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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SALUDA COUNTY

J. Michael Baxley, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GERALD RUDELL WILLIAMS,

APPELLANT

APPELLATE CASE # 2013-002304

RECORD ON APPEAL

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October 14 - 17, 2013
Saluda, South Carolina

B E F O R E:

The Honorable J. Michael Baxley, Judge; and a
jury.

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1 (The following proceedings were held on
2 October 14, 2013.)

3 **THE COURT:** All right. Ladies and gentlemen,
4 what we're going to do is we're going to call our
5 first case for trial here in a moment, but let me
6 just talk with you a little bit about this process
7 so we'll have an understanding.

8 What we're going to do today is we're going to
9 pick one jury for trial and begin that trial. It
10 may be that the actual jury portion of the trial
11 will begin in the morning. We're not certain,
12 that's what we were just discussing a moment ago,
13 but counsel tells me that trial may take perhaps two
14 or three days. That doesn't mean that -- well, let
15 me say it this way:

16 I know you turn on the television and you see
17 in California cases that go for months on end.
18 We're not looking at something of that nature here,
19 that rarely happens in South Carolina anyway. So
20 for your -- just to put your own heart and mind at
21 ease, we're going to be done with this term
22 certainly by Friday.

23 The fact that a case takes two or three days
24 doesn't mean it's any less important than one that
25 may take two weeks, because it is the parties one

1 day or two days in court, but I'll just tell you
2 this for your own scheduling: It appears we may
3 begin the jury trial portion of the case tomorrow
4 and it may take two to three days from there.

5 Now, what we're going to do is ask you a series
6 of questions that have to do with this specific
7 case. We finished with the general qualifications.
8 And I know from being on jury duty myself, as well
9 as from serving many years in the courtroom, that a
10 lot of times when you're sitting just as you are
11 right now, you hear a question and you think, well,
12 gosh, you know, I don't think that applies to me; I
13 don't want to embarrass myself; I don't want to
14 stand up and call attention to myself; I'm just
15 going to be quiet. I'm going to ask you to do just
16 the opposite. If you have some reason, some inkling
17 that you should respond to a question, then stand up
18 and give us the benefit of that information.

19 The purpose of this process is, is to choose a
20 jury that is disinterested. When I say that, I
21 don't mean that you don't care. What I mean is that
22 you don't have some connection to a case that might
23 make you an inappropriate juror for whatever reason.

24 Now, we're going to begin this matter with the
25 Solicitor calling the case for trial, and then we'll

1 proceed from there.

2 So, Mr. Maye, please call your case for trial.

3 Thank you.

4 **MR. MAYE:** May it please the Court, Your Honor.

5 The State now calls for trial indictment

6 2013-GS-41-257, the State versus Gerald Rudell

7 Williams, an indictment for attempted murder. It's

8 been true billed by the Grand Jury of Saluda County.

9 The State now calls this indictment for trial.

10 The State also calls indictment 2013-GS-41-258,

11 the State versus Gerald Rudell Williams, an

12 indictment for attempted murder. It's also been

13 true billed by the Grand Jury of Saluda County.

14 Indictment 2013-GS-41-259, the State versus

15 Gerald Rudell Williams, an indictment for attempted

16 murder. It too has been true billed by the Grand

17 Jury of Saluda County.

18 The State calls each of these three indictments

19 to trial against the defendant, Mr. Williams.

20 **THE COURT:** Very good. Thank you.

21 And, Mr. Casto, do you represent Mr. Williams

22 with regard to all three of these charges?

23 **MR. CASTO:** Yes, sir, I do, Your Honor.

24 **THE COURT:** And Mr. Williams is present with

25 you in the courtroom, sir?

1 **MR. CASTO:** He is, Your Honor.

2 **THE COURT:** And how does he plead to these
3 three charges?

4 **MR. CASTO:** He pleads not guilty, Your Honor.

5 **THE COURT:** All right. Very good.

6 Then, ladies and gentlemen, you've heard the
7 case called for trial. You've heard what the
8 charges are. You've heard the entry for a plea of
9 not guilty. Thus, the issues are joined for trial,
10 and we will proceed to pick a jury. We're going to
11 start this process by introducing the lawyers to
12 you.

13 And what I'd ask counsel to do, I'll start with
14 the State, is introduce the lawyers, and then if you
15 have a -- the case officer or the investigative
16 officer who will be with you throughout the trial,
17 if you'd introduce that one individual as well and
18 then we'll proceed with the defense and do the same.
19 So, Counsel, please introduce yourself, turn and
20 face the jury panel and introduce yourself again.

21 **MR. MAYE:** My name is Ervin Maye and I'm an
22 Assistant Solicitor for your elected Solicitor,
23 Mr. Donnie Myers. I typically help him take care of
24 McCormick, Edgefield and Saluda Counties. Seated
25 with me at the State's table is Assistant Solicitor

1 Frank Young. He also helps us here in McCormick,
2 Edgefield and Saluda County. We represent the
3 State.

4 **THE COURT:** And who will be your prosecuting
5 officer in this particular case? Who is your case
6 officer?

7 **MR. MAYE:** Our primary case officer will be
8 Investigator Jesse Quattlebaum from the -- now the
9 Saluda Town Police Department, formerly with the
10 Saluda County Sheriff's Office.

11 **THE COURT:** All right. Thank you. Welcome,
12 gentlemen. Please be seated.

13 Now, let's switch to the defense side. And,
14 Counsel, let's do the same thing, please introduce
15 yourself and your client to the jury panel.

16 **MR. CASTO:** Good morning. My name is Bennett
17 Casto. I work up in Lexington. I currently serve
18 the Eleventh Circuit, which is comprised of
19 Lexington, Saluda, Edgefield and McCormick.
20 Throughout the trial of this case, I'll be joined
21 with my co-counsel, Mr. Robert Madsen. He will be
22 assisting me in this trial. And this is my client,
23 Gerald Williams. Thank you.

24 **THE COURT:** Thank you. Please be seated.

25 Now, ladies and gentlemen, first, let's ask

1 about the lawyers, okay. I'm talking about the
2 lawyers, not the parties, that are involved here.
3 You were introduced to Mr. Maye and Mr. Young, the
4 Solicitors, that's the prosecution side, and then
5 Mr. Casto and Mr. Madsen on the defense side.

6 I want to ask is there any member of this jury
7 panel related by blood or marriage to any of these
8 attorneys or have some close business, professional
9 or social connection to any of these attorneys; if
10 so, please stand?

11 Let's let the record reflect no one has stood.

12 Now, let me ask this: Some of the lawyers have
13 been in private practice at some time, they also
14 have practiced in the courts. It is not -- the
15 Saluda County Court of General Sessions is not the
16 only court running, so there may be other courts in
17 which they've been involved in cases.

18 I ask now if any of you, I'm asking the jury
19 panel, have ever worked with any of these lawyers
20 previously, whether you were perhaps the victim of
21 crime on the Solicitor's side of the case and worked
22 with Mr. Young or Mr. Maye, or you've been, in some
23 other matter, worked with Mr. Casto or Mr. Madsen,
24 whether it be criminal, civil, whatever the matter
25 may be. If you've had some previous professional

1 connection with any of these lawyers, please stand?

2 Let's let the record reflect no one has stood.

3 Now, as you heard, the prosecuting attorneys
4 work for the Solicitor's office. The Solicitor's
5 office in the Eleventh Circuit is not only Saluda
6 County, but Lexington is involved, Edgefield as
7 well, other counties are involved.

8 And so I ask if there's any member of this jury
9 panel who, either you or a family member, has either
10 worked for the Solicitor's office in the past, do
11 you have some business connection with the
12 Solicitor's office whether that should be as a
13 contractor or a vendor or something of that nature,
14 or you've been represented by the Solicitor's
15 office, even if it was other lawyers not just the
16 two we have here, as the victim of a crime in some
17 other unrelated matter? If any of that applies to
18 you with regard to the Solicitor's office, please
19 stand.

20 All right. We have one of our jurors standing.
21 And, ma'am, please tell me your name and your juror
22 number.

23 **JUROR:** Angelin Butler. I have a son that was
24 -- had got in trouble and...

25 **THE COURT:** Okay. So you've -- let's put it

1 this way, you've had some connection maybe on both
2 sides of the case?

3 **JUROR:** Yes.

4 **THE COURT:** Now, would the fact that you've had
5 that previous connection prevent you from being fair
6 and impartial in this case if you're called as a
7 juror?

8 **JUROR:** I don't think so.

9 **THE COURT:** Tell me that again.

10 **JUROR:** I don't think so.

11 **THE COURT:** All right. Well, let's be certain
12 of it. I want to make sure because obviously these
13 are important matters we're talking about. Would
14 you be able to, as a juror, listen to the facts and
15 make a decision on the facts, accept the law as I
16 give it to you and make a decision that's fair and
17 impartial, put out of your mind the fact that you
18 may have some connection to either side of this
19 case, that is the lawyers in this case at some
20 previous time; can you do that?

21 **JUROR:** I believe I can, but I can't -- I mean,
22 as a person, I believe that I can do it, you know,
23 but I just don't know if I'm not there with, you
24 know. I can't say for sure put it like that because
25 I believe I can, you know, in my heart, I believe I

1 can. I don't know for sure.

2 **THE COURT:** And the reason you don't know for
3 sure is why, ma'am?

4 **JUROR:** Well, because I had a couple of sons
5 that have gotten in trouble before and --

6 **THE COURT:** Well, let's do this, you don't need
7 to tell me anything further, just one moment,
8 please.

9 (Pause.)

10 **THE COURT:** All right. Ma'am, I'm going to let
11 you remain with us at this point because what you
12 tell me is that you believe you can. And if, at
13 some point in this process, you change your mind and
14 believe you can't, that is you cannot be fair and
15 impartial, then I'm going to ask you to tell me and
16 we'll deal with that at that time, okay.

17 **JUROR:** Okay.

18 **THE COURT:** All right. Thank you for your
19 response, ma'am. You may be seated.

20 Anyone else now who would respond to say they
21 have some connection? I was asking about
22 connections to the Solicitor's office generally. If
23 that applies to you, please stand.

24 (There was no response.)

25 **THE COURT:** All right. The same is true for

1 the public defender's office that works in this
2 entire circuit, not just Saluda County. It may be
3 that you or a family member has some previous
4 connection to the public defender's office or maybe
5 you've been a victim of crime where the public
6 defender's office has represented someone who may
7 have been charged with that crime.

8 So I'm asking you now, and also about whether
9 you might be a vendor or somehow an independent
10 contractor with the public defender's office, if
11 there's any member of this jury panel who has some
12 connection to the public defender's office as I've
13 just described, if that applies to you, please
14 stand.

15 Let's let the record reflect then no one has
16 stood further.

17 Now, let's ask about the individuals who are in
18 this case. We just talked about the lawyers, now
19 let's talk about the parties. The case officer, as
20 you heard, is Investigator Quattlebaum on the
21 prosecution side of the case and you just met the
22 defendant, Mr. Gerald Rudell Williams. These are
23 the two parties in this case.

24 And I ask you, ladies and gentlemen, is any
25 member of this jury panel related to either of them

1 by blood or marriage, have some connection to them
2 whether it be social, business, professional,
3 whatever it may be, or think you even know either
4 one of those individuals, which is Investigator
5 Quattlebaum and Mr. Williams? If that applies to
6 you, any of that, please stand.

7 (Jurors stand.)

8 **THE COURT:** All right. And then let's begin on
9 the left, sir. Please, tell me your name and juror
10 number.

11 **JUROR:** Juror 25, Gordon Bowdler.

12 **THE COURT:** All right. And tell me, I asked a
13 multipart question, why are you standing, sir?

14 **JUROR:** I'm acquainted with Officer
15 Quattlebaum.

16 **THE COURT:** Okay. Very good. Now, let me say
17 it to you this way: Of course, I live in Darlington
18 County where everybody knows everybody. Saluda may
19 be about the same. The fact that you would know
20 someone doesn't automatically disqualify you. The
21 question is would you be able to put aside the fact
22 that you know Officer Quattlebaum and be fair and
23 impartial in your role as a juror in this case? Can
24 you do that, sir?

25 **JUROR:** Yes, sir.

1 **THE COURT:** All right. Then I find he's
2 qualified by your response. Thank you, sir.

3 Please tell me your name and juror number.

4 **JUROR:** Frank Bethea, number 11.

5 **THE COURT:** All right. Mr. Bethea, and tell me
6 why are you standing, sir?

7 **JUROR:** I know Mr. Quattlebaum personally.

8 **THE COURT:** Okay. And tell me you're not
9 related to him, you just know him.

10 **JUROR:** Yes. He's intimately involved with my
11 son all through high school and...

12 **THE COURT:** All right. Then, Mr. Bethea, let
13 me ask you, sir, would the fact that he has that
14 relationship to your family, would that prevent you
15 in this case from being fair and impartial in your
16 opinion?

17 **JUROR:** I don't think so.

18 **THE COURT:** All right, sir. Now, let me be
19 certain and let's ask it this way again because we
20 need some certainty here as best we can achieve it.

21 **JUROR:** I will do my utmost best to do my civic
22 duty to weigh the facts and judge impartially. I
23 just want you to know that I'm very familiar with
24 this man.

25 **THE COURT:** And I'm grateful. Thank you, Mr.

1 Bethea. And just to make sure, would you be able to
2 follow the law as I give it to you and find the
3 facts in a fair and impartial way in your belief?
4 Can you do that, sir?

5 **JUROR:** Yes, sir.

6 **THE COURT:** All right. Then based on that, I
7 find that you are qualified. Thank you, Mr. Bethea.

8 Anyone else now who would stand and say they
9 have some connection to either Mr. Quattlebaum or to
10 the defendant, Mr. Williams?

11 All right. Hearing nothing further, then,
12 Counsel, I'm going to ask you to call out the names
13 of the witnesses who may appear for the State.

14 Ladies and gentlemen, if you're in the
15 courtroom and you're a witness, please stand so our
16 jury panel can see you.

17 And go ahead and just publish those names, Mr.
18 Maye.

19 **MR. MAYE:** Your Honor, would you like for me to
20 publish our witness list?

21 **THE COURT:** Yes, sir. I'll just let you call
22 them out to the jury panel.

23 And again, ladies and gentlemen, if you're
24 here, stand and face the jury panel, please.

25 **MR. MAYE:** The potential witnesses for the

1 State of South Carolina would include: Investigator
2 Rodney Pruitt of the Williston Police Department,
3 Ycedra Williams, Joseph Wrighton, Al Jerome Young,
4 Officer Brett Long, Officer Zeb Robert Shorter,
5 Jesse Quattlebaum, Rhonda Adams, Gene Morelli, James
6 W. Green, Thomas Darnell, Amanda Webb, Selina
7 Kinard, Doris Yarbrough, Courtney Smith, Officer
8 Jerry Grenier, Leslie Michael Barlow, Officer -- or
9 now Chief Kes Holmes, and Officer Scott Wilson.

10 **THE COURT:** All right. Thank you.

11 And again, ladies and gentlemen, these are
12 potential witnesses. I don't want you to be
13 concerned that you heard too many witnesses' names
14 there, but these are individuals who may be called
15 because we're attempting to make sure inclusively
16 about our witnesses and juror knowledge of those
17 witnesses.

18 So the question now is when we were talking
19 about the parties, I asked you if you even knew
20 them, my question for potential witnesses is not so
21 close. What I'm really asking is, is whether you're
22 related by blood or marriage to any of these
23 individuals or have some close business,
24 professional or social connection to any of these
25 individuals; if so, please stand?

1 Let's let the record reflect no one has stood
2 in response to the Court's question.

3 Now, before I ask the next question, let me
4 just give a little bit of prefatory remarks. It is
5 a basic and foundational principle of our justice
6 system that the defendant is presumed innocent, and
7 we're going to talk about that further. You heard
8 the defendant enter a guilty plea, but it's not
9 necessary that a defendant enter a guilty plea --
10 excuse me, I said that backwards.

11 You heard the defendant enter a not guilty
12 plea, but it's not necessary that the defendant
13 enter any plea whether it's guilty, not guilty or no
14 plea because the burden is always on the State to
15 prove the defendant's guilt beyond a reasonable
16 doubt. The defendant is presumed innocent. And,
17 again, on top of that, you heard the defendant enter
18 a plea of not guilty to these charges, and I want to
19 be clear on that.

20 Now, as one of the rights that the defendant
21 has as a result of having no burden of proof,
22 because the defendant never has to prove himself
23 innocent, the State must prove guilt, is that the
24 defendant's not required to put up a case, the
25 defendant's not required to testify, the defendant's

1 not required to call witnesses.

2 But, at this point, before we move forward, I
3 want to ask are there other potential witness who
4 may appear who are not listed in the State's
5 witnesses for whom I need to query this jury?

6 **MR. CASTO:** Yes, sir, Your Honor.

7 **THE COURT:** All right. Please call the names
8 to the jury panel of the individuals who may appear
9 on behalf of the defendant.

10 **MR. CASTO:** The defendant's potential witnesses
11 would also include Oriental James Charley, Hue
12 Tang, Ms. Katie Darnell, Ms. C. Caldwell and
13 Mr. Mickey Dawson.

14 **THE COURT:** All right. Thank you.

15 Now, about those witnesses, those potential
16 witnesses, I ask the same question I asked about the
17 State's witnesses. Are you related by blood or
18 marriage to any of these individuals or have some
19 close business, professional or social connection to
20 any of these individuals; if so, please stand?

21 Let's let the record reflect that no one has
22 stood.

23 Now, what I have in my hand, ladies and
24 gentlemen, are the indictments in these cases. As
25 you can see, they're just simply pieces of paper,

1 and that's what the indictments are. The
2 indictments are a set of allegations against the
3 defendant. This is the piece of paper by which the
4 Solicitor commences a prosecution against an
5 individual.

6 And what's in these indictments are simply a
7 set of allegations because, again, the defendant is
8 presumed innocent. The burden of proof is on the
9 State. The indictments themselves are not evidence.
10 What's in these is not to be considered the truth of
11 the matter, because what the truth is is going to
12 come from the witness stand right here under oath
13 and under examination by counsel, not because it
14 says something on a piece of paper. And so, please,
15 appreciate the fact that these indictments are
16 simply allegations. And I'm going to publish to you
17 portions of these allegations because I want to ask
18 you if you know something about the alleged incident
19 which brings us here to court today.

20 And the indictment -- there are three separate
21 charges being tried at one time. And the first
22 indictment for attempted murder, which is indictment
23 2013-257, alleges that Gerald Rudell Williams, the
24 defendant, along with Oriental Jermaine Charley,
25 did, in Saluda County, on April 13th, 2012,

1 feloniously, willfully and with malice aforethought
2 attempt to murder the victim, Joseph Christopher
3 Wrighton, in that the defendant, Gerald Rudell
4 Williams, along with Orientalal Jermaine Charley, did
5 shoot a firearm into the residence that the victim
6 was then staying with the attempt to kill the
7 victim, again, his name, Joseph Christopher
8 Wrighton.

9 The second indictment arising from this same
10 set of facts is indictment 2013-GS-41-258 which
11 alleges that on the same date and time, Gerald
12 Rudell Williams did here in Saluda County, along
13 with Orientalal Jermaine Charley, on that same date
14 and time, April 13th, 2012, did feloniously and
15 willfully and with malice aforethought attempt to
16 murder the victim, Ycedra Nicole Williams, in that
17 Gerald Rudell Williams, along with Mr. Charley, did
18 shoot a firearm into the residence that the victim
19 was staying with the intent to kill her in violation
20 of South Carolina law. Again, the victim being
21 Ycedra Nicole Williams.

22 And then, finally, the third indictment, which
23 is indictment 259, alleges that on that same date
24 and time, that Gerald Rudell Williams, along with
25 Mr. Orientalal Jermaine Charley, did feloniously,

1 willfully and with malice aforethought attempt to
2 murder the victim, Al Jerome Young, in that the
3 defendant, Gerald Rudell Williams, along with
4 Mr. Charley, did shoot a firearm into the residence
5 that the victim was then staying with intent to kill
6 Al Jerome Young.

7 In other words, there are three separate
8 victims and thus three separate charges arising out
9 of the same coincident that occurred in Saluda
10 County, on April 13th, 2012. These are the
11 allegations against the defendant.

12 And let me also say just so we'll all be clear,
13 when I use the term victim, I don't mean that a
14 crime has occurred and that someone was, quote, the
15 victim of that crime. Perhaps a better term will be
16 complaining witness because ultimately it's for the
17 jury to determine whether a crime happened here, and
18 if one did, whether or not the defendant was
19 involved in the matter at all. And, thus, these are
20 matters for the State to prove. But I ask you to
21 take no inference from any label or terms that the
22 Court may use. But these are the three indictments
23 that are pending for trial.

24 I ask you now if there's any member of this
25 jury panel who knows anything about this incident

1 from whatever source that may come or about these
2 parties or about this prosecution? If you have some
3 knowledge about this, please stand.

4 And let's let the record reflect no one has
5 stood in response to the Court's question.

6 All right. Now, ladies and gentlemen, let me
7 ask you a little bit about you, if I may. I don't
8 want to get too far into your personal business, but
9 I do want to ask some questions. I want to ask now
10 if any member of this jury panel has ever been
11 employed in law enforcement, whether you worked
12 full-time or perhaps volunteered even or worked part
13 time in some capacity in law enforcement in your
14 past? If that applies to you, please stand.

15 (Juror stands.)

16 **THE COURT:** All right. And then, ma'am, please
17 tell me your name and your juror number.

18 **JUROR:** Susan Bowen, number 26.

19 **THE COURT:** And, Ms. Bowen, tell me what did
20 you do for law enforcement, please?

21 **JUROR:** I worked for the department of
22 corrections back in 1990.

23 **THE COURT:** Okay. And were you a corrections
24 officer?

25 **JUROR:** Yes.

1 **THE COURT:** All right. And would the fact that
2 you had worked in the prison system at one time
3 prevent you from being fair and impartial somehow
4 here in this case?

5 **JUROR:** No, sir.

6 **THE COURT:** Then I find that you're qualified,
7 Ms. Bowen. Thank you for your response.

8 And I ask now anyone else who would respond to
9 that question about whether you, the juror, had
10 previously been employed in law enforcement in some
11 capacity?

12 (There was no response.)

13 **THE COURT:** All right. Now, I want to ask
14 about your immediate family members' current
15 employment. And this is how we're going to define
16 immediate family member for this question and others
17 that are going to come behind it: Your immediate
18 family for these questions are your spouse and your
19 children regardless of where they live, and anyone
20 else related to you who lives in your household,
21 that is your immediate family.

22 And so I ask you now if there's any member of
23 this jury panel who has an immediate family member,
24 as we've just defined it, currently working in some
25 law enforcement capacity? If that applies to you,

1 please stand.

2 (Juror stands.)

3 **THE COURT:** All right, sir. Please tell me
4 your name and juror number.

5 **JUROR:** Charles Holloway, juror number 86.

6 **THE COURT:** All right, sir. And what family
7 member do you have in law enforcement?

8 **JUROR:** My son.

9 **THE COURT:** Your son. And where does he work,
10 sir?

11 **JUROR:** He work in Batesburg and Lexington
12 County.

13 **THE COURT:** All right. And would the fact that
14 you have a son currently in law enforcement prevent
15 you from being fair and impartial in this case?

16 **JUROR:** No, sir.

17 **THE COURT:** Then I find that you're qualified
18 by your response. Thank you, sir. Did you say he
19 worked in Batesburg?

20 **JUROR:** He work in Batesburg-Leesville and
21 Lexington County.

22 **THE COURT:** All right. Very good. Thank you,
23 sir.

24 And now I want to ask whether you as a juror
25 are a member of any organization which may have as

1 its purpose -- and let me just stop right there and
2 say there's absolutely nothing wrong with being a
3 member of any such organization I'm getting ready to
4 ask you about. I'm just simply inquiring as to
5 whether you are a member of an organization that has
6 as its purpose, the advocacy for or protection of
7 law enforcement officers and their rights or perhaps
8 victims of crime and their rights. And
9 organizations of this nature would be something like
10 Mothers Against Drunk Driving, we call it MADD;
11 Citizens Against Spousal Abuse, which is CASA; CAVE,
12 which is Citizens Against Violent Crime; or any
13 similar organization.

14 Again, I say emphatically there's nothing wrong
15 with such a membership. I'm just simply asking if
16 you are. If that applies to you, please stand.

17 And let's let the record reflect that no one
18 has stood in response to the Court's question.

19 All right. Ladies and gentlemen, I want to ask
20 now if there's any member of this jury panel, I'm
21 asking about you first, the juror, who has ever been
22 the victim of a violent crime? And when I say a
23 violent crime, I'm meaning a crime that has some
24 component of interpersonal violence, which would
25 include a shooting, which is alleged here in this

1 case. If you've ever been the victim of a violent
2 crime, please stand.

3 (Juror stands.)

4 **THE COURT:** All right. And then, ma'am, please
5 tell me your name and juror number.

6 **JUROR:** I'm juror number 173, Janet Sample.
7 And when I was 20 years old, I was a victim of an
8 armed robbery with a knife.

9 **THE COURT:** All right, ma'am, and let me ask is
10 there anything in that event that would prevent you
11 here now many years later --

12 **JUROR:** No, sir.

13 **THE COURT:** -- being fair and impartial in this
14 case?

15 **JUROR:** No.

16 **THE COURT:** All right. Then I find that you're
17 qualified by your response. Thank you, ma'am, for
18 your candor.

19 Anyone else now who would say that they've been
20 the victim of a violent crime?

21 (There was no response.)

22 **THE COURT:** Now, let me ask the same question,
23 but the reverse side of it. Is there any member of
24 this jury panel who's ever been accused of
25 perpetrating a violent crime, whether it went to

1 some trial or formal criminal charges were brought
2 or not? If you've ever been accused of committing a
3 violent crime, please stand. As I say, commit or
4 take some part in the commission of it, please
5 stand.

6 Let's let the record reflect no one has stood
7 in response to the Court's question.

8 Now, I'm going to expand the question to
9 immediate family members. If you have an immediate
10 family member who's been the victim of a violent
11 crime in the past, please stand.

12 Let's let the record reflect no one has stood.

13 And now I ask the same question, the other side
14 of the question is if any of you have an immediate
15 family member who's been accused of perpetrating or
16 somehow being involved in the commission of a
17 violent crime, if that applies to you, to your
18 immediate family, please stand.

19 (Jurors stand.)

20 **THE COURT:** All right. Ma'am, please, tell me
21 your name and juror number again.

22 **JUROR:** Angelin Butler.

23 **THE COURT:** And, Ms. Butler, you earlier spoke
24 about your son. Is this the same matter which
25 you're referring to?

1 **JUROR:** Yes.

2 **THE COURT:** All right. And would the fact that
3 you've had that involvement with your son prevent
4 you from being fair and impartial in this case in
5 your opinion?

6 **JUROR:** No.

7 **THE COURT:** All right. I find that you're
8 qualified, ma'am, by that response. Thank you.

9 And, ma'am, please tell me your name and juror
10 number.

11 **JUROR:** Patricia Bosket, juror number 23.

12 **THE COURT:** All right. And, ma'am, tell me
13 what family member are you referring to.

14 **JUROR:** My uncle, James Ethridge, and this was
15 in Lexington County with Judge Baggett some years
16 ago.

17 **THE COURT:** All right. And would the fact that
18 that has occurred in your family history, would that
19 prevent you from being fair and impartial, Ms.
20 Bosket, in this case?

21 **JUROR:** No, sir.

22 **THE COURT:** Then I find that you're qualified,
23 ma'am. Thank you for your response.

24 All right. Ladies and gentlemen, this matter,
25 and not being from Saluda, I do not have specific

1 knowledge of this, but there may have been a media
2 report or some news coverage of this event when it
3 occurred. I ask you now if there's anybody here in
4 this courtroom believes that you've seen some media
5 report or news event about this incident which
6 happened, of course, back in 2012, or about this
7 trial, which is being held today, beginning today in
8 Saluda County. If you've seen some media report
9 about this matter, please stand.

10 Let's let the record reflect that no one has
11 stood in response to the Court's question.

12 Now -- and I know the air conditioning is on.
13 Can you hear me in the back, ladies and gentlemen?

14 All right. Very good.

15 Now, this case, as you heard, which again,
16 there's been an entry of a plea of not guilty, that
17 involves allegations of shooting into a home, a
18 mobile home, and I ask you, ladies and gentlemen,
19 for any reason, if there's any juror who believes
20 for reasons personal to you, whether that be a --
21 just a moral belief or a philosophical reason or
22 just a personal belief, that you would not be a fair
23 or appropriate juror for this case based on
24 allegations in the case, if that -- if you believe
25 that to be the case with you, please stand.

1 Let's let the record reflect no one has stood
2 in response to the Court's question.

3 Now, are there further questions from the State
4 with regard to jury qualifications?

5 **MR. MAYE:** None from the State, Your Honor.
6 Thank you.

7 **THE COURT:** And from the defense?

8 **MR. CASTO:** No, sir, Your Honor.

9 **THE COURT:** All right. Thank you. Then just
10 one moment.

11 Counsel, you're welcome to, you just sit as you
12 wish, but if you want to turn your back and move to
13 the other side so that you're having to face out,
14 you're welcome to do so. And let me explain to the
15 jury what's going to happen now.

16 We've completed qualifications for the case and
17 now we're going to proceed to the jury strike or
18 jury draw. And this is how we do this process:
19 Your names have been -- even now are being
20 randomized by a computer program. And we're going
21 to pull a list that has no particular order to it
22 and call the names from the top one at a time.

23 When your name is called, we're going to ask
24 you just to stand where you are and then both sides
25 of the case will have an opportunity to either seat

1 you or excuse you. If they excuse you, then I'm
2 just going to let you be seated. I can't let you
3 walk out the door right now. I'll tell you about
4 that in a moment, but just let you be seated. But
5 if you're chosen, then please come and sit in the
6 jury box and you will serve on our jury in this
7 particular case.

8 Now, that was just an explanation of the way
9 the process works, but let me tell you what's really
10 -- how it's really going to happen. You're going to
11 stand up, they're going to be sitting at the table
12 talking. And you know they're talking about you, we
13 know they're talking about you, it's a little bit
14 psychologically uncomfortable.

15 But I simply would say to you this is a process
16 that has stood our country well for over 200 years
17 and so we're going to use the same jury strike
18 process we've used now for centuries here in this
19 state. And so in some courts, you have to get up
20 out your seat and come stand here in front of
21 everybody. We're going -- rather than be invasive
22 and require you to do that, we're just going to let
23 you stand where you are.

24 Now, a comment or two about the lawyers'
25 decision: If the lawyers don't seat you, that is if

1 they excuse you or we call it a strike, of course
2 that -- I start to say don't be offended, that may
3 be what you wish to happen, I'm not sure. But I
4 would simply say this to you, if you are not chosen
5 in the case, it may be based upon some answer here
6 in the courtroom you gave today, it may be based on
7 some response on a jury questionnaire, it may be
8 based on some strategy or tactic that only the
9 lawyer knows.

10 But I'll tell you what it's not based on. It
11 is not based on your sex and it is not based on your
12 race. It is against the law to strike for those
13 reasons and both sides have the opportunity to
14 challenge the other side's strike.

15 Now, if you're not chosen, because we may have
16 to revisit for that very reason I just discussed,
17 any strikes that occur, I'm just going to let you be
18 seated until we reach the end of the process and
19 then we'll make a determination there as to how
20 we'll proceed.

21 Now, Madame Clerk, are you ready?

22 **THE CLERK:** Yes.

23 **THE COURT:** Thank you.

24 And is the State ready to strike?

25 **MR. MAYE:** The State's ready to proceed, Your

1 Honor.

2 **THE COURT:** Defense ready to strike?

3 **MR. CASTO:** The defense is ready, Your Honor.

4 **THE COURT:** All right. And the strikes are, by
5 statute, are five for the State and ten for the
6 defense. Is there an objection to that?

7 Hearing none, then, Madame Clerk, if you will
8 proceed.

9 And again, ladies and gentlemen, when your name
10 is called, just please stand where you are. Thank
11 you.

12 **THE CLERK:** 153, Matthew A. Porter.

13 (Whereupon, Matthew A. Porter, a white male,
14 stood.)

15 **THE CLERK:** What say you for the State?

16 **MR. MAYE:** Please present the juror.

17 **THE CLERK:** What say you for the defense?

18 **MR. CASTO:** Please seat Mr. Porter.

19 **THE CLERK:** Please come forward and have a seat
20 in the jury box.

21 49, Brandon K. Cockrell.

22 (Whereupon, Brandon K. Cockrell, a white
23 male, stood.)

24 **THE CLERK:** What say you for the State?

25 **MR. MAYE:** Please present the juror.

1 **THE CLERK:** What say you for the defense?

2 **MR. CASTO:** Please seat Mr. Cockrell.

3 **THE CLERK:** Please come forward and have a seat
4 in the jury box.

5 173, Janet E. Sample.

6 (Whereupon, Janet E. Sample, a white female,
7 stood.)

8 **THE CLERK:** What say you for the State?

9 **MR. MAYE:** Please present the juror.

10 **THE CLERK:** What say you for the defense?

11 **MR. CASTO:** Please excuse this juror from the
12 trial of this case.

13 **THE CLERK:** Please have a seat.

14 11, Frank G. Bethea.

15 (Whereupon, Frank G. Bethea, a white male,
16 stood.)

17 **THE CLERK:** What say you for the State?

18 **MR. MAYE:** Please present the juror.

19 **THE CLERK:** What say you for the defense?

20 **MR. CASTO:** Please excuse this juror.

21 **THE CLERK:** Please have a seat.

22 100, William K. Jones.

23 (Whereupon, William K. Jones, a black male,
24 stood.)

25 **THE CLERK:** What say you for the State?

1 **MR. MAYE:** Please excuse the juror from the
2 trial of this case.

3 **THE CLERK:** Please have a seat.
4 23, Patricia D. Bosket.

5 (Whereupon, Patricia D. Bosket, a black
6 female, stood.)

7 **THE CLERK:** What say you for the State?

8 **MR. MAYE:** Please present the juror.

9 **THE CLERK:** What say you for the defense?

10 **MR. CASTO:** Please seat Ms. Bosket.

11 **THE CLERK:** Please come forward and have a seat
12 in the jury box.

13 86, Charles A. Holloway.

14 (Whereupon, Charles A. Holloway, a black
15 male, stood.)

16 **THE CLERK:** What say you for the State?

17 **MR. MAYE:** Please present the juror.

18 **THE CLERK:** What say you for the defense?

19 **MR. CASTO:** Please excuse this juror from the
20 trial of this case.

21 **THE CLERK:** Please have a seat.

22 96, Frankie D. Johnson.

23 (Whereupon, Frankie D. Johnson, a black
24 male, stood.)

25 **THE CLERK:** What say you for the State?

1 **MR. MAYE:** Please excuse the juror from the
2 trial of this case.

3 **THE CLERK:** Please have a seat.
4 26, Susan E. Bowen.

5 (Whereupon, Susan E. Bowen, a white female,
6 stood.)

7 **THE CLERK:** What say you for the State?

8 **MR. MAYE:** Please present the juror.

9 **THE CLERK:** What say you for the defense?

10 **MR. CASTO:** Please excuse this juror.

11 **THE CLERK:** Please have a seat.
12 167, Cedric J. Robinson.

13 (Whereupon, Cedric J. Robinson, a black
14 male, stood.)

15 **THE CLERK:** What say you for the State?

16 **MR. MAYE:** Please excuse the juror from the
17 trial of the case.

18 **THE CLERK:** Please have a seat.

19 47, Charles L. Clark, Jr.

20 (Whereupon, Charles L. Clark, Jr., a white
21 male, stood.)

22 **THE CLERK:** What say you for the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What say you for the defense?

25 **MR. CASTO:** Please excuse this juror.

1 **THE CLERK:** Please have a seat.

2 25, Gordon E. Bowdler.

3 (Whereupon, Gordon E. Bowdler, a white male,
4 stood.)

5 **THE CLERK:** What say you for the State?

6 **MR. MAYE:** Please present the juror.

7 **THE CLERK:** What say you for the defense?

8 **MR. CASTO:** Please excuse Mr. Bowdler.

9 **THE CLERK:** Please have a seat.
10 197, Cokeltto S. Wallace.

11 (Whereupon, Cokeltto S. Wallace, a black
12 female, stood.)

13 **THE CLERK:** What say you for the State?

14 **MR. MAYE:** Please present the juror.

15 **THE CLERK:** What say you for the defense?

16 **MR. CASTO:** Please seat the juror.

17 **THE CLERK:** Please come forward and have a seat
18 in the jury box.

19 196, Terry D. Walker.

20 (Whereupon, Terry D. Walker, a white male,
21 stood.)

22 **THE CLERK:** What say you for the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What say you for the defense?

25 **MR. CASTO:** Please excuse Mr. Walker.

1 **THE CLERK:** Please have a seat.

2 113, Randy D. Lomax.

3 (Whereupon, Randy D. Lomax, a white male,
4 stood.)

5 **THE CLERK:** What say you for the State?

6 **MR. MAYE:** Please present the juror.

7 **THE CLERK:** What say you for the defense?

8 **MR. CASTO:** Please excuse Mr. Lomax.

9 **THE CLERK:** Please have a seat.
10 40, Ronda B. Carmean.

11 (Whereupon, Ronda B. Carmean, a white
12 female, stood.)

13 **THE CLERK:** What say you for the State?

14 **MR. MAYE:** Please present the juror.

15 **THE CLERK:** What say you for the defense?

16 **MR. CASTO:** Please seat the juror.

17 **THE CLERK:** Please come forward and have a seat
18 in the jury box.

19 Number 8, Kelle N. Bedenbaugh.

20 (Whereupon, Kelle N. Bedenbaugh, a white
21 female, stood.)

22 **THE CLERK:** What say you for the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What say you for the defense?

25 **MR. CASTO:** Please seat Ms. Bedenbaugh.

1 **THE CLERK:** Please come forward and have a seat
2 in the jury box.

3 181, Danny Springs.

4 (Whereupon, Danny Springs, a black male,
5 stood.)

6 **THE CLERK:** What say you for the State?

7 **MR. MAYE:** Please present the juror.

8 **THE CLERK:** What say you for the defense?

9 **MR. CASTO:** Please seat Mr. Springs.

10 **THE CLERK:** Please come forward and have a seat
11 in the jury box.

12 120, Randy Mathis.

13 (Whereupon, Randy Mathis, a black male,
14 stood.)

15 **THE CLERK:** What say you for the State?

16 **MR. MAYE:** Please present the juror.

17 **THE CLERK:** What say you for the defense?

18 **MR. CASTO:** Please seat Mr. Mathis.

19 **THE CLERK:** Please come forward and have a seat
20 in the jury box.

21 129, Eddie L. Miller.

22 (Whereupon, Eddie L. Miller, a white male,
23 stood.)

24 **THE CLERK:** What say you for the State?

25 **MR. MAYE:** Please present the juror.

1 **THE CLERK:** What say you for the defense?

2 **MR. CASTO:** Please excuse Mr. Miller.

3 **THE CLERK:** Please have a seat.

4 **THE COURT:** The defense has one strike
5 remaining.

6 **THE CLERK:** Number 34, Angelin B. Butler.

7 (Whereupon, Angelin B. Butler, a black
8 female, stood.)

9 **THE CLERK:** What say you for the State?

10 **MR. MAYE:** Please excuse the juror from the
11 trial of this case.

12 **THE CLERK:** Please have a seat.

13 **THE COURT:** The State has one strike remaining.

14 **THE CLERK:** 55, Mable D. Crouch.

15 (Whereupon, Mable D. Crouch, a black female,
16 stood.)

17 **THE CLERK:** What say you for the State?

18 **MR. MAYE:** Please present the juror.

19 **THE CLERK:** What say you for the defense?

20 **MR. CASTO:** Please seat Ms. Crouch.

21 **THE CLERK:** Please come forward and have a seat
22 in the jury box.

23 81, Marilyn T. Heyward.

24 (Whereupon, Marilyn T. Heyward, a white
25 female, stood.)

1 **THE CLERK:** What say you for the State?

2 **MR. MAYE:** Please present the juror.

3 **THE CLERK:** What say you for the defense?

4 **MR. CASTO:** Please seat this juror.

5 **THE CLERK:** Please come forward and have a seat
6 in the jury box.

7 107, Robert A. Kirkland.

8 (Whereupon, Robert A. Kirkland, a white
9 male, stood.)

10 **THE CLERK:** What say you for the State?

11 **MR. MAYE:** Please present the juror.

12 **THE CLERK:** What say you for the defense?

13 **MR. CASTO:** Please excuse this juror from the
14 trial of this case.

15 **THE CLERK:** Please have a seat.

16 **THE COURT:** All right. The defense has
17 exhausted its strikes, has only challenges for cause
18 remaining.

19 **THE CLERK:** 101, Sandra J. Jumper.

20 (Whereupon, Sandra J. Jumper, a white
21 female, stood.)

22 **THE CLERK:** What say you for the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What say you for the defense?

25 **THE COURT:** And is there a challenge for cause

1 from the defense?

2 **MR. CASTO:** No, sir, Your Honor.

3 **THE COURT:** Very good. Ma'am, please come
4 forward.

5 **THE CLERK:** 198, Brandon J. Warren.

6 (Whereupon, Brandon J. Warren, a white male,
7 stood.)

8 **THE CLERK:** What say you for the State?

9 **MR. MAYE:** Please present the juror.

10 **THE CLERK:** What say you for the defense?

11 **MR. CASTO:** Please seat this juror.

12 **THE COURT:** All right. Then, Madame Clerk,
13 that would be our jury of 12. Let's choose two
14 alternates. And the strikes for the alternates will
15 be one for the State and two for the defense as to
16 each alternate.

17 **THE CLERK:** 179, Jennifer M. Smith.

18 (Whereupon, Jennifer M. Smith, a black
19 female, stood.)

20 **THE CLERK:** What say you for the State?

21 **MR. MAYE:** Please excuse the juror from the
22 trial of this case.

23 **THE CLERK:** Please have a seat.

24 106, Joyce R. Kirkland.

25 (Whereupon, Joyce R. Kirkland, a white

1 female, stood.)

2 **THE CLERK:** What say you for the State?

3 **MR. MAYE:** Please present the juror.

4 **THE CLERK:** What say you for the defense?

5 **MR. CASTO:** Please excuse Ms. Kirkland.

6 **THE CLERK:** Please have a seat.

7 124, Louann M. McKinney.

8 (Whereupon, Louann M. McKinney, a white
9 female, stood.)

10 **THE CLERK:** What say you for the State?

11 **MR. MAYE:** Please present the juror.

12 **THE CLERK:** What say you for the defense?

13 **MR. CASTO:** Please seat this juror.

14 **THE CLERK:** Please come forward.

15 144, Donald W. Padgett.

16 (Whereupon, Donald W. Padgett, a white male,
17 stood.)

18 **THE CLERK:** What say you for the State?

19 **MR. MAYE:** Please present the juror.

20 **THE CLERK:** What say you for the defense?

21 **MR. CASTO:** Please excuse Mr. Padgett.

22 **THE CLERK:** Please have a seat.

23 127, Alice Miles.

24 (Whereupon, Alice Miles, a black female,
25 stood.)

1 **THE CLERK:** What say you for the State?

2 **MR. MAYE:** Please present the juror.

3 **THE CLERK:** What say you for the defense?

4 **MR. CASTO:** Please seat Ms. Miles.

5 **THE CLERK:** Please come forward.

6 **THE COURT:** All right. Thank you, Madame
7 Clerk.

8 Now, before I speak with the lawyers, let me
9 just ask you, ladies and gentlemen, I know you
10 started out there this morning, you had safety in
11 numbers and now we had our first jury drawing and
12 there you sit. But let me ask you, how many of you
13 have served before on a jury whether it be civil or
14 criminal? If you've been on jury duty before,
15 please raise your hand.

16 Okay. Well, we've got some experience on the
17 jury panel. But let me just say this to you for
18 those of you who find yourselves where you are for
19 the first time, don't be uncomfortable because there
20 are two tools that are needed to serve well as
21 jurors and you got them both. The first is your
22 collective common sense and the second is your
23 ability to listen. Armed with those two tools
24 you're going to find yourself in good shape. So,
25 again, don't be uncomfortable about where you are.

1 Now, Counsel, is there an objection to the
2 procedure used by this Court to draw this jury or
3 the strikes employed by the other side? What says
4 the State?

5 **MR. MAYE:** Nothing from the State, Your Honor.

6 **THE COURT:** What says the defense?

7 **MR. CASTO:** Nothing from the defense, Your
8 Honor.

9 **THE COURT:** Very good. Then, Counsel, step up
10 and let's talk one more time about scheduling before
11 I give both of our groups some further information.

12 (Whereupon, a bench conference was held off
13 the record, in the presence of the jury, but out of
14 the hearing of the jury.)

15 **THE COURT:** All right. Now, ladies and
16 gentlemen, let's talk a moment, if we can, about our
17 procedure. And what we're going to do is there are
18 some pretrial issues that need to be resolved, all
19 of which would assist in preparing the trial to be
20 more efficient and take less of your time as jurors.
21 So we are going to conclude jury involvement for the
22 day now. So I'm going to release both groups here
23 in just a moment to be done for the day.

24 But for the rest of you, I'm going to ask for
25 our jury in the box here, when you walk out, we're

1 going to go out with the bailiff, let our bailiff
2 show you where the jury room is, and tomorrow
3 morning at 9:30, and please be on time because it
4 will be important that we start on time, just to be
5 here at 9:30 tomorrow morning and we will begin the
6 trial of this case.

7 Now, just a couple more points: Please do not
8 feel that it's incumbent upon you to go out and
9 undertake some investigation this afternoon whether
10 that be on the Internet or on the street or whatever
11 it may be. Just simply go home, have a good
12 afternoon, get a good night's rest and be back
13 tomorrow, the lawyers will be ready to go.

14 And, secondly, your loved ones when you get
15 home, they're going to say, well, what happened in
16 court today, honey? And they're going to want to
17 know about the case. I'm going to ask you, in fact
18 direct you, please, not to discuss the facts of the
19 case with your loved ones at home until it's over.

20 And the reason for that is this: Whatever
21 happens in this case, whatever the jury's decision
22 is should be based on the evidence in this courtroom
23 and not something said by someone who is of
24 influence in your life outside of these proceedings
25 that no one knows about. So, please, tell your

1 loved ones that you cannot discuss the case until
2 it's over with. And I'll ask you tomorrow morning
3 before we begin whether anyone's had a discussion
4 with you about the facts of the case.

5 Now, let's just talk about scheduling and we're
6 done for the day. We'll start back at 9:30
7 tomorrow, please be prompt in the jury room, we'll
8 begin at that time. Any questions now from our jury
9 about scheduling?

10 (There was no response.)

11 **THE COURT:** The last thing I will mention to
12 you is we operate this courtroom generally on
13 business hours. We start about 9:30. We'll end at
14 five o'clock tomorrow. Nobody's going to be
15 sequestered in a hotel room. You're going to go
16 home, be with your loved ones as you should be, and
17 so you can tell that to those who may be concerned
18 about your schedule.

19 All right. Any questions from the jury?

20 (There was no response.)

21 **THE COURT:** Then out of respect for you, all of
22 us will remain where we are while you depart the
23 courtroom. Have a good day. We'll see you tomorrow
24 morning at 9:30.

25 (The jury was excused for the day.)

1 **THE COURT:** All right. Ladies and gentlemen,
2 for the rest of you, I know you're disappointed that
3 you were not chosen to be on this case, but the good
4 news I have for you is that we are done for the day,
5 but, please, that does not mean we are done for the
6 week. There may be many things that would happen
7 that would cause us to impanel another jury.

8 And so after six o'clock tonight, and if I knew
9 now what the message would be, I would tell you now,
10 but we don't know until the end of the business day,
11 so after six o'clock tonight, call the juror number
12 for further instructions of the panel and follow
13 whatever those are, whether it be call back the next
14 day or to report at some given time, please do so.

15 I've enjoyed working with you today. You're
16 free for the day. Have a good day, ladies and
17 gentlemen.

18 (The remaining jury panel was excused.)

19 **THE COURT:** All right. Ladies and gentlemen,
20 we'll be in recess until two o'clock this afternoon.

21 (Whereupon, there was a luncheon recess.)

22 **THE COURT:** All right. It appears that we are
23 in place now and what we have are some -- several
24 pretrial motions from the defense. And so defense,
25 I'll let you, Mr. Casto, tell us which you believe

1 to be dispositive, which you wish to hear first, and
2 we'll just proceed in that fashion.

3 **MR. CASTO:** Yes, sir, Your Honor. I'd like to
4 take -- we'd passed up a list of our pretrial
5 motions, and I think that we're going to move --
6 just for the Court's edification, I'm going to
7 handle the first motion. And they should basically
8 be called in the order they're presented on the --
9 our pretrial motion sheet.

10 The first motion that we have, Your Honor,
11 there is a written motion that accompanies this,
12 I've filed it downstairs in the clerk's office and
13 also served a copy on Mr. Young. I believe Mr. Maye
14 has a copy of that. And I don't know if the Court
15 has had a chance to review that motion. If not,
16 I'll pause while the Court reads through the written
17 motion.

18 **THE COURT:** All right. Just a moment, please.

19 **MR. CASTO:** Yes, sir.

20 (Pause.)

21 **THE COURT:** All right. Just to, maybe to make
22 this a little more brief, Counsel, it's my
23 understanding that you previously had made this
24 motion for a speedy trial. You were given a
25 directive by the Court to, the State was, to try

1 this case by a certain date, that didn't occur.
2 Your client was then released on a PR bond and then
3 ended up back in custody shortly thereafter; am I
4 correct?

5 **MR. CASTO:** That's correct, Your Honor.

6 **THE COURT:** So tell me what is the prejudice
7 then, the damage, to your case by a delay of 549
8 days, which you say is inordinate?

9 **MR. CASTO:** Well, basically, Your Honor, this
10 centers on his fundamental, you know, due process
11 rights as imposed by the due process clause, the
12 Fourteenth Amendment. And the group that we look at
13 is obviously under Baker -- or Barker, I'm sorry,
14 versus Wingo. And, really, it's a four-part
15 analysis. And the Court's correct, we look at the
16 length of the delay, which up through this day is
17 549 days.

18 Just to place this on the record, I took over
19 the case September 12th of 2012. Myself and
20 Mr. Williams, we reviewed the discovery material. I
21 went through everything that I do with all clients.
22 And Mr. Williams wanted to proceed with a speedy
23 trial motion. That was filed, and that was filed in
24 November of 2012 and was actually heard in open
25 court by the Honorable Judge Russo in February. And

1 so, basically, the Court's correct with regard to
2 that procedure.

3 Judge Keesley out here kind of operates in sort
4 of a post-Langford type of structure where he, in
5 essence, you know, places things on the trial list.
6 He was given a directive to the State, they
7 communicated that to me. The case was up for trial
8 in May of this year. The State realized they had
9 some witness problems and some evidence problems and
10 so it would not have been tried.

11 Now, this is after we had had the motion for a
12 speedy trial heard by the Honorable Judge Russo. So
13 rather than going forward with the trial, we
14 presented this to the judge, he granted relief.
15 But, ultimately, it's not so much just where he is
16 with regard to before his trial. Really, what the
17 argument is is that he's been denied his fundamental
18 rights and he has basically asserted those rights.

19 And so we had another term of court in May and
20 then there was yet another term of general sessions
21 court out here for which the defendant was not
22 tried, and this is after he's asserted his right by
23 way of speedy trial motion.

24 **THE COURT:** Now, help me assess this for
25 prejudice, though. That's what I'm really looking

1 for. How is he damaged by this delay?

2 **MR. CASTO:** Essentially, he has been
3 incarcerated the whole time and he's asserted his
4 right to go to trial and to have a speedy trial,
5 and, in fact, through no fault of his own, his life
6 has not moved on. He's resided in a cell. He can't
7 work a decent job. And we consider that to be a
8 considerable burden on him brought about, you know,
9 through him merely just asserting his right. And he
10 can't call his own case to trial unfortunately, Your
11 Honor. And so this is, essentially, what we propose
12 and the relief that we seek is just dismissal of
13 these cases.

14 **THE COURT:** All right. Let me hear from the
15 Solicitor and we'll come back to you and give you an
16 opportunity to reply.

17 **MR. CASTO:** Yes, sir.

18 **MR. MAYE:** Your Honor, there was -- he was
19 incarcerated. There was some delay in this case.
20 We actually were waiting to see whether or not he
21 was going to assert his right to a trial in this
22 case. We talked about plea negotiations in this
23 case and we're back and forth.

24 His co-defendant, O.J. Charley, pleaded guilty,
25 was going to testify for the State. We received

1 indication that he -- some letters purporting that
2 he recanted.

3 We prepared to try the case, Your Honor. We
4 realized there were some items that had not been
5 tested. Everything was initially submitted to the
6 South Carolina Law Enforcement Division. But unless
7 we were going to proceed to trial in this case, we
8 were not going to order the DNA test to be done. We
9 did order the DNA test to be done, that was the only
10 delay.

11 He was released and he'd be out on his own
12 recognizance now basically subject to an ankle
13 bracelet. He'd be out now but for the fact that he
14 could not comply with the terms of the court's
15 order. He made it about a week and a half and he
16 took the ankle bracelet off and went AWOL and his
17 bond was revoked.

18 And the State's ready to proceed in this case,
19 Your Honor. I know that that speedy trial -- there
20 have been cases in South Carolina were up to a
21 six-year delay. This is a 2012 case. This is
22 October 2013, and we're prepared to go forward. I
23 don't think he can show any actual damage or
24 prejudice in this case. And much of the
25 incarceration period in this was by his own doing in

1 this case, that he can't comply with the terms of
2 the court.

3 **THE COURT:** And tell me when the defendant
4 violated by removing -- the State's position, by
5 removing his ankle bracelet, did he accrue any other
6 criminal charges during that period?

7 **MR. MAYE:** Your Honor, we didn't pursue
8 anything. He spaced -- that was actually down in
9 Williston when he moved -- when he did that.
10 Actually, we had very little involvement. The bond
11 company notified us and we, in fact, notified Judge
12 Keesley, and it was set into motion basically by the
13 court at that point in time, Your Honor. We just
14 basically presented the information and his bond was
15 revoked. I think, clearly, the bond company
16 indicated that there was willful removal of it and
17 he was gone when they went to -- law enforcement
18 went to his residence where he was supposed to be.

19 And we're ready to proceed, Your Honor. We
20 don't think he can show any actual prejudice beyond
21 the fact he's been incarcerated. And like I said,
22 we feel like the reason that he's in custody now is
23 of his own choosing.

24 **THE COURT:** All right. Thank you. And,
25 Mr. Casto, do you want to reply to that?

1 **MR. CASTO:** Just very briefly. No, Your Honor,
2 he was not reincarcerated. He wasn't charged with
3 anything additional during the time that he was
4 released. But, Your Honor, really, it's just, it
5 centers on the fact that these were rights available
6 to him, that he asserted his right, that ultimately
7 he is prejudiced through remaining there in jail and
8 this is after the assertion of the right.

9 Essentially, his request is, is that the due
10 process clause apply here. And I think that, you
11 know, we kind of operate in our system of courts and
12 everything like that where post-Langford, we kind of
13 realized that, you know, how things have operated
14 has been declared unconstitutional, but now with the
15 realization of that, we're trying to get a different
16 system in place and whatnot. But under that system,
17 Your Honor, his rights were basically deprived and
18 we just seek dismissal of all of these indictments
19 against him, Your Honor.

20 **THE COURT:** Very good. The Court's prepared to
21 rule. And respectfully, Mr. Casto, I'm going to
22 deny the motion for the following reasons:

23 First of all, these cases, each case alone does
24 not occur in a vacuum. There are many factors that
25 control it, including a crowded general sessions

1 docket; the limited number of terms here in Saluda;
2 in this specific case, a co-defendant who turned
3 State's evidence, if I understand Mr. Maye, then
4 entered a plea or received a conviction with a
5 deferred sentence apparently and then recanted and
6 has not cooperated with the State. Furthermore,
7 your defendant -- your client has already been given
8 some relief, which unfortunately he did not take
9 complete advantage of by retaining his personal
10 freedom while he was out on a PR bond.

11 I find no prejudice whatsoever by the simple
12 delay of time and passage of it. Five hundred and
13 forty-nine days is not inordinate based on what the
14 Court sees around the State for the length of time
15 it takes to bring a case to trial of this magnitude.

16 For those multiple reasons, I respectfully deny
17 any relief on the motion to, I guess, to quash the
18 indictments for lack of compliance for a speedy
19 trial. I don't find a due process violation here,
20 and that's the decision of the Court.

21 **MR. CASTO:** Yes, sir.

22 **THE COURT:** Thank you. Now, there are other
23 motions to be argued?

24 **MR. MADSEN:** Yes, Your Honor. We would move
25 for a dismissal of the case for a violation of the

1 discovery rules.

2 Just to give you a little bit of history, we
3 filed -- our office filed a motion of discovery
4 under Rule 5 and Brady on April 30th of 2012. It
5 appears that SLED ballistic report was done on
6 January 15th of 2013, that their latent prints
7 report was done on January 24th of 2013.
8 Additionally, there was some DNA that was not done
9 until 9/20 of 2013.

10 As you just heard, there was a speedy trial
11 that was filed on November 8th of 2012. Judge Russo
12 heard that motion February 11th of 2013. There were
13 a couple of terms in between that date where the
14 case wasn't called for trial. So the State still
15 has six months in there.

16 We finally received those items from the State
17 last Friday, so 10/4 of 2013. The ballistics report
18 and the latents report that were done in January,
19 we're not receiving those till nine or ten months
20 later. What's important about those is if you look
21 at either the ballistics or the latent prints or
22 even the DNA, there are fingerprints that do not
23 come -- or palm prints that do not come back to our
24 client. There is DNA off of, I believe, a trigger
25 guard -- or a trigger and also a grip on some of

1 those -- on some of the weapons that they have there
2 that don't come back to our client.

3 As I said with the latents, they were submitted
4 to major case prints on three individuals, our
5 client, O.J. Charley and one of the alleged victims,
6 Al Jerome Young. Palm prints or fingerprints that
7 latents from SLED pulls don't come back to any of
8 those individuals. Your Honor, we believe that
9 there is certainly prejudice based on that.

10 As I said, you heard about the speedy trial,
11 the judge putting it on the trial list, and here it
12 is nine months later and we're getting them a week
13 before trial. And there's some substantial
14 information that's contained in those reports and
15 we're just not receiving them until basically a week
16 before trial. And based on that, Your Honor, we
17 would move that the case be dismissed.

18 **THE COURT:** All right. And just to make sure I
19 sift through and fully comprehend your argument,
20 your position is that the surprise that occurred is
21 there's a fourth individual who apparently was a
22 shooter that is unidentified based on this forensic
23 evidence you've received back.

24 **MR. MADSEN:** Yes. There's someone who's
25 unidentified with some fingerprints, someone who's

1 unidentified with some DNA, it's not our client.
2 And we should have been provided with that
3 information instead of a week before trial,
4 especially when SLED has done those things in
5 January.

6 **THE COURT:** Okay. Well, now, help me with
7 that. Having received that, let's say you received
8 it two months ago, what would you have been able to
9 do or what would you have done that now you're
10 prejudiced that you cannot do?

11 **MR. MADSEN:** We could have certainly moved the
12 Court -- DNA was never taken from the alleged
13 victims. We could have certainly moved for the
14 Court to take that DNA, to check it against, you
15 know, there's a gun that's supposedly found outside
16 of the residence in a ditch that I'm assuming, from
17 law enforcement's perspective, is going to be that
18 either our client or a co-defendant has that gun.
19 Well, we know there's DNA that doesn't come back to
20 our client. According to the statements that law
21 enforcement received, that's not the gun that the
22 co-defendant had.

23 Those guns were not found that night. They
24 were found the next day. So there appears to be a
25 substantial period of time that someone else could

1 have placed those items. When you receive that
2 basically nine days before you're standing in front
3 of Your Honor, that becomes -- there's no way to try
4 to get that information.

5 **THE COURT:** But isn't it -- just from a --
6 again, before I even hear from the State, isn't it a
7 better position for the defense to take the position
8 with the jury that, well, there's some unknown
9 person here, as opposed to try and track that person
10 down and then have him perhaps inculcate your client
11 as well? Are you not in the best position you could
12 be in to just simply have an unknown person?

13 **MR. MADSEN:** There are certainly arguments that
14 can be made to the jury and we will do that at the
15 appropriate time if the Court denies our motion, but
16 under Brady, we're entitled to that information.
17 And for the State to wait until basically a week
18 before and spring that on us is just wrong.

19 **THE COURT:** Okay. I hear what you're saying,
20 but what I'm trying to gauge is the prejudice of it.
21 I realize you say that it is inappropriate having it
22 sprung on you, but tell me again how are you wounded
23 by it?

24 **MR. MADSEN:** Well, obviously, you can make a
25 factual argument in front of a jury that, hey,

1 there's some fourth unknown person or a third
2 unknown person or someone else there, but if we
3 would have had the time and say that that DNA comes
4 back to one of the alleged victims, that certainly
5 puts the defense in a much different position than
6 saying, you know, it would be helpful factually to
7 say, oh, there's a fourth person up there and we
8 don't know who that person is. But if the DNA comes
9 back to one of the alleged victims on a grip or a
10 trigger on one of those guns that's outside of the
11 residence that supposedly the perpetrators had,
12 you're in a lot different position. The substance
13 of this case changes tremendously.

14 We're not given the ability to look into that
15 information because we get it nine days before.

16 **THE COURT:** Very good. Let me hear from the
17 State and we'll get back to you, sir.

18 **MR. MAYE:** Your Honor, certainly the issue of
19 DNA is no surprise. We put this case off at the
20 last term of court because there was a change in
21 posture. We had test -- forensic testing that we
22 probably would not have done given the posture that
23 we were in with a cooperating co-defendant where he
24 recanted and flipped, Your Honor. We took a look at
25 the evidence again. We submitted the items for DNA

1 testing. That was no surprise.

2 We had to have a Schmerber hearing. There was
3 a hit. Basically, now with the -- with the line of
4 cases that are out there that you have to know that
5 you have some material -- genetic material to
6 compare something to in order to obtain a Schmerber
7 order, actually Judge Russo had us hold off. We had
8 a Schmerber hearing at the last -- I believe it was
9 at or about the last term of court that Judge Russo
10 was here. He said that he was not going to rule on
11 that until SLED conducted that DNA testing to make
12 sure that there was genetic material with which to
13 compare this defendant's DNA. We sought and
14 obtained that information from SLED. That was part
15 of the delay.

16 The -- we then got the Schmerber order, drew
17 it. SLED made those tests and we made those
18 available as soon -- I checked with SLED almost on a
19 weekly basis in conjunction with Judge Keesley
20 basically now managing the docket. Judge Keesley
21 asked us several times, do you have anything back
22 from DNA? I told His Honor at that time, I'll check
23 and as soon as I have any word that we have the DNA
24 results back from SLED, I'll make sure the defense
25 gets them. We did that, Your Honor.

1 We basically, in this case, have the defendant
2 himself, Mr. Williams. He has been writing to Judge
3 Keesley talking about a speedy trial and I know that
4 South Carolina doesn't have any hybrid
5 representation. I know that his attorneys want that
6 material in hand, but you have Mr. Williams who's
7 continually saying, I want a speedy trial. The
8 State's position is certainly he just wants the case
9 dismissed in the event that we can't go forward.
10 We're ready to go to trial.

11 Mr. Williams has been petitioning, separate
12 from his attorneys, to Judge Keesley to have a
13 speedy trial, because anytime he writes to Judge
14 Keesley, Judge Keesley, of course, forwards us that
15 information.

16 The -- at the last term of court, Your Honor, I
17 did not have the lawyer that was involved in this
18 case seeking to go forward, but he had his client
19 basically pushing to go forward and petitioning the
20 court directly and asking him to do so.

21 He wants a speedy trial in this case, Your
22 Honor. He apparently does not want any delay. We
23 gave them that material as soon as it was available
24 to us to be forwarded, and we're ready to go. And I
25 think Mr. Williams is asserting his right to a

1 speedy trial, that puts us on an accelerated basis
2 and we're ready to go forward if that's what he
3 wants.

4 **THE COURT:** And, again, to make sure I
5 understand, counsel gave me some dates in January
6 that this information apparently, January 2013, was
7 available. But is it correct that was the date of
8 submission to SLED or that was the date you had an
9 answer back from SLED?

10 **MR. MAYE:** Your Honor, I didn't get the DNA
11 evidence back until very recently. We've met over
12 and over. Mr. Casto has been diligent in keeping up
13 with the discovery. We've met multiple times to
14 make sure that we had a full exchange of discovery.
15 We've tried to provide those items that they wanted
16 as they were available to us.

17 But in this case, Your Honor, we didn't get the
18 DNA results back until -- we didn't know that we'd
19 even be able to try it at this term of court because
20 we just got the DNA results back. If there was
21 anything else that they did not have at that point
22 in time, I was unaware of that, Your Honor. And I
23 did not realize they did not have any other items.

24 What we were waiting on was the DNA, that was
25 basically the crux of this case. We would certainly

1 assert that that's the most critical piece of
2 evidence in this case, Your Honor. We were waiting
3 until we got that back and we gave them the results
4 just as soon as we had them.

5 And Mr. Williams has continually been pushing
6 that he wants a speedy trial, so that's one of the
7 reasons -- in fact, there was another case that was
8 supposed to be tried this week, it was continued.
9 We immediately placed Mr. Williams' case before
10 Judge Keesley that this was the case that we wanted
11 a trial because he was asserting his speedy trial
12 rights.

13 **THE COURT:** All right. Thank you.

14 Do you want to reply?

15 **MR. MADSEN:** Judge, one thing I neglected also
16 is on one of those guns found outside was a partial
17 -- some type of latent, whether fingerprints, palm
18 prints or something. That report was not submitted,
19 but the report indicates coming back from SLED, that
20 was January 24th of 2013, so not submitted. But
21 when SLED does the report and that palm print,
22 latent, whatever it is, does not come back to our
23 client, does not come back to the co-defendant in
24 that case.

25 I neglected to mention that. We kind of

1 focused on DNA, but that was part of our argument
2 also. They had those things, or at least law
3 enforcement's had that since January.

4 **THE COURT:** And tell me about the print,
5 basically the print only. Why was there a delay in
6 forwarding the print which counsel tells me you've
7 had since January?

8 **MR. MAYE:** Your Honor, I wasn't aware that we
9 had a delay in any fingerprint evidence. I thought
10 the State had -- I mean, the defense had everything
11 that we had in the way of print evidence.

12 Our position in this case, Your Honor, is he
13 was wearing gloves. These two individuals came up
14 from Williston, South Carolina, and the State's
15 position in this case is to murder an individual.
16 They came up to the house both armed with guns.
17 They were wearing gloves. Some of those gloves were
18 left, along with the weapons that were abandoned
19 upon their path of retreat back to their vehicle.

20 Basically, the guns were there and at least
21 part of the glove was piled right on top of the
22 gloves -- I mean, on top of the gun. We wouldn't
23 have expected to find their prints on any weapons
24 that were there. They went to all the trouble to
25 wear rubber gloves in this case, Your Honor. We

1 certainly would not have expected to have found
2 their fingerprints on any of the guns or any of the
3 evidence that was there that we collected.

4 I was unaware that they didn't have anything in
5 the way of print evidence or that is even
6 significant in this case to the defense because we
7 have individuals that put rubber gloves on in order
8 to avoid leaving print evidence. Unfortunately,
9 when he abandoned the gloves there at the scene,
10 Your Honor, with the gun, that we did extract his
11 DNA from that, Your Honor.

12 **THE COURT:** Very good. Just a moment, please.

13 You also have a suppression of gun and
14 ballistics testing, which is along the same line or
15 has that been abandoned?

16 **MR. MADSEN:** That was on the same line, Your
17 Honor. On the ballistics testing, that was done
18 January 15th, so some nine days before. And we just
19 received that information on Friday also, which was,
20 I believe, 10/4.

21 **THE COURT:** All right. You want to be heard on
22 the ballistics testing, Counsel?

23 **MR. MAYE:** Your Honor, I thought the defense
24 had all the ballistics evidence in this case. We've
25 submitted CDs in this case in an endeavor to make

1 sure that we had a full exchange of discovery. If
2 they didn't have any of those tests, it's the first
3 I've heard of it today. I was unaware of that, Your
4 Honor. But like I said, there was no intentional
5 shielding or hiding of that from the defense in this
6 case. We've endeavored to fully comply with Rule 5
7 in discovery. And like I said, we've met multiple
8 times on that.

9 **THE COURT:** Do you have a paper file or a
10 computer file that would confirm the date that that
11 ballistics information was given to the defense?

12 (Pause.)

13 **MR. MADSEN:** Judge, while he's looking for
14 that, if I might or may, we received discovery from
15 them on 5/7 of 2012 that was date stamped one to 103
16 of which that information was not a part of.

17 **THE COURT:** All right. Thank you.

18 (Pause.)

19 **MR. MAYE:** Your Honor, I have some ballistic
20 information that had a date of January 24th of 2013.
21 But like I said, Your Honor, in this case, I thought
22 that the defense had anything {sic} prior to this
23 next round of testing that we had done. The fact
24 that they did not have any -- that they assert that
25 they did not have this previously, I thought this

1 had been provided to the defense in this case in the
2 way of the ballistics testing. And I thought that
3 all we were waiting for in this case, Your Honor,
4 was the DNA evidence in this case. So that's news
5 to me that they didn't have it prior to this time.

6 I thought that up until that time, they had
7 everything that we had in this case and I thought
8 that had been provided. If it was not, it was
9 certainly not an intentional shielding of it on the
10 part of the defense, but, again, I think it's the
11 same thing that we have here.

12 They're not seeking any delay. We've not sworn
13 the jury in this case and they're not asking for
14 additional time. The relief Mr. Williams wants, he
15 wants his charges dismissed. He doesn't want a
16 delay of this case in order for them to have
17 additional time to conduct additional tests or do
18 anything else, Your Honor. He just wants the case
19 dismissed if we don't go forward this time.

20 We've endeavored to comply with the discovery
21 request on the part of the defense and if they
22 didn't receive it until that time, that was the
23 first I was aware of it was today.

24 **THE COURT:** All right. I'm going take that
25 under advisement so I can gauge the totality of what

1 we're working with here.

2 Let's move to the next one which apparently
3 involves the allegation of a faulty Schmerber order.

4 **MR. MADSEN:** Judge, we have gone over the
5 information that we have received and we will
6 withdraw that request. We believe that there was
7 some things that -- the order was done in the right
8 way. So we do not have a request for anything under
9 Schmerber.

10 **THE COURT:** All right. Thank you. The next
11 matter I see is a question about failure to disclose
12 under Brady.

13 **MR. MADSEN:** Your Honor, it's our understanding
14 that one of the sheriff's deputies that is on the
15 witness list, or former sheriff's deputies, Deputy
16 Grenier, has been fired by the sheriff's department.
17 We do not know why or what's going on. We believe
18 that under Brady, Kyle versus Whitley, that we are
19 entitled to that information.

20 Additionally, another police officer with
21 Saluda City, Brett Long, it's our understanding that
22 Solicitor Maye himself filed some type of formal
23 complaint on Officer Long. We believe that we would
24 be entitled to that information. Whatever written
25 documentation, obviously, we're not privy, but as

1 Your Honor said, you're from a small county, you
2 hear about certain things in a small county, but we
3 do believe that under Brady, we are entitled to that
4 information.

5 **THE COURT:** And what would be the nexus to this
6 case?

7 **MR. MADSEN:** If they've been fired or
8 disciplined for lying on a particular case, I
9 certainly think that that -- there would be a nexus
10 to that.

11 **THE COURT:** Okay. Very good.

12 All right. Mr. Maye, you want to be heard?

13 **MR. MAYE:** Your Honor, as to Officer Grenier in
14 this case, we don't have any information. We just
15 maintain it's a fishing expedition. They've heard
16 that this officer is not at the sheriff's office
17 anymore and they want to know why in hopes that
18 there might be some impeachment evidence.

19 Officer Grenier has no conviction for any crime
20 that would subject him to impeachment. It wouldn't
21 even be necessary for us to run any criminal
22 history.

23 I have no information that he was discharged
24 for any misconduct or anything involving dishonesty.
25 I asked him specifically today if him no longer

1 being at the sheriff's office in any way related to
2 misconduct on his part in the way of dishonesty or
3 anything that would result in impeachment and he
4 assured me that he was not.

5 **THE COURT:** And he will be a witness for -- is
6 he still a cooperating witness with you?

7 **MR. MAYE:** Yes, absolutely. He was with the
8 sheriff's office -- Your Honor, quite frankly, we
9 had a new sheriff. We had a sheriff's election and
10 numerous officers are no longer with the sheriff's
11 office. The new sheriff came in and put his own
12 administration into place. It's probably the
13 biggest turnover of officers that we've had. And we
14 had -- the previous sheriff was in office for a long
15 time. Many officers, upon the new sheriff taking
16 office immediately or shortly thereafter, found
17 themselves looking for jobs in other places.

18 But we don't have any information or any
19 knowledge of any information that would be in any
20 way relevant to this case or that we would think
21 would be proper for impeachment.

22 **THE COURT:** And what about the police officer,
23 apparently, you've had a dispute with or a grievance
24 with?

25 **MR. MAYE:** Your Honor, I asked the South

1 Carolina Law Enforcement Division to look at matters
2 involving the actual trying of a case and the
3 failure to serve a subpoena in a case, Your Honor.
4 They did an investigation. I have the investigative
5 file.

6 I don't think that it has any nexus or
7 relevance to this case, but what I would ask Your
8 Honor to do is I'm going to give that file to you,
9 ask you to make it a court's exhibit and review it.
10 If you think it's in any way exculpatory evidence
11 that has any nexus with this case, I would like for
12 Your Honor to make that call.

13 I don't have any information involving anything
14 that would be basically dishonesty. South Carolina
15 Law Enforcement Division looked into the matter in
16 which I asked them to. I have this file and I'm
17 going to submit it to the Court.

18 **THE COURT:** All right. Let me just take a
19 moment and review it and then we'll come back to
20 you, Counsel, all right.

21 **MR. MADSEN:** Judge, all we would ask is on
22 Deputy Grenier, if there's a personnel file
23 associated, that Your Honor do the same thing. And
24 if Your Honor determines that it's not relevant
25 after reviewing it in camera, then obviously it --

1 but if Your Honor believes that there's something
2 out of there exculpatory, we believe we're entitled
3 to it.

4 **THE COURT:** All right, sir. Just a moment,
5 please.

6 (Pause.)

7 **THE COURT:** All right. The Court's prepared to
8 rule on both of these issues. As to the issue of
9 Sheriff's Deputy Grenay, am I pronouncing that
10 correctly?

11 **MR. MAYE:** It's Grenier, Your Honor.

12 **THE COURT:** Excuse me, Mr. Grenier. Mr. Maye
13 tells me, as an officer of this court, that there is
14 no disciplinary. It's not connected to a
15 misconduct. I accept what he tells me as an officer
16 of the court. I've been in counties where there
17 have been major turnovers in sheriff's personnel
18 after the election of a sheriff, that does not
19 strike the Court as even the least bit unusual.

20 I just simply would decline to assign a
21 negative aspect to it all that somehow would inure
22 to the benefit of the defendant and be connected to
23 this case. I accept the Solicitor's position that
24 he's taken and would decline to further review a
25 personnel file or make any further inquiry and would

1 deny any relief on that point.

2 As to Officer Long, as was said here in court,
3 this apparently involves the failure to issue or
4 serve a subpoena on a confidential informant. I'm
5 not aware and the file makes no reflection of
6 criminal activity or charges being levied against
7 this officer.

8 Apparently, it had to do with just the
9 administration of justice in that particular case
10 and whether or not the subpoena was served
11 appropriately. The CI may have made some
12 allegations involving the officer, but that's a
13 totally separate case, unfounded, hearsay and not
14 likely to be admissible even if it was relevant.
15 But the Court doesn't find it probative or relevant
16 to the issues in the case with Mr. Williams and I
17 would deny any relief with regard to that.

18 I have no objection to this being marked as a
19 court exhibit. I don't know what the
20 confidentiality of this document is, Counsel.

21 **MR. MAYE:** I would just ask that it be sealed
22 if it's a court -- if the Court has ordered it to be
23 relevant that -- like I said, it's not something
24 that our office is pursuing. I have no information
25 that there was any criminal misconduct to pursue in

1 this regard.

2 And, basically, I've taken the position in the
3 past when we have delivered personnel files and the
4 court has reviewed them, we just ask that the court
5 seal them so that they're not available for the
6 public to come down and look at them because those
7 are not normally documents that would be public
8 information, an individual's personnel records or
9 files.

10 **THE COURT:** Well -- and rather than tax the
11 Clerk with an additional document yet to be sealed
12 here among the sea of public records that you keep
13 up with, I'm simply going to return this to you and
14 decline to do it. I will tell you that it is --
15 what I have is a SLED investigative report, which is
16 dated January 23rd, 2013. Thus, there would be an
17 ability to retrieve this document if it becomes an
18 appellate issue somehow. But I simply would decline
19 to make it a part of this record for public
20 confidentiality purposes.

21 Mr. Williams, just to put this in perspective
22 for you, sir, in a trial with the allegations
23 against you that there are and an officer takes the
24 stand to testify to just -- and any witness for that
25 matter, to go off on a tangent and rip and tear into

1 things that really are not related to this case is
2 just simply not relevant or probative to the issues
3 at bar. And, thus, I decline to find that there's
4 been any type of violation of the Brady requirements
5 to give information to your side of the case that is
6 exculpatory because I certainly find that it is not
7 exculpatory, not relevant and not probative.

8 **MR. MADSEN:** And, Judge, we would just like our
9 objection noted. We would have liked that to be
10 sealed also so that there would be basis for
11 appellate review.

12 **THE COURT:** That's respectfully noted. And,
13 again, just to make sure we're clear, I made a
14 notation of the date of that document and it can be
15 retrieved, but I just simply decline to tax our
16 Clerk with yet another document that is -- would
17 have to be sealed in the course of this proceeding.

18 Now, let's move to the next issue, Counsel.

19 **MR. MADSEN:** Judge, we had received, I believe
20 today, an updated rap sheet on one of the alleged
21 victims, Al Jerome Young. There are two other
22 individuals, a Yocinda Williams?

23 **MR. MAYE:** Ycedra Williams.

24 **MR. MADSEN:** Excuse me. Ycedra Williams and
25 also a Joseph Wrighton. Our understanding is that

1 they were both charged that night with harboring a
2 fugitive, but ultimately pled to false information
3 to police. We would request -- or since that date.
4 And we would request an updated rap sheet on both of
5 those individuals.

6 **THE COURT:** All right. First of all, I believe
7 I heard those names called in the list of potential
8 witnesses; did I not?

9 **MR. MAYE:** They are potential witnesses of the
10 State. I'll inquire and see what there is. I had
11 the ability because Mr. Williams is a criminal
12 defendant to run an updated rap sheet for him.
13 Immediately upon seeing that request, which I --
14 before we even went to lunch, I had them run that.

15 I don't have the ability to do so so quickly
16 with individuals that are not criminal defendants in
17 the case, but I will endeavor to do that and I will
18 provide that to the -- we'll have that to him before
19 we -- certainly before they testify in the morning,
20 but I just didn't have the ability to have my
21 investigator run somebody that was not a criminal
22 defendant. I'll get that for him and I'll comply
23 with that before we begin in the morning.

24 **THE COURT:** Very good. And out of respect for
25 counsel, I cannot permit the individual to testify

1 unless that rap sheet is provided.

2 **MR. MADSEN:** And, Judge, we would just request
3 any other lay witnesses. It looks like there might
4 only be one other one that we have not been provided
5 a rap sheet on. Zeb Shorter, who's listed as a lay
6 witness, is prior law enforcement and does not have
7 -- we don't need one on him, but there's another
8 individual on here.

9 **MR. MAYE:** Can you tell me who that person is
10 so I can go --

11 **MR. MADSEN:** Leslie Michael Barlow, number 17.
12 And then I believe -- we had number 20 on there, a
13 Felicia Young, I didn't --

14 **MR. MAYE:** I didn't call her, that's in error.

15 **MR. MADSEN:** I thought that that might have
16 been an error, so we wouldn't need one on her.

17 **THE COURT:** Thank you. And now there is a
18 search warrant return issue, Counsel?

19 **MR. MADSEN:** Judge, there's actually two
20 different search warrant issues. There's two
21 different search warrants. The first one, Your
22 Honor, is we would move to suppress the evidence
23 received from a search warrant from a van.
24 Ultimately, we received a copy of that original. We
25 had gotten with the Solicitor's office this last

1 Friday. They provided us the original or a copy of
2 that original because there was some information
3 that appeared to be lacking from it.

4 Specifically on the return, Your Honor, the
5 return is filed or was filed apparently with the
6 magistrate. I believe Solicitor Young sent that to
7 us. There appears to be a return with an inventory
8 on the back, but there is -- it has not been sworn
9 to. The magistrate never signed off on that, and as
10 far as I know, that's the original. And we would
11 move to suppress the items, which, according to the
12 return, were two black stocking hats, a multicolored
13 bandana, a partial latex glove and a Tommy Hilfiger
14 coat. We would move that those items be suppressed
15 for a defective search warrant.

16 **THE COURT:** And what case law do you have that
17 -- to the effect that under these circumstances, you
18 would be entitled to that?

19 **MR. MADSEN:** Well, generally, Judge, as Your
20 Honor is aware, the ten-day requirement, that can be
21 considered a ministerial act. What we believe, Your
22 Honor, is it's similar to a case, State versus
23 Freeman, 319 S.C. 110, which was a 1995 case. In
24 that case, the return wasn't filed, but there were
25 multiple items that were ultimately sent off to

1 SLED. There was no way for them to tell what was
2 matched up with those items.

3 We believe that not having that signed off or
4 not having that return done with the magistrate is a
5 manifest error, and we believe that those items
6 should be suppressed based on that.

7 **THE COURT:** What says the Solicitor?

8 **MR. MAYE:** Your Honor, I've encountered this, I
9 think, in about the last three cases that I've
10 tried, and I thought this one had the exact same
11 answer, but it did not.

12 Your Honor, typically, when law enforcement
13 executes a search warrant, obviously they leave a
14 copy either in a vehicle or at the residence there.
15 It's a typical procedure that they do, and then they
16 go down and file the return with the magistrate
17 within ten days. Often times, Your Honor, the copy
18 that law enforcement provides to us does not reflect
19 that it is sworn to or provided to the magistrate,
20 Your Honor. It's just a blank copy. They basically
21 make a copy of what they submit.

22 I usually go down to the magistrate then prior
23 to trial of the case and get a copy of the one that
24 has actually been signed by the judge. In this
25 case, Your Honor, we discovered that the return that

1 the sheriff's office had done had actually had not
2 been filed within ten days, Your Honor. What we had
3 was the original. It had not been filed within the
4 ten-day time period.

5 According to State versus Wise, we would agree
6 that we did not file it within ten days. But
7 according to that case, Your Honor, it says that
8 basically suppression is not the remedy for that,
9 that it's basically an administrative or a
10 ministerial oversight. And I'll hand up State
11 versus Wise, 272 S.C. 384.

12 When we realized that, we immediately had the
13 officer go down to the magistrate and file that,
14 that's been filed. It's my understanding that a
15 copy of that file and dated one has been filed with
16 the magistrate.

17 Has a copy of that been provided to the
18 defense?

19 **OFFICER QUATTLEBAUM:** No, sir.

20 **MR. MAYE:** The defense had the return the whole
21 time, Your Honor, but just not a copy where it had
22 been signed or returned to the magistrate in this
23 case. It has been returned to the magistrate. I
24 can certainly go down and get a copy of that where
25 it was filed in the magistrate's office and provide

1 that. It has no additional or other information
2 other than the fact it would have the magistrate's
3 signature on it and that's sworn to, but I can
4 certainly provide that to them, Your Honor.

5 And I would hand up Wise in support that that's
6 an administrative or a ministerial oversight, would
7 not result in suppression of the items seized on the
8 return.

9 **THE COURT:** All right. And your position is
10 that just today the paperwork was corrected?

11 **MR. MAYE:** No, sir. It was corrected last
12 week, Your Honor. We thought -- like I said, I
13 usually have that, that's usually what's in my file
14 is a copy of the return that's not signed by the
15 magistrate. Because typically when they make a copy
16 of it, they take it down and file a return with the
17 magistrate and I don't have it, it stays on file.
18 Usually, I'll go down to the magistrate's office and
19 pull a copy of that and make sure the -- like I
20 said, the case I filed last week I did that in.

21 But we did discover that we had the original.
22 And, again, Your Honor, most of the officers at the
23 sheriff's office, the investigators in this case,
24 left the sheriff's office at that time. We thought
25 that what we had was that copy that had already been

1 filed. We provided -- and the defense has had that
2 since the outset. They've had a copy of this
3 return, but just that part of it was blank, which
4 would be typical for what we provide to defense in
5 the way of discovery. When we discovered that, in
6 fact, we had the return, the original had not been
7 filed, we immediately instructed Officer Quattlebaum
8 to go and file that.

9 And you did so on what date? What day did you
10 go down to the magistrate?

11 **OFFICER QUATTLEBAUM:** Friday, this past Friday.

12 **THE COURT:** Thank you.

13 **MR. MAYE:** That is at the magistrate and I can
14 have them a copy of that when that was filed,
15 certainly, later this afternoon. We can walk down
16 the hill to the magistrate's office shortly.

17 **THE COURT:** Well, does it differ in any way
18 other than have those signatures?

19 **MR. MAYE:** No, sir. And like I said, we think
20 that the case law amply covers that, that the
21 ground's not suppression -- or the remedy's not
22 suppression.

23 **THE COURT:** All right. Thank you. And you
24 want to be heard in reply?

25 **MR. MADSEN:** Judge, the only thing I would say

1 is we had gotten the discovery that had that in, we
2 had brought that to the Solicitor's attention. We
3 went over with Solicitor Young to the magistrate's
4 office. I can tell you what was faxed to us, which
5 does not have a signature, was faxed back to us on
6 Friday, which is dated October 11, 2013, at a time
7 stamp of 4:02, which would have been 4:02 p.m.,
8 still not signed or filed with the magistrate.

9 **THE COURT:** All right. Let's assess this for
10 prejudice. Tell me how are you, and this is under
11 the Wise case, how are you damaged or wounded by
12 this?

13 **MR. MADSEN:** Judge, we simply think that
14 something that's supposed to be filed within ten
15 days and here it is well over a year, around a year
16 and a half it has not been filed, causes prejudice
17 to our client just by not following the tenets of
18 the statute. And we believe that the items should
19 be suppressed based on that.

20 **THE COURT:** All right. Thank you. Just a
21 moment, please.

22 (Pause.)

23 **THE COURT:** All right.

24 **MR. MADSEN:** Judge, may we have the copy of the
25 search warrant marked as a court's exhibit.

1 **THE COURT:** You may.

2 **MR. YOUNG:** Your Honor, for the Court's
3 information, Deputy Russ Padgett will be leaving
4 here and going down to the magistrate's office to
5 obtain a filed copy that he'll bring to the Court
6 shortly.

7 (Court's Exhibit Number 1, search warrant,
8 marked for identification.)

9 **THE COURT:** All right. Then having had an
10 opportunity to review this, it'll be one thing if
11 somehow the return had changed or there was some
12 alteration in the items seized or something about
13 those items, but what I find here is really what the
14 Wise case, as well as the Freeman case which you
15 cited from 1995, the Wise case from 1979, so really
16 the appellate opinions have been consistent
17 throughout in saying that this is a ministerial
18 process, the court is instructed to look for
19 prejudice to determine whether there should be some
20 relief.

21 The Court does not find any prejudice. The
22 defense has been unable to show any, and for that
23 reason, while it is a better course to follow the
24 statute, I do not find it appropriate to suppress
25 the evidence. We've marked the exhibit of the

1 unsigned return, thus that is preserved for
2 appellate review. But the ruling of this Court is
3 to deny any relief to you on that basis.

4 And are there other issues, Counsel?

5 **MR. MADSEN:** Yes, Your Honor. As I mentioned,
6 there was another search warrant that was done at a
7 home. On the face of the search warrant, appears to
8 be correct. Additionally, there is a return on that
9 search warrant that appears to have been filed on
10 April 13th and is correct. That return lists items
11 taken from the residence as a digital scales, cigar
12 cutter, small plastic baggy containing numerous
13 smaller baggies with white powder, shell casing.
14 Those are the only items that are listed on the
15 return.

16 Upon reviewing the evidence at the sheriff's
17 department, Your Honor, there appears to be multiple
18 other items that were taken out of that residence or
19 the curtilage to include: fired bullets or slugs;
20 multiple, I believe 14 different shell casings; I
21 believe three or four other shell casings; a gun; a
22 Camel pack; actual physical ammunition;
23 additionally, there also appears to be a significant
24 amount of money, a little bit over \$20,000. None of
25 those items are listed on the return.

1 Additionally, that's kind of complicated
2 because there's no photographs of any of those items
3 where they were collected, or at least none that has
4 been provided to us by the Solicitor's office, and
5 so the prejudice comes in that situation where
6 there's an inability to link where these items are
7 coming from. There's no photographic evidence.
8 There's nothing in the return. We know they came
9 from somewhere by somebody because they're in
10 evidence, they were later submitted to SLED, but we
11 absolutely have no documentation whatsoever.

12 And we do believe that that is like the Freeman
13 case where they had a similar situation. There were
14 18 baggies of marijuana, all but two of those
15 baggies tested positive for marijuana, but the court
16 eventually said that that was just manifest error
17 because there's an inability to link the items to
18 the items that are seized. And so we would move for
19 the suppression of those items.

20 **MR. MAYE:** Your Honor, they're moving to
21 basically challenge items on a return for a search
22 warrant that came from the victim's house. We just
23 always tell our police officers in this circuit,
24 Your Honor, if there's anything that you're going to
25 go look for, go get a search warrant whether you

1 need it or not.

2 They have absolutely no standing to challenge
3 this search warrant. It is for the victim's
4 residence at Shadow Ridge Court here in Saluda.
5 These were individuals that basically called the
6 sheriff's office, and officers responded, that
7 individuals had fired upon their house. They
8 executed a search warrant in that case, Your Honor,
9 just out of an abundance of caution. There were
10 items, some of them, that were taken pursuant to the
11 return and numerous items came from the yard, the
12 curtilage, basically, of this property.

13 This defendant has absolutely no standing or
14 his co-defendant, Mr. Charley, to challenge that
15 search warrant, Your Honor. He was never there as a
16 guest, permissive or otherwise. He wouldn't have
17 any standing to challenge anything that was taken
18 out of that residence.

19 We do have numerous items that were taken from
20 basically the yard, some items that were taken from
21 the -- one of the victims in this case, Your Honor.
22 And like I said, we made no secret about the fact
23 that we think that one of our victims was involved
24 in a drug transaction with his co-defendant. And
25 the information that they have, as a result of

1 discovery, supports all of that, but they don't have
2 any basis to challenge this search warrant. They
3 don't have any standing. And the items, certainly,
4 that were seized in the yard and items that were not
5 taken, for example items that were on the person of
6 a victim in this case, Your Honor, wouldn't have
7 been listed in the return in any regard.

8 But they have been given a full item of all
9 the -- a full accounting of all of the items that we
10 submitted to SLED for testing, Your Honor. I think
11 that the discovery does adequately describe the
12 items that were seized and where they were seized.
13 If there's any doubt as to where any of the items
14 were seized from, certainly that's going to be
15 fodder for cross-examination of the officers in this
16 case that took the items, but they just don't have
17 any standing to challenge it.

18 **THE COURT:** And, Counsel, while we're on this
19 issue, is it your intention in the State's case to
20 put in this evidence about money and about drugs,
21 about other things that may have been seized from
22 that residence or curtilage?

23 **MR. MAYE:** I don't think that we would put in
24 the items necessarily that were seized. I think
25 that the fact that the motive for these two

1 individuals to come up here and fire upon this
2 occupied residence in Saluda County, Your Honor, I
3 think that the fact that it was basically trying to
4 collect in the -- the victim in this case does not
5 -- is my understanding, the last time I spoke with
6 him, does not in any regard dispute that. I think
7 it's part of the res gestae in this case, Your
8 Honor. We think it's the motive for the attempted
9 murder in this case. We think it is relevant.

10 I don't know -- I certainly don't intend to put
11 the money in or put any of those items in. The
12 defense is certainly aware of all of the -- of that
13 res gestae, the fact that this was a -- the
14 discovery gives a full recitation of what happened.
15 The officers were provided with information that
16 they were coming up here to murder this guy and even
17 given the description of the type of vehicle they'd
18 be driving, what kind of weapons he would be
19 carrying and the fact that that co-defendant was
20 wanted and the victim was wanted.

21 And like I said, Your Honor, we would put those
22 in, but would not intend to produce the money
23 specifically. The -- some of the shell casings that
24 were taken out of the yard, slugs that were
25 retrieved from the house, certainly we would intend

1 to put some of those items into evidence.

2 **THE COURT:** All right. Thank you.

3 Now, do you have reply?

4 **MR. MADSEN:** As far as the standing, that
5 applies to a Fourth Amendment standard. This is a
6 search warrant, so there's a statutory basis there.
7 And I believe that anyone who challenges the search
8 warrant has a statutory basis. It's entirely
9 different than the Fourth Amendment standing, and so
10 I believe under a search warrant while the Solicitor
11 might be right, if it was just a Fourth Amendment,
12 then our client might not have standing, because it
13 is a search warrant statutory basis, he does have
14 standing.

15 **THE COURT:** And just to make sure I understand,
16 forgive me if I appear slow to pick up on these
17 issues, but are you saying that there were things
18 taken that were not listed in the return?

19 **MR. MADSEN:** Absolutely.

20 **THE COURT:** And how do you know that?

21 **MR. MADSEN:** Well, we had -- some through
22 discovery, actually yesterday at -- through the
23 discovery, we received it. We also received a chain
24 of custody -- a certified chain of custody from SLED
25 from the Solicitor's office yesterday at about

1 11:00. We -- communication back with Solicitor
2 Young. It was actually password protected.

3 We finally got that open at around six o'clock
4 yesterday, but just -- it looks like, from reviewing
5 some of the things in evidence from the SLED and
6 then also on Friday when we eventually went out and
7 took a look at the evidence, there were numerous
8 things there that purported to come from that
9 residence that were not listed on the return, which
10 just to let Your Honor know, we had requested on the
11 7th, Mr. Casto had requested and spoke with a Deputy
12 Cockrell about reviewing that evidence or spoke with
13 him on the 7th. They made an appointment on the
14 8th, the next day, for us to review that evidence.

15 I believe that Mr. Casto spoke with Solicitor
16 Maye who indicated that all of the evidence was
17 still at SLED. So we contacted SLED on the 9th and
18 said, hey, we would like to see that evidence. We
19 were told by SLED that that evidence was not there
20 and had been returned. When we asked when it had
21 been returned, we were told that they couldn't tell
22 us that, we would have to go through the Solicitor's
23 office on that.

24 As I stated, we got a chain of custody from --
25 a certified chain of custody from SLED indicating

1 that all that evidence had been returned February
2 22nd of 2013, besides some DNA type of swabs, but
3 all the physical evidence, so.

4 **THE COURT:** But help me just in my own mind
5 process this. When you have a crime scene, officers
6 have a search warrant; they pick up certain matters
7 or certain evidence pursuant to a search warrant
8 perhaps, but when they work a crime scene, they're
9 able to seize whatever evidence they find whether
10 they have a search warrant or not; am I correct?
11 And so help me understand what is the violation of
12 law or procedure that you believe happened?

13 **MR. MADSEN:** I believe that there are certain
14 instances that they can, but in this one, they went
15 ahead and went with that search warrant procedure
16 and have not filed anything on that return. I would
17 -- whenever you do a search warrant and you do a
18 return, that would normally say, hey, this is the
19 evidence we collect. And so we believe that that's
20 violated the procedure under that search warrant
21 statute.

22 **THE COURT:** And so what relief would you be
23 entitled to in your argument?

24 **MR. MADSEN:** We would ask for a suppression of
25 those things that aren't listed.

1 **MR. MAYE:** Your Honor, law enforcement had
2 consent in this case from the victims in this case
3 to -- we weren't proceeding. They did that just as
4 a precaution. They had consent. These individuals
5 that were there were victims of a crime. They were
6 seeking the help of law enforcement. They were
7 there with consent. And, certainly, the items that
8 were seized outside the residence, Your Honor, they
9 didn't need a search warrant for that.

10 Law enforcement had responded to a call for
11 assistance there. These items were out in plain
12 view in the yard when the officers came up, the
13 shell casings and all of that information. But like
14 I said, we weren't proceeding under even needing the
15 search warrant, the officers had consent. So they
16 certainly don't have any good standing to contest
17 items that were taken by consent or items that we
18 didn't even need a search warrant for, which would
19 be the items that were seized on the outside of the
20 residence.

21 **THE COURT:** All right. And just to help us all
22 have an understanding, why -- what is your
23 understanding of why there would be some items that
24 would be listed on the return as if retrieved via
25 the search warrant and then some that were not? Do

1 you have any --

2 **MR. MAYE:** I think some of it is, Your Honor,
3 which officer was working off of a search warrant
4 basically going through and looking. He listed some
5 items. But they had other individuals that were
6 there, some of the items that were taken out of the
7 yard, there was one evidence custodian, but we had
8 the chief investigator officer that was looking and
9 retrieving items.

10 And like I said, they had consent from the
11 residents to search, so they didn't need a search
12 warrant. We've always told them, go get a search
13 warrant, you know, and I think they're so
14 conditioned to that, even when they didn't need one
15 in this case, the fact they were operating under
16 consent and multiple items under plain view, they
17 still went and got a search warrant. So not all of
18 those items were listed.

19 But it's my understanding that we wanted to
20 make sure that they had a chance to view the
21 physical evidence, and some of the swabs and things
22 were still at SLED and I wanted to make sure -- I
23 was trying a case last week, I wanted to go down and
24 actually look at those items too and I didn't want
25 the evidence custodian to have to get the items out

1 twice. But Mr. Casto and Mr. Madsen both came, they
2 went through all the items, the physical evidence
3 last week in my presence.

4 It's my understanding Mr. Casto was given an
5 opportunity, and I could be mistaken, that that's
6 not the first time that Mr. Casto viewed some of the
7 items, the physical evidence. And I think he may
8 have, at a previous terms of court, been given an
9 opportunity to view some of those items that were --
10 I was at least informed that he had, been given an
11 opportunity to view some of those items at a
12 previous term of court, at least the ones that the
13 sheriff's department had.

14 **THE COURT:** All right. Thank you. I'm going
15 to sound like a broken record over here, but just
16 one more time help me with the prejudice. I hear
17 you say there's a procedural violation. How are you
18 wounded?

19 **MR. MADSEN:** Judge, just matching up those
20 items, it's, like I said, kind of like a broken
21 record, going back to the Freeman case where they
22 can't tell what items come from where, there's no
23 documentation whatsoever, no photographs of that
24 scene where any of these items come from when
25 there's -- like I said, there's multiple items, I

1 believe a little bit, I would guess over 20
2 different items that are not on that return.

3 As the Solicitor says, he says they got consent
4 to search, there is nothing in any of the discovery
5 indicating that there was any type of consent to
6 search, certainly nothing written, but nothing
7 documented anywhere that, hey, we got consent to
8 search from the residence. All we got was that
9 search warrant.

10 **THE COURT:** All right. Well, Mr. Madsen, the
11 Court will address this and rule in the following
12 way: First of all; I decline to grant you any
13 relief here. And there are several reasons for it:

14 Number one is when the officers arrive at the
15 scene and they're working what is an active crime
16 scene with a -- whatever happened out there, with
17 multiple gunshots and shooters and damage from what
18 appears to be an attack and retrieve some things
19 pursuant to a search warrant, the Court doesn't find
20 a search warrant to be necessary under those
21 circumstances.

22 Now, whether or not there was consent, well,
23 that may come out at the trial. We'll take that up
24 if that's part of the evidence for the jury. But I
25 simply don't find any basis for relief to the

1 defense. I don't find any shock or surprise. I
2 don't find any prejudice to you that the State went
3 out, collected this substantial amount of evidence
4 and now seeks to put it in here in trial.
5 Irrespective for whether there was some search
6 warrant issue, the Court doesn't find that to be
7 fatal to any efforts the State would make in trying
8 to produce at trial the evidence retrieved from the
9 crime scene, and thus, respectfully, I'm going to
10 deny your motion.

11 Now, you say there's no pictures, there's --
12 again, that's an issue for the jury as to whether or
13 not there's been appropriate documentation by the
14 State, whether or not the evidence indeed was at the
15 place. Well, we'll let the jury make that decision.
16 In fact, I just don't find a problem as a matter of
17 law or procedural law, substantive law either with
18 what the State proposes to do.

19 **MR. MADSEN:** Your Honor, we would just request
20 the ability to mark as a court's exhibit that second
21 search warrant.

22 **THE COURT:** Well, let's do that, that'll be
23 fine. You can mark it. And we'll wait a moment
24 while that's being marked.

25 (Court's Exhibit Number 2, search warrant,

1 marked for identification.)

2 **THE COURT:** All right. Very good. Court's 2
3 now marked.

4 I'm going to go back and reverse a decision I
5 made previously. Mr. Maye, let's make a copy of
6 that SLED report that's on Officer Long and let's
7 seal it.

8 **MR. MAYE:** I'll give you this one. I don't
9 need a copy of it. They e-mailed it to us and I
10 made a copy. That's absolutely no problem.

11 **THE COURT:** Very good. If you'll give it to
12 our court reporter. We'll mark it and then seal it.

13 **MR. MAYE:** And, Your Honor, I do have a
14 certified true copy of the search warrant and the
15 return actually signed by the magistrate and I know
16 that they -- I'm going to let -- make that an
17 addendum basically to the one that had previously
18 been provided to the defense that didn't have a
19 signature of a magistrate on it, but it has been
20 retrieved from the magistrate.

21 **THE COURT:** All right. Let's take a moment,
22 let our court reporter get all of that paperwork in
23 order.

24 (Court's Exhibit Number 1-A, search warrant,
25 and Court's Exhibit Number 3, SLED report, marked

1 for identification.)

2 **THE COURT:** All right. So we have 1, 1-A, 2
3 and Court's 3, and then when we leave today, we'll
4 go ahead and seal 3 so that the confidentiality of
5 that investigation will be protected, but yet it'll
6 be preserved for review or for collateral review in
7 the event there's some collateral attack down the
8 road here.

9 Now, we have one more issue, which is witness
10 sequestration. Do you wish to be heard on that?

11 **MR. MADSEN:** Judge, we actually have a couple
12 more that have come up, sequestration is one of
13 them. I don't necessarily think that the State -- I
14 don't know if we need to be heard on that issue. We
15 would just request sequestration of the witnesses
16 besides their chief investigating officer who I
17 guess is Deputy Quattlebaum.

18 **THE COURT:** All right. What's the State's
19 position on sequestration?

20 **MR. MAYE:** Nothing, Your Honor. We leave that
21 to the Court's discretion in this case, just ask
22 that the sequestration of witnesses ordered extends
23 to defense witnesses, as well as the State's
24 witnesses.

25 **THE COURT:** Most assuredly. Whether -- if both

1 sides consent, then we will do that. The witnesses
2 will be sequestered. And, of course, the exceptions
3 to that will be Investigator Quattlebaum for the
4 State and the defendant obviously.

5 All right. Now, are there other issues?

6 **MR. MADSEN:** Judge, there are just two more.
7 One, we have a motion to clarify. We had received
8 an incident report from the Solicitor's office. And
9 if I might read to the Court, there's two points on
10 there that we would like some clarification from.
11 It indicates -- this is after the deputies go out to
12 the scene, indicates: Deputy asked if Jerome Young
13 was inside and they said he was not. Deputies
14 informed the two parties that Mr. Young was wanted
15 for an outstanding warrant for a probation
16 violation.

17 We would ask that the -- that it be disclosed
18 to us any notes of that. When it says they, we
19 don't know specifically what someone told them.

20 Additionally, if you go a little bit later, it
21 indicates that law enforcement had left the
22 residence to go out where they end up arresting our
23 client and Mr. Charley. And while they're out there
24 with our client, there is a call back apparently to
25 9-1-1. And this comes from a report from Grenier

1 and Morelli. It indicates that while they're out
2 there with our client, that someone has opened fire
3 on the residence and their lights were out. The
4 house was in darkness at this time. Apparently, law
5 enforcement goes back.

6 Later they indicate that while speaking with
7 Mr. Young, Wrighton and Ms. Williams, it was learned
8 that there was not a return of any shooters. All
9 the shooting had taken place prior to the deputies'
10 initial involvement.

11 Certainly, that's an indication where you have
12 three people who are in that house; two, I guess,
13 initially had lied about someone coming back and
14 shooting again. And our motion would be for either
15 Grenier or Morelli or both of them, what were the
16 specifics of those conversations because certainly
17 you have an incidence where the alleged victims are
18 not being truthful. I'm assuming Mr. Wrighton and
19 Ms. Williams on the first incident and it doesn't
20 really say when they have "they" on the second one,
21 but any specifics --

22 **THE COURT:** And, Mr. Madsen, tell me under what
23 rule do you seek to amend or clarify the evidence at
24 this juncture?

25 **MR. MADSEN:** Well, Your Honor, we believe under

1 Brady that that certainly would be exculpatory if
2 someone has lied to law enforcement about what went
3 on and that the Solicitor's office would have a duty
4 to disclose that information to us under Rule 5 or
5 Brady.

6 **THE COURT:** Well, respectfully, without taking
7 argument from the State, the report is what it is.
8 It cannot be amended at this point by -- certainly
9 not on the eve of trial. When I say it can't, I
10 guess it could through whatever procedures the
11 department has in place to do so, but to require
12 some further explanation or to require an officer to
13 come in here in camera and take it up with you, I
14 simply am going to leave the evidence as it is.

15 If you wish to attack it if that witness is
16 called, you may do so, but the Court is not going to
17 alter, at this late date, the evidence nor require
18 any further explanation. That's just going to
19 simply be a factual matter for the jury to
20 determine.

21 **MR. MADSEN:** Thank you, Your Honor.

22 **THE COURT:** Yes, sir. Are there further
23 issues? I have one under advisement here, but are
24 there further issues we need to resolve before we
25 proceed to anything the State may have?

1 **MR. CASTO:** There's one remaining motion from
2 the defense, Your Honor. At this time, what we
3 would move is for suppression to exclude testimony
4 with regard to events that took place earlier in the
5 week with regard to this incident.

6 Here's -- here's, you know, the world of this
7 case that looks like this: There is the
8 co-defendant in this case, his money is taken from
9 him by someone that is in this house that's
10 allegedly shot up. Basically, there's a dispute
11 between the two. It is reported to law enforcement
12 when that money was taken from him by somebody that
13 was living in the house and that was reported to an
14 officer out of Williston. There's also that
15 person's testimony. And that only concerned the
16 co-defendant. We would allege that this evidence
17 with regard to my client be excluded because it's
18 merely prior bad act evidence were to paint him in a
19 bad light.

20 Ultimately, with regard to proving the case of
21 attempted murder, obviously several elements exist,
22 and we don't see where that evidence would go to
23 proving any one of those elements; therefore, it
24 probably might not even survive just a relevance
25 test. Your Honor, we would submit that -- that

1 evidence to prior bad acts that happened before this
2 shooting incident be suppressed.

3 **THE COURT:** Does the State want to be heard on
4 that?

5 **MR. MAYE:** Your Honor, he's asking to suppress
6 prior bad acts of the co-defendant. We're not
7 trying them together in this case. We're certainly
8 trying them separately.

9 We would maintain that it's part of the res
10 gestae. It's directly the motive for this case. We
11 think it is directly relevant in this case because
12 it is the motive for the shooting there. It
13 explains why these individuals came to the house and
14 shot up this house here in Saluda. We think that it
15 is at the core of this case and it certainly is part
16 of motive.

17 To say that a blanket prohibition of talking
18 about excluding the bad acts of any other person
19 that might bear relevance on this, we certainly
20 wouldn't think there would be any basis for that,
21 Your Honor. And it would be bad acts not of this
22 defendant, but of a co-defendant. But they would
23 certainly all go to the relevance -- I mean, all go
24 to the motive for the attempted murder on the part
25 of this defendant.

1 **THE COURT:** And, briefly, you want to reply,
2 Mr. Casto?

3 **MR. CASTO:** That's exactly our point.
4 Ultimately, they deal with the prior bad acts of the
5 co-defendant, but they're excluded as to him.
6 There's no evidence whatsoever that this was his
7 money or his motive to go shoot the house up.
8 There's nothing that would circumvent that rule with
9 regard to my client, absolutely with regard to the
10 co-defendant as they've said, not with regard to my
11 client, Mr. Williams.

12 **THE COURT:** Right. Well, let me respond to
13 that in the following way: I haven't heard the
14 totality of the evidence. I don't know what it will
15 be, but it is common for the State to put in
16 evidence of motive. Although quite often they don't
17 have to prove motive, but in a case like this where
18 you have just people descend on a residence and open
19 fire, which is certainly an unexpected event and one
20 that can lead a jury or any fact finder to say why
21 would this happen, the Court is not going to limit
22 or pare the State's ability to provide an
23 explanation for what would be a very reasonable
24 question for the jury, why would this happen and why
25 would the defendant be involved in it if the State

1 says that it happened in this fashion and for these
2 reasons.

3 Now, if you wish to have some contemporaneous
4 charge given to the jury that the acts of the
5 co-defendant, unless there's some allegation of
6 conspiracy, a charge of conspiracy, are not
7 chargeable against this defendant and not evidence
8 of the, quote, guilt of the defendant as in that
9 specific act, then I'd be more than happy to give
10 that charge to prevent the jury from becoming
11 confused. And, also, at the time, there may be Rule
12 403 implications, but that's for the -- to be
13 brought up contemporaneously if indeed you believe
14 that such is implicated.

15 But I'm going to deny your motion here in the
16 abstract to say to the State, you can't put in what
17 you believe brought this chain of circumstances into
18 focus. And for that reason, your motion is denied.

19 **MR. CASTO:** Yes, sir.

20 **THE COURT:** Let me also go back, we left,
21 earlier on our issues to be resolved, one under
22 advisement, and that is the suppression of the DNA
23 or the gun ballistics testing evidence. The defense
24 complains that there was an inordinate delay that
25 inured to the prejudice of the defendants with this

1 late reporting of evidence.

2 I'm going to deny that motion as well because I
3 do not find there was any intentional act on the
4 part of the State, first of all. The Court's well
5 aware that it takes a substantial time to get
6 anything from SLED these days, no matter whether it
7 be DNA, fingerprint, ballistics, you name it.

8 And, furthermore, there was a -- the Court
9 accepts the State's argument that there was
10 something of a change in the State's theory or at
11 least their method of proof when a witness recanted.
12 And I simply do not find any basis for giving relief
13 to the defendant based on the arguments that we had.
14 Those motions are denied as well.

15 **MR. MADSEN:** Judge, you had mentioned DNA and
16 ballistics. Your ruling would be the same also for
17 the latents?

18 **THE COURT:** Yes. I should have said forensics
19 as well. So DNA, ballistics, forensics, the prints
20 are included in that ruling.

21 **MR. MADSEN:** Thank you, Your Honor.

22 **THE COURT:** Thank you.

23 Now, is there anything further from the State
24 with regard to this case?

25 **MR. MAYE:** Nothing I can think of, Your Honor.

1 Thank you. Nothing from the State.

2 **THE COURT:** How long do you believe your
3 opening will be, Counsel?

4 **MR. MAYE:** Maybe 15 minutes, something like
5 that, Your Honor. I can't imagine this is going to
6 be a real lengthy opening statement. I've never
7 timed myself, so I don't know how long I typically
8 talk, but I don't think it would be an inordinately
9 long opening presentation.

10 **THE COURT:** Very good. And, defense, roughly
11 the same time?

12 **MR. CASTO:** That's correct, ten minutes.

13 **THE COURT:** All right. Now, your client, is he
14 being housed now in the county or is he being housed
15 out of the county?

16 **MR. CASTO:** My understanding is that now that
17 he's here, we're going to keep him in Saluda County
18 and I think that's the best course of action.

19 **THE COURT:** Very good. Please make sure, in
20 communication with the jail, that Mr. Williams is
21 here in ample time because I -- having told the jury
22 that we start at 9:30, it will be my intention to be
23 sitting on the bench at 9:30 and begin the trial of
24 this case.

25 **MR. CASTO:** Yes, sir.

1 **THE COURT:** So with that, then we will close
2 these proceedings and adjourn this court until 9:30
3 tomorrow morning.

4 **MR. CASTO:** One last matter, Your Honor.

5 **THE COURT:** Well, I'll let you come up and talk
6 with me here at the bench.

7 **MR. CASTO:** Yes, sir. Thank you.

8 (The proceedings were concluded for October
9 14, 2013.)

10 (The following proceedings were held on
11 October 15, 2013.)

12 **THE COURT:** All right. Counsel, I've just
13 learned that all of our jurors are here. Do we
14 need -- is there anything for the record before we
15 bring in the jury and begin the trial of the case,
16 from the State?

17 **MR. MAYE:** Nothing from the State, Your Honor.
18 Thank you.

19 **THE COURT:** And from the defense?

20 **MR. CASTO:** No, sir, Your Honor.

21 **THE COURT:** All right. Very good. Then,
22 please, bring in the jury.

23 (The jury enters the courtroom at 9:32 a.m.)

24 **THE COURT:** Good morning, ladies and gentlemen.
25 Good to see these smiling faces back at the

1 courthouse today. We're going to begin this matter
2 with you accepting the oath as jurors in this
3 specific case. Please follow our Clerk's
4 instructions.

5 (The jury was duly sworn by the Clerk of
6 Court at 9:33 a.m.)

7 **THE COURT:** Thank you. Please be seated. And
8 let me ask is there any member of the jury panel who
9 did not take the oath that was just administered?
10 If you did not take the oath, then please raise your
11 hand.

12 Let's let the record reflect no one's raised
13 their hand. So all of our jurors are appropriately
14 sworn.

15 And, ladies and gentlemen, let me ask before we
16 begin today, is there any juror who has had a
17 discussion concerning the facts of the case, what
18 little facts we know, with any third person? And if
19 so, please raise your hand.

20 Let's let the record reflect no one has raised
21 their hand. Thank you for complying with the
22 Court's request.

23 You will recall that yesterday we impaneled you
24 as jurors in the case of the State versus Gerald
25 Rudell Williams. These are three charges combined

1 into one proceeding, all arising out of the same
2 incident. And what I'd like to do now is begin this
3 process, this trial, by what I call the introduction
4 to a criminal case. These are a few things that I'd
5 like to tell you as we go into the case, it is
6 before the evidence and before the lawyers, just a
7 few things I think you need to know here at the
8 start of the case.

9 Now, what I am getting ready to say is not
10 intended to serve as a substitute for a more
11 detailed charge on the law that I'll give you at the
12 end of the case. This is just a few things, again,
13 that I think we need to know going into the case.

14 Of course, this is a criminal case. This is
15 not a civil case. This is where the State has
16 charged an individual with a crime. And the case is
17 based on a set of indictments, which we discussed
18 with you yesterday and which I gave you some of the
19 allegations that are contained in those indictments
20 yesterday.

21 But, please, understand again these indictments
22 are simply pieces of paper. They're simply charges.
23 They're allegations only. They've been denied by
24 the defendant. They're not evidence. They're not
25 to be accepted as the truth of the matter. Because,

1 ultimately, whatever the truth is is going to come
2 from this witness chair right here with parties and
3 witnesses that are under oath and testify before you
4 as to what actually happened or did not happen here.

5 As you're aware, the defendant entered a plea
6 of not guilty, that means the State has the burden
7 of proof in this case. Even if the defendant didn't
8 enter a plea, the State would still have the burden
9 of proof and that burden is to prove each and every
10 essential element of the indictment beyond a
11 reasonable doubt. That's the standard. That's a
12 high burden. The purposes of this trial is to
13 determine whether or not the State has met that
14 burden. The defendant has no burden of proof. The
15 defendant is presumed innocent as I said.

16 I will tell you that one of the traditions in
17 our courtroom is that the party with the burden of
18 proof sits closest to the jury. If you'll look out
19 into the courtroom arena, you will see that the
20 State is seated at the table closest to you. At no
21 time during the course of this trial will the
22 parties change tables because the State will
23 maintain the burden of proof.

24 Now, let's talk a little bit about our roles in
25 this case. And if I may begin, I can tell you just

1 a little bit about my role. I'll be the presiding
2 officer which makes me the judge of the law, which
3 means that at the end of the case, I'll give you the
4 law that you would apply to the facts. I will
5 decide any issues, any legal issues that arise
6 during the course of the trial, if they should. And
7 that's basically my job in this trial.

8 But your role, your job, is more important than
9 mine because you are the judges of the facts. And
10 what that means collectively is that you will listen
11 to the testimony, you will determine what the facts
12 are, you would apply those facts to the law that I
13 give you, and in that way, working together is how
14 we're going to reach a verdict.

15 Now, I will tell you that just like you, I
16 haven't heard the evidence in this case, but I am
17 aware, from just being in the courtroom for many
18 years, that often we will have cases in which
19 witnesses will take the stand and will testify
20 basically about the same thing, but will say things
21 that seem inconsistent and sometimes they're
22 absolutely mutually exclusive and cannot be
23 reconciled.

24 I'm not telling you that someone is being dis-
25 -- going to be dishonest with you, this is for you

1 to decide, but I think we all know, from human
2 experience, that people's observations are different
3 and people observe different things. And you may
4 have been in situations where something will happen
5 and people will describe it in such a varied way
6 that you wonder is this the same incident that
7 everyone's talking about. And if we have testimony,
8 ladies and gentlemen, that seems inconsistent or
9 mutually exclusive, you must decide which of the
10 witnesses is more credible and believable to decide
11 what the facts are.

12 Now, that sounds a little complicated, but it's
13 really not. If you think about it, we do this every
14 day with everyone we talk to. Whether we're talking
15 to a child, an adult, a friend or a stranger, we
16 gauge what they tell us for credibility and
17 believability, and this is what you must do here in
18 the courtroom. And so you should apply these
19 factors you use in every day common sense to
20 credibility and believability.

21 But some other things you may want to look to,
22 and I tell you this again before we hear these
23 witnesses so you can apply it, if you deem it to be
24 appropriate, to the witnesses as they testify:

25 First of all, what is the demeanor of the

1 witness in here testifying; is it straightforward;
2 is it hesitant; how does that witness know what
3 they're in here testifying about; and is that
4 witness' testimony consistent with itself; is it
5 weakened or strengthened by other evidence in the
6 case? And, further, in light of the global evidence
7 in the case, however you find that global evidence
8 to be, is what this witness saying, is it reasonable
9 or how reasonable is it? And then, finally, might
10 there be a reason a witness would want to help or
11 hurt one side of the case or the other, might that
12 witness have a bias or a prejudice? These are some
13 things you should consider as you listen to the
14 testimony of the witnesses.

15 Now, let's talk a little bit about our
16 procedure. In just a moment, I'm going to conclude
17 these opening comments to you and both the lawyers
18 -- a lawyer for both sides will come before you in
19 opening statement. Opening statement is not some
20 big persuasive argumentative event you might presume
21 from having watched television about legal shows.
22 An opening statement is just an opportunity for the
23 lawyers to tell you what they believe the burden of
24 proof is, what they believe the evidence may or may
25 not show.

1 And then after both sides come before you in
2 opening statement, the State, the prosecution,
3 because they have the burden of proof, they go first
4 and they call their witnesses one after another.
5 And every time they call a witness, that witness is
6 subject to direct examination by State's counsel and
7 cross-examination by defense counsel. And I tell
8 you that because the rules are a little different
9 for direct and cross-examination and you may see
10 that during the course of this trial.

11 And then the State, after they've called all
12 their witnesses, they rest, and, at that point, we
13 move to the defendant, but we don't require the
14 defendant to put up a case. The defendant has
15 absolutely no burden of proof. The defendant is not
16 required to testify. The defendant may remain
17 silent. The defendant may not even respond to the
18 allegation made by the State because the defendant
19 has no requirement to respond. But if the defendant
20 wishes to call witnesses, then they may do so at
21 that time one after another just like the State did
22 subject to direct examination by the defense counsel
23 and then cross-examination by the State's counsel.

24 Then all of the evidence closes, the lawyers
25 come before you in closing argument, which is a

1 persuasive opportunity for them to tell you what
2 they believe the evidence has shown or has not
3 shown, I give you the charge on the law and you
4 retire to deliberate. In a nutshell, that's how
5 this process is going to work.

6 Now, I usually go about an hour and a half
7 before we take a break, that's not set in stone.
8 And, of course, you can see the clock. In many
9 courtrooms, the clock is behind the jury for some
10 reason, but in this courtroom, it's where you can
11 see it. But I don't want you to be fixated or
12 worried about the time. We never know to the moment
13 when we can take a break because it just depends on
14 where we are in the testimony, but if you need to
15 take a break before we reach a breaking point,
16 please raise your hand, I'll understand immediately
17 what that means and we'll stop and take a break.
18 Without questions, we'll take a break right then.

19 I do that for two reasons: Number one, you are
20 giving your time, as I said yesterday, or just about
21 giving it for a very important high civic duty and
22 public purpose and I want you to be comfortable
23 about what you're doing. But, secondly, I don't
24 want you worried about something else. I want you
25 to be able to listen to the testimony and decide

1 what the facts are. So if you need to take a break
2 at any point, please raise your hand and we'll do
3 that.

4 Secondly, when we do take a break, please don't
5 go back and discuss this case or the evidence or the
6 witnesses. You should not discuss the case until
7 it's given to you for deliberation at the end of the
8 case. And here's the reason for that: If we took
9 one witness and then took a break and the jury went
10 back and made some preliminary decisions based on
11 what that one witness testified to, it would be
12 unfair because we've got multiple witnesses to come,
13 other evidence to come and so it's not appropriate
14 to discuss the case until you've had the benefit of
15 all the evidence. And please, if you will, observe
16 that rule.

17 A couple other things I want to tell you is
18 that we operate this courtroom on a system of rules
19 that we call the Rules of Evidence and the Rules of
20 Criminal Procedure. And if one side or the other
21 thinks the other is either breaking them or about to
22 break them, well, they call that to my attention by
23 an objection. Well, you know, just like you're
24 sitting over there minding your own business, I'm up
25 here doing the same. So I don't know what the

1 objections are or when they will come, but when they
2 do come, I rule on them based on my training in the
3 procedural and substantive law of South Carolina, my
4 experiences in the courtroom for many years as a
5 judge and even as a lawyer before a judge.

6 But never do I rule somehow on an issue to send
7 you a message about how I feel about an issue
8 because I'm going to tell you right now I don't have
9 a position on the facts because if I did, I'd be
10 invading your province. You're the judge of the
11 facts, not me. So, please, take no inference from
12 any rulings that you may see the Court make other
13 than the fact that I had to make a decision on some
14 issue that was raised during the course of the
15 trial.

16 And then, finally, I want to just point out to
17 you that when the lawyers come before you in opening
18 and closing, which they're just about getting ready
19 to do in opening, please understand that what the
20 lawyers say to you is not evidence. I'm not telling
21 you they're going to be dishonest with you. I'm
22 just simply saying that the lawyers, if you'll
23 notice, are not under oath and not under direct and
24 cross-examination. They're advocates here and they
25 represent in opening and closing what they believe

1 the evidence either will be or has been.

2 The evidence is what the witnesses say, they're
3 the ones under oath, and what the exhibits, which
4 are placed in the record, if there are exhibits,
5 which you'll have with you when you retire to
6 deliberate, what they show. And so, please,
7 appreciate the distinction between a lawyer's
8 argument and evidence in the case.

9 Now, with that understanding, the Court
10 recognizes the State's counsel, Prosecution, for
11 opening statement.

12 **MR. MAYE:** May it please the Court, Your Honor.

13 **THE COURT:** Yes, sir, Mr. Maye.

14 OPENING STATEMENTS

15 **MR. MAYE:** Ladies and gentlemen, all of you
16 have been taken away from what you would have
17 normally been doing this week. I know this is, in
18 all likelihood, a most unusual week for the 12 of
19 you that have been summoned in here. And I suspect
20 most of the people that are here in the courtroom
21 that are here on a regular basis have heard me say
22 this same thing over and over again, but I submit to
23 you that as most of you went down to the mailbox or
24 the post office box or wherever that you got the
25 letter from Ms. Doris Holmes, your Clerk of Court

1 here, and saw that you had been summoned for jury
2 'duty, I doubt anybody leapt for joy or skipped as
3 they returned from the mailbox or they went back to
4 their car from the post office.

5 But I submit to you that this is service, it's
6 public service, it's the last compulsory public
7 service that we have. All these markers and
8 monuments that are out here on the front yard of the
9 courthouse are people that were compelled for the
10 ultimate public service, service in the military or
11 the draft. Service on the jury is the last one they
12 have. They say, at one point in time back in the
13 old days, before they had the highway department,
14 people used to have to go out and work on the roads,
15 all sorts of things that were compulsory public
16 service. This is the last one, service on a jury.

17 And just as Judge Baxley sits up here with his
18 robe on and he presides and he's the judge and he
19 presides over this trial and conducts it, the 12 of
20 you that go back in that jury room to deliberate are
21 going to sit as the judges of the facts in this
22 case. And the facts in this case are going to come
23 to you from the witness stand here, from the mouths
24 of the witnesses, from the exhibits, the things that
25 are placed into evidence in this case.

1 Understand the imposition that it is for all of
2 you to be taken away from your jobs, your lives or
3 whatever else that you would have been doing, but
4 this is vitally important for everyone that lives
5 here in Saluda County, because I submit to you the
6 events that you're going to hear about up here
7 during this week are as serious and as dangerous as
8 anything that's ever been presented in this
9 courtroom.

10 The State of South Carolina, and I have the
11 privilege of representing the State as an assistant
12 solicitor, the State has the burden of proof in this
13 criminal case. Gerald Williams, that's seated over
14 here in the white shirt between the two gentlemen in
15 the suit, you've already heard the indictments in
16 this case and the charges, he stands charged with
17 three counts of attempted murder against three
18 separate victims, Ycedra Williams, Joseph Wrighton,
19 and Al Jerome Young, three counts. The State's got
20 the burden of proof and we welcome it in this case,
21 because I submit to you the State's going to present
22 an overwhelming case against the defendant, Gerald
23 Williams.

24 You're going to hear in this case about a lot
25 of interesting things. I submit to you it's going

1 to sound like a Hollywood script. You're going to
2 hear first, you're going to hear from a multitude of
3 witnesses, but I submit to you you're going to hear
4 from Investigator Robert Shorter who was working at
5 the sheriff's department at that time. And you're
6 going to learn that it was a savvy policeman over in
7 the town of Williston, a long way here from Saluda
8 County, that had his ear to the ground and knew what
9 was going on in the streets in Williston.

10 And you're going to learn that based on a
11 telephone conversation that Investigator Robert
12 Shorter had and communications that Robert Shorter
13 had with this detective from Williston that knew the
14 streets, that he put out basically a
15 be-on-the-lookout, a BOLO, an alert to all of the
16 officers that work for the sheriff's department that
17 a man named O.J. Charley from down in the Williston
18 area was coming to Saluda County to kill Al Jerome
19 Young over a dispute that they had over drug money.
20 That Al Jerome Young had ripped off O.J. Charley,
21 stolen about 30 grand, ripped him off, that they had
22 a deal, that Al was going to buy drugs and O.J. was
23 going to front the money up to him.

24 But you're going to learn in this case that Al
25 Jerome Young didn't follow through with his, he just

1 ripped him off. And as would be expected, just like
2 in any Hollywood movie, you're going to learn O.J.
3 Charley didn't go running down to this detective in
4 Williston and say, oh, my money was stolen from me,
5 this money that I gave to Al Young to buy drugs for
6 me, he ripped me off. You're going to learn that he
7 set out to try to collect that money. And when he
8 couldn't collect it, he hatched a plan to come here
9 to Saluda County to kill Al Jerome Young. And
10 you're going to learn about the events that took
11 place.

12 I submit to you the State's going to show you
13 that all of this came to a head in the very early
14 morning hours of April the 13th of 2012. If you
15 leave and go out 178 to Batesburg Highway and you
16 get out to just the edge of town and you go to Rock
17 Hill Road, Rock Hill Church is up there on the
18 right, I think that's the church where the guy is
19 buried in the car up there in the cemetery, you go
20 on down by Rock Hill Church there and you turn to
21 the right on Mine Creek, it's just a little ways
22 down there, and go down that road out through the
23 country and it twists and turns back and forth, then
24 you turn to the right on Silver Drive, you
25 eventually get out there to Shadow Ridge Court.

1 It kind of hooks back to the left.

2 And you're going to see it. We've got maps and
3 aerials to show you all of this and the detectives
4 and the investigators are going to go through as
5 they testify and get you oriented, but it's out here
6 in this part of the county.

7 But back at the end of the little cul-de-sac is
8 an old double-wide trailer, a very simple, plain
9 looking double-wide trailer, an old one. And you're
10 going to learn that, at that time, the 11th and the
11 12th, there were a number of people that lived
12 there, that lived at the place. The residents of
13 that trailer were Felecia Young Barlow. And you
14 will learn, in this case, that Felicia Young Barlow
15 was the sister of Al Jerome Young, that was her
16 brother, and that he stayed there as well on and
17 off. She lived there with her husband, Mike Barlow,
18 and they had three kids. Also living at that
19 double-wide trailer was one of the victims in this
20 case, Ycedra Williams and her husband, Joseph
21 Wrighton.

22 Now, you're going to learn, all of these folks
23 are going to get up and testify in this case, Ycedra
24 Williams was, at that time, she was on active guard
25 status. She was in the National Guard. And she

1 stayed there, she helped baby-sit the children and
2 she had been living there for at least six months.

3 You're going to learn that Joseph Wrighton
4 worked at Amick Farms like a lot of people here in
5 Saluda County. And he went trudging back and forth
6 to work at Amicks every day, and that he had been
7 there living in the trailer for at least six months.

8 And you're going to -- I'll submit to you the
9 evidence is going to show it's where these people
10 resided, they lived. Al stayed in a bedroom.
11 Ycedra, her husband, O.J.'s sister, her husband, and
12 three kids are all living there.

13 You're going to hear that Al Jerome Young was
14 fully aware that O.J. Charley was coming for him.
15 He even armed himself and he went and bought a .40
16 caliber gun. You're going to hear testimony from
17 the witnesses in this case that after he bought that
18 gun to protect himself with part of the money he had
19 ripped off 'ol O.J. from, he went out and he shot it
20 a few times in the front yard. He fired it to test
21 it. He was in preparation.

22 And I submit to you you're going to learn from
23 the witnesses in this case that Al Jerome young was
24 scared of O.J. Charley, but he really just didn't
25 think that he had the nerve to carry out what took

1 place in the early morning hours of April the 13th
2 of 2012.

3 I submit to you the State's going to prove to
4 you that O.J. Charley came up here from Williston
5 just after midnight on April the 13th, but he did
6 not come by himself. The evidence in this case is
7 going to show that he brought his buddy, his cohort,
8 Gerald Williams, with him when he came up here to
9 kill Al Jerome Young.

10 I submit to you the evidence that you're going
11 to hear and see that the police seized from a
12 variety of different locations are going to show you
13 that as O.J. Charley and Al Jerome Young came up
14 here to kill -- excuse me -- O.J. Charley and Gerald
15 Williams came up here to kill Mr. Young, Al, to
16 murder him, they took some plans -- they took time
17 to plan and prepare to come up here. They didn't
18 come empty-handed. They came with stocking caps.
19 They came with a mask. They drove the green van
20 that law enforcement was on the lookout, and they
21 wore latex gloves.

22 I submit to you at issue in this case are going
23 to be purple latex gloves and a blue pair of latex
24 gloves. We submit to you the evidence in this case,
25 the overwhelming evidence, the scientific evidence,

1 the DNA evidence that we're going to present to you
2 are going to show you that in an attempt to cover up
3 and conceal their tracks for this attempted murder
4 that they were going to carry out, that just like a
5 doctor going into an operating room, before Gerald
6 Williams and O.J. Charley went out there to this
7 double-wide home to attempt to kill Al, they put
8 these latex gloves on their hands trying to be
9 smart, thinking about, well, in the future, if
10 anything came out, don't want to leave any
11 fingerprints on these guns. So they wore latex
12 gloves and put them on as they carried these guns as
13 they left that car.

14 I submit to you you're going to hear that, the
15 evidence will show you, that when they went out to
16 this trailer, they didn't go and drive up in that
17 green van. They parked it on back down the road, a
18 pretty good distance you're going to hear, and they
19 left it pointed away, parked. And they left on foot
20 and they walked down the road or through the woods
21 or however they traversed to go back to the trailer.

22 When they went back wearing those gloves, there
23 was a .40 caliber Smith & Wesson semiautomatic
24 handgun that they'd armed themselves with and, also,
25 I submit to you, one of these Tec-9, and you'll see

1 it, we'll put it into evidence in this case, one of
2 these assault style pistols with a big, long
3 magazine and a military looking barrel on it, big
4 high-capacity magazine, 9mm weapon.

5 And as they went back to this house, they went
6 up there to the double wide, I submit to you the
7 evidence is going to show that in their attempt to
8 kill Al Jerome Young, as they got up there to the
9 trailer, they opened fire on it and they riddled
10 that trailer with bullets. The police picked up at
11 least a dozen spent rounds. There was probably more
12 the officers may have not even picked up at the
13 scene, but they riddled that trailer with bullets.

14 You're going to hear testimony from Ycedra
15 Williams and Joseph Wrighton that they were sitting
16 there on that very early morning hours of the 13th
17 playing Xbox, getting ready to go to bed and heard
18 the dog barking. They got up and they went to the
19 door to look and Ycedra saw some people going
20 through the yard. She could see individuals moving.
21 We're going to bring in here the door that came
22 right off of the trailer that she was looking out
23 of. And that as Joseph went to the door, the shots
24 started ringing out. And you're going to hear that
25 Ycedra and Joseph fell to the floor.

1 You're going to hear that 'ol Al Jerome Young,
2 who's back there in the back bedroom with the money
3 that he ripped off from O.J. Charley still on him
4 strapped to him with a Camelbak kind of thing, had
5 the money all packed -- had it on him back there in
6 the back bedroom. You're going to hear that they
7 all dropped to the floor as bullets rang through
8 this trailer like something out of a bad Hollywood
9 movie, rounds peppering through and going through
10 the shell of this trailer as they all dove for
11 cover. You're going to hear the bullets even went
12 through the breaker box and put the lights out at
13 some point in time that it was so riddled with
14 gunfire.

15 Ycedra Williams, I submit to you the evidence
16 will show, called 9-1-1, called for assistance.
17 You're going to hear that there were two Saluda
18 police officers who already were on the lookout for
19 a green Ford Windstar van that they believed O.J.
20 Charley was going to utilize in his attempt to come
21 and murder Al. You're going to hear that when they
22 got the call that gunshots had rung out at the house
23 at Shadow Court, that they began a high speed
24 flight to go out there and assist the residence that
25 were under attack.

1 But you're going to hear that they were savvy
2 police officers, that even though they were boiling
3 down the road trying to get back out there to
4 respond to the gunfire at the house, that they
5 happened to look as they flashed by at a green Ford
6 Windstar van sitting on the side of the road. And
7 these police officers were smart enough and had
8 enough training to know that they needed to put
9 somebody on that vehicle, that that was a possible
10 means of flight, escape for the people that were
11 carrying out this assault on the house.

12 They called for assistance beyond the Saluda
13 Sheriff's Department. They got officers from the
14 Saluda Town Police Department. And you're going to
15 hear that every police officer in the county was
16 mobilized, SWAT, sheriff's office, every available
17 officer, to respond to this incident. But, at that
18 point in time, the closest officer was one from the
19 Saluda Town Police Department, Officer Brett Long,
20 that's going to testify in this case that he was
21 sitting just out at the city limits in anticipation
22 and that in just a few moments that he's there and
23 on this green van.

24 The officers called, gave the location to
25 investigator -- or to Officer Brett Long from the

1 town who responded. They hurdled off to go back
2 down to assist and try to capture the people that
3 were attacking the trailer and that Brett Long
4 arrived right back where the van was sitting.

5 And you're going to hear that the officers
6 rushed down to help the occupants of the trailer
7 there. They told them to hunker down, to stay
8 inside. And they began a search, a sweep to find
9 the people that assaulted and fired all through the
10 house, that they told them to stay inside and don't
11 come out.

12 And just as they got back there, they were
13 summoned back to that van by Officer Brett Long from
14 Saluda Town that was sitting on the van. And you're
15 going to hear that Officer Long got to that van,
16 circled around and just as he got back behind it, he
17 could see that the vehicle that the officers had
18 previously checked -- I submit you're going to hear
19 testimony, Grenier and Morelli, the officers from
20 the Saluda Sheriff's Department, when they went by
21 that van, they stopped and they checked it. They
22 got out and looked and that van was empty. It was
23 locked. It was secured. It was sitting on the side
24 of the road. That they went all around it looking
25 with their guns, no one was in it.

1 But you're going to hear when Investigator
2 Brett Long circled back around and got -- in the
3 intervening few moments between the time that they
4 left and went back to the trailer, that Gerald
5 Williams had gotten behind the wheel of that
6 vehicle. Officer Long could see one person inside
7 the car, but he also could see someone laying in a
8 ditch. And he's going to tell you that just as he
9 got up behind the vehicle, the person that was
10 laying in the ditch, I submit to you that the
11 evidence is going to show, was O.J. Charley. And as
12 Officer Long got behind the vehicle, O.J. jumps in
13 the passenger side of the green Windstar, that van
14 that had previously been checked and was empty, and
15 they took off, took flight.

16 He's going to tell you that the vehicle would
17 go down the road a little bit and it would stop and
18 the doors would come open like people were going to
19 flee and then they'd close again and take off again.
20 He's going to tell you that the vehicle stopped and
21 it started and it stopped and it started, and he
22 called for assistance. Morelli and Grenier came
23 flying back up there in their cars and eventually
24 boxed them in and took into custody Gerald Williams
25 behind the driver's seat, O.J. Charley in the

1 passenger seat, and they placed them into custody.

2 You're going to hear, at that point in time, of
3 course, all of the law enforcement in Saluda County
4 descended out there on that mobile home,
5 Investigator Robert Shorter, Investigator Jesse
6 Quattlebaum, the SWAT team, and they began a search
7 and a sweep. They put the dogs out. I submit to
8 you you're going to hear the investigation ended up
9 two shooters, two men in custody. And that the
10 officers got out and they searched and they swept
11 and they collected evidence, they found Al Jerome
12 Young.

13 And the State's not going to sugarcoat or hide
14 anything, they're not -- we're not going to try to
15 tell you in this case that Al Young is a good guy
16 because he's not. He's going to come to you from
17 jail from another incident where he's being held
18 from shooting into another -- in another case and
19 nobody's going to hide or sugarcoat that. This is a
20 guy who would rip off a dope dealer of \$30,000, not
21 going to sugarcoat that to you at all.

22 And you're going to learn that Ycedra Williams
23 and Joseph Wrighton when they first were
24 encountered, they covered for Al Young, who's laying
25 back there in the bedroom with all this money, and

1 they said that they were the only two in the house,
2 but you're going to learn that that quickly was
3 stripped away. Law enforcement, of course, with
4 their consent eventually, went in and searched and
5 looked and they found Al Young in there. And you're
6 going to learn that they quickly came off of that,
7 and they've been punished for it. The very victims
8 in this case have already been punished for it.
9 They've already pleaded guilty in this case to
10 giving that false information that he wasn't
11 present, that he wasn't there.

12 But the officers went around and gathered the
13 evidence. They picked up shell casings both inside
14 the house, outside the house. They collected
15 everything that they could. They went around and
16 they searched. They looked. They began the
17 investigation, the unravelling of this. And they
18 walked the path, as it began to get light the next
19 morning, all on the trail from where that mobile
20 home was to where that van had sat parked because
21 they knew, as experienced investigators, that as
22 Mr. Williams, the defendant in this case, and O.J.
23 left there, they would have abandoned evidence
24 because they didn't find any guns in the vehicle
25 with them when they fled, so they began the search

1 for evidence.

2 But I submit to you you're going to see
3 photographs that it didn't take them long to find it
4 because as they walked along the roadway as it got
5 light that next morning looking on both sides where
6 it was easily in view from the edge of the road,
7 just right up into the edge of a driveway, and
8 you're going to see it, was a Tec-9 pistol, this
9 big, mean-looking, assault-style pistol, that .40
10 caliber handgun, and laying right there, parts of
11 rubber gloves. You're going to see right over in
12 the grass where they just laid over where someone
13 took off a set of blue latex gloves.

14 I submit to you the evidence that you're going
15 to hear in this case shows you that these two
16 weren't as smart as they thought they were as they
17 tried to cover up their tracks in this case not
18 leaving any fingerprints. In this case where Gerald
19 Williams is on trial, he pointed the finger right
20 back at himself because he was a little bit behind
21 the time. He didn't think about DNA evidence. And
22 as he peeled part of that glove off his hand, as he
23 ripped part of it off his hand and laid it there
24 with the weapons that they had used to riddle this
25 trailer with bullets, he left a perfect sample of

1 his DNA right on the inside of that piece of glove
2 that he threw out and tore out on the ground, and
3 that when he went back to the van and he tore off
4 more of the glove, he left a perfect sample of his
5 DNA right there in the van.

6 And you're going to hear that in his haste,
7 Mr. Williams, in his rush to try to flee and take
8 flight, get out of here from Saluda with any of the
9 evidence in this case, that he even left part of one
10 of the gloves, some fingertips on his hand and it
11 was on him when they booked him in the jail up here
12 at the Saluda Police Department -- or at the Saluda
13 Detention Center. And you're going to learn as the
14 officers unravelled this case, that as Gerald
15 Williams went in there and was booked, that one of
16 the officers that was booking him and processing him
17 saw that he had these glove fragments on him and
18 that she notified the detective and the detective
19 came and immediately got those and those were
20 actually on his person.

21 And I submit to you you're going to hear
22 evidence in this case on ballistics, DNA, forensic
23 evidence, the direct testimony of these witnesses,
24 the fact that they took flight. And all of that
25 evidence is going to completely encircle the

1 defendant in this case, Gerald Williams, and show
2 that he is guilty of these three counts of attempted
3 murder.

4 You're going to hear all of the testimony in
5 this case from the witnesses. You're going to hear
6 argument from the lawyers in this case, but then I
7 submit to you you're going to hear what the law is
8 in this case and the Judge is going to charge you
9 with what the law is. And I told you when I got up
10 here and started talking with you and telling you
11 about this attack on this house, this assault by
12 O.J. Charley and Gerald Williams that we had the
13 burden of proof and we welcome it.

14 And after you've got all the evidence, the
15 Judge is going to charge you with the law in this
16 case about attempted murder and the State will have
17 had to have proved things to you. But I submit to
18 you we're going to show you that as Gerald Williams
19 fired indiscriminately in that house, the Judge will
20 talk to you about the law of intent.

21 Now, they certainly intended to kill Al Jerome
22 Young, but they had no idea who all was inside that
23 house, whether or not it was the children that
24 normally lived there or anyone else was in there,
25 and they didn't care. And as they fired

1 indiscriminately into that house, it was certainly
2 an intent to kill anyone inside. He's got three
3 counts because there were three people at home
4 laying in the floor as that trailer was riddled with
5 bullets. And I submit to you the State's got the
6 burden of proving that Gerald Williams is guilty of
7 attempting to murder anyone that was inside that
8 house, specifically the three people for which he
9 stands under these indictments.

10 At the conclusion of all evidence in this case,
11 we're just going to ask that you come back with a
12 verdict. The word verdict means to speak the truth.
13 We submit to you that the appropriate verdict in
14 this case will be three counts of guilty for the
15 attempted murder of these three individuals on April
16 the 13th.

17 **THE COURT:** Opening statement for the defense?

18 **MR. CASTO:** May it please the Court, Your
19 Honor.

20 **THE COURT:** Yes, sir, Mr. Casto.

21 **MR. CASTO:** It's not often that the alleged
22 victims in a case are led away that same night in
23 handcuffs, but that's exactly the type of case that
24 we have before us today. The three people, Ycedra
25 Williams, Joseph Wrighton and Al Jerome Young,

1 that's exactly what happened. They were each taken
2 with law enforcement, with them. They were
3 handcuffed, they were booked in and they were jailed
4 that same night.

5 See, they were caught in deception. And as
6 these three people testify, these are folks that you
7 cannot believe because if you lie about the small
8 things, you're surely going to lie about the big
9 things. They can't be trusted and they were
10 arrested that same night.

11 Well, the big things in the world of this trial
12 as it plays out before you is this: Can we trust
13 those three people? Those three people was
14 stripping Gerald of his freedom in the trial of this
15 case after it's proven that they can't be trusted
16 and that they lie.

17 Gerald had no earthly idea how much trouble
18 that he was going to be in for giving his friend,
19 O.J. Charley, a ride that evening. And you're going
20 to hear all about Oriental James Charley, O.J. You
21 see O.J. had a dispute with one of these three
22 people in that house over a huge sum of money and
23 that was O.J.'s dispute and O.J.'s alone. And
24 Gerald Williams didn't have anything to do with
25 that, nothing at all. This case is largely going to

1 center on O.J.

2 You're also going to hear, as the evidence is
3 created before you, that Gerald, once the van stops,
4 Gerald's ordered out, he's in the driver's seat,
5 O.J.'s sitting beside him, hands up, gets down, does
6 not flee, complies with law enforcement, was taken
7 into custody that same night.

8 And you'll hear how law enforcement responds
9 back to that house, and before that night is over,
10 they take those three people in that house and they
11 take them into custody. Much of the evidence
12 centers on their testimony. And if you lie about
13 the small things, you're surely going to lie about
14 the big things.

15 Another thing that you're going to hear an
16 awful lot about is there was a tremendous amount of
17 physical evidence that was collected in this case,
18 and we're going to hear about how it was collected,
19 how it was handled. And this incident happened in
20 April of 2012. And so all of that physical evidence
21 has sat in a locked and sealed room either at the
22 local sheriff's office or at SLED behind a locked
23 door. And as Gerald's lawyers, we're going to ask
24 that that door be opened up and the light shine in
25 and talk about how that evidence was handled and how

1 it was collected.

2 Why? Because the State has on them what's
3 called the burden of proof, and the Judge has
4 already gone over this, they have the burden of
5 proving their case. And hang on every word that was
6 presented to you by them. Can they back that up?
7 Are they making leaps here? Because for everything,
8 they have the burden of proof. Gerald, we don't
9 have to prove anything. We don't have to prove
10 anything at all. The burden of proving their case
11 rests on them.

12 And for every offense charged in this case,
13 several elements exist and they're much like puzzle
14 pieces. And hold that word puzzle pieces in your
15 mind because if one of those pieces is not there, if
16 reasonable doubt should exist for just one of those
17 pieces, you must find Gerald not guilty.

18 Now, reasonable doubt, much has been said about
19 this word and the easiest, most transparent way to
20 convey it to you is just to talk about it how our
21 State has described it. Reasonable doubt, here it
22 comes: The type of doubt that would cause a
23 reasonable person to pause or to hesitate before
24 they act. The type of doubt that would cause a
25 reasonable person to pause or to hesitate before

1 they act. Stated another way, do you have a doubt
2 and do you have a reason for that doubt?

3 How do we analyze and how do we wade through
4 all of this? From witnesses, from physical
5 evidence. Listen to every word that's said from
6 this witness chair, every single word, but also
7 think about this: You can also consider, and it's
8 fair game so to speak, to consider what's not said
9 from up here. You could consider body language, how
10 somebody refers to something, speaks about
11 something, describes something, who has a motive,
12 bias, interest in all of this.

13 And listen to every word that comes from this
14 seat and also listen to the words that do not as you
15 wade through this evidence and especially as those
16 three people inside that house come before you and
17 sit in this chair. If you're going to lie about the
18 small stuff, you're surely going to lie about the
19 big stuff.

20 At the conclusion of the trial of this case,
21 we're going to stand in this same position where
22 we'll ask you to send Gerald home an innocent man.
23 Thank you.

24 **THE COURT:** And, State, please call your first
25 witness.

1 **MR. MAYE:** The State would call Investigator
2 Robert Zeb Shorter to the stand.

3 **THE COURT:** Please come forward and take the
4 oath of a witness.

5 And, actually, ladies and gentlemen, we have --
6 the witnesses have been taken to another room in
7 what we call sequestration, meaning they're not in
8 the courtroom while others are testifying. Once
9 they testify, they may remain in the courtroom, but
10 before they testify, they're not in the courtroom.
11 Of course, the exceptions to that, who may be
12 witnesses, is the case officer who will be here
13 throughout, as well as the defendant who will be
14 here throughout the trial. I tell you that because
15 it may take a moment when we call a witness for them
16 to be brought in from the room outside.

17 Please come forward and take the oath of the
18 witness.

19 **THE WITNESS:** Yes, sir.

20 ROBERT SHORTER,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. MAYE:

24 **Q** Investigator Shorter, if you will, just fully
25 introduce yourself to the ladies and gentlemen of

1 the jury, tell them about your background in law
2 enforcement and where you're from.

3 **A** My name's Robert Shorter. I'm a lifelong
4 resident of Saluda County. I started my law
5 enforcement career here with the Saluda Police
6 Department in October of '91 and retired last year,
7 November of last year.

8 **Q** Let's talk about April of 2012. Where were you
9 employed, in what capacity, what were you doing at
10 that time?

11 **A** I was a major with the Saluda County Sheriff's
12 Office.

13 **Q** I believe you were the chief investigator for
14 the sheriff's department at that time, were you not?

15 **A** That's correct, yes, sir.

16 **Q** And you since retired?

17 **A** Yes, sir.

18 **Q** On April the 12th of 2012, don't go into what
19 he said, but who did you get communication with?
20 Who was the individual that you communicated with on
21 that day?

22 **A** Rodney Pruitt with the Williston Police
23 Department. That's down in Barnwell County, I
24 believe it is.

25 **Q** Okay. Without going into anything that he said

1 to you, what did you alert or what be-on-the-lookout
2 bulletin did you put out to your deputies here with
3 the Saluda County Sheriff's Department? What
4 notification did you provide to them?

5 **A** I was advised to be on the lookout for a green
6 or a teal green Ford --

7 **MR. CASTO:** Objection; calls for hearsay.

8 **THE COURT:** All right. Just a moment. And
9 what is -- what's your response? Do you have a
10 response, Counsel?

11 **MR. MAYE:** Your Honor, it is not hearsay. It's
12 just the BOLO that went out to law enforcement that
13 provided them with notice to be on the lookout.
14 It's not hearsay evidence. He's not going into
15 that. He's going into what he directly informed his
16 officers to be on the lookout for and that's just
17 standard notification that goes out to all the
18 officers.

19 **THE COURT:** Objection overruled. You may
20 proceed.

21 BY MR. MAYE:

22 **Q** Go ahead.

23 **A** I advised the night shift officers to be on the
24 lookout for a teal green Ford Windstar van that may
25 be coming from Barnwell County to Saluda County that

1 night, and that the occupants, one of which was an
2 O.J. Charley, would be armed and dangerous, and that
3 they were seeking out some individuals to retaliate
4 on as a result of some actions that happened a
5 couple days prior.

6 Q Who did you advise the law enforcement officers
7 that the individual that was the target of the
8 retaliation would be?

9 A An A.J. Young.

10 Q A.J. Young, okay. What steps did you have your
11 officers do in order to be on the lookout? What
12 area did you have them go out and search in and look
13 for and have heightened scrutiny on?

14 A Well, I mean, we had a residence in Shadow
15 Ridge Court, I don't recall the street address, but
16 it was on Shadow Ridge. It was the house down
17 in the bottom and that they might possibly be going
18 to that location because Mr. Young might be hiding
19 out there.

20 Q Okay. Let me show you a photograph, it's not
21 marked at this point in time, but let me ask if you
22 can identify that photograph?

23 A This is a photograph taken from the cul-de-sac
24 at the end of Shadow Ridge Court. It depicts a
25 mailbox marked and the mobile home where this

1 incident actually -- eventually occurred at is in
2 the very back of the photograph. You can see the
3 end of the mobile home.

4 **Q** But that's Shadow Court or at least --

5 **A** Shadow Ridge.

6 **Q** Shadow Ridge?

7 **A** Yes, that's it.

8 **MR. MAYE:** At this time, I'm going to move to
9 submit this into evidence. It's been previously
10 provided to the defense.

11 (Pause.)

12 **MR. CASTO:** Without objection.

13 **THE COURT:** Let's take a moment to mark that,
14 please. State's 1 in evidence without objection.

15 (State's Exhibit Number 1, photograph,
16 marked and admitted into evidence.)

17 BY MR. MAYE:

18 **Q** Investigator Shorter, just publish and show
19 them that location that you had the officers going
20 out and checking that day.

21 **A** This is item marked State's Exhibit 1. It's a
22 photograph depicting the cul-de-sac at the end of
23 Shadow Ridge Court, which is just a very short
24 gravel road off of Silver Drive which comes off of a
25 paved road, Mine Creek Road. The mailbox belonging

1 to Shadow Ridge Court is in the photograph and
2 it is marked And the mobile home where this
3 incident occurred is in the very back of the
4 photograph.

5 **Q** Okay. Investigator Shorter, I want you to take
6 a look at this -- I apologize for blocking the jury
7 view at this point -- take a look at this photograph
8 and tell me what it depicts.

9 **A** This is a photograph, an aerial photograph,
10 that would entail, I'd say, I don't know, a mile,
11 about a mile area. I notice Mine Creek Road coming
12 in, that would be coming from Rock Hill Church Road
13 and it travels, I would say, southeast I believe it
14 would be. And I see in the top left corner, the
15 intersection of Silver Drive and Mine Creek Road.
16 And I see in the top left corner, Shadow Ridge Drive
17 -- or Shadow Ridge Court where this incident
18 actually occurred at.

19 **Q** Let me ask you this: Does this fairly and
20 accurately reflect an aerial view of the Shadow
21 Ridge Court location and the roadways that are at
22 issue in this case?

23 **A** It does.

24 **MR. MAYE:** At this time, I'm going to move to
25 admit this map, this exhibit into evidence.

1 **THE COURT:** Is there an objection?

2 **MR. CASTO:** No, sir. Your Honor.

3 **THE COURT:** All right. State's 2 in evidence
4 without objection.

5 (State's Exhibit Number 2, aerial
6 photograph, marked and admitted into evidence.)

7 BY MR. MAYE:

8 **Q** Investigator Shorter, so that we're all on the
9 same page here and we all know where we're talking
10 about, I'm going to hold this up as best I can, I
11 ask you to come off the stand.

12 **A** (Witness leaves the witness stand.)

13 **Q** I want you to show the ladies and gentlemen of
14 the jury what this map depicts where the roads are
15 and how you would -- orient them from the courthouse
16 here back to this area.

17 **A** From the courthouse, if you go out to 178
18 towards Batesburg, Batesburg Highway, pass NAPA,
19 just across the river, Saluda River, there's a road
20 to the right called Rock Hill Church Road, that
21 would be this road here {indicating}. Saluda is
22 this way.

23 **Q** Let me go back on this side.

24 Saluda is this way?

25 **A** Saluda is this way and you come back this way

1 or out this way out Batesburg Highway and you turn
2 right on Rock Hill Church Road. You come out to
3 Rock Hill Church Road and it would be the first
4 paved road to the right would be Mine Creek Road.
5 Take Mine Creek Road, come all the way around here
6 and then you'll come to a gravel road on the right,
7 which is a mobile home estate, like one acre lots.

8 You can turn right on Silver Drive. It goes
9 back to a cul-de-sac. There's mobile homes on both
10 sides of the road. This street to the left, which
11 would be the -- well, that's just a drive there I
12 believe, but the street to the left would be Shadow
13 Ridge and the residence in question where this event
14 occurred at is back in the corner right here
15 {indicating}.

16 Q Okay. Please retake the stand.

17 A (Witness resumes the witness stand.)

18 Q I'll show you another photograph. I'm going to
19 ask you what that depicts.

20 A That is a -- just a blown-up version of the top
21 right corner of this that depicts the -- it zeros in
22 on the Shadow Ridge Court location.

23 Q And this fairly and accurately is a aerial
24 photograph at much greater zoom of the area at
25 Shadow Ridge Court and the trailer?

1 **A** Yes.

2 **MR. MAYE:** At this time, I move this into
3 evidence.

4 **MR. CASTO:** Without objection. We've seen it,
5 Your Honor.

6 **THE COURT:** All right. State's 3 without
7 objection.

8 (State's Exhibit Number 3, aerial
9 photograph, marked and admitted into evidence.)

10 BY MR. MAYE:

11 **Q** Again, come down here and orient the ladies and
12 gentlemen of the jury as to State's 3.

13 **A** (Witness leaves the witness stand.)

14 This will be Silver Drive coming off of Mine
15 Creek Road running this way. Silver Drive comes in,
16 road to the left, Shadow Ridge Court. And the
17 residence in question where this event occurred
18 would be right here {indicating}.

19 **Q** And that's what kind of structure?

20 **A** A double-wide mobile home.

21 **Q** Okay.

22 **A** (Witness resumes the witness stand.)

23 **Q** Investigator Shorter, you've already testified
24 that you got a call from the detective down in
25 Williston and you put them on the lookout for O.J.

1 Charley and that green van. When was the next time
2 that you got any information or what was the next
3 thing that occurred in this case as to your
4 involvement?

5 **A** I was the supervisor on call and I received a
6 phone call some time that night, whatever time, I
7 don't recall the exact time. I was at home in my
8 bed. I was off duty. But I was the on-call
9 supervisor and I was notified by the office that a
10 shooting incident had occurred at this location and
11 I got dressed and responded.

12 **Q** Tell them what happened as you got there. What
13 did you do?

14 **A** I got there and the scene was secure by that
15 time. They had two suspects in custody and we just
16 -- we done our routine investigation, collected
17 evidence. And everything culminated the next
18 morning when we found some more evidence walking the
19 road. And it was just pretty much routine from
20 there on out. We interviewed the witnesses and took
21 statements and stuff of that nature.

22 **Q** Okay. When you got there to the residence, who
23 were the first people that you encountered when you
24 got there to the residence?

25 **A** Well, that would be our officers. I mean --

1 **Q** Okay. What were they doing as you arrived
2 there to the scene of this shooting?

3 **A** Well, again, they had two suspects in custody.

4 **Q** Who were the two suspects they had in custody?

5 **A** It was an O.J. Charley and the defendant,
6 Gerald Williams.

7 **Q** Okay. I'd just like -- could you point out
8 Gerald Williams or just identify him for the record?

9 **A** Mr. Williams is seated at this table right over
10 here, has on a white shirt and a striped tie
11 {indicating}.

12 **MR. MAYE:** Your Honor, I'd just like, at this
13 point, for the record to reflect that Officer
14 Shorter has identified the suspect in this case, the
15 defendant, Gerald Williams.

16 **THE COURT:** So noted.

17 **BY MR. MAYE:**

18 **Q** You got there, law enforcement was there. Who
19 else was present? Who else did you talk to?

20 **A** There was two other individuals in the -- well,
21 three other individuals in the house that actually
22 got fired upon, one being an A.J. Young, I believe a
23 -- is it Joseph Wrighton, I believe his last name
24 was Wrighton, and a Ms. Williams, a Ycedra Williams.

25 **Q** Okay. Who were the first people that you

1 talked to? And tell them about the sequence of
2 events there.

3 **A** Well, what had happened, the deputies while
4 responding, they were close to this location because
5 I had told them to be on the lookout, they went by
6 the van. The van was unoccupied. And they got to
7 the house. And some other officers came behind them
8 to assist and when they got to the van, two subjects
9 were at the van, Mr. Williams and Mr. Charley.

10 **Q** Okay.

11 **A** So they detained them. And our officers left
12 and came back to the van, the first two officers,
13 leaving no one at the house. We all got back to the
14 house together and basically started talking to
15 them for -- I was there by the time we started
16 interviewing these people for the first time,
17 Ms. Williams and Mr. Wrighton.

18 **Q** Okay. And they eventually didn't tell you
19 about Al Young being there, did they?

20 **A** They did not.

21 **Q** They lied, didn't they?

22 **A** They lied.

23 **Q** They got charged and prosecuted and convicted
24 for that too, didn't they?

25 **A** They sure did, yes, sir.

1 **Q** Okay. Because they gave you false information
2 as to whether or not he was present in the house?

3 **A** That's correct.

4 **Q** Okay. Who all did you eventually discover that
5 was inside the house?

6 **A** Those two in addition to Mr. Young. He was in
7 a back bedroom.

8 **Q** Okay. Describe what you saw there at the
9 scene. Give them a description of what you saw
10 there when you arrived at the scene.

11 **A** Well, basically, it was the mobile home just
12 like we -- the picture depicts, and it had bullet
13 hole -- multiple bullet holes in the end of the
14 mobile home where the side door is right on the
15 corner on the end, it had bullet holes in the door,
16 it had bullet holes in the wall. I remember the
17 door had bullet holes going both ways, bullets going
18 in, bullets coming out. And there were numerous
19 shell casings lying in the yard also.

20 **Q** So you could see evidence of a gun fight?

21 **A** Right. And the electricity was off in the
22 house, and we discovered that one of the bullets
23 actually went through the wall and pierced the
24 electrical box knocking the electricity off.

25 **Q** Okay. But you did see the door and you've

1 already described it, correct?

2 **A** Yes, sir.

3 **Q** As part of your role as the chief investigator
4 in this case, did you actually physically have that
5 door removed and take it into the custody of the
6 sheriff's office?

7 **A** Well, we talked with the repair people and told
8 them to notify us when they went out there to take
9 the door off later that day, or it might have been
10 the next day, I don't recall the exact day, but at
11 any rate, when they removed the door, they gave the
12 door directly to us and we took it into custody.

13 **Q** You took custody of that door?

14 **A** Yes, sir.

15 **Q** Okay. Have you looked at that door even today?

16 **A** Yes, sir.

17 **Q** Okay. Is it in the same condition as when you
18 seized it essentially?

19 **A** I think they put some tape over the bullet
20 hole, but other than that -- over the bullet holes
21 in the glass, I reckon to keep the glass from
22 shattering, put some duct tape over the bullet
23 holes, but other than that, it's essentially in the
24 same shape, yes, sir.

25 **Q** And when you went out initially, that duct tape

1 was not over the holes; is that correct?

2 **A** No, sir.

3 **Q** That's just to keep glass in place. That's the
4 only addition or alteration to the door from the
5 time when you went out to that scene?

6 **A** That's all I noticed, yes, sir.

7 **Q** Is the door -- did you have it brought up here
8 to the courthouse today?

9 **A** I didn't have it brought. I mean, again, I'm
10 not employed there, but it's here. Yes, sir, I've
11 seen it. It's here. It's here at the courthouse.

12 **Q** And it's here today?

13 **A** Yes, sir.

14 **MR. MAYE:** At this time, Your Honor, I'm going
15 to ask to bring it around, if he can identify the
16 actual door.

17 **THE COURT:** Very good. You may.

18 (Pause.)

19 **MR. CASTO:** Your Honor, we have a matter of
20 law.

21 **THE COURT:** All right. Well, let's do this,
22 ladies and gentlemen, it's time for us to take a
23 morning break, so we'll let you take a break. Let
24 me resolve whatever this issue is that they wish for
25 me take up and we'll take a little break ourselves

1 and we'll reconvene when we complete that process.
2 So you enjoy your break, if you will. And we'll
3 remain where we are while you depart to the jury
4 room.

5 (The jury retires to the jury room.)

6 **THE COURT:** All right. The jury is clear. And
7 let me first ask, Counsel, have you not reviewed the
8 evidence prior to today? Have you not been given
9 that opportunity?

10 **MR. CASTO:** We had, Your Honor, for much of it,
11 but we've never seen the door. And so, you know,
12 we -- and, basically, we didn't see it until Friday.

13 **MR. MADSEN:** Judge, we went out on Friday to
14 see all the evidence, that was not there, that was
15 not provided in the evidence. We thought we saw
16 everything. We were at the sheriff's office with
17 the Solicitor's office --

18 **MR. MAYE:** Your Honor, it was at the sheriff's
19 office. We've had discussion about the door.
20 Obviously, it's too big to be stored in the evidence
21 room. We had multiple discussions about it being
22 housed at the sheriff's department. We've made no
23 secret of the fact that we had this door and they've
24 certainly been aware that they had it. We would
25 have certainly let them go out into the outbuilding

1 and look at it if they wanted to. Didn't know they
2 wanted to view it. Certainly, it's been discussed
3 multiple times.

4 We went out to the sheriff's department, let
5 them go through any evidence. If they had any
6 inkling that they wanted to see it, they certainly
7 knew about it, but if they had any inkling they
8 wanted to see it, we would have showed it to them
9 and gone out into the storage building where it was.
10 It was on the same property as the sheriff's office.
11 And we specifically -- Mr. Casto's been out to the
12 sheriff's office twice and looked at the evidence.
13 We went through it all again, everything that we
14 collected again when Mr. Madsen became involved in
15 the case. It was there on the property.

16 We had multiple discussions. We would have
17 shown it to them. Be happy for them to examine it
18 all they'd like to now. I don't know what, if
19 anything, they would have done in the interim, but
20 we'd be happy for them to look at it all they'd like
21 to here, but it was certainly available for them to
22 see it any time they wanted to.

23 **THE COURT:** Mr. Casto, is it correct that you
24 knew of the existence of the door?

25 **MR. CASTO:** We did, Your Honor, but ultimately

1 we never saw it. I didn't think that it was ever
2 stored at the sheriff's office because it wasn't in
3 that room. I didn't, you know, realize that they
4 still had it or that it was evidence going to be
5 presented or what have you, but basically we -- that
6 is -- that's something that we're seeing for the
7 first time right now.

8 We thought that, you know, when we went out
9 there even this Friday to see everything, you know,
10 again, that we would have seen that and it was
11 never referenced. And we were told that we are
12 seeing everything.

13 **MR. MAYE:** No, sir, Your Honor. We asked them
14 if there was anything else they'd like to see. They
15 were aware of it. We asked them if there were any
16 items. We went to great lengths to make sure that
17 they had access to anything that we had. We asked
18 them if there was anything they'd like to see. We
19 would have walked them 30 feet and let them look at
20 the door or just to the other side if they had any
21 inkling to do it. But like I said, we've had it,
22 it's been available for inspection and there was no
23 request to do so.

24 **THE COURT:** What I'm going to do here is I have
25 obviously a dispute between counsel. One says, we

1 were told we were looking at everything. And the
2 other says, well, no, you could have seen it if you
3 wanted to ask about it; you were aware of the
4 existence of the door.

5 The last question I have for you as it gauges
6 for prejudice, what is it about the door that
7 prejudices you to look at it here for the first time
8 this morning?

9 **MR. CASTO:** Ultimately, Your Honor, I think
10 that with regard to this case, this is a shooting
11 incident, we're about to present a door with bullet
12 holes in it, you know, this is obviously something
13 that is critical evidence, you know. It's not
14 something that is in the periphery here, that
15 ultimately we would submit that this is a violation
16 of discovery and things that we'd asked for and
17 seen, Your Honor. And it's very much -- we'd also
18 renew our objection made pretrial with regard to the
19 discovery because this is what we were speaking
20 about.

21 **THE COURT:** Well, respectfully, I didn't hear
22 any prejudice in that answer that you just gave me,
23 and finding none, the Court is going to decline to
24 suppress the door. I find that the State has --
25 accept what the State says that they made it

1 available. And the reason I accept that is because
2 the State tells me, and you admit that you were
3 aware of it, the existence of it, and for that
4 reason, I am going to deny any motion to suppress
5 it, permit it to be in evidence over objection.

6 And we will take our break at this time. The
7 court will be in recess approximately ten minutes.

8 (Brief Recess.)

9 (State's Exhibit Numbers 4 through 17 were
10 marked for identification.)

11 **THE COURT:** All right. We have 16 and 17 which
12 have been marked by the State and they're weapons.
13 And, Counsel, tell us what is the status of the
14 safety of those weapons, please?

15 **MR. YOUNG:** Your Honor, both these weapons,
16 which I now hold up what is marked as State's
17 Exhibit Number 16 identified as a .40 caliber
18 pistol, semiautomatic, bears the markings, of
19 course, individualized with it's -- the firearm
20 identification itself, the serial numbers. It does
21 have a locking mechanism secured by a key through
22 the chamber. The slide is back and locked. There
23 is no magazine present. There is no round present
24 in the chamber.

25 **THE COURT:** Very good.

1 **MR. YOUNG:** The magazine is also with this as
2 part of the exhibit. The magazine is empty. That's
3 State's Exhibit Number 16 for identification.

4 Your Honor, State's Exhibit Number 17 for
5 identification is a 9mm model APS pistol,
6 semiautomatic, bearing the marking of AA Arms,
7 Incorporated. This also has a locking mechanism
8 secured by a cable through the chamber, through the
9 magazine receptor. The lock on the bolt is back as
10 far as it can be locked and it's in a safe
11 condition.

12 There is no magazine present in the weapon.
13 The magazine, however, is present in a separate bag
14 within the box and there are rounds out of that
15 magazine also in a separate bag.

16 **THE COURT:** All right. The Court finds then,
17 based upon that review, that those weapons are safe,
18 they are not loaded, cannot be fired, thus -- that
19 is, in their present condition, and thus the Court
20 will permit those in evidence.

21 Now, is there objection to what has been marked
22 as -- and I believe we began with State's 4 through
23 17. Is there an objection to those coming into
24 evidence from the defense?

25 **MR. CASTO:** There is, Your Honor. With respect

1 to the --

2 **MR. MADSEN:** Are those the ones that we --
3 Ervin, are those the ones that we weren't going
4 to object --

5 **MR. MAYE:** I haven't even gotten into that.
6 I'll take that up with the officer when he gets
7 back. We can do that in camera.

8 **MR. MADSEN:** Well, I mean, the ones that he's
9 asking about, are those the ones that we don't have
10 an objection to? We saw some photographs that we
11 didn't have an objection to, but we don't know how
12 they are marked. Are those the ones that we're okay
13 with?

14 **MR. MAYE:** Yeah. These are all the ones that
15 y'all were not going to object to and they're going
16 to be able to come in without objection, not going
17 to consent, but come in without objection, and that
18 would include State's 4, 5, 6, 7, 8, 9, 10, 11, 12,
19 13, 14 and 15.

20 **THE COURT:** All right. Then may we state for
21 the record that 4 through 15 are not by consent, but
22 there is no objection?

23 **MR. CASTO:** There is no objection.

24 **THE COURT:** All right. Then, Counsel, we'll
25 treat those as being in evidence and you may use

1 them without laying a foundation as being in
2 evidence.

3 **MR. MAYE:** Okay.

4 (State's Exhibit Numbers 4 through 15,
5 photographs, admitted into evidence.)

6 **THE COURT:** All right. Now, let's take a
7 moment and mark the door while we're at it.

8 **MR. MAYE:** And, Your Honor, for ID only, I'm
9 going to mark these photographs and they do take
10 exception to these and I was going to go through
11 that in camera.

12 **THE COURT:** Okay.

13 (Pause.)

14 **THE COURT:** State's 18 is in evidence over
15 objection of defendant.

16 (State's Exhibit Number 18, door, marked and
17 admitted into evidence.)

18 **MR. CASTO:** Again, Your Honor, we have a
19 remaining objection on these grounds with reference
20 to item 18, which is the door: Ultimately, as
21 Mr. Robert Shorter testified, that a proper
22 foundation has not been laid, and this will be shown
23 to the jury once they walk in, we're specifically
24 talking about a chain of custody. Mr. Shorter
25 testified that he was not the one that collected the

1 door that evening, it wasn't taken, that some other
2 person gave it to him. So we object that the proper
3 foundation has not been laid.

4 **THE COURT:** Well, you may attack that on cross
5 if you wish, but this is not a good which is
6 perishable. And the witness has already identified
7 it as a door that was on the house and that it had
8 bullet holes in it, and the Court finds that to be
9 sufficient to get beyond the threshold of being
10 admissible. If you wish to attack it on custody,
11 that's a factual issue if it's been tampered with.

12 **MR. CASTO:** Yes, sir.

13 **THE COURT:** Very good.

14 Now, back to you, Mr. Maye, and then we'll
15 finish this and bring in the jury. I know they
16 think we've forgotten them by now.

17 **MR. MAYE:** Your Honor, I have these right here
18 that I want to mark for ID, and I think I can take
19 care of these and I know they've got argument on
20 these, but I'd like to mark these for ID only, and
21 have Investigator Shorter retake the stand.

22 **THE COURT:** All right, sir. Please come back
23 and join us.

24 (State's Exhibit Numbers 19 through 26,
25 photographs, marked for identification.)

1 **THE COURT:** All right. Now, do we need to take
2 up some matter with those now?

3 **MR. MAYE:** Yes, sir, I would. I know they're
4 going to object to them.

5 IN CAMERA EXAMINATION

6 BY MR. MAYE:

7 **Q** Investigator Shorter, let me show you State's
8 19 through 26 and ask you if you can take a moment
9 and look at all these photographs? -

10 **A** I've had a chance to review them, yes, sir.

11 **Q** Investigator Shorter, after you've had a chance
12 to review those, let me ask you this: With the
13 exception of the door being changed out on there,
14 substitution for the door that we now have into
15 evidence in this case, with the exception of the
16 door being changed out, do those photographs fairly
17 and accurately reflect the trailer in question at
18 Shadow Court in this case, the crime scene in
19 this case? Do they substantially and accurately
20 depict the trailer as it was that night other than
21 that changing out of the door?

22 Do you see anything that's any different with
23 those photographs than where you viewed the scene
24 with the bullet holes and all of the evidence that
25 you collected that night, not things that you

1 collected off the ground, but does that photograph
2 depict the trailer -- is it substantially the same
3 condition as it was when y'all went out and did this
4 investigation?

5 **A** I would say they are, yes, sir.

6 **Q** Do you see anything that has been substantially
7 changed or altered? Do you see additional bullet
8 holes? Do you see anything else additional that was
9 not present when you went out there to the scene
10 other than the changing of the door?

11 **A** The only thing I see different is looks like
12 the porch light's missing. There was a porch light
13 on that night. It looks like the bulb is gone out
14 of the porch light, but other than that, they look
15 the same to me.

16 **MR. MAYE:** Your Honor, at this time, I'm going
17 to offer those into evidence subject to their
18 objection and I'll be happy to hear from the
19 defense.

20 **THE COURT:** Is there an objection?

21 **MR. CASTO:** Yes, sir, Your Honor, we do. We'd
22 move that these items be excluded from the trial of
23 this case and here's why: Mr. Shorter didn't take
24 these photographs. I don't believe that there's any
25 testimony whatsoever that he knows who took these

1 photographs.

2 One thing that's crucial is, is that these, you
3 know, were taken on this past Friday. A year and a
4 half has passed since this time, Your Honor, and so,
5 you know, we don't know what's happened to this
6 mobile home in a whole year and a half. So --

7 **THE COURT:** All right. But, Counsel, you just
8 heard the testimony. He says it's in the -- other
9 than the porch bulb missing, he says he was there,
10 he sees the photograph, he says it is in the same
11 condition that it was in the night he went out
12 there. If you want to attack him on cross, you may,
13 but this does not go to admissibility, it goes to
14 the credibility of it.

15 So I' -- I mean, if you wish to have more to say
16 about it, you may, but it appears to me that the
17 admissibility threshold is met from the testimony we
18 just got from this witness. If you want to take up
19 who took it, you know, and all those issues, you
20 may.

21 **MR. CASTO:** Yes, sir.

22 **THE COURT:** But that's a jury matter.

23 **MR. CASTO:** Yes, sir.

24 **THE COURT:** All right. Then I'm going to admit
25 Exhibits 19 all the way through 26 over objection of

1 the defendant, again, based on the testimony of the
2 witness. And let's bring in the jury and we'll take
3 it from there.

4 (State's Exhibit Numbers 19 through 26,
5 photograph, admitted into evidence.)

6 (The jury returns to the courtroom.)

7 **THE COURT:** All right. Welcome back, ladies
8 and gentlemen. Did you think we'd forgotten about
9 you there in the jury room? Sometimes we have some
10 matters that we have to take up outside of your
11 presence. Thank you for your patience in this
12 process. The justice system is not where we have to
13 produce or manufacture certain amount of goods in a
14 certain amount of time like many people think of
15 work. We're about some fairly important issues
16 here, so sometimes we have to take a little bit of
17 time and thank you for your patience in
18 understanding that.

19 While you were out, though, in order to
20 facilitate and speed the trial, the Court has
21 admitted the evidence of the door over objection and
22 also admitted some other photographs into evidence,
23 some over objection and some not objected to. That
24 should speed this process.

25 So you will recall we were in direct

1 examination of the witness.

2 Mr. Maye, please proceed.

3 **MR. MAYE:** Thank you.

4 BY MR. MAYE:

5 **Q** Investigator Shorter, already into evidence and
6 the jury has already viewed, now this is State's 1
7 and that shows what?

8 **A** That's the photograph taken from the
9 cul-de-sac. It depicts the mailbox at Shadow
10 Ridge Court with the mobile home in question in the
11 background.

12 **Q** So here's the crime scene of the incident
13 location, correct?

14 **A** That's correct.

15 **Q** You already talked to the jury about State's --
16 what's now in evidence as State's 18. Tell them
17 what that is and what you saw.

18 **A** That's the door that was on the mobile home.

19 **Q** Is there any difference between the --
20 obviously it's missing a lock and has duct tape on
21 it. What differences?

22 **A** Well, that's the difference. It had a door
23 lock on it that night and the bullet holes have been
24 -- well, what appears to be -- well, they are bullet
25 holes, have been taped over with duct tape, I

1 assume, to keep the glass from falling on out.

2 **Q** Okay. But that's the door that was on the
3 mobile home when you went there?

4 **A** That's correct.

5 **Q** And you have previously testified you could see
6 bullet holes in both directions?

7 **A** That's correct.

8 **Q** Let me show you what's been admitted into
9 evidence, take a look at State's 24, and they won't
10 be in order, 26, 23, 22, 21, 20, 19 and 25. And I'm
11 going to ask you, in the presence of the jury, do
12 those fairly and accurately reflect the condition of
13 the trailer when you went out there that night? And
14 if there are any differences in between that --
15 please explain to the ladies and gentlemen of the
16 jury what's different in the photographs as opposed
17 to what they're seeing -- what you saw that night.

18 **A** I had a chance to review them before the jury
19 came back out. I'm not just jumping to this
20 conclusion this fast. But the only difference I saw
21 is the porch light receptacle is missing a bulb.
22 That night it had a light in it and the light
23 actually worked. And in this photograph, it was
24 taken at a later date, there's no bulb in the
25 outside porch light socket. That's the only --

1 **Q** How about the door that's depicted in those
2 photographs, is that a different door than was up
3 that night?

4 **A** This is obviously a different door. That door
5 has the big glass. This has the diamond shaped,
6 small glass at the top, that was the replacement
7 door.

8 **Q** But the door that is in evidence in this case
9 is the one that was actually on the door that night?

10 **A** That's correct.

11 **Q** Okay. But other than that missing lock and the
12 fact that the door's been changed and the bulb is
13 missing, do you see any other differences?

14 **A** No, sir. I -- well, the tape, the tape over
15 the bullet hole, but other than that, that's it.

16 **Q** Come down here and utilize these photographs
17 and show the jury what you observed and why it was
18 significant enough to have photographs.

19 **A** (Witness leaves the witness stand.)

20 I guess the best one to start with is item 22.
21 It's just a broad overview of the trailer from a
22 distance taken at the very back. 21 is a little bit
23 closer view. You can start to see the bullet holes
24 in the wall, in the door. As you get -- well, you
25 can't see them in the door because there's the door

1 there. This picture was taken after the door was
2 changed, but you can still see the bullet holes in
3 the wall.

4 Move in a little bit closer, same thing.
5 They're all basically the same. It's just getting
6 closer and you can see the bullet hole. Item 26 is
7 getting a little closer.

8 **Q** Investigator Shorter, just retake the stand.

9 **A** Okay. Well, basically, they're all the same.
10 It's just getting closer to zeroing in on the bullet
11 holes inside the mobile home.

12 (Witness resumes the witness stand.)

13 **Q** Investigator Shorter, let me ask you this:
14 Without going into what he told you, did you take,
15 from the presence or close proximity of the victim
16 in this case, Al Young, did you take any items from
17 him or from his close proximity?

18 **A** Yes, sir.

19 **Q** What did you take?

20 **A** Cash money.

21 **Q** Okay. I'm going to show you what's been marked
22 State's 15 in this case and ask you if you can take
23 a look at it and identify it. It's already into
24 evidence, but just tell the ladies and gentlemen of
25 the jury what that depicts.

1 **A** This is item number 15. It shows a substantial
2 amount of cash money. The exact amount escapes me
3 right now. I believe it was a little over \$20,000.
4 And it also depicts a -- I believe it was a .40
5 caliber handgun that he had in his possession also.

6 **Q** Okay. And you're not sure about the amount,
7 but it's in excess of \$20,000?

8 **A** Yes. And that money was found on his person.

9 **Q** How did he have it on him?

10 **A** I think we all -- you all are probably familiar
11 with -- you can look at me and tell I'm not a runner
12 or anything, but a lot of people wear these water
13 bladders called Camelbaks on their back. It's like
14 a miniature backpack with a water bladder in it with
15 a tube coming around to drink out of while you're
16 running or bicycling. He had one of those with the
17 bladder removed and he had the money stuffed inside
18 of that Camelbak holder on his person under a very
19 tight fitting T-shirt. He had a T-shirt on over a
20 Camelbak and that's where the money -- he had it on
21 his person.

22 **Q** Okay. And what else is in there? There's a
23 firearm in there?

24 **A** There's a firearm, yes, sir. It was found, I
25 think, in the same room he was in. I don't think it

1 was on his person, but it was in the room he was in.

2 Q Now, you were there at the scene and collected
3 shell casings outside, correct?

4 A Yes, sir.

5 Q And you collected some shell casings inside?

6 A Yes, sir.

7 Q Okay. What else did you do that night? And go
8 on and take them on into the next morning, what did
9 you do?

10 A Well, I don't recall the exact time, it was
11 early hours of the morning. We all know you can see
12 better in the daytime. The van was found on Mine
13 Creek Road, a substantial distance from the house.
14 They had obviously parked there and walked back to
15 the house. So we elected to wait until we had good
16 light and then start walking.

17 Prior to that, we had turned the bloodhounds
18 out. We brought those out there. At that time, we
19 had a very well-trained bloodhound to try to
20 establish the fact to whether or not a third or a
21 fourth -- other people that were there that might
22 have ran from the scene in different directions, and
23 we weren't able to track any other tracks away from
24 the house. And we came to the conclusion that
25 nobody else was involved in that. Because, you

1 know, naturally the people living there were -- in
2 the residence, in the community, you know, we wanted
3 to ease their mind also for their safety not to
4 think they had wild people running around out there
5 in the woods, you know.

6 Q But you only tracked the trail that y'all
7 walked back to the vehicle?

8 A We didn't find any evidence with the
9 bloodhounds that somebody ran in a different
10 direction, no, we did not.

11 Q Okay. I want you to take what's already in
12 evidence as State's 2 and show them kind of along
13 the trail where you -- about where you walked as
14 y'all went back.

15 A (Witness leaves the witness stand.)

16 Again, this is the crime scene. The vehicle
17 was parked...

18 Q And if you don't know the exact location, just
19 the general vicinity.

20 A I don't know the exact location. I want to say
21 it was in here somewhere {indicating}. It was
22 somewhere away from these houses. The cluster of
23 houses start right here, it was beyond those houses
24 kind of in a secluded area.

25 Q You saw the vehicle where they eventually got

1 it stopped?

2 **A** Yes, sir. And, again, we started at daylight
3 after it got good light. And we had, I don't know,
4 five or six of us spread out in both ditches, in
5 yards, and we walked this area to here. And we was
6 heading back toward the van, and along, I don't
7 recall the address either, but I think it was this
8 driveway right here {indicating}, I'm pretty --
9 yeah, it was that driveway right there, and I got
10 the address written in a note somewhere, I don't
11 recall the exact address, but while walking by that
12 address right there, we observed two firearms and
13 some rubber gloves laying in some grass. You can
14 see it from the road walking down the edge of the
15 road.

16 **Q** Please retake the stand.

17 **A** (Witness resumes the witness stand.)

18 **Q** I'm going to show you State's 4 and 5 that are
19 already into evidence, ask you what that depicts?

20 **A** State's 4 is a photograph taken standing in
21 Mine Creek Road. Shadow Ridge Court would have been
22 to the rear of the photographer. It depicts a
23 mailbox marked . And there's a black mailbox in
24 the foreground -- in the background and that is the
25 driveway, I believe that's going to be Mine

1 Creek Road, if my memory recalls correctly, that's
2 the driveway in which the firearms were found.

3 Q So you found the driveway -- you found the guns
4 and the gloves where?

5 A Right here, in this driveway right here
6 {indicating}.

7 Q In this area?

8 A In this grass right here, yes, sir.

9 Q Okay. What's the next one?

10 A State's Exhibit 5 is basically the same
11 photograph taken just in front of that mailbox
12 marked 272. It's that much closer to the same area.

13 Q About where in there did you find the gloves
14 and the two guns?

15 A Right in right here. If you're standing in the
16 road looking down that driveway toward that house,
17 they were right there.

18 Q Let me show you State's 9. What is that?

19 A State's Exhibit 9 is a photograph marked --
20 dated 4/12/2012. And it depicts two hand guns and
21 it catches just the edge of some rubber gloves that
22 were -- that we found lying in that grass at the
23 area I just described.

24 Q Okay. Now, this incident took place on the
25 13th. Y'all were out there on the early morning

1 hours of the 13th. So the date's incorrect, is it
2 not?

3 **A** Well, actually, I can't really -- it looks like
4 a two to me. But if it is a 12, the date is one day
5 off on the camera, yes.

6 **Q** So that's just off on the camera. Y'all are
7 out there -- these pictures depict the scene on the
8 morning of the 13th?

9 **A** I thought the crime actually occurred all in
10 one day. It was after midnight, everything.

11 **Q** Okay.

12 **A** I mean, I don't have the incident report. We
13 can look at it and tell.

14 **Q** You need to refresh your recollection?

15 **A** I do. It's been a good while.

16 (Witness reviewing document.)

17 Yep. Everything happened on the 13th. So if
18 that camera depicts the 12th, it would have been off
19 one day. No way we could have took the pictures the
20 day before this happened.

21 **Q** Okay. So the date's off one on the camera?

22 **A** That's it.

23 **Q** Okay. The weapons that are depicted in State's
24 9 are what type of weapons?

25 **A** One of them's a handgun and the other one's

1 what I would commonly refer to as a Tec-9 style
2 handgun.

3 Q Okay. But those are two handguns you found,
4 and in the corner, it shows a rubber glove, right?

5 A That's correct.

6 Q Let's go to State's 8. What does that show?

7 A That's just another photograph of the same.

8 Q Pulled back?

9 A Pulled back. It depicts all of the rubber
10 glove in that one and the firearms.

11 Q Okay. Let's talk about State's 11.

12 A The same, just a little bit closer view. It
13 depicts the rubber glove and the firearms.

14 Q Okay. State's 12?

15 A That's a close-up view of the gloves.

16 Q You have some gloves and you also had some
17 pieces of glove, do you not?

18 A Right.

19 Q Okay. 13?

20 A Photograph of a glove.

21 Q Okay. 6?

22 A Photographs of glove and a piece of glove.

23 Q 7 and 10?

24 A 7 is a glove and 10 is two gloves.

25 Q Okay. 6, same thing, pictures of glove?

1 **A** 6, same thing, pictures of gloves.

2 **Q** 14?

3 **A** That's another photograph depicting the
4 firearms and the gloves.

5 **Q** And all these show -- photographs fairly and
6 accurately depict where you found the gloves, glove
7 fragments and some whole gloves in the grass,
8 correct?

9 **A** That's correct.

10 **Q** Was that along a direct route going back to
11 where the van was?

12 **A** It was.

13 **Q** Okay. Investigator Shorter, let me ask you
14 this: Once you looked at the glove fragments and
15 the information that you had and saw those rubber
16 gloves, what steps did you take? Did you contact
17 the detention center or what steps did you take?

18 **A** I did.

19 **Q** Okay. What did you tell them to do and what
20 did you take custody of subsequently?

21 **A** Well, the gloves were obviously missing fingers
22 and it appeared -- well, what I think happened was
23 the officers got there so quick, obviously these two
24 individuals were between the crime scene and the
25 van, I think they were running siren. They heard

1 them coming. And in their haste to get rid of the
2 evidence of the shooting, the gloves got ripped off
3 the hands. And believe it or not, the finger stayed
4 on his fingers.

5 **Q** Okay.

6 **A** And I notified the detention office, and she
7 said, Well, as a matter of fact, he's got two
8 fingers on his -- still stuck to his fingers. He
9 wore them up there in handcuffs all the way to the
10 jail.

11 **Q** So what did you have her do, once you realized
12 that he still had parts of rubber gloves stuck to
13 his fingers when they booked him, what did you have
14 her to do?

15 **A** I told her to hang on to them. We was coming
16 to get them for evidence.

17 **Q** Did you come and take custody of them that same
18 night?

19 **A** I sure did.

20 **Q** Who did you get them from there? Who seized
21 them from him and who did you get them from?

22 **A** I got them from Rhonda Adams, detention
23 officer.

24 **Q** Okay.

25 **MR. MAYE:** Mark this for identification, Judge.

1 (State's Exhibit Number 27, envelope, marked
2 for identification.)

3 **THE COURT:** 27 for ID only at this point. Go
4 ahead.

5 BY MR. MAYE:

6 **Q** Let me show you an envelope here marked State's
7 27 for ID at this point in time. Can you identify
8 that and take a look inside of it?

9 **A** I have in my hand a plain white generic
10 envelope. It bears State's 27. It also bears the
11 name Williams, comma, Gerald. And it has a Saluda
12 County Sheriff's Office case number of 2012 04 dash
13 794 and it's marked item 12. And it is signed by
14 myself. It says, To Robert Shorter. And it's dated
15 4/13/12. And right up under it is, From, and it
16 bears the signature of Rhonda Adams, 4/13/12. And
17 it has written down at the bottom a footnote, Glove
18 pieces, in blue writing. That appears to be my
19 handwriting that I wrote on there.

20 **Q** Is it your handwriting?

21 **A** It is.

22 **Q** Okay.

23 **A** And then down under that in black ink, it says,
24 Removed from fingers at jail, and I can only assume
25 that's Ms. Adam's handwriting. I don't know that,

1 but I can only assume that. But the glove pieces --
2 because my signature is in blue ink and where it
3 says, Glove pieces, that is my handwriting, and I
4 signed it and dated it 4/13/12 as receiving it.

5 Q So those are the glove fragments in the
6 envelope that you had and you sealed them up there
7 that night. Did you turn those over to someone else
8 that night that was in evidence --

9 A Yes.

10 Q Who did you turn that over to?

11 A Kes Holmes.

12 Q You gave those items to Kes Holmes?

13 A Yes, sir.

14 Q Was he kind of the point person on collecting
15 evidence in this case?

16 A He was.

17 Q But you're certain about that?

18 A Yes, sir.

19 Q And that's State's 27?

20 A That's correct.

21 Q And, Investigator Shorter, after you reviewed
22 all the evidence in this case, you caused charges to
23 be instituted against the defendant, Gerald
24 Williams, in this case; is that correct?

25 A That's correct.

1 **Q** He was charged with three counts of attempted
2 murder; is that correct?

3 **A** That's correct.

4 **Q** And you were the chief investigator at the
5 sheriff's office at that time, correct?

6 **A** At that time, yes, sir.

7 **Q** This is going to sound like a silly question,
8 but I'm going to go on and get it out of the way
9 with you. All of the events where the shooting took
10 place and all of the events that you described so
11 far, what county is that in?

12 **A** All well within Saluda County, South Carolina.

13 **Q** All of it's in Saluda County?

14 **A** Yes, sir.

15 **MR. MAYE:** Beg the Court's indulgence.

16 (Pause.)

17 **MR. MAYE:** Answer any questions the defense has
18 for you. Thank you, Investigator Shorter.

19 **THE COURT:** Cross-examination.

20 **MR. CASTO:** Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. CASTO:

23 **Q** Officer Shorter, you arrived that evening, I
24 guess later, but you arrived as the investigating
25 officer; isn't that right?

1 **A** As the supervisor, yes, sir.

2 **Q** And -- as a supervisor. And you arrived at,
3 specifically, at Shadow Ridge Road, right?

4 **A** That's correct.

5 **Q** That originally when this had taken place,
6 there was believed to be just two people present in
7 that home; isn't that right?

8 **A** You mean the victims or --

9 **Q** The folks inside the home that you found --

10 **A** Right.

11 **Q** -- there was a Ycedra --

12 **A** They'd only made contact with two people, yes,
13 sir, or we had.

14 **Q** And, ultimately, you learned that there was a
15 third person inside?

16 **A** That's correct.

17 **Q** And they basically were dishonest or they lied
18 to law enforcement about that?

19 **A** They did.

20 **Q** Okay. Let's talk about some of the things that
21 were found inside the home. You found casings or
22 shells inside that home; isn't that right?

23 **A** Yes.

24 **Q** And slowly but surely, you know, it's those
25 casings and they were found inside the home, not

1 bullets but casings, that, you know, led one -- law
2 enforcement to believe there was a gun inside?

3 **A** Yes, sir.

4 **Q** And, in fact, there was a gun located inside
5 that home, right?

6 **A** That's correct.

7 **Q** There was -- specifically, the type, make and
8 model of the gun is a .40 caliber Smith & Wesson;
9 isn't that right?

10 **A** I'm looking at a photograph of it. It appears
11 to be a Smith & Wesson. I'm not a gun guru so to
12 speak, but from my recollection in looking at this
13 photograph, it does look like a Smith & Wesson.

14 **Q** Smith & Wesson?

15 **A** Yes, sir.

16 **Q** In addition to a gun found inside, there was
17 also this curious substance found in little baggies;
18 do you recall that?

19 **A** I do.

20 **Q** It was, I believe, a white powder type
21 substance?

22 **A** That's correct.

23 **Q** And it was packaged, I believe, in small,
24 postage stamp size baggies; is that right?

25 **A** I don't remember what kind of bag it was in,

1 but, yeah, it was packaged separately.

2 Q And you served in law enforcement for quite
3 some time?

4 A Yes, sir.

5 Q And based on your training and experience, you
6 know, that appeared to look like illegal narcotics,
7 didn't it?

8 A It did.

9 Q Now, that substance was submitted to SLED;
10 isn't that right?

11 A That's correct.

12 Q And it came back that no controlled substance
13 was detected?

14 A That's right.

15 Q All right. But it looked similar to a
16 controlled substance?

17 A That's what we thought it was. That's why we
18 sent it off for testing.

19 Q Now, it's my understanding that once you arrive
20 at the scene, that there was alleged some initial
21 shots that were fired and then -- isn't that right?

22 A There's multiple shots fired, yes, sir.

23 Q And then as law enforcement responds to that
24 van, there's a call that comes over that alerts
25 deputies to go back to the house because the caller

1 inside tells them to come back and they hear more
2 shots?

3 **A** That's not so.

4 **Q** Okay. Basically, throughout the course of your
5 investigation, what did you learn about the shots
6 fired?

7 **A** There was only one volley of shots and that was
8 prior to law enforcement arriving.

9 **Q** Let's talk more about the evidence collected.
10 Number one, we waded through a lot of pictures,
11 right?

12 **A** That's correct.

13 **Q** Those pictures taken of the side of the
14 trailer, those weren't taken by you?

15 **A** No.

16 **Q** Would it surprise you to learn they were taken
17 a year and a half later by someone else?

18 **A** It's very common to go out and take pictures of
19 scenes prior to trial.

20 **Q** And all of these bullet holes, okay, in this
21 door, I don't believe that you or any other officer
22 documented where they were located that evening?

23 **A** What do you mean documented where they were
24 located?

25 **Q** Took pictures --

1 **A** There was a bunch of pictures taken.

2 **Q** Okay. But yet the pictures that were brought
3 into the trial, are those that were taken on this
4 past week, correct?

5 **A** Yes, sir.

6 **Q** Okay. Now, the other thing is you -- the door
7 wasn't taken that night; isn't that right?

8 **A** I thought it was the next day or whatever day
9 the repairman changed it out.

10 **Q** And the repairman is the one that gives that
11 door to you?

12 **A** Right.

13 **Q** And you report that in addition, there were
14 these gloves found; isn't that right?

15 **A** That's correct.

16 **Q** Do you recall the color on those gloves?

17 **A** It was either purple or blue. They appear to
18 be blue in the photograph.

19 **Q** Okay. Blue gloves, right?

20 **A** That's what they look like in the photograph.

21 **Q** Now, this evidence was -- much of this evidence
22 was submitted to SLED, I believe, just a couple of
23 weeks after this incident happened?

24 **A** I don't know the exact date, but, yes, sir, I
25 told the guys to get it down to SLED.

1 **Q** And they complied with that and they sent it in
2 maybe a couple weeks later?

3 **A** I don't know the exact date without looking at
4 the paperwork.

5 **Q** And SLED can perform a myriad of tests on
6 things. And one of the tests that they can do is
7 for gunshot residue test; isn't that right?

8 **A** Yeah.

9 **Q** And the thing about gunshot residue is when
10 somebody fires a weapon, particles are ejected from
11 that weapon, correct?

12 **A** That's correct.

13 **Q** And, basically, these microscopic particles can
14 get on the hands, right?

15 **A** That's correct.

16 **Q** And they can get on the clothing; isn't that
17 right?

18 **A** That's right.

19 **Q** And we're dealing with a case of a shooting;
20 isn't that correct?

21 **A** Yes, sir.

22 **Q** And to date, you're not aware of anything
23 that's been tested for gunshot residue in this case?

24 **A** Again, without looking at all the paperwork, I
25 don't know what tests were performed.

1 **Q** Okay.

2 **A** I know SLED won't perform a gunshot residue, I
3 think, if the crime is six hours old or older. I
4 believe that's their protocol as well as I remember.

5 **Q** The clothing that each person wore, once they
6 were booked in that night, was taken from them. You
7 can't wear your own clothes in the jailhouse?

8 **A** That's correct.

9 **Q** It was taken. It was collected. And so it's
10 kept over there at the jail as I understand; is that
11 right?

12 **A** That's right.

13 **Q** And they were booked in that same evening; is
14 that correct?

15 **A** That's correct.

16 **MR. CASTO:** I beg the Court's indulgence.

17 (Pause.)

18 **Q** Just a few more questions. You had testified
19 that you were the supervising officer that arrived
20 that night; isn't that right?

21 **A** That's correct.

22 **Q** And your testimony is that you did not request
23 a gunshot residue testing that evening, did you?

24 **A** Yes. I'll be glad to explain that.

25 **Q** But you didn't request it?

1 **A** I didn't request it and I'll be glad to explain
2 why.

3 **Q** Okay. Well, did anyone else that you know of,
4 they didn't collect gunshot residue testing at all
5 either?

6 **A** No, sir. And, again, I'll be glad to explain
7 why if you'd like for me to.

8 **Q** Okay. And why is that?

9 **A** Because they were wet. They laid down on the
10 ground in order to avoid detection. One of them was
11 found laying in a ditch, I don't know which one.
12 Their clothing was wet. It was a heavy dew which
13 turned into a frost. And dampness or wetness
14 renders gunshot residue testing ineffective.

15 **Q** Basically, their clothing was taken that night
16 at the jail, though, correct?

17 **A** Yes, sir.

18 **Q** And SLED does these tests in and of themselves,
19 right?

20 **A** At a later date, you send in -- I've never sent
21 clothes actually in for testing. I've done swabs on
22 people shortly after shooting incidents if they
23 hadn't washed their hands or anything. And I -- I
24 recall one incident when we had a shooting one time
25 where we responded to the scene, the guy said, yeah,

1 I shot him, and shot his brother. They were drunk
2 and arguing and he didn't really want anything done.
3 And we swabbed his hand to cover all the basis like
4 you're saying I should have done that night and it
5 was negative and this guy admitted shooting him, and
6 we took the swab immediately upon arriving. So it's
7 a very -- not a real effective test. It's a test
8 that can be done, but it's not very effective.

9 Q That was at --

10 A It's a lot of variables, dew, moisture,
11 humidity, washing your hands, anything like that. I
12 mean, it's very easily removed, the gunshot residue.

13 Q But that was a different case, right?

14 A A very different case, yes, sir. It's just an
15 example to show you how ineffective gunshot residue
16 can be or how fragile that kind of evidence is.

17 Q But, in that case, they at least got the chance
18 to be tested, though; isn't that right?

19 A Yes, sir.

20 Q But, in this case, they never got the chance?

21 A No, sir.

22 Q As the supervising officer, did you make any
23 notes or were there any reports generated by you
24 through the course of this evening?

25 A There was an incident report generated and I

1 think the evidence was documented and all of that.

2 Q But that incident report was generated by other
3 officers, right?

4 A That's correct.

5 Q There are no photos to date of the inside of
6 this home that you're aware of?

7 A Sir, there again, I don't know what's where out
8 there now. I hadn't worked there since November the
9 14th of last year. There was a bunch of photographs
10 taken of that crime scene and they were stored on
11 the computer at the sheriff's office.

12 Q And --

13 A Along with the incident report.

14 Q And so you say that there are other photos out
15 there and photos you say that were taken of the
16 exterior of the home; is that right?

17 A As well as I remember, it was photographs taken
18 from -- I mean, we do that on every scene. We
19 photograph the outside and the inside and any
20 pertinent evidence.

21 Q And you're talking about photographs that were
22 taken before this past Friday?

23 A Yes, sir.

24 Q Well, do you know where they would be?

25 A I have no earthly idea. Again, I don't work

1 there. I think everybody involved in this case
2 don't work there anymore as a result of the last
3 sheriff's election and I don't know what's where.

4 **Q** All right.

5 **A** I have no way of knowing.

6 **Q** All right.

7 **MR. CASTO:** Beg the Court's indulgence.

8 (Pause.)

9 **Q** Final question, you could have had gunshot
10 residue done on those gloves if you wanted to?

11 **A** Had I thought it would be in a -- an effective
12 test, yes, sir, I could have done it.

13 **Q** But SLED never got the chance to test it?

14 **A** No, sir.

15 **MR. CASTO:** Thank you.

16 **THE COURT:** All right. Ladies and gentlemen,
17 when a witness is presented, you have direct
18 examination, cross. And then if new matters are
19 brought up in cross, on redirect, counsel can
20 address those new matters.

21 So is there redirect for the witness?

22 **MR. MAYE:** Just a few.

23 **THE COURT:** You may proceed.

24 *****

25 *****

1 REDIRECT EXAMINATION

2 BY MR. MAYE:

3 Q Investigator Shorter, beyond the gunshot
4 residue test, you had a DNA test conducted on the
5 items that were seized, correct?

6 A I sure did.

7 Q Okay. So without going into the results of any
8 of those tests, you actually had samples pulled from
9 the defendant in this case for DNA, didn't you?

10 A That's correct.

11 Q And you took those glove fragments that you
12 found laying on top of those guns practically, or
13 within arm's reach up on the grass, and you had that
14 fragment tested for his DNA, didn't you?

15 A That's correct.

16 Q Okay. You also had items of glove evidence
17 from the van seized and tested for DNA, didn't you?

18 A That's correct.

19 Q And you took custody of glove fragments at the
20 detention center that are in --

21 A This envelope right here, yes, sir.

22 Q -- item 27 in this case. They were off of his
23 own hands --

24 A That's correct.

25 Q -- that night, correct?

1 **A** That's correct.

2 (Pause.)

3 **MR. MAYE:** Your Honor, at this time, with that
4 last question, without objection, that he took these
5 off the hands of the defendant, Gerald Williams, I'm
6 going to move to admit State's 27 into evidence in
7 this case. I believe we've laid a foundation for it
8 without objection.

9 **THE COURT:** Is there an objection to 27?

10 **MR. CASTO:** We object. There hasn't been a
11 proper foundation.

12 **MR. MAYE:** Your Honor, respectfully, the State
13 would submit that this officer's testified that
14 those items were removed from the defendant's hand,
15 Gerald Williams, and he took custody of them that
16 night, that they were sealed up and that those are,
17 in fact, items and fragments of glove that were
18 taken from Gerald Williams. And the State would
19 maintain that that is before the jury without
20 objection. We move to admit them at this time.

21 **THE COURT:** All right. Counsel, I'm going take
22 that issue under advisement. Is there anything
23 further for the witness?

24 **MR. MAYE:** Nothing else. Thank you, Your
25 Honor.

1 **THE COURT:** Very good.

2 Then, sir, you may step down. And you're free
3 to remain or you're free to leave if you wish.

4 **THE WITNESS:** Thank you, sir.

5 **THE COURT:** Yes, sir.

6 And, Counsel, step up and let's talk about
7 scheduling a moment as to your next witness, please.

8 (Whereupon, a bench conference was held off
9 the record, in the presence of the jury, but out of
10 the hearing of the jury.)

11 **THE COURT:** All right. Ladies and gentlemen,
12 we're going to take a break before we call our next
13 witness. We had a break earlier, but not all
14 counsel had an opportunity to take a break because
15 they were working during that time. So we're going
16 to stand down for about five minutes, come back with
17 our next witness. Please don't discuss the case,
18 but enjoy your break and you may return to the jury
19 room.

20 (The jury retires to the jury room.)

21 **THE COURT:** All right. Ladies and gentlemen,
22 we'll be in recess approximately five minutes.

23 (Brief Recess.)

24 **THE COURT:** It appears we are in -- everyone in
25 place, so please bring in the jury.

1 (The jury returns to the courtroom.)

2 **THE COURT:** All right. Welcome back.

3 Please call your next witness.

4 **MR. YOUNG:** Thank you, Your Honor. The State
5 calls Ms. Rhonda Adams.

6 **THE COURT:** All right. Ma'am, please come
7 forward, take the oath of a witness.

8 RHONDA ADAMS,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. YOUNG:

12 **Q** Ms. Adams, I'm going to stand all the way back
13 over here, so you talk all the way over here, okay?

14 **A** Yes, sir.

15 **Q** Where do you work, ma'am?

16 **A** I work for Saluda County Detention Center.

17 **Q** I see you're in that jacket there. You were
18 working last night?

19 **A** Yes, sir.

20 **Q** All right. Were you working back in April of
21 last year, 2012, at the detention center?

22 **A** Yes, sir.

23 **Q** Specifically, did you participate in the
24 booking or present at the booking of Mr. Gerald
25 Williams?

1 **A** Yes, sir.

2 **Q** And when Mr. Gerald Williams came in to you, he
3 came in how? How did he come -- how does a person
4 that's coming into booking come in?

5 **A** Handcuffed behind his back.

6 **Q** And so what's your job in booking then when
7 people that are in booking, what are they doing?
8 What's their job when they book a person?

9 **A** We work -- doing computer fingerprints, we have
10 to first remove handcuffs and pat the person down.

11 **Q** Okay.

12 **A** Take the personal property.

13 **Q** Okay. And do you observe those processes going
14 on with regard to Mr. Williams?

15 **A** Yes, sir.

16 **Q** Okay. Now, did you observe Mr. Williams to
17 have anything on his hands?

18 **A** Yes, sir.

19 **Q** What did you observe him to have on his hands?

20 **A** He had two pieces of gloves on this finger and
21 this finger {indicating}.

22 **Q** Okay. And so the fingers had these pieces of
23 gloves on it. What did you observe him do with
24 these pieces of gloves?

25 **A** After he was uncuffed, he removed those pieces.

1 Q And did what with them?

2 A And put them in his pocket. And then he was
3 asked, at that time, to take everything out of his
4 pockets because we had just uncuffed him. He was
5 asked to remove the -- his property from his pockets
6 and put on the counter.

7 Q Okay. So you made a mental note of this?

8 A Yes, sir.

9 Q You made a mental note of the fact that he'd
10 done these things?

11 A Yes, sir.

12 Q Now, what happens when they remove the personal
13 property, what happens after that?

14 A He put the stuff on the counter and then we put
15 it in a zip bag, that's -- I mean, it's a property
16 bag. We put everything in there and zip it, and it
17 goes -- it stays in the booking area.

18 Q And what happens to the clothing the person's
19 wearing?

20 A The clothing stays on that person until they
21 are taken through the doors where they remove their
22 clothing, put in a bag and then we retrieve the bag.

23 Q Okay. So you retrieve the bag and their
24 personal property, two different matters. One bag
25 for one, one for the other?

1 **A** Personal property stays in booking. Their
2 clothing is in the hall with them.

3 **Q** All right. Now, at some point in time, did you
4 get a phone call from a person by the name of Robert
5 Shorter?

6 **A** Yes, sir.

7 **Q** Who is he?

8 **A** At the time, he was Captain Shorter for the
9 Saluda County Sheriff's Office.

10 **Q** Okay. And were you asked to do anything with
11 regard to any gloves that may have --

12 **MR. CASTO:** Objection; calls for hearsay.

13 BY MR. YOUNG:

14 **Q** What, if anything, were you asked to do?

15 **MR. CASTO:** Same objection.

16 **THE COURT:** Overruled -- actually, I'm going to
17 sustain it as to the form. You may ask the witness
18 again. Go ahead.

19 BY MR. YOUNG:

20 **Q** Based upon what you were asked to do, did you
21 take any actions, by Mr. Shorter?

22 **A** Yes, sir.

23 **Q** What actions did you take?

24 **A** We -- I pulled his personal property out of the
25 booking cabinet and searched for the piece of gloves

1 and they were not present.

2 Q Okay. And so did you take any further action?

3 A Yes, sir. Me and my other co-workers, we all
4 started looking. I looked in trash cans, I felt
5 like maybe they might have got throwed away, and
6 they were not in the booking area. So I then
7 retrieved his clothing from the hall, brought his
8 clothing bag back into the booking and started going
9 through his clothing looking for the pieces of
10 gloves.

11 Q Did you find any pieces of gloves?

12 A Yes, sir. I retrieved the two pieces of
13 gloves. I put them into his property in the booking
14 and waited for Captain Shorter to come to the jail.

15 Q And what did you do then?

16 A He entered the jail. We both went into the
17 booking. I unzipped the property bag. I took my
18 ink pen and I scooted the glove out of the property
19 bag into an envelope and I sealed the envelope. I
20 signed my name to it and then -- and Captain Shorter
21 signed his name, and he took the envelope from
22 there.

23 Q Would you be able to recognize that envelope
24 and the gloves again if you saw it?

25 A Yes, sir.

1 **Q** Let me show you what's been marked and
2 admitted as State's -- well, marked as State's
3 Exhibit Number 27. Would you take a look at this
4 and tell me what you see?

5 **A** This is the envelope from the jail. This is
6 where I wrote Mr. Williams' name on it. This is my
7 handwriting and I signed and dated it.

8 **Q** Would you look inside that envelope, please,
9 ma'am? It's been opened.

10 **A** Yes, sir. That's the pieces of gloves that was
11 on his fingers.

12 **Q** And those are the ones that you retrieved and
13 placed in that envelope?

14 **A** Yes, sir.

15 **MR. YOUNG:** Your Honor, the State would ask the
16 defense if they have any questions.

17 **THE COURT:** All right. First of all, now, I
18 had deferred a decision on the motion to admit the
19 -- I believe, what is it, Number 20...

20 **COURT REPORTER:** 27.

21 **THE COURT:** 27 in evidence. The Court now --
22 well, first of all, is there an objection? Again,
23 do you renew your objection, Counsel?

24 **MR. CASTO:** Yes, sir, Your Honor, we do.

25 **THE COURT:** I'm going to overrule the objection

1 and 27 in evidence now over objection for the State.

2 And you may proceed with your cross-examination.

3 **MR. CASTO:** Yes, sir.

4 **THE COURT:** Thank you.

5 (State's Exhibit Number 27, envelope,
6 admitted into evidence.)

7 CROSS-EXAMINATION

8 BY MR. CASTO:

9 **Q** Let me get this straight: By the time Gerald
10 reaches you, he's been arrested, right?

11 **A** Yes, sir.

12 **Q** And he's been, you know, handcuffed by
13 officers, right?

14 **A** Yes, sir.

15 **Q** At the incident location, right?

16 **A** Yes, sir.

17 **Q** And he's been then transported to the jail,
18 right?

19 **A** Yes, sir.

20 **Q** And that's where you are?

21 **A** Yes, sir.

22 **Q** And it's your testimony that you're the first
23 person to see these pieces of glove on his hand,
24 right?

25 **A** I didn't say I was the first to see. I'm just

1 saying I'm the one that retrieved them off --

2 Q You are the one that retrieved them, okay. And
3 it's Mr. Shorter that calls you; is that right?

4 A Yes.

5 Q Okay. And it's not the other way around, is
6 it?

7 A No, sir.

8 Q And you said that you remembered those gloves;
9 is that right? Do you remember what color they are?

10 A Yes, sir.

11 Q And what color is that?

12 A They were purple.

13 Q Purple?

14 MR. CASTO: Beg the Court's indulgence.

15 (Pause.)

16 Q And you've been shown this envelope; isn't that
17 right?

18 A Yes, sir.

19 Q And it has various writings on there, and it
20 says, Removed from fingers at jail, right?

21 A Yes, sir.

22 Q And you've testified that's not the case, is
23 it?

24 A What you mean that's not the case?

25 Q You've testified that they were removed from

1 somewhere else, right?

2 **A** No, I was --

3 **Q** You found them from somewhere else?

4 **A** I was at the jail.

5 **Q** I'm sorry?

6 **A** I was at the jail. They were on his hands when
7 he came in the jail.

8 **Q** But you found them elsewhere; isn't that right?

9 **A** Yeah. I retrieved them from his clothing.

10 **MR. CASTO:** Thank you. That's all the
11 questions I have.

12 **THE COURT:** Is there redirect?

13 **MR. YOUNG:** No further questions, Your Honor.

14 **THE COURT:** Then, ma'am, you may step down, and
15 you're free to leave at this time.

16 **MR. YOUNG:** Thank you, Your Honor. Is she
17 excused? Therefore, Your Honor, she needs to return
18 to duty.

19 **THE COURT:** Yes. She's free to leave, if she
20 wishes.

21 **MR. YOUNG:** Thank you.

22 **THE COURT:** Please call your next witness.

23 **MR. MAYE:** The State will call Ycedra Williams.

24 **THE COURT:** Please come forward and take the
25 oath of a witness. Please come this way. Thank

1 you.

2 YCEDRA NICOLE WILLIAMS,
3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MAYE:

6 **Q** Ycedra, introduce yourself. You've got to
7 speak up and talk over here to me where everybody
8 can hear you, but tell the ladies and gentlemen of
9 the jury your name.

10 **A** My name is Ycedra Nicole Williams.

11 **Q** Okay. Ycedra, tell me --

12 **THE COURT:** And, ma'am, would you spell your
13 name for the record? Just spell your first name.

14 **THE WITNESS:** Y-c-e-d-r-a.

15 **THE COURT:** Thank you.

16 BY MR. MAYE:

17 **Q** Ycedra, if you would, tell the ladies and
18 gentlemen of the jury where you grew up.

19 **A** I grew up in Williston, South Carolina.

20 **Q** In Williston?

21 **A** Yes, sir.

22 **Q** Okay. Now, are you actually related to the
23 defendant in this case, Gerald Williams?

24 **A** Yes, I am.

25 **Q** Okay. How is he related to you?

1 **A** He is my second cousin.

2 **Q** He's your second cousin?

3 **A** Yes..

4 **Q** Okay. How much contact did y'all have growing
5 up? Did y'all have a bunch of contact or you just
6 know he's your second cousin?

7 **A** A little bit when I was younger, not when I had
8 grew up.

9 **Q** Okay. Just prior to April the 13th of 2012,
10 had y'all had much contact or any interaction?

11 **A** No.

12 **Q** Had you talked to him at all in the weeks and
13 months prior to that time?

14 **A** No.

15 **Q** Okay. Where did you grow up through school?

16 **A** I went to Williston-Elko High School.

17 **Q** What year did you graduate?

18 **A** 2008.

19 **Q** Okay. In 2008. Let's talk about where you
20 were staying in April of 2012. Where was that?

21 **A** I was staying with Michael and Felicia Barlow
22 in Saluda.

23 **Q** Now, Mike and Felicia Barlow?

24 **A** Yes.

25 **Q** Okay. How is Felicia Barlow related to Al

1 Young?

2 **A** That's her brother.

3 **Q** They're brother and sister?

4 **A** Yes.

5 **Q** Okay. So in April there, tell me everybody
6 that was living in that trailer. Let me show you
7 this. This is State's 22. Is that the trailer
8 y'all were living to on Shadow Court?

9 **A** Yes, that's it.

10 **Q** Okay. Tell me everybody that was living there.

11 **A** We had -- it was me, my husband, Joseph
12 Wrighton. It was --

13 **Q** How long have y'all been married, Joseph
14 Wrighton?

15 **A** We've been married for six years.

16 **Q** Six years?)

17 **A** Yes.

18 **Q** Okay. So you and your husband, Joseph
19 Wrighton --

20 **A** Michael and Felicia Barlow, their three kids
21 and --

22 **Q** What are their children's names?

23 **A** SB, LB and CB {phonetic}.

24 **Q** Okay. So they had three kids?

25 **A** Yes.

1 **Q** Two of them were living there?

2 **A** Yes.

3 **Q** So let's see, you, your husband, that's two.

4 **A** Yes.

5 **Q** Mike and Felicia, that's four. They've got
6 three kids.

7 **A** My stepbrother, Frank Gonzalez, and then Al
8 Jerome Young.

9 **Q** Okay. Al Young. How long on April the 12th,
10 that night going into the 13th, how long had you
11 been living there as a Saluda County resident?

12 **A** About six months.

13 **Q** About six months?

14 **A** Yes.

15 **Q** That was your residence there?

16 **A** Yes.

17 **Q** Okay. Where did your husband work?

18 **A** My husband worked at Amick Farms in Batesburg.

19 **Q** Okay. How long had he been working there back
20 in April?

21 **A** About two and a half years.

22 **Q** Okay. He'd been working there for a Long
23 period of time?

24 **A** For a long period of time because we were close
25 friends.

1 **Q** All right. So you've got ties and connections
2 in Williston, but you were actually living and
3 staying in Saluda?

4 **A** Yes.

5 **Q** Let's talk about the couple of days prior to
6 April the 12th going into the 13th. Did you know
7 O.J. Charley?

8 **A** No. I heard the name before in town when I was
9 in Williston, but I didn't know him personally.

10 **Q** Did you have any business dealings or
11 interaction prior to this time with O.J. Charley?

12 **A** No.

13 **Q** You're absolutely certain about that?

14 **A** I'm sure because I didn't know him, so.

15 **Q** To your knowledge, not what your husband said
16 or anything else, but do you know if your husband
17 had any interaction with O.J. Charley?

18 **A** No.

19 **Q** Okay. Now, let me ask you this, Ycedra, in the
20 day or two before this took place, did you have an
21 occasion to see individuals come up to the trailer?

22 **A** I had seen a van that was similar to the van of
23 Mike and Felicia Barlow's and they had five
24 individuals in the vehicle and they addressed me.

25 **Q** They talked to you?

1 **A** Yes.

2 **Q** Okay. Don't go into what they said, but what
3 did you tell them in response to the individuals
4 that came up?

5 **A** I told them I didn't have the number that they
6 were looking for, which was --

7 **Q** Whose number were they looking for?

8 **A** Al Young's number.

9 **Q** Who were they looking for?

10 **A** Al.

11 **Q** They came there looking --

12 **A** For Al.

13 **Q** -- for Al Young?

14 **A** Yes.

15 **Q** Was he there at that time?

16 **A** No. He was gone for about three hours prior to
17 them showing up.

18 **Q** And they wanted his phone number as well?

19 **A** Yes.

20 **Q** Okay. Just prior to that in the days before
21 then, did you have an opportunity to -- Al was
22 living there, correct?

23 **A** Yes.

24 **Q** Did you see him with a firearm at that time?

25 **A** Yes.

1 **Q** Okay. Tell the ladies and gentlemen of the
2 jury about that and what you observed.

3 **A** Well, about two, three days prior, he had a .40
4 cal. He shot in the backyard a couple times. He
5 kept it on him.

6 **Q** He started keeping a .40 caliber handgun?

7 **A** Yes.

8 **Q** And you saw him in the days before fire it
9 outside the residence?

10 **A** Yes.

11 **Q** And he'd been living there for, what, about six
12 months?

13 **A** Yeah, six months or longer because he was there
14 before I got there.

15 **Q** But just a couple of days prior to this, he
16 armed himself with a .40 caliber handgun and started
17 carrying it?

18 **A** Yes.

19 **Q** Did you know the reason why he was doing that?

20 **A** I knew something was going on, but I didn't
21 know the extent of what was going on. I knew he was
22 worried about something. Something was bothering
23 him, but he didn't talk about it.

24 **Q** Okay. But you knew something was bothering
25 him --

1 **A** Yeah.

2 **Q** And you knew he armed himself with a .40
3 caliber handgun?

4 **A** It couldn't have been nothing good, that's what
5 I already --

6 **COURT REPORTER:** I'm sorry, I didn't
7 understand.

8 **THE WITNESS:** That's when I established that it
9 wasn't nothing good.

10 BY MR. MAYE:

11 **Q** You knew it wasn't anything good?

12 **A** Yeah.

13 **Q** Okay. At that time, were you in the Guard?

14 **A** Yes.

15 **Q** Okay. And you were active, at that time, in
16 the Guard?

17 **A** Yes. I was active and my brother was active.

18 **Q** Okay. You were active and what?

19 **A** My brother as well. We both were.

20 **Q** Y'all were both in the National Guard at that
21 time?

22 **A** Yes.

23 **Q** You're inactive now; is that correct?

24 **A** Yes. I'm with Army Reserve.

25 **Q** You're in the Reserves still now?

1 **A** Yes.

2 **Q** Okay. All right. Let's talk about April the
3 12th that day going into the evening hours of the
4 13th, tell me who was there that night.

5 **A** It was me, my husband and then Al.

6 **Q** So you, Ycedra?

7 **A** Yes.

8 **Q** Your husband?

9 **A** Joseph Wrighton.

10 **Q** Joseph Wrighton. And who else?

11 **A** Al Young.

12 **Q** And Al Jerome Young?

13 **A** Yes.

14 **Q** The three of you were there?

15 **A** Yes.

16 **Q** Who would have usually have been there?

17 **A** Well, if it wasn't a drill date, my brother,
18 Frank, and Felicia and their kids and Mike. On a
19 normal day, we all would have been there.

20 **Q** So all five of them would have been there on a
21 normal day?

22 **A** Yeah, we all would have been there.

23 **Q** Okay. On this particular evening, where did
24 they happen to be? Did they leave? Why were they
25 not present? It was their residence.

1 **A** They left. They were worried about what was
2 going on with J -- well with Al. And so out of
3 fear, they took the kids and they left and went to
4 Aiken to live in -- to stay in the Days Inn for a
5 few days.

6 **Q** Why didn't you leave? If you were worried and
7 you knew that Al was worried about something, why
8 didn't you leave?

9 **A** Because -- well, Mike had already asked me
10 prior to since they were from Williston and I had
11 talked to them already --

12 **Q** The guys that came looking for him?

13 **A** Yeah. So he told me, you know --

14 **MR. MADSEN:** Objection --

15 **MR. MAYE:** Don't go into what they said.

16 **THE WITNESS:** Oh, I'm not telling what they
17 said, it's what I said.

18 **THE COURT:** Just a moment, ma'am.

19 Let me just explain, we've had several mentions
20 about hearsay. And I suspect as children, we
21 probably all played a game where you would sit in a
22 circle and someone would whisper something that
23 would start and go back around to the other end of
24 the circle and it would be completely different.
25 The hearsay rule is to prevent people from coming in

1 and testifying about what someone else said. You
2 can testify about what you did as a result of what
3 someone else said, what action you took, but the
4 best evidence of what someone else said is to bring
5 them in and let them say what they said to avoid
6 confusion. So these are the various hearsay
7 objections you've already heard today.

8 Now, there are many exceptions to the hearsay
9 rule and we may get into some of those, but I'm
10 going to sustain that hearsay objection that we just
11 had.

12 Ma'am, please don't testify about what someone
13 told you.

14 **THE WITNESS:** Okay.

15 **THE COURT:** And go ahead.

16 BY MR. MAYE:

17 **Q** Why didn't you leave? You knew already, you
18 told the jury, you know, that you knew he was
19 worried about something, and they packed up and left
20 based on the events of the day before --

21 **A** Because I knew the people. I figured that I
22 could talk to them and reason with them because, I
23 mean, the fact that they were kids, they usually
24 come to the house and stuff like that. I mean, if
25 they're from my neighborhood and they -- I mean,

1 they probably knew me. I've been the best person
2 that they can talk to and say, you know, these
3 people, you know, you're looking for one guy --

4 **Q** But did you actually know any of the
5 individuals that came, the five people that came?

6 **A** I seen them around town a lot, you know, they
7 were -- they weren't my friends, but we were -- I
8 live in a town where a lot of people are family, so,
9 therefore, they knew -- probably knew me, you know,
10 knew me because nothing happened.

11 **Q** You felt like they would at least know you by
12 reputation or who you were?

13 **A** Yes.

14 **Q** But, again, did you know the names of any of
15 the people that came?

16 **A** No, just familiar with them, that's all. I
17 didn't know them by name.

18 **Q** Just knew you'd seen their faces before?

19 **A** Yeah.

20 **Q** Okay. So, I guess, you weren't that worried
21 about it and weren't afraid. You didn't leave, did
22 you?

23 **A** No, I didn't leave.

24 **Q** Okay. How about your husband?

25 **A** He had to go to work. There was no option for

1 him.

2 Q Okay. Did you even have any place else to go?

3 Was that --

4 A No, I had no place to go. I had no lights, at
5 the time, at my own house. So I was staying there
6 to help out, I mean, with -- so, I mean, I didn't
7 have no money.

8 Q At that time, you'd been there about how long?

9 A Six months.

10 Q About six months?

11 A About six months.

12 Q Okay. Just prior to this taking place, what
13 were you and your husband doing? Tell us where
14 everybody in the trailer was.

15 A Al was in his room.

16 Q Where was his room in the trailer?

17 A Well -- okay. On the right side, they have a
18 -- it's the den and then there's two bedrooms and --

19 Q Help me with this --

20 A -- Al's bedroom was on the left side.

21 Q Let me stop you.

22 THE COURT: Counsel, just a moment. For our
23 court reporter, please don't talk over the witness.

24 And, ma'am, please let him finish his question
25 before you answer it so our court reporter can take

1 down this discussion.

2 **MR. MAYE:** I apologize, Your Honor. That was
3 my fault.

4 **THE COURT:** Thank you.

5 BY MR. MAYE:

6 **Q** I'm going to show you State's Exhibit Number
7 22. Take a look at the trailer there.

8 **A** Okay.

9 **Q** You see that?

10 **A** Yes.

11 **Q** Show us where, in relation on this photograph,
12 where in the trailer his bedroom was.

13 **A** That's Al's bedroom, and on the other side is
14 Frank's bedroom on the opposite side.

15 **Q** On the back side of the trailer?

16 **A** Yes, sir.

17 **Q** There are two bedrooms in the back end of the
18 trailer?

19 **A** Yes. And then the den is in the middle right
20 here.

21 **Q** The den is in this area here?

22 **A** Yeah. And that's the kitchen right there, and
23 right there is Felicia and Mike Barlow's room.

24 **Q** So there's another bedroom here. So it's a
25 three-bedroom trailer?

1 **A** Yes.

2 **Q** Okay. And Al was in the back?

3 **A** Yes.

4 **Q** Where were you and your husband just prior to
5 this taking place?

6 **A** We were in the den.

7 **Q** What were y'all doing?

8 **A** We were on Netflix on the 360, on the Xbox 360.

9 **Q** Playing Xbox 360?

10 **A** Yes.

11 **Q** Okay. What, if anything, happened that got
12 your attention that night just after midnight?

13 **A** Well, we have the -- on that same side is a dog
14 house over there where we keep the Red Nose Pit Bull
15 and he just started barking crazy out of nowhere.
16 So I looked out the window and that's when I saw two
17 people walking --

18 **Q** What did you see when you looked out the window
19 after the dog barks?

20 **A** There was two people in the driveway. There
21 was one on the opposite side of the fence and then
22 there was another on the other side of the fence
23 walking straight down towards the house.

24 **Q** Okay. What was the next thing that happened,
25 Ycedra?

1 **A** I told Al there was --

2 **Q** You hollered for Al?

3 **A** Yeah. I said, is he in the house, because at
4 first, I thought it was him outside, you know, with
5 somebody. And then --

6 **Q** But was he outside or inside?

7 **A** He was inside. And then he came out the room,
8 that's how we knew it was two people we didn't know.

9 **Q** What was the next thing that happened?

10 **A** Al told me to turn the lights out.

11 **Q** Turn the lights off?

12 **A** So we turned off all the lights in the house.

13 **Q** What happened next?

14 **A** Then my husband, he went to the door because --
15 and the firing just started.

16 **Q** What do you mean the firing just started?

17 **A** It was like he went to the door to look out
18 because that's what we asked him to do to see who
19 was out there because, you know, that's --

20 **Q** Is this the door that was on the trailer at the
21 time?

22 **A** Yes.

23 **THE COURT:** Don't bump her, Counsel. Don't
24 break into her answer.

25 **MR. MAYE:** Sorry.

1 BY MR. MAYE:

2 Q State's 18, that's the door?

3 A Yes.

4 Q What happened next?

5 A My husband went to the door and they fired on
6 him. And so he ran back, he grabbed me and put me
7 down on the ground. And so after that, the fire --
8 Al, he fired back at the door a couple times and
9 then the firing stopped. And we just sat there and
10 -- well, we called the police and tried to, you
11 know, wait until somebody got there.

12 Then after the police got there, we told them,
13 you know, what happened and everything. They left
14 and they said they had -- knew where the guys were,
15 so they left. And then we called again. We heard
16 something on the steps and we didn't know what it
17 was so, you know, since we already done saw those
18 two people, we figured it would be safer to call
19 again just in case.

20 Q Okay. Do you know about how many shots got
21 fired from the outside into the trailer?

22 A Honestly, I don't know because my husband went
23 to the door, and after that, he put me down on the
24 ground so I couldn't see anything.

25 Q Was it more than one?

1 **A** It was a lot.

2 **Q** A lot of shots?

3 **A** (Witness nodded head.)

4 **Q** Could you hear the bullets coming through the
5 house?

6 **A** Yes.

7 **Q** Okay.

8 **A** I just saw -- I saw when they literally fired
9 at my husband. I saw the lights flickering and he
10 grabbed me.

11 **Q** You could see the muzzle flash?

12 **A** I could see the flashes.

13 **Q** Okay. And, at any time, did Al during the
14 bullets being fired into the house and him firing
15 out, did he leave the inside of the trailer?

16 **A** No. He stayed in the -- between the room,
17 between Frank and his room, there's a spacing right
18 there and he fired from there and stayed in that
19 position the whole time.

20 **Q** When did the firing from outside finally stop?

21 **A** After Al fired, I think, maybe two or three
22 shots, I heard a couple more shots after that and
23 then nothing.

24 **Q** Okay. But after he returned fire, the firing
25 eventually tapered off and stopped?

1 **A** Yes.

2 **Q** Okay. Now, you've said that the cops came the
3 first time, told y'all to stay inside, left and came
4 back, correct?

5 **A** Yes.

6 **Q** Now, to start with, you lied and told -- you
7 and your husband told the detectives that y'all were
8 there by yourself, correct?

9 **A** Yes.

10 **Q** Why did you do that?

11 **A** Because Al helped us, you know, with the whole
12 situation because none of us had a weapon of any
13 kind except Al. And my husband already had went to
14 the door and they already fired on him. I did felt
15 like, you know, he done helped us out, I was trying
16 to give him a chance, you know, to help himself.

17 **Q** He had saved y'all?

18 **A** Yeah, he saved us. I mean, if he wasn't in the
19 house, we -- I mean, none of us was armed with
20 anything. And they obviously had weapons, they
21 fired at my husband.

22 **Q** Okay. But it didn't take but just a minute to
23 find out that Al was there, did it?

24 **A** No.

25 **Q** And they took Al into custody, didn't they?

1 **A** Yes.

2 **Q** Because he was wanted at that time, correct?

3 **A** Yes.

4 **Q** Okay. Just ask you this: Were you in fear for
5 your life at the time these bullets were being fired
6 into the trailer?

7 **A** Yes, I was.

8 **Q** Okay. Were there more -- was there more than
9 just one shot fired from outside the trailer coming
10 through the trailer?

11 **A** Yes, sir.

12 **Q** Were you able to go outside and look after the
13 police left?

14 **A** No. I was arrested at the same time, but --

15 **Q** Did you eventually come back to the trailer in
16 the days afterwards?

17 **A** Yes. I helped Mike and Felicia Barlow help
18 pick up other shrapnel in the yard.

19 **Q** Picked up --

20 **A** The rest of the shellings {sic}. And the
21 plastic that was torn out the door, I helped them
22 fix that.

23 **Q** You saw additional shell casings in the yard,
24 correct?

25 **A** Yes.

1 Q Okay. After even the police left?

2 A Yes.

3 Q Let me ask you this: Did you plead guilty to
4 giving false information in magistrate's court?

5 A Yes.

6 Q For lying to them about Al not being there?

7 A Yes.

8 Q And you've already been sentenced for that and
9 you did that immediately?

10 A Yes, sir.

11 Q Okay.

12 MR. MAYE: Answer any questions the defense has
13 for you.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. MADSEN:

17 Q Ms. Williams, you left that night in handcuffs
18 from your residence, didn't you?

19 A Yes, sir.

20 Q And I think -- you told the Solicitor that you
21 wanted to kind of give Al a chance and help him out,
22 didn't you?

23 A Yes, sir, because of the fact that he did -- he
24 was the only one in the house that had a firearm and
25 they could have come in.

1 Q You knew he was wanted before that night,
2 didn't you?

3 A No. I actually didn't know he was wanted.

4 Q You didn't know -- law enforcement hadn't been
5 out there looking for him?

6 A No, because I -- at the time, I don't really
7 associate with Al on that level. The only reason I
8 was there is because Felicia and Mike had asked me
9 to babysit their kids because Felicia had just
10 started back working.

11 Q That's the only reason you were there? You
12 said you were living there.

13 A I was living there, yes, for them. I was
14 living --

15 Q And so you would be there on a normal night,
16 wouldn't you?

17 A Yes. I'd be there almost every night.

18 Q So saying that you were just there to help
19 babysit their kids is not true, is it?

20 A Well, my husband stayed there, so I had -- I
21 been there for my husband and I babysit their kids
22 as well.

23 Q And you knew Al had a firearm and wasn't
24 allowed to have a firearm, was he?

25 A I didn't know anything about his record, so I

1 -- him having a weapon did not bother me because of
2 the fact that I have a weapon of my own, but at my
3 own house, yes, now.

4 **Q** And you knew Al was messing with drugs, didn't
5 you?

6 **A** No. I don't know anything about his drugs
7 related things or anything of that nature with him.

8 **Q** So the scales, the cutters, the little powder
9 in the baggies, you didn't know anything about that
10 in that residence, did you?

11 **A** That's his bedroom and I don't know nothing in
12 his bedroom.

13 **Q** And you're from Williston?

14 **A** Yes, sir.

15 **Q** You're living with your husband. Where were
16 you working?

17 **A** Me, I work with the National Guard and as well
18 as with the Army Reserve.

19 **Q** And who actually rented that residence, the
20 Shadow Ridge Court?

21 **A** To my knowledge, Michael Barlow and Felicia
22 Barlow.

23 **Q** And so how did you end up coming to live there?

24 **A** I came there after Felicia started working at
25 Dollar General and she had needed somebody to make

1 sure the kids get back and forth to school.

2 **Q** And so about what time of the night was it when
3 you say all this happened?

4 **A** About 12:13.

5 **Q** About 12:13?

6 **A** Give or take, maybe earlier, but I think about
7 12:13.

8 **Q** And you look out and you say you see a couple
9 of people out there, correct?

10 **A** I see two figures, yes.

11 **Q** Let me back up. You say that someone comes by
12 the house and you talk with someone, I guess, a day
13 before or a couple of days before, correct?

14 **A** When they, literally, it was the next -- the
15 day before.

16 **Q** The day before?

17 **A** Yes.

18 **Q** And one of those people is not your second
19 cousin, is it?

20 **A** No.

21 **Q** And that day when you look out, you don't see
22 your second cousin, do you?

23 **A** I don't see the figures. I just see two black
24 figures walking to the road.

25 **Q** And you call out, I guess, you say you

1 initially called to Al Jerome or you call him J?

2 A J, yes.

3 Q Is that correct?

4 A That's correct.

5 Q That's who you initially call to?

6 A Yes.

7 Q And the first thing he tells you to do is turn
8 the lights off?

9 A Yes.

10 Q And you had seen him days before out firing a
11 gun?

12 A Two days before, he was firing the firearm,
13 yes.

14 Q Show me on, I guess, State's Exhibit 22, that's
15 the residence with the driveway coming down this
16 way?

17 A Yes.

18 Q And where is J when he's out there firing that
19 gun? Where is he firing it at?

20 A When he first bought it, he fired it out here,
21 but then, because no one was home except me, my
22 husband, he fired back here near the -- well, I
23 can't really show you on here because there's an
24 antenna on this side. So he was on the,
25 technically, front part of the yard.

1 Q So he does it a couple of different times?

2 A It was on the same day.

3 Q On the same day?

4 A But because, you know, there's people that live
5 out this way {indicating}, he went to the backyard
6 and continue to -- well, fire it.

7 Q How much does he fire out there?

8 A He fires maybe about five, six -- in different
9 spots.

10 COURT REPORTER: I'm sorry, what was the last
11 thing?

12 THE WITNESS: Five or six shots in different
13 spots, but he had to move because of where he was at
14 firing the first time.

15 BY MR. MADSEN:

16 Q So five or six different shots in each location
17 you talked about --

18 A In two locations, in those two locations.
19 Well, the first one, he only fired once in that one
20 spot. Then the other one he fired several more
21 times.

22 Q And so you say on that night that you yell out
23 for J and the first thing he tells you is to shut
24 off the lights?

25 A Yes, because, at the time, we didn't know who

1. the two figures were coming up to the house.

2. **Q** And then immediately after that, you hear
3. shooting?

4. **A** My husband walks up to the door because we were
5. asking them, you know, so we could find out who was
6. coming to the house, we actually go to the door and
7. they just fire upon us going to the door.

8. **Q** And where is J at?

9. **A** He's still in the corner between his bedroom
10. and Frank's room.

11. **Q** And when does he come out with his pistol?

12. **A** He comes out -- he stays there while my husband
13. goes to the window. He's been in that corner, he
14. stays in that position the entire time.

15. **Q** Has he got the gun in his hand already?

16. **A** I believe so. I don't know.

17. **Q** So before any firing starts, he's already armed
18. himself with a pistol?

19. **A** Yes.

20. **Q** And has told you to turn off the lights?

21. **A** I already turned off the lights, yes.

22. **Q** And he starts firing, doesn't he?

23. **A** No. He doesn't fire until my husband is fired
24. upon, then he knocks me to the ground.

25. **Q** And where are you when you say your husband is

1 fired upon?

2 **A** I'm in the den, so -- I mean, I'm between J and
3 my husband. So if J would have fired, he would have
4 hit me, so he had to wait.

5 **Q** Wait until what?

6 **A** Wait until I either got out the way, but what
7 happened was my husband knocked me down, so. And
8 after that, we got out to the other side of the
9 house.

10 **Q** Now, we've got -- this is the front door?

11 **A** Yes.

12 **Q** Where is the den that you say that you're at?

13 **A** The den is on this side, in the corner right
14 here.

15 **Q** So it's on the back side?

16 **A** Yes. It's hard to show you with this picture,
17 but, like, if you were to go midway through the
18 colors and, literally, it would be right here.

19 **Q** And where is the door that you say you look
20 out?

21 **A** That one right there. So the den room is right
22 there -- because the den is literally right there.
23 The kitchen is right here.

24 **Q** Okay. The kitchen is back on this one, that's
25 the one --

1 **A** Yes.

2 **Q** And that's the same door that your husband
3 looks out?

4 **A** No. He looks out this door when it was that
5 {indicating} door.

6 **Q** Okay. But you're on the back side then and J's
7 behind you and he's already got his gun out?

8 **A** I believe so. I'm not sure.

9 **Q** And already told you to turn the lights out?

10 **A** Yes.

11 **Q** Let me show you what's been marked as State's
12 Exhibit 15. Is that his gun?

13 **A** Yes.

14 **Q** And then your husband, you say he walks up
15 there, you're back on the back side in the den and
16 you hear shooting?

17 **A** Yes.

18 **Q** And J's shooting also, isn't he?

19 **A** He shoots after being fired upon after my
20 husband is fired after.

21 **Q** And you call law enforcement, don't you? You
22 call 9-1-1?

23 **A** Yes, I do.

24 **Q** And then law enforcement actually comes out,
25 don't they?

1 **A** They do.

2 **Q** And then they leave?

3 **A** Yes. They said that they had an idea where the
4 person was, so.

5 **Q** And so you called law enforcement or 9-1-1
6 again, don't you?

7 **A** I do. I called because --

8 **Q** You tell them that you hear someone on the
9 front steps?

10 **A** Yes.

11 **Q** And when law enforcement gets out there, have
12 you turned the lights back on?

13 **A** No, because we didn't know that the lights
14 could be cut back on at the time.

15 **Q** And so when law enforcement gets out there, the
16 lights aren't on?

17 **A** They said that the porch light was on, but as
18 inside the house, we had no lights on. The 360,
19 everything was turned off.

20 **Q** And so law enforcement gets there, you say you
21 don't have any lights on, they leave, you call and
22 they come back?

23 **A** Yes. They come back and they turned the lights
24 on for us.

25 **Q** You didn't call them back and say, hey, there's

1 someone back out here firing, the lights have been
2 shot out?

3 A No. We just hear the steps and that's why we
4 had to call because we didn't know if they had got
5 the guy or not.

6 Q And so when you see these individuals that you
7 say are walking down the street in the middle of the
8 night, you don't call 9-1-1 at that point in time,
9 do you?

10 A I call. I called before the shooting even
11 started.

12 Q You called before the shooting?

13 A Yes.

14 Q And you just -- you decide before the shooting
15 that, hey, this is suspicious, I'm going to call law
16 enforcement?

17 A Yes.

18 Q But you give a written statement, didn't you?

19 A I believe so, yes.

20 Q And in the written statement, don't you tell --
21 say that you called after the shooting because J
22 tells you to?

23 A I called twice. I called before the shooting
24 started. I called again while the shooting is occur
25 -- while it just had literally end. And I actually

1 called three times altogether not just twice.

2 **Q** And so you don't say, Joseph checks the door
3 again and I hear gunshots and he runs towards me. I
4 hide under the table until the shots stop. J tells
5 me to call the police?

6 **A** Yeah.

7 **Q** So you're saying that's the second time. You
8 don't mention anything about the first time?

9 **A** We called literally before the shooting start,
10 and while the shooting stopped, that's when I call
11 again.

12 **Q** And that's different, though, than what you put
13 in your written statement, isn't it?

14 **A** Well, I was panicking at the time when we wrote
15 that.

16 **Q** You were allowed to write anything that you
17 wanted on that, weren't you?

18 **A** Yes, I am, but I mean, at the time, I was
19 already done gone through so much, I mean.

20 **Q** Now, you had testified that you were in a den,
21 but in your written statement, you talk about hiding
22 under a table. There's a table --

23 **A** The table's in the den. They have a set up
24 where they have the sofas in the middle and on both
25 sides, they have a table on both sides, and then you

1 have the T.V. in front.

2 Q Law enforcement shows up and they ask if J's
3 there and you tell them that he's not, right?

4 A That's true.

5 Q And I think you testified that you were just
6 kind of trying to help him out because he had the
7 gun and he helped you out, right?

8 A That's true.

9 Q But you also testified that you had no idea
10 that he was wanted, correct?

11 A That's true. At the time, I wasn't -- I didn't
12 actually know that until the officer told me at that
13 moment. I believe, he was the --

14 Q So you made the split decision at that point in
15 time to lie?

16 A Yes.

17 Q Because if you don't know that he's wanted,
18 there's no reason to hide him, is there?

19 A That's true.

20 Q You knew J was wanted before that night, didn't
21 you?

22 A I knew he had problems back in the day where --
23 when he lived in Williston, but I thought all that
24 was, you know, already handled. So as of him --
25 knowing that he had anything now, I did not.

1 Q So you suspected that maybe something?

2 A No, I didn't suspect anything.

3 Q Where was J working?

4 A J, I don't know. I mean, he was her brother,
5 so I didn't question it. I was helping the family
6 out. I wasn't there for J.

7 Q So you didn't question where he was working or
8 what he was doing?

9 A In my mind, that was a family matter and that
10 had nothing concern to me because I was there for a
11 reason and, you know.

12 Q You knew he had had a pistol beforehand?

13 A Yes.

14 Q You knew he had something going on with some
15 other people, didn't you?

16 A I didn't know what was going on with any other
17 people until the people came to my house and --
18 well, came to our house the next -- well, the day
19 prior to the shooting.

20 Q And you were convicted of lying to police,
21 weren't you?

22 A That is true.

23 MR. MADSEN: That's all the questions I have.

24 THE COURT: Is there redirect?

25 MR. MAYE: Nothing. Thank you.

1 **THE COURT:** Then, ma'am, you may step down.
2 You're free to remain or you're free to leave, if
3 you wish.

4 **THE WITNESS:** Yes, sir.

5 **THE COURT:** All right. Then, ladies and
6 gentlemen, we're going to take our lunch break at
7 this time. And what we'll do is we will be in
8 recess until two o'clock. It's now 12:30. That's
9 an hour and a half for your lunch, which should be
10 ample time.

11 Please don't discuss the case. Lunch is on
12 your own. Whomever you have lunch with, don't
13 discuss the case, just enjoy the pretty day outside
14 and we'll see you back at 2:00. And we'll remain
15 where we are out of respect for you as you depart
16 the courtroom. Have a nice lunch, ladies and
17 gentlemen.

18 (The jury was excused for lunch.)

19 **THE COURT:** All right. Is there anything
20 before our break and before we close the morning
21 session, from the State?

22 **MR. MAYE:** None from the State. Thank you.

23 **THE COURT:** From the defense?

24 **MR. CASTO:** No, sir, Your Honor.

25 **THE COURT:** All right. We'll be in recess

1 until two o'clock.

2 (Whereupon, there was a luncheon recess.)

3 **THE COURT:** Is the State ready?

4 **MR. MAYE:** The State's ready to proceed, Your
5 Honor. Thank you.

6 **THE COURT:** Very good. Please bring in the
7 jury. Thank you.

8 (The jury returns to the courtroom.)

9 **THE COURT:** All right. Welcome back, ladies
10 and gentlemen. I trust you had a nice lunch.
11 You'll recall we ended the morning hour in the
12 State's case and we remain there.

13 So, Mr. Prosecutor, please, call your next
14 witness.

15 **MR. MAYE:** Thank you. The State will call
16 Joseph Wrighton to the stand.

17 **THE COURT:** Please come forward and take the
18 oath of a witness.

19 JOSEPH WRIGHTON,

20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION,

22 BY MR. MAYE:

23 **Q** Mr. Wrighton, speak up as loud as you can over
24 here and speak to the jury. Just tell them your
25 name, introduce yourself to them.

1 **A** My name is Joseph Wrighton.

2 **Q** Okay. Mr. Wrighton, where are you from
3 originally?

4 **A** Originally, Williston, South Carolina.

5 **Q** Okay. How much of your time during your life
6 have you lived here in Saluda County?

7 **A** Just about my entire time working at Amicks.

8 **Q** Okay. But you've been employed at Amick for a
9 long period of time?

10 **A** Yes, sir.

11 **Q** Okay. Let me direct your attention back to
12 April of 2012. Where were you working at that time?

13 **A** Amick Farms.

14 **Q** Were you working full-time then?

15 **A** Yes, sir.

16 **Q** Okay. Where were you living?

17 **A** I was living at Ridge Court along
18 with Mike and Felicia.

19 **Q** Michael and Felicia who?

20 **A** Barlow.

21 **Q** Who was every person that was living there at
22 the time that this incident took place?

23 **A** Besides me, Ycedra Williams, my wife, Felicia
24 and Michael Barlow and their three kids, Leslie,
25 Carmila and Samila, and also the brother Al, Al

1 Young.

2 Q Who is Al related to?

3 A Felicia.

4 Q Okay. At the time of this incidence, how long
5 had you been living there and residing at that
6 Shadow Court or Shadow Creek address?

7 A I want to say at least five to six months, at
8 least.

9 Q Okay. Let me ask you this: Tell me about the
10 time of this attack, just tell me everything you can
11 remember, where you were and what you were doing.

12 A Well, the only thing I remember, I was getting
13 ready to go to bed that night.

14 Q Where was everybody in the house and who was
15 home?

16 A It was my wife at the time. She was on -- she
17 was just watching TV on the Xbox and Al was there.

18 Q Who else was home?

19 A Just us three.

20 Q Okay. Name the three.

21 A Me, Ycedra Williams and Al Young.

22 Q Three of you were home?

23 A Yes.

24 Q Where were the residents, the other residents
25 of the house, where were they?

1 **A** In spite of what may have happened, the three
2 children were at their -- at Mike's sister's house,
3 and Mike and Felicia was in a hotel to my knowledge.

4 **Q** Okay. All right. What was the first thing
5 that you saw when this attack occurred? What was
6 happening? Describe it to the ladies and gentlemen
7 of the jury.

8 **A** What lead into this point?

9 **Q** What got y'all's attention that night? What
10 was the first thing you noticed? What happened?

11 **A** Well, my wife says she saw a dog was moving and
12 then went ahead and give a 9-1-1 call. So we
13 thought some cops was going to be out there kind of
14 quickly, but since pretty much nothing was going on,
15 I wanted to go check outside to see if they was just
16 seeing anything and next thing --

17 **Q** What did you first hear?

18 **A** A loud popping noise.

19 **Q** Where were you when the shooting started?

20 **A** At the door.

21 **Q** At the door?

22 **A** Yeah.

23 **Q** Let me show you and ask you do you recognize
24 State's 18, this door? Do you recognize that?

25 **A** Yes.

1 **Q** Was that the door that you went to to look out
2 of?

3 **A** Yeah. That bottom square right there, I was,
4 like, standing on that side of the door when the
5 shooting first started happening, and if I hadn't
6 moved, I would have been hit.

7 **Q** Okay. What happened next when the shooting
8 started? What did you do next?

9 **A** Jumped to the other side of the wall, then
10 ducked down and ran to the living room, threw my
11 wife down.

12 **Q** And threw your wife down?

13 **A** Yeah.

14 **Q** What was the next thing that happened after you
15 threw her down?

16 **A** After I was looking up, I know Al was on the
17 other side of the house, was shooting back at the --
18 whoever was shooting.

19 **Q** Okay. So after you knocked her down and the
20 shots had come in, he started shooting back?

21 **A** Uh-huh.

22 **Q** What happened next?

23 **A** After that, everything -- everything calmed
24 down surprisingly. I thought they was just going to
25 keep on going at it. Then my wife went ahead called

1 again, tell them there was -- they had --

2 **MR. CASTO:** Objection; calls for hearsay.

3 **THE WITNESS:** Do what?

4 BY MR. MAYE:

5 **Q** Excuse me. Hold on just one second. Don't go
6 into what she said, but as a result of what
7 happened, what did she do the second time?

8 **A** Called the police.

9 **Q** Okay. When did the police first show up there?

10 **A** Let's see. All righty. From the first call,
11 it was, like, a couple of minutes. I can't recall
12 exactly how long.

13 **Q** Okay. What happened when they first arrived?
14 What did y'all do when the police first got there?

15 **A** Me and my wife go out the door, said that was
16 some suspicious -- well, from what I remember, I'm
17 not going to give any direct words I can't recall,
18 to be honest with you. But to my remembrance, it
19 was to the effect of some suspicious people around
20 or whatnot, she -- give a lookout on them just in
21 case something might happen.

22 **Q** Okay. After the shots got fired, did you talk
23 to the police about having been fired upon when they
24 came then?

25 **A** Yes, sir.

1 **Q** Okay. When the detectives came, you initially
2 didn't tell them that Al was there; isn't that
3 correct?

4 **A** No, sir.

5 **Q** Why did you not tell them that Al was there?

6 **A** Well, the way I see it as, I mean, this man
7 just kept me from getting shot up by these strange
8 people. So I had originally told them that, no,
9 nobody else was back there, even though they trying
10 to see that, you know, some shell casings was in the
11 house or whatever. I just told them, you know, I
12 don't know where those came from, ain't nobody else
13 back there.

14 **Q** They found that out pretty quickly and you were
15 charged for that, weren't you?

16 **A** Yes, sir.

17 **Q** And you got convicted of that and pleaded to
18 that, didn't you, for giving that false information?

19 **A** Yes, sir.

20 **Q** Were you aware that he was wanted prior to this
21 evening, to the events of this evening on the 13th?

22 **A** No, sir.

23 **Q** Were you aware of any of the events surrounding
24 Al owing O.J. money or anything? Were you aware of
25 any of that prior to this time?

1 **A** No.

2 **MR. MAYE:** Answer any questions the defense has
3 for you.

4 **THE COURT:** And now cross-examination.

5 **MR. CASTO:** Yes, sir, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. CASTO:

8 **Q** You go by Joseph?

9 **A** Yes, sir, or Joe, one or the other.

10 **Q** All right. At the end of that night, you were
11 also placed in handcuffs, right?

12 **A** Yes, sir.

13 **Q** And that's because you lied to law enforcement.
14 And, specifically, Al Jerome was home, wasn't he?

15 **A** Yeah.

16 **Q** But you told law enforcement he wasn't there?

17 **A** Yes.

18 **Q** But you knew that Al Jerome was wanted, didn't
19 you?

20 **A** Huh-huh.

21 **Q** Well, why in the world would you lie and say
22 that he wasn't there because wouldn't that be the
23 same as saying Ycedra was there?

24 **A** Well, not really, that's on two different
25 scales here what you're talking about.

1 **Q** Explain that to me.

2 **A** Okay. Telling them that my wife was not there,
3 that's all -- that's all fine and good because it
4 really wasn't any of their business. It was more of
5 those other casings they was trying to investigate.

6 As far as me telling them that Al wasn't in
7 there, that was just based off of -- well, despite
8 the fact that whether he asked me to or not, that's
9 just besides the point. It's just the fact that he
10 actually stood in my defense at whoever shot at me,
11 and if it wasn't for him, I might not be in this
12 courtroom today to explain what I'm trying to tell
13 you now.

14 **Q** I'm a little bit confused. You're saying that
15 because Al Jerome protected you, that's why you
16 decided it was a good idea to say that he was not
17 there?

18 **A** Yes. Among that, him also asking me that
19 anyway, so, I mean -- but when it all boiled down to
20 it, yeah.

21 **Q** And so your testimony to us in this courtroom
22 is that you had no idea that he was wanted?

23 **A** Not a clue.

24 **Q** And your reason for telling law enforcement,
25 that makes sense to you, right?

1 **A** That makes sense to me because, honestly, yeah.

2 **Q** Now, Al Jerome had a gun. That we know, right?

3 **A** Yeah.

4 **Q** And he fired that gun that night, right?

5 **A** Yes.

6 **Q** But Al Jerome can't possess a gun, right?

7 **A** To my knowledge, I was aware he could
8 practically own a gun just as much anybody else
9 have. Because I mean, it was like I said, I had no
10 idea he was under some kind of warrant, probation or
11 anything.

12 **Q** Okay. And so two things, you didn't know that
13 he was wanted and you didn't know about whether or
14 not he could possess a firearm; is that your
15 testimony today?

16 **A** Yes, sir. I had no knowledge of that.

17 **Q** Now, walk me through what happened -- now, it's
18 your testimony that you don't look out the window.
19 It's your wife that looks out the window; isn't that
20 right?

21 **A** No. I looked out the window because I wouldn't
22 -- I wouldn't put her in that position if something
23 would or wouldn't have happened.

24 **Q** And what window, specifically, were you looking
25 out?

1 **A** The whole door.

2 **Q** And where was -- in the home, where was --
3 where was Ycedra? Where was she?

4 **A** She was strictly in the living room away from
5 any kind of window or anything.

6 **Q** Okay. And she didn't look out?

7 **A** No.

8 **Q** She didn't?

9 **A** No.

10 **Q** Where was Al Jerome?

11 **A** I guess in the room. I really didn't -- I
12 guess in the room.

13 **Q** You know he wasn't in the same room as you all?

14 **A** No.

15 **Q** He was in his room?

16 **A** From what I understood at the time, yes.

17 **Q** Well, how in the world did he know what was
18 going on?

19 **A** Well, it's kind of hard not to know what's
20 going on when somebody's firing a gun at the house.

21 **Q** And, basically, walk me through step by step,
22 when you hear the shots and you're standing there
23 and then what do you do right after that?

24 **A** Jumped away from where that shot came into the
25 other side and thought it would be a better idea to

1 duck down to go into the living room to get her
2 down.

3 Q In what room in the house are you in when you
4 duck down?

5 A Let's see, the other side of that door on like
6 the other side of the kitchen, I guess, where the
7 washer and dryer is supposed to go. I don't know
8 what's its called.

9 Q The kitchen, washer/dryer area?

10 A Kitchen, yeah, let's go with that one.

11 Q Now, a couple things about Al Young, there was
12 a large sum of money found in that -- in y'all's
13 home; isn't that right?

14 A From what I remember from that, yes.

15 Q Okay. And if -- you remember that; is that
16 right?

17 A That money was found?

18 Q Yes, sir.

19 A Yes.

20 Q Do you remember how much it was?

21 A No. I didn't care to -- I didn't care to know.

22 Q Okay. How long had Al Young been living there
23 with y'all?

24 A From what I understood, he was in that trailer
25 as long as Mike and Felicia was there, but I could

1 also be wrong because due to the fact that I don't
2 bother with anybody else business beyond that.

3 **Q** Okay. You think he was there a few weeks or is
4 it more like a matter of months?

5 **A** Matter of months.

6 **Q** Okay. But not years?

7 **A** And, again, like I said, I don't know when they
8 moved out there or the length of time, so I can't go
9 be -- my answer beyond months.

10 **Q** Okay. All right. And then how many times do
11 you think Ycedra, how many times do you think she
12 calls law enforcement?

13 **A** She called them a good bit, three times.

14 **MR. CASTO:** I beg the Court's indulgence.

15 **THE COURT:** Yes, sir.

16 (Pause.)

17 BY MR. CASTO:

18 **Q** You wrote a statement to law enforcement, isn't
19 that right, that night?

20 **A** Yeah.

21 **Q** And -- yes?

22 **A** Yes.

23 **Q** And, basically, law enforcement had you write
24 down everything that you remember about what
25 happened?

1 **A** Yes.

2 **Q** And, basically, you wrote that in your own
3 handwriting?

4 **A** Yes.

5 **Q** Nobody wrote it for you?

6 **A** No. I --

7 **Q** And --

8 **A** Go on.

9 **Q** Nobody wrote it -- you wrote it in on your own
10 handwriting?

11 **A** Yes, sir.

12 **Q** And, basically, you just testified that you
13 were looking out the window and then you heard
14 shots; isn't that right?

15 **A** Yes, sir.

16 **Q** Why, when you wrote in your statement, did you
17 write that you heard shots and then you looked out
18 the window?

19 **A** Can you point that to me, please, exactly?
20 Because I do not recall hearing shots and then going
21 to the window because that wouldn't make no sense.

22 **Q** And if you had your statement, would it help
23 you remember?

24 **A** If I had my statement, I will probably tell you
25 I wrote it half sleep.

1 Q I'll give you a second to read it.

2 A I heard a small popping noise off in the
3 distance.

4 Q And what you wrote in your statement and what
5 you testified to, it's entirely different; isn't it?

6 A No.

7 Q Okay. The fact that one occurs before the
8 other, that's not a difference to you; is that
9 right?

10 A Restate the question, please, because you just
11 about lost me with that one.

12 Q I asked you -- basically, you testified that
13 you were looking out and then shots were fired, but
14 in the statement that you read, you say that you
15 heard the shots and then you went and looked out the
16 window. Those two things are different, aren't
17 they?

18 A More like you're trying to put words in my
19 mouth.

20 Q What are you saying, is that -- is that
21 different to you?

22 A That is completely different. But, but by your
23 reading that, you're trying to put it out that
24 you're trying to twist what I'm trying to say to
25 turn me out into a liar despite the fact that I may

1 have heard a popping noise, because the fact that I
2 wrote that statement half sleep and I wanted to get
3 it over with. And since I actually, you know, I'm
4 out here, I got to tell y'all exactly what happened
5 go on in that.

6 **Q** Your testimony is that you wrote that statement
7 when you were half asleep; is that right?

8 **A** Half asleep, but I was fully aware what was
9 going on.

10 **Q** Okay. You were fully aware what was going on
11 when you wrote that statement?

12 **A** Uh-huh.

13 **Q** And eventually, after this night is over, you
14 eventually plead guilty to false information to law
15 enforcement; isn't that right?

16 **A** Yes, sir, completely.

17 **Q** Just to be clear, if you could read that from
18 your statement aloud.

19 **MR. MAYE:** Your Honor, I object. This is
20 asking to publish documents that are not in
21 evidence, read things and publish. If he wants to
22 cross-examine him and allow him to refresh his
23 recollection, that's fine, but asking him to publish
24 items not in evidence, I would object.

25 **THE COURT:** I'm going to sustain that

1 objection, Counselor, that document is not in.

2 **THE WITNESS:** A publish summary of what
3 happened? Yes, that is all my statement was, what I
4 thought of at the time was just a summary because --
5 BY MR. CASTO:

6 **Q** Okay. In other words -- I'm sorry. Go on.

7 **A** Because all that went on, what I had in my
8 testimony, I, to be honest with you, I was just not
9 in the mood to write all that down on a statement,
10 to be honest with you, just give a --

11 **COURT REPORTER:** I'm sorry, I didn't understand
12 what you said.

13 **THE WITNESS:** It was just a strict summary,
14 that's all.

15 BY MR. CASTO:

16 **Q** But we're in the middle of a case where someone
17 -- shots are fired at your home, right?

18 **A** Yes, sir. I kind of didn't know it was going
19 to go this far, but if I had -- if I had known -- if
20 I'd known, don't get me wrong, I would have exactly
21 have taken a couple of sheets to write down every
22 little detail I'm explaining in front of the court
23 today.

24 **Q** In that same night, you are asked to write down
25 everything that happened and your testimony today is

1 that you just wrote down a summary?

2 **A** And a summary of everything that happened.

3 **Q** And that you were half asleep, right?

4 **A** Yes.

5 **Q** But after -- your testimony is that after shots
6 are fired at your home, that wouldn't wake you up?

7 **A** Yeah, it would have due to the fact that in a
8 couple of hours, I had to go to work in the morning.
9 I was just -- didn't look towards getting arrested
10 later on that night.

11 **MR. CASTO:** No further questions.

12 **THE COURT:** All right.

13 **MR. MAYE:** Nothing else.

14 **THE COURT:** No redirect?

15 **MR. MAYE:** No. Thank you.

16 **THE COURT:** All right, sir. Please watch your
17 step when you leave. You're welcome to stay, but
18 you're welcome to leave as well.

19 **MR. MAYE:** The State would call Al Jerome
20 Young.

21 **THE COURT:** All right, sir. Come this way to
22 take the oath of a witness.

23 *****

24 *****

25 *****

1 AL JEROME YOUNG,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MAYE:

5 Q Mr. Young, if you will, just introduce yourself
6 to the ladies and gentlemen of the jury, tell them
7 your full name.

8 A My name's Al Jerome Young.

9 Q Okay. Mr. Young, I can see by your attire,
10 that you have come from the department of
11 corrections; is that correct?

12 A Yes, sir.

13 Q Okay. I want to talk about your criminal
14 history right here to begin with. You've got a
15 conviction for discharging a firearm into a vehicle,
16 correct?

17 A Yes, sir, that's correct.

18 Q Okay. And you have a criminal conviction for
19 possession with intent to distribute marijuana, a
20 prior possession with intent to distribute
21 marijuana; is that correct?

22 A Yes, sir.

23 Q And you've given -- you've got a prior
24 conviction for giving a false name to law
25 enforcement, correct?

1 **A** Yes, sir, that's correct.

2 **Q** And at the time this incident occurred,
3 immediately thereafter, they took you into custody,
4 correct, after this April the 13th, 2012 incident,
5 correct?

6 **A** Yes, sir.

7 **Q** Now, Al, you're not from Saluda County
8 originally, are you?

9 **A** No, sir.

10 **Q** Tell the ladies and gentlemen of the jury where
11 you grew up, where -- what state that you actually
12 are from.

13 **A** I'm originally from Moultrie, Georgia.

14 **Q** When did you -- when did you first come to
15 South Carolina, about what time?

16 **A** I think around the end of 2008, 2009, something
17 like that.

18 **Q** What area of South Carolina did you come to at
19 that time?

20 **A** I moved here -- I moved from Georgia straight
21 to Williston.

22 **Q** Okay. Where were you working or what job did
23 you come to to start with?

24 **A** I had a job at Augusta Fiberglass over in
25 Blackville.

1 Q Tell me in April of 2012, where were you living
2 at that time?

3 A Here -- April 2012?

4 Q April 2012, right around in the months before
5 this incident.

6 A I'm living here in Saluda, Shadow Ridge
7 Court.

8 Q Okay. Tell the ladies and gentlemen of the
9 jury everybody that was living in the trailer at
10 that time.

11 A Me, my sister, her husband, three kids, Joseph
12 and Ycedra.

13 **THE COURT:** Tell us again the last couple of
14 names you gave us.

15 **THE WITNESS:** Me, my sister, her husband, three
16 kids, Joseph and Ycedra.

17 BY MR. MAYE:

18 Q Okay. In the weeks and days just prior to this
19 incident occurring in April of 2012, what
20 interaction had you had with O.J. Charley? Tell the
21 jury exactly what was going on between the two of
22 y'all.

23 A It was supposed to be -- it was supposed to be
24 him wanting me to go purchase some drugs.

25 Q What did he give you to purchase drugs?

1 **A** Like \$26,000 cash.

2 **Q** Okay. Where did he first give that to you,
3 turned the money over to you?

4 **A** You say where?

5 **Q** Where were you when he first turned the money
6 over to you?

7 **A** We was in Ridge Spring, Monetta.

8 **Q** Okay. Did you deliver on your end of it? Did
9 you deliver him any drugs?

10 **A** That wasn't my intentions.

11 **Q** Okay. You were going to rip him off was your
12 intention; was that not correct?

13 **A** Yeah, that was it.

14 **Q** Okay. What did you think was going to happen
15 after this man gave you \$26,000 and you didn't
16 deliver him any drugs, what did you think was going
17 to happen?

18 **A** To be honest, I was going to try to move my
19 family out of that house to a better place and I
20 ain't think -- I ain't think he was going to come
21 back and retaliate like that. I ain't think he was
22 that type of dude, but he proved me wrong.

23 **Q** Where were you the night that this took place
24 in the house? Where were you in the house?

25 **A** In my bedroom, in the back bedroom.

1 Q What, if anything, had you armed yourself with
2 in the days prior to the 13th when this attack took
3 place?

4 A I had went and purchased a .40 caliber Smith &
5 Wesson.

6 Q What, if any, opportunity had you had to fire
7 that weapon or test it out to be sure it was going
8 to not fail you if you needed it?

9 A I think it was, like, the second day after I
10 purchased it outside in my backyard.

11 Q You fired your weapon outside then?

12 A Uh-huh.

13 Q Okay. Where on your person did you have the
14 money just before this attack? Where was it on you?

15 A Where was what?

16 Q Where were you carrying the money at the time
17 this attack took place in the early morning hours of
18 the 13th?

19 A I mean, it was in my room until I stuffed it
20 all in the backpack that I had on. So, basically, I
21 had it on me.

22 Q You had all the money on you and you had the
23 .40; is that correct?

24 A Yes, sir.

25 Q I want to show you what's State's 15. Is that

1 your handgun and the money?

2 **A** Yes, sir.

3 **Q** What was the first thing that alerted any of
4 you in the house that something was going on that
5 night? What happened?

6 **A** I was in my room laying down on the phone and I
7 heard the dog barking. And Ycedra, I think that's
8 when she approached the door and she saw two guys
9 running in the yard and that's when she yelled out.

10 **Q** She yelled out. What did you do when you heard
11 her yell out?

12 **A** Jumped up, put on my shoes, grabbed the money,
13 grabbed my gun, told her to turn off all the lights
14 in the house.

15 **Q** Okay. When did she call the cops the first
16 time; do you remember about when that was?

17 **A** She called the cops before I even came out of
18 my bedroom.

19 **Q** Okay. So you gathered the money up and you got
20 your gun. What was the next thing that you saw?

21 **A** Next thing it was Joseph walked up to the
22 back -- to the side door, the door that was shot at.

23 **Q** Look right here. Was this the door, State's
24 18, that he walked up to?

25 **A** Yeah.

1 Q Okay. When he walked up to the door, what was
2 the next thing that happened?

3 A That's when shots rang out and he hit the
4 floor. I thought he was hit, so, you know, that
5 scared me even more and that's when I returned fire.

6 Q Okay. After he dropped, what was the next
7 thing that happened? What happened with Ycedra,
8 what happened with her before you fired?

9 A Before I fired?

10 Q Yeah.

11 A She was already laying down on the floor scared
12 with the phone in her hand.

13 Q Okay. What happened next after you returned
14 fire after the shots started coming into the house?

15 A Repeat that again, sir.

16 Q I said what happened next after you returned
17 fire? Did you ever go outside?

18 A No, I never went outside.

19 Q Okay. Do you remember when the police came the
20 first time?

21 A Yeah. When they pulled up, Joseph and Ycedra
22 approached the door and the officer told them to go
23 back in the house. And they were going to -- I
24 think they told them they was coming right back.

25 Q Did there come a time that they came back?

1 **A** Yeah.

2 **Q** What, if anything, did you ask Joseph and
3 Ycedra to say in regards to whether or not you were
4 there or not; what did you tell them?

5 **A** I mean, I told the police it wasn't their
6 fault. I told the police that I told them to say
7 that I wasn't there.

8 **Q** Okay. Were you aware at that time that they
9 were looking for you, that you were wanted?

10 **A** Yes, sir, I knew I had a probation warrant.

11 **Q** Okay. Did you tell any of them that you were
12 wanted? Were they aware of that, either Joseph or
13 Ycedra?

14 **A** Not even my sister or brother, they didn't --
15 didn't nobody know I had a probation warrant.

16 **Q** Okay.

17 **MR. MAYE:** Beg the Court's indulgence.

18 (Pause.)

19 **MR. MAYE:** Answer any questions the defense has
20 for you.

21 **THE COURT:** All right. Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. MADSEN:

24 **Q** Mr. Young, if I understand what you told this
25 jury, that you didn't think that O.J. was going to

1 retaliate against you?

2 **A** No. I didn't think he had the balls to come
3 back and do what he done. I didn't think he was
4 that type of guy.

5 **Q** But, yet, you testified that you went out and
6 bought a gun?

7 **A** Yeah.

8 **Q** Didn't think he was going to retaliate, but you
9 go and get a gun?

10 **A** Because it's --

11 **Q** For someone who's not --

12 **MR. MAYE:** Your Honor, I object. He's talking
13 over the top of him. I ask that he at least give
14 him a chance to answer a question before he
15 interrupts him.

16 **THE COURT:** All right. Mr. Maye, and again, if
17 you would do the same, not buff the witness, but
18 let's let him answer, please, Counsel.

19 Go ahead, sir, finish your answer.

20 **THE WITNESS:** What was your question?

21 BY MR. MADSEN:

22 **Q** Okay. So you don't think he's going to
23 retaliate against you, but you go ahead a couple of
24 days before and buy a gun?

25 **A** A couple days before? No, that gun was

1 purchased the same day I took the money when I got a
2 call saying that him and, like, five other guys had
3 come to the house looking for me.

4 Q Who did you purchase the gun from?

5 A Somebody off the street.

6 Q Who was that?

7 A I mean, it's a random dude on the street.

8 Q Who's the random dude? How do you know him?

9 A I know him. I mean, is that important today in
10 court how do I know the dude --

11 Q That's the question.

12 A -- who I purchased the gun from?

13 Q My question is who did you buy the gun from?

14 A I mean, just a random dude on the street.

15 Q So you're just walking down the street and you
16 come upon some guy and say, hey, you got a gun? Let
17 me buy the gun. Is that what happens?

18 A No. Somebody turned me on to him.

19 Q Who is that?

20 A A friend.

21 Q What's that friend's name?

22 A All I know him by is Maurice.

23 Q And so Maurice, how do you get in contact with
24 this random dude through Maurice?

25 A Because the day I took the money, Maurice was

1 already in position waiting on me to enter the
2 vehicle so they could take me away from the scene.

3 Q So Maurice is with you when you robbed O.J. of
4 the money?

5 A Nah, I didn't rob O.J. They was all parked
6 waiting on me. He wasn't with me. It was just me
7 and O.J., wasn't nobody with me.

8 Q And so where do you meet this guy that you buy
9 the gun from?

10 A What you mean where did I meet him at?

11 Q Where did you meet him at? How did you get the
12 gun?

13 A Around the corner from where I took the money
14 at.

15 Q And where is that?

16 A In Ridge Spring.

17 Q Well, where at in Ridge Spring?

18 A Where at in Ridge Spring, around the corner
19 from the store at Ridge Spring.

20 Q And where did you take the money from O.J. at?
21 Physically, where did you take it from?

22 A Across the street from the store at the laundry
23 mat at Ridge Spring.

24 Q So y'all were at the laundry mat together?

25 A Uh-huh.

1 Q And he gives you money at the laundry mat?

2 A That's correct.

3 Q And you said he gave you \$26,000?

4 A That's correct.

5 Q Well, you gave a written statement. Why would
6 you put \$32,000 in a written statement if it was 26?

7 A That's how much it was in all.

8 Q I'm sorry?

9 A That's how much money it was in all, including
10 my 6,000.

11 Q And so what was your 6,000 for?

12 A Just to make it look good.

13 Q You've got me confused. Explain what you mean
14 by make it look good?

15 A He was trying to get a whole kilo, which he
16 didn't have all the money for. My money was just to
17 make things look good, like, yeah, I'm going to put
18 in on it, so come on, let's go on and get it.

19 Q And so you're supposed to buy a kilo of drugs
20 from Mexicans in Ridge Spring and give that back to
21 O.J.?

22 A That's what he was thinking.

23 Q Well, how do you come up with that with him?
24 He just calls you out of the blue?

25 A Who?

1 Q O.J.

2 A I mean, I sold him a dream, told him a couple
3 lies. He bought it. He believed it.

4 Q And so you weren't working at Augusta
5 Fiberglass at this time for John Boyd, were you?

6 A No.

7 Q How long had it been since you worked at
8 Augusta Fiberglass?

9 A Months, maybe a year.

10 Q How long did you work there?

11 A I worked there for, like, five months.

12 Q That's a pretty big plant in Barnwell County,
13 but Blackville, correct?

14 A Blackville.

15 Q Where they spray fiberglass on things and build
16 things there?

17 A Uh-huh.

18 Q And so what had you been doing for grits and
19 groceries after you quit working at Augusta
20 Fiberglass?

21 A I mean, I started at Amick Farms, but I only
22 worked there for, like, a month or two, that didn't
23 work out.

24 Q And so you don't go buy a gun at Wal-Mart
25 because you know you can't do that, correct?

1 **A** Correct.

2 **Q** And you don't think that O.J.'s going to
3 retaliate, but you buy a gun that same day. That's
4 what your testimony is?

5 **A** After I got the phone call saying six guys had
6 done been by the house looking for me, yes.

7 **Q** And so when you say this shooting happens, when
8 do you get the money from O.J.? How many days
9 before that or weeks or months or what's that
10 timeframe?

11 **A** Can you say that again?

12 **Q** If the shooting's alleged to have occurred on
13 April 13th, when does this transaction between you
14 and O.J. go down?

15 **A** A few days before that.

16 **Q** Two days, one day?

17 **A** Maybe two or maybe three.

18 **Q** You don't remember?

19 **A** Not to be exact.

20 **Q** And so you're supposed to make six grand off
21 this deal?

22 **A** I was supposed to make six grand? What you
23 mean?

24 **Q** Well, you put in your statement 32 grand. You
25 told us that your cut was six grand, which left

1 26,000, correct?

2 **A** Uh-huh.

3 **Q** So you were supposed to make six grand off of
4 it?

5 **A** I wasn't supposed to make nothing. My
6 intention was to take the money and take care of my
7 family, that's what I was going to do with all of
8 it, period.

9 **Q** But you got \$32,000 from O.J.?

10 **A** \$26,000 from O.J.

11 **Q** Again, in your statement, you put 32?

12 **MR. MAYE:** Your Honor, I object. That's asked
13 and answered. He's already explained that
14 completely.

15 **THE COURT:** Sustained.

16 BY MR. MADSEN:

17 **Q** So you got \$26,000 from O.J. You give law
18 enforcement a little over \$20,000, correct?

19 **A** Uh-huh.

20 **Q** What happened to the other six?

21 **A** What you mean what happened to the other six?

22 **Q** Where was it?

23 **A** Put up.

24 **Q** Put up where?

25 **A** What you mean where?

1 **Q** Well, you say it's put up, where do you mean?
2 Is it in a cabinet? Is it at the residence? Did
3 you spend it on something? What happened to that
4 money?

5 **A** It's put up.

6 **Q** Explain to me what that means. I don't
7 understand what that means.

8 **A** Waiting on me to come home.

9 **Q** So you've got that money hidden somewhere?

10 **A** My \$6,000, yeah.

11 **Q** So you say this night, run me through what
12 happens. You said something about, Ms. Williams
13 says something about a dog or seeing a dog. What
14 happens that night?

15 **A** The dog, our dog go to barking which made her
16 get up -- well, made her want to get up and look out
17 the door, that's when she seen two guys ran in the
18 yard. She holler out, J, two dudes ran in the yard.
19 I panic, jump up, throw on my shoes, grab the gun,
20 grab the money. By that time, she had done hit all
21 the lights in the house, okay. She was on the phone
22 with the cops.

23 **Q** You didn't tell her to turn off all the lights
24 in the house?

25 **A** I believe I did.

1 Q And so you end up strapping the money to you?

2 A Backpack, yeah.

3 Q Why is that?

4 A What kind of question is that?

5 Q I'm just asking why you would strap the money
6 to you?

7 A My intentions was to leave the house to be
8 exact, but...

9 Q And so you're going to leave the house with the
10 money?

11 A That's what I was going to do.

12 Q And you say that firing happens and you start
13 firing back?

14 A Uh-huh.

15 Q And then, I guess, your testimony is that you
16 never leave the house that night?

17 A No. I ain't leave the house that night until
18 the cops arrived.

19 Q Law enforcement shows up, you don't come out
20 and say, hey, I'm here, do you?

21 A Nah. I told them to lie for me. I ain't going
22 to deny that. I told them to lie and say, I wasn't
23 there.

24 Q And so -- but you're aware when law enforcement
25 first arrives there, aren't you?

1 **A** Yeah, I was there.

2 **Q** And then apparently they leave and come back at
3 some point in time, don't they?

4 **A** Uh-huh.

5 **Q** How long is it from when they leave to when
6 they get back to your residence?

7 **A** My mind was everywhere that night. I wasn't
8 trying to keep track of how long it took them to go
9 to the scene -- to the van and back, I mean, but
10 they left. It wasn't long, they left and came back.

11 **Q** Ten minutes, 15 minutes, a half an hour?

12 **A** I just told you I don't know to be exact. I
13 know it wasn't that long. It wasn't 30 minutes.

14 **Q** So what are you doing in the interim?

15 **A** Say it again.

16 **Q** What are you doing while -- once law
17 enforcement gets there, you know they've shown up,
18 you know they're going to come back, what are you
19 doing between the time that they --

20 **A** Trying to get my thoughts together. I was
21 shaking, don't know what to think, sitting on the
22 bed. When the officer walked in there, I just put
23 my hands in the air.

24 **Q** And so you're just sitting on the bed waiting?

25 **A** Pretty much. I didn't know whether they was

1 going to walk through the house after they told them
2 that I wasn't there, but they still came in.

3 **Q** And State's Exhibit Number 15, that's the money
4 that you had on you and the gun that you bought from
5 some dude?

6 **A** Uh-huh.

7 **Q** And you gave that over to law enforcement,
8 correct?

9 **A** Correct.

10 **MR. MAYE:** Can I see that?

11 (Pause.)

12 (Defendant's Exhibit Numbers 1 and 2,
13 photographs, marked for identification.)

14 **MR. MAYE:** Your Honor, by consent, Defense 1
15 and 2.

16 **THE COURT:** Defendant's 1 and 2 in evidence
17 without objection.

18 (Defendant's Exhibit Numbers 1 and 2,
19 photographs, admitted into evidence.)

20 BY MR. MADSEN:

21 **Q** Let me show you Defendant's 1 and 2. That's
22 also a box of ammunition that you gave to law
23 enforcement, correct?

24 **A** Uh-huh.

25 **Q** And that's the .40 caliber ammunition that you

1 had for that gun from some dude, correct?

2 A Correct.

3 Q And that's ammunition, did you purchase that
4 some place or did you get it from that same dude?

5 A That's purchased.

6 Q You got it at the store?

7 A Uh-huh.

8 Q What store?

9 A I didn't pay for it. I ain't go and get it.
10 It was bought --

11 Q Someone else got it for you?

12 A It was bought from the Wal-Mart store.

13 Q Who got that for you?

14 A A friend.

15 Q Who's that friend?

16 A A friend.

17 Q What's their name?

18 A Q.

19 Q What's Q's real name?

20 A I don't know.

21 Q And when did you get that?

22 A The same day I got the gun.

23 Q How many times did you fire when you were in
24 that house?

25 A During the shooting?

1 **Q** During the shooting.

2 **A** Maybe three, four shots.

3 **Q** Three or four shots. And then you say when
4 you're shooting, was there other times that you were
5 shooting?

6 **A** The day before, yeah.

7 **Q** Well, what were you doing on the day before?

8 **A** Making sure the gun worked, making sure it
9 worked fine.

10 **Q** And where were you shooting?

11 **A** Outside in my backyard.

12 **Q** Let me show you what's been marked as State's
13 Exhibit Number 22. Can you show me where you were
14 shooting on that?

15 **A** On the back side {indicating}, backyard.

16 **Q** So once you got the gun, you just took it out
17 there and made sure it worked, fired and all that
18 kind of stuff, correct?

19 **A** Uh-huh.

20 **Q** And that was just the one time in the backyard?

21 **A** Yeah, on the other side of the house.

22 **Q** So you can't see it in this picture, but I
23 guess it would be back here where all these woods
24 are, correct?

25 **A** Well, not exactly where the woods are, but on

1 the back side of the house.

2 Q Right. There's -- I'm guessing from this
3 photograph, that on the back side, there's probably
4 a clearing similar to this; is that correct?

5 A Pretty much.

6 Q And then the woods start after that?

7 A Uh-huh.

8 Q And so that's the only time that you're
9 shooting is on that back side of the house?

10 A That's the only time.

11 Q And when law enforcement's out there that
12 night, they also find some baggies with white powder
13 in it, correct?

14 A Yeah, that's correct.

15 Q And those are yours?

16 A Yeah, those are mine.

17 Q Along with some scales?

18 A Scales? What kind of scales?

19 Q Like little scales, like a little black scale?

20 A Probably so.

21 Q Along with little baggies with white powder?

22 A I just answered that.

23 Q That's a yes?

24 A Uh-huh.

25 Q And those little baggies or that white powder

1 is packaged in, like, little Ziploc bags, but a lot
2 smaller than, like, a sandwich bag, correct?

3 **A** They did not find that together or side by side
4 or none of that.

5 **Q** Where did they find that?

6 **A** They found the baggies -- the baggies for one
7 was roach powder. We hadn't been not too long just
8 moved into the house. I had use --

9 **Q** I didn't hear what you --

10 **A** I had used most of them, but those were the
11 remaining baggies that was left of the roach powder,
12 that's all it was roach powder.

13 **Q** What is roach powder? You mean like for bugs?

14 **A** Roach poison.

15 **Q** So that's all those little baggies were -- so
16 did you buy it in, like, a big box and you put it in
17 a bunch of little boxes that's roach poison?

18 **A** No, no, no, no. Before we moved from where we
19 moved from, a friend had a whole bottle of it and
20 that's the only thing I had to put the roach poison
21 in was those little baggies to take with me to the
22 new house.

23 (Defendant's Exhibit Number 3, photograph,
24 marked for identification.)

25 **Q** I'm going to show you what's been marked as

1 Defendant's Number 3...

2 **MR. MADSEN:** I believe by consent, Your Honor.

3 **Q** Those are the little baggies that you put the
4 roach powder in?

5 **A** Look like it.

6 **Q** And --

7 **A** Hold on, let me see.

8 Yeah, look like it.

9 **Q** They're in a SLED bag already.

10 **A** Yeah, yeah, yeah.

11 **Q** So that baggy wouldn't have been yours, that
12 would have been law enforcement. But those baggies
13 in there, the small ones, correct?

14 **A** Greens, yeah.

15 **Q** And so what you're saying is that you had a
16 friend that had some roach powder and you needed
17 some roach powder before you moved and so you put
18 them in those little baggies?

19 **A** That's the only thing I had to put them in.

20 **Q** And so were they, like, for each individual
21 roach you were going to kill? Because those baggies
22 aren't filled.

23 **A** Say what now?

24 **Q** Well, clearly, those little baggies aren't
25 filled up with powder.

1 **A** No, they ain't.

2 **Q** How many baggies did you have?

3 **A** I don't know.

4 **Q** Well, what were the scales for?

5 **A** The scale was -- because I used to play with a
6 little weed before I even moved there to Shadow
7 Ridge Court, that was before I left the house in
8 Monetta where I used to live at with my sister,
9 that's where the scale even come from.

10 **Q** And you've got a prior conviction for
11 possession with intent to distribute, I believe out
12 of Georgia, don't you?

13 **A** Marijuana?

14 **Q** Yes, sir.

15 **A** Yeah.

16 **Q** And you got a conviction in 2006 for giving a
17 false name out of Georgia, don't you?

18 **A** Yeah.

19 **Q** And at the point in time of this April, you
20 were on probation for discharging a firearm into a
21 vehicle from 2010, correct?

22 **A** Correct.

23 **Q** And that's what you're in prison for now?

24 **A** Correct.

25 **MR. MADSEN:** That's all the questions I have.

1 **THE COURT:** All right. Defendant's 3 in
2 evidence without objection.

3 And is there redirect?

4 (Defendant's Exhibit Number 3, photograph,
5 admitted into evidence.)

6 **MR. MAYE:** None. Thank you.

7 **THE COURT:** All right, sir. Please watch your
8 step as you come down. You're free to leave.

9 **MR. MAYE:** The State would call Officer Jerry
10 Grenier.

11 **THE COURT:** Please come forward and take the
12 oath of a witness.

13 JERRY GRENIER,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MAYE:

17 **Q** Officer Grenier, let me ask you this: Were you
18 on routine patrol on April 12th going into the 13th?
19 Were you working for the Saluda County Sheriff's
20 Office?

21 **A** Yes, sir.

22 **Q** Okay. Please tell the ladies and gentlemen of
23 the jury exactly what happened. What was the first
24 thing that happened? What were you operating on or
25 what were you on the lookout for during that shift?

1 **A** At the time, it was Corporal Morelli and myself
2 were on patrol. When we first came in, we were
3 advised to be on the lookout for a minivan, Ford
4 Windstar, greenish color, possibly multiple subjects
5 in it, going to be involved for some kind of
6 retribution against a subject. And it was --
7 subject was supposedly had family that could be
8 staying at the incident location, Shadow Way
9 Court or something like that, it's been a while, but
10 anyway, the incident location, so --

11 **Q** I'm going to interrupt you just briefly. I'm
12 sorry. State's 22, is this the trailer y'all went
13 out to,

14 **A** Yes. And, actually, before we ever got on the
15 road, the family from that residence had come by the
16 sheriff's office.

17 **Q** Okay. You can't say anything they said, but
18 they had been by previously?

19 **A** Right. And we had escorted them to that
20 residence to collect some clothes because they said
21 they were --

22 **Q** Don't go into what they said.

23 **A** Well, just why we escorted them out there, they
24 were fearful for their safety and they wanted to be
25 escorted to their residence so they could go stay

1 somewhere else for the night.

2 **Q** Okay. So you'd already been out there one
3 time?

4 **A** Been out there earlier that evening, so we knew
5 where it was, knew the address and everything.
6 After that, it was -- we went on patrol.

7 **Q** What happened next? What was the first thing
8 that drew your attention back to this residence that
9 you'd previously escorted the residents to?

10 **A** We had a call that shots fired came out from
11 that residence.

12 **Q** Where were you when shots fired call first came
13 out?

14 **A** Actually, we were down at the -- in the tractor
15 pull area of the sheriff's office. Corporal Morelli
16 was allowing his partner to take a break when the
17 call came in, so we were fairly close.

18 **Q** Where did you go, once you left the tractor
19 pull, where did you go?

20 **A** Came out, went down 178, turned on Rock Hill
21 and proceeded out to the residence. Before we got
22 to the residence, as I came around one of the
23 curves, I noticed a minivan just parked -- pulled
24 off on the grass on the side of the road. And I
25 immediately slammed on my brakes and radioed to

1 Corporal Morelli because he was coming up behind me,
2 he was just a little bit behind me a couple seconds
3 because he had to load his dog back up, and I says,
4 Does that not look like the van we're supposed to be
5 on the lookout for? And as he pulled up, he says, I
6 believe so.

7 So we immediately exited our vehicles and
8 checked the vehicle and, you know, I ran the tag
9 through dispatch. And we did the 360, checked the
10 area, checked the van. There was no flat tires or
11 nothing like it was, you know, a broken down vehicle
12 or anything. It was just parked on the side of the
13 road, pulled off, locked up, nobody in it, checked
14 it.

15 We're fairly certain that was supposed to be
16 the vehicle that we'd been looking for due to the
17 description and the tag and where it came back to,
18 but being there was no one there and we had that
19 pending call still with shots fired, we knew we had
20 to get to the scene. I called Officer Brett Long
21 with the City, he was on duty with the City, and
22 asked him if he was close. He advised me he was
23 right at Rock Hill Church, which is right back up
24 the road just a bit.

25 And I asked him if he could come stand by this

1 vehicle for us so we could proceed on to the
2 residence. And so Corporal Morelli and myself went
3 to the residence as he was pulling on his way to
4 stand by the vehicle to make sure that if it was the
5 get-away vehicle, that he'd be there to make sure it
6 didn't get away and we went to the residence.

7 In the short amount of time that it took us to
8 travel from a block and a half, two blocks from
9 where the vehicle was to the residence, before we
10 ever got there, Officer Long advised us, he says,
11 Was there anybody supposed to be in this vehicle?
12 We said, No, we checked it and it was empty. He
13 said, Well, there's somebody in it now.

14 **MR. MADSEN:** Judge, I'm going to object to
15 hearsay.

16 **THE COURT:** Overruled on that preliminary
17 point, but go ahead, Counsel.

18 BY MR. MAYE:

19 **Q** Don't go into what he told you, but --

20 **A** There was radio traffic --

21 **Q** -- what did you do as a result of the call you
22 got from Brett Long?

23 **A** Advised him to secure the vehicle. When he
24 said there was someone in it, we asked him to -- by
25 this time, we're pulling up. People came out --

1 opened the door, they didn't really come out, they
2 just sort of opened the door of the residence and we
3 asked them if they were all right, has anybody been
4 hit or anything? They said, No. We said, Well, we
5 have to run back up the road, we think we have
6 subjects involved. Go back in, lock the doors and
7 we'll be right back to you.

8 And we turned right back around and went back
9 to the vehicle, which in time, during that brief
10 couple of seconds of communication, Officer Long
11 said that --

12 Q Don't go into what Long did, but as a result of
13 what he told you --

14 A Not what he did, but he told us the van was
15 pulling off. I advised him to light the vehicle up,
16 we're on our way.

17 Q When you mean {sic} light the vehicle up, what
18 does that mean?

19 A Turn on the blue lights and initiate a traffic
20 stop.

21 Q Where did you then go?

22 A We went back to that location, but they were
23 slowly driving down the road at the time.

24 Q Who was slowly driving down the road?

25 A The subjects' vehicle and the two Town

1 officers.

2 Q Okay.

3 A Myself and Corporal Morelli went around the
4 Town. And Officer Morelli, actually, I believe, per
5 my instructions is, I asked him to go ahead and cut
6 them off, that we didn't want to let, you know, get
7 back into town. We were out in the country, it was
8 a good place to try to stop them. So he went around
9 the vehicle on the next straightaway and put his
10 vehicle across the road and -- where the vehicle
11 didn't have a choice but to stop. And myself and
12 the two Town units stopped behind it, which we, at
13 that point, initiated a felony traffic stop and
14 pulled the subjects out at gunpoint one at a time
15 and secured them.

16 While this was being done, dispatch advised us
17 that they had received a second call from the
18 residence. At which time, we asked Officer Long,
19 and I do not remember the name of the other officer
20 in Town, to -- if they would secure the vehicle and
21 the subjects for us because we had to run back and
22 check on the residents. So we left the area, went
23 back down there.

24 No one was visible at the time. We positioned
25 our vehicles to light the area up the best we could.

1 We got out at which time not knowing if anybody else
2 was still around or in the woods or anything. And
3 even if those subjects were the initial ones we were
4 looking for, we called this special team from the
5 sheriff's office and had them also respond with the
6 bloodhounds and additional personnel, SWAT
7 personnel, to come out and assist us.

8 While we were waiting for them, there's a house
9 in immediate proximity of that house right beside
10 it, there was people inside. So while we were
11 waiting on the special teams to get there, I went by
12 the residence. They said they had heard the shots.
13 And I advised them I couldn't make them leave, but
14 if they wanted to leave, we would help them leave
15 the area for their safety since they had kids. They
16 said, you know, they would like that. So I stood
17 by, they gathered up their kids and their belongings
18 and they left the area. And then we pretty much
19 just held the perimeter until the other officers
20 arrived. And then we finally all together
21 approached the house at that point.

22 **Q** Was the defendant, Gerald Williams, over here
23 and his co-defendant, O.J. Charley, were they taken
24 into custody by the Town?

25 **A** Yes. They were asked to be transported to the

1 detention center for us, to be held until we could
2 figure out what was, you know, what was going on.

3 **Q** Okay. Once all of this takes place, who did
4 you turn this all over to?

5 **A** It will be pretty much, the senior ranking that
6 showed up would be Shorter, Zeb Shorter.

7 **Q** So you turned it over to him at that point in
8 time?

9 **A** At that point, him and the rest of the team got
10 there. Jesse was also a part of investigations, I
11 believe, at that time. They -- when we went inside,
12 they initiated -- they actually located a third
13 subject in the house, and we were finding some brass
14 and everything.

15 Due to the wee hours of the -- by this time, it
16 was almost morning, so Major shorter advised us to
17 go ahead and we could go back. And I believe it was
18 Officer Quattlebaum also went back to work on a
19 search warrant I believe. But we went back to the
20 office, started the report because we also had to
21 come back that night. So we pretty much left it
22 over to the special team and the day shift guys to
23 continue on so we can start the paperwork, get our
24 part done and get some sleep so we can come back
25 that following evening.

1 **Q** Okay.

2 **MR. MAYE:** Answer any questions the defense has
3 for you.

4 **THE COURT:** Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. MADSEN:

7 **Q** Mr. Grenier, you were working at the sheriff's
8 office back then?

9 **A** Yes, sir.

10 **Q** And do you work at the Saluda Sheriff's Office
11 now?

12 **A** Not at this time, no.

13 **Q** And you had said that same day you had been out
14 to the residence?

15 **A** It was earlier that day.

16 **Q** Did you do a report?

17 **A** Corporal Morelli did. It was an escort.

18 **Q** But you would have signed off on that escort
19 report?

20 **A** Corporal Morelli was, he was the supervisor for
21 the shift. He actually did that report.

22 **Q** Would it surprise you to know that that was a
23 couple of days before?

24 **A** No. Those days -- if it was two days prior or
25 the day prior, a year and a half later, I couldn't

1 tell you.

2 Q And it's important when you're in law
3 enforcement to document stuff because y'all work on
4 a lot of cases, don't you?

5 A Yes, sir.

6 Q And memories fade over time, cases can
7 sometimes get muddled, people get muddled, things
8 like that, so it's always important to have what
9 you're doing in law enforcement documented, correct?

10 A Yeah.

11 Q And you testified that you get a 9-1-1 call
12 about shots fired?

13 A Yes.

14 Q And that's out to that Shadow Ridge Court?

15 A (Witness nodded head.)

16 Q And so from a law enforcement's perspective,
17 that's about the most important call that you're
18 going to receive and so you head out there lights
19 and sirens?

20 A Yeah.

21 Q And you're at the tractor pull, so you're maybe
22 a couple of miles, if that?

23 A Yeah, approximately.

24 Q And so you're heading lights and sirens to a
25 place that you think an active shooting is going on

1 per dispatch and then you stop on the way?

2 A Yes, sir.

3 Q And you see a van and you say that you get
4 around and you check that, but then you're going
5 really quickly out to that Shadow Ridge; is that
6 correct?

7 A Yes.

8 Q And you get out to Shadow Ridge and you come
9 upon two individuals?

10 A Two came to the door.

11 Q Two came to the door. The lights are on in the
12 house?

13 A There was a light on outside, like the porch
14 light at the door.

15 Q No lights on on the inside, but there was a
16 porch light?

17 A Couldn't tell you, we didn't get that close.
18 The scene wasn't secure yet. We were still back up
19 the driveway.

20 Q And how long are you there with them?

21 A As long as it took me to ask or Corporal
22 Morelli to ask is anyone hurt, are you okay, go back
23 inside, we'll be right back.

24 Q And no one's hurt as far as you know?

25 A They told us no one was hurt, that they were

1 fine. We said, Go back inside, lock the door.

2 We'll be right back. Fifteen seconds.

3 Q Okay.

4 A You know, quickest --

5 Q And so you're there and you're gone?

6 A Pulled up and right back out.

7 Q And when you say you and Corporal Morelli,
8 y'all are in separate cars?

9 A Yes.

10 Q Do y'all -- one of you arrive there quicker
11 than the other one? Are y'all -- basically, are you
12 one in front of the other?

13 A Pretty much one in front of the other.
14 Initially, as we rolled up, like I say, he was, you
15 know, a few seconds behind me only because he had to
16 secure his dog back in the car before we took off.

17 Q You mean at the tractor pull?

18 A At the tractor pull, that's when he was, you
19 know --

20 Q Does he have like a K-9 unit?

21 A Yes. But other than that, yes, we were --

22 Q So he's pretty quick behind you?

23 A Yeah, he's pretty quick.

24 Q But you were the lead car?

25 A At that time, yes.

1 Q When you see the van and you stop, do you both
2 stop or just one of you?

3 A I stop, but, of course, he was coming up and he
4 stopped, you know, as he come up behind me. We
5 basically stopped right in the middle of the road.

6 Q How long are you at the van?

7 A Got out the car, radioed the tag, walk around
8 it, look in the windows, check the doorknobs, back
9 in the car, again 20 seconds tops maybe. I mean, we
10 had to get to a call, we know that, but because this
11 vehicle had been described to us and it was in the
12 area that we had already been advised about, it was
13 -- it needed to be checked as well. And it was just
14 one of those deals, make sure there was no one in
15 it, there wasn't, it was locked, called someone to
16 sit on it and we went to the scene.

17 Q When you get out to the residence, do you
18 recall the people that come to the door? Is it a
19 man, a woman, two women, two men?

20 A After we went back to the residence, it was --
21 I believe, it was a male and a female, but at the
22 time, I couldn't tell you who it was. It was
23 basically two heads that stuck their, you know, out
24 the door when we rolled up not knowing, you know, I
25 guess who -- they weren't quite sure who we were, as

1 well as we didn't know who they were.

2 Q And so when you're there, you talk with them.
3 When you had been there either earlier that day or a
4 couple of days before, you know Al Jerome Young's
5 wanted, don't you?

6 A They advised us he was, yes.

7 Q The people at the house?

8 A No.

9 Q When you say they, who do you mean?

10 A Corporal Morelli passed on, advised me that,
11 you know, that he -- they were looking for him and
12 he was wanted.

13 Q But when you had gone to Shadow Ridge Court --

14 A There was no one at that residence.

15 Q There was no one there?

16 A Other than -- it was the lady, her husband and
17 the kids, I really couldn't tell you their names,
18 the family that lived there.

19 Q But you all asked if he was there because you
20 knew he was wanted and were told he wasn't?

21 A Corporal Morelli, I believe, talked to them
22 initially and I believe he asked. I couldn't swear
23 to that. I know they told us that if we located
24 him, he was wanted, so, you know, if we came across
25 him, but my knowledge, that's all I knew.

1 Q Okay. Just that he was wanted and if you come
2 across him --

3 A Yeah.

4 Q And so you go back out, then you leave that
5 residence on Shadow Ridge Court and you go back out
6 to, I guess, is it Mine Creek?

7 A (No response.)

8 Q Then go Shadow Ridge to a road with an S and
9 then Mine Creek comes off of that?

10 A Yes.

11 Q And that's where you end up coming out there?

12 A Back out to where the van originally was
13 located, yes.

14 Q I think is it Silver Drive maybe that comes off
15 of Shadow Ridge?

16 A I believe that might be right.

17 Q And so from where that's at to the end of Mine
18 Creek is maybe a couple of miles at the most?

19 A No.

20 Q Is it longer than that or shorter?

21 A I would say shorter.

22 Q Shorter than that. And so y'all come out and I
23 guess Brett Long has been sitting on the car and
24 it's left slowly?

25 A It's starting to pull off, yes.

1 **Q** And y'all basically, when you get out there,
2 it's not some high speed chase or anything like
3 that, y'all pull around or -- either you or Morelli
4 pull around in front?

5 **A** Both Morelli and I, when we left the residence
6 at this time -- the second time, you know, when we
7 left, now Corporal Morelli was in front.

8 **Q** Because he's starting behind you?

9 **A** Well, when we went to the residence, he was
10 behind me. When we went back to the van, he was in
11 front of me. And, at this time -- so he being in
12 front, he went ahead and advanced around to be able
13 to block that road.

14 **Q** And the minivan stops?

15 **A** At that point, yes.

16 **Q** And there's two individuals in the minivan?

17 **A** Yes.

18 **Q** And you said a felony traffic stop. So they're
19 taken out of the minivan or they get out of the
20 minivan and you have them lay down on the ground
21 or...

22 **A** Back up --

23 **Q** Basically, they get out, walk backwards like
24 this {indicating}?

25 **A** -- backwards, they were checked and handcuffed

1 for safety until --

2 Q Hands out. Who handcuffs them?

3 A The Town officer.

4 Q Is that Brett Long?

5 A The female Town officer, I believe, is the
6 actual one that placed the cuffs on them.

7 Q Does she cuff both the driver and the passenger
8 or just one or the other; do you recall?

9 A They were both handcuffed. They were taken out
10 one at a time, cuffed, secured and then the second
11 one was brought out.

12 Q Who was taken out first; do you recall? You
13 would have been behind the van if I understand --

14 A I was behind the van. I was actually issuing
15 the orders. Truthfully, I couldn't tell you. My
16 best recollection I did the driver first, but I
17 couldn't -- I did one --

18 Q Well, that would normally make --

19 A Because, see, I was on the driver's side and I
20 believe I asked the driver to, you know, to step out
21 first and then the passenger.

22 Q And then do you -- you get a call to go back
23 out to Shadow Ridge, don't you?

24 A Dispatch advised of a second 9-1-1 call, yes.

25 Q And you did -- you were the one who ended up

1 doing the report and the supplemental incident
2 report on this case, correct? Would you like to
3 take a look?

4 **A** Yes, please. I believe it was Corporal
5 Morelli, but.

6 **Q** That would be the report that you did, though,
7 right?

8 **A** Actually, he's got me listed there, but I can
9 probably tell you that Corporal Morelli typed this
10 report.

11 **Q** Usually the name on top would be the --

12 **A** Yes, I do, I understand that.

13 **Q** But the name on the bottom would be the other
14 officer that's involved, which would basically be
15 part of that whole investigation?

16 **A** Right.

17 **Q** Kind of two peas in a pod?

18 **A** Everywhere I was, he was and pretty much --

19 **Q** And so in the report, it indicates that you go
20 back out because there's a call back that someone
21 has opened fire on the house and the lights were out
22 then, correct?

23 **A** When we went back the second time, the lights
24 were out.

25 **Q** But the call that you get is that someone's

1 opened fire. Is that in the report?

2 **A** That's what dispatch told us, yes.

3 **Q** And so when you get out there that second time,
4 that front porch light is no longer on, correct?

5 **A** Correct.

6 **Q** It's dark. But we know if someone's still
7 shooting at that residence, that our client's
8 already in custody, isn't he?

9 **A** At the time --

10 **Q** Y'all had already stopped the minivan, got him
11 out, all that good stuff, correct?

12 **A** Correct. At the time the second call came in,
13 we had those -- the subjects were detained, but --

14 **Q** Okay. That's all I was asking.

15 **MR. MAYE:** Your Honor, I'd ask that he let him
16 answer the question. He cut him off. I'd like for
17 him to be able to give a complete answer.

18 **THE WITNESS:** The only -- with that second
19 call, I mean dispatch relayed it to us as a possible
20 second shooter or whatever. What we found had
21 happened, there was no one back at that residence
22 the second time because a round had gone in and
23 punctured the wires and the electrical breaker
24 tripped because when we went back the second time,
25 we were able to turn the lights back on. That was

1 something that, because of everything going on,
2 they're nervous. They, you know, it was said, but
3 it was never confirmed and we could never prove that
4 anybody else was ever out there because it was
5 around -- it had struck the actual service wire to
6 the house.

7 BY MR. MADSEN:

8 Q But it was documented in your report, correct,
9 or yours and Morelli's report?

10 A That's how we received the call, yes.

11 Q And I believe there was even another call about
12 footsteps on the front porch?

13 A That was all part of that second call.

14 Q Now, that area right there, you had said that,
15 I think, when you get on Shadow Ridge, if is
16 here, there's another mobile home over here,
17 correct, and that's the people you talk with?

18 A As I'm looking at this trailer, this is a
19 circle court and there's another one that sits right
20 off to the right back up a little higher on the
21 hill. You can see it in the big photograph here.

22 Q Is there one...

23 A That's the actual residence and that's the
24 other one {indicating}. And the driveway went down.
25 They sit up on the hill a little bit and then you

1 can actually look down the drive a little bit to
2 that actual residence.

3 Q And there's quite a few other residents all the
4 way around there, correct?

5 A Correct.

6 Q Do you and any other law enforcement canvass
7 that neighborhood that night to see if there's any
8 witnesses, if anyone's heard anything or seen
9 anything?

10 A The only ones I spoke to were those other
11 residents. They advised me they did hear the shots.
12 They said they basically grabbed their kids, got in
13 their -- middle of their residence in the living
14 room area on the floor and, you know, wasn't sure
15 what happened. They never looked outside. They
16 just heard the shots.

17 Q And you end up calling, I guess, your on-call
18 supervisor?

19 A Corporal Morelli did. He called out the
20 special teams.

21 Q And that was Captain Shorter?

22 A The SWAT team, the whole team and the
23 bloodhounds.

24 Q After you get out there and have gone back to
25 the residence for a second time, how long is it

1 before they get out there?

2 **A** It wasn't too long, but as far as the first one
3 that showed up, I couldn't tell you. It wasn't a
4 whole long time.

5 **Q** When you get back out there that second time,
6 do you ask if Al Jerome Young is there?

7 **A** No. By that time, the others had -- they asked
8 when they went inside, but -- they actually asked if
9 he was home or whatever. At that point, I wasn't --
10 I was more back. I -- the initial --

11 **Q** So you kind of ceded it over to some other
12 individuals?

13 **A** Major Shorter and the special teams actually
14 walked up to the house before I did and spoke to the
15 people inside. I was back in the back at that
16 point.

17 **Q** Do you collect any evidence that night?

18 **A** No.

19 **Q** Do you take any photographs?

20 **A** I didn't, not from the scene.

21 **Q** Who do you see collect any evidence?

22 **A** I couldn't tell you if there's any collected
23 while I was still on scene or not or if they started
24 collecting it after I went back to start the
25 paperwork.

1 **Q** How about photographs? Do you see anyone take
2 any photographs?

3 **A** Again, not, you know, not the initial. We
4 basically secured everybody and then right after
5 that, you know, it's pretty much, from my knowledge,
6 is --

7 **Q** So you and Morelli don't take any photographs
8 of the house or collect any evidence or anything
9 like that, correct?

10 **A** No.

11 **Q** And you say you had called in the van. Who
12 owned the van?

13 **A** I ran the van. At this point, I'd have to
14 refer to you to look on the paperwork. I couldn't
15 tell you the -- I believe the reason it came back to
16 someone in Williston, but I couldn't tell you who.

17 **Q** And Saluda Sheriff's Department wasn't the
18 first law enforcement agency that you had worked
19 with, was it? You had worked at Batesburg-Leesville
20 prior to that?

21 **A** I worked for Batesburg-Leesville for about
22 eight and a half years prior to that and Ridge
23 Spring for four years before that.

24 **Q** So you've got over a decade of law enforcement
25 experience, correct?

1 **A** Yeah. I've been doing it quite a while.

2 **Q** And you're familiar with what's called GSR or
3 gunshot residue?

4 **A** Yes, sir.

5 **Q** And that's if someone fires a gun, stuff comes
6 out of the gun?

7 **A** Yes.

8 **Q** Not just a bullet, right? There's some gases,
9 some metal, some things like that that come out of a
10 gun. And you can test for those, can't you?

11 **A** Yes.

12 **Q** And, in fact, someone issues a GSR kit to law
13 enforcement to use, don't they?

14 **A** SLED hands out kits, yes.

15 **Q** SLED hands out those kits. And so you can take
16 someone's hands and I guess maybe swab them with
17 Q-tips or something, and then also take something
18 that looks like one of those little stamps and stamp
19 the things on the hands; is that correct?

20 **A** Yes.

21 **Q** And then that can be submitted to SLED and they
22 can tell, hey, did this individual handle a gun or
23 were they in proximity of a gun that's fired; isn't
24 that true?

25 **A** Yeah.

1 **Q** And they can also potentially do that with,
2 say, gloves or items of clothing that's close within
3 that cloud of a gun being fired, can't they?

4 **A** Yes.

5 **Q** Do you ever do any of that that night or see
6 anyone else do that?

7 **A** I did not do it, no.

8 **MR. MADSEN:** Beg the Court's indulgence.

9 (Pause.)

10 **Q** Let me ask you, at some point in time, I guess
11 -- are you working the next night, too?

12 **A** We had to come back in the following evening,
13 yes.

14 **Q** So you're relieved. Do you ever go out and
15 find any -- or walk around looking for any other
16 evidence? Do you come upon anything, any gloves,
17 guns, anything like that?

18 **A** I wasn't part of that.

19 **Q** You were already gone?

20 **A** When they went back to serve the warrants and
21 start that process, that's when Corporal Morelli and
22 myself went home to get some sleep.

23 **MR. MADSEN:** That's all the questions I have.

24 **THE COURT:** Is there redirect?

25 **MR. MAYE:** Nothing else. Thank you, Your

1 Honor.

2 **THE COURT:** All right, sir. You may step down.
3 You're free to leave if you wish or you may remain
4 if you wish.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** Thank you.

7 All right. Ladies and gentlemen, let's take
8 our afternoon break at this time. We'll be in
9 recess approximately 15 minutes. If you wish to go
10 outside and enjoy your break, if our bailiffs will
11 give you that opportunity, enjoy your break. We'll
12 remain where we are while you depart the courtroom.

13 (The jury retires to the jury room.)

14 **THE COURT:** All right. Ladies and gentlemen,
15 we'll be in recess approximately 15 minutes.

16 (Brief recess.)

17 (State's Exhibit Numbers 28 and 29,
18 photographs, marked for identification.)

19 **THE COURT:** It appears we're all in place.
20 Please bring in the jury.

21 (The jury returns to the courtroom.)

22 **THE COURT:** Welcome back again, ladies and
23 gentlemen.

24 And, Prosecution, please, call your next
25 witness.

1 **MR. MAYE:** The State would call Officer Brett
2 Long to the stand.

3 **THE COURT:** Please come forward and take the
4 oath of a witness.

5 WILLIAM BRETT LONG,
6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MAYE:

9 **Q** Officer Long, introduce yourself to the ladies
10 and gentlemen of the jury and tell them where you're
11 employed.

12 **A** William Brett Long. I've been with the Saluda
13 Police Department since August of 2000. I've been
14 there for over 13 years now. I am the -- currently
15 the assistant chief at the police department in
16 Saluda.

17 **Q** Let me direct your attention back to the very
18 early morning hours of April the 13th of 2012. Did
19 you respond to a call to back up and assist the
20 sheriff's office?

21 **A** Yes, I did.

22 **Q** Tell the ladies and gentlemen of the jury
23 exactly what you did in response to that call for
24 assistance and what you saw.

25 **A** On the night in question, I was called by one

1 of the county deputies, either Officer Morelli or
2 Grenier, called, asked could I --

3 **MR. CASTO:** Objection; hearsay.

4 BY MR. MAYE:

5 **Q** Don't go into what they said. But as a result
6 of your conversation, what did you do?

7 **A** I went out Mine Creek Road right outside the
8 city limits to stand by with a vehicle that was left
9 on the side of the road.

10 **Q** What type of vehicle was that?

11 **A** It was a Greenish colored minivan.

12 **Q** Okay. I'd like for you to go down, if you
13 would, off the stand here and I want you to mark on
14 State's Exhibit 2, I want you to take an X and
15 circle it, come down here.

16 **A** (Witness leaves the witness stand.)

17 **Q** Mark this map right where that van was.

18 **A** Rock Hill Road, approximately in this area here
19 {indicating}.

20 **Q** Circle it with a bigger marker if you could.

21 **A** (Witness complies.)

22 **Q** And if you would, write on there, Van's first
23 location, or something to indicate van number one?

24 **A** (Witness complies.)

25 **Q** Okay. So the van was approximately right here,

1 correct?

2 **A** Yes.

3 **Q** Okay. You can retake the stand.

4 **A** (Witness resumes the witness stand.)

5 **Q** What was the next thing or what did you observe
6 when you pulled up on the van? Tell the ladies and
7 gentlemen of the jury everything you did and saw.

8 **A** Well, when I first arrived, when I came down
9 Mine Creek Road, the van was parked off to my
10 left-hand side. The van was facing towards me. So
11 I went around behind the van. There was a driveway
12 back there. I pulled into the driveway and come up
13 behind the van.

14 When I pulled up behind the van, I put my
15 lights on bright and turned on my blue lights, and
16 just shortly there after turning on the blue lights,
17 I noticed a person that undoubtedly was laying in
18 the ditch beside the van sit up, stood up facing me.
19 I immediately got out of my vehicle telling the
20 person to stop, let me see their hands, and they
21 just kind of backed away toward the vehicle, opened
22 the passenger door. They got in the passenger door.
23 At that time, the lights came on on the van and the
24 van slowly started driving off. And it went, I
25 would say, probably a hundred, maybe 200 yards.

1 I notified the other officers that somebody was
2 in the van and the van was leaving. I had my blue
3 light, siren on. And I didn't have -- I don't have
4 a camera in my vehicle, so I couldn't activate the
5 camera, but I followed the vehicle, called it in to
6 dispatch. The van went approximately, maybe 200
7 yards, slowed down real slow almost to a snail's
8 pace. The driver's door and the passenger's door
9 both came open and I was expecting somebody to
10 either jump out or possibly get out shooting because
11 we responded to a shooting call. They never came to
12 a complete stop. They continue on, pulled back in
13 the roadway, go on maybe another quarter mile or so;
14 same thing, ease over to the edge of the road,
15 driver's door, the passenger's door comes open, to a
16 snail's pace. I stopped my vehicle ready to get
17 out, the door was closed, they ease on up the road.

18 And shortly thereafter Officer Morelli and
19 Grenier was leaving from the scene where they
20 responded to the shooting and Officer Morelli --
21 well, both of them passed me, but Officer Morelli
22 passed the van and boxed the van in where he had no
23 choice but to stop and then Officer Grenier come in
24 behind him. Officer Grenier called them out of the
25 vehicle, did a felony traffic stop basically.

1 **Q** At the point in time that the first person
2 stood up in the ditch and got in, was there somebody
3 else in the vehicle as well?

4 **A** I could not see anybody else in the vehicle.
5 The person that was in the ditch, they stood up and
6 got in the passenger side. I didn't notice anybody
7 in the vehicle when I went past it because I really
8 wasn't looking too hard because the deputies had
9 already checked it out prior to my arrival and said
10 no one was there --

11 **Q** Okay.

12 **A** -- at the vehicle. They just wanted me to
13 stand by with the empty vehicle until they got
14 things sorted out at the scene where they went --
15 where they responded to a shooting call.

16 **Q** Each time that the vehicle stopped, how many
17 doors on the vehicle opened?

18 **A** Two.

19 **Q** Okay. How many people, once you eventually got
20 the vehicle stopped, how many people were you able
21 to get out of the vehicle?

22 **A** Two people.

23 **Q** Okay. Where was the defendant in this case,
24 Gerald Williams, when you got him out of the
25 vehicle? Was he in the driver's side or the

1 passenger side?

2 A He was the driver.

3 Q He was the driver?

4 A Yes.

5 Q And O.J. Charley --

6 A Was on the passenger side.

7 Q -- was on the passenger side?

8 A Yes.

9 Q Did you see anybody else get in that vehicle at
10 any point in time during the chase?

11 A No.

12 Q So whoever was in the vehicle had to have
13 already have been in there --

14 A Correct.

15 Q -- at the time you saw O.J. Charley get in the
16 passenger side?

17 A Yes, sir.

18 Q Okay. Will you come off of the stand and mark
19 this map at each location where the vehicle stopped,
20 and would you mark where the vehicle was finally
21 forced to stop by law enforcement?

22 A (Witness leaves the witness stand.)

23 Q Mark the first -- next location, just indicate
24 each place along that line of travel where they
25 hesitated and where you eventually got them stopped.

1 **A** Okay. We started here. The first time that
2 they, I would say, they stopped was somewhere in
3 this area maybe. Then we go on around, around the
4 curve. I remember we went around the curve and it
5 was on the other side of the curve, so somewhere in
6 that area. And then where we finally get them
7 stopped is in that area.

8 **Q** Write, Final stop, right there.

9 **A** (Witness complies.)

10 **Q** Please retake the stand.

11 **A** (Witness resumes the witness stand.)

12 **MR. MAYE:** Your Honor, State's 28 and 29 are
13 going to be in without exception. I have two
14 photographs that the defense is not --

15 **MR. MADSEN:** No objection.

16 **MR. MAYE:** -- stipulating but not objecting to.

17 **THE COURT:** Very good. Have you marked those,
18 Madame Court Reporter?

19 **COURT REPORTER:** Yes, sir.

20 **THE COURT:** Very good. Then in evidence
21 without objection.

22 (State's Exhibit Numbers 28 and 29,
23 photographs, admitted into evidence.)

24 BY MR. MAYE:

25 **Q** I want to show you State's 28 and 29. Tell me

1 what each of those two photographs are by number.

2 **A** 29 is the area where the van was parked when I
3 first initially pulled up on it that --

4 **Q** Write on there, Initial location of the van.
5 Write on the face of the photograph.

6 **A** I'm going to put, First location. Is that
7 fine?

8 **Q** That's fine.

9 **A** (Witness complies.)

10 **Q** What is the other photograph or what number is
11 that?

12 **A** 28.

13 **Q** What does that photograph show?

14 **A** 28 appears to be the area near the end of Mine
15 Creek towards Rock Hill Road where the vehicle was
16 finally stopped.

17 **Q** Put, Final stop, whatever you can do to
18 indicate that.

19 **A** (Witness complies.)

20 **Q** Thank you.

21 **MR. MAYE:** Answer any questions the defense has
22 for you.

23 **THE COURT:** Cross-examination.

24 *****

25 *****

1 CROSS-EXAMINATION

2 BY MR. MADSEN:

3 Q Officer Long, give me an idea between, I guess
4 29 is the first location and 28, how far are we
5 talking about? Less than a mile?

6 A Close to a mile maybe.

7 Q And this wasn't any type of high speed chase,
8 taking off, anything like that. I believe your
9 words were snail's pace?

10 A No, it was not a high speed. And my words,
11 when I mentioned snail's pace, was when the doors
12 came open and the vehicle almost would come to a
13 stop is what I meant to a snail's pace.

14 Q And so where are you when you initially get the
15 call from the county to go out? You're right at the
16 town's edge I guess?

17 A Yes. When the call originally came out, I knew
18 the area. I went to Rock Hill Church, which is
19 inside the city limits, thinking maybe that I would
20 see the vehicle coming back from that area. So I
21 was already at the edge of town when the call came
22 out.

23 Q So you were kind of getting prepared, hey, just
24 in case I need to act?

25 A Yes.

1 **Q** And so you were, at the most, a couple of miles
2 away?

3 **A** Yes.

4 **Q** And when you get a call like that, you run, I
5 guess, code with lights and sirens and you try to
6 get out there as quick as possible to help?

7 **A** Yeah, if I'm requested, yes.

8 **Q** And that's what you did that night?

9 **A** I don't think I ran lights and sirens, though.
10 I wasn't --

11 **Q** I'm not saying you ran a hundred miles an hour
12 or reckless or anything like that, but you get out
13 there as quickly as you can as safe as you can?

14 **A** Sure.

15 **Q** And once you get out there, you end up parking
16 right behind the van. And you said you turn on your
17 lights and you light it up, I guess, with your
18 bright headlights?

19 **A** Correct.

20 **Q** And when you do that, there's someone who's
21 lying in the ditch and that individual gets in the
22 passenger side?

23 **A** That's correct.

24 **Q** You don't see anyone else in the van at that
25 point in time. You don't see anyone in the

1 passenger seat or the driver's seat, but as soon as
2 he gets in the passenger side, the car takes off?

3 **A** That's correct. When I seen this person stand
4 up out of the ditch, I was focused on this person
5 that's standing up that's coming up out of the ditch
6 because that's kind of an odd situation for somebody
7 to be laying in a ditch near a scene where we just
8 had a shooting.

9 **Q** And where you're at you would be on -- there on
10 the side of the road that's pointing towards rock --
11 is it Rock Hill?

12 **A** Rock Hill Road.

13 **Q** Rock Hill Road?

14 **A** Yes.

15 **Q** So they're on that side pointing that way?

16 **A** Yes.

17 **Q** And so you come and you actually pass the van
18 and then come and turn back around on it?

19 **A** I did.

20 **Q** So where you're sitting from, if anyone's
21 crossing Mine Creek in front of you to get in the
22 driver's side, you're going to see that?

23 **A** Yeah, I should have unless they were already in
24 the vehicle.

25 **Q** Right. If they're already in the vehicle,

1 you're certainly not going to see that?

2 **A** Yes, correct.

3 **Q** And once the vehicle stops, you said that
4 there's a felony traffic stop, correct?

5 **A** That's correct.

6 **Q** Which means individuals are told to get out of
7 the van and -- or get out of a vehicle and I guess
8 walk backwards with their hands up?

9 **A** To follow whatever orders that the officer
10 gives them.

11 **Q** Well, that night wasn't -- is it Deputy Grenier
12 was giving the orders?

13 **A** Yes.

14 **Q** And did he have them both come out at the same
15 time or who comes out of the vehicle first, the
16 passenger or the driver?

17 **A** I believe it was the driver that came out
18 first.

19 **Q** And so they don't come out at the same time?

20 **A** No.

21 **Q** So the driver comes out hands up and he's
22 walking backwards?

23 **A** I can't -- I don't know. I can't answer that
24 one because I was back behind them.

25 **Q** Well, you're right behind the vehicle, aren't

1 you?

2 **A** No. Officer Grenier passes -- Officer Grenier
3 and Morelli passes me. Officer Morelli goes in
4 front of the van when it wouldn't stop for my blue
5 lights and blocks him in. Officer Grenier gets in
6 front of me. So his vehicle is in between my
7 vehicle and the van that the guys were in.

8 **Q** Ultimately, our client comes out of the
9 driver's side, correct?

10 **A** Correct. He was driving.

11 **Q** Who puts the handcuffs on him?

12 **A** I believe it was Officer Phillips.

13 **Q** And who is that?

14 **A** That is an officer that worked for the police
15 department also.

16 **Q** In the same car with you?

17 **A** No. She was in her own vehicle.

18 **Q** Do you do any canvassing of the area or
19 anything else in relation to this case that night?

20 **A** No.

21 **Q** Do you just -- once you're done with that, you
22 go back on patrol?

23 **A** Pretty much, yes.

24 **Q** For the City?

25 **A** Yeah.

1 **Q** Do you ever write any kind of a report?

2 **A** No. I didn't write any report or anything that
3 I can remember.

4 **MR. MADSEN:** No further questions, Your Honor.

5 **THE COURT:** Is there redirect?

6 **MR. MAYE:** No. Thank you, Your Honor.

7 **THE COURT:** All right, sir. Chief, you may
8 step down. You're free to leave if you wish or you
9 may remain if you wish.

10 **THE WITNESS:** Thank you, sir.

11 **THE COURT:** Thank you.

12 Please call your next witness.

13 **MR. MAYE:** The State would call Investigator
14 Jesse Quattlebaum to the stand.

15 **THE COURT:** Please come forward and take the
16 oath of a witness.

17 JESSE QUATTLEBAUM,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MAYE:

21 **Q** Investigator Quattlebaum, introduce yourself to
22 the ladies and gentlemen of the jury, tell them
23 where you're from and your background in law
24 enforcement.

25 **A** My name's Jesse Quattlebaum. I'm a lifelong

1 resident of Saluda County, graduated Saluda High
2 School, went to Piedmont Tech, took some classes in
3 criminal justice. I began my career in law
4 enforcement in 2006 at Saluda County Detention
5 Center as a jailer. From there, I moved to the road
6 as a deputy, worked my way up through the ranks and
7 was involved in many aspects of the sheriff's
8 office, including SWAT team, bloodhound team,
9 investigations, several different areas of law
10 enforcement.

11 **Q** Did you respond to a call for assistance in the
12 very early morning hours of April the 13th of 2012,
13 for the event involving this attack on the house at
14 Shadow Ridge Court?

15 **A** I did.

16 **Q** Okay. What did you do? What was the first
17 thing that happened when you became involved?

18 **A** I was actually called out as a part of the
19 bloodhound tracking team on this evening. I
20 responded to the scene and began a preliminary
21 perimeter search, which means the area surrounding
22 the house within the neighborhood where Shadow
23 Court is located.

24 **Q** Okay. Were you ever able -- other than the
25 trail that the two suspects went down or the two

1 people that were taken into custody, did you ever
2 have any other occasion to hit on anything else or
3 have any indication that anybody else was involved?

4 **A** No, sir, I did not.

5 **Q** Okay. But you searched and you did what you
6 could to try to see if there was anyone else?

7 **A** I did.

8 **Q** But you never found any indication of that?

9 **A** No, sir.

10 **Q** Who all was there when you arrived?

11 **A** I live out towards the Lexington County side of
12 Saluda County within Saluda County. I was one of
13 the -- one of the last ones to arrive just because
14 of the location of my residence, how long it took me
15 to be awakened from sleep and get on clothes and
16 drive 20 or 25 minutes.

17 **Q** What was the next thing that you did when you
18 got there?

19 **A** I was assisting in going through the residence
20 to try to locate evidence. When I made it to
21 Mr. Young's room, I located a clear plastic bag
22 containing five, I believe it was five other
23 separate smaller bags with a white powder substance.
24 At that point, we had consent from the residents of
25 the house to come in their house to work the crime

1 scene.

2 When I found these packages, at that time, I
3 believed there may be some illegal drug activity
4 going on within the residence and therefore I backed
5 away from that room. I went back to the sheriff's
6 office. I typed an affidavit and a search warrant
7 to search the residence for drug and narcotics
8 related items. I took that search warrant to Judge
9 Bruce Horne's house. He signed the search warrant
10 validating it, giving me permission to go back in
11 the house and look for drugs or narcotics or any
12 illegal activity related to that.

13 Q Let me ask you this: Were you sworn by the
14 magistrate when you gave the affidavit and when you
15 gave the supplemental oral testimony?

16 A I was.

17 Q Okay. And y'all left a copy of that search
18 warrant at the house, correct?

19 A Yes, sir.

20 Q Okay. And eventually a return was filed back
21 with the magistrate, correct?

22 A That's correct.

23 Q Okay. Those items were eventually tested, were
24 they not?

25 A They were --

1 **Q** Tested negative for a controlled substance,
2 correct?

3 **A** That is correct.

4 **Q** Was there also a vehicle that was in question
5 in this case, and what steps did you take involving
6 the vehicle?

7 **A** The vehicle, as you just heard testimony from
8 Officer Long, was stopped. Two subjects were
9 arrested out of that vehicle and that vehicle was
10 towed to Wynn's collision right here on Batesburg
11 Highway just inside the town limits across from
12 Saluda Hardware.

13 Believing that there could be evidence related
14 to this case in that vehicle, I again typed a search
15 warrant, an affidavit. I took that search warrant
16 to the magistrate's office. I was sworn by the
17 magistrate that everything in it was the truth and I
18 obtained a search warrant for the van that O.J.
19 Charley and the defendant, Mr. Williams, were taken
20 into custody out of.

21 **Q** Pursuant to that search warrant, what items did
22 you take out of that van? What items did you seize?

23 **A** There were two stocking hats, a bandanna, a
24 Tommy Hilfiger jacket, dark in color, and a
25 partially torn rubber latex glove.

1 **Q** Let me ask you if you can identify that?

2 **A** This is the return from the search warrant,
3 which basically is an inventory of everything that
4 we took from the van. It was executed and witnessed
5 by myself.

6 **Q** So you seized partial gloves from out of the
7 van. Where in the van were they located?

8 **A** They were located between the front two seats
9 almost in the rear passenger area of the vehicle.
10 Bucket seats in the front, bench seat as my
11 recollection because -- in the second row, and they
12 were just there in front of the bench seat on the
13 floor.

14 **Q** Okay. After you got the search warrant for the
15 van and seized those items of evidence, did you
16 return back and were you involved in a search or a
17 sweep as it got to be more light in order to locate
18 items?

19 **A** Actually, the roadside search was conducted
20 before the search warrant was conducted of the van.

21 **Q** Okay. All right. So you did the search
22 warrant for the van, and you seized partial gloves,
23 you got the stocking cap and you got the bandanna
24 out of the van, right?

25 **A** (Witness nodded head.)

1 **Q** Okay. And you seized items at the house
2 pursuant to that search warrant, but that was just
3 basically the powder substance that you seized
4 pursuant to that search warrant?

5 **A** Correct.

6 **Q** That tested negative?

7 **A** Correct.

8 **Q** What did you do in order to assist in the
9 search along the direction of travel that y'all had
10 indication that the suspects had fled from the
11 shooting; what did you do?

12 **A** I was part of a search party team, if you want
13 to call it that. We had deputies on each side of
14 the road checking the immediate sides of the road
15 from where the vehicle was stopped by the Town
16 officers and Officer Morelli and Grenier. We
17 started there and we worked our way back toward the
18 residence where the incident had occurred. We had
19 deputies on each side of the road, as I said,
20 checking the roadside and the immediate areas in the
21 wood lines.

22 **Q** Let me show you State's 5 that's already into
23 evidence. What does that depict?

24 **A** This picture depicts a driveway close to the
25 scene of the shooting, and it also depicts where the

1 guns and a partial latex glove and a complete set of
2 latex gloves was found in this area here
3 {indicating}.

4 Q Out around the driveway there?

5 A Yes, sir.

6 Q Okay. I'm going to show you State's 7, 6, 14,
7 8, 10, 9, 13, 11 and 12. Those are already into
8 evidence, but those are photographs of what?

9 A These photographs depict the location where the
10 weapons and gloves were found. There are some
11 close-up shots of each individual glove, as well as
12 the two complete gloves together and a picture of
13 the torn latex glove laying right beside where the
14 weapons were found.

15 Q Okay. And you photographed those, and those
16 are fairly -- those fairly and accurately reflect
17 the location of the partial rubber glove, the
18 complete latex gloves and the weapons there where
19 you found them?

20 A Yes, sir.

21 Q Okay. I'm going to show you what's previously
22 been marked as State's Exhibit 16. I'd like for you
23 to take a look at this item that's in the box marked
24 State's 16.

25 A (Witness complies.)

1 **Q** Ask you to look at that item and check the
2 serial number on it.

3 **A** (Witness complies.)

4 **Q** Is that one of the two weapons, the .40 caliber
5 Smith & Wesson handgun, that you seized there in
6 close proximity to that torn latex glove fragment?

7 **A** This is the Smith & Wesson .40 caliber handgun
8 that I located on Mine Creek Road at the end of the
9 driveway.

10 **Q** Okay. And you checked the serial number and
11 you're certain that's the same weapon?

12 **A** Yes, sir.

13 **THE COURT:** And, ladies and gentlemen, let me
14 just say to you these weapons have been checked.
15 They are not loaded. They have a lock, a trigger
16 lock, in them and cannot be fired in this condition.
17 And we just tell you that simply for your own
18 concern and for your own information.

19 Go ahead, Counsel.

20 BY MR. MAYE:

21 **Q** Without pointing it at anybody, could you take
22 that out and point it towards the wall and just show
23 the ladies and gentlemen that's the .40 caliber
24 Smith that you found?

25 **A** And the magazine.

1 Q The mag was in what condition? Was it empty
2 when you found it?

3 A I believe it was empty.

4 Q No rounds were in the mag?

5 A Correct.

6 Q Okay. I'm going to show you State's 17 for ID
7 at this point in time, ask you if you can identify
8 what's in that box, check the serial number.

9 A (Witness complies.)

10 Q Is that the second weapon that you saw there
11 and located and took photographs of?

12 A Yes, sir.

13 Q Okay. And could you, same thing, could you
14 hold that up and show it to the jury again?

15 A (Witness complies.)

16 Q Did that weapon have a magazine in it as well?

17 A It did.

18 Q Or did it have a magazine? In what condition
19 was that weapon when y'all located it?

20 A The weapon itself is what's commonly referred
21 to as a stovepipe, which simply means as it was
22 working -- as the mechanisms were working on this
23 weapon, as it went to eject one of the shell
24 casings, it didn't have enough powder in it or it
25 malfunctioned in some type of way and the shell

1 casing actually got caught in the breach. When it
2 comes back and goes forward to load another round,
3 the shell casing that was ejecting got caught in the
4 breach and was still in the chamber there in front
5 of the breach.

6 **Q** Which would prohibit that weapon from being
7 fired the next time you pull the trigger, would it
8 not?

9 **A** That is correct because there would not have
10 been an active --

11 **Q** So that weapon had malfunctioned?

12 **A** It would have been a malfunction. There would
13 not have been able to be another live round entered
14 into the chamber because the stovepipe prohibited
15 the breach from closing completely.

16 **Q** Well, you're a law enforcement officer. What's
17 the procedure for clearing a stovepipe jam? How do
18 you do that? What do they teach y'all?

19 **A** They teach us what's called tap rack, which
20 means in this weapon, the magazine's loaded in the
21 front, you would hit the magazine to make sure it
22 wasn't a problem with the spring in the magazine and
23 then you would pull the slide back to chamber
24 another round.

25 **Q** That weapon had obviously not been cleared, it

1 had a malfunction and was still showing evidence of
2 that malfunction, a stovepipe?

3 **A** That's correct.

4 **Q** Okay. With each of those two weapons that
5 you've identified by serial number, State's 16, the
6 .40 caliber Smith, and 17, the Tec-9 style weapon,
7 who did you -- who took custody of those in your
8 presence there that night?

9 **A** I located the evidence and it was in the early
10 morning hours, sunlight had just came in. Being
11 that then Corporal Holmes, now Chief Holmes, was
12 already in control of the chain of custody, was law
13 enforcement term of taking possession of property
14 and keeping up with who had it and where it went, he
15 was in control of that from the incident location
16 that night at Shadow Ridge Court in Saluda
17 County, he was called to my location to actually
18 take possession of it.

19 **Q** Okay. Even though you located certain items of
20 evidence on that night, who was acting as the
21 evidence custodian and took custody of each of those
22 items?

23 **A** Deputy Holmes.

24 **Q** Okay. With the exception of the glove evidence
25 that's contained in State's 27 that Investigator

1 Shorter collected, correct?

2 **A** That's correct.

3 **Q** You didn't have any involvement in 27. If
4 Shorter transferred that to somebody else, that was
5 -- you weren't present at that --

6 **A** That's my understanding, yes, sir.

7 **MR. MAYE:** Begging the Court's indulgence.

8 **THE COURT:** Yes, sir.

9 (Pause.)

10 BY MR. MAYE:

11 **Q** Investigator Shorter {sic}, look at these
12 photographs. And by number, if you would, just go
13 through -- did you observe the house, the trailer
14 house, at was the subject to this? Did you
15 observe the gunshot or the bullet holes in the
16 trailer at that time?

17 **A** I did observe it and these pictures accurately
18 reflect what I saw that night.

19 **Q** Okay.

20 **MR. MAYE:** Begging the Court's indulgence, Your
21 Honor. I'm waiting for one piece of evidence.

22 (Pause.)

23 **MR. MAYE:** And, Your Honor, I don't want to
24 keep holding them up. If I can check with the
25 evidence custodian. I have items of evidence that

1 they were bringing from the sheriff's office in this
2 case, Your Honor, if I can take just a brief recess
3 and let him...

4 **THE COURT:** Well, let's wait a moment before we
5 actually leave the courtroom. We're reaching the
6 end of the day, so let's just stay where we are for
7 the moment.

8 **MR. MAYE:** Thank you.

9 (Pause.)

10 BY MR. MAYE:

11 **Q** Investigator Quattlebaum, let me show you this
12 item right here, ask you to look at that.

13 **MR. MAYE:** I'm going to mark it for ID at this
14 point in time.

15 (State's Exhibit Number 30, partial latex
16 glove, marked for identification.)

17 **Q** I'm going to ask you to look at State's 30,
18 look at the contents, the outside of that is marked,
19 Van. Tell me what that is.

20 **A** It's a partial latex glove.

21 **Q** It's a partial latex glove. Are those the
22 partial latex glove fragments that you located in
23 the van and turned over to Investigator Kes Holmes,
24 who was the evidence custodian that night?

25 **A** It is.

1 **Q** Thanks.

2 **MR. MAYE:** That's 30 at this point for ID only.

3 **THE COURT:** All right. 30 marked for ID only.

4 **MR. MAYE:** I'd like to mark this for ID at this
5 point in time.

6 (State's Exhibit Number 31, glove fragments,
7 marked for identification.)

8 BY MR. MAYE:

9 **Q** 31 for ID. I'm going to show you this item
10 that's marked State's -- or it's marked, Sheriff's
11 department, item number 11, take a look at those,
12 and it's also marked in this case State's Exhibit
13 31. I'll ask you if those are the fragments that
14 you -- gloves that you took from near the weapon
15 that you got a picture of there on the roadside?
16 That would be sheriff's office item 11.

17 **A** Those are the gloves that I located, yes, sir.

18 **Q** And that's glove fragments that you located?

19 **A** It is.

20 **Q** Now, you also located a complete pair of gloves
21 there, but those are just the fragments that you
22 found?

23 **A** That is correct.

24 **Q** Who did you turn that item over -- and that's
25 again State's, what, 31?

1 **A** Yes, sir.

2 **Q** Who did you turn those glove fragments -- or
3 who are those taken into custody by in your
4 presence?

5 **A** Deputy Holmes.

6 **Q** Deputy Holmes, okay.

7 **MR. MAYE:** Let me mark this for ID at this
8 point in time.

9 (State's Exhibit Number 32, bandana and
10 hats, marked for identification.)

11 **Q** 32 for identification. Show you the items
12 marked as State's 32. Ask you if you can go in this
13 bag and look at these two items right here -- or
14 three.

15 **A** (Witness complies.)

16 **Q** You can take them out, count the number of
17 items --

18 **A** It's actually three.

19 **Q** What are those items?

20 **A** It's two black in color stocking hats and a
21 multicolored bandana that I can identify as ones I
22 located in the van pursuant to the search warrant I
23 conducted.

24 **Q** Okay. And so those are the physical items that
25 you seized at the van, the two stocking caps and the

1 bandana?

2 **A** The stocking hat -- the items that I located
3 that Deputy Holmes took into custody.

4 **Q** But those are the two items?

5 **A** Yes, sir.

6 **MR. MAYE:** At this time, I move to admit those
7 items, the stocking caps and the bandana, into
8 evidence. They're nonfungible. There were no tests
9 done. They were just physical items that were
10 seized.

11 **THE COURT:** Is there an objection?

12 **MR. MADSEN:** Judge, we would renew our pretrial
13 objection to those. Additionally, we would object,
14 we don't believe there's been a sufficient
15 foundation or a chain of custody.

16 **THE COURT:** All right. The Court's going to
17 overrule those objections. 32 in evidence over
18 objection.

19 (State's Exhibit Number 32, bandana and
20 hats, admitted into evidence.)

21 **MR. MAYE:** Answer any questions the defense has
22 for you.

23 **THE COURT:** Cross-examination.

24 *****

25 *****

1 CROSS-EXAMINATION

2 BY MR. MADSEN:

3 Q Deputy Quattlebaum, give me an idea, what time
4 do you get to the scene that night?

5 A Without referring to my notes, I couldn't give
6 you an exact time. There's a CAD record, which is a
7 record dispatch keeps the -- would have shown me
8 going on scene I do believe.

9 Q And you initially get out there as a bloodhound
10 tracking team member?

11 A Yes, sir.

12 Q And -- while I'm looking for the photograph,
13 when you -- do you search the van first or the house
14 first?

15 A The house.

16 Q Or the roadway?

17 A The house.

18 Q The house?

19 A Yes, sir.

20 Q Then what?

21 A And then as daylight came up, we began our
22 search of the roadway and then the van.

23 Q And in State's 10, those are a pair of gloves?

24 A That's correct.

25 Q And what color are those?

1 **A** Those gloves are blue.

2 **Q** And is that different than State's 14 glove?

3 **A** Yes, sir.

4 **Q** And what color is that glove?

5 **A** These are a light purple.

6 **Q** And State's 6 which gloves are those?

7 **A** Those are the same as State's 10 just at a
8 different angle.

9 **Q** How about 7?

10 **A** That will be a close-up of one of the blue
11 gloves. You can actually see the other blue glove
12 at the bottom of this picture here.

13 **Q** And then how about State's Exhibit 12?

14 **A** That appears to be the light purple gloves
15 beside the weapons, the particles of the light
16 purple gloves.

17 **Q** And you call those purple not blue?

18 **A** Those right there are light purple. I mean, I
19 can show them to you. They are -- I mean, it's not
20 a whole -- it's not like a deep purple and then a
21 light blue. They are very close to color, but they
22 are different.

23 **Q** And the gun that's marked for State's 16 for ID
24 purposes, that's a Smith & Wesson, I guess, model
25 number SW40BE?

1 **A** That appears correct.

2 **Q** And that's the one you say you photograph,
3 correct?

4 **A** Yes, sir.

5 **Q** Do you document the serial number that day?

6 **A** Deputy Holmes took the weapons into custody.
7 He would have done that when he filled out the chain
8 of custody form I would assume.

9 **Q** But you testified that those were the exact
10 same guns. How do you know if you didn't document
11 yourself that actual serial number?

12 **A** I have reviewed my notes and I can tell you
13 that this serial number was documented that day.
14 And after reviewing the case file, this was the
15 weapon that was found roadside.

16 **Q** But it wasn't documented by you. It was
17 documented by someone else, correct?

18 **A** That's correct. That's fair.

19 **Q** And you said you do a search warrant on the
20 van, correct?

21 **A** That's correct.

22 **Q** And you took two hats and a multicolored
23 bandanna?

24 **A** Yes, sir.

25 **Q** Is that a scarf or a bandana? Like a lady's

1 scarf, isn't it?

2 **A** I'll show you -- it's still tied exactly the
3 way it was. It looks to me like a Jesse James stick
4 'em up bandanna.

5 **Q** But that's not a lady's scarf?

6 **A** You can call it what you want. I mean, it's --
7 could be a scarf, could be a bandanna. I perceived
8 it as a bandana.

9 **Q** And when you served that search warrant, you do
10 that on the 13th of April, correct?

11 **A** On the van?

12 **Q** On the van.

13 **A** Yes, sir.

14 **Q** And once you get done with a search warrant,
15 you're supposed to do a return within ten days to
16 the magistrate; isn't that correct?

17 **A** That's correct.

18 **Q** And, actually, you ended up doing that return
19 Friday, October 11th, 2013. So this last Friday,
20 correct?

21 **A** That's correct.

22 **Q** So instead of ten days, that return's done over
23 a year and a half later, isn't it?

24 **A** Yes, sir.

25 **Q** And you're the one who did that on this Friday

1 or last Friday?

2 **A** I did the return for the search warrant on this
3 past Friday, yes, I did. I did the return for the
4 residence I believe it was that same day or the day
5 after.

6 **Q** And the photographs taken of the outside of the
7 residence --

8 **A** Yes, sir.

9 **Q** -- those were not photographs taken by you or
10 anyone in law enforcement that day back in April,
11 were they?

12 **A** No, sir.

13 **Q** Those were actually taken this last Friday,
14 correct?

15 **A** I can't testify to when they were taken. I can
16 tell you that I did not take those photographs on
17 that day.

18 **Q** You have no idea when they were taken?

19 **A** No, sir.

20 **Q** And so you say that there are items that are
21 bullet holes. You have no idea if what's in the
22 side were there that night or not. I mean, you
23 haven't seen it since that day, have you?

24 **A** No, sir. I've not been back to the residence.

25 **Q** You didn't count those things and say, okay,

1 there are -- on this piece, there are five bullet
2 holes here and I recognize those five bullet holes,
3 correct?

4 **A** That's correct.

5 **Q** And when I say bullet holes, those are your
6 words, aren't they? Did you take, or anyone else in
7 law enforcement, take bullets out of the holes?

8 **A** I did not take any out. I do want to say there
9 was a slug removed from the residence.

10 **Q** But, I mean, are they something similar to
11 what's been on State's 18, something like down here
12 that's a dent? Is that what y'all are calling a
13 bullet hole?

14 **A** I don't think I understand your question.

15 **Q** These items down here, we see a lot of little
16 dimples down there. Are those supposed to be bullet
17 holes?

18 **A** No, sir. I would say that your bullet holes
19 are where you can actually see the insulation from
20 the door where something passed through it. You can
21 tell this one and this one {indicating}, one of them
22 was coming in and one of them was coming out just by
23 the way the metal is. Obviously, these appear to be
24 bullet holes, something that went through that glass
25 at a very high velocity.

1 Q Well, something goes through that, but you
2 can't sit here and tell me that you know that a
3 bullet's made that if I took a screw driver and
4 jammed it in there?

5 A I can say with a pretty good inference that a
6 small child didn't throw a golf ball at it and cause
7 that damage.

8 Q I'm not saying that they did, but you've got to
9 see that to know unless someone pulls a bullet out
10 of there, right?

11 A Not knowing any facts about this case, if I saw
12 that door, I would infer that a bullet struck it.

13 Q Well, let me ask you then what are we talking
14 about when you talked about, I guess, 24, 25, 23,
15 are those bullet holes, are those indentations, are
16 those a combination?

17 A Well, I mean, there are several markings on the
18 trailer.

19 Q It's a pretty beat up trailer, isn't it?

20 A It is. I'll agree with you on that.

21 Q And it was an older trailer?

22 A Yes, sir. But it's quite obvious where
23 something went through the siding at a high
24 velocity.

25 Q And then like 23, we know that that door that's

1 on that trailer is -- that's not supposed to be the
2 same door as that night, correct?

3 A Correct.

4 Q You have no idea what's happened to that
5 trailer in the 18 months interim?

6 A I do not have any idea.

7 Q In fact, it's vacant now, isn't it?

8 A I could not tell you. I'm not sure.

9 Q What's been marked for ID as State's Exhibit
10 Number 31, what is that?

11 A Partial latex glove.

12 Q Where is that supposed to have come from?

13 A The roadside.

14 Q What's that?

15 A The roadside with the weapons.

16 Q Roadside. And so when you ID'd those, you
17 didn't -- I mean, those are just generic latex
18 gloves that people have all over the place for
19 medical, for stuff like that, correct? There's
20 nothing special about those type of gloves?

21 A That's correct.

22 Q And, yet, you ID them without ever actually
23 pulling them out of the bag. How do you know that
24 that's the same ones that you collected?

25 A Because it's placed in this bag that has item

1 number 11, which correlates with the chain of
2 custody form that Deputy Holmes produced that says
3 what it was.

4 **Q** But as far as the physical glove itself, you
5 have no idea? In other words, you can't say, hey,
6 it was in a star pattern or a triangle or something
7 like that, can you?

8 **A** I don't think I understand. You're talking
9 about the way the glove was laying?

10 **Q** Well, just the glove in and of itself or the
11 piece of the glove in and of itself?

12 **A** I can just refer to my pictures as to how it
13 was laid.

14 **Q** How about when you do the search warrant out at
15 the house, how about the photographs out of the
16 house that night? Did you take photographs that
17 night?

18 **A** No, sir..

19 **Q** Who did?

20 **A** I'm not sure. That wasn't a duty I was tasked
21 with. I was tasked with obtaining a search warrant
22 for the narcotics and did the preliminary perimeter
23 search around the residence, and subsequently
24 located the guns and gloves on the roadside the
25 following morning.

1 **Q** Did you see anyone take any photographs that
2 night at the residence?

3 **A** I don't recall. I know there were photographs
4 taken because that's -- I mean, that's just
5 something you would do at a crime scene. I'm not
6 sure who took them or what has happened to them
7 since then.

8 **Q** But that would be normal for law enforcement to
9 do that, wouldn't it?

10 **A** It would be. I agree with you, yes, sir.

11 **Q** You had testified, I guess, that you were
12 allowed in the residence, you found some things
13 that, in your training and experience, tells you
14 were narcotics, so you backed out and then got a
15 search warrant, correct?

16 **A** That's correct.

17 **Q** And I guess what we're talking about is
18 Defendant's Exhibit 3?

19 **A** Yes, sir.

20 **Q** And in your experience, that's normally
21 associated with those little baggies with some type
22 of narcotic sales, operations or something like
23 that, correct?

24 **A** It appeared to me that night, and still does,
25 to be packaged that way for that reason.

1 Q In your training and experience with law
2 enforcement, have you ever come across people
3 storing their roach poison that way?

4 A No, sir, not to say that it couldn't be done,
5 but I haven't ever, no, sir.

6 Q And you filed a return on a search warrant for
7 the house, didn't you?

8 A Yes, sir.

9 Q And when you do that, I think your testimony
10 was that, hey, I see some stuff. I think it's
11 drugs, so I back out and I get a search warrant.
12 And that's actually listed on that return, isn't it?

13 A What's that?

14 Q The little baggies in 3.

15 A Yes, sir.

16 Q Along with some digital scales?

17 A Yes, sir.

18 Q Which, in your experience, used to weigh drugs
19 or things along those lines, correct?

20 A Yes, sir.

21 Q Cigar cutter, used in narcotics operations
22 also?

23 A Yes, sir.

24 Q And the search warrant return from the home,
25 you want to list all the items or law enforcement

1 wants to list all the items that they take pursuant
2 to that on that return, correct?

3 A Pursuant to the search warrant, yes, sir.

4 Q It's important because you're kind of starting
5 a chain of custody or a documentation of evidence,
6 aren't you?

7 A Yes, sir.

8 Q And the reason that that's -- that that is
9 important is because you work a lot of cases, it
10 helps to refresh your memory, doesn't it?

11 A Yes, sir.

12 Q So you don't get, over time, don't get a couple
13 of cases mixed up?

14 A (Witness nodded head.)

15 Q And so you're kind of building that foundation
16 of that evidence so that you know what hands it's
17 passed to or where it came from, correct?

18 A Yes, sir.

19 Q And when you turn items into evidence, there is
20 a property receipt generated, correct?

21 A Yes, sir.

22 Q To show that, hey, this is how that item ended
23 up in the evidence locker; isn't that true?

24 A Yes, sir.

25 Q Can you tell me then why there is no such

1 property receipt for the hats and the woman's scarf
2 or the bandana?

3 A It's listed on the return.

4 Q But that's different than the sheriff's
5 property receipt, isn't it?

6 A There usually is a form filled out. Sometimes
7 we write it on the brown paper sack itself and --
8 but, yes, sir, there usually is a chain of custody.

9 Q And are you the one who collects the roach
10 poison, the scales, the cigar cutter? Are you the
11 one who physically collects that or do you call --

12 A Deputy Holmes collected the --

13 Q You bring him over to it and say, hey, here it
14 is. Were there other items that you did that on?

15 A As I stated, my job, before going into the
16 residence, took some time outside. When I went in,
17 that was the first room I went to. I located those
18 items that I believed were involved in illegal
19 narcotic activity. I went back and obtained a
20 search warrant, which, you know, can take some time,
21 not a whole long time, but can take some time and
22 those were essentially my job functions that night
23 as I've testified to.

24 Q By the time you get out there, my client's
25 already been taken away?

1 **A** Yes, sir.

2 **Q** So you don't see him, correct?

3 **A** That's correct.

4 **MR. MADSEN:** Beg the Court's indulgence.

5 (Pause.)

6 **MR. MADSEN:** No further questions, Your Honor.

7 **THE COURT:** Is there redirect?

8 **MR. MAYE:** Nothing else. Thank you.

9 **THE COURT:** All right, sir. You may step down
10 and return to the prosecution table.

11 **THE WITNESS:** Thank you, Your Honor.

12 **THE COURT:** Thank you.

13 Counsel, step up and let's talk about
14 scheduling for a moment, please.

15 (Whereupon, a bench conference was held off
16 the record, in the presence of the jury, but out of
17 the hearing of the jury.)

18 **THE COURT:** Ladies and gentlemen, just talking
19 a little about scheduling. And what we're going to
20 do is we're going to end the proceedings for today.
21 To call an additional witness, it would go beyond
22 the end of the day and then would not have time for
23 cross as well. So rather than split up a witness,
24 we will stop, come back tomorrow morning at 9:30
25 just as we did today.

1 Again, I'm going to ask you, please, your loved
2 ones at home, tell them the Court has asked you not
3 to discuss the facts with them or with anyone else.
4 And just have a good evening, get a good night's
5 rest and we'll see you at 9:30 tomorrow morning.
6 Any questions about scheduling?

7 All right. Well, we'll remain here as we had
8 to do every day out of respect for you as you leave.
9 Have a nice evening, what's left of it, and we'll
10 see you at 9:30 tomorrow morning.

11 (The jury was excused for the day.)

12 **THE COURT:** And before we close this record for
13 today, anything from the State with regard to the
14 record?

15 **MR. MAYE:** Nothing from the State, Your Honor.
16 Thank you for the Court's patience.

17 **THE COURT:** And from the defense?

18 **MR. CASTO:** No, sir, Your Honor.

19 **THE COURT:** All right. Then hearing none, we
20 will be in recess until 9:30 tomorrow morning.

21 (The proceedings were concluded for October
22 15, 2013.)

23 (The following proceedings were held on
24 October 16, 2013.)

25 **THE COURT:** Our last juror has just arrived and

1 so we are ready to go. Is there anything for our
2 record before we bring in the jury from the State?

3 **MR. YOUNG:** No, sir.

4 **THE COURT:** From defense?

5 **MR. CASTO:** No, sir, Your Honor.

6 **THE COURT:** Are you ready with your first
7 witness, Mr. Young or Mr. Maye?

8 **MR. YOUNG:** We are, Your Honor.

9 **THE COURT:** All right. Well, let's bring in
10 the jury, please.

11 (The jury enters the courtroom at 9:33 a.m.)

12 **THE COURT:** Good morning, ladies and gentlemen.
13 Good to see these smiling faces back at our
14 courthouse again this morning. Let me ask, since we
15 were last together, is there any juror who's had a
16 discussion of the facts concerning this case with
17 anyone? If so, please raise your hand.

18 Let's let the record reflect no one's raised
19 their hand.

20 Thank you again for complying with the Court's
21 request. You will recall we ended the day in the
22 State's case. We remain there this morning.

23 And so, Prosecution, please call your next
24 witness.

25 **MR. YOUNG:** Thank you, Your Honor. The State

1 calls Kes Holmes.

2 **THE COURT:** All right. Please come forward and
3 take the oath of a witness.

4 KES HOLMES,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. YOUNG:

8 **Q** Sir, would you give us your full and complete
9 name and tell us what you do for a living?

10 **A** Kes Holmes. I currently work at the Saluda
11 Police Department.

12 **Q** How long have you been doing that?

13 **A** I've been at the police department for almost a
14 year. Before that, I was at the sheriff's office
15 for about seven years.

16 **Q** Okay, sir. Were you with the sheriff's office
17 when this incident occurred back on April 13th of
18 2012?

19 **A** I was.

20 **Q** And, sir, what were your duties then?

21 **A** I was a road deputy.

22 **Q** Road deputy that does -- responds to requests
23 where other people tell them what to do?

24 **A** That's right, call to service.

25 **Q** Yes, sir. Now, with regard to that, on April

1 13th, 2012, were you called to service in the Mine
2 Creek Road area, the Shadow Ridge Court area?

3 **A** I was.

4 **Q** What happened?

5 **A** We got a call. I don't remember exactly what
6 time, late hours of the night, early morning,
7 stating they needed all available deputies, there
8 had been a shooting and to come assist with that.

9 **Q** While you were assisting there, were you given
10 any specific responsibilities with the collection of
11 the evidence?

12 **A** I was. I did the initial intake of the
13 evidence at the scene.

14 **Q** Okay, sir. And do you recall what you
15 recovered in part at the scene, just roughly, idea
16 of what you recovered?

17 **A** I do. At the actual incident location,
18 Shadow Ridge Court, I received 14 shell casings, a
19 lead bullet from inside the laundry room, two lead
20 bullets from inside the kitchen, three bullet
21 casings in the residence.

22 **Q** All right, sir. With regard to the casings
23 outside the residence, what did you do in the
24 collection of those particular pieces of evidence?

25 **A** They were placed into a paper bag. They were

1 sealed and --

2 Q And then you turned that over to who?

3 A They were turned over to Scott Wilson to be
4 placed into evidence at the Saluda Sheriff's Office.

5 Q Would you be able to recognize that plastic bag
6 -- or paper bag again if you saw it?

7 A I would.

8 (State's Exhibit Number 33, shell casings,
9 marked for identification.)

10 Q Sir, I'm going to hand up a plastic bag, in
11 which appears to be a paper bag, it's marked as
12 State's Exhibit 33 for identification. If you can
13 take a look at that and tell me if you can recognize
14 the paper bag.

15 A I do.

16 Q All right, sir. Now, do you know inside that
17 plastic bag that there are certain items in there,
18 what are they?

19 A They are. They are shell casings.

20 Q How many are there in there?

21 A Fourteen.

22 Q Okay. And how many shell casings did you place
23 in the paper bag?

24 A Fourteen.

25 Q Okay. Is that the paper bag in which you

1 placed those shell casings?

2 A It is.

3 Q And are those the shell casings you placed in
4 that bag?

5 A They are.

6 Q Now, sir, when you did that, where were you, in
7 what area did you pretty much do this collection?

8 A They were gathered all throughout the yard at
9 Shadow Ridge Court.

10 Q Okay. Now, this yard area, there's a driveway
11 connected with it and other things?

12 A It is.

13 Q Can you describe this area just generically?

14 A The house sits at a cul-de-sac. That's the
15 driveway that goes down to the door, which would be
16 the end of the house. They were gathered from the
17 driveway throughout the yard around the residence.

18 Q Okay. Would you say within the curtilage?

19 A Exactly within the curtilage.

20 Q Okay. All right. So in collection of these
21 items, did you do anything specifically in
22 collection of these items in placing them in this
23 bag other than pick them up from the ground and set
24 them in the bag?

25 A That's all I did. I had latex gloves. They

1 were gathered, placed in the bags and labeled and
2 sealed.

3 **Q** Okay. And then you took them -- as you placed
4 them in this bag, did you do anything to seal the
5 bag?

6 **A** I did.

7 **Q** Okay. And the bag was sealed, and then did you
8 make any markings on the outside of the bag?

9 **A** I did.

10 **Q** What type of markings did you make?

11 **A** On here, it was written that it was 14 casings
12 from outside. Then they're numbered. The number is
13 item number six, which placed into evidence.

14 **Q** Okay. That would have been your evidence
15 number that you place on it?

16 **A** Correct. We use that at the sheriff's office,
17 though.

18 **Q** Right. Just to account for --

19 **A** Evidence -- right, to account for it.

20 **Q** And then after you did the business of
21 collecting and placing them in that bag, what did
22 you do with the bag?

23 **A** It was turned over to Scott Wilson, who is the
24 evidence custodian for the sheriff's office and
25 placed into the evidence room at the sheriff's

1 office.

2 Q From the time you seal that bag after you
3 collected them -- let's start before then. Let's
4 say before you actually picked them up off the
5 ground, did you make any change in the condition of
6 these particular?

7 A I didn't --

8 Q -- firearm -- items of evidence?

9 A No, sir.

10 Q Did you make any change after you put them in
11 the sealed bag, reopen the bag or anything like
12 that?

13 A I didn't.

14 Q So when you turned them over to Scott Wilson,
15 was it still in the sealed condition?

16 A They were.

17 Q All right. Now, those are -- those are shell
18 casings. Were there other items of evidence that
19 you collected in connection with this, such as
20 firearms?

21 A There were.

22 Q What were they?

23 A I collected three different firearms. One was
24 from Shadow Ridge Court. Two were from the end
25 of the driveway at Mine Creek Road.

1 Q Okay. Now, the ones on Mine Creek Road, where
2 were they located?

3 A They were located in the ditch, just across the
4 ditch from the paved road, kind of in the corner.
5 It was a long driveway going off the paved road.
6 They were laying there in the ditch kind of in the
7 corner, probably, I don't know, 30 feet from the
8 road or so.

9 Q All right. Let me show you what's been
10 admitted as State's Exhibit Number 8 and State's
11 Exhibit Number 4, and ask you if you can recognize
12 those photographs. And if they bear any
13 relationship to the collection of this evidence,
14 would you describe it?

15 A Number 4 is the actual driveway. That's the
16 corner where we located the firearms.

17 Q Okay.

18 A And the glove pieces.

19 Q So would you hold that up for the jury to see?

20 A (Witness complies.)

21 Q This is the driveway area. Point to the area
22 you're talking about.

23 A It'd be in this corner {indicating}, right here
24 at the driveway.

25 Q All right. Now, would you describe the other

1 photograph if you recognize it?

2 **A** Yes. These are firearms that were located
3 there at the driveway, State Number 8.

4 **Q** Okay. All right, sir. Now, you said you
5 collected firearms at that location?

6 **A** I did.

7 **Q** I'm going to hand up to you what has been
8 marked as State's Exhibit Number 17 and ask you if
9 you can identify this?

10 **A** I do.

11 **Q** What is that, sir?

12 **A** It is a AA Arms AP9 9mm.

13 **Q** Does it bear any relationship to the case at
14 bar?

15 **A** It is.

16 **Q** How does it bear upon this case? What is that
17 weapon --

18 **A** It's the firearm we found in the ditch. I had
19 the serial number recorded, serial number 053915.

20 **Q** Is that the firearm located or identified in
21 part with --

22 **A** It is. It's one of them.

23 **Q** -- State's Exhibit Number 8?

24 **A** It is.

25 **Q** Okay. And when it was received from the

1 ground, did you note whether it had a magazine with
2 it and whether the magazine was loaded or not?

3 **A** It did have a magazine in it.

4 **Q** It did have a magazine?

5 **A** Yes.

6 **Q** Was there any operational problem with the
7 weapon that --

8 **A** It had a malfunction in it when we found it,
9 typically called a stovepipe.

10 **Q** And what's a stovepipe?

11 **A** It's basically when it -- another round is
12 caught in the breach and it prevents the bolt from
13 closing on the next round.

14 **Q** Is there sort of a directional quality to this
15 round that's caught in the breach?

16 **A** It is. It's normally sticking up, which the
17 term stovepipe comes from.

18 **Q** Okay. So the shell casing in that's open, it's
19 pointing up in the air?

20 **A** Right.

21 **Q** Okay. So there was a condition like that. And
22 was the magazine loaded?

23 **A** It was.

24 **Q** Do you know what the capacity of that magazine
25 is?

1 **A** It appears to be a 20-round magazine.

2 **Q** Do you know how many rounds were actually in
3 the magazine?

4 **A** Yes, sir. Eleven rounds.

5 **Q** Okay. And the capacity of the magazine was
6 what?

7 **A** Twenty.

8 **Q** So one stovepipe and nine in the magazine?
9 One stovepipe a round --

10 **A** Right.

11 **Q** -- and one found in the magazine. Now, in
12 collecting this particular piece of evidence, what
13 actions did you take to collect it?

14 **A** Again, I wore latex gloves. The items were
15 placed into a paper bag, labeled and sealed.

16 **Q** Do you see evidence of a paper bag in that box?

17 **A** The paper bag is here. Placed in this bag
18 {indicating}.

19 **Q** Does it bear any markings you placed on it?

20 **A** It does have -- it's I-23, I believe, is the
21 SLED marking.

22 **COURT REPORTER:** I'm sorry. I didn't
23 understand what you said.

24 **THE WITNESS:** I-23.

25 BY MR. YOUNG:

1 Q When you accounted for this on your inventory,
2 what number did you place on it?

3 A Placed under item number eight.

4 Q Okay. So it was delivered to whom after you
5 collected it?

6 A To Scott Wilson.

7 Q All right. Now, with regard to that particular
8 item, you did what with the paper bag?

9 A Placed in there and sealed, turned over --

10 Q You make any change in the condition and
11 quality --

12 A No, I didn't. It was turned over to Scott
13 Wilson.

14 **COURT REPORTER:** Y'all can't talk over each
15 other.

16 BY MR. YOUNG:

17 Q I need you to let me ask the question first.
18 Did you make any change in the quality, condition or
19 contents of the bag after it was placed in the bag?

20 A I didn't.

21 Q Did you make any change in the condition of it
22 before you placed it in the bag?

23 A I didn't.

24 Q All right. And from the time you had it until
25 you delivered it to Scott Wilson, did anyone else

1 come into custody of it?

2 **A** No.

3 **Q** By the way, where did this evidence exchange
4 take place with regard to the two items of evidence
5 we've already talked about?

6 **A** It was done at the sheriff's office.

7 **Q** Done at the sheriff's office, okay.

8 **MR. YOUNG:** Your Honor, at this time, the
9 State's going to go ahead and move to admit State's
10 Exhibit Number 33 for identification.

11 **THE COURT:** Is there an objection?

12 **MR. MADSEN:** Your Honor, we would renew our
13 objections pretrial. Additionally, we believe that
14 these items are fungible and, therefore, a full
15 chain of custody has not been established and would
16 object on that basis.

17 **THE COURT:** All right. I overrule on the chain
18 of custody issue and also have previously denied the
19 pretrial objections. So, thus, 33 in evidence over
20 objection of the defendant.

21 (State's Exhibit Number 33, shell casings,
22 admitted into evidence.)

23 BY MR. YOUNG:

24 **Q** Is State's Exhibit Number 17, the .9mm pistol
25 that I showed you by serial number and by other

1 identification, the item that you collected at the
2 roadside at Mine Creek Road?

3 **A** That was the AA Arms 9mm, serial number 053915,
4 it is.

5 **Q** Is that the item you collected?

6 **A** That is.

7 **MR. YOUNG:** The State moves to admit State's
8 Exhibit Number 17.

9 **THE COURT:** Is there an objection to 17?

10 **MR. MADSEN:** Yes, Your Honor. We have the same
11 objection. We renew our pretrial motion and,
12 additionally, a objection on the chain of custody.

13 **THE COURT:** All right. Let's proceed with the
14 next one. Go ahead, Counsel.

15 BY MR. YOUNG:

16 **Q** With regard to State's Exhibit Number 16, I'll
17 hand this up to you and ask you if you can identify
18 it?

19 **A** I can.

20 **Q** How do you identify it, sir?

21 **A** It's item number nine, the sheriff's office
22 property received. It's a Smith & Wesson 40VE,
23 serial number DSL-5282.

24 **Q** And this item was collected where?

25 **A** It was found at the end of the road at Mine

1 Creek Road by the driveway along with the previous
2 firearm.

3 Q Is that firearm also visible in State's Exhibit
4 8?

5 A It is.

6 Q All right. Was it received at the time of the
7 magazine or not?

8 A It was.

9 Q What was the condition of the magazine?

10 A It was empty.

11 Q What's the capacity of the magazine?

12 A Fourteen, holds 14 rounds.

13 Q And it was empty?

14 A It was.

15 Q All right. And is that the condition you found
16 it in at the roadside?

17 A It is.

18 Q What did you do with that when you found it?

19 A I picked it up. Again, I had latex gloves on,
20 picked it up, placed it into a bag and sealed it.

21 Q Is the bag you placed it in part of that?

22 A It is. That's it.

23 Q All right. The collection with -- the
24 collection of that particular firearm, before you
25 picked it up and placed it in the bag -- after you

1 picked it up and before you placed it in the bag,
2 did you make any change in its condition?

3 **A** I didn't.

4 **Q** Did you make any change at all with regard to
5 the weapon in any regard?

6 **A** I did not.

7 **Q** Did you allow anyone else to have access to it?

8 **A** I didn't.

9 **Q** From the time you placed it in the bag -- after
10 you placed it in the bag, did you seal it?

11 **A** I did.

12 **Q** After you sealed the bag, did you allow anyone
13 else to come into custody?

14 **A** I didn't. I turned it over to Scott Wilson,
15 again, to put into evidence, but --

16 **Q** Did you reopen that bag for any reason --

17 **A** I did not.

18 **Q** -- to change its content, quality or character
19 of the contents?

20 **A** I didn't.

21 **Q** All right, sir. And you said you turned that
22 over to Scott Wilson?

23 **A** I did.

24 **Q** And is that the firearm, the .40 caliber Smith
25 & Wesson, that you found by the roadside?

1 **A** It is.

2 **Q** Do you know about approximately what time both
3 of these firearms were found?

4 **A** It was early in the morning right after
5 daylight. If I had to guess, I'd say around 7:00,
6 but that's proximate.

7 **MR. YOUNG:** Your Honor, the State moves to
8 admit State's Exhibit Number 16.

9 **THE COURT:** All right. Do you have the same
10 objection as to 16?

11 **MR. MADSEN:** It is, Your Honor, as to the last
12 one.

13 **THE COURT:** Very good. For both 16 and 17,
14 then the Court denies those objections and admits
15 Exhibits 16 and 17 over objection. You may proceed.

16 **MR. YOUNG:** Thank you, Your Honor.

17 (State's Exhibit Numbers 16 and 17 admitted
18 into evidence.)

19 BY MR. YOUNG:

20 **Q** With regard to your actions on that day, sir,
21 you had collected firearms from the roadside?

22 **A** I did.

23 **Q** Now, in the photograph that I held up to you,
24 are there other objects other than firearms present
25 in that photograph? State's Exhibit Number 8 is the

1 one I'm specifically referring to.

2 **A** There are. It's latex gloves.

3 **Q** Latex gloves. Okay, sir. Latex gloves -- and
4 what was their condition when you observed them?

5 **A** It was several pieces. It had some tears in
6 them, kind of wadded up, laying on top of the
7 firearms.

8 **Q** Okay, sir. Now, there were pieces of gloves
9 located with the firearms and were there also pieces
10 of gloves located in another location?

11 **A** There were.

12 **Q** Where were these other pieces of gloves
13 located?

14 **A** They were located in a van.

15 **Q** In the van?

16 **A** Yeah.

17 **Q** Now, did you retrieve these individual items of
18 evidence from these two different locations?

19 **A** I did.

20 **Q** Now, did you separately mark and put in these
21 separate pieces of evidence in two separate
22 locations?

23 **A** I did.

24 **Q** When you received them?

25 **A** I did.

1 Q Did you mark the outside of the bags?

2 A I did.

3 Q If I showed you State's Exhibit Number 30 and
4 had you look at it, could you tell me if that bears
5 any relevance to your testimony you just provided?

6 A This was the bag that has the pieces of gloves
7 taken from the van.

8 Q Are those the pieces of gloves that you
9 retrieved from the roadside from the van?

10 A These weren't from the roadside. These were
11 actually in the van.

12 Q These were in the van?

13 A In the van.

14 Q So the van itself is where you retrieved it
15 from, inside the van?

16 A That's correct.

17 Q Do you recall where in the van?

18 A Recall where it was?

19 Q Specifically where?

20 A It had been towed. It was at Wynn's Collision
21 on Batesburg Highway.

22 Q Okay. So you retrieved it at that location
23 from there?

24 A I did.

25 Q How did you retrieve it from the van?

1 Specifically, what technique did you use in
2 retrieving that particular piece of evidence?

3 **A** Again, I had latex gloves on. I placed it in
4 this bag and sealed it.

5 **Q** All right. When you picked up these pieces of
6 gloves, from the time you picked it up until you put
7 it in the bag, did you make any change in its
8 condition --

9 **A** I did not.

10 **Q** -- quality or character?

11 **A** I didn't.

12 **Q** Did anyone else have access to it?

13 **A** They didn't.

14 **Q** After you placed it in the bag, what did you do
15 with it?

16 **A** I took it to the sheriff's office and it was
17 turned into evidence.

18 **Q** Did you make any effort to seal the bag?

19 **A** I did.

20 **Q** All right. Was that bag sealed?

21 **A** It was sealed.

22 **Q** And you sealed it where? Where did you seal
23 it?

24 **A** When I got it out of the van at Wynn's
25 Collision Center.

1 **Q** All right. Upon seeing the bag, you then did
2 what with it?

3 **A** I took it to the sheriff's office and it was
4 turned over to Scott Wilson.

5 **Q** With regard to those particular pieces of
6 evidence, those specific pieces of evidence, that
7 one, did you make any change in its condition,
8 quality or character from the time you received it
9 and placed it in the sealed condition until you
10 turned it over to Scott?

11 **A** I did not.

12 **Q** All right, sir. Now, with regard -- you said
13 there was another item of evidence that you received
14 connected with this that were gloves?

15 **A** There was. It was more gloves.

16 **Q** Were these fragments or whole gloves?

17 **A** They were fragments also.

18 **Q** Let me show you what's been marked as State's
19 Exhibit Number 31. What is that, sir?

20 **A** It's pieces of purple latex gloves.

21 **Q** Pieces of purple latex gloves?

22 **A** Yes, sir.

23 **Q** Do you know where those pieces of gloves were
24 retrieved?

25 **A** They were retrieved from the roadside, Mine

1 Creek Road.

2 Q Are those the gloves that are visible in
3 State's Exhibit Number 8?

4 A They are.

5 Q Sir, how did you retrieve those gloves?

6 A Yeah, I had latex gloves on. I picked them up,
7 placed them into this paper sack.

8 Q I'm going to apply the same --

9 A They were labeled and sealed.

10 Q I want to ask you the same questions. Before
11 you picked them -- or after you picked them up, did
12 you make any change in the quality or character or
13 contents of any manner before you placed them in a
14 bag?

15 A I didn't.

16 Q After you placed them in the bag, what did you
17 do with the bag itself?

18 A It was taken to the sheriff's office and turned
19 over to Scott Wilson.

20 Q Did you seal the bag?

21 A I did.

22 Q Did you seal the bag at the roadside or at the
23 sheriff's office?

24 A At the roadside.

25 Q After you sealed the bag and until you

1 delivered it to Scott Wilson -- or excuse me -- who
2 did you deliver it to later?

3 **A** Scott Wilson.

4 **Q** Until you delivered it to Scott Wilson, did you
5 make any change in its quality, contents or
6 character before you delivered it to him?

7 **A** I did not.

8 **MR. YOUNG:** Your Honor, for the Court's
9 information, I am going to return State's Exhibit
10 Number 33 to the bag from which it was obtained.
11 This bag, for the record, is marked with the outside
12 marking of L12-0459 C number A, which is a, I
13 believe, a container number. This is the bag from
14 which I retrieved it and hand it to the Court.

15 **THE COURT:** Very good.

16 BY MR. YOUNG:

17 **Q** All right. With regard to these two items,
18 sir, I'm going to refer specifically to State's
19 Exhibit Number 31 and to State's Exhibit Number 30,
20 first with 30, is item number 30 marked by State's
21 Exhibit Number, are those the gloves that you
22 retrieved from the van?

23 **A** They are.

24 **MR. YOUNG:** The State moves to admit them, Your
25 Honor.

1 **MR. MADSEN:** Your Honor, we would object under
2 chain of custody. I don't believe that a proper
3 foundation has been laid. Additionally, we renew
4 our pretrial objection.

5 **THE COURT:** Once again, overruled. In evidence
6 over objection.

7 (State's Exhibit Number 30, partial latex
8 glove, admitted into evidence.)

9 BY MR. YOUNG:

10 **Q** With regard to State's Exhibit Number 31, are
11 these the glove pieces that you collected from the
12 roadside?

13 **A** They are.

14 **Q** And these are the pieces that are reflected in
15 State's Exhibit Number 8?

16 **A** They are.

17 **MR. YOUNG:** The State moves to, likewise, admit
18 State's Exhibit Number 31.

19 **THE COURT:** And, Madame Court Reporter, we
20 don't have 31 in evidence already?

21 **COURT REPORTER:** No, sir.

22 **THE COURT:** Very good.

23 **MR. MADSEN:** We would renew our objection
24 pretrial. Additionally, we would object to the
25 foundation under the chain of custody believing it's

1 fungible.

2 **THE COURT:** Same objection, it's overruled.

3 And 31 in evidence over objection.

4 (State's Exhibit Number 31, glove fragments,
5 admitted into evidence.)

6 **THE COURT:** Anything further from the State
7 with regard to this witness?

8 **MR. YOUNG:** Would you please answer any
9 questions the defense may have for you, sir?

10 **THE WITNESS:** I will.

11 **THE COURT:** Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. MADSEN:

14 **Q** How are you doing today?

15 **A** Good.

16 **Q** Now, is it your testimony that all the evidence
17 that's out there that day, that you're actually the
18 one who physically collects those items?

19 **A** I did in this case, yes.

20 **Q** So no one else is bringing you other items and
21 you're not a scrivener, kind of taking it in from
22 there as kind of a catchall, are you? You're the
23 one who's physically going and picking up these
24 items?

25 **A** At the initial location, the items discussed, I

1 collected all of them.

2 Q And when you collect these items, you say you
3 put them in, I guess, the paper bags?

4 A That's correct.

5 Q And you say you seal them. How do you seal
6 them?

7 A We had tape.

8 Q What kind of tape?

9 A Like a red evidence tape.

10 Q Like that {indicating}?

11 A Yep.

12 Q And you would agree with me that the care,
13 custody and collection of the evidence is important?

14 A It is.

15 Q I mean, that's kind of why when you go out
16 there, I guess the first thing that you do or one of
17 the first things, you put on gloves yourself you
18 said?

19 A That's correct.

20 Q And so when you're picking up evidence, you've
21 got those gloves on so you don't contaminate or
22 anything. The gloves that you're wearing, I mean,
23 are they work gloves, latex gloves?

24 A They're latex.

25 Q So you put a pair of latex gloves on before you

1 pick up this evidence?

2 A Right.

3 Q Now, you had talked about a couple of different
4 firearms that you collected, but in addition, you
5 collected an additional firearm, didn't you?

6 A I did.

7 Q And that was the firearm from the residence?

8 A Correct.

9 Q Do you have on your notes what was the serial
10 number on that firearm?

11 A It's a DSE0043.

12 Q And it was your understanding that was Al
13 Jerome's gun, correct?

14 A From Shadow Ridge Court, I'm not sure who
15 owned it.

16 Q That's the gun that came out of Shadow Ridge
17 Court?

18 A Correct.

19 Q And that's also a -- that's a Smith & Wesson
20 .40 caliber, correct?

21 A It is.

22 Q And, in fact, that's the exact same type, make
23 and model as the gun or one of the guns that you
24 recovered from the ditch, isn't it?

25 A Correct.

1 Q Both Smith & Wessons, both .40 calibers --

2 A Yeah, they were the same make and model.

3 Q And when you retrieved that gun, did it have a
4 magazine also?

5 A I don't recall.

6 It did have a loaded magazine, yes.

7 Q It did?

8 A Yeah.

9 Q And you had indicated, I guess, once you
10 collect these items, do you do any type of paperwork
11 before you turn those in to Deputy Wilson?

12 A I do.

13 Q You basically do a chain of custody or a
14 receipt of property; isn't that correct?

15 A That's correct, receipt for property.

16 Q And let's start with 16 and then 17. 16 is
17 the .40 caliber Smith & Wesson that you say you take
18 from the creek, correct?

19 A Well, from the roadside, yes.

20 Q From the roadside. And that's collected at
21 about seven o'clock?

22 A Roughly. I mean, it was early in the morning.

23 Q What time do you get out there?

24 A We were called out probably 2:00 or 3:00 in the
25 morning. We'd been out there for quite a while.

1 Q And you know it's from an original call that
2 happened some time after midnight, correct?

3 A Correct.

4 Q So about seven hours after law enforcement is
5 out there is when you collect that?

6 A Probably.

7 Q And when you collect that, is it given -- when
8 you fill out your paperwork at the sheriff's office
9 to turn it in, is it given an item number?

10 A It is.

11 Q And what was that item number?

12 A This was on the .40, it's item number nine.

13 Q Item number nine. And then on State's Exhibit
14 Number 17, do you do the exact same thing with that?

15 A I do.

16 Q And what item number was that?

17 A Number eight.

18 Q And so once you fill out that paperwork, you're
19 basically -- you're taking these items and you're
20 turning these over to Deputy Wilson, correct?

21 A That's correct.

22 Q And you fill out that paperwork
23 contemporaneously?

24 A (No response.)

25 Q Is that correct?

1 **A** That's correct.

2 **Q** Around about the same time that you turn it in
3 because that establishes your chain of custody?

4 **A** That's correct.

5 **Q** Can you explain to me then why is there a
6 receipt of property that indicates that there are
7 items number one and two?

8 **A** Because I initially started doing this one and
9 I wrote down blue and I should have written purple
10 indicating the color of the gloves, as well as when
11 I started numbering, these items were found first.
12 This paper should have been thrown away. It was a
13 mistake, ended up in the case file. But it would
14 coincide with items number eight through 12, I
15 believe, but it's the same items, it was just
16 renumbered and the main reason was the color was
17 incorrect.

18 **Q** And so you would agree with me that at least on
19 this one, the item numbers are different on not only
20 the guns, but also what you list as the rubber
21 gloves, correct?

22 **A** Correct.

23 **Q** And I guess you also have items three --

24 **A** At that point, I had not labeled the packages
25 that they were in. That was just the initial

1 paperwork at the sheriff's office to retrieve it
2 from evidence later.

3 Q And you also have listed on there three, four
4 and five, which I guess three and four you list as
5 -- excuse me -- let me start with three you list as
6 a quantity of two blue rubber gloves, correct?

7 A That's correct.

8 Q And then four you list as a quantity of two
9 blue rubber gloves, correct?

10 A That's correct.

11 Q And then item number five is listed as a
12 quantity of two and those say blue -- or excuse me
13 -- partial blue rubber gloves, correct?

14 A Correct.

15 Q And you're saying that that's just a mess up,
16 and so then you go back and that those items
17 correspond with 8, 9, 10 and 11 and 12?

18 A Correct.

19 Q And so item number ten you list as two purple
20 rubber gloves; is that correct?

21 A That's correct.

22 Q 11 is two purple rubber gloves?

23 A Correct.

24 Q And item number 12 is -- excuse me -- and item
25 number 13 are blue rubber gloves?

1 **A** Correct.

2 **Q** And so there are three different things on
3 there that show a quantity of two and show that they
4 are rubber gloves, some you say blue, some you say
5 purple, correct?

6 **A** That's correct.

7 **Q** And then there is one that's listed as partial
8 pieces of purple rubber glove?

9 **A** Correct.

10 **Q** But, yet, there were some items -- or the
11 gloves taken from the roadside, your testimony was
12 that there were some that were full rubber gloves
13 but other ones that weren't, correct? They were
14 just partial pieces?

15 **A** The purple ones were torn.

16 **Q** But they're not full gloves?

17 **A** I don't think they were, that's right.

18 **Q** But you listed them on the evidence report as
19 full gloves, didn't you?

20 **A** I didn't say whether they're full or not. I
21 just got that it's a quantity of two, which would
22 indicate they could be partial -- it was in two
23 pieces. Whether they're full or not, I don't --

24 **Q** But you've got something else on there that
25 lists partial pieces, so indicating that you're

1 making some kind of difference?

2 **A** I didn't put that down, that was turned in by
3 Robert Shorter.

4 **Q** Okay. So that's different than you. You just
5 put full rubber gloves even though there were pieces
6 down? Just kind of --

7 **A** I didn't put full. I just --

8 **Q** Or you just put rubber gloves down?

9 **A** Correct.

10 **Q** Although there's other things on there that
11 indicates that there's pieces of rubber gloves,
12 correct?

13 **A** I mean, not under mine, but the one that Robert
14 Shorter turned in says partial pieces.

15 **Q** And so when you're filling out the paperwork
16 and kind of starting that chain of custody, that's
17 just kind of the foundation of that evidence, isn't
18 it?

19 **A** It is --

20 **Q** You're trying to document that?

21 **A** That's correct.

22 **Q** And I think we established that that's
23 important because if there's problems with that,
24 that can cause, you know, the evidence in the -- or
25 can cause the evidence to be questioned or the case,

1 and so that's why you follow through those
2 procedures, right?

3 **A** That's right.

4 **Q** Y'all don't just throw it in a box and take it
5 somewhere because a lot of different cases, a lot of
6 evidence in, a lot of evidence out, things can get
7 confusing, can't they?

8 **A** That's correct.

9 **Q** Memories fade?

10 **A** Correct.

11 **Q** This is over a year and a half ago. And so
12 when you go through and you're at that residence and
13 you're collecting the evidence, are you taking
14 photographs before you collect it?

15 **A** I didn't take photographs. Other officers, I
16 believe, took some photographs.

17 **Q** So when you're at the residence, other officers
18 are taking photographs of the inside, the outside
19 and where you're collecting?

20 **A** They would be, yes, sir.

21 **Q** Who are those officers?

22 **A** I don't recall who was taking the photographs.

23 **Q** Someone was definitely taking photographs,
24 though?

25 **A** Yes, sir. There was definitely photographs

1 taken.

2 Q Let me show you what's been marked as State's
3 Exhibit Number 22 that's already into evidence.

4 A Okay.

5 Q That's the residence that you collected these
6 items from?

7 A That's --

8 Q Or at least the shell casings and one gun?

9 A That's correct.

10 Q Correct? The other items are somewhere else?

11 A Right.

12 Q And so when you collect those shell casings,
13 where are you collecting them from?

14 A The majority of them were down the driveway,
15 this end of the yard.

16 Q And you know looking at that photograph of that
17 trailer, that that's not taken that same night that
18 you're out there?

19 A That's right.

20 Q Because that's a different door on there?

21 A It is.

22 Q It's taken some other point in time?

23 A That's right.

24 Q And so when you collect those shells with your
25 gloves on, are you coming up to a shell as -- are

1 you having someone photograph it before you actually
2 physically pick it up?

3 **A** I didn't take any photographs.

4 **Q** Well, I mean, but is someone else doing that so
5 that you can document where they're found?

6 **A** I would assume they've taken some photographs,
7 but I didn't take any.

8 **Q** And they're all found right here in front?

9 **A** They were found throughout the yard, what I
10 would consider to -- I mean --

11 **Q** Would you just --

12 **A** -- it was a number of them.

13 **Q** Fourteen?

14 **A** Fourteen, that's correct.

15 **Q** Does anyone do any type of diagram in the front
16 to show where those shell casings are found?

17 **A** I didn't do any.

18 **Q** That's not unusual for law enforcement to do
19 that, is it?

20 **A** To do what?

21 **Q** A diagram?

22 **A** It's not unusual. It's not necessarily common.

23 **Q** Do you also -- do you also have turned into you
24 some items that you believe, or at least are
25 identified to you as potentially being drugs? Let

1 me show you Defendant's Exhibit 3.

2 **A** I didn't take any of that into evidence.

3 **Q** That wasn't -- that didn't go through you?

4 **A** Huh-huh. Wait a minute, wait a minute. No.

5 **Q** How about a box -- let me show you what's been
6 marked as State's Exhibits Number 1 and 2. Were you
7 given bullets from inside the residence?

8 **A** I did not take the bullets.

9 **MR. YOUNG:** Your Honor, I believe Mr. Madsen
10 may have misspoken. He referred to those as State's
11 Exhibits 1 and 2.

12 **MR. MADSEN:** I thought I said defense, but if I
13 misspoke, they're Defense 1 and 2.

14 **THE COURT:** So noted.

15 **MR. MADSEN:** And that was Defense 3, I think.

16 BY MR. MADSEN:

17 **Q** Do you collect any type of Camelbak pack?

18 **A** I did not.

19 **Q** Do you know what a Camel pack is?

20 **A** I do.

21 **Q** I guess just basically like a small backpack?

22 **A** That's correct.

23 **Q** That night that you were there, did you come in
24 contact with Al Jerome Young?

25 **A** I did.

1 **Q** He was still there when you got there?

2 **A** He was.

3 **Q** Did you see a Camel pack on him?

4 **A** I did.

5 **Q** I guess that was under kind of a tight-fitting
6 shirt?

7 **A** It was.

8 **Q** Did they take the shirt off to get it from him
9 there or --

10 **A** We did -- personally, I didn't turn it in.
11 It's --

12 **Q** Right. You didn't turn it in, but --

13 **A** It's on my evidence sheet.

14 **Q** You see someone else do that?

15 **A** That's correct.

16 **MR. MADSEN:** Beg the Court's indulgence.

17 (Pause.)

18 **MR. MADSEN:** No further questions, Your Honor.

19 **THE COURT:** Is there redirect?

20 **MR. YOUNG:** There's no further questions from
21 the State, Your Honor.

22 **THE COURT:** Sir, you may step down and you're
23 free to leave or you may remain if you wish.

24 **MR. YOUNG:** The State calls Scott Wilson, Your
25 Honor.

1 **THE COURT:** All right. Thank you.

2 Please come forward, take the oath of a
3 witness.

4 MARION SCOTT WILSON,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. YOUNG:

8 **Q** Sir, would you give us your full and complete
9 name and tell us what you do for a living?

10 **A** Marion Scott Wilson. I'm a deputy sheriff with
11 the Saluda County Sheriff's Office.

12 **Q** Yes, sir. Mr. Wilson, Deputy Wilson, do you
13 perform any specific duty for the sheriff's office?

14 **A** I do. I'm the evidence custodian.

15 **Q** Okay. And in connection with the State case
16 involving the arrest of Mr. Gerald Williams and
17 Mr. Oriental J. Charley, did you perform any duties
18 as an evidence custodian in connection with this
19 case?

20 **A** I did.

21 **Q** And, sir, when did you perform those duties?

22 **A** I believe it was on April 13th, 2012.

23 **Q** Okay. And that began your duties as the
24 evidence custodian?

25 **A** That's correct.

1 Q And, sir, did you receive certain items of
2 evidence from anyone in connection with this case?

3 A I did.

4 Q Did you receive any evidence from Deputy Kes
5 Holmes?

6 A Yes.

7 Q And in connection with that, in receiving that
8 evidence from Deputy Holmes, do you recall,
9 specifically, certain items that you came into
10 contact with and when you came into contact with
11 them?

12 A I do.

13 Q All right, sir. Where did you come into
14 contact with these items of evidence?

15 A Initially in the squad room of the sheriff's
16 office.

17 Q All right, sir. And I want to hand up certain
18 items to you and I'm going to ask you if you can
19 recognize these items. I'm going to hand up first
20 what's been admitted as State's Exhibit Number 16,
21 and ask you to take a look at that and tell me if
22 you can recognize what that is.

23 A Yes, sir.

24 Q What is that?

25 A That's a .40 caliber Smith & Wesson pistol.

1 **Q** All right, sir. Do you recognize that as
2 bearing anything you received into evidence at any
3 time?

4 **A** Yes, it is.

5 **Q** All right, sir. And within -- this is a box
6 obviously that you -- you opened and then just
7 closed. Is there anything inside this box that
8 acted as a receptacle for receipt of the firearm
9 itself?

10 **A** Yes, sir. There's an evidence -- brown
11 evidence paper bag and an envelope.

12 **Q** And that is -- is that the brown bag the
13 evidence, the weapon, was contained in?

14 **A** That's right. And when I initially received
15 it, it was sealed.

16 **Q** Okay. Now, that weapon that you received
17 sealed and -- in a sealed container, you accounted
18 for it on the basis of what? How did you account
19 for that particular item you received?

20 **A** The way that it was marked on the bag.

21 **Q** Okay. So based upon that, and it was accounted
22 for in your inventory sheet; is that correct?

23 **A** That's correct.

24 **Q** All right. What item number would it have been
25 on your inventory sheet?

1 **A** This sheriff's department inventory would have
2 been item number nine, I believe.

3 **Q** All right. Now, in connection with that item,
4 did you also receive any other firearm?

5 **A** Yes, I did.

6 **Q** Let me show you what is marked as State's
7 Exhibit Number 17. Would you open that box and
8 examine it?

9 **A** Yes, sir.

10 **Q** All right. What is that?

11 **A** That is a semiautomatic pistol made by AA Arms.
12 It's an AP9. It's a 9mm pistol.

13 **Q** And was that accounted for in your inventory
14 sheet?

15 **A** Yes, sir, it was.

16 **Q** What was the item number?

17 **A** Item number eight.

18 **Q** Item number eight. Now, item number eight and
19 item number nine, were they received from whom?

20 **A** From Deputy Kes Holmes.

21 **Q** All right. And they were received -- is there
22 a paper bag in that box as well?

23 **A** Yes, it is.

24 **Q** All right. When you received it, both of these
25 items, were they both in paper bags?

1 **A** Yes.

2 **Q** Were they both sealed?

3 **A** Yes.

4 **Q** All right. Did you make any change in those
5 bags, open them up in any regard?

6 **A** No, sir.

7 **Q** Did you allow anyone else after they came in
8 your custody, come into contact with them?

9 **A** No, sir.

10 **Q** And where did you place them?

11 **A** Shortly thereafter, I placed them in the
12 evidence room at the sheriff's office.

13 **Q** All right. Did you receive any firearms, other
14 information such as cartridges or casings or things
15 of that nature?

16 **A** Yes, sir. There was several firearms,
17 cartridges and casings that were also located and
18 submitted as evidence.

19 **Q** All right. I'm going to hand you up which is
20 marked as State's Exhibit Number 33 and ask you if
21 you can identify that particular bag. It's a
22 plastic bag. Inside that plastic bag is there
23 something?

24 **A** Yes, it is.

25 **Q** What's in that bag?

1 **A** Inside of this bag here is one -- appears to be
2 a 9mm cartridge, and I believe it's 13 other
3 cartridge cases that are separately in this bag.

4 **Q** All right. And is there a paper bag inside --

5 **A** Paper bag's in there, too.

6 **Q** Where did that paper bag come from?

7 **A** That paper bag was sealed and originally
8 contained these cartridges.

9 **Q** Those same cartridges?

10 **A** Yes.

11 **Q** Now, with regard to those particular cartridges
12 and that bag, what did you do with that bag and who
13 did you receive it from?

14 **A** Again, I received it from Deputy Kes Holmes and
15 put it in our evidence room at the sheriff's office.

16 **Q** Okay. Did you allow anyone else to come in
17 contact with this bag after you received it?

18 **A** No, sir.

19 **Q** Now, did you also receive bags that contained,
20 allegedly, other types of fragments of gloves or the
21 particles collected by the side of the road?

22 **A** Yes, sir, I did.

23 **Q** Now, do you know what these item numbers were?

24 **A** According to my sheet here, it was item number
25 10, item number 11 and item number 12.

1 **Q** Okay. With regard to 10 and 11, did you
2 receive paper bags from Mr. Kes Holmes?

3 **A** Yes, I did.

4 **Q** What condition were those bags in when you
5 received them?

6 **A** Those bags were sealed as well, just like these
7 bags.

8 **Q** Okay. Would you be able to recognize those
9 bags again if you saw them?

10 **A** I would.

11 **Q** I hand you what's been marked as State's
12 Exhibit Number 30. Ask you if you can recognize it?

13 **A** Yes, sir.

14 **Q** All right. Is that -- what is that item?

15 **A** This is a purple glove that was found, appears
16 to be inside the van. It's noted van on here.

17 **Q** Okay. And is that accounted for in your
18 inventory?

19 **A** Yes, it is.

20 **Q** What item number is that?

21 **A** (Witness reviewing document.)

22 **Q** Does it bear it on the outside of the bag?

23 **A** Item number 10.

24 **Q** Take a look also at State's Exhibit Number 31.
25 Do you recognize that?

1 **A** Yes, I sure do.

2 **Q** What is that?

3 **A** Again, this is a paper bag containing
4 blue/purple gloves and it's item number 11.

5 **Q** When you received it from whom?

6 **A** Deputy Kes Holmes.

7 **Q** Okay. Did you receive these items, and I now
8 have before you four items, two firearms and two
9 bags, and you also have these -- this other separate
10 bag which contain cartridges, did you receive them
11 at different times or the same time?

12 **A** Best of my recollection, it was all pretty much
13 at the same time.

14 **Q** Where were they received from Mr. Holmes at?

15 **A** At the squad room, the squad room table in the
16 sheriff's office.

17 **Q** So there was an organization set up in front of
18 you at that time? There was an organization of
19 these items set up --

20 **A** That's right, yes, sir. Everything was sealed.
21 Kes was processing those, sealed them up and turned
22 them over to me.

23 **Q** What did you do with these items after you
24 received them?

25 **A** Secured them in the sheriff's office evidence

1 room.

2 Q Okay. And, at some point in time, were they
3 ever retrieved from that room?

4 A Yes, they were.

5 Q And what efforts did you make to remove them?
6 How did you remove them?

7 A I unlocked the evidence room and I secured
8 those items, took them into my office and prelogged
9 them for transport to SLED.

10 Q Okay. So the purpose was then to do something
11 with SLED?

12 A That's right, evidence testing at SLED.

13 Q All right. Now, when you prelog this stuff,
14 you have your own numbers that you keep for the
15 office, correct?

16 A That's right.

17 Q Does something change when you start logging
18 the stuff at SLED?

19 A It does. Whenever we get evidence that we're
20 going to take to SLED for analysis, we have to
21 prelog it. What that basically consists of is our
22 item numbers don't become SLED item numbers, okay.
23 They renumber everything.

24 So each item, like, for instance, if it's a
25 cartridge case, that's going to be -- if you have 14

1 of them, that's not one submission, like, let's just
2 say, our item number may have been 49, okay, which
3 was 14 cartridges, when I prelog it with SLED, those
4 become one separate submission or 14 different
5 submissions. So that's why the numbers are
6 different on SLED's report versus our chain of
7 custody log.

8 **Q** You're referring to one specific piece of
9 evidence that change these numbers specifically?

10 **A** Cartridge cases, for instance, that's what I'm
11 saying is, they are submitted as one separate
12 submission. So if I had 14 cartridge cases, those
13 would be 14 different SLED numbers or item numbers.

14 **Q** So they're -- I'm going to refer to State's
15 Exhibit 33. How many shell casings are there in
16 that?

17 **A** Fourteen.

18 **Q** Okay. And those are the ones you submitted to
19 SLED?

20 **A** Yes, they are.

21 **Q** Did you also submit State's Exhibits -- I'm
22 referring to State's Exhibit 33 that you submitted
23 to SLED -- 16, 17, 31 and 30, did you also submit
24 those to SLED?

25 **A** Yes. All of this was submitted to SLED for

1 analysis.

2 Q Did you do that at separate times or at the
3 same time?

4 A No. I prelogged it all at the same time.

5 Q . Okay. When did you take it to SLED?

6 A That would have been --

7 Q When you go to SLED, is there an accounting for
8 that item?

9 A Yes, it is.

10 Q Do you have an evidence receipt?

11 A I don't necessarily have the lab report
12 evidence receipt at this time, but I believe you
13 have it.

14 Q I'll be glad to hand up something if it'll
15 refresh your recollection.

16 Is there such a thing as a request that you
17 submit at the time that you turn the evidence in?

18 A Yes.

19 Q Does it bear the time and date?

20 A It does.

21 Q All right. Would you take a look at what I'll
22 hand you now and tell me if that can refresh your
23 recollection?

24 A (Witness reviewing document.)

25 Q What is that you're looking at?

1 **A** This is a SLED Laboratory Forensic Services
2 Request.

3 **Q** Does it bear your name?

4 **A** Yes, it does.

5 **Q** Whose name else does it bear?

6 **A** Jesse Quattlebaum as the investigating officer
7 and --

8 **Q** Well, how about the person at SLED?

9 **A** Selina Kinard.

10 **Q** Okay. Who did you deliver these items to?

11 **A** Selina Kinard.

12 **Q** And do you have a date and time that you
13 delivered them to?

14 **A** Yes. It was -- it was April 17th, 2012, at
15 10:54 a.m.

16 **Q** Okay. Now, I'm going to ask you to go back,
17 what day did you put these items in the room, the
18 evidence room?

19 **A** On the 13th.

20 **Q** Okay. And no one came into contact with these
21 items that we're -- you previously described other
22 than you until you placed them in the evidence room?

23 **A** That's right. I placed them in there. They
24 were secured until the 17th when I retrieved them to
25 take them to -- prelog them and take them to SLED.

1 **Q** Were they still in the sealed condition when
2 you retrieved them from the evidence room?

3 **A** They were.

4 **Q** When you took them to SLED, did you make any
5 change in the condition until you delivered them to
6 Selina Kinard?

7 **A** No. I prelogged them and they were still in
8 the same bags, and there was no need to take them
9 out or open the bags, and transferred them to SLED
10 to -- turned them over to Selina Kinard.

11 **Q** All right. Now, sir, you, at some point in
12 time, were given another task to do as evidence
13 custodian, were you not?

14 **A** Yes.

15 **Q** Did it have to do with Mr. Gerald Williams
16 himself personally?

17 **A** It did.

18 **Q** What were you asked to do?

19 **A** My Captain, Toby Horne, presented me with an
20 order from a judge to take a buccal swab sample from
21 the defendant.

22 **Q** Okay. Now, to accomplish that, how did you go
23 about doing it?

24 **A** I proceeded to the facility where the defendant
25 was located and a doctor was prearranged to meet us

1 there. The doctor had the buccal swab kit to do
2 the -- take the samples. And I stood by and watched
3 the doctor as she performed the procedure.

4 **Q** Okay. Do you know the name of the doctor?

5 **A** Tammy Massey, I believe it was.

6 **Q** Okay. Did you provide the doctor with anything
7 to assist in performing this duty?

8 **A** She had a buccal swab kit that was sealed that
9 was obtained from SLED that -- that's what they use
10 to do these procedures and it was there at the jail.

11 **Q** Okay. And so what did you do in connection
12 with -- in collection of this particular piece of
13 evidence? Did you watch this happen?

14 **A** Yes. I did nothing but stand by as the doctor
15 performed this procedure. I watched her as she took
16 the box that was sealed, opened it. She took the
17 swabs out, set them aside and they were in a sealed
18 envelope. She read the instructions on how to
19 specifically perform the procedure. Then she
20 performed the procedure by taking each swab and
21 swabbing the cheek of the defendant.

22 **Q** The cheek, meaning what part of the cheek?

23 **A** The inside of the mouth.

24 **Q** Okay.

25 **A** And then she put those items, those swabs, back

1 into the envelope that they came in, sealed that
2 envelope. There was a chain of custody form that
3 she signed off as performing the procedure, then
4 giving me those swabs where I signed off on it. She
5 put that chain of custody, along with the swabs back
6 in that box and sealed it up with the evidence tape
7 that came with it, and then I transported that to
8 SLED.

9 **Q** So she did all of these steps including sealing
10 it and placing it back in the box that it came from?

11 **A** Yes.

12 **Q** In your presence?

13 **A** Yes.

14 **Q** Would you be able to recognize that box again
15 if you saw it?

16 **A** Yes, sir.

17 **Q** Let me hand up to you what's been marked as
18 State's -- it hasn't been marked yet.

19 (State's Exhibit Number 34, buccal swabs,
20 marked for identification.)

21 **Q** Let me hand up to you what's been marked as
22 State's Exhibit Number 34 and ask you if you can
23 identify that?

24 **A** Yes, sir, I can.

25 **Q** What is that?

1 **A** That is the box containing the swabs that were
2 taken from the defendant and with the doctor's name
3 on it, the date and time that I received custody of
4 the item.

5 **Q** And is your name on there and it bears the name
6 and the date?

7 **A** Yes, sir, it is.

8 **Q** What's the date and the name -- I mean, the
9 date and the time?

10 **A** The date is July 2nd, 2013, at 10:56 a.m.

11 **Q** Did you receive this box?

12 **A** I did.

13 **Q** What did you do with this box upon receiving
14 it?

15 **A** Upon receiving it, I went straight to my
16 vehicle, and I took it to SLED and turned it over to
17 the intake officer at SLED for it to be analyzed.

18 **Q** Did you change the condition of the seal on
19 this box in any way before you delivered it to SLED?

20 **A** No, sir. The doctor sealed it, handed it to
21 me, I put it in my car, took it straight to SLED,
22 turned it over to them.

23 **Q** Okay. So SLED received it the same day?

24 **A** Yes.

25 **Q** Later that day?

1 **A** Yes, just an hour or so.

2 **Q** Okay. And who did you deliver it to at SLED;
3 do you recall?

4 **A** I don't have the report in front of me, but I
5 believe it was Courtney Smith, if I recall
6 correctly.

7 **Q** All right. And Courtney Smith acted as the
8 evidence intake person at SLED?

9 **A** Yes.

10 **MR. YOUNG:** Your Honor, the State would go
11 ahead and move at this time to admit State's Exhibit
12 Number 34, the swabs.

13 **THE COURT:** Is there an objection?

14 **MR. MADSEN:** There is, Your Honor. We would
15 object to a foundation and the chain of custody. We
16 believe the items are fungible.

17 **THE COURT:** Overruled for the same reason. The
18 Court believes the chain is in evidence. And 34 in
19 evidence over objection.

20 Anything further?

21 (State's Exhibit Number 34, buccal swabs,
22 admitted into evidence.)

23 (Pause.)

24 BY MR. YOUNG:

25 **Q** Just to reiterate one more time, with regard to

1 the gloves that have been previously identified as
2 being in two different exhibits, I believe you have
3 them up there, State's Exhibits 30 and 31, I
4 believe, State's Exhibit 16, 17, which are the two
5 firearms, State's Exhibit 33, which are the shell
6 casings, you submitted all of these items to
7 Ms. Selina Kinard, I believe you testified earlier,
8 to SLED?

9 **A** I did, all but the swab kit.

10 **Q** And the swab kit went separately to
11 Ms. Courtney Smith?

12 **A** Courtney Smith, that's correct.

13 **MR. YOUNG:** I have no further questions. Would
14 you please answer anything the defense may have for
15 you?

16 **THE COURT:** Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. MADSEN:

19 **Q** Deputy Wilson, besides these limited items that
20 the Solicitor asked you about, you actually
21 submitted quite a bit of other items, didn't you?

22 **A** I believe so, yes.

23 **Q** Casings found inside the residence, correct?

24 **A** I believe so, yes, sir.

25 **Q** Three slugs found from inside the residence?

1 **A** Yes, sir.

2 **Q** An additional gun that came out of the
3 residence?

4 **A** Yes, sir.

5 **Q** All of those went to SLED also?

6 **A** That's correct.

7 **Q** Those would have also gone at the same time to,
8 I think you said, Selina Kinard on the same day?

9 **A** Yes, sir.

10 **Q** In other words, you didn't make multiple trips.
11 You went up there --

12 **A** I don't believe so. I believe all that
13 evidence was submitted at the same time. It was
14 quite a bit.

15 **Q** And were you out that night on the scene or
16 were you just the evidence custodian, your job was
17 at the sheriff's department?

18 **A** I was initially. Almost the whole department
19 was called out just about. I initially was out
20 there searching for suspects, stayed out there a
21 couple hours. And then I had to come in the next
22 day, so they cut me loose, and I came back in at my
23 regular shift.

24 **Q** So when you're out there, you're looking for
25 other individuals, but eventually they kind of say,

1 hey, we don't need you anymore, go back, rest, do
2 whatever. But you end up coming back in the
3 sheriff's department?

4 **A** That's correct.

5 **Q** And then they submit, I believe the officer
6 that testified, is it Kes Holmes, that he submitted
7 those items to you?

8 **A** That's correct.

9 **Q** And he would have been the one who also
10 submitted to you the casings from inside the
11 residence and also the slugs?

12 **A** For the most part, I believe that's correct,
13 yes, sir. Looks like -- yes, sir. As far as the
14 slugs and the casings, I believe so.

15 **Q** And when someone submits items to you, you do a
16 receipt for property form, correct, kind of like
17 what you've got in front of you?

18 **A** One is done. I don't necessarily do it. The
19 officer who seize the items usually -- and seals the
20 bag are usually the ones who do it.

21 **Q** Okay. They do that form, then is it turned
22 into you?

23 **A** Yes.

24 **Q** And the reason is is that so you know what it
25 is, where it came from, some type of paper

1 documentation to be associated?

2 **A** That's correct.

3 **Q** And so there's a couple of different receipts
4 of property for the same items, are there not?

5 **A** Uh-huh.

6 **Q** And on one, you list a couple of guns, some --
7 or they list a couple of guns, blue rubber gloves,
8 partial blue rubber gloves, and that indicates that
9 that came into you on April 13th of 2012, from Kes
10 Holmes and that you signed off as far as receiving
11 it with the purpose being that it was evidence,
12 correct?

13 **A** That's right.

14 **Q** But then there's another one that has different
15 numbers, correct?

16 **A** Yes, sir.

17 **Q** And on those, there are some items that you
18 receive, which I think is what you -- do you have
19 that in front of you? That one in front of you.
20 One to seven showing that you receive items on 4/13
21 and that's listing, I guess, a little over \$20,000
22 in cash that comes to you?

23 **A** Yes, sir.

24 **Q** A Smith & Wesson .40 caliber with a serial
25 number associated, I think is that DS or D5E0043,

1 that's denoted Al Young next to that, correct?

2 **A** That's correct.

3 **Q** That a -- below it there's just a space and
4 shows a semiautomatic pistol with loaded magazine.
5 Is that associated with that gun, which is number
6 two?

7 **A** It appears to be, yes, sir. I didn't make out
8 the form, so I --

9 **Q** Right, but that would have been something you
10 took into custody?

11 **A** Yes, sir, that's correct.

12 **Q** Then you also receive a scale, a cigar cutter
13 and one bullet case?

14 **A** Yes, sir.

15 **Q** A bag containing bullet casings from hallway?

16 **A** Yes, sir.

17 **Q** Lead from laundry room?

18 **A** That's right.

19 **Q** Fourteen cases that you had testified about,
20 and then two lead bullets from kitchen, correct?

21 **A** Yes, sir, that's correct.

22 **Q** And those on there are marked one through
23 seven?

24 **A** Yes.

25 **Q** Now, there were some other items taken from the

1 residence, some little baggies of white powder. Do
2 you have a receipt of property from those where
3 those were turned in?

4 **A** If they were turned in, there should have been
5 a receipt of property, yes.

6 **Q** And if there isn't, why is that?

7 **A** I can't -- I can't explain that.

8 **Q** How about items that were, say, taken out of a
9 van, hats, a scarf or a bandana, if there's not
10 receipt of property from those? Because those
11 aren't listed on here, are they, none of those
12 items?

13 **A** Scarfs and hats, is that --

14 **Q** Yes, sir, jacket.

15 **A** No, sir, I don't see those. If those items
16 were seized, lots of times officers, not
17 necessary -- because we had a tremendous amount of
18 evidence that needed to be processed and trying to
19 work together as a team, we had to go through all of
20 this.

21 So to answer your first question about the
22 duplication of items, I believe what was happening
23 at that time is we had a duplication of items,
24 somebody had started a chain of property receipt and
25 then somebody had tried to help out and continued on

1 and duplicating those items. And we're like, okay,
2 well, rather than just keep a, you know, one that
3 has seven, that one should have been thrown away,
4 and we just continued on with the one that had the
5 most items on it already. So, I mean, it's a
6 duplication of the first, what is it, five or seven
7 items.

8 **Q** Right. And you say that someone's there to
9 kind of help out, but all the items are coming from
10 Kes Holmes?

11 **A** Yes, sir.

12 **Q** So he's not helping -- I mean, I guess he is
13 helping himself out?

14 **A** Well, he may have been telling another officer,
15 you know, we got casings here in this bag and he
16 seals the bag, go ahead and write that down for me.

17 **Q** Let me show you what's been marked as
18 Defendant's Exhibit Number 1 and Number 2. Those
19 are items -- or those are basically unfired bullets
20 in their packaging; is that correct?

21 **A** That is correct.

22 **Q** And those are ones that you have over there at
23 the sheriff's office?

24 **A** Yes, sir.

25 **Q** Saw them on Friday?.

1 **A** Yes, sir.

2 **Q** And those were items that were also turned in
3 to you, correct?

4 **A** Yes.

5 **Q** And, in fact, they list a name of Al Jerome
6 Young on those, correct?

7 **A** That's correct.

8 **Q** And there's a case number associated, which is
9 the case number of this case?

10 **A** Yes, sir, it is.

11 **Q** And those are listed as item number 14, aren't
12 they? Up there?

13 **A** Yes.

14 **Q** And then on your receipt of property, what is
15 item number 14 listed as in your receipt of
16 property?

17 **A** It says, One Camel pack, black.

18 **Q** So not these bullets?

19 **A** No, sir.

20 **Q** But those are definitely in evidence?

21 **A** Yes, that's correct. Again, that may have gone
22 back to a duplication. And for whatever reason,
23 they may have been signed off on the packaging, but
24 not actually made it's way to the evidence property
25 sheet.

1 **Q** Well, it would be confusing to have different
2 items with the same number. You'd agree with me on
3 that?

4 **A** It definitely would be confusing, but, again,
5 we had a large amount of evidence to process and
6 when you're dealing with different people
7 interrupting you and you're trying to do one thing
8 and you've got somebody else giving you other
9 evidence and stuff, you get confused. It happens,
10 you know. It's -- that would explain some of the
11 duplications of numbers and why items may have been
12 secured and time and dated by the seizing officer or
13 receiving officer on the evidence itself, but not on
14 the initial property receipt.

15 **Q** And when you say a large amount of evidence,
16 you're talking basically about 14 items that are
17 submitted, correct?

18 **A** Generally speaking, yes.

19 **Q** And when you had said that you had gone to SLED
20 on a majority of those items, I'm not talking about
21 the buccal swab, but you took those and dropped
22 those off at SLED with Selina Kinard and that was in
23 April -- or, excuse me, what was the date, I'm
24 sorry?

25 **A** April 17th, I believe.

1 **Q** So about four days or so later?

2 **A** Just a few days later.

3 **Q** The buccal swab that you dropped off, though,
4 is much later, that's in --

5 **A** Much later. It was recent. It was May or
6 something like that -- July, July, I believe it was,
7 of this year.

8 **Q** And when the evidence is submitted to you on
9 that and that -- receipt of property is generated by
10 the officer?

11 **A** Yes, sir.

12 **Q** And they, as I think you testified to, they
13 generally fill it out, they sign off of it and then
14 it comes to you --

15 **A** That's correct.

16 **Q** -- then you -- you end up signing on it showing
17 that you received it also, correct?

18 **A** Yes, sir.

19 **Q** And that shows that you received items, one
20 through seven there, correct?

21 **A** That's right.

22 **Q** And then on 8 through 14, it's also signed by
23 Officer Kes Holmes, but there's no signature that
24 it's been received?

25 **A** That's right. That's where I go back to the

1 duplication and kind of confusion. The first seven
2 items Kes presented to me, I signed off on his
3 property receipt. Like I said, as officers -- as
4 Kes continued to come in with the rest of the
5 evidence, I don't really remember who else was
6 present, but obviously either Kes, at that time,
7 continued on with -- someone else had started a
8 property receipt to help Kes out and had more items
9 and we added to that, and that's -- I didn't
10 initially sign off on this --

11 **Q** So you never signed as receiving those items?

12 **A** -- this last one. I never signed off, but I
13 did receive them on the same date. Like I said,
14 this was handed to me first and said, here's your
15 evidence; I think that's all of the evidence. I
16 sign off on it, okay. As I'm starting to go secure
17 it, oh, I got some more for you, hang on a second.
18 And he's like, okay.

19 Well, rather than continue on, maybe he didn't
20 have this paper with him, I don't know, we just --
21 we got confused and ended up with a duplication.
22 And so this one stopped at seven and it continued on
23 with this one.

24 **Q** So on that second one, you don't sign as
25 receiving that, and you're just saying that's just a

1 mistake because of that --

2 **A** That's right.

3 **Q** -- the 14 items that are coming in?

4 **A** That's exactly what I'm saying.

5 **MR. MADSEN:** That's all the questions I have.

6 **THE COURT:** Is there redirect?

7 **MR. YOUNG:** No further questions, Your Honor.

8 Thank you.

9 **THE COURT:** All right, sir. Then you may step
10 down. And you're free to remain or you're free to
11 leave if you wish.

12 And, ladies and gentlemen, let's take our
13 morning break at this time. We'll take about a
14 15-minute break and then we'll reconvene after you
15 enjoy your break. If you wish to go outside and
16 take a break, we'll make that available to you.
17 We'll remain here while you return to the jury room.

18 (The jury retires to the jury room.)

19 **THE COURT:** All right. We'll be in recess now
20 for 15 minutes.

21 (Brief Recess.)

22 **THE COURT:** Everyone ready for the jury?

23 **MR. MAYE:** Yes, sir, Your Honor, the State's
24 ready.

25 **THE COURT:** Please bring in the jury. Thank

1 you.

2 (The jury returns to the courtroom.)

3 **THE COURT:** Welcome back from your break,
4 ladies and gentlemen.

5 And, Prosecution, please call your next
6 witness.

7 **MR. YOUNG:** The State calls Selina Kinard.

8 **THE COURT:** Please come forward and take the
9 oath of a witness.

10 SELINA KINARD,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. YOUNG:

14 **Q** Give us your full and complete name and tell us
15 what you do for a living.

16 **A** Selina Kinard. And, at this time, I am
17 unemployed.

18 **Q** And have you ever worked for a law enforcement
19 agency?

20 **A** Yes, I have.

21 **Q** Which one?

22 **A** I worked for SLED.

23 **Q** What were your duties there, ma'am?

24 **A** I was a forensic technician within the evidence
25 control department.

1 **Q** Were you such a person back in April 17th, or
2 thereabouts, 2012?

3 **A** Yes, I was.

4 **Q** And do you -- in the course of your normal
5 business, would you just -- back at SLED, would you
6 kind of describe what you do, how you do it, what
7 you go about doing?

8 **A** Okay. We would have agencies come in from
9 across the state with evidence pertaining to
10 criminal cases in the particular county or city
11 police. And we would log that evidence in to our
12 computer system and it will be given a lab number,
13 the computer would generate a lab number, and that
14 lab number would stay with that particular case
15 throughout the entirety of that particular case.

16 **Q** And, ma'am, do you have some kind of internal
17 processing that controls the evidence once it's
18 taken in?

19 **A** Yes. It's all tracked, what we call Electronic
20 Chain of Custody. And that once I log the evidence
21 in, it is, as I stated before, given a lab number.
22 And once that lab number is created, the chain of
23 custody will follow through each person throughout
24 the lab.

25 **Q** And do persons at SLED carry specific

1 identification cards or other types of cards that
2 assist them when they pick up evidence and move it
3 around? Do they carry those kind of identification
4 cards with them?

5 **A** Yes.

6 **Q** And what do these cards do?

7 **A** Let's say if I have a piece of evidence and
8 when I log it in, it's automatically in my custody
9 because I'm logged into my computer under my
10 specific password. And then if a firearms examiner,
11 let's say, comes down from firearms and they need to
12 pick up that evidence, I would have to scan their
13 badge, scan the particular piece of evidence and
14 they have to put in their password into my computer
15 to take control of that evidence.

16 **Q** So as evidence progresses through SLED, does --
17 each step along the way as it moves from place to
18 place, the electronic controls are maintained by
19 that method you just described?

20 **A** Yes, that's correct.

21 **Q** And so is there -- that electronic record is
22 then -- can be printed out and kept track of?

23 **A** That's correct.

24 **Q** Okay. Now, ma'am, are you familiar with lab
25 number L12-04591?

1 **A** Yes.

2 **Q** Now, can you tell me what that means? As a lab
3 number, what does that mean?

4 **A** The lab number?

5 **Q** Yes, ma'am.

6 **A** That is when, as in this case, I logged in the
7 evidence when the officer, Marion S. Wilson, from
8 the Saluda County Sheriff's Office, when he came in
9 and he -- at that time, we had what we called iLAB,
10 and he would have logged into evidence on his end at
11 the sheriff's office and then he would have brought
12 me what we called a packing slip, which would have
13 listed each piece of evidence on that list, and I
14 would scan the barcode that is on that sheet of
15 paper that he would have brought me. And once I
16 logged everything in and containerized everything
17 the way it needed to be, then when I -- when he --
18 he actually has to sign a signature pad, and once
19 that's done and the case is created, that lab number
20 is created.

21 **Q** Okay. And is that the lab number associated
22 with the persons named Gerald Williams and Orienthal
23 J. Charley and Al Young?

24 **A** I have Gerald Williams.

25 **Q** Okay. Gerald Williams specifically. Now,

1 Mr. Williams' situation with his particular case and
2 with all these items that I'm going to start talking
3 about, as I ask each question, I'm going to refer to
4 what I show as an item according to State's Exhibit
5 Number, and I'd ask you if you can take a look at
6 this and make a decision as to whether or not you
7 believe you can identify that as something you may
8 or may not have received.

9 **A** Okay.

10 **Q** All right. So, first, I'd like to hand you
11 what has been admitted as State's Exhibit Number 16
12 and have you look at this and tell me if you can
13 identify what that is first.

14 **A** Okay. I can identify the box and also the
15 seals on the box. And I can identify that because
16 the lab number L12-104591 is written on the box, as
17 well as the lab number is also affixed to the end of
18 the box.

19 **Q** All right. Now, I'm going to pass up in
20 sequence these and ask you if you can see the same
21 or similar number on each one of these specific
22 items. This is State's Exhibit 17. Do you see a
23 lab number or other item indicated on that?

24 **A** I do. It's written as L12-04591, item number
25 23. And the sticker is also affixed to the end of

1 the box.

2 **Q** Okay. How about State's Exhibit, I'm going to
3 pull it from this bag, State's Exhibit Number 33?
4 Can you identify that?

5 **A** I can identify this specific item because,
6 again, the lab number is written on the inner pouch.
7 It's L12-4951 item nine, which was in container A.

8 **Q** Okay. And then I'm going to do the same thing
9 with regard to two additional items, 30 and 31,
10 which are State's Exhibits 30 and 31. Can you
11 identify them by number or item number?

12 **A** Yes, I can. Again, the lab number is written
13 on here, L12-4591. This is item number -- or SLED's
14 item number 25. And also it is -- it has SLED's
15 seal tape affixed to that, that was State's Exhibit
16 30. 31 is also the same lab number, item number 26,
17 and again the SLED seal tape is on that as well.

18 **Q** As to all of these items I have handed up to
19 you and as you've identified now, are these items
20 that you received into evidence?

21 **A** If I may refer to the chain of custody?

22 **Q** Certainly. Yes, ma'am.

23 **A** Item nine, which I did put back in here into
24 container A, I did take into evidence on April the
25 17th of 2012 at 10:55 a.m. from Marion S. Wilson of

1 the Saluda County Sheriff's Office.

2 Q Now, ma'am, you'll notice in here that there
3 are a number of individual items in here and these
4 all bear specific numbers, they appear to anyway.
5 Could you take a look at that and see if these
6 individual -- they appear to be shell casings, would
7 you look at those and tell me if they bear relevance
8 to the same sequence of numbers that you had? You
9 said you had an item nine?

10 A Yes. Give me a moment to take a look at these
11 and refer to the chain of custody.

12 Q Certainly.

13 A They do appear to coincide with what I logged
14 in as the same items.

15 Q Yes, ma'am. I'd like to hand up to you and ask
16 you if this will refresh your recollection as to --
17 is there not such a thing as a forensic services
18 request that's received at the same time items are
19 logged in?

20 A That's correct.

21 Q Would you take a look at these -- this forensic
22 services request and tell me if, with regard to
23 State's Exhibit Number 33, it bears relationship to
24 any specific numbers beginning with item nine that
25 you previously identified?

1 **A** It appears that item 9 through 22 are in this
2 pouch.

3 **Q** Okay. And those are items that you collected
4 from Scott Wilson?

5 **A** Yes, that's correct.

6 **Q** Okay. And did you receive these in the
7 envelopes that are indicated inside?

8 **A** Yes.

9 **Q** Did you make any change in the condition of
10 those envelopes, that envelope particular?

11 **A** No. The only thing I would have done is it
12 wouldn't have been in this plastic, just the
13 envelope itself, as I did with the other envelopes,
14 put them into this bigger envelope and had
15 Mr. Wilson sign and date the seal on the envelope.

16 **Q** All right. Now, State's -- that's State's
17 Exhibit Number 33, correct?

18 **A** Yes, that is.

19 **Q** Now, State's Exhibit Number 31 and 30, were
20 they handled in a similar fashion?

21 **A** Let me refer to the chain of custody, that's
22 item 26.

23 **Q** Appears to be...

24 **A** Items 25 and 26.

25 **Q** Yes.

1 **A** Okay. That's correct. On April 17th of 2012
2 at 10:55, I did receive those items as well from
3 Marion Wilson from Saluda County Sheriff's Office.

4 **Q** They were in a sealed condition?

5 **A** Yes. They would have been actually in this
6 paper bag with -- and his seal tape is red.

7 **Q** And what's the other seal tape there?

8 **A** The yellow seal tape is SLED.

9 **Q** That's applied by SLED?

10 **A** That's correct.

11 **Q** All right.

12 **A** By the examiner.

13 **Q** Right. So, at some point later, they would
14 have been taken through the process of chain of
15 custody through other people, right?

16 **A** That's correct.

17 **Q** These items. How about these other two items
18 here? This is State's Exhibit Number 17 and 16,
19 which appear to be firearms. Do they bear
20 indications on the outside as to the item numbers?

21 **A** They do. This top one is item number 23, which
22 is described as a AA AMRS Mod AP9 9mm pistol, and it
23 gives a serial number of 053915.

24 **Q** Okay.

25 **A** And I did receive that item on the same day,

1 April 17th of 2012, from Mr. Wilson.

2 Q And with regard to the other item, ma'am?

3 A This is container J, which means there's more
4 than one item in this box. So if I may refer to the
5 chain of custody.

6 Yes, it looks like that starts with item 24,
7 which is a sealed gun box containing a weapon
8 described as Smith & Wesson .40 caliber pistol found
9 on roadside on Mine Creek Road near scene, serial
10 number DSL-5282.)

11 Q And would you or someone else at SLED have
12 placed these in these particular boxes?

13 A This would have been me. What I would do is,
14 as it is, put these in the boxes based on what
15 department they needed to go to first, one needed to
16 go to firearms first, one needed to go to latent
17 prints, and sealed it with clear tape and then put
18 the SLED seal tape on there. And Mr. Wilson would
19 have signed and initialed on each end and in the
20 middle on both boxes.

21 Q Okay. And so you placed these two firearm
22 pieces, State's Exhibits Number 16 1and 17, into the
23 boxes, sealed them up and then sent them on their
24 way so to speak?

25 A That's correct.

1 **Q** All right. Now, did you make any change in the
2 condition, quality or contents of State's Exhibits
3 30 or 31 after you received them?

4 **A** No. The only thing I would have done is put
5 them into a -- probably into another container, but
6 possibly an envelope, but I would not have opened
7 the bags.

8 **Q** You would not have opened these sealed bags?

9 **A** No, sir.

10 **Q** All right. And with regard to these -- going
11 back to this, State's Exhibit Number 33, would you
12 have made any change in the condition of what was in
13 this particular bag?

14 **A** No, I would not have.

15 **Q** Okay. The same question with regard to both
16 these firearms entered, you essentially had to send
17 them on their way, correct?

18 **A** That's correct.

19 **Q** What does that mean when you have to send them
20 on their way?

21 **A** Well, basically, I'll just start with item 24,
22 which is actually this container, container J,
23 basically I intook {sic} the evidence on April 17th
24 of 2012 at 10:55. At 11:18 that morning, I scanned
25 the evidence to latent evidence intake storage,

1 which basically is just a particular area in the
2 sealed evidence room where we house the latent
3 intake evidence and then their forensic technician
4 would come down and pick up their evidence on a
5 daily basis.

6 **Q** Okay. And was it picked up by anyone that day?

7 **A** On that day, no. It was picked up on the next
8 day, on the 18th. Patricia Crooks, who was a
9 forensic technician within the evidence control
10 department as well, she took it out of the latents
11 intake storage, scanned it to herself and then she
12 scanned it to Lesa Chapman, who was a forensic
13 technician in the latent prints department.

14 **Q** Okay. And it went from there to what
15 department then?

16 **A** It went to latent prints.

17 **Q** Okay. Is there -- do they have their own
18 storage area for maintenance of that?

19 **A** I'm not sure. Based on my chain of custody, it
20 says, Incoming latent print evidence, after Lesa
21 Chapman.

22 **Q** All right. Thank you. Now, with regard to
23 that, ma'am, that concluded that particular piece of
24 evidence, correct? All right. How about with item
25 23? Would you tell me what you, you know, what way

1 it went and where it went?

2 **A** Sure. Item 23 --

3 **MR. MADSEN:** Judge, I would object to her just
4 reading from a piece of paper if she doesn't have
5 personal knowledge. Basically, reading from someone
6 else's notes that created it, I believe that that
7 would be hearsay. If she knows that Joe Smith
8 picked it up and saw Joe Smith gave it to --

9 **THE COURT:** I understand. Counsel, let's lay a
10 foundation about the documentation as to witnesses
11 using --

12 **MR. YOUNG:** Your Honor, I'm sorry. I have
13 difficulty hearing.

14 **THE COURT:** Please lay a foundation about the
15 documentation that the witness is using and then
16 I'll be able to respond to the objection.

17 **MR. YOUNG:** Thank you, Your Honor.

18 **THE COURT:** Thank you.

19 BY MR. YOUNG:

20 **Q** Now, ma'am, I want to ask this very simple
21 question about what you're referring to here.

22 **A** Okay.

23 **Q** Is that particular document that you're
24 referring to and have been referring to throughout
25 this point, is that something that is created and

1 maintained by SLED as a part of -- as part of
2 something that you use as part of your normal
3 business activities?

4 **A** Yes, it is.

5 **Q** All right. In that -- connection with that,
6 that particular record is available to everyone at
7 SLED?

8 **A** Yes, that's correct.

9 **Q** And is that something that everyone at SLED
10 refers to?

11 **A** That's correct.

12 **Q** For --

13 **A** But let me back up, within the lab.

14 **Q** Correct.

15 **A** Yes.

16 **Q** All right. And the persons who handle the
17 evidence associated with it?

18 **A** That's correct.

19 **Q** All right. And in the course of what you do on
20 a daily basis, do you refer to that, while you were
21 at SLED, do you refer to that record?

22 **A** Yes.

23 **Q** And is it something that's maintained and
24 regularly recorded as business activity within SLED
25 itself?

1 **A** Yes, that's correct. This is what we call the
2 Electronic Chain of Custody. And this is a verified
3 chain of custody, which is essentially, basically,
4 the case, you know, or the lab number from start to
5 finish.

6 **Q** And every action taken with regard to what
7 happens with any particular piece of evidence by
8 item number and by case number, is it recorded on
9 that document?

10 **A** Yes. Yes, it is.

11 **Q** And is that a fair and accurate summary of what
12 happened to the evidence in this particular case?

13 **A** Yes.

14 **THE COURT:** And, ma'am, you say it's verified.
15 Tell me by whom is that verified?

16 **THE WITNESS:** Well, what typically happens is
17 someone from the Solicitor's office would send a
18 request to the admin person within the lab, who is
19 Tammy Rawl, and she would send out requests to
20 everyone that is listed in this chain of custody.
21 Like for myself, she would have sent me an e-mail
22 and said, Please verify your portion of the chain of
23 custody. And I would literally go through each item
24 that had my name on it and, you know, just verify
25 that the dates look right, the times look right, you

1 know, it made sense of where I put it, you know,
2 nothing happened electronically.

3 **THE COURT:** Very good. And is there some
4 verification signature on that piece of paper?

5 **THE WITNESS:** I don't believe there is.

6 **THE COURT:** All right. What makes you say then
7 that that one has been verified?

8 **THE WITNESS:** I say this has been verified
9 because Mr. Frank Young provided it to me and he
10 would not have been able to -- he would not have
11 received one or could not receive one without going
12 through Tammy Rawl. Now, that was the -- that was
13 the way things happened when I worked there.

14 **THE COURT:** Very good.

15 I'm going to overrule your objection, Counsel.
16 You may have cross-examination on these points, if
17 you wish.

18 And you may proceed.

19 BY MR. YOUNG:

20 **Q** Now, sir -- ma'am, I apologize, we were at the
21 point, I believe, of describing State's Exhibit
22 Number 23 -- excuse me -- item number 23, State's
23 Exhibit Number 17. I apologize. The numbers some
24 time gets confusing. If you would, refer to item
25 23, according to the SLED verified chain of

1 custody --

2 **A** Yes.

3 **Q** -- and what happened to that particular piece
4 of information?

5 **A** Okay. I did an intake with that piece of
6 evidence as well on 4/17 of 2012. And at 11:13 that
7 morning, I scanned it to latents evidence intake
8 storage. Again, the next day, 4/18, Patricia Crooks
9 removed it from the intake storage and she
10 transferred it to Lesa Chapman at exactly the same
11 time, 9:52.

12 **Q** So both of these items went at the same time,
13 same place, same people?

14 **A** Same place, yes.

15 **Q** From there to there so to speak, same folks,
16 same time?

17 **A** Yes.

18 **Q** All right. Now, with regard to the other two
19 exhibits, and I'm going to refer to this as State's
20 Exhibit, State's Exhibit Number 30, number 1, and I
21 believe this bears an indication of 25.25?

22 **A** Yes.

23 **Q** Item 25.

24 **A** Okay.

25 **Q** Ma'am, if you would, can you tell me what

1 happened to that particular piece of information?

2 **A** Yes, I can. Do you want me to read the
3 description?

4 **Q** What is that item first off?

5 **A** Okay. The item is described as a sealed,
6 heat-sealed pouch containing gloves, described as
7 purple latex-like gloves, found in van. I received
8 that item or those items on 4/17/12 also from
9 Mr. Wilson with Saluda County Sheriff's Office, also
10 scanned that evidence into latent evidence intake
11 storage. Again, the next day, 4/18, Patricia Crooks
12 removed it from the intake storage and scanned it to
13 Lesa Chapman on that same day.

14 **Q** All right. And, ma'am, that would have been
15 basically the same steps that were followed with the
16 firearms. Can you tell me now -- is that correct?

17 **A** Yes, that's correct.

18 **Q** Would you tell me now about State's Exhibit
19 Number 31, which bears item number, appears to be,
20 26?

21 **A** Item 26 is described as one sealed, heat-sealed
22 pouch containing gloves, described as purple
23 latex-type gloves, pieces found on roadside of Mine
24 Creek Road near the scene. I did intake that
25 evidence, again, on April 17th, and I did scan that

1 evidence into latent intake storage on the 17th. On
2 the 18th, Patricia Crooks removed that evidence and,
3 at the same time, scanned it to Lesa Chapman.

4 Q Okay. Now, you took -- you took one more --
5 you need to take one more step with regard to the
6 same procedure as to State's Exhibit Number 33,
7 which appears to bear a sequence of numbers 9
8 through, I believe you indicated, 22?

9 A I believe 22, yes. I'm just verifying to make
10 sure all items say the same description.

11 Okay. Yes, items 9 through 22, they are
12 described as one sealed envelope containing slugs
13 described as fired 9mm cartridge found outside of
14 residence.

15 Q And that's with item nine. Would you please
16 take a look at ten and the remaining to see what the
17 description was with regard to that?

18 A Yeah. Those were the same. I just verified --

19 Q Take a look at number ten.

20 A I'm sorry. The description on that one says,
21 As fired .40 caliber cartridge case found outside of
22 residence.

23 Q And would you look at those through the
24 remaining 22, number 22?

25 A Yes. Those all do say, Sealed envelope

1 containing cartridge case, described as fired .40
2 caliber cartridge case, found outside of residence.

3 **Q** So number nine is a 9mm casing description?

4 **A** That's correct.

5 **Q** And the rest are .40 caliber description?

6 **A** That's correct.

7 **Q** And what happened to those?

8 **A** Okay. They are all actually in the same pouch,
9 same envelope. And I logged those in on the same
10 day, April 17th, from Mr. Wilson and scanned those
11 into latent print -- latent evidence intake storage.
12 The next day Patricia Crooks removed those items and
13 scanned those to Lesa Chapman.

14 **Q** Okay. So, in essence, every one of these same
15 pieces of evidence were processed basically the same
16 identical way with regard, from the time it left
17 your hands until it went through the -- Patricia
18 Crooks, latent evidence storage and so forth? It
19 went forward, in other words, the same way?

20 **A** That's correct.

21 **MR. YOUNG:** All right. Ma'am, I thank you for
22 your testimony. Would you please answer any
23 questions the defense may have?

24 **THE COURT:** Cross-examination.

25 **MR. MADSEN:** Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. MADSEN:

3 Q So, Ms. Kinard, what you described as far as
4 the evidence, those are what the protocols at SLED
5 are, correct?

6 A That's correct.

7 Q And so you don't have any personal knowledge
8 that Ms. Crooks or someone else, you don't actually
9 see them get those items, do you?

10 A Not physically, no.

11 Q The protocols are that when you get it, you're
12 supposed to scan it and that's how that chain of
13 custody is developed?

14 A That's correct.

15 Q And SLED's like any other employer where they
16 hire people, they fire people, people maybe don't do
17 what they're supposed to do, correct?

18 A That could happen, yes, sir.

19 Q And so if someone else had touched that
20 evidence and they don't scan it in, you have no way
21 of knowing that, do you?

22 A Well, the way the evidence, they would have to
23 scan it to someone. And particularly with Patricia
24 Crooks because she --

25 Q She's been there forever?

1 **A** Right. Yes, she has been. But since she works
2 in, we say the back, which was in the evidence room,
3 she specifically -- she did not log in cases, she
4 only dealt with the evidence. So for her, I mean,
5 she would have to scan it to someone else. No one
6 has access, other than the five people that worked
7 in evidence control, has access to the evidence
8 itself. So like Lesa Chapman couldn't just, you
9 know, come grab some piece of evidence and take it
10 upstairs.

11 **Q** Sure. But once it's upstairs, you don't know
12 what she does with it or what anyone else does with
13 it up there?

14 **A** That's correct.

15 **Q** You can read off a piece of paper, but if
16 they're not following the appropriate protocols, you
17 have no way of knowing that?

18 **A** That's correct.

19 **Q** And when the evidence comes in, the items that
20 the Solicitor had you look at, that's just -- those
21 aren't the only items that you received, are they?

22 **A** No.

23 **Q** And I think you had said something about Gerald
24 Williams, but I guess is this kind of an evidence
25 intake are different than the chain of custody?

1 **A** That would be -- that looks like the paper for
2 the iLAB, the iLAB submission.

3 **Q** Everything that comes in is put down on this.
4 Is this what law enforcement fills out and gives
5 you?

6 **A** That's -- yes, what we -- excuse me -- SLED
7 started the iLAB system several years ago and it was
8 in effect in 2012, where the agency would log in
9 their evidence at the sheriff's office or the police
10 department and then they would just bring us that
11 paper that has a barcode on it and we scan it and
12 just go through the evidence and number it how it
13 needs to be.

14 **Q** And so the iLAB lists that there are suspects
15 of Oriental Charley, Gerald Williams and also Al
16 Young, correct?

17 **A** That's correct.

18 **Q** You get, I guess, item number one is a BEST
19 kit?

20 **A** That's correct.

21 **Q** And that's generally associated when law
22 enforcement is saying, hey, we think that there
23 might be drugs here, that's what a BEST kit is
24 normally associated with, correct?

25 **A** That's correct.

1 **Q** You also get an item number two that is a Smith
2 & Wesson .40 caliber pistol; is that correct?

3 **A** Yes, that's correct.

4 **Q** And that's indicated, I believe, belonging to
5 Al Young?

6 **A** Yes, that's correct.

7 **Q** And that was item number two?

8 **A** That's correct, yes.

9 **Q** Then item number three is something that is
10 received -- and when I say received, you get
11 these -- or these items are all coming to you at the
12 same time from Deputy Wilson, correct? That's what
13 the chain of custody is showing?

14 **A** That's correct.

15 **Q** If, for some reason, you get them at a separate
16 time when I ask you about these pieces, just let me
17 know, but I'm going to assume that you got them all
18 at the same time.

19 **A** Okay.

20 **Q** And item three is indicated as a cartridge
21 case, described as a one fired cartridge case from
22 inside the residence?

23 **A** Yes.

24 **Q** Four is also described as -- or is described as
25 a .40 caliber cartridge casing found in the hallway

1 of the residence?

2 **A** Yes.

3 **Q** And how long did you work at SLED?

4 **A** Five years.

5 **Q** And that's -- when we're talking about
6 cartridge casing, we're talking about that thing
7 right there?

8 **A** That's correct, spent.

9 **Q** Spent.

10 **A** Spent case, yes.

11 **Q** Bullet's gone, it's been fired or somehow the
12 projectile part's been removed?

13 **A** That's right.

14 **Q** And we've got five is the same thing, another
15 cartridge case that says -- indicates was found in
16 the hallway of the residence?

17 **A** Yes, that's right.

18 **Q** And six is identical. It's another cartridge
19 case, .40 caliber, found from inside the residence?

20 **A** That's correct.

21 **Q** Seven is described as a slug from the laundry
22 room?

23 **A** Yes.

24 **Q** And when we're talking about a slug, we mean a
25 fired bullet?

1 **A** That's right. That's correct.

2 **Q** And then eight was a slug taken from the
3 kitchen of the residence?

4 **A** That's correct.

5 **Q** And we jump to nine and that is a -- it says,
6 containing slugs described as fired 9mm cartridge
7 found outside the residence, correct?

8 **A** Yes, that's correct.

9 **Q** And so that's a 9mm found outside described as
10 a slug, correct?

11 **A** That's correct.

12 **Q** And then 10 through, was it, 22?

13 **A** 22 I do believe. Let me verify that.

14 That's correct.

15 **Q** Those are described as cartridge casing -- or a
16 cartridge -- .40 caliber cartridge case found
17 outside the residence, correct?

18 **A** Yes, that's correct.

19 **Q** But with item number 33, that goes 9 through 22
20 in here, correct?

21 **A** I'm sorry? State's --

22 **Q** State's Exhibit Number 33 is 9 through 22?

23 **A** That's correct.

24 **Q** But they have it listed number nine as being a
25 slug and there are no slugs in here, are there?

1 **A** No, there's not. And that was probably my
2 fault for not seeing that on the iLAB sheet and
3 seeing that when I logged in the case and assigned
4 it a container number, which is container A, when I
5 put all of those items into one container.

6 **Q** Who does the iLAB? Do you do it or did law
7 enforcement fill that out when they got there?

8 **A** That would have been Scott Wilson -- I'm sorry
9 -- Marion Wilson.

10 **Q** And that would have been listed then as a fired
11 9mm cartridge found outside the residence listed as
12 a slug by him?

13 **A** Right. And I should have caught that and
14 changed that to cartridge case or fired bullet.

15 **Q** So that's wrong?

16 **A** The -- the initial -- what happens is the, as
17 you see on the paper that you have, that one list
18 shows, like, what it is, cartridge case or slug and
19 so on, so forth, and then the next box actually
20 describes exactly what it is. So when you look at
21 the chain of custody, it makes it look like, it
22 says, you know, slug described as fired 9mm all the
23 way across, but the slug part is actually a
24 drop-down box that you choose from when you're
25 logging it in. And, at that time, when it was being

1 logged in, I should have caught that. Instead of
2 saying slug, it's a fired bullet or a cartridge
3 case.

4 Q Well, it doesn't make it sound like it, that's
5 what it says is it's a slug, doesn't it?

6 A Well, I mean, as far as on the chain of
7 custody, how it reads, like, straight across,
8 there's no broken down, like you wouldn't know
9 that's on here basically looking at the chain of
10 custody that the word slugs is actually from a
11 drop-down box that you can change.

12 Q But it's not. It's a cartridge casing?

13 A It is a cartridge casing.

14 Q And so item number 23 then is a 9mm pistol that
15 was submitted to y'all that I think the Solicitor
16 had asked you about, correct?

17 A Yes, that's correct. Yes, it's right here.

18 Q And when you receive item -- well, let me back
19 up. While you were working at SLED, this forensic
20 technician, I think that was the job that you had?

21 A Yes, that's correct.

22 Q Pretty much doing the same thing the entire
23 time?

24 A Yes.

25 Q And so you said that your job is to basically .

1 take evidence that's coming in from law enforcement
2 throughout the state?

3 **A** That's correct.

4 **Q** And so prior to it getting to you, you are --
5 or they're responsible for the care, collection and
6 control of that evidence?

7 **A** That's right, the agent -- the particular
8 agency is.

9 **Q** On -- let me show you Defendant's Exhibit
10 Number 2, which is a box of .40 caliber ammunition.
11 Can you tell, was that ever submitted to you?

12 **A** Let me verify the chain of custody.

13 As I just quickly looked through there, I do
14 not see that --

15 **Q** They weren't?

16 **A** -- they were submitted.

17 **Q** And then let's just kind of jump ahead, because
18 when you get a certified chain of custody, not
19 everything in there is going to be stuff that you
20 received, it's going to be everything under a
21 particular case, but there could be other items that
22 other individuals at SLED received not you. So if
23 we jump to number -- or item number 30, you
24 received, I guess, some -- a digital scale, an AWS
25 digital scale, Number 30?

1 **A** That was submitted on August the 27th of 2012.
2 What it appears to me, and the forensic scientist,
3 Tom Darnell, who I believe is going to testify
4 today, could probably tell you a little bit more
5 than that because it doesn't have -- it doesn't have
6 my name on it first, but I believe what happened was
7 it was possibly in another package.

8 **Q** So it was -- it indicates¹ that it was in
9 package number three, doesn't it?

10 **A** Yes, it does. Yeah, it does. So in item
11 number three -- in with item number three --

12 **Q** That was a sealed cartridge case fired from
13 inside the residence?

14 **A** He -- when he was --

15 **Q** He pulls it out of that?

16 **A** Right. So when he was inventorying that
17 particular package, he found a scale and then logged
18 it in.

19 **Q** And item number 31, a cigar cutter, is the same
20 thing, isn't it?

21 **A** Yes, that's correct.

22 **Q** It wasn't logged in with you. It was
23 apparently also in item number three?

24 **A** That's correct.

25 **Q** So when you get it, it indicates that that's

1 just a cartridge casing, but then he finds other
2 items in there?

3 **A** Right. And that does happen sometimes. I
4 don't -- I didn't open any evidence when it came
5 from agencies. If they had it sealed, then it
6 remained sealed and we would just work off of either
7 the log-in sheets or what we call the packing slip
8 based on what they said was in that particular
9 package.

10 **Q** So you're relying on them, correct?

11 **A** That's correct.

12 **MR. MADSEN:** That's all the questions I have,
13 Your Honor.

14 **THE COURT:** Is there redirect?

15 **MR. YOUNG:** There are none. We ask this
16 witness to be excused.

17 **THE COURT:** Ma'am, you're free to leave or
18 remain, if you wish. You have a good day.

19 **THE WITNESS:** Thanks. You, too.

20 **MR. YOUNG:** The State calls Tom Darnell.

21 **THE COURT:** Please come forward and take the
22 oath of a witness.

23 ****

24 ****

25 ****

1 THOMAS EDWARD DARNELL,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. YOUNG:

5 **Q** Mr. Darnell.

6 **A** Yes, sir.

7 **Q** Would you give us your full and complete name,
8 tell us where you work and what you do for living?

9 **A** My name is Thomas Edward Darnell. Last name is
10 spelled D-a-r-n-e-l-l. I work for SLED or the State
11 Law Enforcement Division. I'm in the forensic
12 laboratory. I am a latent print examiner, evidence
13 collection examiner in the laboratory.

14 **Q** All right, sir. In connection with your job as
15 latent prints examiner, what qualifies you to do
16 that type of job?

17 **A** I've been in law enforcement and/or forensics
18 for about 30 years, a little over 20 of that has
19 been in the forensic field. I've -- and over that
20 time, I've taken numerous courses, in-house
21 training, academy training at our state academy.
22 I've been at the FBI academy for various courses of
23 training. I've testified in court numerous times in
24 the field as well.

25 **Q** And in what particular field are we talking

1 about?

2 **A** I've testified in most anything to do with
3 crime scene investigation, crime scenes,
4 fingerprints. I've testified to footwear,
5 bloodstain pattern, crime scene reconstructions.
6 Just about anything that has to do with a crime
7 scene, I've testified to it.

8 **Q** Are you familiar with case number L12-04591?

9 **A** Yes, sir.

10 **Q** And in that regard, sir, did you perform any
11 duties in SLED in connection with that particular
12 case number?

13 **A** I did.

14 **Q** What did you do?

15 **A** I received some items of evidence for
16 processing, both for fingerprint processing and for
17 DNA evidence collection.

18 **Q** Okay. Now, I'm going to move on to the very
19 specific point here of what you did with regard to
20 certain item numbers. Sir, you're obviously
21 familiar with SLED's internal operations?

22 **A** Yes, sir.

23 **Q** Were there not specific numbers assigned to
24 items that were received for processing at SLED in
25 connection with the case number L12-04591?

1 **A** Yes, sir. Every item of evidence when it comes
2 into the laboratory is assigned a number and that
3 number remains with that evidence all the way
4 through our laboratory.

5 **Q** All right. Now, in connection specifically
6 with two item numbers, I want to know if you did
7 anything specifically with regard to two item
8 numbers I'm going to refer to, item number 26 and
9 25, bearing the SLED case number L12-04591?

10 **A** Yes, I did.

11 **Q** All right, sir. Now, I want to ask you what
12 you did?

13 **A** I'm sorry?

14 **Q** What did you do?

15 **A** In items -- or State's Exhibit 31 and 30 are
16 both brown paper bags that contain pieces of latex
17 gloves, rubber gloves. The request was made for me
18 to examine these items and process them for
19 fingerprints and also for DNA or to collect any DNA
20 samples that might be there. In this particular --
21 with this particular type of evidence, it's been my
22 experience that the success rate of developing
23 fingerprints on that type of surface is very slim to
24 none.

25 **Q** Now, sir, I'm going to go ahead and --

1 **MR. YOUNG:** And, at this point, ask the Court
2 to accept him as a qualified expert in fingerprint
3 analysis and in the collection of DNA.

4 **THE COURT:** All right. Ladies and gentlemen,
5 let's talk about that for just a moment. This
6 witness has been offered as an expert witness. All
7 our previous witnesses have been lay witnesses.
8 Typically, a lay witness will come in to testify
9 about what they saw or heard or did. An expert
10 witness, on the other hand, because of training or
11 experience or knowledge in a particular area, if
12 recognized as an expert, will be allowed to testify
13 about not only what they saw or heard or did, but
14 what opinion they derive from what they saw, heard
15 or did, which is the difference between an expert
16 witness and a lay witness.

17 When an expert witness is offered, we stop
18 right then and go to the other side and we give them
19 an opportunity to question the expertise of the
20 witness and to weigh in on that point.

21 So is there voir dire for this witness on the
22 issue of expertise?

23 **MR. MADSEN:** There is not, Your Honor. I know
24 Agent Darnell.

25 **THE COURT:** There is consent, there's no

1 objection?

2 **MR. MADSEN:** Yes.

3 **THE COURT:** All right. Then without objection,
4 then the witness is recognized as a expert in the
5 area of latent print examination, as well as DNA
6 collection.

7 What this means, ladies and gentlemen, is that
8 the witness will be allowed to give an opinion, but
9 it doesn't mean that you must accept that opinion.
10 You should still weigh it for credibility and
11 believability and for the bases of the opinion that
12 are given along with the opinion. It's not given
13 for the purposes of controlling your judgment, but
14 for assisting you in finding the matters of fact
15 that may be within the purview of this expert if you
16 deem it to be helpful.

17 With that understanding, the witness is so
18 recognized. You may proceed, Mr. Darnell. And,
19 Mr. Young, go ahead.

20 **MR. YOUNG:** Thank you, Your Honor.

21 **THE COURT:** Thank you.

22 BY MR. YOUNG:

23 **Q** Mr. Darnell, I want to ask you specifically
24 about those two items of evidence we've talked
25 about. They've been marked as State's Exhibit

1 Number 30 and 31. But I want to go back to the
2 question, these are items 25, I believe, and 26 and
3 you were starting to talk to the jury a bit about in
4 your experience, there was something in connection
5 with latent prints versus DNA. You might want to
6 address that topic again, just start from there,
7 please, sir.

8 **A** The type of evidence that I -- that's in
9 question here, the latex gloves, it's been my
10 experience over my career that developing
11 identifiable fingerprints on that surface doesn't
12 happen very often. It's not to say that it can't,
13 but it just doesn't happen very often. A lot of
14 that has to do with the fact that, you know, we're
15 talking about a glove that's been on someone's hands
16 allegedly, just the overall surface, you know, most
17 of your fingerprint is nothing but moisture, okay,
18 and that surface just doesn't lend itself as a good
19 surface for leaving identifiable prints on that
20 surface, and that's been my experience over my 25
21 plus years of doing this.

22 So because of that, and I knew -- I knew what
23 type of case we had. I actually received a copy of
24 the incident report to assist me in my processing,
25 so I sort of knew what was going on with this case.

1 And so I made the decision that I felt like that the
2 best -- the best type of forensic evidence that I
3 could collect off of these gloves was that of DNA.

4 The gloves are on someone's hands, allegedly,
5 so, you know, you're perspiring, so I'm thinking
6 there's going to be a good chance of getting some
7 DNA off of these gloves. So I chose not to process
8 it for latent prints, but rather to swab these items
9 of evidence, these glove pieces, for DNA, which is
10 what I did in this case.

11 How I did that, I simply take a -- well, first
12 of all, I've got gloves on my hands because I don't
13 want to leave my DNA behind when I'm handling the
14 evidence, that's protocol. I'd have on a laboratory
15 coat and the -- and I would use a -- in this case, I
16 used some sterile cotton swabs. I moisten the swabs
17 with distilled water, which is sterile water, and
18 then I simply swab the entire area of that glove
19 with that cotton swab, okay.

20 The swabs are then allowed to air dry, okay. I
21 put them under a hood so that nothing else can be
22 around it, nothing else can come close to it to
23 contaminate it, so I allow that swab to air dry.
24 And then I take those swabs and I package them
25 properly with identifiers, and I seal it properly

1 and initial the evidence so that I can pass it on to
2 where it needs to go for further examination.

3 Q So I want to ask you with regard to these two
4 items, 25 and 26, did you take any such swabs from
5 either one of those items or both?

6 A I took swabs from both items 25 and 26.

7 Q And, sir, would you be able to recognize your
8 packaging, your containers or any other thing
9 associated with the creation of those swabs?

10 A Yes, I would.

11 Q Were they assigned another number based upon
12 your collection?

13 A Yes, sir, they were. Any time we receive an
14 item of evidence, if we collect anything off of that
15 item, the next item number becomes a subitem number.
16 In other words, in this case, I'm talking about
17 items 25 and 26 which I got the swabs from, so then
18 the swabs will become item 25.1 and 26.1.

19 Q Do you think you'd be able to recognize those
20 items again if you saw them?

21 A Yes, I would.

22 (State's Exhibit Numbers 35 and 36, DNA
23 swabs, marked for identification.)

24 Q Sir, I'm going to hand up to you 35 and 36.

25 A I do recognize these, sir. These are what we

1 call a heat-sealed pouch. It's a plastic bag.
2 Within the heat-sealed pouch is a small brown
3 envelope of which I placed the swabs inside the
4 brown envelope. I then sealed the envelope with
5 evidence tape with the date that I sealed it and my
6 initials. And then I further -- and I also put on
7 the outside of the envelope, I describe what's in
8 it, okay, and I've got my name on the front as being
9 the one that collected these items.

10 And then I actually took this brown envelope
11 and placed it inside of another container, heat
12 sealed it, dated it and initialled it so that that
13 way -- and the reason we do that is because it
14 prevents anything from being contaminated or being
15 lost or misplaced. So it's all inside this sealed
16 container so that when it travels throughout the
17 laboratory, it will remain that way until it reaches
18 its final destiny. And that was done in both 26.1
19 and 25.1 in the same fashion.

20 Q And, sir, you said that you created these swabs
21 at your work place?

22 A Yes, sir.

23 Q Did anyone else have access to these swabs
24 between the time you created them until you placed
25 them in the sealed pouch?

1 **A** No, sir.

2 **Q** Did you make any change in the quality, content
3 or character from the time you made the swabs until
4 you placed them in that pouch?

5 **A** None whatsoever.

6 **Q** Now, with regard, sir, to these other items of
7 evidence up here, and I'm going to refer now both to
8 State's ID numbers of what's been previously
9 identified as numbers associated with SLED, State's
10 ID -- excuse me -- State's Exhibit Number 16, which
11 has been referred to as State's -- excuse me -- as
12 SLED's item 24, State's Exhibit Number 17 referred
13 to as item 23 at SLED, State's 33 which appears to
14 have a sequence of SLED numbers 9 through 22
15 associated with it, that's this item, and then going
16 back to the other two items you just identified,
17 sir, these items, each of them, did they come to
18 your section, internally to your office, to the
19 section you work in?

20 **A** Yes, they did.

21 **Q** Okay. Can you identify with regard, and I'm
22 going to start, please, with each one of them, can
23 you tell me with regard to these two items here, and
24 which will be 23 and 24, I believe, these are
25 pistols, can you tell me when you received them in

1 your section?

2 **A** I received both of these weapons on August the
3 17th of 2012, within a -- within a sealed container.

4 **Q** All right, sir. And they came to you from
5 where?

6 **A** They came to me -- they would have been
7 initially logged in at our SLED evidence control
8 office and then they were picked up by our
9 administrative assistant or a technician in our
10 department. Then she picks it up from there, brings
11 it upstairs to our laboratory, puts it in a secure
12 vault, and then I received it straight from the
13 evidence vault.

14 **Q** All right. And what day did you receive it --
15 and who was the person who put it in the vault?

16 **A** That would have been Lesa Chapman.

17 **Q** And what day was it placed in the vault?

18 **A** It was placed in the vault on April the 18th,
19 2012.

20 **Q** And when did you retrieve it from the vault?

21 **A** I retrieved it on August the 27th, 2012.

22 **Q** All right, sir. And then after you completed
23 your actions, can you briefly recite for the Court,
24 with regard to item 23, where the next, so to speak,
25 stage went? Where did it go from there?

1 **A** Okay. Item 23, which is a 9mm pistol, once I
2 completed my examination of the pistol, I placed it
3 in what we call latent return holding, which is
4 inside of our evidence vault, which is in a secure
5 area. And it was then picked up by Lesa Chapman,
6 who is our, again, she's our office assistant there,
7 and then she took the item and then took it back
8 downstairs into the evidence control office on the
9 first floor of the laboratory. And from there, it
10 would have ultimately made it to the next
11 department, which would have been the firearms
12 department.

13 **Q** All right, sir. Now, was this -- can you give
14 us the dates these events occurred for the first one
15 the latents holding?

16 **A** When it first came to --

17 **Q** When it went into a latent holding. You placed
18 it in latent print holding?

19 **A** Yes, sir. I actually placed it into the latent
20 print -- latent evidence holding on the same day
21 that I received it. Once I completed my
22 examination, about four hours later, I was able -- I
23 placed it back into latent return holding that same
24 day on August 27th.

25 **Q** All right. And when did Ms. Chapman place

1 it --

2 **A** She picked it up on August the 31st, four days
3 later.

4 **Q** And when did Ms. Perry come in contact with it?

5 **A** Nikki Perry Hughes actually received it
6 straight from Lesa Chapman on that same day, August
7 the 31st.

8 **Q** And what day did it go into the intake storage
9 and firearms?

10 **A** It went into the intake storage and firearms,
11 again, on that day, August 31st.

12 **Q** Sir, did you complete your examination of both
13 these weapons that same day?

14 **A** Yes, I did.

15 **Q** Did you transmit them in the same fashion to
16 the same people and went through the same processes
17 of who touched what and when as to both weapons?

18 **A** Yes, I did. As with all evidence, I would put
19 my initials and identifiers, I put them back in the
20 same container that I received them in. I don't mix
21 anything up. It all goes in the same original
22 container. I close the box up, seal it with
23 evidence tape, date and initial, and then it moves
24 forward from there.

25 **Q** So you actually did break the seal. You went

1 into the box and then you resealed it?

2 **A** Yes, sir. I have to break the seal to get to
3 the evidence and then I reseal it with more tape and
4 then it moves from there.

5 **Q** And other than your examination, you've made no
6 change in its quality, content or character?

7 **A** None whatsoever.

8 **Q** Okay. Does anything you do interfere with
9 anyone else's ability to actually do their
10 examinations, such as firearms?

11 **A** No, sir. No, sir. Actually, we're real
12 careful about if -- by knowing if weapons have to go
13 to the next -- to the firearms department, that
14 nothing that we really do in the fingerprint world
15 is going to interfere with anything that the
16 firearms guys have to do, so -- and that was the
17 case with this evidence.

18 **Q** Sir, with regard to your handling of -- it
19 would be items 9 through 22, which are described as
20 shell casings, could you tell me what happened with
21 regard to those block of evidence, 9 through 22,
22 from the time you received it and where you received
23 it from?

24 **A** 9 through 22?

25 **Q** Yeah. Where did you receive 9 through 22 from?

1 **A** I also received that from the latent -- our
2 latent incoming area at our evidence vault. Those
3 items would have followed the same path as the ones
4 I just mentioned because I actually received all of
5 these containers at one time. In other words, I
6 didn't get one container this day and one the next.
7 I got them all at one time to start the process.
8 But items 9 through 22, they're listed as .40
9 caliber cartridges and the timeline would have been
10 the same. I received those on the same day and
11 moved them forward from there.

12 **Q** All right. So you received these on August
13 27th, 2012?

14 **A** Yes, sir..

15 **Q** All right. And did you -- did they stay with
16 you or did you place them back in the holding...

17 **A** Once I completed processing those items, I
18 initialled them and I put them back in a sealed
19 container and I put them back in the -- our latent
20 return holding that same day. And then --

21 **Q** Who was the next person that handled them?

22 **A** It would have been Lesa Chapman. She would
23 have taken those and then took them downstairs to
24 evidence control.

25 **Q** And what day did she receive them?

1 **A** She received them on September the 18th.

2 **Q** Okay. And they were -- you received these and
3 placed them into -- when did you place them back
4 into latent holding?

5 **A** When did I do that?

6 **Q** Yes, sir. You had them from -- what day did
7 you receive them and what day did you place them in
8 latent holding?

9 **A** I received them on August the 27th. And I put
10 them back into latent return holding on that same
11 day, the 27th.

12 **Q** Did you receive them twice in the same day? I
13 would like you to refer to item nine.

14 **A** Okay. I received it on the 27th of August
15 initially. And it does appear in the chain that it
16 did go back to latent return holding and I then
17 received it back the same day. I'm not sure why
18 that is, but for some reason, I put it back in
19 latent return holding. It could have been that I
20 had to go do something else and wanted to secure it
21 while I was away.

22 **Q** And then when did you next place it in latent
23 holding?

24 **A** That would have been placed in latent return
25 holding on the 13th of September.

1 **Q** Okay. And from there, it went to Ms. Chapman,
2 I think you indicated?

3 **A** Yes, sir. On the 18th of September is when
4 Ms. Chapman gained custody of it.

5 **Q** And from then where did it go? What person?

6 **A** It went to Ms. Pat Crooks, who works in the
7 evidence control department.

8 **Q** And is there a specific area within their
9 evidence room that some of these items sometimes go?

10 **A** Yes, sir. They have a certain area where they
11 place items that are going to the various
12 departments. And, in this case, it looks like she
13 placed it on a certain bin. Bin number ten, shelf D
14 is how they itemize the location. And it remains
15 there until firearms comes and gets it.

16 **Q** Well, it appears that on the 18th -- does it
17 not appear on the 18th that she perhaps retrieved it
18 from one bin and then placed it back into another
19 area?

20 **A** Yes, sir. Looks like she got it back on the --
21 well, she puts it in a bin and then that same day
22 she takes it and she moves it into a firearms
23 evidence intake storage, which is -- which is
24 basically within the evidence area, evidence control
25 area.

1 Q And that happened what day?

2 A All that happened on the same day, on the 18th
3 of September. Looks like she might have put it in
4 one area and then she had to move it some other
5 place because of space issues or something like
6 that, I would assume.

7 Q Okay. All right. Is that true of all those
8 items in, it appears to be 9 through 22, is that
9 true of all of those?

10 A Yes, sir.

11 Q All right. If you would, sir, please, just
12 tell us, with regard to items 25 and 26, after you
13 completed the business of taking the swabs, what did
14 you do with the actual gloves themselves?

15 A Once I finished processing the gloves and I
16 determined that I was done with them, there was
17 nothing else I could do, I packaged them back in the
18 same brown bag that the original -- that the
19 submitting agency brought them in and I put those in
20 the latent return holding, which would ultimately be
21 returned to the submitting agency, and I put those
22 in latent return holding the next day, which would
23 have been August the 28th, 2012.

24 Q All right. Here are the swabs. This is
25 referred to as, that I refer to, as items 35 and 36

1 and you have marked on here 25.1 and 26.1. What did
2 you do with those two bags containing the swabs?

3 **A** The packaging that contains the swabs, once
4 they were air dried and once they were packaged and
5 sealed and so forth, I took those sealed packages
6 and I put them in our latent return holding. And,
7 you know, again, this is also inside of our evidence
8 vault which has a limited access. And they were
9 placed in there on August 27th of 2012. And then
10 four days later, they were picked up by Lesa Chapman
11 and she then distributed or moved those items to
12 evidence control.

13 **Q** Who was that person in evidence control? On
14 what day was that?

15 **A** That would be Nikki Hughes, Nikki Perry Hughes.
16 And she received them that same day on the 31st of
17 August. And then Nikki took those packages and she
18 placed them in a DNA in -- what they call a DNA
19 intake shelf, which is a, you know, we have so much
20 evidence, you have to have a specific location to
21 put things so you can keep up with them. So she put
22 those in a DNA intake shelf as their location where
23 she put them and then that's where they stayed until
24 the DNA analyst got custody of them.

25 **Q** All right. And who was the person who

1 retrieved it for the DNA person? And when did that
2 happen?

3 **A** Initially, they were removed from the DNA
4 intake shelf by Pat Crooks, or Patricia Crooks, on
5 May 22nd, 2013. And then Ms. Crooks transferred
6 those to Amanda Webb on that same day. In other
7 words, Amanda would have come down to get that from
8 Ms. Crooks. And it was transferred to Amanda Webb
9 on that same day, May 22nd, 2013.

10 **MR. YOUNG:** Would you please answer any
11 questions the defense has for you?

12 **THE WITNESS:** Yes, sir.

13 **THE COURT:** Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. MADSEN:

16 **Q** Agent Darnell, besides the items that the
17 Solicitor asked you about, you did other things too,
18 didn't you? You got other items, didn't you?

19 **A** Yes, sir, I did.

20 **Q** And how long have you been at SLED?

21 **A** Well, I was there about 20 years. I actually
22 retired in 2009 and I've continued to work in this
23 field, and I've been rehired back at SLED.

24 **Q** And Ed's your father?

25 **A** Yes, sir.

1 **Q** Second longest serving sheriff in the state,
2 correct?

3 **A** Yes, sir.

4 **Q** So not only do you receive those two guns you
5 talked about, you received an additional gun, didn't
6 you? I believe it's item number two.

7 **A** Yes, I did.

8 **Q** And that was a Smith & Wesson .40 caliber
9 pistol that had a serial number DSE0043?

10 **A** That's correct.

11 **Q** With magazine and 15 .40 caliber cartridges?

12 **A** That's correct.

13 **Q** And then you received item number three, which
14 was a .40 caliber cartridge, identified as being
15 from inside the residence?

16 **A** Correct.

17 **Q** Item number four was a .40 caliber cartridge
18 found in the hallway of the residence?

19 **A** That's right.

20 **Q** Item number 5 was a .40 caliber cartridge case
21 found in the hallway of the residence?

22 **A** Yes, sir.

23 **Q** Same thing with number six?

24 **A** That's correct.

25 **Q** What's identified in seven as lead projectile

1 from laundry room?

2 **A** I did receive that, yes, sir, but that wasn't
3 actually something that I needed to be processing,
4 but I did receive it.

5 **Q** Item eight, which was two lead projectiles from
6 kitchen?

7 **A** Yes, sir.

8 **Q** And then I think you talked about 9 through 22?

9 **A** Yes, sir.

10 **Q** And then items 23 and 24, the two guns that you
11 had already talked about, correct?

12 **A** Yes, sir, that's correct.

13 **Q** And when we talk about latents, we can be
14 talking about fingerprints, can't we?

15 **A** That's right.

16 **Q** And if you see me press down, that doesn't
17 necessarily mean there's a fingerprint there, but
18 you could potentially take something from that?

19 **A** Yes, sir.

20 **Q** And to do that job, you need what's called
21 major case prints, don't you? Or it helps to have
22 major case prints, doesn't it?

23 **A** Well, I would need major case prints of an
24 individual if I developed something identifiable, I
25 would need that to compare it with.

1 **Q** And you're given major case prints on this
2 case, aren't you, for three individuals?

3 **A** I believe I did. . Let's see.

4 I did. I received three sets of major case
5 prints.

6 **Q** Item 32 was the major case prints for Al Young?

7 **A** That's correct.

8 **Q** 33 was major case prints for Oriental Jermaine
9 Charley?

10 **A** Right. Correct.

11 **Q** And 34 was for my client, Gerald Williams?

12 **A** That's correct.

13 **Q** And you actually -- you also receive, I believe
14 it might be item number 30, which is a -- yes, an
15 AWS brand digital scale; is that correct?

16 **A** Yes.

17 **Q** And it shows that that's received in package
18 with item number three?

19 **A** That's correct, yes, sir.

20 (Pause.)

21 **MR. YOUNG:** Your Honor, Mr. Madsen will be
22 attempting to offer two photographs, we have no
23 objection.

24 **THE COURT:** All right. You may mark those.

25 (Defendant's Exhibit Numbers 4 and 5,

1 photographs, marked for identification.)

2 **COURT REPORTER:** Defendant's 4 and 5.

3 **THE COURT:** Defendant's 4 and 5 in evidence
4 without objection.

5 (Defendant's Exhibit Numbers 4 and 5,
6 photographs, admitted into evidence.)

7 BY MR. MADSEN:

8 **Q** And then you also received item number 31,
9 which is a -- shown as a cigar cutter?

10 **A** Yes, sir. That's how I have it described as a
11 cigar cutter.

12 **Q** And that's also in package number three, isn't
13 it?

14 **A** That's correct.

15 **Q** I'm going to show you Defendant's Exhibits
16 Number 4 and 5. That's that scale and that cigar
17 cutter, aren't they?

18 **A** Yes, sir, it would appear to be.

19 **Q** And, in fact, there's some writing indicating,
20 I guess, that that's I-30?

21 **A** That's actually my -- the laboratory number,
22 I-30, and that's actually my initials.

23 **Q** So that shows that you know what it is?

24 **A** Sure. Absolutely.

25 **Q** And you develop a latent print off of that,

1 don't you?

2 **A** On the -- the item 30, scale, yes, sir, I did.

3 **Q** And you checked those against the three major
4 case prints that you get, don't you?

5 **A** Yes, sir.

6 **Q** And that print does not come back to Al Young?

7 **A** That's correct.

8 **Q** Does not come back to Oriental Charley?

9 **A** That's correct.

10 **Q** And does not come back to my client, does it?

11 **A** That's correct, it does not.

12 (Pause.)

13 **MR. YOUNG:** We have no objection to these two
14 additional photographs either, Your Honor.

15 **THE COURT:** Thank you.

16 **MR. MADSEN:** We'd move these to be introduced
17 as Defendant's 6 and 7.

18 **MR. MAYE:** Your Honor, we might be able to save
19 time, if you've got others, we can look at those, if
20 you've got anything else you want to put in.

21 **MR. MADSEN:** I think that's it.

22 **COURT REPORTER:** Defendant's 6 and 7.

23 **THE COURT:** In evidence without objection.

24 (Defendant's Exhibit Numbers 6 and 7,
25 photographs, marked and admitted into evidence.)

1 BY MR. MADSEN:

2 Q Let me show you what's been marked as State's
3 Exhibit Number 6 and 7. Are those photographs that
4 you would have taken?

5 A These are actually -- this was -- we have a
6 photography lab at SLED and these would have been
7 taken at my direction, but I didn't actually take
8 them.

9 Q But those would be something that you would
10 utilize, potentially, to try to -- that shows a
11 latent print off of a magazine, doesn't it?

12 A Yes, sir, it does appear to be.

13 Q And, in fact, on item number 24, which is a
14 Smith & Wesson .40 caliber bearing the serial number
15 DSL5282 with magazine, that's the -- the magazine
16 that goes with that, doesn't it? In other words,
17 that's the thing that holds the bullets?

18 A Correct.

19 Q And you got a latent or a, I guess, a partial
20 palm print off of that?

21 A Yes, sir.

22 Q And you checked those against the major case
23 prints, didn't you?

24 A I did.

25 Q And that does not come back to Orienthal

1 Jermaine Charley, does it?

2 **A** No, it does not.

3 **Q** It does not come back to Gerald Williams, does
4 it?

5 **A** No, it does not.

6 **Q** And, in fact, you couldn't come up with any
7 conclusion as far as to whether or not that comes
8 back to Al Young, could you?

9 **A** I couldn't tell if it was Al Young's because of
10 the -- just the quality of the known prints that I
11 had just weren't -- it wasn't high enough quality
12 for me to be able to tell.

13 **Q** And so if it -- you needed Al Young's prints
14 redone and resubmitted back to you to be able to
15 rule it in or out?

16 **A** That's correct.

17 **Q** And that was never done, was it?

18 **A** No, sir.

19 **Q** And as part of your job now with SLED, do you
20 do anything with GSR?

21 **A** Not -- I have, but, no, not currently because
22 that's --

23 **Q** Not currently. But you're familiar with it in
24 the past?

25 **A** Yes, sir.

1 Q And through your experience with law
2 enforcement?

3 A GSR is basically a crime scene function and I
4 don't do crime scenes anymore, so.

5 Q But you have experience doing that?

6 A Sure.

7 Q And, ultimately, if someone fires a gun,
8 there's gases or particles that are admitted besides
9 just a bullet?

10 A Sure. Correct.

11 Q And those particles or fragments can get on
12 someone's hands, clothing?

13 A That is possible.

14 Q And SLED has a little kit that law enforcement
15 can use to check those kind of things, don't they?

16 A Yes, sir.

17 Q And, generally, the idea is that if someone's
18 going to fire a gun, that you want to try to do
19 that, I think, is it within six hours?

20 A Last I knew it was within six hours, yes, sir.

21 Q And so it comes with, like, a little swab that
22 can be done on the hands and then I think something
23 that looks like a little stamp; isn't that true?

24 A Right, yes, sir.

25 Q And those items can be done not only on, say,

1 hands, but also potentially on, say, clothing?

2 **A** Yes, sir, it can be.

3 **Q** Gloves?

4 **A** Sure, it could be.

5 **Q** And that can be submitted to SLED and then SLED
6 has someone who can also test and see if those have
7 the appropriate types of particles to indicate
8 whether or not someone's fired a gun?

9 **A** Well --

10 **Q** Or been in close proximity of someone firing a
11 gun?

12 **A** Correct. There is -- we have a department
13 called the trace department that will do that type
14 of analysis.

15 **Q** And you've done that in the past as part of
16 your job in SLED before?

17 **A** I've done the collection of it, but not the
18 actual analyzing of it. But, yes, I have collected
19 GSR in the past.

20 **Q** And when you're swabbing something for DNA,
21 there's a couple of different ways that DNA is
22 generated, isn't there? You can get DNA out of,
23 say, my blood?

24 **A** Sure.

25 **Q** Out of my sweat?

1 **A** Yes, sir.

2 **Q** Out of, I guess, some other kind of bodily
3 fluid that I might have?

4 **A** Right.

5 **Q** There's also something called like a touch DNA
6 because we're all, to a certain extent, sloughing
7 off our skin cells?

8 **A** Correct.

9 **Q** I'm sorry. I'm smiling because I'm thinking
10 how she's going to spell sloughing off.

11 But, I mean, we're sloughing off -- that's kind
12 of called touch DNA?

13 **A** Yes, sir. That's what's referred to, touch
14 DNA.

15 **Q** And as far as from the other things that you
16 test for latents, nothing that you test on latents
17 you can match up with my client, Gerald Williams?

18 **A** No, sir, that's -- that is true, but, you know,
19 I had some prints that were of no value for
20 identification, which means it could be anybody. It
21 wasn't enough to be able to tell.

22 **Q** Right, but nothing that comes back specifically
23 to him?

24 **A** That's correct.

25 **Q** And not only did you swab gloves, you also

1 swabbed a couple of firearms, didn't you?

2 **A** Yes, I did.

3 **Q** I believe that you swabbed the Smith &
4 Wesson .40 caliber DSL5282, which is item --
5 indicated as item number 24?

6 **A** Yes, sir, that's correct.

7 **Q** Which is this gun right here, isn't it?

8 **A** Yes, sir.

9 **Q** And that magazine that we talked about
10 previously that had the latent print that didn't
11 come back to my client, Oriental Jermaine Charley
12 {sic}, and you needed more, that's the magazine
13 that's associated with this gun?

14 **A** That's right.

15 **Q** And so you swabbed the trigger on that for DNA?

16 **A** I did.

17 **Q** And also, I believe, the grip?

18 **A** Yes, sir.

19 **Q** And you would have submitted those items or
20 collected those items in the exact same way that you
21 did with the glove and followed that same procedure?

22 **A** Yes, sir, I did.

23 **Q** And then you would have submitted that to
24 someone else for DNA testing under that same exact
25 procedure?

1 **A** Yes, sir.

2 **Q** On the item 23, which I would call, I guess,
3 the Tec-9, that's this one right here?

4 **A** Correct.

5 **Q** Did you do any swabs off of that one?

6 **A** Yes, I did.

7 **Q** And would you have -- was that also off the
8 trigger and off the grip?

9 **A** Yes, sir. Pistol grip and the trigger.

10 **Q** And that would have followed the exact same
11 procedure as far as submitting those to -- through
12 the DNA within your department to be tested?

13 **A** Yes, sir.

14 **Q** Collection would have been the exact same way?

15 **A** No difference, all the same and moved forward
16 just as the others did.

17 **MR. MADSEN:** Beg the Court's indulgence.

18 (Pause.)

19 **MR. MADSEN:** That's all the questions I have
20 for Agent Darnell.

21 **THE COURT:** Is there redirect?

22 **MR. YOUNG:** There is.

23 REDIRECT EXAMINATION

24 **BY MR. YOUNG:**

25 **Q** Your Honor, first -- Mr. Darnell, a simple

1 question, we started off this whole conversation, I
2 believe, about the collection of DNA off gloves,
3 correct?

4 **A** Yes, sir.

5 **Q** All right. Based on your training and
6 experience, what was the best method of trying to
7 obtain evidence off of those gloves?

8 **A** The swabbing for DNA, that was the -- with that
9 type of evidence, I've always seen that that's the
10 best type of -- or the best way to get evidence off
11 those gloves would have been to collect DNA versus
12 trying to process them for prints.

13 **Q** Now, based, again, on your training and
14 experience, the wearing of the glove, in and of
15 itself, does that prevent the collection of DNA from
16 touch surfaces?

17 **A** I mean, I can collect DNA from any part of that
18 glove. I'm not sure if that's what -- how you're
19 asking the question.

20 **Q** No. What I mean is if I pick up -- will it
21 sometimes preclude or prevent or impede if I reach
22 over and have a glove on and try to pick up that
23 pitcher, for example, is the outside of that glove
24 going to transmit what's on the glove if it's my
25 DNA?

1 **A** The DNA could certainly transfer, but it would
2 most likely not leave a fingerprint.

3 **Q** Okay. Now, if there's no DNA of mine on the
4 outside of that glove, will it transfer to that
5 pitcher?

6 **A** If there's no DNA on the glove?

7 **Q** Yeah. On the outside?

8 **A** If there's no DNA on the glove, then there's no
9 way it could transfer to the, as we're talking here,
10 the pitcher.

11 **Q** If the outside of that glove is all dirty,
12 nasty?

13 **A** Well, that -- I mean, if it's dirty and nasty,
14 that would certainly -- that could interfere with
15 the transfer of any type of evidence.

16 **Q** A person who puts on a pair of gloves, in your
17 experience, connection with the effort to commit
18 crime or accomplish crime, such a person who puts on
19 these gloves, are they trying to impede the ability
20 to collect evidence from their hands?

21 **MR. MADSEN:** Judge, I would object, calls for
22 speculation.

23 **THE COURT:** Overruled.

24 **THE WITNESS:** It's been my experience that when
25 someone wears gloves, they're trying to keep from