

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Sumter County

R. Knox McMahon, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

RANDY YONSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002653

APPENDIX

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STATE OF SOUTH CAROLINA

)

) COURT NO. 2006-GS-43-179

COUNTY OF SUMTER

)

THE STATE OF SOUTH CAROLINA,
PLAINTIFFS

)

VS.

)

IN GENERAL SESSIONS COURT

RANDY A. YONSON,
DEFENDANT

)

)

)

JANUARY 16TH-18TH, 2007
SUMTER, SOUTH CAROLINA

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

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

MR. WILLIAM H. CONNER, JR.
ASSISTANT SOLICITOR FOR THE STATE

MR. TODD WILLIAMS,
ATTORNEY FOR DEFENDANT

MAGARET T. SULLIVAN,
COURT REPORTER

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1 MR. CONNER: MAY IT PLEASE THE COURT, THE STATE CALLS
2 INDICTMENT 2006-179. THE STATE VERSUS RANDY ALLEN YONSON.
3 INDICTED FOR UNLAWFUL PISTOL. POSSESSION OF A STOLEN
4 PISTOL. POSSESSION OF A PISTOL BY A PERSON UNDER THE AGE
5 OF 21 YEARS OF AGE. AND POSSESSION BY A PERSON CONVICTED
6 OF A CRIME OF VIOLENCE. ASSAULT AND BATTERY WITH INTENT
7 TO KILL. POSSESSION OF A FIREARM DURING THE COMMISSION OF
8 A VIOLENT CRIME. RESISTING ARREST WITH A DEADLY WEAPON
9 AND ASSAULTING LAW ENFORCEMENT OFFICERS WHILE ARMED WITH A
10 WEAPON. HE IS REPRESENTED BY TODD WILLIAMS, YOUR HONOR.
11 THROUGH MR. WILLIAMS HE HAS INDICATED HE WISHES TO HAVE A
12 TRIAL. HE IS SEATED HERE AT COUNSEL TABLE.

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL,
14 THE STATE HAS CALLED THE CASE OF THE STATE VERSUS RANDY
15 ALLEN YONSON. THIS CASE COMES IN TO COURT AS THE RESULT OF
16 AN INDICTMENT RETURNED BY THE GRAND JURY OF SUMTER COUNTY
17 CHARGING THE DEFENDANT, MR. YONSON, WITH SEVERAL COUNTS IN
18 THE INDICTMENT. A TOTAL OF 13 COUNTS IN THE INDICTMENT.
19 THE CHARGES ARE, UNLAWFUL CARRYING OF A PISTOL, POSITION
20 OF THE STOLEN PISTOL. POSSESSION OF A STOLEN --
21 POSSESSION OF A PISTOL BY A PERSON UNDER 21. AND ASSAULT
22 AND BATTERY WITH INTENT TO KILL. AND TWO COUNTS OF
23 POSSESSION OF A FIREARM DURING THE COMMISSION OF A CRIME
24 OF VIOLENCE. ASSAULTING A LAW ENFORCEMENT OFFICER WHILE
25 RESISTING ARREST TWO COUNTS. RESISTING ARREST WITH A

1 DEADLY WEAPON. POSSESSION OF COCAINE. IS COUNT SIX ALSO
2 CALLED, SOLICITOR?

3 MR. CONNER: YES, YOUR HONOR.

4 THE COURT: AND POSSESSION OF A PISTOL BY A PERSON --
5 POSSESSION OF A PISTOL CHARGE. HE HAS PLED NOT GUILTY TOE
6 EACH AND EVERY COUNT OF THIS INDICTMENT. THE INDICTMENT
7 IS NOT EVIDENCE OF GUILT AND HE IS PRESUMED TO BE NOT
8 GUILTY OF EACH AND EVERY ONE OF THESE CHARGES. AND THAT
9 PLEA OF NOT GUILTY PLACES THE BURDEN ON THE STATE OF SOUTH
10 CAROLINA TO PROVE THE DEFENDANT GUILTY. AND THE STATE
11 MUST PROVE EACH AND EVERY ELEMENT OF EACH AND EVERY CHARGE
12 BEYOND A REASONABLE DOUBT BEFORE HE CAN BE FOUND GUILTY.
13 IF THE STATE FAILS TO PROVE BEYOND A REASONABLE DOUBT EACH
14 AND EVERY COUNT OF EACH AND EVERY OFFENSE, HE CANNOT BE
15 FOUND GUILTY OF ANY OFFENSE FOR WHICH THE STATE FAILS TO
16 MAKE THAT BURDEN OF PROOF. MR. RANDY ALLEN YONSON, IF
17 YOU WILL STAND AND FACE THE JURY PANEL. HE IS STANDING
18 WITH COUNSEL. COUNSEL, IF YOU WILL INTRODUCE YOURSELF AS
19 WELL.

20 MR. WILLIAMS: GOOD AFTERNOON, LADIES AND GENTLEMEN.
21 MY NAME IS TODD WILLIAMS. AND I'M AN ATTORNEY HERE IN
22 SUMTER COUNTY.

23 THE COURT: VERY GOOD. YOU MAY BE SEATED. IS ANY
24 MEMBER OF THE JURY PANEL RELATED TO MR. YONSON BY BLOOD OR
25 MARRIAGE? DO YOU KNOW MR. YONSON? ARE YOU A FRIEND OR

1 ASSOCIATE OF MR. YONSON? IF SO, PLEASE STAND. YES,
2 MA'AM, YOU ARE?

3 THE JUROR: I AM BOBBY PROCTOR JUROR NO. 105.

4 THE COURT: MS. PROCTOR, WITHOUT TELLING ME HOW YOU
5 KNOW HIM AND ALL OF THAT, THE FACT THAT YOU KNOW HIM,
6 WOULD THAT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
7 JUROR?

8 THE JUROR: YES, SIR, I BELIEVE IT WOULD.

9 THE COURT: AND, MA'AM, WE WILL NOT CONSIDER YOU FOR
10 SELECTION AS A JUROR BASED ON YOUR STATEMENTS TO ME.

11 THE JUROR: THANK YOU.

12 THE COURT: THE STATE IS REPRESENTED BY COUNSEL.
13 AND SOLICITOR, IF YOU WILL INTRODUCE YOURSELF TO THE JURY
14 PANEL AS WELL.

15 MR. JACKSON: LADIES AND GENTLEMEN, MY NAME IS KELLY
16 JACKSON. I'M YOUR SOLICITOR. THIS IS MR. HARRY CONNER.
17 HE IS THE ASSISTANT SOLICITOR HERE IN SUMTER COUNTY. HE
18 WILL BE PROSECUTING THIS CASE ON BEHALF OF THE STATE.

19 THE COURT: IF ANY MEMBER OF THE JURY PANEL IS
20 RELATED BY BLOOD OR MARRIAGE TO ANY OF THE LAWYERS
21 INVOLVED IN THIS CASE, IF YOU KNOW ANY OF THEM OR IF YOU
22 HAVE ANY ASSOCIATION WITH ANY OF THEM, PLEASE STAND.

23 (THEREUPON, NO RESPONSE.)

24 THE COURT: THIS CASE ALLEGEDLY OCCURRED ON OR ABOUT
25 SEPTEMBER 12, 2005, AT THE FRENZ CLUB 3590 PINWOOD ROAD,

1 HERE IN SUMTER, SUMTER AREA. THE ALLEGED VICTIMS BEING
2 ERIN BOLAND, JR. AND JAMES B. WILLIAMS. IF THEY ARE
3 HERE, PLEASE STAND AND FACE THE JURY PANEL. THANK YOU
4 VERY MUCH. THE FOLLOWING PEOPLE MAY TESTIFY AS WITNESSES
5 IN THIS CASE: IF ANY OF THESE WITNESSES ARE HERE, I NEED
6 YOU TO STAND. CHARLES EDWARD COOK, BRANDON WESTON
7 RICHARDSON, MICHAEL PRITCHARD, PAUL OFELDT, MARIE O'FELDT,
8 JOSEPH HENRY CALVIN, WILLIAM R. MATHIS, ROBIN MATHIS,
9 FELICIA SCOTT, JOHN NESBITT, SARGEANT ALEXANDER DUKES,
10 JAMES B. WILLIAMS, LIEUTENANT JOHNNY ABRAHAM, CATHY BASS,
11 JAMES JOHNSON, ANDREW BETHEA, SHELBY LARREY, TRACY
12 THROWER, STEPHEN DERRICK, LIEUTENANT ANTHONY HORTON,
13 RAYMOND BYNOE, DR. RAYMOND BYNOE, BEULAH G. ROBERSTS.
14 CLERK OF COURT IN MANNING. WILLIS ISOM, CAROL BROOKS, AND
15 ERIN BOLAND, JR. AND JAMES B. WILLIAMS.

16 IF ANY JUROR KNOWS ANY OF THOSE PERSPECTIVE PEOPLE
17 WHO -- WITNESSES, THOSE PEOPLE WHO MAY TESTIFY, IF YOU
18 HAVE -- OR IF YOU ARE A FRIEND, RELATIVE OR ASSOCIATE OF
19 ANY OF THOSE PEOPLE WHO MAY TESTIFY, PLEASE STAND.

20 YES, MA'AM.

21 THE JUROR: MY NAME IS RAMONA LYONS. AND I KNOW
22 ANGEL DUKES.

23 THE COURT: AND THE FACT THAT YOU KNOW SERGEANT
24 DUKES, WOULD THAT AFFECT YOUR ABILITY TO BE A FAIR AND
25 IMPARTIAL JUROR?

1 THE JUROR: NO, SIR.

2 THE COURT: YOUR NAME AGAIN.

3 THE JUROR: RAMONA LYONS.

4 THE CLERK: NO. 77.

5 THE COURT: JUROR 77. YOU ARE QUALIFIED. YES,
6 MA'AM.

7 THE JUROR: 130. RUTH STEEL. I AM A NEIGHBOR OF
8 ONE OF THE OFFICERS.

9 THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE
10 FAIR AND IMPARTIAL?

11 THE JUROR: I DON'T BELIEVE.

12 THE COURT: THANK YOU FOR TELLING US THAT. YES,
13 SIR.

14 THE JUROR: NO. 52, MARK ANTHONY. I KNOW
15 MR. CHARLES COOK.

16 THE COURT: AND WOULD THAT FACT AFFECT YOUR ABILITY
17 TO BE FAIR AND IMPARTIAL?

18 THE JUROR: NO, SIR.

19 THE COURT: THANK YOU FOR BRINGING THAT TO OUR
20 ATTENTION. IF YOU KNOW OF ANY REASON WHY YOU CANNOT GIVE
21 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL, PLEASE LET ME
22 KNOW THAT BY STANDING.

23 (THEREUPON, NO RESPONSE.)

24 THE COURT: ANY ADDITIONAL VOIR DIRE QUESTIONS
25 POSED -- THAT THE STATE OR THE DEFENSE WOULD LIKE ME

1 TO POSE?

2 MR. CONNER: MAY IT PLEASE THE COURT, WE WOULD
3 REQUEST THAT THE JURY BE ASKED IF THEY HAVE ANY
4 ASSOCIATION WITH ANY OTHER MEMBER OF MR. WILLIAMS' LAW
5 FIRM, INCLUDING MICHAEL JORDAN AND ANY OTHER PEOPLE IN THE
6 FIRM.

7 THE COURT: ANY ADDITIONAL VOIR DIRE QUESTIONS
8 PROPOSED BY THE DEFENSE?

9 MR. WILLIAMS: YES, SIR. IF YOU WOULD PLEASE INQUIRE
10 AS TO THE PANEL IF ANY MEMBERS OF THE PANEL OR ANY MEMBERS
11 OF THEIR IMMEDIATE FAMILY HAVE BEEN VICTIMS OF VIOLENT
12 CRIMES.

13 THE COURT: MR. WILLIAMS, TELL US THE MEMBERS OF YOUR
14 LAW FIRM, PLEASE.

15 MR. WILLIAMS: THE MEMBERS OF MY LAW FIRM ARE MICHAEL
16 JORDAN, WHO IS SEATED WITH ME TODAY. GENE DURANT, AND
17 RAYMOND SCHWARTZ. SCHWARTZ, MCLEOD AND DURANT.

18 THE COURT: IF YOU, ANY MEMBER OF THE JURY PANEL, IS
19 A FRIEND OR ASSOCIATE OF ANY PERSON OF MR. WILLIAMS' LAW
20 FIRM INCLUDING MR. DURANT, MR. SCHWARTZ AND MR. JORDAN, IF
21 SO, PLEASE STAND. YES, SIR.

22 THE JUROR: MY NAME IS ERIC GREEN. I AM JUROR NO.
23 49. MR. DURANT AND MR. JORDAN BUSINESS AND PERSONAL WORK
24 WITH THEIR FIRM.

25 THE COURT: AND IS THAT REPRESENTATION ONGOING AT

1 THIS TIME?

2 THE JUROR: MORE OR LESS, YES, SIR.

3 THE COURT: AND WE WILL NOT CONSIDER THIS JUROR FOR
4 SELECTION AS A JUROR IN THIS CASE. THANK YOU FOR BRINGING
5 THAT TO OUR ATTENTION. ANY JUROR THAT IS CURRENTLY BEING
6 REPRESENTED BY THE 3RD CIRCUIT SOLICITOR'S OFFICE, IF SO,
7 PLEASE STAND.

8 (THEREUPON, NO RESPONSE.)

9 THE COURT: IF ANY MEMBER OF THE JURY PANEL OR ANY
10 MEMBER OF YOUR IMMEDIATE FAMILY HAS BEEN A VICTIM OF A
11 VIOLENT CRIME, PLEASE STAND. ANY JUROR OR ANYONE IN YOUR
12 IMMEDIATE FAMILY EVER BEEN A VICTIM OF A VIOLENT CRIME, A
13 SHOOTING, ROBBERY, BURGLARY, MURDER, PLEASE STAND. YES,
14 SIR, MR?

15 THE JUROR: ROBERT SMITH. MY GRANDDADDY WAS KILLED.
16 IT WAS A LONG TIME AGO.

17 THE COURT: AND, MR. SMITH, WOULD THAT FACT AFFECT
18 YOUR ABILITY TO BE FAIR AND IMPARTIAL?

19 THE JUROR: NO, SIR.

20 THE COURT: 126. THANK YOU FOR BRINGING THAT TO OUR
21 ATTENTION.

22 THE JUROR: JOHN PATRICK 99. IN 78, MY FATHER WAS
23 KILLED IN AN ARMED ROBBERY.

24 THE COURT: WOULD THAT FACT AFFECT YOUR ABILITY TO BE
25 A FAIR AND IMPARTIAL TO THE DEFENSE?

1 THE JUROR: NO, SIR.

2 THE COURT: THANK YOU FOR BRINGING THAT OUR OF
3 ATTENTION. ANY ADDITIONAL VOIR DIRE QUESTIONS PROPOSED?

4 MR. JACKSON: NOTHING FROM THE STATE.

5 MR. WILLIAMS: NOTHING FROM THE DEFENSE, YOUR HONOR.

6 THE COURT: LADIES AND GENTLEMEN, THANK YOU VERY
7 MUCH. WE WILL PROCEED NOW WITH JURY SELECTION.

8 MR. JACKSON: YOUR HONOR, CAN WE APPROACH?

9 THE COURT: YES, SIR.

10 (THEREUPON, ATTORNEYS APPROACH THE BENCH AND CONFER
11 WITH JUDGE.)

12 (THEREUPON, THE JURY IS IMPANELED.)

13 THE CLERK: JUROR NO. 100 MR. MARION PEARSON (M-B).

14 THE COURT: MR. PEARSON, WE MAY HAVE TO SET YOU
15 ASIDE. YOU ARE EXCUSED FROM THIS CASE.

16 THE CLERK: JUROR NO. 96 LULLA NELSON (F-B) STATE
17 STRUCK, JUROR NO. 32 DANIEL DAUGHTREY (M-B) ACCEPTED,
18 JUROR NO. 99 JOHN PATRICK (M-W) DEFENSE STRUCK. JUROR
19 NO. 12 JOSEPH BOATWRIGHT (M-B) ACCEPTED, JUROR 137
20 JANETTE TUCKER (F-W), DEFENSE STRUCK, JUROR NO. 54 JACKIE
21 HAMMOND, (F-W) ACCEPTED, JUROR NO. 83 BETTY MCCLARY (F-B)
22 STATE STRUCK, JUROR 37 FRANCES DEAS, (F-W) ACCEPTED,
23 JUROR NO. 92 EMERY MILLER (M-W) ACCEPTED, JUROR NO. 29
24 ROBBIE COTTERMAN (M-W) JUROR NO. 36 ONEAL DAVIS (M-B)
25 STATE STRUCK, JUROR NO. 103 LAWRENCE PHILLIPS (M-W)

1 ACCEPTED, JUROR NO. 131 CHARLES STOVER (M-B) DEFENSE
2 STRUCK, JUROR NO. 116 ALEXA ROWE (F-W) JUROR NO. 91 KAREN
3 MICHALIK (F-W) ACCEPTED, JUROR NO. 122 CHARLES SEYMORE
4 (M-B) ACCEPTED, JUROR NO. 111 THOMAS RICHARDSON (M-B)
5 ACCEPTED, JUROR NO. 145 ISAH WHEELER (M-B) ACCEPTED.
6 ALTERNATE JUROR, JUROR NO. 31 MARGARET DANCY (F-W)
7 ACCEPTED.

8 THE COURT: ANY MATTERS OF LAW REGARDING JURY
9 SELECTION?

10 MR. JACKSON: NOTHING FROM THE STATE, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. WILLIAMS: NOTHING FROM THE DEFENSE, YOUR HONOR.

13 THE COURT: LADIES AND GENTLEMEN, YOU HAVE BEEN
14 SELECTED TO BE THE JURY IN THIS CASE. IF YOU WILL GO TO
15 YOUR JURY ROOM AND DO NOT TALK ABOUT THIS CASE WHILE YOU
16 ARE BACK THERE. I'LL HAVE YOU COME OUT SOON. YOU ARE
17 GOING TO LUNCH SOON. PLEASE FOLLOW MR. HOLMES.

18 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE
19 PRESENCE OF THE JURY.)

20 THE COURT: MR. CONNER, YOU SAY YOU HAVE SOME THINGS?

21 MR. CONNER: YOUR HONOR, WE HAVE A SHORT HEARING
22 REGARDING A STATEMENT MADE BY MR. YONSON TO TWO SLED
23 AGENTS. WE CAN TAKE THAT UP IMMEDIATELY AFTER THE LUNCH.
24 BUT IT MIGHT BE BETTER TO TAKE THAT UP BEFORE THE JURY
25 GETS BACK.

1 THE COURT: ALL RIGHT.

2 MR. CONNER: I DON'T HAVE ANYTHING ELSE.

3 THE COURT: MR. WILLIAMS.

4 MR. WILLIAMS: YES SIR, YOUR HONOR. I HAVE A COUPLE
5 OF MOTIONS THAT I NEED TO TAKE UP OUTSIDE THE PRESENCE OF
6 THE JURY. WE CAN GO FORWARD NOW OR AFTER LUNCH WHATEVER.

7 THE COURT: WHAT ARE THEY?

8 MR. WILLIAMS: ONE REGARDING THE INDICTMENT, YOUR
9 HONOR. AND ONE REGARDING THE SEQUESTERING OF WITNESSES.

10 THE COURT: WE'LL LET THE JURY GO TO LUNCH; TO HAVE
11 THEM COME BACK AT 2:30. AND THEN I'LL TAKE UP YOUR
12 MOTIONS BEFORE LUNCH. AND THEN THE OTHER MOTIONS AFTER
13 LUNCH. LET'S BRING THEM BACK IN.

14 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
15 PRESENCE OF THE JURY.)

16 THE COURT: LADIES AND GENTLEMEN, WE HAVE PICKED YOU
17 TO BE THE JURY IN THIS CASE. WE ARE GOING TO TAKE LUNCH,
18 AND START OUT AFTER LUNCH. AND WE HAVE SOME MATTERS TO
19 TAKE UP OUTSIDE OF YOUR PRESENCE, SO WE ARE GOING TO HAVE
20 YOU COME BACK AT 2:45. 2:45. SO Y'ALL COME DIRECTLY INTO
21 THE JURY ROOM, DO NOT COME TO THE COURTROOM, BUT UP TO THE
22 BACK HALLWAY STRAIGHT IN TO THAT JURY ROOM. AND
23 HENCEFORTH YOU CANNOT TALK ABOUT THIS CASE. WHAT YOU
24 THINK IT'S ABOUT. THE DETAILS ABOUT IT OR ANYTHING OF
25 THAT NATURE. I'LL GIVE YOU A MORE DETAILED EXPLANATION

1 ABOUT THAT WHEN YOU GET BACK. SO WE'LL SEE Y'ALL AFTER
2 LUNCH. PLEASE REFRAIN FROM HAVING ANY CONVERSATION WITH
3 ANYONE WHO MAY BE CONNECTED WITH THIS CASE AS WELL. SEE
4 YOU LATER.

5 (THEREUPON, THE JURY GOES TO LUNCH.)

6 THE COURT: MR. WILLIAMS.

7 MR. WILLIAMS: THANK YOU, YOUR HONOR. IF I MAY
8 FIRST, I BELIEVE JUDGE JAMES DENIED THE MOTION FOR A
9 CONTINUANCE. I WANTED TO MAKE SURE IT'S REFLECTED IN THIS
10 RECORD.

11 THE COURT: ALL RIGHT.

12 MR. WILILAMS: THERE WAS A DIFFERENT COURT REPORTER.

13 THE COURT: YES, SIR.

14 MR. WILLIAMS: THANK YOU, YOUR HONOR. FIRST, YOUR
15 HONOR, I WOULD LIKE TO DISCUSS THE INDICTMENT.

16 THE COURT: ALL RIGHT.

17 MR. WILLIAMS: UNDER GENTRY, AS YOU KNOW, THE
18 INDICTMENTS, JUDGE, WHETHER THE OFFENSES STATED WITH
19 SUFFICIENT CERTAINTY AND PARTICULARITY, TO ENABLE THE
20 COURT TO KNOW WHAT JUDGMENT TO PRONOUNCE AND THE
21 DEFENDANT TO KNOW WHAT HE IS CALLED UPON TO ANSWER. AND
22 THE SECOND PART OF GENTRY, JUDGE, YOUR HONOR, IS WHAT IT
23 APPRISES THE DEFENDANT OF THE ELEMENTS OF THE OFFENSE
24 INTENDED TO BE CHARGED.

25 LOOKING AT THE INDICTMENT, YOUR HONOR, COUNTS 3, 4,

1 AND 5, RELATING TO THE PISTOLS ALLEGED TO HAVE BEEN FOUND
2 ON MY CLIENT, MR. YONSON, ALL OF THEM, YOUR HONOR, REFER
3 TO SECTIONS OF CODE 16-23-30 SUBSECTION F OF THE SOUTH
4 CAROLINA CODE OF LAWS. AND, YOUR HONOR, CHECKING MY CODE
5 RIGHT NOW, THOSE ARE NO LONGER SECTIONS OF LAW IN THIS
6 STATE. FOR THOSE REASONS, YOUR HONOR, I WOULD MOVE FOR
7 COUNTS THREE, FOUR AND FIVE OF THE INDICTMENT TO BE
8 DISMISSED. CLEARLY UNDER THE GENTRY TEST, THE DEFENSE
9 HAS NOT BEEN ABLE TO EXAMINE AND IDENTIFY THE ELEMENTS OF
10 THE OFFENSE WITH WHICH MR. YONSON IS CHARGED.

11 THE COURT: MR. CONNER.

12 MR. CONNER: YOUR HONOR, I'VE GOTTEN KIND OF OFF
13 BALANCE. I NEED TO LOOK AT THE CODE.

14 THE COURT: YES, SIR, MR. WILLIAMS.

15 MR. WILLIAMS: YOUR HONOR, MY LAST CHECK OF THE 2005
16 SUPPLEMENT DID NOT INCLUDE SUCH SECTIONS. YOUR HONOR, IF
17 I MAY, WHILE MR. CONNER IS LOOKING. COUNT 6, OF THE
18 INDICTMENT REGARDS A PISTOL BY A PERSON CONVICTED OF A
19 CRIME OF VIOLENCE.

20 THE COURT: YES, SIR.

21 MR. WILLIAMS: FROM MY RESEARCH, I BELIEVE IT REFERS
22 TO THE BURGLARY SECOND, THE PART B OF THAT STATUTE,
23 WHICH IS A BURGLARY SECOND VIOLENT. IT'S MY
24 UNDERSTANDING MR. YONSON HAS ONLY BEEN CHARGED WITH
25 BURGLARY -- BURGLARY 2ND NONVIOLENT. PART A OF THAT

1 STATUTE. AND FOR THAT REASON, YOUR HONOR, COUNT 6 OF THE
2 INDICTMENT, POSSESSION OF A PISTOL BY A PERSON CONVICTED
3 OF A CRIME OF VIOLENCE WOULD ALSO NOT STAND.

4 THE COURT: THE INDICTMENT WAS INSUFFICIENT OR WILL
5 THEY NOT BE ABLE TO PROVE IT?

6 MR. WILLIAMS: EXCUSE ME, YOUR HONOR?

7 THE COURT: THE INDICTMENT IS INSUFFICIENT, OR THEY
8 WILL NOT BE ABLE TO PROVE IT?

9 MR. WILLIAMS: THEY WILL NOT BE ABLE TO PROVE IT,
10 YOUR HONOR.

11 MR. CONNER: YOU STILL, THERE HAS BEEN A CHARGE IN
12 THE STATUE. BUT I AM JUST TRYING TO SEE IF IT IS
13 INCLUDED IN SOME OF THE OTHER PARTS.

14 MR. WILLIAMS: YOUR HONOR, IF I MAY.

15 THE COURT: YES, SIR.

16 MR. WILLIAMS: OF THE 13 COUNTS ON THE INDICTMENT,
17 SIX DIRECTLY AFFECT OR CONTROL A PISTOL IN ANOTHER AREA,
18 IS RELATED TO THE PISTOL. YOUR HONOR, TWO COUNTS OF THE
19 INDICTMENT STILL STAND. WE ARE NOT CHALLENGING THE
20 INDICTMENT, BECAUSE IF THEY CAN, THEY CAN CONVICT MY
21 CLIENT OF A PISTOL CHARGE. THERE STILL ARE PISTOL
22 CHARGES PENDING. THEY HAVE SOMETHING TO GO FORWARD ON.

23 MR. CONNER: WELL ONE OF THE COUNTS IS, I GOT HUNG UP
24 ON COUNT 3 AND 4. AND WHAT WE ARE SAYING ABOUT COUNT 5?

25 THE COURT: HIS MOTION IS AS TO COUNT 3, 4 AND 5.

1 MR. WILLIAMS: CORRECT, YOUR HONOR. COUNT 5 OF THE
2 INDICTMENT REFERS TO SOUTH CAROLINA CODE 16-23-30,
3 SUBSECTION C AND E. AND IN THE LAST OF THE CODE IT DID
4 NOT -- THOSE SECTIONS DID NOT INCLUDE THE OFFENSE THE
5 INDICTMENT STATES.

6 MR. CONNER: SECTION B SAYS IT IS UNLAWFUL TO
7 ENUMERATE IN THIS SUBSECTION A, TO POSSESS OR ACQUIRE A
8 HANDGUN WITHIN THIS STATE. AND ONE OF THE PARTIES LISTED
9 UNDER SUBSECTION A IS A PERSON UNDER THE AGE OF 21. IT'S
10 IN A-3 NOW.

11 MR. WILLIAMS: YES, SIR. IT HAS IT UNDER A-3. MR.
12 CONNER SAYS IT'S SUBSECTION B. AND THE INDICTMENT
13 INDICATES SECTION INDICATES SECTION C AND E.

14 MR. CONNER: WELL, IT'S STIPULATED, YOUR HONOR, IN
15 PLAIN LANGUAGE THAT HE HAD A PISTOL AND HE WAS UNDER THE
16 AGE OF 21. AND I THINK THAT'S THE ELEMENTS THAT ARE
17 RELEVANT. THERE IS A MISTAKE THE IN NUMBER OF THE
18 STATUTE. IT'S NOT, IT IS IN 16-23-30. BUT IT HAS BEEN
19 REWORDED. AND IT IS NOT UNDER C AND E. IT IS -- IT IS
20 UNDER ANSWER B AND A. BECAUSE IN B IT SAYS UNLAWFUL FOR A
21 PERSON. IT IS ENUMERATED IN SUBSECTION A, TO POSSESS OR
22 ACQUIRE A HANDGUN WITHIN THIS STATE. AND ONE OF THE
23 PEOPLE THAT'S TESTIFIED IS SPECIFIED IN SUBSECTION A, IS A
24 PERSON UNDER THE AGE OF 21 YEARS OF AGE.

25 MR. WILLIAMS: YOUR HONOR, MR. CONNER'S STATING THE

1 LAW IS CERTAINLY CORRECT. SUBSECTION B DOES REFER TO THE
2 SUBSECTION. THE INDICTMENT HOWEVER REFERS TO SUBSECTION
3 C AND E. AND, YOUR HONOR, IF WE MUST GO FORWARD,
4 OBVIOUSLY I'M PREPARED UNDER SUBSECTION C AND E. AND IF
5 WE DO GO FORWARD IN THIS, YOUR HONOR, I'D ASK FOR A
6 CONTINUANCE. I'VE PREPARED THE ELEMENTS OF EACH OF THE
7 STATUTES.

8 THE COURT: MR. CONNER, ANYTHING ELSE?

9 MR. CONNER: THE ONLY THREE PROBLEM SECTIONS WE ARE
10 ADDRESSING ARE 3, 4, AND 5?

11 THE COURT: HIS MOTION GOES TO THOSE THREE, 3, 4 AND
12 5.

13 MR. WILLIAMS: AND NO. 6. INSUFFICIENCY IN THE
14 INDICTMENT, COUNT 3, 4 AND 5.

15 MR. CONNER: WELL, I WOULD DELETE SECTION 3 AND 4.
16 HAVE IT DISMISSED AT THIS POINT AND TIME, YOUR HONOR. I
17 DO SUBMIT THAT WE SHOULD TO BE ABLE TO PROCEED, OR BE
18 PERMITTED TO PROCEED UNDER COUNT 5. BECAUSE IT DOES SAY
19 THAT IN, "HE DID CARRY ABOUT HIS PERSON A PISTOL WHILE
20 UNAUTHORIZED BY LAW TO DO." HE BEING UNDER THE AGE OF 21
21 YEARS OF AGE. AND IT IS COVERED IN 16-23-30. TWO
22 PARAGRAPHS C AND E IS FROM THE OLDER VERSION OF THE
23 STATUTE. BUT THAT IS INCORPORATED IN THIS NEW SECTION.
24 THE COURT: COUNT 3 AND 4, HE DISAGREES. AS TO
25 COUNT 5 AND 6. ANYTHING FURTHER?

1 MR. WILLIAMS: YES, YOUR HONOR. I DIDN'T KNOW WE
2 MOVED TO COUNT 6. IT WAS COUNT 5 OF THE INDICTMENT. IT
3 WAS THE SOLICITOR'S OFFICE WHO PRODUCED THE INDICTMENT
4 AND SELECTED. AND SPECIFICALLY C AND E. HAD THEY
5 STOPPED SHORT AND JUST INCLUDED SECTION 30, TITLE 16,
6 CHAPTER 23, THE DEFENSE WOULD HAVE BEEN ON NOTICE AS
7 THOSE ELEMENTS. BUT BY THE PARTICULARITY, YOUR HONOR, I
8 FEEL LIKE THEY PROHIBITED THEMSELVES FROM NOW MOVING
9 FORWARD UNDER SUBSECTION B AND A, WHICH WERE NOT LISTED.

10 THE COURT: THE MOTION TO QUASH COUNT 5 IS DENIED. I
11 FIND THE LANGUAGE STATED IN THE CHARGE IS SUFFICIENT TO
12 WITHSTAND THE MOTION DESPITE THE FACT THAT THE SOLICITOR
13 IN COUNT 5, REFERRED TO THE STATUTE WHICH HAD BEEN
14 AMENDED APPARENTLY MUCH EARLIER. SINCE THE -- THERE IS A
15 2004 AMENDMENT TO THIS STATUTE, WHICH REDESIGNATES THE
16 VARIOUS SUBSECTION. THIS OFFENSE HAPPENED MONTHS LATER.
17 SEPTEMBER OF, ALLEGEDLY OCCURRED, SEPTEMBER 2005. I
18 FIND THAT THE USE OF THE FORMER STATUTE IN DESIGNATING
19 THE OFFENSES BEING UNDER SUBSECTION C AND E DOES NOT
20 DEFEAT THE INDICTMENT. THE MOTION TO QUASH IS DENIED.
21 THE DEFENDANT HAS HAS BEEN PROPERLY PUT ON NOTICE AS TO
22 THE CHARGES AS STATED IN THAT COUNT OF THE INDICTMENT.

23 MR. WILILAMS: AND THAT'S ONLY AS TO COUNT 5, YOUR
24 HONOR?

25 THE COURT: COUNT 5. HE'S AGREED WITH AS TO 3 AND

1 4.

2 MR. WILLIAMS: THANK YOU, YOUR HONOR.

3 THE COURT: NO. 6. ANYTHING ON THAT, MR. CONNER?

4 MR. CONNER: YOUR HONOR, NO. 6, IS A SIMILAR
5 SITUATION AS TO COUNT 5. IN THAT IT SAYS IN PARAGRAPH B,
6 OF 16-23-30, THAT IT IS UNLAWFUL FOR A PERSON ENUMERATED
7 IN SUBSECTION A TO POSSESS OR ACQUIRE A HANDGUN WITHIN
8 THIS STATE. AND IN PARAGRAPH A, ONE OF THE PERSONS THAT
9 IS PROHIBITED IS A PERSON WHO HAS BEEN CONVICTED OF A
10 CRIME OF VIOLENCE IN COURT.

11 MR. WILLIAMS: IF I MAY, YOUR HONOR, IT REFERS US TO
12 16-23-10. YOUR HONOR, MY CLIENT WAS CONVICTED OF BURGLARY
13 SECOND DEGREE NONVIOLENT.

14 THE COURT: YES, SIR.

15 MR. WILLIAMS: WHICH ON ITS FACE, IF YOU SEARCH IT
16 UNDER THE DEPARTMENT OF CORRECTIONS WEBSITE IT CLEARLY
17 SAYS, BURGLARY SECOND NONVIOLENT. IT'S PART B OF THAT
18 STATUTE. IT IS A VIOLATE SECTION. MY CLIENT WAS
19 CONVICTED UNDER A. IT JUST DOESN'T SAY IT IS LISTED AS
20 NONVIOLENT, YOUR HONOR.

21 THE COURT: WELL THE INDICTMENT IS A NOTICE TO THE
22 DEFENDANT AS TO WHAT HE IS ACCUSED OF. IF THE EVIDENCE
23 SHOWS THAT HE IS NOT GUILTY OF IT, THEN THAT WILL BE THE
24 EVIDENCE IN THE CASE. BUT THE COURT CANNOT TAKE JUDICIAL
25 NOTICE OF WHAT HE IS CONVICTED OF. AND I DENY THAT

1 MOTION.

2 MR. WILLIAMS: THANK YOU, YOUR HONOR.

3 THE COURT: REGARDING THE SEQUESTRATION MOTION, TELL
4 ME ABOUT IT.

5 MR. WILLIAMS: YOUR HONOR, THE CHARGES AGAINST MY
6 CLIENT RELY HEAVILY, TO SAY THE LEAST, ON EYE WITNESS
7 TESTIMONY. WHAT WAS SEEN BY, WHAT WAS HEARD BY EACH
8 WITNESS. FOR THOSE REASONS, YOUR HONOR, I WOULD ASK THAT
9 DURING THE TESTIMONY OF A WITNESS, OR UNTIL THE WITNESS
10 HAS TESTIFIED THAT THAT WITNESS BE BARRED FROM THE
11 COURTROOM, JUST TO ENSURE THAT THAT WITNESS' ACCOUNT IS
12 HIS OR HER OWN ACCOUNT.

13 THE COURT: WHAT SAYS THE STATE?

14 MR. CONNER: WELL, YOUR HONOR, I ALWAYS OBJECT TO
15 SEQUESTRATION BECAUSE IT'S A HEADACHE TO ADMINISTER. I
16 WOULD, FIRST OF ALL, I WOULD INQUIRE AS TO WHETHER TO
17 SEQUESTER EVERY WITNESS. LIKE WE HAVE SLED AGENTS WHO
18 WERE COMING IN LATER WHO INVESTIGATED THE CASE. DO WE
19 WANT TO SEQUESTER THEM, OR ARE WE JUST SEQUESTERING PEOPLE
20 WHO WERE THERE WHEN THE SHOOTING OCCURRED?

21 THE COURT: MR. WILLIAMS.

22 MR. WILLIAMS: YOUR HONOR, I WOULD ASK TO SEQUESTER
23 ANY WITNESS WHO WAS AT CLUB FRENZ ON OR ABOUT THE TIME OF
24 THE INCIDENT. OBVIOUSLY SOMEONE WHO TESTED A BULLET SIX
25 MONTHS LATER, I HAVE NO PROBLEM WITH HIM BEING -- HIS OR

1 HER PRESENCE IN THE COURTROOM. BUT AS TO ANYBODY WHO WAS
2 ACTUALLY AT THE SCENE, I WOULD ASK THEM TO STEP OUTSIDE.

3 THE COURT: EXCLUDING VICTIMS WHO HAVE A RIGHT TO BE
4 PRESENT, OR INCLUDING VICTIMS?

5 MR. WILLIAMS: YOUR HONOR, THE VICTIMS ARE HERE, AND
6 THEIR EYE WITNESS TESTIMONY IS WHAT -- THAT WHICH THE
7 STATE RELIES ON IN PLACING THE GUN IN MY CLIENT'S HAND.

8 THE COURT: INCLUDING VICTIMS.

9 MR. WILLIAMS: INCLUDING VICTIMS, YOUR HONOR.

10 MR. CONNER: I WOULD SUBMIT THE VICTIMS HAVE THE
11 RIGHT TO BE IN COURT, YOUR HONOR. THEY ARE THE ONES THAT
12 ARE SHOT. THE FACT THAT THEY ARE POLICEMEN DOESN'T
13 DIMINISH THEIR RIGHTS AS BEING A VICTIM.

14 MR. WILLIAMS: I'M IN NO WAY INSINUATING THEY HAVE
15 -- THAT THEY'D LOSE THEIR RIGHTS AS POLICEMEN. AS TO EYE
16 WITNESSES, YOUR HONOR, IF I CAN DISCUSS, IF WE CAN
17 APPROACH.

18 THE COURT: ALL RIGHT.

19 (THEREUPON, THE ATTORNEYS APPROACH THE BENCH AND
20 CONFER WITH JUDGE.)

21 THE COURT: REGARDING THE MOTION TO SEQUESTER THOSE
22 LISTED AS VICTIMS, THEY HAVE A RIGHT TO BE PRESENT DURING
23 THE TRIAL. I DENY THE MOTION TO SEQUESTER THEM. I
24 FURTHER DENY THE MOTION TO SEQUESTER ANY OTHER WITNESSES
25 WHO ARE NOT FACT WITNESSES. MAINLY WITNESS SUCH AS, THE

1 SLED WITNESSES WHO WOULD NOT HAVE BEEN THERE. I GRANT THE
2 MOTION TO SEQUESTER THE FOLLOWING PERSPECTIVE WITNESSES:
3 CHARLES EDWARD COOK, BRANDON RICHARDSON, JAMES TURNER,
4 PAUL O'FELDT, MARIE O'FELDT, ANYTHING ELSE?

5 MR. WILLIAMS: NOTHING FURTHER FROM THE DEFENSE, YOUR
6 HONOR.

7 THE COURT: NOTHING ELSE ON THAT. ANYTHING ELSE
8 BEFORE WE BREAK FOR LUNCH? WE'RE COMING BACK AT 2:30.

9 (THEREUPON, THE COURT BREAKS FOR LUNCH.)

10 (STATE'S EXHIBIT NOS. 1 THROUGH 15 PREMARKED.)

11 (PHOTOGRAPHS 11-A THROUGH T PREMARKED FOR ID ONLY.)

12 MR. CONNER: IN REGARDS TO THE CASE OF THOMAS
13 HAMILTON, IN THAT COUNT, COUNT 6 OF THE INDICTMENT, IN
14 THAT IT ADDRESSES ON PAGE---

15 THE COURT: LET'S WAIT FOR THE DEFENDANT TO COME IN.

16 MR. CONNER: IN REGARDS TO THAT COUNT, IT CHARGES
17 THE DEFENDANT WITH POSSESSION OF A GUN BY A PERSON WHO
18 HAS BEEN CONVICTED OF A PRIOR CRIME OF VIOLENCE. AND OUR
19 STATUTE 16-23-10 DEFINES A CRIME OF VIOLENCE AS BEING
20 BURGLARY. HE DOES HAVE A BURGLARY CONVICTION OUT OF
21 CLARENDON COUNTY. AND THIS CASE THAT I AM HANDING UP,
22 THOMAS HAMILTON, STATE VS. THOMAS HAMILTON, ACTUALLY
23 ALLOWS THE STATE TO PUT IN A BURGLARY CONVICTION WHEN
24 YOU'RE TRYING SOMEBODY FOR BURGLARY FIRST OFFENSE. WHEN
25 YOU PUT IN PRIOR OFFENSES. HOWEVER, I DON'T THINK THAT'S

1 QUITE THE CASE WITH WHAT WE'RE DOING HERE. BUT THAT
2 MATTER IS ADDRESSED ON THE 4TH PAGE HERE, IN REGARDS TO A
3 CASE CALLED OLD CHIEF VS. UNITED STATES. AND OLD CHIEF
4 WANTED TO STIPULATE THAT HE HAD A CRIME THAT WOULD
5 PROHIBIT HIM FROM POSSESSION OF A WEAPON. AND THE STATE
6 WOULDN'T ACCEPT IT. BUT THE SUPREME COURT RULED THAT THE
7 STATE HAD TO ACCEPT THE STIPULATION.

8 SO AT THIS TIME I THINK THAT IF THEY WANT TO
9 STIPULATE THAT HE HAS A CRIME THAT WOULD GIVE HIM
10 OWNERSHIP OF THE WEAPON, I THINK IT WOULD BE COUNT 6. I
11 HAND THIS UP BECAUSE IT DISCUSSES OLD CHIEF IN, AT
12 LENGTH.

13 THE COURT: MR. WILLIAMS, WHAT DO YOU SAY?

14 MR. WILLIAMS: I BEG THE COURT'S INDULGENCE, YOUR
15 HONOR.

16 THE COURT: ALL RIGHT.

17 MR. WILLIAMS: THANK YOUR HONOR. THE DEFENSE WILL
18 STIPULATE TO MR. YONSON'S RECORD.

19 THE COURT: AND YOU STIPULATE THAT HE HAS BEEN
20 CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN SECTION
21 6-23-10 SUBSECTION 3?

22 MR. WILLIAMS: YES, SIR, YOUR HONOR. AS THE COURT
23 WELL KNOWS, MR. YONSON'S RECORD WAS A BURGLARY SECOND
24 NONVIOLENT. AS THE STATUTE INDICATES IT JUST DEFINES
25 BURGLARY WITH NO QUALIFIERS. SO FOR THAT REASON, WE WOULD

1 STIPULATE TO MR. YONSON'S RECORD.

2 THE COURT: ALL RIGHT. SO THEN AS IT RELATES TO WHAT
3 THE SOLICITOR CAN IF ANYTHING, SAY ABOUT HIS PRIOR RECORD,
4 WHAT IS THE EFFECT OF THIS STIPULATION, MR. CONNER?

5 MR. CONNER: I THINK THE STIPULATION THAT HE WAS
6 PROHIBITED FROM POSSESSION OF A GUN, BECAUSE OF HIS
7 CONVICTION FOR A PRIOR CRIME OF VIOLENCE.

8 THE COURT: WITHOUT SPECIFYING WHAT THE CRIME WAS.
9 MR. WILLIAMS.

10 MR. WILLIAMS: THE DEFENSE CONCURS, YOUR HONOR.

11 THE COURT: WE DID TALK ABOUT A MOTION, A STATEMENT
12 OR SOMETHING THAT I SAID WE WERE GOING TO HEAR BEFORE THE
13 JURY COMES BACK. WHAT IS THAT ABOUT, MR. CONNER?

14 MR. CONNER: YOUR HONOR, AT THIS TIME, I WOULD CALL
15 LIEUTENANT JOHNNY ABRAHAM.

16 LIEUTENANT JOHNNY ABRAHAM, BEING FIRST
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE CLERK: STATE YOUR FULL NAME, AND SPELL YOUR LAST
19 NAME, PLEASE.

20 A JOHNNY ABRAHAM. A-B-R-A-H-A-M.

21 DIRECT EXAMINATION BY MR. CONNER:

22 Q LIEUTENANT ABRAHAM, WHERE ARE YOU EMPLOYED?

23 A SOUTH CAROLINA LAW ENFORCEMENT DIVISION ALSO KNOWN AS
24 SLED.

25 Q AND WHERE IS YOUR OFFICE?

1 A IT IS LOCATED IN FLORENCE.

2 Q HOW MANY YEARS HAVE YOU BEEN WORKING AS A LAW
3 ENFORCEMENT OFFICER?

4 A OVER 24 YEARS.

5 Q AND WHAT OTHER AGENCIES HAVE YOU WORKED FOR?

6 A PRIOR TO COMING TO SLED, I WORKED WITH FLORENCE
7 COUNTY SHERIFF'S OFFICE, WHERE I WAS LIEUTENANT OVER
8 INVESTIGATIONS BEFORE I LEFT THAT DEPARTMENT.

9 Q AND WHAT KIND OF WORK HAVE YOU DONE AT SLED?

10 A I HAVE BEEN AN AGENT. I'VE WORKED WITH THE ARSON
11 DIVISION BEFORE TRANSFERRING OVER TO THE CRIMINAL
12 DIVISION. AND AFTER WORKING SOME YEARS IN THE CRIMINAL
13 DIVISION, I WAS PROMOTED TO LIEUTENANT.

14 Q NOW BACK IN SEPTEMBER OF 2005, DID YOU HAVE AN
15 OCCASION TO COME TO SUMTER COUNTY IN REGARDS TO A CASE
16 THAT WE'RE TRYING AT THIS TIME?

17 A YES, I DID.

18 Q AND DID YOU, ON SEPTEMBER THE 15TH, DID YOU HAVE AN
19 OCCASION TO GO WITH ANOTHER OFFICER TO RICHLAND MEMORIAL
20 HOSPITAL IN COLUMBIA TO TALK WITH MR. YONSON?

21 A YES, I DID.

22 Q AND WHEN Y'ALL GOT THERE, WHAT DID YOU DO WHEN YOU
23 FIRST GOT THERE?

24 A PRIOR TO ARRIVING AT THE HOSPITAL, WE WENT TO THE
25 NURSE'S STATION AND SPOKE TO ONE OF THE NURSES TO INQUIRE

1 WHAT KIND OF MEDICATION MR. YONSON WAS ON. WAS THERE
2 ANYTHING THAT MIGHT PREVENT HIM FROM UNDERSTANDING WHAT WE
3 HAD TO TALK TO HIM ABOUT. AND HE INDICATED THERE WAS
4 NOTHING HE WAS TAKING THAT WOULD INTERFERE WITH HIM
5 UNDERSTANDING.

6 Q AND AT THAT POINT AND TIME, DID Y'ALL APPROACH HIM
7 AND TALK WITH HIM?

8 A YES, WE DID.

9 Q AND DID YOU ADVISE HIM OF WHAT'S CALLED HIS MIRANDA
10 RIGHTS?

11 A YES, WE DID.

12 Q WHO ADVISED HIM OF THE MIRANDA RIGHTS?

13 A AGENT JOHNSON.

14 Q AND DID HE USE A FORM?

15 A YES, HE DID.

16 Q AND I SHOW YOU THIS FORM. I SHOW YOU THIS DOCUMENT
17 THAT'S NUMBERED STATE'S EXHIBIT NO. 13. WAS THAT DOCUMENT
18 USED IN THE INSTRUCTION OF HIS MIRANDA RIGHTS?

19 A YES, SIR, IT WAS.

20 Q AND YOU SAY JAMES JOHNSON READ HIM HIS RIGHTS?

21 A THAT'S CORRECT.

22 Q AND DID HE APPEAR TO UNDERSTAND WHAT Y'ALL WERE
23 READING TO HIM?

24 A YES, HE DID.

25 Q AND JUST TELL US, IF YOU WOULD, JUST READ THE FORMS

1 TO WHAT HE....

2 A OKAY. ON THE TOP OF THE FORM IT SAYS, SOUTH CAROLINA
3 LAW ENFORCEMENT DIVISION. AND IT SAYS, YOUR RIGHTS, AND
4 IT HAS A DATE AND A TIME. IT SAYS, "BEFORE WE ASK YOU ANY
5 QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE
6 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN AND WILL BE
7 USED AGAINST YOU IN A COURT OF LAW. YOU HAVE THE RIGHT TO
8 TALK TO A LAWYER FOR ADVICE BEFORE YOU ANSWER ANY
9 QUESTIONS, AND TO HAVE HIM OR HER PRESENT WITH YOU DURING
10 QUESTIONING. IF YOU HAVE NO MONEY FOR A LAWYER, THE
11 COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COSTS TO
12 YOU IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW
13 WITHOUT A LAWYER PRESENT, YOU WOULD STILL HAVE THE RIGHT
14 TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU ALSO HAVE
15 THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME UNTIL
16 YOU TALK TO A LAWYER." AND THEN IT SAYS, DOWN HERE IT
17 SAYS, "I HAVE READ THIS STATEMENT OF MY RIGHTS, AND I
18 UNDERSTAND WHAT MY RIGHTS." THEN IT HAS A PLACE FOR THE
19 DEFENDANT TO SIGN.

20 Q AND DID HE INDICATE TO Y'ALL THAT HE UNDERSTOOD THESE
21 RIGHTS?

22 A YES, HE DID.

23 Q AND DID HE FURTHER, AND HE SIGNED THE FORM.

24 A YES, HE DID. UNDERNEATH THAT HE HAS WAIVER OF
25 RIGHTS. IT SAYS, "I AM WILLING TO MAKE A STATEMENT AND

1 ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
2 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR
3 THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE OR COERCION
4 OF ANY KIND HAS BEEN MADE AGAINST ME. THEN IT HAS A PLACE
5 FOR HIM TO SIGN AGAIN.

6 Q AND DID HE TALK TO YOU FREELY AND VOLUNTARILY,
7 JOHNNY?

8 A YES, HE DID.

9 Q AND DID HE -- SO HE AGREED TO TALK WITH YOU?

10 A YES, HE DID. HE AGREED TO TALK---

11 Q ANY LIMITATIONS ON THE CONVERSATION?

12 A YES, HE DID. HE SAID HE WOULD TELL US WHAT HAPPENED.
13 BUT HE WAS NOT GOING TO GIVE US A WRITTEN STATEMENT OR A
14 RECORDED STATEMENT.

15 Q AND DID Y'ALL PROMISE HIM ANYTHING TO GET HIM TO TALK
16 TO YOU?

17 A NO, WE DIDN'T.

18 Q DID YOU COERCE HIM IN ANY WAY TO TALK TO YOU?

19 A NO.

20 Q IF YOU WOULD, TELL US WHAT HE TOLD YOU ABOUT WHAT HAD
21 HAPPENED ON SEPTEMBER 11, 2005, OUT AT THE FRENZ' CLUB.

22 A MR. YONSON STATED AS HE WAS IN THE CLUB INSIDE, HE
23 HAD DRANK ABOUT TWO BEERS, SHOT A GAME OF POOL WHEN HE
24 HEARD SOME COMMOTION ON THE OUTSIDE OF THE CLUB. HE SAID
25 HE WENT OUT TO SEE WHAT WAS GOING ON. WHEN HE GOT OUT

1 THERE, HE SAW SEVERAL FEMALES THAT WERE FIGHTING. HE
2 ATTEMPTED TO COME BACK INTO THE CLUB. AND AT THAT TIME HE
3 SAID THE OWNER STOPPED HIM. WHEN THE OWNER STOPPED HIM
4 FROM COMING BACK INTO THE CLUB, HE DECIDED HE WAS GOING TO
5 GO HOME AND WAS WALKING TOWARDS HIS TRUCK. WHEN HE SAID
6 TWO -- SOME DEPUTIES CAME UP BEHIND HIM, PUT THEIR HANDS
7 ON HIS SHOULDER AND TOLD HIM HE WAS UNDER ARREST. "PUT
8 HIS HANDS BEHIND HIS BACK."

9 AND HE SAID AT THE TIME A STRUGGLE ENSUED. HE WENT
10 TO THE GROUND. HE SAID THAT SOME HOW OR ANOTHER, THE GUN
11 CAME OUT OF HIS POCKET AND SHOT THE DEPUTIES. HE ADMITTED
12 TO HAVING TWO WEAPONS. ONE WAS A 9 MILLIMETER. HE STATED
13 THAT HE GOT IT FROM A BLACK MALE, WHOSE NAME HE REFUSED TO
14 GIVE US AT THAT TIME. AND THE 25 CALIBER AUTOMATIC, HE
15 SAID WAS GIVEN TO HIM THROUGH BY HIS GIRLFRIEND'S MOTHER
16 WHO HE ALSO REFUSED TO GIVE US THE NAME AT THAT TIME.

17 Q SO HE ADMITTED THAT HE HAD TWO GUNS.

18 A THAT'S CORRECT.

19 Q TWO PISTOLS THERE.

20 A THAT'S CORRECT.

21 Q ONE A 9 MILLIMETER AND ONE A 25 CALIBER.

22 A THAT IS CORRECT.

23 MR. CONNER: ANSWER ANY QUESTIONS HIS LAWYER MIGHT
24 HAVE FOR YOU.

25 THE COURT: YES, SIR.

1 MR. WILLIAMS: THANK YOU, YOUR HONOR.

2 CROSS EXAMINATION BY MR. WILLIAMS:

3 Q MR. ABRAHAM.

4 A YES, SIR.

5 Q YOU SAID WHEN YOU ARRIVED AT THE HOSPITAL, YOU FIRST
6 APPROACHED THE NURSE'S STATION?

7 A THAT'S CORRECT.

8 Q IS THAT CORRECT?

9 A UH-HUH. (AFFIRMATIVE.)

10 Q WHAT FLOOR WAS HE ON?

11 A I CAN'T RECALL RIGHT OFF.

12 Q I DON'T MEAN A SPECIFIC NUMBER. I MEAN WHAT KIND OF
13 TREATMENT UNIT WAS MR. YONSON IN?

14 A WHAT WAS HE IN THE HOSPITAL FOR?

15 Q NO, EXCUSE ME, SIR. WAS HE IN THE EMERGENCY ROOM, IN
16 ICU, IN THE...

17 A HE WAS A PATIENT IN A ROOM.

18 Q OKAY. THAT'S WHAT I MEAN. WHAT KIND OF ROOM WAS HE
19 IN, ICU?

20 A NO, IT WAS NOT ICU.

21 Q IT WAS A STANDARD HOSPITAL ROOM?

22 A RIGHT.

23 Q OKAY, THANK YOU. AND YOU FIRST APPROACHED THE
24 NURSE'S STATION?

25 A THAT'S CORRECT.

1 Q AND WHAT TIME DID YOU SAY IT WAS, OFFICER?

2 A WHAT TIME?

3 Q YES, SIR.

4 A WHEN WE ARRIVED AT THE HOSPITAL, A LITTLE AFTER
5 11:00 A.M.

6 Q WAS THE NURSE'S STATION BUSY AT THE TIME?

7 A NO, NOT PARTICULARLY.

8 Q DID YOU ASK TO SPEAK TO ANY NURSE OR?

9 A NO, I ASKED FOR MR. YONSON'S NURSE. IT WAS HIS
10 NURSE.

11 Q DO YOUR NOTES INDICATE WHICH NURSE YOU SPOKE WITH?

12 A NO.

13 Q SO SOME NURSE CAME AND TOLD YOU THAT MR. YONSON
14 WASN'T ON ANY MEDICATION AT THE TIME.

15 A NO, SHE SAID HE WAS NOT ON ANY TYPE OF MEDICATION
16 THAT WOULD INTERFERE WITH HIS UNDERSTANDING WITH WHAT WE
17 WANTED TO TALK TO HIM ABOUT.

18 Q HAVE YOU EVER HAD THE OCCASION WHERE ONE MEMBER OF A
19 HOSPITAL STAFF OR A CERTAIN LEVEL OF MEDICAL TRAINING MAY
20 NOT HAVE BEEN AWARE OF THE POTENTIAL SIDE EFFECTS OF A
21 CERTAIN MEDICATION?

22 A YOU MEAN FOR THE NURSE OR THE PHYSICIAN?

23 Q THAT THE NURSE MIGHT NOT HAVE KNOWN ALL THE SIDE
24 EFFECTS OF THE DRUGS THAT MR. YONSON WAS UNDER AT THE
25 TIME?

1 A HAVE I TALKED TO A NURSE THAT DIDN'T KNOW? NO.

2 Q SO YOU TALKED FAIRLY CONFIDENT.

3 A YEAH, SHE CHECKED HIS CHART.

4 Q DID SHE INDICATE THAT HE WAS TAKING ANY MEDICINE OR
5 UNDER ANY MEDICATION AT THAT TIME?

6 A SHE SAID HE WAS TAKING SOME MEDICATION, BUT NOTHING
7 TO INTERFERE.

8 Q WHAT DID SHE SAY HE WAS TAKING?

9 A SHE DIDN'T GO INTO IT.

10 Q DID YOU INDICATE THAT IN YOUR NOTES?

11 A NO.

12 Q OKAY. SO IF YOU WERE TO LEARN THAT MR. YONSON WAS
13 UNDER A MEDICATION THAT DID CAUSE HIM TO BE UNABLE TO
14 UNDERSTAND YOUR QUESTIONS, YOU RELIED ONLY ON THE NURSE'S
15 STATEMENTS?

16 A AND HIS CHART, YEAH.

17 Q AND HIS CHART. DID YOU GET A COPY OF THE CHART?

18 A NO, I DIDN'T.

19 Q DID SHE SHOW YOU THE CHART?

20 A NO, SHE LOOKED AT IT.

21 Q BUT SHE DIDN'T SHOW IT TO YOU.

22 A NO.

23 Q SO THE NURSE HERE MAY HAVE MISUNDERSTOOD THE CHART?
24 IS THAT A POSSIBILITY?

25 A YOU'D HAVE TO ASK HER, I AM NOT SURE.

1 Q OKAY. AND THAT'S FINE. YOU CAN ONLY TESTIFY AS TO
2 WHAT YOU KNOW.

3 A RIGHT.

4 Q BUT JUST AS TO THE STATEMENT, SO IT WOULD NOT BE
5 IMPOSSIBLE IN YOUR MIND FOR MR. YONSON TO HAVE BEEN UNDER
6 DRUGS; THAT THE NURSE DIDN'T THINK WOULD HAVE CAUSED HIM
7 TO HAVE TROUBLE IN UNDERSTANDING YOU, BUT IN ACTUALITY
8 THEY DID?

9 A WELL I CAN'T TELL YOU WHAT THE NURSE THOUGHT.

10 Q SO YOU RELIED STRICTLY ON THE NURSE'S WORDS THERE.

11 A THAT'S CORRECT.

12 MR. WILLIAMS: THANK YOU.

13 REDIRECT EXAMINATION BY MR. CONNER:

14 Q LIEUTENANT ABRAHAM, IN ADDITION TO WHAT THE NURSE
15 TOLD YOU, DID YOU MAKE THE INDEPENDENT ASSESSMENT IN YOUR
16 CONVERSATION THAT HE UNDERSTOOD WHAT YOU WERE TELLING HIM,
17 ASKING HIM?

18 A YES, I DID. IN TALKING TO MR. YONSON, HE SEEMED TO
19 UNDERSTAND WHAT WE WERE SAYING. BECAUSE HE SAID HE WOULD
20 NOT GIVE US A WRITTEN STATEMENT OR A RECORDED STATEMENT.

21 MR. CONNER: I HAVE NO FURTHER QUESTIONS.

22 MR. WILLIAMS: YOUR HONOR, I HAVE.

23 RECROSS EXAMINATION BY MR. WILLIAMS:

24 Q DID YOU ASK MR. YONSON ANY QUESTIONS THAT WOULD PROVE
25 TO YOU THAT HE WAS OF A RIGHT MIND? THE DATE, THE

1 PRESIDENT OF THE UNITED STATES? ANY QUESTIONS THAT MIGHT
2 HELP TO ESTABLISH MR. YONSON'S CAPABILITY OF UNDERSTANDING
3 YOUR QUESTIONS?

4 A NO, I DON'T ASK HIM WHO THE PRESIDENT OF THE UNITED
5 STATES WAS. BUT BY HIS ANSWER TO US AND UNDERSTANDING HIS
6 RIGHTS, HE SEEMED TO UNDERSTAND EVERYTHING.

7 Q OKAY. BUT NO QUESTION THAT WOULD HAVE ESTABLISHED
8 HIM AS A CAPABLE HUMAN BEING OF UNDERSTANDING QUESTIONS?

9 A AFTER TALKING TO HIM, I DIDN'T SEE NO REASON TO,
10 BECAUSE HE SEEMED TO HAVE UNDERSTOOD EVERYTHING.

11 Q BUT NOT BEFORE YOU BEGAN.

12 A YES. BEFORE WE BEGAN. BUT HE UNDERSTOOD HIS RIGHTS
13 AND ACKNOWLEDGED HIS RIGHTS. IT SEEMED TO ME HE
14 UNDERSTOOD EVERYTHING WE WERE SAYING.

15 MR. WILLIAMS: THANK YOU.

16 THE COURT: STEP DOWN, SIR.

17 MR. CONNER: YOUR HONOR, WE WOULD CALL JAMES
18 JOHNSON.

19 JAMES JOHNSON, BEING FIRST DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
22 NAME FOR THE RECORD.

23 A JAMES LEE JOHNSON. J-O-H-N-S-O-N.

24 DIRECT EXAMINATION BY MR. CONNER:

25 Q JAMES, WHERE ARE YOU EMPLOYED?

1 A I'M EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT
2 DIVISION COMMONLY KNOWN AS SLED.

3 Q AND HOW LONG HAVE YOU BEEN EMPLOYED AS A LAW
4 ENFORCEMENT AGENT?

5 A APPROXIMATELY 23 YEARS.

6 Q WHO OTHER AGENCIES HAVE YOU WORKED FOR OTHER THAN
7 SLED?

8 A THE SOUTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
9 DIVISION.

10 Q AND WHEN DID YOU JOIN SLED?

11 A IN SEPTEMBER OF 92.

12 Q AND DID YOU ALSO GO WITH LIEUTENANT ABRAHAM TO
13 COLUMBIA SEPTEMBER 15, 2005, IN ORDER TO TALK WITH
14 MR. YONSON?

15 A YES, SIR, I DID.

16 Q AND WHAT PART DID YOU TAKE IN THE PROCEDURE THERE?

17 A WHEN LIEUTENANT ABRAHAM AND I ARRIVED AT THE
18 HOSPITAL, WE WENT UP TO THE FLOOR WHERE MR. YONSON WAS
19 BEDED. AND WE TALKED WITH THE CHARGE NURSE ON THAT FLOOR.
20 AND LIEUTENANT ABRAHAM TALKED WITH HER REFERRING TO
21 MR. YONSON'S CAPABILITY OF UNDERSTANDING OUR QUESTIONS AND
22 WHETHER OR NOT HE WAS UNDER ANY TYPE OF MEDICATION THAT
23 WOULD HAMPER HIM FROM ANSWERING OUR QUESTIONS. AND
24 UNDERSTANDING WHAT QUESTIONS WE HAD TO ASK HIM.

25 Q DID SHE INDICATE THAT IT WAS OKAY TO TALK WITH HIM?

1 AND HE COULD UNDERSTAND WHAT YOU ALL HAD TO TALK ABOUT?

2 A YES, SIR, SHE DID.

3 Q AND DID Y'ALL THEN GO TO HIS ROOM?

4 A YES, SIR.

5 Q AND I SHOW THIS FORM HERE, JAMES, STATE'S EXHIBIT NO.
6 13, AND ASK IF YOU CAN IDENTIFY THAT?

7 A YES, SIR.

8 Q AND WHO GAVE HIM HIS MIRANDA RIGHTS?

9 A I DID.

10 Q AND DID HE UNDERSTAND THEM?

11 A YES, SIR. I READ THESE TO HIM. AND I ASKED HIM
12 AFTER EACH SENTENCE DID HE UNDERSTOOD. HE REPLIED YES, HE
13 DID.

14 Q AND DID HE SIGN THE FORM INDICATING THAT HE
15 UNDERSTOOD?

16 A YES, SIR. I ASKED IF HE UNDERSTOOD HIS RIGHTS. AND
17 IF HE WAS WILLING TO TALK TO US, WOULD HE PLEASE SIGN. HE
18 DID. AND I ALSO READ HIM THE WAIVER OF HIS RIGHTS. AND
19 HE SAID THAT HE UNDERSTOOD. AND HE SIGNED THAT AS WELL.

20 Q AND HE INDICATED HE WOULD WAIVE HIS RIGHTS AND TALK
21 TO YOU?

22 A YES, HE DID.

23 Q AND DID Y'ALL PROMISE HIM ANYTHING TO GET HIM TO TALK
24 TO YOU?

25 A NO, SIR.

1 Q DID YOU FORCE HIM IN ANY WAY TO MAKE HIM TALK TO YOU?

2 A NO, SIR.

3 Q DID HE TALK TO YOU FREELY AND VOLUNTARILY?

4 A YES, SIR, HE DID.

5 MR. CONNER: I HAVE NO FURTHER QUESTIONS. ANSWER ANY
6 QUESTIONS MR. WILLIAMS MIGHT HAVE FOR YOU.

7 CROSS EXAMINATION BY MR. WILLIAMS:

8 Q MR. JOHNSON, WERE YOU IN HERE DURING MY QUESTIONS OF
9 MR. ABRAHAM?

10 A YES, SIR, I WAS.

11 Q THANK YOU. SO YOU ALSO RELIED ON THE NURSE'S
12 STATEMENTS TO YOU AT THE NURSE'S STATION?

13 A WELL SHE WAS THE CHARGE NURSE ON THE FLOOR. AND I
14 BELIEVE SHE SAID SHE WAS THE ATTENDING NURSE TO
15 MR. YONSON.

16 Q THANK YOU, BUT YOU RELIED ON THOSE STATEMENTS?

17 A YES, SIR. I DID RELY ON WHAT SHE TOLD ME.

18 Q OKAY. THANK YOU. SO YOU WERE AWARE OF ANY OTHER
19 MEDICATIONS MR. YONSON MAY HAVE BEEN TAKING AT THE TIME?

20 A NO, SIR.

21 Q SO IT WOULD NOT SURPRISE YOU TO LEARN THAT A PATIENT
22 IN THE HOSPITAL WHO HAD BEEN SHOT, WAS TAKING A NUMBER OF
23 MEDICATIONS?

24 A PROBABLY SO, BUT HE WAS ALERT WHEN WE TALKED WITH
25 HIM.

1 Q THANK YOU. BUT IT WOULD NOT SURPRISE YOU TO LEARN
2 THAT HE WAS TAKING A NUMBER OF MEDICATIONS?

3 A I DON'T KNOW WHAT HE WAS TAKING, BUT I ASSUME IT WAS
4 BECAUSE OF SOME MEDICATION.

5 Q OKAY. THANK YOU. AND ONE OF THOSE MEDICINES MAY
6 EFFECT HIS ABILITY TO UNDERSTAND YOU?

7 A I RELIED ON THE NURSE AND HER TRAINING AS A NURSE IN
8 DEALING WITH THE TYPE OF MEDICATION THAT MR. YONSON WOULD
9 BE TAKING, TO BELIEVE WHAT SHE TOLD ME WAS ACCURATE AND
10 CORRECT.

11 Q DID YOU ASK MR. YONSON THAT?

12 A I DON'T BELIEVE I ASKED HIM WAS HE ON ANY MEDICATION
13 THAT WOULD HAMPER HIS ABILITY TO ANSWER MY QUESTIONS, NO,
14 SIR, I DID NOT.

15 Q SO YOU DIDN'T ASK HIM THAT BEFORE YOU ASKED HIM THESE
16 QUESTIONS?

17 A WELL I WOULD SUSPECT THAT THE NURSE KNEW WHAT TYPE OF
18 MEDICATION SHE WAS GIVING HIM. AND SHE TOLD ME THAT HE
19 WAS ABLE TO TALK AND UNDERSTAND WHAT I WAS ASKING HIM. I
20 RELIED ON THAT.

21 MR. WILLIAMS: OKAY. THANK YOU.

22 MR. CONNER: I HAVE NO FURTHER QUESTIONS.

23 THE COURT: YOU MAY STEP DOWN. ANY FURTHER WITNESSES
24 BY THE STATE?

25 MR. CONNER: I HAVE NO FURTHER WITNESSES ON THIS

1 ISSUE.

2 THE COURT: BY THE DEFENSE?

3 MR. WILLIAMS: I BEG THE COURT'S INDULGENCE, YOUR
4 HONOR. NOTHING AT THAT TIME, YOUR HONOR.

5 THE COURT: I FIND BASED ON THE PREPONDERANCE OF THE
6 EVIDENCE THAT THE DEFENDANT'S STATEMENTS WERE FREELY AND
7 VOLUNTARILY GIVEN. ANYTHING ELSE?

8 MR. CONNER: NOTHING FURTHER FROM US, YOUR HONOR.

9 MR. WILLIAMS: NOTHING FROM THE DEFENSE, YOUR HONOR.

10 THE COURT: BRING THE JURY.

11 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
12 PRESENCE OF THE JURY.)

13 THE COURT: WELCOME BACK, LADIES AND GENTLEMEN. IF
14 YOU WILL STAND AT THIS TIME AND BE SWORN.

15 (THEREUPON, THE JURY IS SWORN.)

16 THE COURT: LADIES AND GENTLEMEN, YOU ALL RECEIVED A
17 SUMMONS SAYING THAT Y'ALL ARE SUPPOSED TO COME HERE FOR
18 JURY DUTY. YOU CAME HERE THIS MORNING, QUALIFIED TO SERVE
19 ON JURY DUTY. THEN YOU WENT THROUGH A QUESTIONING PROCESS
20 TO DETERMINE WHETHER OR NOT YOU CAN SIT AS FAIR AND
21 IMPARTIAL JURORS IN THIS CASE. NOW YOU HAVE BEEN SWORN TO
22 WELL AND DULY TRY THIS CASE, AND RENDER A TRUE VERDICT
23 ACCORDING TO THE LAW AND ACCORDING TO THE EVIDENCE. WHAT
24 I WILL SAY TO YOU WILL SERVE AS AN INTRODUCTION TO THE
25 TRIAL OF THIS CASE. AND I WILL GIVE YOU A MORE DETAILED

1 INSTRUCTION AT THE END OF THE CASE.

2 THIS IS A CASE WHICH IS BROUGHT BY THE STATE OF
3 SOUTH CAROLINA AGAINST THE DEFENDANT, CHARGING HIM WITH
4 SEVERAL CRIMINAL OFFENSES. AND THOSE CRIMINAL OFFENSES
5 ARE CONTAINED IN AN INDICTMENT WHICH HAS BEEN RETURNED BY
6 THE GRAND JURY OF SUMTER COUNTY. IT CHARGES MR. YONSON
7 WITH VARIOUS CRIMINAL OFFENSES, INCLUDING UNLAWFUL
8 CARRYING OF A PISTOL, AND POSSESSION OF A PISTOL BY A
9 PERSON UNDER 21. AND POSSESSION OF A PISTOL BY A PERSON
10 WHO HAS BEEN CONVICTED OF A CRIME OF VIOLENCE. TWO
11 COUNTS OF ASSAULT AND BATTERY WITH INTENT TO KILL.
12 POSSESSION OF A FIREARM DURING THE COMMISSION OF A CRIME
13 OF VIOLENCE. ASSAULTING POLICE OFFICERS WHILE RESISTING
14 ARREST. AND RESISTING ARREST WITH A DEADLY WEAPON AND
15 POSSESSION OF COCAINE.

16 HE HAS PLED NOT GUILTY TO EACH AND EVERY ONE OF
17 THESE CHARGES. AND YOU SHOULD CLEARLY UNDERSTAND THAT
18 THE FACT THAT HE HAS BEEN INDICTED AND CHARGED WITH THESE
19 CASES IS NOT EVIDENCE IN THESE CASES. AND IT IS NOT
20 EVIDENCE OF HIS GUILT. HE HAS PLED NOT GUILTY TO THESE
21 CHARGES AND HE IS PRESUMED TO BE NOT GUILTY OF THESE
22 CHARGES. AND CANNOT BE FOUND GUILTY OF THESE CHARGES
23 UNLESS EACH AND EVERY ONE OF YOU ARE SATISFIED BEYOND A
24 REASONABLE DOUBT FROM THE EVIDENCE PRESENTED THAT HE IS
25 GUILTY. AND YOU MUST DECIDE EACH AND EVERY CHARGE

1 SEPARATELY. AND YOUR PURPOSE AS JURORS IS TO FIND AND TO
2 DETERMINE THE FACTS OF THIS CASE.

3 OUT OF ALL THE OTHER PEOPLE WHO CAME HERE TODAY ON
4 JURY DUTY, OF ALL THE OTHER PEOPLE HERE IN SUMTER COUNTY,
5 OUT OF ALL THE OTHER PEOPLE IN THE STATE OF SOUTH
6 CAROLINA, THE UNITED STATES, AND THE WORLD, ONLY THE 12
7 OF YOU WHO WILL DELIBERATE CAN DECIDE THE FACTS OF THIS
8 CASE. AND YOU ARE TO DECIDE THE FACTS OF THIS CASE BASED
9 ON LISTENING TO AND EVALUATING THE EVIDENCE PRESENTED IN
10 THIS CASE. JUST AS ONLY YOU CAN DECIDE THE FACTS OF THIS
11 CASE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE. AND
12 UNDER YOUR OATH, YOU MUST ACCEPT AND APPLY THE LAW
13 EXACTLY AS I STATE IT TO YOU. YOU MUST NOT CONSIDER
14 ANYTHING THAT YOU MAY HAVE HEARD OR MIGHT HEAR OUTSIDE OF
15 THE COURTROOM BEFORE THE TRIAL OR DURING THE TRIAL. YOU
16 MUST NOT DISCUSS THE CASE WITH ANYONE. EVEN WITH EACH
17 OTHER UNTIL I AUTHORIZE YOU TO DO SO.

18 IT WOULD CONSTITUTE A VIOLATION OF YOUR OATH AS
19 JURORS TO ENGAGE IN ANY FORM OF PREMATURE DELIBERATIONS,
20 OR ENGAGE IN ANY FORM OF DISCUSSION ABOUT THIS CASE WITH
21 ANYONE. IT WOULD CERTAINLY BE UNFAIR TO ENGAGE IN ANY
22 DELIBERATIONS OR DISCUSSION WITH ANYONE NOT ON THE JURY.
23 IT'S ALSO A VIOLATION TO DISCUSS IT WITH ANYONE ON THE
24 JURY UNTIL YOU HAVE HEARD ALL THE EVIDENCE IN THIS CASE,
25 AS WELL MY INSTRUCTION TO YOU ON THE LAW. IN JUST A

1 MOMENT, THE SOLICITOR WILL MAKE AN OPENING STATEMENT.
2 AND THAT WILL BE -- THE DEFENSE WILL ALSO BE GIVEN AN
3 OPPORTUNITY TO MAKE AN OPENING STATEMENT IF HE CHOOSES TO
4 DO SO. I LOOK FORWARD TO WORKING ON THIS CASE AND ANY
5 OTHER CASES THAT WE ARE GOING TO DO THIS WEEK. I WILL DO
6 ALL THAT I CAN TO MINIMIZE THE INCONVENIENCE. KEEP YOU
7 FRESHLY ALERT, AND FOCUS ON THE DETAILS WHICH YOU HAVE
8 AND THE TASK THAT YOU ARE ASSIGNED TO DO. AND THAT TASK
9 IS TO SIT AS FAIR AND IMPARTIAL JURORS AND TO DECIDE THIS
10 CASE ONCE IT'S SUBMITTED TO YOU FOR YOUR DECISION. MR.
11 SOLICITOR.

12 MR. CONNER: MY NAME OF HARRY CONNER. I AM AN
13 ASSISTANT SOLICITOR HERE IN SUMTER COUNTY. THE INCIDENT
14 YOU ARE ABOUT TO HEAR ABOUT HERE, HAPPENED AT A PLACE
15 CALLED THE FRENZ CLUB OUT ON THE PINWOOD ROAD. QUITE A
16 DISTANCE OUT OF SUMTER BACK IN SEPTEMBER OF 2005. THESE
17 TWO POLICE OFFICERS HERE IN THE WHITE SHIRT ON THE LEFT,
18 MR. BOLAND, ERIN BOLAND AND JAMES WILLIAMS WERE SHOT THAT
19 NIGHT AT THAT CLUB. SOMEWHERE ABOUT 2:30 IN THE EVENING,
20 2:27, 2:28 SOMETHING IN THAT NEIGHBORHOOD, THEY ARRIVED
21 THERE. THEY HAD BEEN CALLED BECAUSE THERE WAS A FELLOW IN
22 THE PARKING LOT. BUT FIRST OF ALL, THERE WAS SOME WOMEN
23 OUT THERE FIGHTING IN THE PARKING LOT. AND SECOND OF ALL,
24 SOME OF THE CUSTOMERS HAD REPORTED INSIDE TO THE BARTENDER
25 THAT THEY SAW A FELLOW OUT THERE WITH A RED CAP ON AND A

1 WHITE SHIRT. AND THAT HE HAD A PISTOL.

2 AND YOU'RE GOING TO HEAR FROM SOME OF THOSE
3 WITNESSES IN THIS CASE TELLING YOU WHAT THEY SAW, AND
4 THAT THEY WENT INSIDE AND THEY TOLD THE BARTENDER WHAT
5 THE PROBLEM WAS. THE BARTENDER CALLED 911 AND THESE TWO
6 GENTLEMAN RESPONDED. AND WHEN THEY GOT THERE, THEY WERE
7 DIRECTED TO THE PROBLEM AREA. AND ONE OF THEM WAS
8 DIRECTED TO THE WOMEN THAT WERE FIGHTING. AND WENT THERE
9 TO TALK WITH THEM. AND THE OTHER ONE WAS DIRECTED TO THE
10 DEFENDANT WHO HAD ON THE RED CAP AND THE WHITE SHIRT.
11 AND THEY STARTED TALKING TO HIM ABOUT THE PISTOL. AND
12 ULTIMATELY THE ONE THAT WENT TO TALK WITH THE WOMEN AND
13 SAW THAT THERE WAS TROUBLE THERE WITH THIS FELLOW WITH
14 THE RED BASEBALL CAP AND THAT HE NEEDED TO HELP
15 MR. BOLAND OUT. SO HE WENT OVER. THEY TRIED TO TAKE HIM
16 TO THE GROUND TO DISARM HIM. AND OF COURSE IT DIDN'T
17 WORK BECAUSE SOMEHOW AFTER THEY GOT HIM PINNED DOWN, HE
18 GOT ONE HAND LOSE. AND YOU'RE GOING TO HEAR, YOU'RE
19 GOING TO SEE A VIDEOTAPE.

20 DON'T GET TOO EXCITED BECAUSE ONE PROBLEM WITH THE
21 VIDEOTAPE IS THE VIDEO CAMERA WAS IN MR. BOLAND'S CAR.
22 AND IT WAS PARKED DIRECTLY BEHIND THE PICKUP TRUCK. AND
23 THE ACTION WAS ON THE OTHER SIDE OF THE PICKUP TRUCK.
24 THEY DIDN'T PLAN IT THAT WAY. IT JUST TURNED OUT WHEN
25 THEY PULLED UP THERE, THEY PULLED UP WITH THEIR LIGHTS

1 ON. AND THEY PULLED UP BEHIND THE TRUCK AND THEY DIDN'T
2 KNOW WHERE THESE PEOPLE WERE AT FIRST UNTIL THEY GOT
3 THERE AND GOT TO TALKING TO THE CUSTOMERS. AND SO THE
4 VIDEO IS ONLY ABOUT TWO MINUTES LONG. IT HAPPENED REAL
5 FAST. REAL FAST. AND MR. BOLAND IS GOING TO TELL YOU
6 WHAT HAPPENED. AND BUT ONE THING YOU'RE GOING TO HEAR ON
7 THAT VIDEOTAPE, AND I APOLOGIZE TO YOU IN ADVANCE FOR
8 SAYING THIS. AND IT DOESN'T PLEASE ME TO HAVE TO USE A
9 WHOLE LOT OF VULGARITY, BUT WHAT I UNDERSTAND ON THE
10 VIDEOTAPE IS THIS DEFENDANT SAYS, "FUCK THAT SHIT," AND
11 THEN HE FIRES THE PISTOL. AND THAT'S WHAT THESE OFFICERS
12 ARE GOING TO TELL YOU.

13 AND ONE REASON I MENTION THAT TO YOU IS BECAUSE
14 ASSAULT AND BATTERY WITH INTENT TO KILL MEANS THAT THE
15 PERSON IS ACTING WITH MALICE. AND I TELL YOU THIS, I
16 SUBMIT TO YOU IN THE END, YOU'RE GOING TO FIND OUT THAT
17 THIS FELLOW DIDN'T HAVE JUST ONE PISTOL, HE HAD TWO
18 PISTOLS. THE CUSTOMERS ONLY SAW ONE. BUT WHEN IT WAS
19 ALL OVER WITH, THEY FOUND OUT THAT HE HAD TWO PISTOLS.
20 AND OF COURSE AS FAR AS WE KNOW, HE ONLY SHOT ONE OF
21 THEM. FORTUNATELY HE DIDN'T GET TO THE OTHER ONE. AND
22 ONE REASON HE DIDN'T GET TO THE OTHER ONE IS MR. BOLAND
23 SHOT HIM. AND HE WAS AFRAID. HE HAD ALREADY --
24 MR. BOLAND HAD BEEN HIT IN THE SIDE. THAT'S ANOTHER
25 THING YOU CAN SEE ON THIS VIDEO. YOU SEE MR. BOLAND'S

1 LEFT SIDE AND YOU SEE A DARK SPOT WHERE HE'S BLEEDING.
2 SO YOU CAN TELL THAT HE HAS BEEN HIT. AND HE GOES BACK
3 DOWN TO HIS KNEES. AND OF COURSE HE'S SCARED. AND HE
4 FIRED BACK AT HIM. AND HE HIT HIM. THE DEFENDANT WAS
5 INJURED. HE ENDED UP IN THE HOSPITAL IN RICHLAND JUST
6 LIKE BOLAND ENDED UP OVER THERE. AND MR. WILLIAMS, THE
7 OTHER OFFICER, HE GOT SHOT IN THE ARM. THIS IS SERIOUS
8 BUSINESS.

9 ONE THING I REMIND YOU, IN REVIEWING THE CHARGES IN
10 THIS CASE IS, UNDER SOUTH CAROLINA LAW, A PERSON CAN BE
11 GUILTY OF VIOLATING SEVERAL LAWS THAT ARISE FROM ONE SET
12 OF EVENTS. FOR EXAMPLE IN THIS CASE, THIS DEFENDANT WAS
13 CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL.
14 THAT MEANS THAT HE ACTED OUT OF MALICE. IN OTHER WORDS,
15 AN EVIL STATE OF MIND OR A WICKED STATE OF MIND. THE
16 KIND OF FELLOW THAT WOULD GO TO A BAR LIKE THIS, ARMED
17 WITH TWO PISTOLS, THAT WOULD SAY THE KIND OF THINGS THAT
18 HE SAID AND ACTED THE WAY HE ACTED. BUT ANY WAY, HE IS
19 CHARGED WITH TWO COUNTS OF ASSAULT AND BATTERY WITH
20 INTENT TO KILL. HE IS ALSO CHARGED WITH SOME GUN LAWS.
21 HE'S CHARGED WITH UNLAWFUL POSSESSION OF A PISTOL ON A
22 PREMISES THAT SELLS ALCOHOLIC BEVERAGES. YOU CAN'T GO
23 INTO A BAR THAT SELLS ALCOHOLIC BEVERAGES LOADED WITH
24 YOUR PISTOL. THAT'S AGAINST SOUTH CAROLINA LAW.

25 ALSO HE'S -- THERE'S ANOTHER STATUTE THAT PROHIBITS

1 PEOPLE UNDER THE AGE OF 21 FROM POSSESSING A PISTOL
2 EXCEPT IN CERTAIN LIMITED CIRCUMSTANCES. LIKE IF YOU'RE
3 A MEMBER OF THE MILITARY OR SOME OTHER -- THERE ARE SOME
4 EXCEPTIONS WITH THAT. BUT IN GENERAL IF YOU'RE UNDER 21,
5 YOU'RE PROHIBITED FROM POSSESSION OF A PISTOL. AND HE IS
6 IN VIOLATION OF THAT. HE'S IN VIOLATION OF POSSESSING A
7 PISTOL BY A PERSON THAT'S PREVIOUSLY CONVICTED OF CERTAIN
8 CRIMES. AND THE JUDGE WILL INSTRUCT YOU ON CERTAIN
9 STIPULATIONS THAT HAVE BEEN IN THAT REGARD. AND THERE'S
10 A STATUTE THAT PROHIBITS HIM BECAUSE OF HIS PRIOR RECORD
11 OF POSSESSION OF A PISTOL. IN OTHER WORDS, THIS IS A
12 FELLOW THAT KNEW HE WAS DOING WRONG, AND HE WAS HELL BENT
13 ON DOING IT ANY WAY WHETHER HE KILLED THESE FELLOWS OR
14 NOT.

15 HE'S CHARGED WITH ASSAULTING A LAW ENFORCEMENT
16 OFFICER WHILE RESISTING ARREST. YOU KNOW THE REGULAR
17 ASSAULT AND BATTERY WITH INTENT TO KILL. BUT THEN IF
18 YOU'RE IN THE PROCESS OF RESISTING LAWFUL AUTHORITY OR
19 LAWFUL ARREST, THEN THERE IS ANOTHER STATUTE THAT APPLIES
20 TO THAT. AND I TELL YOU THAT BECAUSE IN THE END YOU'RE
21 GOING TO HAVE TO DEAL WITH THESE VARIOUS DIFFERENT
22 CHARGES. THERE'S ONE, THERE'S A STATUTE ON THE RESISTING
23 ARREST WHILE ARMED WITH A DEADLY WEAPON. HE CERTAINLY
24 WAS DOING THAT. THE -- AS I PREVIOUSLY TOLD YOU, WE
25 INTEND TO OFFER IN TO EVIDENCE THIS VIDEOTAPE. AND I ASK

1 YOU TO PAY CAREFUL ATTENTION. BUT I WOULD SAY MORE
2 IMPORTANT THAN THE VIDEOTAPE LISTENING TO THE WITNESSES.

3 YOU'RE GOING TO HEAR FROM SOME PEOPLE WHO WERE
4 THERE. OUT THERE IN THE PARKING LOT WHO SAW THIS FELLOW
5 IN ADVANCE OF THE POLICE ARRIVING. AND YOU'RE GOING TO
6 SEE -- AND WERE THERE WHEN IT HAPPENED. AND THEY SAW
7 SOME OF IT. THEY SAW SOME OF IT. AND THEY'RE GOING TO
8 TELL YOU WHAT THEY SAW. SO LISTEN CAREFULLY TO THEM, AND
9 I WILL TELL YOU WHO HAD THE BEST VIEW, WHO WAS UP CLOSE
10 AND PERSONAL WITH THE DEFENDANT. CLOSER THAN ANYBODY
11 ELSE, AND COULD SEE BETTER THAN ANYBODY ELSE. ANOTHER
12 THING YOU'RE GOING TO NOTICE THIS VIDEO WAS THIS HAPPENED
13 IN THE DARK. I MEAN IT'S 2:20, 2:30 AT NIGHT. AND HERE
14 IS THE POLICE CAR BACK HERE. THERE'S THE PICK UP THERE,
15 AND THOSE PEOPLE ARE UP ON THE OTHER END. AND YOU -- IT
16 IS DIFFICULT TO SEE.

17 THOSE GUYS WERE UP CLOSE, AND THEY KNEW THEY WERE
18 ENDANGERED. AND THEY COULD SEE IT BETTER THAN ANYBODY
19 ELSE. A LOT OF THOSE OTHER PEOPLE THAT WERE IN THAT
20 PARKING LOT WERE DOING LIKE I WOULD DO, THEY WERE DODGING
21 AND DARTING AND HIDING BEHIND ANOTHER VEHICLE AND GETTING
22 DOWN TO TRY TO KEEP THEMSELVES FROM BEING HURT. WHICH WAS
23 A SENSIBLE THING FOR THEM TO DO I WOULD SUBMIT. FOR
24 THOSE FELLOWS WERE CHARGED WITH STOPPING HIM. AND THEY
25 DID IT. AND THEY HAD THE BEST VIEW. SO I WOULD ASK THAT

1 YOU PAY PARTICULAR CAREFUL ATTENTION TO WHAT THEY HAVE TO
2 SAY. LADIES AND GENTLEMEN, WE ARE GOING TO PRESENT
3 EVERYTHING WE HAVE GOT. AND I SUBMIT TO YOU THAT IN THE
4 END, YOUR VERDICT WILL BE THAT HE'S GUILTY.

5 THE COURT: MR. WILLIAMS.

6 MR. WILLIAMS: MAY IT PLEASE THE COURT.

7 THE COURT: YES, SIR.

8 MR. WILLIAMS: I AM THE OLDER OF TWO CHILDREN IN MY
9 FAMILY. I HAVE A YOUNGER SISTER THAT IS ABOUT FIVE YEARS
10 YOUNGER THAN ME. AND I'VE ALWAYS GROWN UP AS A PERSON
11 WHO LISTENED TO MY MOM. I WOULD DO WHAT I WAS TOLD. I
12 HEARD ENOUGH, I UNDERSTOOD. THE FIRST BORN CHILD
13 DOESN'T LIKE TO ROCK THE BOAT. YOU LISTEN TO WHAT YOU'RE
14 TOLD AND YOU DO WHAT YOU WERE TOLD. FOR THE LONGEST
15 TIME, MY MOTHER TOLD ME THERE ARE PRESENTS UNDER THE TREE
16 FROM SANTA CLAUS. I NEVER QUESTIONED IT. AND ONE DAY I
17 GREW UP, AND I LEARNED IT IS OKAY TO QUESTION AUTHORITY.
18 I AM NOT A REBEL. I DON'T HAVE TO CAUSE A SCENE. BUT
19 IT'S OKAY TO USE YOUR MIND, TO USE COMMON SENSE AND YOUR
20 LIFE EXPERIENCES AND SAY, IS WHAT THAT PERSON TELLING ME
21 TRUE, OR AM I JUST SUPPOSED TO BELIEVE THAT BECAUSE THAT
22 PERSON IS IN POSITION OF POWER OR AUTHORITY. AM I JUST
23 BELIEVING THIS PERSON BECAUSE HE OR SHE HAS A DEGREE OR A
24 CERTAIN JOB OR A CERTAIN POWER OVER ME? OR AM I HONESTLY
25 BELIEVING THAT BECAUSE OF WHAT THAT PERSON TELLS ME

1 SOUNDS LIKE THE TRUTH? THAT'S ALL I ASK OF YOU, LADIES
2 AND GENTLEMEN, TO LISTEN TO WHAT YOU ARE TOLD HERE TODAY
3 IN COURT, TO WHAT COMES OUT FROM THIS WITNESS STAND AND
4 DETERMINE, DOES THAT MAKES SENSE TO ME? DO I BELIEVE OR
5 AM I SUPPOSED TO BELIEVE THAT BECAUSE SOMEONE WHO IS
6 SMARTER THAN ME OR HAS A PARTICULAR JOB OVER ME TELLS ME
7 THAT? AND, LADIES AND GENTLEMEN, IF YOU WILL DO THAT, IF
8 YOU WILL JUST THINK WITH YOUR MINDS WHETHER YOU BELIEVE
9 SOMETHING BECAUSE IT SOUNDS TO BE TRUE I THINK WE CAN GET
10 TO THE HEART OF THE MATTER HERE TODAY. THANK YOU.

11 THE COURT: FIRST WITNESS.

12 MR. CONNER: I'D CALL ERIN BOLAND, YOUR HONOR.

13 ERIN BOLAND, SR., BEING FIRST DULY
14 SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MR. CONNER:

16 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
17 NAME PLEASE.

18 A ERIN R. BOLAND, SR. B-O-L-A-N-D.

19 Q OFFICER BOLAND, WHERE DO YOU WORK?

20 A SUMTER COUNTY SHERIFF'S OFFICE.

21 Q AND HOW LONG HAVE YOU BEEN A LAW ENFORCEMENT OFFICER?

22 A I HAVE BEEN A FULL TIME OFFICER FOR ALMOST 4 YEARS.

23 Q AND HAS THAT ENTIRE TIME BEEN SPENT WITH THE SUMTER
24 COUNTY SHERIFF'S OFFICE?

25 A YES, SIR, IT HAS.

1 Q TELL US SOMETHING ABOUT THE KIND OF TRAINING YOU GOT
2 WHEN YOU FIRST STARTED OUT AS A LAW ENFORCEMENT OFFICER IN
3 SUMTER COUNTY?

4 A MY INITIAL TRAINING WAS THROUGH THE RESERVE DEPUTY
5 PROGRAM. AT WHICH TIME I CAME ON FULL TIME, I WENT
6 THROUGH A 9-WEEK LAW ENFORCEMENT ACADEMY PLUS SEVERAL
7 ADDITIONAL ANNUAL TRAINING AND UPDATES.

8 Q OKAY. NOW THE 9 WEEK LAW ENFORCEMENT TRAINING
9 PROGRAM, WHERE IS THAT CONDUCTED?

10 A IN COLUMBIA, SOUTH CAROLINA. AT THE CRIMINAL JUSTICE
11 ACADEMY.

12 Q IS THAT AT SLED, OR NEAR WHERE SLED HEADQUARTERS IS
13 LOCATED?

14 A IT IS NEAR SLED HEADQUARTERS.

15 Q NOW WHAT KIND OF DUTY HAD YOU HAD WHILE YOU'VE BEEN
16 WORKING WITH THE SHERIFF?

17 A I'VE BEEN IN THE PATROL DIVISION.

18 Q AND WERE YOU WORKING BACK ON SEPTEMBER 11, 2005?

19 A YES, SIR, I WAS.

20 Q AND ON THIS NIGHT, DID YOU HAVE AN OCCASION TO GO TO
21 THE FRENZ CLUB OUT ON THE PINWOOD ROAD?

22 A YES, SIR.

23 Q NOW ABOUT WHAT TIME OF NIGHT WAS IT?

24 A IT WAS JUST BEFORE 2:30 IN THE MORNING.

25 Q AND HAD YOU -- DID YOU KNOW WHERE THE FRENZ CLUB WAS?

1 A YES, SIR. I HAD BEEN OUT THERE ONE TIME PREVIOUSLY.
2 APPROXIMATELY 30 MINUTES PRIOR TO THIS CALL.

3 Q WHAT KIND OF BUSINESS IS THE FRENZ CLUB?

4 A IT'S A NIGHTCLUB OR A BAR, IF YOU WILL.

5 Q NOW WHEN YOU GOT THERE, TELL US WHAT HAPPENED WHEN
6 YOU ARRIVED.

7 A WHEN I INITIALLY ARRIVED, WE WERE DISPATCHED TO A
8 CALL IN REGARDS TO A SUSPICIOUS PERSON WEARING A RED CAP,
9 A WHITE SHIRT, WHO WAS CARRYING A GUN. WHEN WE INITIALLY
10 ARRIVED, I SAW A FIGHT OFF TO MY LEFT OF MY VEHICLE FROM
11 WHERE I PULLED IN, WITH SEVERAL FEMALES INVOLVED. MYSELF
12 AND OFFICER WILLIAMS APPROACHED THAT GROUP AND TRIED TO
13 MAKE CONTACT WITH THE PEOPLE INVOLVED WITH THAT TO SEE
14 WHAT WAS GOING ON WHEN I WAS APPROACHED BY THE DJ AT THE
15 CLUB, MR. COOK. WHO STATED THAT THE SUBJECT WE CALLED
16 ABOUT WAS COMING OUT OF THE FRONT DOOR OF FRENZ CLUB. AND
17 HE POINTED AT MR. YONSON WHO WAS WEARING A RED CAP AND A
18 WHITE TEE SHIRT AT THE TIME.

19 I BROKE AWAY FROM OFFICER WILLIAMS TO GO TALK TO
20 MR. YONSON. AS I WAS APPROACHING MR. YONSON, I WAS
21 TALKING TO HIM AND ASKING HIM TO COME HERE AND TALK WITH
22 ME. ASKING HIM IF HE HAD ANY ID. AT WHICH POINT HE
23 BECAME UNCOOPERATIVE, STARTING TRYING TO MOVE AWAY FROM
24 ME. AND KEPT SUSPICIOUSLY FUMBLING WITH AN AREA AROUND
25 HIS WAISTBAND AND POCKETS OF HIS PANTS THAT HE WAS

1 WEARING. AS I GOT CLOSER, I AGAIN TOLD MR. YONSON TO KEEP
2 HIS HANDS OUT WHERE I COULD SEE THEM FOR HIS SAFETY AND
3 MINE. AND BY THE THIRD TIME THAT I TOLD HIM THAT, I WAS
4 CLOSE ENOUGH THAT I DID REACH OUT TO HIM. I WAS DETAINING
5 HIM AT THAT POINT FOR HIS SAFETY AND MINE. AT WHICH POINT
6 MR. YONSON STARTED TO STRUGGLE. I TOLD HIM HE WAS UNDER
7 ARREST.

8 A STRUGGLE ENSUED. OFFICER WILLIAMS SAW ME
9 STRUGGLING WITH HIM. I CAME OVER AND GRABBED HIS OTHER
10 ARM, AT WHICH POINT I TOLD OFFICER WILLIAMS TO TAKE HIM TO
11 THE GROUND SO WE COULD SECURE HIM. WE TOOK HIM TO THE
12 GROUND. AS WE WERE TRYING TO SECURE HIM, AT SOME POINT,
13 I NOTICED OFFICER WILLIAMS' GRIP ON THE SUSPECT'S WRIST
14 HAD SLIPPED UP TO MR. YONSON'S ELBOW. I REMEMBER TELLING
15 OFFICER WILLIAMS, "GET HIS HAND OUT, I BELIEVE HE HAS A
16 GUN." AT WHICH POINT I EARLIER HEARD MR. YONSON STATE:
17 "FUCK THIS." AS HE DID SO, HE BROKE FREE FROM MYSELF AND
18 OFFICER WILLIAMS. AT WHICH TIME I SAW HIM ROLL AROUND
19 WITH THE HANDGUN IN HIS HAND. SIMULTANEOUSLY I SAW THE
20 MUZZLE FLASH FROM THE HANDGUN. HEARD THE SHOT. AND
21 REALIZED I HAD BEEN HIT IN THE LEFT SIDE OF MY BODY.

22 AS THAT HAPPENED, I PUSHED OFF MR. YONSON AND WAS
23 DRAWING MY WEAPON. I NOTICED OFFICER WILLIAMS HAD PINNED
24 THE GUN DOWN. AND I HEARD WHAT I BELIEVE TO BE ANOTHER
25 SHOT. I TOOK THE WEAPON FROM MR. YONSON. TOOK A STEP

1 BACK. WAS FINISHED DRAWING MY WEAPON OUT, TOLD MR. YONSON
2 TO STAY STILL. PUT HIS HANDS OUT. HE HAD BROKEN LOSE
3 FROM OFFICER WILILAMS AND WAS REACHING IN HIS POCKETS, AT
4 WHICH TIME I FIRED 3 SHOTS. MR. YONSON THEN COMPLIED.
5 PUT HIS HANDS OUT TO HIS SIDE. I TOLD DEPUTY WILLIAMS TO
6 CUFF MR. YONSON AND SECURE HIM. AT WHICH POINT WE HELD
7 THE CROWD BACK. MADE SURE MR. YONSON WAS SECURED.
8 ALLOWED SOME PARTIES IN THE CROWD TO RENDER AID TO
9 MR. YONSON. THE DJ RENDERED AID TO MYSELF. AND BACK UP
10 ARRIVED A SHORT TIME LATER.

11 Q NOW THE PISTOL THAT YOU WERE SHOT WITH, WHAT HAPPENED
12 TO THAT? BY THAT, I MEAN, MR. YONSON'S PISTOL.

13 A ON THE SCENE I HAD TAKEN THE PISTOL WITH ME WHEN I
14 DROPPED TO MY KNEES AND DREW DOWN ON MR. YONSON. I HAD
15 PUT IT UNDER MY, THE RIGHT SIDE OF MY LEG, OR CALF, LOWER
16 LEG THAT WAS ON THE GROUND. WHEN SERGEANT DUKES ARRIVED
17 ON THE SCENE, THE GUN WAS GIVEN TO HIM.

18 Q AND SO WILLIAMS GOT HIS HAND PINNED DOWN TO THE
19 GROUND?

20 A THAT IS CORRECT.

21 Q AND THEN YOU RETRIEVED THE GUN FROM THE GROUND?

22 A I RETRIEVED THE GUN FROM MR. YONSON'S HAND WHILE IT
23 WAS PINNED TO THE GROUND.

24 Q AND AT THAT POINT AND TIME, DID HE BECOME
25 COOPERATIVE?

1 A NO, SIR, HE DID NOT. HE BROKE FREE FROM DEPUTY
2 WILLIAMS GRIP AND STARTED BACK PEDDLING OR SLIDING BACK
3 AWAY ON THE HIS BACK. REACHING FOR ANOTHER OBJECT IN ONE
4 OF HIS OTHER POCKETS. AT WHICH---

5 Q GO AHEAD.

6 A I WAS GOING TO SAY AT WHICH POINT, I BELIEVED THAT TO
7 BE ANOTHER WEAPON. HE HAD ALREADY SHOT MYSELF AND DEPUTY
8 WILLIAMS. SO AT THAT POINT I RETURNED FIRE TO STOP THE
9 THREAT. AS SOON AS THE THREAT WAS STOPPED, HE SPRAWLED
10 HIS ARMS OUT AND WE SECURED HIM.

11 Q AND THAT WEAPON THAT YOU HAD TAKEN FROM HIM, YOU SAY
12 IT WAS AT YOUR FEET?

13 A YES, SIR. IT WAS JUST UNDER MY KNEE BASICALLY WHEN I
14 RETURNED FIRE.

15 Q NOW YOUR WEAPONS, WHAT KIND OF WEAPONS DO YOU HAVE?

16 A WE CARRY THE GLOCK MODEL 22, 40 CALIBER HANDGUNS.

17 Q DID YOU HAVE TWO OF THOSE?

18 A YES. I HAD ONE MODEL 22. AND THEN ANOTHER MODEL 27.

19 Q TELL US WHAT THE DIFFERENCE IS.

20 A THE ONLY DIFFERENCE IN THE TWO WEAPONS IS SIZE.
21 THEY'RE BOTH 40 CALIBER HANDGUNS. THE 27 IS SOMETIMES
22 REFERRED TO AS A BABY GLOCK WHICH A LOT OF OFFICERS CARRY
23 ON THEIR ANKLE AS A BACKUP WEAPON.

24 Q DO YOU CARRY YOURS ON YOUR ANKLE?

25 A YES, SIR, I DO.

1 Q AND DO YOU KNOW THE SERIAL NUMBERS OF THESE VARIOUS
2 WEAPONS THAT YOU....

3 A YES, SIR, WE ARE REQUIRED TO QUALIFY ON THOSE WEAPONS
4 BY SERIAL NUMBERS AS THE ONLY WEAPONS WE'RE ALLOWED TO
5 CARRY BECAUSE WE ARE QUALIFIED ON THEM.

6 Q AND THE STANDARD ISSUED GLOCK MODEL 22, THE ONE YOU
7 HAD IN YOUR WAIST, IS THAT THE ONE YOU SHOT HIM WITH?

8 A YES, SIR, IT IS.

9 Q AND WHAT'S THE SERIAL NUMBER OF THAT WEAPON?

10 A THE SERIAL NUMBER OF THAT WEAPON, I HAVE RIGHT HERE.
11 IT WAS ISSUED TO ME WHEN I CAME ON THE DEPARTMENT. AND
12 THAT WOULD BE BZN8727, US.

13 Q AND THE OTHER ONE, THE ANKLE PISTOL, WHAT'S THE
14 SERIAL NUMBER THERE?

15 A THE SERIAL NUMBER ON THAT IS FXS652.

16 Q AND BOTH OF THOSE ARE 40 CALIBER WEAPONS?

17 A YES, SIR.

18 Q TELL US ABOUT YOUR INJURIES.

19 A I WAS -- THE INITIAL SHOT WAS IN SIDE RIGHT HERE.
20 WENT IN JUST BETWEEN THE FRONT AND BACK PANEL OF MY VEST
21 THAT I WAS WEARING. THE OTHER SHOT ENTERED MY ARM JUST
22 ABOVE THE ELBOW. AND EXITED JUST BELOW THE BICEP THERE.
23 I WAS -- I HAD A LOT OF BLOOD LOSS ON THE SCENE. I WAS
24 ACTUALLY FLOWN OUT BY HELICOPTER TO RICHLAND MEMORIAL
25 HOSPITAL WHERE I WAS TREATED IN THE EMERGENCY ROOM AND

1 THEN ADMITTED OVERNIGHT.

2 Q ONE OF THEM WAS IN YOUR LEFT ARM AND THE OTHER ONE
3 WAS IN THE LEFT SIDE?

4 A THAT IS CORRECT.

5 Q NOW THE ONE THAT WENT INTO THE ARM, DID THE BULLET
6 STAY IN THERE OR DID IT PASS THROUGH?

7 A NO, SIR, THAT ONE PASSED THROUGH.

8 Q AND THE ONE IN YOUR SIDE, TELL US ABOUT THAT.

9 A THE ONE ENTERED MY SIDE LODGED IN THE FATTY TISSUE
10 JUST ABOVE WHERE YOUR BELT WOULD GO ON YOUR WAIST AND JUST
11 BELOW WHERE MY BULLET PROOF VEST. IT ACTUALLY LODGED
12 THERE LEAVING AN INDENTATION OF SORTS WHERE YOU COULD
13 PHYSICALLY YOU COULD SEE THE BULLET. YOU COULD MAKE OUT
14 THE SHAPE OF THE BULLET JUST BELOW THE SKIN.

15 Q NOW AT SOME LATER TIME, DID YOU HAVE THAT BULLET
16 REMOVED?

17 A YES, SIR, I DID. APPROXIMATELY SIX MONTHS AFTERWARDS
18 IN MARCH OF THIS PAST YEAR, MARCH OF 06, I HAD THE BULLET
19 REMOVED AFTER THE WOUND TRACK HAD HEALED UP SOMEWHAT. SO
20 IT WOULD BE AN OUTPATIENT TYPE SURGERY.

21 Q AND THAT WAS DONE BY THE DOCTOR IN COLUMBIA WHO
22 TREATED YOU?

23 A YES, SIR, IT WAS.

24 Q OFFICER BOLAND, WAS THE CAR THAT YOU WERE DRIVING A
25 STANDARD ISSUED SHERIFF'S DEPARTMENT AUTOMOBILE?

1 A YES, SIR, IT WAS.

2 Q AND DID IT -- WAS IT EQUIPPED WITH A VIDEO CAMERA?

3 A YES, SIR, IT WAS.

4 Q AND TELL US WHAT CUTS THE CAMERA ON AND CUTS IT OFF.

5 A THE CAMERA IS CUT ON THROUGH NUMEROUS METHODS. ONE,
6 IS ACTUALLY HITTING THE RECORD BUTTON UP ON A HEAD UNIT,
7 ON A HEADLINER IN A VEHICLE. THE OTHER ONE WOULD BE WHEN
8 YOU ACTIVATE YOUR BLUE LIGHTS, IT AUTOMATICALLY COMES ON
9 WITH THAT. AND THEN THE THIRD WAY IS THERE'S A BODY, WHAT
10 WE CALL A BODY PACK. IT'S A BLACK BOX, A LITTLE BIT
11 BIGGER THAN A PAGER THAT IS ATTACHED TO OUR DUTY BELT THAT
12 WE KEEP. IT HAS A MICROPHONE ON IT AND A SWITCH. AND
13 THAT ALSO PROVIDES AUDIO TO THE CAMERA ON THAT -- THROUGH
14 THAT BODY PACK. THE CAMERA CAN BE CUT ON BY THE BODY
15 PACK. BUT ONLY THE AUDIO CAN BE TURNED OFF BY THE BODY
16 PACK. THE ONLY WAY TO TURN OFF THE RECORDING IS
17 PHYSICALLY BEING INSIDE THE CAR ON THE HEAD UNIT THAT IS
18 ON YOUR HEADLINER.

19 Q NOW WHEN YOU GOT OUT OF YOUR AUTOMOBILE, AND YOU
20 TURNED THIS VIDEO CAMERA ON OR WAS IT OFF AT THAT POINT OR
21 WHAT WAS THE SITUATION?

22 A AT THAT POINT, IT WAS OFF BECAUSE I HAD NOT ACTIVATED
23 MY BLUE LIGHTS TO GET TO THE CALL. I WAS A SHORT DISTANCE
24 AWAY AND WAS ABLE TO GET THERE QUICKLY WITHOUT HAVING TO
25 ACTIVATE MY BLUE LIGHTS AND SIREN. I CUT ON THE CAMERA

1 VIA THE BODY PACK AS THE STRUGGLE ENSUED WITH MR. YONSON.

2 Q SO IT WASN'T ON WHEN YOU FIRST CONTACTED HIM---

3 A NO, SIR.

4 Q IT WAS ON AFTER YOU HAD STARTED?

5 A THAT IS CORRECT. WE HAD ALREADY STARTED THE STRUGGLE
6 WHEN IT WAS CUT ON.

7 Q NOW TELL US ABOUT THERE'S A VIDEO PORTION AND AN
8 AUDIO PORTION. WHAT CUTS THE AUDIO ON AND OFF?

9 A IT IS A SWITCH ON THE TOP OF THAT BODY PACK. OR THAT
10 I HAD DISCUSSED THAT WE KEEP ON OUR BELT. IT IS JUST A
11 SMALL METAL SWITCH THAT PROTRUDES MAYBE A HALF AN INCH
12 FROM THE TOP HALF OF THAT BODY PACK.

13 Q HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE VIDEO?

14 A YES, I HAVE.

15 Q DOES IT FAIRLY AND ACCURATELY REPRESENT WHAT HAPPENED
16 AS FAR AS YOU CAN REMEMBER?

17 A YES, SIR, IT IS.

18 MR. CONNER: YOUR HONOR, WE'RE GETTING IT UP HERE.
19 WE NEED A FEW MINUTES TO GET THE TV SET UP.

20 THE COURT: NOW, LADIES AND GENTLEMEN, I AM GOING TO
21 HAVE YOU GO TO THE JURY ROOM FOR JUST A FEW MINUTES.
22 PLEASE DO NOT DISCUSS THE CASE. WE WILL HAVE YOU COME
23 BACK SOON.

24 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE
25 PRESENCE OF THE JURY.)

1 (THEREUPON, THE COURT TAKES A SHORT RECESS.)

2 (TWO PISTOLS MARKED STATE'S EXHIBIT NOS. 9 AND NO. 1
3 MARKED FOR ID ONLY.)

4 THE COURT: YOU MAY BRING THE JURY.

5 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
6 PRESENCE OF THE JURY.)

7 MR. CONNER: I WOULD CALL MR. BOLAND BACK, YOUR
8 HONOR.

9 (THEREUPON, OFFICER BOLAND RESUMES THE WITNESS
10 STAND.)

11 Q OFFICER BOLAND, IF YOU WOULD, COME AROUND AND STAND
12 RIGHT HERE TO THE SIDE. AND WHERE IS THAT POINTER,
13 CHARLIE? USE THIS. LET'S SEE HERE. HOW DOES THIS WORK
14 HERE.

15 (THEREUPON, SHOWING THE VIDEO TO THE JURY.)

16 Q NOW WHAT WOULD CAUSE THE SOUND TO GO OFF?

17 A AT SOME POINT THE BODY PACK WHILE I NORMALLY KEEP IT
18 IN THIS POSITION RIGHT HERE ON MY BELT, WENT DOWN THERE.
19 THE SWITCH GOT FLIPPED OFF IS ALL I CAN ASSUME, OR THE
20 BATTERY WENT DEAD ON IT.

21 Q CAN YOU POINT OUT YOU IN THE PICTURE?

22 A YES, SIR, I CAN. THAT IS MYSELF RIGHT THERE THAT
23 THE DJ MR. COOK IS RENDERING AID TO.

24 Q YOU WERE THE FELLOW ON HIS KNEES?

25 A YES, SIR.

1 Q AND THIS GENTLEMAN WITH THE BLACK SHIRT ON AND THE
2 BLUEJEANS, THAT'S THE DJ?

3 A YES, SIR. HE IS THE ONE WHO INITIALLY MADE CONTACT
4 WITH ME. AND POINTED OUT MR. YONSON WHO ALSO FIT THE
5 DESCRIPTION DISPATCH HAD GIVEN ME CONCERNING THE RED HAT
6 AND THE WHITE TEE SHIRT.

7 Q AND INsofar AS YOU KNOW, WHO WAS THE NEXT OFFICER TO
8 ARRIVE THERE AFTER YOU?

9 A THE FIRST OFFICER TO MY KNOWLEDGE, AFTER MYSELF AND
10 DEPUTY WILLIAMS WOULD HAVE BEEN SERGEANT ALEX DUKES.

11 Q WHERE IS THE DEFENDANT DURING THIS PERIOD OF TIME?

12 A DURING THIS PERIOD OF TIME, THE DEFENDANT IS ON THE
13 GROUND TOWARDS THE FRONT CORNER, PROBABLY STRAIGHT DOWN
14 FROM WHERE MY STICK IS NOW. YOU CAN SEE SOME PEOPLE OVER
15 CHECKING ON HIM WITH THE FLASHLIGHT SHINING DOWN TOWARDS
16 WHERE HE IS LAYING.

17 (THEREUPON, THE VIDEO IS SHOWN TO THE JURY.)

18 Q I AM GOING TO ROLL IT BACK AGAIN, AND THEN GET YOU TO
19 POINT OUT WHERE THE ACTION WAS WHEN YOU FIRST ENCOUNTERED
20 HIM.

21 A (THEREUPON, THE WITNESS POINTS.)

22 MR. CONNER: MAY IT PLEASE THE COURT, WE WOULD OFFER
23 THIS EXHIBIT INTO EVIDENCE AT THIS TIME.

24 THE COURT: MR. WILILAMS?

25 MR. WILLIAMS: NO OBJECTION, YOUR HONOR.

1 THE COURT: IT IS ADMITTED.

2 (VIDEO OF BOLAND MARKED STATE'S EXHIBIT NO. 14 INTO
3 EVIDENCE.)

4 MR. CONNER: STATE'S EXHIBIT NO. 14. ANSWER ANY
5 QUESTIONS MR. WILLIAMS MAY HAVE FOR YOU.

6 CROSS EXAMINATION BY MR. WILLIAMS:

7 Q MR. BOLAND, YOU SAID THAT HOW MANY SHOTS DID YOU SAY
8 MR. YONSON FIRED?

9 A I PHYSICALLY SAW AND HEARD TWO SHOTS. I SAW THE
10 MUZZLE FLASH FOR IT. I HEARD WHAT I BELIEVED TO BE A
11 THIRD SHOT, BUT I DID NOT SEE THE MUZZLE FLASH ON THE
12 THIRD ONE.

13 Q OKAY. SO YOU BELIEVE YOU HEARD THE THIRD ONE?

14 A I HEARD WHAT I BELIEVED TO BE A THIRD SHOT.

15 Q OKAY. YOU SAID YOU FIRED SHOW MANY SHOTS?

16 A THREE SHOTS.

17 Q THREE SHOTS. CAN YOU DESCRIBE, HOW WAS MR. YONSON
18 FACING YOU WHEN YOU FIRED?

19 A INITIALLY HE WAS ON HIS BACK. AND AGAIN, HE WAS
20 PUTTING HIS HANDS INTO HIS POCKET, WAISTBAND AREA.

21 Q OKAY.

22 A WHEN I FIRED THE FIRST TWO SHOTS, HE STILL WAS NOT
23 COMPLYING AT THAT POINT. I FIRED A THIRD SHOT. WHICH IS
24 WHEN HE PLACED HIS HANDS OUT TO HIS SIDE.

25 Q SO HIS BACK WAS IN THE GROUND?

1 A ON THE THIRD, ON THE INITIAL SHOT, YES, SIR.

2 Q ON THE INITIAL SHOT.

3 A YES, SIR.

4 Q AND THAT WAS THE FIRST TWO, I BELIEVE YOU SAID?

5 A I FIRED TWO INITIALLY, YES, SIR.

6 Q WHERE WERE YOU AIMING?

7 A I WAS AIMING THE CENTER MASS AS WE WERE TRAINED TO

8 DO SO. WHICH WOULD BE THE MID SECTION TORSO AREA.

9 Q THANK YOU, I HAVEN'T BEEN TRAINED. THE CENTER MASS?

10 A CENTER MASS IS WHAT WE TERM THAT.

11 Q WOULD THAT -- COULD THAT BE CALLED A KILL SHOT, I

12 MEAN IN THE TORSO?

13 A WE ARE TRAINED TO HIT THE TORSO TO STOP THE THREAT.

14 Q AND AT THAT TIME, YOU SAID MR. YONSON WAS ON HIS

15 BACK?

16 A YES, SIR.

17 Q OKAY. HOW ABOUT WHEN HE FIRED THE THIRD SHOT?

18 A WHEN I FIRED THE THIRD SHOT HE HAD FLIPPED OVER. AND

19 AGAIN, I FIRED AT CENTER MASS AS WELL.

20 Q OKAY. HE HAD A FLIPPED OVER MEANING?

21 A HE HAD GONE OVER ON TO HIS STOMACH.

22 Q SO HE WAS ON HIS STOMACH ON THE GROUND?

23 A YES, SIR.

24 Q AND AT THAT POINT YOU FIRED, HE WAS ON HIS STOMACH.

25 A RIGHT.

1 Q FACING HIS HEAD AWAY FROM YOU, OR HIS HEAD TOWARDS
2 YOU?

3 A HIS HEAD IT WAS MORE AWAY FROM ME THAN TOWARDS ME.
4 IT WAS COCKED KIND OF AT AN ANGLE.

5 Q SO HE WAS ON HIS STOMACH?

6 A YES.

7 Q FACING PARTIALLY AWAY FROM YOU?

8 A YES.

9 Q I DON'T WANT TO PUT WORDS IN YOUR MOUTH. AND ARE HIS
10 HANDS, WHERE?

11 A WERE UNDERNEATH HIM.

12 Q UNDERNEATH HIM.

13 A PRIOR TO ME FIRING THE THIRD SHOT.

14 Q AND HE CONTINUED MOVING YOU SAY AFTER YOU---

15 A YES, SIR. HE WAS STILL TRYING TO RESIST AND BREAK
16 FREE AND APPEAR TO BE GOING FOR ANOTHER ITEM IN HIS WAIST
17 OR POCKETS.

18 Q OKAY. YOU, DID YOU SEE? YOU SAID YOU FIRED CENTER
19 MASS, I GUESS ALL 3 SHOTS. TWO IN FRONT. AND ONE IN THE
20 BACK.

21 A THAT IS CORRECT.

22 Q DID YOU SEE WHERE THEY HIT?

23 A I DID NOT. ON THE FIRST SHOT, HIT HIM IN WHAT I
24 BELIEVE TO BE THE ABDOMEN AREA. AND THEN THE LAST SHOT
25 HIT HIM IN THE LEG AREA.

1 Q THE LEG AREA?

2 A AS HE WAS CRAWLING AWAY. YES, SIR.

3 Q WHEN YOU SAID YOU SAW THE MUZZLE FLASH.

4 A YES, SIR.

5 Q OF THE FIRST TWO SHOTS.

6 A YES, SIR.

7 Q IS THAT CORRECT? SO YOU SAW THE GUN?

8 A YES, SIR, I DID.

9 Q YOU'VE SEEN TRAINING, TRAINING OF FIREARMS. IS THAT

10 FAIR TO SAY?

11 A THAT IS CORRECT, SIR.

12 Q COULD YOU IDENTIFY THE GUN FROM YOUR VIEW OF IT?

13 A FROM THAT VIEW, I COULD ONLY IDENTIFY IT AS A

14 HANDGUN.

15 Q WHAT COLOR?

16 A IT WAS DARK COLORED.

17 Q DARK. WAS IT A, I'VE SEEN A, YOU KNOW, SNUB NOSES

18 38. IT'S VERY TINY. MORE A---

19 A IT WOULD BE A SEMIAUTOMATIC.

20 Q SEMIAUTOMATIC?

21 A CORRECT. NOT A REVOLVER.

22 Q OKAY. I BEG THE COURT'S INDULGENCE. OF THE, YOU

23 SAID YOU ARE POSITIVE OF TWO SHOTS THAT MR. YONSON FIRED.

24 A I PHYSICALLY SAW TWO OF THE SHOTS.

25 Q CORRECT.

- 1 A WITH THE MUZZLE BLAST.
- 2 Q AND THE THIRD YOU SAY---
- 3 A I HEARD WHAT I BELIEVE TO BE THE THIRD SHOT.
- 4 Q OKAY. YOU WERE HIT.
- 5 A YES, SIR.
- 6 Q WHERE WERE YOU HIT?
- 7 A I WAS HIT WITH THE FIRST TWO SHOTS IN MY SIDE AND MY
- 8 ARM.
- 9 Q OKAY. WHICH, AND IF WE CAN STEP, THE FIRST SHOT HIT
- 10 YOU WHERE?
- 11 A THE FIRST SHOT HIT ME IN MY SIDE.
- 12 Q IN YOUR BODY?
- 13 A YES, SIR. RIGHT HERE ON MY LEFT SIDE.
- 14 Q AND THE SECOND SHOT?
- 15 A THE SECOND SHOT I BELIEVE IS THE ONE THAT I BELIEVE
- 16 WENT THROUGH MY ARM.
- 17 Q AND THAT'S WHAT IS CALLED A THROUGH AND THROUGH?
- 18 A YES, SIR.
- 19 Q ABOUT HOW FAR APART WERE YOU FROM MR. YONSON?
- 20 A ME AND MR. YONSON, WHEN HE FIRED THOSE SHOTS, WE WERE
- 21 LITERALLY TOUCHING AT THAT POINT. MYSELF AND DEPUTY
- 22 WILLIAMS WERE TRYING TO DETAIN HIM ON THE GROUND.
- 23 Q OKAY. SO YOU WERE LITERALLY TOUCHING HIM.
- 24 A YES, SIR.
- 25 Q DO YOU KNOW IF MR. YONSON IS LEFT OR RIGHT HANDED?

1 A NO, SIR, I DO NOT.

2 Q ARE YOU LEFT OR RIGHT HANDED?

3 A I'M RIGHT HANDED.

4 Q YOU'RE RIGHT HANDED. SO YOU SHOOT YOUR PISTOL WITH
5 YOUR RIGHT HAND?

6 A THAT IS CORRECT.

7 Q OKAY. YOUR HONOR, MAY THE WITNESS STEP DOWN?

8 (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
9 STAND.)

10 Q THERE IS A GREEN PICKUP.

11 A THAT IS CORRECT.

12 Q DARK COLORED PICKUP?

13 A YES.

14 Q CAN YOU DRAW THAT?

15 A I CAN DRAW A RECTANGLE.

16 Q SET UP A RECTANGLE. THAT'S FINE. AND CAN YOU PLEASE
17 DRAW JUST ANOTHER RECTANGLE WHERE THE POLICE CRUISER,
18 WHERE THE VIDEO STARTED?

19 A THE POLICE CRUISER WOULD BE PROBABLY SOMEWHERE
20 TOWARDS THE BACK.

21 Q OKAY.

22 A IN THAT DIRECTION.

23 Q AND CAN YOU DRAW MAYBE JUST I THINK WE SAW PART OF
24 THE BUILDING IN THE BACKGROUND. JUST FOR A FRAME OF
25 REFERENCE NOW PUT A I GUESS, A SMALL CIRCLE IN PROPORTION

1 TO THE SQUARE REPRESENTING THE PICKUP TRUCK TO
2 REPRESENTING MR. YONSON.

3 A INITIAL CONTACT TO MR. JOHNSON WAS RIGHT THERE.

4 Q OKAY.

5 A RIGHT HERE IN THE DRIVER DOOR.

6 Q AND YOU APPROACHED HIM HOW?

7 A I APPROACHED OVER THIS AREA IS WHERE THE -- WHAT WE
8 BELIEVE TO BE A FIGHT WITH THE FEMALES WAS GOING ON. I
9 APPROACHED HIM IN THIS DIRECTION.

10 Q OKAY. AND WHEN YOU FIRST APPROACHED MR. YONSON, DID
11 YOU WALK UP TO HIM FACE TO FACE AS WE ARE NOW?

12 A WHEN I FIRST APPROACHED HIM, HE WAS COMING AROUND THE
13 CORNER OF THE PICKUP TO ABOUT THIS POSITION. I -- HE WAS
14 POINTED OUT BY THE DJ'S. HE ACTUALLY EXITED THROUGH THE
15 FRONT DOOR OR THE AREA OF THE FRONT DOOR RIGHT ABOUT
16 THERE.

17 Q OKAY.

18 A HE WAS THERE. I STARTED TALKING TO HIM AS I WAS
19 WALKING TOWARDS HIM.

20 Q OKAY. WHAT -- GO AHEAD.

21 A NO, GO AHEAD.

22 Q WHERE DID YOU FIRST MOTION OR SPEAK TO HIM?

23 A I FIRST STARTED SPEAKING WITH HIM JUST A FEW STEPS
24 HEADING IN THIS DIRECTION ONCE HE WAS AROUND TO THE SIDE
25 OF THE PICKUP TRUCK.

1 Q AND THE DJ WAS OUT HERE WITH YOU?

2 A YES, HE APPROACHED ME OUT HERE WHILE I WAS TRYING TO
3 MAKE CONTACT TO SEE WHAT THE SITUATION WAS.

4 Q SO YOU INITIALLY APPROACHED MR. YONSON FROM THE LEFT
5 SIDE OF THE PICKUP TRUCK?

6 A THE DRIVER'S SIDE, YES, SIR.

7 Q THE DRIVER'S SIDE. AND AS YOU APPROACHED DOWN THE
8 SIDE, WHAT DID YOU SAY TO MR. YONSON?

9 A AS I WAS APPROACHING HIM, FIRST I CALLED OUT TO HIM,
10 "HEY COME HERE A MINUTE, LET ME TALK WITH YOU." HE THEN
11 KIND OF JUST FUMBLING AROUND. TURNED HIS BACK. ACTED
12 NONCOMPLIANT OR SUSPICIOUS. I AGAIN CALLED OUT TO HIM.
13 COME HERE FOR A MINUTE. DO YOU HAVE ANY ID ON YOU. AS I
14 GOT CLOSER, HE BEGAN AGAIN ACTING SUSPICIOUS. TURNED HIS
15 BACK TO ME. ACTUALLY FUMBLING WITH THE DOOR OF THE TRUCK.
16 AT WHICH POINT HE STARTED FUMBLING WITH THE WAISTBAND OF
17 THE POCKET AREA. WE HAD ALREADY BEEN TOLD THAT HE
18 POSSIBLY HAD A WEAPON. SO I AGAIN CALLED TO HIM TO KEEP
19 HIS HANDS OUT OF HIS POCKETS WHERE I COULD SEE THEM. AND
20 TO COME TALK TO ME.

21 I MADE THAT SAME STATEMENT, TO KEEP HIS HANDS OUT
22 WHERE I COULD SEE THEM BEFORE I WAS WITHIN RANGE TO
23 ACTUALLY TRYING TO SECURE MR. YONSON FOR BOTH HIS SAFETY
24 AND MINE.

25 Q SO YOU SAY YOU WERE SUSPICIOUS. WAS THIS SIMPLY

1 BECAUSE HE DIDN'T IMMEDIATELY TURN AND GREET YOU AND SHAKE
2 YOUR HAND? OR IT WAS THE SAME WAY A PERSON IN A, WE
3 AUTOMATICALLY ASSUME A PERSON IN A DARK PARKING LOT AT
4 NIGHT IS SUSPICIOUS BY THEMSELVES.

5 A NO, SIR. HE WAS SUSPICIOUS FOR A NUMBER OF REASONS.
6 ONE, HE FIT THE DESCRIPTION THAT WAS GIVEN OUT BY THE
7 DISPATCHER, AS WELL AS MR. COOK, AS THE SUBJECT WHO HAD A
8 GUN AT THE TIME. HE WAS WEARING A RED CAP AND A WHITE TEE
9 SHIRT THAT WAS GIVEN OUT TO US. IN ADDITION, HIS HAND
10 MOVEMENTS WERE NOT OF NORMAL HAND MOVEMENTS. IT STARTED
11 OUT KIND OF PATTING SOMETHING. WAS OUT OF VIEW. THEN
12 WENT INTO HIS POCKETS. AND IT WAS JUST -- THEY WERE VERY
13 JERKY, VERY SPORADIC. ALMOST LIKE HE WAS TRYING TO
14 CONCEAL SOMETHING.

15 Q AND THAT WAS AS YOU APPROACHED.

16 A THAT WAS AS I WAS APPROACHING. YES, SIR.

17 Q TELL ME WHAT HAPPENED NEXT.

18 A ONCE I GOT WITHIN RANGE, I DID REACH OUT. I GRABBED
19 WHAT I BELIEVE WAS MR. YONSON'S RIGHT ARM. I TOLD HIM---

20 Q FACING YOU?

21 A WELL HE WAS AT THE TIME, HE WAS TOWARDS THE TRUCK. I
22 APPROACHED HIM ON HIS RIGHT SIDE.

23 Q HIS RIGHT SIDE.

24 A HE WAS FACING THE TRUCK.

25 Q SO AS WE ARE RIGHT HERE?

1 A YES.

2 Q THAT'S FINE. SO YOU APPROACHED HIM.

3 A I GRABBED HIM BY THE WRIST AND THEN TRIED TO TAKE HIS
4 HAND BEHIND HIS BACK. AND THEN TRIED TO DETAIN HIM FOR
5 HIS SAFETY AND MINE.

6 Q OKAY. AND CONTINUE.

7 A AT WHICH POINT MR. YONSON TRIED TO STRUGGLE, PULL
8 AWAY. SWUNG AT ME. DEPUTY WILLIAMS SAW US STRUGGLING.
9 APPROACHED. GRABBED HIS OTHER SIDE.

10 Q LET ME INTERRUPT YOU PLEASE. WHERE, NOW IS THIS ALL
11 RIGHT HERE?

12 A THIS IS STILL WITHIN THIS GENERAL AREA OF THAT
13 DRIVER'S SIDE OF THAT FRONT CORNER OF THE PICKUP TRUCK.

14 Q SO DIRECTLY OPPOSITE FROM THE POLICE CRUISER?

15 A RIGHT. AS YOU CAN SEE IN THE VIDEO, IT IS SOMEWHAT
16 ANGLED TOWARDS THAT REAR CORNER OF THE PICKUP TRUCK.

17 Q THE VIDEO SHOWED NONE OF THIS ALTERCATION.

18 A NONE----

19 Q THE ACTUAL CONFRONTATION.

20 A CORRECT.

21 Q IS THE CORRECT?

22 A THAT IS CORRECT. YOU CAN HEAR THE ALTERCATION.

23 Q CORRECT. OBVIOUSLY WE HEARD IT. WE COULDN'T SEE IT.

24 A CORRECT.

25 Q CONTINUE AT THIS POINT. AT THIS POINT, YOU'RE STILL

1 HOLING HIS RIGHT ARM?

2 A AT THIS POINT, HE HAD SPUN AROUND ON ME WHILE WE WERE
3 STRUGGLING AND I GRABBED THE LEFT ARM. BECAUSE HE ROLLED
4 COMPLETELY AROUND. I LOST MY GRIP. REGAIN MY GRIP ON HIS
5 OPPOSITE ARM. I'M STILL GRABBING AT HIS WRIST AREA.

6 Q OKAY.

7 A AFTER OFFICER WILLIAMS GRABBED HIS OTHER ARM IN A
8 SIMILAR FASHION.

9 Q HIS LEFT ARM?

10 A CORRECT IT WOULD HAVE BEEN HIS RIGHT ARM AT THAT
11 TIME. BECAUSE WHEN WE SPUN AROUND, I GRABBED HOLD OF THE
12 LEFT.

13 Q OKAY.

14 A AT WHICH TIME I TOLD OFFICER WILLIAMS TO TAKE HIM TO
15 THE GROUND. AND AGAIN, TOLD MR. YONSON TO QUIT RESISTING,
16 HE WAS UNDER ARREST. WE TOOK HIM TO THE GROUND. HE
17 CONTINUED RESISTING. I WAS NOTICING OFFICER WILLIAMS'
18 GRIP ON MR. YONSON. IT HAD GONE FROM AROUND HIS WRIST
19 AREA UP TO THE ELBOW AREA. AND MR. YONSON'S HAND HAD
20 GOTTEN COMPLETELY UNDER HIM. AND I REMEMBER YELLING AT
21 OFFICER WILLIAMS TO GET HIS HAND OUT FROM UNDER HIM. I
22 BELIEVE HE'S GOT A GUN. AND AT THAT POINT, WHEN YOU HEAR
23 MR. YONSON SAY, "FUCK THIS." AND HE BROKE FREE FROM
24 DEPUTY WILLIAMS WITH THE GUN IN HIS HAND. ROLLED AROUND
25 LIKE THAT. AND THAT'S WHEN I SAW AND HEARD THE FIRST TWO

1 SHOTS.

2 Q HOW TALL ARE YOU?

3 A 5'11.

4 Q AND NOT TO EMBARRASS YOU, HOW MUCH DO YOU WEIGH?

5 A 195.

6 Q 195. DO YOU RECALL OR COULD YOU ESTIMATE HOW TALL

7 MR. YONSON IS?

8 A APPROXIMATELY 5'8, 5'9.

9 Q STAND UP, RANDY, PLEASE. DOES THIS HELP?

10 A I ESTIMATE HIM ABOUT 5'8, 5'9.

11 Q HOW ABOUT TODAY?

12 A ABOUT THE SAME.

13 Q ABOUT THE SAME?

14 A YES, SIR.

15 Q DOES HE LOOK SHORTER OR TALLER THAN ME?

16 A Y'ALL ARE PRETTY CLOSE IN HEIGHT.

17 Q PRETTY CLOSE? HOW TALL IS MR. WILLIAMS?

18 A I AM NOT SURE OF HIS EXACT HEIGHT.

19 Q THAT'S FINE. CONTINUE.

20 A AFTER HE FIRED THOSE TWO SHOTS, I PUSHED OFF THE

21 SUBJECT. AND GRABBED -- MR. YONSON GRABBED FOR HIS

22 WEAPON. I THREW DOWN ON IT. AS I WAS GETTING READY TO

23 RETURN FIRE, OFFICER WILLIAMS, BEGAN TO SCREAM. "I GOT

24 THE GUN. I GOT THE GUN." I SAW OFFICER WILLIAMS HAD

25 MR. YONSON'S HAND WITH THE GUN IN IT, PINNED TO THE

1 GROUND. AND HE WAS TRYING TO STRUGGLE WITH HIM TO KEEP
2 THE GUN WITH HIS HAND ON THE GROUND. AT WHICH POINT, I
3 GRABBED THE GUN. STRIPPED IT OUT OF MR. YONSON'S HAND.
4 BACK UP JUST TWO STEPS, MAYBE 3-STEPS, WHICH BROUGHT ME
5 WHERE YOU CAN SEE IT ON THE VIDEO, THE BACK FRONT CORNER
6 OF THE PICKUP TRUCK.

7 Q SO YOU GRABBED THE GUN FROM HIS HAND.

8 A RIGHT. BECAUSE AS WE WERE ROLLING ON THE GROUND, IT
9 ENCOMPASSED MOST OF THIS AREA HERE. THE ALTERCATION ON
10 THE GROUND.

11 Q AND HAD YOU FIRED ANY SHOTS AT THIS POINT AND TIME?

12 A AT THAT POINT, I HAD NOT. NO, SIR.

13 Q YOU HAD NOT.

14 A NO, SIR.

15 Q SO HAD SECURED THE GUN?

16 A CORRECT.

17 Q FROM MR. YONSON.

18 A CORRECT.

19 Q AND AT THAT POINT, YOU HAD NOT FIRED.

20 A THAT IS CORRECT.

21 Q YOU WERE INITIALLY CALLED OUT TO THE CLUB WHY?

22 A FOR A SUSPICIOUS PERSON WEARING A RED HAT, WHITE
23 SHIRT AND CARRYING A GUN.

24 Q THAT'S BEEN SAID. THANK YOU. SO YOU SECURED THE GUN
25 FROM MR. YONSON.

1 A CORRECT. I SECURED THE WEAPON.

2 Q CONTINUE.

3 A AND AT THAT POINT, I DREW DOWN ON MR. JOHNSON.

4 MYSELF AND OFFICER WILLIAMS WERE GIVING AN ORDER. HE

5 BROKE FREE FROM OFFICER WILLIAMS AND WAS SOMEWHERE IN THIS

6 AREA. AND WAS ON HIS BACK REACHING FOR SOMETHING. AN

7 UNKNOWN OBJECT I BELIEVED TO BE ANOTHER WEAPON IN HIS

8 WAIST POCKET AREA. AT WHICH POINT, I FIRED MY INITIAL TWO

9 SHOTS. HE CONTINUED TO RESIST. CONTINUED TO REFUSE TO

10 PUT HIS ARMS OUT. I FIRED THE THIRD SHOT. AT WHICH

11 POINT, I STOPPED FIRING BECAUSE HE COMPLIED. HE PUT HIS

12 ARMS OUT TO THE SIDE.

13 Q OKAY. SO YOU DID NOT FIRE, EXCUSE ME, MR. YONSON

14 DID NOT FIRE ANY SHOTS AFTER YOU FIRED YOUR SHOTS.

15 A NO, HE DID NOT AFTER I FIRED MY SHOTS.

16 Q YOUR FIRED THREE SHOTS?

17 A THREE SHOTS TOTAL, YES, SIR.

18 Q HOW LONG WAS IT FROM THE FIRST SHOT TO THE FINAL, THE

19 THIRD SHOT?

20 A THE FIRST TWO SHOTS WERE ALMOST SIMULTANEOUSLY. A

21 MERE SECOND OR TWO IN BETWEEN THE SECOND AND THIRD.

22 Q WAS IN BETWEEN THE SECOND AND THE THIRD WAS A MERE

23 SECOND?

24 A A MERE SECOND OR TWO.

25 Q SO WE'RE TALKING ABOUT---

1 A JUST A SHORT PERIOD OF TIME.

2 Q THREE SECONDS, FOUR SECONDS FROM THE FIRST RESPONSE

3 SHOT?

4 A NO MORE THAN THAT.

5 Q VERY QUICK. VERY RAPID.

6 A YES, SIR.

7 Q SO HOW LONG FROM THIS WHOLE ALTERCATION FROM WHEN YOU

8 APPROACHED MR. YONSON HERE UNTIL YOU FIRED YOUR FINAL SHOT

9 DO YOU THINK THIS LASTED?

10 A NO MORE THAN A COUPLE OF MINUTES.

11 Q A COUPLE OF MINUTES?

12 A TOTAL TIME, YES, SIR. FROM THE INITIAL APPROACH

13 UNTIL THEN.

14 Q HOW LONG FROM THE INITIAL I GUESS YOU CAN SAY

15 STRUGGLE, WHEN YOU FIRST TOUCHED MR. YONSON?

16 A NO MORE THAN ONE OR TWO MINUTES.

17 Q ONE TO TWO. 60 SECONDS.

18 A GIVE OR TAKE ONE OR TWO MINUTES.

19 Q 60 SECONDS TO 120. ABOUT THAT LONG. AND AT THAT

20 TIME AFTER YOU FIRED YOUR SHOTS, CONTINUE.

21 A AFTER I FIRED MY SHOTS, HE, LIKE I SAID, HE COMPLIED,

22 PUT HIS ARMS. I HOLLERED AT DEPUTY WILLIAMS TO HANDCUFF

23 HIM IF HE COULD. IF HE WAS ABLE TO. I WAS UNSURE IF

24 DEPUTY WILLIAMS HAD BEEN HIT AT THAT POINT OR NOT. DEPUTY

25 WILLIAMS TOLD HIM TO STAY, YOU KNOW, KEEP YOUR ARMS WHILE

1 HE APPROACHED FOR OFFICER SAFETY. HE APPROACHED HIM. HE
2 CUFFED HIM. AND THEN HE ALLOWED SOMEBODY FROM THE CROWD
3 TO RENDER AID TO MR. YONSON TO HELP SLOW DOWN THE
4 BLEEDING FOR EMS TO ARRIVE.

5 Q WHERE WAS THIS CROWD?

6 A THE CROWD, IT WAS SCATTERED THROUGHOUT THE PARKING
7 LOT. YOU COULD SEE SOME PEOPLE WALKING BACK AND FORTH
8 HERE. YOU CAN SEE SOME COMING IN AND OUT OF THE CLUB.
9 THE BULK OF IT FROM THE FIGHT AT THIS POINT HAD MOVED UP
10 OVER IN THIS AREA.

11 Q WHO ELSE WAS AROUND THE, AND WE'LL SAY THIS IS THE
12 GENERAL PROXIMITY OF THE---

13 A RIGHT.

14 Q ---INCIDENT. WHO ELSE WAS THERE IN THIS GENERAL
15 VICINITY?

16 A YOU HAVE MYSELF. YOU HAVE CORPORAL WILLIAMS.
17 MR. COOK, THE DJ FROM THE CLUB WAS BACK IN THIS GENERAL
18 AREA. AND I'M NOT SURE WHO ELSE MAY HAVE COME OUT OF THAT
19 DOOR AT THAT POINT.

20 Q DID YOU SEE ANY FEMALES IN THE AREA?

21 A THERE WERE SEVERAL FEMALES IN THE AREA.

22 Q OKAY.

23 A IN THE GENERAL AREA OF THE PARKING LOT, YES.

24 Q WE UNDERSTAND YOU LEFT THE SCENE. DID YOU HAVE A
25 CHANCE TO TALK TO MANDY TEAGUE?

1 A NO, SIR, I DID NOT.

2 Q HAVE YOU HAD A CHANCE TO TALK WITH HER?

3 A MANY, MANY YEARS AGO.

4 Q MANY YEARS AGO?

5 A MANY YEARS AGO. NOT SINCE THIS SHOOTING OR IN
6 REGARDS TO THIS SHOOTING.

7 Q NOT SINCE THE SHOOTING?

8 A NO, SIR.

9 Q DID YOU KNOW HER AT THE TIME OF THE SHOOTING?

10 A I DID NOT KNOW HER. ONCE I FOUND OUT WHO SHE WAS
11 LATER, I RECOGNIZED HER AS AN ACQUAINTANCE OF A GIRLFRIEND
12 YEARS AGO IN THE HIGH SCHOOL DAYS.

13 Q OKAY. YOU'RE FROM THE AREA?

14 A I FINISHED HIGH SCHOOL IN THE AREA.

15 Q WHERE ARE YOU FROM ORIGINALLY?

16 A MISSISSIPPI?

17 Q WHERE ABOUTS?

18 A MERIDIAN.

19 Q SO YOU DON'T REMEMBER SEEING MS. TEAGUE ANYWHERE IN
20 THIS AREA.

21 A NO, I DO NOT. I KNOW WE HAVE SOME FEMALE SUBJECTS
22 THAT APPROACHED THIS AREA HERE. I COULD NOT TESTIFY AS TO
23 THEIR EXACT LOCATION.

24 Q NOW IS THIS THE EDGE OF THE BUILDING, OR DOES THE
25 BUILDING CONTINUE THIS WAY OR DOES IT GO BACK?

1 A THERE IS A FENCE RIGHT UP HERE. AND THEN ANOTHER
2 BUILDING THAT STARTS RIGHT UP IN THAT AREA.

3 Q OKAY. YOU CAN GET TO THE BUILDING IN HERE. SO
4 THERE IS AN ALLEY?

5 A IT IS MORE JUST A SLIGHT OPENING. THEN YOU CAN SEE
6 AN OPEN FIELD BEHIND THE TWO BUILDINGS. IT'S A VERY SHORT
7 DISTANCE.

8 Q SO YOU ARE -- WAS THERE ANYBODY IN THIS AREA?

9 A NO, SIR, THERE WAS NOT. OTHER THAN DURING THE
10 STRUGGLE WHEN OFFICER -- WHEN HE BROKE FREE FROM OFFICER
11 WILLIAMS, OFFICER WILLIAMS BACKED UP INTO THAT POSITION
12 WITH US TRYING TO DETAIN MR. YONSON IN THIS AREA. IN
13 ABOUT THIS AREA.

14 Q OKAY. AND WHAT ABOUT THIS LITTLE AREA RIGHT HERE?

15 A THIS AREA HERE, NO, I COULD SEE SOME SUBJECTS JUST
16 BACKED IN TO THIS AREA.

17 Q AND THAT WAS THROUGHOUT THE DURATION OF THE INCIDENT?

18 A I DO NOT KNOW OF THE TIME WHEN WE WERE ON THE GROUND
19 STRUGGLING.

20 Q SO---

21 A THAT WAS DURING THE SHOTS BEING FIRED. AND THERE
22 WERE SOME SUBJECTS. THEN OFFICER WILLIAMS HELD THE CROWD
23 OFF, WHICH HAD MOVED UP IN HERE. ALL THE TIME WE WERE
24 BACKED AWAY BACK, EXCEPT THE PEOPLE RENDERING AID TO MR.
25 YONSON.

1 Q COULD THERE HAVE BEEN ANOTHER PERSON OR PERSONS IN
2 THIS AREA DURING THIS?

3 A IF THEY WERE, THEY WERE OUT OF MY LINE OF SIGHT.

4 Q OR YOU DIDN'T SEE ANYBODY.

5 A CORRECT.

6 Q SO YOU CAN'T SAY THAT IT WAS.

7 A I DID NOT SEE ANYONE.

8 Q THANK YOU FOR THAT. YOU MAY RETURN.

9 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

10 MR. WILLIAMS: NO FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: ANY REDIRECT?

12 MR. CONNER: I HAVE NOTHING FURTHER.

13 THE COURT: YOU MAY STEP DOWN, SIR.

14 A THANK YOU, SIR.

15 MR. CONNER: WE WOULD CALL CHARLES COOK.

16 CHARLES COOK, BEING FIRST DULY SWORN,

17 TESTIFIED AS FOLLOWS:

18 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
19 PLEASE.

20 A CHARLES COOK. C-O-O-K.

21 DIRECT EXAMINATION BY MR. CONNER:

22 Q MR. COOK, WHERE DO YOU LIVE?

23 A THE ACTUAL ADDRESS? SUMTER, SOUTH CAROLINA.

24 Q WHAT TOWN DO YOU LIVE IN?

25 A SUMTER.

1 Q AND HOW LONG HAVE YOU LIVED IN THE SUMTER COMMUNITY?

2 A PROBABLY ABOUT 8 YEARS TOTAL. I WAS IN THE MILITARY
3 FOR A WHILE. LEFT FOR A YEAR AND A HALF, CAME BACK.

4 Q AND WHERE DO YOU WORK?

5 A SANTEE ELECTRIC COOPERATIVE IN KINGSTREE.

6 Q WHAT DO YOU DO FOR THEM?

7 A I AM A POWER DISTRIBUTION ENGINEER.

8 Q NOW BACK IN SEPTEMBER OF 2005, DID YOU HAVE AN
9 OCCASION TO BE AT THE FRENZ CLUB OUT ON THE PINWOOD ROAD
10 EARLY IN THE MORNING HOURS?

11 A YES, SIR, I WAS.

12 Q AT 2:30 OR SO?

13 A ACTUALLY I WAS THERE FROM 8 O'CLOCK IN THE AFTERNOON
14 UNTIL CLOSE TO 7:00 O'CLOCK THAT MORNING. EIGHT O'CLOCK
15 THAT MORNING AFTER EVERYTHING TRANSPIRED.

16 Q YOU SPENT ALL NIGHT ALMOST.

17 A YES, SIR.

18 Q NOW DID SOMEWHERE IN THE VICINITY OF 2 A.M. OR
19 SHORTLY AFTER THAT, DID THEY HAVE A FIGHT OUTSIDE IN THE
20 PARKING LOT?

21 A YES, SIR, THEY DID.

22 Q TELL US ABOUT THAT.

23 A I'D LEFT THE CLUB TO PUT MY OWN, I WAS THE ACTUAL DJ
24 THERE FOR THE CLUB. I LEFT TO PUT MY EQUIPMENT IN THE
25 CAR. AND ON MY WAY BACK IN, SOME GIRLS -- A COUPLE OF

1 GIRLS GOT IN A FIGHT. IT ENDED UP BEING THREE AT THE
2 TIME. I LEFT THERE. I WENT INSIDE AND TOLD THE OWNER,
3 MARIE, THAT THERE WAS A FIGHT OUTSIDE. AND THERE WERE
4 THREE GIRLS INVOLVED IN IT.

5 Q AND THEN DID -- WHAT HAPPENED NEXT?

6 A MARIE LEFT TO GO OUTSIDE. I WALKED BACK OUTSIDE WITH
7 HIM.

8 Q WHO IS MARIE?

9 A MARIE IS THE -- SHE'S THE OWNER OF THE CLUB. OWNER
10 OF FRENZ. AND ONCE I GOT OUTSIDE WITH WHAT WAS GOING ON,
11 THERE WAS STILL 3 GIRLS FIGHTING. AND A FOURTH GIRL
12 ENDED UP GETTING INVOLVED WITH IT. I THINK IT WAS ONE OF
13 THE GIRL'S SISTERS THAT WAS ON THE GROUND AT THE TIME.
14 AND SOMEONE HAD POINTED OUT TO ME THAT THERE WAS A WEAPON
15 AT THE CLUB OR IN POSSESSION OF SOMEONE THERE. SO I WENT
16 BACK AND WHEN I ASKED WHO IT WAS, AND THEN I NOTICED A GUN
17 IN THE BACK POCKET OR THE RIGHT BACK POCKET.

18 Q DID YOU NOTICE ANYTHING RESTRICTIVE ABOUT THE PERSON
19 WHO HAD THE GUN?

20 A HE HAD ON A WHITE SHIRT WITH A RED BASEBALL CAP.
21 IT'S THE WAY I DESCRIBED HIM TO THE COPS WHEN THEY GOT
22 THERE. WHEN I WENT BACK IN THE DOOR OF THE BAR---

23 Q HOW DID YOU KNOW IF HE HAD THE WEAPON HIMSELF?

24 A I NOTICED IT WAS UNDER HIS, WHEN HE -- SOMEONE WENT
25 OVER TO THE FIGHT AND HE PUSHED THEM OUT OF THE WAY. AND

1 WHEN HE PUSHED THEM OUT OF THE WAY, THERE WAS -- WHEN HE
2 LEANED OVER HIS SHIRT POCKET OR HIS SHIRTTAIL CAME UP OVER
3 HIS BACK RIGHT POCKET AND I SAW THE HANDLE OF THE GUN IN
4 THE BACK RIGHT POCKET.

5 Q AND WHAT DID YOU DO AFTER YOU SAW THIS PISTOL IN HIS
6 POCKET?

7 A WENT BACK IN THE CLUB TO TELL THE BARTENDER THAT I
8 WAS TALKING TO THE 911 DISPATCH THAT THERE WAS A WEAPON ON
9 THE SCENE. THAT IT WASN'T ACTUALLY IN THE -- THE WEAPON
10 WASN'T IN THE FIGHT, BUT IT BELONGED TO SOMEONE THAT --
11 OR THE PERSON THAT HAD IT WAS WITH SOMEONE FROM THE FIGHT.

12 Q AND DID YOU GIVE THE DESCRIPTIVE INFORMATION OF THE
13 RED BASEBALL CAP AND WHITE SHIRT?

14 A I DON'T KNOW THAT I HONESTLY GAVE THAT DESCRIPTION TO
15 THE 911 CALL. I KNOW ONCE THE COPS ARRIVED ON SCENE, I
16 DID POINT OUT TO THE COPS IT WAS THE PERSON WITH THE WHITE
17 SHIRT AND THE RED BASEBALL CAP.

18 Q TELL US ABOUT WHAT HAPPENED AFTER THE POLICE ARRIVED.

19 A WHEN THE COPS GOT THERE, THEY ADDRESSED THE
20 INDIVIDUAL. ASKED THEM FOR AN ID. AT THAT TIME HE TOLD
21 THEM HE DIDN'T HAVE AN ID.

22 MR. WILLIAMS: OBJECTION, YOUR HONOR.

23 THE COURT: BASIS FOR THE OBJECTION?

24 MR. WILLIAMS: YES, SIR, IT'S HEARSAY. THEY CAN
25 CALL THE OFFICERS TO SAY IF THEY CHOOSE TO.

1 THE COURT: MR. CONNER.

2 MR. CONNER: IT'S A STATEMENT BY THE DEFENDANT, YOUR
3 HONOR.

4 THE COURT: MR. WILILAMS?

5 MR. WILLIAMS: YOUR HONOR.

6 THE COURT: SIR?

7 MR. WILLIAMS: WE'LL STRIKE THAT.

8 THE COURT: YOU CAN ANSWER, SIR.

9 A THEY REQUESTED AN ID. HE DIDN'T PRODUCE ONE AFTER
10 THE COUPLE TIMES REQUESTING AN ID. AND HE HAD STARTED
11 GETTING A LITTLE BIT ON THE BELLIGERENT SIDE WITH THEM.
12 TELLING THEM, I DON'T HAVE A BLANK ID. LEAVE ME ALONE.
13 I AM NOT INVOLVED IN THE FIGHT. THE FIGHT IS OVER THERE.
14 THE INDIVIDUAL WENT AND PUT HIS HANDS IN HIS POCKET. AND
15 THEN THE OFFICERS ASKED HIM TO TAKE HIS HANDS OUT OF HIS
16 POCKETS. AFTER 2 OR 3 TIMES ASKING HIM TO TAKE THE HANDS
17 OUT OF THE POCKETS, THE SCUFFLE ENSUED. ONE GRABBED ONE
18 ARM. ONE GRABBED THE OTHER. AND THEY WENT TO THE GROUND.
19 AT THAT TIME IS WHEN THE INITIAL SHOT WAS FIRED.

20 Q NOW DID THE OFFICERS HAVE ANY PISTOLS PRIOR TO HIM
21 STARTING THE SHOOTING?

22 A NO, SIR. I DID NOT SEE ANY WEAPONS DRAWN UNTIL AFTER
23 THE FIRST SHOT.

24 Q AFTER HE GOT ON THE GROUND, TELL US WHAT HAPPENED.

25 A ONCE HE -- WHEN THEY WENT TO THE GROUND AFTER THE

1 FIRST SHOT WAS FIRED, OFFICER BOLAND WAS HIT. AND OFFICER
2 WILLIAMS, BOTH OF THEM WERE ACTUALLY HIT. WILLIAMS DIDN'T
3 REALIZE AT THE TIME THAT HE WAS HIT. BUT THEY WERE
4 TELLING HIM TO BE STILL. STOP MOVING. TO STOP RESISTING.
5 AND THEN, YOU KNOW, WENT ON SEVERAL TIMES TELLING THEM
6 THAT. AND THEN I HEARD 3, ABOUT 3 SHOTS FIRED FROM THAT
7 POINT. AND I THOUGHT IT, PERSONALLY I THOUGHT IT WAS TWO
8 FROM, I THOUGHT BOLAND HAD FIRED TWICE AND WILLIAMS FIRED
9 ONCE. BUT I CAN'T -- I KNOW THERE WERE THREE SHOTS FIRED.
10 BUT I CAN'T TELL YOU WHICH GUNS THEY CAME OUT OF.

11 Q LET ME ASK YOU ABOUT THE DEFENDANT WHEN HE WAS THERE
12 ON THE GROUND, THEY WERE TELLING HIM TO DO WHAT?

13 A THEY WERE TELLING HIM TO BE STILL, TO STOP MOVING
14 AROUND. AND STOP RESISTING.

15 Q WHAT WAS HE DOING?

16 A HE WAS SQUIRMING OR CRAWLING AROUND ON THE GROUND.
17 TO ME IT APPEARED HE WAS CRAWLING AROUND ON THE GROUND
18 LOOKING FOR SOMETHING.

19 Q TELL US ABOUT THE GUN THAT YOU SAW.

20 A OKAY. OFFICER BOLAND AFTER THE SHOTS WERE FIRED, AND
21 THE SUSPECT WAS HIT, OFFICER BOLAND WENT TO THE GROUND AND
22 I STARTED RENDERING FIRST AID TO HIM. I WENT AND GOT A
23 TOWEL TO APPLY PRESSURE TO HIS ARM. AND I ASKED HIM AT
24 THAT TIME WHILE I WAS LEANING OVER HIM, I SAID IS YOUR
25 WEAPON SECURED. AND HE SAID YEAH, MY WEAPON IS IN MY

1 HOLSTER. AND I ASKED HIM WAS THE SUSPECT'S WEAPON SECURE.
2 HE SAID, "I THINK SO. I THINK IT'S BY MY FEET. I THINK
3 IT'S UNDER MY FEET."

4 AND I TOLD HIM AT THAT TIME I WAS GOING TO TAKE HIS
5 FLASHLIGHT OUT OF HIS BELT AND LOOK AND SEE IF WE COULD
6 FIND A WEAPON. SO I TOOK HIS FLASHLIGHT OUT AND SHINED IT
7 AROUND ON THE GROUND. AND I FOUND THE WEAPON DOWN BY HIS
8 FEET. AND PRIOR TO THAT, I GOT SOME SCISSORS TO CUT THE
9 SIDE OF HIS, OF OFFICER WILLIAMS -- OR OFFICER BOLAND'S
10 SHIRT WHERE HE SAID HE FELT LIKE HE WAS HIT IN THE SIDE
11 THAT IT WAS BURNING. AND I TOOK THOSE SCISSORS TO LIFT
12 THE GUN UP FROM BY HIS FEET. AND AT THAT TIME, I CAN'T
13 THINK OF HIS LAST NAME, ALEX, THE TALL SLENDER OFFICER WAS
14 THERE.

15 Q THIS OFFICER RIGHT HERE?

16 A HE CAME UP BEHIND ME AND SAID WAIT, YOU KNOW, THERE
17 MIGHT BE SOMETHING IN THE CHAMBER. AND HE REACHED OVER
18 AND TOOK THE GUN AT THAT TIME. AND TOOK IT BACK TO HIS
19 VEHICLE.

20 Q SO WHEN YOU PICKED UP THE PISTOL, YOU GAVE IT TO MR.
21 DUKES.

22 A YEAH, THEY PUT THE PISTOL INTO THE SCISSORS THROUGH
23 THE TRIGGER BRAIN THERE. AND HAD IT -- I WAS HOLDING IT
24 UP WITH THAT PAIR OF SCISSORS AND HE GOT IT FROM THERE.

25 Q DID YOU NOTICE ANY OBVIOUS INJURY TO MR. BOLAND?

1 A AT THE TIME, YES. HE HAD AN ENTRY WOUND AND AN EXIT
2 WOUND THROUGH HIS LEFT -- UNDER HIS LEFT ARM. AND THEN
3 THE BULLET ALSO PENETRATED THROUGH RIGHT WHERE THE VEST,
4 WHERE THE VEST ACTUALLY VELCROS TOGETHER. IT PENETRATED
5 RIGHT THROUGH THAT AREA INTO HIS RIB CAGE AREA.

6 Q OFFICER COOK -- I MEAN, OFFICER COOK. MR. COOK,
7 HAVE YOU HAD AN OPPORTUNITY TO OBSERVE THE VIDEOTAPE OF
8 MR. BOLAND'S CAR THAT SHOWS ABOUT TWO MINUTES OF THE
9 ACTIVITY THERE?

10 A YES, SIR, I HAVE.

11 Q DOES THAT FAIRLY AND ACCURATELY SHOW---

12 A YES, SIR.

13 Q ---WHAT HAPPENED?

14 A YES, SIR.

15 Q I WOULD LIKE FOR YOU TO LOOK AT IT AND IDENTIFY
16 YOURSELF IN THE VIDEO.

17 A OKAY.

18 Q AND ALSO POINT OUT MR. BOLAND IN THE GENERAL AREA
19 WHERE THE CONFRONTATION TOOK PLACE.

20 A OKAY.

21 Q MR. COOK, COME DOWN HERE AND JUST STAND TO THE SIDE
22 AND USE THIS POINTER HERE.

23 A (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
24 STAND.)

25 Q CALL THE OPERATOR HERE.

1 A THIS IS ME RIGHT HERE. THIS IS ME. AT THIS POINT A
2 SHOT WAS FIRED. FAST FORWARD THERE I THINK. RIGHT HERE
3 IN THIS AREA IS WHERE OFFICER BOLAND WAS STANDING. HIS
4 HANDS BACK THERE. THAT'S WHERE SHOTS WERE FIRED.
5 WILLIAMS IS OVER HERE. THE SUSPECT IS IN THIS AREA HERE.
6 RIGHT HERE. AT THIS TIME HERE I AM GOING BACK IN THE BAR
7 TO GET A TOWEL. AND BRING IT OUT FOR HIM. AT THIS TIME
8 HE IS STILL MOVING AROUND ON THE GROUND ON THE OTHER SIDE
9 OF THE STREET. OFFICER BOLAND IS STILL IN FRONT OF THE
10 VEHICLE HERE. I'M BRINGING A TOWEL OUT NOW FOR HIM.

11 Q NOW DID YOU STAY THERE AFTER THIS THING HAPPENED AND
12 TALK WITH THE POLICE?

13 A YES, SIR, I DID.

14 Q AND YOU STAYED UNTIL ABOUT 7 O'CLOCK IN THE MORNING?

15 A YES, SIR. IT WAS SEVEN OR A LITTLE LATER.

16 Q WHAT WAS YOUR JOB THERE?

17 A I WAS THE DJ FOR THE CLUB. I WORKED, I THINK AT THAT
18 TIME I WAS WORKING, THURSDAY, FRIDAY AND SATURDAY NIGHTS
19 HERE.

20 Q THAT'S GOOD. MR. COOK, ANSWER ANY QUESTIONS HIS
21 LAWYER MIGHT HAVE FOR YOU.

22 A YES, SIR.

23 CROSS EXAMINATION BY WILLIAMS:

24 Q MR. COOK, YOU SAID YOU WORKED AT THE CLUB ON FRIDAY
25 AND SATURDAY NIGHTS?

1 A I THINK IT WAS FRIDAY AND SATURDAY NIGHT. ORIGINALLY
2 WHEN THEY WERE IN TOWN, I WAS WORKING FOUR NIGHTS A WEEK
3 FOR THEM. AND THEN ONCE WE MOVED OUT TO THAT AREA, I
4 THINK IT -- I CAN'T RECALL IF IT SLOWED DOWN TO TWO -- IT
5 WAS TWO NIGHTS AT THAT TIME OR IF IT WAS STILL THREE
6 NIGHTS A WEEK. AND IT WAS LIKE A THURSDAY, FRIDAY AND
7 SATURDAY. IT COULD HAVE STILL BEEN AT THAT RANGE,
8 BECAUSE AFTER THE SHOOTING, THE CLUB, THEIR BUSINESS WENT
9 DOWNHILL REAL QUICK. AND I ENDED UP, YOU KNOW, STAYING
10 OUT THERE MAYBE FOUR TO SIX MONTHS AT THE MOST. AND THEN
11 STOPPED ALL TOGETHER WITH IT BECAUSE IT GOT TO WHERE I WAS
12 ONLY WORKING ONE NIGHT A WEEK.

13 Q OKAY. PRIOR TO THE SHOOTING THOUGH, IT WAS TWO
14 NIGHTS A WEEK? TWO OR THREE?

15 A TWO OR THREE. YES, SIR.

16 Q TWO OR THREE TIMES.

17 A I CAN'T PINPOINT IT EXACT. BUT IT WAS 2 OR 3 NIGHTS..

18 Q I UNDERSTAND. HOW LONG HAD YOU BEEN WORKING THERE
19 TWO OR THREE NIGHTS A WEEK? ONE WEEK, 6 WEEKS, 10 WEEKS?

20 A AT THAT LOCATION EVER SINCE MARIE HAD BOUGHT THE CLUB
21 FROM RICK, THE PRIOR OWNER.

22 Q AND CAN YOU JUST APPROXIMATE TO THE JURY ABOUT HOW
23 LONG THAT WAS?

24 A I THINK THEY HAD BEEN AT THAT LOCATION ABOUT THREE TO
25 FOUR MONTHS.

1 Q SO TWO OR THREE TIMES A WEEK, THREE TO SIX MONTHS?

2 A YES, SIR.

3 Q YOU KNEW THE PEOPLE OUT THERE.

4 A YES, SIR.

5 Q AND YOUR JOB WAS A DJ?

6 A RIGHT.

7 Q AND YOU PLAY MUSIC FROM WHAT TIME DID YOU START?

8 EIGHT?

9 A WE'D START ABOUT NINE ON THE WEEKDAY NIGHTS AND
10 10:00 O'CLOCK ON THE WEEKEND NIGHTS. TEN TO TWO ON THE
11 WEEKEND NIGHTS.

12 Q AND BEFORE THE INCIDENT OCCURRED, YOU SAID THAT YOU
13 WERE TAKING YOUR EQUIPMENT TO THE CAR?

14 A I WAS TAKING MY DISKS TO THE CAR. YES, SIR.

15 Q SO THAT'S FROM 9:00 OR 10:00 P.M. UNTIL 2:00 P.M. --
16 2:00 A.M.?

17 A YES, SIR.

18 Q SO FOUR TO FIVE HOURS OF MUSIC IN THE CLUB?

19 A YES, SIR.

20 Q ARE THESE YOUR FRIENDS AT THE CLUB? YOU ARE FRIENDS
21 WITH THE BARTENDER, MARIE?

22 A I WOULD SAY NOT A FRIEND, BUT I WORK FOR HER. SHE
23 WAS MY BOSS.

24 Q WORK WITH.

25 A YES.

1 Q AND WE ALL KNOW THAT, YOU KNOW, I KNOW THE CLERK OF
2 COURT. YOU KNOW THE PEOPLE YOU WORK WITH.

3 A RIGHT.

4 Q AND YOU'RE FRIENDLY WITH THEM.

5 A OTHER THAN OUR ONLY ASSOCIATION WAS AT THE CLUB.

6 Q BUT YOU HAD A GOOD WORKING RELATIONSHIP?

7 A YES, SIR.

8 Q AND THIS IS A BAR.

9 A RIGHT.

10 Q WAS IT EVER COMMON FOR YOU TO DRINK WHILE YOU WERE
11 PLAYING THE MUSIC?

12 A AT THE MOST I WOULD DRINK MAYBE ONE OR TWO DRINKS A
13 NIGHT USUALLY.

14 Q SO A FOUR OR FIVE HOUR SPAN YOU'D HAVE ONE DRINK
15 THROUGHOUT THE ENTIRE NIGHT.

16 A MOST OF THE TIME IT WAS EITHER WATER OR COCA COLA.
17 YES, SIR.

18 Q DID YOU EVER HAVE MORE THAN ONE DRINK? EVER IN THIS
19 THREE TO SIX MONTH PERIOD, DID YOU EVER HAVE SAY, TWO OR
20 THREE DRINKS?

21 A THERE IS A POSSIBILITY. YES, SIR.

22 Q HOW ABOUT LIQUOR? LIQUOR DRINKS OR BEER?

23 A LIQUOR.

24 Q AND THIS IS AT THE TIME SOUTH CAROLINA WAS STILL MINI
25 BOTTLES, I BELIEVE?

1 A YES, SIR.

2 Q SO AN OUNCE AND THREE QUARTERS OF ALCOHOL, IS THAT
3 CORRECT?

4 A I AM NOT SURE WHAT SIZE THE MINI BOTTLE IS.

5 Q YOU KNOW THE PROXIMATE SIZE OF THE MINI BOTTLE
6 THOUGH. SO IT WASN'T UNCOMMON FOR YOU TO DRINK WHEN YOU
7 WERE WORKING THERE?

8 A LIKE I SAID, MAYBE ONE OR THEE DRINKS A NIGHT IS WHAT
9 I WOULD NORMALLY.

10 Q I UNDERSTAND. AND WOULD YOU GENERALLY, SAY YOU WERE
11 GOING TO DRINK ONE OR TWO DRINKS DURING THE COURSE OF THE
12 NIGHT, DO YOU GO TO THE BAR AS SOON AS YOU WALK IN, AND
13 ORDER A DRINK WHILE YOU ARE SETTING UP? OR IS THIS MIDWAY
14 THROUGH THE NIGHT ONCE YOU HAVE GOTTEN YOUR EQUIPMENT SET
15 UP AND YOU'RE PLAYING MUSIC?

16 A NORMALLY WHAT I WOULD DO IF I GOT, IF I DID DRINK
17 ANYTHING THE NIGHT I WAS THERE, I WOULD GET THERE AT
18 8 O'CLOCK AND SET UP. AND I WOULD HAVE A DRINK. I WOULD
19 JUST ORDER A DRINK WHEN I GOT THERE. BUT USUALLY AFTER
20 TEN, 10:30, I DIDN'T DRINK ANYTHING ELSE.

21 Q OKAY. SO YOU NEVER DRANK AFTER 10:00 O'CLOCK.

22 A BASIC POLICY I TRY NOT TO DRINK ANYTHING AFTER THAT
23 PERIOD.

24 Q OKAY. BUT IF YOU WERE GOING TO DRINK TWO TO THREE
25 DRINKS FROM NINE TO 10:00 O'CLOCK, OR 8 TO 10:00 O'CLOCK.

1 A ONE TO TWO, AS I STATED EARLIER.

2 Q YOU SAID OCCASIONALLY TWO TO THREE.

3 A MAYBE A TIME TWO TO THREE, YES, SIR.

4 Q OKAY. AND WOULD YOU STILL DRINK THEM OVER THE SAME
5 TIME PERIOD OR DID THIS TIME PERIOD GROW UNTIL LATER IN
6 THE NIGHT?

7 A NO. AGAIN, I WOULD STOP DRINKING USUALLY BY 10:30 AT
8 NIGHT. I DIDN'T DRINK ANYTHING ELSE THAT WAS ALCOHOL. IT
9 WAS MAINLY WATER OR COKES.

10 Q YOU SAY USUALLY OR IS THAT ALWAYS?

11 A SIR, I WORKED THERE FOR ALMOST TWO YEARS WITH THEM.
12 I CAN'T SAY THAT WAS ALWAYS.

13 Q OH, EXACTLY.

14 A RIGHT.

15 Q AND THAT'S WHAT I'M SAYING. SO THERE MAY HAVE BEEN
16 AN OCCASION WHEN YOU HAD SOMETHING TO DRINK AFTER
17 10:00 P.M.?

18 A IT WAS POSSIBLE, YEAH.

19 Q WERE YOU DRINKING ON THIS NIGHT, SIR?

20 A I MAY HAVE HAD ONE DRINK THAT NIGHT. BUT THAT WOULD
21 BE AT THE VERY MOST IF I HAD THAT. I DON'T RECALL HAVING.

22 Q OKAY, WHAT TIME IF YOU MAY HAVE?

23 A WHEN I GOT THERE. YES, SIR.

24 Q SO YOU WOULDN'T HAVE HAD ANYTHING AFTER
25 10:00 O'CLOCK?

1 A RIGHT.

2 Q AND YOUR TESTIMONY TODAY IS THAT YOU DID NOT HAVE A
3 DRINK AFTER 10:00 P.M.?

4 A RIGHT.

5 MR. WILILAMS: THANK YOU.

6 REDIRECT EXAMINATION BY MR. CONNER:

7 Q MR. COOK, WERE YOU INTOXICATED?

8 A NO, SIR, I WAS NOT.

9 Q AND DID YOU TRY TO RENDER ASSISTANCE TO THESE
10 OFFICERS WHO WERE IN TROUBLE?

11 A YES, SIR, I DID.

12 MR. CONNER. THANK YOU. WE APPRECIATE IT.

13 THE COURT: ANYTHING FURTHER, MR. WILILAMS?

14 RECROSS EXAMINATION BY MR. WILILAMS:

15 Q MR. COOK, WERE YOU EVER INTOXICATED DURING THE TIME
16 YOU WORKED AT THE CLUB?

17 A THERE MAY HAVE BEEN A TIME OR TWO IF I HAD A
18 DESIGNATED DRIVER THERE WITH ME THAT I DID HAVE A DRINK
19 THAT WOULD HAVE PUT ME TO THE LIMIT THAT I COULD HAVE BEEN
20 CONSIDERED THAT, YEAH. BUT NOT WHEN YOU'RE SAYING
21 INTOXICATED, YOU'RE SAYING TO THE POINT THAT YOU'RE
22 INEBRIATED AND THE POINT YOU CAN'T STAND, OR CAN YOU GIVE
23 ME YOUR DEFINITION OF THAT?

24 Q WHICHEVER DEFINITION YOU USED TO ANSWER MR. CONNER'S
25 QUESTION.

1 A I WOULD SAY THAT THERE MAY HAVE BEEN A TIME THAT I
2 HAD HAD A DRINK TOO MUCH TO DRIVE IF I WOULD HAVE BEEN
3 DRIVING. THAT I WOULD POSSIBLY -- I WOULD PROBABLY HAVE
4 BLOWN A POSITIVE ON A BREATHALYZER. AND AT THAT TIME I
5 WOULD NOT HAVE DRIVEN IN THAT CONDITION. THE ONLY TIME I
6 WOULD HAVE GOT THAT WAY IS IF I HAD SOMEONE THERE THAT
7 WOULD HAVE BEEN A DESIGNATED DRIVER.

8 MR. WILLIAMS: THANK YOU, MR. COOK.

9 MR. CONNER: THANK YOU, MR. COOK.

10 THE COURT: YES, SIR. YOU MAY STEP DOWN.

11 MR. CONNER: BRANDON RICHARDSON.

12 THE COURT: YES, SIR, YOUR NEXT WITNESS.

13 BRANDON RICHARDSON, BEING FIRST DULY
14 SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MR. CONNER:

16 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
17 NAME, PLEASE.

18 A BRANDON WESLEY RICHARDSON. R-I-C-H-A-R-D-S-O-N.

19 DIRECT EXAMINATION BY MR. CONNER:

20 Q MR. RICHARDSON, WHAT PART OF SUMTER COUNTY DO YOU
21 LIVE IN?

22 A PINWOOD.

23 Q HOW LONG HAVE YOU LIVED IN THE PINWOOD COMMUNITY?

24 A I HAVE LIVED THERE ALL MY LIFE. I MOVED BETWEEN
25 PINWOOD AND SUMTER FOR OVER A YEAR. AND NOW I AM BACK IN

1 PINWOOD.

2 Q AND WHERE DO YOU WORK?

3 A B & D.

4 Q WHAT DO YOU DO FOR B & D?

5 A I WORK IN THE LOAD DEPARTMENT ON THE MILL.

6 Q AND HOW LONG HAVE YOU WORKED THERE?

7 A THIS SEPTEMBER WILL BE 5 YEARS.

8 Q NOW DO YOU KNOW WHERE THE FRENZ CLUB IS OUT ON THE
9 PINWOOD ROAD?

10 A YES.

11 Q ON THE NIGHT OF SEPTEMBER 11, 2005, DID YOU HAVE AN
12 OCCASION TO BE THERE WHEN THE SHOOTING OCCURRED?

13 A YES, SIR.

14 Q NOW TELL ME WHAT YOU WERE DOING THERE.

15 A I JUST LEFT MY GIRLFRIEND'S HOUSE. AND I STOPPED BY
16 BECAUSE MY BROTHER'S TRUCK WAS THERE. AND MY FRIEND ERNIE
17 WAS THERE, SO I WENT IN AND TALKED TO THEM FOR A FEW
18 MINUTES. THAT'S THE REASON I STOPPED.

19 Q AND WHILE YOU WERE THERE, DID SOMETHING UNUSUAL
20 HAPPEN OUTSIDE IN THE PARKING LOT?

21 A YES, SIR.

22 Q TELL US ABOUT IT.

23 A WELL WE WERE THERE, AND THERE WAS A FIGHT EARLIER
24 BEFORE THAT INSIDE THE BAR. AND RIGHT AFTER IT BROKE UP,
25 AFTER THE LAW LEFT, WE WENT OUTSIDE AND THERE WAS SOME

1 GIRLS FIGHTING. AND I NOTICED THAT A BOY HAD A GUN IN HIS
2 BACK POCKET UP THERE. AND HE PULLED IT OUT JUST A LITTLE
3 BIT ONE TIME AND THEN HE PUT IT BACK IN. AND I GRABBED MY
4 FRIEND ERNIE AND TOLD HIM WE NEEDED TO GET INSIDE AND GET
5 PAUL TO CALL THE LAW BACK OUT HERE. SO WE WENT BACK
6 INSIDE. AND SHE WAS CALLING THE LAW. THE BOY CAME BACK
7 INSIDE. AND WE WENT BACK OUTSIDE. AND HE WENT OUTSIDE
8 BY THE TIME THE LAW WAS THERE. AND THEY WENT AND
9 CONFRONTED HIM. AND HE STARTED RESISTING AND THEN SHOTS
10 WERE GETTING FIRED AND WE STARTED DUCKING.

11 Q NOW GO BACK A LITTLE SLOWER.

12 A ALL RIGHT.

13 Q THIS FELLOW THAT YOU SAW WITH THE GUN.

14 A YES, SIR.

15 Q DID YOU NOTICE WHAT KIND OF CLOTHES HE HAD?

16 A JEANS, A WHITE TEE SHIRT AND A RED HAT.

17 Q A RED HAT. WAS IT A HAT OR A CAP?

18 A IT WAS LIKE A BASEBALL CAP.

19 Q LIKE A BASEBALL CAP.

20 A YES, SIR.

21 Q I SHOW YOU HERE THIS PICTURE. LET ME FIND IT. I

22 SHOW YOU TWO PHOTOGRAPHS, STATE'S EXHIBIT NO. 11. LET'S

23 SEE ONE OF THEM IS 11-E AND THE OTHER ONE IT LOOKS LIKE

24 11-R. AND ASK YOU TO LOOK AT THOSE TWO PHOTOGRAPHS. DOES

25 THAT LOOK LIKE THE CAP THAT HE HAD ON?

1 A YES, SIR.

2 Q THE, NOW YOU SAID SOMETHING ABOUT HE HAD THE PISTOL
3 OUT. TELL ME ABOUT THAT.

4 A WELL THE GIRLS WERE FIGHTING. THERE WAS TWO GIRLS
5 AND THEN TWO OTHER GIRLS JOINED IN ON IT. AND HE WAS
6 SITTING THERE. I BELIEVE ONE WAS HIS GIRLFRIEND. AND HE
7 WAS WATCHING THE FIGHT, AND HE HAD THE GUN IN HIS BACK
8 POCKET. AND HE WAS KIND OF STANDING BACK JUST WATCHING.
9 AND HE PUT HIS HAND ON IT AND PULLED IT OUT OF HIS POCKET.
10 AND THEN HE HEAVED IT BACK IN. AND I WENT TO THE BAR.
11 AND I DON'T KNOW WHAT HAPPENED AFTER THAT. BUT I DON'T
12 KNOW IF HE CAME BACK IN THE BAR. SO I WENT BACK OUTSIDE
13 THE BAR.

14 Q HE HAD THE PISTOL OUT OF HIS POCKET?

15 A YES, SIR.

16 Q AND DID HE SAY ANYTHING TO THE FIGHTERS?

17 A IF HE DID, I DIDN'T HEAR IT.

18 Q AND YOU WENT INSIDE AT THAT POINT.

19 A AND HAD THE BARTENDER CALL THE POLICE.

20 Q HAD THE BARTENDER CALL THE POLICE.

21 A YES, SIR.

22 Q DID YOU TELL THE BARTENDER ABOUT HIS CLOTHING
23 DESCRIPTION?

24 A NO, SIR, I DIDN'T. I JUST TOLD THE BOY I SAW WITH
25 THE GUN.

1 Q NOW THE -- YOU SAY WHILE YOU WERE IN THERE, IN THE
2 CLUB AND TALKING TO THE BARTENDER, HE CAME BACK INSIDE, IS
3 THAT RIGHT?

4 A RIGHT.

5 Q AND WHO WENT OUTSIDE NEXT? DID YOU GO BACK OUT
6 BEFORE HE LEFT?

7 A YES, SIR.

8 Q YOU WENT BACK OUT. AND YOU WERE WITH -- WHO WERE YOU
9 WITH?

10 A I WAS WITH ERNIE WHEN I WENT BACK OUTSIDE. BUT I
11 WALKED BACK OVER AND HE WAS STANDING THERE BY THE DOOR. I
12 WALKED OVER AND I WENT FURTHER TO TALK TO JERRY GEDDINGS.
13 AND WHEN THE SHOOTING STARTED HAPPENING. I WAS ON THIS
14 SIDE. AND ERNIE WAS ON THIS SIDE STILL.

15 Q SO ERNIE WAS ON THE ONE SIDE OF WHERE THE FIGHT WAS
16 AND YOU WERE ON THE OTHER SIDE?

17 A CORRECT.

18 Q OR WHERE THE TROUBLE WITH THE POLICE OCCURRED?

19 A THAT'S RIGHT.

20 Q AND BUT HE FOLLOWED YOU OUT OF THE CLUB, OR JUST CAME
21 BACK OUT?

22 A HE JUST CAME BACK OUT.

23 Q AND WHEN YOU GOT BACK OUTSIDE WERE THE POLICE THERE,
24 OR DID THEY COME UP---

25 A YES, SIR.

1 Q ---AFTER YOU GOT BACK OUTSIDE?

2 A THEY WERE THERE WHEN I GOT BACK OUTSIDE.

3 Q AND SO TELL ME WHERE THIS TROUBLE WITH MR. YONSON
4 OCCURRED?

5 A IF YOU WALK OUT THE FRONT DOOR OF FRENZ, RIGHT TO THE
6 RIGHT HAND SIDE OF THE DOOR, IF YOU'RE FACING THE ROAD.

7 Q THERE IS A LITTLE CHAIN LINK FENCE THAT RUNS BETWEEN
8 THE FRENZ CLUB AND THE ROOFING BUILDING NEXT DOOR?

9 A RIGHT.

10 Q AND RIGHT IN FRONT OF THAT FENCE?

11 A YES, SIR.

12 Q DID YOU KNOW MR. YONSON?

13 A NO, SIR.

14 Q HAD YOU EVER SEEN HIM BEFORE?

15 A NO, SIR.

16 Q TELL ME WHAT HAPPENED BETWEEN THE OFFICERS AND
17 MR. YONSON.

18 A HE WAS TRYING TO GET BACK IN HIS TRUCK, I BELIEVE,
19 AND THEY APPROACHED HIM FROM BEHIND. AND THEY WERE TRYING
20 TO TELL HIM TO STOP. AND THEN I JUST KIND OF WALKED AWAY
21 FROM IT. I DIDN'T REALLY WATCH MUCH OF IT. HE WAS
22 RESISTING ARREST. THEY WERE TRYING, YOU KNOW, TO GET HIS
23 ATTENTION AND TRYING TO SEE IF HE HAD, I GUESS, THE GUN ON
24 HIM. HE DIDN'T COOPERATE TOO WELL WITH THEM. HE JUST
25 WANTED TO, I GUESS, GET HOME. I COULDN'T BLAME HIM. I

1 WOULD WANT TO LEAVE TOO OUT THERE AFTER---

2 Q DID HE COMPLY WITH WHAT THEY ASKED HIM TO DO?

3 A NO, SIR.

4 Q AND DID YOU SEE HIM PULL OUT THE GUN?

5 A I DIDN'T SEE HIM PULL THE GUN OUT, NO.

6 Q WELL DID YOU SEE -- WHERE WAS YONSON AND WHERE WERE
7 THESE TWO OFFICERS WHEN THE SHOOTING STARTED?

8 A AT THE DRIVER'S SIDE OF THE LITTLE GREEN TRUCK THAT
9 WAS SITTING THERE.

10 Q A LITTLE GREEN TRUCK?

11 A YES, SIR.

12 Q WERE THEY ON THE GROUND OR WERE THEY STANDING UP?

13 A WHEN IT STARTED THEY WERE STANDING UP AS FAR AS I
14 COULD TELL.

15 Q BUT YOU SAY YOU WALKED AWAY AT THAT POINT,---

16 A RIGHT.

17 Q ---IS THAT RIGHT?

18 A RIGHT.

19 Q BUT WHAT WERE THEY TELLING HIM TO DO, BRANDON?

20 A THEY WERE JUST TRYING TO GET HIM TO STOP. AND HE WAS
21 JUST TRYING TO GET INTO HIS TRUCK. AND THAT'S ALL I COULD
22 REALLY HEAR.

23 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE LAWYER
24 MIGHT HAVE FOR YOU.

25 THE COURT: MR. WILLIAMS.

1 CROSS EXAMINATION BY MR. WILLIAMS:

2 Q BRANDON, ABOUT HOW FAR AWAY FROM YOU -- FROM THE
3 OFFICERS AND MR. YONSON WERE YOU WHEN IT STARTED?

4 A MAYBE FROM HERE TO YOU.

5 Q ABOUT HOW FAR IS THAT?

6 A A COUPLE OF YARDS.

7 Q A COUPLE OF YARDS.

8 A WELL WHATEVER THIS DISTANCE IS PROBABLY.

9 Q OKAY. ABOUT HOW FAR WERE YOU FROM HIM WHEN YOU SAW
10 HIM LATER ON IN THE INCIDENT AFTER YOU CAME BACK?

11 A WHEN I CAME BACK OUTSIDE OR?

12 Q YEAH, WHEN YOU CAME BACK OUTSIDE.

13 A TO START WITH, I WAS NOT VERY FAR AT ALL FROM RIGHT
14 THERE IN FRONT OF HIS TRUCK. AND THEN AS THEY TRIED TO
15 GET HIM TO STOPPED, I JUST WALKED ON AWAY BEHIND IT.

16 Q SO DID YOU HEAR SHOTS FIRED?

17 A YES, SIR.

18 Q HOW FAR AWAY FROM THEM WERE YOU WHEN YOU HEARD THE
19 SHOTS FIRED?

20 A NO FURTHER THAN FROM HERE TO THE DEFENDANT OVER THERE
21 MAYBE.

22 Q OKAY. SO 30 FEET?

23 A SOMETHING LIKE THAT.

24 Q DID YOU SEE ANY SHOTS-- DID YOU SEE THE SHOTS FIRED?

25 A I DIDN'T SEE THEM SHOOT, NO.

1 Q DID YOU SEE MY CLIENT FIRE AT THE OFFICERS?

2 A I COULDN'T SEE THAT. ANOTHER VEHICLE WAS IN THE WAY.

3 MR. WILLIAMS: THANK YOU.

4 THE COURT: ANYTHING FURTHER FROM THIS WITNESS.

5 MR. CONNER: I HAVE NOTHING FURTHER. I WOULD ASK

6 THAT HE BE EXCUSED.

7 THE COURT: HE CAN BE EXCUSED.

8 MR. WILLIAMS: WITHOUT OBJECTION.

9 THE COURT: HE CAN GO.

10 MR. CONNER: ERNEST TURNER.

11 ERNEST TURNER, BEING FIRST DULY

12 SWORN, TESTIFIED AS FOLLOWS.

13 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
14 NAME, PLEASE.

15 A ERNEST TURNER. T-U-R-N-E-R.

16 DIRECT EXAMINATION BY MR. CONNER:

17 Q ERNEST, WHAT PART OF SUMTER COUNTY DO YOU LIVE IN?

18 A I LIVE IN THE PINWOOD AREA.

19 Q HOW LONG HAVE YOU LIVED IN SUMTER?

20 A 24 YEARS.

21 Q ARE YOU 24 YEARS OLD?

22 A YES, SIR.

23 Q NOW DID YOU HAPPEN TO BE AT A PLACE CALLED THE FRENZ
24 CLUB OUT ON THE PINWOOD ROAD BACK ON SEPTEMBER 11, 2005?

25 A YES, SIR.

1 Q AND WHO WERE YOU THERE WITH?

2 A A FRIEND OF MINE.

3 Q AND WHO WAS THAT?

4 A BRANDON RICHARDSON.

5 Q AND HOW LONG HAD YOU BEEN THERE?

6 A I REALLY WASN'T SURE.

7 Q WELL TELL US WHAT HAPPENED ABOUT TWO A.M. OR TWO,

8 SOMEWHERE BETWEEN TWO AND 2:30. WAS THERE ANY PROBLEMS IN

9 THE PARKING LOT?

10 A THERE WAS SOME FEMALES FIGHTING.

11 Q DID YOU KNOW THE GIRLS?

12 A NO, SIR.

13 Q DID YOU SEE ANYBODY OUT THERE WITH A GUN?

14 A YES, SIR.

15 Q YOU DID?

16 A YES, SIR.

17 Q AND TELL US ABOUT THAT.

18 A THEY WAS JUST WATCHING THE FIGHT OR WHATEVER. AND IT

19 WAS POINTED OUT TO ME THAT SOMEBODY HAD A GUN. AND WHEN I

20 LOOKED OVER, SO I GOT AWAY FROM THERE.

21 Q DID YOU SEE THE GUN?

22 A YOU COULD SEE LIKE A PIECE OF IT IN THE BACK POCKET.

23 Q AND DID YOU NOTICE ANYTHING ABOUT THE FELLOW'S

24 CLOTHING? AS TO WHAT HE HAD ON?

25 A A WHITE TEE SHIRT.

1 Q DID HE HAVE ON A CAP?

2 A I COULDN'T TELL YOU.

3 Q BUT HE HAD WHITE TEE SHIRT?

4 A YES, SIR.

5 Q AND HE HAD A PISTOL IN HIS POCKET?

6 A YES.

7 Q AND YOU ARE PRETTY CERTAIN OF THAT?

8 A PRETTY SURE.

9 Q AND OKAY AFTER THAT HAPPENED, WHAT DID YOU AND

10 BRANDON DO?

11 A WELL WE WENT BACK INSIDE AND THEN WE CAME BACK

12 OUTSIDE.

13 Q WHAT DID Y'ALL DO INSIDE?

14 A WE JUST WENT BACK INSIDE. AND THE PEOPLE WAS TALKING

15 ABOUT JUST CALLING THE COPS AND STUFF.

16 Q SOMEBODY CALLED THE COPS?

17 A YES.

18 Q AND NOW WHILE YOU WERE -- WHILE YOU WERE BACK INSIDE,

19 AND SOMEBODY WAS CALLING THE COPS, DID THE FELLOW WITH THE

20 GUN COME BACK IN?

21 A UH, THE FELLOW WITH THE WHITE SHIRT CAME IN, BUT I

22 WASN'T SURE IF THAT'S WHO IT WAS OR NOT.

23 Q HOW MUCH HAD YOU HAD TO DRINK?

24 A COUPLE OF BEERS.

25 Q BUT YOU THOUGHT IT WAS HIM, DIDN'T YOU?

1 A AT THE TIME, YES, SIR.

2 Q YOU DID. AND YOU TOLD THE POLICE THAT THAT WAS HIM,
3 DIDN'T YOU?

4 A I PROBABLY DID.

5 Q NOW WERE YOU OUTSIDE WHEN THE DEPUTY SHERIFF'S CAME
6 UP?

7 A YES, SIR.

8 Q AND YOU DID YOU SEE THE DEPUTY SHERIFF'S TALKING TO
9 ANYBODY?

10 A THEY CAME IN THERE AND STARTED TALKING TO A COUPLE OF
11 DIFFERENT PEOPLE.

12 Q DID THEY TALK WITH THIS FELLOW THAT YOU SEEN WITH THE
13 GUN?

14 A YEAH, THEY MOVED TOWARD HIM.

15 Q THEY MOVED TOWARD HIM?

16 A YES, SIR.

17 Q CAN YOU TELL WHAT WAS GOING ON THERE?

18 A IT LOOKED LIKE THEY WAS TALKING TO HIM. AND THEN
19 THEY KIND OF STARTED WRESTLING AROUND A LITTLE BIT. AND
20 THAT WAS ABOUT ALL I COULD SEE.

21 Q AND WHAT HAPPENED THEN?

22 A I HEARD SOME SHOTS, AND I DUCKED BEHIND A CAR.

23 CROSS EXAMINATION BY MR. WILLIAMS:

24 Q SIR, YOU SAID YOU HAD A COUPLE OF BEERS?

25 A YES, SIR.

1 Q YOU GO OUT AND DRINK WITH YOUR FRIENDS.
2 A YES.
3 Q Y'ALL HAD A GOOD TIME UNTIL THIS?
4 A YES.
5 Q NOTHING WRONG.
6 A NO.
7 Q YOU SAID YOU DIDN'T REMEMBER IF THERE WAS A HAT?
8 A NO, SIR.
9 Q DID YOU GET A GOOD LOOK AT HIS FACE?
10 A NO, SIR.
11 Q COULD YOU PICK HIM OUT OF A LINEUP?
12 A NOT DEFINITELY.
13 Q NO. SO YOU CAN'T SAY THAT THE MAN SITTING AT THE
14 TABLE IS THE SAME MAN YOU SAW.
15 A NOT NECESSARILY.
16 MR. WILLIAMS: THANK YOU.
17 THE COURT: ANYTHING FURTHER?
18 REDIRECT EXAMINATION BY MR. CONNER:
19 Q MR. TURNER, THE GUY YOU SAW WITH THE PISTOL THERE
20 THAT NIGHT IS THE SAME GUY THESE POLICEMEN TALKED TO WHEN
21 THEY GOT THERE, ISN'T IT?
22 A YEAH, THE SAME GUY IN THE WHITE SHIRT. YES.
23 Q THE GUY YOU SAW WITH THE PISTOL IS THE GUY THE POLICE
24 TALKED TO?
25 A YES, SIR.

1 MR. CONNER: THANK YOU.

2 THE COURT: ANYTHING FURTHER?

3 MR. WILLIAMS: NOTHING FURTHER.

4 THE COURT: YOU MAY STEP DOWN. MR. CONNER, ARE YOU
5 READY TO QUIT?

6 MR. CONNER: WELL I WAS THINKING ABOUT IT.

7 THE COURT: ALL RIGHT IT'S 5:15. LADIES AND
8 GENTLEMEN, WE WILL STOP NOW FOR THIS DAY. WE NEED YOU TO
9 COME BACK AT 9:30 TOMORROW MORNING. IF YOU WILL BE BACK
10 IN THE JURY ROOM AT 9:30, WE WILL PROCEED AT THAT TIME.
11 PLEASE DO NOT DISCUSS THE CASE. DO NOT ALLOW ANYONE TO
12 TALK WITH YOU ABOUT IT. DO NOT READ ANY NEWSPAPERS THAT
13 MAY CONTAIN ANY REFERENCES TO THIS CASE. AND SEE YOU
14 TOMORROW.

15 (THEREUPON, AT 5:17 P.M. THE JURY IS DISMISSED.)

16 THE COURT: ANYTHING ELSE FOR THIS DAY?

17 MR. CONNER: I WOULD LIKE TO HAVE MR. COOK EXCUSED,
18 YOUR HONOR.

19 THE COURT: ANY OBJECTION?

20 MR. WILLIAMS: WITHOUT OBJECTION.

21 THE COURT: AND ALSO MR. TURNER.

22 MR. WILLIAMS: NO OBJECTION EITHER.

23 THE COURT: THEY ARE EXCUSED. WE WILL START BACK AT
24 9:30.

25 (THEREUPON, THE TRIAL COMMENCES AT 9:30 A.M. ON

1 WEDNESDAY, JANUARY 17, 2007.)

2 (PHOTOGRAPHS OF FRENZ CLUB, PINWOOD ROAD, YONSON,
3 2, 3, 4 AND 12 TAKEN OUT OF EVIDENCE.)

4 THE COURT: READY TO PROCEED?

5 MR. CONNER: READY, YOUR HONOR.

6 MR. WILLIAMS: DEFENSE IS READY, YOUR HONOR.

7 THE COURT: YOU MAY BRING THE JURY.

8 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
9 PRESENCE OF THE JURY.)

10 THE COURT: GOOD MORNING.

11 THE JUROR: GOOD MORNING.

12 THE COURT: LADIES AND GENTLEMEN, YOU ARE AT DAY TWO
13 OF THIS CASE. THE STATE IS PRESENTING ITS CASE. YOUR
14 NEXT WITNESS PLEASE.

15 MR. CONNER: WE'D CALL DR. RAYMOND BYNOE, YOUR HONOR.

16 DR. RAYMOND BYNOE, BEING FIRST DULY
17 SWORN, TESTIFIED AS FOLLOWS:

18 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
19 NAME, PLEASE.

20 A RAYMOND BYNOE. B-Y-N-O-E.

21 DIRECT EXAMINATION BY MR. CONNER:

22 Q DR. BYNOE, WHERE DO YOU PRACTICE MEDICINE?

23 A PRESENTLY I'M EMPLOYED WITH THE UNIVERSITY OF SOUTH
24 CAROLINA SCHOOL OF MEDICINE. DEPARTMENT OF SURGERY. AND
25 I PRESENTLY WORK AT PALMETTO HEALTH RICHLAND.

1 Q HOW LONG HAVE YOU BEEN PRACTICING MEDICINE?

2 A TWENTY-FOUR YEARS.

3 Q COULD YOU TELL US SOMETHING ABOUT YOUR EDUCATION?

4 A I WENT TO MEDICAL SCHOOL. LIKE THE MEDICAL
5 UNIVERSITY OF SOUTH CAROLINA IN CHARLESTON. I WENT UP --
6 CAME UP COMPLETED THERE. WHEN TO RICHLAND MEMORIAL AND
7 DID MY SURGERY TRAINING. AND FROM THERE I WENT TO THE
8 UNIVERSITY OF TENNESSEE AT THE ELVIS PRESSLEY TRAUMA
9 CENTER. AND DID MY TRAUMA IN CRITICAL CARE FELLOWSHIP.

10 Q AND HOW LONG HAVE YOU BEEN AT YOUR PRESENT LOCATION?

11 A FOR THE LAST 19 YEARS.

12 Q AND ON SEPTEMBER 11, 2005, DID YOU HAVE AN OCCASION
13 TO TREAT A PATIENT, A POLICEMAN FROM SUMTER COUNTY BY THE
14 NAME OF ERIN BOLAND?

15 A YES, SIR. HE WAS, I WAS ON CALL THAT EVENING. AND
16 HE CAME IN AS A GUNSHOT VICTIM AT THAT TIME IN WHICH I
17 INITIALLY EVALUATED HIM AND TREATED HIM WHEN HE CAME IN.

18 Q AND COULD YOU TELL US WHAT INJURIES YOU NOTED ON HIM?

19 A HE HAD TWO WOUNDS TO HIS LEFT ARM. AND ONE WOUND TO
20 HIS LEFT FLANK. WHEN WE EVALUATED HIM WE SUSPECTED THAT
21 THERE WAS A SLIGHT DECREASE TO HIS PULSE TO HIS LEFT ARM.
22 AND WITH THAT WE FELT HE MAY HAVE A VASCULAR INJURY, SO WE
23 PLANNED TO DO A DYE STUDY OF HIS BLOOD VESSELS. KIND OF A
24 ROAD MAP TO GIVE US AN IDEA OF WHETHER OR NOT THERE WAS AN
25 INJURY TO HIS MAJOR BLOOD VESSELS TO HIS ARM. THERE WAS

1 SOME QUESTION OF BLEEDING AT THE SCENE WHERE THIS OCCURRED
2 INITIALLY, SO THAT WAS ONE OF MY CONCERNS. AND HE ALSO
3 HAD A FLANK WOUND, WHICH APPEARED TO BE A GUNSHOT WOUND TO
4 THE LEFT FLANK THAT WE WERE CONCERNED ABOUT.

5 HE ALSO UNDERWENT A CAT SCAN. A, IT'S A SPECIALIZED
6 X-RAY THAT WE USE TO KIND OF, IT'S LIKE A LOAF OF BREAD.
7 IF YOU LOOK AT THE INDIVIDUAL AS A LOAF OF BREAD, AND IT
8 MAKES SLICES EVERY 7 MILLIMETERS, THERE IS A SLICE TAKEN
9 SO WE CAN GET AN IDEA OF WHETHER THERE IS ANY INTERNAL
10 INJURIES OR NOT. AND HE HAD BOTH OF THOSE STUDIES
11 PERFORMED. THE DYE STUDY OF HIS BLOOD VESSELS SHOWED
12 THERE WAS ONE OF BRANCHES OFF HIS MAIN BLOOD VESSEL COMING
13 DOWN OUT OF THE CHEST DOWN THE ARM WAS INJURED TO A POINT
14 THAT WE DID NOT FEEL AS THOUGH WE NEEDED TO OPERATE ON
15 THAT. AND THEN IT STOPPED BLEEDING. SO WE WEREN'T
16 CONCERNED ABOUT BLEEDING IN THAT AREA. BUT WE DID GET ONE
17 OF OUR VASCULAR SURGEONS TO TAKE A LOOK AT THE DYE STUDY
18 IN THE MORNING TO MAKE SURE HE CONCURRED WITH US, AND HE
19 FELT AS THOUGH THAT WAS THE CASE. AND LEFT FLANK WOUND
20 DID NOT PENETRATE HIS ABDOMEN. BUT IT'S SCATH IN A TRACK,
21 KIND OF A TUNNEL UNDERNEATH THE SKIN, SUBCUTANEOUS TISSUE
22 WHERE WE COULD ACTUALLY WHAT WE FELT WAS A MISSILE BULLET
23 THAT WE LEFT UNDERNEATH THE SKIN THAT WE FOLLOWED AND
24 OBSERVED.

25 Q AND IN MARCH OF 2006, SPECIFICALLY ON MARCH 30TH

1 2006, DID YOU HAVE AN OPPORTUNITY TO SEE HIM AGAIN?

2 A YES, SIR. HE CAME BACK TO THE OFFICE, AT WHICH TIME
3 I NOTED THAT YOU COULD ACTUALLY PALPATE THE BULLET
4 UNDERNEATH THE SKIN ON A FOREIGN BODY. AND AT THE TIME,
5 WE COUNSELED HIM ABOUT REMOVING THE FOREIGN BODY BULLET.
6 WE TALKED WITH THE DEPARTMENT, AND ALL AGREED THAT WE
7 WOULD REMOVE THIS BULLET AND PUT IT IN OUR LOCKED AREA AND
8 THEREFORE THEY WOULD COME AND PICK IT UP.

9 Q AND DID YOU REMOVE THE BULLET?

10 A YES, SIR. I REMOVED THE BULLET IN OUR OFFICE COMPLEX
11 AT THE -- ON THE BOTTOM OF THE BULLET NOT ON THE MISSILE
12 SIDE. ON THE BOTTOM OF IT, I PUT MY INITIAL IN IT AS A B.
13 LABELED IT ON BOTTOM. AND WE SEALED THE CONTAINER THAT WE
14 PLACED IN IT. AND KEPT IT FOR THE OFFICERS SO THEY COULD
15 PICK IT UP AT THAT TIME.

16 Q AND DID YOU GIVE THAT TO -- DID A NURSE IN YOUR
17 OFFICE HANDLE IT?

18 A KAREN IN MY OFFICE WAS IN THE ROOM WHEN WE DID THAT.
19 SHE WAS PRESENT. SHE WAS THERE AND WATCHED ME MARK IT.
20 WATCHED THAT. AND SHE TURNED IT OVER TO THE OFFICER AT
21 THAT TIME WHICH THEY CAME AND RECEIVED IT. CAME UP TO OUR
22 OFFICE.

23 Q AND THAT'S KAREN WHITFIELD?

24 A YES, SIR.

25 Q AND I WANT TO SHOW YOU THIS ITEM MARKED STATE'S

1 EXHIBIT NO. 10 FOR IDENTIFICATION AT THIS TIME AND I ASK
2 IF YOU CAN IDENTIFY THAT?

3 A YES, SIR. THIS IS IT. I PUT MY SIGNATURES ON THE
4 OUTSIDE OF THE CONTAINER. THE DATE IS LABELED AND THE
5 TIME IN WHICH IT WAS REMOVED. THEN I SEALED IT AND PLACED
6 IT IN HERE. AND THEN ON THE BOTTOM OF THE BULLET, YOU CAN
7 SEE THAT I EDGED A B WITH A SCALPEL ON THE BOTTOM OF IT.
8 AND THAT'S MY.

9 Q AND THAT IS THE BULLET?

10 A YES, SIR.

11 MR. CONNER: YOUR HONOR, WE WOULD MOVE THIS ITEM INTO
12 EVIDENCE AT THE TIME. STATE'S EXHIBIT NO. 10.

13 MR. WILLIAMS: NO OBJECTION, YOUR HONOR.

14 THE COURT: IT'S ADMITTED.

15 (BULLET MARKED STATE'S EXHIBIT NO. 10 INTO EVIDENCE.)

16 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE MAY
17 HAVE FOR YOU PLEASE.

18 THE COURT: YES, SIR.

19 MR. WILLIAMS: THANK YOU, YOUR HONOR.

20 CROSS EXAMINATION BY MR. WILLIAMS:

21 Q GOOD MORNING, DR. BYNOE.

22 A GOOD MORNING.

23 Q YOU SAID YOU GAVE THE, YOU PLACED THE BULLET INTO THE
24 CONTAINER?

25 A YES, SIR.

- 1 Q INTO THIS CONTAINER?
- 2 A YES, SIR.
- 3 Q AND THEN DID YOU HAND IT TO MS. WHITFIELD?
- 4 A THE ENTIRE CONTAINER.
- 5 Q THE CONTAINER?
- 6 A YES, SIR.
- 7 Q OKAY. AND THAT WAS YOUR LAST CONTACT WITH IT UNTIL
- 8 THIS MORNING?
- 9 A YES, SIR.
- 10 Q WHEN YOU HANDED IT TO MS. WHITFIELD?
- 11 A YES, SIR.
- 12 Q THANK YOU. YOU TESTIFIED THAT THERE APPEARED TO BE
- 13 TWO GUNSHOT WOUNDS TO DEPUTY BOLAND?
- 14 A WHAT I SAID WAS, THERE WERE THROUGH AND THROUGH TO
- 15 HIS LEFT ARM.
- 16 Q OKAY.
- 17 A AND THERE WAS A SEPARATE WOUND TO HIS LEFT FLANK.
- 18 Q SO DO YOU COUNT THOSE AS 3 WOUNDS?
- 19 A THREE WOUNDS.
- 20 Q THROUGH AND THROUGH IN THE, EXCUSE ME, LEFT ARM.
- 21 A LEFT ARM.
- 22 Q AND THEN---
- 23 A THIS IS ONE ENTRANCE WOUND AND THEN THE FOREIGN BODY
- 24 WITHIN THE BODY.
- 25 MR. WILLIAMS: THANK YOU VERY MUCH, DOCTOR.

1 MR. CONNER: I HAVE NOTHING FURTHER. I'D ASK THAT
2 HE BE EXCUSED, YOUR HONOR.

3 MR. WILLIAMS: WITHOUT OBJECTION, YOUR HONOR.

4 THE COURT: ALL RIGHT, THANK YOU, DOCTOR. YOU MAY
5 BE EXCUSED.

6 MR. CONNER: YOUR HONOR, AT THIS TIME, I AM GOING TO
7 CALL ANDREW BETHEA.

8 ANDREW BETHEA, BEING FIRST DULY
9 SWORN, TESTIFIED AS FOLLOWS:

10 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
11 NAME, PLEASE.

12 A ANDREW BETHEA. B-E-T-H-E-A.

13 DIRECT EXAMINATION BY MR. CONNER:

14 Q AGENT BETHEA, WHERE DO YOU WORK?

15 A I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT
16 DIVISION.

17 Q AND HOW LONG HAVE YOU WORKED FOR THE SOUTH CAROLINA
18 LAW ENFORCEMENT DIVISION?

19 A A LITTLE OVER 2 YEARS.

20 Q AND PRIOR TO THAT, WHAT KIND OF WORK DID YOU DO?

21 A I WORKED FOR PROBATION AND PAROLE FOR 11 YEARS.

22 Q AND IN -- ON MARCH 30TH 2006, DID YOU HAVE AN
23 OCCASION TO GO DR. BYNOE'S OFFICE IN COLUMBIA TO PICK UP
24 THIS BULLET?

25 A YES, SIR, I DID.

1 Q AND WHO DID YOU RECEIVE IT FROM?

2 A KAREN WHITFIELD.

3 Q AND I SHOW YOU HERE THE ITEM WHICH IS MARKED AND BEEN
4 INTRODUCED AS STATE'S EXHIBIT NO. 10.

5 A YES.

6 Q IS THAT THE ITEM YOU PICKED UP?

7 A YES, IT IS. AT THAT TIME THE PROJECTILE WAS INSIDE
8 THE BOTTLE AND IT WAS SEALED.

9 Q OKAY. AND YOU PICKED IT UP FROM MS. WHITFIELD IN HIS
10 OFFICE.

11 A YES, SIR.

12 Q AND WHERE DID YOU TAKE IT?

13 A I TOOK IT TO THE SLED LABORATORY ON BROAD RIVER ROAD
14 FOR EXAMINATION.

15 Q AND WHO DID YOU TURN IT INTO THERE?

16 A CAROL BROOKS THE LAB TECHNICIAN THERE. THE INTAKE
17 TECHNICIAN AT THE LAB.

18 Q AND DID SHE PUT IT IN A SEALED BAG?

19 A YES, SIR.

20 Q AND SEALED IT IN YOUR PRESENCE?

21 A YES, SIR, SHE DID.

22 Q OKAY. THANK YOU. I HAVE NOTHING FURTHER OF THIS
23 WITNESS.

24 THE COURT: YES, SIR.

25 MR. WILLIAMS: THANK YOU, YOUR HONOR.

1 CROSS EXAMINATION BY MR. WILLIAMS:
2 Q GOOD MORNING, MR. BETHEA.
3 A GOOD MORNING.
4 Q YOU INDICATED YOU RECEIVED THE BULLET FROM KAREN
5 WHITFIELD?
6 A THAT'S CORRECT.
7 Q AND DID YOU -- YOU DIDN'T WITNESS DR. BYNOE HAND
8 MS. WHITFIELD THE BULLET, DID YOU?
9 A NO, SIR.
10 Q THIS WAS SOME TIME AFTER THE SURGERY?
11 A YES, I ASSUME SO.
12 Q OKAY SO---
13 A I DON'T SEE DR. BYNOE.
14 Q AS FAR AS YOU KNOW THE BULLET WAS EXCLUSIVELY IN
15 MS. WHITFIELD'S POSSESSION---
16 A THAT'S CORRECT.
17 Q ---FOR SOME PERIOD OF TIME.
18 A THAT'S CORRECT.
19 Q EXCLUSIVELY IN HER CONTROL.
20 A AS FAR AS I KNOW.
21 MR. WILLIAMS: THANK YOU VERY MUCH.
22 MR. CONNER: WE WOULD ASK THAT AGENT BETHEA BE
23 EXCUSED ALSO.
24 THE COURT: THANK YOU, YOU ARE EXCUSED.
25 MR. WILLIAMS: NO OBJECTION.

1 SERGEANT DUKES, BEING FIRST DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
4 NAME, PLEASE.

5 A ALEXANDER DUKES. D-U-K-E-S.

6 DIRECT EXAMINATION BY MR. CONNER:

7 Q SERGEANT DUKES, WHERE ARE YOU EMPLOYED?

8 A I'M EMPLOYED WITH THE SUMTER COUNTY SHERIFF'S OFFICE.

9 Q AND COULD YOU JUST GIVE US A RUN DOWN OF YOUR LAW
10 ENFORCEMENT EXPERIENCE? WHERE YOU -- HOW MANY YEARS
11 YOU'VE WORKED AND THAT KIND OF THING?

12 A I GRADUATED HERE IN SUMTER COUNTY FROM DISTRICT 2
13 SCHOOLS. AND THEN I ENTERED IN TO LAW ENFORCEMENT WITH
14 THE SUMTER COUNTY SHERIFF'S OFFICE IN OCTOBER OF 1995.
15 AFTER ENTERING IN LAW ENFORCEMENT, I WENT TO THE SOUTH
16 CAROLINA CRIMINAL JUSTICE ACADEMY LOCATED IN COLUMBIA,
17 SOUTH CAROLINA. I WENT THROUGH A NINE WEEK COURSE. AND
18 THEN AFTER GRADUATING FROM THE SOUTH CAROLINA CRIMINAL
19 JUSTICE ACADEMY, I WAS ASSIGNED TO THE SHERIFF'S OFFICE ON
20 THE PATROL UNIT. AND I HAVE DONE VARIOUS DUTIES BEFORE
21 THROUGHOUT THE SHERIFF'S OFFICE CONSISTING OF PATROL. AND
22 BEFORE BACK AND FORTH TO THE SOUTH CAROLINA CRIMINAL
23 JUSTICE ACADEMY FOR ADDITIONAL TRAINING.

24 Q AND WHEN WERE YOU PROMOTED TO SERGEANT?

25 A IN JANUARY OF 2004.

1 Q AND WERE YOU WORKING SEPTEMBER 11, 2005, AND YOU GET
2 A CALL IN REGARDS TO THIS CASE?

3 A I WAS. I WAS ON DUTY ON THE 11TH OF SEPTEMBER 2005,
4 AT ABOUT 2:30 A.M. WHEN THIS INCIDENT OCCURRED.

5 Q AND JUST TELL US THE NATURE OF THE CALL.

6 A LAW ENFORCEMENT RECEIVED A CALL OF A DISTURBANCE AT
7 THE FRENZ NIGHTCLUB ON PINWOOD ROAD. AND THEN RECEIVED A
8 SECOND RETURN CALL, WHICH CORPORAL BOLAND AND DEPUTY
9 WILLIAMS WAS JUST WITHIN A MINUTE AWAY FROM THE CLUB AT
10 THAT TIME WHEN THE SECOND CALL CAME IN. HE ARRIVES WITHIN
11 JUST ONE MINUTE OF THE CALL. IN REFERENCE TO A -- THE
12 SECOND CALL CAME IN OF A MAN, A 1080, MEANING A SUSPICIOUS
13 PERSON WITH A GUN. AND WHEN CORPORAL BOLAND AND DEPUTY
14 WILLIAMS ARRIVED ON THE SCENE THEY MADE CONTACT WITH THE
15 SUBJECT FITTING THAT DESCRIPTION, WHICH WAS THE WHITE TEE
16 SHIRT AND THE RED HAT. WHITE MALE.

17 Q AND THEN DID YOU GO -- DID YOU GO IN THAT DIRECTION
18 AT THAT TIME, OR DID YOU AWAIT UNTIL YOU GOT A SECOND
19 CALL?

20 A I WAS RESPONDING IN THAT DIRECTION AT THE TIME. JUST
21 IN ROUTE, ROUTINE. NOTHING URGENT UNTIL CORPORAL BOLAND
22 AND DEPUTY WILLIAMS ARRIVED ON THE SCENE AND THEY WERE
23 DOING AN INVESTIGATION. AND SOME SHORT TIME LATER, A
24 RADIO TRANSMISSION CAME OVER THE RADIO FROM CORPORAL
25 BOLAND FOR A 1078, OFFICER NEEDS ASSISTANCE. FOLLOWED BY

1 AN IMMEDIATE TRANSMISSION, 1075, WHICH MEANS SHOOTINGS
2 1052. REQUEST FOR EMS, EMERGENCY SERVICES. I AT THAT
3 TIME UPGRADED TO A CODE CALL, WHICH MEANS LIGHTS AND
4 SIREN. I PROCEEDED WITH A HIGH URGENCY TO THE SCENE.

5 Q AND WHEN YOU ARRIVED THERE, TELL US WHAT YOU DID.

6 A I WAS THE FIRST BACKUP OFFICER TO ARRIVE ON THE
7 SCENE. PULLING MY PATROL UNIT ALMOST DIRECTLY IN FRONT OF
8 THE NIGHTCLUB. I IMMEDIATELY EXITED MY UNIT WITHIN
9 SECONDS. WITHIN EXITING MY UNIT, I WAS APPROACHED BY THE
10 GENTLEMAN AT NIGHTCLUB THAT NIGHT THAT RENDERED ASSISTANCE
11 TO CORPORAL BOLAND. AND HE LED ME TO THE INCIDENT SCENE,
12 WHERE I IMMEDIATELY FOUND CORPORAL BOLAND DOWN ON THE
13 GROUND WITH A GUNSHOT WOUND TO THE SIDE AS WELL AS HIS
14 ARM. I CONTINUED TO SURVEY THE SCENE AND FOUND THAT
15 DEPUTY WILLIAMS WAS ALSO WOUNDED IN HIS ARM, AS WELL AS
16 RANDY YONSON WAS WOUNDED AND ALSO DOWN ON THE GROUND.

17 DEPUTY WILLIAMS WAS THE ONLY ONE REALLY LEFT
18 STANDING. AND DUE TO THE FACT THAT HE WAS ACTUALLY
19 GUARDING THE SUSPECT, RANDY YONSON, AT THAT TIME.

20 Q NOW DID YOU, AFTER YOU GOT THERE AND YOU DISCOVERED
21 THESE PEOPLE WERE SHOT, DID YOU DO ANYTHING TO SECURE THE
22 WEAPON THAT BELONGED TO THE DEFENDANT YONSON?

23 A THAT'S CORRECT. THE SAME GENTLEMAN THAT MEET ME WHEN
24 I ARRIVED ON THE SCENE, MR. COOK, ALSO SHOWED ME THE
25 LOCATION OF THE WEAPON. AND I ACTUALLY PICKED THE WEAPON

1 UP USING A PAIR OF SCISSORS. AND HE IMMEDIATELY GAVE IT
2 TO ME. I TOOK IT WITH CAUTION. AND KNOWING THAT A ROUND
3 COULD ACTUALLY STILL BE LEFT IN THE CHAMBER, BECAUSE IT
4 WAS A SEMIAUTOMATIC WEAPON, WHICH WAS A ROUND IN THE
5 CHAMBER. AND I IMMEDIATELY LEFT IN IT IN THAT POSITION.
6 IT HAD SOME BLOOD ON IT. AND WE TOOK IT OVER TO MY PATROL
7 UNIT, WHERE I IMMEDIATELY SECURED IT IN THE TRUNK OF MY
8 CAR. UNTIL ADDITIONAL SUPPORT COULD ARRIVE ON THE SCENE
9 FROM CITY/COUNTY HIGHWAY PATROL AS WELL AS EMS. AND
10 WITHIN SECONDS LATER, I ALSO RETURNED TO CORPORAL BOLAND
11 AND RETRIEVED HIS WEAPON. OUR ISSUED, OUR STANDARD ISSUED
12 GLOCK MODEL 22, IN WHICH I TOOK FROM HIM AND PLACED IN TO
13 THE TRUNK OF MY CAR. AS WELL AS RETRIEVED HIS BACK UP
14 WEAPON, WHICH IS ALSO A GLOCK MODEL 27. AND IT WAS PLACED
15 IN MY CUSTODY UNTIL IT WAS TIME TO TURN IT OVER TO SLED.

16 Q SO THE TWO GLOCK PISTOLS THAT BELONGED TO BOLAND, YOU
17 TOOK CUSTODY OF THOSE AND SECURED THEM ALSO.

18 A THAT'S CORRECT.

19 Q AND NOW THE WEAPON THAT BELONGED TO MR. YONSON WHERE
20 WAS THAT FOUND?

21 MR. WILLIAMS: OBJECTION, YOUR HONOR.

22 THE COURT: BASIS FOR THE OBJECTION?

23 MR. WILLIAMS: IT HASN'T BEEN ESTABLISHED TO WHO THE
24 OTHER PISTOL BELONGED. ASSUMING FACTS NOT IN EVIDENCE.

25 THE COURT: OBJECTION SUSTAINED.

1 Q I SHOW YOU HERE THIS ITEM, STATE'S EXHIBIT NO. 1.
2 THIS IS A 9 MILLIMETER HIGH POINT PISTOL. AND ASK YOU IF
3 YOU FOUND THAT IN THE VICINITY OF BOLAND AND THE
4 DEFENDANT. I TAKE IT THEY WERE BOTH ON THE GROUND.

5 A THAT'S CORRECT. THE SERIAL NUMBER DOES MATCH THE
6 PAPERWORK THAT I TURNED OVER TO THE STATE LAW ENFORCEMENT
7 DIVISION. AND THIS IS SAME WEAPON THAT I FOUND ON THE
8 GROUND THAT MR. COOK IMMEDIATELY PICKED UP WITH THE
9 SCISSORS AND GAVE TO ME. AND I PLACED IT IN THE TRUNK OF
10 MY CRUISER WHERE IT WAS LOCKED AND SECURED. THIS WOULD BE
11 IT, YES.

12 MR. CONNER: MAY IT PLEASE THE COURT, WE WOULD OFFER
13 THIS INTO EVIDENCE AS AN EXHIBIT.

14 MR. WILLIAMS: WITHOUT OBJECTION.

15 THE COURT: STATE'S EXHIBIT 1 ADMITTED.

16 (HI POWER 9 MILLIMETER MARKED STATE'S EXHIBIT NO.
17 INTO EVIDENCE.)

18 Q AND, SERGEANT DUKES, WHERE WAS THE WEAPON LOCATED IN
19 RELATION TO THESE PEOPLE?

20 A THE 9 MILLIMETER WEAPON WAS LOCATED ALMOST DIRECTLY
21 BEHIND CORPORAL BOLAND ON THE GROUND AWAY FROM YONSON. IT
22 WAS LOCATED TO THE -- IF YOU IMMEDIATELY EXIT THE FRENZ
23 NIGHTCLUB AND TAKE A RIGHT AND THEN COME OUTWARD, IT WAS
24 LOCATED THERE ON THE GROUND. YONSON WAS LOCATED FURTHER
25 TO THE RIGHT OF THE NIGHTCLUB STILL ON THE GROUND. AND

1 THE WEAPON WAS NOWHERE NEAR HIM AT THAT PARTICULAR TIME.

2 Q NOW DID YOU LATER THAT NIGHT OR LATER THAT MORNING,
3 GIVE THESE WEAPONS, THAT'S STATE'S EXHIBIT NO. 1, THAT 9
4 MILLIMETER PISTOL AND IN ADDITION, MR. BOLAND'S GLOCK
5 PISTOLS TO A SLED AGENT?

6 A I DID.

7 Q AND IS THAT SLED AGENT STEVEN DERRICK?

8 A DOUBLE CHECK. THAT IS CORRECT. AND I SIGNED BOTH OF
9 THEM OVER TO HIM WITH EVIDENCE SHEETS ON THAT SAME NIGHT,
10 SEPTEMBER 11, 2005. WHERE I SIGNED THE SUSPECT'S 9
11 MILLIMETER OVER AS WELL AS BOTH GLOCKS BELONGING TO
12 CORPORAL BOLAND.

13 Q NOW WAS THERE A VIDEOTAPE IN YOUR CAR THAT SHOWED
14 YOUR ARRIVAL AT THE SCENE, AND YOUR CONDUCT AFTER YOU GOT
15 THERE?

16 A THAT'S CORRECT. IT WAS. THE VIDEOTAPE IN THE
17 PATROL UNIT AUTOMATICALLY ACTIVATES ONCE I WENT TO THE
18 CODE RUN, WHICH WAS THE BLUE LIGHTS AND SIREN. AND
19 ACTUALLY RAN THE WHOLE TIME WITH MY RESPONSE TO THE
20 NIGHTCLUB. AND ONCE I ARRIVED ON THE SCENE, YOU ACTUALLY
21 SEE THE PATROL UNITS PULL INTO THE PARKING LOT. AND YOU
22 CAN ACTUALLY SEE MR. COOK APPROACH THEREAFTER, SHORTLY
23 AFTER MY ARRIVAL. AND THEN YOU CAN ALSO SEE HIM A SHORT
24 TIME LATER RETURN BACK TO THE VEHICLE CARRYING MR. -- THE
25 SUSPECT'S WEAPON. AND I SECURED IT IN THE TRUNK.

1 MR. CONNER: YOUR HONOR, WE WOULD OFFER THE VIDEOTAPE
2 INTO EVIDENCE AT THIS TIME. AND ALSO ASK PERMISSION TO
3 PUBLISH IT. OR PUBLISH A PART OF IT ANYWAY. THE FIRST
4 FEW MINUTES SHOWING HIS ARRIVAL AND WHAT HAPPENED SHORTLY
5 THEREAFTER.

6 THE COURT: WHAT DO YOU SAY, MR. WILLIAMS?

7 MR. WILLIAMS: NO OBJECTION.

8 THE COURT: THIS IS STATE'S EXHIBIT NO. 15.

9 MR. CONNER: THIS IS STATE'S EXHIBIT NO. 15.

10 (VIDEO OF DUKES MARKED STATE'S EXHIBIT NO. 15 INTO
11 EVIDENCE.)

12 THE COURT: STOP RIGHT HERE. LADIES AND GENTLEMEN, I
13 AM GOING TO SEND YOU TO YOUR JURY ROOM FOR A FEW MINUTES.
14 PLEASE DO NOT DISCUSS THE CASE. WE WILL TAKE A SHORT
15 RECESS.

16 (THEREUPON, THE COURT TAKES A SHORT RECESS.)

17 THE COURT: BRING THE JURY PLEASE.

18 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
19 PRESENCE OF THE JURY.)

20 MR. CONNER: MAY THE WITNESS COME DOWN, YOUR HONOR?

21 THE COURT: YES.

22 Q SERGEANT DUKES, COME DOWN HERE AND USE THIS POINTER
23 TO HELP US UNDERSTAND BETTER.

24 A THIS WOULD BE MR. COOK FLASHING THIS LIGHT AND
25 APPROACHING ME. THAT WOULD BE ARRIVING ON THE SCENE.

1 Q WHERE IS MR. BOLAND'S CAR? THIS WOULD BE HIS PATROL
2 UNIT. HIS CAR VIDEO CAMERA WAS ALSO TAPING. AND THEY ARE
3 BEHIND IN FRONT OF THIS CAR DOWN ON THE GROUND. CORPORAL
4 BOLAND AS WELL AS DEPUTY WILLIAMS, ALL OF THEM JUST TO THE
5 LEFT. THAT IS ME TOTING IT WITH A PAIR OF SCISSORS
6 BRINGING IT PAST MY UNIT TO THE TRUNK OF MY CAR. I AM
7 RUNNING BACK TO THE SCENE WHERE THE OFFICERS ARE. I WAS
8 TALKING TO CORPORAL BOLAND AND MAKING SOME CONTACT WITH
9 FAMILY MEMBERS. I HAVE ADDITIONAL OFFICERS ARRIVE ON THE
10 SCENE, EMS AND CITY OFFICERS ARRIVED THERE SHORTLY. WE
11 WERE SECURING THE SCENE AT THE TIME WITH CRIME SCENE TAPE.
12 THIS IS CORPORAL BOLAND.

13 Q LET'S STOP IT HERE. HAVE A SEAT.

14 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

15 MR. CONNER: ANSWER ANY QUESTIONS HIS DEFENSE LAWYER
16 MAY HAVE FOR YOU.

17 CROSS EXAMINATION BY MR. WILLIAMS:

18 MR. WILLIAMS: THANK YOU, YOUR HONOR.

19 Q GOOD MORNING MR. DUKES.

20 A GOOD MORNING.

21 Q HOW ARE YOU TODAY?

22 A PRETTY GOOD. YOURSELF?

23 Q GOOD. JUST TO BE CLEAR YOU ARRIVED AT THE SCENE
24 AFTER ALL THE SHOTS WERE FIRED?

25 A THAT'S CORRECT. EVERYBODY HAD ALREADY BEEN SHOT. I

1 WAS THERE AS THE FIRST BACKUP ON THE SCENE.

2 Q THE FIRST BACKUP, CORRECT? YOU SAID, I BELIEVE.

3 A CORRECT.

4 Q THIS WAS -- NO SHOTS WERE EXCHANGED ONCE YOU GOT
5 THERE?

6 A THAT'S CORRECT.

7 Q YOU DIDN'T HEAR ANYONE EXCHANGE FIRE ONE WAY OR THE
8 OTHER?

9 A THAT'S CORRECT.

10 Q DURING THE VIDEO I BELIEVE WE HEARD YOU, YOU WERE
11 SPEAKING REGARDING A CRIME SCENE LOG?

12 A THAT'S CORRECT.

13 Q STARTING A CRIME SCENE LOG.

14 A THAT'S CORRECT.

15 Q AND YOU SAID IF YOU'RE HERE YOU STAY HERE. AND IF
16 YOU WEREN'T HERE YOU LEAVE.

17 A THAT'S CORRECT.

18 Q YOU EXPLAINED THAT ON THE VIDEO. SO THERE WAS A
19 POINT AND TIME WHERE PEOPLE OBVIOUSLY OTHER THAN THIS, THE
20 THREE, TWO DEPUTIES AND MR. YONSON WERE FREE TO COME AND
21 GO.

22 A SOME OF THEM PROBABLY COULD HAVE GOTTEN UP. AND SOME
23 PROBABLY COULD HAVE LEFT. BUT AS AN IMMEDIATE CRIME SCENE
24 WHERE CORPORAL BOLAND AND DEPUTY WILLIAMS WAS, IT WAS
25 IMMEDIATELY SECURED. ALTHOUGH CORPORAL BOLAND WAS DOWN,

1 HE WAS WELL AWARE OF WHAT WAS GOING ON. AND DEPUTY
2 WILLIAMS WAS STILL AT GUNPOINT WITH THE SCENE. THE
3 IMMEDIATE SCENE WAS SECURED.

4 Q EXACTLY. BUT THE SURROUNDING SCENE, I MEAN THIS IS A
5 PARKING LOT. AND THERE ARE CARS. THERE WERE NOOKS AND
6 GRANNIES.

7 A YES, SIR. IN THE PARKING LOT.

8 Q THERE WAS AN OPPORTUNITY---

9 A PARKING LOT, THAT IS A POSSIBILITY. YES, SIR.

10 Q THERE ARE NOOKS AND GRANNIES. PEOPLE COULD HAVE COME
11 AND GONE AT YOUR OWN DIRECTION?

12 A THAT IS CORRECT.

13 MR. WILLIAMS: THANK YOU.

14 REDIRECT EXAMINATION BY MR. CONNER:

15 Q ONE THING, SERGEANT DUKES, I NOTICE THE TIME ON THIS
16 FILM. YOU SAID YOU GOT THERE ABOUT 2:30. BUT IT SAID IT
17 WAS SHORTLY AFTER 1:30 ON THE VIDEOTAPE.

18 MR. WILLIAMS: OBJECTION, YOUR HONOR. IT'S OUTSIDE
19 THE SCOPE OF CROSS.

20 THE COURT: YOUR OBJECTION IS OVERRULED.

21 A THE TIME WAS OFF BY ONE HOUR. AND IT WAS CORRECTED
22 AT A LATER TIME. IT WAS NOT CHANGED TO DAYLIGHT SAVINGS
23 TIME.

24 Q AND YOU SAY THE IMMEDIATE AREA WHERE THE CRIME
25 OCCURRED, YOU MEAN WHERE THE TWO PEOPLE WERE ON THE

1 GROUND, BOLAND AND YONSON? IS THAT WHAT YOU REFER TO AS
2 THE IMMEDIATE CRIME AREA?

3 A THAT'S EXACTLY CORRECT. THAT AREA WAS SECURED THE
4 ENTIRE TIME.

5 Q AFTER YOU ARRIVED.

6 A EVEN BEFORE MY ARRIVAL, DEPUTY WILLIAMS HAD THAT AREA
7 SECURED. HE WAS STILL AT GUNPOINT MAKING SURE NOTHING GOT
8 IN AND NOTHING GOT OUT WHEN I ARRIVED ON THE SECURED TWO
9 AREAS. THE IMMEDIATE CRIME SCENE AND A LARGER AREA. IN
10 OTHER WORDS, WE CONTROLLED THE ENTIRE PARKING LOT. NO
11 ENTRY, NO EXIT.

12 MR. CONNER: OKAY. I HAVE NO FURTHER QUESTIONS.

13 MR. WILLIAMS: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN, SIR.

15 MR. CONNER: YOUR HONOR, WE WOULD CALL JAMES
16 WILLIAMS AT THIS TIME.

17 JAMES WILLIAMS, BEING FIRST DULY SWORN, TESTIFIED
18 AS FOLLOWS:

19 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
20 NAME.

21 A JAMES WILLIAMS. W-I-L-L-I-A-M-S.

22 DIRECT EXAMINATION BY MR. CONNER:

23 Q OFFICER WILLIAMS, WHERE DO YOU WORK?

24 A SUMTER COUNTY SHERIFF'S DEPARTMENT.

25 Q AND HOW LONG HAVE WORKED AS A SUMTER COUNTY SHERIFF?

1 A ROUGHLY TWO YEARS.

2 Q AND PRIOR TO COMING TO WORK WITH THE SUMTER COUNTY
3 SHERIFF, WHAT KIND OF WORK DID YOU DO?

4 A I WORKED AT A SAND PLANT IN COLUMBIA.

5 Q AND AFTER COMING ON WITH THE SUMTER COUNTY SHERIFF'S
6 DEPARTMENT, DID THEY HAVE A TRAINING PROGRAM?

7 A THEY DID. I STARTED IN MARCH, MARCH OF 2005. I WENT
8 THROUGH NINE WEEKS OF THE ACADEMY AND GRADUATED IN JUNE.

9 Q AND AT THE TIME THIS THING HAPPENED OR THIS CASE BACK
10 ON SEPTEMBER 11, 2005, WHAT WERE YOUR DUTIES AT THAT POINT
11 AND TIME?

12 A I WAS ON PATROL. IN THE PATROL DIVISION.

13 Q SO YOU WERE IN A SEPARATE CAR FROM MR. BOLAND, IS
14 THAT RIGHT?

15 A YES, SIR. WE WERE IN SEPARATE CARS.

16 Q AND WHERE DID YOU PARK IN RELATION TO MR. BOLAND?

17 A I WAS PARKED ON THE LEFT SIDE OF CORPORAL BOLAND'S
18 VEHICLE.

19 Q AND DID YOUR AUTOMOBILE HAVE A VIDEO CAMERA IN IT AT
20 THAT POINT?

21 A NO, SIR. I HAD AN OLDER AUTOMOBILE.

22 Q NOW WHEN THIS CALL CAME IN SOMEWHERE IN THE VICINITY
23 OF 2:30 OR SHORTLY BEFORE, TELL ME WHAT YOU AND BOLAND
24 EXPECTED WHEN Y'ALL GOT THERE?

25 A WELL WE EXPECTED TO TRY TO IDENTIFY THE GENTLEMAN WHO

1 WAS THE DESCRIPTION WE WERE GIVEN IN REFERENCE TO
2 DISPATCH. A GENTLEMAN WITH A SUSPICIOUS PERSON WHO HAD A
3 GUN IS WHAT WE ORIGINALLY WENT UP TO THE CALL FOR.

4 Q AND WHEN YOU GOT THERE, WHAT WAS YOUR FIRST
5 INVOLVEMENT AND WHO WERE THE FIRST PERSONS YOU SAW?

6 A I ARRIVED, CORPORAL BOLAND AND MYSELF ARRIVED ON THE
7 SCENE, BASICALLY THE SAME TIME. WITHIN SECONDS OF EACH
8 OTHER. MY FIRST ENCOUNTER AS I WAS EXITING THE VEHICLE
9 WAS A YOUNG LADY WHO WAS -- HAD BEEN IN AN ALTERCATION.
10 AND I HAD A BARTENDER OR THE CLUB OWNER AT THE TIME WAS
11 TELLING ME THAT THIS LADY WAS NOT SUPPOSED TO BE HERE. SO
12 WE WERE ADDRESSING THAT ISSUE WITH REFERENCE TO THAT
13 PARTICULAR FIGHT AT THE TIME, BECAUSE BASICALLY THE WHOLE
14 CLUB WAS OUTSIDE. WHEN I LOOKED OVER AND SAW CORPORAL
15 BOLAND, HAD, WAS INVOLVED IN A STRUGGLE WITH MR. YONSON.

16 Q AND WHAT DID YOU DO WHEN YOU SAW THAT TROUBLE GOING
17 ON?

18 A I IMMEDIATELY RAN OVER THERE TO WHERE CORPORAL BOLAND
19 WAS. I HAD GRABBED ONE ARM. CORPORAL BOLAND HAD THE
20 OTHER. CORPORAL BOLAND ADVISED ME THAT HE HAD A GUN. HE
21 POSSIBLY HAD A GUN. THOUGHT HE HAD A GUN. CORPORAL
22 BOLAND KEEP ORDERING MR. YONSON TO TAKE HIS HANDS OUT OF
23 HIS POCKET. SHOW HIM HIS HANDS, SHOW HIM HIS HANDS. AT
24 WHICH TIME CORPORAL BOLAND ADVISED ME WHEN HE WAS TAKEN TO
25 THE GROUND. SO WE, AT THAT POINT AND TIME TOOK MR. YONSON

1 TO THE GROUND. AND THE EXCHANGE ON THE GROUND WITH
2 MR. YONSON, I NOTICED ONE SHOT WAS FIRED. HEARD TWO, SAW
3 ONE FOR SURE. AT WHICH TIME CORPORAL BOLAND -- I COULD
4 SEE WHERE CORPORAL BOLAND APPEARED TO BE STRUCK ON HIS
5 SIDE. AS FAR AS BLOOD BEING IN HIS UNIFORM, HE ADVISED ME
6 THAT HE THOUGHT HE HAD BEEN SHOT.

7 CORPORAL BOLAND GOT UP OFF THE SUSPECT, AT WHICH TIME
8 I STILL WAS ENGAGED WITH THE SUSPECT. HE REACHED HIS
9 HAND APPARENTLY TO SHOOT HIS WEAPON AGAIN AT ME, AT WHICH
10 TIME I GRABBED HIS HAND AND PUSHED THE GUN ON THE GROUND,
11 AND ORDERED BOLAND TO GET THE GUN.

12 Q DID YOU GRAB THE GUN OR DID YOU GRAB HIS WRIST? OR
13 DID YOU GRAB THE GUN?

14 A I GRABBED, HE HAD THE GUN LIKE THIS. AND I BASICALLY
15 PUSHED IT DOWN LIKE THIS, BASICALLY WITH MY WHOLE -- BOTH
16 MY HANDS PUSHED IT TO THE GROUND.

17 Q WHO GOT THE GUN?

18 A CORPORAL BOLAND CAME AND GOT THE GUN FROM THE
19 SUSPECT WHEN I HAD THE GUN ON THE GROUND.

20 Q AT THAT POINT AND TIME, WHAT DID YOU DO AFTER THE GUN
21 HAD BEEN RETRIEVED FROM HIM?

22 A I EXITED OFF OF MR. YONSON. AS WE WERE BACKING UP, I
23 WAS DRAWING MY WEAPON. I NOTICED THAT CORPORAL BOLAND HAD
24 DRAWN HIS WEAPON OR WAS DRAWING HIS WEAPON. AT WHICH TIME
25 CORPORAL BOLAND WAS TELLING HIM TO SHOW HIM HIS HANDS,

1 SHOW HIM HIS HANDS. THE SUSPECT WAS FIDGETING AND WORKING
2 BACKWARDS. WOULD NEVER PRODUCE HIS HANDS FOR US. AT
3 WHICH TIME CORPORAL BOLAND INITIATED AND FIRED 3 ROUNDS AT
4 THE SUSPECT. AFTER THE THIRD ROUND THE SUSPECT PUT HIS
5 HANDS OUT SO WE COULD SEE.

6 Q AND YOU NEVER SHOT YOUR WEAPON.

7 A I NEVER FIRED MY WEAPON. NO, SIR.

8 Q WHEN BOLAND WAS FIRING YOU SAY YOU WERE KIND OF SIDE
9 BY SIDE WITH HIM?

10 A YES, SIR.

11 Q AND BACKING AWAY?

12 A YES, SIR. WE WERE BACKING AWAY. WHAT WE DO IS
13 TRIANGULATE IS WHAT WE CALL IT. AND HE WAS HERE AND I WAS
14 HERE AND THE SUSPECT WAS HERE.

15 Q SO LIKE YOU WERE IN A TRIANGLE. ONE OF YOU ON ONE
16 SIDE, ONE CORNER OF THE TRIANGLE---

17 A YES.

18 Q ---AND ONE ON THE OTHER. AND THE THE SUSPECT---

19 A THE SUSPECT---

20 Q ---ON THE OTHER CORNER?

21 A YES, SIR.

22 Q AND YOU DID HAVE YOUR WEAPON OUT, BUT YOU DIDN'T FIRE
23 IT. IS THAT WHAT YOU'RE SAYING?

24 A THAT IS CORRECT.

25 Q AND AFTER MR. BOLAND FIRED THREE ROUNDS, YOU SAY,

1 WHAT DID THE DEFENDANT DO?

2 A THE DEFENDANT THEN PUT HIS HANDS OUT TO HIS SIDE SO
3 WE COULD SEE.

4 Q AND THEN WHO HANDCUFFED HIM?

5 A I HANDCUFFED HIM.

6 Q WERE YOU INJURED IN THIS INCIDENT MR. WILLIAMS?

7 A YES, SIR. I WAS STRUCK IN MY LEFT ARM.

8 Q AND DID YOU GO TO THE HOSPITAL?

9 A YES, SIR, I DID.

10 Q WHICH HOSPITAL?

11 A TUOMEY.

12 Q TUOMEY HOSPITAL?

13 A YES, SIR.

14 Q AND DID THE BULLET STAY IN YOU OR DID IT PASS THROUGH
15 YOU?

16 A IT CLEANED, IT WENT CLEAN THROUGH.

17 Q AND YOU WERE TAKEN TO TUOMEY THAT NIGHT?

18 A YES, SIR.

19 Q AND WHEN WERE YOU RELEASED FROM TUOMEY?

20 A 6:00 O'CLOCK THAT MORNING. SOMEWHERE IN THAT AREA
21 6:30.

22 Q NOW WHEN DID YOU DISCOVER THAT YOU WERE WOUNDED?

23 A IT WAS SEVERAL MINUTES AFTER THE ALTERCATION THAT I
24 NOTICED THAT I HAD BEEN SHOT. IT WAS SEVERAL MINUTES.

25 THREE OR FOUR MINUTES AFTER MR. YONSON WAS HANDCUFFED THAT

1 I REALIZED I HAD BEEN SHOT.

2 Q WELL WERE YOU IN -- WHICH THIS WAS GOING ON, WHAT WAS
3 YOUR EMOTIONAL STATE?

4 A IT WAS PRETTY FLUSTERED AFTER HAVING SOMEBODY SHOOT
5 AT YOU POINT BLANK.

6 Q SO YOU WERE PRETTY EXCITED.

7 A I WAS PRETTY EXCITED, YES.

8 Q EXCITED TO THE POINT THAT YOU DIDN'T EVEN REALIZE YOU
9 HAD BEEN HIT?

10 A THAT IS CORRECT.

11 Q NOW WHO WAS THE NEXT OFFICER ON THE SCENE?

12 A SERGEANT DUKES.

13 Q SERGEANT DUKES. NOW LATER THAT NIGHT, DID YOU TURN
14 YOUR WEAPON IN TO ANYBODY?

15 A SENIOR CORPORAL DENNISON SECURED MY WEAPON.

16 Q DENNISON TOOK IT. IS HE ON YOUR SHIFT OR ON SOME
17 OTHER?

18 A YES, HE WAS ACTUALLY MY IMMEDIATE SUPERVISOR.

19 Q AND WHO WAS THE SHIFT LIEUTENANT?

20 A LIEUTENANT HORTON.

21 Q TONY HORTON?

22 A YES, SIR.

23 Q DO YOU RECALL WHAT THE SERIAL NUMBER OF THAT WEAPON
24 IS?

25 A VZN 811 US.

1 Q BZN. B AS IN BOY?

2 A V AS IN VICTORY. YES.

3 Q I BELIEVE IT'S BNZ?

4 A IS IT BZN?

5 Q IN ANY EVENT YOU TURNED IT OVER TO DENNISON.

6 A YES.

7 Q HAVE YOU GOT THE -- LET ME SHOW YOU THIS. IS THIS

8 THE RECEIPT WHERE YOU WERE RECEIPTED FOR THE EQUIPMENT

9 THAT YOU WERE ISSUED?

10 A YES, SIR, THAT IS THE RECEIPT.

11 Q WHAT DOES IT SHOW THE SERIAL NUMBER OF THE WEAPON TO

12 BE?

13 A BZN 811.

14 Q THAT'S B AS IN BOY?

15 A B AS IN BOY, YES.

16 Q ZN.

17 A YES.

18 Q AND YOU HAD A, IT WAS A GLOCK WEAPON, RIGHT?

19 A YES.

20 Q 40 CALIBER?

21 A YES.

22 Q IS IT STANDARD ISSUED?

23 A IT IS OUR STANDARD ISSUED DEPARTMENT WEAPON.

24 Q NOW DID YOU REMAIN OUT THERE THAT NIGHT UNTIL AFTER

25 BOLAND AND YONSON WERE HAULED OFF, OR WOULD YOU---

1 A I BELIEVE WE ALL LEFT ABOUT THE SAME TIME.

2 Q TRANSPORTED OUT ABOUT THE SAME TIME?

3 A YES.

4 Q YOU WERE AROUND THERE WHILE DUKES -- AFTER DUKES
5 CAME?

6 A YES, SIR, FOR A FEW MINUTES.

7 Q AND YOU SECURED -- WHILE Y'ALL WERE WAITING ON DUKES
8 YOU HAD YOUR WEAPON OUT?

9 A YES, SIR, I DID.

10 Q YOU WERE STANDING THERE IN THE VICINITY OF MR. YONSON
11 AND BOLAND WHERE THEY WERE ON THE GROUND, IS THAT CORRECT?

12 A YES, SIR.

13 Q AND NOBODY ELSE CAME INTO THAT AREA AND INTERFERED
14 WITH THE SITE, DID THEY?

15 A NO, SIR.

16 Q IT WAS SECURED?

17 A IT WAS SECURED.

18 Q AND HOW LONG WERE YOU OUT OF WORK?

19 A NINE WEEKS. WELL ACTUALLY, WE WERE OUT OF WORK
20 TWO WEEKS.

21 Q OUT OF WORK TWO WEEKS.

22 A TWO WEEKS. OFFICIALLY OUT OF WORK TWO WEEKS.

23 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENDANT'S
24 LAWYER MIGHT HAVE FOR YOU.

25 THE COURT: MR. WILLIAMS.

1 MR. WILLIAMS: THANK YOU. GOOD MORNING,
2 MR. WILLIAMS.

3 CROSS EXAMINATION BY MR. WILLIAMS:

4 Q I BELIEVE YOU WERE IN HERE YESTERDAY?

5 A YES.

6 Q MR. BOLAND WAS KIND ENOUGH TO STEP DOWN WITH ME. AND
7 HELP ME DRAW A PICTURE. WOULD YOU BE SO KIND?

8 (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
9 STAND.)

10 Q HERE IS MARKER FOR YOU, SIR. COULD YOU PLEASE DRAW
11 THE PICKUP TRUCK? JUST A RECTANGLE AGAIN WILL DO.

12 A OKAY.

13 Q AND CAN YOU DRAW THE CORNER OF THE BUILDING OF THE
14 FRENZ NIGHTCLUB IN RELATION TO THE PICKUP TRUCK. ALL
15 RIGHT, AND I GUESS THE TWO CRUISERS ARE YOURS AND
16 MR. BOLAND'S?

17 A YES.

18 Q AND WERE THERE CARS THAT WERE LEFT FROM THIS ANGLE OF
19 THE PICKUP TRUCK?

20 A I SUSPECT IT WAS, THE PARKING LOT WAS FULL.

21 Q BUT YOU DON'T KNOW THAT THERE WAS.

22 A AT THE MOMENT, I CAN'T RECALL.

23 Q THE VIDEO WE WATCHED YESTERDAY. I GUESS YOU CAN DRAW
24 MR. DUKES' CAMERO.

25 A I COULDN'T TELL YOU EXACTLY WHERE HIS CAR WAS IN

1 RELATION TO IT.

2 Q ALL RIGHT, THANK YOU. THE VIDEO WE WATCHED YESTERDAY
3 FROM MR. BOLAND'S CRUISER.

4 A UH-HUH. (AFFIRMATIVE.)

5 Q THAT WOULD GENERALLY BE FROM THIS ANGLE THROUGH THE
6 RANGER.

7 A YES.

8 Q OR WOULD HAVE BEEN IF IT WAS AIMED AT THE RANGER.
9 YOU COULDN'T SEE MUCH OF THE ACTION BECAUSE---

10 A YES.

11 Q ---OF THAT. COULD YOU IDENTIFY AGAIN, WHEN YOU FIRST
12 APPROACHED THE SCENE? YOU WERE TALKING WITH SOME LADIES.

13 A YES.

14 Q IS THAT CORRECT?

15 A YES.

16 Q AND YOU NOTICED THAT YOUR PARTNER---

17 A YES.

18 Q ---MR. BOLAND WAS IN EXCHANGE WITH MR. YONSON?

19 A YES.

20 Q CAN YOU SHOW US WHERE THEY WERE?

21 A THEY WAS ROUGHLY IN THIS AREA HERE.

22 Q OKAY. TWO OF THEM.

23 A YES.

24 Q INDICATED WITH X'S?

25 A YES.

1 Q OKAY. AND YOU WERE WHERE IN RELATION TO THIS?

2 A I WAS BACK OVER IN THIS AREA HERE.

3 Q OKAY. IN THAT AREA. ALL RIGHT, WAS THERE ANYTHING
4 OBSTRUCTING YOUR SIGHT?

5 A NO, THERE WAS ABSOLUTELY NOTHING OBSTRUCTING MY
6 SIGHT.

7 Q OKAY. SO THERE WAS NO CAR OR ANYTHING ELSE IN THIS
8 AREA?

9 A I COULDN'T TELL YOU. I COULD SEE HIM CLEARLY THOUGH.

10 Q OKAY.

11 A THERE WAS A LITTLE OF A PROFILE CAR BEHIND A TREE.

12 Q AND WHEN YOU FINALLY DECIDED TO APPROACH THEM AT A
13 POINT, WERE THEY HERE WHEN YOU DECIDED TO APPROACH THEM?

14 A THEY WERE BASICALLY IN THAT AREA RIGHT THERE WHEN I
15 APPROACHED THEM BESIDE THE TRUCK.

16 Q AND THIS INCIDENT TOOK PLACE WHERE?

17 A IT TOOK, BASICALLY TOOK PLACE, IT STARTED HERE, AND
18 BASICALLY TOOK PLACE IN THIS AREA.

19 Q OKAY. GREAT. IF WE CAN, CAN WE PULL THIS AREA OUT
20 AND DRAW A BIGGER RIGHT HERE? SHOW ME WHERE EVERYBODY WAS
21 STANDING IN THIS AREA.

22 A AS FAR AS IN REFERENCE TO?

23 Q AT THE CONCLUSION OF THE INCIDENT.

24 A OKAY AFTER THE SHOOTING OR BETWEEN?

25 Q AT THE CONCLUSION OF THE SHOOTING. WHEN YOU FINALLY

1 I BELIEVE SECURED MR. YONSON.

2 A MR. YONSON WAS HERE. I WAS HERE. CORPORAL BOLAND
3 WAS HERE.

4 Q OKAY. AND YOU SAID THAT'S THE TRIANGULATING? MR.
5 YONSON.

6 A THAT IS A TRIANGLE.

7 Q IT HELPS ME TO SEE IT AND DRAW IT OUT. I THOUGHT
8 MAYBE EVERYBODY ELSE WOULD APPRECIATE THAT TOO. AT ANY
9 TIME WERE YOU, MAY I SEE THE MARKER PLEASE?

10 A SURE.

11 Q AT ANY TIME WERE YOU EVER ON THE OPPOSITE SIDE OF MR.
12 YONSON?

13 A I WAS NOT.

14 Q OKAY. YOU WERE NEVER ON THE OPPOSITE SIDE.

15 A NOT AFTER THE SHOOTING, NO.

16 Q OH, PRIOR TO?

17 A NO. OTHER THAN WE WERE SIDE BY SIDE.

18 Q SO AT ALL TIMES DURING THIS ENTIRE INCIDENT,
19 MR. YONSON WAS NEVER BETWEEN YOU AND MR. BOLAND?

20 A NOT TO MY KNOWLEDGE, NO.

21 Q GREAT. AND CAN I GET YOU TO CHANGE THIS X---

22 A UH-HUH. (AFFIRMATIVE.)

23 Q ---THAT REPRESENTS MR. YONSON TO A STICK FIGURE?

24 A OKAY.

25 Q JUST HEAD AND LEGS.

1 A WE CAN DO THAT. NO PROBLEM.

2 Q AND THIS I GUESS IS FROM A VERTICAL VIEW LOOKING
3 DOWN?

4 A YES.

5 Q EVERYBODY, I UNDERSTAND THIS IS TWO DIMENSIONAL, SO
6 IT MAKES IT A LITTLE DIFFICULT. AT THIS TIME, YOU
7 INDICATED THAT MR. BOLAND FIRED THREE SHOTS?

8 A YEAH.

9 Q WHERE, HOW WAS MR. YONSON FACING YOU OR NOT FACING
10 YOU?

11 A MR. YONSON WAS LAYING ON HIS BACK LOOKING DIRECTLY AT
12 US.

13 Q FOR ALL THREE SHOTS?

14 A FOR ALL THREE SHOTS.

15 Q WHERE DID THE SHOTS HIT MR. YONSON?

16 A DOWN, ONE OF THEM I BELIEVE STRUCK HIS LEG. THE
17 OTHER ONE WAS IN HIS UPPER BODY, I BELIEVE. AND THE THIRD
18 ONE I AM NOT SURE.

19 MR. WILLIAMS: THANK YOU. JUST ONE MINUTE PLEASE,
20 SIR.

21 Q YOU INDICATED DURING YOUR DIRECT EXAMINATION WITH THE
22 MR. CONNER HERE---

23 A YES.

24 Q ---THAT YOU NOTICED ONE SHOT AND HEARD TWO SHOTS?

25 A YES.

1 Q IS THAT CORRECT?

2 A I BELIEVE THAT TO BE CORRECT.

3 Q AND WHAT DO YOU MEAN BY, "NOTICED A SHOT?"

4 A I SAW ANOTHER FLASH.

5 Q YOU SAW A FLASH.

6 A SAW THE FLASH.

7 Q WHEN IT WAS DARK. THAT'S FINE. I WAS WONDERING HOW
8 YOU NOTICED A SHOT. THEN YOU HEARD TWO?

9 A I HEARD TWO. BELIEVED I HEARD TWO.

10 Q NOW WHERE WERE YOU WHEN YOU NOTICED AND HEARD THESE
11 SHOTS?

12 A WE WERE ACTUALLY ON TOP OF MR. YONSON. STRUGGLING
13 WITH MR. YONSON ON THE GROUND.

14 Q SO IT WAS A PILE?

15 A IT AS A PILE.

16 Q I GUESS YOU SAY. FOR LACK OF A BETTER WORD. LIKE AN
17 ATTACK ON A FOOTBALL GAME.

18 A THANK YOU.

19 Q IT WAS JUST A PILE. HOW WAS YOUR HEAD ORIENTED TO
20 MR. YONSON IN THAT YOU COULD SEE HIM?

21 A MR. YONSON HAD SWUNG AROUND, AND WE WERE ALL LAYING
22 IN THE SAME DIRECTION ON THE GROUND OF MR. YONSON'S HEAD.
23 YOU COULD SEE MR. YONSON SWING AROUND. I COULD CLEARLY
24 SEE A MUZZLE FLASH.

25 Q THANK YOU. SO YOU SAW ONE AND YOU HEARD TWO.

1 A I BELIEVE, YES.

2 Q WE WATCHED EARLIER THE VIDEO FROM MR. BOLAND'S
3 CRUISER, YOU WERE IN A CRUISER AS WELL?

4 A THAT'S CORRECT.

5 Q STANDARD---

6 A IT'S A STANDARD.

7 Q CROWN VICTORIA POLICE CRUISER.

8 A STANDARD.

9 Q THANK YOU. DID IT HAVE A VIDEO?

10 A IT DID NOT.

11 Q WHY DIDN'T IT?

12 A IT WAS AN OLDER CAR.

13 Q DO YOU KNOW THE YEAR?

14 A I BELIEVE IT WAS A 98.

15 Q WHAT YEAR WAS MR. BOLAND'S?

16 A YOU HAVE TO ASK MR. BOLAND THAT.

17 Q OKAY. THANK YOU. BUT FROM THIS DRAWING THOUGH, IT
18 WOULD SEEM THAT THE VIDEO FROM THIS CAR WOULD HAVE BEEN
19 HELPFUL.

20 A IT MAY HAVE BEEN.

21 Q OH, JUST FROM THIS ANGLE.

22 A YES.

23 Q LET ME, DID YOU REMEMBER GIVING A STATEMENT?

24 A YES.

25 Q LET'S SEE THE DATE OF IT. YOU KNOW THE DATE.

1 A YES.

2 Q AFTER THE MORNING OF THE INCIDENT?

3 A YES.

4 Q AT 11:55 A.M. THE A.M. AND P.M. IS NOT CIRCLED?

5 A A.M.

6 Q A.M.

7 A YES.

8 Q YOU CAN HAVE A SEAT UNLESS YOU WANT TO STAND.

9 A NO.

10 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

11 Q THANK YOU. DO YOU HAVE A COPY OF YOUR STATEMENT?

12 A YES, SIR.

13 Q ON YOU?

14 A NOT ON ME, NO, SIR.

15 Q VERY GOOD. MINES A LITTLE MARKED UP HERE.

16 A ALL RIGHT.

17 YOUR HONOR, MAY I APPROACH HIM?

18 THE COURT: YES, SIR.

19 MR. WILLIAMS: I AM GOING TO SEE IF I CAN GET YOU TO

20 READ A PORTION OF YOUR STATEMENT.

21 A OKAY.

22 Q FIRST OFF, WOULD READ THE WHOLE STATEMENT?

23 A I'LL JUST READ THE PORTION.

24 Q OKAY. WE CAN READ THE WHOLE THING. THAT'S FINE. I

25 JUST WANTED TO POINT OUT A PORTION OF IT---

1 A OKAY.

2 Q CAN YOU READ FROM, THIS PORTION OF IT IS HIGHLIGHTED
3 IN GREEN.

4 A UH-HUH. (AFFIRMATIVE.)

5 Q WE GOT UNTIL, "SHOT," RIGHT THERE.

6 A OKAY. "WE GOT HIM ON THE GROUND. I STILL HAD HIS
7 LEFT ARM. BOLAND HAD HIS RIGHT ARM. BOLAND WAS TELLING
8 ME HE HAD A GUN. AT THAT TIME I HEARD A SHOT FIRED AND
9 SAW BOLAND TRYING TO GET UP BECAUSE HE THOUGHT HE HAD BEEN
10 SHOT."

11 Q THANK YOU. OKAY. NOW YOU SAID YOU HEARD A SHOT
12 FIRED?

13 A YES.

14 Q AND NOW I, I'VE READ THROUGH THIS STATEMENT. PLEASE
15 TAKE YOUR TIME TO READ THROUGH IT AS WELL. I DON'T SEE
16 ANY OTHER PLACE IN THE STATEMENT WHERE YOU INDICATE THAT
17 MORE THAN ONE SHOT WAS FIRED BY MR. YONSON OR CAME FROM
18 MR. YONSON.

19 A THE TIME OF THE STATEMENT WAS A LITTLE -- IT WAS --
20 EVERYTHING WAS SO QUICKLY. IT WAS A TRAUMATIC EXPERIENCE.

21 Q I UNDERSTAND. AND YOU TESTIFIED EARLIER THAT YOU
22 WERE EXCITED TO THE POINT WHERE YOU DIDN'T REALIZE YOU HAD
23 BEEN SHOT.

24 A THAT IS CORRECT.

25 Q AND I CAN'T EVEN BEGIN TO UNDERSTAND WHAT IT'S LIKE

1 TO BE SHOT. I NEVER HAVE BEEN. I HOPE I NEVER AM SHOT.
2 BUT CAN I ASSUME AND FROM YOUR TESTIMONY TODAY, IT SOUNDS
3 LIKE THAT WOULD CERTAINLY CAUSE YOU TO HAVE TROUBLE
4 RECOGNIZING WHAT'S GOING ON AROUND YOU?

5 A NO, NOT REALLY..

6 Q OKAY. SO YOU DIDN'T, YOU WERE SO EXCITED THAT YOU
7 DIDN'T REALIZE YOU HAD BEEN SHOT.

8 A I DID NOT REALIZE I HAD BEEN SHOT.

9 Q BUT EVERYTHING ELSE IS CRYSTAL CLEAR?

10 A EVERYTHING ELSE IS CLEAR.

11 Q OKAY. INCLUDING THE PLACE IN YOUR STATEMENT WHERE
12 YOU SAY YOU ONLY HEARD ONE SHOT. YOU SAID IT WAS A LITTLE
13 CONFUSING AT THE TIME.

14 A AT THE TIME OF THE STATEMENT WHEN I WROTE THAT
15 STATEMENT, YES.

16 Q OKAY. WHAT WAS DIFFERENT FROM THE TIME OF THE
17 STATEMENT AND THE TIME OF THE INCIDENT?

18 A A LITTLE BIT OF TIME -- DATES. ON THE DAY IT WAS---

19 Q OH, NO, EXCUSE ME. I AM NOT TALKING ABOUT A LAPSING
20 OF TIME.

21 A YES, SIR.

22 Q YOU SAID YOU WERE A LITTLE CONFUSED AT THE TIME YOU
23 WROTE THE STATEMENT BUT NOT---

24 A NO, IT---

25 Q ---AT THE TIME OF THE INCIDENT?

1 A ---WAS A TRAUMATIC EXPERIENCE AT THE TIME I WAS
2 TRYING TO WRITE THE STATEMENT.

3 Q OKAY. SO IT'S HARD TO REMEMBER.

4 A THAT IS CORRECT.

5 Q AND IT'S DIFFICULT TO REMEMBER.

6 A I WAS NEW TO THE FORCE IN WRITING STATEMENTS.

7 Q I UNDERSTAND. AND YOU KNOW THOUGH AT THE CONCLUSION
8 OF THE INCIDENT WHEN EMS WAS ARRIVING?

9 A YES.

10 Q YOU REALIZED YOU HAD BEEN SHOT.

11 A I REALIZED I HAD BEEN SHOT.

12 Q YOU REALIZED THAT MR. BOLAND HAD BEEN SHOT AS WELL.

13 A I REALIZED MR. BOLAND HAD BEEN SHOT.

14 Q DID HE TELL YOU, OR DID YOU SEE HE WAS SHOT?

15 A I COULD PRETTY MUCH SEE HE WAS SHOT.

16 Q HOW MANY TIMES?

17 A AT LEAST ONE.

18 Q SO YOU KNEW AT LEAST YOU HAD BEEN SHOT ONCE.

19 A YES.

20 Q MR. BOLAND HAD BEEN SHOT.

21 A YES.

22 Q AND THERE WAS, WE NOW KNOW THAT MR. BOLAND WAS SHOT A
23 THIRD, THERE WAS A THIRD SHOT IN MR. BOLAND'S ARM?

24 A YES.

25 Q AND YOUR STATEMENT INDICATES ONLY YOU HEARD ONE SHOT.

1 A YES.

2 Q BUT YOUR TESTIMONY TODAY YOU'VE ACCOUNTED FOR ALL
3 THREE SHOTS?

4 A I'VE ONLY ACCOUNTED FOR ACTUALLY SEEING ONE MUZZLE
5 FLASH, AND HEARING WHAT I BELIEVE TO BE TWO SHOTS.

6 Q OH, AND CORRECT. BUT YOU, TODAY WE CAN COUNT 3
7 SHOTS.

8 A I, WHAT I'M TELLING YOU IS, I SAW ONE MUZZLE FLASH,
9 WHICH WOULD ACCOUNT FOR ONE OF THE SHOTS FIRED. AND THEN
10 I THOUGHT I HEARD THE SECOND SHOT. BELIEVE WHAT I HEARD
11 THE SECOND SHOT TO BE.

12 Q OKAY. I THOUGHT YOU SAID YOU HEARD TWO SHOTS. IN
13 ADDITION TO THE---

14 A NO,---

15 Q YOU NOTICED ONE.

16 A ---I SEEN THE MUZZLE FLASH WHICH WOULD HAVE ACCOUNTED
17 FOR THE FIRST ONE I HAD HEARD.

18 Q OKAY.

19 A AND THEN WHAT I BELIEVED TO BE A SECOND ONE
20 SIMULTANEOUS.

21 Q OKAY. SO YOU CAN ONLY ACCOUNT FOR TWO SHOTS.

22 A THAT'S RIGHT.

23 Q IT'S NOT HEARD, HEARD TWO AND SAW ONE.

24 A NO.

25 Q IT'S HEARD ONE, SAW ONE.

1 A HEARD ONE, SAW ONE.

2 Q AND THIS IS STILL ALL DIFFERENT THAN YOUR ACCOUNT
3 WRITTEN IN THE STATEMENT IMMEDIATELY AFTER THIS.

4 A YES, A LITTLE BIT. YES.

5 Q THANK YOU. THIS IS STATE'S EXHIBIT 1?

6 A YES, SIR.

7 Q CAN YOU IDENTIFY THAT?

8 A I BELIEVE THAT'S THE WEAPON THAT I---

9 Q IS THIS MARKED STATE'S EXHIBIT 1?

10 A I PUSHED TO THE GROUND, YES.

11 Q AND IT'S CURRENTLY MARKED AS STATE'S EXHIBIT 1.

12 A YES.

13 MR. WILLIAMS: THANK YOU. YOUR HONOR, MAY I OPEN
14 THIS BAG?

15 THE COURT: YES, SIR.

16 MR. WILLIAMS: THANK YOU.

17 Q I AM CURRENTLY HOLDING THE FIREARM. I AM GOING --
18 I'M NOT TRAINED IN FIREARMS. I'M GOING TO HAND IT TO YOU.

19 A UH-HUH. (AFFIRMATIVE.)

20 Q CAN TELL ME IF IT'S CURRENTLY UNLOADED? PUT
21 EVERYBODY AT EASE.

22 A IT IS CURRENTLY UNLOADED.

23 Q NO BULLETS IN IT.

24 A NO BULLETS IN IT.

25 Q WE'RE NOT WORRYING ABOUT FIRING IT.

1 A THAT IS CORRECT.

2 Q THANK YOU. YOU GOT YOUR STATEMENT IN FRONT OF YOU,
3 STILL?

4 A YES.

5 Q AND DO YOU LIKE WATCHING MOVIES?

6 A YES, SIR.

7 Q MISSION IMPOSSIBLE?

8 A NO, SIR.

9 Q WHAT KIND OF MOVIES DO YOU LIKE?

10 A JUST---

11 Q ANYTHING WITH ACTION AND GUNS?

12 A NO. NOT REALLY, NO, SIR.

13 Q I'VE YOU KNOW, SEEN A COUPLE OF MOVIES AND YOU SEE
14 THESE FIGHTS.

15 A YES.

16 Q THE DETAIL A CAMERA CAN GET INTO IS OBVIOUSLY A LOT
17 BETTER---

18 A YES.

19 Q THAN THE DETAIL THAT CAME FROM MEMORY.

20 A THAT'S TRUE.

21 Q AGAIN THIS IS MY HIGHLIGHTED PORTION.

22 A OKAY.

23 Q YOU'VE GOT IT IN FRONT OF YOU. CAN YOU READ THIS
24 YELLOW HIGHLIGHTED PORTION?

25 A I CERTAINLY CAN. "I THEN PUT MY FINGER BETWEEN THE

1 BACK OF THE TRIGGER AND THE TRIGGER GUARD SO HE COULD NOT
2 FIRE THE GUN AGAIN."

3 Q OKAY. CAN YOU DO THAT FOR ME WITH THIS GUN?

4 A ACTUALLY I CAN NOT. THAT WAS A MISS ON MY PART, AS
5 FAR AS IN MY STATEMENT.

6 Q BECAUSE, YOU KNOW, IN YOUR STATEMENT, I GUESS I'LL
7 SAY A REVOLVER. IT'S GOT A TRIGGER THAT'S JUST A LITTLE
8 CURVE. AND YOU CAN PUT YOUR FINGER BEHIND IT. AND THEN
9 IT WOULD HAVE TO PUSH DOWN ON YOUR FINGER.

10 A YES.

11 Q BUT IN THIS GUN CLEARLY THERE IS NO WAY TO PUT YOUR
12 FINGER BEHIND IT, IS IT?

13 A THAT'S TRUE.

14 Q OKAY. SO THAT'S A -- YOU KNOW THAT'S AN OBVIOUSLY A,
15 I WOULD SAY A, YOU KNOW, IT WOULD BE A WONDERFUL ACTION ON
16 YOUR PART IN THIS STRUGGLE WHEN YOU SAID YOU WERE SO
17 EXCITED THAT YOU DIDN'T REALIZE YOU HAD BEEN SHOT.

18 A YES.

19 Q A LOT OF CONFUSION GOING ON.

20 A YES.

21 Q AND, YOU KNOW, CLEARLY A VERY ATHLETIC MOVE TO BE
22 ABLE TO STICK YOUR FINGER---

23 A I AGREE.

24 Q BEHIND A TRIGGER. BUT AND YOU RECOUNTED SHORTLY
25 AFTER THIS.

1 A YES.

2 Q BUT NOW, SO WHAT'S YOUR TESTIMONY NOW TODAY?

3 A I OBVIOUSLY COULDN'T PUT IT IN THERE.

4 MR. WILLIAMS: WELL THANK YOU VERY, MR. WILLIAMS.

5 A YES, SIR.

6 MR. WILLIAMS: I APPRECIATE IT.

7 MR. CONNER: LET ME SEE THE GUN PLEASE.

8 MR. WILLIAMS: NO FURTHER QUESTIONS.

9 REDIRECT EXAMINATION BY MR. CONNER:

10 Q OFFICER WILLIAMS, EVEN IF YOU DIDN'T STICK YOUR
11 FINGER BEHIND THE TRIGGER, YOU COULD HAVE STUCK YOUR
12 FINGER THROUGH THE TRIGGER GUARD.

13 A THAT IS CORRECT, YES.

14 MR. CONNER: I HAVE NO FURTHER QUESTIONS.

15 THE COURT: YES, SIR.

16 MR. WILLIAMS: RECROSS, YOUR HONOR?

17 RECROSS EXAMINATION BY MR. WILLIAMS:

18 Q MR. CONNER JUST INDICATED THAT YOU COULD HAVE STUCK
19 YOUR FINGER---

20 A THAT'S IS CORRECT.

21 Q ---RIGHT HERE?

22 A THAT IS CORRECT.

23 Q IN FRONT OF THE TRIGGER?

24 A THAT IS CORRECT.

25 Q AND WOULDN'T THAT HAVE A VERY LIKELY POTENTIAL TO

1 CAUSE A GUN TO FIRE?

2 A IT COULD HAVE.

3 Q AND THAT'S HOW YOU FIRED THE GUN?

4 A YES.

5 MR. WILLIAMS: THANK YOU.

6 THE COURT: STEP DOWN, SIR.

7 MR. WILLIAMS: YES, SIR.

8 MR. CONNER: JOHNNY ABRAHAM.

9 LIEUTENANT JOHNNY ABRAHAM,
10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
12 NAME, PLEASE.

13 A JOHNNY ABRAHAM. A-B-R-A-H-A-M.

14 DIRECT EXAMINATION BY MR. CONNER:

15 Q LIEUTENANT ABRAHAM, WHERE ARE YOU EMPLOYED?

16 A SOUTH CAROLINA LAW ENFORCEMENT DIVISION ALSO KNOWN AS
17 SLED.

18 Q AND HOW LONG HAVE YOU WORKED FOR THE SOUTH CAROLINA
19 LAW ENFORCEMENT DIVISION?

20 A I HAVE BEEN EMPLOYED WITH THE SOUTH CAROLINA LAW
21 ENFORCEMENT DIVISION FOR APPROXIMATELY NINE YEARS. PRIOR
22 TO THAT, I WORKED FOR THE FLORENCE COUNTY SHERIFF'S
23 DEPARTMENT. I HAVE TOTAL OF OVER 24 YEARS IN LAW
24 ENFORCEMENT.

25 Q WHAT DO YOU DO FOR THE SUMTER -- FOR THE FLORENCE

1 COUNTY SHERIFF'S DEPARTMENT?

2 A I STARTED OUT WITH THE FLORENCE COUNTY SHERIFF'S
3 DEPARTMENT ON PATROL. I WAS LATER PROMOTED TO
4 INVESTIGATIONS. AND I WAS LATER PROMOTED TO LIEUTENANT OF
5 INVESTIGATIONS.

6 Q SO YOU WERE IN CHARGE OF THE INVESTIGATORS IN THE
7 FLORENCE COUNTY SHERIFF'S DEPARTMENT?

8 A THAT IS CORRECT.

9 Q AND THEN YOU WENT TO WORK FOR SLED?

10 A THAT IS CORRECT.

11 Q AND WHAT KIND OF DUTIES HAVE YOU HAD WITH SLED?

12 A INITIALLY WHEN I STARTED WITH SLED, I WENT TO THE
13 ARSON DIVISION, AND I LATER TRANSFERRED TO THE REGIONAL
14 DIVISION.

15 Q AND YOUR RANK THERE NOW IS LIEUTENANT?

16 A THAT IS CORRECT.

17 Q NOW HOW MANY OFFICERS DO Y'ALL HAVE WORKING OUT OF
18 THAT FLORENCE OFFICE?

19 A I BELIEVE TOTALLY I THINK WE'VE GOT ABOUT 17 NOW.
20 SOMEWHERE IN THAT AREA.

21 Q SEVENTEEN. THE -- DID YOU BECOME INVOLVED IN
22 INVESTIGATING THIS CASE THAT HAPPENED ON SEPTEMBER 11,
23 2005, OVER HERE AT THE FRENZ CLUB?

24 A YES, I DID.

25 Q AND DID YOU ACTUALLY GO TO THE SCENE THAT NIGHT?

1 A YES, I DID.

2 Q AND WHILE YOU WERE THERE, TELL US IN GENERAL, WHAT
3 ACTIVITY YOU TOOK PART IN.

4 A WHEN I INITIALLY ARRIVED ON THE SCENE, WELL PRIOR TO
5 THAT, I RECEIVED A CALL FROM HEADQUARTERS, TELLING ME
6 ABOUT THE INCIDENT. AND SINCE I WAS THE LIEUTENANT, I
7 ALSO NOTIFIED SOME MORE AGENTS TO RESPOND ALONG WITH ME.
8 WHEN WE GOT TO THE SCENE, WE INITIALLY STARTED TRYING TO
9 IDENTIFY ANY WITNESSES, POTENTIAL WITNESSES. AND WE
10 WENT -- WE WEN TO THE WITNESSES AND ATTEMPTED TO INTERVIEW
11 THEM. AND IF WE COULD, GET WRITTEN STATEMENTS.

12 Q OKAY. DID OTHER AGENTS ASSIST YOU IN DOING THIS?

13 A YES, THEY DID.

14 Q WHAT OTHER AGENTS WERE INVOLVED?

15 A SHELBY LARRY, KATHY BASS AND AGENT JAMES JOHNSON.

16 Q AND THAT'S THIS MR. JOHNSON SEATED OVER HERE?

17 A THAT'S CORRECT.

18 Q NOW DID YOU SUBSEQUENTLY PARTICIPATE AND INTERVIEW
19 SOME OF WITNESSES YOURSELF?

20 A YES.

21 Q DID YOU ALSO ALONG WITH JAMES JOHNSON HAVE AN
22 OPPORTUNITY TO TALK WITH THESE TWO OFFICERS MR. BOLAND AND
23 JAMES WILLIAMS?

24 A YES, SIR.

25 Q DID, ON SEPTEMBER 15TH, DID YOU AND JAMES JOHNSON

1 HAVE AN OPPORTUNITY TO GO TO SLED, NOT SLED, BUT TO THE
2 COLUMBIA TO HOSPITAL AND INTERVIEW MR. YONSON?

3 A YES, WE DID. WE WENT TO RICHLAND MEMORIAL HOSPITAL,
4 WHICH IS LOCATED IN COLUMBIA, AND INTERVIEWED MR. YONSON.

5 Q AND WHEN YOU GOT THERE, WHAT'S THE FIRST THING YOU
6 DID?

7 A THE FIRST THING I DID WAS, MYSELF AND AGENT JOHNSON
8 ARRIVED AT THE HOSPITAL. WE WENT TO THE NURSE'S STATION
9 AND INQUIRED WHO WAS MR. YONSON'S NURSE. SHE WAS, SHE
10 IDENTIFIED HERSELF. THEN WE ASKED HER WAS HE ON ANY KIND
11 OF MEDICATION THAT MIGHT PREVENT HIM FROM UNDERSTANDING;
12 THAT WE WANTED TO TALK TO HIM; SO HE COULD FULLY
13 UNDERSTAND WHAT WE TALKING ABOUT. THE NURSE THEN SAID HE
14 WAS NOT. SHE THEN CHECKED THE CHART AND CONFIRMED HE WAS
15 NOT ON ANY TYPE OF MEDICATION THAT WOULD AFFECT HIS
16 ABILITY TO SPEAK WITH US AND UNDERSTAND WHAT WE WERE
17 TALKING ABOUT.

18 Q AND THEN Y'ALL PROCEEDED TO HIS ROOM AND TALKED WITH
19 HIM?

20 A YES, WE DID.

21 Q AND WHEN YOU GOT THERE, DID YOU READ HIM WHAT'S
22 CALLED HIS MIRANDA RIGHTS?

23 A YES, WE DID. WHEN WE ARRIVED, AGENT JAMES JOHNSON
24 READ HIM HIS MIRANDA RIGHTS.

25 Q I SHOW YOU THIS FORM HERE MARKED STATE'S EXHIBIT NO.

1 13, AND ASK YOU TO EXAMINE THAT.

2 A YES, THIS IS THE FORM.

3 Q AND IS THAT THE FORM THAT AGENT JOHNSON READ THE
4 RIGHTS FROM?

5 A YES, IT IS.

6 Q AND DID HE GIVE THE DEFENDANT AN OPPORTUNITY TO READ
7 THE RIGHTS?

8 A YES, HE DID.

9 Q TELL US WHAT THOSE RIGHTS ARE, AND WHAT MR. JOHNSON
10 READ TO HIM.

11 A ON THE TOP OF THE FORM IT HAS LAW ENFORCEMENT
12 DIVISION. THEN IT HAS YOUR RIGHTS. THEN IT HAS THE DATE
13 AND TIME. THEN IT SAYS BEFORE WE ASK YOU QUESTIONS, YOU
14 MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
15 SILENT. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU
16 IN A COURT OF LAW. YOU HAVE THE TALK TO A LAWYER FOR
17 ADVICE BEFORE WE ASK YOU ANY QUESTIONS. AND TO HAVE HIM
18 OR HER PRESENT DURING QUESTIONING. IF YOU HAVE NO MONEY
19 FOR A LAWYER'S FEE, THE COURT WILL APPOINT ONE TO
20 REPRESENT YOU WITHOUT COST TO YOU IF YOU WISH. IF YOU
21 DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT,
22 YOU WOULD STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS
23 AT ANY TIME. YOU WOULD ALSO HAVE THE RIGHT TO STOP
24 ANSWERING QUESTIONS AT ANY TIME UNTIL YOU TALK TO A
25 LAWYER."

1 THEN IT SAID, I HAD READ THIS STATEMENT OF MY RIGHTS,
2 AND I UNDERSTAND WHAT MY RIGHTS ARE. THEN IT HAS A PLACE
3 WHERE MR. YONSON SIGNED THAT HE UNDERSTOOD HIS RIGHTS, AND
4 HE KNEW WHAT HE IS DOING. THEN AT THE BOTTOM IT HAS
5 WAIVER OF RIGHTS. THIS WAS ALSO READ TO HIM. IT SAYS, "I
6 AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS." I
7 DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW
8 WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO
9 ME. NO PRESSURE OR COERCION OF ANY KIND HAS BEEN MADE
10 AGAINST ME." AGAIN MR. YONSON SIGNED IT DOWN HERE THAT HE
11 UNDERSTOOD THIS AS WELL.

12 Q AND THAT HE WAIVED HIS RIGHTS?

13 A YES, HE DID.

14 Q AND HE AGREED TO TALK WITH YOU. BUT DID HE PUT ANY
15 LIMITATIONS ON HIS CONVERSATIONS?

16 A YES, HE DID. MR. YONSON SAID HE WAS WILLING TO TELL
17 US WHAT HAPPENED. BUT HE WAS NOT GOING TO GIVE US A
18 WRITTEN STATEMENT OR RECORDED STATEMENT.

19 Q AND AT THAT POINT AND TIME, DID Y'ALL ASK HIM SOME
20 QUESTIONS?

21 A YES, WE DID.

22 Q DID HE TALK TO YOU FREELY AND VOLUNTARILY?

23 A YES, HE DID.

24 Q DID YOU PROMISE HIM ANYTHING TO GET HIM TO TALK TO
25 YOU?

1 A NO.

2 Q WOULD YOU TELL US WHAT HE TOLD YOU?

3 A MR. YONSON STATED THAT HE WAS AT THE NIGHTCLUB. HE
4 WAS INSIDE. HE SHOT A GAME OF POOL AND DRANK A COUPLE OF
5 BEERS. HE HEARD SOME TYPE OF COMMOTION ON THE OUTSIDE OF
6 THE CLUB. HE WENT OUTSIDE TO SEE WHAT WAS GOING ON. HE
7 SAID HE SAW TWO FEMALES FIGHTING. HE STARTED BACK INSIDE
8 THE CLUB, AND AT THAT TIME HE SAID THE OWNER PREVENTED HIM
9 FROM COMING BACK IN. HE STATED THAT HE TURNED AND STARTED
10 TO HIS TRUCK TO LEAVE WHEN HE WAS APPROACHED BY A DEPUTY
11 TELLING HIM TO STOP, PUT HIS HAND ON HIS SHOULDER, AND
12 TOLD HIM HE WAS UNDER ARREST. AND HE SAID AT THAT TIME
13 THERE WAS A STRUGGLE. HE WOUND UP ON THE GROUND, AND THE
14 GUN WENT OFF AND SHOT THE DEPUTY.

15 Q DID HE SAY WHAT CAUSED THE GUN TO GO OFF?

16 A NO, HE DIDN'T.

17 Q DID HE ADMIT THAT THAT WAS HIS GUN?

18 A YES, HE DID. HE SAID THAT THE 9 MILLIMETER HANDGUN
19 HE HAD, HE OBTAINED THAT FROM A BLACK MALE WHOSE NAME HE
20 REFUSED TO GIVE IS. HE SAID THE 25 CALIBER AUTOMATIC THAT
21 HE HAD, THAT HIS EX-GIRLFRIEND'S MOTHER GAVE THAT TO HIM.
22 HE ALSO REFUSED TO GIVE US HER NAME ALSO.

23 Q SO HE ADMITTED EFFECTIVELY HE HAD TWO PISTOLS THERE.

24 A THAT'S CORRECT.

25 Q NOT JUST THIS 9 MILLIMETER THAT'S BEEN INTRODUCED

1 INTO EVIDENCE, BUT HE ALSO HAD A 25 CALIBER PISTOL?

2 A THAT'S CORRECT.

3 MR. CONNER: ANSWER ANY QUESTIONS HIS LAWYER MIGHT
4 HAVE FOR YOU. THE DEFENDANT.

5 THE COURT: YES, SIR.

6 MR. WILLIAMS: THANK YOU, YOUR HONOR.

7 CROSS EXAMINATION BY MR. WILLIAMS:

8 Q GOOD MORNING, MR. ABRAHAMS.

9 A GOOD MORNING.

10 Q YOU, WHAT WAS THE NAME OF THE HOSPITAL, SIR?

11 A IT'S RICHLAND HEALTH CARE MEMORIAL HOSPITAL.

12 Q RICHLAND MEMORIAL.

13 A RIGHT.

14 Q WHAT TIME WAS IT ABOUT WHEN YOU GOT TO RICHLAND
15 MEMORIAL?

16 A WE ARRIVED AROUND ABOUT 11:00 O'CLOCK A.M. IN THE
17 MORNING.

18 Q ABOUT 11:00 O'CLOCK?

19 A UH-HUH. (AFFIRMATIVE.)

20 Q IT'S A BIG OPERATION IN THERE. A LITTLE DIFFERENT
21 THAN TUOMEY, ISN'T IT?

22 A YES, SIR.

23 Q DID YOU PARK IN THE PARKING GARAGE DOWN THE STREET?

24 A PARKED IN THE PARKING LOT.

25 Q OKAY. SO IT TOOK YOU A WHILE TO GET UP THERE?

1 A YEAH.

2 Q DID YOU PASS ANY NUMBER OF MEDICAL PERSONNEL ON YOUR

3 WAY?

4 A I ASSUME SO.

5 Q OKAY. YOU PASSED PEOPLE?

6 A YEAH.

7 Q NOT COMMON IN A LARGE HOSPITAL.

8 A NO.

9 Q NOT UNCOMMON. HOW DID YOU FIND OUT IN WHICH ROOM

10 MR. YONSON WAS STAYING?

11 A WE WENT TO THE DESK TO INQUIRE ABOUT HIM. WHICH ROOM

12 HE WAS IN.

13 Q TO THE FRONT DESK?

14 A YES.

15 Q AND DID YOU -- YOU IDENTIFIED YOURSELVES AS

16 INVESTIGATORS?

17 A YES, WE DID.

18 Q AND THEY TOLD YOU HIS ROOM NUMBER?

19 A YES.

20 Q SO YOU WENT UP TO THE ROOM. DO YOU REMEMBER WHICH

21 FLOOR IT WAS ON?

22 A NO, I DON'T RECALL RIGHT OFF.

23 Q DO YOU REMEMBER GETTING IN AN ELEVATOR OR NO?

24 A OH, YEAH.

25 Q WHEN YOU GOT OFF ON THE FLOOR CONTAINING MR. YONSON'S

1 ROOM---

2 A UH-HUH. (AFFIRMATIVE.)

3 Q ---CAN YOU TELL US WHERE YOU PROCEEDED TO FROM THE
4 ELEVATOR?

5 A YEAH, WE WENT TO THE NURSES DESK ON THAT FLOOR.

6 Q OKAY.

7 A AND INQUIRED WHO WAS HIS NURSE.

8 Q AND NURSING STATIONS ARE PRETTY OBVIOUS ON A HOSPITAL
9 FLOOR.

10 A YES, SIR.

11 Q NOT HARD TO FIGURE OUT WHERE THE NURSE'S STATION IS.

12 A RIGHT.

13 Q AND DID YOU AGAIN INQUIRE AS TO WHERE MR. YONSON WAS
14 STAYING?

15 A YES. WE ASKED WHO MR. YONSON'S NURSE WAS. SHE
16 IDENTIFIED HERSELF. TOLD US THE ROOM HE WAS IN. AND I
17 TOLD WHY -- WHO WE WERE. WHY WE WERE THERE. AND I ASKED
18 HER WAS HE ON ANY TYPE OF MEDICATION THAT MIGHT INTERFERE
19 WITH HIM TALKING TO US.

20 Q JUST A MINUTE. WE'RE GETTING A LITTLE AHEAD OF THE
21 NEXT QUESTION HERE. WAS THE NURSE THE FIRST PERSON ASKED
22 OR DID THEY HAVE TO SUMMON THAT NURSE?

23 A THERE WAS APPROXIMATELY 3 NURSES AT THE DESK AT THAT
24 TIME WHEN WE ARRIVED THERE.

25 Q SO SHE WAS AT THE DESK.

- 1 A THAT'S CORRECT.
- 2 Q AND YOU IDENTIFIED YOURSELVES AS INVESTIGATORS.
- 3 A YES.
- 4 Q WITH SLED?
- 5 A UH-HUH. (AFFIRMATIVE.)
- 6 Q AND SHE TOLD YOU -- DID SHE TELL YOU WHAT MEDICATION
- 7 MR. YONSON WAS TAKING?
- 8 A NO, SHE DIDN'T.
- 9 Q SHE DIDN'T TELL YOU?
- 10 A NO, SIR.
- 11 Q WHAT WAS YOUR EXACT QUESTION TO HER?
- 12 A WAS MR. YONSON ON ANY TYPE OF MEDICATION THAT MIGHT
- 13 AFFECT HIS ABILITY TO TALK TO US AND UNDERSTAND WHAT WE
- 14 WERE TALKING ABOUT.
- 15 Q AND DID SHE SIMPLY ANSWER YES OR NO?
- 16 A SHE SAID NO THAT SHE'S GOT HIS CHART CHECKED AND
- 17 CONFIRMED THAT HE WAS ON NOTHING THAT WOULD AFFECT HIM.
- 18 Q BUT SHE DIDN'T ACTUALLY NAME ANY MEDICATIONS HE WAS
- 19 TAKING.
- 20 A NO SHE DIDN'T.
- 21 Q HAVE YOU EVER HAD ANY KIND OF SURGERY, SIR?
- 22 A NO.
- 23 Q NEVER ANY REASON TO HAVE A MORPHINE DRIP?
- 24 A NO.
- 25 Q WERE YOU AWARE AT THE TIME WHEN YOU APPROACHED

1 MR. YONSON'S ROOM AFTER YOU SPOKE WITH THE NURSE, AS TO
2 WHAT HIS INJURIES WERE?

3 A YES, I KNEW HE HAD SOME GUNSHOT WOUNDS.

4 Q GUNSHOT WOUNDS?

5 A UH-HUH. (AFFIRMATIVE.)

6 Q AND IN YOUR LINE OF WORK, ARE GUNSHOT WOUNDS
7 CONSIDERED SERIOUS OR MINOR?

8 A IT DEPENDS ON WHAT PART OF THE BODY IT HIT.

9 Q IF SOMEONE TOLD ME A PERSON HAD A GUNSHOT WOUND AND I
10 CONSIDERED THAT TO BE -- KNOW NOTHING ELSE, TO BE A
11 SERIOUS INJURY. WOULD THAT BE WRONG OF ME?

12 A I GUESS I, I CAN'T ANSWER WHAT YOU MIGHT THINK.

13 Q ALL RIGHT. POINT TAKEN.

14 A OKAY.

15 Q BUT YOU KNEW MR. YONSON HAD BEEN SHOT?

16 A YES. THAT'S WHY WE WENT TO THE DESK TO INQUIRE FROM
17 THE NURSE, WAS HE ABLE TO TALK.

18 Q RIGHT. AND WHEN YOU APPROACHED MR. YONSON DID HE
19 SEEM COHERENT?

20 A YES, HE DID.

21 Q HE WIDE AWAKE, BRIGHT EYED, BUSHY TAIL?

22 A HE WAS WIDE AWAKE.

23 Q DID HE WELCOME YOU INTO HIS ROOM?

24 A YES, WE TOLD HIM WHO WE WERE. HE ACKNOWLEDGED WHO WE
25 WERE.

1 Q DID YOU SEE -- IS THIS A TYPICAL HOSPITAL ROOM?

2 A YEAH, PRETTY MUCH.

3 Q I MEAN, IT'S NOT A ROOM IN YOUR HOUSE?

4 A NO.

5 Q MEDICAL EQUIPMENT ALL AROUND?

6 A YEAH.

7 Q A HOSPITAL BED.

8 A OF COURSE.

9 Q NOW WAS THERE MEDICAL PARAPHERNALIA? AN IV DRIP NEXT
10 TO HIS BED?

11 A I AM NOT SURE.

12 Q SO WOULD IT SURPRISE YOU TO LEARN THAT MR. YONSON WAS
13 TAKING MEDICINE? HE WAS IN THE HOSPITAL?

14 A YES. NO, THERE WASN'T A PROBLEM. SHE SAID HE WAS
15 TAKING MEDICATION BUT SAID THAT THERE WAS NOTHING THAT
16 WOULD AFFECT HIS ABILITY TO UNDERSTAND WHAT WE'RE TALKING
17 ABOUT.

18 Q OKAY. SO IT WOULDN'T SHOCK YOU TO LEARN THAT
19 MR. YONSON WAS TAKING MEDICINE?

20 A AGAIN, THE NURSE AT THE FRONT DESK TOLD US HE WAS ON
21 MEDICATION, BUT NOTHING TO AFFECT HIS ABILITY TO
22 UNDERSTAND US.

23 Q OKAY. WOULD IT SURPRISE YOU TO LEARN THAT
24 MR. YONSON -- WOULD IT SURPRISE YOU IF MR. YONSON
25 INDICATED THAT HE WAS ON MEDICINE AND IT PROHIBITED HIM

1 FROM UNDERSTANDING WHAT YOU HAD TO SAY TO HIM?

2 A HE DID NOT TELL US THAT.

3 Q BUT WOULD IT SURPRISE YOU TO LEARN THAT OBVIOUSLY
4 SOMEONE WHO IS INCAPACITATED WITH MEDICINE, WOULDN'T KNOW
5 THAT HE WAS INCAPACITATED BY MEDICINE?

6 A AGAIN, WE -- I -- WE CAN ONLY GO BY WHAT THE NURSE
7 TOLD US. AND ONCE WE ARRIVED IN HIS ROOM, HE DID NOT
8 INDICATE TO US THAT HE WAS ON ANY TYPE OF MEDICATION THAT
9 WOULD AFFECT HIS ABILITY TO TALK TO US OR UNDERSTAND WHAT
10 WE WERE SAYING.

11 Q WERE ANY FAMILY MEMBERS OR PARENTS OR GUARDIANS
12 PRESENT?

13 A NO, HE WAS AN ADULT. THEY DON'T HAVE TO BE.

14 Q WERE ANY LOVED ONES PRESENT?

15 A NO.

16 Q ANYONE TO LOOK OUT FOR HIS BEST INTEREST?

17 A HE DIDN'T ASK FOR ANYONE.

18 Q WAS ANYONE PRESENT?

19 A NO.

20 Q THANK YOU.

21 A YOU'RE WELCOME.

22 MR. CONNER: THANK YOU, LIEUTENANT ABRAHAM. MAY IT
23 PLEASE THE COURT, CAN WE TAKE A SHORT BREAK AT THIS TIME?

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, PLEASE
25 GO TO THE JURY ROOM. PLEASE DO NOT TALK ABOUT THE CASE?

1 (THEREUPON, THE COURT TAKES A SHORT RECESS.)

2 THE COURT: YOU MAY BRING THE JURY.

3 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
4 PRESENCE OF THE JURY.)

5 THE COURT: MS. KAREN MICHALIK, I AM APPOINTING YOU
6 TO SERVE AS THE FOREPERSON OF THE JURY. IF YOU WILL TAKE
7 THE FIRST SEAT HERE BEING THE FOREPERSON'S SEAT. IN THE
8 FRONT ROW. THE FIRST SEAT. AS THE FOREPERSON OF THE JURY
9 YOU WILL SERVE AS THE SPOKESPERSON FOR THE JURY. AND YOU
10 PRESIDE OVER THE JURY DELIBERATIONS. ALSO COMPLETE THE
11 VERDICT FORM REPRESENTING THE UNANIMOUS VERDICT OF THE
12 JURY. VERY GOOD. YOUR NEXT WITNESS PLEASE.

13 MR. CONNER: MAY IT PLEASE THE COURT, THE COURT
14 REPORTER CALLS TO MY ATTENTION THAT I FAILED TO INTRODUCE,
15 OR MOVE TO INTRODUCE THIS ITEM, STATE'S EXHIBIT NO. 13.
16 OFFICER ABRAHAM TESTIFIED ABOUT THE CONTENTS OF IT. AND I
17 WOULD OFFER IT INTO EVIDENCE AT THIS TIME. I THOUGHT IT
18 WAS IN EVIDENCE. BUT SHE SAYS SHE DIDN'T RECALL.

19 THE COURT: YES, SIR, MR. WILLIAMS.

20 MR. WILLIAMS: YOUR HONOR, MAY WE APPROACH?

21 (THEREUPON, THE ATTORNEYS APPROACH AND CONFER WITH
22 JUDGE.)

23 THE COURT: IT'S ADMITTED OVER OBJECTION.

24 (THEREUPON, WAIVER OF RIGHTS MARKED STATE'S EXHIBIT
25 NO. 13 INTO EVIDENCE.)

1 MR. CONNER: AT THIS TIME, I WOULD CALL STEVEN
2 DERRICK.

3 STEVEN DERRICK, BEING FIRST DULY
4 SWORN, TESTIFIED AS FOLLOWS:

5 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
6 NAME, PLEASE.

7 A STEVEN M. DERRICK. D-E-R-R-I-C-K.

8 DIRECT EXAMINATION BY MR. CONNER:

9 Q AGENT DERRICK, WHERE ARE YOU EMPLOYED?

10 A I'M EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT
11 DIVISION.

12 Q AND IN WHAT CAPACITY?

13 A I AM CURRENTLY WITH THE DEPARTMENT OF VEHICLE LICENSE
14 AND CRIMES UNIT. PRIOR TO THAT I WAS 16 AND A HALF YEARS
15 WITH THE DEPARTMENT OF LATENT PRINTS AND CRIME SCENE.

16 Q AND TELL US ABOUT WHAT YOU DID IN THE LATENT PRINT
17 AND CRIME SCENE AREA.

18 A I WAS A SENIOR EXAMINER IN THAT UNIT. AND THE
19 RESPONSIBILITIES FOR THAT UNIT WERE THE PROCESSING OF
20 RECONSTRUCTION OF CRIME SCENES WHEN REQUESTED BY LAW
21 ENFORCEMENT AGENCIES IN THE STATE OF SOUTH CAROLINA. AND
22 IN ADDITION TO THAT, WE DEALT WITH THE SCIENCE OF
23 FINGERPRINTS. SCIENCE OF TIRE AND FOOTWEAR ANALYSIS AND
24 BLOOD STAIN PATTERN ANALYSIS.

25 Q AND WHEN YOU FIRST BECAME A LAW ENFORCEMENT OFFICER,

1 WHERE DID YOU WORK?

2 A I INITIALLY STARTED WITH THE LEXINGTON COUNTY
3 SHERIFF'S DEPARTMENT WHERE I STARTED UNIFORM PATROL. WENT
4 TO INVESTIGATIONS AND LATER TO THEIR IDENTIFICATION UNIT.
5 I LEFT THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT TO GO TO
6 THE AIKEN COUNTY SHERIFF'S DEPARTMENT TO TAKE OVER THEIR
7 FORENSIC'S UNIT. AND FROM THERE I WAS OFFERED A POSITION
8 WITH THE STATE LAW ENFORCEMENT DIVISION IN THEIR
9 FORENSIC'S LAB IN THE DEPARTMENT OF LATENT PRINT AND CRIME
10 SCENE WHERE I STAYED UNTIL I MOVED OVER TO MY CURRENT
11 POSITION.

12 Q AND WHAT TRAINING HAVE YOU HAD IN THE AREA OF LATENT
13 PRINTS?

14 A IN THE FIELD OF LATENT PRINTS, MY INITIAL CLASS WAS
15 AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY IN THE
16 COURSE OF BASIC FINGERPRINT SCIENCE. FROM THAT ORIGINAL
17 COURSE, I WENT TO THE FBI LATENT PRINT SCHOOL. AND I ALSO
18 ATTENDED THE FBI NATIONAL ACADEMY WHERE I COMPLETED THE
19 ADVANCE COURSE IN THE SCIENCE OF FINGERPRINT. IN ADDITION
20 TO THAT, I HAVE BEEN TO THE NORTH CAROLINA JUSTICE ACADEMY
21 WHERE I HAVE STUDIED PALM PRINT IDENTIFICATION. ALSO I
22 WENT TO TEXAS TECH UNIVERSITY WHERE I STUDIED THE USE OF
23 ALTERNATE LIGHT AND LASERS TO DEVELOP AND ENHANCE LATENT
24 PRINTS.

25 Q AND DID YOU HAVE ANY ON THE JOB EXPERIENCE OR

1 TRAINING IN THIS AREA BEFORE YOU WERE AUTHORIZED TO DO
2 THAT FOR SLED?

3 A ABOUT THE TIME THAT I HAD GONE TO SLED, I HAD
4 ATTENDED A NUMBER OF THESE COURSES. AND HAD BEEN
5 QUALIFIED AS AN EXAMINER THROUGH THE SHERIFF'S DEPARTMENT.
6 AND I MET THE CRITERIA AND STANDARDS THAT SLED SO
7 CERTIFIED AS A LATENT PRINT EXAMINER OR FINGERPRINT
8 EXAMINER FOR SLED.

9 Q AND HAVE YOU TESTIFIED IN SOUTH CAROLINA COURTS IN
10 REGARDS TO IDENTIFICATION OF FINGERPRINTS?

11 A YES, SIR, I HAVE.

12 Q AND NOW TELL US ABOUT THE CRIME SCENE AREA. WHAT,
13 DID YOU HAVE SOME SPECIAL TRAINING IN THAT AREA ALSO?

14 A YES, SIR. DURING THE COURSE OF MY CAREER, I HAVE
15 ATTENDED A NUMBER OF COURSES THAT DEALT WITH THE
16 PHOTOGRAPHING OF DOCUMENTATION OF CRIME SCENES, POLICE
17 PHOTOGRAPHY. I ATTENDED NUMEROUS POLICE COURSES IN
18 DEALING WITH THE AREAS OF EVIDENCE COLLECTION AND
19 PRESERVATION. I'VE ALSO HAD THE OPPORTUNITY TO ATTEND
20 SOME SPECIALIZED SCHOOLS AS THE SOUTHERN POLICE INSTITUTE,
21 HOMICIDE INVESTIGATIONS SCHOOL, COMPREHENSIVE DEATH
22 INVESTIGATION SCHOOLS SPONSORED BY THE GOVERNOR'S OFFICE
23 OF THE STATE OF SOUTH CAROLINA. AND THE MEDICAL
24 UNIVERSITY OF SOUTH CAROLINA.

25 I'VE ALSO ATTENDED COURSES IN BLOOD STAIN PATTERN

1 ANALYSIS AND IN CRIME SCENE RECONSTRUCTION. IN ADDITION
2 TO THE FORMAL TRAINING THAT I HAVE HAD, I'M ALSO A MEMBER
3 OF THE INTERNATIONAL ASSOCIATION FOR IDENTIFICATION, WHICH
4 FURNISHES ME BIMONTHLY PRINTED UP MATERIAL IN THE VARIOUS
5 FIELDS THAT I PREVIOUSLY SPOKE OF. I HAVE BEEN AND STILL
6 AM A MEMBER OF THE STATE CHAPTER OF THE INTERNAL
7 ASSOCIATION FOR IDENTIFICATION WHERE WE DO QUARTERLY
8 TRAINING PROGRAMS THROUGH THE INTERNATIONAL BODY AND THE
9 INTERNATIONAL ASSOCIATION. I MET THE CRITERIA AND AM SO
10 CERTIFIED BY THEM AS A SENIOR CRIME SCENE ANALYST.
11 THROUGH THE STATE CHAPTER OF THE IAI, I CURRENTLY SERVE
12 AS THE CHAIRMAN FOR CRIME SCENE CERTIFICATION COMMITTEE
13 AND REPRESENTATIVE TO THE INTERNATIONAL BODY.

14 Q AND DO YOU TESTIFY IN SOUTH CAROLINA COURTS IN
15 MATTERS INVOLVING CRIME SCENES?

16 A YES, I HAVE.

17 Q AND DID YOU COME TO SUMTER COUNTY BACK ON SEPTEMBER
18 11, 2005, AND BECOME INVOLVED IN THE INVESTIGATION HERE IN
19 THIS CASE THAT WE ARE TRYING TODAY?

20 A YES, SIR, I DID.

21 Q WHEN DID YOU ARRIVE, AND WHAT DID YOU DO WHEN YOU
22 GOT THERE?

23 A MYSELF ALONG WITH ANOTHER EXAMINER, AL STUCKY,
24 RECEIVED THE INITIAL CALL TO RESPOND TO SUMTER COUNTY.
25 AGENT STUCKY ARRIVED ABOUT 20, 25 MINUTES BEFORE I DID.

1 HE HAD A SHORTER RUN THAN I DID. MY ARRIVAL TIME WAS
2 APPROXIMATELY 4:45 IN THE MORNING.

3 Q AND WHAT DID YOU FIND THE SITUATION TO BE, AND WHAT
4 DID YOU DO AT THE TIME YOU GOT HERE?

5 A UPON MY ARRIVAL TO THE SCENE, I MET WITH AGENT STUCKY
6 WHO HAD ALREADY BEEN BRIEFED BY THE LOCAL SHERIFF
7 DEPARTMENT WHO WAS ON THE SCENE. THE PARKING LOT OF THIS
8 CLUB AREA HAD BEEN SECURED WITH BANNER TAPE. AND THERE
9 WERE UNIFORMED PATROL OFFICERS SECURING THE SCENE AREA. I
10 WAS INFORMED THAT ALL THE PARTIES INVOLVED IN THE SHOOTING
11 HAD ALREADY BEEN TRANSPORTED BY EMS. AND THE SCENE HAD
12 BEEN PRESERVED FOR US TO DOCUMENT AND COLLECT EVIDENCE.

13 Q DID YOU TAKE A SERIES OF PHOTOGRAPHS THERE?

14 A MYSELF AND AGENT STUCKY TOGETHER TOOK THE
15 PHOTOGRAPHS, YES, SIR.

16 Q AND I WANT TO SHOW YOU THIS STACK OF PHOTOGRAPHS
17 MARKED STATE'S NO. 11-A THROUGH 11-T IN SEQUENCE. IF YOU
18 WOULD, IF YOU CAN IDENTIFY THOSE.

19 A YES, SIR, I CAN. EACH AND EVERY ONE OF THESE.

20 Q ARE THOSE SOME OF THE -- DO THOSE PHOTOGRAPHS FAIRLY
21 AND ACCURATELY DEPICT THE SCENE AS YOU AND AGENT STUCKY
22 SAW IT THAT MORNING?

23 A THAT'S CORRECT, SIR.

24 Q THAT WAS SOME 4:00 A.M. OR LATER?

25 A THAT'S CORRECT, SIR.

1 MR. CONNER: YOUR HONOR, WE WOULD MOVE THESE
2 PHOTOGRAPHS INTO EVIDENCE AT THIS TIME.

3 THE COURT: WHAT SAYS THE DEFENSE?

4 MR. WILLIAMS: WITHOUT OBJECTION, YOUR HONOR.

5 THE COURT: THEY ARE ADMITTED.

6 MR. CONNER: AND WE WOULD REQUEST PERMISSION TO
7 PUBLISH THEM.

8 THE COURT: YOU CAN.

9 (PHOTOGRAPHS MARKED STATE'S EXHIBIT NO 11-A THROUGH
10 11-T INTO EVIDENCE.)

11 Q AGENT DERRICK, IF WOULD, MOVE DOWN HERE TO THE SIDE
12 OF THE TELEVISION AND USE ONE OF THESE POINTERS TO MAKE
13 ANY COMMENT THAT YOU WOULD MAKE IN REGARDS TO THESE
14 PHOTOGRAPHS. AND IF YOU IDENTIFY EACH ONE OF THEM FOR US.

15 A MAY I STEP DOWN, YOUR HONOR?

16 THE COURT: YES, SIR.

17 Q THIS IS STATE'S EXHIBIT 11-A.

18 A STATE'S EXHIBIT 11, IS WHAT IS CALLED A COMMONLY
19 REFERRED TO AS THE GENERAL OVERALL PHOTOGRAPH. IT WAS A
20 PHOTOGRAPH TAKEN OF THE PARKING LOT AREA. WHICH SHOWS THE
21 TWO POLICE CRUISERS AND THE POSITION THEY WERE IN. AND
22 AFTER WE ARRIVED, THE BAR THAT'S IN THE BACKGROUND.
23 ANOTHER BUILDING AND A LIGHT POLE, WHICH IS REPRESENTED
24 HERE, WHICH IS IN FRONT OF THIS IMMEDIATE AREA IS WHERE
25 THE BULK OF THE EVIDENCE WAS RECOVERED. THIS IS MORE OF

1 MID RANGE PHOTOGRAPH. IT IS BEGINNING TO ISOLATE THE AREA
2 WHERE THE EVIDENCE WAS LOCATED. AND THE ITEMS THAT WERE
3 ON THE GROUND. AND IT IS REPRESENTING TWO VEHICLES IN THE
4 PARKING LOT USING AS A REFERENCE POINT HERE.

5 Q THIS IS 11-C.

6 A IN THIS PHOTOGRAPH, A PHOTOGRAPH OF THE SAME AREA.
7 IT WAS JUST TAKEN FROM A DIFFERENT ANGLE. A PRIOR
8 PHOTOGRAPH WAS TAKEN FROM BEHIND THIS RED VEHICLE. DOWN
9 WITH WHERE THE BAR WAS, DOCUMENTING THE SAME AREA AROUND
10 WHERE THE LIGHT POLE IS.

11 Q THIS IS 11-D?

12 A AGAIN A PHOTOGRAPH, WE MOVED SOMEWHAT FURTHER IN OUR
13 INVESTIGATION. THE FIRST PHOTOGRAPH SHOWED THE ITEMS ON
14 THE GROUND. WE HAVE NOW COME IN AND PUT MARKINGS TO
15 IDENTIFY THE VARIOUS ITEMS LEFT ON THE GROUND; SUCH AS,
16 THE CLOTHING AND SHELL CASINGS. WHAT WAS COLLECTED BY
17 MYSELF AND THE OTHER EXAMINER.

18 Q OKAY. CAN YOU SEE THE MARKER IN THAT PHOTOGRAPH?

19 A MAKER A IS RIGHT THERE.

20 Q AND WHAT SPECIFIC ITEMS IS MARKED A MARKER?

21 A MARKER NO. A WAS A 40 CALIBER CARTRIDGE CASING.

22 Q WOULD THAT BE THE TYPE OF CARTRIDGE CASING THAT WAS
23 FIRED BY MR. BOLAND'S 40 CALIBER GLOCK?

24 A YES, SIR.

25 Q AND HOW ABOUT THIS B? CAN YOU SEE B IN THAT

1 PHOTOGRAPH?

2 A I BELIEVE B IS BACK HERE NEXT TO THE FENCE.

3 Q AND WOULD THAT BE, WHAT ITEM WOULD THAT BE?

4 A THAT ALSO WAS A 40 CALIBER CARTRIDGE CASING.

5 Q I SHOW YOU NEXT 11 E.

6 A IN THIS PHOTOGRAPH AGAIN, JUST A OR CLOSE UP SHOWING
7 THE VEST, BELT AND OTHER ITEMS ON THE GROUND.

8 Q WOULD THAT BE THE TYPE OF VEST THAT WOULD BE WORN BY
9 THE POLICE OFFICER?

10 A YES, SIR.

11 Q AND I SHOW YOU NEXT 11 F.

12 A 11 F IS A CLOSE UP PHOTOGRAPH OF A RED BALL CAP THAT
13 WAS ON THE GROUND.

14 Q ELEVEN G?

15 A CLOSE UP PHOTOGRAPH OF A BELT.

16 Q ELEVEN H?

17 A CLOSE UP PHOTOGRAPH OF MARKER NO. A AND THE SHELL
18 CASING, WHICH I BELIEVE WAS IN THE GRASS RIGHT IN THERE.

19 Q AND 11 I?

20 A A CLOSE UP PHOTOGRAPH OF MARKING NO. B AND SHELL
21 CASING.

22 Q ELEVEN J?

23 A CLOSE UP PHOTOGRAPH OF THE BULLET PROOF VEST.

24 Q ELEVEN K?

25 A CLOSE UP PHOTOGRAPH OF MARKER NO. F. AND I BELIEVE

1 THAT WAS A CAR KEY.

2 Q ELEVEN L.

3 A CLOSE UP PHOTOGRAPH OF A GLOVE.

4 Q ELEVEN M.

5 A ELEVEN M IS A PHOTOGRAPH OF A 40 CALIBER SHELL
6 CASING. THIS ONE WAS NOT FOUND IN THE INITIAL SEARCH
7 MARKERS THAT NIGHT. WE ACTUALLY HAD TO WAIT UNTIL
8 DAYLIGHT TO SIFT THROUGH THE SAND. THIS HAD GOTTEN BURIED
9 UP UNDER THE SAND. IN CONNECTION TO WHERE THE LIGHT POLE
10 WAS. AND IT WAS LOCATED AFTER DAYLIGHT. AND AFTER ALL
11 THE OTHER ITEMS HAD BEEN COLLECTED. THAT'S WHY IT DIDN'T
12 HAVE A MARKER.

13 Q THESE CARTRIDGES CASES ARE THEY EASILY FOUND AT A
14 CRIME SCENE?

15 A NOT FROM THE OUTDOOR SCENE, NO, SIR.

16 Q WELL WHAT FACTORS GO IN TO MAKING THEM DIFFICULT TO
17 FIND?

18 A IN THE OUTDOOR SCENES, SPECIALLY HERE, WE HAVE SOFT
19 SANDY SURFACE. WE HAVE GRASS, SOME OF WHICH WAS TALL.
20 SOME OF WHICH HAD BEEN CUT. ESPECIALLY IN THE SOFT SANDY
21 AREAS, THE SHELL CASING NOT ONLY HID IN THE GRASS AFTER IT
22 HAS BEEN FIRED AND EJECTED, BUT IF IT GETS STEPPED ON IT
23 GETS RUN DOWN INTO THE SAND OR IN THE SOIL AND IT MAKES
24 THEM DIFFICULT TO FIND. SOMETIMES WE FIND THEM ALL.
25 SOMETIMES WE DO NOT FIND THEM ALL BASED ON THE

1 CIRCUMSTANCES. IN ADDITION TO THAT, THERE HAVE BEEN CASES
2 WHERE SHELL CASINGS HAVE BEEN ON THE GROUND, AND ACTUALLY
3 BEEN CAUGHT UP AND THEN MOVED OUT SO THAT THE EMS WORKER
4 OR ANOTHER EMPLOYEE BEING THE SCENE, AND RELOCATED FURTHER
5 AWAY FROM WHERE THEY INITIALLY WERE.

6 Q I SHOW YOU NEXT 11 E.

7 A IN THIS PHOTOGRAPH WE GO BACK TO THE NIGHTTIME IN
8 SHOWING THE AREA. I BELIEVE THE MARKER WAS THERE. THE
9 RED BALL CAP. ALSO DEPICTED IN HERE IS A PAIR OF BLUE
10 JEANS WITH A BLOOD STAIN THAT HAD BEEN CUT OFF FROM THE
11 INDIVIDUAL.

12 Q AND THIS 11-O.

13 A THIS IS A CLOSE UP OF THE BLUE JEANS. AND THAT JUST
14 SHOWS THAT.

15 Q THIS IS 11 P.

16 A OKAY, THIS IS A CLOSE UP PHOTOGRAPH OF THE POCKET
17 AREA OF THE BLUE JEANS. WHILE SEARCHING THE BLUE JEANS A
18 SMALL CALIBER SEMIAUTOMATIC WAS FOUND IN THE POCKET. THE
19 HANDLE OF WEAPON WAS REMOVED, INDICATING WHICH POCKET IT
20 WAS IN. AND DOCUMENTED IN THIS PHOTOGRAPH.

21 Q YOU FOUND THAT PISTOL YOURSELF IN THOSE TROUSERS?

22 A YES, SIR. AT THE SCENE BEFORE WE LEFT.

23 Q I SHOW YOU HERE 11 Q.

24 A ELEVEN Q IS A PHOTOGRAPH SHOWING THE WEAPON AFTER IT
25 HAS BEEN REMOVED FROM THE PANTS POCKET INDICATING THE

1 BRAND, AND THREE UNFIRED BULLETS REMOVED FROM THE WEAPON.

2 Q ELEVEN R.

3 A ELEVEN R IS PHOTO DOCUMENTATION OF THE OTHER ITEMS
4 REMOVED FROM THE PANTS POCKET.

5 Q IN THAT PICTURE IS THERE A DRIVER'S LICENSE?

6 A THERE IS A CORNER OF IT.

7 Q AND I SHOW YOU HERE THIS ONE, 11 S.

8 A ANOTHER PHOTOGRAPH OF A DRIVER'S LICENSE REMOVED FROM
9 THE PANTS POCKET.

10 Q CAN YOU SEE IF THE DATE OF BIRTH IS ON THAT DRIVER'S
11 LICENSE?

12 A YES, SIR. I BELIEVE IT IS [REDACTED]. IT'S EITHER 83
13 OR 85. I CAN'T TELL ON THE SCREEN.

14 Q I SHOW YOU NEXT ELEVEN T.

15 A AGAIN, JUST ANOTHER PHOTOGRAPH OF ITEMS REMOVED FROM
16 THE POCKET.

17 Q OKAY. HAVE A SEAT.

18 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

19 Q NOW, MR. DERRICK, I AM GOING TO ASK YOU ABOUT SOME
20 VARIOUS DIFFERENT ITEMS HERE.

21 Q THIS HAS BEEN INTRODUCED AS STATE'S EXHIBIT NO. 1.
22 THAT PACKAGE WE RECEIVED FROM YOU, I BELIEVE.

23 A THE PACKAGE IS ACTUALLY BY THE FIREARM'S EXAMINER,
24 BUT I CAN IDENTIFY THE WEAPON.

25 Q OKAY. YOU CAN YOU IDENTIFY THE WEAPON?

1 A I CAN IDENTIFY THE WEAPON BY SERIAL NUMBER. AND ALSO
2 BY THE ENGRAVED SLED LABORATORY CASE NUMBER.

3 Q AND WHAT KIND OF WEAPON IT IS?

4 A IT'S A HIGH POINT 9 MILLIMETER PISTOL.

5 Q AND IS THE PISTOL THAT YOU RECEIVED FROM SERGEANT
6 DUKES AT THE SCENE OF THE CRIME AS BEING THE WEAPON THAT
7 HE BELIEVED WAS MR. YONSON'S WEAPON?

8 A THAT IS CORRECT, SIR.

9 Q AND DID YOU ALSO, YOU CAN LAY THAT ASIDE FOR THE TIME
10 BEING. DID THE WEAPON CONTAIN UNFIRED BULLETS IN IT?

11 A YES, SIR, IT DID.

12 Q AND HOW MANY UNFIRED BULLETS WERE THERE?

13 A THE WEAPON CONTAINED A MAGAZINE WITH SEVEN UNFIRED
14 ROUNDS.

15 Q NOW DID YOU ALSO RECEIVE A GLOCK CALIBER 40 PISTOL
16 BEARING SERIAL NUMBER BZN 872 THAT WAS GIVEN TO YOU BY
17 SERGEANT DUKES?

18 A YES, SIR, I DID.

19 Q AND IT WAS IDENTIFIED AS THE WEAPON OF WHAT OFFICER?

20 A IT WAS NOT IDENTIFIED TO ME IN MY CHAIN OF CUSTODY OF
21 WHICH OFFICER.

22 Q AND SLED ITEM NO. 3 A GLOCK CALIBER 40 BELONGING TO
23 OFFICER BOLAND, WAS THAT GIVEN TO YOU?

24 A YES, SIR.

25 Q AND THAT WAS GIVEN TO YOU BY SERGEANT DUKES ALSO?

1 A THAT'S CORRECT, SIR.

2 Q AND DID YOU ALSO SEE MR. WILLIAMS' GLOCK 40 WEAPON,
3 OR GLOCK 40 CALIBER MODEL 22 PISTOL?

4 A YES, SIR, I DID.

5 Q AND DID IT HAVE UNFIRED ROUNDS?

6 A YES, SIR, IT HAD 16 UNFIRED ROUNDS.

7 Q AND WOULD 16 BE A FULL LOAD?

8 A THAT WOULD BE MAXIMUM CAPACITY.

9 Q NOW THE SLED ITEM NO. 2, WHICH WAS BOLAND'S MODEL 22
10 GLOCK, DID IT HAVE AN UNFIRED ROUND IN IT?

11 A YES, SIR, I DID.

12 Q HOW MANY UNFIRED ROUNDS DID IT HAVE?

13 A THERE WERE 13 UNFIRED ROUNDS COLLECTED WITH THE
14 WEAPON.

15 Q AND IT WOULD HAVE COME WITH 16 IF IT WAS -- IF IT
16 HADN'T BEEN FIRED?

17 A THAT'S CORRECT.

18 Q FULLY LOADED?

19 A THAT'S CORRECT, SIR.

20 Q NOW DID YOU FIND, YOU'VE ALREADY TOLD US THIS. THAT
21 YOU FOUND SOME 40 CALIBER CARTRIDGE CASES THERE. AND DID
22 YOU COLLECT THOSE CARTRIDGE CASES AND TAKE THEM WITH YOU
23 TO SLED WHEN YOU LEFT?

24 A YES, SIR, I DID.

25 Q I AM GOING TO SHOW YOU FIVE, SIX AND EIGHT. STATE'S

1 EXHIBIT NO. 5, SIX, AND EIGHT. AND ASK IF YOU CAN
2 IDENTIFY THESE.

3 A YES, SIR, I CAN.

4 Q STARTING WITH NO. 5, WHAT MARKER IN THOSE PHOTOGRAPHS
5 MARKED THAT PICTURE, THAT PARTICULAR CARTRIDGE CASING?

6 A STATE'S EXHIBIT NO. 5 WOULD HAVE BEEN THE 40 CALIBER
7 CARTRIDGE CASE COLLECTED FROM MARKER A.

8 Q AND STATE'S EXHIBIT NO. 6? WHICH CARTRIDGE CASE?

9 A STATE'S EXHIBIT NO. 6, WOULD BE A 40 CALIBER
10 CARTRIDGE CASE MARKER B.

11 Q AND NO. 8, STATE'S EXHIBIT NO. 8?

12 A STATE'S EXHIBIT NO. 8 WAS THE 40 CALIBER CARTRIDGE
13 CASE BY THE POLE THAT DID NOT HAVE A MARKER.

14 Q IS THAT ONE THAT WAS DIFFICULT TO FIND THAT HAD BEEN
15 BURIED IN THE SAND?

16 A THAT'S CORRECT, SIR.

17 Q NOW DID YOU TAKE CUSTODY OF THOSE YOURSELF AND TAKE
18 THEM BACK TO SLED?

19 A YES, SIR, I DID.

20 Q AND WERE THEY FURTHER EXAMINED THERE?

21 A YES, SIR. THEY WERE TRANSFERRED OVER TO THE
22 FIREARM'S DEPARTMENT.

23 Q NOW HOW ABOUT THIS ONE, STATE'S EXHIBIT NO. 7?

24 A STATE'S EXHIBIT NO. 7, IS A 380 AUTO CARTRIDGE CASE
25 THAT I COLLECTED FROM THE SCENE THAT NIGHT.

1 Q AND THIS 380 CARTRIDGE CASING CAN IT BE FIRED IN ANY
2 WEAPON OTHER THAN A 380?

3 A IT IS MY UNDERSTANDING IT CAN BE FIRED IN A
4 9-MILLIMETER.

5 Q IN FACT, IN THIS BAG WITH THE STATE'S EXHIBIT NO. 1,
6 THERE ARE OTHER BULLETS, IS THAT CORRECT?

7 A THAT'S CORRECT, SIR.

8 MR. WILLIAMS: YOUR HONOR, I HAVE TO OBJECT AT THIS
9 POINT. HAS MR. DERRICK BEEN QUALIFIED AS A FIREARM'S
10 EXPERT?

11 THE COURT: SIR?

12 MR. WILLIAMS: HAS MR. DERRICK BEEN QUALIFIED AS A
13 FIREARMS EXPERT?

14 MR. CONNER: INsofar AS I'M AWARE, HE IS NOT A
15 FIREARM'S EXPERT.

16 MR. WILLIAMS: OKAY. WOULD HIS TESTIMONY AS
17 REGARDING---

18 THE COURT: MR. WILLIAMS, DO YOU HAVE A QUESTION OR
19 DO YOU HAVE AN OBJECTION TO ONE OF THE STATEMENTS?

20 MR. WILLIAMS: I HAVE AN OBJECTION TO THE STATE'S
21 QUESTION REGARDING WHETHER A 380 CAN FIRED FROM A 9
22 MILLIMETER.

23 THE COURT: MR. SOLICITOR.

24 Q DO YOU KNOW OF YOUR OWN KNOWLEDGE WHETHER A 380 CAN
25 BE FIRED IN A 9 MILLIMETER?

1 A OF MY OWN KNOWLEDGE, NO, SIR. I'VE ONLY RECEIVED
2 INFORMATION FROM FIREARMS' EXAMINERS.

3 THE COURT: YOUR OBJECTION IS SUSTAINED.

4 Q THE OTHER ROUNDS THAT APPEAR IN THIS STATE'S EXHIBIT
5 NO. 1 THAT WOULD BE IN THIS BAG HERE ALONG WITH THIS
6 WEAPON WOULD HAVE BEEN REMOVED FROM THE BAG. THE OTHER
7 ROUNDS IN HERE, ARE THEY ALL ALSO 380 CALIBER?

8 A YES, SIR. EACH ONE OF THOSE BULLETS WAS HEAD
9 STAMPED 380.

10 Q AND WERE THEY ALL LOADED IN THE MAGAZINE OF THIS
11 WEAPON STATE'S EXHIBIT NO. 1?

12 A YES, SIR.

13 MR. CONNER: YOUR HONOR, WE WOULD OFFER ALL OF THESE
14 ITEMS INTO EVIDENCE AT THIS TIME.

15 THE COURT: WHAT SAYS THE DEFENSE?

16 MR. WILLIAMS: NO OBJECTION, YOUR HONOR.

17 THE COURT: THEY'RE ALL ADMITTED.

18 MR. CONNER: THAT'S FOR THE COURT REPORTER'S
19 PURPOSES THAT'S STATE'S NO. 5, STATE'S NO. 6, STATE'S NO.
20 7 AND STATE'S NO. 8.

21 (CARTRIDGE CASES MARKED STATE'S EXHIBIT NOS. 5, 6, 7
22 AND 8 INTO EVIDENCE.)

23 Q NOW I SHOW YOU THIS ITEM WHICH IS MARK STATE'S
24 EXHIBIT NO. 9, AND ASK YOU TO EXAMINE THAT AND SEE IF YOU
25 CAN IDENTIFY IT.

1 A YES, SIR, I CAN. THIS IS THE WEAPON THAT WAS REMOVED
2 FROM THE PANT'S POCKET THAT WAS REPRESENTED IN THE
3 PHOTOGRAPHS.

4 Q WHAT KIND OF WEAPON IS THAT?

5 A THIS IS A 25 AUTOMATIC PISTOL.

6 Q AND DID IT HAVE ROUNDS IN IT?

7 A YES, SIR. PACKAGED WITH THE PISTOL ARE THE THREE
8 ROUNDS THAT WAS WITH THE PISTOL THAT WERE DOCUMENTED IN
9 THE PHOTOGRAPH.

10 Q SO THAT'S THE LITTLE PISTOL THAT WAS IN THE POCKETS
11 THERE ON THE GROUND?

12 A THAT'S CORRECT, SIR.

13 MR. CONNER: YOUR HONOR, WE WOULD OFFER THAT ITEM
14 INTO EVIDENCE AT THIS TIME.

15 MR. WILLIAMS: WITHOUT OBJECTION.

16 THE COURT: IT'S ADMITTED WITHOUT OBJECTION.

17 MR. CONNER: THAT IS STATE'S EXHIBIT NO. 9.

18 (25 CALIBER PISTOL MARKED STATE'S EXHIBIT NO. 9 INTO
19 EVIDENCE.)

20 Q I SHOW YOU THIS BAG AND ASK IF YOU CAN IDENTIFY THESE
21 ITEMS.

22 A NO, SIR, I CANNOT IDENTIFY THESE ITEMS. BASED ON THE
23 INITIALS THEY HAVE BEEN THE FIREARM'S EXAMINERS ITEMS.

24 Q OKAY. DID YOU DO ANY EXAMINATION OF THESE ITEMS
25 YOURSELF, OR DID THE FIREARM'S DO ALL THESE EXAMINATIONS?

1 A BEFORE TRANSFERRING THE HIGH POINT 9 MILLIMETER
2 PISTOL TO THE FIREARM'S DEPARTMENT, I PROCESSED THAT
3 PISTOL MAGAZINE AND THE SEVEN UNFIRED 380 ROUNDS FOR
4 LATENT PRINTS.

5 Q DID YOU FIND ANYTHING?

6 A THERE IS NO RIDGE DETAIL THAT WAS OF VALUE FOR
7 IDENTIFICATION OR ELIMINATION DEVELOPED ON ANY OF THE --
8 EITHER THE PISTOL, THE MAGAZINE OR THE ROUNDS.

9 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE LAWYER
10 MIGHT HAVE FOR YOU PLEASE.

11 A YES, SIR.

12 THE COURT: MR. WILLIAMS.

13 MR. WILLIAMS: THANK YOU, YOUR HONOR.

14 CROSS EXAMINATION BY MR. WILLIAMS:

15 Q GOOD AFTERNOON, MR. DERRICK.

16 A GOOD AFTERNOON, SIR.

17 Q YOUR ROLE IN THIS CASE IS THAT YOU INVESTIGATED THE
18 CRIME SCENE?

19 A THAT'S CORRECT, SIR.

20 Q CSI.

21 A YES, SIR.

22 Q WE WILL START BACK IN THE BACK AND GO BACKWARDS, YOU
23 TESTIFIED THAT THERE ARE NO PRINTS ON THE 9 MILLIMETER?

24 A NO PRINTS OF VALUE. I CAN'T IDENTIFY OR ELIMINATE TO
25 ANYBODY.

1 Q I WAS GOING TO SAY, CAN YOU EXPLAIN THAT TO US?

2 A WELL WHAT IT WAS IS, THERE WERE SOME AREAS OF WHAT IS
3 CALLED FRAGMENTED RIDGE DETAIL. WHICH WITHIN THAT DETAIL
4 DOES NOT CONTAIN CHARACTERISTICS THAT ARE OF QUALITY THAT
5 WOULD BE SUITABLE, THAT COULD BE COMPARTED TO A KNOWN INK
6 STANDARD THAT COULD IDENTIFY OR ELIMINATE ANYONE.

7 Q SO IT WOULD BE IMPOSSIBLE TO MATCH ANY FINGERPRINTS
8 ON THAT GUN TO ANYONE ELSE?

9 A THAT'S CORRECT.

10 Q DID YOU PERFORM A SIMILAR ANALYSIS ON THE SMALLER
11 GUN, THE 25 CALIBER GUN?

12 A NO, SIR, I DID NOT.

13 Q WHY NOT?

14 A THAT GUN WAS PRETTY WELL COVERED WITH BLOOD.

15 Q AND JUST BLOOD. DOES BLOOD PROHIBIT PRINTS FROM
16 BEING FORMED?

17 A WELL WHAT HAPPENS IS, WHEN A LATENT PRINT IS LIFTED
18 ON THE SURFACE, WITHIN THAT LATENT PRINT, WELL LET'S BACK
19 UP. ON YOUR FINGERS AND ON YOUR HANDS IS A SERIES OF
20 RIDGES AND FURROWS. AND ON THE TOP OF THE RIDGE IS VERY
21 TINY POOR OPENINGS THAT ARE CONSTANTLY SECRETING MOISTURE
22 AND OTHER GREASES AND OILS. AND IT BUILDS UP ON THE
23 RIDGES AND OUTLINES THE PRINT DETAIL. THE MAJORITY OF
24 THIS IS MOISTURE. SO WHEN I TOUCH AN ITEM THAT IS
25 MOISTURE, THEN GREASES AND OILS HAVE A RANDOM CHANCE OF

1 BEING TRANSFERRED TO ANOTHER SURFACE. BECAUSE THEY ARE
2 MOISTURE WHEN MIXED WITH A LIQUID; SUCH AS, BLOOD OR
3 OTHER WATER, THESE, THIS OUTLINE RIDGE DETAIL WILL BECOME
4 DISTORTED. AND BECAUSE OF VOLUME OF THE BLOOD AND THE
5 FACT THAT THE ITEM HAD BEEN IN A CLOTH ENVIRONMENT, WHICH
6 CAUSED US TO WIPE THE SURFACE AS WE WERE REMOVING IT FROM
7 THE POCKET, THE ITEM WAS NOT PROCESSED FOR LATENT PRINTS.

8 Q SO IS IT POSSIBLE THAT PRINTS WERE ON THE GUN
9 UNDERNEATH THE BLOOD, OR IS IT IMPOSSIBLE?

10 A IT IS POSSIBLE BUT NO PROBABLE.

11 Q AND BUT YOU DIDN'T TEST IT EITHER WAY.

12 A NO, SIR.

13 Q YOU SAID THAT, I'M JUMPING BACK TO THE OTHER WEAPON
14 NOW. THE 9 MILLIMETER.

15 A YES, SIR.

16 Q YOU SAID THAT -- HAVE YOU GOT IT OVER THERE?

17 A YES.

18 Q WHAT IS THE IMPACT OF THIS GUN, BULLET WISE?

19 A I DON'T KNOW SPECIFICALLY.

20 Q YOU DON'T KNOW.

21 A NO, SIR.

22 Q HOW MANY BULLETS WERE FOUND IT IN?

23 A SEVEN UNFIRED 380 AUTOS.

24 Q SEVEN. SO TO YOUR KNOWLEDGE, DO YOU KNOW ABOUT HOW
25 MANY BULLETS COULD HAVE BEEN STORED IN A GUN?

1 A NO, SIR. I AM NOT UNFAMILIAR WITH THE HIGH POINTS.

2 Q HIGH POINTS. WOULD IT SURPRISE YOU TO LEARN THAT
3 IT'S A SEVEN PLUS ONE? SEVEN IN THE CLIP AND ONE IN THE
4 CHAMBER?

5 A I WOULD DEFER TO THE FIREARM'S EXAMINER, BECAUSE
6 THESE WERE 380 BULLETS IN THE GUN WHICH ARE SMALLER THAN
7 9 MILLIMETERS.

8 Q BUT AT THE SCENE YOU ONLY FOUND 380 CASINGS?

9 A THAT'S CORRECT.

10 Q LET'S GO BACK TO WHEN YOU ARRIVED AT THE SCENE. DID
11 YOU DO ANYTHING TO ESTABLISH A GRID AT THE SCENE?

12 A YOU'RE TALKING ABOUT A GRID SEARCH, NO, SIR.

13 Q YOU DIDN'T?

14 A NO.

15 Q SO WE'RE OBVIOUSLY, WE'RE FAMILIAR THAT BULLETS ARE
16 VERY SMALL.

17 A YES, SIR.

18 Q THE SHELL CASINGS? EXCUSE ME.

19 A THAT'S CORRECT.

20 Q AND THIS WAS A -- HOW BIG AN AREA YOU THINK YOU'RE
21 SEARCHING HERE?

22 A NOT A VERY LARGE AREA.

23 Q HAVE YOU GOT THE PICTURES?

24 A I WOULD SAY ROUGHLY A 40 FOOT BY 15 FOOT AREA. THAT
25 WOULD BE BETWEEN THE CARS AND BETWEEN THE TWO BUILDINGS.

1 Q AS REPRESENTED IN THE PHOTOGRAPHS.

2 MR. WILLIAMS: CAN I APPROACH, YOUR HONOR?

3 THE COURT: YES.

4 Q THIS IS 11 E.

5 A YES, SIR.

6 Q DOES THIS HELP DESCRIBE THE AREA?

7 A IT'S A GENERAL OVERALL PHOTOGRAPH. YES, SIR.

8 Q IS THIS THE SAME SIDE?

9 A YES, SIR. THE SAME AREA, DIFFERENT ANGLE.

10 Q THE SAME.

11 A THAT'S CORRECT, SIR.

12 Q YOU SAID 40 BY 15?

13 A YES, SIR.

14 Q AND 40 FEET BY 15 FEET?

15 A YES, SIR.

16 Q SO THAT'S 600 SQUARE FEET?

17 A SOMEWHERE ALONG THERE.

18 Q I DON'T THINK MAKE ME GO BACKWARDS HERE. TELL ME IF

19 I'M WRONG OR RIGHT. IT WON'T EMBARRASS ME. 600 SQUARE

20 FEET, AND A BULLET, A SHELL CASING, DO YOU HAVE THE

21 CASINGS UP HERE? DO YOU HAVE THOSE?

22 A YES, SIR. RIGHT HERE.

23 Q CAN YOU ESTIMATE THE SIZE OF THIS SHELL CASING?

24 A WHAT ARE YOU TALKING ABOUT LENGTH OR WIDTH?

25 Q LENGTH.

1 A THIS SHELL CASING IS APPROXIMATELY 3 QUARTERS OF AN
2 INCH LONG.

3 Q SO LESS THAN AN INCH OUT OF 600 SQUARE FEET?

4 A THAT'S CORRECT.

5 Q 600 SQUARE FEET IS ABOUT A ONE BETTER MARKER, I
6 BELIEVE.

7 A APPROXIMATELY.

8 Q SO SOMEWHAT SORT OF A NEEDLE IN A HAYSTACK, ISN'T IT?

9 A YES, SIR, THEY ALWAYS ARE.

10 Q DO YOU EVER USE A GRID TO SEARCH SUCH A LARGE SCENE
11 FOR SUCH A SMALL OBJECT?

12 A IN THIS PARTICULAR SCENE, WHAT THE ATTORNEY IS
13 TALKING ABOUT IS ACTUALLY PUTTING OUT STRING AND MARKERS
14 AND BREAKING IT UP INTO 1 FOOT OR 2 FOOT SECTIONS. NO, WE
15 DID NOT DO THAT. BUT WHAT MYSELF AND THE OTHER EXAMINER
16 DID WAS, WE VIRTUALLY COMBED THE WHOLE AREA ON OUR HANDS
17 AND KNEES. WE ALSO COVERED THE AREA WITH A METAL DETECTOR
18 LOOKING FOR THE SHELL CASINGS.

19 Q SO HOW SURE ARE YOU THERE ARE NO SHELL CASINGS OUT
20 THERE TODAY FROM THIS INCIDENT? 100 PERCENT?

21 A NO, I CAN'T BE 100 PERCENT SURE, BECAUSE THERE WAS A
22 LOT OF METAL THAT REACTED TO THE METAL DETECTOR WHILE WE
23 SEARCHED THE SURFACE AND IN THE GRASS ON OUR HANDS AND
24 KNEES. IT'S NOT TO SAY THAT THEY'RE COULDN'T HAVE BEEN
25 ANOTHER SHELL CASING THAT GOT BURIED IN THE SAND; SUCH AS,

1 THAT 40 CALIBER THAT WAS BY THE POLE THAT WE JUST GOT
2 LUCKY ENOUGH FIND THAT MORNING.

3 Q SO THERE COULD BE OTHER CASINGS OUT THERE.

4 A THAT'S CORRECT.

5 Q YOU RECOVERED ONE CASING THAT MATCHED THE 9
6 MILLIMETER, CORRECT?

7 A THAT'S CORRECT.

8 Q AND THREE THAT MATCHED MR. BOLAND'S SERVICE PISTOL?

9 A THAT'S CORRECT.

10 Q CAN YOU EXPLAIN TO US, MR. DERRICK, WHEN YOU RECEIVED
11 THE GUN FROM SERGEANT DUKES, DID YOU TEST TO SEE IF IT HAD
12 BEEN FIRED RECENTLY?

13 A NO, SIR. THAT WAS NOT MY JOB.

14 Q OH, OKAY. SO WHEN -- WHOSE JOB WOULD THAT HAVE BEEN?

15 A WELL I DON'T SMELL GUNS TO SEE IF THEY'VE BEEN FIRED
16 RECENTLY. I PLACE THE GUNS IN A BOX. AND WELL, AT FIRST
17 I RENDER THEM SAFE. GET MY COUNT ON THE AMMUNITION.
18 REMOVE ANY BULLETS FROM THE CHAMBER. I PRESERVE THEM IN A
19 BOX AND TAKE THEM BACK TO THE LABORATORY.

20 Q SO WHOSE JOB WOULD IT BE TO IDENTIFY THE GUN THAT HAD
21 BEEN RECENTLY FIRED?

22 A I GUESS THAT WOULD FALL UNDER FIREARM. THE BEST WAY
23 THAT WE CAN DETERMINE NOT SO MUCH IF A GUN HAS BEEN
24 RECENTLY FIRED, BUT IF A PERSON HAD RECENTLY FIRED A GUN,
25 WOULD BE TO DO WHAT WAS KNOWN AS A GUNSHOT RESIDUE KIT ON

1 THE INDIVIDUAL'S HANDS. HOWEVER IN THIS CASE, ALL THE
2 VICTIMS IN THIS CASE HAD ALREADY BEEN TRANSPORTED TO THE
3 HOSPITAL AND THERE WAS NO WAY THAT I COULD GET TO THEM
4 WITHIN THE 6 HOUR TIME LIMIT I HAD TO DRAW STANDARDS FOR
5 THAT COMPARISON TO BE DONE.

6 Q SO GSR. I'M SORRY, RESIDUE TESTS WEREN'T PERFORMED
7 ON ANY INDIVIDUALS INVOLVED IN THIS INCIDENT?

8 A NO. THEY HAD ALL BEEN TRANSPORTED FOR MEDICAL
9 TREATMENT.

10 Q AND IS THAT YOUR JOB THOUGH NORMALLY TO PERFORM THE
11 GSR? THE FIRST OFFICER ON THE SCENE PERFORM IT, OR WHO
12 DOES THAT?

13 A NORMALLY WHEN WE GET TO THE SCENE, OR CAN GET TO THE
14 VICTIM WE NORMALLY DO IT.

15 Q IS IT, WOULD THE FIRST RESPONDERS, THE DEPUTIES THERE
16 EVER DO IT?

17 A NORMALLY UNFORMED PATROL DEPUTIES DON'T HAVE THE KITS
18 TO DO IT WITH. DEPARTMENTS THAT HAVE LABORATORIES OR
19 CRIME SCENE EXAMINERS, THEY WOULD HAVE THE KITS AND THEY
20 COULD DO IT.

21 MR. WILLIAMS: I BEG THE COURT'S INDULGENCE. NO
22 OTHER QUESTIONS, YOUR HONOR.

23 MR. CONNER: I HAVE NOTHING FURTHER OF HIM. YOU CAN
24 COME DOWN.

25 THE COURT: STEP DOWN.

1 A THANK YOU, YOUR HONOR.

2 MR. CONNER: WE WOULD LIKE TO HAVE HIM EXCUSED IF WE
3 COULD.

4 THE COURT: ANY OBJECTION?

5 MR. WILLIAMS: WITHOUT OBJECTION, YOUR HONOR.

6 MR. CONNER: MARIE O'FELDT.

7 MARIE O'FELDT, BEING FIRST DULY SWORN,
8 TESTIFIES AS FOLLOWS:

9 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
10 NAME, PLEASE.

11 A MARIE O'FELDT. O-F-E-L-D-T.

12 DIRECT EXAMINATION BY MR. CONNER:

13 Q MS. O'FELDT, DO YOU LIVE IN SUMTER?

14 A YES, SIR.

15 Q HOW LONG HAVE YOU LIVED IN THE SUMTER COMMUNITY?

16 A ALL MY LIFE.

17 Q WHAT KIND OF BUSINESS ARE YOU IN?

18 A I OWN FRENZ BAR.

19 Q FRENZ BAR?

20 A UH-HUH. (AFFIRMATIVE.)

21 Q WERE YOU PRESENT AT FRENZ BAR BACK ON SEPTEMBER 11,
22 2005, WHEN TWO POLICE OFFICERS GOT SHOT?

23 A YES, SIR.

24 Q TELL US WHAT WAS HAPPENING OUT THERE THAT CAUSED
25 Y'ALL TO CALL THE POLICE.

1 A THERE WAS A FIGHT BETWEEN TWO GIRLS. AND SOMEONE
2 SAID THAT ONE OF THE GIRL'S BOYFRIENDS HAD A GUN. SO WE
3 CALLED THE POLICE OUT TO JUST FIND OUT.

4 Q DID HE GAVE YOU SOME DESCRIPTIVE INFORMATION ABOUT
5 THE FELLOW THAT HAD THE GUN?

6 A YEAH, A GUY CAME IN AND SAID A GUY IN A RED CAP HAD A
7 GUN OUTSIDE. AND THAT WAS BASICALLY IT.

8 Q AND AT THAT TIME WHAT DID YOU TELL YOUR BARTENDER TO
9 DO?

10 A TO CALL THE POLICE.

11 Q AND DID SHE CALL THE POLICE?

12 A YES, SIR.

13 Q AND DID THE POLICE RESPOND?

14 A YES, SIR.

15 Q WERE THEY THERE PRETTY QUICKLY?

16 A YES, SIR.

17 Q AND TELL US, DID YOU GO OUTSIDE AFTER THE POLICE
18 ARRIVED?

19 A YES.

20 Q OR BEFORE THE POLICE ARRIVED WERE YOU OUTSIDE?

21 A I CAN'T REMEMBER IF I WAS OUTSIDE OR INSIDE WHEN THEY
22 GOT THERE. I DON'T KNOW IF SOMEBODY TOLD ME THEY THERE,
23 AND I WENT BACK OUT OR I CAN'T REMEMBER.

24 Q BUT YOU WERE OUT THERE?

25 A YES.

1 Q AND DID YOU SEE WHAT HAPPENED?

2 A IN WHAT EVENT?

3 Q BETWEEN THE POLICE AND THE PERSON WHO SHOT HIM? SHOT
4 THEM?

5 A BASICALLY WHAT I SAW WAS THAT THE COPS GOT OUT OF THE
6 CAR. AND APPROACHED THE GUY TO ASK TO -- THEY WANTED TO
7 SEARCH THE GUY TO SEE IF HE HAD A GUN. AND HE RESISTED.
8 AND WAS KIND OF, YOU KNOW, I GUESS THEY WERE KIND OF
9 TANGLING WITH HIM. THAT'S BASICALLY ALL I SAW AT THAT
10 POINT.

11 Q BUT YOU SAY HE RESISTED?

12 A YES.

13 Q IN WHAT WAY DID HE RESIST?

14 A HE WAS CUSSING AND SAYING HE DIDN'T UNDERSTAND WHY
15 THEY -- YOU KNOW, AND THAT HE DIDN'T HAVE A GUN. AND HE
16 DIDN'T UNDERSTAND WHY THEY NEEDED TO SEARCH HIM AND THAT
17 KIND OF STUFF.

18 Q AND THEN WHAT HAPPENED?

19 A THEY JUST STARTED, I WASN'T -- I DON'T REMEMBER
20 EXACTLY. ALL I KNOW IS WE HEARD A GUN. WHEN THE GUN WENT
21 OFF, WE WERE ALL BEHIND A CAR. SO I DON'T REMEMBER
22 ANYTHING AFTER THAT.

23 Q SO YOU WERE BEHIND A CAR?

24 A YES.

25 Q DID YOU HEAR THE GUNSHOTS?

1 A YES.

2 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE LAWYER
3 MIGHT HAVE FOR YOU.

4 THE COURT: MR. WILLIAMS.

5 MR. WILLIAMS: THANK YOU, YOUR HONOR.

6 CROSS EXAMINATION BY MR. WILLIAMS:

7 Q MS. O'FELDT, YOU SAID THE LAST THING YOU REMEMBER YOU
8 SAW THEM STRUGGLING. AND THEN YOU DIDN'T SEE ANYTHING
9 ELSE?

10 A RIGHT.

11 Q IS THAT CORRECT?

12 A YES.

13 Q OKAY. YOU SAID HE WAS RESISTING AND THEN YOU DEFINED
14 RESISTING AS HE WAS CURSING AND SAYING WHY DO THEY NEED TO
15 TALK TO HIM.

16 A YEAH, HE WAS THROWING HIS HANDS UP AND SAYING HE
17 DIDN'T UNDERSTAND WHY THEY NEEDED TO SEARCH HIM. AND
18 KIND OF PULLING AWAY FROM HIM AND THAT KIND OF THING.

19 Q HAVE YOU EVER BEEN APPROACHED BY LAW ENFORCEMENT AND
20 ASKED IF THEY COULD SEARCH YOUR POCKETS?

21 A NO.

22 Q WOULD YOU CONSENT TO SUCH A SEARCH IMMEDIATELY?

23 A I WOULD, YES.

24 MR. WILLIAMS: THANK YOU.

25 MR. CONNER: THANK YOU, MS. O'FELDT. WE WOULD ASK

1 THAT SHE BE EXCUSED. WILLIS ISON.

2 WILLIS ISON, BEING FIRST DULY SWORN, TESTIFIED AS
3 FOLLOWS:

4 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
5 NAME, PLEASE.

6 A WILLIS DAVID ISON. I-S-O-N.

7 DIRECT EXAMINATION BY MR. CONNER:

8 Q MR. ISON, DO YOU LIVE HERE IN THE SUMTER COMMUNITY?

9 A YES, SIR.

10 Q HOW LONG HAVE YOU LIVED IN SUMTER COUNTY?

11 A SINCE OCTOBER OF 1990.

12 Q AND WHERE DO YOU WORK?

13 A I WORK FOR SUMTER COUNTY EMERGENCY MEDICAL SERVICES.

14 Q AND WERE YOU WORKING FOR THE EMERGENCY MEDICAL
15 SERVICE BACK ON SEPTEMBER 11, 2005?

16 A YES, SIR.

17 Q AND WERE YOU ONE OF THE PEOPLE THAT WENT TO RENDER
18 ASSISTANCE AFTER THE SHOOTING THAT OCCURRED AT THAT CLUB
19 THAT NIGHT?

20 A YES, SIR.

21 Q DID YOU IN FACT RENDER ASSISTANCE TO THE DEFENDANT
22 YONSON?

23 A YES, SIR, THAT WAS MY PATIENT.

24 Q RANDY YONSON.

25 A YES, SIR.

1 Q AND DID YOU HAVE TO CUT HIS CLOTHING OFF TO STOP THE
2 BLEEDING OR TREAT HIS WOUNDS?

3 A YES, MA'AM. WE HAD TO REMOVE HIS PANTS TO GAIN
4 ACCESS TO HIS WOUND.

5 Q AND I SHOW YOU TO THESE TWO PHOTOGRAPHS, STATE'S
6 EXHIBIT NO. 11 N AND 11 O, AND ASK YOU TO EXAMINE THOSE.

7 A OKAY.

8 Q IS THAT WHAT HAPPENED THERE? YOU JUST LEFT THE PANTS
9 ON THE GROUND THERE?

10 A YES, SIR. WHEN WE NORMALLY, WHEN WE CUT THEM OFF AND
11 WE PLACE THEM ON A BACK BOARD, WHEN WE ROLL THE PERSON ON
12 TO THEIR SIDE, WE'RE TRYING TO CLEAR WHATEVER CLOTHING IS
13 UP UNDERNEATH THEM SO WE CAN HAVE A QUICK LOOK AT THE BACK
14 BEFORE WE PLACE THEM ON THE BACK BOARD. SO THAT WOULD BE
15 CORRECT.

16 Q SO YOU JUST CUT THEM OFF AND LEFT THEM THERE.

17 A YES, SIR. THERE WOULD HAVE BEEN NO REASON FOR US TO
18 TAKE THOSE WITH US.

19 MR. CONNER: OKAY. ANSWER ANY QUESTIONS HIS LAWYER
20 MIGHT HAVE FOR YOUR PLEASE, SIR.

21 CROSS EXAMINATION BY MR. WILLIAMS:

22 Q GOOD AFTERNOON, MR. ISON.

23 A YES, SIR.

24 Q DID YOU, YOU EXAMINED MR. YONSON. YOU SAID HE WAS
25 YOUR PATIENT?

1 A YES, SIR.

2 Q DID YOU NOTICE ANY INJURIES?

3 A THE ONE I WAS CONCERNED WITH WHEN I ARRIVED ON THE
4 SCENE, WAS, WE WERE TOLD OF A WOUND INSIDE HIS THIGH. AND
5 THAT'S THE ONE WE WERE CONCERNED WITH IMMEDIATELY, BECAUSE
6 IT WAS BLEEDING HEAVILY.

7 Q AND THAT'S NEAR THE FEMORAL ARTERY, I GUESS?

8 A YES, SIR.

9 Q DID YOU NOTICE ANY OTHER WOUNDS?

10 A MY PARTNER EXAMINED HIM FULLY FOR OTHER WOUNDS. MY
11 INITIAL CONCERN IMMEDIATELY BECAUSE I WAS IN THAT
12 POSITION, WAS TO TAKE CARE OF THAT WOUND.

13 Q RIGHT. OKAY. AND WHERE, YOU SAID IT WAS ON HIS
14 INNER THIGH?

15 A YES, SIR. KIND OF IN THIS AREA.

16 Q COULD YOU DEMONSTRATE I GUESS TO US EXACTLY WHERE IT
17 IS?

18 A AS FAR AS I CAN REMEMBER, IN THIS GENERAL AREA HERE.

19 Q OKAY. SO ON THE FRONT OF HIS BODY?

20 A YES SIR. AS FAR AS I COULD REMEMBER.

21 Q DID YOU -- AFTER YOU ATTENDED TO HIM AND GOT HIM ON
22 THE BACKBOARD, WHAT DID Y'ALL DO WITH MR. YONSON AT THAT
23 TIME?

24 A HE WAS PLACED IN OUR UNIT. I STARTED INITIALLY
25 TREATING HIM ON THE SCENE. AND THEN HE WAS MOVED TO THE

1 LANDING ZONE FOR A HELICOPTER COMING TO TRANSPORT HIM.

2 Q CORRECT. WHEN YOU TOOK HIM TO THE UNIT WERE YOU WITH
3 HIM IN THE REAR OR WERE YOU---

4 A I WAS IN THE BACK. YES, SIR.

5 Q YOU WERE IN THE REAR OF THE UNIT.

6 A YES.

7 Q WHO ALL WAS IN THAT UNIT?

8 A TO BE HONEST WITH YOU, THERE WAS QUITE A FEW PEOPLE
9 BACK THERE. I KNOW IT WAS MYSELF, PARAMEDIC HALL. I DO
10 BELIEVE THE SUPERVISOR ENDED UP IN THERE AT ONE POINT.
11 THEY DID HAVE A OFFICER IN OUR UNIT FOR A SHORT AMOUNT OF
12 TIME. THEN THEY MOVED HIM TO ANOTHER UNIT, I BELIEVE.

13 Q OKAY. DO YOU REMEMBER WHICH OFFICER WAS IN THERE
14 WITH HIM?

15 A IT WAS NOT BOLAND, IT WAS OFFICER WILLIAMS.

16 Q OKAY, OFFICER WILLIAMS---

17 A YES.

18 Q ---WAS WITH HIM AFTERWARDS. AT THAT TIME OBVIOUSLY
19 MR. YONSON'S HEALTH WAS YOUR PRIMARY CONCERN.

20 A YES, SIR.

21 Q DID YOU PAY ATTENTION TO ANY EXCHANGES THAT MAY HAVE
22 OCCURRED IN THE AMBULANCE?

23 A NO, SIR.

24 MR. WILLIAMS: THANK YOU, MR. ISON.

25 MR. CONNER: WE WOULD ASK THAT HE BE EXCUSED YOUR

1 HONOR.

2 MR. WILLIAMS: NO OBJECTION.

3 THE COURT: SIR, YOU ARE EXCUSED.

4 MR. CONNER: YOUR HONOR, I WOULD RECALL ALEXANDER
5 DUKES.

6 ALEXANDER DUKES BEING PREVIOUSLY
7 SWORN, RETAKES THE WITNESS STAND, AND TESTIFIES AS
8 FOLLOWS:

9 THE COURT: YOU'RE STILL UNDER OATH.

10 DIRECT EXAMINATION BY MR. CONNER:

11 Q OFFICER DUKES, DID YOU FILL OUT AN INCIDENT REPORT IN
12 PREPARATION? IS THAT PART OF YOUR STANDARD PROCEDURE
13 AFTER YOU RESPOND TO A CALL LIKE THIS, THAT YOU MAKE OUT
14 AN INCIDENT REPORT?

15 A THAT IS CORRECT. WHAT WE REFER TO AS A CODE 43,
16 WHICH IS AN INCIDENT REPORT. THAT IS WHAT I AM HOLDING IN
17 MY RIGHT HAND. AND IT IS STANDARD. A REPORT THAT IS DONE
18 ON AN INCIDENT.

19 Q AND DOES THAT REPORT REQUIRE THAT YOU GET THE BASIC
20 IDENTIFYING INFORMATION OF THE DEFENDANT AND HIS BIRTHDAY
21 AND STUFF OF THAT SORT?

22 A THAT IS CORRECT.

23 Q AND DID YOU GET A DATE OF BIRTH ON THIS DEFENDANT?

24 A I GOT QUITE A BIT OF INFORMATION FROM MR. YONSON
25 WHILE HE WAS ON THE GROUND. ALTHOUGH HE WAS IN A GREAT

1 DEAL OF PAIN. I DID ADVISE HIM THAT I NEEDED TO MAKE
2 CONTACT WITH A RELATIVE OF HIS. AND HE GAVE ME HIS
3 MOTHER'S TELEPHONE, AS WELL AS NAME, WHICH I ALSO
4 INDICATED IN THE REPORT OF [REDACTED]. AND A DATE OF BIRTH
5 OF [REDACTED], WHICH WOULD HAVE MADE HIM 20 YEARS OF AGE AT
6 THAT TIME.

7 MR. CONNER: THANK YOU. I HAVE NO FURTHER QUESTIONS.

8 MR. WILLIAMS: NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: YOU MAY STEP DOWN, SIR.

10 MR. CONNER: YOUR HONOR, I WOULD CALL TONY HORTON AT
11 THIS TIME.

12 THE COURT: ALL RIGHT, MR. HORTON.

13 TONY HORTON, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
16 NAME, PLEASE.

17 A TONY HORTON. H-O-R-T-O-N.

18 DIRECT EXAMINATION BY MR. CONNER:

19 Q LIEUTENANT HORTON, WHERE DO YOU WORK?

20 A I WORK WITH SUMTER COUNTY SHERIFF'S OFFICE.

21 Q AND HOW LONG HAVE YOU BEEN A LAW ENFORCEMENT OFFICER?

22 A THIRTEEN YEARS.

23 Q AND WERE YOU WORKING BACK ON SEPTEMBER 11, 2005?

24 A YES, SIR, THAT'S CORRECT.

25 Q AND WHAT WAS YOUR JOB AT THAT TIME?

1 A I SERVED AS LIEUTENANT ON PATROL. THE SUPERVISOR OF
2 THE PATROL UNIT.

3 Q AND WERE PEOPLE FROM YOUR SHIFT INVOLVED IN THE
4 SHOOTING INCIDENT THAT OCCURRED THERE?

5 A YES, SIR.

6 Q AND DID YOU GO OUT THERE?

7 A YES, SIR, I DID.

8 Q AND WHILE YOU WERE THERE, DID YOU HAVE AN OCCASION TO
9 GET JAMES WILLIAMS' SERVICE REVOLVER? A GLOCK 40 CALIBER
10 MODEL 22?

11 A I DID, SIR.

12 Q AND WHO DID YOU GET IT FROM?

13 A I BELIEVE SENIOR CORPORAL DENNISON.

14 Q DENNISON?

15 A YES, SIR.

16 Q WAS HE ANOTHER OFFICER ON YOUR SHIFT?

17 A THAT IS CORRECT, SIR.

18 Q AND HE GOT IT FROM WILLIAMS AND GAVE IT TO YOU?

19 A THAT IS CORRECT, SIR.

20 Q AND WHAT DID YOU DO WITH IT?

21 A I SECURED IT IN THE TRUNK OF MY VEHICLE.

22 Q AND THEN YOU TURNED IT OVER TO THE SLED AGENT THAT
23 WAS WORKING THE SCENE THERE BEFORE HE LEFT?

24 A THAT'S CORRECT, SIR.

25 MR. CONNER: I HAVE NO FURTHER QUESTIONS OF HIM.

1 THE COURT: ANY QUESTIONS?

2 MR. WILLIAMS: NOTHING, YOUR HONOR.

3 THE COURT: THANK YOU, SIR.

4 MR. CONNER: I HAVE ANOTHER WITNESS, YOUR HONOR, FROM
5 SLED BUT HE HAS NOT ARRIVED. AND I ANTICIPATE THAT HE
6 WOULD BE HERE IMMEDIATELY AFTER LUNCH.

7 THE COURT: ALL RIGHT, WE'LL BREAK FOR LUNCH NOW,
8 LADIES AND GENTLEMEN. COME BACK AT 2:15. 2:15. IT IS AN
9 HOUR AND 20 MINUTES FROM NOW. PLEASE HAVE A GOOD LUNCH.
10 REMEMBER YOU ARE NOT TO DISCUSS THE CASE AND YOU ARE NOT
11 TO READ ANY NEWSPAPER ARTICLES CONCERNING THE CASE. OR
12 ALLOW ANYONE TO DISCUSS IT WITH YOU.

13 (THEREUPON, THE JURY GOES TO LUNCH.)

14 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE
15 PRESENCE OF THE JURY.)

16 THE COURT: YES, SIR, MR. WILLIAMS.

17 MR. WILLIAMS: YES, SIR, YOUR HONOR. I JUST WANTED
18 TO LET THE RECORD REFLECT THE NATURE OF MY OBJECTION.

19 THE COURT: ALL RIGHT.

20 MR. WILLIAMS: AS TO ITEM 13 ADMITTED INTO EVIDENCE.

21 THE COURT: YES, SIR.

22 MR. WILLIAMS: IT IS A STATEMENT, A WAIVER OF
23 RIGHTS, THAT WAS OBTAINED BY MR. ABRAHAM AND MR. JOHNSON,
24 SIGNED BY MY CLIENT. THE DATE ON THE TOP OF IT SEPTEMBER
25 14TH, IS MARKED OUT. THE 15TH IS WRITTEN ABOVE IT WITH

1 THE, I BELIEVE THE INITIALS, J.L.J. ABOVE IT. IN THE
2 DISCOVERY I RECEIVED FROM THE SOLICITOR'S OFFICE, MY COPY
3 DOES NOT HAVE THE DATE CHANGED ON IT. AND THAT WAS THE
4 NATURE OF MY OBJECTION. I JUST WANTED TO PUT THAT ON THE
5 RECORD.

6 THE COURT: MR. CONNER.

7 MR. CONNER: YOUR HONOR, THE TWO OFFICERS WENT THERE
8 TO INTERVIEW THIS MAN, JAMES L. JOHNSON AND JOHNNY
9 ABRAHAM. AND AS MR. ABRAHAM TESTIFIED, THEY WENT THERE ON
10 THE 15TH. AND APPARENTLY MR. JOHNSON HAD NOTICED THEY HAD
11 DATED IT WRONG AND CHANGED THE DATE. AMENDED THE DATE.

12 THE COURT: THE OFFICER THROUGH HIS TESTIMONY,
13 AUTHENTICATED THE WAIVER OF RIGHTS FORM. ANY ISSUE OR
14 PROBLEMS REGARDING ANY CREDIBILITY INVOLVING THAT WOULD
15 HAVE HAD TO BE SUBJECT TO CROSS EXAMINATION. AND NOT A
16 BASIS FOR AN OBJECTION TO ADMISSIONS. THE DOCUMENT IS IN.
17 ALL RIGHT, WE'RE OUT UNTIL 2:15.

18 (WAIVER OF RIGHTS FORM MARKED STATE'S EXHIBIT NO. 13
19 INTO EVIDENCE.)

20 (THEREUPON, THE COURT TAKES A LUNCH RECESS.)

21 THE COURT: READY FOR THE JURY?

22 MR. CONNER: WE ARE READY, YOUR HONOR.

23 MR. WILLIAMS: WE ARE, YOUR HONOR.

24 THE COURT: BRING THEM ON. BRING US THE JURY
25 PLEASE.

1 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
2 PRESENCE OF THE JURY.)

3 THE COURT: VERY GOOD. YOUR NEXT WITNESS, PLEASE.

4 MR. CONNER: WE WOULD CALL TRACY THROWER, YOUR HONOR.

5 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
6 NAME FOR THE RECORD PLEASE.

7 A TRACY J. THROWER. T-H-R-O-W-E-R.

8 DIRECT EXAMINATION BY MR. CONNER:

9 Q MR. THROWER, WHERE YOU ARE EMPLOYED?

10 A I AM EMPLOYED BY THE SOUTH CAROLINA LAW ENFORCEMENT
11 DIVISION IN COLUMBIA.

12 Q WHAT DO YOU DO AT SLED?

13 A I AM FIREARM AND TOOL MARK EXAMINER.

14 Q WHAT, TELL THE LADIES AND GENTLEMEN WHAT YOU DO IN
15 THAT PARTICULAR AREA OF FIREARMS AND TOOL MARKS.

16 A I EXAMINE FIREARM AND FIREARM RELATED EVIDENCE. I
17 EXAMINE TOOL MARKS AND TOOL MARK RELATED EVIDENCE. I DO
18 FRACTURE MATCHES, SERIAL NUMBER RESTORATIONS, TRIGGER PULL
19 ANALYSIS, WEAPONS DESTRUCTION FOR THE STATE. I PERFORM
20 ENTRY ON THE INTEGRATED BALLISTIC IDENTIFICATION SYSTEM
21 AND ALSO PERFORM THE CORRELATIONS OF THOSE ENTRIES.
22 LIMITED CRIME SCENE EXPERIENCE. OR LIMITED CRIME SCENE
23 RESPONSE. AND I ALSO TESTIFY IN CASES.

24 Q AND WHAT KIND OF EDUCATION DID YOU HAVE PRIOR TO
25 JOINING SLED?

1 A I ATTENDED WINTHROPE UNIVERSITY AND GOT A BACHELOR OF
2 SCIENCE DEGREE WITH A MAJOR IN BIOLOGY.

3 Q AND WHEN DID YOU JOIN SLED LABORATORY?

4 A I BELIEVE IT WAS MARCH OF 1999.

5 Q AND TELL US ABOUT YOUR TRAINING PROGRAM THERE.

6 A IT WAS AN APPRENTICESHIP TYPE PROGRAM. IT TOOK ABOUT
7 3 YEARS. I WAS SUPERVISED BY COURT QUALIFIED FIRE
8 EXAMINERS. I HAD TO PERFORM EXTENSIVE READING, STUDYING.
9 I WAS GIVEN ALL SORTS OF WRITTEN AND ORAL PRACTICE. I HAD
10 TO PERFORM EXTENSIVE MICROSCOPIC COMPARISON. I WOULD
11 ATTEND VARIOUS COURSES AND SEMINARS IN THE FIELD OF
12 IDENTIFICATION. AND AFTER PASSING MY FINAL EXAM, I WAS
13 ALLOWED TO WORK CASES ON MY OWN.

14 Q AND WHEN DID YOU START WORKING CASES ON YOUR OWN?

15 A I BELIEVE IT WAS IN 2003.

16 Q AND HAVE YOU TESTIFIED IN COURTS IN SOUTH CAROLINA
17 REGARDING FIREARM MATTERS SINCE BECOMING QUALIFIED?

18 A YES, SIR, I HAVE.

19 MR. CONNER: YOUR HONOR, WE WOULD SUBMIT THAT HE IS A
20 QUALIFIED FIREARM'S EXPERT.

21 MR. WILLIAMS: WITHOUT OBJECTION, YOUR HONOR.

22 THE COURT: LADIES AND GENTLEMEN, THIS WITNESS IS
23 QUALIFIED TO RENDER OPINIONS IN THE FIELD OF HIS
24 EXPERTISE, WHICH IS FIREARM'S EXPERT.

25 Q NOW MR. THROWER, DID YOU RECEIVE SOME ITEMS FROM

1 SLED -- AT SLED FROM THE, THROUGH SLED AGENTS, IN FACT
2 MOST OF THEM IN REGARDS TO THIS CASE ON RANDY ALLEN
3 YONSON?

4 A YES, SIR, I DID.

5 Q AND STARTING OFF WITH ITEM NO. 1, IT'S ALSO OUR CASE
6 OF STATE'S EVIDENCE ITEM NO. 1, LET ME GIVE YOU THIS TO
7 EXAMINE. THIS GUN WAS REMOVED FROM THIS BAG EARLIER IN
8 THE DAY.

9 A FIRST OF ALL LADIES AND GENTLEMEN OF JURY, I HAVE
10 CHECKED THIS FIREARM. BOTH BY SIGHT AND BY FEEL. IT IS
11 SAFE TO HANDLE. IT IS NOT LOADED. I DO RECOGNIZE THIS
12 FIREARM. IT IS A HIGH POINT MODEL C 9. AND 9 MILLIMETER
13 LUGER CALIBER WITH THE SERIAL NO. P 106176.

14 Q AND THE ITEMS IN THE BAG THERE, THE UNFIRED ROUNDS,
15 LOOKS LIKE SEVEN OF THEM, AND A MAGAZINE. DID YOU
16 RECEIVE THAT ALONG WITH STATE'S EXHIBIT NO. 1?

17 A I DID RECEIVE THIS MAGAZINE ALSO. IT BEARS MY
18 MARKINGS OF MY CASE, MY ITEM NUMBER AND MY INITIALS. THIS
19 PACKAGE CONTAINS 7 UNFIRED REMINGTON 380 AUTO CALIBER
20 CARTRIDGES. THAT ALSO BEAR MY CASE NUMBER, ITEM NUMBER,
21 AND INITIALS. I ALSO RECOGNIZE THIS ITEM.

22 Q NOW DID YOU ALSO RECEIVE THREE 40 CALIBER GLOCK
23 PISTOLS WHICH WOULD BE YOUR ITEM NO. 2, NO. 3, AND NO. 4?

24 A YES, I DID.

25 Q DID YOU RECEIVE A 25 CALIBER PISTOL WHICH IS STATE'S

1 EXHIBIT NO. 9? YOUR EXHIBIT NUMBER, I BELIEVE IS 16.
2 AND I SHOW YOU THIS IN THAT REGARD.

3 A YES, SIR. I ALSO RECOGNIZE THIS EXHIBIT. IT IS A
4 TAN FOGLIO MODEL GT 26. 25 AUTO CALIBER. SERIAL NUMBER
5 S14082 WITH MAGAZINE. AND IT APPEARS TO BE THREE UNFIRED
6 25 CALIBER AUTO CALIBER CARTRIDGES.

7 Q I SHOW YOU THESE 3 EXHIBITS BEARING NOS. 5, 6 AND 8
8 AND ASK YOU TO EXAMINE THOSE.

9 A YES, SIR. STATE'S EXHIBIT NO. 5 IS ONE 40 CALIBER
10 FIRED CARTRIDGE CASE BEARING A SPEER HEED STAMP. IT
11 BEARS MY ITEM NUMBER, CASE NUMBER AND INITIALS. STATE'S
12 EXHIBIT NO. 6 IS ANOTHER SPEER BRAND 40 CALIBER FIRED
13 CARTRIDGE CASE. BEARING MY CASE NUMBER, ITEM NUMBER AND
14 INITIALS. AND STATE'S EXHIBIT NO. 8 IS ALSO A SPEER BRAND
15 40 CALIBER FIRED CARTRIDGE CASE BEARING MY CASE NUMBER
16 ITEM NUMBER AND INITIALS.

17 Q I SHOW YOU THE NEXT ITEM NO. 7, AND ASK YOU TO
18 EXAMINE THAT.

19 A STATE'S EXHIBIT NO. 7 IS A REMINGTON 380 CARTRIDGE
20 CASE. FIRED CARTRIDGE CASE. IT BEARS MY CASE NUMBER,
21 ITEM NUMBER AND INITIALS.

22 Q I SHOW YOU NEXT THIS ITEM MARKED STATE'S EXHIBIT NO.
23 10. I BELIEVE THAT IS YOUR ITEM NO. 19.

24 A STATE'S EXHIBIT NO. 10 IS ONE FIRED BULLET. IT ALSO
25 BEARS MY CASE NUMBER, ITEM NUMBER AND INITIALS.

1 Q NOW AS TO THESE THREE ITEMS HERE, STATE'S EXHIBIT
2 NOS. 5, STATE'S EXHIBIT NO. 6, AND STATE'S EXHIBIT NO. 8,
3 DID YOU COMPARE THOSE TO ANY OF 40 CALIBER WEAPONS THAT
4 YOU RECEIVED FROM LAW ENFORCEMENT?

5 A YES, SIR, I DID.

6 Q AND DID YOU FIND ANY -- WHAT WAS THE RESULTS?

7 A THAT STATE'S EXHIBIT NOS. 5, 6 AND 8 WERE FIRED BY A
8 40 CALIBER GLOCK MODEL 22 PISTOL. SERIAL NUMBER BZN,
9 872 US. IT WAS INDICATED THAT WAS BOLAND'S FIREARM.

10 Q NOW THIS ITEM HERE STATE'S EXHIBIT NO. 7, DID YOU
11 COMPARE THAT TO ANY WEAPON?

12 A YES, SIR. I COMPARED THIS TO THE STATE'S EXHIBIT NO.
13 1. THE HIGH POINT MODEL C 9, 9 MILLIMETER LUGER CALIBER
14 FIREARM. AND I CONCLUDED THAT THIS STATE'S EXHIBIT NO. 7
15 WAS FIRED BY STATE'S EXHIBIT NO. 1.

16 Q NOW, MR. THROWER, EXPLAIN TO THESE LADIES AND
17 GENTLEMEN HOW YOU MAKE THESE CONCLUSIONS, AND WHAT IS
18 SPECIAL ABOUT FIREARMS AND MARKINGS LEFT ON THE FIREARMS
19 THAT WOULD ALLOW YOU TO MAKE A CONCLUSION THAT ONE 9
20 MILLIMETER PISTOL FIRED A CARTRIDGE CASE, WHEREAS SOME
21 OTHER SIMILAR 9 MILLIMETER GUN WAS NOT INVOLVED IN IT?

22 A I WILL START BY EXPLAINING THE PROCESS. AS THE
23 FIREARM AND THE PROJECTILES COME IN TO MY CUSTODY, I TAKE
24 VARIOUS NOTES ON THE DEPARTMENTAL WORK SHEETS DOCUMENTING
25 VARIOUS DIMENSIONS AND FACTS ABOUT THE EVIDENCE. I THEN

1 TAKE THE FIREARM INTO OUR BULLET RECOVERY ROOM AND LOAD IT
2 WITH SOME OF OUR DEPARTMENTAL REFERENCE COLLECTION
3 AMMUNITION. WE HAVE A BULLET RECOVERY TANK, WHICH IS A
4 LARGE STAINLESS STEEL TANK. IT'S ABOUT 3 FEET IN
5 DIAMETER, THAT'S ABOUT TWO STORIES TALL. IT'S A LARGE
6 CYLINDER WITH A CONE ON THE BOTTOM. AND THE BOTTOM OF
7 THAT CONE IS A LITTLE CUP THAT SITS DOWN THERE IN THE
8 HOLE.

9 THIS LARGE CYLINDER IS FULL OF WATER. WE SHOOT THE
10 FIREARM DOWN INTO THE WATER, BECAUSE THE BULLET SLOWS
11 THE -- OR THE WATER SLOWS THE BULLET OR PROJECTILE TO A
12 SPEED IN WHICH IT IS SAFE TO COLLECT THE BULLET AT THE
13 BOTTOM OF THIS LARGE CYLINDER. AND THE BULLET JUST FALLS
14 INTO THIS CUP. AT WHICH TIME I CAN PULL THE CHIN UP,
15 WHICH IS ATTACHED TO THE CUP, AND I CAN DUMP THE TEST
16 FIRED BULLETS INTO MY HAND. THAT'S HOW I GET MY TEST
17 SPECIMENS. THE CARTRIDGE CASES THAT ARE EJECTED FROM THE
18 FIREARM IS SIMILAR. I HAVE A PAPER BAG SITTING ON TOP OF
19 THIS LARGE CYCLINDER. SO WHEN THE GUN FIRES IT SIMPLY
20 EJECTS THE CARTRIDGE CASES OUT, WHICH ARE CAUGHT INTO A
21 PAPER BAG WHICH SIT RIGHT NEXT TO THE GUN. THAT'S WHY I
22 KNOW WHICH CARTRIDGE CASES CAME FROM THAT GUN, BECAUSE I
23 TEST FIRED IT.

24 THAT IS THE FIRST STEP. THEN I TAKE THESE TEST
25 SPECIMENS TO MY OFFICE. AND THEN I ENGRAVE ON THEM WITH

1 AN ELECTRIC PENCIL, MY CASE NUMBER, MY ITEM NUMBER, MY
2 INITIALS AND THE WORD TEST. THAT WAY I KNOW WHICH
3 SPECIMENS ARE TEST SPECIMENS, AND WHICH ONES ARE EVIDENCE
4 SPECIMENS. LIKEWISE WITH THE EVIDENCE SPECIMENS, I ALSO
5 ENGRAVE ON THOSE WITH AN ELECTRIC PENCIL MY CASE NUMBER,
6 ITEM NUMBER THAN MY INITIALS. THEN IT'S TIME TO GO TO THE
7 COMPARISON MICROSCOPE. A COMPARISON MICROSCOPE THAT SITS
8 SIDE BY SIDE THAT ARE CONNECTED THROUGH WHAT AS AN OPTICAL
9 BRIDGE. SO THAT WHEN I LOOK THROUGH MY EYE PIECES, I CAN
10 LITERALLY SEE BOTH ITEMS. YOU KNOW, A BULLET ON ONE SIDE
11 AND A BULLET ON THE OTHER SIDE. AND I CAN SEE BOTH
12 BULLETS SIDE BY SIDE IN EYE PIECES. WHICH SIMPLY IT'S A
13 SMALL HAIRLINE IN BETWEEN THEM. SO THAT I CAN ROTATE,
14 MANIPULATE, BOTH OF THESE BULLETS INTO IMAGES TO LOOK AT
15 VARIOUS SURFACES TO TRY AND COMPARE THESE SURFACES TO SEE
16 IF THE SAME MARKINGS ARE ON BOTH. THE MARKERS THAT I AM
17 LOOKING FOR IN A BULLET FOR INSTANCE, WHAT ARE KNOWN AS
18 RIFLING IMPRESSIONS. THE INSIDE OF A BARREL OF A FIREARM
19 HAS WHAT IS KNOWN AS RIFLING, WHICH IS A SERIES OF
20 SPIRALING GROVES THAT ARE CUT OR IMPRESSED INSIDE THAT
21 BARREL BY THE MANUFACTURER. THE REASON THEY PLACE THIS
22 RIFLING IN THE BARREL IS THEY WANT THAT BULLET TO SPIN.
23 AND THIS RIFLING CAUSES THE BULLET TO SPIN. IT GOES DOWN
24 THE BARREL, AS IT LEAVES THE BARREL HEADING TOWARD THE
25 TARGET. THE REASON WE WANT THE BULLET TO SPIN IS IT GIVES

1 IT STABILITY. IF YOU'VE EVER WATCHED FOOTBALL OR THROWN A
2 FOOTBALL, YOU NOTICE THAT THE QUARTERBACK PUTS THAT SPIRAL
3 ON THE FOOTBALL. THE REASON HE DOES THAT IS HE IS CAUSING
4 THAT FOOTBALL TO BE STABLE IN THE AIR. A STABLE BULLET OR
5 A STABLE FOOTBALL WILL TRAVEL FARTHER AND MORE ACCURATELY
6 THAN WHEN IT'S FLIPPING OR WOBBLING. THAT IS WHY THE
7 MANUFACTURER PLACES THAT RIFLING IN THE BARREL. DURING
8 THE MANUFACTURING PROCESS THERE ARE VARIOUS MACHINE AND --
9 VARIOUS MACHINE THAT GOES ON INSIDE THE PLACE THAT RIFLING
10 THE BARREL AND TO EVEN CREATE THE BARREL; SUCH AS, A
11 DRILL BIT BEING FORCED INTO A BLOCK OF METAL DRILLING THE
12 INITIAL HOLE. THEN YOU GO IN THERE WITH A SLIGHTLY LARGER
13 TOOL CALLED A RIMMER THAT GOES IN THERE AND CLEANS THE
14 HOLE -- MAKES IT STRAIGHTER AND MAKES THE INSIDE THAT
15 BARREL SLIGHTLY LARGER. THEN YOU HAVE TO GO INTO ACTUALLY
16 RIFFLING THE BARREL IN WHICH EITHER A BUTTON OR RIFLING
17 MECHANISM EITHER SCRAPES THE METAL OUT TO CAUSE THE
18 RIFLING OR IN A CASE OF A BUTTON WHERE IT IMPRESSES THE
19 RIFLING INTO THE BARREL.

20 ALL THESE DIFFERENT MECHANISMS THAT ARE INTRODUCED TO
21 THIS BARREL, LEAVE MICROSCOPIC STRIATIONS OR SCRATCHES IN
22 THE BARREL. AS A BULLET PASSES THROUGH THESE MICROSCOPIC
23 IMPERFECTIONS OR IRREGULARITIES THAT ARE IN THE BARREL,
24 THEY SCRATCH THE OUTSIDE OF THE BULLET. MUCH LIKE DRIVING
25 A RAKE THROUGH SAND. IT LEAVES THESE TINY, MICROSCOPIC

1 IMPERFECTIONS ALL THROUGHOUT THAT BARREL. AND DUE TO
2 THESE MICROSCOPIC IMPERFECTIONS THAT THE MANUFACTURER
3 CANNOT CONTROL IS WHAT LEADS US TO BE ABLE TO IDENTIFY A
4 BULLET FIRED FROM ONE GUN AS OPPOSED TO EVERY OTHER GUN IN
5 THE WORLD. THAT'S JUST MANUFACTURING. ONCE THE GUN IS
6 BOUGHT AND SOLD, USE, ABUSE, RUST, CORROSION AND SIMPLY
7 FIRING THE FIREARM, CAN CAUSE THAT BARREL TO CHANGE
8 SLIGHTLY ON A MICROSCOPIC LEVEL OVER TIME. MAKING EVERY
9 FIREARM MORE AND MORE UNIQUE. AND THAT IS THE BASIS FOR
10 HOW WE DO OUR EXAMINE. SO FIRST THING I, YOU KNOW, WHEN I
11 TAKE THE BULLET AND PLACE IT ON ONE SIDE OF THE
12 MICROSCOPE, THE EVIDENCE BULLET, AND I PLACE MY TEST
13 SPECIMEN ON THE OTHER SIDE OF THE MICROSCOPE. IF I HAVE A
14 BULLET THAT HAS SIX LANDS AND GROVES IN THE BARREL,
15 RIFLING IS MADE FROM LANDS AND GROVES. THE LAND IS SIMPLY
16 THE RAISED AREA BETWEEN EACH OF THE GROVES. I PICKED A
17 LAND IMPRESSION ON ONE BULLET. I LOOK FOR ANY DEFECT THAT
18 CATCHES MY EYE THAT WOULD MAKE IT EASY TO FIND THAT DEFECT
19 AGAIN. ONCE I FIND THE DEFECT THAT I LIKE, I'LL LOOK AT
20 THE OTHER BULLET ON THE OTHER SIDE OF THE MICROSCOPE. AND
21 I'LL CONTINUE TO ROTATE THAT OTHER BULLET UNTIL I FIND
22 THAT SAME DEFECT. SOMETHING THAT IS EASY TO SPOT. NOW
23 THAT I HAVE TWO LANDS LINED UP UNDER THE MICROSCOPE, I
24 WILL LOOK. AND ALL THE SURFACE CONTOUR VARIATIONS WITHIN
25 THAT ONE SECTION. ALL THE RIDGES, THE PEAKS, THE FURROWS,

1 THE DEPTH, THE SPACE BETWEEN THE RIDGES, HOW WIDE THE
2 RIDGES ARE, HOW TALL THE RIDGES ARE, HOW DEEP THE FURROWS
3 ARE. I LOOK AT ALL THESE DIFFERENT THINGS ABOUT THIS
4 SERIES OF LINES OR SCRATCHES OF THE BARREL PLACED ON THIS
5 BULLET.

6 AND I TAKE ALL THESE FACTS FROM THESE INDIVIDUAL
7 LINES THEY FORM A PATTERN BY LOOKING AT THE RELATIONSHIP
8 BETWEEN ALL THESE VARIOUS LINES THAT I'M LOOKING AT. AND
9 WHEN I FIND THAT PATTERN, I THEN COMPARE THAT PATTERN TO
10 THE PATTERN ON THE SECOND BULLET. IF I CAN FIND THAT SAME
11 PATTERN OVER AND OVER, I CALL THAT A PHASE. THIS IS WHERE
12 I THINK THE BULLETS MATCH. THEN I SIMPLY ROTATE BOTH
13 BULLETS TOGETHER SO I AM LOOKING AT THE SAME LANDS ON EACH
14 OF THE BULLETS AS I AM ROTATING THE BULLETS AROUND LOOKING
15 FOR THOSE PATTERNS, SEEING IF THE LINES LINE UP AND IF
16 THEY MATCH. IF I FIND SIGNIFICANT MATCHING THEN I CAN SAY
17 A BULLET WAS FIRED BY THIS GUN AND NO OTHER GUN. IF I
18 DON'T FIND IT, THEN IT'S EITHER INCONCLUSIVE, WHICH MEANS
19 I CAN'T TELL, OR WAS NOT FIRED BY THIS GUN.

20 Q DID YOU EVALUATE CARTRIDGE CASES IN A SIMILAR MANNER?

21 A YES, SIR.

22 Q AS WELL AS THE BULLETS?

23 A YES, SIR.

24 Q AND TALKING ABOUT BULLETS, THIS IS STATE'S EXHIBIT
25 NO. 10. DID YOU RECEIVE THAT?

1 A YES, SIR, I DID.

2 Q AND WHAT IS THAT?

3 A STATE'S EXHIBIT NO. 10 IS ONE FIRED BULLET.

4 Q DID YOU COMPARE THAT TO ANY ONE OF THE WEAPONS THAT
5 YOU RECEIVED?

6 A YES, SIR, I COMPARED IT TO---

7 Q HENCE MEANS FIRED BY ONE WEAPON?

8 A YES, SIR. I COMPARED IT TO THE TEST SPECIMENS I
9 FIRED OUT OF STATE'S EXHIBIT NO. 1. THE HIGH POINT MODEL
10 C-9 PISTOL.

11 Q AND WHAT IS CONCLUSION IN REGARDS TO WHAT FIRED THAT
12 BULLET?

13 A MY CONCLUSION WAS THAT THIS FIREARM FIRED THIS
14 BULLET. STATE'S EXHIBIT 1 FIRED STATE'S EXHIBIT 10.

15 Q NOW IN REGARD TO STATE'S EXHIBIT NO. 1, DID YOU
16 DETERMINE HOW MUCH PRESSURE IT WOULD TAKE ON THE TRIGGER
17 TO FIRE THAT GUN?

18 A YES, SIR. IT WOULD TAKE APPROXIMATELY 7 AND 3
19 QUARTER POUNDS OF THE PRESSURE ON THIS TRIGGER TO CAUSE
20 THIS FIREARM TO FIRE.

21 Q DID YOU DETERMINE THAT BY SOME TEST THAT YOU CONDUCT?

22 A YES, SIR. WE HAVE A SYSTEM OF DEAD WEIGHTS. IT'S
23 SIMPLY A ROD WITH A HOOK ON THE END. AND WE CAN PLACE
24 MORE AND MORE WEIGHT ON THE BASE OF IT. WE TAKE THE HOOK
25 AND PLACE IT ON THE TRIGGER. AND THEN SIMPLY TRY AND PICK

1 UP THE GUN POINTING STRAIGHT UP, AND WE SEE HOW MUCH
2 PRESSURE IT TAKES FOR THIS GUN, HOW MUCH WEIGHT IT WILL
3 LIFT BEFORE THE GUN FIRES. AND I WAS ABLE TO TAKE 7 AND 3
4 QUARTERS POUNDS ON THE TRIGGER BEFORE IT WAS FIRED.

5 Q NOT TELL US ABOUT SAFETY MEASURES THAT MIGHT BE BUILT
6 IN THIS GUN BY THE MANUFACTURER AND ACCIDENTAL FIRING.

7 A THIS FIREARM HAS TWO INTERNAL SAFETIES. AUTOMATIC
8 SAFETIES PER SE, THAT ARE BUILT IN TO IT TO CAUSE IT -- OR
9 TO KEEP IT FROM FIRING IF THE GUN IS DROPPED OR JARRED.
10 AND ONE OF THOSE SAFETIES RESIDES BACK IN HERE. YOU
11 PROBABLY CAN'T SEE IT FROM YOU ARE, BUT THERE IS A BAR OF
12 METAL BACK HERE THAT SLIDES UP AND DOWN IN THE REAR PART
13 OF THIS FIREARM. OKAY. THE SECOND ONE IS A PIECE OF
14 METAL RIGHT HERE THAT IS SPRING LOADED AND PUSHES IN THIS
15 DIRECTION. AND THIS IS WHAT IS KNOWN AS A STRIKER FIRED
16 FIREARM. OKAY. THIS IS NO HAMMER THAT YOU CAN MANUALLY
17 POP WITH YOUR THUMB.

18 IT'S A STRIKE FROM A FIRING PIN THAT RESIDES IN THE
19 CHANNEL IN THIS AREA. IT SLIDES BACK AND FORTH IN THIS
20 DIRECTION. ANOTHER PIECE IN THIS FIREARM IS CALLED A
21 SEAR. IT'S SPRING LOADED AND IT POINTS UP. THERE IS A
22 RIDGE ON THE STRIKER THAT ENGAGES ON THE SEAR. SO WHETHER
23 YOU PULL THE SLIDE TO THE REAR, OR THE SLIDE GOES TO THE
24 REAR DUE TO FIRING, THE SEAR CATCHES THE FIRING PIN AND
25 HOLDS IT IN A COCKED POSITION READY TO FIRE. BY PULLING

1 THE TRIGGER YOU'RE SIMPLY PULLING THE SEAR DOWN, WHICH
2 DISENGAGES THE FIRING PIN SO IT CAN TRAVEL FORWARD,
3 STRIKING THE PIECE OF AMMUNITION AND FIRES.

4 THE PROBLEM WITH THIS TYPE OF SYSTEM IS YOUR SEAR IS
5 SPRING LOADED. IF YOU DROP IT, SIMPLE INERTIA CAN CAUSE
6 AN OBJECT IN MOTION TO STAY IN MOTION, WHICH WILL CAUSE
7 THE SEAR TO DROP. IF YOU DROP IT HARD ENOUGH TO OVERCOME
8 THAT SPRING. TOM DEEVE, THE OWNER OF HIGH POINT FIREARMS
9 FIGURED OUT HOW TO COUNTERACT THIS. THIS BAR THAT I TOLD
10 YOU ABOUT FROM THE REAR, ON TOP OF THAT BAR IS A PIN THAT
11 HAS A PIT IN IT. SO WHEN YOU DROP IT, THE BAR TRIES TO GO
12 DOWN JUST LIKE THE SEAR WOULD TRY TO GO DOWN DUE TO
13 INERTIA. HOWEVER THE BAR BACK HERE IS LARGE ENOUGH WHEN
14 YOU DROP IT, IT PIVOTS ON THAT PIN AND FORCES THE SEAR UP
15 WITH TWICE THE AMOUNT OF INERTIA TRYING TO PULL THE SEAR
16 DOWN. SO IT COUNTERACTS IT, NOT LETTING -- IT WILL NOT
17 ALLOW THE SEAR TO FALL.

18 THE SAME SORT OF MECHANISM I TOLD YOU ABOUT THIS
19 SPRING LOAD PIECE OF METAL RIGHT HERE, IF YOU DROP IT IN
20 THIS DIRECTION, IT ALSO PLACES EXTRA PRESSURE ON THAT SEAR
21 SO THAT THE SEAR CANNOT DISENGAGE THE FIRING PIN. THESE
22 ARE AUTOMATIC SAFETIES THAT HE HAS A PATENT ON WHERE HE
23 HAS FIGURED OUT HOW TO MAKE A STRIKER FIREARM, STRIKER
24 FIRED FIREARM SAFE IF IT IS DROPPED. IT IS A VERY GOOD
25 SYSTEM.

1 Q NOW LET ME ASK YOU THIS. I NOTICE IN THIS BAG WE
2 HAVE A MAGAZINE AND 7 UNFIRED 380 ROUNDS. WILL 380 ROUNDS
3 FIRE IN THIS 9 MILLIMETER PISTOL?

4 A YES, SIR. IN THIS CASE AND IN MANY OTHER CASES THEY
5 WILL. A 380 AUTO CALIBER CARTRIDGE IS NOT DESIGNED TO BE
6 FIRED IN A 9 MILLIMETER LUGER CALIBER FIREARM. BUT AS
7 LONG AS THIS LITTLE PIECE OF METAL RIGHT HERE WHICH IS
8 KNOWN AS THE EXTRACTOR. BASICALLY IT'S A HOOK THAT WHEN A
9 CARTRIDGE IS PLACED IN A BARREL, AND THIS IS THE BARREL
10 THE CARTRIDGE IS PLACED IN. THE HOOK ON THAT EXTRACTOR
11 REACHES AROUND AND GRABS A RIM. SO THAT WHEN YOU FIRE,
12 THE EXTRACTOR PULLS THAT FIRED CARTRIDGE CASE OUT OF THE
13 BARREL OR THE CHAMBER DURING LOADING IF THE, REMEMBER THAT
14 CARTRIDGE? THAT LITTLE RIM RIGHT HERE? IF THAT HOOK CAN
15 GET A HOLD OF THAT RIM, IT WILL FIRE IT. AND WHEN TEST
16 FIRING THIS FIREARM, I TEST FIRED BOTH 380 AUTO AND 9
17 MILLIMETER LUGER CARTRIDGES IN THIS FIREARM AND IT WOULD
18 FIRE THEM.

19 Q AND NOW THE SEVEN UNFIRED ROUNDS THERE THAT OFFICER
20 DERRICK INDICATED WERE LEFT IN THE WEAPON. HE RECOVERED
21 IT. THEN I GUESS THIS STATE'S EXHIBIT NO. 7 I BELIEVE YOU
22 SAY THAT MATCHES -- IT WAS FIRED BY THIS WEAPON?

23 A YES, SIR. STATE'S EXHIBIT NO. 7.

24 Q SO THAT WOULD COUNT FOR 8 ROUNDS. BUT HOW MANY
25 ROUNDS, IF THIS GUN IS FULLY LOADED, HOW MANY ROUNDS WOULD

1 IT HOLD?

2 A YOU CAN PLACE 8 ROUNDS IN THE MAGAZINE, AND ONE
3 ADDITIONAL ROUND IN THIS REAR PART OF THIS BARREL WHICH IS
4 KNOWN AS THE CHAMBER. SO YOU CAN PLACE 9 ROUNDS IN THIS
5 FIREARM.

6 MR. CONNER: ANSWER ANY QUESTIONS THE DEFENSE LAWYER
7 MIGHT HAVE.

8 THE COURT: MR. WILLIAMS.

9 MR. WILLIAMS: THANK YOU, YOUR HONOR.

10 CROSS EXAMINATION BY MR. WILLIAMS:

11 Q GOOD AFTERNOON, MR. THROWER.

12 A SIR.

13 Q MR. CONNER CONCLUDED BY ASKING YOU HOW MANY ROUNDS OF
14 AMMUNITION THE 9 MILLIMETER CAN HOLD.

15 A YES, SIR.

16 Q AND YOU SAID EIGHT IN THE CLIP AND ONE IN THE
17 CHAMBER?

18 A YES, SIR.

19 Q FOR A TOTAL OF NINE?

20 A YES, SIR.

21 Q AND WHEN THE FIREARM IS PRESENTED TO YOU, IT HAD HOW
22 MANY UNFIRED ROUNDS WITH IT?

23 A IT HAD SEVEN UNFIRED CARTRIDGES WITH IT.

24 Q OKAY. SO EVEN IF IT HAD BEEN PULLED, IT COULD HAVE
25 FIRED TWO BULLETS AT THE MAXIMUM?

1 A YES. AS PRESENTED TO ME THAT'S WHAT I COULD
2 CONCLUDE.

3 Q SO YOU CAN'T HOLD THREE DIFFERENT. IT COULD HAVE HAD
4 THREE BULLETS IN ADDITION TO WHAT YOU RECEIVED.

5 A THE SEVEN THAT I RECEIVED CAME FROM THIS FIREARM THAT
6 WERE LOADED IN AT THE TIME.

7 Q THEY WERE LOADED IN THERE AT THE TIME YOU RECEIVED
8 IT?

9 A EXCUSE ME, LET ME CHECK MY NOTES JUST TO MAKE SURE.
10 AS I RECEIVED THE MAGAZINE, IT WAS EMPTY. SOMEBODY HAD
11 REMOVED THE CARTRIDGES FROM THE MAGAZINE.

12 Q WHEN YOU RECEIVED THE GUN, YOU RECEIVED THE GUN AND
13 THE CARTRIDGES OR AMMUNITION SEPARATELY?

14 A YES, SIR. THE CARTRIDGES WERE LOSE IN THE BAG WITH
15 THE FIREARM.

16 Q SO ANY NUMBER COULD HAVE BEEN JOINED TO THAT BAG OR
17 TAKEN FROM THAT BAG PRIOR TO YOUR RECEIVING THAT BAG.

18 A I AM NOT AWARE OF WHAT HAPPENED TO THE EVIDENCE PRIOR
19 TO MY COMING INTO CONTACT WITH IT.

20 Q DO YOU HAVE YOUR, I GUESS I COULD CALL IT YOUR
21 RESULTS OR CONCLUSIONS?

22 A YES, SIR.

23 Q CAN YOU TURN TO THAT? OR DO YOU NEED TO REFRESH YOUR
24 MEMORY?

25 A I HAVE IT HERE.

1 Q GREAT. UNDER RESULTS, CAN I APPROACH, YOUR HONOR?
2 JUST SHOW YOU WHAT I AM LOOKING AT?

3 A UH-HUH. (AFFIRMATIVE.)

4 Q CAN YOU READ THE FIRST EXCEPTION YOU HAVE UNDER
5 RESULTS?

6 A THE ITEM ONE FIRING PIN WAS SLIGHTLY BENT. HOWEVER
7 THIS DID NOT PREVENT ITEM ONE FROM FIRING.

8 Q THE ITEM ONE REFERS TO THE 9 MILLIMETER WHICH WOULD
9 BE THE HIGH POINT PISTOL.

10 A YES, SIR.

11 Q YOU WENT IN TO GREAT DEPTH AND PAST MY UNDERSTANDING
12 OF HOW THE INTERNAL SAFETIES WORK.

13 A YES, SIR.

14 Q NOW ARE ANY OF THOSE CONNECTED TO THE FIRING PIN?

15 A NO, SIR. THEY ARE NOT CONNECTED TO IT.

16 Q OKAY.

17 A THEY ACT ON IT, BUT THEY ARE NOT CONNECTED TO IT.

18 Q SO THEY ACT ON IT?

19 A YES, SIR.

20 Q SO YOU EXPLAINED HOW IF THE GUN IS DROPPED, THE
21 INTERNAL SAFETY IS PROHIBITED FROM FIRING?

22 A YES, SIR.

23 Q AND THEY ACT, THOSE SAFETIES ENGAGE FROM BEING
24 DROPPED. THEY ACT ON THE FIRING PIN.

25 A YES, SIR.

1 Q AND THE FIRING PIN IN THIS WAS -- IT WAS DAMAGED.

2 A YES, SIR, IT WAS.

3 Q IT WAS NOT IN PERFECT CONDITION.

4 A IT DID APPEAR TO BE SLIGHTLY BENT.

5 Q OKAY. AND HOW DID YOU -- IS THAT SOMETHING WE CAN
6 SEE WITH THE NAKED EYE?

7 A YES. WHEN I DETERMINED IT WAS SLIGHTLY BENT, I
8 DID REMOVE THE SLIDE AND TOOK THE FIRING PIN OUT AND
9 EXAMINED IT. AND YEAH, YOU CAN SEE IT, BUT IT WOULD
10 REQUIRE YOU TO DISASSEMBLE THE FIREARM.

11 Q SO THE GUN HAD BEEN DAMAGED.

12 A THE FIRING PIN APPEARED TO BE SLIGHTLY BENT.

13 Q YOU TESTIFIED THAT IT REQUIRES, THAT 9 MILLIMETER
14 REQUIRES 7 AND 3/4 POUNDS OF PRESSURE TO ENGAGE THE
15 TRIGGER?

16 A TO 7 AND 3/4 POUNDS OF PRESSURE ON THE TRIGGER WOULD
17 CAUSE THE FIREARM TO FIRE.

18 Q CAN YOU RELATE TO US HOW MUCH PRESSURE 7 AND 3
19 QUARTER POUNDS IS?

20 A IT IS ABOUT WHAT A GALLON OF MILK WOULD WEIGH IF YOU
21 PICK IT UP WITH ONE FINGER.

22 Q IF I GET AN ITCH ON MY NOSE, YOU KNOW, AND IT'S BEEN
23 REALLY GETTING AT ME, IF I DID LIKE THAT AND SCRATCHED MY
24 NOSE, THAT'S PROBABLY MORE THAN 7 AND 3/4 POUNDS?

25 A I REALLY DON'T KNOW, SIR. IF YOU CAN IMAGINE PICKING

1 UP A GALLON OF MILK WITH ONE FINGER.

2 Q OKAY. I BEG THE COURT'S INDULGENCE.

3 THE COURT: YES, SIR.

4 MR. WILLIAMS: MR. THROWN, YOUR EXAMINATION OF THE
5 GUN DOESN'T IN ANY WAY CONCLUDE HOW MANY BULLETS WERE
6 FIRED FROM THE GUN, DOES IT?

7 A NO, SIR. THERE IS NO TEST I FIND THAT CAN DETERMINE
8 HOW MANY TIMES A GUN WAS FIRED.

9 Q CORRECT. THAT'S OUTSIDE THE SCOPE OF YOUR
10 EXAMINATION?

11 A YES. I CAN ONLY LOOK AT WHAT PHYSICAL EVIDENCE I
12 HAVE. AND BASED ON STRIATIONS, MARKINGS PLACED ON THE
13 EVIDENCE DETERMINE IT WAS FIRED BY A PARTICULAR FIREARM OR
14 NOT.

15 MR. WILLIAMS: THANK YOU VERY MUCH, MR. THROWER.

16 THE COURT: MR. CONNER.

17 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR. I
18 WOULD ASK THAT HE BE EXCUSED.

19 MR. WILLIAMS: NO OBJECTION.

20 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED. NEXT
21 WITNESS, MR. CONNER.

22 MR. CONNER: WE REST AT THIS POINT, YOUR HONOR.

23 THE COURT: LADIES AND GENTLEMEN, THE STATE HAS
24 RESTED. I AM GOING TO HAVE YOU GO TO THE JURY ROOM FOR A
25 BREAK AT THIS TIME. PLEASE DO NOT DISCUSS THE CASE.

1 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE
2 PRESENCE OF THE JURY.)

3 THE COURT: THE STATE HAS RESTED. ARE ANY MATTERS OF
4 LAW FROM THE DEFENSE?

5 MR. WILLIAMS: YES, SIR, YOUR HONOR.

6 YOUR HONOR, I BELIEVE WE ARE OPERATING UNDER AN
7 INDICTMENT 11 COUNTS CURRENTLY. AT THIS POINT, YOUR
8 HONOR, I WOULD ASK THAT THE COURT DISMISS THE CHARGES
9 AGAINST MY CLIENT FOR THE STATE'S FAILURE TO CARRY ITS
10 BURDEN BEYOND A REASONABLE DOUBT. NAMELY, YOUR HONOR,
11 THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT
12 THAT THE GUN WAS IN MY CLIENT'S POSSESSION. EITHER GUN;
13 THAT HE DID FIRE AT THE OFFICER, THAT HE DID RESIST THEM
14 DURING THE COURSE OF ARREST. AND FINALLY, YOUR HONOR, AS
15 TO COUNT 13 OF THE INDICTMENT, POSSESSION OF COCAINE, I
16 HAVE HEARD NO EVIDENCE WHATSOEVER INDICATING MY, I
17 HAVEN'T EVEN HEARD THE WORD COCAINE TODAY OR YESTERDAY IN
18 TESTIMONY.

19 SO FOR THOSE REASONS, YOUR HONOR, I WOULD ASK THE --
20 THAT THESE REMAINING 11 COUNTS OF THE INDICTMENT BE
21 DISMISSED.

22 MR. CONNER: I WILL AGREE ON COUNT 13, YOUR HONOR.
23 OF COURSE, COUNTS 3 AND 4 WE ARE NOT PROCEEDING ON, I
24 DON'T BELIEVE. I THINK WOULD THAT THAT WAS THE DECISION
25 MADE AT THE BEGINNING OF THE CASE. SO WE'RE ONLY ON

1 COUNT 1 AND 2, 5, 6, 7, 8, 9, 10, 11 AND 12. AND THIS
2 OFFICER TESTIFIED THAT HE WAS IN POSSESSION OF THE
3 PISTOL; THAT HE HAD IT IN HIS HAND. THAT THEY ACTUALLY
4 SAW HIM FIRE IT. THE -- ONE OF THE OFFICERS TESTIFIED HE
5 TOLD THAT HE WAS UNDER ARREST BEFORE THIS GUN WAS FIRED.
6 AND I THINK THAT THEIR TESTIMONY ALONE IS SUFFICIENT TO
7 CARRY THE CASE TO THE JURY ON ALL THE CHARGES IN THE
8 INDICTMENT. OTHER THAN THOSE THAT I MENTIONED, COUNT 13,
9 COUNT 3 AND COUNT 4.

10 THE COURT: ANYTHING FURTHER, MR. WILLIAMS?

11 MR. WILLIAMS: NOTHING FROM THE DEFENSE, YOUR HONOR.

12 THE COURT: THIRTEEN WAS NOTED AS POSSESSION OF
13 COCAINE. THE STATE AGREES AND MOTION FOR A DIRECTED
14 VERDICT IS GRANTED AS TO THAT PARTICULAR ONE. AS TO THE
15 REMAINING COUNTS, I FIND THAT THERE IS DIRECT EVIDENCE,
16 CIRCUMSTANTIAL EVIDENCE, ALONG WITH ADMISSIONS BY THE
17 DEFENDANT IF BELIEVED BY THE JURY; ALL CONSTITUTE A PRIMA
18 FACIE CASE FOR THE JURY TO WEIGH AS TO THE GUILT OR
19 INNOCENCE OF THE DEFENDANT AS TO ALL THE OTHER CHARGES.
20 AND I DENY THE MOTION.

21 MR. WILLIAMS: THANK YOU, YOUR HONOR.

22 THE COURT: ARE YOU READY TO PROCEED WITH THE
23 DEFENSE?

24 MR. WILLIAMS: AT THIS TIME, WOULD YOU, WOULD THIS BE
25 AN APPROPRIATE TIME TO ADVISE MY CLIENT OF HIS RIGHTS? OF

1 WHETHER OR NOT HE WISHES TO TESTIFY IN HIS BEHALF?

2 THE COURT: I WILL BE HAPPY TO. MR. YONSON, IF YOU
3 WILL COME AROUND, I NEED TO TALK WITH YOU FOR A MOMENT.
4 STAND RIGHT IN FRONT OF ME. YOU WILL FIRST BE SWORN.

5 (THEREUPON, THE DEFENDANT SWORN.)

6 THE COURT: MR. YONSON, WE HAVE NOW REACHED THE STAGE
7 OF THE TRIAL WHERE YOU HAVE A RIGHT TO PRESENT YOUR
8 DEFENSE. IN CONNECTION WITH THAT, I WANT TO EXPLAIN TO
9 YOU CERTAIN OF YOUR RIGHTS. IF YOU DON'T -- IF YOU DO NOT
10 UNDERSTAND ANYTHING THAT I SAY, I WILL BE HAPPY TO EXPLAIN
11 ANYTHING IN MORE DETAIL FOR YOU IF YOU NEED ME TO. DO YOU
12 UNDERSTAND?

13 THE DEFENDANT: YES, YOUR HONOR.

14 THE COURT: NOW YOU HAVE THE RIGHT TO CLAIM THE
15 PROTECTIONS OF THE -- AFFORDED TO YOU BY THE FIFTH
16 AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, WHICH
17 IN PART STATES THAT NO PERSON SHALL BE COMPELLED IN ANY
18 CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. NOW THIS
19 MEANS THAT YOU CANNOT BE REQUIRED TO TESTIFY IN THIS CASE.
20 AND YOU DO HOWEVER, HAVE THE RIGHT TO TESTIFY ON YOUR OWN
21 BEHALF IF YOU WOULD LIKE TO; HOWEVER, NOBODY CAN MAKE YOU
22 TESTIFY. THIS IS A PERSONAL RIGHT THAT YOU HAVE, AND NO
23 ONE CAN WAIVE THIS RIGHT EXCEPT YOU. IF YOU DECIDE TO
24 TESTIFY, THEN YOU WILL BE SUBJECT TO THE SAME RULES THAT
25 GOVERN THE OTHER WITNESSES AND YOU WILL HAVE THE RIGHT TO

1 BE EXAMINED AND CROSS EXAMINED ON ANY RELEVANT ISSUE IN
2 THIS CASE.

3 IN ADDITION, IF YOU HAVE CONVICTIONS INVOLVING
4 DISHONESTY, FALSE STATEMENTS OR FOR CRIMES PUNISHABLE BY
5 MORE THAN ONE YEAR IN PRISON, AND I DETERMINE THE
6 PROBATIVE VALUE OF ADMITTING THAT EVIDENCE OUTWEIGHS ITS
7 PREJUDICIAL EFFECT TO YOU, THE STATE WOULD THEN BE ABLE
8 TO INTRODUCE YOUR CRIMINAL RECORD TO ATTACK YOUR
9 CREDIBILITY. IF YOU DECIDE TO TESTIFY, THIS DECISION ON
10 YOUR PART MUST BE FREELY AND VOLUNTARILY MADE. AND
11 INTELLIGENTLY MADE WITH KNOWLEDGE OF PROTECTIONS GIVEN TO
12 YOU BY THE FIFTH AMENDMENT AS WELL AS THE CONSEQUENCES OF
13 YOUR DECISION TO TESTIFY. NOW IF YOU DECIDE NOT TO
14 TESTIFY, I WILL INSTRUCT THE JURY THAT THEY CANNOT GIVE
15 THIS FACT ANY CONSIDERATION WHATSOEVER. AND THAT THERE
16 IS TO BE ABSOLUTELY NO PREJUDICE TO YOU BECAUSE YOU DID
17 NOT TESTIFY. IT IS LEFT ENTIRELY UP TO AS TO WHETHER OR
18 NOT YOU TESTIFY IN THIS CASE.

19 YOU MAY TALK MORE WITH YOUR LAWYER MR. WILLIAMS
20 ABOUT IT, AND YOUR FAMILY AND FRIENDS YOU MIGHT WANT TO
21 TALK TO, OR ANYONE ELSE YOU MIGHT WANT TO TALK TO. BUT
22 IN THE FINAL ANALYSIS, THE DECISION IS LEFT ENTIRELY UP
23 TO YOU. DO YOU UNDERSTAND WHAT I HAVE EXPLAINED?

24 THE DEFENDANT: IT'S ONE QUESTION I DO HAVE,---

25 THE COURT: YES, SIR.

1 THE DEFENDANT: ---YOUR HONOR.

2 THE DEFENDANT: AT ANY POINT DURING MY TESTIMONY, I
3 CANNOT ANSWER QUESTIONS IF I FEEL THAT THEY WOULD BE---

4 THE COURT: ONCE YOU TESTIFY, THEN YOU WILL BE
5 SUBJECT TO DIRECT EXAMINATION BY YOUR LAWYER AND CROSS
6 EXAMINATION BY THE SOLICITOR. WHETHER OR NOT YOU ARE
7 REQUIRED TO ANSWER ANY PARTICULAR QUESTIONS WILL BE BASED
8 ON THE OBJECTIONS AND VARIOUS ACTIVITIES BY THE LAWYERS
9 CONCERNING THAT AND MY RULINGS REGARDING THAT. I CANNOT
10 TELL YOU IN ADVANCE WHETHER OR NOT YOU WOULD BE REQUIRED
11 TO ANSWER ANY PARTICULAR QUESTIONS OR SHOULD YOU FAIL,
12 WHAT WOULD BE THE CONSEQUENCES OF YOUR FAILURE TO ANSWER
13 ANY PARTICULAR QUESTIONS.

14 AND IF YOU TESTIFY, YOU GIVE UP YOUR PRIVILEGE
15 AGAINST SELF-INCRIMINATION. THAT'S THE WHOLE POINT OF
16 WHAT WE'RE TALKING ABOUT. IF THE STATE SHOULD ASK YOU
17 SOME QUESTIONS THAT MAY RESULT IN YOUR ADMISSION
18 CONCERNING COMMISSION OF SOME OTHER CRIME FOR WHICH YOU
19 ARE NOT ON TRIAL, SOMETHING YOU HAVE NOT ALREADY BEEN
20 CONVICTED OF, THEN THE COURT WOULD IN THAT INSTANCE WEIGH
21 WHETHER OR NOT YOU SHOULD BE REQUIRED TO INCRIMINATE
22 YOURSELF AS RELATES TO ANY NEW MATTERS NOT SUBJECT TO
23 THIS TRIAL, AND ALSO WHETHER OR NOT ANY ISSUE INVOLVING
24 ANY QUESTION THAT MAY CAUSE UPON YOU TO COMMIT PERJURY.
25 I WILL HAVE TO HEAR FROM THE LAWYERS REGARDING ALL THOSE

1 MATTERS.

2 SO I CANNOT TELL YOU WHETHER OR NOT YOU CANNOT
3 ANSWER ANY PARTICULAR QUESTIONS. IN THE GREATEST
4 LIKELIHOOD HOWEVER, ONCE YOU TESTIFY, YOU HAVE WILL HAVE
5 TO ANSWER ALL QUESTIONS POSED TO YOU. BUT ALL THAT
6 DEPENDS UPON THE ACTIVITIES OF THE LAWYERS AND MY VIEW OF
7 A PARTICULAR QUESTION ASKED OF YOU AT THE TIME. DO YOU
8 HAVE ANY ADDITIONAL QUESTIONS ABOUT WHAT I HAVE EXPLAINED
9 TO YOU?

10 THE DEFENDANT: YES. MAY I CONSULT WITH MY LAWYER
11 BEFORE I MAKE THIS DECISION?

12 THE COURT: SURE. HAVE YOU MADE UP YOUR MIND?

13 THE DEFENDANT: YES, SIR, YOUR HONOR, I HAVE. I
14 WISH TO WAIVE MY RIGHTS AT THIS TIME.

15 THE COURT: YOU WISH TO WAIVE YOUR RIGHT TO TESTIFY?

16 THE DEFENDANT: NO. I WANT TO TESTIFY.

17 THE COURT: YOU WILL TESTIFY.

18 THE DEFENDANT: YES, SIR.

19 THE COURT: VERY GOOD. LET'S BRING THE JURY.

20 (THEREUPON THE FOLLOWING TAKES PLACE WITHIN THE
21 PRESENCE OF THE JURY.)

22 THE COURT: DO YOU WANT ME TO TELL THEM ABOUT THE
23 STIPULATION AT THIS TIME ABOUT HIS HAVING BEEN CONVICTED
24 OF A CRIME INVOLVED?

25 MR. CONNER: THE PARTIES AGREED AT THE VERY

1 BEGINNING.

2 MR. WILLIAMS: YES, SIR, YOUR HONOR.

3 THE COURT: LADIES AND GENTLEMEN, YOU HAVE HEARD THE
4 STATE'S CASE. IT IS NOW THE DEFENSE'S TURN TO PRESENT ITS
5 CASE. AND I JUST WANT TO REVIEW WITH YOU WHAT CHARGES
6 ARE HERE. I TELL YOU WHAT CHARGES ARE NOT HERE, THE
7 CHARGE OF POSSESSION OF A STOLEN PISTOL. COUNTS THREE AND
8 FOUR, THOSE ARE NO LONGER WITH US ON THAT. AND THE
9 CHARGE OF POSSESSION OF COCAINE HAS BEEN DISMISSED AS
10 WELL. THOSE THREE CHARGES ARE DISMISSED. ALL THOSE
11 CHARGES INCLUDING THE CHARGE OF POSSESSION OF A PISTOL BY
12 A PERSON CONVICTED OF A CRIME OF VIOLENCE, THOSE CHARGES
13 ARE NOT IN. IT IS NOW THE DEFENSE'S TURN. CALL YOUR
14 FIRST WITNESS.

15 MR. WILLIAMS: THANK YOU, YOUR HONOR. AT THIS
16 TIME THE DEFENSE WOULD CALL WESLEY YONSON.

17 WESLEY YONSON, BEING FIRST DULY
18 SWORN, TESTIFIED AS FOLLOWS:

19 THE BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR
20 LAST NAME, PLEASE.

21 A IT'S WESLEY YONSON. Y-O-N-S-O-N.

22 DIRECT EXAMINATION BY MR. WILLIAMS:

23 Q MR. YONSON, HOW OLD ARE YOU?

24 A I WILL BE 50 NEXT WEEK.

25 Q MR. YONSON, WHERE DO YOU LIVE NOW?

1 A I AM CURRENTLY LIVING IN ROCK HILL, SOUTH CAROLINA.

2 Q DO YOU WORK IN ROCK HILL?

3 A NO, SIR. I WORK AT THE BIBLE BROADCASTING NETWORK IN
4 CHARLOTTE.

5 Q ROCK HILL HAS BECOME RIGHT MUCH OF A SUBURB TO
6 CHARLOTTE I HEAR.

7 A YES, SIR, IT IS.

8 Q WHERE DID YOU GROW UP, SIR?

9 A I PRIMARILY GREW UP IN, FROM RIGHT HERE IN SUMTER
10 COUNTY FROM MY SCHOOL YEARS. AND THEN I JOINED THE
11 MILITARY, AND SPENT 20 YEARS IN THE MILITARY AND THEN
12 RETIRED. AND THEN I RETIRED AT ROCK HILL, AND AM
13 CURRENTLY EMPLOYED WITH THE BIBLE BROADCASTING UP IN
14 CHARLOTTE.

15 Q DID YOU ATTEND SCHOOL HERE IN SUMTER YOU SAID?

16 A I ATTENDED SEVERAL YEARS HERE. I MOVED AWAY. MY
17 PARENTS WERE ALSO IN THE MILITARY, SO WE MOVED BACK AND
18 FORTH. BUT I ACTUALLY GRADUATED FROM SUMTER HIGH SCHOOL.

19 Q AND YOU SAID YOU ENTERED THE ARMED SERVICES?

20 A YES, SIR. I WAS IN THE SERVICES FOR 20 YEARS AND
21 RETIRED. AND THEN DECIDED TO RETIRE BACK IN THIS AREA
22 TOWARDS HOME.

23 Q WHAT BRANCH?

24 A AIR FORCE. THERE WAS ONLY ONE BRANCH.

25 Q WHAT DID YOU DO WITH THE AIR FORCE?

1 A I WAS A PROPORTION TECHNICIAN. A PROPORTION
2 INSTRUCTOR. AND BASICALLY HANDLED EVERYTHING WITH F-15,
3 F-16 AIRCRAFT POWER PLANTS. ANYTHING RELATED TO ANY KIND
4 OF MAINTENANCE OR INSTRUCTION RELATED TO THOSE -- TO
5 AIRCRAFT.

6 Q AND YOU NOW LIVE IN ROCK HILL WORKING IN CHARLOTTE.

7 A YES, SIR.

8 Q WITH? WHAT'S THE NAME?

9 A BIBLE BROADCASTING NETWORK. ALSO KNOWN AS BBN.

10 Q AND WHAT DO YOU DO WITH THE BIBLE BROADCASTING
11 NETWORK?

12 A I WORK IN THE INFORMATION TECHNOLOGIES DEPARTMENT.

13 Q AND HOW LONG HAVE YOU BEEN THERE?

14 A I'VE BEEN THERE GOING ON NINE YEARS.

15 Q DO YOU ENJOY THAT WORK?

16 A I LOVE IT.

17 Q DO YOU?

18 A I AM MISSING IT RIGHT NOW.

19 Q WELL WE'RE SORRY TO HAVE TO KEEP YOU OUT OF THAT.
20 HOPEFULLY WE'LL GET YOU BACK THERE SOON. MR. YONSON, WHAT
21 IS YOUR CONNECTION IN THE CASE HERE TODAY?

22 A I APOLOGIZE IF I GET EMOTIONAL HERE. I RECEIVED A
23 PHONE CALL EARLY IN THE MORNING. TO TELL YOU THE TRUTH, I
24 DON'T REMEMBER WHAT NIGHT IT WAS. AND I BASICALLY WAS
25 TOLD THAT MY SON WAS SHOT. AND I DIDN'T GET ANY DETAILS;

1 THAT HE WAS BASICALLY DYING. THEY DIDN'T EXPECT HIM TO
2 LIVE. SO I BASICALLY JUST WENT AHEAD AND GOT DRESSED AND
3 WENT DOWN TO THE HOSPITAL. HE WAS IN SURGERY WHEN I
4 ARRIVED.

5 OF COURSE, THERE WAS OTHER FAMILY AND FRIENDS THAT
6 WERE ALREADY THERE GATHERED THERE, BECAUSE OF THE DISTANCE
7 I HAVE TO TRAVEL. AND SO WE JUST PATIENTLY WAITED. AND I
8 KEPT HEARING DIFFERENT STORIES, AND, YOU KNOW, ANYTIME
9 SOMETHING TRAGIC LIKE THIS HAPPENS, YOU ALWAYS HEAR
10 DIFFERENT STORIES AND THINGS THAT ARE GOING ON. AND I
11 JUST BEING IN THE MILITARY WITH MY EXPERIENCE WITH MISHAPS
12 AND THIS KINDS OF THINGS RELATED TO THE AIRCRAFT, YOU JUST
13 HAVE TO WAIT AND BE PATIENT. AND LET THE FACTS KIND OF
14 EVOLVE AND OPEN UP THEMSELVES BEFORE YOU START JUMPING TO
15 CONCLUSIONS. SO THAT'S WHY I JUST KEPT MY MOUTH SHUT AND
16 I JUST KIND OF LISTENED TO THE CONVERSATIONS. AND SOME OF
17 THE THINGS I WAS HEARING WERE KIND OF UPSETTING. BUT I
18 HAD NO IDEA WHAT WAS GOING ON.

19 AND THEN AFTER A FEW HOURS AFTER MY SON WAS REMOVED
20 FROM SURGERY, HE WAS BASICALLY STILL SEDATED. HEAVILY
21 SEDATED. HE HAD A BREATHING TUBE IN. HE HAD SEVERAL IV'S
22 GOING IN TO HIM. AND THE SURGEON THAT PERFORMED THE
23 SURGERY BASICALLY HAD TOLD US THAT -- HE EXPLAINED TO US,
24 WE HADN'T SEEN ANYTHING AT THIS TIME. AND HE HAD
25 BASICALLY HAD TO, THEY DIDN'T DO ANYTHING AS FAR AS PREP.

1 GOES. THEY THREW -- THEY SAID THEY HAD THROWN RANDY ON
2 THE TABLE. THEY CUT HIM FROM STEM TO STERN. THEY
3 LITERALLY SLICED HIM RIGHT DOWN THE MIDDLE. THEY SAID
4 THEY HAD TO PULL ALL OF HIS INTESTINES AND ORGANS OUT AND
5 GO THROUGH THEM PIECE BY PIECE BECAUSE THEY HAD NO IDEA
6 WHERE HE WAS BLEEDING FROM. AND THERE WERE TRANSFUSIONS.
7 EVERYTHING THEY CAN TO SAVE HIS LIFE AT THAT PARTICULAR
8 TIME.

9 Q TAKE YOUR TIME, SIR.

10 A AND OF COURSE THAT IS BAD ENOUGH TO HEAR AS ITSELF.
11 YOU KNOW, HE IS LAYING THERE AND IS PRETTY MUCH HELPLESS
12 AND BREATHING. AND MY WIFE, I AM NOT -- I AM REMARRIED.
13 AND MY WIFE THAT WAS WITH ME, LINDA, WE WERE LIFTING UP
14 THE COVERS. AND WE WERE LOOKING, WE COULD SEE THE HUGE
15 SURGICAL MARK, BUT THEY HAD STABLED IT ALTOGETHER AND
16 EVERYTHING. AND THE FIRST THING I NOTICED WAS THAT, AND I
17 AM PROBABLY LIKE MOST PEOPLE HERE, WHEN YOU HEAR THAT YOUR
18 SON IS IN A GUN FIGHT, YOU KIND OF JUMP TO CONCLUSIONS.
19 WELL YOU KNOW IF YOU GET IN A FIGHT WITH OFFICERS OR
20 WHATEVER AND THERE'S GUNSHOTS, YOU'RE GOING TO HAVE
21 BULLET HOLES IN YOU AND STUFF. AND WHEN WE LIFTED UP THE
22 COVERS, THERE WAS NO BULLET HOLES ANYWHERE IN THE FRONT
23 PART OF HIS BODY AT ALL. IT WAS A LONG GASH THAT WAS
24 THERE.

25 WE COULDN'T MOVE HIM AT THE TIME. HE WAS IMMOBILIZED

1 BECAUSE HIS LEG WAS IN A CAST, AND HE HAD THE TUBES AND
2 ALL THE IV'S AND EVERYTHING. WE COULDN'T REALLY DO
3 ANYTHING WITH HIM. WE HAD TO WAIT FOR THE BREATHING TUBE
4 TO COME OUT. BUT WE PRETTY MUCH STAYED THERE
5 CONTINUOUSLY. AND THEN AFTER HE -- WITHIN THE NEXT, I
6 WOULD GUESS 18, MAYBE 24 HOURS THE BREATHING TUBE WAS
7 REMOVED. HE STILL COULD NOT TALK. HE COULDN'T MOVE.
8 HE WAS VERY, VERY HEAVILY SEDATED. AND THEN MY WIFE AND
9 I, WE STARTED PULLING THINGS OFF OF HIM BECAUSE HE HAD TO
10 MOVE TO KEEP THE BLOOD CIRCULATION. AND THE NURSES AND
11 THE ATTENDING PHYSICIANS HAD TOLD US, HE'S TO MAKE SURE
12 THAT HE, YOU KNOW CERTAIN THINGS ARE DONE. YOU KNOW,
13 BECAUSE OF THE CONDITION THAT HE WAS IN.

14 THEN WE JUST, IF WE NEED ANY ASSISTANCE, JUST CALL
15 US. AND WE STARTED ROLLING HIM OVER. AND THAT'S WHEN I
16 STARTED, HIS RIGHT ARM WAS IN A CAST AND SECURED AGAINST
17 HIS ARM. AND THEN HIS LEFT ARM WAS IN A FULL CAST. AND
18 OBVIOUSLY WE ASKED THE PHYSICIAN, WHAT IS THE DEAL WITH
19 THIS. AND I DON'T KNOW IF I CAN ACTUALLY SAY THIS OR NOT
20 BECAUSE THE NURSES SAID IT. THEY SAID HIS RIGHT ARM WAS
21 DISLOCATED. AND THEY HAD TO SECURE IT AGAINST HIS ARM
22 UNTIL IT WAS PUT BACK IN THE SOCKET OR WHATEVER IT IS THAT
23 THEY WERE GOING TO DO WITH IT. AND THEN HIS LEFT LEG WAS
24 BROKEN. SO THEY HAD PUT A CAST ON THAT TO IMMOBILIZE IT.
25 AND THEN WE HAD ALSO ROLLED HIM, AND WE NOTICED SOME BIG

1 PATCHES OF WADDING THAT WERE SATURATED IN BLOOD. AND WHAT
2 ARE THESE. AND THEY SAYS THAT'S WHERE HE WAS SHOT. HE
3 WAS SHOT IN THE BACK.

4 AND IT -- AND AT THAT POINT I DIDN'T KNOW WHAT TO
5 SAY. I DIDN'T KNOW WHAT TO THINK. I HAD NO IDEA WHAT TO
6 DO. AND THEN WE BASICALLY HAD TO LEAVE WHILE THEY
7 CHANGED ALL HIS DRESSINGS AND EVERYTHING. AND THEN WE
8 STARTED HEARING SOME OF THE THINGS. AND I WAS LISTENING
9 TO SOME OF THE PEOPLE TALK THAT WERE THERE. AND SOME OF
10 THE THINGS THEY WERE SAYING, IT JUST DID NOT MAKE ANY
11 SENSE. AND THEN SOME OF THE THINGS THEY WERE SAYING THEN
12 I WOULD LOOK AT RANDY AND THINKING WHAT I HAD SAW, THEY
13 JUST DID NOT AGREE. AND THE SHERIFF HAD ACTUALLY COME UP
14 THERE, AND HE HAD MADE VERBAL STATEMENTS THAT THE GUN
15 FIGHT WITH THE SHERIFFS AND HE WAS SHOT.

16 MR. CONNER: OBJECTION TO SAYING WHAT THE SHERIFF.

17 A THE---

18 Q JUST A SECOND, MR. YONSON, YOU CAN'T TELL US WHAT
19 OTHER PEOPLE SAID.

20 A OKAY.

21 Q YOU CAN ONLY TELL US WHAT YOU SAW.

22 A OKAY.

23 Q WHAT YOU OBSERVED WITH YOUR OWN EYES.

24 A OKAY.

25 Q AND WHAT IF SOMEONE ELSE SAID SOMETHING AND MADE YOU

1 THINK SOMETHING, YOU CAN TELL US WHAT YOU THOUGHT.

2 A OKAY. SOME OF THE THINGS THAT PEOPLE WERE SAYING
3 WERE INDICATING THAT---

4 MR. CONNER: YOUR HONOR, I OBJECT TO ANYTHING, I HAVE
5 LET THIS GO ON THUS FAR, BUT I JUST OBJECT TO ALL THIS
6 HEARSAY. HE CAN TELL WHAT HE SAW. BUT QUITE FRANKLY,
7 HE'S QUOTING OTHER PEOPLE. IT IS BEYOND THE RULES.

8 THE COURT: THE OBJECTION IS SUSTAINED. NEXT
9 QUESTION.

10 Q MR. YONSON, ANYTHING YOU SAY TO US NOW HAS TO BE
11 SOMETHING YOU SAW. YOU CAN'T TELL US WHAT OTHER PEOPLE
12 SAID.

13 A OKAY. THE THINGS THAT I DID SEE ON RANDY PHYSICALLY
14 WAS THE FACT HE WAS SHOT IN THE LOWER BACK. ALMOST, AS A
15 MATTER OF FACT, RIGHT AT THE TAIL BONE. BECAUSE MY WIFE
16 AND I TURNED HIM OVER AND HAD REMOVED THE DRESSINGS. AND
17 WE SAW THE BULLET WOUNDS. AND ALSO REMOVED THE PADDING
18 AND STUFF OFF OF HIS SHOULDERS. AND WHERE HE WAS SHOT IN
19 THE BACK, HE WAS NO WHERE SHOT IN THE FRONT AT ALL. HIS
20 LEFT LEG WAS SHOT IN THE FRONT, BUT THE BULLET WENT DOWN.
21 AND OF COURSE, WE GOT A LATER EXPLANATION ON THAT. BUT I
22 WON'T GO IN TO THAT. AND THEN AS HE BEGAN TO COME OUT OF
23 ANESTHESIA, AND SOME OF THE MEDICATIONS WOULD WEAR OFF AND
24 STUFF, OF COURSE HE HAS JUST COMPLETELY BEEN GUTTED SO HE
25 WAS IN AN EXTREME AMOUNT OF PAIN.

1 AND THEN AFTER ABOUT 24, 36 HOURS, TIME WAS KIND OF
2 AT DAYS AT THIS POINT. BUT HE WAS MOVED, NOT OUT OF ICU,
3 BUT HE WAS IN ANOTHER ROOM TO WHERE HE COULD BE MONITORED.
4 AND HE WAS ON ALL OF THE MONITORS CONTINUOUSLY. AND THEN
5 THESE ATTENDING PHYSICIANS THAT WERE THERE, THEY WERE VERY
6 COURTEOUS. THEY WERE FRANTICALLY TRYING TO WORK TO MAKE
7 SURE THAT EVERYTHING WENT RIGHT; HE GOT A SPEEDY RECOVERY.
8 AND THEY GAVE HIM A TREMENDOUS AMOUNT OF MEDICATION. AND
9 THEY TOLD US IF HE HAD WOKE UP, IF HE WAS FEELING ANY
10 PAIN, THAT WE JUST NEEDED TO MAKE SURE THAT HE TOOK -- HE
11 WAS TAKING MEDICATION WITH HEAVY DOSES OF CODEIN IN IT.
12 AS WELL AS A COUPLE OF OTHERS. AND RANDY BE GIVEN
13 MEDICATION HE WAS ON AT THE TIME. AND I DON'T KNOW IF I
14 CAN REFER TO THE STATEMENT MADE BY THE SLED WHEN THEY TOOK
15 THEIR STATEMENT.

16 Q WE WON'T GET INTO THAT RIGHT NOW. RIGHT NOW I WANT
17 YOU TO TELL US ABOUT RANDY IN THE HOSPITAL.

18 A OKAY. HE WAS WEAK. I MYSELF WAS JUST FEEDING HIM
19 THE MEDICATION AND THE DRUGS JUST TO MAKE SURE THAT HE
20 JUST STAYED PRETTY MUCH COMATOSE, BECAUSE HE WAS IN SO
21 MUCH PAIN FROM ALL OF THE TRAUMA THAT WAS DONE TO HIS
22 BODY, BOTH FROM THE SURGERY AND THE BULLET WOUNDS THAT
23 WERE TAKEN TO HIM. ANOTHER OBSERVATION WAS ALSO IS THAT,
24 HIS ENTIRE RIGHT SIDE HAD LITERALLY HAD PUNCH MARKS OR
25 KICK MARKS ALL THE WAY DOWN HIS ENTIRE SIDE. AND A COUPLE

1 THERE ON HIS ACTUAL LEFT SIDE. AND HIS RIGHT SHOULDER AND
2 HIS WRIST AND ARM WERE ALL REALLY, REALLY BADLY BRUISED.
3 AND THEN OF COURSE WE COULDN'T ASK HIM ANY QUESTIONS. WE
4 HAD NO IDEA WHAT WAS GOING ON. WE JUST KIND OF DREW OUR
5 OWN CONCLUSIONS. WHICH I'LL JUST LEAVE IT AT THAT.

6 Q WHY COULDN'T YOU ASK HIM QUESTIONS, MR. YONSON?

7 A HE COULDN'T TALK AT THE TIME. EVEN IF HE DID TALK
8 AND WE WERE TRYING TO ASK HIM QUESTIONS AS MUCH AS WE
9 COULD, HIS ANSWERS TO US WERE VERY ERRATIC. ALMOST LIKE
10 PIECES TO A PUZZLE. JUST SCATTERED. AND YOU COULDN'T
11 MAKE HEADS OR TAILS OF WHAT HE WAS SAYING. AND IT WAS
12 REALLY KIND OF FRUSTRATING BECAUSE HE WOULD BE TALKING
13 ABOUT ONE THING, AND THEN THE NEXT THING. HE WOULD JUST
14 EITHER FALL ASLEEP OR HE WOULD WAKE UP IN THE MIDDLE OF A
15 DIFFERENT CONVERSATION. THE DAY THAT HE WAS ACTUALLY
16 DISCHARGED, I WAS STILL PERSONALLY, I HAD JUST RECENTLY
17 GIVEN HIM HEAVY DOSES OF MEDICATION, BECAUSE HE SAID HE
18 WAS IN A LOT OF PAIN. AND THEN MY WIFE AND I WENT BACK TO
19 ROCK HILL TO CHANGE CLOTHES AND EVERYTHING. WE WERE
20 COMING BACK. AND THAT'S WHEN WE FOUND OUT THAT HE HAD
21 LEFT.

22 BUT WHILE HE IS ON THAT MEDICATION, HE IS AS KOOKY AS
23 HE CAN BE. HE IS JUST LIKE HE IS ON CLOUD NINE. HE HAS
24 NO IDEA OF WHAT HE IS SAYING. WE COULDN'T QUESTION HIM
25 AND FIND OUT A WHOLE LOT OF DETAILS AT THAT TIME. I

1 DIDN'T GET A WHOLE STORY FROM RANDY UNTIL SEVERAL WEEKS
2 LATER AFTER HE WAS ALREADY RECOVERING WHENEVER HE WAS AT
3 THE HOSPITAL THAT THEY HAD TRANSFERRED HIM TO. THAT'S
4 WHEN I ACTUALLY GOT THE WHOLE PICTURE AND THE WHOLE STORY
5 FROM HIM. THEN I WAS ABLE TO TAKE THE LITTLE PIECES HERE
6 AND THERE THAT WERE SAYING -- THAT WERE LINING UP WITH
7 WHAT HE WAS SAYING.

8 Q AND WHEN YOU SAID RANDY WAS RELEASED FROM THE ICU
9 INTO A LESS INTENSIVE CARE UNIT.

10 A YES, SIR.

11 Q AND WAS STILL IN A ROOM AS IS COMMON AFTER SURGERIES,
12 WHERE THE PATIENT HAS THE MORPHINE?

13 A YES, SIR.

14 Q ACCESS TO MORPHINE A LITTLE QUICKER?

15 A YES, SIR. HE STILL HAD ACCESS TO MORPHINE. AND I
16 WAS STILL TOLD IF HE STILL FELT PAIN, THAT I COULD FEEL
17 FREE TO GIVE HIM TYLENOL WITH CODEIN, 800,000 MILLIGRAMS,
18 WHICH IS REALLY HIGH.

19 Q YOU'RE NOT A DOCTOR, AND WE DON'T WANT TO TALK ABOUT
20 MILLIGRAMS YET. AND AGAIN, YOU CAN'T SAY WHAT OTHER
21 PEOPLE TOLD YOU.

22 A RIGHT.

23 Q BUT YOU DID ADMINISTER THE MORPHINE TO HIM, BECAUSE
24 HE SEEMED TO BE IN PAIN?

25 A YES, SIR. AND HE HAD THE LITTLE BUTTON THING. AND

1 HE ACTUALLY HAD IT, IT WAS ON A TIME RELEASE. A LOT OF
2 TIMES HE WOULD BE FEELING PAIN THEN HE COULD MASH THE
3 BUTTON. OBVIOUSLY HE COULD JUST MEDICATE HIMSELF LIKE
4 THAT. SO IT WAS ON A TIME RELEASE. BUT IT WAS IN BETWEEN
5 THE TIMES THAT HE WAS ABLE TO GET THE DOSES. HE COULD
6 PHYSICALLY RELEASE IT HIMSELF. BUT I COULD ALSO GIVE HIM
7 OF ADDITIONAL MEDICATION.

8 Q AND THIS WAS ALL WHILE YOU WERE AT RICHLAND MEMORIAL
9 HOSPITAL?

10 A YES, SIR.

11 Q AND THIS WAS UP UNTIL THE LAST DAY HE WAS AT RICHLAND
12 MEMORIAL HOSPITAL.

13 A YES, SIR. WE WERE NOT EXPECTING HIM TO BE RELEASED.
14 HE WAS STILL IN PAIN. HE STILL HAD THE SUTURES ALL DOWN
15 IN HIS STOMACH. WE HAD CAME BACK AND PROBABLY JUST MISSED
16 HIM BY MAYBE 20 MINUTES. AND THEY SAID HE WAS RELEASED.
17 AND NOBODY KNOWS WHY.

18 Q WHY WEREN'T YOU THERE, MR. YONSON?

19 A WE WENT HOME TO CLEAN UP AND CHANGE. WE WERE GOING
20 TO SPEND THE REST OF THE DAY THERE AND THE REST OF THE
21 NIGHT THERE. WE ONLY WENT HOME JUST TO MAKE SURE THINGS
22 WERE TAKEN CARE OF AT HOME. WE WERE ONLY ABOUT TWO HOURS
23 AWAY FROM COLUMBIA. WE WERE DRIVING HOME TO GET CHANGED.
24 WE HAD BEEN THERE FOR A DAY, DAY AND A HALF. AND WE JUST
25 WANTED TO CHANGE AND FRESHEN UP AND THEN COME BACK. WE

1 SLEPT IN THE ROOM WITH HIM THE FIRST NIGHT.

2 Q SO, MR. YONSON, IF TWO DETECTIVES WERE INVESTIGATING
3 FROM SLED, HAD APPROACHED YOU WHILE YOU WERE IN THE ROOM
4 AND SAID, "MR. YONSON, WE WOULD LIKE TO TALK TO YOUR SON
5 ABOUT THE INCIDENT." WHAT WOULD YOUR RESPONSE TO THOSE
6 HAVE BEEN?

7 A WELL FIRST OF ALL, I WOULD HAVE ABSOLUTELY REFUSED.
8 AND THEN I WOULD HAVE TO ASK MYSELF WHY IN THE WORLD WOULD
9 THEY WANT TO SPEAK TO SOMEBODY THAT CAN'T EVEN SPEAK, WHO
10 WAS INCOHERENT WITH EVERYTHING. THAT CAN'T EVEN PUT DAILY
11 ACTIVITIES TOGETHER. MUCH LESS ANSWER THE KIND OF
12 QUESTIONS THAT I AM SURE THEY WANTED ANSWERS TO. WHICH I
13 DON'T KNOW WHAT THEY ASKED HIM.

14 MR. WILILAMS: THANK YOU, MR. YONSON. I APPRECIATE
15 YOU WALKING US THROUGH THIS. IT'S OBVIOUSLY A DIFFICULT
16 SITUATION. I ASK THAT YOU NOW ANSWER ANY QUESTIONS
17 MR. CONNER MAY HAVE.

18 CROSS EXAMINATION BY MR. CONNER:

19 Q MR. YONSON, YOU WERE NOT OUT AT THE FRENZ CLUB, WERE
20 YOU?

21 A NO, SIR.

22 Q YOU DON'T KNOW A THING ABOUT WHAT HAPPENED OUT THERE.

23 A NO, SIR.

24 Q YOU KNOW THAT IT'S AGAINST THE LAW FOR RANDY TO BE
25 OUT THERE WITH TWO PISTOLS. ONE IN ONE POCKET, ONE IN THE

1 ANOTHER, DIDN'T YOU?

2 MR. WILLIAMS: OBJECTION, YOUR HONOR. OUTSIDE THE
3 SCOPE OF DIRECT EXAMINATION.

4 THE COURT: OVERRULED.

5 A WELL FIRST OF ALL, I DON'T KNOW WHERE RANDY WAS AT.
6 AND I DON'T KNOW ANYTHING ABOUT ANY GUNS. I WAS NOT
7 THERE.

8 Q YOU WERE NOT THERE.

9 A NO, SIR.

10 Q YOU KNOW IT'S AGAINST THE LAW.

11 A I AM NOT FAMILIAR WITH GUN LAWS. IN THE MILITARY WE
12 GET GUNS AT 18, AND WE WERE ALLOWED TO USE THEM. SO I
13 DON'T KNOW ABOUT THE GUN LAWS. I DIDN'T LIVE IN THIS
14 STATE ONCE I WENT INTO THE MILITARY. SO I AM NOT FAMILIAR
15 WITH SOUTH CAROLINA LAW.

16 Q YOU DON'T KNOW ANYTHING ABOUT SOMEBODY WHO AS THE
17 LADY SAID, CURSING THE POLICE AND RESISTING AND EVERYTHING
18 THAT THEY WERE TRYING TO DO, AND BRING JUSTICE OUT THERE
19 SIMPLY DOING THEIR JOB, TRYING TO BRING ORDER TO THIS
20 CHAOTIC SITUATION, DO YOU?

21 A NO, SIR. BUT I DID SEE THE RESULTS OF WHAT THAT CAME
22 TO. AND FROM WHAT I'VE HEARD IN THEIR TESTIMONIES WHEN
23 THEY SAID MY SON WAS ON HIS BACK AND THEY WERE SHOOTING
24 HIM IN HIS FACE, THAT'S A LIE. HE WAS ON HIS STOMACH AND
25 THEY WERE SHOOTING HIM IN THE BACK. AND THE BULLET HOLES

1 ARE A REPRESENTATION OF THAT. SO HE WAS TRYING TO GET
2 AWAY. HE WAS NOT TRYING TO CONFRONT WITH THEM AT ALL.

3 Q YOU'RE A LOT OF THE PROBLEMS WITH THIS BOY, AREN'T
4 YOU?

5 A NO, SIR.

6 Q HE WAS DISCHARGED ON SEPTEMBER 17, 2005, WASN'T HE?

7 A YOU MEAN FROM THE HOSPITAL?

8 Q HE WAS IN THE HOSPITAL 6 DAYS?

9 A NO, SIR. HE WAS IN THE HOSPITAL FOR THREE DAYS.

10 Q HE WAS INTERVIEWED IN THE HOSPITAL ON SEPTEMBER 15TH.

11 A MAYBE. I HAVE LOST TRACK OF THE DAYS BECAUSE THEY
12 ARE SO LONG. I THOUGHT IT WAS THREE DAYS. IT SEEMED LIKE
13 AN ETERNITY TO ME.

14 Q BUT YOU KNOW ALL ABOUT THIS. YOU'RE HERE TO TELL
15 THESE LADIES AND GENTLEMEN EVERYTHING YOU KNOW IN YOUR
16 VIEW OF IT. OR YOUR WAY OF INTERPRETING IT.

17 A I ONLY CAN TELL YOU WHAT I SAW THAT WAS IN MY SON'S
18 BACK.

19 Q BUT YOU DON'T EVEN KNOW THE NUMBERS, DO YOU?

20 A NO, SIR. I CAN COUNT THE HOLES.

21 Q HE COULDN'T TALK, COULD HE? ISN'T THAT WHAT YOU
22 SAID, HE COULDN'T TALK?

23 A THE 1ST 24 HOURS NO, SIR, HE HAD A BREATHING TUBE.
24 HE COULD NOT TALK.

25 Q DIDN'T YOU HEAR HIM OUT THERE TALKING TO MR. DUKES,

1 GIVING HIM HIS NAME AND HIS DATE OF BIRTH AND HIS MAMA'S
2 TELEPHONE NUMBER? SO THAT DUKES COULD CALL HIS MAMA FOR
3 HIM AND LET HER KNOW THE SITUATION?

4 A THAT WAS BEFORE HE PASSED OUT AND BEFORE HE HAD A
5 BREATHING TUBE INSTALLED. BUT HE HAD A BREATHING TUBE IN
6 THE 1ST 24 HOURS. AND HE WAS HEAVILY MEDICATED AFTER
7 THAT.

8 Q AND YOU SAY HE JUST -- HE WENT IN THE HOSPITAL
9 SEPTEMBER 11TH. DO YOU AGREE WITH THAT?

10 A YES, SIR. I AM NOT SURE OF THE EXACT DATE, BUT I AM
11 PRETTY SURE IT WAS SEPTEMBER 11TH.

12 Q AND HE WAS ONLY IN THERE THREE DAYS ACCORDING TO YOU.
13 SO HE WOULD HAVE BEEN OUT ON THE 14TH.

14 A I AM NOT SURE OF -- I AM NOT SURE OF THE DATE HE WAS
15 ACTUALLY RELEASED.

16 Q ACCORDING TO YOU. BUT ACCORDING TO THESE OFFICERS HE
17 WAS THERE ON SEPTEMBER 15TH.

18 A I JUST KNOW THAT HE WAS CONTINUALLY ON MEDICATION THE
19 ENTIRE TIME THAT HE WAS THERE. AND HE WAS RELEASED VERY,
20 VERY EARLY.

21 Q AND ACCORDING TO THE MEDICAL RECORDS, HE WAS RELEASED
22 ON SEPTEMBER 17TH.

23 A OKAY, SIR.

24 MR. CONNER: I HAVE NO FURTHER QUESTIONS OF HIM.

25 THE COURT: ANYTHING FURTHER?

1 MR. WILLIAMS: NO REDIRECT, YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN, SIR. YOUR NEXT
3 WITNESS.

4 MR. WILLIAMS: YOUR HONOR, AT THIS TIME THE DEFENSE
5 WOULD CALL AMANDA TEAL.

6 AMANDA TEAL, BEING FIRST DULY
7 SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST
9 NAME, PLEASE.

10 A AMANDA TEAL. T-E-A-L.

11 DIRECT EXAMINATION BY MR. WILLIAMS:

12 Q GOOD AFTERNOON, MS. TEAL. HOW ARE YOU TODAY?

13 A NERVOUS.

14 Q THAT'S UNDERSTANDABLE.

15 A EMOTIONAL.

16 Q THAT'S ALL RIGHT. HOPEFULLY WE CAN WORK THROUGH
17 THIS. I JUST WANT YOU TO TALK, TO BE HONEST. TELL US
18 WHAT YOU KNOW---

19 A THAT'S WHAT I AM GOING TO DO.

20 Q ---WHAT YOU SAW. THANK YOU. MANDY; I HATE TO EVEN
21 ASK YOU, BUT HOW OLD ARE YOU?

22 A I AM 30.

23 Q 30. WHERE DID YOU GROW UP, MANDY?

24 A SUMTER.

25 Q DID YOU ATTEND ANY SCHOOLS HERE?

1 A YES.

2 Q WHICH ONES?

3 A I GRADUATED FROM SUMTER HIGH. AND I HAVE BEEN AT
4 CENTRAL CAROLINA AND U.S.C. HERE.

5 Q OKAY. GOOD. ARE YOU NOW LIVING IN SUMTER?

6 A YES.

7 Q AND DO YOU KNOW MR. YONSON?

8 A YES, I DO.

9 Q HOW DO YOU KNOW, MR. YONSON?

10 A WE WERE FRIENDS FOR AWHILE AND THEN WE STARTED DATING
11 IN 2005.

12 Q IN 2005?

13 A YES.

14 Q CAN YOU PULL THAT MICROPHONE CLOSER TO YOU? YOU ARE
15 SPEAKING VERY SOFTLY. I WANT TO MAKE SURE EVERYBODY HEARS
16 YOU. YOU BEGAN DATING MR. YONSON?

17 A YES.

18 Q WERE Y'ALL DATING AT THE TIME OF SEPTEMBER 11TH---

19 A YES, WE WERE.

20 Q ---2005? HAD YOU BEEN DATING FOR LONG?

21 A YES, SIR.

22 Q YOU HAD?

23 A WELL TIME KIND OF WENT BY. I WOULD SAY AT LEAST 6
24 MONTHS TO A YEAR OR SO.

25 Q Y'ALL WERE BOYFRIEND/GIRLFRIEND?

1 A YES.

2 Q WERE YOU WITH MR. YONSON ON THE NIGHT OF THIS

3 INCIDENT?

4 A YES, SIR.

5 Q AND WERE AT THE FRENZ CLUB?

6 A ON THE PINEWOOD ROAD. YES, SIR.

7 Q ON THE PINEWOOD ROAD?

8 A YES, SIR.

9 Q HAD YOU AND MR. YONSON GONE THERE TOGETHER?

10 A NO, SIR.

11 Q HOW HAD YOU GONE TO THE FRENZ CLUB THAT NIGHT?

12 A HOW DID I GET THERE?

13 Q YEAH.

14 A OH, WELL WE WENT TOGETHER AFTER ME AND A FRIEND OF

15 HIS WIFE, A GIRL NAMED BEVERLY, WE WENT BACK. AND THEN

16 WE WENT BACK AND THEY SHOT POOL. WE ARRIVED AT THE SAME

17 TIME THAT NIGHT. A LITTLE BIT AFTER TWO IN THE MORNING.

18 Q OKAY. MANDY, THERE IS A VIDEO OF THIS INCIDENT.

19 A YES.

20 Q HAVE YOU BEEN IN THE COURTROOM DURING THE TRIAL?

21 A NO, I HAVE NOT.

22 Q YOU HAVE BEEN OUTSIDE.

23 A YES, SIR.

24 Q IF YOU WILL BEAR WITH ME FOR JUST A MINUTE. HAVE YOU

25 HEARD OF THIS VIDEO?

1 A I HAVE HEARD IT OF, BUT I HAVEN'T SEEN IT.

2 Q IT HAS BEEN DESCRIBED TO YOU WHAT IT CONTAINS OR NOT?

3 A I JUST KNOW IT HAS SOME OF WHAT HAPPENED THAT NIGHT
4 BUT NOT EVERYTHING.

5 Q OKAY. YOU UNDERSTAND THE JURY HAS SEEN THIS VIDEO
6 ALREADY.

7 A YES.

8 Q I BELIEVE EVERYONE IN THIS COURTROOM HAS SEEN THE
9 VIDEO EXCEPT YOU. RANDY INCLUDED. I AM GOING TO SHOW YOU
10 THE VIDEO NOW. IF YOU WILL STEP DOWN I WILL GET YOU TO
11 NARRATE IT.

12 (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
13 STAND.)

14 Q MANDY, WHILE YOU ARE TALKING, THIS IS THE COURT
15 REPORTER AND SHE IS TAKING DOWN EVERY WORD YOU SAY. AND
16 IT IS IMPORTANT, YOU DON'T HAVE A MICROPHONE TO STAND
17 WHERE YOU ARE NOW. SO IT'S IMPORTANT FOR YOU TO SPEAK
18 LOUDLY AND CLEARLY WHENEVER YOU DO TALK. THIS IS THE
19 VIDEO?

20 A YES.

21 Q DO YOU RECOGNIZE THE SCENE?

22 A YES, I DO.

23 Q CAN YOU IDENTIFY THE CARS YOU RECOGNIZE?

24 A YES, I CAN. THAT'S THE TRUCK. THAT'S RANDY'S TRUCK.
25 THE DOOR TO THE CLUB SHOULD BE LIKE RIGHT HERE. AND THERE

1 WAS A COP CAR HERE, WHICH IS THIS CAR. THEN THERE WAS
2 ANOTHER ONE PULLED IN THERE.

3 Q OKAY.

4 A THAT YOU CAN SEE. I THINK THAT WAS ME. I CAN'T
5 REALLY TELL.

6 Q THERE ARE SOUNDS IN THE VIDEO, MANDY, WHICH I WOULD
7 LIKE YOU TO HEAR.

8 (THEREUPON, JURY IS WATCHING VIDEO.)

9 Q MANDY, DO YOU REMEMBER WHAT YOU WERE WEARING THE
10 NIGHT OF THE INCIDENT?

11 A A PAIR OF JEANS AND A TEE SHIRT.

12 Q DO YOU REMEMBER WHAT COLOR THE TEE SHIRT WAS?

13 A I THINK IT WAS A DARK GREEN OR DARK BLUE.

14 Q A DARK, A VERY DARK COLORED TEE SHIRT? WHEN I PLAY
15 THIS VIDEO AGAIN, I WANT YOU TO CONCENTRATE ON RIGHT
16 OUTSIDE THE DRIVER'S SIDE DOOR OF THE FORD PICKUP TRUCK
17 THAT WAS RIGHT HERE.

18 A YES, SIR.

19 Q AND LOOK AND SEE IF YOU SEE ANYBODY. AND IF YOU DO,
20 DO YOU HAVE A POINTER WITH YOU?

21 A YES, SIR.

22 Q PLEASE POINT AND TELL ME IF YOU SEE ANYBODY, AND IF
23 SO, WHAT YOU SEE. JUST TAKE YOUR TIME. YOU CAN TELL ME
24 WHEN YOU'RE READY. I DON'T WANT TO RUSH YOU.

25 A I AM READY.

1 Q IF Y'ALL JUST CONCENTRATE ON THAT AREA. TELL US IF
2 YOU SEE ANYTHING.

3 A THAT'S ME. THE WHOLE TIME THAT'S ME. THE WHOLE TIME
4 THAT IS ME.

5 MR. WILLIAMS: THANK YOU. YOU CAN HAVE A SEAT.

6 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

7 Q MANDY, DO YOU NEED A MINUTE? ARE YOU OKAY? CAN YOU
8 TALK OR DO YOU NEED A SECOND?

9 A I CAN TALK.

10 Q THE AUDIO PLAYING IN THAT VIDEO WAS VERY LOUD JUST
11 NOW, WAS IT NOT?

12 A THAT'S ME SCREAMING.

13 Q AND I WANT TO MAKE SURE.

14 A EVERYBODY WAS CURSING. I MEAN RANDY WAS CURSING.
15 THE POLICE WERE CURSING AND EVERYBODY. I MEAN IT WAS
16 CRAZY. AND I WAS SCREAMING. I DIDN'T KNOW WHAT ELSE TO
17 DO.

18 Q MANDY, LET ME STOP YOU RIGHT NOW.

19 A I AM SORRY.

20 Q WERE YOU IN HERE DURING MR. YONSON'S?

21 A YES.

22 Q AND YOU HEARD IT SAID, YOU CAN'T SAY WHAT ANYONE
23 ELSE SAYS. YOU CAN ONLY SAY WHAT YOU SAW WITH YOUR OWN
24 EYES.

25 A YES, SIR.

1 Q OR WHAT YOU SAY. AND WHAT YOU SAID. ANYTHING YOU
2 OBSERVED.

3 A I WAS SCREAMING FOR THEM TO STOP. AND I ASKED THEM
4 WHAT THEY WERE DOING. AND WHY WERE THEY DOING THAT. AND
5 HE HAD HIS HANDS IN THE AIR.

6 Q AND DID YOU SEE IN THE TAPE, AND AS I SAID, THE SOUND
7 WAS TURNED -- THE VOLUME WAS VERY LOUD. I WANT TO MAKE
8 SURE THE COURT REPORTER HERE HEARD YOU. DID YOU FIND
9 YOURSELF IN THAT VIDEO?

10 A YES, SIR. I WAS STANDING THERE THE WHOLE TIME NEXT
11 TO THE FRONT PART OF TRUCK ON THE DRIVER'S SIDE.

12 Q HOW FAR WERE YOU FROM RANDY DURING THIS?

13 A I WAS MAYBE 3 FEET.

14 Q HOW ABOUT FROM DEPUTIES BOLAND AND WILLIAMS?

15 A ENOUGH SPACE BETWEEN DEPUTY BOLAND AND RANDY FOR
16 DEPUTY BOLAND TO BE ON RANDY AND HE'S STILL STANDING IN
17 THE SAME SPOT. AND ABOUT 3 FEET FROM THE OTHER DEPUTY.

18 Q SO WOULD IT BE FAIR TO SAY THAT YOU HAD A FRONT ROW
19 SEAT?

20 A YES, SIR.

21 Q HOLD ON JUST A MOMENT PLEASE, MANDY. MANDY, AT THIS
22 TIME, WILL YOU STEP DOWN AGAIN?

23 A YES, SIR.

24 (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
25 STAND.)

1 Q MANDY, I AM GOING TO GIVE YOU A MARKER, PLEASE. CAN
2 YOU PLEASE DRAW ON THIS NOTE PAD, A RECTANGLE TO REPRESENT
3 THAT PICK UP TRUCK? WHEREVER YOU WANT.

4 A I AM SHAKING.

5 Q THAT'S OKAY. AND, MANDY, THIS IS VERY IMPORTANT THAT
6 YOU KEEP YOUR VOICE UP. THIS IS ALL BEING TAKEN DOWN BY
7 MS. SULLIVAN. IT'S VERY IMPORTANT THAT SHE HEARS EVERY
8 WORD YOU SAY. AND YOUR BACK IS ALSO TO THE JURY, SO I
9 WANT TO MAKE SURE THEY CAN HEAR WHAT YOU ARE SAYING, OKAY.
10 NOW IF YOU CAN, THE TRUCK WAS PARKED NEAR THE CORNER OF
11 THE BUILDING?

12 A YES.

13 Q CAN YOU DRAW THE BUILDING ON THIS DIAGRAM?

14 A THAT'S THE DOOR RIGHT THERE.

15 Q DO YOU REMEMBER WHERE THE DEPUTY'S CARS WERE PARKED
16 IN RELATION TO THE TRUCK?

17 A YES. ONE WAS ABOUT HERE, AND ONE WAS ABOUT HERE.

18 Q CAN YOU USE AN X TO INDICATE WHERE RANDY WAS AT THE
19 BEGINNING OF THE INCIDENT?

20 A RIGHT HERE.

21 Q OKAY. AND THEN CAN YOU USE, CAN YOU DESCRIBE FOR US
22 HOW -- DO YOU KNOW WHO APPROACHED MR. YONSON FIRST?

23 A THERE WAS NO APPROACH FIRST. IT WAS KIND OF MORE
24 LIKE A FOOTBALL TACKLE FROM BOTH SIDES.

25 Q OKAY.

1 A ONE CAME THIS WAY AND ONE CAME THAT WAY WHILE RANDY
2 WAS TRYING TO GET IN THE TRUCK TO LEAVE.

3 Q OKAY. WHERE WAS RANDY? PUT ANOTHER X WHERE RANDY
4 WAS WHEN HE FIRST MADE CONTACT WITH THE DEPUTIES? OR MADE
5 BETWEEN RANDY AND THE DEPUTIES?

6 A ABOUT RIGHT THERE.

7 Q ABOUT RIGHT THERE. AND WHERE DID -- DO YOU KNOW THE
8 DEPUTIES HERE?

9 A I KNOW ONE.

10 Q WHICH ONE?

11 A I KNOW ERIN BOLAND.

12 Q SO YOU RECOGNIZED HIM AT THE SCENE?

13 A YES, I DID.

14 Q CAN YOU DRAW, MR. BOLAND, OR INDICATE ON THIS DIAGRAM
15 WHERE MR. BOLAND APPROACHED RANDY?

16 A RIGHT HERE.

17 Q JUST WHEN HE WALKED UP HERE, WHERE WERE THEY?

18 A IT WASN'T REALLY A WALK UP. THEY STARTED SCREAMING
19 AT HIM. AND RANDY WAS LIKE, WHAT DO YOU WANT WITH ME.

20 I'M JUST TRYING TO GO HOME. I HAVEN'T DONE ANYTHING.

21 THERE WAS STILL GIRLS OVER HERE FIGHTING. AND ERIN WENT
22 THAT WAY, AND THE COP CAME THIS WAY.

23 Q LET ME STOP YOU THERE, BECAUSE I WANT TO TAKE THIS
24 PIECE BY PIECE. I UNDERSTAND IT'S ALL EASY AND TEMPTING
25 TO GO THROUGH IT ALL IN ONE WITHOUT TAKING A BREATH. BUT

1 I WANT TO GO THROUGH THIS PIECE BY PIECE. OKAY. WHEN THE
2 DEPUTIES FIRST APPROACHED RANDY, THEY WERE AT THIS FRONT
3 CORNER OF THE PICKUP TRUCK?

4 A THEY STARTED -- ONE STARTED WALKING THIS WAY. AND
5 RANDY STARTED WALKING THAT WAY. SO BY THE TIME THE POLICE
6 HAD ACTUALLY HAD INTERACTION WITH HIM, IT WAS AROUND THE
7 FRONT OF THE TRUCK.

8 Q OKAY. AND WHERE WERE YOU AT THIS TIME? CAN YOU DRAW
9 AN X TO INDICATE YOURSELF? OKAY. AND AT THE TIME YOU
10 SAID IT WAS A FOOTBALL TACKLE?

11 A YES.

12 Q AND THEY WERE DOWN ON THE GROUND AFTER THAT TACKLE?

13 A YES.

14 Q WHERE WERE -- WHERE WAS THIS PILE OF PEOPLE AFTER THE
15 ATTACK?

16 A RIGHT HERE. AND I AM RIGHT HERE.

17 Q THAT WAS MY NEXT QUESTION. THAT'S FINE.

18 A AFTER THAT I WAS RIGHT HERE.

19 Q AND WAS THAT YOUR DARK HAIR AND A DARK TEE SHIRT I
20 BELIEVE?

21 A YES, SIR.

22 Q IN THE VIDEO THAT WE SAW?

23 A YES, SIR. THAT WAS ME.

24 Q RIGHT THERE.

25 A YES, RIGHT THERE.

1 Q SO DESCRIBE -- HOW WOULD YOU DESCRIBE YOUR POINT OF
2 VIEW?

3 A HOW FAR AWAY I WAS?

4 Q HOW WOULD YOU DESCRIBE YOUR POINT OF VIEW? YOUR
5 ABILITY TO SEE WHAT WAS GOING ON?

6 A A FRONT ROW TICKET.

7 Q MANDY, I HAD THE DEPUTIES DO THIS. NOW THIS DRAWING
8 RIGHT HERE WAS BY ANOTHER DEPUTY.

9 A OKAY.

10 Q I BELIEVE THIS INDICATED THE TRUCK. WHERE DOES HE
11 HAVE THIS ACTION TAKING PLACE?

12 A ON THE RIGHT SIDE OF THE DOOR. IS THAT SUPPOSED TO
13 BE THE DOOR TO THE CLUB OR?

14 Q THIS IS THE DOOR TO THE CLUB.

15 A OKAY.

16 Q THIS IS THE TRUCK. DO YOU SEE THESE PEOPLE?

17 A YES.

18 Q IS IT THE SAME PLACE YOU DESCRIBED IT---

19 A YES.

20 Q ---TO BE?

21 A YES.

22 Q ORIENT OUR BEARINGS HERE. THIS IS ANOTHER PICTURE OF
23 IT. THIS IS THE TRUCK.

24 A OKAY.

25 Q THESE EXITS INDICATE THE FIRST CONTACT, IS THAT?

1 A NO, SIR.

2 Q OKAY. THIS SQUARE I BELIEVE WAS DRAWN TO INDICATE

3 WHERE AN ALTERCATION TOOK PLACE.

4 A YES.

5 Q IS THAT CORRECT?

6 A YES.

7 Q DOES THAT MATCH---

8 A WELL IT'S A LITTLE BIT MORE OVER. RIGHT ABOUT HERE.

9 Q OKAY.

10 A BECAUSE WHEN RANDY WAS CRAWLING BACK, HE CRAWLED BACK

11 A LOT ON HIS BACK, WITH HIS HANDS BEHIND, HE WAS CRAWLING

12 BACKWARDS WHEN THEY WERE SHOOTING HIM.

13 Q IS IT FAIR TO SAY THAT YOUR DEPICTION OF THE SCENE IS

14 SIMILAR?

15 A YES, SIR, IT IS.

16 Q IT IS THE ACCOUNT OF A FIRSTHAND WITNESS?

17 A YES.

18 Q DO YOU SEE YOURSELF IN THE VIDEO?

19 A YES, SIR. I HEARD---

20 Q WHERE WERE YOU?

21 A ---MYSELF A LOT. IT WAS RIGHT THERE.

22 Q YOU SAY YOU HEARD YOURSELF IN THE VIDEO?

23 A YES, SIR.

24 Q WHAT WERE YOU SAYING?

25 A ASKING WHY WERE THEY DOING THAT. AND TO PLEASE STOP.

1 AND SCREAMING. AND CONTINUOUSLY ASKING TO STOP. AND I
2 THINK I EVEN YELLED ERIN'S NAME WHEN THEY WERE SHOOTING AT
3 HIM.

4 Q OKAY. HAVE A SEAT PLEASE.

5 (THEREUPON, THE WITNESS RESUMES THE WITNESS STAND.)

6 Q MANDY, I BELIEVE I AM DONE WITH ASKING YOU TO DRAW,
7 BUT I CHANGED MY MIND. I APOLOGIZE.

8 (THEREUPON, THE WITNESS STEPS DOWN FROM THE WITNESS
9 STAND.)

10 Q NOW WOULD YOU SAY WE HAVE ESTABLISHED YOU AS BEING AT
11 THE SCENE?

12 A YES, SIR.

13 Q BOTH YOUR ACCOUNT THAT ECHOED THE DEPUTIES ACCOUNTS
14 OF WHERE THE SCENE TOOK PLACE. AND WE SAW YOU IN THE
15 VIDEO?

16 A YES, SIR.

17 Q AND YOU HADN'T SEEN THAT VIDEO UNTIL TODAY, HAD YOU?

18 A NO, SIR.

19 Q HAD YOU SEEN THOSE DRAWINGS BEFORE TODAY?

20 A NO, SIR. I WASN'T IN HERE WHEN THEY WERE TESTIFYING
21 EITHER.

22 Q NOW AGAIN, MANDY, IT IS VERY IMPORTANT THAT YOU TELL
23 ME WHAT YOU SAID AND WHAT YOU SAW.

24 A YES, SIR.

25 Q YOU CAN'T SPEAK ABOUT WHAT ANYONE ELSE SAID.

1 A YES.

2 Q CAN YOU DESCRIBE LET'S GO STEP BY STEP WHAT TOOK
3 PLACE AT THE FRONT OF THE TRUCK.

4 A OKAY. DO YOU WANT ME TO START WHENEVER WE WERE
5 WALKING OUT? BECAUSE THAT'S WHERE EVERYTHING KIND OF JUST
6 STARTED.

7 Q MANDY, TO BE HONEST WITH YOU, I WANT YOU TO START
8 WHERE YOU FEEL---

9 A OKAY.

10 Q ---YOU CAN TELL THE COMPLETE STORY SO PEOPLE GET THE
11 ENTIRE PICTURE HERE.

12 A OKAY. THE ENTIRE PICTURE. THERE WAS A FIGHT. AND
13 WE ARE TRYING TO GET OUT OF FRENZ. WE SHOULDN'T HAVE BEEN
14 THERE TO BEGIN WITH. WE WERE AT THE WRONG PLACE AT THE
15 WRONG TIME. WITH THE WRONG PEOPLE.

16 Q WHY SHOULDN'T YOU HAVE BEEN THERE?

17 A IT'S SOMEWHERE -- I HAD NEVER BEEN THERE BEFORE. AND
18 HE HADN'T EITHER. AND WE SHOULDN'T HAVE BEEN THERE
19 BECAUSE IT WAS LATE AND WE KNEW BETTER. AND IT JUST -- IT
20 WAS NOT A VERY REPUTABLE PLACE TO BE.

21 Q OKAY. CONTINUE.

22 A WE WERE TRYING TO LEAVE. WHENEVER WE WALKED OUT OF
23 THE DOOR, THE POLICE WERE THERE. I SEEN A MAN TALKING TO
24 THE DEPUTIES. AND AFTER HE TALKED TO HIM, THAT'S WHEN
25 THEY STARTED COMING AFTER RANDY. ONE CAME AROUND ONE SIDE

1 OF THE TRUCK. AND THEY KIND OF MET UP IN FRONT OF THE
2 TRUCK. AND THEY WERE SCREAMING AT HIM TO STOP. DON'T GO
3 NO WHERE, STOP. RANDY SAID I'M JUST TRYING TO GO HOME.
4 HE WAS TRYING TO GET HIS KEYS OUT OF HIS POCKET. I AM
5 JUST TRYING TO GO HOME. THAT'S IT. AND WHY ARE Y'ALL
6 MESSING WITH ME. AND THEY WERE STILL -- AND I'M THINKING
7 THERE'S PEOPLE OVER THERE FIGHTING. AND THAT'S THE REASON
8 WHY THEY GOT CALLED THERE TO BEGIN WITH. BUT THEY'RE NOT
9 EVEN DOING NOTHING ABOUT THE FIGHT. THEY'RE OVER THERE
10 CHASING RANDY AND RANDY HAD NOTHING TO DO WITH THAT FIGHT.
11 AND THEY TACKLED HIM.

12 IT HAPPENED SO FAST. EVERYTHING HAPPENED REALLY
13 FAST. THEY TACKLED HIM, RANDY WENT DOWN ON HIS STOMACH.
14 AND HIS ARMS WERE LIKE UNDERNEATH HIM. AND THEY WERE
15 REALLY ROUGH WITH HIM. AND I DIDN'T SEE THEM PUSH HIM OR
16 ANYTHING LIKE THAT, BUT THE WAY THEY WERE HANDLING HIM WAS
17 REALLY, REALLY ROUGH. AND RANDY WAS SCREAMING, YOU KNOW,
18 WHAT ARE Y'ALL DOING. AND I'M LIKE, WHAT ARE YOU DOING.
19 AND BY THAT TIME, I'VE ALREADY MOVED TO THE FRONT OF THE
20 TRUCK. AND I THINK A GUN DISCHARGED.

21 Q WHERE WERE YOU WHEN THE GUN DISCHARGED, MANDY?

22 A I WAS, THE WHOLE TIME I WAS STANDING RIGHT THERE. I
23 SEEN EVERYTHING. RANDY NEVER HAD A GUN IN HIS HAND.
24 NEVER. HE NEVER PULLED A GUN ON THE POLICE. I SEEN THE
25 POLICE WITH MY OWN EYES WHEN THEY WERE SHOOTING AND RANDY

1 WAS LAYING DOWN. ERIN WAS STANDING BEHIND HIM AND THE
2 OTHER ONE WAS AT HIS FEET IN FRONT OF HIM. AND IT WAS
3 LIKE IT WAS CROSSFIRE. AND RANDY THE WHOLE TIME, HAD HIS
4 HANDS IN THE AIR. AND HE WAS CRAWLING BACKWARDS WITH HIS
5 HANDS IN THE AIR SCREAMING FOR THEM NOT TO SHOOT HIM NO
6 MORE.

7 Q DID YOU EVER SEE RANDY FIRE A SHOT?

8 A NO, SIR.

9 Q DID YOU EVER SEE THE GUN IN RANDY'S HAND?

10 A NO, SIR.

11 Q OKAY. WHAT HAPPENED NEXT?

12 A AFTER EVERYTHING OCCURRED?

13 Q YES.

14 A PEOPLE WERE GOING BY. THEY -- I GOT PICKED UP FROM
15 BEHIND AND REMOVED.

16 Q DO YOU KNOW WHO PICKED YOU UP?

17 A WELL THERE WAS 2 OR 3 PEOPLE. FIRST, MIKE PRITHCARD
18 WAS ONE PERSON THAT PICKED ME UP. AND THEN THERE WAS A
19 POLICE, WHICH I DO NOT KNOW, WHO PICKED ME UP AND PULLED
20 ME BACK. AND WHILE IT WAS GOING ON, I WAS TOLD THAT I
21 WOULD BE SHOT IF I DIDN'T MOVE FROM WHERE I WAS.

22 Q OKAY. AND SO WHAT HAPPENED AFTER THIS, MANDY? AFTER
23 THE INCIDENT CONTINUE.

24 A THE AMBULANCE ARRIVED. MORE COPS ARRIVED. I MEAN IT
25 WAS A SWARM. THERE WAS A LOT OF PEOPLE THERE BY THEN.

1 RANDY WAS STILL LAYING ON THE GROUND BLEEDING. I COULDN'T
2 GET TO HIM. THE AMBULANCE WENT TO THE DEPUTIES AND
3 ATTENDED THEM. AND THEN THEY GOT RANDY. AND I SEEN
4 PEOPLE KICK DIRT ON HIM AND KICK HIM. AND I HEARD PEOPLE
5 TAKING ABOUT HOW---

6 Q YOU CAN'T SPEAK ABOUT WHAT YOU HEARD OTHER PEOPLE
7 SAY.

8 A OKAY. THINGS WERE BEING SAID TO ME. FIRST HAND TO
9 ME. AND I RESPONDED JUST ABOUT WHAT I RECALL. CAN I, AM
10 I ALLOWED TO SAY THIS? I MEAN---

11 Q WELL YOU CAN'T SAY WHAT ANYONE SAID TO YOU. SO YOU
12 NO, YOU CAN'T----

13 A I CAN'T?

14 Q ---SAY ANY NAMES YOU MAY RECALL. YOU CAN SAY
15 ANYTHING YOU MAY HAVE SAID IN RESPONSE TO THAT.

16 A I SAID HE DIDN'T DESERVE TO BE SHOT.

17 Q AND WHY IS THAT, MANDY?

18 A BECAUSE HE NEVER HAD A GUN IN HIS HAND AND HE'S A
19 GOOD BOY. AND YES, HE MADE MISTAKES. YOU KNOW, EVERYBODY
20 MAKES MISTAKES. WE'RE HUMAN. BUT THAT NIGHT DIDN'T
21 DESERVE TO HAPPEN LIKE THAT. IT WAS NOT PROFESSIONAL. IT
22 WAS NOT PROPER. HANDS SHOULD HAVE BEEN IN THE AIR.
23 PEOPLE SHOULD HAVE BEEN TOLD TO GET ON THEIR FEET, NOT
24 FOOTBALL TACKLED AND SHOT IN THE BACK.

25 Q MANDY, YOU JUST INDICATED DOING THINGS THE

1 PROFESSIONAL WAY.

2 A YES, SIR.

3 Q DO YOU THINK HONESTY HAS A LINE IN PROFESSIONALISM?

4 A YES, SIR.

5 Q SO I WANT YOU TO BE HONEST HERE WITH US.

6 A YES, SIR.

7 Q HAVE YOU EVER GOTTEN IN TROUBLE BEFORE?

8 A YES, I HAVE.

9 Q HAVE YOU -- DO YOU UNDERSTAND GENERAL SESSIONS COURT?

10 A YES, I DO.

11 Q THIS COURT WE'RE IN TODAY. GENERAL SESSIONS NOT
12 MAGISTRATE'S COURT LIKE WHEN YOU GET A SPEEDING TICKET.

13 A YES, I UNDERSTAND THAT.

14 Q HAVE YOU EVER PLED GUILTY TO ANYTHING----

15 A YES, I HAVE.

16 Q ---IN GENERAL SESSIONS COURT?

17 A YES, I HAVE.

18 Q WHAT WAS THAT?

19 A I GOT A YOUTHFUL OFFENDER SENTENCE WHEN I WAS 20
20 YEARS OLD.

21 Q OKAY. DID YOU DO ANY TIME FOR THAT?

22 A YES, I DID.

23 Q HOW LONG?

24 A IT WAS AN INDETERMINATE SENTENCE ONE TO SIX YEARS.

25 AND I DID THE WHOLE SIX, BUT I WAS INCARCERATED THE WHOLE

1 SIX. I FINISHED IT OUT ON PAROLE.
2 Q PAROLE. BUT YOU WERE---
3 A I WAS SENTENCED AS A YOUTHFUL OFFENDER.
4 Q BUT YOU WERE -- YOU DID DO TIME IN PRISON?
5 A YES, I DID.
6 Q WERE YOU EVER ON PAROLE OR PROBATION?
7 A I WAS ON PAROLE FOR MY YOUTH OFFENDER SENTENCE.
8 Q WAS THAT PROBATION OR PAROLE EVER REVOKED?
9 A YES.
10 Q IT WAS.
11 A YES, IT WAS.
12 Q WHAT FOR?
13 A WELL IT WAS CHANGE OF ADDRESS. AND I HAD FAILED A
14 DRUG TEST FOR SMOKING MARIJUANA.
15 Q SO YOU SMOKED MARIJUANA BEFORE?
16 A YES, I HAVE.
17 Q HOW ABOUT THE, AT THE INCIDENT, LET'S JUMP BACK NOW
18 TO WHEN MR. YONSON WAS SHOT. HAD YOU USED DRUGS THAT
19 NIGHT?
20 A I WAS OF SOUND MIND, NO, SIR.
21 Q HAD YOU USED ANY DRUGS?
22 A NO, SIR.
23 Q I MEAN, I WON'T -- "NO, I WAS OF SOUND MIND." THAT'S
24 KIND OF DODGING THE QUESTION.
25 A NO, SIR.

1 Q HAD YOU USED ANY DRUGS?

2 A I WAS NOT ON DRUGS.

3 Q AT THAT TIME WERE YOU ON PROBATION OR PAROLE?

4 A NO, SIR.

5 Q YOU SERVED YOUR TIME.

6 A YES, SIR.

7 Q OKAY. MANDY, HAVE YOU EVER, WOULD YOU SAY THAT YOU
8 AT ONE TIME HAD A DRUG PROBLEM OR NOT?

9 A NO, SIR.

10 Q YOU NEVER HAD A DRUG PROBLEM?

11 A NO, SIR.

12 Q HAVE YOU EVER RECEIVED TREATMENT FOR DRUGS?

13 A YES, I HAVE WENT IN AND GOT SPIRITUAL GUIDANCE.

14 Q WHERE DID YOU GET THAT SPIRITUAL GUIDANCE?

15 A I'M A PART OF MIRACLE HOME MINISTRIES.

16 Q TELL US ABOUT THAT.

17 A IT'S OUT OF GREENVILLE. IT'S LIKE A -- IT'S A
18 MINISTRY THAT HELPS WITH HOMELESS OR BATTERED WOMAN.
19 PEOPLE WITH DRUG PROBLEMS. PEOPLE WITH ANY KIND OF
20 ADDICTION WHETHER IT'S MONEY OR MEN, AND IT HELPS YOU TO
21 GROW IN THE LORD AND TO LEARN ABOUT JUST WHAT GOD, WHAT
22 OUR PURPOSE ON LIFE IS FOR. IT'S NOT ALL US. AND IT'S
23 ABOUT HIM. EVERYTHING IS IN HIS CONTROL. AND IT HELPED
24 ME TO GROW AND WAKE UP.

25 Q WAS THAT BEFORE OR AFTER THIS INCIDENT?

1 A IT WAS AFTER THIS INCIDENT.

2 Q WHY DID YOU DECIDE TO GO TO MIRACLE HILL?

3 A TRAUMATIZED. I HAD MADE A LOT OF BAD MISTAKES RIGHT
4 AFTER THE SHOOTING. I WAS REALLY, I WAS NOT MYSELF AT
5 ALL. HAVING RANDY TAKEN FROM ME LIKE THAT KIND OF REALLY
6 TURNED MY WORLD UPSIDE DOWN. SO I DIDN'T REALLY HAVE VERY
7 MUCH WITHOUT HIM. AND I MADE SOME REALLY BAD MISTAKES.

8 Q SO YOU ADMIT YOU MADE MISTAKES AND YOU'VE DONE THINGS
9 YOU SHOULDN'T HAVE.

10 A YES, SIR.

11 Q BUT THE NIGHT OF THE SHOOTING, WAS THERE ANY REASON
12 THAT YOUR ACCOUNT OF THIS HAS BEEN CONFUSED OR BLURRED?

13 A NO, SIR. MY PAST OR MY PROBLEMS HAS NOTHING TO DO
14 WITH THAT NIGHT OR ANYTHING OF WHAT I SEEN.

15 MR. WILLIAMS: OKAY. GOOD. WELL, MANDY, I ASK THAT
16 YOU CONTINUE BEING HONEST WITH MR. CONNER'S QUESTIONS FOR
17 YOU.

18 A YES, SIR.

19 MR. WILLIAMS: THANK YOU.

20 CROSS EXAMINATION BY MR. CONNER:

21 Q MS. TEAL, HAVE YOU EVER BEEN CONVICTED OF
22 SHOPLIFTING?

23 A I GOT IN TROUBLE WHEN I WAS 17 AT WAL-MART. BUT I
24 DON'T KNOW IF I WAS CONVICTED. I WAS WITH SOMEONE THAT
25 WAS SHOPLIFTING. SO I CAN'T HONESTLY ANSWER THAT

1 QUESTION.

2 Q OKAY. BUT YOU HAVE BEEN CONVICTED OF BURGLARY SECOND
3 DEGREE, RIGHT?

4 A YES, SIR, I WAS.

5 Q YOU HAVE BEEN CONVICTED OF CRIMINAL CONSPIRACY ALSO.

6 A YES, SIR.

7 Q AND YOU HAVE BEEN CONVICTED OF GRAND LARCENY ALSO?

8 A YES, SIR.

9 Q SO THAT YOUR -- EVERYTHING YOU HAVE BEEN CONVICTED
10 OF?

11 A YES, SIR.

12 Q AND YOU'VE DONE SOME TIME?

13 A YES, SIR.

14 Q YOU THEN YOU GOT OUT ON PAROLE?

15 A YES, SIR.

16 Q AND WHILE YOU WERE ON PAROLE YOU HAD PROBLEMS AND
17 THEY REVOKED YOUR PAROLE.

18 A YES, SIR.

19 Q AND YOU DIDN'T GET RELIGION SO TO SPEAK, UNTIL AFTER
20 THIS THING HAPPENED.

21 A I'VE ALWAYS BELIEVED IN GOD. BUT I JUST DID NOT TURN
22 MY LIFE OVER UNTIL, IT TOOK DRASTIC MEASURES FOR ME TO
23 HAVE MY SPIRITUAL AWAKENING.

24 Q AND THAT WAS AFTER THE SHOOTING.

25 A IT WAS NOT DIRECTLY AFTER THE SHOOTING, NO. GOD

1 WEARS HIS OWN WATCH, SIR.

2 Q SO IT TOOK THE SHOOTING PLUS SOME MORE TIME FOR YOU
3 TO SEEK HELP.

4 A RIGHT AFTER THE SHOOTING, I WAS IN ANOTHER SPACE. I
5 GUESS FROM BEING WITHOUT HIM. AND HAVING TO GO THROUGH,
6 YOU KNOW, THROUGH RELIVING BECAUSE I STILL HAD NIGHTMARES.
7 I HAD TO GO TO COUNSELING. I WOULD WAKE UP FROM HEARING
8 THE BULLET SHOTS, BECAUSE I WAS SO CLOSE THAT THE SPARKS
9 WERE HITTING ME FROM THE GUN.

10 Q TELL ME ABOUT THE PEOPLE THAT WENT WITH YOU THAT
11 NIGHT.

12 A I DO NOT KNOW BEVERLY'S LAST NAME. I KNOW THAT ONE
13 IS NAMED RONNIE WATFORD. AND I DON'T REALLY KNOW VERY
14 MUCH ABOUT THEM.

15 Q TELL ME ABOUT THE FIGHT THAT YOU WERE IN.

16 A THE GIRL BEVERLY THAT I WAS WITH, LIKE I SAID, I HAVE
17 NEVER BEEN TO FRENZ BEFORE. IT WAS NOT A PLACE THAT I
18 WOULD FREQUENT OR GO TO. SHE ASKED ME TO WALK OUTSIDE,
19 AND SMOKE A CIGARETTE WITH HER. WE WALKED OUTSIDE. THERE
20 WAS A GROUP OF GIRLS IN A CAR. I FIGURED THEY WERE ALL
21 FRIENDS. SHE WALKED UP TO THE CAR. HUGGED A COUPLE OF
22 GIRLS. WAS TALKING TO A GIRL IN THE PASSENGER SEAT.
23 ANOTHER GIRL WITH LONG BLOND HAIR CAME FROM AROUND THE
24 CAR. THEY GOT INTO EACH OTHER'S FACE. AND THEY STARTED
25 ARGUING. THEN THEY STARTED FIGHTING. AND AFTER THEY WERE

1 FIGHTING, THERE WAS ANOTHER GIRL. WHICH COME TO FIND OUT,
2 WAS THE BLOND HEADED THAT APPROACHED BEVERLY'S OLDER
3 SISTER AND THEY JUMPED ON HER. AND THERE WAS LIKE TWO OR
4 THREE GIRLS FIGHTING BEVERLY. AND THAT'S WHEN I STOPPED,
5 AND I GOT THE OLDER GIRL OFF OF HER. BECAUSE THERE WAS---

6 Q SO YOU GOT INVOLVED IN THE FIGHT TOO?

7 A NO, SIR. I WAS BREAKING UP THE FIGHT.

8 Q OH, YOU WERE BREAKING IT UP?

9 A YES, SIR. THERE WAS TWO OR THREE GIRLS. AND ONE
10 GIRL, SHE WAS BLOODY. SHE WAS VERY BEAT UP BEFORE I
11 EVEN---

12 Q THE GIRL THAT WENT WITH YOU, BEVERLY, SHE WAS
13 INVOLVED IN THE FIGHT ALSO?

14 A SHE WAS THE FIGHT, SIR.

15 Q SHE WHAT?

16 A SHE WAS THE FIGHT.

17 Q SHE WAS WHAT?

18 A IT WAS HER FIGHT.

19 Q AND WHAT MAKES YOU SAY THE FRENZ CLUB IS NOT A
20 REPUTABLE PLACE?

21 A IF YOU GET THE ITEM AND YOU LOOK BACK OVER SOME PAST
22 NEWS REPORT, YOU KNOW THE SAME THING I KNOW. THERE'S
23 ALWAYS SHOOTINGS OR FIGHTINGS OUT THERE.

24 Q WHEN THE POLICE APPROACHED RANDY, THEY STARTED A
25 CONVERSATION WITH HIM, DIDN'T THEY? THEY TRIED TO TALK TO

1 HIM.

2 A NO, SIR.

3 Q AND HE CURSED THEM OUT, DIDN'T HE?

4 A THEY WERE ALL CURSING. AND HE DID NOT CURSE THEM
5 OUT. THE ONLY TIME RANDY CURSED IS WHENEVER THEY WERE
6 SHOOTING AT HIM OR BEATING ON HIM, TACKLING HIM.

7 Q HE WAS VERY PROFANE, WASN'T HE?

8 A I THINK THEY ALL WERE.

9 Q AND HE SAID, "FUCK THIS SHIT," JUST BEFORE HE FIRED
10 AND HIT MR. BOLAND.

11 A THEY SAID FUCK THIS TOO, SIR.

12 Q THEY DIDN'T CUSS ANY UNTIL AFTER BOLAND HAD BEEN
13 SHOT, DID THEY?

14 A NO, SIR. THEY WERE CURSING TOO WHENEVER THEY WERE
15 FIGHTING.

16 Q HE FIRED THE FIRST SHOT, DIDN'T HE?

17 A NO, SIR. HE NEVER HAD A GUN IN HIS HAND. NEVER. HE
18 WAS LAYING ON HIS STOMACH.

19 Q LET ME ASK YOU THIS. HE DID CARRY A PISTOL, DIDN'T
20 HE?

21 A SIR, I KNOW HE HAD A LITTLE GUN, THAT'S ALL I KNOW.

22 Q YOU KNEW HE HAD A PISTOL, DIDN'T YOU?

23 A I DON'T KNOW WHAT A PISTOL IS. I KNOW HE HAD A
24 LITTLE GUN.

25 Q A LITTLE GUN. ABOUT THE SIZE OF THIS ONE?

1 A NO, SIR.

2 Q OR THIS?

3 A IT'S ABOUT LIKE THAT.

4 Q HOW ABOUT THIS ONE?

5 A YES.

6 Q SO YOU KNEW HE HAD A PISTOL?

7 A I KNEW, YES. I KNEW HE HAD A LITTLE GUN, YES, SIR.

8 Q AND IT DIDN'T SURPRISE YOU WHEN YOU HEARD GUNFIRE,

9 DID IT?

10 A YES, SIR, IT DID. BECAUSE HIS HANDS, HE DIDN'T HAVE

11 A GUN IN HIS HAND. RANDY IS NOT THE TYPE OF PERSON TO

12 JUST SHOOT THE POLICE OR SHOOT ANYONE FOR THAT MATTER.

13 Q LET ME ASK YOU THIS. WHEN YOU WERE ON PAROLE, THE

14 PAROLE AGENTS TOLD YOU THAT IF YOU HAD BEEN CONVICTED OF

15 BURGLARY, THAT YOU HAD NO BUSINESS WITH A PISTOL, DIDN'T

16 THEY? DIDN'T THEY TELL YOU YOU WERE PROHIBITED FROM

17 HAVING A PISTOL?

18 A I WAS SENTENCED UNDER THE YOUTHFUL OFFENDER'S ACT. I

19 DIDN'T EVEN -- WHENEVER I TOOK THIS PLEA, BECAUSE I

20 COMMITTED MY CRIMES WHENEVER I WAS 17 YEARS OLD. I AM NOW

21 30. WHENEVER THEY -- TOOK THE PLEA WHICH, I PLED

22 GUILTY---

23 Q YOU ARE NOT ANSWERING MY QUESTION, MA'AM.

24 A I AM ABOUT TO ANSWER YOUR QUESTION. THEY TOLD ME

25 THAT RECORDS WOULD BE SEALED AND THAT I WOULDN'T HAVE

1 ANYTHING TO WORRY ABOUT. THAT'S ONE REASON WHY I TOOK
2 THAT SENTENCE BECAUSE I WAS YOUNG. AND THE HAND OF ONE IS
3 THE HANDS OF ALL IN SOUTH CAROLINA. THAT'S WHY I GOT
4 CHARGED, BECAUSE I WAS WITH PEOPLE THAT DID IT.

5 Q BUT THEY DID TELL YOU THAT IF YOU HAD BEEN CONVICTED
6 OF A CRIME LIKE BURGLARY, YOU WERE ENTITLED TO BE---

7 A I HAD NO GUN.

8 Q SAY IT AGAIN.

9 A I HAD NO GUN.

10 Q BUT YOU KNEW THAT RANDY HAD A PISTOL.

11 A I KNOW THAT HE HAS ONE, BUT I DIDN'T KNOW THAT HE
12 HAD IT ON HIM.

13 Q NOW INITIALLY WHEN THEY WENT TO THE GROUND, YOU SAY
14 RANDY WENT DOWN ON HIS STOMACH, IS THAT RIGHT?

15 A HE WAS TACKLED AND THAT'S HOW THEY LANDED ON TOP OF
16 HIM.

17 Q AND THEN WHAT HAPPENED?

18 A THERE WAS FIGHTING AND WRESTLING AROUND. A BUNCH OF
19 QUESTIONS BEING ASKED. LIKE RANDY ASKING WHY ARE YOU
20 DOING THIS. ME ASKING WHY ARE YOU DOING THIS. AND THE
21 POLICE QUESTIONING EACH OTHER ABOUT THE GUN, TO GET THE
22 GUN. GET THE GUN. AND IT WAS NOWHERE IN SIGHT.

23 Q AND THEN HE PRODUCED A PISTOL, DIDN'T HE?

24 A NO, SIR. RANDY NEVER HAD A GUN IN HIS HAND. I STOOD
25 THERE AND WATCHED EVERYTHING. NOT ONE TIME DID HE HAVE A

1 GUN IN HIS HAND. IT WAS IMPOSSIBLE WHENEVER HE WAS LAYING
2 ON HIS STOMACH. AND THEN WHENEVER HE DID GET SHOT, HE WAS
3 FLIPPED ON HIS BACK, AND WALKING BACK WITH HIS FEET, WITH
4 HIS HANDS IN THE AIR.

5 Q YOU SAW MR. BOLAND AFTER IT WAS OVER WITH. YOU SAW
6 HE HAD BEEN SHOT, DIDN'T YOU?

7 A I WAS MORE FOCUSED ON RANDY. I HAD -- I SEEN THE
8 SHOOTING, YES. I SEEN EVERYTHING THAT HAPPENED. BUT AT
9 THAT MOMENT I WAS MORE FOCUSED ON RANDY, BECAUSE---

10 Q I AM NOT INTERESTED IN WHETHER YOU SAW IT. I AM
11 INTERESTED IN WHAT YOU WANT TO TELL ABOUT IT.

12 A OKAY. HE HAD BEEN SHOT.

13 Q YOU'VE GOT YOUR STORY AND YOU WANT TO TELL IT, DON'T
14 YOU?

15 A YES, I WOULD LIKE THE TRUTH TO BE KNOWN. I SURE
16 WOULD.

17 Q I'D LIKE FOR IT TO BE KNOWN TOO.

18 A ME TOO.

19 Q AND TELL ME ABOUT RANDY CRAWLING BACKWARDS. TELL ME
20 HOW HE DID THAT.

21 A WITH HIS FEET. HE WAS ON HIS BACK AND HIS HANDS---

22 Q WAS HE SEATED, OR WAS HE LAYING ON THE FLOOR OR
23 LAYING ON THE GROUND?

24 A HE HAD BEEN LAYING ON THE GROUND. AND WHENEVER HE
25 WAS GOING BACK, HE HAD HIS FEET UP AND LIKE CRAWLING BACK

1 LIKE THAT WITH HIS FEET.

2 Q SO HE WAS FLAT ON HIS BACK.

3 A HE WASN'T FLAT. I MEAN. NO, HE WAS NOT LAID DOWN
4 FLAT WITH JUST HIS FEET. HE WAS KIND OF UP LIKE THIS
5 RIGHT HERE, WITH HIS BACK ARCHED. CRAWLING BACK. KIND OF
6 SCOOTING BACK ON HIS BUTT, BACK BUTT. AND USING HIS FEET
7 TO GET AWAY.

8 Q OKAY. THAT'S WHEN MR. BOLAND SHOT HIM YOU SAY?

9 A NO. HE WAS SHOT WHEN HE WAS DOWN. HE GOT SHOT IN
10 THE BACK WHEN HE WAS ON HIS STOMACH.

11 Q I THOUGHT YOU SAID HE SHOT HIM WHEN HE WAS CRAWLING
12 BACKWARDS.

13 A THEY WERE CONTINUING TO SHOOT HIM. THERE WAS FIRES
14 BEING FROM ONE END OT THE OTHER, YES. BUT THE FIRST
15 INITIAL SHOT HE WAS ON HIS BACK. HE WAS KIND OF UNLOADED
16 ON. LIKE THE SHOOTING DIDN'T STOP. IT WAS LIKE THREE OR
17 FOUR TIMES.

18 Q WHEN HE STOPPED MOVING, THEY STOPPED SHOOTING, DIDN'T
19 THEY? AND WHEN HE AGREED TO BE HANDCUFFED THEY QUIT. AS
20 LONG AS HE WAS LOOKING FOR HIS GUN, AND AS LONG AS HE WAS
21 USING A GUN, THEY WERE NOT GOING TO STOP, WERE THEY?

22 A HE DIDN'T HAVE A GUN. HE WASN'T LOOKING FOR A GUN.
23 HE HAD HIS HANDS IN THE AIR. I'M JUST TRYING TO FIGURE
24 OUT. I DON'T WANT TO LIE, I WANT TO TELL THE TRUTH. I
25 DON'T KNOW IF THEY STOPPED---

1 Q YOU KNEW HE AHD THESE TWO GUNS, DIDN'T YOU? YOU KNEW
2 HE HAD BOTH OF THEM. YOU KNEW HE HAD THIS ONE. STATE'S
3 EXHIBIT NO. 1---

4 A NO, I DON'T EVEN KNOW THAT GUN.

5 Q ---IS THIS ONE. THIS LITTLE ONE.

6 A I HAVE SEEN THE LITTLE GUN. I DON'T KNOW NOTHING
7 ABOUT THAT BLACK ONE.

8 Q THEY SERVE ALCOHOL IN THIS BUSINESS, DIDN'T THEY?

9 A IT'S AFTER 2:00 O'CLOCK IN THE MORNING. YOU CAN'T
10 RECEIVE ALCOHOL.

11 Q BUT THEY SERVE ALCOHOL. THEY HAD A LICENSE TO SELL
12 ALCOHOL THERE. WHAT DID YOU HAVE TO DRINK?

13 A I HAD ONE DRINK.

14 Q YOU HAD ONE DRINK?

15 A YEAH, WE WERE THERE FOR ABOUT 2 MINUTES BEFORE I
16 WALKED OUTSIDE.

17 Q HOW MANY HAD YOU HAD BEFORE YOU GOT THERE?

18 A NONE.

19 Q WHAT DID YOU HAVE TO DRINK?

20 A IT WAS A LEMON DROP.

21 Q A WHAT?

22 A LEMON DROP.

23 Q WHAT IS THAT?

24 A IT'S LIKE A HALF A SHOT OF VODKA WITH A LEMON.

25 Q WELL YOU HEARD THE TAPE THAT ALL THESE LADIES AND

1 GENTLEMEN HAVE HEARD. JUST WHAT DID RANDY SAY JUST BEFORE
2 THE GUNSHOT? THE FIRST GUNSHOT.

3 A HE WAS PROBABLY ASKING WHY THEY WERE DOING THAT TO
4 HIM. I DON'T KNOW. IF YOU WANT PLAY IT BACK TO ME, I
5 WILL TELL YOU.

6 Q HE SAID, "FUCK THIS SHIT," DIDN'T HE?

7 A SIR, I HEARD A LOT OF, "FUCK YOUS," COMING FROM THE
8 OFFICERS AND RANDY. SO IT WOULD BE KIND OF HARD TO
9 DECIPHER WHO WAS SAYING WHAT.

10 Q YOU HEARD RANDY SAY THAT WORD, DIDN'T YOU?

11 A I HEARD THE OFFICERS SAY IT TOO, SIR.

12 MR. CONNER: I HAVE NOTHING FURTHER OF HER.

13 THE COURT: ANYTHING FURTHER?

14 MR. WILLIAMS: NOTHING FURTHER FROM THE DEFENSE,
15 YOUR HONOR.

16 THE COURT: YOU MAY STEP DOWN, MA'AM. LET'S STAND
17 FOR A MOMENT. YOUR NEXT WITNESS.

18 MR. WILLIAMS: THANK YOU, YOUR HONOR. MAY
19 MR. CONNDER AND I APPROACH BRIEFLY?

20 (THEREUPON, ATTORNEYS APPROACH AND CONFER WITH THE
21 JUDGE.)

22 THE COURT: LADIES AND GENTLEMEN, I AM GOING TO HAVE
23 YOU GO TO THE JURY ROOM FOR A LITTLE BIT. PLEASE DO NOT
24 TALK ABOUT THE CASE.

25 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE

1 PRESENCE OF THE JURY.)

2 THE COURT: MR. WILLIAMS, WHO WILL BE YOUR NEXT
3 WITNESS?

4 MR. WILLIAMS: MY NEXT WITNESS WILL BE THE
5 DEFENDANT, MR. YONSON. AS PART OF HIS TESTIMONY, I WOULD
6 LIKE HIM TO SHOW THE BULLET WOUNDS.

7 THE COURT: ALL RIGHT.

8 MR. WILLIAMS: FIRST, YOUR HONOR, THE BULLET WOUNDS
9 ARE OBVIOUSLY IN PRIVATE AREAS OF HIS BODY. I JUST
10 WANTED TO ADVISE THE COURT OF THAT.

11 THE COURT: WHERE ARE THEY?

12 MR. WILLIAMS: IN HIS SHIN, HIS BUTTOCKS, AND BELOW
13 THE SHOULDER BLADE, I BELIEVE.

14 THE COURT: WHERE IS IT IN HIS BUTTOCKS? WHERE IS
15 THE WOUND?

16 THE DEFENDANT: THE ACTUAL WOUND IS UP RIGHT THERE.
17 ONE TO TWO.

18 THE COURT: AND DO YOU WANT HIM TO PULL HIS PANTS
19 DOWN AND SHOW IT TO THE JURY?

20 THE DEFENDANT: NO, I WANT TO SHOW THEM---

21 THE COURT: IS THAT WHAT YOU WANT TO DO,
22 MR. WILLIAMS?

23 MR. WILLIAMS: YES, SIR. I KNOW OF NO OTHER WAY.

24 THE COURT: YOU SAID SOMETHING ABOUT A BELT HE HAD
25 AROUND HIS WAIST?

1 MR. WILLIAMS: YES, SIR. AS PART OF THE SECURITY
2 PROTOCOL HE IS WEARING A SHOCK BELT. I BELIEVE IS THE
3 TERM. AND HE'S ALSO GOING TO HAVE TO LIFT UP HIS SHIRT
4 DURING THE COURSE OF HIS TESTIMONY. OR DURING HIS
5 TESTIMONY.

6 THE COURT: WHAT'S ON THE -- THE SECOND WOUND IS
7 WHERE?

8 MR. WILLIAMS: THE TWO OTHER WOUNDS ARE HIS SHOULDER
9 BLADE AND HIS SHIN.

10 THE COURT: IN HIS LEG?

11 MR. WILLIAMS: YES, SIR. HIS LEG.

12 THE COURT: OFFICER SCOTT, WHAT DO YOU SAY?

13 OFFICER SCOTT: WELL, YOUR HONOR, I SAY THAT WHERE
14 THE BELT IS LOCATED, IF HE'S SHOWING THAT PART, IT WON'T
15 SHOW.

16 THE COURT: THE STUN BELT WON'T SHOW?

17 OFFICER SCOTT: WE CAN GO PRACTICE IT IF YOU WANT US
18 TO.

19 THE COURT: WHAT DON'T Y'ALL PRACTICE IT THEN. AND
20 WE WILL WORK IT OUT TO WHERE THAT HE WILL BE ABLE TO SHOW
21 WHATEVER HE WANTS TO SHOW TO THE JURY.

22 MR. WILLIAMS: THANK YOU, YOUR HONOR.

23 THE COURT: WE'LL TAKE A COUPLE OF MINUTES WHILE
24 THEY....

25 (THEREUPON, THE COURT TAKES A SHORT RECESS.)

1 THE COURT: DO YOU HAVE IT STRAIGHT, MR. WILLIAMS?

2 THE COURT: WE DO HAVE, YOUR HONOR.

3 THE COURT: ALL RIGHT, LET'S BRING THE JURY.

4 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
5 PRESENCE OF THE JURY.)

6 THE COURT: YOUR NEXT WITNESS.

7 MR. WILLIAMS: AT THIS POINT THE DEFENSE WOULD CALL
8 RANDY YONSON.

9 THE BAILIFF: COME AROUND PLEASE, SIR.

10 RANDY YONSON, BEING FIRST DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 THE BAILIFF: STATE YOUR FULL NAME AND SPELL YOUR
13 LAST NAME, PLEASE.

14 A RANDY YONSON. Y-O-N-S-O-N.

15 THE COURT: YES, SIR.

16 MR. WILLIAMS: THANK YOU, YOUR HONOR.

17 DIRECT EXAMINATION BY MR. WILLIAMS:

18 Q RANDY, WHAT IS YOUR BIRTHDAY?

19 A [REDACTED].

20 Q SO, RANDY, WHEN YOU WERE AT THE CLUB FRENZ, ON
21 SEPTEMBER 11, 2005, HOW OLD WERE YOU?

22 A I WAS 20 YEARS OLD AT THE TIME.

23 Q AND FRENZ IS A BAR, ISN'T IT?

24 A YES, SIR, A BAR. POOL HALL.

25 Q OKAY. YOU'RE UNDER 21?

- 1 A YES, SIR.
- 2 Q WHERE DID YOU GROW UP, RANDY?
- 3 A I GREW UP ALL OVER THE PLACE BECAUSE MY FATHER WAS IN
4 THE MILITARY. I WAS BORN IN LAS VEGAS, NEVADA. THEN
5 MOVED TO GERMANY. I LIVED IN GERMANY FOR 5 OR 6 YEARS.
6 AND THEN MOVED TO NEW MEXICO. CLOVIS, NEW MEXICO. THEN
7 FROM CLOVIS, NEW MEXICO, IN 96, I MOVED TO SUMTER, SOUTH
8 CAROLINA. AND HAVE BEEN IN SUMTER SINCE 1996.
- 9 Q CAN YOU PULL THAT MICROPHONE TOWARDS YOU A LITTLE
10 BIT, RANDY? SO, RANDY, YOU WERE 11 WHEN YOU MOVED TO
11 SUMTER, GIVE OR TAKE?
- 12 A ELEVEN OR 12. IN THE 6TH GRADE.
- 13 Q IN THE 6TH GRADE? WHERE DID YOU GO TO SCHOOL?
- 14 A I WENT TO BATES MIDDLE SCHOOL.
- 15 Q RANDY, HAVE YOU EVER WORKED ANYWHERE IN SUMTER?
- 16 A YES, SIR, I HAVE.
- 17 Q WHERE DID YOU WORK?
- 18 A I WORKED WITH A CONSTRUCTION COMPANY CALLED SUN
19 CONTRACTORS OFF OF BROAD STREET. I WORKED WITH THEM.
20 I'VE WORKED WITH A MR. WESTLEY PACK FRAMING HOUSES. I
21 FRAMED OVER 100 HOUSES WITH MR. PACK. BUILDING HOUSES.
- 22 Q WHERE, ALL AROUND TOWN?
- 23 A OFF OF KOLB ROAD. I KNOW I FRAMED AT LEAST 20 HOUSES
24 IN THE WINTERGREEN SUBDIVISION BY THE AIR FORCE BASE.
- 25 Q UH-HUH. (AFFIRMATIVE.)

1 A I KNOW I BUILT HIS BOSS' HOUSE, MR. DEAN GAINNEY. I
2 BUILT HIS HOUSE. AND BUILT NUMEROUS OTHER HOUSES AROUND
3 TOWN. I'VE ALSO BUILT A FEW HOUSES IN THE SUBDIVISION
4 RIGHT BEHIND SUMTER HIGH. IN THE NEW SUBDIVISION WHERE
5 THEY WAS EXTENDING HOUSES OFF INTO THE SUBDIVISION.

6 Q OKAY. RANDY, LET'S FAST FORWARD NOW TO SEPTEMBER 11,
7 2005. OBVIOUSLY THAT'S THE DAY THAT HAS EVERYBODY HERE
8 TODAY.

9 A UH-HUH. (AFFIRMATIVE.)

10 Q TELL ME WHEN YOU WENT TO FRENZ CLUB.

11 A WELL ORIGINALLY, IT WAS A BET BETWEEN ME AND A FRIEND
12 OF MINE ABOUT WHO WOULD BEAT WHO IN A GAME OF POOL. SO
13 THAT'S WHEN ME AND HIM WENT TO THE ESTABLISHMENT TO DO,
14 WAS TO JUST SHOOT ONE GAME OF POOL AND THEN LEAVE.

15 Q WHO IS THIS FRIEND?

16 A RONNIE WATFORD.

17 Q SO DID YOU RIDE UP TO FRENZ WITH RONNIE?

18 A YES, SIR. ME AND RONNIE, WE MET, BECAUSE HE STAYS
19 RIGHT DOWN THE ROAD FROM THE CLUB. SO WE MET AT THE BAR.

20 Q OKAY. DID YOU DRIVE UP THERE?

21 A YES, SIR, I DID.

22 Q WHAT CAR KIND OF CAR DID YOU DRIVE?

23 A I WAS DRIVING A 2001 FORD RANGER. HUNTER GREEN.

24 Q HAVE YOU SEE THAT PICK-UP TRUCK TODAY?

25 A I SAW IT WHEN I SAW THE VIDEO, YES, SIR.

1 Q SO THAT TRUCK THAT WAS SEEN IN THE VIDEO WAS YOUR
2 CAR.

3 A THAT WAS MY VEHICLE, YES, SIR.

4 Q SO, RANDY, YOU AND YOUR FRIEND WENT UP TO FRENZ TO
5 PLAY A GAME OF POOL?

6 A UH-HUH. (AFFIRMATIVE.)

7 Q WHAT HAPPENED NEXT?

8 A AS WE WERE SHOOTING THE GAME OF POOL, THERE WAS
9 NUMEROUS PEOPLE INSIDE THE ESTABLISHMENT. AND I STARTED
10 TO SEE EVERYBODY CLEARING OUT. AND I LOOKED TO FIND MY
11 GIRLFRIEND, MANDY, AND SHE WASN'T NOWHERE IN SIGHT. SO I
12 TOLD RONNIE I WAS GOING OUTSIDE TO FIND MANDY.

13 Q YOU DIDN'T MENTION MANDY YET. HOW DID YOU KNOW MANDY
14 WAS THERE?

15 A WELL BECAUSE SHE RODE WITH ME THERE.

16 Q SHE RODE UP THERE WITH YOU.

17 A YEAH. YES, SIR.

18 Q SO YOU WERE LOOKING FOR MANDY. CONTINUE.

19 A YES, SIR. I WENT OUT THE FRONT DOOR OF THE CLUB.
20 AND OFF TO MY RIGHT, I HEARD A BUNCH OF FEMALE VOICES AND
21 LIKE ROCKS KICKING UP FROM PEOPLE'S SHOES SCUFFLING. I
22 WALKED CLOSER TOWARDS IT BECAUSE THERE WAS A VAN
23 OBSTRUCTING MY VIEW OF THE ALTERCATION. AND I SEEN IT WAS
24 A BUNCH OF PEOPLE, A BUNCH OF FEMALES WERE FIGHTING. I
25 WENT BACK IN THE BAR TO FINISH MY GAME OF POOL. BUT

1 RONNIE WASN'T INSIDE THE BAR NO MORE. I DIDN'T KNOW
2 WHERE HE WAS AT EITHER. SO THEN I BELIEVE I SPOKE TO SOME
3 MAN INSIDE THE BAR. I DON'T KNOW HIS NAME, BUT HE TOLD
4 ME THAT I HAD TO LEAVE THE BAR.

5 Q WELL REMEMBER YOU CAN'T TELL US WHAT SOMEONE SAID TO
6 YOU. YOU CAN ONLY TELL US WHAT YOU DID AS A RESULT OF
7 WHAT THAT PERSON SAID.

8 A ALL RIGHT. SO I LEFT. I WALKED OUT THE FRONT DOOR
9 ONCE AGAIN. AND I APPROACHED -- I WAS WALKING TOWARDS
10 WHERE THE ALTERCATION WAS ONCE AGAIN. AND MY TRUCK WAS TO
11 MY LEFT. AND I SEEN BLUE LIGHTS AND PEOPLE YELLING AND
12 SCREAMING AND WHAT NOT. SO I APPROACHED MY TRUCK AND WAS
13 REACHING TO FIND MY KEYS. AND I HAD, I THINK IT WAS A
14 SLIVER KEY CHAIN WITH A \$100 BILL ON IT. ATTACHED WITH
15 ONE KEY. RIGHT, I BELIEVE I SEEN IT IN ONE OF THE
16 PICTURES.

17 Q I BELIEVE SO.

18 A BUT I WAS TRYING TO FIND THE KEY IN MY POCKET.

19 Q UH-HUH. (AFFIRMATIVE.)

20 A AND AS I WAS LOOKING FOR MY KEY, I HEARD FOOTSTEPS
21 GETTING LOUDER, CLOSER TO ME. AND I FELT HANDS, SOMEBODY
22 PUT THEIR HANDS ON ME WHEN I WAS STANDING FACING MY TRUCK.
23 AND AS I TURNED AROUND, I NOTICED IT WAS AN OFFICER
24 STANDING THERE. HE GRABBED THIS ARM.

25 Q WHICH ARM? SHE'S WRITING DOWN EVERYTHING YOU SAY.

1 A MY LEFT ARM. SO I SPUN AROUND. AND THEN THERE WAS
2 ANOTHER OFFICER, AND HE GRABBED MY RIGHT ARM. AND I SAID
3 WHAT'S GOING ON, I DIDN'T DO NOTHING. AND SO THEN THEY
4 BOTH OF THEM HAD A HOLD OF EACH ONE OF MY ARMS. AND THEY
5 WAS TELLING ME TO STOP RESISTING. AND THERE WAS NO WAY I
6 WAS RESISTING. SO THEN AT THAT POINT, THE OFFICER THAT
7 WAS HOLDING THIS ARM, I BELIEVE IT WAS MR. WILLIAMS. HE
8 CLIPPED MY LEGS FROM UNDER ME. AND AS I WAS FALLING DOWN,
9 MY BODY ROTATED TO WHERE MY RIGHT SIDE WAS TOWARDS THE
10 GROUND. I FELT A PAIN ALL THE WAY IN THIS SIDE OF MY ARM,
11 AND COULDN'T REALLY FEEL MY ARM NO MORE. LIKE IT WAS
12 BROKE OR DISLOCATED FROM THE WEIGHT OF THE OFFICER ON TOP
13 OF ME. SO I COULDN'T FEEL THIS ARM.

14 AND THEN THEY WERE SAYING PUT YOUR HANDS WHERE WE CAN
15 SEE THEM, AND I CAN'T MOVE MY ARM. BECAUSE IT'S BROKEN.
16 IT'S DISLOCATED OR WHAT NOT. SO I CAN'T FEEL THIS ARM.
17 SO THEY'RE STEADY PUNCHING ME REPEATEDLY IN MY SIDE.
18 TELLING ME TO PUT MY ARM AND THEN---

19 Q ARE YOU KICKING YOUR LEGS AT THIS POINT? I MEAN, ARE
20 YOU TRYING TO PUSH THEM OFF OF YOU? I MEAN IF SOMEONE IS
21 PUNCHING ME IN THE SIDE.

22 A I WAS TRYING TO GET THEM UP OFF OF ME, BECAUSE MY ARM
23 HURT SO MUCH. BUT THEN AS I WAS TRYING TO TURN OVER TO
24 GET OFF OF MY HURT SHOULDER, I WAS TRYING TO GET OFF OF
25 THE HURT SHOULDER. SO WHEN I TURNED AROUND THAT'S WHEN I

1 HEARD THE ONLY GUNSHOT. ONE GUNSHOT.

2 Q YOU ONLY HEARD ONE GUNSHOT THE WHOLE NIGHT?

3 A NO, THE PISTOL WENT OFF. THE PISTOL IN MY POSSESSION
4 WENT OFF.

5 Q SO YOU HAD A GUN ON YOU.

6 A YES, SIR.

7 Q CONTINUE.

8 A AFTER THE PISTOL I HAD, BECAUSE I THOUGHT IT WAS MY
9 GUN THAT WENT OFF, BUT IT WAS THE OFFICER'S GUN. BUT THE
10 OFFICERS WERE SCREAMING. AND I DIDN'T SEE THE GUN AT ALL.
11 SO THE OFFICER, I BELIEVE IT WAS BOLAND, ROLLED OFF OF
12 ME, AND I SEEN HIM WALK OVER TOWARDS THE FRONT TO MY
13 TRUCK. AND I SEEN THE GUN AT HIS FEET. AND THEN OFFICER
14 WILLIAMS GOT OFF THE TOP OF ME TOO. AND SPUN AROUND ON
15 THE GROUND AND I WAS STILL LAYING ON MY BACK. AND I SPUN
16 AROUND ON THE GROUND. AND WAS FACING MR. BOLAND.
17 MR. WILLIAMS WAS LEANED UP AGAINST MY TRUCK. AND MR.
18 BOLAND WAS IN FRONT OF MY TRUCK. AND I WAS LAYING ON MY
19 BACK. AND I HAD MY LEFT LEG COCKED UP. AND I HAD MY
20 HANDS LIKE THIS, BECAUSE I SEEN MR. BOLAND WITH THE GUN IN
21 HIS HAND.

22 Q SO YOU WERE ON YOUR BACK.

23 A ON MY BACK.

24 Q ON THE GROUND.

25 A YES, SIR.

1 Q GO AHEAD.

2 A SO I PUT MY HANDS IN MR. BOLAND'S FACE LIKE THIS.

3 JUST LIKE THIS, AND THAT'S WHEN THE FIRST SHOT WENT OFF.

4 Q STOP RIGHT THERE. DID THE SHOT HIT YOU?

5 A YES, SIR, IT DID.

6 MR. WILLIAMS: YOUR HONOR, MAY I APPROACH?

7 THE COURT: YES, SIR.

8 Q RANDY, CAN YOU SHOW, CAN YOU PULL UP YOUR PANTS LEG

9 AND SHOW WHERE THE BULLET HIT YOU?

10 A IT HIT ME RIGHT THERE ON MY SHIN.

11 Q OKAY. AND IS THERE ANY EXIT WOUND IN THE BACK?

12 A THE BULLET IS STILL IN THERE.

13 Q IS THAT WHY YOU'RE LIMPING AROUND HERE?

14 A YES.

15 Q SO THAT WAS THE FIRST SHOT THAT HIT YOU IN YOUR SHIN.

16 RIGHT, CONTINUE. YOUR HANDS ARE UP?

17 A ALL RIGHT, MY HANDS ARE UP. AND THE FIRST SHOT HE

18 HIT ME -- IT HIT ME IN THE LEG. SO BOTH OF MY HANDS THAT

19 WERE UP, I GRABBED WHERE THE BULLET WAS HIT, AND I SPUN

20 BACK OVER. AND THEN THAT'S WHEN I FELT THE IMPACT, THE

21 SECOND ROUND HIT ME.

22 Q RANDY, ARE THESE YOUR JEANS THAT YOU WERE WEARING?

23 EXHIBIT 11-O?

24 A YES, SIR. THOSE ARE MY JEANS.

25 Q OKAY. IS THERE ANYTHING SPECIAL ABOUT YOUR JEANS IN

1 THIS PICTURE?

2 A THEY DON'T EVEN LOOK LIKE THE JEANS I WAS WEARING.
3 THEY'RE COVERED IN BLOOD. THE ONLY THING I KNOW IS THE
4 LITTLE PATCHES. I CAN SEE THEY ARE MY PANTS THOUGH.

5 Q AND I GUESS BY SPECIAL, I MEAN, ARE THEY COVERED IN
6 ANYTHING?

7 A YES, SIR. THEY'RE COVERED IN MY BLOOD.

8 Q AND FROM WHERE DID THAT BLOOD COME?

9 A THE BLOOD THAT'S ON THE PANTS COME FROM MY SHIN AND
10 MY LEFF---

11 Q STOP, IT CAME FROM THE SHIN.

12 A THAT'S ON THE LOWER PART OF THE PANTS, IT CAME FROM
13 MY SHIN.

14 Q SO AFTER YOU WERE SHOT IN THE SHIN WITH YOUR HANDS
15 UP---

16 A YES, SIR.

17 Q ---TRYING TO SAY, DON'T SHOOT, WHAT HAPPENED NEXT?

18 A I GRABBED MY LEG. AND THEN I WAS LIKE, IT HURT SO
19 BAD I JUST, MY RIGHT LEG BEGAN HAVING SPASMS. I COULDN'T
20 CONTROL MY RIGHT LEG ANY MORE AT THAT TIME. SO I KIND OF
21 ROLLED BACK OVER ON TO MY HURT SHOULDER, EXCUSE ME. AND
22 THEN I FELT THE IMPACT OF THE SECOND BULLET HIT ME.

23 Q OKAY. AND WHERE DID THAT SECOND BULLET HIT YOU?

24 A THE SECOND BULLET HIT ME LIKE RIGHT THERE TO ALMOST
25 IN THE CENTER OF MY LEFT BUTT.

1 Q IN YOUR BUTT?

2 A YES, SIR.

3 Q AND OBVIOUSLY THIS IS A PRIVATE AREA. IT WON'T BE
4 COVERED BY A BATHING SUIT. I HATE TO ASK YOU TO DO THIS,
5 RANDY, BUT CAN YOU SHOW US SO THERE IS NO DOUBT WHERE THE
6 BULLET HIT YOU? CAN YOU SHOW US WHERE THE BULLET HIT YOU?

7 A RIGHT THERE. (WITNESS INDICATES.)

8 Q IT LOOKS LIKE A DIMPLE. BUT WHEN YOU PULL IT, IT
9 LOOKS LIKE THAT'S WHERE THE BULLET ENTERED YOUR BODY.

10 A YES, SIR.

11 Q YOU CAN PULL YOUR PANTS BACK UP. IS THERE ANY WOUND
12 ON YOUR FRONT WHERE THE BULLET EXITED YOU?

13 A NO, SIR.

14 Q DID THAT BULLET EXIT YOU?

15 A THE BULLET IS NOW ON THE SURFACE IN MY LEFT THIGH.
16 IT HAS COME TO THE SURFACE.

17 Q AND SO, RANDY, YOU WERE SHOT IN THE BUTT.

18 A YES, SIR.

19 Q AND HOW WAS YOUR BUTT FOR THE OFFICER TO BE ABLE TO
20 SHOOT YOU IN THE BUTT?

21 A BECAUSE I WAS LIKE THIS ON THE GROUND, HOLDING MY
22 LEFT LEG WITH BOTH OF MY ARMS. SO THE AREA WHERE THE
23 BULLET HIT ME IS RIGHT WHERE THE MAN STANDING TO WHERE HE
24 HIT ME. SO I FELT THAT HIT ME. AND THAT KIND OF PUSHED
25 ME ALL THE WAY OVER ON TO MY STOMACH. SO NOW AT THIS

1 POINT, I AM LAYING FLAT ON MY STOMACH. AND THEN I FELT --
2 WELL IT FELT LIKE I GOT HIT WITH A BASEBALL BAT IN MY
3 BACK.

4 Q IN YOUR BACK?

5 A YES, SIR.

6 Q WHY IN BACK, RANDY?

7 A I PRESUMED I WAS AT THAT TIME THAT HE SHOT ME IN THE
8 BACK, IT FELT LIKE I GOT HIT WITH A BASEBALL BAT IN MY
9 BACK.

10 Q WAS THIS BEFORE OR AFTER YOU WERE SHOT IN THE BUTT?

11 A THIS WAS AFTER I WAS SHOT IN THE BUTT, AND I WAS
12 LAYING FLAT ON MY STOMACH.

13 Q AND DID YOU DECIDE WHAT IT WAS THAT CAUSED THIS PAIN
14 IN YOUR BACK?

15 A I HEARD A GUNSHOT, AND THEN IT FELT LIKE I GOT HIT
16 WITH A BASEBALL BAT.

17 Q AT THIS DAY, TODAY, DO YOU KNOW WHAT CAUSED THIS PAIN
18 IN YOUR BACK?

19 A YES, SIR, I DO.

20 Q WHAT WAS THAT?

21 A IT WAS A GUNSHOT WOUND.

22 Q CAN YOU SHOW US THAT WOUND, PLEASE, RANDY?

23 A RIGHT BELOW MY LEFT SHOULDER BLADE. STEP DOWN. STEP
24 DOWN HERE.

25 (WITNESS STEPS DOWN FROM THE WITNESS STAND.)

- 1 A RIGHT THERE.
- 2 Q MOVE YOUR FINGER BACK THERE. NOW IS THERE AN EXIT
- 3 WOUND IN THE FRONT?
- 4 A NO, THERE IS NO EXIT WOUND. IT IS STILL THERE.
- 5 Q YOU'VE GOT SCARS WHERE THEY CUT YOU OPEN IN THE
- 6 FRONT. TUCK YOUR SHIRT BACK IN. RANDY, IS THIS FAMILIAR?
- 7 A YES, SIR, IT IS.
- 8 Q WHAT IS IT?
- 9 A IT'S A 25 AUTOMATIC PISTOL.
- 10 Q WHERE DID THIS COME FROM, RANDY?
- 11 A IT WAS IN MY LEFT, THE FRONT LEFT JEAN, IN MY JEAN
- 12 POCKET.
- 13 Q RANDY, DID YOU HAVE A LICENSE TO CARRY THIS?
- 14 A NO, SIR, I DIDN'T.
- 15 Q NO PERMIT?
- 16 A NO, SIR.
- 17 Q YOU'RE NOT IN THE MILITARY, ARE YOU?
- 18 A NO, SIR.
- 19 Q YOU HAD NO REASON TO HAVE THAT YOU WITH THAT NIGHT.
- 20 A NO, SIR, I DIDN'T.
- 21 Q AND YOU WERE WRONG TO DO SO?
- 22 A YES, SIR, I WAS.
- 23 Q AND YOU'RE TELLING US THAT TODAY.
- 24 A YES, SIR.
- 25 Q AND YOU UNDERSTAND THAT'S A CRIME?

1 A I DO.

2 Q DID YOU EVER HAVE THAT GUN IN YOUR HAND?

3 A NO, SIR, I DIDN'T.

4 Q DID YOU EVER, AFTER THE FIRST SHOT WAS IN YOUR SHIN,
5 THE SECOND SHOT IN YOUR BUTTOCKS, AND THE FINAL SHOT IN
6 YOUR BACK, IS THAT CORRECT?

7 A YES, SIR.

8 Q AND AT THAT, THROUGHOUT THAT SEQUENCE OF EVENTS,
9 SHOTS ONE, TWO AND THREE, DID YOU EVER HAVE THAT GUN IN
10 YOUR HAND?

11 A THAT GUN NEVER CROSSED MY MIND.

12 Q WHEN YOU WERE SHOT IN THE SHIN THE FIRST TIME.

13 A YES, SIR.

14 Q WHERE DID YOU REACH FOR INSTINCTUALLY?

15 A WHERE THE PAIN WAS, BECAUSE IT FELT LIKE A HOT ROD
16 WENT THROUGH THE BOTTOM, BECAUSE I THOUGHT I GOT HIT IN
17 THE BOTTOM OF MY FOOT. BUT I ALSO FELT PAIN IN MY SHIN. .
18 BUT IT FELT LIKE A HOT ROD WENT THROUGH THE BOTTOM OF MY
19 FOOT ALL THE WAY UP TO THE TOP OF MY SHIN. SO I GRABBED
20 MY SHIN. THAT'S WHERE I FELT---

21 Q OKAY.

22 A ---THE MOST PAIN AT.

23 Q AND WHEN DID YOU TAKE YOUR HANDS OFF OF YOUR SHIN,
24 THE SITE OF THE FIRST BULLET WOUND?

25 A WHEN THE SECOND SHOT HIT ME AND FORCED ME ONTO MY

1 STOMACH. IT PUSHED MY KNEE DOWN, AND MY HANDS CAME OUT
2 LIKE THIS.

3 Q OKAY. SO YOUR HANDS WERE OUT?

4 A YES, I WAS---

5 Q AND THEN WHERE DID THEY GO?

6 A JUST LIKE THIS, I WAS ON MY STOMACH. AND I FELT THE
7 THIRD SHOT HIT ME IN MY BACK.

8 Q SO THE SECOND AND THIRD SHOTS WERE VERY CLOSE IN
9 TIME?

10 A PRETTY -- ENOUGH TIME FOR THE -- ONE HIT ME IN MY
11 LEFT BUTT, TO PUSH ME ON TO MY STOMACH, AND THEN I FELT
12 THE THIRD ONE HIT ME IN MY BACK.

13 Q BUT THE THIRD ONE HIT YOU SOON ENOUGH AFTER THE
14 SECOND ONE THAT YOU DIDN'T HAVE TIME TO GRAB YOUR BUTT,
15 THE SITE OF THE SECOND ONE?

16 A YES, SIR. I DIDN'T HAVE TIME TO GRAB MY BUTTOCKS.

17 Q SO RANDY, BEFORE THAT FIRST SHOT, YOU SAID ONE
18 OFFICER GRABBED ONE ARM, ONE GRABBED THE OTHER ARM?

19 A YES, SIR.

20 Q DID YOU REACH FOR YOUR BELT AT THAT TIME?

21 A I COULD NOT REACH FOR MY BELT, BECAUSE EACH ONE OF
22 OFFICERS HAD ONE OF MY ARMS.

23 Q DID YOU AT ANY TIME REACH FOR THAT GUN?

24 A NO, SIR, I DIDN'T.

25 Q THAT GUN THAT YOU WERE WRONG TO HAVE.

1 A I WAS WRONG TO HAVE IT, BUT I DID NOT REACH FOR IT.
2 I HAD NO WAY TO REACH FOR IT. EACH OFFICER HAD---

3 Q HOW LONG AFTER THE OFFICERS FIRST GRABBED YOU UNTIL
4 THE SHOT ENTERED YOUR SHIN?

5 A I WOULD SAY ABOUT 20 SECONDS.

6 Q 20 SECONDS. SO Y'ALL STRUGGLED FOR SOME TIME.

7 A THE OFFICERS HAD ME, "STOP RESISTING." HE, ONE OF
8 THE OFFICERS, I BELIEVE IT WAS WILLIAMS, CLIPPED BOTH OF
9 MY LEGS FROM UNDER ME.

10 Q WITH WHAT?

11 A WITH HIS LEG. I PRESUME IT WAS HIS LEG. I FELT
12 SOMETHING COME BEHIND MY KNEES. AND BOTH OF THEM PUSHED
13 AND BOTH OF THEM FELL ON TOP OF ME, ON MY RIGHT SHOULDER.

14 Q OKAY.

15 A I WAS ON THE GROUND LIKE THIS AND MY SHOULDER WAS
16 TOUCHING THE GROUND. THE OFFICERS WERE, BOTH OF THEM WAS
17 ON TOP OF ME.

18 Q OKAY. AND DID ANYTHING HAPPEN WHEN YOU WERE TACKLED?
19 ANY INJURIES TO YOU?

20 A YES, SIR. I FELT MY WHOLE ARM WAS IN PAIN. IT WAS
21 LIKE -- IT FELT LIKE MY RIGHT SHOULDER WAS DISLOCATED. IT
22 WAS BROKEN, I COULDN'T HARDLY MOVE IT.

23 Q WHAT ELSE? ANYTHING ELSE HAPPEN FROM THIS
24 ALTERCATION ASIDE FROM THESE THREE BULLET WOUNDS?

25 A YES, SIR. WHILE I WAS -- WHILE BOTH OF THEM WAS ON

1 ME, I GUESS BECAUSE THEY WAS REACHING FOR MY BROKE ARM OR
2 SOMETHING, THEY REPEATEDLY HIT ME IN MY SIDE AND CHEST
3 RIGHT HERE. HE WAS HOOKING ME. HIT ME THREE OR FOUR
4 TIMES.

5 Q OKAY.

6 A AND THEN THAT'S WHEN I HEARD THE GUN GO OFF WHEN HE
7 WAS PUNCHING ME IN MY RIBS.

8 Q WHAT HAPPENED AFTER THE FINAL TIME YOU WERE SHOT IN
9 THE SHOULDER?

10 A I WAS IN SO MUCH PAIN, IT WAS JUST -- IT JUST HURT SO
11 BAD.

12 Q WHICH ONE HURT?

13 A HUH?

14 Q WHICH BULLET WOUND HURT?

15 A I FELT MY LEG. IT WAS IN MY BUTT, AND IN MY BACK.
16 AND THEN ALL THREE OF THEM AT ONE TIME. IT WAS JUST LIKE
17 MY WHOLE BODY WAS LIKE I WAS THROWN INTO A FIRE OR
18 SOMETHING. MY WHOLE BODY WAS ON FIRE.

19 Q AND WHAT HAPPENED AFTER THIS?

20 A I WAS HAVING SPASMS. I DON'T KNOW. I WAS JUST
21 KICKING, KICKING MYSELF AROUND IN A PUDDLE OF MY OWN
22 BLOOD.

23 Q AND DID EMS ARRIVE A TIME AFTER THAT?

24 A SOMETIME AFTER THAT. IT WAS A GOOD WHILE FOR THE
25 EMS. I WOULD SAY ABOUT 5 MINUTES BEFORE THE FIRST EMS

1 ARRIVED.

2 Q WOULD IT PROBABLY HAVE FELT LIKE LONGER THAN IT WAS
3 SINCE YOU WERE IN PAIN?

4 A IT SEEMS LIKE LONGER THAN 5 MINUTES, TO TELL THE
5 TRUTH.

6 Q SO YOU WERE -- AND AN EMS WORKER APPROACHED YOU?

7 A NO, THEY -- I HEARD AND I SAW THE EMS TRUCK PULL UP,
8 BUT I DID NOT SEE NO EMERGENCY HELPER COME AND TALK TO ME.
9 IT WAS AN OFFICER STANDING THERE. AND I REMEMBER HIM
10 SAYING SOMETHING OR SOMETHING OR ANOTHER. THEY WERE
11 TRYING TO PUT HANDCUFFS ON ME AND THEY KICKED ME IN MY
12 SIDE. AND DIRT GOT ALL IN MY EYES AND I COULDN'T SEE.
13 AND I REMEMBER IT FELT LIKE BUGS WAS BITING ME IN THE BACK
14 OF MY THROAT.

15 Q AND SOON THEREAFTER, SOMETIME THEREAFTER, DID AN EMS
16 WORKER REACH YOU?

17 A YEAH, EMS COME. AND HE, I THINK, HE ASKED THEM TO
18 REMOVE THE HANDCUFFS. OR HE ROLLED -- HE STARTED TO CUT
19 MY PANTS.

20 Q DID YOU SEE MR. ISOM TESTIFYING EARLIER TODAY, THE
21 EMS WORKER?

22 A YES, I DID.

23 Q DID YOU RECOGNIZE OR REMEMBER HIM FROM THIS INCIDENT?

24 A I REMEMBER SEEING A PERSON OF HIS HEIGHT, HEIGHT AND
25 COLOR. BUT I DON'T LIKE, IT WAS DARK AND ALL. I DON'T

1 REMEMBER DISTINCTLY SEEING HIS FACE, BUT I SEEN, IT LOOKED
2 LIKE A YOUNG MAN WAS ATTENDING TO ME.

3 Q IT WAS A WHITE GUY OF ABOUT MR. ISOM'S HEIGHT?

4 A YES, SIR.

5 Q SO IT WAS DARK AND YOU WERE IN PAIN?

6 A A LOT OF PAIN.

7 Q AT THAT POINT, AFTER BEING PLACED ON A BACK BOARD,
8 DID THEY TAKE YOU TO AN AMBULANCE?

9 A YES, SIR. THEY THEN TOOK ME INTO AN AMBULANCE. AND
10 I BELIEVE WHEN THEY SLID ME IN TO THE AMBULANCE, OFFICER
11 WILLIAMS WAS TO MY IMMEDIATE LEFT. AND THERE WAS ANOTHER
12 EMS ATTENDING TO HIM. BUT THEN THE EMT ROLLED ME AGAIN ON
13 TO MY SIDE AND SAID HE'S ALSO -- THEY WAS TELLING ME, OR
14 THEY WERE SAYING LIKE OUT LOUD, I DON'T KNOW IF THEY HAD
15 MICROPHONES OR IT'S THEIR PROCEDURE. BUT HE SAID, "HE'S
16 GOT SHOT IN HIS LEFT SHIN." HE SAID, "TIBIA OR SOMETHING
17 LIKE THAT." HE SAID, "HE'S GOT ONE IN HIS LEFT BUTTOCKS."
18 THEN THEY ROLLED ME ON MY SIDE AND SAID, "HE'S GOT ONE ON
19 HIS RIGHT BACK APPROXIMATELY 2 INCHES FROM THE SPINAL
20 CORD."

21 Q AND THIS IS IN THE---

22 A IN THE AMBULANCE.

23 Q IN THE AMBULANCE. AND, RANDY, JUST TO BE CLEAR, DO
24 YOU HAVE ANY OTHER BULLET WOUNDS OR HOLES ANYWHERE ELSE IN
25 YOUR BODY?

1 A OTHER THAN THOSE THREE BULLET WOUNDS.

2 Q THOSE THREE OBVIOUSLY. ANY OTHERS?

3 A NO, SIR.

4 Q NO OTHER HIDDEN BULLET WOUNDS?

5 A NO, SIR.

6 Q OKAY. WHILE YOU WERE IN THE AMBULANCE, WAS ANYBODY
7 IN WITH YOU?

8 A I REMEMBER IT WAS TWO EMT OFFICERS AND MR. WILLIAMS
9 TO MY LEFT.

10 Q AND DID MR. WILLIAMS RIDE WITH YOU TO THE HOSPITAL?

11 A IF I AM NOT MISTAKEN, NO, HE WASN'T. THEY MOVED HIM.
12 THEY TOOK HIM OUT OF THE BACK OF EMT.

13 Q HE WAS THERE TO SECURE YOU?

14 A AT THAT POINT, AND THEY HANDCUFFED BOTH OF MY ARMS TO
15 THE RAILINGS OF THE THING AND THEY LOCKED MY NECK IN
16 PLACE. SO I COULDN'T REALLY SEE TO MY LEFT. SO I DON'T
17 KNOW IF HE WAS IN THERE OR NOT, BECAUSE MY VISION WAS KIND
18 OF BLURRY, BECAUSE MY EYES WAS TEARING UP, BECAUSE I WAS
19 HURTING.

20 Q WHAT'S THE NEXT THING YOU REMEMBER AFTER THAT?

21 ANYBODY TALK TO YOU IN THE AMBULANCE, R IS THE NEXT THING
22 YOU REMEMBER BEING IN THE HOSPITAL?

23 A I HEARD THEM -- I HEARD THEM REVVE THE ENGINE UP.

24 SO I WAS IN THE BACK. I WAS STILL CONSCIOUS AT THIS POINT
25 STILL. I REMEMBER SAYING -- HEARING THEM SAYING SOMETHING

1 OVER THE RADIO, RENDEZVOUS OR SOMETHING LIKE. AND IT WAS
2 A REAL SHORT TRIP. AND I KNEW THE HOSPITAL WAS A LOT
3 FURTHER THAN THAT. SO WHEN THEY PULLED ME OUT, I WAS AT
4 THIS POINT, I HAD NO CLOTHES ON. SO AT THIS POINT, THEY
5 PULLED ME OUT OF THE BACK OF THE AMBULANCE AND I REMEMBER
6 SEEING LIKE A MILITARY HELICOPTER. IT WAS IN A CHURCH
7 PARKING LOT. THERE WAS A CHURCH RIGHT BEHIND IT. SO
8 THEY, I REMEMBER THEM LOADING ME INTO THE HELICOPTER. AND
9 I WAS REAL COLD THEN. IT FELT LIKE MY BODY WAS FROZEN. I
10 WAS LIKE ICE COLD, I GUESS, THROUGH LOSS OF BLOOD.

11 BUT THEN I HAD LIKE, IF YOU WANT TO CALL IT A
12 CONVERSATION WITH THE AIRCRAFT PARAMEDIC; THE MAN THAT WAS
13 IN THE HELICOPTER.

14 Q RIGHT.

15 A HE KEPT ASKING ME LIKE LITTLE CRAZY QUESTIONS LIKE,
16 HOW MANY NUMBERS WAS ON A CLOCK. LIKE CRAZY QUESTIONS
17 LIKE THAT. AND WHAT'S THE LAST NAME OF OUR PRESIDENT OR
18 SOMETHING LIKE THAT. AND THEN WHAT'S HIS FIRST NAME. AND
19 WHAT'S YOUR LAST NAME, WHAT IS YOUR FIRST. HE WAS JUST
20 ASKING CRAZY QUESTIONS LIKE THAT. I GUESS TO KEEP ME
21 CONSCIOUS.

22 Q UH-HUH. (AFFIRMATIVE.)

23 A SO THEN I REMEMBER HE WAS FLYING. WE DONE LIFTED
24 OFF. SO I GUESS WE'RE FLYING TO WHATEVER HOSPITAL THEY'RE
25 TAKING ME. I KNOW NOW IT WAS RICHLAND MEMORIAL. THEY WAS

1 FLYING ME TO A HOSPITAL AND I REMEMBER FEELING REAL DIZZY.
2 AND MY BODY, MY BODY WAS REAL COLD.

3 Q CAN YOU SPEAK UP, RANDY, OR PULL THAT MIC CLOSE YOU
4 AGAIN?

5 A I FELT REAL DIZZY. MY BODY TURNED ICE COLD. AND I
6 STARTED -- I STARTED LOSING MY SIGHT LIKE I COULDN'T SEE
7 NO MORE. BUT I STILL HEARD THIS MAN TALKING TO ME. AND
8 THEN I DON'T KNOW WHAT THEY DID, BUT IT FELT LIKE ALL OF A
9 SUDDEN MY ENTIRE BODY ALL AT ONE TIME JUST GOT WARM. AND
10 I SAW A LIGHT. I SAW A LIGHT, A BRIGHT LIGHT OR WHAT NOT.
11 AND IT'S WEDNESDAY MORNING AND I'M WAKING UP. AND I DON'T
12 KNOW WHERE I AM. I THINK I'M DEAD. I THINK I'M IN
13 HEAVEN. I DON'T KNOW IF I'M IN HELL OR NOT.

14 Q AND YOU LATER FOUND OUT WHERE WERE YOU?

15 A I STILL DIDN'T KNOW WHERE I WAS AT.

16 Q I'M SAYING WHEN YOU LATER FOUND OUT WHERE YOU WERE AT
17 THAT TIME.

18 A I COULDN'T TELL YOU HOW MANY DAYS. I BELIEVE I
19 BECAME CONSCIOUS LIKE I THINK THERE WAS -- I THINK I HEARD
20 SOMEBODY SAYING IT WAS WEDNESDAY.

21 Q BUT DO YOU KNOW WHERE YOU WERE AT, AT THAT TIME?

22 A I KNEW I WAS AT A HOSPITAL.

23 Q THANK YOU. THAT'S WHAT I WANT. THAT'S WHAT I WAS
24 GETTING TO. YOU WERE AT THE HOSPITAL AFTER THIS. SO YOU
25 WERE AWARE THAT YOU HAD BEEN SHOT. AND THEY TRANSPORTED

1 YOU TO A HOSPITAL.

2 A IT CAME BACK IN LITTLE BITS -- LIKE BITS AND PIECES
3 LIKE FLASHBACKS. AND THEN I WOULD GO UNCONSCIOUS. AND
4 THEN I'M COME BACK TO. AND I'D HAVE MORE LIKE FLASHBACKS
5 AND I WOULD GO UNCONSCIOUS.

6 Q WERE YOU -- RANDY, WHILE YOU WERE IN THE HOSPITAL,
7 WERE YOU EVER OPERATED ON?

8 A YES. YES, SIR. BECAUSE I HAD TRIED, I VAGUELY
9 RECALL BECAUSE I REMEMBER BEING IN EXTREME PAIN. I FELT
10 THAT MY MIDSECTION WHEN I WOKE UP, AND I TRIED TO JUST
11 LIKE ANY KIND OF LITTLE MOVEMENT I MADE, IT HURT. SO I
12 KIND OF MOVED THE HOSES AND STUFF THAT WAS AROUND. AND I
13 LOOKED UNDER MY GOWN AND I SEEN ALL THE WAY DOWN MY CHEST
14 IT HAD STAPLES. AND THEY HAD CUT ME OPEN. AND I COULDN'T
15 FEEL MY LEFT SIDE AND MY LEG OR NONE OF THAT.

16 Q DID YOU LATER FIND OUT WHY THEY CUT YOU OPEN?

17 A LATER I FOUND OUT THAT TWO HAD STUCK ME IN LIKE AN
18 MRI MACHINE TO MEDICALLY SEE WHAT WAS WRONG WITH ME. IT'S
19 A GIANT MAGNET. AND THE BULLETS WERE BEING SUCKED OUT OF
20 BODY. SO THEY COULD NOT HAVE PUT ME IN ONE OF THOSE
21 MACHINES. SO THEY HAD TO DO WHAT THE DOCTOR HAD TOLD ME,
22 EXPLORATORY SURGERY. AND THAT'S WHERE THEY CUT ME OPEN
23 AND REMOVED ALL MY ORGANS TO SEE WHAT THE BULLET DID IN
24 DAMAGE; THAT THE BULLET DID.

25 Q RANDY, AFTER THIS EXPLORATORY SURGERY, WERE YOU ON

1 ANY KIND OF MEDICATIONS?

2 A AT FIRST I DIDN'T HAVE -- IT WAS LIKE A LITTLE DEVICE
3 THAT THEY GAVE ME. AT FIRST I WASN'T ON THAT THAT THEY
4 WAS -- I WAS HOPING THAT THEY WERE SHOOTING ME WITH SOME
5 REAL STRONG DRUGS. I WAS IN A LOT OF PAIN. BUT WHEN I
6 REALLY CAME TO AND I COULD ACTUALLY UNDERSTAND WHAT THE
7 NURSE WAS TELLING ME, BECAUSE SHE WAS SAYING PAIN. I JUST
8 REMEMBER HER SAYING THAT IF YOU'RE IN PAIN, PUSH THIS
9 BUTTON. SO SHE PUT IT IN MY HAND. AND I REMEMBER FALLING
10 ASLEEP AND WAKING UP WITH THIS LITTLE THING IN MY HAND.
11 AND IF I HURT JUST PUSH THE BUTTON.

12 Q DO YOU REMEMBER YOUR FAMILY OR ANY LOVED ONES BEING
13 IN THE HOSPITAL WITH YOU?

14 A I REMEMBER WHEN I FIRST WORK UP, I REMEMBER SEEING
15 FACES, BUT THEY WERE REAL BLURRY. I DIDN'T KNOW WHO THEY
16 WERE OR WHAT, YOU KNOW WHAT I'M SAYING? I DIDN'T KNOW IF
17 THEY WERE FAMILY OR IF THEY WERE MEDICAL. I JUST COULDN'T
18 EVEN SEE STRAIGHT.

19 Q OKAY. SO DID YOU LATER BECOME MORE AND MORE
20 CONSCIOUS AS TIME PASSED?

21 A IT TOOK ME A WHILE.

22 Q IT TOOK YOU A WHILE?

23 A LIKE I WAS -- I WASN'T EVEN FULLY AWARE EVEN UP TO
24 THE POINT WHERE THEY TRANSPORTED ME TO THE COUNTY JAIL. I
25 WAS STILL REAL TIPSY WHEN THEY HAD ME. THEY PUT ME IN A

1 HOLDING CELL, AND THEY SAID THAT THEY WAS DOING MY BOND
2 HEARING OR WHATEVER. I WAS STILL, I WASN'T EVEN IN
3 CONTROL. I DIDN'T EVEN -- TO TELL YOU THE TRUTH, I DIDN'T
4 KNOW WHAT WAS GOING ON.

5 Q DO YOU REMEMBER TALKING WITH YOUR MOTHER AND YOUR
6 FATHER AND ANYONE LIKE THAT WHILE YOU WERE IN THE HOSPITAL
7 ROOM?

8 A I REMEMBER OTHER THAN WHEN I FIRST COME TO FROM, I
9 GUESS, YOU COULD SAY IT'S IN A COMA. WHEN I FIRST CAME
10 TO, I DIDN'T -- I COULDN'T SEE NOBODY'S FACE. BUT AFTER A
11 COUPLE OF DAYS PASSED BY, I COULD SEE THAT THERE WAS MY
12 FAMILY. LIKE MY GRANDMOTHER. AND I REMEMBER MY FATHER
13 AND MY STEPMOTHER. I REMEMBER THEY WERE CONSTANTLY POKING
14 AROUND ON ME. AND I KNOW IT HURT, BUT THEY KEPT POKING
15 AROUND ON ME. I REMEMBER SEEING MY LITTLE BROTHER'S FACE.

16 Q OKAY. DO YOU REMEMBER ANYTHING ANYONE SAID TO YOU
17 DURING THIS TIME?

18 A I JUST -- I CAN JUST PICTURE THEIR FACE. I COULDN'T
19 UNDERSTAND WHAT NOBODY WAS SAYING.

20 Q OKAY. RANDY, DID YOU HEAR EARLIER, TWO AGENTS WITH
21 SLED, AGENT JOHNSON AND ABRAHAM SAID THEY CAME TO SEE YOU?

22 A I VAGUELY REMEMBER THAT.

23 Q DID YOU HEAR THAT?

24 A YES, I HEARD THE OFFICER STATE THIS.

25 Q OKAY. WELL TELL ME ABOUT THAT VISIT, RANDY.

1 A I BELIEVE IT WAS, I CAN'T EVEN TELL YOU WHICH DAY IT
2 WAS. WHAT TIME IT WAS. I KNOW RIGHT BEFORE I SEEN THE
3 TWO MEN -- THE TWO MEN COME IN MY ROOM. IT WAS THIS REAL
4 BIG LADY DOING -- SHE SAID SHE WAS PHYSICAL THERAPY OR
5 SOMETHING. AND SHE TRIED TO GET ME TO MOVE. AND I WAS
6 LIKE LADY, I CANNOT MOVE. SO SHE LEFT. AND THEN I THINK
7 I PASSED OUT, AND THEN I WOKE UP. AND THEN THESE TWO MEN
8 CAME INTO THE ROOM. AND THEY STARTED TALKING. AND I'M
9 LIKE LISTENING, BUT NOT REALLY LISTENING. I AM LIKE IN MY
10 OWN LITTLE WORLD. I'M IN THE ZONE, SO I DIDN'T
11 UNDERSTAND WHAT THEY WERE SAYING.

12 Q WHY WERE IN THE ZONE, RANDY?

13 A BECAUSE I WAS HEAVILY SEDATED ON MORPHINE AND OTHER
14 DRUGS. I WAS UNDER SO MUCH PAIN, AND I COULDN'T
15 UNDERSTAND WHAT THEY WAS TALKING ABOUT.

16 Q WHAT ELSE -- DO YOU REMEMBER ANYTHING ELSE, RANDY,
17 FROM THAT INTERVIEW?

18 A I REMEMBER THEM TALKING TO ME. AND THEN I REMEMBER
19 THEM LEAVING. AND I DIDN'T SEE THOSE TWO MEN AGAIN. IT
20 WAS A COUPLE OF DAYS LATER. I DON'T RECALL WHICH DAY.
21 BUT THOSE TWO SAME MEN, BECAUSE I REMEMBER SEEING THEIR --
22 LIKE THEIR FIGURES. IT WAS TWO BLACK MEN. THEY CAME A
23 COUPLE OF DAYS AFTER THAT. AND I BELIEVE I WAS SUPPOSED
24 TO BE RELEASED FROM THE HOSPITAL THAT DAY OR SOMETHING. I
25 DON'T KNOW WHY I WAS BEING RELEASED FROM THE HOSPITAL. I

1 STILL HAD ALL THIS OPEN WOUND ON MY STOMACH. AND THE
2 BULLET WOUNDS WAS STILL HURTING. I DON'T KNOW WHY I WAS
3 BEING RELEASED FROM THE HOSPITAL. BUT THE SAME TWO MEN
4 CAME IN AND SAID THAT THEY HAD THIS AND THAT. THEY HAD
5 WARRANTS OR SOMETHING; THAT I HAD TO COME WITH THEM. I
6 HAD NO CHOICE TO COME WITH THEM.

7 SO THE NURSE AND WHAT NOT, THEY ASSISTED ME INTO A
8 WHEEL -- IT WASN'T A WHEELCHAIR, IT WAS MORE LIKE A DOLLY
9 CART OR SOMETHING. AND THEN THEY PUSHED ME OUTSIDE OF THE
10 HOSPITAL. I REMEMBER I SEE -- I REMEMBER SEEING LIKE A
11 POLICE CAR. WHEN IT WAS LIKE -- WHEN THEY OPENED THE BACK
12 DOOR, IT WAS LIKE, YOU GOT TO GET IN. I WAS LIKE, HOW ARE
13 Y'ALL PUTTING ME IN THE BACK OF THE POLICE CAR AND I AM
14 ALL BUSTED UP LIKE THIS. THAT'S WHAT I WAS THINKING. AND
15 THEN AND THE DRUGS WAS -- THE DRUG WAS STILL TAKING
16 EFFECT. MY BODY FELT WARM. I WAS HIGH AS A KITE.

17 Q WELL, RANDY, WHERE DID THEY TAKE YOU?

18 A THEY TOOK ME TO, I DON'T KNOW THE DRIVE, BUT I
19 REMEMBER BEING INSIDE, INSIDE. AND THEY PUT ME INSIDE A
20 LITTLE SMALL ROOM. I WAS IN A WHEELCHAIR. AND THEY PUT
21 ME IN A LITTLE ROOM. AND THEN SHUT THE DOOR AND LOCKED IT
22 AND LEFT ME THERE FOR NUMEROUS HOURS. I ENDED UP FALLING
23 ASLEEP AND WAKING UP.

24 Q WHAT EVENTUALLY HAPPENED THOUGH?

25 A THEY WHEELED ME DOWN TO ANOTHER ROOM AND IT WAS A

1 SMALL COURTROOM. AND THEY DID A BOND HEARING FOR ME.

2 Q DID YOU FIND OUT WHICH COURTROOM THIS WAS, OR WHAT
3 COUNTY YOU WERE IN?

4 A AT THE TIME, I DIDN'T KNOW -- I DIDN'T EVEN HAVE AN
5 ATTORNEY PRESENT WHEN THEY DID IT.

6 Q AND THAT'S OKAY. YOU DON'T HAVE A RIGHT TO HAVE AN
7 ATTORNEY AT A BOND HEARING. BUT DID YOU FIND OUT WHERE
8 YOU WERE AFTER THIS?

9 A AFTER THE BOND HEARING THEY GIVE ME THE PAPERS, AND I
10 SEEN, SEEN I WAS IN SUMTER COUNTY.

11 Q OKAY. SO YOU WERE IN SUMTER COUNTY.

12 A YES, SIR.

13 Q AND WERE YOU HELD IN THE SUMTER COUNTY DETENTION
14 CENTER?

15 A AFTER THE BONDING HEARING?

16 Q UH-HUH. (AFFIRMATIVE.)

17 A AFTER THE BOND HEARING, THEY TOOK ME BACK TO THE SAME
18 LITTLE ROOM, AND I WASN'T IN THERE VERY LONG. AND THEN
19 TWO OFFICERS, I DON'T KNOW WHICH ONE OF THEIR NAMES. THEY
20 CAME AND GOT ME OUT OF THE HOLDING CELL. AND THEY TOOK ME
21 BACK IN -- BACK OUT OF THIS SALLY PORT OR WHAT NOT. THEY
22 TOOK ME BACK OUT. I KNOW NOW IT'S A PART OF THE COUNTY
23 JAIL. THEY TOOK ME OUT OF THERE AND PUT ME IN A VAN. AND
24 THEN I HEARD THEM SAYING WE'RE TAKING HIM TO. "JUST
25 CARE."

1 Q OKAY.

2 A SAID THEY WERE TAKING ME TO JUST CARE. SO I REMEMBER
3 THE LITTLE -- IT WAS A LITTLE TRIP THROUGH THE BACK ROADS
4 OF COLUMBIA. AND IT LOOKED LIKE -- IT LOOKED LIKE A
5 PENITENTIARY, BECAUSE IT HAD FENCES WITH BARB-WIRE AND ALL
6 THAT. BUT WHEN I GOT INSIDE I SEEN PATIENTS AND ALL THAT.
7 I KNEW I WAS I GUESS IN SOME KIND OF PRISON HOSPITAL. SO
8 WHILE -- SO I GOT INTO THE HOSPITAL AND THEY TOOK ME TO A
9 ROOM AND THEY ASSISTED ME INTO MY BED. AND AT THAT
10 HOSPITAL I GRADUALLY RECOVERED. I WAS AT THE HOSPITAL
11 FOR 5 WEEKS, 4 OR 5 WEEKS SOMETHING LIKE THAT.

12 Q WHAT HAPPENED AFTER THOSE 4 OR 5 WEEKS?

13 A TWO SUMTER COUNTY CORRECTIONAL OFFICERS, THEY CAME TO
14 THE HOSPITAL, AND I HAD TO GO WITH THEM. SO AT THAT
15 POINT, I AM STILL IN A WHEELCHAIR. I CAN'T WALK TOO MUCH,
16 DO TOO MUCH MOVING. SO THEY DROVE ME BACK TO THE COUNTY
17 JAIL. AND THEY DID MY BOOKING, MY INTAKE. AND THEN THEY
18 TOOK ME STRAIGHT TO LOCKUP IN A WHEELCHAIR.

19 Q OKAY.

20 A SO I STATED IN THAT ROOM A LITTLE OVER A MONTH. I
21 DIDN'T COME OUT OF THAT ROOM PROBABLY TWICE, TO TAKE A
22 SHOWER OR USE THE PHONE. IT WAS AN OPTION TO USE THE
23 PHONE OR TAKE A SHOWER. I WANTED TO TALK TO MY PEOPLE.
24 AND I PRETTY WELL COULDN'T TOO MUCH STAND UP, SO I DON'T
25 KNOW HOW I WAS SUPPOSED TO TAKE A SHOWER. AND IT WASN'T

1 POSSIBLE. BECAUSE THEY DIDN'T HAVE NO MEDICAL, MEDICAL
2 FACILITIES IN THE LOCKUP LIKE FOR ME TO TAKE A SHOWER.

3 Q RIGHT.

4 A SO I JUST DIDN'T SHOWER.

5 Q HOW LONG WERE YOU AT THE DETENTION CENTER THAT TIME,
6 RANDY?

7 A A LITTLE OVER A MONTH.

8 Q THEN WHAT HAPPENED TO YOU?

9 A THEN THEY TOOK ME IN FRONT OF A -- THEY TOOK ME TO
10 COURT ON A VIOLATION OF PROBATION.

11 Q WHAT WAS THAT VIOLATION?

12 A THEY SAID THEY'RE VIOLATING ME, BECAUSE I HAD TWO
13 PISTOLS. THEY WAS CHARGING ME WITH THE TWO PISTOLS.

14 Q OKAY.

15 MR. CONNER: YOUR HONOR, I DON'T BELIEVE THIS IS
16 RELEVANT TO THE ISSUES IN THIS CASE, AND I OBJECT TO IT.

17 THE COURT: MR. WILLIAMS.

18 MR. WILLIAMS: YOUR HONOR, IF YOU WILL GIVE ME JUST A
19 MINUTE, I'M GETTING READY TO ESTABLISH WHY IT IS RELEVANT.

20 THE COURT: ASK THE QUESTION AND THEN LET ME HEAR THE
21 OBJECTION---

22 Q RANDY,---

23 THE COURT: ---BEFORE YOU ANSWER.

24 Q ---WHY WERE YOU ON PROBATION?

25 A I HAD A 15-YEAR SUSPENDED SENTENCE OF TWO YEARS

1 PROBATION FOR BURGLARY SECOND NONVIOLENT.

2 Q THANK YOU. RANDY, YOU HAVE BEEN CONVICTED OF A
3 CRIME?

4 A YES, SIR, I HAVE.

5 Q WHERE ARE YOU NOW?

6 MR. CONNER: YOUR HONOR, I OBJECT TO THAT.

7 THE COURT: OBJECTION IS SUSTAINED.

8 Q RANDY, DO YOU HAVE A CRIMINAL RECORD?

9 A I HAVE A BURGLARY SECOND NONVIOLENT. THAT'S MY ONLY
10 RECORD.

11 Q AND HOW LONG A SENTENCE DO YOU HAVE, RANDY?

12 MR. CONNER: I OBJECT TO THAT, YOUR HONOR.

13 THE COURT: OBJECTION SUSTAINED.

14 Q OKAY. SO, RANDY, YOU HAVE GOTTEN IN TROUBLE BEFORE?

15 A YES, SIR, I HAVE.

16 Q WERE YOU FIGHTING ANYBODY THAT NIGHT?

17 A FIGHTING ANYBODY?

18 Q ANY POLICEMEN THE NIGHT OF SEPTEMBER 11, 2005?

19 A NO, SIR, I DIDN'T WANT NOBODY TO GET HURT.

20 Q DID YOU PULL OUT A GUN AND SHOOT ANYBODY?

21 A NO, SIR, I DID NOT PULL OUT A GUN.

22 MR. WILLIAMS: THANK YOU, RANDY. ANSWER ANY
23 QUESTIONS MR. CONNER MAY HAVE FOR YOU.

24 CROSS EXAMINATION BY MR. CONNER:

25 Q YOU DIDN'T WANT ANYBODY TO GET HURT, BUT YOU HAD TWO

1 PISTOLS, IS THAT RIGHT?

2 A YES, SIR.

3 Q YOU HAD THIS 9 MILLIMETER PISTOL. AND THAT'S YOUR
4 PISTOL, ISN'T IT?

5 A YES, SIR, THAT LOOKS LIKE IT. IT LOOKS LIKE MY
6 PISTOL, YES, SIR.

7 Q WHAT POCKET DID YOU HAVE THAT IN?

8 A MY BACK RIGHT POCKET.

9 Q RIGHT BACK POCKET. AND THAT'S THE ONE THAT WENT OFF,
10 AS YOU PUT IT, AND SHOT MR. BOLAND AND MR. WILLIAMS?

11 A YES, SIR. IT WENT OFF ONE TIME.

12 Q IT WENT OFF.

13 A ONE TIME.

14 Q YOU SAY IT WENT OFF ONE TIME.

15 A THAT'S ALL I HEARD WAS THE ORIGINAL ONE SHOT.

16 Q AND IT WAS IN YOUR RIGHT BACK POCKET.

17 A YES, SIR.

18 Q AND THIS ONE, THIS IS YOURS TOO, ISN'T IT?

19 A YES, SIR, IT IS.

20 Q AND THAT ONE WAS IN WHAT POCKET?

21 A THE FRONT LEFT POCKET.

22 Q THE FRONT LEFT POCKET. WHAT YOU DID IS, AFTER MR.
23 BOLAND WAS SHOT AND MR. WILLIAMS WAS SHOT, THEY GOT
24 POSSESSION OF THIS PISTOL, DIDN'T THEY?

25 A I PRESUME SO, SIR.

1 Q BUT YOU KNEW YOU HAD A SECOND PISTOL, DIDN'T YOU?
2 YOU KNEW YOU HAD THIS LITTLE PISTOL.

3 A YES, SIR, I KNEW I HAD THAT PISTOL.

4 Q AND YOU WOULDN'T BE STILL BECAUSE YOU WERE GOING TO
5 BACK OFF AND PUT ONE IN THEM, WEREN'T YOU?

6 A NO, SIR, I WASN'T.

7 Q YOU WERE GOING TO PUT SOME MORE IN THEM. JUST
8 BECAUSE THEY HAD GOT THE FIRST PISTOL, YOU WERE GOING TO
9 USE THE SECOND ONE ON THEM, WEREN'T YOU?

10 A NO, SIR.

11 Q AND IF YOU HADN'T BEEN SHOT, THEY WOULD BE DEAD,
12 WOULDN'T THEY?

13 A NO, SIR.

14 Q NOW YOU HAD A -- BEEN CONVICTED OF BURGLARY SECOND
15 DEGREE AND YOU WERE ON PROBATION AT THE TIME THIS INCIDENT
16 AROSE, WEREN'T YOU?

17 A YES, SIR.

18 Q AND PART OF PROBATION AND PART OF A CONVICTION FOR
19 BURGLARY SECOND IS, YOU'RE NOT SUPPOSED TO BE IN
20 POSSESSION OF ONE PISTOL, ISN'T IT? ISN'T THAT RIGHT?

21 A I AM NOT TOO SURE ABOUT THAT, SIR.

22 Q WELL I THOUGHT YOU JUST TOLD YOUR LAWYER YOU KNEW YOU
23 HAD DONE WRONG; THAT YOU HAD A PISTOL.

24 A BECAUSE I DIDN'T HAVE A PERMIT FOR EITHER PISTOL.

25 Q YOU WERE UNDER 21, WEREN'T YOU? UNDER AGE 21. YOU

1 WERE LESS THAN 21 YEARS OF AGE.

2 A AT THE TIME, YES, SIR.

3 Q AND YOU WERE IN A JOINT THAT SOLD ALCOHOL. AND YOU
4 HAD A PISTOL IN THERE, DIDN'T YOU?

5 A THEY WASN'T SELLING ALCOHOL AT THE TIME I WAS IN
6 THERE.

7 Q BUT THEY HAVE A LICENSE TO SELL IT.

8 A YES, SIR, THEY DO.

9 Q YOU DRANK SOME BEER IN THERE, DIDN'T YOU?

10 A NO, SIR, I HAD---

11 Q ISN'T THAT WHAT YOU TOLD THESE OFFICERS OVER HERE,
12 MR. ABRAHAM AND MR. JOHNSON?

13 A I DON'T REMEMBER HAVING ANY CONVERSATIONS WITH THOSE
14 TWO MEN.

15 Q YOU DON'T REMEMBER EVEN SEEING THEM? I THOUGHT YOU
16 JUST TOLD YOUR LAWYER 5 MINUTES AGO OR LESS, THAT YOU
17 TALKED TO THEM.

18 A I TALKED TO TWO BLACK MALES. I COULDN'T DISTINGUISH
19 THEIR FACIAL FEATURES AT ALL. MY VISION WAS IMPAIRED.

20 Q YOU TOLD THEM YOU HAD TWO PISTOLS, DIDN'T YOU?

21 A I DON'T RECALL SAYING THAT EITHER, SIR.

22 Q BUT YOU ADMIT THAT'S TRUE. YOU ADMIT THAT IT WAS
23 TRUE THAT YOU HAD TWO PISTOLS.

24 A YES, SIR.

25 Q BUT YOU WANT TO CHANGE THAT TOO?

1 A I NEVER CHANGED IT AT ALL, SIR.

2 Q YOU DIDN'T TELL MR. ABRAHAM AND MR. JOHNSON THAT YOU

3 HAD A COUPLE OF BEERS TO DRINK THERE IN THAT PLACE WHILE

4 YOU WERE SHOOTING POOL?

5 A NO, SIR, I DID NOT.

6 Q THEY DO SELL BEER IN THERE.

7 A NOT TO A PERSON UNDER 21.

8 Q AND YOU HAD ON A RED BASEBALL CAP, DIDN'T YOU?

9 A YES, SIR, I DID.

10 Q AND A WHITE TEE SHIRT?

11 A YES, SIR.

12 Q NOW WHEN YOU WENT OUT THERE, THE FIRST THING THAT

13 CAUSED YOU TO GO OUTSIDE TO CHECK ON WHAT WAS GOING ON IN

14 THE PARKING LOT, YOU FOUND THESE WOMEN WERE FIGHTING, IS

15 THAT RIGHT?

16 A I WENT TO FIND MY GIRLFRIEND, SIR.

17 Q BUT AFTER YOU GOT OUT THERE YOU FOUND THAT THE WOMEN

18 WERE IN A FIGHT?

19 A YES, SIR, THEY WERE.

20 Q AND SHE WAS INVOLVED WITH THEM, IS THAT RIGHT?

21 A I DON'T RECALL. ALL I REMEMBER IS SEEING HER IN AN

22 ALTERCATION.

23 Q WAS SHE OVER THERE WITH THE GIRLS THAT WERE FIGHTING?

24 HOW ABOUT THIS BEVERLY WOMAN? SHE WENT DOWN THERE WITH

25 Y'ALL, DIDN'T SHE?

1 A SHE MET US AT THE BAR. YES, SIR.

2 Q DOES SHE LIVE WITH THE RONNIE GUY?

3 A YES, SIR.

4 Q AND SHE WAS IN THE FIGHT, WASN'T SHE?

5 A I BELIEVE SO. YES, SIR.

6 Q AND YOU WENT OVER THERE TO WHERE THEY WERE FIGHTING,
7 DIDN'T YOU?

8 A NOT TOO CLOSE TO THEM.

9 Q AND YOU HAD YOUR PISTOL IN YOUR POSITION THEN. I
10 BELIEVE YOU SAID YOU HAD THIS 9 MILLIMETER IN YOUR BACK
11 POCKET?

12 A YES, SIR, THAT'S CORRECT.

13 Q THAT MUST HAVE BEEN THE ONE THE FELLOWS SAID THEY
14 SAW.

15 A YES, SIR, THAT'S CORRECT.

16 Q AND YOU LET PEOPLE KNOW YOU HAD IT, DIDN'T YOU?

17 A NO, SIR, I DIDN'T.

18 Q AND MR. BOLAND APPROACHED YOU AND ASKED FOR YOUR
19 COOPERATION. ULTIMATELY HE TOLD YOU, YOU WERE UNDER
20 ARREST, DIDN'T HE?

21 A NO, SIR. HE GRABBED ME FROM BEHIND. I DIDN'T HEAR
22 HIM SAY NOTHING. HE SAID -- HE GRABBED ME. THE OTHER
23 OFFICER GRABBED ME.

24 Q AND YOU JUST -- YOU CUSSSED THEM OUT, DIDN'T YOU?
25 YOU LAID A CUSSING ON THEM?

1 A NO, SIR, I DIDN'T.

2 Q YOU DIDN'T? YOU DENY THAT YOU SAID ANYTHING VULGAR?

3 A I DO NOT DENY IT.

4 Q YOU CUSSSED THEM OUT THEN, DIDN'T YOU?

5 A I USED PROFANE LANGUAGE WHICH -- WHILE I WAS TALKING
6 TO THEM, YES, SIR.

7 Q AND THE LAST THING YOU SAID WAS BEFORE THE PISTOL
8 WENT OFF WAS, "THE FUCK THIS SHIT," DIDN'T YOU?

9 A I COULD HAVE SAID IT. I DON'T RECALL AT THE TIME.

10 Q THAT SHOWS YOUR STATE OF MIND, DOESN'T IT?

11 A I WAS IN PAIN BECAUSE OF MY RIGHT SHOULDER BEING
12 HURT.

13 Q THEY TOLD YOU SEVERAL TIMES TO STOP RESISTING. THEY
14 ASKED YOU FOR YOUR IDENTIFICATION. THEY ASKED YOU TO
15 COOPERATE.

16 A THEY DIDN'T GIVE ME A CHANCE TO GIVE MY
17 IDENTIFICATION.

18 Q YOU WEREN'T INTERESTED IN COOPERATING, WERE YOU?

19 A I WOULD HAVE.

20 Q YOU WOULD HAVE.

21 A YES, SIR.

22 Q NOW YOU WERE ON YOUR BACK YOU SAY, AFTER THEY HAD
23 GOTTEN YOUR FIRST GUN, THIS 9 MILLIMETER? AFTER THEY HAD
24 GOTTEN THAT, YOU WERE SITTING ON THE GROUND, IS THAT
25 RIGHT?

1 A YES, SIR. I WAS LAYING ON MY BACK FACING THEM.

2 Q AND YOU'RE FACING THEM. AND THEY WERE TELLING YOU TO
3 BE STILL. AND YOU JUST KEPT ON BACKING OFF, RIGHT?

4 A NO, SIR, I HAD MY HAND IN PLAIN VIEW.

5 Q PLAIN VIEW?

6 A YES, SIR.

7 Q THEY KEPT TELLING YOU TO KEEP YOUR HANDS IN PLAIN
8 VIEW.

9 A MY HANDS WERE JUST LIKE THIS. (WITNESS INDICATING.)

10 Q YOUR HANDS WERE ON THE GROUND SCUDDLING ALONG ON YOUR
11 BACK END, WEREN'T THEY?

12 A NO, MY FEET WERE KICKING ME, TRYING TO GET AWAY FROM
13 THEM, BECAUSE THEY HAD A GUN POINTED AT ME, YES, SIR.

14 Q YOUR FEET AND YOUR HANDS WERE ON THE GROUND AND YOU
15 WERE SLIDING BACKWARDS. AND WHAT YOU WANTED TO DO WAS TO
16 GET A HOLD OF THIS LITTLE JEWEL AND PUT A BULLET IN THEM,
17 WASN'T IT?

18 A NO, SIR.

19 Q AND IF YOU HADN'T BEEN SHOT YOU WOULD HAVE PUT A
20 BULLET IN THEM. OR MORE BULLETS IN THEM.

21 A NO, SIR.

22 Q YOU PUT TWO OF THEM DOWN. AND YOU MIGHT HAVE PUT
23 THEM IN THE GRAVEYARD IF YOU HAD GOTTEN A HOLD OF THIS 25
24 CALIBER, WOULDN'T YOU?

25 A NO, SIR, I WOULDN'T HAVE.

1 Q THOSE PEOPLE AT THE JAIL AND EVERYBODY IN THE SYSTEM
2 HAS JUST -- THEY'VE TERRIBLY MISTREATED YOU, HAVEN'T THEY?

3 A TO SOME EXTENT, YES, SIR.

4 Q JUST EVERYBODY IN THE WORLD IS WRONG EXCEPT RANDY
5 YONSON?

6 A NO, SIR. THAT IS INCORRECT.

7 MR. CONNER: WELL I AM GLAD YOU FINALLY CAME AROUND.
8 THANK YOU.

9 THE COURT: ANYTHING FURTHER?

10 MR. WILLIAMS: NOTHING FURTHER, YOUR HONOR.

11 THE COURT: YOU MAY STEP DOWN, SIR. YOUR NEXT
12 WITNESS.

13 MR. WILLIAMS: I BEG THE COURT'S INDULGENCE, YOUR
14 HONOR.

15 THE COURT: YES.

16 MR. WILLIAMS: YOUR HONOR, AT THIS TIME, THE DEFENSE
17 RESTS.

18 THE COURT: LADIES AND GENTLEMEN, YOU HAVE NOW HEARD
19 THE DEFENSE'S CASE. ANY REPLY BY THE STATE?

20 MR. CONNER: WE DON'T HAVE ANY REPLY, YOUR HONOR.

21 THE COURT: LADIES AND GENTLEMEN, YOU HAVE NOW HEARD
22 ALL OF THE EVIDENCE IN THIS CASE. AND WE WILL BREAK FOR
23 THE DAY. AND START BACK AT 9:30 TOMORROW MORNING WITH
24 CLOSING ARGUMENTS. PLEASE DO NOT TALK ABOUT THE CASE.
25 PLEASE DO NOT READ ANY NEWSPAPER ACCOUNTS CONCERNING THE

1 CASE. AND WE WILL SEE YOU TOMORROW MORNING. ANY MATTERS
2 OF LAW FROM THE DEFENSE?

3 MR. WILLIAMS: YOUR HONOR, AT THIS TIME I WOULD RENEW
4 MY PREVIOUS MOTIONS.

5 THE COURT: AND I DENY THEM BASED ON THE SAME REASONS
6 GIVEN. ANY REQUEST TO CHARGES?

7 MR. CONNER: AT SOME POINT AND TIME, YOUR HONOR, I
8 GUESS THIS IS NOT RESPONSIVE TO WHAT YOU ASKED. BUT WE
9 NEED TO TAKE CARE OF THE STIPULATION AND WE ARE READY TO
10 DO THAT.

11 THE COURT: YOU MEAN TAKE CARE OF IT AS FAR AS
12 TELLING THE JURY THAT?

13 MR. CONNER: YES.

14 THE COURT: YES.

15 THE COURT: I THINK THERE WAS SOME QUESTION THAT YOU
16 BROUGHT UP ABOUT THAT I GUESS.

17 MR. WILLIAMS: WE AGREE TO STIPULATE TO HIS RECORD.
18 AND THAT ESTABLISHES---

19 MR. CONNER: IF THE JURY HAS BEEN TOLD THAT, OR WILL
20 THEY BE GIVEN SOME KIND OF PIECE OF PAPER SAYING THAT
21 THAT'S OCCURRED, OR HOW WILL WE DO THAT?

22 THE COURT: DURING THE JURY CHARGE I WILL TELL THEM
23 THAT THE PARTIES HAVE AGREED THAT HE -- THAT MR. YONSON
24 HAS BEEN CONVICTED OF A CRIME OF VIOLENCE. THAT THE
25 PARTIES AGREED TO THAT, SO THEREFORE THE STATE DID NOT

1 HAVE TO PROVE THAT HE HAD BEEN CONVICTED OF A CRIME OF
2 VIOLENCE. THE STATE WOULD NEVERTHELESS HAVE TO PROVE THAT
3 HE WAS IN POSSESSION OF A PISTOL.

4 MR. CONNER: ALL RIGHT.

5 THE COURT: YOU WANT TO TELL THEM THAT HE'S AGREED
6 THAT HE HAD A PISTOL TOO?

7 MR. CONNER: THAT'S UP TO THEM.

8 MR. WILLIAMS: I AM SURE MR. CONNER WOULD LOVE FOR
9 YOU TO DO THAT.

10 THE COURT: BASED ON HIS TESTIMONY HE SAID HE HAD A
11 PISTOL.

12 MR. WILLIAMS: WE'LL MAKE SURE -- WE'LL LET--

13 THE COURT: LET THE JURY---

14 MR. WILLIAMS: ---THEM TAKE WHAT THEY WANT FROM HIS
15 TESTIMONY.

16 THE COURT: ALL RIGHT VERY GOOD. I'LL TELL THEM THAT
17 YOU ALL HAVE AGREED THAT HE WAS -- HAD BEEN CONVICTED OF
18 A CRIME OF VIOLENCE.

19 MR. CONNER: I DON'T HAVE ANY SPECIAL REQUESTS FOR
20 ANY PARTICULAR CHARGE.

21 THE COURT: WELL JUST SORTING OUT ALL OF THE
22 DIFFERENT -- I MEAN WHAT IS THE DEFENSE? IS THERE A
23 DEFENSE CHARGE THAT YOU WANT ME TO GIVE?

24 MR. WILLIAMS: NO, SIR, YOUR HONOR. WOULD IT BE
25 POSSIBLE FOR YOU TO CHARGE ON THE LAW AT THE BEGINNING?

1 THE COURT: SAY IT AGAIN?

2 MR. WILLIAMS: WOULD IT BE POSSIBLE FOR YOU TO BEGIN
3 WITH A CHARGE ON THE LAW SINCE THIS IS A MULTIPLE COUNT
4 INDICTMENT, SO WE CAN HAVE SOME BASIS FOR WHAT WE DISCUSS
5 IN CLOSING STATEMENTS?

6 THE COURT: GIVE THEM THE LAW BEFORE YOU GIVE THEM
7 THE CLOSING ARGUMENTS.

8 MR. WILLIAMS: YES, SIR. IF YOU WOULD CHARGE ON THE
9 LAW, THEN WE COULD GIVE OUR CLOSING STATEMENTS THEN YOU
10 CAN FINISH -- CONCLUDE YOUR CHARGE AFTER THAT.

11 THE COURT: WELL THE STATE HAS THE RIGHT TO OPEN ON
12 THE LAW. AND THEN AS PART OF THE STATE'S CLOSING
13 ARGUMENTS. AND I WILL GIVE THEM ONE CHARGE AND THAT WILL
14 BE AFTER YOU ALL MAKE YOUR ARGUMENTS.

15 MR. WILLIAMS: THANK YOU, YOUR HONOR.

16 THE COURT: THE STATE CAN OPEN ON THE LAW AND THEN
17 COME BACK WITH FINAL AFTER YOUR ARGUMENT.

18 MR. CONNER: WELL I WOULD THINK THAT MY QUESTION
19 WOULD BE HOW DO WE APPROACH THE SITUATION OF CHARGES IN
20 REGARDS TO ACCIDENT? WHETHER ACCIDENT IS AN APPROPRIATE
21 CHARGE?

22 THE COURT: DO YOU WANT ME TO CHARGE ACCIDENT AS A
23 DEFENSE?

24 MR. WILLIAMS: YES, YOUR HONOR.

25 THE COURT: DO YOU AGREE WITH THAT, MR. CONNER?

1 MR. CONNER: WELL I THINK HE WOULD BE -- I AM NOT
2 PERSUADED THAT IT WAS AN ACCIDENT. HOWEVER, UNDER OUR LAW
3 HE WOULD PROBABLY BE ENTITLED TO THAT CHARGE.

4 THE COURT: BASICALLY I WILL TELL THE JURY THAT HE
5 HAS RAISED THE DEFENSE OF ACCIDENT. AND THAT WOULD
6 EXCUSED ON THE GROUND OF ACCIDENT IF IT IS SHOWN THAT THE
7 ACT WAS UNINTENTIONAL, AND THAT THE DEFENDANT WAS ACTING
8 LAWFULLY. AND THAT REASONABLE CARE WAS USED BY THE
9 DEFENDANT IN THE HANDLING OF THE WEAPON THAT HE MIGHT
10 HAVE HAD IN HIS POSSESSION. THE BURDEN IS ON THE STATE
11 TO PROVE BEYOND A REASONABLE DOUBT THAT THE ACT WAS NOT
12 AN ACCIDENT, BUT WAS CAUSED BY THE NEGLIGENCE OR
13 CARELESSNESS OR INTENTIONAL ABUSE ON THE PART OF THE
14 DEFENDANT.

15 MR. CONNER: HE WASN'T ACTING LAWFULLY, I DON'T
16 BELIEVE SO.

17 THE COURT: WELL I CAN'T TELL THE JURY THAT HE WASN'T
18 ACTING LAWFULLY, BECAUSE THAT WOULD BE COMMENTING ON THE
19 FACTS RATHER THAN JUST GIVING THE LAW. THE LAW IS THAT
20 WHICH CAN BE AN ACCIDENT, WHICH IS UNINTENTIONAL AND THAT
21 HE WAS ACTING LAWFULLY AT THE TIME. AND THAT HE ACTED
22 REASONABLY IN THE USE OF THAT WEAPON AND ITS POSSESSION.
23 OF COURSE YOUR ARGUMENT TO THE JURY IS THAT HE DIDN'T DO
24 ANY OF THOSE THINGS. MY JOB IS TO CHARGE THE LAW.

25 MR. CONNER: ANOTHER THING, OR QUESTION I ASSUME WE

1 SHOULD DEAL WITH IS WHETHER HE WOULD BE ENTITLED TO A
2 CHARGE ON ABHAN.

3 THE COURT: AS A LESSER INCLUDED THAT HE DID INTEND
4 TO KILL; THAT HE INTENDED TO COMMIT ASSAULT ACCOMPANIED BY
5 CIRCUMSTANCES OF AGGRAVATION? IS THAT A REQUEST OF
6 CHARGE?

7 MR. WILLIAMS: YES, SIR, YOUR HONOR. IT IS MY
8 UNDERSTANDING THAT ABHAN IS A LESSER INCLUDED OFFENSE OF
9 ABWIK. AND WE WOULD CERTAINLY REQUEST THAT. AND AS YOU,
10 AS MR. CONNER DISCUSSED, I BELIEVE IF YOU STATE THE LAW ON
11 ACCIDENT OR CHARGE THE JURY ON THE LAW, MR. CONNER WILL BE
12 FREE TO ARGUE THE FACTS AS HE SEES FIT IN HIS CLOSING,
13 AND THE JURY WILL DECIDE THE TWO.

14 THE COURT: YOU AGREED THAT I SHOULD CHARGE ABHAN AS
15 WELL, MR. CONNER?

16 MR. CONNER: RELUCTANTLY.

17 THE COURT: WHAT ELSE DO YOU WANT ME TO CHARGE?

18 MR. CONNER: I AM NOT REQUESTING THESE CHARGES, I
19 JUST WANT A CLEAR RECORD.

20 THE COURT: YOU RAISED THE ISSUE AND MR. WILLIAMS HAS
21 MADE THE REQUEST AFTER YOU RAISED THE ISSUE.

22 MR. CONNER: WELL I DON'T WANT TO HAVE A RECORD THAT
23 WE WOULD SEEK TROUBLE I DON'T THINK ON THAT.

24 THE COURT: I THINK IT'S CLEAR THAT ACCIDENT IS AN
25 APPROPRIATE CHARGE. AND ANY TIME YOU'RE CHARGING ASSAULT

1 AND BATTERY WITH INTENT TO KILL, THE LESSER INCLUDED OF
2 ASSAULT ARE IMPLICATED IN THE CHARGE WHERE THE JURY HAS TO
3 EVALUATE WHAT THE DEFENDANT INTENDED TO DO. AND I THINK
4 IS -- BOTH OF THESE -- BOTH OF THOSE ARE APPROPRIATE
5 CHARGES.

6 MR. CONNER: I DO HAVE A CASE, YOUR HONOR. THIS
7 ASSAULTS, BEATS AND WOUNDS WHILE RESISTING ARREST, IS A
8 SEPARATE CHARGE AND CAN BE CONSIDERED ALONG WITH
9 CONVICTION FOR EITHER ABWIK OR ABHAN.

10 THE COURT: YOU MEAN HE CAN BE FOUND GUILTY OF BOTH
11 OF THEM?

12 MR. CONNER: HE CAN BE CONVICTED OF ABHAN AND
13 ASSAULTS, BEATS OR WOUNDS A POLICE OFFICER WHILE
14 RESISTING ARREST.

15 THE COURT: AND THAT SORT OF -- THAT WOULD BE
16 ADDRESSED IF HE'S CONVICTED WHILE RESISTING. PRETTY MUCH
17 SENTENCING BEFORE---

18 MR. CONNER: I THINK SO.

19 THE COURT: WHETHER HE CAN BE SENTENCED ON ALL THE
20 DIFFERENT ONES.

21 MR. CONNER: I CAN GIVE YOU THAT IF YOU WANT.

22 THE COURT: ALL RIGHT. ANYTHING ELSE?

23 MR. CONNER: I DON'T KNOW OF ANYTHING ELSE, YOUR
24 HONOR.

25 MR. WILLIAMS: NOTHING ELSE FROM THE DEFENSE, YOUR

1 HONOR.

2 THE COURT: DO YOU INTEND TO OPEN ON THE LAW?

3 MR. CONNER: I WOULD NOT.

4 THE COURT: WE WOULD START OUT WITH MR. WILLIAMS.

5 OKAY.

6 THE COURT: I MAY JUST GIVE THEM A LIMITED CHARGE
7 SOLELY STATING THAT Y'ALL AGREE THAT HE HAS PREVIOUSLY
8 BEEN CONVICTED OF A CRIME OF VIOLENCE.

9 MR. WILLIAMS: OKAY.

10 THE COURT: SO THAT WHEN YOU ARGUE THAT WON'T BE
11 ANYTHING IN THE MIND OF THE JURY AS TO PROVE THAT, OR NOT
12 PROVE IT. WE'LL STRIKE IT UP AGAIN AT 9:30 TOMORROW
13 MORNING.

14 MR. WILLIAMS: THANK YOU, YOUR HONOR.

15 (THEREUPON, THE TRIAL COMMENCES AT 9:30 A.M. ON
16 THURSDAY JANUARY 18, 2006.)

17 THE COURT: ANYTHING BEFORE WE BRING THE JURY?

18 MR. CONNER: NOTHING FROM US.

19 MR. WILLIAMS: NOTHING FROM THE DEFENSE.

20 THE COURT: IF YOU WILL BRING THEM, PLEASE.

21 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
22 PRESENCE OF THE JURY.)

23 THE COURT: GOOD MORNING.

24 THE JURY: GOOD MORNING.

25 THE COURT: MR. CONNER, DO YOU WANT TO PLACE A

1 STIPULATION ON THE RECORD.

2 MR. CONNER: DO YOU WANT ME TO?

3 THE COURT: YES, SIR. STATE THE STIPULATION BETWEEN
4 COUNSEL REGARDING THE DEFENDANT'S...

5 MR. CONNER: THE AGREEMENT BETWEEN THE DEFENSE AND
6 THE PROSECUTION IN THIS CASE; THAT THE DEFENDANT HAS A
7 PRIOR, BEEN CONVICTED OF A PRIOR CRIME OF VIOLENCE. AND
8 THAT WOULD BE RELATED TO COUNT 6. AND YOUR CONSIDERATION
9 IN NO. COUNT 6 IS AGREED UPON IN OTHER WORDS, STIPULATED;
10 THAT HE DOES HAVE A PRIOR CONVICTION FOR A CRIME OF
11 VIOLENCE.

12 THE COURT: IS THAT CORRECT, MR. WILLIAMS?

13 MR. WILLIAMS: THE DEFENSE CONCURS, YOUR HONOR.

14 THE COURT: LADIES AND GENTLEMEN, WITH THAT
15 STIPULATION YOU HAVE NOW RECEIVED ALL THE EVIDENCE IN THIS
16 CASE. IT'S NOW TIME FOR THE CLOSING ARGUMENTS. THE STATE
17 WAIVES OPENING ON THE LAW?

18 MR. CONNER: WE WOULD, YOUR HONOR.

19 THE COURT: WE WILL HEAR FROM MR. WILILAMS.

20 MR. WILLIAMS: I DIDN'T ALWAYS WANT TO BE AN
21 ATTORNEY. FOR A LONG TIME I WANTED TO BE A JOURNALIST. I
22 WANTED TO WRITE FOR A NEWSPAPER. SO AFTER I FINISHED HIGH
23 SCHOOL, I WORKED AT THE ITEM, JUST DOWN THE STREET. AND
24 IT WAS A WONDERFUL TIME. I GOT TO COVER A RANGE OF
25 STORIES. EVERYTHING FROM SHAW FEST, TO WHY LEE COUNTY

1 NEEDS AN ANIMAL SHELTER; TO THE OPENING OF DOLLAR GENERAL.
2 TO THE SUMMER PRIMARIES, THE ELECTION PRIMARIES. I GOT TO
3 LEARN ABOUT BUSINESS AND POLITICS AND GOVERNMENT AND
4 FINANCE. AND I GOT TO LEARN ABOUT HUMAN NATURE. WHEN YOU
5 SEE A LOT OF DIFFERENT PEOPLE THROUGH YOUR COURSE OF WORK,
6 YOU REALLY GET TO KNOW PEOPLE. OR YOU GET TO SEE PEOPLE,
7 HOW WELL YOU KNOW THEM.

8 BUT ONE OF THE MOST SURPRISING THINGS TO ME ABOUT
9 WORKING FOR A NEWSPAPER WAS THAT I'D SPEND DAYS OR EVEN
10 WEEKS WRITING AN IN DEPTH STORY. AND MY EDITOR WOULD LOOK
11 THROUGH THE STORY, AND SHE'D READ IT. AND THEN IN A
12 MATTER OF SECONDS, SHE'D HAVE THE HEADLINE WRITTEN. SHE'D
13 JUST PULL IT OUT AND WRITE THE HEADLINE. SO IN THAT, IT
14 JUST SHOWED ME THAT HERE I SPENT ALL THIS TIME LEARNING
15 SOMETHING. PRESENT IT, AND THEN THE EDITOR JUST TAKES IT
16 AND SHE HAS A HEADLINE. AND, LADIES AND GENTLEMEN, THAT'S
17 WHAT WE'RE DOING TODAY. Y'ALL ARE THE EDITORS. Y'ALL ARE
18 DECIDING WHAT'S GOING TO BE SAID ABOUT THIS CASE.

19 BOTH SIDES HAVE PRESENTED EVIDENCE. THAT'S THE
20 STORY. THERE'S BEEN TESTIMONY. YOU'VE HEARD IT. THERE
21 HAVE BEEN NUMEROUS PIECES OF EVIDENCE HERE. ALL
22 INTRODUCED AS PART OF THE STORY. IN FACT THE COURT
23 REPORTER HERE, MS. SULLIVAN, IS WRITING THIS ALL DOWN.
24 WE LITERALLY WILL HAVE THE STORY WRITTEN AT THE END OF
25 THIS PROCESS. THE ONLY THING WE'RE LACKING NOW IS THE

1 HEADLINE. WHAT YOU 12 MEMBERS OF THE COUNTY SAY HAPPENED.
2 THAT'S WHAT WE'RE HERE TO FIND OUT WHAT REALLY HAPPENED.
3 I'D LIKE TO START OFF TODAY WITH SOME OF THE EVIDENCE.
4 THE PHYSICAL THINGS WE CAN SEE AND TOUCH FROM THIS TRIAL.
5 WE HAVE SOME GUNS, SOME PICTURES, SOME BULLETS AND
6 TWO VIDEOS. WE'LL COUNT THAT AS SOMETHING WE CAN SEE AND
7 TOUCH. AND WHAT HAS THIS EVIDENCE TOLD US THUS FAR. WE
8 HAVE SIX BULLET WOUNDS. THREE IN MY CLIENT, TWO IN ONE
9 DEPUTY, ONE IN ANOTHER. ONLY 4 SHELL CASINGS WERE FOUND
10 AT THE SCENE. THREE WERE TESTIFIED BY MR. DERRICK, I
11 WOULD SUBMIT TO YOU. MR. DERRICK, THE SLED EXAMINER SAID
12 THAT THOSE MATCHED MR. BOLAND'S SERVICE PISTOL. THAT
13 COUNTS FOR THREE OF THEM. WE HAVE ONE MORE. NOW
14 MR. DERRICK TESTIFIED THAT THAT MATCHED MY CLIENT'S 9
15 MILLIMETER. AND YOU NOTICE I SAID MY CLIENT'S 9
16 MILLIMETER. HE HAD NOT ONE, BUT TWO GUNS AT THE SCENE.
17 HE TOLD YOU THAT. I SUBMIT THAT HE ADMITTED THAT TO YOU.
18 HE HAD NO REASON TO COME UP HERE AND LIE. HE WANTED TO
19 GET HIS STORY HEARD. HE WANTED TO TELL YOU, I WAS WRONG.
20 THERE IS 10 COUNTS ON THIS INDICTMENT, I BELIEVE. HE'S
21 ADMITTED TO FOUR OF THEM. HE HAD TWO PISTOLS AT A BAR.
22 HE'S UNDER 21 AND HE HAD A PISTOL. AND HE HAS BEEN
23 CONVICTED OF A VIOLENT CRIME TO WHICH MR. CONNER JUST
24 REFERRED. AND HE HAD A PISTOL. HE SHOULDN'T HAVE.
25 MR. YONSON ADMITTED THAT TO YOU YESTERDAY.

1 BUT FROM MR. YONSON'S GUN, THERE'S ONLY ONE SHELL
2 CASING ON THE GROUND. THAT WAS TAKEN FROM MR. BOLAND'S
3 SIDE. FROM HIS FLANK. IT WAS MATCHED. BALLISTICALLY I
4 SUBMIT THAT MR. DERRICK PROVED THAT TO YOU. I AM NOT
5 GOING TO ARGUE SCIENCE. I AM NOT A SCIENTIST. BUT THAT
6 STILL LEAVES TWO SHOTS. WE DON'T KNOW WHERE THEY ARE. WE
7 DON'T KNOW WHERE THESE SHELL CASINGS ARE. I THINK IT WAS
8 PROVEN, IT WAS SAID YESTERDAY, AND A DAY AND A HALF TRIAL
9 WE HAVE HAD THUS FAR, THAT WHEN A GUN SHOOTS, IT EJECTS
10 SHELL CASINGS. WHERE WERE THEIR SHELL CASINGS? THEY
11 SEARCHED THIS SCENE. WE HAD APPROXIMATELY 600 SQUARE
12 FEET. AND WE SAID YESTERDAY, WHERE ARE THE SHELL CASINGS.
13 AS TO THE BULLET THAT CAME FROM MY CLIENT'S 9 MILLIMETER,
14 MR. DERRICK ALSO TESTIFIED I SUBMIT TO YOU, THAT THERE
15 WERE NO FINGERPRINTS ON THE GUN TO MATCH MY CLIENT. IT
16 WAS HIS, HE TOOK IT THERE. BUT TO GRAB THIS GUN,
17 FINGERPRINTS, THEY'RE STILL THERE. THAT DIDN'T WIPE THEM
18 OFF. IF YOU'RE GOING TO GRAB THE GUN, THERE ARE
19 FINGERPRINTS ALL OVER THIS GUN. WHERE WERE THOSE IF MY
20 CLIENT PULLED OUT HIS GUN AND FIRED IT?

21 YOU HEARD YESTERDAY TESTIFIED THAT A DOCTOR CAME IN
22 AND SAID HE PERFORMED THE SURGERY, TOOK THE BULLET FROM
23 MR. BOLAND. YOU HEARD THE DOCTOR SAY HE GAVE THAT BULLET
24 TO HIS NURSE, MS. KAREN WHITFIELD. WE THEN HAD A SLED
25 AGENT COME IN AND SAY, I PICKED THIS BULLET UP FROM MS.

1 KAREN WHITFIELD. LADIES AND GENTLEMEN, YOU SAW YESTERDAY,
2 MY CLIENT WAS SHOT. I BELIEVE IT WAS IN HIS SHIN, HIS
3 BUTTOCKS AND HIS SHOULDER. MY CLIENT TESTIFIED I BELIEVE
4 THAT UPON BEING SHOT IN THE SHIN, HE GRABBED HIS SHIN.
5 WHICH OBVIOUSLY WOULD EXPOSE YOUR BUTTOCKS. THAT'S WHERE
6 HE WAS SHOT THE SECOND TIME. AND THEN IMMEDIATELY THE
7 THIRD TIME IN HIS BACK.

8 IF HE, I BELIEVE MY CLIENT SAID YESTERDAY, HE WAS
9 EXPERIENCING A SEARING PAIN. I BELIEVE HIS WORD WAS
10 SEARING. LIKE A HOT ROD HAD BEEN SHOVED IN HIS SHIN. HE
11 WASN'T LOOKING FOR ANYTHING, OTHER THAN IMMENSE PAIN IN
12 HIS SHIN. LADIES AND GENTLEMEN, WE HAVE TESTIMONY AS WELL
13 AS THIS EVIDENCE. WE HAD A NUMBER OF PEOPLE TESTIFY IN
14 COURT. AND JUDGE NEWMAN WILL INSTRUCT YOU AS TO WHO YOU
15 CAN BELIEVE AND WHO YOU CAN DISBELIEVE. AND IT IS
16 ENTIRELY UP TO YOU. HE CAN TELL YOU YOU CAN BELIEVE ONE
17 PERSON OVER 100 OR 100 OVER ONE. THAT'S WHAT I BEGIN BY
18 TELLING YOU. I JUST ASK THAT YOU PLEASE BELIEVE, WHO YOU
19 CHOOSE TO BELIEVE. NOT BECAUSE OF WHO THEY ARE, OR WHAT
20 THEY DO, OR WHAT THEY MAY HAVE DONE. BUT BECAUSE OF WHAT
21 THEY TOLD YOU. WHAT YOU SAW FROM THEIR TESTIMONY. WE
22 HAD, AS I SAID, A NUMBER OF PEOPLE TALK THROUGHOUT THE
23 PAST DAY AND A HALF. I WON'T RECOUNT THEM ALL. DON'T
24 WORRY. I KNOW YOU THINK I'M GOING TO STAND HERE AND TELL
25 YOU WHAT EVERYBODY SAID, BUT I AM NOT.

1 I WANT TO TALK ABOUT THE FOUR PEOPLE THAT MATTER.
2 THE FOUR PEOPLE THAT WERE INVOLVED IN THIS INCIDENT. I
3 DON'T KNOW IF ANY OF YOU HAVE EVER BEEN IN A CAR WRECK.
4 IT'S A SITUATION THAT HAPPENS IMMEDIATELY. THEN YOU HAVE
5 TO RECOUNT WHETHER IT WAS LIGHT GREEN OR YELLOW. WAS I
6 TURNING OR WAS I OUT IN THE INTERSECTION. THAT'S WHAT
7 THESE PEOPLE WERE DOING. IT WAS LIKE A FOOTBALL TACKLE.
8 I BELIEVE A NUMBER OF PEOPLE HAVE SAID. IN A FOOTBALL
9 SCENE WE NEVER KNOW, WE HAVE INSTANT REPLY. WE DIDN'T
10 HAVE THAT HERE TODAY OR ON SEPTEMBER 11TH. SO I WOULD
11 LIKE TO FOCUS ON THE FOUR PEOPLE WHO WERE THERE. TWO
12 DEPUTIES, MY CLIENT MR. YONSON, AND HIS GIRLFRIEND MANDY.
13 THE DEPUTIES, I BELIEVE, AND IT'S UP TO YOU ALL TO
14 REMEMBER THE TESTIMONY, WHAT YOU TOOK FROM IT. IT'S
15 CERTAINLY UP TO YOU.

16 I BELIEVE DEPUTY BOLAND SAID HE SAW AND HEARD TWO
17 SHOTS AND THEN HEARD A THIRD. DEPUTY WILLIAMS I BELIEVE
18 SAID HE NOTICED ONE BY SEEING THE MUZZLE FLASH AND THEN
19 HEARD A SECOND. WE'VE GOT SIX SHOTS SUPPOSED TO BE FIRED.
20 THAT'S THREE FROM ONE. ANOTHER SAYING ABOUT TWO. WHERE
21 IS, THAT'S NOT SIX. WE'RE SOMEWHERE IN BETWEEN THERE. I
22 MEAN EVERYBODY SAYS THERE WAS ONE SHOT FIRED. WE'RE NOT
23 DISPUTING THAT. BUT WHERE ARE THE REST OF THOSE BULLETS?
24 WHERE ARE THE CASINGS? DEPUTY WILLIAMS I BELIEVE SAID
25 THAT HE WAS SO EXCITED HE DIDN'T REALIZE HE HAD BEEN SHOT.

1 AND THAT'S JUST WHAT I WAS REFERRING TO AT THE CAR
2 ACCIDENT.

3 SOMETIMES YOU'RE SO EXCITED YOU DON'T REALIZE WHAT
4 EXACTLY HAPPENED. YOU REMEMBER IT, BUT THEN A VIDEO CAN
5 TELL YOU SOMETHING TOTALLY DIFFERENT. I SUBMIT TO YOU THE
6 VIDEO WE WATCHED, WHEN I FINALLY SHOWED IT TO MS. TEAL,
7 AND I DID NOT SHOW IT TO HER BEFORE THIS, I THINK OUR
8 MOTION INDICATED THAT. WHEN MS. TEAL FINALLY SAW THE
9 VIDEO, IT WASN'T DIFFICULT TO SEE HER RIGHT THERE. I
10 ASKED BOTH OFFICERS. HAD THEM DRAWN. WAS THERE ANYBODY
11 ELSE IN VERY CLOSE PROXIMITY WHO COULD HAVE SEEN THIS.
12 THEY BOTH SAID NO. YOU ALL SAW THE VIDEO. I CAN'T TELL
13 YOU WHAT IT SAID. IT'S UP TO Y'ALL. BUT I THINK I SAW
14 MS. TEAL IN THE VIDEO. RIGHT THERE IN THE FRONT CORNER OF
15 THE TRUCK.

16 I BELIEVE THAT HER ACCOUNT IS JUST AS VALID AS ANYONE
17 ELSE. SHE DIDN'T HAVE A GUN. SHE HAS NO DOG IN THIS
18 FIGHT. MS. TEAL SAID SHE DID NOT SEE MR. YONSON GRAB A
19 GUN. I BELIEVE MR. YONSON SAID HE HAD NO INTENTION OF
20 SHOOTING ANYBODY. HE WAS TRYING TO LEAVE THE CLUB. THE
21 OFFICERS APPROACHED HIM AND GRABBED HIS ARM. YOU SEE MY
22 CLIENT WALKING AROUND SOME. I HAD HIM STAND UP. HE IS
23 NOT OF BIG FELLOW. I AM NOT BIG GUY EITHER, AND HE IS
24 SMALLER THAN I AM. THE DEPUTIES ARE REASONABLY SIZED MEN.
25 THEY TESTIFIED THEY GRABBED HIS ARMS. HE SAID THEY

1 GRABBED HIS ARMS. IT'S KIND OF HARD TO REACH FOR A
2 PISTOL WHEN SOMEONE IS GRABBING YOUR ARMS. MY CLIENT SAID
3 THAT HE WAS SHOT IN HIS SHIN. THE DEPUTY SAID HE WAS
4 STILL REACHING. HE WAS REACHING FOR THE PAIN IN HIS LEG
5 FROM A BULLET WOUND THAT YOU SAW. AND THEN RECEIVED
6 ANOTHER BULLET WOUND HERE AND HERE. AS YOU ALSO SAW ON
7 THE STAND.

8 AS I SAID, LADIES AND GENTLEMEN, WE HAVE ONE SHELL
9 CASING FROM MY CLIENT'S 9 MILLIMETER. YESTERDAY I ASKED
10 MR. WILLIAMS TO READ HIS STATEMENT. HE SAID IN THAT
11 STATEMENT THAT HE STUCK HIS FINGERS BEHIND THE TRIGGER,
12 BETWEEN THE TRIGGER AND THE BUTT OF THE GUN SO THE TRIGGER
13 COULD NOT FIRE, BE PULLED BACK. THE GUN COULD NOT FIRE.
14 YOU SAW NO WAY TO STICK YOUR FINGERS BEHIND THIS TRIGGER.
15 I BELIEVE IT IS UP TO YOU ALL TO RECALL THAT MR. CONNER
16 SAID, "COULD YOU HAVE THEN STRUCK YOUR FINGERS IN FRONT OF
17 THE TRIGGER." I BELIEVE MR. WILLIAMS SAID, YES HE COULD.
18 MR. WILLIAMS, MR. WILLIAMS COULDN'T THAT HAVE CAUSED THE
19 GUN TO FIRE? SEVEN AND 3 QUARTERS POUNDS OF PRESSURE.
20 THAT'S IT. THAT'S THE ONE BULLET THAT WAS FIRED.

21 LADIES AND GENTLEMEN, WHEN I WAS YOUNGER, I HAD
22 REALLY POOR EYESIGHT. I COULDN'T SEE VERY WELL AT ALL. I
23 COULDN'T SEE THE CLOCK AT NIGHT WHEN I WOKE AT NIGHT
24 WITHOUT MY GLASSES. I TRIED TO GET CONTACTS, BUT JUST
25 COULDN'T TAKE IT. SO I WAS VERY FORTUNATE AND HAD SURGERY

1 TO CORRECT MY VISION. THAT EVENING AFTER THE SURGERY, I
2 WENT TO A BASKETBALL GAME AND MY EYES WERE WATERY LIKE I
3 HAD BEEN CRYING. BUT I COULD SEE THE SCOREBOARD FROM THE
4 STAND. IT LITERALLY WAS AMAZING. I AM BLESSED TO HAVE
5 HAD THAT CHANCE. LADIES AND GENTLEMEN, I WOULD SAY RIGHT
6 NOW WITH THE CONFLICTING TESTIMONY THAT WE HAVE FROM FOUR
7 DIFFERENT PEOPLE WHO ARE ALL IN THIS STRUGGLE, THAT THE
8 ONLY THING THAT WE HAVE FROM THAT NIGHT ASIDE FROM THE
9 VIDEO THAT I SUBMIT SHOWS VERY LITTLE OF WHAT HAPPENED.
10 THE ONLY THING WE HAVE IS BLURRY VISION. NOW THERE IS NO
11 SURGERY TO GO BACK AND CORRECT THAT. NO ONE CAN HAVE
12 20/20 VISION AS TO WHAT HAPPENED THAT.

13 BUT THE JUDGE WILL CHARGE YOU, I BELIEVE, AS TO WHAT
14 IS 20/20 VISION. BEYOND A REASONABLE DOUBT. BLURRY
15 VISION IS NOT BEYOND A REASONABLE DOUBT. WE'RE MISSING AT
16 LEAST TWO SHELL CASINGS. WE HAVE CONFLICTING TESTIMONY OF
17 WHERE MY CLIENT WAS SHOT; WHERE THEY SAID HE WAS SHOT.
18 WHERE PEOPLE HAVE SAID THEY HELD A GUN, WHERE THERE WERE
19 LACK OF FINGERPRINTS ON THE GUN. LADIES AND GENTLEMEN, MY
20 CLIENT DID WRONG. HE HAD NO INTENTION OF SHOOTING
21 ANYBODY. HE DID NOT PICK UP A GUN. I SUBMIT TO YOU THAT
22 THAT HAS NOT BEEN PROVED BEYOND A REASONABLE DOUBT. THIS
23 IS IT FOR ME, LADIES AND GENTLEMEN. THE DEFENSE HAS
24 RESTED. I'M DONE TALKING TO YOU. AND MR. CONNER IS GOING
25 TO HAVE A CHANCE TO STAND UP. AND I WAS GOING TO PLACE A

1 BET. HE'S PROBABLY GOING TO TALK ABOUT ALL THE PIECES OF
2 EVIDENCE. THE JUDGE IS THEN GOING TO THEN TALK TO YOU.
3 HE'S GOING TO TELL YOU THE LAW IN THIS CASE AND HOW YOU
4 SHOULD APPLY THAT LAW. HIS WORD IS THE LAW HERE. YOU
5 DON'T GET TO HEAR FROM ME AGAIN. BUT A LOT OF OTHER
6 PEOPLE CONFUSING YOU OR EXCUSE ME, TELLING YOU OTHER
7 THINGS HERE THAT THEY REMEMBER, THEY SAW, THEY HEARD.
8 BUT, LADIES AND GENTLEMEN, I BELIEVE WE'RE LACKING TOO
9 MUCH HERE TO PROVE MY CLIENT GUILTY OF INTENDING TO SHOOT
10 THESE OFFICERS BEYOND A REASONABLE DOUBT. THANK YOU.

11 THE COURT: MR. CONNER.

12 MR. CONNER: LADIES AND GENTLEMEN OF THE JURY, I WANT
13 TO THANK YOU FOR YOUR ATTENTION, AND ASK FOR YOUR
14 ATTENTION FOR A SHORT WHILE LONGER. THE -- A LOT OF YOUR
15 DECISION IS YOU DECIDE WHAT IS BELIEVABLE AND WHAT IS NOT
16 BELIEVABLE. WHAT IS CREDIBLE AND NOT CREDIBLE. YOU WEIGH
17 HIS STORY AND HIS GIRLFRIEND'S STORY VERSUS THE POLICE
18 STORY. NOW IN EXAMINING THAT, ONE THING I WOULD SUBMIT
19 THAT YOU MIGHT WANT TO CONSIDER IS HIS RECORD. WE DON'T
20 SHOW, NOT ALLOWED TO SAY OR SHOW THAT SOMEBODY HAS A PRIOR
21 RECORD; THEREFORE, THEY ARE A BAD FELLOW AND THEY HAVE
22 DONE THIS CRIME ALSO. WE DON'T SAY THAT. BUT YOU CAN
23 CONSIDER WHAT HE HAS BEEN CONVICTED BEFORE IN EVALUATING
24 WHETHER YOU BELIEVE HIS STORY. AND BOTH OF THEM COME INTO
25 THIS COURT WITH RECORDS FOR BURGLARY. HIS GIRL HAD, I

1 BELIEVE, GRAND LARCENY. SHE ALSO HAD CRIMINAL CONSPIRACY
2 ON HER RECORD.

3 SO YOU CAN USE THAT FOR WHATEVER REASON YOU WANT TO
4 USE IT, IN MEASURING HIS CREDIBILITY AND HER CREDIBILITY;
5 WHETHER YOU BELIEVE THEIR STORY OR NOT. THE MOST DAMAGING
6 THING TO ME, AND I AM JUST USING MY COMMON SENSE IN
7 EVALUATING THE TESTIMONY. AND YOU USE THE SAME THING.
8 BUT I UNDERSTOOD THE GIRL AND HIM TO SAY THAT HE WAS ON
9 HIS BUTT SCOOTING BACKWARDS WHEN THE POLICE SHOT HIM. AND
10 THEN AFTER HE GOT UP THERE AND TESTIFIED HE WAS SCOOTING
11 BACKWARDS, BUT HE WAS HOLDING HIS HANDS OUT LIKE THIS. IN
12 OTHER WORDS, I AM GIVING UP SO YOU CAN CUFF ME. AND YOU
13 DON'T HAVE TO SHOOT ME. THAT'S WHAT THEY WANT YOU TO
14 BELIEVE. HOWEVER I SUBMIT TO YOU THAT'S JUST ABOUT
15 IMPOSSIBLE, BECAUSE I SAT DOWN ON THE FLOOR JUST LIKE
16 THIS. YOU CAN'T SEE ME. YOU CAN STAND UP. AND NOW I
17 HAVE GOT MY HANDS OUT LIKE THIS. CAN I SCOOT BACK? NOT
18 MUCH SCOOTING DOING THIS. SCOOTING DOING THIS. YOU'VE
19 GOT YOUR HANDS DOWN HERE, AND YOU'VE GOT YOUR HANDS CLOSE
20 TO YOUR POCKETS.

21 THAT STORY JUST DOESN'T WASH. AND ANOTHER THING IS,
22 WHAT DID OFFICER BOLAND DO? WHEN HE SAID WHEN HE PUT HIS
23 HANDS OUT, I QUITE SHOOTING. AND ANOTHER THING, I THINK
24 YOU NEED TO MEASURE THIS IN TIME. THIS THING HAPPENED
25 VERY, VERY FAST. MR. BOLAND DIDN'T HAVE AN OPPORTUNITY TO

1 SIT AROUND AND THINK ABOUT IT FOR AN HOUR BEFORE HE
2 DECIDED WHAT TO DO.. AND IN VIEW OF WHAT WE'VE GOT IN THE
3 WAY OF EVIDENCE, IT LOOKS -- IT APPEARS TO ME, AND I
4 SUBMIT IT WOULD APPEAR TO ANY REASONABLE PERSON, THAT HE
5 ACTED IN A REASONABLE MANNER. HE WAS DEFENDING HIMSELF.
6 IT WAS A MATTER OF SELF DEFENSE. HE HAD ALREADY BEEN SHOT
7 TWO PLACES THROUGH HIS ARM AND INTO HIS SIDE. AND I
8 SUBMIT TO YOU, HE WAS PROBABLY SCARED. BUT WHAT HAPPENED
9 IS THIS WAS THE FIRST WEAPON. AND THEY GOT THAT, BUT THIS
10 GUY DIDN'T STOP. AND THAT FELLOW COOK, THAT FIRST
11 PRIVATE WITNESS THAT CAME IN, HE SAID THAT THE GUY DIDN'T
12 STOP STRUGGLING. SO THE THE OFFICER FIRED AT HIM. AND
13 WHEN HE QUIT STRUGGLING AND THREW UP HIS HANDS, HE QUIT
14 SHOOTING. BUT WHAT WOULD HAVE HAPPENED IF HE HADN'T SHOT?
15 IF HE HADN'T ACTED, HE HAD A BACKUP WEAPON. HE HAD
16 ANOTHER ONE. AND THIS IS THE LITTLE PISTOL. YOU'VE GOT
17 PICTURES OF IT HERE. YOU'VE GOT THE PISTOL. AND YOU'VE
18 GOT THE PISTOL THAT ACTUALLY INJURED THE OFFICERS.

19 THE -- I SUBMIT TO YOU THAT THEIR STORY IS NOT
20 CREDIBLE. AND THE OFFICER'S STORY IS CREDIBLE. ANOTHER
21 THING I WOULD LIKE TO REMIND YOU OF, THESE OFFICERS WERE
22 DOWN ON THE GROUND WITH THIS GUY IN A DARK SPOT. THE --
23 BUT THEY HAD A BETTER VIEW OF WHAT WAS HAPPENING THAN
24 ANYBODY ELSE; THAT THEY WERE UP CLOSE TO THAT GUN. AND
25 THEY BEAR THE WOUNDS TO SHOW IT. BUT THEY COULD SEE IT A

1 WHOLE LOT BETTER THAN ANYBODY ELSE. BUT EVEN THE
2 WITNESSES, THE LADY FROM THE STORE, THE CLUB, THE
3 WITNESS -- THE GUYS THAT WERE IN THE YARD OUT THERE, AND I
4 TELL YOU ONE THING THEY KNEW THIS FELLOW WAS DANGEROUS.
5 THEY WENT IN AND REPORTED THAT GUN BEING OUT THERE,
6 BECAUSE THEY THOUGHT IT WAS SOMETHING TO BE CONCERNED
7 ABOUT. AND THEY WERE THERE TELLING THE BARTENDER, THERE'S
8 A FELLOW OUT THERE IN THE PARKING LOT WITH A GUN.
9 SOMETHING BETTER BE DONE. THEY KNEW IT WAS A DANGEROUS
10 SITUATION.

11 THEY WERE USING GOOD COMMON SENSE. I TELL YOU
12 ANOTHER THING ABOUT THIS STORY THAT MAKES ME DOUBT HIS
13 CREDIBILITY, IS HE WAS KNOWINGLY IN VIOLATION OF THE
14 PISTOL LAW. YOU KNOW, HE WANTED TO HEDGE ON THAT. I
15 ASKED HIM ABOUT IT ON CROSS EXAMINATION. AND THIS IS MY
16 UNDERSTANDING OF WHAT HE WAS TRYING TO SAY. OH, HE DIDN'T
17 KNOW HE WAS VIOLATING THE LAW. HE HAD THE PISTOLS, BUT HE
18 DIDN'T KNOW IT WAS A VIOLATION OF THE LAW. WHEN IN
19 ACTUALLY THERE WAS ABOUT THREE DIFFERENT VIOLATIONS. AND
20 THEY'RE SET FORTH IN THIS INDICTMENT. THE UNLAWFUL
21 POSSESSION OF A PISTOL ON THE PREMISES OF A BUSINESS THAT
22 SELLS ALCOHOLIC BEVERAGES. UNLAWFUL POSSESSION OF A
23 PISTOL BY A PERSON UNDER 21 YEARS OF AGE. AND I'LL TELL
24 YOU WHAT, HE CERTAINLY KNEW ABOUT THIS PRIOR CONVICTION HE
25 HAD THAT PROHIBITED HIM FROM POSSESSION OF A PISTOL. YOU

1 KNOW, OTHER CITIZENS ARE PERMITTED TO HAVE PISTOLS. BUT
2 PEOPLE THAT HAVE BEEN CONVICTED OF CERTAIN VIOLATIONS ARE
3 NOT.

4 AND I -- HE WAS ON PROBATION IS WHAT HE TOLD US. BUT
5 HE CERTAINLY KNEW THAT HE WAS PROHIBITED FROM HAVING THIS
6 PISTOL AND HE WAS OUT THERE WITH IT. AND I TELL YOU WHAT,
7 HE SAYS, OH, I DIDN'T KNOW THAT I WAS VIOLATING THE LAW.
8 BUT IF HE DIDN'T KNOW THAT HE WAS VIOLATING THE LAW, WHY
9 DID HE RESIST? WHY DID HE RESIST? HE RESISTED BECAUSE HE
10 KNEW HE HAD WHAT HE WASN'T SUPPOSED TO HAVE, THE LONG AND
11 SHORT OF IT. HE KNEW HE HAD THESE PISTOLS. AND HE KNEW
12 THAT HE WAS TOLD GOING DOWNTOWN TO THE LOCK UP WHEN THEY
13 TOOK THE PISTOLS OFF OF HIM. SO I SUBMIT TO YOU HIS -- IN
14 FACT, LET ME JUST MENTION THIS. THE DEFENSE LAWYER ASKED
15 MS. O'FELDT, THE LADY THAT RUNS THE CLUB OUT THERE. WHAT
16 WOULD YOU HAVE DONE IF THE POLICE HAD COME OVER AND WANTED
17 TO SEARCH YOU FOR A GUN. AND YOU KNOW WHAT SHE SAID? SHE
18 SAID, "I'D LET THEM SEARCH." BECAUSE SHE KNOWS THAT SHE
19 HASN'T GOT ANYTHING. SHE IS NOT VIOLATING THE LAW. HE
20 RESISTED BECAUSE HE KNEW HE WAS IN VIOLATION. AND HE
21 TRIES TO GIVE THE IMPRESSION, THAT, OH, HE DIDN'T KNOW
22 ANYTHING WAS WRONG. HE HADN'T DONE ANYTHING.

23 ANOTHER THING, LADIES AND GENTLEMEN, YOU HAVE THESE
24 PICTURES TO SHOW WHAT CAME OUT OF HIS POCKETS HERE. AND
25 WHEN THE OFFICER FROM SLED GOT THERE, THIS IS STATE'S

1 EXHIBIT NO. 11, Q, I BELIEVE THIS IS Q,R, S T. THEY'RE
2 ALL NO. 11, Q, R, S AND T. THAT'S THE NUMBERS ON THE BACK
3 OF THEM. BUT ONE OF THEM IS THE LITTLE 25 PISTOL THAT
4 CAME OUT OF HIS POCKETS. ALONG WITH AMMUNITION THAT WAS
5 IN IT. AND THE OFFICER LAID IT OUT THERE TO TAKE A
6 PICTURE OF IT. YOU SEE SOME OTHER PICTURES THAT SHOW
7 THINGS SCATTERED AROUND. BUT THIS IS ALL THE CONTENTS OF
8 HIS PANT'S POCKET. WE GOT 11 T HERE, AND THIS IS WHAT IT
9 LOOKS LIKE TO ME, A PIPE TO SMOKE SOMETHING WITH. YOU CAN
10 TAKE THAT FOR YOU, YOU CAN LOOK AT IT AND USE YOUR COMMON
11 SENSE. AND HERE'S HIS DRIVER'S LICENSE WHICH SHOWS THAT
12 HE WAS 20 YEARS OLD AT THE TIME THIS THING HAPPENED BACK
13 IN SEPTEMBER OF 2005. AND THIS IS 11 R. THIS IS ANOTHER
14 PICTURE OF CONTENTS SHOWING THE GUN AND THE EDGE OF
15 DRIVER'S LICENSE AND ALSO THE LITTLE PIPE.

16 I SUBMIT TO YOU THAT ALL THAT GOES TO HIS
17 BELIEVABILITY. THE, LADIES AND GENTLEMEN, THE JUDGE IS
18 GOING TO CHARGE YOU EXTENSIVELY ON THE LAW. THAT'S THE
19 GENERAL PROCEDURE HERE. THE LAWYER'S TALKING AND THE
20 JUDGE TELLS YOU ABOUT THE LAW. AND IF I SAY SOMETHING
21 THAT DOESN'T AGREE WITH WHAT HE SAYS THE LAW IS, HE'S THE
22 FINAL ARBITER. HE HAS HIS BOOKS TO GO BY. AND HE HAS
23 EXPERIENCE IN DOING THAT. AND I WOULD NOT MISLEAD YOU IN
24 ANY WAY. IF I SAY SOMETHING THAT DOESN'T AGREE WITH WHAT
25 HE'S GOING TO TELL YOU, IT IS PURELY UNINTENTIONAL ON MY

1 PART. HE IS GOING TO TELL YOU ABOUT ACCIDENT. BECAUSE
2 ACCIDENT IS A DEFENSE TO DOING A CRIME. FOR A CRIMINAL
3 ACT TO BE EXCUSABLE ON THE GROUND OF ACCIDENT, IT MUST BE
4 SHOULDN'T THE ACT WAS UNINTENTIONAL; THE DEFENDANT WAS
5 ACTING LAWFULLY, AND DUE CARE WAS EXERCISED IN THE
6 HANDLING OF THE WEAPON.

7 NOW LET'S TAKE A LOOK AT THAT. OKAY, THE FIRST THING
8 IS, HIS ACT MUST BE UNINTENTIONAL. NOW IF HE FAILS, THERE
9 IS THREE SIDES OF THIS. HIS ACT MUST BE UNINTENTIONAL.
10 HE MUST BE ACTING LAWFULLY AND HE MUST EXERCISE DUE CARE
11 IN HANDLING THE WEAPON. AND IF HE FAILS IN ANY ONE OF
12 THEM, HE'S FAILED THE TEST IN QUALIFYING FOR EQUIVALENT ON
13 THE BASIS OF ACCIDENT. BECAUSE HE DOESN'T HAVE TO -- IN
14 OTHER WORDS, ANY ONE FAILURE. IF THE ACT IS CONSIDERED BY
15 YOU TO BE INTENTIONAL, HE IS NOT ENTITLED TO IT. IF
16 YOU'RE -- TO ACCIDENT. IF HE IS ACTING UNLAWFULLY, THEN
17 HE IS NOT ENTITLED TO CLAIM ACCIDENT. AND IF HE DOESN'T
18 EXERCISE DUE CARE, HE IS ENTITLED TO CLAIM ACCIDENT.

19 SO THE FIRST OF ALL, LET'S THINK ABOUT UNINTENTIONAL.
20 NOW WHAT HE SAID THERE, AND I AM NOT GOING TO GO AND
21 REPEAT THAT. Y'ALL PROBABLY -- I'VE PROBABLY REPEATED IT
22 TOO MANY TIMES. AND I APOLOGIZE IF I OFFENDED ANYONE IN
23 DOING THAT. BUT I THOUGHT IT WAS WORTH POINTING OUT.
24 BECAUSE I THINK IT SHOWS HIS STATE OF MIND. AND AS SOON
25 AS HE SAID THAT, HE FIRED THE GUN. AND THAT'S WHEN THE

1 OFFICERS WERE FIRST STRUCK. SO I SUBMIT TO YOU THAT WHAT
2 HE SAID THERE INDICATES AN INTENT TO DO, TO INFLICT HARM
3 TO SOMEBODY. AND IT ALSO, ESPECIALLY WHEN YOU COMBINE IT
4 WITH HIM SAYING THAT, AND ALL OF A SUDDEN SHOOTING THAT
5 GUN. AND YOU REMEMBER THIS, BOTH TO THOSE OFFICERS SAY
6 THAT THAT GUN WAS IN HIS HAND. THEY SAW IT, AND THEY
7 TOOK IT FROM HIM. AND, YOU KNOW, YOU CAN QUIBBLE ABOUT
8 WHETHER -- WHERE MR. WILLIAMS' HAND WENT DOWN ON THE GUN.
9 AND HE WENT TO -- HE SAYS INTO THE TRIGGER GUARD THERE.
10 AND I SUGGEST HE THOUGHT AT FIRST HE STUCK HIS HAND BEHIND
11 A TRIGGER. BUT HE ACTUALLY STUCK IT THROUGH THE HOLE. IN
12 ANY EVENT, THEY GOT THAT GUN OUT OF HIS HAND. THERE IS NO
13 QUESTION IN MY MIND ABOUT THAT. AND I WOULD SUBMIT THERE
14 WOULD BE NONE IN YOUR MIND. THEY WERE ALL OVER HIM.
15 RIGHT ON TOP OF HIM. TRYING TO GET HIM. YOU CAN HEAR
16 THEM YELLING ABOUT THE GUN. HE'S GOT THE GUN. GET THE
17 GUN.

18 IN ANY EVENT, I SUBMIT TO YOU THAT HIS ACT WAS NOT
19 UNINTENTIONAL. ANOTHER THING THAT MAKES ME THINK IT'S NOT
20 UNINTENTIONAL, HE CAME TO THIS JOINT WITH TWO PISTOLS. SO
21 HE WAS THERE, ARMED TO BEAR. HE WAS A DANGEROUS PERSON.
22 THE AVERAGE PERSON, EVEN IF HE HAD BEEN OF A MIND TO DO
23 SOMETHING LIKE THIS, WOULDN'T HAVE COME ARMED WITH TWO
24 PISTOLS. SO THIS GUY FAILS THE INTENTION TEST. AND I
25 TELL YOU ANOTHER THING IN MY MIND THAT MAKES ME THINK HE

1 FAILS IT IS JUST HIS GENERAL ATTITUDE. ALL THESE
2 WITNESSES SAY HE RESISTED EVERY EFFORT OF THE POLICE TO
3 TRY TO WORK WITH HIM. YOU KNOW, THEY DIDN'T RUN UP TO HIM
4 WITH THEIR PISTOLS OUT FROM THE VERY START. I HAD -- THEY
5 WENT AND TALKED WITH HIM, AND TRIED TO WORK WITH HIM TO
6 FIND OUT WHETHER THEY HAD BEEN TOLD THE RIGHT THING. AND
7 IT TURNED OUT VERY OBVIOUSLY THAT THEY HAD.

8 NOW LET'S LOOK AT THE NEXT ONE. HE'S GOT -- HIS
9 CONDUCT HAS GOT TO BE LAWFUL IF HE IS GOING TO CLAIM
10 ACCIDENT. AND I SUBMIT TO YOU HIS CONDUCT WASN'T LAWFUL.
11 IT WAS UNLAWFUL. HE HAS SEVERAL PISTOL LAW VIOLATIONS
12 WHICH WE HAVE TALKED ABOUT HERE. THE PISTOL IN A BUSINESS
13 THAT SERVES ALCOHOLIC BEVERAGES. A PISTOL BY A PERSON
14 LESS THAN 21 YEARS OF AGE. A PISTOL BY A PERSON WITH A
15 RECORD FOR VIOLENT CRIMES. ANOTHER THING IS, ONE OF THE
16 CHARGES IN THIS INDICTMENT IS RESISTING ARREST WITH A
17 DEADLY WEAPON. AND HE DID ALL OF THESE THINGS. SO HE IS
18 NOT ACTING LAWFULLY. SAID HE IS -- HIS ACT CERTAINLY WAS
19 INTENTIONAL. HE IS NOT ACTING LAWFULLY. BUT THE OTHER
20 THING IS DUE CARE.

21 SINCE HE FAILS ONE AND TWO, I DON'T KNOW IF THERE IS
22 ANY REAL REASON TO TALK ABOUT DUE CARE. BUT I SUBMIT TO
23 YOU HE DIDN'T ACT WITH DUE CARE. HE DIDN'T ACT CAREFULLY
24 TO AVOID DANGER TO OTHER PEOPLE. SO I WOULD SUBMIT TO YOU
25 THAT THE EVIDENCE IN THIS CASE INDICATES THAT HE IS NOT

1 ENTITLED TO BE ACQUITTED BASED ON THE FACT THAT IT WAS ALL
2 ACCIDENTAL. NOW ANOTHER THING THAT MAKES ME THINK FURTHER
3 ON ACCIDENT IS WHAT THE FIREARM'S EXAMINER HAD TO SAY. HE
4 SAID THAT IT TOOK 7 AND 3 QUARTER POUNDS OF FORCE ON THIS
5 PISTOL TRIGGER TO WORK IT. AND THAT'S NOT JUST WHAT YOU
6 WOULD DO HERE UNLOADED OF COURSE. THAT'S TO MAKE IT FIRE
7 IF IT IS FULLY LOADED AND IN A POSITION TO USE IT. SO IT
8 TAKES QUITE A BIT OF FORCE. HE SAID AS MUCH AS A GALLON
9 OF MILK HELD BY ONE FINGER IN ORDER TO PULL THAT TRIGGER.

10 THE -- IT'S A WELL BUILT WEAPON ACCORDING TO THE
11 FIREARM'S EXAMINER. IT HAS TWO DIFFERENT SAFETY DEVICES
12 SO THAT IF IT'S DROPPED OR BANGED ON SOMETHING
13 ACCIDENTALLY IT'S NOT GOING TO GO OFF. THAT'S BUILT IN TO
14 KEEP IT FROM DISCHARGING ACCIDENTALLY. AND THERE IS NO
15 QUESTION THAT THE FIREARM'S EXAMINER SAYS THAT THIS BULLET
16 RECOVERED, THAT'S IN THIS LITTLE BAG HERE, STATE'S EXHIBIT
17 10, CAME IN THIS LITTLE CUP, PLASTIC CUP FROM THE
18 HOSPITAL. THE DOCTOR GAVE IT TO THE SLED AGENT TO TAKE
19 OVER FOR THE FIREARM'S MAN TO TEST. AND HE SAID THIS
20 PISTOL FIRED THAT ROUND THAT HIT MR. BOLAND. NOW WE
21 DIDN'T FIND -- MR. BOLAND AND MR. WILLIAMS I BELIEVE
22 INDICATED THAT THERE WERE AT LEAST TWO ROUNDS FIRED.

23 AND ANOTHER THING THAT THAT FIREARM EXAMINER SAID
24 ABOUT THIS GUN IS IT HOLDS 9 ROUNDS WHEN FULLY LOADED.
25 AND THERE WAS ONLY SEVEN IN THE MAGAZINE WHEN THEY TOOK

1 CUSTODY OF THE PISTOL. SO THERE WERE TWO MISSING, WHICH
2 WOULD BE CONSISTENT WITH TWO SHOTS. AND WE DIDN'T FIND
3 ONE OF THE CASINGS. BUT YOU HEARD THAT GUY FROM SLED SAY
4 THAT HE STAYED OUT THERE UNTIL DAYLIGHT LOOKING FOR
5 CASINGS. AND FINALLY HE FOUND THE THIRD ONE THAT HAD BEEN
6 FIRED BY MR. BOLAND. AND IT WAS BY A POLE IN A SANDY
7 SPOT. THAT'S IN ONE OF THESE PHOTOGRAPHS. YOU CAN SEE
8 IT. AND HE TALKED ABOUT HOW DIFFICULT IT IS SOMETIMES TO
9 FIND THOSE THINGS. AND THAT THEY CAN BE ACCIDENTALLY
10 MASHED INTO THE GROUND AND THEY NEVER FIND THEM.

11 IN ANY EVENT, THIS WAS NOT AN ACCIDENT. AND THE
12 TESTIMONY BY THE FIREARM'S EXAMINER IS CONSISTENT WITH
13 WHAT THESE OFFICERS HAD TO SAY. I SUBMIT TO YOU THOSE
14 OFFICERS WERE EXCITED. THEY WERE IN A DANGEROUS
15 SITUATION. YOU SAW THE THING. THAT LADY THERE, THE
16 DEFENDANT'S GIRLFRIEND. SHE WAS EXCITED. SHE WAS
17 SCREAMING SO LOUD YOU COULD HARDLY HEAR THE GUN SHOOTING.
18 THE, I THINK WE DEALT WITH ACCIDENT. ONE OTHER THING THAT
19 WE NEED TO TALK ABOUT IS AGGRAVATED ASSAULT AND BATTERY.

20 THE COURT: MR. CONNER AND MR. WILLIAMS, IF YOU WILL
21 APPROACH FOR ONE MOMENT.

22 (THEREUPON, THE ATTORNEYS APPROACH THE BENCH AND
23 CONFER WITH JUDGE.)

24 MR. CONNER: ABHAN, BACK TO THIS ASSAULT AND BATTERY
25 OF A HIGH AND AGGRAVATED NATURE. THIS IS KIND OF AN

1 ABBREVIATION FOR IT. ASSAULT OF A HIGH AND AGGRAVATED
2 NATURE. AND ASSAULT AND BATTERY WITH INTENT TO KILL. NOW
3 WHAT I WOULD SUBMIT TO YOU, AND THE JUDGE IS GOING TO TELL
4 YOU, HE'S CHARGED IN THE INDICTMENT WITH ASSAULT AND
5 BATTERY WITH INTENT TO KILL. THAT'S THIS CRIME HERE.
6 HE'S GOING TO TELL YOU THAT ASSAULT AND BATTERY OF A HIGH
7 AND AGGRAVATED NATURE IS A LESSER INCLUDED OFFENSE IN
8 ASSAULT AND BATTERY WITH INTENT TO KILL. AND YOU CAN FIND
9 A VERDICT OF EVEN THIS. AND IF YOU DIDN'T FIND FOR THIS,
10 THEN YOU COULD CONSIDER ASSAULT AND BATTERY OF HIGH AND
11 AGGRAVATED NATURE. IN OTHER WORDS, THE LESSER INCLUDED
12 OFFENSE.

13 SO I WOULD TALK BRIEFLY ABOUT THE DIFFERENCE BETWEEN
14 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE AND
15 ASSAULT AND BATTERY WITH INTENT TO KILL. NOW ASSAULT OF A
16 HIGH AND AGGRAVATED NATURE IS A COMMON LAW MISDEMEANOR.
17 AND IT IS AN UNLAWFUL ACT OF VIOLENT INJURY TO ANOTHER
18 ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION. AND SO IT IS
19 UNLAWFUL AND IT'S VIOLENT. AND YOU HAVE THESE
20 CIRCUMSTANCES OF AGGRAVATION. AND SOME OF THE
21 CIRCUMSTANCES, THESE ARE JUST EXAMPLES OF CIRCUMSTANCES OF
22 AGGRAVATION. ONE MIGHT BE THE USE OF A DEADLY WEAPON.
23 ANOTHER MIGHT BE SERIOUS BODILY INJURY. INTENT TO COMMIT
24 A FELONY. DISPARITY BETWEEN AGE. LIKE A YOUNG PERSON
25 BEATING UP AN OLD PERSON. OR DIFFERENCE IN SEXES. A MAN

1 BEATING A WOMAN FOR EXAMPLE. THOSE ARE CIRCUMSTANCES OF
2 AGGRAVATION.

3 SOME OF THESE CIRCUMSTANCES OF AGGRAVATION DON'T
4 INVOLVE DEADLY WEAPONS. FOR EXAMPLE A MAN BEATING UP ON A
5 WOMAN. BUT ASSAULT AND BATTERY WITH INTENT TO KILL IS A
6 MORE SERIOUS CRIME. IT'S A FELONY, AND IT'S VIOLENT. A
7 VIOLENT INJURY. IT IS A FELONY REQUIRING AN UNLAWFUL ACT
8 OF A VIOLENT NATURE TO THE PERSON OF ANOTHER WITH MALICE
9 AFORETHOUGHT EITHER EXPRESS OR IMPLIED. SO THE KEY WORD
10 WITH INTENT TO THE KILL, IS MALICE; EXPRESS OR IMPLIED.
11 NOW LET'S TALK ABOUT MALICE. I THINK THE JUDGE WILL TELL
12 YOU SOMETHING SIMILAR TO THIS; THAT MALICE IS A TERM WHICH
13 IMPLIES WICKEDNESS. EXCLUDES JUST CAUSE AND EXCUSE.
14 INDICATES A WICKED AND DEPRAVED SPIRIT, INTENT ON DOING
15 WRONG.

16 SO LET'S SEE. WICKEDNESS. IT'S JUST ONE WORD THAT
17 KIND OF SUMS IT UP. IN OTHER WORDS, WICKEDNESS EXCLUDES
18 GOOD CAUSE AND EXCUSE. INDICATES A WICKED AND DEPRAVED
19 SPIRIT, INTENT ON DOING WRONG. NOW LET'S LOOK AT,
20 EXPRESS MEANS HE SAID IT. HE MADE NO BONES ABOUT WHAT HE
21 WAS GOING TO DO. IMPLIED MEANS YOU CAN INFER IT FROM THE
22 CIRCUMSTANCES OF WHAT HE DID. NOW SOMETIMES PEOPLE DON'T
23 BOTHER TO TELL YOU, I AM GOING TO SHOOT YOU. THEY JUST
24 GO AHEAD AND SHOOT YOU. BUT THIS FELLOW DID EXPRESS WHAT
25 I WOULD SAY IS WICKED INTENT. BY SAYING WHAT HE SAID,

1 YOU KNOW, HE SAID, "FUCK THIS SHIT." AND THEN AT THAT
2 TIME, BANG, BANG. THE PISTOL WAS FIRED. SO COMBINED
3 WITH THE GUNSHOT AND WHAT HE SAID, I THINK IT IS PRETTY
4 CLEAR THAT HE EXPRESSED IT.

5 HE DIDN'T -- YOU CAN HAVE IT EITHER WAY. YOU CAN
6 HAVE MALICE SHOWN EITHER EXPRESS OR IMPLIED. YOU DON'T
7 HAVE TO HAVE ONE OR THE OTHER. AND I THINK YOU CAN IMPLY
8 IT FROM THE CIRCUMSTANCES HERE. I SUBMIT TO YOU
9 POSSESSION OF A DEADLY WEAPON. AND THIS GUY HAD TWO OF
10 THEM THAT YOU CAN INFER MALICE FROM THAT. AND ESPECIALLY
11 UNDER THE CIRCUMSTANCES OF HIM RUNNING AROUND A BAR WITH
12 TWO PISTOLS. I GUARANTEE YOU THOSE GUYS, THE BARTENDER
13 THOUGHT THAT SOMETHING WAS WRONG; THAT HE HAD SOMETHING
14 ON HIS MIND OTHER THAN BEHAVING HIMSELF. I TELL YOU
15 ANOTHER THING THAT YOU CAN IMPLY MALICE FROM IS FROM
16 KNOWING VIOLATIONS OF THE LAW. AND WE HAVE SEVERAL OF
17 THOSE IN THIS PARTICULAR CASE.

18 AND ALSO IN THE VERY DEFINITION OF ASSAULT AND
19 BATTERY WITH INTENT TO KILL IS, IT'S AN UNLAWFUL ACT OF A
20 VIOLENT NATURE. AND WE CERTAINLY HAVE AN UNLAWFUL ACT
21 AND IT'S VIOLENT. THESE GUYS ENDED UP IN THE HOSPITAL
22 THAT NIGHT. FORTUNATELY MR. WILLIAMS GOT RELEASED PRETTY
23 QUICKLY. BUT HE HAD BEEN SHOT THROUGH THE ARM. AND THE
24 ONLY THING THAT -- THE ONLY THING THAT SAVED THESE GUYS
25 REALLY IS A BAD AIM. BUT THEY COULD HAVE BEEN HURT A LOT

1 WORSE THAN THEY WERE. IN, LADIES AND GENTLEMEN, I WOULD
2 SUBMIT TO YOU THIS FELLOW FITS THE MOLD OF A ASSAULT AND
3 BATTERY WITH INTENT TO KILL. THAT'S WHAT THIS CASE IS.
4 IT IS NOT ASSAULT AND BATTERY OF HIGH AND AGGRAVATED
5 NATURE. BECAUSE IT IS AN UNLAWFUL FELONY. IT IS
6 VIOLENT. VIOLENT INJURY TO THE VICTIM. HE WAS HELL BENT
7 ON DOING SOMETHING WRONG. HE HAD IN MY MIND, I SUBMIT,
8 AND IN ANY REASONABLE PERSON'S MIND, HE HAD A WICKED
9 SPIRIT.

10 AND HE'S KIND OF AN AMAZING FELLOW IN A WAY. I KNEW
11 A FELLOW ONE TIME THAT USED TO SAY, SOMEBODY LOOKS AS
12 HARMLESS AS A HOUSEWIFE. HE LOOKS AS A HARMLESS AS A
13 HOUSEWIFE, BUT HE'S A PIECE OF DYNAMITE. HE IS LIKE ONE
14 OF THOSE BOOMERS IN IRAQ. ONE OF THOSE SUICIDE PEOPLE.
15 YOU DON'T EXPECT ANYTHING OUT OF THEM AND ALL OF SUDDEN
16 YOU'RE DEAD. AND THAT'S JUST ABOUT WHAT HAPPENED TO
17 THESE LAW ENFORCEMENT OFFICERS. AND THEY DIDN'T
18 VOLUNTARILY GO OUT THERE. THEY DIDN'T GO OUT THERE
19 LOOKING FOR THIS. THEY WERE ASKED TO COME, TO KEEP THE
20 PEACE, TO SERVE THE PEOPLE OF SUMTER COUNTY. THEY DO
21 WHAT THEY'RE PAID TO DO. THEY WERE JUST DOING THEIR JOB.
22 THEY GOT THE BAD END OF THE STICK.

23 BUT, LADIES AND GENTLEMEN, IN KIND OF SUMMARIZING
24 THIS THING, THERE ARE SEVERAL CHARGES IN THE INDICTMENT.
25 AND I'VE PROBABLY WORN YOU OUT AND PREACHED TOO LONG.

1 BUT I WANT TO RUN DOWN REAL QUICKLY. WE'VE GOT, TWO
2 COUNTS OF POSSESSION OF AN UNLAWFUL PISTOL. YOU KNOW
3 IT'S AGAINST THE LAW TO JUST RUN UP AND DOWN THE STREET
4 WITH A PISTOL IN YOUR POCKET. THERE ARE CERTAIN
5 EXCEPTIONS TO THAT. IF YOU ARE A POLICEMEN OR IF YOU ARE
6 IN THE ARMED SERVICES. OR IF YOU HAD JUST BOUGHT THE
7 PISTOL IN THE STORE AND IT WAS IN A BOX AND TAKEN OUT AND
8 PUT IT IN THE TRUNK OF YOUR CAR TO TAKE IT HOME, THAT'S
9 PERMISSIBLE. AND IF YOU WERE OUT ON YOUR OWN PROPERTY,
10 YOU'VE GOT A RIGHT TO HAVE A PISTOL THERE. BUT JUST
11 LOTS OF EXCEPTIONS TO IT. BUT IN JUST GENERAL RUNNING UP
12 AND DOWN THE STREETS WITH THE PISTOL IN YOUR POCKET IS
13 PROHIBITED BY LAW. AND WHEN YOU GO INTO A PLACE THAT
14 SERVES ALCOHOLIC BEVERAGES, THE JUDGE IS GOING TO TELL
15 YOU THAT THAT IS CERTAINLY AGAINST THE LAW TOO. THAT'S
16 COUNT 1 AND 2 OF THE INDICTMENT.

17 ALSO THERE'S POSSESSION OF A PISTOL BY ONE LESS THAN
18 21 YEARS OF AGE. HE'S CERTAINLY, YOU'VE GOT HIS DRIVER'S
19 LICENSE IN ONE OF THESE PHOTOS HERE, THAT SHOWS THAT HE
20 WAS BORN IN 1985. AND HE WAS 20 YEARS OF AGE AT THE
21 TIME. ALSO, THERE IS A STIPULATION THAT HE HAS BEEN
22 CONVICTED OF A CRIME OF VIOLENCE IN THE PAST. AND SO
23 THAT WOULD BE COUNT 6, POSSESSION OF A PERSON CONVICTED
24 BY A CRIME OF VIOLENCE. COUNT 7 AND 8, ASSAULT AND
25 BATTERY WITH INTENT TO KILL ON EACH ONE OF THE OFFICERS.

1 NO. 7 IS ON MR. BOLAND. AND NO. 8 IS ON MR. WILLIAMS.
2 NOW COUNT NO. 9 IS POSSESSION OF A FIREARM DURING THE
3 COMMISSION -- DURING THE COMMISSION OF A CRIME OF
4 VIOLENCE. NOW THAT'S DIFFERENT FROM COUNT 6. COUNT 6 IS
5 BASED ON THE FACT THAT HE HAS A CONVICTION IN THE PAST
6 FOR A CRIME OF VIOLENCE. BUT THIS COUNT 9 ONLY COMES IN
7 TO PLAY IF HE IS CONVICTED ON COUNT 7 AND 8 BECAUSE THEY
8 ARE CONSIDERED CRIMES OF VIOLENCE. AGGRAVATED ASSAULT
9 AND BATTERY IS DEFINED AS A VIOLENT CRIME IN VERBIAGE.
10 BUT IT'S NOT REALLY A CRIME OF VIOLENCE, ASSAULT AND
11 BATTERY OF A HIGH AGGRAVATED NATURE.

12 ASSAULT AND BATTERY WITH INTENT TO KILL IS A CRIME
13 OF VIOLENCE. SO COUNT 10 IS ASSAULTING A LAW ENFORCEMENT
14 OFFICER WHILE RESISTING ARREST. AND THERE IS TWO COUNTS
15 OF THAT. COUNT 10 AND 11. ONE FOR RESISTING MR. BOLAND.
16 AND THE OTHER ONE FOR RESISTING MR. WILLIAMS. THAT'S WHY
17 THEY HAVE TWO COUNTS 10 AND 11. ASSAULT ON A LAW
18 ENFORCEMENT OFFICER. THE WORDS IN THE STATUTE, I
19 BELIEVE, ARE SOMETHING LIKE, ASSAULTS, BEATS OR WOUNDS A
20 LAW ENFORCEMENT OFFICER WHILE RESISTING A LAWFUL ARREST.
21 AND I SUBMIT TO YOU HE WAS DOING THAT. COUNT 12, IS FOR
22 RESISTING ARREST WITH A DEADLY WEAPON. YOU KNOW, YOU CAN
23 ASSAULT, BEAT OR WOUND SOMEBODY. YOU CAN BEAT WITH YOUR
24 FIST. YOU CAN BEAT WITH THE BASEBALL BAT, OR YOU CAN
25 BEAT THEM WITH SOMETHING ELSE. BUT THIS NO. 12 IS

1 SPECIFIC FOR USING A DEADLY WEAPON.

2 NOW I BELIEVE THE JUDGE PROBABLY WILL TELL YOU ON
3 COUNT 10 AND 11 SOMETHING CALLED A SIMPLE RESISTING
4 ARREST, WHICH IS LESS, IS A MISDEMEANOR CRIME, LESS THAN
5 THIS ASSAULT ON A LAW ENFORCEMENT OFFICER. IN OTHER
6 WORDS, LESS THAN THE ASSAULTS, BEATS OR WOUNDS. BECAUSE
7 YOU CAN HAVE SOMEBODY RESISTING ARREST, BUT NEVER
8 ASSAULTS, BEATS OR WOUNDS. AND THE OFFICER MAY BE ABLE
9 TO OVERCOME HIM WITHOUT BEING HURT. BUT THAT'S NOT THE
10 CASE WE HAVE HERE. WE HAVE A CASE WHERE SOMEBODY WAS
11 SHOT. THESE TWO OFFICERS WERE SPECIFICALLY WERE SHOT.

12 LADIES AND GENTLEMEN, I THANK YOU FOR YOUR
13 PATIENCE. AND I SUBMIT TO YOU THESE OFFICERS ARE
14 CREDIBLE, BELIEVABLE PEOPLE. THIS CASE HAS BEEN
15 INVESTIGATED. YOU KNOW, ONE THING I THOUGHT WAS REAL
16 INTERESTING, AND I DON'T BELIEVE I MENTIONED THIS AT
17 FIRST. THESE TWO MEN OVER HERE WERE IDENTIFIED AND
18 MR. ABRAHAM TESTIFIED. AND MR. JOHNSON SITS WITH HIM.
19 THEY WENT TO COLUMBIA TO THE HOSPITAL TO TALK WITH THIS
20 GUY. AND ABRAHAM SAYS HE TOLD US THAT HE WENT IN THERE
21 AND SHOT SOME POOL AND HAD A COUPLE OF BEERS. NOW YOU
22 HEARD HIM TESTIFY. HE SAID, I DIDN'T DRINK ANY BEER.
23 THE PLACE WAS NOT SERVING BEER WHEN I GOT THERE. I
24 SUBMIT TO YOU THESE GENTLEMEN DON'T WORK FOR SUMTER
25 COUNTY. THEY DON'T WORK FOR THE SUMTER COUNTY SHERIFF.

1 THEY WORK FOR AN INDEPENDENT AGENCY. AND MR. ABRAHAM,
2 MY RECOLLECTION OF HIS TESTIMONY IS, HE HAS BEEN WORKING
3 AS A LAW ENFORCEMENT OFFICER FOR 24 YEARS. WHY WOULD HE
4 COME IN HERE AND MAKE UP SOME STORY ON THIS DEFENDANT AND
5 JUST JEOPARDIZE HIS CAREER OVER REALLY MINUTE DETAILS IN
6 THIS CASE. BUT JUST SHOWS YOU THE MIND OF THE DEFENDANT
7 IN THIS CASE. HE'S THE KIND OF FELLOW THAT HE WILL MAKE
8 IT SOUND HIS WAY. HE WANTS PEOPLE TO COMPLY WITH THE WAY
9 HE SEES THE WORLD. AND HE WANTS YOU TO AGREE WITH HIM.

10 I SUBMIT TO YOU THAT THERE'S A LOT OF THINGS ABOUT
11 THIS CASE WHERE YOU FIND HOLES IN HIS STORY. AND I
12 SUBMIT TO YOU THAT YOUR VERDICT IN THESE CHARGES IS
13 PARTICULARLY ASSAULT AND BATTERY WITH INTENT TO KILL.
14 THANK YOU.

15 THE COURT: I AM GOING TO HAVE YOU GO TO THE JURY
16 ROOM FOR TWO OR THREE MINUTES. JUST A VERY SHORT BREAK TO
17 THE JURY ROOM. PLEASE DO NOT TALK ABOUT THE CASE AT ALL.
18 WE WILL BE AT EASE FOR TWO OR THREE MINUTES.

19 (THEREUPON, THE COURT TAKES A SHORT BREAK.)

20 THE COURT: YOU MAY BRING THE JURY.

21 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
22 PRESENCE OF THE JURY.)

23 THE COURT: LADIES AND GENTLEMEN, YOU HAVE HEARD THE
24 EVIDENCE. AND YOU HAVE ALSO HEARD THE ARGUMENTS OF THE
25 LAWYERS. AND I WILL NOW EXPLAIN TO YOU THE LAW THAT

1 APPLIES TO THIS MATTER. THE INDICTMENT CHARGES THE
2 DEFENDANT WITH TWO COUNTS OF UNLAWFUL POSSESSION OF A
3 PISTOL. ANOTHER COUNT OF POSSESSION BY -- OF A PISTOL BY
4 PERSON UNDER 21. ANOTHER COUNT OF POSSESSION OF A PISTOL
5 BY A PERSON WHO HAS BEEN CONVICTED OF A CRIME OF
6 VIOLENCE. TWO COUNTS OF ASSAULT AND BATTERY WITH INTENT
7 TO KILL. ONE COUNT OF POSSESSION OF A WEAPON DURING THE
8 COMMISSION OF A VIOLENT CRIME. TWO COUNTS OF ASSAULTING
9 A LAW ENFORCEMENT OFFICER WHILE RESISTING ARREST. AND
10 ONE COUNT OF RESISTING ARREST WITH A DEADLY WEAPON.

11 I REMIND YOU OF THE FACT THAT THE DEFENDANT WAS
12 ARRESTED, CHARGED AND INDICTED IN THIS CASE IS NOT
13 EVIDENCE IN THIS CASE, NOR CAN IT BE CONSIDERED BY YOU AS
14 EVIDENCE OF GUILT IN THIS CASE. NOR DOES IT CREATE AN
15 INFERENCE OR PRESUMPTION OF GUILT. THE INDICTMENT IS
16 SIMPLY THE FORMAL WRITTEN DOCUMENT, OR WRITTEN INSTRUMENT
17 BY WHICH THE CASE COMES IN TO COURT. THE DEFENDANT HAS
18 PLED NOT GUILTY TO EACH AND EVERY CHARGE OF THESE
19 INDICTMENTS. AND THAT PLEA OF NOT GUILTY PLACES THE
20 BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY. EACH
21 INDICTMENT CHARGES A SEPARATE AND DISTINCT OFFENSE. AND
22 YOU MUST DECIDE EACH INDICTMENT SEPARATELY ON THE
23 EVIDENCE AND THE LAW APPLICABLE TO IT; ON THAT PARTICULAR
24 INDICTMENT, UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER
25 CHARGE OR ANY OTHER INDICTMENT.

1 THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY
2 OR ALL OF THE CHARGES. AND YOU WILL BE ASKED TO WRITE A
3 SEPARATE VERDICT OF GUILTY OR NOT GUILTY FOR EACH
4 INDICTMENT CHARGED. I REMIND YOU THAT DURING THIS TRIAL
5 YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL
6 JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL
7 OF THIS CASE AND TO RULE ON QUESTIONS INVOLVING THE
8 ADMISSIBILITY OF THE EVIDENCE. AND YOU ARE THEREFORE TO
9 ONLY CONSIDER THE COMPETENT EVIDENCE PRESENTED DURING
10 THIS TRIAL. IF THERE IS ANY EVIDENCE OR TESTIMONY
11 ORDERED STRICKEN FROM THE RECORD, THEN YOU MUST DISREGARD
12 THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY
13 WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ALONG
14 WITH ANY OF THE EXHIBITS WHICH HAVE BEEN MADE A PART OF
15 THE RECORD AND ANY STIPULATIONS OR AGREEMENT OF COUNSEL.

16 NOW I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
17 APPLICABLE TO THIS CASE. AND AS THE PRESIDING JUDGE, I
18 AM SOLE JUDGE OF THE LAW OF THIS CASE. AND UNDER YOUR
19 OATH AS JURORS YOU MUST ACCEPT AND APPLY THE LAW EXACTLY
20 AS I STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO
21 WHAT YOU THINK THE LAW IS OR WHAT THE LAW OUGHT TO BE AND
22 IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THAT THE LAW
23 IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE DULY SWORN
24 TO ACCEPT AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

25 NOW IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY,

1 THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE
2 FACTS IN THE CASE. AND THE TRIAL JUDGE CANNOT INTIMATE,
3 STATE, COMMENT ON OR MAKE ANY STATEMENT TO THE JURY ABOUT
4 THE FACTS IN THE CASE. AND SENSE YOU THE JURY ARE THE
5 SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO
6 INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THE
7 TRIAL IN RULING UPON ADMISSIBILITY OF THE EVIDENCE OR
8 OTHERWISE OR ANYTHING THAT I NOW SAY TO YOU DURING THE
9 COURSE OF THIS INSTRUCTION THAT I HAVE AN OPINION ABOUT
10 THE FACTS OF THIS CASE. THE LAW DOES NOT ALLOW ME TO
11 HAVE AN OPINION CONCERNING THE FACTS OF THIS CASE,
12 BECAUSE THIS IS A MATTER SOLELY FOR YOU THE JURY TO
13 DETERMINE.

14 AND AS JURORS, IT IS YOUR DUTY TO DETERMINE THE
15 EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH OF THE
16 EVIDENCE PRESENTED DURING THIS TRIAL. NOW THE DEFENDANT
17 HAS PLED NOT GUILTY TO THESE CHARGES. AND AS I JUST
18 STATED, THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE
19 THE DEFENDANT GUILTY. A PERSON CHARGED WITH COMMITTING A
20 CRIMINAL OFFENSE IN THE STATE OF SOUTH CAROLINA IS NEVER
21 REQUIRED TO PROVE HIMSELF INNOCENT. IT IS AN IMPORTANT
22 RULE OF THE LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL NO
23 MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL
24 ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH
25 THE INDICTMENT WAS ISSUED UNLESS GUILT HAS BEEN PROVEN BY

1 EVIDENCE SATISFYING EACH AND EVERY ONE OF YOU OF THAT
2 GUILT BEYOND A REASONABLE DOUBT.

3 NOW THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN
4 YOU BEGIN YOUR DELIBERATIONS BUT IT ACCOMPANIES THE
5 DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT
6 OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT
7 BEYOND A REASONABLE DOUBT. THE PRESUMPTION OF INNOCENCE
8 IS SAID TO BE LIKE A ROBE OF RIGHTEOUSNESS PLACED ABOUT
9 THE SHOULDERS OF THE DEFENDANT WHICH REMAINS WITH THE
10 DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM THE DEFENDANT
11 BY EVIDENCE SATISFYING YOU OF THE DEFENDANT'S GUILT
12 BEYOND A REASONABLE DOUBT. NOW THE PRESUMPTION OF
13 INNOCENCE IS NOT JUST A MERE LEGAL THEORY. IT IS NOT
14 SIMPLY A LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT TO
15 WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU THE JURY ARE
16 SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT
17 BEYOND A REASONABLE DOUBT.

18 NOW WHAT IS A REASONABLE DOUBT IN THE LAW? A
19 REASONABLE DOUBT IS THE KIND OF DOUBT WHICH WOULD CAUSE A
20 REASONABLE PERSON TO HESITATE TO ACT. THE STATE HAS THE
21 BURDEN OF PROOF BEYOND A REASONABLE DOUBT. AND SOME OF
22 YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES WHERE YOU
23 WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT
24 IS MORE LIKELY TRUE THAN NOT TRUE; SUCH AS, BY A
25 PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES THE

1 STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST
2 BE BEYOND A REASONABLE DOUBT. PROOF BEYOND A REASONABLE
3 DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE
4 DEFENDANT'S GUILT. NOW THERE ARE VERY FEW THINGS THAT WE
5 KNOW IN THIS WORLD WITH ABSOLUTE CERTAINTY. AND THE LAW
6 DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE
7 DOUBT. IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE
8 YOU ARE FIRMLY CONVINCED OF THE DEFENDANT'S GUILT THEN
9 YOU MUST FIND THEM GUILTY. IF ON THE OTHER HAND YOU
10 THINK THAT THERE IS A REAL POSSIBILITY THAT THE DEFENDANT
11 IS NOT GUILTY, THEN YOU MUST GIVE HIM THE BENEFIT OF THE
12 DOUBT AND FIND HIM NOT GUILTY.

13 NECESSARILY YOU MUST DETERMINE THE CREDIBILITY OF
14 WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY
15 SIMPLY MEANS BELIEVABILITY. AND IT BECOMES YOUR DUTY AS
16 JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND
17 DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH. IN
18 DETERMINING THE BELIEVABILITY OF THE WITNESSES WHO HAVE
19 TESTIFIED, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL
20 WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY
21 BELIEVE THE PART OF THE TESTIMONY OF A WITNESS AND REJECT
22 THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS.
23 YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS
24 ENTIRETY OR YOU MAY REJECT THE TESTIMONY OF A WITNESS IN
25 ITS ENTITY. AND CERTAINLY YOU MAY CONSIDER WHETHER ANY

1 WITNESS HAS EXHIBITED TO YOU ANY INTEREST, ANY BIAS, ANY
2 PREJUDICE OR OTHER MOTIVE IN THIS CASE. AND YOU MAY
3 CONSIDER THE APPEARANCE AND THE MANNER OF THE WITNESS
4 WHILE ON THE WITNESS STAND.

5 NOW THE STATEMENT ALLEGED TO HAVE BEEN MADE BY THE
6 THE DEFENDANT HAS BEEN ADMITTED INTO EVIDENCE IN THIS
7 CASE. AND WHILE I HAVE DETERMINED THAT THE STATEMENT IS
8 ADMISSIBLE, I INSTRUCT YOU THAT YOU MAKE THE ULTIMATE
9 DECISION AS TO WHETHER OR NOT THE DEFENDANT MADE THE
10 STATEMENT. IF THE DEFENDANT DID MAKE THE STATEMENT YOU
11 MUST DETERMINE WHETHER THE STATEMENT WAS MADE BY THE
12 DEFENDANT VOLUNTARILY AND OF HIS OWN FREE WILL. THIS
13 MEANS THAT THE STATEMENT WAS NOT CAUSED BY PRESSURE,
14 FORCE, FEAR, THREATS, ARRESTS OR COERCION, OR
15 INTIMIDATION OR BY HOPE OR A PROMISE OF LENIENCY OR
16 REWARD OF ANY KIND. IN DETERMINING WHETHER THE
17 STATEMENT WAS VOLUNTARY, YOU SHOULD CONSIDER BOTH THE
18 CHARACTERISTICS OF THE DEFENDANT AND THE DETAILS OF THE
19 QUESTIONING.

20 AND SOME OF THE FACTORS THAT YOU MUST CONSIDER ARE
21 THE AGE OF THE DEFENDANT, THE DEFENDANT'S EDUCATION OR
22 LACK OF EDUCATION. THE DEFENDANT'S MENTAL ABILITY OR
23 CAPACITY, THE DEFENDANT'S IQ OR INTELLIGENCE, HIS
24 BACKGROUND AND ENVIRONMENT, THE PLACE AND LENGTH OF HIS
25 DETENTION, THE NATURE OF THE QUESTIONING, AND THE ADVICE

1 OR LACK THERE OF TO THE DEFENDANT OF HIS CONSTITUTIONAL
2 RIGHTS, INCLUDING BUT NOT LIMITED TO A RIGHT TO REMAIN
3 SILENT; THAT ANY STATEMENT THAT HE MADE COULD BE USED
4 AGAINST HIM IN A COURT OF LAW. THE RIGHT TO HAVE A
5 LAWYER PRESENT; THAT IF HE CANNOT AFFORD A LAWYER, A
6 LAWYER WOULD BE APPOINTED TO REPRESENT WITHOUT ANY COST.
7 AND THAT HE COULD STOP MAKING A STATEMENT AT ANY TIME.

8 YOU MUST CAREFULLY CONSIDER ALL OF THE SURROUNDING
9 CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO AN ALLEGED
10 STATEMENT. THE STATE HAS THE BURDEN OF PROVING BEYOND A
11 REASONABLE DOUBT THAT THE ALLEGED STATEMENT WAS
12 VOLUNTARY. IF YOU DETERMINE THAT IT WAS, THEN YOU MAY
13 GIVE THE STATEMENT ANY FURTHER CONSIDERATION YOU DEEM
14 PROPER. IF YOU -- YOU MUST DECIDE WHAT WEIGHT IF ANY
15 SHOULD BE GIVEN TO AN ALLEGED STATEMENT. IF YOU
16 DETERMINE THE ALLEGED STATEMENT WAS NOT THE FREE AND
17 VOLUNTARY STATEMENT OF THE DEFENDANT, YOU SHOULD NOT
18 CONSIDER THE STATEMENT AT ALL. NOW YOU'VE HEARD EVIDENCE
19 THAT THE DEFENDANT AND A WITNESS AS WELL, WAS CONVICTED
20 OF A CRIME. NOW AND THAT CRIME IS NOT THE CRIME FOR
21 WHICH THE DEFENDANT IS NOW ON TRIAL. THIS EVIDENCE MAY
22 BE CONSIDERED BY YOU IN DECIDING WHETHER THE DEFENDANT'S
23 TESTIMONY IS BELIEVABLE OR WHETHER THE TESTIMONY OF A
24 WITNESS IS NOT BELIEVABLE AND FOR NO OTHER PURPOSE.

25 YOU MUST NOT CONSIDER THE DEFENDANT'S PRIOR RECORD

1 AS ANY EVIDENCE OF GUILT OF THE CHARGE THAT WE ARE TRYING
2 TODAY. NOW THE DEFENDANT IS CHARGED WITH THE UNLAWFUL
3 CARRYING OF A PISTOL. IN CONNECTION WITH THAT CHARGE,
4 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
5 DEFENDANT CARRIED A PISTOL ABOUT HIS PERSON WHETHER
6 CONCEALED OR NOT. A PISTOL OR WEAPON IS ABOUT THE
7 DEFENDANT'S PERSON IF IT IS READILY ACCEPTABLE AND
8 CONVENIENT FOR IMMEDIATE USE AND NEED NOT ACTUALLY BE
9 TOUCHING THE PERSON OF THE DEFENDANT.

10 THE SECOND CHARGE IS THE POSSESSION OF WEAPON BY A
11 PERSON UNDER 21. IN CONNECTION WITH THAT CHARGE IN
12 ADDITION TO PROVING THAT THE DEFENDANT HAD POSSESSION OF
13 THE WEAPON, THE STATE MUST PROOF BEYOND A REASONABLE
14 DOUBT THAT THE DEFENDANT WAS UNDER 21 AT THE TIME.

15 ANOTHER CHARGE IS THAT HE WAS CHARGED WITH POSSESSION OF
16 A WEAPON; HAVING BEEN CONVICTED OF A CRIME OF VIOLENCE.
17 NOW THE PARTIES HAVE AGREED THAT HE HAD PREVIOUSLY BEEN
18 CONVICTED OF A CRIME OF VIOLENCE. IN ORDER TO BE FOUND
19 GUILTY OF THAT CHARGE THE STATE MUST THEN PROOF BEYOND A
20 REASONABLE DOUBT THAT HE HAD IN HIS POSSESSION, A WEAPON.

21 THE DEFENDANT IS CHARGED WITH ASSAULT AND BATTERY
22 WITH INTENT TO KILL, TWO COUNTS. IN ORDER TO PROVE
23 ASSAULT AND BATTERY WITH INTENT TO KILL, THE STATE MUST
24 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
25 COMMITTED AN UNLAWFUL ACT OF VIOLENT NATURE TO THE PERSON

1 OF ANOTHER WITH MALICE AFORETHOUGHT. NOW AN ASSAULT
2 OCCURS WHEN THE PERSON UNLAWFULLY ATTEMPTS OR OFFERS TO
3 COMMIT A VIOLENT INJURY UPON ANOTHER PERSON AND HAS THE
4 PRESENT ABILITY TO COMPLETE THE ATTEMPTED INJURY. AN
5 ASSAULT IS THE INTENTIONAL CREATION OF A REASONABLE FEAR
6 OF IMMEDIATE BODILY INJURY. FOR EXAMPLE, IF I WERE TO
7 WALK UP TO YOU AND IF WE WERE WITHIN ARM'S REACH AND I
8 DRAW BACK AND JUST HIT YOU, THAT IS AN ASSAULT. A
9 BATTERY IS THE UNLAWFUL TOUCHING OF ANOTHER PERSON WHO
10 HAS COMMITTED THE ASSAULT. AN UNLAWFUL TOUCHING CAN BE
11 CAUSED BY ANY PART OF THE ACCUSED BODY OR ANY OBJECT THE
12 ACCUSED PUTS IN MOTION.

13 A BATTERY IS THE COMPLETION OF THE ASSAULT BY
14 APPLYING FORCE TO ANOTHER IN A RUDE, ANGRY OR RESENTFUL
15 MANNER WITHOUT LEGAL JUSTIFICATION FOR DOING SO. USING
16 MY EARLIER EXAMPLE, IF I WERE TO CARRY THROUGH BY
17 STRIKING YOU THAT WOULD BE A BATTERY. NOW AS I STATED,
18 ASSAULT AND BATTERY WITH INTENT TO KILL IS -- REQUIRES
19 THE STATE TO PROVE THAT THE DEFENDANT COMMITTED AN
20 UNLAWFUL ACT OF A VIOLENT NATURE TO THE PERSON OF ANOTHER
21 WITH MALICE AFORETHOUGHT. MALICE IS HATRED, ILL WILL OR
22 HOSTILITY TOWARD ANOTHER PERSON. IT IS THE INTENTIONAL
23 DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND
24 WITH AN INTENT TO INFLICT AN INJURY OR UNDER
25 CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

1 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT THE MALICE
2 EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
3 COMMITTED. BUT MALICE MUST EXIST IN THE MIND OF THE
4 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS
5 COMMITTED.

6 THEREFORE THERE MUST BE A COMBINATION OF A PREVIOUS
7 EVIL INTENT AND THE ACT. NOW MALICE AFORETHOUGHT MAY BE
8 EXPRESSED OR INFERRED. NOW THESE TERMS DO NOT MEAN
9 DIFFERENT KINDS OF MALICE, BUT MERELY THE MANNER IN WHICH
10 MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT
11 EVIDENCE OR BY CIRCUMSTANTIAL EVIDENCE. OR FROM
12 INFERENCES BASED ON THE CIRCUMSTANCES WHICH ARE PROVED.
13 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS THAT
14 EXPRESS HATRED OR ILL WILL FOR ANOTHER. OR WHEN THE
15 PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER
16 ACCOMPLISHED. FOR EXAMPLE, LYING IN WEIGHT FOR A PERSON
17 OR ANY ACT OF PREPARATION GOING TO SHOW THAT THE DEED WAS
18 IN THE DEFENDANT'S MIND WOULD BE EXPRESS MALICE.

19 MALICE MAY ALSO BE INFERRED. MALICE MAY BE INFERRED
20 FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.
21 INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE WITH
22 A DEADLY WEAPON. AND A DEADLY WEAPON IS ANY ARTICLE,
23 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR
24 GREAT BODILY HARM. AND WHETHER OR NOT AN INSTRUMENT IS A
25 DEADLY WEAPON DEPENDS UPON THE FACTS AND THE

1 CIRCUMSTANCES OF EACH CASE.

2 NOW IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT
3 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
4 SATISFACTION THIS INFERENCE WOULD SIMPLY BE AN
5 EVIDENTIARY FACT FOR YOU TO CONSIDER ALONG WITH ALL THE
6 OTHER EVIDENCE IN THE CASE. AND YOU SHOULD GIVE IT
7 WHATEVER WEIGHT YOU THINK IT SHOULD RECEIVE. NOW A
8 SPECIFIC INTENT TO KILL IS NOT AN ELEMENT OF ASSAULT AND
9 BATTERY WITH INTENT TO KILL. BUT THERE MUST BE A GENERAL
10 INTENT TO COMMIT SERIOUS BODILY INJURY. INTENT MEANS
11 INTENDING THE RESULT WHICH ACTUALLY OCCURS; THAT IS, NOT
12 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
13 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES
14 FROM WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.
15 EVIDENCE OF THE CHARACTER OF THE ASSAULT, CHARACTER OF
16 THE INSTRUMENT USED, THE MANNER IN WHICH IT WAS USED, THE
17 PURPOSE TO BE ACCOMPLISHED AND THE RESULTING WOUNDS OR
18 INJURY MAY BE CONSIDERED IN DETERMINING THE INTENT WITH
19 WHICH THE ASSAULT WAS COMMITTED.

20 INTENT MAY BE INFERRED WHEN IT IS DEMONSTRATED THAT
21 THE DEFENDANT VOLUNTARILY AND WILLFULLY COMMITS AN ACT,
22 THE NATURAL TENDENCY OF WHICH IS TO DESTROY ANOTHER'S
23 LIFE. NOW AS TO THE OFFENSE OF ASSAULT AND BATTERY WITH
24 INTENT TO KILL, IF YOU FIND THE STATE HAS FAILED TO
25 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS

1 GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL, YOU
2 MAY CONSIDER WHETHER THE STATE HAS PROVEN BEYOND A
3 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF ASSAULT
4 AND BATTERY OF A HIGH AND AGGRAVATED NATURE. ASSAULT AND
5 BATTERY OF A HIGH AND AGGRAVATED NATURE CONTAINS ALL OF
6 THE ELEMENTS OF ASSAULT AND BATTERY WITH INTENT TO KILL
7 EXCEPT FOR THE ELEMENT OF MALICE AFORETHOUGHT.

8 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE
9 IS THE COMMISSION OF SERIOUS INJURY OR THE COMMITTING OF
10 A SERIOUS INJURY ON ANOTHER ACCOMPANIED BY CIRCUMSTANCES
11 OF AGGRAVATION. NOW THE DEFENDANT IS CHARGED WITH
12 POSSESSION OF A WEAPON OR ATTEMPTING TO POSSESS A WEAPON,
13 OR I AM SORRY. HE IS CHARGED WITH POSSESSION OF A WEAPON
14 DURING THE COMMISSION OR ATTEMPT TO COMMIT A VIOLENT
15 CRIME. IN CONNECTION WITH THAT CHARGE THE STATE MUST
16 PROOF BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS IN
17 POSSESSION OF A FIREARM. OR VISIBLY DISPLAYED WHAT
18 APPEARED TO BE A FIREARM DURING THE COMMISSION OF A
19 VIOLENT CRIME. IN ORDER TO FIND THE DEFENDANT GUILTY OF
20 POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
21 CRIME, YOU MUST FIND THE DEFENDANT GUILTY OF EITHER
22 COMMITTING OR ATTEMPTING TO COMMIT A VIOLENT CRIME.

23 ASSAULT AND BATTERY WITH INTENT TO KILL IS A VIOLENT
24 CRIME. ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
25 NATURE IS NOT A VIOLENT CRIME. SO THE DEFENDANT CANNOT

1 BE FOUND GUILTY OF COMMITTING POSSESSION OF A WEAPON
2 DURING THE COMMISSION OF A VIOLENT CRIME UNLESS YOU FIND
3 THE DEFENDANT GUILTY OF COMMITTING ASSAULT AND BATTERY
4 WITH INTENT TO KILL WHICH IS A VIOLENT CRIME. THE
5 DEFENDANT IS CHARGED WITH THE ASSAULTING A LAW
6 ENFORCEMENT OFFICER WHILE RESISTING ARREST. AND THERE IS
7 TWO COUNTS. THE STATE MUST PROVE BEYOND A REASONABLE
8 DOUBT THAT THE DEFENDANT KNOWINGLY, WILLFULLY, ASSAULTED,
9 BEAT OR WOUNDED A LAW ENFORCEMENT OFFICER WHO WAS
10 SERVING, EXECUTING OR ATTEMPTING TO SERVE OR EXECUTE A
11 LEGAL WRIT OR PROCESS, OR THAT THE DEFENDANT ASSAULTED,
12 BEAT OR WOUNDED AN OFFICER WHEN THE DEFENDANT WAS
13 RESISTING AN ARREST BEING MADE BY A PERSON THE DEFENDANT
14 KNEW OR REASONABLE SHOULD HAVE KNOWN WAS A LAW
15 ENFORCEMENT OFFICER.

16 KNOWINGLY MEANS WITH KNOWLEDGE. THAT THAT IS
17 CONSCIOUSLY DONE. WILLFULLY MEANS INTENTIONAL AND NOT BY
18 ACCIDENT. IF YOU FIND THAT THE STATE HAS FAILED TO PROVE
19 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ASSAULTED AN
20 OFFICER WHILE RESISTING ARREST, YOU MAY CONSIDER WHETHER
21 THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE
22 DEFENDANT SIMPLY RESISTED ARREST. RESISTING ARREST DOES
23 NOT INCLUDE ANY ASSAULT ON AN OFFICER. AND RESIST MEANS
24 TO OPPOSE, TO STRIVE AGAINST OR OBSTRUCT. OBSTRUCT MEANS
25 TO IMPEDE, HINDER OR INTERFERE WITH. EVEN PEACEFUL,

1 NONVIOLENT INDIRECT OBSTRUCTION OF AN OFFICER -- I AM
2 SORRY, EVEN PEACEFUL NONVIOLENT INDIRECT OBSTRUCTION OF
3 AN ARREST OR THE SERVICE OR EXECUTION OF PROCESS IS
4 CONSIDERED RESISTING ARREST. IF THE MEANS USED ARE
5 SUFFICIENT TO PREVENT THE OFFICER FROM MAKING AN ARREST,
6 THEN UNDER THOSE CIRCUMSTANCES IF PROVEN BEYOND A
7 REASONABLE DOUBT, THE DEFENDANT IS GUILTY OF RESISTING
8 ARREST.

9 THE DEFENDANT IS CHARGED WITH RESISTING ARREST WITH
10 A DEADLY WEAPON. AND IN CONNECTION WITH THAT CHARGE THE
11 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
12 DEFENDANT RESISTED ARREST WITH THE USE OF OR THREAT OF
13 USE OF A DEADLY WEAPON AGAINST THE OFFICER AND THAT THE
14 DEFENDANT HAD IN HIS POSSESSION OR CLAIMED TO HAVE IN HIS
15 POSSESSION AT THE TIME, A DEADLY WEAPON. AND, LADIES AND
16 GENTLEMEN, YOU HAVE BEEN SWORN TO BE, TO WELL AND DULY
17 TRY THIS CASE AND RENDER A TRUE AND JUST VERDICT
18 ACCORDING TO THE LAW AND ACCORDING TO THE EVIDENCE. AND
19 WHEN YOU HAVE DONE THAT YOU WILL HAVE FULLY PERFORMED
20 YOUR DUTY AS JURORS AND NO ONE WILL HAVE THE RIGHT TO
21 CRITICIZE YOUR VERDICT.

22 YOUR VERDICT MUST BE UNANIMOUS, WHICH MEANS THAT ALL
23 12 OF YOU WHO WILL DELIBERATE. AND WHEN YOU GO BACK, THE
24 ALTERNATE WILL REMAIN IN THE COURTROOM. THAT MEANS THAT
25 ALL 12 OF YOU MUST AGREE ON THE VERDICT. I HAVE PREPARED

1 A VERDICT FORM FOR YOUR CONSIDERATION FOR YOU TO
2 CONSIDER. AND THE VERDICT OUTLINES EACH AND EVERY CHARGE
3 AGAINST THE DEFENDANT. AND COUNT 1, BEING GUILTY OR NOT
4 GUILTY OF POSSESSION OF A PISTOL. COUNT 2, BEING GUILTY
5 OR NOT GUILTY OF POSSESSION OF AN UNLAWFUL PISTOL. AND
6 THEN YOU GO TO COUNT 5, AS TO POSSESSION OF A PISTOL BY A
7 PERSON UNDER 21, EITHER GUILTY OR NOT GUILTY.

8 COUNT 6, EITHER GUILTY OF POSSESSION OF PISTOL BY A
9 PERSON CONVICTED OF A VIOLENT CRIME. THAT SHOULD BE A
10 CRIME OF VIOLENCE. AND IF THE PARTIES CAN AGREE THAT HE
11 HAS BEEN CONVICTED OF A CRIME OF VIOLENCE. AS TO COUNT
12 7, WE THE JURY FIND -- COUNT 7 IS, WE THE JURY FIND THE
13 DEFENDANT GUILTY OR NOT GUILTY OF ASSAULT AND BATTERY
14 WITH INTENT TO KILL OFFICER ERIN R. BOLAND. OR GUILTY OF
15 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE AS TO
16 OFFICER ERIN R. BOLAND. AS TO COUNT 8, WE THE JURY FIND
17 THE DEFENDANT GUILTY OF ASSAULT AND BATTERY WITH INTENT
18 TO KILL OFFICER JAMES B. WILLIAMS, OR GUILTY OF ASSAULT
19 AND BATTERY OF A HIGH AND AGGRAVATED NATURE AS TO OFFICER
20 JAMES B. WILLIAMS OR NOT GUILTY.

21 AS TO COUNT 9, WE THE JURY FIND THE DEFENDANT GUILTY
22 OF POSSESSION OF WEAPON DURING THE COMMISSION OF A
23 VIOLENT CRIME OR NOT GUILTY. REMEMBERING YOU CAN ONLY
24 FIND HIM GUILTY OF POSSESSION OF A WEAPON DURING THE
25 COMMISSION OF A VIOLENT CRIME ONLY IF YOU FIND HIM GUILTY

1 OF ASSAULT AND BATTERY WITH INTENT TO KILL. THAT BEING A
2 VIOLENT CRIME. ASSAULT AND BATTERY OF A HIGH AND
3 AGGRAVATED NATURE IS NOT A VIOLENT CRIME. AS TO COUNT
4 10, WE THE JURY FIND THE DEFENDANT GUILTY OF ASSAULTING
5 OFFICER ERIN BOLAND WHILE RESISTING ARREST. GUILTY OF
6 RESISTING ARREST, OR NOT GUILTY. AS TO COUNT 11, WE THE
7 JURY FIND THE DEFENDANT GUILTY OF ASSAULTING OFFICER
8 JAMES B. WILLIAMS WHILE RESISTING ARREST, GUILTY OF
9 RESISTING ARREST OR NOT GUILTY. AND COUNT 12, WE THE
10 JURY FIND THE DEFENDANT GUILTY OF RESISTING ARREST WITH A
11 DEADLY WEAPON OR NOT GUILTY.

12 AND, MADAM FORELADY, YOU WILL COMPLETE THE VERDICT
13 FORM BY CHECKING THE APPROPRIATE BOX AS IT RELATES TO ON
14 EACH COUNT OF THE INDICTMENT. SIGN THE VERDICT FORM AND
15 DATE THE VERDICT FORM WHEN IT HAS BEEN FULLY COMPLETED.
16 THE -- PLEASE GO TO THE JURY ROOM AND WAIT UNTIL YOU
17 RECEIVE THE VERDICT FORM ALONG WITH ALL THE EXHIBITS.
18 THAT WILL BE YOUR SIGNAL TO BEGIN YOUR DELIBERATIONS.
19 THE TIME NOW IS 11:30. WE WILL PREPARE TO ORDER LUNCH
20 FOR YOU IN THE EVENT THAT YOU HAVE NOT REACHED A VERDICT
21 BY THAT TIME. ALL JURORS PLEASE GO TO THE JURY ROOM.
22 WAIT FOR THE VERDICT FORM AND THE EXHIBITS TO BEGIN YOUR
23 DELIBERATIONS. MADAM ALTERNATE, IF YOU WILL JUST STAY
24 WITH US.

25 (THEREUPON, THE FOLLOWING TAKES PLACE OUTSIDE THE

1 PRESENT OF THE JURY.)

2 THE COURT: MR. CONNER, MR. WILLIAMS, ANY ADDITIONS
3 OR EXCEPTIONS TO THE CHARGE?

4 MR. CONNER: NONE BY US, YOUR HONOR.

5 MR. WILLIAMS: YOUR HONOR, IT CAME TO ME DURING YOUR
6 CHARGE. DO YOU HAVE A CHARGE REGARDING THE CREDIBILITY OF
7 A LAW ENFORCEMENT OFFICER AND THE WAY THAT THAT
8 CREDIBILITY IS TO BE GIVEN A GREATER WEIGHT THAN A
9 CIVILIAN?

10 THE COURT: NO, SIR. ONE CAN BE CREATED. BUT THE
11 JURY WAS INSTRUCTED THAT THEY ARE TO EVALUATE THE
12 CREDIBILITY OF WITNESSES.

13 MR. WILLIAMS: THANK YOU, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

15 MR. WILLIAMS: NOTHING FURTHER, YOUR HONOR.

16 THE COURT: IF YOU ALL WILL REVIEW THE EXHIBITS AND
17 THE VERDICT FORM.

18 (THEREUPON, AT 11:33 A.M. JURY COMMENCES
19 DELIBERATIONS.)

20 (THEREUPON, ALTERNATE IS EXCUSED.)

21 THE COURT: MR. WILLIAMS, DO YOU OBJECT TO THE
22 INDICTMENT GOING BACK TO THE JURY ROOM IN THIS CASE TO
23 HELP THEM FOLLOW THESE VARIOUS CHARGES?

24 MR. WILLIAMS: YOUR HONOR, I WOULD OBJECT TO IT,
25 UNLESS WE CAN REDACT THE COUNTS THAT HAVE BEEN DISMISSED.

1 THE COURT: ALL RIGHT. I WON'T SEND IT BACK THERE.

2 MR. WILLIAMS: THANK YOU.

3 (THEREUPON, AT 1:11 P.M. JURY HAS A QUESTION.)

4 THE COURT: I NEED THE DEFENDANT. BRING THE
5 DEFENDANT IN.

6 MR. WILILAMS: HE IS ON THE WAY JUDGE.

7 THE COURT: THE JURY HAS A NOTE. WE NEED A
8 CLARIFICATION ON WHAT CONSTITUTES ASSAULT AND BATTERY WITH
9 INTENT TO KILL. WHAT SAYS THE STATE?

10 MR. CONNER: JUDGE, WE AGREE THAT IT BE AN ORDER FOR
11 YOU TO CHARGE THEM AS TO YOUR CHARGE ON ASSAULT AND
12 BATTERY WITH INTENT TO KILL.

13 THE COURT: OKAY, MR. WILLIAMS.

14 MR. WILLIAMS: WE WOULD AGREE, YOUR HONOR, IF YOU
15 JUST RECHARGE THEM ON ASSAULT AND BATTERY WITH INTENT TO
16 KILL.

17 THE COURT: IF YOU WILL BRING THE JURY IN, PLEASE.

18 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
19 PRESENCE OF THE JURY.)

20 THE COURT: MADAME FORELADY AND MEMBERS OF THE JURY,
21 YOUR NOTE SAYS THAT YOU NEED YOU A CLARIFICATION OF WHAT
22 CONSTITUTES ASSAULT AND BATTERY WITH INTENT TO KILL. SO I
23 AM GOING TO RECHARGE YOU THAT PORTION OF THE CHARGE THAT I
24 GAVE YOU EARLIER ON, AS WHAT THE STATE -- WHAT THE STATE
25 NEEDS TO PROVE IN ORDER TO PROVE ASSAULT AND BATTERY WITH

1 INTENT TO KILL. THE STATE MUST PROVE BEYOND A REASONABLE
2 DOUBT THAT THE DEFENDANT COMMITTED AN UNLAWFUL ACT OF A
3 VIOLENT NATURE TO THE PERSON OF ANOTHER WITH MALICE
4 AFORETHOUGHT. IN ORDER TO PROVE THE DEFENDANT GUILTY OF
5 ASSAULT AND BATTERY WITH INTENT TO KILL. AN ASSAULT
6 OCCURS WHEN A PERSON -- OCCURS WHEN A PERSON UNLAWFULLY
7 ATTEMPTS OR OFFERS TO COMMIT A VIOLENT INJURY UPON ANOTHER
8 AND HAS THE PRESENT ABILITY TO COMPLETE THE ATTEMPTED
9 INJURY. THE BATTERY IS THE UNLAWFUL TOUCHING OF ANOTHER
10 BY A PERSON WHO HAS COMMITTED THE ASSAULT. MALICE IS
11 HATRED, ILL WILL OR HOSTILITY TOWARDS ANOTHER PERSON. IT
12 IS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST
13 CAUSE OR EXCUSE. AND WITH AN INTENT TO INFLECT AN INJURY
14 UPON CIRCUMSTANCES THAT THE LAW WOULD INFER IS AN EVIL
15 INTENT. MALICE AFORETHOUGHT DOES NOT REQUIRE THAT THAT
16 MALICE EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
17 COMMITTED.

18 MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST
19 BEFORE AND AT THE TIME OF THE ACT BEING COMMITTED.
20 THEREFORE THERE MUST BE A COMBINATION OF EVIL INTENT AND
21 THE ACT. MALICE AFORETHOUGHT MAY BE EXPRESSED OR
22 INFERRED. THESE TERMS EXPRESSED AND INFERRED DO NOT MEAN
23 DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH
24 THE MALICE MAY BE SHOWN TO EXIST; THAT IS, MALICE MAY BE
25 SHOWN TO EXIST EITHER BY DIRECT EVIDENCE OR BY INFERENCE

1 FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED.
2 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH
3 EXPRESS HATRED OR ILL WILL FOR ANOTHER. OR WHEN A PERSON
4 PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER
5 ACCOMPLISHED. MALICE MAY BE INFERRED BY CONDUCT SHOWING
6 A TOTAL DISREGARD FOR HUMAN LIFE.

7 INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE
8 WITH A DEADLY WEAPON IF FACTS ARE PROVED BEYOND A
9 REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF
10 MALICE TO YOUR SATISFACTION THIS INFERENCE WOULD BE
11 SIMPLY AN EVIDENTIARY FACT TO BE CONSIDERED BY YOU ALONG
12 WITH THE OTHER EVIDENCE IN THE CASE. YOU MAY GIVE IT
13 WHATEVER WEIGHT YOU DECIDE IT SHOULD RECEIVE. A SPECIFIC
14 INTENT TO KILL IS NOT AN ELEMENT OF ASSAULT AND BATTERY
15 WITH INTENT TO KILL. THERE MUST BE A GENERAL INTENT TO
16 COMMIT SERIOUS BODILY INJURY. INTENT MEANS INTENDING THE
17 RESULT WHICH OCCURS; THAT IS, NOT ACCIDENTALLY OR
18 INVOLUNTARY. INTENT MY BE SHOWN BY ACTS AND CONDUCT OF
19 THE DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY
20 NATURALLY AND REASONABLY INFER INTENT.

21 EVIDENCE OF THE CHARACTER OF THE ASSAULT, THE
22 CHARACTER OF THE INSTRUMENT USED, THE MANNER IN WHICH IT
23 WAS USED, THE PURPOSE TO BE ACCOMPLISHED AND THE
24 RESULTING WOUNDS AND INJURIES MAY BE CONSIDERED IN
25 DETERMINING THE INTENT WITH WHICH THE ASSAULT IS

1 COMMITTED. INTENT MAY BE INFERRED WHEN IT IS
2 DEMONSTRATED THAT THE DEFENDANT VOLUNTARILY AND WILLFULLY
3 COMMITTED AN ACT. NATURAL TENDENCY OF WHICH IS TO
4 DESTROY ANOTHER'S LIFE. THAT IS LAW REGARDING WHAT
5 CONSTITUTES ASSAULT AND BATTERY WITH INTENT TO KILL. YOU
6 MAY RETURN TO THE JURY ROOM.

7 THE COURT: ANY ADDITIONS OR EXCEPTIONS BY THE THE
8 STATE?

9 MR. CLARK: NONE BY US.

10 MR. WILLIAMS: NOTHING FROM THE DEFENSE, YOUR HONOR.

11 (THEREUPON, THE JURY COMMENCES DELIBERATIONS.)

12 (THEREUPON, AT 2:55 P.M. JURY REACHED VERDICT.)

13 THE COURT: I UNDERSTAND THE JURY HAS A VERDICT IN
14 THIS CASE. I CERTAINLY UNDERSTAND THAT THIS IS A CASE OF
15 INTENSE INTEREST TO ALL INVOLVED. I WANT TO CAUTION
16 EVERYONE HOWEVER THAT THE DECORUM IN THE COURT MUST BE
17 MAINTAINED AT ALL TIMES. THERE ARE TO BE NO OUTBURSTS OR
18 ANY DISRESPECT TO THE COURT AT ALL. PLEASE BRING THE
19 JURY.

20 (THEREUPON, THE FOLLOWING TAKES PLACE WITHIN THE
21 PRESENCE OF THE JURY.)

22 THE COURT: THE DEFENDANT WILL PLEASE STAND. IF YOU
23 WILL STAND AS WELL, MADAM FORELADY. HAVE YOU REACHED A
24 VERDICT?

25 THE FORELADY: YES, SIR, WE HAVE.

1 THE COURT: IS IT A UNANIMOUS VERDICT?

2 THE FORELADY: YES, IT IS.

3 THE COURT: IF WOULD WOULD PASS UP THE VERDICT
4 PLEASE. YOU MAY PUBLISH THE VERDICT. YOU MAY BE SEATED,
5 MA'AM.

6 THE CLERK: INDICTMENT NO. 2006-GS-43-179 THE STATE
7 OF SOUTH CAROLINA VERSUS RANDY ALLEN YONSON, AS TO COUNT
8 1, WE THE JURY FIND THE DEFENDANT RANDY ALLEN YONSON
9 GUILTY OF UNLAWFUL PISTOL. AS TO COUNT 2, WE THE JURY
10 FIND THE DEFENDANT RANDY ALLEN YONSON, GUILTY OF UNLAWFUL
11 PISTOL. AS TO COUNT 5, WE THE JURY FIND THE DEFENDANT
12 RANDY ALLEN YONSON, GUILTY OF POSSESSION OF A PISTOL BY A
13 PERSON UNDER THE AGE OF 21. AS TO COUNT 6, WE THE JURY
14 FIND THE DEFENDANT RANDY ALLEN YONSON GUILTY OF POSSESSION
15 OF A PISTOL BY A PERSON CONVICTED OF A VIOLENT CRIME. A
16 CRIME OF VIOLENCE. AS TO COUNT 7, WE THE JURY FIND THE
17 DEFENDANT RANDY ALLEN YONSON GUILTY OF ASSAULT AND BATTERY
18 WITH INTENT TO KILL OF OFFICER ERIN R. BOLAND. AS TO
19 COUNT 8, WE THE JURY FIND THE DEFENDANT RANDY ALLEN YONSON
20 GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL OF
21 OFFICER JAMES B. WILLIAMS. AS TO COUNT 9, WE THE JURY
22 FIND THE DEFENDANT RANDY ALLEN YONSON GUILTY OF POSSESSION
23 OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.
24 AS TO COUNT 10, WE THE JURY FIND THE DEFENDANT RANDY
25 ALLEN YONSON GUILTY OF ASSAULTING OFFICER ERIN BOLAND

1 WHILE RESISTING ARREST. AS TO COUNT 11, WE THE JURY FIND
2 THE DEFENDANT RANDY ALLEN YONSON GUILTY OF ASSAULTING
3 OFFICER JAMES B. WILLIAMS WHILE RESISTING ARREST. AS TO
4 COUNT 12, WE THE JURY FIND RANDY ALLEN YONSON GUILTY OF
5 RESISTING ARREST WITH A DEADLY WEAPON. THIS IS SIGNED
6 AND CERTIFIED AS THE UNANIMOUS DECISION BY THE JURY..DATED
7 1-18-07. SIGNED KAREN MICHALIK FOREPERSON. SO SAY YOU
8 ALL BY RAISING YOUR RIGHT HAND.

9 (THEREUPON, ALL JURORS AFFIRM.)

10 THE CLERK: THANK YOU. THE VERDICT APPEARS TO BE IN
11 ORDER, YOUR HONOR.

12 THE COURT: THE VERDICT APPEARS TO BE A UNANIMOUS
13 VERDICT. ANY ADDITIONAL POLLING REQUESTED BY THE
14 DEFENSE?

15 MR. WILLIAMS: PLEASE, YOUR HONOR.

16 THE COURT: MR. CLERK, IF YOU WILL INDIVIDUALLY POLL
17 THE JURORS.

18 THE CLERK: LADIES AND GENTLEMEN, WHEN YOU'RE NAME
19 IS CALLED, WILL YOU PLEASE STAND, PLEASE AND ANSWER THE
20 TWO QUESTIONS THAT I ASK YOU? DANIEL DAUGHTREY, IS THIS
21 YOUR VERDICT AND STILL YOUR VERDICT?

22 MR. DAUGHTREY: YES.

23 THE CLERK: JOSEPH BOATWRIGHT, IS THIS YOUR VERDICT
24 AND STILL YOUR VERDICT?

25 MR. BOATWRIGHT: YES, SIR.

1 THE CLERK: THANK YOU. JACKIE HAMMOND, IS THIS YOUR
2 VERDICT AND STILL YOUR VERDICT?

3 MS. HAMMOND: YES.

4 THE COURT: THANK YOU. FRANCIS DEAS, IS THIS YOUR
5 VERDICT AND STILL YOUR VERDICT?

6 MS. DEAS: YES, SIR.

7 THE CLERK: THANK YOU. EMERY MILLER, IS THIS YOUR
8 VERDICT AND STILL YOUR VERDICT?

9 MR. MILLER: YES, SIR.

10 THE CLERK: THANK YOU. ROBBIE COTTERMAN, IS THIS
11 YOUR VERDICT AND STILL YOUR VERDICT?

12 MR. COTTERMAN: YES, IT IS.

13 THE CLERK: LAWRENCE PHILLIPS, IS THIS YOUR VERDICT
14 AND STILL YOUR VERDICT?

15 MR. PHILLIPS: YES, SIR.

16 THE CLERK: THANK YOU. ALEXA ROWE, IS THIS YOUR
17 VERDICT AND STILL YOUR VERDICT?

18 MS. ROWE: YES, IT IS.

19 THE COURT: THANK YOU. KAREN MICHALIK, IS THIS YOUR
20 VERDICT AND STILL YOUR VERDICT?

21 MS. MICHALIK: YES, SIR.

22 THE CLERK: THANK YOU. CHARLES SEYMORE, IS THIS YOUR
23 VERDICT AND STILL YOUR VERDICT?

24 MR. SEYMORE: YES, SIR.

25 THE CLERK: THANK YOU. THOMAS RICARDSON, IS THIS

1 YOUR VERDICT AND STILL YOUR VERDICT?

2 MR. RICHARDSON: YES, SIR.

3 THE CLERK: ISAH WHEELER, IS THIS YOUR VERDICT AND
4 STILL YOUR VERDICT?

5 MR. WHEELER: YES, SIR.

6 THE CLERK: THANK YOU. YOUR HONOR, THE JURY HAS BEEN
7 POLLED AND THE VERDICT STANDS.

8 THE COURT: LADIES AND GENTLEMEN, I WANT TO THANK YOU
9 FOR YOUR WORK ON THIS CASE. THE VERDICT HAS BEEN PLACED
10 ON THE RECORD AS THE UNANIMOUS VERDICT; BEING THE VERDICT
11 OF EACH AND EVERY JUROR AS TO EACH AND EVERY COUNT OF THIS
12 INDICTMENT. I WANT TO THANK YOU FOR YOUR SERVICE WITH
13 REGARD TO THIS CASE. WHERE YOU HAVE FOUND A PERSON
14 GUILTY, THEN IT BECOMES MY RESPONSIBILITY TO IMPOSE A
15 SENTENCE. BUT FIRST, ARE THERE ANY POST-TRIAL MOTIONS,
16 MR. WILLIAMS?

17 MR. WILLIAMS: YES, SIR, YOUR HONOR. AT THIS TIME
18 THE DEFENSE WOULD REQUEST A NEW TRIAL.

19 THE COURT: WHAT'S THE BASIS FOR THE MOTION?

20 MR. WILLIAMS: INSUFFICIENCY OF THE EVIDENCE, AS THE
21 STATE DID NOT PROVE THEIR CASE BEYOND A REASONABLE DOUBT.

22 THE COURT: MR. CONNER, WHAT DO YOU SAY?

23 MR. CONNER: YOUR HONOR, I WOULD SUBMIT THERE IS
24 AMPLE EVIDENCE IN THE RECORD TO SUPPORT THE VERDICT. HE'S
25 ADMITTED TO THE POSSESSION OF THE TWO PISTOLS, WHICH WOULD

1 APPLY IN COUNT 1 AND COUNT 2. COUNT 5 AND COUNT 6
2 INDICATE THAT HE POSSESSED THESE PISTOLS. THE -- AS TO
3 COUNT 7 AND 8, THERE IS ABUNDANT EVIDENCE TO CONSIDER IN
4 THE LIGHT MOST FAVORABLE TO THE STATE THAT HE WAS GUILTY
5 OF THOSE BASED UPON THE TESTIMONY OF THE OFFICERS AND OF
6 THE PRIVATE WITNESSES. THE, AS TO COUNT 10 AND 11, THERE
7 IS AMPLE EVIDENCE IN THE RECORD THAT HE WAS RESISTING
8 ARREST, AND THAT HE WAS -- THAT THESE OFFICERS WERE
9 ASSAULTED, BEAT OR WOUNDED DURING THE COURSE OF THE
10 ARREST.

11 AND IN COUNT 12, HE RESISTED WITH A DEADLY WEAPON.
12 HE RESISTED ARREST AND OF COURSE HE HAD TWO PISTOLS,
13 WHICH HE ADMITTED HIS POSSESSION OF. I WOULD SUBMIT
14 THERE IS AMPLE EVIDENCE TO UPHOLD THE VERDICT.

15 THE COURT: I FIND AMPLE EVIDENCE TO UPHOLD THE
16 VERDICT. THE VARIOUS VERSIONS OF WHAT OCCURRED WERE
17 TESTIFIED TO BY THE STATE'S WITNESSES AND THE DEFENSE
18 WITNESSES. THE RESPONSIBILITY OF THE JURY IS -- WAS AND
19 IS TO EVALUATE THE EVIDENCE. AND DETERMINE WHICH EVIDENCE
20 SHOULD BE BELIEVED. THE JURY HAS WEIGHED THE EVIDENCE AND
21 CONCLUDED THE DEFENDANT IS GUILTY AS CHARGED TO EACH AND
22 EVERY ONE OF THESE COUNTS OF THIS INDICTMENT. AND I
23 RESPECTFULLY DENY THE MOTION.

24 MR. WILLIAMS: THANK YOU, YOUR HONOR.

25 THE COURT: ARE YOU READY FOR SENTENCING,

1 MR. SOLICITOR? IF THE DEFENDANT WILL COME FORWARD.

2 MR. CONNER: MAY IT PLEASE THE COURT, WE DO HAVE
3 SOME PEOPLE FROM THE VICTIMS AND THE VICTIM'S FAMILY THAT
4 HAVE INDICATED AN INTEREST IN ADDRESSING THE COURT.

5 THE COURT: PRIOR TO PROCEEDING WITH THIS, I WANTED
6 TO NOTE AND HAVE THE RECORD REFLECT THAT THE COURT DID NOT
7 CHARGE THE ACCIDENT CHARGE IN THE VERBATIM CHARGE PERHAPS
8 AS I MADE REFERENCE TO YESTERDAY, AND WAS HEARD BY DEFENSE
9 COUNSEL AS TO WHETHER OR NOT HE WAS SATISFIED WITH THE
10 CHARGE AS GIVEN BY THE COURT SINCE THERE WERE NO
11 OBJECTIONS MADE TO THE CHARGE BY THE COURT. AND COUNSEL
12 INDICATED HE WAS SATISFIED WITH THE CHARGES GIVEN BY THE
13 COURT TO THE JURY. IS THAT CORRECT, MR. WILLIAMS?

14 MR. WILLIAMS: THAT'S CORRECT, YOUR HONOR.

15 THE COURT: THE RECORD WILL SO REFLECT THAT. YOU MAY
16 PROCEED.

17 MR. CONNER: YOUR HONOR, I THINK JUST ABOUT
18 EVERYTHING HAS BEEN COVERED DURING THIS TRIAL. THE
19 DEFENDANT WAS ON PROBATION FOR BURGLARY AND GRAND LARCENY,
20 WHICH OCCURRED IN CLARENDON COUNTY AT THE TIME THIS CRIME
21 OCCURRED. AND WHILE ON PROBATION, ONE OF THE CONDITIONS
22 OF PROBATION IS TO NOT BE IN A BUSINESS THAT SELLS
23 ALCOHOLIC BEVERAGES. AND NOT TO BE IN POSSESSION OF A
24 PISTOL. THE -- SO HE WAS IN VIOLATION OF HIS PROBATION.
25 AND HIS PROBATION HAS BEEN REVOKED. AND THE -- IN

1 ADDITION TO THAT, YOUR HONOR, ONE OF COUNTS IN THE
2 INDICTMENT, COUNT 13, WAS POSSESSION OF COCAINE. THAT
3 COUNT WAS TRUE BILLED BY THE GRAND JURY. WE DECIDED NOT
4 TO GO FORWARD ON THAT BECAUSE OF DIFFICULTY IN GETTING
5 SOMEBODY OVER HERE FROM THE HOSPITAL. BUT HIS SYSTEM, HIS
6 MEDICAL RECORDS INDICATE HE WAS USING COCAINE AT THE TIME
7 THIS OFFENSE OCCURRED.

8 WE DISMISSED COUNTS 3 AND 4, BECAUSE OF ERRORS IN
9 OUR OFFICE IN LISTING THE PROPER STATUTE NUMBER.
10 HOWEVER, BOTH OF THE PISTOLS WERE STOLEN. ANOTHER
11 REASON THAT I MOVED TO DISMISS THEM WAS THAT I DIDN'T
12 KNOW WE COULD PROVE THAT HE KNEW THAT THEY WERE STOLEN.
13 BUT BOTH OF THEM WERE IN FACT STOLEN. AND ONE OF THEM
14 HAD BEEN REPORTED STOLEN. THE 9 MILLIMETER IN THE SPRING
15 OF 2005, DOWN IN MANNING. AND THE OTHER ONE WAS TAKEN
16 FROM A WOMAN IN, WHEN SHE WAS MOVING IN EITHER JUNE OR
17 JULY OF 2005. SHORTLY BEFORE THIS CRIME OCCURRED ON
18 SEPTEMBER 11, 2005.

19 I HAVE HERE, WHERE IS ERIN? THIS IS ANGIE BOLAND.
20 THIS IS THE WIFE OF DEPUTY BOLAND.

21 MS. BOLAND: ANGELA BOLAND. B-O-L-A-N-D. YOUR
22 HONOR, I WOULD LIKE TO TAKE AN OPPORTUNITY TO THANK YOU
23 AND TO THANK THE COURT FOR THE TIME THAT'S PUT IN, AND
24 TAKE A COUPLE OF MINUTES. THIS HAS BEEN A VERY EMOTIONAL
25 PROCESS FOR OUR FAMILY BY A LOT OF COUNTS. MY HUSBAND IS

1 DEPUTY BOLAND, CORPORAL BOLAND. WE ARE FRIENDS OF JAMIE.
2 I AM AN OFFICER MYSELF. I HAVE BEEN FOR SEVERAL YEARS.
3 ERIN'S ONLY BROTHER WHO IS A FIREFIGHTER, EMS, WHO ALSO
4 HAD TO RESPOND TO THE SCENE THAT NIGHT. THIS HAS
5 AFFECTED OUR FAMILY TREMENDOUSLY, OUR CHILDREN. THE
6 EXTENDED FAMILY, OUR WORK PRACTICES. THERE ISN'T JUST
7 SOMETHING THAT'S WENT AWAY JUST SIMPLY BECAUSE HE'S OUT
8 OF THE HOSPITAL, OR BECAUSE NOW THAT THIS IS FINAL. THIS
9 IS SOMETHING WE DEAL WITH EVERY DAY.

10 MY HUSBAND JUST THIS WEEK, HAD TO GO TO, EXCUSE ME,
11 HAD TO GO TO THE DOCTOR. HE IS STILL CONTINUING FOR
12 PERMANENT DAMAGE DONE TO HIM. THIS AFFECTED OUR LIVES,
13 OUR PERSONAL LIVES, OUR PRIVATE LIVES. AND IT HAS
14 AFFECTED HIS WORK, HIS PERFORMANCE. HOW HE VIEWS HIS
15 JOB, HOW I VIEW MY JOB. PLEASE TAKE THAT INTO
16 CONSIDERATION. MR. YONSON, WHILE I UNDERSTAND THAT HE
17 MAY BE SORRY NOW, AND THAT HE'S YOUNG, WE HAVE DEALT WITH
18 THAT FAMILY OVER AND OVER AGAIN ON VARIOUS OCCASIONS. I
19 DON'T BELIEVE HE HAS LEARNED HIS LESSON TO BEGIN WITH.
20 HE WAS OUT ON PROBATION FOR HIS CRIMES THAT HE SUPPOSEDLY
21 WAS REMORSEFUL FOR. AND YET WE STAND BEFORE YOU WITH
22 OBVIOUS GUILT FOR ALL THESE COUNTS. SO JUST PLEASE DON'T
23 LET HIM AFFECT SOMEBODY ELSE'S FAMILY IN THE MANNER THAT
24 HE HAS AFFECTED OURS. BOTH OUR PRIVATE LIFE AND OUR LAW
25 ENFORCEMENT LIFE. THANK YOU.

1 THE COURT: THANK YOU.

2 MR. CONNER: THIS IS DEPUTY BOLAND'S BROTHER. WHAT
3 IS YOUR NAME YOUNG MAN?

4 MR. BOLAND: MY NAME KEVIN BOLAND. AND LIKE ANGIE
5 STATED, I WAS THE ONE THAT ENDED UP RESPONDING TO THE
6 SCENE. AND THAT IS SOMETHING THAT I WILL REMEMBER. THAT
7 IS SOMETHING I AM GOING TO REMEMBER FOR THE REST OF MY
8 LIFE; SEEING MY BROTHER SHOT. BECAUSE OF SOMEBODY THAT
9 ADMITTEDLY KNEW WHAT HE WAS DOING WAS WRONG. MY FAMILY
10 WAS HURT FROM THIS TREMENDOUSLY. MY MOTHER. IT WAS
11 HARD. AND TO MEET MY MOTHER AND TELL HER THAT ERIN WAS
12 OKAY. BECAUSE I WAS THERE ON THE SCENE. I WAS IN THE
13 BACK OF THE AMBULANCE WITH MY BROTHER. NOT KNOWING
14 EVERYTHING THAT WAS WRONG WITH HIM; KNOWING THE POTENTIAL
15 OF HIS WOUNDS IN HIS SIDE BEING LIFE THREATENING WITH ALL
16 THE ORGANS IN THERE. HAVING TO TELL MY MOTHER WHO WAS
17 CRYING IN MY ARMS AT TUOMEY THAT IT'S GOING TO BE OKAY.
18 HE'S GOING TO BE OKAY. AND I REALLY DID NOT KNOW. I'VE
19 NEVER LIED TO MY MOTHER UNTIL THAT DAY.

20 ALL THIS FROM SOMEBODY THAT ADMITTEDLY KNEW WHAT HE
21 WAS DOING WAS WRONG. WE'VE HAD TO ENDURE ALL THE LITTLE
22 COMMENTS IN THE PAPER THAT HAS JUST TREMENDOUSLY CUT
23 THROUGH MY FAMILY, HAVING TO SIT BACK AND JUST TAKE IT.
24 AND I'VE NEVER TALKED ABOUT THIS TO ANYBODY BEFORE. THIS
25 IS MY FIRST TIME REALLY TALKING ABOUT THIS WHOLE THING A

1 YEAR AND FOUR MONTHS LATER. SOMETHING I'VE CARRIED WITH
2 ME THAT LONG. I STILL HAD MY BROTHER'S WATCH THAT I TOOK
3 OFF HIS ARM THAT WAS BLOODY IN THE BACK OF THAT AMBULANCE
4 IN MY BUNKER GEAR AT THE FIRE DEPARTMENT THAT I WEAR
5 EVERY DAY WHEN I'M THERE. I'VE TAKEN IT OUT TO CLEAN IT,
6 BUT I CANNOT BRING MYSELF TO THROW IT AWAY. IT STAYS IN
7 MY RIGHT POCKET. JUST BECAUSE THAT'S A PIECE OF HIM.

8 EVERY TIME I KNOW I AM WORKING AND HE IS WORKING AND
9 MY SISTER-IN-LAW IS WORKING, EVERY TIME I GO ON THAT
10 AMBULANCE TO ANY DEPUTY OR ANYTHING LIKE THAT, IT'S A
11 CONSTANT REMINDER OF WHAT HAPPENED. I LIVE DOWN THE ROAD
12 FROM THAT CLUB. EVERY TIME I RIDE BY THAT CLUB, IT IS A
13 CONSTANT REMINDER THAT I WILL NEVER FORGET. I GO TO A
14 BUNCH OF SCENES FOR EMS AND THE FIRE DEPARTMENT. THEY
15 KIND OF GET RUN TOGETHER AND I CAN'T TELL YOU EXACTLY 100
16 PERCENT OF EVERYTHING THAT HAPPENED. A YEAR AND FOUR
17 MONTHS LATER, I CAN TELL YOU EXACTLY WHERE I WAS, AND
18 WHAT I HEARD ON THAT RADIO FROM THE WHOLE WAY FROM THE
19 FIRE CALL THAT I WAS ON WHEN I FOUND OUT HE WAS SHOT, ALL
20 THE WAY TO PINWOOD ROAD; TO GET IN THE BACK OF THE TRUCK
21 WITH HIM, TO TAKING HIM TO THE LANDING ZONE FOR THE
22 HELICOPTERS AND EVERYTHING, FROM THE RIDE TO TUOMEY TO
23 RICHLAND. I CANNOT DO THAT WITH ANY OTHER SCENE. THAT
24 IS SOMETHING I WILL NEVER FORGET. AND ALL BECAUSE OF ONE
25 PERSON WHO ADMITTEDLY KNEW WHAT HE WAS DOING WAS WRONG.

1 I WOULD HOPE THAT YOU WOULD TAKE THIS INTO CONSIDERATION.

2 AND THANK YOU FOR LETTING ME ADDRESS THE COURT.

3 THE COURT: YES, SIR.

4 MR. CONNER: STATE YOUR NAME FOR THE RECORD.

5 MR. BOLAND: MY NAME IS EARL BOLAND. B-O-L-A-N-D.

6 I WOULD LIKE TO THANK THE COURT FOR HEARING ME, FOR
7 LETTING US ADDRESS THE COURT. I DEFINITELY DON'T WANT TO
8 BE HERE, BECAUSE I FEEL I HAVE TO. I AM SORRY FOR THE
9 DEFENDANT'S FAMILY AND HOW MUCH THEY WENT THROUGH AND THE
10 MENTAL ANGUISH. BUT MORE SO, SINCE I DO NOT REALLY KNOW
11 THEM, I AM VERY GLAD THAT NOBODY WAS KILLED; THAT THERE
12 WAS INJURIES AND NO DEATHS. IF ERIN HAD EVER KILLED
13 ANYBODY EVEN IN SELF DEFENSE, I KNOW IT WOULD BE SO
14 TRAUMATIC TO HIM, EXCUSE ME, THAT HE WOULD HAVE TO DROP
15 HIS CHOSEN PROFESSION. I DON'T THINK HE COULD LIVE WITH
16 THAT. WE, MY WIFE AND I HAD A HARD TIME WHEN HE FIRST
17 BECAME A DEPUTY ACCEPTING IT, BUT WE ACCEPTED IT. AND WE
18 SUPPORTED IT. THE SAME WITH KEVIN.

19 WE FEEL THEY ARE BOTH PUBLIC SERVANTS. AND WE ARE
20 VERY PROUD OF THEM. IF YOU DON'T MIND, I HAVE SOMETHING
21 ELSE. AT THE TIME ERIN WAS SHOT, HE WAS A SINGLE PARENT
22 WITH TWO YOUNG CHILDREN. AND EVEN UNTIL THIS DAY, THE
23 CHILDREN CANNOT UNDERSTAND WHY SOMEONE WOULD WANT TO HURT
24 THEIR DADDY, WHO IS REALLY A PUBLIC SERVANT. BOTH OF MY
25 SONS LOVE TO HELP PEOPLE, AND THEY LOVE DEALING WITH

1 PEOPLE. AND WE ARE VERY PROUD OF THEM. THIS INCIDENT
2 HAS HAD A TREMENDOUS AFFECT ON ALL THE FAMILY, AS YOU CAN
3 SEE. AND NOT ONLY THE IMMEDIATE FAMILY, BUT THE FAMILY
4 THAT IS UP AND COMING. THEY ARE GOING TO HAVE TO LEARN
5 TO UNDERSTAND THIS AT A LATER DATE AND I HOPE THEY WILL.
6 BUT THE TRAUMATIC CONSEQUENCES, THE MENTAL CONSEQUENCES
7 IS NOT SOMETHING THAT GOES AWAY.

8 UNLIKE THE DEFENDANT WHO HAD TRAUMATIC SURGERY,
9 GRANTED, HE SHOWS OR HE HAS SHOWN AS FAR AS I HAVE EVER
10 SEEN WHETHER IT BE HERE OR ANYWHERE ELSE, I DON'T THINK I
11 HAVE SEEN HIM ANYWHERE ELSE. THE ONLY CONCERN HE SHOWS
12 IS FOR HIS PAIN AND SUFFERING FROM HIS SURGERY. WELL MY
13 SON HAS SURGERY, AND HE STILL MAY HAVE TO HAVE MORE. IF
14 HE DOES, I HOPE HE COMES OUT FINE. WHICH HE IS A STRONG
15 PERSON. I DO NOT UNDERSTAND SOME OF THESE YOUNGER
16 PERSONS, YOUNG ADULTS, IF YOU WILL, WHO DO NOT FEEL THAT
17 THE LAW APPLIES TO THEM. I DO NOT UNDERSTAND THEIR
18 THOUGHT PROCESS. AND I HAVE BEEN AROUND A LOT OF
19 DIFFERENT PEOPLE IN MY LIFETIME. BUT LIKEWISE, I DID NOT
20 UNDERSTAND THE CRIMINAL JUSTICE SYSTEM WHO CONTINUALLY
21 GIVES THESE TYPES OF CRIMINALS, ONES SUCH AS THE
22 DEFENDANT, PROBATION, OR EASY SENTENCES WHERE THEY ARE
23 BACK ON THE STREET WITHIN A YEAR, TWO YEARS, 5 YEARS OR
24 EVEN 10 YEARS WHERE THEY CAN GO BACK AND REPEATEDLY DO,
25 MAKE THE SAME POOR CHOICES, MAKE THE SAME POOR DECISIONS

1 AS THEY DO AT THE PRESENT TIME.

2 I WOULD URGE THIS COURT TO SENTENCE THIS DEFENDANT
3 TO THE MAXIMUM ON EACH. MAXIMUM SENTENCE ON EACH AND
4 EVERY ONE OF THE COUNTS THAT THEY CAN. AND MAKE THE
5 SENTENCES RUN NOT CONCURRENTLY, BUT CONSECUTIVELY. ONE
6 AFTER THE OTHER. THE DEFENDANT MADE HIS CHOICE THAT
7 NIGHT. IT'S NOW TIME FOR THE COURT TO MAKE THEIR CHOICE.
8 I DO URGE YOU ONCE AGAIN, DO SENTENCE HIM TO THE MAXIMUM
9 POSSIBLE. AND NOT TO RUN IT CONSECUTIVELY OR
10 CONCURRENTLY. BUT TO RUN IT CONSECUTIVELY. WHEN ONE
11 SENTENCE ENDS, HE STARTS THE NEXT SENTENCE. I THANK YOU
12 VERY MUCH.

13 THE COURT: YES, SIR. THANK YOU.

14 MR. WILLIAMS: H. BILLY WILLIAMS, SIR. OFFICER
15 WILLIAMS IS MY SON. I REMEMBER ON THE MORNING WHEN I GOT
16 A PHONE CALL. AND SAID, "PASTOR, I'M RIGHT AT YOUR DOOR."
17 JAMIE HAS BEEN SHOT. HE WAS IN AN ALTERCATION. HE'S AT
18 THE HOSPITAL. AND WE HURRIED TO THE HOSPITAL. AND I AM A
19 FATHER TOO WHO STOOD THERE AND WATCHED MY SON WITH A
20 BULLET HOLE IN HIM. MY SON WAS DOING HIS JOB THAT NIGHT.
21 DOING HIS DUTY. DOING WHAT HE WAS CALLED TO DO. HE
22 DIDN'T WANT TO BE THERE. HE WAS THERE TO PROTECT SOMEONE
23 ELSE. MY THOUGHTS WERE, IF HE AND OFFICER BOLAND HADN'T
24 BEEN THERE, SOMEBODY ELSE THERE COULD HAVE BEEN KILLED OR
25 SHOT. THANK GOD THEY WERE THERE.

1 THANK GOD THE DAY THAT ALL INVOLVED WERE NOT KILLED,
2 BUT THEY ARE ALIVE. I WISH NONE OF US WERE HERE TODAY.
3 I TELL YOU THAT MY WIFE AND I, HIS MOTHER, WHEN HE IS ON
4 DUTY NOW, ESPECIALLY ON THE WEEKENDS, SATURDAY NIGHT WE
5 DON'T SLEEP. WE DON'T SLEEP ON SATURDAY NIGHT HARDLY.
6 IF THE PHONE RINGS ON SATURDAY NIGHT AFTER 10:00 O'CLOCK,
7 WE BOTH GO IN A PANIC, BECAUSE WE ARE AFRAID TO HEAR
8 THOSE WORDS AGAIN, "YOUR SON HAS BEEN SHOT." I PRAY THAT
9 IT NEVER HAPPENS TO ANYONE ELSE. AND I JUST ASK THE
10 COURT TO REMEMBER THAT THERE ARE THOSE ON BOTH SIDES THAT
11 SUFFER AT A TIME LIKE THIS. THANK YOU.

12 THE COURT: SHERIFF DENNIS.

13 SHERIFF DENNIS: THANK YOU, YOUR HONOR. IF IT
14 PLEASE THE COURT, YOU KNOW, WHEN I BECAME A SHERIFF IN
15 2005, I WAS TOLD BY MY PRESENT SHERIFF AT THE TIME, MY
16 PREDECESSOR, TWO THINGS THAT YOU WOULDN'T WANT TO
17 EXPERIENCE AS A SHERIFF. SEPTEMBER 11, 2005, I
18 EXPERIENCED THAT. I RECEIVED A CALL AT 3:00 O'CLOCK ONE
19 MORNING, THAT MORNING; THAT TWO OFFICERS, TWO OUTSTANDING
20 YOUNG MEN, THAT I HAD SWORN TO PERFORM THEIR DUTIES, HAD
21 GONE OUT IN THE COUNTY, INDIVIDUALLY, AND HAD BEEN SHOT
22 IN THE LINE OF DUTY. AND THAT MORNING I GOT -- WAS
23 DRESSED AND WAS HEADED TO THAT LOCATION. AND IT
24 APPEARED TO BE THE LONGEST DRIVE THAT I HAVE EXPERIENCED
25 IN MY LIFETIME. NOT KNOWING THE CONDITION OF BOTH OF

1 THOSE OFFICERS.

2 WITH THE GRACE OF GOD, YOUR HONOR, BOTH OF THEM
3 SURVIVED. THEY SURVIVED THAT NIGHT. BUT YOU CAN SEE THE
4 PRESENCE OF LAW ENFORCEMENT OFFICERS IN HERE FROM OUR
5 OFFICE, AND HOW MUCH THEY RESPECT THE TWO YOUNG MEN THAT
6 WERE INJURED THAT NIGHT JUST DOING THEIR JOB. DOING
7 THEIR DUTY, BEING PUBLIC SERVANTS, WHAT THEY ARE SWORN TO
8 DO. AND FOR SOMEONE TO HAVE INJURED THEM IN THAT MANNER.
9 I AM HERE NOT TO DISCUSS MR. YONSON TODAY, BECAUSE I
10 THINK ALL THAT SPEAKS ITSELF. I KNOW THE FAMILY AND
11 SPEAK HIGHLY OF THE FAMILY. MR. AND MS. YONSON. BUT
12 YOUR HONOR, I KNOW THE JURY AND THE SOLICITOR'S OFFICE
13 HAVE DONE THEIR JOB. AND WE AS LAW ENFORCEMENT OFFICERS,
14 I THINK I AM SPEAKING ON BEHALF OF THE SUMTER COUNTY
15 SHERIFF'S OFFICE, WE ARE ASKING YOU, YOUR HONOR, TO
16 PUNISHMENT, IN YOUR WAY, AS IT SHOULD BE SET TOWARDS
17 MR. YONSON.

18 AND I SPEAK A LOT OF BOLAND AND WILLIAMS. YOU
19 KNOW, EVERY DAY I WOULD SEE THEM AT WORK. THERE WAS
20 ALWAYS A SMILE ON THEIR FACE, BECAUSE THEY LOVE WHAT
21 THEY DO. BOTH OFFICERS LOVE WHAT THEY DO. I THINK THEY
22 WOULD BE LAW ENFORCEMENT OFFICERS ANYWHERE IN THE UNITED
23 STATES, BECAUSE THEY LOVE WHAT THEY DO, AND TO ENCOUNTER
24 SOMETHING LIKE THAT, THAT NIGHT. AND I DON'T SEE THE
25 SMILE LIKE I HAVE SEEN IN THE PAST. BUT I KNOW IT'S

1 GOING TO COME BACK, BECAUSE THEY LOVE WHAT THEY DO. AND
2 THEY'LL STILL CONTINUE TO PERFORM THEIR DUTIES AT THAT
3 LEVEL THEY DID ON SEPTEMBER 11, 2005. BUT, YOUR HONOR,
4 THAT NIGHT, THAT MORNING, WILL ALWAYS HAVE A MARK ON
5 THOSE TWO OFFICERS. AND THE SUMTER COUNTY SHERIFF'S
6 OFFICE AND MYSELF. SO, YOUR HONOR, WE JUST PLACE IT IN
7 YOUR HANDS FOR THE PUNISHMENT YOU SEE FIT FOR MR. YONSON
8 TODAY. THANK YOU.

9 THE COURT: THANK YOU, SHERIFF. MR. CONNER, ANYTHING
10 FURTHER FROM THE STATE?

11 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR.

12 THE COURT: MR. WILLIAMS.

13 MR. WILLIAMS: THANK YOU, YOUR HONOR. YOUR HONOR,
14 YOU HAVE MET MR. YONSON BEFORE. YOU UNDERSTAND THAT MR.
15 YONSON TURNED 21 IN PRISON. AND HE WILL BE THERE FOR
16 AWHILE. AND WE CERTAINLY DON'T MAKE LIGHT OF ANY OF THE
17 SITUATION. I THINK EVERYONE IN THE COURTROOM DOESN'T
18 WANT TO BE HERE UNDER THESE CIRCUMSTANCES. WE ONLY ASK
19 THAT YOU TEMPER YOUR JUSTICE WITH MERCY. AND WE
20 UNDERSTAND MY CLIENT IS A 21-YEAR-OLD BOY. AND HE WILL
21 NOT BE OUT IN HIS YOUTH TO COMMIT ANY MORE CRIMES. WE
22 ONLY ASK THAT YOU GIVE HIM HOPE FOR WHEN HE IS RELEASED.
23 I BELIEVE HIS MOTHER AND FATHER WOULD LIKE TO SPEAK.

24 THE COURT: YES, SIR.

25 MR. WILLIAMS: JUST STATE YOUR NAME.

1 MS. YONSON: MY NAME IS JENNY YONSON. I AM RANDY'S
2 MOTHER. ALTHOUGH OUR FAMILY EMPATHIZES WITH THE BOLAND
3 AND WILLIAMS' FAMILY, THEY WERE NOT THE ONLY VICTIMS ON
4 THAT NIGHT. RANDY WAS A VICTIM. HIS FAMILY WAS A
5 VICTIM. YET ALL THE ATTENTION WAS PAID TO THE TWO
6 DEPUTIES THAT WERE TRAUMATIZED THAT EVENING. THERE WERE
7 OTHER VICTIMS THAT EVENING OF SEPTEMBER 11TH. IN THE
8 LAST THREE DAYS THAT WE SAT HERE IN COURT, THE JURY HEARD
9 STATEMENTS FROM THE STATE AND FROM THE DEFENSE. AND
10 UNFORTUNATELY, WE WEREN'T ALLOWED TO STAND UP AND SAY.
11 BUT THAT'S NOT THE WHOLE STORY. WHEN WE WERE NOTIFIED,
12 AND AND ACTUALLY MR. DENNIS CAME TO MY HOME THAT NIGHT TO
13 TELL ME OF THE INCIDENT, MY CONCERN WAS FOR THE OFFICERS,
14 AS WELL AS MY SON THAT EVENING. NOT KNOWING IF ANY OF
15 THEM WERE ALIVE. I HAD CONCERN FOR ALL PARTIES INVOLVED.
16 WHEN WE GOT TO THE HOSPITAL A COUPLE OF DAYS LATER WHEN
17 MY SON WAS ABLE TO COME THROUGH THE INTENSIVE CARE AND
18 THE TRAUMA UNIT, WE HEARD THE STORY FROM HIM. THE VERY
19 SAME DAY BEFORE HE AND HIS GIRLFRIEND COULD COLLABORATE,
20 WE HEARD THE STORY FROM HER. AND IT WAS NOT WHAT WAS
21 PRESENTED TO YOU. THERE IS ALWAYS A DIFFERENT SIDE TO
22 THE STORY, AND NOT EVERYTHING CAME OUT.

23 I THINK THAT RANDY ADMITS THAT HE WAS WRONG IN BEING
24 WHERE HE WAS AT, AND HAVING THE WEAPONS IN HIS
25 POSSESSION. BUT I THINK THAT HE WILL HOLD TRUE. AND WE

1 BELIEVE FIRMLY IN HIS INNOCENCE OF NOT TRYING TO
2 INTENTIONALLY KILL THESE POLICE OFFICERS AND RESISTING
3 ARREST. WE ARE HOPEFUL THAT IN THE FUTURE, MORE OF THESE
4 TRUTHS WOULD COME FORWARD, AND THAT HE WOULD BE SET FREE
5 OF THE CHARGES THAT HE IS REALLY INNOCENT OF. AND AGAIN,
6 WE DO THANK YOU AS JURORS. IT IS A VERY DIFFICULT JOB TO
7 DECIPHER THROUGH EVERYTHING THAT WAS GIVEN TO YOU. BUT
8 WE APPRECIATE YOUR TIME AND EFFORTS HERE TODAY. AND
9 AGAIN, WE DO STATE THAT THEY WERE NOT ONLY THE VICTIMS IN
10 THIS INCIDENT. AND WE STILL HOLD TRUE THAT RANDY IS
11 INNOCENT OF SOME OF THE CHARGES THAT YOU FOUND HIM GUILTY
12 OF. WE WOULD ASK, YOUR HONOR, THAT LENIENCY AND MERCY ON
13 RANDY. HE HAS VIOLATED THE PROBATION THAT YOU HAD PLACED
14 HIM ON SEVERAL YEARS AGO. SO HE IS UNDER THAT 15 YEARS.
15 AND WE WOULD ASK LENIENCY, YOUR HONOR, THAT YOU WOULD NOT
16 RUN THESE CONSECUTIVE BUT CONCURRENT.

17 AND THAT YOU WOULD HAVE MERCY ON HIM. AND WE JUST
18 PLEAD THAT FOR HIS LIFE.

19 THE COURT: OKAY.

20 MR. YONSON: MY NAME IS WES YONSON. IT'S
21 Y-O-N-S-O-N. AND, YOUR HONOR, I JUST WANT TO KIND OF
22 RIETERATE SOME OF THE THINGS THAT MS. YONSON SAYS. WE'RE
23 NOT PERFECT PARENTS. NONE OF US HERE ARE PERFECT. WE
24 ALL MAKE MISTAKES. YEAH, IT'S TRUE SOME ARE WORSE THAN
25 OTHERS. I WANT TO BEG FORGIVENESS. AND WE UNDERSTAND

1 THAT THE BOLAND FAMILY, I KNOW THEY WERE TRAUMATIZED.
2 THERE IS NO WAY IN THE WORLD THAT ANYBODY CAN HAVE THESE
3 KIND OF INJURIES, AND THESE INSTANCES IN THEIR FAMILIES
4 WITHOUT BEING TRAUMATIZED. THERE IS NO WAY YOU CAN AVOID
5 THAT. AND I UNDERSTAND THAT. BUT, YOUR HONOR, WE WERE
6 ALSO TRAUMATIZED. KNOWING THAT YOUR SON HAS BEEN SHOT
7 AND IS NEAR DEATH, AND NO MATTER HOW THESE CIRCUMSTANCES
8 ENDED UP OR HOW THE CIRCUMSTANCES TOOK PLACE, WE ARE ALL
9 TRAUMATIZED ALSO FOR A VERY LONG TIME. EVEN IF HE DOES
10 GET THE CONSECUTIVE OR CONCURRENT SENTENCES OR WHATEVER
11 THE CASE MAY BE, WE STILL ALSO WILL ENDURE THESE TIMES
12 AND THESE DAYS ALTOGETHER FOR THE REST OF OUR LIVES AS
13 WELL, YOUR HONOR.

14 NOTHING THAT THIS COURT DOES WILL EVER UNDO THE
15 DAMAGE THAT HAS BEEN DONE. AND I DO PLEAD WITH THE
16 FAMILY THAT THEY WOULD FORGIVE ME AND MY FAMILY. I AM
17 RANDY'S FATHER. AND I DO PLEAD WITH THEIR FORGIVENESS.
18 AND I KNOW THEY ARE PROBABLY CHURCH GOING PEOPLE. AND I
19 KNOW THEY UNDERSTAND ABOUT GRACE AND MERCY AND
20 FORGIVENESS. AND I DO PLEAD FOR THAT. BUT ALSO THAT
21 THIS COURT WOULD ALSO SHOW MERCY FOR MY SON. IF WE ALL
22 GOT WHAT WE DESERVED NONE OF US WOULD BE HERE. AND I
23 JUST PRAY THAT YOU WOULD SHOW MERCY ON MY SON. AND THAT
24 HE WOULD AT LEAST HAVE SOME KIND OF HOPE TO LIVE FOR IN
25 THE FUTURE. THANK YOU, YOUR HONOR.

1 THE COURT: MR. YONSON.

2 THE DEFENDANT: I WOULD LIKE TO JUST APOLOGIZE TO
3 EVERYBODY WHO HAS HAD TO GO THROUGH THIS. AND THAT NIGHT
4 I REALLY DID NOT INTEND ON ANYBODY GETTING HURT. IT
5 REALLY WAS AN ACCIDENT. IT WAS NOT SUPPOSED TO HAPPEN
6 THAT WAY. BUT IT DID. AND NOBODY CAN CHANGE THAT. I AM
7 PREPARED TO RECEIVE THE SENTENCE THAT YOU PASS ON. BUT I
8 STILL INTEND TO FIGHT THESE CHARGES, BECAUSE I STILL FEEL
9 THAT I HAVE BEEN AN INJUSTICE.

10 THE COURT: MR. WILLIAMS, ANYTHING FURTHER?

11 MR. WILLIAMS: NOTHING FURTHER, YOUR HONOR.

12 THE COURT: MS. CREECH, FROM PROBATION AND PARDON,
13 TELL ME WHAT YOU HAVE ON MR. YONSON, RECORD WISE.

14 PROBATION AGENT: YOUR HONOR, YOU SENTENCED HIM IN
15 CLARENDON COUNTY ON 10/14/03 TO GRAND LARCENY. FIVE
16 YEARS ON THE SERVICE OF 90 DAYS. TWO YEARS PROBATION.
17 ALONG WITH THAT THERE'S A BURGLARY. HE RECEIVED THE 10
18 YEARS UPON 90 DAYS AND TWO YEARS PROBATION. YOU REVOKED
19 THOSE CASES NOVEMBER 4TH OF 2005. HE HAS VIOLATED HIS
20 CONDITIONS OF PROBATION. HE VIOLATED NO. 4, DUE TO THE
21 FACT THAT HE ADMITTED TO HAVING A FIREARM TO OUR AGENT.
22 AND CONDITION NO. 3, IT IS AGAINST THE PROBATION
23 CONDITIONS TO GO INTO A NIGHTCLUB. SINCE THIS IS A PLACE
24 OF A NIGHTCLUB. THAT WAS A VIOLATION IN ITSELF.

25 THE COURT: REGARDING THE CONDITION THAT I IMPOSED ON

1 HIM THE AWARENESS THAT HE IS NOT TO OWN OR POSSESS A
2 FIREARM. WHAT CONDITION IS THAT? AND HOW IS THAT
3 COMMUNICATED TO SOMEONE ON PROBATION?

4 PAROLE AGENT: THAT IS CONDITION NO. 4, YOUR HONOR.
5 IT SAYS, "I SHALL NOT POSSESS OR PURCHASE ANY FIREARMS OR
6 OTHER DANGEROUS WEAPONS." AND IN OUR RECORDS WE WOULD
7 HAVE A SIGNED FORM LIKE THIS WITH HIS SIGNATURE ON IT
8 THAT HE UNDERSTOOD.

9 THE COURT: SO, MR. YONSON, WHEN WE MET IT WAS IN
10 2003, OVER IN MANNING?

11 THE DEFENDANT: SIR, REPEAT THE QUESTION.

12 THE COURT: WHEN WE MET IT WAS IN 2003, OVER IN
13 MANNING WHEN YOU PLED GUILTY BEFORE ME?

14 THE DEFENDANT: YES, SIR, IT WAS.

15 THE COURT: AND WHAT HAVE YOU BEEN DOING SINCE THEN?

16 THE DEFENDANT: SINCE I WAS---

17 THE COURT: SENTENCED IN 2003.

18 THE DEFENDANT: TO PROBATION?

19 THE COURT: YES, SIR.

20 THE DEFENDANT: EVER SINCE THEN I WAS ATTENDING
21 CHURCH. I WAS WORKING REALLY HARD TO A GOAL OF ONE DAY
22 OWNING MY OWN BUSINESS. I WAS EVERY DAY JUST WORKING
23 BUILDING HOUSES FOR CONSTRUCTION COMPANIES.

24 MS. YONSON: YOUR HONOR, IF I MAY SO, RANDY WAS JUST
25 ONE MONTH SHY OF HIS PROBATION ENDING WHEN THIS INCIDENT

1 OCCURRED. HE HAD VOLUNTARILY STOOD BY HIS RULE AND
2 REGULATIONS FOR PROBATION. HE WAS ATTENDING CHURCH AND
3 WORKING WITH A CONSTRUCTION COMPANY AND GETTING HIS
4 CERTIFICATION AS A BRICK MASON. SO HE WAS DILIGENTLY
5 SHOWING EFFORT. AND WE WOULD JUST LIKE TO REITERATE THAT
6 WE FEEL THAT THERE WAS NO INTENTION THERE. THAT IT
7 HAPPENED TO BE AN UNFORTUNATE ACCIDENT.

8 THE COURT: WHEN YOU SAY WE, WHAT DO YOU MEAN? WHAT
9 DID YOU SAY, WE? YOU SAID SOMETHING ABOUT WHAT WE DID NOT
10 INTEND?

11 MS. YONSON: NO, HE. HE DID NOT INTEND. I DIDN'T
12 MEAN FOR IT TO SAY WE. WE AS HIS FAMILY BELIEVE THERE
13 WAS INTENTION AT THAT TIME.

14 THE COURT: TO DO WHAT?

15 MS. YONSON: TO, FOR ANY HARM TO BE DONE TO THESE TO
16 OFFICERS THAT NIGHT. WE, HIS FAMILY BELIEVE IN HIS
17 INNOCENCE. AND CAN SAY TO YOU THAT HE WAS DOING REALLY
18 WELL UNTIL THAT NIGHT. AND WE AS HIS FAMILY, FEEL IN HIS
19 HONESTY THAT HE IS TELLING THE TRUTH. AND THAT HE WAS
20 TRYING. HE SAW THERE WAS TROUBLE THERE. HE KNEW HE
21 WASN'T SUPPOSED TO BE THERE WITH GUNS IN HIS POCKET. HE
22 ADMITTED TO THAT. AND WE FEEL CONFIDENT THAT HE WAS JUST
23 TRYING TO GO HOME AND GET AWAY. WE DON'T KNOW IF THE
24 CONFUSION OF THE FIGHT WAS GOING ON, HINDERED HIM FROM
25 HEARING. WE FIRMLY BELIEVE IN HIS INNOCENCE ON THOSE

1 CHARGES. BUT WE CAN TESTIFY TO YOU THAT HE WAS DOING
2 GOOD AND ONE MONTH SHY OF HIS PROBATION ENDING.

3 THE COURT: MR. CONNER, ANYTHING FURTHER?

4 MR. CONNER: I HAVE NOTHING FURTHER, YOUR HONOR. I
5 THINK USE OF ILLEGAL DRUG SUBSTANCES WITH HIS HOSPITAL
6 RECORDS CLEARLY INDICATE THE USE OF COCAINE WOULD ALSO BE
7 A VIOLATION OF HIS PROBATION. THE PROBATION AGENTS MAY
8 NOT HAVE THAT INFORMATION BUT....

9 THE COURT: IT'S ALWAYS TROUBLING TO ME WHENEVER I
10 PLACE SOMEONE ON PROBATION, WHEN I HAVE AN OPPORTUNITY TO
11 SEND THEM TO PRISON, BUT MR. YONSON APPEARED BEFORE ME IN
12 2003, OVER IN MANNING. I BELIEVE I RECALL DEALING WITH
13 MR. YONSON, BECAUSE I BELIEVE I RECALL DEALING WITH MS.
14 YONSON. I BELIEVE YOU WROTE ME SOME LETTERS. AND SO
15 FORTH. HE WAS THE ONLY CHILD SENTENCED ON THAT DAY?

16 MS. YONSON: NO, SIR. HIS OLDER BROTHER WAS
17 ACTUALLY, IT WAS SORT OF HAND OF ONE HAND OF ALL. AND
18 HIS OTHER BROTHER IS ACTUALLY SERVING TIME FOR THOSE
19 CRIMES.

20 THE COURT: I THOUGHT I REMEMBERED THAT. AND THERE
21 WERE TWO YONSONS BEFORE ME. AND THIS YONSON WAS THE ONE
22 WHO WAS DUE THE BREAK BECAUSE IT WAS HIS BROTHER WHO WAS
23 THE MORE CULPABLE OF THE HANDS OF ONE THE HANDS OF ALL.
24 WHATEVER THEORY. RATHER THAN GETTING 15 YEARS IN PRISON
25 OR ANYTHING CLOSE TO THAT, HE GOT 90 DAYS. HE GOT

1 PROBATION. IT IS ALWAYS A CONCERN OF MINE WHENEVER I DO
2 THAT, AND SUCH A CONCERN, THEY MAY END UP COMING BACK
3 BEFORE ME HAVING DONE SOMETHING AS SERIOUS AS THIS ONCE
4 THEY HAVE BEEN PLACED ON PROBATION BY ME OR ANY OTHER
5 JUDGE. THE PROBATION SYSTEM FOLLOWS -- SERVES A VERY
6 USEFUL PURPOSE, BECAUSE YOU CAN'T LOCK EVERYONE UP. AND
7 MANY PEOPLE DESERVE A BREAK.

8 I AM STATING THAT IT WAS A MISTAKE TO PLACE YOU ON
9 PROBATION, BECAUSE YOU WENT A LITTLE OVER TWO YEARS
10 BEFORE YOU GOT IN MORE TROUBLE. BUT YOU GOT IN TROUBLE
11 BIG TIME WHEN YOU COMMITTED THESE OFFENSES. UNLIKE
12 ANYONE ON THE DEFENSE'S SIDE, I DON'T QUESTION THE JURY'S
13 VERDICT IN ANY FORM OR FASHION. OUR SYSTEM IS SET UP
14 WHERE YOU ARE ENTITLED TO A FAIR TRIAL, TO PRESENT THE
15 EVIDENCE TO A JURY, BOTH SIDES. TELL THE JURY WHAT YOU
16 WANT. AND THEY'RE FAIR AND IMPARTIAL. AND ONCE THE JURY
17 REACHES A VERDICT; THAT IS THE TRUTH AS FAR AS I AM
18 CONCERNED. THE TRUTH IN THIS CASE IS THAT YOU ARE GUILTY
19 OF ALL THESE CRIMES..

20 AND I AM SENTENCING YOU AS FOLLOWS: COUNT 1,
21 UNLAWFUL PISTOL SENTENCE IS ONE YEAR. COUNT NO. 5,
22 GUILTY OF POSSESSION OF A PISTOL BEING UNDER THE AGE OF
23 21 THE SENTENCE IS TWO YEARS. FOR POSSESSION OF PISTOL
24 BY A PERSON HAVING BEEN CONVICTED OF A CRIME OF VIOLENCE,
25 SENTENCE IS FIVE YEARS. AS TO ASSAULT AND BATTERY WITH

1 INTENT TO KILL OFFICER ERIN R. BOLAND SENTENCE IS
2 20 YEARS. AS TO ASSAULT AND BATTERY WITH INTENT TO KILL
3 OFFICER JAMES B. WILLIAMS THE SENTENCE IS 20 YEARS. FOR
4 POSSESSION OF A FIREARM DURING THE COMMISSION OF A
5 VIOLENT CRIME THE SENTENCE IS FIVE YEARS.

6 AS TO ASSAULTING OFFICER BOLAND WHILE RESISTING
7 ARREST THE SENTENCE IS 10 YEARS. COUNT 10. COUNT 11, AS
8 TO ASSAULTING OFFICER JAMES B. WILLIAMS WHILE RESISTING
9 ARREST THE SENTENCE IS 10 YEARS. AS TO RESISTING ARREST
10 WITH A DEADLY WEAPON THE SENTENCE IS FIVE YEARS. COUNT
11 7, GUILTY OF ASSAULT AND BATTERY WITH INTENT TO KILL,
12 THAT SENTENCE IS TO RUN CONSECUTIVE WITH COUNT 11,
13 ASSAULTING OFFICER JAMES B. WILLIAMS WHILE RESISTING
14 ARREST. AS TO POSSESSION OF A WEAPON DURING A VIOLENT
15 CRIME COUNT 9, THAT SENTENCE IS TO RUN CONSECUTIVE TO
16 COUNTS NO. 7 AND COUNT NO. 11. COUNTS NO. 7, 9 AND 11,
17 ARE TO RUN CONSECUTIVE TO EACH OTHER. ALL OTHER COUNTS
18 ARE TO RUN CONCURRENT. GIVEN CREDIT FOR ANY TIME YOU
19 HAVE SERVED ON THIS CHARGE. THESE CHARGES. NOT FOR THE
20 TIME SERVED REGARDING THE PROBATION VIOLATION. THE
21 SENTENCES ARE TO RUN CONCURRENT WITH THE TIME BEING
22 SERVED. THAT IS THE SENTENCE OF THE COURT GOOD LUCK TO
23 YOU, SIR.

24 -----END OF REQUESTED TRANSCRIPT OF RECORD---
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER

I, MARGARET T. SULLIVAN, OFFICIAL COURT REPORTER FOR
THE THIRD JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA,
DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD
AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED
CASE, RELATIVE TO APPEAL, IN THE GENERAL SESSIONS COURT ON
JANUARY 16TH-18TH 2007, FOR SUMTER COUNTY, SUMTER, SOUTH
CAROLINA.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

June 27, 2007
DATE

Margaret T. Sullivan

MARGARET T. SULLIVAN, COURT REPORTER
MY COMMISSION EXPIRES OCTOBER 3, 2011

STATE OF SOUTH CAROLINA)
 County of Sumter)
Randy Ganson 312280)
 Full name and prison number, if any, of applicant)
)
 v.)
State of South Carolina)
 Name of Respondent)
)

In the Court of Common Pleas

RECORDED

2010 DEC 29 PM 4:07

2010-CP-43-279

JAMES C. CAMPBELL
 CLERK OF COURT
 SUMTER COUNTY, S.C.
 CERTIFIED TRUE COPY
 OF ORIGINAL FILE

APPLICATION FOR

POST-CONVICTION RELIEF

Barbara Thayer
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention McCormick Correctional Institution,
386 Redemption way, McCormick, SC 29379
2. Name and location of Court which imposed sentence Court of General Sessions
Sumter County
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 (a) 2006-65-43-179 (2) unlawful pistol; (2) Possession
 (b) of stolen pistol; Possession of pistol by person convicted
 (c) of violent crime; (2) Assault and battery with (Cont.)
on back →
4. The date upon which sentence was imposed and the terms of the sentence:
 (a) January 18, 2007
 (b) 35 Years
 (c) _____

3. 402 with intent to Kill; Possession of a firearm during
- e. the commission of a violent Crime (2) Assaulting a
 - f. Law enforcement while resisting Arrest; (2) Resisting
 - G. Arrest with a deadly weapon; Possession of Cocaine

5. Check whether a finding of guilty was made
- (a) after a plea of guilty No
- (b) after a plea of not guilty Yes
- (c) after a plea of nolo contendere No
6. Did you appeal from the judgment of conviction or the imposition of sentence? Yes
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Possession of a pistol by a person under 21.
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. September 16, 2010
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished opinion No. 2010-UP-408
- ii. _____
- iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) N/A
- (b) N/A
- (c) N/A
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) trial counsel was ineffective when he made a motion in
- (b) limine to suppress and exclude evidence of officers
- (c) statement, but counsel failed to preserve such (Cont.)

on back →

9. (a) ⁴⁰⁴ motion by making a contemporaneous objection when the evidence was introduced. (See, Rule 220(b)(1) SCACR; State v. Forrester, 343 SC 637, 642, 341 SE2d 837, 840 (2001); Unpublished opinion No. 2010-up-408

9) Insufficient pre-trial preparation time with attorney.

9) Ineffective assistance of counsel in that he did not interview potential witnesses.

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) Same as Above

(b) _____

(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law ?

No

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

No

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) No

(d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i.

N/A

ii.

N/A

iii.

N/A

iv.

N/A

(b) the name and location of the Court in which each was filed:

i.

N/A

ii.

N/A

iii.

N/A

iv.

N/A

(c) the disposition thereof:

i.

N/A

ii.

N/A

iii.

N/A

iv.

N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) this is first PCR Application
- (b) _____
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
Yes
- (e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? Yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. T.D. Williams, IV 10 Law Range Sumter SC 29150
- ii. E.F. Best P.O. Box 11589 Columbia SC 29211
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial and filed Direct appeal
- ii. Direct Appeal
- iii. _____

18. State clearly the relief you seek in filing this application.

Get all consecutive sentences run concurrent to
20 year sentence

19. Are you now under sentence from any other court that you have not challenged?

Yes, 15 year sentence for Violation of Probation.

STATE OF SOUTH CAROLINA)

COUNTY OF McCormick)

VERIFICATION

I, Randy Yanson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Randy Yanson

Sworn to and subscribed before me

This 17 day of Dec, 2016.

J. C. Franklin L.S.

Notary Public for South Carolina

My Commission Expires 12.16.2019

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Randy Yanson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

Randy Yanson
Applicant

Sworn to and subscribed before me

This 17 day of Dec, 2016.

J. C. Franklin L.S.

Notary Public for South Carolina

My Commission Expires: 12.16.2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	
	)	2010-CP-43-2797
	)	
Randy Yonson, #312280,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(Appointment of Counsel Requested)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 29, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was indicted at the January 4, 2007 term of the Sumter County Grand Jury for two (2) counts of Unlawful Pistol, two (2) counts Possession of a Stolen Pistol, Possession of a Pistol by a Person under the Age of Twenty-One, Possession of a Pistol by a Person Convicted of a Crime of Violence, two (2) counts of Assault and Battery with Intent to Kill, Possession of a Firearm during a Crime of Violence, two (2) counts of Assaulting a Law Enforcement Officer while Resisting, Resisting Arrest with a Deadly Weapon, and Possession of Cocaine (2006-GS-43-0179). T.D. Williams, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Clifton Newman. Applicant was found guilty on all charges, and on January 18, 2007, was sentenced one (1) year imprisonment for each count of Unlawful Pistol, two (2) years

imprisonment for Possession of a Pistol by a Person under Twenty-One, five (5) years imprisonment for Possession of a Pistol by a Person Convicted of a Crime of Violence, twenty (20) years imprisonment for the second count of Assault and Battery with Intent to Kill, ten (10) years imprisonment for the first count of Assaulting a Law Enforcement Officer While Resisting Arrest, and five (5) years imprisonment for Resisting Arrest with a Deadly Weapon, each of which to run concurrently to a twenty (20) year sentence for the first charge of Assault and Battery with Intent to Kill (Count 7). Additionally, those charges were to run consecutively to a five (5) year sentence for Possession of a Firearm during the Commission of a Crime of Violence and a ten (10) year sentence for the second charge of Assaulting a Law Enforcement Officer While Resisting Arrest, for a total sentence of thirty-five (35) years imprisonment. The Applicant appealed to the South Carolina Court of Appeals, and the sentence was Affirmed in Part and Reversed in Part. Applicant's conviction for Possession of a Pistol by a Person under Twenty-One was reversed. The Remittitur was sent on October 5, 2010.

Attached and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, Applicant's Appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Trial Counsel was ineffective when he made a motion in limine to suppress and exclude evidence of officers' statement, but counsel failed to

- a. "Trial Counsel was ineffective when he made a motion in limine to suppress and exclude evidence of officers' statement, but counsel failed to preserve such motion by making a contemporaneous objection when the evidence was introduced.";
- b. Insufficient pre-trial preparation time with attorney; and
- c. Counsel did not interview potential witnesses.

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness

under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signatures on next page.]

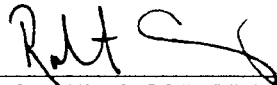
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

ROBERT D. CORNEY
Staff Attorney

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

June 17, 2011.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	
	)	
	)	2010-CP-43-2797
	)	
RANDY YONSON, 312280,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Debra Y. Chapman, Esquire
2007 Lincoln Street
Columbia, SC 29201

DATED this 17th day of June, 2011.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

1 State of South Carolina) In the Court
2 County of Sumter) Of Common Pleas
3
4 Docket No: 2010-CP-43-02797
5
6 Randy Yonson,)
7 Applicant,)
8 vs.) Transcript of Record
9 State of South Carolina,)
10 Respondent.)

11
12 October 4, 2013
13 Sumter, South Carolina
14

15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge.
17

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

19 Bradley Kirkland, Esquire
20 Attorney for the Applicant

21 Daniel Gourley, Assistant Attorney General
22 Attorney for the Respondent
23

24 Brenda J. Sigwald, Circuit Court Reporter
25 For the Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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1 POST-CONVICTION RELIEF HEARING

2 MR. KIRKLAND: What I've done here, Judge, is made
3 you a copy of the exhibits that I intend to introduce.

4 THE COURT: All right.

5 MR. KIRKLAND: And I think they're in the order
6 that I intend to introduce them. So you'll be able to
7 follow along more easily.

8 THE COURT: Okay. Thank you.

9 MR. GOURLEY: Judge, we've discussed them in
10 advance and there's no objection to these.

11 THE COURT: Okay. Thank you.

12 MR. GOURLEY: We're just waiting on Mr. Yonson,
13 Judge.

14 THE BAILIFF: He has made a trip up to the
15 solicitor's office. He'll be right back.

16 MR. GOURLEY: All right.

17 (WHEREUPON there was a pause in the proceedings.)

18 THE COURT: All right. Mr. Gourley?

19 MR. GOURLEY: Yes, Your Honor, may it please the
20 Court. This is Randy Yonson versus the State of South
21 Carolina, Docket No. 2010-CP-43-2797. He's presently
22 confined at the South Carolina Department of Corrections
23 pursuant to orders of commitment by the Sumter County Clerk
24 of Court. He was indicted at the January 4th 2007 term of
25 the Sumter County Grand Jury for two counts of unlawful

1 pistol, two counts of possession of a stolen pistol,
2 possession of a pistol by a person under the age of 21,
3 possession of a pistol by a person convicted of a crime of
4 violence and two counts of assault and battery with intent
5 to kill; possession of a firearm during a crime of
6 violence; two counts of assaulting a law enforcement
7 officer while resisting arrest with a deadly weapon --
8 possession of a deadly weapon.

9 Mr. T. D. Williams, Esquire represented him. He
10 proceeded to a jury trial before the Honorable Clifton
11 Newman. He was found guilty on all charges on January 18,
12 2007, was sentenced to one year imprisonment for each count
13 of an unlawful pistol, two years imprisonment for
14 possession of a pistol or possession of a pistol by a
15 person under the age of 21; five years imprisonment by a
16 person convicted of a crime of violence; twenty years
17 imprisonment for second count of assault and battery with
18 intent to kill; ten years imprisonment for the first count
19 of assaulting a law enforcement officer while resisting
20 arrest; five years for resisting arrest with a deadly
21 weapon; each of which run concurrently to the twenty year
22 sentence for the first charge of assault and battery with
23 intent to kill which was count seven, Your Honor.

24 Additionally, those charges were to run
25 consecutively to a five year sentence for possession of a

1 firearm during the commission of a violent -- commission of
2 a crime of violence and ten years sentence for the second
3 charge of assaulting a law enforcement officer while
4 resisting arrest for a total sentence of thirty-five years
5 imprisonment.

6 He appealed to the South Carolina Court of Appeals.
7 His sentence was affirmed in part and reversed in part.

8 Applicant's conviction for a possession of a pistol
9 by a person under the age of 21 was reversed. A remittitur
10 was sent on October 5th, 2010. He subsequently filed an
11 application for post-conviction relief on December 29th,
12 2010 alleging ineffective assistance of trial counsel.

13 Through Mr. Bradley Kirkland he has amended his
14 application and, Your Honor, the State filed its return on
15 June 17th, 2011. He is represented up here today by
16 Mr. Bradley Kirkland. I'll give it to him now, Your Honor.

17 THE COURT: Thank you. Thank you very much.

18 Mr. Kirkland?

19 MR. KIRKLAND: Your Honor, we would call Randy
20 Yonson to the stand.

21 THE COURT: All right. If you would come around
22 and be sworn, please.

23 MR. KIRKLAND: And, Your Honor, I'm not familiar
24 with this courtroom, may I present from right here?

25 THE COURT: That's what they've been doing, yes,

Randy Yonson - Direct Examination by Mr. Kirkland

1 sir.

2 THE BAILIFF: Come right up here.

3 RANDY YONSON,

4 having been duly sworn, testified as follows:

5 THE BAILIFF: Come around here, sir. State your
6 name and spell your last for the record.

7 THE WITNESS: Randy Yonson, Y-o-n-s-o-n.

8 THE COURT: Thank you. Mr. Kirkland?

9 DIRECT EXAMINATION

10 BY MR. KIRKLAND:

11 Q Mr. Yonson, you just heard the assistant attorney
12 general lay out the procedural history of your case. To
13 the best of your knowledge, was that an accurate recitation
14 of the procedural history of your case?

15 A Yes, sir.

16 Q And that was the sentence that you received?

17 A Yes, sir.

18 Q And those were the indictments that you were
19 convicted of, correct?

20 A Yes, sir.

21 Q How old are you right now?

22 A Twenty-eight years old.

23 Q Where are you currently housed?

24 A McCormick Correctional Institution.

25 Q And what is the total sentence that you received?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Thirty-five years.

2 Q Thirty-five years. I want to initially go back to,
3 you know, how this -- how this all started. This all
4 began, if I'm not mistaken on September 11, 2005, correct?

5 A Yes, sir.

6 Q Okay. Now, on that night -- I'm going to summarize
7 this so we can get moving here a little bit. It was on
8 that night that you got into an altercation with the police
9 at the Friend's Club, which is a bar, correct?

10 A Yes, sir.

11 Q This occurred in the parking lot?

12 A Yes, sir.

13 Q And as a result of that altercation, two officers
14 received gunshot wounds, correct?

15 A Yes, sir.

16 Q And you, in fact, received three gunshot wounds --

17 A Yes, sir.

18 Q -- is that correct?

19 Now, because of this incident, you were ultimately
20 served with several warrants, correct?

21 A Yes, sir, five warrants.

22 Q I'm going to let you look at what I'm holding right
23 here. Do you recognize these?

24 A Yes, sir.

25 Q What are those?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A These are the warrants.

2 Q Those are the five warrants that you received?

3 A Five warrants, yes, sir.

4 Q And the original five warrants, I'll go through
5 them real quick with you. The original five warrants were
6 for assault and battery with intent to kill, correct?

7 A Yes, sir.

8 Q Assault and battery with intent to kill, correct?

9 A Yes, sir.

10 Q Resisting arrest and assault while resisting
11 arrest, correct?

12 A Yes, sir.

13 Q Violation of the gun law, which was the possession
14 of a gun during the commission of a violent crime, correct?

15 A Yes, sir.

16 Q And those were your five warrants, correct?

17 A Yes, sir.

18 Q In fact --

19 MR. KIRKLAND: Your Honor, just so I can talk about
20 these later, I'd like to introduce this as Exhibit A or 1.

21 THE COURT REPORTER: One.

22 (WHEREUPON Applicant's Exhibit No. 1 was marked for
23 evidence.)

24 THE COURT: All right. There's no objection?

25 MR. GOURLEY: No objection, Your Honor.

Randy Yonson - Direct Examination by Mr. Kirkland

1 THE COURT: One is in evidence.

2 (WHEREUPON Applicant's Exhibit No. 1 was entered
3 into evidence.)

4 BY MR. KIRKLAND:

5 Q All right. Now, during that incident, you
6 mentioned that you were shot three times. And we'll get
7 into the specifics of the incident a little bit later, but
8 let's talk about right now, immediately after you were shot
9 three times -- let's start from there. What happened after
10 that?

11 A I was placed in handcuffs and it was a civilian at
12 the bar in the parking lot that was standing there kind of
13 holding me on the ground, you know what I'm saying, until
14 EMS arrived. Two EMS arrived, one attended to Ernie Bolin
15 first. The second one attended to James Williams.

16 Q Okay. Now, let's talk about Ernie Bolin and James
17 Williams. Who is Ernie Bolin?

18 A Ernie Bolin is a deputy sheriff.

19 Q And he was one of the officers that had been --

20 A Had been shot, yes, sir.

21 Q And the James Williams, who is that?

22 A He's another deputy sheriff that was there too.

23 Q And he's the other deputy that received a gunshot
24 wound, correct?

25 A Yes, sir.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Okay. So they were being attended to, you were --
2 by EMS -- you were being attended to by someone who worked
3 at the bar, I take it?

4 A Uh-huh.

5 Q And tell me what happened from that point forward?

6 A Well, the EMS finally arrived and put me on a
7 stretcher and put me in the ambulance.

8 Q And where did you go from there?

9 A From there, they took me probably a quarter mile
10 down the road. The church had a huge parking lot and by
11 the time we pulled up in the ambulance, the helicopter was
12 there and then --

13 Q Okay. Now, tell me what you mean by the helicopter
14 was there?

15 A It was like a military helicopter landed in the
16 parking lot.

17 Q Why was that helicopter there?

18 A To take me and Officer Bolin to Richland Memorial.

19 Q Okay. So both of you were loaded onto that
20 helicopter?

21 A Yes, sir.

22 Q Okay. Tell me what happened from there.

23 A I was -- I was conscious about 56 minutes after I
24 was shot, but the helicopter ride, I only remember maybe
25 five minutes of the helicopter ride and I went unconscious.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q What happened -- when did you wake back up or where
2 were you?

3 A I think I woke up -- it was probably two days
4 later.

5 Q So you don't -- there's just this two-day period
6 you don't remember anything?

7 A I don't know nothing.

8 Q Where were you at that time when you woke up?

9 A I was in a hospital. I didn't know at the time
10 which one.

11 Q You know which one it was now?

12 A Yes, sir.

13 Q Which one was it?

14 A Richland Memorial.

15 Q How long were you at Richland Memorial?

16 A Six days.

17 Q Now, tell me what they had to do at Richland
18 Memorial to you -- to treat you?

19 A They did emergency exploratory surgery upon my
20 arrival. They cut me from stem to stern to go in my
21 insides to see if the gunshot wound had hit me in the back
22 and done any damage on the inside. So they did that.

23 Q Well, let's talk about the gunshot wounds real
24 quick. Where did you receive gunshot wounds?

25 A I've got a gunshot wound in my left shin --

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Left shin.

2 A -- my left hip.

3 Q Okay.

4 A And in my right shoulder blade.

5 Q Okay. That shoulder blade you're talking about was
6 in your back?

7 A Yes, on my back, right below my shoulder blade.

8 Q Now, tell me, so we don't forget about doing this
9 later -- and we're not going to go into much detail. You
10 got shot three times. How did those three shots occur.
11 What happened when the first shot was fired? Where were
12 you then?

13 MR. GOURLEY: Objection, Your Honor. We're here on
14 ineffective assistance of counsel. We're not here to retry
15 the case.

16 MR. KIRKLAND: Your Honor, this goes to later on,
17 things that we think Mr. Williams didn't establish at the
18 trial.

19 THE COURT: All right. I'll allow it.

20 BY MR. KIRKLAND:

21 Q Where were you shot?

22 A I was initially shot in the shin.

23 Q Okay. What happened when you were shot in the
24 shin?

25 A I felt extreme burning pain, so I grabbed -- I

Randy Yonson - Direct Examination by Mr. Kirkland

1 grabbed where the shot was at, so I grabbed my shin so my
2 leg was lifted up. At this point, I'm pretty much laying
3 on my back, facing the police.

4 Q Okay.

5 A So I grabbed my shin and I felt another shot hit me
6 in the hip because my leg was pulled up towards my chest,
7 so the second shot hit me in my buttocks area.

8 Q Okay.

9 A And that swung me over on my stomach. When I was
10 laying flat on my stomach, that's when I spread my arms all
11 the way out, you know what I'm saying, to surrender pretty
12 much, you know what I'm saying, stop shooting.

13 Q Right.

14 A And at that point he shot me in my back.

15 Q Okay. So that's how you received your three
16 gunshot wounds.

17 Now, how long were you in Richland Memorial? I
18 think you said six days?

19 A Six days.

20 Q Okay. From Richland Memorial where did you go?

21 A They took me to Sumter County, Sumter/Lee Regional
22 Detention Center for a bond hearing.

23 Q Okay. Did you have an attorney in that bond
24 hearing?

25 A I don't think so.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q You remember?

2 A I don't think I had an attorney at the bond
3 hearing.

4 Q All right. Once you had the bond hearing -- I
5 assume the bond was denied?

6 A Yeah, yes, sir.

7 Q Or it was just really high. Where did you go from
8 the bond hearing?

9 A They couldn't house me at the Sumter/Lee Regional
10 Detention Center because of my medical condition, so they
11 took me to Just Care on Farrow Road in Columbia.

12 Q Okay. How long were you at Just Care?

13 A Four weeks, twenty-eight days.

14 Q While you were at Just Care, did you have an
15 opportunity to meet with an attorney?

16 A I saw no attorney at Just Care.

17 Q So after four weeks at Just Care, what happened to
18 you then?

19 A The doctor released me from Just Care after twenty
20 days and I returned to the Sumter/Lee Regional Detention
21 Center.

22 Q Okay. Now, when you were at the Sumter/Lee
23 Regional Detention Center, did you have an opportunity to
24 meet with an attorney?

25 A Yes, sir.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Who was that?

2 A Melissa Biggers.

3 Q Okay. Tell me who she was. How did she introduce
4 herself to you?

5 A She came and they called me out my cell and she
6 said that she was a court-appointed attorney and that she
7 would be representing me and that she was filing some
8 motions for my Rule 5 and 6 discoveries, and stuff like
9 that.

10 Q Did she have any of the discovery materials with
11 her at that point in time?

12 A No, sir.

13 Q Now, did you ever see her again when you were at
14 the Sumter/Lee Regional Detention Center?

15 A Never saw her again.

16 Q Did you see any other attorney during that stay?

17 A No, sir.

18 Q How long were you at -- just estimate -- at the
19 Sumter/Lee Regional Detention Center?

20 A One month.

21 Q Okay. Now, why did you leave that detention
22 center?

23 A I received a fifteen year of sentence for violation
24 of probation and they sent me to Kirkland R & E in
25 Columbia.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Okay. So that was -- that was, of course,
2 something completely unrelated to this charge -- to the
3 charges that are concerning in this PCR, right?

4 A Yes, sir.

5 Q Okay. So you got a fifteen year sentence on that?

6 A Yes, sir.

7 Q Where did you go -- you said Kirkland?

8 A I went to Kirkland R & E --

9 Q First of all, how long were you at Kirkland R & E?

10 A Approximately twenty-eight days, a month at R & E
11 too, yes, sir.

12 Q Did you have an opportunity to visit with an
13 attorney while you were there?

14 A Saw no attorney at Kirkland.

15 Q So at this point in time, the only attorney that
16 you had seen had introduced herself to you for a few
17 minutes and told you she filed motions?

18 A And told me -- yes, sir.

19 Q After -- because Kirkland R & E, they assign you
20 housing. Where did you end up going after that?

21 A I was transferred to McDougal Correctional
22 Institution in Ridgeville, South Carolina.

23 Q About how long were you at McDougal?

24 A I was at McDougal approximately fourteen months.

25 Q Now, during that period of time that you were at

Randy Yonson - Direct Examination by Mr. Kirkland

1 McDougal, did you get to visit with an attorney?

2 A Yes, sir.

3 Q Who was it that visited with you?

4 A Todd Williams.

5 Q Now, Todd was not the original -- excuse me,

6 Mr. Williams was not the original attorney. And I want to
7 show you a couple of letters here. Can you tell me if you
8 recognize these?

9 A Yes, sir. That's the letters Todd sent me advising
10 me that he's been appointed as my attorney.

11 Q And these letters are dated when?

12 A October 4th and October 6th --

13 MR. KIRKLAND: Your Honor, I'd like to move these
14 two --

15 THE WITNESS: -- 2006.

16 MR. KIRKLAND: I'd like to move these two into
17 evidence, Your Honor.

18 MR. GOURLEY: No objection, Your Honor.

19 THE COURT: All right. Applicant's 2 and 3 are in
20 evidence without objection.

21 (WHEREUPON Applicant's Exhibits 2 and 3 were marked
22 and entered into evidence.)

23 MR. KIRKLAND: Thank you.

24 BY MR. KIRKLAND:

25 Q Now, those -- these letters are basically him

Randy Yonson - Direct Examination by Mr. Kirkland

1 saying that I've been appointed to you and I'm going to
2 work on your case and I'll be out there to see you soon?

3 A Yes, sir.

4 Q He also, I think, indicates that there's a term of
5 court coming up and if you wanted to enter a plea, to let
6 him know, correct?

7 A Yes, sir.

8 Q Now, after that letter on October 4th and October
9 6th -- and I should point out for the record, those letters
10 are identical, are they not?

11 A Yes, sir, pretty much.

12 Q So they're just -- accidentally the same letter,
13 got sent out on the same day?

14 A Yes, sir.

15 Q Did you hear from your attorney other than that
16 letter -- when was the next time you heard from your --

17 THE COURT: Say that again about identical.

18 MR. KIRKLAND: Your Honor, Exhibit 2 and Exhibit 3
19 are identical letters except for the date on the top. So
20 it appears that they were just accidentally sent out on two
21 separate days, but they were identical letters.

22 THE COURT: But they're different addresses.

23 MR. KIRKLAND: Yes, Your Honor, you are correct.
24 So one was sent to --

25 THE COURT: I take it Green Street was his local

Randy Yonson - Direct Examination by Mr. Kirkland

1 address --

2 MR. KIRKLAND: And then they realized that he was
3 in jail.

4 THE COURT: That was local and then they sent it to
5 McDougal.

6 MR. KIRKLAND: Yes, sir, Your Honor. The contents
7 are the same.

8 THE COURT: I wanted to make sure I was looking at
9 the right thing. You may continue Mr. Kirkland.

10 MR. KIRKLAND: Thank you, Your Honor.

11 BY MR. KIRKLAND:

12 Q You received one of those letters for sure and that
13 was your first contact with Mr. Williams, correct?

14 A Yes, sir.

15 Q All right. Now, when was the next time that you
16 had any contact with Mr. Williams?

17 A I believe I got a letter from him --

18 Q Let me show you this letter and see if that
19 refreshes your recollection. You don't need to look
20 through your stuff.

21 A He sent me a letter December 8th, 2006, advising me
22 that he was scheduled to visit for Wednesday, December
23 20th.

24 MR. KIRKLAND: And Your Honor, I would like to put
25 this into evidence as No. 4.

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1 THE COURT: Any objection?

2 MR. GOURLEY: No, Your Honor, no objection.

3 THE COURT: Four is in -- Applicant's 4 is in
4 evidence without objection. That's the letter of December
5 8th?

6 MR. KIRKLAND: Yes, sir, Your Honor.

7 THE COURT: Thank you.

8 (WHEREUPON Applicant's Exhibit No. 4 was marked and
9 entered into evidence.)

10 BY MR. KIRKLAND:

11 Q This letter indicates that he's coming to visit you
12 on December 20th, 2006, at 10:30 in the morning, correct?

13 A Yes, sir.

14 Q Did you see him on December 30th -- excuse me, I
15 forgot the date. On December 20th, 2006, at 10:30?

16 A Yes, sir, I did.

17 Q How long did you get to meet with him on that date?

18 A For right over two hours. Maybe two hours and a
19 few minutes.

20 MR. KIRKLAND: And, Your Honor, I have here a
21 record of that visit and I believe that I can introduce it
22 into evidence without objection.

23 MR. GOURLEY: Yes, Your Honor, previous counsel was
24 cc'd on the e-mails so we have no objection to that.

25 THE COURT: All right. So that would be

Randy Yonson - Direct Examination by Mr. Kirkland

1 Applicant's 5.

2 MR. KIRKLAND: Five.

3 THE COURT: Applicant's No. 5 in evidence.

4 (WHEREUPON Applicant's Exhibit No. 5 was marked and
5 entered into evidence.)

6 MR. KIRKLAND: Now, that, Your Honor, just to
7 describe it for the record so it's clear later, is the
8 Friday, February 8th, 2013 e-mail that I received from
9 Georgina Ramey and it was carbon copied to Megan Harrigan
10 at the Attorney General's Office and the letter indicates
11 that Mr. Yonson was visited by Mr. Williams on December
12 20th, 2006, from 10:24 a.m. until 12:25 p.m.

13 THE COURT: All right.

14 BY MR. KIRKLAND:

15 Q Now -- so that meeting with you was two hours and
16 one minute, right?

17 A Yes, sir.

18 Q And that's what you -- do you remember it being
19 about two hours? Independent from this exhibit, is that
20 about what you remember?

21 A Yes, sir, it was about two hours.

22 Q Now, tell me -- what did you guys talk about? Tell
23 me about the meeting. I want you to describe that meeting
24 in detail; everything that happened.

25 A Well, you know, he -- we started off, we watched

Randy Yonson - Direct Examination by Mr. Kirkland

1 some of the video tapes that was patrol cars, feed from
2 them. We watched that for probably about thirty minutes.

3 Q Okay. Now, let's talk about that so the judge will
4 know what we're talking about. Two of the cars had in car
5 cameras, right?

6 A Yes, sir.

7 Q And at your trial, portions of those two in-car
8 camera's were played at your trial?

9 A Yes, sir, that's correct.

10 Q Now, do you remember -- I don't think that you got
11 to watch it then, but you have been able to see the videos
12 since then. Do you know what the total amount -- number of
13 hours that there was from these in-car cameras?

14 A I want to say it was like thirteen hours of feed.

15 Q Right. But how much was related directly to the
16 incident?

17 A Probably about six hours of it is related to the
18 incident.

19 Q So to clarify, a lot of the video had other stops
20 and other things on it, but there was six hours, three
21 hours on each tape, devoted to this incident, correct?

22 A Yes, sir.

23 Q Okay. So of that six hours, you watched about 30
24 minutes of it?

25 A Thirty minutes of it, that's correct.

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1 Q Now, to be fair, I think it's important for us to
2 describe to the judge what is really on those tapes. Can
3 you see any of the incident on these tapes?

4 A You can see nothing but the back of a truck.

5 Q Okay.

6 A And kind of like -- it's an empty parking space
7 beside the truck. That's where the incident took place.
8 But where it calls -- all the camera would see was the
9 vehicle in front of it. It couldn't -- it couldn't see the
10 actual --

11 Q So to put it another way, the actual incident that
12 led to the shooting, you and the officers, the struggle,
13 none of that is actually on the camera?

14 A No, sir, you can't see it.

15 Q Okay. But there is sound on the camera, correct?

16 A There is sound, yes, sir.

17 Q Okay. And we're going to talk about that sound a
18 little bit later.

19 Now, other than looking at that video for
20 approximately thirty minutes, what else did you look at and
21 what else did you talk about?

22 A We were talking about how I was going to present my
23 defense. I was talking to him about some issues that I was
24 wanting to bring up during the trial and when I asked him
25 about my discovery, the Rule 5 and 6 because he had it with

Randy Yonson - Direct Examination by Mr. Kirkland

1 him and I'd never seen none of the discovery paper until
2 that day.

3 Q Right.

4 A So I was looking at a few of the papers, but there
5 was so many -- I mean it's like over 200 papers inside the
6 discovery.

7 Q Over 200 pages.

8 A Page, yes, sir.

9 Q Of the 20 pages, is there anything specific that
10 you do remember being able to go through?

11 A I remember specifically a SLED laboratory case
12 report that's 35 pages lodge.

13 Q Let me let you have a look at this. What is that?

14 A This is the SLED laboratory report, 35 pages.

15 Q So you had an opportunity to view this?

16 A Yes, sir.

17 MR. KIRKLAND: Your Honor, I'd introduce this as
18 No. 6.

19 MR. GOURLEY: No objection, Your Honor.

20 THE COURT: All right. Applicant's 6 in evidence
21 without objection.

22 (WHEREUPON Applicant's Exhibit No. 6 was marked and
23 entered into evidence.)

24 THE COURT: Hold it up for me and make sure I'm
25 looking at the same thing.

Randy Yonson - Direct Examination by Mr. Kirkland

1 MR. KIRKLAND: Yes, sir. I've handed that to
2 Mr. Yonson and I'm going to warn him --

3 Don't get that mixed up in your papers, Mr. Yonson,
4 leave it right there, we'll talk about it later.

5 BY MR. KIRKLAND:

6 Q All right. So you got a chance to look at the 35
7 pages and you got a chance to look at 30 minutes of video.

8 Now, tell me what you got to discuss with your
9 attorney at this point?

10 A The main thing that I seen inside the SLED
11 laboratory report was that there was -- there was only one
12 shell casing matching the 380, matching the gun that I had.

13 Q Was your attorney able to give you any advice at
14 that point in time as to potential defenses that you may
15 have and ways that he might be able to present those
16 defenses for you?

17 A No, sir.

18 Q Did -- was he able to go over the rest of the
19 discovery with you during that period of time?

20 A No, sir, I casually glanced through some of it, but
21 it was --

22 Q Over 200 pages.

23 A Yeah, by the time we watched the video and I talked
24 to him a little bit about how I wanted, you know what I'm
25 saying, to present a defense at the trial, certain things

Randy Yonson - Direct Examination by Mr. Kirkland

1 that I wanted him to do, you know what I'm saying, and then
2 that was it.

3 Q Now --

4 A So that's the only thing I saw was that 35 page
5 report.

6 Q Now, did you get to tell him -- did you feel like
7 at that point in time considering the amount of time that
8 you spent with him that you were able to tell him the
9 entire -- your side of the story?

10 A No, sir, because -- because I didn't have none of
11 the statements or none of the laboratory reports or --

12 Q Well, you had the SLED laboratory report.

13 A Yeah, I viewed it, but I didn't personally have it,
14 though.

15 Q Well, let's talk about that. Did you -- did you
16 ask for a copy of your discovery at this meeting?

17 A Yes, sir, I did.

18 Q And what did he tell you?

19 A He told me he wasn't going to give me a copy of it.

20 Q What was the reasoning behind that?

21 A He said he can't provide for -- I want to say --

22 Q Well, you don't have to -- we'll talk about that a
23 little bit later. What was what you remember at that
24 meeting?

25 A Well, he said he couldn't provide as a copy shop

Randy Yonson - Direct Examination by Mr. Kirkland

1 for all of his clients is what he told me.

2 Q He essentially refused to give you a copy of your
3 discovery?

4 A Refused, yes, sir.

5 Q Did you ask him to send you one a little bit later
6 if he couldn't give you that one?

7 A Yes, sir, I asked -- I actually asked him if the
8 discovery that he had with him, if I could take it back to
9 the unit with me and he told me no. At that point, I asked
10 him if he could make copies of it and send it to me so I
11 can, you know what I'm saying -- in the dorm and in my
12 room, I could study and prepare myself for the trial. You
13 understand, prepare a defense for myself.

14 Q Now, this all occurred on December 20th, correct?

15 A Yes, sir.

16 Q Of 2006?

17 A Yes, sir.

18 Q Now, was there any indication at that point in
19 anytime that trial was imminent? Did you talk about the
20 trial coming up with your attorney?

21 A No, I didn't think it was no way possible that I
22 would be going to trial any time soon because we -- we
23 didn't establish no kind of defense at that point. I
24 didn't have none of the -- you know what I'm saying, I
25 couldn't view all of the evidence that was against me. It

Randy Yonson - Direct Examination by Mr. Kirkland

1 was -- I just wasn't prepared. That was the first meeting
2 I ever met with him and I couldn't take none of my
3 paperwork, you know what I'm saying and go over it by
4 myself to study it.

5 Q So after that meeting, you had no paperwork at the
6 prison, did you have any communication with Mr. Williams by
7 mail or was there anything sent to you that you remember?

8 A No, sir.

9 Q When was the next time you saw him that you recall
10 actually meeting with him face to face?

11 A Face to face again, I believe was January 9th,
12 2007.

13 Q So this was approximately 20 days later or so?

14 A Twenty days later, yes, sir.

15 Q Okay. Now, tell me where you met him?

16 A I met him in -- I want to say it's a jury room in
17 the old courthouse.

18 Q Yes, sir.

19 A Behind the main courtroom -- the main courtroom.

20 Q Okay. I'm not familiar with that courthouse in any
21 way, shape, or form so describe it so that I can understand
22 it. I don't know if Judge McMahon is familiar with it.
23 Tell me what you mean.

24 A It's like behind the courtroom, there would be a
25 door.

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1 Q Okay.

2 A And you go back and it's like a jury room with a
3 large table and some chairs set up and it's got like coffee
4 and refrigerator and a bathroom.

5 Q Okay.

6 A And it's got officers, you know what I'm saying,
7 from other institutions, other inmates, and deputy sheriffs
8 all in this little room, just waiting to be called to the
9 courtroom. You know what I'm saying.

10 Q So it's the holding area prior to court?

11 A Yes, sir.

12 Q Now, who do you remember being in that room when
13 you were in that room? Were there other inmates in the
14 room?

15 A It was three other inmates from other institutions.

16 Q Were there any deputy sheriffs or personnel from
17 SCDC?

18 A Four -- six SCDC officers.

19 Q Okay. Now, you mentioned -- because we were
20 talking about the next time you got to see your attorney,
21 so I assume you got to see your attorney on this day?

22 A Yes, sir, I did.

23 Q Where did you see him?

24 A When I was sitting in the chair, he came -- I was
25 sitting in a chair in that jury room and he came in and sat

Randy Yonson - Direct Examination by Mr. Kirkland

1 across the table from me and handed me a new indictment.

2 Q I'm going to show you what I'm going to ask to be
3 Petitioner's 7. Do you recognize that?

4 A Yes, sir, I do.

5 Q Tell me what it is.

6 A It's the indictment that Mr. Todd Williams showed
7 me at that appointment.

8 MR. KIRKLAND: I would move this into evidence,
9 Your Honor as Petitioner's 7.

10 MR. GOURLEY: No, objection, Your Honor.

11 THE COURT: All right. Applicant's 7 is in
12 evidence without objection. And that's Indictment
13 06-GS-43-179?

14 MR. KIRKLAND: Correct.

15 THE WITNESS: January 4th, 2007.

16 (WHEREUPON Applicant's Exhibit No. 7 was marked and
17 entered into evidence.)

18 BY MR. KIRKLAND:

19 Q Now, prior to this day, had you ever seen this
20 indictment?

21 A No, sir.

22 Q It says at the top that the grand jury convened on
23 January 4th?

24 A Yes, sir.

25 Q Is that correct?

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1 A (The witness nodded his head.)

2 Q So you met with your attorney a few days after the
3 grand jury had convened; is that correct?

4 A Yes, sir.

5 Q Now, tell me what the difference is between this
6 indictment and the warrant -- the five warrants -- you had
7 received five warrants.

8 A Yes.

9 Q What was the difference between this indictment and
10 the five warrants you received?

11 A It is eight additional charges on that indictment.

12 Q So this has a total of --

13 A Thirteen charges.

14 Q -- thirteen charges. So some of these charges, you
15 had never seen before in your life?

16 A Correct.

17 Q And your attorney handed them to you. Did he have
18 an opportunity to go through all the new charges with you?

19 A No, sir.

20 Q Did he leave a copy of the indictment with you to
21 take back? You remember?

22 A It's --

23 Q If you don't remember, that's fine?

24 A It's right here.

25 Q Oh, so you do have it?

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1 A This is the same one.

2 Q Okay. Now, when he sat down and handed you the
3 indictment, because -- from what I take it that's the first
4 thing he did was hand you the new indictment?

5 A Yes, sir, that's correct.

6 Q Tell me about your discussions with him?

7 A He then relayed a plea bargain from the solicitor.
8 They was offering me a plea to try to get me to plea to the
9 charges. Thirteen charges, or go to trial.

10 Q Okay. What was the plea offer?

11 A He told me they was offering me twenty-five years.

12 Q Now, when he made that offer to you, what sort of
13 discussions did you have at this point about the offer?

14 A I told him I wasn't going to consider any kind of
15 plea because I haven't even went over -- I went over maybe
16 25 percent of what's in my discovery, maybe 15 percent.
17 You know what I'm saying? I mean, I didn't know -- I knew
18 under half of what was against me.

19 Q Yes, sir.

20 A You know what I'm saying, so I told him I wasn't
21 prepared for trial.

22 Q So when you told him that you weren't prepared for
23 trial, do you remember what his response was to that?

24 A He said he's ready.

25 Q Did you talk about the discovery or the fact that

Randy Yonson - Direct Examination by Mr. Kirkland

1 you hadn't received discovery yet?

2 A I asked him again about the discovery. I asked him
3 to give me a copy so I can take it back to the institution
4 and review it once again at that appointment.

5 Q And what was his response to that?

6 A The same thing.

7 Q I'm not going to give it to you?

8 A Not going to give me no copies of my discovery.

9 Q Did he tell you what was going to occur from that
10 point forward? Because you had been transported over to
11 the courthouse. Did he tell you here's where we're heading
12 with this, what we're doing?

13 A He said, well, we'll see you later then. I'll
14 contact you and let you know the trial date.

15 Q Did he indicate that he was going have anymore
16 discussion with you?

17 A None at all, sir.

18 Q So from what I understand, the only time that you
19 had any meaningful discussion with him whatsoever
20 concerning your defense or the discovery or whatnot was the
21 December 20th meeting of 2006, correct?

22 A Correct.

23 Q And that was for two hours and one minute?

24 A Yes, sir.

25 Q Okay. So after this meeting -- well, tell me, how

Randy Yonson - Direct Examination by Mr. Kirkland

1 does this all end? Does he leave the room, I assume?

2 What --

3 A He walked back out the room and they immediately
4 took me back to the institution as soon as he walked out.

5 Q Because you were with SCDC?

6 A Yes, sir, correct.

7 Q What happened when you got back to SCDC? Do you
8 remember?

9 A Yes, sir, I felt -- I felt that Todd didn't have my
10 best interest at heart, so I wrote three letters as soon as
11 I got back to McDougal.

12 Q Tell me if you recognize what I'm handing you.

13 A That is a copy of the original letter I wrote, yes,
14 sir.

15 MR. KIRKLAND: Your Honor, I would move this into
16 evidence as Applicant's 8.

17 MR. GOURLEY: No objection, Your Honor.

18 MR. KIRKLAND: And this, Your Honor, I would hold
19 it up so you can look at it. It's the handwritten motions.

20 THE COURT: All right. It's the one referenced
21 ineffective assistance?

22 MR. KIRKLAND: Yes, sir, and I've stapled three of
23 them together as one exhibit.

24 THE COURT: All right. All right. Applicant's 8
25 in evidence without objection.

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1 (WHEREUPON Applicant's Exhibit No. 8 was marked and
2 entered into evidence.)

3 BY MR. KIRKLAND:

4 Q All right. Let's walk through these. I'm going to
5 hand them to you -- oh, you have your original --

6 A I have the originals, yes, sir.

7 Q Well, let's do them the order they are in the
8 packet. Tell me about that first one. What is that first
9 one -- what are you asking the Court for?

10 A I -- I believe I wrote this one to the chief of
11 staff at the bar association.

12 Q First of all, let me ask when you wrote those and
13 sent them.

14 A I wrote them the same day that I came back on
15 January 9th.

16 Q Okay. And tell me about the first one. What's the
17 first one?

18 A Well, the first letter I wrote --

19 Q You don't have to read it, just basically, what are
20 you -- what is it you're asking for?

21 A I was asking for copies of my motion of discovery
22 and telling them that he said it would cost him too much
23 money to send me copies. And I told him I wrote to Judge
24 Newman and told him I wish to fire Mr. Williams as my
25 attorney because of this.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q All right. Now --

2 A That was the first letter.

3 Q Let me ask you a question about that. Was
4 Mr. Williams -- was he retained or was he appointed?

5 A He was a court-appointed attorney.

6 Q Now, did he ever indicate to you that -- I think it
7 was the office of indigent defense at the time -- that he
8 could request funding for things like copies? Did he ever
9 talk to you about that? How he could get funding?

10 A Never told me nothing about any funds for copies.

11 Q Or investigators or anything like that?

12 A Nothing like --

13 Q Or expert services?

14 A He said it would cost him too much money.

15 Q Okay. What's the second one?

16 A The second letter, I wrote to the clerk of court
17 requesting copies of all my motion of discovery and
18 informing them that my public defender refused to give me
19 copies of my motion of discovery. He says I have to pay
20 for copies. I have no way to pay for them, I'm indigent
21 and in prison.

22 Q Okay. So that was to the clerk of court. What's
23 the last one?

24 A The last one I wrote to Judge Newman and I told him
25 I wished to fire my current public defender on grounds of

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1 ineffective counsel, he refused to give me copies of my
2 motion of discovery, also feel from conversations we have
3 had that he does not have my best interest at heart and I
4 don't feel comfortable with him representing me, is what I
5 wrote.

6 Q All right. After you sent all those off, did you
7 get any kind of response in the mail to sending them off
8 from anybody? From Mr. Williams or anybody else?

9 A No, sir, I did not.

10 Q What was the next thing you remember happening in
11 your case?

12 A I believe it was the following Tuesday --

13 Q That would have been January 16th?

14 A January 16th, I was transported once again to the
15 Sumter County Courthouse.

16 Q Okay. Tell me what you thought you were being
17 transported for that day?

18 A I was under the impression that I was going to go
19 for a motion in response to the letters that I wrote.

20 Q So when you arrived there, tell me where did they
21 put you and what happened?

22 A They put me in the same jury room behind the main
23 courtroom.

24 Q Did anybody come back there to talk to you?

25 A For a brief moment, he did, yes, sir.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Now, when you say he, who are you referring to?

2 A Todd Williams.

3 Q Okay. What did you guys talk about when he came
4 back there to see you?

5 A He said, something about -- he said that they're
6 going to start the trial this morning, but first they had a
7 motion. They said that they were going to proceed on a
8 motion that I filed and that was those three letters. So
9 he said we had to take care of that first.

10 Q Okay. So what happened? What I mean is just
11 physically, what did they do with you?

12 A All right. So they walked me to a little small
13 courtroom beside the main courtroom.

14 Q And who was there in the courtroom?

15 A Um --

16 Q Was Mr. Williams?

17 A Yes, sir.

18 Q Was the judge there?

19 A Yes, sir.

20 Q Okay. And did you --

21 A Judge James.

22 Q And did you have a hearing?

23 A Yes, sir, I did.

24 MR. KIRKLAND: Your Honor, I have a transcript of
25 that hearing and I think without objection I can move that

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1 in as No. 9.

2 MR. GOURLEY: It's in the packet, Your Honor.

3 THE COURT: All right.

4 MR. GOURLEY: No objection.

5 THE COURT: That's 9?

6 MR. KIRKLAND: Yes, sir, it's in your packet, but
7 that one was out of order. I apologize. That was one of
8 the top ones.

9 (WHEREUPON Applicant's Exhibit 9 was marked and
10 entered into evidence.)

11 BY MR. KIRKLAND:

12 Q And you've had an opportunity to review the
13 transcript of this hearing, Mr. Yonson?

14 A Yes, sir.

15 Q All right. Tell me about the hearing. Just sort
16 of summarize what occurred in that hearing.

17 A Well, the judge asked me why I would -- why I would
18 like to fire my lawyer and he was asking me --

19 Q He was asking you about the paperwork, basically
20 that you'd filed, right?

21 A Yes, sir.

22 Q And I think on page 10 -- and I'll hand it to you
23 and let you look at it -- you succinctly tried to state
24 what it was or why you wanted a new attorney and other
25 complaints that you had?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yes, sir.

2 Q You can summarize that for the Court or you can
3 read that for the Court or whatever you want to do.

4 A I told the Court, I said, Todd said he's ready for
5 trial. I do not know everything that's up against me at
6 the trial. I haven't talked to him. He said at length I
7 talked to him, but altogether three hours since I've known
8 him, so I don't even know probably an eighth of what's in
9 my discovery. So I don't know what the State has against
10 me. I haven't been showed everything against me. So I
11 don't feel he has my interest at heart because he doesn't
12 want to make copies to give me any part of it. I asked him
13 for copies of certain papers in general and he refused to
14 give me copies of those papers. I feel -- that's why I
15 feel like I need a new attorney because he doesn't have my
16 best interest at heart. He ain't want to give me my
17 paperwork.

18 Q Now, what did the judge ultimately rule on the
19 motion to relieve him as counsel?

20 A He denied it, sir.

21 Q Did you also at that hearing, ask the judge for a
22 continuance?

23 A Yes, sir, I did.

24 Q And what did the judge tell you -- what did the
25 judge tell you about that?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A He denied it, sir.

2 Q Well, because I do want to remind you of what's in
3 the transcript. Isn't it accurate to say that once he
4 denied your motion for a new attorney, he said your
5 attorney would have to make that motion on your behalf,
6 correct?

7 A Yes, sir, he did say that.

8 Q Now, I think the judge at one point in time began
9 to question Mr. Williams as to some of your complaints; is
10 that correct?

11 A Yes, sir.

12 Q And one of the complaints that he questioned him
13 about was the fact that he had not provided you with
14 discovery. Do you recall that?

15 A Yes, sir, I did.

16 Q Do you recall what Mr. Williams' response was? And
17 I think I can direct you to page 6.

18 A Yes, sir.

19 Q Are you looking at it? What was Mr. Williams'
20 response to that?

21 A Mr. Williams stated that he has gone through -- he
22 said, I've gone through his discovery with him in debt
23 (sic). I did inform him that I can't --

24 Q Hold on one minute. He -- do you recall him saying
25 in depth? That's just a --

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yeah, in depth, yes, sir.

2 Q So he didn't say in debt, he said I've gone through
3 this discovery with him in depth?

4 A In depth, yes, sir.

5 Q Okay. And then continue.

6 A -- inform him that I can't perform as a copy shop
7 for all my clients. If I copy these papers, I would spend
8 my entire day at the copy machine.

9 Q Now, as we talked about, he didn't provide you with
10 discovery, the Court didn't force him to provide you with
11 discovery and the Court didn't relieve him as counsel,
12 correct?

13 A Yes, sir, that's correct.

14 Q And the Court didn't allow you to make a motion for
15 the continuance at that point in time?

16 A Yes, sir, that's correct.

17 Q And he indicated to you that your attorney would
18 need to make that motion through the Court at your trial,
19 correct?

20 A Yes, sir, he said, Mr. Yonson, that would have to
21 come through your attorney since he's acting on your
22 behalf.

23 Q Now, let me ask you as -- concerning Mr. Williams'
24 response to the judge's questioning. Do you feel like he
25 had met with you -- I believe he said extensively on two

Randy Yonson - Direct Examination by Mr. Kirkland

1 separate occasions. Did you read that part, Mr. Yonson? I
2 don't know if we read that part. Did you read that part?

3 Okay. Let's back up for a second and let me put
4 that into the record. You remember him talking about
5 meeting with you at that hearing? It's on page 6.

6 (WHEREUPON there was a pause in the proceedings.)

7 BY MR. KIRKLAND:

8 Q Just read it out loud.

9 A He said, First of all, I advised my client against
10 waiving indictment. Second, Your Honor, I met with
11 Mr. Yonson two days for extended periods. I've gone
12 through his discovery with him in debt --

13 Q And then we'd read this rest of it.

14 A Yes, sir.

15 Q So when you heard that, do you believe that
16 Mr. Williams had met with you for two days for extended
17 periods?

18 A No, sir, that was incorrect.

19 Q And we know now that the only time he visited you
20 at the Department of Corrections was on the 20th, December
21 20th, 2006, for two hours and one minute, correct?

22 A Yes, sir.

23 Q The only other time was on January 9th for a few
24 minutes?

25 A For the few more minutes, yes, sir.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Did you feel like he'd gone through the discovery
2 in depth with you at this point in time in your case?

3 A No, sir, he would only have maybe five or ten
4 seconds to go over each piece of paper.

5 Q So the only thing that you -- from what I
6 understand, you said earlier, the only thing that you got
7 to look through that had any value to you at all was the 35
8 page SLED laboratory report.

9 A Yes, sir. That's the only thing that he went in
10 depth with.

11 Q Okay. But the other, let's say 175, 185 pages,
12 whatever it might be, you didn't go through any of that?

13 A I didn't see those until after the trial was over
14 with.

15 Q Okay.

16 (WHEREUPON there was a pause in the proceedings.)

17 MR. KIRKLAND: I'm sorry, Your Honor. I'm getting
18 myself back on track here. I apologize.

19 THE COURT: That's all right. Take all the time
20 you need.

21 MR. KIRKLAND: Okay. I found my spot.

22 BY MR. KIRKLAND:

23 Q So after that motion hearing, where did you go at
24 that point?

25 A After the motion hearing, they informed me that the

Randy Yonson - Direct Examination by Mr. Kirkland

1 trial was going to begin and they told me to move on down
2 the hall, back to the holding room.

3 Q Okay. And that's the same room we've been talking
4 about?

5 A Yes, sir.

6 Q What did you do in there? Did Mr. Williams come
7 down there with you?

8 A For a few minutes and they decided about changing
9 my clothes out into normal clothes instead of the prison
10 garb.

11 Q So tell me this, because it may not be clear to the
12 judge, I'm not sure we've gone over it. So what was about
13 to happen?

14 A I was about to go to trial without ever really
15 going over none of my paperwork.

16 Q So this was on January 16th. You were getting
17 ready to go and you'd really only met with your attorney
18 one single time?

19 A For two hours.

20 Q So did -- had your attorney ever come out there and
21 talked to you about, you know, a trial, what your rights
22 are at a trial, a strategy for defending you? Had he ever
23 talked to you about any of that stuff at this point in
24 time?

25 A He asked me if I had any strategy or something to

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1 help us out.

2 Q But had you had a meaningful discussion though
3 about how a trial works and what your role at the trial
4 would be and what he could do for you and whether you could
5 call witnesses or not and whether you could testify or not
6 and whether you had a right to remain silent? Did he ever
7 go over any of that with you?

8 A No, sir.

9 Q Did he talk to you about any pretrial motions prior
10 to this day?

11 A We talked about a Jackson versus Denno hearing.

12 Q Okay. When did you talk about that?

13 A I believe it was the actual date of the trial.

14 Q Okay. What did -- what did he tell you about a
15 Jackson versus Denno hearing?

16 A I had just learned about it and I was --

17 Q How did you learn about it?

18 A Through another inmate in the department of
19 corrections.

20 Q So it wasn't through Mr. Williams?

21 A No, sir.

22 Q Okay. What did Mr. Williams talk to you about
23 concerning that hearing?

24 A Nothing, sir.

25 Q Just said you were going to have one?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yes, sir, about -- because I had told there was two
2 statements given involuntarily, so I wanted -- I wanted him
3 to object and did that Jackson versus Denno hearing. You
4 know what I'm saying? I didn't really know what a Jackson
5 versus Denno hearing was.

6 Q Now, did he discuss with you ways to defend a
7 Jackson versus Denno hearing?

8 A No, sir, he didn't explain nothing about the
9 hearing.

10 Q Did he explain to you that you had a right to be
11 called at the hearing and that any cross-examination of you
12 would be limited to the purpose and scope of that hearing?
13 Did he explain that to you?

14 A No, sir, he did not.

15 Q Did he explain that you could call witnesses on
16 your behalf at that hearing?

17 A No, sir, he did not.

18 Q When the hearing began, who did the State call as
19 witnesses in that hearing?

20 A Lieutenant Abrams, and Johnny Abraham.

21 Q So they called two --

22 A Two SLED agents.

23 Q Two SLED agents. And that's something I want to
24 bring up as well. This was a case that involved the
25 shooting of two Sumter County sheriff deputies, correct?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yes, sir.

2 Q And so consequently the case was sent out, because
3 they were the victims, to SLED for prosecution, right?

4 A Yes, sir.

5 Q So that's the reason why SLED was at your trial,
6 correct?

7 A Yes, sir.

8 Q Okay. So these two SLED agents testified. Tell me
9 what you remember them testifying to.

10 A They testified about what I supposedly told them in
11 the hospital?

12 Q Right. But when they get to the hospital, what do
13 they do when they first get there? What did they say at
14 the hearing?

15 A The officers said that when they first arrived at
16 the hospital, they went to the nurses station.

17 Q Right.

18 A And they said they asked the nurse if I was under
19 any kind of medication that would hamper me from
20 understanding their line of questioning.

21 Q And what did the nurse respond to that?

22 A The nurse told -- well, they said the nurse told
23 them that I was not under any medication.

24 Q Did your attorney object to them introducing a
25 statement of the nurse as being hearsay?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A No, sir, he did not.

2 Q So that came in without objection and was
3 considered by the Court at the hearing?

4 A Yes, sir.

5 Q Now, in fact, were you under any sort of
6 medication?

7 A In the hospital, yes, sir, I was.

8 Q Tell me what you were -- what you -- what you were
9 taking.

10 A I had a self-administered morphine drip. Every 15
11 minutes I can self-administer it. And I was taking
12 Percocets by mouth, 500 milligram of Percocets, oral, on
13 top of the morphine.

14 Q Do you remember speaking to these officers?

15 A I don't remember seeing them at all until the day
16 of the trial.

17 Q If you had known that you could testify at that
18 hearing, would you have wanted to testify at that hearing?

19 A Probably, so, yes, sir.

20 Q As long as you understood that the scope to have
21 cross-examination could have been the purpose of the
22 hearing?

23 A Yes. If Todd would have explained it to me, you
24 know what I'm saying, and told me what I could do or what
25 the hearing was about, I might have.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q You're father was one of the witnesses at the
2 trial, correct?

3 A Yes, sir.

4 Q And your father actually testified to his
5 interaction with you during the trial of the case?

6 A Yes, sir.

7 Q So he talked about being at the hospital with you
8 during the trial of the case, correct?

9 A Yes, sir.

10 Q Do you remember what your father said -- now, this
11 is during the trial. I'm skipping ahead from the hearing,
12 but do you remember what your father said as to your
13 condition at the trial of the case?

14 MR. KIRKLAND: And, Your Honor, I'm referring to
15 page 239 of the transcript.

16 BY MR. KIRKLAND:

17 Q What did your father say when asked about your
18 mental state in the hospital?

19 A He said, he wouldn't talk at the time. We were
20 trying to ask him -- my father said he was trying to ask me
21 questions as much as he could. His answers to us were very
22 erratic, almost like pieces to a puzzle, scattered. You
23 couldn't make heads or tails out of what he was saying. It
24 was really kind of frustrating because he would be talking
25 about one thing and then the next thing he would just

Randy Yonson - Direct Examination by Mr. Kirkland

1 either fall asleep or wake up in the middle of a different
2 conversation.

3 Q Now, knowing what you now know about Jackson v.
4 Denno hearings, would you have liked your father to have
5 been called during the Jackson v. Denno hearing so that the
6 judge could consider that testimony in making a ruling as
7 to whether or not the statement was admissible?

8 A Yes, sir, I would.

9 Q Did you know that you could call him as a witness?

10 A No, sir, I didn't.

11 Q Did you have any discussions about the hearing at
12 all?

13 A No, sir, we didn't.

14 Q Now, the judge ruled that the statement was
15 admissible, correct?

16 A Yes, sir.

17 Q And during the trial, both officers or at least one
18 of them, I remember, testified as to your statement that
19 you made in the hospital, correct?

20 A Yes, sir.

21 Q At that point in time, did your attorney renew his
22 objection to the admissibility of the statement?

23 A No, sir, he didn't make an objection.

24 Q Now, later on, you were appointed, I assume counsel
25 from appellate defense? Is that correct? For an appeal?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yes, sir.

2 Q Did your appellate defender raise the issue of the
3 voluntariness or the admissibility of the statement that
4 you gave?

5 A Yes, sir, she did.

6 Q Do you remember what happened when she raised that
7 issue on appeal?

8 A Yes, sir, I do.

9 Q What happened?

10 A They said that because my lawyer didn't object to
11 it contemporaneous objection when the evidence was
12 introduced that they couldn't say nothing about it. They
13 couldn't do nothing about it.

14 Q So they refused to review the issue on the basis
15 that -- on the basis that it had not been preserved for
16 appeal?

17 A Yes, sir, that's correct.

18 MR. KIRKLAND: And, Your Honor, I would
19 introduce -- this is going to be Applicant's No. 10. And
20 this is simply a copy of the appeal from the South Carolina
21 Court of Appeals.

22 MR. GOURLEY: No objection, Your Honor.

23 MR. KIRKLAND: And it was in your packet as well.

24 (WHEREUPON Applicant's Exhibit No. 10 was marked
25 and entered into evidence.)

Randy Yonson - Direct Examination by Mr. Kirkland

1 THE COURT: That's No. 10?

2 THE COURT REPORTER: Yes.

3 BY MR. KIRKLAND:

4 Q All right. Now I want us to start talking about
5 the actual trial of the case, okay, Mr. Yonson?

6 A Yes, sir.

7 Q Do you have your materials in order and you're
8 ready to go?

9 A Yes, sir.

10 Q Okay. Just -- we've already done this, so I'll
11 help you here. This was a case at Fred's Nightclub, to
12 remind the judge, in which you were approached by two
13 officers, a struggle ensued. Two officers received gunshot
14 wounds and you received three gunshot wounds, correct?

15 A Yes, sir.

16 Q All right. Now, tell me what was the focus -- what
17 was the center of the State's case against you? What
18 were -- who were their main witnesses?

19 A The main witnesses were Aaron Bowman and James
20 Williams.

21 Q Now, tell me who Aaron Bolen and James Williams
22 are?

23 A They're both deputy sheriffs of Sumter County.

24 Q And they were the two people that approached you,
25 correct?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A Yes, sir.

2 Q And then there was an altercation and then both of
3 them received gunshot wounds?

4 A Yes, sir.

5 Q All right. Now, you've mentioned in your -- well,
6 before I get into that, walk me through what your defense
7 was that you wanted to present. And you can kind of tell
8 the story that you wanted to have told to the jury. What
9 was the defense that you wanted presented at your trial?

10 A My defense was when the officers approached me and
11 the struggle started ensuing, they took my legs from out
12 from under me, so both of the officers landed on top of me
13 and I was sideways.

14 Q Okay.

15 A So it dislocated my whole shoulder. They were
16 laying on top of me, took the breath out of me so I
17 couldn't breathe.

18 Q Well, before we even get to that point, tell me
19 about them approaching you. What is your version of how
20 they approached you and how did it ever get to the point of
21 a struggle, is what I'm saying.

22 A I didn't realize they were approaching me until
23 they were probably about five foot away from me. I was
24 trying to turn -- get my key and turn it into the door of
25 the truck and get in the truck.

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1 Q Yes, sir.

2 A And the officer kind of tapped me on the shoulder
3 and asked me for my driver's license. And I asked them
4 what for. As soon as I said what for, he told to stop
5 resisting and he grabbed me.

6 Q Okay. So when he grabbed you that's when you went
7 to the ground?

8 A The second officer came up behind him, but James
9 Williams put his leg behind my leg and slipped my legs from
10 under me.

11 Q Okay.

12 A And fell on top of me.

13 Q Yes. Then how does someone get shot?

14 A Well, the gun was in my back pocket, digging in my
15 hips because they were laying on top of me. So, you know
16 what I'm saying, I tried to grab the gun and move it from
17 my hip --

18 Q Right.

19 A -- and when I pulled the gun about halfway out, the
20 officer grabbed the gun and that's when the gun went off,
21 one shot.

22 Q So what you're essentially saying is you were
23 raising the defense of accident.

24 A Yes, sir.

25 Q You didn't pull the trigger, it was when the

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1 officer accidentally pulled the trigger, taking it out of
2 your pants?

3 A Yes, sir.

4 Q Now, each of those officers gave a written
5 statement, did they not?

6 A Yes, sir, they did.

7 Q And did you -- had you received those statements
8 prior to the trial?

9 A No, sir, I did not.

10 Q Have you seen the written statements since?

11 A Yes, sir, I have.

12 Q And you received those statements from
13 Mr. Williams, from the discovery that he sent you?

14 A Yes, sir, February 2007.

15 Q Let me ask you if you recognize either of these?

16 A Yes, that's an Aaron Bolen and a James Williams at
17 the same time.

18 MR. KIRKLAND: I'd like to introduce those to you
19 as Applicant's 11 and 12.

20 MR. GOURLEY: No objection, Your Honor.

21 THE COURT: All right. Eleven and twelve is in
22 evidence without objection. Which is which? Which is
23 eleven?

24 MR. KIRKLAND: Eleven is James Williams; Twelve is
25 Aaron Bolen.

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1 THE COURT: Thank you.

2 (WHEREUPON Applicant's Exhibits 11 and 12 were
3 marked and entered into evidence.)

4 THE COURT: I'll let you -- do you need to hold
5 these, Mr. Yonson? To talk about them or do you have --

6 THE WITNESS: No, sir, I have copies.

7 BY MR. KIRKLAND:

8 Q All right. Let's talk about that then, Aaron
9 Bolen. Summarize for me if you can what he said in his
10 statement that you thought was critical.

11 A Aaron Bolen testified that, After the struggle
12 ensued, I observed a right hand become free and it reached
13 towards his waist. That's when it was reaching for the
14 gun, digging in my hip. He yelled to Williams to grab his
15 hand. As I did, the suspect rolled out and stated, Fuck
16 this; and at which time I observed a firearm in his hand
17 and saw/heard him fire a shot, striking me in the left side
18 of my body.

19 As I reached for my weapon, a second shot was
20 fired, also striking me in the left side. I heard another
21 shot and saw Williams had the gun in the subject's hand
22 pinned to the ground as -- at which time I took the
23 subject's gun.

24 Q Okay. Now, this was Aaron Bolen? Because I just
25 got mixed up.

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1 A Yes, sir, that's Aaron Bolen.

2 Q And now -- and that was a critical part of his
3 statement in your opinion?

4 A Yes, sir, he wrote a statement that there was three
5 shots fired from me.

6 Q Okay. Three shots fired from you?

7 A Yes, sir.

8 Q Okay. Now, you alleged that Mr. Williams did not
9 properly cross-examine him concerning the defense of
10 accident or cross-examine him concerning inconsistencies in
11 his trial testimony and his statement. So if you would,
12 explain to the judge what you think should have been done
13 and could have been done at the trial -- knowing now what's
14 in that statement.

15 A Well, he could have showed -- he could have showed
16 the jury the statement showing that it's three shots. And
17 then he can go to the SLED laboratory -- 35 page report and
18 see that it's only one shell casing matching my gun and one
19 slug removed from the officer.

20 Q Okay.

21 A There's no way that it could have been three shots
22 fired from me.

23 Q So what you're referring to is you're referring to
24 page 28 and actually in the exhibit, 28 is cut off, so you
25 have to find page 27, at the bottom of the SLED report and

Randy Yonson - Direct Examination by Mr. Kirkland

1 then flip to page 28. You're referring to page 28 of the
2 report, correct?

3 A Yes, sir.

4 Q Now, what part of this report is important to you?

5 A Item No. 7.

6 Q I-7?

7 A Yes, sir.

8 Q And what is I-7?

9 A A .380 caliber shell casing.

10 Q And what is I-5, I-6, and I-8?

11 A .40 caliber shell casings.

12 Q No, it has always been known that the officers
13 fired three shots at you, correct?

14 A Yes, sir, they did.

15 Q Okay. And so what you're saying is that SLED
16 recovered the three .40 caliber shell casings.

17 A Yes, sir.

18 Q But they only recovered one .380 shell casing?

19 A Yes, sir, that's correct.

20 Q And you don't believe, from what I take it, that
21 your attorney had properly cross-examined the witnesses
22 concerning the physical evidence at the scene or pointed
23 out to Officer Bolen that only one .380 shell casing was
24 found?

25 A No, sir, he should have -- he should have made the

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1 jury understood that that was false testimony. He
2 testified three shots was fired, when it's clear evidence
3 showing that it was only one shell that could have been
4 possibly fired from my gun.

5 Q But here's the interesting issue then that comes
6 up: If only one .380 bullet was fired from your gun, then
7 explain the wounds that the officers received.

8 A Well, the incident happened, pretty much up close
9 and personal.

10 Q Okay.

11 A So one officer was laying on top of me and Aaron
12 Bolen was standing over the top of him.

13 Q And I think actually, Mr. Williams, at one point in
14 the trial, asked the officer if it was sort of like a dog
15 pile and one of the officers said yes. You remember that?

16 A I don't recall that.

17 Q But they were on top of you?

18 A Yes, sir, they was both -- Williams was all the way
19 on top of me.

20 Q Yes.

21 A And Aaron Bolen was standing like over the top of
22 him like kicking me and stuff like that. You know what I'm
23 saying.

24 Q So from that position, then describe the gunshot
25 wounds to the officers and how this could have occurred

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1 with only one bullet?

2 A So when -- when I was moving the gun away from my
3 hip and grabbed it, the gun went off.

4 Q Right.

5 A So the shot grazed James Williams' arm.

6 Q Okay. So the injury on Williams was simply a
7 grazing bullet wound?

8 A Yeah, it was through and through. It states it in
9 his medical records.

10 Q Now, was it grazing or through and through?

11 A It said it was -- in the medical records, it says
12 through and through.

13 Q Okay. And then -- because I don't want us to get
14 mixed up, but I'm getting mixed up.

15 One of the officers had a grazing wound on his
16 body?

17 A I believe that was Williams. It says through and
18 through, but it -- that could be the same thing as just
19 graze, because that's --

20 Q Okay. And then the other officer, what was his
21 wound?

22 A He had a through and through in his left arm and
23 the bullet lodged in his rib.

24 Q So describe to me then, knowing that, if you have
25 two, three through and throughs and the bullet lodged and

Randy Yonson - Direct Examination by Mr. Kirkland

1 only one .380 shell casing, what was it that you felt like
2 your attorney didn't do at that trial in describing how
3 this one bullet could have been fired?

4 A He was supposed to establish that he was -- the one
5 accidental shot grazed the first officer and went into the
6 second officer's arm and lodged inside. It was straight
7 through and through. There was no three shots fired from
8 my gun. It was only one shot. If he would have made the
9 jury understand that, then the jury would have known that
10 the officers just gave false testimony because the evidence
11 shows that it's false testimony.

12 Q Now -- well, let's talk about the other -- let's
13 talk about the other officer.

14 THE COURT: How many -- how many bullets were in
15 the gun when it was recovered?

16 MR. KIRKLAND: I can tell you that, Your Honor. I
17 can't point you to the page numbers, but I can tell you
18 everything about that. This was a high point .9 mm, it was
19 established at trial.

20 THE COURT: Why does he keep saying .380?

21 MR. KIRKLAND: Because it had been loaded with .380
22 shells and they actually put an expert up that established
23 that .380 bullets, unknown to me, could be fired out of a
24 .9 mm.

25 THE COURT: All right.

Randy Yonson - Direct Examination by Mr. Kirkland

1 MR. KIRKLAND: They've testified -- just so you'll
2 have all the background and won't have to dig through the
3 transcript, they testified that the high point .9 mm, that
4 the magazine could potentially hold a maximum of eight
5 rounds and they --

6 MR. GOURLEY: I'm going to have to object to that.
7 In the record, the SLED expert testified that it didn't go
8 over the max of nine rounds for the .380.

9 THE COURT: One in the chamber and one in the
10 magazine.

11 MR. KIRKLAND: Yes. I was about to say, Your
12 Honor.

13 MR. GOURLEY: That was eight, Your Honor.

14 MR. KIRKLAND: Eight in the magazine, one in the
15 chamber of nine bullets. They recovered --

16 THE WITNESS: It says seven.

17 MR. KIRKLAND: So there was a possibility,
18 according to the number of bullets, that two were
19 potentially missing. However, this is what we were just
20 talking about, there was one .380 shell casing found at the
21 scene.

22 THE COURT: Okay.

23 MR. KIRKLAND: So that's the background for that
24 issue, Your Honor.

25 THE COURT: Thank you.

Randy Yonson - Direct Examination by Mr. Kirkland

1 BY MR. KIRKLAND:

2 Q Now, let's talk about -- now, we've talked about
3 Bolen and what he said because he was critical to you --
4 what did he testify at trial about the number of shots and
5 what happened? What was the difference about his statement
6 that he wrote and what he testified at trial, do you
7 remember?

8 A Yes, sir. He testified -- or he wrote in his
9 statement --

10 Q Well, we have that three shots were fired. You
11 fired three shots?

12 A Yes, sir. I'm talking about when he returned fire.
13 He said I fired shots, two of which hit the subject, one in
14 the upper torso and one in the lower torso. So that's
15 saying he shot me in the chest.

16 Q Okay. So upper torso and lower torso, so your
17 belief was that when he said that, he indicated that he was
18 shooting you in the frontal area.

19 A Yes, sir.

20 Q Where were you, in fact, shot? We've gone over
21 this, but...

22 A I was, in fact, shot in the back, sir.

23 Q So you were shot in the left leg, the buttock --

24 A And the back.

25 Q The neck, chest and back; is that correct?

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1 A Well, I think it's just a discrepancy in that
2 medical record that says left chest slash back. I think
3 that's because they opened my stomach up, but the actual
4 bullet entered my bag and it's actually still in my body
5 right now.

6 Q All right. So would you say this, so we can --
7 that it was conclusively established, at least by you,
8 because you took the stand, right? And your father? That
9 you were actually shot in the back?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Now -- and the point is that you were making is
14 that your attorney should have more carefully
15 cross-examined this officer on the location of the shots
16 and then shown later on that he couldn't be telling the
17 truth because that's not where your gunshot wounds were,
18 correct?

19 A Yes, sir. That was the defense that I would
20 have --

21 Q Got you.

22 A -- came up with.

23 Q Okay. Now, I think we've gone through everything
24 with Aaron Bolen, unless there's something else that you
25 can think of. I didn't have any other notes?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A No, sir. He testified in his statement that he
2 shot -- fired three shots center mass though. There's no
3 way he could have fired three shots center mass with two
4 wounds, you know what I'm saying, in my back. The one in
5 my buttocks is pretty much my back too. I was facing away
6 from him when he shot me. He says he shot me three times
7 and that's -- at that point, he said I spread my arms out.
8 That was a lie too. He shot me the first two times. I
9 spread my arms out and gave up. And he fired the third
10 shot after I had done surrendered.

11 Q And you believe your attorney did not effectively
12 cross-examine him as to those issues?

13 A Yeah, I don't think he cross-examined him at all
14 about that issue.

15 Q Now, James Williams, let's talk about him. Do you
16 have his statement in front of you, Mr. Yonson?

17 A Yes, sir, I do.

18 Q Now, what was the -- if you can just generally
19 give -- what was the essence of his statement?

20 A James Williams testified he was -- he heard a shot
21 fired.

22 Q Right.

23 A One shot.

24 Q Okay.

25 A And he also testified about -- put his finger in

Randy Yonson - Direct Examination by Mr. Kirkland

1 between the back of the trigger and the trigger guard so he
2 couldn't fire the gun again.

3 Q Okay. Well, let's get some context with that.

4 What he was referring to? So the judge can understand
5 that, is that when he was attempting to secure the weapon,
6 he's saying that it was in your hand, right?

7 A Yes, sir.

8 Q And he's saying when he stuck his finger in between
9 the trigger guard and the back of the trigger --

10 A To prevent it from firing, yes, sir.

11 Q So that the trigger couldn't be pulled?

12 A Yes, sir.

13 Q Now, to be fair, I want to make sure the judge
14 realizes this, your attorney actually did discuss that
15 issue with Mr. Williams or Officer Williams at the trial,
16 correct?

17 A Yes, sir.

18 Q And the officer did admit that he could not have
19 possibly done that and, therefore, his statement was
20 incorrect on that issue?

21 A Yes, sir.

22 Q Okay. Now -- but as to the first issue, let's talk
23 about the gunshot. He says the gun was only fired once in
24 the statement?

25 A Yes, sir. Mr. Williams testified that --

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q Well, let's talk about the statement first.

2 A Well, he -- in his statement -- I'm going to skip
3 down --

4 Q You don't have to read it. You can just tell us.
5 I mean the statement is in the record, so the judge can see
6 it.

7 A Okay. But he basically testified that he heard a
8 shot fired and he saw Bolen trying to get up because he
9 thought he'd been shot. And then Todd scratched out that
10 whole sentence. I don't know what it says --

11 Q Well, hold on, hold on, hold on. Let's not -- part
12 of it's scratched out, we know that, right?

13 A Yeah.

14 Q But there's no way for us to know who scratched
15 that out, correct?

16 A Yes, sir.

17 Q Now, you can say what your assumption is if you'd
18 like to.

19 A All right.

20 Q But what -- if you'd like to say what your opinion
21 is, go right ahead -- as to who scratched that out?

22 A I seen him scratch it out.

23 Q Okay. That's different. I didn't realize that.

24 A Yeah, I watched him scratch it out when we was
25 talking about it.

Randy Yonson - Direct Examination by Mr. Kirkland

1 Q I -- you didn't -- you hadn't mentioned this to me
2 before. Why did he do that?

3 A I don't know, he was talking about the one shot and
4 he said something about it doesn't even matter -- when I
5 read that line, he said that this is irrelevant and he just
6 started scratching it out.

7 Q Okay. So you witnessed that with your two eyes?

8 A Yes, sir. I believe the sentence says something to
9 the effect about him grabbing my hand when he saw the gun.
10 That's what -- because you can see --

11 Q Well, I can read it. It says, I saw the gun in the
12 subject's hand. At this point I grabbed his hand --

13 A I grabbed his hand --

14 Q -- with the gun.

15 A -- with the gun.

16 Q So why did he scratch that out? You don't know?

17 A Because when the officer grabbed the gun, that's
18 when the gun went out and then a shot was fired.

19 Q But your attorney felt that that was irrelevant.

20 A He thought it was irrelevant.

21 Q And you think, of course, that that is the key --
22 one of the keys to this case?

23 A Yeah, that's a major -- that's a major part of it.

24 Q And I suppose you're under -- the reason you
25 brought that up is your understanding is that you didn't --

Randy Yonson - Direct Examination by Mr. Kirkland

1 he didn't get your defense? He didn't understand your
2 defense?

3 A Yes, sir.

4 Q Okay. At least not the defense that you wanted to
5 present.

6 A Yes, sir.

7 Q Is there anything -- okay, now. Williams -- I see
8 that he mentioned one shot in his statement. Does he
9 mention that you fired the gun a second time in his
10 statement?

11 A No, sir, he does not.

12 Q According to his statement, it would be one shot
13 now?

14 A In his statement, yes, sir.

15 Q In his statement. Now, what happened at trial with
16 the same witness, James Williams?

17 A At the trial, on page 130, line 2, Mr. Williams
18 said I noticed one shot was fired, heard two shots, saw one
19 for sure.

20 Q What page?

21 A 130, line 2.

22 Q So when he testified, his recollection had changed
23 from the view of his statement?

24 A Yes, sir.

25 Q Now, as far as a PCR goes, what was important in

Randy Yonson - Direct Examination by Mr. Kirkland

1 your mind that your attorney did or did not do concerning
2 that issue when it came up?

3 A I would have had him ask James Williams and Aaron
4 Bolen, you know what I'm saying, if they're both in the
5 same spot, how can this person here three shots, this
6 person only hear one shot? I only hear one shot. So
7 somebody's lying. You know what I'm saying. That's what I
8 would have brought up. You know what I'm saying, it's no
9 way possible that it was three shots fired. We established
10 that. James Williams is agreeing with me. He only heard
11 one shot too and Aaron Bolen heard three shots.

12 Q And that was also corroborated, you said earlier,
13 by the fact that only one .380 shell casing was found on
14 the ground?

15 A Yes, sir.

16 Q As to those two witnesses, Aaron Bolen and James
17 Williams, is there anything else that you think your
18 attorney should have done that he did not do during the
19 trial? Anything that he should have asked them, any
20 motions he should have made? I don't think we talked about
21 any motions, but anything else that you can think of
22 concerning those two witnesses?

23 A Not at this time, no, sir.

24 Q Well, let me -- you can continue thinking about
25 that. Oh, let me ask you one more thing about that. Do

Randy Yonson - Direct Examination by Mr. Kirkland

1 you recognize what this is?

2 A Yes, sir. It's a supplement, supplemental report,
3 it's an item of evidence, 19. Item 19.

4 MR. KIRKLAND: Your Honor, I think I can move this
5 in as 13, with no objection?

6 MR. GOURLEY: No objection, Your Honor.

7 THE COURT: All right. Applicant's 13 is in
8 evidence without objection.

9 (WHEREUPON Applicant's Exhibit No. 13 was marked
10 and entered into evidence.)

11 MR. KIRKLAND: And, Your Honor, I'll place on the
12 record what this is. Item 13, Your Honor is a supplemental
13 report by the South Carolina Law Enforcement Division
14 Forensic Services Laboratory Report. It shows that Item 19
15 was one fired bullet that was removed from Aaron Bolen's
16 left flank and it appeared that the Item 19 was fired by
17 the high point pistol.

18 BY MR. KIRKLAND:

19 Q You remember this being in the discovery materials,
20 Mr. Yonson?

21 A When I got mine after the trial was over with.

22 Q You hadn't seen it ahead of time however?

23 A No, sir.

24 Q And what was the significance of this to you?

25 A Because that's the proof that that's the only

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1 bullet that came out of my gun. It's only one bullet
2 recovered.

3 Q So in your mind, this was further physical evidence
4 that your version of the story was the correct one, right?

5 A Yes, sir.

6 Q Now, anything else that you can think of concerning
7 Aaron Bolen and James Williams? You can flip through
8 your -- I mean, this is -- you know this is your last time
9 you're going to probably be in court over this, so flip
10 through your transcript there. I know you made some notes.
11 Let us know if there's anything else.

12 MR. KIRKLAND: I apologize, Your Honor, but I do
13 think it will only take a moment. He was rather well
14 organized.

15 THE WITNESS: It was -- it was Aaron Bolen
16 testified about -- I already established that about the
17 center mass.

18 BY MR. KIRKLAND:

19 Q Yes, yes, you did.

20 A He said that he fired three shots center mass.

21 Q Right. You have that in evidence, for sure.

22 THE COURT: Mr. Kirkland why is there a
23 supplemental report on Item 19? When I look at Applicant's
24 6, page 33 says Item 19 was fired by Item 1 based on
25 matching individual identifying characteristics found in

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1 release, which is the high point .9 mm.

2 MR. KIRKLAND: You'll have to give me that again,
3 Judge, so I can look at it. You're looking at the 35
4 page --

5 THE COURT: Applicant's 6.

6 MR. KIRKLAND: Yes, sir.

7 THE COURT: Page 33.

8 MR. KIRKLAND: Yes, sir.

9 THE COURT: Identifies Item 19 was fired by Item 1,
10 based on matching individual, identifying characteristics
11 found in Lee versus Lee when Item 1 is the high point .9 mm
12 pistol.

13 MR. KIRKLAND: Yes, sir.

14 THE COURT: So why was there a supplemental report?

15 MR. KIRKLAND: Oh. I think what this is -- we're
16 just talking about a worksheet, a bullet projectile
17 worksheet and this is the actual analysis report.

18 THE COURT: So it's included in Applicant's 6.

19 MR. KIRKLAND: The information is, that is correct.

20 THE COURT: All right. I just wanted to make sure
21 I wasn't dealing with two Item 19's.

22 MR. KIRKLAND: No, sir, no, sir. You're correct.

23 THE COURT: All right.

24 MR. KIRKLAND: Yeah, what you're referring to on 33
25 is the bullet projectile worksheet and then, of course,

Randy Yonson - Direct Examination by Mr. Kirkland

1 Item 13 is the actual forensic report by Trace Thrower.

2 Yes, sir.

3 THE COURT: All right. Thank you.

4 BY MR. KIRKLAND:

5 Q Anything else, Mr. Yonson, concerning those two
6 witnesses that you can think of? I will tell you this,
7 Mr. Yonson, everything I have in my notes, you have talked
8 about. I'm not trying to pressure you.

9 THE COURT: You did have a couple of more letters
10 in the file.

11 MR. KIRKLAND: That's coming up after the trial.

12 THE COURT: Okay.

13 MR. KIRKLAND: Once we get done with the trial,
14 I'll run through stuff.

15 THE WITNESS: That's all I can think of right now.

16 BY MR. KIRKLAND:

17 Q I think you got it all.

18 A The discrepancies and the...

19 Q Now, one last trial issue: The last trial issue
20 has to do with the video tapes. The -- you had mentioned
21 at the beginning of your testimony that there was -- even
22 though you couldn't see the incident, you could hear the
23 incident on the video tape, correct?

24 A Yes, sir.

25 Q Now, there was something about that that the

Randy Yonson - Direct Examination by Mr. Kirkland

1 prosecution made a pretty big deal of. What was that?

2 A They said I made a derogatory statement, Fuck this,
3 before I fired the shot.

4 Q Okay. And that was -- why did they introduce that?
5 What do you think their theory was for attaching that
6 statement to you?

7 A Because I -- because if I would have said, Fuck
8 this, and then shot them, you know what I'm saying, like I
9 was willingly trying to shoot them, which wasn't the case.
10 I wasn't trying to shoot nobody, you know what I'm saying.

11 Q Now, what would you have liked your attorney to
12 establish at the trial concerning that tape and the sound
13 that was on that tape?

14 A Well, for him to appear -- she heard on that audio
15 that derogatory statement, but it was twenty, thirty people
16 in the parking lot, all surrounding in the same area. My
17 girlfriend included, was hollering and screaming so it
18 could have really been anybody's voice on that audio saying
19 that.

20 Q And you don't believe that your attorney made an
21 effort during cross-examination, direct examination, or
22 closing arguments to establish that fact.

23 A He made no objection.

24 Q Any other -- did he -- do you recall him discussing
25 it or making any sort of attempt to mitigate that issue?

Randy Yonson - Direct Examination by Mr. Kirkland

1 A No, sir, he didn't make no attempt at it.

2 Q Now, trial ends, of course, and you're convicted on
3 all counts, correct?

4 A Yes, sir.

5 Q After the trial was over, did you have any contact
6 with your attorney?

7 A I received one or two letters from him, yes, sir.

8 Q I'm going to hand you these two letters. Do you
9 recognize those?

10 A Yes, sir, I do.

11 MR. KIRKLAND: Your Honor, I'd move please into
12 evidence -- these are the other two letters we were
13 referring to.

14 MR. GOURLEY: No objection, Your Honor.

15 THE COURT: All right. This will be 14 and 15?

16 MR. KIRKLAND: Yes, sir. And I'll put them in
17 order of their date, 14, February 22nd, 2007; 15, March
18 9th, 2007.

19 THE COURT: Thank you.

20 (WHEREUPON Applicant's Exhibits 14 and 15 were
21 marked and entered into evidence.)

22 BY MR. KIRKLAND:

23 Q All right. Tell the background of these two
24 letters. You can look at them.

25 A After the trial was over with, I wrote Mr. Williams

Randy Yonson - Direct Examination by Mr. Kirkland

1 another letter requesting again my documents in my
2 discovery and everything involved with my case and he told
3 me he was unable to release my file at this time or
4 something.

5 And I wrote him another letter and he said, In
6 response to your February 21st, 2007 request for all of
7 your discovery, please find the following enclosed: All
8 discovery materials disclosed by the solicitor's office,
9 motions filed, report, your probation violation, your
10 application for a public defender.

11 So March 9th, 2007, is when he sent my motion of
12 discovery to me.

13 Q And that's significant because that shows
14 definitively that you had never received discovery prior to
15 the date that you mentioned?

16 A Yes, sir.

17 Q So you never had discovery to prepare for trial?

18 A No, sir, nothing but that 35 page SLED lab report.
19 That's all I saw before trial.

20 MR. KIRKLAND: Now, Your Honor, I believe that's
21 all the questions I have. I will ask Mr. Yonson...

22 BY MR. KIRKLAND:

23 Q Is there anything else, Mr. Yonson that you can
24 think of? And while you're sitting there thinking?

25 (WHEREUPON there was a pause in the proceedings.)

Randy Yonson - Direct Examination by Mr. Kirkland

1 **THE WITNESS:** I have -- these are also parts of the
2 SLED lab that I got out of the motion. This is a list of
3 the witnesses that was at the scene of the crime, starting
4 with me, Lisa Horn. I believe that's all their statements.
5 Here is a list that Mr. Williams gave me also when I
6 received it. He said that's the list of all the witnesses
7 that was there. It's three pages long.

8 BY MR. KIRKLAND:

9 **Q** Well, tell -- let's describe this right here.
10 This -- the first thing you mentioned is this SLED
11 memorandum of interview, correct?

12 **A** Yes, sir.

13 **MR. KIRKLAND:** And, Your Honor, I would ask that
14 this be marked 16. And this is not in your package, Your
15 Honor, I'm sorry.

16 **MR. GOURLEY:** No objection, Your Honor.

17 **THE COURT:** All right. Applicants 16 is in without
18 objection.

19 (WHEREUPON Applicant's Exhibit No. 16 was marked
20 and entered into evidence.)

21 **MR. KIRKLAND:** I will, very quickly, let you know
22 what this is, Your Honor. It is a South Carolina Law
23 Enforcement Division Memorandum of Interview. On the front
24 page, it lists, one, two, three, four, five, six, seven
25 names and then the rest of the page is -- appears to be the

Randy Yonson - Direct Examination by Mr. Kirkland

1 actual memorandum of each individual interview.

2 THE COURT: All right.

3 BY MR. KIRKLAND:

4 Q Now, what is the significance of this, Mr. Yonson?

5 A It is -- one of the girls in particular --
6 there's -- says something -- she saw something besides what
7 she wrote in her statement. She's not here today, but none
8 of those people were called to testify to what they saw.
9 You know what I'm saying? You see -- they might have saw
10 something more than what was in their statement just like
11 it was more to James Williams and Aaron Bolen statement
12 than what meets the eye.

13 Q Got you. So your attorney didn't call those
14 witnesses and you feel that could have made a difference in
15 the outcome of the case?

16 A Yeah, because somebody might have seen something
17 other than, you know what I'm saying, than what they
18 testified to. They might have testified that they only
19 heard one initial shot too.

20 Q Now, what about this other -- how would you
21 describe the other document you've handed me? What is
22 this?

23 A That is a handwritten list that was -- that was --

24 Q Handwritten by who? Do you know?

25 A It was an officer at the scene. At the crime

Randy Yonson - Direct Examination by Mr. Kirkland

1 scene.

2 Q Well, before we even go that far because we -- we
3 may not know that for certain. Was this just materials
4 that were received in your discovery?

5 A Yes, sir.

6 Q Okay. So this was in the discovery?

7 A Yes, sir.

8 MR. KIRKLAND: Your Honor, I would introduce this
9 as Applicant's 17. And what this is, Your Honor --

10 MR. GOURLEY: No objection.

11 THE COURT: Seventeen is in without objection.

12 MR. KIRKLAND: And what this is, Your Honor, is
13 apparently a handwritten note. I don't think there's
14 anything on here that establishes who wrote it, but as
15 you've heard, it was handed over in discovery.

16 (WHEREUPON Applicant's Exhibit No. 17 was marked
17 and entered into evidence.)

18 BY MR. KIRKLAND:

19 Q Now, what is the significance of this document,
20 Mr. Yonson?

21 A That's just showing that it's more people that was
22 there than was even in the SLED -- that SLED knew about.

23 Q And your attorney didn't contact those people?

24 A Didn't contact them at all.

25 Q Is there anything else that you can think of? At

Randy Yonson - Cross-Examination by Mr. Gourley

1 least -- don't leave anything out, Mr. Yonson.

2 (WHEREUPON there was a pause in the proceedings.)

3 **MR. KIRKLAND:** And I will mention for the record,
4 Your Honor, while he's looking, he actually mentions in his
5 original PCR application failure to call witnesses as
6 one -- or failing to interview witnesses as one of the
7 grounds, so I think it's related to that.

8 **THE WITNESS:** I believe that's it that I can see so
9 far, Mr. Kirkland.

10 **MR. KIRKLAND:** All right. I guess while we were
11 waiting on you Mr. Yonson, I was looking through your
12 application and I went through the amendment, I think we've
13 put everything in, so I can't think of anything either, in
14 addition. And so I would now like you to answer any
15 questions that the attorney general's office has for you.

16 **THE COURT:** Thank you, thank you, Mr. Kirkland.
17 Mr. Gourley?

18 **MR. GOURLEY:** Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. GOURLEY:**

21 **Q** Mr. Yonson, you actually had two guns that night,
22 right?

23 **A** Yes, sir.

24 **Q** Both of them in your back pockets?

25 **A** One was in my back pocket and one was in my front

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1 left pocket.

2 Q Okay. The .9 mm was where?

3 A In my back right pocket.

4 Q Okay. And the .25 mm was in the front?

5 A Yes, sir, my front left pocket.

6 Q Okay. And your whole defense -- your story today
7 here is that this was an accident?

8 A Yes, sir.

9 Q Okay. Now, you testified at your trial, correct?

10 A Yes, sir, I did.

11 Q And so when you first started talking here today,
12 pretty much everything that you said, you stated at your
13 trial, right? Told the jury about your side of the events?

14 A Yeah, to some extent, sir, yes, sir.

15 Q And you were shot in your left shin, your left butt
16 cheek and your back, right?

17 A Yes, sir.

18 Q Okay. And you testified that you never saw any
19 attorney for approximately how long? You never saw an
20 attorney for how long?

21 A I was arrested in September of 2005 and I didn't
22 see an attorney until December of 2006.

23 Q And then you had one attorney, Ms. Melissa Biggers,
24 for a little bit and you met her one time, right?

25 A Yeah, she come and told me she was my attorney and

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1 she gave me the copies of the motions that she filed for my
2 Rule 5, 6, discoveries and all the discovery materials and
3 that's the last time I ever seen her.

4 Q Okay. And then you met with Mr. Williams sometime
5 in December, right? That was your first meeting?

6 A Yes, sir, that's correct.

7 Q Okay. And one of your allegations was the video,
8 the -- about length of the video. You never got to review
9 the entire video, right?

10 A Me and Todd talked about that when he come to see
11 me. He said pretty much a lot of the tape, you know what
12 I'm saying, it wouldn't show nothing.

13 Q Right.

14 A You understand, they just kept -- the tapes just
15 keep rolling and they don't turn them off until a certain
16 time, so he pretty much told me it was a lot that wasn't
17 viewable, so we viewed about 30 minutes of the tape.

18 Q And how long would you say -- I know everything
19 happened real fast, but how long would you say the events
20 of that night took place? The scuffle and everything like
21 that that occurred? How long, just a rough estimate.

22 A Two minutes.

23 Q Two minutes. Okay. And the cops were there and
24 the police video is rolling that entire time since their
25 arrival until I guess when they got back in the car?

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1 A Yeah, when they parked, they jumped out of the cars
2 and went towards the altercation. There was some girls
3 fighting in the parking lot.

4 Q Right.

5 A So they left the vehicles running, you know what
6 I'm saying -- when they pulled up, they pulled up right in
7 front of me.

8 Q Okay. Now, you said there was an altercation with
9 some girls. One of those girls was your girlfriend, right?
10 Amanda Teal? Or you knew her?

11 A She was trying to break off the fight. Two girls
12 were fighting. Beverly and -- there was another one they
13 were fighting in the parking lot, yes, sir.

14 Q Okay. And did you go over there and observe that
15 fight?

16 A I stood at a distance. I stood right beside my
17 truck and was watching from the distance. I was starting
18 to leave.

19 Q Right. Did you ever pull out a gun at that point
20 in time when you were watching this fight?

21 A No, sir, I did not. It was hanging out of my back
22 pocket.

23 Q Well, you just testified a little bit earlier that
24 you were getting ready to leave. You had pulled your keys
25 out of your pocket and were entering them into the truck,