

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM COLLETON COUNTY

Perry M. Buckner, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUOTEAS SYLVESTER NESBITT,

APPELLANT

APPELLATE CASE NO. 2014-001851

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 25 – 28, 2014	1
VOIR DIRE	9
JURY SELECTION	30
<u>NEIL V. BIGGERS</u> HEARING	49
TESTIMONY (IN CAMERA)	
JASON W. CHAPMAN	49
RENATTA HOLMES.....	63
BRIAN MANIGO	74
NICHOLAS WILLIAMS.....	85
RULING BY THE COURT	97
OPENING STATEMENT BY MS. LEGETTE.....	115
OPENING STATEMENT BY MR. WALKER.....	117
TRIAL TESTIMONY	
AMANDA MURDAUGH.....	121
KELLY PADGETT.....	129
CHRISTY WILLIS	134
MURIEL WALKER	138
JASON FERNANDES.....	143
DOROTHEA GATHERS GRANT.....	154
RENATTA HOLMES.....	174

CORNELIUS WHITE	201
BRANDON ALLEN	219
STEVE BAZZLE	244
JEFF SCOTT	256
RUBEN CARTER	296
JAMES RUSSELL DAVIS	308
JASON W. CHAPMAN	350
WHITNEY BERRY	373
CHAD SMITH	389
RICHARD HARVEY	400
KENYA KELLY	402
MALACHI SANDERS	409
BRIAN MANIGO	429
KELVIN MITCHELL	460
NICHOLAS WILLIAMS	474
DONALD ODOM	483
ELLEN REIMER	501
MOTION FOR DIRECTED VERDICT	520
RULING BY THE COURT	522
COLLOQUY REGARDING RIGHT TO TESTIFY	523
CLOSING ARGUMENT BY MS. LEGETTE	531
CLOSING ARGUMENT BY MR. WALKER	548
CHARGE ON THE LAW	569

JURY NOTE	589
VERDICT	594
MOTION FOR NEW TRIAL	596
RULING BY THE COURT	596
SENTENCING	604
COURT'S EXHIBIT # 3 (JURY NOTE)	607
INDICTMENTS AND SENTENCE SHEETS	608
CERTIFICATE OF COUNSEL	614

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT # 45 (DVD VIDEO SURVEILLANCE AT CHASE)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF COLLETON) CASE NO.: 2012-GS-15-00663,
 2012-GS-15-00664

THE STATE OF SOUTH CAROLINA,)
)
)
 v.) TRANSCRIPT OF RECORD
)
 QUOTEAS SYLVESTER NESBITT,)
)
 DEFENDANT.)
)

AUGUST 25TH - AUGUST 28TH, 2014
 COLLETON COUNTY COURTHOUSE
 WALTERBORO, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

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 Official Court Reporter

INDEX

VOIR DIRE	9
JURY SELECTION.....	30
SEQUESTRATION OF WITNESSES.....	47

NEIL V. BIGGERS HEARING

<u>WITNESS: CAPTAIN JASON CHAPMAN</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	50
CROSS-EXAMINATION BY MR. WALKER.....	62
<u>WITNESS: RENATTA HOLMES</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	64
CROSS-EXAMINATION BY MR. WALKER	70
<u>WITNESS: BRIAN MANIGO</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	74
CROSS-EXAMINATION BY MR. WALKER.....	80
REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	84
<u>WITNESS: NICHOLAS WILLIAMS</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	86
CROSS-EXAMINATION BY MR. WALKER	91
JURY SWORN.....	99
INSTRUCTIONS BY THE COURT.....	99
OPENING STATEMENTS	
BY ASST. SOL. LEGETTE.....	115
BY MR. WALKER.....	117
<u>WITNESS: AMANDA MURDAUGH</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	121
CROSS-EXAMINATION BY MR. WALKER.....	124
<u>WITNESS: KELLY PADGETT</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	129
<u>WITNESS: CHRISTY WILLIS</u>	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	134

WITNESS: MURIEL WALKER

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....138
 CROSS-EXAMINATION BY MR. WALKER 141

WITNESS: OFFICER JASON FERNANDES

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....143
 CROSS-EXAMINATION BY MR. WALKER.....149

WITNESS: DOROTHEA GATHERS-GRANT

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....154
 CROSS-EXAMINATION BY MR. WALKER 161
 REDIRECT EXAMINATION BY 167
 RECROSS-EXAMINATION.....171

WITNESS: RENATTA HOLMES

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....174
 CROSS-EXAMINATION BY MR. WALKER.....190
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....199

WITNESS: CORNELIUS WHITE

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....201
 CROSS-EXAMINATION BY MR. WALKER 210

WITNESS: OFFICER BRANDON ALLEN

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....220
 CROSS-EXAMINATION BY MR. WALKER.....234
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....243
 RECROSS-EXAMINATION BY MR. WALKER 243

WITNESS: STEVE BAZZLE

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....245
 CROSS-EXAMINATION BY MR. WALKER.....251

WITNESS: JEFF SCOTT

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....256
 CROSS-EXAMINATION BY MR. WALKER.....280

WITNESS: RUBEN CARTER

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....296
 CROSS-EXAMINATION BY MR. WALKER 306

WITNESS: JAMES "RUSTY" DAVIS

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....309
 CROSS-EXAMINATION BY MR. WALKER.....324
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE 348

WITNESS: CAPTAIN JASON CHAPMAN

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....350
 CROSS-EXAMINATION BY MR. WALKER 365
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE 369
 RECROSS-EXAMINATION BY MR. WALKER.....372

WITNESS: WHITNEY BERRY

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....373
 CROSS-EXAMINATION BY MR. WALKER.....384

WITNESS: CHAD SMITH

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....390
 CROSS-EXAMINATION BY MR. WALKER 398

WITNESS: RICHARD HARVEY

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....400

WITNESS: KENYA KELLY

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....402
 CROSS-EXAMINATION BY MR. WALKER 407

WITNESS: MALACHI SANDERS

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....410
 CROSS-EXAMINATION BY MR. WALKER.....421

WITNESS: BRIAN MANIGO

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....429
 CROSS-EXAMINATION BY MR. WALKER 453
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....458

WITNESS: KELVIN MITCHELL

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....460
 CROSS-EXAMINATION BY MR. WALKER.....468
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....473

WITNESS: NICHOLAS WILLIAMS

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....474
 CROSS-EXAMINATION BY MR. WALKER 481

WITNESS: DONALD ODOM

DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....483
 CROSS-EXAMINATION BY MR. WALKER.....493
 REDIRECT EXAMINATION BY ASST. SOL. LEGETTE.....497
 RECROSS-EXAMINATION BY MR. WALKER.....497

WITNESS: DR. ELLEN RIEMER	
DIRECT EXAMINATION BY ASST. SOL. LEGETTE.....	502
CROSS-EXAMINATION BY MR. WALKER	518
STATE RESTS.....	520
DEFENSE MOTION FOR DIRECTED VERDICT.....	520
DEFENDANT'S 5 TH AMENDMENT RIGHTS	522
DEFENSE RESTS.....	531
CLOSING ARGUMENTS	
BY MR. WALKER.....	531
BY ASST. SOL. LEGETTE.....	548
JURY CHARGE.....	569
VERDICT FORM/EXHIBITS TO THE JURY.....	588
JURY QUESTION.....	589
JURY VIEWS STATE EXHIBITS ONE AND FORTY-FIVE	590
VERDICT.....	594
DEFENSE POST-VERDICT MOTION.....	596
TESTIMONY BY	
MR. SANDERS.....	599
MS. RENATTA HOLMES.....	600
SENTENCING.....	603
CERTIFICATE OF REPORTER	606

STATE EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	
ONE	9-1-1 CD	124
TWO	9-1-1 CD	132
THREE	9-1-1 CD	136
FOUR	PHOTO	147
FIVE	PHOTO	147
SIX	PHOTO	147
SEVEN	PHOTO	260
EIGHT	PHOTO	260
NINE	PHOTO	260
TEN	PHOTO	260
ELEVEN	PHOTO	260
TWELVE	PHOTO	260
THIRTEEN	PHOTO	260
FOURTEEN	PHOTO	260
FIFTEEN	PHOTO	260
SIXTEEN	PHOTO	260
SEVENTEEN	PHOTO	260
EIGHTEEN	PHOTO	260
NINETEEN	PHOTO	260
TWENTY	PHOTO	260
TWENTY-ONE	PHOTO	260
TWENTY-TWO	PHOTO	260
TWENTY-THREE	PHOTO	260
TWENTY-FOUR	PHOTO	260
TWENTY-FIVE	PHOTO	260
TWENTY-SIX	PHOTO	260
TWENTY-SEVEN	PHOTO	260
TWENTY-EIGHT	PHOTO	260

TWENTY-NINE	PHOTO	260
THIRTY	PHOTO	260
THIRTY-ONE	PHOTO	260
THIRTY-TWO	PHOTO	260
THIRTY-THREE	PHOTO	260
THIRTY-FOUR	PHOTO	260
THIRTY-FIVE	PHOTO	260
THIRTY-SIX	PHOTO	260
THIRTY-SEVEN	PHOTO	260
THIRTY-EIGHT	PHOTO	260
THIRTY-NINE	PHOTO	260
THIRTY-NINE A - F PHOTOS		260
FORTY, A-F	SHELL CASINGS	275
FORTY - G	TRAVIS BELL SHELL CASING	305
FORTY-ONE	PHOTO OF DVR SYSTEM AT CHASE	300
FORTY-TWO	PHOTO OF DVR SYSTEM AT CHASE	300
FORTY-THREE	PHOTO OF DVR SYSTEM AT CHASE	300
FORTY-FOUR	PHOTO OF DVR SYSTEM AT CHASE	300
FORTY-FIVE	DVD VIDEO SURVEILLANCE AT CHASE	303
FORTY-SIX	AERIAL MAP	319
FORTY-SEVEN	AROS 360 CRIME SCENE PHOTO	322
FORTY-EIGHT	AROS 360 CRIME SCENE PHOTO	322
FORTY-NINE	AROS 360 CRIME SCENE PHOTO	322
FIFTY	AROS 360 CRIME SCENE PHOTO	322
FIFTY-ONE	AROS 360 CRIME SCENE PHOTO	322
FIFTY-TWO	AROS 360 CRIME SCENE PHOTO	322
FIFTY-THREE	AROS 360 CRIME SCENE PHOTO	322
FIFTY-FOUR	GSR KIT OF MORAY HOLMES	382
FIFTY-FIVE	NOT IN EVIDENCE	
FIFTY-SIX	PHOTO	506

FIFTY-SEVEN	PHOTO	509
FIFTY-EIGHT	PHOTO	509
FIFTY-NINE	PHOTO	509
SIXTY	NOT IN EVIDENCE	
SIXTY-ONE	PHOTO	509
SIXTY-TWO	PHOTO	509
SIXTY-THREE	PHOTO	509
SIXTY-FOUR	PHOTO	509
SIXTY-FIVE	PHOTO	509
SIXTY-SIX	PHOTO	509
SIXTY-SEVEN	PHOTO	509
SIXTY-EIGHT	PHOTO	509
SIXTY-NINE	R. HOLMES STATEMENT 9/7/12 (I.D. ONLY)	169
SEVENTY	R. HOLMES STATEMENT 9/17/12 (I.D. ONLY)	169
SEVENTY-ONE	L3 IN-CAR CAMERA (VIDEO ONLY)	225
SEVENTY-TWO	FIREARM REPORT BY SLED	397

COURT EXHIBITS

ONE	JURY NOTE NAMING FOREPERSON	40
TWO	JURY NOTE IN RE: JUROR #62	49
THREE	JURY NOTE REQUEST TO WATCH VIDEOS	590

NEIL V. BIGGERS HEARING EXHIBIT

ONE	DVD VIDEO OF SURVEILLANCE AT THE CHASE LOUNGE	60

1 THE COURT: Is the State ready to proceed?

2 ASST. SOL. LEGETTE: Yes, Your Honor.

3 THE COURT: Is the defendant ready to proceed?

4 MR. WALKER: Yes, Your Honor.

5 THE COURT: Call your case, Solicitor.

6 ASST. SOL. LEGETTE: Thank you, Your Honor. May it
7 please the Court. State's ready to proceed in Indictment
8 12-GS-15-00663 for murder. The State is also ready to
9 proceed in Indictment 12-GS-15-00664, possession of a weapon
10 during the commission of a violent crime. The defendant has
11 pled not guilty in State v. Quoteas Nesbitt; it's a trial,
12 Your Honor.

13 THE COURT: All right. Ladies and gentlemen, please
14 give me your attention. I remind you that I placed you
15 under oath earlier this afternoon. I'm going to be asking
16 you certain questions in order to ensure your impartiality
17 to serve as a juror in the case that the State is calling
18 for trial.

19 Let me begin by telling you that the State has charged
20 the defendant in this case, Quoteas Nesbitt, who is seated.
21 I'm going to introduce you to him in a moment. He's seated
22 by his attorney in the courtroom at this time. The State
23 has charged the defendant, Quoteas Nesbitt, with the
24 offenses of murder, possession of a weapon during the
25 commission of a violent crime. The elements of those

1 offenses, I will explain to you in my charge, if you're on
2 the jury, on the law at the conclusion of the case.

3 I have not heard any evidence in this case, nor have
4 you. You must base your decision only upon evidence, ladies
5 and gentlemen. I'll be talking to you about what is
6 evidence. However, what I want you to understand for now is
7 what is in these indictments is not evidence. These are
8 simply the formal, written instrument by which the case is
9 brought into this Court.

10 To these indictments, the defendant has pled not
11 guilty. That places the burden on the State of South
12 Carolina to prove the elements of the offenses beyond a
13 reasonable doubt. And it will be your duty, ladies and
14 gentlemen, if you are selected as a juror in the trial of
15 this case, to determine whether or not the State has met
16 that burden.

17 Now, I'm going to ask that the lawyers who are going to
18 be trying this case -- Tameaka, I'm going to ask you if you
19 will introduce everybody at your table, because I want them
20 to understand who's with you. Matt, I'll expect you to
21 introduce your client, as well as his hometown. Beginning
22 with counsel for the State of South Carolina, please rise
23 and face my jury panel and introduce yourself.

24 ASST. SOL. LEGETTE: Good afternoon. I am Tameaka
25 Legette and I am an Assistant Solicitor here in Colleton

1 County. I will be assisted by Angela Stallings, our
2 investigator, and Mr. James Rusty Davis of the Colleton
3 County Sheriff's Office.

4 THE COURT: Counsel for the defendant.

5 MR. WALKER: I'm Matt Walker from Walterboro. I am
6 also happy to represent Quoteas Nesbitt, who is also here
7 from Walterboro.

8 THE COURT: All right. Ladies and gentlemen, you've
9 met the defendant, Quoteas Nesbitt, of Walterboro, South
10 Carolina. Is there any member of my jury panel who is
11 related by blood, connected by marriage, or a close personal
12 friend of the defendant, Quoteas Nesbitt, of Walterboro,
13 South Carolina? If so, please stand at this time.

14 (NO RESPONSE.)

15 THE COURT: Let the record reflect, no one is standing.
16 You have met my attorneys in this case, Tameaka Legette,
17 with the Fourteenth Judicial Circuit Solicitor's Office,
18 representing the State of South Carolina in this case. Is
19 any member of my jury panel related by blood, connected by
20 marriage, or a close personal friend of Assistant Solicitor
21 Tameaka Legette, whom you have just met? If so, please
22 stand at this time.

23 (NO RESPONSE.)

24 THE COURT: Let the record reflect, no one is standing.
25 Is any member of my jury panel ever been represented in the

1 past or currently represented by counsel for the State of
2 South Carolina in this case, Tameaka Legette? If so, please
3 stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect, no one is standing.
6 You have also met counsel for the defendant, Mr. Matthew
7 Walker. Mr. Walker works with the Colleton County Public
8 Defender's Office. He represents the defendant, Quoteas
9 Nesbitt. Is there any member of my jury panel who is
10 related by blood, connected by marriage, or a close personal
11 friend of counsel for the defendant, Matthew Walker? If so,
12 please stand at this time.

13 (NO RESPONSE.)

14 THE COURT: Let the record reflect, no one is standing.
15 Is there any member of my jury panel who has ever been
16 represented in the past or is currently being represented by
17 Matthew Walker or the Colleton County Public Defender's
18 Office? If so, please stand at this time.

19 (NO RESPONSE.)

20 THE COURT: Let the record reflect, no one is standing.

21 All right. Ladies and gentlemen, I have in front of me
22 several lists of potential witnesses in the trial of this
23 case. That doesn't mean they are actually going to testify,
24 but they potentially could testify, depending on what the
25 evidence demonstrates. I'm going to call out the names.

1 They're long. It's about 45 names. I'm going to give you
2 either an office where they work or a home town. When I'm
3 finished calling out the names, I'm going to ask you whether
4 or not any of you are related by blood, connected by
5 marriage, or a close personal friend of any of the potential
6 witnesses in the trial of this case whose names I am about
7 to call. For purposes of time, I'm not going to go one by
8 one. I'm going to do it in its entirety. Please listen
9 carefully and wait until I finish in order to respond. If
10 you do respond, wait on a microphone. It will be passed to
11 you. Give us your name and your juror number and then wait
12 on further inquiry from the court. The following people
13 have been provided to the Court as potential witnesses in
14 the trial of the case of the State of South Carolina v.
15 Quoteas Sylvester Nesbitt of Walterboro, South Carolina.

16 Captain Jason Chapman, Colleton County Sheriff's
17 Office. If you are present in the courtroom when I call
18 your name, please stand and face the jury panel. Det. James
19 Rusty Davis, Colleton County Sheriff's Office. Lt. Ruben
20 Carter, Colleton County Sheriff's Office. Dep. Lonnie
21 Nettles, Colleton County Sheriff's Office. Amanda Murdaugh,
22 Colleton County Sheriff's Office Dispatch. Kelly Padgett,
23 Colleton County Sheriff's Office Dispatch. Christy Willis,
24 Colleton County Sheriff's Office Dispatch. Richard Haley,
25 Colleton County Sheriff's Office I.T. Department. Major

1 Leslie Jamison, Colleton County Sheriff's Office. Det. Jeff
2 Scott, formerly Colleton County Sheriff's Office, now
3 Dorchester County Sheriff's Office. Deputy Brandon Allen,
4 Dorchester County Sheriff's Office, formerly Colleton County
5 Sheriff's Office. Dep. Gene Johnson, now Dorchester County
6 Sheriff's Office, formerly Colleton County Sheriff's Office.
7 Dorothea Gathers, Walterboro, South Carolina, formerly
8 Colleton County Sheriff's Office. Officer Jason Fernandez,
9 North Charleston Police Department, formerly Colleton County
10 Sheriff's Office. Chad Smith, SLED. Whitney Berry, SLED.
11 Terry Nance, Colleton County Fire and Rescue. Renatta
12 Ellison Holmes, Walterboro, South Carolina. Roy Salley,
13 Walterboro, South Carolina. Cornelius White, Walterboro,
14 South Carolina. Kelvin Mitchell, Walterboro, South
15 Carolina. Dr. Ellen Riemer, R-I-E-M-E-R, Medical University
16 of South Carolina. Karen Haynes, Summerville, South
17 Carolina, H-A-Y-N-E-S. Malachi Sanders, III, Walterboro,
18 South Carolina. Brian Manigo, Walterboro, South Carolina .
19 Donald Odom, Walterboro, South Carolina. Nicholas Williams,
20 Walterboro, South Carolina. Kenya Kelly, Walterboro, South
21 Carolina. Captain Jodi Taylor, Colleton County Sheriff's
22 Office. Sgt. Wade Marvin, Colleton County Sheriff's Office.
23 Inv. Steve Bazzle, Fourteenth Judicial Circuit Solicitor's
24 Office. Richard Harvey, Colleton County Coroner. Muriel
25 Walker, Columbia, South Carolina. Leon Chaplin, Walterboro,

1 South Carolina. Investigator Angela Stallings, Fourteenth
2 Judicial Circuit Solicitor's Office. Shonda Mitchell
3 Sanders, Walterboro, South Carolina. James Davis, Colleton
4 County Sheriff's Office. Brandon Allen, Colleton County
5 Sheriff's Office. Lonnie Nettles, Colleton County Sheriff's
6 Office. Terry Nance, Colleton County Sheriff's Office.
7 Jason Fernandez, Colleton County Sheriff's Office. Montana
8 Wilbur, W-I-L-B-U-R, Colleton County Sheriff's Office.
9 Maybelle Hendricks, Colleton County Sheriff's Office.
10 Riddick Thomas, Walterboro, South Carolina. John Donahue,
11 Beaufort County Sheriff's Office. Andrew Loker, L-O-K-E-R,
12 North Charleston Police Department. Quoteas Nesbitt --
13 stand up, Mr. Nesbitt and face my jury panel, Walterboro,
14 South Carolina. Please be seated.

15 Any additional witnesses from the State of South
16 Carolina?

17 ASST. SOL. LEGETTE: None, Your Honor.

18 THE COURT: Any additional witnesses from the
19 defendant?

20 MR. WALKER: No, Your Honor.

21 THE COURT: All right.. Ladies and gentlemen, any
22 member of my jury panel related by blood, connected by
23 marriage, or a close personal friend of any of the witnesses
24 in the trial of this case whose names I have just called?
25 If so, please stand at this time.

1 (SEVERAL JURORS STAND.)

2 THE COURT: All right. We will begin with the lady
3 that stood first. Your name and juror number, please,
4 ma'am.

5 JUROR: Juror number 208.

6 THE COURT: All right. Hold on a second. Your name?

7 JUROR: Kristin Worden.

8 THE COURT: Counsel, this is juror 208, Kristin Worden.

9 Is that right? Did I pronounce it right?

10 JUROR: Yes, sir.

11 THE COURT: W-O-R-D-E-N. Ms. Worden, are you related
12 by blood to any of the potential witnesses?

13 JUROR: No, sir.

14 THE COURT: All right. Are you connected by marriage
15 to any of the potential witnesses?

16 JUROR: Yes, sir.

17 THE COURT: What witnesses are you connected by
18 marriage to?

19 JUROR: Detective Steve Bazzle.

20 THE COURT: Is that the only one?

21 JUROR: Yes, sir.

22 THE COURT: How are you connected to Investigator Steve
23 Bazzle, who is a potential witness by marriage?

24 JUROR: He's married to my aunt.

25 THE COURT: I'm having a hard time hearing you.

1 JUROR: He's married to my aunt.

2 THE COURT: The fact that Mr. Bazzle is married to your
3 aunt, ma'am, would that in any way affect your ability to
4 give the State of South Carolina and the defendant a fair
5 and an impartial trial?

6 JUROR: No, sir.

7 THE COURT: Thank you, ma'am. You may be seated.
8 Yes, ma'am, your name and jury number, please.

9 JUROR: Julie W. Fishburne, juror number 50.

10 THE COURT: Counsel, this is juror number 60, Julie
11 Fishburne. Ms. Fishburne, listen to me carefully, are you
12 related by blood to any of the potential witnesses?

13 JUROR: No.

14 THE COURT: Are you connected by marriage to any of the
15 potential witnesses?

16 JUROR: No.

17 THE COURT: Are you a close personal friend to any of
18 the potential witnesses?

19 JUROR: No.

20 THE COURT: Well, that's all I asked; why did you
21 stand?

22 JUROR: I work closely with a number of the jurors.

23 THE COURT: I can't tell what she's saying. Come on up
24 here, Ms. Fishburne. Come on over to the court reporter,
25 please, ma'am. All right. You're not related by blood?

1 JUROR: I'm not.

2 THE COURT: You're not connected by marriage?

3 JUROR: I'm not.

4 THE COURT: You're not a close personal friend?

5 JUROR: I'm not.

6 THE COURT: That's all I asked for, but you stood. So
7 tell me why you stood.

8 JUROR: Because I work closely with a number of the
9 people that are on the defendant's list.

10 THE COURT: Well, now I didn't call out any list as
11 being for either person. Those are just all potential
12 witnesses. Who do you work with that is on the list?

13 JUROR: I work with Renatta Holmes at Colleton Medical
14 and I work closely with Richard Harvey, the Coroner. I'm a
15 registered nurse.

16 THE COURT: Okay. Congratulations. We need more
17 registered nurses. The fact that you work with these
18 people, whether it be with Ms. Holmes or the coroner, would
19 that in any way affect your ability to give the State or the
20 defendant in this case a fair and an impartial trial?

21 JUROR: No.

22 THE COURT: It would not?

23 JUROR: No.

24 THE COURT: Thank you for bring that to my attention.
25 You may have a seat. Bring him up here. I'm not going

1 through that microphone again. Can't hear a word they say
2 when they talk into it. What number?

3 BAILIFF: Twenty-five.

4 THE COURT: Your name?

5 JUROR: Kwan Campbell. I'm juror 25.

6 THE COURT: Kwan Campbell, juror 25. Are you related
7 by blood to any of the witnesses?

8 JUROR: No, sir.

9 THE COURT: Are you connected by marriage to any of the
10 witnesses?

11 JUROR: No, sir.

12 THE COURT: Are you a close personal friend to any of
13 the witnesses?

14 JUROR: Two of them.

15 THE COURT: Who are they?

16 JUROR: Malachi Sanders and Nicholas Williams.

17 THE COURT: All right. They are potential witnesses.
18 I have no idea whether they will actually testify, but they
19 could. So I ask you, the fact that they are potential
20 witnesses, would that in any way affect your ability to give
21 the State or the defendant in this case a fair and an
22 impartial trial?

23 JUROR: No, sir.

24 THE COURT: It would not?

25 JUROR: No, sir.

1 THE COURT: Very well. Please return to your seat.

2 Anyone else related by blood, connected by marriage, or
3 a close personal friend of any of the potential witnesses in
4 the trial of this case whose names I have just called out to
5 you? If so, please come forward at this time.

6 BAILIFF: Juror 43.

7 THE COURT: Ms. Sennie Crosby, Becky. Counsel, this is
8 Ms. Sennie Crosby, juror 43. Ms. Crosby, are you related by
9 blood to any of the witnesses?

10 JUROR: Yes.

11 THE COURT: All right. Just a yes or no. How are you
12 related by blood?

13 JUROR: His mother and my mother ---

14 THE COURT: Who is "his mother"?

15 JUROR: I'm not sure whether -- but I saw Cornelius
16 earlier, but they call him Cornelius White. He's Cornelius
17 Russell.

18 THE COURT: Have I got Cornelius Russell on the list?

19 ASSTT. SOL. LEGETTE: You've got Cornelius White.

20 THE COURT: I've got Cornelius White on the list.

21 JUROR: But that might not be him.

22 THE COURT: All right. Anybody tell me who he is
23 employed with?

24 ASST. SOL. LEGETTE: He works at McDonalds.

25 THE COURT: Is this the person that works at McDonalds?

1 JUROR: I'm not sure where Cornelius works at.

2 THE COURT: Okay. Bring me my witness list; all of
3 them. She thinks that it may be the same person by another
4 name. Give Ms. Crosby some idea of who he is. Can you tell
5 me anything else? She thinks that it may be the same person
6 by another name and I've got to know. Describe him for me.

7 ASST. SOL. LEGETTE: Well, he's kind of effeminate.

8 THE COURT: How tall? What race?

9 ASST. SOL. LEGETTE: He's black, about your complexion.
10 He has facial hair. He works at McDonalds.

11 THE COURT: Is that not him?

12 JUROR: That's not him.

13 THE COURT: Thank you for being careful and coming
14 forward. You may return to your seat.

15 MR. WALKER: Juror 68 said she was a nurse. I would
16 like to know if she worked with the coroner on this case.

17 Ms. Julie Fishburne, would you please come forward
18 again?

19 (JUROR JULIE FISHBURNE)

20 THE COURT: I'm sorry to make you have to come up here
21 again. Sometimes we have to make sure about the
22 impartiality.

23 JUROR: That's alright.

24 THE COURT: Ms. Fishburne, I haven't even gone into
25 this yet, but I'm going to go into it. Obviously, this is a

1 murder case and you said you worked closely with the
2 coroner. Were you involved in anything involved in this
3 case; that you know of? Were you working the night that
4 this happened by any chance?

5 JUROR: To my knowledge, I don't know.

6 THE COURT: Well, I'm going to tell you later on, since
7 this is a premature question, but the lawyers wanted me to
8 ask it.

9 JUROR: Okay.

10 THE COURT: I'm going to tell you later on a little bit
11 more about this, and if you learn that you think there is
12 some other involvement you need to tell me about, feel free
13 to come up here and tell me.

14 JUROR: Okay.

15 THE COURT: Thank you. You may return to your seat.

16 Let the record reflect, no one else has come forward in
17 response to my last question.

18 All right. Ladies and gentlemen, let me tell you a
19 little bit about the allegations in this case, and I
20 emphasize the word "allegations," because this is not
21 evidence and this is not necessarily a fact. It must be
22 based on evidence by you and has to be proven by the State
23 of South Carolina.

24 In indictment 2012-GS-15-00663, charging the defendant,
25 Quoteas Nesbitt, with the offense of murder. It is alleged

1 that it occurred in Colleton County, South Carolina, on or
2 about September 6th, 2012. It is alleged that the
3 defendant, with malice aforethought, did kill and murder
4 one, Moray, M-O-R-A-Y, Dupree Holmes, H-O-L-M-E-S, by means
5 of shooting him with a gun and that Moray Dupree Holmes did
6 die in Colleton County as a proximate result thereof on
7 September the 6th, 2012.

8 In indictment 2012-GS-15-00664, charging the defendant,
9 Quoteas Nesbitt, with the offense of possession of a weapon
10 during the commission of a violent crime, it is alleged in
11 the indictment that it occurred in Colleton County, South
12 Carolina, on September the 6th, 2012. That the defendant,
13 Quoteas Nesbitt, did possess a firearm or did visibly
14 display what appeared to be a firearm, or did visibly
15 display a knife during the commission of, or attempted
16 commission of a violent crime alleged to be murder, which is
17 a violent crime under the laws of the State of South
18 Carolina. Those are allegations in the indictment.

19 I tell you about those allegations to ask you has any
20 member of my jury panel heard about, read about, or know
21 anything about the facts which are alleged in this case? If
22 so, please stand at this time.

23 (NO RESPONSE.)

24 THE COURT: Let the record reflect, no one is standing.
25 Is any member of my jury panel presently employed by or

1 formerly employed by any law enforcement agency? If so,
2 please stand at this time.

3 (NO RESPONSE.)

4 THE COURT: Let the record reflect, no one is standing.
5 Is any member of my jury panel a member of or a contributor
6 to, any group which has as its primary concern the promotion
7 of law enforcement or victim's rights? These groups would
8 include MADD, SADD, CAVE or CADRE, or the South Carolina
9 Sheriff's Association or the South Carolina State Trooper's
10 Association? If so, please stand at this time.

11 (NO RESPONSE.)

12 THE COURT: Let the record reflect, no one is standing.
13 Any member of my jury panel ever been the victim of a
14 violent assault? If so, please stand at this time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect, no one is standing.
17 Any member of my jury panel a member of an organization that
18 has as its primary purpose either the restriction of
19 firearms or the advocacy or promotion of firearms? If so,
20 please stand at this time.

21 (NO RESPONSE.)

22 THE COURT: Let the record reflect, no one is standing.

23 Does any member of my jury panel live in the Catholic
24 Hill, or Ritter, or Green Pond area of Colleton County? If
25 so, please stand at this time.

1 (SEVERAL JURORS STAND.)

2 THE COURT: Remain standing until a microphone comes to
3 you. Yes, sir? Name and juror number. Let's try it again.

4 JUROR: Juror number 57, Jessie Ellis.

5 THE COURT: Counsel, this is juror number 57, Mr.
6 Jessie Ellis. Mr. Ellis, where do you live?

7 JUROR: I live by Rishers Deer Processing, [REDACTED]
8 [REDACTED], four miles out of Walterboro.

9 THE COURT: Yes, sir. Thank you, you may be seated.
10 Yes, ma'am, your name and jury number, please?

11 JUROR: Blanche R. Hamilton, juror number 86.

12 THE COURT: Ms. Hamilton, where do you live?

13 JUROR: [REDACTED], Greenpond, South Carolina.

14 THE COURT: Thank you, ma'am. You may be seated.

15 Any member of my jury panel formerly a member of the
16 Colleton County Grand Jury which found the indictments in
17 this case? If so, please stand at this time.

18 (NO RESPONSE.)

19 THE COURT: Let the record reflect, no one is standing.

20 Any member of my jury panel related by blood, connected
21 by marriage or a close personal friend formerly of the
22 alleged victim in this case, Moray Dupree Holmes? If so,
23 please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect, no one is standing.

1 Any member of my jury panel know of any bias or prejudice
2 they may have about the facts which are alleged in this
3 case, any of the potential witnesses involved in this case,
4 any of the potential lawyers or respective offices involved
5 in this case, the Solicitor's Office and the Public
6 Defender's Office? If so, please stand at this time.

7 (NO RESPONSE.)

8 THE COURT: Let the record reflect, no one else is
9 standing. Any member of my jury panel know of any reason
10 whatsoever why they can't give the State of South Carolina,
11 or the defendant in this case, with particular emphasis
12 being placed on your ability to be fair and impartial to
13 both the State of South Carolina and the defendant in this
14 case? If you know of any reason why you should not serve as
15 a juror in this case, please stand at this time.

16 (NO RESPONSE.)

17 THE COURT: Let the record reflect, no one else is
18 standing. Any additional voir dire from the State?

19 ASST. SOL. LEGETTE: Your Honor, I would ask the Court
20 to ask number six under the voir dire from the State.

21 THE COURT: I asked it, counsel. Any additional voir
22 dire from the State?

23 ASST. SOL. LEGETTE: No, Your Honor.

24 THE COURT: Do you want the court reporter to read it
25 back to you?

1 ASST. SOL. LEGETTE: No, Your Honor.

2 THE COURT: Counsel approach.

3 (Whereupon, a bench conference is held off the record
4 and out of the hearing of the jury.)

5 THE COURT: Any additional voir dire from the State of
6 South Carolina?

7 ASST. SOL. LEGETTE: None, Your Honor.

8 THE COURT: Any additional voir dire from the
9 defendant, Mr. Walker?

10 MR. WALKER: Yes, sir. We request the jury be polled
11 as to any family members who have been the victim of a
12 violent assault.

13 THE COURT: Counsel approach.

14 (Whereupon, a bench conference is held off the record
15 and out of the hearing of the jury.)

16 THE COURT: Any member of my jury panel, or their
17 spouse, or their child ever been the victim of a violent
18 crime? If so, please stand at this time.

19 (SEVERAL JURORS STAND.)

20 THE COURT: Let the record reflect, no one else is
21 standing. Oh, excuse me -- wait a minute. Your name and
22 jury number, please.

23 JUROR: My name is Marcella Simmons, juror 163.

24 THE COURT: Counsel, this is juror number 163, Marcella
25 Simmons. Ms. Simmons, I know you weren't the victim of a

1 violent crime, because you didn't stand when I asked the
2 earlier question. This was your spouse or your child?

3 JUROR: No, my brother.

4 THE COURT: Your brother? Okay. I didn't ask about
5 that, but the fact that you stood -- the fact that your
6 brother was the victim of a violent crime, would that in any
7 way affect your ability to give the State of South Carolina
8 or the defendant in this case a fair or an impartial trial?

9 JUROR: No, sir.

10 THE COURT: Thank you, ma'am, you may be seated. Yes,
11 ma'am, your name and juror number, please.

12 JUROR: Barbara R. Carden, juror number 26.

13 THE COURT: Counsel, this is juror 26, Barbara Carden.
14 Ms. Carden, was it your spouse or your child that was the
15 victim of a violent crime?

16 JUROR: My spouse.

17 THE COURT: The fact that your spouse was the victim of
18 a violent crime, would that in any way affect your ability
19 to give the State of South Carolina or the defendant in this
20 case a fair and an impartial trial?

21 JUROR: No, sir.

22 THE COURT: Thank you, ma'am. You may be seated.
23 Anyone else?

24 Let the record reflect, no one else is standing in
25 response to my last question. Any additional voir dire from

1 the defendant?

2 MR. WALKER: No, Your Honor.

3 THE COURT: Any additional voir dire from the State?

4 ASST. SOL. LEGETTE: No, Your Honor.

5 THE COURT: All right. Counsel, strikes are ten and
6 five. Ten for the defendant and five for the State. Madame
7 Clerk, we will also draw three alternate jurors. Strikes on
8 the alternates: two for the defendant, one for the State.
9 Madame Clerk, would you please have the computer give us a
10 jury with three alternates, ten and five, two and one.

11 Now, ladies and gentlemen, so you'll know what's
12 happening, we don't draw any names; we don't have any human
13 hands touch any capsule now. The computer does it
14 completely at random, but only for those jurors that I've
15 found qualified in this case. So if a juror was
16 disqualified, their name will not be in the computer. The
17 computer will be selecting the names. I've never seen it,
18 nor have anybody else. The Clerk will hand me a list, my
19 law clerk will get a list, and the court reporter will get a
20 list.

21 She will then call out the names in the order in which
22 the computer has selected them at random. When your name is
23 called, pick up your pocketbook, if you have a coat, bring
24 that; bring all of your belongings. Come down the middle
25 aisle. Come to the Clerk's station and turn around and face

1 the direction I'm facing right now. We will begin the jury
2 selection process as soon as the computer has randomly
3 selected the names for possible service in the trial in this
4 case.

5 (BRIEF PAUSE AS THE COMPUTER PRODUCES POTENTIAL JUROR'S
6 NAMES AND THE LIST IS PRINTED.)

7 THE COURT: All right. Madame Clerk, are you ready?

8 MADAME CLERK: Yes, I'm ready.

9 THE COURT: Is the State ready to proceed?

10 ASST. SOL. LEGETTE: Yes, Your Honor.

11 THE COURT: Is the defendant ready to proceed?

12 MR. WALKER: Yes, Your Honor.

13 THE COURT: Madame Clerk, would you please give us the
14 jury?

15 MADAME CLERK: Juror 101, Duncan G. Hunt. Please come
16 forward all the way up to my desk and turn and face the
17 counsel table. What says the State?

18 ASST. SOL. LEGETTE: Please present this juror.

19 MADAME CLERK: What says the defense?

20 MR. WALKER: Please excuse the juror.

21 MADAME CLERK: Please have a seat back with the panel.
22 Juror 86, Blanche R. Hamilton. What says the State?

23 ASST. SOL. LEGETTE: Please present this juror.

24 MADAME CLERK: What says the defense?

25 MR. WALKER: Please excuse the juror.

1 MADAME CLERK: Please have a seat back with the panel.

2 Juror 130, Jeniece F. Massalon. What says the State?

3 ASST. SOL. LEGETTE: Please present this juror.

4 MADAME CLERK: What says the defense?

5 MR. WALKER: Please seat this juror.

6 MADAME CLERK: Please have a seat right over here to my
7 right. Thank you. Juror 169, Curtis G. Smith. What says
8 the State?

9 ASST. SOL. LEGETTE: Please present this juror.

10 MADAME CLERK: What says the defense?

11 MR. WALKER: Please seat the juror.

12 MADAME CLERK: Please have a seat in the jury box.

13 Juror 72, Jan N. Gatch. What says the State?

14 ASST. SOL. LEGETTE: Please present this juror.

15 MADAME CLERK: What says the defense?

16 MR. WALKER: Please excuse the juror.

17 MADAME CLERK: Have a seat back with the panel. Number
18 87, Katy G. Hamilton. What says the State?

19 ASST. SOL. LEGETTE: Please excuse this juror from the
20 trial of this case.

21 MADAME CLERK: Please have a seat back with the panel.

22 MADAME CLERK: Juror 126, Timothy L. Litchfield. What
23 says the State?

24 ASST. SOL. LEGETTE: Please present this juror.

25 MADAME CLERK: What says the defense?

1 MR. WALKER: Please excuse the juror.

2 MADAME CLERK: Have a seat back with the panel. Juror

3 43, Sennie M. Crosby. What says the State?

4 ASST. SOL. LEGETTE: Please present this juror.

5 MADAME CLERK: What says the defense?

6 MR. WALKER: Please swear the juror.

7 MADAME CLERK: Please have a seat in the jury box.

8 Juror 51, Bridgette T. Dewitt. What says the State?

9 ASST. SOL. LEGETTE: Please present this juror.

10 MADAME CLERK: What says the defense?

11 MR. WALKER: Please excuse the juror.

12 MADAME CLERK: Please have a seat back with the panel.

13 Juror 176, Virginia S. Starks. What says the State?

14 ASST. SOL. LEGETTE: Please present this juror.

15 MADAME CLERK: What says the defense?

16 MR. WALKER: Please excuse the juror.

17 MADAME CLERK: Please have a seat back with the panel.

18 Juror 108, Michael S. Johnson. What says the State?

19 ASST. SOL. LEGETTE: Please present this juror.

20 MADAME CLERK: What says the defense?

21 MR. WALKER: Please swear the juror.

22 MADAME CLERK: Please have a seat in the jury box.

23 Juror 54, Phillip D. Driggers, Jr. What says the State?

24 ASST. SOL. LEGETTE: Please present this juror.

25 MADAME CLERK: What says the defense?

1 MR. WALKER: Please swear the juror.

2 MADAME CLERK: Please have a seat in the jury box.

3 Juror number 208, Kristin O. Worden. What says the State?

4 ASST. SOL. LEGETTE: Please present this juror.

5 MADAME CLERK: What says the defense?

6 MR. WALKER: Please swear the juror.

7 MADAME CLERK: Please have a seat in the jury box.

8 Juror number 60, Julie W. Fishburne. What says the State?

9 ASST. SOL. LEGETTE: Please excuse this juror from the
10 trial of the case.

11 MADAME CLERK: Please have a seat back with the panel.

12 Juror 45, William B. Crosby. What says the State?

13 ASST. SOL. LEGETTE: Please present this juror.

14 MADAME CLERK: What says the defense?

15 MR. WALKER: Please swear the juror.

16 MADAME CLERK: Please have a seat in the jury box.

17 Juror 133, Melissa L. Mescia. What says the State?

18 ASST. SOL. LEGETTE: Please present this juror.

19 MADAME CLERK: What says the defense?

20 MR. WALKER: Please excuse the juror from the trial of
21 this case.

22 MADAME CLERK: Please have a seat back with the panel.

23 Juror 154, Robert W. Risher. What says the State?

24 ASST. SOL. LEGETTE: Please seat the juror.

25 MADAME CLERK: What says the defense?

1 MR. WALKER: Please swear the juror.

2 MADAME CLERK: Please have a seat in the jury box.

3 Juror 190, Martha A. Thornton. What says the State?

4 ASST. SOL. LEGETTE: Please present this juror.

5 MADAME CLERK: What says the defense?

6 MR. WALKER: Please swear this juror.

7 MADAME CLERK: Please have a seat in the jury box.

8 Juror 55, Lamar O. Dubois. What says the State?

9 ASST. SOL. LEGETTE: Please present this juror.

10 MADAME CLERK: What says the defense?

11 MR. WALKER: Please swear this juror.

12 MADAME CLERK: Please have a seat in the jury box.

13 Juror number 179, Mary Ann W. Strickland. What says the
14 State?

15 ASST. SOL. LEGETTE: Please present this juror.

16 MADAME CLERK: What says the defense?

17 MR. WALKER: Please excuse this juror.

18 MADAME CLERK: Please have a seat back with the panel.

19 Juror 148, Mary C. Rapoza-Malfa. What says the State?

20 ASST. SOL. LEGETTE: Please present this juror.

21 MADAME CLERK: What says the defense?

22 MR. WALKER: Please swear this juror.

23 MADAME CLERK: Please have a seat in the jury box.

24 Number 128, Nancy D. Lyons. What says the State?

25 ASST. SOL. LEGETTE: Please present this juror.

1 MADAME CLERK: What says the defense?

2 MR. WALKER: Please excuse this juror.

3 MADAME CLERK: Please have a seat back with the panel.
4 Juror 42, Cathryne M. Crawford.

5 THE COURT: Mr. Walker, you're at nine.

6 MR. WALKER: Yes, Your Honor.

7 MADAME CLERK: What says the State?

8 ASST. SOL. LEGETTE: Please excuse this juror from the
9 trial of this case.

10 MADAME CLERK: Please have a seat back with the panel.
11 Juror 62, Katelyn B. Fletcher. What says the State?

12 ASST. SOL. LEGETTE: Please present this juror.

13 MADAME CLERK: What says the defense?

14 MR. WALKER: Please swear this juror.

15 MADAME CLERK: Please have a seat in the jury box.
16 Now, alternate one.

17 THE COURT: Alternate number one. The strikes are two
18 and one.

19 MADAME CLERK: Juror 106, Mark S. Iverson. What says
20 the State?

21 ASST. SOL. LEGETTE: Please present this juror.

22 MADAME CLERK: What says the defense?

23 MR. WALKER: Please swear the juror.

24 MADAME CLERK: Please have a seat in the jury box.
25 Juror 200, Pamela K. Whitacre. What says the State?

1 ASST. SOL. LEGETTE: Please present this juror.

2 MADAME CLERK: What says the defense?

3 MR. WALKER: Please excuse this juror.

4 MADAME CLERK: Please have a seat back with the panel.

5 Juror number 39, Susan S. Cox. What says the State?

6 ASST. SOL. LEGETTE: Please present this juror.

7 MADAME CLERK: What says the defense?

8 MR. WALKER: Please swear the juror.

9 MADAME CLERK: Please have a seat in the jury box.

10 Juror 163, Marcella M. Simmons. What says the State?

11 ASST. SOL. LEGETTE: Please present this juror.

12 MADAME CLERK: What says the defense?

13 MR. WALKER: Please excuse this juror.

14 MADAME CLERK: Please have a seat back with the panel.

15 Juror number 156, Roy J. Robertson. What says the State?

16 ASST. SOL. LEGETTE: Please present this juror.

17 MADAME CLERK: What says the defense?

18 MR. WALKER: Please swear the juror.

19 MADAME CLERK: Please have a seat in the jury box. The

20 jury has been selected, Your Honor.

21 THE COURT: Thank you, Madame Clerk. Are there any
22 matters of law pertaining to the selection of the jury that
23 need to be decided before the jury is sworn, from the State
24 of South Carolina?

25 ASST. SOL. LEGETTE: Begging the Court's indulgence.

1 (BRIEF PAUSE.)

2 ASST. SOL. LEGETTE: No, Your Honor.

3 THE COURT: From the defendant?

4 MR. WALKER: No, Your Honor.

5 THE COURT: Very well. You understand that decision is
6 final? Do you understand that, regardless of when I swear
7 the jury? Do you understand, Solicitor?

8 ASST. SOL. LEGETTE: Yes, Your Honor.

9 THE COURT: Do you understand, Mr. Walker?

10 MR. WALKER: Yes, sir.

11 THE COURT: Very well. All right. Ladies and
12 gentlemen, I want to thank you for your patience. You see
13 it takes a while to get going, qualify, then I have to ask
14 you questions about your impartiality. Now, I want you to
15 do a little bit of work. Alternates, you're just as
16 important, one, two and three. If, for some reason, a
17 member of the jury becomes ill or for some valid, legal
18 reason cannot continue to serve, you're going to take their
19 place; and it happens, believe me. However, you're going to
20 be with the jury throughout the trial of the case. So
21 you're on the jury, we will just have to wait and see what
22 happens.

23 Now, ladies and gentlemen, I want you to do a little
24 bit of work before we adjourn this evening. We won't start
25 until tomorrow and I'm going to let you come in a little

1 later tomorrow. However, I want you to go to your jury
2 room, and amongst the 12 of you, the alternates are not
3 eligible, because they're not on the jury, and I want you to
4 select a foreperson. Now, let me tell you the duties of a
5 foreperson so you will know what you're selecting.

6 It's the foreperson's job to preside in the jury room,
7 just like the chairperson of a committee presides in a
8 committee meeting. It is the foreperson's job to see that
9 each and every member of the jury, once deliberations begin
10 -- I don't want you to start until I tell you to do so,
11 because you haven't heard any evidence in this case. Once
12 deliberations begin, the foreperson sees that every member
13 of the jury has a full and fair opportunity to voice their
14 opinions in the jury room once deliberations begin. The
15 foreperson will sign the jury's verdict.

16 My law clerk, this is his first trial, ladies and
17 gentlemen. He will be preparing with me a verdict form. On
18 every indictment, there is a printed form and it has the
19 word verdict. It has foreperson of the petit jury, that
20 means the trial jury. So I'll need the foreperson not only
21 to sign the verdict form, but if you're selected,
22 Foreperson, my law clerk is going to come to you and ask you
23 to sign the indictment as well.

24 The foreperson also is the jury's spokesperson out here
25 in the courtroom should that need arise. So the foreperson

1 presides in the jury room once deliberations begin, the
2 foreperson signs the verdict for the entire jury, because
3 your verdict must be unanimous, and the foreperson speaks
4 for the jury should that need arise during the trial of the
5 case. Any of the 12 of you that are on the jury is eligible
6 to be foreperson, just not my alternates, although they're
7 going to be with you. Please select a foreperson, knock on
8 your jury room door -- they're going to give you a pad and a
9 pencil so you can write it down. Write the name down. The
10 bailiff will bring it back to me, and then I will bring you
11 back into the courtroom and excuse you for the evening.

12 While you're in the jury room, do not discuss this
13 case. You have not heard any evidence in this case. It
14 would be premature for you to engage in any discussions.
15 Talk about the weather, because it's absolutely beautiful
16 outside today. Talk about anything else that you want to
17 talk about, but do not talk about this case. You may retire
18 to your jury room at this time.

19 (4:40 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
20 THE FOLLOWING IS HELD ON THE RECORD.)

21 THE COURT: All right. Ladies and gentlemen, those of
22 you not selected as jurors in the trial of the first case, I
23 see that smile on your face out there. Each of you should
24 have one of these, if you don't have one of these with the
25 telephone number, 549-1775 on it, raise your hand. My

1 bailiffs will bring you one. All right. Rather than keep
2 you here, I'm going to ask you to call the number on that
3 piece of paper, 549-1775, after 6:00 tonight. There will be
4 a taped message telling you when, if at all, I might need
5 you to return. If I do ask you to return, return on time to
6 the area of the courtroom that you're seated in now. Any
7 questions about the call-back procedure? There will be one
8 taped message. If it's busy, just call again until you get
9 through.

10 On behalf of Colleton County and this Court, thank you
11 for your patience during qualification and jury selection.
12 You're now excused for the balance of today.

13 (WHEREUPON, THE JURY PANEL EXITS THE COURTROOM AND THE
14 FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Counsel, the Major has brought me a note
16 that the jury has chosen juror 130, Jeniece Massalon as
17 foreperson of the jury. Any objection to making the jury's
18 note a court exhibit, from the State?

19 ASST. SOL. LEGETTE: None, Your Honor.

20 THE COURT: From the defendant?

21 MR. WALKER: No, Your Honor.

22 THE COURT: Court's Exhibit Number One, Becky, without
23 objection.

24 (WHEREUPON, COURT EXHIBIT NUMBER ONE, JURY NOTE NAMING
25 FOREPERSON, IS RECEIEVED INTO EVIDENCE.)

1 THE COURT: Bring me the jury.

2 (4:55 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
3 AND THE FOLLOWING IS HELD ON THE RECORD.)

4 THE COURT: Ms. Massalon, that will be your seat,
5 because you're the foreperson. The rest of you can sit
6 anywhere you want to, but here's my rule. Because there's a
7 step up in the back, I don't want you to come flop down and
8 make people come crawl over you. Fill all the way down to
9 the end, because I've had people step off that back row and
10 fall and I don't want anybody falling. So please be careful
11 in the jury box. If you want to sit by somebody, just line
12 up that way.

13 Now, over the overnight recess, I don't know if there
14 will be anything in the newspaper, on television, or on the
15 radio about this case. Please don't watch such, listen to
16 such, or read such. You have not heard any evidence in this
17 case. It would be improper for you to do so. I don't want
18 you to discuss this case with anybody. If somebody tries to
19 talk to you about it, just tell them you're on the jury and
20 the judge instructed you not to talk about it. If that
21 person insists on trying to talk to you, you get their name
22 and give it to me, and I'll handle that problem for you,
23 ladies and gentlemen. That person will not bother you
24 again.

25 Now, I don't want you doing any research about

1 anything. Don't go home and get on your computer, and think
2 it will make you a better juror to check out any names you
3 heard today. You must decide this case only and solely upon
4 evidence introduced in this courtroom where both sides are
5 present with the right of cross-examination.

6 Both sides have the absolute right to know exactly what
7 you're basing your decision on. So don't go think you can
8 go get on a computer or a smart phone, even if you think it
9 could help you in deciding some issue in this case. Juror
10 research of any kind is not permitted. Please do not
11 discuss the case with anyone or with each other. There will
12 come a time when I will ask you to discuss it, but not until
13 you and I have heard the evidence, I've decided what law
14 applies to this case, and I've charged you the law in the
15 case, and instruct you then, and only then, to begin your
16 deliberations in this case.

17 Now, I want to thank you for your patience. I know
18 it's been a long day. You don't have to be in your jury
19 room until 11:45 tomorrow, because we have other matters
20 that we have to take care of. We will be working, believe
21 me. But you don't need to come in until then. Go to your
22 jury room in the morning. Be here by 11:45 A.M. Because
23 we're starting at an odd hour, 12:00, Pat, take a lunch
24 order from them, but let's don't do lunch until 1:30 so we
25 can get something done. Can we get it in by 11:45 and get

1 it by 1:30?

2 MADAME CLERK: I will have to ask them.

3 THE COURT: Ask them and see. I'm going to try to
4 provide you lunch so we can work, because if everybody goes
5 to lunch, it takes too long. I tell you what, be here by
6 11:30, because I want you to fill out a lunch order. We're
7 going to serve you a delicious lunch in your jury room
8 tomorrow. Any questions about my instructions? When you
9 report, go straight to your jury room. Do not come to this
10 courtroom, because we will be here working in the courtroom.
11 Everybody understand what to do?

12 (JURY NODS IN AGREEMENT.)

13 THE COURT: Thank you so much for your patience. You
14 are now excused. You may leave the courtroom at this time.
15 Everyone else remain seated while the jury is leaving.

16 (5:10 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
17 THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: All right. Anything on the record from the
19 State of South Carolina before we adjourn for the evening?

20 ASST. SOL. LEGETTE: None from the State, Your Honor.

21 THE COURT: From the defendant?

22 MR. WALKER: No, Your Honor.

23 THE COURT: All right. Mr. Walker says we have a Neil
24 v. Biggers Hearing. I will expect y'all here ready to go in
25 the morning. Court is in recess until in the morning.

1 (5:12 P.M., WHEREUPON, COURT IS IN RECESS IN THE TRIAL
2 OF THIS CASE FOR THE EVENING.)

3 (TUESDAY MORNING, 11:30 A.M., COURT RESUMES IN THE
4 TRIAL OF THIS CASE. THE FOLLOWING IS HELD ON THE RECORD.)

5 THE COURT: All right. Let me go over a couple of
6 matters that I need to go over, not only with my litigants,
7 but also those of you who are present. It has come to my
8 attention this morning that there are people who are sending
9 messages to potential witnesses in this trial that a bounty
10 is on their head if they testify.

11 I have asked law enforcement to investigate this and to
12 confront the people who are the messengers of this, and I
13 intend to use every power I have as a judge to stop it and
14 eliminate that. I will not hesitate to hold someone in
15 contempt of this Court and put them in jail if I find that
16 they are in any way a party to the intimidation of any
17 witness. I have instructed both litigants in this trial
18 that any witness is encouraged to tell the truth, not just a
19 story that one lawyer wants from a witness, but the truth.

20 There will be absolutely no threats or any type of
21 intimidation to any witness in this trial; and if I learn of
22 it, you're going to be brought up in front of me. I've got
23 law enforcement working on that right now. I want to make
24 sure that is clear to everyone in this courtroom. I can
25 assure you I will handle that problem if it occurs.

1 Now, yesterday at the bench, the lawyers came to the
2 bench at the request of myself, and the Clerk of Court was
3 present. They agreed that rather than redraw for alternates
4 if I have to excuse a juror, the alternates would be placed
5 on the jury in the order they were selected; meaning
6 alternate one would be the first to assume a juror's
7 position, and then alternate two, and then alternate three;
8 is that correct, Ms. Legette?

9 ASST. SOL. LEGETTE: That is correct, Your Honor.

10 THE COURT: Is that correct, Mr. Walker?

11 MR. WALKER: Yes, Your Honor.

12 THE COURT: Very well. Having placed that now on the
13 record concerning the agreement of counsel, it is my
14 understanding that there is potentially an identification
15 issue in the trial of this case. Whenever identification
16 becomes an issue, particularly an out of court
17 identification, I remind my lawyers that the Court must
18 review the totality of the circumstances to determine
19 whether or not any out of court identification is reliable.
20 There are a number of cases on this. My lawyers should be
21 prepared.

22 It started with the United States Supreme Court case of
23 Neil v. Biggers back in 1972. The factors to be considered
24 by the Court in evaluating the likelihood of missed
25 identification would include the opportunity for the witness

1 to view the accused, the witness's degree of attention, the
2 accuracy of the witness's prior description, the level of
3 certainty demonstrated by the witness after confrontation
4 and the length of time between the crime and the
5 confrontation.

6 Obviously, Solicitor, and I assume the State recognizes
7 this, because there is a case directly on point that the
8 introduction of a mug shot is, in and of itself, reversible
9 error, unless it is shown that the State has a demonstrable
10 need to introduce the photograph, and the photograph, if
11 shown to the jury, must not imply guilt of the accused in
12 any way. I do not know what the identification issue is.
13 However, I have been made aware that both sides wanted to
14 have a pre-trial hearing on the identification issue.
15 Having said that, Solicitor, you may call your first
16 witness.

17 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
18 Honor, prior to calling the first witness, we need to
19 sequester our identification witnesses. Two of them are
20 present in court and we need to get them outside of the
21 court at this time. We need to send them out.

22 THE COURT: I understand what you're asking, Solicitor.
23 You want your own witnesses to be sequestered?

24 ASST. SOL. LEGETTE: Well, in light of ---

25 MR. WALKER: Your Honor ---

1 THE COURT: You're asking for it?

2 MR. WALKER: Yes, Your Honor. I move for our six
3 identification witnesses to be sequestered.

4 THE COURT: All right. Pat, I need a room. Where do
5 you want to put them?

6 CLERK OF COURT: In the conference room.

7 THE COURT: The Clerk's conference room. All right.
8 Solicitor, sequestration is granted to the defendant for
9 purposes of the Neil v. Biggers hearing. Take the witnesses
10 and put them in the appropriate room. Do not let them leave
11 the room, because we're not going on a witness hunt during
12 this hearing.

13 (SEVERAL WITNESSES LEAVE THE COURTROOM.)

14 THE COURT: Tameaka, you, as an officer of this Court,
15 turn around and assure this Court that none of your
16 identification witnesses are in this courtroom.

17 ASST. SOL. LEGETTE: Your Honor, the victim's wife, who
18 is the widow, is still present, but she's considered a
19 victim.

20 THE COURT: Well, she has a right to be present as the
21 victim's wife under the victim's bill of rights. Is she an
22 identification witness?

23 ASST. SOL. LEGETTE: Yes, she is, Your Honor.

24 THE COURT: You understand that, Mr. Walker?

25 MR. WALKER: I do, Your Honor.

1 THE COURT: Very well. No objection?

2 MR. WALKER: I still object.

3 THE COURT: You still object?

4 MR. WALKER: I understand she has the right and my
5 objection can be overruled, but ---

6 THE COURT: Your objection is overruled. Call your
7 first witness.

8 ASST. SOL. LEGETTE: The State calls Captain Jason
9 Chapman.

10 THE COURT: Hold on a second. The bailiff says he has
11 a note for me.

12 (BAILIFF HANDS NOTE TO THE COURT.)

13 THE COURT: All right. The foreperson has written me a
14 note that juror 62, Katelyn Fletcher, is a student at
15 Salkehatchie; I asked this yesterday. And her classes start
16 today at 1:00. Her professor knows she is in Court today,
17 but she is asking to be excused. Counsel, obviously, this
18 is an exemption that a juror can use. What is the State's
19 position in light of the request based on the note from the
20 foreperson, and I assume you have no objection to making the
21 foreperson's note a court exhibit; is that correct?

22 ASST. SOL. LEGETTE: Your Honor, I have no objection,
23 nor do I have an objection to her being excused.

24 THE COURT: All right. Mr. Walker, any objection to
25 making the note a court's exhibit?

1 MR. WALKER: No objection, Your Honor.

2 THE COURT: Becky, Court's Exhibit Number Two, without
3 objection.

4 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, JURY NOTE, IS
5 RECEIVED INTO EVIDENCE.)

6 THE COURT: Mr. Walker, any objection to excusing this
7 juror and taking the first alternate per your agreement?

8 MR. WALKER: We have no objection, Your Honor.

9 THE COURT: Very well. I will excuse Ms. Fletcher and
10 we will take alternate number one on the jury.

11 Call your first witness.

12 NEIL V. BIGGERS HEARING

13 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
14 calls Captain Jason Chapman.

15 MADAME CLERK: Please come forward and be sworn.

16 (WHEREUPON, CAPT. JASON CHAPMAN IS DULY SWORN.)

17 THE COURT: Good morning, Jason. Have a seat. Make
18 yourself comfortable. Pull up a chair and adjust the
19 microphone. State your full name and spell your last name
20 for Becky.

21 WITNESS: My name is Captain Jason W. Chapman.

22 THE COURT: Mr. Walker, one lawyer stands at a time in
23 my courtroom. Is there an objection to this witness?

24 MR. WALKER: We need to approach, Your Honor.

25 ASST. SOL. LEGETTE: We need to approach, Your Honor.

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 We need to approach.

2 THE COURT: Counsel approach.

3 (Whereupon, a bench conference is held off the record.)

4 THE COURT: All right. I'm going to ask you again,
5 Solicitor, in light of our bench conference, is the State
6 satisfied that all potential identification witnesses have
7 been sequestered for this identification hearing?

8 ASST. SOL. LEGETTE: Yes, Your Honor, except for the
9 wife of the victim.

10 THE COURT: All right. Do you understand that, Mr.
11 Walker?

12 MR. WALKER: Yes, sir.

13 THE COURT: All right. The Solicitor has given me her
14 assurance that that is correct. The witness has been sworn
15 and stated his name. Direct examination. Your witness,
16 Solicitor.

17 ASST. SOL. LEGETTE: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY ASST. SOL. LEGETTE:

20 Q State your full name, please.

21 A Jason Walker Chapman.

22 Q All right. And where do you work?

23 A The Colleton County Sheriff's Office.

24 Q Where were you working in September of 2012?

25 A At Walterboro Public Safety at the Walterboro Police

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 Department.

2 Q And what were your duties at the Walterboro Police
3 Department?

4 A At that time, I was the supervisor over investigations
5 and narcotics.

6 Q Did you know a man named Quoteas Nesbitt?

7 A Yes, ma'am.

8 Q How long had you known Quoteas Nesbitt?

9 A Probably eight or ten years.

10 Q And just briefly, in what capacity would you say you'd
11 known him? How had you known him?

12 A Interacting with him in the street, in calls for
13 service, where he resides, or the neighborhood he resides in
14 is relatively close to the office. The police department,
15 the City of Walterboro, the jurisdiction is obviously a lot
16 smaller than the Sheriff's Office. I was there for --
17 before I left, right at 16 years, so when you patrol the
18 same streets for 16 years, you get to where you know most
19 people.

20 Q And would you say that you and Mr. Nesbitt were on a
21 first name basis?

22 A Yes.

23 Q Over that period of eight years, how many times would
24 you say you had an opportunity, approximately, to interact
25 with him?

1 A I have no idea. I mean, I don't even know how to put a
2 number on it. It would be 50 to 100, I would think.

3 Q During that period of time, were you able to become
4 familiar with his various mannerisms?

5 A Yes.

6 Q Can you describe his mannerisms?

7 A He never gave me an issue, as far as verbally. He was
8 always cordial with me when we spoke. He liked to talk with
9 his hands, often had his hands on his waist; not in a
10 threatening gesture, just everybody has a quirk about them
11 when they stand or walk, and he often stood a lot of times
12 holding his pants with his hands. He had a slight gait when
13 he walked, for lack of a better term; I'm not sure exactly
14 how to explain it. But I don't know if he ever had an
15 injury or not, but he's got a slight gait when he walks with
16 a -- I guess it would be his right leg. I wouldn't really
17 call it a limp, more of a gait. Like I said, he's actually
18 very social when you interact with him. I don't think I
19 ever had an issue where he was threatening towards me in any
20 way.

21 Q Now, in September of 2012, you said you worked for the
22 Waltherboro Police Department, did you learn about an
23 incident that happened at the Chase Lounge?

24 A Yes, I did.

25 Q And did you ever learn who might have been involved in

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 the incident?

2 A I immediately found out who the victim was. Our team
3 was notified by -- our policy at the time, at the police
4 department, any shooting was immediately passed on to
5 narcotics, and we were to come out and help and assist, even
6 if we were not working at the time. So my team was actually
7 notified of the shooting and I was advised of who the victim
8 was. And probably within 30 minutes of that, I was advised
9 of a possible suspect, and that possible suspect's name was
10 Quoteas Nesbitt.

11 Q Now, what jurisdiction is the Chase Lounge located in?

12 A It's actually in the Sheriff's Office jurisdiction, but
13 it's what we call a border property, meaning that I could
14 stand left foot in the city and right foot in the county.
15 The property runs right alongside the jurisdictional lines.

16 Q So did you ever become involved, since it was not your
17 jurisdiction, did you ever have the opportunity or occasion
18 to become involved in the incident where the victim was
19 killed by the suspect, Mr. Nesbitt?

20 A I did become involved in the actual investigation
21 subsequent to the crime scene. I never responded to the
22 crime scene. I never handled anything at the Chase Lounge.
23 Like I said, my team was notified following the shooting.
24 We brought our team out and basically started interacting
25 with people we knew in the area; someone who might be able

1 to provide information as to where the possible suspect was
2 or identification of witnesses and so forth.

3 Q So at some point, did you ever interact with Mr.
4 Nesbitt after this particular shooting?

5 A I believe it was about two weeks after the incident. I
6 did interact with Mr. Nesbitt when I actually assisted in
7 taking him into custody.

8 Q Tell us about that.

9 A Tried, um, futile tactics -- you know, family members,
10 residences; places that we knew he frequented. Came up
11 empty handed with most of that, initially. The neighbor had
12 mentioned that he was usually seen at family members. I
13 then spoke with Ms. Yolanda Glover, who I believe was his
14 ex-girlfriend at the time, and I just knew that they had a
15 good relationship, and told her that she needed to get him
16 to turn himself in. I wasn't the lead investigator. I
17 didn't know the circumstances behind it. All I knew is that
18 they had a warrant for him and I felt like I could negate
19 the surrender of the defendant without there being any
20 issues.

21 Q Why did you do it that way?

22 A Again, like I said, Mr. Nesbitt and I have never had
23 any issues. He's always been cordial with me and I'm one of
24 those people that if they respect me, I respect them. So I
25 spoke with Ms. Glover on a couple of occasions. We actually

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 did some surveillance from where she was working at the
2 time, and I gave her a phone number and eventually that led
3 to I believe her contacting Mr. Nesbitt and us arranging a
4 meeting place where he was going to turn himself in.

5 Q And who did he turn himself in to?

6 A Myself, and -- I'm not sure what her rank was at the
7 time, but Leslie Jamison.

8 Q And did he specifically request you?

9 A Yes. That was the arrangement through Ms. Glover.

10 Q Okay. So now, once that happened, at a point did you
11 have an opportunity to see any of the evidence in this case?

12 A The only thing, even after I shifted over to the
13 sheriff's office and was put in charge of investigations,
14 the only actual piece of evidence I ever saw was a video
15 from the crime scene and it wasn't shown to me until a week
16 or week and a half ago.

17 Q Okay. And tell us about that particular occasion.

18 A It was a meeting with the officer's involved with the
19 investigations from both agencies -- anyone that actually
20 had involvement in the case. And I believe I was the only
21 one present that had never seen the video. I was asked if I
22 thought I could identify Mr. Nesbitt from the video without
23 any interaction or involvement from anybody else involved in
24 the case. The video was put up on a large screen monitor on
25 the wall and was played to a certain point, as to not give

1 away anybody's identify. In other words, it was stopped
2 prior to any altercation or anything like that, and it
3 essentially showed a parking lot with people moving around
4 in the parking lot. And if I had to guess, there was
5 probably fifteen to eighteen in the parking lot in the video
6 section that I was shown, and a dozen cars, something like
7 that. Nighttime shot from the front camera and side camera
8 at the Chase Lounge. I picked out who I believed was Mr.
9 Nesbitt, and later was informed that that was him based on
10 the information they had on hand.

11 Q Okay. And how were you able to determine that it was
12 Mr. Nesbitt in the video?

13 A Like I said before, when you've been a cop long enough,
14 you study mannerisms, traits -- everybody has something they
15 do, whether they talk with their hands, they walk with a
16 limp, whatever -- but like I explained just a minute ago,
17 Mr. Nesbitt, for one, he was always cordial, he was always
18 pulling on his pants, he had a habit of standing with his
19 hands on his waist. He had a gate that made it look
20 somewhat like a slight limp to the right side. And when the
21 video played and I watched everyone interact and moving
22 around in the video, the only person I saw that had the same
23 height, weight, physical characteristics and mannerisms of
24 Mr. Nesbitt was the person I identified.

25 Q And tell us about your opportunity to view that video.

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 Under what circumstances? Was it -- was it clear? How was
2 it?

3 A I mean, the video was as clear as it could be, taken
4 from the DVR system on a disc. I was in an office at a
5 table, small room with a large screen T.V. on the wall. The
6 image was portrayed on the wall -- excuse me, on the T.V.
7 that was on the wall. I was probably seated ten feet away
8 watching the video..

9 In my opinion, it was clear enough for me to identify
10 Mr. Nesbitt out of the people that were in the parking lot.
11 I honestly cannot tell you that I can look at the facial
12 recognition -- or I can identify facial features, because
13 that would be incorrect. Just based on the fact that I know
14 that, based on other evidence, he was present at the crime
15 scene and the people walking around and interacting in that
16 video, of the people that were there, the one I picked out
17 was the only one, in my opinion, that had the mannerisms and
18 the physical characteristics of Mr. Nesbitt.

19 Q And what was your degree of attention while you watched
20 this video?

21 A I was focused on it pretty hard, because I didn't have
22 that much of a window to watch. When they showed the video,
23 they wanted to make sure that nothing else keyed in to my
24 decision on who I was picking out. The video was stopped
25 prior to the alleged incident. So I basically had images of

1 a person and vehicles moving around in a parking lot in the
2 dark.

3 Q And based thereon, what was your level of certainty,
4 that the person you picked out was Quoteas Nesbitt?

5 A I was certain. When the video was stopped and the
6 lights were cut on, they said, "What do you think?" And I
7 said, "The gentleman in the white tank top, that started off
8 to the left, walked across the screen, pulled back." That
9 was my opinion of who it was.

10 Q Now, you said earlier you watched this video?

11 A That's correct.

12 Q I hand you now, what's been previously marked for
13 identification, State's Exhibit Forty-Five. I want you take
14 a moment and tell me if you recognize this exhibit. May I
15 approach the witness, Your Honor?

16 THE COURT: You may.

17 Q Do you recognize this?

18 A It is marked State's Exhibit Forty-Five and it has my
19 initials in a permanent marker on the outside of the disc.

20 Q And at my request, did you previously review that video
21 for accuracy?

22 A I did.

23 Q And is it a fair and accurate representation of the
24 video that you watched to identify Quoteas Nesbitt?

25 A It is.

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 ASST. SOL. LEGETTE: At this time, Your Honor, I'd like
2 to publish a small portion of the video.

3 THE COURT: Any objection, Mr. Walker?

4 MR. WALKER: No, Your Honor.

5 THE COURT: Without objection, you want to admit it for
6 the purposes of this hearing?

7 ASST. SOL. LEGETTE: Well, Your Honor, I will --

8 THE COURT: There's got to be a record, Solicitor.
9 Without objection, Becky, it's being admitted for purposes
10 of the Neil V. Biggers hearing. Mark it for me. I know
11 it's pre-marked as State's Forty-Five. Make a note that it
12 is Exhibit Number One by the State for purposes of this
13 hearing.

14 ASST. SOL. LEGETTE: May I approach, Your Honor?

15 THE COURT: Just a moment. Let the court reporter
16 finish.

17 ASST. SOL. LEGETTE: Yes, Your Honor.

18 THE COURT: Tell me when you're ready, Becky.

19 COURT REPORTER: I'm ready, Judge.

20 THE COURT: Now you may approach, Solicitor.

21 ASST. SOL. LEGETTE: Thank you, Your Honor.

22 (WHEREUPON, STATE'S EXHIBIT ONE, VIDEO OF CHASE LOUNGE,
23 IS RECEIVED INTO EVIDENCE AND IS PUT INTO VIDEO PLAYER.)

24 ASST. SOL. LEGETTE: Your Honor, may I approach the
25 witness to give him a pointer?

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 THE COURT: You may.

2 THE COURT: Ask a question, Solicitor, so the court
3 reporter can understand what your question is.

4 ASST. SOL. LEGETTE: Yes, Your Honor.

5 (11:40 A.M., VIDEO BEGINS PLAYING.)

6 Q Captain Chapman, I'm going to direct your attention to
7 the video on the screen. At the appropriate time, will you
8 please tell us who you're looking at, what identification
9 you are able to make.

10 A At this point in time, all I was doing was watching the
11 video, trying to study the way people walk and moving around
12 the parking lot. I told you there was, my guess at the
13 time, I've only seen it twice, but that there were different
14 points in time where about fourteen to sixteen people
15 walking around in the parking lot.

16 It was at this point in time that I noticed this
17 individual here, walking, when he steps in front of the car
18 lights right there, you can see he has both hands on his
19 hips, creating a gap. When I watched, he continued to walk
20 all through the parking lot with his hands on his hips, as
21 if he was holding his pants up, or doing what I was
22 describing to you earlier.

23 If I remember correctly, he'll walk around right here
24 for a second and go back towards the vehicle with headlights
25 on and you'll notice that he has a gate about him and that

Neil V. Biggers Hearing
Direct examination of Captain Jason Chapman by Ms. Legette

1 he maintains for the most part, that gap where he has his
2 hands on his hip. When he steps back in front of the car
3 lights, you'll see that he's still got his arms at the waist
4 as the video progresses. Just one moment, when he stands
5 back again in front of the car lights, you can see the gap
6 there in his arms. I think it went a couple seconds more
7 and the video was actually stopped. That was all I was
8 shown initially. And asked out of the people that you had
9 viewed in that video, do you see anyone that you would
10 identify as the defendant. Based on what I saw, all those
11 people moving, Rewinding and playing back and forth, and
12 back and forth, the only one I saw that had the same
13 mannerisms, in my opinion, was the gentleman I just
14 identified.

15 Q Thank you, Captain Chapman.

16 (VIDEO IS STOPPED AT 11:44 A.M.)

17 THE COURT: Are you done with the video?

18 ASST. SOL. LEGETTE: I am, Your Honor.

19 THE COURT: Madame Clerk, bring the lights up, please.

20 ASST. SOL. LEGETTE: Captain, I have no further
21 questions for you.

22 A Thank you ma'am.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. WALKER:

1 Q Det. Chapman, now the shooting is captured on this
2 video, as well, correct?

3 A Yes sir, it is.

4 Q It's your testimony that the identification you make is
5 based solely on mannerisms. You cannot identify the
6 person's face?

7 A That is correct.

8 Q You filed a narrative report in this incident about
9 viewing the video and making an identification, correct?

10 A That is correct.

11 Q So you first viewed this video on August 6th of this
12 year?

13 A If that's in the report, that's correct. It was this
14 month when we had a meeting. Yes, sir.

15 Q If it says "reported by" and "entered by" and those are
16 two different dates, is reported by when it happened?

17 A The actual date of the meeting, if I'm not mistaken,
18 was the 6th. Yes, sir.

19 Q How did you come to be asked to go to this meeting?

20 A Standard protocol. Pre-trial meeting for any General
21 Sessions case involving multiple witnesses. I was a witness
22 simply for -- at that point in time, the detention of the
23 defendant, which was my involvement pretty much to -- direct
24 involvement, that and a few other minor details during the
25 apprehension of Mr. Nesbitt. That's why I went, but

Neil V. Biggers Hearing
Cross-examination of Captain Jason Chapman by Mr. Walker

1 everyone, law-enforcement wise, that was a witness in the
2 case attended the meeting.

3 Q So you knew the purpose of this meeting was for
4 preparation in this trial where Quoteas Nesbitt was the
5 defendant?

6 A That is correct.

7 Q You knew when you were shown the video that Quoteas
8 Nesbitt was supposed to be in it?

9 A Yes.

10 MR. WALKER: I have no further questions, Your Honor.

11 THE COURT: Redirect.

12 ASST. SOL. LEGETTE: None, Your Honor.

13 THE COURT: You may step down. Call your next
14 witness.

15 ASST. SOL. LEGETTE: Thank you. The State calls
16 Renatta Holmes.

17 THE COURT: Come around and be sworn please by the
18 Clerk of Court.

19 (WHEREUPON, RENATTA HOLMES IS DULY SWORN.)

20 THE COURT: Solicitor, if you are going to call any
21 witness in reply to anything Mr. Walker might do, please
22 advise the witness.

23 ASST. SOL. LEGETTE: Yes, Your Honor.

24 THE COURT: State your full name and spell your last
25 name for the court reporter.

Neil V. Biggers Hearing
Direct examination of Renatta Holmes by Ms. Legette

1 MS. HOLMES: Renatta Chantel Holmes. And my last name
2 is spelled H-O-L-M-E-S.

3 THE COURT: Your witness, Counsel. Direct examination.

4 ASST. SOL. LEGETTE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Ms. Holmes, what was your husband's name?

8 A Moray Dupree Holmes.

9 Q And the night -- well, before we go there, do you know
10 a man named Quoteas Nesbitt?

11 A Yes, ma'am, I do.

12 Q Tell me how you know Quoteas Nesbitt.

13 A I've known Quoteas since we were adolescents. From
14 Gerideau Street, we played together. I've known him for a
15 long time. And prior to this incident, he also was a
16 neighbor to my mother. So, I've known him for over twenty
17 years.

18 Q In that twenty year period, how often would you say you
19 interacted with Quoteas Nesbitt?

20 A As kids, we interacted a lot. As adults, we would
21 speak to each other. Even so that, like I said, he lived
22 right next door to my mother. His kids, nieces and nephews,
23 they would come over. I mean, it was like a neighborhood
24 where we all knew each other. So I mean, I've interacted
25 with him throughout the years a lot.

1 Q And would he come over to your mother's house since he
2 lived next door?

3 A Yes, he would.

4 Q Did y'all hang out together?

5 A No. We never hung out, but like I said when we were
6 younger, we played together, had sleepovers. I mean, his
7 mother even babysat me when I was younger, his aunt as well.
8 But as adults, no, we didn't hang out.

9 Q Did y'all ever go to school together?

10 A No. We have not. Never went to school together.

11 Q Okay. So, you would recognize him on sight?

12 A Yes.

13 Q Is he present in Court today?

14 A Yes, he is.

15 Q Will you point him out to the Court, please?

16 A He's sitting right there. (WITNESS INDICATING
17 DEFENDANT.)

18 Q Can you describe what he's wearing?

19 A A white shirt with a cream-colored tie with some type
20 of design on it.

21 Q Let the record reflect the witness identified Quoteas
22 Nesbitt. Now, Ms. Holmes, let's turn to the night of
23 September 6, 2012. Do you recall that night?

24 A Yes, ma'am.

25 Q Tell us -- did you see Quoteas Nesbitt that night?

1 A When me and my husband first approached Chase Lounge
2 and we stopped at the stop sign that's right there, and we
3 were going to make that right, he was standing in front of
4 Kelvin Mitchell's car, and he was talking to Kelvin and
5 maybe Brian, when we first turned the corner. So, you know,
6 I looked at it, and we turned and we proceeded to go ahead
7 the direction we were going in, and we turned in the entry
8 at Chase Lounge.

9 Q How certain were you that the person that you saw
10 standing by Kelvin Mitchell's car was Quoteas Nesbitt?

11 A I've known Quoteas a long time. I know him when I see
12 him, and like I said, he was my neighbor. We've known each
13 other since we were kids, so I was certain that that was
14 him.

15 Q Y'all had had conversations in the past?

16 A Yes.

17 Q So tell us, you saw him when you turned in. What
18 happens next?

19 A Me and my husband, we turn in on Chase. My husband, he
20 turned in and he turned off the car. He said, "I'ma go talk
21 to these guys." Which he was referring to Kelvin and Brian
22 Manigo. He said "I'ma go talk to these guys for a minute."
23 So I looked at him, like, okay, you know, "You know I don't
24 want to be here, so just hurry up." He said, "I'm not gonna
25 be long. I'm just gonna go speak to these guys right

Neil V. Biggers Hearing
Direct examination of Renatta Holmes by Ms. Legette

1 quick." So, I mean, he turned and he got out the car and he
2 approached. So when I looked up, like, he was walking
3 towards their direction. At that moment, Kenya Kelly, she
4 came to the car. So, you know, she spoke to me. So when I
5 looked again, my husband was conversating with Quoteas, so I
6 turned and me and her started back talking. The first sound
7 of gun shot, it got -- I could still see him shooting and he
8 was still shooting the gun, and with that limp, you know him
9 because when he ran off you could see that run that he does.
10 He was shooting and running towards -- but you know, like,
11 when you're running and you're still in defense mode, he was
12 still, like, in case someone else was going to shoot back or
13 something, he was still running away from it, but in case
14 someone else shot at him, he was prepared to shoot back.

15 Q Now, when you say "he," who are you referring to?

16 A Quoteas.

17 Q Okay. So you actually watched Quoteas. I don't want
18 to put words in your mouth.

19 A Right.

20 Q What did you see?

21 A Like I said, when we turned the corner, we turned in.
22 Me and my husband had a brief conversation. I mean, it's
23 just like as soon as my husband turned, and like I said I
24 spoke back with my cousin, heard the first gunshot and I
25 looked, and he was still shooting the gun ---

1 Q "He" as in ---

2 A -- and my husband was falling by like -- I feel like,
3 to me, my husband was still in shock, because he went down
4 slow like -- you know, he was -- he was going down.

5 Q Okay. I'm sorry, I don't want to cut you off, but who
6 shot your husband?

7 A Quoteas shot my husband.

8 Q And is Quoteas present in Court today?

9 A Yes ma'am, he is.

10 Q Can you point him out?

11 A He's sitting over here. (WITNESS INDICATING.)

12 Q Ms. Holmes, how certain are you that the person you saw
13 kill your husband was Quoteas Nesbitt?

14 A I'm very certain.

15 Q Are you one hundred percent certain?

16 A Yes, ma'am.

17 Q What was your level of attention that particular night
18 when your husband was being shot?

19 A For the most part, I'm very attentive. I like to
20 observe my surroundings, and I don't frequent Chase. I
21 don't even go there, just like once in a lifetime -- like,
22 you know, I just don't go to Chase.. So for me to be there,
23 I'm alert. So like I say, I'm looking around and paying
24 attention. I didn't feel like anything was out of the
25 ordinary, but I was still ready to go, because the only

Neil V. Biggers Hearing
Direct examination of Renatta Holmes by Ms. Legette

1 reason why we came to town was to pick my little puppy up
2 and to get something to eat; so I was ready to go back home.
3 I was attentive and looking around. The only reason what
4 got my attention was, like I said, my cousin approached the
5 car and we spoke briefly.

6 Q Okay. Now, Ms. Holmes, did you actually tell law
7 enforcement what happened? Did you give a statement?

8 A Yes.

9 Q How many statements did you give?

10 A Two.

11 Q Now, in one of those statements, did you tell law
12 enforcement who shot your husband?

13 A No, I didn't.

14 Q Can you explain why, in that statement, you left the
15 name out?

16 A I mean, I have no idea. I was just in shock, nervous.
17 I was scared. I mean, it's just something that you would
18 have to go through, to, know, you know -- I mean, I just was
19 scared, shocked. I mean, I just -- at that -- it was a lot
20 of emotion going on at the time.

21 Q And are you certain today that the man who killed your
22 husband, who was that man?

23 A Quoteas Nesbitt.

24 Q Thank you.

25 ASST. SOL. LEGETTE: I have no further questions for

Neil V. Biggers Hearing
Cross-examination of Renatta Holmes by Mr. Walker

1 this hearing.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. WALKER

5 Q Good morning, Ms. Holmes.

6 A Good morning.

7 THE COURT: Come to the microphone, Counsel.

8 Q You said that when you pulled up -- well, who was
9 driving the car when you pulled up?

10 A Moray, my husband, was driving.

11 Q And where were you sitting?

12 A On the passenger side.

13 Q And you testified a moment ago that you arrived and
14 your husband was walking towards Brian ---

15 A Kelvin.

16 Q Kelvin, I'm sorry. And Brian Manigo?

17 A Yes.

18 Q And then you said you looked up and him and Kenya Kelly
19 were talking?

20 A No, that's not what I said.

21 Q Who is Kenya Kelly talking to?

22 A She ---

23 Q Oh, you were talking to Kenya Kelly; I'm sorry.

24 A Exactly.

25 Q So your husband got out and went to talk to Kelvin and

1 Brian, and then when you looked up, he was walking that way?

2 A Right.

3 Q What were you looking up from?

4 A When I said "looked up" -- I don't necessarily -- I
5 wasn't looking down or anything, I just looked that
6 direction. Like I said, I was looking around, and when I
7 looked in that direction, he was walking towards Kelvin and
8 Brian.

9 Q And then Ms. Kelly came to talk to you?

10 A Right.

11 Q And where was she?

12 A She was, like, more on, like, the hood. Not all the
13 way on the hood, you know, like where the rearview mirror at
14 and she wasn't obstructing my vision, so I was able to talk
15 to her and still pay attention to my surroundings.

16 Q Was she on your side of the car?

17 A Yes, she was.

18 Q So on the passenger side by the rearview mirror?

19 A Right.

20 Q Do you remember what you were talking about?

21 A No -- she just had a cookout that previous Saturday and
22 we were just talking about that; nothing major. She spoke,
23 "How are you doing?" That was that. It wasn't nothing
24 major.

25 Q Was she there by the car the whole time when the

1 shooting happened?

2 A Yes.

3 Q Where did she go when the shooting happened?

4 A She ducked.

5 Q Okay. Was that side of the car towards the shooting or
6 was it on the far side?

7 A Right. It was towards the shooting. I was on that
8 side of the shooting.

9 Q So she just, right there where she was, ducked down?

10 A Yes.

11 Q And you just looked towards the shooting?

12 A Right. Because my husband was over there. Like I
13 said, I looked to see where he was at. After the first gun
14 sound, and it got my attention, and I looked and he was
15 still shooting and my husband began falling.

16 Q Where did you just come from before going to the
17 lounge?

18 A He came in from work. I left my home, which is in
19 Edisto Terrace. We stopped to my mother's house, who is
20 located on [REDACTED] picked my dog up, and we proceeded to
21 come to Chase Lounge. We wasn't intentionally coming to
22 Chase Lounge, but when he saw Kelvin's car, and then he saw
23 Brian and those guys out there, it prompted him to stop.
24 But we were going to get something to eat.

25 Q So to rephrase, he picked you up at your home and then

Neil V. Biggers Hearing
Cross-examination of Renatta Holmes by Mr. Walker

1 you both went to your mother's?

2 A No, we lived together; he was home.

3 Q He was home?

4 A He was home. He took a shower. He came in from work
5 and he took a shower. I was watching the BMA's, so he asked
6 me to ride with him to go get something to eat and go pick
7 up Pablo, which is my small lap dog. So I got up and I
8 slipped on something and we came to town. We stopped by my
9 mother's home and he went into the house, he got my dog and
10 he let the dog use the restroom. He got back in the car and
11 we proceeded to go to Chase Lounge -- and when we got to
12 Chase Lounge, which that was on the right side, because we
13 had to make a right turn at that sign, everything was on my
14 side, so I could see what was going on, like, at Chase
15 Lounge when we turned -- so I saw what I saw when we passed
16 by. Like, I looked there, I just don't go there, because I
17 live, and my mother lives, in close proximity of it.

18 MR. WALKER: Thank you, Your Honor. I don't have
19 anything else.

20 THE COURT: Redirect?

21 ASST. SOL. LEGETTE: None, Your Honor.

22 THE COURT: You may step down. Watch your step. Call
23 your next witness.

24 ASST. SOL. LEGETTE: The State calls Brian Manigo.

25 (WHEREUPON, MR. MANIGO ENTERS THE COURTROOM.)

Neil V. Biggers Hearing
Direct examination of Brian Manigo by Ms. Legette

1 THE COURT: Mr. Manigo, come in and be sworn by the
2 Clerk of Court.

3 (WHEREUPON, THE WITNESS IS DULY SWORN.)

4 MADAME CLERK: Please state your name for the record.

5 THE COURT: Watch your step on those stairs. Have a
6 seat. Pull the chair up and adjust the microphone. The
7 microphone is going to amplify your voice. State your full
8 name and spell your last name for the court reporter,
9 please.

10 MR. MANIGO: I'm Brian Manigo, M-A-N-I-G-O.

11 THE COURT: Your witness. Speak up.

12 ASST. SOL. LEGETTE: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY ASST. SOL. LEGETTE:

15 Q Mr. Manigo, do you know Quoteas Nesbitt?

16 A Yes, ma'am.

17 Q Did you know Moray Holmes?

18 A Yes,, ma'am.

19 Q How long have you known Quoteas Nesbitt?

20 A For a good little bit, a long time.

21 Q A long time? Is Quoteas Nesbitt present in Court
22 today?

23 A Yes, ma'am.

24 Q Can you point him out and describe what he's wearing?

25 A White shirt with a tie on.

Neil V. Biggers Hearing
Direct examination of Brian Manigo by Ms. Legette

1 Q Okay.

2 ASST. SOL. LEGETTE: Let the record reflect the witness
3 has indicated the defendant, Quoteas Nesbitt.

4 Q Mr. Manigo, you said you've known Quoteas Nesbitt a
5 long time. What do you mean by a long time?

6 A About ten or eleven years.

7 Q Okay. And briefly tell us, were y'all friends?

8 A We associated and stuff like that, being around one
9 another.

10 Q Did y'all hang out?

11 A A couple of times.

12 Q All right. So when you say y'all have hung out a
13 couple of times, how long would the hang outs last?

14 A A couple of hours; probably go to the club or something
15 together.

16 Q So y'all would hang out and have fun together?

17 A Yeah.

18 Q And over the couple, you said eight to ten years?

19 A I said ten to eleven years.

20 Q I'm sorry, ten to eleven years. Over that period of
21 time, how often would you say y'all hung out?

22 A A lot. Half of that.

23 Q All right. So you would recognize him on sight?

24 A Yes, ma'am.

25 Q Now, let's turn your attention to September 6th, 2012.

1 Do you remember that particular night?

2 A Yes, ma'am.

3 Q Did you see Quoteas Nesbitt that night?

4 A Yes, ma'am.

5 Q Tell us what happened when you first saw Quoteas
6 Nesbitt that night.

7 A When I pulled up to the Silver Shadow, he was just
8 standing in the parking lot.

9 Q When you pulled up -- did anyone come with you?

10 A Yeah. Me and Kelvin Mitchell was riding together.

11 Q Okay. So you pull up and who was standing in the
12 Silver Shadow?

13 A Well, there was a lot of people out there, but I saw
14 Quoteas. He approached the car that I was in.

15 Q Does the Silver Shadow have another name?

16 A Chase.

17 Q Okay. So you and Kelvin Mitchell pull up and who do
18 you see?

19 A Quoteas Nesbitt.

20 Q Okay. What happens when you see Quoteas Nesbitt?

21 A Well, he was just talking to us. Asking questions like,
22 "What's up with Bobo?" Asking us questions like, "Do Bobo
23 have a problem with him," and stuff like that.

24 Q Now who is Bobo?

25 A Moray Holmes.

Neil V. Biggers Hearing
Direct examination of Brian Manigo by Ms. Legette

77
77

1 Q That's his nickname?
2 A Bobo, yeah, his street name.
3 Q Okay. So Quoteas comes over to the car where y'all are
4 sitting?
5 A Yes, ma'am.
6 Q All right. So what window was he at?
7 A The driver window, where Kelvin Mitchell was at.
8 Q So could you see him real well?
9 A Yes, ma'am.
10 Q Okay. So he was asking questions about Bobo?
11 A Yeah.
12 Q Did you talk back to Quoteas?
13 A I was just like, "What's the problem?" He was like,
14 "Ain't nothing. Bobo must got a problem with me." That was
15 it.
16 Q Okay.
17 A That was it. And Bobo was coming down the road or
18 whatever.
19 Q All right. So when Bobo was coming down the road, what
20 happened?
21 A He pulled into the parking lot, got out, and he was
22 speaking to somebody. I want to say he was probably talking
23 to Nick or somebody. And then he was coming towards where
24 we was, and then he met up with 'Teas, because he had to
25 bypass Quoteas to get to us.

1 Q You said 'Teas. Who is Teas?

2 A Quoteas Nesbitt.

3 Q Is that his nickname?

4 A 'Teas?

5 Q Yes.

6 A I guess.

7 Q That's what you call him sometimes?

8 A Yeah, that's his street name.

9 Q Okay. So you say now, Bobo is coming towards y'all?

10 A Yeah.

11 Q All right. So what happens while he's coming towards
12 y'all?

13 A He met Quoteas in the middle of the parking lot. Just
14 like I said, he had to bypass Quoteas just to get to us, and
15 they must have been talking, or whatever, and then he walked
16 off.

17 Q Who walked off?

18 A Moray.

19 Q Okay. And what happened?

20 A He just walked off and Quoteas shot him in the back.

21 Q All right. So Bobo, or Moray, walks away?

22 A Yeah.

23 Q In what direction is he walking in?

24 A From my point of view, from where I was at, he was
25 walking to the right coming towards us.

1 Q Okay. And were the headlights on in the car? Were you
2 able to see?

3 A Yeah.

4 Q Okay. So Moray is walking towards y'all. What is
5 Quoteas doing?

6 A Shooting.

7 Q Okay. And who is he shooting at?

8 A Moray.

9 Q Okay. While he is shooting at Moray, does he hit him?

10 A In the back.

11 Q Okay. What happens to Moray?

12 A Fall down. Right by a ditch.

13 Q Okay. So while Moray is falling and Quoteas is
14 shooting, is Quoteas doing anything else?

15 A Leaving.

16 Q What are you doing while this is going on?

17 A Searching for a gun.

18 Q And why are you searching for a gun?

19 A Trying to get at him; he shot my friend.

20 Q Okay. Did you ever get your hand on one?

21 A No, ma'am.

22 Q How certain were you, and are you, that the person you
23 saw shoot Moray was Quoteas Nesbitt?

24 A Could you repeat yourself, please?

25 Q I'm sorry. Are you positive the person you saw shoot

1 Moray Holmes was Quoteas Nesbitt?

2 A Yes, ma'am.

3 Q How positive are you?

4 A Real positive. I seen him. I can point him out.

5 Q You saw the whole thing?

6 A Everything.

7 Q Okay. And is the man that shot Moray Holmes present in
8 Court today?

9 A Yes, ma'am.

10 Q Can you point him out?

11 A Yes, ma'am.

12 Q Point him out, please.

13 A (WITNESS POINTS TO DEFENDANT.)

14 Q And what's his name?

15 A Quoteas Nesbitt.

16 ASST. SOL. LEGETTE: Begging the Court's indulgence.

17 I have no further questions for the purposes of this
18 hearing.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. WALKER:

22 Q You arrived at the Chase Lounge that night. Who were
23 you with?

24 A Kelvin Mitchell.

25 Q And y'all were in Kelvin's car?

1 A Yes.

2 Q So he was driving?

3 A Yes.

4 Q And you were in the passenger seat?

5 A Yes.

6 Q When you pulled in, you said you saw Quoteas talking,
7 and then you saw Quoteas and Mr. Holmes engaged in
8 conversation and then the shooting. Were you looking
9 through the windshield, or were you looking through your
10 window, or through Kelvin's window?

11 A I was looking through the windshield.

12 Q So it happened in front of you?

13 A A little to the left, but right in front of me.

14 Q Now, you gave a statement to the police, a written
15 statement, regarding this incident, correct?

16 A Yes, sir.

17 Q In which you said that Quoteas Nesbitt shot Mr. Holmes,
18 correct?

19 A Yes.

20 Q That statement was given November 28th, 2012, correct?

21 A Yes.

22 Q Did you give any other statements to the police about
23 this incident?

24 A No, sir.

25 Q Have you met with them any other time about this

1 incident?

2 A The other day.

3 Q So between November of 2012 and August of this year,
4 you have not spoken to the police about this incident?

5 A I did.

6 Q You did? What else did you talk about?

7 A I talked to them last week.

8 Q All right.

9 A It wasn't really nothing about -- it was just like
10 concerning me showing up in Court and stuff.

11 Q I'm just trying to get the number of times police have
12 been over this with you. It was November of 2012 when it
13 happened and then August of this year?

14 A Yes, sir.

15 Q Okay. And in August of this year, you met with
16 Investigator Stallings with the Solicitor's office?

17 A Yes, sir.

18 Q Did she, at that time, show you the video of the
19 incident?

20 A Yes, sir.

21 Q Did you make an identification off that video?

22 A Like, did I point somebody out?

23 Q Yes.

24 A Yes, sir.

25 Q All right. Now, when you came to that meeting, did

Neil V. Biggers Hearing
Cross-examination of Brian Manigo by Mr. Walker

1 they tell you that they wanted to show you a video of the
2 shooting?

3 A Yes, sir.

4 Q And you knew that Quoteas had been arrested for that
5 shooting?

6 A Yes, sir.

7 Q So you expected Quoteas to be on the video that you
8 saw?

9 A Yes, sir.

10 Q Did you point out anyone else on the video?

11 A No, sir. Just those two right there.

12 Q Which two?

13 A Tameaka and Angela.

14 Q Those are who were talking with about the video?

15 A We was in a conference.

16 Q All right. But when you were watching the video,
17 because there was a lot of people in that parking lot, did
18 you tell them any other people's names that were in that
19 parking lot?

20 A Well, no, but I pointed out the person that shot Moray.

21 Q You said that person was Quoteas?

22 A Quoteas Nesbitt.

23 Q That was the first time you'd seen that video?

24 A Yes, sir.

25 Q Were you able to see the facial features of the person

1 you identified as Quoteas Nesbitt on that video?

2 A Not one hundred percent, but if you was there that
3 night, you would know it was Quoteas.

4 Q So you were present on September 6th, 2012, when the
5 incident occurred?

6 A Yes, sir.

7 Q And then the other significant defense to this case, as
8 far as you're concerned, was meeting with police at the end
9 of November of 2012; is that correct?

10 A Yes, sir.

11 Q And then a meeting with the Solicitor's Office a week
12 or two ago?

13 A Yes, sir.

14 Q And those are the only times that you had spoken to law
15 enforcement about this incident?

16 Q Yes, sir.

17 THE COURT: Anything further, Counsel?

18 MR. WALKER: No, Your Honor.

19 THE COURT: Redirect?

20 ASST. SOL. LEGETTE: Briefly.

21 REDIRECT EXAMINATION

22 BY ASST. SOL. LEGETTE:

23 Q Mr. Manigo, did you review the video, or were you
24 familiar with the event where Quoteas Nesbitt shot and
25 killed Moray Holmes? Did you watch it happen?

Neil V. Biggers Hearing
Redirect examination of Brian Manigo by Ms. Legette

1 A Yes, ma'am.

2 Q The video that Mr. Walker asked you about, did you
3 review it for accuracy? Did you review it to make sure
4 that's what happened?

5 A Yes, ma'am.

6 Q And what you remembered happening?

7 A Yes, ma'am.

8 Q Is that why you watched the video?

9 A Yes, ma'am.

10 ASST. SOL. LEGETTE: Thank you, I have nothing further.

11 THE COURT: Recross, limited to redirect?

12 MR. WALKER: None, Your Honor.

13 THE COURT: You may step down. Solicitor, call your
14 next witness. We need to move.

15 ASST. SOL. LEGETTE: Nicholas Williams.

16 (WHEREUPON, THE WITNESS, MR. WILLIAMS ENTERS THE
17 COURTROOM.)

18 THE COURT: Come around and be sworn by the Clerk of
19 Court, please.

20 (WHEREUPON, MR. NICHOLAS WILLIAMS IS DULY SWORN.)

21 THE COURT: Watch the stairs right there, have a seat.
22 Pull the chair up, adjust the microphone to your height;
23 it's going to amplify your voice. State your full name and
24 spell your last name for the court reporter.

25 MR. WILLIAMS: Nicholas Williams, W-I-L-L-I-A-M-S.

Neil V. Biggers Hearing
Direct examination of Nicholas Williams by Ms. Legette

1 THE COURT: Your witness, Counsel. Direct examination.

2 ASST. SOL. LEGETTE: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY ASST. SOL. LEGETTE:

5 Q Mr. Williams, did you know Moray Holmes?

6 A Yes, ma'am.

7 Q How long?

8 A All my life.

9 Q Did you know, or do you know Quoteas Nesbitt?

10 A Yes, ma'am.

11 Q For how long?

12 A Like four or five years.

13 Q How many times have you said you've seen him?

14 A In passing. Not a whole lot.

15 Q Would you recognize him on sight?

16 A Yes, ma'am.

17 Q Have you ever had any conversations with him?

18 A Not like that.

19 Q Did y'all speak?

20 A Yeah.

21 Q Okay. Did he know you?

22 A Yes.

23 Q How many times would you say in that four or five year
24 period that you've known Quoteas Nesbitt that you have
25 actually seen him?

1 A Probably an every day basis.

2 Q But you recognize him on sight?

3 A Yes, ma'am.

4 Q Is he present in Court today?

5 A Yes, ma'am.

6 Q Can you point him out, please?

7 A Right there. (WITNESS POINTS TO DEFENDANT.)

8 Q Can you describe what he is wearing?

9 A A beige tie and white shirt.

10 ASST. SOL. LEGETTE: Let the record reflect the witness

11 indicated the defendant Quoteas Nesbitt.

12 Q Mr. Williams, let's turn your attention to September

13 6th, 2012. Did you see Moray Holmes that particular day?

14 A Yes, ma'am.

15 Q Did you see Quoteas Nesbitt that particular day?

16 A Yes, ma'am.

17 Q Can you describe what happened when you saw Quoteas

18 Nesbitt?

19 A At the time?

20 Q Well, tell me about the first time you saw him that

21 day, as well as -- we'll get to the part about the shooting.

22 Tell me when you first saw Quoteas Nesbitt that day.

23 A When I first saw him, it was that night.

24 Q Okay.

25 A Out there at the Chase Lounge. It was on that night,

1 September 6, when I saw him and Brian and Kelvin; he was at
2 their car talking to them.

3 Q Okay. All right. And for how long would you say you
4 actually saw him out there at the Chase that night?

5 A Until after Bobo got shot.

6 Q Okay. But how long before Bobo got shot?

7 A It was like -- like, maybe fifteen minutes before,
8 because he had pulled back up.

9 Q Okay. So you saw Quoteas talking to Kevy-boy and
10 Brian?

11 A Yes, ma'am.

12 Q All right. So what happens when Bobo pulls up?

13 A When Bobo?

14 Q I'm sorry. Who is Bobo?

15 A Moray Holmes.

16 Q Okay.

17 A You could hear his music coming down the road and then
18 he pulled up in Chase parking lot, and as soon as he pulled
19 up, Quoteas walked away from Kevy-boy and Brian at the car.

20 I was on the side standing by his brother's truck. I
21 hollered at him and he hollered at me. He said, "I'll come
22 right back. I'm going to talk to Kevy-boy real quick like.
23 While he was walking over there to the car, I was walking
24 to, but he was ahead of me. But before he could get to
25 Kevy-boy's car, Quoteas stopped him and said, "Bobo, what's

Neil V. Biggers Hearing
Direct examination of Nicholas Williams by Ms. Legette

1 up man? I hollered at you the other day and you act like
2 you didn't see me." So Bobo turned around and said, "'Teas,
3 you know it ain't nothing like that." And then, he went back
4 to turn around and that's when he shot him in the back.

5 Q Who shot him in the back?

6 A Quoteas.

7 Q Okay. Where were you when Quoteas shot Bobo in the
8 back?

9 A I was, like, from, not too far from a distance. I was
10 like by the ditch, because I was walking over there towards
11 where he was going at, to Kevy-boy's car, before anything --
12 anything went down.

13 Q How far away would you say you were from Quoteas and
14 Bobo?

15 A Maybe from here to the guy with the beige coat on.

16 Q Okay.

17 THE COURT: Let the record reflect that he's referring
18 to a person at counsel's table from the witness stand.
19 Proceed.

20 ASST. SOL. LEGETTE: Yes, Your Honor. Thank you.

21 Q How certain were you then that Quoteas Nesbitt shot
22 Bobo?

23 A One hundred percent..

24 Q Any doubt in your mind?

25 A No, ma'am.

1 Q Is Quoteas Nesbitt present in Court today?

2 A Yes, ma'am.

3 Q Now, you never came and talked to law enforcement about
4 this case?

5 A No, ma'am.

6 Q When was the first time you told anyone in law
7 enforcement or the court system about what you saw?

8 A Last week.

9 Q And what did you tell them?

10 A Last week. I was keeping in contact with my homeboy to
11 see when the case was gonna come up, last week.

12 Q And who did you talk with?

13 A Angela.

14 Q Anybody else?

15 A Yes, you.

16 Q Okay. During that particular conversation, did you
17 have a chance to review any video footage?

18 A Yes, ma'am.

19 Q Now, were you able to -- you said you were present the
20 night of the murder?

21 A Yes, ma'am.

22 Q Did you review the video to familiarize yourself with
23 or to -- I'm sorry. When you reviewed the video, was it a
24 fair and accurate representation of what happened that
25 night?

Neil V. Biggers Hearing
Cross-examination of Nicholas Williams by Mr. Walker

1 A Yes, ma'am.

2 Q Did you review the video to pick anyone out?

3 A (NO RESPONSE.)

4 Q What I'm asking you is, did you review that video in
5 order to make an identification?

6 A Yes, ma'am.

7 Q Had you already seen what happened prior to watching
8 the video?

9 A Yeah, because I was there.

10 Q Okay.

11 ASST. SOL. LEGETTE: I beg the Court's indulgence.

12 Q I have no further questions. Answer any questions from
13 the defense.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MR.WALKER:

17 Q You said that you just, for the first time, spoke to
18 law enforcement with your presentation that you just gave,
19 correct?

20 A Yes, sir.

21 Q You said that you had been monitoring the case through
22 a friend?

23 A Yes. My other homeboy that was actually out there.

24 Q And who was that?

25 A Odom, Donald.

1 Q And when you talked to Donald Odom, did you call the
2 police and say, "Hey, I wanna come in and tell you
3 something"?

4 A No, sir.

5 Q Well, how did the police know to talk to you?

6 A Everybody that was out there, I guess after they had
7 watched the video, and I got the subpoena, and got a chance
8 to tell my story what happened.

9 Q So someone from law enforcement came to talk to you?

10 A No, I came down here, because I got a letter in the
11 mail.

12 Q From who?

13 A The Solicitor's subpoena.

14 Q So the Solicitor subpoenaed you to be here today?

15 A Right. I come down and talk to them about what
16 happened that day.

17 Q Okay. So that was the first time you spoke, that was a
18 response to a subpoena a couple week ago?

19 A Yes, sir.

20 Q And you don't know what prompted them to send you a
21 subpoena?

22 A Well, they knew that I was out there.

23 Q And do you know how they knew that?

24 A Yes. Donald Odom who had already came to them and he
25 told them I wouldn't mind telling them what happened that

Neil V. Biggers Hearing
Cross-examination of Nicholas Williams by Mr. Walker

1 night.

2 Q So you and Donald Odom has already discussed that you'd
3 be willing to testify?

4 A Yes.

5 Q Were you able to point out on the video -- you said you
6 identified on the video for the Solicitor, Quoteas Nesbitt,
7 correct?

8 A Yes, sir.

9 Q Were you able to point out or identify anyone else on
10 that video?

11 A Yes. I was able to identify the car that he was
12 talking to Kevy-boy and Brian Manigo.

13 Q So you pointed out the car and ---

14 A And Bobo.

15 Q Okay. Those were the only people on the video that you
16 were able to say who they were?

17 A Yeah, and myself.

18 Q All right. And where are you on the video?

19 A I was on the side, on this side of the building, and as
20 I was walking up I was in the dark, because I had my blue
21 uniform on, so you could kind of see me walking up on the
22 side, and Coot was by the ditch. And then you can see when
23 I ran in to get his brother, so we could get him off the
24 ground and put him in the car so they could carry him to the
25 hospital.

Neil V. Biggers Hearing
Cross-examination of Nicholas Williams by Mr. Walker

1 Q Who was the other person you just said?

2 A Odom, Donald Odom.

3 Q Is that who you were with?

4 A Yeah.

5 Q How do you know Donald Odom?

6 A He's really my cousin.

7 THE COURT: Anything else?

8 MR. WALKER: Nothing else, Your Honor.

9 THE COURT: Redirect?

10 ASST. SOL. LEGETTE: None, Your Honor.

11 THE COURT: You may step down. Do you have any other
12 witnesses?

13 ASST. SOL. LEGETTE: No, Your Honor.

14 THE COURT: Very well. Give the witnesses
15 instructions, Solicitor.

16 I've got juror's waiting, Counsel, so I will hear you
17 briefly, Mr. Walker, if there's an objection.

18 MR. WALKER: There is an objection.

19 THE COURT: Hold on. Let me get the witness out.

20 All right. Mr. Walker, I'll hear you.

21 MR. WALKER: Thank you, Your Honor. My objection would
22 be as to the identification testimony of Detective Chapman.
23 He was not present at the scene. I would submit that the
24 identification procedure outlined in the testimony for today
25 is equivalent to a single person show-up identification,

1 which are disfavored in the law as being inherently
2 suggestive.

3 Det. Chapman testified that he was called to a pre-
4 trial meeting in which he knew that Quoteas Nesbitt was the
5 subject of the trial to be discussed. He was shown a video
6 where he was expected to see Quoteas Nesbitt, and in his
7 opinion, the person on the video was Quoteas Nesbitt, but
8 again, we would say it would be equivalent to a single
9 person show up I.D. If you show up expecting to see
10 Quoteas, an adequate person is going to see versus a truly
11 legal identification. Unlike these other witnesses that
12 we've heard from who also watched the video, he was not
13 present when this occurred, and we would say that his
14 testimony would be more prejudicial than probative both in
15 that it would be a shaky identification and from law
16 enforcement there is no reliable, solidifying identification
17 of other non-law enforcement presence, and thirdly, it would
18 be prejudicial in that it might suggest to the jury that
19 Quoteas was engaged in prior bad acts because of his
20 knowledge and contact with law enforcement, and how does one
21 obtain that? By being a bad person, so they can survive.
22 He had to deal with Det. Chapman in his official capacity is
23 how he knows Quoteas, and therefore, prejudice might attach
24 in that way. I believe those are the factors.

25 THE COURT: So your objection is as to the out-of-court

1 identification testimony of witness Chapman?

2 MR. WALKER: Yes, sir.

3 THE COURT: On the basis that you think it was
4 unreliable and therefore should not be admitted?

5 MR. WALKER: Yes, sir.

6 THE COURT: Thank you. Solicitor?

7 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
8 Honor, based on Detective Chapman's testimony he indicated
9 that he has known Quoteas Nesbitt for many years. Mr.
10 Nesbitt turned himself into him because they have built such
11 a repore.

12 Additionally, he talked about the opportunity to
13 observe the video and how basically he came to the actual
14 meeting itself having been told basically nothing about the
15 case, except that it was a video in which he was being asked
16 to watch to see if he could pick out anyone in the video, to
17 include Quoteas Nesbitt. He based that particular
18 identification on his opportunity to witness the actual
19 defendant, Mr. Nesbitt, based on his mannerisms and his
20 previous knowledge of Mr. Nesbitt, along with his degree of
21 attention. He was paying particular attention because he is
22 trained to do so, paying particular attention to Mr. Nesbitt
23 and how his gait is and how he walks and how he kind of
24 waddles, along with the stance that he typically takes.
25 Having dealt with him over a period of time, he was

1 particularly certain about it being Quoteas Nesbitt and we
2 would ask the Court to allow identification based thereon.

3 THE COURT: Very well. Let the record reflect that in
4 accordance with what I stated in the beginning, the Court
5 must review the totality of the circumstances to determine
6 whether any out-of-court identification is reliable in light
7 of our State Supreme Court cases, as well as the United
8 States Supreme Court case. I have carefully observed the
9 witnesses, including the witness who is the subject of this
10 objection, Chapman. I have listened to the opportunity that
11 Mr. Chapman discussed that he had to know the defendant
12 prior to viewing any video, by virtue of his work with law
13 enforcement in the smaller area of the Waltherboro Police
14 Department, as opposed to working with Colleton County
15 Sheriff's Department.

16 I have also looked at what was marked as State's
17 Exhibit One, which is the video. Without looking at the
18 portion of the video, which apparently, according to the
19 testimony during this hearing, actually shows the shooting.
20 Your objection, Mr. Walker, is respectfully overruled. I
21 will allow the testimony of the evidence. I will charge the
22 jury, however, that the burden of proof is on the State,
23 including identification beyond a reasonable doubt, extends
24 to every element of the crime charged, and this specifically
25 includes the burden of proving beyond a reasonable doubt the

1 identity of the defendant as the person who admitted the
2 crime.

3 Identification testimony, particularly out-of-court
4 identification testimony, is an expression of -- or
5 impression of belief by a witness. The jury will have to
6 determine the accuracy of the identification of the
7 defendant, and the jury will obviously have to determine the
8 believability of any identification witness.

9 Your objection is overruled. Bring me the jury.

10 (12:30 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
11 AND THE FOLLOWING IS PLACED ON THE RECORD.)

12 THE COURT: Madame Foreperson, I received your note; I
13 understand. Ms. Fletcher, raise your hand for me.

14 (MS. FLETCHES RAISES HAND.)

15 THE COURT: Ms. Fletcher, I understand you're a student
16 at Salk; is that correct?

17 MS. FLETCHER: Yes, sir.

18 THE COURT: And you have a class in 22 minutes; is
19 that correct?

20 MS. FLETCHER: Yes, sir.

21 THE COURT: You are excused from the jury, Ms.
22 Fletcher. (MS. FLETCHES EXITS COURTROOM.)

23 Sir, if you will move over one seat, as alternate
24 number one, you are now a part of the jury. And if my
25 alternate number two and three will move down one seat each,

1 please. Ma'am, you're now my alternate number one, and sir,
2 you're now my alternate number two.

3 THE COURT: Madame Clerk, would you please swear the
4 jury?

5 MADAME CLERK: Would you, please, stand?

6 (WHEREUPON, THE JURY IS DULY SWORN.)

7 THE COURT: All right, ladies and gentlemen, I know
8 you've been here for a while. We want to try and get a
9 little work done. We have been working but I realize you've
10 been waiting, and I told you I'd be mindful of your time.
11 Let me go over a couple of housekeeping matters, first of
12 all, ladies and gentlemen.

13 While you are selected to serve on a jury, and until
14 your actual jury service is included, I'm going to ask you
15 again, and I want to emphasize to you, because it's real
16 important, that you do not discuss this case with others,
17 including your fellow jurors; there will come a time when
18 I'll instruct you to do that.

19 I'm going to ask you not to read or listen to any news
20 account about the case. I'm going to ask you not to use a
21 computer, a cell phone or any other electronic device with
22 communication capability while you're on the jury. You
23 know, a lot of the time I have real conscientious jurors and
24 they think well, gosh, they didn't cover a point, I need to
25 research that. Even if you think the information collected

1 through some research on your own on any topic that might up
2 in this trial, and you might think it would help you, that
3 is not permissible. So please do not try to use a computer
4 or any device to do any independent juror research on your
5 own.

6 I'm going to ask you not to communicate with anyone on
7 your cell phone through e-mail, blackberry, I-phone, text
8 messaging or on twitter or through any blog or website or
9 through any internet chat room, or by way of any other
10 social networking website which includes Facebook, Myspace,
11 Linkedin and Youtube. Please, I ask you, follow these
12 instructions carefully while you're on the jury, ladies and
13 gentlemen.

14 Now, before we begin this trial, I want to tell you
15 that this trial probably will be different from what many of
16 you might expect. You know, most people, ladies and
17 gentlemen, don't get the chance because they're working,
18 they have families and they just don't have the time to come
19 to an actual court session. Many people, because they don't
20 have the chance to come, think that from watching television
21 or going to a movie or reading in a book that trials are
22 always full of high drama and intense action and riveting
23 and entertaining circumstances.

24 Well, ladies and gentlemen, while some of those things
25 that you see on television may be true at times in a real

1 trial, an actual trial is not for entertainment like a
2 television program or a movie or a book. An actual trial is
3 the search for the truth in an effort to make sure that
4 justice is done between the parties before the court.
5 Searching for the truth and trying to make sure that justice
6 is done is often slow. It is often repetitive. It is often
7 very deliberate. It is the exact opposite of what you may
8 have seen on television or in a movie or read in a book.
9 This courtroom, ladies and gentlemen, is a place of honor;
10 it is dedicated to the protection and preservation of
11 citizen's rights through what many people have called the
12 greatest justice system in the world.

13 The attorneys that are going to be appearing before
14 you, ladies and gentlemen, they are advocates either for the
15 State of South Carolina or the defendant, the parties that
16 they represent. But first and foremost, they are officers
17 of this Court, ladies and gentlemen, and as officers of this
18 Court, they and I, just like you just took one, the
19 attorneys took an oath. And in their oath, they swore they
20 would uphold the integrity and the fairness of our judicial
21 system, and to help you, ladies and gentlemen of the jury,
22 in a search for the truth. You should expect the attorney's
23 to be professional, you should expect the attorney's to be
24 competent, prepared and ethical in the discharge of their
25 duties.

1 Now, ladies and gentlemen, you also as the jurors have
2 now taken an oath. And in that oath, you said that you
3 would reach a fair and a just verdict in this case. So you
4 as jurors are also expected to be professional. You as
5 jurors are also expected to be reasonable and you as jurors
6 are also expected to be ethical in the discharge of the oath
7 which each of you just took on the jury.

8 I want to thank each and every one of you before we
9 even start for accepting this very important responsibility
10 of jury service. I want to thank you ladies and gentlemen,
11 for your contribution today to our justice system. Without
12 you, ladies and gentlemen of the jury, justice could not be
13 accomplished in a courtroom and I thank you for that
14 service.

15 All right, ladies and gentlemen, Madame Foreperson, the
16 case that we're getting ready to start trying, and I realize
17 we're going to stop pretty soon for lunch, because I ordered
18 for you to get here at 1:30, so we're going to try and get
19 some work done before that. The case that we're about to
20 try is the case of the State of South Carolina versus
21 Quoteas Nesbitt.

22 Mr. Nesbitt is charged by these two pieces of paper,
23 which I hold in my hand, which we call indictments. One
24 indictment charges Mr. Nesbitt with the offense of murder,
25 the elements of that offense I'll explain to you later in my

1 charge to you on the law. The other indictment charges Mr.
2 Nesbitt with the offense of possession of a weapon during
3 the commission of a violent crime.

4 To these indictments, ladies and gentlemen, the
5 defendant has pled not guilty. The indictments are simply
6 the charges by which the case is brought into this Court,
7 the Court of General Sessions, and the indictment is not in
8 any sense evidence of any of the allegations contained in
9 the indictment.

10 Now, because the defendant has pled not guilty to the
11 indictments, the State of South Carolina has the burden of
12 proving each of the essential elements of these offenses
13 beyond a reasonable doubt, and it will be your duty, ladies
14 and gentlemen on the jury, to decide whether or not the
15 State of South Carolina has met that verdict.

16 It is your solemn responsibility to determine the guilt
17 or the innocence of the defendant, and your verdict must be
18 based solely and only on the evidence as it is presented to
19 you in this trial, and on the law as I instruct it to you to
20 be during the trial and in my charge to you on the law at
21 the conclusion of the trial.

22 Now, in just a minute, ladies and gentlemen, the
23 assistant solicitor will make what we call an opening
24 statement, in which she will explain to you the issues in
25 this case, or at least as an advocate for the State of South

1 Carolina, what she contends to be the issues in this case.
2 And following the opening statement by the attorney for the
3 State, the attorney for the defendant will make an opening
4 statement.

5 I want to tell you that the lawyers have worked hard to
6 prepare this case, and I've worked them hard, and I will
7 continue to work them hard throughout this trial and they
8 know that. So I want you to pay close attention to them,
9 because they've worked to prepare for their clients. But
10 when they stand up in opening statement and tell you what
11 they think the issues are, it's only their contention as to
12 what the issues are in this case. Lawyers, ladies and
13 gentlemen, are advocates for their client and what they
14 argue to you in their closing argument, what they suggest to
15 you in their opening statement, what they try to suggest to
16 you by questions they ask is not evidence in this case,
17 because they're advocates. I want you to listen to them,
18 but when they speak to you, that's advocacy; that is not
19 evidence in this case.

20 Now, I've told you, you must base your decision on
21 evidence. So what is evidence in this case? The evidence
22 in this case is going to be presented to you by sworn
23 witnesses who are going to take this witness stand. They're
24 going to take an oath, just like you took an oath, just like
25 I took an oath, just like the lawyers took an oath.

1 Evidence may also take the form of an exhibit, such as a
2 photograph, or a model, or a video. And as to any exhibit,
3 the lawyers know you will not see it until I've ruled as a
4 matter of law whether or not the exhibit can or cannot be
5 admitted into evidence in the case; that's part of my job.

6 Evidence may also take the form of what we call a
7 stipulation, an agreement, between the parties that a fact
8 is true, and therefore, not necessary to be proved. So
9 ladies and gentlemen, you must base your decision solely and
10 only on the evidence as it's presented during the trial of
11 this case.

12 Now, in the consideration of this evidence, you should
13 remember that under the constitution of the State of South
14 Carolina, you, and you alone, the members of the jury, are
15 the sole judges of the facts in this case based on evidence
16 introduced during the trial of this case.

17 The same law that makes you the jury, the sole judges
18 of the facts, based on evidence introduced during the trial
19 of this case, makes me the sole judge of the law in this
20 case. I cannot invade your province, ladies and gentlemen,
21 and tell you or suggest to you what the facts are or what
22 the evidence shows, and you should not invade my province as
23 a trial judge and differ with me about what the law is.

24 Everything that I say during the course of this trial
25 is being taken down by my court reporter, Becky Hill. Lord

1 knows she has had to listen to me a lot, haven't you, Becky?
2 And if I make a mistake as to the law to the detriment of
3 either party, they can appeal the case to the Appellate
4 Court, and if the Appellate Court agrees that I've made a
5 mistake on the law, they'll send the case back for a new
6 trial. So don't any of you on this jury give one minute's
7 reflection on whether or not I have told you the law
8 correctly; that is not your job. That is somebody else's
9 worry. That is not your concern. Your job is to take the
10 law as I give it to you and apply it to the facts as you
11 find them to be, based on evidence introduced during the
12 trial of this case. And after doing that, ladies and
13 gentlemen, you will then render your verdict at the
14 conclusion of the case, a true and just verdict under that
15 solemn oath which each of you just took from the Clerk of
16 Court of Colleton County.

17 Now, from time to time during the trial of this case,
18 you're probably going to hear one of the lawyers say
19 something like, "Your Honor, I believe we have a question of
20 law or a matter of law to discuss with you," or "Your Honor,
21 may we approach the bench?" Or I, myself, might ask the
22 lawyers to approach the bench, and you'll hear me talk to
23 them like you've seen me do quietly at the bench, and you'll
24 think to yourself, "They're hiding something from me. Why
25 are they doing that? Why are they trying to whisper?"

1 Well, ladies and gentlemen, we're not trying to hide
2 anything from you. It's just exactly what I just told you.
3 You're the sole judges of the facts; I'm the sole judge of
4 the law. I can't suggest anything to you about the facts,
5 and sometimes when I'm ruling on a matter of law, by
6 necessity, I have to make a comment to the attorneys about
7 the facts in a case.

8 So the custom in this state, so that you will not be
9 influenced by anything that I might say or do in ruling on
10 whether or not a particular piece of law applies to this
11 case, the custom in this case is, first, I try to take it up
12 at the bench or in a sidebar, so you don't have to leave
13 your seats. Or I might ask you to step to your jury room, as
14 I did this morning while I worked on matters of law that did
15 not involve you, so that you won't be influenced by anything
16 that I might say or do in ruling on whether or not a
17 particular piece of law applies to this case.

18 And in that connection, let me tell you again that you,
19 ladies and gentlemen, you, and you alone, are the sole
20 judges of the facts in this case based on evidence
21 introduced during the trial of this case. And if any of you
22 should gather from anything that I might say or do during
23 the course of this trial that I, myself, have any opinion
24 whatsoever about the facts in this case, I'm going to ask
25 you to erase that from your mind because as I've said, the

1 law doesn't allow me to have an opinion about the facts.
2 You, and you alone, the jury, are the sole judges of the
3 facts and I can't make any comment to you about the facts in
4 this case.

5 Now, this raises the question that every juror wants to
6 ask at the beginning of a trial: Judge Buckner, how will I,
7 as a juror, be able to determine what the true facts are
8 from the evidence? Well, ladies and gentlemen, part of your
9 job is you will have to pass upon the credibility or the
10 believability of the witnesses who are going to take this
11 witness stand, take an oath, and provide evidence to you
12 during the trial of this case.

13 It will be my responsibility, as the presiding judge,
14 to rule as a matter of law whether or not certain testimony
15 is admissible or not. Once I've allowed the testimony to be
16 admitted into evidence, whether or not you believe the
17 testimony is solely a matter for you, the jury, to
18 determine.

19 And in passing upon the believability, or the
20 credibility, of the witnesses who will testify in the trial
21 of this case, you have the right as a jury to take into
22 consideration the interest of any witness, the bias of any
23 witness, the prejudice, if any, of any witness, the
24 opportunity for the witness to have observed the things or
25 matters about which he or she may testify.

1 You may even take into consideration in evaluating the
2 credibility or believability of the witnesses, what we call
3 the demeanor of the witness, the appearance of the witness
4 while the witness is on the witness stand. Anything that is
5 in evidence, you as a jury have the right to consider.

6 In passing upon the credibility or the believability of
7 the witnesses who will testify during the trial of this
8 case, and that means, Madame Foreperson, and ladies and
9 gentlemen of the jury, including my alternate jurors -- you
10 never know when one of you may become a member of the jury,
11 just as alternate number one just became. That means that
12 under that oath that each of you took, that sworn obligation
13 that each of you just gave, that means you should pay close
14 attention to the witnesses, listen to the witnesses.

15 Don't let your thoughts wander, but give strict
16 attention to the witness's testimony, so that at the
17 conclusion of all the evidence, all the testimony in this
18 case, after all of the final arguments of the attorneys and
19 my charge to you on the law in the case, because you
20 listened, because you observed, you have put yourself in a
21 position to determine what you feel are the true facts, and
22 apply the law as I instruct it to you to be, to the facts as
23 you find them to be, and thus render a true and a just
24 verdict.

25 You notice, ladies and gentlemen, I pointed this out to

1 you, because we've changed the courtroom. Pat and I are
2 very conscious of this. We both were born here, raised
3 here, and we both love this courthouse very much. You
4 actually are sitting -- if you notice, there are more chairs
5 than 12 over there. I actually had a young person -- I gave
6 a talk here a few weeks ago and a young person asked me that
7 question. There are 18 chairs in this box, because
8 originally, that was the grand jury box. There are 18
9 people on the grand jury. The petit jury box is on this
10 side. That's why -- although there are some add-ons over
11 there, there are 12 of them. But when we redid the
12 courthouse, we moved the jury box because of this door and
13 security purposes, so we moved the witness stand. You
14 notice the witness stand is on your side. That's so you can
15 observe the witnesses. So you can listen to the witnesses.
16 You can give strict attention to the witnesses during the
17 trial of this case.

18 Now, as I've already instructed you, you must not
19 consider anything that you may have read or heard about this
20 case outside of this courtroom, whether before or during
21 this trial. And until I submit this case to you, you must
22 not discuss it with anyone, not even your fellow jurors.
23 And after I submit to you, after my charge to you on the law
24 at the conclusion of the case, you must discuss it only in
25 your jury room with your fellow jurors.

1 It's very important, ladies and gentlemen, that each of
2 you, and myself, keep an open mind and not decide the case
3 until the entire matter has been submitted to you under my
4 instructions. Why are we so serious about that? Because
5 the very last thing in this trial, might be something that
6 makes a difference to you and might affect how you feel, so
7 keep an open mind and don't engage in any premature
8 deliberations amongst yourselves.

9 Now, it will be your added duty, Madame Foreperson, to
10 write the jury's verdict. I'm going to prepare it for you
11 and in my charge to you on the law, I'll give you
12 instructions. Whatever you write on the verdict form I
13 prepare -- you notice I'm giving these indictments back to
14 Thomas. He knows that you can't leave this courthouse until
15 whatever you write on that verdict form, you write on those
16 indictments. I have had law clerks to have to chase
17 forepersons across the grounds of the courthouse and tackle
18 them before they could get home. I don't want that to
19 happen with my brand new, bright law clerk, so be aware at
20 the end that he will be looking for you, only to duplicate
21 what you've done for the entire jury on the indictment.

22 It will also be your added duty, as I told you, to be
23 the jury's spokesperson. You will preside at the
24 appropriate time in the jury room to see that each and every
25 member of my jury has a full and fair opportunity to voice

1 their opinion once I tell you to begin your deliberations.

2 Now, housekeeping, and we're done. I wear a hearing
3 aid and the lawyers all know that. They love to make fun of
4 me behind my back that Judge Buckner's deaf; that's from
5 shooting a shotgun all of my life. I should have worn ear
6 protection. I talk loud. Deaf people talk loud, so I'm used
7 to projecting my voice as a lawyer and a judge. Nobody has
8 a problem hearing me. But gracious day do we have problems
9 with the people that come here. They talk real soft and
10 nobody understands them, Becky doesn't understand them, and
11 she looks at me with those eyes, like she's doing right now,
12 and the lawyers love to walk around the courtroom.

13 The reason the witness is sitting right there, the
14 reason I'm sitting right there, is because Becky can see
15 them. All she has to do is turn her head and she can see
16 the witness, she can see the judge, she can see the lawyers.
17 But the lawyers will turn their back inevitably to the court
18 reporter and to you, and they will walk back to their table,
19 which is their comfort zone, which is why I make them come
20 to the microphone for you, and look at something and ask a
21 question, which nobody understands. So if any of you can't
22 hear when they do that, raise your hand. I can assure you,
23 I want my jury to be able to hear at all times. So if you
24 can't hear, let me know.

25 If you hear me say an exhibit has been admitted into

1 evidence and you can't see the exhibit, raise your hand. I
2 want my jurors to be able to see at all times throughout the
3 trial.

4 Now, Madame Foreperson, we do not allow jurors to ask
5 questions here in the courtroom. If, at any time, a member
6 of the jury has a question, here is the procedure we have to
7 follow. If you're not already in your jury room, you will
8 retire to your jury room. You will write the question on a
9 piece of paper. You will knock on your jury room door, give
10 it to the bailiff, he'll bring it out to me. I, then, have
11 to rule as a matter of law whether the question can or
12 cannot be answered, just as I would any question asked by
13 either one of the attorneys during the trial of the case.

14 I've tried it both ways. I'm not sure there is a
15 complete answer, but this is my answer. I keep a pen, have
16 two pads up here. My law clerk is so young, you know, all
17 his research is on the computer. I love books. I still
18 like to hold a book in my hand. In fact, my wife says I
19 devour books. I can't read enough. I love to read.
20 Whereas, my young law clerk uses the computer for
21 everything. So you'll see me writing and you'll see him
22 typing, but I don't want you to take any notes. Why?
23 Because I've found that if a juror makes a mistake in their
24 written notes, the notes can be harmful rather than helpful
25 in your jury room once deliberations begin.

1 Now, if you're worried about remembering anything,
2 ladies and gentlemen, don't. Becky is making an audio
3 recording of the witnesses so I can play back if you need me
4 to, but please do not take any written notes.

5 All right. I want you to know that I do not intend
6 what I've just said to you to be construed to you as a
7 charge on the law; it's not that. I haven't heard the
8 evidence just like you haven't. I'll charge you that at the
9 conclusion of the case. This has been merely an attempt;
10 we've got a lot of rules about who speaks to you first, who
11 presents their evidence first, who argues first. This has
12 been merely an attempt on my part to briefly explain to you
13 some of the procedure that we follow in the trial of this
14 case so that hopefully each of you will have a better
15 understanding as to what may be happening from time to time.
16 Nevertheless, in order to preserve everyone's rights I will
17 give the parties an opportunity to object to anything I've
18 just said to you.

19 Any exceptions or objections from the State of South
20 Carolina?

21 ASST. SOL. LEGETTE: None from the State, Your Honor.

22 THE COURT: From the defendant?

23 MR. WALKER: None, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, we will
25 now begin the trial of this case. Ms. Legette.

1 ASST. SOL. LEGETTE: Thank you, Your Honor. May it
2 please the Court?

3 THE COURT: Yes, ma'am.

4 OPENING STATEMENT

5 ASST. SOL. LEGETTE: Ladies and gentlemen, good
6 afternoon. This is a case about respect. Respect that
7 Quoteas Nesbitt wanted Moray Holmes to give him. Respect
8 that Quoteas Nesbitt felt that he would take. But it's also
9 a case about Quoteas Nesbitt's lack of respect for Moray
10 Holmes, his lack of respect for human life, and his lack of
11 respect for the law of this city.

12 September 6th, 2012, Moray Holmes went to Chase Lounge.
13 Moray Holmes saw Quoteas Nesbitt there, and while they had a
14 conversation, Moray Holmes turned his back, walked away, and
15 while he walked away, Quoteas Nesbitt pulled out a gun and
16 shot him in the back. Shot him in the back. Twice. And
17 then ran away.

18 Now, for these crimes, Quoteas Nesbitt, the man sitting
19 over there, has been charged with murder and possession of a
20 weapon during the commission of a violent crime. But before
21 we talk about the evidence, let me take you for a ride. As
22 we're going down to the Chase Lounge. The Chase Lounge, a
23 place here in town. We're gonna get in our car and we're
24 gonna ride down to the red light, take a left on Jefferies
25 and we're going down Jefferies and get to Greenpond Highway.

1 Take a left on Greenpond, and ride for a short distance,
2 taking another left on Proctor Street.

3 Now, ride down a little ways on Proctor to the corner
4 of Rivers Street. At the corner of Rivers Street and
5 Proctor, you'll find the Chase Lounge. The Chase Lounge is
6 a pool hall. They've called it the Silver Shadow, the
7 Chase, but the pool hall; maybe you don't go there.

8 But I tell you this, the people who do go there,
9 they're our witnesses; they're pool hall witnesses. Now,
10 what that means is sometimes folks that hang out at pool
11 halls aren't perfect, and I make no apologies for the
12 witnesses we bring before you, because the witnesses we
13 bring before you were at the pool hall when Moray Holmes was
14 killed by Quoteas Nesbitt.

15 So those pool hall witnesses may not be perfect, but
16 who can find a perfect witness? Because without perfect or
17 imperfect witnesses, it'd be that old adage, if a tree falls
18 in the forest and there's no one there to see it or hear it,
19 did the tree really fall? So I say that to say this, our
20 witnesses will be pool hall witnesses.

21 Now, we have a rich history in the South, and as a
22 little girl I always loved history, and I loved pirates,
23 pirate shows. My favorite show, or favorite movie, is
24 Pirates of the Caribbean, and what I found about pirate
25 movies is that whatever happens on a pirate ship, all

1 witness will be from that ship. That's what we have. All
2 our witnesses who saw what happened will be from the pool
3 hall. Hear them out before you tune them out.

4 Ladies and gentlemen, when all of the evidence in, I'll
5 come back before you and I'll ask you about the evidence in
6 this case, because I want to make you understand also, this
7 is eye-witness testimony. You don't really have CSI, this
8 is not. There won't be much forensic evidence, not much DNA
9 to talk about. There will be pool hall witness. There will
10 be eye-witnesses testimony. But when all that evidence is
11 in, I'll come back before you and I'll ask you to find
12 Quoteas Nesbitt guilty of murder and guilty of the
13 possession of a weapon during the commission of a violent
14 crime where he shot Moray Holmes two times in the back.
15 Thank you.

16 THE COURT: Mr. Walker.

17 MR. WALKER: May it please the Court?

18 THE COURT: Proceed.

19 OPENING STATEMENT

20 BY MR. WALKER:

21 We don't just have pool hall witnesses in this case,
22 we've got fourteen more witnesses; we've got you. Because
23 this is an unusual case in the fact that you're going to get
24 to see the crime; there's a video of it. So you can
25 evaluate all of these witnesses by what you actually see.

1 The Judge spoke yesterday about your important function
2 as the jury, how in his experience he's found that jurors
3 take it seriously and are attentive. That's also been my
4 experience; that's what Quoteas and I are hoping that you
5 will give to this case. The founders of our governing
6 documents guarantee the right to a jury trial for you to be
7 a part of the government that want parts of those checks and
8 balances that we have. To stand in between the power of the
9 State who accuses someone of a crime and you hold his life
10 in your hands.

11 As the Judge has told you, Quoteas sits there
12 considered innocent until proven guilty; that's stuff you've
13 heard on all of those T.V. shows that the Judge mentioned,
14 but that comes from a philosophical state that anyone
15 accused of something is innocent and you're on that person's
16 side, you're default mindset is innocent. And it's the
17 State's job as the Judge said to prove each and every
18 element of every crime -- crime is like a recipe.

19 The State has to prove certain things or put certain
20 ingredients in. They have to prove each and every
21 ingredient of that crime beyond a reasonable doubt before
22 you can find someone guilty of something. So you're going
23 to have -- you're going to be your own witnesses. There's
24 going to be a video. You're going to see it. It's a
25 shooting exactly as she described. There are video cameras

1 in the parking lot of the Chase Lounge; it's nighttime.
2 You'll see two people in the middle of the parking lot and
3 you'll see one of them shoot the other.

4 Now, you're going to hear the State call witnesses that
5 said the person doing the shooting is Quoteas Nesbitt. Now,
6 if you listen carefully, you're also going to hear things
7 that should raise red flags that should have you be
8 skeptical of the people that say that. You're also going to
9 have that piece of physical evidence where you don't have to
10 necessarily take anybody else's word for what happened,
11 you'll be able to see.

12 As you see it, again, it's nighttime in a parking lot.
13 As you see that, would it be possible for you to identify
14 from that video the person that it is. There are people
15 that claim they can. Is that reasonable? Is that
16 believable? That a dark video where you cannot make
17 anyone's face out that you can identify that person.

18 And while the Solicitor said there's not going to be
19 much CSI evidence, there is some. And what there is, is
20 favorable for Quoteas Nesbitt. DNA gathered at the crime
21 scene near the bullet casings that were found came back to
22 some unknown third person; it was tested against Quoteas
23 Nesbitt's DNA. You will hear that testimony. And of
24 course, physical evidence, video, and in CSI things, you
25 know, they don't have a bias, or reliability, or demeanor,

1 or credibility issues, because they are basically what they
2 are.

3 Please give your attention, as I know you will, to the
4 intricate facts of the case. Pay close attention to what
5 each person says themselves, and of course, compare it to
6 each other. Quoteas, of course, this is a huge day for him.
7 He is really depending on you, too, and as the Judge and I,
8 in our experience, have found to pay close attention and be
9 critical -- not be critical in a bad way, but to analyze and
10 put to the test the State's arguments and witnesses, and be
11 aware of all the testimony.

12 Again, my name is Matthew Walker. It's my privilege to
13 speak to you today on Quoteas's behalf. Now, please give
14 your attention to the State's witnesses.

15 THE COURT: Counsel approach.

16 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Call your first witness, Solicitor.

19 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
20 calls Amanda Murdaugh.

21 (WHEREUPON, THE WITNESS, MS. MURDAUGH, ENTERS THE
22 COURTROOM.)

23 THE COURT: Ms. Murdaugh, if you'll come forward,
24 please, and be sworn by the Clerk of Court of Colleton
25 County.

1 (WHEREUPON, AMANDA MURDAUGH IS DULY SWORN.)

2 THE COURT: Please have a seat and state your full name
3 for the record.

4 THE COURT: Watch your step. Have a seat. Make
5 yourself comfortable. Pull your chair up and adjust that
6 microphone. State your full name and spell your last name
7 for my court reporter.

8 WITNESS: Amanda Murdaugh, M-U-R-D-A-U-G-H.

9 THE COURT: Your witness, counsel. Direct examination.

10 ASST. SOL. LEGETTE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY ASST. SOL. LEGETTE:

13 Q Ma'am, where do you work?

14 A Colleton County 9-1-1 Dispatch.

15 Q And what do you do at Colleton County 9-1-1 Dispatch?

16 A We answer all 9-1-1 calls, non-emergency calls,
17 dispatch for the Sheriff's Office, Fire Rescue, and two
18 local PD's.

19 Q And how long have you worked at 9-1-1 Dispatch?

20 A Twelve years.

21 Q And were you working for the Colleton County Dispatch,
22 or 9-1-1 Dispatch, on September 6th, 2012?

23 A Yes.

24 Q And what shift were you working?

25 A Night shift.

1 Q Did you receive any calls for assistance that
2 particular evening?

3 A Yes, we did.

4 Q And tell us where you were getting the calls from, the
5 location?

6 A The Chase Lounge.

7 Q What was your response?

8 A We dispatched law enforcement and fire rescue.

9 Q And as a part of your duties at 9-1-1 Dispatch in the
10 ordinary course of business, is it proper to make a
11 contemporaneous, or real time, recording of 9-1-1 calls?

12 A Yes.

13 Q And were 9-1-1 calls -- or 9-1-1 recordings of those
14 calls made in this case?

15 A Yes.

16 Q And at our request, have you previously reviewed those
17 calls that you took?

18 A Yes.

19 Q And have you reviewed those calls for accuracy?

20 A Yes, ma'am.

21 ASST. SOL. LEGETTE: Permission to approach, Your
22 Honor.

23 THE COURT: You may.

24 Q Ms. Murdaugh, momentarily, I'm going to hand you what's
25 been previously marked as State's Exhibit Number One, for

1 identification.

2 ASST. SOL. LEGETTE: Begging the Court's indulgence.

3 Q Ms. Murdaugh, I hand you now what's been previously
4 marked as State's Exhibit Number One. Please take a moment
5 and tell me if you recognize this exhibit.

6 ASST. SOL. LEGETTE: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 Q Ms. Murdaugh, do you recognize State's Exhibit Number
10 One?

11 A Yes, I do.

12 Q And what is State's Exhibit Number One?

13 A It's the recording of the 9-1-1 calls that I took that
14 night.

15 Q And is State's Exhibit Number One a fair and accurate
16 reflection of the 9-1-1 calls you took on September 6th,
17 2012?

18 A Yes.

19 ASST. SOL. LEGETTE: Your Honor, at this time, I would
20 offer State's Exhibit One for admission into evidence.

21 THE COURT: Mr. Walker, as to State's Exhibit One?

22 MR. WALKER: No objection.

23 THE COURT: Ladies and gentlemen of the jury, State's
24 Exhibit Number One will be admitted into evidence in the
25 trial of this case without objection. You may now publish

1 to the jury.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE, CD OF 9-1-1
3 CALLS FROM SEPTEMBER 6, 2012, IS RECEIVED INTO EVIDENCE.)

4 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
5 approach the witness, Your Honor?

6 THE COURT: You may.

7 ASST. SOL. LEGETTE: Your Honor, may Ms. Stallings
8 assist me?

9 THE COURT: Yes, we want Ms. Stallings to assist us,
10 please. Ms. Stallings, thank you.

11 (WHEREUPON, AT 1:18 P.M., STATE'S EXHIBIT NUMBER ONE
12 BEGINS TO PLAY; ENDS AT 1:22 P.M. NOT TRANSCRIBED.)

13 ASST. SOL. LEGETTE: Thank you, Ms. Stallings.

14 Q Ms. Murdaugh, are those the recordings you took on the
15 night of September 6th, 2012?

16 A Yes, ma'am.

17 Q Thank you. I have no further questions. Please answer
18 any questions from the defense counsel.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. WALKER:

22 Q Were you able to identify anybody on these phone calls?

23 A I did not, no.

24 Q All right.

25 MR. WALKER: Your Honor, no further questions.

1 THE COURT: Redirect?

2 ASST. SOL. LEGETTE: None, Your Honor.

3 THE COURT: As to this witness, Solicitor?

4 ASST. SOL. LEGETTE: We ask that she be excused, Your
5 Honor.

6 THE COURT: Any objection?

7 MR. WALKER: No objection.

8 THE COURT: Ms. Murdaugh, you may step down from the
9 witness stand and you are excused from the trial of this
10 case. You may leave the courtroom.

11 Madame Foreperson, ladies and gentlemen of the jury, I
12 see that it's 1:25, and your lunch is scheduled to be here
13 in five minutes. We're going to stop at this point for our
14 lunch break. Do I have any smokers on the jury? All right,
15 ma'am, I understand about that. I'm a reformed one; at least
16 I think I am sometimes. The bailiffs will take you outside
17 to smoke.

18 Do not discuss the case amongst yourselves or with
19 anybody else. They will tell me when you're finished. I've
20 got to let everybody get lunch now. Probably we won't be
21 able to start back until 2:30, unless I know I've got
22 everybody back. However, please enjoy your lunch, just
23 don't discuss the case and we'll start back as soon as we
24 can.

25 Please retire to your jury room at this time.

1 (1:25 P.M., WHEREUPON THE JURY EXITS THE COURTROOM AND
2 THE FOLLOWING IS HELD ON THE RECORD.)

3 THE COURT: All right. Counsel, anything on the record
4 outside the presence of the jury from the State before we
5 adjourn for lunch?

6 ASST. SOL. LEGETTE: Not from the State, Your Honor.

7 THE COURT: From the defendant?

8 MR. WALKER: I have some matters, but I'm not sure if
9 we want to take them up now or when we return.

10 THE COURT: Well, I don't know, Mr. Walker. Do you
11 want to take up matters all the way through lunch or do you
12 want to wait until we come back?

13 MR. WALKER: When we come back will be great, Your
14 Honor.

15 THE COURT: Court is in recess until 2:30.

16 (WHEREUPON, THE COURT IS IN RECESS IN THE TRIAL OF THIS
17 CASE FOR LUNCH. THEREAFTER, AT 2:40, THE FOLLOWING IS HELD
18 ON THE RECORD.)

19 THE COURT: Let the record reflect that during the
20 lunch break counsel came to my chambers concerning certain
21 photographs of the autopsy of the decedent. I have been
22 through all of the photographs in chambers with both
23 lawyers. There is now no longer an objection in light of an
24 agreement reached between the attorneys in my chambers; is
25 that correct, Solicitor?

1 ASST. SOL. LEGETTE: Correct, Your Honor.

2 THE COURT: Correct, Mr. Walker?

3 MR. WALKER: Yes, Your Honor.

4 THE COURT: Mr. Walker has also raised an issue
5 concerning my security personnel, both bailiffs and
6 Sheriff's Office personnel. It was Mr. Walker's request
7 that the offices move back a row. I informed Mr. Walker
8 that I had to balance the interest of the confidentiality
9 and privacy of he and his client with the interest of
10 security for all my citizens and parties in the courtroom.
11 I therefore told him it would be up to my Major to tell me
12 whether or not from a security standpoint that moving back a
13 row, as Mr. Walker would like, would be compromising
14 security, because if it were, I would not require anyone to
15 move back a row. Major, what is your position?

16 MAJOR HAAS: I would like to leave Cpl. Lynah where she
17 is at. I did move Deputy Hale down, but I would need her in
18 that position and myself in this position.

19 THE COURT: All right. The positions that everyone is
20 in now, you're satisfied with?

21 MAJOR HAAS: Yes, sir.

22 THE COURT: Very well. Mr. Walker, is there any
23 further objection in light of what I'm being told by the
24 Major?

25 MR. WALKER: I just still request they move back, but I

1 understand the Court's ruling.

2 THE COURT: Well, they're on the first row. There is a
3 bench in the Colleton Courtroom right behind counsel and
4 defendant. They're not on that bench. They're on the
5 spectator's row. And Mr. Walker, if a spectator comes in,
6 they can sit on that front row, just like an officer. I
7 don't think they're doing one thing but doing their job.
8 Your objection is respectfully denied. I think we've
9 accommodated your request sufficiently.

10 Mr. Grant, I need to ask you since I know what a
11 disciplined person you are when it comes to following
12 doctor's advice, according to your wife. Has my jury all
13 had a chance to smoke, eat, and use the restroom, or will we
14 all be waiting once I tell them to come?

15 MR. GRANT: We are waiting, Your Honor.

16 THE COURT: That's what I thought. Tell them we are
17 ready when they are.

18 (2:50 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
19 AND THE FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Ladies and gentlemen of the jury, we will
21 now continue with the testimony in the trial of this case.
22 Solicitor, call your next witness.

23 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
24 calls Ms. Kelly Padgett.

25 (WHEREUPON, THE WITNESS, MS. PADGETT, ENTERS THE

1 COURTROOM.)

2 THE COURT: If you will come around, please, and be
3 sworn by the Clerk of Court.

4 (WHEREUPON, MS. KELLY PADGETT IS DULY SWORN.)

5 MADAME CLERK: Please have a seat on the witness stand
6 and state your name for the record.

7 THE COURT: Watch your step. Have a seat. Pull up
8 your chair. Adjust the microphone. State your full name
9 and spell your last name for the record, please.

10 MS. PADGETT: Kelly Padgett, P-A-D-G-E-T-T.

11 THE COURT: Your witness, counsel.

12 ASST. SOL. LEGETTE: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY ASST. SOL. LEGETTE:

15 Q Ms. Padgett, where do you work now?

16 A I'm currently employed with the Colleton County
17 Sheriff's Office.

18 Q And what do you do at the Colleton County Sheriff's
19 Office?

20 A At this time, I'm attending the South Carolina Criminal
21 Justice Academy in Columbia to become a Class One Certified
22 Officer.

23 Q Okay. And when will you become a Class One Certified
24 Officer?

25 A This Friday.

1 Q Now, where have you previously worked?

2 A In the Colleton County 9-1-1 Communications Center.

3 Q And how long did you work at the Colleton County
4 Communications Center?

5 A Eight years.

6 Q And is that also called the E9-1-1?

7 A Yes.

8 Q And what were your duties as E9-1-1 or the Colleton
9 County Communications Center?

10 A We would answer 9-1-1 calls, as well as administrative
11 calls for any type of assistance; whether it be for law
12 enforcement or fire rescue, whatever the call might be. We
13 also dispatched for several agencies, including the
14 Sheriff's Office, for Cottageville Police Department, and
15 for Edisto Beach Police Department.

16 Q Okay. Were you working for the Colleton County E9-1-1
17 on or about September 6th, 2012?

18 A Yes, I was.

19 Q And what shift were you working?

20 A Night shift.

21 Q Did you have occasion to receive any calls for
22 assistance that particular evening?

23 A Yes.

24 Q And where were the calls coming from?

25 A From the Chase Lounge area.

1 Q Okay. And what were the calls concerning?

2 A Someone had been shot.

3 Q What was your response?

4 A That we needed to send law enforcement and fire rescue
5 for assistance.

6 Q Did you do so?

7 A Yes.

8 Q Now, Ms. Padgett, as a part of the duties, or in the
9 ordinary course of business at the Colleton County
10 Communications Center, is it proper to make a
11 contemporaneous recording of 9-1-1 calls?

12 A Yes.

13 Q And were recordings made in the calls that you took?

14 A Yes, they were.

15 Q Ms. Padgett, in a moment, I'm going to hand you what
16 has been previously marked for identification as State's
17 Exhibit Number Two.

18 ASST. SOL. LEGETTE: May I approach, Your Honor?

19 THE COURT: Yes, you may.

20 Q Ms. Padgett, I hand you now what has previously been
21 marked as State's Exhibit Two. Take a moment and tell me if
22 you recognize State's Exhibit Two.

23 A Yes, I do.

24 Q And what is State's Exhibit Two?

25 A It's a recording for the 9-1-1 calls that I answered on

1 that night.

2 Q And is State's Exhibit Two a fair and accurate
3 representation of the calls you took on September 6th, 2012?

4 A Yes.

5 ASST. SOL. LEGETTE: At this time, Your Honor, I would
6 offer State's Exhibit Two for admission into evidence.

7 THE COURT: Any objection?

8 MR. WALKER: No objection.

9 THE COURT: Ladies and gentlemen of the jury, State's
10 Exhibit Number Two will be admitted into evidence in the
11 trial of this case without objection.

12 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO, 9-1-1 AUDIO CD,
13 IS RECEIVED INTO EVIDENCE.)

14 THE COURT: State's Two is in evidence. You may
15 publish to the jury.

16 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
17 approach the witness?

18 THE COURT: You may.

19 ASST. SOL. LEGETTE: Your Honor, may Ms. Stallings
20 assist me with the playing of the recording?

21 THE COURT: Yes. She's your I.T. Director?

22 ASST. SOL. LEGETTE: Your Honor, she's the I.T.
23 Director, she's the investigative director, she is the
24 management of the office, and quite frankly, she keeps me
25 going.

1 (AUDIO OF STATE'S EXHIBIT TWO BEGINS PLAYING AT 2:55
2 P.M.; AUDIO ENDS AT 3:02 P.M.)

3 Q Ms. Padgett, are those the calls that you took the
4 night of September 6th, 2012?

5 A Yes.

6 Q Thank you, Ms. Padgett. I have no further questions.
7 Please answer any questions from the defense.

8 THE COURT: Cross-examination?

9 MR. WALKER: None, Your Honor.

10 THE COURT: As to this witness, Solicitor?

11 ASST. SOL. LEGETTE: We ask that she be excused, Your
12 Honor.

13 THE COURT: Any objection, Mr. Walker?

14 MR. WALKER: None, Your Honor.

15 THE COURT: You may step down. You're excused from the
16 trial of this case. You may leave the courtroom at this
17 time. Call your next witness.

18 ASST. SOL. LEGETTE: The State calls Christy Willis.

19 (WHEREUPON, THE WITNESS, MS. WILLIS, ENTERS THE
20 COURTROOM.)

21 MADAME CLERK: Please come forward and be sworn.

22 (WHEREUPON, MS. CHRISTY WILLIS IS DULY SWORN.)

23 MADAME CLERK: Please have a seat on the witness stand
24 and state your name for the record.

25 THE COURT: Watch your step on my stairs, Ms. Willis.

1 Have a seat. Make yourself comfortable. Adjust the
2 microphone. State your full name and spell your last name
3 for the court reporter.

4 MS. WILLIS: Christy Willis, W-I-L-L-I-S.

5 THE COURT: Your witness, Solicitor.

6 DIRECT EXAMINATION

7 BY ASST. SOL. LEGETTE:

8 Q Ms. Willis, where do you work, ma'am?

9 A At the Colleton County Sheriff's Office.

10 Q And what do you do at the Colleton County Sheriff's
11 Office?

12 A I'm a dispatcher.

13 Q And how long have you been a dispatcher?

14 A Ten years.

15 Q And as a dispatcher, what are your duties?

16 A We answer 9-1-1 and administrative calls and send them
17 to the appropriate agency.

18 Q Okay. Now, were you working for the E9-1-1 dispatch on
19 the night of September 6th, 2012?

20 A Yes, ma'am.

21 Q And what shift were you working?

22 A Night shift.

23 Q Okay. Did you take any calls for assistance that
24 particular evening?

25 A Yes, ma'am.

1 Q And where were the callers calling from?

2 A In the area of the Chase Lounge.

3 Q Can you kind of give us an idea of how many calls you
4 were taking in on that particular evening?

5 A Several.

6 Q Were there a lot of calls?

7 A Yeah, there were a lot; probably 10 or 15.

8 Q Would that be one of the reasons why it would take so
9 long to pick up the phone sometimes?

10 A Most definitely.

11 Q Okay. Now, the callers calling from the Chase Lounge,
12 what was your response? I mean, what were they calling in
13 regards to from the Chase Lounge?

14 A A shooting.

15 Q And what was your response to these callers? What did
16 you do to respond to them?

17 A We had law enforcement and fire rescue respond.

18 Q Okay. Now, is it proper, or is it ordinary course of
19 business to make a contemporaneous recording whenever
20 someone calls 9-1-1?

21 A Yes, ma'am.

22 Q And were recordings made in the case of the calls that
23 you took?

24 A Yes, ma'am.

25 Q Ms. Willis, in a moment I'm going to hand you what's

1 been previously marked as State's Exhibit Number Three.

2 Please take a moment and tell me if you recognize this?

3 ASST. SOL. LEGETTE: Counsel has seen this, Your Honor.
4 May I approach?

5 THE COURT: You may approach.

6 Q Ms. Willis, do you recognize State's Exhibit Number
7 Three?

8 A Yes, ma'am.

9 Q And what is State's Exhibit Number Three?

10 A Recordings of the calls that I took that night.

11 Q And Ms. Willis, is State's Exhibit Three a fair and
12 accurate representation of the calls you took on September
13 6th, 2012?

14 A Yes, ma'am.

15 ASST. SOL. LEGETTE: At this time, Your Honor, I would
16 offer State's Exhibit Three for admission into evidence.

17 THE COURT: As to State's Three, counsel?

18 MR. WALKER: No objection.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibit Number Three will be admitted into evidence in the
21 trial of this case without objection.

22 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, AUDIO CD OF
23 9-1-1 CALLS, IS RECEIVED INTO EVIDENCE.)

24 THE COURT: State's Three is in evidence. You may
25 publish..

1 ASST. SOL. LEGETTE: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 (AUDIO CD BEGINS PLAYING AT 3:00 P.M.; ENDS AT 3:04
5 P.M.)

6 Q Ms. Willis, are those the 9-1-1 calls that you took on
7 September 6th, 2012?

8 A Yes, ma'am.

9 Q Thank you, I have nothing further. Please answer any
10 questions from the defense.

11 THE COURT: Cross-examination?

12 MR. WALKER: None, Your Honor.

13 THE COURT: As to the witness, counsel?

14 ASST. SOL. LEGETTE: Your Honor, we ask that she be
15 excused.

16 THE COURT: Any objection?

17 MR. WALKER: None, Your Honor.

18 THE COURT: Ms. Willis, you may step down and you are
19 excused from the trial of this case. You may leave the
20 courtroom. Call your next witness.

21 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
22 calls Muriel Walker.

23 (WHEREUPON, THE WITNESS, MS. WALKER, ENTERS THE
24 COURTROOM.)

25 THE COURT: Please come forward and be sworn.

1 MADAME CLERK: Place your left hand on the Bible and
2 raise your right.

3 (WHEREUPON, MS. MURIEL WALKER IS DULY SWORN.)

4 THE COURT: Watch your step on my stairs. Have a seat
5 and make yourself comfortable. Pull that chair up and if
6 you use that microphone, it's going to amplify your voice.

7 MS. WALKER: My name is Muriel Walker.

8 THE COURT: Spell your last name.

9 WITNESS: W-A-L-K-E-R.

10 THE COURT: Very good. Speak into the microphone and
11 speak up so my jury can hear you. Your witness, counsel.
12 Direct examination.

13 ASST. SOL. LEGETTE: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY ASST. SOL. LEGETTE:

16 Q Ms. Walker, where are you from?

17 A Originally?

18 Q Yes, ma'am.

19 A Originally born?

20 Q Well, where have you lived for -- where did you grow
21 up?

22 A In Walterboro.

23 Q Okay. Now, where do you currently live?

24 A In Columbia.

25 Q Okay. What do you currently do?

- 1 A I'm a nurse.
- 2 Q All right. Ms. Walker, did you know Moray Holmes?
- 3 A I knew him.
- 4 Q Okay. Do you know Quoteas Nesbitt?
- 5 A I know him.
- 6 Q Is he present in Court today?
- 7 A Yes.
- 8 Q Can you point him out?
- 9 A Over there. (WITNESS INDICATES BY POINTING TO DEFENSE
10 TABLE.)
- 11 Q What is he wearing?
- 12 A A white shirt.
- 13 Q Okay.
- 14 ASST. SOL. LEGETTE: Let the record reflect that she
15 Has indicated the defendant, Mr. Quoteas Nesbitt.)
- 16 Q Now, Ms. Walker, how do you know Mr. Quoteas Nesbitt?
- 17 A I know him from growing up in Walterboro and he is also
18 the father of my niece's child.
- 19 Q Okay. Now, Ms. Walker, do you know anything about the
20 Chase Lounge?
- 21 A Yes.
- 22 Q All right. What county is the Chase Lounge located in?
- 23 A In Colleton.
- 24 Q Now, have you ever gone to the Chase Lounge?
- 25 A Yes.

1 Q How often would you say you went to the Chase Lounge?

2 A At one point in time, I would go probably about three
3 times a week.

4 Q Okay. And what would you consider the Chase Lounge to
5 be?

6 A Nowadays, it's a pool hall.

7 Q Pool hall?

8 A That's what I would call it.

9 Q Okay. Now, let's turn your attention to September the
10 6th, 2012. Did you go to the Chase that day?

11 A Yes.

12 Q Were you still there in the evening?

13 A Uh-huh (affirmative).

14 THE COURT: You have to say "yes" or "no."

15 A Yes.

16 Q So you were still there in the evening?

17 A I went at night.

18 Q Did anything strange occur while you were there?

19 A There was a shooting.

20 Q Okay. Did you see the shooting?

21 A No.

22 Q When you heard the shots, what did you do?

23 A I ran to the right.

24 Q Okay. And once you ran, did you make any phone calls?

25 A I called 9-1-1.

1 Q All right. You called 9-1-1?

2 A Uh-huh (affirmative).

3 Q And did you review the 9-1-1 call recently to verify
4 the accuracy?

5 A Yes.

6 ASST. SOL. LEGETTE: Begging the Court's indulgence.

7 Q Ms. Walker, I have no further questions. Please answer
8 any questions from the defense.

9 THE COURT: Cross-examination?

10 MR. WALKER: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. WALKER:

13 Q Good afternoon.

14 A Good afternoon.

15 Q You said you went to the Chase Lounge in the evening of
16 September 6th. What time do you think you got there?

17 A It was dark and that was September, so I'm assuming it
18 was around 8:00 or so.

19 Q Were you there with anyone?

20 A I went there by myself, but my sister was there
21 already.

22 Q You said that you did not see the shooting; is that
23 correct?

24 A I didn't see the shooting.

25 Q Did you see Mr. Moray Holmes and Mr. Quoteas Nesbitt

1 talking that night?

2 A No.

3 Q You say you knew both parties, correct?

4 A Yes.

5 Q Did you know of any bad vibes between any of them?

6 A Not that I know of.

7 Q I don't have any further questions.

8 THE COURT: Redirect?

9 ASST. SOL. LEGETTE: None, Your Honor.

10 THE COURT: As to the witness, Solicitor?

11 ASST. SOL. LEGETTE: We ask that she be excused, Your
12 Honor.

13 THE COURT: Any objection, counsel?

14 MR. WALKER: No, Your Honor.

15 THE COURT: Ms. Walker, you may step down and you are
16 excused from the trial of this case. You may leave the
17 courtroom. Call your next witness.

18 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
19 calls Jason Fernandes.

20 (WHEREUPON, THE WITNESS, MR. FERNANDES, ENTERS THE
21 COURTROOM.)

22 MADAME CLERK: Please come forward to be sworn.

23 (WHEREUPON, MR. JASON FERNANDES IS DULY SWORN.)

24 MADAME CLERK: Please have a seat on the witness stand
25 and state your full name for the record.

1 MR. FERNANDES: Adjust the chair, pull up the
2 microphone. State your full name for the record and spell
3 your last for the court reporter, please.

4 MR. FERNANDES: Jason Fernandes, F-E-R-N-A-N-D-E-S.

5 THE COURT: Your witness, counsel. Direct examination.

6 ASST. SOL. LEGETTE: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY ASST. SOL. LEGETTE:

9 Q Mr. Fernandes, where do you work, sir?

10 A Currently at the North Charleston Police Department.

11 Q And what do you do at the North Charleston Police
12 Department?

13 A I'm on patrol.

14 Q Okay. Did you ever work for the Colleton County
15 Sheriff's Office?

16 A Yes, ma'am.

17 Q And when did you work for the Colleton County Sheriff's
18 Office?

19 A From 2009 until 2013.

20 Q And what were your duties at the Colleton County
21 Sheriff's Office?

22 A I had several different duties. I was a corporal. I
23 was in the SRO unit. I was on the SWAT team.

24 Q You kind of did it all?

25 A Yeah.

1 Q Now, let's turn your attention to September 5th, 2012.
2 Were you working for the Colleton County Sheriff's Office
3 then?

4 A Yes, ma'am.

5 Q And were you actually on duty that night?

6 A That night, I was actually assigned to an SRO function;
7 it was a football game.

8 Q Okay. So once the football game was over, did you have
9 any other occasion to be on duty?

10 A I was clearing from the football game.

11 Q And did anything strange occur?

12 A As I was leaving the stadium at the new high school on
13 Jefferies, emergency tones dropped and dispatch advised that
14 there was a shooting at the Chase Lounge. They also BOLO'd
15 out a vehicle being a white Sedan possibly headed to the
16 hospital.

17 As I was traveling down Jefferies, I observed a white
18 Sedan with its emergency flashers on at the intersection of
19 Robertson, heading towards the hospital, so I fell in behind
20 it. Got out with the vehicle. There was somebody standing
21 by with the vehicle. I inquired as to, if, in fact, it was
22 the victim of a shooting; they replied yes, and that was
23 confirmed with hospital security.

24 What else did I do? I stood by with the vehicle.
25 There was a large crowd on scene, several different people.

1 I was pretty much there by myself for a minute. I was
2 advised that Det. Gathers was en route. Once more help
3 arrived, we secured the vehicle for privacy purposes and
4 that was about it.

5 Q Now, you said there was a large crowd present?

6 A Yes, ma'am; family members, uh-huh (affirmative).

7 Q Did you do anything with the crowd?

8 A I tried to calm them down. The hospital has a protocol
9 that they close down the emergency room and they lock it
10 down. They don't allow anybody in, so we had to keep
11 everybody outside and try to keep them calm.

12 Q You said "try to keep them calm." Were they upset?
13 What was their overall demeanor with the crowd?

14 A They were upset.

15 Q Now, you said you stood by with the vehicle, how did
16 you describe that vehicle?

17 A It was a white-in-color Sedan.

18 Q Now, you said you stood by with the vehicle, did anyone
19 ever arrive to relieve you or assist you with standing by
20 with the vehicle and the crowd?

21 A There were several other officers that arrived to
22 assist with the crowd. Walterboro Public Safety arrived and
23 they helped. Once Deputy Brandon Allen arrived on scene, we
24 assisted him in securing the crime scene, as far as the
25 vehicle and roped it off.

1 Q Okay. Now, Officer -- is it Officer?

2 A Yes, ma'am.

3 Q Officer Fernandes, I'm going to hand you in a moment
4 what's been previously marked as State's Exhibits Four,
5 Five, and Six. Please take a moment and tell me if you
6 recognize these.

7 ASST. SOL. LEGETTE: May I approach the witness, Your
8 Honor?

9 THE COURT: You may.

10 Q Do you recognize Four, Five, and Six?

11 A Yes, ma'am.

12 Q And what are State's Four, Five, and Six?

13 A The victim's vehicle -- or the vehicle that the victim
14 was transported in.

15 Q Okay. And is State's Exhibits Four, Five, and Six a
16 fair and accurate representation of the vehicle as it
17 existed the night the victim was transported in that
18 vehicle?

19 A Yes, ma'am.

20 ASST. SOL. LEGETTE: At this time, Your Honor, I would
21 offer State's Four, Five, and Six for admission into
22 evidence.

23 THE COURT: As to State's Four, Five and Six?

24 MR. WALKER: No objection.

25 THE COURT: Ladies and gentlemen of the jury, State's

1 Exhibits numbers Four, Five and Six will be admitted into
2 evidence in the trial of this case, without objection.

3 ((WHEREUPON, STATE'S EXHIBIT NUMBER FOUR, PHOTO OF
4 VEHICLE, IS RECEIVED INTO EVIDENCE.))

5 (WHEREUPON, STATE'S EXHIBIT NUMBER FIVE, PHOTO OF
6 VEHICLE, IS RECEIVED INTO EVIDENCE.))

7 (WHEREUPON, STATE'S EXHIBIT NUMBER SIX, PHOTO OF
8 VEHICLE, IS RECEIVED INTO EVIDENCE.))

9 THE COURT: State's Four, Five and Six are in evidence.
10 You may publish.

11 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
12 approach the witness?

13 THE COURT: You may.

14 Q Officer Fernandes, I will direct your attention to the
15 screen. Are you able to see the screen, Officer?

16 THE COURT: What exhibit, counsel, for the record?

17 ASST. SOL. LEGETTE: I apologize, Your Honor. State's
18 Exhibit Number Four.

19 Q I direct your attention to State's Exhibit Four; Is it
20 clear enough?

21 A Yes, ma'am.

22 Q Officer Fernandes, what is State's Exhibit Number Four?

23 A It's the vehicle the victim was transported in.

24 Q Okay. And now I will direct your attention to State's
25 Exhibit Five. What are we seeing in State's Five?

1 A The same vehicle and there is also blood coming out of
2 the rear passenger door.

3 Q Okay. And what else do we see in this vehicle in
4 State's Exhibit Five? You indicated earlier that there was
5 a crowd.

6 A There's a large crowd by the entrance doors to the
7 hospital.

8 Q In this area (INDICATING ON EXHIBIT) of State's Exhibit
9 Five?

10 A Yes, ma'am.

11 Q And in State's Exhibit Number Six, what is State's
12 Exhibit Six?

13 A It's the same vehicle. You can still see the same
14 crowd in the background.

15 Q In this area?

16 A Uh-huh (affirmative).

17 Q And over here?

18 A Yes, ma'am.

19 Q Okay. Thank you, Officer Fernandes. Now, Officer
20 Fernandes, at some point, did you leave the hospital?

21 A I did, ma'am. I stood by with family members until I
22 was released by Det. Gathers; that's just by our policy.

23 Q Okay.

24 ASST. SOL. LEGETTE: Begging the Court's indulgence.

25 Q Officer Fernandes, I have no further questions, sir.

1 Please answer any questions from the defense.

2 A Thank you.

3 THE COURT: Cross-examination?

4 MR. WALKER: Yes, Your Honor. May it please the Court?

5 CROSS-EXAMINATION

6 BY MR. WALKER:

7 Q Good afternoon, Officer Fernandes.

8 A Good afternoon.

9 Q How are you?

10 A Good. How are you?

11 Q Fine. Thank you. In your testimony a moment ago, you
12 said you had started out that evening at a football game; is
13 that correct?

14 A Yes, sir.

15 Q And then a call came out about the shooting, correct?

16 A Yes, sir.

17 Q How far away from the Chase Lounge area were you in
18 your duties at the football game?

19 A From the Chase Lounge area?

20 Q Yes, sir.

21 A It would be hard for me to estimate, sir. I haven't
22 been around here in a long time. I would say probably,
23 maybe, four, four and a half miles, if I had to guess.

24 Q Okay. And you were headed towards the Chase Lounge
25 when you observed the white Sedan, correct?

1 A Yes, sir.

2 Q And you said that over the radio, a white Sedan was
3 BOLO'd. Can you tell us what a "BOLO" is?

4 A It's "be on the lookout." That's what it stands for.

5 Q It's just an acronym for "be on the lookout"?

6 A Uh-huh (affirmative).

7 Q And of course, you were looking out and saw the white
8 Sedan?

9 A I saw a white Sedan with emergency flashers driving
10 down the road.

11 Q And you just followed that to the hospital?

12 A Well, that's where they were headed, yes, sir.

13 Q Do you remember who you initially made contact with?
14 You said someone was standing by the car when you arrived.

15 A Yes, sir. I don't recall.

16 Q And let me back up; you prepared a report about this
17 incident, correct?

18 A A supplemental report, yes, sir.

19 Q Okay. But you didn't list any things in that report of
20 people you talked to, correct?

21 A No, sir.

22 Q So the yellow tape that we saw in the photos of State's
23 Exhibits Four, Five and Six, did you put that up?

24 A Deputy Brandon Allen did.

25 Q Okay. Did you assist at all in what we call processing

1 -- I guess, what do you mean when you as a police officer
2 say, "I'm processing something for evidence"?

3 A I did not assist with any processing of the vehicle or
4 anything like that. It was more about crowd control. There
5 were several, several people out there.

6 THE COURT: You need to speak up a little bit.

7 A I was out there by myself. There were several people
8 out there and it becomes difficult when you're by yourself
9 dealing with several different people at one time.

10 Q So even when other officers arrived, you stayed
11 primarily with crowd control?

12 A Yes, sir.

13 Q So again, just generally, so that -- it's a term that
14 I'm sure we will hear in the course of this trial, what
15 generally did you mean by processing a piece of evidence or
16 a car or a crime scene? What sorts of things are we talking
17 about?

18 A Processing means ultimately documenting whatever item
19 it might be. Whether it be taking photographs, or
20 collecting DNA evidence, or something along those lines.

21 Q I guess the first step in that process of processing
22 would be to secure whatever it is?

23 A Establishing a crime scene, Uh-huh (affirmative).

24 Q And is that why we saw the yellow tape in the photos?

25 A Yes, sir.

1 Q To establish that area as kind of a "keep away," so
2 that it could be investigated further?

3 A Yes, sir, exactly.

4 Q And other than your initial meeting with the gentleman
5 -- you said it was a gentleman that you first talked with?

6 A I truthfully don't recall.

7 Q Well, whoever you spoke with, other than that, you
8 didn't have any other involvement with the car?

9 A No, sir. I stood by with it and made sure nobody got
10 in or anything like that until we were able to secure it
11 with crime scene tape.

12 Q Were you in your position as assisting with crowd
13 control and protecting the car able to observe or have any
14 information about what they did take into evidence from the
15 car?

16 A No, sir.

17 Q You said it was your estimation that the people we saw
18 in the photos were primarily family of Mr. Holmes?

19 A It was later learned that they were primarily family,
20 yes, sir.

21 Q Did you attempt to engage any of them in conversation
22 about what had happened?

23 A Well, of course, through the situation, spirits were
24 heightened, so I just tried to maintain everybody's calm as
25 could be done.

1 Q So you had no conversations with anybody about the
2 events that had transpired that brought you to the hospital?

3 A No, sir.

4 Q Were you able to take down a list of the people that
5 were there?

6 A No, sir.

7 Q After your assistance at the hospital, did you have any
8 further involvement with this case?

9 A I cleared and went home and that was it. I did my
10 supplemental report.

11 Q All right. Thank you. I don't have any further
12 questions.

13 A Thank you.

14 THE COURT: Redirect?

15 ASST. SOL. LEGETTE: None, Your Honor.

16 THE COURT: As to the witness?

17 ASST. SOL. LEGETTE: We ask that he be excused, Your
18 Honor.

19 THE COURT: Any objection?

20 MR. WALKER: No, Your Honor.

21 THE COURT: Officer Fernandes, you may step down and
22 you are excused from this case. You may leave the
23 courtroom. Call your next witness.

24 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
25 calls Dorothea Gathers.

1 (WHEREUPON, THE WITNESS, MS. GATHERS, ENTERS THE
2 COURTROOM.)

3 MADAME CLERK: Please come forward to be sworn.

4 (WHEREUPON, MS. DOROTHEA GATHERS IS DULY SWORN.)

5 THE COURT: Watch your step. Adjust the chair. Adjust
6 the microphone to your height. Pull it down so you can
7 speak into it. Speak up so they can hear you. State your
8 full name and spell your last, please.

9 MS. GATHERS: Dorothea Gathers Grant, G-R-A-N-T.

10 THE COURT: Your witness, counsel. Direct examination.

11 ASST. SOL. LEGETTE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 ASST. SOL. LEGETTE:

14 Q Good afternoon, ma'am.

15 A How are you doing?

16 Q I'm well. How are you?

17 A Pretty good.

18 Q All right. Your name is Dorothea Gathers Grant?

19 A Yes, ma'am.

20 Q You recently got married?

21 A Yes, ma'am.

22 Q When you were working for the Colleton County Sheriff's
23 Office, what was your last name?

24 A Gathers.

25 Q Okay. How long did you work for the Colleton County

1 Sheriff's Office?

2 A Eleven years, almost twelve.

3 Q Okay. And what were your duties at the Colleton County
4 Sheriff's Office?

5 A I started off as a jailer, from a jailer to transport
6 officer, transport to road patrol, SRO, then detective.

7 Q All right. And when you -- are you still working at
8 the Colleton County Sheriff's Office?

9 A No, ma'am, I'm not.

10 Q Where do you work now?

11 A I was contracted out through Diamond Corporation. I
12 went to Afghanistan for a year.

13 Q All right. Welcome back.

14 A Thank you.

15 Q Now, Ms. Gathers, when you left the Colleton County
16 Sheriff's Office, what was your final job?

17 A Detective.

18 Q Now, let's turn your attention to September 6th, 2012.
19 Do you recall that particular time?

20 A Yes, ma'am.

21 Q Were you working for the Colleton County Sheriff's
22 Office that particular evening?

23 A Yes, ma'am.

24 Q Did you get a call to respond to any location in the
25 county? A I did.

1 Q Tell us about that.

2 A I received -- let me get my note and make sure I get
3 the officer's name correct. Sgt. Nance called me. I was
4 the on-call detective that evening. Sgt. Nance called me
5 and said they had a shooting and wanted me to respond out.
6 By the time I got dressed, I didn't go to the Chase Lounge,
7 I went to the hospital.

8 Q Okay. Breaking your stride for a moment, the Chase
9 Lounge, what county is the Chase Lounge located in?

10 A It's in Colleton County.

11 Q And if you would, could you describe for us how would
12 you leave here and find the Chase Lounge?

13 A Yes, ma'am. If you leave here ---

14 Q What's the most direct route that everybody can follow,
15 that's not from Colleton?

16 A Not from Colleton County? Go to Dairy Land. Make a
17 left turn at Dairy Land.

18 Q What road is that?

19 A Make a left in front of Dairy Land; that's the Green
20 Pond Highway. Go down not too far and take a left onto
21 Proctor Street. At the end of Proctor, Chase Lounge is on
22 the right.

23 Q Okay. And how would you describe the Chase Lounge?

24 A It's more of a social atmosphere; play pool, people
25 stand out there and talk.

1 Q Okay. So you said that you got a call from, I believe
2 you said Sgt. Nance?

3 A Sgt. Nance, yes, ma'am.

4 Q And where did you respond based on what he told you?

5 A I went to the hospital.

6 Q Okay. What did you find at the hospital?

7 A Once I arrived at the hospital, I spoke with Jason
8 Fernandes and he informed me of the incident, what happened,
9 and Mr. Holmes was in Room 18, and so I went to Room 18
10 where he was at and he was deceased. I took some pictures.
11 I did a GSR kit on him. I also removed some of his
12 property. That's about it.

13 Q Now, did you know Mr. Holmes?

14 A I did.

15 Q Were you able to identify him as being the person who
16 was deceased on the table?

17 A Yes, ma'am.

18 Q Now, once you realized Mr. Holmes was deceased, you
19 said that you did a few things.

20 A Yes, ma'am.

21 Q What did you do?

22 A I did a GSR on his hands, both of his hands; gunshot
23 residue kit, and turned over the evidence. I removed his --
24 his wife wanted his watch. He had a watch on, so she signed
25 for that. He also had \$43 in his pocket and I signed that

1 over to her as well -- she signed for it as well, sorry.

2 Q Okay. Detective -- I'm sorry, Ms. Gathers, you said
3 you took a GSR kit. Why did you take a GSR kit on the
4 victim?

5 A It's standard procedure, you know, in a gunshot. In a
6 shooting, you want to do that to make sure -- to see whether
7 the victim shot back at a gun or anything -- or any residue
8 is on his hands.

9 Q Okay. I hand you now what has been previously marked
10 as State's Exhibit 54. Tell me if you can recognize this.

11 ASST. SOL. LEGETTE: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 Q Do you recognize State's Exhibit 54?

15 A Yes, ma'am.

16 Q And what is State's Exhibit 54?

17 A It's a GSR kit that was done 9-6-12 at 11:45 p.m. by
18 myself on the victim, Moray Holmes.

19 Q Okay.

20 ASST. SOL. LEGETTE: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 Q Thank you.

24 A Yes, ma'am.

25 Q Ms. Gathers, you said you also took some photographs.

1 A I did.

2 Q And who were those photographs of?

3 A Moray Holmes.

4 Q Okay. Now, after you took the photographs and did the
5 GSR kit, under standard procedure, did you conduct any other
6 investigations that night?

7 A Yes. I got some statements from his wife, Ms. Deborah,
8 and another guy, Cornelius.

9 Q And where were these people located?

10 A They were in the back room of the hospital; in one of
11 the back rooms.

12 Q Okay. And what was their overall demeanor?

13 A They were disgruntled. Everybody was truly upset.

14 Q Now, once you took the statements from these witnesses,
15 did you do anything else in this case?

16 A Yes, ma'am. We attempted to locate the suspect, which
17 we didn't. I also went to the autopsy the next morning in
18 Charleston.

19 Q Okay. Did you recover anything from the autopsy?

20 A I did.

21 Q Do you remember what items you recovered?

22 A Some clippings of all the nails. Some hair from his
23 head, from his private area, all the clothes.

24 Q Were there any bullets that you recovered?

25 A No, ma'am. And photos, which they took there.

1 Q Now, at a point, you learned who the suspect was in
2 this case?

3 A Yes, ma'am.

4 Q Did you ever assist in trying to locate him?

5 A I did.

6 Q Let me ask you this, do you know Quoteas Nesbitt?

7 A Yes, ma'am.

8 Q Is he present in Court today?

9 A Yes, ma'am.

10 Q Can you point him out?

11 A (WITNESS POINTS TO THE DEFENDANT SEATED AT DEFENSE
12 TABLE.)

13 Q Can you describe what he is wearing?

14 A He has a white shirt on with a cream-colored tie that
15 has darker brown in it.

16 Q Thank you.

17 ASST. SOL. LEGETTE: Let the record reflect that the
18 witness indicated Quoteas Nesbitt.

19 Q Now, Ms. Gathers, you said you know him. How long
20 would you say you've known him?

21 A I've known Quoteas for some years, working at the jail.

22 Q You just know him from the community?

23 A I just know him from the community, yes.

24 Q Okay. So you said that you assisted looking for him?

25 A I did.

1 Q Did you know where he used to hang out?

2 A Different areas in Walterboro. So we attempted to go
3 there and was unsuccessful in that.

4 Q How long would you say you tried looking for him?

5 A We looked many nights, many days.

6 Q You said you knew him, so was he, as a rule, typically
7 easy to find?

8 A If he wanted to be found.

9 Q Okay. But if he didn't want to be found?

10 A He hid well.

11 Q Now, Ms. Gathers, I have no further questions. Please
12 answer any questions from the defense.

13 A Yes, ma'am.

14 THE COURT: Cross-examination?

15 MR. WALKER: May it please the Court, Your Honor?

16 CROSS-EXAMINATION

17 BY MR. WALKER:

18 Q Good afternoon.

19 A Hello. How are you doing?

20 Q Fine, thank you. You said that your initial
21 involvement began after a call from Sgt. Nance to go to the
22 hospital. Who is Sgt. Nance?

23 A Sgt. Nance is one of the road patrol officers.

24 Q And why would he have directed you to go to the
25 hospital?

1 A I was the on-call detective.

2 Q Were there other detectives already at the Chase
3 Lounge?

4 A I don't know, sir. I didn't make it there.

5 Q Were you involved at the hospital with the white Sedan
6 that the victim was transported in?

7 A No, sir.

8 Q Okay. Was there already somebody there dealing with
9 that when you got there?

10 A I went straight into the emergency room. I didn't go
11 to the car or anything.

12 Q So you really don't know what was going on?

13 A No, sir. I did not go outside any time.

14 Q Okay. So you took a gunshot residue, or GSR kit, from
15 Mr. Holmes' hand?

16 A Yes, sir.

17 Q And we saw that there, and that's standard procedure in
18 a shooting; is that correct?

19 A Yes, sir.

20 Q And as it says it's name, it checks for residue of a
21 gunshot?

22 A That's correct.

23 Q Or handling firearms?

24 A Yes, sir.

25 Q And then that is sent off and, I guess, tested by

1 someone, correct?

2 A That's correct.

3 Q And you did that?

4 A I didn't send it off. I turned it over to our evidence
5 custodian.

6 Q Who would have been in charge of sending it off?

7 A Jodi Taylor or Jeff Scott, because both of them was
8 over the evidence.

9 Q Now, in the hospital room -- I'm sorry, not in the
10 hospital room. You said you took statements from people
11 that were there in the hospital and that was Ms. Renatta
12 Holmes, a lady named Deborah Curry, and Cornelius White; is
13 that correct?

14 A That's correct.

15 Q They were all inside the hospital?

16 A Yes. They was in the back in a back room of the
17 hospital.

18 Q And how long after you arrived do you think you took
19 those statements?

20 A After I went in and viewed the body and recognized, you
21 know, identified who was in the room, they wrote it after
22 they calmed down.

23 Q So you gave them a few minutes to calm down before they
24 wrote it?

25 A I did.

1 Q Were you in the courtroom a moment ago when Officer
2 Fernandes testified?

3 A Repeat.

4 Q Were you in the courtroom when Officer Fernandes
5 testified?

6 A Yes, sir.

7 Q So you heard me ask him about how standard ways that
8 you would process a crime scene, and I guess he was just the
9 road officer. As a detective, what does that mean for you
10 when you're trying to process a crime scene or do an initial
11 investigation of the crime scene? What are some of the
12 steps that you would take?

13 A In a shooting or what type of crime?

14 Q Sure, you know, in anything.

15 A Yes, you want to preserve all of the evidence as much
16 as possible.

17 Q So physical evidence, as we saw in the photographs,
18 really, kind of rope off or keep people from taking it,
19 correct?

20 A That's correct. You try not to contaminate any of the
21 evidence.

22 Q I guess, gunshot residue tests would be a portion of
23 the physical evidence that you would collect, correct?

24 A That's correct, sir.

25 Q And you would seal that up so it wouldn't be

1 contaminated, correct?

2 A That's correct, sir.

3 Q And then is the interviewing or taking of statements a
4 part of the process?

5 A It is.

6 Q Okay. And do you video record those statements?

7 A I did not.

8 Q Or how -- did you memorialize those statements in any
9 way?

10 A I did not.

11 Q Okay. Well, did they provide you with any written
12 statements at that time?

13 A Let me check in my notes. (WITNESS REVIEWS HER NOTES.)
14 They did have written statements. Mr. Cornelius did his on
15 9-7. Ms. Deborah did hers on 9-7. I have one from the wife
16 on the 6th and the 7th.

17 Q All right. Do you have a copy of those statements up
18 there with you?

19 A I do.

20 Q Would you look at the statement that you just
21 referenced from Ms. Holmes?

22 A Which one?

23 Q The one that you said was -- you did it on the 6th.

24 A Yes, sir.

25 Q Would you look down at the bottom of that statement?

1 A Okay. I do apologize, she dated it back for the 6th,
2 which the incident happened, but she wrote it on the 17th.

3 Q So Ms. Holmes actually gave you a statement there
4 immediately after it happened, then subsequently came back
5 and gave another statement on the 17th of September,
6 correct?

7 A No, sir. She gave on one the 7th and she gave one on
8 the 17th of September.

9 Q Okay. So the second statement was 10 days after the
10 first statement?

11 A That's correct, sir.

12 Q And is there a reason you ask people to write their
13 statements down?

14 A Yes. To get an understanding of what happened, you
15 know, while they're there to get it while everything is kind
16 of fresh in their mind. Sometimes they don't remember
17 everything then. Try to remember as much as possible.

18 Q All right. And police officers prepare incident
19 reports, correct?

20 A That's correct.

21 Q And they try to do those close in time to something
22 happening, correct?

23 A Yes, sir.

24 Q And again, just so that later on we're not relying on
25 memory, so we have an actual contemporaneous record?

1 A That's correct.

2 MR. WALKER: I don't have any further questions, Your
3 Honor. Thank you.

4 THE COURT: Redirect?

5 ASST. SOL. LEGETTE: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY ASST. SOL. LEGETTE:

8 Q Ms. Gathers?

9 A Yes, ma'am.

10 Q I want to go back to what you and Mr. Walker were
11 discussing previously about the statement Ms. Holmes made.

12 A Yes.

13 Q I'm going to hand you in a moment what has been marked
14 for identification only as State's Exhibit 69 and 70.
15 Please take a moment and tell me if you recognize these
16 items.

17 ASST. SOL. LEGETTE: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 A Yes, ma'am. I do.

21 Q And Ms. Gathers, what is 69 and 70?

22 A It's a voluntary statement from each one of them.
23 Sixty-nine is the voluntary statement from Renatta Holmes.

24 Q And what date is State's 69 dated for?

25 A It's dated 9-7-12.

1 Q And what is the bottom date on that particular one,
2 State's Exhibit 69?

3 A Sixty-nine is September the 7th, 2012.

4 Q Okay. Now, referring to State's Exhibit 70, who gave
5 it and what date is dated?

6 A It's dated 9-6-2012.

7 Q And where is it taken?

8 A This statement?

9 Q Yes.

10 A Colleton Medical Center.

11 Q Okay. And referring again to State's 70, what is the
12 bottom date on State's 70?

13 A September 17th, 2012.

14 Q Now, Ms. Gathers, do State's Exhibits 69 and 70 appear
15 to be an original?

16 A Yes, ma'am.

17 Q And are they the original statements you took from Ms.
18 Renatta Holmes?

19 A Yes, ma'am.

20 Q Now, let's go back. You said that State's 70 is dated
21 for 9-6?

22 A Yes, ma'am.

23 Q And where did it take place?

24 A The place is Colleton Medical Center.

25 Q So is that the statement that you took from her that

1 night?

2 A Yes, ma'am.

3 Q And can you explain to us why the bottom says 9-17?

4 Could it be a typographical error?

5 A It could be an error; I'm not sure.

6 Q It appears to be an original?

7 A Yes, ma'am.

8 Q Can you explain to us State's Exhibit 70? Does there
9 appear to be different kinds of ink in State's 70?

10 A Yes, ma'am.

11 Q Explain to us the ink. In what color ink does Ms.
12 Renatta Holmes give that statement at the Colleton Medical
13 Center on 9-6-2012?

14 A 9-6 is in blue ink.

15 Q And that bottom date, what color ink is that in?

16 A The bottom date is black.

17 Q Okay. Now, with regards to the second statement, 9-7,
18 which is State's Exhibit 69.

19 A Yes, ma'am.

20 Q What color is that ink?

21 A Black.

22 Q And where is that statement taken?

23 A At the Chase Lounge.

24 Q So to the best of your recollection, Ms. Gathers,
25 State's Exhibit 69 and State's Exhibit 70 are both

1 statements taken from Ms. Holmes by you?

2 A That's correct.

3 Q And which one occurred first?

4 A I'm not sure. I think it was the 69. It can't be 69 -

5 --

6 Q Did you respond to the Chase Lounge?

7 A I did not. Colleton Medical Center.

8 Q So in that case ---

9 A It would be 70.

10 Q So State's 70 was the first statement you took from
11 her?

12 A That's correct, on 9-6.

13 Q State's 70 was the first statement?

14 A That's correct.

15 Q Okay. Now do you recall ---

16 ASST. SOL. LEGETTE: Begging the Court's indulgence.

17 THE COURT: Counsel, let's move along.

18 Q Now, Ms. Gathers, going back to State's 70, you signed
19 State's 70?

20 A I did.

21 Q Did you also put the date in?

22 A I did.

23 Q Okay. The bottom date?

24 A Yes, ma'am.

25 Q And what date does that say?

1 A September 17th, 2012.

2 Q So you put that date in?

3 A Yes, ma'am.

4 Q I have no further questions.

5 THE COURT: Recross, limited to redirect?

6 RE CROSS-EXAMINATION

7 BY MR. WALKER:

8 Q Would it be fair to say that after that exchange, that
9 you have no independent recollection as to which statement
10 you collected first?

11 A The 9-6 was the first; the 9-7 was the second one.

12 Q What has occurred to make you change your mind from
13 agreeing with me a moment ago that there was a 10 day gap
14 between those statements?

15 A I wasn't aware of it, but I did put the date down to
16 the bottom of this.

17 Q So you put the 17th of September on it?

18 A I did.

19 Q All right. So why would that have not been accurate?

20 A These are accurate statements from Ms. Renatta Holmes.

21 Q I'm not questioning the content of the statement. I'm
22 asking why the date you put would not have been accurate.

23 A What could have happened, once we was going over
24 everything with all the evidence and everything was going on

25 ---

1 Q Let me stop there. What could have happened -- you
2 don't remember taking which statement in which order, if you
3 didn't have them in front of you.

4 A She had them dated.

5 Q All right.

6 A They are dated.

7 Q But you don't remember independently, other than
8 looking at those dates, correct?

9 A I do. This is the 6th and this is the 7th.

10 MR. WALKER: Your Honor, no further questions.

11 THE COURT: As to this witness, counsel?

12 ASST. SOL. LEGETTE: Your Honor, I ask that she be
13 excused.

14 THE COURT: Any objection?

15 MR. WALKER: No, Your Honor.

16 THE COURT: Ms. Gathers-Grant, you may step down from
17 the witness stand and you are excused from the trial of this
18 case.

19 MS. GRANT: Thank you.

20 THE COURT: Ladies and gentlemen, I'm going to take my
21 one and only mid-afternoon break at this point and let you
22 stretch your legs, use the restroom. We'll come right back
23 after I know everybody's had the chance to take a quick
24 break. Please do not discuss the case. You may retire to
25 your jury room at this time.

1 (3:51 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
2 THE FOLLOWING IS HELD ON THE RECORD.)

3 THE COURT: All right. Counsel, we will take about 10
4 minutes. Use the restroom and stretch your legs. We will
5 start back as quickly as I know the jury's finished.

6 (THE COURT TAKES A BRIEF RECESS IN THE TRIAL OF THE
7 CASE; THERAFTER, AT 4:05 P.M., THE FOLLOWING IS HELD ON THE
8 RECORD.)

9 THE COURT: Is the State ready to proceed?

10 ASST. SOL. LEGETTE: Yes, Your Honor.

11 THE COURT: Is the defendant ready to proceed?

12 MR. WALKER: We are, Your Honor.

13 THE COURT: Bring me the jury, please.

14 (4:05 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
15 AND THE FOLLOWING IS HELD ON THE RECORD.)

16 THE COURT: We will now continue with the testimony in
17 the trial of this case. Solicitor, call your next witness.

18 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
19 calls Ms. Renatta Ellison Holmes.

20 MADAME CLERK: Please raise your right hand and place
21 your left hand on the Bible.

22 (WHEREUPON, MS. RENATTA HOLMES IS DULY SWORN.)

23 THE COURT: Watch your step on those stairs. Pull your
24 chair up. Adjust your microphone. State your full name and
25 spell your last name for the court reporter.

1 MS. HOLMES: My name is Renatta Chantel Ellison Holmes
2 and my last name is spelled H-O-L-M-E-S.

3 THE COURT: Your witness, Counsel; direct examination.

4 ASST. SOL. LEGETTE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY ASST. SOL. LEGETTE:

7 Q Ms. Holmes, where are you from?

8 A Walterboro, South Carolina.

9 Q And what high school did you go to?

10 A Walterboro High School.

11 Q And what year did you graduate?

12 A In 1998.

13 Q Have you been to college?

14 A Yes, ma'am.

15 Q Do you have any kinds of degrees?

16 A Yes, I have an Associates in Business.

17 Q Okay. Now, where do you work?

18 A At Colleton Medical Center.

19 Q Okay. Did you know Moray Holmes?

20 A Yes, that was my husband.

21 Q And how long were you married to Moray Holmes?

22 A Ten years.

23 Q And did you date before that?

24 A Yes.

25 Q How long?

1 A Off and on throughout my high school years and then I
2 went off to school.

3 Q Okay. Now, where do you work?

4 A Colleton Medical Center.

5 Q You said that you were married to Moray Holmes.

6 A Yes, that's correct.

7 Q Did he have a nickname?

8 A Yes, "Bobo."

9 Q Okay. Now, "Bobo," where did he work?

10 A He worked with his father in the logging business.

11 Q Okay. Do you know what Bobo did as far as his
12 business?

13 A Machine operator, or cutter, a loader -- no, he was a
14 loader.

15 Q A loader?

16 A Yeah.

17 Q All right.

18 A And he thought he was good, too.

19 Q Okay. Now, how often would they work?

20 A They worked every day.

21 Q Now, do you know a man named Quoteas Nesbitt?

22 A Yes, ma'am, I do.

23 Q And how long have you known Quoteas Nesbitt?

24 A I've known Quoteas since I was -- we both were
25 adolescents. I reside on Gerideau and McDaniel Street, so

1 I've known him for over 20 years; most of his life and most
2 of mine as well.

3 Q Is Quoteas Nesbitt present in Court today?

4 A Yes, ma'am, he is.

5 Q Would you please point him out for the jury?

6 A (WITNESS INDICATES THE DEFENDANT.) He's seated right
7 here.

8 Q Can you describe what he is wearing?

9 A White shirt, tan tie.

10 ASST. SOL. LEGETTE: Let the record reflect the witness
11 indicated the defendant, Quoteas Nesbitt.

12 Q Now, you said you know Quoteas Nesbitt?

13 A Yes, ma'am, I do.

14 Q Would you consider yourselves friends or were you
15 friends with Quoteas Nesbitt?

16 A I consider -- you could say he was a friend. Like I
17 said, I've known him since we both were adolescents; and
18 prior to this, he lived next door to my mother and she lives
19 in the -- the home that she lives in now for over over 23
20 years. So he was a neighbor to her for maybe like seven
21 years.

22 Q And while he was a neighbor to your mom, did he ever
23 come over to your mom's house?

24 A Yes.

25 Q Would y'all ever hang out together?

1 A No. We never hung out together, but like I said, I
2 knew him since I was younger. His mother and his aunt
3 babysat me as a child. I mean, his kids frequent my mom's
4 house. I saw them, as well as him, so I mean, we know each
5 other. I know of Quoteas and I know of his family.

6 Q So you recognize him on sight?

7 A On sight.

8 Q Now, Ms. Holmes, you say that y'all were friends. Did
9 y'all ever have any problems with Quoteas Nesbitt?

10 A Never.

11 Q Now, let's talk about Bobo. Did Bobo know Quoteas
12 Nesbitt?

13 A Yes, ma'am, he did.

14 Q Did they have any problems?

15 A Not to my knowledge.

16 Q Okay. Now, Ms. Holmes, I want to turn your attention
17 to September the 6th, 2012. Do you remember September 6th,
18 2012?

19 A Yes. It's a day that will be embedded in my mind. I
20 will never forget it.

21 Q Okay. Take me back to September 6, 2012. What did you
22 do that day?

23 A It was a typical Thursday. I remember going to work.
24 I remember he went to work. He was at work.

25 Q You said "he"?

1 A My husband, Maurice, Bobo. So I mean, I came in from
2 work, because I remember we not too long just got a washing
3 machine and dryer, so he had just hooked it up for me that
4 weekend, and I was washing up clothes, a lot of our clothes.
5 I had organized the house, come in from work, organized,
6 separated the clothes, hung, you know, was just doing some
7 stuff.

8 Afterwards, I remember the BMA's came on, so I was
9 watching the BMA's as he came in. You know, he was quiet.
10 He went in the restroom, showered, he did his deal; he used
11 the restroom. He walked out of his restroom and came into
12 the restroom in our room and he said he needed his
13 toothpaste or something out of the restroom, he walked back,
14 and I remember pointing to the television and told him,
15 "Look," and he looked back at it and he went back in the
16 other restroom. He got in the shower.

17 So at that time, I was still watching television,
18 because Alicia Keyes, I wanted to see her new video, and she
19 was on at that moment. He was like, "Come on and ride iwth
20 me to town. Let's go get something to eat and go get Paco."
21 And Paco is our small lap dog. So I said, "I don't want to
22 go." He said, "Come on, slip on something." So I slipped
23 on some leggings and I believe -- I remember we was riding;
24 it was a normal ride, quiet, talking.

25 We went from Edisto Terrace to my mom's residence,

1 which is located on Mincey Avenue. We got out the car. He
2 was drinking something and he went to the door and got --
3 retrieved our small, lap dog, which was his dog. So I still
4 was sitting in the car, and he got back in the car, and we
5 proceeded to go get something to eat. So we left my mom's
6 house and she lives right around the corner from the Chase
7 Lounge. And I remember when we got to the stop sign, I
8 looked to my right, and I could see Quoteas. He was at --
9 he was standing, talking to Kevy and Brian. You know, I
10 could see him. So we turned, didn't think nothing of it, we
11 turned. They were in one entrance, so we turned in the
12 other entrance. I remember he was like, "I know. I know.
13 You don't want to be here. I'm not going to take long." I
14 said, "All right, now, because I don't want to be out here."
15 So he was like, "I'm not going to be long. I'm gonna holler
16 at these boys right quick and we going to go ahead and get
17 something to eat and go back home." I said, "Okay."

18 At which point, Kenya Kelly, she approached the car,
19 she briefly spoke, we were talking, so by that time, you
20 know, I looked, I saw, and everything was fine. He was
21 walking towards them. So I looked and saw him talking to
22 Quoteas, I turned my head back, because I had been talking
23 to my cousin. So I heard sound like a gunshot, and I looked
24 at her and I said, "Did that sound like a gunshot? What is
25 that?" So she said, "Yeah." By the time I turned to the

1 right, I could see him, Quoteas, still having the gun aimed
2 and you know, it was like maybe another shot rang off
3 afterwards. It was multiple gunshots, and my husband was
4 dropping.

5 And I just started yelling, and you know, just yelling.
6 So I couldn't get the door open; I just couldn't. So I
7 ended up crawling out the window, just to get out the car.
8 There was nothing wrong with the door. I just could not get
9 out. So I ran to my husband and I dropped and I just
10 started cradling him. I just was asking the Lord, "Please
11 don't let him die."

12 I was just rocking him and I started yelling, "Just
13 somebody help me. Why?" And I kept yelling. I could look
14 up, like, briefly, and everybody was just in shock, just
15 running. So that's when we seen like Nicholas, Donald,
16 Brian, everybody, you know, they came to me and was like
17 helping me and we were trying to get him in the car. It's
18 like this dead weight -- it was just dead weight. You could
19 not move him, so we finally got him in the car. He was not
20 even in the car the way we had him so crumbled up, but it
21 was the best we could get him in the car. And I remember
22 yelling, "Go."

23 I mean -- I mean -- Cornelius came. I saw Cornelius
24 and he was like, "You want me to drive?" And I was just
25 like, "I got it." So we was like -- we got in his car and

1 we proceeded to go to the hospital, and you know, I work at
2 the hospital, so they know me. I was just like it felt like
3 forever. It was like you was just in a trance. I was in
4 shock. I just could not believe all of this was going on.
5 So they took us in a back room and I was just waiting; it
6 felt like forever. And it be work, so you kind of know
7 their protocol, if they're gonna airport him or something,
8 and they finally came and they told me he was dead, and that
9 was just hard. Yeah, I lost it. I just cried. I dropped
10 to the floor. It was hard. It was like one of the hardest
11 things. It was like I was in disbelief.

12 Q Ms. Holmes?

13 A Uh-huh (affirmative).

14 Q I forgot to ask you, can you briefly describe your
15 husband, what his size was?

16 A He was big in stature. He was like 6'3, 6'4.

17 Q About how much would you say he weighed?

18 A I was on him about his weight, so he had lost some
19 weight. So he was probably like 290 or something, like 280
20 at that time. But you know, that's not the biggest my
21 husband has been. So he was like 280 at that point.

22 Q But you know for certain that he -- did you know
23 exactly how much he weighed?

24 A No, not at the time. I can't say for sure, but he was
25 a pretty big man.

1 Q Okay. Let's talk about you said that you went to get
2 Paco. You talked about him being a lap dog. What kind of
3 dog is Paco?

4 A He's a Maltese Shih Tzu.

5 Q Okay. You said that he was Bobo's dog?

6 A Well, originally, he was supposed to be my dog. He was
7 like, "You not getting no dog, because you're not going to
8 take care of that dog." And I was like, "I want that dog.
9 I'm going to get that dog." So he ended up getting me the
10 dog and then it became his dog. And it would be funny and
11 everybody would laugh because he's so big and then you got
12 this little lap dog that he in love with; you couldn't touch
13 him. He'd take him to the groomer, everything. It wasn't
14 my dog, like, it was his dog, so.

15 Q Okay. Briefly, let's go back to the Chase Lounge. You
16 said that whenever he got out of the car, you kind of told
17 him you didn't want to be there?

18 A Yeah. I say, "Hurry up. I don't want to stay out here
19 long." Because I don't frequent -- I don't go to Chase at
20 all and I live right around the area. I just didn't -- I'm
21 just not -- I just don't really hang out like that.

22 Q Okay. What kind of place would you describe the Chase
23 Lounge as being?

24 A It's a pool hall.

25 Q Okay. But you didn't hang out there?

1 A No, I didn't.

2 Q All right. So while you were there, how did you feel
3 while you were there?

4 A I mean, a little ---

5 Q Did you feel uneasy?

6 A I wouldn't say uneasy, but I mean, I was attentive. I
7 was trying to pay attention, you know. You know, I checked
8 out the surroundings. He said it wasn't gonna be that long,
9 so I was like okay, you know. I mean, you know.

10 Q Were you paying attention to who was in the parking
11 lot?

12 A Yeah, I looked around, you know. I could see where
13 Kelvin and Brian was. I could see Kenya. I saw Donald. I
14 saw, you know, a few people -- Nick. I saw a few people
15 around. There was a good bit of people out there, you know.
16 There was a few people out there. So you know, I went to
17 talk, you know.

18 Q Did you see Quoteas?

19 A I mean, yes, when we initially pulled up, he was
20 standing like talking to Kelvin and Brian. He was standing,
21 you know, it was like lighted. You could see, plus the
22 lights were on, on Kelvin's car, so you could see him when
23 we turned in. We made a right, like I said, and Kelvin was
24 parked in the first entrance, and we pulled in the second
25 entrance.

1 Q Okay. What kind of car were you riding in?

2 A My husband had a 1986 Buick Regal.

3 Q Okay. Can you describe that car?

4 A It was just like old in color, and he had some wheels
5 on it.

6 Q Were they large Chrome rims or were they just regular
7 chrome?

8 A No, they were large.

9 Q And is there anything else significant about that car?
10 Was there anything else significant about this car?

11 A I mean, he loved music, you know, his music, but other
12 than that, he loved to wash it. If you allowed him, he
13 would wash the paint off his car. Like, he did that every
14 day. Like, if you want to know where to find him, he
15 washing his car, so.

16 Q And he washed the car every day?

17 A Every day. If you let him, he might wash it twice a
18 day. He loved to wash his car.

19 Q Okay. So let's go back to the point where you actually
20 pull up to the stop sign.

21 A Right.

22 Q All right. Explain to me who you saw when you pulled
23 up to the stop sign?

24 A I mean, besides I saw other people there. What stood
25 out was Quoteas, you know. He just stood out because the

1 lights was on him, because they was talking to him; so he
2 stood out. So other than that, I mean, I saw that, and we
3 turned in. Like I said, once we pulled in, I saw some more
4 familiar faces. I looked around or what not, so at that
5 point, Kenya approached the car.

6 Q All right.

7 A My husband got out and he walked and Kenya approached
8 the car.

9 Q Okay. So when Bobo, or your husband, gets out of the
10 car, in what direction does he walk?

11 A He walked to the right.

12 Q And where was he headed?

13 A He was headed toward Kelvin Mitchell's car, that white
14 Sedan.

15 Q Okay. And while he's heading to this car, do you
16 notice anything or anyone that he talks to?

17 A He stopped, and he talked to Quoteas, and everything
18 seemed fine. I mean, I went, and you know, I finished
19 talking to my cousin and the first gunshot rang, and I
20 looked, she ducked, you know, she ducked. She was never
21 obstructing my vision. I could always see him, so I felt
22 like that was fine. So when I looked everything was fine,
23 and the first gunshot rang out and then you could hear more,
24 and you could see his arm was still extended and he shot my
25 husband and my husband was falling, like, you could see him

1 falling slow. Then, I realized, oh my gosh, and I jumped
2 out the window. Like, I could not get the door open. I
3 could not get the door open. I could see Quoteas running
4 off. Like, he was running, like, kind of, you know, if you
5 know him, he got a little slight limp or something; you just
6 know him. And I've known him all my life. I know who he
7 is. So I can see him running off, but he still had the gun,
8 like that, like in case if anybody else shot at him, he was
9 still ready to shoot back, but you know, nobody ever shot at
10 him because they were more frantic. They were running
11 around. They were scared, you know, we were more focused on
12 Moray at that time.

13 Q So now, explain to me, when you pulled into the first
14 driveway, are you on the passenger side or on the driver's
15 side?

16 A I'm on the passenger side. My husband was driving.

17 Q Okay. So in what direction did the actual event
18 happen? Did it happen over to the left on the driver's side
19 or did it happen over to your right?

20 A To my right.

21 Q Okay. Now, your ability to see, how certain are you
22 about who shot your husband?

23 A I'm a hundred percent sure Quoteas shot my husband.

24 Q Okay. Now, at the hospital, let's kind of shift gears
25 a moment. At the hospital, after you've learned about your

1 husband being deceased, did you talk to anybody in law
2 enforcement?

3 A Detective Gathers.

4 Q Okay. And at that point, did you make any statements
5 to her? Written statements?

6 A Yes, I did.

7 Q And you told her what happened?

8 A I told her what happened.

9 Q Okay. Then, at some point you made another statement
10 to her?

11 A Yes, I did.

12 Q All right. And in that statement, there's a part in
13 that statement where you don't say who the person is?

14 A I don't know why. I mean, at that point, I was just
15 overwhelmed, shocked, disquieted. You know, I was just --
16 there was a lot going on. I was just nervous, confused. I
17 was just scared, you know. I mean I felt maybe I told her
18 all I had to tell her. Maybe I told her in the first one; I
19 was just tired. It was just a lot going on. I might have
20 just been overwhelmed and just scared. I don't know, there
21 was so much emotions going on. There was a plethora of
22 things going on in my mind.

23 Q Now, was Quoteas captured that night, that you knew of?

24 A No, ma'am, he wasn't.

25 Q Do you know how long it took for him to actually

1 surrender or be arrested?

2 A If I'm not mistaken, he turned himself in ---

3 MR. WALKER: Objection. Hearsay.

4 THE COURT: Sustained. Only refer to things you know
5 of your own knowledge and not what you may have heard.

6 Counsel, rephrase your question. Objection is sustained.

7 ASST. SOL. LEGETTE: Thank you, Your Honor.

8 Q Ms. Holmes, do you know how long it was before you
9 actually learned or knew when he was actually arrested for
10 this crime?

11 A I was contacted the day of the funeral. We had all
12 went to the services and maybe right after the service of my
13 husband, they called -- I cannot remember who called and
14 told me that they did apprehend him. So from leaving the
15 burial service, we went to Klein Street and they were, I
16 guess, he was trying to have like an arraignment or a bond
17 hearing or something, and I notified ---

18 MR. WALKER: Your Honor, relevance.

19 THE COURT: Overruled. I'll allow her to answer that
20 question.

21 Q So in other words, it was a week? How long was it
22 before the funeral?

23 A My husband was killed on that Thursday and the services
24 was on that Friday of that next week; so it was a week, like
25 eight days.

1 Q Okay.

2 A Yeah.

3 Q Now, just briefly, when you went to the Chase that
4 night, did you intend to stay?

5 A No, it was supposed to be very briefly, because like I
6 say, I don't go to Chase, but he knew this and he knew how I
7 felt. So I mean, it was supposed to just be -- we wasn't
8 even never -- out intention was never to even stop at Chase.
9 It was not -- like, we're going to Chase. We leaving home
10 and we going to Chase. It was never our intention. What
11 prompt him to stop was when he saw Kelvin's car pulled into
12 the other entrance. He saw them and so I guess he worked
13 that day and maybe he didn't speak with them, so he was
14 like, "I'm gonna go over here and talk to them right quick."
15 So I was like okay, and I gave him that look like you know I
16 didn't even want to come, so come on, you know. He was
17 like, "I'm not gonna be long." Like he proceeded to walk
18 over.

19 Q And about approximately how long would you say you were
20 there prior to your husband being shot?

21 A Three minutes? I mean, yeah, give or take, three to
22 five minutes; not long at all, maybe three minutes. It was
23 really quick.

24 Q Okay. Ms. Holmes, what is the name of the man who shot
25 and killed your husband?

1 A Quoteas Nesbitt.

2 Q Is Quoteas Nesbitt present in Court today?

3 A Yes, ma'am, he is.

4 Q Would you please point him out for this jury?

5 A He's sitting right there.

6 (WITNESS POINTS TO DEFENSE TABLE.)

7 Q Thank you.

8 ASST. SOL. LEGETTE: Let the record reflect that the
9 witness has pointed out the defendant as Quoteas Nesbitt.

10 Q Ms. Holmes, I have no further questions, ma'am. Please
11 answer any questions from the defense.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION

14 BY MR. WALKER:

15 Q Good afternoon.

16 A Good afternoon.

17 Q Before we go back to the events at the Chase Lounge,
18 I'd like to ask you if you recall going to the Walterboro
19 Public Safety and retrieving a firearm from Officer Chapman;
20 was that you?

21 A No, that was not me.

22 Q You testified that you were at the Chase Lounge when
23 you arrived and you saw a number of people there?

24 A That's correct.

25 Q You've already mentioned Quoteas Nesbitt, and of

1 course, you and your husband. But you mentioned some names,
2 you said "Kelvin"; now, who was Kelvin?

3 A His nickname is "Kevy-boy."

4 Q And do you know his last name?

5 A Mitchell.

6 Q How do you know Kelvin Mitchell?

7 A Through my husband.

8 Q Are they related?

9 A Yes, I believe they are. If not, they are tight; they
10 were friends.

11 Q So they're related or close friends?

12 A They're related.

13 Q Okay. And you said you saw Brian; who is Brian?

14 A Brian Manigo.

15 Q How do you know Brian?

16 A I know him through my husband as well.

17 Q Are they related?

18 A Yes.

19 Q Is it true that you and Brian Manigo have had a
20 physical relationship since your husband died?

21 A That is not true.

22 Q You also mentioned Kenya?

23 A Correct.

24 Q Who is that?

25 A Kenya Kelly.

1 Q How do you know Kenya Kelly?

2 A I'm related to her.

3 Q Did you say Donald?

4 A Uh-huh (affirmative).

5 Q Who is Donald?

6 A Just someone else that my husband knew.

7 Q Do you know his last name?

8 A Odom.

9 Q Is he also related to your husband or just friends?

10 A I believe they're just friends.

11 Q Okay. And you mentioned a Nicholas?

12 A Yes.

13 Q Who is that?

14 A He is a friend of my husband as well.

15 Q I'm sorry, what was his last name?

16 A Williams.

17 Q He's not related?

18 A No, they're not related.

19 Q And you mentioned a Shawnee; what's her last name?

20 A Mitchell-Sanders.

21 Q How do you know her?

22 A We attended school together.

23 Q So those are all the people that you recognized that

24 night?

25 A Cornelius was out there as well; Miriam ---

1 Q I'm sorry, you're getting ahead of me. You said
2 Cornelius; Cornelius who?

3 A White.

4 Q Okay. And how do you know Cornelius White?

5 A I'm related to him as well.

6 Q You're related. Do you have another name? You said
7 you had another name after Cornelius.

8 A Oh, Miriam Fryar. I remember -- I recall seeing her.
9 Malachi as well.

10 Q And Malachi's last name?

11 A Sanders.

12 Q How do you know Malachi?

13 A That's my husband's brother.

14 Q Also Shawnee Sanders' husband, correct?

15 A That's correct.

16 Q Now, you've testified that you pulled in, you were in
17 your husband's car in the passenger seat?

18 A Correct.

19 Q He got out and began to walk towards Kevin Mitchell and
20 Brian Manigo?

21 A Correct.

22 Q And they were in their car?

23 A Right.

24 Q Okay. Then, Kenya -- Kenya Kelly approached you?

25 A That's correct.

- 1 Q All right... And y'all began a conversation?
- 2 A Yeah, "Hi, how ya doing?" Things like that nature.
- 3 Q And she was standing where in relation to you?
- 4 A She was like by the rearview mirror, leaning like more
- 5 towards the front of like on top of like on the rearview
- 6 mirror, but like I said, she was never obstructing my
- 7 vision.
- 8 Q But she was on your side of the car?
- 9 A Right.
- 10 Q Okay. And the shooting happened, that would have been
- 11 out of the passenger window?
- 12 A Correct.
- 13 Q Okay. And you had the passenger window down?
- 14 A That's correct.
- 15 Q Talking to Kenya Kelly?
- 16 A That's correct.
- 17 Q So it would have been your right looking out of an
- 18 opened window?
- 19 A That's correct.
- 20 Q Do you recall after the shooting -- well, where was
- 21 David Odom?
- 22 A Excuse me?
- 23 Q Where was David Odom?
- 24 A At which point?
- 25 Q Before the shooting.

1 A He had just walked out the ---

2 ASST. SOL. LEGETTE: Your Honor?

3 THE COURT: Yes, ma'am?

4 ASST. SOL. LEGETTE: I believe he has mistakenly
5 spoken.

6 THE COURT: Counsel approach.

7 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)

9 THE COURT: Objection is withdrawn. Move along.

10 Q I was asking before the shooting occurred, when y'all
11 had just arrived, where did you see Donald Odom?

12 A He was outside.

13 Q After the shooting, do you recall him coming up to the
14 car and asking for a gun?

15 A No.

16 Q Did your husband habitually carry a firearm?

17 A No.

18 Q Did the police get a gun out of your car?

19 A No.

20 Q You said Kenya was standing next to the car in front of
21 the rearview mirror by the hood on the passenger's side,
22 correct?

23 A Yeah, that's about accurate.

24 Q Okay. What did she do when the shooting started?

25 A She hit the ground.

1 Q She just ducked down right where she was?

2 A Yeah, she hit the ground.

3 Q And your testimony is that you looked over at the
4 shooting?

5 A Right.

6 Q Now, you recall giving two statements to Officer
7 Gathers, correct?

8 A Yes.

9 Q Do you have copies of those statements up there with
10 you?

11 A No, I do not.

12 MR. WALKER: May I approach, Your Honor?

13 THE COURT: You may.

14 Q I'm going to hand you State's Exhibits 69 and 70.

15 THE COURT: Counsel, those are not exhibits in the
16 trial of this case.

17 MR. WALKER: Thank you, Your Honor. I mis-spoke.

18 Q What has been marked as State's Exhibits 69 and 70, and
19 ask you if you recognize those.

20 A Yes.

21 Q Are those the statements that you wrote for Detective
22 Gathers?

23 A Yes.

24 Q In the top left of each statement, there is a date; is
25 that correct?

1 A Yes.

2 Q One is dated September the 6th of 2012, correct?

3 A Correct.

4 Q And one is dated September the 7th of 2012, correct?

5 A That's correct.

6 Q I will refer to them by those dates in my next
7 questions.

8 A Okay.

9 Q On the one that's dated September the 6th, 2012, if you
10 will look at your statement starting from the bottom, going
11 up one, two, three, four, five, six lines.

12 A Okay.

13 Q September 6th, 2012, statement, six lines from the
14 bottom.

15 THE COURT: Tell us when you're there.

16 MS. HOLMES: I believe that I'm there.

17 Q And in that statement, you wrote that you "Saw and
18 heard Quoteas firing a gun at my husband," is that correct?

19 A Yes.

20 Q Now, I will switch to the September 7th, 2012,
21 statement.

22 A Okay.

23 Q And here I will direct your attention to the 10th line
24 from the bottom.

25 A Okay.

1 Q You're referencing the shooting. You said, "I looked
2 up and saw a medium build man, probably in his 20's, wearing
3 a white shirt firing a gun." Is that correct?

4 A That's correct.

5 Q Then, from there, if you go down two lines, you further
6 say, "I then saw the guy run off towards River Street going
7 in the old stadium direction." Correct?

8 A Okay.

9 THE COURT: You have to say "yes" or "no."

10 A Yes, I see what you're talking about.

11 Q Okay. And then on the second to the last line ---

12 A I see it. I'm there.

13 Q You wrote in your statement for Detective Gathers,
14 September 7th, "Also, I failed to mention initially that
15 when we first pulled in, I saw Quoteas Nesbitt standing near
16 the car that Kevy Mitchell was driving."

17 A Right.

18 Q And that was the last thing that you wrote in that
19 September 7th statement, correct?

20 A Exactly, yes.

21 MR. WALKER: I don't have any further questions. Thank
22 you.

23 THE COURT: Redirect?

24 ASST. SOL. LEGETTE: Briefly.

25

1 REDIRECT EXAMINATION

2 BY ASST. SOL. LEGETTE:

3 Q Ms. Holmes?

4 A Yes, ma'am.

5 Q Referring to the State's Exhibit for identification 69

6 and 70, which statement did you write first?

7 A The one dated 9-6-12.

8 Q And where did that statement -- where did you write

9 that statement?

10 A I believe this one was at the hospital.

11 Q You can read the top of the statement.

12 MR. WALKER: Objection, Your Honor. Leading.

13 THE COURT: This is direct examination, counsel. The

14 objection is sustained. Rephrase the question.

15 ASST. SOL. LEGETTE: Thank you, Your Honor.

16 Q Referring to State's 70, which statement is dated -- I

17 believe it's State's 70, what is the date on State's 70?

18 A 9-6-12.

19 Q And what is the location of where you gave that

20 statement?

21 A Colleton Medical Center.

22 Q And is that the night your husband was murdered?

23 A Yes, ma'am, it is.

24 Q And the next statement, that was State's 69 for I.D.?

25 A Right.

1 Q When did you give that one?

2 A 9-7-12.

3 Q Okay. And that was the second one you gave?

4 A Yes, that's correct.

5 ASST. SOL. LEGETTE: Begging the Court's indulgence.

6 (Brief pause in the courtroom.)

7 ASST. SOL. LEGETTE: I have no further questions, Ms.
8 Holmes.

9 THE COURT: Recross, limited to redirect.

10 MR. WALKER: None, Your Honor.

11 THE COURT: Ms. Holmes, you can hand those back to the
12 court reporter and you may step down.

13 WITNESS: Here you go.

14 THE COURT: Call your next witness, Solicitor.

15 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
16 calls Cornelius White.

17 (WHEREUPON, THE WITNESS, MR. WHITE, ENTERS THE
18 COURTROOM.)

19 MADAME CLERK: Mr. White, please come forward and be
20 sworn. Place your left hand on the Bible and raise your
21 right.

22 (WHEREUPON, MR. CORNELIUS WHITE IS DULY SWORN.)

23 MADAME CLERK: Have a seat on the witness stand and
24 state your name for the record, please.

25 THE COURT: Watch your step. Have a seat. Adjust

1 your chair for the microphone's height. Use it. It's going
2 to amplify your voice. State your full name and spell your
3 last name for the court reporter.

4 WITNESS: My name is Cornelius White. My last name is
5 spelled W-H-I-T-E.

6 THE COURT: Your witness, Counsel; direct examination.

7 ASST. SOL. LEGETTE: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY ASST. SOL. LEGETTE:

10 Q Good afternoon, Mr. White.

11 A Good afternoon.

12 Q Mr. White, where are you from, sir?

13 A I'm from Walterboro, South Carolina.

14 Q And what high school did you go to?

15 A I went to Walterboro High.

16 Q And where do you work?

17 A At McDonalds on I-95.

18 Q Okay. Now, Mr. White, do you have a prior criminal
19 history?

20 A Yes, ma'am.

21 Q And you've been convicted of some forgeries in the
22 past?

23 A Yes, ma'am.

24 Q Along with identity fraud, maybe?

25 A Yes, ma'am.

1 Q Okay. Now, the fact that you've been convicted of
2 those things, does it have any bearing on what you're going
3 to tell us here today?

4 A No, ma'am.

5 Q Okay. Now, are you here to tell us what you actually
6 saw in this case?

7 A Yes, ma'am.

8 Q Now, Mr. White, do you know Renatta Holmes?

9 A Yes, ma'am, I do.

10 Q How do you know Renatta Holmes?

11 A Renatta is my first cousin.

12 Q Did you know Moray Holmes?

13 A Yes, ma'am, I knew him.

14 Q And how did you know Moray Holmes?

15 A Through Renatta and his brother, Malachi Sanders.

16 Q Okay. And did he have a nickname that you knew of?

17 A Only by "Bobo."

18 Q Okay. Do you know Quoteas Nesbitt?

19 A Yes, ma'am, I do.

20 Q And how do you know Quoteas Nesbitt?

21 A We used to stay in the same neighborhood, like, a while
22 back, years ago, as young adults.

23 Q So how well would you say you knew him?

24 A I know him fairly well.

25 Q And how long would you say you knew him?

1 A Since we was younger, about kids, coming up, in the
2 same neighborhood.

3 Q So did y'all grow up together? Would you say how many
4 years?

5 A I stayed on that side for about, like, I was about
6 five, six, seven, eight, up in that area.

7 Q Okay. So how old are you now?

8 A I'm 29.

9 Q Okay. So would you say 20 years?

10 A Yeah, about that.

11 Q Now, is Quoteas Nesbitt present in court today?

12 A Oh, yes.

13 Q Can you point him out for the Court please?

14 A Yes, ma'am. (WITNESS POINTS TO DEFENDANT.)

15 Q And can you describe what he's wearing.

16 A White shirt and a tie.

17 Q Okay.

18 ASST. SOL. LEGETTE: Let the record reflect that the
19 witness has indicated the defendant, Quoteas Nesbitt.

20 Q Mr. White, do you ever go to a place called the Chase
21 Lounge?

22 A Yes, every now and then.

23 Q Okay. I need you to speak up some, okay?

24 A I said I do; about every now and then I do.

25 Q Okay. What kind of place would you call the Chase

1 Lounge?

2 A Off the wall.

3 Q Okay. Let's turn your attention to September 6th,
4 2012. Do you recall that day, first?

5 A Yes, ma'am, I do.

6 Q Did you go to the Chase Lounge on September the 6th,
7 2012?

8 A Yes, ma'am, I was there.

9 Q How many times did you go to the Chase Lounge on
10 September 6th, 2012?

11 A Prior, earlier that day, and then I came back that
12 afternoon.

13 Q Okay.. So the first time you were there, what time of
14 day was that?

15 A It was about three-thirty-ish, four O'clock, somewhere
16 in that area.

17 Q And did you see anyone that you knew at the Chase
18 Lounge at 3:30, 4:00?

19 A It was a lot of people out there.

20 Q All right. Did you see Quoteas Nesbitt out there?

21 A Yeah, but he was just -- he was standing on the wall.

22 He asked me when I walked up, he said to me, he asked me,

23 "You're not going to speak today?" And I was like, "What's

24 up," you know, and then I walked on in and carried on with

25 my business. You know what I'm saying? I came back out

1 after I bought the beer and I left; then I came back later
2 on and I saw him later on in the parking lot.

3 Q Okay. Let's go back to the period of time when you
4 first saw him. What time of day is this?

5 A About three-thirty-ish, four-ish.

6 Q Okay. Do you recall -- you said you saw Quoteas
7 Nesbitt?

8 A Right.

9 Q Do you know what he was wearing?

10 A A white shirt. I don't remember what he had on at the
11 bottom. I know it was a white shirt; he had on a white
12 shirt.

13 Q Okay. A white shirt. So you said you walked up.
14 Where was he standing?

15 A On the corner, on the wall. He was standing on the
16 wall.

17 Q So when you saw him, did you speak to him?

18 A Yeah, I spoke to him. He spoke to me, he was like,
19 when I was walking in, he was like, "You're not going to
20 speak, man?" I was like, "What's up?" You know, and I
21 walked on in the building and carried on proceeded to get my
22 beer and left the Chase Lounge. I came back out later on
23 that afternoon.

24 Q So when you first walked up, you didn't see him?

25 A When I first saw him on the wall?

1 Q Yes.

2 A I spoke to him. He was like -- when I got on the
3 scene, no I didn't speak to him, and then he was like,
4 "You're not going to speak?" And I was like, "Yo, what's
5 up?" Then I went on in and came back out and I left.

6 Q Okay. All right. So then you left. Now, you said you
7 came back?

8 A Yes, ma'am.

9 Q All right. What time of day was it?

10 A It was like night time, about 8:30-ish, 9:00, something
11 like that.

12 Q All right. So you came back that night?

13 A Yes, ma'am.

14 Q Did you see anyone that you knew when you came back?

15 A It was everybody there. It was -- there was a lot of
16 people out there.

17 Q Well, tell me who you saw that you knew.

18 A I mean, I was there with my sister, Lou-Lou. There was
19 Teresa, Christina, we was all on the inside, you know,
20 having fun. There was people on the outside, Malachi, all
21 of them was outside, Shawnee Mitchell, all of them was
22 standing on the outside when I was there when I went in on
23 the inside.

24 Q Okay. So when you came back, did you see Quoteas
25 Nesbitt?

1 A Yeah, he was out there, but he was calm. He ain't
2 like, you know, he wasn't in a rage to me, then, you know.

3 Q Okay. So you came back. You actually saw him in the
4 parking lot?

5 A Yes, ma'am, I did.

6 Q All right. What did he have on?

7 A A white shirt. I just don't know what the bottoms was.
8 I know he had on a white shirt -- a white t-shirt.

9 Q Okay. So when you came back, you said you saw Quoteas
10 and was he in the parking lot or where was he?

11 A Yeah, he was in the parking lot.

12 Q All right. So when you got back, what did you do?

13 A I went inside the Chase. I went inside Chase; I was
14 talking to 'stina and Teresa, which is her mother. We was
15 in there holding a conversation. As I was sitting in there
16 and we was talking, I heard the gunshots, then I heard a
17 loud noise, the yell. When I went out to the door, I
18 noticed my cousin Natta's voice, so I went out to the door,
19 and when I went out there, she was trying, you know, to get
20 to her husband, or whatever. When we left there, after all
21 of that went down, you know, we left. We got in the car to
22 go to the hospital or whatever, she was so hysterical I
23 couldn't, you know, really say nothing to her because she
24 was like, "He killed my husband! He killed my husband."
25 She just kept driving. I was like, "You want me to drive?"

1 She said, "No, I got it," or whatever. So we just kept
2 proceeding on to the hospital. Once we got to the hospital,
3 we got out of the car, she went in there and they took her
4 in. Once they took her in the back and let her know what
5 was going on or whatever, she came back out and when she
6 came back that's when she was like, "He killed my husband!
7 He killed my husband!" after they told her what happened.

8 Q Okay. Mr. White, I'm going to ask you to slow down
9 some.

10 A Okay.

11 Q So let's go back, you said that you were inside the
12 Chase?

13 A Right.

14 Q Okay. You heard ---

15 A The gunshots.

16 Q The gunshots, okay. When you heard the gunshots, what
17 do you do at that time?

18 A When I heard the gunshots, I was talking and then I
19 heard the yell, all the screaming and commotion, and people
20 was trying to come inside the Chase. When I heard the
21 screaming, once I was walking up to the door, I realized it
22 was Renatta's voice. I went outside to try to get to her,
23 you know what I'm saying? At the time, she's trying to help
24 her husband.

25 Q All right. So at this point, what are you doing? Are

1 you trying to help her?

2 A Yeah, I'm trying to help her. I was too busy trying to
3 help her with him, you know what I'm saying? But there was
4 nothing I could really do except try to help them get him
5 in, you know.

6 Q Okay. All right. So you said that y'all went to the
7 hospital?

8 A Right.

9 Q Let's talk about that. How did you get to the
10 hospital?

11 A I rode with Renatta in her car, in her Regal -- well,
12 their Regal.

13 Q Okay. Was anybody in the car with y'all?

14 A No. Just me, her, and her dog.

15 Q Okay. And had you ever been around that dog before?

16 A I've been around -- I live with that dog still to this
17 day.

18 Q Okay. Describe Renatta, how she was acting?

19 A She was so out of it, there was nothing you could have
20 really said to her, you know. She was just in a zone, you
21 know, screaming and hollering and trying to drive at the
22 same time. You know, let the wheel go and everything. I
23 was like, "Well, do you want me to drive?" She was like,
24 "No."

25 Q Okay. Can you describe was there anything different

1 about the dog?

2 A Oh, yeah, after that happened, he was ---

3 Q Well, that night. Let's talk about that night in the
4 car.

5 A Oh, yeah. He was just not himself, you know. He
6 wasn't himself. I guess he knew what was going on. He had
7 been raised up around them and us also, you know, we know
8 when something is wrong with him and when nothing is wrong
9 with him.

10 Q Now, while you were at the hospital, did you ever talk
11 to the police?

12 A No, I didn't. Oh yeah, I did give a statement to
13 Gathers. I gave a statement to Ms. Gathers.

14 ASST. SOL. LEGETTE: Begging the Court's indulgence.

15 (BRIEF PAUSE.)

16 Q Mr. White, I have no further questions, sir. Please
17 answer any questions from the defense.

18 A Okay.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. WALKER:

22 Q You were inside the club when the shooting occurred?

23 A Yes, sir, I was.

24 Q When you encountered Quoteas Nesbitt that day, he was
25 calm?

1 A Yeah. When I ran into him earlier that day. When I
2 came back that afternoon, he still was, you know, he wasn't
3 -- he didn't seem like he was in a rage or nothing, at that
4 particular time.

5 Q Well, after you went inside the club, you never saw him
6 again that night, correct?

7 A No.

8 Q Now, you gave a statement?

9 A Yeah, I gave a statement to ---

10 Q Ms. Gathers?

11 A Gathers, yes; Detective Gathers.

12 Q On September the 7th?

13 A Correct.

14 Q Have you been afforded the opportunity to review that
15 statement?

16 A Did I review it?

17 Q Yes.

18 A Yes, I have.

19 Q Do you have a copy with you?

20 A No, I don't.

21 Q It's fairly short, correct?

22 A Excuse me?

23 Q It's a short statement?

24 A It's not very long, because I didn't see much, but I
25 did wrote a statement. (sic)

1 Q Basically, saying you heard a gunshot and you went with
2 Ms. Renatta to the hospital?

3 A Right.

4 Q That would be the extent of your statement?

5 A Right.

6 Q So you had given a statement on September the 7th?

7 A Yes, sir.

8 Q Of 2012? And that's the short statement to which we
9 just referred?

10 A Yes, sir.

11 Q You also had a meeting with Ms. Stallings on August the
12 20th of this year, correct?

13 A Correct.

14 Q To discuss your testimony for today, correct?

15 A Yes, sir.

16 Q And you also had another chat with the police about
17 this case, correct?

18 A Yes, when I got locked up on a traffic -- well, they
19 stopped me and said -- when he stopped me he had locked -- I
20 was at H&D when he locked me up for driving under suspension
21 and I think it was the second or third offense, and he took
22 me straight there, and I had talked to -- I forgot the
23 probation officer's name -- Detective Nyles, that's who I
24 talked to.

25 Q You talked to Nyles?

1 A Yes.

2 Q When you were arrested, about this case? It was
3 January the 7th of this year, correct?

4 A I believe so.

5 Q Those are the only three times that you've talked to --

6 -

7 A Right.

8 Q All right. Now, the solicitor made some mention of
9 some criminal -- some problems you've had with the legal
10 system, which you discussed: identity fraud and forgery
11 convictions.

12 A Yes.

13 Q Would it be fair to say that your most recent reported
14 conviction was from -- excuse me, forgery and identity fraud
15 convictions were from 2008?

16 A Say that again?

17 Q Were they in 2008?

18 A (NO RESPONSE.)

19 Q Let me ask a different question. At the time of either
20 September the 6th or September the 7th of 2010, were you on
21 probation for anything?

22 A Yes, I was on probation, but that's the only thing I
23 was on probation for.

24 Q When this incident happened?

25 A Yes, with the check fraud. That's the only time I was

1 on probation. I was never on probation for anything else,
2 but that.

3 Q But this most recent time, you said you talked with
4 Nyles from probation, you weren't on probation?

5 A No, that's when he was -- he's a detective, now.

6 Q Okay. But you knew him ---

7 A Right, right.

8 Q And what was the disposition of the charge for which
9 you were under arrest in January of this year?

10 A That was for -- he stopped me for -- I got stopped for
11 driving under suspension.

12 Q All right. Third offense?

13 A Second offense.

14 Q Second offense. All right. What happened with that
15 charge?

16 A It got thrown out.

17 Q It got thrown out? Okay. You were talking about being
18 at the hospital with Ms. Renatta and her reaction. Can you
19 tell us again about her reaction after she received the news
20 of her husband's death?

21 A She was just out of it. There was nothing you could
22 really tell her. Nobody could really say nothing to her,
23 but the only thing you could do was comfort her; that was
24 it.

25 Q All right. You said something about she was saying,

1 "He killed him. He killed him."

2 A That was on the way going to the hospital. That was
3 not at the hospital; that was on the way to the hospital.

4 Q Did she say that after you told her what had happened?

5 A Told her what happened when?

6 Q When you initially -- on your direct testimony just a
7 moment ago ---

8 A I said when we was going to the hospital, that's when
9 she was in a trance. You couldn't really say nothing to her
10 because she was, you know, hollering and carrying on. There
11 was nothing you could really say to her. She was just
12 trying to get to the hospital. You know, once we got there,
13 she went into the back; her and his mother, and his aunts
14 were all in there. I was on the outside the whole time.
15 And when she came out -- when she came out, you know, they
16 let us know that her husband had passed away or whatever,
17 that's when she was really like out of it. Nobody could
18 really say nothing to her.

19 Q Okay. You said you were on the outside the whole time;
20 are you the person that Officer Fernandes was talking to at
21 the car?

22 A Who is Fernandes?

23 Q He's one of the police officers. Were you outside the
24 hospital or inside?

25 A I was outside the hospital.

1 Q All right. Were you standing by the car when the
2 police came and talked -- when the police first arrived?

3 A Oh, no, I didn't talk to no police while I was out
4 there. The only time I talked to police was when they
5 brought me in the back and got a statement from me.

6 Q Okay. I don't have any further questions for you.

7 THE COURT: Redirect?

8 ASST. SOL. LEGETTE: None, Your Honor.

9 THE COURT: As to this witness; may he be excused?

10 ASST. SOL. LEGETTE: We ask that he be excused, Your
11 Honor.

12 THE COURT: Any objection?

13 MR. WALKER: No, Your Honor.

14 THE COURT: Mr. White, you may step down from the
15 witness stand and you are excused from the trial of this
16 case.

17 All right. Madame Foreperson, ladies and gentlemen of
18 the jury, I see that it's past 5:00 now, and I promised you
19 that I would be mindful of your time. I let you sleep late
20 this morning, but we're going to work in the morning. Be in
21 your jury room before 9:30 so you can fill out a lunch menu
22 for me. I would like to start at 9:30 in the morning. Over
23 the overnight recess, please do not discuss this case as
24 I've instructed you throughout this trial. I hope everyone
25 has a pleasant evening. Report to your jury room prior to

1 9:30 in the morning. Everyone else remain seated while the
2 jury is leaving.

3 (5:15 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
4 THE FOLLOWING IS HELD ON THE RECORD.)

5 THE COURT: For the record, before we adjourn this
6 afternoon, before this trial started, counsel for the
7 defendant and the solicitor came into my chambers. It was
8 the solicitor who wanted to advise the Court that she was
9 concerned about intimidation of witnesses in this trial for
10 which I ordered additional security because of the concerns
11 of the solicitor.

12 This morning when I arrived, my Major, who is in charge
13 of security, also had concerns concerning witnesses who had
14 been threatened through other messenger people that if they
15 testified, there would be consequences. As a result of
16 which, I've had security check who is coming in and out of
17 the courthouse, what their relationship is to any party,
18 their names, and I ordered additional security for this
19 trial. I wanted to put those concerns on the record in
20 light of Mr. Walker's motion that he wanted security to move
21 back a row in this case, since I've already had two issues
22 in this trial, and I want the Appellate Court to be aware of
23 what has gone on in connection with this trial outside the
24 presence of the jury.

25 Now, counsel, we're going to start at 9:30 in the

1 morning, assuming I've got the jury here. So I want
2 everybody here before 9:30 in the morning ready to go,
3 including your witnesses in the appropriate place so we can
4 move the train down the track. Do you anticipate for Mr.
5 Walker's sake that you can rest tomorrow?

6 ASST. SOL. LEGETTE: No, Your Honor.

7 THE COURT: Well, Mr. Walker, that's not actually a
8 hundred percent, because she doesn't know what's going to
9 happen. She doesn't anticipate it. However, I will expect
10 you to be ready in the event that something occurs
11 differently from this so that we don't have to stop and
12 wait; do you understand?

13 MR. WALKER: Yes, Your Honor.

14 THE COURT: In that case, Court is in recess until
15 9:30 a.m. tomorrow morning. I'll expect your requests to
16 charge in this case in my law clerk's hands no later than
17 5:00 tomorrow.

18 (WHEREUPON, THE COURT IS IN RECESS FOR THE EVENING.
19 THEREAFTER, ON WEDNESDAY MORNING, 9:30 A.M., THE TRIAL IN
20 THIS CASE RESUMES, AND THE FOLLOWING IS HELD ON THE RECORD.)

21 THE COURT: Is the State ready?

22 ASST. SOL. LEGETTE: Yes, Your Honor.

23 THE COURT: Is the defendant ready?

24 MR. WALKER: Yes, Your Honor.

25 THE COURT: Bring your witness. You got to get them

1 from downstairs; that way we don't have to wait. Bring me
2 the jury, Mr. Grant.

3 (9:30 A.M., WHEREUPON THE JURY ENTERS THE COURTROOM AND
4 THE FOLLOWING IS HELD ON THE RECORD.)

5 THE COURT: Good morning, Madame Foreperson; good
6 morning, ladies and gentlemen of the jury.

7 JURY: Good morning.

8 THE COURT: Thank you for being on time. You'll notice
9 that we're running on schedule. Solicitor, please call your
10 witness; and then, Madame Clerk, please swear the witness.

11 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
12 calls Officer Brandon Allen.

13 THE COURT: Mr. Allen, please come forward and be sworn
14 by the Clerk of Court.

15 (WHEREUPON, OFFICER BRANDON ALLEN IS DULY SWORN BY THE
16 CLERK.)

17 MADAME CLERK: Please have a seat on the witness stand.

18 THE COURT: Watch your step for me. Have a seat and
19 make yourself comfortable. Pull that chair up, adjust the
20 microphone. Speak up so my juror at the end of the row can
21 hear everything you say. State your full name and spell
22 your last name for my court reporter.

23 OFFICER ALLEN: Detective Corporal Brandon Allen, A-L-
24 L-E-N.

25 THE COURT: Your witness, counsel.

1 ASST. SOL. LEGETTE: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY ASST. SOL. LEGETTE:

4 Q Good morning, Detective.

5 A Good morning.

6 Q Where do you work, sir?

7 A I'm currently employed with the Dorchester County
8 Sheriff's Office as a narcotics detective.

9 Q Okay. And how long have you been at the Dorchester
10 County Sheriff's Office?

11 A A little over a year.

12 Q And have you formerly worked with the Colleton County
13 Sheriff's Office?

14 A Yes, ma'am. Prior to working for Dorchester County, I
15 worked with the Colleton County Sheriff's Office.

16 Q And how long did you work for the Colleton County
17 Sheriff's Office?

18 A A little over a year as well, ma'am.

19 Q Okay. And during that period of time, what were your
20 duties at the Colleton County Sheriff's Office?

21 A My duties here at the Colleton County Sheriff's Office,
22 ma'am, were I was a patrol deputy, responsible for answering
23 calls for service, answering calls of the public, and
24 anything else required as far as a road deputy's duties are
25 concerned.

1 Q Now, were you working for the Colleton County Sheriff's
2 Office on or about September 6th, 2012?

3 A Yes, ma'am, I was.

4 Q And did you have an occasion to respond to the Chase
5 Lounge on that particular evening?

6 A Yes, ma'am, I did.

7 Q Can you tell us why you responded to the Chase Lounge
8 or how you ended up responding to the Chase Lounge?

9 A Yes, ma'am. Dispatch alerted over the radio with tones
10 that a shooting had occurred at the Chase Lounge that
11 evening. I was a short distance away and responded as we
12 normally do, or as we're trained to do, and responded to the
13 incident location.

14 Q Now, tell me, tones -- what is a tone?

15 A Anytime there is any sort of major incident occurring,
16 in order to gain attention, or extra attention, of the
17 deputies that are working the road that night, they will
18 drop tones in order to inform the deputies that something
19 serious in nature has taken place or about to be dispatched.

20 Q So you responded because of a dropping of the tones?

21 A Yes, ma'am.

22 Q Okay. Did anyone respond along with you?

23 A When I responded on scene, two other deputies with the
24 Colleton County Sheriff's Office were responding, along with
25 a Walterboro Public Safety was already on the scene upon my

1 arrival.

2 Q Now, upon you arrival -- well, Detective, let me ask
3 you this question. What county is the Chase Lounge located
4 in?

5 A What county?

6 Q Yes, what county?

7 A Colleton County, ma'am.

8 Q Now, when you responded to the Chase Lounge, what did
9 you find, along with the deputies, what did you find when
10 you got there?

11 A When I arrived on scene, ma'am, there were numerous
12 individuals in the parking lot. I would guestimate
13 approximately 20 people in the parking lot upon my arrival.

14 Q Now, is your car -- what kind of car were you driving
15 at that time?

16 A I was driving a fully-equipped, marked Crown Victoria.

17 Q And when you say "fully equipped," does that mean it
18 had an in-car camera system?

19 A Yes, it did.

20 Q Was the in-car camera system working?

21 A Yes, ma'am.

22 Q Was it activated during your response to the Chase
23 Lounge?

24 A Yes, ma'am. It's a policy that we're required to have
25 our in-car camera video operational. If it's not

1 operational, we're informed to provide a supervisor with
2 that information. On that night, my in-car camera was
3 operational.

4 Q Okay. Based on your in-car camera being operational,
5 does the in-car camera record any event?

6 A Yes, ma'am, it does.

7 Q Was a recording made in this particular incident?

8 A Yes, ma'am, it was.

9 Q What do you call that type of recording?

10 A What do we call what, ma'am?

11 Q What do you call the recording? What is your
12 terminology for the recording?

13 A There's a few different terms for it. I mean, it's an
14 L3 system is I believe the in-car camera system that I
15 utilized that night.

16 Q Okay.

17 ASST. SOL. LEGETTE: Begging the Court's indulgence.

18 THE COURT: All right, Counsel.

19 ASST. SOL. LEGETTE: I believe we have a matter of law,
20 Your Honor.

21 THE COURT: Counsel approach, sidebar.

22 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
23 AND OUT OF THE HEARING OF THE JURY.)

24 THE COURT: Proceed, Counsel.

25 Q Det. Allen, I will hand you momentarily what's been

1 previously marked as State's Exhibit 71. Take a moment and
2 tell me if you recognize State's 71 marked for
3 identification.

4 ASST. SOL. LEGETTE: May I approach, Your Honor?

5 THE COURT: You may.

6 A Yes, ma'am, this is the burned copy of my in-car L3
7 video from the evening of the incident.

8 Q And Det. Allen, is State's 71, previously marked for
9 identification, a fair and accurate representation of your
10 L3 video that was recorded the night of September 6th, 2012?

11 A Yes, ma'am.

12 Q Have you previously reviewed State's Exhibit 71 for
13 accuracy to verify that it is a fair and accurate
14 representation of that video?

15 A Yes, I have.

16 Q And at my request, have you previously signed or
17 initialed that disc to make certain that you recognized it?

18 A Yes, I have.

19 ASST. SOL. LEGETTE: Your Honor, at this time I would
20 offer State's Exhibit 71 for admission into evidence simply
21 for the video itself.

22 THE COURT: Just for the video?

23 ASST. SOL. LEGETTE: Just for the video, Your Honor.

24 THE COURT: Any objection as to the video only?

25 MR. WALKER: No objection as to the video only.

1 THE COURT: For the record, I understand there is an
2 objection as to the audio; is that correct, Mr. Walker?

3 MR. WALKER: That is correct.

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, State's Exhibit Number 71 will be admitted into
6 evidence for the limited purpose, according to the State's
7 request, of showing you the video portion of State's Exhibit
8 71 only.

9 (WHEREUPON, STATE'S EXHIBIT NUMBER 71, L3 IN-CAR CAMERA
10 VIDEO ONLY, IS RECEIVED INTO EVIDENCE.)

11 THE COURT: State's 71, video only, is in evidence at
12 this time and you may publish. Madame court reporter, you
13 will have to keep State's 71. If the jury wishes to see
14 State's 71, it will have to be at this point published under
15 the circumstances of my ruling; do you understand?

16 COURT REPORTER: Yes, sir.

17 THE COURT: Proceed.

18 ASST. SOL. LEGETTE: May I approach, Your Honor?

19 THE COURT: Yes, you may approach.

20 (ASST. SOL. LEGETTE APPROACHES WITNESS TO RETRIEVE
21 STATES EXHIBIT NUMBER 71.)

22 THE COURT: All right. Let the record reflect, Becky,
23 that I am being informed by Angela Stallings that the mute
24 button on State's Exhibit 71 has been placed on the screen
25 and on the equipment so that the jury will be looking at

1 video only, and not audio, because of the objection. You
2 may publish State's 71 video, Solicitor.

3 ASST. SOL. LEGETTE: Thank you, Your Honor.

4 Q Det. Allen, when State's 71 comes up, I am going to ask
5 you to narrate for us what happened in the video.

6 ASST. SOL. LEGETTE: Your Honor, may I approach and
7 give him the pointer?

8 THE COURT: You may. Mr. Walker, can you and your
9 client see the board?

10 MR. WALKER: Yes, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury, please
12 raise your hand if any of you cannot see the screen or the
13 video.

14 Q Det. Allen, I now direct your attention to the screen
15 for State's 71. Tell me what we're seeing in this
16 particular video and where are you in relationship to the
17 video itself?

18 A At this current moment, my video, the in-car camera, is
19 facing the parking lot of the incident location.

20 Q Okay. So what are you doing at this point? Are you
21 out of the vehicle?

22 A At this point, Yes, ma'am, I'm out of the vehicle. As
23 I stated previously, there is approximately 20 people in the
24 parking lot upon my arrival.

25 Q Okay.

1 A Through my training and experience as a law enforcement
2 officer I know that at this point in time, my objective when
3 I arrive on scene is to make contact with any sort of
4 witness and obtain any sort of information that I am able to
5 obtain prior to detective's arrival, prior to crime scene's
6 arrival, being one of the first officers on scene. At this
7 point, I'm out talking to the numerous people in the parking
8 lot, asking if anyone saw anything, asking if anyone has any
9 information about the incident that occurred. I made
10 contact in the parking lot. I made contact inside the
11 establishment. There was still people inside the
12 establishment carrying on with their business. So at this
13 point, after I'm done speaking to people, after I'm done
14 trying to gather witnesses and information for the
15 detectives that are in route to the incident location, I
16 assist other deputy's in trying to locate evidence, whether
17 that be shell casings, blood, anything of that nature that
18 is involved in the incident.

19 Q Det. Allen, you said there were 20 people outside.
20 Were you able to gleam or get any information from anyone?

21 A No, ma'am. The point of my arrival as I spoke to
22 everyone in the parking lot, the common answer was that they
23 were inside the establishment when the incident took place.

24 Q Okay. So you weren't able to find any eyewitnesses?

25 A No, ma'am, I was not.

1 Q Additionally, you said that you went inside the
2 establishment?

3 A Yes, ma'am.

4 Q What was going on inside the establishment, at that
5 point?

6 A As I stated, people were carrying on about their
7 business?

8 Q What do you mean by "carrying on about their business"?

9 A It's a bar. They were drinking, shooting pool, things
10 of that nature.

11 Q All right. And by this time, from what you know, is
12 the victim still present at this point?

13 A No, ma'am. I received information that he was placed
14 into a vehicle and driven to the emergency room by a friend
15 or a family member.

16 Q So Det. Allen, about how long ---

17 THE COURT: Just a moment. Solicitor, are you finished
18 with the screen?

19 ASST. SOL. LEGETTE: Yes, Your Honor.

20 THE COURT: Madame Clerk, bring the lights up.

21 MS. STALLINGS: I started it at 22:17 and ended it at
22 22:20.

23 THE COURT: For the record, Becky. If you will give
24 that exhibit to Becky, please.

25 Q Det. Allen, your video continues thereafter. About how

1 long would you say your video had been on?

2 A The entire time that I was on the incident location,
3 ma'am; probably a few hours. There's limited space. We're
4 talking about gigabytes of space when it comes to the in-car
5 camera. I know it didn't reach full capacity, but I was out
6 there for hours assisting investigation with crime scene
7 photos, crime scene logs, things of that nature.

8 Q And does it basically continue in the same manner,
9 nobody on the screen, nothing happening, but you're trying
10 to meet with witnesses?

11 A Yes, ma'am, it continues. Just me on scene talking to
12 people, helping out investigations.

13 Q Okay. Thank you. Now, you talked previously about
14 also trying to assist with crime scene tape and locating the
15 shell casings. Tell us about that.

16 A Again, through our training and experience as law
17 enforcement officers, one of the key factors when you
18 respond on scene or you're the first one on scene is to
19 establish a crime scene. This was a rather large crime
20 scene, given the vast nature of the parking lot; it's a
21 large parking lot. Initially, we thought the crime scene
22 was a little bit smaller. Once we started locating shell
23 casings, blood, things of that nature, we extended the crime
24 scene to basically cover the majority of the parking lot.

25 Q Okay. And did you collect any items in the parking lot

1 yourself?

2 A Physically collect them? No, ma'am. I did locate
3 items; just did not physically collect them. I marked them
4 as we're trained to do and waited on investigations to
5 arrive.

6 Q Now, let's talk about crime scene tape. We've all
7 talked about and heard about crime scene tape. What is the
8 purpose of crime scene tape?

9 A The purpose of crime scene tape is to cord off your
10 crime scene to protect the integrity of the crime scene,
11 ma'am.

12 Q Okay. Now, along with assisting trying to locate
13 witnesses and locating evidence and cording off the crime
14 scene area itself, what else did you do in regards to the
15 Chase Lounge that particular night?

16 A I assisted Det. Thomas with notes as far as his
17 sketches, drawings, things of that nature.

18 Q And did you ever have occasion to look for anyone?

19 A I did, ma'am. We received information in reference to
20 a suspect or the person responsible for the shooting. I
21 assisted in the location and the apprehension of the
22 defendant.

23 Q And the night that you were actually at the Chase
24 Lounge, did you ever try to locate him?

25 A I did, ma'am. We received information that the

1 defendant or the suspect in the incident fled the direction
2 of, I believe it's Bay Street is a block over from the
3 incident location. I'm not sure of the location, north,
4 south, east or west. But through my knowledge of that area
5 and being in that area and working in that area, I know that
6 there is a trail that leads to the next block over, which is
7 in the vicinity of the direction that the suspect allegedly
8 fled.

9 Q Did you ever try to walk this trail?

10 A I did, ma'am. Once I received that information, I knew
11 the path of least resistance to that next block was that
12 trail, so I proceeded down that trail looking for any sort
13 of evidence, whether it was clothing, a firearm, anything of
14 that nature. I walked it all the way to what I believe is
15 Bay Street, the next block over, which is where trail ends.

16 Q Did you find anything?

17 A No, ma'am, I did not.

18 Q Once you completed walking of the trail, did you go
19 back to the Chase Lounge or did you go anyplace else?

20 A After the trail, I did go back to the Chase Lounge for
21 a brief period. At which point, the investigations division
22 was handling their -- they didn't need my assistance anymore
23 at that time. It's common practice anytime we have an
24 incident of this magnitude that we respond to the hospital
25 for assistance with crowd control or any other incidents

1 that may arise, as far as retaliation or anything like that,
2 so I responded to the Colleton County Medical Center
3 afterwards.

4 Q And upon responding to the Colleton Medical Center, did
5 you find -- what did you find there?

6 A I arrived on scene and another deputy was present
7 there; I believe his name was Deputy Fernandes. I made
8 contact with him. The information that we had received was
9 a white vehicle that had driven the vehicle to the hospital.
10 I observed a white Hyundai in the parking lot. We inquired
11 about the license tag on it. Through our investigation at a
12 further time, it was confirmed that it was the vehicle that
13 was utilized to take the victim to the hospital after he was
14 shot.

15 Q And upon realizing or determining that that was the
16 vehicle that he was transported in, did you do anything to
17 that vehicle?

18 A Yes, ma'am, it's part of the separate crime scene
19 basically, so again, we corded off the vehicle with crime
20 scene tape to protect the integrity of the vehicle and to
21 protect the integrity of any evidence located inside of the
22 vehicle.

23 Q And once you had completed wrapping crime scene tape
24 around the vehicle, did you provide any other assistance in
25 regards to the vehicle itself?

1 A Yes, ma'am. I assisted the detectives with the search
2 of the vehicle, locating any evidence inside that said
3 vehicle.

4 Q Okay. Now, at some point, did you clear it from the
5 hospital?

6 A Yes, ma'am, eventually I did.

7 Q And did you have any other involvement in this case?

8 A During the course of that night, I received a telephone
9 call from another officer who is no longer with the
10 Sheriff's Office. She's moved on to another sheriff's
11 office, but she was a police officer, or a deputy, with the
12 Colleton County Sheriff's Office that night stating that she
13 had received information in reference to who the person
14 responsible for the shooting was.

15 Q And at some point, did you assist with the location of
16 any suspects in this case?

17 A Yes, ma'am, I did.

18 Q Tell us about that.

19 A It was several hours, if not a few days later. I mean,
20 we were actively seeking the defendant for numerous days.
21 We checked numerous locations, different addresses
22 throughout the county. We were unsuccessful up until that
23 point. At which point, I believe that Det. Chapman was able
24 to make contact with a family member of the defendant, or
25 something of that nature, and was able to coordinate an

1 arrangement with the defendant to turn himself in.

2 Q Okay.

3 ASST. SOL. LEGETTE: Begging the Court's indulgence.

4 Q Det. Allen, I have no further questions. Please answer
5 any questions that the defense may have.

6 A Yes, ma'am.

7 THE COURT: Cross-examination?

8 MR. WALKER: Yes, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WALKER:

11 Q Good morning.

12 A Good morning, sir.

13 Q At the time of this incident, you were a road deputy?

14 A Yes, sir.

15 Q In a fully marked vehicle?

16 A Yes, sir.

17 Q You said that when you arrived at the Chase Lounge in
18 response to the dispatch call, you arrived with two other
19 deputies; do you remember who those were?

20 A I believe it was Deputy Nettles and I forget the
21 Sergeant's name who was the road supervisor that night. I
22 want to say it was Sgt. Nance.

23 Q And you said also that members of Walterboro Public
24 Safety were there. Do you recall who those were?

25 A No, sir, I do not recall which officers were there, but

1 Walterboro Public Safety was there.

2 Q So your first duty when you arrived was to attempt to
3 talk to people?

4 A Correct.

5 Q What was Sgt. Nance and Dep. Nettles doing?

6 A We're all trained in the same capacity.

7 Q So everyone was basically doing that same thing?

8 A Everybody was, you know, attempting to assess the
9 situation and figure out what was going on, if we had the
10 victim on scene or not, any witnesses observe the shooting,
11 things of that nature.

12 Q Okay. And you said that when you got there, there were
13 numerous people, approximately 20, in the parking lot?

14 A Yes, sir.

15 Q I guess more people were inside?

16 A Correct, yes, sir.

17 Q About how many people would you say were inside?

18 A I can't give you a specific number. I do recall people
19 being inside because when I walked in, I looked around.

20 Q I'm not looking for a specific number; just a general
21 feeling, guesstimate.

22 A Guesstimate, I really can't give you a specific number.
23 I really can't recall if it was five or ten or fifteen. It
24 was just occupied.

25 Q Did you interact with the staff of the Chase Lounge?

1 A To be honest with you, I don't know which one the staff
2 is. There is an older gentleman that is there more
3 frequently than anyone else is. If he is the owner of the
4 establishment, I don't know. If he just works there, I
5 don't know. But we did speak to someone who was standing
6 behind a make-shift bar. He's the one who led us to the
7 recording system, things of that nature.

8 Q And that was my next question, were you able to through
9 interaction with someone able to watch the recording of the
10 incident?

11 A I personally didn't watch the video of the shooting.
12 That was the responsibility for the investigations team.

13 Q You said that you spoke to a number of people who said
14 they were all inside and didn't see anything, correct?

15 A Correct.

16 Q Did you maintain a list of the people you spoke to?

17 A I personally did not. No one was cooperative.
18 Everyone was very uncooperative actually. No one said they
19 saw anything. I got one to two word answers when I asked
20 directly if they saw what happened. "No, I was inside."
21 "No." Answers like that.

22 Q Did you ask to see anyone's driver's licenses or
23 identification cards?

24 A No, sir. At that point, I didn't have any reason to
25 ask for any I.D. or anything like that.

1 Q Okay. Did they continue carrying on business the whole
2 time you were there?

3 A Initially, they did, yes, but again, to protect the
4 integrity of the crime scene, we moved everyone out of the
5 crime scene area. People ultimately ended up leaving.

6 Q So you said you were there for several hours?

7 A Correct.

8 Q So after you were there, about how long was it?

9 A I can't give you a specific time. I was focused on the
10 evidence. Focused on communicating between the incident
11 location and the detectives that were in route or that were
12 going to the hospital. I can't give you a specific
13 timeframe on when the last person left.

14 Q Do you have a feel for the last time you noticed
15 anybody there that wasn't a police officer?

16 A I mean, that area, there's a lot of foot traffic,
17 people walking to and from down the street, especially with
18 any sort of incident involving a shooting, there's going to
19 be a crowd gathering. So I mean, obviously, people are at
20 the location. They're not inside the crime scene, so I mean
21 I can't tell you when the last person out there left.

22 Q You said that after your attempts to canvass witnesses
23 were futile, that you had moved on to assisting the other
24 investigators. Who were you -- were there any specific
25 people you were assisting or just generally?

1 A Mostly Detective Thomas. He was in charge of the crime
2 scene photos and crime scene sketches; things of that
3 nature.

4 Q Did you move to doing that, assisting him with that,
5 before or after you went down the trail that you mentioned?

6 A That was after I went down the trail. The information
7 about the trail was given out fairly quickly upon arrival.

8 Q And you said that you were attempting to spot evidence
9 and define parameters of the crime scene. Do you recall
10 anything specific that you said, "I'm the one that found
11 that" or "I'm the one that noticed that"?

12 A Myself, and the other deputies, Sgt. Nance, Deputy
13 Nettles, we were all -- we basically formed a line, like we
14 normally do, when we investigate shootings, crime scenes,
15 things of that nature. Kind of determine what area things
16 took place in and we did find some blood in a ditch, so we
17 did have an idea generally of where the incident, or the
18 shooting, took place. At that point, we kind of just made
19 our way up through the crime scene. We started locating
20 shell casings. I can't tell you I located shell casing one,
21 three, and seven; I just located shell casings. Q The only
22 thing that stood out to you that you noticed was some blood
23 and shell casings that you recall?

24 A Yes, sir, correct.

25 Q You said shell casings one, three and seven, how would

1 you delineate those at a crime scene?

2 A One, three and seven was just an example.

3 Q I know, but if you had seven shell casings, how, at a
4 crime scene, would it be your procedure to distinguish
5 between them?

6 A I would mark the casings with whatever markings I had
7 available until crime scene arrived, and then they would use
8 the proper placards. It would be up to the investigation
9 division as to how they marked it. I'm just locating it.

10 Q So you would just put a flag, a marker?

11 A My common practice was I carried a notepad with me. I
12 took a piece of paper out of my notepad, folded it in half,
13 stuck it next to whatever I found; that way I didn't have to
14 go back and look for it.

15 Q And then the crime scene folks have placards with
16 numbers and things?

17 A Yes, sir, correct.

18 Q And so you said that you assisted Det. Thomas with his
19 notes and sketches. Could you go into that a little bit
20 about what that means or how you would assist him?

21 A I'm not a crime scene technician. I can't tell you.

22 Q All right. Just tell me what you did.

23 A I took instruction from Det. Thomas, as far as holding
24 the equipment was the nature of my assistance.

25 Q To measure things? Is that what you were ---

1 A Yean, that's what he was doing. I was holding one end
2 of the tape measure while he was doing his thing.

3 Q And that was with Det. Thomas you said?

4 A Yes, sir.

5 Q And so it was after Det. Thomas had completed his
6 measurements that you went to the hospital?

7 A I left while the investigation division was on scene.
8 I don't know what Det. Thomas's specific actions were after
9 I left; I was assisting him. They no longer required my
10 assistance. I knew from past experience that we would have
11 retaliation issues at the hospital. It's common practice,
12 like I stated, for us to respond to the hospital.

13 Q And in your estimation, that was the next best thing
14 that you could do as a member of the police force?

15 A Yes, sir.

16 Q And when you got there, there was just one officer
17 there?

18 A I know I made contact with Dep. Fernandes. There may
19 have been more officers inside, but Dep. Fernandes was on
20 scene.

21 Q And are you the one that put up crime scene tape around
22 the car?

23 A Yes, sir. I assisted with that as I'm sure somebody
24 helped me tie it off.

25 Q But it came out of your trunk?

1 A Yes, sir.

2 Q And that's just something you commonly carry in the
3 trunk of your car?

4 A Oh, yes, sir. It's common for us to have that.

5 Q Now, you said you ran the license plate of that white
6 car; is that correct?

7 A I believe so.

8 Q Do you recall what the result of that license plate
9 was?

10 A I do not remember what the name came back to. Dispatch
11 provided that information.

12 Q And that's not in your report that you filed?

13 A No, sir.

14 Q You've read the report that you wrote, correct?

15 A Yes, that's correct.

16 Q So you marked off the white car. Did you -- were you
17 also involved in the processing of that crime scene?

18 A Yes, sir. There were other crime scene investigators
19 already on scene at the hospital upon my arrival.

20 Q So not just Fernandes?

21 A Yes, sir.

22 Q Other investigators were there also?

23 A That's correct. I do not know which ones specifically,
24 but I know that Investigators went to the incident location,
25 the Chase Lounge, and some went to the hospital. When they

1 arrived, I don't know.

2 Q You don't remember who they were?

3 A Specifically? No.

4 Q What did you do to assist them in processing the crime
5 scene at the white car?

6 A Just a basic search of the vehicle.

7 Q What did you find in the vehicle?

8 A We located blood inside the vehicle. We located
9 firearm in the glove box. That is the only thing pertinent
10 that I recall.

11 Q Where was the blood?

12 A If I recall correctly, it was in the back seat, but I'm
13 not a hundred percent sure.

14 Q Do you recall what type of firearm you found?

15 A No, sir. I did not collect it personally.

16 Q It was in the glove box, so it was obviously not a long
17 gun?

18 A No, sir.

19 Q You found a pistol?

20 A Yes, sir.

21 Q And you said you were also involved when Mr. Nesbitt
22 was arrested?

23 A Correct, yes, sir.

24 Q And that he turned himself in to Det. Chapman, correct?

25 A Correct, yes, sir.

Redirect examination of Detective Brandon Allen by Ms. Legette
Recross-examination of Detective Brandon Allen by Mr. Walker

1 Q I have no further questions.

2 THE COURT: Redirect?

3 ASST. SOL. LEGETTE: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY ASST. SOL. LEGETTE:

6 Q Det. Allen, how many crime scenes, bar scenes, would
7 you say you've responded to in your career?

8 A Countless, ma'am.

9 Q And in those countless bar scenes that you've responded
10 to, how do people act? Do they cooperate with police?

11 A Depending on the situation, ma'am, depending on what
12 bar, depending on location. Some choose to cooperate; some
13 don't.

14 Q Okay. So in a major situation like this, has it been
15 your experience, do they cooperate or do they not cooperate?

16 A Not, ma'am.

17 Q Okay.

18 ASST. SOL. LEGETTE: Begging the Court's indulgence.

19 I have no further questions.

20 THE COURT: Recross, limited to redirect; limited to
21 redirect.

22 RECROSS-EXAMINATION

23 BY MR. WALKER:

24 Q So based on your experience, you arrive to investigate
25 crime scenes with the expectation that sometimes you might

1 have uncooperative witnesses?

2 A That's a fair statement, yes, sir.

3 MR. WALKER: Your Honor, no further questions.

4 THE COURT: Solicitor, as to this witness?

5 ASST. SOL. LEGETTE: Your Honor, we ask that he be
6 excused.

7 THE COURT: Any objection, Mr. Walker?

8 MR. WALKER: None, Your Honor.

9 THE COURT: Mr. Allen, you may step down from the
10 witness stand and you are excused from the trial of this
11 case and may leave the courtroom. Call your next witness.

12 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
13 calls Steve Bazzle.

14 (WHEREUPON, THE WITNESS, MR. BAZZLE, ENTERS THE
15 COURTROOM.)

16 THE COURT: Come around and be sworn by the Clerk of
17 Court, please, Steve.

18 MADAME CLERK: Place your left hand on the Bible and
19 raise your right.

20 (WHEREUPON, MR. STEVE BAZZLE IS DULY SWORN.)

21 MADAME CLERK: Please have a seat up on the witness
22 stand and state your full name for the record.

23 THE COURT: Have a seat. Adjust that microphone. You
24 know what to do. State your full name and spell your last
25 name for my court reporter.

1 MR. BAZZLE: Steve Bazzle, B-A-Z-Z-L-E.

2 THE COURT: Your witness, counsel.

3 ASST. SOL. LEGETTE: May it please the Court?

4 DIRECT EXAMINATION

5 BY ASST. SOL. LEGETTE:

6 Q Good morning, Detective Bazzle.

7 A Good morning.

8 Q Where do you work?

9 A I work with the Fourteenth Circuit Solicitor's Office.

10 Q And how long have you worked with the Fourteenth
11 Circuit Solicitor's Office?

12 A A year.

13 Q Okay. And physically, what county do you work in?

14 A Beaufort.

15 Q Now, where have you previously worked in the past?

16 A Mostly all of it in Colleton County at the Sheriff's
17 Office and again in my career was with the police
18 department.

19 Q So how many years would you say you've been in law
20 enforcement?

21 A Twenty-eight.

22 Q And were you working for the -- well, let's see, what
23 sheriff's office were you working for?

24 A Colleton County.

25 Q Okay. And how long were you with Colleton County in

1 total?

2 A Probably 25 of those years.

3 Q Now, were you working for the Colleton Sheriff's Office
4 in September of 2012?

5 A Yes, ma'am.

6 Q What was your rank at that time?

7 A I was the Chief Investigator over investigations at the
8 Sheriff's Office.

9 Q And as Chief Investigator at the Sheriff's Office, what
10 were your duties?

11 A To oversee the investigative unit, assist in case
12 preparation, ensure that all of the evidence was
13 appropriately taken care of and the overall investigations
14 and the records division.

15 Q Okay. So you actually supervised the investigators?

16 A Yes, ma'am.

17 Q Now, let's turn your attention to September the 6th,
18 2012. Were you working or on duty that particular evening?

19 A Yes, ma'am.

20 Q And that particular evening, did you have any occasion
21 to respond to any call?

22 A I did.

23 Q What call did you respond to and where?

24 A I was notified that there had been a shooting incident
25 at the Chase Lounge on the corner of Rivers and Proctor

1 Street in Colleton County.

2 Q Okay. And upon being notified of this information, what
3 was your response?

4 A I went to the location and met with the officers and
5 assessed the situation.

6 Q Now, upon assessing or determining what the situation
7 was, what did you do next?

8 A My responsibility was to make sure the officers were
9 taking care of things that needed to be done. Just to
10 instruct and direct them to the different responsibilities
11 that we needed to take care of.

12 Q Okay. Now, did you actually locate any evidence or
13 potential evidence or talk to any witnesses?

14 A I did not talk to any witnesses. The only thing I did
15 was I made contact with Mr. Chaplin, the manager of the
16 business to be able to view the surveillance system that he
17 had in place on the property.

18 Q And upon speaking to him, did you get to actually view
19 the surveillance?

20 A Yes, ma'am.

21 Q And upon viewing the video surveillance, what did you
22 find?

23 A There was a recording of the incident that took place
24 in the parking lot where the victim had been shot.

25 Q Okay. And this was actually a real time thing or was

1 it a recording?

2 A It was a real time recording of the incident.

3 Q Okay. Now, upon reviewing that particular video
4 recording, you said it actually showed the shooting?

5 A Yes, ma'am.

6 Q Did you download or do anything with that particular
7 video?

8 A I did not. We have an I.T. person, Mr. Richard Haley,
9 at that time with the Sheriff's Office who was asked to come
10 and attempt to make a copy of it for us.

11 Q And did Mr. Haley come down to the Chase Lounge?

12 A He did.

13 Q Was he able to make a copy?

14 A No, ma'am.

15 Q Now, upon viewing that video, did you learn or see any
16 potential witnesses in the video?

17 A There were several people in the parking lot at the
18 time of the incident and I was relaying to investigators who
19 were at the hospital in case some of the people, the
20 vehicles or whatever, showed up there and they could be on
21 the lookout for it as well as the officers who were on the
22 scene, just to try and locate as many possible witnesses as
23 we could.

24 Q Did you ever learn about any possible uncooperative
25 witnesses?

1 A There were several around that either said they didn't
2 see anything or didn't have anything to say.

3 Q Now, upon viewing that video, did you notice anything
4 about that video as far as timing?

5 A The timing was off; I can't remember exactly. It was
6 not exactly to the second, but it appeared to be an accurate
7 recording of the incident, just the time of the clock was
8 not exactly right.

9 Q So let me make sure I understand, are you actually able
10 to see the shooting itself on that video?

11 A Yes, ma'am.

12 Q Now, to your knowledge, was this video ever downloaded? A

13 Q Okay. And do you know the circumstances of how it was
14 actually downloaded?

15 A It's not uncommon for us not to have had the
16 appropriate equipment for us to download from all of the
17 different systems that are on the market. So a search
18 warrant was obtained and the system itself was seized and
19 sent to the State Law Enforcement Division for them to
20 recover the actual video.

21 Q And has that video been recovered?

22 A Yes, ma'am.

23 Q Now, you said you were chief over the investigators.
24 Did you ever assign an investigator to this case?

25 A Yes, I did.

1 Q Who did you assign?

2 A Mr. Davis.

3 Q And is he present in court?

4 A Yes, ma'am.

5 Q Can you point him out?

6 A The gentleman right there.

7 Q What color is he wearing?

8 A Looks like a grey suit under this lighting.

9 ASST. SOL. LEGETTE: Let the record reflect that the
10 witness has now identified Det. Rusty Davis.

11 Q Now, may I call you Investigator Bazzle?

12 A Anything you'd like, ma'am.

13 Q Okay. Once you had assigned Det. Davis to be your lead
14 investigator, what else did you do to assist in this case?

15 A We were trying to locate the possible suspect in the
16 case for several days. Based on the information we received
17 through the investigator's work during this time, we were
18 out every day for several days trying to locate the possible
19 suspect in the case.

20 Q And do you know who was the possible suspect?

21 A The gentleman seated at the table over there, Mr.
22 Nesbitt.

23 Q Okay. So you said you were out every day trying to
24 locate him?

25 A Yes, ma'am.

1 Q How many days would you say that was?

2 A It was six or seven days that we were working. Every
3 time we got a lead, we would follow up on it.

4 Q And when you say "we," explain who "we" are?

5 A Members of the Sheriff's Office, the Investigative unit
6 primarily who were working on the case, and members of the
7 Sheriff's Office, and we had also enlisted the help of the
8 Fugitive Task Force from SLED as well.

9 Q In that period of time when you were trying to locate
10 Mr. Nesbitt, were you able to locate him?

11 A Eventually, we were out attempting to locate him. We
12 had several members of the Sheriff's Office and again,
13 members of the Fugitive Task Force were out going to every
14 possible location we could think of that we may be able to
15 develop information as to his whereabouts and one of the
16 locations, one of our officers was approached by someone who
17 knew Mr. Nesbitt.

18 Q Investigator Bazzle, I have no further questions.
19 Please answer any questions that defense counsel may have
20 for you.

21 A Yes, ma'am.

22 THE COURT: Cross-examination?

23 MR. WALKER: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. WALKER:

1 Q Good morning.

2 A Good morning.

3 Q When you responded out, numerous other officers were
4 already working the crime scene at the Chase Lounge,
5 correct?

6 A Yes, sir.

7 Q And your primary function there was supervisory?

8 A Yes, sir.

9 Q When you say supervisory, were they already, on their
10 own initiative, doing their different tasks or did you
11 assign certain people to do certain things?

12 A They are all trained to do basic response. The primary
13 thing is to secure the scene and to protect the evidence,
14 that type thing. They were doing their basic duties. As
15 far as my direction, it was focused primarily at
16 investigators.

17 Q And so the investigators, you did assign to do certain
18 things?

19 A Yes, sir.

20 Q Was that based on who was available or some people are
21 better at some things than others?

22 A There were some people who had done or, you know, more
23 of or more apt to be able to do crime scene drawings and
24 things like that, which Det. Thomas would have done. The
25 other part was primarily who was available and where needed

1 the most attention at that time..

2 Q Did you say that you were the one who viewed the
3 surveillance tape from the Chase Lounge?

4 A I did, sir.

5 Q And when you called -- you said you called the hospital
6 to advise them of the vehicles that you saw?

7 A I would talk either on the cell phone or the radio just
8 relaying any information that I may have picked up from the
9 video.

10 Q Who did you relay that information to?

11 A I believe it was Inv. Gathers was at the hospital, and
12 at some point, I believe Inv. Davis was there.

13 Q Mr. Chaplin is the proprietor of the Chase Lounge?

14 A I believe so, yes.

15 Q Did you request from him a copy of receipts for the
16 evening or a list of people that had been present?

17 A No, I did not.

18 Q And I assume he told you he was inside running the
19 business and didn't see anything?

20 A To the best of my knowledge, yes, sir.

21 Q You have your -- you said you assigned Inv. Davis to
22 this investigation. Do you mean as the person in charge of
23 the investigation?

24 A Yes, sir. Once we have incidents, it's usually -- it
25 could have been possibly the following day when we actually

1 assigned someone by name to be responsible for the case.

2 Q So you don't recall specifically when you made that
3 assignment?

4 A It could have been that night, more than likely, that I
5 put him on notice that he was in charge of this case.

6 Q But he was the lead person from at least the day after
7 going forward?

8 A Yes, sir.

9 Q And after Inv. Davis was assigned, other than your
10 involvement in attempting to locate Mr. Nesbitt, did you do
11 anything else with this case?

12 A Just supervisory capacity. If they had a question, I
13 would try to help them with it. I did not go out and do
14 anything specific on the case.

15 Q You did not direct any action on the case after this?

16 A No, sir.

17 Q You would have been available to review the actions
18 taken under Inv. Davis?

19 A Yes, sir.

20 Q And you say that you guys were out looking for Quoteas.
21 You were actually out trying to arrest him and put him in
22 jail?

23 A Once enough information was collected for a warrant for
24 him, yes, sir, that was the case.

25 Q And again, just to be clear, the video of the shooting

1 that you obtained, you discussed a discrepancy in time.

2 You're merely talking about the time stamps superimposed
3 over the event?

4 A That's correct.

5 Q It does not correspond with the actual time the events
6 happened?

7 A That is correct.

8 Q I have no further questions.

9 THE COURT: Redirect?

10 ASST. SOL. LEGETTE: None, Your Honor.

11 THE COURT: As to this witness?

12 ASST. SOL. LEGETTE: We ask that he be excused, Your
13 Honor.

14 THE COURT: Any objection, Mr. Walker?

15 MR. WALKER: No objection.

16 THE COURT: Mr. Bazzle, you may step down from the
17 witness stand and you are excused from the trial of this
18 case. Call your next witness.

19 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
20 calls Deputy Jeff Scott.

21 MADAME CLERK: Please come forward to be sworn.

22 (WHEREUPON, MR. JEFF SCOTT IS DULY SWORN.)

23 MADAME CLERK: Please have a seat on the witness stand
24 and state your name for the record.

25 THE COURT: Hello, Mr. Scott. Watch your step. You

1 know what to do and you know how to do it; so do it.

2 MR. SCOTT: Det. Jeff Scott. Last name, S-C-O-T-T.

3 THE COURT: Your witness, counsel.

4 ASST. SOL. LEGETTE: Thank you, Your Honor. May it
5 please the Court?

6 DIRECT EXAMINATION

7 BY ASST. SOL. LEGETTE:

8 Q Good morning, Detective.

9 A Good morning.

10 Q Detective, where do you work?

11 A Currently, I'm employed with the Dorchester County
12 Sheriff's Office. I am a deputy currently assigned to the
13 criminal investigation division.

14 Q So can I call you detective or investigator?

15 A Yes, you may.

16 Q Now, you've worked for the Dorchester County Sheriff's
17 Office for how long?

18 A I've been with the Dorchester County Sheriff's Office
19 now for approximately a year and a half.

20 Q And prior to Dorchester County Sheriff's Office, where
21 did you work?

22 A I was with the Colleton County Sheriff's Office for
23 approximately nine and one half years.

24 Q And at the Colleton County Sheriff's Office, what were
25 your duties?

1 A With the Colleton County Sheriff's Office, I was again
2 a deputy assigned to the Criminal Investigation Division at
3 this agency.

4 Q And for how long were you in the investigations?

5 A I was an investigator from November 14th, 2006,
6 through, I believe, it was February of 2013. So a period of
7 approximately six years.

8 Q And prior to being an investigator at the sheriff's
9 office, what did you do at the sheriff's office?

10 A Before I was an investigator, I was a deputy with the
11 road patrol division.

12 Q Now, were you working for the Colleton County Sheriff's
13 Office in September of 2012?

14 A That's correct, ma'am.

15 Q And were you an investigator at that time?

16 A Yes, ma'am, I was.

17 Q I want to turn your attention now to September the 6th,
18 specifically of 2012; do you recall that evening?

19 A Yes, ma'am, I do.

20 Q Did you have an opportunity to respond to the Chase
21 Lounge?

22 A Yes, ma'am, I did.

23 Q And why did you respond to the Chase Lounge on that
24 particular evening?

25 A On the evening of September 6, 2012, I was contacted in

1 regards to a shooting that occurred at the Chase Lounge,
2 which is located on Proctor and Rivers Street, which is
3 located in the County of Colleton in reference to a
4 shooting.

5 Q And when you got there, what, if anything, did you do
6 at the Chase Lounge?

7 A When I arrived on scene, I made contact with then Lt.
8 Steve Bazzle and a couple of the road patrol deputies. I
9 know I talked to Dep. Allen, but I can't recall who else was
10 on scene. They briefed me as to what we had, identified
11 particular pieces of evidence that had been marked prior to
12 my arrival. I noticed that the crime scene had already been
13 marked off with yellow crime scene tape, which is common
14 practice to mark off the crime scene to protect the
15 integrity of the evidence. At that point, it was my duty to
16 begin processing the crime scene, and by processing, I mean
17 identifying certain pieces of evidence, what had evidentiary
18 value and what did not have evidentiary value. In this
19 particular case, I was able to identify several pieces of
20 evidence and mark them with what we call placards, which is
21 basically -- I know everyone has seen CSI, the yellow tent-
22 looking deals with letters and/or numbers on them are what
23 we call placards.

24 Q Okay. And so you do a walk through, you identify
25 evidence, you mark them with placards. Do you take any

1 pictures of what you see at the crime scene?

2 A I believe Det. Thomas took the crime scene photos at
3 the time. I don't recall if I took any photographs or not.

4 Q Are you familiar with the photographs?

5 A I am very familiar with the photographs, yes.

6 ASST. SOL. LEGETTE: Begging the Court's indulgence.

7 Q Det. Scott, in just a moment, I'm going to hand you
8 what's been marked for identification as State's Exhibits 7
9 through 39, 39A, 39B, 39C, 39D, 39E, and 39F. Please take a
10 moment and tell me if you recognize these items.

11 ASST. SOL. LEGETTE: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 (BRIEF PAUSE IN THE COURTROOM AS THE WITNESS REVIEWS
15 EXHIBITS HANDED TO HIM BY ASST. SOL. LEGETTE.)

16 A Yes, ma'am.

17 Q Detective, are you familiar with State's Exhibits,
18 which have been marked for identification as 7 through 39
19 and 39A through F?

20 A Yes, ma'am, I am.

21 Q And what are State's 7 through 39A through F?

22 A These are photographs of the incident on the night of
23 the 6th of September, 2012, as I observed it as I arrived on
24 scene.

25 Q And Det. Scott, are State's Exhibits 7 through 39A

1 through F an accurate reflection of the scene as it existed
2 on September 6th, 2012?

3 A Yes, it is.

4 ASST. SOL. LEGETTE: Your Honor, at this time, I would
5 offer State's Exhibits 7 through 39A-F for admission into
6 evidence.

7 MR. WALKER: No objection.

8 THE COURT: Ladies and gentlemen of the jury, State's
9 Exhibits 7 through 39 A, B, C, D, E and F, inclusive, will
10 be admitted into evidence in the trial of this case without
11 objection.

12 (WHEREUPON, STATE EXHIBIT NUMBER'S 7 - 39, 39A, 39B,
13 39C, 39D, 39E AND 39F, PHOTOS, ARE RECEIVED INTO EVIDENCE.)

14 THE COURT: They're in evidence, Solicitor. You may
15 publish in the manner you desire.

16 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
17 Honor, May I approach the witness?

18 THE COURT: You may.

19 ASST. SOL. LEGETTE:

20 THE COURT: Identify the exhibit on the screen for the
21 record.

22 ASST. SOL. LEGETTE: Thank you, Your Honor.

23 Q Det. Scott, I turn your attention now to the screen.

24 This is State's exhibit number seven. Identify for us what
25 State's Exhibit Seven is.

1 A State's Exhibit number seven is the incident location,
2 which is the Chase Lounge, on the corner of Rivers and
3 Proctor Street here in Colleton County. What you're looking
4 at is the front door of the business from Proctor Street.
5 You can see the vehicles parked at the business, as well as
6 the tape you see. The vehicles were there upon my arrival.
7 The yellow tape was there prior to my arrival; I believe it
8 was done by road patrol.

9 Q Okay. I direct your attention now to State's Exhibit
10 Eight. What are we seeing in State's Exhibit Eight?

11 A State's Exhibit Number Eight is a view of the parking
12 lot back towards Rivers Street with your back to the
13 business. What we're looking at here is looks to be a pair
14 of sunglasses. In this photograph is a crushed styrofoam
15 cup and what looks to be some unidentified stains in the
16 middle of the picture.

17 Q Okay. Directing your attention to State's Nine. This
18 appears to be gravel. What are we seeing?

19 A In State's Nine, we're looking at, again, just a
20 different angle of the previous picture. What you have here
21 is a pair of sunglasses, a broken styrofoam cup, unable to
22 determine what that object is in the back, but it's just a
23 different view of the previous picture.

24 Q Directing your attention to State's Ten.

25 A I'm having a hard time seeing this clearly. Can you

1 make it bigger?

2 Q I'm trying, but it's not getting any clearer.

3 THE COURT: Angela, is there anything you can do to
4 make it clearer for this witness?

5 MS. STALLINGS: The bigger it gets, the blurrier the
6 image gets.

7 ASST. SOL. LEGETTE: Your Honor, may I approach the
8 witness?

9 THE COURT: You may.

10 Q Det. Scott, I'm going to hand you now State's Exhibit
11 Ten and have you tell us what is in this picture. If you
12 will hold it up for the jury to see.

13 A Certainly. Okay, State's Exhibit Number Ten, again,
14 this is just a different view of the previous. Located in
15 this picture right here, we have a broken styrofoam cup at
16 the bottom of the photograph. We have a pair of -- what
17 appears to be a pair of broken glasses. We also have a -- I
18 believe it was a broken beer bottle, a paper bag. There's
19 some unidentified stain right here. There's a reddish-brown
20 substance right here that is blood. I'm unable to determine
21 what is in the back of the photograph; it's shadowy.

22 Q Okay. We're now going to direct your exhibit to
23 State's Exhibit Thirteen.

24 ASST. SOL. LEGETTE: Your Honor, may I approach the
25 witness?

1 A Okay. State's Exhibit Thirteen is a view of the
2 parking lot to the ditch line right here. You have the dirt
3 parking lot right here. Located in this photograph is a
4 white styrofoam cup, as well as a red plastic cup. We have
5 two stains here of reddish-brown color, the appearance of
6 blood. It looks like maybe a cup in the background of the
7 picture as well.

8 Q Detective, I'm now going to direct your attention to
9 State's Fourteen.

10 ASST. SOL. LEGETTE: Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 Q Detective, I'm going to now direct your attention to
14 State's Exhibit Fourteen.

15 ASST. SOL. LEGETTE: Your Honor, may I approach the
16 witness?

17 THE COURT: You may.

18 A State's Exhibit Fourteen is, again, a view of the
19 parking lot of the Chase Lounge on the night of the
20 incident. Here we have items we believe to be evidence in
21 this case marked with the yellow placards I referred to
22 previously. We have placards number one, two, three, four,
23 five, six, seven, and eight. Again, we have a beer bottle
24 in a plastic bag. We have a pair of broken sunglasses,
25 broken styrofoam cup. We have the same stain, the reddish-

1 brownish stain with the appearance of blood located in the
2 middle of the photograph. And looks like a law enforcement
3 officer's vehicle in the background.

4 Q I'm going to direct your attention now to the screen
5 for State's Exhibit Number Fifteen. Please direct your
6 attention to the screen. What is in the photo of State's
7 Exhibit Fifteen?

8 A In this exhibit, once again this is a view of the Chase
9 Lounge from the night of the incident. This is a view from
10 the edge of the roadway, the ditch line back towards the
11 business. What we have in this photograph are the placards,
12 the markers with the black numbering. In this picture we
13 have number twelve, which was a styrofoam container. I
14 believe it contained portions of eaten shrimp. We have
15 thirteen, which looks like it's some type of a paper bag.
16 We have fourteen and fifteen, and I believe they are marking
17 the reddish-brown stain, which had the appearance of blood.
18 Looks like sixteen is in the background. I'm unsure of what
19 sixteen is at this time without referring to my notes.

20 THE COURT: Counsel approach.

21 Q Det. Scott, can you tell us why you take pictures of
22 all of these various items?

23 A Yes, ma'am. What we do is we take pictures of the
24 crime scene, and basically, you get one shot at it in
25 processing the crime scene; you can't go back out there

1 again. So what we do is we take an overview of all the
2 photographs of all that the crime scene is, observed on the
3 night or the day, depending on the incident. Basically,
4 it's just an overview to kind of give an accurate
5 representation of the scene as law enforcement officers find
6 it.

7 Q Detective, I'm now going to direct your attention to
8 State's Exhibit Eighteen. Are you able to see that
9 photograph and tell us what is in that photograph?

10 A State's Eighteen, again, is a photograph of the Chase
11 Lounge on the night of the incident. Looks like an overview
12 of the placards, which in this photograph looks like placard
13 number sixteen. I'm unable to identify the placards in the
14 background due to the size of the placards in this
15 particular photograph. Without referring to my notes, I
16 can't really go into detail what placard number sixteen is
17 showing at this time.

18 Q I'd like to direct your attention to State's Nineteen.
19 What are we seeing in State's Nineteen?

20 A State's Nineteen you can see is a different view of the
21 parking lot of the Chase Lounge. In this photograph you
22 have -- you can tell the difference in the placards. These
23 placards are a little taller. The numbers are a little bit
24 more pronounced. These are placard numbers one, two, three
25 and four. What happened is we were issued a set number of

1 placards as investigators. Mine stopped at number twenty.
2 I exhausted all of my placards during this crime scene
3 process. Therefore, I had to enlist the help of Det. Thomas
4 in placing out some more of his placards, while these
5 placards, for investigative purposes in my notes were
6 labeled as placards numbered 20.1, .2, .3, .4. Without
7 referring to my notes, I'm unable to tell you specifically
8 or looking at photographs, tell you specifically what these
9 placards are.

10 Q Do you need to refer to your notes, Det. Scott?

11 A Yes, I can.

12 Q Do you have your notes?

13 A I sure do.

14 Q Please refer to your notes and tell us what the
15 placards are.

16 A Placards again, this is 20.1, .2, .3 and .4. .1 in
17 the photograph is a spent shell casing. Number two in the
18 photograph is a cigarette, a partially smoked cigarette
19 butt. Numbers three and four are spent shell casings as
20 well.

21 Q I will direct your attention now to State's twenty-
22 five. Are you familiar with State's twenty-five?

23 A Yes, ma'am, I am. State's twenty-five is a close up of
24 placard number ten at the Chase Lounge.

25 Q And in your notes, what is placard number ten in

1 State's twenty-five regard?

2 A Placard number 10 of State's twenty-five appears to be
3 located to the left of the placard you will notice there is
4 a reddish-brown stain substance with the appearance of
5 blood.

6 Q I direct your attention now to State's Twenty-eight.
7 What do we appear to be seeing in State's Twenty-eight?

8 A Located in State's twenty-eight are placards number
9 fourteen and fifteen. Placards fourteen and fifteen, as you
10 notice, are also marking reddish-brown stains with the
11 appearance of blood.

12 Q I direct your attention now to State's Thirty-Three.
13 What do we appear to be seeing in State's Thirty-three?

14 A This is very easy. State's Thirty-three, placard
15 eighteen, is a spent shell casing from the crime scene
16 located at the Chase Lounge.

17 Q I direct your attention now to State's Thirty-four.
18 What are we seeing in State's Thirty-four?

19 A State's Thirty-four, once again, placards numbering
20 eighteen and nineteen. This is from the Chase Lounge on the
21 night of the incident. Placards eighteen and nineteen are
22 spent shell casings as well.

23 Q And in State's Thirty-five, what are we seeing in that
24 photo?

25 A State's Thirty-five is placard number nineteen from the

1 Chase Lounge on the night of the incident and it is a spent
2 shell casing as well.

3 Q I bring your attention now to State's Thirty-six. What
4 are we seeing in State's Thirty-six?

5 A State's Thirty-six is just a different view of placard
6 nineteen, but it also includes placard twenty. This is also
7 from the night of the incident. State's nineteen as
8 previously testified to is a spent shell casing. State's
9 twenty is also a spent shell casing.

10 Q Placard twenty?

11 A Excuse me, placard twenty.

12 Q And what is placard twenty?

13 A Placard twenty is a spent shell casing.

14 Q State's Thirty-seven?

15 A State's Thirty-seven, as you can see, is a close up of
16 placard twenty, which shows a spent shell casing.

17 Q I direct your attention now to State's Thirty-eight?

18 A In State's Thirty-eight, you'll see what I previously
19 mentioned about the placards numbering twenty. This is
20 where I ran out of placards and had to use Det. Thomas's and
21 his are a little larger numbers, more pronounced. You're
22 looking at placard number twenty, you're looking at placard
23 number one, and you're looking at placard number two in this
24 photograph. This is from the Chase Lounge on the night of
25 the incident and number Twenty is a spent shell casing.

1 Numbers one and two are -- number one is a spent shell
2 casing and number two is a partially smoked cigarette butt.

3 Q Okay. In State's Thirty-nine, what are we seeing in
4 that photo?

5 A State's Thirty-nine, once again, referring to the night
6 of the incident at the Chase Lounge, you'll see the larger
7 placards numbering one, two, three and four, as previously
8 testified to. One is a spent shell casing, two is a
9 partially smoked cigarette butt, three and four are also
10 spent shell casings.

11 Q Thank you, Detective.

12 THE COURT: Are you finished with the equipment? Give
13 me the lights, Madame Clerk.

14 ASST. SOL. LEGETTE: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q Det. Scott, now, you took these photos the night of the
18 incident during your crime scene investigation?

19 A Yes, ma'am.

20 Q Now, did you collect any evidence after taking the
21 photographs that you just went through so painstakingly?

22 A Yes, ma'am, I did collect some evidence.

23 Q And what evidence did you collect? You may refer to
24 your notes if you need to.

25 A Certainly; the evidence that we collected as previously

1 testified to as shown in the photographs, the various
2 placards, various pieces of evidence, were again placard
3 number one, a pair of sunglasses; placards two and three
4 were styrofoam cups; placards four and five were swabs of
5 the reddish-brown substance with the appearance of blood. A
6 swab is basically a Q-tip, cotton-tip applicator, where you
7 swab the substance, secure it or process it. Placard number
8 seven was a lighter. Placard number eight was a -- what
9 looked like a -- excuse me, placard number seven was a --
10 excuse me, placard six was a lighter. Placard seven was a
11 beer bottle. Placard eight was a broken cell phone.
12 Placard nine and placard ten, placard nine was basically a
13 scuff mark in the ditch. When I say "scuff mark," it
14 appeared that someone had either fallen or had been running
15 through the ditch line, headed towards the road. Placard
16 number ten was another scuff mark located in the general
17 vicinity. It looked like this scuff mark was accompanied by
18 the reddish-brownish stain with the appearance of blood.
19 Placards number eleven was again scuff marks in the general
20 vicinity. Placards twelve was a styrofoam container.
21 Thirteen was a small paper bag. Fourteen and fifteen were
22 the reddish-brownish stains that had the appearance of
23 blood. Sixteen was a blunt pack, basically a cigarette or
24 small cigar pack. Seventeen was a paper bag containing a
25 can. Eighteen, nineteen and twenty and twenty-one were all

1 spent shell casings. Twenty-two was the partially smoked
2 cigarette butt. Twenty-three and twenty-four were also
3 spent shell casings.

4 Q Thank you, Detective. And upon collecting this
5 evidence, what did you do with it, if anything?

6 A At the time, I secured the evidence. At the time, I
7 was evidence custodian for the Colleton County Sheriff's
8 Office. The evidence was secured and later logged into the
9 evidence locker at the Sheriff's Office.

10 Q Now, tell us again, what is the purpose -- I see
11 styrofoam cups and paper bags that you collected and all
12 types of debris, what is the purpose of collecting all of
13 those items?

14 A With any crime scene you have what we call evidence,
15 which everyone knows things that will help identify either
16 the victim or suspect or potential witnesses in the crime.
17 This particular crime scene had particular pieces of what we
18 considered evidence or potential evidence. They were all
19 marked and again later collected for processing to help us
20 in our investigation.

21 Q Okay. And did you watch any videos prior to collecting
22 this evidence or did you watch the video after?

23 A I can't testify as to when I watched the video, whether
24 it was before or after, but I did view -- attempt to view
25 the video at the Chase Lounge on their surveillance cameras.

1 Q Det. Scott, I will hand you momentarily what's been
2 previously marked as State's Exhibit Number Forty for
3 identification. Please take a moment and tell me if you
4 recognize these items.

5 ASST. SOL. LEGETTE: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 A The evidence tags located on the outside of the
9 envelope handed to me were one of them was from Det. Carter,
10 the rest of them were from me. May I open them?

11 Q Yes, you may.

12 (BRIEF PAUSE AS WITNESS OPENS BAG OF EVIDENCE.)

13 A I'm able to identify these pieces of evidence -- I'm
14 able to identify six pieces of evidence as being evidence
15 collected on the night of the incident and another piece of
16 the evidence that was in evidence that was turned over by
17 Det. Carter at a later date.

18 Q Okay.

19 ASST. SOL. LEGETTE: I think for the record Your Honor,
20 we will label State's Exhibit Forty, we will label the
21 packaging inside as State's Forty-A, B, C.

22 THE COURT: Is it already labeled?

23 ASST. SOL. LEGETTE: We have not labeled it yet, Your
24 Honor.

25 THE COURT: Counsel approach.

1 (Whereupon, a bench conference is held off the record
2 and out of the hearing of the jury.)

3 THE COURT: Step back.

4 ASST. SOL. LEGETTE: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 Q Thank you, sir.

8 ASST. SOL. LEGETTE: Begging the Court's indulgence.

9 (COURT REPORTER MARKS THE EVIDENCE FOR ASST. SOL.
10 LEGETTE.)

11 THE COURT: All right, Solicitor, are you ready to
12 proceed?

13 ASST. SOL. LEGETTE: Yes, Your Honor.

14 Q All right. Detective, I'm going to hand you what's
15 been marked as State's Exhibit Number 40-A, B, C, D, E and
16 F. Take a moment and tell me if you recognize -- no, it's
17 not, it's 40-G. It's State Exhibits 40-A, B, C, D, E and F.
18 Take a moment and tell me if you recognize these items.

19 ASST. SOL. LEGETTE: May I approach the witness, Your
20 Honor?

21 THE COURT: You may.

22 A State's Exhibit 40-A is a spent shell casing. This was
23 recovered from the Chase Lounge on the night of the
24 incident. I believe it was actually placard number 18.
25 State's Exhibit 40-B as well is a shell casing, a spent

1 shell casing. It, too, was located from the Chase Lounge on
2 the night of the incident. I believe it was placard 19.
3 State's Exhibit 40-C is a spent shell casing. It, too, was
4 from the incident at the Chase Lounge, placard number 20.
5 State's 40-D is placard number 20.1. It, too, was a spent
6 shell casing recovered from the incident at the Chase
7 Lounge. State's 40-E also is a spent shell casing recovered
8 from the night of the incident at the Chase Lounge. This is
9 placard 20.3. State's 40-G is a spent shell casing. I
10 believe this is the item that Det. Carter turned over to
11 evidence. I'm unable to tell where it was collected from or
12 when it was collected from the lack of markings on the
13 envelope. But it is a spent shell casing turned over for
14 evidence.

15 Q Are you certain about State's Exhibit 40-G?

16 A Yes, I am.

17 Q I hand you now State's Exhibit 40-F. Take a moment and
18 tell me if you recognize this.

19 ASST. SOL. LEGETTE: May I approach, Your Honor?

20 THE COURT: You may.

21 A State's 40-F is a spent shell casing recovered from the
22 Chase Lounge on the night of the incident. And this is
23 going to be placard 20.4.

24 Q Detective, are State's Exhibits 40-A, B, C, D and F in
25 the same condition today as when you collected them on

1 September 6th, 2012?

2 A Not exactly, no, ma'am.

3 Q Have they been changed or altered and how do you mean?

4 A It would appear that each shell casing has a number on
5 them. Looks like it was possibly written in some type of
6 black ink. When I logged the shell casings into evidence, I
7 didn't put any of these markings on the evidence. The
8 evidence was sent to SLED for processing; possibly that's
9 where the numbers came from, but I can't testify to the
10 numbers of these shell casings.

11 Q And other than that, there are no alterations to the
12 shell casings?

13 A No, ma'am.

14 ASST. SOL. LEGETTE: At this time, Your Honor, I would
15 offer into evidence State's Exhibit Numbers 40-A, B, C, D, E
16 & F.

17 THE COURT: You're not offering G?

18 ASST. SOL. LEGETTE: I'm not at this time.

19 THE COURT: As to State's Exhibits 40-A, B, C, D, E, F,
20 counsel?

21 MR. WALKER: No objection.

22 (WHEREUPON, STATE'S EXHIBIT 40, 40-A THROUGH 40-F,
23 SPENT SHELL CASINGS, ARE RECEIVED INTO EVIDENCE.)

24 THE COURT: Ladies and gentlemen of the jury, State
25 Exhibits 40-A, B, C, D, E and F are admitted into evidence

1 in the trial of this case without objection. Proceed,
2 Solicitor.

3 Q Detective, what other items besides a shell casing, you
4 said you collected a beer bottle?

5 A Yes, ma'am.

6 Q And a beer can?

7 A That's correct.

8 Q Were you able to process any of these items for
9 evidence?

10 A Yes, ma'am, I did. The items in question were
11 processed by myself at the Colleton County Sheriff's Office.
12 We have a lab set up there, a sterile environment that we
13 use for processing evidence.

14 Q And what do you mean by "processing evidence"?

15 A We're limited to with the capabilities that we have at
16 the Colleton County Sheriff's Office what we can and can't
17 process. For example, we can't work DNA. We can try to
18 collect DNA, but we can't process the DNA that we collect.
19 We also process for fingerprints, which in this particular
20 case is what I did with the items in evidence.

21 Q And were you able to lift a fingerprint off of any of
22 the items?

23 A I believe I was able to locate some partial prints
24 which were labeled and turned into evidence for processing.

25 Q And to your knowledge, was there anything processed on

1 those prints?

2 A I'm not a fingerprint technician, so I can't testify to
3 the quality of the prints. All I can tell you is that I
4 took the fingerprints and logged them in as evidence for
5 processing by I believe then we were using North Charleston
6 Police Department's crime lab.

7 Q Detective, now, I noticed you indicated that you
8 collected a cigarette butt as well.

9 A Yes, ma'am.

10 Q And what is the purpose for collecting those types of
11 items?

12 A Cigarette butts are actually very valuable in crime
13 scene processing, as they hold DNA. This particular
14 cigarette butt was logged into evidence and I believe later
15 sent to SLED.

16 Q And why did you collect a cigarette butt?

17 A This particular cigarette butt was a very fresh
18 cigarette butt. I had not been stepped on. It had not been
19 ran over by any vehicles. It was located in close proximity
20 to, I believe, at least three of the spent shell casings.

21 Q Now, where you able to notice any other cigarette butts
22 in the parking lot?

23 A Not to sound condescending, but it's a bar. There were
24 several other cigarette butts in the parking lot. The
25 majority of the cigarette butts that I did notice in the

1 parking lot were older cigarette butts. They had either
2 been stepped on, already been ran over, covered in dust, but
3 this particular cigarette butt, as I previously stated, was
4 a very fresh one, as in it was there that night.

5 Q Do you have any idea who might have had that cigarette
6 butt that you collected?

7 A No, ma'am, I do not.

8 Q And what was your purpose in collecting it?

9 A Once again, as I previously stated, the collection of
10 evidence is vital in determining who the victims are,
11 suspects, and or witnesses.

12 Q Detective, also, did you do anything in this case as
13 far as crime scene collecting?

14 A At this particular crime scene, once everything was
15 collected, I responded to the Colleton County Hospital, the
16 ER, where I met with Detective James Davis.

17 Q And upon meeting with Det. Davis, what, if anything,
18 did you collect from him?

19 A Once again, as I previously stated, I was the co-
20 evidence custodian. Det. Davis turned over to me a Glock
21 model 22 .40 caliber black in color handgun that was located
22 at the, I believe, the vehicle at the hospital.

23 Q And this vehicle, you said you processed it?

24 A Basically, what I did with the vehicle, Det. Davis had
25 already processed the vehicle, but to keep as little hands

1 as possible from collecting evidence and because I was co-
2 evidence custodian at the time, I swabbed the reddish-
3 brownish stains on the vehicle and in the vehicle for
4 possible identification, blood basically.

5 Q Det. Scott, I have no further questions, sir. Please
6 answer any questions from the defense.

7 THE COURT: Madame Foreperson, ladies and gentlemen of
8 the jury, I'm going to take my mid-morning break at this
9 point to give you a chance to stretch your legs. Please do
10 not discuss this case. You have not heard all of the
11 evidence in this case. I'll be back with you just as
12 quickly as I can. Please retire to your jury room.

13 (11:15 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
14 AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Although I don't like to do this, Det.
16 Scott, I'm breaking in your testimony. Feel free to get up
17 and use the restroom, but do not talk to anybody about your
18 testimony, because you're subject to cross-examination.

19 Let the record reflect that earlier this morning we had
20 a bench conference concerning the Solicitor wanting to put
21 in both the video and the audio of the witness, Brandon
22 Allen's car camera. Mr. Walker objected to the audio on the
23 grounds of hearsay. Plus, the Solicitor candidly admitted
24 that she could not even identify the people who were
25 speaking on some portions of the audio. For that reason, I

1 sustained Mr. Walker's objection on hearsay and that is the
2 reason that State's Exhibit 71 was published in video form
3 only and not audio, and I wanted there to be a record of it.
4 We will take a 10 minute recess.

5 (WHEREUPON, THE COURT IS IN RECESS IN THE TRIAL OF THIS
6 CASE. THEREAFTER, COURT RESUMES AT 11:40 A.M. AND THE
7 FOLLOWING IS HELD ON THE RECORD.)

8 THE COURT: Is the State ready to proceed?

9 ASST. SOL. LEGETTE: Yes, Your Honor.

10 THE COURT: Is the defendant ready to proceed?

11 MR. WALKER: Yes, Your Honor.

12 THE COURT: Bring me the jury.

13 (11:41 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
14 AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: All right. Ladies and gentlemen, we will
16 now continue with the testimony in the trial in this case.
17 Det. Scott, I remind you that you are still under oath.
18 Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. WALKER:

21 Q Good morning.

22 A Morning.

23 Q You testified that you responded first to the Chase
24 Lounge to assist in crime scene collection and for
25 processing it?

1 A That's correct.

2 Q Was the crime scene fully delineated when you arrived?

3 A Yes, sir. The crime scene, as I testified to earlier,
4 had already been secured with the crime scene tape.

5 Q You testified that at the time this happened, you were
6 the assistant or the co-evidence custodian; is that correct?

7 A That's correct.

8 Q Was your other co-evidence custodian out there when you
9 arrived?

10 A No, sir, she was not.

11 Q So at the scene, you were the primary person?

12 A That's correct.

13 Q And were you working under anyone's direction or were
14 you kind of directing what should be processed,
15 photographed, and everything like that ?

16 A A little bit of both actually. I worked crime scenes
17 for many years and I kind of knew what I was doing, what to
18 look for; but then I believe -- I keep wanting to call him
19 Lieutenant, but Steve Bazzle was the supervisor of the
20 Criminal Investigation Division. He was the one basically
21 delegating what tasks to do.

22 Q So any direction you took was from Mr. Bazzle?

23 A That would be correct.

24 MR. WALKER: May I approach the court reporter's desk?

25 THE COURT: You may.

1 Q The solicitor exhaustively went over the items you
2 collected and the photographs you took. I would like to go
3 through them, not quite as exhaustively. But basically, in
4 your incident report, you listed everything?

5 A That's correct.

6 Q And the corresponding placard that you took it with,
7 correct?

8 A That is correct.

9 Q And going through -- I'll come back to that, but you
10 had collected some sunglasses, cup and food items, blood --
11 you just took a swab of the brown substance? You didn't
12 actually cut any turf up or anything like that?

13 A No, sir. Once again, it's just a cotton tip
14 applicator; it's just a swab.

15 Q What do you do with that applicator?

16 A It's taken back to the criminal investigation division.
17 We have a laboratory. We have a dryer. Place it in the
18 dryer. Once it's allowed to dry, we package it and submit
19 it for evidence. Then, ultimately end up sending it to SLED
20 if we deem it's necessary.

21 Q And were those sent to SLED, those applicators?

22 A I'm sure some of them may have been sent to SLED, but
23 unfortunately with SLED's backlog on DNA, they only allow us
24 to send so many items. We kind of have to pick and choose
25 what we send. I'm sure that some of the items was sent to

1 SLED.

2 Q So SLED tells you, "We got too much stuff. You need to
3 send us your best stuff"?

4 A Basically, yes.

5 Q Now, the items you processed, you said you processed a
6 beer bottle and a beer can?

7 A I believe that is correct; as well as the cigar packet.

8 Q Were you able to process any usable information from
9 the cigar packet?

10 A As I testified earlier, when I processed it, the cigar
11 packet, the beer bottle, I obtained a -- they were processed
12 and I believe some partial prints were recovered from the
13 beer can.

14 Q And when you say partial print, that's a partial
15 fingerprint?

16 A Basically it's a partial print, not a full print. It
17 would just be partial of a fingerprint.

18 Q But that could still be used for identification in some
19 cases?

20 A I'm not a fingerprint technician, but I have seen some
21 partial prints be able to be identified.

22 Q But you wouldn't send it to anybody to be analyzed if
23 you didn't think it might help you identify something,
24 correct?

25 A Usually it's common practice for us, because we are not

1 fingerprint technicians. I can't look at a fingerprint and
2 tell you what can be used and what can't be. It was common
3 practice of mine, more specifically, if I looked at a print
4 and I felt like it was viable enough, I would send a print.
5 If it was just a smudge and not anything there, I probably
6 would not send it. But I can't look at a print and tell you
7 specifically without a shadow of a doubt this is a good
8 print or not.

9 Q So you said what you developed, you sent to North
10 Charleston?

11 A We were using North Charleston's crime lab at the time,
12 their AFIS system, that's correct.

13 Q You said you processed or were able to find a print and
14 send it to North Charleston. What are you actually sending
15 to North Charleston?

16 A We send -- it's a white back card. It's got a -- we
17 lift a print with lifting tape; we use fingerprint dust. We
18 use lifting tape to lift the print. We place it on the
19 white backing of the card. We fill out the front of the
20 card. We label it and tag it and then submit it for further
21 processing to North Charleston's crime lab.

22 Q So then they have somebody that does read fingerprints,
23 correct?

24 A Yes, they have an AFIS system there.

25 Q What is an AFIS system?

1 A It's just a fingerprint identification system that is
2 commonly used all over the United States.

3 Q So they have a person doing it or do they have a
4 computer or a system doing it?

5 A No. They have a -- I can't really testify to the AFIS
6 system because I don't really know the ins and outs of it,
7 but it's a machine that helps identify the prints, but then
8 it has to be proofed by two or more fingerprint technicians
9 before it can be labeled this is this person.

10 Q So they put it through their system and they tell you
11 what they've got.

12 A That is correct.

13 Q So they didn't get anything from what you sent?

14 A Not that I'm aware of.

15 Q You said you checked the beer bottle and the beer can,
16 why didn't you check those items for fingerprints?

17 A The items listed the beer bottle and beer can were in
18 close proximity of the actual crime scene itself. It was
19 located in close proximity of the blood, the shell casings,
20 the beer bottle and beer can were, if I'm not mistaken, they
21 were still sweating; they were still cold; meaning they
22 hadn't been there that long. We can say these were fresh
23 items. Therefore, whoever would have been in possession of
24 these items could have witnessed or participated in the
25 shooting.

1 Q What about those items? Did you think they would be a
2 good candidate to check?

3 A Beer bottles, beer cans, basically, normally, they have
4 smooth sides, smooth surfaces. They are very great at
5 holding fingerprints. They're very conducive to recovering
6 fingerprints from because of the nature of the bottle and
7 the can.

8 Q So a smooth surface is helpful in recovering a
9 fingerprint?

10 A Usually, not always, but usually.

11 Q Is it helpful to have a completely dry surface, oily
12 surface or a wet surface? What would be helpful to you in
13 getting that fingerprint?

14 A Well, realistically, you want a dry surface. Before
15 you can test an item for fingerprints. But you want to be
16 careful. You don't want to over dry it, because a
17 fingerprint ultimately is just 99 percent moisture. So
18 generally what we would do if we had an item that was wet,
19 we would collect it. We wouldn't wipe the water off. We
20 would allow it to air dry in our chamber back at our
21 investigation division laboratory. Once the item was
22 significantly dried enough that we could process it, then we
23 would continue with the process.

24 Q So a smooth surface is helpful. Close proximity to the
25 crime scene you would think it would have something to do --

1 in the list of items you said you collected earlier, I see
2 that you collected a lighter. Was that processed for
3 fingerprints?

4 A I can only testify to what I processed, which were the
5 items listed. I'm unable to tell you at this time if any
6 other additional items were processed. I know some items
7 were sent to SLED and some items were processed in house. I
8 can only testify to the items that I know I processed.

9 Q I understand that. I'm not -- I guess my --

10 THE COURT: Counsel, no statement. Just ask a
11 question.

12 Q What led to your decision to process some items and not
13 others, and in this case what led to your decision not to
14 attempt to process the lighter?

15 A Ultimately, again, with the beer bottle and the beer
16 can being wet in nature, we had to allow them time to dry.
17 Once again being more conducive to holding prints, it was
18 determined that those were the items I would process at that
19 time.

20 Q I see also that you collected sunglasses. Did you
21 attempt to -- why didn't you attempt to get fingerprints
22 from those?

23 A Once again, I can't testify if they were processed or
24 not. I'm unaware if they were or not.

25 Q Let me stop you there. Did someone tell you, "Mr.

1 Scott, I need you to try and lift fingerprints off the beer
2 bottle or beer can?"

3 A Yes, I believe so.

4 Q All right. Well, that's the source of my confusion.
5 Who told you that?

6 A That probably would have been Lt. Bazzle at the time.
7 But once again, this was two years ago.

8 Q So you only took the fingerprints, or attempted to take
9 the fingerprints from what you were directed to?

10 A Yes, sir.

11 Q Okay. Now, the styrofoam cup and food container and
12 paper bag are not necessarily smooth surfaces. What would
13 be the evidentiary value of those types of items?

14 A Again, you can't get fingerprints from styrofoam
15 surfaces. It's not as easy to do, but you can get
16 fingerprints from them. But you have to be really careful
17 because the chemicals used to process the items for
18 fingerprints can break down the styrofoam containers and
19 dissolve them. So you just have to be very careful about
20 how you go about lifting prints from styrofoam containers.

21 Q Would the fingerprints have been the only evidentiary
22 value as to why you would have collected those items?

23 A No, sir. We can look for -- obviously, fingerprints
24 are the obvious reasons why you want to collect something
25 like that, but we can also swab the rims of the cups for

1 DNA.

2 Q And you did not do any of the swabbing of those items;
3 is that correct?

4 A That's correct; I did not do any processing of those
5 items.

6 Q Do you know if anyone has done it and if so, who did
7 it?

8 A No, sir. I do not know. I wasn't the case officer so
9 I couldn't testify as to who might have done that.

10 Q Earlier you stated that State's Exhibits 40-A through
11 40-F were expended shell casings. What caliber were those
12 shell casings?

13 A May I?

14 Q Absolutely.

15 (MR. WALKER RETRIEVES STATE EXHIBITS 40-A THROUGH 40-
16 F.)

17 A This would be a .40 caliber Smith and Wesson shell
18 casing, and I'll give you the numbers: 40-F is a .40
19 caliber, 40-G is a .40 caliber, 40-E is also a .40 caliber.
20 40-D is also a .40 caliber. 40-C is also a .40 caliber.
21 40-B is also a .40 caliber. 40-A is also a .40 caliber.

22 Q So they are all at least the same caliber?

23 A That's correct.

24 Q Do you still have a service weapon?

25 A Not presently.

- 1 Q Do you carry a service weapon?
- 2 A Yes, sir, I do.
- 3 Q What kind?
- 4 A I carry a Glock .40 caliber handgun.
- 5 Q Which would carry the same ammunition?
- 6 A It would fire a .40 caliber projectile.
- 7 Q Is the handgun that you carry a revolver or a semi-
- 8 automatic pistol?
- 9 A It's a semi-automatic.
- 10 Q When you fire a round out of the pistol, what happens
- 11 to the spent cartridge?
- 12 THE COURT: Yes, ma'am?
- 13 ASST. SOL. LEGETTE: Never mind, Your Honor.
- 14 THE COURT: Be seated.
- 15 A When you fire a round out of a semi-automatic pistol
- 16 you know it ejects from the weapon.
- 17 Q And then the weapon automatically loads the next
- 18 cartridge?
- 19 A That's correct.
- 20 Q In a revolver, what happens to the spent cartridge?
- 21 A If you're firing a revolver, many of you know, it holds
- 22 the bullet inside the cylinder. It does not eject the spent
- 23 shell casing. It keeps it inside the cylinder until you
- 24 manually eject it.
- 25 Q So a semi-automatic weapon ejects the shells after

1 firing. Where are the shells kept in the gun before they
2 are fired?

3 A They are kept in what's called a magazine, which is
4 located in the grip of the weapon.

5 Q How are the shells put into the magazine?

6 A The shells have to be placed in there by someone,
7 either by manual or auto-loading device.

8 Q You load your magazine into your pistol, correct?

9 A That's correct.

10 Q How do you do it?

11 A I do it manually.

12 Q And describe that action.

13 A Basically, with the shell casing, I hold the magazine
14 in one hand and you take and push down each round into the
15 previous one until the magazine is at full capacity.

16 Q So you just demonstrated you hold the magazine in one
17 hand and one round at a time you push down into the magazine
18 until it's full?

19 A That's correct.

20 Q What are shell casings made out of?

21 A Shell casings are made out of -- I'm not a
22 metallurgist, but it looks like they're made out of brass.

23 Q Did you know or do you know if anyone attempted to
24 check the shell casings for thumb prints?

25 A It's not a common practice that we do that. I'll be

1 more than happy to elaborate on why.

2 Q Why wouldn't you do that normally?

3 A As stated before, fingerprints are 99 percent moisture.
4 When moisture is heated to a certain temperature, obviously
5 it evaporates. When you place a shell casing or a bullet
6 before you fire into your weapon, and then you fire said
7 bullet from the weapon, the gases and chemical reaction
8 creates an intense heat which will almost always obliterate
9 any fingerprint or moisture that is on the shell casing.

10 In this particular incident, or any incident where you
11 have a shooting, you kind of have to pick and choose what
12 you will or will not process. In this particular case,
13 shell casings are not conducive to holding fingerprints
14 because of the chemical reaction that the heat that's
15 produced by the firearm.

16 Q But the only way to be certain that the eradicated a
17 thumbprint would be to check, correct?

18 A The only way to be certain, that is correct.

19 Q Is the fingerprint powder that you use to check the
20 beer can and the beer bottle expensive?

21 A I don't order it. I can't tell you what it costs. I
22 don't buy it.

23 Q Does the department put a limit on how much you can
24 use?

25 A Actually, back then, I believe we were managing, trying

1 not to use as much as possible for financial reasons.

2 Passed on through chain of command, "use it sparingly."

3 Q I guess I'll ask the same thing for the tape. Is it
4 special tape that you use?

5 A Yes, sir, it is a tape that is produced that is
6 conducive for lifting fingerprints.

7 Q Is it expensive as well?

8 A Same answer. Once again, I don't order these items. I
9 just use them.

10 Q But to be clear, there are only six shell casings that
11 were collected in this case?

12 A That's correct.

13 Q So then you also testified about the cigarette butt
14 that you collected; is that correct?

15 A That's correct.

16 Q Tell me again why you chose that particular cigarette
17 butt?

18 A Once again, that particular cigarette butt was located
19 in close proximity to the shell casings as shown in the
20 photograph earlier. This cigarette butt was a very fresh
21 cigarette butt and it hadn't been stepped on, run over, no
22 dirt kicked over it. It was very pristine.

23 Q You said it was a bar and that there was a lot of
24 cigarette butts, correct?

25 A There were a lot of cigarette butts located throughout

1 the parking lot, but there was only one in pristine
2 condition located within the crime scene. The rest of them
3 were either covered with dirt, stepped on, or run over by a
4 vehicle.

5 Q So that's the only one you collected?

6 A That's the only one available for collection, yes.

7 Q Were you involved with any further processing of that
8 cigarette butt?

9 A No, sir. Once again, we do not process for DNA.

10 Q When I say processing, did you do anything else with
11 that cigarette butt?

12 A No, sir, I did not.

13 Q And then you went to the hospital, correct?

14 A That's correct.

15 Q And you said you swabbed out the inside of the vehicle
16 and took another one of those swabs that you mentioned?

17 A That's correct. I would have taken a swab of the
18 blood, the stains, the appearance of blood.

19 Q Did you do any fingerprint collection or anything like
20 that in the vehicle?

21 A That crime scene, once again, had already been taken
22 care of by Det. Davis, which he would have to testify as to
23 what he did during that process. My job simply as one of
24 the evidence custodians was to take possession of the
25 firearm, as well as the blood.

1 Q So you swabbed the blood; Det. Davis had already
2 processed the other parts of the car?

3 A I can't testify to what Det. Davis did prior to my
4 arrival.

5 Q Let me rephrase, he was in charge of anything else with
6 the car?

7 A He was in charge of anything else with the vehicle,
8 correct.

9 Q So the only thing you took into evidence was the swab
10 that you personally took and the handgun that he took out of
11 the car?

12 A That's correct.

13 Q No further questions.

14 THE COURT: Return my exhibits to the court reporter,
15 Mr. Walker.

16 MR. WALKER: Yes, Your Honor.

17 THE COURT: Redirect, limited to cross-examination?

18 ASST. SOL. LEGETTE: Nothing further, Your Honor.

19 THE COURT: As to this witness, Solicitor?

20 ASST. SOL. LEGETTE: We ask that he be excused, Your
21 Honor.

22 THE COURT: Any objection, Mr. Walker?

23 MR. WALKER: No, Your Honor.

24 THE COURT: Mr. Scott, you may step down from the
25 witness stand and you are excused from the trial of this

1 case. Call your next witness.

2 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
3 calls Lt. Ruben Carter.

4 (WHEREUPON, THE WITNESS, MR. RUBEN CARTER, ENTERS THE
5 COURTROOM AND IS DULY SWORN BY THE CLERK.)

6 MADAME CLERK: Please have a seat on the witness stand
7 and state your name for the record.

8 RUBEN CARTER: Ruben Carter; last name, C-A-R-T-E-R.

9 THE COURT: Your witness, counsel. Direct examination.

10 ASST. SOL. LEGETTE: Thank you, Your Honor

11 DIRECT EXAMINATION

12 BY ASST. SOL. LEGETTE:

13 Q Good afternoon, Lt. Carter.

14 A Good afternoon.

15 Q Where do you work?

16 A Colleton County Sheriff's Office.

17 Q And what do you do at the Colleton County Sheriff's
18 Office?

19 A Criminal investigator.

20 Q How long have you worked for the Colleton County
21 Sheriff's Office?

22 A Since 1997.

23 Q And what other law enforcement experience do you have?

24 A I started my career with the Colleton County Sheriff's
25 Office.

1 Q Were you working for the Colleton County Sheriff's
2 Office in September of 2012?

3 A Yes, I was.

4 Q Did you become involved in a homicide investigation
5 involving Moray Holmes?

6 A Yes, ma'am, I did.

7 Q Please tell us about your involvement in this case.

8 A The night of the incident, I went to the hospital, but
9 I was late arriving, so just about everything was done by
10 the time I got there; so I was limited that night. On
11 September 7th, I was advised that the DVR system at the
12 club, they were unable to download it. I was directed to
13 obtain a search warrant for the premises at the Chase Lounge
14 and go obtain the DVR from there so it could be further
15 processed.

16 Q And did you obtain a search warrant?

17 A Yes, ma'am, I did.

18 Q And upon obtaining a search warrant, what did you do
19 with the search warrant?

20 A Upon obtaining a search warrant, I had Judge McLeod,
21 who is one of our county magistrates signed the search
22 warrant, myself, and who is now Captain Taylor, and a couple
23 other deputies, I'm not sure who all went, but she was
24 involved with it. We went and executed the search warrant
25 at the Chase Lounge to obtain the DVR system.

1 Q And what does it mean to "execute a search warrant"?

2 A It means you go and serve the search warrant on the
3 premise, the store owner, the residence, you know, wherever
4 you're trying to search.

5 Q And upon whom did you serve the search warrant?

6 A The search warrant was served upon Mr. Leon Chaplin, I
7 believe was his last name.

8 Q And what role did Mr. Leon Chaplin play?

9 A I believe he was the store owner or he ran the store.

10 Q Okay. Now, upon serving the search warrant upon Mr.
11 Chaplin, what did you do next at the Chase Lounge?

12 A At that time, we obtained a DVR system which was in a
13 side room that he had set up kind of as an office.

14 Q Now, prior to obtaining the DVR system, did you review
15 the video?

16 A I did not.

17 Q Now, you said you obtained the actual DVR system
18 itself?.

19 A Yes, ma'am, we did.

20 Q What did you do with -- who was with you?

21 A Captain Taylor was.

22 Q And what do you mean when you say you "obtained the DVR
23 system." What did you do with it?

24 A What it is, is we went to the room where it was
25 located. It was in a small cabinet. The DVR in place was

1 photographed. We then turned it around backwards and
2 photographed the connections, how it was hooked up at the
3 time. We then unplugged the DVR, took it along with the
4 power cord to be turned into evidence.

5 Q Based on having viewed the DVR system itself, did it
6 appear to be operational?

7 A It was.

8 Q And you say that you took photographs of this DVR prior
9 to taking it?

10 A Yes.

11 Q Okay.

12 ASST. SOL. LEGETTE: Begging the Court's indulgence.

13 Q Det. Carter, I'm going to hand you in a moment what's
14 been previously marked State's Exhibit 41, 42, 43 and 44.
15 Please take a moment and tell me if you recognize State's
16 41, 42, 43, 44, previously marked for identification.

17 ASST. SOL. LEGETTE: May I approach, Your Honor?

18 THE COURT: You may.

19 A Yes, ma'am.

20 Q And Det. Carter, what are State's Exhibits 41, 42, 43,
21 44?

22 A State's Exhibit Number 41 through 44 are pictures that
23 were taken when we retrieved the DVR.

24 Q And are State's Exhibits 41, 42, 43 and 44, a fair and
25 accurate representation of the DVR system as it existed

1 while you executed the search warrant?

2 A Yes, it is.

3 ASST. SOL. LEGETTE: At this time, Your Honor, I would
4 offer into evidence State's Exhibits 41, 42, 43 and 44.

5 MR. WALKER: No objection.

6 THE COURT: Ladies and gentlemen of the jury, State's
7 Exhibit 41, 42, 43 and 44 will be admitted into evidence in
8 the trial of this case without objection.

9 (WHEREUPON, STATE EXHIBIT NUMBER 41, PHOTO OF DVR
10 SYSTEM, IS RECEIVED INTO EVIDENCE.)

11 (WHEREUPON, STATE EXHIBIT NUMBER 42, PHOTO OF DVR
12 SYSTEM, IS RECEIVED INTO EVIDENCE.)

13 (WHEREUPON, STATE EXHIBIT NUMBER 43, PHOTO OF DVR
14 SYSTEM, IS RECEIVED INTO EVIDENCE.)

15 (WHEREUPON, STATE EXHIBIT NUMBER 44, PHOTO OF DVR
16 SYSTEM, IS RECEIVED INTO EVIDENCE.)

17 THE COURT: In evidence, you may publish, Solicitor.

18 Q Det. Carter, just briefly tell us what are we looking
19 at in State Exhibit's 41, 42, 43 and 44?

20 A State's Exhibit 41 is a picture of the housing and the
21 monitor for the DVR system, along with the DVR sitting
22 inside the enclosure.

23 Q And that monitor sitting back there, does it appear to
24 be operational?

25 A Yes, it was on and operational. As a matter of fact,

1 you can see our vehicles in one of the photographs from that
2 date.

3 Q And State's 42?

4 A State's 42 is just a picture of the back of the DVR
5 system showing how the connections were hooked up at the
6 time.

7 Q Okay. I don't think we need to proceed any further
8 with 43 and 44. Are they just the same thing?

9 A They're the same, yes, ma'am.

10 Q Now, Det. Carter, moving on past the photographs that
11 you took, upon executing the search warrant and collecting
12 the DVR system, what did you do next with the DVR system --
13 or what was done with the DVR system next?

14 A That day it was handed over to Captain Taylor. At that
15 time, she was one of our evidence custodians. It was logged
16 into evidence, and then on September 10th, I retrieved the
17 DVR out of evidence and took it to the State Law Enforcement
18 Division to their forensic service personnel to do all their
19 tech support to try and retrieve the video off of that
20 system.

21 Q And did you review the video with them at this time?

22 A Yes, ma'am, I did.

23 Q Okay. And upon reviewing the video, did it appear to
24 show the events that occurred on September 6th, 2012?

25 A It did appear to show those events.

1 Q And upon reviewing the video with the SLED computer
2 tech department, did you retrieve any evidence?

3 A They were able to retrieve a video showing what
4 appeared to be incidents from that night and it was placed
5 on a CD which was brought back with me from SLED on that
6 day.

7 Q Turned over directly to you?

8 A It was turned over directly to me from them and it was
9 logged into evidence.

10 Q And did it remain in your complete custody and control
11 after it was turned over to you from SLED?

12 A Yes, it was.

13 ASST. SOL. LEGETTE: May I approach the witness, Your
14 Honor? THE COURT: You may.

15 Q Det. Carter, I will hand you momentarily what's been
16 previously marked for identification, State's Exhibit 45.
17 Please take a moment and tell if you recognize this item.

18 ASST. SOL. LEGETTE: May I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 A Yes, ma'am, I do.

22 Q Det. Carter, what is State's Exhibit 45?

23 A State's Exhibit 45 is a CD which has written on the
24 outside "OCA 12-4826 video from 1008 Proctor Street."

25 Q And how are you able to recognize State's Exhibit 45?

1 A This was the video that I viewed and put my initials on
2 it.

3 Q And is State's Exhibit 45 a fair and accurate
4 representation of the video that you received from SLED when
5 you took the DVR system to them to have it downloaded?

6 A Yes, it was.

7 Q And has that video been changed or altered in any way?

8 A It had not.

9 Q And at my request, have you previously reviewed that
10 video prior to today to make sure it's accurate?

11 A Yes, ma'am, I have.

12 ASST. SOL. LEGETTE: Your Honor, at this time, I would
13 offer State's Exhibit 45 for admission into evidence.

14 THE COURT: As to State's 45?

15 MR. WALKER: No objection.

16 THE COURT: Ladies and gentlemen of the jury, State's
17 Exhibit Number 45 will be admitted into evidence in the
18 trial of this case without objection.

19 (STATE'S EXHIBIT NUMBER 45, CD OF SURVEILLANCE AT THE
20 CHASE LOUNGE ON 9-6-12 IS RECEIVED INTO EVIDENCE.)

21 THE COURT: State's Exhibit 45 in evidence. You may
22 publish.

23 ASST. SOL. LEGETTE: Thank you, Your Honor.

24 Q Det. Carter, let me get that back from you.

25 ASST. SOL. LEGETTE: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 Q Det. Carter, with regards to this case, did you collect
4 any other items of evidence?

5 A There was a shell casing, I can't remember the exact
6 number. Y'all had it marked. It was a .40 caliber shell
7 casing.

8 ASST. SOL. LEGETTE: Begging the Court's indulgence.

9 Q Tell us about this shell casing that you collected.

10 A This shell casing was collected from a Mr. Travis Bell
11 who had previously had a handgun stolen from him. I was
12 approached by him and he stated that he had a .40 caliber
13 Glock stolen just prior -- I can't remember the date. It
14 was a Walterboro Public Safety case. He was curious if this
15 was the same handgun that might have been used. Since it
16 matched the same caliber he said when you buy a handgun
17 brand new, specifically a Glock, you get test fire shell
18 casings from the factory in the box. He told me he had
19 those shell casings and wanted to know if we wanted them to
20 compare to the shell casings that were found at the
21 scene to give us kind of an idea what we might have been
22 looking for if it was a match.

23 Q And did Mr. Bell, upon telling you this information,
24 did you retrieve a shell casing from him?

25 A Yes, I did.

1 THE COURT: Ask the witness is he can identify whatever
2 it is you intend to introduce, Solicitor.

3 ASST. SOL. LEGETTE: Yes, Your Honor.

4 Q Lt. Carter, I will hand you what's been previously
5 marked for identification as State's Exhibit 40-G. Please
6 take a moment and tell me if you recognize this item.

7 ASST. SOL. LEGETTE: May I approach the witness, Your
8 Honor? THE COURT: You may.

9 A Yes, ma'am, I can.

10 Q And what is State's Exhibit 40-G?

11 A State's Exhibit 40-G is a spent .40 caliber shell
12 casing retrieved from Travis Bell by myself and logged into
13 evidence.

14 Q And has State's Exhibit 40-G been changed or altered in
15 any way?

16 A The only alteration I see on State's Exhibit 40-G is a
17 number on the shell casing in black ink.

18 Q And other than the number on the shell casing, has it
19 been changed or altered in any other way?

20 A No, ma'am, it has not.

21 ASST. SOL. LEGETTE: Your Honor, at this time, I would
22 offer for admission into evidence, State's Exhibit 40-G.

23 MR. WALKER: No objection.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibit 40-G will be admitted into evidence in the trial of

1 this case, without objection.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER 40-G, SPENT SHELL
3 CASING BELONGING TO MR. TRAVIS BELL, IS RECEIVED INTO
4 EVIDENCE.)

5 THE COURT: State's Exhibit 40-G in evidence. You may
6 publish now, Solicitor.

7 ASST. SOL. LEGETTE: Thank you, Your Honor.

8 Q Lt. Carter, did you have any other involvement in this
9 case?

10 A No really hands-on involvement, no, ma'am.

11 Q Okay. Did you ever assist in trying to locate any
12 suspects in this case?

13 A Yes, ma'am. Just about everybody in the Criminal
14 Investigation Division at the time did assist.

15 Q Lt. Carter, I have no further questions. Please answer
16 any questions from the defense.

17 A Thank you, ma'am.

18 THE COURT: Cross-examination?

19 MR. WALKER: May it please the Court?

20 CROSS-EXAMINATION

21 BY MR. WALKER:

22 Q So did the shell casing match?

23 A I'm not sure, sir. I didn't see the reports.

24 THE COURT: Ask your question again so the jury can
25 hear you, Matt, instead of walking up to the witness.

1 MR. WALKER: I asked if the shell casing matched, Your
2 Honor.

3 THE COURT: What shell casing?

4 MR. WALKER: Exhibit 40-G.

5 A I'm unaware; if it did, the reports would come back to
6 the case investigator.

7 Q You said that you responded initially to the hospital;
8 right?

9 A Yes, I did.

10 Q Okay. Things were winding up there when you arrived?

11 A Yes, sir.

12 Q Who was still there from law enforcement?

13 A I believe Det. Scott was still there. Rusty Davis --
14 Inv. Davis. I'm not 100 percent sure. It's been two years.
15 I believe Det. Gathers.

16 Q Were you involved in processing of the white car at all
17 that was at that scene?

18 A No, sir.

19 Q Did you ever have any involvement in gathering
20 evidence?

21 A No, sir, I did not.

22 Q I have no further questions.

23 THE COURT: Redirect?

24 ASST. SOL. LEGETTE: None, Your Honor.

25 THE COURT: As to the witness?

1 ASST. SOL. LEGETTE: We ask that he be excused.

2 THE COURT: Any objection, Mr. Walker?

3 MR. WALKER: No, Your Honor.

4 THE COURT: Lt. Carter, you may step down and you are
5 excused from the trial of this case. You may leave the
6 courtroom.

7 WITNESS: Yes, sir. Thank you.

8 THE COURT: Call your next witness.

9 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
10 calls Det. James Rusty Davis.

11 THE COURT: Come around and be sworn.

12 (WHEREUPON, DET. JAMES RUSTY DAVIS IS DULY SWORN.)

13 MADAME CLERK: Please have a seat on the witness stand.
14 State your name for the record.

15 THE COURT: Have a seat. Make yourself comfortable.
16 Adjust the chair. Adjust the microphone. Unbutton your
17 coat. State your full name and spell your last for me,
18 please.

19 DET. DAVIS: Det. Sgt. James Russell Davis; last name
20 is D-A-V-I-S.

21 THE COURT: Your witness, counsel.

22 ASST. SOL. LEGETTE: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY ASST. SOL. LEGETTE:

25 Q Good afternoon, Det. Davis.

1 A Good afternoon, ma'am.

2 Q Sir, where do you work?

3 A Colleton County Sheriff's Office.

4 Q And what are your duties at the Colleton County
5 Sheriff's Office?

6 A I hold several duties, actually. My primary duty is as
7 a criminal investigator. I'm also at this point the primary
8 evidence custodian, as well as the team leader on our
9 squadron.

10 Q And how long have you worked for the Colleton County
11 Sheriff's Office?

12 A I've worked for Colleton County Sheriff's Office since
13 2006, the middle of 2006.

14 Q Do you have any other law enforcement experience?

15 A Yes, ma'am. I worked for Walterboro Public Safety,
16 which was Walterboro Police Department at the time, for
17 about two and a half years prior to starting the Sheriff's
18 Office.

19 Q Now, Det. Davis, did you have occasion to become
20 involved in a homicide investigation involving Moray Holmes?

21 A Yes, ma'am, I did.

22 Q Please tell us about your involvement.

23 A The night of September the 6th, 2012, I was actually
24 home and received a phone call to come out in reference to a
25 shooting that had occurred. I was directed to respond to

1 the hospital at the time. I came up to the hospital and
2 made contact with the patrol officers that were on scene at
3 the hospital, as well as Det. Gathers.

4 Q Okay. And upon meeting with Det. Gathers, what did you
5 do after you met with her?

6 A After speaking with her, she basically gave me a quick
7 briefing of what she had at that point. She and I went back
8 into the emergency room itself. I assisted her in actually
9 taking photographs of the victim. At that point, I went
10 outside and was advised about the white Hyundai Sedan which
11 was in the parking lot. I made contact with the owner of
12 that vehicle, Ms. Shavonne Brown. She provided a signed and
13 consent to search form for me giving me permission to check
14 the vehicle. At that point, myself and Dep. Allen, who
15 assisted me, did check and take a look in the vehicle,
16 search the vehicle for any further evidence. I did locate
17 the reddish-brown stain in the back seat, as well as coming
18 out of the exterior of the rear passenger door. It did have
19 the appearance of blood. I located a partial top half of a
20 broken cell phone on the center console of the vehicle. I
21 also located a Glock .40 caliber handgun in the glove box.

22 Q And upon locating these items, what, if anything, did
23 you do with these items?

24 A I took photographs of the vehicle and the items. At
25 that point, shortly thereafter, Det. Scott arrived on scene

1 and due to him being the evidence custodian at that time, I
2 turned the items over to him.

3 Q Now, these items, who did these items belong to?

4 A We have found out through further investigation that
5 the cell phone, the top half of the cell phone did actually
6 belong to the victim, Mr. Holmes. The handgun actually
7 belonged to the owner of the vehicle, Ms. Shavonne Brown,
8 who came up to the hospital after the incident had occurred.
9 From what I was able to gather, was not on scene at the time
10 of the incident.

11 Q Now, after you located all of these items of evidence,
12 you said you took photographs of the victim. What was his
13 status at that time?

14 A He was deceased at that time.

15 Q Now, upon taking photographs, what did you do after you
16 turned over the items of evidence to Det. Scott?

17 A At that point, myself and then Captain Gene Johnson
18 made contact with a Kelvin Mitchell, and a couple of other
19 people, trying to find out if they had any other
20 information, if they witnessed the incident that night. Mr.
21 Mitchell gave us information that he was at the scene, but
22 he came up after the fact, stating that he did not want to
23 give us anymore information for fear for his safety.

24 Q Now, did you later learn differently?

25 A Yes, ma'am. We received a phone call from Mr. Steve

1 Bazzle; then, Lt. Steve Bazzle, that he had watched the
2 video and he had actually observed Mr. Mitchell's vehicle in
3 the parking lot prior to the victim even arriving to the
4 scene, and that Mr. Mitchell's vehicle did not leave the
5 parking lot until after the shots were fired and that the
6 vehicle was actually within a very short distance; from his
7 description, within several feet of the actual shooting
8 itself.

9 Q So upon learning this information about Mr. Mitchell,
10 what, if anything else did you do? Whom else did you talk
11 with?

12 A We spoke with, again, Ms. Brown. She stated she was
13 not there at the time of the incident. She came up after
14 she got the phone call as to what happened. That night,
15 there was no one else at the emergency room to make contact
16 with, to speak with.

17 Q Okay. At some point, did you actually become the lead
18 investigator in this case?

19 A Yes, ma'am. Late that evening, once everything had
20 calmed down, most of the investigators met up at the
21 emergency room, standing outside the door just talking about
22 what each investigator had come up with, any evidence they
23 had collected, information they had gathered. At that time,
24 Lt. Bazzle told me he was going to assign me the case.

25 Q Now, after you became the lead investigator in this

1 case, did you meet with any other witnesses?

2 A Yes, ma'am. I was notified by then Captain Gene
3 Johnson that he had received a phone call from a female, a
4 contact of his, that she had been in contact with someone
5 who had been on scene of the incident the night it happened
6 and had watched the entire incident and that he did wish to
7 meet with us and talk with us.

8 At that point, Captain Johnson made arrangements with
9 this female to have the witness come up to speak with us.
10 He came up and we stayed over late one night just because he
11 was, there again, in fear of his safety, and fear of
12 retaliation of him coming forward; he did come up and we
13 waited until everyone else had left. Captain Johnson and I
14 met with Donald Odom who stated that he was at the scene
15 that night and that he observed the entire incident.

16 Q Okay. And upon -- now, I'm sorry, let's go back. I
17 forgot one thing. Prior to meeting Mr. Donald Odom, had you
18 already gotten an arrest warrant for the suspect in this
19 case?

20 A Yes, ma'am, I had. I actually received or got those
21 arrest warrants signed the following day on September the
22 7th.

23 Q And what did you base that arrest warrant on?

24 A I had received information from -- she is now Major
25 Leslie Jamison. She was the investigator at the time. She

1 had received information from two people that they had been
2 on the scene as well. One of which positively identified
3 the defendant, Mr. Nesbitt, as the shooter, and actually
4 picked him out of a photo lineup. Based off of the witness
5 statements, that was the probable cause used to obtain the
6 arrest warrants.

7 Q And thereafter, you met with Mr. Odom.

8 A Yes, ma'am.

9 MR. WALKER: Your Honor, before we pursue that, I'm
10 going to object.

11 THE COURT: Counsel approach.

12 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
13 AND OUT OF THE HEARING OF THE JURY.)

14 THE COURT: Proceed. My understanding is that the
15 objection is withdrawn, in light of our conference?

16 MR. WALKER: Yes, Your Honor.

17 THE COURT: Proceed.

18 ASST. SOL. LEGETTE: Your Honor, I would ask that the
19 statements regarding any identification of Mr. Nesbitt in a
20 photo lineup be stricken from the record at this time, Your
21 Honor.

22 THE COURT: Any objection?

23 MR. WALKER: No, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, you will
25 disregard any comment made in this case concerning the photo

1 lineup. That is not in evidence in this case, and the
2 parties agree that it should not be a part of your decision.
3 Proceed.

4 ASST. SOL. LEGETTE: Thank you, Your Honor.

5 Q Det. Davis, you indicated that you had spoken with
6 Donald Odom?

7 A Yes, ma'am.

8 Q Did you speak to any other witnesses, personally?

9 A Yes, ma'am. I also met with Brian Manigo.

10 Q Okay. Don't tell us what he said, but just ---

11 A He also identified Mr. Nesbitt.

12 Q Okay. Now, thereafter, having spoken to witnesses, did
13 you do any other investigation, such as search warrants, or
14 talking to anyone else in the unit?

15 A Yes, ma'am. We had received information that the
16 weapon involved had possibly been located at a residence at,
17 I believe, it's [REDACTED] in Walterboro. We -- I
18 did execute a search warrant on that; we executed a search
19 warrant on that property. We did not locate any evidence
20 from this case at that residence.

21 Q And were you ever able to locate a gun that was used in
22 this incident?

23 A No, ma'am.

24 Q Now, did you ever assist in trying to locate -- well,
25 let's talk about this. What date did this incident happen?

1 A The incident occurred on the 6th of September.

2 Q Okay. And was the suspect arrested on September 6th?

3 A No, ma'am.

4 Q Are you aware of the efforts to locate him?

5 A Yes, ma'am.

6 Q Let's talk about the effort a little bit. Did you
7 assist?

8 A Yes, ma'am, I did. For approximately a week, I believe
9 it was right at seven days actually, we, as in myself, and
10 all the other members of the Criminal Investigation Unit,
11 members from SLED fugitive team, assisted by other members
12 of Walterboro Public Safety, attempted to make contact with
13 the defendant in multiple locations throughout the county.
14 Friends, family, residences, places that he frequented were
15 met with negative results. We were unable to locate him.
16 On the night of, I believe it was the 13th, we were out at
17 [REDACTED], which is a residence that he is
18 typically known to frequent. We were out there looking for
19 him and I was approached by a Ms. Yolanda Glover, who is, I
20 believe, the girlfriend of the defendant, stating that he
21 did wish to turn himself in at that point, but that he would
22 only turn himself in to, at that point, Lt. Chapman of
23 Walterboro Public Safety. I then directed her to Steve
24 Bazzle and Leslie Jamison who got ahold of Officer Chapman
25 and worked that arrangement out.

1 Q And to your knowledge, did Mr. Nesbitt turn himself
2 over?

3 A He did, Yes, ma'am.

4 Q Now, you said you were the lead investigator on this
5 case. With regard to this investigation, what else did you
6 do in this case?

7 A From that point up until, other than carrying some
8 evidence to different locations after becoming the evidence
9 custodian a month later, the majority of my involvement at
10 that point has just been administrative, maintaining,
11 collecting and maintaining case files, things of that
12 nature, and just trying to keep everything together.

13 Q Did you take any evidence or send any evidence off for
14 processing?

15 A Yes, ma'am, I did. I carried -- I did carry the
16 cigarette butt that Det. Scott referred to earlier, as well
17 as the pair of sunglasses to Beaufort County Sheriff's
18 Office Forensic Lab for DNA testing.

19 Q Okay. Did you also do anything with the latent print?

20 A The latent print was sent off prior to me going into
21 the evidence locker as custodian, but it was sent off to
22 North Charleston Police Department.

23 Q And did you retrieve it -- as evidence custodian, did
24 you retrieve it and bring it back into evidence?

25 A It was returned back to the locker, back into my

1 possession. I believe actually Officer Kirk Wallace, he
2 lives over in that general vicinity, so he stopped through
3 there one morning on his way into work and picked up some of
4 our prints and that was returned to us, and he brought it
5 directly back to me and it was put back into the locker.

6 ASST. SOL. LEGETTE: Begging the Court's indulgence.

7 THE COURT: Yes, ma'am.

8 Q Det. Davis, are you familiar with an aerial view for
9 the location of the Chase Lounge from an aerial map?

10 A Yes, ma'am.

11 Q Detective, I hand you now what's been previously marked
12 for identification as State's Exhibit 46. Please take a
13 moment and tell me if you recognize this item.

14 ASST. SOL. LEGETTE: May I approach the witness, Your
15 Honor? THE COURT: You may.

16 A Yes, ma'am, I do.

17 Q And what is State's Exhibit 46?

18 A It is an aerial photograph that appears to be maybe
19 from Google Maps, something of that nature, of the Colleton
20 County area, showing the courthouse, as well as the Chase
21 Lounge, with a direct route.

22 Q Okay. And is State's Exhibit 46 a fair and accurate
23 representation of the aerial view of the Chase Lounge and a
24 direct route to getting there from the courthouse?

25 A Yes, ma'am, it is.

1 ASST. SOL. LEGETTE: At this time, Your Honor, I would
2 offer State's Exhibit 46 for admission into evidence.

3 MR. WALKER: No objection.

4 THE COURT: Ladies and gentlemen of the jury, State's
5 Exhibit 46 will be admitted into evidence in the trial of
6 this case without objection.

7 (WHEREUPON, STATE EXHIBIT NUMBER 46, AERIAL MAP, IS
8 RECEIVED INTO EVIDENCE.)

9 THE COURT: State's Exhibit 46 in evidence. You may
10 now publish to the jury

11 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
12 approach the witness?

13 THE COURT: You may.

14 Q Det. Davis, please direct your attention to exhibit on
15 the screen, State's Exhibit 46. Please tell us what we are
16 seeing. Do you need my pointer?

17 A No, ma'am, I can describe it. There again, it is a
18 aerial view of Colleton County, the Walterboro area. It
19 appears to be from maybe a Google map, Google Earth,
20 something of that nature. At the very top towards the
21 middle, you see the words "Colleton County Courthouse," and
22 there is a point there indicating the location of where we
23 are today. As you can see, the red line goes out towards
24 Jefferies Highway, then travels southbound on Jefferies
25 Highway to Green Pond Highway, which is right next to the

1 Dairy Land Restaurant, which is at the point there, if you
2 make a left onto Green Pond Highway and follow it around to
3 where you see the next turn, that it turning onto Proctor
4 Street. If you follow Proctor Street all the way to the
5 very end, at the intersection of Proctor Street and River
6 Street is the Chase Lounge.

7 Q Thank you, Detective. Det. Davis, also part of your
8 investigation, did you create any crime scene diagrams in
9 this matter?

10 A Yes, ma'am, I did.

11 Q Tell us about how you were able to create those
12 diagrams.

13 A The Sheriff's Office has a crime scene reconstruction
14 software known as the AROS 360. It is a software program
15 that we received a couple years back. Through measurements
16 of the actual property taken at various different times
17 actually, as well as overlaid on Google Map, we were able to
18 do a positive reconstruction of the incident, the incident
19 location, as it was the night of the location.

20 Q And did you, yourself, take physical measurements?

21 A Yes, ma'am, I did.

22 Q Det. Davis, I will hand you in a moment what has been
23 marked as State's Exhibit 47, State's 48, State's 49,
24 State's 50, State's 51, State's 52, and State's 53. Please
25 take a moment and tell me if you recognize State's Exhibits

1 47 through 53.

2 ASST. SOL. LEGETTE: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 A Yes, ma'am, I do.

6 Q And Det. Davis, what are State's Exhibits 47, 48, 49,
7 50, 51, 52 and 53?

8 A These are renderings from the AROS 360 software that I
9 was able to produce through that program.

10 Q And Detective, are State's Exhibits 47, 48, 49, 50, 51,
11 52, and 53, a fair and accurate representation of the crime
12 scene reconstruction diagram that you created?

13 A Yes, ma'am, they are.

14 ASST. SOL. LEGETTE: Your Honor, at this time, I would
15 offer for admission into evidence State's Exhibits 47, 48,
16 49, 50, 51, 52 and 53.

17 THE COURT: As to 47 through 53, inclusive, counsel?

18 MR. WALKER: No objection.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibits 47, 48, 49, 50, 51, 52 and 53 will be admitted into
21 evidence in the trial of this case without objection.

22 (WHEREUPON, STATE EXHIBIT NUMBERS 47, 48, 49, 50, 51,
23 52 AND 53, AROS 360 DIAGRAMS, ARE RECEIVED INTO EVIDENCE.)

24 THE COURT: You may now publish to the jury.

25 ASST. SOL. LEGETTE: Thank you, Your Honor.

1 Q Det. Davis, let's focus on State's Exhibit 47, please.

2 ASST. SOL. LEGETTE: Your Honor, may he step down?

3 THE COURT: He may, with a microphone; and you better
4 not turn your back to my court reporter so she can hear you
5 and speak up. Pat, you got the portable mic?

6 MADAME CLERK: Yes, sir.

7 THE COURT: Matt, you come where you can see. Becky,
8 you let me know if you can't hear them. Ladies and
9 gentlemen of the jury, let me know if anybody can't hear or
10 if anybody can't see the exhibit. Ask a question,
11 Solicitor.

12 ASST. SOL. LEGETTE: Thank you, Your Honor.

13 Q Det. Davis, tell us what we are looking at in State's
14 Exhibit 47.

15 A This is technically a three dimensional view of the
16 front of the building in front of the parking lot looking
17 down from behind Rivers Street looking down in front of the
18 parking lot.

19 Q Okay. And what are we actually seeing in the actual
20 crime scene construction diagram?

21 A You can see here is the front of the building. You can
22 see the differentiation from the parking lot and the grassy
23 areas. You can see the street below. There are
24 measurements here, here and here that are measured from
25 where I went out and actually took physical measurements as

1 well. This is a representation of the victim's vehicle and
2 a representation of the white sedan that was driven by
3 Kelvin Mitchell on the night of the incident.

4 Q Can you tell us, based on your measurement, what is the
5 distant between the location and the parking lot?

6 A From the far end of one driveway to the far end of the
7 second driveway is a little over sixty feet, approximately
8 62 feet. Then, as we measured from the corner of the
9 establishment to the roadway ---

10 THE COURT: Identify for the record what you're looking
11 at by exhibit number, please, sir.

12 DET. DAVIS: Yes, sir, I will.

13 A This is actually difficult to make out from this and
14 any three-dimensional; a two-dimensional is easier to read,
15 but it was approximately 30 feet, I believe, or somewhere in
16 that general vicinity.

17 Q So 30 feet from the corner of the building to the
18 roadway?

19 A Yes, ma'am, somewhere around that, I believe.

20 Q Okay. And according to what your investigation is,
21 which vehicle belonged to the victim?

22 A From investigation, the gold vehicle down here in the
23 bottom corner belonged to the victim himself.

24 Q And according to your investigation, where did the
25 actual shooting incident occur?

1 A There again, according to the investigation, the
2 shooting actually occurred in this general vicinity,
3 approximately eight to ten feet in front of the white Sedan.

4 Q And according to your investigation, where was the
5 victim seated while this shooting was happening?

6 A The victim was seated in the front passenger seat of
7 the victim's vehicle, on the same side as the incident.

8 Q Thank you, Detective.

9 THE COURT: Let the record reflect that he has been
10 referring in your questions to Exhibit Number?

11 ASST. SOL. LEGETTE: Forty-seven, Your Honor.

12 Q Det. Davis, thank you. I have no further questions for
13 you.

14 MR. WALKER: May we approach, Your Honor?

15 THE COURT: You may. Counsel approach.

16 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. WALKER:

21 Q Good afternoon.

22 A Good afternoon.

23 Q Referring again to your testimony, you say that
24 initially you responded to the hospital, correct?

25 A Yes, sir.

1 Q And you spoke to other officers, first, correct?

2 A Correct.

3 Q But your first investigatory step was to speak to the
4 owner of the vehicle -- the white vehicle that had
5 transported Mr. Holmes?

6 A No, sir. My first investigatory step was when I went
7 into the room with the victim and Det. Gathers to help her
8 take photographs of the victim.

9 Q And from there you proceeded to the car?

10 A Correct.

11 Q And that is where you encountered Ms. Shavonne Brown?

12 A Yes, sir.

13 Q She is the one who gave you the permission to process
14 or look into her car?

15 A Yes, sir.

16 Q You said that Ms. Shavonne Brown told you that she was
17 not at the scene?

18 A Correct.

19 Q So how was her car at the scene?

20 A She stated that she had -- that her significant other,
21 Mr. Kelvin Mitchell, was driving the vehicle and he had
22 driven the vehicle up to the incident location and then
23 driven from there to the hospital.

24 Q And she had been home or?

25 A I don't recall where, but she was not at the scene, no,

1 sir.

2 Q And was Kelvin Mitchell also at the hospital?

3 A Yes, sir, he was.

4 Q And that's where you spoke to him?

5 A Yes, sir.

6 Q But he said that he had denied being there?

7 A That's correct.

8 Q And then you later -- you later received information
9 from Lt. Bazzle at the time?

10 A Yes, sir, it was.

11 Q That in fact it appeared that Kelvin Mitchell had been
12 there.

13 A Yes, sir.

14 Q Did you confront Mr. Mitchell about this?

15 A Yes, sir, we did. At that point, he chose not to
16 answer any further questions.

17 Q What did you do at that point?

18 A He was, shortly thereafter, placed under arrest for
19 obstruction of justice.

20 Q So you arrested Mr. Mitchell at the hospital that
21 night?

22 A Yes, sir.

23 Q Then the Solicitor asked you what you did next and you
24 talked about a meeting that you had with Donald Odom.

25 A That actually occurred -- I can't recall the exact

1 date. I can refer to my notes, but I believe it was a month
2 after -- maybe a month after the incident.

3 Q Would you refer to your notes?

4 A Yes, sir, I sure can.

5 (WITNESS REVIEWS NOTES BRIEFLY.)

6 That incident occurred on September 24th of 2012 at
7 approximately 8:00 in the evening.

8 Q Was that an in-person meeting or on the phone?

9 A That was in person.

10 Q Is that the only meeting that you had with Mr. Odom?

11 A No, we actually had another meeting with him -- I
12 believe it was about a week later. I don't have the exact
13 date in my notes directly in front of me, but it was
14 approximately a week later or so that we did meet with him a
15 second time, also in person, at the Sheriff's Office Annex.

16 Q The second time you met with him, did he give you a
17 written statement?

18 A No, he actually gave a written statement I believe the
19 first time.

20 Q Do you have a copy of his written statement?

21 A I do not have a copy with me. That was secured --
22 sealed up until, just prior, 10 days prior to the case.

23 Q Would it assist your memory to refer to a copy of Mr.
24 Odom's statement?

25 A Yes, sir.

1 MR. WALKER: May I approach the witness, Your Honor?

2 THE COURT: You may.

3 Q I'm going to hand you a copy of Mr. Odom's statement
4 and ask you to refresh your memory.

5 A (WITNESS REVIEWS STATEMENT.) Okay. The statement
6 forms were given to him at the night of the first meeting.
7 He actually filled them out on his own and I met with him
8 just long enough to pick up the statement forms on October
9 the 3rd. There was no further communication about the case
10 at that time. I just met with him long enough to get him to
11 confirm that that was his statement, watch him sign the
12 statement. And then there was a follow-up interview with
13 him.

14 Q So the first time y'all talked, you said, "Hey, fill
15 this out and bring it back to me"?

16 A Yes, sir.

17 Q And then he brought it back to you on October the 3rd,
18 2012?

19 A I met with him then, yes, sir. I received it back
20 then.

21 Q And then you say there was another meeting with Mr.
22 Odom. When was that?

23 A I do not remember -- recall the exact date. There
24 again, most of the documentation or the meetings with him
25 were sealed at the Solicitor's request due to the sensitive

1 nature of his ---

2 Q I'll interrupt you there and just ask you if you
3 remember when you met with him?

4 A I don't recall exactly.

5 Q And you didn't prepare a memorandum of every interview
6 that you had with him?

7 A I did, but I don't have a copy; I did do a supplemental
8 report, but I do not have a copy of that supplemental
9 report. I thought I did, but I don't.

10 Q All right.

11 A There is audio and video of both interviews as well.

12 Q And in the second interview, you showed Mr. Odom the
13 video that was earlier entered into evidence that was
14 obtained from the search warrant for the Chase Lounge; is
15 that correct?

16 A Yes, sir.

17 Q And then, have you had anymore meetings with Mr. Odom?

18 A Personally, no, sir, I have not, other than serving the
19 subpoena for this trial.

20 Q But Mr. Odom did meet with the Solicitor's Office about
21 two weeks ago?

22 A Yes, sir, that is correct.

23 Q But I ask you again to refresh your memory from the
24 statement that Mr. Odom gave you.

25 A Yes, sir.

1 THE COURT: Ask a question, counsel.

2 Q In the statement, Mr. Odom identifies Mr. Nesbitt as
3 the person who shot Mr. Holmes, correct?

4 A Yes, sir.

5 Q It says ---.

6 ASST. SOL. LEGETTE: Your Honor?

7 THE COURT: Counsel approach.

8 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 THE COURT: Objection sustained. Proceed.

11 Q You have refreshed your memory with that statement,
12 correct?

13 A Yes, sir.

14 Q In that statement, Mr. Odom talks about Mr. Nesbitt,
15 according to Mr. Odom?

16 A Yes, sir.

17 Q And he describes what Mr. Nesbitt is wearing?

18 A Yes, sir, I do believe so.

19 Q Mr. Odom also makes a statement as to where he was
20 located at the Chase Lounge when these events occurred,
21 correct?

22 THE COURT: Just a moment. Counsel, is there an
23 objection?

24 ASST. SOL. LEGETTE: There is. I think this is all
25 hearsay, Your Honor. The witness is going to testify ---

1 THE COURT: Counsel, recalling my earlier ruling and
2 the earlier objection. This document that you're referring
3 to is not in evidence. Ask the witness what he recalls from
4 your asking him to refresh his recollection. Otherwise, the
5 objection of the State is sustained. Ask a proper question
6 consistent with my ruling. Proceed.

7 Q At your next meeting with Mr. Odom, you showed him a
8 video of the incident?

9 A Yes, I did.

10 Q Upon watching that video, or contemporaneously watching
11 that video, Mr. Odom changed several statements he made in
12 the written statement he gave you to conform to what the
13 video showed; isn't that correct?

14 A I don't -- I don't recall there being some minor
15 details where he was able to say, "Well, okay, I know that's
16 right." But he was able to confirm that the video of the
17 incident was accurate to the best of his recollection.

18 Q Well, one of the details was he said what Mr. Quoteas
19 Nesbitt was wearing?

20 A I don't recall off the top of my head. I can review
21 the statement again.

22 Q I'm asking you to remember from your ---

23 A There again, I don't recall what details there were;
24 but there were some minor details that he -- that were not a
25 100 percent accurate from his first statement to the second

1 time.

2 Q So in your mind, they were minor? The discrepancies
3 between what he had said happened and then what the video
4 actually showed?

5 A Yes, sir. I didn't -- nothing that stands out enough
6 for me to have made it a point in my memory or to have
7 documented it separately and independently.

8 Q Well, you didn't document that interview at all; isn't
9 that correct?

10 A There is a full video of our interview, yes, sir.

11 Q But it's not part of your incident report?

12 A I don't have a copy of it in front of me, no, sir.

13 Q Do you recall having a whole conversation with Mr. Odom
14 about the discrepancies during that videotaped interview or
15 whatever?

16 A There again, I haven't had a chance to review the
17 video. The video was secured in the evidence locker until
18 very recently.

19 Q Do you recall assuring Mr. Odom not to worry about the
20 discrepancies because they weren't ---

21 A I don't recall the exact terminology or the exact
22 phrases that would have been used. There again, I haven't
23 had the opportunity to review the video. It has been
24 secured in the evidence locker under seal.

25 Q Well, we'll move on -- well, let me back up. Mr. Odom

1 knew Mr. Holmes, correct?

2 A Yes, sir.

3 Q They were close friends?

4 A Yes, sir, from what he explained to me, yes.

5 Q And Ms. Holmes?

6 A He does know Ms. Holmes, correct.

7 Q And you also spoke you said with Brian Manigo?

8 A Yes, sir.

9 Q When did you speak with him?

10 A There again, I don't have -- I don't have the date
11 directly in front of me; I apologize. I thought I had
12 updated some of these statements or some of the supplements
13 in my case file, but apparently I had not.

14 Q Well, it wasn't on the 6th or the 7th?

15 A No, sir. I believe it was two to three months after
16 the initial incident.

17 Q And did he provide you a written statement?

18 A Yes, I believe he did. Actually, no -- no, I don't
19 think he provided a written statement. I believe the only
20 written statement that I had was from Donald Odom, but I
21 can't be 100 percent certain. There again, all the
22 statements from both of those two witnesses were sealed in
23 the evidence locker until they were turned over to the
24 Solicitor very recently.

25 Q And Brian Manigo is related to Mr. Holmes, correct?

1 A I believe so.

2 Q So you met with Mr. Manigo at some point months after
3 the incident ---

4 A Yes, sir.

5 Q --- and he provided you information. Did you meet with
6 him again?

7 A No, I only met with him the one time. There again,
8 until I served the subpoena on him for this trial.

9 Q But the Solicitor's office met with him again ?

10 A I believe so.

11 Q And that was just recently?

12 A As far as I know, yes, sir.

13 Q We kind of got off track because we went from the
14 hospital to Manigo and Odom, but those happened much later?

15 A Yes, sir.

16 Q So going back to the hospital, you did the car. You
17 obtained a firearm from the car and Kelvin Mitchell's was
18 actually the one in the car that night, correct?

19 A He was the one driving the car, yes, sir.

20 Q Did you have any other information that anybody else
21 had been in the car with him?

22 A Yes, sir. I believe he did state -- you know what,
23 that's incorrect. He did not give us any names of anybody
24 else who was in the car at that point. We did learn later
25 on in the investigation, but at that point, he did not give

1 us any names of anybody else other than himself and the
2 victim.

3 Q And I guess from the hospital, you went to the Chase
4 Lounge?

5 A No, sir. I never actually went to the Chase Lounge
6 that night.

7 Q Okay. So you got the information that you were going
8 to be the lead investigator that day?

9 A Later that night. I was still standing around at the
10 hospital after the fact.

11 Q You said you became the evidence custodian a couple of
12 days later, correct?

13 A I believe it was a little less than a month later. A
14 few weeks after the incident is actually when Det. Jeff
15 Scott and myself rotated, and he came out of the locker and
16 I went in.

17 Q So are you the one that directed Mr. Scott to try to
18 lift the fingerprints?

19 A No, sir.

20 Q Who would have done that?

21 A The only person other than doing it on his own would
22 have been either Lt. Steve Bazzle or Captain at the time,
23 Captain Gene Johnson.

24 Q But you didn't direct him to take fingerprints from
25 those two items?

1 A I didn't specify, no, sir.

2 Q Did you direct him to try and take fingerprints from
3 any other items?

4 A No, sir. I wasn't -- at that point, I wasn't directing
5 anything as far as the crime scene goes.

6 Q But you were the lead investigator of the case?

7 A I was assigned the case, yes, sir, but I did not give
8 any specific directions as to what items to be processed
9 from the scene, because I never actually went to the scene
10 on the night of the incident. I left that up to the
11 investigators who were at the scene that night.

12 Q So you never looked at the evidence collected by Mr.
13 Scott as the lead investigator on the case and said, "Item
14 number one, I want you to do this. Item number two, I want
15 you to do this. Item number three, I want you to do this."

16 A No, sir. The evidence had already been processed prior
17 to me even seeing any of the evidence. Det. Scott had
18 already processed the evidence.

19 Q So the decisions about what -- well, I'll move on from
20 that. You never directed with specificity or Det. Scott or
21 yourself did any processing of these items?

22 A Other than the cigarette butt and the sunglasses that I
23 took to Beaufort County, nothing other than that.

24 Q Okay.

25 THE COURT: Counsel approach.

1 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
2 AND OUT OF THE HEARING OF THE JURY.)

3 THE COURT: Madame Foreperson, ladies and gentlemen of
4 the jury, I understand that your lunch has arrived and I
5 don't believe in my jurors eating cold food. Over the lunch
6 break, I'm going to ask you if you would, please do not
7 discuss the case. I'll see to it -- where is my smoker?
8 I'll see to it that you get to go outside and smoke. Talk
9 about the weather, talk about anything, sports, just don't
10 talk about the case. I'll be back with you as soon as I
11 can. You may retire to your jury room for lunch.

12 (1:00 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
13 THE FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: Rusty, I want you to get lunch, but you're
15 in the middle of your cross-examination. It would be
16 improper for you to discuss your testimony with anybody:
17 State's attorney or anybody else. You will come back to the
18 witness stand following lunch.

19 DET. DAVIS: Yes, sir.

20 THE COURT: All right. Let me put on the record that
21 during Mr. Davis's testimony, actually as part of his cross-
22 examination, Mr. Walker decided that he would attempt in
23 asking questions -- in fact, the first question where I got
24 an objection from the Solicitor on hearsay, Mr. Walker
25 actually said, "The statement says," and then the objection

1 came. The statement is not in evidence. I sustained the
2 objection from the State on the basis of hearsay.

3 Then, two questions later, Mr. Walker attempted to
4 publish the contents of the statement in a question to this
5 witness in which the State objected a second time on
6 hearsay. I also sustained the objection for a second time
7 and admonished counsel to comply with my ruling. I wanted
8 there to be a record of my ruling and -- sit down Mr.
9 Walker, I'm not asking for argument. I wanted there to be a
10 record of what occurred, because part of it occurred in a
11 sidebar conference.

12 Now, I want everybody to get lunch. I realize it's
13 after 1:00. I realize I had to break Mr. Walker's cross-
14 examination. However, I extended him the invitation to
15 complete it within the next 10 minutes or so and make the
16 jury wait on their food, but he chose to do that rather than
17 complete it, which I understand because he wasn't sure how
18 long it would take.

19 It's now about ten after and we are going to start back
20 as close to 2:00 as possible because this case is going to
21 move forward. Court is in recess until 2:00.

22 (WHEREUPON, THE TRIAL IN THIS CASE IS RECESSED FOR
23 LUNCH. THEREAFTER, AT 2:05 P.M., THE FOLLOWING IS HELD ON
24 THE RECORD.)

25 THE COURT: Is the State ready to proceed?

1 ASST. SOL. LEGETTE: Yes, Your Honor.

2 THE COURT: Is the defendant ready to proceed?

3 MR. WALKER: Yes, Your Honor.

4 THE COURT: Bring us the jury, please.

5 (2:08 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
6 AND THE FOLLOWING IS HELD ON THE RECORD.)

7 THE COURT: Madame Foreperson, ladies and gentlemen of
8 the jury, we will now continue with the testimony in the
9 trial of this case. Mr. Davis, you understand that you're
10 still under oath?

11 WITNESS: I do, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury, we are in
13 the middle of cross-examination. Mr. Walker, you may
14 proceed.

15 MR. WALKER: Thank you, Your Honor. May it please the
16 Court?

17 CROSS-EXAMINATION CONTINUED

18 BY MR. WALKER:

19 Q You said you had initially responded to the hospital?

20 A Yes, sir.

21 Q At that point, you searched the vehicle and interacted
22 with Kelvin Mitchell?

23 A Correct.

24 Q Then we also talked about the fact that you had
25 interviews with Donald Odom and Brian Manigo, correct?

1 A Yes, sir.

2 Q And those were multiple interviews?

3 A Yes, sir.

4 Q And that they gave you written statements and that you
5 had shown them the video of the incident that was obtained
6 by the search warrant of the Chase Lounge?

7 A I showed it to Donald Odom; yes, I did show it to him.

8 Q And then we talked about those interviews began later
9 in time; it wasn't immediately at the hospital, it was some
10 months or weeks later?

11 A Correct, yes, sir.

12 Q Then we said, back to the investigation of that case,
13 that the next day, or late that night, you were informed you
14 were the lead investigator?

15 A Yes, sir.

16 Q And we also talked about shortly thereafter you became
17 also the main or only evidence custodian?

18 A Primary.

19 Q Primary. And then we had just begun to get into a
20 discussion of the evidence that Mr. Scott had collected.
21 You stated that the evidence had pretty much been processed,
22 except the sunglasses and the cigarette butt that you
23 transported to Beaufort, correct?

24 A Yes, sir.

25 Q And then you made no independent requests of Officer

1 Scott or anyone else or directed anyone else to do any
2 specific testing on any other items?

3 A Correct.

4 Q Explain if you would to me why the sunglasses were
5 selected for testing.

6 A Because of the fact that these sunglasses were laying
7 right next to the stained areas of the parking lot that had
8 the appearance of blood, as well as the fact that a pair of
9 sunglasses would be worn on someone's face and the face
10 typically has a lot of oils in it. Therefore, there would
11 be a higher likelihood of possibly obtaining a DNA profile
12 from that.

13 Q And did you -- did you think at the time to also see
14 about having them process for fingerprints?

15 A No, sir, I did not, because typically we have a choice
16 of one or the other. Sometimes SLED is able to do both, if
17 they are done very carefully together, but a lot of times
18 the processes for fingerprints has the possibility of
19 contaminating DNA evidence, and swabbing for DNA evidence
20 has a high probability of contaminating any latent
21 fingerprints left on there.

22 Q And you just did swabbing for DNA. You heard Officer
23 Scott's testimony about taking blood samples?

24 A Yes, sir.

25 Q Is that the same process that he uses for that?

1 A The process is similar with -- if you're processing
2 something for touch DNA, typically you will actually use
3 sterile water to wet the swab prior to the first
4 application. Whereas with blood, if it was dry, they would
5 have likely used sterile water; if it was still wet, they
6 may have just swabbed the blood directly.

7 Q And I guess did you take the sunglasses and the
8 cigarette butt to Beaufort and they did the swabbing or ---

9 A Correct.

10 Q Okay.

11 A Yes, sir.

12 Q So why did evidence items number two and three not the
13 styrofoam cups, why did they not get sent through to
14 processing?

15 A The styrofoam cups were in the general vicinity, but as
16 you saw from the photographs earlier, they were slightly
17 further out of the vicinity. As well as after viewing the
18 video, you do not observe the defendant or the suspect in
19 the video visibly with any type of cups or anything like
20 that in his hands.

21 Q So that decision was based on your viewing of the video
22 and their distance from where the, I guess, the video showed
23 the actual shooting that occurred?

24 A Yes, sir. Primarily from my viewing of the video, but
25 that is correct.

1 Q And is it fair to say that DNA is kind of like a
2 fingerprint in that it's able to give us a unique identifier
3 or unique marker; correct?

4 A Yes, sir.

5 Q So we would want DNA for identification purposes?

6 A If we're able to obtain it, yes, sir.

7 Q And just like a fingerprint, you have to have a
8 fingerprint you're comparing with something to compare it
9 to, correct?

10 A Correct.

11 Q Now, as evidence custodian and as investigator in the
12 case, you would also -- is it your testimony that a gunshot
13 residue kit would be sent off for processing?

14 A The gunshot residue kit and the majority of the
15 evidence in this case was sent off prior to me being
16 transferred into the evidence locker, but it was sent and it
17 did come back after I had begun my lead on the case.

18 Q And so that came back to you and you got the results
19 from that, correct?

20 A Yes.

21 Q And that kit showed residue ---

22 ASST. SOL. LEGETTE: Objection.

23 THE COURT: He has not shown anything about him being
24 in the evidence ---

25 THE COURT: Counsel approach.

1 (Whereupon, a bench conference is held off the record
2 and out of the hearing of the jury.)

3 THE COURT: Proceed, consistent with the bench
4 conference.

5 Q As the evidence custodian of the physical evidence, and
6 the lead investigator in this case, in your review of the
7 case of the physical evidence, is it your understanding that
8 Mr. Holmes, the deceased, had gunshot residue on his hands?

9 A There again, I am not a ---

10 Q --- I'm not asking you to explain ---

11 A --- forensic technician; however ---

12 THE COURT: Whoa. Whoa. You don't talk over him, and
13 you don't talk over him. One person speaks at a time. Ask
14 a question and you answer it.

15 A As I was stating, I'm not a forensic specialist.
16 However, the report we received back did state that there
17 were signs or traces or particles of gunshot residue on the
18 victim.

19 Q And the other pieces of physical evidence that were
20 processed were the fingerprints that were sent to North
21 Charleston, and it's your understanding that North
22 Charleston wasn't able to do anything with those?

23 A That's correct.

24 Q So no results?

25 A Basically, it came back stating that they were

1 insufficient for identification.

2 Q You heard testimony earlier that a shell casing was
3 submitted for comparison. Was that ever done?

4 A As far as I know, it was sent with the other shell
5 casings.

6 Q But you don't know the result?

7 A I've got the results. I can't testify to any of the
8 actual processes, but the results came back stating that it
9 was not the same shell casing as the shell casings collected
10 from the scene.

11 Q And the only other items sent to be processed were the
12 sunglasses and the cigarette butt; is that correct?

13 A Yes, sir.

14 Q And what is your understanding as to any results from
15 the sunglasses?

16 A They were not -- from what I was told, they were not
17 able to obtain a valid DNA profile from the sunglasses.

18 Q Just like the fingerprints, that wasn't really helpful?

19 A It wasn't.

20 Q And what about your understanding as to the cigarette
21 butt?

22 A They did obtain a DNA profile from what the report
23 states, but it was not a match to the defendant.

24 Q So they were able to say -- we know this is -- they
25 were able to get a ---

1 ASST. SOL. LEGETTE: Objection, Your Honor. I would
2 like to approach.

3 THE COURT: Counsel approach. Sidebar.

4 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
5 AND OUT OF THE HEARING OF THE JURY.)

6 THE COURT: Objection withdrawn.

7 Q You just stated that the DNA results -- it's your
8 understanding that the DNA results did not match Quoteas
9 Nesbitt?

10 A Yes.

11 Q Now, in order for them to reach that result, they would
12 have needed a DNA sample from Mr. Nesbitt, correct?

13 A Correct.

14 Q And you actually petitioned the Court in front of Judge
15 Buckner to try and obtain a sample from my client; do you
16 recall that?

17 A Yes, sir.

18 Q Do you recall submitting an affidavit in support of
19 that motion in front of Judge Buckner?

20 A Yes, sir.

21 Q I'm going to ---

22 MR. WALKER: May I approach the witness, Your Honor?

23 THE COURT: You may.

24 Q I'm just going to ask you to look for that copy of your
25 affidavit and refresh your memory.

1 THE COURT: (TO WITNESS.) Are you ready?

2 DET. DAVIS: Yes, sir.

3 Q I'm saying "affidavit," but it's really just a sworn
4 statement by you, correct?

5 A Correct.

6 Q I would just like for you to read in your affidavit the
7 paragraph numbered 15.

8 ASST. SOL. LEGETTE: Your Honor, I'd have to object.

9 THE COURT: Counsel approach.

10 (Whereupon, a bench conference is held off the record
11 and out of the hearing of the jury.)

12 THE COURT: Objection withdrawn.

13 Q I'd like to rephrase my question. You've refreshed
14 your memory from that affidavit?

15 A Yes, sir.

16 Q And you directed your attention to the paragraph in
17 that affidavit you've labeled 15?

18 A Uh-huh (affirmative).

19 Q Now, can you tell the Court from that prior statement
20 of yours why it was important to the Colleton County
21 Sheriff's Office to obtain that DNA sample?

22 A In order to have a standard, a known standard that was
23 properly collected with a known chain of custody in order to
24 be tested against the DNA profile that was obtained by
25 Beaufort County on the cigarette butt.

1 Q In fact, you said that was so important because it was
2 material evidence of guilt or innocence; isn't that correct?

3 A Yes, sir.

4 Q No further questions.

5 THE COURT: Redirect?

6 ASST. SOL. LEGETTE: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY ASST. SOL. LEGETTE:

9 Q Det. Davis?

10 A Yes, ma'am.

11 Q Do all affidavits for DNA samples include that language
12 about material evidence?

13 A As far as I'm aware, yes, ma'am.

14 Q Now, Det. Davis, with the evidence that you actually
15 sent off, that gun -- let's go back to that gun that you
16 collected at the hospital, remember that?

17 A Yes, ma'am.

18 Q What was done with that gun once you collected it?

19 A The firearm was placed into evidence and was then sent
20 with other evidence to SLED to be processed along with the
21 shell casings that were collected from the scene. At that
22 point, it was turned over to them until they had a chance to
23 process it and then it was returned back to us.

24 Q And as lead investigator in this case, did you ever get
25 a report as to that particular gun?

1 A Yes, ma'am. SLED advised in the report that it was not
2 a match to the firearm used to fire the shell casings that
3 were located at the crime scene.

4 Q So it was not the murder weapon?

5 A Correct.

6 Q And Det. Davis, you said earlier about taking a
7 statement from Brian Manigo?

8 A Yes, ma'am.

9 Q Okay. Was it one statement or was it multiple?

10 A I really do not recall, off the top of my head, to be
11 honest.

12 Q Was it a written statement?

13 A Yes, ma'am, I believe so.

14 Q Det. Davis, I have no further questions. Thank you.

15 THE COURT: Recross, limited to redirect?

16 MR. WALKER: I have no questions.

17 THE COURT: Is he going to remain with us as the chief
18 investigating officer?

19 ASST. SOL. LEGETTE: Yes, Your Honor.

20 THE COURT: Mr. Davis, you may step down and you can
21 remain with us. Call your next witness.

22 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
23 calls Captain Jason Chapman.

24 (WHEREUPON, CAPTAIN JASON CHAPMAN ENTERS THE COURTROOM
25 AND IS DULY SWORN BY THE CLERK OF COURT.)

1 MADAME CLERK: Please have a seat on the witness stand
2 and state your name for the record.

3 THE COURT: Good afternoon, Jason. Have a seat.
4 Adjust the microphone. You know what to do.

5 WITNESS: Good afternoon, my name is Captain Jason
6 Walker Chapman; last name is C-H-A-P-M-A-N.

7 THE COURT: Your witness, counsel.

8 ASST. SOL. LEGETTE: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY ASST. SOL. LEGETTE:

11 Q Good afternoon, Sir.

12 A Good afternoon.

13 Q Sir, where do you work?

14 A Currently at the Colleton County Sheriff's Office.

15 Q And what do you do at the Colleton County Sheriff's
16 Office?

17 A I am the Captain over Criminal Investigations.

18 Q Okay, so Captain Chapman?

19 A That's correct.

20 Q How long have you been with the Colleton County
21 Sheriff's Office?

22 A I came in with Sheriff Strickland on January 1st of
23 2013.

24 Q Do you have any other law enforcement experience?

25 A Yes, ma'am. For 16 years prior to that, I worked for

1 the Walterboro Police Department.

2 Q And what were your duties at the Walterboro Police
3 Department?

4 A From start to finish, everything. Towards the end of
5 my time there, I was in charge of criminal investigations
6 and narcotics.

7 Q Okay. So let me ask you, do you know a man named
8 Quoteas Nesbitt?

9 A Yes, ma'am.

10 Q Is he present in Court today?

11 A Yes, ma'am. He is seated to the right of defense
12 counsel.

13 ASST. SOL. LEGETTE: Let the record reflect that the
14 witness has indicated Quoteas Nesbitt.

15 Q So Captain Chapman, how long have you known Captain
16 Chapman?

17 A Probably eight or ten years.

18 Q Okay. And in that period of time, how many times would
19 you say that you have actually interacted with him?

20 A I have no idea; could be 50, 100, casual, call-related,
21 speaking to him in the street.

22 Q Okay. So in that period of time, would you say that
23 you got to build a repore with him?

24 A Yes, ma'am.

25 Q Are you familiar with his speech and mannerisms and

1 that type thing?

2 A Yes, ma'am.

3 Q Can you describe his mannerisms?

4 A Mr. Nesbitt has always been cordial with me. I don't
5 think all of the times I've had to deal with him, regardless
6 of what the situation was, we spoke without issue. He
7 didn't argue with me. He never called me names. I could
8 approach him in the street or if it was call related, same
9 situation. He has a mannerism where he puts his hand around
10 his waist when he talks. When he walks, he used to run his
11 fingers around the pants.---

12 MR. WALKER: Your Honor, my earlier objection.

13 THE COURT: Counsel approach.

14 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 THE COURT: Proceed. The objection was noted earlier
17 in the record and ruled on by the Court.

18 ASST. SOL. LEGETTE: Thank you, Your Honor.

19 Q Captain Chapman, please continue with your description
20 of Mr. Nesbitt's mannerism's please.

21 A Like I said, he had a habit of putting his hands around
22 his waist, and again, not in a threatening manner, just one
23 thing we've noticed in Walterboro is people have mannerisms
24 or characteristics about them; I'll use the Sheriff for
25 example. When he talks, he talks with his hands and it's

1 not a threatening gesture. He's just someone that talks
2 with his hands. It would something that I would take about
3 Sheriff as a mannerism. Same thing with the defendant, Mr.
4 Nesbitt. He often had his hands on his waist or his palms
5 locked inside his pants band, and he has a slight, like a
6 funny gait about him; he favors one side. If I remember
7 correctly, it's the right side. I don't know if that's from
8 an injury or just the way he walks or what.

9 Q Okay. So in other words, would you recognize him on
10 sight?

11 A Yes.

12 Q Would you recognize him by way of video?

13 A Yes.

14 Q Now, Captain Chapman, I want to turn your attention to
15 September 6th or the month of September 2012. Do you recall
16 that particular month?

17 A Yes, ma'am.

18 Q Did you have occasion to become involved in the case
19 involving Quoteas Nesbitt?

20 A Yes, ma'am.

21 Q Tell us about how you became involved.

22 A At the time, I was in charge of narcotics and
23 investigations with the City. Our protocol at that time was
24 that any shooting that occurred in the city, we
25 automatically, my team was activated and responded to the

1 shooting. Granted, the situation on hand occurred at the
2 Chase Lounge; it's a border property is what we call it.
3 The parking lot of Chase Lounge actually touches the city
4 limits. You can stand left foot in the city and right foot
5 in the county, so even though the situation actually
6 occurred in the county's jurisdiction, or Sheriff's Office
7 jurisdiction, because of the border property, they activated
8 us and we came out.

9 Usually, at that point in time, we will assist, if it's
10 the Sheriff's Office, in this case we would assist with
11 maybe trying to identify witnesses, trying to talk with some
12 of the people that we have in the community who will speak
13 to us, whether they be informants or just acquaintances. If
14 they give us a suspect, or a possible suspect, we assist
15 with trying to locate that person or vehicle, or anything
16 with the nature of such. That's basically what we did the
17 night we were called out.

18 Q Okay. So in other words, you assisted in looking for
19 Mr. Nesbitt?

20 A That's correct.

21 Q Okay. And so you said earlier that you were familiar
22 with him. So were you familiar with where he hung out?

23 A Yes.

24 Q Did you go to any of those locations?

25 A We did.

1 Q What were the results?

2 A We did not find Mr. Nesbitt.

3 Q And is that typical for Mr. Nesbitt?

4 A I usually can find him. Like I said, he's approachable
5 and he's usually in a couple of different places.

6 Q So how long would you say you assisted the county in
7 looking for Mr. Nesbitt?

8 A That night, we worked all the way through until the
9 next morning and the week's afterwards.

10 Q Now, at a point, did you receive information that Mr.
11 Nesbitt might have wanted to surrender?

12 A I did.

13 Q Tell us about that.

14 A Throughout the course of trying to locate -- well, we
15 were originally informed by the Sheriff's Office that Mr.
16 Nesbitt was a person of interest and that is all we were
17 told initially. After not being able to locate him that
18 evening, the person of interest was changed to where we were
19 advised that a warrant had been issued for his arrest.
20 Again, we checked all the place we knew that he frequented,
21 friends, associates, family members, so forth.

22 Eventually, I made contact with a female individual
23 that I knew he had a prior relationship with. I don't know
24 if they were boyfriend/girlfriend at the time; I don't
25 remember. I just know that she works at the gas station in

1 town and again, just like him, she's approachable. We
2 watched the gas station for a couple of nights and didn't
3 see Mr. Nesbitt. So eventually, I went in and spoke to her
4 and I told her, "Look, we've got a warrant for Quoteas, and
5 if you can convince him to turn himself in, it would be a
6 lot easier than y'all aren't in control of happening during
7 the apprehension." So I gave her a business card with my
8 telephone number on it and I said, "If you get a chance,
9 give me a call. If you can talk him into coming up to the
10 office or if you need me to meet you somewhere, that's fine;
11 but talk to him and let him know that the warrant is not
12 going to go away and if I can get him to turn himself in, it
13 may speed the process up." I was quick to tell her that I
14 didn't have details about the case, just assisting the
15 county with trying to apprehend him.

16 Q And thereafter, what happened?

17 A I got a phone call -- I think we did surveillance on
18 location for a couple of days and eventually got a phone
19 call from her stating that Mr. Nesbitt wanted to turn
20 himself in. He was concerned about being somewhere in a
21 large group of people and a large group of officers rushing
22 him or anything like that. So he asked if he could turn
23 himself in and he wanted it to be controlled. He didn't
24 want a whole bunch of people there.

25 So we made some arrangements with her to pick him up at

1 an undisclosed location and to bring him to the OCC Plaza,
2 it's a parking lot on South Jefferies Blvd. It was evening
3 time and the business was closed. We asked most of the
4 units to stay back. I took Major -- she's now Major Jamison
5 with the Sheriff's Office. She was an employee of the
6 Sheriff's Office then; also. I took Ms. Jamison with me and
7 we went and stood behind the parking lot and she arrived a
8 short time later with the defendant.

9 Q Did Mr. Nesbitt ask specifically for you?

10 A Yes. I mean, through her, he did.

11 Q And why do you think that was?

12 A Again, the only thing that I can assume is that maybe
13 I'm one of the only ones that went of the way to make sure
14 nothing happened to him. It was just business. It was just
15 a warrant and I felt like if we approached it in a different
16 manner than everybody else was than maybe we could get some
17 success out of it.

18 Q Now, Captain Chapman, with regards to this case, at
19 some point recently have you had the opportunity for the
20 first time to watch any video footage?

21 A I did. I understood from the beginning that the crime
22 scene had a surveillance system, but again, I wasn't working
23 the crime scene and I didn't work for the Sheriff's Office.
24 Up until August 6th when we had a trial meeting I had never
25 viewed the video.

1 Q And on August 6th, did you have an opportunity to view
2 the video?

3 A I did.

4 Q Tell us about that.

5 A I was apparently the only person in the meeting who had
6 not seen the video. Again, because at the time I wasn't
7 working for the Sheriff's Office and I was asked if I
8 thought I could pick Mr. Nesbitt out of the video and
9 everyone else in the meeting was asked not to talk, not to
10 make any indications, not to say anything. The lights were
11 dimmed. The video was played on a large, flat screen TV on
12 the wall, and only a portion of the video was played prior
13 to any action from the incident so that in all fairness I
14 would not be able to say, "Well, obviously, one of those two
15 people is him." It was just a parking lot of 12 to 14
16 people walking around and the video was played. I watched
17 the video until the video was stopped and I picked one
18 person out on the video and was later informed that that was
19 who we believed to be Mr. Nesbitt on the video.

20 Q And how certain were you of your identification?

21 A Of the people on the video, very certain. I mean,
22 obviously, I knew that the video was supposed to have Mr.
23 Nesbitt in it and I knew he was one of the fourteen, fifteen
24 walking around on screen. Of those people, I'm very certain
25 it was him.

1 Q Captain Chapman, you said you are familiar with the
2 actual video footage itself?

3 A Yes, ma'am.

4 ASST. SOL. LEGETTE: Begging the Court's indulgence.

5 Q Capt. Chapman, I will hand you in a moment what's been
6 previously entered into evidence as State's Exhibit 45.

7 Take a moment and tell me if you recognize State's 45.

8 ASST. SOL. LEGETTE: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 A It's a disc marked State's Exhibit 45. My initials
12 appear on the disc from 8-26-2014 indicating that this is
13 the disc that I previewed before the trial.

14 Q And Capt. Chapman, does State's 45 a fair and accurate
15 representation of the video footage that you watched?

16 A That's correct; it is.

17 Q To your knowledge, has it been changed or altered in
18 any way?

19 A No, ma'am.

20 Q And at my request, have you previously reviewed it for
21 accuracy?

22 A Yes, ma'am, I have.

23 ASST. SOL. LEGETTE: Your Honor, at this time, I would
24 ask that State's 45 be published.

25 THE COURT: It's in evidence; you can publish it.

1 ASST. SOL. LEGETTE: Thank you, Your Honor.

2 THE COURT: Angela?

3 ASST. SOL. LEGETTE: May I approach the witness, Your
4 Honor?

5 THE COURT: You may.

6 ASST. SOL. LEGETTE: Your Honor, may I approach the
7 witness and hand him a pointer?

8 THE COURT: You may.

9 (WHEREUPON, STATE'S EXHIBIT 45 IS SET UP AND BEGINS
10 PLAYING.)

11 Q Captain Chapman, I will direct your attention to
12 State's 45 currently on the screen. Please, whenever the
13 person that you have identified as Quoteas Nesbitt comes on
14 the screen, would you please take us through your ability to
15 identify him.

16 A Like I said, this is the video that was shown to me.
17 When it was first shown, this is all I saw and I was
18 watching -- was essentially watching the movements of
19 everybody in the parking lot, how they walked around.

20 I mean, it's very obvious that at certain angles of the
21 camera, you're not going to be able to see facial features
22 or identifying characteristics, as far as physical
23 characteristics.

24 Up until this point, and I'll let you know in a second
25 when I first saw someone that caught my attention, but as

1 these people walked by, I looked at how they're walking, how
2 they're standing, different characteristics and mannerisms;
3 and it was at this point that I noticed a gentleman here
4 that you'll see will walk down towards the bottom right-hand
5 side of the screen. See how he's got his hands on his
6 waist? When he's in front of the headlights, you can see
7 the space in between the arms.

8 Q We'll have Ms. Stallings rewind briefly if that will
9 help your testimony.

10 A Sure. Okay.

11 Q Ms. Stallings, if you would rewind.

12 (WHEREUPON, MS. STALLINGS REWINDS VIDEO OF STATE'S
13 EXHIBIT 45 TO BEGINNING OF DISC.)

14 Q Capt. Chapman, if you would direct us to pause the
15 video at the location where you are looking when Mr. Nesbitt
16 comes on the screen.

17 A Sure.

18 (VIDEO PLAYS.)

19 A Okay. Pause it for me.

20 (VIDEO IS PAUSED.)

21 A This is where I started watching the gentleman here.
22 Like I said, as he walks in front of the headlights, you'll
23 notice he's got his hands on his waist. You can see the gap
24 between the arm and the side. That's when I started
25 focusing on this individual. You can let it play from there.

1 (VIDEO BEGINS PLAYING AGAIN.)

2 A You'll notice as he walks down towards the bottom,
3 right-hand screen, you can still see his arms on his waist.
4 Again, not in a threatening manner, just a mannerism;
5 whether it's holding the pants or just resting. He comes
6 down, turns around, and walks back towards the same vehicle
7 from which he walked off, but the best I could tell in the
8 dark room watching, I didn't ever notice the hands coming up
9 from that location.

10 You'll also see he's walking with a funny gait, so to
11 speak, where it looks like he's favoring one side. He gets
12 back to the top up here and as he moves again in front of
13 the headlights, you'll be able to see that he's got that gap
14 right there, the gap in the arms where the arms were still
15 resting on the waist. Again, not necessarily threatening,
16 just a mannerism. And it wasn't that I watched just that
17 one person. If you were to go back to the beginning of the
18 video, the first gentleman that walks up from the bottom
19 right-hand side of the video, the first thing I noticed with
20 him is he walked quicker with his left than he did with his
21 right. He kind of drug his right foot, but that's not the
22 same as what I was speaking about with Mr. Nesbitt. It
23 wasn't like a lame injury; it was more of a gait. The first
24 gentleman that walks up like that has where he's walking
25 quicker with the left step and slower with the right. The

1 video was stopped somewhere in this neighborhood here, or in
2 the area here, and that's where I was asked to pick someone
3 and identify the gentleman who is standing there with his
4 arms on his waistband.

5 Q And who did you identify that person to be?

6 A Based on what I know about Mr. Nesbitt, and based on
7 the fact that, obviously, I knew he was someone depicted
8 inside the video, that that was Mr. Nesbitt. And again,
9 also, you're taking into fact that I realized that Mr.
10 Nesbitt's approximate height, approximate weight, you know,
11 in addition to the mannerisms. So it's not just how someone
12 walks, it's the total package.

13 Q Are you familiar with the way that Mr. Nesbitt also
14 runs?

15 A Quick, yes, ma'am.

16 Q Can you describe how he runs?

17 A The gentleman moving from your right to your left on
18 the center screen, running off after the video was stopped
19 and played again. The video was stopped at a certain point
20 as to not take my ideas of who anyone was. When I
21 identified that as Mr. Nesbitt, was asked if I thought the
22 gentleman fleeing to the left was possibly still the same
23 person, and in my opinion, it is. Just simply on the fact
24 that I picked him out in the video earlier and the stride in
25 which he was running. I'm not an expert on strides and all

1 that stuff, but the totality of circumstances watching the
2 video, it is my confirmed belief that the person who ran
3 from the center of the screen to the left of the screen was,
4 in fact, Mr. Nesbitt. The same as it was when he walked
5 onto the center screen, down to the right, and back up.

6 Q Okay. I think we can be done now with the video.

7 (WHEREUPON, VIDEO IS STOPPED AND TURNED OFF; MS.

8 STALLINGS RETURNS TO HER SEAT.)

9 THE COURT: Ask a question.

10 ASST. SOL. LEGETTE: Thank you, Your Honor.

11 Q Capt. Chapman, did you have any other involvement with
12 this case?

13 A I had a gentleman approach me in a totally unrelated
14 case stating that he may possibly have information on the
15 shooting that had occurred. I immediately contacted the
16 Sheriff's Office, and again, Ms. Jamison, she was a
17 detective at the time; I'm not sure what her rank was at the
18 time. Det. Jamison responded over to police headquarters
19 and I put her in touch with the individual who stated that
20 he was present when the shooting occurred and that he had
21 observed information he thought was pertinent.

22 Q Captain, thank you for your time. I have no further
23 questions.

24 A Thank you, ma'am.

25 THE COURT: Cross-examination.

1 MR. WALKER: May it please the Court?

2 CROSS-EXAMINATION

3 BY MR. WALKER:

4 Q You testified a moment ago that when they showed you
5 the video, you hadn't seen it before because you didn't work
6 at the Sheriff's Department, but at the time you were shown
7 the video, you were working at the Sheriff's Department?

8 A That's correct.

9 Q Okay. And when did you start working at the Sheriff's
10 Department?

11 A I came in January 1st, 2013.

12 Q And you were shown this video or asked to identify Mr.
13 Nesbitt on this video on August the 6th of this year?

14 A That's correct.

15 Q And you said that you had a pre-trial meeting for this
16 trial?

17 A That's correct.

18 Q So all the law enforcement members that were trying to
19 get ready for this trial when you were asked to come in?

20 A That's correct.

21 Q And you knew that's what it was?

22 A That's correct.

23 Q And did you also testify that you knew that you were
24 expected to find Quoteas Nesbitt on that video?

25 A Well, what I said was, I knew that this video was the

1 video that was taken obviously from the surveillance system
2 on the night of the alleged incident. Obviously, we were
3 doing a trial prep and Mr. Nesbitt was the only defendant.
4 So any rational person would believe that obviously it's
5 better show me the video that Mr. Nesbitt was most likely
6 going to be one of the people appearing on the screen.

7 Q So he was someone you expected to see?

8 A More or less, yes, sir. In some way, shape or fashion.

9 Q And you testified how you identified Mr. Nesbitt?

10 A That's correct.

11 Q You never mentioned recognizing his facial features,
12 that's correct?

13 A No, sir. From every angle I attempted to view the
14 video, due to light and fuzziness and stuff like that, I
15 could not say -- if they had lined all the people in that
16 parking lot up side-by-side, shoulder-to-shoulder, and not
17 let them move at all, in the middle of that screen, I do not
18 feel like I would have been able to say with any certainty
19 that any of those people were Mr. Nesbitt. It was ---

20 Q Based on?

21 A Based on just looking at the faces.

22 Q So the things you testified about where his hands were
23 and how he walked, his build, and so forth, that's where ---

24 A Correct. Everything I knew about him physically, as
25 well as the mannerisms and characteristics, stuff like that.

1 Q Let me take you back to your time at Walterboro Police
2 Department.

3 A Yes, sir.

4 Q Do you recall in September of 2012 returning a pistol
5 to Renatta Ellison Holmes?

6 A Yes.

7 Q Do you recall when you did that?

8 A The incident itself occurred on the 7th; I remember
9 that, late night, early morning hours. Spoke with Renatta
10 the following business day after being advised by the Chief
11 that -- she had determined that a handgun had been taken out
12 of her vehicle. She believed her nephew had taken the gun
13 and she didn't want to pursue charges; she just wanted the
14 gun back. There was actually two guns taken at that scene
15 and one of them, I think was hers. I spoke initially with
16 her and said that was fine that the charges that we had were
17 stemming from the collection of the guns were municipal
18 charges and that if she could provide paperwork without me
19 having to wait for an ATF trace to come back to confirm
20 that, then we would return the gun to her. And I was
21 provided with the bill of sale. I don't remember exactly
22 which pawn shop it was, but I was provided with a bill of
23 sale that matched up with the make, model, serial number, so
24 forth; the gun was returned. I did a supplement to that and
25 put it in the report. Did I physically put it in Ms.

1 Renatta's hands? I can't remember that. I know the gun was
2 returned, but I know, initially, I spoke with her and
3 whether it was returned directly to her or to a family
4 member that brought the paperwork, I don't remember that;
5 but I do know it was returned.

6 Q And it was returned the day after her husband was
7 killed?

8 A It was returned -- the 7th was the day after the
9 incident and if I'm not mistaken, it was either the 7th or
10 the 8th that it was returned; that's correct. After we
11 determined that we're not going to seize it stemming from
12 the city's charges.

13 Q Would it assist you to review your supplemental report
14 to determine the date?

15 A Sure.

16 MR. WALKER: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 A Thank you, sir. It's a supplement. It states 9-7-
19 2012, so it would have been the business part of the day
20 after the arrest. But it does state that they came in here
21 to present paperwork indicating that the three handguns
22 seized during the incident were her weapons. That Paris
23 Williams, who she identified as her nephew, had taken the
24 weapon from the vehicle and she did not wish to pursue
25 charges. The weapon was returned.

1 Q She said that pistol had been in her car?

2 A That was what her statement was. I believe she said it
3 was in the glove box and she realized after he had been
4 arrested that the handgun was not there.

5 Q I have no further questions.

6 A Thank you, sir. Here's your paperwork back.

7 Q I'll let you keep it in case she has any questions.

8 THE COURT: Redirect?

9 ASST. SOL. LEGETTE: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY ASST. SOL. LEGETTE:

12 Q Captain, you talked about the incident. Can you detail
13 what the incident involved? You said that you returned a
14 gun to -- and what does your report say about -- I'm sorry,
15 let me ask one question at a time.

16 A Sure.

17 Q The individual you returned it to on the report; what's
18 the name?

19 A On the report, I have Renatta L. Holmes.

20 Q Okay. Now, you talked about the incident ---

21 MR. WALKER: I object to that as well.

22 THE COURT: Counsel approach.

23 (Whereupon, a bench conference is held off the record
24 and out of the hearing of the jury.)

25 THE COURT: Overruled.

1 Q Capt. Chapman, tell us about the incident that you
2 referred to earlier where you returned the gun to Ms.
3 Renatta Holmes.

4 A The incident that led up to the seizing of the handgun?

5 Q Yes, sir.

6 A Again, that evening, the night of the 6th, we were out
7 trying to locate witnesses, persons of interest, so forth.
8 We actually had gotten a phone call of shots being fired
9 near the -- that would be the 6-7-800 block of Francis
10 Street. We were very close to the call when it came out.
11 Myself, my partner at the time, which was Cpl. Kevin Kinard,
12 the Chief of Police, Chief Otis Rhodes, and Captain Clint
13 Crouse. All of us were in that area. Some of us were riding
14 together, some separate. Arrived in the area and you could
15 still smell the gunpowder. Basically, it was at the
16 intersection of Hill Street and Francis Street, near the
17 Crosby Street trailer park, and we saw two young black males
18 walk into a yard to the right side, if you're going down
19 Francis from Hampton, they're walking into the yard on the
20 right side directly across from the trailer park.

21 We stepped out, identified these two individuals, asked
22 them if they knew anything about the gunshots. While I was
23 speaking to them, my partner, Kinard, stated that he had
24 found multiple shell casings in the yard directly across
25 from that on the left side of Francis. We went back and

1 spoke to those two individuals again. At which point in
2 time, they stated that they had shot a pistol up in the air
3 not intending to hurt anybody, not intending to shoot at
4 anybody, but out of frustration. When I asked why, you
5 know, frustration from what, they explained they were round-
6 about family members to the victim in this case, Mr. Moray
7 Holmes, and they were upset because they were also close to
8 other parties that they felt were involved in the situation
9 and they were venting by holding the gun up in the air and
10 discharging it.

11 Q And who were those individuals identified as?

12 A Errol Jackson and Paris Williams.

13 Q And you indicated that Ms. Renatta, you returned the
14 gun to her. Did she indicate that one of them was her
15 nephew?

16 A Yes.

17 Q Which one was her nephew?

18 A Mr. Williams.

19 Q And do you know the name Errol Jackson? Do you know if
20 he has a nickname?

21 A Yes.

22 Q What is his nickname?

23 A "Flex."

24 Q Now, what kind of handgun did you recover?

25 A After they came clean and told us what had happened,

1 we located a .380 caliber semi-automatic and a .38 caliber
2 revolver.

3 Q Do you know anything about handguns and what kind of
4 handgun will fire what kind of cartridge?

5 A I do.

6 Q Well, will a 380 handgun fire a .40 caliber cartridge?

7 A No, ma'am, there's no way it can.

8 Q Thank you, Captain. I have no further questions.

9 THE COURT: Recross, limited to redirect?

10 RECROSS-EXAMINATION

11 BY MR. WALKER:

12 Q Ms. Legette asked you about the name typed in the
13 report as Renatta Elliott, correct?

14 A Yes.

15 Q But that is a mistype on your part, correct?

16 A I was actually told this morning. I only know Renatta
17 by "Renatta". When I put Elliott in there, that's what I
18 thought it was at the time.

19 Q But by Renatta Elliott, you mean Renatta Ellison
20 Holmes?

21 A That's correct.

22 Q The wife of the deceased?

23 A That's correct.

24 MR. WALKER: No further questions.

25 THE COURT: As to this witness, Solicitor?

1 ASST. SOL. LEGETTE: We ask that he be excused.

2 THE COURT: Any objection, Mr. Walker?

3 MR. WALKER: No, Your Honor.

4 THE COURT: Very well, Jason. You are excused from the
5 trial of this case. You may leave the courtroom. Call your
6 next witness.

7 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
8 calls Ms. Whitney Berry.

9 (WHEREUPON, MS. BERRY ENTERS THE COURTROOM AND IS SWORN
10 BY THE CLERK OF COURT.)

11 MADAME CLERK: Please have a seat on the witness stand.
12 State your name for the record.

13 THE COURT: Make yourself comfortable for me. Adjust
14 the microphone for me. Use it to amplify your voice. You
15 know what to do, Ms. Berry. I want this gentleman that's
16 sitting on the end and the people in the courtroom to be
17 able to hear you. Speak up for me. State your full name and
18 spell your last name for the court reporter.

19 WITNESS: My name is Whitney Berry. My last name is B-
20 E-R-R-Y.

21 THE COURT: Very good. Your witness, counsel.. Direct
22 examination

23 DIRECT EXAMINATION

24 BY ASST. SOL. LEGETTE:

25 Q Ms. Berry, good afternoon. Where are you employed,

1 ma'am?

2 A I work for the South Carolina Law Enforcement Division,
3 also known as SLED.

4 Q Okay. And how long have you worked at SLED?

5 A I've worked at SLED for approximately 18 months.

6 Q And what are your duties at SLED?

7 A I am an analyst, a forensic scientist, in the Trace
8 Evidence Department.

9 Q And tell us about your educational background and
10 training as it applies to working in the Trace Evidence
11 Department.

12 A I have a Bachelors of Science degree in Chemistry from
13 the University of South Carolina. When I began at SLED, I
14 was subjected to the SLED in-house training program for
15 training as a gunshot residue analyst. This is a seven to
16 nine month long in-house training program that include
17 written and practical examinations, also working cases under
18 supervision of a qualified analyst, doing reading on gunshot
19 residue and the theory behind gunshot residue and
20 examination, and a mock court, which I had to pass in order
21 to testify. I've also undergone training at the College of
22 Applied Science at Hope College, and I've gone there to
23 learn more about the theory of using the scanning electron
24 microscope to analyze gunshot residue.

25 Q Now, what is trace evidence?

1 A Trace evidence is evidence that is typically too small
2 to be seen with the naked eye. We need some sort of way to
3 magnify it, such as a microscope. You know the normal kind
4 of microscope you might see in a chemistry lab or biology
5 lab, such as an electron microscope, or a scanning electron
6 microscope with an x-ray. These are all different tools
7 that we can use to see very tiny microscopic pieces of
8 evidence.

9 Q Ms. Berry, have you ever been qualified as an expert in
10 the area of trace evidence?

11 A No, ma'am. I've been qualified in the area of gunshot
12 residue.

13 Q I'm sorry. So you've been qualified in the area of
14 gunshot residue?

15 A Yes, ma'am.

16 Q All right. Is gunshot residue trace evidence?

17 A Yes, ma'am.

18 Q Okay. Now, how many times have you been qualified in
19 the area of gunshot residue?

20 A One.

21 ASST. SOL. LEGETTE: Your Honor, at this time, I would
22 like to offer Ms. Whitney Berry as an expert in the area of
23 gunshot residue.

24 THE COURT: Any objection as to qualifications,
25 counsel?

1 MR. WALKER: No, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, normally,
3 the law does not permit a witness to get on the jury stand
4 and testify to their opinion or their conclusion. You're
5 about to hear the testimony of a witness who claims to have
6 special knowledge, skill, experience, training, or
7 education, in the field of gunshot residue.

8 If qualified by the Court, we call these witnesses
9 expert witnesses. They are permitted to give their opinion
10 as an expert in the matters in which they claim to be so
11 skilled. In determining the weight to be given such an
12 opinion, you should consider the qualifications, and of
13 course the credibility or the believability of the expert
14 and the reasons given for her or his opinion. You are not
15 bound by any expert opinion. You give it the weight, if
16 any, to which you deem it should be entitled.

17 The witness is qualified as an expert in gunshot
18 residue, without objection. You may proceed, Solicitor.

19 ASST. SOL. LEGETTE: Thank you, Your Honor.

20 Q Ms. Berry, what is gunshot residue?

21 A Gunshot residue is sort of a blanket term used to refer
22 to all of the particulate matter that comes out of the
23 muzzle end of a gun when it's discharged. What we're
24 actually looking for is called gun primer residue. That is
25 a primer compound that is held in the bottom of the

1 cartridge casing.

2 So I don't know how familiar the jury or anybody is,
3 but it's a small area that contains three elements: lead,
4 barium and antimony. These components when the firearm is
5 discharged, ignites causing a rapid heated expansion that
6 will push the projectile down the barrel. So we're really
7 just looking for these three elements that come from the
8 primer that would indicate that a firearm had been
9 discharged.

10 Q Okay. Now, how is gunshot residue collected?

11 A Gunshot residue is collect using a particle lift. We
12 give out what we call a gunshot residue collection kit.
13 Inside of it, it contains four particle lifts. Particle
14 lifts are small, round, aluminum discs that have double-
15 sided carbon tape on them, so it's sticky on both sides, and
16 they're inside a little plastic capsule. Each capsule in a
17 gunshot residue kit is labeled right palm, right back, left
18 palm, and left back to correspond with the area of the hand
19 that you are going to sample from.

20 So for the palm, you would sample the entire palm of
21 the hand, including the webbing between the thumb and the
22 index finger. And for the back, you would start around the
23 wrist and go all the way up the fingers and again the
24 webbing on the sides as well.

25 Q Now, how can someone get GSR on their hands? You

1 showed us your hands just now; how can you get it on there?

2 A You can get gunshot residue on your hands by being in
3 the vicinity of the discharge of a firearm. By handling
4 something that was in the vicinity to the discharge of a
5 firearm.

6 Q So you say "vicinity," you mean like be in the area
7 where a gun is fired?

8 A Yes, ma'am.

9 Q And what was the other way?

10 A By coming into contact with something that has been in
11 the vicinity of discharging a firearm.

12 Q Now, if someone has been shot, do you expect to find
13 GSR on their hands?

14 A Yes, ma'am.

15 Q Now, how long will GSR stay on someone's hands?

16 A For a big person, we in the scientific community
17 normally expect that it will last between four and six hours
18 on somebody's hand.

19 Q And is that on a person who was alive or ---

20 A That's just on a living person.

21 Q So what is the consistency, the overall consistency of
22 gunshot residue?

23 A When we talk about gunshot residue, we're talking about
24 microscopic particles. Like to put it in comparison, if you
25 have two football fields side by side, you're looking for

1 something the size of a pea, okay, in the middle of a
2 football field; it's very, very small. So when you think of
3 the consistency of gunshot residue, you tend to think of
4 something like flour. It's very, very small particulate,
5 but more importantly, it's very easy to transfer. If you've
6 ever had flour on your hand or wiped your pants or touched
7 the counter or even clapped your hands together, that's a
8 very good visual to think of and how delicate and easy it is
9 to remove gunshot residue from the hands.

10 Q If your laboratory gets the GSR kit that was collected
11 more than six hours after an incident, what will happen?

12 A If we receive a kit that is collected more than six
13 hours after the incident, I will contact the investigator or
14 whoever is working the case will contact the investigator
15 and inform them that we cannot analyze it.

16 Q And why is that?

17 A We have that in our evidence control protocol that we
18 will not analyze a kit taken after six hours. That's
19 generally because we don't expect to find anything after six
20 hours. Because the particles are so microscopic; and if you
21 think about, you know, flour, rubbing your hands on your
22 pants and the flour coming off, it's the same with gunshot
23 residue. For six hours, you can be putting your hands in
24 your pocket, washing your hands, wiping them on a towel,
25 sweating, the wind can be blowing particularly hard, it can

1 be raining. All these different factors can potentially
2 remove gunshot residue, as well as the fact that your skin
3 will just absorb the tiny particles.

4 Q Now, Ms. Berry, turning your attention to the case
5 before the Court, did you receive any evidence in this case?

6 A Yes, ma'am. I received a gunshot residue kit.

7 Q And Ms. Berry, from whom did you receive the evidence?

8 A Pardon?

9 Q Who did you receive the evidence from?

10 A Who did I receive it from? And who I physically picked
11 it up from or who was the kit from?

12 Q What agency did you get it from?

13 A Okay. I got it from Colleton County Sheriff's Office.

14 Q Okay. And what was the condition of the evidence when
15 you received it?

16 A The evidence was sealed and initialed per SLED's
17 evidence policy.

18 Q If it had not been in a sealed condition, what would
19 have happened?

20 A If it had not been in a sealed condition, I would have
21 notified my supervisor and we would have come up with a plan
22 of action from there; most likely contacting the submitting
23 agency.

24 Q But this evidence was actually sealed?

25 A Yes, ma'am.

1 Q Ms. Berry, I am going to hand you what has been
2 previously marked for identification as State's 54.
3 Please take a moment and tell me if you recognize this item.

4 ASST. SOL. LEGETTE: May I approach the witness, Your
5 Honor?

6 THE COURT: You may. What number, Solicitor?

7 ASST. SOL. LEGETTE: Fifty-four, yes, sir.

8 A Yes, ma'am, I recognize this evidence.

9 Q And Ms. Berry, what is State's 54?

10 A State's 54 is a gunshot residue kit that was collected
11 off of Moray Dupree Holmes.

12 Q And how are you able to recognize State's 54?

13 A I was when we received one GSR kit in this case. I
14 know that this envelope only contains one GSR kit, because I
15 sealed it. I know that it has not been tampered with
16 because it still has the SLED evidence tape across the back;
17 it is tamper evident tape. It also has my initials and the
18 date that I sealed it.

19 I know that it belongs to this case, because every item
20 that is logged in with SLED, every case is given its own log
21 number and each item is given an item number within that
22 case. So this has our lab number for this case and this is
23 container number one, which means it contains item number
24 one.

25 Q And is there a State's Exhibit 54, previously marked

1 for identification, in substantially the same condition
2 today as it was when you sealed it at SLED?

3 A Yes, ma'am.

4 Q Has it been changed or altered in any way?

5 A No, ma'am. Not as far as I can tell except for the
6 stapling of the tag and the evidence sticker.

7 Q Thank you.

8 ASST. SOL. LEGETTE: Your Honor, at this time, I offer
9 for admission into evidence State's 54.

10 THE COURT: As to State's 54?

11 MR. WALKER: No objection.

12 THE COURT: Ladies and gentlemen of the jury, State's
13 Exhibit Number 54 will be admitted into evidence in the
14 trial of this case without objection. You may publish to
15 the jury, Solicitor.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER 54, GSR KIT OF MORAY
17 HOLMES, IS RECEIVED INTO EVIDENCE.)

18 ASST. SOL. LEGETTE: Thank you, Your Honor.

19 Q Ms. Berry, is it customary to create a report with your
20 findings?

21 A Yes, ma'am.

22 Q Okay. And did you create a report in this case?

23 A Yes, ma'am.

24 Q And what were your findings in this case?

25 A In this case, as I mentioned before, we look at the

1 four areas of the hand. So my report reports on the four
2 areas of the hand that were sampled. For this particular
3 case, on the right palm, brown particles consistent with
4 gunshot residue were found. These particles are found in
5 gunshot residue, but can also originate from additional
6 sources. Plus, there's a possibility that it came from the
7 discharge of a firearm, but the possibility that it came
8 from another source could not eliminated.

9 Q And what other sources -- you talked earlier about
10 three particles you look for in GSR kits. What are those
11 particles again that you look for?

12 A They are lead, barium and antimony.

13 Q So you're saying now that it could come from another
14 source. What other source could the two particles that you
15 found come from?

16 A Well, these particles were two component particles.
17 When you think of gunshot residue you think of the most
18 conclusive particle would be a three component particle. So
19 that would be one particle that contains all three elements:
20 lead, barium and antimony. And then down from that you
21 would have a consistent particle, which would be a particle
22 that contains two of those elements. And then down from
23 that you would have an associated particle, which would be
24 only one of those elements.

25 In this case, we have consistent particles, which means

1 they all comprise of two of the elements of interest. The
2 likelihood that these particles could have come from
3 something else is bare, but it's somewhat unlikely that it
4 came from something other than a gunshot or from coming into
5 contact with something that had gunshot residue on it.

6 Q And are all the GSR's in this case, State's Exhibit 54,
7 basically the same?

8 A There are all four areas of the hand had consistent
9 particles on them, yes.

10 Q Now, you testified earlier that someone who was shot,
11 what would you expect to find on that person?

12 A I would expect to find gunshot residue on them.

13 ASST. SOL. LEGETTE: Begging the Court's indulgence.

14 Q Ms. Berry, I have not further questions. Please answer
15 any questions from the defense.

16 A Okay.

17 CROSS-EXAMINATION

18 BY MR. WALKER:

19 Q Good afternoon.

20 A Good afternoon.

21 Q I'm going to refer to the results of your testing and
22 the rating you use in reporting those results. The
23 possibility that the Gunshot residue that you found has a
24 possibility of coming from several sources, correct?

25 A Yes. The consistent particles that were found can come

1 from other sources.

2 Q The particles you found gives the possibilities that
3 one, the person with whom the gunshot residue was found on
4 discharged a firearm themselves?

5 A That is one possibility.

6 Q Was in the vicinity of the discharge of a firearm,
7 correct?

8 A Yes.

9 Q And that's where if one is shot, you're obviously in
10 the vicinity of the discharge and that's how you would get
11 it on you, correct?

12 A Yes.

13 Q Or came into contact with a surface that has gunshot
14 residue on it?

15 A Yes.

16 Q So those are the three ways you can get it?

17 A Yes.

18 Q Now, backing up earlier to your testimony when you were
19 first explaining to us what gunshot residue was, you said
20 that it came from little particulate matter that comes out
21 of the barrel of a gun. But we would expect also on a semi-
22 automatic or automatic firearm to get gunshot residue from
23 the discharge, from the ejection port, right?

24 A Yes, that is true.

25 Q And a revolver, we would expect to get gunshot residue

1 from the rear of the cylinder?

2 A Yes.

3 Q So the highest expectation or likelihood that someone
4 has gunshot residue on their hand is from firing a firearm?

5 A It could be, yes.

6 Q Well, I mean, that's why you do the test?

7 A It's very dependent on the caliber, the condition of
8 the gun that was used, the conditions of the weather if it
9 was outside, which way the wind was blowing. All of these
10 can impact as well as what the person did after they fired
11 the gun.

12 Q Let me ask you about the mechanics of firing a gun.
13 When one fires a gun, you have, let's say this case is a
14 semi-automatic firearm. The discharge coming from the
15 barrel and the ejection port.

16 A Yes.

17 Q On the right of the firearm.

18 A Uh-huh (affirmative).

19 Q And so you have newly created gunshot residue emitting
20 from the weapon at the time of fire?

21 A Yes.

22 Q So you have a possibility of getting gunshot residue on
23 your hand that way?

24 A Yes.

25 Q Also, a firearm is something that automatically or is

1 included in the set of things by default that comes into
2 contact or is in the vicinity of the firearm being
3 discharged?

4 A Yes.

5 Q So you can have gunshot residue on the grip of the gun
6 or the barrel or the slot?

7 A Yes.

8 Q So that's another way beyond the independent firing of
9 the weapon by holding the gun you can get gunshot residue?
10 And then, also, as you said, since it's coming out of the
11 barrel of the gun, you can get it on yourself?

12 A Yes.

13 Q Okay. But that's why we think there is a high
14 likelihood of finding gunshot residue on the hand is if
15 someone hasn't washed or had on gloves, but in a normal
16 situation, there is a high likelihood of someone firing a
17 gun having gunshot residue on their hands?

18 A Again, it depends on the condition of the gun. We've
19 done experimentation at SLED where somebody has gone
20 downstairs and fired a Glock and we knew they had just fired
21 a Glock, we sampled their hands and they were negative. So
22 it really just depends on the condition of the gun and what
23 kind of gun.

24 Q I don't have any further questions. Thank you.

25 THE COURT: Redirect?

1 ASST. SOL. LEGETTE: None, Your Honor.

2 THE COURT: As to this witness?

3 ASST. SOL. LEGETTE: We ask that she be excused.

4 THE COURT: Any objection?

5 MR. WALKER: No objection.

6 THE COURT: Ms. Berry, you may step down from the
7 witness stand. If you will leave my exhibits, I know you
8 want to take your SLED file. Leave my exhibits. Take your
9 SLED file. Drive carefully. You're excused. Madame
10 Foreperson, ladies and gentlemen of the jury, I'm going to
11 take my mid-afternoon break at this point. Let you stretch
12 your legs, get something to drink, let my smoker smoke.
13 Please do not discuss this case. I'll be right back with
14 you just as quick as I get everybody out of the bathroom.
15 Thank you. Please retire to your jury room.

16 (3:26 P.M., WHEREUPON, THE JURY EXITS THE COURTROOM AND
17 THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: Let the record reflect that during
19 testimony, we had a bench conference on an objection by the
20 Solicitor about a question that Mr. Walker asked on cross-
21 examination about what Jeff Scott may have said or testified
22 to in this trial. Obviously, I sustained the objection and
23 I instructed Mr. Walker, he can certainly ask the witness of
24 his recollection of it, but he couldn't pit one witness's
25 testimony against another. I wanted to make sure there was

1 a record of what occurred in the bench conference. Mr.
2 Walker went back and he asked a different question and
3 elicited the information that he was seeking without stating
4 that this was what a witness said and how do you feel about
5 that, which I will not allow during this trial from either
6 side. Having said that, we will now take our one and only
7 bathroom break this afternoon, so take advantage of it.

8 (WHEREUPON, COURT IS IN A BRIEF RECESS IN THE TRIAL OF
9 THIS CASE. THEREAFTER, AT 3:50 P.M., COURT IS RESUMED AND
10 THE FOLLOWING IS PLACED ON THE RECORD.)

11 THE COURT: Is the State ready to proceed?

12 ASST. SOL. LEGETTE: Yes, Your Honor.

13 THE COURT: Is the defendant ready to proceed?

14 MR. WALKER: Yes, we are, Your Honor.

15 THE COURT: Bring us the jury.

16 (3:50 P.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
17 AND THE FOLLOWING IS HELD ON THE RECORD.)

18 THE COURT: Call your next witness, solicitor.

19 ASST. SOL. LEGETTE: Thank you, Your Honor, the State
20 calls Mr. Chad Smith.

21 (WHEREUPON, MR. CHAD SMITH FROM SLED ENTERS THE
22 COURTROOM AND IS DULY SWORN BY THE CLERK OF COURT.)

23 MADAME CLERK: Please have a seat on the witness stand
24 and state your full name for the record.

25 THE COURT: Have a seat and make yourself comfortable.

1 Pull that chair up and adjust that microphone. State your
2 full name and spell your last name for my court reporter,
3 please.

4 WITNESS: My name is Chad Smith, S-M-I-T-H.

5 THE COURT: You witness, Counsel. Direct examination.

6 ASST. SOL. LEGETTE: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY ASST. SOL. LEGETTE:

9 Q Mr. Smith, where do you work, sir?

10 A I'm employed at the South Carolina Law Enforcement
11 Division, also known as SLED.

12 Q And how long have you worked for SLED?

13 A I've worked for approximately six years; November will
14 be six years.

15 Q And at SLED, what do you do at SLED?

16 A I work in the forensic services laboratory. I'm a
17 firearms examiner in the firearms department.

18 Q And as a firearms examiner in the firearms department,
19 what are your duties?

20 A Our main responsibility is the examination of firearms,
21 the ammunition, and the ammunition components. This is a
22 forensic science called firearms identification. What we
23 try to do is match fired cartridge cases or bullets back to
24 the firearm that fired them.

25 Q Mr. Smith, please tell us about your education and

1 background as it relates to firearm identification.

2 A I have a Bachelor of Science degree in Biological
3 Sciences from Clemson University. I came on board at SLED
4 in 2008 and entered the training program of the firearms
5 department. This is a three-to-five year training period.
6 It's taught in-house by the court-qualified examiners of the
7 firearms department. It involves extensive reading,
8 studying, multiple tests. We get to help other examiners
9 prepare their case work, attend various classes and
10 seminars, and things like that. At the end of the training
11 period, I was given a comprehensive examination, and once I
12 completed that examination and passed it, I was deemed
13 competent to receive my own case work.

14 Q Now, Mr. Smith, have you ever been qualified as an
15 expert in the field of firearms identification or
16 toolmarking?

17 A Yes, ma'am.

18 Q How many times?

19 A Five times.

20 ASST. SOL. LEGETTE: Your Honor, at this time, I would
21 offer Mr. Chad Smith as an expert in the field of firearms
22 identification and/or toolmarking.

23 THE COURT: Any objections as to qualifications?

24 MR. WALKER: No objection, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury, recalling

1 my earlier instruction to you concerning expert testimony.
2 The witness is qualified in the field of firearm examination
3 and identification. You may proceed, Solicitor, without
4 objection.

5 ASST. SOL. LEGETTE: Thank you, Your Honor.

6 Q Mr. Smith, what is firearm identification?

7 A It's basically we're trying to identify the firearm
8 that fired a particular ammunition component, like a bullet
9 or a cartridge case. How we're able to do this is during
10 the manufacturing process of a firearm, there are many
11 microscopic defects that are placed on the firearm
12 unintentionally; it's just through the manufacturing
13 process.

14 What happens is these manufacturing defects can cause
15 striations, marks, on a fired component, such as a cartridge
16 case or a bullet. So what we're trying to do is match those
17 striations back to a test fire from the firearm as we're
18 able to make that identification.

19 Q So are those defects what cause you to be able to
20 identify the casing and the firearms together?

21 A Right.

22 Q Now, what is toolmarking identification?

23 A Basically, firearms identification is a specialized
24 area of toolmarking identification. Toolmark identification
25 would be something like matching screwdrivers, crowbars,

1 things like that, scissors, to a sample that had cut it.

2 Q Okay. So firearms is a lesser, or a part of
3 toolmarking?

4 A Yes, ma'am.

5 Q Okay. Now, Mr. Smith, did you receive or examine any
6 evidence in the case before the Court?

7 A Yes, ma'am. I received seven fired Smith and Wesson
8 .40 caliber cartridge cases and a Glock Model 22 .40 Smith
9 and Wesson caliber pistol. With that also came the magazine
10 and some submitted ammunition.

11 Q And what agency submitted this evidence to you?

12 A It was Colleton County Sheriff's Office.

13 Q What was the condition of the evidence when you
14 received it?

15 A It was in good condition. It was in sealed containers.
16 And from that, I was able to open up the containers to
17 examine the evidence.

18 Q Mr. Smith, I'm going to hand you what's been previously
19 marked for identification as State's Exhibit 40. Please take
20 a moment and tell me if you recognize State's Exhibit 40.

21 ASST. SOL. LEGETTE: May I approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 ASST. SOL. LEGETTE: Actually, it's already been
25 admitted into evidence, rather than just identified.

1 THE COURT: Forty is in evidence, isn't it, Becky?

2 COURT REPORTER: It is.

3 Q I apologize, Mr. Smith. It is actually in evidence.

4 THE COURT: A, B, C, D, E, F and G of 40 are already
5 admitted in evidence in the trial of this case. You may
6 approach.

7 Q Mr. Smith, take a moment and tell me if you recognize
8 State's 40?

9 A Yes, ma'am. This is the container that I received from
10 Colleton County Sheriff's Office that contained the fired
11 cartridge cases.

12 Q And Mr. Smith, is State's Exhibit 40 in substantially
13 the same condition today as when you previously or last saw
14 it?

15 A Yes, ma'am. It has been cut, but not my seal; the
16 original seal as it was submitted has been cut. But
17 otherwise, it is in the same condition.

18 Q Thank you. Now, Mr. Smith, I will direct your
19 attention to State's 40. Within that packet is State's
20 Exhibit 40-A, 40-B, 40-C, D, E, F, and G. If you don't
21 mind, would you open that packet and take those out and tell
22 me if you recognize State's Exhibits 40-A through G
23 collectively.

24 A Yes, ma'am. These are the cartridge cases that were
25 submitted.

1 Q And are State's Exhibits 40-a through G collectively in
2 substantially the same condition today as when you last saw
3 them?

4 A Yes, ma'am. They're still in the sealed containers.
5 As you can see, my initials and the seal date is still in
6 place on all of these containers.

7 Q And is that how you're able to recognize them?

8 A That and also, too, we mark each piece of evidence with
9 the SLED lab number, the item number, and my initials. I'll
10 just take a quick peek to make sure. (WITNESS EXAMINES
11 EVIDENCE.) Yes, ma'am, this was the evidence I received.

12 Q Okay. Mr. Smith, did you examine State's Exhibit 40-A
13 through G collectively?

14 A Yes, ma'am, I did.

15 Q And what were your findings with regards to those
16 particular items?

17 A Exhibits A through F, which are my exhibits, are items
18 8-13 on my report were fired by one firearm. And Exhibit G,
19 which is number 14 on my report was fired by a separate
20 firearm. In comparison with the submitted firearm, item 15
21 on my report, neither sets were fired by that submitted
22 firearm.

23 Q And let's talk about the item 15. Did you also receive
24 a gun in this case?

25 A Yes, ma'am.

1 Q And can you describe that gun for me?

2 A It was a semi-automatic pistol, a Glock, a .40 Smith
3 and Wesson caliber. It was in working order. I was able to
4 obtain test-fires from it. It functioned fine. I compared
5 those test fires to the submitted cartridge cases.

6 Q And upon comparing the submitted firearm to the
7 cartridge cases, what did you find?

8 A That none of the cartridge cases were fired by the
9 submitted firearm.

10 Q Did you ever get a submitted firearm that actually you
11 could compare to the casings?

12 A That actually matched?

13 Q That matched; I'm sorry.

14 A No, ma'am.

15 Q Now, Item G: You said Item G is not related to --, or
16 was not fired by the same firearm as the others A through F?

17 A Yes, ma'am. It's my understanding that this specific
18 item was submitted as a test fire from the Glock factory of
19 a firearm that was stolen in the vicinity of the crime
20 scene, and they submitted this. The owner maintained this
21 cartridge case and submitted it for comparison.

22 Q Now, is it customary to create a report of your
23 findings?

24 A Yes, ma'am.

25 Q And was a report created in this case?

1 A Yes, ma'am.

2 Q Mr. Smith, I hand you now what's been previously marked
3 for identification as State's Exhibit 72. Please take a
4 moment and tell me if you recognize this.

5 ASST. SOL. LEGETTE: May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 A Yes, ma'am. This is a copy of my report that was
9 issued.

10 Q And your signature appeared thereon?

11 A Yes, ma'am.

12 Q And is it a fair and accurate representation of the
13 report that you created for this case?

14 A Yes.

15 ASST. SOL. LEGETTE: Your Honor, at this time, I would
16 offer State's Exhibit 72 for admission into evidence.

17 THE COURT: As to State's 72?

18 MR. WALKER: No objection.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibit 72 will be admitted into evidence in the trial of
21 this case without objection.

22 (WHEREUPON, STATE'S EXHIBIT NUMBER 72, FIREARM REPORT
23 BY SLED, IS RECEIVED INTO EVIDENCE.)

24 THE COURT: You may publish to the jury, Solicitor.

25 ASST. SOL. LEGETTE: Thank you, Your Honor.

1 Q Mr. Smith, just briefly, with regards to the submitted
2 shell casing, State's Exhibit 40-A through F, was there
3 anything else significant about those shell casings?

4 A The head stamps; when I say head stamp, it's actually
5 the base of the cartridge case. A lot of times the
6 manufacturer of the cartridge case, the brand if you will,
7 will place their information. And also a lot of times you
8 will find the type of caliber that this cartridge case came
9 from. So when I look at the head stamp, I can tell what
10 brand of ammunition it was and I did notice there were
11 several different brands of ammunition within this lot.

12 Q Thank you, Mr. Smith. I have no further questions,
13 sir. Please answer any questions from the defense.

14 A Yes, ma'am.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. WALKER:

18 Q You just mentioned that the caliber is imprinted on the
19 head stamp of some manufacturers; it's a word we've heard
20 used several times. What is a caliber of a firearm?

21 A Generally speaking, caliber refers to the board
22 diameter of the actual barrel of the firearm. Depending on
23 what size barrel it is, the diameter of it, the diameter of
24 the projectile that fits in that barrel; so in this
25 instance, .40 caliber, the diameter of the firearm that

1 would fire it, the diameter of the barrel would be .4 inches
2 in diameter.

3 Q The cartridges you have there in your evidence bags
4 have little black numbers on them. Did you put those on
5 there?

6 A Yes, sir. Those were just some quick identification
7 numbers that I put during my examination so that I could
8 quickly identify which one is which.

9 Q Does that keep you from messing them up?

10 A Yes, sir. That and we etch each individual piece of
11 evidence with an electric graver with our lab number, item
12 number and our initials.

13 Q So that's also a part of it on each cartridge?

14 A Yes, sir.

15 Q Thank you. I have no further questions.

16 THE COURT: Redirect?

17 ASST. SOL. LEGETTE: None, Your Honor.

18 THE COURT: As to this witness?

19 ASST. SOL. LEGETTE: We ask that he be excused, Your
20 Honor.

21 THE COURT: Any objection?

22 MR. WALKER: No objection.

23 THE COURT: All right. Mr. Smith, you may step down.
24 Leave my exhibits. You are excused from the trial of this
25 case.

1 Call your next witness, Solicitor.

2 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
3 calls Coroner, Richard Harvey.

4 (WHEREUPON, RICHARD HARVEY ENTERS THE COURTROOM AND IS
5 DULY SWORN BY THE CLERK OF COURT.)

6 THE COURT: Come have a seat. You know what to do.
7 State your full name and spell your last name for the court
8 reporter.

9 WITNESS: Richard Harvey, H-A-R-V-E-Y.

10 THE COURT: Your witness, Counsel.

11 ASST. SOL. LEGETTE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY ASST. SOL. LEGETTE:

14 Q Good afternoon, Mr. Harvey.

15 A Good afternoon.

16 Q Where do you work, sir?

17 A I am the Colleton County Coroner.

18 Q And as the coroner, what are your responsibilities?

19 A I do death investigations on any untimely deaths in the
20 county of Colleton.

21 Q I want to turn your attention to the month of September
22 2012. Did you have the occasion to authorize an autopsy in
23 September of 2012?

24 A I did.

25 Q And specifically for September 6th, 2012, what autopsy

1 did you authorize?

2 A Autopsy to be done on Moray Holmes.

3 Q And can you tell us about did you actually pronounce
4 him dead or what did you do in this case?

5 A No, ma'am. I was contacted by the Colleton Medical
6 Center Emergency Room where they informed me they had Mr.
7 Holmes and that Dr. Garcia had pronounced him dead and I
8 went to the hospital at that point in time to begin our
9 investigation.

10 Q And thereafter, did you contact MUSC and authorize an
11 autopsy?

12 A I did. We transported the body directly to Medical
13 University of South Carolina from the emergency room.

14 Q And thereafter, did you certify his death?

15 A I did.

16 Q Mr. Harvey, I have no further questions. Please answer
17 any questions from the defense.

18 THE COURT: Cross-examination?

19 MR. WALKER: I don't have any questions of this
20 witness.

21 THE COURT: As to this witness, Solicitor, may he be
22 excused?

23 ASST. SOL. LEGETTE: Yes, Your Honor.

24 THE COURT: Any objection, Mr. Walker?

25 MR. WALKER: No, Your Honor.

1 THE COURT: Mr. Harvey, you are excused from the trial
2 of this case. Call your next witness.

3 ASST. SOL. LEGETTE: The State calls Kenya Kelly.

4 (WHEREUPON, KENYA KELLY ENTERS THE COURTROOM AND IS
5 DULY SWORN BY THE CLERK OF COURT.)

6 THE COURT: Watch your step for me, please. Have a
7 seat. Pull the chair up. Adjust that microphone. State
8 your full name and spell your last name for my court
9 reporter.

10 WITNESS: My name is Kenya Lekeisha Kelly, K-E-L-L-Y.

11 MR. WALKER: Your Honor, may we approach?

12 THE COURT: Sidebar. Counsel approach.

13 (Whereupon, a bench conference is held off the record
14 and out of the hearing of the jury.)

15 THE COURT: Objection withdrawn. Direct examination,
16 Solicitor.

17 DIRECT EXAMINATION

18 BY ASST. SOL. LEGETTE:

19 Q Good afternoon, Ms. Kelly.

20 A Hi.

21 Q Where are you from, Ms. Kelly?

22 A Walterboro, South Carolina.

23 Q And what high school did you go to?

24 A Walterboro High.

25 Q Did you know Moray Holmes?

1 A Yes.

2 Q And how did you know Moray Holmes?

3 A Through school, and then later on, he started dating my
4 cousin and married my cousin.

5 Q and who is your cousin?

6 A Renatta Ellison Holmes.

7 Q Now, do you know a man names Cornelius White?

8 A Yes.

9 Q How do you know Cornelius White?

10 A That's my brother.

11 Q How about Quoteas Nesbitt? Do you know Quoteas
12 Nesbitt?

13 A Yes.

14 Q And how do you know him?

15 A I knew him since he was a child.

16 Q Okay. Is Quoteas Nesbitt in Court today?

17 A Yes.

18 Q Can you point him out, please?

19 A He's over there. (WITNESS INDICATING DEFENDANT.)

20 Q And can you describe what he's got on?

21 A A beige -- a white shirt and tie.

22 ASST. SOL. LEGETTE: Let the record reflect the witness
23 indicated Quoteas Nesbitt.

24 Q Now, Ms. Kelly, I want to turn your attention to

25 September 6th, 2012. Do you recall September 6th, 2012?

1 A Yes.

2 Q Ms. Kelly, did you go to the Chase Lounge that day?

3 A Yes.

4 Q Tell us what kind of place is Chase Lounge?

5 A It's a pool hall.

6 Q Okay. And how often would you say you went to the
7 Chase Lounge?

8 A About three or four times a week.

9 Q And why did you go to the Chase Lounge? So you could
10 hang out?

11 A Yes. And it's around the corner from my house.

12 Q Now, you said you've known Quoteas Nesbitt since he was
13 a child. Did you ever see him at the Chase Lounge?

14 A Yes.

15 Q Okay. Now, let's go back to September 6th, 2012. Did
16 you see him at the Chase Lounge on September 6th, 2012?

17 A Yes.

18 Q Let's talk about that. Let's go back to that night.
19 Tell me what time did you arrive at the Chase Lounge?

20 A Usually in the evening time, I'm sitting around about
21 7:00 before it got dark.

22 Q Okay. And what were you doing?

23 A Just the normal. Hanging in and out, talking to
24 friends.

25 Q Okay. So at a point did anything unusual happen?

- 1 A Later on that night.
- 2 Q Okay. So how long would you say you were there?
- 3 A Probably about two hours, if that.
- 4 Q Okay. Now, you said you -- did you see Quoteas Nesbitt
- 5 there that particular evening?
- 6 A In the evening, not long after I got there, I saw him.
- 7 Q Okay. And how long would you say he was there?
- 8 A I'm not sure.
- 9 Q Okay. But you were positive it was him?
- 10 A Yeah, it was daylight, yeah.
- 11 Q Okay. So at some point, did you see Moray Holmes and
- 12 Renatta Holmes come to the Chase Lounge?
- 13 A Yes.
- 14 Q And tell me what happened when you saw them.
- 15 A They pulled up in the second driveway, and being that
- 16 she is my cousin, I was surprised to see her out there,
- 17 because she don't like to come out there. I got up from
- 18 where I was at and walked over and talked to her.
- 19 Q Okay. And during this period of time, do you know
- 20 whether he was still there, Quoteas Nesbitt?
- 21 A No.
- 22 Q You don't know?
- 23 A No.
- 24 Q But you had seen him earlier?
- 25 A Yes.

1 Q Okay. Now, how long would you say he was there prior
2 to him getting there?

3 A I'm not sure. I saw him when I first got there, so I'm
4 not sure how long he been there before I got there and how
5 long after.

6 Q Okay. You said you went over and talked to your
7 cousin?

8 A Uh-huh (affirmative).

9 Q I'm sorry; you have to say yes or no.

10 A Yes.

11 Q All right. You went over and talked to her?

12 A Yes.

13 Q Okay. So did something strange happen while you were
14 talking to her?

15 A Yes, I was talking to her no more than two or three
16 minutes. You know, wasn't that long, and shooting came. I
17 heard shooting behind my back.

18 Q Okay. Did you see anything?

19 A No.

20 Q Okay. And once you heard the shooting, what did you
21 do?

22 A Just kind of got stuck for a minute, then heard more
23 shooting, and I kind of ducked a little bit and tell her to
24 get out the car; let's run behind the car, but she couldn't
25 get the car door open, and when she did, she jumped out

1 the window and she ran one way and I ran around the car into
2 the corner.

3 Q Now, did you ever know of any bad blood between Quoteas
4 Nesbitt and Moray Holmes?

5 A No, not to my knowledge.

6 Q While you were at the Chase Lounge, did you ever hear
7 an argument between Mr. Moray Holmes and anyone or Quoteas
8 Nesbitt?

9 A No, ma'am.

10 Q Had you ever known Mr. Nesbitt and Moray Holmes to hand
11 out together?

12 A Yes, I have seen them hanging out together.

13 Q Okay. And how long prior to September 6th, 2012, had
14 you seen them hanging out together?

15 A Like a few days before.

16 Q Ms. Kelly, I have no further questions. Please answer
17 any questions from the defense.

18 THE COURT: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. WALKER:

21 Q When you went over to speak to Ms. Holmes, where was
22 she?

23 A Sitting in the passenger's side of her husband's car.

24 Q And where were you when you were speaking to her?

25 A Standing up almost like by the little side window,

1 mirror.

2 Q The mirror area?

3 A Uh-huh (affirmative).

4 Q Does that car have one of those little triangle windows
5 between the mirror and the main window?

6 A No, sir, I don't believe so.

7 Q You said when shots began to fire, after initial
8 inability to react, you ducked down and ran one way. Which
9 way did you go?

10 A I ran behind the car to like I would say the right.

11 Q Did you go around the hood or around the back?

12 A The trunk.

13 Q And you said that Ms. Holmes couldn't get the door open
14 so she exited through a window. Which window did she go
15 through?

16 A The passenger side window.

17 Q And she went the other way around the hood?

18 A No, sir. She ran directly to her husband.

19 Q Okay. So she ran that way.

20 MR. WALKER: Beg the Court's indulgence.

21 Q I have no further questions, Ms. Kelly.

22 THE COURT: Redirect?

23 ASST. SOL. LEGETTE: None, Your Honor.

24 THE COURT: As to this witness?

25 ASST. SOL. LEGETTE: We ask that she be excused.

1 THE COURT: Any objection, Mr. Walker?

2 MR. WALKER: None, Your Honor.

3 THE COURT: Ms. Kelly, you may step down. You are
4 excused from the trial of this case. You may leave the
5 courtroom. Call your next witness.

6 ASST. SOL. LEGETTE: Malachi Sanders, III.

7 MR. WALKER: Your Honor, we have a matter.

8 THE COURT: Counsel approach.

9 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
10 AND OUT OF THE HEARING OF THE JURY.)

11 THE COURT: Objection overruled.

12 (WHEREUPON, THE WITNESS, MR. MALACHI SANDERS, III,
13 ENTERS THE COURTROOM.)

14 MADAME CLERK: Please come forward to be sworn.

15 (WHEREUPON, MR. SANDERS IS DULY SWORN BY THE CLERK OF
16 COURT.)

17 MADAME CLERK: Please have a seat on the witness stand.

18 THE COURT: Watch your step for me, Mr. Sanders. Have
19 a seat.

20 WITNESS: My name is Malachi Sanders, III.

21 THE COURT: Spell your last name for the court
22 reporter.

23 WITNESS: S-A-N-D-E-R-S.

24 THE COURT: Very well. Your witness, counsel.

25 ASST. SOL. LEGETTE: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY ASST. SOL. LEGETTE:

3 Q Good afternoon, Mr. Sanders.

4 A Good afternoon.

5 Q Mr. Sanders, where are you from, sir?

6 A Walterboro.

7 Q And what do you do for a living?

8 A Work in the logging woods.

9 Q And exactly who do you work for?

10 A At the moment, I work for Smith Logging in Grays, South

11 Carolina.

12 Q And where did you used to work?

13 A M & J Logging.

14 Q And what is M & J logging to you?

15 A It's a family owned business.

16 Q And as a family owned business, what business are you

17 in?

18 A Sanders business.

19 Q But I'm saying what do you do for a living? Basically,

20 what do you do?

21 A Like drive a truck, cut trees, load wood.

22 Q All right. Now, who is the owner of that business?

23 A My father.

24 Q Okay. Did you know Moray Holmes?

25 A Yes, ma'am.

- 1 Q Who was Moray Holmes to you?
- 2 A My younger brother.
- 3 Q And did he have any nicknames?
- 4 A Yeah, they called him "Bobo", "Big Blue".
- 5 Q Did y'all work together?
- 6 A Yes, ma'am.
- 7 Q What was his job?
- 8 A Tree cutting.
- 9 Q And what does a tree cutter do?
- 10 A Cut the trees.
- 11 Q Okay. And when did you work? What was your work
- 12 schedule?
- 13 A I work Monday through Saturday, sometimes on Sunday.
- 14 Q And did Moray work with you during those times?
- 15 A Yes, ma'am.
- 16 Q Were there any other brothers in the business?
- 17 A Yes, ma'am.
- 18 Q Okay. Now, are you married?
- 19 A Yes, ma'am.
- 20 Q And what is your wife's name?
- 21 A Shawna Denise Mitchell Sanders.
- 22 Q Okay. Now, do you know Quoteas Nesbitt?
- 23 A Yes, ma'am.
- 24 Q And how long have you known Quoteas Nesbitt?
- 25 A Quite a few years.

1 Q Is he present in Court today?

2 A Yes, ma'am.

3 Q Can you point him out for the jury?

4 A Yes, ma'am.

5 Q Can you point him out, please?

6 A (WITNESS INDICATES DEFENDANT.)

7 Q And what is he wearing?

8 A A white shirt with blue striped tie.

9 ASST. SOL. LEGETTE: Let the record reflect that the
10 witness indicated the defendant, Quoteas Nesbitt.)

11 Q Now, Mr. Sanders, have you and Mr. Nesbitt ever had any
12 problems?

13 A No, ma'am.

14 Q And to your knowledge, did your brother, Moray Holmes,
15 know Quoteas Nesbitt?

16 A Know him?

17 Q Did your brother know Quoteas Nesbitt?

18 A Yes, ma'am.

19 Q Did they ever have any problems?

20 A Not to my knowledge.

21 Q Now, Mr. Sanders, let's talk about the Chase Lounge.
22 Are you familiar with the Chase Lounge?

23 A Yes, ma'am.

24 Q What kind of place is the Chase Lounge? How would you
25 describe it?

1 A It's like a social club, pool hall.

2 Q Okay. And did you ever go to the Chase Lounge?

3 A Yes, ma'am.

4 Q How often did you go to the Chase Lounge?

5 A Every day.

6 Q Do you still go?

7 A No, ma'am.

8 Q All right. Now, tell me when would you go to the Chase
9 Lounge?

10 A After work.

11 Q Okay. And what would you do at the Chase Lounge?

12 A Shoot pool, drink, hang out, talk to the fellows.

13 Q All right. Now, would you drink a certain type of drink
14 or what would you do?

15 A Well, I would drink liquor and beer.

16 Q Now, would you bring it with you or how did that work?

17 A I would bring my liquor with me and I would purchase
18 the beer from the club.

19 Q Now, would you bring enough for everybody and why did
20 you do that?

21 A Yeah.

22 Q Let's talk about it. Come on, let's talk.

23 A Yeah, I pretty much brought it, a pretty good bit of
24 alcohol for me and my brothers to drink.

25 Q And why did you do that?

1 A Because my pops, he kind of like, he keep us in the
2 woods until the liquor store closed, trying for us not to.
3 You know what I'm saying? When I bought it, I bought a good
4 bit, because I wasn't able to catch the place.

5 Q So you brought it kind of for your friends and your
6 brothers?

7 A Yes, ma'am.

8 Q Now, how about Bobo, how often did he come to the
9 Chase?

10 A Well, he would come pretty much every now and then.
11 Sometimes he would come on a regular time, but sometimes he
12 would take some time off, you know. He wouldn't come as
13 much as I would.

14 Q All right. Now, let's go back to a few days prior to
15 when Bobo was killed; do you remember that?

16 A Yes, ma'am.

17 Q All right. Now, were you at the Chase Lounge a few
18 days prior to Bobo being killed?

19 A Yes, ma'am.

20 Q And can you describe for me -- was there an incident in
21 those two days prior to him being killed that was
22 significant to you?

23 A Yes, ma'am.

24 Q Can you describe what happened?

25 A My brother's car was in the parking lot.

1 Q Now, you said "your brother," you say you had more
2 brothers than one?

3 A Bobo.

4 Q Okay.

5 A His car was in the parking lot and two guys approached
6 him about a gun and was asking -- well, they came -- they
7 came to me and asked me did I know where my brother was at
8 the moment. And I told them no, I didn't know where he was,
9 but his car was right there. So then Bobo walked up and was
10 asking them what was the matter. So the guys told him,
11 saying, well, we want the gun or the money. So Bobo was
12 like I don't know what you're talking about, so the guys
13 left and Bobo left.

14 Q Was anyone else there with you during that time?

15 A Yes, ma'am.

16 Q Who else was there?

17 A Jerome.

18 Q Who is Jerome?

19 A My brother -- my younger brother.

20 Q Okay. And who else was there?

21 A Well, Nicholas Williams, Quoteas was there, and I can't
22 remember everybody else.

23 Q That's fine. You said that the guys left?

24 A Yes, ma'am.

25 Q And Bobo left?

1 A Yes, ma'am.

2 Q Did anything happen after Bobo left?

3 A Well, right before he left -- right before Bobo left, I
4 was asking him why these people running up on him like that.
5 He was like he don't know nothing about it. So I kind of
6 like jumped on his case a little bit and he left. Then
7 after he left, I heard Quoteas say, "I thought guys were
8 gonna handle that." You know, "If that were me, I wouldn't
9 handle it like that. He gonna get his one day."

10 Q And who was he referring to?

11 A At the moment, he was referring to my brother.

12 Q Bobo?

13 A Yes, ma'am.

14 Q Now, when you overheard this statement, what did you
15 do? Did you say anything? Did you do anything?

16 A Well, I kind of like looked at my younger brother like,
17 "What are you talking about?" You know what I'm saying?
18 Sound like -- you know what I'm saying?

19 Q No, I don't know. Tell me what you're saying.

20 A Sound like he was directing that toward Bobo. My
21 brother was like, well, he ain't got nothing to do with
22 that. So it was best for me to stay out of that.

23 Q Okay. Did you think he was serious or you don't know?

24 A I didn't think he was. You know, I really didn't know
25 because whether he was serious or not, because he was

1 talking in the air.

2 Q Now, thereafter, let's shift past that and let's go to
3 September 6th, 2012. Do you remember September 6th, 2012?

4 A Yes, ma'am.

5 Q All right. Did you work that day?

6 A Yes, ma'am.

7 Q And who worked with you?

8 A My father, my uncle, my three brothers.

9 Q Bobo was with them?

10 A Yes, ma'am.

11 Q Okay. So how long did y'all work that day?

12 A We worked til about 6:30.

13 Q At some point, did y'all get off work and go your
14 separate ways?

15 A Well, when we got off from work, everything was shut
16 down, but Bobo, he still was in the woods cutting wood. So
17 he normally be one of the first to leave, he say your daddy
18 must be told him that he had a certain amount of wood to be
19 cut, so he must be trying to finish it up; so we left him in
20 the woods.

21 Q Okay. And once you left him in the woods, where did
22 you go?

23 A Chase.

24 Q Your hangout spot?

25 A Yeah.

1 Q All right. And then what did you do at Chase?

2 A Well, I backed up, came to my regular spot.

3 Q Where is your regular spot?

4 A To the right of the building.

5 Q Kind of in the corner?

6 A Yes, ma'am.

7 Q All right. So what did you do in your little regular
8 spot? Who did you talk to?

9 A I was talking to Nicholas Williams and we fixed a
10 drink.

11 Q Okay. You can tell us. Fix a drink. All right.

12 A Yeah, we was standing up there, you know, just talking.

13 Q Okay. Did you talk to anyone else who came up while
14 you were talking to Nicholas?

15 A Well, Bobo came up a couple minutes after I was talking
16 to Nicholas and he got out the car with his shirt off and I
17 kind of like screamed at him and I asked him why he getting
18 out the car with his shirt off, and he be like, well, I'm
19 dirty. I just got off work. Daddy done made me stay out
20 there late. I just want a drink, you know. I'm going home
21 to get cleaned up.

22 Q Okay. Did you give him a drink?

23 A Yes, ma'am.

24 Q All right. So did he leave?

25 A Yes, ma'am.

1 Q Did you see anyone else?

2 A Yes, ma'am.

3 Q Who did you see?

4 A I seen Quoteas and Minnis.

5 Q So you saw Quoteas and a guy named Minnis?

6 A Yes, ma'am..

7 Q All right. So what happened when you saw Quoteas?

8 A Well, he kind of walked up to me and like, "What's up,
9 man? How you doing?" I was like, "What's up, man?" So he
10 was like, "That Mustang, we used to lay them boys out with
11 racing." I was like, "I still got to go," They asked me
12 did I have a drink. I told them, "Yeah." So ---

13 Q Did you give him one?

14 A Yes, ma'am.

15 Q Okay. So did y'all continue talking?

16 A Well, we stayed out there for a little while, you know,
17 and then they walked off.

18 Q Now, at some point, what did you do after -- you know,
19 you said you were talking to Nick, and you talked to
20 Quoteas, and at some point, did you move around at the
21 Chase?

22 A Yes, ma'am. I went inside to shoot pool with another
23 guy.

24 Q Okay. And did anything significant happen while you
25 were inside the Chase shooting pool?

1 A Well, after I shot one game with him and I didn't win,
2 so I walked up to the counter to get change because I was
3 gonna shoot him in another game, but in the process of me
4 getting change, I heard a ring of shots fired out in front
5 of the building.

6 Q Okay. You heard shots?

7 A Yes, ma'am.

8 Q All right. And where were they coming from?

9 A Outside.

10 Q And what did you think when you heard them? Did you
11 think anything?

12 A Well, I just was like, thugs, they shooting in front of
13 the building like that now? I didn't think anything
14 because I ain't going out there; you know what I'm saying?

15 Q Okay. So did anything happen next?

16 A Well, the people that was -- some people started
17 running inside, you know, I was like, "They coming in here?"
18 Then they went to go back outside and they came back in
19 again and that's when a fellow came to me and told me that
20 that was my brother out there that just got shot.

21 Q Okay. So when you heard that, what did you do?

22 A I was like stunned, whatever, you know what I'm saying?
23 Shocked. I didn't know whether to go outside or come inside
24 -- or stay inside, excuse me.

25 Q And did you go outside?

1 A Well, my friend, Nicholas Williams came in and got me
2 and pulled me outside and was like, "That's your brother
3 they just shot out there, man. We trying to get him to the
4 hospital." So he took me outside, you know what I'm saying?
5 I was just like stunned.

6 Q All right. Mr. Sanders, I have no further questions,
7 sir. Please answer any questions from the defense.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. WALKER:

11 Q Good afternoon.

12 A Good afternoon.

13 Q I want to ask you a few questions. They're pretty much
14 in the same order the solicitor did. She first asked you
15 about an incident that had occurred a couple of days before
16 your brother was killed. You ---

17 THE COURT: Hold on a second. Did you answer? Ask
18 that again. I couldn't hear an answer, so I want to make
19 sure the jury gets an answer.

20 Q Do you recall talking with the Solicitor about an
21 incident that occurred two days prior to your brother
22 getting killed?

23 A Yes, sir.

24 Q And you said that two young guys got out the car
25 looking for your brother?

1 A Yes, sir.

2 Q And they said to him, "We want the gun or the money?"

3 A Yes, sir.

4 Q And then Moray or Bobo, dealt with that and they left?

5 A Yes.

6 Q And then you testified that he left right after that
7 and he -- well, no, you testified that after they left, you
8 jumped on his case a little bit?

9 A Yes.

10 Q Why did you do that?

11 A Because I'm protective over my brothers, you know. It
12 was like I was trying -- something was going on and I wanted
13 to hear what he had to say.

14 Q Were you worried that something bad might happen
15 because of that incident with those people?

16 A No, I wasn't -- I just wanted to ask him what was going
17 on. He said he ain't had nothing to do with it. So if he
18 said he didn't have nothing to do with it, I wasn't worried.

19 Q Then he left?

20 A Yes, sir.

21 Q In the statement, you said that Quoteas made at that
22 time, you said that wasn't really directed to anyone; he was
23 talking to the air?

24 A Yeah, I said he was saying it in the air.

25 Q Yet at the time he said it, you did not think anything

1 of it?

2 A Well, like I said, when he said it, he was like, "I
3 thought those fellows were gonna handle it. I wouldn't
4 handle it like that. One of these days he gonna get his."

5 Q But then you said he was talking to the air so you
6 didn't really worry about it. You didn't think anything of
7 it, really?

8 A I said I looked at my brother

9 Q Let me back up a little bit. You met with the
10 Solicitor's Office about this case, correct?

11 A Yes, sir.

12 Q In fact, that was less than a week ago?

13 A Yes, sir.

14 Q And you discussed your testimony here today; is that
15 correct?

16 A Say that again?

17 Q You discussed basically what you just told the jury,
18 correct?

19 A Earlier today?

20 Q On August the 20th.

21 A Oh, yes, sir.

22 Q Basically the same thing you said today?

23 A Yes, sir.

24 Q Was that the first time you met with the Solicitor or
25 any law enforcement saying those things?

1 A Yes, sir.

2 Q Do you recall telling in your meeting on the 20th of
3 August, Investigator Stallings that you and your brother
4 didn't pay any attention to Quoteas Nesbitt because you and
5 your brother and Quoteas had hung out together in the past?

6 A I'm not -- would you say that again?

7 Q Do you remember telling the Solicitor that after
8 Quoteas made this statement that you and your brother
9 didn't pay any attention to what Quoteas said because y'all
10 all had hung out together in the past?

11 A No, I said that I really didn't pay that any attention
12 because you know I had heard that Quoteas and my brother
13 Bobo had hung out in the past.

14 Q Okay. As far as you knew, they didn't have any
15 problems?

16 A No, sir.

17 Q And again, this statement was brought on after a
18 confrontation between Bobo and -- how old is Bobo?

19 A I'm not sure.

20 Q Is he in his 30's or 40's?

21 A Yeah, he's in his 30's.

22 Q And the two people that came up were much younger than
23 that?

24 A Yes, sir.

25 Q So that statement came after this confrontation with

1 these two younger guys?

2 A Yes, sir.

3 Q Then moving forward from that day, two days forward
4 that the shooting occurred. You said your brother came by
5 earlier in the day and then left and then they came back,
6 right?

7 A Yes, sir.

8 Q When you talked to him earlier in the day, you and
9 others were standing around drinking beer?

10 A Just me and Nicholas.

11 Q Okay. And he came up and got a drink with you?

12 A Yes, sir.

13 Q And was he also smoking marijuana at that time?

14 A No, sir.

15 Q Was Nick smoking marijuana?

16 A No, sir.

17 Q Okay. So he got a little bit of drink and then left?

18 A No, me and Nick was already drinking. My brother came
19 up and got a drink and left.

20 Q So he didn't stay around and talk to you guys? He just
21 grabbed a drink?

22 A Yeah.

23 Q Okay. I do not have any further questions. Thank you.

24 THE COURT: Redirect?

25 ASST. SOL. LEGETTE: None, Your Honor.

1 THE COURT: As to this witness?

2 ASST. SOL. LEGETTE: We ask that he be excused, Your
3 Honor.

4 THE COURT: Any objection?

5 MR. WALKER: NO objection.

6 THE COURT: Mr. Sanders, you may step down from the
7 witness stand and you are excused from the trial of this
8 case.

9 WITNESS: All right. Thank you, sir.

10 THE COURT: Call your next witness.

11 ASST. SOL. LEGETTE: Your Honor, may we approach?

12 THE COURT: Counsel approach.

13 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
14 AND OUT OF THE HEARING OF THE JURY.)

15 THE COURT: Okay. Madame Foreperson, ladies and
16 gentlemen of the jury, I told you I would be mindful of your
17 time. It's almost 5:00 and I understand the next witness is
18 rather lengthy, and rather than keep you here late this
19 afternoon, I'm going to get you home a little bit earlier.
20 Over the overnight recess, please do not discuss the case.
21 It's my intention to complete the trial tomorrow. I'm
22 working on that ladies and gentlemen. I'll see that the
23 train stays on the track. I hope everybody has a pleasant
24 evening. be in your jury room prior to 9:30. It is my
25 intention to start in the morning at 9:30. Thank you so

1 much for your cooperation. You may leave the courtroom at
2 this time. Everyone else remain seated while the jury is
3 leaving.

4 (5:00 P.M. WHEREUPON, THE JURY EXITS THE COURTROOM AND
5 THE FOLLOWING IS HELD ON THE RECORD.)

6 THE COURT: All right. Let me put on the record, the
7 Solicitor says she will be done by noon tomorrow and asked
8 me to stop early. Prior to Mr. Sanders being sworn, Mr.
9 Walker raised an objection to Mr. Sanders' testifying to a
10 previous encounter where Mr. Sanders offered his
11 recollection as to what the defendant said about the
12 deceased "in the air" as Mr. Walker elicited on cross
13 examination. Mr. Walker's objection was on relevance. I
14 overruled that objection and I wanted there to be a record
15 of it. Now, I asked you both to submit your requests to
16 charge by 5:00 today. My law clerk tells me he has received
17 nada from either one of you, meaning nothing. Does the
18 State have any requests to charge?

19 ASST. SOL. LEGETTE: Yes, Your Honor. I have them on
20 my computer and I will print them out.

21 THE COURT: Copy Mr. Walker on them and number them.
22 Does the defendant have any requests to charge?

23 MR. WALKER: Your Honor, we'd be satisfied with the
24 charge of the Court.

25 THE COURT: All right. Defendant has no requests to

1 charge. Court's in recess until 9:30 a.m. tomorrow morning.

2 (4:30 P.M., WHEREUPON, THE COURT IS IN RECESS IN THE
3 TRIAL OF THIS CASE FOR THE EVENING. THEREAFTER, THURSDAY
4 MORNING, THE COURT RESUMES THE TRIAL OF THIS CASE AND THE
5 FOLLOWING IS PLACED ON THE RECORD.)

6 THE COURT: All right. Ms. Legette, is the State ready
7 to proceed?

8 ASST. SOL. LEGETTE: We are, Your Honor.

9 THE COURT: Is the defendant ready?

10 MR. WALKER: We are, Your Honor.

11 THE COURT: Coach, bring us the jury.

12 (9:35 A.M., WHEREUPON, THE JURY ENTERS THE COURTROOM
13 AND THE FOLLOWING IS HELD ON THE RECORD.)

14 THE COURT: Good morning, hope everybody had a good
15 evening. Anybody have any problems last evening?

16 JURY: No.

17 THE COURT: Good. Glad to hear that. We will now
18 continue with the testimony in the trial of this case.
19 Solicitor, you may call your next witness.

20 ASST. SOL. LEGETTE: Thank you, Your Honor. The State
21 calls Brian Manigo.

22 MADAME CLERK: Please come forward to be sworn.

23 (WHEREUPON, MR. BRIAN MANIGO IS DULY SWORN.)

24 MADAME CLERK: Please have a seat on the witness stand.
25 State your name for the record.

1 THE COURT: Watch your step on my stairs. Have a seat.
2 Pull that chair and adjust that microphone to your height.
3 It's going to amplify your voice. State your full name and
4 spell your last name for the court reporter.

5 WITNESS: I'm Brian Manigo, M-A-N-I-G-O.

6 THE COURT: Your witness, counsel. Speak up so
7 everybody can hear you, Mr. Manigo.

8 DIRECT EXAMINATION

9 BY ASST. SOL. LEGETTE:

10 Q Good morning, sir.

11 A Good morning.

12 Q Mr. Manigo, where are you from?

13 A Walterboro and Green Pond.

14 Q Okay. What county is that in?

15 A Uh ---

16 Q It's in Colleton County?

17 A Yes, ma'am.

18 Q Okay. I need you to speak up, okay? Now, what high
19 school did you go to?

20 A Colleton County.

21 Q And did you graduate?

22 A No.

23 Q Are you working on graduating?

24 A Yes, ma'am.

25 Q Okay. Now, what do you do for a living?

1 A Tie steel.

2 Q Now, Mr. Manigo, do you have a prior criminal history?

3 A I have an assault and battery, first degree, I pled to.

4 Q Okay. So you pled guilty to assault and battery first
5 degree?

6 A Yes, ma'am.

7 Q Does that have any bearing on your testimony here
8 today?

9 A No.

10 Q Now, Mr. Manigo, did you know Moray Holmes?

11 A Yes, ma'am.

12 Q And what did you call him?

13 A A family friend.

14 Q Okay. What was his nickname?

15 A Bobo.

16 Q And you said a family friend. Tell us about your
17 relationship with him.

18 A We was real close.

19 Q Did y'all hang out together?

20 A A lot, every day.

21 Q Now, how long would you say you knew Bobo or Moray
22 Holmes?

23 A Ever since I was young.

24 Q Okay. How old are you now?

25 A Twenty-four..

- 1 Q Do you know how old Moray Holmes was?
- 2 A Thirty-three, thirty-two, something like that; I'm not
- 3 sure.
- 4 Q Now, did you ever ride around with him?
- 5 A Every day.
- 6 Q What kind of car did he have?
- 7 A A Buick Regal, Cadillac.
- 8 Q Okay. Can you describe this car?
- 9 A Brown with rims on it.
- 10 Q And tell us about this car that he drove. What did he
- 11 do with it?
- 12 A Keep it clean.
- 13 Q Can you describe how he kept it clean?
- 14 A Like wash it, rims shining, music.
- 15 Q Music?
- 16 A Yeah.
- 17 Q How often would he wash it?
- 18 A Every day when he leave work.
- 19 Q Okay. Did you know anything about his family life?
- 20 Did he have any animals?
- 21 A Yeah, he had a dog named Pablo.
- 22 Q And who got the dog for him?
- 23 A I guess he got it himself; I'm not sure.
- 24 Q All right. Now, do you know Quoteas Nesbitt?
- 25 A Yes, ma'am.

1 Q And how long have you known Quoteas Nesbitt?
2 A About 10 or 11 years.
3 Q All right. Would you say y'all are friends?
4 A Well, we associate, talk, chill.
5 Q Y'all talk, chill, hung out?
6 A Yeah.
7 Q All right. Now, is Quoteas Nesbitt present in Court
8 today?
9 A Yes.
10 Q Can you point him, please?
11 A Yes.
12 Q Please point him out.
13 A (WITNESS POINTS TO DEFENDANT.)
14 Q Can you describe what he's wearing?
15 A A white shirt with a tie -- a blue tie.
16 Q Okay. A blue tie.
17 ASST. SOL. LEGETTE: Let the record reflect that the
18 witness has indicated the defendant, Quoteas Nesbitt.
19 Q Now, do you ever have any problems with Mr. Nesbitt?
20 A No.
21 Q Do you know of any problems that Mr. Nesbitt had with
22 Bobo?
23 A No.
24 Q Did you ever see Mr. Nesbitt and Bobo hanging out
25 together?

1 A Yes.

2 Q And how often would they hang out or do you know?

3 A It wasn't like that. It just like see one another,
4 talk, chill, probably drink or something like that. It
5 wasn't like an every day thing like me and Moray would
6 chill.

7 Q Okay. Did they ever ride around in the same car
8 together?

9 A They rode around before together.

10 Q Okay. Who was driving?

11 A Moray.

12 Q Did he always drive?

13 A Yeah.

14 Q All right. Now, Mr. Manigo, I want to turn your
15 attention to September the 6th, 2012. Do you remember
16 September 6th, 2012?

17 A Yes.

18 Q Okay. Did you have occasion to go to the Chase Lounge?

19 A Yes.

20 Q What kind of place is the Chase Lounge?

21 A Like a hang out spot where you buy beer, drink, chill,
22 shoot pool, listen to music.

23 Q Okay. How often did you go to the Chase Lounge?

24 A Like three or four times out of a week.

25 Q Now, so on September 6th, 2012, did you go to the Chase

1 Lounge?

2 A Yes.

3 Q Who went there with you?

4 A Me and Kelvin.

5 Q Kelvin who?

6 A Mitchell.

7 Q All right. Who was driving?

8 A Kelvin.

9 Q Okay. And was anyone else in the car?

10 A No.

11 Q And you were sitting where?

12 A The passenger seat.

13 Q So at the Chase Lounge, what time of day would you say

14 you got there?

15 A About like 7, 7:30, close to 8:00, something like that.

16 Q What were y'all doing?

17 A Sitting in the parking lot in the car, in the driveway.

18 Q Okay. What kind of car did Kelvin Mitchell drive?

19 A A white Hyundai Sonata.

20 Q Okay. So while you're sitting at the Chase Lounge

21 hanging out, chilling, do you see anybody that you know?

22 A Yes.

23 Q Who do you see?

24 A Quoteas.

25 Q Mr. Nesbitt?

1 A Yes.

2 Q And tell us about that when you saw Quoteas; what
3 happened?

4 A He approached the car we was in.

5 Q And tell us what happened when he approached the car
6 that you were in.

7 A He was talking to us -- well, he was talking to Kevy at
8 the window and he was like, "What's up with Bobo? Bobo got
9 a problem with me or something like that?" And about that
10 time, we heard Moray coming down the road and Quoteas just
11 walked off from the car.

12 Q Okay. So when he said -- tell us again what did he
13 say?

14 A He said, "Bobo got a problem with me? He been mugging
15 me earlier," or something like that.

16 Q So he asked you did Bobo have a problem with him; he
17 been mugging me? What does mugging mean?

18 A He was asking Kevy that.

19 Q He was asking Kevy? Okay. So what does mugging mean?

20 A Like looking with a strange face, like you got a
21 problem or something.

22 Q Okay. Did you say anything when Quoteas asked this
23 question?

24 A No.

25 Q What was going through your mind?

- 1 A Nothing, cause everybody was cool, you know.
- 2 Q Even Quoteas and Bobo?
- 3 A Right.
- 4 Q All right. So he asked that question. Then you said
- 5 you heard music?
- 6 A Yeah.
- 7 Q Whose music did you hear?
- 8 A Moray's.
- 9 Q Could you always hear his music?
- 10 A Yeah.
- 11 Q Is that how you knew he was coming?
- 12 A Yeah, I know him before -- you can hear the music
- 13 before you see him.
- 14 Q All right. So he liked music?
- 15 A Right.
- 16 Q So you hear music and what does Quoteas do?
- 17 A He walks away from our car.
- 18 Q Do you know where he is headed?
- 19 A No, he just walked and is standing like in the middle
- 20 of the parking lot.
- 21 Q So what happens after Quoteas walks away and stands in
- 22 the middle of the parking lot?
- 23 A Moray made the right turn and pulled into Chase Parking
- 24 lot.
- 25 Q All right. And so what part of the parking lot did

1 Moray pull into? Did he pull in right beside y'all?

2 A The first entrance is like a ditch and then a driveway.

3 Q Okay. Now, where were y'all sitting?

4 A In the second driveway.

5 Q All right. So you said Moray pulled into the first
6 driveway and tell me what happened from there.

7 A Moray got out. I guess he was hollering at people. I
8 was steady playing with my phone and he was walking, coming
9 towards us, but he had to bypass Quoteas before he get to
10 us, and they had words, talking, or whatever, and Moray just
11 turned around and came on towards us, and then you heard the
12 gunshots.

13 Q Okay. So Moray is walking towards y'all?

14 A Yes.

15 Q Are you able to see at this point?

16 A Yes.

17 Q Okay. And what are you seeing?

18 A Him and Quoteas talking back and forth.

19 Q Okay. Are they having an argument?

20 A It wasn't -- it wasn't -- it didn't look like an
21 argument.

22 Q Did you hear what they were saying?

23 A No.

24 Q Okay. So they're talking and what did you say?

25 A They was -- Moray met Quoteas and they was talking back

1 and forth.

2 Q Okay. And then you said Moray, Bobo, turned and walked
3 away?

4 A Yeah, coming toward us.

5 Q All right. So what happened next?

6 A I guess he took a couple of steps and Quoteas started
7 shooting him in the back ---

8 Q So you saw -- I'm sorry; go ahead.

9 A Quoteas started shooting him in the back.

10 Q So did you actually see Quoteas shoot him in the back?

11 A Yes.

12 Q Okay. You said he turned and walked away?

13 A Coming towards us.

14 Q All right. And then Quoteas pulled out a gun and shot
15 him in the back?

16 A Yes.

17 Q How many shots did you hear?

18 A Like four.

19 Q Okay. What were you doing while Quoteas was shooting
20 Bobo?

21 A Looking for a gun.

22 Q And why were you looking for a gun?

23 A To shoot back.

24 Q And you were trying to defend Bobo?

25 A Correct.

- 1 Q Okay. Did you ever find a gun?
- 2 A No.
- 3 Q Okay. Where did you look?
- 4 A Like, you know, like on the seats and stuff like that.
- 5 Q On the seats? Okay. So Bobo had just been shot by
- 6 Quoteas. What did you do next?
- 7 A Well, Kelvin, he was so shocked and nervous he started
- 8 like to leave and I was like, "Where you going?" but before
- 9 he was even, you know, he done stopped the car in the road
- 10 and I got out and went to Bobo.
- 11 Q Okay. So you go to Bobo?
- 12 A Yes.
- 13 Q Who was with him? Anybody?
- 14 A Who was with who? Bobo? When I got to him?
- 15 Q Yes.
- 16 A His wife.
- 17 Q And what's happening now?
- 18 A Everybody just screaming and hollering and crowding us,
- 19 you know, trying to get him to the hospital.
- 20 Q Okay. So did you help with the effort to get him to
- 21 the hospital?
- 22 A Right. He got into the car with me and Kelvin.
- 23 Q All right. So who helped to get him in the car?
- 24 A Me, Nicholas, Coot.
- 25 Q Anyone else?

1 A Not from my -- I'm not sure.

2 Q Okay. So at this point, was Bobo able to help himself?

3 A No.

4 Q So he was kind of limp?

5 A Yeah, like, just ---

6 Q Okay. Can you describe the man that you remember as
7 Bobo and how large he was?

8 A He was about 300 pounds, tall, dark skin.

9 Q Okay. You were trying to get him in the car. Do y'all
10 ever get him in the car?

11 A Yes.

12 Q And whose car is this?

13 A Kelvin.

14 Q All right. So once you get him in the car, what
15 happens?

16 A We just pull off and take him to the hospital.

17 Q Okay. And when you got to the hospital, did you help
18 carry him in or ---

19 A No, they came out with the stretcher, because they
20 already had got the call that we was on the way.

21 Q Okay. Now, did you ever call 911?

22 A Yes.

23 Q All right. So you get to the hospital, and what did
24 you do?

25 A We just -- they took him in and we just hanged around

1 right there to see if he was to live or not.

2 Q Okay. And then you found out that he didn't?

3 A Right.

4 Q Okay. Now, why were you -- well, Mr. Manigo, let's go
5 back to a few days prior. Did anything strange occur two
6 days prior to Bobo's death?

7 A Well, a gun got token (sic) from a dude and some boss
8 came to Chase two days prior to the shooting and was asking
9 Moray about the gun and he was like, "Don't ask me about no
10 gun. I ain't took no gun from you."

11 Q So did Moray take this gun from anybody?

12 A No.

13 Q Who took the gun? Or are you aware of who took it?

14 A I'm aware of who took it.

15 Q Why do they think Bobo was responsible?

16 A I don't know.

17 Q But in other words, tell me about that gun issue.

18 A Well, we was riding one night. It was me, Bobo, Paris
19 and we came through a little neighborhood and somebody had
20 wanted to sell a gun, so they put the gun in the car -- they
21 put the gun in the car, and when they put the gun in the
22 car, the person told Moray to pull off and he pulled off.

23 Q Okay. Did Moray know?

24 A No, he ain't know.

25 Q Okay. How do you know he didn't know?

1 A Because he was messing with his phone and the music was
2 still on.

3 Q Okay. So who are "they," that you say they put the gun
4 in the car?

5 A I don't know his name.

6 Q Okay. So the gun is in the car, someone tells Moray to
7 drive away, so Moray drives away.

8 A Right.

9 Q Where do y'all go after y'all drive away?

10 A Chase.

11 Q And did anything happen at the Chase?

12 A No. Some boy just pulled up asking about the gun.

13 Q And what was Moray's response?

14 A "I don't got no gun."

15 Q Okay. So after that, did anything happen that you
16 remember? Where did you go while at the Chase, inside or
17 stay outside?

18 A I was outside talking to one of Moray's brothers.

19 Q All right. Now, let's go back to the night that Moray
20 was shot and killed. You said that these guys came up
21 asking him about the gun two nights prior?

22 A Right.

23 Q Were those guys present at the Chase the night he was
24 killed?

25 A No.

1 Q Okay. Are you certain?

2 A Yeah.

3 Q Are you certain of the person who killed Moray Holmes?

4 A Yeah.

5 Q And how are you certain?

6 A Because I saw him shoot him.

7 Q Were you there?

8 A Yes.

9 Q Okay. Now, Mr. Manigo, are you familiar with the crime
10 scene diagram of the Chase Lounge?

11 A Yes.

12 Q Okay.

13 THE COURT: Refer to the number for the record.

14 ASST. SOL. LEGETTE: Yes, Your Honor.

15 Q Mr. Manigo, in a moment I'm going to hand you what's
16 been entered into evidence as State's 47. Take a moment and
17 tell me if you recognize State's 47.

18 ASST. SOL. LEGETTE: May I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 Q Are you familiar with State's 47?

22 A Yes.

23 Q And Mr. Manigo, what is State's 47?

24 A Where Quoteas been standing?

25 Q No, I'm saying what is State's 47?

1 A Oh, Chase, Chase.

2 Q Okay. Is State's 47 a fair and accurate representation
3 of the Chase Lounge the night of September 6th, 2012?

4 A Right.

5 Q Now, Mr. Manigo, I'm going to ---

6 ASST. SOL. LEGETTE: Your Honor, may he step down with
7 a microphone?

8 THE COURT: Hand him the microphone, please, Madame
9 Clerk. Come around, Mr. Walker, so you can see. Hold the
10 microphone for the witness. Becky, let me know if you can't
11 hear.

12 ASST. SOL. LEGETTE: Mr. Manigo, can you step down,
13 sir?

14 THE COURT: Matt, can you see?

15 MR. WALKER: Yes, sir.

16 Q All right. Mr. Manigo, I will hold the microphone.
17 I'm going to give you the red pen. Please tell us and stand
18 back here with me so the jury can actually see what you're
19 saying. Tell me where or what this actually is.

20 A This is a diagram of what happened the night at Chase.

21 Q All right. And tell us about these cars, that white
22 car?

23 A That's the car that me and Kelvin Mitchell was in.

24 Q All right. And I see another car in this particular
25 diagram. Whose car is that?

1 A Moray.

2 Q All right. And where are you when Moray Holmes pulls
3 up?

4 A In the passenger seat of the white car.

5 Q You want to put an X by the passenger seat?

6 A (WITNESS DOES SO.)

7 THE COURT: Counsel, refer to the record to what you're
8 asking him to draw on.

9 ASST. SOL. LEGETTE: Yes, Your Honor. Your Honor, may
10 Ms. Stallings assist me with the exhibit?

11 THE COURT: Yes.

12 Q Now, Mr. Manigo, please tell us where is Kelvin
13 Mitchell in ---

14 THE COURT: Refer to what exhibit you're asking the
15 witness to write on, Solicitor.

16 Q Mr. Manigo, on State's 47, can you please tell us where
17 Kelvin Mitchell is in the car?

18 A Yes.

19 Q Can you tell us on State's 47 where Quoteas Nesbitt is
20 before Mr. Holmes gets to the Chase Lounge?

21 A Before he gets to the Chase?

22 Q Yes.

23 A (WITNESS INDICATES ON STATE'S 47.)

24 Q He's talking to y'all?

25 A Right.

1 Q All right. So tell me on State's 47 where the actual
2 shooting occurs when Quoteas Nesbitt shoots and kills Bobo.

3 A (WITNESS INDICATES ON STATE'S 47.)

4 Q In that area?

5 A Right.

6 Q Okay. So you're able to actually see the entire thing?

7 A Everything.

8 Q Do you know where Ms. Renatta Holmes is while this is
9 going on?

10 A While the shooting is going on?

11 Q Yes, while the shooting is going on, on State's 47,
12 where is Renatta Holmes?

13 A Getting out of the car.

14 Q So she's getting out of the gold car on State's 47?

15 A Yeah, right.

16 Q Okay. Thank you, Mr. Manigo.

17 THE COURT: Give the microphone back to the clerk.

18 Have a seat for me, Mr. Manigo. Pull the microphone back to
19 you and adjust the seat. Thank you, Ms. Stallings.

20 Q Now Mr. Manigo, you said you were present the night
21 that Moray Holmes was killed by Quoteas Nesbitt. Are you
22 familiar with the video?

23 A Yes.

24 Q Okay. And at my request, have you previously viewed
25 the video for accuracy to make certain that it was actually

1 what happened?

2 A Yes.

3 Q Now, you said you were present?

4 A Yes.

5 Q So are you watching the video to see what happened or
6 you watching the video to verify that it's accurate?

7 A Right.

8 Q That it's accurate?

9 A Right.

10 Q Mr. Manigo, I'm going to hand you what's been
11 previously entered into evidence as State's 45. Please take
12 a moment and tell me if you recognize State's 45.

13 ASST. SOL. LEGETTE: May I approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 Q Mr. Manigo, do you recognize State's 45?

17 A Yes.

18 Q And what is State's 45?

19 A The disc of what happened at Silver Shadow.

20 Q The video?

21 A Yeah.

22 Q And is that a fair and accurate representation of the
23 events that happened at the Chase Lounge the night of
24 September 6th, 2012?

25 A Yes.

1 Q And at my request, have you previously reviewed it for
2 accuracy?

3 A Yes.

4 Q And initialed it?

5 A Yes.

6 ASST. SOL. LEGETTE: Your Honor, at this time, I would
7 ask to publish State's 45 with this witness.

8 THE COURT: It's in evidence, Solicitor. You may
9 proceed.

10 ASST. SOL. LEGETTE: Thank you, Your Honor. May I
11 approach?

12 THE COURT: You may.

13 (WHEREUPON, STATE'S EXHIBIT 45, VIDEO FOOTAGE OF THE
14 CHASE LOUNGE, BEGINS PLAYING ON SCREEN AT 10:00 A.M. WHILE Q
15 AND A IS DONE.)

16 Q All right. Mr. Manigo, I direct your attention to the
17 video, State's 45. Tell me what we're seeing in this
18 particular video. Where is your car that you're sitting in?

19 A With the headlights on.

20 Q Right here?

21 A Yes.

22 Q That's your car? The car you're sitting in?

23 A Yes.

24 Q Okay. Are you at this point, talking to Quoteas
25 Nesbitt? or is he at the window?

1. A Yes.
2. Q Okay. So while Quoteas Nesbitt is at the window, what
- 3 is he asking Kelvin Mitchell?
- 4 A If Bobo got a problem with him.
- 5 Q Now, I see a car coming down the road. Whose car is
- 6 this?
- 7 A Moray.
- 8 Q Okay. So is that a -- would you call it a Oldsmobile?
- 9 A Buick.
- 10 Q Okay. This man right here. Who is this?
- 11 A Quoteas.
- 12 Q Now, you said when Bobo got out, what did he do?
- 13 A He was walking, coming towards us.
- 14 Q Okay. At a point, they had a conversation?
- 15 A Right there.
- 16 Q This is the conversation right here?
- 17 A Yes.
- 18 Q Okay. So you're sitting here watching?
- 19 A Yep.
- 20 Q You said Bobo walked away?
- 21 A Yes.
- 22 Q Is that him walking away right here?
- 23 A Yes.
- 24 Q And that's Quoteas shooting him right there?
- 25 A Yes.

- 1 Q Now, y'all seem to be backing out. What's happening?
- 2 A Kevy done got scared.
- 3 Q I see a car stopped. Who is this getting out?
- 4 A Me.
- 5 Q So what are y'all doing at this point?
- 6 A Going to Bobo.
- 7 Q Y'all trying to get him in the car?
- 8 A Right.
- 9 Q And I see people rushing outside. Does anybody else
10 come to help y'all or do these people just leave?
- 11 A No, people was coming to help.
- 12 Q Okay. Now, Mr. Manigo, while Quoteas and Bobo were
13 talking, did you ever see Quoteas Nesbitt smoking?
- 14 A No.
- 15 Q So he wasn't smoking?
- 16 A No.
- 17 Q While he was shooting Bobo was he smoking?
- 18 A No.
- 19 Q So y'all still trying to get him in the vehicle right
20 now?
- 21 A Yes.
- 22 Q So about how long does it take y'all to get him into
23 the vehicle, Mr. Manigo?
- 24 A A long time. He was heavy.
- 25 Q Okay. And so how many of y'all to get him in there?

1 A Probably was like three or four of us, because a lot of
2 people was scared to touch him.

3 Q And these people in here, they seem to be standing in
4 the area where the shooting happened?

5 A Yes.

6 Q So y'all still sitting here. Y'all haven't gotten him
7 in yet. Y'all getting him in now?

8 A Yeah, we getting him in now.

9 Q So who drove to the hospital; you or Kevy?

10 A Kevy.

11 Q And that Kevy, is that Kevin Mitchell?

12 A Yes.

13 Q So now y'all seem to be pulling off?

14 A Right.

15 Q Mr. Manigo, this is another angle. Whose car is that?

16 A Moray.

17 MR. WALKER: Your Honor, I object to the leading
18 questions.

19 THE COURT: Sustained. Ask direct questions.

20 ASST. SOL. LEGETTE: Yes, Your Honor.

21 Q Thank you, Mr. Manigo. Just a few more questions.

22 (VIDEO IS STOPPED AT 10:06 A.M.)

23 Q Did you actually after the -- you was at the hospital
24 you said?

25 A Yes.

1 Q Did you talk to the police right away?

2 A No, I never did talk to them that night.

3 Q And why didn't you talk to them that night?

4 A Because everybody else was talking to them.

5 Q Did you talk to the police a week later?

6 A No.

7 Q How long was it before you came and talked to the
8 police?

9 A Like a month.

10 Q Why did it take you so long?

11 A Nervous.

12 Q Okay. But did you come to the police?

13 A Yes.

14 Q Okay. And who did you talk to?

15 A Det. Davis.

16 Q Is he present in Court?

17 A Yes.

18 Q Can you point him out?

19 A (WITNESS INDICATES.)

20 Q This man right here?

21 A Yes.

22 Q What is he wearing?

23 A A black suit.

24 ASST. SOL. LEGETTE: Let the record reflect that the
25 witness has indicated Det. Rusty Davis.

1 Q Now, Mr. Manigo, what's the name of the man that killed
2 Moray Holmes?

3 A Quoteas Nesbitt

4 Q Is Quoteas Nesbitt present in Court today?

5 A Yes.

6 Q Can you point him out?

7 A Yes.

8 Q Please point him out for the jury.

9 A (WITNESS INDICATES THE DEFENDANT.)

10 ASST. SOL. LEGETTE: Let the record reflect the witness
11 has indicated the defendant, Quoteas Nesbitt.

12 Q Mr. Manigo, I have no further questions, sir. Please
13 answer any questions from the defense.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MR. WALKER:

17 Q You said you were on the passenger side of the white
18 car when you arrived at the Chase Lounge, correct?

19 A Yes.

20 Q And you saw from that video that the passenger side, if
21 you're looking out the passenger side, you'd be looking away
22 from where the shooting occurred; is that correct?

23 A Repeat yourself.

24 Q If you were looking out the passenger window, you'd be
25 looking away from where the shooting occurred, right?

- 1 A Right.
- 2 Q So you were looking through the windshield?
- 3 A Right, the front windshield.
- 4 Q You said you had a clear view of what was going on?
- 5 A Right.
- 6 Q And you said you couldn't hear him?
- 7 A No.
- 8 Q You didn't say that or you couldn't hear him?
- 9 A I ain't heard nothing.
- 10 Q Okay. And then Ms. Legette was asking you after the
- 11 incident when you spoke to the police and you said it was a
- 12 month or so later. Do you remember exactly when it was?
- 13 A No. It was a month later.
- 14 Q Okay. Do you remember giving a statement?
- 15 A Yes.
- 16 Q A written statement to police?
- 17 A Yes.
- 18 Q On November 28th of 2012?
- 19 A Correct.
- 20 Q And is that the interview that you referenced when you
- 21 were talking to Det. Davis?
- 22 A Yes.
- 23 Q Okay. So when you said in that statement that you
- 24 heard a conversation between Bobo and Quoteas Nesbitt that
- 25 was wrong?

1 A Repeat yourself.

2 Q When you gave that written statement saying you did
3 hear a conversation between Bobo and Quoteas, that wasn't
4 right?

5 A Correct.

6 Q And have you had other meetings with the police or the
7 Solicitor's office about this case?

8 A No. I had viewed the tape a couple of weeks ago.

9 Q So from November the 28th, 2012 until would it be fair
10 to say August the 8th of this year, is when that meeting
11 occurred?

12 A Yeah, right.

13 Q So those are the two times you've talked to law
14 enforcement?

15 A Right.

16 Q And it was at this most recent meeting that you had
17 previously viewed this tape?

18 A Right.

19 Q So this was not new to you; you had seen it before?

20 A Correct.

21 Q I meant to ask, you said -- she was asking you how you
22 knew Mr. Holmes; you said as a family friend. Y'all are
23 cousins, right?

24 A Yeah.

25 Q And you hung out a lot. Didn't you say you rode with

1 him?

2 A Yes.

3 Q The solicitor asked you how you knew it was Quoteas
4 Nesbitt and you said it was because you were there and saw
5 it?

6 A Right, I seen him.

7 Q Because if you hadn't been here, you wouldn't have
8 been able to pick Quoteas out?

9 A Right.

10 Q Because it's dark?

11 A Right.

12 Q The Solicitor also mentioned some prior problems you
13 had with the law. I'd like to get into the timing of that a
14 little bit. Now, isn't it true that you were arrested ---

15 ASST. SOL. LEGETTE: Objection.

16 THE COURT: Counsel approach.

17 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
18 AND OUT OF THE HEARING OF THE JURY.)

19 Q Again, I want to talk about you said you had pled
20 guilty to an assault and battery, first degree?

21 A Right.

22 Q But you were actually arrested in May of 2011, correct?

23 A Correct.

24 Q On two counts of attempted murder and other charges,
25 correct?

1 A Yes.

2 Q Those are more serious charges than what you eventually
3 pled to?

4 A Right.

5 Q And that plea, that conviction, did not happen until
6 February of this year, correct?

7 A Yes.

8 Q And what sentence did you received?

9 A Off of the first degree?

10 Q Yes, sir.

11 A Ten years, suspended to a year time served and five
12 years probation.

13 Q So you're currently on probation from that charge?

14 A Right.

15 Q And what does it mean to be on probation?

16 A Well, you got to report. You got to have your system
17 clean. And I got to pay restitution.

18 Q And stay out of trouble, right?

19 A Right.

20 Q And if you don't do any of those things, you have a 10-
21 year sentence hanging over your head, correct?

22 A Yes.

23 Q You have current pending charges, correct?

24 A Yes.

25 ASST. SOL. LEGETTE: Objection.

1 THE COURT: Counsel, is there an objection?

2 ASST. SOL. LEGETTE: There is, Your Honor.

3 THE COURT: Counsel approach.

4 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
5 AND OUT OF THE HEARING OF THE JURY.)

6 THE COURT: Objection overruled.

7 Q So you're currently on probation?

8 A Right.

9 Q And if you were to be revoked on your probation, you
10 would be facing a prison sentence of potentially up to 10
11 years?

12 A Right.

13 Q And probation could decide to revoke your charges?

14 A Right.

15 Q And that's up to probation?

16 A Right.

17 Q I don't have any further questions.

18 THE COURT: Redirect examination?

19 ASST. SOL. LEGETTE: Thank you, Your Honor.

20 REDIRECT EXAMINATION

21 BY ASST. SOL. LEGETTE:

22 Q Mr. Manigo, have you and I ever discussed any deals or
23 your pending charges or a deal that you want to get for
24 testifying today?

25 A No.

1 Q Was I the prosecutor who actually prosecuted you for
2 your assault and battery first degree?

3 A No.

4 Q Mr. Manigo, does your prior record have anything to do
5 with why you're here today, sir?

6 A No.

7 Q Mr. Manigo, who shot and killed Moray Holmes?

8 A Quoteas Nesbitt

9 Q Are you positive?

10 A Yes.

11 Q Are you certain?

12 A Yes.

13 Q Is Quoteas Nesbitt present in Court today?

14 A Yes.

15 Q Can you point him out?

16 A Yes.

17 Q Please point him out.

18 A (WITNESS INDICATES THE DEFENDANT.

19 ASST. SOL. LEGETTE: Let the record reflect that the
20 witness has indicated the defendant, Quoteas Nesbitt.

21 Q I have no further questions.

22 THE COURT: Recross, limited to redirect?

23 MR. WALKER: None, Your Honor.

24 THE COURT: As to this witness, Solicitor?

25 ASST. SOL. LEGETTE: We ask that he be excused, Your

1 Honor.

2 THE COURT: Any objection, Mr. Walker?

3 MR. WALKER: None, Your Honor.

4 THE COURT: Mr. Manigo, you may step down from the
5 witness stand and you are excused from the trial in this
6 case. Call your next witness.

7 ASST. SOL. LEGETTE: The State calls Kelvin Mitchell.

8 (WHEREUPON, KELVIN MITCHELL ENTERS THE COURTROOM AND IS
9 DULY SWORN BY THE CLERK OF COURT.)

10 THE COURT: Watch your step. Pull the chair up.
11 Adjust the microphone. I want you to use it to amplify your
12 voice. State your full name and spell your last name for
13 the court reporter.

14 WITNESS: Kelvin Mitchell, M-I-T-C-H-E-L-L.

15 THE COURT: Speak up for me, now. Do you need some
16 water?

17 WITNESS: No, sir.

18 THE COURT: All right. Your witness, counsel. Direct
19 examination.

20 ASST. SOL. LEGETTE: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY ASST. SOL. LEGETTE:

23 Q Mr. Mitchell, where are you from, sir?

24 A Walterboro.

25 Q And do you have a nickname?

1 A Yeah.

2 Q What's your nickname?

3 A Kevy-boy.

4 Q Now, Mr. Mitchell, what high school did you go to?

5 A Ruffin and Walterboro.

6 Q Okay. Do you work?

7 A Yes, ma'am.

8 Q What do you do for a living?

9 A Logging.

10 Q Did you know Moray Holmes?

11 A Yes, ma'am.

12 Q How did you know Moray Holmes?

13 A Family, friend, brother.

14 Q Okay. Now, Mr. Mitchell, do you know -- well, let me

15 ask you this question. Do you want to be here today?

16 A Yes, ma'am.

17 Q Okay. Now, do you know Quoteas Nesbitt?

18 A Yes, ma'am.

19 Q Is he present in Court today?

20 A Yes, ma'am.

21 Q Can you point him out, please?

22 A (WITNESS INDICATES DEFENDANT.)

23 ASST. SOL. LEGETTE: Let the record reflect that the

24 witness has indicated the defendant, Quoteas Nesbitt.

25 Q What is he wearing?

1 A A collared shirt with a tie, light blue and dark blue
2 tie.

3 Q Mr. Mitchell, how long would you say you knew Quoteas
4 Nesbitt?

5 A I don't know, about seven or eight years.

6 Q Would you consider y'all friends?

7 A No, ma'am.

8 Q Associates?

9 A No, ma'am.

10 Q Okay. But you knew him?

11 A Yes, ma'am.

12 Q Okay. How long would you say you knew Moray Holmes?

13 A All of my life.

14 Q Okay. Mr. Mitchell, I want to turn your attention to
15 September 6th, 2012. Do you remember that day?

16 A Yes, ma'am.

17 Q Did you see Moray Holmes that day?

18 A Yes, ma'am.

19 Q Did you see Quoteas Nesbitt that day?

20 A Yes, ma'am.

21 Q Tell me where you saw Quoteas Nesbitt.

22 A At the Chase Lounge.

23 Q Explain to me where you were at the Chase Lounge.

24 A Pulled up in the driveway.

25 Q Okay. And was anyone with you?

- 1 A Yes, Brian Manigo.
- 2 Q And who was driving?
- 3 A I was.
- 4 Q Okay. And did you have any guns in your car?
- 5 A Yes, ma'am.
- 6 Q Where was it?
- 7 A On the floor.
- 8 Q Okay. Was it on the floor on in the glove box.
- 9 A It was on the floor.
- 10 Q Okay. Why do you keep a gun?
- 11 A Because I done been shot before.
- 12 Q So you said you saw Quoteas Nesbitt?
- 13 A Yes, ma'am.
- 14 Q Tell me the circumstances about when you saw Quoteas
- 15 Nesbitt.
- 16 A He was wondering why Bobo was looking like him at that.
- 17 Q So where was Quoteas Nesbitt? Was he talking to you?
- 18 A Yes, ma'am.
- 19 Q Where was he standing when he was talking to you?
- 20 A At my driveway window.
- 21 Q Okay. And do you remember what he had on?
- 22 A No, ma'am.
- 23 Q So tell me what he was saying to you.
- 24 A "What's up with Bobo? Why Bobo looking at me like that
- 25 and mugging me?"

1 Q You said "mugging me"?

2 A Yes, ma'am.

3 Q What does mugging me mean?

4 A I guess staring him up and down or something.

5 Q Okay. So Quoteas is asking you questions.

6 A Yes, ma'am.

7 Q What is your response?

8 A I don't know.

9 Q Okay. You said you didn't know?

10 A Unh-unh.

11 THE COURT: You have to say yes or no.

12 A I told him I didn't know why Bobo was looking at him
13 like that.

14 Q Okay. So after y'all had this conversation, what
15 happens next?

16 A Nothing. He just like, "Bobo got to holler at me. He
17 need to holler at me," or something like that. While he was
18 saying that, Bobo had been in the corner.

19 Q In the corner?

20 A Well, he was making the turn right there off of Proctor
21 and Rivers.

22 Q All right. So Bobo was making his turn. Where was he
23 going?

24 A Well, him and his old lady was riding. I don't know if
25 they was -- he might have stopped there because he seen my

1 car there.

2 Q Okay. You said y'all were friends?

3 A Yes, ma'am.

4 Q So did Bobo pull into the driveway or he pulls into the
5 Chase Lounge?

6 A Yes, ma'am. On the other driveway.

7 Q All right. So does Bobo go inside the Chase or what
8 does he do?

9 A Well, he got out and he about to walk to my car, but
10 then 'teas called him and him and 'teas was talking.

11 Q All right. So they're talking. So you overhear the
12 conversation?

13 A No. They was like to the building -- to the front of
14 the building.

15 Q Okay. Were you able to see them?

16 A Yes, ma'am.

17 Q Did you see -- what happens next?

18 A I just heard Bobo like, "I don't want to hear that
19 shit." Then, Bobo start walking off and 'teas started
20 shooting him.

21 Q All right. So Bobo said he don't want to hear that?

22 A Yeah.

23 Q And he turns and walks towards you?

24 A Well, walks towards the car.

25 Q Okay. So basically he turned his back?

- 1 A He did turn his back.
- 2 Q And what happens next?
- 3 A 'Teas shot him down.
- 4 Q Okay. 'Teas shot him down? You said "'Teas"?
- 5 A Yes, ma'am.
- 6 Q Who is 'Teas?
- 7 A Quoteas.
- 8 Q That's his nickname?
- 9 A Yeah, I guess.
- 10 Q So 'teas shot him down?
- 11 A Yes.
- 12 Q And you saw him shoot him?
- 13 A Yes, ma'am.
- 14 Q How many gunshots do you remember hearing?
- 15 A Three or four.
- 16 Q Okay. And you heard the shots and what did you do
- 17 next?
- 18 A Put the car in reverse and started backing up because I
- 19 thought he was gonna shoot at the car, too.
- 20 Q So were you scared?
- 21 A Yes, ma'am.
- 22 Q So you're backing out; what happens?
- 23 A His wife jumped out and ran to grab him up and we
- 24 started the car up and we ain't pulled back up; we stayed in
- 25 the road, then we jumped out to help her to try to get Bobo

1 in the car.

2 Q Okay. How many -- who helped?. Did you help?

3 A Me, Brian, Coot, Nick; there was a couple.

4 Q It took all of y'all to help get him in the car?

5 A Yeah. He was a big fellow.

6 Q Was he able to help himself?

7 A No, ma'am.

8 Q And then once you got him in the car, what did you do
9 next?

10 A Went to the hospital.

11 Q Now, Mr. Mitchell, do you remember whether or not --
12 you said you saw Quoteas shoot Bobo.

13 A Yes, ma'am.

14 Q Was Quoteas smoking while he was shooting Bobo?

15 A I can't recall. No, no, ma'am.

16 Q Okay. He wasn't smoking?

17 A No, ma'am. He had a white shirt around his hand. I
18 guess that's the hand the gun been in.

19 Q Okay. So he wasn't smoking while he was talking to
20 you?

21 A No, ma'am.

22 Q And he wasn't smoking while he was shooting Bobo?

23 A No, ma'am, he couldn't have.

24 Q Okay. Mr. Mitchell, is the man that killed Moray
25 Holmes present in Court today?

1 A Yes, ma'am.

2 Q Can you point him out?

3 A (WITNESS INDICATES DEFENDANT.)

4 Q What's his name?

5 A Quoteas Nesbitt

6 Q Okay. Mr. Mitchell, I have no further questions.

7 Answer any questions from the defense.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. WALKER:

11 Q Good morning. When you pulled up to the Chase Lounge
12 that night, you said you were driving the car?

13 A Yes, sir.

14 Q And in what direction from the car did the shooting
15 occur?

16 A Right in front of my car.

17 Q So you were looking through the windshield?

18 A Yes, sir.

19 Q You could see what was happening?

20 A Yes.

21 Q Could you hear what was happening? The conversation?

22 A No, sir. I just heard parts of it. Like I said, I
23 just heard when Bobo be like, "I don't want to hear this
24 shit."

25 Q And you heard the gunshots?

1 A Yes, sir.

2 Q Now, you went -- you had a little bit of trouble with
3 the law as a result of this incident, correct?

4 A What you mean?

5 Q After you got to the hospital, weren't you arrested?

6 A Yes, sir.

7 Q What ended up happening with that?

8 A Ain't nothing happened with it. I ain't yet got no
9 charge or nothing.

10 Q So it was dismissed?

11 A I guess. I ain't never went to Court.

12 Q Let me ask you on a different note. When is the first
13 time you talked to law enforcement about this incident?

14 A At the hospital. Well, I really ain't talked to them
15 at the hospital. I had so much was going on. I didn't know
16 what to think right then, so I really ain't talked to them.

17 Q Would it be fair to say that you denied even being
18 there when you were at the hospital?

19 A Say that again.

20 Q Would it be fair to say that you denied even being
21 there when you were at the hospital?

22 A I could I deny not being there when I brought him to
23 the hospital?

24 Q When the shooting occurred?

25 A I couldn't tell them that being that I brought him

1 there.

2 Q Okay. So other than at the hospital, when was the next
3 time you spoke to law enforcement about this incident?

4 A The next day, I believe.

5 Q Who did you speak to?

6 A I don't know, some detective.

7 Q Did you give any statements?

8 A No, sir.

9 Q Is that when you were arrested?

10 A No, sir. I never been arrested. They talked to me
11 after that.

12 Q Were you in custody when they came and talked to you?

13 Were you in jail when they came and talked to you?

14 A No, I done had got out.

15 Q Okay. Have you had any other meetings with law
16 enforcement or the Solicitor's Office about this case?

17 A Later on.

18 Q And when was that?

19 A I don't know.

20 Q Would it be fair to say you had a meeting on August the
21 19th of this year?

22 A Yes, sir.

23 Q Would it be fair to say that's the first time you ever
24 gave a full account of your version of what happened that
25 night?

1 A Yes, sir.

2 Q Do you smoke?

3 A Yes, sir.

4 Q You ever smoked a cigarette and not be totally done
5 with it?

6 A Huh?

7 Q You ever smoked a cigarette and not totally finished
8 it?

9 A I don't know. Yeah, I guess.

10 Q What do you do with a cigarette you haven't finished?

11 A What everybody else do with it when they finish with
12 it.

13 Q Well, if you haven't finished and you want to save it
14 for later, what do you do?

15 A Get rid of it?

16 Q How are you going to save it for later if you get rid
17 of it?

18 A I ain't never say nothing about saving it for later. I
19 said do whatever anybody else do with it when they finish
20 smoking their cigarette; get rid of it, throw it away,
21 whatever.

22 Q Now, you said you were arrested that night for
23 obstruction. You were arrested that night and that has since
24 gone away?

25 A Uh-huh (affirmative).

1 THE COURT: You have to say "yes" or "no."

2 A Yes, sir.

3 Q Now, the Solicitor's Office gives me a copy of your
4 criminal history in preparation for the trial and I see in
5 2011 that you were arrested for attempted murder.

6 A I don't have no felony.

7 Q Well, that's what I'm going to ask, because it doesn't
8 say what happened with that. I'm going to ask you. Is that
9 still pending?

10 A Ain't nothing pending. I don't have no felony,
11 nothing, so.

12 Q So that went away?

13 A I guess. I ain't never been convicted or got no
14 felonies or nothing.

15 Q And you're not in custody right now?

16 A No, sir.

17 Q Have you in the last week taken care of the arrest
18 warrant?

19 A Yes, sir.

20 Q So that's been taken care of?

21 A Yes, sir.

22 Q Okay. I don't have any further questions.

23 THE COURT: Redirect?

24 ASST. SOL. LEGETTE: Briefly.

25

REDIRECT EXAMINATION

BY ASST. SOL. LEGETTE:

Q Mr. Mitchell, when you got arrested at the hospital the night this happened, do you remember what the charge was for why you got arrested?

A I really don't know what the charge was. I guess because I wasn't really talking to them.

Q You weren't cooperating?

A No, ma'am.

Q All right. Why do you sound -- why does your throat sound like that?

A Because I got shot in my throat.

Q Okay. Now, you said that you had recently taken care of -- you paid a ticket or something?

A Yes, ma'am.

Q What was that for?

A For alcohol, open alcohol bottle.

Q Alcohol? Okay. I have no further questions, Mr. Mitchell.

THE COURT: Recross, limited to redirect?

MR. WALKER: None, Your Honor.

THE COURT: As to this witness, Solicitor?

ASST. SOL. LEGETTE: We ask that he be excused, Your Honor.

THE COURT: Any objection, Mr. Walker?

1 MR. WALKER: No, Your Honor.

2 THE COURT: Mr. Mitchell, you may step down from the
3 witness stand and you're excused from the trial of this
4 case. You may leave the courtroom. Call your next witness.

5 ASST. SOL. LEGETTE: The State calls Nicholas Williams.

6 (WHEREUPON, MR. NICHOLAS WILLIAMS ENTERS THE COURTROOM
7 AND IS DULY SWORN BY THE CLERK OF COURT.)

8 THE COURT: Watch your step. Have a seat. Pull that
9 microphone close to you. It's going to amplify your voice.
10 I want you to begin by stating your full name and spelling
11 your last name for the court reporter.

12 WITNESS: My name is Nicholas Williams, W-I-L-L-I-A-M-
13 S.

14 THE COURT: Very well. Your witness, Counsel.

15 ASST. SOL. LEGETTE: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY ASST. SOL. LEGETTE:

18 Q Good morning, Mr. Williams.

19 A Good morning.

20 Q Mr. Williams, where are you from, Sir?

21 A Walterboro, South Carolina.

22 Q And what school did you go to?

23 A Walterboro High School.

24 Q What do you do for a living?

25 A Well, I work in Beaufort as a machinist operator.

1 Q Okay. Did you know Moray Holmes?

2 A Yes, ma'am.

3 Q How did you know Moray Holmes?

4 A Through family and working in the logging woods and
5 went to school together.

6 Q And did you know Quoteas Nesbitt?

7 A Yes, ma'am.

8 Q How long have you known Quoteas Nesbitt?

9 A Maybe like four to five years.

10 Q Do y'all hang out?

11 A No, ma'am.

12 Q Is Quoteas Nesbitt present in Court today?

13 A Yes, ma'am.

14 Q Can you point him out, please?

15 A Over there. (INDICATING DEFENDANT.)

16 Q Can you describe what he is wearing?

17 A A beige shirt with a blue and white tie it looks like.

18 ASST. SOL. LEGETTE: Let the record reflect that the
19 witness is indicating Quoteas Nesbitt, the defendant.

20 Q Mr. Williams, I want to turn your attention to
21 September the 6th, 2012. Do you recall that day?

22 A Yes, ma'am.

23 Q Are you familiar with the Chase Lounge?

24 A Yes, ma'am.

25 Q What kind of place would you call the Chase Lounge?

1 A An after-work place where people go to take it easy
2 after work.

3 Q Did you go to work September 6th, 2012?

4 A Yes, ma'am.

5 Q And once you got off work, what did you do?

6 A Once I got off work, I called my wife and let her know
7 that I was going to Chase to hang out for a little while,
8 because after we get off work, that's usually where
9 everybody meet up for a little while. And that evening I
10 went there, and his older brother, Mal, was already there.

11 Q Okay. Whose older brother?

12 A Moray Holmes.

13 Q Okay. His older brother was there?

14 A Yeah. And we was just out there; they was just
15 shooting pool and just chilling, hanging. We were waiting
16 on him. He was the last one in the logging woods that day.
17 So he was the last one in the logging woods that day.

18 Q Who is "he"?

19 A Moray Holmes.

20 Q Okay.

21 A Moray Holmes was the last one in the logging woods that
22 day. So when he pulled up he still had his work clothes on.
23 He said he was going home to wash and that he would be back.

24 Q Okay.

25 A Sometimes he come back, sometimes he, you know,

1 wouldn't.

2 Q Okay. Now, what did you have on?

3 A I had on my work uniform.

4 Q Okay. Keep going. So y'all still hanging out?

5 A Yeah, we still hanging out. It already got dark. So
6 finally, he did happen to pull back up. At the time,
7 because you could hear his music coming down the road, and
8 that's when my other two home boys, they was already there
9 in the other driveway, Kelvin Mitchell and Brian Manigo, and
10 they was talking to Quoteas; he was over there at their car.
11 I guess when he heard Bobo coming down the road -- Moray
12 Holmes?

13 Q Yeah.

14 A He left their car and walked back in a different
15 direction.

16 Q Okay.

17 A Because I was outside over there by a truck and as Bobo
18 got out of his car -- as Bobo got out of his car, he got out
19 and went over there and walked by his car to go talk to
20 them, Kelvin Mitchell and Brian Manigo. Before he could
21 make it over there, Quoteas had called him, cut him off,
22 called him and said, "Bobo, I hollered at you the other day,
23 man, you act like you ain't see me." So he said, "Hey,"
24 like that, and as soon as he turned his back to go talk to
25 Kelvin Mitchell and Brian Manigo, he shot him in the back

1 numerous times.

2 Q Okay. Mr. Williams, where were you and how were you
3 able to see this?

4 A Because when Bobo got out his car, I was on the side
5 close by the ditch, and when he was walking over there, I
6 was headed like not too far from him in that direction.
7 That's how I was able to see.

8 Q Okay. Are you certain of what you saw?

9 A Yes, ma'am.

10 Q Mr. Williams, did you ever hear an argument between
11 Quoteas Nesbitt and Moray Holmes, "Bobo"?

12 A No, ma'am.

13 Q Did you ever see an altercation or a fight between
14 them?

15 A No, ma'am.

16 Q Did you ever know of any bad blood between them?

17 A No.

18 Q Now, Mr. Williams, I want to go back to a couple days
19 prior to Moray Holmes death, like two days prior. Do you
20 remember two days prior to his death?

21 A Yes, ma'am.

22 Q Were you at the Chase or where were you two days prior
23 to his death?

24 A I was at Chase.

25 Q Do you remember who else was there?

1 A Yes.

2 Q Who else was there?

3 A Minnis was there, there was some other young guys who
4 was out there; I don't recall who those guys were. But
5 Quoteas was out there that night, too.

6 Q Okay. So did Bobo ever come up?

7 A Yeah.

8 Q Did anything kind of strange happen?

9 A Yeah, some young boys rode up on a bicycle and was
10 looking all around and was calling stuff and you know, just
11 like, and Bobo asked them what was the problem; they had
12 words, and then, they left. They rode back through in a
13 truck. They was putting some intimidation or something on
14 somebody and after that, they left. Then, everybody else
15 left. Me and his brother Minnis was still out there, and
16 Jerome, his other brother, was out there, too, and you could
17 hear Quoteas over there ---

18 MR. WALKER: Your Honor, at this time, I'd renew my
19 earlier objection.

20 THE COURT: Counsel approach.

21 (Whereupon, a bench conference is held off the record
22 and out of the hearing of the jury.)

23 THE COURT: Objection overruled.

24 Q Mr. Williams, go back to you said everybody left and
25 you and Mal, and the other brother was out there, and

1 Quoteas started saying something. Tell us about that..

2 A Yeah, he was venting like, "Somebody going to put a
3 stop to them. Somebody going to put a stop to Bobo.
4 Somebody going to put a stop to him." But nobody really took
5 heed of it. Like if it would escalate to something like
6 that.

7 Q And why didn't anybody think it was going to escalate?

8 A Because I mean people vent all the time, but these days
9 and times you got to take that serious..

10 Q Now, have you ever known of Bobo and Quoteas to kind of
11 hang out together sometime?

12 A Never.

13 Q Okay. Now, who is the man who shot and killed Bobo?

14 A Right there.

15 Q And what's ---

16 A Quoteas.

17 Q How certain are you?

18 A A hundred percent certain.

19 Q Were you there when it happened?

20 A I was right there. I couldn't even go to work the next
21 day.

22 Q Mr. Williams, I have no further questions, sir. Please
23 answer any questions from the defense.

24 THE COURT: Cross-examination.

25

1 CROSS-EXAMINATION

2 BY MR. WALKER:

3 Q Good morning.

4 A Morning.

5 Q The first time you ever told this story to anybody from
6 law enforcement was August the 15th of this year, correct?

7 A Yes.

8 Q How did you come to tell them?

9 A I was sent this letter in the mail to come up here.

10 Q Did they subpoena you to come to the courthouse and
11 talk to them?

12 A Yes.

13 Q You didn't call them and say, "Hey, I want to tell you
14 what happened"?

15 A No, I didn't call them, but I was gonna call them
16 because I was keeping in contact with family and my cousin
17 about the case.

18 Q Who is your cousin?

19 A Donald Odom.

20 Q Is he the one that told law enforcement to call you?

21 A No.

22 Q How did they get your name?

23 A I guess they went through witnesses and different
24 people who they had and they probably subpoenaed, you know.

25 Q So you don't know how they came to get you?

1 A No.

2 Q Did you see the video of the incident?

3 A Yes.

4 Q At that same August 15th meeting?

5 A Yes.

6 Q I don't have any further questions, thank you.

7 THE COURT: Redirect?

8 ASST. SOL. LEGETTE: None.

9 THE COURT: As to the witness, Solicitor?

10 ASST. SOL. LEGETTE: We ask that he be excused?

11 THE COURT: Any objection, Mr. Walker?

12 MR. WALKER: No, Your Honor.

13 THE COURT: Mr. Williams, you may step down and you are
14 excused from the trial of this case. You may leave the
15 courtroom.

16 ASST. SOL. LEGETTE: The State calls Donald Odom..

17 THE COURT: Counsel approach.

18 (Whereupon, a bench conference is held off the record
19 and out of the hearing of the jury.)

20 (WHEREUPON, MR. DONALD ODOM ENTERS THE COURTROOM AND IS
21 DULY SWORN BY THE CLERK OF COURT.)

22 THE COURT: Counsel, it's my understanding that your
23 request for an in-camera hearing is no longer being made in
24 light of what the Solicitor told you in our sidebar; is that
25 correct?

1 MR. WALKER: Yes, sir.

2 THE COURT: Solicitor, you understand the agreement at
3 sidebar?

4 ASST. SOL. LEGETTE: Yes, Your Honor.

5 THE COURT: You may proceed. Would you state your full
6 name and spell your last name for the court reporter. And
7 don't lean back in that chair. Use my microphone.

8 WITNESS: Yes, sir. My name is Donald Isadore Odom, O-
9 D-O-M.

10 THE COURT: Very good. Speak up for me, Mr. Odom so
11 everybody can hear you. Your witness, Counsel.

12 ASST. SOL. LEGETTE: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY ASST. SOL. LEGETTE:

15 Q Good morning, sir.

16 A Good morning.

17 Q Sir, where are you from?

18 A From Walterboro, South Carolina.

19 Q And what school did you go to?

20 A Walterboro High.

21 Q Now, what is your nickname?

22 A They call me sometimes "Hall" and "Coot".

23 Q All right. How do you spell Coot?

24 A C-O-O-T.

25 Q All right. Now, Mr. Odom, Coot, do you have a prior

1 criminal history?

2 A Yes, ma'am.

3 Q And does it involved drugs?

4 A Yes, ma'am.

5 Q Are you on probation?

6 A Yes, ma'am.

7 Q Okay. Now, the fact that you had some drug convictions
8 in the past and you're on probation, does that have anything
9 to do with what you're going to tell us here today?

10 A No, ma'am.

11 Q Does it have anything to do with what you saw?

12 A No, ma'am.

13 Q Okay. Now, Coot, did you know a man named Moray
14 Holmes?

15 A Yes, ma'am.

16 Q And what did you call him?

17 A Bobo.

18 Q Tell me how you knew Bobo.

19 A I knew Bobo from my baby brother. They used to hang
20 out together after work and stuff like that, because my
21 brother do fence work and he would come over to my brother's
22 house and you know, we would have fun, drink a little bit,
23 smoke a little bit, and we would go home.

24 Q What would y'all smoke?

25 A Marijuana.

1 Q Okay. So y'all would hang out and do all those things?

2 A Yes, ma'am.

3 Q All right. Would y'all ever hang out at the Chase?

4 A Yes, ma'am.

5 Q Talk to me about the Chase. What kind of place is the
6 Chase?

7 A The Chase is the area where you can go at like when you
8 get off from work and get a beer, shoot a game of people,
9 talk to people. That's the type of place it was.

10 Q Okay. And do you work?

11 A Yes, ma'am.

12 Q And were you working in September 2012?

13 A Yes, ma'am, doing night work.

14 Q Okay. Do you know -- well, let's go back to Bobo.
15 What kind of car did Bobo drive?

16 A A Regal.

17 Q And describe that car for me.

18 A He had a blue one at first, but somebody stole it.
19 Then he went on the internet and he found a brown one.

20 Q And was anything special about that car?

21 A Yeah, it was very special.

22 Q Tell me about it.

23 A He put rims on it. He put 415's in it.

24 Q What's 415's?

25 A Speakers.

1 Q Okay.

2 A You could hear Bobo coming.

3 Q Okay. And did it have special paint on it or
4 something?

5 A No, ma'am. That was the paint job that came on it,
6 like a champagne gold color.

7 Q Okay. And how did he take care of it?

8 A Saturdays, we would get up and we would go to the car
9 wash in town and we would wash our cars, talk, drink our
10 little beer or whatever. That's all we ever did. We didn't
11 cause no problems.

12 Q So how about Quoteas Nesbitt. Do you know Quoteas
13 Nesbitt?

14 A Yes, ma'am.

15 Q And how long have you known Quoteas Nesbitt?

16 A Mostly all my life.

17 Q All right. And is Quoteas Nesbitt present in Court
18 today?

19 A Yes, ma'am.

20 Q Can you point him out, please?

21 A Sitting right there.

22 Q And what is he wearing?

23 A He's wearing a white, look like a yellow shirt, with
24 blue, light blue tie on.

25 ASST. SOL. LEGETTE: Let the record reflect that the

1 witness has indicated the defendant, Quoteas Nesbitt.

2 Q Now, have you and Quoteas Nesbitt ever hung out in the
3 past?

4 A Yes, ma'am, I've been in the same areas with him.

5 Q Okay. And y'all were cool?

6 A Yes, ma'am. I didn't have no problem out of him.

7 Q You ever know of any problems between him and Bobo?

8 A I guess they had their own problems; I don't know what
9 the problem was. Bobo didn't have no problem. I guess
10 Teas had the problem.

11 Q Okay. Now, I want to turn your attention to September
12 the 6th, 2012. Do you remember that day?

13 A Yes, ma'am.

14 Q All right. Did you go to the Chase Lounge that day?

15 A Yes, ma'am.

16 Q Tell me about the Chase Lounge on September 6th, 2012.

17 A The Chase Lounge on September 6th, 2012, I got out
18 there about 8:15 and it was just getting dark. I went
19 across to get a beer and a soda for my Uncle Roy; he stays
20 across the road. I call him Uncle Roy. And when I got
21 across there, I hear a car going "boom, boom, boom, boom."
22 I said that's Bobo, because you know his car. His car was
23 the only car that had the loud noise like that. So Bobo
24 come into the parking lot. He just got out the woods. It
25 was about 8:30. He was wet, so he took his shirt off. He

1 like, "You ain't got nothing to smoke?" I was like, "Man, I
2 ain't got nothing to smoke." He said, "Oh, don't worry
3 about that. I be back in about 30 minutes." He said, "But
4 I ain't gonna be able to stay long with you, because I'm
5 gonna have my wife with me." So he left. When he left, it
6 was about 15 to 20 minutes later, a van had pulled up on
7 what you call Rivers Street I think that is, and it pulled
8 in the first driveway. Quoteas got out on the back side of
9 the driver's side and Minnis got out on the passenger side,
10 or the front side. Minnis stand up to the paved road, the
11 first one, and Quoteas walked on down. As he walked on
12 down, he had some gin, I guess, in his hand. But he went to
13 Malachi, because I was standing on the wall waiting on Bobo
14 to come back. He went to Mal and purchased another gin; or
15 Mal give it to him. I don't know what. And about this
16 time, about 10 or 15 minutes later, Kevy-boy pulled up. See
17 one thing about Chase, people don't be inside; they always
18 outside. So we always outside most of the time. So Kevy-
19 boy pulled up and when he pulled up, he pulled up in the
20 first parking area right there. And I was on the wall.
21 Quoteas came off the wall and went to Kevy-boy's car. It
22 had me a little puzzled, you know. So after that happened,
23 you could hear the music boom-boom-boom-boom. That mean
24 Bobo was coming across that old railroad track at Chase.
25 There used to be a railroad track there, but he was coming.

1 When he got to the stop sign, Quoteas left Kevy-boy's car
2 and went back on the wall. I made a couple of errors in my
3 statement, but after 23 months and 22 days, I finally got it
4 right how it really happened. So Bobo already had pulled
5 in. I went in the store after I seen Quoteas done went on
6 the wall. I went in the store to get a blunt. When I came
7 out of the store, I looked and Quoteas had come off the wall
8 and cut Bobo off. I guess Bobo was going to Kevy-boy's car
9 since he get to see him. So when he got there, I walked up
10 on them, on Bobo's right side, which is my left side.
11 Quoteas said, "Man, I'm tired of you disrespecting me."
12 Bobo said, "What are you talking about, man?" He said,
13 "What's up with that fucking gun?" So I walked off a little
14 bit, within five feet I guess. I'm like, come on, man,
15 leave them, come on. The last thing Bobo said, he turned to
16 me was, "Man, 'Teas, I ain't with that shit." And when he
17 turned, Quoteas must have had something wrapped around his
18 hand. I don't know what it was and he pulled a gun out.
19 The first shot was like "Boom!" Then, he said, "Boom, boom,
20 boom, boom." He shot four more times. The second shot, you
21 see Kevy-boy backing into the road with his car. The third
22 shot, you see Bobo falling to the ground. As Bobo is
23 falling to the ground, he fired two more shots. And after
24 he fired two more shots, he tucked the gun. You know in my
25 statement I said he would run, but he can't run; he hops

1 while he runs. He don't run, he hops. So Bobo is laying on
2 the ground. I ran to Kevy-boy's car. I said, "Man, give me
3 the gun out of here." Because he still was hobbling across
4 the parking lot. He was hobbling across the parking lot and
5 I could still glance him. I was like, "Give me the gun,
6 man. Give me the gun." They wouldn't give me the gun. I
7 said, "Oh, shit, Bobo." So I ran back to Bobo, man, poor
8 Bobo. (WITNESS BECOMES EMOTIONAL.)

9 THE COURT: Ask a question, Solicitor. Do you need a
10 moment, Mr. Odom?

11 WITNESS: I'm ready, sir.

12 THE COURT: Ask a question, Solicitor.

13 Q So what happened, Mr. Odom?

14 A I ran back to Bobo. He was face down with his head
15 turned. His head already had hit this little drain where
16 you check your meters at, but his head was turned, his eyes
17 were still blinking a little bit. So Natta was on him, and
18 Nick, my cousin, he was trying to get Natta off him, and
19 when he tried to get Natta off him, I told Kevy-boy to pull
20 the car up, because they was in the road. "Pull the car
21 up!" So he finally pull the car up. He's so heavy, I try
22 to put my arms under him.

23 Q Mr. Odom, do you need a moment?

24 A I tried to put my arms under him, and when I put my
25 arms under him, all the blood was running everywhere. He

1 was so heavy, I tried to pull him to the car. Everybody
2 tried to act like they was hysterical, so Kevy-boy done
3 finally pull up. They jump out the car and talking about,
4 "Get up, Bobo. Get up, Bobo." How this man gonna get up? He
5 couldn't get up. So I tried to slide him across the ditch,
6 because they had the car parked in front of the ditch. So
7 my cousin, Nick, he tried to help me. We got him to the
8 front seat. 'Teas gone now, so he never knowed about this
9 part. He got into the front seat and said he was too big.
10 So we put him in the back and when we was putting him in the
11 back, it was just like a puppet. He said one thing after
12 that first shot, "Goddamn," and I told him to run. After
13 that, it was no more talking from Bobo. So we finally got
14 him in the car, right. So I told Kevy-boy to take off. So
15 I got in my car, four minutes behind them. When I got to
16 the hospital to the emergency room, they had him halfway out
17 the car. They didn't have him in the hospital yet, because
18 he's so big, so heavy. So I went inside the car and like,
19 "We got to get him in the hospital, man. We got to get him
20 in the hospital." This has been killing me for 23 months.
21 I don't want to be on no stand with this man when he run,
22 killing that man.

23 Q Mr. Odom, did you ever get him in the hospital?

24 A So I told them, when I pick up, I want y'all to pull.
25 So I picked up, they pulled him almost half his body was

1 out, his pants was off his ass, you couldn't see, but his
2 foot was out, but his body was still in the car. So when I
3 pulled up and they pulled, he said, "Oh," and I said, "Bobo,
4 I almost got you in the hospital, man, hold on." So when I
5 picked up again, we put him on the stretcher, he said, "Oh,"
6 and I grabbed his arm and I hold his arm up to see if he
7 would -- you know, he wouldn't just drop. Maybe he would
8 just catch his arm. It dropped, and when I looked down at
9 him, his eyes was in the back of his head and I took off
10 running. When I took off running, I ran into Marvin and his
11 little brother. He said, "Coot, what you doing with all
12 this blood and stuff on you?" I said, "Man, Quoteas done
13 killed Bobo."

14 Q Mr. Odom, after you saw Quoteas kill Bobo, did you ever
15 talk to the police?

16 A It took me about two days to take the clothes off. I
17 wouldn't take the clothes off, and about 24 days later I
18 talked to Marvin and got myself together and went down
19 there. When I went down there, I didn't do my statement
20 right. I had little errors in my statement, but y'all know
21 that. But I was there. He came back to smoke with me. He
22 came back to smoke with me. That's how close me and him
23 was. If I didn't have it, he had it. He was there for us.
24 He worked hard. We all do wrong.

25 Q Mr. Odom, is the man that killed Bobo present in

1 Court today?

2 A Yes, ma'am.

3 Q And what is his name?

4 A Quoteas Nesbitt.

5 Q Would you point him out, please?

6 A Sitting right there. (WITNESS INDICATING DEFENDANT.)

7 ASST. SOL. LEGETTE: Let the record reflect the witness
8 has indicated Quoteas Nesbitt.

9 Q Mr. Odom, are you familiar with a crime scene diagram
10 of the crime scene?

11 A Not really.

12 Q Mr. Odom, I have no further questions, sir. Please
13 answer any questions from the defendant.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. WALKER:

17 Q Good morning.

18 A Morning, sir.

19 Q You obviously are a very good friend to Mr. Holmes?

20 A Yes, sir.

21 Q You say it took you three to four weeks to make a
22 statement to the police; is that correct?

23 A Yes, sir.

24 Q And that's when you provided them with a written
25 statement, correct?

1 A Yes, sir.

2 Q Did you review that statement in preparation for
3 today's testimony?

4 A No, sir, I didn't review it.

5 Q And that statement was written in early October of
6 2012?

7 A Yes, sir.

8 Q Then, shortly after you wrote that statement, you had
9 another meeting with law enforcement, correct?

10 A Yes, sir.

11 Q And in that meeting, you were shown the video of the
12 Chase Lounge; is that right?

13 A You couldn't really see it, but I was shown it, sir.

14 Q What do you mean you really couldn't see it?

15 A It was kind of dark.

16 Q By that you mean it's hard to make out who is who?

17 A No, sir. I know who is who, because I was beside both
18 of them.

19 Q What I'm saying is it was really dark and you couldn't
20 see it. I'm just talking about the video. It wasn't
21 because of the video, it was because of what you personally
22 knew that you were able to know what was going on because
23 you were there?

24 A Yes, sir.

25 Q And you said that you didn't get your statement right.

1 And was it when you watched the video that you realized your
2 statement was incorrect?

3 A No, sir. Before I watched the video, I told them what
4 happened.

5 Q All right. That's the statement they were talking
6 about; the written statement? You told them what was going
7 to happen?

8 A Yes, sir.

9 Q And then you said you didn't get that right. So how
10 did you know you got it wrong?

11 A How did I know I got it wrong?

12 Q Right.

13 A Because I had time to think about what really took
14 place and I was out of my mind because my friend got killed
15 in my face, you know, anybody can lose a little bit from
16 seeing somebody get killed in their face like that; so
17 that's what happened.

18 Q All right. Do you recall on the October the 10th
19 meeting watching the video with Det. Davis. You can see it
20 happen but you can't make out who it is because it's dark?

21 A Yes, sir.

22 Q You were also telling Det. Davis that we need to get
23 this right. On my statement, it might hurt a little bit.

24 A I was there. He came back to see me. What I just told
25 y'all, that's the truth. We make mistakes sometimes out of

1 rage and might be a little scared and getting all kinds of
2 threats.

3 Q Sir?

4 MR. WALKER: Your Honor?

5 THE COURT: Let him finish his answer.

6 (TO THE WITNESS: Are you finished?)

7 A You might get a little scared sometimes when you
8 getting threats and stuff, you might don't know what to say.
9 You got all this police on you, but I took time after 23
10 months and 22 days, and this is my statement now.

11 THE COURT: Ask a question, now; cross-examination.

12 Q And then you just recently had another meeting with the
13 Solicitor's office, correct?

14 A Yes, sir.

15 Q And that was August 8th of this year, correct?

16 A Yes, sir.

17 Q Now, the Solicitor mentioned -- I won't go into that.
18 You had stated in your testimony that you hadn't had any
19 problem with Quoteas Nesbitt; is that correct?

20 A Yes, sir.

21 Q So it wasn't a problem for you that your wife was
22 living with him?

23 A No, it was a problem because my kids was around him,
24 knowing what type of life he lived. That's the only problem
25 I had. She got somebody there now, and I don't have no

Redirect examination of Donald Odom by Ms. Legette
Recross-examination of Donald Odom by Mr. Walker

1 problem with them. That's 10 years ago.

2 Q So the fact that your wife was living with Quoteas
3 Nesbitt when this incident happened was not a problem?

4 A No, sir.

5 Q I don't have any further questions.

6 THE COURT: Redirect?

7 ASST. SOL. LEGETTE: Briefly.

8 REDIRECT EXAMINATION

9 BY ASST. SOL. LEGETTE:

10 Q Mr. Odom, how long have you and your wife been
11 divorced?

12 A Ten years.

13 Q So was there an issue between you and Quoteas about
14 your wife?

15 A No, ma'am.

16 Q Okay. Thank you. Nothing further.

17 THE COURT: Recross, limited to redirect?

18 RECROSS-EXAMINATION

19 BY MR. WALKER:

20 Q Are you actually legally divorced or are you separated?

21 A We just separated.

22 Q so you're still married?

23 A Yes, sir.

24 Q No further questions.

25 THE COURT: As to this witness, Solicitor?

1 ASST. SOL. LEGETTE: We ask that he be excused; Your
2 Honor.

3 THE COURT: Any objection, Mr. Walker?

4 MR. WALKER: No, Your Honor.

5 THE COURT: Mr. Odom, you're excused from the trial of
6 this case. You may leave the courtroom. Counsel approach.

7 (WHEREUPON, A BENCH CONFERENCE IS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)

9 THE COURT: Madame Foreperson, ladies and gentlemen of
10 the jury, I'm going to take my mid-morning break at this
11 point. I'm not going to take any longer than as soon as
12 they tell me everyone of you have had a break and used the
13 restroom, I'm starting back, because we're working straight
14 through so I can complete the trial of the case today. So
15 please do not discuss the case. I'll be back with you as
16 soon as I can.

17 (11:15 A.M., WHEREUPON, THE JURY EXITS THE COURTROOM
18 AND THE FOLLOWING IS HELD ON THE RECORD.)

19 THE COURT: Let the record reflect the jury is not
20 present. We've had several bench conferences while we've
21 taken witnesses this morning. The Solicitor's first
22 objection was to cross-examination by Mr. Walker. The
23 objection was the witness's arrest and prior misconduct.
24 The Solicitor took the position that only a conviction could
25 be brought out. The defense argued that it went to possible

1 bias as the witness's testimony. I overruled the
2 Solicitor's objection and stated the objection was overruled
3 in the presence of the jury without going into detail.

4 The Solicitor objected a second time on the same basis
5 saying that it was her position that prior misconduct could
6 not be elicited on cross-examination. Once again, I
7 overruled her objection.

8 Next, we had an objection by Mr. Walker during the
9 testimony of Mr. Williams as to what the defendant said two
10 days before the shooting concerning the deceased. Mr.
11 Walker's objection was on relevancy. I overruled his
12 objection.

13 Finally, at a bench conference, before Donald Odom
14 testified, I conferred with the attorneys. Mr. Walker had
15 told me this morning he wanted a second Neil v. Biggers
16 hearing only if Mr. Odom was going to use the video to
17 identify the defendant. The Solicitor made a decision not to
18 and asked the witness that, since the witness, according to
19 the Solicitor, was an eyewitness; that is, Mr. Odom, to the
20 events that took place on the night of this allegation. In
21 accordance, I asked on the record to Mr. Walker if he still
22 wanted a hearing outside the presence of the jury and he
23 responded to me in front of the jury that he no longer
24 wished to have an in camera hearing. I think that makes a
25 record now of every single bench conference that occurred

1 outside the presence of the jury in this trial.

2 I understand we have one more witness from the State.
3 As soon as the jury is finished using the restroom, I want
4 you to come tell me. I don't want you to stay there and
5 assume I know, because I won't. I have everyone's request
6 to charge. It is my intention to take the last witness and
7 we're working straight through. Meaning, after we've
8 completed, I'll advise you obviously of the defendant's
9 right to testify. You can make any motions you so desire.
10 I'll send the jury out. I've been over with the lawyers
11 every single topic in my request to charge in my chambers
12 this morning. I will also show them the verdict form to
13 make sure they're satisfied with it, but we're going
14 straight through.

15 Now, to the people in the audience, I will not tolerate
16 any type of outburst; no applause, no crying, no emotion.
17 If you can't control your emotions, you better leave this
18 courtroom, because I will enforce that with the contempt
19 powers of this Court. I understand there are emotions
20 involved in this case. We all, as humans, have them, but
21 the courtroom is no place to display them in the presence of
22 the jury, and I will not tolerate it. We will take 10
23 minutes.

24 (WHEREUPON, COURT IS IN A BRIEF RECESS IN THE TRIAL OF
25 THIS CASE. THEREAFTER, COURT IS RESUMED AND THE FOLLOWING

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

RECEIVED

JUN 09 2015

SC Court of Appeals

V.

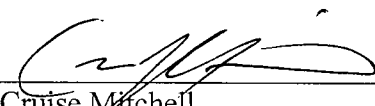
QUOTEAS SYLVESTER NESBITT,

APPELLANT

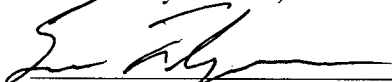
APPELLATE CASE NO. 2014-001851

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Mr. Quoteas Nesbitt #361169 at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010 this 9th day of June, 2015:


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of June, 2015.


_____(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.