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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Lancaster County

William Jeffrey Young, Circuit Court Judge

ROSHUNE CARELOCK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-002272

APPENDIX

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER
07-GS-29-848

STATE OF SOUTH CAROLINA
VS.
ROSHUNE L. CARELOCK

LANCASTER, SOUTH CAROLINA
JANUARY 26-27, 2010
BEFORE THE HONORABLE BROOKS P. GOLDSMITH

APPEARANCES
FOR THE STATE: MR. TREY COOK
FOR THE DEFENDANT: MR. WILLIAM FRICK
REPORTED BY: MICHAEL C. WATKINS
OFFICIAL COURT REPORTER

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VOIR DIRE

1 MR. COOK: State calls case number 2007-GS-29-848,
2 State vs. Roshune Carelock indicted for assault and battery
3 with intent to kill.

4 THE COURT: Ladies and gentlemen, as you heard we are
5 about to begin the trial of the State of South Carolina
6 versus Roshune Carelock who is charged with assault and
7 battery with intent to kill by way of an indictment. The
8 indictment alleges in part that Mr. Carelock did in
9 Lancaster County on or about May 20th of 2007 commit an
10 assault and battery against one Larisha Thompson by
11 shooting her in the left eye with the intent to kill. I
12 tell you that because in a few moments I am going to ask
13 you questions about whether you know anything about the
14 allegations in this indictment and then I will ask you a
15 series of questions. But before I get to my questions what
16 I am going to do is ask the attorney for the solicitor's
17 office that's going to be handling the case to stand and
18 identify himself and any other attorneys for the
19 solicitor's office along with any witnesses that he
20 believes the State might call or who might be called in
21 this case, followed by the defense attorney. And then I am
22 going to ask you about your relationship, if any, with any
23 and all of these people, meaning the attorneys, the
24 witnesses, and the defendant himself. So beginning with
25 the State.

1 MR. COOK: I am Trey Cook, I am an assistant solicitor
2 here in Lancaster County. This is Bill Nowiki who is also
3 an assistant solicitor, Doug Barfield who is the Solicitor
4 of 6th Circuit. The State's witness list includes Larisha
5 Thompson, Deborah Thompson, Investigator Mike Howell with
6 the Lancaster County Sheriff's Office, Deputy Chuck Kirkley
7 with the Lancaster County Sheriff's Office, Deputy Randy
8 Humphries with the Lancaster County Sheriff's Office who is
9 not present this morning. Angela Staher who is a Lancaster
10 County EMS and Maurice Bufford who is not present this
11 morning.

12 THE COURT: Thank you, Solicitor. Mr. Frick?

13 MR. FRICK: My name is William Frick, I represent
14 Mr. Carelock and this is Mr. Carelock. Potential possible
15 witnesses for the defense Antonia Clyburn and Savachio
16 (phonetically) Cunningham.

17 THE COURT: Thank you, Mr. Frick. The first question
18 I have for you, ladies and gentlemen, is this, is any
19 member of the jury panel -- has any member of the jury
20 panel ever been related by blood or related by marriage to
21 any of the attorneys involved in the case or to any of the
22 witnesses who have been identified or to the defendant
23 himself? If so, please stand. And give us your name and
24 number, ma'am. Yes, ma'am?

25 THE JUROR: I don't know my number. My name is Wilene

VOIR DIRE

1 Cunningham. But Savachio Cunningham is related to me by
2 blood but I don't know anything about the case, but --

3 THE COURT: Well, hang on just one minute.

4 THE CLERK: Thirty-three, Your Honor.

5 THE COURT: You indicated that one of the witnesses is
6 related to you by blood?

7 THE JUROR: Yes, sir.

8 THE COURT: Can you tell me how close of blood?

9 THE JUROR: Savachio Cunningham's grandmother and my
10 mother are first cousins.

11 THE COURT: I'm going to have to ask you a follow-up
12 question. Do you and the witness ever see each other? Do
13 y'all -- in other words I am related to some people that I
14 don't ever see.

15 THE JUROR: I don't see the Savachio that much but I
16 talk to his grandmother at least three or four times a week
17 but I don't see him that much.

18 THE COURT: Okay. Do you ever see him at family
19 gatherings or get-togethers?

20 THE JUROR: No, sir. We don't get together that much.

21 THE COURT: Okay. Would that relationship that you
22 have just described, the fact that you are related to that
23 witness, would that interfere with your ability to serve as
24 a juror in this case?

25 THE JUROR: No, sir.

1 THE COURT: Do you think you could be a juror, listen
2 to the testimony and be fair to both the State and to the
3 defense?

4 THE JUROR: I think I could not knowing anything about
5 the case.

6 THE COURT: Okay. All right. I thank you so much.
7 All right. Has any member of the jury panel ever had a
8 close personal or social relationship with any of the
9 attorneys involved in the case, or any of the witnesses who
10 have been identified, or with the defendant? If so, please
11 stand. Has any member of the jury panel ever been
12 represented by any of the attorneys involved in this case,
13 you or any member of your immediate family? If so, please
14 stand. Has any member of the jury panel formed or
15 expressed an opinion about any matter or any issue in this
16 case? If so, please stand. Has any member of the jury
17 panel or any member of your immediate family ever been the
18 victim of a violent crime? If so, please stand. Yes, sir,
19 your first --

20 THE JUROR: Number 51, Tim Hallman. My grandfather
21 was killed in the line of duty.

22 THE COURT: Let me ask you a couple of questions.
23 Your grandfather was killed in the line of duty serving as
24 a --

25 THE JUROR: City policeman.

VOIR DIRE

1 THE COURT: Which city would that have been in?

2 THE JUROR: Lancaster.

3 THE COURT: How long ago approximately?

4 THE JUROR: It was in the thirties.

5 THE COURT: Well, let me ask you this, Mr. Hallman,
6 would that fact interfere with your ability to be fair and
7 impartial in this case?

8 THE JUROR: No, sir.

9 THE COURT: Do you think you could be fair?

10 THE JUROR: Yes, sir.

11 THE COURT: All right. Thank you, Mr. Hallman. Yes,
12 ma'am?

13 THE JUROR: My cousin was.

14 THE COURT: You have got to give me your name and
15 number.

16 THE JUROR: 114, Latonia Samuel.

17 THE COURT: Go ahead, Ms. Samuel.

18 THE JUROR: My cousin, Brenda Samuel, was killed by
19 her boyfriend, she was stabbed to death.

20 THE COURT: How long ago would that have been?

21 THE JUROR: Maybe 15 years ago.

22 THE COURT: I'm sorry?

23 THE JUROR: Maybe 15 years ago, I'm not sure.

24 THE COURT: Ms. Samuel, would that fact interfere with
25 your ability to be fair and impartial in this case?

1 THE JUROR: I don't think so.

2 THE COURT: You think you could be fair?

3 THE JUROR: Yes.

4 THE COURT: Thank you, Ms. Samuel.

5 THE JUROR: Gregory Clark Barton, number ten. My
6 brother was shot in the head and killed.

7 THE COURT: Approximately how long ago would that have
8 been?

9 THE JUROR: It was probably 25 or 26 years ago.

10 THE COURT: Where would that have occurred?

11 THE JUROR: Here in Lancaster.

12 THE COURT: Would that fact interfere with your
13 ability to be fair and impartial in this case?

14 THE JUROR: I'm not too lenient towards guns.

15 THE COURT: You think it maybe would cause you a
16 problem?

17 THE JUROR: No, sir, I don't think so, I should be
18 okay.

19 THE COURT: You should be okay?

20 THE JUROR: I should be okay.

21 THE COURT: You think you could listen to the evidence
22 and be fair and impartial to both the State and to the
23 defense?

24 THE JUROR: Yes, sir.

25 THE COURT: All right. Thank you, Mr. Barton. Yes,

VOIR DIRE

1 sir?

2 THE JUROR: Andrew Redman, 109. Were you asking just
3 in the -- resulting in death or just severe assault in
4 general?

5 THE COURT: Assaults in general.

6 THE JUROR: My older sister, just domestic violence.

7 THE COURT: And how long ago would that have been?

8 THE JUROR: Maybe three years ago.

9 THE COURT: Would that have been in this county?

10 THE JUROR: No, sir, around Raleigh, North Carolina.

11 THE COURT: Would that fact interfere with your
12 ability to serve as a juror and be fair and impartial in
13 this case?

14 THE JUROR: I don't think so.

15 THE COURT: Do you think you could be fair to both the
16 State and to the defense?

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you, sir. Has any member of the
19 jury panel or member of your immediate family ever been
20 employed by law enforcement in any capacity; sheriff's
21 deputy, sheriff, constable? If so, please stand.

22 THE JUROR: Jo Rape, 107. My husband is a retired
23 city police officer.

24 THE COURT: He is a retired police officer? From
25 where?

VOIR DIRE

1 THE JUROR: Lancaster County.

2 THE COURT: Let me ask you this, would that fact
3 interfere with your ability to be fair and impartial in
4 this case?

5 THE JUROR: I want to say no, but I am thinking yes,
6 it would. Hearing all of the stories that he has been
7 through, yes, sir.

8 THE COURT: Thank you. And, yes, ma'am, I forgot and
9 your name and number.

10 THE JUROR: Latonia Samuel. My uncle is a sheriff.

11 THE COURT: Do you think he worked for the sheriff's
12 department in this county?

13 THE JUROR: Yes, sir.

14 THE COURT: Would that affect your ability to be fair
15 and impartial to both sides?

16 THE JUROR: No, sir.

17 THE COURT: Yes, sir?

18 THE JUROR: Donald Ledford, 73.

19 THE COURT: Mr. Ledford?

20 THE JUROR: My brother-in-law was a detective in
21 Hampton, Virginia, brother-in-law.

22 THE COURT: Would that --

23 THE JUROR: That wouldn't affect my judgment or
24 anything.

25 THE COURT: Do you think you could be fair?

VOIR DIRE

1 THE JUROR: It won't affect my judgment.

2 THE COURT: You could be fair to both sides?

3 THE JUROR: Yeah.

4 THE COURT: All right. Thank you, Mr. Ledford. Yes,
5 sir?

6 THE JUROR: Yes, sir. My name is Dewey Lucas. My dad
7 was a retired assistant police officer in Great Falls and
8 my aunt is currently serving as a jailer at the Lancaster
9 County Sheriff's Department.

10 THE COURT: Hang on one minute. Mr. Lucas, would that
11 fact interfere with your ability to be fair and impartial
12 in this case?

13 THE JUROR: No, sir.

14 THE COURT: Do you think you could be fair?

15 THE JUROR: Yes, sir.

16 THE COURT: Okay. Yes, ma'am?

17 THE JUROR: My husband --

18 THE COURT: Your number and name?

19 THE JUROR: I'm sorry 75, Jennifer Lewis. I don't
20 know if this even counts, but my husband's aunt used to
21 work at the city sheriff's department in the office but she
22 wasn't a policeman. And my uncle is a policeman in
23 Charlotte but that's just for information.

24 THE COURT: Ms. Lewis, would that fact interfere with
25 your ability to be fair and impartial in this case?

VOIR DIRE

1 THE JUROR: No, sir.

2 THE COURT: Thank you, ma'am. Yes, ma'am?

3 THE JUROR: My brother-in-law is a police officer in
4 San Antonio, Texas.

5 THE COURT: Would that fact interfere with your
6 ability to be fair and impartial in this case?

7 THE JUROR: No, sir.

8 THE COURT: Yes, sir, forgot your name and number?

9 THE JUROR: Tim Hallman, number 51. My wife, Lisa,
10 was employed by the city of Lancaster as an associate
11 judge, that was in the early 80's.

12 THE COURT: Would that fact interfere with your
13 ability, Mr. Hallman, to be fair and impartial?

14 THE JUROR: No, sir.

15 THE COURT: Is any member of the jury panel aware of
16 any bias or any prejudice that they may have towards either
17 the State or to the defendant in this case? If so, please
18 stand.

19 THE JUROR: I taught school for 35 years.

20 THE COURT: I need to get your name and number.

21 THE JUROR: Rita Brewington. I taught school for
22 several years and I taught several Carelocks and this
23 fellow does not look familiar to me and they grow up, I
24 don't always recognize everybody.

25 THE COURT: What grade would you have taught?

VOIR DIRE

1 THE JUROR: I taught special education.

2 THE COURT: How long ago would that have been
3 potentially?

4 THE JUROR: I have only been retired for three years
5 but the Cunninghams and the Carelocks, I taught several of
6 those kids so I don't know if I ever taught him.

7 THE COURT: All right. Well, thank you for that
8 disclosure.

9 THE JUROR: I think that I could be fair.

10 THE COURT: You think you could?

11 THE JUROR: I think so. He somehow looks familiar.

12 THE COURT: Is there any member of the jury panel who
13 is a member of or contributor to any organization that has
14 as its primary concern the promotion of law enforcement or
15 victim's rights? These groups would include such groups as
16 MADD, CADD, CAV, SADD and so on. If that applies to you,
17 please stand. You have to give me your name and number.

18 THE JUROR: 75, Jennifer Lewis. I'm a member of MADD.

19 THE COURT: And would that fact interfere with your
20 ability to be fair and impartial in this case?

21 THE JUROR: It shouldn't.

22 THE COURT: All right. Thank you, ma'am. Any
23 additional questions that have not already been asked from
24 the Court from the State?

25 MR. COOK: No, sir.

VOIR DIRE

1 THE COURT: From the defense?

2 MR. FRICK: None that weren't already requested.

3 THE COURT: Ladies and gentlemen, what we are getting
4 ready to do in just a moment is select a jury to serve on
5 this case. Mr. Clerk?

6 THE CLERK: Jury number 17, Rita Brewington. What
7 says the State?

8 MR. COOK: Please seat the juror.

9 THE COURT: Defendant?

10 MR. FRICK: Please seat the juror.

11 THE CLERK: Juror 105, Albert Plummer. What says the
12 State?

13 MR. COOK: Please excuse this juror.

14 THE CLERK: Juror 23, Linda Catoe. What says the
15 State?

16 MR. COOK: Please seat this juror.

17 THE CLERK: Defendant?

18 MR. FRICK: Please seat the juror.

19 THE COURT: Juror number 78, Dewey Lucas. What says
20 the State?

21 MR. COOK: Please excuse this juror.

22 THE CLERK: Juror 11, Yvonne Beckles. What says the
23 State?

24 MR. COOK: Please seat this juror.

25 THE CLERK: Defendant?

VOIR DIRE

1 MR. FRICK: Please seat the juror.

2 THE CLERK: Juror 51, Tim Hallman. What says the
3 State?

4 MR. COOK: Please seat the juror.

5 THE CLERK: Defendant?

6 MR. FRICK: Please excuse the juror.

7 THE CLERK: Juror 75, Jennifer Lewis. What says the
8 State?

9 MR. COOK: Please seat the juror.

10 THE CLERK: Defendant?

11 MR. FRICK: Please excuse the juror.

12 THE CLERK: Juror 59, Joette Hewette. What says the
13 State?

14 MR. COOK: Please seat the juror.

15 THE CLERK: Defendant?

16 MR. FRICK: Please seat the juror.

17 THE CLERK: Juror 73, Donald Ledford. What says the
18 State?

19 MR. COOK: Please seat the juror.

20 THE CLERK: Defendant?

21 MR. FRICK: Please seat the juror.

22 THE JUROR: Juror 125, Jennifer Starnes. What says
23 the State?

24 MR. COOK: Please seat the juror.

25 THE CLERK: Defendant?

1 MR. FRICK: Please seat the juror.

2 THE CLERK: Juror one, Dennis Adams. What says the
3 State?

4 MR. COOK: Please seat the juror.

5 THE CLERK: Defendant?

6 MR. FRICK: Please seat the juror.

7 THE CLERK: Juror 96, Melinda Nye. What says the
8 State?

9 MR. COOK: Please seat the juror.

10 THE CLERK: Defendant?

11 MR. FRICK: Please excuse the juror.

12 THE CLERK: Juror 123, Marion Simms. What says the
13 State?

14 MR. COOK: Please seat the juror.

15 THE CLERK: Defendant?

16 MR. FRICK: Please seat the juror.

17 THE JUROR: Juror eight, Rhonda Arant. What says the
18 State?

19 MR. COOK: Please seat the juror.

20 THE CLERK: Defendant?

21 MR. FRICK: Please seat the juror.

22 THE CLERK: Juror 47, Harriet Good. What says the
23 State?

24 MR. COOK: Please seat the juror.

25 THE CLERK: Defendant?

1 MR. FRICK: Seat the juror.
2 THE CLERK: Juror four, Cosonja Allen. What says the
3 State?
4 MR. COOK: Please seat the juror.
5 THE CLERK: Defendant?
6 MR. FRICK: Please seat the juror.
7 THE CLERK: Juror 148, Teresa Williams. What says the
8 State?
9 MR. COOK: Please seat the juror.
10 THE CLERK: Defendant?
11 MR. FRICK: Please seat the juror.
12 THE CLERK: Juror 98, Tammanique Patterson. What says
13 the State?
14 MR. COOK: Please excuse this juror.
15 THE CLERK: Juror 77, Wanda Lowery. What says the
16 State? Any challenge for cause?
17 MR. COOK: No, sir.
18 THE CLERK: Defendant?
19 MR. FRICK: Please excuse the juror.
20 THE CLERK: Juror 12, Dexter Belton. What says the
21 State? Challenge for cause?
22 MR. COOK: No challenge for cause.
23 THE CLERK: Defendant?
24 MR. FRICK: Please seat the juror.
25 THE COURT: Any matters of law that the Court needs to

VOIR DIRE

1 consider concerning the composition or selection of the
2 jury from the State?

3 MR. COOK: None from the State, Your Honor.

4 THE COURT: From the defense?

5 MR. FRICK: None from the defense.

6 (The remaining panel was excused.)

7 THE COURT: Ladies and gentlemen, in just a minute we
8 are going to excuse you until 1:30 but I want to tell you a
9 couple of things, I want to say a few things to you. Until
10 the case is completely over, meaning that you have heard
11 and received all of the testimony in the case, all of the
12 evidence including the closing arguments made by the
13 attorneys, and until I have told you about the law that
14 applies in the case you are not permitted to discuss the
15 case with anyone or let anyone discuss the case with you
16 and believe it or not, this is the really hard one, to
17 discuss the case among yourselves. Right now I know you
18 don't know anything about the case, at least I don't think
19 that you do, but even on your lunch break now that we are
20 getting ready to give you I ask you not to discuss the case
21 with anybody, not talk to anyone about the case and
22 particularly don't let anyone talk to you about the case.
23 Sometimes what even happens accidentally is that you may be
24 at lunch today somewhere in town and at the very next table
25 to you could be some people who either A, are involved in

1 the case; or B, think they know something about the case.
2 And so right now both sides have selected the 12 plus the
3 one alternate juror here as being fair and impartial jurors
4 and they would certainly at the end of the day once you
5 make a decision in this case if they were to later find out
6 that you had been listening to other people talk about the
7 case or that you had been talking to someone about the case
8 they would think one side or the other is going to think
9 they didn't get a fair shake, so I will ask you not to let
10 anybody talk to you about the case and certainly you don't
11 talk to anyone about the case. The jury room is right
12 there. What I am going to ask you to do is when you come
13 back in at 1:30 if y'all would step in there. What we are
14 going to be doing now is we are going to have to take up
15 some legal matters that actually doesn't involve you but it
16 involves me and the lawyers in the case, it may be that we
17 are still doing some of that at 1:30, I don't think we will
18 be but -- I think we will be through with it but we hope at
19 1:30 we will be ready to start the case. Any problems with
20 being back at 1:30? See you back then, you are excused.
21 Thank you so much.

22 (The jury left the courtroom.)

23 THE COURT: It's my understanding that we have some
24 motions that we need to take up in the case.

25 MR. FRICK: Yes, sir.

PRETRIAL MOTIONS

1 THE COURT: Take a five minute break.

2 (A break was taken.)

3 THE COURT: Let's come back to order. Mr. Frick, are
4 you ready to proceed?

5 MR. FRICK: Yes, sir. Your Honor, first and foremost
6 I think it would be appropriate -- I would respectfully ask
7 for a continuance in this matter and my client is probably
8 going to follow-up on that. We have not met a great deal
9 and that's -- a person in my position has got a lot of
10 cases, we don't get an opportunity to speak with my client
11 sometimes as much as we would like and certainly as much as
12 they would like. Obviously it's a very serious matter,
13 it's assault and battery with intent to kill. So my client
14 is obviously greatly concerned about the amount of time
15 that we've been able to spend on this case. The case does
16 have some age on it. I think Your Honor is aware of how
17 the trial list is generally generated in the 6th Circuit,
18 there generally is no continuity to it. Cases get put on
19 the list, we dispose of cases, a new list gets generated,
20 then we have to scramble and try to get prepared on those
21 cases. That's kind of the situation we found ourselves in
22 on this one. It was placed on the trial list, I was
23 informed -- as I was in Fairfield most of last week
24 working -- I was informed I believe some time last week
25 that this was going to be the first trial up, the first

PRETRIAL MOTIONS

1 opportunity to sit down and have a very meaningful
2 conversation was really on Friday, for me and my client to
3 be able to sit down and review the file. I was aware of an
4 alibi defense but I did not, however, have names. I spoke
5 to my client who doesn't associate with the people he was
6 with the three or four years ago when this incident
7 occurred, and they've moved understandably. So we are
8 attempting to locate them but have not been able to do so,
9 that's prevented me from being able to issue subpoenas to
10 get these people here. Obviously, Your Honor, with an
11 alibi defense it would be necessary to produce witnesses
12 that can say where my client was. I discussed with my
13 client whether or not he would testify and obviously he
14 could testify in his own behalf as to where he was but you
15 certainly like to have some type of collaboration in that.
16 I am simply asking for an additional period of time so I
17 can procure these witnesses, my client believes he can
18 locate them in short order but between the time we spoke on
19 Friday until today -- in fact, I sent him out yesterday to
20 go find the witnesses and we're still in the process of
21 trying to find them. He actually -- we do have an address
22 for Mr. Clyburn so the process is working I just need an
23 opportunity to find these witnesses. My concern is we go
24 to trial, my client gets convicted because I am unable to
25 procure these witnesses and at some point in the future we

PRETRIAL MOTIONS

1 are going to have to redo the case all over again. I am
2 just asking for a short period of time to try to locate
3 these witnesses. It is a case with some age and my client
4 is out on bond. There would be nothing that would hurt the
5 interest of justice by delaying the case for a brief period
6 of time.

7 THE COURT: Thank you, Mr. Frick. Mr. Cook?

8 MR. COOK: Well, Your Honor, this case does have some
9 age on it. It's -- I think it was approximately two and a
10 half years old, he was put on the trial list the -- we had
11 a term of court January 4th, he was put on the trial list
12 for that week, we did not get to him and he is first up --
13 remained on the trial list, he is first up this week. My
14 argument would be he has had two and a half years to find
15 his witnesses. He knows he's been on the trial list for a
16 month, he knew. He was here January 4th because I saw him
17 here so he has had at least three weeks to find these
18 people, he knew he was up for trial. The State is ready to
19 proceed today and I don't see any need for a continuance,
20 Your Honor.

21 MR. FRICK: And, Your Honor, just to follow-up on
22 that, I do not deny that he was on the trial list for the
23 last term of court, I believe there was some procedural
24 issue that Mr. Cook explained to me that was not going to
25 allow for that case to go forward, so with the other cases

PRETRIAL MOTIONS

1 we had on the trial list, with the other cases I was
2 involved with I quite frankly didn't have an opportunity to
3 deal with Mr. Carelock. In fact, I would say on that
4 meeting on that Monday I was probably rather rude to him
5 because I was busy trying to prepare other cases. Now,
6 obviously we are aware it's going to be on the next trial
7 list, Mr. Cook explained that to me, but again, there was a
8 large number of cases on the trial list, it comes down to
9 determining which ones are really going to be tried. I
10 know this one is first up, a short time ago I spoke with my
11 client and that's when I learned that these people have
12 moved and I don't know where they are and we are still
13 trying to find them.

14 THE COURT: Let me ask you this, have you -- you had
15 an address on them at one time?

16 MR. FRICK: Your Honor, quite frankly I had no
17 addresses until Friday. But when I spoke to my client on
18 Friday he simply could give me exactly what you have got in
19 front of you, names and a potential street. I think we
20 have learned that Mr. Clyburn still lives on that street,
21 we have a house number. Mr. Cunningham we understand is
22 still on 10th Street but I don't have a house number. And,
23 of course, my last witness there I'm still not able to tell
24 who his last name is. Again, we made some progress. I
25 know I have got one witness that we located, I still have

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1 Mr. Cunningham that I am trying to locate and determine who
2 Carlos is.

3 THE COURT: Let me ask you this, have you issued
4 subpoenas for some of these people?

5 MR. FRICK: I cannot. I have no address to subpoena
6 them to. And I know the sheriff's department is not going
7 to issue a subpoena without any type of address on it. If
8 I simply put a name they're not going to be able to locate
9 these people, unless somebody at the sheriff's department
10 might happen to know. I feel a lot more secure about that
11 in Fairfield than in Lancaster, it's a little bit more
12 difficult.

13 MR. COOK: I don't see any need for a continuance,
14 Your Honor. They've had a month, essentially they've had
15 two and a half years to think about it and a month to get
16 his witnesses together. Prior to the week of January 4th
17 was done, before that, you know how our trial list is
18 obviously we can't try 40 cases but I told him last week it
19 was first up. But regardless, he had a month to locate
20 these witnesses and get addresses, not only him but to us
21 as well.

22 MR. FRICK: I would like you to hear from Mr. Carelock
23 to address this matter at the appropriate time.

24 THE COURT: He may do it now.

25 THE DEFENDANT: With all due respect, Your Honor, I

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1 don't know the process. I am, in fact, ready to go to
2 trial but like he said, the case is so old. Your Honor,
3 during the time of it being old or whatever I was on
4 probation on the time frame I caught the charge and at that
5 point in time I was actually incarcerated because I
6 couldn't make bond on the alleged charges against me so I
7 had to go down to South Carolina Department of Corrections
8 and do about like two years or 18 months. So once I maxed
9 my bid out or whatever I was a free man; I had gotten out.
10 Like I said, during my time I was incarcerated I written
11 Mr. Frick numerous times, you know, in regards to the case.
12 You know, like he said, I didn't know that the procedure
13 that was taking place today is actually what was taking
14 place today so I don't have any folder here, I haven't even
15 spoke to Mr. Frick none at all at those times except for
16 Friday. I came in for a meeting with Mr. Frick on another
17 occasion which involved, you know, an e-mail to show up for
18 my time. So it was like I have a serious issue at hand and
19 it wasn't in my best interest for someone to represent me
20 with no more knowledge about my case to be able to
21 represent me on the case. And like I said, Friday he was
22 telling me that I needed to come up with these witnesses
23 names and I don't know if you are aware of it, I was
24 involved in a motor vehicle accident, I can't use this
25 hand, can't drive so the guys I did use to deal with back

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1 then they've done moved or whatnot. I tried my best from
2 Friday until today to locate these people. One of them are
3 actually my cousin, the other two people that actually
4 stayed on 10th Street, the other guy I couldn't locate him,
5 you know. But it's like on the time frame that I have had
6 any knowledge basically to prepare for this case, I
7 received letters and everything, I have files of all of
8 this at home in my folder that I can retrieve to show you
9 where I got responses that I come and visit to speak about
10 the cases, none of this has ever happened. I spoke with
11 Mr. Frick, you know, just here Friday. I spoke with him on
12 the 4th when they said my case was up, I came in here like
13 formal trying to figure out what was going on. He
14 basically just told me that something about my case
15 backdated because of the fire, just come back next week but
16 I never actually spoke to Mr. Frick none about my case or
17 anything up until really Friday. And it wasn't long, it
18 was brief, maybe 20 minutes, told me, "Hey, I need these
19 witnesses." I said, "I will work on it," but I didn't know
20 that today was the trial and everything. But I take
21 Hydrocodone 750 milligrams which I am under the influence
22 of today, I'm not using any excuses but just check my
23 medical records or whatever. I just don't feel as though
24 Mr. Frick -- I am not satisfied with the services because
25 we have not had any meetings about the case but I will be

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1 satisfied with his services if maybe we had enough time to
2 discuss this case and get things together for me. I have
3 no problems with that, it's up to you. I am asking that
4 you understand. Really, I don't feel though at this point
5 that Mr. Frick can represent me at all.

6 THE COURT: Let me ask you something, Mr. Carelock.
7 You made reference earlier to catching two and a half
8 years. How long have you been out?

9 THE DEFENDANT: I have been out since October of 2008,
10 the year 2008, about a year and whatever.

11 THE COURT: Okay.

12 MR. FRICK: And, Your Honor, in fairness to him on
13 that, the case was not placed on the trial list until the
14 January term of court of 2010, so very likely Mr. Carelock
15 and I have not have spoken about the matter until it was
16 placed on the trial list. Unfortunately that's the reality
17 of how the business works.

18 THE COURT: Mr. Frick I am -- Mr. Frick, Mr. Carelock,
19 I am going to deny your motion.

20 MR. FRICK: Your Honor, I think there was actually two
21 motions, it was my motion for a continuance and I think my
22 client is truly making a motion for me to be released as
23 counsel, that was what was conveyed to me yesterday when he
24 spoke at my office and I think that's kind of what he is
25 asking for here today.

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1 THE COURT: Is that right, Mr. Carelock?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Carelock, I am going to deny that
4 motion, too. Do we have other motions?

5 MR. FRICK: Yes, sir.

6 THE COURT: Okay.

7 MR. FRICK: Your Honor, I think -- I don't know which
8 would be more appropriate, I basically have got two
9 motions, there's one that I regard as a 404B matter. There
10 were some -- when my client was arrested on this charge
11 there was an investigation into a shooting the night
12 before, not necessarily involving my client, he wasn't the
13 perpetrator. There was a friend of his who got shot in the
14 hip, I believe Investigator Howell was working on that one
15 as well. My client was brought over and spoke to
16 Investigator Howell, I think they were talking to him about
17 that shooting the night before, not what he was being
18 charged with, and my client related three incidents that
19 involved Mr. Bufford who is on the State's witness list and
20 who I believe they are trying to say is the motive behind
21 this shooting, not himself but the three incidents. My
22 concern is -- and I know this is slightly unusual because
23 my client is not the one who is alleged to have caused the
24 act so it is not your typical 404B or Lyle. But my concern
25 is one of the incidents they talked about he was having

1 problems with, the new set and the old set, the term set is
2 commonly used as a gang term, that's the term that
3 describes a specific, a set use of that terminology along
4 with him being involved with these scuffles I guess are
5 probably the best way. There's one that happens at a
6 restaurant, another that happens in a night club, I believe
7 another that happens in another location, three separate
8 incidents. But I am that -- even if he is just the victim
9 in the matter his involvement with the matter paints him in
10 a bad light and the jury could construe rightly or wrongly
11 his involvement with either a gang or they're going to be
12 speculating on why someone is trying to start trouble with
13 him and I don't think it is necessary for that to be
14 presented. I think it is confusing, it's cumulative and
15 under I think that's 40 -- I think it's 403, 402 or 403
16 that it is not necessary for the presentation of the
17 State's case. The incidents involve Mr. Bufford and his
18 associates and my client and his associates. What we are
19 here trying is an assault and battery with an intent to
20 kill with a victim who is not involved with either one of
21 those incidents except for her involvement with Mr. Bufford
22 which is collateral to this whole matter. I think he's
23 purportedly the father of her child, I don't think those
24 incidents have anything to do with this case. It's
25 basically going to come down to her identification of who

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1 she says was on the other side of the door when this
2 incident occurred. Those matters separate from this have
3 nothing to do with it. One, I think it would not be
4 appropriate under 404B, and if you determine that it is
5 appropriate -- because the is going to allege motive I
6 understand that, should you determine that that is
7 appropriate I still think it's not necessary and should be
8 left out based on 401 because it's not relevant, and then
9 403 because it is much more prejudicial than probative in
10 this matter.

11 THE COURT: All right. Thank you, Mr. Frick.
12 Mr. Cook?

13 MR. COOK: Your Honor, the statement he's talking
14 about, Investigator Howell, he was investigating two
15 separate shootings. The one that happened the night prior
16 to the one that we are here for trial today, the
17 defendant's cousin actually got shot and he was charged and
18 arrested at the Lancaster County Detention Center when
19 Investigator Howell spoke to him about this charge. He was
20 investigating both of them. They started talking about the
21 shooting the night before of his cousin, he did layout
22 three separate incidents; one at a restaurant, another one
23 at the flea market and the third one at a restaurant. The
24 first two don't really involve Maurice Bufford, they
25 involved the guys he hangs out with and it -- as far as the

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1 new set/old set, we can talk about what we need to talk
2 about without saying who said one set or in reference to
3 the gang. But the third occasion at this restaurant, the
4 defendant accused Maurice Bufford of getting out of the car
5 and shooting -- and actually shooting his cousin while he
6 was with him, the next night Maurice Bufford's girlfriend
7 and the mother of his child gets shot. We think it's got
8 everything to do with this case because the events leading
9 up to this all lead to the motive of them coming after
10 Maurice Bufford. They came to where they thought he lived
11 the next night after the cousin was shot, or the defendant
12 did, and his girlfriend was shot and at that time when he
13 came to her house he asked where Maurice was. So there was
14 no doubt he was coming there for Maurice. I think it's
15 more probative than prejudicial because there's no 404B,
16 there's no bad acts we are accusing the defendant of. The
17 bad acts would be against Maurice Bufford of him allegedly
18 shooting the defendant's cousin the night before this
19 happened and obviously we believe it's the motive for this
20 shooting.

21 THE COURT: Now, both of y'all know what y'all are
22 talking about but I don't know what y'all are talking
23 about. All I can figure out so far is that the last of the
24 three events involved Maurice Bufford shooting somebody.

25 MR. COOK: Right.

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1 THE COURT: All right. Hang on.

2 MR. COOK: The defendant's cousin.

3 THE COURT: And you are going to do them in reverse
4 order I think it is, that's the only one I can figure out
5 as to that third event. You are saying that you have the
6 investigator who wants to testify that Mr. Carelock told
7 him that he saw Maurice Bufford shoot Mr. Carelock's
8 cousin; is that right?

9 MR. COOK: That's right.

10 THE COURT: Now, and that's tying in -- I have got
11 you, that's why he would have been at the --

12 MR. COOK: Retaliation.

13 THE COURT: We really have to approach them one at a
14 time I guess, Mr. Frick. Tell me why that is prejudicial?
15 I guess we could put him on the stand but from what I
16 understand he's going to say -- you know what he's going to
17 say but from what I understand from what you have told me
18 the investigator is going to say Mr. Carelock told the
19 investigator that the night before this event he saw
20 Maurice Bufford shoot Mr. Carelock's cousin. State offers
21 it for motive, defense says it's prejudicial. Why?
22 Because it's not relevant?

23 MR. FRICK: Number one it's not relevant, it's not at
24 all what we are here trying.

25 THE COURT: We are not trying that, I agree.

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1 MR. FRICK: We are here trying a case with a victim
2 that's completely not associated at all with it.

3 THE COURT: All right. But why is it prejudicial?

4 MR. FRICK: It's prejudicial because somebody on that
5 jury is going to start speculating why somebody wants to
6 take a shot at my client's cousin and potentially my
7 client. We know who got shot but we don't know who was
8 supposed to be the recipient of it and my concern is the
9 jury can wildly speculate however they want as to what was
10 going on with that. It's not necessary for a full
11 presentation of the case so it's not really prejudice at
12 this time, it's more -- it's just completely prejudicial.
13 They're going to base their opinion of the case on an
14 incident that is really not related to this except by
15 theory of the State.

16 THE COURT: But isn't the State entitled to have a
17 theory?

18 MR. FRICK: I agree they're entitled to have a theory,
19 and Your Honor will probably properly rule that it would be
20 motive under 404B. Here is what I am looking at as far as
21 404B. When you read 404, the beginning of 404 you can't
22 bring up issues of character of the accused except in
23 certain -- 404B goes on to explain what those are. The
24 rule itself -- we always talk about bad acts, the rule
25 itself doesn't say bad acts, it says action. So it could

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1 be any act when my client was doing anything bad at the
2 time he was in a situation where someone is getting shot,
3 so I think that would constitute an act. My concern is the
4 speculation of what a jury is going to think about why he's
5 in a situation where people are shooting at him.

6 THE COURT: Wait a minute. Is somebody shooting at
7 Mr. Carelock?

8 MR. FRICK: Quite frankly we know who got shot.

9 THE COURT: What does the witness say?

10 MR. COOK: The statement he gave regarding that night
11 was the first shooting the night before this happened, was
12 he was at Twin Pines gas station and another individual who
13 is known to hang out with Maurice Bufford comes in and
14 says, "We got you cornered," and there's an altercation at
15 the gas station. They say, "Follow us across the street,"
16 it was at Armadillo's or whatever it's called now. They go
17 over there and follow the car the defendant is in, follows
18 this other car to Carolina Steak and Ribs and when they get
19 over there he says the car they followed backed up, stopped
20 at an angle, Maurice Bufford got out, shot over the car and
21 hit his cousin in the hip. That's essentially what he said
22 about the night before. All he was doing was sitting in
23 the car.

24 THE COURT: All right. Mr. Frick, I rule it's
25 relevant, it's not prejudicial, admitted.

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1 MR. FRICK: Is that specifically in regard to the
2 shooting the night before?

3 THE COURT: That's the only one I know about. Y'all
4 mentioned more but you haven't told me about the other one.

5 MR. FRICK: I think part of what Mr. Cook was talking
6 about were the other incidents, the Armadillo's incident
7 was prior to the other incident.

8 MR. COOK: It was the night before and I don't know
9 that specific date this is all --

10 THE COURT: Which shooting?

11 MR. COOK: The cousin getting shot, the one I believe
12 you just ruled is --

13 THE COURT: I thought that was the one.

14 MR. FRICK: Yeah, you did. But there was two more
15 incidents between Maurice Bufford --

16 THE COURT: Why don't you start from the top. Tell me
17 incident number one.

18 MR. COOK: Incident number one -- I don't remember the
19 specific date, but it involves Mond Nesbit who hangs out
20 with Maurice Bufford and the defendant said he's dating
21 Mond's ex-girlfriend. They have an altercation in
22 Applebee's, they go outside to fight and it is broken up.

23 THE COURT: But you've got to tell me who all is there
24 again. Mr. Carelock is there?

25 MR. COOK: Mr. Carelock is there and we know that --

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1 THE COURT: According to the statement?

2 MR. COOK: All he says is that Mond Nesbit, which is a
3 known -- he hangs out with Maurice Bufford, he's from the
4 Twin Pines area and at that time he said that -- when he
5 talked about the Applebee's incident he said he's been
6 having problems with Mond, Woody, Tony and Maurice Bufford
7 for some time. All of those guys are from the Twin Pines
8 area, that's where the new set and old set comes in, that's
9 what he said, I have been having problems with the new set
10 from Twin Pines and old set from Twin Pines for some time
11 because he's dating Mond's -- who is with Maurice Bufford's
12 crowd -- dating his ex-girlfriend. At the Applebee's
13 incident the only person he says was there was Mond Nesbit
14 and Mond said something to him about dating his
15 ex-girlfriend, they go outside and are going to have an
16 altercation, the police are called and it stops. The
17 second --

18 THE COURT: Well, let's stop, take them one at a time
19 then.

20 MR. COOK: All right.

21 THE COURT: So what is the Applebee's incident? What
22 has that got to do with why we are here today?

23 MR. COOK: Nothing other than the fact when he's
24 talking about that he said, "I have been having problem
25 with Maurice Bufford for quite some time." We don't allege

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1 Maurice Bufford was at Applebee's, but while he's talking
2 about that he says, "I have been having problems with
3 Maurice Bufford and Mond, Woody and Tony for quite some
4 time." Once again, this is all -- we think the motive was
5 to go shoot Maurice Bufford so it was all tied in that way.

6 THE COURT: And at Applebee's -- tell me one more time
7 who was at Applebee's when this occurred.

8 MR. COOK: The only ones we know of for sure --

9 THE COURT: In that statement?

10 MR. COOK: Mond Nesbit and the defendant.

11 THE COURT: And what occurred at Applebee's in the
12 statement?

13 MR. COOK: In the statement they exchanged words in
14 the restaurant and --

15 THE COURT: Who are they?

16 MR. COOK: Mond Nesbit and the defendant, and then
17 they went outside. But the police was called to stop it.
18 before it got physical.

19 THE COURT: So what, the fight doesn't have anything
20 to do with it?

21 MR. COOK: Doesn't have anything to do with this case.

22 THE COURT: So if you are boiling it all out can't you
23 just boil it all out and have the investigator say he told
24 me he was having trouble with Maurice Bufford and others?

25 MR. COOK: Absolutely, without mentioning the

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1 Applebee's incident.

2 THE COURT: Without mentioning he got thrown out as a
3 result of --

4 MR. COOK: Right.

5 THE COURT: I agree with Mr. Frick about the testimony
6 about him being in a fight at Applebee's, which I
7 forgotten --

8 MR. COOK: Nesbit.

9 THE COURT: I don't see that's relevant, I see that as
10 prejudicial.

11 MR. COOK: Okay.

12 THE COURT: I think you can admit Mr. Carelock -- the
13 statement that we are talking about was the statement was
14 given to the investigator at one time but it referred to
15 three different instances?

16 MR. COOK: Right.

17 THE COURT: I have got the Applebee's incident, I have
18 got the Maurice Bufford incident shooting a cousin. What
19 is the middle incident?

20 MR. COOK: The middle one was at the Lancaster Flea
21 Market, it was at -- Woody is the one that mentioned he had
22 been having trouble about -- and to be honest with you it
23 doesn't involve Maurice. Woody, who is from Twin Pines,
24 hangs out with Maurice Bufford, saw the defendant at the
25 flea market, there was a confrontation, there they

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1 exchanging words and agreed to fight in the parking lot and
2 they didn't, but as they left the defendant was kicking
3 their car. No mention of Maurice Bufford.

4 THE COURT: Tell me how that's relevant first, that's
5 what I missed.

6 MR. COOK: I will be honest with you, Your Honor, the
7 flea market incident probably isn't relevant in this case.

8 THE COURT: The flea market is out.

9 MR. FRICK: And, Your Honor, I think quite frankly
10 what you just said a moment ago may be more appropriate
11 then saying there was a shooting. If you are saying there
12 was trouble between the two, I think -- you were speaking
13 about the Armadillo's incident and you said that the State
14 could get in the fact that there had been trouble between
15 Maurice and my client, I think that would get across what
16 the State is trying to get as far as motive but wouldn't
17 get into something I believe is a little more inflammatory,
18 saying there was a shooting.

19 THE COURT: No. I think the State is entitled to
20 prove how -- why there is a motive or why there's bad
21 blood, not just that there is bad blood. The Applebee's
22 incident didn't involve Maurice Bufford as I understand it
23 so I don't think there's any -- I think the investigator
24 when -- I guess when he's getting ready to go through in
25 his testimony what Mr. Carelock told him during their sit

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1 down he can make the statement that Mr. Carelock told the
2 investigator that he had a problem with Maurice Bufford and
3 others, stop, then he can go to the Armadillo's incident
4 and explain. That's it. That's on the 404B Lyle stuff,
5 right?

6 MR. FRICK: Yes, sir.

7 THE COURT: Anything else?

8 MR. FRICK: My only other question would be that's
9 obviously a statement on my client, I believe he was in
10 custody at the time. I would have concern as to whether or
11 not we need to have a Denno hearing. Quite frankly I don't
12 know that there was a question of voluntariness but I think
13 just to ensure the sanctity of the record we might need to
14 explore that issue. He was in custody and Mirandized
15 and --.

16 THE COURT: I don't know. You want to hear it?

17 MR. FRICK: Yes, sir. Let me address any -- one other
18 issue, I guess it's two fold -- I can't have a simple
19 issue -- it seems the identification of my client.

20 THE COURT: Okay.

21 MR. FRICK: Your Honor, it's not factually -- it's not
22 a terribly complicated case. The victim says that -- my
23 understanding is she says that she looks out the door, she
24 identifies my client as the person standing at the door,
25 he's the one who fired the shot. She as far as I can tell

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1 from the incident report as soon as law enforcement shows
2 up my client's name comes out of her mouth so I don't know
3 that there was any lapse in time. I don't know that there
4 was anything that suggests that someone had given her that
5 name prior to law enforcement being there, I don't have
6 anything to that effect. She indicated that she knew him
7 because they had gone to high school together, I would
8 request a hearing to flesh that out to see if that's, in
9 fact, the case. Because all I know is what I am reading in
10 the incident report and they're not necessarily 100 percent
11 accurate, so I would request that we start an
12 identification hearing. I certainly understand that the
13 Court may rule that the identification hearing is not
14 necessary because she says she knows my client but I think
15 we need to establish that before we just simply make that
16 ruling. Along with that identification there was a
17 subsequent photo lineup shown to the victim, a six person
18 photo lineup, she's not actually the one who initials, I
19 think she -- the incident report indicates that she
20 indicated the picture that's shown possibly my client is
21 the one that she said that that is him but she's not the
22 one who actually initialed the picture, it was actually her
23 mother who did that. Additionally I have some concerns
24 with the lineup itself. There's actually only five people
25 in the lineup, one of the pictures is repeated so I have

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1 concerns about the makeup of the lineup. And I know that
2 the State intends to introduce it essentially to bolster
3 the identification but I have issues with that and I think
4 it should be excluded.

5 THE COURT: Solicitor?

6 MR. COOK: Do you want me to address the photo lineup?

7 THE COURT: Yeah. I think the photo lineup is where
8 we are. I have told him I would give him a Miranda
9 hearing.

10 MR. COOK: The photo lineup, Your Honor, the same
11 person is on there twice, we are not contesting that that's
12 really a five person lineup. But at the time the victim
13 was unable to write and instructed her mother to initial,
14 said that's him, instructed her mother to initial who is
15 here to testify to that. Investigator Howell did the
16 lineup and I think it was actually done at the hospital and
17 we think it should come in.

18 THE COURT: It sounds to me as though -- let's go
19 ahead and cross that bridge real briefly. But I don't
20 think the lineup -- from what y'all are telling me that the
21 lineup has got anything to do with anything.

22 MR. FRICK: I certainly don't think it's necessary and
23 I think putting it in would be bolstering and cumulative.

24 MR. COOK: She did identify him immediately.

25 THE COURT: Was it your intent to try to put that into

1 evidence?

2 MR. COOK: Sir?

3 THE COURT: Are you trying to put the photo lineup
4 into evidence?

5 MR. COOK: I was going to try to put it into evidence.

6 THE COURT: Why would you do it? I'm just curious.

7 She said, "I know him, he did it," why do you need a photo?

8 I don't know.

9 MR. COOK: Well, I mean, to further prove that that is
10 the guy we are talking about, that Roshune Carelock is the
11 same guy.

12 THE COURT: If you want to -- if we are going to do
13 that I think we need an ID hearing. Because you are trying
14 to say that that is -- well, let me think about your
15 bolstering argument here. I think -- he just specifically
16 just said that -- well, I guess if you're going to use the
17 photo ID I think we need a Biggers hearing, I don't know.

18 MR. FRICK: I think we would with the photo ID. As
19 far as her statement I just want to ensure that what I
20 suspect you are going to say is what she's going to say.

21 THE COURT: Well, let's get rolling. Which one are we
22 going to do first?

23 (Break in proceedings.)

24 MR. COOK: Your Honor, State calls Lieutenant Kirkley.

25 The witness, CHUCK KIRKLEY, was first duly sworn and

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1 Testified as follows, on:

2 DIRECT EXAMINATION

3 BY MR. COOK:

4 Q Lieutenant Kirkley, were you involved with the
5 interview of Roshune Carelock on 5/21/2007?

6 A Yes, sir, I was.

7 Q Where did that take place?

8 A Lancaster County Sheriff's Office.

9 Q Was he under arrest at that time?

10 A Yeah. He was at the detention center.

11 Q Had he been Mirandized?

12 A I Mirandized him.

13 Q Okay. Do you have a card that you usually read for
14 Miranda warnings?

15 A Yes, I do.

16 Q Do you have that card with you?

17 A I do.

18 Q Is that the same card you had with you then?

19 A Yes, sir.

20 Q Do you mind taking that out? Would you read that
21 card for me?

22 A Suspect's rights Miranda warning. One, you have the
23 right to remain silent. Two, anything you say can and
24 will be used against you in a court of law. Three, you
25 have the right to talk to an attorney and have him present

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1 with you while you are being questioned. Four, if you
2 cannot afford to hire an attorney one will be appointed to
3 represent you before any questioning if you want. Five,
4 you can decide at any time to exercise these rights and
5 not answer any questions and make any statements. Six, do
6 you understand these rights I have explained to you?
7 Seven, having these rights in mind do you wish to talk to
8 us now?

9 Q And the defendant said?

10 A He wished to talk to us.

11 Q Did he have any questions?

12 A I have to refer back to the -- I can't remember
13 exactly what he said.

14 Q From what you remember, did you have any problems
15 communicating with him?

16 A No, sir, none at all.

17 Q Do you remember if you asked him what his age and
18 educational background was?

19 A I believe so, yes, sir.

20 Q But there was nothing about that that indicated he
21 didn't understand you?

22 A No.

23 Q Did he at that time waive knowingly and intelligently
24 his rights under Miranda and wish to speak to y'all?

25 A Yes, sir.

1 Q The statement was voluntary?

2 A Yes, sir.

3 Q Do you remember the approximate time and place where
4 this occurred?

5 A As best as I can remember it was at Investigator
6 Howell's desk at the sheriff's office, it was at night, I
7 believe.

8 Q Was he in handcuffs or restrained in any way?

9 A I don't recall.

10 Q How many officers do you remember being present?

11 A Just two, myself and Investigator Howell.

12 Q Were you in uniform and Investigator Howell in
13 uniform?

14 A I was in uniform, Investigator Howell was dressed as
15 he is today.

16 Q Gun and badge visible?

17 A Yes, sir.

18 Q No others present?

19 A No, sir.

20 Q Did he have -- did you comply with his requests? Did
21 he have any request; bathroom, food, drinks, did he ask
22 for anything that y'all denied him?

23 A I can't remember him asking for any of those things.

24 Q But no promises were made to him as a result of this
25 statement or no threats or coercion?

1 A No, sir.

2 Q Did he -- did you get him to sign a waiver form at
3 that time?

4 A Yes, sir.

5 Q You don't -- we don't have a copy of that?

6 A I'm not sure what's in the file.

7 Q All right.

8 MR. COOK: That's all of the questions I have for you,
9 Lieutenant Kirkley.

10 CROSS EXAMINATION

11 BY MR. FRICK:

12 Q Were you involved with any of the questions or did
13 you just do the Miranda?

14 A I just Mirandized him.

15 Q Do you recall -- because it appears from the incident
16 report it was just read to him -- did he sign anything?

17 A I would have to look at the -- I'm not sure, that's
18 what we usually do.

19 Q Okay. Do y'all have your file over here? That's
20 fine. But you can't come to a conclusion from either way
21 whether something was signed or not?

22 A It has been two years ago, I can't recall.

23 Q When you go through your questions, do you read
24 through the whole list at one time or do you ask a
25 question and look for an acknowledgment or what is your

1 normal practice?

2 A I usually read the cards just like I did to you and
3 if they have any questions or anything I tell them they
4 can stop me at anytime, then I finish up with having these
5 rights in mind are you willing go to talk to us.

6 Q Okay. Who was it that requested that he come speak,
7 or did he ask to come speak? How did y'all come to be in
8 this situation?

9 A As best that I can remember he was being held at the
10 detention center and then we brought him up to speak with
11 him.

12 Q About this incident or were y'all going to talk about
13 something else or do you recall?

14 A As best as I can remember the whole weekend was this
15 type of incident and I think it was finishing up with the
16 one where the victim was shot.

17 Q Okay. And again, and I apologize for the repetition,
18 you weren't the one that conducted the interview.

19 A No, sir.

20 Q You are not the one that requested him to come up
21 front.

22 A No, sir.

23 Q You were just basically there as a witness.

24 A Yes, sir.

25 Q And to do the Miranda?

PRETRIAL MOTIONS

1 A Yes, sir.

2 MR. FRICK: That's all I have got. Thank you, sir.

3 MR. COOK: That's all of the questions I have for

4 Lieutenant Kirkley. State calls Investigator Mike Howell.

5 The witness, MIKE HOWELL, was first duly sworn and

6 Testified as follows, on:

7 DIRECT EXAMINATION

8 BY MR. COOK:

9 Q Investigator Howell, you were involved in the
10 interview on May 21st of 2007 with the defendant about
11 this case?

12 A Yes, sir, I was.

13 Q Were you a witness to Lieutenant Kirkley reading him
14 his Miranda warnings?

15 A Yes, sir, I was.

16 Q Did you read them off the card?

17 A Yes, sir, I did.

18 Q Do you remember if the defendant had any problem
19 understanding what was going on or any questions to you
20 about these Miranda warnings?

21 A No, sir. He was the one -- actually when we brought
22 him out to speak he was the one asking some questions and
23 we all actually told him to stop until we got to him so he
24 did understand them.

25 Q You made sure he understood the Miranda warnings?

- 1 A Yes, sir.
- 2 Q No problems communicating with y'all?
- 3 A No, sir.
- 4 Q All right. Once he was read his Miranda warnings by
5 Lieutenant Kirkley, he did knowingly and willfully waive
6 his right?
- 7 A Yes, sir, he did.
- 8 Q And wished to speak to y'all. Do you remember where
9 this took place?
- 10 A It was actually -- when I brought him out we brought
11 him to the captain's room at the time, we were sharing the
12 squad room but the captain's room was right here on the
13 left side of the building, not on the far right side,
14 that's where the interview took place.
- 15 Q He was under arrest for this charge at that time?
- 16 A Yes, sir, he was.
- 17 Q Do you remember, were you in uniform?
- 18 A I was dressed down.
- 19 Q You were in a visible bag?
- 20 A Yes, sir.
- 21 Q Do you remember if he was restrained or leg
22 restraints?
- 23 A Had he shackles on his feet.
- 24 Q Do you remember anybody else present other than
25 Lieutenant Kirkley and yourself?

PRETRIAL MOTIONS

1 A No, sir, just us.

2 Q Do you remember about how long the interview was?

3 A No, sir. He was very forthcoming about the interview
4 because we started out with Steven's case, because
5 actually him and Steven were supposed to meet me that
6 day -- earlier that day before the incident night with my
7 victim now.

8 Q So he was ready to talk?

9 A We talked about Steven's case first, his cousin's and
10 everything went smooth. Then when we get down to asking
11 him about the case in hand now about Larisha he got
12 adamant he wanted the interview to stop until we made
13 arrangements for another tool for --

14 Q But there was no discomfort by him, y'all didn't deny
15 him any restroom, telephone, water?

16 A No, sir. And we honored his wishes, too, when he
17 asked us to stop until we did something else, we did, we
18 stopped the whole interview.

19 Q You didn't make any threats or any kind of coercion,
20 promises?

21 A No, sir. It was going pretty -- it was a good
22 interview.

23 Q Let's talk about the -- you were the one asking the
24 questions; is that right?

25 A Yes, sir, I was.

1 Q And at that time you were investigating two different
2 shootings.

3 A Yes, sir.

4 Q That's what he was talking about, he was supposed to
5 come talk to you about the one that happened the night
6 before, right, and he never showed up. Tell me kind of
7 how the interview went, what you asked him and how you --

8 A Well, it started off, the first thing I said was in
9 an easy manner said, "Man, y'all were supposed to meet me
10 today. What happened?" And then we started from there
11 and just short talk, then I asked him how it all started
12 with Maurice and others and that's where we started back
13 at from the beginning, how it originated and going on and
14 so forth.

15 Q That's when he told you about the Applebee's and the
16 flea market?

17 A Yes, sir.

18 Q What did he tell you about the Armadillo's incident?

19 A The Armadillo's incident, he went -- they went to
20 the -- stopped at the store and while they were in the
21 store Tony come in and said, "I have got you cornered,
22 finally got you cornered." Then they started some jawing
23 back and forth. They told him to follow them up to
24 Armadillo's, so they went up to Armadillo's and when they
25 got up there they both met head on when the cars

PRETRIAL MOTIONS

1 started -- Maurice's car -- the one that he is saying is
2 Maurice's and his friends were backing up at an angle,
3 Maurice came out, shot over the car, hit his cousin in the
4 hip. But I tried to talk to him about the incident the
5 night when Steven got hit and Roshune didn't --

6 Q Didn't want to talk?

7 A No, sir.

8 Q And he told you that he had had problems with Maurice
9 in the past?

10 A Yes, sir. Well, actually several of them.

11 Q Was that as a result of a question you kind of asked
12 him, "Just tell me how it all started?"

13 A Just how it all started, how did this originate
14 from --

15 MR. COOK: All right. I don't have any further
16 questions for you.

17 CROSS EXAMINATION

18 BY MR. FRICK:

19 Q Did he ask to talk to y'all or did y'all bring him
20 out and talk to him?

21 A I wanted to speak to him.

22 Q And y'all were really trying to investigate the prior
23 shooting.

24 A At this time, because both incidents already took
25 place but I started back because I thought your client

1 would be more apt to talk about his cousin being the
2 victim and walking out way through there and leading up to
3 my victim now.

4 Q Okay. And you're saying basically when you got him
5 up there he starts talking and y'all kind of woo him down,
6 right?

7 A He's coming up there, he is saying, "How do you
8 charge me with this?" And I said, "Hold on, let me
9 explain everything to you," because he has already seen
10 what he's charged with off the warrant. Lieutenant
11 Kirkley read him his rights and Roshune is still talking.
12 He understood his rights, he understood his rights. Once
13 we started talking about everything he was forthcoming
14 with all of the information we wanted until we got down to
15 my victim, when we got to my victim he wanted to cease.

16 Q Y'all talked about that at the end.

17 A Yes, sir. I started off with Mr. Blaire's.

18 Q So the stuff about the Armadillo's incident, that
19 occurs prior to him requesting the interview to stop?

20 A Right. All of the way to the Larisha had said
21 because he kept on I want to know why. And I said, "She
22 pointed you out. She said it is you. She seen you," and
23 then that's when he got irate and asked for another
24 procedure and that's when I stopped the investigation,
25 honored his wishes, didn't speak to him. He did not

1 lawyer-up at that time, he just wanted me to do this other
2 means of interview for him.

3 Q At any time did he ask for an attorney?

4 A No, sir, he did not.

5 Q And as soon as he said that he didn't want to talk to
6 y'all about that anymore --

7 A That was it. I done what he requested me to do.

8 Q He was taken back?

9 A Yes, sir.

10 Q And he was being held at the detention center at that
11 time?

12 A Yes, sir, he was.

13 Q Do you recall, was he in an orange jump suit?

14 A I feel sure it was an orange jump suit.

15 Q Was he shackled or anything?

16 A Yes, sir, just ankle shackles.

17 Q About how long did y'all talk?

18 A I couldn't give a fair --

19 Q Any guess?

20 A It was a good interview, it was very fluent.

21 Everything was going well until we got to that point so I
22 couldn't give a good time.

23 Q Okay. What I'm looking at, I'm looking at your
24 incident report, I think you got the same one. I'm

25 looking at the last sentence on the Armadillo, "Who shot

1 Steven Blair at that time?" So until y'all talked to

2 Mr. Carelock --

3 A That is the first.

4 Q All right. And in fact, y'all had set up to speak to

5 Mr. Carelock and Mr. Blair.

6 A At the hospital both of them said they would come to

7 me that day -- or the incident night that my victim got

8 hurt. But earlier that day they were supposed to have met

9 me and also brought the car from the other incident.

10 Q When did y'all talk?

11 A This is the 21st, when I talked to him he was already

12 arrested for my victim.

13 MR. FRICK: That's all I've got. Thank you, sir.

14 THE COURT: Anything else, Solicitor?

15 MR. COOK: Nothing further, Your Honor.

16 THE COURT: Anything else regarding these statements?

17 Okay. It appears clear to the Court that the defendant was

18 advised of his rights including the right to remain silent,

19 the right to an attorney, he knowingly and intelligently

20 waived those rights and his statement was given freely and

21 voluntarily.

22 MR. FRICK: Judge, I -- and the ruling, that's not

23 what I am getting up about, my only concern was I just

24 wanted to make sure that things are clean when we go in

25 front of the jury, when Mr. Cook was speaking he mentioned

PRETRIAL MOTIONS

1 all three incidents, I would just make sure that we don't
2 list additional incidents. That's all..

3 MR. COOK: I'm aware and Investigator Howell heard it
4 also. I understand.

5 THE COURT: I agree with you. Thank you. Now, Neil
6 vs. Biggers.

7 MR. COOK: However you want to proceed, Judge.

8 THE COURT: Just put up the person who identified and
9 who looked at the photo lineup, whoever that is.

10 MR. COOK: Well call Investigator Howell back to the
11 stand.

12 THE COURT: You are still under oath.

13 BY MR. COOK:

14 Q Investigator Howell, did you compile this photo
15 lineup?

16 A Yes, sir, I did.

17 Q Would you say that it was similar in appearance, in
18 age and physical characteristics?

19 A Yes, sir I do.

20 Q When you -- would you say one of those pictures is
21 the defendant in this case, Roshune Carelock?

22 A Yes, sir, it is.

23 Q Is there anything about that lineup that would
24 suggest him out of those five people?

25 A No, sir, I don't.

1 Q Did you ever expressly or implicitly imply which one
2 the defendant was when you showed that to the victim?

3 A No, sir.

4 Q Okay. Where did you approach the victim in this case
5 with that photo lineup?

6 A Actually when I left the scene of the house she's
7 already been transported to the ER, I run back to the
8 office, I try to do a quick lineup for her and, of course,
9 this is where I put one subject in here twice which is not
10 the defendant. I go back to the hospital, she is being
11 treated, she still has a lot of blood on her, she points
12 Roshune out in the lineup. I have her mama initial it
13 because she's bloody, she has got blood on her, she's
14 being treated, mama is there, I couldn't.

15 Q You all were standing right there together?

16 A We are standing there.

17 Q And she says that's it?

18 A That's it, yes, sir.

19 Q What degree of certainty would you say she --

20 A Very certain. It was a fast point, it wasn't no scan
21 hesitation. She seen who she seen and that was it.

22 Q We are talking 30 minutes after this occurred or hour
23 and a half?

24 A That she seen the lineup?

25 Q From the time she was shot until the time she saw the

1 lineup.

2 A I can't remember how long I was at the scene but I
3 knew I was trying to get to the hospital. I was trying to
4 get to her quick because I didn't want her -- not to have
5 time to talk to her because she maybe going to CMC or
6 wherever they take her.

7 Q Did she have ample opportunity to review that photo
8 lineup when you showed it to her?

9 A Yes, sir, it was quick.

10 Q Is the one she picked out actually the defendant in
11 this case?

12 A Yes, sir, it is.

13 MR. COOK: That's all of the questions I have at this
14 time.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q How did y'all form the lineup? Did you get mug shots
18 or --

19 A No. I went to the office, I went through the RMS
20 system and I put in height, weight, age and it will
21 execute what is close.

22 Q How did it pick the same person twice?

23 A I picked the same person twice, that's totally my
24 mistake.

25 Q Was that -- and I'm not really trying to imply

1 anything, was it intentional or was it accidental?

2 A No. It wasn't intentional, but once I show it I
3 can't go get another one.

4 Q Yeah, that would lead me to all other kinds of
5 questions.

6 A Exactly.

7 Q What was the reason that you showed her the lineup?

8 A Because she named him. And when I was at the scene,
9 when they were treating her at the scene Deputy Humphries
10 come to me first and says, "As soon as I got here she was
11 already hollering his name, Roshune Carelock."

12 Q That's how y'all determined to put --

13 A EMS is talking to her and she is telling them the
14 same thing, she gives the same name. To me what I need
15 from the scene is -- I don't know how long I was there but
16 a long time at the scene. I run to the office and figured
17 her eye injury may lead her out of Lancaster to CMC or
18 wherever, I want to get a positive identification on the
19 name, match and face and that's what I did. I ran to the
20 office, got a lineup, went straight back to her and showed
21 her.

22 Q You spoke to her at the scene?

23 A I didn't speak with her much at the scene, they were
24 treating her when I got there.

25 Q EMS was already there treating her?

PRETRIAL MOTIONS

1 A Yes, sir. Humphries had already spoken to her.

2 Q She was visibly upset or how did her --

3 A She was visibly hurt.

4 Q Was she hysterical, calm? How did she seem, do you
5 know?

6 A There was a lot going on because she got -- EMS were
7 trying to take care of her and we are trying to watch our
8 scene and get what we can from others.

9 Q So you follow-up. Did you speak with her
10 specifically at the scene?

11 A I think I looked at her but more or less they were
12 treating her. I'm not going to but in because I have got
13 an officer who has got there first who has got enough
14 information to start with in this case. We've got an eye
15 witness there saying their names, EMS is doing their job,
16 I'm doing mine. That's when I get a lineup to the
17 hospital and show it to her.

18 Q When you got to the hospital she was obviously
19 admitted and being treated?

20 A She's being treated at the time.

21 Q Was she under any medication to your knowledge?

22 A I don't know, I wasn't the doctor, you know. But
23 when she looked at this lineup it was fast, it was not one
24 of those scanning going through, she seen who she saw and
25 went straight to it. And I spoke to her mama because she

1 had blood and stuff on her arms, all over her face, her
2 mom initialed her name as that's her daughter who picked
3 this.

4 Q When y'all did that, where is mom?

5 A Mom is there.

6 Q In the room?

7 A Yes.

8 Q Whereabouts in the room?

9 A We are in the ER.

10 Q Okay. But is mama -- you are showing your victim the
11 picture, let's say I'm here looking at the pictures, where
12 is mom in relation to where y'all are?

13 A I can't remember which side of the bedside she's on.
14 But mom sees who she picks and she turns it toward mama,
15 she shows, I asked would she initial that's where her
16 daughter pointed to.

17 Q Okay. You told her that's where she pointed to or --

18 A No. That's where the daughter pointed to, mom
19 initialed where her daughter pointed to.

20 Q Okay. But you're saying --

21 A Yeah. I asked -- I said, "Mom, will you initial this
22 for her, the one she pick out?"

23 Q That's what you told her, that's the one she picked
24 out?

25 A No. I didn't tell her, no, sir.

PRETRIAL MOTIONS

1 Q Here is what I am trying to get her --

2 A Her mom seen who she picked out.

3 Q That's where I'm trying to get at. Where was she in
4 relationship to the bed?

5 A Beside the bed. I don't know if it was right side or
6 left side, I can't remember.

7 Q Was she hooked up to equipment and stuff like that
8 or --

9 A I can't tell you what all she was hooked up to or if
10 she was or not.

11 Q Okay. All right. Mom wasn't present at the scene
12 when the incident occurred, right?

13 A No. Mama is not there when it happened.

14 Q In fact, it wasn't anybody but the victim and her
15 child.

16 A Small child, right.

17 Q Other than EMS, mom, and you, are you aware whether
18 the victim spoke to anybody to your knowledge? I know you
19 weren't in the ambulance and stuff.

20 A I know she spoke to Humphries because Humphries was
21 first on the scene. I know Deputy Miller arrived, I don't
22 know which order. I know Humphries was first on the
23 scene, EMS was there when I am there and there's a couple
24 of others but I don't know -- you have got first
25 responders there, too, so I can't remember.

PRETRIAL MOTIONS

1 MR. FRICK: I understand. That's all I have got right
2 there. Thank you.

3 MR. COOK: That's all of the questions I have.

4 THE COURT: Thank you sir, you may step down.

5 MR. COOK: Call Larisha Thompson.

6 The witness, LARISHA THOMPSON, was first duly sworn

7 And testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. COOK:

10 Q Have you seen this before?

11 A Yes.

12 Q State your name for the record.

13 A Larisha Sherrell Thompson.

14 Q Have you seen this photo lineup before?

15 A Uh-huh.

16 Q Do you remember where that was shown to you for the
17 first time?

18 A In the hospital.

19 Q Who showed you that?

20 A Howells (sic.)

21 Q How long did you look at that before you selected
22 somebody?

23 A As soon as I saw the person's face that was at my
24 door.

25 Q Were you in the emergency room or had you gotten to

1 an actual room at that point?

2 A I recall we were just in the emergency room because I
3 was laying down in the bed.

4 Q And your mother was there with you?

5 A Uh-huh.

6 Q Do you remember where she was?

7 A I don't recall exactly where she was because I was
8 laying down and I had both of my eyes closed.

9 Q When you were shown that, which number did you pick?

10 A Five.

11 Q Whose initials are those right there?

12 A Deborah Thompson, which is my mother.

13 Q When you picked that, were you holding that or was
14 Investigator Howell holding it? How was it shown to you?

15 A I recall Howells was holding it.

16 Q And you pointed number five out?

17 A Uh-huh.

18 Q At that time was all of it simultaneously with your
19 mother -- did you ask your mother to initial it or did
20 Investigator Howell ask your mother to initial it?

21 A He asked her to initial it because I had blood all
22 over me.

23 Q Did she do it right there in front of both of y'all?

24 A Uh-huh.

25 THE COURT: Ms. Thompson, let me interrupt you just

PRETRIAL MOTIONS

1 one minute. This gentleman is recording your voice so what
2 you need to do is say yes or no.

3 THE WITNESS: Okay.

4 Q Do you have any idea the length of time between the
5 time all of this happened and when you were shown that?

6 A I don't know but it wasn't long.

7 Q Who was number five?

8 A Roshune Carelock.

9 Q You had plenty of time to look at that when it was
10 shown to you for you to pick somebody out?

11 A Yes, sir.

12 MR. COOK: That's all of the questions I have.

13 CROSS EXAMINATION

14 BY MR. FRICK:

15 Q Ms. Thompson, after the incident you stated it was
16 Roshune Carelock that was at your front door; is that
17 correct?

18 A Yes, sir.

19 Q How did you know it was Roshune Carelock?

20 A Because I know him.

21 Q How do you know him?

22 A We went to school together.

23 Q Where did y'all go to school?

24 A Lancaster High.

25 Q What year did y'all go to school?

PRETRIAL MOTIONS

1 A I graduated in 2002, his sister is my classmate,
2 that's what I kept telling everybody there Shaquita
3 (phonetically) Carelock's brother.

4 Q That's what you told them, Shaquita's brother?

5 A Uh-huh.

6 Q Were y'all in the same classes together or did you
7 just see him around school, how did you --

8 A I saw him around school.

9 Q Did y'all hang out together any?

10 A No.

11 Q Was he in school with you the whole time?

12 A No.

13 Q Do you have any idea how long he was in school with
14 you?

15 A I really don't know. I know he got in some trouble
16 and went to jail.

17 Q What year was that? Not exact year, what year in
18 high school is that? Freshman, sophomore?

19 A Like I said, freshman.

20 Q Freshman year?

21 A Sophomore, I would say sophomore year.

22 Q Had you known him prior to going to high school
23 together?

24 A No, sir.

25 Q And I apologize I may have just asked this question.

1 Did y'all have any classes together that sophomore year?

2 A No, sir.

3 Q Go to football games together, see him at football
4 games, basketball?

5 A I didn't really see him at football games or
6 anything.

7 Q Didn't see him outside of school?

8 A No, sir.

9 Q I believe on the evening of this incident it's in an
10 incident report somewhere, you said you heard some kind of
11 tapping on your door.

12 A Yes, sir.

13 Q Now you've got -- at the time had a glass -- sliding
14 glass door?

15 A Uh-huh.

16 Q There was -- make sure you say yes or no. Sliding
17 glass store door, right?

18 A Yes.

19 Q And then you have got the house door, right?

20 A Yes.

21 Q And there was some glass in that door?

22 A The whole door was glass.

23 Q Is it clear glass? Stain glass? What kind of glass
24 are we talking about?

25 A A little stain but clear, you can see out, you can

1 see.

2 Q Straight through?

3 A You can see through it?

4 Q But there's some kind of stuff in the glass, I guess.

5 A Well, it's like a --

6 Q Is it clear like a regular pane of glass?

7 A It wasn't clear like a regular pane of glass, a part
8 in it was but a part in a little flower part was clear.

9 Q Okay.

10 A But everything else was a little stained.

11 Q You hear something at that point at the door, you go
12 look out the door.

13 A No. Yes. No, not right then.

14 Q How did you get to the door?

15 A My daughter. I yelled and asked my daughter if that
16 was her, she had said no. So I continued to hear tapping,
17 it wasn't a knock, it was a tap. So I walked out of my
18 bedroom right there, it leads to the intersection of where
19 my front door is, the front door is probably like a good
20 12 feet and I walk over to the front door and he is at my
21 door.

22 Q Was the storm door open or closed?

23 A Everything was closed.

24 Q Everything was closed. Okay. And you said there was
25 a clear part and a little flower. What part of the door

1 are you looking through?

2 A I'm looking through the whole door because everything
3 was glass.

4 Q Did you get right up on the door or --

5 A I was right up on the door.

6 Q Okay. This was late in the evening or early morning
7 hours, correct?

8 A It was like around 11:30.

9 Q So it was dark?

10 A Uh-huh.

11 Q Did you have your porch light on?

12 A Yes. My cousin had just left from over there and we
13 cut the porch light on as he was walking out of the door.

14 Q When you looked out the window, what did you see?

15 A I saw Roshune.

16 Q Roshune? Okay. You are positive it was him?

17 A Yes, sir.

18 Q Prior to that evening when had you seen him before,
19 when was the last time?

20 A At graduation.

21 Q At graduation. How long before?

22 A That was the night before.

23 Q Okay. At that time, did y'all hang out, talk,
24 exchange words or anything?

25 A No, sir.

PRETRIAL MOTIONS

1 Q Were any words exchanged between y'all at the door?

2 A Yeah.

3 Q What happened?

4 A I was like, yeah -- when I came to the door and he
5 was like, "Is Maurice here?" And I said, "No, Maurice is
6 not here." And I stepped back, it was just boom, and I
7 fall to the floor.

8 Q Did you recognize a voice or are you saying when you
9 looked out the window you knew who exactly who it was?

10 A I saw him. When I was walking up to my door and I am
11 looking and thinking, "Why is he at my door?"

12 Q Do you recall what he was wearing or anything like
13 that?

14 A He had on a black hat which was pulled to the back,
15 the bin was at the back, he had on a black coat and a had
16 like yellow in it a little bit.

17 Q Any face hair?

18 A I don't remember looking at the face hair, I remember
19 a tattoo.

20 Q What tattoo? Were you pointing at your beck there,
21 is that what you mean?

22 A Uh-huh.

23 Q Could you read it or knew what it was?

24 A No, sir.

25 Q All right. Did you explain to anybody that evening

- 1 that you had seen a tattoo?
- 2 A That night?
- 3 Q Yes, ma'am.
- 4 A No, sir.
- 5 Q Okay. That's fine. Okay. Did you see anything in
- 6 his hand?
- 7 A No, sir.
- 8 Q He is at the door, then you hear a boom, then there's
- 9 glass coming at you?
- 10 A Exactly.
- 11 Q Probably very stupid question but I have got to ask
- 12 it, did you look back out the window?
- 13 A No, sir.
- 14 Q So you don't know whether anybody else was out there
- 15 or not?
- 16 A Nobody was at the door, there was no one at the door
- 17 but him.
- 18 Q Didn't see anybody? Okay. How far away was your --
- 19 does your door front the street, is it Washington Street
- 20 or something like that?
- 21 A Yes, sir.
- 22 Q About how far -- you know I ain't putting a ruler on
- 23 it -- about how far is your door from the street?
- 24 A About three feet maybe.
- 25 Q Three feet? Okay. Is there traffic coming up and

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1 down the street at 11:00 or 11:30 at night on your road?

2 A No, sir.

3 Q Did you see a car or anything parked in front of your
4 house?

5 A No cars.

6 Q Is there a street light that illuminates your yard
7 and house?

8 A No, sir.

9 Q So the lighting that you had was from your -- you
10 have got one porch light there?

11 A Uh-huh.

12 Q About how long were you looking out the window? Any
13 idea? I know you didn't have a stop watch on.

14 A I don't know. Because I walked to the door and he
15 was standing at the door, I saw him at the door and he
16 asked if he was there, he said, "Is Maurice there?" And I
17 told him no.

18 Q That's when it happened?

19 A Exactly.

20 Q You called law enforcement or EMS or something like
21 that?

22 A Yes, sir.

23 Q Which was it, 911?

24 A I called 911 on the house phone.

25 Q And told them that you had been injured?

- 1 A I told them someone just shot in my front door.
- 2 Q Okay. Did you call your mom or anybody else after
- 3 that?
- 4 A Yeah. I was on the phone with EMS, I was on the
- 5 cellphone with my mom because my baby was in the house.
- 6 Q Who got there first, EMS or mom?
- 7 A It wasn't EMS, it was the fire department.
- 8 Q About how long did it take them to get there?
- 9 A Fire department?
- 10 Q Yeah.
- 11 A Not even a good five minutes.
- 12 Q How about mom, when did she come over?
- 13 A It wasn't long, probably about 15 or 20 minutes.
- 14 Q Did you talk to anybody from EMS about the situation?
- 15 A I was on the phone with EMS.
- 16 Q When they arrived -- I apologize, when they got there
- 17 and started treating you, did you tell them about what had
- 18 happened?
- 19 A Yeah.
- 20 Q And you told them who you're saying it was, you said
- 21 it was Roshune?
- 22 A Uh-huh.
- 23 Q When mom comes over, did you tell mom what's going
- 24 on?
- 25 A No.

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1 Q You didn't talk to mom about it?

2 A No.

3 Q Did you talk to any of the police officers?

4 A I don't recall me talking to any police officers that
5 night on the floor. I recall them -- the fire department
6 asking me to lie down, I kept telling them I didn't want
7 to lay down because I didn't want to die. By the time EMS
8 got there they got me to lay down. I was standing the
9 whole time just holding my eye.

10 Q I understand. Okay. Get to the hospital they start
11 treating you there, correct?

12 A Yes, sir.

13 Q You are in the ER. Are they giving you any
14 medication or anything like that, do you know?

15 A I'm not sure.

16 Q You were most like in some type of pain at the time,
17 correct?

18 A Correct, they put me on an IV.

19 Q But do you know, did the pain start getting easier or
20 do you recall?

21 A I just started getting sleepier and tired.

22 Q When does it -- it was Investigator Howell that comes
23 and speaks to you at the hospital, right?

24 A Yeah.

25 Q When does he come talk to you?

1 A He comes -- I'm not even sure because I was at the
2 hospital, I don't know, it wasn't that long. I know that
3 but I know I wasn't asleep there that time because all of
4 my family members and everybody was coming over there and
5 talking to me.

6 Q So you had gone to sleep and he comes in?

7 A No. I wasn't asleep, I was getting -- the medicine
8 they had put me on was getting me -- I was getting sleepy
9 but I never went to sleep.

10 Q So when he talked to you, you were starting to get a
11 little groggy?

12 A Not really. I was still talking to everybody, I
13 wasn't groggy or anything like that.

14 Q Okay. And that's when -- did he talk to you about
15 what happened or how did y'all have a conversation?

16 A I just recall him saying he has the lineup and he
17 just asked me to look at it. As soon as he gave me the
18 paper I looked at it and I pointed him out.

19 Q Were you not physically able to write on the lineup
20 or --

21 A I had blood all over me.

22 Q I know you were in here when I was talking to
23 Investigator Howell about where your mom was. Where was
24 your mom?

25 A She was in the room but I don't know in what spot.

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1 Q You don't know whether she was standing behind you or
2 in front of you?

3 A I was laying in the bed, both of my eyes were closed
4 basically the whole time.

5 Q He shows you the lineup. How long did it take you to
6 identify the person?

7 A As soon as I saw Roshune?

8 Q Instantly? Okay. Y'all didn't associate in high
9 school, you saw him his sophomore year but not really
10 since then. How do you know him so well?

11 A I know his sister.

12 Q Would you go over to hang out with her?

13 A No. We were classmates from sixth grade all of the
14 way up to high school.

15 Q All right. But y'all weren't -- you're not hanging
16 over at his house, he's not hanging over at your house.

17 A No, sir.

18 Q Do you recall telling anybody that he had a pistol or
19 a gun or anything?

20 A I don't recall.

21 MR. FRICK: That's all I have got. Thank you.

22 THE COURT: Anything else, Solicitor?

23 MR. COOK: No, sir, Your Honor.

24 THE COURT: Thank you, ma'am, you can step down.

25 MR. COOK: State calls Deborah Thompson.

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1 The witness, DEBORAH THOMPSON, was first duly sworn

2 And testified as follows, on:

3 DIRECT EXAMINATION

4 BY MR. COOK:

5 Q Ms. Thompson, please state your name for the record.

6 A Deborah Chavis Thompson.

7 Q Ms. Thompson, my understanding is you went to the --

8 your daughter's house that night, then you also went to

9 the hospital; is that correct?

10 A Yes, sir.

11 Q When you were at the hospital, Investigator Howell

12 came in and brought this photo lineup, is that correct,

13 and showed it to your daughter?

14 A Yes, sir.

15 Q Your daughter -- at that time, what was her

16 condition?

17 A They had given her some medication to try to ease the

18 pain and she couldn't sit up because it had put something

19 over her eye, they didn't want her sitting up, she was

20 laying down. When she looked at the picture she looked at

21 it, I was signing it for her because the doctor didn't

22 want her lifting up her head.

23 Q Where were you at? Right beside --

24 A Right beside of her.

25 Q Where was Investigator Howell at?

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1 A In front of me.

2 Q So she's laying right here. She's laying right here,
3 you are right here, Investigator Howell, and he's showing
4 it to her like this and she pointed him out?

5 A I initialed it for her.

6 Q Is that where you initialed it?

7 A Yes, sir.

8 Q And DT, is that your initials?

9 A That's my initials.

10 Q Nobody -- Investigator Howell didn't point him out or
11 nobody, you just initialed where your daughter said and
12 said that's who did it?

13 A Yes, sir.

14 MR. COOK: That's all of the questions I have got.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q You weren't present when the incident itself
18 occurred.

19 A No, sir.

20 Q You came over after she called you and told you what
21 happened?

22 A Yes, sir.

23 Q Did she tell you at that time? Did y'all talk when
24 you got over to the house?

25 A Yes, sir.

1 Q Y'all talked a little bit. What did y'all talk
2 about?

3 A When I walked in the door I saw her laying on the
4 floor, I started to get upset, she was the calm one. She
5 said, "Mom, don't get upset, I don't need you to cry. I
6 don't want you to get upset." And all of my family came
7 in, everybody was starting to cry and get upset and
8 everything, she kept telling everybody in the house just
9 stay calm, she just didn't want to lay down. She was
10 scared if she laid down she wasn't going to get back up.

11 Q Okay. Did she at any point say who had done this?

12 A Yes, sir.

13 Q She told you?

14 A She told everybody in the house. When they asked her
15 did she know who did it she said yes his name is Roshune,
16 I don't know how to pronounce his name. They asked for
17 his last name, I don't remember the last name she give
18 them. Then she told him the sister's name and then that's
19 when she got the correct name of the last name. They
20 asked her how she knew him and she told them that she seen
21 him the night before. We went to graduation the night
22 before, my son graduated, we were at graduation. They
23 asked her are you sure you saw him there? She identified
24 that he did this on that night and one of the policeman
25 said that he saw him there also at graduation so he knew

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1 that she was right about what he had on.

2 Q Okay. You remember which police officer that was?

3 A No, sir.

4 Q That's fine. Okay. But initially she said Roshune
5 but couldn't say what the name was?

6 A She kept -- was confused with his last name at first
7 but I can't tell you what she said. I couldn't tell you
8 his first name until I got in here. So when she was
9 confused about the last name they kept asking her and she
10 was trying to get them to understand who it was. She told
11 them about the sister when she told him about the sister,
12 that's when she pronounced his name correctly.

13 Q She was talking about the sister or somebody else was
14 talking about the sister?

15 A No. She was talking about the sister, she told him
16 she knew his sister.

17 Q Okay. How did that happen?

18 A What?

19 Q How did that happen, the conversation about the
20 sister?

21 A They were asking her what the gentleman's last name,
22 she kept saying -- I don't know what she was saying but
23 she kept saying, "I told you, I told you." And then she
24 said, Well, he has a sister, whatever the sister's name is
25 and then that's when they got it right, the last name.

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1 Q Who came up with the last name first?

2 A She did.

3 Q She did?

4 A Yes, sir.

5 MR. FRICK: All right. That's all I have. Thank you,
6 ma'am.

7 THE COURT: Solicitor?

8 MR. COOK: Nothing further.

9 THE COURT: Thank you, ma'am, you may step down.
10 Anything further?

11 MR. COOK: Nothing further, Your Honor.

12 THE COURT: From the defense?

13 MR. FRICK: Beg the Court's indulgence for one second.

14 (Break in proceedings.)

15 MR. FRICK: Nothing.

16 THE COURT: All right. As far as the photographic
17 lineup is concerned it doesn't appear to me that that was
18 unduly suggestive, it actually didn't have anything to do
19 with her identification of the defendant. I find that it
20 is admissible.

21 MR. FRICK: Your Honor, then my concern would be the
22 bolstering argument I made. If she's going to get on the
23 stand why do we need to reconfirm that, that's just simply
24 bolstering?

25 THE COURT: Well, Solicitor?

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1 MR. COOK: Well, she said Roshune Carelock. I mean,
2 we know we are talking about the same Roshune Carelock she
3 identified and she identified his name, she knew him by
4 name and face. The sheriff's department knew Roshune
5 Carlock, put him in the lineup and she picked him. So I
6 know we're talking about the same one so I think the photo
7 lineup should come in so that we know who we are talking
8 about, the same guy here today.

9 MR. FRICK: I think you've got that your victim is
10 going to do that, I believe they're going to have an EMS
11 person that said that's what she is going to say, you have
12 the police that's going to say that's what she said.

13 MR. COOK: She also told them -- at first she said a
14 different last name, photo lineup would go to show it was
15 Roshune Carelock, not whoever the other name who she said
16 it was.

17 THE COURT: All right. I think I am going to admit
18 it, I will take it under advisement, though. I thought you
19 were objecting to it on the grounds that it was a prior
20 inconsistent statement.

21 MR. FRICK: Right, that would be true, and that it is
22 bolstering.

23 THE COURT: And the State's position was?

24 MR. COOK: Well, the State's position is we heard this
25 morning that at first she actually said a different last

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1 name and she eventually did give the name of the defendant.
2 But the photo lineup just shows that we did have the right
3 person, Roshune Carelock, that she said did it at the scene
4 is the same Roshune Carelock is that we have here today.

5 THE COURT: Isn't that under 801-D1-C?

6 MR. FRICK: It would be. But we have still got to go
7 back to whether it would be necessarily relevant or not. I
8 don't think it's necessarily relevant. What do we need it
9 for? What is the purpose other than just what he said
10 which is, well, we said that's who it was and that's who it
11 is, which is the definition of bolstering.

12 THE COURT: All right. But the bolstering argument
13 goes out the window with 801-D1-C.

14 MR. FRICK: I would disagree with that.

15 MR. COOK: I would agree.

16 MR. FRICK: I would disagree. I think 801-C is an
17 analysis you perform as to whether or not it would be
18 hearsay or an exception to the hearsay and then you
19 apply -- you still have to go to the relevancy and all of
20 that other stuff, that's the ultimate test.

21 THE COURT: All right. The Court disagrees and will
22 admit it, I overrule that objection.

23 MR. FRICK: Yes, sir, I understand.

24 (A lunch break was taken.)

25 THE COURT: Okay. Are we ready for the jury, folks?

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1 MR. COOK: State is ready.

2 MR. FRICK: Defense is ready.

3 (The jury returned to the courtroom.)

4 THE COURT: Welcome back, ladies and gentlemen. And I
5 believe we are now ready to begin the trial of the case.
6 First thing we need to do is have Mr. Hammond, the clerk of
7 court, administer the oath to you.

8 (At this time the jury was sworn.)

9 THE COURT: Before we begin, ladies and gentlemen, I
10 would like to say a few more words to you to try to give
11 you an idea about how we might proceed in the case. As you
12 know the defendant is charged by way of indictment with the
13 crime of assault and battery with intent to kill. I will
14 later explain to you the elements of the crime that's been
15 charged. But I now want to tell you that the defendant has
16 pled not guilty to this charge. The fact that the
17 defendant was indicted is not considered -- is not to be
18 considered by you as evidence in this case. Since the
19 defendant has pled not guilty that puts the burden upon the
20 State to prove to the guilt -- to prove to you the guilt of
21 the defendant beyond a reasonable doubt and it will be your
22 duty, ladies and gentlemen, to determine whether the State
23 meets it's burden of proof. Your purpose as jurors is to
24 determine the facts of the case. You, the jury, are the
25 sole judges of the facts of the case, and if at any time

1 during this trial I make any comment that causes you to
2 believe that I have an opinion about the facts of the case
3 please disregard it because I am not permitted to express
4 my opinion about the facts of the case in your presence.
5 Because once again, based on the testimony that you will
6 hear from the witness stand and any other exhibits that
7 might be introduced, you determine what the facts are of
8 the case, apply the facts as you find them to be, the law
9 as I will tell you it is and then reach a true and just
10 verdict in this case. Just as though you are the finders
11 of facts in this case I'm the one who determines what the
12 law is. If you have any idea that the law is different or
13 should be different than I tell you it is, you must put
14 that out of your mind, too, because under your oath you are
15 obligated to accept the law as I give it to you and apply
16 it as you find the facts to be. Couple of things. From
17 time to time you may see the attorneys ask if they can
18 approach, we can have a side bar or I may ask them to come
19 over and we will whisper things, perhaps even have to ask
20 you to step in the jury room while I discuss things with
21 the attorneys. And the reason that we might do that is not
22 to keep secrets from you but it is because most often it
23 requires me to discuss with the attorneys a matter of law
24 and in doing that it may require me to discuss with them
25 the facts of the case as I see it. If you remember, I told

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1 you a minute ago I'm prohibited from discussing the facts
2 of the case in your presence. In just a minute the
3 attorneys will make to you their opening statements after
4 which we will receive testimony and other evidence in the
5 case. Once all of that is concluded the attorneys will
6 make their closing arguments to you and I will then tell
7 you about the law that applies in the case and then you
8 retire to the jury room and reach your verdict. As I told
9 you earlier, until that time comes for you to return to the
10 jury room to reach your verdict you actually can't discuss
11 the case even in the jury room. Having said all of that,
12 ladies and gentlemen, I now believe we are ready to begin,
13 beginning with the State. Mr. Cook?

14 MR. COOK: Please the Court? Ladies and gentlemen of
15 the jury, once again I'm Trey Cook, I'm an assistant
16 solicitor here in Lancaster County and I represent the
17 State of South Carolina in this case. As you have heard
18 the defendant is charged with assault and battery with
19 intent to kill. It is a serious charge and it arises out
20 of retaliation from an incident that occurred the night
21 before with the victim, Larisha Thompson's boyfriend. Now,
22 Larisha Thompson just happened to be in a relationship with
23 a Maurice Bufford who was involved in an altercation the
24 night before with the defendant, Roshune Carelock. It
25 happened on May 20th of 2007. Ms. Thompson was at her home

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1 at [REDACTED], which is over there at Memorial
2 Park Road for those of you who don't know, at home alone
3 with a two year old child and put her to bed and went to go
4 get her a glass of milk. She went in the kitchen, heard a
5 tapping noise, this was around midnight, she thought it was
6 the two year old daughter just making noise and had gotten
7 out of bed, but she asked her daughter, "Is that you?" And
8 she said, "No." She walked to her daughter's room and at
9 that time she realized there was somebody standing at her
10 front door. And her front door, she had a glass storm
11 door, she had a door that had kind of a defective glass
12 oval or shape in it where the middle of it what can be
13 described I guess as a flower design was glass where she
14 could see through. She walked to the door, as she was
15 walking she recognized who it was, she saw the defendant,
16 Roshune Carelock and she said, "Who is it," and all he said
17 was, "Is Maurice there?" And she said, "No." When she
18 looked outside she saw him, the next thing she knows she is
19 backing up, she wondered why he was there because she
20 doesn't hang out with Roshune Carelock, she knew that her
21 boyfriend doesn't hang out with Roshune Carelock, he didn't
22 have any business being there at her house that night other
23 than retaliation from what happened the night before. She
24 heard a loud boom and a bullet came through that front
25 door, shattered the glass of the storm door and penetrated

1 the glass in that wooden door, which is her front door and
2 it hit Ms. Thompson, it hit her right above the left eye.
3 Luckily it didn't penetrate her but the glass from that
4 door did. Sheriff's deputies and EMS arrived, she
5 immediately told them Roshune Carelock did this. She knew
6 Roshune Carelock from school, they had actually seen him
7 the night before at a high school graduation here in
8 Lancaster. She has never once since May 20th of 2007 said
9 anybody else did this but Roshune Carelock. She was
10 100 percent positive. And ladies and gentlemen, that's
11 really the long and short of it. It's not a very complex
12 case. Although tragic, it is not that complex. It's a
13 shooting case where the defendant, Roshune Carelock, shot
14 Ms. Thompson. Now, I want y'all to pay close attention to
15 the witnesses that the State is going to call and any other
16 witnesses that may be called by Mr. Frick when they are
17 sitting right here. This is where all of the evidence in
18 the case is going to come from, this seat, and what they
19 say in that microphone and any documents or photos or
20 anything that may come into evidence either submitted by
21 myself or Mr. Frick in this case. And after you've heard
22 everything out of this witness stand you will hear from me
23 and you will hear from Mr. Frick again, then the Judge is
24 going to instruct you on what the law is. And your job is
25 to take what you've heard here today out of that witness

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1 stand, not what I have said, not what Mr. Frick said, none
2 of what I say or Mr. Frick says is evidence in this case,
3 the only evidence comes out of that witness stand, and take
4 it in that room to make a unanimous decision. All 12 of
5 you have got to agree. And I submit to you what you are
6 going to hear from that stand or what you are going to see
7 will prove beyond a reasonable doubt that Mr. Carelock shot
8 Larisha Thompson. And I say beyond a reasonable doubt
9 because that's the burden that the State has to prove.
10 It's a high burden but it is set up that way so innocent
11 people don't go to jail. Okay? We have got to prove
12 beyond a reasonable doubt that he did this and I submit to
13 you the evidence in this case does prove that and I am
14 going to ask you to return from that room, whenever that
15 may be, and come back with a verdict of guilty for assault
16 and battery with intent to kill against Roshune Carelock.
17 And I thank you for your time.

18 THE COURT: Thank you, Solicitor. Mr. Flick?

19 MR. FRICK: Thank you, Solicitor. Ladies and
20 gentlemen, first of foremost I want to thank you for being
21 here today, we also appreciate your service. This is a
22 very integral part of our entire system, not just of our
23 system of justice but our entire democracy is someone
24 charged with a crime coming before 12 members of his
25 community, his peers, for them to determine whether or not

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1 he did what the State says he did. I want to thank you
2 very much for that. You may not feel like you had much
3 choice in the matter and that's probably a lot more
4 accurate than you may realize. But again, everybody in
5 this room appreciates your service and your attention in
6 this very, very serious matter. It's a very serious
7 matter, assault and battery with intent to kill. In the
8 State of South Carolina we don't have attempted murder,
9 this is attempted murder, that's what they've charged him
10 with, that's what they've charged my client, Mr. Carelock,
11 with. Solicitor is right on one other thing, it's not a
12 very complex case, it's not going to take a long time. You
13 may see on TV how in other states it takes weeks and weeks
14 and weeks to try something like this or even months, our
15 system is much quicker in South Carolina. It is just going
16 to probably take today, maybe some into tomorrow for you to
17 hear this case and you will go back there and you will make
18 your decision. You are going to make that decision as has
19 been stated to you and will be stated again at the end of
20 this trial from what you hear and see from the witness
21 stand. The most important thing you are going to hear and
22 see is the statement of Ms. Thompson. She's the only
23 witness, the only one who can say what she thinks happened
24 that night and what she's going to tell you is that she was
25 looking through the door. It's nighttime, somebody

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1 standing out there, someone she says she knows and then
2 there's a boom and then she's injured. Now, she suffered a
3 tragedy, ladies and gentlemen, no doubt about that, she
4 suffered an injury that may not be able to be repaired.
5 Your job, ladies and gentlemen, is to make sure a second
6 tragedy does not occur and that would be sending an
7 innocent man to a conviction for this offense. The
8 solicitor is absolutely right, it is his burden, his burden
9 alone, defense doesn't have to put up anything. We don't
10 have to put up a single witness. The State has got to give
11 you all of the evidence that you need to make your decision
12 as to whether Mr. Carelock did what they say he did. It's
13 beyond a reasonable doubt, ladies and gentlemen. That is
14 not I think he did it, it's not he might have done it, it
15 is not, well, I am not sure, I don't understand why she
16 would have lied about all of this so he must have done it.
17 No. You have got to be convinced from the evidence that
18 you see, and it is slim, you must be convinced from the
19 evidence that you see that there's no other reasonable
20 explanation that Mr. Carelock is the one who was standing
21 on that front porch that night and Mr. Carelock fired at
22 Ms. Thompson and caused this injury. You will see no true
23 forensic evidence, there's no CSI stuff here, probably
24 won't even get to see a Sled agent out of this. What you
25 are going to hear is law enforcement who was there on the

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1 scene, you're going to hear some EMS that was there, you
2 are going to hear Ms. Thompson and that's going to be the
3 State's case. It's going to come down to what did she see.
4 What did she see. And what you get to determine, ladies
5 and gentlemen, what your job is to do is to determine
6 whether that's the truth or not. You get to determine
7 whether you want to believe what she is telling you,
8 whether it could be accurate, that's your sole prowess and
9 I ask you to listen closely when she testifies, pay
10 attention closely. How did she see? Because that's the
11 case, ladies and gentlemen, that is the case. You are not
12 going to see any fingerprints, you are not going to see any
13 other evidence other than really her statement. The
14 question you have got to ask yourself is is that going to
15 be enough if you believe her statement, is that going to be
16 enough? I submit to you that while she suffered a tragedy
17 her statement had some definite flaws in it and it will
18 become apparent to you as we go along in this case so just
19 pay very very close attention. Don't be distracted by
20 people who come up here and just confirm what you've
21 already heard from one person, I wouldn't expect anything
22 else, they are all doing their job, but listen to that one
23 statement. Is there anything else that goes along with
24 that? Do you believe that what she says happened is what
25 could have happened? And when you do that, ladies and

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1 gentlemen, I think you will find that we can overtake the
2 second tragedy, the second tragedy would be finding
3 Mr. Carelock guilty, you will overtake that because the
4 evidence will not stack up. And again, you don't get
5 points for getting close to the goal line. Brett Farve
6 doesn't get to go to the Super Bowl because the Saints
7 almost didn't intercept that pass. You have got to score
8 the touchdown, you've got to cross the goal line, if you
9 don't cross the goal line it doesn't count. That's the
10 standard we've got, ladies and gentlemen, that's the way
11 our system works. Mr. Carelock is innocent until he's
12 proven guilty. The evidence will not show you that. Thank
13 you very much for your time and attention.

14 THE COURT: Thank you, Mr. Frick. Solicitor, you may
15 call your first witness.

16 MR. COOK: The state calls Larisha Thompson.

17 The witness, LARISHA THOMPSON, was first duly sworn

18 And testified as follows, on:

19 DIRECT EXAMINATION

20 BY MR. COOK:

21 Q Ms. Thompson, will you state your name in full for
22 the record, please?

23 A My name is Larisha Sherrell Thompson.

24 Q How old are you, Ms. Thompson?

25 A I'm 25.

TESTIMONY OF LARISHA THOMPSON

1 Q Any children?

2 A I have two daughters.

3 Q Are you employed at this time?

4 A I'm working at Ross in Rock Hill.

5 Q Where do you live?

6 A I live at [REDACTED].

7 Q Is that the same place you were living on May 20th of
8 2007?

9 A Yes, sir.

10 Q All right. Do you remember what occurred on May 20th
11 of 2007?

12 A Yes, sir.

13 Q What I want you to do is walk us through and tell us
14 what you remember from that day.

15 A I had been at my dad's house, which is out in the
16 country.

17 Q In Lancaster County?

18 A In Lancaster County. I was talking to my uncle, my
19 uncle was supposed to be going to a funeral because he was
20 scared, we were talking about death, I can recall telling
21 him that whenever I die I just want to die in peace. And
22 by that time my cousin had called me on the cellphone,
23 asked me if he could come over to my house and I told him
24 that was fine and he told me he would be over there about
25 9:00. So I left my dad's house around 8:30, I went home,

1 got my daughter ready for bed, I gave her a bath and
2 everything.

3 Q How old was your daughter at that time?

4 A She was two at the time, she had just turned two.

5 Q Go ahead.

6 A And so I gave her a bath and everything. My cousin
7 came over, him and his girlfriend, we sat around the house
8 and talked for about an hour and a half. After we talked
9 or whatever Risha, which was the girlfriend, was playing
10 with my daughter. Before he got ready to leave -- we
11 never used the front door, I always use my side door, he
12 left out the front door that night and as he was leaving
13 he cut the porch light on.

14 Q Is it a big porch or more like a stoop?

15 A It's more like a stoop, it's like two steps.

16 Q He cut the light on when he left?

17 A Uh-huh.

18 Q Go ahead.

19 A He cut the light on and he left, I watched him leave
20 out of the driveway. I started getting my clothes ready
21 for work because I had to work the next morning. As I was
22 going into my room my baby was in her room with the TV, I
23 was trying to get her off her cover --

24 Q When your cousin came over there, what did y'all do?

25 Did you do anything or just kind of hang out?

TESTIMONY OF LARISHA THOMPSON

1 A We were just talking, playing.

2 Q No drinking involved?

3 A No drinking, no.

4 Q All right. Go ahead.

5 A So as I'm putting -- as she's in the bed she started
6 asking me for something to drink, I had kept telling her
7 "Shamira, you can't get anything else to drink, I'm trying
8 to get you off of the cup." So I gave into her and I gave
9 her a little bit of milk and I go back to my room.

10 Q What time is this?

11 A My cousin leaves around 11:20 so this is about 11:25.
12 I give her the cup and everything and I go back in my
13 room, whatever, start getting my clothes out. And I just
14 start praying and talking to the Lord about my life
15 because it was a lot of stuff going on, me and Maurice
16 wasn't getting along or whatever.

17 Q Maurice?

18 A Bufford, which is my child's father. So as I am just
19 talking to the Lord praying and all of that I start
20 hearing a tapping at my front door. And --

21 Q Where are you at when you hear the tapping?

22 A I'm in my room. I just start hearing tapping and I
23 am looking, and I say, "Shamira is that you?" And she's
24 like, "No, mama." And I sit in my room and I still hear
25 the tapping. So I come out of my room to go to her room

TESTIMONY OF LARISHA THOMPSON

1 to see if it was her and as I'm getting ready to walk down
2 my hallway it's a door --

3 Q Where is your bedroom in relation to your daughter's
4 bedroom and the front door?

5 A My bedroom is on the left side of the house, my
6 daughter's bedroom is on --

7 Q If I'm looking at the house --

8 A If you're looking at the house from the inside my
9 daughter's bedroom is on the right side of the house, my
10 bedroom is in the middle and there's another room, my
11 living room is in the very front of the house. You have
12 got my front door, you've got my bedroom then you have my
13 daughter's bedroom you. You have the hallway right there
14 with -- you have the hallway, then you have another door
15 which goes into my living room which if I'm standing right
16 there in the living room doorway I can look straight out
17 of my door.

18 Q You've got an unobstructed view when you walk out of
19 your bedroom to your front door?

20 A After I come down the hallway. So I am standing in
21 the hallway right there in the doorway and I am looking at
22 the front door and I don't see who it is at first because
23 I am little far from the front door.

24 Q Why do you look that way?

25 A Because I see somebody at my door. So as I walk to

1 the front door I see Roshune Carelock.

2 Q How far are you from the door when you realize
3 somebody was there and you could identify them?

4 A Not even a good foot.

5 Q So you were right up on the door?

6 A Well, about two feet.

7 Q Two feet? Okay.

8 A And I see him standing at my door.

9 Q What did you say, if anything?

10 A What is he doing at my house.

11 Q All right. Did you know who it was at that time?

12 A Whenever I am walking towards the door I see his
13 face.

14 Q And you knew who it was?

15 A Right off the bat.

16 Q Do you know his name?

17 A I'm saying in my head, "What is Roshune doing at my
18 door?"

19 Q Is the guy that was standing at your door then, is he
20 here today?

21 A Yes.

22 Q Where is he at?

23 A Right over there.

24 Q What has he got on?

25 A He has on a brown shirt, tan shirt.

1 Q Okay. Did you hang out with him?

2 A I never hung out with him. His sister was my
3 classmate.

4 Q Did your boyfriend, Maurice, hang out with him?

5 A I never known Maurice to hang out with him.

6 Q You had no idea what he was doing at your house?

7 A Exactly.

8 Q What happened then?

9 A As I am at the front door I asked him, I was like,
10 yeah -- wasn't being mean or nothing, I was just, "Yeah,"
11 and he was like, "Is Maurice there?" And I was like,
12 "Maurice is not here," and he kind of --

13 Q Let's stop. Where was he standing? He's on your
14 front porch or stoop? And describe the doors for me that
15 you are looking through.

16 A I am looking through my front door which is all
17 glass.

18 Q Your storm door?

19 A All glass, it's kind of got a film over it a little
20 bit but I can see straight through, it's like a straight
21 through shot.

22 Q You have got a glass storm door and you have got your
23 front door. Describe your front door to us.

24 A The front door, it has a little filmish, a little
25 colorish to it.

TESTIMONY OF LARISHA THOMPSON

1 Q Over the glass?

2 A Over the glass. But it's flower shape in the middle
3 that is clear, you could see straight through there.

4 Q Clear? Like looking through a window clear?

5 A Just straight through, no color and tint or nothing.

6 Q Just clear. Was he standing in front of the clear or
7 was he standing kind of off to the side?

8 A He was standing in front of the clear.

9 Q So you had a clear shot at his face?

10 A Yes..

11 Q Okay. Now, he asked you if Maurice was there?

12 A He asked was Maurice was there and I told him Maurice
13 is not here.

14 Q Did he say what he wanted or just --

15 A He just asked if Maurice was there. And he said, "Is
16 Maurice there?" And I said, "Maurice is not here."

17 Q Okay.

18 A And I stepped back from the door thinking he was
19 leaving.

20 Q Were you still looking at him when you are stepping
21 away?

22 A Not really, just because I thought he was leaving and
23 I am just stepping back.

24 Q What did you see him do after you said, "No, he's not
25 here?"

TESTIMONY OF LARISHA THOMPSON

1 A I saw him and I looked -- he looked to the right --
2 well, my left.

3 Q So if he is standing -- if I'm him, he looked like
4 this?

5 A Uh-huh.

6 Q Did you see anybody else out there?

7 A I didn't see nobody else out there.

8 Q Could you see beyond him? What was your range of
9 view looking out? Like how far out towards the sides of
10 your house could you see out that door? Could you see the
11 road?

12 A I could see the road.

13 Q Any cars out there?

14 A No cars on the street.

15 Q Anybody else?

16 A Nobody else.

17 Q You didn't see anybody on the sides either?

18 A Nobody on the side.

19 Q What is the next thing you remember? We are at him
20 turning like he's going away and you are backing up.

21 A The next thing I just hear is just ringing in my
22 ears.

23 Q Just a loud noise?

24 A And I fell to the ground and grabbed my face and I
25 looked up at the door and I just see a hole and I start

TESTIMONY OF LARISHA THOMPSON

1 just praying.

2 Q Did you know what it was?

3 A I knew a bullet had came through my door, I knew I.

4 had been shot and I thought the bullet was in my head so I

5 just started applying pressure to my eye area and I get up

6 off of the floor.

7 Q How many times did you hear him shoot?

8 A Just one.

9 Q Did that bullet actually hit you?

10 A At the time I thought it did but come to find out it

11 didn't.

12 Q Well, did it penetrate you? I'm sorry.

13 A Well, it hit my head, the bullet grazed my forehead.

14 Q Is that the dark place over your left eye?

15 A Yes, sir.

16 Q So the bullet hit you and just kind of ricochet off.

17 It went through two doors?

18 A Yes, sir. It went through the screen door and then

19 the storm door.

20 Q What did it do to the screen door? Was it a hole in

21 it or was it gone?

22 A I don't really recall it. I know they took it, it

23 was shattered everywhere.

24 Q Did all of the glass come out of your front door or

25 was it just a hole?

TESTIMONY OF LARISHA THOMPSON

1 A It was just holes, it was just holes. But everything
2 else was shattered, it was just a one straight hole
3 through all of the glass.

4 Q Where did the glass go? Did any of the glass get on
5 you?

6 A The glass got embedded in my left eye.

7 Q Is there still glass in your eye?

8 A There's no glass in it now.

9 Q After you realized you had been shot, what did you do
10 then?

11 A I get up and I run into my bedroom and I pick up the
12 house phone, I call 911.

13 Q Back to your bedroom, right?

14 A Back to my bedroom. And my daughter is just yelling
15 from the top of her lungs, "Mom, mom," and I just kept
16 telling her, "Don't worry about it Shamira, stay in your
17 room, I am okay, stay in your room." I didn't want her to
18 see me like that. So I'm on the phone with 911, I picked
19 up my cellphone and called my mom first and I told mom --
20 I called EMS and she's telling me not to be talking to
21 anybody else. And I'm telling her that my baby is in my
22 house and somebody needs to go to the child.

23 Q So you call 911 and your mother at the same time?

24 A Well, I call 911 first.

25 Q On your land line?

TESTIMONY OF LARISHA THOMPSON

1 A On my land line and I pick up my cellphone. When I'm
2 on the phone with 911 I'm calling my mama and telling her
3 I have been shot, come over here.

4 Q To see about your kid?

5 A To see about my baby and the lady kept telling me,
6 "Don't talk to nobody else." And I kept telling her my
7 child is here, somebody have to come get my child. I
8 hang-up with my mom, I call my dad and tell him the same
9 thing, come over here, somebody has just shot in my house.
10 And my dad -- I hang-up the phone with my dad, I am still
11 on the phone with EMS, she's telling me -- she's done been
12 on the phone with me, the police arrive, everybody
13 arrives, she tells me someone should be out there. I
14 didn't open the door because I told them I wasn't going to
15 open the door, somebody is there shining a flashlight.
16 Then I unlocked the door for them, the same door.

17 Q Do you remember who that was?

18 A I don't recall who it was.

19 Q Sheriff's deputy or --

20 A It was the volunteer firefighters.

21 Q All right. Let's back up a minute. When all of this
22 occurred, do you recall seeing a gun on Roshune Carelock?

23 A I don't recall seeing a gun, not once did I see a gun
24 in his hand.

25 Q But when you are looking through that glass, how much

1 of his body are you looking at?

2 A His hands were down so I am just looking at this far
3 up, from right up in here to here.

4 Q Okay. You said that the volunteer fireman came, they
5 didn't come in the house. Were they before -- who was the
6 first one that came in the house?

7 A The first ones that come into the house was the
8 firefighters, it was the firefighters because they kept
9 asking me to lay down and I just kept telling them I
10 didn't want to lay down because I thought the bullet -- I
11 thought I would die.

12 Q Do you remember speaking to Deputy Humphries at the
13 scene?

14 A I remember the police coming in.

15 Q You don't recall who it was -- you just -- it was so
16 much going on?

17 A Uh-huh.

18 Q Do you remember speaking with an EMS working at the
19 scene?

20 A I do.

21 Q Male or female?

22 A It was a female.

23 Q Was it pretty soon after?

24 A Yes, sir.

25 Q How long would you say their response time was before

TESTIMONY OF LARISHA THOMPSON

1 you got shot and the time somebody showed up?

2 A Not even five minutes.

3 Q At that time where did they take you?

4 A They took me to the Lancaster Hospital. I just kept
5 telling them I didn't want to go to the hospital down here
6 if the bullet was in me, I didn't want to die so they just
7 told me they were going to take me there to get examined.

8 Q Let me stop you there one second, I'm sorry. When
9 they showed up they asked you what happened?

10 A Yes, sir.

11 Q What did you tell them?

12 A I kept telling them that Roshune Cunningham shot me,
13 they kept saying who? I kept saying Roshune Cunningham.
14 I kept saying Shaquita Carelock's brother, which is my
15 classmate.

16 Q And then you realized at that point you had a wrong
17 name?

18 A I didn't realize until we got in the back that I had
19 the wrong last name. When I got in the ambulance I recall
20 telling my sister, Tiffany, I kept saying Roshune
21 Cunningham but it's Roshune Carelock. I asked her, "Whose
22 name did I say?" And she was like -- I wanted her to
23 remember this in case something happened to me -- and she
24 said that I said Roshune Cunningham. And I said, "No,
25 Roshune Carelock." I said, "If something happens to me

TESTIMONY OF LARISHA THOMPSON

1 please tell them Roshune Carelock."

2 Q Did Investigator Howell come to your house?

3 A I don't remember seeing Howells that night there, I
4 saw him at the hospital.

5 Q So they ended up -- did they take you to Springs
6 Memorial Hospital?

7 A They took me to Springs Memorial Hospital.

8 Q Okay. Do you remember who you talked to there?

9 A I remember talking to Howells, Detective Howells.

10 Q Do you remember what you told Investigator Howell at
11 the hospital?

12 A He came in, he had a lineup, he showed me the lineup
13 as I was laying there and I pointed straight to Roshune
14 Carelock.

15 MR. COOK: Can we have this marked for State's
16 identification?

17 THE COURT: Sure.

18 Q Have you seen this before?

19 A Yes, sir.

20 Q Tell me what that is.

21 A It's a lineup.

22 Q Is this the lineup that Investigator Howell showed
23 you at Springs Memorial Hospital that night?

24 A Yes, sir.

25 Q All right. Do you remember which one of these you

- 1 picked?
- 2 A I picked number five.
- 3 Q Who is number five?
- 4 A Roshune Carelock.
- 5 Q All right. This has got -- what does that have on it
- 6 right there?
- 7 A DT.
- 8 Q Do you know what that is?
- 9 A Yeah, that's my mom's initials.
- 10 Q What is your mother's name?
- 11 A Deborah Thompson.
- 12 Q Why is it your mother's initials?
- 13 A Because I was bleeding real bad, they didn't want the
- 14 blood on the paper so they asked my mom if she could
- 15 initial it for me.
- 16 Q Is that the one you pointed out?
- 17 A Yes, sir.
- 18 Q Was your mother in the room with you when you pointed
- 19 it out with you and her and Investigator Howell?
- 20 A Yes, sir.
- 21 Q How soon did she initial that after you pointed it
- 22 out?
- 23 A As soon as I said, "That's Roshune Carelock."
- 24 Q So y'all were all standing there together when this
- 25 happened?

TESTIMONY OF LARISHA THOMPSON

1 A I was laying on the bed and they were standing.

2 Q Your mother and Investigator Howell were standing
3 beside each other?

4 A Same room.

5 MR. COOK: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 (Break in proceedings.)

8 Q When they showed you did you tell them you knew who
9 did this?

10 A Yes, sir.

11 Q How did you know? Did you do --

12 A We went to school together.

13 Q What grades?

14 A High school, like around 10th grade.

15 Q Do you have any idea how much he was in your class or
16 was he behind you?

17 A No. He's like a year younger than me, his sister was
18 like my classmate.

19 Q So you knew his sister as well?

20 A Uh-huh.

21 Q When was the last time -- and tell me -- that was the
22 10th grade?

23 A Yes, sir.

24 Q What year did you graduate?

25 A '02.

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1 Q So you were talking about 2000?

2 A Uh-huh.

3 Q So approximately seven years before this happened,
4 right?

5 A Uh-huh.

6 Q Had you seen him in between when you were in 10th
7 grade when him and the night before this occurred?

8 A I saw him the night before at graduation.

9 Q At Lancaster High School graduation?

10 A Yes, sir.

11 Q Did you speak to him?

12 A No, sir..

13 Q You just know him?

14 A Yeah.

15 Q Do you remember that night when he came to your
16 house, do you remember what he had on?

17 A Yes, sir. He had on a black hat which was turned
18 backwards and he had on a coat, a jacket with it, it was
19 black and it had yellow stuff in it. And that's it.

20 Q Did you remember anything else about him?

21 A I remember a tattoo on his neck.

22 MR. COOK: I don't have any further questions for you,
23 Ms. Thompson. Answer anything Mr. Frick has got ongoing
24 okay.

25 THE COURT: Mr. Frick?

1 MR. FRICK: Thank you, Your Honor.

2 CROSS EXAMINATION.

3 BY MR. COOK:

4 Q Ms. Thompson, you said you had never really used the
5 front door, y'all didn't go in and out on a regular basis
6 there?

7 A No, sir.

8 Q Your cousin had gone out a little bit earlier?

9 A Yes, sir.

10 Q After he left, did you cut the light off?

11 A No, sir.

12 Q Why did you leave it on?

13 A It was just on.

14 Q Okay. Now, this is the door we are talking about,
15 that's the one that fronts the road, right?

16 A Yes, sir.

17 Q About how far is it from your door to the street?

18 A About seven or eight feet.

19 Q Is there a sidewalk on the road?

20 A On the road?

21 Q Yes, ma'am.

22 A No, sir.

23 Q Sidewalk at all in the neighborhood there?

24 A No, sir.

25 Q Okay. Houses across the street from you?

TESTIMONY OF LARISHA THOMPSON

1 A Yes, sir.

2 Q This is one of those, it's just a regular
3 neighborhood, isn't it?

4 A Yes, sir.

5 Q Is there anything; bushes, trees or anything on your
6 property line?

7 A I have bushes at the edge of my mailbox.

8 Q Bushes at the edge of your mailbox?

9 A Uh-huh. That's on the front side of my house but not
10 on the front of the door, it's on the right side.

11 Q The right side of your house? Okay. Any other
12 shrubberies on the side or front of the house or anything
13 like that?

14 A No, sir.

15 Q Is your yard normal size for a downtown neighborhood?

16 A Yes, sir.

17 Q So it's not huge, but --

18 A It's a nice sized house.

19 Q It's nice, and I'm not trying to disrespect your yard
20 or anything, I'm just trying to get an idea of how big the
21 yard is.

22 A It's just a regular yard.

23 Q Regular -- okay. The tapping -- something, you
24 didn't know what it was, there was some tapping occurring,
25 right?

1 A It was tapping.

2 Q Okay. Not banging on the door, just a tap?

3 A At that point.

4 Q Enough to wake you up?

5 A I wasn't asleep.

6 Q You weren't asleep yet? Okay. Do you have a window
7 in your bedroom that is on the same side of the house as
8 the front door?

9 A No, sir.

10 Q Did you go to any rooms to look out the front?

11 A No, sir.

12 Q You just go down the hallway looking right at the
13 front door?

14 A From the side -- it's my room going in front of the
15 living room door in the hallway is the front door like.

16 Q Sure. Okay. And as you get there you see a figure
17 in the door?

18 A I see a person.

19 Q Okay. Walk up and you say you're about a couple of
20 feet away.

21 A Exactly, and I see the face.

22 Q Okay. And you said that there's just some flower
23 pattern in the middle?

24 A Yes, sir.

25 Q Okay. And that's the part that's got the clear

1 glass?

2 A Yes.

3 Q Is that a solid piece of glass or has it got the
4 stuff -- the metal stuff like a stain glass window?

5 A The flower wasn't but the rest of the glass is.

6 Q Right. And that part of the glass, that's the part
7 that is not completely clear, right?

8 A Yes, sir.

9 Q That part is frosted, but it's the flower that we are
10 talking about that you can see through.

11 A Yes, sir.

12 Q But it's not one solid piece of glass, it's --

13 A Yes. It's a solid flower that is clear that doesn't
14 have really no frost, it was clear.

15 Q Is there anything to make it look like petals or
16 anything like that?

17 A No, sir.

18 Q So just some sort of design in the middle of your
19 door?

20 A It was just a flower in the door.

21 Q Lights still on. Is there a street light that shines
22 in your yard?

23 A No, sir.

24 Q So the only thing that would illuminate your yard
25 would be your light?

- 1 A My light.
- 2 Q And it shines down from above down to whatever is on
- 3 the sidewalk, right?
- 4 A It's whatever is on the front porch step.
- 5 Q I mean front porch, we are talking about a front
- 6 stoop there, right?
- 7 A Yes, sir.
- 8 Q The only thing you see when you look out is this one
- 9 person?
- 10 A It's Roshune.
- 11 Q Did you look to the left or the right?
- 12 A I looked dead at the person that's at my door.
- 13 Q You were more concerned about what was immediately in
- 14 front of you than what was left or right of him, right?
- 15 A Yes.
- 16 Q So if there was somebody to the left or right you
- 17 wouldn't know necessarily, would you?
- 18 A Within that area, within that front door I could. I
- 19 could see whatever in that perimeter, there was nothing
- 20 around that person.
- 21 Q If they were standing off the stoop or something like
- 22 that could you see them?
- 23 A If they were standing off to the side -- yes, I could
- 24 because I can still see. There's a perimeter that I can
- 25 see within that area, it was within that area where the

TESTIMONY OF LARISHA THOMPSON

1 front door is, I could see around that area or perimeter.

2 Q Okay. Had Roshune come over to your house before?

3 A No, sir.

4 Q Had you seen him hanging out with Maurice?

5 A No, sir.

6 Q To your knowledge, do you have any idea whether

7 Roshune would have known where you lived?

8 A No, sir.

9 Q Did you see anything in his hands?

10 A No, sir.

11 Q And after y'all had a very brief conversation, if we

12 call it that, you said he turned to his right?

13 A He turned to his right, he just -- his head turned,

14 he turned his head.

15 Q His head turned?

16 A Yeah.

17 Q Okay. All right. Did he appear to be moving in any

18 direction or just his head moves?

19 A No. He just turned to the right and looked back at

20 the street light.

21 Q Okay. Did you see him reaching down, grab, pull

22 anything up?

23 A No, sir.

24 Q Okay. And you were backing away from the door?

25 A I was stepping back.

1 Q But you hadn't turned, you were still -- you still
2 had him in view?

3 A I thought he was leaving so, you know, I'm just
4 stepping back to walk off.

5 Q But you hadn't turned your back.

6 A I never turned my back.

7 Q You hear a bang and you get injured. Now, you
8 testified that a bullet struck you and obviously we know
9 after the fact it was, but at that period of time did you
10 know what had hit you?

11 A I knew it was gunfire.

12 Q You knew it was gunfire?

13 A Exactly. I felt pain and I heard ringing in my ears
14 and a boom.

15 Q Okay. Let's go to -- you're saying it's
16 Mr. Carelock. The first thing you do is call 911?

17 A Yes, sir.

18 Q And you called your mama about the same time?

19 A Yes, sir.

20 Q Did anybody else come over before the first
21 responders got there?

22 A No, sir.

23 Q Which I believe you were saying was the fire
24 department got there.

25 A The fire department is the first ones to shine the

1 flashlight in the door.

2 Q Did they start treating you at that time?

3 A They kept asking me what was going on and lie down, I
4 just kept telling them that somebody had just shot my
5 front door, I didn't want to lie down because I was scared
6 I was going to die.

7 Q When did your mom get there?

8 A My mom got there probably about ten minutes after
9 everybody else arrived.

10 Q Any other friends or family or anybody like that come
11 to the scene?

12 A The rest of them. I found my dad, my sister, my
13 brothers.

14 Q Okay. Who did you first tell that this was Roshune?

15 A I really don't recall. I just remember stating
16 Roshune Cunningham did it, I just kept saying Roshune
17 Cunningham, I don't know who -- I know I told the EMS lady
18 that but I don't know if I stated it before I told her
19 that.

20 Q Did you tell any of them that you saw him with a gun?

21 A No, I didn't. I don't recall.

22 Q You were in 10th grade with Roshune?

23 A No, I was in 10th grade.

24 Q You were in 10th grade?

25 A He may have been in 9th grade.

- 1 Q Y'all both went to Lancaster?
- 2 A Lancaster High School.
- 3 Q Have you got any idea how many people were going to
- 4 Lancaster High School at the time you were there, just
- 5 approximately?
- 6 A A lot.
- 7 Q A lot of people. Over 1,000, wasn't there?
- 8 A Yes, sir.
- 9 Q You don't know whether you were in the same grade?
- 10 A I knew we were in the same grade because I was in the
- 11 grade with his sister.
- 12 Q All right. Were you close friends with his sister?
- 13 A We talked. Anytime I saw her we spoke.
- 14 Q Like breaks?
- 15 A We had classes together. She wasn't my best friend
- 16 but I associated with her.
- 17 Q Do you ever hang out over at her house or stuff like
- 18 that?
- 19 A No, sir.
- 20 Q Did she ever come over and hang out at your house?
- 21 A No, sir.
- 22 Q The time that y'all were in high school together, did
- 23 you and Roshune ever hang out?
- 24 A No, sir.
- 25 Q Y'all didn't talk?

1 A No, sir.

2 Q He didn't finish high school with you, did he?

3 A No, sir.

4 Q Did you see him past the 10th grade other than what
5 you are saying here?

6 A No, because he went to jail.

7 Q When did he leave there?

8 A I don't recall when he left but I know he wasn't
9 there after the 10th grade. I just remember him going
10 with a girl named Sherrell Manley, which my middle name
11 was Sherrell, we used to always talk.

12 Q Didn't hang out with him or anything?

13 A No, sir.

14 Q Just would occasionally see him in the hallways?

15 A In the cafeteria in the morning time, in the
16 cafeteria at lunch.

17 Q Did you ever see him hanging out with Maurice or any
18 people that Maurice associated with?

19 A No, sir.

20 Q So other than seeing him when you are in the 10th
21 grade, you don't see him again until 2007?

22 A Yes, sir.

23 Q At graduation?

24 A Yes, sir.

25 Q Did y'all speak?

TESTIMONY OF LARISHA THOMPSON

1 A No. But I recognized him and I thought, "Oh, there
2 go Roshune Carelock." I hadn't seen him in forever. He
3 had been in jail, I said, "He must be out of jail now."

4 Q Okay. You hadn't seen him since 10th grade. For you
5 that was about what, '99 or 2000?

6 A Yes, sir, 2000.

7 Q So seven years later you see someone that you didn't
8 really hang out with, didn't associate with, didn't hang
9 out with his sister and you recognized him immediately?

10 A Exactly.

11 Q Okay. How are you so certain it was Roshune?

12 A Because I saw his face.

13 Q After seven years?

14 A Exactly. I remember faces.

15 Q When did this tapping on your door start?

16 A Probably about around 11:35.

17 Q Okay. So someone you hadn't seen in seven years is
18 standing at your front door tapping on the door and you
19 are looking through part of a clear glass and you know
20 right away it's Roshune Carelock?

21 A As I am walking up to the door I know it's Roshune
22 Carelock because I see his face.

23 Q And other than passing in the hallway in a little bit
24 of time in high school you never hung out with him?

25 A No, sir.

1 Q When you start calling out names you said Roshune
2 Cunningham?

3 A Yes, sir.

4 Q Who is Roshune Cunningham?

5 A I don't know.

6 Q Is there any other Roshune that you know?

7 A No, sir.

8 Q Is there any other Cunningham that you would have
9 known?

10 A I know Cunninghams but no other Roshune Cunningham.

11 Q So you weren't 100 percent sure?

12 A I was 100 percent sure, I just called the wrong last
13 name.

14 Q You call the wrong last name. Okay. You said it
15 was -- is -- at some point -- and I apologize, I was
16 reading something else. You said at some point you were
17 talking to a Tammy or Tiffany or something like that?

18 A My sister.

19 Q Your sister. Where was your sister and how were you
20 talking to her?

21 A We were in an ambulance on the way to the hospital.

22 Q And y'all were talking about --

23 A No. I told her, "I think I said Roshune Cunningham;
24 kept telling her Roshune Cunningham," but it was Roshune
25 Carelock.

1 Q Okay. What made you change your mind?

2 A Because I had already told them Shaquita Carelock's
3 brother but I just thought -- I remembered that I was
4 saying the wrong last name, Cunningham, Roshune Cunningham
5 and I should have been saying Roshune Carelock. So I told
6 her I didn't know if the bullet was in me then because I
7 didn't know but I wanted to make sure if anything happened
8 to me I remembered Roshune Carelock.

9 Q And you get to the hospital and they show you this.

10 A Yes, sir.

11 Q Investigator Howell does. Okay. Had you talked to
12 any law enforcement at your house, do you recall?

13 A I don't recall.

14 Q Okay. Do you recall telling anybody that you saw
15 Roshune Carelock with a gun?

16 A I don't recall.

17 Q Okay. When you saw the photo lineup who was holding
18 it?

19 A Howells, Detective Howells was.

20 Q How long did it take you to pick out who it was?

21 A As soon as he showed it to me.

22 Q As soon as he showed it to you. Okay. Now, there's
23 a Deborah Thompson written here?

24 A Yes, sir.

25 Q That's not your initials?

1 A That's my mama's initials.

2 Q Your mom's initial. Okay. Why is your mom
3 initialing it?

4 A Because I had blood all over me.

5 Q Could you not write?

6 A I probably could have wrote -- written but I asked my
7 mom to sign it since there was so much blood on me.

8 Q Okay. Do you have any idea how long you have been --
9 you were at the emergency room when all of this happened,
10 the identification?

11 A Yes, sir.

12 Q Do you have any idea how long you had been there
13 before Investigator Howell comes and asks you questions?

14 A I know it wasn't long, I can say longer than 30
15 minutes.

16 Q Okay. To your knowledge had you been given any
17 medication?

18 A To my knowledge I know I had the IV on me so I think
19 we maybe probably had put something --.

20 Q Were you getting groggy, sleepy or anything like
21 that?

22 A I was just kind of sleepy.

23 Q You were getting kind of sleepy?

24 A Kind of sleepy, but I was --

25 Q I'm not saying you were asleep, I'm just saying you

TESTIMONY OF LARISHA THOMPSON

1 were starting -- you could tell -- if there was medication
2 it was starting to take affect.

3 A Exactly.

4 Q And it was after that that they come in with this
5 photo lineup?

6 A I don't recall around what time that was. All I know
7 is I was laying on the bed and Howells came in with the
8 photo lineup and he showed me a photo lineup and he asked
9 me do I see whoever shot me and I pointed to Roshune
10 Carelock.

11 Q Okay. At the time were you dating or living with
12 Maurice Bufford?

13 A No. Me and Maurice were not together, we were on
14 fighting terms and he was not living with me.

15 Q What do you mean?

16 A We just weren't getting along.

17 Q Was there any particular reason why y'all weren't
18 getting along at that time?

19 A We always have an on/off relationship, we just kind
20 of don't get along at times.

21 Q Can he be kind of difficult to get along with
22 sometimes?

23 A We have our times.

24 Q Okay. To your knowledge did he have some kind of
25 beef with Roshune or Roshune a beef with him?

TESTIMONY OF LARISHA THOMPSON

1 A To my knowledge, no. I don't know anything about any
2 type of beef or nothing.

3 Q To your knowledge, was there anybody that had a beef
4 with him at that particular time?

5 A Not that I know of.

6 Q Maurice was not living at the house?

7 A No, sir.

8 Q Did he have any stuff there?

9 A No, sir, other than his daughter.

10 Q And the night of the incident the only two people
11 that were in the house were you and your young daughter?

12 A Exactly, yes, sir.

13 Q Now, a little while ago you said that you recognized
14 a tattoo. When you were looking through the window, did
15 you see a tattoo?

16 A When he turned his neck.

17 Q At any point before today have you told anybody that
18 you recognized a tattoo?

19 A I don't recall them asking me.

20 Q So the first time this information about a tattoo
21 come out would be today basically.

22 A I don't recall them asking me.

23 Q Okay. No one asked and you didn't tell.

24 A I knew Roshune's face and the tattoo really didn't
25 bother me.

TESTIMONY OF LARISHA THOMPSON

1 Q Okay. Well, why do you feel like you need to mention
2 it today?

3 A Just because they asked today.

4 Q Okay. Would you not think that that would be some
5 kind of identifying feature?

6 A I think his face is an identifying feature.

7 Q I understand. A neck tattoo, that's not that common,
8 is it?

9 A A lot of people have tattoos.

10 Q Could you read it?

11 A No.

12 Q No idea what it said?

13 A No. I just know it's a tattoo.

14 Q In your estimation a lot of people have got them.

15 A Yes, sir.

16 Q Other than seeing his face at almost midnight under a
17 porch light, was there any other identifying feature that
18 made you see that's Roshune Carelock?

19 A I know him, I know of him, I know his face, I know
20 him period. I am nosey, I know people. If I meet you I
21 know you.

22 Q I understand. Okay.

23 MR. FRICK: Beg the Court's indulgence one moment.

24 THE COURT: Yes, sir.

25 (Break in proceedings.)

TESTIMONY OF LARISHA THOMPSON

1 MR. FRICK: Thank you. That's all of the questions I
2 have.

3 THE COURT: Solicitor?

4 REDIRECT EXAMINATION

5 BY MR. COOK:

6 Q Ms. Thompson, you never changed your mind about who
7 shot you, did you?

8 A No, sir.

9 Q You just you always knew it was Roshune, you just
10 couldn't recall his last name at that time, right?

11 A Yes, sir.

12 Q Whose brother did you say it probably was?

13 A Shaquita Carelock's brother.

14 Q All right. Who did you pick out at the hospital?

15 A Roshune Carelock, number five.

16 Q So you never changed your mind about who shot you,
17 you just couldn't remember his last name, right?

18 A Yes, sir.

19 Q How long before you first say Roshune Cunningham had
20 shot you in the head?

21 A Right then, right whenever the EMS -- right when
22 people got there and said, "Who did this?" I said,
23 "Roshune Carelock." I don't know if I told him Roshune
24 Carelock then but I know I said Roshune.

25 Q Okay. By the time you got to the hospital, even the

1 ambulance, you had corrected yourself?

2 A Yes, sir.

3 Q Mr. Frick asked you about Maurice Bufford and him
4 living with you. Was he living with you at the time?

5 A No, sir.

6 Q Had he lived with you previous to that night?

7 A Yeah, he had.

8 Q How long had he been gone?

9 A Probably about two months.

10 Q Fair to say if somebody was wanting to know where
11 Maurice lived your house would come up?

12 A Yes, sir.

13 Q So if he would have been gone for two months you are
14 off and on, if he did have a beef you probably wouldn't
15 know about it.

16 A No, sir.

17 Q Did he ever talk to you about his problems as far as
18 dealings with other people and who he had problems with?

19 A Yes, sir.

20 Q But you haven't talked to him in about two months?

21 A Yes, sir.

22 MR. COOK: Thank you, that's all.

23 RECROSS EXAMINATION

24 BY MR. FRICK:

25 Q Briefly. Did you tell them it was Roshune Carelock

TESTIMONY OF LARISHA THOMPSON

1 or Roshune Cunningham?

2 A Roshune Carelock.

3 Q But when you first started telling you said Roshune
4 Cunningham.

5 A But it was Roshune Carelock.

6 Q My question was when you first started speaking to
7 people about who this was you just said that you said it
8 was Roshune.

9 A Roshune Carelock. Roshune is the same person, I saw
10 his face, I know who he is.

11 Q You just couldn't remember his name.

12 A The last name just -- I had just got shot in the face
13 and I'm thinking a bullet is in my head.

14 Q Well, not to disrespect you on this, but you have
15 been shot in the head and you were very quick to say whose
16 name it was.

17 A Because I saw his face, I know his face.

18 Q But you didn't know his name?

19 A I knew his name whenever I --

20 Q But you got it wrong.

21 A Whenever I am walking up to the door looking at him
22 like what is he doing at my door -- what was Roshune doing
23 at my door.

24 Q What was Roshune doing at your door?

25 A Whether it's his last name or not Roshune is his

1 face, I know his face, I know Roshune Carelock.

2 Q Okay.

3 A I know his sister.

4 Q Except the first time you said his name.

5 A Like I said, I don't know who I told that to at
6 first, I know I called EMS.

7 Q You don't recall what you said and who you said it
8 to.

9 A I don't recall police, firefighters or whoever said
10 something but I know I told EMS. I kept saying Roshune
11 Cunningham, I made sure I kept saying Shaquita Carelock's
12 brother, Roshune Cunningham. Whenever I got in the
13 ambulance I remembered to tell my sister, "I think I said
14 Roshune Cunningham, remember Roshune Carelock." And I
15 said, "Tiffany who did I say?" And she said, "Roshune
16 Cunningham." I looked up at the lady, I said, "Lady,
17 please remember Roshune Carelock."

18 Q Okay. Solicitor asked you about talking with Maurice
19 about a beef with somebody. Had you ever heard about any
20 beef between him and Roshune?

21 A No, sir.

22 MR. FRICK: That's all I have got. Thank you, ma'am.

23 THE COURT: Anything further?

24 MR. COOK: Nothing further from the State, Your Honor.

25 (A recess was taken.)

TESTIMONY OF LARISHA THOMPSON

1 THE COURT: Okay. Now, back on the record.

2 Solicitor, it is your intention to introduce what over the
3 objection of Mr. Frick in this case?

4 MR. COOK: The State plans on introducing or
5 attempting to introduce testimony from Angela Staher who
6 worked for EMS and arrived about nine minutes from the call
7 to be there and a statement was given by the victim to the
8 EMS worker, Ms. Staher, that she saw the defendant with a
9 gun. She said there was a person at my door, had a gun or
10 shot me, or something to that extent. And this was done in
11 an ambulance which was basically on the transport from the
12 scene to the hospital which was I'm assuming within minutes
13 or so. They weren't there very long at the scene before
14 they left, and this was just them two that was in there and
15 in the ambulance.

16 THE COURT: And the objection by -- the partial
17 objection by the defense attorney is that he heard about it
18 today for the first time?

19 MR. COOK: Yes, sir.

20 THE COURT: What is that story? How is that possible?

21 MR. COOK: Well, we did not know until very recent
22 that that was actually said. Now, in discovery -- written
23 discovery that was provided to the defendant it did list
24 who arrived at the scene and Ms. Staher's name is included
25 in that. And again we did not know until very recently

1 about it. And there also is a statement that was given
2 from the victim to Deputy Humphries of the Lancaster County
3 Sheriff's Office where she said that she saw a gun and that
4 the defendant was in possession of the gun, but she did not
5 remember saying that and it was also nine days after the
6 incident.

7 THE COURT: So wait a minute. Now, you are talking
8 about -- you are now talking about two different
9 statements?

10 MR. COOK: No. I am just trying to introduce -- the
11 State is trying to introduce the excited utterance because
12 we feel that based on -- because of the time frame, which
13 was just maybe 20 minutes or so after the event which was
14 when she was injured, that that would fall within the
15 excited utterance.

16 THE COURT: I think -- well, the witness has already
17 testified, I think she said she thought she was dying.

18 MR. COOK: Right.

19 THE COURT: And she also testified that she doesn't
20 recall saying anything about a gun and it has been two plus
21 years. Mr. Frick?

22 MR. FRICK: First we are talking about 20 minutes
23 later. I don't know whether that's going to fall within
24 the excited utterance or not, there's no real time frame on
25 excited utterance. Now, if this would have been the first

1 person who treated her and she said that we are probably
2 looking at a different story, so I don't know if it should
3 be let in under excited utterance. Now, it should be
4 hearsay but the question is whether it is that exception or
5 not, and I would suggest that that time frame does not fall
6 within excited utterance. Now, despite that I have an
7 issue with it being introduced at all, whether it's excited
8 utterance or not because I was not privy of it until today.
9 I find that to be volatile under Rule 5. I don't have any
10 knowledge of this person who has a very important statement
11 to say nothing. I can discuss with my client and say the
12 EMS person who worked on her heard her say this. It's
13 inconsistent with the testimony we have already heard so I
14 have issues with finding out about it today. Now, the fact
15 that the solicitor doesn't find out about it until very
16 recently doesn't excuse it. As well as -- the case law as
17 well said that all information in the case is imputed to
18 the State. Simply coming into court and saying, "Gee, I
19 didn't know about it until just recently and I told you as
20 soon as I knew, doesn't excuse it." That is information
21 that should have been known, it is not in my incident
22 report. I have no information that leads me to believe
23 that she even spoke to EMS, could not have gleaned that
24 from the incident report. In fact, there's a separate EMS
25 report that I received only today and I don't think it

TESTIMONY OF LARISHA THOMPSON

1 mentions in there that she had -- the victim had said
2 anything to the EMS worker, so I don't think it should come
3 in.

4 THE COURT: Solicitor?

5 MR. NOWIKI: Like I said, the EMS worker was provided
6 in the witness discovery that was provided to the
7 defendant. You know, they could have easily talked to the
8 witnesses just as we could, and which we did.
9 Unfortunately we did not find this out until very recently
10 and she's here and available to be cross examined and I
11 don't think the defendant is prejudiced in any way and the
12 victim did mention that she did not recall saying anything
13 about it. But again when you look under the circumstances
14 she just got shot or injured severely and I just think that
15 should be admissible.

16 THE COURT: I think it does fall under the excited
17 utterance exception and related exceptions, I think it's
18 really excited utterance as opposed to present sense
19 impression than existing mental emotional condition. I
20 think she was still under the stress of excitement. Have
21 you got a case citing what Rule 5 says?

22 MR. FRICK: I don't have a case, I apologize. I was
23 just looking at Rule 5 and saying that would be stuff that
24 would be normally turned over particularly in the 6th
25 Circuit which we have an open file policy.

1 THE COURT: He didn't have it.

2 MR. FRICK: Just because the State doesn't have it
3 does not excuse them from being able to introduce it today.
4 Imagine if we are in a murder trial and guess what, we
5 found a murder weapon, we didn't know we had it until five
6 minutes ago. It's a piece of evidence that they now come
7 forward and say, "Well gee, there's no way I could have
8 known about it, sorry about that." And clearly it's
9 imputed to the State whether they have a duty to, whether
10 they know it existed or not that's what the case law
11 continuously says and my citation says. I had that cited
12 against me so many times because I had to make the same
13 argument.

14 THE COURT: Well, I know that's true with documents
15 and all and I am looking for that in the context of a
16 statement of a witness. Have you got the Rule 5 citation,
17 have you got the foot notes to it?

18 (Break in proceedings.)

19 THE COURT: Mr. Frick, I have reviewed the Rule 5
20 again and again, I am going to overrule your objection and
21 admit the statement. Bring in the jury.

22 (The jury returned to the courtroom.)

23 THE COURT: Welcome back, ladies and gentlemen. And I
24 apologize, I know that five minutes turned into a little
25 bit more. I wish I could have done something about it, I

TESTIMONY OF ANGELA STAHER.

1 apologize again. Are you ready to proceed, Solicitor?

2 MR. COOK: Yes, Your Honor. State calls Angela
3 Staher.

4 THE COURT: Solicitor?

5 The witness, ANGELA STAHER, was first duly sworn and
6 testified as follows, on:

7 DIRECT EXAMINATION

8 BY MR. COOK:

9 Q Ms. Staher, you need to state your full name for the
10 record, please.

11 A Angela Rouse Staher.

12 Q And what is your occupation?

13 A I'm a paramedic with Lancaster County EMS.

14 Q How long have you been doing that?

15 A I have been full-time/part-time, 15 years with the
16 Lancaster County paramedics and with State DHEC and
17 nationally registered for ten years.

18 Q And as a paramedic -- strike that. Were you working
19 for Lancaster EMS, were you working on May 20th of 2007?

20 A I was.

21 Q And what shift were you working that day?

22 A A-shift. We have three shifts, I'm on A-shift, I was
23 stationed in EMS three which was the McIlwain Road
24 station.

25 Q What does A-shift mean?

TESTIMONY OF ANGELA STAHER

1 A We work 24/48 shifts where I'm on duty for 24 hours.
2 We have two days that I am on so we have three rotating
3 shifts, A, B and C so I am on A-shift.

4 Q So you would have been working that night?

5 A Yes.

6 Q And did you have or were you called to [REDACTED]

7 [REDACTED]?

8 A I was.

9 Q And where is that?

10 A Where is it at? It's off Memorial Park Road.

11 Q What county is that in?

12 A It's in Lancaster County.

13 Q And were you -- when you were called, were you given
14 a reason why you were going there?

15 A I was called by the sheriff's department dispatch to
16 a gunshot to the face.

17 Q And do you remember what time that call came in?

18 A I do, I have it on the report. The actual time that
19 the call came into the sheriff's department was at 00:51
20 or midnight, 51 minutes after midnight.

21 Q Okay. And when you arrived, what did you encounter?

22 A When I got on scene the fire department first
23 responders were already there, police department was on
24 the scene, and my supervisor as well was already on the
25 scene. So there was a lot of people there. When I got

1 out of my truck my supervisor came up to me -- well, first
2 responders were getting a backboard out of my ambulance
3 and a stretcher. He said that I had a female patient who
4 had been shot in the face, they were going to put her on
5 full spinal protocol for me. We were walking up to the
6 house and I saw glass all over the front stoop of the
7 house where the storm door had been busted and the actual
8 door of the house had a bullet hole through it. Stepping
9 into the house there was glass everywhere in the walking
10 area where you walk straight through the living room,
11 there was glass all in the floor.

12 Q Okay. Well, at that time how did you know it was a
13 bullet hole?

14 A It looked just like a bullet hole and I had a crime
15 scene. It looks exactly like what they taught us it was.

16 Q So let me go back a little bit. Were you with
17 anybody when you got there or did you have a partner?

18 A I did. I have a partner, his name is Buddy Adams,
19 he's a basic EMT.

20 Q Okay. And so when you got there you saw the glass
21 and so -- and there were other people there. Was
22 anybody -- well, let me go back. Where did you find the
23 victim?

24 A When I walked through the door first responders were
25 placing her on a back board, on a stretcher, so she was

1 laying down in the walk-in area into her living room from
2 the front door.

3 Q . Okay. At that time did you perform any sort of
4 treatment on her?

5 A . I did. I walked up to her, I did a quick
6 neurological exam to see if she could think and if her
7 brain had been affected by the shooting. She appeared to
8 me to have no neurological deficits to her brain. She was
9 answering my questions appropriately. She did have a
10 puncture wound above her left eye and lacerations to her
11 face. She had shards of glass in her face and in her left
12 eye.

13 Q . Okay. Besides yourself, did anybody else that you
14 know of perform any sort of treatment on her?

15 A . All of us were working very quickly together. We put
16 her on a back board, neck collar, started an IV, put her
17 on oxygen and I put her on a heart monitor, checked her
18 blood, glucose levels and pacing her straight to the
19 truck.

20 Q . When you were working on her if you wanted to call it
21 that, what was her -- how was she acting?

22 A . She was very upset. She was not hysterically upset,
23 she was very upset. She was very concerned for the safety
24 of her daughter. She kept saying over and over that he
25 had shot her but I can't recall a name that she would have

TESTIMONY OF ANGELA STAHER

1 told me of who he would be.

2 Q Okay. And who was the victim?

3 A According to my report Ms. Larisha Thompson.

4 Q Now, you said that she was on the back board and you
5 were taking her to -- where -- well, I should say were you
6 going to transport her?

7 A Yes. I was going to transport her to Springs
8 Hospital so we could get a quick CAT scan of her head and
9 make sure there wasn't a bullet lodged inside of her face.
10 I would normally flag someone but when you are looking at
11 bullet holes and bullets maybe lodged in a person's face
12 you want to be careful about putting them in the
13 helicopter. We wanted to send her straight to Springs to
14 find out if she had a bullet in her head or to her face.
15 She was laying flat on her back on a spinal board with a
16 neck collar on her neck. She was placed on top of the
17 stretcher, which is mounted into our unit. I was sitting
18 right beside her on the bench seat watching her blood
19 pressure and mental status.

20 Q In the ambulance?

21 A In the ambulance.

22 Q Was there anybody else besides you and the victim in
23 the ambulance?

24 A Before we left her sister did come up to the
25 ambulance and spoke to her. I was busy writing her -- I'm

1 not quite sure what they all talked about. When she left
2 I was the only person in the back of the ambulance with
3 her.

4 Q Okay. And at that time when you were in the
5 ambulance how was she acting?

6 A She's very upset. She couldn't understand why she
7 had been shot. She said that the man had came up to her
8 door and --

9 Q Well, hold on one second. I was going to ask you;
10 did you have any conversation with her?

11 A Yes, I did. She was very upset, she was afraid that
12 she was going to die and I was trying to get her to focus
13 on something other than death so I asked her what had
14 happened and she started to talk to me.

15 Q What did she say?

16 A She told me that there was the man at her door, she
17 asked him what he wanted and said he'd asked for her
18 boyfriend. She told him that her boyfriend was not there
19 and he pulled a gun and shot her in the face. She
20 actually saw him lift his hand up to see her --

21 MR. FRICK: Your Honor, I object on the grounds
22 previously stated.

23 THE COURT: So noted. Overruled.

24 Q So do you know when you left in the ambulance?

25 A I have the exact time. We left her house in route to

1 Springs Hospital at 23 minutes after 1:00.

2 Q Twenty-three minutes after 1:00?

3 A Uh-huh.

4 Q And, I'm sorry, when did you arrive there?

5 A At her house? 1:00 exactly in the morning.

6 Q So then you transported her to the Springs Memorial
7 Hospital, correct?

8 A I did.

9 Q At that time did you stay with her when you got
10 there?

11 A When we got there I turned her over to a nurse, I
12 gave them a report of all of the injuries and everything
13 that I had found and I left her in their care.

14 Q And so after you left her in their care, what did you
15 do?

16 A I went back to my truck and cleaned up my truck and
17 was starting to write this report.

18 Q Okay.

19 MR. COOK: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Break in proceedings.)

22 MR. COOK: No other questions for this witness, just
23 answer anything Mr. Frick has.

24 THE COURT: Mr. Frick?

25 CROSS EXAMINATION

1 BY MR. FRICK:

2 Q Ms. Staher, were you the first person on the scene?

3 A No, I was not.

4 Q The fire department was there first?

5 A Well, I don't know who got there first, I just know
6 who was there when I got there.

7 Q What was your role when you got there?

8 A I was going to be her primary caregiver paramedic.

9 Q Had anybody started any kind of treatment on her?

10 A They had. They had put her on oxygen, they were
11 starting to put her on the back board when I got there.

12 Q Now, the back board, that was more precautionary.

13 A It is. Any time someone has an injury to their head
14 or their face it can cause injury to your neck and your
15 spine and we were just taking precautions.

16 Q So y'all didn't know whether there was anything or
17 not, this is just something you do when you arrive on the
18 scene?

19 A Yes, sir.

20 Q Have you got a copy of your run report?

21 A I do.

22 Q I'm going to ask you a couple of questions. On the
23 front page here kind of in the middle here it says patient
24 status.

25 A Yes.

1 Q It says to scene, on scene, from scene, what is that
2 telling me?

3 A To scene means that when the sheriff's office calls
4 me that there's something going on, they want me to
5 respond emergently to the scene.

6 Q Lights and sirens?

7 A Lights and sirens, get there as quickly and safe as
8 we can. On scene is what is the status of the patient.

9 While I am on the scene is she emergent or is she
10 non-emergent, or whoever him/her or they or whatever. And
11 mine saying her non-emergency -- she was not in the life
12 threatening way when I was on the scene.

13 Q So when you came to see her she -- although she was
14 scared and believed that she was going to perish from
15 this, medically it did not appear that was going to
16 happen.

17 A According to her vital signs and everything that I
18 saw she was not an emergent death at that moment.

19 Q Then from the scene it says non-urgent.

20 A That means while transporting to the hospital or
21 wherever I'm going to with a patient, what is their
22 status? Are they emergent or non-emergent? She was not
23 in emergent status when I transported her to Springs.

24 Q Does that mean y'all aren't running through lights
25 and everything going?

1 A Right. We are just running normal traffic like
2 anyone else would.

3 Q Over on the side, vital signs. Now, obviously
4 someone in this situation would have an elevated pulse and
5 blood pressure. Is that what you see there?

6 A It is.

7 Q And then it starts slowly coming down to a slightly
8 more normal state.

9 A It is.

10 Q Okay. And I think it looks like y'all got there at
11 1:00 in the morning?

12 A Yes, sir.

13 Q And remained there until 1:23?

14 A Yes, sir.

15 Q And on the inside of your report y'all kind of do a
16 couple of minutes, y'all do an update of her status?

17 A We do. A person who has traumatic injuries or major
18 medical issues we try to watch for blood pressure vital
19 signs within every five minutes and this is a computer
20 generated report so it is putting out signs based on the
21 computer.

22 Q Is that when you make the observations or whether it
23 comes into the computer?

24 A It is not always 100 percent exact on the time as to
25 whether we do it, we try to base it as close as we can on

TESTIMONY OF ANGELA STAHER

1 an estimate of the time because we always do these reports
2 after we treated, transported and given the patient over
3 to someone else. So when we do the reports later it's an
4 estimation as close as we can get to the actual time.

5 Q Okay. All right. Look down in your report there a
6 little bit. There's one that says 102, it's about half
7 way down.

8 A Is it right behind normal, is that where it's at?

9 Q Yes, ma'am, that's it. And y'all do a patient
10 assessment, you just basically a one word synopsis of
11 whether they are conscious or unconscious, right?

12 A Uh-huh.

13 Q That's what we're doing here, right, and it says
14 alert?

15 A It is based on an AVPU which is a -- it's a medical
16 term, it's alert, verbal, painful and unresponsive, a
17 status of what their mental status is and she was alert.

18 Q She wasn't unconscious, was she?

19 A No, she wasn't. She was alert, oriented, knew
20 exactly where she was, knew exactly what was going on
21 around her.

22 Q In fact, you said you performed that neurological
23 assessment and she didn't have any deficiencies?

24 A She was conscious and alert and oriented with me the
25 entire time I was with her.

1 Q Now, that next line we talk about the patient
2 breathing, unlabored.

3 A Yes.

4 Q What does that mean?

5 A That means she was having no difficulty in breathing.

6 Q Is that a technical term or is that an observation?

7 I'm trying to distinguish, you're saying when you got
8 there she was upset, if you are upset would that reflect
9 labored breathing, or how --

10 A No. I would say when a person was having labored
11 breathing it's someone whose having difficulty actually
12 with the breathing process, medically difficulty
13 breathing. You could be upset and not be labored in your
14 breathing.

15 Q Okay. All right. I think it says in there that her
16 skin is warm and dry.

17 A Yes.

18 Q That would be she was not perspiring?

19 A No. This is a good sign for us to show a person who
20 was in shock.

21 Q So she's conscious, obviously injured, not trying to
22 take that away, don't get me wrong -- obviously injured
23 but she's conscious, mentally acute, aware, whatever we
24 want to call it, and she's not in medical shock.

25 A And she is not in decompensated shock. So you can be

1 in shock and have warm, dry skin but decompensated is when
2 a person cannot contain their body's humectation. So
3 where they're not in their normalcy their blood pressure
4 will drop or their skin will get cold and damp. She was
5 not in a shock but she was in decompensated shock.

6 Q So while she was physically in shock she was not in
7 the shock where y'all have to lay somebody down and
8 elevate the head or feet, whichever the situation may call
9 for?

10 A Right.

11 Q Probably not the head in this situation.

12 A No. The whole time her pulse is strong, blood
13 pressure while elevated is not abnormal in the situation,
14 it's not dropping due to loss of blood.

15 Q It is coming back into a normal range.

16 A It is.

17 Q What is your role in the ambulance?

18 A That night on the ambulance I was a primary caregiver
19 of that unit, that means I was the sole paramedic on that
20 truck. So anyone who needed advanced life support would
21 have been my patient to take care of.

22 Q And so your main role in there is to try to keep the
23 person calm, kind of carry on a conversation which is what
24 you were doing.

25 A It is.

TESTIMONY OF ANGELA STAHER

1 Q Trying to make her feel better about the situation as
2 bad as it may have been.

3 A Yes, sir.

4 Q And monitor her vital signs.

5 A It is.

6 Q You are not really an investigator in this situation
7 to determine who did this or how it happened?

8 A No, sir, I'm not.

9 Q You are just kind of chatting along with her and you
10 are --

11 A I was just trying to keep her mind off of thinking
12 she was going to die just to get her to talk.

13 Q Okay. Why your primary focus wasn't necessarily on
14 the words coming out of her mouth but keeping her talking
15 and making sure her vitals were still okay.

16 A That's exactly right, as long the patient is talking
17 they're breathing very adequately.

18 Q So what you are giving us is basically a summation of
19 what she told you, not a word for word statement.

20 A Yes, sir.

21 Q Okay. All right. Were you the only person back
22 there with her?

23 A I was when we left.

24 Q Had anybody come up to talk to her while she was in
25 the back of the --

1 A Before we left her house her sister came up to the
2 ambulance. She did have a conversation with her sister
3 but I am not -- I can't remember what it was. I was doing
4 IV and heart monitors and all of those kinds of things, I
5 wasn't really listening. When we left the scene it was
6 just she and I in the back of the truck.

7 Q In this situation was it your role to administer any
8 medication to deal with any kind of potential pain?

9 A No. I did not give her any medication because I did
10 not know the extent of any swelling or injury to her brain
11 and any medication that I could have given her could have
12 caused more problems with her brain.

13 Q But again upon initial observations you did not
14 perceive anything to be a life threatening injury?

15 A I did not.

16 Q Okay.

17 MR. FRICK: Thank you, Ms. Staher, that's all of the
18 questions I have.

19 THE COURT: Anything further, Solicitor?

20 MR. COOK: No other questions. State calls Maurice
21 Bufford.

22 The witness, MAURICE BUFFORD, was first duly sworn and
23 Testified as follows, on:

24 DIRECT EXAMINATION

25

TESTIMONY OF MAURICE BUFFORD

1 BY MR. COOK:

2 Q Mr. Bufford, would you please state your full name
3 for the record?

4 A Maurice Demond Bufford.

5 Q You are locked up in the South Carolina Department of
6 Corrections, aren't you?

7 A Yes, sir.

8 Q I'm going to go through your record a little bit.
9 Okay?

10 A Yes, sir.

11 Q 2002 criminal domestic violence, simple assault and
12 battery, public disorderly conduct. 2003 you had a
13 shoplifting and a driving under suspension. 2004 you had
14 a trespassing and a driving under suspension and two drug
15 charges. 2006 you had assault and battery of a high and
16 aggravated nature. 2006 you had -- I think you got
17 revoked on those drug charges.

18 A Yes, sir.

19 Q And 2007 you had some weapon charges and some more
20 drug charges, right?

21 A Yes, sir.

22 Q What are you currently serving time for?

23 A Trafficking charges.

24 Q Trafficking what?

25 A Crack cocaine.

- 1 Q How long have you got to serve?
- 2 A Seven.
- 3 Q All right. Do you have any pending charges in
- 4 Lancaster County right now?
- 5 A No, sir.
- 6 Q Do you know the victim in this case, Ms. Thompson?
- 7 A Yes, sir.
- 8 Q How do you know her?
- 9 A My girlfriend, sir.
- 10 Q Have you got a child by her?
- 11 A Yes, sir.
- 12 Q How long have you been dating her?
- 13 A On and off about seven and a half or eight years.
- 14 Q Do you know where she lives now?
- 15 A Yes, sir.
- 16 Q Do you know the address?
- 17 A Yes, sir.
- 18 Q What is it?
- 19 A [REDACTED]
- 20 Q Here in Lancaster?
- 21 A Yes, sir.
- 22 Q How long have you been incarcerated?
- 23 A Two years and like four or five months.
- 24 Q All right. The incident took place on May 20th of
- 25 2007. All right?

TESTIMONY OF MAURICE BUFFORD

1 A Yes, sir.

2 Q Were you with Ms. Thompson at that time or do you
3 remember?

4 A No, sir.

5 Q Were you living there at that time?

6 A Yes, sir.

7 Q Did you have your clothes there?

8 A Yes, sir.

9 Q If you were going to get somebody to mail you a
10 letter where would you get it sent to?

11 A [REDACTED]

12 Q All right. If somebody was going to come looking for
13 you, where would they come look for your residence?

14 A [REDACTED]

15 Q Do you know the defendant in this case, Roshune
16 Carelock?

17 A Yes, sir.

18 Q Do you know him well?

19 A No, sir, not too well.

20 Q How do you know him? Just --

21 A I knew his brother awhile back.

22 Q Have you ever had any problems with the defendant?

23 A No, sir.

24 Q Have anybody that you run with -- by run with I mean
25 friends, cousins, people that you hang out with on a

1 regular basis, do you know of any problem that they have
2 had with the defendant?

3 A Yes, sir.

4 Q Okay.

5 MR. COOK: Beg the Court's indulgence.

6 (Break in proceedings.)

7 Q That period of 2007, what would you -- how would you
8 describe the relationship between you and Ms. Thompson?

9 Were y'all on good terms or bad terms?

10 A Good terms.

11 Q She hadn't kicked you out at any point before that?

12 A No, sir.

13 Q All right.

14 MR. COOK: I don't have anything further, Your Honor.

15 Please answer anything Mr. Flick has got for you.

16 CROSS EXAMINATION

17 BY MR. FRICK:

18 Q You said you were on the trafficking charge, one of
19 those is actually a gun charge, isn't it?

20 A Yes, sir.

21 Q I think the solicitor mentioned that you had had an
22 assault charge in there at some point, assault and battery
23 of a high and aggravated nature. Do you have one of those
24 on your report?

25 A No. I came back two weeks ago and got that handled.

TESTIMONY OF MAURICE BUFFORD

- 1 Q But you had it on -- you had a charge?
- 2 A Yes, sir.
- 3 Q And you are saying that back when this shooting
- 4 occurred that you were staying or were not staying?
- 5 A I were.
- 6 Q You were?
- 7 A Yes, sir.
- 8 Q If she said that y'all weren't together, what is
- 9 correct?
- 10 A Sir?
- 11 Q If she testified that y'all weren't together, which
- 12 one is correct?
- 13 A We were together.
- 14 Q Y'all were together?
- 15 A Yes, sir.
- 16 Q When you would lay your head down at night during
- 17 this period of time, where were you laying your head down?
- 18 A I would go home to her house sometimes, sometimes I
- 19 would go to my mother's. Depends on if she's mad or not.
- 20 Q Okay. Well, was she mad at you in May of 2007?
- 21 A No, sir.
- 22 Q She wasn't mad at you?
- 23 A No, sir.
- 24 Q Now, y'all have a daughter together, correct?
- 25 A Yes, sir.

1 Q This occurred on May 20, 2007 somewhere close to
2 midnight.

3 A Yes, sir.

4 Q You weren't home when this happened.

5 A I was on my way.

6 Q You were on your way home? Did she call you?

7 A I talked to her, yes, sir.

8 Q She did call you?

9 A Yes, sir.

10 Q Did you get to the scene?

11 A No, sir. She called me before the incident.

12 Q She called you before the incident?

13 A Yes, sir.

14 Q Y'all were just chit-chatting or what?

15 A I told her I wasn't going out that night, I ended up
16 in Pageland at the bike show.

17 Q All right. So it was your intent to be home, you
18 just weren't there?

19 A I was on my way.

20 Q Where were you when all of this happened?

21 A On the way back to Lancaster..

22 Q But you were on Number 9 or what?

23 A I don't know the name of the Highway coming from
24 Pageland.

25 Q I think you said you know Mr. Carelock.

TESTIMONY OF MAURICE BUFFORD

- 1 A Yes, sir.
- 2 Q Y'all weren't tight or nothing?
- 3 A No, sir.
- 4 Q Y'all didn't hang out?
- 5 A No, sir.
- 6 Q But you hadn't had any problems with him?
- 7 A No, sir.
- 8 Q Okay. So if we are here because he is supposed to
- 9 come shoot you, why would he do that?
- 10 A Rumor was that I shot his cousin.
- 11 Q Rumor?
- 12 A Yes, sir.
- 13 Q In fact, there was an investigation, wasn't there?
- 14 A Yes, sir. No pending charge though, sir.
- 15 Q But you were alleged to be the shooter, weren't you?
- 16 A Yes, sir.
- 17 Q Okay. But it wasn't Roshune that got shot, it was
- 18 someone else, wasn't it?
- 19 A Yes, sir.
- 20 Q You didn't have any beef with Roshune?
- 21 A No, sir.
- 22 Q You haven't had one before?
- 23 A No, sir.
- 24 Q Why is someone going to say that you did this?
- 25 A I don't have no idea.

TESTIMONY OF MAURICE BUFFORD

1 Q Okay. Now -- and I'm not trying to disrespect you
2 when I say this, but you kind of hang out with a rough
3 crowd sometimes, don't you?

4 A No, sir.

5 Q Your record would indicate otherwise.

6 A No, sir. That's why I left them alone when I came
7 home, sir.

8 Q When you came home?

9 A 2006.

10 Q Okay. But you end up charged back in 2007.

11 A Yes, sir.

12 Q But you left all of that alone?

13 A You say crowd, I got locked up for trafficking.

14 Q Okay. That was all by yourself?

15 A By myself.

16 Q But you would admit that at some point you were
17 involved with drugs..

18 A At the time, yes, sir.

19 Q People who are involved in the drug business shoot at
20 each other sometimes, don't they?

21 A No, sir.

22 Q They don't?

23 MR. COOK: Objection, Your Honor. Calls for the
24 witness to speculate that people in the drug business shoot
25 at each other.

TESTIMONY OF MAURICE BUFFORD

- 1 THE COURT: Overruled. Go ahead..
- 2 Q So what you are saying is there wouldn't have been
- 3 anybody out there that would want to take a shot at you.
- 4 A No, sir.
- 5 Q Even Roshune?
- 6 A Due to the fact because he said I shot his cousin.
- 7 Q But you didn't?
- 8 A No, sir.
- 9 Q This was just rumor on the street.
- 10 A Yes, sir.
- 11 Q Prior to this whole incident, had Roshune said
- 12 anything to you about this? Had you heard anything
- 13 yourself?
- 14 A We had words at my preliminary hearing back in '08.
- 15 Q Back in '08?
- 16 A Yes, sir.
- 17 Q That was long after everybody got charged on this,
- 18 wasn't it?
- 19 A Yes, sir.
- 20 Q He had already been charged with trying to take a
- 21 shot at you, right?
- 22 A No, sir.
- 23 Q It wouldn't be unusual with taking a shot at you to
- 24 have some words with you, would it?
- 25 A No, sir.

1 Q Okay. But it doesn't necessarily mean that he had a
2 beef with you at that time, was it?

3 A He did, sir.

4 Q Well, I thought it was rumor.

5 A Well, he took it -- he would go to my house and shoot
6 my girl so therefore he has got a problem with me.

7 Q Okay. And you know it was him because?

8 A Because?

9 Q How do you know it was him?

10 A Because my girl told me.

11 Q So you're just here to tell us what everybody else
12 done told you.

13 A He admitted to it.

14 Q Did he tell you?

15 A Yes, sir.

16 Q When did that happen?

17 A '08. '08 at our preliminary hearing.

18 Q He told you at the preliminary hearing?

19 A Yes, sir..

20 Q I suppose there's no eye witnesses who see this.

21 A Two officers were there but they ain't a witness,
22 so --

23 Q And y'all had words at the preliminary and he said,
24 "Man, sorry, I tried to take a shot at you."

25 A Actually he wasn't talking to me and I told him I

TESTIMONY OF MAURICE BUFFORD

1 didn't want to talk, he didn't know who I was.

2 Q He didn't know who you were but he admits to you that
3 he shot at your girlfriend?

4 A Yes. I know who he was, he didn't know who I was.

5 Q You were in SCDC at that time, too, weren't you?

6 A Yes, sir.

7 Q But when the shooting happened you weren't there?

8 A No, sir.

9 Q Didn't go to the scene?

10 A No, sir.

11 Q The only knowledge you have about who said what and
12 did what is secondhand.

13 A Yes, sir.

14 Q Okay.

15 MR. FRICK: Thank you, sir, that's all I have got.

16 THE COURT: Anything further, Solicitor?

17 REDIRECT EXAMINATION

18 BY MR. COOK:

19 Q Mr. Bufford, you said you heard this was rumors that
20 you had heard that people were saying you had shot the
21 defendant's cousin.

22 A Yes, sir.

23 Q Are you aware of whether that shooting that they
24 accused you of took place?

25 A No, sir.

1 Q You don't know? All right. Do you know what his
2 cousin's name is that supposedly got shot?

3 A Some black dude, Steven Blair.

4 Q Okay. But you don't know when that took place -- the
5 rumors about the shooting, you don't know when that
6 shooting took place, right?

7 A The night before my girl got shot.

8 MR. COOK: I don't have any further questions, Your
9 Honor.

10 MR. FRICK: Nothing further, Your Honor.

11 THE COURT: Thank you, sir, you may step down. You
12 may call your next went, Solicitor.

13 The witness, RANDY HUMPHRIES, was first duly sworn and
14 testified as follows, on:

15 DIRECT EXAMINATION

16 BY MR. COOK:

17 Q Could you state your full name, please?

18 A Deputy Randy L. Humphries.

19 Q What is your occupation?

20 A Deputy with the sheriff's office of Lancaster County,
21 sir.

22 Q How long have you been a deputy with the sheriff's
23 office?

24 A Four years with the sheriff's office but I have been
25 a class one officer since 2002, sir.

1 Q So prior to the sheriff's office work, where did you
2 work?

3 A City of Lancaster as a police officer.

4 Q And those have been the only two places that you
5 worked?

6 A Also worked with the Town of Pageland for a few
7 months before I returned back to Lancaster County.

8 Q As a deputy, what are your responsibilities?

9 A You actually answer calls, patrol the area, serve
10 warrants, papers, et cetera.

11 Q So were you working on May 20th of 2007?

12 A Yes, sir, I was.

13 Q And what shift were you working?

14 A We were actually working night shift, 6:00 p.m. to
15 6:00 a.m.

16 Q All right. And were you ever called to [REDACTED]

17 [REDACTED]?

18 A Yes, sir. Actually -- I was actually dispatched to
19 [REDACTED] at 00:51 in the morning.

20 Q And were you informed why?

21 A We were actually dispatched there in reference to a
22 shooting.

23 Q Okay. And I'm sorry, when -- well, let me go back.
24 When did you arrive on the scene?

25 A We were actually dispatched like I said at 00:51,

1 actually arrived on the scene two minutes later at 00:53.

2 Q Were you with anyone?

3 A I was a one man unit, and also another officer,
4 Officer Miller, responded right behind me at the same
5 time.

6 Q Okay. When you arrived, was anyone else there?

7 A No, sir. I was the first on scene like I said,
8 Officer Miller was nine seconds behind.

9 Q When you got to the scene, what did you see?

10 A As we approached the residence I noticed that the
11 storm door window was shattered out, busted everywhere.
12 There was actually a hole in the actual wooden door, the
13 front door to the residence, it was also shattered with a
14 hole in the center of it.

15 Q All right. So that's what you first saw. What did
16 you do after that?

17 A Actually at that time I shined my light through the
18 window and yelled out "sheriff's office" to make an
19 attempt to communicate with anyone inside of the house, at
20 which time Ms. Thompson then opened the door and let us
21 in.

22 Q Okay. Once you got into the residence, what did you
23 do?

24 A Once we got in the residence I began to talk with Ms.
25 Thompson, asked her who was in the residence other than

1 herself. She stated that the only one inside of the
2 residence at the time was her small two year old daughter.
3 Once we verified no one else was in the house but her and
4 her daughter, myself and Officer Miller, we then cleared
5 the house making sure there was no one else inside of the
6 residence. Then once the scene was secure we advised the
7 sheriff's office to go ahead and let EMS personnel come
8 in.

9 Q So you were present when EMS and -- well, so who was
10 next to arrive after you and Deputy Miller?

11 A It was the first responders from I think it was
12 actually Gooch's Fire Department, the first responders
13 that responded on the scene after we were there, sir.

14 Q When you first arrive, after you cleared the house
15 and everything, did you talk with or did you do anything
16 with the victim?

17 A Yes, sir. I actually tried -- she was actually
18 bleeding from the left side of her eyes, you can see blood
19 all over her. I then began to quickly assess and try to
20 get information from her pertaining to the suspect. I at
21 that time asked her who shot her and what happened, she
22 stated she had been shot. I then proceeded to ask her who
23 shot her and she stated Roshune Carelock, that was her
24 exact words to me, Roshune Carelock. I then asked her
25 were you sure that it was Roshune Carelock is the one that

1 shot you and she said yes. I then asked her, "How do you
2 know Mr. Carelock?" And she said, "We were classmates in
3 school." I then proceeded to get a clothing description
4 and she was unable to give me any of that.

5 Q All right. Let's go back a little bit. What was
6 her -- I guess what was her demeanor, how was she acting?

7 A She was upset and she was concerned that she was
8 going to die. We tried to get her to sit down or lay
9 down, she was pacing back and forth through the house.

10 Q Okay. So you were dealing with Ms. Thompson?

11 A Uh-huh.

12 Q When did you stop dealing with her?

13 A Well, basically I tried to get as much information
14 from her as I could until the arrival of first responders
15 on the scene. Basically I tried to get what happened, she
16 said that Mr. Carelock had came to the door, knocked on
17 the door, asked was Maurice there. I then asked
18 Ms. Thompson, I said, "Who is Maurice?" And she said,
19 "He's the father of my child."

20 Q Anything else with the victim? Did she say anything
21 else?

22 A At that time, no, sir. That's basically the
23 information that she gave me and on a later date in time
24 she actually -- 5:30 -- at 5:31 she recalled the entire
25 incident at that time.

TESTIMONY OF RANDY HUMPHRIES

1 Q Did you have any -- well, when you were on the scene,
2 did you have an opportunity to walk around the house to do
3 like an investigation of some sort?

4 A Yes, sir. We actually walked through the residence,
5 like I said, we secured the residence, make sure no one
6 was there. Then we went on the outside where on the
7 outside of a residence is where I located a spent shell
8 casing, being a fired shell casing, on the outside of the
9 residence. As you stand in front of the door you've got
10 like a little porch raised on each side. The shell
11 casing -- as you are facing the door the shell casing was
12 on the ground on the right side of the door.

13 (Break in proceedings.)

14 MR. FRICK: No objection, Your Honor.

15 THE COURT: They are admitted without objection.

16 (The photos were received as State's 2 and 3.)

17 Q I want to show you what we have got marked. I have
18 got two photos here, it's marked as State's Exhibits 2 and
19 3. Do you recognize those?

20 A Yes, sir. This one here, which is marked Exhibit
21 Number 2 is actually a picture of the front of the
22 residence showing the glass door, the storm door broken
23 and the actual door. And also that is a picture of myself
24 actually photographing the actual shell casing where it
25 was located on the right side of the doorway on the

1 ground.

2 Q And that accurately depicts --

3 A That accurately depicts the scene, sir.

4 Q What about State's Exhibit Number 3?

5 A Number 3 is an actual photograph of the shell casing

6 that was laying on the ground in front of the vent guard.

7 there in front of the residence.

8 Q Again that was located, I guess if you're looking at

9 the house --

10 A If you're looking straight onto the house, if you

11 walk up on the stoop to the door the shell casing was

12 located right on the ground just right off the edge of the

13 stoop there.

14 Q Okay. Besides this shell casing, were you able to

15 locate anything else?

16 A Yes, sir. As you go into the door of the residence

17 to the right just immediately as you enter into the right

18 is the living room, immediately to the left is a kitchen,

19 it was a kitchen table sitting right there on the other

20 side of the door, we actually located the bullet itself

21 underneath the table in the kitchen floor.

22 Q All right. Let me --

23 MR. FRICK: No objection from defense of these being

24 introduced.

25 THE COURT: Admitted without objection.

1 (The photos were received as State's 4 and 5.)

2 Q Let me show you what has been -- two photos, one
3 being first State's Exhibit Number 4 and at the same time
4 I will show you State's Exhibit Number 5. And do you
5 recognize those photos?

6 A Yes, sir. This is actually the projectile that was
7 laying on the floor up under the table. At the time as
8 you entered into the residence as I was saying the kitchen
9 table was immediately to your left behind the door as you
10 enter into the residence, on the floor is where the
11 projectile is located.

12 Q Again, does it accurately depict the scene?

13 A Yes, sir, it accurately depicts the scene.

14 Q And the other thing, can you tell us what that is
15 right there?

16 A That is actually the front door itself, which you can
17 actually see the entrance here. The window itself is like
18 an oval shaped window, it has like a stained glass wiring
19 in it, the outer edges of the window is stain. The center
20 piece is actually clear glass, you can actually see
21 through it.

22 Q Has the window been shattered?

23 A You can actually -- if you look at it closely you can
24 actually see the bullet hole, the entire window is
25 shattered but it has not fallen out.

1 Q Also there was a door in front of that, right?

2 A There was actually a solid glass storm door which was
3 completely disintegrated.

4 Q So that one was completely shattered?

5 A Yes, sir. Actually the first is the scene there in
6 the house where the door was completely shattered.

7 Q Do you by chance know what kind of caliber bullet or
8 anything that was?

9 A The shell casing we located was a .380 caliber, sir.

10 Q To your knowledge was any gun found?

11 A To my knowledge, no, sir.

12 Q And again, that casing was right by the stoop, where
13 you are calling the stoop, right?

14 A Yes, sir. Actually the little porch area was
15 actually right on the side of the ground to the right of
16 it if you are facing the house.

17 Q Was there -- was there -- did you have any other
18 involvement with this case?

19 A Once we get there, secure the scene get basically
20 information pertaining to the suspect to try to get out a
21 BOLO so we can pass it on to other units, the lieutenant
22 is notified and the on-call investigator is called, which
23 is Investigator Howell who was actually assigned to the
24 shift at the time, he and Lieutenant Kirkley arrive at the
25 scene and it was turned over to him.

1 Q Okay. Let me go back for one second when you first
2 arrived, and you may have already answered this question,
3 but where did you find Ms. Thompson?

4 A Once we arrived I went to the door, I shined my light
5 to the door, announced the sheriff's office, she then was
6 standing -- if you enter into the house and go straight to
7 the door, like I said you have got your living room
8 immediately to your right, kitchen to your left, you've
9 got a hallway, then her bedroom is to the right, the
10 child's bedroom is to the left. She was standing -- as
11 you come up from the bedroom entering into the hallway
12 into the living room area, she was standing right there.

13 Q So she was standing?

14 A Yeah, she was standing at the time. She approached
15 the door, unlocked the door and let us in. Once we got in
16 we actually had her sit down briefly, which she would sit
17 down momentarily and she would stand up and try to walk.

18 Q And when you got there where the stoop is, was the
19 light on?

20 A Yes, sir. The front porch light was on.

21 Q And again I think you had mentioned about her
22 demeanor, about her being upset.

23 A Yeah. She actually had a rag up over her face, it
24 was actually dripping with blood, the blood was running
25 down her arm.

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1 Q Was there any blood in the house?

2 A Yes, sir. The blood trail, you could see where the
3 actual incident occurred at the door. There was a blood
4 trail leading through the living room back into the
5 bedroom where she had been to the bedroom. There was
6 blood all over the floor, the walls where she had actually
7 walked back and forth where she stated she was walking
8 back and forth while she was on the phone.

9 Q Okay. About the casings and the bullet, were you the
10 officer that collected those items?

11 A To my recollection, yes, sir. I was the one that
12 actually picked them up and we tagged them and placed them
13 into evidence, sir.

14 Q Okay. Do you have any knowledge of whether or not
15 those items were sent off to be analyzed or anything like
16 that?

17 A That, sir, I do not know, I cannot answer that. It
18 would be our evidence technician that would tell you.

19 Q All right.

20 ~~MR. COOK:~~ No other questions at this time.

21 CROSS EXAMINATION

22 BY MR. FRICK:

23 Q You don't perform any tests on the stuff you collect,
24 you pass that along to your lead investigator.

25 A That's right, sir. We pick it up, place it into

1 evidence bags, everything is labeled and place it into the
2 evidence locker.

3 Q Your role in this situation is what we call the
4 responding officer.

5 A Yes, sir.

6 Q The first police officer on the scene?

7 A Yes, sir.

8 Q You assess the situation.

9 A Yes, sir.

10 Q Start trying to figure out what happened?

11 A Exactly.

12 Q Okay. You are not really there to start
13 investigating it, just to pass along information to the
14 investigator.

15 A That's correct, sir.

16 Q And in this situation your investigator was who?

17 A Investigator Mike Howell.

18 Q You got there a little bit before the first
19 responders got there?

20 A I was actually the first one. It was myself and
21 Officer Miller were the first ones there. Then shortly
22 after we arrived, like I said, the call came out at 00:51,
23 we arrived at 00:53 which is two minutes after the call
24 was given out. We got there, was clearing the scene and
25 first responders were coming up.

1 Q Now, are you the one who made the photographs?

2 A I took the actual photograph of the initial shell
3 casing which is the one you see there, and I think Officer
4 Miller and Investigator Howell are the ones that actually
5 photographed the rest, sir.

6 Q But this is what it looked like when you got there?

7 A That's absolutely correct.

8 Q Okay. And on State's Exhibit Number 4, that is the
9 shell casing we're talking about?

10 A That's it, sir. Like I said, it was in front of the
11 residence and this is the vent guard up under the house
12 vent, it's up underneath the house.

13 Q So it wasn't on the stoop, it was out a little bit.

14 A Like there is the stoop right here, it was just right
15 there right down below it. This is the stoop, this is the
16 door, you can see the distance between the stoop and the
17 vent guard where the casing was found.

18 Q Is this where you are talking about the shell casing?

19 A That's correct, sir.

20 Q Okay. All right. And this is the light illuminating
21 the area?

22 A Yes, sir.

23 Q Okay. And, of course, this is a picture y'all took
24 when you responded on the scene so it is actually close to
25 1:00 in the morning.

TESTIMONY OF RANDY HUMPHRIES

1 A Yes, sir. That's actually after she has already been
2 transported out by EMS we are collecting this; that's
3 actually myself in the photograph.

4 Q Okay. Good deal. Y'all had a flash on the -- what
5 is the camera. So it's not actually this bright, this
6 is -- there's some amplified light?

7 A Exactly.

8 Q It's a bit darker than this..

9 A Uh-huh.

10 Q Okay. And this is on States Number 5. This is the
11 inside view of the door.

12 A That is the inside view of the door, that's correct.

13 Q Okay.

14 A Which actually if you see the door the outer edges of
15 the door which oval shape door, the outer edges here is
16 like a stain, part glass, the center piece here is more
17 like a flower, but it's actually clear glass..

18 Q But it was the flower part that was clear?

19 A Yes, sir. The center -- the actual center part of
20 the window, the outer edges were like a stain, the actual
21 center piece itself were clear.

22 Q All right. And Number 4, that is obviously a closeup
23 of the projectile that y'all found.

24 A That's correct, which is located underneath the
25 kitchen table.

1 Q Is this the kitchen table in Number 5?

2 A That is the actual kitchen table as it was located --
3 as soon as you enter into the residence to the left is the
4 table.

5 Q Okay. Now, there's no -- you talked about blood all
6 over the scene and I am paraphrasing I know, you were a
7 little more accurate than I was in that. But there was no
8 blood spatter immediately right here at the door.

9 A That correct, sir. I think there's some more photos
10 that actually depict the blood splatter on the door, I
11 can't recall if it was immediately right here but it
12 started after this doorway right here, not immediately but
13 shortly after.

14 Q Okay. All right. I understand it's your role to
15 collect this, but to your knowledge were we able to
16 determine anything about this projectile?

17 A To my knowledge I can't say.

18 Q I understand. I know we've got a shattered storm
19 door but do we have -- is there any fingerprinting or is
20 that even your role?

21 A It would -- the glass was so shattered there was no
22 way it actually -- if you were able to lift any prints due
23 to a shattering of glass it would make it impossible.

24 Q How about the frame or anything?

25 A No, sir. I didn't conduct any myself.

- 1 Q Was that even your role?
- 2 A Yes, sir. At times we do depending on the situation.
- 3 Q How about the shell casing itself, anything?
- 4 A That, sir -- I did not mess with the shell casing.
- 5 Like I said, it was removed from the ground, placed into
- 6 an evidence bag and placed into the evidence locker..
- 7 Q And you don't know what may or may not have happened.
- 8 with it since then?
- 9 A No, sir, I cannot say.
- 10 Q You pass it along and it does whatever it is going to
- 11 do?
- 12 A Correct.
- 13 Q When you get there you speak to Ms. Thompson?
- 14 A Yes, sir.
- 15 Q She was obviously a little bit upset and you could
- 16 not entirely communicate with her.
- 17 A That's correct.
- 18 Q She was conscious and everything when you got there?
- 19 A Yeah. She was conscious, alert, walking around.
- 20 Q It doesn't appear like that she needed to receive
- 21 medical attention before you began interviewing her?
- 22 A Well, they were -- like I said, we have secured the
- 23 scene, EMS was called, they were in route while I was
- 24 talking to her.
- 25 Q But you actually felt it would be okay for you to

1 start talking to her before they treated her?

2 A That was -- you would do that before anybody. If you
3 are unconscious we are going to try to talk to you and get
4 something out of you.

5 Q Does that even work?

6 A Sometimes they nod but that's all we can get.

7 Q I'm just trying to pick at you, I apologize. But she
8 was able to respond to you and give you logical answers?

9 A Like I said, I asked her who shot her, at no time did
10 she give me another name, it was Roshune Carelock. I
11 specifically asked her how did she know him, she said they
12 were classmates in school.

13 Q Were you in the courtroom when she was testifying?

14 A Yes, sir.

15 Q We had a little bit back and forth what name she said
16 and she told you clearly Roshune Carelock?

17 A At no time did she say Cunningham, she clearly said
18 to me every time I asked her. I asked her a couple of
19 different times who shot you and she said Roshune
20 Carelock. I asked her were you sure and she said Roshune
21 Carelock. So the third time I asked her how did she know
22 Roshune and she said, "We were classmates."

23 Q That's what she said, "We were classmates?"

24 A Yes, sir. At no time did she give me any other name.

25 Q Okay. Did you say she was or was not able to provide

TESTIMONY OF RANDY HUMPHRIES

1 you any clothing description?

2 A She did not give me any clothing. Because that
3 was -- my next question was could you give me a
4 description of travel so I could pass on a BOLO to units
5 looking for the suspect, at no time did I get that.

6 Q So at no time, she couldn't tell you?

7 A Well, she didn't really say she couldn't, she just
8 couldn't give an answer to the question.

9 Q You got no answer?

10 A Right.

11 Q You didn't know what he was wearing?

12 A Right, exactly.

13 Q The only thing you knew is Roshune Carelock?

14 A Correct..

15 Q Other than the -- to your knowledge other than the
16 shell casing and the projectile, was any other physical
17 evidence collected?

18 A To my knowledge, no, sir.

19 Q Those are the only things that you collected?

20 A That's correct, sir.

21 MR. FRICK: Nothing further.

22 MR. COOK: Nothing else.

23 THE COURT: You may step down. Call your next
24 witness.

25 The witness, CHARLES KIRKLEY, was first duly sworn and

TESTIMONY OF RANDY HUMPHRIES

1 testified as follows, on:

2 DIRECT EXAMINATION

3 BY MR. COOK:

4 Q Lieutenant Kirkley, would you please give your full
5 name for the record?

6 A Charles Kirkley.

7 Q Who are you employed by?

8 A Lancaster County Sheriff's Office.

9 Q What is your position there?

10 A I'm a shift lieutenant.

11 Q Were you involved in an investigation of the case we
12 are here today on May 20th of 2007 of Roshune Carelock?

13 A I was.

14 Q Did you go to the scene?

15 A I did.

16 Q Okay. Do you remember when he was charged and
17 arrested for this assault and battery with intent to kill
18 charge?

19 A I do.

20 Q When was that?

21 A I think it was -- if I remember correctly it was
22 later on that night or the next day.

23 Q All right. Were you involved in an interview with
24 the defendant on May 21st of 2007?

25 A I was.

- 1 Q Did you Mirandize him?
- 2 A I did.
- 3 Q Where did this take place?
- 4 A At the Lancaster County Sheriff's Office.
- 5 Q Was he arrested at that time?
- 6 A He was under arrest.
- 7 Q Charged with assault and battery with intent to kill?
- 8 A Yes, sir, he was.
- 9 Q Did you read him his Miranda warnings?
- 10 A I did.
- 11 Q What did you read it from? Do you know it by heart?
- 12 A I read it from a card that I keep in my pocket.
- 13 Q Do you have that card with you today?
- 14 A I do.
- 15 Q Will you read it?
- 16 A Suspect's rights and Miranda warning. One, you have
- 17 the right to remain silent. Two, anything you say can and
- 18 will be used against you in a court of law. Three, you
- 19 have the right to talk to an attorney and have him or her
- 20 present while you are being questioned. Four, if you
- 21 cannot afford an attorney one will be appointed to
- 22 represent you before any questions if you want. Five, you
- 23 can decide at any time to exercise these rights and not
- 24 answer any questions or make any statements. Six, do you
- 25 understand these rights I have explained to you? Seven,

1 having these rights in mind, do you wish to talk to us
2 now?

3 Q Did he understand that?

4 A Yes, sir.

5 Q Didn't have any questions as far as the Miranda
6 warnings and no problems communicating with you?

7 A No, sir, not at all.

8 Q At that time after giving him his Miranda warnings,
9 did he make a knowing and intelligent waiver of his rights
10 at that time and wish to speak to y'all?

11 A He did.

12 Q We said he was under arrest. Did the interview take
13 place at the Lancaster County Sheriff's Office?

14 A It did.

15 Q All right. Was he restrained in any way? Was he
16 cuffed or in shackles?

17 A I can't recall if he was cuffed or anything.

18 Q All right. Did it take place at an interview room or
19 did it take place in an office? Where did it take place
20 within the sheriff's office?

21 A It was in an office.

22 Q Your office?

23 A No, sir.

24 Q Whose office was it?

25 A It was either -- it was kind of a community office.

1 Q Kind of like a squad room?

2 A Yes, sir.

3 Q Who was present during the interview?

4 A Myself and Investigator Mike Howell.

5 Q Were y'all in uniform?

6 A I was.

7 Q Gun and badge?

8 A Yes, sir.

9 Q Did investigator Howell have a gun and badge visible?

10 A Yes, sir.

11 Q Did he request anything such as a bathroom break, to
12 use the telephone, drink, food, anything which he was
13 denied during that interview process?

14 A No, sir.

15 Q No coercion by you or Investigator Howell to get him
16 to talk?

17 A No, sir.

18 Q He wanted to talk?

19 A Yes, sir.

20 Q Did you ask the questions or did Investigator Howell
21 ask the questions?

22 A Investigator Howell.

23 Q Okay.

24 MR. COOK: Why have no further questions of Lieutenant
25 Kirkley at this time.

1 CROSS EXAMINATION

2 BY MR. ERICK:

3 Q Your basic role was to administer the Miranda rights?

4 A Yes, sir.

5 Q You weren't asking questions, didn't write down
6 questions, record any of that, you were just there to do
7 that?

8 A Yes, sir.

9 Q And you were basically just a witness?

10 A Yes, sir.

11 Q Okay. And that is what you did?

12 A Yes, sir.

13 Q As far as the scene that night, did you respond to
14 that scene at all?

15 A I did go to the scene, yes, sir.

16 Q You did go to the scene. Were you involved in any of
17 the collection of evidence?

18 A I was not.

19 Q Did you participate -- other than being at the scene
20 and being in the Miranda, were you involved in the
21 investigation?

22 A I was just -- as supervisor I just made sure it was
23 handled proper.

24 Q All right. So you were just top of the chain of
25 command?

TESTIMONY OF MIKE HOWELL

1 A Yes, sir.

2 MR. FRICK: Thank you. That's all of the questions I
3 have.

4 MR. COOK: Nothing further from the, Your Honor.

5 THE COURT: Thank you sir, you may step down.

6 The witness, MIKE HOWELL, was first duly sworn and

7 Testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. COOK:

10 Q Please state your full name for the record?

11 A My name is Mike Howell.

12 Q Who are you employed by?

13 A Lancaster County Sheriff's Office.

14 Q What is your position at the sheriff's office?

15 A I'm an investigator.

16 Q All right. Were you involved in the investigation of
17 the shooting of Larisha Thompson in 2007?

18 A Yes, sir, I was.

19 Q Matter of fact, you were the lead investigator on
20 that case, right?

21 A Yes, sir.

22 Q You got dispatched actually to the scene that night,
23 right?

24 A I did.

25 Q How long after Deputy Humphries arrived did you

1 arrive on the scene?

2 A I'm not for sure.

3 Q EMS was already there?

4 A Everybody was already there when I got there.

5 Q So kind of later on in the process?

6 A Yes, sir.

7 Q Were you able to speak with Ms. Thompson at the
8 scene?

9 A I didn't speak to Ms. Thompson when I arrived. I
10 talked with Deputy Humphries first who gave me pretty much
11 the rundown of what happened before I got there. At the
12 time EMS was still working with Ms. Thompson so I wasn't
13 going to start asking her questions because her health was
14 the first care for her.

15 Q You left the scene and went to the hospital, didn't
16 you?

17 A Yes, sir, I did. When I left the scene after I got
18 the information from Mr. Humphries -- Deputy Humphries, I
19 had his information about the named suspect from the
20 victim.

21 Q Who was the named suspect?

22 A Roshune Carelock.

23 Q And who told you that?

24 A Deputy Humphries told me that.

25 Q Okay. What did you do then?

1 A I also heard it from Deborah Thompson who was at the
2 house, because when I first walked in she was saying, "All
3 of this is over Maurice, this is all about Maurice," and
4 then that's -- hearing the name inside of the house.

5 Q She said Roshune Carelock did it?

6 A Yes, sir.

7 Q So when you left the house where did you go?

8 A When I left the house, the information I had I went
9 on back to the sheriff's office because we had a named
10 suspect, she is already telling everybody she knew him by
11 face, so I did a photo lineup. After I obtained a photo
12 lineup I went to the hospital for the first time and met
13 Larisha up there and showed her the photo lineup.

14 Q Is this the photo lineup?

15 A Yes, sir, it is.

16 Q You presented this to Larisha at the hospital?

17 A Yes, sir, I did.

18 Q Was she actually sitting out in the emergency room or
19 did she already have a room at the hospital at that time?

20 A She was already back.

21 Q She was in a bed?

22 A Yes, sir.

23 Q All right. When you showed this to Larisha, where
24 was her mother?

25 A I don't know which side of the bed each was on.

1 Q When you were in the room, were y'all in close
2 proximity?

3 A Yes, sir.

4 Q When you showed this to her, did she pick someone
5 out?

6 A Yes, sir.

7 Q Who did she pick out?

8 A Roshune Carelock.

9 Q What number is he?

10 A Number five.

11 Q Whose is that on the photograph?

12 A DT.

13 Q That's obviously not LT for Larisha Thompson. What
14 does DT stand for?

15 A That's Deborah Thompson, that's her mother.

16 Q Why did her mother initial it rather than her?

17 A Larisha had a lot of blood on her, about her hands
18 and, of course, I didn't want blood on the picture because
19 it's going to be used as evidence.

20 Q When you showed it to her, how soon did she look at
21 it and how soon did she --

22 A During photo lineups sometimes people scan, they look
23 going down each one, she went straight to the face and she
24 seen it, it was that fast.

25 Q Instantaneous pretty much?

1 A As soon as she found the picture it was -- I don't
2 think she looked at all of them, she went straight to the
3 one she seen.

4 Q Did you see her point to that and tell her mama to
5 initial that one?

6 A Yes, sir.

7 Q And her mama obviously initialed it.

8 A She did.

9 Q Did she say anything else to you at the hospital?

10 A Nothing more than just -- because one, I had the
11 identification. I had Deputy Humphries' information, we
12 already got our ID by name which she was stating to the
13 first officers on the scene, her short statement to me
14 saying she seen him through the door and knew him by name
15 and face and confirmed it through a lineup. I went to
16 start on the warrant because they got to treating on her.

17 Q When was the warrant served?

18 A The warrant was served, it was on the 21st when it
19 was served.

20 Q The day after?

21 A Yes, sir.

22 Q All right.. I'm going to ask you about something
23 else. There's been some talk about there was a bullet
24 found in the kitchen under the kitchen table, there was a
25 shell casing found to the right side of the porch by a

1 vent, it was collected and placed into evidence. That
2 wasn't sent off anywhere, was it?

3 A No, sir, it was not.

4 Q Why wasn't it sent off anywhere?

5 A There was nothing to compare it to if we sent it off,
6 we don't have the gun to match it out of.

7 Q It doesn't take a firearms expert at Sled to tell you
8 that's a .380 casing and that's a spent round?

9 A No, sir, it does not.

10 Q You were involved with the interview of the defendant
11 in this case on May 21st of 2007, right?

12 A I'm sorry?

13 Q You were involved with the interview of Roshune
14 Carelock on May 21st of 2007.

15 A Yes, sir.

16 Q That was at the sheriff's department?

17 A Yes, sir, it was.

18 Q Who was present for that?

19 A Myself, Roshune and Lieutenant Kirkley.

20 Q You just heard Lieutenant Kirkley testify, right?

21 A Yes, sir, I did.

22 Q Do you remember him Mirandizing the defendant?

23 A Yes, sir, I do.

24 Q You don't remember any problems that the defendant
25 had understanding his Miranda rights, no questions about

1 it, he understood them and wanted to talk?

2 A As soon as he came in -- we brought him from the
3 back, he was already arrested; he is in orange and got
4 shackles on his feet, which is what we bring out people
5 that's under arrest, we shackle them as a policy. We
6 brought him around front, he wanted to ask me questions
7 about the case, that's when I advised him to stop, we have
8 got to give him Miranda and that's when Lieutenant Kirkley
9 read him his Miranda rights. After he waived his rights
10 we started interviewing him.

11 Q So he made a knowing and intelligent waiver of his
12 rights after he heard them?

13 A Yes, sir.

14 Q Lieutenant Kirkley said he was in uniform, had a
15 badge and gun visible which it's on your waist and you had
16 one too; is that correct?

17 A Yes, sir.

18 Q You said he was in restraints and it was in kind
19 of -- tell me, detectives -- you don't have your
20 individual office, you just kind of share a squad room?

21 A The interview we did with Mr. Carelock, we were in --
22 which at the time was like a multi-room but it was a room
23 with just all of -- it's a community room but that's where
24 we conducted this interview at.

25 Q He didn't ask you for anything during that interview

1 which he was denied such as bathroom breaks, water, food,
2 stuff like that?

3 A No, sir.

4 Q No promises, no threats, no coercion by you or
5 Lieutenant Kirkley before the statement?

6 A No, sir, none.

7 Q Do you remember if he signed anything?

8 A No, sir, he did not.

9 Q It was all oral?

10 A It was all oral. He became disgruntled at the end of
11 the interview, it wasn't the end for me but he decided to
12 call it quits and that's where you walk away from it.

13 Q All right. Let's talk about his statement. There's
14 been some talk about rumors of his cousin being shot.

15 A Yes, sir.

16 Q He was under arrest and Mirandized on assault and
17 battery with intent to kill on this charge, but you were
18 actually the lead investigator on the other case, too,
19 right?

20 A Yes, sir.

21 Q So when you sat him down talking to him the
22 conversation just kind of -- you were kind of inquiring
23 about both of them, right, because you had talked to him
24 the night before?

25 A I tried to, yes, sir.

1 Q Tell us how the conversation came up.

2 A As far as the interview or the night before?

3 Q The interview and the defendant's cousin got shot the
4 night before right.

5 A The defendant's cousin did get shot the night before
6 when Mr. Carelock was present during the incident.

7 Q While he got shot?

8 A Yes, sir.

9 Q Had you talked to Mr. Carelock about that prior to
10 him getting arrested to this charge?

11 A Yes, sir. The night his cousin got shot actually I
12 was called out about 5:00 in the morning, I went up to the
13 hospital, the city has already spoken to his cousin
14 several times, got different little statements on where
15 the incident happened but finally got to where the
16 incident took place. The cousin didn't want to give all
17 of the answers to everything at the beginning but agreed
18 to come out to meet me the next day or which is later on
19 that evening, it's not actually a different date, same
20 date but just later on. Deputy Miller -- Sergeant Miller
21 is now speaking to Mr. Carelock in the front lobby who is
22 not wanting to talk too much either, but after speaking
23 with Carelock both of them agreed to come by and see me
24 that day at 5:00 at the sheriff's office and give me a
25 statement, to look through some lineups and pictures and

TESTIMONY OF MIKE HOWELL

1 also to help me out with the car that they were in so I
2 could get pictures of the car since the incident happened
3 that night.

4 Q Did they show up?

5 A No, sir, they did not show up.

6 Q So when you brought him back after he got arrested on
7 this charge I assume you asked him why he didn't show up?

8 A Well, when I started interviewing Mr. Carelock I
9 didn't want to go straight into my victim where he's the
10 suspect in. He started off on the incident the night
11 before because it was actually a good interview, it was
12 just about everything that's happened about the night
13 before, and as the interview was going on when I got to
14 the point of asking about Larisha Thompson he stops, don't
15 want to talk about it anymore, that was the end of it and
16 he walked off.

17 Q How did Maurice Bufford's name come up?

18 A Maurice Bufford's name came up from Larisha's
19 statement. Roshune says this night that his cousin got
20 shot they pulled into the Texaco to buy some beer at the
21 station right in front of Bojangles on North Main Street.

22 Q What area of Lancaster is the Texaco in?

23 A Kind of known as Twin Pines.

24 Q Twin Pines?

25 A Yes. He's in the store and while he's in the store

TESTIMONY OF MIKE HOWELL

1 one of Maurice's friends approaches Carelock and says,
2 "I've got you cornered," and there's some words exchanged
3 and they go out in the parking lot. They are both arguing
4 a little bit and from Mr. Carelock's statement said he
5 said they were going to do it outside but yet when he gets
6 out they say, "Follow us." So Mr. Carelock and his
7 friends and Maurice and his friends go up to the
8 Armadillo's parking lot.

9 Q How far is that?

10 A That's not far at all. For the older people it's Old
11 Bars Tavern from the Texaco. So when they get to the
12 parking lot from the statement he says that both cars were
13 facing each other and that Maurice's car backs at an angle
14 and Maurice steps out of the back passenger's seat and
15 fires one time into Roshune Carelock's cousin's car and
16 that's where his cousin gets shot in the hip.

17 Q So he had accused Maurice Bufford of shooting his
18 cousin the night prior to this?

19 A No. He did not in the first -- I got the name of
20 Maurice from the beginning of this interview. Steven, who
21 I talked to, named some of Maurice's friends but never
22 said Maurice.

23 Q And that's the same Maurice Bufford that we have been
24 talking about all day and testified today?

25 A Yes, it is.

TESTIMONY OF MIKE HOWELL

1 Q And is the father of the child of the victim?

2 A Yes, sir.

3 Q Did you ask him about Larisha Thompson?

4 A Yes, I did.

5 Q What was his reaction? What did he say? What was
6 his reaction when you asked him about it?

7 A It was leading into it, then he asked how in the heck
8 did we end up charging him with it, that's not the exact
9 words. At the point when he said that I explained to him,
10 "You were picked out and named by Larisha Thompson as the
11 subject on the outside of that door and picked out of a
12 photo lineup and she signed it." That's when we got the
13 charge and that's when he became irate and terminated the
14 interview.

15 MR. COOK: I don't have any other questions at this
16 time. Please answer anything Mr. Frick has got.

17 THE COURT: Mr. Frick?

18 CROSS EXAMINATION

19 BY MR. FRICK:

20 Q Now, that part, when y'all first start talking about
21 Larisha is when he comes in asking questions about how in
22 the whatever did you charge me with this, was that at the
23 beginning of the interview or the end of it?

24 A No, it came up at the beginning. When he first comes
25 in if it comes up at the beginning we stop him, of course,

1 I want to stay in control of the conversation because I
2 have interviewed Roshune before in the past. So I start
3 off with the night before just why didn't y'all come meet
4 me today and that's where we start off. And he started
5 saying that he was at his aunt's working that day and that
6 they went to the club that night but we -- I started my
7 interview from the night before where I felt he was most
8 comfortable giving me the information.

9 Q Right. But when he first starts he is asking y'all
10 questions about what he is charged with, right?

11 A Yes, sir.

12 Q And you're wanting to make sure that all your basis
13 are covered, calm him down, make sure he understands his
14 Miranda rights, he does and then y'all go into a
15 conversation about the other incident.

16 A The night before incident, yes, sir. He's already
17 aware of why he's charged, it's clearly stated in the
18 warrant when it was read.

19 Q Sure. So you really had a dual purpose, you are
20 investigating two cases at the same time talking to him.

21 A Yes, sir.

22 Q One of them he is not charged, right, the shooting
23 with Steven Blair.

24 A Who is not charged?

25 Q Mr. Carelock.

1 A Mr. Carelock is with Mr. Blair.

2 Q Well, that's what I'm getting at. You are not
3 interviewing him because you believe he's a suspect in
4 that shooting, he's with the guy who got shot.

5 A Yes, sir, that's correct.

6 Q So he is not charged, not expected to be a suspect in
7 that, correct?

8 A Right.

9 Q In the other part he's actually the guy charged as
10 being the shooter, right?

11 A Yes, sir.

12 Q He terminates that interview and what, wants to speak
13 to somebody, correct?

14 A Yes, sir.

15 Q And that's what he chose to do, right?

16 A Yes, sir.

17 Q Before he talked to y'all about the one he's charged
18 in he wanted to make sure he had his basis covered,
19 correct?

20 A Right. But he never lawyered up.

21 Q It wasn't, in fact, Maurice that sees Roshune and
22 them in the store, was it?

23 A No, sir, it was not. It was one of his -- I don't
24 know if it's a family member or just a friend from growing
25 up but it's one of his friends, I assume.

1 Q And apparently something was supposed to be going on
2 because they agreed to go down to Armadillos and hash that
3 out.

4 A Yes, sir.

5 Q Your indication it seems to me from the incident
6 report that was supposed to be more of a physical
7 situation, would you agree?

8 A Well, from his statement he said they were going to
9 take this outside of the store, but during his -- when he
10 was talking about when they went outside they seen more in
11 the car then they said, well, come on, follow us. So
12 Mr. Carelock said they followed him to Armadillos and they
13 got to Armadillos and pretty much nose up with the cars.

14 Q Could you determine whether Maurice was supposed to
15 be at the Texaco station before all of this happened or
16 not?

17 A No. That wasn't even part -- I think it was just a
18 moment where he just walked in, there's somebody -- Tony
19 is there and said, "I've got you cornered."

20 Q All right. And Mr. Carelock's statement is once we
21 get to Armadillos that Mr. Bufford pulls a gun out and
22 fires at the car that Mr. Carelock and Mr. Blair -- was
23 anybody else in the car?

24 A Yes, sir. There is a total of four.

25 Q Four people in the car?

TESTIMONY OF MIKE HOWELL

1 A With Carelock -- or three together.

2 Q Who were the other two, do you recall?

3 A D'Angelo Brown, Antonio Clyburn, I think, and Steven
4 Blair.

5 Q That's fine. But four people were sitting in this
6 car that Mr. Bufford shoots at?

7 A Yes, sir.

8 Q Do we have any idea what this is supposed to be
9 about?

10 A I feel like by his statement and during that
11 interview there's been an ongoing problem with
12 Mr. Carelock and somebody with Maurice and his friends.

13 Q Okay. But we don't know specifically it's between
14 Roshune Carelock and Maurice Bufford or some other people,
15 an acquaintance of them or whatever?

16 A I don't think it originated with Maurice at the
17 beginning, that is a fair enough -- I think it's with one
18 of his friends.

19 Q Okay. Mr. Bufford just kind of become involved.

20 A I can't say how and when.

21 Q That's fine. Based on your investigation of the
22 shooting of Steven Blair, did you charge Mr. Bufford?

23 A Steven Blair the night at the hospital -- one,
24 Mr. Carelock was very uncooperative. Two, Mr. Blair named
25 three street names or nicknames to friends of Maurice.

1 Maurice's name was not brought up by Steven Blair at all,
2 Maurice's name did not come in until Mr. Carelock's
3 interview and Mr. Blair says in his statement the night at
4 the hospital that the driver shot him, Mr. Carelock says
5 the back passenger, which he named the person that shot
6 him.

7 Q You have been an investigator for awhile now, haven't
8 you?

9 A Yes, sir.

10 Q About how long?

11 A Five, six --

12 Q But you have been doing this long enough you know
13 what you need to put a case together.

14 A Yes, sir.

15 Q Mr. Carelock's statement wasn't enough for you to go
16 get a warrant on Mr. Bufford, was it?

17 A No, sir. He's not -- I have got a victim who has
18 been told stories about which scene that it happened at
19 one, and Blair says it happened at the armory, it happened
20 at the Texaco, it happened at Armadillos, And finally he
21 says it really happened at Armadillos.

22 Q All right.

23 A And at the time I did not have a warrant or had that
24 information from Mr. Carelock.

25 Q Now, Mr. Bufford was here?

TESTIMONY OF MIKE HOWELL

1 A Yes, sir.

2 Q We have his report.

3 A Yes, sir.

4 Q I'm sure at some occasion you have had an opportunity
5 to deal with him.

6 A Yes, sir.

7 Q Did you ever interview him in regard to any of the
8 stuff we are talking about here, either shooting?

9 A I spoke to Maurice once. Maurice is not a person I
10 can just go up and ask to come talk to me, I hate to be
11 dishonest, but if he's locked up I can talk to him.

12 Q He's not someone who is readily just going to come
13 down to the sheriff's department to talk to you.

14 A No, sir.

15 Q Would he have a concern maybe you are just trying to
16 arrest him?

17 A Well, he might feel like that; you know.

18 Q If he felt that way --

19 A Word is out on the street already about the first
20 incident.

21 Q All right. So he was not someone who is very
22 friendly with law enforcement and probably y'all didn't
23 have a lot of love loss for him either?

24 A I probably couldn't reach him by telephone.

25 Q Is it fair to say then that there were other people

1 in the community who might not care for him too much?

2 A I don't know. More than likely but I couldn't say
3 who.

4 Q Well, let me ask you this: Does it surprise you that
5 somebody would try to walk up to his front door and fire
6 at him?

7 A That's hard to say, that's being a fair answer, it's
8 hard to say at a home with a female standing there.

9 Q I understand. And we have heard testimony that at
10 one point he's there, at one point he's not there. Do you
11 have any idea in that period of time where he was staying?

12 A No, I do not. Ms. Thompson said to me that he was
13 not staying at the house at the time.

14 Q She said he wasn't staying there?

15 A But that's not to say that wasn't stopping by or
16 spending the night.

17 Q I understand. And someone typically in that
18 life-style doesn't have a steady home, do they, in your
19 estimation? You have been in law enforcement a long time
20 now.

21 A Well, he could go from home -- I assume he has still
22 got family in Twin Pines and to his girlfriend's house.

23 Q In fact, are you aware of any other addresses that he
24 may have listed?

25 A I hadn't dealt with Maurice in some time to give you

TESTIMONY OF MIKE HOWELL

1 a whole lot of answers about it.

2 Q If I told you there was an address on Kettle Drive,
3 would that surprise you?

4 A Well, that's in Twin Pines.

5 Q So that would be?

6 A That is a neighborhood.

7 Q Very good. Okay. Now, let's get to the actual
8 incident. All right. When do you arrive on the scene?

9 A I was the last one.

10 Q That's not unusual as the investigator?

11 A No, sir, it's not.

12 Q You need people to set up the scene to give you
13 information, correct?

14 A It just happened this night I was quicker getting
15 there than normal.

16 Q When you got there you were apprized of the situation
17 but you don't have an opportunity really to speak to
18 Ms. Thompson.

19 A No, sir. I didn't have time to speak with her right
20 then.

21 Q Did you speak with her mom or did you just overhear
22 her saying something?

23 A Overheard her saying.

24 Q Did she say it was Roshune or anybody else other than
25 the victim say it was Roshune?

1 A When I spoke to Deputy Humphries --

2 Q The deputy passed that along, that's what he had
3 heard?

4 A Yes, sir.

5 Q That's what the victim, Ms. Thompson, had told him?

6 A Yes, sir.

7 Q The two pieces of evidence that we've got are the
8 shell casing and the projectile?

9 A Yes, sir.

10 Q I understand we don't have a gun, nothing is
11 recovered from the scene.

12 A No, sir, there wasn't.

13 Q But you didn't feel comfortable about either one of
14 them to get a warrant to see if there was a weapon there?

15 A I was trying to get information on the subject
16 charged standing at the door instead of trying to get a
17 search warrant.

18 Q Once you get the warrant then the work of the
19 investigation has to go on, right?

20 A Yes, sir, it does.

21 Q All right. And a typical tool on that is y'all are
22 going to try and find a weapon if you can.

23 A If you can. You have got to establish -- you have
24 got to tell a judge that you can confirm or positively say
25 the subject went to this residence.

1 Q You had that, didn't you?

2 A I'm talking about at home, he already left the scene,
3 but --

4 Q But you knew who had been there.

5 A Right.

6 Q You had an estimation from the spent shell casing as
7 to what kind of gun you were looking for.

8 A Yes, sir.

9 Q I'm not saying that you had one stable house to go to
10 but you would have had enough to get a search warrant for
11 Mr. Carelock, wouldn't you? A magistrate would have
12 signed it, wouldn't they have?

13 A If I can get enough evidence to say where he is
14 staying.

15 Q Okay.

16 A This is his home, this is where he lives.

17 Q Okay. All right. But we don't have that.

18 A We don't have that.

19 Q Do you know who got Mr. Carelock?

20 A I think -- we obtained a warrant on him, they called
21 and said he was incarcerated.

22 Q That was on the 21st?

23 A That was on the 21st.

24 Q This incident happened on the 20th?

25 A Yes, sir, on the 20th.

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TESTIMONY OF MIKE HOWELL

- 1 Q Okay. Now, I have been doing this long enough to
2 know what you are going to say on this, but you didn't do
3 a GSR kit on him.
- 4 A No, sir, I did not. That is way beyond the time.
- 5 Q There was about a six hour window on him?
- 6 A I think now a days Sled said you have got to do it in
7 about four.
- 8 Q But it was not even attempted?
- 9 A No.
- 10 Q And I know this isn't your area so don't answer if
11 you don't feel like you can, the reason why we do that is
12 because we feel that's the most optimal period of time,
13 right?
- 14 A Yes, sir.
- 15 Q That window?
- 16 A Yes, sir.
- 17 Q What we are looking for in a GSR kit is what,
18 basically the metals from a gun?
- 19 A Gun powder, yes, sir.
- 20 Q While that's the optimal window, it doesn't
21 necessarily mean you are not going to find it, right?
- 22 A That's what Sled has required to be in that window
23 frame.
- 24 Q Okay. And y'all felt --
- 25 A We are clearly passed the hour to does a GSR kit.

1 Q You felt it just wasn't going to be anything that
2 would be helpful.

3 A No, sir.

4 Q And you didn't have any description of the clothing,
5 did you?

6 A No, sir, I didn't.

7 Q So we didn't have any clothing to look at where it
8 could last a good bit longer, right?

9 A It depends. I'm not an expert on what it can last
10 on.

11 Q I understand. And again, I know you are not the
12 forensics person on it. All right. So we don't have that
13 part. Any attempt to do fingerprint lifts?

14 A No, sir. And the reason why on fingerprint lift
15 going by what my victim said she said he's looking at the
16 door, she's not hearing somebody trying to open the door,
17 the window of the door is blown out, the storm glass door
18 is gone, there's nothing to dust there.

19 Q But we have still got the frame, don't we? We have
20 got a metal frame around the storm door.

21 A We do. I made that call that we didn't need to dust
22 the door.

23 Q You felt like there wasn't going to be anything
24 useful on there?

25 A No, sir.

TESTIMONY OF MIKE HOWELL

- 1 Q So no attempt to even dust it?
- 2 A No, sir.
- 3 Q Same thing on the shell casing?
- 4 A Shell casing, we couldn't get a fingerprint.
- 5 Q Did y'all attempt it?
- 6 A I did.
- 7 Q Couldn't get a lift off it?
- 8 A No, sir.
- 9 Q Explain -- I keep saying a lift, tell them what a
10 list is?
- 11 A It's a fingerprint and you need a good bit of
12 fingerprint to actually even run for comparison and there
13 was nothing to even attempt to compare it to.
- 14 Q You didn't find any ridges or anything at all?
- 15 A Nothing of detail.
- 16 Q There was some, but you --
- 17 A No. There was nothing to lift. You could see
18 plainly, you could see a line but nothing to lift.
- 19 Q Now, again, you are not a fingerprint expert, but --
- 20 A I am not.
- 21 Q -- but you've got to make that call on the field.
- 22 A Yes, sir.
- 23 Q Your call was it wasn't working.
- 24 A On the door, no, sir. There was no attempt to do the
25 door.

1 Q On the door then on the shell casing?

2 A There was no fingerprints.

3 Q All right. Now, obviously we know this is a .380
4 because that's stamped on the back of it, correct?

5 A Yes, sir.

6 Q The projectile itself?

7 A I did not send it off. I was hoping to get a gun to
8 send for comparisons.

9 Q Right. Okay. So you are still hoping to get that
10 search warrant I was talking about.

11 A I was hoping to find a gun, yes.

12 Q But we didn't.

13 A No, sir, we didn't.

14 Q Now, the projectile however -- I know it's somewhat
15 deformed because of the way it went through the glass,
16 that is what normally happens, right?

17 A Yes, sir.

18 Q But we can't determine whether that projectile was
19 fired from a .380, can we?

20 A No, sir, we cannot.

21 Q If it would have been sent to Sled, do they have
22 tests that can sometimes determine that?

23 A Yes, sir.

24 Q Okay. But we didn't do that.

25 A No, sir, we didn't.

TESTIMONY OF MIKE HOWELL

1 Q Even without a gun they can do that comparison, can't
2 they?

3 A Determine the caliber of it?

4 Q Right. And I understand it doesn't put a gun in
5 anybody's hand, we would at least be able to say whether
6 the bullet in the house matches the shell casing outside.

7 A Yes, sir.

8 Q We don't know that, right?

9 A We don't know. But a piece of paper from Sled saying
10 that's the bullet that goes with that casing --

11 Q Right.

12 A -- right.

13 Q And that would have been done by a person in the
14 firearms and that's what they do.

15 A Yes, sir.

16 Q Okay. Do we have any other what we call forensics in
17 this case besides the shell casing and the projectile?

18 A No, sir, we do not, no DNA.

19 Q And you didn't take the statement from Ms. Thompson,
20 right?

21 A That one you -- well, I went to the hospital -- I
22 went to the hospital and I showed her this.

23 Q You showed her State's Number 1. You know I'm going
24 to pick on you about this.

25 A Yes, sir.

1 Q Number one and number four in this --

2 A Yes, sir.

3 Q -- that's the same person?

4 A That's the same guy, it is not the defendant.

5 Q Right.

6 A I have put in the RMS system comparison by height
7 weight and age and I made a mistake on that.

8 Q But essentially instead of six choices she had five.

9 A Yes, sir.

10 Q Okay. And that clearly -- she didn't make that
11 choice, I understand that she picks number five.

12 A Yes, sir.

13 Q This occurs while she's in the hospital in the
14 emergency room in fact, right?

15 A Yes, sir, it is.

16 Q And the call was that mom would actually be the --
17 these are her initials, not hers, right?

18 A Yes, sir.

19 Q Okay. We have got the identification from her, but
20 is there any other evidence that points to Mr. Carelock?

21 A Circumstantial and live witness, which is our victim.

22 Q And your circumstantial is this belief of a motive of
23 retaliation, is that what we're talking about?

24 A Yes, sir, it is.

25 Q A motive that you didn't feel like enough to warrant

TESTIMONY OF MIKE HOWELL

1 a charge against Mr. Bufford, right?

2 A Yes, sir.

3 Q The victim was the one saying it was the driver.

4 A Right. He did not name Mr. Bufford.

5 Q Okay.

6 A But yet he seen the same thing.

7 Q Okay. All right. But that's the motive, that's why

8 Mr. Carelock went there that day is retaliation for this

9 whole incident.

10 A Right. That's what I am believing, yes.

11 Q None of the forensic item backs that up.

12 A No, sir. There is no physical evidence to back that

13 up.

14 Q Okay.

15 MR. FRICK: Thank you, Investigator, that's all I have

16 got. Thank you.

17 MR. COOK: Nothing further from the State.

18 THE COURT: You may step down. Call your next

19 witness.

20 Thew witness, DEBORAH THOMPSON, was first duly sworn

21 And testified as follows, on:

22 DIRECT EXAMINATION

23 BY MR. COOK:

24 Q Can you please state your full name for the record,

25 please?

1 A Deborah Chavis Thompson.

2 Q And Ms. Thompson, where do you live? You don't have
3 to give me -- I should say what county do you live in?

4 A Lancaster.

5 Q How long have you lived in Lancaster County?

6 A About five years.

7 Q What is your relationship to Larisha Thompson?

8 A That's my daughter.

9 Q And you remember the night of May 20th of 2007?

10 A Yes, sir.

11 Q And when did you first learn about what happened?

12 A We had went -- we had been sitting around talking --
13 me and my sister and them and I got a telephone call from
14 my daughter and she says, "Mom, I need you to come to my
15 house, I have been shot." I said, "Stop playing because
16 it's too late at night to be playing." And she said,
17 "Mom, I need you to come get my daughter, I have been
18 shot." I said. "Okay. I'm on the way." I got my
19 youngest son to drive me and my sister over to her house.

20 Q Do you remember about what time that was?

21 A No, sir. Honestly, I knew it was late because I was
22 getting ready to go to bed actually.

23 Q Okay. So you got to -- let me say -- she was living
24 at [REDACTED]

25 A Yes, sir.

TESTIMONY OF DEBORAH THOMPSON

1 Q Once you arrived, what was going on?

2 A When I walked in the door they were treating my
3 daughter and I was upset, I asked, "Why." Then I blamed
4 Maurice. I told her that all of this came about because
5 of Maurice. I just felt that way for the simple fact that
6 my daughter don't have any enemies, there's nobody to ever
7 want to do any harm to her, she never bothered nobody. My
8 daughter graduated from college, she has degrees and
9 everything, she goes to work, she takes care of her
10 daughter, she's a single mom and she does the best she can
11 without any help from anybody. She has never had any real
12 problems with anybody. So I just couldn't see why
13 somebody would want to come up and hurt my child.

14 Q Okay. Now, were you aware that Maurice was --
15 Maurice that you were talking about, is that Maurice
16 Bufford?

17 A Yes, sir.

18 Q Were you aware that your daughter and he were -- had
19 a relationship?

20 A Yes, sir.

21 Q And, in fact, they had a child together.

22 A Yes, sir.

23 Q All right. Were you there when EMS was there,
24 Lancaster EMS?

25 A Honestly -- yes, sir, I was. It was -- there were so

1 many people in there. But, yes, I was there.

2 Q And at some point your daughter left in an ambulance,
3 right?

4 A Yes, sir.

5 Q You were not in an ambulance when she left?

6 A No, sir..

7 Q Did you end up going to the hospital she was going
8 to, the Springs Memorial?

9 A Yes, sir. I got my youngest son to take me there.

10 Q All right. Once you got to the hospital, what did
11 you do?

12 A I went back in the room with her. Our family was in
13 the waiting room, I went back in the room where she was at
14 and I just kept rubbing the top of her head telling her
15 she was going to be okay, don't worry about it, she would
16 be okay. I told her she would just have to stay positive
17 because she has a child. So I stayed back in the room
18 with her for a little while and then I was getting upset
19 because when I first saw her she begged me not to cry
20 because she knew I would and I tried my hardest not to.
21 So I came out for a little while just so I could go cry
22 and then I could go in front of her and not be crying.

23 Q What was her -- what was her appearance?

24 A Sherrell is the more calmest -- I had four, she's
25 about the calmest one in the whole bunch so everyone else

1 would be upset. All she kept saying is don't cry. She
2 was upset but she wasn't -- she was more calmer than I
3 was.

4 Q What were her injuries?

5 A Of her eye.

6 Q Did she have any blood on her?

7 A She was bloody all over and you could see the glass
8 that was sticking out of her eye.

9 Q All right. At any time in the hospital did you come
10 into contact with Investigator Mike Howell?

11 A Yes, sir.

12 Q And when was that?

13 A He came in and wanted to bring in a lineup and asked
14 her did she know who he was. And I was standing beside
15 her, she was laying in the bed, I was standing on this
16 side, he was staying on this side right here; he gave her
17 the picture to look at and when he gave her the picture --

18 Q Let me stop you right there. That's what he was
19 going to show. This was marked for identification as
20 State's Exhibit 1. And can -- have you scene that before?

21 A Yes, sir.

22 Q Is that the lineup that Investigator Howell had at
23 that time?

24 A Yes, sir.

25 Q Okay. Let me just keep that. Well, let me -- I will

TESTIMONY OF DEBORAH THOMPSON

1 just leave that right here. Investigator Howell, what
2 did -- he showed the lineup to your daughter?

3 A Asked her did she recognize anyone.

4 Q And did she recognize somebody?

5 A Yes, she recognized number five.

6 Q All right. And who wanted you -- well, let me go
7 back. What is the DT?

8 A My first name and my last name, it stands for Deborah
9 Thompson.

10 Q Did somebody ask you to do that?

11 A I signed for her because she was laying down. They
12 didn't want her to lift her head up because they was
13 trying to get all of the blood, you know, stop dripping
14 and everything, her hands was bloody. So the detective
15 asked me could I initial them for her after she showed me
16 which one it was.

17 Q And, in fact, the DT are your initials?

18 A Yes, sir.

19 MR. COOK: At this time the State would like to
20 introduce the lineup into evidence as Exhibit 1.

21 MR. FRICK: Objection as previously stated.

22 THE COURT: Objection noted, overruled, admitted.

23 (The lineup was received as State's 1.)

24 Q Did you talk with law enforcement anymore that day?

25 A Not that day I didn't, no, sir.

TESTIMONY OF DEBORAH THOMPSON

1 Q Any other times?

2 A Later on we went out and talked to the detective.

3 Q All right.

4 MR. COOK: No other questions at this time.

5 THE COURT: Mr. Frick?

6 CROSS EXAMINATION

7 BY MR. FRICK:

8 Q Mrs. Thompson, you and your daughter are pretty
9 close.

10 A Yes, sir.

11 Q At the time of this incident was Maurice Bufford
12 living with her?

13 A Maurice Bufford and Sherrell has already been on and
14 off always from the time she lived with me until the time
15 she moved out. They are like oil and water, they can't
16 stay away from each other but they can't get along
17 together either.

18 Q On this particular date, do you know whether they
19 were staying together or off and on?

20 A Under my knowledge I know is they were off and on, I
21 don't know if he was staying with her.

22 Q You don't know whether he had his stuff or whether he
23 was staying there?

24 A I didn't see his stuff and I go there everyday.

25 Q You said you did or didn't?

1 A I do -- I go there everyday, I didn't see any of his
2 stuff.

3 Q You hadn't seen it. Okay. All right. When you are
4 in the hospital obviously you are upset because your
5 daughter is there injured, you don't understand the extent
6 of the injuries, you don't know what's going to happen but
7 she's the calm one and you are upset.

8 A Yes.

9 Q Okay. And when this lineup comes she looks at it and
10 you are the one who is asked to initial it?

11 A Yes, sir.

12 Q And it was Investigator Howell that asked you to
13 initial it.

14 A Yes, sir.

15 Q You weren't present when the shooting actually
16 occurred.

17 A No, sir.

18 Q It has been said, I think you said it yourself here,
19 that you believe this was all over Maurice.

20 A Yes, sir, I did.

21 Q Why do you feel that way?

22 A Based out in the streets, you know, I feel like when
23 guys is out in the street hanging out too late and
24 clubbing and everything, you never know who is mad at who
25 no more so that's why I feel like it was over him.

1 Q Okay.

2 A Because I didn't feel like my daughter had any
3 enemies.

4 Q Okay. All right. I understand. And I'm not asking
5 you to say that you disagree with your daughter, but do
6 you believe that there are other people who had problems
7 with Maurice?

8 A Probably, I'm not sure.

9 Q So you of your own knowledge don't know whether or
10 not Roshune Carelock was on that stoop or not.

11 A No. I just know by what my daughter told me.

12 Q I understand. Okay.

13 MR. FRICK: Thank you, Ms. Thompson. That's all I
14 have got.

15 THE COURT: Thank you, Mr. Frick. Anything,
16 Solicitor?

17 MR. COOK: No other questions, or that's all.

18 THE COURT: Thank you. You may step down. You may
19 call your next witness.

20 MR. COOK: May we approach?

21 (A bench conference was held.)

22 THE COURT: Ladies and gentlemen, we are going to call
23 it a day. I need to tell you a couple of things, you can
24 either stand or sit. What you are getting ready to do is
25 the hardest thing in the world that you can imagine, when

1 you leave here you are going to go home and see somebody or
2 you are going to go somewhere and see a friend, a loved
3 one, somebody and they're going to say, "What are you
4 doing?" And you are going to say, "Well, I'm on the jury."
5 And they're going to say, "What case is it," or, "What kind
6 of case is it?" When you open that door you invite the
7 possibility they're going to tell you what they think about
8 either this case because they have heard somebody say that
9 they heard somebody say that they heard somebody say
10 something about one of the people involved in this case, or
11 something along those lines. And I'm going to ask you to
12 tell them that you will let them know everything they want
13 to know tomorrow once we finish this case. And I'm going
14 to ask you to tell them don't talk to me about the case, we
15 will do it all tomorrow. 9:30 is what I was thinking about
16 coming back in the morning unless y'all want to come back
17 earlier or later, I don't know how y'all feel. We can come
18 become any other time 8:00. 9:30 is what I was thinking.
19 I'm getting a lot of nods. When you come back in the
20 morning what I would like for you to do is when you first
21 gather up in the jury room see if you can agree for a
22 person to serve as foreperson of the jury to represent the
23 jury. I don't want you to get in a fuss or fight over it
24 because if you can't agree on it I can appoint somebody but
25 if y'all can agree on somebody to be the foreperson I would

1 like for you to try to do that. Any problems? Any
2 questions? See you back at 9:30 in the morning? Thank you
3 so much.

4 (The jury left the courtroom.)

5 THE COURT: The State is getting ready to rest.

6 Anything you want to say in response to that?

7 MR. FRICK: I would prefer to wait in the morning to
8 make sure he wants to rest.

9 THE COURT: I know that. Do you think this would be a
10 good time for me to talk to your client about his right to
11 testify or not testify?

12 MR. FRICK: I would disagree. We haven't had an
13 opportunity to discuss the ramifications of that.

14 THE COURT: We will do it first thing in the morning.

15 MR. FRICK: We can be here a little bit earlier if
16 that would satisfy the Court but I have not had an
17 opportunity to explain that to him.

18 THE COURT: Any other problems that we're going to
19 need to take care of this evening?

20 MR. FRICK: None I'm aware of, Your Honor.

21 MR. COOK: No, sir.

22 (Court recessed for the evening and resumed on
23 Wednesday, January 27, 2010 at 9:30 a.m.)

24 THE COURT: All right, gentlemen. Is the State ready
25 to proceed? Is the State ready to rest?

TESTIMONY OF DEBORAH THOMPSON

1 MR. COOK: Yes, sir.

2 MR. FRICK: Your Honor, I would make the standard
3 directed verdict motion. In the light most favorable to
4 the State I do not believe there has been enough evidence
5 to send the case to the jury to be decided on as a matter
6 of law and I don't think you have enough evidence. I think
7 what you have got is circumstantial and not sufficient
8 enough to satisfy the standard.

9 THE COURT: I understand the motion and deny the
10 motion. Would this be a good time or not, Mr. Frick, for
11 me to discuss with your client his right to testify?

12 MR. FRICK: Your Honor, I think it would be a perfect
13 time.

14 THE COURT: Mr. Carelock, at this time I am going to
15 explain to you certain of your rights, and if you don't
16 understand anything that I say to you in the next few
17 minutes, please ask me to stop and I will try to speak more
18 distinctly or try to explain in better detail. We have now
19 reached the stage in the proceedings where you have the
20 right to present your defense. You also have a right to
21 claim the protections given to you by the 5th Amendment of
22 the Constitution of the United States of America, which
23 amendment states in part as follows: That no person should
24 be compelled in a criminal case to be a witness against
25 himself, and this means that you cannot be compelled to

TESTIMONY OF DEBORAH THOMPSON

1 testify. You have the right to testify, however no one can
2 make you testify. And this is a personal right that you
3 have that no one can waive except you. If you do decide to
4 testify you would be subject to the same rules that govern
5 other witnesses and you may be examined and cross examined
6 on any relevant issue in the case. In addition if you have
7 any convictions for any crimes involving dishonesty or
8 false statement, or for crimes punishable by imprisonment
9 for more than one year and the Court determines that the
10 probative value of admitting this evidence outweighs the
11 prejudicial effect to you, the solicitor would be able to
12 introduce your record to attack your credibility. If you
13 do decide to testify this decision on your part must be
14 made freely and voluntarily with the knowledge of the
15 protections given to you by the 5th Amendment and the
16 consequences of your decision to testify. If you decide to
17 testify -- if you decide not to testify I will tell the
18 jury that they cannot hold that against you, that they
19 cannot give any consideration to that fact whatsoever so
20 there is to be no prejudice to you because you did not
21 testify. So that's entirely up to you as to whether you
22 wish to do this. Of course, you can discuss this with
23 family, friends, your attorney or anyone else you want to
24 but you have to make the final decision. So far do you
25 understand what I have said?

TESTIMONY OF DEBORAH THOMPSON

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you have any questions?

3 THE JUROR: No, sir.

4 THE COURT: Have you made a decision about what you
5 wish to do?

6 THE DEFENDANT: Yes, sir. I wish to testify.

7 THE COURT: You wish to testify?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, as far as any record is concerned.

10 MR. COOK: He has got a breaking and entering,
11 breaking into fuel tanks and a grand larceny one to five in
12 2006.

13 THE COURT: Is that five?

14 MR. FRICK: It gets kind of difficult, what may or may
15 not be a revocation. I know at some point --

16 THE COURT: What does the State intend to --

17 MR. COOK: I'm going to intend -- basically the two
18 grand larcenies one to five and burglary second violent and
19 burglary second non-violent.

20 THE COURT: Four?

21 MR. FRICK: And my only concern would be the jury is
22 not going to know the difference between burglary violent
23 and non-violent, that's clearly a statutory instruction.
24 They're going to hear violent and think this is some kind
25 of -- we don't know the facts of it, I think just simply

1 saying burglary is sufficient.

2 THE COURT: Solicitor?

3 MR. COOK: It is what it is.

4 THE COURT: No. I agree with the defense, the
5 burglary without any reference to violent or non-violent.

6 MR. FRICK: Right.

7 (The jury returned to the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen. I
9 understand from the bailiff that the jury has selected
10 Mr. Donnie Ledford to serve as foreperson, juror number 73.

11 THE JUROR: Yes, sir.

12 THE COURT: A very wise decision. Thank you for
13 serving, Mr. Ledford. One thing before we begin, ladies
14 and gentlemen. There was a witness that I need to ask you
15 about, a potential witness that was not -- I did not
16 mention to you yesterday. An individual may testify in
17 this case known as Carlos Massey and I'm going to ask
18 Mr. Massey if he would stand. I believe he's in the
19 courtroom. All right, thank you, sir. So I need to ask
20 you those same questions I asked you earlier about other
21 witnesses, ladies and gentlemen. Is anybody -- is any
22 member of the jury panel related by blood or marriage to
23 that witness, to that witness Carlos Massey. If so, please
24 raise your hand. Is any member of the jury panel a close,
25 social or personal friend of Mr. Carlos Massey? If so,

TESTIMONY OF DEBORAH THOMPSON

1 please raise your hand. Any other questions concerning Mr.
2 Massey?

3 MR. COOK: Not from the State, Your Honor.

4 MR. FRICK: Nothing from defense.

5 THE COURT: And now we are still in the presentation
6 of the State's case. Solicitor, did you have an additional
7 witness?

8 MR. COOK: Not at this time, Your Honor. No, sir,
9 Your Honor, at this time the State rests.

10 THE COURT: And Mr. Frick?

11 MR. COOK: Thank you, Your Honor. The defense calls
12 Carlos Massey.

13 The witness, CARLOS MASSEY, was first duly sworn and
14 Testified as follows, on:

15 DIRECT EXAMINATION

16 BY MR. FRICK:

17 Q Your name is Carlos Massey?

18 A Yes, sir.

19 Q Now, what I'm going to need you to do is everybody
20 has got to be able to hear you so make sure and speak into
21 that microphone.

22 A Yes, sir.

23 Q Can you spell your last name for us?

24 A M-a-s-s-e-y.

25 Q Thank you, Mr. Massey. Now, Mr. Massey, do you know

1 Mr.. Carelock?

2 A Yes, sir.

3 Q How long have you been knowing him?

4 A For about ten years.

5 Q About ten years?

6 A Yeah.

7 Q Y'all hang out together?

8 A Yes, sir.

9 Q Okay. Were y'all friends back on May 20th of 2007?

10 A Yes, sir.

11 Q Do you recall where you were on May 20th of 2007?

12 A Yes, sir.

13 Q Where were you?

14 A I was at American Legions, and then --

15 Q Go slowly. All right. Now, what time did you say
16 you were at the American Legion?

17 A We left about 9:30 or 10:00.

18 Q Left and went where, whose house?

19 A 10th Street, Tony Clyburn's house.

20 Q All right. Now, who was in this group?

21 A Me, Tony Clyburn and Mr. Carelock and Savachio

22 Cunningham.

23 Q So about 10:00 or so y'all left there and go where?

24 A To the American Legion, it's beside the fair grounds.

25 Q Now, is it known by any other name or do you know it

1 by any other name or have you heard it called anything
2 else?

3 A Not to my knowledge.

4 Q Y'all go there for what?

5 A It was a party.

6 Q Just what, kind of a work party?

7 A I don't think -- it was just a party.

8 Q Y'all got there about what time?

9 A We got there about 10:00.

10 Q How long did y'all stay?

11 A We stayed for a few hours, maybe three hours, you
12 know, and then we went to the Crenco.

13 Q What Crenco did you go to? The one that's on Main
14 Street?

15 A Uh-huh. Yeah, that one right there.

16 Q Do you have any idea about what time you were at that
17 Crenco?

18 A No, sir.

19 Q Did y'all go directly from the American Legion and go
20 to Crenco?

21 A No, sir.

22 Q Y'all didn't stop anywhere along the way?

23 A No, sir.

24 Q Did y'all go by Washington Street on your way?

25 A No, sir.

TESTIMONY OF CARLOS MASSEY

- 1 Q When you left Crenco, where did you go?
- 2 A Back to 10th Street.
- 3 Q About how long were you at Crenco? Any idea?
- 4 A It was a couple of minutes, probably about I would
- 5 say 10 or 15 minutes.
- 6 Q Okay. Were y'all walking or driving?
- 7 A Driving.
- 8 Q Who was driving?
- 9 A Tony Clyburn.
- 10 Q Was Roshune Carelock with you?
- 11 A Yes, sir.
- 12 Q Did he stay with you the whole time?
- 13 A Yes, sir, until the next morning.
- 14 Q That night when y'all were at the club and when you
- 15 were going to Crenco, did he leave you?
- 16 A No, sir.
- 17 Q Stayed with you until the next morning. Now, when
- 18 you say next morning, when are you talking about?
- 19 A To the next morning, to the next day, like when the
- 20 sun is up.
- 21 Q He stayed over with y'all on [REDACTED]?
- 22 A Yes, sir.
- 23 Q Did you ever see him leave?
- 24 A No, sir.
- 25 Q Did you leave?

- 1 A No, sir.
- 2 Q Now, let's go ahead and get this out in the open.
- 3 You ain't a perfect person, right?
- 4 A No.
- 5 Q You are currently on probation, aren't you?
- 6 A Yes, sir.
- 7 Q What are you on probation for?
- 8 A I am on probation for simple possession.
- 9 Q Of?
- 10 A Cocaine.
- 11 Q All right. And you also had another charge, you did
- 12 have a gun charge at some point, right?
- 13 A Yes, sir.
- 14 Q And that was what?
- 15 A When it was or what was it?
- 16 Q What kind of charge was it?
- 17 A It was possession of a firearm on grounds where they
- 18 sell alcohol or something like that.
- 19 Q Basically they charged you with having a gun at a
- 20 club.
- 21 A Yeah.
- 22 Q Did you get charged with shooting a gun?
- 23 A No, sir.
- 24 Q Had you been charged with shooting a gun before?
- 25 A No, sir.

TESTIMONY OF CARLOS MASSEY

1 Q This was just simply possession?

2 A Yes, sir.

3 MR. FRICK: That's all I have got. Thank you, sir,
4 answer any questions the solicitor has.

5 THE COURT: Thank you, Mr. Frick. Solicitor?

6 CROSS EXAMINATION

7 BY MR. COOK:

8 Q Mr. Massey, what is your relationship with
9 Mr. Carelock?

10 A Good friend.

11 Q Friend? You are not related in any way?

12 A No.

13 Q You said you've known him for about ten years. How
14 did you get to know Mr. Carelock?

15 A Because his brother went to school with my first
16 cousin and they used to hang out a lot.

17 Q Where was that, at what school?

18 A That was at -- I guess it was at Lancaster. They
19 probably came up through the school, you know, I mean
20 together while they were hanging together. That's my
21 family so whenever they come over I see them, that kind of
22 way.

23 Q So you knew -- you grew up with his brother; is that
24 right?

25 A No, my cousin.

- 1 Q And who is that?
- 2 A That's Mikey Cunningham.
- 3 Q Mikey Cunningham?
- 4 A Yeah.
- 5 Q And you testified about hanging out. What do you
- 6 mean by hanging out?
- 7 A You know how it is, hanging out every other day,
- 8 chill, drink, that kind of sort of thing, hang out.
- 9 Q Do you go to clubs often?
- 10 A On occasion.
- 11 Q How often do you go to this American Legion?
- 12 A I don't too much go like that, I just didn't have
- 13 nothing to do and just went out.
- 14 Q So you're saying that on the 20th you and
- 15 Mr. Carelock and who else?
- 16 A Tony Clyburn and Savachio Cunningham.
- 17 Q Y'all were at the American Legion?
- 18 A Yeah.
- 19 Q That's by the fair ground?
- 20 A Yeah.
- 21 Q Were y'all drinking that night?
- 22 A Yeah.
- 23 Q And you said that the American Legion is not known by
- 24 any other name?
- 25 A I mean, not as I know of, maybe it is.

TESTIMONY OF CARLOS MASSEY

- 1 Q As far as you know people you hang out with, they
2 just all say American Legion and nothing else?
- 3 A Yeah.
- 4 Q Are you working anywhere?
- 5 A No, sir.
- 6 Q How old are you?
- 7 A Twenty-three.
- 8 Q You're not working?
- 9 A No, sir.
- 10 Q And you also testified that you got a gun charge and
11 that was from being in possession of a -- with a pistol?
- 12 A No, a rifle.
- 13 Q A rifle in a club?
- 14 A Not in a club, I was sitting in the car.
- 15 Q You were sitting in the car, but it was at a club?
- 16 A Yeah.
- 17 Q And you had a need to have a rifle at a club?
- 18 A Not really, I ain't have no need. I had just came
19 back from hunting, we stopped at the club on 521.
- 20 Q And let's go back to the American Legion. You
21 mentioned that party, what kind of party?
- 22 A I mean, it was a youth party you could say but I
23 don't really know what kind of party. It was dancing,
24 that kind of fun.
- 25 Q A lot of people there?

- 1 A Yeah.
- 2 Q And you said that Antonio Clyburn is who was driving?
- 3 A Yeah.
- 4 Q Who's vehicle were you in?
- 5 A Antonio Clyburn's.
- 6 Q What kind of vehicle, like model, what was it?
- 7 A I think it was an Honda, I don't know what model.
- 8 Q It was a what?
- 9 A Honda.
- 10 Q But you don't know the model?
- 11 A No, sir.
- 12 Q Have you ridden in that car a lot?
- 13 A Yeah, I ridden it.
- 14 Q You don't know the model? Do you remember who was
- 15 seated where?
- 16 A No.
- 17 Q Do you know where you were seated?
- 18 A Yeah, in the back seat.
- 19 Q In the back seat?
- 20 A Yeah.
- 21 Q You don't remember who was next to you?
- 22 A I am pretty sure Savachio was beside me.
- 23 Q So you were at the party. Were you drinking? I
- 24 think you said you were.
- 25 A (Nods head in the affirmative.)

TESTIMONY OF CARLOS MASSEY

1 Q Did you do anything else?

2 A No.

3 Q No drugs or nothing?

4 A No.

5 Q You said you went to Crenco?

6 A Yes, sir.

7 Q What did y'all do there?

8 A Nothing. I didn't even get out, you know what I'm
9 saying?

10 Q You didn't get out?

11 A No, Mr. Carelock got out.

12 Q And from Crenco -- let me go back. Who got out of
13 the car?

14 A Roshune.

15 Q And he was the only one?

16 A Yeah. I mean, to my knowledge, I'm making sure.

17 Q And then you said you then went to [REDACTED]?

18 A Yes, sir.

19 Q You lived on [REDACTED]?

20 A No, Antonio Clyburn stay on [REDACTED].

21 Q Antonio Clyburn, that's his house?

22 A Yes.

23 Q Have you been there a lot?

24 A Yeah, I have been there a lot.

25 Q You don't know the address?

1 A No, sir.

2 Q And you said it takes about ten or 15 minutes to get
3 from Crenco to [REDACTED]?

4 A About five minutes.

5 Q Five minutes?

6 A Yeah.

7 Q And you were -- how do you get from 10th Street to
8 Crenco?

9 A You go straight back behind Crenco and just keep
10 straight until you see [REDACTED] on the left.

11 Q So [REDACTED] it is on the left. Which street do you
12 have to go down?

13 A Brooklyn Avenue.

14 Q And you also testified that you were with
15 Mr. Carelock that whole night?

16 A Yes, sir.

17 Q Did you ever go to sleep?

18 A Not really. We all went to sleep, we went to sleep
19 together.

20 Q Was there any time that you were sleeping and you may
21 not have known somebody was in the house?

22 A No.

23 Q So you were awake?

24 A I mean, no. I'm saying no, I never went nowhere.

25 Because when I went to sleep I woke up and he was still

1 there, I woke some up at times and he was still asleep.

2 Q But when you were sleeping you don't know anything

3 when you were sleeping.

4 A No. I'm pretty sure he didn't go anywhere.

5 Q You're pretty sure?

6 A Yeah.

7 Q And you said you have been friends for ten years.

8 A Yeah.

9 Q How good of friends?

10 A I mean, just -- we were friends, like close.

11 Q If he needed help you would help him, right?

12 A It depends on what it is.

13 Q If he needed help with something you would help him.

14 A Yeah. Depends on what it is, yeah.

15 Q And I guess y'all run together, y'all hang out at
16 night and go to clubs and you hang out at Antonio's house
17 with everybody. So would you say that you are close
18 friends?

19 A Yeah.

20 Q Would you want to see him go to jail possibly?

21 A No.

22 Q When you would want to help him out, though, you
23 wouldn't want to see him go to jail, would you?

24 A No.

25 MR. COOK: One moment, Your Honor.

1 (Break in proceedings.)

2 MR. COOK: No other questions.

3 THE COURT: All right..

4 MR. FRICK: One briefly, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FRICK:

7 Q You understand if you came up here and lied, you
8 would be the one going to jail, though, don't you?

9 A Yes, sir.

10 Q Are you lying?

11 A No, sir.

12 Q Are you protecting your friend?

13 A No, sir.

14 Q Are you telling the truth?

15 A Yes, sir.

16 Q Any doubt in your mind?

17 A No, sir.

18 MR. FRICK: Thank you, sir.

19 THE COURT: All right. Thank you, sir, you can step
20 down. Call your next witness.

21 MR. FRICK: Defense would call Antonio Clyburn.

22 The witness, ANTONIO CLYBURN, was first duly sworn

23 And testified as follows, on:

24 DIRECT EXAMINATION

25 BY MR. FRICK:

TESTIMONY OF ANTONIO CLYBURN

- 1 Q Your name is Antonio Clyburn?
- 2 A Yes, sir.
- 3 Q Can you spell your last name for us?
- 4 A C-l-y-b-u-r-n.
- 5 Q Make sure to lean into that microphone a little bit.
- 6 A I've got you.
- 7 Q Don't be afraid to speak up. Okay?
- 8 A All right.
- 9 Q You know Mr. Carelock?
- 10 A Yes, sir.
- 11 Q How long have y'all known each other?
- 12 A Basically my whole life.
- 13 Q How do you know him?
- 14 A That's my cousin.
- 15 Q Your cousin?
- 16 A Yes, sir.
- 17 Q Y'all hang out together?
- 18 A Yeah. I hang out with him. I don't too much hanging
19 out, I be in the house.
- 20 Q But, I mean, you heard what Mr. Massey said,
21 everybody was coming over to your house that evening?
- 22 A Yes, sir.
- 23 Q Is that a regular thing?
- 24 A Not really, it ain't really no regular thing,
25 probably every other weekend. Because as you can see they

1 came over to my house because I don't really go nowhere.

2 Q All right. Are you working?

3 A No, sir.

4 Q Were you working at the time?

5 A I don't think I was.

6 Q That's fine. But you still stay on [REDACTED]?

7 A No, sir.

8 Q You have moved from there now?

9 A Yes, sir.

10 Q Are they still coming over to your house?

11 A Yeah, every now and again. They come over to my
12 house every now and again.

13 Q About the same as it was?

14 A No, just a little, cut down a little bit. It ain't
15 that regular no more.

16 Q Now, you heard me ask about May 20th, I guess
17 everything probably really again on the 19th, but that
18 evening, do you recall where you were?

19 A At the house. I believe I had went to the club that
20 night, I mean to the American Legion, other than that --

21 Q Okay. Now, when you say we went to the American
22 Legion, who are you talking about?

23 A Carlos, Roshune and Savachio.

24 Q That's Savachio?

25 A Yes, sir.

TESTIMONY OF ANTONIO CLYBURN

1 Q What time did everybody start coming over to your
2 house?

3 A It was around about -- we chilled around about 9:00,
4 between about 8:30 and 9:30, somewhere up around in there
5 everybody started coming. Then we got together, whatever,
6 chilled for a little bit, that's when we decided to go
7 there because there wasn't really anything else to do.

8 Q There wasn't really a plan, y'all heard there was a
9 party and everybody headed over there?

10 A Yes, sir.

11 Q Do you recall what kind of a party it was?

12 A No, sir, it was just a party.

13 Q What time did y'all get there, any idea?

14 A About between 9:30 and 10:00.

15 Q Do you recall how long y'all stayed?

16 A Few hours.

17 Q Do you recall when you left?

18 A I can't really.

19 Q That's fine, we're talking about a couple of years
20 ago. But you recall y'all were there for awhile?

21 A Yeah.

22 Q Did y'all stay together?

23 A What do you mean did y'all stay together?

24 Q When y'all were at the club.

25 A Yeah. We were just chilling at the back. I didn't

- 1 dance, we were just chilling at the back.
- 2 Q Okay. And Mr. Massey was still with you?
- 3 A Yes, sir.
- 4 Q Mr. Carelock still with you?
- 5 A Yes, sir.
- 6 Q Okay. Savachio still with you?
- 7 A Yes, sir.
- 8 Q All right. At some point y'all decided it's time to
- 9 leave?
- 10 A Yeah.
- 11 Q Where did y'all go?
- 12 A We went to Crenco.
- 13 Q Which Crenco?
- 14 A Right there across the street from -- right there on
- 15 Main Street.
- 16 Q Okay. Now, you're calling it the American Legion
- 17 club. Do you know it by any other name or have you heard
- 18 it called any other name or --
- 19 A No, just American Legion.
- 20 Q Okay, that's fine. Okay. After Crenco what did
- 21 y'all do?
- 22 A We went -- after Crenco we went straight to the
- 23 house, you know.
- 24 Q Now, did you go inside Crenco?
- 25 A I don't think I did. I don't think I did.

1 Q Who went inside Crenco if anybody?

2 A Honestly I couldn't recall who went in Crenco, it's
3 been so long ago I can't recall it.

4 Q I understand, that's fine. Any idea how long y'all
5 were at Crenco?

6 A Between probably about 15 minutes, probably about 15
7 or 20 somewhere up in there, around 15.

8 Q Left Crenco, went where?

9 A Straight to the house, 10th Street.

10 Q Did you stop anywhere along the way?

11 A No, sir.

12 Q How long did it take you to go back from Crenco to
13 your place?

14 A Probably about a couple of minutes.

15 Q Had y'all picked up anybody or dropped anybody off?

16 A No, sir.

17 Q So everybody who left your house went to the club,
18 went to Crenco and are still together?

19 A Yeah.

20 Q You, Carlos, Savachio and Mr. Carelock?

21 A Yes, sir.

22 Q All right. At any point did you see Mr. Carelock
23 leave you that evening?

24 A No, sir.

25 Q Did he stay over at your house that evening?

- 1 A Yes, sir..
- 2 Q Did he at some point ever leave?
- 3 A No, sir.
- 4 Q Did he spend the night?
- 5 A No, sir.
- 6 Q Did he stay there until the morning?
- 7 A Yes, sir.
- 8 Q When you're saying morning, what is morning?
- 9 A When the sun come up.
- 10 Q So it was really morning?
- 11 A Yeah, it was morning.
- 12 Q Not just early morning hours, the morning?
- 13 A Yes, sir.
- 14 Q Y'all just kind of just chilling at the house or
- 15 what?
- 16 A Yeah, basically just chilling, everybody just
- 17 chilling at the house.
- 18 Q Everybody just passed out on the floor or what did
- 19 you do?
- 20 A Basically when I got back to the house I just started
- 21 drinking then because I didn't drink before I left.
- 22 Q You were the one driving, right?
- 23 A Yeah, that was it. When I got back to the house I
- 24 had some beer or whatever and just started drinking that.
- 25 Q Okay. Everybody just start falling asleep, or what

TESTIMONY OF ANTONIO CLYBURN

1 happened with that?

2 A I was watching TV and I had watched TV a little bit.

3 After we watched TV we started listening to the radio,

4 then everybody started falling asleep. I'm pretty sure I

5 was the last person to fall asleep.

6 Q If you were the last person to fall asleep, was

7 Mr. Carelock still there?

8 A Yeah, he was still there. Basically I think he was

9 the second person that fell asleep.

10 Q When you woke up the next morning, was he still

11 there?

12 A Yes, sir.

13 Q Now, not to embarrass you but you ain't no perfect

14 person either, are you?

15 A No, sir.

16 Q Are you currently on probation?

17 A Yes, sir.

18 Q What are you on probation for?

19 A Cocaine and crack charge.

20 Q Possession charge?

21 A Yes, sir, simple possession.

22 Q Is there any doubt in your mind that Carelock was

23 with you the entire time on that evening from the 19th to

24 the 20th?

25 A I ain't trying to be funny, unless my eyes were

1 playing tricks on me I know I seen him the whole time he
2 was with me.

3 Q All right. Now, solicitor is going to ask you about
4 protecting your friend. Obviously y'all were pretty
5 close.

6 A Yes, sir.

7 Q And you were doing a lot of stuff to help him out.

8 A Yes, sir, you know, yes, sir.

9 Q But as we all understand that if you came up here and
10 lied for him today that you would be the one facing jail
11 time.

12 A Yes, sir.

13 Q Are you lying for him?

14 A No, sir.

15 MR. FRICK: That's all.

16 CROSS EXAMINATION

17 BY MR. COOK:

18 Q Mr. Clyburn, for somebody who didn't have a real good
19 memory you have a good memory about that night. You say
20 you have known him your whole life?

21 A Yes, sir.

22 Q How are you related to him?

23 A Cousin.

24 Q How close?

25 A Cousin, you know.

TESTIMONY OF ANTONIO CLYBURN

- 1 Q First cousin, second cousin or third cousin?
- 2 A First cousin.
- 3 Q You hang out with him a lot. Do you still hang out
- 4 with him?
- 5 A Yeah. I still hang out with him, not a lot but I
- 6 still hang out with him.
- 7 Q How often would you see him?
- 8 A Out of a week, probably two days a week, you know.
- 9 Q How old are you?
- 10 A Twenty-two.
- 11 Q You say you moved from [REDACTED]. Where do you
- 12 live now?
- 13 A [REDACTED].
- 14 Q Do you work?
- 15 A No, sir.
- 16 Q Who do you live with?
- 17 A I live by myself.
- 18 Q How do you live by yourself if you don't have a job?
- 19 How do you keep your house up?
- 20 A I pay rent.
- 21 Q You pay rent?
- 22 A Actually I'm behind now.
- 23 Q You don't have a job?
- 24 A No, sir. I just recently got fired from my job.
- 25 Q All right. Let's talk about that night. You said

1 8:00 or 9:00 Savachio Cunningham and Carlos Massey and
2 Roshune are coming to your house, y'all are just kind of
3 getting ready?

4 A Yes, sir. Actually it was 8:30 or 9:00 or something
5 like that.

6 Q What time did you leave your house?

7 A Between 9:30 and 10:00, somewhere up in there.

8 Q You were driving?

9 A Yes, sir.

10 Q Who was sitting in the passenger's seat?

11 A Roshune Carelock.

12 Q Savachio and Carlos were in the back?

13 A Yeah.

14 Q What were you driving?

15 A '94 Honda Accord.

16 Q What color?

17 A Burgundy.

18 Q Did you go straight from your house on 10th Street to
19 American Legion?

20 A Yes, sir.

21 Q And you have never called it anything else?

22 A No, sir.

23 Q American Legion is American Legion?

24 A Yes, sir.

25 Q You say you stayed there for a few hours.

TESTIMONY OF ANTONIO CLYBURN

- 1 A Yeah, about a few hours, about a few hours.
- 2 Q Y'all decided to leave. What time during -- you said
- 3 you didn't really remember what time it was?
- 4 A No, sir.
- 5 Q Midnight?
- 6 A Well, let me see, I know I went to sleep -- I know we
- 7 went to sleep around about -- I went to sleep around about
- 8 4:00, 5:00 and I know at least an hour and a half or two
- 9 hours when we got to the house after we got to the house.
- 10 So let me see, so we got to the house around about 2:00,
- 11 1:30 or 2:00.
- 12 Q Didn't you tell Mr. Frick that you didn't have a real
- 13 good memory?
- 14 A Yeah. But I just now added it up, went to sleep at
- 15 5:00, we come got home around about --
- 16 Q That's pretty good two and a half years, ain't bad.
- 17 Where did you go after you left the club?
- 18 A After I left the club? Crenco.
- 19 Q All right. Did Roshune Carelock and Savachio
- 20 Cunningham and Carlos leave the club with you?
- 21 A Yeah. Everybody that came with me left the club with
- 22 me.
- 23 Q What did you get at Crenco?
- 24 A I don't recall getting out.
- 25 Q Do you know who got out?

1 A I really couldn't recall who got out.

2 Q Did anybody buy anything or y'all just pull in the
3 parking lot for 15 minutes and then pull back out and
4 leave?

5 A Matter of fact I recall it was either Savachio or
6 Roshune, it was either one of them because I didn't have
7 any ID on me, it was either one of them. I told them to
8 go --

9 Q Your South Carolina ID?

10 A Yeah, I didn't have a ID.

11 Q You didn't have a driver's license?

12 A No. I didn't have any ID on me.

13 Q You didn't have your driver's license on you but you
14 were driving that night?

15 A Yes, sir.

16 Q You don't remember. So Savachio and Roshune got out,
17 what did they do?

18 A No. It was either one of them got out to buy me a
19 pack of cigarettes.

20 Q Left Crenco, and you're talking about the Crenco
21 right there on Brooklyn Avenue and Main, right?

22 A Yes, sir.

23 Q All right. And you live back behind that there on
24 [REDACTED] ?

25 A Yes, sir.

TESTIMONY OF ANTONIO CLYBURN

- 1 Q Y'all went back to your house at [REDACTED] ?
- 2 A Yes, sir.
- 3 Q All of you?
- 4 A Yes, sir.
- 5 Q And you said they all stayed at your house?
- 6 A Yes, sir.
- 7 Q You also said that when you got there as soon as you
- 8 got there you started drinking?
- 9 A Yeah, about.
- 10 Q So we are talking from you said 12:30 or 1:00 you got
- 11 there, started drinking, you had been drinking about four
- 12 hours, you said you went to sleep at 5:00?
- 13 A Yeah. I went to sleep at 5:00 but it wasn't no four
- 14 hours or no -- I know it wasn't no four hours before I
- 15 went to sleep.
- 16 Q You said your memory was not real good but you said
- 17 Roshune was the second person to go to sleep.
- 18 A Yeah, that I can recall. I can't --
- 19 Q You didn't have your eyes on him the whole time from
- 20 the time you got home until the time you went to sleep,
- 21 did you?
- 22 A No. I didn't have my eyes on him the whole time but
- 23 I know he was there.
- 24 Q You saw him when y'all got home and then the next
- 25 morning he was there when you woke up?

TESTIMONY OF ANTONIO CLYBURN

1 A Yeah. Everybody was basically around each other so
2 everybody was around you, you can't -- I don't know.

3 Q Now, Mr. Frick said I'm going to ask you and I am
4 going to ask you, you said y'all were cousins, first
5 cousins?

6 A Yes, sir.

7 Q You don't want to see him get in trouble, do you?

8 A No, sir.

9 MR. COOK: I don't have any further questions.

10 THE COURT: Thank you, Solicitor. Mr. Frick?

11 MR. FRICK: Briefly.

12 REDIRECT EXAMINATION

13 BY MR. FRICK:

14 Q Is there any doubt in your mind that when you got
15 back to your house after going to the club and Crencos
16 that it was after 1:00 in the morning?

17 A Repeat that question.

18 Q What time did y'all get back to your house after
19 going to Crencos?

20 A I went to sleep between four -- four or five and I
21 know I was at the house about 2:00, around 2:00 or 1:30
22 because I know when I got to the house it took me probably
23 two or three hours to fall asleep.

24 Q All right.

25 MR. FRICK: That's all I've got. Thank you, sir.

TESTIMONY OF ROSHUNE CARELOCK

1 THE COURT: Thank you, sir, you may step down. You
2 may call your next witness.

3 MR. FRICK: Defense calls Roshune Carelock.

4 The witness, ROSHUNE CARELOCK, was first duly sworn.

5 And testified as follows, on:

6 DIRECT EXAMINATION

7 BY MR. FRICK:

8 Q You are Roshune Carelock?

9 A Yes, sir.

10 Q Mr. Carelock, make sure you lean in there. I know
11 you speak a little softly. All right. To alleviate any
12 confusion, can you spell your first name for us?

13 A R-o-s-h-u-n-e.

14 Q All right. And Carelock is just Carelock?

15 A It's like a --

16 Q One whole word?

17 A Yes, sir, it is.

18 Q Let's go ahead and get this part out of the way.

19 A Uh-huh.

20 Q You ain't no perfect person, are you, either?

21 A I'm not a perfect person, you know, I have a record.

22 Q You have a record?

23 A Yes, sir.

24 Q In fact, that was illuded to yesterday by

25 Ms. Thompson, wasn't it?

1 A Yes, sir.

2 Q You got in trouble back in '02, didn't you?

3 A Yes, sir.

4 Q What did you get in trouble for?

5 A Being young, doing little burglaries, breaking in
6 cars, stealing CD players and stuff, being young. It has
7 been over seven years.

8 Q How old were you when that happened?

9 A Between the age group around 17 or something like
10 that.

11 Q So you were actually a juvenile when all of that
12 happened?

13 A Yes, sir.

14 Q But you were charged as an adult.

15 A Yes, sir.

16 Q How old are you now?

17 A Twenty-five. I will be 25 in March -- I will be 25
18 in March.

19 Q Stay up on the mike.

20 A Yes, sir.

21 Q I know it's not comfortable, that's not a fun place
22 to sit. All right. Now, that's not the only trouble you
23 have had, right? After that you got in trouble again for
24 a larceny, didn't you?

25 A To be honest, sir, I honestly don't recall that, I

1 honestly don't recall that on the record. I don't know
2 why it's there. If it could be brought to my knowledge I
3 would know. My only convictions are like seven years old.

4 Q But you do have those convictions.

5 A Yes, sir.

6 Q And you actually at some point received a
7 probationary sentence, right?

8 A Yes, sir.

9 Q Did you ever have to come back in to court because of
10 a situation on probation with that charge?

11 A Not personally with those original charges. But
12 during the time frame I was on probation being
13 disciplinary free I have worked and everything and like I
14 said, someone made the allegation about the thing that we
15 are here for today at the time I was on probation and I
16 hadn't been released no longer than a year.

17 Q Let's clear that up. I know they don't know what you
18 are talking about but I know you know. You were on
19 probation the time that you got charged with this offense,
20 correct?

21 A Yes, sir.

22 Q Do you recall what you were on probation for at that
23 time?

24 A From the burglaries and the being young.

25 Q Now, let's talk about the night before all of this

1 other stuff, what you're actually on trial for, let's talk
2 about that stuff.

3 A Yes, sir.

4 Q You are over at the gas station with whom?

5 A I think it was D'Angelo Brown, Antonio Clyburn and
6 Steven Blair.

7 Q Okay. Something is going on over at the gas station,
8 carries over to the I guess what used to be the Tavern?

9 A Yes, sir, Armadillos Bar and Grill.

10 Q That was a discussion between whom?

11 A I'm lost.

12 Q At the gas station.

13 A Yeah.

14 Q There was some kind of discussion.

15 A Yes, sir. I entered the store. When I entered the
16 store a couple of guys I know, Maurice Bufford and his
17 friends, you know, when I went in the store -- it was
18 actually graduation night, I went there to purchase some
19 alcohol for my cousins because they wasn't old enough at
20 the time so I did purchase them alcohol, not paying
21 attention walking into the store I went back there by the
22 beer area and the guy I heard from behind me is like, "I
23 have got you cornered now." So I turned around, when I
24 looked it was Antonio Mackey if I recall it correctly, I
25 am positive it was him, if that's his name. Antonio

TESTIMONY OF ROSHUNE CARELOCK

1 Mackey said, "I finally got you cornered."

2 Q Why is he saying that?

3 A Because it was not in like a beef -- like I had a
4 beef with them or they had a beef with me, it wasn't like
5 a good -- it was between me and their crowd, so personally
6 that's basically what it was.

7 Q At that time did you have any personal problems with
8 Maurice Bufford?

9 A No, sir. I have never seen him in my life.

10 Q Had you heard his name?

11 A No, sir.

12 Q You didn't know who he was?

13 A No, sir.

14 Q Later on that evening you figured out who he was,
15 didn't you?

16 A Well, actually I did when he shot my cousin, yes,
17 sir.

18 Q You were in the car when that happened?

19 A Yes, sir.

20 Q Did you see it?

21 A Yes, sir.

22 Q With your own eyes?

23 A Yes, sir.

24 Q Now, you were obviously present yesterday, you saw

25 Mr. Howell testify that Mr. Blair couldn't say who it was.

1 A No. I don't know if y'all know or not but like two
2 of my cousins including D'Angelo, they can't really see
3 you standing from here to there, they can't see the words
4 here on this microphone, that's how medically -- they had
5 laser stuff for his eyes.

6 Q What, you're saying Mr. Blair's eyes aren't that
7 good?

8 A They aren't nothing.

9 Q You were sitting in the car?

10 A Yes, sir.

11 Q And you see with your own eyes what happened and that
12 was what happened.

13 A Maurice Bufford exited the vehicle and fired a shot
14 in our vehicle which was occupied by myself, Antonio
15 Clyburn, D'Angelo Brown and Steven Blair, and the side
16 that he fired the shot on, my cousin, Steven Blair, he was
17 actually on that side. Well, he was on that side, he had
18 got shot in the hip, it went up by his spine and whatnot
19 so we basically took him to the hospital or whatever.

20 Q You stayed with him at the hospital?

21 A Yes, sir.

22 Q Now, at the hospital law enforcement comes to talk to
23 you and Mr. Blair, correct?

24 A Yes, sir.

25 Q Now, at the time they are saying that you were not

1 cooperative with them.

2 A Well, I wouldn't say cooperative. Mr. Howell was
3 asking me to do things basically against the law that I
4 couldn't do.

5 Q What do you mean by that now?

6 A Well, the shooting incident that took place, I didn't
7 even know Maurice Bufford, had never seen him until the
8 time frame that we were there and he shot into the
9 vehicle. So Mr. Howell was asking me like what is the
10 guy's name and I am like the only names that I can give
11 you is the other guys that we've had a prior run-in. This
12 here is the guy that just got released from prison and I
13 just guess he happens to be there and shot. Like I said,
14 Mr. Howell was asking me to bring the car in or something
15 like that and like I told Mr. Howell then, it's not my
16 vehicle, I don't have a driver's license. And he said it
17 was fine, just bring the car on over.

18 Q So your concern was that you believed he was asking
19 you to bring a car in that wasn't yours driving a car
20 without a license.

21 A Yes, sir.

22 Q That was your concern?

23 A Yes, sir. So he could take pictures of where they
24 shot the vehicle and things like that.

25 Q Because Steven was in the hospital?

TESTIMONY OF ROSHUNE CARELOCK

1 A Well, no. He was actually released after they did
2 the surgery.

3 Q All right. But you didn't want to participate in
4 that, you were afraid that you were going to get yourself
5 in trouble?

6 A Yes, sir. Because during that time frame I was in
7 fact still on probation and part of probation is not to
8 gain police contact.

9 Q If you got pulled over for driving without a license
10 you would be dealing with a probation violation.

11 A Yes, sir.

12 Q Now, all of the stuff you have got on your record, is
13 there anything that involves a weapon?

14 A No, sir.

15 Q Have you ever been charged with an assault other than
16 what we are on trial for?

17 A No, sir.

18 Q Your problem was you were stealing things.

19 A Yes, sir, when I was younger.

20 Q The night of May 19th to the 20th, do you recall
21 where you were?

22 A Yes, sir.

23 Q Where were you?

24 A At my cousin, Antonio Clyburn's home.

25 Q Antonio Clyburn, and that's on --

TESTIMONY OF ROSHUNE CARELOCK

1 A [REDACTED], [REDACTED], sir..

2 Q [REDACTED]?

3 A Yes, sir.

4 Q Why did you go over there?

5 A Well, back then we was all young so that was like our
6 hangout spot. Because we're not the type of people -- my
7 family is small, you know -- well, my family is small, you
8 know, so we don't do too much like out in the street
9 hanging out, we just like to go to someone's house or pack
10 up over here at our buddy's house and just sit back and
11 drink and stuff like that, you know.

12 Q Okay. Had you formed some kind of plan for that
13 evening?

14 A No, sir. We was just over there drinking and it was
15 like, hey, they've got a party at the American Legion
16 tonight, which is not even -- American Legion is just like
17 walking distance, really.

18 Q Do you recall when y'all went over to the American
19 Legion?

20 A Yes, sir. It was about like 9:30 or 10:00, it was
21 about the time frame that the party started.

22 Q It was you, Mr. Clyburn, Savachio --

23 A Yes, sir..

24 Q -- and Mr. Massey?

25 A Yes, sir.

TESTIMONY OF ROSHUNE CARELOCK

- 1 Q How long did y'all stay at the American Legion?
- 2 A I know for a fact about like until 2:00.
- 3 Q Okay. Did y'all stay together the whole time?
- 4 A Yes, sir. We all like get involved, it do be like
- 5 when you go out to parties and if people fight
- 6 everybody -- we can move to go that way.
- 7 Q Was there any trouble at that party?
- 8 A Not that I'm aware of.
- 9 Q You weren't involved in any trouble?
- 10 A No, sir.
- 11 Q Were any of your associates involved in any trouble?
- 12 A No, sir.
- 13 Q So nothing is going on at that party.
- 14 A No, sir.
- 15 Q You leave somewhere near 2:00 in the morning?
- 16 A Yes, sir.
- 17 Q Where did y'all go?
- 18 A To Crenco on South Main.
- 19 Q Who went in?
- 20 A Nobody else went in but me, sir.
- 21 Q You are the one who went in?
- 22 A Yes, sir.
- 23 Q Do you remember what you bought?
- 24 A A pack of cigarettes and maybe a cigar.
- 25 Q About how long did it take you to make this purchase?

1 A Well, the store was kind of packed. I don't know if
2 you have ever been there before when the party is over
3 with but that's where everybody just goes to the party.
4 Because you just can't hang out once the party is over
5 with, we go out to Crencos. I'm out there, I talk to a
6 bunch of people, you know how it is, you are at a store,
7 everybody was there. I went in and purchased the
8 cigarettes.

9 Q In fact, they restrict the number of people coming in
10 and out.

11 A Yes, sir, at night. Well, they've got live
12 recordings to the police station.

13 Q All right. You make your purchase, get back in the
14 car, where do you go?

15 A Back to [REDACTED], Antonio's house.

16 Q At any point during this whole process, this whole
17 evening, do you leave your people?

18 A No, sir.

19 Q Y'all stay together the whole time?

20 A Yes, sir.

21 Q Not at one point did you disappear for a little
22 while?

23 A No, sir.

24 Q You didn't take off walking somewhere else and come
25 back?

TESTIMONY OF ROSHUNE CARELOCK

1 A No, sir, it's too late -- or too early in the
2 morning.

3 Q When you get back to 10th Street, any idea what time
4 it is?

5 A Maybe 2:30, because we didn't stay at the store long.

6 Q What did you do when you got back to 10th Street?

7 A Basically just sat around like we normally do and
8 started drinking. I'm not a big drinker, but drinking,
9 different things like that.

10 Q Just hanging out?

11 A Yes, sir.

12 Q People start falling asleep?

13 A Yes, sir. Now, that I can't recall actually.

14 Q You don't remember any particular order or where
15 anybody else was?

16 A No, sir.

17 Q I understand. You stayed there the whole evening?

18 A Yes, sir. Evening you mean --

19 Q When y'all got back?

20 A Yes, sir.

21 Q I know it's about 2:00 in the morning so evening is
22 not the right term. When did you leave?

23 A Honestly I didn't get up and leave, we were just
24 chilling around. The next day was Sunday if I recall
25 correctly, my grandmother is a minister so I went to

1 church.

2 Q But did you leave from [REDACTED] to go?

3 A Yeah, to church.

4 Q Did you go anywhere to change clothes?

5 A No. Our church is like come as you are.

6 Q So you went in the same stuff you went in the club
7 in?

8 A Honestly, sir, yes, sir. As long as I go to get my
9 preaching that's fine with me, it's come as you are,
10 though.

11 Q I understand. Okay. At any point during the evening
12 of the 19th to the 20th, did you go to [REDACTED]?

13 A No, sir. I'm not very familiar with the area.

14 Q Did you know where Maurice Bufford lived?

15 A No, sir. Once again I never even knew the guy. The
16 only way I knew him is because -- I didn't know him then,
17 but like -- that's why I give the investigators his name.
18 But the only time I ever knew him in my whole life span,
19 ever see him is when he shot my cousin in my presence.

20 Q After you got charged with that, they brought you
21 over -- law enforcement brought you over to basically
22 speak about both situations?

23 A Yes, sir.

24 Q You spoke to them about the Armadillo situation?

25 A Yes, sir.

1 Q You were able to tell them that you believed it was
2 Maurice Bufford?

3 A Yes, sir.

4 Q In fact, your major concern at the time was actually
5 what you were locked up on, right, this charge?

6 A Yes, sir.

7 Q So you come in, first thing you want to know about is
8 why are you charged with this?

9 A Yes, sir.

10 Q You talked to Investigator Howell?

11 A Yes, sir.

12 Q About this incident?

13 A This incident, and also the incident I guess in
14 regards to Maurice Bufford shooting my cousin, yes, sir.

15 Q In regards to this shooting, the one that we are on
16 trial for.

17 A Yes, sir.

18 Q Do you recall what you told him?

19 A Yes, sir.

20 Q What did you tell him?

21 A Well, thinking that I was helping myself, you know,
22 speaking freely, you know, and he asked me about the
23 incident that is leading up to my cousin getting shot. I
24 provided him with all of that information and he even
25 asked me about the store that I went, to show and prove

1 that my story was telling the truth, he did --

2 Q Let's get back to this one. We understand you talked
3 about that one, then the conversation starts coming about
4 to this situation.

5 A Yes.

6 Q Did you tell them where you were that evening?

7 A Yes, sir.

8 Q Where did you tell him?

9 A I told him that I went to the club -- well, American
10 Legion, it's a club, American Legion Club, and we stopped
11 by Crenco. And at that time I did, in fact, tell
12 Investigator Mike Howell that you could check the video
13 recordings from Crenco stores, it should at least have the
14 time frame of where I was at.

15 Q So you told him you were at the Crenco?

16 A Yes, sir. And he did tell me that he would be
17 retrieving those videos.

18 Q At some point you decided it would be in your best
19 interest to not speak any further.

20 A Yes, sir.

21 Q Okay. That's fine. But this is all of the
22 information you told him before that, right, that you had
23 gone to Crenco, that you had been at a club and gone to
24 Crencos?

25 A Yeah. We met on more than one occasion. We met

1 about maybe three or four times. Mr. Howell kept pulling
2 me out and I told him that again after that that I didn't
3 really want to talk anymore.

4 Q Now, in the incident report they've got it down --
5 they were saying you told him you went to the Mexican
6 American Club.

7 A It's the reason why they call it American Mexican.
8 Basically that could be renovated to different people that
9 might have a different party or something like that.

10 Q Have you ever heard it called that?

11 A Yes, sir, that's what everybody calls it. Not that
12 but they call it the American Legion.

13 Q Where is Mexican American coming from?

14 A That's probably how they twisted it and put it in
15 there.

16 Q Do you recall saying it was Mexican American Club?

17 A I'm positive I didn't say that.

18 Q You call it the American Legion?

19 A Yes, sir.

20 Q Okay. Have you ever heard of a Mexican American
21 Club?

22 A No, sir.

23 Q Okay. Have you ever been to the Mexican American
24 Club?

25 A No, sir.

1 Q Have you ever been over to Ms. Thompson's house on
2 [REDACTED] ?

3 A No, sir. I honestly didn't know of the person in
4 general that you are speaking about.

5 Q Now, let's talk about that a little bit. She said
6 that y'all were classmates.

7 A Yes, sir.

8 Q Y'all were at Lancaster High School together?

9 A I can't say that we wasn't, sir.

10 Q Well, you were at Lancaster High School in 2002 for a
11 period of time?

12 A I'm not even sure, sir, it was 2002.

13 Q That's fine.

14 A If I'm just thinking correctly back upon my juvenile
15 record when I did, in fact, go to juvenile, I actually
16 went down the road, got in school down there and did
17 pretty good. I got a grant from the government so when I
18 was released from the Department of Juvenile Justice I
19 started in USCL Lancaster.

20 Q What grade were you in in Lancaster?

21 A I was in the 9th grade. I wasn't staying in
22 Lancaster, I was staying in Kershaw or Lancaster and in
23 Marlboro County with my dad, I stayed there since I was a
24 child and stayed in Monroe, North Carolina before that.
25 So I was never in Lancaster but a couple of months at that

1 school.

2 Q But you did go to school at Lancaster High School?

3 A Yes, sir.

4 Q Do you recall how long?

5 A Couple of months. Because when I was in Lancaster

6 when I was first moved here some guys cut me over the eye

7 and stuff like that at school one day, I started having a

8 pocket knife and eventually I was caught with a pocket

9 knife trying to just basically -- keeping it for

10 protection and they sent me to juvenile for having a

11 weapon. And once they sent me to juvenile, like I said, I

12 took advantage of that and got into college.

13 Q But that was a pocket knife that you carried because

14 you had been jumped?

15 A Yes, sir.

16 Q At any point do you recall having any classes with

17 Ms. Thompson?

18 A No, sir.

19 Q Seeing her in the hallway?

20 A I'm not familiar with Ms. Thompson, sir.

21 Q Hanging out with her?

22 A No, sir.

23 Q She said she knew your sister.

24 A She couldn't have, sir. I wasn't living here the

25 whole time that -- my other family was.

1 Q That's what I was getting at, are you living with
2 your sister at that time?

3 A No, sir.

4 Q Who is she staying with?

5 A I think my sister had her own house and I was staying
6 with my mom and dad.

7 Q So you don't recognize her?

8 A No, sir. I don't dispute that we couldn't have gone
9 to school, I don't dispute that but personally I have
10 never seen her. I have never really -- I thought maybe
11 she was just someone that I never hear about.

12 Q All right. One last question, Mr. Carelock.

13 A Yes, sir.

14 Q At 1:00 in the morning on May 20th, were you standing
15 on Ms. Thompson's front door step?

16 A No, sir.

17 Q Did you have a gun in your hand?

18 A No, sir. I never owned a firearm.

19 Q Where were you?

20 A I was with my cousin, Antonio Clyburn, Savachio
21 Cunningham and my friend, Carlos.

22 MR. FRICK: Nothing further. Please answer anything
23 the solicitor might have.

24 THE COURT: Solicitor?

25 CROSS EXAMINATION

1 BY MR. COOK:

2 Q Mr. Carelock, we heard from a couple of your boys
3 this morning, haven't we?

4 A Yes, sir, my friends.

5 Q Antonio Clyburn and Carlos. He said he had known you
6 about ten years; is that right?

7 A Yes, sir.

8 Q You didn't know his last name until today?

9 A Yeah. I mean the crowd that I used to deal with like
10 back then I'm on some other things now so I didn't deal
11 with them. So, no, I wouldn't have just known him.

12 Q So you have known him ten years but you didn't know
13 what his last name was until today.

14 A Yes, sir. But it's just something that we don't too
15 much keep up with names..

16 Q Y'all don't worry about last names?

17 A No, sir.

18 Q You said you weren't aware -- didn't have any
19 knowledge of your convictions, and maybe if somebody
20 brings them to your knowledge you will better remember
21 them. I will try to do that.

22 A Yes, sir.

23 Q You had a burglary 2nd degree in 2002.. Are you
24 familiar with that?

25 A I am very familiar with the 2002.

TESTIMONY OF ROSHUNE CARELOCK

1 Q You were familiar with also the grand larceny and the
2 other burglary in 2002.

3 A Yes, sir. I am familiar with the 2002 convictions.

4 Q Okay. Are you familiar with the grand larceny in
5 2006?

6 A I don't recall. If it can be refreshed to my memory.

7 Q You're saying you are 25 years old, right?

8 A I am 24.

9 Q So in 2006, 20?

10 A Are you asking my age?

11 Q You would have been 20 years old.

12 A Yes, sir, I guess.

13 Q So that was an adult charge?

14 A Yes. I mean -- but I understand but I'm not familiar
15 with the charges that you are speaking of in general.

16 Q Okay. You got -- where do you live now?

17 A I actually stay with my sister in a residential area,
18 Cedar Pine Lake.

19 Q Is that Shaquita?

20 A No, sir, Shaquita Carelock.

21 Q Shaquita Carelock?

22 A Yes, sir.

23 Q When all of this happened back in May of 2007, you
24 were on probation, right?

25 A Yes, sir.

TESTIMONY OF ROSHUNE CARELOCK

1 Q All right. Let's talk about -- Mr. Frick brought up
2 the night before this happened.

3 A Yes, sir.

4 Q The night before Larisha Thompson got shot.

5 A Yes, sir.

6 Q You said you were in the Texaco buying your under
7 aged cousin some beer.

8 A Yes, sir.

9 Q That's Antonio Clyburn?

10 A No, sir. Yes, Antonio he was with me but I am not
11 saying that it was specifically for him.

12 Q You know that's illegal.

13 A Yes, sir, I understand. But I am being truthful,
14 also.

15 Q And you heard somebody say, "I have got you cornered
16 now."

17 A Yes, sir. And Mr. Howell did retrieve the video
18 recordings and seen the same thing just as I told him.

19 Q Tony Mackey, right?

20 A Yes, sir.

21 Q Do you know him to hang out with Maurice Bufford?

22 A Honestly, sir, I wasn't even from down here. I don't
23 really know like a whole bunch of people who they hang
24 with and stuff like that.

25 Q You said you didn't -- you recognize who Tony Mackey

1 was because you called his name.

2 A Yes, sir.

3 Q You said you didn't have a beef with him but you
4 didn't have a good vibe with that crowd, right?

5 A Well, I will put it like this to clarify. See, you
6 have people that are from an area, then you have like
7 younger guys that are from the area, then you have some
8 older guys that are from the area, we had a little falling
9 out with a couple of younger guys.

10 Q Like groups of people?

11 A Within the same group. It's just like they have like
12 older relatives.

13 Q You mean like a certain neighborhood or certain area
14 of town?

15 A Yes, sir.

16 Q Where were they from?

17 A I'm assuming Twin Pines area, sir.

18 Q Twin Pines? This is the incident that happened at
19 Armadillo's, right? That's why you followed them to --

20 A No, sir, I never followed them.

21 Q When you left Texaco -- I'm not saying you were
22 driving, but the car you were in followed them to
23 Armadillos, right?

24 A Yes, sir. Against my own -- I told them not to and
25 eventually my cousin got shot.

1 Q What area in town is Armadillos in? That's Twin
2 Pines, isn't it?

3 A Yeah, that's Twin Pines area.

4 Q That's where Maurice and Tony were from.

5 A I would say -- I don't know honestly, I don't.

6 Q Now, y'all followed the car from Texaco to Twin
7 Pines. If you were having trouble with them, why did you
8 follow them?

9 A Honestly, sir, I know you're saying y'all but it's
10 Antonio.

11 Q Antonio Clyburn followed them?

12 A Yes, sir.

13 Q But you were in the car.

14 A Yes, sir.

15 Q When you got out of the Texaco and when and you got
16 back in the car, did you say, "Follow them?"

17 A No, sir. Antonio was going to follow them, and I'm
18 like, "Man, you ain't supposed to be following them. If
19 they were going to jump on us or something they could have
20 done that here. Let's go."

21 Q You knew it was going to be a beef when y'all got to
22 wherever y'all were going.

23 A Well, for one I was looking out for the well-being
24 for my own cousin -- for one, they're young. These guys
25 are younger than myself, I just didn't -- being under the

TESTIMONY OF ROSHUNE CARELOCK

1 influence of alcohol you are not knowing what somebody
2 says.

3 Q Antonio was under the influence of alcohol?

4 A At the time.

5 Q He was driving, wasn't he?

6 A Yes, sir.

7 Q So you stopped at the store to buy beer for under age
8 people, one of whom is driving?

9 A Well, he wasn't say drunk but he had been drinking.

10 Q Impaired, let's say that.

11 A Yeah, impaired. He wasn't sober.

12 Q You said you didn't know Maurice.

13 A No, sir.

14 Q Well, when Investigator Howell asked you about it who
15 did you say shot Steven?

16 A Maurice Bufford.

17 Q All right. So it's dark, right?

18 A Uh-huh.

19 Q You have got about -- let's just say Maurice is
20 probably about 6-foot-one, or 6-foot-two, you agree with
21 that?

22 A Yes, sir.

23 Q And you say he shot over --

24 A -- top of the car.

25 Q It's dark, you've got a 6-foot-one or 6-foot-two

1 black male. You said you didn't know him but you called
2 his name, Maurice Bufford.

3 A No. I wasn't arrested then, it was after they shot
4 my cousin.

5 Q Right. But when they asked you who shot that's who
6 you said, right?

7 A No, sir. They actually asked me at the hospital and
8 I told Mr. Howell I didn't know his name.

9 Q Where did you learn his name was Maurice Bufford?

10 A Where did I learn it?

11 Q Yeah.

12 A Actually it was somebody at the club that saw
13 Mr. Bufford fire the shot, I guess. I think they told my
14 sister or someone and I don't know exactly how the name
15 got around, but however the name got around that's
16 basically information that my mother and grandmother gave
17 to Investigator Howell. But seeing identification from
18 him coming here it is, in fact, the guy.

19 Q Are you telling me that you have never told
20 Investigator Howell that Maurice Bufford shot Steven
21 Blair?

22 A No, I don't deny that.

23 Q You learned about it through your grandmother or
24 somebody at the club?

25 A Yes, sir.

1 Q You were in that vehicle that Steven Blair got shot
2 in, weren't you?

3 A Yes, sir.

4 Q Where at?

5 A In the front passenger side.

6 Q Where was Steven sitting?

7 A It was in the left rear passenger behind the driver's
8 seat.

9 Q Behind you?

10 A Behind the driver. No. The driver, yeah.

11 Q That bullet could have hit you?

12 A If he would have fired more than one time then maybe
13 he would have hit everyone in the car.

14 Q You said something about prior run-ins. What are you
15 talking about?

16 A Really nothing. As far as when I see them we have
17 words not as though I'm instigating anything but they are
18 like the group in the environment, I guess like they run
19 around and rob people. It's not an issue if I see them
20 I'm going to say something to them, it's like they're
21 going to be there, they're going to say something, it
22 doesn't matter, they're going to say something. You can't
23 go into the store like that, if you see them they're going
24 to say something.

25 Q But you know now that Maurice Bufford shot your

1 cousin.

2 A Yes. I have learned that he shot my cousin twice,
3 sir. When I was incarcerated for the allegations for -- I
4 guess this -- I was -- my probation got violated because I
5 was accused of this and I couldn't make bond and so I
6 couldn't report and they in turn violated me because of
7 this and I had to go back down the road and do two years.
8 And while I was in prison I guess some type of shootings
9 and stuff was still going on and my cousin was shot a
10 second time.

11 Q So Maurice shot Steven twice?

12 A I can't say he shot him the second time because I was
13 incarcerated.

14 Q That's what you heard?

15 A Yes. It was in the newspaper on the front page.

16 Q Okay. You told Mr. Frick you were at Armadillos but
17 you were worried about getting in trouble with your PO.

18 A No, sir, that's not what I said. I said when I spoke
19 to Mr. Howell at the hospital --

20 Q You didn't talk to him because you were scared of
21 getting yourself in trouble.

22 A Yes, sir.

23 Q Why would you worry about getting yourself in trouble
24 about talking to law enforcement about your cousin getting
25 shot?

TESTIMONY OF ROSHUNE CARELOCK

1 A Actually at that time I hadn't been too long to get
2 released, I am not supposed to be around any clubs, any
3 place that sold alcohol.

4 Q You are not supposed to be at any type of club when
5 you are on probation.

6 A No, sir I was not.

7 Q And you were.

8 A Yes, sir, I was.

9 Q Actually two that night.

10 A Two, sir?

11 Q You were at two different clubs, you were went to
12 Armadillos, it's a club, right?

13 A Yes, sir.

14 Q American Legion a club?

15 A I mean, the phrase a club, it's just like a party
16 spot is how I use it, but it's not called a club.

17 Q A party with alcohol being served.

18 A No. Alcohol is not served at the American Legion, we
19 drink before we go.

20 Q Let's talk about the night that Larisha Thompson got
21 shot, May 20th of 2007. You said that back then y'all
22 were young and really didn't hang out in the street, you
23 just hung out at Antonio's house.

24 A Yes, sir. Antonio's mother is a real estate owner,
25 she owns a couple of properties and she just basically

1 fortunate enough to give him a place to stay. She don't
2 mind us coming over, we all work together at the house
3 clean up, wash dishes, cut grass.

4 Q So you lived at [REDACTED] too?

5 A No, sir, I just come there.

6 Q You just help out?

7 A Any time that you were staying at anybody's house you
8 just --

9 Q You said y'all drink before you go to American
10 Legion. I'm assuming you drank that night before you went
11 to American Legion?

12 A No, sir. I'm not really a drinker, I just may try to
13 be cool and may drink a couple of swallows here and there.

14 Q I understand. You said you got to American Legion
15 between 9:30 and 10:00.

16 A Yes, sir.

17 Q Now, your friends said -- they said two and a half or
18 three hours which would put it at the latest 1:00, you
19 said you know you stayed until about 2:00.

20 A Yes, sir, I'm positive. If there was -- like I was
21 actually -- like I said, I stopped at Crenco -- my whole
22 time speaking with Investigator Howell, you know, he
23 retrieved everything that I asked, you know, checked my
24 story to make sure it checked out at that time, which it
25 did. But like I said he didn't ever retrieve the

TESTIMONY OF ROSHUNE CARELOCK

1 recordings from Crenco which would have been positive ID
2 or however.

3 Q How do you know there's a recorder in Crenco?

4 A Because if you go there there's plenty of cameras.
5 When you go there there's a sign that says live video
6 recordings to the police station. So I knew that they
7 actually had those videos of where I was at that time.

8 Q Well, let me ask you this -- and I'm not worried
9 about after 2:00, Larisha Thompson got shot around
10 midnight.

11 A Yes, sir.

12 Q You told us that you were worried about getting in
13 trouble with your probation officer because you were on
14 probation, that's why you didn't want to talk to
15 Investigator Howell. But you're not worried enough to not
16 go hang out at the American Legion where you said y'all
17 stayed together because there's fights at the American
18 Legion; is that right?

19 A There was not one.

20 Q Not one there that night but people get together and
21 fights --

22 A No. I didn't say it's like there, I said there could
23 be. If there is a fight we are always together so we can
24 leave. I didn't say there was fights. It's typical stuff
25 at the parties when friends go out and kind of stick

1 together.

2 Q And you were with Savachio, Antonio Clyburn and
3 Carlos who now we know his last name is Massey the whole
4 time the whole night?

5 A Yes, sir.

6 Q What time did you get back to [REDACTED]?

7 A I can't just recall the time exactly.

8 Q So at 2:00 you left American Legion, went to Crenco,
9 bought cigarettes.

10 A Yes, sir, and a cigar.

11 Q You said you got up, went to church the next morning,
12 got your preaching.

13 A Yes, sir.

14 Q You went and got your preaching because you shot
15 Larisha Thompson the night before, didn't you?

16 MR. FRICK: Objection, Your Honor. Objection,
17 argumentative.

18 THE COURT: I'm sorry, I couldn't hear you.

19 MR. FRICK: Argumentative.

20 THE COURT: Overruled. Go ahead.

21 Q When were you arrested on this charge?

22 A If I can recall correctly according to police I guess
23 they said it was the next day, which was Sunday. But I
24 disagree, I could be wrong but I thought I was
25 incarcerated on a Monday. Officers came to the home at

TESTIMONY OF ROSHUNE CARELOCK

1 [REDACTED], was actually speaking with my cousin, I
2 was standing there wondering why they were at the house.
3 They didn't know they were talking to me but I was
4 curious, I know I didn't have anything to hide, I'm
5 curious as to what is the police looking for me for. They
6 asked me did I know where Roshune Carelock could be. And
7 he said, "You shouldn't have the address for Roshune here,
8 you may have an address for Roshune Carelock "-- I can't
9 recall what my address was. But they said, "We just
10 needed to ask them a couple of questions." And I was
11 like, "I am Roshune Carelock." And at that time, you
12 know, I was rough-handled and thrown into the mobile home
13 and I'm like, "Hold on, what's going on?" And he was
14 like, "Well, you're under arrest." And I'm like, "I don't
15 have any problem going to jail, y'all don't have to
16 rough-house me. What could I be going to jail for?" And
17 that's when I learned I had an assault and battery with
18 intent to kill. I couldn't think about nothing, I just
19 got out of jail, I ain't been in trouble for seven years.
20 Q Well, that's not -- maybe a year at that time.
21 A Well, it's seven today.
22 Q Let's see. 2006 grand larceny.
23 A Yes, sir. I said I'm not familiar with that.
24 Q Let's just say -- since that's on your rap sheet
25 let's just assume that's correct. You haven't been in

1 trouble for about a year.

2 MR. FRICK: Well, Your Honor, I would object to that.

3 We know.--

4 MR. COOK: I withdraw it.

5 THE COURT: The question is withdrawn.

6 Q You went to the Lancaster County Detention Center and
7 you went to Investigator Howell?

8 A Yes, sir, went to the sheriff's office. I don't know
9 what office or rooms.

10 Q But it wasn't back there at the cell, it's in an
11 office type atmosphere?

12 A Yes, sir.

13 Q Investigator Howell is investigating the shootings,
14 you talked to him about Steven Blair being shot then.

15 A Yes, sir.

16 Q Did he ask you where you were the night that Larisha
17 got shot?

18 A Yes, sir. I told him I was at the American Legion
19 and told him that I could verify exactly the time frame
20 where I was, you know. He never did that.

21 Q What is the Mexican American Club?

22 A I'm not familiar with that, sir.

23 Q Do you know what that is?

24 A No, sir.

25 Q You told Mr. Frick that you've heard somebody say

TESTIMONY OF ROSHUNE CARELOCK

1 that referring to American Legion.

2 A No, sir. They call it the American Legion, there's
3 no other name.

4 Q Do you remember -- did he ask you who was with you?

5 A Mr. Howell?

6 Q Yeah, Investigator Howell.

7 A Yes, sir.

8 Q Who did you tell them?

9 A The night at the American Legion?

10 Q The night that Larisha Thompson got shot that we are
11 here for today.

12 A Antonio Clyburn, Savachio Cunningham and Carlos
13 Massey.

14 Q Are all of them your cousins?

15 A No, sir.

16 Q Who is?

17 A Antonio Clyburn.

18 Q All right. Let's talk about Larisha Thompson.

19 A Yes, sir.

20 Q You said you don't remember being a classmate of hers
21 but it's possible.

22 A It's possible but it's a very slim chance because I
23 wasn't at Lancaster High School in the 10th grade. I was
24 there for my 9th grade but I was only there -- like I
25 said, when I first moved to Lancaster I enrolled in the

1 aviation program for flying airplanes and things and that
2 is when unfortunately some guys just decided they wanted
3 to jump on me, cut me or try to jump me and there shortly
4 I started the actual school year. As soon as I started,
5 like I said, I was having that little pocket knife in my
6 pocket and eventually when they did like a drug thing
7 where a dog comes around and checks for drugs they said
8 that the dog hit on my book bag and in turn I had a knife
9 in my book bag.

10 Q Did you have drugs in your book bag?

11 A No, sir.

12 Q The dog just hit on it?

13 A That's what they say, sir.

14 Q Did you have -- did you date a girl named Sherrell?

15 A Sherrell Manning, sir, yes, sir.

16 Q Okay. How old is she?

17 A I don't know exactly.

18 Q Was she in school with you?

19 A Yes, sir.

20 Q At Lancaster?

21 A Yes, sir.

22 Q Younger or older?

23 A I can't say.

24 Q About the same age?

25 A I don't know her age.

TESTIMONY OF MIKE HOWELL

1 Q May 20, 2007, are you telling me you weren't at [REDACTED]

2 [REDACTED] ?

3 A Positive, sir.

4 MR. COOK: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 (Break in proceedings.)

7 MR. COOK: I don't have any further questions.

8 MR. FRICK: Nothing further, Your Honor.

9 THE COURT: Thank you, sir. You may step down.

10 MR. FRICK: Defense calls Investigator Mike Howell.

11 The witness, MIKE HOWELL, remained sworn and testified
12 as follows, on:

13 DIRECT EXAMINATION

14 BY MR. FRICK:

15 Q You probably know what I'm going to ask you about
16 before I even ask you.

17 A I do.

18 Q When you did the interview with Mr. Carelock, he did
19 talk briefly about the shooting, correct, the one we are
20 on trial for?

21 A Larisha Thompson. When I got to the point of Larisha
22 we had a short conversation, very briefly he said he was
23 with his cousin and he did state Mexican American. Nobody
24 contradicts any of my statement in his statement until
25 that one word.

1 Q It's in the incident report?

2 A Yes, sir.

3 Q Now, let me ask, this was an oral interview, right?

4 A Yes, sir, it was.

5 Q Wasn't anybody transcribing it?

6 A I'm writing.

7 Q But it wasn't one of those where you hand the
8 statement back to them, have him read back over it and --

9 A No, sir. When he got to the end, when it got heated
10 it's not like he was sitting here now giving specific time
11 frames, he never named any people that was with him other
12 than he was with his cousin, and he with his cousin went
13 to the Mexican American, he went to Crencos, went home.
14 But he kept on about how in the heck did we charge him
15 with this and I'm clearly stating she pointed him out.

16 Q And he requested the interview stop at some point?

17 A Yes, sir.

18 Q You honored his wishes on that?

19 A Right.

20 Q I know I'm not going change your mind on the lineup,
21 that's not what I'm trying to get at, I have got two
22 issues. Number one, is it possible that he said something
23 besides Mexican American Club?

24 A No, sir. I wrote what he said.

25 Q You wrote down exactly what he said?

1 A Exactly what he said.

2 Q Is it in your notes?

3 A It's in the report.

4 Q I understand it's in the report, but is it in the
5 report? This isn't the incident report?

6 A Supplement.

7 Q This is where he's talking to you and somewhere down
8 there it says Mexican -- there it is.

9 A Yes, sir.

10 Q Now, this is what y'all type up after the interview,
11 right?

12 A Yes, sir.

13 Q You're not typing it up while he's talking.

14 A Right.

15 Q This particular interview was not one that was
16 videotaped.

17 A No, sir.

18 Q I'm not saying that you made the mistake, although I
19 suppose that's what I'm implying could occur, but incident
20 reports ain't always 100 percent accurate, are they?

21 A Well, that's the report I took from him. I already
22 announced my mistake from the lineup.

23 Q Mistakes happen on incident reports, I'm just asking
24 you.

25 A If I did it I don't have a problem admitting to it

TESTIMONY OF MIKE HOWELL

1 but this is what I wrote from this statement.

2 Q But there are such things as misspellings.

3 A Absolutely, I will misspell a word.

4 Q Let's talk about Crenco. Are you familiar with the
5 Crenco he has been talking about and all of the other
6 people?

7 A Yes, sir.

8 Q Are you aware of whether or not they have any type of
9 recording?

10 A They do have video, I did not retrieve the video from
11 that store.

12 Q Why?

13 A Well, I don't have all of the information that he is
14 just forthcoming here today. He stopped me, he gave me
15 that second interview which he canceled that as well,
16 there was no more.

17 Q I understand. But you knew the time frame you were
18 dealing with, right?

19 A Yes, sir.

20 Q You knew the time frame of the shooting.

21 A Yes, sir.

22 Q You knew he said it was at Crenco?

23 A Yes, sir, he said he stopped by Crenco.

24 Q So you had enough information to get the video for
25 that period of time, didn't you?

TESTIMONY OF MIKE HOWELL

1 A Yes, sir, could have.

2 Q But you didn't?

3 A I did not.

4 MR. FRICK: Thank you, sir. That's all I have got.

5 THE COURT: Solicitor?

6 CROSS EXAMINATION

7 BY MR. COOK:

8 Q Investigator Howell, when you asked him about that
9 night he said the Mexican American Club, is that in your
10 supplement?

11 A Yes, sir.

12 Q Who did he say he was with?

13 A His cousin, that's all I had that night.

14 Q Cousins or cousin?

15 A Cousin.

16 Q That's all you knew about this shooting at that time
17 was he said he was at the Mexican American Club and he was
18 at Crenco on South Main with his cousin.

19 A Yes, sir.

20 Q This is the first time you have heard anything about
21 that sitting here today.

22 A Yes, sir, as far as exact time frame and witnesses,
23 and I have asked for witnesses.

24 MR. COOK: I don't have any further questions.

25 MR. FRICK: Nothing further, Your Honor.

TESTIMONY OF MIKE HOWELL

1 THE COURT: All right. Thank you, sir, you may step
2 down.

3 MR. FRICK: Defense rests, Your Honor.

4 THE COURT: Solicitor, defense rests.

5 MR. COOK: Nothing further from the State.

6 THE COURT: State rests. Ladies and gentlemen, it
7 seems like it's going to be a good time for us to take a
8 short break. Let's take a recess. As I understand what
9 has just happened, you have now heard all of the evidence
10 that's going to be presented in the case unless something
11 changes in the next few minutes. What is going to happen
12 next probably is going to be the attorney will make their
13 closing arguments to you in a few minutes, I will give you
14 the law, then you will retire and reach your verdict. But
15 in the meantime I will ask you to step in the jury room for
16 just a few more minutes.

17 (The jury left the courtroom.)

18 THE COURT: Mr. Frick, anything?

19 MR. FRICK: Your Honor at this time the defense would
20 renew its directed verdict motion. In the light most
21 favorable to the State I think there is not sufficient
22 evidence for the jury to make -- for the case to go to the
23 jury, I think it should be decided as a matter of law.

24 THE COURT: The Court understands the motions and the
25 Court denies the motions. What about charging, gentlemen?

TESTIMONY OF MIKE HOWELL

1 MR. FRICK: Your Honor, I am looking for an alibi
2 charge, I think there's such a thing.

3 THE COURT: I've got it.

4 MR. FRICK: I'm pretty familiar with your standard
5 other charges, that's one problem. The only thing, I would
6 ask for a lesser included for assault and battery of a high
7 and aggravated.

8 THE COURT: Solicitor?

9 MR. COOK: Your Honor, we're not asking for a lesser
10 included. I'm fine with the general charge.

11 THE COURT: Well, couple of quick things. Been a
12 charge on the record -- criminal record for the witnesses.
13 As the alibi charge, now, let me talk to y'all about the
14 assault and battery with intent to kill charge which is
15 the -- the defense wants the lesser included. Now, y'all
16 help me think this thing through. The difference between
17 offenses is the issue of malice.

18 MR. COOK: Your Honor, the State's allegations
19 obviously he went there, knew who he was shooting at and we
20 believe there's malice as being expressed or credible
21 evidence or implied and I don't see any lesser included
22 offense.

23 THE COURT: Well, I think a jury could determine
24 whether or not they want to believe that there was malice.
25 They could very well go back there and believe that the

1 shooting, in fact, occurred but it was just fired at the
2 door and the injury was incidental. Because ABHAN is
3 basically you've got to have a violent injury, able to do
4 so which will happen, and I believe a deadly weapon, which
5 is what is involved. So I think it has all of the elements
6 of an ABHAN that a jury could look at to suggest that a
7 lesser included may be appropriate.

8 MR. FRICK: It has got all of the elements of assault
9 and battery with intent to kill, malice is the question
10 here, it's -- I think there's no malice.

11 THE COURT: Well, if they decide there's no malice
12 wouldn't it be a possibility of finding assault and battery
13 of a high and aggravated nature? Even though there is no
14 malice then they still could find assault and battery of a
15 high and aggravated nature. All right, I think I can
16 charge it.

17 (A recess was taken.)

18 THE COURT: Is the State ready for the jury?

19 MR. COOK: State is ready, Your Honor.

20 THE COURT: Defense ready?

21 MR. FRICK: Defense is ready, Your Honor.

22 THE COURT: Bring our jury in.

23 (The jury returned to the courtroom.)

24 THE COURT: Welcome back again, ladies and gentlemen.
25 I believe we are ready to receive closing arguments from

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1 the attorneys. Solicitor?

2 MR. COOK: Your Honor, the State waives opening.

3 THE COURT: State waives.

4 MR. FRICK: Thank you, Your Honor, Solicitor. Ladies
5 and gentlemen, Mr. Foreman, I told you it wasn't going to
6 take very long, here we are into a little bit the next day
7 and you are fixin' to go back and make your decision as to
8 what you believe happened, and whatever you say happened is
9 going to be what happened. You are the ones that get to
10 make that decision, nobody can take that decision away from
11 you. You know, I have been a University of South Carolina
12 Gamecock football fan since about 1983 when I was a little
13 kid and in all of those years I have almost got to see a
14 lot of great things. 1984 I almost got to see them play
15 for a national championship. In 1986 I almost got see us
16 beat Nebraska in Williams Bryce Stadium. 1997 I almost got
17 to see us win at Gator Field. Most recently I almost got
18 to see them beat a number one Florida team. But guess
19 what? Almost didn't get any of it. Almost is not enough,
20 ladies and gentlemen, and almost proving that someone did
21 something is not enough to convict, and that's exactly what
22 you have got. Because I told you yesterday what you are
23 going to hear was no forensics, forensic meaning any kind
24 of physical evidence. You don't have a single thing. The
25 only thing you are going to have back there are pictures

1 from the scene and the testimony you have heard, and the
2 key witness that you hear and the identification of my
3 client. She says that without a doubt, without a doubt she
4 knows it was Roshune Carelock that was standing on that
5 door step that evening in May of 2007. She had gone to
6 school with him in the 10th grade. You have heard from her
7 and him and he didn't even finish, he wasn't even there for
8 the whole 10th grade. In fact, they were in different
9 grades. He was in the 9th grade, she was in 10th grade,
10 she hung out with his sister, he didn't even live with his
11 sister. She hadn't seen him in seven years at least but
12 that night when she walked to her door she looked and the
13 first thing she thought was, "Why is Roshune standing on my
14 front step?" Now, never mind the confusion over the name
15 because is it Roshune Cunningham, Roshune Carelock, Roshune
16 Cunningham who is Shaquita's brother. Let's don't --
17 that's not important. This was Roshune. This was Roshune.
18 How do you know? "I know. I know. I ain't seen him in
19 seven years, didn't really talk to him when I did see him
20 but I know it was him." Well, that's for you to decide,
21 but I want to tell you this, you heard from Mr. Carelock
22 and he told you where he was. You heard from his friends,
23 they told you where they were. You have got the same
24 amount of evidence saying that he wasn't there as you do
25 saying that he was there. Arguably you have more. But you

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1 have got the same thing, you have got eye witness
2 identification saying it is absolutely impossible that
3 Roshune Carelock could have been on Washington Street at
4 1:00 in the morning on May 20th of 2007 because he was
5 either going to the American Legion or Mexican American
6 Club or whatever the heck you want to call it. I don't
7 know what it is, but we know he went to a club. What
8 difference does it matter what name it is? And by the way,
9 he did admit incident reports are not always 100 percent
10 accurate, it's possible there could have been a mistake.
11 He was at the club, goes to Crenco. Now, ladies and
12 gentlemen, I think this is the most important thing you
13 need to latch on to, we know when the shooting occurred, we
14 know it happened right at about 1:00 in the morning, that's
15 when everyone arrives there, it happened a few minutes
16 before that, but somewhere around 1:00 in the morning.
17 When Mr. Carelock is being interviewed by the investigator
18 he said, "Man, I wasn't there, I was at my cousin's." Did
19 he give a name? You know what, he told you he has got a
20 record, he told you he had just gotten out of prison, do
21 you think he's going to be real forthcoming with law
22 enforcement? He told them he was with his cousin. You
23 heard from his cousin, it is indeed his cousin, his cousin
24 said he was with him. He says he's with his cousin, he
25 said they were at the club, they left the club somewhere

1 around 2:00, went to Crencos. Okay. Investigator tells
2 you, "I didn't have enough information to be able to go get
3 that video. I know they got the video system but I didn't
4 have enough information to go get the video." Wrong. We
5 knew when the shooting was, we knew he said he was there.
6 It's very simple, ladies and gentlemen, get the video, if
7 he's on the tape he's there, if not he's not there. We
8 don't have it, we don't have that piece of information.
9 The only thing you've got is this one statement, an
10 inconsistent statement I would tell you, but that's what
11 you have got. You have got a few pictures you are going to
12 get to look at. The front door. There's a wooden door
13 with the glass. Okay. You get to look and see whether you
14 think someone could have looked at this at 11:30 to
15 12:00 at night, no other illumination on the front porch
16 except this one little light bulb. Person standing at the
17 door wearing a hat -- black hat and a coat, someone she
18 hadn't seen in seven years and knew the instant she looked
19 at him it was Roshune Carelock. Here is the closest you
20 have got to forensic evidence, ladies and gentlemen, you
21 have got a shell casing laying in the front yard. We know
22 one thing about it we believe, we don't have it here with
23 us, we have got a picture of it, we know it was a
24 .380 caliber shell casing. Okay. What does that tell you?
25 That it's a shell casing, it doesn't mean that someone had

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1 actually fired a gun. There are plenty of empty shell
2 casings out there in the world, some people just kind of
3 carry them around as souvenirs, some people have them in
4 key chains, we have an empty shell casing, ladies and
5 gentlemen. But wait, we have a projectile, the bullet
6 part, it is in the kitchen. We picked it up, that's it,
7 that's the projectile, that's the bullet that hit her,
8 that's it, got to be it. Do you recall yesterday? It was
9 stated that you could take this, send it to Sled to see if
10 they could determine whether there was actually a .380
11 caliber bullet. We did not. Why? Well, we've got a
12 statement, we've got identification, don't need to worry
13 about anything else. We didn't even send this off. On the
14 door? It's a solid glass door that's been shattered, do
15 not expect anybody in the world to try to get a fingerprint
16 off of shattered glass. They look at what is around the
17 door, that is a fairly solid aluminum frame all around the
18 storm door. Now, the storm door was closed, but there's
19 not even an attempt to see if there's any evidence on the
20 door. We have got an identification, that's all we need.
21 But wait, we confirm the identification. Here we go. We
22 go to the hospital and talk to someone who is groggy, hand
23 them a piece of paper and go from these six people -- oops,
24 wait a minute, sorry, same guy -- from these five people.
25 Tell me who it is. There it is, that guy right there.

1 Okay. Who initialed it? Mom initialed it. Mom told you
2 why she initialed it, the investigators want me to initial
3 it, didn't want to get blood on the picture. Now, why
4 didn't you wipe her hands off? We weren't collecting it
5 for any kind of DNA so we couldn't help the girl wipe her
6 hand off so she could sign the thing herself? So here is
7 your collaboration, ladies and gentlemen, a should be six
8 person lineup that's actually five people signed by mom,
9 and that, ladies and gentlemen, is what the State expects
10 you to hang your hat on to convict somebody of assault and
11 battery of a high and aggravated nature -- excuse me,
12 assault and battery with intent to kill, assault and
13 battery of a high and aggravated is a charge you are going
14 to get to consider and I will talk to you about that
15 briefly in a second. Assault and battery with intent to
16 kill. I told you yesterday, ladies and gentlemen, it's a
17 very serious offense, it's what in other places we would
18 call attempted murder. Very serious, it deserves your
19 attention, and you have done well through the trial. I
20 usually have a couple of you dosing off, I haven't seen
21 anybody else doze off yet during the trial, so thank you
22 for that. The State almost proved something here, they may
23 have had a chance to prove something but we don't know, we
24 don't have any evidence to back it up. You have one
25 statement, one inconsistent statement that backs it up.

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1 Because you recall, we don't even know whether we saw a
2 gun. Ms. Thompson got on the stand yesterday, told you, "I
3 don't remember if I saw a gun, I don't remember if he had a
4 gun, I don't recall." The person you've got saying
5 otherwise is the person who was working on her in the
6 ambulance, and I asked her, "While are you back there
7 working on her what is your job? Are you worried about
8 listening to everything she says or is your job to make
9 sure she's going to be okay? My job is to make sure she's
10 going to be okay." So she's chatting up making sure that
11 she's staying okay and she comes in here yesterday to say
12 she said that he had a gun, but Ms. Thompson said she
13 doesn't recall saying that to anybody. So you have got
14 inconsistencies all along on that. Now, also talk about
15 the incident itself. Very tragic. Very tragic,
16 unthinkable that happened to Ms. Thompson, not trying to
17 take that away at all, she's suffered a very tragic injury.
18 You have to determine the extent of that injury and whether
19 or not it was Mr. Carelock who actually did it. I would
20 point out to you not necessarily trying to lessen her
21 injury, but just factually, everybody got up here and
22 talked about she told me she thought she was dying. They
23 thought she was dying. Well, the medical testimony you
24 heard points otherwise and I ask you to remember that.
25 What the EMT told you was we got there, she was bleeding,

1 she had glass in her, but as they left it was non-emergent.
2 They didn't have to rush back to the hospital, she was
3 going to be okay. They just needed to be sure so she
4 wasn't about to die, ladies and gentlemen. Beyond a
5 reasonable doubt is what the State has got to prove to you,
6 beyond a reasonable doubt. Now, I suggest to you what that
7 means is that there is no other reasonable explanation but
8 that Mr. Carelock is the person that stood on that door
9 step and fired that bullet. This morning I woke up, went
10 out on the porch and I looked -- my wife last night had put
11 a bag of trash out there on the front porch. I got kind of
12 lazy, I certainly understand it's my job to transport the
13 trash to the dump, it's not her job, that's always the
14 husband's job, that's just -- we have to accept that. But
15 I didn't move it, I didn't move it, I live kind of out in
16 the country and as you can guess I have got trash strung
17 all over my porch. And I have got a cat that comes in and
18 out of the house sometimes, sometimes she sleeps in the
19 house, sometimes she's not in the house. But she is the
20 one who always tears up the trash bag when I am lazy and do
21 not take it off. So this morning I go out, there is this
22 trash strawn all over the place, cute little cat we call
23 Buttons and I knew Buttons had done it. I knew Buttons had
24 done it, she was the only one who ever does it. Anytime
25 it's ever happened she's the one, I even caught her doing

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1 it before. As I am going back into the house -- and by the
2 way, I didn't see her in the house last night so I assumed
3 she's outside, I have got every reason to believe that it
4 was the cat that tore the trash bag open. As I am going
5 back in the house to get my coat and head up here this
6 morning guess who was on the other side of the door? The
7 little cat Buttons. All of the sudden I have got
8 reasonable doubt, ladies and gentlemen, I don't know
9 whether that cat slept in the house or outside of the house
10 last night. I don't know whether she did it or not. Is it
11 possible? She might have snuck in at some point when I am
12 going in and out of the house or someone in the family. Is
13 it likely? Heck, it is even likely that it was the cat
14 that did it. Do I know for certain that it was? No.
15 Because I don't know where the cat was. She was in the
16 house. When I saw her she was in the house so I can't say
17 beyond a reasonable doubt that she's the one who tore the
18 trash bag open. Now, I tell you all of that not trying to
19 be flip about the whole matter but this is exactly what we
20 have got going on here, ladies and gentlemen. You have got
21 a person who stands at the door, says she sees somebody,
22 nothing else, you have got nothing else to consider along
23 with it, just that one simple fact so you have to rely on
24 this one thing. Now, what you have to decide is was
25 Mr. Carelock there or not. Well, guess what? You've got

1 the preverbal cat in the house, you have her, his witnesses
2 that say he was with them. There's nothing that disputes
3 them. The State does not want you to believe them and
4 they're going to come up here and ask you not to believe
5 them because they're close friends and they are pretty
6 tight, and, of course, they didn't want to see their friend
7 get in trouble so they came up here this morning to lie for
8 them. That's pretty darn good friendship if that's what
9 you have got, but they were consistent and they told you
10 the same thing. No one is exactly perfect on the time
11 frames but the story is there. Mr. Carelock could not have
12 been at Ms. Thompson's door step, could not have been
13 there, ladies and gentlemen, could not have been there.
14 There's an additional choice on here. If you believe that
15 something happened there is a lesser charge, there's a
16 certain level that you have to reach to determine whether
17 somebody committed assault and battery with intent to kill,
18 there's a lesser charge called assault and battery of a
19 high and aggravated nature. Now, I am in no way telling
20 you this trying to suggest that I think my client was
21 there, but it's an option you have got and I have got a
22 duty to try to give you my explanation of it. Assault and
23 battery of a high and aggravated nature is an injury
24 suffered by a person from a dangerous weapon but there was
25 no real intent, malice is the term used, there's no intent

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1 to kill, there was no real malice. You could determine,
2 okay, the shooting occurred but it was simply a shot in the
3 door and just happened to be someone standing on the
4 side -- on the other side of there and they suffered some
5 substantial but overall superficial injuries except mainly
6 to her vision. You can determine that that lesser charge
7 may be appropriate and I am not at all suggesting that you
8 do that. I think you've got more than enough to show you
9 that Mr. Carelock went to his friend's home, went to this
10 whatever you want to call it but it was a party, just very
11 clear, went to a party, went to Crenco, and then went back
12 to his friend's house. Didn't leave his friend. Didn't
13 leave his friend. The other thing that the State is trying
14 to do is convince you that Mr. Carelock was so upset about
15 his cousin being shot by Maurice Bufford that he went over
16 there to go shoot Maurice. Now, he told you he wasn't all
17 that familiar with him. You heard Mr. Bufford, he's spent
18 quite a bit of time in the department of corrections
19 himself, he wasn't familiar with Mr. Carelock. For his
20 name came to him later he was able to talk to Mr. Howell
21 that's why he was able to come up with the name of who
22 shot. And by the way, I would also point out to you you
23 have got the exact same evidence on Maurice Bufford
24 shooting Steven Blair as you do for Roshune Carelock
25 shooting Larisha Thompson and Mr. Bufford did not get

1 charged. So Mr. Carelock provides a name. Now, that
2 shooting happened the night before and he was so enraged,
3 the State wants you to believe he was so enraged by that
4 that he wanted to retaliate, that's why we brought all of
5 that up. They are calling it the motive, they don't have
6 to prove motive, they don't have to prove motive but what
7 they are trying to do is give you some kind of reason.
8 Because outside of that it's not going to make sense why he
9 would go over there. He doesn't know her, why would he go
10 over there? He must have had bad blood between him and
11 Maurice, that's what it was so they have to supplement
12 their case with motive. Mr. Carelock was so enraged that
13 he waited until the morning of the day after the shooting
14 and -- nobody debates that he went over to the club to a
15 party, he is so upset about his cousin being shot that he
16 went to a party before he shot somebody else. Does that
17 make sense? You also heard about Mr. Bufford's life-style.
18 You heard Mr. Bufford and Ms. Thompson didn't get along
19 sometimes, they tried to stay together. You heard from
20 Ms. Thompson's mom about Maurice. In fact, I even got law
21 enforcement to say a little bit about Maurice. He lives in
22 kind of a high risk life-style but it's not terribly
23 surprising that someone would want to take a shot at him.
24 Problem is we don't know who that someone was, it could
25 have been a lot of people, could have been a lot of people.

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1 State has got Roshune Carelock over here but that's all
2 they've got. We didn't do anything to try to confirm that,
3 just ask you to rely on one statement. We have got an eye
4 witness, they don't need anything else, that's all we need,
5 that will work. Ladies and gentlemen, it's not enough,
6 it's not enough. It might almost be enough but almost
7 ain't it. Beyond a reasonable doubt. Have you seen the
8 evidence? Beyond a reasonable doubt. Beyond a reasonable
9 doubt. Is there any other reasonable explanation? Yes,
10 there is. Mr. Carelock was not there. It could have been
11 someone else. You heard testimony. It could have been
12 other people, we don't know. Your identification is
13 suspect. It is not enough, ladies and gentlemen. When you
14 get back there I believe you will agree with that and find
15 Mr. Carelock not guilty of this offense. Again, ladies and
16 gentlemen, a tragedy occurred that evening but you can
17 prevent the second tragedy and I know you will. Thank you
18 very much for your time, thank you very much for your
19 attention.

20 THE COURT: Thank you, Mr. Frick. Solicitor?

21 MR. COOK: Mr. Frick, Judge, ladies and gentlemen of
22 the jury. You know, Mr. Frick had accused Buttons of
23 tearing up his trash but he didn't see Buttons tear up the
24 trash. That's a little different than what Ms. Thompson
25 did. Ms. Thompson accused Roshune Carelock of shooting her

1 because she looked out the door and saw him on her porch.
2 Talking about the Gamecocks, if I was going to analogize
3 this case, I would use last night's basketball game. The
4 Gamecocks upset the number one team in the country last
5 night, they beat Kentucky last night. They played 100
6 percent. Ms. Thompson was 100 percent sure that this was
7 Roshune that shot her, never a doubt from May 20th of 2007
8 until today, January 27th of 2010, almost two and a half
9 years. She has never wavered. I told you at the beginning
10 of this thing that to think about revenge or retaliation,
11 that's what this whole thing is about. Okay. Ms. Thompson
12 got caught up in something that she had absolutely no part
13 of and a tragedy has occurred, she got shot over something
14 that her boyfriend did. Now, let's talk about what we have
15 heard over the past day and a half. We will start with
16 Ms. Thompson. May 20th of 2007 a little before midnight
17 she had put her daughter down, went to go get some milk,
18 she had heard a tapping at the door, she said she went to
19 go see who was at the door. As she was approaching she was
20 thinking, "What is Roshune Carelock doing at my door?" She
21 doesn't hang out with Roshune Carelock, Maurice Bufford
22 didn't hang out with Roshune Carelock. She walks to the
23 door, asked who is it, she said she got two feet from the
24 door, two feet -- and you're going to see a picture of the
25 door, there was a glass storm door. Matter of fact,

1 Mr. Frick just showed you, a design like that, it is clear
2 in the middle, that's what she was looking out of. She
3 looked exactly through that clear piece of glass and she
4 saw Roshune Carelock, knew him from school, went to high
5 school with him. He dated a girl named Sherrell, her
6 middle name was Sherrell, she knew him, saw him at
7 graduation the night before. She said that -- I asked her,
8 "Did anything else stand out?" She said he had a tattoo on
9 his neck. It's very important what he said to her, when
10 she said, "Who is it," he said, "Is Maurice there?" Now,
11 he doesn't hang out with Maurice, why would he be at [REDACTED]
12 [REDACTED] at midnight looking for Maurice? Y'all
13 remember that, it's very important, that's what this whole
14 case is about. She says she saw him look away and she
15 thought he was leaving and she backed up. I asked her,
16 "What could you see through that glass? Could you see the
17 road?" She said, "Yes, sir." Could you see out to the
18 side? Yes, sir. Was the porch light on? Yes, it was."
19 So we're talking two feet from the door looking out of that
20 clear glass in the middle of that door, nobody on the road,
21 no cars, nobody else in the car, just Roshune Carelock, the
22 only person standing there. She backs up, she said her
23 ears start ringing, she falls to the ground realizes she
24 got shot, the bullet penetrated two doors and hit her right
25 there. You can still see the mark where the bullet hit

1 her, glass went in her eye and her face and yet she had the
2 wherewithal to gather herself and go call 911. She called
3 911 and Deputy Humphries responded. When Deputy Humphries
4 got there he talked to Larisha and she told him Roshune
5 Carelock did this. Now, you heard Ms. Larisha testify, "I
6 think I said Cunningham. I can't remember. I said
7 Shaquita Carelock's brother." She said Roshune, Shaquita
8 Carelock's brother. Deputy Humphries said she said,
9 "Roshune Carelock." What did she say to you? Asked if
10 Maurice was here: How do you know him? Classmates. Never
11 a doubt who it was. Deputy Humphries checked the scene
12 out. You will see photos, you will be able to take these
13 photos, I want you to look. Think about what Ms. Thompson
14 said. She said he was standing there on her porch looking
15 straight at her. This wasn't an accident. It wasn't
16 Maurice, he knew Maurice wasn't standing on the side of
17 that door, he was looking at Larisha Thompson. We have got
18 a bullet that went straight through the door, storm glass
19 shattered, bullet in the door. Now, you heard Mr. Frick
20 talk about physical evidence and the bullet. Well, the
21 projectile was found under the kitchen table in the house.
22 Now, pay attention to where the shell casing was found. It
23 wasn't found out there by the road, it wasn't found in the
24 yard -- he said it was in the yard -- it was actually right
25 there, that's where Roshune Carelock was standing, the

CLOSING ARGUMENTS

1 bullet went through the door, the shell casing is right
2 there. Angela Staher arrived with EMS -- let me back up.
3 With the bullet it wasn't -- we didn't have the gun, we
4 still don't have a gun to this day that shot Larisha
5 Thompson, all we know is it's a .380 shell casing. Do we
6 know that that projectile that came out of that cage is the
7 one under the table? No, we don't. Do we know Larisha
8 Thompson got shot in the head? Yes, we do, no doubt. She
9 told y'all who shot her. I said, "Is he sitting in here
10 today?" She pointed him out. He had on brown and white
11 yesterday, she pointed out right over there. When Angela
12 Staher got there her vitals were fine. Angela Staher is
13 not law enforcement, she's a Lancaster County EMS. Her job
14 is to take care of the patient, keep the patient
15 responsive, talk to her, make sure everything is okay. She
16 gets into the hospital in that nurse's care, she testified
17 she was fine, she knew exactly where she was, she knew
18 exactly what was going on and she knew exactly what
19 happened and she told -- Angela Staher testified she said,
20 "I saw a gun," or, "He had a gun." Now, Ms. Thompson
21 didn't recall the gun but it was two and a half years ago
22 and I imagine she got shot in the head and glass all in her
23 eye, that was a long time ago, but she told Angela Staher,
24 which was very soon thereafter she got shot that she saw a
25 gun. Investigator Mike Howell arrived on scene, he arrived

1 a little later, he's the investigator, he got called out
2 after Deputy Humphries arrived. In talking to Deputy
3 Humphries, Deputy Humphries said, "She said Roshune
4 Carelock shot her." No maybe, no we think Roshune Carelock
5 shot her. Investigator Howell goes back to the Lancaster
6 County Sheriff's Office, compiles a photo lineup and he
7 did, he fessed up, he put five people in a six person
8 lineup, but it wasn't two pictures of the defendant. Okay?
9 And you will be able to look at this, you will be able to
10 take it back there with you. He goes to the hospital where
11 Ms. Thompson was transported to and I asked him, I said,
12 "When you got there, where was she at? In the ER. She was
13 in a bed." Okay. And you heard her mother, Deborah
14 Thompson, testify she was in there with her, Investigator
15 Howell goes in there and shows Larisha Thompson this. Who
16 does she pick? Him, number five. That is the same man
17 that's sitting over there, Roshune Carelock. I asked her
18 did she look at it and she said instantaneous, she looked
19 at it and picked him out, she had blood all over her, she
20 was probably holding her face. Investigator knew this was
21 evidence, he didn't want blood all over this piece of
22 paper. You have heard they asked them who all was there
23 and where were you at? They were all standing there beside
24 the bed, Larisha Thompson pointed him out, this was the DT,
25 Deborah Thompson, and you heard, Deborah Thompson said,

CLOSING ARGUMENTS

1 "Yes, that's the one she picked out, that's the one she
2 told me to initial." So you also heard from Maurice
3 Bufford. Now, we all know he's not an angel, he was
4 sitting up here in the shackles from the South Carolina
5 Department of Corrections yesterday. I have never said he
6 was. I told y'all what he was in for, he has got numerous
7 charges, drug charges, assault and battery, you name it,
8 and he told you he does, but that doesn't matter. Okay?
9 What he -- he was up here and said he was the boyfriend of
10 Larisha Thompson, very important. And I said, "Did you
11 live there on May 20th of 2007, was that your residence?
12 Yes, sir. If somebody was going to send you a letter where
13 would they send it? [REDACTED] If somebody
14 was going to come looking for you where would they go?
15 [REDACTED] Mr. Frick got up here and asked
16 him about, well, you know, defendant's cousin got shot.
17 And he said, "Yeah, well, there's rumors I did it." He's
18 involved in the fast life, no doubt about it, that's why
19 he's locked up. "There's rumors I did it." And I came and
20 followed up and I said, "Well, Maurice, this alleged
21 shooting of Mr. Carelock's cousin that he's accusing you
22 of, when did that take place? The night before Larisha got
23 shot." Subsequently to that Roshune Carelock talks to
24 Investigator Howell and he is investigating two shootings.
25 Mike Howell was assigned to both Steven Blair shooting.

CLOSING ARGUMENTS

1 where Roshune Carelock was in the car with him and he was
2 assigned to the shooting the next night of Larisha
3 Thompson. You heard from Lieutenant Kirkley and
4 Investigator Howell, we went through the Miranda, he waived
5 his right, he wanted to talk to him. He started talking
6 about the shooting the night before, he said he was at a
7 gas station and Tony Mackey comes in and says, "I have got
8 you cornered." I don't know what was said. I don't know
9 what was said outside, all I know is he said they followed
10 them to Armadillo's, two cars end up head to head. The car
11 that Steven Blair and Roshune Carelock stayed in, the other
12 car backed up, went at an angle and Maurice Bufford got out
13 and shot over the car into the car that Roshune Carelock
14 was in and shot his cousin, Steven Blair. He just got up
15 and said he didn't know him but that's who he said, Maurice
16 Bufford shot his cousin and it was pay back time, y'all.
17 He wasn't going to let Maurice walk after shooting his car,
18 he shot in the car that Roshune Carelock was in, it was
19 time to pay up. So he goes the next night to 1332
20 Washington Street for payback, for retaliation for him
21 shooting his cousin. It is what it is all about. I told
22 you at the beginning it's all about revenge and that's what
23 happened here. He was shot at and his cousin was hit and
24 he accused Maurice Bufford of doing it. Where did he live?
25 Where did he say he stayed?. That's where somebody would

1 come looking for me if they were looking for him. He shows
2 up and he goes to the door, taps on the door, Ms. Thompson
3 sees him, identifies him, has no idea what's going on,
4 she's a completely innocent third party in this and Roshune
5 asked, "Is Maurice there?" Why was he looking for Maurice?
6 Because he had shot his cousin. He knew that wasn't
7 Maurice standing on the other side of that door, he could
8 look through that glass too. He knew he wasn't shooting at
9 Maurice. How would he hurt Maurice more than shooting
10 Maurice himself? That's the mother of his child and that's
11 what he did. And you've heard Mr. Frick say reasonable
12 explanation of him being there, that's a perfectly
13 reasonable explanation of why he was there, that is why he
14 was there, he was there to shoot Maurice Bufford. He asked
15 for Maurice Bufford and unfortunately he wasn't there and
16 Larisha Thompson was there and took the bullet that was
17 intended for him. Now, you have got to make the decision
18 today on the charge of assault and battery with intent to
19 kill against Roshune Carelock. You have heard from him,
20 you have heard from his cousin and his friend.
21 Investigator Howell investigated that shooting, his cousin
22 came up, no names, no nothing, that's the first he has
23 heard of it was when Roshune got right here to testify.
24 Two and a half years ago he was investigating a shooting
25 that Roshune Carelock was charged with, all he knew was

CLOSING ARGUMENTS

1 Mexican American Club -- it doesn't really matter Mexican
2 American, American Legion and his cousin was with him. He
3 wasn't at a club, he wasn't at the Mexican American Club,
4 wherever that is, he wasn't at the American Legion Club, he
5 was stalking Larisha Thompson's front porch with the light
6 on where she saw him. When y'all go back there in that
7 room I want y'all to remember a couple of things, think
8 about the retaliation, revenge, think about his cousin
9 getting shot the night before by her boyfriend, think about
10 how mad he would have been and think about Larisha
11 Thompson. Think about her testimony. She never wavered,
12 y'all, never wavered from day one. It was Roshune Carelock
13 that shot her. She knew him by face and name. And I
14 submit to you that what you heard proves beyond a
15 reasonable doubt, it was a perfectly reasonable explanation
16 why he did it. When you go in that room I am going to ask
17 y'all to come back out with a unanimous verdict; every one
18 of you, for guilty on assault and battery with intent to
19 kill against Roshune Carelock for shooting Larisha
20 Thompson. I thank you.

21 THE COURT: Thank you, Solicitor. Ladies and
22 gentlemen, I remind you that the fact that the defendant in
23 this case was arrested, charged and indicted is not
24 evidence in the case and cannot be considered by you as
25 evidence in the case. As I have told you earlier the

1 defendant has pled not guilty to the indictment and that
2 shifts the burden on the State of South Carolina to prove
3 to you the defendant's guilt beyond a reasonable doubt. A
4 person charged with committing a criminal offense in South
5 Carolina is never required to prove himself innocent. I
6 charge you that it is an important rule of criminal law
7 that the defendant in a criminal trial, no matter what the
8 charge will be, will always be presumed to be innocent of
9 the crime for which the indictment was issued unless guilt
10 convinces -- unless evidence convinces you of his guilt
11 beyond a reasonable doubt. And that presumption of
12 innocence does not end when you begin your deliberations
13 but it accompanies the defendant throughout the trial until
14 you reach a verdict of guilt based on the evidence that
15 satisfies you of that guilt beyond a reasonable doubt. The
16 presumption of innocence has been said to be like a robe of
17 righteousness placed about the shoulders of the defendant
18 that remains with the defendant until it has been stripped
19 from the defendant by evidence that satisfies you, the
20 jury, of the defendant's guilt beyond a reasonable doubt.
21 The presumption of innocence is not a mere legal theory,
22 it's not just a legal phrase, it's a substantial right to
23 which every defendant is entitled unless you, the jury, is
24 satisfied from the evidence of the defendant's guilt beyond
25 a reasonable doubt. A reasonable doubt is the kind of

1 doubt that would cause a reasonable person to hesitate to
2 act. Some of you may have served as jurors in civil cases
3 where you were told it was only necessary to prove that a
4 fact is more likely true than not true such as by the
5 greater weight or preponderance of the evidence. In
6 criminal cases, though, the State's proof must be more
7 powerful than that, it must be beyond a reasonable doubt.
8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of the defendant's guilt. Of course,
10 there are very few things in this world that we know of
11 with absolute certainty, and in criminal cases the law does
12 not require proof that overcomes every possible doubt. If
13 based on your consideration of the evidence you are firmly
14 convinced that the defendant is guilty of the crime charged
15 you must find the defendant guilty. If on the other hand
16 you think there's a real possibility that the defendant is
17 not guilty you must give the defendant the benefit of the
18 doubt and find the defendant not guilty. During the trial,
19 ladies and gentlemen, we've had different obligations and
20 responsibilities. I have been required to rule on the
21 admissibility of evidence during the trial. I tell you
22 that you are only to consider the evidence from the witness
23 stand and any exhibits that were introduced into evidence.
24 I also have the additional duty to charge you on the law
25 that applies in this case, and as the Judge I am the sole

JURY CHARGE

1 judge of the law of the case. And it is your duty, ladies
2 and gentlemen, to except the law as I now state it to you.
3 If you have any idea that the law is different or should be
4 different than I tell you then you must put that out of
5 your mind, abandon it because under your oath you are
6 obligated to accept the law and apply the law as I state it
7 to you. And in every case trial before this court -- or
8 before a jury, excuse me, the jury becomes the sole and
9 exclusive judge of the facts of the case. A trial judge
10 cannot intimate, state, comment on or make any statement
11 onto a trial jury about the facts of the case. Since you,
12 the jury, are the sole judges of the facts in the case you
13 are not to consider or to infer from anything that I have
14 said or done during the progress of this trial that I have
15 any opinion about the facts of this case. The law does not
16 permit me to have an opinion about the facts of the case,
17 that's a matter solely for you, the jury, to determine. As
18 jurors it is your duty to determine the affect, the value,
19 the weight and the truth of the evidence presented during
20 the trial. There are two types of evidence which are
21 generally presented during a trial, direct evidence and
22 circumstantial evidence. Direct evidence is the testimony
23 of a person who claims to have actual knowledge of a fact
24 such as an eye witness. It is evidence which immediately
25 establishes the main fact to be proved. Circumstantial

JURY CHARGE

1 evidence is proof of a chain of facts and circumstances
2 indicating the existence of a fact. It's evidence which
3 immediately establishes collateral facts from which the
4 main fact may be inferred. Circumstantial evidence is
5 based on inference and not on personal knowledge or
6 observations. The law, though, makes no distinction
7 between the weight or value to be given to either direct or
8 circumstantial evidence, in other words, a greater degree
9 of certainty required of circumstantial evidence than of
10 direct evidence. You should weigh all of the evidence in
11 this case and after weighing all of the evidence if you are
12 not convinced of the guilt of the defendant beyond a
13 reasonable doubt you should find the defendant not guilty.
14 Necessarily, ladies and gentlemen, you must determine the
15 credibility of the witnesses who have testified, this
16 simply means the believability of the witnesses. It
17 becomes your duty as jurors to analyze and evaluate the
18 evidence and determine which evidence convinces you of its
19 truth. In determining the believability of the witnesses
20 who have testified in this case you may believe one witness
21 over several witnesses or several witnesses over one
22 witness. You may believe part of the testimony of a
23 witness and reject the remaining part of the testimony of
24 the same witness. You may believe the testimony of a
25 witness in its entirety or reject the testimony of a

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1 witness in its entirety. You may consider whether any
2 witness has exhibited to you any interest, any bias, any
3 prejudice or any motive in the case and you may also
4 consider the appearance and manner of a witness on the
5 witness stand. An issue in this case is the identification
6 of the defendant as the person who committed the crime
7 charged. The State has the burden of proving identity
8 beyond a reasonable doubt. You must be satisfied beyond a
9 reasonable doubt of the accuracy of the identification of
10 the defendant before you may convict the defendant.
11 Identification testimony is an expression of belief or
12 impression by a witness. You must determine the accuracy
13 of the identification of the defendant. You must consider
14 the believability of the each identification witness the
15 same way as any other witness. You may consider whether
16 the witness had an adequate opportunity to observe the
17 offender at the time of the offense. This may be effected
18 by things like how long or short a time was available, how
19 far or close the witness was, the lighting conditions and
20 whether the witness had the chance to see or know the
21 person in the past. Once again, I instruct you that the
22 burden of proof of the State extends through every element
23 of the crime charged, and this specifically includes the
24 burden of proving beyond a reasonable doubt the identity of
25 the person who committed the crime. If after examining the

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1 testimony and evidence you have a reasonable doubt as to
2 the accuracy of the identification you must find the
3 defendant not guilty. I tell you that a person who has a
4 past criminal record is competent to testify during a
5 trial. A past record does not affect the ability of that
6 witness to testify. The past record may only be considered
7 by you if at all in determining the witnesses
8 believability. Remember, you are the sole judges of the
9 facts in this case and the believability of any and all of
10 the witnesses. You have heard evidence that the defendant
11 was convicted of a crime. Other than the one for which the
12 defendant is now on trial, this evidence may be considered
13 by you if you conclude that it is true only in deciding
14 whether the defendant's testimony is believable, and for no
15 other purpose. You must not consider the defendant's prior
16 record as any evidence of the defendant's guilt of the
17 charge that we are trying today. The defendant has raised
18 the defense of alibi. In order to establish an alibi it
19 must be shown that the defendant was at another specified
20 place at the time that the crime was committed and that it
21 was therefore impossible for the defendant to have been at
22 the scene of the crime. Mere denial of presence at the
23 scene of a crime does not constitute an alibi. There is no
24 burden on the defendant to prove an alibi. The burden on
25 the State is to prove beyond a reasonable doubt that the

JURY CHARGE

1 defendant was actually present at the scene of the crime
2 and actually participated in it and was not somewhere else.
3 In other words, the State has the burden of disproving the
4 defendant's alibi defense. As you know, the defendant has
5 been charged with assault and battery with intent to kill.
6 In order to prove assault and battery with intent to kill
7 the State must prove beyond a reasonable doubt that the
8 defendant committed an unlawful act of violence of a
9 violent nature to another person with malice aforethought.
10 I tell you that an assault occurs when a person unlawfully
11 attempts or offers to commit a violent injury upon another
12 person and he had present ability to complete the attempted
13 injury. An assault is the intentional creation of a
14 reasonable fear of immediate bodily harm. It's not
15 necessary that the attempted injury or harm actually take
16 place. For example if I were to walk up to you and we are
17 within arms reach and I draw back to hit you that is
18 actually an assault. The battery is the unlawful touching
19 of another person by one who has committed the assault. An
20 unlawful touching can be caused by any part of the
21 accused's body or by an object that the accused puts in
22 motion. The battery is the completion of the assault by
23 using or applying force to another person without legal
24 justification. In the earlier examples if I carry through
25 on the assault by hitting you that becomes the battery,

1 therefore assault and battery. Malice is hatred ill will
2 or hostility towards another person. It's the intentional
3 doing of a wrongful act without just cause or excuse and
4 with an intent to inflict an injury. Malice aforethought
5 does not require that malice exist for any particular
6 time -- excuse me, for any particular time before the fact
7 is committed, but malice must exist in the mind of the
8 defendant just before and at the time the act is committed,
9 therefore there must be a combination of the previous evil
10 intention and the act. Malice aforethought may be
11 expressed or inferred. Expressed and inferred don't mean
12 different kinds of malice but just the manner in which
13 malice may be shown to exist, that is either by direct
14 evidence or by inference of the facts and circumstances
15 which are proved. Express malice is shown when this person
16 speaks words which expresses hatred or ill-will for another
17 or when a person prepared beforehand to do the act which
18 was later accomplished. Malice may be inferred from
19 conduct showing a total disregard for human life. If facts
20 were proved beyond a reasonable doubt sufficient to raise
21 an inference of malice to your satisfaction, this inference
22 would be simply an evidentiary fact to be considered by you
23 along with the other evidence in this case and you may give
24 it the weight that you decide it should receive. A
25 specific intent is not an element of assault and battery

JURY CHARGE

1 with intent to kill but there must be a general intent to
2 commit serious bodily injury. Intent means intending the
3 result which actually occurs, not accidentally or
4 involuntary. Intent may be shown by acts and conduct of
5 the evidence and other circumstances from which you may
6 naturally and reasonably infer intent. Evidence of the
7 character of the assault, the character of the instrument
8 used, the manner in which it was used and the purpose to be
9 accomplished and the resulting wounds or injuries may be
10 considered in determining the intent with which the assault
11 was committed. Intent may be inferred if it was
12 demonstrated that the defendant voluntarily and willfully
13 commits an act, the natural tenancy of which is to destroy
14 another's life. If you find that the State has not proven
15 that the defendant is guilty of assault and battery with
16 intent to kill, you must then determine whether the State
17 has proved that the defendant is guilty of assault and
18 battery of a high and aggravated nature. Assault and
19 battery of a high and aggravated nature includes all of the
20 elements of assault and battery with intent to kill except
21 malice aforethought. In addition the State must prove
22 beyond a reasonable doubt an aggravating circumstance.
23 Assault and battery of a high and aggravated nature is an
24 unlawful act of violent injury to a person of another
25 accompanied by circumstances of aggravation. An assault

1 occurs when a person unlawfully attempts or offers to
2 commit a violent injury upon another person and had the
3 present ability to complete the attempted injury. The
4 assault is the intentional creation of immediate fear of
5 harm, it's not necessary that the attempted injury or harm
6 actually take place. The example I gave you earlier is one
7 where the assault occurs, if I stand close to you and
8 threaten you, the battery if I complete the assault.
9 Ladies and gentlemen, in just a few moments you are going
10 to step into the jury room and will be asked to begin your
11 deliberations. You will be given a verdict form and you
12 will be asked to reach a verdict on the first charge, the
13 first charge again is assault and battery with intent to
14 kill, you will be asked to either find the defendant not
15 guilty or find the defendant guilty. For there to be a
16 verdict of any kind the verdict must be unanimous, meaning
17 all 12 of you must agree. If you determine as I said
18 earlier that the defendant is not guilty of assault and
19 battery with intent to kill you will then be asked to
20 address the next question, and the next question is do you
21 believe the defendant is not guilty or guilty of assault
22 and battery of a high and aggravated nature. Once again,
23 it must be unanimous for you to reach a verdict. But if
24 you find -- just so you understand, if you were to find
25 that the defendant is guilty of assault and battery with

JURY CHARGE

1 intent to kill you would not address the next question, you
2 would not then address the issue of assault and battery of
3 a high and aggravated nature. You only address the charge
4 of assault and battery of a high and aggravated nature if
5 you determine the defendant is not guilty of the charge of
6 assault and battery with intent to kill. Ladies and
7 gentlemen, once you reach a unanimous verdict, Mr. Ledford,
8 if you would on behalf of the jury circle the appropriate
9 verdict not guilty or guilty and sign his name and date it,
10 you will see that I have put in the year -- the year is
11 2010 but you will need to put in presumably today's date.
12 I am going to ask you now, ladies and gentlemen, if would
13 you step in the jury room, all of you, including our
14 alternate juror, but don't yet begin deliberations, I'm
15 going to talk to the lawyers about what I just said to you
16 about the law in the case. If they tell me I have said
17 something wrong or omitted something, I will have to bring
18 you back out. I will also send the exhibits that have been
19 introduced and the verdict form, and once you received
20 those that will be your cue to begin deliberations. And
21 before you begin deliberations, Mr. Belton, our alternate,
22 needs to step back out of the jury room. Your clerk of
23 court has asked me to advise you that he has ordered lunch
24 for you in the form of various kinds of pizzas. If anyone
25 finds that offensive or something you can't eat if you

1 would please pass word out that you can't easy pizza and
2 want something else and we will try to accommodate you. So
3 if you would now please step into the jury room and I will
4 be in touch with you shortly.

5 (The jury left the courtroom.)

6 THE COURT: Exceptions to the charge from the State?

7 MR. COOK: No exceptions from the State, Your Honor.

8 THE COURT: Defense?

9 MR. FRICK: None from the defense.

10 (The jury began deliberations and the alternate was
11 dismissed.)

12 (The jury returned with a question.)

13 THE COURT: Welcome back, ladies and gentlemen, I have
14 a note from the jury. As I understand it it really is two
15 questions. One is the jury is asking for me to provide the
16 names of the four men involved in the first shooting at
17 Armadillo's. The second question is I take it to be two
18 separate questions, the names of the four people who were
19 together the night of the shooting and I take it that the
20 jury is asking about the shooting that brings us here to
21 this trial. I regret to inform you that I am not going to
22 be able to answer your question or respond the way you
23 would like for me to do that, I know that's not going to
24 make somebody happy. So I tell you, you must rely on your
25 memories, ladies and gentlemen. I will ask you to return

JURY CHARGE

1 to your jury room and begin your deliberations once again.

2 Thank you.

3 (The jury returned to the jury room and resumed
4 Deliberations.)

5 THE COURT: Any exceptions to those comments of the
6 Court from the State?

7 MR. COOK: None from the State.

8 THE COURT: From the defense?

9 MR. FRICK: None from the defense.

10 (Break in proceedings.)

11 THE COURT: I am informed that we have a verdict, the
12 jury has reached a verdict. Is the State ready to receive
13 the verdict?

14 MR. COOK: Yes, Your Honor.

15 THE COURT: Defense?

16 MR. FRICK: Yes, sir.

17 (The jury returned to the courtroom.)

18 THE COURT: Welcome back, ladies and gentlemen.
19 Mr. Ledford, let me ask you as foreperson of the jury, has
20 the jury reached a verdict in the case?

21 THE JUROR: Yes, sir, we have.

22 THE COURT: Couple of questions. Was the verdict
23 unanimous, meaning all 12 of you agreed?

24 THE JUROR: Yes, sir.

25 THE COURT: Did you circle the verdict form on behalf

1 of the jury?

2 THE JUROR: Yes, sir.

3 THE COURT: And did you sign the verdict form?

4 THE JUROR: Yes, sir.

5 THE COURT: Would you please pass it forward? Okay.

6 If you publish the verdict, Mr. Clerk?

7 THE CLERK: Yes, sir, Your Honor. State of South
8 Carolina versus Roshune Carelock, defendant. We, the jury
9 as to indictment number 2007-GS-29-84, assault and battery
10 with intent to kill unanimously find the defendant, Roshune
11 Carelock, not guilty. As to the lesser included offense of
12 assault and battery of a high and aggravated nature, we
13 unanimously find the defendant, Roshune Carelock, guilty.
14 Signed, Donald Ledford. Ladies and gentlemen of the jury,
15 if this be your verdict so say you all by the raising of
16 your right hands. Let the record reflect all jurors raised
17 their right hands...

18 THE COURT: All right. Thank you, Mr. Clerk.
19 Anything further from the State before the jury is
20 discharged?

21 MR. COOK: Nothing further from the State, Your Honor.

22 THE COURT: From the defense?

23 MR. FRICK: Request polling.

24 THE CLERK: Donald Ledford, is this your verdict and
25 is this still your verdict?

JURY VERDICT

1 THE JUROR: Yes, sir.

2 THE CLERK: Rita Brewington, is this your verdict and
3 is this still your verdict?

4 THE JUROR: Yes, sir.

5 THE CLERK: Linda Catoe, is this your verdict and is
6 this still your verdict?

7 THE JUROR: Yes, sir.

8 THE CLERK: Yvonne Beckles, is this your verdict and
9 is this still your verdict?

10 THE JUROR: Yes.

11 THE CLERK: Joette Hewett, is this your verdict and is
12 this still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Jennifer Starnes, is this your verdict and
15 is this still your verdict?

16 THE JUROR: Yes, sir.

17 THE CLERK: Dennis Adams, is this your verdict and is
18 this still your verdict?

19 THE JUROR: Yes, sir.

20 THE CLERK: Marion Simms, is this your verdict and is
21 this still your verdict?

22 THE JUROR: Yes, sir.

23 THE CLERK: Rhonda Arant, is this your verdict and is
24 this still your verdict?

25 THE JUROR: Yes, sir.

JURY VERDICT

1 THE CLERK: Harriet Goode, is this your verdict and is
2 this still your verdict.

3 THE JUROR: Yes, sir.

4 THE CLERK: Cosonj Allen, is this your verdict and is
5 this still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Teresa Williams, is this your verdict and
8 is this still your verdict?

9 THE JUROR: Yes.

10 THE COURT: Anything further, gentlemen?

11 MR. COOK: Nothing further from the State.

12 MR. FRICK: No, sir.

13 (At this time the jury was dismissed.)

14 THE COURT: Mr. Frick?

15 MR. FRICK: Your Honor, at this time defense would
16 move for a new trial, additionally I would move for the
17 verdict to be set aside based on the 13th juror doctrine.

18 THE COURT: Anything further in regard to those two
19 motions?

20 MR. FRICK: No. And I would just carry forward any
21 objections that I had already previously put on the record.

22 THE COURT: The Court notes and understands these
23 objections, but would deny the motion -- deny both of your
24 motions. Is there any reason the Court should not impose
25 sentence at this time? Is the State ready to proceed?

SENTENCING HEARING

1 MR. COOK: Can we approach about something, Your
2 Honor?

3 THE COURT: Sure.

4 (A bench conference was held.)

5 THE COURT: And Mr. Frick?

6 MR. FRICK: Thank you, Your Honor. Your Honor, you
7 have heard a great deal about my client already. Obviously
8 you have heard about this case and again, we do not deny
9 that there was any tragic incident that occurred to
10 Mrs. Thompson. We do, however, maintain our innocence.
11 You've heard from our alibi witnesses and, of course, the
12 jury heard from them and they made their vote accordingly.
13 Obviously this is not the time or place to argue with that
14 verdict but we would ask you to understand that we are
15 maintaining our innocence at this time. You also heard
16 through my client's testimony a good deal about his record.
17 Really what he has on his record is exactly what you heard,
18 I think he got the burglary violent 2002, I do point out he
19 was 17 years of age when that happened. There was one
20 additional burglary at some point in time and then some
21 grand larcenies, I think they were 2006.

22 (Break in proceedings.)

23 MR. FRICK: Judge, while he's searching for that at
24 the point in time when my client was charged with this
25 offense he was on probation.

1 MR. COOK: Two burglaries.

2 THE COURT: Two total.

3 MR. COOK: Two total.

4 MR. FRICK: Your Honor, of course, I would note in
5 there there's nothing that violent, there's nothing of an
6 assault type nature. He doesn't even have an arrest for
7 any type of charge like that, and no charges for weapons.
8 I know you heard what he talked about happened to him while
9 he was in high school and in that manner, though, I would
10 point out he did get in trouble for having a pocket knife
11 which was a time when everybody had a pocket knife in
12 school but the day and age is much different now. Again,
13 going back to my client being on probation at the time of
14 his arrest on this matter, I conferred with probation
15 trying to figure out because we did have a revocation
16 hearing subsequent to his first arrest. It's my
17 understanding that part of their violation -- they had some
18 issue with his monies, he was before Judge Lockemy, it
19 appears from my notes that I was the attorney on the case
20 but I did not take very good notes at the time and I cannot
21 recall all that occurred at that. I do note that he was
22 revoked two years. Of course, part and parcel to that
23 could have been this charge, and I can't say specifically
24 that it was, but he was revoked two years and I do believe
25 that that was due in part to the fact he was charged with

1 assault and battery with intent to kill with some very,
2 very serious sounding facts which I am sure were presented
3 to the Court. So I would ask you to consider that time
4 that he has already served essentially towards this charge
5 in your sentencing. My client, while having some
6 difficulty in his youth, I think has done rather well, much
7 better than many of my other clients who have had his kind
8 of past who were able to try to get their feet under them.
9 Basically since this incident he has not run into anymore
10 trouble and this incident was some two and a half years
11 ago. I certainly do understand part of that time was spent
12 in the department of corrections, but --

13 THE COURT: I think he said he had been out October a
14 year ago?

15 MR. FRICK: Yes, sir. So you are looking at a not
16 insignificant period of time that he was out without
17 finding himself in anymore trouble.

18 THE COURT: All right. And Mr. Carelock, anything you
19 want to say?

20 THE DEFENDANT: Yes, sir. Once again I am not guilty.
21 I just ask for the mercy of the Court. In that time frame
22 true indeed I would still be on probation today if I
23 wouldn't have been alleged to these charges that I am
24 convicted of. I'm just hoping for the mercy of the Court,
25 you will be lenient on me. I have been enrolled in good

1 programs, done a lot of good things, you know, I don't know
2 how this happened.

3 MR. FRICK: And, Your Honor, I would point out one
4 other positive thing about him. While you heard he didn't
5 complete his high school education at Lancaster High School
6 he did complete -- I believe you got your GED, didn't you?
7 Or did you get your diploma? And then he was attending USC
8 Lancaster, he was trying to better himself.

9 THE COURT: Thank you. Solicitor?

10 MR. COOK: Well, Judge, I just clarify his record,
11 2002 burglary second degree violent, trespassing, grand
12 larceny \$1,000 to \$5,000. Burglary second degree,
13 non-violent, breaking and entering auto two counts --
14 actually five counts. 2006 grand larceny one to five. You
15 notice he was convicted of assault and battery of a high
16 and aggravated nature which carries ten years. An innocent
17 young lady got shot in the head, lost her eyesight forever,
18 it's a very serious case. The State is seeking the maximum
19 of this charge of ten years. The victim would also like to
20 address the Court, Ms. Larisha Thompson, at the appropriate
21 time if you would hear from her.

22 THE COURT: The Court will be glad to hear from her
23 right now.

24 THE WITNESS: My name is Larisha Sherrell Thompson.
25 All I said, I never thought my life would turn out like

1 this. I have been in school and everything, I do the right
2 thing. I have never got in any trouble, ever, ever. I
3 went to school, went to college, still in college, I was
4 working a full-time job, just bought my house, you know.
5 He basically ruined my life. I am not going to sit up here
6 and pinpoint one person out of all of Lancaster County.
7 Whatever went down the night before I never knew about it.
8 Because like I said the time I really wasn't speaking to
9 Maurice because we had fell out. He know what he did, I
10 know what he did. I saw his face. I have no reason to lie
11 on him. Me and my daughter, we live with this everyday. I
12 have lost my eyesight. I am back and forth to the doctor
13 at least once a week. I have a doctor's appointment at
14 least once a week. I hurt everyday. There's not a day
15 that go by I don't hurt, my eye don't hurt, my head don't
16 hurt. I am in pain. I am on like ten different medicines
17 right now. Before this I had no problem, I was a healthy
18 person able to take care of myself and my daughter and he
19 basically ruined my life. He ruined my life. Like I said
20 I never thought it would turn out like this. I am still
21 pushing on because I have still other goals in my life that
22 I want to reach that I will reach regardless if I only have
23 one eye or not, you know. But I lost my eyesight. I will
24 never regain it. I just don't feel like he should get a
25 little bit of years and walk around the street when I saw

1 him. I know him, I don't have a reason to lie on him.

2 THE COURT: Thank you, Ms. Thompson.

3 MR. COOK: Your Honor, the State would also like to
4 add there's a matter of restitution in this case, as the
5 Court can imagine a substantial sum. I am going to be in
6 contact with the victim in this case to try to get it
7 resolved as quickly as possible, I would just like to note
8 that on the record.

9 MR. FRICK: Judge, my only issue on that is we could
10 have some time frame. I know we don't have it in South
11 Carolina courts but I noted recently that I think federal
12 court has a 90 day requirement, I think 90 days would be
13 sufficient to try to collect whatever we are going to be
14 able to do. I just hate for this to be hanging over his
15 head for however long.

16 THE COURT: Solicitor?

17 MR. COOK: Your Honor, I don't have a problem with 90
18 days. I think we can sit down with the victim and get
19 something together and get this taken care of within 90
20 days.

21 THE COURT: Restitution will be deferred for a period
22 of 90 days. Mr. Carelock, as you know and as your attorney
23 has already said, the jury has spoken on the issue of guilt
24 or innocence and the jury has found you guilty of assault
25 and battery of a high and aggravated nature. And since the

1 facts of this case were only whether you did or did not
2 shoot her, the Court takes this as if the jury has found
3 that you did shoot the victim. And therefore,
4 Mr. Carelock, I am going to sentence you to the department
5 of corrections for a period of ten years and not going to
6 give you credit for the probation revocation. Good luck to
7 you.

8 (END OF TRIAL PROCEEDINGS.)

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1 I, the undersigned, Michael C. Watkins, Official
2 Court Reporter for the Sixth Judicial Circuit of the State
3 of South Carolina, do hereby certify that the foregoing is
4 a true, accurate and complete transcript of record of the
5 proceedings had and evidence introduced in the trial of
6 the captioned case, relative to appeal, in the Court of
7 General Sessions for Lancaster County, South Carolina, on
8 the 26th and 27th days of January, 2010.

9 I do further certify that I am neither of kin,
10 counsel, nor interest to any party hereto.

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May 31, 2010.

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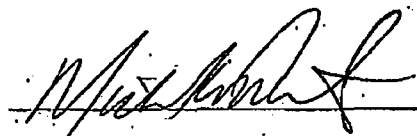
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Michael C. Watkins
Court Reporter

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHUNE L. CARELOCK,

APPELLANT

INITIAL ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the judge err in refusing to suppress the testimony from paramedic Angela Staher who testified that the victim told her that she saw the appellant lift his hand and shoot her in the face when this statement was not disclosed pursuant to Rule 5?

STATEMENT OF THE CASE

In 2007, the Lancaster County Grand Jury indicted Carelock for assault and battery with intent to kill, indictment #2007-GS-29-848. On January 26, 2010, Carelock proceeded to jury trial before the Honorable Brooks P. Goldsmith. The jury returned a verdict of guilty of the lesser included offense of assault and battery of a high and aggravated nature. Judge Goldsmith sentenced Carelock to 10 years and an order on restitution was deferred. A timely notice of intent to appeal was filed on January 29, 2010. This appeal follows.

ARGUMENT

The judge erred in refusing to suppress the testimony from paramedic Angela Staher who testified that the victim told her that she saw the appellant lift his hand and shoot her in the face when this statement was not disclosed pursuant to Rule 5.

The jury convicted Carelock of shooting through the glass in Larisha Thompson's front door, resulting in injuries to Thompson. Thompson testified that late in the evening of May 20, 2007, she heard tapping on her front door. (Tr. p. 98, lines 11- 20). According to Thompson, she looked out the front door and saw the appellant. (Tr. p. 99, lines 20 – p. 101, lines 1-18). Thompson testified that she knew appellant because his sister was a classmate. (Tr. p. 101, lines 2-3). According to Thompson, appellant asked if Maurice Bufford, the father of Thompson's child, was at home. (Tr. p. 101, lines 9-12). Thompson told appellant that Maurice was not there. The next thing Thompson remembered was the shot being fired through the door. (Tr. p. 103, lines 19 – p. 104, lines 1-6). Thompson did not testify that she saw appellant shoot the gun.

Angela Staher, a paramedic, treated Thompson for her injuries. Staher was called as a witness at trial. Prior to her testimony, Carelock objected to the testimony of Staher in regard to a statement made by Thompson to her because the statement was not provided in discovery pursuant to Rule 5. (Tr. p. 135, lines 22 – p. 136, 137, lines 1-3; lines 22-25, p. 138, lines 2-13). While Staher's name was provided to defense counsel, her EMS report was not provided until the day of trial. (Tr. p. 136, lines 24 – p. 137, lines 1-3). The judge overruled the objection. (Tr. p. 138, lines 19-21). Staher then testified, "She [Thompson] told him that her boyfriend was not there and he pulled a gun and shot her in the face. She actually saw him lift his hand up to see her - -" (Tr. p. 144, lines 18-20). Carelock renewed

his objection and the judge again overruled the objection. (Tr. p. 144, lines 21-23). The judge erred.

Rule 5(a)(1)(C) SCRCrimP requires:

Upon request of the defendant the prosecution shall permit the defendant to inspect and copy books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of his defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant.

The State's failure to provide the EMS report was a violation of Rule 5(a)(1)(C).

The victim's statement to the paramedic was not reduced to writing. In State v. Robinson, 305 S.C. 469, 476, 409 S.E.2d 404, 409 (1991), the Court wrote, "The trial judge ruled that pursuant to Rule 5(a)(2), SCRCrimP, investigative reports are not discoverable and witness statements must be provided only after a witness has testified." While the statement to the paramedic may not have been discoverable, the EMS report was discoverable.

In State v. Kennerly, 331 S.C. 442, 453-454, 503 S.E.2d 214, 220 (Ct.App. 1998)

the Court wrote:

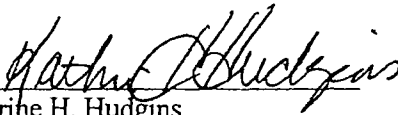
This rule [Rule 5] clearly applies to evidence within the actual possession of the prosecution and seems to also apply to evidence within the possession of other government agencies. See State v. Gullede, 326 S.C. 220, 487 S.E.2d 590 (1997). The definition of "material" for purposes of Rule 5 is the same as the definition used in the Brady context. See Fradella v. Town of Mount Pleasant, 325 S.C. 469, 482 S.E.2d 53 (Ct.App.1997) (per curiam). Once a Rule 5 violation is shown, reversal is required only where the defendant suffered prejudice from the violation. State v. Trotter, 322 S.C. 537, 473 S.E.2d 452 (1996); State v. Wilkins, 310 S.C. 81, 425 S.E.2d 68 (Ct.App.1992).

The EMS report was in the possession of the Lancaster County EMS, a government agency. The report was material. The failure to produce the EMS report constituted a Rule 5 violation. Appellant suffered prejudice from the violation. While the statement is not specifically mentioned in the EMS report, counsel may have interviewed the paramedic after receiving the EMS report, learned of the alleged statement and been prepared to cross examine in regard to the statement. Such cross examination was particularly important given the fact that the statement contradicted the victim's testimony at trial.

CONCLUSION

Based on the above argument, appellant's sentence and conviction should be reversed and the case remanded for a new trial.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of February, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHUNE L. CARELOCK,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Roshune L. Carelock states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Brooks P. Goldsmith, which was held on January 27, 2010, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Roshune L. Carelock.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of February, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHUNE L. CARELOCK,

APPELLANT

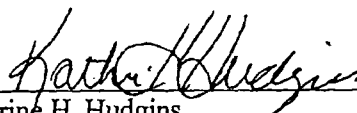
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment and sentencing sheet;
- (2) Trial transcript

I certify that this designation contains no matter which is irrelevant to this appeal.

February 22nd, 2011


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

Attorney for Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lancaster County

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHUNE L. CARELOCK,

APPELLANT

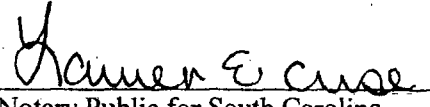
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and on Roshune L. Carelock, # 292483 at Wateree River Correctional Institution, this 22nd day of February, 2011.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 22nd day of February, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Roshune L. Carelock,

Appellant.

Appeal From Lancaster County
Brooks P. Goldsmith, Circuit Court Judge

Unpublished Opinion No. 2012-UP-287
Submitted April 2, 2012 – Filed May 9, 2012

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of Columbia, and Roshune L. Carelock, pro se, for Appellant.

Attorney General Alan Wilson, Chief Deputy Attorney General John W. McIntosh, and Assistant Deputy Attorney General Salley W. Elliott, all of Columbia; and Solicitor Douglas A. Barfield, Jr., of Lancaster, for Respondent.

PER CURIAM: Roshune L. Carelock appeals his conviction for assault and battery of a high and aggravated nature, arguing the circuit court erred in admitting the testimony of a paramedic regarding statements made by the victim when the State failed to disclose the paramedic's report prior to trial. Additionally, Carelock filed a pro se brief. After a thorough review of the record and all briefs pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.¹

APPEAL DISMISSED.

FEW, C.J., and HUFF and SHORT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

(656)

FORM 5

STATE OF SOUTH CAROLINA)

County of LANCASTER County)

IN THE COURT OF COMMON PLEAS

Roshune Carelock #292483)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2013 APR -2 PM 3:13
CLERK OF COURT
LANCASTER, SC**INSTRUCTIONS B READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention LANCASTER County Detention Center,
(P.O. Box 908, LANCASTER S.C. 29720.)
2. Name and location of Court which imposed sentence LANCASTER County
Court of General Session, 3 Common Pleas
3. Name(s) of co-defendant(s) (if any)
N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2007 G.S. 29-A.B.W.I.K. 848 "Aquitted"
 - (b) 2007 G.S. 29-A.B.H.A.N. "Convicted"

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) JANUARY 27, 2010 @ 10 yrs, plus Court Costs of \$133.20 + Restitution

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ☒ _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Judgment of Conviction: yes / Imposition of Sentence: yes

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. APPEAL DISMISSED / DENIED (unpublished opinion)

ii. Date Submitted @ April 2, 2012 - Filed May 9, 2012

iii. _____

(c) the date of each such result:

i. April 2, 2012 - Filed May 9, 2012

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

(a) N/A

- (b) N/A
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) TRIAL JUDGE ERRED IN DENYING CREDIT FOR TIME SERVED
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) COUNSEL FAILED TO INVESTIGATE CASE, QUESTION WITNESSES, & MAKE OBJECTIONS
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. TRIAL JUDGE ERRED IN DENYING CREDIT FOR TIME SERVED
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. SOUTH CAROLINA COURT OF APPEALS & THE ISSUE WAS NOT ADDRESSED
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? YES

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. MR. William Frick : P.O. Box 1809 } TRIAL & SENTENCE
LANCASTER S.C. 29720

ii. Ms. Katherine Hudgins : Division of Appellate defense } Appeal
P.O. Box 11589
 iii. Columbia S.C. 29211-1589

(b) the proceedings at which each such attorney represented you:

i. MR. William Frick : TRIAL & SENTENCING

ii. Ms. Katherine Hudgins : APPEAL

iii. _____

19. State clearly the relief you seek in filing this application:

SENTENCE AND CONVICTION BE REVERSED

20. Are you now under sentence from any other court that you have not challenged?

N/A

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of LANCASTER S.C.)

VERIFICATION

I, Rashawn Lemon Carleton, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Rashawn Lemon Carleton

SWORN to and subscribed before me this 25
day of March, 2013.

Catherine A. Carver (L.S.)
Notary Public

My Commission Expires: My Commission Expires December 22, 2013

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Rashune Lemon Carter, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Rashune Lemon Carter
Applicant

SWORN or affirmed to and subscribed before me this
25 day of March, 2013.

Cathrine A. Amore
Notary Public

My Commission Expires: My Commission Expires December 22, 2018

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Roshune Carelock, #292483,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

2013-CP-29-0499

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 2, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. The Applicant was indicted for Assault and Battery with Intent to Kill ("ABWIK") (2007-GS-29-0848). The Applicant was represented by William Frick, Esquire. Following a jury trial, Applicant was convicted of the lesser offense of Assault and Battery of a High and Aggravated Nature ("ABHAN"). He was sentenced by the Honorable Brooks P. Goldsmith to confinement for a period of ten (10) years.

A timely Notice of Appeal was filed. Following the submission of a brief pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Carelock, Op. No. 2012-UP-287 (filed May 9, 2012). The Remittitur was sent on May 25, 2012.

Attached herewith and incorporated herein are the records of the Lancaster County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the appellate records, and the trial transcript. Any of the above not so attached will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to investigate case, question witnesses, & make objections."
2. "Trial judge erred in denying credit for time served."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

To the extent that Applicant alleges error by the trial court, such claim is not cognizable at PCR. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;

4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

S.C. Code Ann. § 17-27-20 (1976).

Trial court error does not support a cognizable claim for post-conviction relief under any of the statutory grounds. Therefore, the Court should summarily dismiss this application for post-conviction relief.

V.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signatures on next page.]

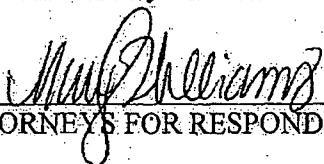
Respectfully submitted,

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By: 
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December 18, 2013.

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

) IN THE COURT OF COMMON PLEAS
) SIXTH JUDICIAL CIRCUIT

Roshune Carelock,

) 2013-CP-29-0499
)

) Applicant,
)

) v.
)

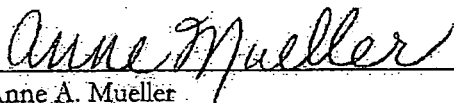
) CERTIFICATE OF SERVICE BY MAIL
)

) State of South Carolina,
)

) Respondent.
)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

W. Michael Hemlepp Jr., Esquire
S.C. Association for Justice
3027 S. Parham Road
York, South Carolina 29745



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 18th day of December, 2013.

1	STATE OF SOUTH CAROLINA	}	IN THE COMMON PLEAS COURT
2	COUNTY OF LANCASTER		
3	Roshune Carelock,	}	TRANSCRIPT OF RECORD 2013-CP-29-0499
4	Applicant,		
5	-vs-	}	July 29, 2014 Lancaster, South Carolina
6	The State.		

B E F O R E:

HONORABLE W. JEFFREY YOUNG, JUDGE

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

W. MICHAEL HEMLEPP, JR., ESQUIRE
Attorney for the Applicant

CROOM HUNTER, ESQUIRE
Attorney for the State

Linda D. Moffitt
Circuit Court Reporter

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No exhibits entered into evidence.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 THE COURT: All right. The next case is Roshune
2 Carelock vs. State of South Carolina under docket
3 2013-CP-29-499.

4 Present and appearing is the plaintiff with his
5 attorney, Mr. Michael Hemlepp. The state is present and
6 represented by Mr. Croom Hunter.

7 Are we ready to proceed, Mr. Hemlepp?

8 MR. HEMLEPP: I am ready to proceed, Your Honor.

9 THE COURT: All right. You may call your first
10 witness.

11 MR. HEMLEPP: Thank you, Your Honor. I would call the
12 applicant, Mr. Roshune Carelock, to the stand.

13 ROSHUNE CARELOCK, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. HEMLEPP

16 Q Mr. Carelock, would you please tell us your full name?
17 And if you would, would you spell your last name for the
18 court reporter who is seated before you?

19 A Yes, sir. My full name is Roshune Lamar Carelock.
20 And my last name is spelled C-A-R-E-L-O-C-K.

21 Q Mr. Carelock, you are currently incarcerated in the
22 Department of Corrections, are you not?

23 A Correct.

24 Q And what facility are you located at?

25 A Ridgeland Correctional Institution.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 Q How long have you been there?

2 A Well, I've been transferred due to custody changes to
3 different institutions, but I've been incarcerated at this
4 time for a period of four years, shy of five years.

5 Q Okay. How did it come about that you got incarcerated
6 in the Department of Corrections?

7 A Because of an alleged crime that I was supposed to
8 have committed back in 2007. And I was subsequently
9 convicted by a jury in the general sessions court here in
10 Lancaster County.

11 Q Okay. So you went to trial on a charge here in
12 Lancaster County. Were you represented by an attorney?

13 A Yes, sir. I had counsel provided as indigent defense,
14 and which I was provided Mr. William Frick.

15 Q Okay. Mr. William Frick. At the time he worked for
16 the public defender's office, did he not?

17 A Correct.

18 Q Okay. And what charge were you arrested for?

19 A Originally, I was charged with assault and battery
20 with intent to kill.

21 Q Okay. And you elected to go to trial.

22 A Yes, sir.

23 Q Were you -- did the jury reach a verdict?

24 A Of course. They subsequently found me guilty of a
25 lesser included offense of assault and battery, high and

Roshune Carelock
Direct examination by Mr. Hemlepp

1 aggravated nature.

2 Q And were you sentenced at that time?

3 A Yes, sir. Directly following my trial I was sentenced
4 to ten years in the Department of Corrections, and
5 basically, yes, sir.

6 Q Okay. And that was in 2007?

7 A No. The -- the crime that was allegedly, supposedly,
8 to have took place happened in May of 2007. And I was --
9 my trial was in 2010, January of 2010.

10 Q Okay. Did you and Mr. Frick talk about trial prior to
11 going to trial?

12 A Honestly, no, sir. I never saw Mr. Frick until,
13 basically, the date that I was going to trial if I'm
14 correct. I saw Mr. Frick on a Friday. And, basically, it
15 was -- basically, picking the jury and stuff like that. I
16 was not even aware of why I was being contacted to come to.

17 Q So he had not visited you prior to that.

18 A No, sir.

19 Q Were you out on bond?

20 A No, sir.

21 Q Okay. You were at the detention center.

22 A No. Actually, the department of -- I -- when I was --
23 when I was arrested for the assault and battery with intent
24 to kill, at the time I was on probation from a prior
25 conviction. And due to me being incarcerated for the

Roshune Carelock
Direct examination by Mr. Hemlepp

1 assault and battery with intent to kill, my probation was
2 violated in part and parcel due to the fact that I was
3 alleged to have committed this crime. And I was sent to
4 the Department of Corrections to serve my 2-year sentence.

5 And the assault and battery with intent to kill charge
6 was pending on me, you know, as far as my custody and
7 things during my incarceration.

8 And upon my max-out date my -- the S.C.D.C.,
9 Department of Corrections, they made a mistake or error,
10 and they never returned me back to Lancaster County to
11 await trial and sentencing in the event that I didn't have
12 monies to make bond. And I was released to society with my
13 family, and there I spent until I received a letter
14 indicating that I was to appear for trial.

15 Q Okay. How long between you maxing out your probation
16 violation and the date of your trial?

17 A Approximately three years.

18 Q Approximately three years.

19 A Yes.

20 Q And during that time did you have any opportunity to
21 talk to Mr. Frick?

22 A No, sir.

23 Q Okay. When you were getting ready for trial did you
24 talk to Mr. Frick about -- I believe you testified the
25 Friday before. Did you talk to Mr. Frick about possible

Roshune Carelock
Direct examination by Mr. Hemlepp

1 defenses?

2 A Of course. My main issue was alibi defense.

3 Q Okay.

4 A And, basically, I -- what I was told by Mr. Frick is,
5 hey, we really don't have time, we're going to trial
6 Monday, I need you to get out there and find these
7 witnesses.

8 And at that time I informed Mr. Frick that the crowd
9 that I used to hang with back then I no longer was in
10 contact with those trying to change my life, so I no longer
11 dealt with those individuals.

12 And of course, you know, it was a 3-year period. So,
13 and of course there was times. People move. Life changes
14 and things.

15 And I told Mr. Frick the actual names of the
16 individuals under -- under the impression that maybe he
17 could contact the sheriff's office and have the people
18 subpoenaed, maybe get addresses to be able to contact these
19 individuals. But, I mean, basically, it was left up to me
20 to come to court with these people present with me Monday
21 morning ready for court.

22 Q And the case was called for trial.

23 A Yes, sir.

24 Q How long did the trial last?

25 A Approximately three days to four days.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 Q Okay. At some point did the victim testify?

2 A Of course.

3 Q Do you remember the victim's name?

4 A Yes, sir. If I'm correct, Larisha Thompson.

5 Q At the trial did Ms. Thompson testify, identify you as
6 an assailant?

7 A Well, Ms. Thompson testified at my trial that I was
8 present, you know, as far as like on the scene there, but
9 Ms. Thompson never indicated that I actually assaulted her
10 or fired any firearm, never indicated that I was in
11 possession of a firearm, never indicated that they actually
12 seen me shoot or anything like that.

13 Q Okay. Do you remember one of the witnesses called by
14 the state being an E.M.S. worker, a first responder for
15 medical services?

16 A Of course, yes, sir.

17 Q Okay. And what was the nature of her testimony?

18 A Well, the nature of the E.M.S. personnel's
19 testimony -- if I recall her name was Angela Stature. And
20 she testified that while treating the victim, the victim
21 was in general conversation with her cousin in the
22 ambulance and the victim stated to her cousin in the
23 ambulance -- Arisha if I'm correct -- that they saw me lift
24 the gun straight to their level with their face and fire
25 into their face at that time.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 Q And when you say they, are you talking about the
2 victim said that?

3 A It's according to the E.M.S. personnel.

4 Q Right. Her testimony was that the victim had said
5 that.

6 A Of course, yes, sir.

7 Q Okay. Did Mr. Frick at trial object to that?

8 A Mr. Frick objected to that, yes, sir. But the point
9 that I see as far as that is that Mr. Frick did make an
10 objection to that, but also Mr. Frick, I felt as though,
11 could have addressed that in a different manner as far as
12 like being -- asking more formally for the judge to give
13 him time to adequately question that witness, being that
14 this was made known of what the victim was going to
15 testify.

16 Q Okay. Well, let's -- let's back up on that.

17 A Okay.

18 Q You and I discussed P.C.R.s --

19 A Of course.

20 Q -- prior to this hearing.

21 A Yes, sir.

22 Q Now, and we talked about that the purpose of the
23 P.C.R. is to determine whether your constitutional rights
24 were protected at the proceeding.

25 A Of course.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 Q So we're going to talk in terms of -- of that.

2 A Yes, sir.

3 Q The objection that was made by Mr. Frick, --

4 A Yes, sir.

5 Q The objection was that he did not know of the
6 statement prior to trial, is that true? The statement of
7 the victim to the E.M.S. worker.

8 A Of course, yes, sir.

9 Q Okay. And that was couched in terms of a Rule 5
10 violation --

11 A Yes, sir.

12 Q -- which was put into the record.

13 MR. HEMLEPP: Your Honor, this is on page 138 and 139
14 of the transcript.

15 THE COURT: One what?

16 MR. HEMLEPP: 138 and 139 of the transcript. Well,
17 no. I'm sorry. I believe it starts on 137.

18 Q Did you appeal that?

19 A Yes, sir.

20 Q Okay. And was that issue appealed, whether the
21 state -- whether the Court had made a mistake in letting
22 the woman testify to that?

23 A Well, I honestly can't answer that because I don't
24 understand exactly what you're asking me, but if I'm
25 correct with what you're referring to, I think that it was

Roshune Carelock
Direct examination by Mr. Hemlepp

1 actually appealed as far as being a Rule 5 violation as far
2 as the trial judge erring in admitting it into evidence. I
3 don't believe that it was appealed in the aspect of being
4 ineffective on Mr. Frick's part.

5 Q Well, exactly, because that hadn't been resolved yet.
6 That's what we're doing today.

7 A Of course, of course.

8 Q Did you know that this statement had been made prior
9 to trial?

10 A No, sir.

11 Q Prior to hearing it from the E.M.S. worker.

12 A No, sir. And I never heard it from the E.M.S. worker
13 until the E.M.S. worker was actually testifying at my
14 trial.

15 Q During the trial were you able to determine -- did
16 Mr. Frick know that this testimony was going to be
17 introduced?

18 A No, sir. He never knew that.

19 Q Was this a surprise to both of you?

20 A Of course.

21 Q Okay. Now, let's talk about your sentencing.

22 A Yes, sir.

23 Q You and I prior to this hearing had a discussion about
24 the authority that Judge Young has.

25 A Of course.

Roshune Carelock
Direct examination by Mr. Hemlepp

1 Q And the role of the post-conviction-relief action.

2 A Of course.

3 Q You indicated to me that there were -- there was
4 difficulty.

5 MR. HEMLEPP: Or rather withdraw that, Your Honor.

6 Q You indicated to me that there was a mistake made with
7 how -- with whether you got credit for the time that you
8 had served.

9 A Yes, sir.

10 Q And I had indicated to you prior to this hearing that
11 that was not something that Judge Young had authority to
12 handle.

13 A Of course.

14 Q But that you believed it was still important to
15 testify about that.

16 A Yes, sir.

17 Q Is that correct?

18 A Yes, sir.

19 Q Okay. So tell me about your sentencing. Tell Judge
20 Young about your sentencing and about the situation with
21 the credit for your time served.

22 A Yes, sir. After my trial --

23 THE COURT: Make it brief since I can't do anything
24 about it.

25 THE WITNESS: Okay.

Roshune Carelock
Cross-examination by Mr. Hunter

1 A After my trial, basically we -- we went into
2 sentencing. And I was asking to receive pretrial detention
3 time, whereas I spent incarcerated following my trial. And
4 I was denied this time by the judge, but I don't feel as
5 though the issue was addressed as far as what I was
6 actually requesting.

7 Mr. Frick asked for me to be credited time for
8 probation revocation, but it's not what I was requesting.
9 I was actually requesting pretrial detention time for
10 trial, I mean, time that I spent incarcerated prior to
11 trial and sentencing.

12 Q Okay. And you recognize that the administrative law
13 judge is the appropriate forum for that.

14 A Of course, yes, sir.

15 Q Okay.

16 MR. HEMLEPP: Your Honor, I have nothing further of
17 this witness at this time.

18 Q Mr. Carelock, I need you to answer any questions that
19 the attorney general may have for you.

20 A Of course.

21 MR. HEMLEPP: Thank you, Your Honor.

22 THE COURT: Mr. Hunter.

23 CROSS-EXAMINATION

24 BY MR. HUNTER

25 Q Good morning, Mr. Carelock.

Roshune Carelock
Cross-examination by Mr. Hunter

1 A Good morning.

2 Q Now, let's speak about -- one of your complaints is
3 that Mr. Frick didn't, basically didn't, meet with you
4 enough beforehand in order to line up your alibi witnesses,
5 is that correct?

6 A Correct.

7 Q Okay. But didn't two witnesses testify on your behalf
8 that you were with them the night of the -- or, yeah, the
9 night of the crime.

10 A Correct. One of those witnesses was my cousin. And,
11 you know, of course I could contact him. But one of the
12 other witnesses -- Mr. Carlos Mackey -- I actually located
13 him with, you know -- but I actually located him myself.

14 Q So there was only -- from my understanding of your
15 side of the story there was only -- one other alibi witness
16 that was with you that night.

17 A Yes, to corroborate our testimony.

18 Q Okay. So you had two of the three alibi witnesses
19 testify at trial, didn't you?

20 A Yes, sir, but I feel as though the people that I was
21 with at that time could -- all of the people that I was
22 with could have corroborated and made alibi, basically
23 defense of where I was at at the time of this crime.

24 Q Okay. Now, you seem to dispute the fact that the
25 victim in this case I.D.'d you as the shooter. Do you deny

Roshune Carelock
Cross-examination by Mr. Hunter

1 the fact that you were on her front porch that night?

2 A Oh, yes, sir. I most definitely deny that.

3 Q So you -- your story is that you weren't there at all.

4 A Yes, yes, sir.

5 Q Okay. Did you have any relationship with the victim
6 beforehand?

7 A No, sir.

8 Q Okay.

9 A I had never actually knew the victim. The victim said
10 that we went to high school together, maybe were classmates
11 or something, which I do not recall. I'm not saying that
12 that's not true. I just don't recall. I only attended
13 Lancaster High School for maybe -- if a whole year. And I
14 was transferred to another school.

15 Q Okay. Well, if you didn't know her beforehand what
16 kind of -- why would she finger you as the shooter?

17 MR. HEMLEPP: Objection, Your Honor. That would call
18 for speculation.

19 THE COURT: Sustained.

20 Q But you would not dispute the fact that the victim
21 testified at trial that she saw you immediately before she
22 was shot. She thought -- she thought the person at her
23 door was you.

24 A Of course. She -- she testified to that, yes, sir.

25 Q Okay. And I believe she even testified that she saw

Roshune Carelock
Cross-examination by Mr. Hunter

1 the tattoo on your neck and that was one of the I.D. -- one
2 of the characteristics, is that right?

3 A That is correct, yes, sir.

4 Q Okay. Now, I guess the night before this all happened
5 you were with your cousin when the victim's boyfriend shot
6 him, right?

7 A The night before what took place?

8 Q The night before the victim in this case was shot.

9 A Okay.

10 Q Were you with your cousin when he was shot?

11 A Of course, yes, sir.

12 Q Okay. And was the shooter that night who shot your
13 cousin, was that the victim in this case's boyfriend?

14 A I -- according to them, yes, sir. I mean, I don't
15 know.

16 Q Okay. Now, you testified in this case, is that
17 correct?

18 A Correct, sir.

19 Q Okay. So you did have a chance to put your side of
20 the story out there.

21 A Of course.

22 Q Okay. And you were originally charged with -- you
23 went to trial on assault and battery with intent to kill.

24 A Yes, sir.

25 Q Okay. And Mr. Frick got you -- got you an ABHAN

Roshune Carelock
Cross-examination by Mr. Hunter

1 verdict, is that right?

2 A I was found guilty of ABHAN.

3 Q Okay. And you realize that if you had gotten
4 convicted of assault and battery with intent to kill you
5 would have been facing a lot more time.

6 A Yes, sir, but I would rather maintain my innocence
7 than to plead to something that I was not -- that I didn't
8 do.

9 Q Okay.

10 MR. HUNTER: Beg the Court's indulgence.

11 THE COURT: Yes.

12 (Pause.)

13 Q Let's talk about your time-served credit for just a
14 second.

15 A Yes, sir.

16 Q Now, you don't dispute the fact that the judge made a
17 ruling on the record that you would not receive credit for
18 your time served, is that right?

19 A Yes. I dispute the fact that what was being asked or
20 requested was not what I was seeking.

21 What was requested of the judge as far as time served
22 was time for the probation revocation, which is not what I
23 would have been asking. What I was asking is pretrial
24 detention time, which is the time that I spent from the
25 date of my arrest for the assault and battery with intent

Roshune Carelock
Cross-examination by Mr. Hunter

1 to kill until my date of release by S.C.D.C., or subsequent
2 as far as me going to trial, pretrial detention time.

3 Q Okay. And your testimony is that you never saw
4 Mr. Frick until the Friday before your trial. You went to
5 trial on Monday, I guess.

6 A Yes, sir. I never spoke with him about my case or
7 anything until that Friday.

8 Q Okay. And I got a little bit confused as to you --
9 were you ever out on bond prior to this case, or you were
10 incarcerated the entire time?

11 A No, I was never out on bond. But, like I stated
12 before, my probation was violated in part and parcel due to
13 me being accused of the assault and battery with intent to
14 kill, at which time I pleaded guilty to the probation
15 violation, not admitting to the crime, but I just at that
16 time didn't want to be on probation, and I would just
17 prefer to do my time and have the probation terminated.

18 And the judge stipulated to me that he could extend my
19 probation to the outcome of the charges, and I told him I
20 would just rather go and do my time in S.C.D.C. and put all
21 of that behind me. So that's how I ended up in the
22 Department of Corrections with the assault and battery with
23 intent to kill charge pending on me.

24 Whereas, I proceeded to my preliminary hearings and
25 things for the assault and battery with intent to kill.

Roshune Carelock
Cross-examination by Mr. Hunter

1 And to my knowledge during my incarceration the general
2 sessions courthouse was burned down because of a fire or
3 something. So upon my release date, like I said, S.C.D.C.
4 made a mistake, and they just released me. They never
5 returned me to Lancaster County to make bond.

6 Q Okay. Now, the victim in this case identified you in
7 a photo lineup as well, didn't she?

8 A Correct.

9 Q Okay. And she told the police your name -- is it
10 Roshune?

11 A Yes, Roshune.

12 Q Roshune Carelock. She said Roshune Carelock did this.

13 A Yes, sir.

14 MR. HUNTER: No further questions, Your Honor.

15 THE COURT: Any redirect?

16 MR. HEMLEPP: No, Your Honor. Thank you.

17 THE COURT: Thank you. You may step down.

18 Does the plaintiff have any other witnesses?

19 MR. HEMLEPP: Yes, Your Honor.

20 THE COURT: All right.

21 MR. HEMLEPP: Because the issue in the case -- prior
22 to resting I would like to actually call Mr. Frick.

23 THE COURT: You may do so.
24
25

William P. Frick
Direct examination by Mr. Hemlepp

1 WILLIAM P. FRICK, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. HEMLEPP

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

5 THE COURT: Yes, sir.

6 Q Mr. Frick...

7 MR. HEMLEPP: And I am going to lead for a minute just
8 in the interest of time.

9 Q You were with the public defender's office at the time
10 that was testified by the applicant, and you represented
11 him at his trial, is that correct?

12 A That's correct.

13 Q And who was the prosecutor in the case?

14 A Trey Cook.

15 Q Trey Cook. Is he still with the solicitor's office?

16 A No. I believe he's in private practice now.

17 Q When did you come to represent Mr. Carelock?

18 A I would imagine it was after the charge was made, but
19 I don't remember specifically. It would have been -- I
20 think I was with the office when -- when this charge was
21 made. I think it was 2007. I'm pretty sure I was an
22 attorney with the office at that time.

23 Q This case was pending in Lancaster County for a long
24 time.

25 A Yes, sir.

William P. Frick
Direct examination by Mr. Hemlepp

1 Q How many years were you appointed counsel for
2 Mr. Carelock?

3 A I would assume from the date of his initial
4 appointment up and to, through the trial.

5 Q Which would be a matter of several years.

6 A I would say about three, yes, sir.

7 Q During that time do you remember having discussions
8 with the solicitor's office about this case?

9 A Not really, no. I mean, this was one of those cases
10 that was -- it was there.

11 Mr. Carelock was in the Department of Corrections on a
12 probation violation matter. And it was not talked about
13 very much, no.

14 As you are somewhat familiar with how the trial list
15 works in the 6th Circuit, occasionally cases get put on.
16 They get taken off. They get put back on. Sometimes
17 there's not an even flow.

18 I don't know when Mr. Carelock's case initially got
19 put on the docket, but it was put on the docket at some
20 point, and then it was put on the docket, and we were
21 notified that we were going to be first up for trial.
22 That's when we had the conversation. It would had to have
23 been that roll call.

24 Q Okay. So how many times did you have the opportunity
25 to talk to Mr. Carelock before the case was called to

William P. Frick
Direct examination by Mr. Hemlepp

1 trial?

2 A Specifically, I have no idea. I know we spoke in
3 length that Friday, which is in -- which would have been
4 the trial-list roll-call day before court started.

5 I do not recall whether we started Monday morning or
6 whether it was later in the week or later Monday afternoon.

7 I know we sat down. And I can tell you the most
8 detailed conversation we had would have been that Friday.
9 I do recall speaking with him in passing at previous roll
10 calls, because he would be on the list. But he was not
11 first up. And when you're not first up -- I mean, you get
12 a trial list that's got 30 something cases on it. If
13 you're not the one in the top five my general advice is be
14 in contact with my office and we'll talk to you later.

15 what we did was if you got put on the trial list
16 everybody got a letter at the address that we had and told
17 you to come to roll call. It, in fact, tells you to make
18 an appointment.

19 To my knowledge I never had an appoint with
20 Mr. Carelock. So, I know we spoke in passing and I know we
21 had that one detailed conversation.

22 Now, to be perfectly frank with you -- and I don't
23 mean to deminimize the situation for Mr. Carelock, because
24 it's a serious matter, an ABWIK -- but what a difficult
25 case. There was a couple of witnesses, and it came down to

William P. Frick
Direct examination by Mr. Hemlepp

1 one witness who said he was the one standing at the door
2 shooting. So I felt -- I know he doesn't feel this way.
3 But I felt based on the conversation we had and what I know
4 about the case, conversations I had had with the solicitor,
5 adequately prepared to try the matter.

6 Q Did you have a witness list?

7 A I was provided the witness list at trial, as is the
8 general practice. I was aware of what -- who the witnesses
9 would be, obviously, through going through the incident
10 report and discussing the case with the solicitor. But as
11 far as a specific here's the witness list, that was given
12 to me the day of trial as we were picking the jury.

13 Q Okay. So had you had discussions with Mr. Cook prior
14 to that day about who he anticipated calling as a witness?

15 A I'm sure we did. I can't specifically say what we
16 talked about because I don't remember, but I know we did.

17 Q Did he mention to you that he was going to call the
18 first responder from E.M.S.?

19 A I'm sure I was aware of that.

20 Q And did he tell you what her testimony was going to
21 be?

22 A I don't recall -- I was reviewing over the
23 transcript -- my objection to that situation.

24 Today I can't -- I can't tell you what I remember from
25 that day. I can tell you what the transcript said I

William P. Frick
Direct examination by Mr. Hemlepp

1 remembered at that time, and it was I had no idea that she
2 was going to say that the victim identified Mr. Carelock.
3 And we had an objection about that, and I think that's --
4 that's what the appellate court looked at.

5 Q Right. In fact, you -- that was appealed because you
6 made an objection about the state not complying with Rule 5
7 or Brady.

8 A That's correct.

9 Q You had never been given a report in writing.

10 A That's correct.

11 Q And I understand that you have many cases and that
12 this is several years later, but you would agree that the
13 record accurately reflects what happened at trial.

14 A Yes, yes.

15 Q So it would -- you would also agree that this was a
16 surprise to you.

17 A Yes. Clearly, it was. I mean, that's what it
18 reflects in the record, so.

19 Q How many -- how much time elapsed? Let me ask this
20 correctly. How long did you know that this case was going
21 to trial on the Monday where it was called?

22 A Typically, what happens -- and I'll try to get back to
23 your question -- but, typically, what happens is you get
24 the trial list. And, like I said, there's 30 something
25 names on this list. Clearly, we're not going to try 30

William P. Frick
Direct examination by Mr. Hemlepp

1 names in one week. It usually comes down to, okay, tell
2 me, solicitor, who you're really going to try. And it's
3 anywhere from three to five per attorney in the office.

4 So I would always go in a week or so before and ask,
5 okay, who do I really need to be worried about so we know
6 we're ready.

7 It would have been sometime during the week before
8 that I would have found out that Mr. Carelock's case was
9 hot and ready to go for trial the next week.

10 So I would say the week before is -- at some point
11 during the week before. Whether it's Monday or Tuesday the
12 week before, I have no idea. Before roll call I mean.
13 Before the Friday roll call, because I have to have that
14 information so when I talk to folks I can tell them this is
15 what we're doing next week.

16 So it would have been the week prior to that roll-call
17 Friday. So I guess a week and a half before the trial I
18 would have had that information about this is the case
19 that's definitely going to get called for trial.

20 Q So when you got that information did you then send a
21 letter?

22 A No, no. The way that works is the trial list is
23 generated, given to the public defender's office. The
24 staff of the public defender's office then generates
25 letters that say -- and this is as soon as you get the

William P. Frick
Direct examination by Mr. Hemlepp

1 trial list, which could be a couple of weeks in advance. I
2 try to get it three to four weeks in advance. I can't tell
3 you when we got it because I didn't -- I just get a list
4 that says these are the people that you've got on the trial
5 list.

6 The letters are generated by the office. They're sent
7 out, and it says in there you're on the trial list, be here
8 for roll call and call us to make an appointment. That's
9 sent out at least a week to two weeks, hopefully more if we
10 have that information, prior to the roll-call date.

11 Q Okay. So, and I really am not trying to beat a dead
12 horse. If you're going backwards, you've got the trial
13 date and you've -- the solicitor calls the court -- the
14 case for trial on Monday.

15 A Uh-huh.

16 Q Is roll call on Friday? Mr. Carelock was there on
17 Friday?

18 A That's correct.

19 Q Because he had received a letter. His testimony was
20 that he received a letter.

21 A That's correct.

22 Q You would not dispute that.

23 A No.

24 Q It is your practice to send out a letter.

25 A Yes.

William P. Frick
Direct examination by Mr. Hemlepp

1 Q Okay. So that letter would have been sent out at some
2 point after the trial roster came out.

3 A Right.

4 Q So there was enough time for it to be processed by
5 your office and mailed to Mr. Carelock, and Mr. Carelock to
6 get the letter --

7 A That's correct.

8 Q -- and show up at roll call.

9 A That's correct.

10 Q Okay. And sometime between the trial roster and the
11 roll call you would have talked to Mr. Carelock.

12 A Yes..

13 Q Okay.

14 A Let me clarify one thing.

15 Q Please. This is confusing.

16 A The letter also says call and make an appointment.

17 Q Yes.

18 A Mr. Carelock to my knowledge did not make an
19 appointment, because I never had an appointment with him in
20 my office.

21 Q Right.

22 A The only time we sat down and talked was at roll call.

23 Q Okay. Okay. Actually in focusing on something
24 different.

25 A Sure.

William P. Frick
Direct examination by Mr. Hemlepp

1 Q In the discussions with Mr. Cook who's the solicitor,
2 he had told you that the E.M.S. worker was going to be a
3 witness, that she was going to testify.

4 A Yes.

5 Q You would testify now that he never told you that she
6 had -- that the victim had made a statement to her.

7 A Well, I -- according to the transcript, Mr. Cook
8 didn't know that at the time we talked about it. That
9 apparently was new information to him, because I argued,
10 again, according to the transcript, that this was just
11 revealed to me. I hadn't been given any information.

12 I mean, obviously, I expect if you're going to put an
13 E.M.S. person up there, they're going to come and testify
14 that, yes, I responded, the victim had this injury. And
15 that's usually what you get. There's no statement given to
16 E.M.S. I mean, generally it happens. But there was no
17 reason to believe -- there was nothing recorded anywhere --
18 that said the victim identified this person and told
19 E.M.S. -- responder.

20 So I had no idea, and from what I'm gleaning from the
21 transcript from the hearing that we had on the matter,
22 Mr. Cook did not know until prior, just prior, to eliciting
23 that.

24 I think we did an in-camera hearing on that specific
25 part, which my objection was that should have been provided

William P. Frick
Direct examination by Mr. Hemlepp

1 to me.

2 Q What was the nature of your objection that it be
3 suppressed?

4 A Yes.

5 Q Okay. Did you move for a continuance?

6 A I don't think that I did, but I -- I was just glancing
7 over the transcript, and I do not recall what I did at the
8 trial on that. But I know I asked for the statement not to
9 be -- her to not identify or say the statement.

10 Q And at the time that you had this hearing in front of
11 the judge, did you at that time have the statement?

12 A Yes. At that time I was aware.

13 Q And you had -- you had been able to read what the
14 nature of the testimony was going to be.

15 A Yes. I knew what she was going to say, yes.

16 Q Did you find it to be material?

17 A Well, given the fact that the case came down to one
18 witness who identified Mr. Carelock, having another witness
19 who corroborated her testimony at the time, because it was
20 some time I think before she made the identification.
21 Having somebody right there on the scene and her saying,
22 yeah, it was Roshune, yeah, that was pretty material.

23 Q Okay. Was it ever your practice to get E.M.S. reports
24 as part of your discovery in the case?

25 A Yes. Generally you will get the run report.

William P. Frick
Direct examination by Mr. Hemlepp

1 Q Okay. And did you do that in this case?

2 A I do not recall receiving a run report, and the
3 transcript reflects that I did not.

4 Q Okay. Because clearly this was a surprise to you.

5 A Yes.

6 Q Okay. I don't know if you know the answer to this
7 question.

8 You said that shortly before it was revealed to you
9 Mr. Cook learned about it -- or that may not be your exact
10 words. I'm not trying to trick you. How much time do you
11 think Mr. Cook -- or do you know how much time Mr. Cook knew
12 about the statement before revealing it to you?

13 A It appears from what I was looking in the transcript
14 that he learned it that day that he was calling the
15 witness. I don't remember whether she was called early in
16 the trial or whether she was a wrap-up witness. I don't
17 recall where she was called in there. But it appears in
18 there that he finds out about it, tells me about it. I
19 have my defense-attorney reaction of, you know, you're
20 keeping evidence from me. And then we have the hearing.

21 So it was shortly -- I say shortly -- a matter of
22 hours probably before she took the stand. I would guess
23 that he had the information, because I -- I always had a
24 very good relationship with Mr. Cook and always with the
25 6th Circuit Solicitor's Office in general.

William P. Frick
Direct examination by Mr. Hemlepp

1 As soon as they found out information they would let
2 me know because they knew I was going to have to have a
3 hearing about it.

4 So I know as soon as he found out he would have told
5 me. How soon that was, I don't know. But it appears it
6 was shortly before she went on the stand.

7 Q Okay. Is it your recollection -- I withdraw that. In
8 this case to your knowledge were there any other witnesses
9 other than the victim testifying and the victim's excited
10 utterance to the E.M.S. worker that the assailant in this
11 case was Mr. Carelock?

12 A As I recall, that was it. Like I said, it was -- it
13 was not a -- from a witness and fact standpoint it was a
14 rather simple case. The charge itself, obviously, serious
15 ramifications. But as I recall there were no other
16 witnesses that said Mr. Carelock was the person who did it.
17 It was the victim and then this corroborating witness.

18 Q Very briefly. At his sentencing did you ask for time
19 served?

20 A I did and I'm -- I think Mr. Carelock's probably
21 correct in what he's saying. He was asking for one thing,
22 but I thought he was entitled to the time that he had on
23 the probation violation. And I know that's what I argued
24 because I thought it was part and parcel of the same thing.

25 The part of the reason why he was in the Department of

William P. Frick
Direct examination by Mr. Hemlepp

1 Corrections is because he was charged -- not yet convicted
2 but charged -- with this offense. Had a bond, had not
3 posted bond. So my argument was that that was pretrial
4 detention and he was entitled to the time that he spent
5 into the Department of Corrections. Judge Goldsmith did
6 not agree with me.

7 Q Did you go back later and ask the judge to reconsider
8 that part of the sentence?

9 A Probably not on the record. But this is a
10 conversation I had with Judge Goldsmith.

11 He and I differed on the view of whether or not a
12 probation-violation time on a charge for why you went to
13 probation violation -- why you went to the Department of
14 Corrections -- whether or not you were entitled to that
15 time in S.C.D.C. His general stance was you were not, you
16 were down there for another offense, so you were not
17 entitled to that time.

18 I disagreed. I thought that was part and parcel and
19 you were down there on pretrial detention. And we had that
20 discussion many times. I can't remember specifically how
21 many times on Mr. Carelock's case.

22 Q Thank you, Mr. Frick.

23 MR. HEMLEPP: Thank you, Your Honor.

24 THE COURT: Mr. Hunter, you may cross-examine the
25 witness.

William P. Frick
Cross-examination by Mr. Hunter

1 CROSS-EXAMINATION

2 BY MR. HUNTER

3 Q Mr. Frick, you -- you did ask for a continuance in
4 this case, I believe, didn't you?

5 A Yes, sir, at the very beginning of the trial I asked
6 for a continuance because I believe we were still trying to
7 locate witnesses, is what the transcript says.

8 Q Okay. Let me just ask some background questions real
9 quick. How long have you been practicing law, Mr. Frick?

10 A About 12 years. A little over.

11 Q And that -- all of that's been criminal practice?

12 A Yes, sir.

13 Q Do you recall off the top of your head how many -- I
14 guess you would classify this as serious -- murder -- or
15 not murder -- serious criminal cases you've done as far
16 as --

17 A To my client they were all serious. No. I'm sorry.
18 Are you talking about as a prosecutor or defense attorney?

19 Q Well, as a defense attorney.

20 A Okay. Many. I mean, I've had three trials this year,
21 and I hadn't been in a courtroom aside from this since
22 March. The year prior to that I had five trials. I think
23 it was a murder in both -- one of those. Year before that
24 I had eight general sessions trials. So a bunch.

25 Q So this wasn't your -- your first trial or anything.

William P. Frick
Cross-examination by Mr. Hunter

1 A No, sir. It was not anywhere near my first ABWIK
2 either.

3 Q Okay. And so I believe you testified aside from this
4 statement that the victim gave to the E.M.S. worker you
5 didn't have any trouble getting the rest of the discovery
6 in this case.

7 A No, no.

8 Q And you -- once you found out about this E.M.S.
9 worker's testimony you did object to it.

10 A I did. I objected. We had the hearing, and the judge
11 let it in.

12 Q Okay. And, in fact, was there an appeal filed in this
13 case?

14 A To my knowledge. I did not file it. I was out of the
15 process after the sentencing.

16 Q Okay.

17 A I may have filed a notice of appeal. I should've.

18 Q Did you have any pretrial hearings and motions in this
19 case?

20 A Other than the continuance, I do not recall. There
21 may be. I did not get a chance to fully review the
22 transcript.

23 Q If I was to tell you that you did ask for a Biggers
24 hearing and a Denno hearing prior this trial --

25 A well, I would have been surprised if I did not ask for

William P. Frick
Cross-examination by Mr. Hunter

1 one of those hearings. But -- and I think that's where we
2 got into the fun area of whether it was Biggers or not
3 because she said she knew him. And I had this nice little
4 case called McCloud that says, well, even if she knows him
5 you still got to have a hearing. I don't know what you
6 call that hearing, but I think that's what it kind of
7 morphed into.

8 Q Okay. And the victim in this case did identify
9 Mr. Carelock from a photo lineup.

10 A Yes, she did.

11 Q Okay. Do you recall if you moved for a directed
12 verdict at the end of the state's --

13 A I'm certain I did.

14 Q Okay. And do you recall renewing that motion at the
15 end of the case?

16 A I'm certain I did.

17 Q Okay. How did you feel about Mr. Carelock's eventual
18 conviction of -- as to ABHAN rather than ABWIK? Did you
19 consider that to be a victory?

20 A To me it was a moral victory. I know to Mr. Carelock
21 who is in the Department of Corrections it was no victory
22 whatsoever. And I can tell you in the conversations that
23 we did have he was quite adamant that he was not interested
24 in accepting any plea in the case.

25 I'm not going to go so far as to say if they'd offered

William P. Frick
Cross-examination by Mr. Hunter

1 him probation or time served that he wouldn't have taken
2 it, but it was clear that this was a trial, was going to be
3 a trial.

4 And we discussed what he was facing. And, obviously,
5 with ABWIK, which at the time was, what, 20 at 85 percent,
6 maximum of 20 and 85 percent, and ABHAN at the time being a
7 common-law misdemeanor, 65 percent, maximum of ten, you
8 know, if the jury was going to convict him I thought that
9 was a whole lot better for him than them coming back with
10 ABWIK.

11 Q Did Mr. Carelock ever indicate that he wanted to plead
12 guilty?

13 A Not to my recollection, no. I think we talked about
14 that, and we talked about the risk inherent in a trial.
15 And he made it clear that he wasn't there, he didn't shoot,
16 and he wanted a trial on the matter. So we did.

17 Q Okay. And prior to the trial did you discuss the
18 charges he was facing and the exposure he would face on the
19 charge?

20 A Absolutely.

21 Q Okay.

22 MR. HUNTER: Beg the Court's indulgence.

23 (Pause.)

24 Q Do you feel like you needed more time to prepare for
25 this case?

William P. Frick
Cross-examination by Mr. Hunter

1 A I know Mr. Carelock feels like I needed more time to
2 prepare.

3 Would I liked to have a little time to talk to the
4 witnesses a little bit more, possibly. Was it necessary?
5 No. As I said, this was a couple-witness case, although
6 with serious ramifications for Mr. Carelock.

7 From my perspective as a defense attorney it was a
8 fairly simple case. I mean, it lasted like a day and a
9 half or so.

10 It was not factually difficult, the conversation I had
11 with him and the information I got from him. I mean, he
12 said -- they said he shot her. He said he didn't and he
13 wasn't there. That was the case. And I had all of the
14 time I needed to prepare.

15 Q As far as the two alibi witnesses who testified for
16 Mr. Carelock, how did -- how did you get in touch with
17 them?

18 A I believe Mr. Carelock got them there because he
19 discussed it. But I had no mechanism to go track down the
20 people because he -- he at the time if I recall correctly
21 didn't have the information for where they were and who
22 they were. So I couldn't subpoena anybody. I couldn't go
23 wandering around looking at them. I didn't have time to
24 get an investigator in our office. The public defender's
25 office did not have an investigator. So all I could do was

William P. Frick
Cross-examination by Mr. Hunter

1 ask him to go find them, which he did.

2 Q Other than the one other person who was purportedly in
3 the car with Mr. Carelock as an alibi witness, did he have
4 any other alibi witnesses that he wanted to come or just --

5 A I don't recall -- I don't recall.

6 Q And if you could just briefly -- and this will be the
7 last question. Could you just briefly kind of describe
8 your trial strategy once you actually got in the case as
9 far as --

10 A The trial strategy was that he wasn't the one who did
11 it. I mean, I don't mean to be flip about that, but that
12 was -- that was quite simply what the case was.

13 I mean, the victim is peering through her door, sees
14 somebody, and a shot is fired and she is hit through the
15 door.

16 Our strategy was it was not him standing there and she
17 didn't have an opportunity to get a clear view of who the
18 person was. That was the strategy.

19 Q Okay.

20 A The jury must have felt something. They came back
21 with ABHAN.

22 MR. HUNTER: I think that's all the questions I have,
23 Your Honor.

24 Q Thank you, sir.

25 THE COURT: Redirect?

William P. Frick
Redirect examination by Mr. Hemlepp

1 MR. HEMLEPP: Briefly.

2 REDIRECT EXAMINATION

3 BY MR. HEMLEPP

4 Q You moved for a continuance at the beginning of the
5 case.

6 A Yes, sir.

7 Q But did not move for a continuance after discovering
8 that it was a statement alleged to have been made to E.M.S.

9 A That's correct.

10 Q Is there a reason?

11 A I didn't think I was going to get it. I mean, if the
12 judge wasn't going to give me a continuance because I
13 couldn't get witnesses there, I did not think he was going
14 to give me -- and my practice with him. I mean, he -- he
15 was not going to grant that motion.

16 Q Despite the fact that this was new evidence, new to
17 everybody in the courtroom?

18 A Yes. In my experience that there was -- he was not
19 going to grant a continuance. So I did not ask for it.

20 Q Okay. The victim testified in this case?

21 A Yes.

22 Q And actually used the wrong name for Mr. Carelock, did
23 she not?

24 A If that's what it says in the transcript. I -- I
25 don't recall. That may be correct. I don't --

William P. Frick
Redirect examination by Mr. Hemlepp

1 Q And the only time she used the correct name was with
2 the E.M.S. worker.

3 A Yes. I think that's correct.

4 Q Nobody in the courtroom knew until that day.

5 A I would believe that is correct, yes.

6 Q Thank you.

7 THE COURT: I have a question.

8 You said there was a State vs. Biggers hearing.

9 THE WITNESS: Yes, sir. We had a hearing.

10 THE COURT: And that was the identification.

11 THE WITNESS: Yes, sir.

12 THE COURT: And she identified him?

13 THE WITNESS: Yes, sir.

14 THE COURT: Did she identify him in court as well?

15 THE WITNESS: Yes, sir.

16 THE COURT: And the E.M.S. worker only stated what she
17 had said in the ambulance.

18 THE WITNESS: That's correct. She corroborated his
19 statement -- I mean, her statement in close proximity in
20 time. I think it was some 20 minutes after the incident
21 that she gets -- the E.M.S. worker gets this statement from
22 the victim. So it was a corroborating witness to support
23 the identification.

24 THE COURT: Okay. Any questions following my
25 questions?

William P. Frick
Recross-examination by Mr. Hunter

1 MR. HEMLEPP: No, Your Honor. Thank you.

2 MR. HUNTER: I have just briefly, Your Honor.

3 THE COURT: Yes, sir.

4 RECROSS-EXAMINATION

5 BY MR. HUNTER

6 Q Mr. Frick, do you recall Deputy Humphries' testimony
7 in this case?

8 A No, I don't.

9 Q Would you agree that if it's in the record, then
10 that's --

11 A I would not dispute that.

12 Q Okay.

13 MR. HUNTER: And, Your Honor, just for your
14 information, it's on page 168 of the trial transcript.

15 Q And, Mr. Frick, would you agree that if Deputy
16 Humphries said, "I then proceeded to ask her who shot her,
17 and she stated Roshene Carelock," or Roshune -- excuse
18 me -- would you agree that if it's in the record, then the
19 deputy testified to that?

20 A I would have no -- no question about that, yeah.

21 Q Okay.

22 MR. HUNTER: That's all I have, Your Honor.

23 THE COURT: Anything further?

24 Thank you. You may step down.

25 MR. HEMLEPP: Your Honor, prior to resting if we could

1 make sure the Court has a complete record in this case.

2 THE COURT: I have the transcript.

3 MR. HEMLEPP: Yes, sir.

4 THE COURT: And the record on appeal; I have the
5 post-conviction-relief request; I have the return; I have
6 the Anders brief of the appellant; I have the rulings from
7 the Court of Appeals; I have the sentencing sheets and
8 notice of appeal; and I have the verdict form.

9 MR. HEMLEPP: Yes. And there's also a remittitur.

10 THE COURT: Right. I've got that.

11 MR. HEMLEPP: With all of that information I'd ask the
12 Court to consider that in its decision. And the applicant
13 would rest.

14 THE COURT: All right. Thank you. I'll take the
15 matter under advisement, and I will notify y'all when I
16 make my ruling.

17 MR. HEMLEPP: Thank you, Your Honor. Thank you very
18 much.

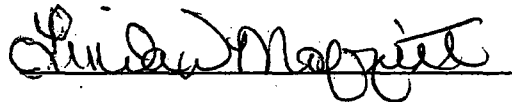
19 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Lancaster County, South Carolina, on the 29th day of July 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

November 20, 2014

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Roshune Carelock, #292483,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2013-CP-29-0499

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 2, 2013. Respondent made its return on December 18, 2013. An evidentiary hearing into the matter was convened on July 29, 2014, at the Lancaster County Courthouse. Applicant was present at the hearing and was represented by W. Michael Hemlepp, Jr., Esquire. Respondent was represented by Assistant Attorney General J. Croom Hunter of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. The Applicant was indicted for Assault and Battery with Intent to Kill ("ABWIK") (2007-GS-29-0848). The Applicant was represented by William Frick, Esquire. Following a jury trial, Applicant was convicted of the lesser offense of Assault and Battery of a High and Aggravated Nature ("ABHAN"). He was sentenced by the Honorable Brooks P. Goldsmith to confinement for a period of ten (10) years.

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LANCASTER, SC
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A timely Notice of Appeal was filed. Following the submission of a brief pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Carelock, Op. No. 2012-UP-287 (filed May 9, 2012). The Remittitur was sent on May 25, 2012.

ALLEGATIONS

At the post-conviction relief hearing, Applicant proceeded to argue his confinement is unlawful based upon the following grounds:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to investigate case, question witnesses, & make objections."
2. "Trial judge erred in denying credit for time served."

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Applicant also presented testimony from trial counsel, William P. Frick, Esquire (Counsel). This Court also had before it a copy of the trial transcript, the Lancaster County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the appellate records, and the return.

During the evidentiary hearing, Applicant testified that he was represented at trial by William P. Frick (Counsel). Applicant testified he is innocent of the charge for which he was convicted. Applicant testified he was charged with ABWIK, but the jury convicted him of ABHAN. Applicant testified he never met with Counsel until the Friday before his trial. Applicant testified he was incarcerated leading up to the trial. Applicant testified Counsel did not adequately investigate his alibi defense. Applicant testified that the victim identified him at trial as the shooter. Applicant testified the testimony from the EMS worker should not have been admitted. Applicant testified the EMS worker testified that the victim told her cousin that

Applicant was the shooter. Applicant testified he was unaware of the existence of the statement until after the trial began. Applicant testified Counsel did object to the testimony, but he should have objected in a different way. Applicant testified the trial judge should have given him credit for his time served prior to trial. Applicant testified Counsel did not effectively argue Applicant was entitled to the time.

On cross-examination, Applicant admitted Counsel did call three alibi witnesses to testify on Applicant's behalf. Applicant admitted all three of these witnesses testified Applicant was with them the night of the shooting. Applicant also admitted the victim identified him as the person she saw at her door seconds before she was shot. Applicant further admitted the victim identified him by the tattoo on his neck and by name. Applicant testified he had no prior relationship with the victim. Applicant then testified the victim's boyfriend shot Applicant's cousin the night before the victim was shot at her home.

Following Applicant's testimony, William P. Frick, Esquire (Counsel) testified. Counsel testified he has been practicing law for twelve years, all of which has been criminal practice. Counsel testified he was assigned Applicant's case while working for the Sixth Circuit Public Defender's Office. Counsel testified he received discovery and went over the facts of the case with Applicant. Counsel testified Applicant's case was pending for a long time before it went to trial. Counsel testified he represented Applicant for around three years. Counsel testified he did not recall discussing Applicant's case with the solicitor's office. Counsel testified the most detailed conversation he had with Applicant was the Friday prior to trial. Counsel testified that generally, the General Sessions trial list for each term of court has thirty cases on it. Counsel testified that of those thirty, usually between three and five cases are called. Counsel testified he would have found out Applicant's case was being called for trial sometime the week before the

trial list was generated. Counsel testified that at that point, letters would be sent from his office to clients alerting them they needed to come to roll call, and that they needed to make an appointment with their attorney to discuss the upcoming case. Counsel testified these letters are generated one or two weeks prior to roll call. Counsel testified Applicant never made an appointment to meet with him. Counsel testified he was adequately prepared to try Applicant's case. Counsel testified he conducted a Neil v. Biggers hearing and a Jackson v. Denno hearing at the beginning of Applicant's trial. Counsel testified he also argued a Rule 404(B) motion before the trial judge. Counsel testified he was provided a witness list by the solicitor at trial, as is standard practice. Counsel testified he was unaware the EMS worker was going to testify as to what she overheard the victim tell her cousin. Counsel testified the testimony came as a surprise. Counsel testified he had no reason to believe the EMS worker was going to testify to a conversation she overheard. Counsel testified the solicitor did not realize she was going to testify about the conversation until the day of the trial. Counsel testified he had a good relationship with the solicitor, and the solicitor would have alerted him about the EMS worker's statement when he found out about it. Counsel testified they had an in-camera hearing on the matter, and the trial judge ruled the solicitor did not violate any rules, and the victim's statement was material. Counsel testified he did object to the EMS worker's statement, but the trial judge overruled his objection. Counsel testified he moved for a continuance at the beginning of trial, but it was denied by the trial judge. Counsel testified he did not move for a continuance after the EMS worker's testimony because he did not think the trial judge would grant it. Counsel testified his trial strategy was to argue Applicant was not the shooter. Counsel testified he moved for a directed verdict at the end of the State's case, which he renewed at the appropriate time. Counsel testified he asked the judge to give Applicant credit for time served, and that Counsel thought

Applicant was entitled to the time he served on his probation revocation. Counsel testified he did not ask the trial judge, on the record, to reconsider his decision regarding credit for time served.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106

S.Ct. 366, 88 L.Ed. 2d 203 (1985).

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any prejudice resulting from Counsel's representation. Additionally, this Court finds Counsel's testimony credible and Applicant's testimony not credible.

This Court finds that Counsel met with Applicant an adequate number of times prior to the guilty plea. This Court further finds Counsel obtained discovery from the solicitor and went over it with Applicant. This Court further finds that Counsel thoroughly investigated and prepared Applicant's case. This Court finds Counsel presented three alibi witnesses on Applicant's behalf. This Court further finds Counsel's actions in regard to the EMS worker's statement were proper and well within the standards of reasonableness for a defense attorney. This Court finds Counsel did object to the EMS worker's testimony. This Court finds further that even if the EMS worker's statements were erroneously admitted, Applicant can show no prejudice due to the overwhelming eyewitness evidence against Applicant. This Court finds Counsel's decision to limit any further argument over the EMS worker's testimony to be valid trial strategy. This Court notes that the jury chose to find Applicant's alibi defense wholly not credible in light of the victim's testimony identifying Applicant as the person who shot her. This Court finds Counsel properly argued a number of motions in an attempt to provide Applicant with the best possible defense. This Court finds that in light of the victim's eyewitness testimony identifying Applicant as the shooter, there is little more Counsel could have done to provide competent representation. This Court further notes that Applicant was not convicted of ABWIK; rather, he was convicted of the lesser-included offense of ABHAN. As such, this Court finds Counsel's performance was far from deficient. This Court finds further that the trial judge was

well within his authority to deny Applicant credit for any time spent incarcerated prior to trial due to his probation revocation. Furthermore, this Court finds Applicant's time-served claim is not a cognizable ground for relief because his pretrial incarceration was due to his probation being revoked for another conviction. Section 23-13-40 mandates a prisoner be given credit for all time served prior to trial unless one of two exceptions exist: 1) either the prisoner was an escapee or 2) **the prisoner was already serving a sentence on one offense.** See Allen v. State, 339 S.C. 393, 395, 529 S.E.2d 541, 542 (2000) (emphasis added). Finally, this Court finds Counsel's representation of Applicant and handling of this case were well within the standards required for effective representation.

Accordingly, this Court finds Applicant did not demonstrate any deficiencies in Counsel's representation. This Court finds that because Counsel's representation was well within the range of competence required in criminal cases, Applicant has further failed to make any showing that but for Counsel's alleged deficiencies, the result of Applicant's case would have been any different.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application.

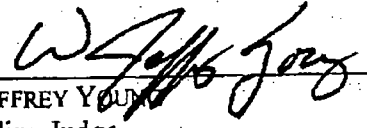
Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18 day of Aug, 2014.


W. JEFFREY YOUNG
Presiding Judge
Sixth Judicial Circuit

Sumter, South Carolina

WITNESSES

Howell - LCSO #07-12508

J.C. Rogers

ARREST WARRANT NUMBER/DOA

K124328 DOA (5-21-7)

ACTION OF GRAND JURY

John P. McGee
 For person of Grand Jury
 Date: JAN 21 2010

VERDICT

TRUE BILL

For person of Petit Jury
 Date:

DOCKET NO. 2007GS-29-848

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

TERM 2007

THE STATE
 vs.

Roshune Carelock

Indictment for

Assault and Battery with Intent to Kill

SC Code: §16-03-0620
 CDR Code: 0014
 Class: Felony, C

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CLERK OF COURT
 LANCASTER, SC

CERTIFIED TO BE A TRUE COPY
amr
 JEFF HANMOND
 CLERK OF COMMON PLEAS
 AND GENERAL SESSIONS COURT
 LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF LANCASTER)

At a Court of General Sessions, convened on _____, the Grand Jurors
of Lancaster County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

That Roshune Carelock did in Lancaster County on or about May 20, 2007, with malice aforethought commit an assault and battery constituting an unlawful act of violent injury to the person of the victim, Larisha Thompson, to wit: by shooting her in the left eye, with the intent to kill the victim, in violation of Section 16-3-620 of the Code of Laws of South Carolina.

— Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lancaster
STATE

VS.

Roshane Carlock

AKA:

Race: RSex: M

Age: _____

DOB: 11-25-70

SS#: _____

Address: _____

City, State, Zip: _____

DL# _____

SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Assault and Battery High and Aggravated NativeIn violation of § 17-25-70 of the S.C. Code of Laws, bearing CDR Code # 13☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's Initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence; ☐ Recommendation by the State.ATTEST: [Signature]

Solicitor

SC Bar # 7723

Defendant

Attorney for Defendant

SC Bar # _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ RESTITUTION: ☒ For 90 Days ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§14-1-206 (Assessments 107.5%)		\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	_____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	_____
§56-5-2995 (DUI Assessment)	\$12	\$	_____
§56-1-286 (DUI Breath Test)	\$25	\$	_____
§47.12 (Public Def/Prob)	\$500	\$	_____
§14-1-212 (Law Enforce. Funding)	\$25	\$	_____
§14-1-213 (Drug Court Surcharge)	\$100	\$	_____
§50-21-114 (BUI Breath Test Fee)	\$50	\$	_____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
§90.7(SCCJA Surcharge)	\$5	\$	_____
3% to County (if paid in installments)		\$	_____
TOTAL		\$	<u>135.90</u>

Clerk of Court/Deputy Clerk
Court Reporter: [Signature]

IN THE COURT OF GENERAL SESSIONS

AMERICAN HONORABLE JUDGE

INDICTMENT/CASE# 2007-GS-29-848AW#: K124328Date of Offense: 5-20-2007S.C. Code §: 16-3-620CDR Code #: 14

SENTENCE SHEET

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel

\$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 139Sentence Date: January 27, 2010

CERTIFIED TO BE TRUE COPY
 JEFF HAMMOND
 CLERK OF COMMON PLEAS
 AND GENERAL SESSIONS COURT
 LANCASTER COUNTY, S.C.