATION OF WHICH WE'RE AT WHICH IN THIS
5 CASE WAS THE SHERIFF'S OFFICE. MY NAME IS PLACED ON THE FORM
6 AS THE OFFICER, THE DATE, AND THE APPROXIMATE TIME.

7 THEN WE GO THROUGH HIS RIGHTS LINE FOR LINE. BASICALLY
8 I READ IT OVER TO HIM. WE HAVE A BOX JUST LEFT OF EACH LINE
9 TO BE CHECKED, AND I CHECK THOSE AS WE -- AS WE GO OVER EACH
10 LINE AS I READ IT OUT AND, OF COURSE, I GIVE HIM A MOMENT TO
11 OBVIOUSLY DIGEST WHAT I'VE READ AND GIVE A RESPONSE AS TO
12 WHETHER OR NOT HE UNDERSTANDS.

13 Q. AND AT WHAT TIME DID YOU ADVISE HIM OF HIS RIGHTS?

14 A. I'VE INDICATED 1400 HOURS OR 2 P.M.

15 Q. AND WHAT RIGHTS DID YOU ADVISE HIM OF AT THAT TIME?

16 A. HIS MIRANDA WARNING, BASICALLY GOING THROUGH THE FORM:
17 "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR
18 RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU
19 SAY CAN BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO
20 TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS
21 AND TO HAVE THE LAWYER WITH YOU DURING ANY QUESTIONING. IF
22 YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU
23 BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO ANSWER
24 QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU STILL HAVE THE
25 RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT

1 TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER."

2 Q. AND DOES HE APPEAR TO UNDERSTAND THAT?

3 A. HE DID.

4 Q. AND HOW DID HE SIGNIFY THAT HE UNDERSTOOD THAT?

5 A. BASICALLY AFTER EACH LINE, YOU KNOW, I LOOKED AT HIM AND
6 HE WOULD SAY, "YES."

7 Q. AND WHERE DO YOU GO AFTER THAT PARTICULAR POINT? AFTER
8 YOU'VE DONE THE ADVICE OF RIGHTS, WHAT DO YOU DO NEXT?

9 A. THERE'S A SECTION JUST BELOW THE ADVICE OF RIGHTS THAT
10 HAS AN AREA FOR THE INDIVIDUAL TO SIGN IN THIS CASE, MR.
11 JACQUES GIBSON, AND THEN A WITNESS, WHICH IN THIS CASE WAS ME
12 -- WE SIGNED NEXT TO EACH OTHER BEFORE PROCEEDING TO THE
13 BOTTOM OF THE FORM.

14 Q. WHAT ELSE IS LISTED ON THE FORM?

15 A. AT THE BOTTOM OF THE FORM IS THE WAIVER OF RIGHTS WHICH
16 ALSO IS A SECTION WITH A BOX TO THE LEFT THAT YOU CHECK.
17 BASICALLY IT'S, "I HAVE READ THIS STATEMENT OF MY RIGHTS AND
18 I UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO TALK AND
19 ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I AM DOING. NO
20 PROMISES HAVE BEEN MADE TO ME, AND NO PRESSURE OR COERCION OF
21 ANY KIND HAS BEEN USED AGAINST ME." GENERALLY AFTER THAT
22 PART I GO BACK TO THE COERCION SECTION, AND THIS FORM IT'S
23 UNDERLINED THE WORD COERCION AND I JUST DOUBLE-CHECK WITH THE
24 INDIVIDUAL TO MAKE SURE THEY UNDERSTAND WHAT THAT MEANS.

25 Q. AND AFTER YOU'VE GONE OVER THAT FORM AND THAT WAIVER OF

1 RIGHTS, WHAT DID HE DO IN THIS PARTICULAR CASE?

2 A. WELL, FIRST OFF HE SAID HE DID UNDERSTAND COERCION --
3 WHAT THAT MEANT, AND THEN HE SAID HE UNDERSTOOD THAT PORTION
4 AND HE SIGNED. ONCE AGAIN, IT HAS A SECTION FOR AN
5 INDIVIDUAL'S SIGNATURE AND THE WITNESS.

6 Q. AND IS IT SIGNED ON -- IN BOTH AREAS?

7 A. IT IS; YES, SIR. AND IT'S WITNESSED IN BOTH AREAS BY
8 MYSELF.

9 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
10 NUMBER 13 AND ASK YOU: DO YOU RECOGNIZE THAT PARTICULAR
11 ITEM?

12 A. YES, SIR. THIS IS A -- THIS IS A STATEMENT. THIS IS
13 THE STATEMENT THAT I TOOK FROM JACQUES GIBSON.

14 Q. AND WHEN YOU WERE TAKING THE STATEMENT FROM HIM, WHO WAS
15 PRESENT?

16 A. MR. GIBSON AND MYSELF.

17 Q. AND DID YOU DENY HIM ANY COMFORTS OR ANYTHING THAT HE --
18 ANY COMFORTS THAT HE MAY NEED AT THAT PARTICULAR TIME?

19 A. NO, SIR, NOT AT ALL.

20 Q. AND PRIOR TO TAKING THAT STATEMENT, DO YOU ADVISE HIM OF
21 HIS RIGHTS AGAIN?

22 A. I DO. IT'S JUST PART OF THE FORM, THE STATEMENT FORM,
23 YOU KNOW, READ DOWN TO THE PORTION AND IT HAS -- IT HAS IT AT
24 THE TOP BEFORE YOU GET INTO THE QUESTIONING.

25 Q. WHAT, IF ANY, PROMISES DID YOU MAKE TO HIM TO GIVE YOU

1 THIS STATEMENT?

2 A. I DIDN'T MAKE ANY PROMISES..

3 Q. DID YOU MAKE ANY THREATS?

4 A. NO, SIR.

5 Q. DID YOU DENY HIM ANYTHING?

6 A. NO, SIR.

7 Q. IN YOUR OPINION, WAS THIS STATEMENT FREELY AND
8 VOLUNTARILY GIVEN?

9 A. YES, SIR, IN MY OPINION IT WAS.

10 MR. LAKE: ALL RIGHT. YOUR HONOR, AT THIS TIME THE
11 STATE WOULD MOVE STATE'S EXHIBIT NUMBER 12 AND 13 INTO
12 EVIDENCE.

13 THE COURT: ANY OBJECTION, MR. ROBERSON?

14 MR. ROBERSON: NONE, YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: THE SAME OBJECTIONS, YOUR HONOR.

17 THE COURT: ALL RIGHT, SIR. I WILL ALLOW IT INTO -- AND
18 YOU'VE MOVED 12 AND 13 INTO EVIDENCE?

19 MR. LAKE: 12 AND 13, YES, SIR.

20 THE COURT: ALL RIGHT. 12 AND 13 ARE IN EVIDENCE OVER
21 THE OBJECTION OF THE DEFENDANT JACQUES GIBSON.

22 (STATE'S EXHIBITS 12 AND 13 WERE RECEIVED IN EVIDENCE.)

23 BY MR. LAKE:

24 Q. AND COULD YOU KIND OF GO THROUGH THE STATEMENT IN TERMS
25 OF HOW -- WHAT'S THE FORMAT FOR WHICH YOU TOOK THIS INTERVIEW

1 FROM MR. JACQUES GIBSON?

2 A. BASICALLY I SAT THERE WITH MR. GIBSON AND, OF COURSE, I
3 ASKED THE QUESTIONS, YOU KNOW, AND I INDICATE ON THE FORM
4 THAT I'M THE ONE ASKING THE QUESTIONS AND THAT HE IS, IN
5 FACT, THE PERSON GIVING THE ANSWERS. AND BASICALLY WHAT
6 OCCURS IS WE SIT DOWN. WE TYPE THESE ON OUR COMPUTER THERE.
7 SO BASICALLY I SAT WITH MR. GIBSON IN THIS CASE AND, YOU
8 KNOW, I POSED QUESTIONS TO HIM AND ASKED HIM, YOU KNOW, TO
9 GIVE THE CIRCUMSTANCES OF THE INCIDENT AND THINGS LIKE THAT,
10 AND HE RESPONDS AND WE GO OVER THAT.

11 AND THEN I TYPE IT ON THE COMPUTER. I TYPE WHAT I'VE
12 ASKED, WHAT HIS ANSWERS ARE, AND PRINT A COPY OF IT. ONCE
13 AGAIN, LIKE I SAID, WE'RE SITTING NEXT TO EACH OTHER WHEN I
14 DO THIS. I PRINT A COPY. WE GO OVER THAT AND READ OVER IT
15 FOR ANY CORRECTIONS OR ANYTHING HE WANTS TO ADD OR IF THERE'S
16 SOMETHING HE FEELS OMITTED OR ANYTHING LIKE THAT. AND THEN
17 IF THERE'S ANY CORRECTIONS THAT NEED TO BE MADE, THOSE ARE
18 MADE AND THEN THE FINAL VERSION IS PRINTED. WE GO OVER THAT
19 AGAIN, AND THEN HE AFFIXES HIS SIGNATURE.

20 Q. WHAT, IF ANY, CORRECTIONS DO YOU REMEMBER HIM MAKING IN
21 THIS PARTICULAR CASE?

22 A. I DON'T RECALL ANY CORRECTIONS ON THIS ONE. I THINK
23 EVERYTHING WENT PRETTY SMOOTHLY THE FIRST TIME, I MEAN, ASIDE
24 FROM MAYBE A TYPOGRAPHICAL THAT THE COMPUTER INDICATED TO ME.

25 Q. AND JUST KIND OF GOING THROUGH THIS DOCUMENT, WHEN HE

1 WAS ASKED CAN YOU DESCRIBE -- WHEN YOU ASKED HIM, "CAN YOU
2 DESCRIBE IN DETAIL THE EVENTS THAT TOOK PLACE AT CHANCE'S BAR
3 AND GRILL AT 8102 TWO NOTCH ROAD, COLUMBIA, SOUTH CAROLINA,
4 AT APPROXIMATELY 12:30 A.M. ON SEPTEMBER THE 5TH, 2005," WHAT
5 WAS HIS EXACT RESPONSE?

6 A. HIS RESPONSE SAYS, "I WAS IN RIDGEWAY WHEN MY BROTHER,
7 ADAMS KARTEZ GIBSON, CALLED ME ON MY CELL PHONE. HE TOLD ME
8 TO COME TO COLUMBIA AND PICK HIM UP AT CHANCE'S CLUB BECAUSE
9 BAM AND THEM HAD GOT INTO IT WITH THE BOYS FROM WINNSBORO. I
10 TOLD HIM I DIDN'T KNOW HOW TO GET THERE, SO HE GAVE ME
11 DIRECTIONS. STEPHON WILLINGHAM AND VERNON DAVIS RODE DOWN
12 THERE WITH ME TO PICK UP ADAMS."

13 Q. AND WHEN YOU ASKED HIM WHAT VEHICLE WAS HE DRIVING, WHAT
14 DID HE INDICATE HE WAS DRIVING?

15 A. HE RESPONDED WITH, "A WHITE FORD ESCORT THAT BELONGS TO
16 KARTEZ. I DROVE DOWN TO THE CLUB AND PULLED INTO A PARKING
17 SPACE FACING THE QUALITY INN, IN BETWEEN IT AND THE CLUB. I
18 WALKED IN AND WENT AND GOT KARTEZ AND TOLD HIM, 'LET'S GO.'
19 THE BOYS WITH ME STAYED IN THE ESCORT THE WHOLE TIME. HE
20 SAID, 'OKAY,' AND POINTED TO TORRI AND THE BOYS WITH HIM AND
21 SAID, 'THAT'S THE BOYS BAM GOT INTO IT WITH.' THEN KARTEZ,
22 MARCUS, TUCKER, TRAMELE DAVIS, BAM, AND ME ALL WALKED
23 OUTSIDE. THE BOYS FROM WINNSBORO WALKED OUTSIDE RIGHT BEHIND
24 US."

25 Q. AND WHEN HE -- WHEN YOU WERE -- THE NEXT QUESTION --

1 WHAT WAS -- YEAH, THE NEXT QUESTION: "WHAT ARE THE NAMES OF
2 THE BOYS FROM WINNSBORO?" WHAT WAS HIS RESPONSE?

3 A. HE RESPONDED WITH, "TORRI BOYD, B. HENRY, DENNIS IRBY,
4 YO-YO, AND A DUDE I DON'T KNOW FROM WINNSBORO BUT I'VE SEEN
5 HIM BEFORE. I WENT TO THE WHITE ESCORT, AND KARTEZ WENT TO A
6 BURGUNDY CAR THAT THEY RODE THERE IN. THEN BAM AND TORRI
7 STARTED ARGUING, AND I PULLED THE WHITE ESCORT UP TO WHERE IT
8 WAS FACING THE KANGAROO AND BESIDE THE PARKING LOT TO THE
9 CLUB. THE GUY FROM WINNSBORO WENT OVER TO A GRAY S.U.V. AND
10 GOT SOMETHING OUT OF THE BACK AND PUT IT IN HIS POCKET. THEN
11 HE PUT IT BEHIND HIS BACK AND WALKED BACK OVER BY THE GROUP.
12 I THOUGHT IT MIGHT BE A GUN, BUT I DIDN'T SEE ONE. THEN BAM
13 AND THEM STARTED FIGHTING AND TORRI AND THEM. KARTEZ PULLED
14 THE BURGUNDY CAR UP IN THE PARKING LOT BY TWO NOTCH ROAD AND
15 WALKED OVER TO WHERE THEY WERE FIGHTING."

16 Q. AND WHEN YOU ASKED TO -- WHEN YOU ASKED THE QUESTION --
17 GO DOWN WHERE IT SAYS, "WHERE WAS EVERYONE IN RELATION TO YOU
18 AT THIS POINT?" WHAT WAS HIS RESPONSE?

19 A. HE RESPONDED WITH, "KARTEZ, BAM, AND TORRI WERE OVER BY
20 ME. MARCUS, TRAMELE, DENNIS, B. HENRY, AND THE OTHER DUDE
21 FROM WINNSBORO WERE OVER ACROSS THE WAY BY THE S.U.V. THAT
22 THE DUDE WENT TO. I HEARD ABOUT MAYBE THREE GUNSHOTS, AND I
23 DROVE AWAY BACK TO RIDGEWAY."

24 Q. SO HE HAD HEARD ABOUT THREE GUNSHOTS AND DROVE AWAY BACK
25 TO RIDGEWAY?

1 A. THAT'S WHAT HE STATED; YES,

2 Q. AND THE NEXT QUESTION YOU ASKED
3 KARTEZ WHEN YOU DROVE AWAY?" WH

4 A. HE RESPONDED WITH, "I DON'T
5 SAW HIM AND THE GUYS HE WAS WITH

6 ON TWO NOTCH JUST BEFORE I TURNED
7 RIDGEWAY."

8 Q. AND WHAT CLOTHES DID HE INDICATE
9 NIGHT?

10 A. HE STATED, "I HAD A BLACK TEE SHIRT AND BLUE JEANS."

11 Q. AND WHAT WAS HIS RESPONSE TO, "DID YOU HAVE OR HAVE YOU
12 HAD A GUN?"

13 A. HE SAID, "NO, SIR."

14 Q. AFTER YOU TAKE THAT STATEMENT, WHAT DO YOU DO NEXT?

15 A. IF I'M NOT MISTAKEN, I BELIEVE THAT BY THEN INVESTIGATOR
16 MCDANIELS AND CAPTAIN SMITH AND SOME OF THE OTHER
17 INVESTIGATORS HAD ARRIVED BACK.

18 Q. JUST TELL ME -- JUST KIND OF JUST BRIEFLY GO THROUGH
19 THOSE STATEMENTS ONE MORE TIME. ON THAT LAST PAGE, PAGE 3,
20 YOU ASKED HIM -- IT SAYS, "DID KARTEZ OR ANY OF THE GUYS HE
21 WAS WITH THAT NIGHT HAVE A GUN?" WHAT WAS HIS RESPONSE?

22 A. HE STATED KARTEZ DOES -- "KARTEZ DOESN'T, BUT I DON'T
23 KNOW ABOUT THE OTHER GUYS."

24 Q. AND THE NEXT QUESTION WAS, "DID YOU OR STEPHON
25 WILLINGHAM, JR., AND VERNON DAVIS OR KARTEZ AND HIS FRIENDS

JASON WILLOUGHBY -

HAVE A GUN WITH

BURGUNDY C

A.

VER

1 2 3 4 5

WITH YOU OR IN THE WHITE FORD ESCORT OR THE
CAR THAT NIGHT?" WHAT HIS RESPONSE?

HE STATED, "THERE WASN'T ONE WITH ME OR STEPHON OR
NON IN THE WHITE ESCORT. I DON'T KNOW FOR SURE ABOUT
KARTEZ OR THE OTHER GUYS IN THE BURGUNDY CAR."

6 Q. AND THIS LAST QUESTION SAYS, "DID YOU TALK TO ANYBODY
7 ABOUT GIVING A STATEMENT TO THE POLICE BEFORE GIVING THE
8 STATEMENT?"

9 A. HE STATED, "YES, I TALKED WITH MY FAMILY ABOUT WHAT I
10 WAS GOING TO TELL TODAY."

11 Q. DID HE SPECIFICALLY SAY WHICH FAMILY HE WAS REFERRING TO
12 WHEN HE SAID HE WAS GOING TO TELL THIS PARTICULAR STORY?

13 A. I DON'T -- I DON'T RECALL DURING THIS POINT IN THE
14 STATEMENT HIM SAYING THAT.

15 Q. OKAY.

16 A. NO, SIR.

17 Q. BEG THE COURT'S INDULGENCE. WHAT, IF ANYTHING ELSE, DID
18 YOU DO IN THIS CASE AFTER SECURING THAT STATEMENT FROM MR.
19 GIBSON, JACQUES GIBSON?

20 A. AFTER THAT, SERGEANT EWING ADVISED ME TO GET A STATEMENT
21 FROM TRAMELE DAVIS.

22 Q. DO YOU SEE THE PERSON IN HERE THAT YOU TOOK THE
23 STATEMENT FROM THAT'S NAMED JACQUES GIBSON?

24 A. YES, SIR, I DO.

25 Q. AND WHERE IS HE SEATED?

1 A. HE'S SITTING RIGHT NEXT TO MR. JOHNSON.

2 Q. AND WHAT IS HE WEARING?

3 A. HE'S WEARING A SUIT WITH A WHITE SHIRT AND TIE.

4 Q. AND WHAT COLOR IS THAT SUIT?

5 A. I ACTUALLY STRUGGLE WITH NAVY AND BLACK, BUT I THINK
6 IT'S BLACK. I'M SORRY.

7 Q. YOUR HONOR, LET THE RECORD REFLECT THAT MR. WILLOUGHBY
8 HAS SELECTED JACQUES GIBSON. NO FURTHER QUESTIONS. PLEASE
9 ANSWER ANY QUESTIONS THAT THE DEFENSE MAY HAVE.

10 A. YES, SIR.

11 THE COURT: ALL RIGHT. MR. ROBERSON?

12 MR. ROBERSON: I DON'T HAVE ANY QUESTIONS, YOUR HONOR.

13 THE COURT: ALL RIGHT. MR. JOHNSON?

14 MR. JOHNSON: NO QUESTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN, PLEASE.

16 DO YOU WISH THIS WITNESS TO BE EXCUSED, SOLICITOR?

17 MR. LAKE: YES, SIR.

18 THE COURT: ANY OBJECTION, MR. ROBERSON?

19 MR. ROBERSON: NONE, YOUR HONOR.

20 THE COURT: MR. JOHNSON?

21 MR. JOHNSON: NONE, YOUR HONOR.

22 THE COURT: SIR, YOU ARE RELEASED FROM YOUR SUBPOENA,
23 AND YOU MAY GO BACK TO YOUR REGULAR DUTIES, SIR.

24 THE WITNESS: THANK YOU, YOUR HONOR.

25 THE COURT: YES, SIR. ALL RIGHT. SOLICITOR, WHO IS

1 YOUR NEXT WITNESS?

2 MS. CAMPBELL: MAY IT PLEASE THE COURT? WE CALL DR.
3 CLAY NICHOLS.

4 DR. CLAY A. NICHOLS, AFTER BEING DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 THE CLERK: HAVE A SEAT IN THE WITNESS STAND AND STATE
7 YOUR FULL NAME -- STATE YOUR NAME FOR THE RECORD.

8 THE WITNESS: CLAY ALLEN NICHOLS. N-I-C-H-O-L-S.

9 DIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q. DR. NICHOLS, WHERE ARE YOU EMPLOYED?

12 A. RICHLAND MEMORIAL HOSPITAL.

13 Q. WHAT DO YOU DO THERE, SIR?

14 A. I'M THE CHIEF MEDICAL EXAMINER FOR RICHLAND COUNTY.

15 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
16 AND TRAINING?

17 A. I RECEIVED MY BACHELOR OF SCIENCE DEGREE FROM THE
18 UNIVERSITY OF OKLAHOMA IN 1981. IN 1985 I RECEIVED MY M.D.
19 DEGREE ALSO FROM OKLAHOMA. AFTER THAT I EARNED A RESIDENCY
20 PROGRAM IN BOTH ANATOMIC AND FORENSIC PATHOLOGY AT M.U.S.C.
21 IN 1990 I WAS ON THE FACULTY AT M.U.S.C. TEACHING PATHOLOGY
22 UNTIL THE YEAR 2000 WHEN I LEFT M.U.S.C. AND JOINED RICHLAND
23 MEMORIAL HOSPITAL. I AM BOARD CERTIFIED BY THE AMERICAN
24 BOARD OF PATHOLOGY IN BOTH ANATOMIC AND FORENSIC PATHOLOGY,
25 AND I HOLD AN UNRESTRICTED LICENSE TO PRACTICE MEDICINE AND

1 SURGERY IN THE STATE OF SOUTH CAROLINA.

2 MR. JOHNSON: YOUR HONOR, WE'LL STIPULATE THAT HE'S AN
3 EXPERT AND ONE OF THE BEST.

4 MR. ROBERSON: SO DO I.

5 THE COURT: ALL RIGHT, SIR. HE'S QUALIFIED TO GIVE HIS
6 OPINION THEN. YOU MAY PROCEED, MA'AM.

7 BY MS. CAMPBELL:

8 Q. DOCTOR, WHAT'S THE DIFFERENCE BETWEEN ANATOMICAL VERSUS
9 FORENSIC?

10 A. ANATOMICAL PATHOLOGY IS A GENERAL SPECIALTY THAT A
11 FORENSIC PATHOLOGIST HAS TO HOLD BEFORE HE BECOMES A FORENSIC
12 PATHOLOGIST. THAT DEALS WITH THE DIAGNOSIS OF DISEASE FROM
13 TISSUES TAKEN AT THE TIME OF SURGERY. AND A PATHOLOGIST ALSO
14 LEARNS HOW TO DO AN AUTOPSY, AND THOSE ARE MAINLY HOSPITAL-
15 BASED AUTOPSIES WHERE SOMEONE DIES A NATURAL DEATH IN THE
16 HOSPITAL AND AN AUTOPSY IS PERFORMED. A FORENSIC PATHOLOGIST
17 HAS ADDITIONAL TRAINING IN PERFORMING AUTOPSIES ON PEOPLE WHO
18 DIE OF SUSPICIOUS OR UNNATURAL DEATHS.

19 Q. AND YOU'RE BOARD CERTIFIED AS A FORENSIC PATHOLOGIST?

20 A. THAT'S CORRECT.

21 Q. I WANT TO TURN YOUR ATTENTION. DID YOU PERFORM AN
22 AUTOPSY BACK ON SEPTEMBER THE 6TH ON A DENNIS IRBY?

23 A. YES, I DID.

24 Q. AND I NOTE IN YOUR CLINICAL SUMMARY YOU'VE GOT A LITTLE
25 BIT OF A HISTORY INCLUDING A MEDICAL HISTORY ON THIS PERSON?

1 A. YES.

2 Q. AND WHEN WAS MR. IRBY DECLARED DEAD AT RICHLAND MEMORIAL
3 HOSPITAL?

4 A. AT APPROXIMATELY 9:50 A.M. ON SEPTEMBER 5, 2005.

5 Q. AND WHAT MEDICAL HISTORY DID YOU GET AS FAR AS ANY
6 PROCEDURES THAT WERE ATTEMPTED ON THIS MAN?

7 A. WELL, THE -- IT'S MY UNDERSTANDING THAT THE DECEASED WAS
8 SHOT. HE WAS TRANSPORTED TO PALMETTO HEALTH RICHLAND WHERE
9 EXTENSIVE SURGERY INVOLVING BOTH EXPLORATION OF HIS CHEST
10 CAVITIES AND HIS ABDOMEN WAS PERFORMED.

11 Q. WHAT WAS YOUR INITIAL ASSESSMENT OF THE VICTIM IN THIS
12 CASE?

13 A. THE INITIAL ASSESSMENT WAS THAT MR. IRBY DID INDEED
14 RECEIVE A GUNSHOT WOUND TO HIS LEFT SHOULDER. THE BULLET
15 WENT THROUGH HIS CHEST, ULTIMATELY PIERCING HIS LUNG, CAUSING
16 BLEEDING. THE BULLET ENTERED HIS MID THORACIC SPINE WHERE IT
17 WAS RECOVERED DURING THE AUTOPSY.

18 Q. IN YOUR EXTERNAL AND INTERNAL EXAMINATIONS OF THE VICTIM
19 - AND I WON'T GO INTO DETAIL - DID YOU NOTE ANY OTHER
20 ABNORMALITIES OR ANYTHING THAT COULD HAVE CONTRIBUTED OR
21 CAUSED HIS DEATH OTHER THAN THE GUNSHOT WOUND?

22 A. NO.

23 Q. IN FACT, WAS THERE THOUGH EVIDENCE THAT THEY HAD
24 PERFORMED SURGERY TO TRY TO SAVE HIS LIFE?

25 A. YES, THERE WAS.

1 Q. IN ASSESSING THIS CASE I NOTE IN YOUR AUTOPSY REPORT
2 THAT YOU INDICATED THAT ONE OF HIS EYES HAD SOME BRUISING TO
3 IT?

4 A. THAT'S CORRECT. THERE WAS A MINOR BRUISING OVER THE
5 LEFT EYE LID.

6 Q. IN YOUR EXPERT OPINION, COULD THAT BE CONSISTENT WITH
7 HIM HAVING RECEIVED A BLOW TO THE FACE?

8 A. YES. ANY SORT OF BLUNT TRAUMA TO THAT AREA WOULD HAVE
9 CAUSED THAT BRUISE.

10 Q. I WANT TO SHOW YOU WHAT'S ALREADY INTO EVIDENCE,
11 PHOTOGRAPHS OF THE ACTUAL PROJECTILE, STATE'S EXHIBIT NUMBER
12 73 AND 74 AND STATE'S EXHIBIT NUMBER 84. DO YOU RECOGNIZE
13 THOSE ITEMS?

14 A. YES, I DO.

15 Q. AND WHAT ARE THOSE?

16 A. THIS IS THE BULLET RECOVERED FROM THE SPINE OF DENNIS
17 IRBY.

18 Q. AND WERE THOSE -- WAS THAT PROJECTILE ACTUALLY TURNED
19 OVER TO THE RICHLAND COUNTY SHERIFF'S DEPARTMENT?

20 A. YES, IT WAS.

21 Q. ONCE YOU RECOVERED IT. I'M GOING TO SHOW YOU WHAT'S
22 BEEN MARKED AS STATE'S EXHIBIT NUMBER 81, THIS DIAGRAM. YOUR
23 HONOR, MAY THE WITNESS STEP DOWN?

24 THE COURT: ANY OBJECTION TO THAT, MR. ROBERSON?

25 MR. ROBERSON: NONE, YOUR HONOR.

1 THE COURT: MR. JOHNSON?

2 MR. JOHNSON: NO.

3 THE COURT: YOU MAY STEP DOWN, SIR.

4 BY MS. CAMPBELL:

5 Q. IN THIS CASE WERE YOU ABLE TO -- YOU DESCRIBED EARLIER
6 HOW THE BULLET ENTERED AND WHERE IT ENDED UP. CAN YOU SHOW
7 US KIND OF THE PATH THAT THE BULLET ENTERED AND WHERE IT
8 ENDED UP?

9 A. THE BULLET ENTERED THE LEFT SHOULDER APPROXIMATELY HERE,
10 AND IT TOOK A 45-DEGREE ANGLE ROUGHLY DOWN TO THE MID PART
11 AND IT ALSO WAS GOING SLIGHTLY BACK. EVEN THOUGH IT SHOWS
12 FROM THIS ANGLE IT MIGHT BE GOING FORWARD, IT REALLY WAS
13 GOING FROM HERE TOWARDS THE BACK WHERE IT ENTERED THE SPINAL
14 BONE.

15 Q. AND IF YOU CAN SHOW THEM ON ME AS A LIVE PERSON THE LEFT
16 SHOULDER.

17 A. LEFT SHOULDER IN HERE, GOING DOWN HERE, AND LODGING
18 RIGHT ABOUT HERE IN THE SPINE.

19 Q. AND IT ACTUALLY LODGED IN THE SPINE?

20 A. YES, IT DID.

21 Q. AND IN THE PATH THAT IT TRAVELED, WHAT ORGANS OR WHAT
22 CAUSED THE ACTUAL DEATH IN THIS VICTIM?

23 A. THE MAIN PROBLEM WAS THE LACERATION OF THE LEFT UPPER
24 LUNG LOBE CAUSING BLEEDING. EVEN THOUGH THE LUNG LOBE WAS
25 REMOVED AND BLEEDING WAS STOPPED, THERE WAS ENOUGH BLEEDING

1 BEFORE HE MADE IT TO THE EMERGENCY ROOM WHERE HE DEVELOPED
2 COMPLICATIONS OF THAT AND HE ULTIMATELY DIED AS A RESULT OF
3 COMPLICATIONS OF BLEEDING FROM THE GUNSHOT WOUND.

4 MS. CAMPBELL: THANK YOU, SIR. YOUR HONOR, AT THIS TIME
5 WE WOULD OFFER STATE'S EXHIBIT NUMBER 81.

6 THE COURT: ANY OBJECTION?

7 MR. ROBERSON: NONE, YOUR HONOR.

8 MR. JOHNSON: OBJECTION, YOUR HONOR. IT'S NOT
9 NECESSARY.

10 THE COURT: I'M GOING TO ALLOW IT INTO EVIDENCE OVER THE
11 OBJECTION OF THE DEFENDANT JACQUES GIBSON.

12 (STATE'S EXHIBIT 81 WAS RECEIVED IN EVIDENCE.)

13 BY MS. CAMPBELL:

14 Q. FINALLY, DOCTOR, THE CAUSE OF DEATH IN THIS CASE AGAIN?

15 A. COMPLICATIONS OF A GUNSHOT WOUND TO THE LEFT CHEST.

16 MS. CAMPBELL: THANK YOU, SIR. PLEASE ANSWER ANY
17 QUESTIONS THE DEFENSE MAY HAVE.

18 THE COURT: ALL RIGHT. MR. ROBERSON?

19 MR. ROBERSON: NO QUESTIONS, YOUR HONOR.

20 THE COURT: ALL RIGHT. MR. JOHNSON?

21 MR. JOHNSON: NONE, YOUR HONOR.

22 THE COURT: DO YOU WISH THIS WITNESS TO BE EXCUSED?

23 MS. CAMPBELL: YES, SIR.

24 THE COURT: ANY OBJECTION?

25 MR. ROBERSON: NONE, YOUR HONOR.

1 THE COURT: ANY OBJECTION, MR. JOHNSON?

2 MR. JOHNSON: NONE, YOUR HONOR.

3 THE COURT: SIR, YOU'RE RELEASED FROM YOUR SUBPOENA.

4 YOU MAY GO BACK TO YOUR REGULAR DUTIES.

5 THE WITNESS: THANK YOU, YOUR HONOR. I APPRECIATE IT.

6 THE COURT: THANK YOU VERY MUCH. ALL RIGHT. SOLICITOR,
7 WHO IS YOUR NEXT WITNESS?

8 MS. CAMPBELL: THE STATE WOULD CALL CAPTAIN STAN SMITH.

9 MR. JOHNSON: YOUR HONOR, MAY WE APPROACH WHILE CAPTAIN
10 SMITH IS COMING IN?

11 THE COURT: ABSOLUTELY.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

13 THE COURT: ALL RIGHT, SIR. PLEASE COME AROUND TO BE
14 SWORN.

15 JAMES STANDIN SMITH, AFTER BEING DULY SWORN,
16 TESTIFIED AS FOLLOWS:

17 THE CLERK: PLEASE HAVE A SEAT IN THE WITNESS STAND AND
18 STATE YOUR FULL NAME FOR THE RECORD.

19 THE WITNESS: IT'S JAMES STANDIN SMITH.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q. CAPTAIN SMITH, WHERE ARE YOU EMPLOYED?

23 A. RICHLAND COUNTY SHERIFF'S DEPARTMENT.

24 Q. WHAT DO YOU DO THERE, SIR?

25 A. I'M A -- I HAVE THE RANK OF CAPTAIN. I'M IN

1 INVESTIGATIONS AND I PRIMARILY SUPERVISE ALL THE HOMICIDES
2 AND THE ARMED ROBBERIES AND VIOLENT CRIMES.

3 Q. DO YOU ALSO PARTICIPATE IN SOME OF THE INVESTIGATIONS?

4 A. I DO.

5 Q. I WANT TO TURN YOUR ATTENTION BACK TO A HOMICIDE THAT
6 OCCURRED ON SEPTEMBER 5TH OF 2005. HOW DID THIS COME TO YOUR
7 ATTENTION?

8 A. I WAS ACTUALLY NOTIFIED AT MY RESIDENCE WHICH IS -- THEY
9 HAVE TO ACTUALLY CALL ME WHEN THERE'S A HOMICIDE. OUR
10 WEEKEND SUPERVISOR WAS SERGEANT AMARO, AND HE CALLED ME AND
11 TOLD ME THAT WE'D HAD A HOMICIDE AT -- ACTUALLY HAD A
12 SHOOTING AT CHANCE'S CLUB. LATER ON IN THE DAY I WAS
13 NOTIFIED THAT IT HAD TURNED INTO A HOMICIDE.

14 Q. THE NEXT DAY ON SEPTEMBER 6TH, WHAT, IF ANY,
15 PARTICIPATION DID YOU HAVE IN THIS CASE?

16 A. I ACTUALLY -- MCDANIELS AND WILLOUGHBY WERE ASSIGNED AS
17 THE CASE OFFICERS, MCDANIELS AS THE LEAD. AFTER GETTING A
18 FULL BRIEFING REGARDING SOME WITNESSES INVOLVED IN THE CASE,
19 I PARTICIPATED IN THE INTERVIEW OF ONE WITNESS, TORRI BOYD,
20 WHO HAD ACTUALLY BEEN I BELIEVE WITH THE VICTIM THE NIGHT OF
21 THE INCIDENT. I SHOWED -- I PARTICIPATED IN SHOWING HIM FIVE
22 PHOTOGRAPHIC LINE-UPS, AND HE MADE SOME IDENTIFICATIONS OF
23 SEVERAL OF THE INDIVIDUALS THAT WERE INVOLVED IN THIS
24 INCIDENT.

25 Q. I'LL FIND ONE THAT'S... BUT TELL THIS JURY WHAT DO YOU

1 DO WHEN YOU SHOW A PHOTO LINE-UP TO SOMEONE.

2 A. A PHOTO LINE-UP CONSISTS OF SIX PICTURES, AND EVERYBODY
3 IN THE LINE-UP HAS TO HAVE THE SAME BASIC DESCRIPTION. IN
4 OTHER WORDS, YOU WOULD NOT PUT FIVE BLACK MALES AND ONE WHITE
5 MALE ON A LINE-UP. IN THIS CASE -- LET'S SAY AGE FRAME, THAT
6 KIND OF THING, SAME HAIR STYLE GENERALLY.

7 WHEN YOU SHOW A LINE-UP, BASICALLY OBVIOUSLY THE WITNESS
8 UNDERSTANDS WHAT THEY'RE BEING, YOU KNOW, SHOWN THE LINE-UP
9 WITH REGARD TO, SO THEY UNDERSTAND THE CONTEXT OF WHAT, YOU
10 KNOW, GENERALLY WITH REGARD TO THE INTERVIEW YOU'VE JUST DONE
11 AND YOU PRESENT THE LINE-UP TO THEM AND ASK THEM IF THEY SEE
12 ANYBODY THAT THEY RECOGNIZE IN THE SIX PICTURES THAT WERE
13 INVOLVED IN THE INCIDENT THAT YOU'RE TALKING WITH THEM ABOUT.

14 Q. I SHOW YOU, FOR EXAMPLE, WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 20. WAS THAT ONE OF THE LINE-UPS YOU ACTUALLY
16 SHOWED MR. BOYD THAT DAY?

17 A. YES.

18 Q. AND WHEN YOU SHOWED HIM THE LINE-UPS IN EACH OF THESE
19 CASES, WAS THERE ANY WRITING ON THE ACTUAL LINE-UP AT THE
20 TIME YOU HANDED IT TO HIM?

21 A. NO, NOT AT THE TIME WE HANDED IT TO HIM. NO.

22 Q. AND DO YOU IN ANY WAY SUGGEST OR TELL THEM WHO TO PICK
23 OUT?

24 A. NO.

25 Q. WAS MR. BOYD ABLE TO IDENTIFY -- HOW MANY LINE-UPS DID

1 YOU ACTUALLY SHOW HIM?

2 A. I SHOWED I THINK A TOTAL OF FIVE LINE-UPS.

3 Q. AND OUT OF THOSE FIVE LINE-UPS, HOW MANY DOES HE
4 ACTUALLY -- YOU CAN'T SAY WHO HE SAID, BUT HOW MANY WAS HE
5 ABLE TO IDENTIFY WERE THERE AT THE SCENE THE NIGHT OF THE
6 SHOOTING?

7 A. BEAR WITH ME. HE ACTUALLY IDENTIFIED THREE AS BEING
8 INVOLVED IN THE DISTURBANCE OUTSIDE THE CLUB, THE FIGHT, AND
9 HE ACTUALLY WENT TO ANOTHER LINE-UP AND SAID HE RECOGNIZED
10 THE FACE AND KNEW THAT HE HAD ASSOCIATED WITH THE OTHER --
11 OTHERS.

12 Q. IN ADDITION TO THAT, WAS THERE ONE LINE-UP THAT HE'S
13 INDICATED WAS NOT THERE THAT NIGHT, BUT HE KNEW WHO IT WAS
14 BUT HE KNEW HE WASN'T THERE?

15 A. YES.

16 Q. OKAY. THAT DAY BASED ON INFORMATION GATHERED -- EXPLAIN
17 TO THIS JURY: WHEN AN INVESTIGATION IS GOING ON, ARE THERE
18 MULTIPLE PEOPLE INVOLVED?

19 A. YES. IT'S BECOME OUR PRACTICE AND OFTENTIMES WE'LL HAVE
20 A PRIMARY TEAM OF TWO DETECTIVES INVOLVED IN IT, BUT
21 DEPENDING ON THE NEED AND THE NUMBER OF WITNESSES AND THINGS
22 THAT NEED TO BE, OFTENTIMES WE'LL PUT MORE THAN THAT,
23 SOMETIMES AS MANY AS FIVE OR SIX PEOPLE ON IT.

24 Q. OKAY. AND IN THIS CASE WERE THERE MULTIPLE
25 INVESTIGATORS ASSIGNED?

1 A. YES.

2 Q. BASED ON THE INFORMATION YOU WERE ABLE TO GATHER BY THE
3 EVENING OF SEPTEMBER THE 6TH OF 2005, WERE YOU ABLE TO SECURE
4 WARRANTS ON TWO PEOPLE?

5 A. YES. ARREST WARRANTS WERE OBTAINED BY SERGEANT
6 MCDANIELS ON THAT AFTERNOON, I BELIEVE LATE THAT AFTERNOON.

7 Q. WHO WERE THOSE WARRANTS FOR?

8 A. THEY WERE FOR BROTHERS ADAMS AND JACQUES GIBSON.

9 Q. THE NEXT DAY DID YOU PARTICIPATE IN A SEARCH WARRANT IN
10 FAIRFIELD COUNTY?

11 A. YES.

12 Q. WHAT WAS THE PURPOSE OF Y'ALL GOING TO FAIRFIELD COUNTY
13 THAT MORNING?

14 A. WHEN WE IDENTIFY SOMEONE IN A HOMICIDE, ESPECIALLY WHERE
15 THERE'S, FOR INSTANCE, A FIREARM INVOLVED, WE PRETTY MUCH
16 HAVE PROBABLE CAUSE AT THAT POINT IN TIME TO EXECUTE A SEARCH
17 OF THEIR KNOWN RESIDENCE. OBVIOUSLY YOU'RE LOOKING FOR THE
18 WEAPON THAT'S INVOLVED IN THE CRIME, ANY AMMUNITION, ANY
19 SHELL CASINGS, THINGS OF THAT NATURE, POSSIBLE CLOTHING THAT
20 MAY HAVE BEEN DESCRIBED IN THE CRIME, AND THAT'S SOMETHING
21 THAT WE DO. IT'S SORT OF STANDARD PRACTICE.

22 Q. AND WHERE WAS THE SEARCH WARRANT OBTAINED? IN WHAT
23 COUNTY?

24 A. IT WAS OBTAINED ACTUALLY -- THE RESIDENCE WAS IN
25 FAIRFIELD COUNTY, SO IT WAS ACTUALLY OBTAINED THROUGH

1 FAIRFIELD COUNTY.

2 Q. AND DID FAIRFIELD COUNTY ASSIST YOU IN ANY WAY IN
3 EXECUTING THE SEARCH WARRANT?

4 A. YES. WE COULD NOT ACTUALLY EXECUTE A SEARCH WARRANT
5 OURSELVES IN ANOTHER JURISDICTION. WE HAVE TO HAVE THE
6 ASSISTANCE OF LAW ENFORCEMENT FROM THAT JURISDICTION. IN
7 THIS CASE WE ENLISTED THE AID OF A NUMBER OF PEOPLE FROM THE
8 FAIRFIELD COUNTY SHERIFF'S DEPARTMENT.

9 Q. DO YOU KNOW APPROXIMATELY WHAT TIME IT WAS Y'ALL
10 ACTUALLY ARRIVED IN FAIRFIELD COUNTY TO EXECUTE THE SEARCH
11 WARRANT?

12 A. MY NOTES REFLECT AT ABOUT 10:30 THE MORNING OF THE 7TH
13 WE ARRIVED AT THE INITIAL RESIDENCE TO EXECUTE THE SEARCH
14 WARRANT.

15 Q. AND WHAT ROAD IS THAT RESIDENCE ON?

16 A. MOOD HARRISON, I BELIEVE, ROAD IN -- IT'S IN THE
17 RIDGEWAY AREA.

18 Q. AND UPON YOUR ARRIVAL AT MOOD HARRISON ROAD, WERE YOU
19 ABLE TO -- AT THAT INITIAL ADDRESS Y'ALL HAD, WERE EITHER OF
20 THE DEFENDANTS THERE?

21 A. NO, THEY WEREN'T.

22 Q. DID YOU MAKE CONTACT WITH A FAMILY MEMBER?

23 A. YES. INITIALLY I MADE CONTACT WITH WHAT WE LATER
24 LEARNED WAS A SISTER OF BOTH INDIVIDUALS.

25 Q. DID YOU LATER MAKE CONTACT WITH---

1 A. WE MADE CONTACT WITH THE FATHER; YES, MA'AM.

2 Q. YOU CAN'T SAY WHAT THEY SAID, BUT BASED ON THE
3 INFORMATION YOU GOT FROM THEM, WHAT DID YOU DO?

4 A. WE -- I ASKED FAIRFIELD COUNTY FOR ASSISTANCE IN
5 DISPATCHING OFFICERS TO TWO DIFFERENT LOCATIONS WHERE EACH
6 BROTHER MAY BE. ONE WAS AT THE HIGH SCHOOL AND ONE WAS AT A
7 RESIDENCE THAT WAS JUST DOWN THE ROAD.

8 Q. YOU MENTIONED THAT ONE WAS AT THE HIGH SCHOOL. WAS HE
9 STILL CONSIDERED AN ADULT BECAUSE OF HIS AGE?

10 A. YES.

11 Q. WHERE DID YOU GO ONCE YOU GOT THE INFORMATION FROM THE
12 FAMILY MEMBERS?

13 A. I ACTUALLY DISPATCHED JONES AND WILLOUGHBY WITH
14 FAIRFIELD COUNTY TO THE HIGH SCHOOL, AND MYSELF AND SERGEANT
15 EWING ACTUALLY WENT TO WHAT WOULD TURN OUT TO BE KARTEZ
16 GIBSON'S RESIDENCE JUST DOWN -- THE SAME ROAD, JUST FURTHER
17 DOWN.

18 Q. WHAT WAS THAT ADDRESS?

19 A. IT WAS 2167 MOOD HARRISON ROAD.

20 Q. ONCE YOU GOT TO THAT ADDRESS, DID YOU MAKE CONTACT WITH
21 ADAMS KARTEZ GIBSON?

22 A. I DID.

23 Q. AND WHAT HAPPENED WHEN YOU GOT THERE?

24 A. AT THIS TIME IT'S APPROXIMATELY, I BELIEVE, A LITTLE BIT
25 AFTER 12. I BASICALLY ASKED HIM IF HE KNEW WHY WE WERE

1 THERE, AND HE INDICATED THAT HE DID WITHOUT ANY SORT OF
2 EXPLANATION. HE WASN'T PROTESTING OR ANYTHING OF THAT
3 NATURE. I ASKED HIM -- OR BASICALLY I THEN INTENDED TO
4 QUESTION HIM ABOUT WHY WE WERE THERE, SO I ADVISED HIM OF HIS
5 RIGHTS.

6 Q. AND TELL THIS JURY HOW YOU WENT ABOUT ADVISING HIM OF
7 HIS RIGHTS.

8 A. I USE A CARD THAT I'VE KEPT WITH ME FOR YEARS. YOU'VE
9 PROBABLY SEEN IT ON TELEVISION. I ADVISED HIM THAT BEFORE WE
10 ASK YOU ANY QUESTIONS HE MUST UNDERSTAND HIS RIGHTS. HE HAD
11 THE RIGHT TO REMAIN SILENT AND THAT ANYTHING HE SAID COULD BE
12 USED AGAINST HIM IN COURT. HE HAD A RIGHT TO TALK TO A
13 LAWYER FOR ADVICE BEFORE WE ASK HIM ANY QUESTIONS AND HAVE
14 HIM WITH YOU HERE DURING QUESTIONING, THAT IF HE COULD NOT
15 AFFORD A LAWYER ONE WOULD BE APPOINTED TO HIM BEFORE ANY
16 QUESTIONING IF HE WISHED. I ALSO ADVISED HIM THAT IF HE
17 DECIDED TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, HE
18 WOULD HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. HE WOULD
19 ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL HE
20 TALKED TO A LAWYER.

21 Q. DID HE INDICATE WHETHER OR NOT HE UNDERSTOOD WHAT HIS
22 RIGHTS WERE?

23 A. YES.

24 Q. HAD YOU ALREADY ADVISED HIM THAT HE WAS UNDER ARREST?

25 A. YES. HE HAD BEEN ADVISED HE WAS UNDER ARREST. HE WAS

1 IN CUSTODY AT THAT TIME.

2 Q. DID YOU ASK HIM -- DID HE INDICATE WHETHER OR NOT HE WAS
3 WILLING TO TALK TO YOU AT THAT POINT?

4 A. YES. HE WAS COOPERATIVE AT THAT TIME.

5 Q. OKAY. WHAT HAPPENED NEXT?

6 A. I ASKED HIM IF HE WAS GOING TO TELL THE TRUTH ABOUT, YOU
7 KNOW, HIS ROLE IN THE INCIDENT AND HE SAID HE WAS. I ASKED
8 HIM WHAT HIS ROLE WAS, WHAT WAS HIS SIDE OF ALL THIS THAT
9 HAPPENED, AND HE INDICATED THAT HE HAD BEEN THERE THAT NIGHT,
10 THE NIGHT OF THE INCIDENT. HE SAID HE DID NOT SEE WHO
11 ACTUALLY DID THE SHOOTING BECAUSE HE WAS SITTING IN ANOTHER
12 CAR IN THE PARKING LOT.

13 Q. OKAY. LET ME STOP YOU THERE. HE SAID HE WAS WHERE?

14 A. HE WAS AT THE LOCATION THAT NIGHT.

15 Q. AND THE LOCATION WOULD BE?

16 A. CHANCE'S.

17 Q. HE INDICATED HE WAS IN THE PARKING LOT?

18 A. YES.

19 Q. BUT WHERE DID HE INDICATE HE WAS IN THE PARKING LOT?

20 A. HE SAID HE WAS IN ANOTHER -- I BELIEVE IN ANOTHER
21 VEHICLE, NOT IN THE -- I BELIEVE THAT THERE -- THERE WAS NO
22 INDICATION HE WAS IN THE WHITE FORD ESCORT.

23 Q. SO HE INDICATED TO YOU WHEN YOU FIRST CONFRONTED HIM
24 THAT HE WAS IN A VEHICLE AT THE TIME OF THE SHOOTING?

25 A. THAT'S CORRECT, BUT DID NOT SEE WHO THE SHOOTER WAS. IN

1 OTHER WORDS, HE WAS IN THE PARKING LOT BUT DIDN'T SEE WHO THE
2 SHOOTER WAS.

3 Q. DID HE ALSO INDICATE WHETHER OR NOT HE WAS IN THE WHITE
4 FORD ESCORT?

5 A. HE INDICATED THAT HE WAS NOT IN THE WHITE FORD ESCORT.

6 Q. DID HE INDICATE WHO WAS IN THE WHITE FORD ESCORT?

7 A. HE INDICATED THAT HIS BROTHER, JACQUES, WAS.

8 Q. DID HE SAY ANYTHING ABOUT WHETHER OR NOT HE FIRED A GUN
9 THAT NIGHT?

10 A. HE DENIED THAT HE HAD FIRED A GUN.

11 Q. AT THAT POINT DID YOU REQUEST CONSENT TO SEARCH HIS
12 HOUSE?

13 A. YES. I ASKED HIM IF HE MINDED IF WE SEARCHED HIS HOUSE
14 AND CAR, AND HE WAS COOPERATIVE AND INDICATED HE HAD NO
15 PROBLEM WITH THAT. I THEN RETRIEVED A CONSENT-TO-SEARCH FORM
16 FROM MY AUTOMOBILE AND CAME BACK, AND WE WENT THROUGH THAT
17 AND HE FREELY SIGNED THE CONSENT TO SEARCH.

18 Q. AND AT THIS POINT YOU ONLY HAD A SEARCH WARRANT FOR THE
19 FIRST RESIDENCE?

20 A. THAT'S CORRECT.

21 Q. SO YOU DID NOT HAVE A SEARCH WARRANT FOR THIS RESIDENCE?

22 A. THAT'S CORRECT. WE WERE UNAWARE OF THIS RESIDENCE AT
23 THE TIME THAT THE FIRST SEARCH WARRANT WAS OBTAINED.

24 Q. AND IS THAT WHY YOU OBTAINED A CONSENT FROM HIM?

25 A. YES.

1 Q. DID Y'ALL DO A SEARCH OF THE TRAILER?

2 A. WE DID, MYSELF AND SERGEANT EWING. WHAT I RECALL ABOUT
3 IT WAS THERE WAS VIRTUALLY NOTHING IN THE TRAILER. IT WAS
4 VERY SPARS, VERY LITTLE FURNITURE ACTUALLY, AND THERE WAS
5 NOTHING OF ANY EVIDENTIARY VALUE FOUND IN THE TRAILER.

6 Q. YOU THEN RETURNED TO HEADQUARTERS THAT AFTERNOON.

7 A. I ULTIMATELY DID, YES.

8 Q. WHAT HAPPENED TO MR. GIBSON?

9 A. HE WAS PLACED UNDER ARREST, AS I SAID BEFORE, AND
10 SERGEANT MCDANIELS HAD ACTUALLY RESPONDED TO THAT LOCATION
11 ABOUT THE TIME THE SEARCH, I THINK WAS BEING CULMINATED. AND
12 HE WAS TURNED OVER TO SERGEANT MCDANIELS AS THE CASE OFFICER.

13 Q. SO WHO TRANSPORTED HIM BACK TO COLUMBIA?

14 A. I BELIEVE SERGEANT MCDANIELS TRANSPORTED HIM HIMSELF.

15 Q. THAT EVENING DID YOU MAKE CONTACT WITH A MARCUS TUCKER?

16 A. I DID.

17 Q. AND DID YOU ULTIMATELY TAKE HIS STATEMENT AFTER ADVISING
18 HIM OF HIS RIGHTS?

19 A. I DID AT AROUND 5:40 THAT AFTERNOON.

20 Q. AND IS THAT THE EXTENT OF YOUR PARTICIPATION?

21 A. THAT'S PRETTY MUCH THE EXTENT OF MY PARTICIPATION; YES,
22 MA'AM.

23 Q. THE PERSON THAT YOU ARRESTED AND GAVE THE STATEMENT
24 ABOUT BEING IN THE CAR AT THE TIME OF THE SHOOTING, DO YOU
25 SEE HIM HERE IN THE---

1 MR. JOHNSON: A LEADING QUESTION, YOUR HONOR.

2 THE COURT: I'M GOING TO ALLOW THAT. GO AHEAD.

3 THE WITNESS: YES, MA'AM, I DO.

4 BY MS. CAMPBELL:

5 Q. WOULD YOU POINT HIM OUT TO THE JURY?

6 A. SITTING NEXT TO MR. ROBERSON IN THE BLUE SHIRT.

7 MS. CAMPBELL: THANK YOU.

8 THE COURT: ALL RIGHT. MR. ROBERSON, CROSS-EXAMINATION?

9 MR. ROBERSON: NO QUESTIONS.

10 THE COURT: MR. JOHNSON?

11 CROSS-EXAMINATION

12 BY MR. JOHNSON:

13 Q. CAPTAIN SMITH, LET ME SEE THAT SIGNED STATEMENT YOU TOOK
14 FROM MR. ADAMS (SIC) THAT DAY.

15 A. SIR, I DIDN'T TAKE A SIGNED STATEMENT. IT WAS AN ORAL
16 STATEMENT.

17 Q. IT WAS AN ORAL STATEMENT?

18 A. YES, SIR.

19 Q. MAY I SEE YOUR NOTES?

20 A. YES, SIR.

21 Q. THESE ARE THE NOTES YOU TOOK CONTEMPORANEOUSLY WHEN YOU
22 WERE TALKING TO HIM?

23 A. AS SOON AS I HAD AN OPPORTUNITY TO TRANSCRIBE THEM, YES,
24 SIR.

25 Q. YOU TRANSCRIBED THEM LATER ON?

1 A. I ENTERED THEM INTO MY COMPUTER LATER ON; YES, SIR.

2 Q. OKAY. AND LET ME JUST SEE WHERE HE SIGNED THAT ADVICE
3 OF RIGHTS.

4 A. IT WAS AN ORAL ADVICE OF RIGHTS.

5 Q. OKAY. IS THAT IN -- DOES THAT COINCIDE WITH THE POLICY
6 OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT?

7 A. SIR, AN ORAL ADVICE OF RIGHTS IS PERMISSIBLE, YES, SIR,
8 ESPECIALLY IN THE FIELD. IN THAT SITUATION YOU'RE NOT
9 SITTING AT A DESK AND THAT KIND OF THING.

10 Q. OKAY. THANK YOU.

11 A. THANK YOU. THANK YOU, MR. JOHNSON.

12 THE COURT: ANY REDIRECT?

13 MS. CAMPBELL: NO, SIR.

14 THE COURT: ANYTHING ON THOSE QUESTIONS, MR. ROBERSON?

15 MR. ROBERSON: NO, SIR.

16 THE COURT: ALL RIGHT, SIR. DO YOU WISH THE WITNESS TO
17 BE EXCUSED?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: MR. ROBERSON, ANY OBJECTION?

20 MR. ROBERSON: NONE, YOUR HONOR.

21 THE COURT: MR. JOHNSON?

22 MR. JOHNSON: NONE, YOUR HONOR.

23 THE COURT: SIR, YOU ARE RELEASED FROM YOUR SUBPOENA.
24 YOU MAY GO BACK TO YOUR REGULAR DUTIES.

25 THE WITNESS: THANK YOU, YOUR HONOR.

1 THE COURT: ALL RIGHT, SIR. ALL RIGHT. LADIES AND
2 GENTLEMEN, I'M ABLE TO TELL YOU THAT AS A RESULT OF THE
3 STATE'S AND THE DEFENSE'S HARD WORK AND THEIR COOPERATION
4 THEY WERE ABLE TO DELETE -- AND CERTAIN DUPLICATIVE WITNESSES
5 WILL NOT BE CALLED ON THAT -- THAT WERE ON THAT POTENTIAL
6 LIST, THAT POSSIBLE LIST OF WITNESSES THAT I'D SET FORTH.
7 THEREFORE, WITH THAT, WE'RE NOT GOING TO HAVE TO HAVE YOU
8 WORK LATE INTO THE EVENING TONIGHT.

9 THERE ARE VERY FEW WITNESSES THAT REMAIN. I DO BELIEVE,
10 BASED UPON MY CONVERSATIONS WITH COUNSEL, THAT WE'LL BE ABLE
11 TO GET THROUGH THOSE WITNESSES, THE CLOSING ARGUMENTS, AND BE
12 ABLE TO SUBMIT THIS CASE TO YOU FOR YOUR DECISION TOMORROW.
13 THEREFORE, WE'RE GOING TO STOP FOR THE EVENING. I'M GOING TO
14 ALLOW YOU TO GO HOME.

15 PLEASE REMEMBER NOW WHAT I TOLD YOU YESTERDAY AND WHAT I
16 CONTINUE TO TELL YOU. DON'T TALK ABOUT THE CASE. DON'T
17 ALLOW ANYBODY TO TALK TO YOU ABOUT IT. DON'T GO HOME AND
18 TALK ABOUT THE CASE BECAUSE, ONCE AGAIN, THOSE PEOPLE DON'T
19 HAVE AN OPINION ABOUT THIS CASE. YOU HAVE TO DECIDE THIS
20 CASE SOLELY ON THE EVIDENCE IN THIS COURTROOM. YOU CAN'T GO
21 OUT AND DO ANY INVESTIGATION ON YOUR OWN. YOU CAN'T LOOK UP
22 ANYTHING. THE EVIDENCE THAT YOU MAKE YOUR DECISION ON IS
23 WHAT YOU HEAR IN THIS COURTROOM AND FROM NO OTHER SOURCE. SO
24 WITH THAT, I'LL SEE Y'ALL BACK TOMORROW MORNING 9 A.M.
25 PLEASE BE BACK IN YOUR JURY ROOM AT 9 A.M. THANK YOU VERY

1 MUCH.

2 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE
3 DAY AT 5:00 P.M.)

4 THE COURT: ALL RIGHT. SOLICITOR, IS THERE ANYTHING
5 THAT WE -- THAT THE STATE NEEDS TO HAVE DONE AT THIS POINT IN
6 TIME?

7 MS. CAMPBELL: NO, YOUR HONOR. I WOULD JUST, IF IT'S
8 PERMISSIBLE WITH THE COURT, HAND UP SOME REQUESTS TO CHARGE
9 OR THEY MAY ALREADY BE INCLUDED IN WHAT YOU HAVE. I DIDN'T
10 KNOW IF THAT'S---

11 THE COURT: I'LL BE GLAD FOR Y'ALL TO DO SO. I WAS
12 GOING TO SUGGEST THAT IF YOU HAD SOME NOW YOU COULD GIVE THEM
13 TO ME OR I WAS GOING TO ASK THAT Y'ALL PLEASE GIVE THEM TO ME
14 FIRST THING TOMORROW MORNING IF YOU HAVE ANY REQUESTS TO
15 CHARGE EITHER FROM THE STATE OR THE DEFENSE. IF YOU DON'T
16 HAVE THEM NOW, AS SOON AS YOU GET HERE IN THE MORNING IF
17 Y'ALL COULD -- Y'ALL COULD DO THAT. OKAY? ALL RIGHT.

18 PRELIMINARILY WHAT I WOULD LIKE TO DO, MR. ROBERSON AND
19 MR. JOHNSON -- I KNOW THAT THE STATE HAS A FEW WITNESSES,
20 POSSIBLY TWO MORE WITNESSES, BUT SO THAT YOUR CLIENTS HAVE AN
21 EXTRA OPPORTUNITY TO UNDERSTAND THEIR RIGHTS IN THIS MATTER,
22 I'M GOING TO AT THIS POINT IN TIME GO OVER THEIR RIGHTS
23 REGARDING THEIR RIGHTS TO TESTIFY AT THIS POINT IN TIME, AND
24 THEN I WILL DO THAT AGAIN WHEN WE GET TO THE DEFENSE'S
25 PORTION OF THE CASE. BUT I WANTED THEM TO HAVE THIS

1 OPPORTUNITY TO HEAR IT AND GIVE IT ALL DUE CONSIDERATION
2 BEFORE I ASK THEM SPECIFICALLY WHETHER THEY WANT TO TESTIFY
3 IN THIS PARTICULAR CASE.

4 SO WHAT I'M GOING TO DO RIGHT NOW, MR. ADAMS GIBSON AND
5 MR. JACQUES GIBSON, IS EXPLAIN TO YOU CERTAIN OF YOUR
6 CONSTITUTIONAL RIGHTS THAT YOU HAVE. IF AT ANY POINT IN TIME
7 WHEN I'M TALKING TO YOU ABOUT THIS YOU DON'T UNDERSTAND
8 ANYTHING OR YOU HAVE A QUESTION, YOU NEED TO INDICATE THAT.
9 YOU CAN RAISE YOUR HAND, TELL YOUR ATTORNEY, TELL YOUR
10 ATTORNEY WHATEVER, BUT Y'ALL STOP ME IF YOU'VE GOT A
11 QUESTION. ARE WE IN AGREEMENT WITH THAT, MR. ADAMS GIBSON?

12 MR. ADAMS GIBSON: YES, SIR.

13 THE COURT: MR. JACQUES GIBSON?

14 MR. JACQUES GIBSON: YES, SIR.

15 THE COURT: ALL RIGHT, SIR. NOW, VERY SOON - AND IT
16 WILL BE PROBABLY FAIRLY EARLY IN THE CASE TOMORROW - WE'RE
17 GOING TO REACH THE STAGE AT THE TRIAL WHERE YOU CAN PRESENT
18 YOUR DEFENSE IN THIS MATTER. NOW, YOU HAVE, BOTH OF YOU --
19 AND WHEN I'M SPEAKING TO YOU AND I'M SPEAKING TO YOU NOW, I'M
20 TALKING TO BOTH OF YOU. DO YOU UNDERSTAND THAT?

21 BOTH OF YOU HAVE THE RIGHT TO CLAIM THE PROTECTION GIVEN
22 TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE
23 UNITED STATES OF AMERICA. NOW, THAT AMENDMENT STATES IN PART
24 THAT NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE
25 A WITNESS AGAINST THEMSELVES. THAT MEANS NOBODY CAN FORCE

1 YOU; NOBODY CAN MAKE YOU TESTIFY IN THIS CASE. YOU CERTAINLY
2 MAY TESTIFY. YOU CAN TESTIFY, BUT IT'S SOLELY YOUR CHOICE.
3 NOBODY CAN MAKE YOU DO IT. IF YOU WANT TO DO IT, YOU CAN.
4 IF YOU DON'T WANT TO DO IT, YOU DO NOT HAVE TO.

5 NOW, IN THAT REGARD, IF YOU DECIDE TO TESTIFY, YOU'D BE
6 SUBJECT TO THE SAME RULES THAT YOU'VE SEEN ALL THE OTHER
7 WITNESSES THAT HAVE COME UP HERE. YOU'LL BE EXAMINED.
8 YOU'LL BE QUESTIONED BY YOUR ATTORNEYS AS TO THINGS THEY
9 THINK NEED TO COME OUT IN THE TRIAL, AND THEN YOU'LL BE
10 CROSS-EXAMINED BY ONE OF THE SOLICITORS AS TO QUESTIONS THEY
11 HAVE REGARDING THIS PARTICULAR CASE.

12 ALSO, IF EITHER OF YOU HAVE A CONVICTION THAT, ONE,
13 EITHER INVOLVES DISHONESTY OR WHAT WE CALL A CRIME OF MORAL
14 TURPITUDE OR YOU HAVE BEEN CONVICTED OF A CRIME THAT THE
15 POSSIBLE PUNISHMENT OR THE POTENTIAL PUNISHMENT COULD HAVE
16 BEEN FOR MORE THAN ONE YEAR AND THE COURT DETERMINES THAT THE
17 VALUE OF ALLOWING THE STATE TO ASK YOU ABOUT THAT OUTWEIGHS
18 ANY HARM TO YOU OR OUTWEIGHS ANY PREJUDICE TO YOU, THEN I
19 WOULD ALLOW THE STATE TO DO SO.

20 SOLICITOR, DO YOU HAVE -- LET'S START WITH MR. ADAMS
21 GIBSON. DO YOU HAVE ANY PRIOR RECORD THAT YOU WOULD INTEND
22 TO CROSS-EXAMINE HIM ABOUT THAT YOU'RE AWARE OF AT THIS POINT
23 IN TIME?

24 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

25 THE COURT: YES, MA'AM.

1 MS. CAMPBELL: I THINK ALL HE HAS IS A JUVENILE
2 CONVICTION ON A DRUG CHARGE, AND I DON'T THINK THAT WOULD
3 BE...

4 THE COURT: ALL RIGHT. AND IS THAT -- THAT'S YOUR
5 UNDERSTANDING, MR. ROBERSON?

6 MR. ROBERSON: YES, SIR.

7 THE COURT: ALL RIGHT, SIR. AND HOW ABOUT AS TO MR.
8 JACQUES GIBSON?

9 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

10 THE COURT: YES, MA'AM.

11 MR. JOHNSON: THE ONLY THING I HAVE, YOUR HONOR, IS
12 PUBLIC DISORDERLY CONDUCT.

13 MS. CAMPBELL: THAT'S IT.

14 THE COURT: ALL RIGHT. SO THAT WOULD NOT BE SUBJECT TO
15 THE -- TO THE RULE. SO IT APPEARS, MR. ADAMS GIBSON AND MR.
16 JACQUES GIBSON, THAT THERE IS NO MATTER OF PRIOR CRIMINAL
17 ACTIVITY THAT THE STATE WOULD BE ABLE TO ASK YOU ABOUT OR
18 CROSS-EXAMINE YOU ABOUT. SO DO YOU UNDERSTAND THAT, MR.
19 ADAMS GIBSON?

20 MR. ADAMS GIBSON: YES, SIR.

21 THE COURT: MR. JACQUES GIBSON?

22 MR. JACQUES GIBSON: YES, SIR.

23 THE COURT: ALL RIGHT. NOW, IF YOU DECIDE TO TESTIFY,
24 DO YOU UNDERSTAND THAT'S YOUR DECISION? YOU OBVIOUSLY CAN
25 TALK TO YOUR ATTORNEY. YOU CAN TALK TO -- YOU KNOW, IF YOU

1 WANTED TO IN THE MORNING, IF FOR SOME REASON THERE WAS A
2 MEMBER OF YOUR FAMILY THAT YOU SPECIFICALLY WANTED TO TALK TO
3 ABOUT THIS, LET YOUR ATTORNEY KNOW AND WE'LL MAKE -- MAKE
4 THOSE ARRANGEMENTS FOR YOU TO DO SO ABOUT THIS PARTICULAR
5 ISSUE ABOUT YOU TESTIFYING, BUT IT'S GOT TO BE YOUR DECISION.
6 YOU'VE GOT TO MAKE THAT DECISION AS TO WHETHER OR NOT YOU
7 WANT TO TESTIFY.

8 NOW, I'LL TELL YOU IF YOU DO DECIDE OR YOU MAKE THE
9 DECISION NOT TO TESTIFY, PART OF MY INSTRUCTIONS OF THE LAW
10 TO THE JURY WILL BE THEY CANNOT GIVE THAT ANY CONSIDERATION.
11 I WILL TELL THE JURY THAT THEY CAN'T EVEN TALK ABOUT IT IN
12 THE JURY ROOM. IT'S NOT AN ISSUE IN THIS CASE AND IT CAN'T
13 COME UP, AND I WILL MAKE THAT POINT CLEARLY TO THEM IN MY
14 CHARGE ON THE LAW TO THEM. SO I'M NOT GOING TO ASK YOU AT
15 THIS POINT IN TIME WHETHER YOU WANT TO TESTIFY, BUT I DO WANT
16 TO ASK YOU: DO YOU UNDERSTAND WHAT WE'VE TALKED ABOUT, MR.
17 ADAMS GIBSON?

18 MR. ADAMS GIBSON: YES, SIR.

19 THE COURT: AND MR. JACQUES GIBSON?

20 MR. JACQUES GIBSON: YES, SIR.

21 THE COURT: ALL RIGHT, GENTLEMEN. NOW, YOU'LL HAVE THE
22 OPPORTUNITY TO TALK TO YOUR LAWYERS ABOUT IT, AND IN THE
23 MORNING WHEN IT COMES TO THE PART IN TIME WHEN YOU MAY
24 PRESENT YOUR DEFENSE, THEN I WILL BE ASKING YOU WHETHER OR
25 NOT THE -- ONE OR EITHER OF YOU WANT TO TESTIFY IN THIS CASE.

1 ALL RIGHT? THANK YOU VERY MUCH, GENTLEMEN. ANYTHING
2 FURTHER, MR. ROBERSON?

3 MR. ROBERSON: NOTHING FURTHER, YOUR HONOR.

4 THE COURT: MR. JOHNSON?

5 MR. JOHNSON: JUST ONE QUESTION, YOUR HONOR. WOULD YOU
6 INQUIRE OF MY CLIENT HAS HE PREVIOUSLY DISCUSSED THIS ISSUE?

7 THE COURT: ALL RIGHT, SIR. AND -- WELL, LET ME --
8 SINCE I'VE BEEN GOING IN THIS ORDER: MR. ADAMS GIBSON, HAVE
9 YOU TALKED ABOUT THIS WITH YOUR LAWYER, MR. ROBERSON, IN THE
10 PAST? YOU DON'T HAVE TO TELL ME WHAT YOU SAID, BUT HAVE YOU
11 TALKED ABOUT IT?

12 MR. ADAMS GIBSON: YEAH.

13 THE COURT: ALL RIGHT, SIR. AND MR. JACQUES GIBSON,
14 HAVE YOU TALKED TO YOUR LAWYER ABOUT IT?

15 MR. JACQUES GIBSON: YEAH.

16 THE COURT: ALL RIGHT, GENTLEMEN. AND JUST UNDERSTAND:
17 YOU'VE GOT -- ANY CHANCE OR TIME THAT YOU NEED TO TALK ABOUT
18 IT, YOU KNOW, PLEASE LET THE COURT KNOW, BUT YOU'LL BE ABLE
19 TO TALK TO YOUR LAWYERS AGAIN FULLY ABOUT THIS BEFORE YOU
20 MAKE YOUR DECISION. ALL RIGHT? THANK YOU VERY MUCH.

21 AND, SOLICITOR, HAVE YOU SOLVED THE PROBLEM ABOUT THE
22 TRANSPORTATION OF MR. ADAMS GIBSON AND MR. JACQUES GIBSON SO
23 THAT WE'LL MAKE SURE THAT BOTH OF THEM ARE HERE TOMORROW
24 MORNING BY 9:00?

25 MS. CAMPBELL: I TALKED TO SERGEANT JACKSON WHO IS

1 APPARENTLY IN CHARGE OR AT SOME LEVEL IN CHARGE OF
2 TRANSPORTATION. HE KNOWS TO HAVE THEM BOTH HERE AT 8:15 IN
3 THE MORNING; I SPOKE TO HIM THIS MORNING. IF I CAN GET
4 SOMEONE TO ANSWER AT THE JAIL, I WILL AGAIN TONIGHT TRY TO
5 MAKE SURE THAT HAPPENS. WE'LL MAKE SURE THE JAIL LIST
6 REFLECTS THEY NEED TO BE HERE BY 8:15; MAYBE THAT WILL HAVE
7 SOME EFFECT.

8 THE COURT: GOOD. VERY GOOD. SO, MR. ROBERSON AND MR.
9 JOHNSON, IF Y'ALL NEED TO HAVE SOME FURTHER DISCUSSIONS WITH
10 YOUR CLIENTS, THEY'RE OBVIOUSLY GOING TO BE HERE WELL IN
11 ADVANCE OF 9:00. ALL RIGHT? WE'LL BE AT EASE UNTIL TOMORROW
12 MORNING. THANK Y'ALL VERY MUCH.

13 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 5:08 P.M.
14 AND RESUMED THE FOLLOWING DAY, MAY 24, 2007, AS FOLLOWS:)

15 THE COURT: THANK YOU. YOU MAY BE SEATED. THANK Y'ALL.

16 MR. ROBERSON: JUDGE?

17 THE COURT: YES, SIR.

18 MR. ROBERSON: JUDGE, HERE'S A CHARGE AND A COPY.

19 THE COURT: ALL RIGHT. GOOD. ALL RIGHT. IS THE STATE
20 READY TO PROCEED?

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

22 THE COURT: ALL RIGHT. MR. ROBERSON?

23 MR. ROBERSON: READY, YOUR HONOR.

24 THE COURT: MR. JOHNSON?

25 MR. JOHNSON: READY, YOUR HONOR.

1 THE COURT: ALL RIGHT. ASK THE JURY TO COME IN, PLEASE.

2 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:11
3 A.M.)

4 THE COURT: ALL RIGHT. SOLICITOR, YOUR NEXT WITNESS,
5 MA'AM.

6 MR. LAKE: YOUR HONOR, THE STATE WOULD CALL VERNON
7 DAVIS.

8 VERNON DAVIS, JR., AFTER BEING DULY SWORN,
9 TESTIFIED AS FOLLOWS:

10 THE CLERK: HAVE A SEAT ON THE WITNESS STAND AND STATE
11 YOUR FULL NAME FOR THE RECORD, PLEASE.

12 THE WITNESS: VERNON DAVIS, JR.

13 DIRECT EXAMINATION

14 BY MR. LAKE:

15 Q. AND, MR. DAVIS, WHAT DO YOU -- WHAT DO YOU GO BY?
16 WHAT'S YOUR NICKNAME?

17 A. DUWOP.

18 Q. AND HOW OLD ARE YOU?

19 A. EIGHTEEN NOW.

20 Q. AND BACK IN 2005 WHEN THIS INCIDENT OCCURRED, HOW OLD
21 WERE YOU?

22 A. SIXTEEN.

23 Q. AND ARE YOU WORKING NOW?

24 A. YES, SIR.

25 Q. WHERE ARE YOU WORKING?

1 A. TRANE.

2 Q. TRANE?

3 A. YES, SIR.

4 Q. AND WHERE IS THAT AT?

5 A. ON KILLIAN ROAD.

6 Q. AND HOW ABOUT YOUR EDUCATION? WOULD YOU GIVE THE JURY
7 WHAT YOUR EDUCATIONAL BACKGROUND IS?

8 A. I GO TO MIDLANDS TECHNICAL COLLEGE RIGHT NOW. I'M
9 TAKING UP ELECTRONIC ENGINEERING.

10 Q. AND WHERE DID YOU GRADUATE FROM?

11 A. FAIRFIELD CENTRAL HIGH SCHOOL.

12 Q. AND WHEN DID YOU GRADUATE FROM FAIRFIELD CENTRAL?

13 A. MAY THE 23RD, 2006.

14 Q. WHERE DO YOU CURRENTLY RESIDE?

15 A. SIR?

16 Q. WHERE DO YOU CURRENTLY LIVE?

17 A. WHERE DO I LIVE?

18 Q. YES, SIR.

19 A. COLUMBIA, SOUTH CAROLINA.

20 Q. AND HOW LONG HAVE YOU BEEN LIVING IN COLUMBIA?

21 A. ABOUT SIX MONTHS.

22 Q. OKAY. DO YOU REMEMBER THE INCIDENT THAT OCCURRED BACK
23 ON SEPTEMBER THE 5TH, 2005?

24 A. MOST OF IT.

25 Q. LET ME GET YOU TO TAKE A LOOK AT JUST BEHIND YOU TO YOUR

1 LEFT AND GO THROUGH -- THERE'S A LIST OF NAMES, GENTLEMEN
2 FROM WINNSBORO AND GUYS FROM RIDGEWAY. START OFF WITH THOSE
3 GUYS FROM RIDGEWAY. COULD YOU TELL THE JURY HOW YOU KNOW
4 EACH INDIVIDUAL?

5 A. DEMETRIC DAVIS, BAM, THAT'S MY FATHER'S NEPHEW. TRAMELE
6 DAVIS, THAT'S MY FATHER'S NEPHEW. MARCUS TUCKER, HE'S A
7 FRIEND OF BAM'S AND TRAMELE'S. ADAMS GIBSON, KARTEZ, THAT'S
8 SHA-SHA'S BROTHER, JACQUES. JACQUES GIBSON, THAT'S A FRIEND
9 -- WELL, A FRIEND OF MINE. AND FAT MAN, THAT WAS MY FRIEND
10 STEPHON WILLINGHAM.

11 Q. AND JUST KIND OF BEFORE YOU GO TO THE OTHER SIDE, HOW
12 LONG HAVE YOU AND JACQUES OR SHA-SHA, AS YOU CALL HIM, AND
13 FAT MAN BEEN FRIENDS?

14 A. EVER SINCE THE SEVENTH GRADE.

15 Q. AND HOW OFTEN DID Y'ALL HANG OUT TOGETHER?

16 A. ALL THE TIME.

17 Q. AND WERE Y'ALL HANGING OUT TOGETHER ON THIS PARTICULAR
18 NIGHT?

19 A. OH, YES, SIR.

20 Q. NOW, GO THROUGH THE GUYS FROM WINNSBORO. WHICH ONE OF
21 THOSE GUYS DO YOU KNOW?

22 A. I KNEW DENNIS IRBY.

23 Q. DID YOU KNOW ANY OF THOSE OTHER GUYS?

24 A. NO, SIR, NOT PERSONALLY.

25 Q. HOW DID YOU KNOW LAKISHA DAVIS?

1 A. THAT WAS MY FATHER'S NIECE.

2 Q. PLEASE EXPLAIN TO THE JURY HOW YOU CAME TO BE IN
3 COLUMBIA THAT PARTICULAR NIGHT ON SEPTEMBER THE 5TH, 2005.

4 A. THAT NIGHT THEY WAS GOING TO -- WELL, JACQUES -- HE WAS
5 GOING TO TAKE ME HOME WHEN HE GOT THE CALL FROM KARTEZ TO
6 COME TO CHANCE'S. THAT'S WHENEVER JACQUES ASKED US DO WE
7 KNOW WHERE IT WAS AT, AND I TOLD HIM I DON'T KNOW. AND
8 THAT'S WHEN HE GOT ON THE PHONE WITH KARTEZ. HE WAS LIKE,
9 "DO Y'ALL KNOW HOW TO GET DOWN THERE?" AND I WAS LIKE, "I
10 DON'T KNOW." AND THEN THAT'S WHEN HE HAD CALLED HIM BACK AND
11 TOLD HIM HOW TO GET DOWN THERE.

12 SO THAT'S -- WHEN WE GOT DOWN THERE, THAT'S WHEN WE HAD
13 PARKED THE CAR AND THAT'S WHEN HE GOT OUT OF THE CAR. THAT'S
14 WHEN HE WENT INSIDE THE CLUB. THAT'S WHEN KARTEZ AND THEM
15 HAD CAME OUT BACK OUTSIDE THE CLUB, AND THAT'S WHEN THEY WAS
16 TALKING FOR A FEW MINUTES, BUT IT WASN'T LONG.

17 THAT'S WHEN HE GOT BACK IN THE CAR WITH US, AND THEN
18 THAT'S WHEN HE GOT IN THE CAR. THAT'S WHEN I HEARD AN
19 ARGUMENT BECAUSE I WASN'T EVEN LOOKING BECAUSE I WAS HALFWAY
20 ASLEEP, AND THAT'S WHEN I HEARD AN ARGUMENT, AND THEN THAT'S
21 WHEN I HEARD A GLASS SHATTER, SO I SUGGESTED THEY START
22 FIGHTING. SO WHEN THEY WAS FIGHTING OR TOUCHING OR WHATEVER,
23 THAT'S WHEN I HEARD ONE SHOT, AND THEN WHEN I HEARD THE FIRST
24 SHOT, WHEN I LOOKED UP THAT'S WHEN I HAD SAW A SECOND SHOT.

25 I HEARD THE SAME HAPPEN, AND THAT WAS BY JACQUES GIBSON.

1 THAT WAS IN THE AIR, AND THAT'S WHEN I WAS LOOKING AND THEN
2 THAT'S WHEN HE WAS LIKE, "Y'ALL CHILL OUT. Y'ALL CHILL OUT."
3 AND THEN THAT'S WHEN I HAD -- I WAS STEADY LOOKING, BUT WHEN
4 HE SAID, "Y'ALL CHILL OUT. Y'ALL CHILL OUT," I HAD LAID BACK
5 IN MY SEAT.

6 SO WHEN I LAID BACK IN MY SEAT, THAT'S WHEN I HEARD MORE
7 SHOTS. AS SOON AS THE SHOTS STARTED, I HOPPED ON THE FLOOR.
8 I WAS LOOKING DOWN THE WHOLE TIME, AND THEN THAT'S WHEN I GOT
9 UP. AND WHEN I GOT OFF THE FLOOR, THAT'S WHEN I SAW HE WAS
10 POINTING AT YO-YO. HE WAS TELLING YO-YO, "DON'T DO IT,
11 YO-YO. DON'T DO IT." AND THEN THAT'S WHEN I SAW KARTEZ
12 SWINGING, BUT I DIDN'T SEE WHO HE WAS HITTING THOUGH. THAT'S
13 WHEN HE HAD STARTED SWINGING, AND WE WAS LIKE, "GO, SHA, GO."

14 THEN WE LEFT FROM THERE. WHEN WE WAS GOING DOWN THE
15 ROAD, THAT'S WHEN -- THAT WAS WHEN KARTEZ, BAM, TRAMELE,
16 MARCUS, AND PUNKIN ALL WAS IN THE SAME CAR AND HAD WENT PAST
17 US. AND THEN THAT'S WHEN WE WAS RIDING DOWN THE ROAD.
18 THAT'S WHEN WE PULLED OVER, AND WHEN WE PULLED OVER, THAT'S
19 WHEN JACQUES -- HE HOPPED OUT OF THE CAR AND HE RAN INTO THE
20 BUSHES. THAT'S WHEN I SEEN HIS HEAD DOWN, BUT I DON'T KNOW
21 WHAT HE WAS DOING BECAUSE HE WAS BEHIND THE BUSHES, AND
22 THAT'S WHEN HE CAME AND JUMPED BACK IN THE CAR.

23 WHEN HE JUMPED BACK IN THE CAR, WE WENT TO RIDGEWAY.
24 THAT'S WHEN KARTEZ CALLED HIM. HE HAD TOLD HIM TO COME TO
25 BAM'S HOUSE. WHEN WE GOT TO BAM'S HOUSE, THAT'S WHEN PUNKIN

1 WAS YELLING, "SOMEBODY GOT SHOT. SOMEBODY GOT SHOT." THAT'S
2 WHEN KARTEZ WAS LIKE, "WHO? WHO? WHO?" AND THAT'S WHEN SHE
3 SAID, "I DON'T KNOW. SOMEBODY GOT SHOT."

4 Q. OKAY. SO -- AND YOU SAID PUNKIN IS LAKISHA DAVIS?

5 A. YES, SIR.

6 Q. LET'S KIND OF BACKTRACK. WHAT WAS YOUR UNDERSTANDING OF
7 WHY Y'ALL WERE ACTUALLY GOING TO COLUMBIA?

8 A. TO MY KNOWLEDGE, HE JUST TOLD ME THAT WE WAS GOING TO
9 PICK UP KARTEZ.

10 Q. WHAT DID YOU UNDERSTAND -- WHAT ELSE DID YOU KNOW ABOUT
11 WHO WAS AT CHANCE'S AT THAT TIME?

12 A. JACQUES -- HE SAY, "KARTEZ SAID COME PICK HIM UP.
13 THERE'S SOME WINNSBORO BOYS DOWN THERE, AND BAM IS DOWN THERE
14 TOO." THAT'S WHAT HE SAID.

15 Q. AND DO YOU REMEMBER APPROXIMATELY WHAT TIME Y'ALL GOT
16 DOWN THERE?

17 A. OH, NO, SIR. I WAS HALFWAY ASLEEP. THAT'S WHAT I WAS
18 DOING AT THE TIME.

19 Q. AND WHO WAS RIDING WITH YOU IN THAT CAR?

20 A. IT WAS ME - VERNON DAVIS - ME, STEPHON WILLINGHAM, AND
21 JACQUES GIBSON.

22 Q. AND WHO WAS DRIVING?

23 A. JACQUES GIBSON.

24 Q. AND WHERE WERE YOU AT?

25 A. I WAS ON THE PASSENGER SIDE.

1 Q. WHOSE VEHICLE WAS THAT?

2 A. KARTEZ. ADAMS GIBSON.

3 Q. LET ME SHOW YOU A SERIES OF PHOTOGRAPHS - STATE'S
4 EXHIBIT NUMBER 5, NUMBER 6, NUMBER 7, NUMBER 8, AND NUMBER 10
5 - AND GET YOU TO LOOK AT EACH PHOTO AND ASK YOU: DO YOU
6 RECOGNIZE THE ITEMS THAT'S SHOWN IN THAT -- THOSE
7 PHOTOGRAPHS?

8 A. (THE WITNESS LOOKS AT THE EXHIBITS.)

9 Q. DO YOU RECOGNIZE THE VEHICLE THAT'S IN THOSE
10 PHOTOGRAPHS?

11 A. YES, SIR.

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

13 A. A WHITE FORD ESCORT.

14 Q. IS THAT THE ESCORT THAT Y'ALL WERE IN THAT PARTICULAR
15 NIGHT?

16 A. YES, SIR.

17 MR. LAKE: YOUR HONOR, THE STATE WOULD MOVE STATE'S
18 EXHIBIT NUMBER 8, 10, 6, AND 5 INTO EVIDENCE. I THINK ALSO
19 7.

20 THE COURT: ALL RIGHT. 5, 6, 7, 8, AND 10?

21 MR. LAKE: YES, SIR. I GOT THEM OUT OF ORDER A LITTLE
22 BIT. 5, 6, 7, 8, AND 10, YES, SIR.

23 THE COURT: ALL RIGHT. IS THERE ANY OBJECTION, MR.
24 ROBERSON?

25 MR. ROBERSON: NONE, YOUR HONOR.

1 THE COURT: MR. JOHNSON?

2 MR. JOHNSON: NONE, YOUR HONOR.

3 THE COURT: SO STATE'S 5, 6, 7, 8, AND 10 ARE IN
4 EVIDENCE WITHOUT OBJECTION.

5 MR. LAKE: THANK YOU, YOUR HONOR.

6 (STATE'S EXHIBITS 5, 6, 7, 8, AND 10 WERE RECEIVED IN
7 EVIDENCE.)

8 BY MR. LAKE:

9 Q. AND WHERE WAS FAT MAN SEATED AT THIS PARTICULAR TIME?

10 A. HE WAS SITTING BEHIND ME.

11 Q. EXACTLY -- LET ME SHOW YOU A DIAGRAM OF THE CHANCE'S
12 PARKING LOT. I'LL GET YOU TO USE THIS PARTICULAR POINTER
13 RIGHT HERE. THIS BEING YOUR REFERENCE POINT AS TO THE FRONT
14 OF CHANCE'S, WHERE EXACTLY WERE Y'ALL AT WHEN YOU FIRST GOT
15 THERE?

16 A. WHEN WE FIRST GOT THERE, WE WERE HERE.

17 Q. Y'ALL WERE UP IN THAT GENERAL AREA RIGHT THERE?

18 A. YES, SIR.

19 Q. AND WHERE DO YOU REMEMBER SEEING THE ARGUMENTS GOING ON?

20 A. THE ARGUMENT WAS LIKE IN THIS AREA RIGHT HERE.

21 Q. IS IT OUT IN THE OPEN OR WHERE IS IT AT?

22 A. IT WASN'T DIRECTLY OUT IN THE OPEN. IT WAS, I THINK, IN
23 BETWEEN CARS.

24 Q. IN BETWEEN SOME CARS?

25 A. YES, SIR.

1 Q. AND LET ME ASK YOU A QUESTION. WHAT, IF ANY, ROLE DID
2 YOU HAVE IN TERMS OF THE PHYSICAL FIGHT?

3 A. OH, NONE AT ALL.

4 Q. AND HOW CLOSE WOULD YOU SAY THAT ADAMS KARTEZ GIBSON GOT
5 TO THAT VEHICLE -- TO YOUR VEHICLE? DID HE EVER COME IN THAT
6 VEHICLE?

7 A. OH, YES, SIR, BUT HE WAS -- THEY WERE STANDING OUTSIDE
8 OF THE CAR.

9 Q. DID YOU -- WHEN DID JACQUES GIBSON FIRST GET OUT OF THE
10 CAR?

11 A. WHEN WE FIRST ARRIVED.

12 Q. DID YOU SEE HIM WHEN HE GOT OUT OF THE CAR?

13 A. YES, SIR.

14 Q. AND HOW LONG WAS HE INSIDE OF THE CLUB?

15 A. I'D SAY ABOUT 10 MINUTES.

16 Q. ABOUT 10 MINUTES? AND WHAT ARE YOU AND FAT MAN DOING
17 DURING THIS ENTIRE TIME?

18 A. I WAS STILL LAYING DOWN IN MY SEAT. I WAS HALFWAY
19 ASLEEP, AND I DON'T KNOW WHAT FAT MAN WAS DOING.

20 Q. OKAY. AND DO YOU KNOW AT WHAT POINT YOU NEXT HAD
21 CONTACT WITH JACQUES?

22 A. TALKING ABOUT THAT NIGHT?

23 Q. YES, SIR.

24 A. NO, SIR, EXCEPT WHEN HE GOT BACK IN THE CAR BUT HE
25 WASN'T SAYING ANYTHING THEN.

1 Q. HE WASN'T SAYING ANYTHING AT THAT PARTICULAR POINT?

2 A. NO, SIR.

3 Q. AND WHAT SPECIFICALLY -- WHAT SPECIFICALLY DO YOU
4 REMEMBER KARTEZ DOING?

5 A. HE WAS STANDING BEHIND THE CAR.

6 Q. AND WHAT CAR IS THIS?

7 A. THE WHITE FORD ESCORT.

8 Q. AND WHAT ELSE DID -- WHAT ELSE DID YOU SEE HIM
9 SPECIFICALLY DOING?

10 A. SWINGING.

11 Q. YOU SAY HE WAS SWINGING?

12 A. YES, SIR.

13 Q. WHAT -- EXPLAIN TO THE JURY WHAT SWINGING IS.

14 A. YOU KNOW, LIKE FIGHTING, SWINGING, SWINGING HIS FISTS.
15 HE WAS SWINGING DOWN AT THE GROUND THOUGH. THAT'S WHY I
16 DIDN'T SEE WHO HE WAS HITTING.

17 Q. SO IT APPEARED HE WAS HITTING SOMEONE ON THE GROUND?

18 A. YES, SIR.

19 MR. JOHNSON: LEADING, YOUR HONOR. OBJECTION.

20 THE COURT: I'M GOING TO ALLOW IT.

21 BY MR. LAKE:

22 Q. AT WHAT POINT DO YOU HEAR SHOTS FIRED?

23 A. LIKE WHEN THEY WAS ARGUING.

24 Q. AND AT WHAT POINT DO YOU SEE JACQUES WITH A FIREARM?

25 A. IT WAS LIKE WHILE THEY WERE STILL ARGUING. THEY WASN'T

1 ACTUALLY FIGHTING THEN, BUT THEY WERE STILL -- THEY WERE
2 STILL ARGUING. THAT'S WHEN I HAD HEARD THE GLASS SHATTER,
3 AND I LOOKED -- AFTER THE FIRST SHOT, THAT'S WHEN I JUMPED UP
4 AND THAT'S WHEN I SEEN HIS HAND IN THE AIR.

5 Q. DID YOU -- COULD YOU DESCRIBE WHAT YOU SAW IN HIS HAND?

6 A. I DIDN'T SEE THE WHOLE THING. I JUST SAW THE BOTTOM
7 HALF OF IT.

8 Q. AND WHAT DID THAT LOOK LIKE?

9 A. IT WAS -- IT WAS BLACK. IT WAS -- IT WAS A GUN.

10 Q. AND WHAT, IF ANY, KNOWLEDGE DID YOU HAVE ABOUT ANY
11 WEAPONS IN THAT PARTICULAR VEHICLE?

12 A. NONE AT ALL.

13 Q. AND WHAT DID YOU SEE HIM DO WITH THAT PARTICULAR GUN?

14 A. I DIDN'T SEE -- I DIDN'T SEE WHAT HE DID WITH IT, WELL,
15 EXCEPT WHEN HE WAS OUTSIDE THE CAR. I SEEN HIM WHEN HE FIRED
16 IN THE AIR.

17 Q. AND YOU INDICATED THAT -- WELL, WHAT OCCURRED BETWEEN
18 JACQUES, SHA-SHA, AND YO-YO?

19 A. HE WAS -- HE WAS POINTING. HE WAS TELLING YO-YO, "DON'T
20 DO IT," BUT HIS HAND WAS OUT OF THE CAR, TOO. SO I'M
21 SUGGESTING THAT HE HAD THE WEAPON IN HIS HAND STILL.

22 Q. AND WHAT DID YO-YO, ANTONIO SMITH, DO IN RESPONSE TO
23 WHAT SHA-SHA SAID TO HIM?

24 A. HE WAS JUST SITTING THERE LOOKING BECAUSE HE WAS -- HE
25 HAD A BEER IN HIS HAND LIKE HE WAS DRINKING, LIKE HE WAS JUST

1 WALKING OVER THERE, AND THEN HE WAS LIKE, "DON'T DO IT,
2 YO-YO. DON'T DO IT," BUT HE WAS JUST STANDING BACK THERE
3 LOOKING.

4 Q. AND WHEN THE FIRST SHOT GOES OFF, DO YOU KNOW WHETHER
5 IT'S SHA-SHA THAT ACTUALLY FIRED THAT FIRST SHOT?

6 A. NO, SIR, UNTIL I LOOKED UP AND I -- WHEN I LOOKED UP, I
7 WAS LIKE... THAT'S WHEN I SEEN THE SECOND ONE.

8 Q. AND AFTER -- HOW MANY SHOTS WOULD YOU SAY YOU HEARD
9 TOTAL THAT PARTICULAR NIGHT?

10 A. I WOULD SAY ABOUT -- ABOUT EIGHT THAT WHOLE NIGHT.
11 ABOUT EIGHT.

12 Q. AND COULD YOU TELL WHETHER ALL OF THEM CAME FROM THAT
13 PARTICULAR GUN THAT SHA-SHA HAD?

14 A. I DON'T KNOW EXACTLY, BUT I'M SUGGESTING THAT---

15 MR. JOHNSON: OBJECTION, YOUR HONOR.

16 THE WITNESS: ---NOT REALLY.

17 THE COURT: ALL RIGHT.

18 THE WITNESS: I DON'T REALLY KNOW.

19 THE COURT: OKAY.

20 THE WITNESS: BECAUSE I WAS ON THE FLOOR.

21 BY MR. LAKE:

22 Q. JUST STOP. YOU CAN'T ANSWER IT. DO YOU HAVE ANY
23 BACKGROUND OR KNOWLEDGE ABOUT GUNS? DO YOU OWN A GUN
24 YOURSELF?

25 A. NO, SIR.

1 Q. HAVE YOU EVER HAD A GUN BEFORE?

2 A. NO, SIR.

3 Q. HAVE YOU EVER FIRED A GUN BEFORE?

4 A. NO, SIR.

5 Q. DO YOU KNOW WHAT THE DIFFERENCE IS BETWEEN, SAY, FOR
6 INSTANCE, A NINE MILLIMETER OR A .25?

7 MR. JOHNSON: OBJECTION, YOUR HONOR. HE'S ALREADY SAID
8 HE DOESN'T KNOW.

9 THE WITNESS: NO, SIR.

10 THE COURT: I'M GOING TO ALLOW HIM TO ANSWER THE
11 QUESTION. YOU CAN ANSWER IT.

12 BY MR. LAKE:

13 Q. DO YOU KNOW THE DIFFERENCE BETWEEN---

14 A. NO, SIR.

15 Q. OKAY. WHAT HAPPENS AFTER THE SHOTS ARE FIRED?

16 A. THE FIRST SHOTS---

17 Q. WHAT DO YOU DO?

18 A. ---OR THE SECOND SHOT?

19 Q. WHAT DO YOU AFTER THE SECOND SHOT?

20 A. I WAS ON THE FLOOR.

21 Q. AND WHAT HAPPENS NEXT?

22 A. WHEN ALL OF THE SHOTS STOPPED, THAT'S WHEN I JUMPED UP
23 AND I SEEN HIS HAND OUT OF THE CAR POINTED AT---

24 Q. WHOSE HAND WAS OUT THE WINDOW? WHOSE HAND WAS OUT OF
25 THE CAR?

1 A. JACQUES.

2 Q. AND WHAT ABOUT THE CAR? WHERE IS THE CAR IN RELATION
3 TO -- AT THIS POINT WHERE ARE Y'ALL AT, JUST KIND OF USING
4 THAT POINTER AGAIN, IN RELATION TO WHEN YOU LOOKED UP AND YOU
5 SEE HIS ARM OUT OF THE CAR AGAIN?

6 A. WE WAS LIKE AROUND THIS AREA. IT WAS UP FURTHER THAN
7 WHAT IT WAS.

8 Q. OKAY. SO Y'ALL---

9 A. A LITTLE BIT FURTHER, NOT ALL THE WAY OUT, BUT IT WAS A
10 LITTLE FURTHER.

11 Q. A LITTLE FURTHER OUT?

12 A. YES, SIR.

13 Q. HOW DO Y'ALL LEAVE CHANCE'S SPORTS BAR?

14 A. ARE YOU TALKING ABOUT THE WAY WE TOOK OUT OF THE PARKING
15 LOT?

16 Q. YES, SIR. HOW WOULD YOU DESCRIBE HOW Y'ALL LEFT OUT OF
17 THE PARKING LOT?

18 A. A SPEED-AWAY.

19 Q. AND WHO WAS DRIVING?

20 A. JACQUES GIBSON.

21 Q. AND WHICH WAY DID Y'ALL GO?

22 A. WE DIDN'T TAKE THE SAME WAY BACK. WE CAME UP ON THE
23 INTERSTATE, BUT THE WAY WE WENT BACK IT WAS LIKE WE WENT
24 ACROSS THE TRAIN TRACKS.

25 Q. ARE YOU FAMILIAR WITH THE DIRECTION IN WHICH Y'ALL WENT?

1 A. I KNOW THE WAY, BUT I DON'T KNOW THE NAME OF THE ROADS
2 OR ANYTHING LIKE THAT.

3 Q. OKAY. AND YOU INDICATED -- AT WHAT POINT DID Y'ALL
4 STOP?

5 A. WHEN WE WAS LIKE -- WHEN WE CROSSED THE TRAIN TRACKS AND
6 WE WAS GOING DOWN AND I JUST REMEMBER BUSHES AND A BIG WHITE
7 SIGN.

8 Q. AND WHAT HAPPENS AT THIS PARTICULAR POINT?

9 A. WE PULLED OVER. THAT'S WHEN HE JUMPS OUT OF THE CAR
10 AND, YOU KNOW, HE RAN IN THE BUSHES.

11 Q. AND WHAT, IF ANYTHING, CAN YOU SEE IN TERMS OF WHEN HE'S
12 HEADING TOWARD THE BUSHES?

13 A. WELL, HE WAS HOLDING HIS POCKETS, AND THEN THAT'S WHEN
14 HE JUST RAN IN THE BUSHES AND KNEELED DOWN.

15 Q. HE WAS HOLDING HIS POCKETS AND HE KNEELED DOWN?

16 A. YES, SIR.

17 Q. AND HOW LONG WAS HE OUT THERE DOING THAT?

18 A. IT WASN'T -- HE WASN'T OUT THERE THAT LONG. I'D SAY
19 NEARLY TWO TO FIVE MINUTES.

20 Q. AND WHAT ARE YOU AND FAT MAN DOING AT THIS PARTICULAR
21 POINT?

22 A. I WAS -- I WAS CLUELESS, LIKE SCARED.

23 Q. WHY WERE YOU SCARED?

24 A. BECAUSE I DIDN'T KNOW WHAT HAD HAPPENED BECAUSE I WAS
25 JUST SHOCKED, YOU KNOW, THAT WE WAS AT A CLUB AND A SHOOTING

1 JUST TOOK PLACE BECAUSE I WAS YOUNG AND I AIN'T HAD NO REASON
2 BEING THERE.

3 Q. WHY DIDN'T YOU HAVE ANY REASON BEING THERE?

4 A. I WAS SUPPOSED TO BE GOING HOME.

5 Q. DID YOUR MOTHER KNOW YOU WERE THERE?

6 A. NO, SIR.

7 Q. IS YOUR MOM IN THE COURTROOM TODAY?

8 A. YES, SIR.

9 MR. JOHNSON: RELEVANCE, YOUR HONOR.

10 THE COURT: I WILL ALLOW IT. LET'S MOVE ALONG,
11 SOLICITOR.

12 MR. LAKE: YES, SIR.

13 BY MR. LAKE:

14 Q. WHERE DO Y'ALL GO AFTER HE GETS BACK INTO THE CAR?

15 A. WHEN HE JUMPS BACK IN THE CAR, THAT'S WHEN WE TOOK OFF.
16 WE WAS ON OUR WAY TO RIDGEWAY. THAT'S WHEN KARTEZ -- HE
17 CALLED US. HE CALLS JACQUES AGAIN AND HE SAYS MEET HIM DOWN
18 AT BAM'S HOUSE---

19 MR. ROBERSON: OBJECTION. HEARSAY.

20 THE COURT: SUSTAINED.

21 BY MR. LAKE:

22 Q. YOU SAY HE RECEIVED A PHONE CALL?

23 A. YES, SIR.

24 Q. BASED UPON THAT PHONE CALL, WHERE DO Y'ALL GO?

25 A. TO BAM'S HOUSE.

1 Q. AND WHO ALL IS AT BAM'S HOUSE WHEN Y'ALL GO THERE?

2 A. IT WAS DEMETRIC, TRAMELE, MARCUS, LAKISHA, AND KARTEZ.

3 Q. AND YOU CAN'T---

4 A. AND TRAMELE---

5 Q. OKAY. I'M SORRY. YOU CAN'T SAY EXACTLY WHAT EVERYBODY
6 IS SAYING, BUT HOW LONG ARE ALL OF YOU ALL TOGETHER AT BAM'S
7 HOUSE?

8 A. I'D SAY BETWEEN 10 AND 15 MINUTES BECAUSE LAKISHA -- SHE
9 WAS YELLING, "SOMEBODY GOT SHOT. SOMEBODY GOT SHOT."

10 Q. OKAY. AND---

11 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S HEARSAY.

12 THE COURT: I'M GOING TO ALLOW IT. I DON'T THINK IT'S
13 IMPERMISSIBLE HEARSAY. THANK YOU.

14 BY MR. LAKE:

15 Q. WHEN Y'ALL WERE TRAVELING BACK TO RIDGEWAY, WHO ELSE DID
16 YOU SEE AS Y'ALL WERE TRAVELING BACK TO RIDGEWAY?

17 A. ARE YOU TALKING ABOUT ON THE ROAD?

18 Q. YES, SIR.

19 A. WHEN WE WAS DRIVING ON OUR WAY BACK TO RIDGEWAY, WE SAW
20 DEMETRIC, TRAMELE, LAKISHA, MARCUS, AND KARTEZ. THEY -- THEY
21 LIKE PASSED US REALLY FAST.

22 Q. AND HOW FAST WERE Y'ALL TRAVELING?

23 A. WE -- I CAN'T -- I DON'T REALLY KNOW THAT.

24 Q. OKAY. AND WHAT ELSE DO YOU REMEMBER HAPPENING AS YOU
25 WERE GOING BACK TO RIDGEWAY?

1 A. WHEN WE WAS ON OUR WAY BACK TO RIDGEWAY AFTER -- ARE YOU
2 TALKING ABOUT AFTER HE JUMPED BACK IN THE CAR?

3 Q. AFTER JACQUES GOT BACK IN THE CAR, WHAT HAPPENED AFTER
4 THAT?

5 A. WE WAS ON OUR WAY TO RIDGEWAY, BUT BEFORE WE GOT TO
6 BAM'S HOUSE HE WAS LIKE, "LEAN BACK." AND WHEN WE STARTED
7 LAYING BACK, I SEEN HIM REACH ON THE FLOOR AND THEN WHEN HE
8 THREW SOMETHING OUT THE WINDOW, I JUST KNOW IT WAS SMALL. I
9 NEVER DID REALLY SEE WHAT IT WAS.

10 Q. AND YOU SAID WHO TOLD YOU TO LEAN BACK?

11 A. JACQUES GIBSON.

12 Q. AND COULD YOU -- COULD YOU TELL WHAT HE WAS -- WHAT HE
13 WAS PICKING UP?

14 A. NO, SIR. I DIDN'T REALLY SEE IT. I SEEN IT WHEN HE WAS
15 THROWING IT OUT THE WINDOW AND WHEN WE GOT DOWN, BUT LIKE
16 GRABBING IT, I DIDN'T SEE WHERE HE GOT IT FROM. I JUST KNOW
17 HE WENT DOWN TO GO GET IT.

18 Q. HOW MANY TIMES DID HE DO THAT?

19 A. ONCE.

20 Q. OKAY. AND DO YOU KNOW WHERE EXACTLY THAT OCCURRED IN
21 YOUR ROUTE BACK TO RIDGEWAY IN TERMS OF WHERE HE ACTUALLY
22 THREW SOMETHING OUT?

23 A. BETWEEN BAM'S HOUSE AND UP FROM BAM'S HOUSE THERE'S A
24 NURSING HOME, BETWEEN THAT AREA ON THE RIGHT SIDE BECAUSE WE
25 WAS COMING DOWN ON THE RIGHT SIDE.

1 Q. OKAY.

2 A. AND FROM THE PASSENGER SIDE TO THE RIGHT SIDE.

3 Q. DO YOU REMEMBER GOING TO DUTCHMAN CREEK BRIDGE OR
4 ANYTHING LIKE THAT?

5 MR. JOHNSON: LEADING, YOUR HONOR. OBJECTION.

6 THE WITNESS: REPEAT.

7 THE COURT: SUSTAINED. REPHRASE YOUR QUESTION.

8 MR. LAKE: YES, SIR.

9 BY MR. LAKE:

10 Q. WHAT, IF ANY, OTHER ROUTES DID Y'ALL TAKE TO GO TO WHERE
11 Y'ALL WOULD EVENTUALLY MEET THE REST OF THOSE PEOPLE AT?

12 A. FROM MY KNOWLEDGE, WHEN WE GOT ACROSS THE TRAIN TRACKS
13 THERE'S LIKE A GOLD MINE IN THAT AREA. THAT'S THE ONLY WAY
14 THAT WE TOOK THERE. WE DIDN'T GO ANYWHERE ELSE. WE JUST
15 WENT STRAIGHT TO BAM'S HOUSE.

16 Q. WHAT, IF ANY, OTHER STOPS DID Y'ALL MAKE AFTER YOU
17 STOPPED AND YOU SAW HIM GET OUT OF THE CAR?

18 MR. JOHNSON: OBJECTION, YOUR HONOR. HE DIDN'T SAY THAT
19 THEY MADE---

20 THE COURT: ALL RIGHT. DON'T SUGGEST THE ANSWER TO ANY
21 QUESTIONS, SOLICITOR. JUST ASK HIM WHAT HAPPENED.

22 BY MR. LAKE:

23 Q. WERE THERE ANY OTHER STOPS?

24 A. OH, NO, SIR.

25 THE COURT: THAT'S THE SAME QUESTION.

1 MR. JOHNSON: SAME OBJECTION.

2 THE COURT: JUST ASK HIM WHAT HAPPENED AFTER THE FIRST
3 STOP.

4 BY MR. LAKE:

5 Q. WHAT HAPPENED AFTER THE FIRST STOP?

6 A. AFTER THE FIRST SHOT?

7 Q. AFTER THE FIRST STOP.

8 A. OH. AFTER THE FIRST STOP, THEN WE WAS ON OUR WAY BACK
9 TOWARDS RIDGEWAY. THAT'S WHEN HE GOT A CALL FROM KARTEZ.
10 THAT'S WHEN HE TOLD HIM TO MEET HIM AT BAM'S HOUSE.

11 Q. OKAY. AND WHAT DO Y'ALL DO NEXT AFTER Y'ALL LEAVE BAM'S
12 HOUSE?

13 A. AFTER WE LEAVE BAM'S HOUSE, KARTEZ -- HE JUMPS IN THE
14 CAR THAT HE WAS DRIVING AT THAT POINT IN TIME, AND THAT'S
15 WHEN HE TAKES FAT MAN HOME, BETTER KNOWN AS STEPHON
16 WILLINGHAM. HE TAKES HIM HOME. THEN HE TAKES US, ME AND
17 JACQUES, BACK TO JACQUES' HOUSE. AND WHILE WE WERE THERE, WE
18 WERE ASLEEP, AND THEN THAT'S WHEN -- THAT'S WHEN WE WOKE UP
19 AND THAT'S WHEN JACQUES' SISTER, LYNN, SAID THAT WE WERE --
20 OR SAID THAT JACQUES SHOT SOMEBODY.

21 MR. JOHNSON: OBJECTION, YOUR HONOR.

22 THE COURT: Y'ALL COME OVER HERE AND TALK TO ME FOR A
23 SECOND, PLEASE.

24 (THE FOLLOWING BENCH CONFERENCE TOOK PLACE IN THE
25 PRESENCE OF THE COURT, THE ATTORNEYS, AND THE COURT

1 REPORTER.)

2 THE COURT: SOLICITOR?

3 MR. LAKE: I DIDN'T ASK HIM THAT. I JUST ASKED HIM WHAT
4 HAPPENED NEXT. I DIDN'T ASK ANY QUESTION THAT PRECIPITATED
5 HIM SAYING AND MAKING THAT STATEMENT. I WAS ACTUALLY LOOKING
6 DOWN.

7 THE COURT: ALL RIGHT, SIR.

8 (THE BENCH CONFERENCE CONCLUDED.)

9 THE COURT: ALL RIGHT. OBJECTION SUSTAINED. THE JURY
10 WILL DISREGARD ANY OF THOSE PAST STATEMENTS MADE BY THE
11 DEFENDANT. THANK YOU VERY MUCH.

12 BY MR. LAKE:

13 Q. MR. DAVIS, REMEMBER YOU CAN'T SAY WHAT SOMEONE ELSE HAS
14 SAID OR ANYTHING LIKE THAT. OKAY? ARE YOU A LITTLE NERVOUS?

15 MR. JOHNSON: OB...

16 THE COURT: I'LL ALLOW THAT QUESTION.

17 BY MR. LAKE:

18 Q. ARE YOU NERVOUS?

19 A. I AIN'T NEVER BEEN IN A SITUATION LIKE THIS A DAY IN MY
20 LIFE.

21 Q. DO YOU NEED A MOMENT?

22 A. NO, SIR. I'M JUST READY TO GET IT OVER WITH.

23 Q. OKAY. WHERE -- HOW LONG ARE YOU AT JACQUES' HOUSE THAT
24 PARTICULAR MORNING?

25 A. I'LL SAY FOR LIKE -- FROM THAT MORNING -- FROM THE START

1 OF THE MORNING, LIKE 7 OR 8, WE -- WHEN WE WOKE UP, WE LEFT.
2 WE WENT TO THOMAS'S HOUSE. WE GOT SOMETHING TO EAT. WE WERE
3 RIDING DOWN THE HIGHWAY GOING BACK TO JACQUES' HOUSE.

4 Q. AT WHAT POINT DID YOU GO HOME?

5 A. IT WAS LIKE AROUND LIKE 11.

6 Q. WHEN WAS THE NEXT TIME YOU SEEN JACQUES, SHA-SHA?

7 A. IT WAS THAT WEDNESDAY IN SCHOOL.

8 Q. HAD YOU HAD ANY PRIOR CONTACT WITH HIM BEFORE THAT --
9 THAT WEDNESDAY?

10 A. YEAH, I HAD SPOKE WITH HIM THAT TUESDAY.

11 Q. AND WHAT, IF ANYTHING, DID Y'ALL DISCUSS ABOUT WHAT
12 HAPPENED THAT NIGHT?

13 A. THE ONLY THING HE WAS SAYING -- HE SAID, "MAN, I'VE GOT
14 TO GET OUT OF THE HERE, MAN." HE SAID -- HE SAID, "MAN, I
15 DON'T KNOW WHAT HAPPENED DOWN THERE, MAN." HE WAS LIKE,
16 "MAN, I'VE GOT TO GET OUT OF THIS." THAT'S JUST WHAT I
17 REMEMBER.

18 Q. LET ME ASK YOU A QUESTION. WHAT WAS THE ACTUAL NEXT --
19 WHAT WAS THE ACTUAL -- THAT WAS A HOLIDAY WEEKEND; CORRECT?

20 A. YES, SIR.

21 Q. WHAT WAS THE NEXT SCHOOL DAY?

22 A. THAT TUESDAY.

23 Q. WHO WAS ALL PRESENT AMONGST YOU AND JACQUES AND STEPHON
24 WHO WAS AT SCHOOL ON TUESDAY?

25 A. I WAS THE ONLY ONE THAT ATTENDED SCHOOL THAT DAY.

1 Q. AND AS A RESULT OF THAT, WHAT DID YOU DO?

2 A. WHILE I WAS AT SCHOOL?

3 Q. THAT TUESDAY.

4 A. OH, WHEN I WAS AT SCHOOL EVERYBODY---

5 Q. YOU CAN'T SAY WHAT ANYBODY SAID; NOW REMEMBER THAT.

6 A. MOST OF THE PEOPLE THAT WAS THERE, THEY WAS JUST TALKING
7 ABOUT WHAT HAPPENED, WHAT HAPPENED OVER THE WEEKEND.

8 MR. JOHNSON: OBJECTION, YOUR HONOR. THAT'S NOT
9 RELEVANT.

10 THE COURT: JUST CONTINUE ON, SOLICITOR.

11 BY MR. LAKE:

12 Q. HOW MANY CLASSES DID YOU HAVE WITH JACQUES?

13 A. THREE.

14 Q. LET ME SHOW YOU WHAT'S BEEN MARKED IN EVIDENCE AS
15 STATE'S EXHIBIT NUMBER 11, AND I ASK YOU: DO YOU RECOGNIZE
16 THIS PARTICULAR DOCUMENT?

17 A. OH, YES, SIR.

18 Q. WHAT DO YOU RECOGNIZE IT TO BE?

19 A. THAT WAS -- THAT WAS PRESENTED TO ME. THAT WAS
20 PRESENTED TO ME IN AUTO COLLISION. HE WAS SAYING---

21 Q. WHO WAS HE?

22 A. JACQUES GIBSON. HE WAS LIKE -- HE SAID, "THAT'S MY
23 STATEMENT." HE SAID, "I'M GOING TO TAKE IT TO THE POLICEMAN
24 SO I CAN GO ON AND GET MY NAME UP OUT OF THIS." THAT'S WHAT
25 HE TOLD ME, BUT I DIDN'T READ IT THOUGHT. I JUST READ LIKE

1 THE FIRST PART, NOT THE WHOLE THING, LIKE THE FIRST PART WHEN
2 IT SAID, "ME AND MY BROTHER AND DUWOP," AND THEN I GAVE IT
3 BACK TO HIM. THE TEACHER -- SHE WAS -- WELL, HE WAS SITTING
4 THERE TELLING US WHAT WAS GOING ON THAT DAY.

5 Q. THAT PART THAT YOU JUST READ, DO YOU AGREE WITH THAT
6 PART -- THOSE PARTS THAT YOU READ?

7 A. ME AND MY BROTHER, YES. ME AND MY BROTHER AND DUWOP,
8 YES, SIR.

9 Q. WHAT ABOUT THE REST OF IT?

10 A. I DIDN'T READ THE WHOLE THING. I DIDN'T GET PAST THAT
11 PART BECAUSE I JUST GAVE IT BACK TO HIM.

12 Q. AT THIS PARTICULAR POINT HAVE Y'ALL BEEN CONTACTED BY
13 ANY LAW ENFORCEMENT OR ANYTHING LIKE THAT?

14 A. NO, SIR. AFTER AUTO COLLISION -- AFTER AUTO COLLISION,
15 WE HAD WENT TO ENGLISH, AND THAT'S WHEN I HAD -- THAT'S WHEN
16 THE LAW ENFORCEMENT CAME TO THE CLASS AND THEN THEY GOT HIM
17 OUT OF CLASS, AND THAT'S THE LAST TIME I EVER SEEN HIM.

18 Q. WHEN DID YOU ACTUALLY TALK TO LAW ENFORCEMENT?

19 A. IT WAS LIKE A WEEK AFTER, I THINK ON A FRIDAY. IT
20 WAS -- I DON'T KNOW WHAT PARTICULAR DAY, BUT IT WAS SEPTEMBER
21 THE 15TH, I THINK.

22 Q. AND WHO WAS PRESENT WHEN YOU TALKED WITH LAW
23 ENFORCEMENT?

24 A. MY LAWYER, MY MOTHER, AND MY AUNT.

25 Q. AND DO YOU RECALL WHERE YOU TALKED TO LAW ENFORCEMENT

1 AT?

2 A. IT WAS AT THE LAWYER'S OFFICE.

3 Q. AND DID YOU TELL HIM WHAT HAPPENED?

4 A. YES, SIR.

5 Q. MR. DAVIS, YOU WERE ACTUALLY CHARGED IN THIS PARTICULAR
6 CASE, WEREN'T YOU?

7 A. YES, SIR.

8 Q. WHAT WERE YOU CHARGED WITH?

9 A. IT WAS MISPRISION OF A FELONY; I THINK THAT'S THE NAME
10 OF IT. I DON'T REALLY KNOW BECAUSE IT HAPPENED SO LONG AGO.

11 Q. AND YOU PLED GUILTY; CORRECT?

12 A. YES, SIR.

13 Q. WERE YOU PROMISED ANYTHING TO COME HERE AND TESTIFY
14 TODAY?

15 A. OH, NO, SIR. I WAS JUST PROMISED I WAS GOING TO GO
16 HOME, AND THAT'S WHAT I'M TRYING TO DO.

17 MR. JOHNSON: I DIDN'T HEAR THE LAST ANSWER, YOUR HONOR.
18 I'M SORRY.

19 THE COURT: COULD YOU SAY YOUR ANSWER AGAIN, PLEASE,
20 SIR?

21 THE WITNESS: THEY TOLD ME I WAS GOING BACK HOME, AND
22 THAT'S WHAT I'M TRYING TO DO.

23 BY MR. LAKE:

24 Q. WHO TOLD YOU YOU WERE GOING BACK HOME?

25 A. MY MAMA AND YOU.

1 MR. JOHNSON: AND WHO? I'M SORRY. HIS VOICE KEEPS
2 DROPPING.

3 THE COURT: I'M SORRY, MR. JOHNSON?

4 THE WITNESS: MY MOTHER AND HIM.

5 BY MR. LAKE:

6 Q. BECAUSE YOUR CHARGES HAVE BEEN DISPOSED OF; CORRECT?

7 A. EXCUSE ME?

8 Q. BECAUSE YOUR CHARGES -- YOU'VE ALREADY PLED GUILTY;
9 CORRECT?

10 A. OH, YES, SIR.

11 Q. LET ME ASK YOU A QUESTION. WAS I INVOLVED IN THE
12 PROSECUTION OF YOUR CASE?

13 A. NO, SIR.

14 Q. WHEN WAS THE FIRST TIME YOU EVER MET ME?

15 A. I MET YOU I THINK IT WAS -- IT WAS LAST WEEK. I THINK
16 IT WAS MONDAY OR, NO, IT WAS FRIDAY, LAST FRIDAY.

17 Q. WHEN DID YOU MEET MS. CAMPBELL?

18 A. TODAY. I'D SAY ABOUT 20 MINUTES OR 30 MINUTES AGO. I
19 DON'T REALLY KNOW.

20 Q. WHAT, IF ANY, CONVERSATIONS DID YOU OR JACQUES OR
21 STEPHON HAVE ABOUT WHAT YOU WERE GOING TO SAY TO LAW
22 ENFORCEMENT?

23 A. TO THE LAW ENFORCEMENT? HE DIDN'T TELL US ANYTHING TO
24 TELL THE LAW ENFORCEMENT. HE TOLD US TO TELL HIS SISTERS.

25 Q. AND WHAT WAS THAT?

1 A. TELL THEM THAT I WENT TO PICK UP MY BROTHER. HE DIDN'T
2 SAY ANYTHING ABOUT THE LAW ENFORCEMENT. TO MY KNOWLEDGE, THE
3 ONLY THING HE SAID IS THAT HE WANTED HIS NAME CLEARED. HE
4 WAS LIKE, "MAN, I'VE GOT TO GET OUT OF THIS, MAN." THAT'S
5 THE ONLY THING THAT HE TOLD ME.

6 Q. IN TERMS OF THAT, WHAT WAS HIS ROLE IN TERMS OF TELLING
7 OTHER PEOPLE ABOUT WHAT HAPPENED?

8 MR. JOHNSON: OBJECTION, YOUR HONOR. HE CAN'T
9 TESTIFY---

10 THE COURT: YOU NEED -- YOU NEED TO -- YOU NEED TO
11 REPHRASE YOUR QUESTION AND CENTER IT UPON WHAT HE KNOWS AND
12 WHAT HE PARTICIPATED IN.

13 BY MR. LAKE:

14 Q. WHAT SPECIFICALLY -- WHAT SPECIFIC CONVERSATION DID YOU
15 HAVE WITH JACQUES ABOUT WHAT INFORMATION HE WANTED YOU TO
16 TELL OTHERS ABOUT WHAT HAPPENED?

17 A. YOU MEAN OTHERS IN THE STREET?

18 Q. WHETHER IT BE OTHER PEOPLE IN THE STREET OR OTHER FAMILY
19 MEMBERS OR WHOEVER.

20 A. HE DIDN'T SAY ANYTHING ABOUT NOBODY IN THE STREET
21 BECAUSE REALLY I WASN'T REALLY SAYING NOTHING TO NOBODY. HE
22 WAS JUST TELLING HIS SISTER -- TELL HIS SISTER AND THEM THAT
23 I WENT TO PICK UP MY BROTHER.

24 Q. AND THAT WAS IT?

25 A. YES, SIR.

1 Q. BUT YOU KNEW THERE WAS MORE; RIGHT?

2 MR. JOHNSON: OBJECTION, YOUR HONOR.

3 THE COURT: SUSTAINED.

4 BY MR. LAKE:

5 Q. MR. DAVIS, DO YOU SEE THE PERSON IN HERE IN THE
6 COURTROOM WHO YOU SAW SWINGING DOWN ON SOMEONE?

7 A. YES, SIR, KARTEZ GIBSON.

8 Q. AND COULD YOU POINT HIM OUT?

9 A. (THE WITNESS INDICATES.)

10 Q. WHAT IS HE WEARING?

11 A. ARE YOU TALKING ABOUT NOW?

12 Q. YES, SIR.

13 A. HE HAS ON A BLUE SHIRT, BABY BLUE SHIRT.

14 Q. AND DO YOU SEE THE PERSON THAT YOU SPECIFICALLY SAW IN
15 THIS COURTROOM THAT FIRED A WEAPON AND ALSO POINTED A GUN AT
16 YO-YO?

17 A. YES. YES, SIR.

18 Q. AND WHERE IS HE SEATED?

19 A. BEHIND THE LADY IN THE GREEN SHIRT.

20 Q. AND WHAT IS HE WEARING?

21 A. A BLACK SUIT WITH A TIE.

22 Q. AND WHO IS HE?

23 A. JACQUES GIBSON.

24 MR. LAKE: YOUR HONOR, LET THE RECORD REFLECT THAT HE'S
25 IDENTIFIED BOTH JACQUES GIBSON AND ADAMS KARTEZ GIBSON. BEG

1 THE COURT'S INDULGENCE. MR. DAVIS, PLEASE ANSWER ANY
2 QUESTIONS THAT THE DEFENSE MAY HAVE. OKAY?

3 THE COURT: ALL RIGHT. MR. ROBERSON?

4 MR. ROBERSON: MAY IT PLEASE THE COURT?

5 THE COURT: YES, SIR.

6 CROSS-EXAMINATION

7 BY MR. ROBERSON:

8 Q. MR. DAVIS, ARE YOU ALL RIGHT?

9 A. OH, YES, SIR.

10 Q. WOULD YOU LIKE A CUP OF WATER?

11 A. OH, YEAH, I'D LIKE SOME.

12 Q. ALL RIGHT. THANK YOU.

13 THE COURT: LET THE BAILIFF DO IT, SIR.

14 MR. ROBERSON: I'M SORRY.

15 THE COURT: YOU MAY PROCEED, MR. ROBERSON.

16 BY MR. ROBERSON:

17 Q. VERNON, HOW LONG HAVE YOU KNOWN ADAMS GIBSON?

18 A. EVER SINCE I'VE KNOWN JACQUES AND THOSE, EVER SINCE
19 SEVENTH GRADE.

20 Q. OKAY. AND YOU USED THE NAME KARTEZ AND ADAMS REFERRING
21 TO THE SAME PERSON.

22 A. YES, SIR.

23 Q. OKAY. NOW, YOU GAVE A STATEMENT TO LAW ENFORCEMENT ON
24 SEPTEMBER THE 15TH ABOUT 2:44 IN THE AFTERNOON ON THAT DAY.
25 IS THAT CORRECT?

1 A. I DON'T KNOW THE SPECIFIC TIME, BUT I KNOW THAT DATE,
2 SEPTEMBER 15TH.

3 Q. YES, SIR. AND DO YOU REMEMBER SIGNING A STATEMENT THAT
4 WAS ABOUT FOUR PAGES LONG?

5 A. YES, SIR.

6 Q. OKAY. AND YOU WERE DESCRIBING FROM THEM IN PARTS OF
7 THIS STATEMENT WHO WAS IN THE WHITE CAR AND WHO WAS IN THE
8 BURGUNDY CAR. IS THAT CORRECT?

9 A. YES.

10 Q. WHO WAS DRIVING THE BURGUNDY CAR?

11 A. I DIDN'T SEE WHO WAS DRIVING IT, BUT I KNOW WHO ALL WAS
12 PRESENT IN THE CAR.

13 Q. OKAY. WHO ALL WAS PRESENT IN THE BURGUNDY CAR?

14 A. TRAMELE, DEMETRIC, LAKISHA, KARTEZ, AND MARCUS.

15 Q. AND DID YOU SEE THEM IN THE CAR AFTER YOU LEFT CHANCE'S
16 ON THAT NIGHT?

17 A. YES, SIR. THEY -- THEY -- THEY SHOT PAST US. THEY WAS
18 GOING A HIGH RATE OF SPEED. THEY WAS GOING REAL FAST.

19 Q. OKAY. DID YOU EVER SEE THE BURGUNDY CAR IN THE PARKING
20 LOT AT CHANCE'S ON THAT NIGHT?

21 A. NO, SIR, I DON'T REMEMBER SEEING IT. I DON'T REMEMBER
22 SEEING IT.

23 Q. OKAY. I BELIEVE YOU TESTIFIED EARLIER THAT AT SOME
24 POINT SHA-SHA POINTED A GUN AT YO-YO AND TOLD HIM, "DON'T TRY
25 IT."

1 A. "DON'T DO IT."

2 Q. "DON'T DO IT." AND WAS HE TELLING YO-YO NOT TO HIT HIS
3 BROTHER?

4 A. I DON'T KNOW. HE WAS JUST SAYING, "DON'T DO IT, YO-YO.
5 DON'T DO IT."

6 Q. OKAY. BUT YO-YO WAS ADVANCING TOWARD HIS BROTHER WHEN
7 HE POINTED THE GUN AND TOLD HIM, "DON'T DO IT"?

8 A. HE WAS WALKING TOWARDS HIM, BUT AS HE WAS WALKING
9 TOWARDS HIM I REMEMBER HIM DRINKING A BEER, NOT -- IT WAS A
10 BOTTLE.

11 Q. HOW LONG DID YOU HAVE TO OBSERVE ADAMS ON THAT NIGHT?

12 A. JUST WHEN -- WHEN I SEEN HIM SWINGING DOWN AND REALLY
13 BEFORE EVERYTHING HAD STARTED GOING ON.

14 Q. AT WHAT POINT IN TIME DID YOU SEE HIM SWINGING?

15 A. WHEN -- WHEN HE WAS -- WHEN JACQUES GIBSON WAS POINTING
16 AT YO-YO AND AS HE WAS WALKING TOWARDS, HE WAS SWINGING DOWN.

17 Q. SWINGING DOWN ON WHO?

18 A. I DON'T KNOW WHO; I DIDN'T SEE.

19 Q. WAS SOMEBODY STANDING IN FRONT OF HIM?

20 A. I DON'T REMEMBER. HE WAS SWINGING DOWN, AND THAT'S WHEN
21 JACQUES WAS YELLING, "DON'T DO IT, YO-YO. DON'T DO IT."

22 Q. WHEN YOU SAY SWINGING DOWN, YOU MEAN GOING DOWN LIKE
23 THAT?

24 A. NO, SIR. HE WASN'T GOING LIKE THAT. HE WAS SWINGING
25 DOWN.

1 Q. OKAY. DID YOU EVER SEE ADAMS GIBSON WITH A GUN?

2 A. NO, SIR. I REMEMBER HIM SWINGING DOWN.

3 Q. OKAY. DO YOU REMEMBER HOW HE WAS DRESSED ON THAT NIGHT?

4 A. OH, NO, SIR.

5 MR. ROBERSON: JUST ONE MINUTE, YOUR HONOR.

6 THE COURT: ALL RIGHT, SIR.

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

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

9 CROSS-EXAMINATION

10 BY MR. JOHNSON:

11 Q. MR. DAVIS, YOU'VE TESTIFIED THAT YOU MET WITH
12 INVESTIGATOR MCDANIELS AT SOMETIME?

13 A. ARE YOU TALKING ABOUT THE GUY THAT JUST SAT DOWN?

14 Q. YES, SIR.

15 A. YES, SIR.

16 Q. AND AT THE TIME THAT YOU MET WITH HIM, YOUR MOTHER WAS
17 PRESENT?

18 A. MY MOTHER WAS---

19 Q. YOUR MOTHER WAS WITH YOU?

20 A. MY MOTHER, MY AUNT, AND MY LAWYER.

21 Q. AND WHERE DID THAT TAKE PLACE?

22 A. AT MY LAWYER'S OFFICE.

23 Q. AT YOUR LAWYER'S OFFICE.

24 A. YES, SIR.

25 Q. SO WHEN YOU GAVE YOUR STATEMENT TO THE POLICE, YOU WERE

1 ALLOWED TO GO TO YOUR LAWYER'S OFFICE, IN THE PRESENCE OF
2 YOUR LAWYER, YOUR MOTHER, AND YOUR AUNT. AND INVESTIGATOR
3 MCDANIELS CAME TO THAT LAWYER'S OFFICE SO Y'ALL COULD TALK.
4 IS THAT CORRECT?

5 A. WHEN I ARRIVED AT MY LAWYER'S OFFICE BECAUSE BEFORE --
6 BEFORE I GOT THERE, I THINK THEY HAD CALLED MY MOTHER. I
7 DON'T KNOW HOW THEY GOT THE NUMBER. I GUESS THEY GOT IT FROM
8 THE SCHOOL. THEY CALLED MY MOTHER BECAUSE THEY COULDN'T TAKE
9 ME BECAUSE I WAS UNDER AGE, AND THAT'S WHEN MY MOTHER WAS
10 LIKE, "WE'RE GOING TO SEE A LAWYER," AND WHEN WE ARRIVED
11 THERE, AS WE GOT IN THE ELEVATOR THE DETECTIVE -- HE WAS
12 ALREADY THERE LIKE THEY KNEW WE WAS GOING THERE.

13 Q. THEY WERE ALREADY THERE WAITING ON YOU.

14 A. YES, SIR. WE HAD MET THEM IN THE ELEVATOR.

15 Q. YOU MET THEM IN THE ELEVATOR.

16 A. WE DIDN'T KNOW IT WAS THEM AT FIRST WHEN WE WERE RIDING
17 IN THE ELEVATOR. WE WAS JUST LIKE, "OH, Y'ALL ARE HERE TO
18 SEE SUCH AND SUCH?" WE WERE JUST LIKE HEY AND BYE LITTLE
19 THING AND WE -- YOU KNOW, WE WERE THERE TO DO THE SAME THING.

20 Q. AND SO WHEN YOU DID THAT, YOU WENT INTO THE LAWYER'S
21 CONFERENCE ROOM?

22 A. IT WAS AN OFFICE.

23 Q. IN HIS OFFICE?

24 A. YES, SIR.

25 Q. AND YOU WERE ALLOWED TO -- ALLOWED THEM TO TAKE A

1 STATEMENT?

2 A. YES, SIR. THEY WAS ASKING ME QUESTIONS.

3 Q. THEY ASKED YOU QUESTIONS. DID THEY HAVE A COMPUTER
4 THERE TYPING DOWN EVERYTHING, THE QUESTIONS AND THE ANSWERS?

5 A. YES, SIR.

6 Q. DID THEY -- WHO WAS -- WHO WAS ON THE COMPUTER?

7 A. IT WAS HIS -- IT WASN'T THE -- IT WASN'T HIM. IT WAS
8 ANOTHER GUY.

9 Q. ANOTHER GUY WAS ON THE COMPUTER TYPING DOWN EVERYTHING?

10 A. WAIT A MINUTE. YES, I THINK IT WAS ANOTHER GUY.

11 Q. OKAY. DID YOU EVER GO TO THE SHERIFF'S DEPARTMENT TO
12 GIVE A STATEMENT?

13 A. NO, SIR.

14 Q. ALL RIGHT. AND SO THE STATEMENT THAT MR. LAKE HAS BEEN
15 ASKING YOU ABOUT, THAT STATEMENT WAS GIVEN IN YOUR LAWYER'S
16 OFFICE. IS THAT -- IS THAT NOT CORRECT?

17 A. YEAH, I GAVE THE STATEMENT IN MY LAWYER'S OFFICE.

18 Q. OKAY. IS THAT YOUR SIGNATURE?

19 A. THAT ONE RIGHT THERE ON THE RIGHT SIDE.

20 Q. AND ARE THERE TWO WITNESSES TO -- TO THE STATEMENT OVER
21 HERE?

22 A. YES, I SEE TWO: MY MOTHER AND I DON'T KNOW -- I DON'T
23 KNOW THE OTHER GUY. I CAN'T READ HIS HANDWRITING.

24 Q. AND WAS IT NOTARIZED? WAS THERE A NOTARY DOWN HERE AT
25 THE BOTTOM?

1 A. NOTARY PUBLIC FOR SOUTH CAROLINA?

2 Q. YEAH.

3 A. YES, SIR.

4 Q. SO ALL THAT WAS DONE IN YOUR LAWYER'S OFFICE.

5 A. YES, SIR.

6 Q. ALL RIGHT, SIR. NOW, MR. DAVIS, ON -- ON SEPTEMBER --

7 IT MIGHT HAVE BEEN SEPTEMBER 4TH. YOU AND MY CLIENT WERE IN

8 WINNSBORO ALONG WITH STEPHON WHO ALSO WAS KNOWN AS FAT MAN?

9 A. WE WERE IN RIDGEWAY.

10 Q. YOU WERE IN RIDGEWAY. AND YOU WERE IN KARTEZ'S WHITE

11 CAR. ISN'T THAT RIGHT?

12 A. THE FORD ESCORT?

13 Q. THE FORD ESCORT.

14 A. THE WHITE FORD ESCORT?

15 Q. THE WHITE FORD ESCORT.

16 A. YEAH, KARTEZ' CAR.

17 Q. AND JACQUES WAS DRIVING AND YOU WERE IN THE PASSENGER

18 SEAT AND FAT MAN WAS IN THE BACK SEAT. ISN'T THAT RIGHT?

19 A. SITTING BEHIND ME, YES, SIR.

20 Q. SITTING BEHIND YOU. WHAT WERE Y'ALL DOING IN RIDGEWAY?

21 A. WHEN WE WERE IN RIDGEWAY?

22 Q. YEAH.

23 A. WE HAD WENT TO PAT MAN'S HOUSE. HE WAS HAVING A

24 COOKOUT, AND WE WAS OVER THERE EATING.

25 Q. OKAY. SO YOU WERE OVER THERE EATING. AND AFTER YOU GOT

1 THROUGH IN RIDGEWAY AND YOU WERE EATING AT FAT MAN'S HOUSE,
2 Y'ALL WENT TO WINNSBORO. ISN'T THAT TRUE?

3 A. WE WERE ON OUR -- WE WERE ON OUR WAY TO WINNSBORO TO
4 TAKE ME HOME.

5 Q. TO TAKE YOU HOME AND THAT'S WHEN KARTEZ CALLED. ISN'T
6 THAT RIGHT?

7 A. IT WAS LIKE BY THE INTERSTATE WHERE THE A.M.P. IS,
8 BETWEEN THE A.M.P. AND THE WAFFLE HOUSE, BETWEEN THAT AREA
9 THAT'S WHEN WE GOT THE CALL.

10 Q. TO GET FROM RIDGEWAY TO WINNSBORO YOU HAVE TO CROSS OVER
11 THE INTERSTATE?

12 A. NO, SIR. YOU'VE GOT TO GET THROUGH THAT WAY. YOU DON'T
13 HAVE TO GO OVER THE INTERSTATE.

14 Q. I SEE. BUT, IN OTHER WORDS, Y'ALL WERE GOING TO
15 WINNSBORO WHEN YOU GOT THE TELEPHONE CALL.

16 A. YES, SIR, THEY WAS ON THEIR WAY TO TAKE ME HOME.

17 Q. ON THE WAY TO TAKE YOU HOME. AND WHEN YOU GOT THE CALL,
18 THAT'S WHEN THE DECISION WAS MADE TO COME TO CHANCE'S. ISN'T
19 THAT RIGHT?

20 A. HE SAID, "MY BROTHER SAID COME PICK HIM UP."

21 Q. COME PICK HIM UP. ISN'T THAT TRUE?

22 A. YES, SIR.

23 Q. AT THAT TIME THERE WAS NO DISCUSSION OF -- JACQUES
24 DIDN'T MENTION OR NOBODY MENTIONED THAT THERE WAS A FIGHT
25 GOING ON AT CHANCE'S. ISN'T THAT TRUE?

1 A. FROM MY KNOWLEDGE. HE DIDN'T TELL ME---

2 Q. DID NOT TELL YOU ANYTHING ABOUT A -- EXCUSE ME. I
3 INTERRUPTED YOU. HE DID NOT TELL YOU WHAT?

4 A. HE DIDN'T TELL ME THAT ANYONE WAS DOWN THERE FIGHTING.
5 HE JUST DISCUSSED WITH ME -- HE TOLD ME AND FAT MAN -- HE
6 SAID, "MY BROTHER SAID COME PICK HIM UP."

7 Q. COME PICK HIM UP. AND WHEN Y'ALL GOT TO CHANCE'S,
8 LOOKING AT STATE'S EXHIBIT NUMBER 79, Y'ALL -- Y'ALL CAME
9 INTO AN ENTRANCE WHERE THE WAFFLE HOUSE IS OVER TO YOUR LEFT.
10 ISN'T THAT RIGHT? DID YOU SEE THAT WAFFLE HOUSE?

11 A. THAT NIGHT I DIDN'T NOTICE IT OVER THERE, BUT NOW THAT I
12 RIDE PAST I SEE IT'S OVER THERE NOW.

13 Q. AND YOU KNOW THAT WAS BIG MOTEL, QUALITY INN, ON THE
14 SIDE OF CHANCE'S. DO YOU REMEMBER SEEING THAT BIG MOTEL OVER
15 THERE?

16 A. YEAH, I REMEMBER THE MOTEL.

17 Q. ALL RIGHT. AND WHEN Y'ALL -- WHEN Y'ALL DROVE UP, Y'ALL
18 CAME AROUND THIS SIDE, CAME UP AND CAME AROUND TO THE OTHER
19 SIDE OF THE PARKING LOT. ISN'T THAT RIGHT?

20 A. I DON'T REMEMBER THAT.

21 Q. YOU DON'T REMEMBER THAT? WHICH WAY DID YOU COME IN AND
22 WHICH WAY DID YOU HEAD?

23 A. WE CAME UP A HILL.

24 Q. YOU CAME UP A HILL.

25 A. YES, SIR.

1 Q. CAN YOU SHOW US ON THIS EXHIBIT?

2 A. IF WE COME FROM -- WE COME FROM THIS -- LET ME SEE. I'M
3 TRYING TO FIGURE OUT WHICH ONE IS THE INTERSTATE.

4 Q. AND HERE'S CHANCE'S.

5 A. IF YOU'RE COMING FROM THIS AREA RIGHT HERE?

6 Q. RIGHT.

7 A. THAT'S WHERE YOU COME UP.

8 Q. OKAY.

9 A. IT'S RIGHT HERE.

10 Q. UH-HUH.

11 A. AND AS YOU COME UP, THERE'S THE HILL LIKE IN THIS AREA
12 RIGHT HERE.

13 Q. ALL RIGHT. WHEN YOU GOT BACK PAST THE HILL, WHERE DID
14 YOU GO?

15 A. WE WAS IN THE PARKING LOT.

16 Q. WHERE ABOUT IN THE PARKING LOT?

17 A. AROUND IN THIS AREA.

18 Q. AROUND IN THAT AREA. AROUND THE FIRST AND SECOND
19 PARKING SPACES. ISN'T THAT CORRECT? IS THAT WHERE YOU'RE
20 POINTING?

21 A. IN THIS AREA RIGHT HERE. I DON'T REMEMBER HOW MANY
22 PARKING SPACES WERE THERE, BUT I KNOW IT WAS AROUND IN THAT
23 AREA.

24 Q. AND CARS WERE PARKED IN THAT AREA. ISN'T THAT TRUE?

25 A. YES, SIR.

1 Q. NOW, DID HE PARK -- DID JACQUES PARK IN A PARKING SPACE
2 OR WAS HE PARKING IN THE ROAD?

3 A. WE WAS PARKED RIGHT HERE IN THE PARKING LOT.

4 Q. IN THE PARKING LOT? NOT IN A PARKING SPACE?

5 A. NO, SIR.

6 Q. ALL RIGHT, SIR. NOW, SO HE PARKED IN THE PARKING LOT,
7 GOT OUT OF THE CAR, AND WENT IN CHANCE'S?

8 A. IN -- WE WAS PARKED -- WE WENT IN A PARKING SPACE. WE
9 WAS ABOUT RIGHT THERE. THEN WE GOT A PARKING SPACE AT
10 CHANCE'S.

11 Q. BEG YOUR PARDON?

12 A. WHEN WE WENT IN THE PARKING SPACE, WE WAS LIKE IN THE
13 MIDDLE OF THE ROAD, AND THERE WAS A PARKING LOT IN THE
14 MIDDLE. THAT'S WHEN HE GOT OUT OF THE CAR AND WENT IN AND
15 GOT KARTEZ.

16 Q. ALL RIGHT. AND MY QUESTION SIMPLY IS: WAS HE IN A
17 PARKING SPACE OR WAS HE PARKING -- WAS HE PARKED OUTSIDE?

18 A. WE WASN'T IN A PARKING SPACE.

19 Q. YOU WERE NOT IN A PARKING SPACE.

20 A. NO, SIR.

21 Q. BUT HE GOT OUT AND LEFT YOU AND STEPHON IN THE CAR.

22 A. YES, SIR.

23 Q. AND YOU WERE, AS YOU SAY, HALF ASLEEP.

24 A. YES, SIR.

25 Q. AND SO WHEN HE WENT IN -- WHEN HE WENT IN CHANCE'S, YOU

1 WERE STILL IN THE CAR.

2 A. YES, SIR. I NEVER GOT OUT OF THE CAR.

3 Q. YOU NEVER GOT OUT OF THE CAR, BUT STEPHON AND JACQUES
4 GOT OUT OF THE CAR AND WENT IN CHANCE'S. IS THAT RIGHT?

5 A. NO, SIR, IT WAS JUST JACQUES. ONE PERSON ONLY GOT OUT
6 OF THE CAR, NOT STEPHON WILLINGHAM. ME AND STEPHON
7 WILLINGHAM STAYED INSIDE THE CAR.

8 Q. Y'ALL STAYED IN THE CAR. IS THAT RIGHT?

9 A. ME AND STEPHON WILLINGHAM, WE STAYED INSIDE THE CAR.

10 Q. OKAY. NOW -- AND WHEN JACQUES GOT BACK, HAD THE FIGHT
11 STARTED WHEN HE GOT BACK TO THE CAR?

12 A. NOT EXACTLY WHEN HE GOT BACK TO THE CAR. WHEN HE GOT IN
13 THE CAR FIRST, THERE WASN'T NO FIGHTING. THERE WAS ARGUING
14 AND THEN---

15 Q. DID YOU HEAR THE ARGUING?

16 A. YEAH, I HEARD THE ARGUING. I DIDN'T SEE WHO IT WAS.

17 Q. DID YOU HEAR ANY CURSING?

18 A. THERE WAS A LOT OF CURSING GOING ON.

19 Q. DID YOU HEAR ANY YELLING?

20 A. WELL, IN ORDER FOR THEM TO BE OVER THERE FOR THEIR
21 VOICES TO GET OVER THERE WHERE I'M AT---

22 Q. UH-HUH.

23 A. ---I'M SUGGESTING THEY WAS YELLING---

24 Q. OKAY.

25 A. ---BECAUSE I HEARD IT LOUD.

1 Q. ALL RIGHT. SO YOU HEARD A LOT OF YELLING AND A LOT OF
2 CURSING. ISN'T IT TRUE THAT JACQUES WAS NOT CURSING AND
3 YELLING AT ANYONE?

4 A. THAT NIGHT HE ONLY YELL -- I HEARD HIM YELL, "Y'ALL
5 CHILL OUT. Y'ALL CHILL OUT."

6 Q. AND THEN THE -- IN THE STREET VERNACULAR, IN THE STREET
7 TALK, WHEN YOU SAY -- WHEN YOU TELL SOMEBODY TO CHILL OUT,
8 THAT MEANS TO CALM DOWN AND COOL DOWN AND STOP THE
9 EXCITEMENT. ISN'T THAT RIGHT?

10 A. CALM DOWN.

11 Q. TO CALM DOWN. AND WHEN YOU CHILL, YOU'RE CALMING DOWN.
12 ISN'T THAT RIGHT?

13 A. YOU JUST DO WHAT YOU DO.

14 Q. SAY WHAT?

15 A. I SEE IT NOW.

16 Q. HUH?

17 A. LIKE THEY'RE DOING NOW.

18 Q. I CAN'T HEAR YOU.

19 A. LIKE EVERYBODY ELSE IS DOING OUT HERE BY SITTING DOWN.
20 LIKE CALM DOWN.

21 Q. THAT MEANS CALM DOWN.

22 A. UH-HUH.

23 Q. SO HE WASN'T TRYING TO INCITE THE FIGHT OR ENCOURAGE THE
24 FIGHT.

25 A. HE WASN'T ENCOURAGING NOBODY TO FIGHT. HE WAS YELLING

1 OUT, "Y'ALL CHILL OUT. Y'ALL CHILL OUT."

2 Q. OKAY. NOW, SO WHEN THE FIGHT GOT STARTED, HE SAID,
3 "Y'ALL CHILL OUT. Y'ALL CHILL OUT. Y'ALL CHILL OUT." IS
4 THAT CORRECT?

5 A. WHEN THEY STARTED FIGHTING, THAT'S WHEN HE -- THAT'S
6 WHEN ONE SHOT WENT OFF AND THAT'S WHEN I LOOKED UP AND I SAW
7 THE SECOND SHOT. THAT'S WHEN HE YELLED, "Y'ALL CHILL OUT.
8 Y'ALL CHILL OUT."

9 Q. AND THAT'S WHAT I WANT TO GET TO. BEFORE HE SAID,
10 "CHILL OUT, CHILL OUT," YOU HEARD TWO SHOTS. ISN'T THAT
11 RIGHT?

12 A. I HEARD -- I HEARD TWO SHOTS, BUT I SAW THE SECOND SHOT.
13 I DIDN'T SEE THE FIRST ONE.

14 Q. AND WHERE WAS THAT SECOND SHOT COMING FROM? IN WHICH
15 DIRECTION?

16 A. WHAT DO YOU MEAN DIRECTION?

17 Q. I MEAN, WHERE DID YOU SEE IT?

18 A. HIS HAND WAS IN THE AIR.

19 Q. WHOSE HAND?

20 A. JACQUES GIBSON.

21 Q. JACQUES GIBSON?

22 A. YES, SIR.

23 Q. ALL RIGHT. SO YOUR TESTIMONY IS THAT YOU HEARD ONE
24 SHOT.

25 A. NO, SIR. I HEARD TWO SHOTS.

1 Q. I'M GETTING TO THAT. YOU HEARD ONE FIRST.

2 A. I HEARD ONE FIRST.

3 Q. THEN YOU HEARD A SECOND.

4 A. I SAW AND HEARD THE SECOND.

5 Q. YOU HEARD AND SAW THE SECOND, AND THAT'S THE SHOT WHEN
6 JACQUES WAS SHOOTING IN THE AIR.

7 A. YES, SIR. AND WHEN HE FINISHED OUT OF THAT SECOND SHOT,
8 THAT'S WHEN HE YELLED, "Y'ALL CHILL OUT. Y'ALL CHILL OUT."

9 Q. AND AT THAT TIME YOU SAW YO-YO GOING IN THE DIRECTION OF
10 KARTEZ, AND THAT'S WHEN HE POINTED THE GUN AT YO-YO TO TELL
11 HIM, "DON'T DO IT."

12 A. NO. AFTER I SEEN HIM SHOOT IN THE AIR, THAT'S WHEN --
13 THAT'S WHEN THEY KEPT ON FIGHTING, AND AFTER THEY KEPT ON
14 FIGHTING, THAT'S WHEN SOME MORE SHOTS HAD WENT OFF. AND AS
15 THEM SHOTS WAS GOING OFF, I WAS ON THE FLOOR, AND THEN WHEN I
16 HOPPED OFF THE FLOOR, THAT'S WHEN I SEEN YO-YO WALKING
17 TOWARDS THE CAR. THAT'S WHEN JACQUES' HAND WAS OUT THE
18 WINDOW AND HE WAS YELLING, "DON'T DO IT, YO-YO. DON'T DO
19 IT." AND THEN THAT'S WHEN KARTEZ -- HE WAS SWINGING ON THE
20 GROUND AS HE WAS YELLING, "DON'T DO IT. DON'T DO IT."

21 Q. SO THE SEQUENCE OF EVENTS -- AND I'M NOT TRYING TO
22 CONFUSE YOU. THE SEQUENCE OF EVENTS IS YOU HEARD A SHOT.
23 SHA-SHA SHOT UP IN THE AIR, WHICH YOU SAW, AND THEN AFTER
24 THAT YOU HEARD SOME MORE SHOTS.

25 A. YES, SIR.

1 Q. AND THOSE SHOTS WERE NOT COMING FROM THE GUN SHA-SHA
2 HAD. ISN'T THAT TRUE?

3 A. I DON'T KNOW; I WAS ON THE FLOOR.

4 Q. YOU WERE ON THE FLOOR. AND HIS CAR WAS STILL PARKED UP
5 THERE NEAR WHERE YO-YO WAS WHICH WOULD HAVE BEEN IN THIS
6 AREA. ISN'T THAT TRUE?

7 A. IN THE---

8 Q. BECAUSE THAT'S WHERE THE FIGHT TOOK PLACE.

9 A. IN THE MIDDLE OF THE STREET.

10 Q. IN THE MIDDLE OF THE STREET.

11 A. THAT'S WHERE WE WERE -- THAT'S WHERE WE WERE PARKED AT.
12 THE FRONT OF THE CAR WAS TOWARDS THE ROAD, BUT WE WERE IN THE
13 MIDDLE OF THE STREET THE WHOLE TIME.

14 Q. POINTING TOWARD THE ROAD BUT -- BECAUSE YO-YO -- IF
15 YO-YO WAS IN THIS AREA, Y'ALL'S CAR WAS RIGHT WHERE YO-YO
16 WAS. THAT'S WHERE HE POINTED THE GUN AT YO-YO. ISN'T THAT
17 TRUE?

18 A. WHEN WE WAS IN THE MIDDLE OF THE STREET, IF YO-YO WAS --
19 IF YO-YO WAS COMING OVER THERE, HE WOULD HAVE HAD TO BE
20 COMING BEHIND THE CAR.

21 Q. THAT'S EXACTLY RIGHT. OKAY. NOW, ISN'T IT TRUE, MR.
22 DAVIS, THAT YOU NEVER SAW JACQUES GIBSON SHOOT DENNIS IRBY?

23 A. I WAS ON THE FLOOR AS THE SECOND SHOTS TOOK PLACE AS MY
24 -- I DIDN'T SEE HIM POINTING IT AT ANYBODY. I SEEN HIM
25 POINTING IT IN THE AIR.

1 Q. ALL RIGHT, SIR. AND AFTER Y'ALL LEFT THAT NIGHT, YOU
2 FIRST WENT TO BAM'S HOUSE?

3 A. NO, SIR.

4 Q. WHO'S HOUSE DID YOU GO TO?

5 A. WHEN WE LEFT -- WHEN WE LEFT CHANCE'S, WE WAS RIDING
6 DOWN THE HIGHWAY, AND WE CROSSED THOSE TRAIN TRACKS. THAT'S
7 WHEN WE PULLED OVER, AND I REMEMBER A BIG WHITE SIGN WHEN HE
8 HOPPED OUT OF THE CAR. WHEN HE HOPPED OUT OF THE CAR, WE WAS
9 RIDING TOWARDS RIDGEWAY. THAT'S WHEN HE GOT A CALL FROM
10 KARTEZ SAYING---

11 MR. ROBERSON: OBJECTION.

12 MR. JOHNSON: ON THE WAY BACK HOME.

13 THE WITNESS: ON OUR WAY BACK HOME? YEAH.

14 THE COURT: ALL RIGHT. DON'T SAY WHAT YOU THINK
15 SOMEBODY ELSE SAID. JUST CONTINUE ON AS TO WHAT HAPPENED.
16 GO AHEAD.

17 BY MR. JOHNSON:

18 Q. I'M ASKING YOU ABOUT: AFTER YOU LEFT CHANCES AND YOU
19 WERE GOING -- LEAVING CHANCE'S, WHERE DID YOU GO?

20 A. WE WENT -- WE WENT TO KAR -- NOT TO KARTEZ'. WE WENT TO
21 BAM'S HOUSE.

22 Q. YOU WENT TO BAM'S HOUSE. AND AFTER YOU LEFT BAM'S
23 HOUSE, KARTEZ TOOK YOU TO JACQUES' HOUSE.

24 A. YES, SIR, BUT FIRST, BEFORE WE GOT THERE, WE WENT TO GO
25 DROP FAT MAN OFF FIRST, AND THEN THAT'S WHEN WE WENT -- WE

1 PROCEEDED THE JACQUES' HOUSE.

2 Q. AND YOU DROPPED FAT MAN OFF AND THEN YOU WENT TO
3 JACQUES' HOUSE, AND YOU SPENT THE NIGHT AT JACQUES' HOUSE.

4 A. YES, SIR.

5 Q. BECAUSE THE NEXT MORNING Y'ALL WENT TO THOMAS' HOUSE AND
6 ATE BREAKFAST.

7 A. YEAH. THERE WASN'T BREAKFAST, BUT IT WAS THE FOOD THAT
8 THEY HAD LEFT OVER.

9 Q. BUT THE FOOD THAT THEY HAD LEFT OVER, YOU WENT TO
10 THOMAS' HOUSE AND ATE THE FOOD THAT THEY HAD LEFT OVER IN THE
11 NEXT MORNING?

12 A. HEY, IT WAS LEFTOVERS, BUT IT WASN'T NO BREAKFAST
13 THOUGH.

14 MR. JOHNSON: ALL RIGHT. THANK YOU SO MUCH.

15 THE COURT: ALL RIGHT. SOLICITOR, REDIRECT?

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

17 THE COURT: MR. ROBERSON, ON ANY OF THE QUESTIONS ASKED
18 BY MR. JOHNSON...

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

20 THE COURT: YES, SIR.

21 MR. ROBERSON: JUST ONE QUESTION, YOUR HONOR.

22 RECROSS EXAMINATION

23 BY MR. ROBERSON:

24 Q. MR. DAVIS, DO YOU REMEMBER WHERE KARTEZ WAS WHEN YOU
25 HEARD THE FIRST SHOT?

1 A. NO, SIR.

2 MR. ROBERSON: OKAY.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. DO YOU WISH
4 THIS WITNESS TO BE EXCUSED, SOLICITOR?

5 MR. LAKE: YES, YOUR HONOR.

6 THE COURT: ANY OBJECTION, MR. ROBERSON?

7 MR. ROBERSON: NONE, YOUR HONOR.

8 THE COURT: MR. JOHNSON?

9 MR. JOHNSON: NONE, YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. YOU ARE RELEASED FROM YOUR
11 SUBPOENA, AND YOU MAY GO HOME OR WHEREVER YOU WANT --
12 WHEREVER YOU'RE GOING. ALL RIGHT. SOLICITOR, WHO IS YOUR
13 NEXT WITNESS?

14 MS. CAMPBELL: THE STATE CALLS SERGEANT SHAWN MCDANIELS.
15 WALTER SHAWN MCDANIELS, AFTER BEING DULY SWORN,
16 TESTIFIED AS FOLLOWS:

17 THE CLERK: HAVE A SEAT ON THE WITNESS STAND AND STATE
18 YOUR FULL NAME FOR THE RECORD, PLEASE.

19 THE WITNESS: WALTER SHAWN MCDANIELS.

20 (STATE'S EXHIBIT 86 WAS MARKED FOR IDENTIFICATION ONLY.)

21 DIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. SERGEANT MCDANIELS, WHERE ARE YOU EMPLOYED?

24 A. I'M CURRENTLY EMPLOYED WITH THE RICHLAND COUNTY
25 SHERIFF'S DEPARTMENT.

1 Q. AND WHAT DO YOU DO THERE, SIR?

2 A. I HAVE A DUAL RESPONSIBILITY RIGHT NOW. AS OF NOW, I'M
3 A SERGEANT OVER THE COLD CASE HOMICIDE SQUAD AND A BURGLARY
4 TASK FORCE.

5 Q. CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION
6 AND TRAINING AS A LAW ENFORCEMENT OFFICER?

7 A. I HAVE A BACHELOR'S DEGREE IN HUMAN SERVICES WITH A
8 CONCENTRATION IN CRIMINAL JUSTICE. I GRADUATED FROM THE
9 SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY. I HAVE AN ATTENDED
10 FIVE SEPARATE HOMICIDE 40-HOUR TRAINING SESSIONS THROUGHOUT
11 THE ENTIRE COUNTRY. THAT'S PRETTY MUCH IT. I'VE ALSO
12 ATTENDED AND COMPLETED 80 HOURS IN INTERVIEWS AND
13 INTERROGATION.

14 Q. BACK IN SEPTEMBER OF 2005, WHERE WERE YOU ASSIGNED AT
15 THAT POINT?

16 A. I WAS ASSIGNED TO THE MAJOR CRIMES UNIT AT THE RICHLAND
17 COUNTY SHERIFF'S DEPARTMENT.

18 Q. AND DID YOU BECOME -- WERE YOU APPOINTED AS THE LEAD
19 INVESTIGATOR IN THIS CASE AT SOME POINT?

20 A. YES, I WAS.

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

22 A. I BECAME INVOLVED IN THE CASE WHEN I RECEIVED A PHONE
23 CALL FROM CAPTAIN SMITH ADVISING ME THAT THERE HAD BEEN A
24 SHOOTING THE NIGHT BEFORE AT THE CHANCE'S SPORTS BAR AND
25 GRILL LOCATED ON TWO NOTCH ROAD AND THAT THE VICTIM HAD

1 PASSED WAY.

2 MR. JOHNSON: OBJECTION, YOUR HONOR. OBJECTION TO THAT
3 PART. THE REST OF IT, NO OBJECTION.

4 MS. CAMPBELL: IT'S BEEN TESTIFIED TO---

5 THE COURT: I'M GOING TO -- SOLICITOR.

6 MS. CAMPBELL: I'M SORRY.

7 THE COURT: I'M GOING TO ALLOW THE QUESTION---

8 MS. CAMPBELL: THANK YOU.

9 THE COURT: ---AND THE ANSWER. YOU MAY PROCEED.

10 THE WITNESS: AND THAT THE VICTIM HAD PASSED AWAY THAT
11 MORNING.

12 BY MS. CAMPBELL:

13 Q. AND THAT DAY ON SEPTEMBER 5TH OF '05, DID YOU MEET WITH
14 ANY OTHER INVESTIGATORS WHO WERE INVOLVED IN THIS CASE?

15 A. I DID. IT WAS -- IT WAS AGREED -- THAT WAS ACTUALLY A
16 HOLIDAY, AND IT WAS AGREED THAT I WOULD MEET WITH THE INITIAL
17 INVESTIGATORS AND THE -- AND GET A COPY OF THE ACTUAL FILE,
18 LOOK IT OVER, AND COME UP WITH A PLAN, A STRATEGY ON HOW WE
19 WERE GOING TO ACTUALLY INVESTIGATE THE INCIDENT.

20 I MET WITH SERGEANT STRANGE, INVESTIGATOR GOFF,
21 INVESTIGATOR ROE, AND INVESTIGATOR WILLOUGHBY. THE
22 STATEMENTS WERE THEN LOOKED OVER BY MYSELF, AND IT WAS
23 DETERMINED THEN THAT WE NEEDED TO CALL BACK ALL THE
24 INDIVIDUALS THAT WERE INTERVIEWED THE NIGHT BEFORE TO GET A
25 MORE DETAILED STATEMENT FROM THEM -- FROM THEM.

1 Q. SO YOUR TESTIMONY, I BELIEVE, IS IS THAT YOU HAD BEEN
2 GIVEN CERTAIN STATEMENTS THAT HAD BEEN TAKEN AT THE SCENE
3 THAT NIGHT?

4 A. YES, I WAS.

5 Q. AND WHY IS IT THAT YOU WANTED TO GET THE PEOPLE BACK IN
6 TO GET MORE DETAILED STATEMENTS?

7 A. WELL, THE STATEMENTS TAKEN ON THE SCENE WERE PRETTY,
8 PRETTY VAGUE. THEY WEREN'T AS DETAILED, AND I WAS ACTUALLY
9 KIND OF GLAD THAT WE'D EVEN GOT WRITTEN STATEMENTS. USUALLY
10 WE JUST ACTUALLY GET ENOUGH INFORMATION TO CONTACT THE
11 INDIVIDUAL THE NEXT DAY, BUT THE RESPONDING INVESTIGATORS
12 ACTUALLY MADE AN EFFORT TO TAKE SOME FORM OF A WRITTEN
13 STATEMENT THAT NIGHT. HOWEVER, I DID RECOGNIZE THE NEED TO
14 GET A MORE DETAILED STATEMENT.

15 I CALLED ALL THE INDIVIDUALS THAT WE GOT THE STATEMENTS
16 FROM AND ADVISED THEM THAT TOMORROW, WHICH WAS ON THE 6TH,
17 THAT I WOULD NEED THEM TO COME BACK TO THE SHERIFF'S
18 DEPARTMENT, COME BACK TO COLUMBIA AND GIVE A MORE DETAILED
19 STATEMENT. I ALSO CALLED SHUNTA WILSON WHO WAS ALSO LISTED
20 AS ONE OF THE YOUNG WITNESSES, AND I MADE CONTACT WITH HER BY
21 WAY OF TELEPHONE. I THINK I WOKE HER UP. AFTER I APOLOGIZED
22 FOR THAT, SHE -- I TOLD HER THAT I NEEDED HER TO COME TO
23 HEADQUARTERS THE NEXT DAY.

24 IT WAS AT THAT TIME WHEN SHE TOLD ME THAT SHE HAD GOTTEN
25 HER TIRE FIXED AND THAT HER BOYFRIEND WAS GIVEN A PROJECTILE

1 FROM - WELL, SHE DESCRIBED IT AS A BULLET - FROM THE ACTUAL
2 TIRE AFTER GETTING HER TIRE FIXED. AT THAT TIME I FELT THE
3 NEED TO ACTUALLY MAKE CONTACT WITH HER SO I CAN GET THAT --
4 THAT PIECE OF EVIDENCE.

5 AGAIN, THAT WASN'T THE INITIAL PLAN. WHEN I FIRST GOT
6 THE CALL, I WAS AT THE GYM. AND I DIDN'T PLAN ON MAKING
7 CONTACT WITH ANY OF THE INDIVIDUALS THAT DAY, AND WHEN SHE
8 TOLD ME SHE HAD EVIDENCE IN HER POSSESSION, I FELT THE NEED
9 TO ACTUALLY MAKE CONTACT WITH HER.

10 Q. AND WHAT DID YOU DO AS A RESULT OF THE CONVERSATION WITH
11 HER?

12 A. I ASKED HER TO COME DOWN TO HEADQUARTERS THAT DAY. THE
13 PLAN OF HER COMING DOWN THE NEXT DAY HAD CHANGED AT THAT
14 POINT. WHEN SHE TOLD ME THAT SHE WOULD, SHE CALLED ME BACK
15 AND APPEARED TO BE SOMEWHAT HESITANT AND SAID THAT SHE
16 COULDN'T GET A RIDE, SO I TOLD HER I WOULD COME TO HER. SO I
17 WENT TO MEET HER AT HER MOTHER'S HOUSE TO RETRIEVE THAT PIECE
18 OF EVIDENCE, THAT PROJECTILE.

19 Q. AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
20 NUMBER 85. DO YOU RECOGNIZE THAT?

21 A. YES, I DO.

22 Q. ARE THOSE TWO PIECES OF METAL WHAT SHE TURNED OVER TO
23 YOU THAT DAY AT HER HOUSE?

24 A. YES, IT WAS. SHE HAD IT WRAPPED UP IN A PLASTIC BAG AND
25 A SMALL PIECE OF TISSUE.

1 Q. JUST FOR THE RECORD BEFORE I GO ON, ONCE THOSE ITEMS
2 CAME INTO YOUR POSSESSION, DID YOU THEN LOG THEM INTO THE
3 EVIDENCE ROOM?

4 A. I DID.

5 Q. WHILE YOU WERE AT MS. WILSON'S PARENTS' HOUSE, DID YOU
6 MAKE ANY ATTEMPTS TO INTERVIEW HER?

7 A. INITIALLY I DID. SHE DEFINITELY APPEARED TO BE UPSET.
8 SHE WAS A LITTLE UNCOOPERATIVE, BUT I KIND OF -- I BLAME THAT
9 ON HER BEING NERVOUS AND BEING UPSET. SHE MADE MENTION OF
10 HER BEING SCARED AND HER LIVING ALONE---

11 MR. ROBERSON: OBJECTION, YOUR HONOR.

12 THE COURT: I'M GOING TO ALLOW IT. YOU MAY CONTINUE.

13 THE WITNESS: HER BEING A SINGLE PARENT MOTHER. AND SHE
14 ASKED ME A QUESTION OR TWO ABOUT, YOU KNOW, IN MY EXPERIENCE
15 HAS ANYBODY EVER RETALIATED ON ANYBODY? YOU KNOW, SO I TRIED
16 TO CALM HER DOWN A LITTLE BIT---

17 MR. ROBERSON: OBJECTION, YOUR HONOR.

18 THE COURT: SUSTAINED. DISREGARD THAT. LET'S MOVE
19 ALONG.

20 THE WITNESS: I TRIED TO CALM HER DOWN AND -- BUT I
21 COULD TELL THAT SHE REALLY DIDN'T -- I REMEMBER HER ACTUALLY
22 WANTING ME TO SHOW HER IDENTIFICATION BECAUSE I SHOWED UP IN
23 MY WORKOUT CLOTHES, AND SHE WAS A LITTLE NERVOUS ABOUT ME
24 SHOWING UP LOOKING LIKE, I GUESS, UNOFFICIAL.
25

1 BY MS. CAMPBELL:

2 Q. THAT DAY WHILE YOU WERE AT MS. WILSON'S PARENTS' HOUSE -
3 I DON'T HAVE IT IN FRONT OF ME - BUT DID YOU ATTEMPT TO SHOW
4 HER A PHOTO LINE-UP?

5 A. I DID. WHEN WE WERE -- PRIOR TO EVEN SHOWING UP AT HER
6 OUT HOUSE, WHILE WE WERE AT HEADQUARTERS WE WERE ABLE TO
7 OBTAIN THE FULL IDENTITY OF SHA-SHA. WE KNEW THAT IT WAS JA
8 -- HIS NAME WAS JACQUES GIBSON. IT WAS A HOLIDAY. WE
9 WEREN'T -- WE DIDN'T HAVE FULL ACCESS TO THE DATABASE THAT WE
10 NORMALLY USE FOR A PHOTO LINE-UP AND -- BUT WE WERE ABLE TO
11 ACTUALLY GENERATE A PHOTO LINE-UP WITH JACQUES GIBSON IN IT.
12 I TOOK A COPY OF THAT TO SHUNTA'S HOUSE JUST IN CASE I WAS
13 GOING TO BE ABLE TO INTERVIEW HER.

14 Q. AND DID YOU ATTEMPT TO SHOW HER THAT PHOTO LINE-UP?

15 A. I DID.

16 Q. AND WOULD SHE LOOK AT IT?

17 A. AGAIN, SHE WAS UNCOOPERATIVE. YOU KNOW, I COULD KIND OF
18 TELL THAT SHE DIDN'T REALLY WANT TO BE BOTHERED OR SHE DIDN'T
19 REALLY WANT TO BE INVOLVED. I ASKED HER WHILE -- AFTER
20 HANDING HER THE PHOTO LINE-UP, I ASKED HER -- I SAID, "YOU
21 DON'T REALLY WANT TO BE INVOLVED, DO YOU?" BECAUSE I NOTICED
22 THAT SHE REALLY DIDN'T LOOK AT IT. AND WHILE SHE WAS LOOKING
23 AT IT, I SAID, "YOU DON'T REALLY WANT TO BE INVOLVED, DO
24 YOU?" AND SHE SAID, "NO."

25 MR. ROBERSON: OBJECTION.

1 THE COURT: I'M GOING TO ALLOW THAT. SHE'S TESTIFIED.
2 I'M GOING TO ALLOW THAT.

3 THE WITNESS: AND SHE STATED, "NO."
4 BY MS. CAMPBELL:

5 Q. AFTER MAKING CONTACT WITH HER, DID YOU ATTEMPT TO EVEN
6 TRY TO TAKE A FORMAL STATEMENT THAT DAY?

7 A. NO.

8 Q. WHAT DID YOU DO?

9 A. I LEFT AND I ACTUALLY WENT TO -- I TOLD HER THAT I WOULD
10 NEED HER TO COME IN THE NEXT DAY TO GIVE A MORE DETAILED
11 STATEMENT, AND THEN I WENT BACK TO HEADQUARTERS.

12 Q. DID YOU CONTACT ANYONE ELSE IN REGARD TO SHUNTA WILSON?

13 A. I DID. I ACTUALLY SPOKE WITH -- I MADE CONTACT WITH THE
14 VICTIM'S MOM, DENNIS IRBY'S MOTHER, AND TALKED TO HER ON THE
15 PHONE AND SHE HAD SOME QUESTIONS. SHE WANTED TO KNOW WHO---

16 MR. JOHNSON: OBJECTION, YOUR HONOR.

17 THE COURT: SUSTAINED.

18 BY MS. CAMPBELL:

19 Q. YOU CAN'T SAY WHAT SHE SAID.

20 A. OKAY. YES.

21 Q. YOU CAN ONLY SAY WHAT YOU SAID TO HER.

22 A. YES, MA'AM.

23 Q. AS A RESULT OF WHAT SHE SAID.

24 A. THAT'S FINE. I HAD TOLD HER THAT SHUNTA WILSON TRIED TO
25 HELP HER -- HER SON AND THAT SHUNTA WAS UPSET, AND SHE WAS

1 TELLING ME WHAT SOME OF THE LAST WORDS THAT DENNIS SAID TO
2 HER.

3 Q. DID YOU GIVE HER ANY PHONE NUMBERS OR ANYTHING FOR MS.
4 WILSON?

5 A. SHE ASKED ME IF SHE -- IF I -- IF IT WOULD BE---

6 Q. YOU CAN'T SAY WHAT SHE SAID. I'M SORRY.

7 A. I'M SORRY. I DID GIVE HER SHUNTA WILSON'S PHONE NUMBER
8 AND -- SO THAT SHE COULD MAKE CONTACT WITH SHUNTA WILSON.

9 Q. THE NEXT MORNING, EARLY THAT MORNING, DID YOU MAKE
10 CONTACT WITH MS. WILSON?

11 A. YES, I DID. SHE SHOWED UP AT HEADQUARTERS.

12 Q. FOR THE RECORD, WHAT DATE WAS THAT?

13 A. THAT WAS ON THE 6TH.

14 Q. AND ONCE MS. WILSON SHOWED UP AT HEADQUARTERS, DID YOU
15 ACTUALLY INTERVIEW HER OR DID SOMEONE ELSE?

16 A. I MET WITH HER AT FIRST. I LET HER KNOW THAT
17 INVESTIGATOR WILLOUGHBY WOULD BE TAKING HER STATEMENT, AND AT
18 THAT POINT I HAD MET UP WITH SERGEANT EWING, AND IF YOU'LL
19 GIVE ME ONE MINUTE...

20 Q. ARE YOU REFERRING TO YOUR NOTES?

21 A. YES, I AM.

22 Q. OKAY.

23 A. I MET UP WITH CAPTAIN SMITH, INVESTIGATOR WILLOUGHBY,
24 AND SERGEANT EWING. I WAS DUE TO BE IN FAMILY COURT IN
25 REFERENCE TO AN UNRELATED CASE, AND I ADVISED THEM TO TAKE

1 THE STATEMENTS OF THE INDIVIDUALS THAT WERE ACTUALLY GOING TO
2 COME IN THAT DAY. SERGEANT EWING MET WITH ANTONIO SMITH.

3 Q. UH-HUH.

4 A. INVESTIGATOR WILLOUGHBY INTERVIEWED BOTH SHUNTA WILSON
5 AND RAVARIS HENRY.

6 Q. UH-HUH.

7 A. AND CAPTAIN SMITH INTERVIEWED TORRI BOYD.

8 Q. AND AS PART OF BEING THE CASE OFFICER, DO YOU KIND OF
9 COORDINATE ALL THE EVIDENCE IN THE CASE AND THE STATEMENTS
10 AND EVERYTHING LIKE THAT?

11 A. PRETTY MUCH.

12 Q. AND YOUR DUTIES INCLUDE REVIEWING ALL THAT INFORMATION?

13 A. YES, IT IS.

14 Q. BASED ON THE INFORMATION FROM THE DETAILED STATEMENTS
15 FROM THE 6TH, WERE YOU ABLE TO DEVELOP ANY SUSPECTS?

16 A. RIGHT. AFTER COMING BACK FROM FAMILY COURT, I WENT BACK
17 TO HEADQUARTERS, AND BY THAT TIME THE STATEMENTS FROM RAVARIS
18 HENRY, TORRI BOYD AND ANTONIO SMITH AND SHUNTA WILSON WERE
19 ALREADY OBTAINED, BUT THEY WERE STILL PRESENT AT
20 HEADQUARTERS. I MADE CONTACT WITH ALL THREE INVESTIGATORS TO
21 INCLUDE ALL FOUR OF THE INDIVIDUALS THAT WERE JUST
22 INTERVIEWED. BASED ON THAT INFORMATION -- BASED ON ME MAKING
23 CONTACT WITH THEM, I WAS ABLE TO OBTAIN THE INFORMATION
24 PERTAINING TO THE FULL IDENTITY OF THE INDIVIDUALS WHO WERE
25 ACTUALLY SHOOTING.

1 MR. JOHNSON: OBJECTION, YOUR HONOR.

2 THE COURT: SUSTAINED. DISREGARD.

3 BY MS. CAMPBELL:

4 Q. BASED ON THE INFORMATION THAT YOU GOT, WERE CERTAIN
5 WARRANTS OBTAINED THAT DAY?

6 A. YES, THEY WERE.

7 Q. AND WHO WERE THOSE WARRANTS ON?

8 A. JACQUES SEAN GIBSON AND ADAMS KARTEZ GIBSON.

9 Q. AND WHAT WERE THE WARRANTS?

10 A. THE WARRANTS WERE FOR MURDER.

11 Q. FOR THE RECORD, JACQUES GIBSON -- DO YOU KNOW HOW OLD HE
12 WAS AT THE TIME?

13 A. HE WAS 17 YEARS OLD.

14 Q. ONCE YOU OBTAINED THE WARRANTS, DID YOU MAKE ANY FURTHER
15 PLANS ABOUT THE NEXT DAY?

16 A. AT THAT PARTICULAR POINT WE WERE ABLE TO ACTUALLY GET
17 THE ADDRESS OF -- THROUGH D.M.V. RECORDS OF BOTH JACQUES
18 GIBSON AND ADAMS GIBSON. I INSTRUCTED WILLOUGHBY TO GENERATE
19 A SEARCH WARRANT.

20 Q. UH-HUH.

21 A. AND WE WERE PLANNING ON GOING UP TO FAIRFIELD COUNTY TO
22 ACTUALLY EXECUTE THAT SEARCH WARRANT.

23 Q. AND, IN FACT, DID Y'ALL TRAVEL TO FAIRFIELD COUNTY ON
24 THE NEXT DAY?

25 A. ON THE 7TH WE DID. YES, WE DID.

1 Q. AND WHAT WAS THE INITIAL RESIDENCE YOU WENT TO IN
2 FAIRFIELD COUNTY?

3 A. WE ORIGINALLY -- INITIALLY WENT TO 2546 MOOD HARRISON
4 ROAD IN RIDGEWAY, SOUTH CAROLINA, AND WE MADE CONTACT WITH --
5 AFTER, YOU KNOW, BANGING ON THE CAR AND NO ONE CAME TO THE
6 DOOR, WE THEN HAD TO FORCE ENTRY. WHEN WE GOT INSIDE, WE
7 MADE CONTACT WITH A YOUNG LADY WHO IDENTIFIED HERSELF AS A
8 GIBSON. WE ASKED HER WHERE WAS BOTH JACQUES GIBSON AND ADAMS
9 GIBSON.

10 Q. YOU CAN'T SAY WHAT SHE SAID TO YOU.

11 A. THAT'S FINE.

12 Q. BUT AS A RESULT OF WHAT SHE SAID TO YOU, WHAT DID Y'ALL
13 DO?

14 A. WE ACTUALLY WENT TO SEARCH THE BACK ROOM AND SEARCHED
15 ONE BEDROOM, AND THEN WE SEARCHED THE REAR LEFT BEDROOM, AND
16 BY THAT TIME MR. GIBSON, THE FATHER, SHOWED UP AT THE
17 RESIDENCE. WE MADE CONTACT WITH HIM AND HE TOLD US -- I'M
18 SORRY. WE MADE CONTACT WITH HIM, AND AS A RESULT OF THAT
19 MEETING, WE THEN WENT TO 2167 MOOD HARRISON ROAD IN AN EFFORT
20 TO MAKE CONTACT WITH ADAMS GIBSON. I ADVISED FAIRFIELD
21 COUNTY SHERIFF'S DEPARTMENT TO MAKE CONTACT WITH JACQUES AT
22 FAIRFIELD CENTRAL HIGH SCHOOL.

23 Q. WHILE YOU WERE AT THE HOUSE, YOU MENTIONED THAT YOU WERE
24 EXECUTING A SEARCH WARRANT. WHAT SPECIFICALLY WERE Y'ALL
25 LOOKING FOR?

1 A. WE WERE LOOKING FOR ANY TYPE OF FIREARM, ANY TYPE OF
2 PAPERWORK RELATED TO A FIREARM, SOME OF THE CLOTHES --
3 CLOTHES THAT WERE DESCRIBED BY SOME OF THE WITNESSES,
4 ANYTHING THAT WE CAN PRETTY MUCH CONNECT TO THE SHOOTING
5 INCIDENT.

6 Q. WERE YOU ABLE TO FIND ANY GUNS OR AMMUNITION?

7 A. WE WEREN'T ABLE TO FIND A GUN, BUT WE DID FIND A 380
8 UNSPENT ROUND IN THE REAR LEFT BEDROOM KNOWN AS---

9 MR. JOHNSON: OBJECTION, YOUR HONOR.

10 THE COURT: SUSTAINED.

11 BY MS. CAMPBELL:

12 Q. IN THE REAR LEFT BEDROOM?

13 A. IN THE REAR LEFT BEDROOM.

14 Q. INVESTIGATOR EWING TESTIFIED ABOUT THAT. WHO OF THE TWO
15 INDIVIDUALS, JACQUES OR ADAMS, DID YOU INITIALLY MAKE CONTACT
16 WITH?

17 A. I INITIALLY MADE CONTACT WITH MR. ADAMS KARTEZ GIBSON.

18 Q. AND WHERE DID YOU MAKE CONTACT WITH HIM?

19 A. AT 2167 MOOD HARRISON ROAD.

20 Q. AND HAD -- WAS ANYONE THERE BEFORE YOU FROM THE
21 SHERIFF'S DEPARTMENT?

22 A. RIGHT. I HAD GOTTEN A PHONE -- WHILE AT 2546 MOOD
23 HARRISON ROAD, I HAD GOTTEN A PHONE CALL FROM SERGEANT - I'M
24 SORRY - FROM CAPTAIN SMITH. HE TOLD ME THAT ADAMS KARTEZ
25 GIBSON AT THAT POINT WAS IN CUSTODY.

1 Q. DID YOU THEN PROCEED TO THE 21 - I'M SORRY - TO THE
2 SECOND RESIDENCE WHERE ADAMS WAS?

3 A. YES, I DID.

4 Q. AND WHEN YOU GOT THERE, DID CAPTAIN SMITH GIVE YOU ANY
5 INFORMATION AS FAR AS MIRANDA RIGHTS?

6 A. HE TOLD ME THAT HE'S ALREADY BEEN ADVISED VERBALLY, AND
7 I LAUGHED. I REMEMBER LAUGHING BECAUSE I'M REALLY BIG ON
8 THAT. I DIDN'T -- I WASN'T THERE WHEN HE GET DID IT, SO --
9 BUT HE SAID, "I ALREADY ADVISED HIM VERBALLY," AND HE GAVE
10 CONSENT TO SEARCH HIS RESIDENCE. HE SHOWED ME A CONSENT-TO-
11 SEARCH FORM, AND AT THE BOTTOM OF IT HE WROTE DOWN THE TIME
12 THAT HE ACTUALLY ADVISED MR. ADAMS KARTEZ GIBSON OF HIS
13 MIRANDA RIGHTS.

14 Q. DID YOU THEN TAKE MR. GIBSON INTO YOUR CUSTODY?

15 A. YES, I DID.

16 Q. AND WHAT DID YOU DO?

17 A. WE DROVE TO HEADQUARTERS.

18 Q. AND WHAT WAS YOUR INTENTIONS AT THAT POINT AS FAR AS
19 DRIVING HIM TO HEADQUARTERS?

20 A. TO INTERVIEW HIM.

21 Q. ONCE YOU GOT TO HEADQUARTERS, TELL THE JURY WHAT
22 HAPPENED.

23 A. ONCE WE GOT TO HEADQUARTERS, I ADVISED -- ALTHOUGH HE
24 HAD BEEN VERBALLY ADVISED ALREADY, I ADVISED HIM AGAIN, BUT
25 THIS TIME IN WRITTEN FORM, OF HIS MIRANDA RIGHTS. IT WAS AT

1 THAT TIME WHEN HE ACTUALLY GAVE ME A STATEMENT.

2 Q. I WANT TO SHOW YOU THIS STATE'S EXHIBIT NUMBER 14 AND
3 FIRST ASK IF YOU RECOGNIZE THAT.

4 A. YES, I DO.

5 Q. AND IS THAT THE ADVICE OF RIGHTS YOU USED WITH MR. ADAMS
6 KARTEZ GIBSON?

7 A. YES, IT IS.

8 MS. CAMPBELL: AND, YOUR HONOR, AT THIS TIME WE'D OFFER
9 IT INTO EVIDENCE.

10 THE COURT: ANY OBJECTION?

11 MR. ROBERSON: LET ME SEE IT.

12 MR. JOHNSON: WHAT EXHIBIT NUMBER IS THAT?

13 MS. CAMPBELL: 14.

14 MR. JOHNSON: THANK YOU.

15 MR. ROBERSON: NO OBJECTION, YOUR HONOR.

16 THE COURT: ANY OBJECTION, MR. JOHNSON?

17 MR. JOHNSON: NONE, YOUR HONOR.

18 THE COURT: IN EVIDENCE WITHOUT OBJECTION.

19 MS. CAMPBELL: THANK YOU, YOUR HONOR.

20 (STATE'S EXHIBIT 14 WAS RECEIVED IN EVIDENCE.)

21 BY MS. CAMPBELL:

22 Q. TELL THIS JURY EXACTLY HOW YOU GO ABOUT ADVISING SOMEONE
23 OF THEIR RIGHTS.

24 A. WHEN WE ADVISE ANYBODY OF THEIR RIGHTS IN A WRITTEN
25 FORM, WE ACTUALLY USE THIS SAME PARTICULAR FORMAT. THEIR

1 NAME IS WRITTEN UP TOP. THE OFFICER'S NAME IS WRITTEN WHO IS
2 ACTUALLY DOING THE ADVISING. THE DATE AND THE EXACT TIME IS
3 DOCUMENTED.

4 UNDER THIS SECTION TITLED, "YOUR RIGHTS," IT IS BROKEN
5 DOWN INTO INDIVIDUAL SENTENCES, AND NEXT TO EACH SENTENCE IS
6 AN ACTUAL CHECK BOX. MY GENERAL PRACTICE WHEN ADVISING
7 SOMEONE OF THEIR RIGHTS IS I WOULD READ EACH SENTENCE, STOP,
8 PAUSE, AND THEN ASK THEM TO ANSWER YES OR NO INDICATING THAT
9 THEY ACTUALLY UNDERSTAND WHAT I JUST READ TO THEM.

10 Q. AND WHAT WERE THE RIGHTS THAT YOU ACTUALLY ADVISED THE
11 DEFENDANT ADAMS KARTEZ GIBSON OF THAT DAY?

12 A. I BEGAN READING DIRECTLY FROM THIS PARTICULAR FORM. I
13 STATED, "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND
14 YOUR RIGHTS." I THEN PAUSED, STOPPED, AND WAITED FOR HIM
15 TO -- I ASKED HIM, "DO YOU UNDERSTAND THAT?" HE STATED,
16 "YES." I THEN CHECKED THE BOX NEXT TO IT.

17 I THEN ASKED -- I THEN CONTINUED BY STATING, "YOU HAVE
18 THE RIGHT TO REMAIN SILENT." SAME PROCEDURE. "ANYTHING YOU
19 SAY CAN BE USED AGAINST YOU IN COURT." THE PAUSE AGAIN, THE
20 ACKNOWLEDGMENT FROM HIM, AND THE CHECK IN THE BOX. "YOU HAVE
21 THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU
22 ANY QUESTIONS AND TO HAVE A LAWYER WITH YOU DURING ANY
23 QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE
24 APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH."
25 AGAIN, THAT SAME PAUSE PROCEDURE. Q. AND ANSWER -- Q. AND A.

1 I'M SORRY.

2 "IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER
3 PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY
4 TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME
5 UNTIL YOU TALK TO A LAWYER." AGAIN, THE FINAL PAUSE IN THAT
6 SECTION. UNDER THERE IS A PLACE FOR HIM TO SIGN AND A PLACE
7 FOR ME TO SIGN. HE SIGNED HIS SIGNATURE ADAMS GIBSON, AND I
8 SIGNED AS A WITNESS TO THAT PARTICULAR SECTION.

9 AT THE BOTTOM OF THAT PAGE THERE IS A FINAL SECTION
10 CALLED THE WAIVER OF RIGHTS. UNDER THAT TITLE IT STATES, "I
11 HAVE READ THIS STATEMENT OF MY RIGHTS AND UNDERSTAND WHAT MY
12 RIGHTS ARE. I AM WILLING TO TALK AND ANSWER QUESTIONS. I
13 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES HAVE BEEN
14 MADE TO ME, AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN
15 USED AGAINST ME." I AGAIN ASKED HIM, "DO YOU UNDERSTAND WHAT
16 I JUST READ TO YOU?" HE INDICATED YES. I CHECKED THE BOX,
17 AND THEN WE BOTH SIGNED AT THE BOTTOM OF THAT.

18 Q. WHAT TIME WAS IT WHEN YOU READ HIM HIS RIGHTS THAT DAY?

19 A. 14:56 WHICH IS 2:56 P.M.

20 Q. AND I NOTICE THAT -- WHO ALL WAS PRESENT WHEN YOU WERE
21 ADVISING HIM OF HIS RIGHTS THAT AFTERNOON?

22 A. MR. GIBSON AND MYSELF.

23 Q. SO THE FACT THAT THERE'S MORE THAN ONE WITNESS BOX,
24 THAT'S JUST TO ACCOMMODATE IF A SECOND PERSON IS PRESENT?

25 MR. JOHNSON: OBJECTION, YOUR HONOR.

1 THE COURT: SUSTAINED.

2 BY MS. CAMPBELL:

3 Q. I'LL REPHRASE IT. WHAT'S THE PURPOSE OF THAT?

4 A. TO SEE IF THE---

5 MR. JOHNSON: YOUR HONOR, SHE'S ALREADY SUGGESTED AN
6 ANSWER.

7 THE COURT: I UNDERSTAND THAT. I'LL ALLOW THE QUESTION.
8 THANK YOU VERY MUCH.

9 THE WITNESS: IF THERE ARE MORE PEOPLE PRESENT, THEY
10 WOULD HAVE -- THEY WOULD BE REQUIRED TO SIGN THAT IN THAT
11 BLANK SPOT.

12 BY MS. CAMPBELL:

13 Q. DID YOU AT ANY POINT THREATEN HIM IN ANY WAY TO MAKE HIM
14 TALK TO YOU?

15 A. NO, SIR -- NO, MA'AM.

16 Q. DID YOU PROMISE HIM ANYTHING?

17 A. NO, MA'AM.

18 Q. DID YOU DEPRIVE HIM OF ANY CREATURE COMFORTS OR ANYTHING
19 OF THAT SORT?

20 A. NO, MA'AM.

21 Q. ONCE YOU HAD ADVISED HIM OF HIS RIGHTS, DID HE WANT TO
22 TALK TO YOU?

23 A. YES, HE DID.

24 Q. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
25 NUMBER 15. I FIRST ASK: DO YOU RECOGNIZE THAT?

1 A. YES, I DO.

2 Q. AND IS THAT THE STATEMENT THAT WAS TAKEN FROM ADAMS
3 KARTEZ GIBSON AFTER HE WAIVED HIS RIGHTS?

4 A. YES, IT WAS. YES, IT IS. THAT'S IT.

5 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I OFFER STATE'S
6 EXHIBIT 15.

7 THE COURT: ANY OBJECTION, MR. ROBERSON?

8 MR. ROBERSON: I NEED TO SEE IT, YOUR HONOR. (MR.
9 ROBERSON VIEWS THE DOCUMENT.) NO OBJECTION, YOUR HONOR.

10 THE COURT: MR. JOHNSON?

11 MR. JOHNSON: NO OBJECTION, YOUR HONOR.

12 THE COURT: STATE'S 15 IS IN EVIDENCE WITHOUT OBJECTION.

13 (STATE'S EXHIBIT 15 WAS RECEIVED IN EVIDENCE.)

14 BY MS. CAMPBELL:

15 Q. TELL THIS JURY HOW IT IS YOU GO ABOUT TAKING THIS
16 STATEMENT.

17 A. IT IS DONE THROUGH MY COMPUTER AND IT IS ALSO DONE IN A

18 Q. AND A. FORMAT, QUESTIONS BEING ASKED BY MYSELF AND THE
19 ANSWERS BEING -- BEING MENTIONED AND STATED BY THE INDIVIDUAL
20 BEING INTERVIEWED, IN THIS CASE MR. ADAMS KARTEZ GIBSON. I
21 WILL THEN ASK A QUESTION, AND THEN WHATEVER HE RESPONDS WITH,
22 I TYPE IT UP.

23 Q. ONCE THE STATEMENT IS TAKEN, IS HE GIVEN ANY OPPORTUNITY
24 TO REVIEW IT?

25 A. YES, HE IS.

1 MR. JOHNSON: LEADING, YOUR HONOR.

2 THE COURT: JUST ASK HIM THE PROCEDURE, SOLICITOR.

3 BY MS. CAMPBELL:

4 Q. WHAT'S THE PROCEDURE AFTER YOU TAKE THE STATEMENT?

5 A. ALL RIGHT. AFTER WE COMPLETE THE STATEMENT, WE READ IT
6 TWICE, ACTUALLY ONE -- I READ IT WHILE IT'S STILL ON THE
7 COMPUTER OUT LOUD TO THE INDIVIDUAL, AND THEN AFTER PRINTING
8 IT UP THEY ARE THEN GIVEN A COPY OF IT AND INSTRUCTED TO READ
9 IT, READ OVER IT, AND SIGN THEIR NAME IN TWO PLACES ON EACH
10 SHEET. IN THIS PARTICULAR CASE HE WAS -- HE SIGNED SIX TIMES
11 ON THIS ONE STATEMENT.

12 Q. WHEN HE REVIEWED THIS STATEMENT, DID HE INDICATE -- WHAT
13 DID HE INDICATE TO YOU ABOUT THE STATEMENT?

14 A. THAT THIS WAS HIS STATEMENT.

15 Q. OKAY. STATE'S EXHIBIT 15, CAN YOU PUBLISH IT FOR THE
16 JURY? START WITH THE FIRST QUESTION.

17 A. THE FIRST QUESTION THAT I ASKED HIM WAS, "CAN YOU TELL
18 ME ABOUT THE INCIDENT THAT OCCURRED AT 8102 TWO NOTCH ROAD
19 ALSO KNOWN AS THE CHANCE'S SPORTS BAR AND GRILL ON
20 SEPTEMBER 5TH, 2005, AT APPROXIMATELY 12:30 A.M.?" HE
21 STATED, "IT WAS ME, DEMETRIC DAVIS, MARCUS TUCKER, AND
22 LAKISHA DAVIS IS WHO I RODE DOWN THERE WITH. I CALLED MY
23 BROTHER, SHA-SHA, TO COME AND PICK ME UP FROM DOWN THERE.

24 "ONCE WE GOT OUTSIDE, TORRI FROM WINNSBORO AND BAM,
25 WHOSE NAME IS DEMETRIC DAVIS, STARTED ARGUING ABOUT A

1 ROBBERY. DAVIS WAS ACCUSING TORRI OF BEING IN THE CAR WITH
2 DUDE. I HEARD THEM ARGUING ABOUT IT ALL IN A CIRCLE. I
3 WASN'T IN THE CIRCLE. I WAS IN A BURGUNDY ALTIMA. I JUST
4 CAME BACK FROM DOWN THE HILL FROM PICKING LAKISHA DAVIS UP
5 WHO WAS WALKING FROM THE WAFFLE HOUSE. THE BURGUNDY CAR
6 BELONGED TO LAKISHA DAVIS.

7 "SHE WENT TO SEE WHAT THEY WERE DOING. SHE TOLD ME TO
8 GET THEM BOYS BECAUSE DAVIS, ALSO KNOWN AS BAM, WAS HER
9 COUSIN. HER NUMBER" -- HE GAVE ME HER PHONE NUMBER. "HER
10 NUMBER IS 361-0493. TRAMELE AND MARCUS TUCKER AND THE OTHER
11 GUY WAS FIGHTING IN THE FRONT OF THE TRUCK. I WAS STANDING
12 NEXT TO YO-YO, AND I SAID, 'LET IT BE ONE ON ONE WITH TORRI
13 AND BAM.'

14 "THE NEXT THING THAT I DID WAS RUN BACK TO THE ALTIMA.
15 THEN TRAMELE, DEMETRIC DAVIS, AND MARCUS TUCKER, WE ALL
16 JUMPED IN THE BURGUNDY ALTIMA. LAKISHA WAS ALREADY AT THE
17 CAR; THEN WE CAME BACK UP THE ROAD. I THEN ASKED HIM, 'WHO
18 LEFT IN THE WHITE-IN-COLOR FORD ESCORT?' HE STATED MY
19 BROTHER, SHA-SHA, STEPHON WILLINGHAM, JR. - THEY CALLED HIM
20 FAT MAN - AND DUWOP, BUT I DON'T KNOW HIS NAME.

21 "I THEN ASKED HIM, "IS THAT THE SAME FORD ESCORT THAT
22 WAS PARKED AT YOUR RESIDENCE IN RIDGEWAY THIS AFTERNOON? HE
23 STATED, 'YES.' I THEN ASKED HIM, 'WHO IS THAT VEHICLE
24 REGISTERED TO?' HE STATED, 'GEORGE JOHNSON.' THAT IS MY
25 GIRLFRIEND'S UNCLE. HE STAY IN RIDGEWAY. MY NUMBER AT HOME

1 IS 803-337-4998."

2 I ASKED HIM, "DID YOU HAVE A GUN IN YOUR POSSESSION?"
3 HE STATED, "NO." I ASKED HIM, "DID YOU SEE ANYBODY WITH A
4 GUN IN THEIR POSSESSION?" HE STATED, "NO." I ASKED HIM,
5 "AFTER YOU HEARD THE SHOTS, WHERE DID YOU GO?" "I RAN TO THE
6 ALTIMA." "WHO LEFT INSIDE THE WHITE FORD ESCORT?" "MY
7 BROTHER, SHA-SHA, FAT MAN, AND THAT DUDE, DUWOP."

8 I THEN ASKED HIM, "HOW MANY SHOTS DID YOU HEAR?" HE
9 STATED, "ABOUT FIVE OR SIX OR BETTER." I THEN ASKED HIM,
10 "WHEN DID YOU CALL YOUR BROTHER, SHA-SHA, AND ASK HIM TO COME
11 AND PICK YOU UP?" "ABOUT 11:30 OR 12, SOMETHING LIKE THAT."
12 I THEN ASKED HIM, "WAS THAT BEFORE OR AFTER YOU REALIZED THAT
13 THERE WAS TENSION BETWEEN BAM AND TORRI IN THE CLUB?" HE
14 STATED, "THAT WAS AFTER. I WAS ABOUT TO DITCH THE GIRL
15 LAKISHA AND GO WITH MY BROTHER AND THEM. I DIDN'T CALL THEM
16 TO COME DOWN FOR A FIGHT BECAUSE THAT WASN'T MY BEEF."

17 I THEN ASKED HIM, "WHERE DID YOU GO AFTER YOU LEFT
18 COLUMBIA?" "I WENT TO MY HOUSE." I ASKED HIM, "WHAT WERE
19 YOU WEARING DURING THE INCIDENT?" "I HAD ON A WHITE TEE
20 SHIRT WITH GRAY DICKEY PANTS AND WHITE AIR FORCE ONE'S." MY
21 NEXT QUESTION WAS, "WHERE ARE THOSE CLOTHES RIGHT NOW?" HE
22 STATED, "AT THE HOUSE."

23 I THEN ASKED HIM, "DID ANYBODY TELL YOU THAT THEY SAW
24 SOMEBODY ELSE SHOOTING?" HE STATED, "I HEARD IN THE STREET
25 THAT TRAMELE MIGHT HAVE DONE IT. THAT IS WHAT THEY SAY ON

1 THE STREET." I THEN ASKED HIM, "HAVE YOU SPOKE" -- I THEN
2 ASKED HIM, "HAVE YOU SPOKE WITH TRAMELE SINCE THE INCIDENT?"
3 HE STATED, "NO, BUT THOSE VICTIMS KNOW WHO DID IT. THEY KNOW
4 WHO WAS IN FRONT OF THAT TRUCK. TRAMELE DAVIS, MARCUS
5 TUCKER, AND THAT DUDE NAMED B., THEY WERE DOUBLE-TEAMING B.
6 IF ANYBODY KNOW, IT WOULD BE HIM. THEY KNOW WHO WAS REALLY
7 SHOOTING." I THEN ASKED HIM, "IS THIS STATEMENT THE WHOLE
8 TRUTH?" AND HE SAID, "YES."

9 Q. AND, AGAIN, ONCE THAT WAS REDUCED ON PAPER, WHAT WAS THE
10 PROCEDURE AS FAR AS THE SIGNATURES?

11 A. IT WAS READ TO HIM BY ME FROM THE COMPUTER. I THEN
12 PRINTED IT OUT. IT WAS GIVEN TO HIM. I TOLD HIM -- I
13 INSTRUCTED HIM TO READ IT AND HE WAS -- HE SIGNED IN TWO
14 PLACES ON EACH -- ON EACH SHEET.

15 Q. AND THEN IT'S WITNESSED AT THE BOTTOM BY WHOM?

16 A. BY MYSELF. I NOTARIZED IT.

17 Q. AND AT WHAT TIME WAS THAT STATEMENT ACTUALLY TAKEN THAT
18 DAY?

19 A. THE STATEMENT STARTED AT 3:01 P.M.

20 Q. ONCE YOU TOOK THE STATEMENT FROM ADAMS KARTEZ GIBSON,
21 WHAT DID YOU DO?

22 A. AFTER TAKING THIS STATEMENT, I THEN READ OVER THE
23 HANDWRITTEN STATEMENT GIVEN TO ME BY INVESTIGATOR WILLOUGHBY
24 THAT HE HAD GOTTEN FROM MR. JACQUES GIBSON. AFTER READING
25 THAT STATEMENT, I THEN MADE CONTACT WITH JACQUES.

1 Q. AND WHAT WAS YOUR PURPOSE IN TALKING TO JACQUES?

2 A. AFTER READING THAT STATEMENT AND THE SECOND STATEMENT HE
3 HAD ACTUALLY GIVEN MR. WILLOUGHBY, I REALIZED THAT HE WASN'T
4 BEING---

5 MR. JOHNSON: OBJECTION.

6 THE COURT: SUSTAINED. REPHRASE YOUR QUESTION,
7 SOLICITOR.

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

9 THE COURT: YES, MA'AM.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

11 THE COURT: YOU MAY CONTINUE.

12 BY MS. CAMPBELL:

13 Q. WITHOUT SAYING WHY YOU WANTED TO TALK TO HIM AGAIN, DID
14 YOU THEN MAKE CONTACT WITH JACQUES GIBSON?

15 A. YES, I DID.

16 Q. AND WHERE DID YOU COME IN CONTACT WITH HIM?

17 A. AT HEADQUARTERS.

18 Q. TELL THE JURY HOW THAT NEXT CONVERSATION TOOK PLACE.

19 A. WHEN I MADE CONTACT WITH JACQUES, I HAD TOLD HIM THAT I
20 KNEW HE WASN'T TELLING THE TRUTH.

21 MR. JOHNSON: OBJECTION.

22 THE COURT: SUSTAINED.

23 MR. JOHNSON: I APOLOGIZE, YOUR HONOR. I APOLOGIZE.

24 THE COURT: SUSTAINED. I UNDERSTAND THAT.

25 MR. JOHNSON: YOUR HONOR---

1 THE COURT: ALL RIGHT.

2 MR. JOHNSON: ---MAY I TAKE UP A MATTER WITH THE COURT,
3 PLEASE?

4 THE COURT: JUST A SECOND. BEFORE YOU DO THAT, PLEASE
5 SIT DOWN. I SUSTAIN THE OBJECTION. THE JURY IS TO DISREGARD
6 THAT STATEMENT. THIS IS NOT PART OF THIS CASE. NOW, LADIES
7 AND GENTLEMEN, PLEASE GO TO YOUR JURY ROOM FOR A FEW MOMENTS.

8 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
9 10:40 A.M.)

10 THE COURT: YES, SIR, MR. JOHNSON?

11 MR. JOHNSON: YOUR HONOR, I APOLOGIZE FOR THE MANNER IN
12 WHICH I MADE THAT OBJECTION, BUT THIS IS AN EXPERIENCED
13 OFFICER, AN EXPERIENCED PROSECUTOR, AND THEY KNOW THAT'S
14 WRONG, YOUR HONOR. THEY NEED TO BOTH BE HELD IN CONTEMPT FOR
15 THIS. I MEAN, YOUR HONOR, YOU CAN'T UNRING A BELL. THE
16 DAMAGE THAT THEY HAVE DONE TO MY CLIENT IS IRREVERSIBLE, AND
17 I RESPECTFULLY MOVE FOR A MISTRIAL.

18 THE COURT: ALL RIGHT, SIR.

19 MR. JOHNSON: YOUR HONOR, THAT'S HIGHLY PREJUDICIAL. IF
20 THEY WERE INEXPERIENCED, IF THEY DIDN'T KNOW ANY BETTER --
21 BUT, YOUR HONOR, THAT WAS A SET-UP. THEY KNEW WHAT -- THE
22 WAY THEY WERE GOING BECAUSE YOU CAME UP THERE AND WARNED MS.
23 CAMPBELL: DON'T LET THAT OFFICER SAY THAT MR. JACQUES WAS
24 NOT TELLING THE TRUTH. AND THEY FLOWED RIGHT INTO IT.

25 THE COURT: ALL RIGHT.

1 MR. JOHNSON: AND HE'S A SERGEANT NOW, CLAIMS HE'S OVER
2 ALL OF THESE DIVISIONS. THAT'S...

3 THE COURT: ALL RIGHT, SIR. I RESPECTFULLY DECLINE TO
4 GRANT YOUR MOTION FOR A MISTRIAL. I BELIEVE THAT THE COURT'S
5 INSTRUCTIONS TO THE JURY WERE RECEIVED BY THEM AND WILL BE
6 FOLLOWED BY THEM. I HAVE NO INDICATION OTHERWISE.

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

8 THE COURT: I WILL TAKE -- YES, SIR.

9 MR. JOHNSON: EXCUSE ME. I APOLOGIZE.

10 THE COURT: THAT'S ALL RIGHT. GO AHEAD.

11 MR. JOHNSON: IMPOSE SOME PUNISHMENT ON THEM. SANCTION
12 THEM, YOUR HONOR.

13 THE COURT: WELL, I---

14 MR. JOHNSON: TELL THEM THEY CAN'T DO THAT ANYMORE.

15 THE COURT: THANK YOU, SIR. I WILL TAKE INTO
16 CONSIDERATION YOUR REQUEST THAT I HOLD THE OFFICER, MR.
17 MCDANIELS, IN CONTEMPT OF COURT. WHEN THIS MURDER TRIAL IS
18 OVER, WE WILL CONVENE A CONTEMPT OF COURT PROCEEDING. I WILL
19 NOT DO SO AS TO THE SOLICITOR. I DID NOT FIND ANY ACTIONS BY
20 THE SOLICITOR TO BE IN ANY WAY IMPROPER.

21 I DID NOT FIND THAT THE QUESTION THE SOLICITOR ASKED WAS
22 SUCH THAT WOULD ELICIT THE RESPONSE GIVEN BY THE OFFICER.
23 THE OFFICER CLEARLY KNEW THAT THE OBJECTION HAD BEEN
24 SUSTAINED AND APPARENTLY DECIDED TO GIVE THAT ANSWER TO THE
25 JURY ANYWAY. WE WILL CONVENE A CONTEMPT OF COURT PROCEEDING

1 WHEN THIS MURDER TRIAL IS OVER WITH. THANK YOU VERY MUCH.
2 SINCE I---

3 MR. ROBERSON: YOUR HONOR---

4 THE COURT: SINCE I'VE SENT THE JURY OUT, WE'LL TAKE A
5 SHORT BREAK. I'M SORRY. MR. ROBERSON?

6 MR. ROBERSON: YOUR HONOR, JUST FOR THE RECORD I WANTED
7 TO JOIN IN THE MOTION TO DECLARE A MISTRIAL BECAUSE ALL OF
8 THIS CASE HAS BEEN CENTERED AROUND WHAT THEY WANT TO ARGUE TO
9 THE JURY IS COMPLICIT LIABILITY ON THE PART OF MY CLIENT BY
10 ASKING JACQUES TO COME TO COLUMBIA TO ENGAGE IN THIS FIGHT.
11 SO THEN THE IMPLICATION IS THAT IF JACQUES IS LYING IN THESE
12 STATEMENTS, HE MAY WELL BE LYING ABOUT WHAT HE SAID MY
13 CLIENT'S PARTICIPATION WAS.

14 THE COURT: ALL RIGHT, SIR. I WOULD RESPECTFULLY
15 DECLINE TO GRANT YOUR MOTION, MR. ROBERSON, FOR A MISTRIAL ON
16 BEHALF OF YOUR CLIENT, MR. ADAMS GIBSON.

17 MR. ROBERSON: OKAY.

18 THE COURT: ALL RIGHT. WE'LL TAKE A SHORT BREAK FOR
19 ABOUT FIVE OR TEN MINUTES. THANK YOU.

20 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

21 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
22 THANK Y'ALL. ALL RIGHT. SOLICITOR, ARE YOU READY TO RESUME?

23 MS. CAMPBELL: YES, SIR. YOUR HONOR, MAY I APPROACH THE
24 WITNESS AND ADVISE HIM OF WHAT WE AREN'T GOING TO GO INTO?

25 THE COURT: YES, MA'AM.

1 (AN OFF-THE-RECORD DISCUSSION TAKES PLACE BETWEEN MS.
2 CAMPBELL AND MR. MCDANIELS.)

3 MS. CAMPBELL: YOUR HONOR, MAY I CONSULT WITH MR.
4 JOHNSON TO MAKE SURE THERE'S NO MORE OBJECTION?

5 THE COURT: YES, MA'AM. MR. ROBERSON, IF YOU -- YOU'RE
6 NOT EXCLUDED.

7 MR. ROBERSON: THAT'S WHAT THEY'VE BEEN DOING. I DON'T
8 MIND.

9 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION TOOK PLACE
10 BETWEEN MS. CAMPBELL, MR. JOHNSON, AND MR. ROBERSON.)

11 THE COURT: ARE YOU HAVING HIM READ THE STATEMENT OR
12 REVIEW THE QUESTION IN THE MATTER?

13 MS. CAMPBELL: THERE WAS AN ORAL STATEMENT JUST PRIOR TO
14 WHEN HE ADVISES HIM OF HIS RIGHTS. I WANT TO MAKE SURE THAT
15 NONE OF IT HE'S GOING TO OBJECT TO SO THAT WE DON'T GET INTO
16 ANY FURTHER PROBLEMS.

17 THE COURT: ALL RIGHT.

18 MS. CAMPBELL: YOUR HONOR, JUST FOR THE RECORD---

19 THE COURT: YES, MA'AM.

20 MS. CAMPBELL: ---BASICALLY THE FIRST -- THE ORAL
21 STATEMENT -- JUST PRIOR TO TAKING THE WRITTEN STATEMENT, HE,
22 THE DEFENDANT, ADMITTED TO LYING IN HIS FIRST STATEMENT. THE
23 DEFENSE OBJECTS TO THAT. WE WILL NOT BE GOING INTO THE FACT
24 THAT HE SAID HE LIED.

25 THE COURT: ALL RIGHT, MA'AM.

1 MS. CAMPBELL: HOWEVER, IN THE END HE STATES -- IS THIS
2 THE ONLY THING YOU HAVE A PROBLEM WITH?

3 THE COURT: I'M SORRY? READ THAT AGAIN, PLEASE, MA'AM.

4 MS. CAMPBELL: HE STATED THAT HE FELT BETTER NOW THAT
5 THE TRUTH WAS OUT.

6 MR. JOHNSON: YOUR HONOR, MY FIRST OBJECTION IS THAT WE
7 HAD JACKSON V. DENNO HEARINGS PRETRIAL AND THERE WAS NO
8 INTENTION OR REPRESENTATION TO THE COURT ABOUT THIS ORAL
9 STATEMENT. ALL THE OTHER STATEMENTS WE HAD A HEARING ON, AND
10 NOW WE'RE GOING TO BRING -- THEY'RE GOING TO BRING THIS UP AT
11 THIS LATE DATE, AND I OBJECT TO IT.

12 THE COURT: ALL RIGHT. WAS THIS ORAL STATEMENT FOLLOWED
13 UP BY A WRITTEN STATEMENT?

14 MS. CAMPBELL: YES, SIR.

15 THE COURT: SOLICITOR, CORRECT ME IF I'M WRONG, BUT DID
16 WE TALK ABOUT ANY ORAL STATEMENT---

17 MS. CAMPBELL: I BELIEVE THERE WAS MENTION THAT THERE
18 WAS -- I DON'T KNOW. I DID NOT GO INTO THE SUBSTANCE OF THE
19 STATEMENTS AT THE VOLUNTARINESS HEARING.

20 THE COURT: WELL, I DON'T REMEMBER HEARING ABOUT IT, AND
21 I DO NOT REMEMBER RULING UPON IT AS TO THE VOLUNTARINESS OF
22 IT. I DON'T REMEMBER THAT BEING PRESENTED TO THE COURT AT
23 ALL, AND I CERTAINLY DON'T REMEMBER GIVING ANYONE ANY
24 INDICATION THAT I WOULD ALLOW IT WHEN I ISSUED MY RULINGS.
25 THEREFORE, WE'RE NOT GOING INTO THE ORAL STATEMENT, IT NOT

1 HAVING BEEN COVERED AT THE PRIOR JACKSON V. DENNO HEARING.
2 WE'RE NOT GOING INTO IT NOW.

3 MS. CAMPBELL: YES, SIR.

4 THE COURT: Y'ALL HAD A FULL, COMPLETE OPPORTUNITY TO DO
5 SO EARLIER, SO WE'LL JUST GO INTO THE WRITTEN STATEMENT.

6 MS. CAMPBELL: START WITH THE ADVICE OF RIGHTS.

7 THE COURT: YES, MA'AM, THE ADVICE OF RIGHTS AND THE
8 WRITTEN STATEMENT. ALL RIGHT. MR. ROBERSON, ARE YOU READY
9 TO GO?

10 MR. ROBERSON: YES, SIR.

11 THE COURT: AND MR. JOHNSON?

12 MR. JOHNSON: YES, SIR. THANK YOU, YOUR HONOR.

13 THE COURT: ALL RIGHT. AND, MR. JOHNSON, DO YOU WANT ME
14 TO -- I UNDERSTAND IT DOES NOT CHANGE YOUR OBJECTION IN ANY
15 FASHION, BUT I'M ASKING YOU: DO YOU WISH ME TO INSTRUCT THE
16 JURY AGAIN WHEN THEY COME IN THAT THEY WOULD DISREGARD THE
17 LAST STATEMENT OF THE OFFICER AND IT'S NOT PART OF THIS
18 TRIAL?

19 MR. JOHNSON: YES, SIR. THANK YOU KINDLY.

20 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. ASK THE
21 JURY TO COME IN, PLEASE.

22 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
23 11:01 A.M.)

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, SO THAT
25 WE'RE CLEAR, THE STATEMENT OF THE OFFICER PRIOR TO THE

1 OBJECTION, THAT OBJECTION WAS SUSTAINED AND I TOLD YOU TO
2 DISREGARD THAT. YOU WILL DISREGARD IT. IT IS NOT PART OF
3 THIS TRIAL. THANK YOU VERY MUCH. YOU MAY CONTINUE,
4 SOLICITOR.

5 BY MS. CAMPBELL:

6 Q. ONCE YOU MADE CONTACT WITH JACQUES GIBSON, DID YOU
7 ADVISE HIM OF ANY RIGHTS PRIOR TO TAKING A STATEMENT?

8 A. I DID.

9 Q. I SHOW YOU WHAT'S BEEN MARKETING AS STATE'S EXHIBIT 16.
10 DO YOU RECOGNIZE THIS?

11 A. YES, I DO.

12 Q. AND WHAT IS THAT, SIR?

13 A. IT IS THE ADVICE OF RIGHTS FORM THAT I WENT OVER WITH
14 JACQUES GIBSON.

15 Q. AND WHAT TIME DID YOU INITIATE ADVISING HIM OF HIS
16 RIGHTS?

17 A. 17:43 HOURS WHICH IS 5:43 P.M.

18 Q. AND CAN YOU JUST BRIEFLY GO OVER AGAIN WHAT RIGHTS YOU
19 WENT THROUGH WITH MR. JACQUES GIBSON?

20 A. AGAIN, JACQUES SEAN GIBSON'S NAME IS DEPICTED UP TOP,
21 WHERE WE ACTUALLY TOOK THE -- WHERE HE WAS ACTUALLY ADVISED
22 IN WRITTEN FORMAT WHICH IS THE RICHLAND COUNTY SHERIFF'S
23 DEPARTMENT HEADQUARTERS, THE OFFICER WHICH IS MYSELF, THE
24 DATE - SEPTEMBER 7TH, 2005, AND THE TIME WHICH IS AT 17:43
25 HOURS.

1 AGAIN, UNDER THE "YOUR RIGHTS" SECTION TITLED, "YOUR
2 RIGHTS," I WENT OVER EACH SENTENCE INDIVIDUALLY, STOPPED,
3 PAUSED, WAITED FOR HIM TO INDICATE THAT HE UNDERSTOOD IT, AND
4 I CONTINUED TO READ THE FORM. I THEN BEGAN TO READ IT BY
5 STATING, "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
6 UNDERSTAND YOUR RIGHTS." PAUSED, WAITED FOR HIM TO... I
7 THEN ASKED HIM DID HE UNDERSTAND THAT. HE INDICATED YES, AND
8 I CHECKED THE BOX.

9 "YOU HAVE THE RIGHT TO REMAIN SILENT." SAME PROCESS.
10 "ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT." SAME
11 PROCESS. "YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE
12 BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE A LAWYER WITH YOU
13 DURING ANY QUESTIONING." AGAIN, THE SAME PROCESS DONE AFTER
14 THAT.

15 I THEN WENT ON, "IF YOU CANNOT AFFORD A LAWYER, ONE WILL
16 BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH."
17 SAME PROCESS. "IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT
18 A LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING
19 AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT
20 ANY TIME UNTIL YOU TALK TO A LAWYER." AT THAT PARTICULAR
21 TIME I ASKED HIM IF HE UNDERSTOOD THAT. HE INDICATED YES.
22 HE SIGNED AT THE BOTTOM, AND I SIGNED AS A WITNESS.

23 AT THE BOTTOM OF THAT PAGE AGAIN IS THE WAIVER OF RIGHTS
24 SECTION. I THEN READ TO HIM, "I HAVE READ THIS STATEMENT OF
25 MY RIGHTS, AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING

1 TO TALK AND ANSWER QUESTIONS. I UNDERSTAND AND KNOW WHAT I
2 AM DOING. NO PROMISES HAVE BEEN MADE TO ME, AND NO PRESSURE
3 OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME." I THEN
4 ASKED HIM IF HE UNDERSTOOD THAT. HE INDICATED YES, AND WE
5 BOTH SIGNED AT THE BOTTOM OF THE SHEET.

6 Q. AT ANY POINT PRIOR TO TAKING THIS STATEMENT, DID YOU
7 PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU?

8 A. NO, I DID NOT.

9 MR. JOHNSON: OBJECT, YOUR HONOR, AS TO WHAT HAPPENED.
10 OBJECTION, YOUR HONOR.

11 THE COURT: I'M GOING TO ALLOW IT.

12 BY MS. CAMPBELL:

13 Q. DID YOU MAKE ANY THREATS TOWARDS HIM?

14 A. NO, MA'AM.

15 Q. DID YOU DEPRIVE HIM OF ANY OF HIS CREATURE COMFORTS?

16 A. NO, I DID NOT.

17 Q. DID HE INDICATE WHETHER OR NOT HE WANTED TO TALK TO YOU?

18 A. YES, HE DID.

19 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD OFFER
20 STATE'S EXHIBIT 16.

21 THE COURT: ANY OBJECTION TO STATE'S 16?

22 MR. JOHNSON: CONTINUING OBJECTION, YOUR HONOR,
23 PREVIOUSLY.

24 THE COURT: ALL RIGHT. MR. ROBERSON?

25 MR. ROBERSON: NO.

1 THE COURT: ALL RIGHT, SIR. IT'S IN EVIDENCE OVER THE
2 OBJECTION OF THE DEFENDANT JACQUES GIBSON.

3 (STATE'S EXHIBIT 16 WAS RECEIVED IN EVIDENCE.)

4 BY MS. CAMPBELL:

5 Q. ONCE YOU ADVISED HIM OF HIS RIGHTS, DID YOU THEN TAKE A
6 WRITTEN STATEMENT FROM THE DEFENDANT?

7 A. YES, I DID.

8 Q. LET ME SHOW YOU THIS FOUR-PAGE DOCUMENT. DO YOU
9 RECOGNIZE IT?

10 A. YES, I DO.

11 Q. AND IS THAT THE FOUR-PAGE STATEMENT THAT YOU TOOK FROM
12 JACQUES SEAN GIBSON?

13 A. YES, IT IS.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
15 STATE'S EXHIBIT 17.

16 THE COURT: ANY OBJECTION, MR. ROBERSON?

17 MR. ROBERSON: I TAKE NO POSITION, YOUR HONOR.

18 THE COURT: ALL RIGHT, SIR. AND MR. JOHNSON?

19 MR. JOHNSON: CONTINUING, YOUR HONOR.

20 THE COURT: ALL RIGHT, SIR. IT'S IN EVIDENCE OVER THE
21 OBJECTION OF THE DEFENDANT JACQUES GIBSON.

22 (STATE'S EXHIBIT 17 WAS RECEIVED IN EVIDENCE.)

23 MS. CAMPBELL: YOUR HONOR, MAY I APPROACH THE BENCH A
24 MINUTE?

25 THE COURT: YES, MA'AM. MR. ROBERSON, PLEASE...

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

2 THE COURT: LADIES AND GENTLEMEN, I WAS TRYING TO AVOID
3 HAVING TO SEND Y'ALL OUT AND THEN COME RIGHT BACK IN, BUT I
4 DON'T SEE HOW I CAN AVOID DOING THAT. I'M SORRY FOR THE
5 INCONVENIENCE, BUT IF Y'ALL WOULD GO TO YOUR JURY ROOM FOR
6 JUST A VERY SHORT PERIOD OF TIME, YOU'LL COME RIGHT BACK OUT.

7 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT
8 11:09 A.M.)

9 THE COURT: INVESTIGATOR, YOU CAN GO AHEAD AND RETAKE
10 THE WITNESS STAND. THANK YOU, SIR. ALL RIGHT. LOOKING AT
11 STATE'S 17, THERE IS A QUESTION CONTAINED THEREIN THAT
12 STATES: "WHAT PART OF YOUR FIRST STATEMENT IS FALSE?" WHAT
13 I AM GOING TO DO IS THE STATEMENT THAT GOES TO THE JURY WE
14 ARE GOING TO REDACT THAT QUESTION. I'M GOING TO ALLOW THE
15 ANSWER. THE ANSWER TO THE QUESTION I RULE IS PROPER AND
16 SHALL GO TO THE JURY AS THE STATEMENT OF MR. GIBSON ON THAT
17 DATE AND TIME, BUT WE WILL REDACT THE QUESTION THAT -- "WHAT
18 PART OF YOUR FIRST STATEMENT IS FALSE?"

19 AND SO, SOLICITOR, WHEN YOU'RE ASKING THE INVESTIGATOR
20 TO PUBLISH THE STATEMENT, THAT PARTICULAR QUESTION WILL NOT
21 BE PUBLISHED OR READ TO THE JURY. YOU INDICATED, MR.
22 JOHNSON, YOU HAD SOME OTHER---

23 MR. JOHNSON: THE FIRST QUESTION, YOUR HONOR: "IS THE
24 FIRST STATEMENT YOU INITIALLY GAVE INVESTIGATOR WILLOUGHBY ON
25 9/7/05 THE WHOLE TRUTH?" THE ANSWER IS, "NOT ALL OF IT."

1 THE COURT: I DO NOT FIND THAT HAS THE SAME CONTEXT OF,
2 "WHAT PART OF YOUR FIRST STATEMENT IS FALSE?" BECAUSE I DO
3 BELIEVE THAT THE STATEMENT OF MR. GIBSON IS PROPER AND SHOULD
4 COME IN. I BELIEVE THAT THAT GIVES SOME CONTEXT, THE PROPER
5 CONTEXT, TO THE JURY OF THE ANSWERS THAT FOLLOW IT, THAT IS,
6 "NOT ALL OF IT," AND THEN, "ALL OF IT IS TRUE EXCEPT WHEN YOU
7 GET TO THE PART WHERE I SAID I DID NOT SHOOT OUT OF THE CAR."

8 SO I AM GOING TO ALLOW THE QUESTION TO BE READ: "IS THE
9 FIRST STATEMENT THAT YOU INITIALLY GAVE INVESTIGATOR
10 WILLOUGHBY ON 09/07/05 THE WHOLE TRUTH?" I WILL ALLOW THAT
11 PARTICULAR QUESTION TO BE READ. IT DOES NOT HAVE THE SAME
12 IMPACT, MEANING, OR CONTEXT AS THE QUESTION, "WHAT PART OF
13 YOUR FIRST STATEMENT WAS FALSE?" SO I'M GOING TO ALLOW IT
14 OVER YOUR OBJECTION. ANY OTHER QUESTION IN THERE THAT --
15 SINCE WE'VE GOT THE JURY OUT, IS THERE ANYTHING ELSE YOU WANT
16 TO POINT OUT TO ME, MR. JOHNSON?

17 MR. JOHNSON: I BELIEVE THAT'S IT, YOUR HONOR.

18 THE COURT: ALL RIGHT. SO, SOLICITOR, ARE WE CLEAR AND
19 YOU'VE INSTRUCTED THE WITNESS IN ACCORDANCE WITH THAT?

20 MS. CAMPBELL: HE'S GOING TO READ THE FIRST QUESTION AND
21 ANSWER AND THEN JUST READ THE SECOND ANSWER AND THEN PROCEED
22 THROUGHOUT THE REST OF IT.

23 THE COURT: YES, MA'AM. THE ONLY THING THAT WILL NOT BE
24 READ IS THAT QUESTION: "WHAT PART OF YOUR FIRST STATEMENT IS
25 FALSE?" THAT WILL NOT BE READ. ALL RIGHT? HERE IS THE

1 ORIGINAL DOCUMENT. ALL RIGHT. ASK THE JURY TO COME BACK IN,
2 PLEASE, SIR.

3 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT
4 11:12 A.M.)

5 THE COURT: YOU MAY CONTINUE, SOLICITOR.

6 MS. CAMPBELL: THANK YOU.

7 BY MS. CAMPBELL:

8 Q. SERGEANT MCDANIELS, CAN YOU PUBLISH THE STATEMENT TO THE
9 JURY?

10 A. YES, MA'AM. THE FIRST QUESTION I ASKED MR. JACQUES
11 GIBSON WAS: "IS THE FIRST STATEMENT THAT YOU INITIALLY GAVE
12 INVESTIGATOR WILLOUGHBY ON SEPTEMBER 7TH, 2005, THE WHOLE
13 TRUTH?" HE INDICATED -- HE STATED, "NOT ALL OF IT. ALL OF
14 IT IS TRUE EXCEPT WHEN YOU GET TO THE PART WHERE I SAID I
15 DIDN'T SHOOT OUT OF THE CAR."

16 I THEN ASKED HIM, "TELL ME IN DETAIL WHAT EXACTLY
17 HAPPENED WHEN YOU AND YOUR FRIENDS WERE OUTSIDE CHANCE'S
18 SPORTS BAR ON SEPTEMBER 5TH, 2005." HE ANSWERED BY STATING,
19 "MY BROTHER CALLED ME AND TOLD ME TO COME DOWN AND PICK HIM
20 UP BECAUSE BAM DONE GOT INTO IT WITH THE BOYS FROM WINNSBORO.
21 I WAS WITH STEPHON WILLINGHAM, JR., AND VERNON DAVIS, JR. I
22 WAS DRIVING A WHITE FORD ESCORT.

23 "WE GOT THERE AND I WENT INSIDE AND GOT KARTEZ. THAT IS
24 WHEN HE POINTED THE BOYS OUT THAT BAM HAD GOT INTO IT WITH.
25 THE BOYS THAT HE WAS TALKING ABOUT WAS MOSTLY DRUNK. ALL OF

1 US - ME, BAM WHOSE LAST NAME IS DAVIS, MARCUS TUCKER ALSO
2 KNOWN AS TRAMELE, THEY CALLED HIM SMOKE, AND MY BROTHER,
3 KARTEZ - WE ALL LEFT.

4 "WHEN WE GET OUTSIDE, THE BOYS FROM WINNSBORO WALKED
5 BEHIND US, AND I SEEN KARTEZ GO TO THE BURGUNDY CAR. BAM WAS
6 STILL BY THE FRONT DOOR. STEPHON AND VERNON WERE STILL IN
7 THE CAR THAT I DROVE. I PULLED AROUND IN THE WHITE CAR, AND
8 KARTEZ PULLED AROUND IN THE BURGUNDY CAR. THAT IS WHEN BAM
9 AND TORRI BOYD STARTED ARGUING, AND THEN TRAMELE AND THAT
10 DUDE B. STARTED ARGUING. THAT IS WHEN I SEEN A BIG DUDE
11 REACH IN HIS S.U.V., AND HE PULLED SOMETHING AND PUT IT IN
12 HIS POCKET, BUT I DIDN'T SEE WHAT IT WAS.

13 "THE GUY WENT BACK OVER WHERE THE FIGHTING WAS.
14 SOMEBODY PUSHED BAM OR TRAMELE, AND THEY STARTED FIGHTING. I
15 DIDN'T GET TO SEE TRAMELE AND THEM FIGHTING. I SEEN BAM AND
16 TORRI FIGHTING. I WAS STILL IN THE CAR. THAT IS WHEN I SEEN
17 YO-YO ACTING LIKE HE WANTED TO HIT MY BROTHER, KARTEZ, AND
18 THAT'S WHEN I PULLED THE GUN OUT ON YO-YO AND TOLD HIM NOT TO
19 TRY TO HIT MY BROTHER. HE BACKED UP, AND BAM AND TORRI WERE
20 STILL ON THE GROUND FIGHTING. THEN I HEARD TWO GUNSHOTS, AND
21 THAT IS WHEN I WAS PULLING OFF AND I STARTED SHOOTING IN THE
22 AIR."

23 I THEN ASKED HIM, "DID YOU SEE ANYONE ELSE SHOOTING?"
24 HE STATED, "NO, BUT I HEARD SHOTS." I THEN ASKED HIM, "WHAT
25 TYPE OF GUN DID YOU HAVE?" HE STATED, "A NINE MILLIMETER.

1 IT WAS LIKE MEDIUM SIZE. IT WASN'T LONG." I THEN ASKED HIM,
2 "DESCRIBE IT TO ME." HE STATED, "A BLACK GUN. I DON'T KNOW
3 THE NAME OF IT." I ASKED HIM, "WHAT DID YOU DO WITH THE GUN
4 AFTER THE SHOOTING?" HE STATED, "THAT MONDAY I THREW IT OVER
5 THE BRIDGE IN THE WATEREE RIVER. I WAS LIKE CLOSE TO THE
6 MIDDLE OF IT."

7 I THEN ASKED HIM, "WHERE WERE YOU POSITIONED WHEN YOU
8 STARTED SHOOTING IN THE AIR?" HE ANSWERED BY STATING, "I WAS
9 IN THE DRIVER'S SEAT. I WAS DRIVING AWAY." I THEN ASKED
10 HIM, "HOW MANY TIMES DID YOU SHOOT WHILE DRIVING AWAY?" HE
11 STATED, "ABOUT THREE OR FOUR." I THEN ASKED HIM, "DID YOU
12 SHOOT ALL THREE OR FOUR ROUNDS IN THE AIR?" HE ANSWERED BY
13 STATING, "I WAS SHOOTING THE GUN IN THE AIR WHEN I FIRST
14 STARTED, BUT THE GUN MAY HAVE DROPPED DOWN."

15 I THEN ASKED HIM, "DID YOU FIND ANY SHELL CASINGS IN
16 YOUR CAR AFTER THE SHOOTING?" HE STATED, "YES. I THREW THEM
17 AWAY ON MONDAY ON THE SIDE OF THE ROAD. I THINK IT WAS ON
18 GROVER WILSON OFF OF HARD SCRABBLE. I JUST SLUNG THEM OUT
19 THE WINDOW. I FOUND ONE THAT HAD BEEN SHOT AND ONE WHOLE
20 ONE. I THREW BOTH OF THEM OUT."

21 I THEN ASKED HIM, "WHAT TYPE OF ROUNDS DO YOU USE IN THE
22 NINE MILLIMETER?" HE SAID, "NINE MILLIMETER BULLETS." I
23 THEN ASKED HIM, "DO YOU EVER USE .380 ROUNDS IN YOUR NINE
24 MILLIMETER?" HE SAID, "NO, NOT IN A NINE."

25 I THEN ASKED HIM, "DO YOU BELIEVE THAT YOU ARE THE ONE

1 WHO MAY HAVE SHOT DENNIS IRBY?" HE STATED, "I THINK THAT I
2 DID BECAUSE I WAS DOING SOME SHOOTING, BUT I DIDN'T JUST LOOK
3 AT HIM AND SHOOT HIM." I THEN ASKED HIM, "IS IT POSSIBLE
4 THAT YOU MAY HAVE SHOT TOWARD THE SAME AREA WHERE IRBY WAS
5 STANDING?" HE STATED, "YEAH. THE GUN COULD HAVE DROPPED
6 DOWN BECAUSE I WAS DRIVING. I PROMISE I DON'T REMEMBER
7 SEEING HIM AND AIMING."

8 I THEN ASKED HIM, "WHO WAS YOUR BROTHER, KARTEZ,
9 FIGHTING?" HE STATED, "HE WASN'T FIGHTING. THAT DUDE NAMED
10 YO-YO WAS JUST GETTING READY TO COME UP AND FIGHT HIM, AND
11 THAT IS WHEN I PULLED THE GUN ON HIM AND STOPPED HIM."

12 I THEN ASKED HIM, "DID YOU TELL ANYBODY AFTER THE
13 SHOOTING THAT THERE WAS A POSSIBILITY THAT YOU MAY HAVE BEEN
14 THE ONE TO SHOOT DENNIS IRBY?" HE ANSWERED BY STATING, "I
15 TOLD KARTEZ, VERNON, AND STEPHON. THAT WAS IT." I THEN
16 ASKED HIM, "WHAT DID YOU TELL THEM?" HE SAID, "I TOLD THEM
17 THAT SINCE I WAS DOING SOME SHOOTING, I MIGHT HAVE BEEN THE
18 ONE TO SHOOT DENNIS."

19 I THEN ASKED HIM, "WHAT DID THEY SAY AFTER YOU TOLD THEM
20 THAT?" HE ANSWERED BY STATING, "THEY WAS LIKE, 'IT'S A
21 POSSIBILITY.' WE DISCUSSED IT THE NEXT DAY. IT WAS AGREED
22 THAT WE WERE GOING TO SAY THAT WE DIDN'T HAVE A GUN." I THEN
23 ASKED HIM, "WHERE DID YOU RETRIEVE THE GUN FROM ON THE NIGHT
24 OF THE SHOOTING?" "I GOT IT OUT OF THE CAR. IT WAS UNDER
25 THE DRIVER'S SEAT. I STAYED IN THE CAR AND POINTED IT AT

1 YO-YO WHILE I WAS IN THE CAR."

2 I THEN ASKED HIM, "WHAT DID YOU HAVE ON DURING THE
3 SHOOTING?" HE STATED, "I HAD ON A PLAIN BLACK TEE SHIRT,
4 SOME BLUE JEAN PANTS, AND MY WHITE FILAS." I THEN ASKED HIM,
5 "ARE THEY THE SAME SNEAKERS THAT YOU HAVE ON RIGHT NOW?" HE
6 STATED, "YES." I THEN ASKED HIM, "IS THERE ANYTHING YOU
7 WOULD LIKE TO ADD TO THIS STATEMENT?" HE STATED, "I'M SORRY
8 FOR SHOOTING, BUT I DIDN'T MEAN TO SHOOT HIM BECAUSE I KNOW
9 HOW IT FEELS TO LOSE A LOVED ONE BECAUSE I LOST MY BROTHER."
10 THAT WAS THE END OF THE STATEMENT.

11 Q. ONCE YOU HAD REDUCED THAT STATEMENT IN YOUR COMPUTER AND
12 PRINTED IT OFF, DID HE HAVE -- WHAT HAPPENED?

13 A. BEFORE PRINTING THE STATEMENT OFF, I READ THE STATEMENT
14 BACK TO HIM FROM MY COMPUTER. I THEN PRINTED THE STATEMENT
15 UP AND GAVE IT TO HIM, INSTRUCTED HIM TO READ OVER IT, AND HE
16 SIGNED IN TWO PLACES ON EACH SHEET.

17 Q. AND DID HE MAKE ANY ACKNOWLEDGMENT AS TO WHETHER OR NOT
18 THAT WAS HIS STATEMENT?

19 A. YES, HE DID, BY SIGNING IT.

20 Q. TURNING YOUR ATTENTION TO THE NEXT DAY, SEPTEMBER 8TH,
21 DID YOU MEET WITH CERTAIN WITNESSES?

22 A. YES, I DID. I MET WITH LAKISHA DAVIS. I MET WITH
23 DEMETRIC DAVIS. I HAD CALLED STEPHON WILLINGHAM AND ADVISED
24 HIM THAT HE NEEDED TO COME TO HEADQUARTERS.

25 Q. AND THE NEXT DAY, SEPTEMBER 9TH, DID YOU MAKE CONTACT

1 WITH HIM?

2 A. WITH MR. WILLINGHAM?

3 Q. UH-HUH.

4 A. YES. YES, I DID.

5 Q. ALSO ON SEPTEMBER 9TH, DID YOU FOLLOW UP ON ANY
6 INFORMATION THAT JACQUES GIBSON HAD GIVEN TO YOU?

7 A. RIGHT. I DID ACTUALLY ON THE 9TH. I MADE CONTACT WITH
8 JACQUES AGAIN. HE ATTEMPTED TO TAKE US TO WHERE HE ALLEGEDLY
9 THREW THE WEAPON AND THE ACTUAL SHELL -- HE TOOK US TO TWO
10 DIFFERENT PLACES, AND HE TRIED TO TELL US WHERE HE THREW THE
11 GUN OUT AT THE MARINA. I DON'T REMEMBER THE EXACT NAME OF
12 IT. AND HE TOOK US TO ANOTHER PLACE, SOMEWHERE NEAR OFF OF
13 HARD SCRABBLE AND GROVER WILSON ROAD, WHERE HE STATED THAT HE
14 THREW OUT THE SHELL CASING AND THE FULL ROUND.

15 Q. WERE YOU ABLE TO RECOVER ANY OF THE AMMUNITION OR THE
16 GUNS?

17 A. NO, WE WERE NOT. I MADE CONTACT WITH LIEUTENANT
18 MCCOLMAN AND ARRANGED FOR OUR DIVE SQUAD TO SEARCH THAT AREA.
19 AND WHILE -- WHILE WORKING WITH MR. JACQUES, HE ACTUALLY
20 DEMONSTRATED FOR ME HOW MUCH FORCE HE USED TO THROW THE
21 WEAPON, AND I MARKED THAT PARTICULAR SPOT SO THAT WE COULD
22 HAVE OUR DIVE SQUAD GO BACK OUT AND TRY TO RETRIEVE THE
23 WEAPON FROM THE LAKE.

24 Q. AFTER YOUR INITIAL INVESTIGATION, WERE ANY OTHER
25 WARRANTS PUT OUT IN CONNECTION WITH THIS CASE?

1 A. YES. BASED ON THE INFORMATION THAT WE RECEIVED, I MADE
2 THE DECISION TO CHARGE THE OTHER INDIVIDUALS INVOLVED. I
3 CHARGED DEMETRIC DAVIS, TRAMELE DAVIS, MARCUS TUCKER. I
4 CHARGED VERNON DAVIS, AND ALSO I CHARGED STEPHON WILLINGHAM.

5 Q. WITH WHAT CHARGE?

6 A. I CHARGED THEM WITH AGGRAVATED BREACH OF PEACE.

7 Q. LATER DID YOU ALSO MAKE CONTACT WITH VERNON DAVIS?

8 A. I DID.

9 Q. AND WHERE DID THAT TAKE PLACE, SIR?

10 A. THAT TOOK PLACE AT -- BEFORE MAKING CONTACT WITH HIM, I
11 TRIED TO MAKE CONTACT WITH HIM AT FAIRFIELD CENTRAL HIGH
12 SCHOOL. APPARENTLY I HAD JUST MISSED HIM. WHILE WAITING FOR
13 THEM TO BRING HIM TO ME, THEY TOLD ME THAT HE HAD JUST LEFT
14 THE SCHOOL, AND ON MY WAY BACK TO RICHLAND COUNTY, I RECEIVED
15 A PHONE CALL FROM CAPTAIN SMITH TELLING ME THAT VERNON DAVIS
16 WAS WAITING FOR ME AT HIS ATTORNEY'S OFFICE IN DOWNTOWN
17 COLUMBIA.

18 Q. AND WERE YOU ABLE TO GET A STATEMENT FROM HIM?

19 A. I WAS.

20 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
21 EXHIBIT NUMBER 59, 58, AND 57. DO YOU RECOGNIZE THOSE?

22 A. IT IS THE PARKING LOT OF CHANCE'S, AND ALSO CHANCE'S
23 SPORTS BAR AND GRILL IS DEPICTED IN EACH ONE OF THOSE PHOTOS.

24 Q. AND ARE THESE PHOTOS DIFFERENT FROM SOME OF THE OTHER
25 PHOTOS IN EVIDENCE IN ANY WAY?

1 A. IT'S -- THE PARKING LOT IS CLEAR NOW.

2 Q. OKAY. SO DO YOU KNOW WHEN THESE PHOTOGRAPHS WERE
3 ACTUALLY TAKEN WHEN THE PARKING LOT WAS CLEAR?

4 A. THEY WERE TAKEN LATER ON. I DON'T KNOW THE EXACT TIME,
5 BUT THEY WERE TAKEN ON LATER ON BY INVESTIGATOR BROWN. SHE
6 WENT BACK OUT THERE TO THE SCENE TO PHOTOGRAPH IT.

7 Q. DURING THE COURSE OF YOUR INVESTIGATION, DID YOU BECOME
8 AWARE OF ANY OTHER DAMAGE BEING DONE -- WERE YOU AWARE OF HOW
9 MANY VICTIMS WERE HIT OUT THERE THAT NIGHT?

10 A. I WAS.

11 Q. AND WHO WAS HIT?

12 A. DENNIS IRBY WAS STRUCK.

13 Q. WAS THERE ANY OTHER DAMAGE FROM BULLETS THAT NIGHT?

14 A. THERE WAS SOME DAMAGE FROM -- TO TWO VEHICLES THAT WERE
15 PARKED OUT THERE. I WAS AWARE OF SHUNTA WILSON'S VEHICLE
16 BEING STRUCK, HER TIRE -- LEFT REAR TIRE BEING SHOT. THERE
17 WAS ANOTHER INDIVIDUAL WHO WAS PARKED OUT THERE WHOSE TIRE
18 WAS ALSO STRUCK.

19 Q. OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 44.
20 DO YOU RECOGNIZE THAT?

21 A. YES, I DO.

22 Q. AND WHAT DOES THAT SHOW?

23 A. IT SHOWS SOME CLOTHING ON THE ACTUAL GROUND, AND THE
24 GREEN CAR IS SHUNTA WILSON'S VEHICLE AND THE RED CAR IS THE
25 OTHER VEHICLE THAT WAS STRUCK IN THE REAR TIRE.

1 Q. AND DURING THE COURSE OF THIS INVESTIGATION, IS THAT HOW
2 THEY WERE PARKED THAT NIGHT WHEN THE SHOOTING OCCURRED?

3 A. YES, IT WAS.

4 Q. YOU MENTIONED THAT -- STATE'S EXHIBIT 62, WHAT DOES THAT
5 SHOW?

6 A. THAT IS SHUNTA WILSON'S VEHICLE. THE TIRES ARE SHOT
7 OUT.

8 Q. AND STATE'S EXHIBIT NUMBER 45, DO YOU RECOGNIZE THAT?

9 A. THAT IS THE OTHER INDIVIDUAL. I BELIEVE HIS LAST NAME
10 IS JOHNSON. THAT'S HIS VEHICLE THAT WAS PARKED RIGHT IN
11 FRONT OF SHUNTA'S VEHICLE, AND THAT TIRE IS ALSO FLAT.

12 MS. CAMPBELL: YOUR HONOR, PERMISSION TO PUBLISH?

13 THE COURT: ANY OBJECTION, MR. ROBERSON?

14 MR. ROBERSON: NONE, YOUR HONOR.

15 THE COURT: MR. JOHNSON?

16 MR. JOHNSON: NONE, YOUR HONOR.

17 THE COURT: YOU MAY DO SO, MA'AM.

18 BY MS. CAMPBELL:

19 Q. MR. JOHNSON - THE SECOND VICTIM - WAS ANYTHING EVER
20 RECOVERED OF EVIDENTIARY VALUE FROM HIM?

21 A. NO.

22 MR. JOHNSON: OBJECTION, YOUR HONOR.

23 THE COURT: I'M GOING TO ALLOW THAT. YOU MAY PROCEED.

24 THE WITNESS: NO, MA'AM. HE COULDN'T EVEN OFFER ANY
25 INFORMATION. HE SAID HE WAS ASLEEP.

1 MR. JOHNSON: OBJECTION, YOUR HONOR.

2 THE COURT: SUSTAINED ON THAT PART.

3 MS. CAMPBELL: OKAY. BEG THE COURT'S INDULGENCE.

4 THE COURT: YES, MA'AM.

5 BY MS. CAMPBELL:

6 Q. FOR THE RECORD, THE CHANCE'S PARKING LOT, WHAT COUNTY IS
7 THAT IN?

8 A. THAT IS IN RICHLAND COUNTY.

9 Q. AND THE PERSON THAT YOU IDENTIFIED AS ADAMS JACQUES
10 (SIC) GIBSON THAT YOU TOOK THE STATEMENT FROM, DO YOU SEE HIM
11 HERE IN THE COURTROOM?

12 A. YES, I DO.

13 Q. CAN YOU IDENTIFY HIM FOR THE JURY?

14 A. HE'S THE GENTLEMAN RIGHT THERE WITH THE LIGHT BLUE SHIRT
15 ON WITH THE DARK TIE SITTING NEXT TO MR. ROBERSON.

16 Q. AND THE SECOND PERSON YOU TOOK A STATEMENT FROM, JACQUES
17 SEAN GIBSON, DO YOU SEE HIM HERE IN THE COURTROOM?

18 A. YES, I DO.

19 Q. CAN YOU POINT HIM OUT FOR THE JURY?

20 A. THE GENTLEMAN SITTING ON THE END OF THE TABLE WITH THE
21 BLACK SUIT SITTING NEXT TO MR. JOHNSON.

22 Q. CLOSEST OR FURTHER FROM YOU AT THAT TABLE?

23 A. HE'S CLOSER TO ME.

24 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE'S
25 IDENTIFIED BOTH DEFENDANTS?

1 THE COURT: ALL RIGHT. MR. ROBERSON, CROSS-EXAMINATION?

2 MR. ROBERSON: MAY IT PLEASE THE COURT?

3 THE COURT: YES, SIR.

4 MR. ROBERSON: YOUR HONOR, JUST A COUPLE OF QUESTIONS.

5 CROSS-EXAMINATION

6 BY MR. ROBERSON:

7 Q. MR. MCDANIELS, YOU WROTE A REPORT ON YOUR ACTIVITIES ON
8 THAT NIGHT WHEN YOU WERE CONTACTED---

9 A. YES, I DID.

10 Q. ---BY CAPTAIN SMITH.

11 A. YES, SIR.

12 Q. AND I BELIEVE YOU SAW -- YOUR REPORT STARTS AT 09/05 AT
13 1300 HOURS. THAT'S LIKE WHAT 1:00 AT NIGHT?

14 A. THAT'S 1:00 IN THE AFTERNOON.

15 Q. IN THE AFTERNOON.

16 A. YES, SIR.

17 Q. OKAY. THEY HAD SUPPLIED YOU WITH INFORMATION THAT THIS
18 INCIDENT STARTED OUT AS A FIGHT. IS THAT NOT CORRECT?

19 A. IT STARTED OUT AS AN ARGUMENT INSIDE THE CLUB, AND IT
20 ESCALATED INTO A PHYSICAL CONFRONTATION IN THE PARKING LOT.

21 Q. YES, SIR. AND WHEN YOU DID START INTERVIEWING PEOPLE,
22 YOU FOUND OUT THAT THERE WERE EITHER SIX, SEVEN, OR EIGHT
23 PEOPLE INVOLVED IN THE FIGHT.

24 A. YES, I DID.

25 Q. OKAY. AND SOME OF THE PEOPLE INVOLVED IN THE FIGHT ARE

1 FROM WINNSBORO AND SOME WAS FROM RIDGEWAY.

2 A. YES, SIR.

3 Q. OKAY. AND YOU CHARGED DEMETRIC DAVIS WITH WHAT?

4 A. AGGRAVATED BREACH OF PEACE.

5 Q. DO YOU KNOW WHO HE WAS FIGHTING WITH?

6 A. DEMETRIC DAVIS WAS FIGHTING WITH TORRI BOYD.

7 Q. OKAY. DID YOU CHARGE TORRI BOYD WITH ANYTHING?

8 A. NO, I DID NOT.

9 Q. WHO -- DID YOU CHARGE TRAMELE DAVIS WITH ANYTHING?

10 A. YES, I DID.

11 Q. WHAT DID YOU CHARGE HIM WITH?

12 A. AGGRAVATED BREACH OF PEACE.

13 Q. WHO WAS HE FIGHTING WITH?

14 A. TRAMELE WAS FIGHTING RAVARIS HENRY AS -- AND HE ALSO
15 STRUCK DENNIS IRBY.

16 Q. DID YOU CHARGE RAVARIS HENRY WITH ANYTHING?

17 A. NO, I DID NOT.

18 Q. WHO WAS MARCUS TUCKER FIGHTING WITH?

19 A. HE WAS FIGHTING ANTWAN MARTIN.

20 Q. OKAY. DID YOU -- AND ANTWAN MARTIN LIKEWISE WAS
21 FIGHTING WITH HIM, TOO.

22 A. THEY WERE ENGAGED IN A PHYSICAL CONFRONTATION.

23 Q. DID YOU CHARGE ANTWAN MARTIN WITH ANYTHING?

24 A. NO, I DID NOT.

25 Q. WHO WAS ANTONIO SMITH FIGHTING WITH?

1 A. ANTONIO WASN'T FIGHTING ANYONE.

2 Q. HE WASN'T? OKAY. STEPHON WILLINGHAM WASN'T FIGHTING
3 ANYBODY?

4 A. NO. NO, SIR.

5 Q. VERNON DAVIS WASN'T.

6 A. NO. THEY WERE INSIDE THE VEHICLE.

7 Q. OKAY.

8 A. ANTONIO SMITH AND DENNIS IRBY WERE THE ONES TRYING TO
9 BREAK UP THE FIGHT.

10 MR. ROBERSON: OKAY. THOSE ARE ALL THE QUESTIONS I
11 HAVE, YOUR HONOR.

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

13 MR. JOHNSON: THANK YOU, YOUR HONOR.

14 CROSS-EXAMINATION

15 BY MR. JOHNSON:

16 Q. MR. MCDANIELS, AS I UNDERSTAND YOUR EXPERIENCE, YOU HAVE
17 A B.S. DEGREE. IS THAT NOT CORRECT?

18 A. YES, I DO, SIR.

19 Q. AND YOU RECEIVED TRAINING AT THE POLICE ACADEMY. IS
20 THAT RIGHT?

21 A. YES, SIR.

22 Q. AND I WAS INTERESTED -- YOU HAD 80 HOURS OF TRAINING IN
23 QUESTIONING AND INTERVIEWS?

24 A. IN INTERROGATIONS AND INTERVIEWING, YES, SIR.

25 Q. INTERROGATIONS AND INTERVIEWS?

1 A. YES, SIR.

2 Q. SO YOU TAKE COURSES TO LEARN HOW TO INTERROGATE AND
3 INTERVIEW PEOPLE?

4 A. THEY'RE ADVANCED COURSES.

5 Q. THEY'RE ADVANCED COURSES?

6 A. OFFERED THROUGH THE F.B.I.

7 Q. AND WHAT DO YOU LEARN IN THOSE TYPE COURSES?

8 A. WHAT DO YOU LEARN?

9 Q. YES, SIR. WHAT CLASSES ARE TAUGHT?

10 A. HOW DO YOU OBSERVE -- HOW TO ACTUALLY OBSERVE GESTURES
11 AND HOW TO FORMULATE CERTAIN QUESTIONS DEPENDING ON WHAT
12 YOU'RE TALKING ABOUT, HOW TO LISTEN NOT JUST WITH YOUR EARS
13 BUT WITH YOUR EYES AS WELL.

14 Q. OKAY. AND THE FORMULATING OF QUESTIONS MAKES A BIG
15 DIFFERENCE, DOESN'T IT? HOW YOU ASK A QUESTION MAKES A BIG
16 DIFFERENCE, DOESN'T IT?

17 A. OF COURSE IT WOULD.

18 Q. OKAY. BECAUSE BASED ON HOW YOU ASK A QUESTION, IT CAN
19 ELICIT A CERTAIN ANSWER. ISN'T -- ISN'T THAT TRUE BASED ON
20 YOUR TRAINING AND EXPERIENCE?

21 A. I GUESS YOU COULD SAY THAT.

22 Q. ALL RIGHT, SIR. NOW, WOULD YOU BE KIND ENOUGH TO SHOW
23 THIS JURY THE RECORDING THAT WAS MADE WHEN YOU INTERVIEWED
24 JACQUES GIBSON?

25 A. IT IS NOT COMMON PRACTICE FOR THE RICHLAND COUNTY

1 SHERIFF'S DEPARTMENT TO USE -- UTILIZE ANY RECORDING. I HAVE
2 NEVER DONE IT. I DON'T KNOW ANYBODY THAT I WORK WITH THAT
3 CONSISTENTLY DOES IT. I DON'T KNOW ANYBODY THAT DOES THAT AT
4 THE SHERIFF'S DEPARTMENT.

5 Q. DO YOU MEAN TO TELL US THAT THE RICHLAND COUNTY
6 SHERIFF'S DEPARTMENT CANNOT AFFORD A \$15 OR \$25 TAPE RECORDER
7 TO RECORD THE QUESTIONS AND THE CONVERSATIONS AND THE ANSWERS
8 SO YOU CAN ACCURATELY RELAY TO A JURY WHAT WAS ASKED AND WHAT
9 WAS ANSWERED?

10 A. I DON'T THINK IT'S AN ISSUE OF COST. I JUST -- IT'S
11 JUST NOT OUR NORMAL PRACTICE.

12 Q. THE NORMAL PRACTICE IS NOT TO PRESERVE ACCURATELY WHAT
13 IS ASKED AND WHAT IS ANSWERED WHEN Y'ALL INTERROGATE PEOPLE.
14 IS THAT WHAT YOU'RE TELLING US?

15 A. THE NORMAL PRACTICE IS TO RESERVE ACCURATELY --
16 ACCURATELY THE INFORMATION VIA WRITTEN STATEMENT.

17 Q. VIA WRITTEN STATEMENT. AND WHO WRITES THE WRITTEN
18 STATEMENT?

19 A. WHO WRITES THE WRITTEN STATEMENT?

20 Q. YES. WHO -- IN YOUR CASE WHO TYPES IT UP?

21 A. OH, THE INVESTIGATOR WOULD.

22 Q. THE INVESTIGATOR TYPES THE STATEMENT UP. IS THAT NOT
23 RIGHT?

24 A. THAT IS -- THAT IS CORRECT.

25 Q. OKAY. WELL, IF YOU DON'T USE A TAPE RECORDER, COULD YOU

1 SHOW US THE VIDEO SO WE CAN SEE THE BODY LANGUAGE, BECAUSE
2 YOU JUST TOLD US THAT MAKES A DIFFERENCE, THE GESTURES, SO WE
3 CAN SEE HOW YOU LOOKED AND HOW JACQUES GIBSON LOOKED WHEN YOU
4 WERE INTERVIEWING HIM?

5 A. AGAIN, THAT IS NOT NORMAL PRACTICE WITH THE RICHLAND
6 COUNTY SHERIFF'S DEPARTMENT.

7 Q. IT'S NOT NORMAL PRACTICE BECAUSE Y'ALL DON'T WANT TO
8 ACCURATELY PORTRAY WHAT HAPPENED WHEN Y'ALL INTERVIEW PEOPLE.
9 ISN'T THAT RIGHT, MR. MCDANIELS?

10 A. THAT'S YOUR OPINION, SIR.

11 Q. AND WHAT IS YOUR OPINION?

12 A. I DO NOT SHARE THAT SAME OPINION.

13 Q. YOU DON'T SHARE THAT OPINION. SO THE STATEMENTS Y'ALL
14 DO -- Y'ALL DON'T USE TAPE RECORDERS. YOU DON'T USE VIDEOS.
15 IS THAT NOT RIGHT?

16 A. THAT IS CORRECT.

17 Q. AND SO YOU WILL AGREE WITH ME THAT THOSE TWO INSTRUMENTS
18 WOULD MORE ACCURATELY MEMORIALIZE EXACTLY WHAT HAPPENED
19 COMPARED TO WHAT YOU ARE REPRESENTING TO THIS JURY. ISN'T
20 THAT RIGHT?

21 A. BECAUSE WE DON'T USE IT, I COULDN'T EVEN AGREE WITH YOU
22 OR DISAGREE WITH YOU. WE DON'T UTILIZE THOSE THINGS.

23 Q. YOU ARE TELLING US THAT A TAPE RECORDER AND A VIDEO
24 IS -- IS NOT SUPERIOR TO ACCURATELY RECORDING WHAT WAS SAID
25 AND HOW MY CLIENT LOOKED AND WHAT HE WAS DOING AND WHAT YOU

1 WERE DOING COMPARED TO WHAT YOU ARE REPRESENTING TO THIS
2 COURT TODAY?

3 A. CLEARLY IT WOULD OFFER MORE DETAILED INFORMATION AS
4 PERTAINS TO A VISUAL OR, YOU KNOW, BEING ABLE TO HEAR IT, BUT
5 WHAT AMOUNT OF -- WHAT ADDITIONAL EVIDENCE IT MAY PROVIDE FOR
6 YOU OUTSIDE OF YOU LOOKING AND HEARING, I COULDN'T ACCURATELY
7 GIVE YOU AN OPINION ON THAT.

8 Q. OKAY. WHEN YOU CLAIM YOU TOOK THIS ACCURATE STATEMENT
9 FROM JACQUES GIBSON, ISN'T IT TRUE THE FIRST THING HE SAID TO
10 YOU AFTER YOU ASKED HIM, "IS THE FIRST STATEMENT THAT YOU
11 INITIALLY GAVE INVESTIGATOR WILLOUGHBY THE WHOLE TRUTH?" AND
12 HE SAID, "NOT ALL OF IT" -- AND THE NEXT THING HE SAID IS,
13 "ALL OF IT IS TRUE EXCEPT WHEN YOU GET TO THE PART WHERE I
14 SAID I DIDN'T SHOOT OUT OF THE CAR." ISN'T THAT WHAT HE
15 FIRST STATED TO YOU?

16 A. THAT'S WHAT HE SAID; YES, SIR.

17 Q. THAT'S WHAT HE SAID TO YOU, ISN'T IT? AND WHY DIDN'T
18 THE INTERVIEW STOP RIGHT THERE BECAUSE HE TOLD YOU THAT
19 THAT'S THE ONLY THING THAT HE HADN'T TOLD INVESTIGATOR
20 WILLOUGHBY?

21 A. BASED ON THE OTHER INFORMATION I HAD RECEIVED FROM THE
22 OTHER STATEMENTS, I HAD MORE QUESTIONS.

23 Q. YOU HAD MORE QUESTIONS.

24 A. YES, SIR.

25 Q. AND THEN YOU -- WELL, YOU ASKED THIS QUESTION: "TELL ME

1 EXACTLY IN DETAIL WHAT HAPPENED," AND HE TOLD YOU IN DETAIL
2 WHAT HAPPENED. AND HE SAID TO YOU, "MY BROTHER CALLED ME AND
3 TOLD ME TO COME DOWN AND PICK HIM UP BECAUSE BAM DONE GOT
4 INTO IT WITH THE BOYS FROM WINNSBORO." ISN'T THAT RIGHT? ON
5 PAGE 2.

6 A. IF YOU WOULD GIVE ME ONE MOMENT, SIR.

7 Q. CERTAINLY.

8 A. YES, SIR.

9 Q. AND THEN HE TOLD YOU, "I WAS WITH STEPHON WILLINGHAM,
10 JR., AND VERNON DAVIS, JR." ISN'T THAT RIGHT?

11 A. YES, SIR.

12 Q. AND THEN HE SAID, "I WAS DRIVING A WHITE FORD ESCORT."
13 ISN'T THAT RIGHT?

14 A. YES, SIR.

15 Q. AND THEN HE TOLD, "WE GOT THERE AND I WENT INSIDE AND
16 GOT KARTEZ."

17 A. (WITNESS NODDED HEAD UP AND DOWN.)

18 Q. "AND THAT IS WHEN HE POINTED THE BOYS OUT THAT BAM HAD
19 GONE INTO IT WITH." ISN'T THAT RIGHT?

20 A. HE ACTUALLY SAID, "THAT'S WHEN HE POINTED THE BOYS OUT
21 THAT BAM HAD GOT INTO IT WITH."

22 Q. THAT'S RIGHT. "AND THE BOYS THAT HE WAS TALKING ABOUT
23 WAS MOSTLY DRUNK." HE TOLD YOU THAT, DIDN'T HE?

24 A. YES, HE DID.

25 Q. AND HE ALSO TOLD YOU, "ALL OF US - ME, BAM AND HIS LAST

1 NAME IS DAVIS, MARCUS TUCKER ALSO KNOWN AS TRAMELE, THEY CALL
2 HIM SMOKE, AND MY BROTHER, KARTEZ - WE ALL LEFT." HE TOLD
3 YOU THAT, DIDN'T HE?
4 A. YES, HE DID, SIR.
5 Q. AND HE TOLD YOU, "WHEN WE GOT OUTSIDE, THE BOYS FROM
6 WINNSBORO WALKED BEHIND US, AND I SEEN KARTEZ GO TO THE
7 BURGUNDY CAR." HE TOLD YOU THAT, DIDN'T HE?
8 A. YES, HE DID.
9 Q. AND HE TOLD YOU, "BAM WAS STILL BY THE FRONT DOOR."
10 DIDN'T HE TELL YOU THAT?
11 A. YES, HE DID.
12 Q. AND HE TOLD YOU, "STEPHON AND VERNON WERE STILL IN THE
13 CAR THAT I DROVE." RIGHT?
14 A. YES, SIR.
15 Q. "AND I PULLED AROUND IN THE WHITE CAR, AND KARTEZ PULLED
16 AROUND IN THE BURGUNDY CAR." RIGHT?
17 A. YES, SIR.
18 Q. "THAT IS WHEN BAM AND TORRI STARTED ARGUING, AND THEN
19 TRAMELE AND THIS DUDE B. STARTED ARGUING." ISN'T THAT RIGHT?
20 A. THAT IS CORRECT, SIR.
21 Q. AND THEN HE WENT ON TO SAY, "THAT IS WHEN A BIG DUDE
22 REACHED IN HIS S.U.V. AND HE PULLED SOMETHING AND PUT IT IN
23 HIS POCKET, BUT I DIDN'T SEE WHAT IT WAS." HE TOLD YOU THAT,
24 DIDN'T HE?
25 A. YES, HE DID.

1 Q. "THE GUY WENT BACK OVER WHERE THE FIGHTING WAS," AND
2 THEN HE SAID, "SOMEBODY PUSHED BAM OR TRAMELE AND THEY
3 STARTED FIGHTING, AND I DIDN'T GET TO SEE TRAMELE AND THEM
4 FIGHTING. I SEEN BAM AND TORRI FIGHTING. I WAS STILL IN THE
5 CAR." DIDN'T HE TELL YOU THAT?

6 A. THAT'S CORRECT, SIR.

7 Q. "THAT IS WHEN I SEEN YO-YO ACT LIKE HE WANTED TO HIT MY
8 BROTHER, KARTEZ, AND THAT IS WHEN I PULLED THE GUN ON YO-YO
9 AND TOLD HIM NOT TO TRY TO HIT MY BROTHER." ISN'T THAT WHAT
10 MY CLIENT TOLD YOU?

11 A. THAT IS CORRECT.

12 Q. "HE BACKED UP," TALKING ABOUT YO-YO. ISN'T THAT RIGHT?
13 WHEN HE SAID, "HE BACKED UP," HE WAS REFERRING TO YO-YO.
14 ISN'T THAT TRUE?

15 A. YES, SIR.

16 Q. "AND BAM AND TORRI WERE STILL ON THE GROUND FIGHTING."
17 BAM AND TORRI WERE STILL ON THE GROUND FIGHTING. ISN'T THAT
18 RIGHT?

19 A. YES, SIR.

20 Q. "THEN I HEARD TWO GUNSHOTS." WHO FIRED -- BASED ON YOUR
21 INVESTIGATION, WHO FIRED THOSE TWO GUNSHOTS?

22 A. BASED ON MY INVESTIGATION, ADAMS KARTEZ GIBSON FIRED
23 THOSE FIRST -- THOSE FIRST SHOTS.

24 Q. ALL RIGHT. MR. MCDANIELS, BASED ON YOUR INVESTIGATION,
25 DID JACQUES GIBSON FIRE THOSE TWO GUNSHOTS?

1 A. BASED ON MY INVESTIGATION, JACQUES SEAN GIBSON FIRED THE
2 SECOND SET OF SHOTS.

3 Q. "THAT IS WHEN I WAS PULLING OFF, AND I STARTED SHOOTING
4 IN THE AIR." DIDN'T HE TELL YOU THAT?

5 A. YES, SIR.

6 Q. ALL RIGHT. NOW, WHEN YOU ASKED HIM TO TELL YOU EXACTLY
7 WHAT HAPPENED, MY CLIENT TOLD YOU THAT, "I HEARD TWO
8 GUNSHOTS, AND THAT IS WHEN I WAS PULLING OFF AND I STARTED
9 SHOOTING IN THE AIR." ISN'T THAT TRUE?

10 A. THAT'S WHAT HE STATED.

11 Q. AND THAT WAS IT. HE TOLD YOU, JUST LIKE YOU ASKED HIM,
12 TO EXPLAIN EXACTLY WHAT HAPPENED, AND HE TOLD YOU THAT,
13 DIDN'T HE?

14 A. THAT IS CORRECT.

15 Q. BUT YOU WENT ON FURTHER BASED ON YOUR 80 HOURS OF
16 TRAINING AND YOUR INTERROGATION EXPERIENCE AND YOUR TRAINING.
17 THEN YOU STARTED SAYING, "DID YOU SEE ANYONE ELSE SHOOTING?"
18 AND WHAT DID HE TELL YOU?

19 A. DO YOU WANT ME TO READ IT?

20 Q. YES, SIR.

21 A. HE ANSWERED BY STATING, "NO, BUT I HEARD SHOTS."

22 Q. AND THEN HE (SIC) ASKED YOU (SIC), "WHAT TYPE OF GUN DID
23 YOU HAVE?" AND HE ANSWERED, "A NINE MILLIMETER. IT WAS LIKE
24 A MEDIUM SIZE. IT WASN'T LONG." ISN'T THAT TRUE?

25 A. I ASKED HIM THAT QUESTION, "WHAT TYPE OF GUN DID YOU

1 HAVE?" AND HE ANSWERED.

2 Q. AND THEN HE ASKED YOU -- YOU ASKED HIM, "DESCRIBE IT TO
3 ME," AND HE TOLD YOU, "A BLACK GUN. I DON'T KNOW THE NAME OF
4 IT." ISN'T THAT RIGHT?

5 A. THAT IS CORRECT.

6 Q. AND THEN YOU ASKED HIM, "WHAT DID YOU DO WITH THE GUN
7 AFTER THE SHOOTING?" AND HE TOLD YOU, "THAT MONDAY I THREW
8 IT OVER THE BRIDGE IN THE WATEREE RIVER. I WAS LIKE CLOSE TO
9 THE MIDDLE OF IT." ISN'T THAT RIGHT?

10 A. THAT IS CORRECT.

11 Q. AND THEN YOU ASKED HIM, "WHERE WERE YOU POSITIONED WHEN
12 YOU STARTED SHOOTING IN THE AIR?" THAT WAS YOUR QUESTION TO
13 HIM, WASN'T IT, WHEN HE WAS SHOOTING -- WHEN HE WAS -- WHAT
14 WAS HIS POSITION WHEN HE WAS SHOOTING IN THE AIR? DIDN'T YOU
15 ASK HIM THAT?

16 A. YES, I DID.

17 Q. AND HE SAID, "I WAS IN THE DRIVER'S SEAT. I WAS DRIVING
18 AWAY." ISN'T THAT WHAT HE TOLD YOU?

19 A. THAT IS EXACTLY WHAT HE TOLD ME.

20 Q. AND THEN YOU ASKED HIM, "HOW MANY TIMES DID YOU SHOOT
21 WHILE DRIVING AWAY?" AND HE TOLD YOU, "ABOUT THREE OR FOUR."

22 A. THAT IS CORRECT.

23 Q. AND THEN YOU ASKED HIM, "DID YOU SHOOT ALL THREE OR FOUR
24 ROUNDS IN THE AIR?" AND HE SAID TO YOU, "I WAS SHOOTING THE
25 GUN IN THE AIR, AND WHEN I FIRST STARTED, THE GUN MAY HAVE

1 DROPPED." HE TOLD YOU IT MAY HAVE DROPPED. ISN'T THAT
2 RIGHT?

3 A. MAY HAVE DROPPED DOWN.

4 Q. MAY HAVE DROPPED DOWN.

5 A. YES, SIR.

6 Q. HE NEVER TOLD YOU THAT GUN DROPPED DOWN. HE TOLD YOU IT
7 MAY HAVE DROPPED. ISN'T THAT RIGHT?

8 A. I FIRST STARTED -- "I WAS SHOOTING THE GUN IN THE AIR
9 WHEN I FIRST STARTED, BUT THE GUN MAY HAVE DROPPED DOWN."
10 THOSE WERE HIS EXACT WORDS.

11 Q. ALL RIGHT. NOW, GOING A LITTLE FURTHER -- THE JURY WILL
12 HAVE THE JURY (SIC). THEN YOU ASKED HIM, "DO YOU BELIEVE---

13 A. RESTATE THAT. I'M SORRY. REPEAT THAT.

14 Q. YEAH. THE OTHER PART: "DID YOU FIND ANY SHELL CASINGS
15 IN YOUR CAR IN THE SHOOTING?" AND HE TOLD YOU THAT HE THREW
16 THEM OUT ON GROVER WILSON AND ON HARD SCRABBLE. THEN HE TOLD
17 YOU -- YOU ASKED HIM, "WHAT TYPE OF ROUNDS DO YOU USE IN A
18 NINE MILLIMETER?" AND YOU SAID -- AND HE TOLD YOU, "NINE
19 MILLIMETER BULLETS." AND THEN YOU ASKED HIM ABOUT DO YOU
20 EVER SEE -- "DO YOU EVER USE 380 ROUNDS IN A NINE
21 MILLIMETER?" HE TOLD YOU, "NO, NOT IN A NINE"?

22 A. I'M GOING TO HAVE TO GO BACK. YOU DIDN'T FINISH
23 EVERYTHING HE SAID. I ASKED HIM, "DID YOU FIND ANY SHELL
24 CASINGS IN YOUR CAR AFTER THE SHOOTING?"

25 Q. AND HE TOLD YOU, "YES, I THREW---

1 A. HE STATED---

2 Q. ---THEM AWAY ON MONDAY ON THE SIDE OF THE ROAD."

3 A. I'M TRYING TO ANSWER---

4 MS. CAMPBELL: OBJECTION, YOUR HONOR. I THINK HE HAS A
5 RIGHT TO FINISH HIS ANSWER.

6 THE COURT: MR. JOHNSON, LET HIM ANSWER.

7 MR. JOHNSON: I'LL BE GLAD TO. GLAD TO.

8 THE WITNESS: THANK YOU, YOUR HONOR.

9 BY MR. JOHNSON:

10 Q. I'M SORRY.

11 A. "YES, I THREW THEM AWAY ON MONDAY ON THE SIDE OF THE
12 ROAD. I THINK IT WAS ON GROVER WILSON OFF OF HARD SCRABBLE.
13 I JUST SLUNG THEM OUT THE WINDOW. I FOUND ONE THAT HAD BEEN
14 SHOT AND ONE WHOLE ONE. I THREW BOTH OF THEM OUT." I THEN
15 ASKED HIM, "WHAT TYPE OF ROUNDS DO YOU USE IN A NINE
16 MILLIMETER?" HE STATED, "NINE MILLIMETER BULLETS." I THEN
17 ASKED HIM, "DO YOU EVER USE 380 ROUNDS IN YOUR NINE
18 MILLIMETER?" AND HE STATED, "NO, NOT A NINE."

19 Q. EXACTLY. RIGHT.

20 A. YES, SIR.

21 Q. AND THEN -- THEN YOU ASKED HIM, "DO YOU BELIEVE THAT YOU
22 ARE THE ONE WHO MAY HAVE SHOT DENNIS IRBY?" AND HE SAID, "I
23 THINK I DID BECAUSE I WAS DOING SOME SHOOTING, BUT I DIDN'T
24 JUST LOOK AT HIM AND SHOOT HIM." ISN'T THAT RIGHT?

25 A. "I THINK THAT I DID BECAUSE I WAS DOING SOME SHOOTING,

1 BUT I DIDN'T JUST LOOK AT HIM AND SHOOT HIM." YES, THAT IS
2 CORRECT.

3 Q. NOW, OTHER PEOPLE WERE DOING SHOOTING THAT NIGHT. ISN'T
4 THAT TRUE?

5 A. THERE WAS ONE OTHER PERSON SHOOTING THAT NIGHT.

6 Q. NOW, WAIT A MINUTE, MR. MCDANIELS. YOU'RE A -- YOU'RE
7 AN EXPERIENCED INVESTIGATOR. ARE YOU TELLING THIS JURY ONLY
8 TWO PEOPLE WERE SHOOTING THAT NIGHT?

9 A. BASED ON THE INFORMATION AND THE INFORMATION RECEIVED ON
10 THE INVESTIGATION, ONLY TWO PEOPLE WERE SHOOTING THAT NIGHT.

11 Q. SO ALL OF THOSE BULLETS THAT THESE PREVIOUS WITNESSES
12 HAVE TESTIFIED TO CAME FROM TWO GUNS?

13 A. YES, SIR. WE FOUND .25 CALIBER SHELL CASINGS AND A NINE
14 MILLIMETER SHELL CASING. CLEARLY THAT INDICATES THAT THERE
15 ARE TWO GUNS BEING FIRED.

16 Q. SAY THAT AGAIN.

17 A. CLEARLY THAT INDICATES THAT THERE ARE TWO SEPARATE GUNS
18 BEING FIRED.

19 Q. OKAY. WELL, TELL THIS JURY: WHEN WERE THOSE CASINGS
20 PUT DOWN IN THAT PARKING LOT?

21 A. WHEN WERE THEY PUT DOWN?

22 Q. UH-HUH.

23 A. I CAN TELL YOU WHEN THEY WERE COLLECTED.

24 Q. YOU CAN TELL US WHEN THEY WERE COLLECTED, BUT HOW LONG
25 HAD THEY BEEN THERE?

1 A. BASED ON THE INFORMATION RECEIVED FROM---

2 Q. BASED ON WHAT INFORMATION?

3 A. THE WITNESS STATEMENTS.

4 Q. WHAT WITNESS STATEMENTS? WHAT WITNESS STATEMENTS?

5 A. THE INFORMATION I RECEIVED FROM THE WITNESSES THAT
6 NIGHT.

7 Q. WHAT INFORMATION---

8 MS. CAMPBELL: OBJECTION, YOUR HONOR.

9 THE COURT: ALL RIGHT. LET HIM ANSWER THE QUESTION.
10 THEN YOU CAN ASK YOUR QUESTION.

11 BY MR. JOHNSON:

12 Q. BUT WEREN'T YOU HERE WHEN MR. COLLINS TESTIFIED
13 YESTERDAY? DO YOU KNOW MR. COLLINS, THE EXPERT WHO WORKED
14 FOR Y'ALL?

15 A. BASED ON THE INFORMATION RECEIVED FROM THE WITNESS
16 STATEMENTS THAT WERE TAKEN THAT NIGHT, IT WAS APPARENT THAT A
17 SHOOTING HAD TAKEN PLACE, AND BASED ON WHERE THE VICTIM WAS
18 LOCATED AND BASED ON THE ENTIRE SURVEY OF THE PARKING LOT,
19 THOSE SHELL CASINGS WERE COLLECTED. THERE WERE THREE .25
20 SHELL CASINGS COLLECTED APPROXIMATELY 30 TO 40 FEET FROM THE
21 FRONT ENTRANCE OF THE CLUB, AND THERE WAS A NINE MILLIMETER
22 SHELL CASING COLLECTED APPROXIMATELY 90 TO 95 FEET AWAY FROM
23 THE FRONT ENTRANCE OF CHANCE'S SPORTS BAR AND GRILL. BASED
24 ON ALL THAT INFORMATION, IT WAS CLEAR TO ME THAT THERE WERE
25 TWO SEPARATE FIREARMS USED IN THAT INCIDENT THE NIGHT BEFORE.

1 Q. AREN'T YOU AWARE, MR. MCDANIELS, THAT YOU CAN'T RELY ON
2 SHELL CASINGS, THE LOCATION OF SHELL CASINGS, BECAUSE
3 SOMETIMES PEOPLE KICK THEM AROUND? YOU CAN'T TELL HOW LONG
4 THEY HAVE BEEN THERE. PEOPLE MOVED THEM WHEN PEOPLE WERE
5 MOVING AROUND THAT NIGHT. YOU JUST CAN'T RELY ON SHELL
6 CASINGS. DON'T YOU KNOW THAT, MR. MCDANIELS?

7 A. WHAT I DO ACTUALLY RELY ON IS THE INITIAL RESPONDING
8 OFFICER AND THEIR RESPONSIBILITY IN SECURING THAT PARTICULAR
9 SCENE TO INSURE THAT EVIDENCE IS NOT, IN USING YOUR TERM,
10 KICKED AROUND OR -- THAT IS OUR NORMAL PROCEDURE TO PRESERVE
11 THE CRIME SCENE.

12 Q. AREN'T YOU AWARE THAT THE CRIME SCENE THAT NIGHT WAS
13 COMPROMISED AT ONE OF YOUR OWN OFFICER'S -- THE OFFICER WHO'S
14 IN IRAQ REPORTED THAT THE CRIME SCENE HAD BEEN COMPROMISED
15 AND WHEN SHE ARRIVED THERE WAS NO CRIME SCENE TAPE UP?

16 A. NO, SIR. THAT -- I ACTUALLY BASED ON -- AND ALSO BASED
17 ON THE PHOTOS THERE, THERE WAS CLEARLY CRIME SCENE TAPE PUT
18 UP.

19 Q. THE CRIME SCENE TAPE WAS PUT UP LATER, BUT WHEN SHE GOT
20 THERE, THERE WAS NO TAPE UP.

21 A. I'M NOT AWARE OF---

22 Q. AND PEOPLE -- EXCUSE ME.

23 A. I'M SORRY.

24 Q. AND YOU KNOW -- YOU'RE AWARE THAT WHEN SERGEANT DAVIS
25 GOT THERE PEOPLE WERE STILL MOVING AROUND BECAUSE SHE HAD TO

1 ARREST SOME OF THEM.

2 A. SERGEANT DAVIS WAS THE FIRST OFFICER ON THE SCENE, AND
3 ACCORDING TO SERGEANT DAVIS, SHE HAD THE CRIME SCENE TAPED
4 OFF.

5 Q. AND YOU'RE DENYING UNDER OATH THAT YOU ARE AWARE --
6 WHAT'S THE LADY'S NAME WHO IS IN IRAQ NOW?

7 A. HER NAME IS DEDRA BROWN.

8 Q. YOU ARE TESTIFYING UNDER OATH THAT YOU ARE NOT AWARE IN
9 HER REPORT SHE SAID THAT THE CRIME SCENE HAD NOT BEEN TAPED
10 OFF WHEN SHE ARRIVED.

11 A. I'M UNAWARE OF HER SAYING THAT.

12 Q. ALL RIGHT, SIR. OKAY. GOING BACK TO THE STATEMENT, YOU
13 ASKED HIM THIS LEADING QUESTION: "DO YOU BELIEVE THAT YOU
14 ARE THE ONE WHO MAY HAVE SHOT DENNIS IRBY?" ISN'T THAT
15 RIGHT?

16 A. YES, I DID.

17 Q. READ TO THE JURY WHERE MY CLIENT SAYS, "I AIMED AND I
18 POINTED AND I THREATENED DENNIS IRBY AND I SHOT HIM."

19 A. HE ANSWERED BY STATING, "I THINK THAT I DID BECAUSE I
20 WAS DOING SOME SHOOTING."

21 Q. AND HE SAID THAT WHEN?

22 A. AFTER THE QUESTION, "DO YOU BELIEVE THAT YOU ARE THE ONE
23 WHO MAY HAVE SHOT DENNIS IRBY?"

24 Q. AND THEN YOU ASKED HIM, "IS IT POSSIBLE?". THERE'S A
25 DIFFERENCE BETWEEN POSSIBLE AND SHOOTING SOMEBODY, ISN'T IT?

1 THERE'S A DIFFERENCE BETWEEN, "POSSIBLE," AND, "YES, I DID."
2 ISN'T THAT RIGHT?

3 A. THERE IS A DIFFERENCE.

4 Q. AND AFTER ALL OF THESE INTERVIEWS AND AFTER ALL OF THESE
5 PEOPLE HAVE QUESTIONED JACQUES GIBSON, YOU ARE THE FINAL ONE
6 THAT -- IN YOUR INTERROGATION YOU'RE THE ONE TO GET HIM TO
7 SAY THESE THINGS. IS THAT RIGHT? IS THAT RIGHT?

8 A. YES, SIR.

9 Q. IS THAT SOME COINCIDENCE IT JUST HAPPENED THAT WAY?

10 A. I WAS THE LEAD INVESTIGATOR ON IT. IT'S MY
11 RESPONSIBILITY TO GO BACK AND RE-INTERVIEW ANYBODY THAT MAY
12 NEED TO BE RE-INTERVIEWED.

13 Q. DID YOU -- DID YOU RE-INTERVIEW YO-YO?

14 A. THERE WAS NO INCONSISTENCIES IN HIS STATEMENT---

15 Q. OH.

16 A. ---THAT WARRANTED ME TO INTERVIEW -- RE-INTERVIEW YO-YO.

17 Q. OH. OH. HAVE YOU HEARD HIM TESTIFY IN HERE FOR THE
18 LAST COUPLE OF DAYS ALL THOSE INCONSISTENCIES?

19 A. I DID.

20 MR. JOHNSON: THANK YOU.

21 THE COURT: ALL RIGHT. REDIRECT, SOLICITOR?

22 MS. CAMPBELL: NO, SIR, WE HAVE NOTHING.

23 THE COURT: ALL RIGHT. MR. ROBERSON, ANY QUESTIONS ON
24 THE QUESTIONS ASKED BY MR. JOHNSON?

25 MR. ROBERSON: YES, SIR.

1 THE COURT: ALL RIGHT.

2 RECROSS EXAMINATION

3 BY MR. ROBERSON:

4 Q. YOU TESTIFIED THAT JACQUES SAID HE PULLED THE GUN ON
5 YO-YO AND TOLD HIM NOT TO TRY IT. IS THAT NOT CORRECT?

6 A. YES, I DID.

7 Q. DID YOU ASK HIM AT THAT POINT IN TIME WHETHER OR NOT
8 ADAMS GIBSON HAD A GUN?

9 A. NO, I DID NOT.

10 Q. OKAY. DID YOU EVER ASK HIM IF ADAMS GIBSON HAD A GUN ON
11 HIM THAT NIGHT?

12 A. LET ME REFLECT. (THE WITNESS LOOKS AT JACQUES GIBSON'S
13 STATEMENT.) I ASKED HIM, "DID YOU SEE ANYONE ELSE SHOOTING?"
14 HE ANSWERED BY STATING, "NO, BUT I HEARD SHOTS."

15 Q. DID YOU ASK HIM WHETHER OR NOT ADAMS GIBSON HAD A GUN ON
16 HIM THAT NIGHT?

17 A. NO.

18 Q. OKAY. AND YOUR INVESTIGATION, WHICH HELPED YOU DRAW
19 YOUR CONCLUSION THAT ADAMS GIBSON WAS SHOOTING A GUN, WAS
20 BASED SOLELY ON WHAT?

21 A. ON THE INFORMATION RECEIVED FROM THE OTHER WITNESSES.

22 Q. LAKISHA. LAKISHA DAVIS. SHUNTA---

23 A. NO.

24 Q. ---WILSON?

25 A. YES, SIR, SHUNTA WILSON.

1 Q. SHE WAS THE ONLY PERSON WHO PUT A GUN IN ADAMS GIBSON'S
2 HAND. IS THAT NOT TRUE?

3 A. THAT IS TRUE.

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

5 THE COURT: ALL RIGHT. MR. JOHNSON, ANYTHING ON THOSE
6 PARTICULAR QUESTIONS?

7 MR. JOHNSON: NOTHING, YOUR HONOR. THANK YOU.

8 THE COURT: YOU MAY STEP DOWN, SIR.

9 THE WITNESS: THANK YOU.

10 THE COURT: ALL RIGHT. SOLICITOR, ANY FURTHER
11 WITNESSES?

12 MS. CAMPBELL: NO FURTHER WITNESSES, YOUR HONOR.

13 HOWEVER, THERE IS A STIPULATION WHICH I HAVE MARKED AS
14 STATE'S EXHIBIT 86.

15 THE COURT: ALL RIGHT. IS THERE ANY OBJECTION TO THAT
16 DOCUMENT, MR. ROBERSON?

17 MR. ROBERSON: I HAVEN'T SEEN THE WORDING OF IT, YOUR
18 HONOR.

19 THE COURT: ALL RIGHT, SIR. WELL, LOOK AT IT, PLEASE,
20 SIR. MR. JOHNSON, IF YOU WOULD LOOK AT IT ALSO, PLEASE, SIR.

21 MR. JOHNSON: THANK YOU, SIR.

22 (MR. ROBERSON AND MR. JOHNSON LOOK AT STATE'S EXHIBIT
23 86.)

24 MR. JOHNSON: NO OBJECTION. THAT WOULD BE FINE, YOUR
25 HONOR.

1 THE COURT: ALL RIGHT, SIR. MR. ROBINSON, ANY
2 OBJECTION?

3 MR. ROBERSON: NO OBJECTION.

4 THE COURT: ALL RIGHT. AND THAT'S NUMBER 86? IS THAT
5 CORRECT?

6 MS. CAMPBELL: YES, SIR.

7 THE COURT: ALL RIGHT. SO STATE'S 86 IS IN EVIDENCE IN
8 THIS CASE WITHOUT OBJECTION.

9 (STATE'S EXHIBIT 86 WAS RECEIVED IN EVIDENCE.)

10 THE COURT: YOU MAY PUBLISH IT IF YOU CHOOSE TO DO SO.

11 MS. CAMPBELL: THANK YOU, YOUR HONOR. THE STIPULATION
12 IS THAT THE D.N.A. FROM THE BLOOD SWAB TAKEN AT THE SCENE
13 MATCHES DENNIS IRBY'S D.N.A.

14 THE COURT: ALL RIGHT. ANY FURTHER PRESENTATION OF
15 EVIDENCE BY THE STATE?

16 MS. CAMPBELL: THE STATE WOULD REST, YOUR HONOR.

17 THE COURT: ALL RIGHT. ALL RIGHT. MR. ROBERSON AND MR.
18 JOHNSON, DO Y'ALL HAVE SOME MATTERS OF LAW FOR THE COURT AT
19 THIS POINT IN TIME?

20 MR. JOHNSON: YES, SIR, WE DO.

21 MR. ROBERSON: YES, SIR.

22 THE COURT: ALL RIGHT. ALL RIGHT. LADIES AND
23 GENTLEMEN, THERE ARE SOME ---I TELL YOU WHAT. IF Y'ALL --
24 MR. ROBERSON AND MR. JOHNSON, Y'ALL COME AND TALK TO ME.
25 AND, SOLICITOR, Y'ALL COME UP AND TALK TO ME JUST ONE SECOND,

1 PLEASE.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

3 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THERE ARE
4 A NUMBER OF MATTERS THAT I NEED TO COVER WITH THE ATTORNEYS
5 IN THIS CASE, SOME MATTERS OF LAW AND SOME OTHER MATTERS AS
6 TO HOW THE CASE WILL PROCEED. IT WILL TAKE SOME TIME TO DO
7 THAT. I SEE NO NECESSITY IN Y'ALL SITTING IN YOUR JURY ROOM
8 WAITING FOR ALL OF THIS TO OCCUR FOR Y'ALL TO COME BACK IN.

9 IT IS FAIRLY CLOSE TO -- TO NOON. WHAT I'M GOING TO DO
10 IS SEND Y'ALL OUT FOR AN EXTENDED LUNCH BREAK. I'M GOING TO
11 HAVE YOU COME BACK -- IF YOU WOULD, COME BACK AT 2:00. IF
12 Y'ALL WILL COME BACK AT 2:00 BACK IN YOUR JURY ROOM, PLEASE.
13 I'LL SEE YOU BACK AT 2 P.M. THANK YOU.

14 (WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT TO GO
15 TO LUNCH AT 11:55 A.M.)

16 THE COURT: ALL RIGHT. MR. ROBERSON, MOTIONS THAT YOU
17 WOULD HAVE ON BEHALF YOUR CLIENT?

18 MR. ROBERSON: YOUR HONOR, I MOVE FOR A DIRECTED VERDICT
19 BASED ON THE FACT THAT MY CLIENT WAS CHARGED IN ONE
20 INDICTMENT, AND I BELIEVE IT WAS -- YOUR HONOR, I DON'T KNOW.
21 HAVE THAT -- HAVE THAT INDICTMENT BEEN PUBLISHED TO THE JURY?

22 THE COURT: THE -- HAS THE INDICTMENT BEEN READ TO THE
23 JURY?

24 MR. ROBERSON: YES, SIR.

25 THE COURT: NO, SIR.

1 MR. ROBERSON: OKAY.

2 THE COURT: THEY HAVE NOT BEEN READ TO THE JURY. I HAVE
3 STATED TO THE JURY THAT YOUR CLIENT AND MR. JOHNSON'S CLIENT
4 ARE CHARGED WITH THE OFFENSE OF MURDER AND ALSO THAT -- THAT
5 MR. JOHNSON'S CLIENT IS CHARGED WITH THE -- UNDER SECTION
6 16-23-30 OF IT BEING UNLAWFUL FOR A PERSON UNDER THE AGE OF
7 21 TO POSSESS A HANDGUN.

8 MR. ROBERSON: YES, SIR.

9 THE COURT: BUT WE DID NOT READ THE INDICTMENTS TO THE
10 JURY.

11 MR. ROBERSON: YES, SIR. OKAY. YOUR HONOR, MY POSITION
12 IS THE INDICTMENT CHARGES ADAMS GIBSON WITH USING A WEAPON TO
13 TAKE THE LIFE OF DENNIS IRBY. THE STATE IN ITS OWN CASE HAS
14 PROVED THAT THERE ARE TWO KINDS OF CASINGS AND SLUGS FOUND AT
15 THE SCENE AND ONLY ONE SLUG IS FOUND FROM THE BODY OF DENNIS
16 IRBY. THAT IS A NINE MILLIMETER SLUG.

17 THERE HAS BEEN ONE PERSON OF SOME NINE WITNESSES WHO
18 TESTIFIED WHO WERE PHYSICALLY PRESENT, EITHER INVOLVED IN THE
19 FIGHT OR OBSERVING THE FIGHT, AND ONLY ONE OF THOSE PERSONS
20 IDENTIFIED ADAMS GIBSON AS HAVING A WEAPON OR DISCHARGING A
21 WEAPON. THAT PERSON ALSO GIVES A DESCRIPTION OF ADAMS GIBSON
22 BEING -- I'M ASSUMING SHE'S MAKING IT THAT ADAMS GIBSON IS
23 5'10" -- 5'9" TO 5'10", 235 POUNDS. SHE ALSO DESCRIBED THIS
24 PERSON AS HAVING ON BLUE JEANS AND A BLACK SHIRT. THAT IS
25 THE ONLY WITNESS WHO GIVES ANY DESCRIPTION OTHER THAN ADAMS

1 GIBSON BEING IN A WHITE TEE SHIRT AND BLUE JEANS.

2 YOUR HONOR, THE STATE MUST PRESENT ENOUGH EVIDENCE FROM
3 WHICH A JURY COULD REASONABLY CONCLUDE FROM THAT NIGHT AND
4 THE FACTS THAT ADAMS GIBSON IS THE ONE WHO PULLED THE TRIGGER
5 THAT DISCHARGED AND TOOK THE LIFE OF DENNIS IRBY. THEY HAVE
6 BY WAY OF IMPLICATION IMPLIED THAT THERE IS SOME COMPLICITY
7 ON ADAMS GIBSON'S PART BECAUSE HE CALLED FOR HIS BROTHER TO
8 COME AND PICK HIM UP.

9 THE OTHER STATE'S WITNESS TESTIFIED THAT HE HEARD ADAMS
10 GIBSON SAY, "COME AND PICK ME UP BECAUSE BAM AND THOSE BOYS
11 GOT INTO IT," AND GAVE HIM DIRECTIONS HOW TO GET TO CHANCE'S
12 TO PICK HIM UP. THAT INDICATES -- NOT INDICATES. THAT
13 CLEARLY EXPLAINS THAT ADAMS GIBSON'S SOLE PURPOSE IS TO
14 EXTRICATE HIMSELF FROM THE SCENE SO THAT HE WOULD NOT BE
15 INVOLVED IN ANY ENCOUNTER.

16 THERE'S ONLY ONE OTHER PERSON WHO CLAIMS TO HAVE SEEN
17 ADAMS GIBSON INVOLVED IN THE FIGHT, AND THAT WAS MR. VERNON
18 DAVIS, AND THE ONLY THING HE SAID WAS THAT HE SAW ADAMS
19 GIBSON SWINGING DOWN. SIMULTANEOUS WITH THAT, HE'S SAYING
20 JACQUES PULLS A GUN ON YO-YO AND TELLS HIM NOT TO DO IT.
21 YO-YO IS APPROACHING ADAMS GIBSON.

22 YOUR HONOR, BASED ON THERE BEING ENOUGH OF A QUANTUM OF
23 PROOF TO GIVE THE JURY A REASON TO BELIEVE THAT ADAMS GIBSON
24 IS THE ONE WHO PULLED THE TRIGGER THAT TOOK THE LIFE OF
25 DENNIS IRBY, I DON'T THINK THEY HAVE MET THE PROOF, AND I

1 THINK BASED ON THAT, YOUR HONOR, I ASK THE COURT TO DISMISS
2 THIS -- DISMISS THIS INDICTMENT AND GRANT A DIRECTED VERDICT
3 OF NOT GUILTY.

4 THE COURT: ALL RIGHT. SOLICITOR, YOUR RESPONSE?

5 MS. CAMPBELL: YOUR HONOR, WE DO NOT CONTEND THAT HE
6 FIRED THE FATAL SHOT. HOWEVER, WE DO -- THE EVIDENCE IS --
7 AND I THINK HIS ARGUMENTS GO TO THE WEIGHT, NOT THE
8 ADMISSIBILITY. THE EVIDENCE IS IS THAT HIS CLIENT, KARTEZ,
9 CALLED HIS YOUNGER BROTHER THERE TO THE SCENE WITH HIS CAR.
10 ONCE THE BROTHER GOT TO THE SCENE, THERE IS TESTIMONY THAT
11 MR. KARTEZ GIBSON APPROACHED THE CAR. THERE ARE TWO
12 WITNESSES AT LEAST THAT SAY THAT THEY SAW - SHUNTA WILSON AND
13 I BELIEVE MR. DEWITT - ONE PERSON OUTSIDE THE CAR RIGHT NEAR
14 THE CAR SHOOTING, AND THEN MULTIPLE WITNESSES SEE, OF COURSE,
15 HIS BROTHER SHOOTING THE ACTUAL GUN. THE TESTIMONY IS IS
16 THAT HIS BROTHER WAS THERE AND PULLED OUT THE GUN WHEN HE
17 THOUGHT THAT YO-YO WAS GOING TOWARDS HIM.

18 OUR EVIDENCE, YOUR HONOR, IS THAT THESE ARE THE TWO
19 SHOOTERS, AND I BELIEVE THAT HIS ARGUMENT WOULD GO TO THE
20 WEIGHT THAT MAY BE GIVEN TO THE EVIDENCE, BUT, YOUR HONOR, WE
21 FEEL LIKE WE HAVE GOTTEN TO THE LEVEL THAT WE NEED TO THAT
22 IT'S JUST -- FOR PURPOSES OF THIS MOTION.

23 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT. MR.
24 ROBERSON, I WOULD RESPECTFULLY DECLINE TO GRANT YOUR MOTION.
25 I BELIEVE THERE IS SUFFICIENT TESTIMONY THAT HAS BEEN

1 PRESENTED BY THE STATE THAT WILL ALLOW THE CASE TO PROCEED AT
2 THIS JUNCTURE, AND I WOULD RESPECTFULLY DECLINE TO GRANT YOUR
3 MOTION. MR. JOHNSON?

4 MR. JOHNSON: YOUR HONOR, I LIKEWISE WOULD MAKE A MOTION
5 ON BEHALF OF JACQUES GIBSON FOR A DIRECTED VERDICT. YOUR
6 HONOR, THE CHARGE IN THE INDICTMENT OF MURDER OBVIOUSLY
7 CONTAINS CERTAIN ELEMENTS, CERTAIN INGREDIENTS, ONE BEING
8 MALICE. OUT OF ALL THE WITNESSES THAT HAVE COME BEFORE THE
9 COURT, NO ONE HAS TESTIFIED THAT THERE WAS ANY ILL WILL OR
10 ANY WICKEDNESS IN THE HEART OF MY CLIENT. HE WAS TRYING TO
11 MAKE A PEACEMAKER, IN THE VERNACULAR AND STREET TALK, WHEN HE
12 WAS TRYING TO GET PEOPLE TO CHILL OUT. SO HE HAD NO --
13 DIDN'T EVEN KNOW DENNIS IRBY. SO -- AND THERE HAS BEEN NO
14 ARGUMENT OR ANY ALTERCATION OR ANY -- ANY FIGHTING OR ANY --
15 ON THE PART OF DENNIS IRBY AND JACQUES, AND SO THERE'S NO
16 INDICATION THAT THERE WAS ANY MALICE BETWEEN THE TWO -- THE
17 TWO OF THEM.

18 IN ALL OF THIS, YOUR HONOR, THERE WAS NO PREMEDITATION.
19 THERE WAS NO PLANNING OR ANY ANTICIPATION ON THE PART OF MY
20 CLIENT THAT HE WOULD GET INTO ANY TYPE OF ALTERCATION OR ANY
21 FIGHTING WITH DENNIS IRBY. YOUR HONOR, THE EVIDENCE JUST --
22 I KNOW AT THIS STAGE YOU'VE GOT TO LOOK AT THIS IN THE MOST
23 FAVORABLE TO THE STATE AND -- BUT, YOUR HONOR, THERE'S NO WAY
24 AND THERE'S NO WITNESSES THAT HAVE COME FORWARD IN THIS
25 COURTROOM THAT SAID THAT MY CLIENT SHOT DENNIS IRBY. NOT A

1 SINGLE WITNESS CALLED TO THAT STAND HAS SAID THAT AND
2 TESTIFIED TO THAT EFFECT.

3 OBVIOUSLY, THERE'S DIRECT EVIDENCE AND INDIRECT
4 EVIDENCE. THERE'S NO DIRECT EVIDENCE, NO EYEWITNESSES, WHO
5 SAW THAT, AND THERE'S NO INDIRECT EVIDENCE, NO CIRCUMSTANTIAL
6 EVIDENCE, THAT POINTS UNERRINGLY. THE LINKS ARE NOT THERE TO
7 POINT TO MY CLIENT BECAUSE ALL OF THAT SHOOTING WAS GOING ON
8 THAT NIGHT. AND SO, YOUR HONOR, WE WOULD RESPECTFULLY
9 REQUEST A DIRECTED VERDICT ON THE CHARGE OF MURDER.

10 YOUR HONOR, I RECOGNIZE THAT THERE IS SUFFICIENT
11 EVIDENCE, SO I'M -- I'M NOT GOING TO MAKE THE FRIVOLOUS
12 MOTION ON THE POSSESSION OF THE WEAPON. OBVIOUSLY THERE'S
13 SUFFICIENT EVIDENCE ON THAT -- FOR THAT TO GO FORWARD, BUT AS
14 TO THE MURDER, YOUR HONOR, THERE'S NOT SUFFICIENT EVIDENCE
15 FOR US TO GO FORWARD, AND TO DO SO, YOUR HONOR, WOULD ALLOW
16 THE JURY TO RULE ON THE CASE BASED ON SPECULATION AND
17 CONJECTURE, AND I WOULD ASK THE COURT IN ITS POWER TO DIRECT
18 A VERDICT ON THE MURDER CHARGE.

19 THE COURT: ALL RIGHT, SIR. ALL RIGHT. MR. JOHNSON, I
20 WOULD RESPECTFULLY DECLINE TO GRANT YOUR MOTION FOR A
21 DIRECTED VERDICT. I DO FIND THAT THE EVIDENCE IS SUFFICIENT
22 TO -- FOR THE CASE TO PROCEED. I FIND THAT THE EVIDENCE,
23 THOUGH IT IS CIRCUMSTANTIAL AND IT IS CLEARLY A
24 CIRCUMSTANTIAL EVIDENCE CASE, THAT THERE IS MORE THAN
25 SUFFICIENT EVIDENCE, IF THAT EVIDENCE IS SO BELIEVED BY THE

1 JURY - AND THAT BEING THEIR JOB TO JUDGE THE CREDIBILITY AND
2 BELIEVABILITY OF THE WITNESSES AND THE EVIDENCE - BUT THAT
3 EVIDENCE EXISTS IN THIS CASE THAT, IF SO BELIEVED BY THE
4 JURY, WOULD SUSTAIN A CONVICTION ON THE CHARGE OF MURDER AND
5 CERTAINLY AT THIS STAGE OF THE PROCEEDINGS WOULD ALLOW THE
6 CASE TO PROCEED, AND I'M GOING TO RESPECTFULLY DECLINE TO
7 GRANT YOUR MOTION FOR A DIRECTED VERDICT.

8 MR. JOHNSON: THANK YOU, YOUR HONOR.

9 THE COURT: FURTHER MOTION ON BEHALF OF ADAMS GIBSON?
10 MR. ROBERSON, ANYTHING ELSE?

11 MR. ROBERSON: I BELIEVE THAT'S IT, YOUR HONOR.

12 THE COURT: ALL RIGHT. AND, MR. JOHNSON, ON BEHALF OF
13 JACQUES GIBSON, ANYTHING ELSE?

14 MR. JOHNSON: THAT IS IT, YOUR HONOR.

15 THE COURT: ALL RIGHT. ARE YOUR CLIENTS PREPARED FOR
16 THE COURT TO QUESTION THEM CONCERNING THEIR RIGHTS TO TESTIFY
17 AT THIS POINT IN TIME, MR. ROBERSON?

18 MR. ROBERSON: CAN I HAVE JUST---

19 THE COURT: YES, SIR.

20 MR. ROBERSON: ---TWO MINUTES?

21 THE COURT: YES, SIR. ABSOLUTELY.

22 MR. ROBERSON: YOUR HONOR?

23 THE COURT: YES, SIR.

24 MR. ROBERSON: I BELIEVE WE HAD A SMALL CONVERSATION
25 YESTERDAY AND TODAY TO CONFER WITH AT LEAST ONE TRUSTED

1 FAMILY MEMBER.

2 THE COURT: YES, SIR. YOU HAD SOMEONE---

3 MR. ROBERSON: CAN YOU ALLOW ME TO JUST HAVE HIS---

4 THE COURT: IS THAT---

5 MR. ROBERSON: ---HIS FATHER AND HIS BROTHER TO SPEAK
6 WITH HIM?

7 THE COURT: ALL RIGHT. THEY NEED TO -- IF THEY WILL
8 COME DOWN -- HAVE THEM COME DOWN TO -- CAN THEY COME RIGHT TO
9 THAT AREA RIGHT THERE?

10 MR. ROBERSON: YES, SIR. THEY CAN COME RIGHT HERE, YOUR
11 HONOR, IF THEY DON'T MIND.

12 THE COURT: YES, SIR. THEY CAN JUST COME DOWN AND SIT
13 IN THAT BENCH RIGHT THERE. JUST RIGHT THERE. SIT DOWN ON
14 THE BENCH RIGHT THERE. MR. JOHNSON, I'LL AFFORD YOU THE SAME
15 OPPORTUNITY IF THERE WAS SOME FAMILY MEMBER WHO WANTED TO
16 COME DOWN.

17 MR. JOHNSON: WHEN HE FINISHES.

18 THE COURT: YES, SIR.

19 (PAUSE IN PROCEEDINGS.)

20 THE COURT: ALL RIGHT. MR. ROBERSON, IS YOUR CLIENT
21 READY FOR THE COURT TO ASK HIM ABOUT HIS RIGHTS TO TESTIFY?

22 MR. ROBERSON: YES, HE IS, YOUR HONOR.

23 THE COURT: AND, MR. JOHNSON, IS YOUR CLIENT READY?

24 MR. JOHNSON: HE IS, YOUR HONOR.

25 THE COURT: MR. ADAMS GIBSON AND MR. JACQUES GIBSON, IF

1 YOU'D STAND, PLEASE, SIR. NOW, MADAM CLERK, IF YOU DO NOT
2 MIND, I'LL HAVE YOU PLACE MR. ADAMS GIBSON AND MR. JACQUES
3 GIBSON UNDER OATH REGARDING THE COURT'S QUESTIONING AT THIS
4 POINT IN TIME.

5 ADAMS GIBSON AND JACQUES GIBSON, AFTER BEING DULY SWORN,
6 TESTIFIED AS FOLLOWS IN CAMERA:

7 THE COURT: AND, MR. ADAMS GIBSON, YOU INDICATED THAT
8 YOU WERE SAYING YES TO THE CLERK'S OATH. IS THAT CORRECT?

9 MR. ADAMS GIBSON: YEAH.

10 THE COURT: AND MR. JACQUES GIBSON?

11 MR. JACQUES GIBSON: YES, SIR.

12 THE COURT: IS THAT CORRECT?

13 MR. JACQUES GIBSON: YES, SIR. YES, I DO.

14 THE COURT: ALL RIGHT. GOOD. ALL RIGHT, GENTLEMEN.
15 WE'RE GOING TO COVER SOME OF THE SAME GROUND THAT WE COVERED
16 YESTERDAY, BUT THIS IS THE POINT IN TIME WHERE THE STATE HAS
17 RESTED AND YOU ARE NOW BOTH -- HAVE THE OPPORTUNITY TO
18 PRESENT A DEFENSE IF YOU SO CHOOSE AND HAVE THE OPPORTUNITY
19 TO TESTIFY IF YOU WANT TO.

20 I'M GOING TO EXPLAIN TO YOU AGAIN WHAT WE TALKED ABOUT
21 YESTERDAY: YOUR CONSTITUTIONAL RIGHTS UNDER THE FIFTH
22 AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF
23 AMERICA. AND AS YOU REMEMBER FROM WHAT WE SAID YESTERDAY,
24 THAT AMENDMENT STATES IN PART THAT NO PERSON SHALL BE
25 COMPELLED OR FORCED IN ANY CRIMINAL CASE TO BE A WITNESS

1 AGAINST THEMSELVES, AND AS I INDICATED TO YOU BEFORE, THAT
2 MEANS NOBODY CAN MAKE YOU TESTIFY. NOBODY CAN FORCE YOU TO
3 TESTIFY. YOU CAN TESTIFY. YOU MAY TESTIFY IF YOU WANT TO,
4 BUT NOBODY CAN MAKE YOU.

5 NOW, REGARDING THAT, WE WENT OVER YESTERDAY THAT THERE
6 AREN'T ANY CONVICTIONS THAT THE STATE CAN ASK YOU ABOUT IN
7 YOUR PAST, SO THAT'S NOT GOING TO BE AN ISSUE IF YOU DECIDED
8 TO TESTIFY. THEY'RE NOT GOING TO BE ABLE TO BRING UP
9 ANYTHING THAT YOU MAY OR MAY NOT HAVE DONE IN YOUR PAST, SO
10 THAT'S NOT AN ISSUE.

11 THE STATE WILL BE ABLE TO CROSS-EXAMINE YOU, THAT IS,
12 ASK YOU QUESTIONS JUST LIKE YOUR ATTORNEYS HAVE CROSS-
13 EXAMINED ALL THE OTHER WITNESSES AS TO THE FACTS OF THIS
14 PARTICULAR CASE. YOUR ATTORNEYS WOULD ASK YOU QUESTIONS, AND
15 THEN THE STATE WOULD CROSS-EXAMINE YOU ABOUT ANY FACTS OR
16 MATTERS THAT THE COURT DEEMS ARE PROPER IN THIS MATTER, AND
17 THAT WOULD BE ANYTHING THAT WAS INVOLVED WITH THIS PARTICULAR
18 CASE.

19 IF YOU DECIDE TO TESTIFY, GENTLEMEN, IT'S GOT TO BE YOUR
20 DECISION. I KNOW YOU'VE HAD THE OPPORTUNITY TO TALK TO YOUR
21 LAWYERS AND TALK TO SOME FAMILY MEMBERS, BUT IT'S YOUR
22 DECISION. YOU INDIVIDUALLY, EACH OF YOU, MAKE THAT DECISION
23 WHETHER OR NOT YOU WANT TO TESTIFY. DO YOU UNDERSTAND THAT,
24 ADAMS?

25 MR. ADAMS GIBSON: YES, SIR.

1 THE COURT: JACQUES?

2 MR. JACQUES GIBSON: YES, SIR.

3 THE COURT: ALL RIGHT, SIR. IF YOU DECIDE TO TESTIFY,
4 AS I TOLD YOU BEFORE, I'M GOING TO TELL YOU OR TELL THE JURY
5 THAT THEY CANNOT GIVE THE FACT THAT YOU DIDN'T TESTIFY ANY
6 CONSIDERATION WHATSOEVER. I'LL TELL THEM THEY CAN'T TALK
7 ABOUT IT IN THE JURY ROOM. I'LL TELL THEM THAT IT'S NOT AN
8 ISSUE IN THIS CASE. SO IF YOU BOTH -- IF EITHER OF YOU
9 DECIDE NOT TO TESTIFY, I WILL TELL THE JURY ABOUT THAT. AND
10 YOU UNDERSTAND, GENTLEMEN, YOU'RE MAKING THIS DECISION
11 INDEPENDENTLY. NO MATTER WHAT DECISION ADAMS MAKES, JACQUES,
12 YOU CAN MAKE A DIFFERENT DECISION. AND, ADAMS, NO MATTER
13 WHAT DECISION JACQUES MAKES, YOU COULD MAKE A DIFFERENT
14 DECISION. DO YOU UNDERSTAND THAT, ADAMS?

15 MR. ADAMS GIBSON: YES, SIR.

16 THE COURT: AND JACQUES?

17 MR. JACQUES GIBSON: YES, SIR.

18 THE COURT: ALL RIGHT, SIR. NOW, HAVE YOU UNDERSTOOD
19 EVERYTHING THAT WE'VE JUST TALKED ABOUT, MR. ADAMS GIBSON?

20 MR. ADAMS GIBSON: YES, SIR.

21 THE COURT: MR. JACQUES GIBSON?

22 MR. JACQUES GIBSON: YES, SIR.

23 THE COURT: ALL RIGHT, SIR. DO YOU HAVE ANY QUESTIONS
24 THAT YOU TO NEED TO ASK YOUR ATTORNEYS OR ANYONE AT THIS
25 POINT IN TIME, ADAMS?

1 MR. ADAMS GIBSON: NO, SIR.

2 THE COURT: JACQUES?

3 MR. JACQUES GIBSON: NO, SIR.

4 THE COURT: ALL RIGHT. DO YOU WISH TO TESTIFY IN THIS
5 PARTICULAR CASE, MR. ADAMS GIBSON?

6 MR. ADAMS GIBSON: NO, SIR.

7 THE COURT: DO YOU WISH TO TESTIFY IN THIS PARTICULAR
8 CASE, MR. JACQUES GIBSON?

9 MR. JACQUES GIBSON: NO, SIR.

10 THE COURT: THANK YOU VERY MUCH, GENTLEMEN. YOU MAY BE
11 SEATED. ALL RIGHT. MR. ROBERSON, WITH THAT DECISION BY YOUR
12 CLIENT, WILL THE DEFENDANT ADAMS GIBSON BE PRESENTING ANY
13 DEFENSE IN THIS CASE?

14 MR. ROBERSON: NO, HE WILL NOT, YOUR HONOR.

15 THE COURT: ALL RIGHT, SIR. AND, MR. JOHNSON, WILL MR.
16 JACQUES GIBSON BE CALLING ANY WITNESSES AND PRESENTING A
17 DEFENSE IN THE CASE? YOU'RE PRESENTING A DEFENSE, AND I
18 UNDERSTAND I HAVE NOT WORDED THAT CORRECTLY. I'M SORRY.

19 MR. JOHNSON: WILL BE CALLING---

20 THE COURT: WILL BE CALLING ANY WITNESSES. I UNDERSTAND
21 THAT, AND YOU UNDERSTOOD WHAT I MEANT. I MEANT: ARE YOU
22 GOING TO BE CALLING ANY WITNESSES?

23 MR. JOHNSON: NO, SIR.

24 THE COURT: AND OBVIOUSLY, MR. ROBERSON, I UNDERSTAND
25 YOUR CLIENT IS VIGOROUSLY DEFENDING THIS, AND YOU HAVE CROSS-

1 EXAMINED TOOTH AND NAIL, AND I UNDERSTAND YOU'RE PRESENTING A
2 DEFENSE. WHAT I'M ASKING ABOUT---

3 MR. ROBERSON: CORRECT.

4 THE COURT: ---IS CALLING ANY WITNESSES.

5 MR. ROBERSON: NO WITNESSES.

6 THE COURT: YOU'RE NOT CALLING ANY WITNESSES.

7 MR. ROBERSON: NO, SIR.

8 THE COURT: ALL RIGHT. LET'S BE CLEAR ABOUT THAT, AND I
9 CERTAINLY DIDN'T MEAN ANYTHING ELSE. ALL RIGHT. WITH THAT,
10 IF THAT'S THE CASE, WE WILL CERTAINLY DO THAT IN FRONT OF THE
11 JURY, BUT WHAT I WOULD LIKE TO DO AT THIS POINT IN TIME IS IF
12 THAT IS YOUR POSITION, MR. ROBERSON, IF YOU WOULD INDICATE
13 THAT THE DEFENSE -- YOUR DEFENSE RESTS SO THAT I COULD HEAR
14 AGAIN ANY MOTIONS THAT YOU MIGHT HAVE SO THAT WE COULD TAKE
15 -- HANDLE THAT MATTER AND NOT HAVE TO SEND THE JURY IN AND
16 OUT JUST AS SOON AS THEY COME BACK. DOES THE DEFENSE OF
17 ADAMS GIBSON REST AT THIS POINT IN TIME?

18 MR. ROBERSON: WE DO, YOUR HONOR.

19 THE COURT: AND DOES THE DEFENSE OF MR. JACQUES GIBSON
20 AT THIS POINT IN TIME REST, MR. JOHNSON?

21 MR. JOHNSON: YES, SIR, WE DO.

22 THE COURT: ALL RIGHT. I'LL BE GLAD TO HEAR ANY MOTIONS
23 THAT YOU MIGHT HAVE AGAIN AT THIS POINT IN TIME, MR.
24 ROBERSON.

25 MR. ROBERSON: YOUR HONOR, I'D SIMPLY RENEW THE MOTION I

1 MADE AT THE END OF THE STATE'S CASE, THAT STILL HAVING NOT
2 BEEN ESTABLISHED BEFORE THIS JURY ENOUGH EVIDENCE TO MEET THE
3 QUANTUM OF PROOF THAT WILL SATISFY THE ELEMENTS OF THE
4 OFFENSE, PARTICULARLY SINCE THERE'S NO DIRECT EVIDENCE THAT
5 ADAMS GIBSON PULLED THE TRIGGER WHICH TOOK THE LIFE OF DENNIS
6 IRBY, THAT HIS COMPLICITY IN THE CRIME HAS TO FIT WITHIN THE
7 HAND OF ONE/THE HAND OF ALL THEORY, AND THERE HAS BEEN NO
8 EVIDENCE DEDUCED ON THE PART OF THE STATE TO PROVE ANY OF
9 THOSE ELEMENTS AT ALL.

10 THE COURT: ALL RIGHT, SIR. I WOULD RESPECTFULLY
11 DECLINE TO GRANT YOUR MOTION, MR. ROBERSON. I DO FIND THAT
12 THERE IS SUFFICIENT EVIDENCE, IF THAT EVIDENCE IS BELIEVED BY
13 THE JURY. ONCE AGAIN, THAT'S THEIR JOB TO DETERMINE THE
14 CREDIBILITY AND BELIEVABILITY OF THE WITNESSES AND THE
15 EVIDENCE, BUT THE COURT'S RULING IS THERE IS SUFFICIENT
16 EVIDENCE IN THE RECORD THAT WOULD ALLOW THIS MATTER TO
17 PROCEED AND TO SUSTAIN A CONVICTION ON THE OFFENSE OF MURDER.

18 CERTAINLY IT'S A CIRCUMSTANTIAL EVIDENCE CASE, AND
19 CERTAINLY REGARDING YOUR PARTICULAR CLIENT IT RESTS MOST
20 LIKELY, IF AT ALL, UNDER THE THEORY OF THE HAND OF ONE/HAND
21 OF ALL THEORY. BUT I RESPECTFULLY DECLINE TO GRANT YOUR
22 MOTION FOR A DIRECTED VERDICT.

23 MR. ROBERSON: ALL RIGHT.

24 THE COURT: MR. JOHNSON?

25 MR. JOHNSON: YOUR HONOR, I RENEW MY MOTION ON THE SAME

1 GROUND, SIR.

2 THE COURT: ALL RIGHT, SIR. I WOULD RESPECTFULLY
3 DECLINE TO GRANT THE MOTION FOR A DIRECTED VERDICT, MR.
4 JOHNSON. I FIND THAT THERE IS SUFFICIENT EVIDENCE IN THE
5 RECORD THAT IF THAT EVIDENCE IS SO BELIEVED BY THE JURY -
6 ONCE AGAIN, THAT'S THEIR JOB - THAT IF THAT EVIDENCE IS
7 BELIEVED BY THE JURY, THAT WOULD SUSTAIN A CONVICTION FOR THE
8 OFFENSE OF MURDER AND, THEREFORE, WOULD RESPECTFULLY DECLINE
9 TO GRANT YOUR MOTION FOR A DIRECTED VERDICT.

10 ALL RIGHT. Y'ALL HAVE PRESENTED SOME REQUESTS TO CHARGE
11 TO THE COURT, AND I WANTED TO REVIEW THOSE WITH Y'ALL AT THIS
12 TIME, AND ALSO I HAVE A VERDICT -- A VERDICT FORM THAT I WILL
13 WANT Y'ALL TO LOOK AT. LET'S TALK ABOUT -- LET'S TALK ABOUT
14 PRESENTING THIS MATTER -- FIRST LET'S TALK ABOUT PRESENTING
15 THIS MATTER TO THE JURY UNDER ANY OTHER CHARGE THAN THE
16 OFFENSE OF MURDER.

17 NOW, FIRST I WILL START WITH YOU, MR. ROBERSON. IS IT
18 YOUR POSITION THAT THE CASE SHOULD BE PRESENTED TO THE JURY
19 AS REGARDING YOUR CLIENT AS TO ANYTHING OTHER THAN THE
20 OFFENSE OF MURDER?

21 MR. ROBERSON: INVOLUNTARY MANSLAUGHTER, YOUR HONOR.

22 THE COURT: ALL RIGHT, SIR. AND THE REASON FOR US
23 SUBMITTING INVOLUNTARY MANSLAUGHTER WOULD BE WHAT?

24 MR. ROBERSON: BECAUSE THE STATE'S THEORY IS THAT MY
25 CLIENT'S PARTICIPATION IS BASED ON THE HAND OF ONE/THE HAND

1 OF ALL. THERE'S ADEQUATE STATEMENTS TAKEN FROM JACQUES
2 GIBSON THAT HE WAS SHOOTING IN THE AIR. HE NEVER POINTED IT
3 AT ANYBODY. HE NEVER INTENDED TO HURT ANYBODY. HE DIDN'T
4 HAVE ANY MALICE TOWARD ANYBODY. SO IF, IN FACT, HE'S
5 POINTING IT IN THE AIR, THE GUN MAY HAVE DROPPED.

6 THIS COULD -- THE JURY COULD, IN FACT, FIND THAT THIS
7 WAS, IN FACT, AN ACCIDENT, AND IF THEY CAN SO FIND WITH MR.
8 JACQUES GIBSON, GIVEN THE FACT THAT MY CLIENT WOULD BE IN THE
9 SAME CATEGORY AS PARTICIPATING AT THAT LEVEL, I THINK
10 INVOLUNTARY MANSLAUGHTER WOULD BE APPLICABLE TO HIM AS WELL.

11 THE COURT: ALL RIGHT, SIR. LET ME HEAR FROM YOU. I'M
12 ASSUMING YOU WOULD BE REQUESTING THE SAME ALSO, MR. JOHNSON?

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

14 THE COURT: ALL RIGHT.

15 MR. JOHNSON: YOUR HONOR---

16 THE COURT: DO YOU HAVE ANY ADDITIONAL ARGUMENTS YOU'D
17 LIKE TO MAKE?

18 MR. JOHNSON: YOUR HONOR, WE'VE SUBMITTED A JURY CHARGE
19 -- OUR JURY CHARGE NUMBER ONE, AND, YOUR HONOR, WE BASE THAT
20 ON THE CASE OF STATE V. CHAPMAN, 336 SOUTH CAROLINA 149. AND
21 OBVIOUSLY THE COURT IS QUITE FAMILIAR WITH THE ELEMENTS OF
22 INVOLUNTARY MANSLAUGHTER, AND WE THINK THAT THIS CASE FITS ON
23 ALL POINTS, YOUR HONOR, TO QUALIFY AS FAR AS A CHARGE.

24 YOUR HONOR, IN THIS CASE THERE'S NO EVIDENCE WHERE MY
25 CLIENT POINTED AND PRESENTED THE GUN OR THREATENED OR USED IT

1 IN A THREATENING MANNER. THIS IS NOT A SITUATION WHERE HE
2 WAS THE SOLE CATALYST FOR THE CONFRONTATION, AND THERE IS NO
3 EVIDENCE THAT THERE WAS ANY PREMEDITATION OR WELL-THOUGHT-OUT
4 PLAN TO DO THE SHOOTING. AND FOR THOSE REASONS, YOUR HONOR,
5 I THINK THAT WE SHOULD BE GIVEN INVOLUNTARY MANSLAUGHTER
6 BECAUSE IT'S AN UNINTENTIONAL KILLING OF ANOTHER PERSON
7 WITHOUT MALICE.

8 THE COURT: ALL RIGHT, SIR. SOLICITOR, YOUR RESPONSE?

9 MS. CAMPBELL: YES, YOUR HONOR. I DID RECEIVE THE -- I
10 WOULD JUST -- MAY I APPROACH?

11 THE COURT: YES, MA'AM.

12 MS. CAMPBELL: THE STATE VERSUS WILLIE EARL REESE, IT'S
13 A 2006 SUPREME COURT CASE.

14 MR. JOHNSON: I THINK I HAVE IT.

15 MS. CAMPBELL: OH, YOU DO?

16 THE COURT: THANK YOU, MA'AM.

17 MS. CAMPBELL: BASICALLY THEY GO THROUGH, "IF THERE'S
18 ANY EVIDENCE WARRANTING A CHARGE ON INVOLUNTARY MANSLAUGHTER,
19 THEN THE CHARGE MUST BE GIVEN." THEY QUOTE STATE VERSUS
20 LEVELLE: "IT IS A FELONY FOR A PERSON TO PRESENT OR POINT AT
21 ANOTHER PERSON A LOADED OR UNLOADED FIREARM." IN THAT CASE
22 MR. REESE ARGUED THE JURY COULD HAVE FOUND THAT HE WAS NOT
23 POINTING OR PRESENTING A FIREARM OR IN THE PROCESS OF
24 COMMITTING SUICIDE BUT WAS MERELY THREATENING TO COMMIT
25 SUICIDE WHICH IS NOT AN UNLAWFUL ACT. THEY SAID THAT EVEN

1 THOUGH THE FACT THAT HE WAS MOVING THE GUN BACK AND FORTH DID
2 NOT CONSTITUTE POINTING A FIREARM, AND THREATENING SUICIDE
3 HAS NOT BEEN CLASSIFIED AS AN UNLAWFUL ACT, THERE IS NO DOUBT
4 THAT REESE WAS PRESENTING THE FIREARM WHEN HE TOOK GUN OUT
5 AND BEGAN WAVING IT AROUND.

6 YOUR HONOR, THE TESTIMONY IN THIS CASE I BELIEVE IS
7 PRETTY UN -- THAT THERE WERE TWO GUNS OUT THERE AND THAT THEY
8 WERE PULLED OUT AT THE TIME THAT THEY WERE SHOOTING THEM.
9 THEREFORE, THAT WOULD CONSTITUTE A PRESENTATION.

10 THE COURT: ALL RIGHT.

11 MR. JOHNSON: YOUR HONOR, MAY I COMMENT?

12 THE COURT: YES, SIR.

13 MR. JOHNSON: YOUR HONOR, THAT STATE VERSUS REESE WAS A
14 CASE THAT WAS TRIED HERE IN RICHLAND COUNTY, AND I BELIEVE
15 THERE'S SOME DISTINGUISHING CHARACTERISTICS BETWEEN REESE AND
16 THIS CASE. FIRST, IN THE REESE CASE, REESE POINTED AND
17 PRESENTED HIS GUN IN A THREATENING MANNER TO HIMSELF AND TO
18 HIS WIFE. IN THAT PARTICULAR CASE HE HAD BEEN CALLING --
19 CALLING HER OVER 50 SOMETHING TIMES ON THE CELL PHONE, WAS
20 LYING IN WAIT, WAITING 'TIL SHE CAME HOME FROM -- SHE HAD
21 BEEN PLAYING SOFTBALL OR SOME TYPE OF BALL WITH SOME FRIENDS.

22 THEN AFTER THE GAME WAS OVER, SHE WENT TO A BAR AND THEN
23 THEY CAME BACK, AND HE HAD BEEN CALLING THE HOME AND CALLING
24 HER PARENTS' HOME AND HE WAITED FOR HER. AND ALSO REESE --
25 IN THAT CASE REESE -- THE POINTING AND PRESENTING OF HIS GUN

1 WAS THE SOLE CATALYST FOR THE CONFRONTATION WHILE JACQUES
2 POINTED AND PRESENTED HIS GUN IN -- TO TRY TO DIFFUSE A
3 SITUATION THAT HAD ALREADY ESCALATED.

4 IN THE REESE CASE, REESE'S GUN WAS BEING MATCHED TO THE
5 BULLET FOUND IN THE VICTIM WHILE THERE'S NO CONCLUSIVE
6 EVIDENCE THAT THE BULLETS FROM JACQUES' GUN KILLED THE
7 VICTIM, KILLED MR. IRBY. IN THE REESE CASE IT WAS
8 PREMEDITATED. IT WAS WELL THOUGHT OUT WHERE -- WHILE IN
9 JACQUES' CASE HE WAS ACTING AT A MOMENT'S NOTICE TO PROTECT A
10 CLOSE FAMILY MEMBER. IN THE REESE CASE, REESE POINTED AND
11 FIRED THE WEAPON AT AN INDIVIDUAL WHILE JACQUES POINTED AND
12 PRESENTED THE WEAPON IN DEFENSE OF HIS BROTHER AND DID NOT
13 FIRE THE GUN EXCEPT IN THE AIR.

14 THE OTHER POINT IS, YOUR HONOR, THE POINTING AND
15 PRESENTING OF A FIREARM AND A WEAPON AT AN INDIVIDUAL IS
16 DIFFERENT THAN FROM JUST POINTING AND PRESENTING THE WEAPON
17 AT AN INDIVIDUAL IN SELF-DEFENSE. THERE WERE OTHER PEOPLE
18 SHOOTING THAT NIGHT, AND JACQUES AS A REASONABLE AND PRUDENT
19 PERSON COULD HAVE BEEN IN FEAR OF HIS OWN LIFE. AND SO, YOUR
20 HONOR, THERE'S SOME DISTINGUISHING CHARACTERISTICS BETWEEN
21 THE REESE CASE AND THE CASE AT HAND HERE, AND THAT'S WHY WE
22 FEEL WE'RE ENTITLED TO AN INVOLUNTARY MANSLAUGHTER CHARGE.

23 THE COURT: ARE YOU ALSO ASKING THE COURT TO CHARGE
24 SELF-DEFENSE---

25 MR. JOHNSON: YES, SIR.

1 THE COURT: ---IN THIS PARTICULAR CASE?

2 MR. JOHNSON: YES, SIR.

3 THE COURT: AND WHY WOULD YOU THINK THAT WOULD BE
4 APPROPRIATE IN THIS PARTICULAR MATTER?

5 MR. JOHNSON: WELL, BECAUSE OF THE FOUR -- FOUR
6 REQUIREMENT, YOUR HONOR. JACQUES WAS NOT AT FAULT IN
7 BRINGING ON THE -- ON BRINGING ON THE DIFFICULTY. HE
8 ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF LOSING HIS
9 LIFE, THAT A REASONABLE PERSON UNDER SIMILAR CIRCUMSTANCES
10 WOULD HAVE THOUGHT THE SAME, AND HE WAS IN THE PROCESS OF
11 RETREATING WHEN THEY CLAIM THAT HE WAS SHOOTING.

12 THE COURT: ALL RIGHT, SIR. LET'S DEAL WITH THAT --
13 THAT ISSUE FIRST.

14 MR. ROBERSON: YOUR HONOR, MAY I BE HEARD ON THAT?

15 THE COURT: YES, SIR.

16 MR. ROBERSON: IN ADDITION TO THAT AND IN THE STATEMENT
17 THAT THEY SUBMITTED INTO EVIDENCE, JACQUES SAYS THAT HE SAW A
18 FELLOW ON THE OPPOSING SIDE OPEN A GRAY TRUCK, REACHED IN AND
19 GOT SOMETHING, PUT IT IN HIS POCKET, AND WALKED TO WHERE THE
20 FIGHTING ACTUALLY TOOK PLACE. SO HE HAD REASON TO THINK NOT
21 ONLY WAS HE IN DANGER BUT HIS BROTHER AS WELL.

22 THE COURT: WELL, YOU SAY OPPOSING SIDE. HE JUST SAYS
23 THAT HE SAW A LARGE INDIVIDUAL OR A BIG FELLOW GET SOMETHING
24 OUT OF THE VEHICLE, BUT HE DIDN'T KNOW WHAT IT WAS. HE PUT
25 IT IN HIS POCKET AND WALKED TOWARDS WHERE EVERYTHING WAS

1 GOING ON. HE DOESN'T INDICATE THAT THAT FELLOW WAS IN ANY
2 WAY CONNECTED TO THE OTHER -- THE OTHER INDIVIDUAL. HE JUST
3 SAID HE WAS A BIG FELLOW, DIDN'T SAY HE KNEW WHO IT WAS.

4 MR. ROBERSON: THEY PUSH -- THEY PUT THE GRAY VEHICLE
5 INTO EVIDENCE, AND IT WAS OWNED BY EITHER TORRI BOYD OR ONE
6 OF THOSE FELLOWS WHO WERE INVOLVED IN THE FIGHT.

7 THE COURT: BUT IT DOESN'T MEAN THAT THAT FELLOW WAS
8 CONNECTED IN ANY WAY WITH IT AND BESIDES THE FACT OF HE HAS
9 NO IDEA WHAT THE FELLOW PUT IN HIS POCKET. IT COULD HAVE
10 BEEN A CAMERA. IT COULD HAVE BEEN ANYTHING. HE HAS NO IDEA
11 WHAT IT IS.

12 MR. ROBERSON: HE'S GOING TOWARD THE FIGHT, AND YOU
13 DON'T HAVE TO WAIT FOR SOMEBODY TO GET THE DROP ON YOU TO ACT
14 ON APPEARANCES.

15 THE COURT: BUT YOU HAVE TO HAVE SOME IDEA THAT
16 SOMETHING IS GOING TO OCCUR. YOU HAVE NO IDEA. HE HAS NO
17 CLUE---

18 MR. ROBERSON: YES, HE DID.

19 THE COURT: ---WHATSOEVER WHAT THE FELLOW HAD OR PUT IN
20 HIS POCKET. NOTHING.

21 MR. ROBERSON: YOUR HONOR, THEY WERE ARGUING. THEY HAD
22 GOTTEN OUT IN THE PARKING LET. THIS FELLOW IS ON THE SIDE OF
23 THE FOLKS FROM WINNSBORO. HE OPENED---

24 THE COURT: THERE'S NO EVIDENCE OF THAT.

25 MR. ROBERSON: YES, IT IS. YOUR HONOR---

1 THE COURT: WELL, ALL RIGHT. THAT'S---

2 MR. ROBERSON: IT'S HIS GRAY -- IT'S HIS GRAY VEHICLE.

3 THE COURT: YOU ARGUE WHAT YOU NEED TO.

4 MR. JOHNSON: YOUR HONOR?

5 THE COURT: ALL RIGHT, SIR.

6 MR. ROBERSON: LET ME FINISH ON THE RECORD.

7 THE COURT: GO, SIR.

8 MR. ROBERSON: THEY PUT INTO EVIDENCE THIS GRAY DODGE
9 VEHICLE THAT WAS BEING DRIVEN BY ONE OF THE FELLOWS FROM
10 WINNSBORO. WHEN THEY WERE EXITING THE RESTAURANT, THIS
11 FELLOW, ACCORDING TO JACQUES, OPENED THE TRUNK, REACHED IN,
12 TOOK SOMETHING AND HID IT UNDER HIS SHIRT AND WALKED TO THE
13 AREA WHERE THE FIGHTING TOOK PLACE. AND BASED ON THAT, YOUR
14 HONOR, I THINK THAT HE HAD THE RIGHT TO ACT ON APPEARANCES.
15 HE DIDN'T HAVE TO WAIT FOR SOMEBODY TO GET THE DROP ON HIM.
16 HE HAD -- HE HAD THE -- HE WAS PROTECTING HIMSELF AND HE WAS
17 PROTECTING HIS BROTHER AS WELL, AND I THINK WE'RE ENTITLED TO
18 A SELF-DEFENSE CHARGE.

19 THE COURT: ALL RIGHT, SIR.

20 MR. ROBERSON: BASED ON -- AND ALL THE OTHER ELEMENTS
21 THAT MR. JOHNSON ENUMERATED.

22 THE COURT: ALL RIGHT. MR. JOHNSON, ANYTHING ELSE YOU
23 WANT TO SAY ON SELF-DEFENSE?

24 MR. JOHNSON: YOUR HONOR, OBVIOUSLY YOU'RE FAMILIAR WITH
25 STATE V. FULLER. YOU KNOW, YOU DON'T HAVE TO -- YOU CAN ACT

1 ON APPEARANCES. IN A SITUATION LIKE THAT, YOUR HONOR -- YOU
2 KNOW, WE'RE HERE IN THE ABSTRACT. IN A SITUATION OUT THERE
3 WHEN ALL OF THAT COMMOTION IS GOING ON AND ALL THAT CURSING
4 AND ALL THAT FUSSING AND ALL THAT THREATENING AND THAT
5 FIGHTING, IT'S REASONABLE FOR PERSONS -- WHEN ANOTHER PERSON
6 GOES TO A VEHICLE, RETRIEVES SOMETHING, AND THEN RETURNS TO
7 WHERE THE ALTERCATION IS TAKING PLACE, ONE COULD COME TO THE
8 CONCLUSION THAT THIS GUY IS UP TO NO GOOD AND THAT I NEED TO
9 PROTECT MYSELF AND DEFEND MYSELF.

10 THE COURT: ALL RIGHT, SIR. WELL, IN ADDITION TO THE
11 STATE VERSUS FULLER -- I MEAN, THERE'S A LOT OF CASES.
12 THERE'S STATE VERSUS ADDISON AND STATE VERSUS BURKHART.
13 THERE'S A NUMBER OF CASES THAT THE COURT HAS TALKED ABOUT
14 SELF-DEFENSE, BUT IT'S CLEAR THAT THE MAJOR ELEMENTS OF
15 SELF-DEFENSE WOULD BE THAT THE DEFENDANT HAS TO BE WITHOUT
16 FAULT IN BRINGING ON THE DIFFICULTY, THAT HE BELIEVED THAT HE
17 WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY
18 INJURY OR THAT THE PERSON HE WAS TO PROTECT WAS IN THAT
19 SITUATION AND ALSO THAT THERE'S NO OTHER WAY TO AVOID THE
20 DANGER, THAT THE DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID
21 THE DANGER OR DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS
22 HE DID.

23 THE ELEMENTS OF SELF-DEFENSE ARE NOT MET AT ALL IN THIS
24 PARTICULAR CASE. THIS IS CLEARLY NOT A SELF-DEFENSE CASE,
25 AND I WILL NOT CHARGE SELF-DEFENSE. THIS IS NOT A SELF-

1 DEFENSE CASE.

2 NOW, WITH THAT, REGARDING INVOLUNTARY MANSLAUGHTER AS TO
3 WHETHER THE COURT WILL CHARGE AND GIVE TO THE JURY A -- THE
4 LAW OF INVOLUNTARY MANSLAUGHTER AND SUBMIT A VERDICT FORM TO
5 THEM WHICH INCLUDES INVOLUNTARY MANSLAUGHTER, I WILL TELL YOU
6 THAT I WILL NOT DO SO, THE REASONS FOR THAT BEING -- AND I'VE
7 USED -- AND I UNDERSTAND THE CASE THAT HAS BEEN PRESENTED BY
8 THE -- PRESENTED BY THE STATE. I THINK CASES THAT ARE MORE
9 ON POINT WOULD BE STATE VERSUS BOWMAN OR, RATHER, IT'S BOWMAN
10 VERSUS STATE FOUND AT 414 SOUTHEAST SECOND 144, STATE VERSUS
11 CRAIG FOUND AT 227 SOUTHEAST SECOND 306 AS WELL AS STATE
12 VERSUS PICKENS FOUND AT 466 SOUTHEAST SECOND 364, AND THOSE
13 DECISIONS I THINK ARE MORE APPLICABLE TO THIS PARTICULAR
14 SITUATION.

15 IN THOSE PARTICULAR CASES THE DEFENDANT FIRED A WEAPON
16 AND INDICATED IN ALL THOSE CASES HAD NO INTENTION OF SHOOTING
17 ANYONE, POINTING AT ANYONE, TRYING TO BRING HARM TO ANYONE.
18 ONE OF THEM THEY FIRED IT OVER SOMEBODY'S HEAD -- WAS THEIR
19 INTENTION AND OTHER -- IN OTHER MATTERS DID NOT INTEND TO
20 HAVE ANYONE INJURED BY THEIR ACTIONS. AND THE SUPREME COURT
21 HAS CLEARLY HELD IN THOSE PARTICULAR CASES THAT INVOLUNTARY
22 MANSLAUGHTER WILL NOT REST, AS IT WILL NOT IN THIS PARTICULAR
23 CASE, BECAUSE THE DEFENDANT CLEARLY INTENDED TO FIRE THE
24 WEAPON.

25 THERE'S NO QUESTION THAT THE DEFENDANT -- AS PRESENTED

1 BY THE STATE, THE EVIDENCE INDICATES THAT THE DEFENDANT
2 JACQUES GIBSON INTENTIONALLY AND DELIBERATELY WANTED TO FIRE
3 THE WEAPON. NOW, THE FACT THAT THERE WAS UNINTENDED
4 CONSEQUENCES, UNINTENDED ACTIONS THAT RESULTED OF HIS
5 INTENTIONAL ACT OF FIRING THE WEAPON DOES NOT THEN BRING TO
6 THE FRONT THE CHARGE OF INVOLUNTARY MANSLAUGHTER, SO,
7 THEREFORE, UNDER THE -- UNDER THE ELEMENTS OF INVOLUNTARY
8 MANSLAUGHTER AND GOING TO THAT -- JUST HOLD ON A SECOND.

9 WHEN YOU HAVE INVOLUNTARY MANSLAUGHTER, IT IS DESCRIBED
10 AS THE KILLING OF ANOTHER WITHOUT MALICE AND UNINTENTIONALLY
11 BUT WHILE ONE IS ENGAGED IN THE COMMISSION OF SOME UNLAWFUL
12 ACT NOT AMOUNTING TO A FELONY AND NOT NATURALLY TENDING TO
13 CAUSE DEATH OR GREAT BODILY HARM. AND THE SECOND PART OF IT
14 IS THAT THE KILLING OF ANOTHER WITHOUT MALICE AND
15 UNINTENTIONALLY BUT WHILE ENGAGED IN THE DOING OF A LAWFUL
16 ACT WITH A RECKLESS DISREGARD TO THE SAFETY OF OTHERS --
17 OBVIOUSLY THE SECOND PART DOESN'T APPLY AT ALL. IT'S
18 CERTAINLY NOT A LAWFUL ACT.

19 THE FIRST PART OF IT, THE PART THAT DOES NOT FIT
20 INVOLUNTARY MANSLAUGHTER, IS NOT NATURALLY TENDING TO CAUSE
21 DEATH OR GREAT BODILY HARM. WHEN YOU INTENTIONALLY FIRE A
22 WEAPON, THAT CERTAINLY CAN BE THE EFFECT OF INTENTIONALLY
23 FIRING A WEAPON. THEREFORE, INVOLUNTARY MANSLAUGHTER CANNOT
24 STAND IN THIS PARTICULAR MATTER. THEREFORE, THE CASE WILL BE
25 SUBMITTED TO THE JURY ON THE OFFENSE OF MURDER AS TO ADAMS

1 GIBSON AND JACQUES GIBSON AND ALSO ON THE FURTHER CHARGE
2 UNDER SECTION 16-23-30 OF IT BEING UNLAWFUL FOR A PERSON
3 UNDER THE AGE OF 21 TO POSSESS A WEAPON IN THIS STATE AS TO
4 MR. JACQUES GIBSON.

5 ALL RIGHT. I'LL HAND TO YOU A VERDICT FORM. Y'ALL CAN
6 LOOK AT IT AND SEE IF YOU -- I UNDERSTAND YOUR OBJECTIONS TO
7 THE FACT THAT IT'S ONLY GOING TO THE JURY ON THE OFFENSE OF
8 MURDER AND THE OTHER CHARGE, BUT I'LL ASK THAT YOU REVIEW IT.
9 WHEN WE COME BACK, YOU CAN TELL ME IF YOU'VE GOT ANY PROBLEMS
10 WITH IT.

11 NOW, I HAVE INDICATED THAT I DO NOT INTEND TO PRESENT
12 THE ISSUE OF SELF-DEFENSE AND INVOLUNTARY MANSLAUGHTER TO THE
13 JURY. NOW, IT WAS MY INTENTION -- AND LET ME GO OVER WHAT MY
14 INTENTIONS WERE AS TO THE CHARGE THAT I INTENDED TO GIVE TO
15 THE JURY AND Y'ALL WILL -- CAN MAKE ANY COMMENTS REGARDING
16 YOUR REQUESTS TO CHARGE THAT YOU WOULD LIKE TO DO SO.
17 OBVIOUSLY---

18 MR. JOHNSON: YOUR HONOR?

19 THE COURT: YES, SIR.

20 MR. JOHNSON: HAS THE JURY BEEN EXCUSED OR ARE THEY
21 STILL IN THE WAITING MODE?

22 THE COURT: ARE THEY BACK THERE? I LET THEM GO; RIGHT?
23 I LET THEM GO UNTIL 2:00. I LET THEM GO 'TIL 2:00. YEAH. I
24 THOUGHT I HAD DONE THAT. YES, WE LET THEM GO 'TIL 2:00. ALL
25 RIGHT. OBVIOUSLY WE'RE GOING TO TALK ABOUT THE USUAL THINGS

1 THAT WE TALK ABOUT: CREDIBILITY AND BELIEVABILITY. I'LL
2 GIVE THEM THE CHARGE ON THE EXPERT WITNESS. WE TALKED ABOUT
3 TWO TYPES OF EVIDENCE - DIRECT AND CIRCUMSTANTIAL EVIDENCE -
4 UNDER STATE VERSUS GRIPPON THAT THERE'S NO DISTINCTION.

5 I WILL CHARGE THEM UNDER RULE 609 ABOUT THE PRIOR RECORD
6 OF A WITNESS, INDICATING THE TESTIMONY OF A WITNESS CAN BE
7 DISCREDITED OR IMPEACHED BY SHOWING THE WITNESS HAS BEEN
8 CONVICTED OF A CRIME FOR WHICH THEY COULD HAVE BEEN
9 IMPRISONED FOR MORE THAN ONE YEAR, A CRIME THAT INVOLVED
10 DISHONESTY, AND TELLING THEM THAT'S OFFERED ONLY ON THE ISSUE
11 OF CREDIBILITY AND BELIEVABILITY. OBVIOUSLY WE'LL TALK TO
12 THEM ABOUT THE PRESUMPTION OF INNOCENCE. I'LL DEFINE
13 REASONABLE DOUBT AS THE KIND OF DOUBT THAT WOULD CAUSE A
14 REASONABLE PERSON TO HESITATE TO ACT.

15 I WILL TALK TO THEM ABOUT IDENTIFICATION, INDICATING
16 THAT THE STATE HAS THE BURDEN OF PROVING IDENTITY BEYOND A
17 REASONABLE DOUBT, AND THEY HAVE TO BE SATISFIED BEYOND A
18 REASONABLE DOUBT OF THE ACCURACY OF THE IDENTIFICATION OF THE
19 DEFENDANT BEFORE YOU CAN CONVICT A DEFENDANT. REGARDING A
20 STATEMENT OF THE DEFENDANT, I'LL TALK TO THEM THAT THEY HAVE
21 TO MAKE THE DECISION THAT IT WAS MADE VOLUNTARILY AND THAT HE
22 WAS -- THE DEFENDANT WAS GIVEN HIS RIGHTS, AND I'LL EXPLAIN
23 THAT TO THEM.

24 NOW, IN THAT, MR. ROBERSON AND MR. JOHNSON, Y'ALL DIDN'T
25 RAISE THESE ISSUES IN THE PARTICULAR STATEMENTS THAT WERE PUT

1 INTO COURT. DO YOU WISH ME -- NORMALLY WE DO NOT DO SO, BUT
2 DO YOU WISH ME TO ADD SOME PARTICULAR SENTENCE THAT SAYS THAT
3 WHEN CONSIDERING ALL THE EVIDENCE, YOU MAY NOT USE THE
4 STATEMENT AS AGAINST ANY OTHER PERSON OTHER THAN THE PERSON
5 WHO MADE THE STATEMENT, SOMETHING TO -- TO THAT EFFECT?
6 WOULD YOU REQUEST SOME TYPE OF INSTRUCTION SUCH AS THAT, MR.
7 ROBERSON?

8 MR. ROBERSON: YOUR HONOR, CAN I DIGEST THIS A MOMENT?

9 THE COURT: YES, SIR.

10 MR. ROBERSON: GIVE ME A MINUTE. (PAUSE.) YOUR HONOR,
11 I HANDED UP AN INSTRUCTION WHICH IS MARKED NUMBER ONE: A CO-
12 DEFENDANT'S GENERAL CHARGE CONCERNING INDIVIDUAL
13 CONSIDERATIONS.

14 THE COURT: THE ONE I'VE GOT ON TOP SAYS, "PRIOR
15 INCONSISTENT STATEMENT."

16 MR. ROBERSON: OKAY. FLIP DOWN TO -- I GUESS IT'S THE
17 FOURTH ONE.

18 THE COURT: ALL RIGHT. CO-DEFENDANTS. I'LL GET TO THAT
19 IN JUST A SECOND. I WILL -- I'M DEFINITELY GOING TO GIVE A
20 CHARGE ABOUT CO-DEFENDANTS.

21 MR. ROBERSON: WELL, I BELIEVE THAT WILL COVER HOW YOU
22 WOULD INSTRUCT THEM ON---

23 THE COURT: ALL RIGHT, SIR.

24 MR. ROBERSON: ---THE DIVISION OF---

25 THE COURT: ALL RIGHT. AND I'LL CERTAINLY DO THAT. I

1 INTEND TO DO THAT AND GIVE A -- AND I'M GOING TO GET TO THAT
2 IN JUST A SECOND. I JUST WANTED TO KNOW: WHEN I'M TALKING
3 ABOUT A STATEMENT OF A DEFENDANT, DID YOU WANT ME TO INCLUDE
4 SOME SENTENCE TO SAY -- TO USE WHATEVER IS CONTAINED IN THERE
5 CANNOT BE USED AS AGAINST ANYONE ELSE? DID YOU WANT ME TO
6 ADD THAT TO THAT OR JUST STICK WITH THE...

7 MR. ROBERSON: I WOULDN'T WANT YOU TO BE THAT
8 RESTRICTIVE, YOUR HONOR, BECAUSE---

9 THE COURT: ALL RIGHT, SIR.

10 MR. ROBERSON: ---THEIR THEORY IS---

11 THE COURT: ALL RIGHT. AND I APPRECIATE YOUR ARGUMENT.
12 MR. JOHNSON?

13 MR. JOHNSON: NO, SIR.

14 THE COURT: ALL RIGHT. GOOD. ALL RIGHT THEN. ALL
15 RIGHT. THEN WHAT WE WOULD -- WHAT I WOULD THEN INTEND TO DO
16 WOULD BE TO CHARGE THE JURY THE LAW ON MURDER. IT WOULD -- I
17 WOULD INCLUDE IN THERE THE FACT THAT MOTIVE IS NOT AN ELEMENT
18 OF THE OFFENSE OF MURDER. THE STATE DOESN'T HAVE TO PROVE
19 MOTIVE. I WILL PUT THAT AS PART OF THE CHARGE. I WOULD THEN
20 ALSO INDICATE THAT AN ADDITIONAL CHARGE AS AGAINST MR.
21 JACQUES GIBSON IS THE VIOLATION OF 16-23-30.

22 AFTER THAT, I WOULD READ TO THE JURY OR TELL THE JURY
23 THAT MERE PRESENCE AT THE SCENE OF A CRIME IS NOT SUFFICIENT
24 TO PROVE SOMEONE GUILTY OF A CRIME AND WOULD TALK TO THEM
25 ABOUT THAT. I WOULD ALSO TELL THEM THAT THE DEFENDANT'S MERE

1 PRESENCE WHERE A CRIME IS BEING COMMITTED OR MERE ASSOCIATION
2 WITH A PERSON WHO COMMITS A CRIME DOES NOT IN AND OF ITSELF
3 MAKE A DEFENDANT A CO-CONSPIRATOR OR AN ACCOMPLICE WHO HAS
4 AGREED TO JOIN IN THE COMMISSION OF A CRIME. I WILL THEN
5 DEFINE TO THEM THE HAND OF ONE IS THE HAND OF ALL, AND IT
6 WILL ALSO HAVE IN THERE ANOTHER STATEMENT ABOUT MERE PRESENCE
7 IS NOT SUFFICIENT TO CONVICT.

8 I INTEND TO TELL THEM ABOUT MULTIPLE DEFENDANTS, THAT
9 THERE ARE TWO DEFENDANTS IN THIS CASE, EACH OF WHOM IS
10 CHARGED WITH MURDER. IN THE CASE OF EACH DEFENDANT AND THE
11 EVIDENCE AND THE LAW CONCERNING THAT DEFENDANT SHOULD BE
12 CONSIDERED SEPARATELY AND INDIVIDUALLY. YOUR VERDICT DOES
13 NOT HAVE TO BE THE SAME FOR BOTH. THE FACT THAT YOU MIGHT
14 FIND ONE DEFENDANT GUILTY OR NOT GUILTY SHOULD NOT CONTROL
15 YOUR VERDICT AS TO THE OTHER PARTY. WHERE MORE THAN ONE
16 PERSON IS CHARGED WITH A CRIME, IF THE EVIDENCE WARRANTS IT,
17 YOU MAY CONVICT ONE AND ACQUIT ANOTHER. YOU MAY ACQUIT BOTH
18 OR YOU MAY CONVICT BOTH. IT WILL DEPEND UPON YOUR VIEW OF
19 THE TESTIMONY AND EVIDENCE. YOU MUST TAKE EACH DEFENDANT AND
20 CONSIDER THE EVIDENCE AS TO THAT DEFENDANT AND MY
21 INSTRUCTIONS TO YOU ON THE LAW, AND YOU WILL THEN WRITE A
22 SEPARATE VERDICT FOR EACH INDIVIDUAL DEFENDANT.

23 THAT IS THE CHARGE THAT I INTENDED TO GIVE TO THE JURY
24 IN THIS PARTICULAR MATTER. WHAT, IN ADDITION, WOULD THE
25 STATE REQUEST, IF ANYTHING?

1 MS. CAMPBELL: YOUR HONOR, I APOLOGIZE THAT I DIDN'T
2 HAND IT UP, BUT WE WOULD REQUEST THE REASONABLE DOUBT CHARGE
3 UNDER STATE VERSUS DARBY.

4 THE COURT: ALL RIGHT. THE REASONABLE DOUBT CHARGE THAT
5 I INTEND TO CHARGE---

6 MS. CAMPBELL: YES, SIR.

7 THE COURT: AND I WILL READ IT TO YOU SO THAT YOU HAVE
8 IT IN ITS ENTIRETY---

9 MS. CAMPBELL: YES, SIR.

10 THE COURT: ---IS A REASONABLE DOUBT IS THE KIND OF
11 DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO
12 ACT. THE STATE HAS THE BURDEN OF PROVING THE DEFENDANTS
13 GUILTY BEYOND A REASONABLE DOUBT. PROOF BEYOND A REASONABLE
14 DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE
15 DEFENDANTS' GUILT. I'LL TELL THEM -- I USUALLY TELL THEM
16 THAT THERE ARE FEW THINGS YOU CAN KNOW WITH ABSOLUTE
17 CERTAINTY AND HAVE SOME DISCUSSION LIKE THAT, AND THE LAW
18 DOESN'T REQUIRE THE STATE TO OVERCOME EVERY POSSIBLE DOUBT.

19 I WILL TELL THEM: IF BASED UPON YOUR CONSIDERATION OF
20 THE EVIDENCE YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS
21 GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT
22 GUILTY. ON THE OTHER HAND, IF YOU ARE NOT FIRMLY CONVINCED
23 THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST
24 GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT
25 GUILTY. THAT IS MY INTENTION. IF YOU HAVE ANY OTHER

1 REASONABLE DOUBT CHARGE THAT YOU WISH TO SUBMIT, I'LL BE GLAD
2 FOR YOU TO MARK IT AS AN EXHIBIT FOR THE RECORD.

3 MS. CAMPBELL: NO, SIR.

4 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE STATE?

5 MS. CAMPBELL: YOUR HONOR, JUST -- AND I WANT TO MAKE
6 SURE I DIDN'T -- I MAY DISCUSS A LITTLE BIT AS FAR AS YOUR
7 MALICE CHARGE GOES.

8 THE COURT: ALL RIGHT. IN THE CHARGE FOR MURDER?

9 MS. CAMPBELL: YES, SIR.

10 THE COURT: ALL RIGHT. GOING TO THAT---

11 MS. CAMPBELL: I JUST WANT TO MAKE SURE OF THAT---

12 THE COURT: AND IT WILL BE IN THERE THAT, YOU KNOW,
13 CERTAINLY IT CAN BE, YOU KNOW, EXPRESS OR INFERRED AND IT CAN
14 BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN
15 LIFE. IT MAY ALSO ARISE WHEN THE DEED IS DONE WITH A DEADLY
16 WEAPON. THOSE---

17 MS. CAMPBELL: THANK YOU.

18 THE COURT: AMONG OTHER THINGS, THOSE WILL BE INCLUDED
19 IN THE MALICE PORTION.

20 MS. CAMPBELL: THANK YOU, YOUR HONOR.

21 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE STATE?

22 MS. CAMPBELL: NO, SIR.

23 THE COURT: ALL RIGHT. MR. ROBERSON?

24 MR. ROBERSON: YOUR HONOR, I MIGHT NOT HAVE BEEN
25 LISTENING CAREFULLY, BUT DID YOU INCLUDE PRIOR INCONSISTENT

1 STATEMENTS AS PART OF THE CHARGE?

2 THE COURT: WELL, I DID NOT.

3 MR. ROBERSON: I WOULD LIKE FOR YOU TO CHARGE THAT, YOUR
4 HONOR.

5 THE COURT: AND WHY WOULD YOU WANT ME TO DO THAT, MR.
6 ROBERSON? I'M---

7 MR. ROBERSON: BECAUSE THERE ARE SO MANY PRIOR
8 INCONSISTENT STATEMENTS IN THIS CASE. I THINK THE JURY NEEDS
9 TO UNDERSTAND THAT THEY CAN ACCEPT SOME, NONE, OR PART OF ALL
10 OF THAT AND USE THAT AS A PART OF THEIR STRATEGY IN
11 DETERMINING THE TRUTH OF WHAT HAPPENED.

12 THE COURT: WHAT'S YOUR POSITION, MR. JOHNSON?

13 MR. JOHNSON: ABSOLUTELY, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 MR. JOHNSON: I AGREE.

16 THE COURT: LET ME -- HOLD ON ONE SECOND. HAS THE STATE
17 LOOKED AT THE REQUEST TO CHARGE OF MR. ROBERSON?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: ALL RIGHT. DO YOU HAVE ANY OBJECTION TO
20 WHAT -- THE INSTRUCTION THAT HE HAS PROVIDED TO THE COURT?

21 MS. CAMPBELL: I WOULD JUST SUBMIT, YOUR HONOR, I THINK
22 MOST OF THIS INSTRUCTION SHOULD BE INCLUDED IN THE
23 CREDIBILITY CHARGE, AND THE PART THAT SAYS ABOUT---

24 THE COURT: I TELL YOU WHAT. WHAT I'M GOING TO DO IS --
25 AND I APPRECIATE IT. WHAT I'LL INCLUDE IS THE TESTIMONY --

1 WHEN I TALK ABOUT THE CREDIBILITY AND BELIEVABILITY, I WILL
2 SAY THAT THE TESTIMONY OF A WITNESS MAY BE DISCREDITED OR
3 IMPEACHED BY SHOWING THAT THE WITNESS PREVIOUSLY MADE
4 STATEMENTS THAT ARE INCONSISTENT WITH THEIR PRESENT
5 TESTIMONY. EARLIER CONTRADICTORY STATEMENTS ARE ADMISSIBLE
6 TO IMPEACH THE CREDIBILITY OF THE WITNESS AND NOT TO
7 ESTABLISH THE TRUTH OF THE STATEMENTS. ALL RIGHT.

8 MR. ROBERSON: YES, SIR.

9 THE COURT: ANYTHING ELSE, MR. ROBERSON?

10 MR. ROBERSON: YOU CAN INSTRUCT THE JURY TO BELIEVE MY
11 CLOSING ARGUMENT.

12 THE COURT: UNFORTUNATELY, NO, THAT WILL NOT BE PART OF
13 MY INSTRUCTIONS, BUT I APPRECIATE YOU ASKING ME.

14 MR. ROBERSON: FOR SOME REASON I FIGURED YOU WOULD
15 REJECT THAT.

16 THE COURT: I'M SORRY, BUT I DO.

17 MR. ROBERSON: WELL, YOU BROKE MY HEART.

18 THE COURT: ANYTHING ELSE?

19 MR. ROBERSON: NOTHING, YOUR HONOR.

20 THE COURT: ALL RIGHT. MR. JOHNSON?

21 MR. JOHNSON: NOTHING, YOUR HONOR.

22 THE COURT: ALL RIGHT. WE'LL RESUME BACK AT 2:00. WHAT
23 WE'LL DO IS WHEN WE COME BACK I WILL ASK THE QUESTION YOU
24 DIRECTED MR. ROBERSON AS TO DOES---

25 MR. ROBERSON: I REST.

1 THE COURT: NORMALLY WHAT I WOULD ASK IS THAT WHAT'S THE
2 POSITION OF THE DEFENDANT ADAMS GIBSON. YOU CAN TELL ME THAT
3 YOU REST, AND I WILL DO SAME THING FOR YOU, MR. JOHNSON, AND
4 THEN WE WOULD GO IMMEDIATELY INTO THE CLOSING ARGUMENTS.

5 NOW, SINCE THE DEFENDANTS, ADAMS GIBSON AND JACQUES
6 GIBSON, DID NOT PRESENT WITNESSES IN THIS PARTICULAR MATTER,
7 THEY, OF COURSE, HAVE RESERVED UNTO THEMSELVES THE RIGHT TO
8 HAVE THE FINAL ARGUMENTS. IS THERE ANY DISCUSSION ABOUT THAT
9 FROM THE STATE?

10 MS. CAMPBELL: NO, SIR.

11 THE COURT: ALL RIGHT. ALL RIGHT? I'LL SEE Y'ALL AT
12 2:00 THEN. THANK YOU VERY MUCH.

13 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

14 THE COURT: THANK YOU VERY MUCH. YOU MAY BE SEATED.
15 THANK Y'ALL. ALL RIGHT. IS THE STATE READY TO PROCEED?

16 MS. CAMPBELL: STATE'S READY.

17 THE COURT: MR. ROBERSON?

18 MR. ROBERSON: YES, SIR.

19 THE COURT: AND MR. JOHNSON?

20 MR. JOHNSON: YES, SIR, YOUR HONOR.

21 THE COURT: ALL RIGHT. ASK THE JURY TO COME IN, PLEASE.

22 (WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 2:00
23 P.M.)

24 THE COURT: ALL RIGHT. MR. ROBERSON, WHAT'S THE
25 POSITION OF THE DEFENDANT ADAMS GIBSON?

1 MR. ROBERSON: YOUR HONOR, THE DEFENDANT ADAMS GIBSON
2 WOULD REST.

3 THE COURT: ALL RIGHT, SIR. AND, MR. JOHNSON, AS TO
4 JACQUES GIBSON?

5 MR. JOHNSON: WE REST, YOUR HONOR. THANK YOU.

6 THE COURT: ALL RIGHT. ALL RIGHT. LADIES AND
7 GENTLEMEN, WE HAVE CONCLUDED OR ENDED THE EVIDENTIARY PORTION
8 OF THE TRIAL IN THIS CASE. WE'RE NOW GOING TO PROCEED INTO
9 THE CLOSING ARGUMENTS OF THE ATTORNEYS. AS I TOLD YOU AT THE
10 VERY BEGINNING, THOSE CLOSING ARGUMENTS ARE NOT EVIDENCE.
11 THEY CANNOT BE CONSIDERED BY YOU AS EVIDENCE IN THE CASE.
12 HOWEVER, THEY'RE IMPORTANT. THEY ARE EACH SIDE'S
13 PRESENTATION TO YOU OF WHAT THEY BELIEVE THE EVIDENCE HAS
14 SHOWN TO YOU DURING THE COURSE OF THE TRIAL AND THEN
15 ULTIMATELY WHAT THEY'RE GOING TO BE ASKING YOU TO DO AS A
16 RESULT OF YOUR UNANIMOUS VERDICT IN THIS PARTICULAR MATTER ON
17 EACH CASE. THEREFORE, I WOULD ASK THAT YOU GIVE YOUR
18 ATTENTION TO THE ATTORNEYS DURING THEIR CLOSING ARGUMENTS.
19 SOLICITOR?

20 MS. CAMPBELL: MAY IT PLEASE THE COURT?

21 THE COURT: YES, MA'AM.

22 MS. CAMPBELL: GOOD AFTERNOON. THE FIRST THING I'D LIKE
23 TO DO ON BEHALF OF THE STATE OF SOUTH CAROLINA AND THE
24 CITIZENS OF RICHLAND COUNTY AND THE IRBY FAMILY IS TO THANK
25 YOU FOR YOUR SERVICE IN THIS CASE. I KNOW WHEN Y'ALL CAME IN

1 HERE ON MONDAY MORNING NONE OF YOU VOLUNTEERED TO HAVE TO SIT
2 ON A MURDER CASE IN THIS COURTHOUSE. HOWEVER, OVER THE LAST
3 SEVERAL DAYS WE HAVE WATCHED AND WE HAVE PRESENTED EVIDENCE,
4 SOMETIMES NOT SO SMOOTHLY. YOU HAVE PAID ATTENTION, AND YOU
5 HAVE LISTENED CAREFULLY, FROM OUR OBSERVATION. SO ON BEHALF
6 OF THE STATE WE THANK YOU FOR YOUR SERVICE.

7 I THINK AS YOU HAVE COME TO REALIZE OVER THE LAST
8 SEVERAL DAYS THIS IS A VERY IMPORTANT CASE, NOT ONLY TO THE
9 DEFENDANTS, JACQUES AND ADAMS GIBSON, BUT TO THE VICTIM
10 BECAUSE JUST AS THIS IS THEIR DAY IN COURT, IT'S ALSO HIS.
11 NOW, THE FIRST THING I'M GOING TO DO -- BECAUSE THIS IS GOING
12 TO BE THE LAST OPPORTUNITY I HAVE TO ADDRESS YOU. I CAN'T
13 RESPOND TO WHAT THE DEFENSE MAY SAY BECAUSE EACH OF THEM WILL
14 GET UP AFTER ME.

15 SO THE FIRST THING I WANT TO DO IS TALK TO YOU A LITTLE
16 BIT ABOUT THE LAW IN THIS CASE BECAUSE THE LAW IN THIS CASE
17 IS VERY IMPORTANT. IT'S ALWAYS IMPORTANT BUT PERHAPS MORE SO
18 IN THIS CASE. I'M GOING TO TALK TO YOU A LITTLE BIT ABOUT
19 THE LAW, AND THEN I'M GOING TO TALK TO YOU ABOUT THE FACTS.
20 AND IF I MISQUOTE THE LAW, YOU LISTEN TO WHAT THE JUDGE TELLS
21 YOU BECAUSE HE IS THE SOLE FINDER OF THE LAW. HE WILL TELL
22 YOU AFTER YOU HEAR FROM ALL OF US WHAT THE LAW IS THAT YOU
23 HAVE TO APPLY TO THE FACTS AS YOU FIND THEM FROM THAT NIGHT.
24 SO IF I MISQUOTE, IT'S NOT INTENTIONAL.

25 IN THAT SAME FASHION IT'S VERY IMPORTANT, LADIES AND

1 GENTLEMEN, IF ANYONE GETS UP HERE AND MISQUOTES THE FACTS,
2 YOU, EACH OF YOU INDIVIDUALLY AND THEN ONCE YOU GET BACK
3 THERE COLLECTIVELY, ARE THE FINDERS OF FACTS IN THIS CASE.
4 NO ONE ELSE CAN TELL YOU WHAT TO THINK. SO IF I MISQUOTE,
5 AGAIN IT'S NOT INTENTIONAL ON MY PART. YOU REMEMBER BECAUSE
6 YOU ARE THE SOLE FINDERS OF THE FACTS.

7 EVERYONE HAS A ROLE IN THIS COURTROOM. THE
8 PROSECUTION'S ROLE IS TO PRESENT ALL THE RELEVANT, CREDIBLE
9 EVIDENCE. THE DEFENSE'S ROLE IS EXACTLY WHAT IT SAYS: TO
10 DEFEND THEIR CLIENTS. AND THE JUDGE'S ROLE IS TO RULE ON THE
11 ADMISSIBILITY OF EVIDENCE AND THEN TO ULTIMATELY CHARGE YOU
12 ON THE LAW, TO GIVE YOU THE LAW. BUT BY FAR, LADIES AND
13 GENTLEMEN, THE MOST IMPORTANT ROLE IN THIS COURTROOM IS YOURS
14 BECAUSE YOU HAVE TO FIGURE OUT EXACTLY WHO WAS THE SHOOTERS
15 AND WHO HAD WHAT ROLE THAT FATEFUL THAT NIGHT BACK ON
16 SEPTEMBER 5TH OF 2005 WHEN DENNIS IRBY LOST HIS LIFE. THAT
17 IS YOUR ROLE, AND IT IS SUBSTANTIAL.

18 NOW, YOU HAVE HEARD ALL THE EVIDENCE YOU CAN CONSIDER IN
19 THIS CASE. AND WHAT IS EVIDENCE? EVIDENCE IS THE TESTIMONY,
20 THE SWORN TESTIMONY, AND THEN THE PHYSICAL EVIDENCE THAT THE
21 JUDGE ALLOWED TO COME IN. IT IS NOT QUESTIONS BY THE
22 ATTORNEYS. IF THE ATTORNEY ASKS, "IS THE MOON BLUE?" AND THE
23 ANSWER IS, "NO," THAT DOESN'T MEAN THAT THE MOON IS BLUE.
24 IT'S NOT A FISHING EXPEDITION. THE EVIDENCE IS THE SWORN
25 TESTIMONY AND THE PHYSICAL EVIDENCE.

1 NOW, I ALSO WANT TO TAKE THIS TIME TO APOLOGIZE IF WE
2 HAVE DONE ANYTHING IN THE LAST FEW DAYS TO OFFEND YOU IN ANY
3 WAY. AT TIMES MY QUESTIONS HAVE BEEN INARTFUL OR SLOPPY. AT
4 TIMES EVIDENCE HAS BEEN ADMISSIBLE AND THEN NOT ADMISSIBLE.
5 Y'ALL HAD TO COME IN AND OUT OF THE COURTROOM. PLEASE DON'T
6 HOLD THAT AGAINST THE STATE OR AGAINST THE IRBY FAMILY. IT
7 WAS NOT INTENTIONAL ON OUR PART. SO IF WE HAVE DONE ANYTHING
8 TO OFFEND YOU, I DO APOLOGIZE.

9 NOW, AS YOU HAVE SEEN OVER THE LAST DAYS, CRIMINAL CASES
10 ARE UNIQUE. IT'S LIVE TESTIMONY. YOU HAVE HEARD REFERENCE
11 TO NUMEROUS STATEMENTS BECAUSE STATEMENTS AREN'T ADMISSIBLE
12 EXCEPT WITH CERTAIN EXCEPTIONS. YOU HAVE ONE STATEMENT THAT
13 CAME IN BECAUSE IT MET THAT EXCEPTION. YOU HAVE THE
14 DEFENDANTS' STATEMENTS WHICH CAME IN BECAUSE IT MET THAT
15 EXCEPTION, BUT OTHER THAN THAT GENERALLY YOU'VE HEARD
16 DOCTORS' REPORTS GENERATED BY EXPERTS.

17 YOU'VE HEARD ABOUT DOCTORS' REPORTS, CORONER'S REPORTS,
18 THINGS OF THAT NATURE. THEY AREN'T ADMISSIBLE, AND THE
19 REASON FOR THAT IS VERY SIMPLE, LADIES AND GENTLEMEN:
20 BECAUSE IN OUR CONSTITUTION IT RECOGNIZES THE FACT THAT IT'S
21 VERY IMPORTANT THAT YOU AS A JURY BE ALLOWED TO SEE AND JUDGE
22 THE CREDIBILITY OF EVERY SINGLE WITNESS. THEY MUST COME
23 BEFORE YOU AND TESTIFY FOR YOU TO DETERMINE THEIR
24 CREDIBILITY. THERE ARE NO DEPOSITIONS, NO VIDEOTAPES. THOSE
25 AREN'T ALLOWED IN CRIMINAL COURT, BUT VERY SIMPLY THAT'S THE

1 REASON WE'VE HEARD REFERENCES TO REPORTS AND THINGS AND THEY
2 ARE NOT INTO EVIDENCE, AND THAT'S THE REASON FOR IT.

3 YOU'VE ALSO HEARD THAT THERE WERE OTHER WITNESSES
4 PERHAPS AT THE SCENE. THERE WERE OTHER INVESTIGATORS TAKING
5 STATEMENTS THAT NIGHT. THERE WERE OTHER PEOPLE OUT THERE.
6 THE STATE CANNOT CALL FORTH EVERY SINGLE WITNESS AND NEVER
7 DOES TO SAY THE SAME THING OVER AND OVER AGAIN. IT'S CALLED
8 CUMULATIVE.

9 WHAT WE ARE ALLOWED TO DO IS BRING FORTH EVERY WITNESS
10 WHO MAY HAVE SOMETHING TO CONTRIBUTE. EVERY PARTICIPANT IN
11 THIS EVENT OF THAT NIGHT WAS BROUGHT BEFORE YOU. I THINK YOU
12 HEARD ABOUT MR. JOHNSON. THE TESTIMONY WAS HE WAS PASSED OUT
13 IN HIS CAR. HE DIDN'T KNOW WHAT WAS GOING ON, SO, THEREFORE,
14 YOU DIDN'T HEAR FROM HIM.

15 MR. JOHNSON: OBJECTION, YOUR HONOR.

16 MS. CAMPBELL: THAT'S THE REASON---

17 MR. JOHNSON: OBJECTION, YOUR HONOR. THERE WAS NO
18 TESTIMONY THAT MR. JOHNSON WAS---

19 THE COURT: ALL RIGHT. JUST LET'S MOVE ALONG,
20 SOLICITOR.

21 MS. CAMPBELL: YES, SIR.

22 THE COURT: LET'S STICK WITH THE EVIDENCE.

23 MS. CAMPBELL: I BELIEVE INVESTIGATOR GOFF TESTIFIED TO
24 THAT.

25 THE COURT: THANK YOU.

1 MS. CAMPBELL: SO THAT'S THE REASON YOU DON'T HEAR FROM
2 EVERY SINGLE PERSON THAT WAS OUT THERE THAT NIGHT OR EVERY
3 SINGLE PERSON INVOLVED IN THIS INVESTIGATION. NOW, THE
4 BURDEN OF PROOF IS ON THE STATE OF SOUTH CAROLINA TO PROVE
5 THESE DEFENDANTS' GUILT BEYOND A REASONABLE DOUBT, AND LET ME
6 REPEAT THAT. THE BURDEN OF PROOF IS ON THE STATE TO PROVE
7 THEM GUILTY BEYOND A REASONABLE DOUBT, AND I SUBMIT, LADIES
8 AND GENTLEMEN, IN THIS CASE WITH THIS EVIDENCE AND THESE
9 FACTS, THAT IS THE BURDEN THE STATE WELCOMES.

10 WHAT IS REASONABLE DOUBT? PROOF BEYOND A REASONABLE
11 DOUBT? AND IN THE PAST OUR COURTS HAVE ATTEMPTED TO TRY TO
12 DEFINE WHAT REASONABLE DOUBT IS, AND THEY'VE GIVEN A VERY
13 SIMPLE EXPLANATION AND THEN GONE INTO SOME MORE DETAILS.
14 VERY SIMPLY, A REASONABLE DOUBT IS THE TYPE OF DOUBT THAT
15 CAUSES A REASONABLE PERSON TO HESITATE TO ACT.

16 BUT OUR COURTS HAVE GONE A LITTLE FARTHER IN THAT AND
17 GIVEN A LITTLE BIT MORE OF AN EXPLANATION. REASONABLE DOUBT
18 -- AND LISTEN AS THE JUDGE GOES THROUGH THIS WITH YOU. PROOF
19 BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY
20 CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW
21 THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY,
22 AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT
23 OVERCOMES EVERY POSSIBLE DOUBT. IF BASED ON YOUR
24 CONSIDERATION OF THE EVIDENCE YOU ARE FIRMLY CONVINCED - AND
25 I REPEAT - JUST FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY

1 OF THE CRIME CHARGED, YOU MUST FIND HIM GUILTY.

2 IF, ON THE OTHER HAND, YOU THINK THAT THERE IS A REAL
3 POSSIBILITY THAT HE IS NOT GUILTY, THEN YOU MUST GIVE HIM THE
4 BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY. AGAIN, PROOF
5 THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.
6 WE DON'T HAVE TO OVERCOME EVERY POSSIBLE DOUBT, JUST PROOF
7 THAT LEAVES YOU FIRMLY CONVINCED, ALTHOUGH I SUBMIT, LADIES
8 AND GENTLEMEN, IN THIS CASE, EVEN THOUGH IT WAS A CHAOTIC
9 SCENE THAT NIGHT AND DIFFERENT PEOPLE SAW DIFFERENT PARTS, I
10 SUBMIT OUR PROOF IS BEYOND A REASONABLE DOUBT, WAY BEYOND IT.

11 NOW, THE JUDGE WILL TELL YOU WHEN YOU GO BACK THERE THAT
12 YOU'LL HAVE TWO SEPARATE DEFENDANTS, AND YOU MUST DECIDE
13 THEIR GUILT SEPARATELY. THEY'RE NOT TO BE JUDGED GUILTY
14 BECAUSE YOU FIND ONE GUILTY. EACH ONE YOU MUST DETERMINE
15 THEIR GUILT.

16 ONE OF THE YOUNG MEN HAS TWO CHARGES AND THAT'S JACQUES
17 GIBSON. HE'S CHARGED WITH MURDER AND HE'S CHARGED WITH
18 POSSESSION OF A FIREARM UNDER THE AGE OF 21. THE SECOND
19 YOUNG MAN IS KARTEZ GIBSON, AND HE IS CHARGED WITH THE CRIME
20 OF MURDER. HE WASN'T UNDER 21.

21 WHAT ARE THE ELEMENTS OF MURDER? AND VERY SIMPLY,
22 LADIES AND GENTLEMEN, IT'S THE MOST SERIOUS OFFENSE CODIFIED
23 IN OUR LAWS. IT PROBABLY HAS THE SHORTEST DEFINITION, BUT I
24 WANT TO TALK TO YOU ABOUT SOME OF THE WORDS USED IN THE
25 DEFINITION. WHAT IS MURDER? IN OUR CODE OF LAWS MURDER IS

1 DEFINED AS THE UNLAWFUL KILLING OF ANY PERSON WITH MALICE
2 AFORETHOUGHT, EITHER EXPRESS OR IMPLIED. THE UNLAWFUL
3 KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT, EITHER
4 EXPRESS OR IMPLIED.

5 WHAT DO THOSE TERMS MEAN? MALICE AFORETHOUGHT. AND THE
6 JUDGE WILL INSTRUCT YOU MALICE AFORETHOUGHT MEANS THAT AT THE
7 TIME THE FATAL BLOW WAS STRUCK THERE MUST BE MALICE IN THAT
8 PERSON'S HEART, RIGHT BEFORE AND AT THE TIME OF IT. AND I'D
9 SUBMIT, LADIES AND GENTLEMEN, ON THE FACTS OF THIS CASE THERE
10 WAS MALICE EXISTING FOR AN APPRECIABLE AMOUNT OF TIME PRIOR
11 TO THE FATAL SHOT BEING BLOWN.

12 LISTEN CAREFULLY TO THE JUDGE. HE WON'T TELL YOU THERE
13 HAS TO BE ANY PREMEDITATION. THAT IS NOT AN ELEMENT OF
14 MURDER. HE WILL ALSO TELL YOU WE DON'T HAVE TO PROVE MOTIVE,
15 ALTHOUGH WE MAY. JUST AS WE CAN SHOW PREMEDITATION, JUST AS
16 WE CAN SHOW MOTIVE WHICH WE DO HAVE MOTIVE IN THIS CASE, WE
17 DON'T HAVE TO. VERY SIMPLY, ALL WE HAVE TO SHOW IS AN
18 UNLAWFUL KILLING OF A PERSON WITH MALICE AFORETHOUGHT.

19 AND WHAT DOES EXPRESS OR IMPLIED MEAN? VERY SIMPLY,
20 LADIES AND GENTLEMEN, THAT'S THE WAY THAT MALICE COMES FORTH.
21 IT'S NOT A DIFFERENT KIND OF MALICE. IF I WALK UP TO SOMEONE
22 AND LOOK AT THEM AND SAY, "I AM GOING TO KILL YOU," AND THEN
23 STAB THEM AND KILL THEM, THAT'S WHAT WE CALL EXPRESS MALICE,
24 BUT THE LAW RECOGNIZES THAT DOESN'T HAPPEN THAT OFTEN.

25 SO IT SAYS MALICE MAY BE INFERRED. YOU LOOK AT THE

1 CIRCUMSTANCES AND THE SURROUNDINGS OF WHAT THE PEOPLE ARE
2 DOING AT THE TIME THE CRIME OCCURS. YOU CAN INFER MALICE
3 FROM THE ACTIONS. MALICE MAY BE INFERRED FROM THE USE OF A
4 DEADLY WEAPON ALONE, AND THE JUDGE WILL INSTRUCT YOU - THERE
5 IS NO DISPUTE - THAT EITHER A .25 OR A NINE MILLIMETER IS A
6 DEADLY WEAPON. ANY PISTOL, ANY GUN, ANYTHING THAT CAN CAUSE
7 SERIOUS BODILY HARM OR ULTIMATELY DEATH IS CONSIDERED A
8 DEADLY WEAPON. IT CAN EVEN BE YOUR HANDS. SO THAT'S THE WAY
9 MALICE CAN BE EXPRESSED.

10 IN THIS THE JUDGE WILL INSTRUCT YOU ALL WHAT MALICE IS,
11 AND WHEN YOU THINK OF THE WORD MALICE I WOULD LIKE TO THINK
12 OF THE WORD MALICIOUS BECAUSE THAT'S KIND OF THE BASEBOARD.
13 IT'S A MALICIOUS ACT. IN ITS POPULAR SENSE IT CONVEYS THE
14 MEANING OF HATRED, ILL WILL, AND HOSTILITY TOWARDS ANOTHER,
15 BUT IT DOESN'T HAVE TO BE THAT, LADIES AND GENTLEMEN. IT
16 DOESN'T NECESSARILY HAVE TO BE ILL WILL TOWARDS THE
17 INDIVIDUAL INJURED, BUT IT SIGNIFIES, RATHER, A GENERAL
18 MALIGNANT RECKLESSNESS OF THE LIVES AND SAFETY OF OTHERS.
19 AND, LADIES AND GENTLEMEN, IF THAT DOESN'T SUM UP WHAT
20 HAPPENED BACK IN THE EARLY MORNING HOURS OF SEPTEMBER 5TH, I
21 DON'T KNOW WHAT DOES. AND LISTEN CAREFULLY. THE JUDGE MAY
22 GIVE YOU A SLIGHTLY DIFFERENT VERSION OF MALICE, BUT IT
23 SIGNIFIES GENERALLY A GENERAL MALIGNANT RECKLESSNESS OF THE
24 LIVES AND SAFETY OF OTHERS.

25 MALICE MAY BE INFERRED FROM THE WILLFUL, DELIBERATE, AND

1 INTENTIONAL DOING OF AN UNLAWFUL ACT AND THAT ALONE, AND I
2 SUBMIT, LADIES AND GENTLEMEN, HAVING A GUN OUT THERE THAT
3 NIGHT AND SHOOTING IS AN UNLAWFUL ACT. THAT ALONE CAN INFER
4 MALICE. THE FACT THAT A DEADLY WEAPON IS USED -- THE USE OF
5 A DEADLY WEAPON, YOU CAN INFER MALICE FROM THAT ALONE. IT IS
6 ANOTHER ITEM YOU CAN USE IN DETERMINING WHETHER OR NOT WHEN
7 DENNIS IRBY WAS KILLED THERE WAS MALICE IN THE HEART OF THE
8 GIBSONS. AND I SUBMIT, LADIES AND GENTLEMEN, PULLING OUT A
9 GUN AND FIRING IT INTO THE AIR, INTO THE GROUND, OR INTO A
10 CROWD SIGNIFIES A GENERAL MALIGNANT RECKLESSNESS OF THE LIVES
11 AND SAFETY OF OTHERS. IT CAUSED HIS DEATH. THAT IS THE
12 DEFINITION OF MURDER, AND LISTEN CAREFULLY AS THE JUDGE GIVES
13 IT TO YOU.

14 NOW, THE SECOND CHARGE YOU HAVE TO CONSIDER ON JACQUES
15 IS PRETTY SIMPLE. IT'S THE UNLAWFUL POSSESSION OF A PISTOL
16 BY A PERSON UNDER 21. IN OUR STATE THE LEGISLATURE
17 RECOGNIZES THAT PEOPLE UNDER 21 SHOULDN'T HAVE GUNS, SO THEY
18 MADE IT INTO A LAW. IT'S UNLAWFUL FOR A PERSON ENUMERATED IN
19 SUBSECTION A. - AND I'LL GET BACK TO THIS; THIS IS PART OF
20 SUBSECTION A. - TO POSSESS OR ACQUIRE HANDGUNS IN THIS STATE.

21 VERY SIMPLY, A PERSON UNDER THE AGE OF 21 -- UNLESS
22 YOU'RE IN THE ARMED FORCES OR IN TRAINING OR HAVE DUTY, THAT
23 IS THE ONLY TIME THAT IT IS LAWFUL FOR A PERSON UNDER 21 TO
24 HAVE A GUN. FOR A 17-YEAR-OLD TO HAVE A GUN AT A LOCAL BAR
25 IS NOT LAWFUL IN OUR STATE.

1 NOW, YOU HAVE HEARD EVIDENCE THAT PEOPLE WERE OUT THERE
2 DRINKING, INCLUDING POSSIBLY THE DEFENDANTS. THE JUDGE WILL
3 ALSO---

4 MR. JOHNSON: OBJECTION, YOUR HONOR. THERE'S NO
5 TESTIMONY AT ALL ABOUT THE DEFENDANTS DRINKING -- THEM
6 DRINKING. AGAIN, I ASK HER TO STICK TO THE RECORD, PLEASE.

7 THE COURT: ALL RIGHT. COUNSEL, I'M NOT GOING TO
8 PREVENT YOU FROM MAKING YOUR ARGUMENT. THE JURY IS GOING TO
9 BE THE FINAL ARBITER OF THE FACTS---

10 MS. CAMPBELL: YES, SIR.

11 THE COURT: ---AND I'LL LEAVE IT TO THEM TO BE THE FINAL
12 ARBITER OF THE FACTS. THANK YOU.

13 MS. CAMPBELL: THE JUDGE WILL CHARGE YOU THAT VOLUNTARY
14 INTOXICATION IS NEVER AN EXCUSE OR A DEFENSE TO A CRIME. IF
15 A PERSON DOES A CRIME WHEN THEY'RE VOLUNTARILY INTOXICATED,
16 IF THEY HAVE BEEN OUT DOING DRUGS OR DRINKING, HE IS NO LESS
17 RESPONSIBLE FOR HIS ACTS WHILE IN SUCH CONDITION. IF HE
18 VOLUNTARILY DRINKS INTOXICATING LIQUORS OR TAKE DRUGS AND
19 BECOMES INTOXICATED AND WHILE IN THAT CONDITION COMMITS AN
20 ACT WHICH WOULD BE A CRIME THAT COULD BE COMMITTED BY A SOBER
21 PERSON, THE FACT OF DRUNKENNESS OR INTOXICATION WOULD NOT
22 RELIEVE HIM OF RESPONSIBILITY.

23 MR. ROBERSON: YOUR HONOR?

24 THE COURT: YES, SIR.

25 MR. ROBERSON: MAY WE APPROACH?

1 THE COURT: ABSOLUTELY.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

3 MS. CAMPBELL: THERE'S ANOTHER RULE OF LAW THAT THE HAND
4 OF ONE IS THE HAND OF ALL. VERY SIMPLY, LADIES AND
5 GENTLEMEN, THE LAW RECOGNIZES THAT IF TWO OR MORE PEOPLE GET
6 TOGETHER AND ACT IN THE COMMISSION OF THE OFFENSE, THE ACT OF
7 ONE IS THE ACT OF BOTH OR ALL. TWO PEOPLE CAN BE GUILTY OF
8 KILLING ANOTHER WHEN ONLY ONE OF THE TWO HAD A PISTOL AND
9 ONLY ONE BULLET. IF THEY WERE BOTH TOGETHER, ACTING
10 TOGETHER, ASSISTING EACH OTHER IN THE COMMISSION OF THE
11 OFFENSE, THE LAW SAYS THAT UNDER THOSE CIRCUMSTANCES THE ACT
12 OF ONE IS THE ACT OF ALL, AND AS IT IS SOMETIMES SAID, THE
13 HAND OF ONE IS THE HAND OF ALL.

14 AND ONE OF THE BEST ILLUSTRATIONS OF THAT IS VERY SIMPLY
15 IN AN ARMED ROBBERY. TWO PEOPLE GO TO A CONVENIENCE STORE TO
16 COMMIT A ROBBERY. WHILE THERE, ONE ACTS AS THE LOOKOUT THERE
17 AT THE DOOR; THE SECOND GOES IN. WHILE IN THERE DOING THE
18 ROBBERY, THE GUN GOES OFF AND HE KILLS THE CLERK. HE IS
19 GUILTY OF MURDER AND SO IS THE LOOKOUT EVEN THOUGH THE
20 INTENTION WAS NEVER TO MURDER. HE IS HELD RESPONSIBLE FOR
21 THE ACTS OF THE PRINCIPAL, FOR ANYONE THERE AIDING AND
22 ASSISTING OR IN ANY WAY INVOLVED IN THE COMMISSION OF THE
23 CRIME. IT'S THE HAND OF ONE IS THE HAND OF ALL, AND LISTEN
24 CAREFULLY AS THE JUDGE INSTRUCTS YOU ON THAT LAW.

25 THERE'S ALSO BEEN SOME TESTIMONY ABOUT STATEMENTS IN

1 THIS CASE THAT WERE GIVEN BY THE DEFENDANTS, AND VERY SIMPLY
2 THE JUDGE WILL INSTRUCT YOU THAT BEFORE YOU CAN CONSIDER A
3 STATEMENT FROM EITHER DEFENDANT, YOU MUST DETERMINE WHETHER
4 OR NOT IT WAS VOLUNTARILY MADE. HE WILL INSTRUCT YOU, AMONG
5 OTHER THINGS, THAT YOU MUST CONSIDER WHETHER OR NOT THE
6 DEFENDANT MADE THE STATEMENT. WAS HE WARNED OF HIS
7 CONSTITUTIONAL RIGHTS ALSO KNOWN AS HIS MIRANDA RIGHTS? DID
8 HE KNOWINGLY AND INTELLIGENTLY WAIVE HIS CONSTITUTIONAL
9 RIGHTS AND WAS THE STATEMENT GIVEN VOLUNTARILY? YOU MUST
10 MAKE THAT DETERMINATION BEFORE YOU CAN CONSIDER WHETHER OR
11 NOT HE GAVE A STATEMENT VOLUNTARILY. IT MUST BE DETERMINED
12 BY YOU AS THE JURY BEFORE YOU CAN CONSIDER THE STATEMENTS
13 AGAINST THEM.

14 YOU'VE ALSO HEARD SOME QUESTIONS ABOUT IDENTIFICATION IN
15 THIS CASE. THE JUDGE WILL ALSO OUTLINE -- AND I DON'T KNOW
16 EXACTLY WHAT HE WILL TELL YOU ABOUT IDENTIFICATION OTHER THAN
17 YOU MUST DETERMINE WHETHER OR NOT IDENTIFICATIONS ARE
18 RELIABLE. WHEN DOING THAT, YOU CAN CONSIDER FACTORS SUCH AS
19 CORROBORATION OF OTHER WITNESSES AND THINGS LIKE THAT. WAS
20 THE DEFENDANT EVEN OUT THERE? YOU CAN CONSIDER DID HE HAVE
21 THE OPPORTUNITY TO OBSERVE, THE DISTANCE FROM THE DEFENDANT,
22 LIGHTING CONDITIONS, PAYING ATTENTION TO THE DEFENDANT,
23 ACCURACY OF DESCRIPTION.

24 WITNESSES: WERE THEY CONFIDENT OF THEIR OUT-OF-COURT
25 I.D. WHILE IN COURT? WAS THERE A BIAS, A PREJUDICE, A REASON

1 TO IDENTIFY THE DEFENDANT? WAS THE LINE-UP SUGGESTIVE? YOU
2 CAN CONSIDER ALL OF THOSE FACTORS WHEN DETERMINING WHETHER OR
3 NOT A PERSON HAS MADE AN ACCURATE IDENTIFICATION. AND I
4 SUBMIT, LADIES AND GENTLEMEN, I DON'T THINK THERE'S A LOT OF
5 DISPUTE THAT BOTH JACQUES GIBSON AND KARTEZ GIBSON WERE OUT
6 THERE THAT NIGHT. THOSE ARE FACTORS YOU CAN CONSIDER WHEN
7 CONSIDERING IDENTIFICATION.

8 THE LAST THING I WANT TO TALK TO YOU ABOUT -- WELL, YOU
9 ALSO ARE GOING TO HEAR ABOUT THERE ARE TWO KINDS OF EVIDENCE:
10 CIRCUMSTANTIAL AND DIRECT EVIDENCE. AND VERY SIMPLY WHAT'S
11 THE DIFFERENCE? DIRECT EVIDENCE IS EVIDENCE OF EYEWITNESSES.
12 THAT'S TYPICALLY WHAT IT IS. A PERSON WHO WAS AT A CRIME
13 SCENE AND OBSERVED OR SAW OR HEARD CERTAIN THINGS HAPPEN.
14 EYEWITNESS TESTIMONY: IT'S THAT WHAT YOU SENSE AND YOU GET
15 THROUGH YOUR SENSES. YOU HEAR, SEE, FEEL, TOUCH.

16 ON THE OTHER HAND, CIRCUMSTANTIAL EVIDENCE IS PROOF OF A
17 SET OF CIRCUMSTANCES FROM WHICH YOU CAN INFER SOMETHING SUCH
18 AS THE FACT THAT THE .22 -- THE BULLET PART THAT CAME FROM
19 THE AUTOPSY, YOU CAN INFER THAT -- EXCUSE ME. A NINE
20 MILLIMETER WAS RECOVERED AT THE AUTOPSY. IT IS THEN
21 REASONABLE FOR YOU TO INFER THAT DENNIS IRBY DIED AS A RESULT
22 OF A NINE MILLIMETER HANDGUN. THAT IS A REASONABLE INFERENCE
23 FROM THAT EVIDENCE.

24 IN THIS CASE -- AND THE JUDGE WILL TELL YOU ONE KIND OF
25 EVIDENCE IS NO BETTER THAN THE OTHER OR VICE VERSA. IN THIS

1 CASE YOU HAVE CIRCUMSTANTIAL EVIDENCE AND DIRECT EVIDENCE AND
2 THEY CORROBORATE EACH OTHER, AND I'LL GET BACK TO THAT.

3 YOU ALSO HEARD FROM SOME PEOPLE WHO ARE QUALIFIED AS
4 EXPERTS: THE BALLISTICS, THE PATHOLOGIST, PEOPLE LIKE THAT.
5 AND THERE'S A REASON FOR THAT, LADIES AND GENTLEMEN. AND YOU
6 CONSIDER THEIR TESTIMONY THE SAME WAY AS EVERYONE ELSE'S
7 BECAUSE BEFORE SOMEONE CAN COME IN HERE AND GIVE AN OPINION
8 -- I'M NOT AN EXPERT, SO I COULDN'T GIVE AN OPINION. BEFORE
9 THEY CAN DO THAT, THEY MUST BE QUALIFIED AS AN EXPERT BECAUSE
10 OF THEIR TRAINING OR THEIR SPECIALTY IN THE FIELD. SO THAT'S
11 WHY YOU HEARD CERTAIN PEOPLE GET QUALIFIED AS EXPERT
12 WITNESSES. SO THEY WERE ABLE TO GIVE YOU AN OPINION BECAUSE
13 THEY'RE TRAINED AND IT WAS APPROPRIATE FOR THEM TO DO SO.

14 THE LAST THING I WANT TO TALK TO YOU ABOUT ON THE LAW IS
15 THE CREDIBILITY OF WITNESSES. VERY SIMPLY, THE JUDGE WILL
16 TELL YOU: YOU CAN BELIEVE ALL OF THE WITNESSES AGAINST ONE,
17 ONE AGAINST ANOTHER, SOME OF A WITNESS, NONE OF A WITNESS,
18 ALL OF A WITNESS. IT'S TOTALLY UP TO YOU. YOU JUDGE
19 CREDIBILITY. AND I SUBMIT, LADIES AND GENTLEMEN, WHEN
20 JUDGING CREDIBILITY, BRING THAT ONE THING EACH OF YOU HAS
21 BROUGHT TO THIS COURTROOM: YOUR COMMON SENSE.

22 THE JUDGE WILL ALSO TELL YOU SOME OTHER FACTORS: IS
23 THERE A BIAS OR A PREJUDICE? WAS THERE -- THE DEMEANOR OF
24 THE WITNESS ON THE STAND. WAS HE FORTHRIGHT OR HESITANT?
25 WAS THE TESTIMONY OF THE WITNESS CONSISTENT? WAS THE

1 TESTIMONY OF A WITNESS CORROBORATED BY THE OTHER WITNESSES OR
2 THE PHYSICAL EVIDENCE? DID HE HAVE A REASON TO BE BIASED OR
3 PREJUDICED?

4 HE WILL ALSO INSTRUCT YOU -- YOU HEARD ABOUT A COUPLE OF
5 WITNESSES HAVING PRIOR RECORDS. THAT'S NOT TO SLAM THEIR
6 CHARACTER. THAT'S ONLY SOMETHING YOU CAN CONSIDER WHEN
7 CONSIDERING WHETHER OR NOT THEY'RE CREDIBLE. IT GOES TO
8 THEIR CREDIBILITY.

9 THE DEFENSE IS GOING TO GET UP HERE AND TALK ABOUT HOW
10 SHUNTA WILSON DIDN'T THE FIRST NIGHT SAY IT WAS A .22 OR A
11 .25 OR IT WASN'T IN HER STATEMENT. THEN HE'S GOING TO TALK
12 ABOUT RED VERSUS WHITE. INCONSISTENCIES. AND WHEN YOU THINK
13 OF THE WORD INCONSISTENCIES, IT NEEDS TO SOMETHING
14 SIGNIFICANT THAT'S INCONSISTENT.

15 IF TWO PEOPLE ARE AT A CORNER -- AND I SUBMIT, LADIES
16 AND GENTLEMEN, THERE BETTER BE SOME INCONSISTENCIES BECAUSE
17 IF TWO PEOPLE ARE STANDING AT THE CORNER, OPPOSITE SIDES OF
18 THE STREET, AND THERE'S A CAR WRECK AND RIGHT AFTERWARDS
19 THEY'RE ASKED TO DESCRIBE IT... WHO RAN THE RED LIGHT? WHO
20 HIT THE CAR FIRST? DEPENDING ON THEIR VANTAGE POINT,
21 DEPENDING ON THEIR OPINION, THEY ARE TELLING THE TRUTH, BUT
22 THEY MAY SEE IT SLIGHTLY DIFFERENTLY. ONE MAY SAY THE CAR IS
23 BROWN; ONE MAY SAY THE CAR IS TAN. ONE MAY SAY IT LOOKED
24 WHITE TO THEM BECAUSE OF THE SUN.

25 SO I SUBMIT, LADIES AND GENTLEMEN, THE FACT IS EACH ONE

1 OF THESE WITNESSES, WITH THE EXCEPTION OF SOMEONE I'LL GET
2 BACK TO, HAS COME FORTH AND THEY'VE BEEN FORTHCOMING. WHAT
3 MAKES THEM CREDIBLE? THINK ABOUT IT. THE GUYS FROM
4 WINNSBORO, DID THEY ALL GET UP THERE AND SAY, "WE SAW THOSE
5 TWO MEN SHOOTING"? NO, BECAUSE IT'S NOT CREDIBLE. THEY CAME
6 IN HERE AND TOLD YOU AS MUCH AS THEY COULD ABOUT WHAT THEY
7 SAW BASED ON WHERE THEY WERE, WHO THEY WERE FIGHTING, AND
8 WHAT WAS GOING ON. DID A COUPLE OF THEM SEE SOMEONE
9 SHOOTING? RAVARIS? YES. BUT DEPENDING ON WHERE THEY WERE
10 -- AND I SUBMIT, LADIES AND GENTLEMEN, THAT'S WHAT MAKES THEM
11 CREDIBLE.

12 CREDIBILITY IS KEY AND I'D SUBMIT, LADIES AND GENTLEMEN,
13 WHEN YOU LOOK AT THE CREDIBLE WITNESSES IN THIS CASE AND
14 CONSIDER THEIR TESTIMONY, THE EVIDENCE IS IS THAT TWO PEOPLE
15 BACK ON SEPTEMBER 5TH - ONE WAS KARTEZ GIBSON AND THE OTHER
16 ONE WAS JACQUES GIBSON - WERE OUT THERE THAT NIGHT. KARTEZ
17 HAD CALLED IN THE BACK-UP. HE HAD GOTTEN THE GUNS THERE, AND
18 TOGETHER THEY CAUSED THE DEATH OF DENNIS IRBY. THE HAND OF
19 ONE IS THE HAND OF ALL BECAUSE BUT FOR KARTEZ GIBSON, JACQUES
20 NEVER GOES THERE. BUT FOR WHAT'S IN KARTEZ GIBSON'S CAR,
21 JACQUES GIBSON NEVER SHOOTS.

22 YOU HEARD FROM, I BELIEVE, ABOUT 15 WITNESSES FROM THE
23 SCENE AND, AS YOU'VE HEARD NOW, TWO DIFFERENT GROUPS. AND IN
24 PREPARING FOR ANY CASE, YOU ALWAYS TRY AND ANTICIPATE WHAT
25 THE DEFENSE IS GOING TO BE. TYPICALLY IN A MURDER CASE IT

1 CAN BE ANYTHING FROM WRONG GUY, WASN'T THERE, DIDN'T DO IT.
2 IT REALLY WASN'T A MURDER; IT WAS SELF-DEFENSE. THINGS OF
3 THAT NATURE. BUT AS I HAVE LISTENED OVER THE LAST SEVERAL
4 DAYS, I THOUGHT, WELL, THIS IS KIND OF A WEIRD COMBINATION
5 BECAUSE WE HAVE HEARD ABOUT HOW, NO, THEY COULDN'T HAVE SEEN
6 WHO THEY SAW, BUT SHA-SHA WAS OUT THERE.

7 AND THEN THEY ATTACK THE POLICE FOR TAKING THE STATEMENT
8 WHICH THEY THEN GO OVER, AND IT'S KIND OF THE OLDEST DEFENSE
9 IN THE BOOK. THERE'S AN OLD SAYING: IF THE LAW ISN'T WITH
10 YOU AND THE FACTS AREN'T WITH YOU, THEN JUST STIR UP THE POT.
11 AS I LISTENED TO MR. ROBERSON'S OPENING STATEMENT -- AND HE
12 SAID BASICALLY WHAT IS OBVIOUS: THERE IS NO DISPUTE AND THE
13 STATE DOES NOT SUBMIT THAT THE .25 CALIBER HANDGUN THAT
14 KARTEZ GIBSON HAD CAUSED THE DEATH OF DENNIS IRBY.

15 AND AS I LISTENED TO MR. JOHNSON, HE SAID IN HIS OPENING
16 THAT YOU WOULD FIND THAT THERE WERE THREE GUNS OUT THERE: A
17 .22, A .25, AND A NINE MILLIMETER. HE TALKED ABOUT HOW WE
18 CAN'T PROVE TRAJECTORY, AND HE'S RIGHT. WE CAN'T PROVE
19 TRAJECTORY ON LIVE PEOPLE. AND HE TALKED ABOUT HOW WE NEVER
20 RECOVERED THE GUNS IN THIS CASE, AND HE'S RIGHT. HIS CLIENT
21 AND ADAMS GIBSON GOT RID OF THE GUNS. AND THEN HE TALKED
22 ABOUT HOW EVERY ONE OF THE STATE'S WITNESSES - AND THIS IS TO
23 QUOTE HIM - WAS GOING TO COME UP AND PUT THEIR HAND ON THE
24 BIBLE AND NOT TELL THE TRUTH. AND FINALLY HE REMINISCED
25 ABOUT THE HOCKEY TEAM COMING TO COLUMBIA AND HOW HE OBSERVED

1 THE HOCKEY GUY GO OUT AND TAKE HIS MACHINE AND SMOOTH OUT THE
2 ICE AND HOW THAT YOUR JOB WAS LIKE THAT MAN'S: IS TO MAKE IT
3 A LEVEL PLAYING FIELD SO BOTH SIDES HAVE THE OPPORTUNITY TO
4 WIN.

5 LADIES AND GENTLEMEN, THIS ISN'T A CONTEST. THIS ISN'T
6 A CONTEST BETWEEN LAWYERS. THIS ISN'T A BASKETBALL GAME
7 BETWEEN WINNSBORO AND RIDGEWAY. THIS IS REAL LIFE. TO SAY
8 IT'S A GAME? THIS IS ABOUT WHAT HAPPENED TO DENNIS IRBY ON
9 HIS LAST DAY ON THIS EARTH. IT'S ABOUT FINDING THE TRUTH.

10 YOU KNOW, THERE'S AN OLD JOKE FROM LAW SCHOOL. IT'S
11 ABOUT A LAWYER AND A PREACHER. THEY'RE WALKING DOWN THE
12 STREET. THEY'RE ON A SIDEWALK, A COUNTRY SIDEWALK, AND ON
13 EITHER SIDE THERE'S MUD AND IT'S BEEN RAINING AND THERE'S A
14 PUDDLE OF MUD ON ONE SIDE. THE PREACHER LOOKS DOWN AND LOOKS
15 IN THE PUDDLE AND HE SEES A SILVER DOLLAR, AND THE LAWYER
16 PICKS UP A STICK AND HE TURNS IT UP, AND YOU CAN'T SEE IT
17 ANYMORE. IT'S CLOUDED. IT'S COVERED OVER. AND HE SAYS,
18 "WHAT SILVER DOLLAR?"

19 LADIES AND GENTLEMEN, I WANT TO TAKE THIS OPPORTUNITY TO
20 TALK ABOUT THE FACTS IN THIS CASE, THE COLD, HARD,
21 UNCONTROVERTED FACTS. AND YOU HEARD FROM A LOT OF DIFFERENT
22 PEOPLE WHO SAW A LOT OF DIFFERENT THINGS FROM A LOT OF
23 DIFFERENT ANGLES.

24 THE FIRST THING WE DO KNOW ABOUT WHAT HAPPENED AT THE
25 SCENE IS TORRI BOYD AND BAM GET INTO IT. NOW, INSIDE THE

1 CLUB THERE'S ALREADY BEEN AN ARGUMENT INVOLVING KARTEZ
2 GIBSON, AND THERE'S NO DISPUTE THAT HAPPENED BECAUSE EVEN
3 SHA-SHA IN HIS OWN STATEMENT SAYS THAT THERE WAS TROUBLE WITH
4 THE BOYS FROM WINNSBORO AND THAT'S WHY KARTEZ CALLED HIM.
5 WHY WOULD YOU CALL IN YOUR BROTHER? BECAUSE THE NUMBERS
6 WEREN'T RIGHT? ALL THREE OF THEM WERE FIGHTING. IF IT'S
7 JUST A NUMBERS GAME... HE'S CALLING IN THE BACK-UP WITH THE
8 GUN. HE KNOWS THEY'RE GOING TO GO INTO IT, AND HE WANTS TO
9 MAKE SURE HE'S GOT THE UPPER HAND, WHICH HE DID.

10 IT'S ERUPTING. IT'S GETTING LOUDER AND LOUDER, AND YOU
11 HEARD FROM THE TWO UNBIASED PEOPLE IN THIS CASE. AND
12 REMEMBER IT'S MELVIN DEWITT AND SHUNTA WILSON. THEY'RE TWO
13 PEOPLE THAT DON'T KNOW ANYBODY INVOLVED. THEY DON'T KNOW ONE
14 OF THESE PEOPLE. THEY DON'T HAVE A DOG IN THIS FIGHT.

15 ONCE OUTSIDE, THERE IS NO DISPUTE. TORRI BOYD -- I
16 MEAN, DEMETRIC DAVIS. DEMETRIC DAVIS IS FIGHTING TORRI BOYD.
17 AND YOU HEARD FROM BOTH OF THEM, AND I SUBMIT DEMETRIC DAVIS
18 DID TRY TO HELP OUT. AND WHO CAN BLAME HIM? THOSE ARE HIS
19 FRIENDS. I CAN'T REMEMBER IF THOSE ARE HIS COUSINS.

20 TORRI BOYD GOT UP THERE AND TOLD YOU THE BEEF WAS WITH
21 HIM. IT WAS OVER SOMETHING THAT HAD HAPPENED IN THE PAST,
22 THAT HE WAS IN A BEEF WITH KARTEZ AND BAM, THAT WHEN HE WENT
23 OUTSIDE BAM GOT STRAIGHT INTO HIS FACE.

24 NOW, AT THAT POINT KARTEZ HAS ALREADY CALLED IN HIS
25 LITTLE BROTHER WITH THE CAR WITH THE GUNS. BOTH OF THEM

1 ADMIT AND FROM THE OTHER EYEWITNESSES, NO ONE DOWN THERE IN
2 THE FISTFIGHT WAS SHOOTING BECAUSE THAT'S OVER WHERE DENNIS
3 IRBY IS. THEY'RE OVER THERE. EVERYONE THAT'S IN THE
4 FISTFIGHT CAN'T BE THE SHOOTER.

5 YOU CAN FIGURE OUT WHO DO THIS JUST AS A PROCESS OF
6 ELIMINATION. TORRI BOYD AND DEMETRIC DAVIS SIMPLY COULDN'T
7 HAVE BEEN THE SHOOTERS THAT NIGHT. TORRI BOYD, AS YOU
8 REMEMBER, WAS TOO BUSY GETTING HIS FACE BEAT IN. REMEMBER
9 HOW IT WAS BLEEDING?

10 THE NEXT TWO THAT WERE IN THE FIGHT: RAVARIS HENRY AND
11 TRAMELE DAVIS. REMEMBER, TRAMELE IS THE ONE THAT TOOK OFF
12 HIS SHIRT BECAUSE HE WAS HOT. HE GOES UP AND THROWS A BLOW
13 AT RAVARIS; THEY GET INTO IT IMMEDIATELY. THEY'RE STILL
14 FIGHTING. UNCONTROVERTED, EVERY SINGLE WITNESS SAYS THAT,
15 WHETHER YOU'RE FROM RIDGEWAY OR WINNSBORO.

16 AT THAT POINT MARCUS TUCKER, AS HE SAYS, TAKES THE ONLY
17 ONE LEFT: ANTWAN MARTIN. THE ONLY ONE LEFT WILLING TO
18 FIGHT. AT THAT POINT THE TWO OF THEM -- EVERYBODY FROM
19 WINNSBORO SAYS THIS; EVERYBODY FROM THE OTHER SIDE SAYS THIS.

20 SO RIGHT OFF THE BAT THESE SIX PEOPLE CAN'T BE THE
21 SHOOTER. SO WHO DOES THAT LEAVE OUT THERE THAT NIGHT? YOU
22 HAVE OVER IN THE CAR STEPHON WILLINGHAM WHO DOESN'T EVEN KNOW
23 WHY HE'S THERE. VERNON DAVIS, A 16-YEAR-OLD WHO IS HALF
24 ASLEEP, AND JACQUES GIBSON WHO IS THERE TO GET HIS BROTHER'S
25 BACK.

1 JACQUES GETS OUT OF THE CAR, GOES INTO, BY HIS OWN
2 ADMISSION, THE CLUB, LEAVES SHORTLY THEREAFTER WHEN IT'S ALL
3 GOING OUTSIDE. AND WHY ARE THEY GOING OUTSIDE? IT'S A
4 FISTFIGHT. SO WHO'S LEFT? ANTONIO SMITH, YO-YO. EVEN
5 JACQUES SAYS HE COULDN'T BE THE SHOOTER BECAUSE HE TOLD HIM
6 TO BACK DOWN AND HE DID.

7 DENNIS IRBY? IT'S UNCONTRADICTED BY BOTH SIDES: HE'S A
8 PEACEMAKER THAT NIGHT OR ATTEMPTING TO BE BEFORE HIS DEATH.
9 ADAMS KARTEZ GIBSON, HE'S AN AGGRESSOR. HE'S IN IT UP TO HIS
10 EYEBALLS. HE'S THROWN A COUPLE OF PUNCHES, BUT HE'S NOT DOWN
11 ON THE GROUND STRUGGLING WITH ANYBODY, AND THE REASON FOR
12 THAT, LADIES AND GENTLEMEN, IS THIS IS HIS FIGHT. HE AND
13 BAM. IT'S BECAUSE HE'S GOT BETTER THINGS TO DO.

14 AND YOU HEARD FROM SHUNTA WILSON, AND THE DEFENSE IS
15 GOING TO GET UP HERE AND SAY SHE'S THE ONLY ONE THAT SAYS
16 ADAMS DID ANYTHING. THAT'S NOT REALLY TRUE. SHE'S TOTALLY
17 CORROBORATED BY MELVIN DEWITT AS FAR AS THE PLACEMENT OF
18 WHO'S LEFT OUT THERE. THE ONLY PEOPLE THAT COULD HAVE THE
19 GUNS, UNLESS YOU THINK THE TWO YOUNG MEN IN THE CAR COULD
20 HAVE DONE IT - THEY WHO HAVE NO BEEF WITH ANYBODY - UNLESS
21 YOU THINK THOSE TWO, THE ONLY TWO OUT THERE THAT COULD BE THE
22 SHOOTER IS KARTEZ AND HIS BROTHER, SHA-SHA.

23 AND I SUBMIT, LADIES AND GENTLEMEN, IT IS INCREDIBLE IF
24 ANYONE GETS UP HERE AND TRIES TO SAY THESE TWO MEN WEREN'T
25 INVOLVED IN THE SHOOTING. IT IS UNDISPUTED HE DID, AND IN

1 HIS STATEMENT HE DOESN'T SAY HE DID IT IN SELF-DEFENSE. HE
2 JUST SAYS HE'S OUT THERE. HE SAYS SOMEBODY GOT SOMETHING OUT
3 OF THE CAR. HE DIDN'T SAY IT WAS WHO.

4 DID HE MEAN TO SHOOT DENNIS IRBY? I DON'T KNOW IF HE
5 MEANT TO SHOOT EVERYBODY. IT DOESN'T MATTER. THE MIRACLE IN
6 THIS CASE IS MORE PEOPLE WEREN'T SHOT. IT DOESN'T MATTER
7 WHETHER HE MEANT TO OR NOT IF HE'S ACTING WITH MALICE:
8 GENERAL DISREGARD FOR THE LIVES AND SAFETY OF OTHERS.

9 LAKISHA DAVIS IS OUT THERE, BUT NO ONE DISPUTES LAKISHA
10 DID IT. SO THESE ARE ALL THE PLAYERS YOU HAVE, AND WHO'S GOT
11 THE BEEF? KARTEZ, DEMETRIC, TRAMELE, MARCUS, AND ULTIMATELY
12 JACQUES IS CALLED TO THE SCENE. THOSE ARE THE PLAYERS.

13 YOU HEARD FROM A SERIES OF LAW ENFORCEMENT PEOPLE AS
14 WELL AS MEDICAL. THE FIRST OFFICER ON THE SCENE - SHE GOT
15 THERE WITHIN A MINUTE - IS STACEY DAVIS. SHE DOES HER BEST
16 TO SECURE THE SCENE; IT'S CHAOTIC. AS RAVARIS TOLD YOU
17 OPENLY, HE WAS OUT OF CONTROL. HE WAS TRYING TO PICK UP HIS
18 FRIEND. HE WAS SO UPSET THAT HE WAS SHOT. SHUNTA WILSON BY
19 THAT TIME IS OVER THERE TRYING TO HELP DENNIS IRBY.

20 SHE SECURES THE SCENE. SHE IS ABLE TO LOCATE THREE
21 SHELL CASINGS RIGHT THERE ABOUT 30 TO 40 FEET FROM THE FRONT
22 DOOR. AND REMEMBER THE NINE MILLIMETER - THIS MAKES SENSE;
23 THIS CORROBORATES WHAT ALL THE WITNESSES SAY - IS ABOUT --
24 WHAT WAS IT? 85 TO 90, MAYBE 90, 95 - I DON'T REMEMBER THE
25 EXACT NUMBER - FEET FURTHER AWAY FROM THE FRONT DOOR.

1 YOU HEARD FROM LIEUTENANT ZANE PADGETT WHO WAS A
2 SUPERVISOR OF DEDRA BROWN. HE REVIEWED HER NOTES AND TOLD
3 YOU ABOUT CERTAIN THINGS, WHY WE COULDN'T GET GUNSHOT
4 RESIDUE, WHY CERTAIN THINGS WERE DONE AND NOT DONE. HE TOLD
5 YOU ABOUT THAT.

6 YOU HEARD FROM DAVID GOFF. HE WAS ONE OF THE
7 INVESTIGATORS OUT THERE THAT NIGHT TAKING STATEMENTS. HE
8 TALKED TO YOU A LITTLE BIT ABOUT THE SCENE AND WHAT THEY
9 FOUND. THE TYPES OF STATEMENTS THEY TAKE ARE PRELIMINARY
10 STATEMENTS SO THAT WHEN THE INVESTIGATOR IS ASSIGNED TO THE
11 CASE HE HAS SOMETHING TO GO ON.

12 SERGEANT ANNA CLEMMONS ATTENDED THE AUTOPSY SO THAT SHE
13 COULD COLLECT THE PROJECTILE BECAUSE IT WAS VERY IMPORTANT IN
14 THIS CASE TO DETERMINE WHAT TYPE OF GUN KILLED DENNIS IRBY.
15 INVESTIGATOR DAVID COLLINS: HE'S IMPORTANT. HE'S A
16 BALLISTICS EXPERT. I CALL IT BALLISTICS. IT'S FIREARMS AND
17 TOOLMARK, I BELIEVE. AND WHAT WAS HE ABLE TO TELL YOU? HE
18 WAS ABLE TO TELL YOU THAT THE BULLET -- PROJECTILE, RATHER,
19 FROM THE AUTOPSY WAS A NINE MILLIMETER, THAT ONE OF THE SHELL
20 CASINGS FOUND THERE WAS A NINE MILLIMETER. YOU CAN'T COMPARE
21 THEM TO EACH OTHER, BUT YOU CAN SAY THEY'RE CONSISTENT.

22 AND IN ADDITION TO THAT, THE THREE .25 'S THAT ARE FOUND
23 RIGHT UP AT THE UPPER PARKING LOT TOGETHER RIGHT NEAR THE
24 FRONT DOOR ARE ALL FROM THE SAME GUN. WHAT IS THAT IMPORTANT
25 FOR? BECAUSE IT CORROBORATES WHAT EACH OF THE WITNESSES SAYS

1 ABOUT THE SHOTS, THE ONES THAT WERE ACTUALLY ABLE TO HEAR
2 THEM. REMEMBER THE POW, POW, POW FIRST? THE POP? AND THEN
3 THE STRONGER GUN. IT CORROBORATES SHUNTA, AND THAT'S VERY
4 IMPORTANT. HE ALSO TOLD YOU THAT THE PIECES OF LEAD THAT
5 WERE RECOVERED FROM SHUNTA'S TIRE WERE CONSISTENT WITH A NINE
6 MILLIMETER. IT COULD BE ANOTHER LARGER CALIBER, BUT IT
7 COULDN'T BE A .25.

8 SO, LADIES AND GENTLEMEN, I SUBMIT THE EVIDENCE IN THIS
9 CASE IS OVERWHELMING THAT THERE WERE TWO GUNS OUT THERE THAT
10 NIGHT. TWO. AND EVERYTHING ABOUT THE FORENSICS AND THE
11 BALLISTICS IN THIS CASE TOTALLY CORROBORATES THAT. EVEN
12 JACQUES GIBSON CORROBORATES THAT.

13 YOU HEARD FROM LIEUTENANT MARK MCCOLMAN. THEY WENT TO
14 THE AREA WHERE HE SAID HE THREW THE GUN. AND VERNON DAVIS
15 SAYS IT MAY HAVE BEEN SOMEWHERE ELSE, BUT ANYWAY THEY WENT
16 THERE. THEY LOOKED FOR IT. IT WASN'T RECOVERED.

17 INVESTIGATED JAY RUSSELL PROCESSED THE CAR. THEY HAD
18 ALREADY GOTTEN RID OF THE PROJECTILES. SERGEANT JOHN EWING
19 WENT ON THE SEARCH WARRANT, AIDED EVERYBODY THERE, TALKED
20 ABOUT THE 380 THAT WAS RECOVERED IN THE BACK BEDROOM.

21 INVESTIGATOR JASON WILLOUGHBY TOOK A STATEMENT, AND
22 REMEMBER WHEN HE MADE CONTACT WITH JACQUES GIBSON? IT'S VERY
23 IMPORTANT BECAUSE THE FIRST THING HE SAID WAS HE'D ALREADY
24 PREPARED A STATEMENT AND GAVE IT TO HIM. AND REMEMBER THE
25 TESTIMONY FROM ALL OF THEM? THEY'D GOTTEN TOGETHER TO MAKE

1 SURE THEIR STORIES WERE STRAIGHT, AND THE PEOPLE THAT ARE
2 MAKING SURE THE STORIES ARE STRAIGHT WERE -- THERE'S FOUR
3 PEOPLE: KARTEZ, JACQUES, AND THE TWO GUYS THAT ARE IN THE
4 CAR WITH THEM. AND WHY ARE THOSE THE ONLY FOUR? BECAUSE
5 THOSE ARE THE ONLY FOUR THAT ACTUALLY WERE SURE. THEY SAW
6 WHAT HAPPENED THAT NIGHT. THAT'S WHY IT WAS IMPORTANT TO GET
7 THEIR STORIES STRAIGHT.

8 KARTEZ WANTED TO MAKE SURE HE DISTANCED HIMSELF AS FAR
9 AS HE COULD FROM THIS CRIME SCENE, AND HE WANTED TO MAKE SURE
10 EVERYBODY GOT THEIR STORY STRAIGHT. SO BEFORE THE POLICE
11 EVEN CONTACT JACQUES GIBSON, HE'S GOT A STATEMENT WRITTEN OUT
12 SO HE CAN GET IT RIGHT.

13 YOU ALSO HEARD FROM OTHER INVESTIGATORS INCLUDING SHAWN
14 MCDANIELS AND SMITH. YOU HEARD FROM THE E.M.T. AND DR.
15 NICHOLS. THE ANGLE THE BULLET WENT IN, IT WENT INTO THE BACK
16 OF HIS SHOULDER, UPPER ARM/SHOULDER AREA, AND IT LODGED IN
17 HIS SPINE. WAS DENNIS IRBY TURNED TO GET AWAY FROM THE SHOTS
18 WHEN HE GOT HIT WITH THAT GUNSHOT? IS IT CONSISTENT WITH
19 THAT? NO MATTER WHAT, NOBODY IS GOING TO GET UP HERE AND
20 TELL YOU THE NINE MILLIMETER DIDN'T CAUSE HIS DEATH THAT
21 NIGHT.

22 NOW, I WANT TO TALK TO YOU A LITTLE BIT ABOUT THE
23 DEFENDANTS' STATEMENTS AND WHAT THEY SAID. WHEN INVESTIGATOR
24 -- WHEN CAPTAIN STAN SMITH INITIALLY MADE CONTACT WITH THE
25 DEFENDANT ADAMS GIBSON, HE ADVISED HIM OF HIS RIGHTS AS HE

1 SHOULD. IT WAS AN ORAL ADVICE BECAUSE HE WAS OUT IN THE
2 FIELD.

3 HOWEVER, HE AGREED TO TELL HIM BRIEFLY WHAT HIS ROLE WAS
4 IN THE SHOOTING THAT NIGHT. REMEMBER, HE KNEW WHY THEY WERE
5 THERE. HE TOLD CAPTAIN SMITH THAT HE DIDN'T SEE WHO DID THE
6 SHOOTING BECAUSE HE WAS SITTING IN ANOTHER CAR IN THE PARKING
7 LOT. THAT'S WHAT HE INITIALLY TOLD THE POLICE. HE WAS
8 SITTING IN ANOTHER CAR.

9 SO THEN INVESTIGATOR SERGEANT MCDANIELS COMES AND GETS
10 HIM AND TRANSPORTS HIM TO COLUMBIA, AND AS HE'S BEING
11 TRANSPORTED TO COLUMBIA, WHAT IS GOING THROUGH HIS MIND? WAS
12 HE THINKING PERHAPS THAT WON'T STICK? TOO MANY PEOPLE SAW ME
13 OUT THERE THAT NIGHT DOING THE SHOOTING?

14 SO HIS STORY CHANGES SLIGHTLY, AND HE GIVES A STATEMENT.
15 BASICALLY HE SAYS HE'S NOT INVOLVED IN THE ALTERCATION
16 INSIDE. HE CALLED HIS BROTHER, SHA-SHA, TO COME AND PICK HIM
17 UP. I WASN'T IN THE CIRCLE. I JUST CAME BACK DOWN FROM THE
18 HILL FROM PICKING UP LAKISHA DAVIS, AND LAKISHA DAVIS DOESN'T
19 EVEN SAY THAT. NO ONE SAYS THAT. THE BURGUNDY CAR BELONGED
20 TO LAKISHA, AND SHE WENT TO SEE WHAT THEY WERE DOING. SHE
21 TOLD ME TO GET THEM BOYS BECAUSE DAVIS, A.K.A. BAM, WAS HER
22 COUSIN.

23 HE PUTS HIMSELF AS THE PEACEMAKER. HE PUTS HIMSELF AS A
24 VICTIM. "I WAS STANDING NEXT TO YO-YO, AND I SAID 'LET IT BE
25 ONE ON ONE WITH TORRI AND BAM.' THE NEXT THING I DID WAS RUN

1 BACK TO THE ALTIMA. WE ALL JUMPED IN." THAT'S HIS ROLE THAT
2 NIGHT, ACCORDING TO HIM. AND I SUBMIT, LADIES AND GENTLEMEN,
3 YOU'VE HEARD FROM WITNESS AFTER WITNESS ABOUT WHAT ALL KARTEZ
4 GIBSON DID OUT THERE THAT NIGHT, AND I SUBMIT: WHY WOULD HE
5 GIVE THIS STORY IF HE DIDN'T PARTICIPATE?

6 "AFTER YOU HEARD THE SHOTS, WHERE DID YOU GO?" "I RAN
7 TO THE ALTIMA." "WHO WAS LEFT INSIDE THE FORD ESCORT?" "MY
8 BROTHER, SHA-SHA." HE WAS JUST AN INNOCENT BYSTANDER,
9 ACCORDING TO HIS STATEMENT.

10 HIS STATEMENTS, THE INITIAL STATEMENT THAT HE WROTE, THE
11 ONE THAT THEY GOT TOGETHER AND THEY FIGURED IT OUT... "SO
12 WHEN I GOT THERE, I WENT IN AND GOT MY BROTHER, AND THAT'S
13 WHEN THEY STARTED ARGUING. SO I WENT AND GOT IN THE CAR, AND
14 MY BROTHER WENT AND GOT IN BAM AND THEM CAR. SO I WAS LIKE,
15 'Y'ALL CHILL OUT,' AND THAT'S WHEN THEY STARTED FIGHTING.
16 THEN I HEARD THE SHOOTING, AND I RAN OFF." AT THAT POINT NO
17 ONE HAD TOLD HIM WHOSE SHOT HAD KILLED DENNIS IRBY.

18 MR. JOHNSON: OBJECTION, YOUR HONOR. THERE'S NO
19 EVIDENCE OF THAT.

20 THE COURT: I'M GOING TO ALLOW THE SOLICITOR TO ARGUE.
21 YOU CAN ARGUE THE FACTS. ULTIMATELY, THE JURY IS GOING TO
22 DECIDE WHAT THE FACTS ARE IN THIS CASE. THANK YOU.

23 MS. CAMPBELL: THIS IS DONE BEFORE HE'S EVER ARRESTED.
24 HE BRINGS THIS TO THE POLICE WHEN HE'S ARRESTED. HE'S THEN
25 TRANSPORTED. HE GIVES AN INITIAL STATEMENT ABOUT WHAT

1 HAPPENED THAT NIGHT, AND NOTICE IN EVERY ONE OF HIS
2 STATEMENTS -- WE GIVE JACQUES CREDIT. HE'S VERY CAREFUL TO
3 SAY KARTEZ DID NOTHING.

4 "CAN YOU DESCRIBE THE EVENTS?" "I WAS IN RIDGEWAY. HE
5 TOLD ME TO COME TO COLUMBIA AND PICK HIM UP AT CHANCE'S CLUB
6 BECAUSE BAM AND THEM HAD TO GO -- HAD GOTTEN INTO IT WITH THE
7 BOYS FROM WINNSBORO." HE GAVE HIM THINGS. THE CAR THAT
8 BELONGS TO KARTEZ, HE PULLS IN. HE GOES INSIDE; THE OTHER
9 GUYS STAY IN THE ESCORT.

10 THEN HE TALKS ABOUT THE ARGUMENT. HE SAYS THAT THE GUY
11 FROM WINNSBORO WENT OVER TO A GRAY S.U.V. AND GOT SOMETHING
12 OUT OF THE BACK AND PUT IT IN HIS POCKET. THEN HE WALKED
13 OVER BACK OVER BY THE CLUB. HE SAID, "I THOUGHT IT MIGHT BE
14 A GUN, BUT I DIDN'T SEE ONE." THAT'S IN HIS FIRST STATEMENT.
15 HE'S ALREADY SETTING IT UP.

16 THEY STARTED FIGHTING. "WHAT HAPPENED TO KARTEZ? DID
17 YOU HAVE A GUN?" "NO, SIR." THAT'S HIS SECOND STATEMENT,
18 THE ONE HE GAVE WHEN HE WAS INITIALLY... BUT THINK ABOUT IT.
19 JACQUES, SHA-SHA, HAD KNOWN WHAT HE HAD DONE THAT NIGHT. DO
20 YOU THINK IT WAS GETTING TO HIM?

21 SO WHEN INVESTIGATOR -- SERGEANT MCDANIELS GOES BACK TO
22 TALK TO HIM AND SAYS, "I'M GOING TO NEED TO KNOW WHAT REALLY
23 HAPPENED THAT NIGHT," HE ADMITS THAT HE WAS SHOOTING. HE
24 ADMITS THAT HE STARTED SHOOTING IN THE AIR, WHICH IS
25 SUPPORTED BY THE TESTIMONY, UNTIL HE BROUGHT IT DOWN TO

1 GROUND LEVEL. AND YOU'LL HAVE HIS STATEMENTS AND YOU CAN
2 READ THEM.

3 HE DOESN'T SAY HE WAS BEING SHOT AT. HE DOESN'T SAY ANY
4 OF THAT. BUT WHAT HE DOES SAY IS THAT, AND, LADIES AND
5 GENTLEMEN, ON THE NIGHT IN QUESTION, GUNFIRE RINGS OUT AND
6 DENNIS IRBY GOES DOWN. AND YOU HEARD FROM VERNON DAVIS THIS
7 MORNING THAT LAKISHA THAT NIGHT KNEW SOMEONE HAD BEEN SHOT,
8 EVEN THOUGH SHE DIDN'T SAY THAT. AND I SUBMIT: YOU JUDGE
9 THE CREDIBILITY OF EVERYONE WHO CAME BEFORE YOU.

10 WHY DID THEY LEAVE THE SCENE IN SUCH A HURRY? WHY WAS
11 IT SO IMPORTANT TO GET OUT OF THERE? WHY DID KARTEZ NEED FOR
12 HIS LITTLE BROTHER TO COME TALK TO HIM RIGHT AFTERWARDS, COME
13 MEET HIM AT HIS HOUSE? WHY DID THEY GET RID OF THE GUNS IF
14 THEY ONLY SHOT UP IN THE AIR?

15 THE DEFENSE IS GOING TO GET UP HERE AND THEY'RE GOING TO
16 SAY TO YOU THAT YOU CAN'T CONVICT BECAUSE THEY GOT RID OF THE
17 GUNS, AND I SUBMIT, LADIES AND GENTLEMEN, THAT'S EVIDENCE.
18 YOU CAN CONVICT ON THE TESTIMONY OF ONE WITNESS ALONE IF YOU
19 THINK THEY'RE CREDIBLE, AND I WOULD SUBMIT IN THIS CASE,
20 LADIES AND GENTLEMEN, THERE'S NOT JUST ONE WITNESS. THERE IS
21 WITNESS AFTER WITNESS AFTER WITNESS, AND WHAT IS THE ONE
22 CONSISTENT THING THAT THEY POINT TO? THAT'S THAT JACQUES
23 GIBSON WAS SHOOTING OUT OF THAT CAR THAT NIGHT AND THAT THERE
24 WAS ANOTHER PERSON STANDING BEHIND OR NEAR THAT CAR THAT WAS
25 SHOOTING.

1 YOU HEARD FROM MELVIN DEWITT AND YOU ALSO HEARD FROM
2 OTHER WITNESSES THAT SAID THE AREA IT WAS COMING FROM. AND
3 SHUNTA WILSON IS THE ONE PERSON THAT NIGHT WHO WAS WILLING TO
4 COOPERATE, THAT GOT A LOOK AT THAT PERSON, AND WAS ABLE TO
5 NOT ONLY GIVE A DESCRIPTION OF HIM BUT WAS ABLE TO PICK HIM
6 OUT OF A LINE-UP.

7 AND DOES IT MAKE SENSE? PROCESS OF ELIMINATION.
8 YO-YO'S NOT TRYING TO SHOOT DENNIS IRBY. THESE TWO GUYS
9 DON'T HAVE A DOG IN THE FIGHT. THERE'S NO DISPUTE THERE WAS
10 TWO SETS -- THERE WAS TWO GUNS OUT THERE THAT NIGHT AND THAT
11 THERE WERE TWO DIFFERENT PEOPLE SHOOTING. AND VERY SIMPLY,
12 LADIES AND GENTLEMEN, IT DOESN'T MATTER WHICH ONE FIRED THE
13 BULLET THAT KILLED HIM, EVEN THOUGH IT WAS JACQUES' GUN.

14 THE DEFENSE MAY GET UP HERE AND TRY TO SAY THAT OUR
15 WITNESSES WERE INCONSISTENT AND, AGAIN, LADIES AND GENTLEMEN,
16 I WOULD SUBMIT THERE BETTER BE SOME INCONSISTENCIES OR
17 SOMEBODY'S GOTTEN SWIFT. EACH OF THESE WITNESSES AGAIN
18 DIDN'T GET UP HERE AND SAY: I SAW KARTEZ SHOT. I SAW
19 JACQUES. THEY TOLD YOU WHAT THEY COULD BASED ON WHAT THEY
20 WERE ABLE TO OBSERVE AND WHAT THEY WERE DOING AT THE TIME.

21 THEY'RE GOING TO GET UP HERE AND SAY THAT YOU SHOULDN'T
22 CONVICT BECAUSE THEY DIDN'T CHARGE THESE GUYS? THAT WE
23 DIDN'T CHARGE THESE GUYS WITH MURDER? THE HAND OF ONE IS THE
24 HAND OF ALL. THE TWO PEOPLE OUT THERE ACTIVELY PARTICIPATING
25 TOGETHER WITH GUNS WERE CHARGED UNDER THE HAND OF ONE IS THE

1 HAND OF ALL. AND THAT'S ALL THE STATE ASKS YOU TO FIND IS TO
2 HOLD THEM RESPONSIBLE FOR THEIR RESPECTIVE ROLES BECAUSE BUT
3 FOR KARTEZ GIBSON, JACQUES DOESN'T GET OUT THERE. BUT FOR
4 KARTEZ SHOOTING FIRST, MAYBE HE WOULDN'T FEEL EMBOLDENED
5 ENOUGH TO SHOOT HIM BECAUSE THERE'S NO DISPUTE THAT IF HE
6 HADN'T MADE THAT PHONE CALL, DENNIS IRBY WOULD BE ALIVE AND
7 WELL ON THIS EARTH TODAY.

8 THE DEFENSE MAY GET UP HERE AND SAY IT ACCIDENTALLY WENT
9 OFF; THE GUN ACCIDENTALLY WENT OFF. I'D SUBMIT, LADIES AND
10 GENTLEMEN, WE KNOW THREE OF THOSE SHOTS WERE DIRECTLY AT THE
11 CROWD BECAUSE THE TWO CARS -- AND YOU'LL HAVE THE PICTURES.
12 THE TWO CARS WHOSE TIRES THEY HIT - THIS IS STATE'S EXHIBIT
13 41 - ARE STANDING RIGHT NEXT TO THE PLACE WHERE DENNIS IRBY
14 GETS SHOT. THIS ISN'T A RANDOM MISFIRE. THIS ISN'T SHOOTING
15 UP IN THE AIR.

16 MALICIOUS? RECKLESS? AND HE'LL GET UP HERE AND SAY
17 THERE'S NO MOTIVE? I'D SUBMIT HE HAD MOTIVE. WE DON'T HAVE
18 TO PROVE IT - LISTEN TO THE JUDGE - BUT HE HAD IT. HE WAS
19 COVERING FOR HIS BROTHER. THAT'S MOTIVE. AND LISTEN
20 CAREFULLY TO THE JUDGE. HE'S NOT GOING TO INSTRUCT YOU THAT
21 YOU HAVE TO HAVE PREMEDITATION TO BE GUILTY OF MURDER, ONLY
22 THAT YOU HAVE TO HAVE MALICE JUST BEFORE AND AT THE TIME THE
23 FATAL BLOW WAS STRUCK.

24 ON SEPTEMBER 5TH OF 2005 DENNIS IRBY WAS TRYING TO BREAK
25 UP A FIGHT, WHAT HE THOUGHT WAS A FISTFIGHT. HE WAS TRYING

1 TO DO THE RIGHT THING. HE DIDN'T KNOW THAT IT WAS TOO LATE
2 AT THAT POINT. THE GUNS WERE ALREADY THERE, AND EVERYONE
3 THAT NEEDED THEM HAD ACCESS TO THEM. HE GETS SHOT WHEN
4 SOMEONE SPRAYS GUNSHOTS INTO A CROWD, AND I'D SUBMIT, LADIES
5 AND GENTLEMEN, THAT'S MURDER. IF HE SHOOTS INTO THE GROUND
6 AND KILLS SOMEONE, THAT'S MURDER. IF YOU SHOOT INTO THE AIR
7 AND KILL SOMEONE, THAT'S MURDER BECAUSE IT'S RECKLESS
8 DISREGARD FOR THE LIVES AND SAFETY OF OTHERS.

9 DENNIS IRBY'S LAST WORDS WERE, "I DON'T WANT TO DIE."
10 HE'S GONE AND HE CAN'T BE BROUGHT BACK, BUT THOSE MEN CAN BE
11 HELD RESPONSIBLE FOR THE SERIES OF EVENTS THEY SET IN MOTION,
12 THAT THEY CAUSED, THAT THEY CARRIED OUT. HOLD THEM
13 RESPONSIBLE - THEY'RE ADULTS - FOR THEIR DECISIONS AND FIND
14 THEM BOTH GUILTY FOR THE MURDER THEY COMMITTED. THANK YOU.

15 THE COURT: ALL RIGHT. MR. ROBERSON?

16 MR. ROBERSON: MAY IT PLEASE THE COURT?

17 THE COURT: YES, SIR.

18 MR. ROBERSON: MR. FOREMAN, I MUST APOLOGIZE AGAIN. THE
19 LATTER PART OF LAST WEEK I HAD A TERRIBLE EAR INFECTION THAT
20 STILL HASN'T CLEARED UP. SO WHEN I WAS ASKING THE JUDGE TO
21 HAVE THEM TO SPEAK LOUDER, I WASN'T BEING CUTE. I STILL HAVE
22 SOME OF THE EFFECTS OF THAT.

23 MS. CAMPBELL, MR. LAKE, MR. JOHNSON, MR. FOREMAN, LADIES
24 AND GENTLEMEN OF THE JURY, THIS MORNING ABOUT 5:00 MY
25 DAUGHTER CALLED ME AND SAID SHE NEEDED A RIDE TO WORK BECAUSE

1 AS SHE WENT TO LOOK AT HER CAR ALL THE ANTIFREEZE WAS ON THE
2 CARPORT. WHAT HAS BEEN CUSTOMARY OVER THE YEARS WHEN I'M
3 NEAR MY DAUGHTER AND SHE'S AROUND AND WHEN I'M ABOUT TO GO
4 INTO A TRIAL, SHE ALWAYS ASKS ME TWO QUESTIONS: "DAD, WHAT
5 ARE YOU GOING TO TELL THEM AND HOW ARE YOU GOING TO TELL
6 THEM?" I ALWAYS HAVE TWO RESPONSES, AND IT NEVER CHANGED AND
7 IT WILL NOT CHANGE. WHAT ARE YOU GOING TO TELL THEM, DAD?
8 I'M GOING TO TELL THEM THE TRUTH. HOW ARE YOU GOING TO TELL
9 THEM? SLOW AND EASY.

10 WHEN I STOOD BEFORE YOU ON MONDAY, I CHALLENGED YOU TO
11 LISTEN, LISTEN VERY, VERY CAREFULLY BECAUSE WHAT YOU WILL
12 HEAR, HOW YOU HEAR IT, HOW YOU WILL APPLY WHAT YOU HEARD TO
13 THE LAW IS CRITICAL TO ADAMS GIBSON, AND I ASK ON HIS BEHALF
14 TO GIVE HIM YOUR UNDIVIDED ATTENTION. AND I WANT YOU TO
15 RETURN WITH ME FOR A COUPLE OF MINUTES BECAUSE I TOLD YOU
16 THAT IT WAS A HOLIDAY WEEKEND. HE GOT OUT OF BED. IT WAS IN
17 THE MORNING; THEY HAD BREAKFAST.

18 DURING THE COURSE OF THE DAY, THEY VISITED SEVERAL
19 RELATIVES AND FRIENDS WHO WERE HAVING A COOKOUT. HE RETURNED
20 HOME LATER THAT AFTERNOON AND DROPPED HIS SON OFF ON THE WAY
21 BACK TO ANOTHER ONE OF HIS FRIEND'S HOUSE. AT THAT POINT HE
22 RAN INTO MS. LAKISHA DAVIS. THERE HAD BEEN A DEATH IN
23 LAKISHA DAVIS'S FAMILY. SHE WAS GRIEVING. SHE WANTED TO GET
24 OUT OF RIDGEWAY FOR A LITTLE WHILE.

25 SHE ASKED ADAMS GIBSON TO RIDE WITH HER TO THE BOWLING

1 CENTER, NOT A NIGHTCLUB, TO RIDE WITH HER TO A BOWLING
2 CENTER. THERE WERE THREE OTHER PERSONS WHO "GOT IN THAT CAR
3 AND RODE TO THE BOWLING CENTER. WHEN THEY ARRIVED, THE
4 BOWLING CENTER WAS ABOUT TO CLOSE. THEY LEFT. THEY JUST
5 HAPPENED UPON CHANCE'S AND SAW SOME CARS. THEY WENT INTO
6 CHANCE'S, RAN INTO SOME FELLOWS FROM RIDGEWAY.

7 IT TURNS OUT THAT THERE HAD BEEN SOME BAD BLOOD BETWEEN
8 SOME OF THE FELLOWS FROM RIDGEWAY AND SOME OF THE FELLOWS
9 FROM WINNSBORO. THERE HAS BEEN NO TESTIMONY THAT THAT BAD
10 BLOOD WAS CREATED, FESTERED, OR FEARED BY ADAMS GIBSON.

11 LAKISHA DAVIS WANTED SOME HOT WINGS. SHE WALKED UP TO
12 THE WAFFLE HOUSE. WHEN SHE CAME BACK, THERE WAS AN ARGUMENT
13 BREWING. IN THE MIDST OF ALL OF THAT, ADAMS GIBSON GOT ON
14 THE PHONE AND CALLED HIS LITTLE BROTHER: COME TO COLUMBIA
15 AND PICK ME UP. BAM AND THOSE BOYS HAVE GOTTEN INTO IT. HE
16 EXPLAINED TO HIS LITTLE BROTHER HOW TO GET TO COLUMBIA AND
17 HOW TO GET TO CHANCE'S AND HE ASKED HIM HOW TO DO SO. HE WAS
18 DRIVING A WHITE FORD ESCORT, AND HE FOLLOWED THE
19 INSTRUCTIONS.

20 WHAT ADAMS GIBSON SAID HAS BEEN CORROBORATED BY THE
21 STATE'S WITNESSES BECAUSE IT'S THE STATE'S WITNESS WHO SAID
22 HE HEARD ADAMS GIBSON SAY, "BAM AND THOSE BOYS GOT INTO IT.
23 COME AND GET ME OUT OF COLUMBIA." THE SAME THING ONE OF THE
24 PASSENGERS IN THE CAR SAID HE HEARD ANOTHER PERSON REPEAT:
25 THERE'S TROUBLE IN COLUMBIA. COME TO CHANCE'S TO GET ME.

1 LET'S TALK ABOUT THESE WITNESSES THAT THE STATE PUT UP
2 THAT SAID THESE WITNESSES' STORIES THEY WEREN'T CONSISTENT
3 WITH THE EXCEPTION OF ONE OF THOSE STATE'S WITNESSES. I WILL
4 SAY TO YOU THAT THEY WERE CONSISTENT. SOME OF THEM, THEY
5 ADDED THINGS, BUT THEY WERE CONSISTENT, AND LET'S TALK ABOUT
6 HOW CONSISTENT THEY WERE AS IT RELATED TO ADAMS GIBSON.

7 ANTWAN SMITH -- AND I WON'T BORE YOU WITH A LOT. HE DID
8 NOT SEE ADAMS WITH A GUN. HAD ON WHITE TEE SHIRT, BLUE
9 JEANS. ANTWAN SMITH.

10 TORRI BOYD - HE'S THE MUHAMMAD ALI OF ALL OF THIS - DID
11 NOT SEE WHO WAS IN THE FIGHT. I HEARD MORE SHOTS. HE DID
12 NOT SEE ADAMS OR HIS BROTHER IN A FIGHT. WHO IS IN THE MIDST
13 OF THE FIGHT? WHO IS STARTING THE FIGHT? WHO CAUSES OTHER
14 PEOPLE TO BE ENGAGED IN THIS FIGHT? TORRI BOYD. WHO IS IN A
15 POSITION TO SEE WHO'S FIGHTING? TORRI BOYD. DID HE EVER SEE
16 ADAMS GIBSON FIGHTING, FROM HIS OWN MOUTH AND HIS OWN WORDS?
17 HE COULD NOT SEE ADAMS FIGHTING.

18 RAVARIS HENRY DID NOT SEE ADAMS FIGHT, NEVER SAW ADAMS
19 WITH A GUN. HEARD ABOUT NINE SHOTS. HE DID NOT SEE WHO DID
20 THE SHOOTING. ANTWAN MARTIN DID NOT SEE ADAMS WITH A GUN,
21 DID NOT SEE WHAT CAR HE LEFT IN, DID NOT SEE HIM FIGHTING.

22 MELVIN DEWITT, A 13-LINE STATEMENT. THIRTEEN LINES. HE
23 WAS ONE OF THE PERSONS WHO WAITED TO SPEAK TO THE POLICE TO
24 TELL THEM WHAT HE SAW, AND HE TOLD THEM HIS STORY IN 13
25 LINES. HE IS ONE OF THE PERSONS WHO, BECAUSE OF HIS MILITARY

1 EXPERIENCE AND BECAUSE OF HIS EXPOSURE TO WEAPONS, COULD TELL
2 WHAT KINDS OF WEAPONS WERE BEING FIRED ON THAT NIGHT, HOW
3 MANY WERE BEING FIRED, AND WHAT KIND THEY WERE. BUT WHEN HE
4 WAS PRESSED TO TELL YOU WHAT A .38 SOUNDS LIKE, HE COULDN'T
5 TELL YOU. WHEN HE WAS PRESSED TO TELL YOU WHAT A .44 MAGNUM
6 SOUNDS LIKE, HE COULDN'T TELL YOU. WHEN HE WAS PRESSED TO
7 TELL YOU WHAT A .357 MAGNUM SOUNDS LIKE, HE COULDN'T TELL
8 YOU. BUT ON THIS WITNESS STAND HE BASICALLY COVERED FROM THE
9 BEGINNING TO THE ENDING WHAT HAPPENED INSIDE THE CLUB AND
10 OUTSIDE THE CLUB. AND IT WAS IMPORTANT THAT HE COME IN AND
11 TELL HIS STORY LAST WEEK TO THE SOLICITOR'S OFFICE.

12 HE HAS A CELL PHONE. HE HAS A LAND-BASED PHONE. HE
13 SAYS HE'S RIDDEN THE BUS. HE SAYS HE OWNS A CAR. MR.
14 DEWITT, HOW MANY TIMES DO YOU THINK YOU PASSED THE SHERIFF'S
15 DEPARTMENT OVER THE PAST ALMOST TWO YEARS NOW? WELL,
16 HUNDREDS OF TIMES. MR. DEWITT, HOW MANY PHONE CALLS DO YOU
17 THINK YOU MADE OVER THE PAST TWO YEARS OR SO? MANY. MR.
18 DEWITT, HOW MANY CALLS HAVE YOU MADE FROM THAT CELL PHONE?
19 MANY. HOW MANY TIMES DID YOU FEEL COMPELLED TO GO TO THE
20 SHERIFF'S OFFICE TO TELL THEM I HAVE SOME ADDITIONAL DETAILS
21 TO GIVE ABOUT WHAT HAPPENED ON 09/04/05? NOT ONE TIME.

22 HOW MANY TIMES DID HE PICK UP THE PHONE TO CALL THEM?
23 NOT ONE TIME. HOW MANY TIMES DID HE STOP BY TO GIVE THE
24 COMPLETE STATEMENT THAT HE GAVE FROM THAT WITNESS STATEMENT
25 THAT HE HAD TWO AND A HALF YEARS TO GIVE? NOT A SINGLE ONE.

1 NOT A SINGLE ONE. BUT IT WAS IMPORTANT THAT HE DO SO.

2 HE SAW THE GUN FIRED. HE COULDN'T DESCRIBE WHO WAS
3 FIRING THE WEAPONS. HERE'S A MAN WHO IS EXPERIENCED IN
4 FIREARMS, A MILITARY MAN, CONCERNED ABOUT WHAT HAPPENED THAT
5 NIGHT. DID ABSOLUTELY NOTHING. I APOLOGIZE ON HIS BEHALF.

6 LAKISHA DAVIS. SHE'S THE OWNER OF THE BURGUNDY ALTIMA
7 THAT ASKED KARTEZ ADAMS GIBSON TO RIDE WITH HER TO THE
8 BOWLING CENTER SO THAT SHE COULD GRIEVE AWAY FROM THE FAMILY
9 SETTING. SHE IS THE ONE WHO TESTIFIED ADAMS DID NOT HAVE A
10 GUN, WHITE TEE SHIRT, BLUE JEANS. SHE TESTIFIED THAT THEIR
11 MISSION WAS TO COME TO THE BOWLING CENTER. WHEN THE BOWLING
12 CENTER WAS CLOSED, THEY HAPPENED UPON CHANCE'S, AND THAT IS
13 HOW THEY ENDED UP THERE.

14 REMEMBER: TORRI BOYD SAID HE TOLD LAKISHA, "DON'T PUT
15 YOUR MONEY IN THE C.D. BOX." LAKISHA SAID SHE WASN'T EVEN
16 AWARE THAT THERE WAS EQUIPMENT IN THE PLACE THAT EVEN PLAYED
17 C.D.'S, THAT SHE DIDN'T HAVE A CONVERSATION WITH TORRI BOYD
18 HAVING ANYTHING TO DO WITH HOW SHE WAS GOING TO SPEND HER
19 MONEY. SHE WENT TO THE WAFFLE HOUSE. ALL OF THAT, LADIES
20 AND GENTLEMEN, IS CONSISTENT. NEVER SAW KARTEZ ADAMS GIBSON
21 IN A FIGHT. NEVER HAD ANY DISCUSSIONS ABOUT GUNS.

22 NO TALK ABOUT THE INCIDENT ON THE WAY BACK HOME. WHY?
23 BECAUSE ONE OF THE YOUNG MEN WAS THROWING UP. WHAT DID HE
24 HAVE ON? WHITE TEE SHIRT, BLUE JEANS. WHAT KIND OF CAR WAS
25 SHE DRIVING? BURGUNDY ALTIMA. DID SHE EVER SEE ADAMS GIBSON

1 GET IN THAT WHITE FORD ESCORT? NO.

2 TRAMELE DAVIS NEVER SAW ADAMS WITH A GUN, NEVER HAD ANY
3 DISCUSSIONS ABOUT A GUN, NEVER SAW ADAMS IN A FIGHT. HE'S A
4 PASSENGER IN THE CAR WITH THEM TO COLUMBIA AND BACK TO
5 RIDGEWAY. REALIZE HE COULDN'T EVEN REMEMBER WHAT ADAMS
6 KARTEZ GIBSON WAS WEARING.

7 ANTWAN SMITH. REMEMBER, ALL OF THESE ARE THE WITNESSES
8 PUT ON THIS STAND BY THE STATE OF SOUTH CAROLINA, NOT BY US.
9 THESE ARE THEIR WITNESSES. ANTWAN SMITH: ADAMS HAD NO GUN,
10 WHITE TEE SHIRT, BLUE JEANS. STEPHON WILLINGHAM: FOR LACK
11 OF A BETTER WORD, HE WAS PROBABLY ONE OF THE MORE SYMPATHETIC
12 AND SINCERE WITNESSES ON THE WITNESS STAND. HE REALLY
13 GRIEVED. HE REALLY GRIEVED FOR HIS FRIEND, AND HE WANTS THE
14 RIGHT THING DONE BY HIS FRIEND. NEVER SAW ADAMS FIGHTING.
15 NEVER SAW ADAMS WITH A GUN. DID NOT SEE HIM IN THE WHITE
16 FORD ESCORT.

17 MARCUS TUCKER DID NOT SEE ADAMS WITH A GUN, DID NOT SEE
18 ADAMS DISCHARGE A GUN. ADAMS RODE IN THE FRONT SEAT BACK TO
19 RIDGEWAY. HE SAW TRAMELE TAKE OFF HIS SHIRT, SAW TRAMELE
20 THROW THE FIRST PUNCH. HE SAW THE FIGHT BUT DID NOT SEE
21 ADAMS GIBSON FIGHTING.

22 SHUNTA WILSON. I BELIEVE SHE, TOO, WANTED TO SEE THE
23 RIGHT THING DONE. SHE WAS MOST ENGAGED IN TRYING TO GIVE AID
24 AND COMFORT TO MR. IRBY. SHE WAS SO MUCH IN CONTROL THAT SHE
25 WAS PUSHING HIM AWAY, HIS EMOTIONAL FRIENDS WHO WERE TRYING

1 TO HELP. IT'S VERY, VERY CLEAR, CLEAR ABOUT WHAT SHE WAS
2 DOING, WHAT WAS HAPPENING, WHY SHE WAS DOING IT. WHO WAS
3 ASSISTING AND WHO WAS NOT ASSISTING?

4 SHE DESCRIBES ADAMS GIBSON AS HAVING ON A BLACK, BLACK
5 TEE SHIRT, BLUE JEANS. 5'8", 5'9", 5'10", 235 POUNDS IS
6 ADAMS GIBSON. SHE SAW ADAMS GIBSON GO OVER TO THE WHITE FORD
7 ESCORT. FIRST HE GOT IN ON THE PASSENGER SIDE. WHEN SHE WAS
8 CHALLENGED BY MR. JOHNSON, THEN HE GOT IN ON THE DRIVER'S
9 SIDE. THEN HE WENT DOWN AND HE CAME UP WITH THIS SMALL BLACK
10 GUN, AND HE WAS THE ONLY ONE OUT THERE FIRING. THAT'S WHAT
11 SHE SAID. SMALL BLACK GUN.

12 DON'T FORGET NOW: SHE HAD JUST AS MUCH MILITARY
13 EXPERIENCE AND KNOWLEDGE AS MR. DEWITT. WHY? BECAUSE HER
14 HUSBAND IS A LOVER OF GUNS. SHE'S FROM A MILITARY FAMILY,
15 BEEN AROUND GUNS ALL HER LIFE. SHE, TOO, HAS THE SENSITIVE
16 EARS THAT CAN DISTINGUISH A .357 FROM A .380, A .25 FROM A
17 .22, A .44 MAGNUM FROM A .357. DO YOU REMEMBER I ASKED HER:
18 WHAT'S THE SOUND OF A .3820? GUESS WHAT? THERE IS NO SUCH
19 WEAPON AS A .3820. SHE WAS PREPARED TO DISCUSS THE SOUND,
20 BUT SHE JUST COULDN'T COME UP WITH IT. .22 OR .25.

21 NOW, SHE DIDN'T GIVE ANY WRITTEN STATEMENTS, BUT SHE
22 TALKED TO THEM. BUT STILL, WHEN PRESSED, SHE HAD TO ADMIT
23 THAT SHE SIGNED TWO WITNESS -- TWO WRITTEN STATEMENTS, BUT
24 THE POLICE OFFICER DIDN'T PUT EVERYTHING IN THERE THAT SHE
25 SAID. THESE ARE THE POLICE OFFICERS WHOSE MISSION IT IS TO

1 DO AN ACCURATE RECORDATION OF WHAT'S BEING TOLD BY THE
2 WITNESS, AND IT'S NOT THEIR RESPONSIBILITY TO PASS JUDGMENT
3 AT THAT POINT IN TIME AND DECIDE WHAT GOES INTO THESE
4 STATEMENTS.

5 THEN SHE ADMITS SHE READ THOSE STATEMENTS, KIND OF READ
6 THEM. SHE SAW THEM WRITE DOWN EVERYTHING SHE SAID, BUT THE
7 OFFICER LEFT SOMETHING OUT. AND THEN SHE ADMITTED THAT EVEN
8 ON THE THIRD PAGE OF ONE OF THE STATEMENTS SHE DID MAKE SOME
9 CORRECTIONS, SO SHE MUST HAVE READ IT.

10 VERNON DAVIS, HE NEVER SAW ADAMS WITH A GUN. HE NEVER
11 SAW HIM DISCHARGE A GUN. HE CAN'T REMEMBER WHAT HE WAS
12 WEARING.

13 LADIES AND GENTLEMEN, MS. CAMPBELL PROMISED YOU THAT I
14 WOULD COME UP HERE AND I WOULD COME UP WITH ALL THESE
15 ELABORATE THEORIES AND EXCUSES ABOUT WHAT ADAMS DID AND WHAT
16 HE DID NOT DO AND HOW IT APPLIES TO THE LAW AND HOW YOU OUGHT
17 TO TAKE THAT AND APPLY IT TO THE FACTS AND MAKE ASSUMPTIONS
18 BECAUSE ADAMS GIBSON DECIDED THAT HE DIDN'T HAVE A DOG IN
19 THAT FIGHT, WHEN THE GUYS FROM WINNSBORO AND RIDGEWAY DECIDED
20 THAT THEY WERE GOING TO HAVE A BEEF THAT HE GOT ON HIS PHONE
21 AND CALLED FOR HIS BROTHER TO COME AND GET HIM, THAT THAT WAS
22 THE SIGNAL FOR HIM TO COME PACKING. THAT'S THE WORD USED ON
23 THE STAND, BUT YOU DIDN'T HEAR ONE WITNESS, NOT A SINGLE
24 WITNESS FROM THIS WITNESS STAND...

25 THOSE WHO HEARD THE CONVERSATION, NOBODY -- NOBODY SAID

1 THEY HEARD ADAMS GIBSON OR THE PARTY WHO RECEIVED THE PHONE
2 CALL MENTION BRINGING A GUN, THAT ADAMS WAS GOING TO SETTLE A
3 SCORE. ADAMS WANTED TO GET OUT OF COLUMBIA BECAUSE HE DID
4 NOT WANT TO BE A PART OF IT. SO WHAT SHE'S PROMISED TO YOU,
5 I CANNOT DELIVER. WHAT I'M SAYING TO YOU IS: ADAMS GIBSON
6 DECIDED THAT HE DIDN'T WANT TO BE A PART OF THIS FIGHT. HE
7 WAS MAN ENOUGH TO STEP BACK AND CALL HIS BROTHER TO COME AND
8 GET HIM.

9 NOW, WAS THE TRUTH TOLD? I PROMISED MY DAUGHTER THAT
10 WHAT I WOULD TELL YOU BASED ON WHAT I HEARD AND WHAT I SAW
11 FROM THE WITNESS STAND, FROM THE EVIDENCE, THAT I WOULD TELL
12 YOU THE TRUTH. I CHALLENGED YOU FROM THE OUTSET TO LISTEN
13 CAREFULLY. LISTEN CAREFULLY. IT IS IMPORTANT TO ADAMS
14 GIBSON THAT YOU LISTEN BECAUSE YOU WILL DETERMINE WHETHER OR
15 NOT ADAMS HAD A GUN, THAT HE DISCHARGED A GUN, THAT HE EVEN
16 DISCUSSED THE GUN WITH ANYBODY. DID HE HAVE ON A WHITE TEE
17 SHIRT? DID HE HAVE ON BLUE JEANS? DID HE COME TO COLUMBIA
18 IN A BURGUNDY ALTIMA? DID HE LEAVE IN A WHITE FORD ESCORT?
19 DID ANYBODY SEE ADAMS GIBSON FIRE A SMALL CALIBER GUN? TALK
20 TO LAKISHA. SHE DESCRIBED A BIG GUY IN A BLACK TEE SHIRT
21 FIRING THAT GUN. THAT WAS NOT ADAMS GIBSON.

22 LADIES AND GENTLEMEN, IF THE HAND-OF-ONE-AND-THE-HAND-
23 OF-ALL THEORY HAS ANY APPLICATION, YOU HAVE TO BE SATISFIED
24 THAT ADAMS GIBSON PROCURED WHATEVER HAPPENED ON THAT NIGHT IN
25 SOME MALICIOUS, CALCULATED, EVIL WAY TO BRING ABOUT THE

1 RESULTS AND THEN PARTICIPATE IN THE FUNCTION THAT CAUSED IT
2 TO HAPPEN. I SUBMIT TO YOU YOU HAVE NOT HEARD THAT. IF THE
3 HAND-OF-ONE-AND-THE-HAND-OF-ALL THEORY HAS TO HAVE ANY
4 LEGITIMACY IN ITS APPLICATION TO THE FACTS OF THIS CASE --
5 TORRI BOYD WAS FIGHTING DEMETRIC. RAVARIS HENRY WAS FIGHTING
6 TRAMELE. ANTWAN MARTIN WAS FIGHTING MARCUS. YO-YO WAS ABOUT
7 TO FIGHT ADAMS. HAND OF ONE IS THE HAND OF ALL? EVERYBODY
8 IS FIGHTING. THEY'RE PARTICIPATING. THE HAND OF ONE IS THE
9 HAND OF ALL. WHO GETS CHARGED WITH MURDER? ADAMS GIBSON AND
10 JACQUES GIBSON.

11 HAS THE HAND OF ONE/THE HAND OF ALL BEEN APPLIED EQUALLY
12 TO THIS SET OF FACTS TO THE CONDUCT OF THE PEOPLE WHO --
13 EVERYBODY VERIFIES THERE WAS A MELEE, PEOPLE FIGHTING,
14 CURSING, PARTICIPATING IN THE CRIMINAL CONDUCT. WHO GETS
15 CHARGED? BECAUSE SOMEBODY DECIDED ADAMS AND JACQUES... THEY
16 DIDN'T CHARGE ANYBODY FROM WINNSBORO, BUT THEY ALL WERE
17 FIGHTING. THE HAND OF ONE IS THE HAND OF ALL.

18 I'M BETTING YOU THE JUDGE WILL NOT SAY A SINGLE WORD TO
19 YOU ABOUT VOLUNTARY INTOXICATION. YOU WERE PROMISED THAT YOU
20 WILL HEAR THE JUDGE TALK TO YOU ABOUT VOLUNTARY INTOXICATION
21 AND IT IS NOT AN EXCUSE. I BET HE WON'T TALK TO YOU ABOUT IT
22 BECAUSE NOBODY SAID ANYTHING ABOUT ADAMS GIBSON BEING
23 INTOXICATED.

24 THE JUDGE WILL TALK TO YOU ABOUT MERE PRESENCE. THE
25 FACT THAT YOU ARE IN AN AREA OR YOU'RE NEAR A SITUATION, AS

1 IN THIS ONE, THAT EVOLVED INTO CRIMINAL CONDUCT AND YOU'RE
2 THERE AND YOU'RE NOT PARTICIPATING, WITHOUT MORE THAT IS NOT
3 SUFFICIENT CONDUCT TO CAUSE THAT PERSON TO BE CHARGED WITH
4 ANY CRIMINAL OFFENSE. IF YOU'RE NOT SATISFIED THAT A PERSON
5 IS PARTICIPATING IN THE CRIMINAL ACTIVITY BUT HE IS MERELY
6 THERE, THEN YOU CANNOT FIND HIM GUILTY AND IT IS YOUR DUTY TO
7 ACQUIT HIM. IT IS YOUR DUTY TO ACQUIT HIM. WHEN I
8 CHALLENGED YOU, I SAID TO YOU THAT YOU DON'T HAVE TO
9 APOLOGIZE TO ANYBODY ABOUT DOING YOUR JOB BECAUSE IF YOU
10 DON'T HEAR IT FROM HERE, YOU DON'T HEAR IT.

11 IF WHAT YOU HEAR FROM HERE DOESN'T COMPORT WITH WHAT
12 HE'S TELLING YOU AS THE LAW, YOU ARE DUTY-BOUND TO ACQUIT
13 HIM. YOU SAY: ADAMS GIBSON, WE APOLOGIZE FOR YOU BEING
14 THERE FOR TRYING TO REMOVE YOURSELF FROM THIS FIGHT, BUT YOU
15 DIDN'T ANY COMMIT ANY CRIMINAL ACTS. WE'RE GOING TO ACQUIT
16 YOU. WE'RE GOING TO LET YOU GO BACK HOME WITH YOUR FAMILY.

17 MY MOTHER WAS A REAL GOOD COOK, AND AT THE END OF MOST
18 OF HER MEALS SHE WOULD ALWAYS HAVE US A LITTLE DESSERT, AND,
19 MAN, THAT WAS THE BIGGEST PART OF THE MEAL. WE HAD HEALTHY
20 FOOD, BUT THAT DESSERT WAS THE THING. THE DESSERT IN THIS
21 CASE IS IN THE LITTLE INCONSISTENCIES AND THE LIES, AND I
22 WANT Y'ALL TO KNOW THAT.

23 I BROUGHT A LITTLE POEM FOR US THAT I WANT TO SHARE WITH
24 YOU. "TELL ALL THE TRUTH, BUT TELL IT SLANT - SUCCESS IN
25 CIRCUIT LIES. TOO BRIGHT FOR OUR INFIRM DELIGHT THE TRUTH'S

1 SUPERB SURPRISE. AS LIGHTNING TO THE CHILDREN EASED WITH
2 EXPLANATION KIND, THE TRUTH MUST DAZZLE GRADUALLY OR EVERY
3 MAN BE BLIND." DON'T LEAVE HERE TODAY BLIND TO THE TRUTH.
4 EMILY DICKINSON GAVE US SOME WORDS OF WISDOM. PROTECT THE
5 TRUTH THAT YOU HEARD.

6 ADAMS GIBSON DIDN'T HAVE A WEAPON. ADAMS GIBSON DIDN'T
7 FIRE A WEAPON. ADAMS GIBSON DIDN'T BRING HIS BROTHER HERE TO
8 SETTLE A SCORE BECAUSE THE SCORE WASN'T HIS TO SETTLE. ADAMS
9 GIBSON HAD ON A WHITE TEE SHIRT. ADAMS GIBSON HAD ON BLUE
10 JEANS. ADAMS GIBSON DID NOT HAVE ON A BLACK SHIRT. ADAMS
11 GIBSON DOES NOT WEIGH 235 POUNDS, AND HE'S CERTAINLY NOT FIVE
12 FEET TEN INCHES TALL. LADIES AND GENTLEMEN, THAT IS THE
13 TRUTH.

14 LET ME ISSUE MY LAST CHALLENGE BECAUSE I, TOO, AS MS.
15 CAMPBELL, WILL NOT HAVE AN OPPORTUNITY TO TALK TO YOU AGAIN.
16 I CHALLENGED YOU TO LISTEN, AND I KNOW THAT YOU HAVE BECAUSE
17 WE OBSERVED YOU. YOU WERE VERY, VERY CAREFUL IN PAYING
18 ATTENTION BECAUSE WE WERE CAREFUL IN PICKING YOU BECAUSE WE
19 THOUGHT YOU HAD CHARACTER AND THE BACKBONE TO DO THE RIGHT
20 THING.

21 I'M GOING TO CHALLENGE YOU NOW FOR THE LAST TIME.
22 RETURN A VERDICT, AS THE JUDGE WILL TELL YOU, THAT SPEAKS THE
23 TRUTH. SPEAK THE TRUTH. WHEN YOU SPEAK THE TRUTH WITH YOUR
24 VERDICT, EMILY DICKINSON WILL SMILE BECAUSE, OF ALL MEN,
25 YOU'LL NOT BE BLIND. YOU WILL HAVE TOLD THE TRUTH, BUT YOU DID

1 NOT TELL IT SLANTED.

2 IT HAS BEEN MY PLEASURE TO WORK WITH YOU. I DO HOPE
3 THAT YOU DO THE RIGHT THING, SPEAK THE TRUTH, AND FIND ADAMS
4 GIBSON NOT GUILTY. THANK YOU.

5 THE COURT: ALL RIGHT. MR. JOHNSON?

6 MR. JOHNSON: JUDGE JOHN, MR. LAKE, MS. CAMPBELL, MR.
7 ROBERSON, MR. FOREMAN AND LADIES AND GENTLEMEN OF THE JURY,
8 IT NOW BECOMES MY DUTY AS AN OFFICER OF THIS COURT TO MAKE
9 SOME CLOSING REMARKS ON BEHALF OF MY CLIENT, JACQUES GIBSON.
10 AT THE OUTSET I WANT TO SINCERELY THANK YOU FOR SERVING AS A
11 JUROR IN THIS CASE. I DO NOT SAY THAT PERFUNCTORILY OR
12 ROUTINELY OR TO INCUR FAVOR WITH YOU.

13 I'VE BEEN PRACTICING LAW FOR OVER 39 YEARS, AND DURING
14 THIS PERIOD OF TIME I AM ONE WHO SINCERELY AND GENUINELY
15 APPRECIATES THE ROLE THAT A JURY PLAYS IN A CASE. WHAT YOU
16 ARE ABOUT IS THE HIGHEST SERVICE THAT A PERSON CAN GIVE TO
17 THIS COUNTRY DURING PEACETIME BECAUSE YOU HAVE BEEN SELECTED
18 AS FAIR AND IMPARTIAL JURORS TO MAKE A DECISION IN THIS CASE
19 WHERE THERE IS, CONTRARY TO WHAT MS. CAMPBELL SAID, A
20 CONTEST.

21 THEY HAVE ELECTED TO BRING SERIOUS CHARGES AGAINST MY
22 CLIENT, JACQUES GIBSON, AND UNDER OUR SYSTEM WHERE THERE IS A
23 CONTEST BETWEEN THE GOVERNMENT AND A CITIZEN, 12 INDEPENDENT
24 CITIZENS ARE SELECTED TO MAKE A DECISION. YOU ARE NOT -- YOU
25 ARE NOT AN INSTRUMENT OF THE PROSECUTION. YOU HAVE NO