

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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JUL - 6 2015

Appeal from Charleston County S.C. Supreme Court
Stephanie P. McDonald, Circuit Court Judge

TERRELL CHANDLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO, 2014-002307

APPENDIX

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| 2 | | | | | |
| 3 | Sterling Dutton | 57 | 63 | -- | -- |
| 4 | David Osborne | 70 | 80 | 93 | 726 |
| | | 565 | 670 | 719 | -- |
| 5 | | 571 | -- | -- | -- |
| | | 650 | 946 | -- | -- |
| 6 | | 942 | -- | -- | -- |
| 7 | Terrell Chandler | 96 | 103 | -- | -- |
| 8 | William Hoyes | 157 | 164 | -- | -- |
| 9 | Naomi Bryant | 170 | 178 | 188 | -- |
| 10 | Amanda Mack | 189 | 187 | -- | -- |
| 11 | Jamel Brown | 202 | 207 | 212 | 214 |
| 12 | Troy White | 216 | 247 | 262 | 264 |
| 13 | Megan White | 265 | 285 | 311 | 316 |
| 14 | Latrice Smalls | 321 | 339 | 358 | 359 |
| 15 | Cherelle Anderson | 361 | 389 | -- | -- |
| 16 | Steven Brown | 423 | 457 | 488 | 499 |
| 17 | Tamara Dixon | 502 | 516 | 520 | -- |
| 18 | Anita Moore | 521 | 533 | 543 | -- |
| 19 | Brian Salkeld | 545 | 550 | -- | -- |
| 20 | Marvin Dawson | 606 | 624 | 939 | 939 |
| | | 901 | 926 | -- | -- |
| 21 | | | | | |
| | Randall Unterbrink | 760 | 774 | 782 | -- |
| 22 | | | | | |
| | Michael Sherman | 783 | 788 | -- | -- |
| 23 | | | | | |
| | Jennifer Wooley | 794 | 800 | 803 | -- |
| 24 | | | | | |
| | Kathleen Butler | 805 | 809 | 820 | -- |
| 25 | | | | | |

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|----|---------------------|--------|-------|----------|---------|
| | WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
| 1 | | | | | |
| 2 | | | | | |
| 3 | Kathy Woodward | 825 | 833 | 839 | 840 |
| 4 | Jason Humbert | 841 | 852 | -- | -- |
| 5 | Frank Dan DeFreese | 855 | -- | -- | -- |
| 6 | Susan Erin Presnell | 872 | 884 | 886 | -- |
| 7 | Arthur DeGiovine | 895 | 900 | -- | -- |
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1 (June 7, 2010.)

2 THE COURT: All right. Is this Mr. Chandler,
3 Terrell Chandler?

4 MR. SLADE: Yes, sir, it is, Your Honor.

5 THE COURT: All right. Well, let the record
6 reflect Mr. Chandler is in the courtroom. All right.

7 We're here today. We've got two indictments.
8 One of them is 2008 GS-10-8361. Mr. Chandler, you're
9 charged with murder. Are you pleading not guilty to
10 that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. And you're also
13 charged, indictment 2008 GS-10-8359, possession of a
14 firearm during the commission of a violent crime. Are
15 you pleading not guilty to that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Well, you have the
18 right to plead not guilty in front of the jury. We
19 traditionally don't do that, but you have that right.
20 You want to plead not guilty in front of the jury, or do
21 you want me to just tell them that you plead not guilty?

22 MR. SLADE: We'll waive that, Your Honor.

23 THE COURT: All right. We also have -- state
24 wants to amend the indictment to show that the victim
25 technically died on May the 31st. The indictment reads

1 the victim died on the 30th of May 2008. Any objection
2 to the indictment being amended to reflect the date of
3 death as May 31, 2008?

4 MR. SLADE: We consent to that, Your Honor.

5 THE COURT: Any other challenges to the
6 deficiency of either of indictments?

7 MR. SLADE: No, Your Honor.

8 THE COURT: All right. Anything else we need
9 to take up before we bring the jury in?

10 MR. SLADE: Just a housekeeping matter, Your
11 Honor. We have a number of pretrial motions, Jackson v.
12 Denno motion. We have several other motions that would
13 probably take less time. I wanted to make you aware of
14 it.

15 THE COURT: We'll take them up first thing
16 after lunch then. We'll go ahead draw the jury, send
17 them to lunch. We'll take a little lunch break, come
18 back, and do that first. Okay? Anything else?

19 MS. SHEALY: Just one thing addressing some
20 of those motions. They had sent you copies of some
21 letters that we intend to introduce during the testimony
22 of a cooperating codefendant. It would be my position
23 that that motion would be more properly heard before that
24 witness's testimony instead of pretrial. I don't know
25 which the Court's preference is.

1 THE COURT: Does it matter?

2 MS. SHEALY: You would probably need to know
3 more about the facts of the case before you decide
4 whether or not they are relevant and appropriate.

5 THE COURT: How far along is it before you
6 call that --

7 MS. SHEALY: Probably not until tomorrow
8 morning.

9 THE COURT: All right. Well, if that saves
10 us some time moving along today, we'll just do that one
11 in the morning before we start.

12 MR. HOWE: It's our position, Your Honor,
13 that it's totally up to you. It's at your convenience
14 and what would satisfy you --

15 THE COURT: As long you don't refer to them
16 in your opening statements.

17 MS. SHEALY: Oh, I'm not.

18 THE COURT: All right. Anything else? All
19 right. Let's see.

20 We got five and ten strikes. And how long do
21 you think we'll take?

22 MS. SHEALY: The entire trial?

23 THE COURT: Yes.

24 MS. SHEALY: I told Mr. Slade, I don't know
25 his style in the courtroom, or Mr. Howe's. I think it

1 would be at least Wednesday.

2 THE COURT: Before you're finished, or
3 entirely?

4 MS. SHEALY: I don't know what their
5 intentions are, but if things started moving quickly, we
6 could conceivably put up our entire case by tomorrow
7 afternoon, but if not, I think it would be Wednesday.

8 MR. HOWE: We've been informed that there are
9 34 witnesses on the part of the prosecution and some of
10 them -- I can think of one or two right now that could be
11 an hour and a half in length between direct and cross.

12 THE COURT: My sole purpose is to decide
13 whether or not to draw one or two alternates, so we'll
14 draw two.

15 MR. HOWE: This could be the end of Thursday
16 minimum.

17 THE COURT: So we'll draw two alternate.

18 All right. Well, we got a jury waiting out
19 there for us? All right. Sounds like we'll be a little
20 while then.

21 Let's go ahead and take up some motions. Go
22 ahead. Are you ready to go on any of the other motions
23 other than the suppression of those letters?

24 MR. HOWE: Your Honor, the Jackson v. Denno
25 motion, we understand that the state is going to play the

1 entire CD of the defendant's, statement which is 36
2 minutes in length, so that motion could approach 50
3 minutes or more, so I just give you that for your
4 consideration. That may not be the one you want to hear
5 before lunch.

6 MS. SHEALY: And my investigator is not here
7 yet.

8 THE COURT: Do you have any other motions we
9 could take up?

10 MR. HOWE: We can't even make any up for Your
11 Honor. We got one.

12 THE COURT: Okay. All right. So we
13 basically have two pretrial motions?

14 MR. SLADE: And a couple of them, Your Honor,
15 are simply housekeeping type things. We wanted to ask
16 that the witnesses be sequestered. I don't think the
17 prosecution has a problem with that.

18 MS. SHEALY: I do not.

19 THE COURT: Okay.

20 MS. SHEALY: I advised Mr. Slade --

21 THE COURT: Make sure when you tell them out
22 there they are not to talk to each other. They're not to
23 do that. Okay?

24 MS. SHEALY: Yes, sir.

25 THE COURT: Out of an abundance of caution.

1 MR. SLADE: Your Honor, the next motion is,
2 again, more of a housekeeping type of motion. This case
3 hinges on identification, at night, behind an apartment
4 complex in Ashleyville area, section of Charleston out of
5 Highway 61. One of the victims in the case -- there were
6 two people riding in a car up behind this apartment
7 complex that I'm referring to.

8 The decedent was the driver, a male named
9 Calvin Gibbs, and he was shot and killed. There was a
10 young woman who was his girlfriend who was riding with
11 him at the time. The police were there very quickly at
12 the scene. This woman's name Cherelle Anderson. She has
13 been interviewed a number of times in this case. She has
14 also been shown a six photo lineup, and in that, Your
15 Honor, she picked out the person who it is our contention
16 is the real shooter in this case, a codefendant whose
17 name is Che Carr.

18 Your Honor, and I'm hope I'm not putting
19 words in the prosecution's mouth here, but the
20 investigating officer is Detective David Osborne, and he
21 has interviewed the female victim passenger in the car,
22 Cherelle Anderson, a number of times and in none of those
23 union views has she ever identified our client, Terrell
24 Chandler.

25 She has said that there were other people out

1 there in that back yard environment, but she has never
2 identified Terrell, and Detective Osborne has never shown
3 a photo lineup of Terrell containing Terrell's photo to
4 Cherelle Anderson. So in light of that, I discussed
5 prior to trial whether or not Ms. Shealy was going to ask
6 Cherelle Anderson to try to identify our client in the
7 courtroom and she told me that she would not.

8 So just so that we have that understanding on
9 the record, I just wanted to put that on the record, and
10 I have told Ms. Shealy that I'm quite sure that no
11 problems will occur in that regard. I just want to make
12 sure that we put that understanding on the record.

13 THE COURT: Anything you want to add to that,
14 Ms. Shealy?

15 MS. SHEALY: No, that's accurate. I do not
16 intend to have her identify Mr. Chandler.

17 THE COURT: Okay.

18 MR. SLADE: The next short motion that we
19 have to deal with, Your Honor, deals with one of the 30
20 some odd witnesses that we have been told the
21 prosecutor's office intends to call, and one of them is a
22 man named Jamel Brown, Your Honor. I'm not sure what
23 number he is on their sheet.

24 THE COURT: Number 38.

25 MR. SLADE: Yes, sir.

1 THE COURT: Okay.

2 MR. SLADE: We had asked for criminal history
3 printouts on each of the witnesses that the state was
4 going to call, and they supplied us a criminal history
5 printout for Mr. Brown.

6 Your Honor, he is a witness who's going to
7 give some very incriminating testimony if he speaks to
8 what he has said to this point to the investigators in
9 this case. He also, Your Honor, has a prior arrest,
10 according to his SLED NCIC rap sheet, for giving false
11 information to a police officer.

12 Obviously, we would like to impeach Mr. Brown
13 in his cross-examination with the arrest for the false
14 information. We don't know the outcome of that arrest,
15 but certainly it is a good faith basis for asking.

16 THE COURT: You can't get to it unless there
17 is a conviction, really, right?

18 MR. SLADE: I'm sorry?

19 THE COURT: You really don't get to it unless
20 there was a conviction for it.

21 MR. SLADE: Well, Your Honor --

22 THE COURT: What is your theory, you can just
23 ask him about an unresolved charge?

24 MR. SLADE: Sure. My theory is we're
25 entitled to ask him about any prior bad act, and we are

1 entitled to ask him about any prior bad act if we have a
2 good faith basis for asking that question.

3 THE COURT: Ms. Shealy, what are your
4 thoughts on that?

5 MR. SLADE: Excuse me. There is another
6 problem with the admission of it, Your Honor, and I
7 wanted to make you aware of that as well.

8 MS. SHEALY: Yes, sir. I would assert,
9 first, that there is no proof that was a conviction, and
10 therefore it is inappropriate to come in, but
11 additionally, Judge, that was an arrest made in June of
12 1995, so it's also outside the ten-year limit.

13 THE COURT: All right. You had something
14 else you wanted to say?

15 MR. SLADE: In regard to being outside the
16 ten-year limit, the rule clearly says convictions outside
17 the ten-year limit can only come in in the discretion of
18 the trial Court after some type of argument on it, Your
19 Honor, but that's the argument we wanted to make.

20 THE COURT: But it didn't result in a
21 conviction, correct?

22 MR. SLADE: That's correct, and, Your Honor,
23 one further argument. Since it didn't result in
24 conviction, I don't think there is any time limit that
25 applies to a prior bad act in and of itself. I think

1 specifically -- this rule specifically deals with the
2 convictions.

3 THE COURT: What rule are you offering it on
4 if not Rule 609, 608?

5 MR. SLADE: Your Honor, we were intending to
6 offer it simply as evidence of issue -- to impeach him on
7 evidence of a prior bad act. I don't think it's a 609
8 question, Your Honor.

9 THE COURT: Well, what rule is it?

10 MR. SLADE: Well, Your Honor, I don't know
11 that a specific rule applies. Typically, or in my
12 understanding, Your Honor, any witness is subject to
13 impeachment for a relevant prior bad act that they've
14 committed in order to impeach them in terms of their
15 character for truth or veracity. It's our contention
16 that lying to a policeman is relevant to the character
17 for truth and veracity.

18 The fact that a policeman thought there was
19 probable cause that he had done that, I think, provides
20 the good faith basis for it, but I'm not saying it fits
21 specifically in one of the 608, 609 rules.

22 THE COURT: The only thing I'm aware you
23 could try to get it on would be 608(b), specific
24 instances of the conduct of a witness for the purpose of
25 attacking or supporting the witness's credibility other

1 than by a conviction of a crime is provided in Rule 609
2 may not be cured by extrinsic evidence. It may, however,
3 in the discretion of the Court, prove probative
4 truthfulness or untruthfulness to be inquired into on
5 cross-examination of the witness concerning the witness's
6 character for truthfulness or untruthfulness or
7 concerning the character or truthfulness or
8 untruthfulness of another witness to which the character
9 is being cross-examined as testified.

10 So it would be 608(b)1, and, basically, as I
11 understand, if that applied to this rule, it would come
12 into play because you could say, Isn't it true that you
13 got arrested for giving a false statement to a police
14 officer back in 1995? You can't prove it by extrinsic
15 evidence. If he admits it, he admits it; if he denies
16 it, you're stuck with his answer.

17 MR. SLADE: Yes, sir. That's my
18 understanding.

19 THE COURT: Is that what everybody thinks
20 608(b)1 says?

21 MS. SHEALY: Your Honor, the only distinction
22 I would make is it is addressing specific instances of
23 conduct of a witness, and if all that Mr. Slade has is
24 the arrest for the title of false information to the
25 police, we don't have any idea what we're dealing with.

1 We don't know what the alleged conduct was, and if there
2 was a nonconviction, it is certainly more suggestive of
3 he did not do it, rather than he did do it.

4 So just to merely allow him to ask about an
5 arrest from, what, 15 years ago seems not indicative at
6 all as to his truthfulness or credibility now.

7 THE COURT: Well, the way that it would
8 become indicative of or probative of propensity for
9 truthfulness or untruthfulness is that it was an arrest
10 for giving a false statement to a police officer. So I
11 think it does bear on the issue of his credibility and is
12 that he's had a prior arrest for truthfulness or not
13 truthfulness.

14 It's not a conviction. If it was a
15 conviction, then we would look at 609. So now we're
16 looking at 608 which does not apply to conviction,
17 608(b), and so it is non-convicted conduct. It's a
18 specific instance of the conduct of the witness for the
19 purpose of attacking his credibility, and it's other than
20 a crime, which is convicted under 609, all right, but it
21 says we cannot prove it by extrinsic evidence; however,
22 if I decide that it is probative, it can be inquired into
23 on cross-examination.

24 And as I understand that rule, if I determine
25 that he could ask him about it because it is a charge

1 that does reflect upon his credibility, then he is
2 basically stuck with his answer. He cannot prove it by
3 extrinsic evidence, so if he asks a witness, again, isn't
4 it true you were charged back in 1995 with giving a false
5 statement to the police officer, if the witness says yes,
6 we move on. If the witness says no, we move on.

7 But he would get to ask him about it, again,
8 if I decide after a 403 analysis that it's a probative
9 for truthfulness or untruthfulness, so is it a South
10 Carolina charge?

11 MR. SLADE: That's my understanding.

12 THE COURT: And it's giving a false statement
13 to a police officer?

14 MS. SHEALY: There is an arrest from
15 Charleston County.

16 THE COURT: And the charge was again?

17 MS. SHEALY: False information to the police.
18 But, Your Honor, it seems interesting to me to think that
19 609, if there had been a conviction, would be more
20 stringent than 608 when there is not a conviction.
21 Additionally, an arrest, I don't see how that goes to
22 someone's character for truthfulness, an isolated arrest
23 15 years ago.

24 THE COURT: To respond to your implication
25 that it would be harder to get in under 609, if it were a

1 conviction, it might be, but it's not technically
2 impossible, even if it was over ten years old because,
3 one, it would be a 609(a)2, involve dishonestly, false
4 statement, regardless of the punishment.

5 So if he had been convicted of it, it would
6 automatically come in, subject to 609(b) time limit, and
7 that says that it doesn't come in if it's more than ten
8 years old unless the Court determines in the interest of
9 justice that the probative value of the convictions
10 supported by specific facts and circumstances
11 substantially outweighs its prejudicial effect, and they
12 would have to give you some notice of it so that you
13 could look into it.

14 So it's not impossible. It wouldn't be an
15 automatic exclusion if it had been a conviction. So,
16 again, it goes back to 609 -- it goes back to 608(b).
17 There is no time limit on specific instances of conduct.
18 What I would like -- is this somebody you're calling up
19 right away?

20 MS. SHEALY: He would be this afternoon.

21 THE COURT: Why don't you inquire into him
22 about what this is, and that might help me decide if it
23 was -- if it will survive a 403 analysis. My first
24 inclination is to say, well, if he got charged with it,
25 then that certainly is something that would bear on his

1 propensity to be truthful or untruthful, but, again, it
2 would be just subject to they get to ask, and they're
3 stuck with whatever answer he comes up with. All right?

4 So see if you can find out a little bit more
5 from them, and then I'll let you know what my final
6 ruling is on that.

7 MS. SHEALY: Yes, sir.

8 THE COURT: All right.

9 Okay. What does the military got to do with
10 this? There is an objection --

11 MR. HOWE: Your Honor, very often current
12 military members aspire to be in law enforcement, and the
13 symbiotic relationship between those members presently
14 and formerly of the military and law enforcement, it's
15 just an added consideration for the defense in making
16 sure that we don't have too strong a disposition in a
17 certain way on the part of a juror, just as an added
18 information because we really get such little information
19 on the background of jurors as it is, and we need
20 absolutely everything we can get.

21 His constitutional rights and liberty are at
22 stake here.

23 THE COURT: What are your thoughts on that?

24 MS. SHEALY: It's our opinion the relevance,
25 whether or not they are former military -- formerly in

1 the military is just not relevant. I think it's delving
2 into areas that are inappropriate for jury selection.

3 THE COURT: Just the way the questions are
4 asked in Charleston, you'll probably end up getting two
5 thirds of the panel to stand up and have something to say
6 about that. If they are, I don't suppose -- I'll ask the
7 question. I wouldn't go striking questions just because
8 they're military, but I'll ask the question.

9 MR. HOWE: And, in all likelihood, it would
10 be one of 100 considerations.

11 THE COURT: All right.

12 (Recess taken.)

13 (In open court, jury panel present.)

14 THE COURT: Do we have all the jurors in now?
15 All right.

16 Welcome, folks. My name is Roger Young. I'm
17 one of the other judges holding court here this week in
18 Charleston, and in this case, we are setting in a term of
19 General Sessions court. I think the other judges that
20 you probably were in front of a little bit ago were
21 drawing jurors in civil cases. I am doing General
22 Sessions Court, which is our big, fancy word for criminal
23 Court, so we are picking a jury now for the first case we
24 will try this week, which is the State of South Carolina
25 versus Terrell Chandler.

1 Mr. Terrell Chandler has been indicted on two
2 charges. He has been charged with murder and with
3 possession of firearms during the commission of a violent
4 crime.

5 Now, there are several things that I am going
6 to say about these indictments that I'm going to repeat a
7 number of times throughout this week so that those of you
8 who actually serve on the jury, this will become a
9 familiar refrain from me, but the fact that somebody has
10 been charged and indicted with a crime in this case is
11 not evidence of their guilt or innocence of the crime.
12 Indictments are simply the presenting documents by which
13 this Court gets jurisdiction of this case and over the
14 defendant. It also puts him on notice of what he is
15 charged with.

16 It is not to be considered by you as evidence
17 in any way, shape, or form whatsoever when you are
18 deliberating on your verdict. Now, to each of these
19 indictments, Mr. Chandler has pled not guilty; therefore,
20 it is incumbent upon the State of South Carolina to give
21 him a trial on these charges and to attempt to prove
22 beyond a reasonable doubt to 12 of you that he is guilty
23 of these charges.

24 He has, again, pled not guilty, and so we are
25 going to draw a jury now of 12 of you, plus two

1 alternates, which we will begin this trial after lunch.
2 I'm going to introduce you now to the parties and to
3 their lawyers, and then I will go through the process
4 which should be now very familiar to you about calling
5 out names. We'll ask some questions, none of which are
6 designed to pry into your personal affairs or anything
7 like that, but we're simply trying to get 12 people who
8 do not have any knowledge of this case and don't know any
9 of the parties or the witnesses such that it would affect
10 your ability to be a fair or impartial juror in this
11 case.

12 Now, the State of South Carolina prosecutes
13 cases in General Sessions Court through the solicitor's
14 office. The solicitor in the Ninth Circuit, which is our
15 circuit, Charleston and Berkeley County, is Ms. Scarlett
16 Wilson, and she has designated two of her lawyers in her
17 office to prosecute this case today, and I'm going to ask
18 that Ms. Shealy and Mr. Neely now stand and face the jury
19 panel.

20 This is Ms. Ms. Jennifer Shealy and Mr. Kris
21 Neely. These are the two lawyers, assistant solicitors,
22 that are prosecuting the case today.

23 Is there any member of the jury panel who is
24 related by blood or marriage or acquainted in any way
25 with either of these two people or with anybody that

1 currently works for the Ninth Circuit solicitor's office?

2 If so, would you please stand.

3 Yes, sir, your name and number.

4 A PROSPECTIVE JUROR: William Hamilton, 117.

5 I have some cases against the solicitor's office.

6 THE COURT: Would that affect your ability to
7 be a fair and impartial juror in this case in any way?

8 A PROSPECTIVE JUROR: I don't think so, but I
9 would hope to check and make sure I don't have anything
10 with these two attorneys.

11 THE COURT: Well, we're ready to draw a jury
12 on it, so I need to know in a pretty definite way. We
13 don't have time for you to go look that up. Do you think
14 you could be a fair and impartial juror in this case?
15 You don't seem to know them well enough.

16 A PROSPECTIVE JUROR: There have been a lot
17 of cases. I think I could, Your Honor, if I had to.

18 THE COURT: All right. Anyone else? Okay.
19 You may be seated.

20 Now, the defendant, again, is Mr. Terrell
21 Chandler. Mr. Chandler, would you stand, face the jury.
22 All right. He is represented by Mr. Mitch Slade and Mr.
23 Waring Howe, the two lawyers standing in front of you
24 now.

25 Is there any member of the jury panel who is

1 related by blood or marriage or acquainted in any way
2 with either Mr. Chandler, Mr. Slade, or Mr. Howe or
3 perhaps you have been represented by either Mr. Slade or
4 Mr. Howe before? If so, would you please stand. Okay.

5 Mr. Hamilton, again, you know these
6 gentlemen?

7 A PROSPECTIVE JUROR: I know Mr. Howe very
8 well from some political things.

9 THE COURT: Would that affect your ability to
10 be a fair and impartial juror in this case?

11 A PROSPECTIVE JUROR: No, sir, it would not.

12 THE COURT: Yes, ma'am, your name and number.

13 A PROSPECTIVE JUROR: Marcia Frasier, I'm
14 juror 89. I know that I've had some dealings with the
15 law firm of Mr. Howe on some insurance cases.

16 THE COURT: Okay. Would that affect your
17 ability to be fair or impartial, either for or against
18 the state or for or against his client?

19 A PROSPECTIVE JUROR: Absolutely not, sir. I
20 would be very fair.

21 THE COURT: Thank you. Anybody else? All
22 right. You may be seated.

23 I'm going to call the names of some people
24 that might be called as witnesses in this case. There
25 are a large, long list of people, but not everyone will

1 necessarily be called, but because they potentially may
2 be called on this, it's a lengthy list. So if I call the
3 names out, if are you related by blood or marriage or
4 acquainted with any of these people, when I call their
5 name out, would you please stand.

6 First is Megan white. All right. I find
7 none. Tamara Dixon? I find none. Ta'Mequa Durant? And
8 I find none. Latrice Smalls? I find none. Cherelle
9 Anderson? I find none. Steven Brown? I find none.

10 Delores Gibbs? I find none. Michael
11 Sherman, Charleston police department? I find none.
12 Steve Hood, Charleston police department? I'm going to
13 say CPD, and that stands for Charleston County police
14 department. Steve Hood, CPD? I find none. Detective
15 David Osborne, CPD? I find none. Charles Grill, CPD?
16 Anita Maestas, M-a-e-s-t-a-s, CPD? I find none.

17 Sergeant Andre Jenkins, CPD? I find none.
18 John Clayton, CPD? Alexander Sumner? Officer
19 Christopher Kogler, K-o-e-g-l-e-r, CPD? Jennifer
20 Wooley? Detective Richard Burkhardt, CPD? Officer Brian
21 Salkeld, S-a-l-k-e-l-d, CPD? Sergeant Sterling Dutton,
22 D-u-t-t-o-n, CPD?

23 Chris Costanzo, CPD? Kathleen Butler? Dan
24 DeFreese with SLED, South Carolina Law Enforcement
25 Division? Jason Humber, SLED? Gaile Heath, SLED? Nikki

1 Perry, SLED? Amy Stephens, SLED? Doris Yarbrough, SLED?
2 Lisa McReynolds, SLED? William Hoyes? Tara Patrick?
3 James Eidenberg? Dr. Erin Presnell, MUSC, medical
4 university? Dawn Blizard, nurse?

5 Naomi Bryant? Amanda Mack? Troy White?
6 Jamel Brown? Jennie Antonio, CPD? Randy Unterbrink,
7 CPD? Henry Middleton, CPD? Christopher Watkins, C --
8 I'm sorry. It doesn't say he's affiliated with anybody.
9 Marvin Hancock, CCDC? That would be Charleston County
10 detention center.

11 Travis Dowdy, EMS, emergency medical service?
12 Kelly West, EMS? Devan Thompson, EMS? Barry Goldstein,
13 CPD? Melissa Gill, CPD? Elizabeth Mitchell, CPD? Craig
14 Kosarko, K-o-s-a-r-k-o, CPD? Jerome Fleming, CPD?
15 Charles Hawkins, CPD? Matthew Frey, CPD? Lauren Mosher,
16 M-o-s-h-e-r, CPD? Jerry Roberts, CPD? Christopher
17 Ratliffe, CPD? Brian Hinton, CPD? Jeff Miller, CPD?
18 Maria Clark? Latisha Wilson? Kathleen Amick, SLED?

19 Custodian of records for 911? Judy Koeplin,
20 K-o-e-p-l-i-n, coroner's office? Janice Hearn,
21 CPD dispatch? I know you guys gave me a list, short a
22 one.

23 MR. HOWE: Maybe Ms. Shealy and Mr. Neely can
24 help me with this. I have their number 35 was skipped.
25 Did you name that witness, number 35 on that list?

1 THE COURT: Number 35, Brittney Simmons?

2 MS. SHEALY: I don't know.

3 MR. HOWE: I had that you just happened to
4 skip that one.

5 THE COURT: I'm sorry. Brittney Simmons?
6 Marvin H. Dawson, junior, and Thad Miller?

7 Okay. Is there any member of the jury panel
8 or your immediate family members ever had any criminal
9 charges adjudicated by the Charleston County solicitor's
10 office? If so, would you please stand. I find none.

11 Yes, ma'am. Your name and number?

12 A PROSPECTIVE JUROR: Johnetta Platt, 213.
13 My husband was, years ago, was in -- I think it was for
14 drug charges.

15 THE COURT: Could you speak up a little bit?

16 A PROSPECTIVE JUROR: I said my husband was
17 involved in drug charges in the '80s, or '70s.

18 THE COURT: It's been resolved?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: And he was charged and convicted?

21 A PROSPECTIVE JUROR: Yes, sir. Served his
22 time.

23 THE COURT: And that was back in the '70s or
24 '80s.

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Do you think that would affect
2 your ability to be a fair and impartial juror in this
3 case either for or against the state or for or against
4 the defendant?

5 A PROSPECTIVE JUROR: No.

6 THE COURT: All right. Thank you. Yes?

7 A PROSPECTIVE JUROR: I got a brother that
8 just recently got out of jail for a charge of burglary.

9 THE COURT: That is a pending charging?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Do you think that would affect
12 your ability to be fair and impartial juror in this case
13 either for or against state or for or against the
14 defendant?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Your name and number again?

17 A PROSPECTIVE JUROR: Angela McCormick, 170.

18 THE COURT: All right. Thank you. Yes, sir,
19 your name and number?

20 A PROSPECTIVE JUROR: Eric Boucher, juror
21 number 33. I have a pending possession of marijuana
22 charge.

23 THE COURT: Okay. Do you think that would
24 affect your ability to be fair and impartial juror in
25 this case for or against the state or for or against the

1 defense?

2 A PROSPECTIVE JUROR: No, sir.

3 THE COURT: What was your number again?

4 A PROSPECTIVE JUROR: 33.

5 THE COURT: Yes, ma'am. Your name and
6 number?

7 A PROSPECTIVE JUROR: Odessa Brown, number
8 304. I have a nephew who was in jail for drug charges?

9 THE COURT: How long ago was that?

10 A PROSPECTIVE JUROR: Ten years ago.

11 THE COURT: Would that affect your ability to
12 be fair and impartial in this case or for or against the
13 state or for or against the defendant?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Was he convicted?

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: Yes, ma'am, name and number.

18 A PROSPECTIVE JUROR: Kathi McDermott, 317.

19 There is a pending charge against my son, pending.

20 THE COURT: And do you think that would
21 affect your ability to be fair and impartial in this
22 case, either for or against the state or for or against
23 the defense?

24 A PROSPECTIVE JUROR: No, sir.

25 THE COURT: All right. Thank you. Yes, sir?

1 A PROSPECTIVE JUROR: Charlie Whirl, 281.
2 Had a brother about ten years ago on some charges that
3 have been disposed of.

4 THE COURT: Was he convicted?

5 A PROSPECTIVE JUROR: He pled guilty, yes.

6 THE COURT: Would that affect your ability to
7 be fair and impartial in this case, either for or against
8 the state or for against the defense?

9 A PROSPECTIVE JUROR: No, Your Honor.

10 THE COURT: All right. Anyone else? Anybody
11 in the jury panel ever been a witness in either a civil
12 or a criminal case? If so, would you please stand.

13 All right. Any member of the jury panel have
14 any problems following the law as I charge it to you,
15 even if you don't believe it's appropriate or you think
16 the law might be unfair? Do you think you could, if you
17 took your oath as a juror, follow the law as I charge it
18 to you? Anybody have a problem with that? All right.

19 Any member of the jury panel have any
20 religious convictions, philosophical, moral beliefs or
21 political orientations that would make it difficult for
22 to you sit in judgment of another person? If so, would
23 you please stand?

24 Let me say, it is perfectly okay to have any
25 beliefs that you want to in this country. It's America.

1 As long as you don't advocate violence against somebody,
2 you can pretty much believe whatever you want to. That's
3 fine with me, but sometimes people, they feel like, well,
4 I can't set in judgment of another person or, you know,
5 they might believe, well, the whole criminal justice
6 system and government is screwed up, and I'm going to get
7 on a jury panel and, you know, they might be predisposed
8 to rule either for convictions or against convictions or
9 sometimes on cases they just want to disrupt things.

10 If you want to believe that is the proper way
11 to resolve society's problems, that's your belief, but if
12 you hold those and you affect the jury, then I'm involved
13 with it and then it becomes my problem, and most of all
14 these people, both the state and the defense, are
15 entitled to a jury of 12 people that are fair, impartial,
16 and don't have any preconceptions of what the outcome
17 ought to be.

18 So if you have some beliefs and you don't
19 think for any reason whatsoever could render a fair and
20 impartial verdict, could you please stand.

21 All right. I find none. Does any member of
22 the jury panel have any relatives or close friends in
23 prison? If so, would you please stand. Yes, ma'am, your
24 name and number?

25 A PROSPECTIVE JUROR: Angela McCormick, 170.

1 My oldest daughter's father is in prison, murder charges.

2 THE COURT: Would that affect your ability to
3 be fair and impartial in this case, either for or against
4 the state or for or against the defense?

5 A PROSPECTIVE JUROR: It's a possibility.

6 THE COURT: You think so? What is your
7 number again?

8 A PROSPECTIVE JUROR: 170.

9 THE COURT: All right. Thank you. Anyone
10 else? Yes, sir. Your name and number?

11 A PROSPECTIVE JUROR: Matthew Nix, 202. I
12 have a nephew that is incarcerated for drugs.

13 THE COURT: Do you think that would affect
14 your ability to be fair and impartial in this case,
15 either for or against the state or for or against the
16 defense?

17 A PROSPECTIVE JUROR: No, I do not.

18 THE COURT: All right. Thank you very much.
19 Any member of the jury panel have an unpleasant
20 experience with law enforcement officer? If so, would
21 you please stand. I find none.

22 Any member of the jury panel or an immediate
23 family member currently have an association with law
24 enforcement, passing association with law enforcement,
25 been employed or currently employed by any law

1 enforcement agency or a spouse or former spouse of a law
2 enforcement officer, would you please stand.

3 Yes, ma'am, your name and number?

4 A PROSPECTIVE JUROR: Donna Spangler
5 Norvelle, juror 255. My son has a pending application to
6 the federal marshal's internship program. I don't know
7 if that counts, but --

8 THE COURT: Do you think that would affect
9 your ability to be fair and impartial in this case?

10 A PROSPECTIVE JUROR: No, sir.

11 THE COURT: Yes, ma'am, your name and number?

12 A PROSPECTIVE JUROR: Carmela Russo, 228.

13 Both of my brothers are cops.

14 THE COURT: Do you think that would affect
15 your ability to be fair or impartial in this case, either
16 for or against the state or for or against the defense?

17 A PROSPECTIVE JUROR: No, I don't.

18 THE COURT: All right. Thank you. Yes,
19 ma'am?

20 A PROSPECTIVE JUROR: Kathleen McCormick,
21 317. My daughter is engaged to a detective with the
22 sheriff's department in Florida.

23 THE COURT: Do you think that would affect
24 your ability to be fair and impartial in this case?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Yes, sir?

2 A PROSPECTIVE JUROR: Charles Whirl, 281. My
3 son is a New York City policeman.

4 THE COURT: Do you think that would affect
5 your ability to be fair and impartial in this case?

6 A PROSPECTIVE JUROR: No, sir.

7 THE COURT: All right. Has any member of the
8 jury panel or an immediate family member been the victim
9 of a crime? If so, would you stand.

10 Yes, sir, your name and number?

11 A PROSPECTIVE JUROR: 249, Brian Smith.

12 THE COURT: Okay. Could you tell us just
13 briefly about it and who it is.

14 A PROSPECTIVE JUROR: It's me personally, and
15 it happened in 1992, '93, somewhere in there, where I was
16 held at gunpoint and robbed of my personal possessions as
17 well as a group of people that I was with.

18 THE COURT: Do you think that would affect
19 your ability to be fair and impartial in this case,
20 either for or against the state or for or against the
21 defense?

22 A PROSPECTIVE JUROR: No, sir.

23 THE COURT: Anyone else? Yes, ma'am, your
24 name and number.

25 A PROSPECTIVE JUROR: Kellyanne Dix, number

1 73, and my parents were robbed at knifepoint, but it was
2 years ago.

3 THE COURT: How long ago was that?

4 A PROSPECTIVE JUROR: Over 15 or 20.

5 THE COURT: Do you think that would affect
6 your ability to be fair and impartial in this case?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Anyone else? Yes, sir.

9 A PROSPECTIVE JUROR: Burglary at our home.
10 They stole some personal possession.

11 THE COURT: Your name and number for the
12 record?

13 A PROSPECTIVE JUROR: William Hamilton, 117.

14 THE COURT: Do you think that would affect
15 your ability to be fair and impartial in this case?

16 A PROSPECTIVE JUROR: No, sir.

17 THE COURT: All right. Anyone else?

18 Any member of the jury panel or any of your
19 immediate family members either a past or a current
20 member or volunteer for a crime victim organization? If
21 so, would you please stand? I find none.

22 Any member of the jury panel or any of your
23 immediate family members been a financial supporter or
24 participant in Solicitor Wilson's campaign for solicitor
25 for Ninth Judicial Circuit? I find none.

1 Any member of the jury panel or any of your
2 immediate family members participate with or volunteer
3 with a neighborhood watch? If so, would you please
4 stand. I find none.

5 Any member of the jury panel have or had
6 military experience, been employed, or currently employed
7 with any military agency or spouse or formerly a spouse
8 of a military member? If so, would you please stand.

9 Okay. Let's start over here and work our way
10 across if you would. Name, number, and if it was you or
11 a familiarly member, what service.

12 A PROSPECTIVE JUROR: Eric Boucher, juror
13 number 33, and I currently am a barber on the Air Force
14 base.

15 THE COURT: Okay. Thank you. Yes, sir?

16 A PROSPECTIVE JUROR: Brian Smith, 249, U.S.
17 Army veteran.

18 A PROSPECTIVE JUROR: Samuel Deveaux, juror
19 number 72, retired U.S. Army.

20 A PROSPECTIVE JUROR: Odessa Brown, juror
21 304, husband, retired military. I worked for the Marine
22 Corps for the depot in Parris Island.

23 A PROSPECTIVE JUROR: Charlie Whirl, 281, 11
24 years, U.S. Army.

25 A PROSPECTIVE JUROR: Christopher Sjolander,

1 juror number 324. I'm a U.S. Navy veteran.

2 THE COURT: All right. Thank you.

3 A PROSPECTIVE JUROR: Matthew Nix, 202, U.S.
4 Army.

5 THE COURT: Thank you. Any member of the
6 jury panel know of any reason why they don't believe that
7 they could be a fair and impartial juror in this case,
8 either for or against the state or for or against the
9 defense? If so, would you please stand.

10 All right. Anything from either of the
11 defense or state before we begin?

12 MR. HOWE: Nothing further, Your Honor.

13 MS. SHEALY: May we approach, Your Honor?

14 THE COURT: Yes.

15 (Discussion held at sidebar.)

16 THE COURT: For the record, number 170 is
17 being excused, and state requested 117, Mr. Hamilton, to
18 be excused because he was a little equivocal because I
19 denied it because she had two exercises to strike.

20 Okay, folks. We do this a little bit
21 different than -- I'm sorry. Yes, ma'am, your name and
22 number?

23 A PROSPECTIVE JUROR: Johnetta Platt, juror
24 213. When you asked about religious conviction, I don't
25 know if that goes into how a person feels about capital

1 punishment.

2 THE COURT: Okay. This case does not involve
3 the death penalty. Okay? Thank you. Anyone else? All
4 right.

5 Now, the way we do this in General Sessions
6 Court is a little bit different than the way you probably
7 just saw it in civil court or Common Pleas. There they
8 give the lawyers a list of names and a few minutes to
9 study. Here we go right into it, and we draw a slightly
10 different way.

11 The clerk is going to call a name and a
12 number out. Bring your stuff with you, come through
13 those two little doors right there, come up to the
14 podium, turn around and face the back. The state then
15 has the opportunity to say present the juror or excuse
16 the juror.

17 If the state does not strike you, the defense
18 has the opportunity to present or excuse. If neither
19 side strikes, then you go to the juror box, and you're on
20 the jury. If one of the two sides strikes, you go on
21 back, and you go to the next one until we end up getting
22 12 jurors and two alternates.

23 Now, people always go, why did they strike
24 me? Well, they don't have to necessarily tell anybody
25 why they strike, and you shouldn't take it personally,

1 and you'll probably get a chance to serve on another jury
2 this week. There are a lot of reasons why people get
3 seated or struck. Please don't take it personally.

4 Most of the time in civil court, because of
5 the way we do it, you don't even know you got struck, but
6 it's my experience that we do things in South Carolina
7 the way we do them because that's the way we've done them
8 for 300 years and we're not going to change it, and this
9 is the way we've done it for 300 years in this state.

10 At any rate, we'll go ahead and start. So,
11 Mr. Clerk, if you would call your first juror.

12 THE CLERK: Juror 312, Lindsay Gipe, 312.

13 (The juror, a white female, approaches.)

14 What say you for the state?

15 MS. SHEALY: Please present the juror.

16 THE CLERK: What say your for the defendant?

17 MR. HOWE: Please present the juror.

18 THE CLERK: Please have a seat in the jury
19 box. You've been selected as a juror in this case.

20 Juror number 132, Pamela Hricik?

21 (The juror, a white female, approaches.)

22 What say you for the state?

23 MS. SHEALY: Please swear the juror.

24 THE CLERK: What say you for the defendant?

25 MR. HOWE: Please strike this juror.

1 THE CLERK: Please have a seat back in the
2 audience. You've been excused from the trial of this
3 case. Juror 306, the Timothy Chesser, 306.

4 (The juror, a white male, approaches.)

5 What say you for the state?

6 MS. SHEALY: Please present the juror.

7 THE CLERK: What say you for the defendant?

8 MR. HOWE: Strike the juror.

9 THE CLERK: Please have a seat back in the
10 audience. You've been excused from the trial of this
11 case.

12 Juror number 53, Brian Clark, 53.

13 (The juror, a white male, approaches.)

14 What say you for the state?

15 MS. SHEALY: Please present this juror.

16 THE CLERK: What say you for the defendant?

17 MR. HOWE: Seat the juror.

18 THE CLERK: Have a seat in the juror box.

19 You've been selected as a juror in case. Juror 72,
20 Samuel Deveaux, 72.

21 (The juror, a black male, approaches.)

22 What say you for the state?

23 MS. SHEALY: Please present the juror.

24 THE CLERK: What say you for the defendant?

25 MR. HOWE: Please seat the juror.

1 THE CLERK: Have a seat in the jury box.
2 You've been selected as a juror in this case.

3 Juror number 55, Olivia Clifford, 55.

4 (The juror, a white female, approaches.)

5 What say you for the state?

6 MS. SHEALY: Please present the juror.

7 THE CLERK: What say you for the defendant?

8 MR. HOWE: Strike the juror.

9 THE CLERK: Ms. Clifford, have a seat back in
10 the audience. You've been excused from the trial of this
11 case.

12 Juror number 213, Jeanatta Platt, 213.

13 (The juror, a black female, approaches.)

14 What say you for the state?

15 MS. SHEALY: Please excuse the juror.

16 THE CLERK: Have a seat back in the audience.
17 You've been excused from the trial of this case..

18 Juror number 131, Danny Hoy, 131.

19 (The juror, a white male, approaches.)

20 What say you for the state?

21 MS. SHEALY: Please present the juror.

22 THE CLERK: What say you for the defendant?

23 MR. HOWE: Please excuse the juror.

24 THE CLERK: Please have a seat back in the
25 audience. You have been excused from the trial of this

1 case. That is four strikes for defendant.
2 Juror number 202, Matthew Nix, 202.
3 (The juror, a black male, approaches.)
4 What say you for the state?
5 MS. SHEALY: Please seat the juror.
6 THE CLERK: What say you for the defendant?
7 MR. HOWE: Please seat the juror.
8 THE CLERK: Mr. Nix, please have a seat in
9 the jury box. You've been selected for the trial of this
10 case. Juror 304, Odessa Brown, 304.
11 (The juror, a black female, approaches.)
12 What say you for the state?
13 MS. SHEALY: Please present the juror.
14 THE CLERK: What say you for the defendant?
15 MR. HOWE: Seat the juror, please.
16 THE CLERK: Ms. Brown, please have a seat in
17 the jury box. You've been selected as a juror in this
18 case.
19 Juror number 210, Alexander Perkins, 210.
20 (The juror, a white male, approaches.)
21 What say you for the state?
22 MS. SHEALY: Please present the juror.
23 THE CLERK: What say you for the defendant?
24 MR. HOWE: Seat the juror.
25 THE CLERK: Mr. Perkins, please have a seat

1 in the jury box. You've been selected as a juror in this
2 case.

3 Juror 128, Richard Horan, 128.

4 (The juror, a white male, approaches.)

5 What say you for the state?

6 MS. SHEALY: Please present the juror.

7 THE CLERK: What say you for the defendant?

8 MR. HOWE: Strike the juror.

9 THE CLERK: Have a seat back in the audience.

10 You've been excused from the trial of this case. Juror
11 number 108, Louise Grant, 108.

12 (The juror, a black female, approaches.)

13 What say you for the state?

14 MS. SHEALY: Please excuse the juror.

15 THE CLERK: Please have a seat back in the
16 audience. You've been excused from the trial of this
17 case.

18 Juror one 48, Herbert Klinger, 148.

19 (The juror, a white male, approaches.)

20 What say you for the state?

21 MS. SHEALY: Please present the juror.

22 THE CLERK: What say you for the defendant?

23 MR. HOWE: Strike the juror.

24 THE CLERK: Have a seat back in the audience.

25 You've been excused from the trial of this case. That's

1 six strikes for the defendant. Juror 83, Ann Mario
2 Rizzo, 83.

3 (The juror, a white female, approaches.)

4 What say you for the state?

5 MS. SHEALY: Please present the juror.

6 THE CLERK: What say you for the defendant?

7 MR. HOWE: Seat the juror.

8 THE CLERK: Have a seat in the jury box.

9 You've been selected as a juror in this case.

10 Juror number 6, Bonner Altman, number 6.

11 (The juror, a white female, approaches.)

12 What say you for the state?

13 MS. SHEALY: Please present the juror.

14 THE CLERK: What say you for the defendant?

15 MR. HOWE: Seat the juror.

16 THE CLERK: Please have a seat in the jury
17 box. You've been selected as a juror in this case.

18 Juror number, Eric Bousquet, 33.

19 (The juror, a white male, approaches.)

20 What say you for the state?

21 MS. SHEALY: Please present the juror.

22 THE CLERK: What say you for the defendant?

23 MR. HOWE: Please seat the juror.

24 THE CLERK: Have a seat in the jury box.

25 You've been selected as a juror in this case. Juror 152,

1 Rolando Legaspi, 152.

2 (The juror, a white male, approaches.)

3 What say you for the state?

4 MS. SHEALY: Please excuse the juror.

5 THE CLERK: Have a seat back in the audience.

6 You've been excused from the trial of this case. That is

7 three strikes for the state.

8 Juror number 232, Ewaldt Schoenbrodt, 232.

9 (The juror, a white male, approaches.)

10 What say you for the state?

11 MS. SHEALY: Please present the juror.

12 THE CLERK: What say you for the defendant?

13 MR. HOWE: Strike the juror.

14 THE CLERK: Mr. Schoenbrodt, have a seat back

15 in the audience. You've been excused from the trial of

16 this case.

17 Juror number 198, Francine Nelson, 198.

18 (The juror, a black female, approaches.)

19 What say you for the state?

20 MS. SHEALY: Please present the juror.

21 THE CLERK: What say you for the defendant?

22 MR. HOWE: Seat the juror.

23 THE CLERK: Ms. Nelson, please have a seat in

24 the juror box. You've been selected as a juror in this

25 case.

1 Juror 204, Dawn Orvig, 204.
2 (The juror, a white female, approaches.)
3 What say you for the state?
4 MS. SHEALY: Please present the juror.
5 THE CLERK: What say you for the defendant?
6 MR. HOWE: Strike the juror.
7 THE CLERK: Miss Orvig, have a seat back in
8 the audience. You've been excused from the trial of this
9 case. That is eight strikes for the defendant.
10 Juror number 79, Edwin Edens, 79.
11 (The juror, a white male, approaches.)
12 What say you for the state?
13 MS. SHEALY: Please present the juror.
14 THE CLERK: What say you for the defendant?
15 MR. HOWE: Strike the juror.
16 THE CLERK: Mr. Eddings, have a seat back in
17 the audience. You've been excused from the trial of this
18 case. Nine strikes for the defendant.
19 Juror number 248, Arthur Smith, 248.
20 (The juror, a white male, approaches.)
21 What say you for the state?
22 MS. SHEALY: Please present the juror.
23 THE CLERK: What say you for the defendant?
24 MR. HOWE: Seat the juror.
25 THE CLERK: Mr. Smith have, a seat in the

1 jury box. You've been selected as a juror in this case.

2 Juror number 50, Hunter Carter, 50.

3 (The juror, a white male, approaches.)

4 What say you for the state?

5 MS. SHEALY: Please present the juror.

6 THE CLERK: What say you for the defendant?

7 MR. HOWE: Seat the juror.

8 THE CLERK: Mr. Carter, have a seat in the

9 jury box. You've been selected as a juror in this case.

10 Now picking for the first alternate, strikes

11 are one and two. Juror 317, Kathy McDermott, 317.

12 (The juror, a white female, approaches.)

13 What say you for the state?

14 MS. SHEALY: Please excuse the juror.

15 THE CLERK: Please have a seat back in the

16 audience. You've been excused from the trial of this

17 case.

18 Juror number 223, Gwendolyn Richards, 223.

19 (The juror, a white female, approaches.)

20 Any challenge from the state?

21 MS. SHEALY: No. Please present the juror.

22 THE CLERK: What say you for the defendant?

23 MR. HOWE: Seat the juror.

24 THE CLERK: Miss Richards, please have a seat

25 in the jury box. You've been selected as a juror in this

1 case. Now picking for the second alternate, strikes are
2 one and two. Juror number 211, Bruce Philpott, 211.

3 (The juror, a white male, approaches.)

4 What say you for the state?

5 MS. SHEALY: Please present the juror.

6 THE CLERK: What say you for the defendant?

7 MR. HOWE: Strike the juror.

8 THE CLERK: Mr. Philpott, please have a seat
9 back in the audience. You've been excused from the trial
10 of this case.

11 Juror number 73, Kellyanne Dix, 73.

12 (The juror, a white female, approaches.)

13 What say you for the state?

14 MS. SHEALY: Please present the juror.

15 THE CLERK: What say you for the defendant?

16 MR. HOWE: Strike the juror.

17 THE CLERK: Miss Hicks, have a seat back in
18 the audience. You've been excused from the trial of this
19 case.

20 Juror number 284, Jarvis White, 284.

21 (The juror, a black male, approaches.)

22 What say you for the state?

23 MS. SHEALY: Please present the juror.

24 THE CLERK: Any challenge from the defendant?

25 MR. HOWE: Seat the juror.

1 THE CLERK: Mr. White, please have a seat in
2 the juror box. You've been selected as a juror in this
3 case.

4 Your Honor, the jury has been selected and
5 are seated.

6 THE COURT: Anything from the state?

7 MS. SHEALY: Nothing further.

8 THE COURT: From the defense?

9 MR. HOWE: Nothing, Your Honor.

10 THE COURT: All right. Folks, then, you are
11 our jury now for our case, which we will begin after
12 lunch.

13 We have got some pretrial things that we have
14 to take care of before we begin, and we're going to take
15 a short lunch break ourselves, but it's going to take us,
16 I'm estimating, about an hour for the stuff that we need
17 to do before we can begin the trial, so I'm going to
18 excuse you until 3:30, and what I'm going to do right now
19 is you'll follow this gentleman, the bailiff, back to the
20 jury room, and he'll show you where you report back to at
21 3:30.

22 Now, you can go to lunch with whoever you
23 want to go to lunch with. You can talk to whoever you
24 want to talk to at lunch; however, you cannot talk about
25 this case in any way, shape, or form with anybody,

1 including each other.

2 If you need to call and make arrangements,
3 you know, for rides or stuff, you can say, I got picked
4 for a jury, and tonight you're going to hear this all the
5 time throughout the week, but make your decision at the
6 end of the trial, after you've heard all of the evidence,
7 and you've heard about the law.

8 So it's important that you not talk about the
9 case with each other or anyone else during the trial,
10 even though you might start going, I'm thinking about
11 making up my mind, or, I don't like that last witness or
12 whatever.

13 I'm telling you, you can't talk about this
14 case. You can talk about anything else you want to, but
15 not about this case. Having said that, he'll show you
16 where to report to. Don't come back in the courtroom.
17 Go back to that jury room at 3:30. We will probably go
18 somewhere to 5:00 to 5:30, is where we usually break.
19 That is just the best I can tell you, so if you need to
20 make ride arrangements or you need to have somebody else,
21 you know, pick up people or you just need to know or call
22 somebody and let them know you got picked on a jury, you
23 won't be back in today, that is what we generally will be
24 trying to do on a daily basis.

25 So go back. We'll see you back around 3:30.

1 When you get back there, you can talk amongst yourselves.
2 The one thing that I would like you to do that involves
3 the case, I always like to see if the jury can choose
4 their own foreperson.

5 If you can't, then I'll pick somebody, that's
6 fine, but get to know each other, and choose your own
7 foreperson amongst you. The only person that can't be
8 the foreperson of the jury is one of the two alternates.
9 There is no extra pay, so don't expect -- you don't get a
10 bigger lunch or anything like that. That is just
11 something I like to see if y'all can do it. If you can't
12 pick a foreperson, I'll pick a foreperson for you, so
13 we'll see you back around 3:30. Thank you for your
14 patience.

15 (Jury recessed.)

16 MS. SHEALY: There was one thing I was going
17 to bring to the Court's attention. Juror 248, Mr. Smith,
18 when we were going through qualification process with
19 Judge Dennis, he mentioned that he has some difficulty in
20 hearing.

21 THE COURT: Okay. We'll get one of those
22 little hearing aid things for him. We got a little
23 device that helps him hear. Thank you.

24 The rest of you folks are free for the rest
25 of today, and what I would like to ask you to do is call

1 the telephone number that they gave you after 6:00
2 tonight, and they will tell you to either report back
3 tomorrow or say call back tomorrow after 6:00, but we
4 don't like to have you keep coming back and sitting all
5 day long.

6 If you're not in a trial, we try to minimize
7 the intrusion, and we don't just have you sitting around
8 the courthouse all day long. So you are free to go for
9 the rest of the day. Just call the telephone number
10 after 6:00. Thank you for your patience.

11 Okay. We'll see y'all back about 2:30.

12 (Recess taken.)

13 (In open court, jury not present.)

14 THE COURT: Okay. I'm sorry. Go ahead.

15 MS. SHEALY: We have 95 pictures, and I
16 understand the defense is not going to object to the
17 identification of. I wanted to know if it is all right
18 if we have my clerk take the red stickers from the
19 reporter, and I'm starting with item number 96 for the
20 documents that I'm going to admit for exhibit purposes
21 for this hearing.

22 THE COURT: All right.

23 MR. HOWE: We don't have any objection. I'm
24 having one last scrutiny right now, and I don't expect
25 there to be any surprises. But we had an opportunity to

1 view them yesterday, and this is one last look.

2 THE COURT: She's only doing them for ID
3 right this minute.

4 (Photographs marked for identification and
5 admitted into evidence as State's Exhibit Nos. 1-95.)

6 THE COURT: All right. Are y'all ready for
7 your motion?

8 MS. SHEALY: Yes, Your Honor. We would call
9 Sterling Dutton.

10 STERLING DUTTON,

11 having been first duly sworn,

12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. SHEALY:

15 Q. Would you please tell us where you're employed.

16 A. City of Charleston police department.

17 Q. And what is your position there?

18 A. I'm lieutenant in charge of the special
19 investigation unit.

20 Q. Back in June of 2008, what was your position?

21 A. I was the sergeant in charge of the violent crimes
22 homicide unit.

23 Q. On June 2, 2008 did you participate in a search
24 warrant that was executed at Battery Apartment 5?

25 A. Yes.

1 Q. And that was 930 Battery Avenue?

2 A. Yes, ma'am.

3 Q. And do you recall how many other officers
4 participated in that search?

5 A. The actual search, I believe it was two or three
6 more.

7 Q. And was it a dual effort by -- on the parts of
8 both narcotics and violent crimes?

9 A. Yes, ma'am, it was.

10 Q. Were there any drugs located in a bedroom?

11 A. Yes, ma'am, there were.

12 Q. Do you recall having a conversation with any of
13 the occupants of that apartment regarding that bedroom
14 and those drugs?

15 A. Yes, ma'am, I do.

16 Q. Prior to having that conversation, would you alert
17 the Court as to whether any arrests had been made?

18 A. I'm not sure what this -- I don't know if anybody
19 else was arrested at the time. Everybody at that time
20 was detained, pending the investigation, as to what we
21 found inside the apartment.

22 Q. As it relates to Terrell Chandler, would you alert
23 the Court what, if anything, you did with regard to
24 Terrell Chandler?

25 A. I gave everybody the Miranda warnings that were

1 inside the apartment at the time, and then Mr. Chandler
2 told us voluntarily that the narcotics they found were
3 his.

4 Q. Now, were narcotics found in only one location
5 within that apartment?

6 A. They were found in the bedroom on the -- we found
7 a plastic bag with several individual bags of a green
8 leafy substance, which field tested positive at the scene
9 for marijuana.

10 Q. And did y'all determine that was Terrell
11 Chandler's bedroom?

12 A. Yes, ma'am, we did.

13 Q. When you said you read the Miranda warnings to all
14 the suspects that were present in the apartment, what
15 fashion was that accomplished?

16 A. They were given orally. I told everybody who was
17 there together -- I read a card at one time to everybody.

18 Q. Do you have a card present that you could tell us
19 what you read?

20 A. I don't have one with me right now.

21 Q. What type of card is it?

22 A. I'll a little card that the city of Charleston
23 provides its officers. It gives you the Miranda warning
24 line by line.

25 Q. When you read those Miranda warnings to

1 Mr. Chandler, did you have him sign the card afterwards?

2 A. I can't remember.

3 Q. And after reading the Miranda warnings, in what
4 way did you determine whether or not, in fact, they were
5 waiving their Miranda warnings?

6 A. They were asked if they wanted to speak or they
7 were given a chance -- in the Miranda warnings, it says
8 you're allowed to ask for a lawyer. At that time nobody
9 said anything about asking for anybody, and there were
10 several other people that were talking at the same time.

11 Q. I'm going to show you an item, and could you
12 indicate to us whether this is the type of Miranda card
13 you were referring to?

14 A. Yes, ma'am, it is, because everything on back
15 right here is mine.

16 Q. And you indicated you were provided those by the
17 city police department?

18 A. Yes, ma'am.

19 Q. Okay. When you were reading him the Miranda
20 warnings, were you reading it line for line from the
21 card?

22 A. Yes, ma'am. I had the card and I read each one
23 the same way.

24 Q. Could you indicate to the Court what Miranda
25 warnings you actually read to Terrell Chandler and the

1 others.

2 A. It was line 1 through 5: You have the right to
3 remain silent. Anything you say can and will be used
4 against you in a court of law. You have the right to
5 talk to a lawyer and have him present during any
6 questioning. If you cannot afford to hire a lawyer, one
7 will be appointed to represent you before any
8 questioning, if you wish one. If you decide to answer
9 questions without a lawyer present, you have the right to
10 stop answering questions at any time you so choose, and
11 then do you understand these rights? And then they have
12 the card.

13 Q. Okay. And do you remember where within the
14 apartment you were when you were reading that to him?

15 A. This was in the back bedroom, I believe. I can't
16 remember what the apartment looks like, but it was back
17 where everybody was at the time.

18 Q. And had some members of law enforcement collected
19 everyone into one area?

20 A. Yes, ma'am.

21 Q. When you were talking about the bedroom that was
22 Terrell Chandler's, was that the bedroom that was off of
23 the living room?

24 A. Yes, ma'am, I believe it was.

25 Q. Do you have anything that can refresh your memory

1 about that, or that is where you remember the bedroom
2 being?

3 A. It was the bedroom. The reason I know it was his
4 bedroom, we also found a pay stub from the East Bay Deli
5 with his name on it in the room itself.

6 Q. Were any threats made to Terrell Chandler before
7 he gave any type of statement?

8 A. No, ma'am.

9 Q. Was he handcuffed at that point?

10 A. Yes, ma'am, I believe he was.

11 Q. Okay. And do you know whether anybody had put him
12 under arrest specifically at that point?

13 A. No, ma'am, I do not know that..

14 Q. Tell us again exactly what he said, or the best of
15 your recollection what he said.

16 A. He stated that after Miranda rights were given to
17 him, he stated that the -- he admitted to myself and the
18 other officers present that the marijuana that was found
19 in the apartment belonged to him.

20 Q. And, again, after you finished reading the
21 warnings, in what way did they acknowledge that they
22 understood their warnings?

23 A. They have to verbally tell us yes, and then if
24 they have the card available, they will sign the card.

25 Q. And you don't recall whether there was a card?

1 A. No, ma'am, I don't.

2 Q. Do you recall specifically Mr. Chandler indicating
3 that he did wish to waive his Miranda rights?

4 A. Yes, ma'am.

5 Q. And after that statement is when he made the
6 statement regarding the drugs in the room?

7 A. Yes, ma'am.

8 Q. Had there been any conversation with you and
9 Mr. Chandler about the murder itself?

10 A. No, ma'am.

11 Q. At any point that morning -- it was an early
12 morning search, right?

13 A. Correct.

14 Q. At any point that morning, did he indicate he
15 wished to have the assistance of counsel?

16 A. No, ma'am.

17 MS. SHEALY: I think those are all the
18 questions I have, Your Honor.

19 THE COURT: Mr. Howe?

20 CROSS-EXAMINATION

21 BY MR. HOWE:

22 Q. I'm Waring Howe. I represent Terrell Chandler.

23 I heard you say in response to Ms. Shealy's
24 question that it was an early morning execution of a
25 search warrant.

1 A. Yes, sir.

2 Q. That may encompass a broad range of hours. Just
3 exactly what time was it?

4 A. I'm not sure of the exact time. I know we started
5 very early that morning. When you say early morning
6 search warrant, that means where we get to the office
7 everybody gets together. It wasn't just us involved with
8 it. The SWAT team was involved, the narcotics unit was
9 involved, so everybody has to get together first, so I
10 know the muster time was very early that morning. I
11 don't know what time exact.

12 Q. Do you have anything that would refresh your
13 memory in that regard?

14 A. I'm looking right now. I don't see anything, the
15 search warrant or anything like that.

16 Q. How about historically with a project of that
17 nature? How early do they seem to be? Is it before 5:30
18 a.m.? Is there a desired purpose to catch people asleep
19 or anything of that nature?

20 A. That is what the SWAT team does, and I'm not a
21 SWAT team member, so I don't want to tell you something
22 that I don't know how they handle it. I know we mustered
23 very early that morning because there was planning and
24 everything like that when you do execute a search
25 warrant. You want to make sure everybody is treated

1 safely. You don't want anybody hurt, be it suspect or
2 officers, so you spend a lot of time in the planning. I
3 know the sun was up. It was in the morning. I can't
4 tell if you it was 7:30 or 10:30, but I know it was the
5 morning time.

6 Q. In terms of your recollection, were you one of the
7 first officers inside the apartment?

8 A. No, sir, I was not.

9 Q. Do you know who answered the door? Were you told
10 or did you learn --

11 A. No, sir. I was not involved in that.

12 Q. Did you know if the occupants of Apartment Five
13 were awakened by law enforcement officers?

14 A. I don't know. I was not on the entry team, so I
15 have no idea what transpired at that point.

16 Q. And, curiously, you said several people were given
17 and read their Miranda rights. Precisely how many?

18 A. The number of people that were in the apartment.
19 It's been quite a while, so I'm not sure exactly who was
20 in there. At least four, I believe. I can't tell you if
21 there was any more or any less.

22 Q. Would you concede that those occupants, including
23 Mr. Chandler, could possibly have just been awakened?

24 A. I don't know. I don't want to tell you something
25 I don't know.

1 Q. If they had just been awakened, in your judgment,
2 would that affect his ability to pay attention and
3 understand?

4 A. Here again, I don't know, because the SWAT team
5 went in, and I don't know how long they stood there and
6 did what they had to do before we were even allowed into
7 the room.

8 Q. Ordinarily, would you be coming in with your wave
9 of officers shortly after the SWAT wave?

10 A. We wait until we are told we can enter, until it's
11 all clear.

12 Q. Would you concede the more people in a group to
13 whom you read the rights, perhaps the less chance that
14 you're assured that each one understood and was paying
15 attention? I mean, is there a difference between ten
16 people being read their rights and two, in terms of
17 understanding?

18 A. When we read the rights to a group of people, then
19 we make sure, to each and every one of them, go up, do
20 you understand your rights? Do you understand your
21 rights? If they don't understand, then we'll start all
22 over again and stand right in front of them.

23 Q. And what kind of assurance did you get that each
24 was listening to the extent that you were assured that
25 they were paying the requisite attention and understood

1 them?

2 A. Each one of them was individually asked, do you
3 understand your rights? Do you understand your rights?
4 And they all answered yes.

5 Q. And were you involved in that inquiry?

6 A. Yes, sir.

7 Q. Did you know who resided in that apartment?

8 A. No, sir, I did not.

9 Q. I believe you testified you knew of at least one
10 person that was a resident of that apartment; is that
11 correct?

12 A. One resident, possibly two.

13 Q. And that one resident would be Mr. Chandler; is
14 that correct?

15 A. Yes, sir.

16 Q. Were you aware he had a full-time other resident,
17 a roommate by the name of Troy White?

18 A. After we were in there -- I did not know at the
19 time until we went and executed the search warrant.

20 Q. And in terms of attaching the drugs found to one
21 resident or the other, did you do any kind of examining
22 or investigation to learn whether those were Troy White's
23 drugs and not Terrell Chandler's? Did you check out
24 Mr. White's drug history, criminal record, reputation as
25 a drug user to ask any questions in that vein?

1 A. Mr. White was not there at the execution. I'm not
2 100 percent sure. He showed up afterwards and was
3 interviewed. The drugs that were found were found in --
4 on top of the -- let's see. A clear bag containing 13
5 smaller bags on the dresser, along with several empty
6 clear bags of similar size on top of the dresser. Each
7 of the 13 bags contained a green leafy substance, which
8 field tested positive for marijuana.

9 Also, a silver electronic scale was found on the
10 table in the bedroom. Also, in bedroom one, a paycheck
11 from East Bay Deli that belonged to Mr. Chandler was
12 found in that room as well.

13 Q. So in all instances, whoever owns the drugs
14 depends on what room they're found?

15 A. If it's his room, yes, sir.

16 Q. What if it is the living room?

17 A. If it's the living room, then we're going to have
18 to decide who it belongs to or not.

19 Q. What about a nighttime sleep over visitor?

20 MS. SHEALY: At this time, I would object to
21 the relevancy of the Miranda hearing as to these
22 questions.

23 THE COURT: What are we getting at here?

24 MR. HOWE: There was a jump attaching who the
25 drugs were and there was no investigation, and maybe

1 Mr. Chandler didn't feel like he had a choice. They were
2 pinning the drugs on him without any kind of questioning
3 about did anybody sleep over here tonight? Does anybody
4 else live here beside you? None of that, where he could
5 have felt compelled, I got to say they're mine because
6 they're not even asking about anybody else. They are
7 practically putting them in my pocket.

8 THE COURT: Sounds like a stretch, but go
9 ahead.

10 BY MR. HOWE:

11 Q. Was there any other investigation to find out who
12 else's they might be besides whose room they were found
13 in?

14 A. No, sir. They stated they were his, and we left
15 it at that.

16 Q. Did anybody suggest in a way that perhaps his
17 having a lawyer was a good idea considering the setting
18 he found himself in?

19 A. Can you repeat that?

20 Q. Going beyond the Miranda rights as far as --

21 A. No, sir. All we did was issue the Miranda
22 warnings and let him make his own decision after he
23 stated he understood what to do.

24 Q. Okay.

25 MR. HOWE: That's all I have.

1 THE COURT: Redirect?

2 MS. SHEALY: I have no further questions.

3 THE COURT: You can step down. Thank you.

4 Next witness?

5 MS. SHEALY: I'm not sure if you want to hear
6 the arguments in the bifurcated fashion. That is the
7 only witness I would have to that statement. There is
8 another statement taken from Mr. Chandler.

9 THE COURT: Are y'all trying to suppress more
10 than one statement?

11 MR. HOWE: We're not as concerned about this
12 one because he's really not facing any drug charges and
13 he's not facing drug charges in the trial. We're more
14 interested in, what you might say, the second set of
15 statements.

16 THE COURT: All right. Let's just go on to
17 the next witness.

18 MS. SHEALY: You can step down then. David
19 Osborne.

20 DAVID OSBORNE,

21 having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. SHEALY:

25 Q. Detective Osborne, if you would advise the Court

1 where you're currently employed?

2 A. Charleston police department.

3 Q. And how long have you been with the Charleston
4 department?

5 A. Eight years.

6 Q. Prior to that, you had law enforcement experience
7 as well?

8 A. Yes.

9 Q. In June of 2008, in what capacity were you working
10 for the Charleston police department?

11 A. I worked in the violent crimes unit.

12 Q. And were you, in fact, the chief detective in the
13 murder of Calvin Gibbs?

14 A. Yes.

15 Q. If you would explain to the Court whether or not
16 you had the opportunity to interview Terrell Chandler?

17 A. I did.

18 Q. And do you recall the date you interviewed him?

19 A. It was on June the 4th, 2008.

20 Q. And if you would, tell us how it was that you
21 actually got Terrell Chandler to the police department to
22 interview him.

23 A. I picked him up from the detention center and
24 brought him to the police station.

25 Q. And at that point, what had he been arrested for?

1 A. Narcotic violations.

2 Q. When you brought him to the police station, did
3 you bring him alone?

4 A. Yes.

5 Q. And once you got to the police station, where
6 there did you interview him?

7 A. At the CPD central investigations interview room.

8 Q. Could you describe that room to us.

9 A. We went through some transition at that point, but
10 I believe that was a -- kind of small room, maybe ten by
11 ten, with a table and a couple chairs.

12 Q. And when interviewing him, did you interview him
13 alone or was there another officer involved?

14 A. It was mostly me, but Detective Fleming did enter
15 the interview room toward the conclusion.

16 Q. Okay. If you would, describe how the interviewing
17 process took place.

18 A. I brought him there to the station. I asked him
19 if he wanted any water, to use the rest room. Then I
20 advised him of his Miranda warnings from a CPD Miranda
21 warnings card.

22 Q. And showing you -- with your permission, I'll go
23 ahead and get these two items marked.

24

25

1 (Miranda card and statement marked for
2 identification and admitted into evidence as State's
3 Exhibit Nos. 96 and 97.)

4 BY MS. SHEALY:

5 Q. For purposes of this hearing I'll mark State's 96
6 and 97, showing you what has previously been marked as
7 State's Exhibit 96. Would you tell the judge what this
8 is.

9 A. This the Miranda card I issued, Mr. Chandler's
10 Miranda warnings.

11 Q. And did you, in fact, have him sign that card?

12 A. Yes.

13 Q. And at what point does he sign the card?

14 A. After I read each Miranda warning, then I ask him
15 if he understands. Then I go to the next, and at the
16 end, I ask him if he understands all of his rights and he
17 wrote down yes. And I asked him if he wants to talk to
18 me about what happened, and he said yes and signed the
19 card.

20 Q. If you would tell us what warnings you gave him?

21 A. You have the right to remain silent. Anything you
22 say can and will be used against you in a court of law.
23 You have the right to talk to a lawyer and have him
24 present during any questioning. If you cannot afford to
25 hire a lawyer, one will be appointed to represent you

1 before any questioning if you wish one. If you decide to
2 answer questions without a lawyer present, you have the
3 right to stop answering questions at any time you so
4 choose.

5 Q. After reading the warnings to him from that card,
6 did you then begin an interview process with him?

7 A. Yes.

8 Q. And could you describe the nature of that for us.

9 A. At first, I just started talking to him, asking
10 him about some of his background, asking him about some
11 of his acquaintances, people that he knew, and then I
12 started delving into what happened during the murder.

13 Q. And does he tell you something initially that does
14 not get put into the written statement that you
15 ultimately took?

16 A. Yes.

17 Q. Would you advise the Court of what he said that
18 did not go into the written statement.

19 A. His first statement, and we were mostly talking
20 about the rifle at that point, he stated that he woke up
21 on the day of the murder and the rifle was inside of his
22 apartment. He said he didn't know how it got there, but
23 he had assumed that Che or Storme must have put it there.
24 He said he went to work, he came back, and the rifle was
25 gone.

1 The next day, which would have been Saturday
2 morning, he said that Che brought the rifle back to his
3 apartment and asked him to hold it for him.

4 Q. After he made that statement to you, how did the
5 course of your questioning of him continue?

6 A. Well, at that point I figured I would go ahead and
7 get that statement in writing, so then I went to proceed
8 to take a written statement from him.

9 Q. Okay. And getting the written statement from him,
10 did you write it or did he write it?

11 A. I wrote it.

12 Q. And was an effort made at the conclusion of the
13 writing of the statement to determine whether or not he
14 wanted to change anything in the statement?

15 A. That was ongoing throughout the entire written
16 process.

17 Q. Okay. Did you threaten him in any fashion while
18 he was giving the statement?

19 A. No.

20 Q. Do you recall whether or not he took you up on
21 wanting something to drink or using the rest room?

22 A. About an hour in, he wanted to use the rest room.
23 I allowed him. If he wanted some water, I gave him some
24 water.

25 Q. Did he appear to understand your questions and be

1 able to articulate his position to you?

2 A. Yes.

3 Q. Did you determine that he had any type of
4 difficulty communicating or understanding?

5 A. No, not at all.

6 Q. Okay. Was he upset? Was he emotional?

7 A. No. He seemed rather calm to me.

8 Q. At the conclusion of your writing the statement,
9 did he again have the opportunity to look at it and make
10 any changes?

11 A. Yes.

12 Q. And did you, in fact, then record something?

13 A. Yes.

14 Q. Okay. Could you describe that process to us.

15 A. After I finished writing everything down, I told
16 him what I would do is I would record myself reading back
17 the statement to him, and if there were any additional
18 changes or any changes that he wanted to make just to let
19 me know and I'll amend the written statement.

20 Q. At any point during your conversation with
21 Mr. Chandler, did he indicate to you that he would like
22 to stop or that he would like to have an attorney
23 present?

24 A. No.

25 Q. Did he, in fact, sign the statement?

1 A. Yes, each page.

2 Q. And referring to State's Exhibit 97, does that
3 reflect his signature at the end of the statement?

4 A. Yes.

5 Q. And you also indicated that he signed his name to
6 each page?

7 A. Yes.

8 Q. Okay. How did you accomplish recording it? Do
9 y'all have a device here that assists you in that?

10 A. Yeah. I can't remember whether we were using
11 digital recorders then or whether they were the old
12 cassette tapes.

13 Q. And when you were recording it, was there any
14 conversation at that point? Once you began recording
15 your reading back the statement to him and asking if
16 everything was correct, was there anything that did not
17 get recorded?

18 A. Well, there was a short interview with Detective
19 Fleming with him while I was doing the booking paperwork
20 or just doing paperwork in general. I stepped out.

21 Detective Fleming asked me how it went. I told
22 him, I said, Well, he's telling me a story, but I wasn't
23 necessarily believing it. Detective Fleming went in
24 briefly, told him that he needed to be honest, needed to
25 tell the truth.

1 I then came back in asking him if he wanted to
2 amend his statement in any way. He changed it again.

3 Q. And when you say he changed it again, what did he
4 say differently when you came back in there?

5 A. This part of his statement did not end up in the
6 written statement because I already concluded that, but I
7 did go ahead and record him saying this, and the last
8 thing he said was basically that after the shooting --
9 he's inside of his apartment, Friday night during the
10 shooting. He hears the shots.

11 Che and Storme then ran into his apartment, and
12 Terrell said that he took the gun and he put it wherever
13 in the house. And then he told me that he took the gun
14 from Che, and Che nor Storme made any mention of the
15 shooting.

16 Q. Okay. In the written statement itself and when
17 you are recording your conversation with him, they
18 reference his being on probation and being on papers; is
19 that correct?

20 A. Yes.

21 MS. SHEALY: Judge, at this time, I have two
22 things: I have the full recording which includes the
23 language regarding probation and parole and being on
24 papers. What we have done is redacted that from the
25 written statement, and so for purposes of this hearing,

1 if you would like -- I don't know which you prefer, for
2 me to play the recording in its entirety or for us to
3 play the redacted fashion.

4 I can give you the copy of the written
5 statement so that when he is going over that part, if you
6 listen to the redacted, you'll be able to tell what was
7 redacted.

8 THE COURT: That would satisfy me unless you
9 feel like there is something that I need to hear in the
10 unredacted portion. Is there? Have you seen or heard --

11 MR. HOWE: I don't think there is anything
12 you need to hear in the unredacted portion because I
13 already -- they've told me what has been redacted. So we
14 wouldn't care for you to hear that.

15 THE COURT: Let's just go with that then.

16 MS. SHEALY: What I would like to do is mark
17 the full recording as a Court's exhibit, just so there is
18 no question later on, and then we will play the redacted.

19 THE COURT: That will be fine.

20 (CD of statement marked for identification as
21 Court's Exhibit No. 1.)

22 (Whereupon the statement was played in
23 court.)

24 BY MS. SHEALY:

25 Q. Mr. Osborne, at any point during that recording

1 process, I may have already asked you this, you indicated
2 that the short period of time when you were filling out
3 the booking report was the only time it was not recorded;
4 is that correct?

5 A. That's correct.

6 Q. And at any point during that booking report
7 process, did he ever say he wanted to stop and he wanted
8 a lawyer?

9 A. No. Detective Fleming was talking to him then,
10 but if he had said that, Fleming would have told me.

11 MS. SHEALY: I have no further questions.

12 THE COURT: Would y'all come up here for a
13 second.

14 (Recess taken.)

15 THE COURT: All right. Let the record
16 reflect the defendant is in the courtroom.

17 How long do you think you might be? If
18 you're going to be a little while, I might just send the
19 jury home and we'll start fresh in the morning with them.
20 If you're not going to take long, we'll do what we did
21 and probably just get the openings in.

22 MR. HOWE: Ten minutes.

23 THE COURT: That's fine. Go ahead then.

24 CROSS-EXAMINATION

25 BY MR. HOWE:

1 Q. You know me.

2 A. Yes.

3 Q. How are you?

4 A. I'm doing well.

5 Q. This encounter you had with Terrell Chandler on
6 June 4 that we're talking about, you said that you picked
7 him up over at the detention center. I assume that is
8 the Leeds Avenue facility?

9 A. Yes.

10 Q. And then took him over to Lockwood Boulevard?

11 A. Yes.

12 Q. Lockwood Drive.

13 A. Yes.

14 Q. I doubt you have a recollection, but do you have a
15 record of what time y'all arrived at the police station?

16 A. Well, I advised him of his Miranda warnings very
17 early, on and that was at 9:10, so I would say around
18 9:00.

19 Q. 9:00 in the morning?

20 A. Yes.

21 Q. And when you took him inside, did you take him
22 immediately to the ten by ten room?

23 A. Yes.

24 Q. And what time did you start talking with him?

25 A. It would have been around 9:00. I think the first

1 thing I asked him if he wanted any water or to use the
2 bathroom, and then I went right into Miranda.

3 Q. And I'm looking at the written -- the statement
4 you took that is in writing, and it says it stopped at
5 12:12 p.m.

6 A. Right.

7 Q. So you talked to him for three hours?

8 A. No. I think the entire interview lasted longer
9 than that. I think it was from 9:00, and then just
10 hearing that last amended audio portion, I think I ended
11 it around 2:00 or something.

12 Q. Did he ever leave the room?

13 A. Bathroom, to use the bathroom.

14 Q. One time?

15 A. One time that I noted. I don't recall any other
16 times.

17 Q. So he was in that room. Count those hours, five?

18 A. Three, two, five -- yeah.

19 Q. Now, that was a hot day, wasn't it, June 4th, '08?

20 A. Probably.

21 Q. You've been here eight years, haven't you?

22 A. Yeah.

23 Q. And ten by ten room, what, two chairs and a table?

24 A. May have been three chairs, but at least two
25 chairs and a table.

1 Q. And would you not be ending up sitting pretty
2 close to him?

3 A. Sure.

4 Q. And when he was in that room, were there times
5 when he was alone? He didn't have Fleming
6 him, he didn't have you with him?

7 A. I'm sure there were.

8 Q. Really. For, like, what kind of lengths of time?

9 A. Minutes.

10 Q. Minutes?

11 A. Yeah, not hours.

12 Q. It wouldn't be exactly a humane thing to do to
13 leave him in a room like that for a few hours. He would
14 at least like your company, would you concede that?

15 A. The way the room -- I guess I should be a little
16 bit more clear. The room is directly beside the central
17 investigations office, so when I step outside, I make
18 sure to tell everybody, Look, I'm right outside the room,
19 and literally my desk is right next to the room. So I
20 say, If you need anything, just open the door and let me
21 know.

22 Q. So it's totally enclosed, right?

23 A. Yes.

24 Q. And, let me guess, not a window.

25 A. No.

1 Q. Now, I imagine that was the first time you ever
2 met Terrell Chandler; is that correct?

3 A. Yes.

4 Q. And you on your own didn't have any knowledge
5 about his level of maturity, his educational background,
6 his ability to read, understand, and communicate, am I
7 correct?

8 A. That's right.

9 Q. And just talking with him, do you have your own
10 estimation of what communication level he had, reading
11 level he had, maybe based on how you size people up, how
12 far in school he went?

13 A. I wouldn't guess that. I would say he seemed
14 intelligent to me.

15 Q. Now, on the advice of constitutional rights you
16 wrote through what grade he completed; is that right? Or
17 somebody did. Maybe he did.

18 A. I have the statement here. What page is that on?

19 Q. On the advice of the constitutional rights on the
20 front page of this statement.

21 A. Oh, yeah. It's covered up. I'm sorry. He said
22 he finished tenth grade in school.

23 Q. Now, when he was first taken down to the police
24 station, wasn't it -- was it Officer Fleming?

25 A. Detective.

1 Q. Wasn't it Detective Fleming who met with him alone
2 first?

3 A. No, not that I can recall.

4 Q. You believe it was you first?

5 A. Yeah. I don't believe Detective Fleming came into
6 play until that brief moment that I talked about.

7 Q. Brief moment? How do you have a recollection of
8 how long it was?

9 A. Brief. When you're talking in terms of five
10 hours, it certainly wasn't that long.

11 Q. Describe Detective Fleming, would you please.

12 A. He's a black male, early 50s, about 6 foot 2;
13 weight, maybe 230, 240, something like that.

14 Q. Is he muscular, maybe closer to 250?

15 A. He could be, yeah. He's muscular.

16 Q. And he was alone with Terrell Chandler for a
17 while, correct?

18 A. Yes.

19 Q. And anything -- and you really don't know what
20 Detective Fleming said to him at all, do you?

21 A. I know what he told me he said to him.

22 Q. Right. But you weren't there?

23 A. That's correct.

24 Q. So you really don't know at all what he said.

25 A. Only what he told me.

1 Q. How do you know he told you everything?

2 A. I wouldn't suspect Detective Fleming would lie to
3 me.

4 Q. You would expect him to tell you everything?

5 A. Every single word, no.

6 Q. All right. Would you concede that Detective
7 Fleming -- sitting alone in a small room with Detective
8 Fleming has the potential for him to be perceived as a
9 rather intimidating figure?

10 A. I mean, to me, being questioned about a murder
11 where you're a suspect would be intimidating by its
12 nature. Sure, I guess I could see physically, but
13 Terrell Chandler is no small guy. He's taller than me.

14 Q. I agree with you about the fact of facing a murder
15 charge, and just add the presence of a physical specimen
16 like Detective Fleming in a small room like that, one on
17 one. Would you concede that is a rather intimidating
18 scene?

19 A. I guess it could be, sure.

20 Q. Okay. And if Terrell Chandler weighed 175 then
21 and Fleming is upward of 250, pretty big disparity, would
22 you concede?

23 A. Right, weight-wise.

24 Q. Yes. Now, when he was taken in, he had already
25 been charged with simply a drug possession count; is that

1 correct?

2 A. That's correct.

3 Q. He had not been arrested for murder at the time
4 you took this lengthy statement, had he?

5 A. No, he had not.

6 Q. He was accused of murder, correct?

7 A. No. I take that back. I had already drafted up
8 the warrants to charge him with the murder, yes, and
9 that's why he was charged with murder at that point.

10 Q. So the warrants were served and those were --

11 A. Exactly. That is what I was in the process of
12 doing.

13 Q. So he would have been served with the warrants
14 about how far into the interview or would it have been
15 the end?

16 A. I would have to look at the warrant itself. I
17 usually put that at the bottom when I served him with the
18 warrant.

19 Q. If Terrell Chandler said he wasn't formally
20 arrested and served with the warrants until the end of
21 the statement, would you have a distinct reason to
22 disagree with that?

23 A. No. To get the exact time, I usually put -- and
24 it's just a matter of whether I put it down before or
25 after I copy the warrant, the exact time I serve him. If

1 that time reflects at the end of the statement, then it
2 would have been at the end of statement.

3 Q. So you don't have a recollection --

4 A. I do have that warrant with me. It's in my file
5 over there.

6 Q. The conversation, the time Terrell Chandler had
7 with Detective Fleming, none of that was recorded, was
8 it?

9 A. No.

10 Q. So nobody knows. The only people who know are
11 those two people, correct?

12 A. That's correct.

13 Q. And you even in that statement -- seems like I
14 heard that you were acknowledging to Terrell Chandler
15 that, It must be something, this pressure being put on
16 you, with Storme and Che trying to put the murder charge
17 all on you.

18 You acknowledge the pressure that that would serve
19 to exert on Terrell, don't you?

20 A. It's a long statement. I'm not disputing that. I
21 may have said that.

22 Q. And this may be just a quirk I have about general
23 communication, but several times in your statement you
24 would say, Just go ahead and say yeah. Remember that?

25 A. Right.

1 Q. Why don't you just say, Is that a yes? Because
2 you see how this sounds, just go ahead and say yeah?

3 A. Right. Well, I guess if you could see what I was
4 looking at, I'm looking at Terrell nodding his head
5 adamantly.

6 Q. So you didn't want to say, Is that a yes?

7 A. I guess could I have said that, yes. Maybe next
8 time I will.

9 Q. So you got him in a ten by ten room for five
10 hours, one bathroom break, alone with Detective Fleming
11 on a hot day. Let me ask you this: You took him till
12 2:00. What did you give him for lunch?

13 A. I think we went to McDonald's.

14 Q. Really? So you did let him eat.

15 A. So did I.

16 Q. Okay. All right.

17 MR. HOWE: That's all I have. Thank you.
18 Could I approach the bench, Your Honor.

19 THE COURT: Uh-huh.

20 (Discussion held at sidebar.)

21 THE COURT: I need you to step down for a
22 minute. I need to bring the jury in and then dismiss
23 them for the afternoon, and we'll start back in the
24 morning.

25 All right. Bring the jury in.

1 (In open court, jury present.)

2 THE COURT: All right. Welcome back, folks.
3 It's taking a little bit longer to do what I thought we
4 needed to do this afternoon than I originally
5 anticipated, so rather than have y'all sit there for
6 probably another hour or so and then send you home
7 because it took longer, I'm going to go ahead and send
8 you home now and ask you to return at 9:30 in the morning
9 in the jury room there, and we'll start back at that
10 time.

11 We'll go ahead and finish up this evening
12 what we need to do to get ready to start in the morning.
13 So let me send you home for the evening. The admonitions
14 that I gave you earlier when you went to lunch still
15 apply. Don't talk to anybody about the case, don't
16 discuss it with anyone, including other jurors. If
17 anyone contacts you about the case or contacts you about
18 it, please report that to me.

19 Now, obviously, you're going to go home, and
20 the first thing somebody in your family or friend is
21 going to ask you, Hey, did you get picked for a jury?

22 And you say, Yes, as a matter of fact, I did.
23 I got picked for a murder case, and that is all I'm
24 allowed to talk with you about until the trial is over or
25 the judge has threatened to throw me in jail, okay?

1 So, really, it's real simple, and it's not
2 that we're just necessarily trying to be too restrictive
3 on what you do, but when you take an oath to become a
4 juror, you promise that you will make your decision based
5 on what you hear in this courtroom and this courtroom.
6 Stop and think about it.

7 If you were on trial or you were involved in
8 the case in any way, you would want it to be made on
9 here, not what you heard in this courtroom, legally
10 competent evidence. You wouldn't want it to be made on
11 what your wife or your husband thinks or your bartender
12 thinks about the case, and, you know, you get people that
13 have all kinds of opinions about stuff, and that just
14 really has nothing to do with the case now that you are
15 jurors in it, so just resist that urge.

16 I do not know if any reporters have been
17 present today, so I don't know if there is going to be
18 anything in the paper. I know there has not been any
19 television coverage or anything like that, but, you know,
20 these people, you never know. It's always either there
21 would be something in the newspaper, Internet, that sort
22 of thing. Through this week, just if you are a regular
23 newspaper reader, just become an irregular newspaper
24 reader until the case is over with, because, again,
25 sometimes reporters -- not that they intentionally

1 misstate anything, but very often they might put in there
2 something that is said outside the presence that is not
3 in there or they're only giving you part of what is
4 heard.

5 And, again, we have this advocacy part where
6 you get questions asked, questions answered. The other
7 side gets to probe. It's a process we go through that
8 really makes a whole lot of sense, but it's all messed up
9 if you talk about the case or if somebody else interjects
10 their feelings about the case or you read about it in the
11 paper or see something on it on the news, that sort of
12 thing.

13 So just don't read the paper this week.
14 There will be plenty of time to talk about this case the
15 rest of your life once it's over with, but having said
16 that, enjoy your evening. We'll see you back -- if you
17 would, just report back at 9:30 tomorrow morning.

18 Thank you for your patience with us today.
19 See you tomorrow.

20 (In open court, jury present.)

21 THE COURT: All right. Let's bring Detective
22 Osborne back in. All right. Do have you any more
23 questions for him?

24 BY MR. HOWE:

25 Q. Detective Osborne, I was looking at the return on

1 the arrest warrant, and it looks like it's got a time of
2 1:45 p.m.; do you agree with that?

3 A. Yes. That's what I put down.

4 Q. Okay.

5 MR. HOWE: That's all I have. Thank you.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Detective Osborne, during that time period after
10 you initially did the recording and you went to do your
11 booking paperwork, you've testified that Investigator
12 Fleming went in with the defendant; is that correct?

13 A. Yes.

14 Q. Would you tell the Court whether you heard him
15 yelling while they were back there together?

16 A. No.

17 Q. Did you hear any banging?

18 A. No.

19 Q. Did you hear any upset sounds coming out of that
20 room?

21 A. No.

22 Q. Where were you when you were doing your booking
23 paperwork?

24 A. Right next to the door.

25 Q. And when you say you're doing your paperwork, what

1 does that really mean?

2 A. You need to do a booking sheet, a victim sheet;
3 you need to do a General Sessions package with a witness
4 list. There is quite a bit of paperwork that needs to
5 done.

6 Q. How long have you known Investigator Fleming?

7 A. For the whole time I've been with Charleston,
8 eight years.

9 Q. Does he have a reputation for roughing up
10 defendants?

11 A. Absolutely not. Detective Fleming is the calmest
12 interviewer we have and probably the best.

13 Q. If you would tell the Court whether, when going
14 back into that room, did Terrell Chandler look like he
15 was crying about anything?

16 A. Absolutely not.

17 Q. Did he look like he was mad about anything?

18 A. No.

19 Q. In fact, what did he say to you when you went back
20 into that room?

21 A. It was pretty strange. He told me that he was
22 ready to tell me everything that happened. He was ready
23 to come clean about everything so long as I agreed to
24 take him for a ride.

25 Q. And did you ask him what he meant by take him for

1 a ride?

2 A. Yes.

3 Q. And what did he mean?

4 A. He said he wanted to go for a ride in a police
5 car.

6 Q. Did you take him for a ride in a police car?

7 A. No, I did not.

8 Q. Again, if you would tell the Court whether there
9 was anything unusual about Mr. Chandler's behavior when
10 you went back in that room after he and Fleming were in
11 there?

12 A. I didn't notice any changes in his disposition
13 from when I left to when I returned.

14 Q. Did you hear anything that concerned you or drew
15 your attention while you were working on your booking
16 report?

17 A. No.

18 MS. SHEALY: I have no further questions.

19 THE COURT: Recross?

20 MR. HOWE: Nothing further.

21 THE COURT: You didn't take him to

22 McDonald's?

23 THE WITNESS: Yes.

24 THE COURT: He didn't get to ride in the car?

25 THE WITNESS: I took him there in the car. I

1 was taking him back in the car.

2 THE COURT: All right. Go ahead. Next
3 witness? Do you have witnesses?

4 MS. SHEALY: I do not, Your Honor. Depending
5 on how the defendant may testify, I may call Investigator
6 Fleming.

7 THE COURT: All right. Are you going to call
8 your client?

9 MR. HOWE: Yes, sir. I do, Your Honor.

10 THE COURT: All right.

11 He's reserving his right to not testify at
12 trial?

13 MR. HOWE: Yes, Your Honor. Thank you for
14 mentioning that.

15 TERRELL CHANDLER,

16 having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HOWE:

20 Q. Terrell, how old are you now?

21 A. Twenty-three.

22 Q. At the time of your arrest for murder, how old
23 were you?

24 A. Twenty-one.

25 Q. And where did you go to, let's say, middle school?

1 A. Military Magnet.

2 Q. And did you go to high school?

3 A. Yes, sir, yes, sir.

4 Q. What high school?

5 A. Burke.

6 Q. Burke? How far in school did you go?

7 A. Tenth.

8 Q. Did you go into the tenth grade or did you finish
9 tenth grade?

10 A. Into the tenth grade.

11 Q. So you finished ninth grade?

12 A. Yes, sir.

13 Q. How well did you do in school?

14 A. I was very smart.

15 Q. Excuse me?

16 A. I did very well, very smart.

17 Q. And you were an A student?

18 A. No, sometime A, maybe B.

19 Q. And your ability to read?

20 A. Good.

21 Q. Okay. Communicate?

22 A. Very good.

23 Q. And understand?

24 A. Very good.

25 Q. Okay. Now, when you were arrested for the drug

1 charge, where were you at the time you were arrested for
2 the drug charge?

3 A. I was notified that I was being arrested for the
4 drug charge when I was sitting in the back of the patrol
5 car.

6 Q. Was that on the ride from Leeds Avenue to downtown
7 Charleston?

8 A. No. That was the day that they had the SWAT team
9 outside my house.

10 Q. Okay.

11 A. That Monday.

12 Q. Would that be the 2nd?

13 A. Yes, sir.

14 Q. And were you taken down to the Charleston County
15 Jail?

16 A. Yes, sir.

17 Q. And then you were transported, what was it, two
18 days later?

19 A. Wednesday, Thursday, something like that.

20 Q. And is that when a police officer picked you up at
21 Leeds Avenue and took you downtown to Lockwood Drive to
22 the city police station?

23 A. Yes, sir.

24 Q. And who drove you from Leeds Avenue to Lockwood
25 Drive?

1 A. Detective Osborne.

2 Q. And who was in the car?

3 A. Just me and him.

4 Q. And you were taken where?

5 A. To Lockwood Drive.

6 Q. And you were taken to what room right off?

7 A. First it was, like, a kind of size room but then
8 we transferred to a smaller room like they described
9 earlier.

10 Q. In your judgment, it was a small room?

11 A. Yeah.

12 Q. And how did it feel to be inside it?

13 A. Almost claustrophobia, almost -- just crazy, man.

14 Q. And when you were first placed in that room, who
15 was in the room with you?

16 A. He placed me in the room first. Then he
17 momentarily left, and I'm assuming the dude name
18 Detective Fleming, he came in for a little while.

19 Q. When you say for a little while, was it just
20 Detective Fleming for a little while?

21 A. Yes, sir.

22 Q. And for about how long would you estimate?

23 A. About ten minutes.

24 Q. All right. Well, what happened while you were in
25 the room alone with Detective Fleming? How did he

1 approach you? What was said to you as far as you
2 remember?

3 A. Well, I remember, he came all cool. Then when I
4 was basically given an ultimatum, and he said I had to
5 write a statement or get charged with murder.

6 Q. Had you been charged with murder at that point?

7 A. No, sir.

8 Q. Did you know whether you were going to be charged
9 with murder at that point?

10 A. No, sir.

11 Q. So he said either give a statement, or you're
12 going to be charged with murder?

13 A. Correct.

14 Q. Did you feel like they were trying to force you to
15 do something?

16 A. Correct.

17 Q. And you heard Detective Osborne describe the
18 physical dimensions of Detective Fleming. I think you
19 said about six-three, 240, 250? Would you agree with
20 that?

21 A. Yes, sir.

22 Q. Was he well built?

23 A. Yes, sir.

24 Q. Broad shoulders --

25 MS. SHEALY: Judge, I understand this is not

1 in front of the jury, but I don't think he should be
2 leading his client quite so much.

3 THE COURT: Move along. Lead less. Try to
4 elicit the information from him as opposed to testifying
5 yourself, which suggests answers.

6 MR. HOWE: Yes, Your Honor, I'll avoid that.

7 BY MR. HOWE:

8 Q. So describe Detective Fleming.

9 A. I'm probably about an inch or two taller than him,
10 football built, like a line backer type thing, dark
11 skinned male, short haircut.

12 Q. So what is it like to be in a small room alone
13 with him?

14 A. Intimidating.

15 Q. And when he, as you said, offered you, as you
16 said, that ultimatum, what did that mean to you? What
17 did that mean that you needed to do?

18 A. Give a statement or be charged with murder,
19 self-explanatory.

20 Q. And later on did you give a statement?

21 A. Yes, sir.

22 Q. Did you feel like you did this under your own free
23 will, volition, voluntarily?

24 A. I mean, I did it voluntarily, but I still had the
25 ultimatum on the table. I didn't want to be charged with

1 murder, so I gave a statement.

2 Q. Were you ever in that room alone?

3 A. Maybe once or two.

4 Q. For how long were you in that room alone?

5 A. A few minutes at the time, as he said.

6 Q. And what was the temperature like in that room?

7 A. Stuffy.

8 Q. And did Detective Fleming and, for that matter,
9 Detective Osborne, how far away did they sit from you?

10 A. The room is just about so big, right there, within
11 arm's reach.

12 Q. Did Detective Osborne go into any questions about
13 your educational background, your ability to understand,
14 your ability to communicate, whether you understood all
15 the things he was explaining to you and so forth? Did he
16 go into your ability to comprehend what was going on?

17 A. No, sir.

18 Q. Did you feel like he got a sense of your
19 comprehension ability?

20 A. Yes, sir.

21 Q. And what do you think he derived about that?

22 MS. SHEALY: I would object to that question.

23 THE COURT: Sustained.

24 BY MR. HOWE:

25 Q. So why did you give information, the statement

1 that you did?

2 A. Because I didn't want to be charged with murder.

3 Q. Did you think that with your offering to give a
4 statement you could avoid a charge of murder?

5 A. Yes, sir.

6 Q. Did you believe the converse was true, that if you
7 didn't give a statement that you would be charged with
8 murder?

9 A. Correct.

10 Q. And were you officially charged with murder at the
11 end of having conversation and giving a statement to
12 Detective Osborne?

13 A. Correct.

14 Q. Were you surprised?

15 A. Yeah, correct.

16 MR. HOWE: That's all I have. Thank you.
17 Please respond to any questions on cross.

18 CROSS-EXAMINATION

19 BY MS. SHEALY:

20 Q. Mr. Chandler, as I understand your testimony, you
21 gave your statement voluntarily?

22 A. Yes, ma'am.

23 Q. And when you gave the statement that you gave, you
24 hoped that meant you would not be charged with murder.

25 A. Yes, ma'am, yes, ma'am.

1 Q. But Detective Osborne seemed to understand you had
2 an ability to communicate, that you were smart?

3 A. Yes, ma'am.

4 Q. Is that correct?

5 A. Yes, ma'am.

6 Q. And you were disappointed when you got charged
7 with murder?

8 A. Yes, ma'am.

9 Q. After giving that statement to Detective Osborne,
10 were you disappointed that he went ahead and charged you
11 with murder?

12 A. That's right.

13 MS. SHEALY: I have no further questions.

14 THE COURT: Redirect?

15 MR. HOWE: No, Your Honor.

16 THE COURT: All right. You can step down.
17 Are you calling anybody else?

18 MR. SLADE: No, Your Honor.

19 MS. SHEALY: Your Honor, in light of the
20 defendant's statement that he gave, his testimony he gave
21 the statement voluntarily and that he gave the statement
22 he gave in an effort not to be charged with murder, I
23 don't know that I need to call Investigator Fleming. I
24 have him coming here from Goose Creek, but when you
25 combine that with Detective Osborne's testimony and even

1 the defendant didn't testify that there was any yelling
2 or harming him or threats that this defendant gave the
3 statement he gave in an effort not to be charged with
4 murder, that it was given voluntarily, I think that ends
5 the argument.

6 Detective Osborne has gone through, and it's
7 on a recording and it's on the card and it's at the
8 beginning of the statement, all the rights Terrell
9 Chandler was advised of, all of his rights. He's
10 indicated out of his own mouth he's a smart guy. He
11 understood what he was doing, and he did it voluntarily.

12 THE COURT: All right.

13 MR. HOWE: Your Honor, we have estimated a
14 length of the recording to be something like 36 minutes,
15 and there was, according to Detective Osborne, some time
16 before that where that statement was being put together,
17 and then what was written was read over -- read in the
18 recording, and if one was to try to surmise the amount of
19 time devoted to the statement, who knows, but he was
20 there for five hours, and what we don't know is what kind
21 of discussion there was that there was no record made,
22 whether on paper or on some tape or a disk.

23 And when you got the ten by ten room on a
24 stuffy day on June 4, '08, with the likes of Detective
25 Fleming there and, according to Mr. Chandler, the

1 ultimatum proposed that maybe you can avoid a murder
2 charge if you give a statement, of course you give a
3 statement. That's not voluntarily. That is coercive.

4 That is bargaining and dealing in an overly
5 harsh, perhaps abusive way, and to call that voluntary
6 when there is that much at stake is a stretch, in our
7 view. And, again, with that amount of time, in that box
8 room with police all around and throwing in the muscle of
9 Detective Fleming, we feel like that statement -- none of
10 those statements should be used against him,
11 incriminating or otherwise, due to the lack of the
12 voluntariness of it, and we so move.

13 MS. SHEALY: In brief response, Your Honor,
14 he put his client on the stand. That is the best
15 opportunity to find out what happened during the
16 unrecorded moment. There was nothing elicited from
17 Mr. Chandler that would suggest in any way this statement
18 taking process was anything but voluntary.

19 THE COURT: Okay. Well, I agree. At this
20 point, there is enough to, I think, find that the state
21 has met its burden of proving that the statement was
22 freely, voluntarily, and intelligently made, ultimately
23 that the jury will make the decision as to whether or not
24 it was freely, voluntarily, intelligently made beyond a
25 reasonable doubt.

1 The state has to prove that to the jury, but
2 at this point, they only have -- need a much lighter
3 burden of proof in order to get it before the jury and
4 admit it into evidence, and I find they have met that
5 burden of proof, so I find that the state has met by a
6 preponderance of the evidence that the statement was
7 freely, voluntarily, and intelligently made and will
8 allow it to be presented to the jury.

9 All right. Is that all for today? Wasn't
10 there something else in the morning that we needed to
11 take up?

12 MR. SLADE: Yes, sir, there was. There was a
13 question, I think, that you were planning to address in
14 the morning about some letters that Ms. Shealy intends to
15 introduce through a witness, I believe, Steven Brown,
16 correct?

17 MS. SHEALY: That's correct.

18 THE COURT: Those are the jailhouse letters?

19 MR. SLADE: Yes, sir.

20 THE COURT: What is your basis for the
21 argument? I'm just kind of wondering because they were
22 not privileged. They were made at the jail and sent to
23 somebody else. Give me a highlight of what your argument
24 might conceivably be.

25 MR. SLADE: I can give you the whole argument

1 in probably about four and a half minutes at this point,
2 Your Honor. We don't intend to put our client on the
3 stand. Obviously, these decisions are subject to change
4 during the trial itself, but at least at this point we
5 don't plan to put him on the stand.

6 Your Honor, we provided the letters so that
7 you would have an opportunity to look at them. I will
8 briefly summarize the letters. If the state has any
9 objection to my summary, they can put it in, but, Your
10 Honor, the heart of our objection is those letters are
11 written in a language using F words, M words, pervasively
12 throughout those documents.

13 We don't intend to put Terrell on the stand,
14 and we think that entering those letters into evidence
15 essentially puts his character into evidence in the case.
16 That can't be done unless he takes the stand. A similar
17 analogy to what we're doing here are the references in
18 the statement that has just been ruled voluntary, and
19 there are references in this statement that the state
20 recognizes have to be redacted, references to the fact
21 that he had a gun while he was on probation, and problems
22 dealing with this.

23 It's about two or three sentences that were
24 redacted, Your Honor, but, Your Honor, even they
25 recognize or even the state recognizes that references to

1 those sorts of things put a defendant's character in
2 evidence in violation of rules. I think that -- and,
3 obviously, that statement was voluntary because the
4 Court's just ruled that.

5 Now, these letters were voluntary. I agree
6 with the Court on that, but there are considerations
7 beyond that, and, of course, there is a rule that if
8 evidence is more prejudicial than probative, which fits
9 exactly with the constitutional rule or dovetails exactly
10 with the constitutional rule, that the defendant's
11 character cannot be put into evidence unless he himself
12 takes the stand during the course of the trial, so that
13 is the heart of our argument, Your Honor.

14 THE COURT: The letters contain curse words?

15 MR. SLADE: Yes, sir. Not only curse words,
16 but there is a lot of references to nigger, n-i-g-g-a,
17 which apparently is a phrase -- we have a number of
18 letters in this case, and those phrases are used quite
19 frequently, but as you know, that is a deeply offensive
20 word, and I think that would in and of itself be enough
21 to keep those letters out. But there are also cuss
22 words, the F word, references to sex in those letters,
23 and that is the heart of our argument, Your Honor.

24 MS. SHEALY: Part of the reason that I
25 thought we should handle the letters later is you would

1 have the benefit of knowing what other evidence is going
2 to be admitted, but there will certainly be evidence that
3 Mr. Chandler was the owner and had in his possession an
4 AK47, that he had marijuana and used marijuana.

5 I think the use of some foul language and the
6 word nigga and the letters is not going to have the
7 effect Mr. Slade indicates that it will. It would be
8 nice for Your Honor to kind of know the nature of the
9 entire situation, but the use of foul language in these
10 letters I certainly do not think should bar the
11 introduction of them.

12 What he does with these letters is he
13 communicates with a codefendant who will be cooperating
14 and throughout the letters is urging him to lie about
15 what happened that evening. We would certainly argue
16 that the probative value of that from the letters is not
17 outweighed by the prejudicial nature of the letters.

18 THE COURT: Okay. I'm not going to rule on
19 it at this time. I'm inclined to say they could probably
20 come in if that helps you plan your strategy, but
21 nevertheless, I have ruled. All right.

22 What else do we need to take up with before
23 we start in the morning?

24 MR. SLADE: The only other thing I recall,
25 Your Honor, was the motion that you heard briefly this

1 morning on our argument that we should be able to
2 question one of our witnesses about an arrest.

3 THE COURT: Yeah. What did you find out
4 about that?

5 MS. SHEALY: And I'm hearing this through
6 another person, so -- do you mind if we hear from my
7 investigator who spoke to him directly here? Did you
8 speak to Jamel Brown?

9 THE WITNESS: Yeah. I spoke to him about it.
10 He said he didn't recall it. It happened in 1995, and he
11 said he couldn't remember what it was about.

12 THE COURT: All right. Well, I'm inclined to
13 say that, you know, because it is a charge which directly
14 affects his other -- reflects upon his propensity to tell
15 the truth, I'll let the question be asked. Obviously, it
16 sounds like he won't remember, but, again, under 608(b)
17 1, you're stuck with whatever answer you get out of him.

18 MR. SLADE: Yes, sir. I understand.

19 THE COURT: I know it's old, but it's not
20 exactly the old moral turpitude, but it sounds like the
21 charge directly reflects on his propensity to tell the
22 truth, especially to law enforcement, so I'll let you ask
23 him about it.

24 MR. SLADE: Thank you, Your Honor.

25 THE COURT: Okay. Anything else?

1 MS. SHEALY: Nothing further.

2 THE COURT: We'll start back at 9:30.

3 (Recess taken.)

4 (Tuesday, June 8, 2010.)

5 (In open court, jury not present.)

6 THE COURT: Well, what are we doing here?

7 MS. SHEALY: It's my understanding they're
8 ready to go forward with the trial.

9 THE COURT: Okay. All right. Well, let's
10 see. I got a note from -- juror number 304, Odessa
11 Brown, wrote a note saying, When I got home yesterday
12 evening, I realized that I may know one of the witnesses.
13 Her name is Patricia Smalls. Thank you. So let me bring
14 in Ms. Brown, 304, and ask her if that would affect her
15 ability to be fair and impartial.

16 MS. SHEALY: I don't think we had a witness
17 named Patricia Smalls.

18 MR. HOWE: Latrice Smalls.

19 (In open court, juror 304 present.)

20 THE COURT: Ms. Brown, just in a follow up in
21 your note here that you said you thought you knew one of
22 the witnesses, her name is Patrice Smalls?

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: The name is actually Latrice
25 Smalls not Patrice Smalls. Do you think you still might

1 know Latrice, L-a-t-r-i-c-e?

2 A PROSPECTIVE JUROR: Does it have a middle
3 name on there?

4 MS. SHEALY: I know that she is approximately
5 20 years old, 20 or 21 years old.

6 A PROSPECTIVE JUROR: I think that is her.

7 MS. SHEALY: She works at MUSC.

8 A PROSPECTIVE JUROR: Yeah.

9 THE COURT: What prompted you to think that
10 you might know her?

11 A PROSPECTIVE JUROR: Well, when I went home
12 yesterday, I didn't talk about the trial or anything, my
13 cousin called me and -- well, she was looking for me all
14 day, and I told her that I was in court.

15 And she said, Oh, my daughter was in court
16 too.

17 And I said, Oh yeah? And she told me her
18 name, the real name, because I know her by Monet. And I
19 said, Her name is Patrice? I thought she said Patrice, I
20 didn't know whether she said Latrice, but I thought she
21 said Patrice.

22 THE COURT: Let me ask you this: Did you
23 have any further discussions with her about the case?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Doesn't sound like you know her

1 real closely. Would it affect your ability to be a fair
2 and impartial juror either for or against the state or
3 for or against the defense, the fact that you know her?

4 A PROSPECTIVE JUROR: No. I just wanted you
5 to know.

6 THE COURT: I appreciate very much you
7 bringing that to my attention.

8 (Juror exits the courtroom.)

9 MS. SHEALY: Judge, I would have one
10 follow-up question I would like us to ask, if the Court
11 agrees, and that is whether she shared that information
12 with anybody else on the jury.

13 THE COURT: Bring her back in here real
14 quick.

15 (In open court, juror 304 present.)

16 THE COURT: Just one follow-up. Did you
17 mention that to any of your fellow jurors that you might
18 know her?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: All right. Thank you.

21 (Juror exits the courtroom.)

22 THE COURT: Anybody have any objection to her
23 continuing on the jury?

24 MR. SLADE: Could we have a moment to discuss
25 it, Your Honor?

1 THE COURT: Sure. Who did you tell me got
2 elected yesterday as foreperson, 210?

3 MR. HOWE: Your Honor, while we have some
4 depth of concern, and it's really not an easy call and
5 it's quite a close call, we won't object to her
6 remaining.

7 THE COURT: From the state?

8 MS. SHEALY: I have no objection with her
9 remaining.

10 THE COURT: All right. We'll have her remain
11 on then. All right.

12 (Note from juror marked for identification as
13 Court's Exhibit No. 2.)

14 THE COURT: Anything we need to take up
15 before the jury comes in then?

16 MS. SHEALY: Not from the state.

17 MR. SLADE: Not from us, Your Honor.

18 THE COURT: All right. Y'all ready to begin?

19 MS. SHEALY: Yes, sir.

20 THE COURT: Let the record reflect the
21 defendant is in the courtroom. Bring the jury in.

22 (In open court, jury present.)

23 THE COURT: All right. Welcome back, folks.
24 We're going to begin now with our trial, and before we do
25 that, I need to ask you to stand and raise your right

1 hand while the clerk administers the oath.

2 All right. I understand, Mr. Perkins, you've
3 been selected foreperson, correct?

4 THE FOREPERSON: Yes, sir.

5 THE COURT: Well, congratulations. We will
6 now begin the trial of this case, and I'm going to make a
7 few preliminary remarks to you so that you kind of get a
8 feel for what we do and where we're doing it and in some
9 cases why we do what we do.

10 I told you yesterday this is a case of the
11 State of South Carolina versus Terrell Chandler, and
12 Mr. Chandler was indicted by the grand jury of Charleston
13 County for two charges. The first charge is indictment
14 2008-GS-10-8361 in which the indictment alleges that in
15 Charleston County on or about May 30, 2008 with malice
16 aforethought Terrell Chandler, alone or while acting with
17 another or others, did kill and murder Calvin Gibbs by
18 means of shooting him and that Calvin Gibbs did die in
19 Charleston County as a proximate result thereof on May
20 31, 2008 in violation of section 16-3-10 of the South
21 Carolina code of laws 1976 as amended.

22 The second amendment, 2008-GS-10-8359,
23 alleges that in Charleston County, South Carolina on or
24 about May 30, 2008, the defendant, Terrell Chandler, did
25 possess or visibly display what appeared to be a firearm

1 during the commission or attempted commission of murder,
2 a violent crime. This is in violation of section
3 16-23-430 of the South Carolina code of laws 1976 as
4 amended.

5 Now, I told you yesterday that indictments
6 are the instruments by which this Court gets jurisdiction
7 of this case. It also puts the defendant on notice of
8 what he's charged with so that when he appears in court
9 it's not a surprise to know what he's charged with.

10 Indictments, first and foremost, what is
11 important about them, is they are not evidence. All
12 right? The fact that he has been charged with a crime is
13 not evidence, is not to be considered by you in any way.
14 It will be back in the jury room with you later on when
15 you deliberate, but it's back there for the sole purpose
16 of writing the verdict on back of it. Okay?

17 Now, indictments and grand juries are a
18 method that we have had of charging people with crimes
19 that go back hundreds of years, literally, and the grand
20 jury meets like, once a month. They review charges and
21 bring these indictments. Long ancestor of a short story
22 is it prevents the government from picking people off the
23 street, throwing them in jail, and they have no way of
24 knowing what they're charged with. It's a safeguard that
25 citizens have, so I don't want you to overemphasize that

1 the fact that he's been indicted and charged because a
2 citizen in this country and in this state never has to
3 prove their innocence. The state has to prove their
4 guilt beyond a reasonable doubt.

5 So he has been charged with this crime, with
6 these two crimes, and he has pled not guilty to both of
7 them. So the state, therefore, has to give him a trial
8 and prove to 12 jurors beyond a reasonable doubt that he
9 is guilty of these crimes and that is our roles here
10 today, for this week, is to give him a trial. So it's a
11 trial for both parties, the State of South Carolina and
12 the defendant, Mr. Chandler. Both of these parties are
13 entitled to a fair trial, and that is what my role is and
14 what your role is.

15 Obviously, there is a conflict on what the
16 facts are. They're alleged he is not guilty of this
17 charge, so the state has to prove his guilt to you, 12 of
18 you, beyond a reasonable doubt that he is guilty of it in
19 order to convict him. Again, he doesn't have to prove
20 he's innocent. He doesn't have to do a thing. He has to
21 show up, and that is what he's done. He doesn't have to
22 put up a defense, he doesn't have to cross-examine
23 witnesses, he doesn't have to testify, and if he doesn't
24 testify, you're not to hold that against him while you're
25 deliberating.

1 He's done at this point what he has to do,
2 and that is show up for trial. The state has to prove
3 his guilt beyond a reasonable doubt. So what is
4 reasonable doubt? All right. It's a burden of proof,
5 and in South Carolina, if you've ever served on a jury
6 trial, you probably recall that the burden of proof is
7 what we call the preponderance of the evidence. That is
8 a very low burden of proof. It simply means the greater
9 weight of the evidence, or is whatever the person trying
10 to prove more likely true than not true. If you imagine
11 a set of scales, the party that brought the lawsuit just
12 has to tip those scales a little bit in their favor, and
13 if they've done that, they've prevailed and are entitled
14 to a verdict.

15 On the other hand, in a criminal case like,
16 this state has a much higher burden of proof, beyond a
17 reasonable doubt. That simply means that when you view
18 the evidence as a whole, does it leave you firmly
19 convinced of the defendant's guilt? All right. We
20 don't -- the state does not have to prove it beyond any
21 doubt whatsoever because, I mean, in life, you can't
22 prove anything beyond any doubt. You always might have
23 some doubt, but they only have to prove it beyond a
24 reasonable doubt.

25 So at the end of the trial, if you have heard

1 all of the evidence, if you are firmly convinced of the
2 defendant's guilt, then you should convict him of the
3 crimes. On the other hand, at the end of the trial, if
4 you don't feel like you're firmly convinced, you have to
5 resolve those differences in his favor, and he is then
6 entitled to an acquittal, and just to go back and use
7 those scales in example, it's kind of hard to quantify
8 it, but the state really has to tip those scales in their
9 favor in order to meet the burden of proof beyond a
10 reasonable doubt.

11 Now, because the state has the burden of
12 proof, they will present their case first. They will get
13 to call witnesses first, introduce any evidence first,
14 examine the witnesses first, and present their side of
15 the case. Now, the defendant will have the right through
16 his lawyers to cross-examine any witnesses, to talk to
17 you during opening statements, which we'll have that in a
18 minute, but the state has the burden of going forward on
19 this case, so that is why you'll hear from the state
20 first, and, in a minute, what we're going to do is have
21 opening statements.

22 In opening statements, the lawyers are simply
23 going to give you a little preview of what this case is
24 about. They're not testifying. They're not allowed to
25 give you evidence. By that I mean, they're not witnesses

1 to the case, all right? If they were witnesses to the
2 case, then they wouldn't be allowed to be a lawyer, they
3 would be brought in and put on the witness stand, because
4 evidence is presented to you in several different forms.
5 Most typically, it's by witnesses getting up there and
6 telling you what they saw, they heard, they touched, they
7 felt, they smelt, that sort of thing. That's evidence.

8 Evidence might also be in the form of
9 photographs or videos. Sometimes it's documents. That
10 sort of thing is evidence, but what the lawyers say is
11 not to be considered by you as evidence. Now, when a
12 lawyer asks a question of a witness, the question itself
13 isn't evidence, but the answer to that question is
14 evidence. All right? So that might help you keep that
15 straight in your mind.

16 And why I say that, again, because the
17 lawyers are going to get up here in a moment and they're
18 going to start telling you about the case, and you might
19 get confused and say, Oh, well, that's what the lawyers
20 said.

21 Again, what they say is not evidence.
22 They're just simply giving you a preview of the case to
23 tell you what it's about so that kind of helps you follow
24 the flow a little bit better when you start hearing
25 evidence.

1 Now, the state will get to go first on that
2 because they have the burden of proof, and then the
3 defense, if they want to, can get up and give you an
4 opening statement as well. The thing about the defense
5 is because he has no burden of proof whatsoever, he
6 doesn't even have to tell me if he wants to give me an
7 opening statement. He doesn't even have to tell me at
8 this point if he wants to testify or put up a defense
9 which is fine. That's his right, but typically you'll
10 hear from the state. Then you'll hear from the defense
11 lawyer, and then we will move into the presentation of
12 evidence through the form of witnesses.

13 Now, your job is to resolve the factual
14 differences and see if the state has met their burden of
15 proof. When you take those facts that are in conflict
16 and some that are uncontroverted and apply it to the law
17 as I charge you on it, and then you take those facts and
18 the law that I charge you back into the jury room after
19 you've heard all of it and come up with a verdict.

20 Now, that is your role. We call you the
21 judges of the facts. You are participating as judges
22 this week because whatever you decide factually is what
23 we will live with. If there is an error in the trial,
24 it's typically from something I do or don't do, because
25 if there is any facts in the record to back up what your

1 decision is, if I have charged you on the law correctly
2 and I have given both sides a fair trial and let in the
3 right evidence and kept out the wrong evidence, then we
4 live with whatever the verdict is. All right?

5 So that is your role in the trial. My role
6 in the trial is sort of two-fold. I'm the judge of the
7 law. You're the judge of the facts. I'm the judge of
8 the law, so I have two roles in this case. One is to
9 make sure both sides get a fair trial. I told you, the
10 state is entitled to a fair trial. The defense is
11 entitled to a fair trial, and typically during the trial
12 what that role consists of is making sure people follow
13 our rules of procedure and our rules of evidence, because
14 we have a certain flow as to how we do these things.

15 Evidentiary wise, sometimes you might hear
16 lawyers say objection. They're not typically trying to
17 keep anything from you. Again, we're all trying to do
18 this one time, all right, and as I told you, the way that
19 we have to come back and do it again is if I do something
20 incorrectly, usually, and so my job is to make sure that
21 the evidence that you hear is what we call legally
22 competent evidence; that is, you're supposed to hear it.
23 It's the kind of thing you're supposed to hear as opposed
24 to the kind of thing you're not supposed to hear and base
25 your decision on.

1 So sometimes when they say objection, if it's
2 in the context of, you know, the witness's statement and
3 the flow of things, and I've been doing this a while, I
4 might go, Sustained, or, Overruled, because I can figure
5 out what the objection is based on context. Sometimes I
6 might need to ask the lawyers, Just come up here and tell
7 me real briefly what it is, out of earshot of the jury,
8 what the objection is about, and sometimes I might
9 actually hear what a witness has to say whether or I can
10 decide whether or not it's proper to hear it. So I might
11 send you back to the jury room, hear with the witness is
12 going to say, and then make a determination as to whether
13 or not it's supposed to be something you should hear.
14 Again, we're not trying to hide anything from you we're
15 just trying to do it correctly.

16 And so that is what my major role is
17 throughout the trial, but just as importantly, my other
18 role in the trial is, at the end of it, charge you on the
19 law that applies to these two charges. So you're duty
20 bound to take the law that I charge you, apply them to
21 the facts as you find them, and that is how you come up
22 with a verdict. All right?

23 Now, I pretty much said enough. We're going
24 to move on with the trial now. We will begin with the
25 state again making their opening statement. Again, this

1 is just the lawyers talking. We'll then move on to the
2 witnesses after that, and then after all the presentation
3 of the evidence, the lawyers will come back, make closing
4 arguments, I'll charge you on the law, and then you will
5 proceed.

6 We usually take a break about every hour and
7 a half or so, just depends on the flow of the testimony
8 and where we are at. If you need to take a break sooner
9 than that, just send word down to the bailiff. They'll
10 get my attention, and we'll take a break. We'll probably
11 break around 12:00 to 1:00, again, just depending where
12 we're at for lunch, and usually we go to around 5:00 to
13 5:30 in the evening.

14 Sometimes we go a little bit later if we just
15 need to finish up with a witness, and I will try my best
16 to adhere to that. Today I'm going to hold firm to
17 knocking off around 5:00 because it's election day and I
18 want to give everybody an opportunity to get home and
19 vote, so we'll pretty close to 5:00 at the latest be
20 breaking today. So if you want to go to vote and you
21 didn't get a chance to this morning, I want to give you
22 an opportunity to vote.

23 Okay? So that is all I'm going to say right
24 now. Madame Solicitor, if you're ready, you may begin
25 your opening.

1 MS. SHEALY: May it please the Court,
2 Mr. Howe, Mr. Slade: Good morning. May 30, 2008, Calvin
3 Gibbs and his girlfriend, Cherelle Anderson, were out
4 Savannah Highway, the Ponderosa neighborhood, that is
5 where his family lived, and they left there and stopped
6 at the Waffle House on that side of town and picked up
7 some food to go. They were planning to go to Cherelle
8 Anderson's house, but Calvin Gibbs had one stop to make
9 before they got there.

10 At 930 Battery Avenue, which is in West
11 Ashley, there were four guys there, in Apartment Five,
12 who were up to no good. They lured Calvin Gibbs over to
13 Battery Avenue under the pretense of wanting to buy some
14 drugs, and Calvin was going to sell them some drugs. Let
15 me tell you where Battery Avenue is. If you're traveling
16 down Highway 61 from downtown toward Cosgrove and you
17 pass the Ryan's on the left, little strip small with the
18 Food Lion, you come to an intersection where Highway 61
19 and Sycamore cross.

20 There are businesses there. There is a Hess
21 station on your left. If you're going toward Cosgrove,
22 an ABC awning place on your right, and there used to be
23 an adult bookstore right on that corner, but it was gone,
24 and the ground had been levelled. Now there is a brand
25 new Kangaroo convenience store over there, but also at

1 that intersection, just down Sycamore to the left, is the
2 post office.

3 So that area has some businesses right there
4 on 61, but immediately behind the businesses are
5 neighborhoods. And if you were to turn right on to
6 Sycamore, the first left is Battery Avenue, and there is
7 an apartment complex there, not many apartments, two
8 levels, and Apartment Five is where these four guys were.

9 The four guys' names are Terrell Chandler,
10 who is on trial today; Che and Storme Carr, identical
11 twins, and Steven Brown. Now, Terrell's guy friends
12 called him Trouble. They called Steven Brown Troop, and
13 Che went by Che and Storme went by Storme, and that
14 evening they had some girls over at the apartment.

15 But the girls felt a weird vibe in the
16 apartment. Things didn't seem quite right. Usually when
17 they're over there, they're dancing and cooking and
18 watching TV, but that night the guys were being quiet.
19 The TV was off. The music is off. And they see Terrell
20 Anderson, Che Carr, Storme Carr, and Steven Brown go into
21 Terrell Chandler's bedroom, because it's his apartment,
22 and they changed their clothing. They all dressed in the
23 darkest clothes they can. That was odd.

24 And Terrell Chandler had an AK47. And that
25 evening, prior to everything going down, he walked

1 outside with that AK47, and they saw these young girls,
2 12, 13, 14-year-olds who were kind of hanging out in the
3 breezeway. One of them was sitting on a recycling bin.
4 Terrell Chandler says, Get off that recycling bin, goes
5 back into the apartment.

6 When he comes out the next time, he's got the
7 AK47. He walked from the front of his apartment through
8 the breezeway to the back door of his apartment, because
9 behind those apartments there is sort of like a parking
10 area that is not a real formal one. It's grass and dirt,
11 and he attempts to cover up the AK47 with the recycling
12 bin. But, more importantly, he tells those girls, Y'all
13 don't come out back tonight. If you got to go somewhere,
14 go around.

15 Jamel Brown lived upstairs in the apartment
16 complex. He went outside and sat in his car. Terrell
17 Chandler approaches him and says, Listen, you're going to
18 hear some shots tonight. I don't want anything to happen
19 to you. Planning, planning, and luring Calvin Gibbs
20 over. The girls will tell you that those guys were kind
21 of in and out of the apartment.

22 They weren't paying much attention to the
23 girls, and Terrell Chandler walks to either the front
24 door or a window and goes, It's getting ready to go down.
25 The girls say all four guys go outside.

1 The next thing they hear are shots. Let's
2 switch back to Calvin Gibbs and Cherelle Anderson.
3 Cherelle Anderson is with her boyfriend, hot Waffle House
4 food in their bags. She says, I got to stop by my
5 cousin's.

6 They turn down Sycamore, and Calvin had been
7 receiving some phone calls, and when they turned down
8 Sycamore, they kind of get confused as to where they're
9 supposed to go, so another phone call is made. And as
10 Calvin was talking on the phone, one of the twins
11 approaches and directs them into that back yard area of
12 Apartment Five.

13 When they get there, the twin comes up to the
14 window, that is who Cherelle sees, and seemingly a drug
15 deal is going down. He wants some drugs, and Calvin
16 gives them to him, but he says, I don't have the money.

17 So the twin then says, Let me go inside and
18 get the money. There sit Calvin and Cherelle in the
19 vehicle, waiting. Cherelle will tell you it started
20 worrying her that they were waiting. She felt
21 uncomfortable.

22 The next thing she knows, and she doesn't
23 know exactly where it comes from, she sees the face of
24 that twin in the window where Calvin is seated. Calvin
25 is seated here. Here is the twin's face, but she sees

1 something else other than the face. She sees the barrel
2 of the AK47, and in a flash, Calvin is shot. He gets
3 shot in his back shoulder. Immediately he starts putting
4 the car in reverse and his foot on the gas pedal, and
5 they are high tailing it out of there.

6 You will see the acceleration marks in that
7 area where they were trying to get the heck out of there.
8 And they go back on to Sycamore toward 61, but Calvin is
9 continually weaker and weaker and Cherelle has to reach
10 over and deal with the steering wheel. When Calvin
11 becomes too weak to continue pushing the gas pedal, the
12 car rests at the corner of Sycamore and 61.

13 Cherelle will tell you that in addition to
14 seeing the face of the twin, there is somebody taller
15 standing to the side and behind him. Terrell Chandler.
16 Who leaves the apartment that evening with the AK47?
17 Terrell Chandler. Who had the AK47 prior to that night?
18 Terrell Chandler. Who comes back inside the apartment
19 after the shooting with the AK47? Terrell Chandler. And
20 you will hear from one of the guys who was outside it is
21 Terrell Chandler who shoots and kills Calvin Gibbs.

22 But that is not the only weapon that was
23 there that evening. There was also a high point pistol.
24 There was not just one shot from the AK47, there were
25 three. The third shot jammed. The gun wouldn't work any

1 more. Thank God. The gun jammed. One of the twins,
2 perhaps in celebrating what they this planned and now
3 accomplished, unloads the high point. The girls inside
4 will tell you, after this happens, they come running back
5 into the apartment. Where did they go? Back to
6 Terrell's room. They're back there for a few minutes.
7 You will hear that they're attempting to unjam the gun.

8 Meantime, Calvin Gibbs is being taken to the
9 hospital where he dies. After, going back in the back
10 room with his buddies, with his guys, with his
11 codefendants, he comes out and some of them go wash up
12 after the shooting. Then the police start coming, blue
13 lights. They tell the girls, Just lie low. Lay low.
14 They stay in the apartment that evening, quietly. No one
15 leaves until the next morning.

16 The next day Terrell Chandler is approached
17 by the police officers, and he indicates that he was at
18 his home by himself the night before. He has another
19 girl, Tamara Dixon, and she comes over the next day. And
20 her car is running hot, and so she wants his help.

21 He tells her, My son's coming to visit me.
22 Can I give you something to take out of my apartment?
23 And what is that but the AK47. The police find that in
24 Tamara Dixon's vehicle, along with a banana clip and
25 ammunition, and they find in his bedroom the pistol as

1 well when they search his house.

2 Ladies and gentlemen: This is a case of a
3 drug deal gone bad, but, more importantly, this is a case
4 of murder.

5 Thank you.

6 THE COURT: All right. Does the defense wish
7 to make an opening?

8 MR. SLADE: We do, Your Honor. Thank you.

9 THE COURT: All right. Go ahead.

10 MR. SLADE: May it please the Court: Good
11 morning. My name is Mitch Slade, and this is Waring Howe
12 and Terrell Chandler. I realize we've been pointed out
13 to y'all before, but when you stand up and are speaking
14 to people you haven't been introduced to you ought to
15 introduce yourself.

16 This case begins when a guy, who is one of
17 the state's witnesses in this case named Christopher
18 Watkins, goes to jail. Christopher Watkins is a drug
19 dealer in Charleston, and Christopher Watkins had a part
20 of his business that he wanted to keep going while he was
21 in jail, while he was suffering his setback to his
22 business.

23 What Christopher Watkins had that was key to
24 his drug business was his cell phone. Small time drug
25 dealers like Mr. Watkins and Calvin Gibbs, the young man

1 who was shot in this case, typically sell to small time
2 dealers and the people who use drugs, and so those cell
3 phone numbers is a way for these drug dealers and small
4 time drug dealers to get ahold of them. It's important,
5 so in this case when Mr. Watkins went to jail, he gave
6 his cell phones to Calvin Gibbs, and that was to keep his
7 drug business he had going on.

8 And two of the people you've heard the state
9 tell you about who are going to be critical in this case
10 knew Christopher Watkins, the drug dealer who was
11 incarcerated for a time, and they knew Calvin Gibbs.
12 That's the twins, Che Carr and Storme Carr. Now, Che
13 Carr and Storme Carr lived not far from Apartment Five
14 that you heard the prosecutor describe.

15 This apartment building where Apartment Five
16 is located is a fairly long gray building. You'll see
17 pictures of it, I'm sure, very shortly. We have some
18 blow-ups just to sort of orient you to it, but it's a
19 gray building. It fronts on Battery Avenue, so typically
20 you'll hear us in the course of this case referring to
21 the building as 930 Battery Avenue. Behind the building,
22 if this is the building, is a street called Hillsboro,
23 and the events that we're dealing with in this case
24 happened on the Hillsboro side of this apartment
25 building.

1 The twins lived a little beyond 930 Battery
2 Avenue and Apartment Five. They lived on Tripe Street
3 with an older uncle, but they spent most of their time
4 hanging out at Apartment Five. They were 17 years old at
5 the time that Mr. Gibbs was shot. They smoked dope down
6 at Apartment Five, they hung out down at Apartment Five,
7 they took girls down to Apartment Five. That's where
8 they hung out. In fact, you'll hear in this case that
9 one of these young women, who was sitting on the
10 recycling bin out there, who also lived in this big red
11 apartment building, knew that the twins hung around
12 Apartment Five so much that when the -- excuse me, the
13 early morning when the police went to search Apartment
14 Five after the shooting that one of these young girls
15 texted Che Carr saying if you're in Apartment Five,
16 you're about to be searched because the cops are here.

17 So everybody knew the twins hung out at
18 Apartment Five a whole lot. Now, there were a couple
19 of -- there were two people living in Apartment Five, it
20 was Terrell Chandler and his roommate, a guy named Troy
21 White, and the twins hung out at Apartment Five so much,
22 and you'll hear one of the state's witnesses in this case
23 say this, that they tried to keep the guns from them, the
24 twins were wild. They were crazy. In the words of one
25 of the state's witnesses, the twins would set you up.

1 So they tried to keep that kind of stuff from
2 them. But this night, about 11:30, one of the twins,
3 more than likely Che Carr, calls the numbers that Calvin
4 Gibbs has that he's gotten from the drug dealer that is
5 in jail. Che and Storme know these guys, so they're in
6 the apartment. They're in Apartment Five, and they got
7 the girls over there. They got Megan White. She's at
8 the apartment, or somewhere in the area around the
9 apartment. They got a girl named Ta'Mequa Durant, who
10 going by Pookie, and you'll hear her called by that
11 throughout this case and a girl named Latrice Smalls and
12 they're somewhere around the apartment.

13 And there are several guys over there, and
14 when one of the twins calls Calvin Gibbs for -- to
15 deliver the note over there, they're running low on dope
16 and you'll see that there is a lot of dope consumed in
17 this apartment, unfortunately, and Calvin Gibbs hadn't
18 been over to that place before. So when he is trying to
19 look for it he, pulls off of St. Andrews Boulevard, off
20 of Highway 61, where they were constructing that new Hess
21 place. And he pulls over around 11:30 at night or
22 thereabout, and he doesn't know exactly where he is, and
23 he sees Che Carr waving him down in the back of Apartment
24 Five.

25 And we can see what happened from there

1 through Cherelle Anderson's eyes because she is sitting
2 less than an arm's length away. This is what she told
3 the police she saw. She said that they pull into this
4 area, right off of Hillsboro, and they pull in. They see
5 this guy, who is Che Carr, and he's wearing a white
6 T-shirt. She sees him come up to Calvin's window. They
7 negotiate or talk about a drug deal, and she sits there.
8 She's looking across the driver's seat to Che Carr's
9 face, and she sees Che Carr there at the window, and she
10 hears Che Carr and her boyfriend negotiating this drug
11 deal.

12 And then she sees Che Carr walk away, and
13 that is what she has told the police, and she has the
14 opportunity to observe his height. Next thing she tells
15 the police she saw was the guy who had been there at the
16 window running up to their car, firing, a guy who she
17 said is five-five or five-six wearing a white T-shirt.
18 She says the guy comes up to the window, firing this
19 AK47, saying I got you now, nigga.

20 Calvin sees this five-five or five-six person
21 with a white T-shirt on coming. He puts the car in
22 reverse. At some point, as the five-five, five-six guy
23 is running up there, shoots into the car --

24 MS. SHEALY: Objection, Your Honor. May we
25 approach?

1 THE COURT: Yes.

2 (Discussion held at sidebar.)

3 MR. SLADE: We can see what Cherelle Anderson
4 saw, sitting just in the driver's side, an arm's length
5 away. What she saw was a five-five or five-six guy with
6 a white T shirt on. Calvin Gibbs puts the car in
7 reverse, and as he's shot, Cherelle Anderson grabs the
8 wheel and begins this, amazingly, backing the car -- or
9 the car is backing around and she's steering it around
10 Hillsboro and the car comes to rest, essentially, in the
11 construction site where they're putting up that Hess
12 station or convenience store.

13 At the same time she's calling 911, so as
14 soon as the car comes to rest, there are police there, I
15 mean, almost instantaneously, and you're going to hear
16 some folks people just happened to be right down the
17 highway, several of them, and they heard shots. They
18 turned around to see what was going on, and they pulled
19 up right there at the same time, practically, that the
20 police got there, so we have some pretty solid evidence
21 that the police were there very quickly.

22 Now, the person -- excuse me, the
23 investigator with the police department who was assigned
24 to this case was Detective Osborne, this gentleman
25 sitting here with the blue suit on and the striped tie,

1 and he got there that night about 1:45 or thereabout.

2 Prior to his getting there, of course, there
3 was some other policemen who got there to the scene, and
4 they, of course, were very interested. It's part of
5 their job, to determine how this happened, who got shot,
6 and Cherelle Anderson told them the first time she
7 described the shooter in this case, she said the shooter
8 was a black male, five-five or five-six, wearing a white
9 shirt, white T-shirt, with twists or dreads as a
10 hairstyle.

11 Now, Cherelle Anderson, as you will hear, is
12 a hairdresser herself. That is the kind of thing she
13 focuses on. That is the kind of thing she would know
14 about, okay? And so they ask her to describe, the police
15 investigating this, ask her to describe anything else she
16 saw. She saw some other people moving around. She
17 couldn't describe exactly what they were doing. She said
18 there was one other guy there, a taller guy, taller than
19 five-five and five-six, and she is describing variously
20 as six, six foot, six-two, six-three, somewhere in that
21 neighborhood, over six feet, in other words, and that guy
22 she has described several times as having shot into the
23 air, fired a handgun into the air.

24 And she says, That guy had a low cut, or a
25 low fade hairstyle. Okay? That is what the evidence is

1 going to show that she said the first time that she
2 identified the shooter and tried to tell the police what
3 was going on.

4 The next time she described what went on, she
5 described the shooter, these other guys, for Detective
6 Osborne, and she told him that the shooter was five-five,
7 five-six, white shirt, dark skinned, dark complected, had
8 a hairdo that was twisted or dreads. There was some
9 other people out there, but the one that she can offer a
10 description of has a low fade haircut, okay?

11 Terrell Chandler that night had a twist, or
12 braid hairstyle, and he's six-three, didn't have a low
13 fade hairstyle.

14 Now, Cherelle Anderson obviously is an
15 eyewitness in this case, and Detective Osborne continues
16 working on this case. This shooting happened around
17 11:30 or so on a Friday night. It was May the 30th.
18 Detective Osborne gets there to the scene around 1:45 the
19 following morning, which is May the 31st, which is
20 Saturday. Okay? And he continues working through the
21 day. And so about 6:30 that evening, he asked Cherelle
22 Anderson to come down to the police department, the city
23 police department, to help him investigate this case. He
24 asked her to try to do an identification of the shooter.

25 So what the police do in these circumstances

1 is they put together something called a photo lineup.
2 And a photo lineup is essentially they take some head
3 shots, you know, like high school pictures or driver's
4 license photos. It's from here up, and so what he did
5 was he took six of these pictures. They're basically
6 head shots, and he put them on a piece of paper, and one
7 of the people included in that photo lineup was Che Carr,
8 okay, one of the twins, the guy who was waving down
9 Calvin Gibbs.

10 And he put a picture of Che Carr in that
11 lineup. Now, listen, the evidence is going to show you
12 what Cherelle Anderson has told the police to describe
13 the shooter, five-five, five-six, hairstyle twists or
14 dreads, dark complexion, and he had on a white shirt.
15 Okay? She said he was a teenager.

16 Detective Osborne shows Ms. Anderson, who saw
17 the shooter at less than arm's length, he asked her to
18 take a look at that photo lineup and see if she saw the
19 shooter. Detective Osborne says, reports, that in 20
20 seconds, she picked out Che Carr. Che Carr that night
21 had a hairstyle. It was twists or dreads. Che Carr was
22 17 the night Calvin Gibbs was shot. Che Carr has a dark
23 complexion, but there is one thing that you will learn in
24 this case. You can't tell height from looking at
25 somebody's head shot, right? She picked out -- she had

1 told the police that the shooter was five-five or
2 five-six. She picked out in 20 seconds a head shot of
3 Che Carr. Che Carr is five-seven.

4 The ordinary course of a case, in Detective
5 Osborne's words, she positively identified the shooter as
6 Che Carr in 20 seconds. Ordinary course of the case,
7 that would be the resolution, the case would be solved.
8 For Che Carr and his brother, even at the time that
9 Cherelle Anderson, the person who was there at the scene
10 and who saw the shooter was picking out Che Carr from
11 that lineup, Che Carr and his brother were calling Crime
12 Stoppers and were calling Crime Stoppers to tell Crime
13 Stoppers that somebody other than Che Carr was the
14 shooter.

15 The second thing that Che Carr and his
16 brother, Storme Carr, did in this case was they began to
17 contact the police. There was an investigator helping
18 Detective Osborne in this case. His name was Dutton. I
19 think you'll be hearing from him in this case, Sergeant
20 Dutton. Storme Carr has Sergeant Dutton's cell phone
21 number. So through the afternoon of May the 31st, Storme
22 Carr, one of the twins, Che's brother, is calling
23 Sergeant Dutton. Got some information about the
24 shooting.

25 So as the day goes on, Sergeant Dutton,

1 working with Detective Osborne, tells Detective Osborne
2 one of the twins is calling me. Something about this
3 case. So Detective Osborne calls Che Carr. Che Carr
4 wants to help solve his shooting.

5 He invites Detective Osborne to come over to
6 Tripe Street, just a block and a half away from that
7 house where they live with their uncle, not where they
8 hang out, but where they live, where they reside, and
9 they invite Detective Osborne to come over. Che Carr
10 wants to tell him who shot Calvin Gibbs. He's got a
11 story, and this is what he tells Detective Osborne --

12 MS. SHEALY: Objection, Your Honor. May we
13 approach?

14 (Discussion held at sidebar.)

15 THE COURT: Let's me send y'all out while we
16 take up a matter of law here.

17 (In open court jury not present.)

18 THE COURT: Okay. Tell me, you want to say
19 what somebody else says.

20 MR. SLADE: That's correct.

21 THE COURT: And who is going to say it and
22 why isn't it hearsay?

23 MR. SLADE: All right. The witness is going
24 to come in through --

25 THE COURT: Who is the witness?

1 MR. SLADE: It's Detective Osborne.

2 THE COURT: Okay. And what is he planning on
3 saying?

4 MR. SLADE: Che Carr gave him a written
5 statement. It's signed by Che Carr. It says three guys
6 came through the breezeway of this apartment, made Che
7 Carr lay down on the ground, take his clothes off, and
8 apparently attempted to rob him.

9 He knows the names of three of the guys. One
10 of them is Mikey, one of them is Chopper, and one of them
11 is Taliban, and while he's there on the ground, he sees
12 the one he called Taliban shoot into the car that Calvin
13 Gibbs is driving. He tells Detective Osborne that he
14 thinks that the driver was hit from the way that the car
15 was driving. That's the first story that he told
16 Detective Osborne.

17 THE COURT: Okay. He's saying he saw the
18 shooting?

19 MR. SLADE: Yes, sir. And he's saying that
20 Taliban did it. That's the first story he told Detective
21 Osborne. The second story he told Detective Osborne is a
22 story that he told him after he was arrested, which would
23 have been -- he was arrested, I believe, on June the 1st,
24 and he gave this statement to Detective Osborne, I
25 believe, on June the 2nd, and that is the statement.

1 It's quite lengthy. It's also a written statement that
2 was signed by Che Carr, and it is about 12 pages, and it
3 names Terrell Chandler as the shooter.

4 Based on that, Detective Osborne gets a
5 warrant on June the 4th for Terrell Chandler. So those
6 are statements that are -- those are out of court
7 statements made by Che Carr.

8 THE COURT: Why are you offering them?

9 MR. SLADE: I'm offering them, Your Honor, to
10 show that Che Carr is essentially trying to frame up on
11 somebody other than Che Carr. He's trying to point the
12 police in a direction away from the person who has been
13 identified as the shooter. These stories are an attempt
14 by him and his brother to mislead the police into
15 charging someone other than him as the shooter.

16 THE COURT: But isn't it being offered to
17 show that something else is true, that somebody else shot
18 him and not him?

19 MR. SLADE: No, sir.

20 THE COURT: You're saying that he's saying, I
21 saw the shooting. Somebody else did it.

22 MR. SLADE: That's correct.

23 THE COURT: All right. So that is being
24 offered to prove that somebody else did it.

25 MR. SLADE: My argument is, Your Honor, I'm

1 not offering it for that. I'm offering it to show that
2 this person, Che Carr, who has been named as the shooter,
3 is concocting a plan to have someone else be charged or
4 arrested, and the reason that it's not hearsay, Your
5 Honor, is that, first of all, something that is being
6 offered is not for the truth of the matter stated, it's
7 not hearsay to begin with.

8 Let me shift for just a minute.

9 THE COURT: I can get that, but just because
10 you say it's not being offered to prove the truth of the
11 matter asserted doesn't necessarily make it so. I'm not
12 required to accept that blindly.

13 MR. SLADE: I agree. Let me demonstrate with
14 the second statement Che Carr gave, the one he gave on
15 June 4, after he was arrested. He says in that
16 statement, Your Honor, he says that Terrell is the
17 shooter. Clearly, our whole defense is based on the fact
18 that Terrell is not the shooter.

19 I'm not offering a statement out of
20 somebody's mouth to say that my client is the shooter to
21 prove that. I'm offering it to show that somebody else
22 who there is a great cloud of suspicion on is taking
23 certain steps to mislead the police.

24 Your Honor, first of all, a statement that is
25 offered to show the effect on the shooter is not hearsay,

1 because it's offered to show that these words that were
2 spoken, whatever they are, had some effect on the theory.
3 In this instance, Your Honor, these words about Terrell
4 being the shooter led the police in a certain direction,
5 led them to form a theory of the case, and the reason
6 they formed this theory of the case is these two twins
7 are leading them to do that.

8 Later on there is testimony, Your Honor, that
9 Storme Carr, one of the twins, calls a witness and tells
10 her what to say. The second reason, Your Honor, that is
11 not hearsay is the words that Che Carr spoke, whether
12 Taliban is the shooter or Terrell Chandler is the
13 shooter. When they are using those words to try to
14 direct the police away from them, that's a plan, and
15 those words are verbal acts, just like words of slander,
16 words of contract, those kind of things.

17 I'm not offering it to show that Taliban was
18 the shooter. I hope everybody sees that story is
19 incredible. What I'm offering it to show is that the
20 person who is responsible, in our opinion, for this
21 tragedy is doing all he can to shift blame, and he -- or
22 frame someone, to use a cruder expression, and in order
23 to frame someone, you have to use words. You have to
24 direct other people's minds.

25 I'm not offering it to show that Taliban is

1 the shooter or that Terrell is the shooter, but these
2 words came out of Che's mouth because he had a plan to
3 misdirect Detective Osborne, Sergeant Dutton, and
4 ultimately the prosecutors.

5 The third reason, Your Honor, that it's not
6 hearsay is that these words that Che Carr is using
7 essentially are words that commit a crime in themselves.
8 They're trying to obstruct justice. They're trying to
9 give false information to a police officer. It's very
10 similar to words of solicitation, that type of thing.

11 It's an effort to mislead police, and that is
12 obstruction of justice, and those kinds of words of
13 crimes are over and over found not to be, I think,
14 hearsay. Let me give you an example.

15 If an undercover policeman testifies that
16 someone hands him a bag and tells him that there is ten
17 pounds of dope in there, those words aren't used to prove
18 that there is ten pounds of dope in that bag, it's
19 offered to prove that this person is taking some action
20 based on those words. It's not offered for the truth of
21 the matter asserted and the words themselves.

22 Your Honor, I have prepared a memo, just for
23 myself to argue it, but I have some copies if you would
24 like to look at this.

25 THE COURT: Ms. Shealy, you want to be heard

1 on this?

2 MS. SHEALY: Your Honor, let me ask for
3 clarification first. Is your intention -- whether his
4 intention is to offer the substance of both the statement
5 on 5/31 and 6/2/08.

6 MR. SLADE: That's correct.

7 MS. SHEALY: I beg the Court's indulgence a
8 moment.

9 MR. HOWE: And the reason you weren't given
10 any kind of advance notice, this was carefully researched
11 and we felt we were on very solid ground going into it
12 that these were non-hearsay statements.

13 MS. SHEALY: I haven't had the opportunity,
14 Judge, to look at their memorandum, but it would be our
15 position that this is inappropriate for them to go into.
16 Che Carr will not be testifying. It's convoluted and
17 confusing to the jury, I guess what his argument is.

18 I think that it lends itself for the jury to
19 be confused about what it is that Mr. Slade is offering
20 this for. It would be more prejudicial than probative of
21 anything, and there are absolutely things within Che
22 Carr's statement dated 6/2 that we believe are truthful
23 and there he would be admitting the statement that we
24 would not have the benefit of being able to question Che
25 Carr about.

1 I just think it's riddled with problems. I
2 haven't looked at his memorandum, but --

3 THE COURT: Let me make sure I understand
4 this. You're saying that the first statement made the
5 21st said three guys told him to lie down, he saw the
6 shooting by somebody named Taliban?

7 MR. SLADE: Taliban.

8 THE COURT: -- did the shooting?

9 MR. SLADE: That's correct.

10 THE COURT: In the second statement he names
11 your client as the shooter, and in both of those
12 instances you're not offering it to show that Taliban in
13 fact did it or that your client did it, but it was to
14 deflect suspicion away from the speaker that is Che.

15 MR. SLADE: Yes, sir. It's the first act in
16 a series of things they did to deflect any kind of
17 suspicion from them, to frame them on a certain person,
18 Terrell Chandler.

19 THE COURT: In that case I agree. It's not
20 hearsay. All right.

21 Why don't we go ahead and take a five-minute
22 break, and we will resume in a minute since we're near a
23 break point.

24 (Recess taken.)

25 THE COURT: Let the record reflect the

1 defendant is in the courtroom. Bring the jury back in.

2 (In open court, jury present.)

3 THE COURT: Okay. You can resume.

4 MR. SLADE: Thank you, Your Honor. Where we
5 were when we stopped and took a break for a minute was
6 that Detective Osborne had gone over to Che and Storme
7 Carr's house over on Tripe Street somewhere. They lived
8 with their Uncle Frank, and what Che Carr did at that
9 point was tell Detective Osborne he wanted to cooperate.
10 He told Detective Osborne that he had been present behind
11 Apartment Five when the shooting occurred. He told them
12 that a couple of guys -- well, let me set the scene for
13 you.

14 In this apartment building that we're going
15 to be talking about is one building, and there is
16 apartments on the upper level, the second floor, and
17 there is apartments on the ground floor, and Apartment
18 Five is on the end that points away from Sycamore.

19 You come off of 61. You're going down 61,
20 you turn to the right off of Sycamore, and then you go on
21 to Battery Avenue, or if you go behind the place, you go
22 on to Sycamore. And so the way this thing is arranged is
23 the building is between Hillsboro, which is right off of
24 Sycamore and Battery Avenue, and it's length wise, and in
25 the middle of this two story building with, I don't know,

1 six, eight, apartments in it, there is a breezeway, on
2 the bottom floor, and what Che Carr tells Detective
3 Osborne is that he saw some guys he knew come running
4 through that breezeway. One of them has an AK47.

5 He says these guys are named Mikey and
6 Chopper and Taliban, and these guys make Che Carr lay
7 down on the ground and take all his clothes off, and
8 then, as he looks up from the ground there with his
9 clothes off, he says Taliban shoots into Mr. Gibbs's car.
10 And he sees the car moving backwards, and he tells
11 Detective Osborne it appeared to him that the driver was
12 shot.

13 And he said Detective Osborne asked about
14 searching the house where they live with their uncle, and
15 that is fine with them. Search the house. So that is
16 what Che Carr and his brother were telling the police on
17 the afternoon, May the 31st of the shooting.

18 Now, Detective Osborne goes and gets a
19 warrant on Che Carr based on what Cherelle Anderson tells
20 him, locks up Che Carr for shooting Calvin Gibbs. Got a
21 murder warrant for him, locks him up on June the 1st.

22 Che Carr changes his story. He's got another
23 story for Detective Osborne. He tells Detective Osborne
24 at that point somebody else did it, but not him. At that
25 point he gives Detective Osborne a statement saying the

1 guy who lives in Apartment Five, or one of the guys who
2 lives in Apartment Five, did it, and he names Terrell
3 Chandler.

4 So based on that, Detective Osborne gets a
5 warrant against Terrell Chandler. So on June the 2nd,
6 saying that Terrell Chandler is the shooter, he gets a
7 warrant, based on what Che Carr has told him against our
8 client, Terrell Chandler. And to investigate, or to try
9 to get some more facts that fit the theory that Terrell
10 Chandler is the shooter, Detective Osborne goes to see
11 Che Carr's girlfriend. Che Carr's girlfriend is named
12 Megan White.

13 And Megan White has told three different
14 stories at least about this incident. The first story
15 that she begins to tell is the Taliban story, the one
16 that I've just told you that Che Carr told Detective
17 Osborne the first time he talked to him.

18 She begins by saying that at first she saw
19 that night -- what she saw that night was Che running
20 home naked, remember? In Che's Taliban story, he says
21 Taliban makes him lay down on the ground and take his
22 clothes off. The second story she tells is that she was
23 inside the apartment the whole time, inside Apartment
24 Five.

25 She says she was dancing with Che and

1 listening to music, and in that story that she tells,
2 Terrell is walking around in the apartment holding an
3 AK47 saying it's going down in two minutes, it's going
4 down in two minutes. That is the second story that Megan
5 White tells.

6 The third story that Megan White tells, she's
7 Che Carr's girlfriend, all right? She tells a third
8 story that keeps Che Carr from being the shooter. She
9 says she was outside the apartment the entire time, not
10 inside. She was outside, and she was standing somewhere
11 along this breezeway. If this is the end toward -- if
12 this is the end away from Sycamore and this is Apartment
13 Five up here --

14 MS. SHEALY: Your Honor, I need to object.
15 I'm sorry. Can we approach?

16 (Discussion held at sidebar.)

17 MR. SLADE: Detective Osborne interviews
18 Megan White. She's told a number of stories in this
19 case. She'll be a witness in this case.

20 What we have to look at in this case is a
21 number of witnesses who have told stories to the police
22 in the beginning that are going to be substantially
23 different from the stories or the testimony that they
24 give from the witness stand. And one of the things that
25 you're going to have to look at in this case is how these

1 witnesses changed their statement and why they changed
2 their statements.

3 One of the things you're going to have to
4 look at in this case is whether Detective Osborne decided
5 way too early on that the tall person out there that
6 evening who the witness, Cherelle Anderson, has said over
7 and over and over had a low fade haircut, who was doing
8 the firing of the handgun, was Terrell Chandler. He had
9 braids. He was tall. He was light skinned, as opposed
10 to what Ms. Anderson says about that person, and what
11 you're going to have to look at is whether or not
12 Detective Osborne simply focussed on the facts that
13 helped him with his theory of the case, that Terrell
14 Chandler was the person who goes out there, who is doing
15 something that has anything to do with this robbery, or
16 alleged robbery, whether Terrell Chandler was the person
17 who shot him, or whether Cherelle Anderson is correct,
18 and whether that is a reasonable doubt about their theory
19 of the case.

20 One of the things you're going to have to
21 look at is whether or not they, Detective Osborne, looked
22 at the facts that pointed away from his theory, that
23 Terrell Chandler was the shooter. For instance: At the
24 time that this scene was worked by the police, was
25 investigated by the police, a number of fingerprints were

1 taken from Calvin Gibbs's car. They took -- I think 19
2 fingerprints were lifted from Calvin Gibbs's car, and
3 there were fingerprints on the driver's side door, which
4 would have been facing the apartment, the back of the
5 apartment, and the passenger side door and some other
6 places on the car.

7 And of those 19 prints, some of them weren't
8 readable, weren't legible. There wasn't enough
9 fingerprint marking to actually get an actual reading,
10 but for a handful of them, probably half a dozen or so,
11 there is enough of a fingerprint to actually get a
12 fingerprint reading to determine whose it was.

13 So Detective Osborne, following up on his
14 theory that Terrell Chandler is the shooter, sent Terrell
15 Chandler's fingerprints to be analyzed to see if they
16 were on the car and sent Che Carr's fingerprints to see
17 if they were on the car. None of them were.

18 They do that in June. Eighteen months go by.
19 Storme Carr, being at Calvin Gibbs's car, did not fly at
20 the case, but finally in May they went back and sent
21 Storme Carr's fingerprints to be checked, and his
22 fingerprint is on Calvin Gibbs' car.

23 So what you're going to have to look at in
24 this case is not only what these witnesses say but how
25 they came to say what they say, how they changed what

1 they have said, and whether the fact that these witnesses
2 have changed their stories over and over is a reasonable
3 doubt, whether or not Cherelle Henderson positively
4 identified Che Carr as the shooter in 20 seconds is a
5 reasonable doubt.

6 That's what you're going to have to look at,
7 and as I said early on, and Judge Young has reaffirmed,
8 the state has a burden, and your job is to apply
9 reasonable doubt to what the evidence is that they bring
10 in and to their theory of the case and determine whether
11 they met their burden of overcoming any reasonable doubt,
12 and at the end of this case we'll ask you to find a
13 verdict of not guilty because they can't prove that
14 beyond a reasonable doubt.

15 Thank you.

16 THE COURT: Call your first witness.

17 MS. SHEALY: William Hoyes. Your Honor,
18 while he's walking in, I believe without objection, I
19 would like to admit into evidence State's 1 through 95
20 which are photograph. We have previously marked those.

21 THE COURT: Is that agreed upon, the
22 admission of 1 through 95?

23 MR. SLADE: Yes, sir.

24 THE COURT: All right. They are admitted.

25 WILLIAM HOYES,

1 having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SHEALY:

5 Q. Mr. Hoyes, if you would please, do you live here
6 in Charleston County?

7 A. Yes, I do. I have since 1980.

8 Q. You might need to get a little bit closer to that
9 microphone. How old are you?

10 A. Sixty-seven. I'm losing count.

11 Q. Tell us something about your background. What is
12 your employment background?

13 A. After serving in Vietnam, I went to work for Wyeth
14 Laboratories, which at that time was the largest company
15 in the world, and after that went with Ohio Medical
16 Products and had a seizure, and ran their marketing
17 department for a short period of time, and then I started
18 my own company which serviced hospitals across the
19 country, retired, and wrote the book called the OSHA
20 Compliance Manuel for Health Care Facilities in 2002, and
21 I'm in the process of writing another book now.

22 Q. Okay. And, again, it may just be me, but I may
23 need you to speak up a little bit louder. Focussing your
24 attention then back on May 30 of 2008, could you tell the
25 jury what you had been doing in the evening hours that

1 night.

2 A. Well, we just docked our boat in one of the
3 marinas of the Ashley River bridge, and it was rather
4 late, 11:15, 11:30, and we were coming down St. Andrews
5 Boulevard in the old -- at that time I had a 1992
6 Mercedes, sat real low to the ground, and there was my
7 wife sitting in the passenger side and a friend of ours,
8 Tony Eichenberg, who was in the US Army with service in
9 Afghanistan and Iraq, and as we were -- we had the
10 windows down, and as we approached the intersection --
11 and I don't know the name of the street.

12 It's where the Hess station and the new Kangaroo
13 station is right now on St. Andrews Boulevard. Tony
14 asked me, did you hear those shots, and close after that,
15 my wife asked me, Did you hear those shots? And I didn't
16 hear any shots. That oftentimes occurs, I think, from my
17 war experience, but I did hear a bullet come over the top
18 of the car.

19 And, you know, it kind of brought back memories
20 because I've heard that 500 or 600 times since Vietnam,
21 but that was the first time I've heard that since my
22 return. And at that time there was a constant chatter in
23 the car, both Tony and Tara talking about another car
24 that they saw was moving slowly and veering off to the
25 side of that road that is perpendicular to St. Andrews

1 Boulevard, and Tara, my wife, asked me, Let's turn around
2 and see what's going on.

3 And about that same time, Tony had said, I think
4 that whoever got shot is in that car, and I don't know
5 why they said that. I told Tara that I didn't really
6 wish to get into a gun fight without a gun and kept on
7 going down St. Andrews Boulevard and, a few seconds later
8 I explained to Tara that let's go down about two blocks
9 and turn around because if there is a gun battle going on
10 by that time whoever the shooter was is going to be gone.

11 So we turned around, and during that period, I had
12 asked Tony to call 911, which he did. I think he was on
13 the phone with 911. We turned around, and we were only
14 two blocks away from where all this was happening and
15 pulled in on the right side of the street, again the
16 street that is perpendicular to St. Andrews Boulevard,
17 and I observed a car, a white car, that was in the berm.

18 At that time they were building a new gas station,
19 and there was sort of a semi ditch, not a deep ditch, but
20 the car was off into the ditch, and kind of on an angle.
21 So Tony and I got out. We did see -- when I made the
22 turn on to that perpendicular street to St. Andrews, we
23 saw police blue lights pretty far down on St. Andrews, so
24 Tony and I got out of our car, and I told Tara to stay
25 where she was and we looked around, didn't see anything

1 really happening. We were the only ones at the scene,
2 and we went to the driver's side and we saw immediately
3 that he was slumped down, leaning backward.

4 And we opened the car door and there were no other
5 people or persons in the car, and he was obviously shot
6 in a bad way. And Tony was a medic, is a medic, in the
7 Army, or has had medic training, and with all my health
8 care experience, we just immediately tried to keep him
9 alive. His pulse was extremely weak and erratic.

10 His breathing was very shallow. He was
11 unconscious. He would have moments of opening up his
12 eyes, but he was very still and unconscious. And we
13 worked on him, trying to get the bleeding stopped, and
14 our training was to really get him out of the car because
15 obviously he was in shock, but I didn't want to move him
16 because it looked like he might have had a spinal injury
17 and we were hoping that the ambulance would be, you know,
18 soon forthcoming.

19 And about that time the police show up, and, of
20 course, the police were clearing the area, and two of
21 them approached the car, and I asked them, Do you want me
22 to take over? I'll continue to keep working on this
23 individual and they told us to just continue working, so
24 Tony was making every possible effort to keep him awake,
25 tapping on his forehead and yelling at him, screaming at

1 him, actually, trying to get -- as long as you can get a
2 person conscious, you can fight off whatever is happening
3 a hell of a lot better than if you are unconscious, and I
4 was trying to stop his bleeding and taking his pulse, and
5 he was getting weaker and weaker and weaker.

6 And about that time, maybe five minutes, it's hard
7 to judge what kind of time elapsed, probably five to
8 seven minutes later, the medic team, the EMT showed up.

9 And we told them what we had and what condition
10 the gentleman was in, and Tony had suggested, I think
11 what you probably want to do is a snatch and carry, which
12 is don't try to do anything here on the ground. Get him
13 on a board, get him in the ambulance, and get his butt to
14 the hospital right away, and so they agreed and I reached
15 in to -- Tony and I both put him on a board that they had
16 which then went on to the stretcher, and it was at that
17 point that I discovered that he had a back wound also,
18 was either an entrance or an exit wound, I wasn't sure at
19 that point since I didn't see it, but he had lost a great
20 deal of blood.

21 And after he put them on and took off almost
22 immediately, I was covered with blood. It's been a long
23 time since I had that much blood on me, and I didn't know
24 what the hell to do because I didn't have any gloves or
25 anything, and a few of the police officers came up with a

1 bunch of antibacterial type ointment and spread it over
2 myself, and we sat there and waited for half hour while
3 the police took written reports.

4 Q. Let me show you what has been previously marked as
5 State's Exhibit No. 3. In just a second you'll have it
6 up there. Is that the intersection that you're talking
7 about?

8 A. Yes, it is. The car was --

9 Q. I'll tell you what. I've got a -- okay. That may
10 not be working. If you could just stand up and point to
11 us what direction you had been traveling.

12 A. We were traveling through the intersection here,
13 and Tony and Tara both starting commenting about the
14 shots, and while they were in the process of talking
15 about the shots, which I never heard, I heard the bullet
16 zip over the top of the car. You don't hear bullets zip
17 at you unless they're within a couple feet, and you don't
18 hear them until they're already gone. If you don't hear
19 a bullet, then you got problems, but I heard it and I
20 knew that somebody was shooting towards the car.

21 So we were about right here, and we heard the
22 bullet and we went on down the street. The car in
23 question was right in this area, right here. It could
24 have been either here or here, but it was about this area
25 here off to the side.

1 Q. Okay. Showing you State's Exhibit No. 4, that's a
2 pretty dark photograph, but is that the vehicle you saw?

3 A. Yes, it is.

4 Q. And State's Exhibit No. 5, is that how you found
5 the vehicle that night?

6 A. No, the doors were shut. I don't know about the
7 passenger door, but the driver's side was closed, and it
8 was either Tony or I that opened the door.

9 Q. Up in the left-hand corner, do you see these two
10 yellow dots? Is that the traffic light?

11 A. Yes, it is.

12 Q. Thank you. When you tell us that it was a sound
13 that you hadn't heard for quite a while, can you describe
14 to us the sound that you say the bullet made?

15 A. Well, bullets don't make the noise that you
16 normally hear on television or movies, which is a high
17 pitched whine. It's like a bumblebee buzz, and it's a
18 fraction of a second, but I could tell with the windows
19 rolled down that it was not in front of the windshield,
20 but it came directly over the top of the car.

21 And my concern was at that point there is a lot of
22 things going on in my mind while I'm listening to Tony
23 and Tara. Tara had stated that at about that time, I
24 think I see the car in question, and I didn't see the car
25 because I was driving, but I was listening to Tony and

1 Tara describe what was going on.

2 The bullet was just one, and I knew it was a heavy
3 caliber bullet because smaller bullets don't make that
4 kind of a heavy buzzing sound, and there was only one.

5 Q. Okay. Other than it being a heavy caliber, was
6 there anything else about that sound that indicated to
7 you what type of bullet was going over the car?

8 A. Well, I've heard -- mostly bullets I've heard
9 from, you know, 500 or so, maybe that's a conservative
10 number, usually it was heavy caliber shells or bullets
11 which were AK47s. That is primarily what the enemy in
12 Vietnam used. I didn't think of a AK47 at that point,
13 the only thing I thought about was it was a heavy
14 caliber.

15 MS. SHEALY: I have no further questions.
16 Please answer any the defense may have.

17 THE COURT: Cross?

18 CROSS-EXAMINATION

19 BY MR. HOWE:

20 Q. Mr. Hoyes, is it?

21 A. Yes, sir.

22 Q. I represent Mr. Chandler over there. You
23 testified that when you were going through that
24 intersection the windows were down.

25 A. My window was down.

1 Q. Your window. Yours was the only one down?

2 A. It could be the passenger side was down, but most
3 likely it wasn't because my wife Tara never likes to get
4 her hair messed up when she's riding, so probably it was
5 up, most likely. But mine was down.

6 Q. So you're not worried about your hair?

7 A. What hair?

8 Q. Were there any other sounds of significance as you
9 were going through there and went the two blocks down
10 that you described?

11 A. Down -- no. And, again, I have to emphasize I
12 never heard the shots, but when I was in the war, I
13 didn't hear the shots a lots of times. The excitement of
14 what's going on and other people talking and a bullet
15 whizzing over the top of the car, I didn't hear the
16 shots, I never heard the shots, but I heard the bullet
17 and Tara and Tony had expressed to me driving down St.
18 Andrews Boulevard that there were multiple shots.

19 Q. That they had heard?

20 A. That they had heard, yes, sir.

21 Q. Okay. And they didn't give any kind of
22 description to you about the nature of the sounds, such
23 that you could try to again guess about the caliber?

24 A. No, no, except that Tony had mentioned that it
25 sounded like a semi-automatic because it was so rapid,

1 not automatic fire, but semi-automatic fire.

2 Q. Now, what you described about the bullet, I think
3 you said whizzing over the car, I perhaps got a little
4 confused at some point with some of the description and
5 some of the questions. Were you suggesting that perhaps
6 that shot could have come from the white car that you saw
7 on the side of the road later, the white car the victim
8 was in?

9 A. I didn't have the slightest idea, but I do know it
10 came from the right side of the car because I heard it as
11 it went, as it evaporated, if you want to use that word,
12 so it came from the right, and the right would have been
13 where the white car was.

14 Now, did it originate at the car? I have no idea
15 where it happened. It could have come from God knows
16 where.

17 Q. You're talking about the car you were occupying?

18 A. Yes.

19 Q. Okay. Now, when you got out of the vehicle, I
20 believe you said you drove down two blocks --

21 A. And did a u-turn.

22 Q. Yes, and came back. How far back did y'all park
23 your car from the white car that came to a rest?

24 A. Probably 30 yards, 35 yards, maybe less even.

25 Q. And I think you said you and the other gentleman

1 approached the car and your wife stayed with y'all's
2 vehicle?

3 A. Yes, sir.

4 Q. As you were walking up to the white car, parked on
5 the side, and even up to it -- and I think you said you
6 were there even a half hour after you arrived while the
7 police were arriving, the ambulance personnel and the
8 like?

9 A. We were there for quite some time. It was
10 probably a total of 45 minutes to an hour.

11 Q. So when you weren't attending to the victim and
12 conversing with the police and the EMTs, did you have
13 some time to kind of walk around in the vicinity of the
14 car where the victim was and look around any?

15 A. I did at one point. I walked around towards -- I
16 never walked to the other side of the car, but I did walk
17 around to the back of the car, and the only reason I did
18 that, I was looking for bullet hole. It wasn't my
19 responsibility to find bullet holes, but I just had an
20 interest at that point because of all the gunfire that
21 was taking place.

22 Q. So bullet holes in the car, the white car?

23 A. Yes.

24 Q. On that line, did you find any bullet casings or
25 live bullets or anything around that car?

1 A. No, I wasn't specifically looking. No, I never
2 saw anything like that.

3 Q. So you never happened upon any as well?

4 A. No, sir, no, sir.

5 Q. I think you said when y'all turned from St.
6 Andrews Boulevard, Highway 61 on to Sycamore, I believe
7 you said that on down the boulevard you saw some blue
8 lights already.

9 A. As we turned, yes. I did see some blue lights,
10 and I don't know where this came from, but either Tony or
11 Tara told me that someone else had called 911. I have no
12 idea who it was, but they did say that the phone call
13 originated from the Hess station, so I just took it for
14 granted that somebody else was a witness and they called
15 from the Hess station when they heard the shots also. I
16 gave it no further thought.

17 Q. So your wife called 911 and learned from 911
18 somebody had already called in?

19 A. No. Tony called 911 and told them where we were
20 and the fact we heard a gunshot. That was the total
21 call. We never called back to say, Hey, I'm sorry, but
22 somebody else reported it.

23 Q. So when you saw the blue lights when you were
24 turning onto Sycamore, you were able to see blue lights
25 approaching?

1 A. Yes, but it was a long way away. It was probably
2 a mile away.

3 Q. But were you able to see them?

4 A. Yes.

5 Q. Did you see a series of blue lights where it would
6 be multiple cars?

7 A. I don't know about that, but I believe in a few
8 minutes there were 15 squad cars around there.

9 Q. That was actually going to be my next question.
10 When you pulled up and stopped your vehicle -- and I
11 think you said you had, like, a 30 yard walk to the white
12 vehicle --

13 A. That could be an exaggeration. It could be 25
14 yards. It's on the other side of the street.

15 Q. That is what I'm looking for. Once you got out of
16 the car and got out of the car with your friend Tony, was
17 it a minute or two then that you saw the police drive up?

18 A. No. I noticed in my statement that the police
19 officer -- I was dictating and he was writing down
20 summaries, and I did notice that there was a statement,
21 if I recall, that we got there about the same time the
22 police did. We were there for probably four -- three to
23 four, it could be five minutes before the police actually
24 arrived.

25 Q. Okay. But, again, as you turned there, you

1 already saw blue lights down the road? They were within
2 sight at least?

3 A. Yeah, but it was a long way down the road.

4 MR. SLADE: That's all I have. Thank you,
5 sir.

6 THE COURT: Redirect?

7 MS. SHEALY: I have nothing further. I would
8 ask he be excused.

9 THE COURT: Do you need him for anything
10 else?

11 MR. SLADE: No, Your Honor.

12 THE COURT: You're free to go. Thank you.

13 All right. Next witness.

14 MR. NEELY: State calls Naomi Bryant.

15 NAOMI BRYANT,

16 having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. NEELY:

20 Q. Ms. Bryant, let me ask you, how old are you?

21 A. Fifteen.

22 Q. Can I call you Naomi? Is that okay?

23 A. Yes.

24 Q. Thank you. How old you were you about two years
25 ago?

1 A. Thirteen.

2 Q. What school do you attend?

3 A. West Ashley High.

4 Q. And what grade?

5 A. Eleventh.

6 Q. Where do you currently live?

7 A. Ashleyville.

8 Q. In Ashleyville, and do you know what street you
9 live on?

10 A. Hillsboro.

11 Q. I'm going to show you what is marked as State's
12 Exhibit 1. It will be behind you. Do you see your house
13 in that photo?

14 A. Yes.

15 Q. Could you point that out to the jury.

16 A. (Indicating.)

17 Q. If you could also point to the jury where Battery
18 Avenue is?

19 A. (Indicating.)

20 Q. And we're talking about something that happened in
21 the Battery Avenue Apartments. Where on that street is
22 that set of apartment buildings, or building?

23 A. (Indicating.)

24 Q. So that lone building just on the right there is
25 Battery Avenue Apartments?

1 A. Yes.

2 Q. You say you live on Hillsboro. Who do you live
3 with?

4 A. My mama.

5 Q. But at some point have you ever been to Battery
6 Avenue Apartments?

7 A. Yes.

8 Q. Who would you visit over there?

9 A. Amanda and Brittney.

10 Q. Do they live in those apartments?

11 A. Yes.

12 Q. Would you ever hang out with anybody named Terrell
13 Chandler?

14 A. Yes.

15 Q. What about Che Carr?

16 A. Yes.

17 Q. Storme Carr?

18 A. Yes.

19 Q. Steven Brown?

20 A. No.

21 Q. Okay. Let me ask you, do you remember what you
22 were doing on May 30, 2008? And just for your
23 recollection, that is the night of the shooting, if that
24 jogs your memory.

25 A. The same thing I do every other day.

1 Q. Okay. On that particular day, did you go to the
2 Battery Apartments?

3 A. Yes.

4 Q. Tell me a little bit about that. What were you
5 doing when you went over there? Who were you with?

6 A. Amanda, Brittney, Trouble, and Che and Storme.

7 Q. Were y'all sitting inside of an apartment at some
8 point or did you go outside?

9 A. We were outside.

10 Q. When you say outside, is it outside of the
11 building or is there some type of covering or what?

12 A. All over.

13 Q. Is there a breezeway in that building?

14 A. Yes.

15 Q. Can you describe the breezeway to the jury?

16 A. Dark and -- hold on. In the middle.

17 Q. In the middle of the building? On that particular
18 day, were you sitting outside of the breezeway? What
19 were y'all doing?

20 A. Tripping.

21 Q. What does that mean?

22 A. Playing around.

23 Q. Okay. Was Brittney out there with you?

24 A. Yes.

25 Q. Was Amanda out there?

1 A. Yes.

2 Q. Was there anybody sitting on a recycling bin?

3 A. Yes.

4 Q. Was there any talk about the recycling bin?

5 MR. HOWE: Your Honor, this is leading. Let
6 her say what she was talking about or what somebody might
7 have been sitting on, but this is rather suggestive
8 questioning, thus leading.

9 THE COURT: I don't agree on that question.
10 Go ahead.

11 MR. NEELY: Thank you, Your Honor.

12 BY MR. NEELY:

13 Q. Was there any talk about a recycling bin?

14 A. Yes.

15 Q. Could you tell the jury about that.

16 A. Brittney was sitting on the recycling bin, and
17 Trouble asked for it.

18 Q. I want to show you what is marked as State's
19 Exhibit 9 and ask if you could identify that. What is in
20 that picture?

21 A. The apartment.

22 Q. Is that is the Battery Avenue Apartments?

23 A. Yeah.

24 Q. Is that the front of the building or the back of
25 the building?

1 A. The front.

2 Q. Okay. I'm going to show you State's 10 and ask if
3 you can identify that. Is there anything different in
4 that picture?

5 A. It's closer.

6 Q. But the same building?

7 A. Yes.

8 Q. Let's look at State's 11. What is that?

9 A. The little dark place I was talking about.

10 Q. Okay. So when we talk about the breezeway, is
11 that the area you're talking about?

12 A. Yes.

13 Q. And what about State's 15?

14 A. The back.

15 Q. That's the back of that same apartment building.

16 A. Yes.

17 Q. Do you see a recycling bin in that picture?

18 A. Yes.

19 Q. And does that recycling bin resemble the one you
20 would have seen on that day?

21 A. Yes.

22 Q. Okay. When we talked about the conversation, you
23 said Trouble told Brittney what?

24 A. Give me the recycling bin.

25 Q. Could you see what he did with it?

- 1 A. No.
- 2 Q. Did you ever see that recycling bin again that
3 day?
- 4 A. Yes.
- 5 Q. When was that?
- 6 A. I can't remember exactly when.
- 7 Q. Well, tell me about when you saw it. Not so much
8 the time, but what happened to let you see that?
- 9 A. It was right there.
- 10 Q. Right where it is now?
- 11 A. (Nods head.)
- 12 Q. Was there anything near it?
- 13 A. No.
- 14 Q. How was it positioned?
- 15 A. Like, propped up, kind of like by angle.
- 16 Q. Okay. Did you see anything inside of it or near
17 it?
- 18 A. Yes.
- 19 Q. Would you tell the jury what that was.
- 20 A. A gun.
- 21 Q. Okay. And just so we're clear, if you're looking
22 at that picture, can you tell us where Terrell Chandler's
23 apartment would have been, the back door, if you know?
- 24 A. That white door.
- 25 Q. If you could just point to it?

1 A. (Indicating.)

2 Q. Okay. Thank you. After you guys were tripping in
3 the breezeway, did you see Terrell anymore?

4 A. Yes.

5 Q. Will you tell the jury about that.

6 A. We always see each other. Like, ain't nothing
7 mysterious, we were just playing.

8 Q. Did you get any instructions about where you could
9 go and where you couldn't go after you saw the recycling
10 bin taken away from the breezeway?

11 A. Yeah, but we always talked to each other like
12 that.

13 Q. What was that?

14 A. He was, like, Don't go in back.

15 Q. After you guys at some point left the breezeway,
16 where did you go?

17 A. Home.

18 Q. And did you go home alone?

19 A. I can't remember.

20 Q. Okay. Let me ask you this: Did you see Che or
21 Storme that night?

22 A. Yes.

23 Q. And were they hanging out with Terrell?

24 A. Yes.

25 Q. At some point did you hear any type of gunshots or

1 anything later that night?

2 A. Once.

3 Q. Would you tell the jury what you were doing when
4 you heard that.

5 A. I was in my room, me, Amanda, and she, like, Did
6 you hear that?

7 And I was, like, What?

8 And she said, They're shooting.

9 And I said, Oh, I thought something fall off my
10 dresser. Then I hear shooting, and then I heard a car
11 drive on, and I ain't going to look at it.

12 Q. I asked you a few seconds ago a list of names, and
13 I asked you about Steven Brown. You said you didn't w
14 who that was?

15 A. No.

16 Q. Do you have any idea who he is?

17 A. No.

18 MR. NEELY: Thank you. No further questions.

19 THE COURT: Cross?

20 MR. HOWE: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. HOWE:

23 Q. Naomi, the first time that you ever told anybody
24 about that day of the shooting and seeing some kind of
25 gun in the recycling bin was about eight or nine months

1 after the shooting, wasn't it?

2 A. I don't know.

3 Q. If I'm looking at a statement that you gave a
4 police officer that has a date on it of March 13, 2009
5 when you were spoken to at West Ashley High school, would
6 that give you a little better recollection of when --

7 A. Yes.

8 Q. And this was the very first time that you ever
9 talked to anybody about supposedly seeing some kind of
10 gun in the recycling bin, wasn't it?

11 A. Yes.

12 Q. And why did you wait so long? Doesn't this sound
13 like something significant to you? Why didn't you ever
14 tell anybody, the police --

15 A. Because it wasn't any of my business.

16 Q. You heard -- you said you heard shots that night,
17 right?

18 A. Yes.

19 Q. Like in your neighborhood, near your house.

20 A. Yes.

21 Q. And earlier that day you said, you've testified,
22 that you saw a big gun with some kind of propped up
23 recycling bin, right?

24 A. Yes.

25 Q. And that is none of your business in your own

1 neighborhood?

2 A. No. They ain't shooting me.

3 Q. And, actually, that night, or early the next
4 morning, that night, just before midnight, you were
5 actually spoken to by a detective named Detective
6 Burkhardt, weren't you?

7 A. Not that night. It was the daytime when he was in
8 front of my house.

9 Q. But it was that night or the next day, correct?

10 A. Yes.

11 Q. And some detectives were going through the
12 neighborhood and talking to folks about what they might w
13 about the shooting that night before, right?

14 A. Yes.

15 Q. And you spoke to a detective?

16 A. Yes.

17 Q. And you didn't tell him anything about seeing a
18 big gun next to the recycling bin, did you?

19 A. No.

20 Q. Okay. Now, that recycling bin that you saw you
21 said in front of the building and behind the building,
22 it's a standard Charleston County issued recycling bin,
23 right?

24 A. Yes.

25 Q. The blue kind that everybody gets?

1 A. Yes.

2 Q. And you're saying a big gun was, what, underneath
3 it, inside it, what?

4 A. It was, like, inside it. I can't remember if it
5 was up or down but I know it was propped up some kind of
6 the way.

7 Q. The open end of the recycling bin was pointing
8 upward and the gun is in it?

9 A. It was like diagonal.

10 MS. SHEALY: I'm going to ask that item be
11 marked if he's going to use it.

12 THE COURT: Guns make people very, very
13 nervous. I want to make sure prior to it being brought
14 here it was disarmed. It's not capable of being fired
15 and the ammunition is segregated from it, so it is not
16 possible that anybody gets accidentally, shot but at the
17 same time, lawyers also know that people are very nervous
18 so they won't be aiming it at anybody, including y'all,
19 so handle with care.

20 I wanted y'all to know it was disabled.

21 (Gun marked for identification as Defendant's
22 Exhibit No. 1.)

23 BY MR. HOWE:

24 Q. So, Miss Bryant, is this the gun or something like
25 it?

1 A. I don't know. I know it was long.

2 Q. Is this gun long?

3 A. Yes.

4 Q. And you said the recycling bin, was it turned
5 upside down or was the open part up?

6 A. I can't remember. I just know it was propped up
7 and the gun was diagonal.

8 Q. So you could see the gun?

9 A. Yeah.

10 Q. Could you see it easily?

11 A. No, not too noticeable.

12 Q. You knew what it was. It wasn't a baseball bat?

13 A. No.

14 Q. And it wasn't a tree limb?

15 A. No.

16 Q. It was a gun?

17 A. Yes.

18 Q. Did you get the feeling that somebody was trying
19 to conceal that gun?

20 A. I don't know. Like, I guess.

21 Q. But you could see it.

22 A. Yes.

23 MR. HOWE: We would ask that these be marked
24 as Defendant's Exhibits 2 and 3.

25 (Photographs marked for identification as

1 Defendant's Exhibit Nos. 2 and 3.)

2 BY MR. HOWE:

3 Q. This picture I'm showing you, what does it show?

4 Can you identify it?

5 A. The side of the apartment.

6 Q. And would it show the street, being Hillsboro, and
7 that would be your house, won't it?

8 A. Not that one, a little further. It's the one with
9 the big loud dog barking in front.

10 Q. That is not your house right there?

11 A. Yeah.

12 Q. And would this be -- like, if you're facing that
13 930 Battery, this is the extreme right hand?

14 A. Yes.

15 Q. And does this accurately portray the openness that
16 there is on that side of the building, like it's open up
17 and you got this sort of field looking thing there?

18 A. It's more.

19 Q. It's more open. It's more open. It's here to the
20 right of the picture?

21 A. Yes.

22 Q. And it's kind of an open field area?

23 A. Yes.

24 Q. And this, does this show you more of the back of
25 the building?

- 1 A. Yes.
- 2 Q. And that is Hillsboro right there?
- 3 A. Yes.
- 4 Q. Okay. And maybe almost looking from your front
5 porch, looking to the right, that is kind of what you
6 would see?
- 7 A. No, because that tree --
- 8 Q. This tree is in the way?
- 9 A. Yes.
- 10 Q. But can you see all this part of the back of the
11 building?
- 12 A. Yes.
- 13 Q. And this is the breezeway right there where the
14 chair is?
- 15 A. Yes.
- 16 Q. And I think when you saw the -- or were looking at
17 the recycling bin from the state's exhibit, it was over
18 here somewhat to the right of this air conditioning unit?
- 19 A. I can't see.
- 20 Q. You want me to bring the picture closer?
- 21 A. Yeah.
- 22 Q. Over here, like you had it somewhat to the right
23 of this air conditioning unit?
- 24 A. Yes.
- 25 Q. And that is where it was and all this kind of

1 openess?

2 A. It wasn't open, like out in the openess for
3 everyone to see. It was, like, kind of by his door.

4 Q. By his door?

5 A. Yes.

6 Q. All right. Thank you. Now, when you were
7 answering Mr. Neely's questions, Ms. Bryant, I believe
8 that you said that Terrell said something to you that day
9 about, Don't go back there, right?

10 A. Yes.

11 Q. And you said, We always talk that way.

12 A. Yes.

13 Q. And so you didn't -- as far as how you understood
14 that, that really didn't mean anything to you, right?

15 A. No. It didn't mean nothing.

16 Q. Maybe other folks in the neighborhood have said
17 that to you before and you had said kind of like those
18 things to them before too?

19 A. No. It was like we always were with each other so
20 I wouldn't take that -- I wouldn't pay any attention.

21 Q. Two friends you were with, Amanda, her last name
22 is what?

23 A. Mack.

24 Q. And the other friend is Brittney, and her last
25 name is what?

1 A. Simmons.

2 Q. And they live at 930 Battery Avenue, in the
3 apartment building?

4 A. Yes.

5 Q. And do they live facing the building upstairs on
6 the far right, Apartment Four?

7 A. I don't know. I just know it's at the top. Like
8 if you look in front ward, it's on the top right.

9 Q. You're just saying, you don't necessarily know the
10 number?

11 A. Yes.

12 Q. And who do they live with?

13 A. Their mama and step daddy.

14 Q. And what is their step daddy's name?

15 A. Jamel, Jamel.

16 Q. Have you been in their apartment before?

17 A. Yes.

18 Q. And are they good friends of yours?

19 A. No.

20 Q. They're not good friends of yours?

21 A. No.

22 Q. And when you had been inside their apartment
23 before, at 930 Battery Avenue, have you ever seen other
24 people from that same building visiting up there? For
25 example, do you know Troy White?

1 A. Oh, yes.

2 Q. Okay. Have you ever seen Troy White up there
3 visiting that apartment where Jamel Brown, Brittney and
4 Amanda and those two mothers live?

5 A. Never inside.

6 Q. Never inside?

7 A. Like, on the little porch thingy.

8 Q. Say it again?

9 A. On the porch thingy.

10 Q. Upstairs, right in front of their front door?

11 A. Yes.

12 Q. And Troy would have been visiting who?

13 A. Jamel.

14 Q. Did you frequently see Troy over there?

15 A. Yes.

16 Q. Did you take it that he and Terrell were good
17 friends and spent a lot of time together?

18 A. Yes.

19 Q. Now, Naomi, Terrell Chandler threatened to shoot
20 your dog, didn't he?

21 A. Yes. He always does that.

22 Q. I mean, he called you up and threatened to shoot
23 your dog, didn't he?

24 A. Yes, but everybody does that.

25 Q. Everybody does that?

1 A. Because she's crazy.

2 Q. Who is?

3 A. My dog.

4 Q. So that was okay with you that he said that?

5 A. Yes.

6 Q. Why did you tell the police that Terrell
7 threatened to shoot your dog?

8 A. Because they asked what happened when they called
9 me, and that is all he said. He said, I'm going to call
10 you back, and I said okay.

11 MR. HOWE: That's all I have. Thank you.

12 THE WITNESS: Okay.

13 THE COURT: Redirect?

14 MR. NEELY: Briefly, Judge.

15 REDIRECT EXAMINATION

16 BY MR. NEELY:

17 Q. You mentioned a call from Terrell Chandler about
18 the dog. Was that the same night of the shooting?

19 A. Yes.

20 Q. And there was some question as to whether you
21 could identify that gun. Did you get close to the gun
22 that night?

23 A. No.

24 Q. And let me ask this, did you want to get involved?

25 A. No.

1 Q. Did you contact the officers and tell them you
2 wanted to give a statement?

3 A. No.

4 MR. NEELY: That's all we have, Judge.

5 THE COURT: Recross?

6 MR. HOWE: Nothing else, Your Honor.

7 THE COURT: You may step down.

8 MS. SHEALY: May she be excused?

9 THE COURT: Any objection?

10 MR. HOWE: No objection.

11 THE COURT: You're free to go. Thank you.

12 MS. SHEALY: Amanda Mack.

13 AMANDA MACK,

14 having been first duly sworn,

15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SHEALY:

18 Q. Amanda, I'm going to need you to scoot up a little
19 closer to that microphone. Would you tell the jury, how
20 old are you?

21 A. Fifteen.

22 Q. And back in May of 2008, you would have been 13?

23 A. Yeah.

24 Q. Look behind you at State's Exhibit No. 8 and tell
25 us what apartments those are.

1 A. Battery.

2 Q. Is that where you live?

3 A. Oh, yes.

4 Q. Could you point to us and show us where your
5 apartment is?

6 A. At the top on the right.

7 Q. I'm going to give you this little device to --
8 we'll see how this works. If you point at it and push
9 this button, you can kind of identify some areas for us.

10 A. Right here.

11 Q. Okay. And is your family's car depicted in that
12 picture?

13 A. Uh-huh.

14 Q. Where is that?

15 A. The red one.

16 Q. Could you shine the light on it. Okay. Very
17 good. Thank you. You lived in that apartment with who?

18 A. My sister and my stepfather and my mother and my
19 little sister and my little brother.

20 Q. Okay. Tell me how old your little sister and your
21 little brother are.

22 A. Now?

23 Q. Now.

24 A. My little sister is going on five; my little
25 brother is going on 12.

1 Q. And then Brittney is how old? Is she older or
2 younger than you?

3 A. Older. She's going on 18.

4 Q. If you would focus your attention back to the
5 night of May 30, 2008, okay? Do you remember seeing
6 Terrell earlier that evening?

7 A. Yeah.

8 Q. Okay. And what did you call Terrell?

9 A. Trouble.

10 Q. Trouble. How about the twins? Did you see them?

11 A. Yeah, but not as much as Terrell.

12 Q. Not as much as Terrell. And show us -- let's see.
13 If you could show us No. 9, Katherine. Where is
14 Terrell's apartment?

15 A. Right here.

16 Q. Okay. When you saw Terrell that day, what area
17 were you in when you saw him?

18 A. At the bottom, like --

19 Q. Turn?

20 A. Here.

21 Q. Right there?

22 A. Uh-huh.

23 Q. And at some point, tell us whether or not your
24 sister was sitting on something and there was a
25 conversation about it.

- 1 A. Yeah. She was sitting on the blue recycling bin.
- 2 Q. You're going have to talk a little closer and a
3 little louder.
- 4 A. She was sitting on the recycling bin.
- 5 Q. What happened when she was sitting on there?
- 6 A. Her and Terrell started arguing.
- 7 Q. And what did Terrell want her to do?
- 8 A. To get off of it.
- 9 Q. And did she get off of it?
- 10 A. Yeah, sooner or later.
- 11 Q. Okay. Do you remember where Terrell went after
12 that happened?
- 13 A. In the house.
- 14 Q. And what was he carrying back with him when he
15 went to the house?
- 16 A. The bin.
- 17 Q. Did you see him when he came back outside the
18 house?
- 19 A. Yeah, when we were walking away.
- 20 Q. Did he have anything other than the recycling bin
21 with him --
- 22 A. No.
- 23 Q. -- when he was coming back out of the apartment?
- 24 A. Huh-uh.
- 25 Q. Okay. Do you see anything in Terrell's hands that

1 evening?

2 A. Yeah, later on when he came back out.

3 Q. That's what I'm asking you about.

4 A. Oh, yeah.

5 Q. When you saw him and he was coming out, what did
6 you see in his hands?

7 A. An object.

8 Q. And what object was it?

9 A. A gun.

10 Q. Okay. Now, Amanda, I know you're 15, but you're
11 laughing. Are you nervous?

12 A. A little bit.

13 Q. Okay. I'm going to show you what has been marked
14 as Defendant's Exhibit 1. Hold on just a second. Sorry.
15 This is taking longer than I thought it would. I'll just
16 leave it like that for right now.

17 Showing you what has been marked as Defendant's
18 Exhibit No. 1. I guess for identification purposes --

19 A. I only saw the back part.

20 Q. You just saw the back part? Okay. Does this
21 appear to be the weapon you saw that evening?

22 A. I guess so.

23 Q. Okay. And when you say that you saw Terrell
24 leaving the apartment, which door did he come out of, the
25 front or the back?

- 1 A. The front.
- 2 Q. And where did he go with the rifle?
- 3 A. The back.
- 4 Q. Okay. Did he have the recycling bin with him when
- 5 he did that?
- 6 A. Yes.
- 7 Q. And did you, in fact, walk into the back area?
- 8 A. Huh-uh.
- 9 Q. So where was the last place you saw him walking
- 10 with it?
- 11 A. In the front, going to the back.
- 12 Q. Okay. Was Naomi Bryant out there with y'all that
- 13 evening?
- 14 A. Yeah.
- 15 Q. And when you saw Terrell walking with a rifle and
- 16 the recycling bin, did he say anything to y'all?
- 17 A. No. He told Naomi and my sister to not go around
- 18 the back.
- 19 Q. To not go around the back?
- 20 A. Uh-huh.
- 21 Q. What did you and the girls do after all that
- 22 happened. Do you remember what y'all did?
- 23 A. Yeah. We went down the street, but later on we
- 24 went to Naomi's house.
- 25 Q. And did y'all spend the night at Naomi's house?

1 A. Yes.

2 Q. Now, sometime later do you remember David Osborne,
3 who is seated in the courtroom --

4 A. Who?

5 Q. Could you stand, David? Do you remember him
6 coming to talk to you when you were at school?

7 A. Oh, yeah, school.

8 Q. Okay. Y'all didn't call David to ask him to talk
9 to you, did you?

10 A. No.

11 Q. Were you happy to talk to David Osborne?

12 A. No.

13 Q. Are you happy about being here today?

14 A. No.

15 Q. And you, in fact, gave him a statement about what
16 had happened earlier that night; is that correct?

17 A. How you mean?

18 Q. You told him when he came to your school, you gave
19 him a written statement about what had happened the night
20 of the shooting?

21 A. I was not there at nighttime.

22 Q. Okay. Earlier in the evening on the night of the
23 shooting.

24 A. Yeah.

25 Q. Okay. Now, let me ask you if you remember

1 something. Do you remember the day that the apartment
2 got searched?

3 A. Uh-huh.

4 Q. Do you remember texting Che to let him know? You
5 don't remember that?

6 A. No, I don't.

7 Q. Did you have Che's phone number though --

8 A. Oh, yeah. I did have it, but I didn't text him
9 though.

10 Q. Do you remember the police officers coming to your
11 apartment before they went down there?

12 A. Yeah.

13 Q. Okay. But you don't remember letting Che know
14 that?

15 A. Huh-uh.

16 Q. Beg the Court's indulgence just a moment.

17 Did you have your own cell phone back then or
18 did you share one.

19 A. I had my own cell phone.

20 Q. You had your own cell phone? I beg the Court's
21 indulgence for one second.

22 MS. SHEALY: I don't have any further
23 questions you need to answer any questions the defense
24 nay have.

25 MR. HOWE: Your Honor, we need to approach

1 the bench with Ms. Shealy, please.

2 MR. SLADE: Let me get a couple pictures,
3 Your Honor. I'll be right there.

4 CROSS-EXAMINATION

5 BY MR. SLADE:

6 Q. Amanda, your family is you and your sister, who is
7 Brittney, right?

8 A. Uh-huh.

9 Q. And Naomi Bryant were sitting in the breezeway --

10 A. Huh-uh.

11 Q. Just talking, right?

12 A. No.

13 Q. Okay. You weren't in the breezeway?

14 A. Huh-uh.

15 Q. Is there any reason that your sister would have
16 thought y'all were in the breezeway?

17 A. That's not the breezeway. That's the breezeway,
18 that little --

19 Q. I beg your pardon?

20 A. That is the breezeway inside there.

21 Q. Right. And we're talking about your testimony
22 that you just gave, right?

23 A. Uh-huh.

24 Q. And you and your sister and Naomi Bryant were in
25 the breezeway, correct?

1 A. Yeah, was were there.

2 Q. You were in the breezeway, and you were sitting on
3 the recycling bin?

4 A. My sister was.

5 Q. Your sister Brittney was sitting on the recycling
6 bin, okay, and your testimony is that you saw Terrell
7 walk -- can you hold this? Let me get this marked. Do
8 you have any objections to this --

9 MR. SLADE: If you could mark this as
10 Defendant's 4, please, ma'am.

11 (Photograph marked for identification as
12 Defendant's Exhibit No. 4.)

13 BY MR. SLADE:

14 Q. Your testimony is that you saw Terrell go in the
15 front door, right, or come out the front door with the
16 recycling bin, correct?

17 A. Uh-huh.

18 Q. And that gun, right?

19 A. Uh-huh.

20 Q. And he walked -- we're looking at the front, this
21 is his front door, right, Apartment Five?

22 A. Uh-huh.

23 Q. So he walked out here in the front and through the
24 breezeway --

25 A. No. I think he went the other way.

1 Q. Went the other way?

2 A. Yeah.

3 Q. Went around this way?

4 A. Uh-huh. I think he went the other way.

5 Q. This way?

6 A. I think.

7 Q. Okay. So you say you saw him. He came out the
8 front door with this gun and a recycling bin, and you
9 think maybe he went this way, right?

10 A. Uh-huh.

11 Q. And he is carrying the recycling bin and the gun,
12 according to you, and he walks around the end of the
13 building, correct?

14 A. Uh-huh.

15 Q. You do remember that part?

16 A. Yeah.

17 Q. And then --

18 A. I don't know nothing about the back of it. I
19 didn't go back there.

20 Q. And let me show you Defendant's Exhibit No. 2.
21 That is his back door right there, isn't it?

22 A. I guess so.

23 Q. Okay. And the recycling bin, puts the recycling
24 bin right there?

25 A. I don't know there, because I did not went back

1 there. I didn't go in the back.

2 Q. You definitely walked around the building,
3 correct?

4 A. Yeah.

5 Q. And he has a back door right there?

6 A. I know where the back door at.

7 Q. And you see these cars and front doors, and across
8 the street -- there are several houses across the street,
9 right?

10 A. Uh-huh.

11 Q. And some older ladies live in those houses,
12 correct?

13 A. Uh-huh.

14 Q. And they're constantly watching y'all and
15 complaining about y'all, right, making too much racket,
16 et cetera?

17 A. Oh, yeah.

18 Q. Oh, man, they're a pain, right? Correct?

19 A. I guess so.

20 Q. And they're calling all the time about everybody,
21 and they can -- the fronts of their houses front the
22 front of Apartment Five in this building, correct?

23 A. Uh-huh.

24 Q. Now, at the time that you and your sister and
25 Naomi gave some statements to Detective Osborne, he came

1 out to your high school, right, North Ashley?

2 A. West Ashley.

3 Q. I apologize, West Ashley, and there was a whole
4 bunch of talk about this case going on out there, right?

5 A. I don't know.

6 Q. You were talking to Lamarr Brown about it,
7 correct?

8 A. I don't know who that was.

9 Q. And y'all got to be the center of attention
10 because y'all lived in that neighborhood?

11 A. Me and who?

12 Q. You and your sister and Naomi Bryant, right?

13 A. Yeah.

14 Q. And people were asking y'all stuff about it,
15 right?

16 A. No.

17 Q. Well, Detective Osborne came out there to see a
18 guy named Lamarr Brown because he was talking about it,
19 right?

20 A. I don't know who that is.

21 MR. SLADE: I don't have any other questions
22 for this witness, Your Honor.

23 MS. SHEALY: I have no further questions. We
24 would ask that she be excused.

25 THE COURT: Any objection to her being

1 excused?

2 MR. HOWE: No, Your Honor.

3 MR. SLADE: No, sir.

4 THE COURT: Okay. You're free to go.

5 MS. SHEALY: Jamel Brown.

6 JAMEL BROWN,

7 having been first duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SHEALY:

11 Q. Mr. Brown, if you would, please, tell the jury how
12 old you are?

13 A. Thirty-five.

14 Q. And are you currently married?

15 A. Yes.

16 Q. Who is your wife?

17 A. Kristina Brown.

18 Q. And do y'all have some children together?

19 A. Yes.

20 Q. And do you also have some stepchildren?

21 A. Yes.

22 Q. Altogether, how many kids are in the family?

23 A. Four.

24 Q. And Amanda Mack is one of your stepdaughters?

25 A. Yes.

1 Q. Back in May of 2008, were you living in an
2 upstairs apartment on Battery Avenue?

3 A. Yes.

4 Q. And, in fact, could you tell the jury where you're
5 currently living?

6 A. Still live there.

7 Q. Are you working right now?

8 A. Yes.

9 Q. Where do you work?

10 A. Live Oak Memorial.

11 Q. And what do you do at Live Oak?

12 A. Grounds maintenance.

13 Q. Tell us, if you would, who Troy White is.

14 A. Troy White is the guy who lived downstairs.

15 Q. And is that in Apartment Five?

16 A. Yes.

17 Q. And did you know his roommate?

18 A. Yes.

19 Q. And who was his roommate?

20 A. Terrell.

21 Q. Terrell Chandler?

22 A. Yes.

23 Q. And what did you call Terrell?

24 A. Rell.

25 Q. Rell?

- 1 A. Yes.
- 2 Q. Tell the jury whether you had a closer
3 relationship with Troy White or Terrell Chandler.
- 4 A. With Troy.
- 5 Q. And what kind of stuff did you and Troy do
6 together?
- 7 A. Hang out, basketball game.
- 8 Q. Did you know where Troy was working?
- 9 A. During that time?
- 10 Q. Uh-huh?
- 11 A. Yes, ma'am.
- 12 Q. Back in 2008, where was he working?
- 13 A. The city of Charleston.
- 14 Q. Okay. What are your and Troy's ages compared to
15 Terrell and the twins, Che and Storme? Are they younger,
16 the same age?
- 17 A. Yes, ma'am. They're younger than us.
- 18 Q. So you and Troy hung out?
- 19 A. Yes.
- 20 Q. First of all, tell the jury, did you want to come
21 here today?
- 22 A. No, not actually, I didn't.
- 23 Q. Now, focussing your attention back to May of 2008,
24 May 30th --
- 25 A. Okay.

1 Q. -- tell the jury what kind of car you were driving
2 back then.

3 A. I had a red Chevy Lumina.

4 Q. Could I see No. 8, please? And sometime during
5 that evening of May 30th -- turn around and look at
6 State's Exhibit No. 8 for me. Is that your red car?

7 A. Yes, ma'am.

8 Q. Would you tell the jury whether at any point that
9 evening you saw Terrell Chandler.

10 A. Say it again, please.

11 Q. At any point on the May 30th in the evening hours,
12 did you see Terrell Chandler?

13 A. Yes.

14 Q. And where were you when you saw him?

15 A. I was in the car.

16 Q. Okay. And what, if anything, did Terrell say to
17 you?

18 A. He came out, he said, You guys should go in the
19 house.

20 Q. You what?

21 A. You should go in the house.

22 Q. What else did he say?

23 A. Some shots.

24 Q. What?

25 A. He said you might hear some gunshots.

1 Q. And he told you to go in your house?

2 A. Uh-huh.

3 Q. Now, do you, in fact, go back in your house?

4 A. No.

5 Q. At some point that evening do you go in your
6 house?

7 A. Yes.

8 Q. And do you hear shots when you go back in your
9 house?

10 A. Yes.

11 Q. That evening, after the shots, do you see Troy?

12 A. Later on that night, yes, I did.

13 Q. And where was Troy White coming from?

14 A. He was coming from work.

15 Q. Did you tell Troy what Terrell had said to you?

16 A. Yes.

17 Q. Do you remember the next day an officer coming
18 over and talking to you and Troy White and asking y'all
19 if y'all heard shots?

20 A. It might not have been the next day, some previous
21 days after that, yes, officer did come and speak with me.

22 Q. And when you were first asked whether you heard
23 shots, did you tell the police the truth the first time?

24 A. No, I did not.

25 Q. Why didn't you?

1 A. Actually, because I didn't know what was going on
2 and, you know, it wasn't any of my concern, any of my
3 business, actually.

4 Q. Could you explain that to the jury for me. Is it
5 the type of thing you want to get involved in?

6 A. No, ma'am. Actually, no, ma'am, I didn't, I
7 don't. I have kids. I'm married. No, ma'am.

8 Q. And, later, then, did, actually, I think it was
9 Officer Burkhardt actually take a written statement from
10 you?

11 A. Yes.

12 Q. And when you gave the written statement, does it
13 sound right that you would have given that on June 9th,
14 several days later?

15 A. Yes.

16 Q. When you were questioned by Investigator
17 Burkhardt, did you, in fact, at that time admit what
18 Terrell had said to you earlier?

19 A. Yes.

20 MS. SHEALY: Beg Court's indulgence a moment.
21 I have no further questions, Mr. Brown. If you would,
22 please, answer any that the defense may have.

23 CROSS-EXAMINATION

24 BY MR. SLADE:

25 Q. The night that Calvin Gibbs was shot, there were a

1 lot of police cars out there, weren't there?

2 A. Yes.

3 Q. And there were police cars around by the Hess
4 station. You could see the lights and the flashing
5 lights, you could hear the sirens for a while. You knew
6 there was some activity over there, correct?

7 A. Yes, uh-huh.

8 Q. And after some short period of time --

9 A. Uh-huh.

10 Q. -- that investigation and those policemen moved to
11 your building, correct?

12 A. Yes.

13 Q. And they were -- I'm showing the witness
14 Defendant's Exhibit No. 3. Now, can everybody see this?
15 All right. And your apartment is down at this end,
16 correct?

17 A. Yes.

18 Q. It's on the top floor, that's number four.

19 A. Yes.

20 Q. And there were policemen and police cars here in
21 the back.

22 A. Uh-huh.

23 Q. Correct?

24 A. Yes.

25 Q. And you could tell from your own observation that

1 there was some kind of investigation going on, correct?

2 A. Uh-huh, yes, sir.

3 Q. And you testified, your observations about this
4 day, were that you were sitting in your car before you
5 saw all these lights out there, earlier in the afternoon?

6 A. Uh-huh.

7 Q. And Terrell came by your car and told you that you
8 needed to go inside. There were going to be shots fired,
9 correct?

10 A. Yes.

11 Q. That is important information in your mind in a
12 context where there is an investigation going on in the
13 back of your house, right?

14 A. Uh-huh, yes.

15 Q. And you made a statement back on January the 9th
16 to one of the detectives -- excuse me, on June 9, 2008 to
17 one of the detectives investigating this case, correct?

18 A. Yes, uh-huh, yes, I did.

19 Q. And at that time you told that detective that you
20 went out and talked with one of the detectives carrying
21 on this investigation and told him what you had heard,
22 correct, from Terrell?

23 A. Actually, I was on my porch. He came up there and
24 spoke with me. I didn't go initiate any conversation
25 with anyone.

1 Q. Okay. So let me make sure we understand your
2 claim.

3 A. Uh-huh.

4 Q. You claim that within hours of this shooting --

5 A. Uh-huh.

6 Q. -- when there are blue lights flashing, policemen
7 everywhere, you told the policeman that night, sometime
8 just past midnight, correct --

9 A. It was not that same day. It was not on the day
10 of the shooting, it was days after.

11 Q. You gave a statement back on June the 9th of 2008,
12 correct?

13 A. Uh-huh.

14 Q. Would you take a look at that and tell us if that
15 was a copy of your statement that you gave on June the
16 9th?

17 A. Yes.

18 Q. Are you satisfied that was it?

19 A. Yes.

20 Q. And the detective who asked you this question, or
21 a detective asked you this question, were you home back
22 when the shooting occurred outside of your residence,
23 correct?

24 A. Yes.

25 Q. And your answer was, Yes, I was in apartment four.

1 A. Uh-huh.

2 Q. I was watching basketball.

3 A. Uh-huh.

4 Q. I heard multiple shots from the rear of the
5 building. I was minding my own business. After about 30
6 minutes I went outside, saw lots of cops.

7 A. Uh-huh.

8 Q. I spoke to a detective.

9 A. Yeah, he came upstairs.

10 Q. You claim you talked to a detective that night,
11 and what did you tell that detective?

12 A. On that night I told him that I didn't know what
13 happened.

14 Q. You told him your observations.

15 A. Okay.

16 Q. You claim you told that detective that night that
17 Terrell had told you there were going to be shots fired
18 and you need to get inside.

19 A. On the -- I don't really understand what you're
20 saying. On the night of the shooting that occurred on
21 the night when the detective came to me? Because it was
22 two --

23 Q. On June the 9th, you claimed you had told the
24 detective what you say Terrell had told you.

25 A. I'm not sure when June the 9th was. What date --

1 Q. Take a look at your statement.

2 A. What day was June the 9th? I mean, it's been a
3 couple years. Actually, I spoke to detective on that
4 night and at another time.

5 Q. And you claim that on the night that you spoke to
6 the detective, you told him Terrell had said, Get in your
7 house. There's going to be shots fired.

8 A. I think this was on the second occasion, when I
9 did speak with someone.

10 Q. You wrote, I spoke with a detective. I told him
11 my observations.

12 A. I'm trying to remember. On the first night when
13 the incident happened, I said I didn't know anything.

14 Q. Your observations were you say today that Terrell
15 told you to get in the house, there were going to be
16 shots fired.

17 A. So that might have been on the next time that
18 someone came and approached me.

19 MR. SLADE: I don't have any other questions
20 of this witness.

21 REDIRECT EXAMINATION

22 BY MS. SHEALY:

23 Q. Mr. Brown, just to make sure I understand, how
24 many times did you talk to a detective?

25 A. I think twice.

1 Q. The first time, what did you tell him about having
2 heard the shots?

3 A. I told him I heard the shots --

4 Q. The first time that they came to see you?

5 A. I didn't know anything.

6 Q. That's what you told the detectives?

7 A. Yes.

8 Q. Was that true?

9 A. Yes -- no, no, no. That was not true.

10 Q. The second time you spoke to the detectives was
11 the day you actually gave your statement?

12 A. Yes.

13 Q. And that was June 9th?

14 A. Approximately.

15 Q. Well, I'll show you your statement and ask you if
16 that refreshes your memory.

17 A. Okay. June 9th.

18 Q. June what?

19 A. June 9th.

20 Q. And on that occasion when you spoke with the
21 detective and gave a statement, is that when you told
22 them what Terrell had said to you that night?

23 A. Yes.

24 Q. Was the second time you spoke with a detective the
25 truth?

1 A. Yes.

2 MS. SHEALY: I have no further questions and
3 would ask that he be excused.

4 THE COURT: He gets to recross. Do you have
5 any questions you want to ask?

6 RE-CROSS-EXAMINATION

7 BY MR. SLADE:

8 Q. The only observations you had about that evening
9 was that you're saying Terrell told you something was
10 going to happen.

11 A. Uh-huh.

12 Q. Right?

13 A. Yeah.

14 Q. And you're saying you told the policeman, the
15 detective, that night, just after it happened --

16 A. No.

17 Q. -- what you're telling us Terrell said today.

18 A. No, that's not true. The first night I said I
19 didn't know anything. I didn't want to be involved.

20 Q. Haven't you lied to the police before?

21 A. Uh-huh, yes.

22 Q. When you are talking with your friend Troy White,
23 do you go by any other names?

24 A. Yeah. I have a nickname.

25 Q. Mr. Fox?

1 A. Yes.

2 MR. SLADE: All right. I don't have any
3 other questions.

4 THE COURT: You can step down. Any objection
5 to him being excused?

6 MR. SLADE: None from us, Your Honor.

7 THE COURT: You're free to go.

8 THE WITNESS: All right. Thank you.

9 THE COURT: Y'all approach.

10 (Discussion held at sidebar.)

11 THE COURT: Okay. Folks, we're going to take
12 our lunch break right now. If you would, be back in the
13 jury room about five, ten minutes before 2:00, and we'll
14 start back at 2:00, all right? You're free to go to
15 lunch with anybody, including other members of the jury
16 panel if you want to, but, again, it's very important
17 that you not talk about the case in any way.

18 Don't comment about any witnesses. If
19 anybody approaches you to talk to you about the case,
20 please report that back to me immediately. All right?
21 Thank you. Enjoy your lunch, and we'll see you back at
22 2:00.

23 (Recess taken.)

24 A F T E R N O O N S E S S I O N

25 THE COURT: Are we ready? Okay. Let the

1 record reflect the defendant is in the courtroom. Bring
2 the jury in.

3 (In open court, jury present.)

4 THE COURT: All right. Welcome back. We're
5 going to resume now with the state calling the next
6 witness.

7 MS. SHEALY: Troy White.

8 TROY WHITE,

9 having been first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SHEALY:

13 Q. I may need you to speak a little more loudly for
14 us. Are you nervous?

15 A. It's the first time I've been in a courtroom, so
16 yeah, I'm a little nervous.

17 Q. Tell the jury how old you are.

18 A. Thirty-five years old.

19 Q. Where are you currently employed?

20 A. The Sheraton hotel.

21 Q. Are you still living in Charleston?

22 A. That's correct.

23 Q. Back in May of 2008, where did you live?

24 A. 930 Battery Avenue.

25 Q. And how long had you lived at 930 Battery Avenue?

1 A. A year and six months.

2 Q. At some point did you get a roommate?

3 A. Yes, I did.

4 Q. Who was your roommate?

5 A. Mr. Chandler.

6 Q. Is that Terrell Chandler?

7 A. That's correct.

8 Q. Do you see him seated in the courtroom?

9 A. Yes, I do.

10 Q. Could you point him out for us?

11 A. (Indicating.)

12 Q. Could you tell us what he has on?

13 A. Black khakis, black shoes, gray shirt.

14 Q. Okay. And how was it that you and Mr. Chandler
15 began rooming together?

16 A. I was friends with Mr. Chandler's brother. We
17 worked at the Home Depot in 2004.

18 Q. And through his brother, y'all made the connection
19 to start living together?

20 A. That's correct.

21 Q. Is there a bit of an age difference between you
22 and Mr. Chandler?

23 A. I believe so. I think there is maybe a five-year
24 age difference.

25 Q. Okay. Now, tell us, if you would, in May of 2008,

1 where did you work?

2 A. I was working for the city of Charleston, and I
3 was working for RGIS inventory takers.

4 Q. What kind of work were you doing for the city?

5 A. I was a construction worker.

6 Q. And at RGIS inventory service, describe for us
7 what that is?

8 A. They just do ordering. They count merchandise and
9 things of that nature.

10 Q. Would you see a lot of Terrell when y'all were
11 living together?

12 A. Yeah, occasionally I would.

13 Q. Okay. Tell us, if you were working two jobs, what
14 your hours typically were.

15 A. I leave home at 7 a.m. and return from -- anywhere
16 from 9 p.m. to 10 p.m.

17 Q. So you had long days?

18 A. Yes, I had long days.

19 Q. In living with Terrell, did you have the occasion
20 to meet Steven Brown who was known as Troop?

21 A. Yes, I do.

22 Q. And tell the jury, if you would, if Troop was over
23 at y'all's apartment very often.

24 A. Yes, he was there frequently.

25 Q. Would you describe for the jury what type of

1 relationship Terrell and Troop appeared to have.

2 A. Well, they obviously knew each other for quite
3 some time. They were friends from high school. They
4 were good friends.

5 Q. And from what you could tell, was one of them a
6 leader and one of them a follower?

7 A. I would say that -- I can't really tell, to be
8 honest with you.

9 Q. Did you know the twins?

10 A. Yeah. I saw them occasionally there at the
11 apartment.

12 Q. And did you know the difference between the two
13 twins?

14 A. One was skinnier than the other one.

15 Q. Any other difference?

16 A. No.

17 Q. I'm going to get you to walk us through the
18 apartment by looking at some photographs, okay?

19 A. Okay. That's fine.

20 Q. If I could see 17. If you could turn around, tell
21 the jury which room in the apartment that was?

22 A. That is the living room.

23 Q. And where is the front door when you're looking at
24 that picture?

25 A. Well, the sofa is near the wall. That is the

1 left-hand side. The front door would be on the
2 right-hand side.

3 Q. Can you stand and point to us where the front door
4 was.

5 A. Over here.

6 Q. So it's not in the picture?

7 A. That's correct.

8 Q. Okay. If I could see 18, please, State's Exhibit
9 18, and this is just a bit of a different angle. Where
10 is the kitchen when you're looking at the room in this
11 way?

12 A. Through this doorway right here.

13 Q. Okay. And 19, please. Now, that is the front
14 door that you were referencing earlier?

15 A. That's correct.

16 Q. And in this picture, is that front door open?

17 A. That's correct.

18 Q. If you would, tell us the doorway that is next to
19 the stool. What does that lead to?

20 A. Mr. Chandler's room.

21 Q. Beg the Court's indulgence just a second. That
22 was Mr. Chandler's room?

23 A. That's correct.

24 Q. Let me see the next photograph if I could, number
25 20. These pictures are showing up so dark. That is just

1 another angle of that same doorway?

2 A. Yes, it is.

3 MR. HOWE: Could she ask if he could identify
4 it and ask him what they are rather than telling him what
5 they are?

6 MS. SHEALY: Certainly. May I see the next
7 photo, please.

8 BY MS. SHEALY:

9 Q. Could you identify -- tell us whether you can
10 identify that picture.

11 A. Yes. That is the front room you were referring to
12 in the last picture.

13 Q. And whose room is that?

14 A. Mr. Chandler's room.

15 Q. May I have 21? And looking at State's Exhibit 21,
16 can you identify that photograph.

17 A. Yeah. I would assume that is Mr. Chandler's room.

18 Q. Number 22?

19 A. Yes, that also is Terrell's room.

20 Q. Number 23?

21 A. That too is Terrell's room.

22 Q. And that door that is in that picture, where does
23 that lead to?

24 A. The living room.

25 Q. What is the next one, if we could see State's 31.

1 Whose room is that?

2 A. That's my room.

3 Q. Okay. And where is your room in relationship to
4 Terrell's room? How would you describe that?

5 A. I would describe that as parallel to his room.
6 His room being in the front, my room would be in the
7 back.

8 Q. Okay. Could you show me State's 25, please.
9 Would you describe, if you can, what this depicts.

10 A. That is the corridor separating the living room
11 from the bathroom and my rear bedroom.

12 Q. So where is your bedroom in this picture, if you
13 could point to it?

14 A. Right in front of me, the door.

15 Q. And State's Exhibit 26?

16 A. That's the bathroom.

17 Q. And where is your relationship to the bathroom?

18 A. To the left of that bathroom.

19 Q. Okay. 27, whose bedroom is this?

20 A. That is my bedroom.

21 Q. And if we take a look at 30 again, what bedroom is
22 this?

23 A. That is my bedroom.

24 Q. And that blue object that is on the bed, could you
25 tell the jury what that is a picture of?

1 A. That was my uniform.

2 Q. And that is your uniform from which job?

3 A. The city of Charleston.

4 Q. Showing you State's Exhibit 29, can you tell us
5 what that is on the floor.

6 A. That was my uniform pants and my RGIS ID.

7 Q. Okay. 28? And when you say your RGIS ID, are you
8 referring to the item on the right?

9 A. That's correct. That is my wallet.

10 Q. And number 80, please. And whose bedroom is that?

11 A. That is Mr. Chandler's.

12 Q. That is Terrell Chandler's room?

13 A. That's correct.

14 Q. All right. Thank you. In general, when you and
15 Mr. Chandler were living together, would either of you
16 have a lot of people kind of come into the apartment?

17 A. Yes, at times. I would have friends come to the
18 apartment, yes.

19 Q. What about Mr. Chandler, would he?

20 A. Yes. He would frequently have friends.

21 Q. Did you ever have to speak to Mr. Chandler about
22 having friends over?

23 A. Yeah, occasionally. Occasionally I did ask him to
24 limit the number of people that came to the apartment.

25 Q. And why was that?

- 1 A. I didn't want to attract the wrong people.
- 2 Q. All right. Jamel Brown, did you call him Mr. Fox?
- 3 A. That's correct.
- 4 Q. Is that his nickname?
- 5 A. Yes.
- 6 Q. And you and he were buddies?
- 7 A. Yes. I knew Fox before I met Mr. Chandler.
- 8 Q. Okay. Would you and Mr. Fox, or Jamel Brown,
9 would y'all socialize together?
- 10 A. Yes, we would.
- 11 Q. What kind of stuff did y'all enjoy doing?
- 12 A. Just normal stuff, watching basketball games, guy
13 stuff.
- 14 Q. Okay. Now, when living with Mr. Chandler, did you
15 ever come across any weapons that he had?
- 16 A. That was on his possession?
- 17 Q. That he had in the apartment.
- 18 A. No.
- 19 Q. Any weapons. Do you understand my question?
- 20 A. Yes.
- 21 Q. Okay. I see you looking over at Mr. Chandler.
22 I'm asking you, when you lived with Mr. Chandler, did you
23 have the occasion to see some weapons in that apartment?
- 24 A. I did see a weapon in Mr. Chandler's room.
- 25 Q. Now, Mr. White, you appear to be having a hard

1 time talking about this. Is this making you
2 uncomfortable?

3 A. Yes. This was quite some time ago. This is
4 roughly about -- it's been three-and-a-half years ago.

5 Q. But you understand that it's important that you
6 tell us the truth today.

7 A. Absolutely.

8 Q. And so when you saw some guns at the apartment,
9 could you describe what they looked like.

10 MR. HOWE: I believe the witness testified he
11 saw a singular gun.

12 THE COURT: You could follow up and clarify
13 on that.

14 THE WITNESS: To clarify the statement, I did
15 see a rifle.

16 BY MS. SHEALY:

17 Q. Okay. And could you describe what the rifle
18 looked like?

19 A. It was an older model AK47.

20 Q. Okay.

21 MS. SHEALY: Judge, could I clarify whether
22 that is already in evidence or just in ID, Defendant's 1.

23 BY MS. SHEALY:

24 Q. I'm showing you what has been already been marked
25 as Defendant's Exhibit 1. I'm going to ask you if this

1 is the weapon you saw in Mr. Chandler's possession.

2 A. That's correct.

3 MS. SHEALY: At this time I would offer it as
4 a State's exhibit.

5 MR. HOWE: No objection.

6 THE COURT: It's admitted.

7 (Gun marked for identification and admitted
8 into evidence as State's Exhibit 98.)

9 BY MS. SHEALY:

10 Q. Where in the apartment would you see that weapon?

11 A. Like I said before, it would probably be in
12 Mr. Chandler's room.

13 Q. Did you see Troop ever messing with the rifle?

14 A. Yes.

15 Q. Did you see Mr. Chandler messing with the rifle?

16 A. I can't say that I did.

17 Q. All right. Well, when you would see it, where in
18 his room would be?

19 A. Probably laying right by his bed or by the
20 dresser.

21 Q. Did you also see it laying on his bed?

22 A. No.

23 Q. So by his bed and on the dresser is where you saw
24 it?

25 A. That's correct.

1 Q. Did you ever express to Mr. Chandler an opinion
2 about whether he should have guns in the apartment?

3 A. I can't recollect.

4 Q. Okay. What about any other gun? Do you remember
5 ever seeing any other gun in the apartment?

6 A. Yes. I seen a nine millimeter Glock.

7 MS. SHEALY: I beg the Court's indulgence for
8 a moment. If could I have this marked for identification
9 purposes, Judge.

10 THE COURT: All right.

11 BY MS. SHEALY:

12 Q. Showing you what has been marked as State's
13 Exhibit 99 for identification purposes, could you tell
14 the jury whether or not that is the weapon that you saw
15 in your apartment.

16 A. Yes, it is.

17 MS. SHEALY: Your Honor, I would offer it at
18 this time.

19 MR. HOWE: No objection.

20 THE COURT: Admitted.

21 (Gun marked for identification and admitted
22 into evidence as State's Exhibit No. 99.)

23 BY MS. SHEALY:

24 Q. I know some of the things that we're talking
25 about are making you uncomfortable, but let me ask you

1 something: Do you occasionally smoke marijuana?

2 A. Occasionally, if I have it.

3 Q. Okay. And what I would like you to do is -- let
4 me ask you one other item real quick. Do you remember
5 seeing any scales of Mr. Chandler's in the apartment?

6 A. No.

7 Q. You do not?

8 A. No.

9 Q. Now, if you could focus your attention back to May
10 30 of 2008. Tell the jury what you were doing that day.

11 A. I just completed my first job, going to city of
12 Charleston, and I immediately went to JC Penney's at the
13 Citadel Mall, stayed there for about four and a half,
14 five hours.

15 Q. That was in connection with which job?

16 A. The RGIS job, the inventory takers and came
17 home --

18 Q. Stop there if you would. Tell the jury, after
19 working two jobs that day, how did you get home?

20 A. I walk.

21 Q. And you walked from where?

22 A. Citadel Mall.

23 Q. All right. Tell us what you see as you approach
24 Sycamore?

25 A. I notice a number of police vehicles, flashing

1 lights, things of that nature.

2 Q. And do you continue walking towards your apartment
3 or do you turn around?

4 A. I walked past my apartment.

5 Q. And where did you go?

6 A. I went up to Mr. Fox's -- Mr. Brown's apartment.

7 Q. To his apartment?

8 A. Yes.

9 Q. Okay. Did you say there were police officers
10 outside in the area?

11 A. That's correct.

12 Q. Now, when you went up to Mr. Brown's apartment,
13 did he give you any idea about what was going on?

14 MR. HOWE: Your Honor, that would be hearsay.

15 MS. SHEALY: He's already testified, Your
16 Honor.

17 MR. HOWE: Then he could have been asked.

18 MS. SHEALY: I asked him.

19 THE COURT: Well, is it the same thing?

20 MS. SHEALY: Yes. I could make my question
21 more specific and see if it's still objectionable.

22 THE COURT: Go ahead.

23 BY MS. SHEALY:

24 Q. Mr. White, did Mr. Fox indicate to you anything
25 about a conversation he had with Mr. Chandler that

1 evening?

2 A. Yes, he did.

3 MR. HOWE: Objection. Hearsay.

4 THE COURT: Let me take the jury out a
5 minute.

6 (In open court, jury not present.)

7 THE COURT: If you're asking him what
8 somebody else said, that person was in court, they
9 testified and said it. To get him come back in and say
10 it, it's asking him to repeat an out of court statement.
11 It's back to being hearsay.

12 MS. SHEALY: Well, Your Honor, I think it's
13 appropriate for this reason: When I was examining Jamel
14 Brown, he indicated that, in fact, he had told Troy White
15 that evening. I think I have a right to prove he, in
16 fact, told Troy White that evening what Mr. Chandler
17 said.

18 I don't know if the defense is going to say
19 this is something fabricated on the part of Mr. Brown at
20 a later date, but he did tell Troy White that evening.
21 They had the opportunity to cross-examine Mr. Brown about
22 the very statement itself, so it's a statement that they
23 have had the opportunity to examine about.

24 MR. HOWE: It can't be a statement, Your
25 Honor. It is hearsay, and just the fact that he's

1 already testified doesn't meet an exception, nor does it
2 make it other than hearsay. It's not to say just because
3 Mr. Brown has testified that she could have -- she could
4 ask Mr. White about anything that Mr. Brown told
5 Mr. White simply because he's already testified.

6 MS. SHEALY: That's not what I'm attempting
7 to do.

8 MR. HOWE: That is the basis on which you're
9 trying to get it allowed.

10 MS. SHEALY: Is also would be relevant to
11 Mr. White's reaction to what was going on. He stays in
12 an apartment with Mr. Chandler. He hears this from
13 Mr. Brown that evening, and the actions that he takes
14 subsequent to that, the statement becomes relevant.

15 MR. HOWE: What is the exception to the
16 hearsay rule cited?

17 MS. SHEALY: I don't think it's hearsay in
18 that Mr. Brown has testified to the very statement.
19 Hearsay is to protect a statement that they don't have
20 the opportunity to question about.

21 MR. HOWE: We don't know what Mr. White is
22 going to say Mr. Fox said.

23 MS. SHEALY: We can proffer that right now if
24 needed.

25 THE COURT: Let's hear what he has got to

1 say.

2 BY MS. SHEALY:

3 Q. Do you remember what Mr. Brown said to you about
4 his conversation with Terrell Chandler?

5 A. I can't recollect.

6 Q. Do you remember giving a statement in the case?

7 A. Yes.

8 Q. And if I show you a copy of your statement, would
9 that help you refresh your memory?

10 A. Yes.

11 Q. The statement you're looking at, your handwriting
12 is at the top of the page; is that correct?

13 A. That's correct.

14 Q. Look at your own handwriting and tell me if that
15 refreshes your memory.

16 A. Okay.

17 Q. Do you now recall what it was that Mr. Fox said to
18 you that evening?

19 A. Yes.

20 Q. Could you advise the Court as to what that was.

21 A. He said that Terrell came upstairs and he said
22 that family, lay low, and he might hear some shots, just
23 to that effect.

24 Q. Okay. And if you could read directly from your
25 statement, would you just indicate to the Court what you

1 wrote on your statement, in your own handwriting.

2 A. On the night of the incident I was coming home.
3 Neighbors told me Terrell was in his presence. He told
4 me that Terrell had said he was going to let off shots.
5 Minutes later Mr. Fox heard some shots.

6 MS. SHEALY: That would be the proffer of
7 what I would ask him, Judge.

8 THE COURT: He's stating the same thing
9 Mr. Brown said, correct?

10 MS. SHEALY: Correct.

11 THE COURT: So it's not inconsistent with
12 what Mr. Brown said, so what I'm looking at is 801(d)1
13 where you have a prior statement by a witness, and it
14 says the statement is not hearsay if the declarant
15 testifies at trial or hearing and is subject to
16 cross-examination concerning the statement, which so far
17 that would be Mr. Brown in his statement, and the
18 statement is inconsistent with the declarant's testimony.

19 It's not inconsistent with his testimony, or,
20 B, is consistent with his testimony and is offered to
21 rebut an expressed or implied charge against the
22 declarant of recent fabrication, improper influence, and
23 motive, provided the statement must have been made before
24 the alleged fabrication, or before the improper motive.

25 I don't --

1 MS. SHEALY: That is the issue. That is why
2 I want it in. If you recall, Mr. Lanier was asking him a
3 bunch of questions about when he said what, to Mr. Brown,
4 and the statement where Mr. Brown indicates that, in
5 fact, Terrell had said on the night in question, you're
6 going to hear some shots was not said initially to the
7 first officer that evening; rather, it was said nine days
8 later in a written statement.

9 So I think it's permissible and falls into
10 that, what you were just reading, to be able to show that
11 when speaking to someone he knew that evening, he
12 indicated it. It wasn't fabricated nine days later.

13 MR. HOWE: I don't think Mr. Slade in his
14 questions to Mr. Brown talked about a recent fabrication
15 or an implied charge of that or an expressed charge of
16 that. It was actually on direct that Ms. Shealy reminded
17 Mr. Brown that on the night of the shooting he told the
18 police officer who came by, I have no observations. I
19 don't know anything.

20 So wasn't an implied or expressed charge on
21 the behalf of any attorneys on defense in cross. We
22 don't believe this applies.

23 THE COURT: Well, I think what it was is
24 Mr. Slade was asking the witness a question, which he
25 didn't understand, and I was having trouble with it too.

1 It took me a minute because the way Mr. Slade
2 was asking it, there was a statement made on the night of
3 the shooting, and that was referred to in the statement
4 that was made on, what, June 9th? And Mr. Slade was
5 asking him about a statement to the police, but he wasn't
6 saying the night of the murder, and I think Mr. Brown was
7 getting confused.

8 He was, like, Yeah, I gave them two
9 statements, and I could tell he was having trouble
10 understanding. Were you talking about the statement I
11 made on the 9th, or were you talking about the statement
12 I made on the 10th or the night of the shooting or the
13 statement that was made on the night of June the 9th?
14 That is what Ms. Shealy was clearing up, but it's not --

15 MS. SHEALY: Could I address that one point
16 real quick?

17 THE COURT: Let me finish my thought. So
18 that is not being used to clear up or rebut an expressed
19 or implied charge against the declarant of recent
20 fabrication or improper influence or motive.

21 So unless -- Mr. Brown is not charged as a
22 co-conspirator, so for him to say what Mr. Brown said is
23 simply being offered to bolster Mr. Brown's statement,
24 and Mr. Brown's statement, while it was probed, it wasn't
25 an implication that it -- first of all, it wasn't

1 inconsistent with what Mr. Brown testified to. You
2 cleared it up, and it wasn't a charge, express or
3 implied, for recent fabrication.

4 MS. SHEALY: Could I address that issue,
5 Judge?

6 THE COURT: Sure.

7 MS. SHEALY: And I have a copy of Mr. Brown's
8 statement. What Mr. Lanier was doing that became
9 confusing, in the written statement of Jamel Brown, he
10 indicated that on the night of the incident, I quote, I
11 spoke to a detective. I told my observations, and that
12 is what Mr. Lanier was drawing attention to with
13 Mr. Brown, was this question of, If you told him your
14 observations the night in question, then why didn't you
15 tell him about Terrell Chandler's statement?

16 And so here I have a witness that knows he
17 did communicate that statement that evening to him, and I
18 would assert Mr. Lanier's examining him about I told him
19 my observations does satisfy the recent fabrication
20 prong. I think the defense was obviously trying to make
21 it look like Mr. Brown was not telling the truth on 6/9
22 because he had not said it on May 31st, and here is a
23 witness that knows that Mr. Brown communicated that
24 communication between Mr. Chandler and Mr. Brown to him
25 that very night that it happened.

1 THE COURT: Where is the recent fabrication,
2 the allegation -- or the expressed or implied charge that
3 Mr. Brown recently fabricated that statement? There was
4 just a matter of trying to clarify what he said, either
5 on June the 9th, 2008 or May the 30th, 2008? It wasn't
6 that he was trying to say he said something different
7 just recently, like if he had just changed his statement
8 just recently and said, Oh, yeah, I told him, or, Yeah,
9 that night I told the police that Terrell told me to go
10 into the apartment.

11 If he would have just said that today for the
12 first time, or very recently for the first time, then I
13 would say, yeah, well, then you get to come in and show
14 that he said the same thing two years ago, but this is
15 not an allegation of expressed or implied charge. He
16 said the same thing in court that he said two years ago,
17 tomorrow will be to the day, so I don't think it's a
18 recent -- an allegation of recent fabrication, so I will
19 sustain the objection.

20 MS. SHEALY: Your Honor, then what I would
21 then seek to do is just to ask him, after a conversation
22 with Mr. Brown -- what I would like to do is ask him,
23 after a conversation with Mr. Brown about his
24 conversation with Mr. Chandler earlier, what did y'all
25 do, not going into what was said.

1 THE COURT: That's fine.

2 MR. HOWE: So long as that's not -- you can't
3 get directly indirectly --

4 THE COURT: Why don't you tell me how you
5 want to phrase that question.

6 MS. SHEALY: You want me to just try it with
7 him right now?

8 BY MS. SHEALY:

9 Q. Mr. White, when you went up to Mr. Brown's
10 apartment --

11 A. Yes.

12 Q. -- did you and he have a conversation about --
13 don't tell me what the conversation was, but did you and
14 he have a conversation about what Mr. Chandler had told
15 him earlier in the evening? I may have made that too
16 wordy to understand --

17 A. No, I understand what you're saying, but if I
18 could -- to my recollection, when I spoke to Mr. Brown,
19 his comments were very vague and unexplicit. He wasn't
20 pinpointing exactly what had happened, but that he was
21 saying something had happened and that I didn't need to
22 be involved in the situation. So it was to my best
23 interest that I leave, like the premises, the area in
24 general.

25 Q. Are you talking about conclusions you reached or

1 what Mr. Fox told you?

2 A. Conclusions that Mr. Fox had reached at the time.

3 MR. HOWE: Which is hearsay.

4 MS. SHEALY: May I try the question a little
5 differently, Judge?

6 THE COURT: Yes.

7 BY MS. SHEALY:

8 Q. Mr. White, when you went over to Jamel Brown's
9 apartment that evening --

10 A. Yes, ma'am.

11 Q. -- without telling me what was said, did you and
12 he have a conversation about what had happened earlier in
13 the evening? Just yes or no. Did you have a
14 conversation?

15 A. Yes, briefly.

16 Q. Okay. And as a result of that conversation, did
17 you and Mr. Brown leave?

18 A. Yes.

19 Q. And then I would take that and go from there.

20 MR. HOWE: Your Honor, that can only emanate
21 and be the result of what Mr. Brown told him. It's
22 central to that. Wholly that is from the hearsay what
23 Mr. Brown told Mr. White.

24 MS. SHEALY: I could certainly ask him what
25 he does as a result of what happened --

1 THE COURT: How about this: Did you have a
2 conversation? Yes. After that conversation, what did
3 you do?

4 MS. SHEALY: Well, I would like to say did
5 you have a conversation about what had happened earlier
6 in the evening.

7 THE COURT: Okay. That's fine, but then
8 don't lead. Just say, After that conversation, what did
9 you do?

10 MR. HOWE: If she asked about did they have a
11 conversation about what happened earlier in the evening,
12 that goes to the substance --

13 THE COURT: But it does not elicit what that
14 statement -- what the answer was. I'm restricting it,
15 and I'm forcing her to not lead. She can ask him, Did
16 you have a conversation with him about what happened
17 earlier in the evening? His answer was yes, and then
18 rather than say as a result of that, what did you do, she
19 could just say, After that, what did you do?

20 That's a nonleading question, and it doesn't
21 necessarily mean that he left because of that
22 conversation or whatever. Okay?

23 MR. HOWE: We're satisfied with that.

24 THE COURT: All right. Just --

25 MS. SHEALY: Can I caution him just real

1 quick -- Mr. White, make sure when I ask you these
2 questions don't volunteer what Mr. Fox said.

3 THE WITNESS: Okay.

4 MS. SHEALY: Don't say it, okay?

5 THE WITNESS: Okay.

6 THE COURT: And be very careful when you get
7 on your cross-examination that you don't just kick the
8 door wide open that I kept shutting, okay?

9 MR. HOWE: No worries.

10 THE COURT: Okay. Ready? Bring the jury
11 back in.

12 (In open court, jury present.)

13 THE COURT: All right. We'll resume. Ms.
14 Shealy, go ahead.

15 BY MS. SHEALY:

16 Q. Mr. White, you had indicated to us that when you
17 got back to Battery Apartments, you went to whose
18 apartment when you got there?

19 A. Mr. Fox's.

20 Q. Okay. And did you have a conversation with
21 Mr. Fox about what had happened earlier in the evening?

22 A. Yes, I did.

23 Q. Okay. As a result -- I'm sorry. What did you and
24 Mr. Fox do then?

25 A. We left the neighborhood.

1 Q. Where did y'all go?

2 A. We went to the -- Wadmalaw Island.

3 Q. And where did you go when you went out to
4 Wadmalaw?

5 A. To a friend's, Mr. Fox's.

6 MR. HOWE: Objection, Your Honor. Relevancy.
7 Even remotely I can't see how this is relevant. Maybe
8 you can.

9 THE COURT: What is the relevancy as to what
10 he did in Wadmalaw Island?

11 MS. SHEALY: I'm just going to explain what
12 happened that evening --

13 THE COURT: Go ahead.

14 BY MS. SHEALY:

15 Q. After going to a friend's house in Wadmalaw, where
16 did y'all go?

17 A. We came back to the apartment.

18 Q. Okay. And when you say the apartment, which
19 apartment did you come back to?

20 A. I went to my apartment at 930 Battery Avenue,
21 apartment number five.

22 Q. When you went into your apartment, could you tell
23 the jury who all you saw there?

24 A. It was Mr. Chandler and, I guess, a couple of his
25 girlfriends there, girlfriend. I want to say Troop was

1 there, but I'm not sure.

2 Q. Do you remember whether there were other guys
3 there or not?

4 A. No.

5 Q. When you went in, did you ask anyone -- and don't
6 tell me what they said -- but did you ask anyone what had
7 happened?

8 A. No, I didn't.

9 Q. And why didn't you ask anyone?

10 A. For one, I was in a state of denial. I didn't
11 want to believe that something that went down that could
12 have possibly incriminate myself or Mr. Chandler.

13 Q. And the next morning when you woke up, who was
14 there?

15 A. If my memory is correct, I think Mr. Chandler and
16 one of the twins.

17 Q. Okay. Do you remember whether there was any
18 female present?

19 A. There could have been.

20 Q. And what were they doing?

21 MR. HOWE: They, being who?

22 MS. SHEALY: The twin, Mr. Chandler, and the
23 female.

24 THE WITNESS: My memory can't -- I can't
25 recall, to be honest with you.

1 BY MS. SHEALY:

2 Q. Okay. Did you ever ask Terrell what happened the
3 night before?

4 A. I mean, things went downhill so fast. It was a
5 very brief time after that incident that I saw
6 Mr. Chandler, so no, I didn't get a chance to, you know,
7 talk to him in length about it.

8 Q. Could you explain that to the jury? Why wouldn't
9 you talk to him?

10 A. Well, in the course of me going to work, our
11 schedules would conflict. I can remember my attitude
12 then being very passive, nonconfrontational. I didn't
13 want to open any can of worms with that situation.

14 Q. What is the next event that you recall happening
15 at your apartment after that?

16 A. The police issuing a search warrant.

17 Q. Okay. And where were you when the police came in?

18 A. I was in my bedroom.

19 Q. And do you recall what time of day they came into
20 the house?

21 A. It was 6:00 in the morning.

22 Q. And do you remember who all was at the house?

23 A. Yes. I think it was one of the twins,
24 Mr. Chandler, and the girlfriend, a couple.

25 Q. Okay. Do you, in fact, give a statement to the

1 police that day?

2 A. That's correct.

3 Q. Beg the Court's indulgence a moment. I'm sorry.
4 Did you say you did give a statement that day?

5 A. Yes, ma'am, uh-huh.

6 Q. Kind of describe for the jury what was going on
7 when the police were there.

8 A. It was -- there was just mayhem. I mean, there
9 was furniture being flipped over, mattresses, clothes
10 being thrown around the house, Mr. Chandler's dog being
11 taken, barking, everything, it was mayhem.

12 Q. Okay. And where were you when you gave your
13 statement, if you remember?

14 A. I was in the living room.

15 Q. Okay. Now, let me draw your attention back to the
16 two guns. Regarding the rifle, you indicated that you
17 had seen Troop messing with it; is that correct?

18 A. That's correct.

19 Q. And it stayed in Terrell's bedroom?

20 A. That's correct.

21 Q. Did you ever see Che Carr with the rifle?

22 A. Yes.

23 Q. Did you ever tell the police you saw Che Carr with
24 the rifle?

25 A. Yes.

1 Q. Would you explain to the jury why you would have
2 told them that.

3 A. From my recollection, I think the detective, he
4 was trying to coerce me into saying that he -- that he
5 knew something. His exact words was, I know that one of
6 the twins have something involved in it, and just, I
7 guess, being under duress, a little nervous, first time
8 that happening to me, I -- his name came to mind and that
9 is how that happened.

10 Q. And so you're telling this jury that you said that
11 to a police officer the day of the search?

12 A. Yes.

13 Q. Well, Mr. White, are you telling us the truth
14 today?

15 A. Yes.

16 Q. And explain to me again, you did not tell the
17 police the truth about Che why?

18 A. I was confused with the names, to be honest with
19 you.

20 Q. Okay. And when you say confused with the names,
21 what three names -- or how many names did you confuse?

22 A. Well, I always knew Troop as Troop. I didn't know
23 him as Mr. Brown. I didn't know him as anything other
24 than Troop, nickname. So I think that maybe -- in the
25 detective talking to me, I referred to this individual as

1 Che, Troop as Che.

2 Q. Okay. Now, during that statement when you say
3 that you had seen Che with the gun, is it your testimony
4 the police were focussing in on Che?

5 A. Yes.

6 Q. But during that statement, do you tell them that
7 you saw the weapons in Terrell's room?

8 A. Yes.

9 Q. So you told the truth about Terrell?

10 A. Yes.

11 Q. And you have indicated that that was the first
12 time you've had police come into an apartment like that
13 on you?

14 A. That's correct, yes, ma'am.

15 Q. I beg the Court's indulgence just one moment.

16 MS. SHEALY: Mr. White, that's all the
17 questions I have. Answer any the defense may have.
18 Thank you.

19 THE WITNESS: Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MR. HOWE:

22 Q. Mr. White, I'm Waring Howe. I represent your old
23 roommate Terrell.

24 A. Okay.

25 Q. Now, you've met with personnel from the

1 solicitor's office several times before today; isn't that
2 correct?

3 A. I wouldn't say several, but I have met with them
4 one time, yes.

5 Q. How many times?

6 A. One time.

7 Q. And when was that?

8 A. That was, I think, Thursday, Thursday of last
9 week.

10 Q. And where were you when you met with him?

11 A. In the solicitor's office.

12 Q. Okay. How did you get there?

13 A. I took a cab there.

14 Q. Okay. How long were you there?

15 A. I was there for two-and-a-half -- two-and-a-half
16 hours, maybe two-and-a-half hours, yeah.

17 Q. And did y'all talk about the case?

18 A. Yes, we did.

19 Q. Talk about Terrell?

20 A. Yes, we did.

21 Q. Talk about a lot of things we just heard?

22 A. Yes, particularly the events that happened on the
23 night of the crime.

24 Q. Now, when you just now testified that when you
25 went back to your apartment, you said that when you got

1 there, Terrell was there, Troop, meaning Steven Brown,
2 and two females, correct?

3 A. Yes.

4 Q. When you gave the statement to the police on June
5 the 2nd, you said that when you arrived home, there was
6 Terrell, Troop, and Che, correct?

7 A. Yes.

8 Q. So what you're saying today is different than
9 that; is that right?

10 A. Yes.

11 Q. All right. Now, you worked long hours back then?

12 A. Yes.

13 Q. First a city of Charleston job and then the job
14 with RGIS?

15 A. Yes.

16 Q. And I think you said your hours were 7 a.m. to 9
17 or 10 p.m.?

18 A. Yes.

19 Q. So a lot of times people were over at your
20 apartment even more than you were aware, correct?

21 A. That is correct.

22 Q. And as far as your understanding, the twins,
23 meaning Storme and Che Carr, they weren't employed. They
24 didn't have jobs, did they?

25 A. Not to my knowledge, no.

1 Q. And they didn't much go to school, did they?

2 A. I can't confirm or deny that.

3 Q. As far as you know, their whole days and whole
4 evenings have been completely free?

5 A. That's fair to say, yes.

6 Q. And who did they live with you, as far as you
7 knew?

8 A. I cannot tell you.

9 Q. Did they live just down the street on Tripe Street
10 with their elderly uncle?

11 MS. SHEALY: I think he just said he couldn't
12 tell.

13 THE WITNESS: I can't confirm that or deny
14 that.

15 BY MR. HOWE:

16 Q. Okay. As far as the twins presence and being
17 however frequently they were in your apartment, Apartment
18 Five, they were there a whole lot, weren't they?

19 A. They were there when -- yes, when I came home.

20 Q. In terms -- the months prior to May 30th, 2008,
21 would you say they were there just about every day and
22 evening? I mean, they hung out there, correct?

23 A. That's a fair assumption, yes, yes.

24 Q. Along with others, including Troop, a/k/a Steven
25 Brown?

1 A. Yes, that's correct.

2 Q. So it was a neighborhood hangout, wasn't it?

3 A. Pretty much so.

4 Q. And to the point where you even complained to
5 Terrell about how often there were people over there, his
6 friends, and maybe even what kind of friends he had over
7 there, correct?

8 A. Yes.

9 Q. I mean, did you have a certain impression of what
10 kind of characters that the twins were?

11 A. Yes. I was objectionable. I objected to the fact
12 that they were at the house more than they should have
13 been, particularly when neither of us were there.

14 Q. Even when neither you or Terrell were there, they
15 were there. Is that what you said? You even complained
16 to Terrell that not only were there twins over there a
17 lot, but he would allow them to be in there when they
18 were by themselves?

19 A. Yes.

20 Q. Okay. And with the twins being in there, Storme
21 and Che, did they also bring with them a certain kind of
22 conduct? When they came in, did a party come in too?
23 They partied there a lot, didn't they?

24 A. How do you define party?

25 Q. Smoking marijuana. That's one way some people

1 engage in what they regard as partying?

2 A. Not when I was there.

3 Q. Now when you were there sometimes because you did,
4 correct?

5 A. No.

6 Q. You never smoked marijuana in your apartment,
7 Apartment Five?

8 A. I never smoked marijuana with them.

9 Q. Did you ever smoke marijuana in your apartment,
10 Apartment Five? You testified did you occasionally.
11 Would you say it was perhaps more than what people would
12 regard as occasional? Didn't you always have
13 marijuana --

14 THE COURT: Finish your question before you
15 answer the next one. Break them down. Which one do you
16 want answered?

17 BY MR. HOWE:

18 Q. Did you smoke marijuana in that apartment?

19 A. Smoke marijuana -- I occasionally did -- yes, I
20 did.

21 Q. And would you say here, under oath that, it was
22 only occasionally?

23 A. Yes.

24 Q. And did you always have your own personal supply
25 in your apartment?

1 A. No.

2 Q. Did you frequently have your own personal supply?

3 A. No.

4 Q. When that apartment was searched that morning that
5 you described, were you afraid about the fact that dope
6 was found in your apartment?

7 A. No, because I was not aware of dope or marijuana
8 being there.

9 Q. Once it was, and once it was found in your
10 apartment, you had no concerns about you perhaps being
11 charged with it? Whose name was on the lease?

12 A. My name was on the lease, but I didn't -- I have
13 no recollection or knowledge of being there at the time
14 that I was there.

15 Q. Mr. White, with the twins always being around and
16 what was found in your apartment that was found and the
17 fact that you said you smoked marijuana yourself
18 occasionally, you're saying you didn't have any concerns
19 or weren't aware that there was marijuana in the
20 apartment on that given morning?

21 A. I think you're confusing the fact that the twins
22 were, that they end up having marijuana, and I don't
23 think that is a valid statement.

24 Q. Twins would come in there with marijuana, right?

25 A. No, not to my recollection.

1 Q. You're not going to be charged with any of the
2 marijuana that was found there, as far as you know?

3 A. Absolutely not.

4 Q. Now, you testified that you saw that rifle in
5 Terrell's bedroom before the night of the event, correct?

6 A. Before the night?

7 Q. Yeah.

8 A. I can't put a -- I'm not -- I can't say it was
9 before the night of that event, but it was weeks
10 preceding -- like, weeks from the point in time that
11 happened.

12 Q. You said you saw the -- I'm trying to understand
13 what you're saying. Would you explain that?

14 A. I can't pinpoint the time in which I saw the rifle
15 in Mr. Chandler's bedroom, but I did see the rifle in
16 Mr. Chandler's bedroom.

17 Q. Did you think that the rifle was there all the
18 time, or that it was only sometimes kept there?

19 A. I cannot confirm whether or not that rifle was
20 there all the time or just the time that I saw it.

21 Q. And you said you never mentioned it or complained
22 to your roommate about the fact that you had seen that
23 rifle there. Isn't that what you said?

24 A. Yes.

25 Q. And you said that the twins, Che and Storme, have

1 the run of the apartment, so if the rifle was there, they
2 had access to everything in the apartment, correct,
3 whether it was a pistol or a rifle or marijuana or food
4 or using the bathroom? If they were there when you and
5 Terrell were there, they had the run of the place; is
6 that correct?

7 A. I don't think that's a fair assumption.

8 Q. How were they restricted?

9 A. Well, there was either myself being there or
10 Mr. Chandler, Mr. Chandler having the responsibility of
11 the house and --

12 Q. If there is a handgun there, there is a rifle
13 there, there are drugs there and you and Terrell, neither
14 of are you there, how are those twins going to be
15 restricted about doing whatever they wanted with whatever
16 was present in the apartment? How could they be
17 restricted or regulated?

18 A. I can't answer based on hypothetical -- you know,
19 a hypothetical scenario. I can only answer you based on
20 the events that I -- the circumstances and experiences
21 that I went through there.

22 Q. I think you testified on the questions Ms. Shealy
23 had for you that sometime in the past you saw Troop,
24 Steven Brown, messing with the rifle, correct?

25 A. Yes, that's correct.

1 Q. And also you said that at least when the police
2 took your statement the morning of that search warrant
3 that you said you had seen Che messing with the rifle
4 before, right?

5 A. See, that's the part that I don't -- I might have
6 been confused in terms of, like, the names, the --
7 Mr. Troop's name, and Che, you know what I'm saying? I
8 always called them twin. I didn't refer to them as their
9 legal terms.

10 Q. But if you got confused about whether it's this
11 individual or that individual or this person's nickname
12 or that person's name and nickname, would it have been
13 more likely you would have been confused by which twin it
14 was, whether it was one twin and Troop? Do you see what
15 I'm saying?

16 A. Right.

17 Q. Would it have been more likely to confuse when it
18 was rather than a twin and Troop? Don't those twins look
19 a lot alike?

20 MS. SHEALY: Again, he's asking multiple
21 questions.

22 THE COURT: Ask one question at a time and
23 wait for an answer before you ask the next one. Which
24 question do you want answered?

25 BY MR. HOWE:

1 Q. Won't it be more likely that any confusion on your
2 part would have been as to which twin it was between the
3 two, rather than was if it was one twin as opposed to
4 Troop? Is that a fair statement to say?

5 A. It's a fair statement to say, yes.

6 Q. Do the twins look alike?

7 A. Yes. They are twins.

8 Q. I think you said that the difference, in your
9 eyes, as to any way they look different is one was
10 skinnier, correct?

11 A. That's correct.

12 Q. Describe Steven Brown?

13 A. Heavysset, dark skinned, with dreads, full lips,
14 high cheekbones, that type of thing.

15 Q. Heavysset. Would you think he weighs more than 200
16 pounds?

17 A. Yes, I would think so.

18 Q. And would he be a half a foot taller than the
19 twins, about six feet or so?

20 A. Half foot, maybe five. I know he's probably maybe
21 two inches taller than me, or maybe -- I'm five-nine, so
22 he's probably five-ten.

23 Q. Taller than the twins?

24 A. Yes, taller than the twins.

25 Q. Noticeably taller than the twins?

1 A. Yes, yes.

2 Q. I just want to show you these photographs, and if
3 you can go quickly, will you identify what that is.

4 A. That's 930 Battery Avenue, that entrance, the back
5 entrance of 930 Battery Avenue.

6 MS. SHEALY: Could we have an exhibit number
7 please.

8 MR. HOWE: I should have gotten it marked
9 first.

10 (Photographs marked for identification as
11 Defendant's Exhibit Nos. 5 and 6.)

12 MR. HOWE: That's been marked as Exhibit 5,
13 and if you would mark that one too, please.

14 BY MR. HOWE:

15 Q. And, Mr. White, what has just been marked as
16 Defense Exhibit 6, can you identify what this is?

17 A. Yes. That is the rear of 930 Battery Avenue.

18 Q. All right. Moving along, mark this, please.

19 (Photographs marked for identification as
20 Defendant Exhibit Nos. 7, 8, 9, 10 and 11.)

21 BY MR. HOWE:

22 Q. This too, what is that?

23 A. That is the rear of 930 Battery Avenue.

24 Q. Okay. And this, what is this a photo of?

25 A. I would say that's the side of 930 Battery Avenue.

1 If you're coming down Magnolia Road, that would be the
2 front side.

3 Q. Is that Magnolia or is that Sycamore?

4 A. Yes, Sycamore, you're right.

5 Q. As far as what has been marked as Exhibit 9, what
6 does that depict, can you describe that?

7 A. Yes. That's the rear of 930 Battery Avenue.
8 Yeah.

9 Q. Okay.

10 MS. SHEALY: Your Honor, at some point I
11 would like to be able to see these photograph. They
12 haven't been shown to me.

13 BY MR. HOWE:

14 Q. And as far as what is marked as Defense Exhibit
15 10, what do you know what that depicts?

16 A. Yes that is the back corridor of 930 Battery
17 Avenue leading to the front of the building.

18 Q. Is this sometimes referred to as a breezeway?

19 A. That's correct, yes.

20 Q. Okay. One more. And --

21 A. Yes, that's the stairwell in front of my apartment
22 leading -- at 930 Battery Avenue, the front, the front
23 side.

24 Q. Now, what is this?

25 A. That is a recyclable trash can.

1 Q. Was there one of these at your apartment?

2 A. Yes. It would be in the rear of 930 Battery
3 Avenue.

4 Q. Kind of like what you see in this picture, marked
5 Exhibit 8?

6 A. You mean the one on the lower -- that one right
7 there?

8 Q. Was it like that one?

9 A. Can you pick that up again? There is some
10 resemblance to it, but I think that one is a little bit
11 smaller.

12 Q. Did y'all have one for your apartment?

13 A. No, I don't remember us having one.

14 Q. Was there ever anyone kept at the back of the
15 apartment or anywhere in the apartment building?

16 A. Not to my knowledge, no.

17 Q. Okay. All right. Now, when you gave your
18 statement to the police, you said that you had seen Che
19 handle the AK47 before, correct?

20 A. Yes. But like I said before, I could be confusing
21 Che with Troop, because I remember -- I do remember
22 Mr. Troop -- Mr. Brown having it in his possession.

23 Q. But you met for almost three hours with the
24 solicitor's office last Thursday, and today you're saying
25 you never saw Che handle that gun; is that right?

1 A. Yes, but I don't think that had anything to do
2 with my testimony yesterday.

3 Q. Now, you said that on the morning of that search
4 warrant at your house when y'all were awakened at 6 a.m.,
5 that you felt coerced, that you were trying to give the
6 answers they wanted you to give. Isn't that what you
7 said?

8 A. Yes.

9 MR. HOWE: That's all I have. Thank you,
10 Mr. White.

11 THE COURT: Redirect?

12 MS. SHEALY: Thank you.

13 REDIRECT EXAMINATION

14 BY MS. SHEALY:

15 Q. Mr. White, Mr. Howe just asked you about meeting
16 with the solicitor's office. Did we try to talk you out
17 of the Che thing?

18 A. No.

19 Q. Did we in any way suggest to you what to say?

20 A. No.

21 Q. Now, from what Mr. Howe -- let me get a couple of
22 these things so they're not quite so distracting.

23 Mr. Howe was asking how close Terrell and Che and Storme
24 were. They appeared to be close, didn't they?

25 A. Yes.

1 Q. And from what you said, Che and Storme were over
2 there often with Terrell, correct?

3 A. Right.

4 Q. So what one was up to, they all were up to
5 frequently?

6 MR. HOWE: Objection. That is leading and
7 suggestive.

8 THE COURT: Sustained.

9 BY MS. SHEALY:

10 Q. When you indicated that Che and Storme were over
11 at the apartment a lot, was Mr. Chandler frequently there
12 with them?

13 A. Yes, yes.

14 Q. Okay. And I believe Mr. Howe asked you whether
15 Che and Storme were bringing the bad element to the
16 apartment. Do you remember him asking you about that?

17 A. Yes, I remember Mr. Howe alluding to that, uh-huh.

18 Q. But Mr. Chandler was selling marijuana; isn't that
19 true?

20 A. I remember Mr. Chandler smoking marijuana.

21 Q. Were you aware that he was also selling it?

22 A. I --

23 MR. HOWE: Your Honor, I think that is
24 leading. Can she say did he know whether or not he was,
25 but that is a suggestive question leading and prejudicial

1 and should be stricken.

2 THE COURT: Sustained. Strike the question.
3 Rephrase.

4 BY MS. SHEALY:

5 Q. What, if anything, did you know about
6 Mr. Chandler's connection with drugs in the apartment?

7 A. Mr. Chandler smoked herb. We all -- we all smoked
8 herb, and, yeah. That's -- that's basically the crux of
9 what I know about that.

10 Q. Let me ask you a couple questions about the
11 heights of these guys. You indicated that Steven Brown
12 was a little taller than you?

13 A. Yes.

14 Q. And you're how tall?

15 A. Five-nine.

16 Q. So between Che and Storme and Troop and you and
17 Terrell, who is the tallest?

18 A. Terrell.

19 Q. Now, the day of the search, were you in Terrell's
20 room when the marijuana was found?

21 A. No.

22 Q. In Terrell's room?

23 A. No, I wasn't.

24 Q. Okay. Were you in the room when Terrell indicated
25 to the police officers that the marijuana in his room was

1 his?

2 A. No. I was in the front of the building.

3 MS. SHEALY: I beg the Court's indulgence
4 just a moment. I have no further questions. Thank you.

5 THE COURT: Recross?

6 RECROSS-EXAMINATION

7 BY MR. HOWE:

8 Q. Mr. White, you were aware that you were asked to
9 call Mr. Chandler's lawyers and you never did; isn't that
10 correct, to speak to them about the case?

11 MS. SHEALY: I don't think this is proper
12 recross.

13 THE COURT: It's beyond the scope of
14 redirect. Sustained.

15 MR. HOWE: Nothing further.

16 THE COURT: You can step down.

17 MS. SHEALY: I would ask that he be excused,
18 Judge.

19 THE COURT: Do you need him for anything
20 else? Any objection to him being excused?

21 MR. SLADE: No, sir.

22 THE COURT: All right. You're free to go.
23 Thank you.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Let's take our

1 midafternoon break. We'll take about 10, 15 minutes. If
2 anybody needs to take a smoke break, they can escort you
3 downstairs. Please don't deliberate or discuss the case
4 or any of the witnesses.

5 See you back in a little bit.

6 (In open court, jury not present.)

7 THE COURT: All right. Are you ready with
8 your next witness?

9 MS. SHEALY: We're ready.

10 THE COURT: All right. Let the record
11 reflect the defendant is in the courtroom. Bring the
12 jury in.

13 (In open court, jury present.)

14 THE COURT: All right. Call your next
15 witness.

16 MS. SHEALY: Megan White.

17 MEGAN WHITE,

18 having been first duly sworn,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SHEALY:

22 Q. Okay. Ms. White, tell the jury, please, how old
23 you are?

24 A. Twenty-one.

25 Q. And are you currently living in Charleston?

- 1 A. Yes.
- 2 Q. Who do you live with?
- 3 A. My mother.
- 4 Q. Are you in school or working or --
- 5 A. School.
- 6 Q. And where do you go to school?
- 7 A. Trident Technical College.
- 8 Q. And what are you studying?
- 9 A. Marketing and hospitality.
- 10 Q. I want to ask you how you know certain people, if
- 11 you know them, Latrice Smalls?
- 12 A. School.
- 13 Q. Ta'Mequa Durant?
- 14 A. School.
- 15 Q. Che Carr?
- 16 A. A friend.
- 17 Q. Did he become a romantic friend?
- 18 A. Yes, he did.
- 19 Q. And how long did y'all date?
- 20 A. A year and a half.
- 21 Q. Storme Carr?
- 22 A. Friend.
- 23 Q. Terrell Chandler?
- 24 A. Friend.
- 25 Q. And Steven Brown, or Troop?

1 A. Friend.

2 Q. Okay. Now, did you know Troop as well as you knew
3 the other people or less than you knew the others or
4 what?

5 A. I knew him as well.

6 Q. Okay. When you first started seeing Che Carr,
7 where would y'all see each other?

8 A. At his uncle's house.

9 Q. Did something change about that?

10 A. Yeah.

11 Q. What happened?

12 A. Later on as we started talking he introduced me to
13 Terrell.

14 Q. And where would you most often see Che?

15 A. At Terrell's house.

16 Q. Okay. Describe for the jury how frequently would
17 go over to Terrell's?

18 A. Every day.

19 Q. What kind of stuff would y'all do when were you
20 over there?

21 A. Party, have a good time.

22 Q. Have a good time?

23 A. Uh-huh.

24 Q. When you were over there, were there usually other
25 girls there or not?

1 A. No.

2 Q. Okay. And were there times when other girls would
3 be there?

4 A. No. Other than Latrice and Ta'Mequa.

5 Q. When I say other girls, I mean including Latrice
6 and Ta'Mequa, would they often be over there too?

7 A. Uh-huh.

8 Q. Would Troop usually have a girl there?

9 A. No.

10 Q. While you would go over to Terrell Chandler's
11 apartment, did you ever see a weapon there?

12 A. Yes.

13 Q. And do you remember, if you could tell us, how
14 frequently you would see a weapon.

15 A. Every so often.

16 Q. And what did the weapon look like?

17 A. A rifle.

18 Q. Okay. Showing you State's Exhibit 98, I ask you
19 whether this is the weapon that you would see over there?

20 A. Uh-huh.

21 Q. Can you say yes or no for the record, please.

22 A. Yes.

23 Q. Would you see any other type of weapon?

24 A. Yes.

25 Q. What was it?

1 A. A black pistol.

2 Q. Okay. And showing you State's Exhibit 99, I ask
3 you if this was the pistol?

4 A. Yes.

5 Q. When you would see these weapons, where would they
6 be?

7 A. With him.

8 Q. With who?

9 A. Terrell and one with Troop, or Steven.

10 Q. Okay. And the one with Troop was which one?

11 A. The pistol.

12 Q. And where would Troop have the pistol?

13 A. In his pocket or sometimes in his room.

14 Q. Okay. And what did you see Terrell do with the
15 rifle?

16 A. Keep it in his hand or in his closet.

17 Q. Speak up a little?

18 A. He kept it in his hand or in his closet.

19 Q. When you say he kept it in his hand, what do you
20 mean?

21 A. Like, he held it in his hand.

22 Q. Can you stand up for me, and just using your arms,
23 would you show me how he would hold it?

24 A. He would hold the trigger thing in his hand to the
25 side, or sometimes he held it like that.

1 Q. You can have a seat. And when he was holding it
2 that way, where was he in the apartment?

3 A. In the hallway.

4 Q. Would he walk around with it?

5 A. Yes.

6 Q. What, if anything, did he tell you about whose
7 rifle that was?

8 A. He never said who it belonged to.

9 Q. Okay. Did you ever have any discussion with him
10 about whether it was his rifle?

11 A. No.

12 Q. Now, focussing your attention back to May 30th of
13 2008, okay, can you tell the jury what you did that
14 evening. What did you do that night?

15 A. Got dressed and went over to his house.

16 Q. And who asked you to go over there?

17 A. Che Carr.

18 Q. Do you remember what Che's telephone number was at
19 the time?

20 A. 330-1184.

21 Q. And would y'all talk cell phone to cell phone?

22 A. No, we mostly text.

23 Q. Oh, you text?

24 A. Uh-huh.

25 Q. When you got over to Terrell's that evening, could

1 you tell the jury, please, who was already there.

2 A. Ta'Mequa and Latrice Smalls.

3 Q. And when you got there, where were they?

4 A. In the back, in the back of the house.

5 Q. Okay. And what were they doing?

6 A. I have no idea.

7 Q. Were the guys inside?

8 A. No. They weren't.

9 Q. At some point do you see the guys?

10 A. Yeah. They came in and out of the house.

11 Q. Tell us whether there was anything unusual when
12 you first walked in for them to be there.

13 A. The house was pitch black and the doors were open.

14 Q. The doors were open?

15 A. Uh-huh.

16 Q. Did you ask anyone what was going on?

17 A. No.

18 Q. Okay. Now, what guys are you saying were in and
19 out?

20 A. It was Che, Storme, and Terrell.

21 Q. And you've noted that it was pitch black in there.

22 Was there anything else unusual? Was it noisy inside?

23 A. No, it was quiet.

24 Q. When you usually would go over there, would it be
25 noisy or quiet?

1 A. The lights would be on, TV would be on, radio,
2 uh-huh.

3 Q. Now, that night were the lights on?

4 A. No.

5 Q. Was the TV on?

6 A. No.

7 Q. Was the radio on?

8 A. No.

9 Q. Was there anything about how it was different that
10 struck you as unusual?

11 A. When we came in, the door was open and nobody,
12 like, was talking. It was just pure silence, and they
13 were in the back of the house.

14 Q. They were at the back of the house?

15 A. Uh-huh.

16 Q. When you say the back of the house, do you mean
17 inside the apartment or outside?

18 A. No, outside.

19 Q. So who was outside the apartment?

20 A. All the boys.

21 Q. When you say they were coming in and out, do you
22 mean several times or just one time?

23 A. Several times.

24 Q. What do you do when you see that Che is not inside
25 when you first got there?

1 A. I called him.

2 Q. Do you remember anything about how Latrice was
3 feeling that night?

4 A. She didn't feel well. She said she had a
5 headache.

6 Q. Okay. And at some point did the guys come back
7 inside the apartment or does Che, after you called him or
8 texted him?

9 A. Yeah, Che came in.

10 Q. Now, at any point do the guys all come back into
11 the apartment?

12 A. At the same time?

13 Q. Uh-huh.

14 A. No.

15 Q. Okay. Do you ever see them go back to Terrell's
16 bedroom before the shooting occurs?

17 A. No.

18 Q. Now, that evening, prior to any shots being fired,
19 did you see who had the rifle?

20 A. Uh-huh.

21 Q. Who had it?

22 A. Terrell.

23 Q. Okay. And did you notice anything about the guys'
24 clothing that night?

25 A. Yeah. It was all black and they had on black

1 hoodies.

2 Q. Why did that draw your attention, or was it normal
3 or odd?

4 A. It was odd because it was the summertime.

5 Q. At any point while y'all are in the apartment, the
6 girls -- do the girls stay in the apartment or do they
7 leave during the course of the evening?

8 A. They stayed.

9 Q. When you say the guys are in and out, at any point
10 when the guys are in and out, do you hear Terrell say
11 something?

12 A. Uh-huh.

13 Q. About what's going to happen?

14 A. He says, It's about to go down.

15 Q. Where was Terrell when he said that?

16 A. At the front of the door.

17 Q. How did that make you feel when he said that?

18 A. Cautious.

19 Q. Did you ask anybody what they thought was going
20 on?

21 A. I asked Latrice and Pookie, Ta'Mequa and they
22 weren't paying me any attention.

23 Q. When you say Pookie, that was Ta'Mequa?

24 A. Yes.

25 Q. You were asking them what?

1 A. What was going on, what was about to happen.

2 Q. Why were you asking these questions? How did you
3 feel?

4 A. Nervous.

5 Q. What is the next thing that happens?

6 A. They all exit out the back door, and next thing I
7 know I heard a gunshot.

8 Q. When you say they all exit out the back door, who
9 all exits out the back door?

10 A. Terrell and Che -- Storme and Troop. Well, Steven
11 was still outside. Terrell and Che left.

12 Q. So Terrell and Che left?

13 A. Uh-huh.

14 Q. Where was Storme, if you know?

15 A. At the back door.

16 Q. And when Terrell left, did he have anything in his
17 hands?

18 A. Uh-huh.

19 Q. What did he have in his hands?

20 A. His rifle.

21 Q. How long after that did you hear shots? Was it a
22 long time or a short time?

23 A. Five to ten minutes.

24 Q. Okay. And when you heard the shots, what did you
25 do?

1 A. Hit the floor.

2 Q. Could you tell from what area of the apartment the
3 shots came from, the apartment building, I should say?
4 Was it the front or the back could you tell?

5 A. The back.

6 Q. And after you hear the shots, what is the next
7 thing that happens?

8 A. I got up, and they started running in the house.

9 Q. Who started running in the house?

10 A. The boys.

11 Q. Did you see the pistol at that point?

12 A. No.

13 Q. Who ran in with the rifle, if anybody?

14 A. Terrell.

15 Q. Okay. And when they came running in, where did
16 they go?

17 A. Terrell, Steven, and Storme went into the bedroom,
18 and Che went in the room.

19 Q. Went into Terrell's room?

20 A. Uh-huh.

21 Q. Do you remember who all went into Terrell's room?

22 A. All of them went in there after they washed their
23 hands.

24 Q. And when you say that they washed their hands, do
25 you remember who washed their hands?

1 A. Terrell, Storme, and Steven.

2 Q. Was there any conversation while they were washing
3 their hands?

4 A. No.

5 Q. When they went into Terrell's bedroom after
6 washing their hands, did they come out and look any
7 different?

8 A. Uh-huh.

9 Q. In what way?

10 A. They changed their clothes. They took off their
11 sweaters and they had on, like, wife beaters.

12 Q. Wife beaters, the sleeveless T-shirts?

13 A. Uh-huh.

14 Q. Where did they go when they came out of Terrell's
15 room?

16 A. They came in the hallway and sat down.

17 Q. Did anybody say anything to the girls at that
18 point? Did they say anything to y'all?

19 A. No.

20 Q. Did things start getting noisy and the light come
21 on at that point?

22 A. No.

23 Q. So what happened with the lights and the noise in
24 the apartment at that point?

25 A. Nothing. They just told us to be quiet and don't

1 say anything and cut off the cell phones.

2 Q. And cut off the cell phones?

3 A. Uh-huh.

4 Q. At some point do you see the police start coming?

5 A. Uh-huh.

6 Q. Now, are you girls asking them what happened?

7 A. No.

8 Q. Okay. Can you explain to the jury why y'all would
9 not be saying what happened, what happened?

10 A. At the time, I couldn't get myself together
11 because I didn't know what happened out there, so I
12 didn't ask.

13 Q. Were the guys saying what happened?

14 A. No.

15 Q. At that point do you know where the guns are?

16 A. In his bedroom, where the rifle was in his
17 bedroom.

18 Q. And do you see the pistol again that night?

19 A. No.

20 Q. What do you y'all do for the rest of the night?

21 A. Sit there and be quiet till the police leave.

22 Q. And how long do you end up staying there?

23 A. Till the police leave.

24 Q. Excuse me?

25 A. Till the police leave.

1 Q. And do you remember -- was that the next morning?

2 A. Uh-huh, maybe 4:00 in the morning.

3 Q. Okay. When do you actually learn what had
4 happened that night?

5 A. When I got a phone call from Che saying he was in
6 jail.

7 Q. Okay. But what I mean is about the shooting
8 itself. Did you learn that someone had actually died?

9 A. No.

10 Q. You didn't learn that until when?

11 A. Until Che was in jail.

12 Q. Okay. Now, let me talk to you about you and Che
13 for a second, not trying to embarrass you or anything,
14 did you care a lot about him?

15 A. Yes.

16 Q. And how would you describe your feelings about
17 him?

18 A. We loved each other.

19 Q. Okay. And before this night you had been his
20 girlfriend for how long?

21 A. A year and a half.

22 Q. Now, did you give a statement to the police?

23 A. Yes, I did.

24 Q. And at that time were you still seeing Che at the
25 jail?

1 A. Uh-huh.

2 Q. In fact, how long did you continue to go see Che
3 at the jail after this happened? Like, for how long
4 would you still go visit him, do you remember?

5 A. Till last year.

6 Q. Okay. Now, I need you to explain that to the
7 jury. Why would you continue to go see him after what
8 happened that night?

9 A. Because he said he was innocent. He said he
10 didn't have nothing to do with it and I believed him.

11 Q. Do you still believe him?

12 A. No.

13 Q. You were there, though, when they ran back inside.

14 A. Uh-huh.

15 Q. But despite that, you still believed Che?

16 A. Uh-huh.

17 Q. Now, when you first spoke to David Osborne --

18 A. Uh-huh.

19 Q. -- do you remember what you told him about Che
20 running down the street?

21 A. Uh-huh.

22 Q. Tell the jury what you told him --

23 MR. SLADE: Your Honor, I object to this line
24 of questioning. We are about to engage in a bolstering
25 effort before any type of examination on this witness's

1 credibility begins.

2 MS. SHEALY: Could we approach, Judge?

3 THE COURT: Uh-huh.

4 BY MS. SHEALY:

5 Q. Megan, my question to you again was what -- do you
6 remember what you said to Detective Osborne about Che and
7 his running down the street that night?

8 A. I know bits and pieces of it. He told me he
9 wanted me to tell him that he got jumped and that Terrell
10 Chandler was chasing after him down the street with a
11 gun.

12 Q. Now, let's slow that down a little bit, okay?
13 When you say he wanted you to tell that, are you telling
14 the jury that Che told you what to say?

15 A. Che told me to say that.

16 Q. And were you a witness to what Che was telling you
17 to say?

18 A. Uh-huh.

19 Q. I'm sorry. That was kind of a complicated
20 question. Che told you what to tell Detective Osborne?

21 A. Uh-huh.

22 Q. And you do you remember the specifics of that
23 regarding Che running down street with only a shirt on?

24 A. Yes.

25 Q. Was it true?

1 A. No.

2 Q. You told that to Detective Osborne why?

3 A. Because he wanted me to lie.

4 Q. So is it fair to say that you lied to the police
5 about what happened that night?

6 A. Yes, it is.

7 Q. Now, during that same conversation with Detective
8 Osborne on that same day, do you give a written
9 statement?

10 A. Yes, I do.

11 Q. Okay. Do you tell Detective Osborne what you told
12 us today?

13 A. Yes.

14 Q. Now, did you have any occasion to talk to an
15 investigator in the public defender's office?

16 A. Yes.

17 Q. Okay. And did someone speak to you before you
18 spoke to that investigator? Did --

19 A. Che's investigator?

20 Q. Che's investigator.

21 A. Yes.

22 Q. And who spoke to you before that?

23 A. Detective Osborne.

24 Q. But I'm asking of the twins, Storme or Che, did
25 either of them talk to you about what to say to the

1 investigator?

2 A. Yes.

3 Q. Okay. Who talked to you?

4 A. Storme.

5 Q. And what did Storme tell you to say?

6 A. The same lie that I told the detective.

7 Q. Okay. And did you, in fact, go tell the public
8 defender's investigator that?

9 A. Yes, I did.

10 Q. Now, Megan, I need you to look at the jury and
11 tell them, did you lie to the investigator for the public
12 defender's office?

13 A. Yes, I did.

14 Q. Why?

15 A. Because Storme Carr asked me to.

16 Q. And Storme Carr is Che's brother?

17 A. Yes.

18 Q. Now, you're here today to do what?

19 A. Tell the truth.

20 Q. You no longer have a relationship with Che?

21 A. No, I don't.

22 Q. Are you here because you want to hurt Terrell?

23 A. No, I'm not here to do that.

24 Q. Are you here because you enjoy doing this?

25 A. No.

1 Q. What you told the jury today about what happened
2 that night, is that true?

3 A. Yes, it is.

4 Q. And who did you see that evening with the rifle?

5 A. Terrell.

6 MS. SHEALY: I beg the Court's indulgence.

7 BY MS. SHEALY:

8 Q. What kind of car were you driving that night?

9 A. A white Oldsmobile Bravada.

10 Q. And do you remember where you parked that night?

11 A. Yes.

12 Q. Where did you park?

13 A. In front of the door.

14 Q. Okay. Showing you State's Exhibit 32, is that a
15 picture of your car?

16 A. Yes, it is.

17 Q. I beg the Court's indulgence just a moment.

18 Megan, when you indicated Terrell said something was
19 getting ready to go down, do you remember where he was
20 standing when he said that?

21 A. Yes, right there, right there in front of his
22 door.

23 Q. In the living room?

24 A. Uh-huh.

25 Q. Where in the living room? Was it near a window or

1 near the door?

2 A. The door, right in front of the door.

3 MS. SHEALY: I have no further questions.

4 Please answer any that Mr. Slade may have.

5 CROSS-EXAMINATION

6 BY MR. SLADE:

7 Q. Ms. White, you've told a total of three stories to
8 different people about what you say went on that night,
9 correct?

10 A. Yes.

11 Q. And the first story that you told was a story that
12 Che Carr told you, asked you to tell?

13 A. Yes.

14 Q. All right. Tell us what Che told you to say.

15 A. He wanted me to tell the detective that I saw him
16 running down the street, being chased by Terrell Chandler
17 with a gun in his hand.

18 Q. And when Detective Osborne came to see you --

19 A. Uh-huh.

20 Q. -- you told him the story that Che had asked you
21 to tell him.

22 A. Yes.

23 Q. Now, a couple of weeks later, after that, you
24 went -- or the public defender's investigator came to see
25 you to interview you?

1 A. Uh-huh.

2 Q. Storme Carr didn't know that the public defender's
3 investigator was coming to see you, did he?

4 A. Yes, he did. That was his public investigator.

5 Q. That was Che's investigator?

6 A. Che's.

7 Q. Storme wasn't even arrested at that point?

8 A. No, he wasn't.

9 Q. So you called Storme --

10 A. No, I didn't.

11 Q. -- to find out what to say?

12 A. No, I didn't.

13 Q. So somehow or another Storme calls you out of the
14 blue?

15 A. Storme was the one who called me and told me to
16 talk to the public investigator.

17 Q. All right. And tell me how y'all went about
18 creating the story.

19 A. Creating -- I didn't create no story. He is the
20 one that created the story, not me.

21 Q. It was a fairly lengthy story, correct?

22 A. Uh-huh.

23 Q. Tell us what you agreed to say.

24 A. The same thing I just told you.

25 Q. Didn't you tell the public defender's investigator

1 that the night that you were at Apartment Five that you
2 never went inside.

3 A. I never said that. I don't remember saying that.

4 Q. You told the public defender's investigator, did
5 you not, that you stayed outside the whole time. Right?

6 A. I guess. I don't remember that.

7 Q. Well, you and Storme discussed what you needed to
8 say, right?

9 A. That was a long time ago.

10 Q. And the purpose of your telling this particular
11 story to Che's lawyer's investigator was to help Che get
12 out of this fix, right?

13 A. Uh-huh, yes.

14 Q. Now, you told the public defender's investigator
15 that you were standing near the breezeway. Remember
16 telling him that?

17 A. No.

18 Q. Did Storme tell you to say that or was that
19 something you came to on your own?

20 A. Storme told me to say that.

21 Q. And can you today not remember a single thing
22 Storme told you to say?

23 A. I don't remember.

24 Q. My question is, can you not remember today --

25 A. I don't remember.

1 Q. -- a single thing that Storme --

2 A. A single thing that Storme Carr told me. I don't
3 remember.

4 Q. Not a word?

5 A. Nothing.

6 Q. The whole story?

7 A. The only thing I remember is what Che told me. I
8 don't remember what Storme told me to say.

9 Q. You don't recall telling -- this is a picture of
10 the back side of the breezeway. You don't recall telling
11 the public defender's -- excuse me. You don't recall
12 telling the public defender's investigator that you were
13 standing on the Battery Avenue side of the breezeway?

14 A. I don't remember.

15 Q. You're drawing a complete blank?

16 A. It's blank.

17 Q. Do you recall telling the public defender
18 investigator --

19 MS. SHEALY: I'm going to object. She
20 indicated she doesn't recall the conversation.

21 MR. SLADE: Your Honor, it's appropriate
22 cross-examination to ask her specifically about what she
23 recalls and doesn't recall.

24 THE COURT: Well, you can show her the
25 statement.

1 MS. SHEALY: It's not her statement, Judge.

2 MR. SLADE: It's recorded by the
3 investigator.

4 THE COURT: Let me send the jury out for a
5 second.

6 (In open court, jury not present.)

7 THE COURT: Okay. So are you wanting to
8 introduce a statement or do you want to ask her questions
9 about what she told somebody else?

10 MR. SLADE: I'm going to ask her what she
11 told the public defender's investigator. I think, if I
12 understood Ms. Shealy's objection correctly, she's
13 objecting to the fact that I'm asking her questions about
14 specific facts that this witness created in this
15 statement that she acknowledged that she created, and now
16 she's saying that she doesn't remember any of it.

17 I'm entitled also to test her memory, test
18 what she has to say about this lie she created, just a
19 whole number of reasons that this is appropriate
20 cross-examination. I think her questions or her
21 objection was focussed on the fact that she takes the
22 approach that once this witness says she doesn't remember
23 anything I have to stop asking her questions about this
24 prior statement.

25 MS. SHEALY: And, Your Honor, I would also

1 point out that Mr. Slade is indicating that she created
2 the story. She has testified that while she remembers
3 what Che told her to say, she does not remember what
4 Storme told her to say, and that what she told the
5 investigator was what Storme told her to say, so I think
6 that ends the inquiry.

7 THE COURT: He gets to cross-examine her
8 about a prior statement that she made. Now, she may
9 disavow it at this point or say she doesn't remember, and
10 she may even say, well, that's what somebody else told me
11 to say, but if she said it, he is entitled to question
12 her about it.

13 MS. SHEALY: Well, it's an unusual situation
14 because the substance of the statement is from an
15 investigator's report from a public defender
16 investigator, not a statement that Ms. White asserts is
17 her own.

18 THE COURT: Well, I understand and he's not
19 trying to get the document into evidence. He's just
20 asking her -- because if you look at 613(a), in examining
21 a witness concerning a prior statement made by the
22 witness, whether written or not, the statement need not
23 be shown, nor its contents disclosed to the witness at
24 that time, but on request the same shall be shown or
25 disclosed to opposing counsel, so you get to see it, but

1 it doesn't have to be that it was a statement that she
2 wrote down, but if she gave it to somebody else, he can
3 ask her, well, isn't it true that you said this and
4 another statement?

5 Then I guess we'll get, later on down the
6 road -- I don't know if you're going to try to get that
7 statement in down the road through documents or get that
8 investigator in here to testify. I don't know.

9 I'm just saying right now I think he does get
10 to ask her about her prior statements, whether or not she
11 wrote it or it was oral or written.

12 MS. SHEALY: I don't disagree with that, but
13 I think at the point where she indicates she doesn't
14 remember what she said, he's relying on someone else's
15 summary. I think that at that point it fails.

16 MR. SLADE: Your Honor, I'm sorry.

17 THE COURT: Go ahead.

18 MR. SLADE: It appears -- I think it's
19 longstanding law that a witness can't escape a
20 cross-examination on a prior inconsistent statement by
21 simply applying the blanket defense "I don't remember".
22 You get to question about specific things.

23 THE COURT: I agree. And I don't think the
24 fact that she has said, Well, this is what somebody else
25 told me to say and I don't remember it now, gets her out

1 of that cross-examination either.

2 I think you get -- she made that statement.
3 Whether or not she now says, Oh, well, that is what
4 somebody else told me to say and she's also saying, Well,
5 I don't even remember what I said, that may be what her
6 position is now, but I think the law is he gets to
7 cross-examine her because at that time she had adopted it
8 as her statement.

9 MS. SHEALY: Yes, sir. I understand the
10 Court's ruling, but the unusual thing to me is he's going
11 to ask a litany of questions that we now suspect she'll
12 be answering, I don't remember that conversation from
13 someone other than hers recording.

14 THE COURT: It's not required that it be
15 written. It's not required that it be a written
16 statement.

17 MS. SHEALY: But the thing is we have no
18 witness here to suggest that is what she said.

19 THE COURT: And it may be that her entire --
20 every single one of her answers is I don't know, I don't
21 remember, and it's simply up to the jury to let that --
22 give it whatever weight they desire on her credibility.

23 MS. SHEALY: Yes, sir.

24 THE COURT: So that is it. Okay? Bring the
25 jury back in.

1 (In open court, jury present.)

2 THE COURT: All right. Go ahead. You can
3 resume.

4 BY MR. SLADE:

5 Q. Thank you, Your Honor. Back on the 9th day of
6 July 2008, you told the public defender's investigator,
7 Che Carr's investigator, that you were on the other side
8 of this building, correct?

9 A. I don't remember.

10 Q. And you told him that you heard gunshots being
11 fired on this side of the building, correct?

12 A. The back of the house, yes, I said that.

13 Q. You told him that?

14 A. The public defender? No, I didn't.

15 Q. The public defender's investigator, Archie
16 Degiovine?

17 A. I don't know who that is.

18 Q. And you told the public defender's investigator
19 back then that you saw a person who was about six feet
20 tall, light skinned, firing an AK47 into the car, meaning
21 Calvin Gibbs's car?

22 A. No, I did not.

23 Q. You told -- but you told that to the public
24 defender?

25 A. No, I didn't.

1 Q. The public defender's investigator?

2 A. I did not.

3 Q. You did not?

4 A. No, I did not.

5 Q. You described for the public defender's
6 investigator the person you saw shooting into the car in
7 the back, correct?

8 A. Nope.

9 Q. You told the public defender's investigator the
10 person was about six feet tall, correct?

11 A. Nope.

12 Q. You told him it was a light skinned black male,
13 correct?

14 A. No.

15 Q. Told him he was wearing cornrows and a white or
16 black T-shirt and shorts, correct?

17 A. No.

18 Q. Just never -- this conversation never happened?

19 A. I had that conversation with Osborne when I told
20 Osborne that Terrell was the one, a light skinned boy
21 with cornrows. I never told the investigator that, I
22 never told him that.

23 Q. And you told the public defender's investigator
24 that you then, after seeing the light skinned black male
25 with cornrows and a white or black T-shirt firing into

1 this car, that you ran to your car and drove home alone?

2 A. No.

3 Q. And you said all that because you wanted to help
4 Che Carr?

5 A. I never said none of that.

6 Q. I'm sorry?

7 A. I never said none of that.

8 Q. Now, let's talk a minute about your testimony when
9 Ms. Shealy was asking you some questions. Could you put
10 up, if you don't mind, number 17. Can you see that?

11 A. Uh-huh.

12 Q. Ms. White?

13 A. Uh-huh.

14 Q. All right. And do you recognize what you're
15 looking at?

16 A. Yes. The hallway.

17 Q. That is the hallway -- I'm sorry?

18 A. The living room.

19 Q. At Apartment Five?

20 A. Uh-huh.

21 Q. And you call it the hallway and the living room?

22 A. The living room.

23 Q. And can you point out to us where the front door
24 is.

25 A. Right there next to the window, a couple of feet

1 away from the window.

2 Q. It's in the picture. It's just in the wall, and
3 you can't see it?

4 A. Uh-huh.

5 Q. Now -- and the other door that you see back there
6 is the kitchen, correct?

7 A. Uh-huh, yes.

8 Q. And the back door is off the kitchen?

9 A. Uh-huh, yes.

10 Q. Now, your testimony today is that when you came
11 in --

12 A. Uh-huh.

13 Q. -- to that apartment on May the 30th of 2008, it
14 was pitch black dark.

15 A. Yes, it was.

16 Q. You couldn't see a thing?

17 A. It was dark.

18 Q. My question is, you couldn't see a thing, could
19 you?

20 A. Well, other than the porch light that was on and
21 the door was cracked open, wide open.

22 Q. My question was, you couldn't see a thing in the
23 living room?

24 A. No, I couldn't.

25 MS. SHEALY: I think she answered the

1 question.

2 BY MR. SLADE:

3 Q. It was pitch black?

4 A. It was pitch black.

5 Q. So you couldn't make out where the sofa was?

6 A. Yes, I could. The door was open with the porch
7 light on, so yes, I could see the sofa.

8 Q. No lights were on?

9 A. No lights.

10 Q. The windows were closed, according to your
11 testimony?

12 A. They were closed.

13 Q. And you went in?

14 A. Uh-huh.

15 Q. And sat down.

16 A. Yes.

17 Q. And there were two other women sitting in there,
18 correct?

19 A. Uh-huh, yes.

20 Q. Now, when it's pitch black inside that room --
21 well, even when the lights are on in that room, you can't
22 see the back door, can you?

23 A. No. I mean, I was sitting right there, so, I
24 mean, if you slant yourself, you can see the back door.

25 Q. My question is you can't see the back door, can

1 you?

2 A. Yes, you can.

3 Q. Now, are you telling us that what you are
4 testifying today is what you told Detective Osborne back
5 on June 9 of 2008?

6 A. The true statement? Is that what you're saying?

7 Q. I'm asking you if what you testified --

8 A. I don't know what statement you're talking about.
9 It's either the lie statement or the true statement.

10 Q. You gave a statement to Detective Osborne back on
11 June 9, 2008?

12 A. Yes. Which statement?

13 Q. Let's talk about you gave him two statements,
14 correct?

15 A. Yes, I did.

16 Q. Let's talk about the second one you gave.

17 A. Okay.

18 Q. Now, you've been referring to it as the true
19 statement, correct?

20 A. Yes.

21 Q. So what you told us today is the true statement?

22 A. Yes.

23 Q. When you talked with Detective Osborne back on
24 June 9 of 2008 --

25 A. Uh-huh.

1 Q. -- you told him that you went in the apartment --

2 A. Uh-huh.

3 Q. And if you take a look at this and tell me if you
4 can identify this statement.

5 A. Uh-huh, yes.

6 Q. Do you recognize it? Take all the time you want.

7 A. I know what I told him.

8 Q. Do you know what it is?

9 A. Yes. It's the statement that I told him.

10 Q. The one you refer to as the true statement?

11 A. Yes.

12 Q. Take all the time you like, and show us where you
13 told Detective Osborne it was pitch black in that
14 Apartment Five.

15 A. I just said it was pitch black.

16 Q. Show us in your statement that you gave him on
17 June the 9th, 2008 that it was black, pitch black,
18 inside.

19 A. I guess I left that out.

20 Q. It was not only dark in this room, the room --

21 A. All the rooms were dark.

22 Q. -- that you're calling the living room or hall, it
23 was dark in the kitchen?

24 A. Uh-huh.

25 Q. It was dark in the Terrell's bedroom?

1 A. Uh-huh, correct.

2 Q. It was dark in Troy White's bedroom?

3 A. Uh-huh.

4 Q. Completely dark, no lights on in the kitchen?

5 A. No lights.

6 Q. And you just forgot to mention that to Detective
7 Osborne in your true statement?

8 A. Yes, I guess so.

9 Q. In the true statement that you made to Detective
10 Osborne --

11 A. Uh-huh.

12 Q. Well, let me back up. In your testimony today, in
13 response to Ms. Shealy's questions, you said that all
14 four guys who were there, and that would be Terrell
15 Chandler, Steven Brown, both of whom are six feet or
16 better, and then your boyfriend, Che --

17 A. Ex-boyfriend.

18 Q. I'm sorry?

19 A. Ex-boyfriend.

20 Q. At the time it was your boyfriend?

21 A. Uh-huh.

22 Q. Your boyfriend, at the time, Che Carr, who is
23 five-seven, and his twin, Storme Carr, who is five-seven?

24 A. Uh-huh.

25 MS. SHEALY: Your Honor, I object. May I

1 approach the bench for a second?

2 (Discussion held at sidebar.)

3 BY MR. SLADE:

4 Q. When Ms. Shealy was asking you questions, you told
5 her that all four of those guys had on black hoodies.
6 Right?

7 A. As far as I know, yeah. Che and Storme had on
8 black hoodies. Yeah, they had on black hoodies.

9 Q. You remember back to what she was asking at least,
10 correct?

11 A. Uh-huh.

12 Q. And you told her all four of them were wearing
13 black hoodies?

14 A. All of them were wearing black.

15 Q. In the true statement you gave Detective Osborne
16 back on June 9, 2008, would you show us in that statement
17 where you described what any of these four people were
18 wearing as black hoodies? Is it in there?

19 A. No.

20 Q. Is that something else you forgot to tell them?

21 A. At the time I gave Detective Osborne, that's when
22 I knew everything.

23 Q. I'm sorry?

24 A. At the time I gave Detective Osborne my statement,
25 everything I knew was right then. Some parts I messed

1 up, some parts I didn't.

2 Q. Well, you're saying that the statement you gave
3 Detective Osborne back on June the 9th, the second
4 statement, you've referred to several times in your on
5 statement as being the true statement; right?

6 A. Yes, that's the true statement.

7 Q. If it was true, as you say, that they, all four of
8 them, were wearing black hoodies, you would have
9 remembered that when you gave him the true statement,
10 correct?

11 A. I left that part out by accident.

12 Q. You forgot about it?

13 A. Yes, I forgot about it.

14 Q. When you were giving Detective Osborne the true
15 statement back on June 9 of 2008 -- strike that.

16 In your testimony today, when Ms. Shealy was
17 asking you questions, you didn't mention to her that you
18 were dancing, you and Che were dancing?

19 A. I wasn't dancing, they were.

20 Q. In the apartment that night?

21 A. I wasn't. They were. I was sitting on the couch.

22 Q. You weren't dancing at all that night?

23 A. No.

24 Q. And it's pitch black in this apartment, right?

25 A. Uh-huh.

1 Q. And you're talking about now, it's true that some
2 of the other people in there were dancing?

3 A. Che, Latrice, and Ta'Mequa Durant were dancing. I
4 wasn't.

5 Q. And it's dark in every room?

6 A. Uh-huh.

7 Q. And they're dancing.

8 A. Uh-huh.

9 Q. They got music on, correct?

10 A. No. He had on his cell phone. He had his cell
11 phone and he turned on one of his musicals.

12 Q. So it was loud enough for everybody to hear in
13 order to start the movement or whatever it takes to
14 dance?

15 A. I guess so.

16 Q. Well, you were there, you saw?

17 A. Yeah.

18 Q. And you heard?

19 A. Yeah.

20 Q. It was loud enough to hear throughout the
21 bedroom -- I'm sorry, throughout the living room?

22 A. Uh-huh.

23 Q. The room, we have pictures here.

24 A. Uh-huh.

25 Q. Now, I'm thinking, I may be mistaken, when you

1 were testifying when Ms. Shealy was asking you questions,
2 you said it was quiet the whole time, correct?

3 A. It was quiet till I asked him to come in. It was
4 quiet.

5 Q. But there was music and there was dancing.

6 A. Yes.

7 Q. So at the time you gave your statement, the true
8 statement, to Detective Osborne, you told him that you
9 and Che were just dancing and having a good time,
10 correct?

11 A. No, I never said that. I told him Latrice Smalls,
12 Ta'Mequa Durant, and Che Carr were dancing.

13 Q. Well, you and Detective Osborne, in your second,
14 true, statement, were sitting down, correct?

15 A. Uh-huh.

16 Q. And Detective Osborne was writing down, as you
17 were talking to him --

18 A. Uh-huh.

19 Q. -- and then he offered you the statement to look
20 over?

21 A. No, he didn't. He offered me to look it over.

22 Q. And you looked it over?

23 A. I scanned right through it.

24 Q. Okay. And you signed the bottom of every page,
25 correct?

1 A. Uh-huh.

2 Q. And right above where you signed above every --
3 where you signed on every page, you saw it said, I have
4 read the forgoing statement, or have had it read to me,
5 and it is true and correct to the best of my knowledge.

6 Now, I'm asking you to take a look at page two on
7 the statement that you signed, and I highlighted a
8 sentence there. Would you read that for us, please.

9 A. We were just dancing and having a good time.

10 Q. We were just dancing and having a good time.

11 A. But it wasn't me.

12 Q. Now, when Detective Osborne first started his
13 conversation with you, or his first part of his interview
14 with you, before you gave the true statement, you told
15 him that you had seen Che running home naked, correct?

16 A. No.

17 Q. You told him what Che had told you to say,
18 correct?

19 A. I told him that I saw Che running down the street,
20 not naked.

21 Q. Not naked?

22 A. No.

23 Q. And you talked to him on June the 9th, and you
24 talked to him at Hampton Park, correct?

25 A. Uh-huh, uh-huh.

1 Q. And he was writing down what you were saying,
2 correct?

3 A. I guess.

4 Q. And he made a recording of what you said.

5 A. He recorded my true statement. He didn't record
6 the false statement.

7 Q. He didn't record the story about Taliban being the
8 shooter.

9 A. Not that I can recall.

10 Q. Now, this was pitch dark in this room, according
11 to your true statement, and you sat in the pitch dark
12 living room the entire time you were at Apartment Five
13 the night the shooting happened, correct?

14 A. Uh-huh, until I got up.

15 Q. Until you left at 4:00.

16 A. Uh-huh. No, I got up and went to the front door.

17 Q. You got up and went to the front door at what
18 point, Ms. White?

19 A. To the point that I wanted to leave.

20 Q. So -- okay. So what you're telling us, if I'm
21 understanding you correctly, is I'm asking you if you
22 stayed in that room the whole time --

23 A. Uh-huh.

24 Q. -- in pitch dark, and when you got ready to leave,
25 you got up and walked to the door?

1 A. Yes.

2 Q. And other than that, from the time you got there
3 to the time you got up and walked to the front door, you
4 were in this room in pitch dark?

5 A. Yes.

6 Q. And you testified a number of times that in the
7 pitch dark in this room you could see people coming in
8 and out of the back door?

9 A. Uh-huh.

10 MR. SLADE: Beg the indulgence of the Court
11 just one moment.

12 BY MR. SLADE:

13 Q. You were over at Apartment Five practically every
14 day for months.

15 A. Uh-huh.

16 Q. And you were over there because of your
17 relationship with Che Carr?

18 A. Yes.

19 Q. And so that was every day for the months preceding
20 May the 30th of 2008?

21 A. Uh-huh.

22 Q. And there were days that you and Che were over
23 there?

24 A. Yes.

25 Q. And Storme was there?

1 A. Yes.

2 Q. And nobody else was there.

3 A. No. Terrell was there.

4 Q. There were times that Che and Storme and you were
5 at the apartment and no one -- y'all were the only ones
6 there.

7 A. No. You can't go in the house if they're not
8 there.

9 Q. Che and Storme went into Apartment Five when
10 Terrell and Troy --

11 MS. SHEALY: Objection.

12 MR. SLADE: Okay. I'll withdraw the
13 question.

14 BY MR. SLADE:

15 Q. When you were over there with Che and Storme,
16 y'all were smoking pot?

17 A. I don't smoke.

18 Q. They were smoking pot. That was a daily thing.

19 A. Uh-huh.

20 Q. They were buying marijuana over there, buying
21 herb, people would sell it, and they would bring it over
22 there.

23 A. Uh-huh.

24 Q. And Storme had his girlfriend over there?

25 A. Yes.

1 Q. And she was over there most of the time?

2 A. Yes.

3 Q. And y'all would be over there sometimes when Troy
4 White was not there?

5 A. Yes.

6 Q. There were times that you were there that Troy
7 White was not there, and tell us how many hours a day you
8 and Che and Storme would spend at Apartment Five.

9 A. I didn't get there till night. As far as them
10 being there, I didn't get there till nights, probably
11 there maybe till 1:00 or 2:00 in the morning. Got there
12 around 9:00 and stayed until 1:00 or 2:00 in the morning.

13 Q. So that is where you would meet Che?

14 A. Yes.

15 Q. So when you met him, he was already there?

16 A. Uh-huh.

17 Q. Didn't go by his uncle's house where he actually
18 lived and pick him up?

19 A. No.

20 Q. He would meet you over there?

21 A. Uh-huh.

22 Q. So he was there before you got there.

23 A. Yes.

24 Q. In the first statement that you gave Detective
25 Osborne, you told me Terrell was chasing -- is that the

1 way you remember? Terrell was chasing Che down the
2 street with a gun?

3 A. I told him it was a tall, light skinned boy with
4 cornrows.

5 Q. And that is what Che wanted you to say?

6 A. Yes.

7 Q. And that wasn't a problem for you to tell a
8 policeman that?

9 A. No.

10 Q. It's just what needs to be done, correct?

11 A. Uh-huh, I guess so.

12 Q. Yeah. Just words?

13 A. Yeah.

14 Q. Right?

15 A. Uh-huh.

16 Q. And then when you're talking to the public
17 defender's investigator, you tell him that story about a
18 light skinned guy firing into a car?

19 A. I never told that public defender that. I don't
20 know who you got that from.

21 Q. You told him something that Storme had told you to
22 say?

23 A. It was nothing of that because I don't know who
24 shot that boy's car.

25 Q. And those are just words. Just something to say,

1 correct?

2 A. Uh-huh.

3 Q. Just 'cause that is what you needed to do at the
4 time.

5 A. Uh-huh.

6 Q. No big deal.

7 A. Guess not.

8 MR. SLADE: I don't have any other questions.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 BY MS. SHEALY:

12 Q. Megan, Mr. Slade keeps saying pitch black
13 apartment. I think when he asked whether it was pitch
14 black you indicated what? Tell us about the lighting in
15 the apartment.

16 A. There was no lighting, only outside.

17 Q. And with the outside lighting, which door was
18 open?

19 A. The front door and the back -- well, for outside
20 lighting? The front.

21 Q. Okay. Could you see what was going on in the
22 apartment? Was it light enough for to you see?

23 A. In the front, but not the back.

24 Q. Okay. And let's clear up one thing. When you
25 first got there, you indicated Che was not in the

1 apartment.

2 A. Uh-huh.

3 Q. When you first got there, was it quiet or was it
4 noisy in the apartment?

5 A. It was quiet.

6 Q. After you texted or called Che, he did what?

7 A. He came.

8 Q. When you were texting him or calling him, were you
9 irritated with him?

10 A. No. I was just a little upset.

11 Q. And did you communicate that to him on your text
12 or your phone call?

13 A. No.

14 Q. When he came inside, is that when the dancing
15 starts?

16 A. Uh-huh.

17 Q. And I think you told us before that on other
18 nights y'all had music on. There was dancing.

19 A. Yes.

20 Q. This night, how long did the dancing take place?

21 A. Maybe five or ten minutes.

22 Q. Okay. And you didn't participate?

23 A. No, I didn't.

24 Q. Let me ask you about this: When you gave your
25 statement to Detective Osborne, a written statement, tell

1 us how it was when you went back through to read it. Did
2 you read every word carefully before you signed each
3 page?

4 A. I didn't even read it.

5 Q. Okay. Did you sign each page?

6 A. Uh-huh.

7 Q. And let me ask you, you told us you have spoken to
8 Detective Osborne?

9 A. Uh-huh.

10 Q. You spoke to the investigator of the public
11 defender's office?

12 A. Uh-huh.

13 Q. And you have spoken to me in my office before
14 coming here today?

15 A. Uh-huh.

16 Q. Would you tell the jury with which person did you
17 spend the most time and give the most details?

18 A. Jennifer.

19 Q. Okay. So when -- am I Jennifer?

20 A. Yes.

21 Q. Okay. When you were speaking with Detective
22 Osborne, was he trying to ask you a good number of
23 questions?

24 A. Yes, he was.

25 Q. When you were speaking with my office, were a lot

1 of details asked of you?

2 A. Yes.

3 Q. So when you gave the statement to Detective
4 Osborne, other than just the part about the dancing, were
5 you telling Detective Osborne what truly happened?

6 A. Yes, I was.

7 Q. Now, as I understand it, Che tried to get you to
8 give a certain story?

9 A. Yes, I did.

10 Q. Did Storme try to give you a story, to tell you a
11 story as well?

12 A. Yes, it was.

13 Q. Tell the jury whether it's easier to remember what
14 really happened or what someone made up and told you to
15 say?

16 MR. SLADE: Objection. Leading.

17 MS. SHEALY: I don't think that is leading.
18 I just asked her what is easier.

19 THE COURT: I think that is an argumentative
20 question.

21 BY MS. SHEALY:

22 Q. I'll ask it this way, and please tell me if it's
23 objectionable. Is it easier for you to remember the true
24 things you told or the untrue things you told?

25 A. The true things.

1 Q. Now, to make sure we understand, did you call
2 Storme and say that you wanted to speak to the public
3 defender's investigator or did Storme call you and want
4 you to speak to his brother's investigator?

5 A. Storme called me.

6 Q. And Mr. Slade was asking you about the activities
7 that y'all were doing in the apartment on all those
8 numerous occasions. Did you know that Terrell not only
9 used marijuana but was selling marijuana?

10 MR. SLADE: I object. That is a leading
11 question.

12 MR. HOWE: And earlier we asked for that to
13 be stricken and you granted it.

14 THE COURT: Sustained.

15 BY MS. SHEALY:

16 Q. What kind of activities did Terrell do in the
17 apartment?

18 A. Played his Play Station, cooked.

19 Q. And did you or did you not ever see him with
20 marijuana?

21 A. I never saw him.

22 Q. When you spoke to the public defender's
23 investigator, did he get a written statement from you?

24 A. Did I sign it?

25 Q. Uh-huh.

1 A. I don't remember signing it.

2 Q. Okay. Now, on the occasion that you talked to
3 Detective Osborne, did you give him the details that he
4 asked for?

5 A. Uh-huh.

6 Q. He asked you a question, did you answer it?

7 A. Uh-huh.

8 Q. You need to say yes or no for the record.

9 A. Yes, but he mainly just told me to tell him what
10 happened.

11 Q. And when you were speaking with Detective Osborne,
12 did you take as much time in talking to him as you did
13 with talking to us?

14 A. No.

15 MS. SHEALY: I beg the Court's indulgence for
16 just a moment.

17 I have no further questions. Please answer
18 any the defense may have.

19 THE COURT: Recross.

20 RE-CROSS-EXAMINATION

21 BY MR. SLADE:

22 Q. Thank you, Your Honor.

23 Just a moment ago when Ms. Shealy was asking these
24 questions on redirect a moment ago, you said it's easier
25 to remember true things, correct?

1 A. Uh-huh.

2 Q. Is that your position?

3 A. Uh-huh.

4 Q. And when Detective Osborne asked you to give the
5 statement that you described as the true statement, you
6 didn't put anything in there about anybody wearing black
7 hoodies, did you?

8 A. I was speaking so fast I wanted to get it over
9 with.

10 Q. Its easier to remember true things than the things
11 that aren't true, correct?

12 A. Yes, it is.

13 Q. And when you are giving the statement that you
14 have described as the true statement to Detective
15 Osborne, you didn't say anything about it being pitch
16 black in that apartment, did you?

17 A. No, I did not.

18 Q. Its easier to remember the true things, correct?

19 A. So are you suggesting that I lied?

20 Q. I'm asking you about your position. It's easier
21 to remember the true things than the things --

22 A. It is, it is.

23 Q. -- that are lies.

24 A. No, truth.

25 Q. And in the statement that you have described as

1 the true statement to Detective Osborne, and you can take
2 a look at it if you like, did you tell him about
3 everybody wearing all black?

4 A. Again, no, I did not.

5 Q. It's easier to remember the true things?

6 MS. SHEALY: I'm sorry. Is Mr. Slade asking
7 her a question?

8 MR. SLADE: Asking her to respond to some
9 things she said on direct, but that is the end of my
10 questions on cross.

11 THE COURT: Are you finished?

12 MR. SLADE: Yes, sir. I'm sorry.

13 THE COURT: All right. Any objection to this
14 witness being excused?

15 MR. SLADE: Not from us.

16 THE COURT: All right. You're free to go.
17 Thank you.

18 All right, folks. I think that is where
19 we'll break for the day. It's still a little before
20 5:00, but any other witness will take longer than 20
21 minutes, and I promised you we would break today no later
22 than 5:00 so you could go vote if you want to and I would
23 encourage you to.

24 So let me leave you with the same
25 instructions I gave you yesterday. Again, please do not

1 talk to anybody about the case. Don't discuss this case
2 with each other. Don't talk about the facts that you've
3 heard today or comment in any way about any witness's
4 testimony.

5 Another thing that is important to do is you
6 I didn't see any press coverage today, and I don't know
7 that there will be any tomorrow, but if you happen to see
8 in tomorrow's paper something about it, just avert your
9 gaze and don't read the paper.

10 Another thing I didn't mention yesterday but
11 I want to, and it just seems like this is the times we
12 live in, but sometimes people get invested in these cases
13 and, you know, they don't want to be on the jury, but
14 when they get there, they really do take it seriously,
15 and that is exactly what we ask you to do. But, again,
16 it's important that you make your decision based only on
17 what you hear in this courtroom.

18 So that means don't go out and try to find
19 out anything about the case. We have had instances where
20 people will go visit the scene. If we need to take you
21 to the scene, we'll take to you the scene. You'll find
22 people that will go start hunting on the Internet, see
23 what they can find out about things like this, and there
24 may be press coverage out there. I don't know, and you
25 can get court records on the Internet these days. Please

1 refrain from doing any of that. Again, the only thing
2 you can legally make your decision on this week is based
3 on what you hear in this courtroom this week, so please
4 refrain from the natural inclination to want to go try to
5 find out and see what you can just, you know, answer the
6 questions that you might have.

7 It's only what you hear here is what you need
8 to make your decision on, so please refrain from doing
9 any of that, and, again, if anybody contacts you about
10 the case, please report back to the Court immediately.

11 In you would be back tomorrow morning in the
12 jury room no later than 9:30, we'll try to get started at
13 that time. All right? See you in the morning and have a
14 good evening. Drive safely.

15 (Recess taken.)

16 (Wednesday, June 9, 2010.)

17 THE COURT: Do you want to say something?

18 MR. SLADE: Yes, sir. Can we approach the
19 bench?

20 THE COURT: Yes.

21 (Discussion held at sidebar.)

22 THE COURT: Let the record reflect the
23 defendant is in the courtroom.

24 (In open court, jury present.)

25 THE COURT: Welcome back, folks. We're going

1 to resume this morning with the state calling their next
2 witness.

3 Madame Solicitor, are you ready?

4 MS. SHEALY: Latrice Smalls.

5 LATRICE SMALLS,

6 having been first duly sworn,

7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SHEALY:

10 Q. Latrice, do you go by Latrice or Monet?

11 A. Both.

12 Q. Tell the jury how old you are.

13 A. I'm 21.

14 Q. And do you currently live in Charleston?

15 A. Yes, ma'am.

16 Q. Will you tell them where you're working?

17 A. At MUSC.

18 Q. And what do you do at MUSC?

19 A. I'm a unit secretary.

20 Q. I'm going to ask you about some people, and I
21 would like you to tell me how you know them, if you know
22 them, okay? Ta'Mequa Durant?

23 A. I know her from school.

24 Q. Megan White?

25 A. School.

1 Q. Che Carr?

2 A. I met them -- I met him through Megan and
3 Ta'Mequa.

4 Q. How about Storme Carr?

5 A. Megan and Ta'Mequa.

6 Q. What about Steven Brown, known as Troop?

7 A. I know him from those two.

8 Q. And Terrell Chandler?

9 A. I know him originally from middle school.

10 Q. And did you and he develop a relationship at some
11 point?

12 A. Uh-huh, yeah.

13 Q. And I am going to need you, when you answer, say
14 yes or no, if you would, so the court reporter can write
15 down your response.

16 Do you remember when it was that y'all started,
17 would you say, romantic?

18 A. Probably about after I reunited with him, because
19 we met again.

20 Q. Back in May of 2008, were y'all seeing each other
21 as boyfriend and girlfriend?

22 A. No.

23 Q. Romantically at all?

24 A. No.

25 Q. How would you describe what your relationship was?

1 A. We were cool at first. We just started being
2 friends, and the more I went over there, that type of
3 relationship we had got.

4 Q. Say that again.

5 A. The more I went over there, that was the kind of
6 relationship we formed.

7 Q. What type?

8 A. Almost like a girlfriend/boyfriend relationship,
9 almost.

10 Q. When you say you would see him, where would you
11 usually see him? Where would y'all go?

12 A. At his apartment.

13 Q. Was that at Battery Avenue?

14 A. Uh-huh, yes.

15 Q. When you would go over there, would the twins be
16 there frequently?

17 A. Yeah.

18 Q. And what about Troop?

19 A. He was there. He was there on and off.

20 Q. Okay. So the twins were there more than Troop?

21 A. Uh-huh.

22 Q. Did you know Terrell's roommate, Troy White?

23 A. No, I didn't know him.

24 Q. Had you ever met him or seen him over there?

25 A. Yeah.

1 Q. Would you tell the jury whether he was there very
2 often?

3 A. He wasn't there a lot. He -- when I got there, he
4 was going to work, or he just wasn't there at all.

5 Q. And when Troop was there, would he usually have a
6 girl with him?

7 A. No, not really. I never saw one over there.

8 Q. What would y'all do when you typically hang out
9 there?

10 A. Hang out, eat, crack jokes, watch movies. It was
11 basilically just like a chill spot, basically.

12 Q. Like a chill spot?

13 A. Uh-huh.

14 Q. When you were ever over there, did you ever see
15 any weapons?

16 A. Yeah, I did.

17 Q. Would you describe to the jury what type of
18 weapons you would see?

19 A. It was a little black handgun and a longer gun,
20 like a rifle type thing, that's what it's called.

21 Q. Showing you what has previously been marked as
22 State's Exhibit 99, would you tell the jury whether you
23 recognize that weapon?

24 A. Yes. That's the gun I saw.

25 Q. And showing you State's Exhibit 98, could you tell

1 the jury whether you recognize this weapon?

2 A. I don't think that is the one I used to see there.
3 That doesn't look like it.

4 Q. This doesn't look like?

5 A. Huh-uh.

6 Q. What was the other weapon that you used to see
7 there? How did it look?

8 A. It looked similar to that, but it had two little
9 handles at the bottom, I think.

10 Q. Two handles at the bottom?

11 A. I think that's how it was.

12 Q. Beg the Court's indulgence for a second.

13 MS. SHEALY: Judge, if you'll indulge me a
14 moment.

15 BY MS. SHEALY:

16 Q. The long gun that you saw over at the apartment,
17 who usually had the long gun?

18 A. Rell.

19 Q. And when you say Rell, are you talking about
20 Terrell?

21 A. Yeah.

22 Q. Do you see Terrell in the courtroom?

23 A. Yeah.

24 Q. And where is he seated?

25 A. Right there (indicating).

1 Q. What color shirt does he have on?

2 A. Burgundy, red.

3 MS. SHEALY: If the record could reflect she
4 identified Terrell Chandler.

5 BY MS. SHEALY:

6 Q. When you would see Rell with the rifle, what would
7 he be doing with it?

8 A. He was -- if he had it in his hand, he would be
9 just walking around the house with it, like, over his
10 shoulder or just had it in his hand.

11 MS. SHEALY: Your Honor, I would ask that she
12 be allowed to step down for a moment.

13 THE COURT: That's fine.

14 MS. SHEALY: Latrice, if you would come on
15 down. If you would show the jury how he would walk
16 around the apartment with it.

17 THE WITNESS: If it was hanging, just walking
18 like this, or over his shoulder, just walking with it.
19 That was it.

20 BY MS. SHEALY:

21 Q. You can go ahead and take a seat.

22 Now, I'm not sure if I can finesse this or not,
23 but when you were talking about something being along the
24 bottom, and you can tell I don't know much about this,
25 did it appear more like that when you see it?

1 MR. SLADE: Your Honor, I object to the
2 leading question. The question suggests the answer.

3 MS. SHEALY: I don't think it did suggest an
4 answer.

5 THE COURT: Well, why don't you have her come
6 down and demonstrate what it is you want her to show the
7 jury.

8 MS. SHEALY: If you could step down for us.
9 Could you show us how the gun would appear when you
10 usually saw it?

11 THE WITNESS: Usually this part would be
12 right here, and then this was like this (indicating).

13 BY MS. SHEALY:

14 Q. With that attached, did this appear to be the
15 weapon you would see Mr. Chandler with?

16 A. Yeah.

17 MS. SHEALY: At this time I would move this
18 into evidence.

19 THE COURT: The clip?

20 MS. SHEALY: Yes, sir.

21 THE COURT: Any objection?

22 MR. SLADE: No.

23 THE COURT: All right. It's admitted.

24 MS. SHEALY: That is State's Exhibit 100.

25

1 (Gun clip marked for identification and
2 admitted into evidence as State's Exhibit No. 100.)

3 BY MS. SHEALY:

4 Q. Is there any other place in the apartment you
5 would see the rifle?

6 A. His room. If it wasn't in his room, it was either
7 in the room or in the den.

8 Q. Did that make you uncomfortable with the weapon in
9 the house?

10 A. At first it did. I remember asking him if it was
11 registered and if it was legal and he told me that, so
12 after that, it was really nothing after that. I didn't
13 feel uncomfortable by that at all.

14 Q. What about the pistol, the smaller pistol? Where
15 would you see that weapon in the house?

16 A. That would be in the room too.

17 Q. And when you're talking about the room --

18 A. Terrell's room.

19 Q. His bedroom?

20 A. Uh-huh.

21 Q. And tell the jury, where is his bedroom in the
22 house? What room is it off of?

23 A. His bedroom is off of the living area, or the den,
24 the living room.

25 Q. Now, the twins, Che and Storme, could you tell the

1 jury whether those guys are tall or short?

2 A. Not that tall. They're about average height, like
3 probably five-five, five-six.

4 Q. And do they look identical or do they look
5 different from each other?

6 A. They're identical to people who don't know them.
7 I know them. I know how to tell them apart, but they are
8 just about identical.

9 Q. How did you tell them apart?

10 A. Storme has a lazy lid.

11 Q. On his eye?

12 A. Uh-huh.

13 Q. Now, focussing your attention then back to May 30
14 of 2008, would you tell the jury whether you went to
15 Battery Avenue that night?

16 A. Yeah, I did.

17 Q. Okay. And tell the jury, please, who was there
18 when you got there.

19 A. Storme and Che was there. I found out later that
20 Troop was in the room.

21 Q. What do you mean you found out later that he was
22 in the room?

23 A. I didn't know he was there until he came out, so,
24 yeah, Storme, Che, and Troop were there.

25 Q. Just so you make sure we understand, when you say

1 he came out, where did he come out from?

2 A. He came out from Terrell's room.

3 Q. Was Terrell there?

4 A. No.

5 Q. Okay. At some point does Terrell come there?

6 A. Yeah. He comes about ten minutes later.

7 Q. Do you remember whether you were working earlier
8 that day?

9 A. I can't recall 100 percent.

10 Q. And where did you work back then?

11 A. Food Lion.

12 Q. Did you come by yourself or with someone?

13 A. I came with Ta'Mequa.

14 Q. And that is Ta'Mequa Durant?

15 A. Yes, ma'am.

16 Q. Does anyone else join y'all that evening? Does
17 anyone else come?

18 A. Megan came later. She came, like, probably 10, 15
19 minutes to 12:00. She came later that night.

20 Q. Are you sure of the time, or you just know she
21 came later?

22 A. I know she came later. I'm not 100 percent on the
23 time.

24 Q. And could you describe for us what was going on in
25 the apartment that evening.

1 A. Well, me and Ta'Mequa got there. It was, like, a
2 regular night. Everybody was just sitting around,
3 chilling out, but by the time Megan got there, the lights
4 were off, and we were just laying on the couch.

5 Everything was off in the house.

6 Q. Was that usual or unusual?

7 A. That was unusual.

8 Q. And what about the television? Was it on or was
9 it off?

10 A. Yeah, the TV was off. It was on, but it got
11 turned off.

12 Q. Who turned it off?

13 A. Terrell.

14 Q. Were any of you questioning what was going on?

15 A. Uh-huh, yes, ma'am.

16 Q. Who was questioning it?

17 A. All three of us was asking, you know, what's going
18 on?

19 Q. Did anyone answer you?

20 A. No.

21 Q. Were you given any instructions?

22 A. No, not that I recall.

23 Q. Okay. At some point do you -- first of all, were
24 you having any kind of health difficulty that day?

25 A. Yeah. I had a bad headache.

1 Q. And when were you there, where were you for most
2 of the evening?

3 A. I was laying on the couch.

4 Q. Do you get up to go to the rest room at some
5 point?

6 A. Yeah, I do.

7 Q. Could you tell the jury you what you saw when you
8 were leaving the rest room?

9 A. I saw the rifle in Terrell's room.

10 Q. Okay. Now, were the guys staying in the apartment
11 or going in and out of the apartment?

12 A. They were going in and out.

13 Q. Any at any point do the guys go into Terrell's
14 room?

15 A. Yeah, they do.

16 Q. Okay. Tell the jury what happened when they came
17 out of Terrell's room.

18 A. They came out of Terrell's room. They all had
19 changed. They all had on black clothes from what they
20 had on earlier that day.

21 Q. And was that usual or unusual?

22 A. That was unusual.

23 Q. After they came out of Terrell's room, where did
24 they go then?

25 A. They all went outside.

1 Q. Okay. And at some point, do any of them come back
2 in? And I'm talking about before the shooting.

3 A. Yeah. They were kind of in and out. Some of them
4 were coming in and out of the front door.

5 Q. Okay. What happens -- I mean, at any point do all
6 four of them leave the apartment for one final time
7 before the shooting?

8 A. Yeah.

9 Q. And if you would, tell the jury whether you saw
10 anything in Terrell's hands at that point.

11 A. No. When they went outside, I didn't see nothing
12 in his hand.

13 Q. What happens after they all go out?

14 A. Well, I was in and out of sleep. We were talking
15 at first. Me, Megan and Ta'Mequa were on the couch
16 talking. I went back to sleep, and the next thing I
17 heard was when the door opened, the creak from the door,
18 and about four gunshots and they all ran in and went to
19 Rell's room.

20 Q. Went to Rell's room? When they were all going
21 outside, were you able to see whether any of them were
22 carrying something by their side?

23 A. Huh-uh.

24 Q. Okay. When they all came running back in, could
25 you tell whether anybody had anything in their hands?

1 A. Rell had the rifle in his left hand.

2 Q. And when he ran back in, you said they went where?

3 A. In Terrell's room.

4 Q. Could you tell the jury what happened after that.

5 A. They ran in. They went in the room, closed the
6 door. All three of us was in shock, and we heard
7 mumbling as if they were talking. We don't know exactly
8 what they were saying, and I think the first person came
9 out was Che, and that is when I saw the police lights,
10 and all the lights went back off.

11 Q. Okay. What happens after Che sees the police
12 lights? Are y'all told to do anything or not do
13 anything?

14 A. I don't recall anybody telling me to do anything,
15 or anybody, for that matter, because I was just in total
16 shock. I just remember the lights going back off. I
17 could see the police lights through the window and the
18 flashing cameras. We was asking, What is going on.
19 Nobody was answering us, and that was basically it, till
20 they left.

21 Q. Okay. And how long do you stay over there that
22 evening after all that happened?

23 A. Till about 7 in the morning.

24 Q. Now, at some point that evening, do you see Troop
25 with the pistol?

1 A. Yeah. He was in the corner.

2 Q. Okay. And can you describe to the jury what he
3 was doing with the pistol.

4 A. He was -- I don't know exactly what he was doing.
5 I remember him cleaning. He was doing something with the
6 bullets or with the gun itself. I don't know exactly
7 what he was doing with the gun, but he was in the corner
8 doing something with it.

9 Q. And at any point do you see the guy that goes to
10 the bathroom?

11 A. No. I don't see them go to the bathroom. Storme,
12 I believe, went in the bathroom, and he came out, and I
13 heard him say something about Ajax.

14 Q. Saying something about Ajax?

15 A. Yeah.

16 Q. When you leave the next morning, who do you leave
17 with?

18 A. Ta'Mequa.

19 Q. And at what point do you learn that someone was
20 killed?

21 A. Probably two days later, a couple days later.

22 Q. Now, during that time period, were you still
23 talking to Terrell?

24 A. Talking, like just on the phone or just how we
25 were?

1 Q. How you were.

2 A. Kind of.

3 Q. Okay. What about -- if this happened on a Friday
4 night, did you see any of them on Sunday night?

5 A. Yeah, I did.

6 Q. Okay. Tell us about that.

7 A. It was just like a regular night, like nothing
8 happened; like, just how we usually go over there, like,
9 just watching TV, and just like a regular night, that
10 Sunday.

11 Q. And who was there on that Sunday?

12 A. Me, Terrell, Ta'Mequa, Storme, and Che.

13 Q. And do you remember whether you knew that someone
14 had died on Friday night or not?

15 A. On Sunday?

16 Q. Uh-huh.

17 A. Yeah.

18 Q. Can you explain to this jury why you go back over
19 to Terrell's after that.

20 A. To be 100 percent honest, it was a stupid decision
21 to go back to the house, and, in a way, I guess I didn't
22 want to believe it, and seeing that they were in the same
23 spot, I just thought maybe they did not do it. And we
24 went back to the house, but, honestly, it was just young
25 and stupid decision to go back to the house after that.

1 Q. Now, on the day that Che and Terrell got arrested,
2 were you over at the apartment that day?

3 A. Yeah. I went back over to get Ta'Mequa.

4 Q. And so when you went back over, had the police
5 searched the apartment yet or not?

6 A. I don't know if they searched it. I know they
7 kicked the door in. I don't know if they searched it
8 yet.

9 Q. When you say you went back to get Ta'Mequa, what
10 do you mean?

11 A. She was there, and I was actually there that
12 Sunday, but I left, and I came back that morning to go
13 back and get her and take her back home. And she was
14 texting me, and I came and got her, but they had her
15 detained. She was in the back of the police car.

16 Q. Now, do you recall whether or not Che had his hair
17 braided at some point over that weekend?

18 A. Yeah. He had it done that Sunday night.

19 Q. And who braided his hair?

20 A. Ta'Mequa.

21 Q. And prior to it being braided, what did it look
22 like?

23 A. Just out, just how he usually wear it. It was
24 just falling along his face, how he usually have it.

25 Q. Would that be considered twist or not?

1 A. Huh-uh.

2 Q. And can you describe the hair of all the
3 defendants, Che, Storme, Terrell --

4 A. Che and Storme had dreads; Troop had dreads; Rell
5 had braids.

6 Q. Okay. So dreads and braids?

7 A. Uh-huh.

8 Q. Now, after Terrell was arrested, did you go see
9 him at the jail?

10 A. Yeah. I think I went once or twice.

11 Q. And could you explain to the jury why you would go
12 see him at the jail.

13 A. We just -- at the time, I still had a little bit
14 of feelings for him, and I just went because he asked me
15 to come.

16 Q. And during this time, you were how old?

17 A. Nineteen.

18 Q. Do you remember giving a statement to Detective
19 Osborne in this matter?

20 A. Yeah.

21 Q. Okay. And that was a written statement?

22 A. Uh-huh, yes, ma'am.

23 Q. Do you recall whether in the written statement you
24 were asked if you had ever seen Terrell with a gun?

25 A. Yeah.

1 Q. And what did you tell David Osborne?

2 A. I told him no.

3 Q. Okay. Was that the truth?

4 A. No, that wasn't the truth.

5 Q. Would you tell the jury who was with you when you
6 were giving your statement?

7 A. My parents, my mother, and my father.

8 Q. And why did you not tell David Osborne the truth
9 about the gun?

10 A. I was really scared, thought I would have got in
11 some trouble, and my parents didn't know either, so I
12 told them no, I didn't see it, but, like, 100 percent I
13 was scared, so that is why I told them no.

14 MS. SHEALY: Beg the Court's indulgence a
15 moment.

16 Latrice, I have no further questions. Please
17 answer any questions the defense has.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. SLADE:

21 Q. Ms. Smalls, let's talk first in these questions
22 about the part of your testimony when Ms. Shealy was
23 asking you some questions about when you first arrived at
24 Apartment Five on the night of May the 30th.

25 A. Uh-huh.

1 Q. Now, when you first got there, Terrell was not
2 there, was he?

3 A. No.

4 Q. The only people who were there were the twins and
5 one of the other girls, right, Ta'Mequa?

6 A. No. Ta'Mequa came with me.

7 Q. Ta'Mequa rode with you, so when you got there, the
8 only people that were there were the twins, Che Carr and
9 Storme Carr, correct?

10 A. And Troop.

11 Q. So Che Carr, Storme Carr, and Troop were there.

12 A. Uh-huh, yes, sir.

13 Q. Troy White, who is also a tenant, also lives in
14 that apartment, was not there, was he?

15 A. No, he wasn't there.

16 Q. And Terrell Chandler who is the other tenant in
17 that apartment was not there, correct?

18 A. Uh-huh.

19 Q. And the times that you went over to the apartment,
20 in the time that you and Terrell had a -- your words were
21 almost like girlfriend/boyfriend relationship, correct?

22 A. Yeah.

23 Q. All right. During your almost like
24 girlfriend/boyfriend relationship, that relationship
25 began probably in March of '08, before May of '08?

1 A. Uh-huh.

2 Q. And during that period of time, when you would
3 come over to Apartment Five, many times the twins would
4 be there, correct?

5 A. Correct.

6 Q. And there would be times that you just went over
7 to Terrell's to meet with him and he wouldn't be there,
8 correct?

9 A. Not correct. That was only time I went there and
10 he wasn't there.

11 Q. Now, many times when you went over there, the
12 twins were there.

13 A. Uh-huh, yeah.

14 Q. And sometimes when you went over there, Ta'Mequa,
15 Terrell, and the twins weren't there. They came over
16 later on, correct?

17 A. Who?

18 Q. The twins would come over later on?

19 A. Yeah.

20 Q. And you described it as a chill out spot.
21 Apartment Five was kind of a chill out spot, and people
22 over there chilled out by eating, watching movies,
23 smoking dope, that kind of thing, correct?

24 A. Yeah.

25 Q. And everybody there engaged in eating and watching

1 the movies, correct?

2 A. Yeah.

3 Q. And everybody there engaged in the smoking of the
4 dope, right?

5 A. No, not correct.

6 Q. Now, let's talk about the time that you arrived at
7 the apartment on May the 30th. If you'll take a look at
8 that room behind you on that screen, can you identify
9 that part -- excuse me. Can you identify that part of
10 Apartment Five?

11 A. Yeah, that's the -- that's the den.

12 Q. That's the den.

13 A. Uh-huh.

14 Q. And the door to my left, your right, is back into
15 the kitchen, correct?

16 A. Yeah.

17 Q. So when you got there, all the lights were on?

18 A. Uh-huh.

19 Q. Correct?

20 A. Yeah.

21 Q. And the lights were on in the kitchen and the
22 bedrooms, correct?

23 A. Uh-huh.

24 Q. And that night it was really hot, wasn't it?

25 A. Hot, as in --

1 Q. Hot as in hot?

2 A. Temperature?

3 Q. Yeah.

4 A. Not really to me.

5 Q. The air conditioner wasn't working that night, was
6 it?

7 A. I'm not -- I can't recall.

8 Q. Now, you were there for 15, 20, 30 minutes, and
9 Megan White came in, correct?

10 A. Correct.

11 Q. And when she got there, the lights were on,
12 correct?

13 A. No.

14 Q. All right. Tell me when the lights went off.

15 A. The lights, I can't say exactly when they went
16 off. I know they went off. I didn't really pay too much
17 attention to it.

18 Q. Okay. So you're sitting there in a -- what would
19 be a normal evening in the chill out place, correct?

20 A. Uh-huh, yeah.

21 Q. And the lights just go off, correct?

22 A. Correct.

23 Q. All right. The lights go off in the den.
24 Correct?

25 A. Kitchen.

1 Q. The lights go off in the bedroom, correct?

2 A. No.

3 Q. All right. When the lights went off, was it pitch
4 black in there?

5 A. Yeah.

6 Q. Well, the lights were off in the den, right?

7 A. Yeah, the light -- when I came in, there weren't
8 no lights on in the den. The only light that I recall
9 was in the kitchen and Rell's room, and the TV was on the
10 in the den.

11 Q. And so the light just went off in the kitchen, is
12 that your testimony?

13 A. Yeah. It went off.

14 Q. Now, do you know what a hoody is?

15 A. Yeah.

16 Q. Is that a familiar expression to you?

17 A. Uh-huh.

18 Q. And would you describe what comes to your mind
19 when you think of a hoody.

20 A. Just like a sweater with a hood.

21 Q. It's sort of a sweat shirt with a hood, is my
22 understanding. Is that your understanding?

23 A. Yeah.

24 Q. And the hood comes up over the head, correct?

25 A. Yeah.

1 Q. Now, you described, in your direct testimony, the
2 guys that you said were in the apartment that night
3 changing clothes, correct?

4 A. Yeah.

5 Q. They didn't change in to hoodies in your
6 testimony, correct?

7 A. No, not that I recall.

8 Q. Okay. So they went -- and I apologize. I just
9 forgot. In your testimony when Ms. Shealy was asking you
10 some questions, you said the guys went into a room, and I
11 forgot, Terrell's room?

12 A. Uh-huh.

13 Q. They went in Terrell's room and changed clothes,
14 correct?

15 A. Yeah.

16 Q. But they did not change into hoodies, correct?

17 A. No, not that I can remember. I don't remember
18 seeing any hoodies.

19 Q. Do you know what a hoody is.

20 A. Uh-huh.

21 Q. You know what a black hoody is?

22 A. Yes.

23 Q. And you were there?

24 A. I was.

25 Q. And they didn't change into black hoodies?

1 A. I just remember black. I don't remember exactly
2 what they had on.

3 Q. Now, in your testimony, you described the lights
4 going out, and you were there with a car, correct?

5 A. Yeah.

6 Q. And you didn't feel well, correct?

7 A. Correct.

8 Q. And you could have left at any point?

9 A. Yeah.

10 Q. And the lights go out, and people are walking
11 around in the dark, with dark clothes on. You have a
12 headache, and you decide to stay.

13 A. I was about to leave, but I never left.

14 Q. You were about to leave?

15 A. I was.

16 Q. But you never left.

17 A. Never left.

18 Q. Now, after lights go out, you go back to the
19 bathroom, correct?

20 A. Yeah.

21 Q. And, Ms. Smalls, if you would take a look at that
22 picture behind you, that is Terrell's room, correct?

23 A. Correct.

24 Q. And that picture is well lit, correct?

25 A. Yes.

1 Q. I'm sorry. I couldn't hear.

2 A. Yeah.

3 Q. It is. So your testimony is now you walked past
4 this bedroom in a dark apartment and you saw an AK47.

5 A. When I went to the bathroom, it was before they
6 went outside, before any of the lights went off and all
7 that.

8 Q. I just asked you a series of questions about
9 whether you went to the bathroom before the lights went
10 out or after, and you told me previously, my
11 understanding was, you said you went to the bathroom
12 after the lights went out.

13 A. No, I didn't understand that. I don't recall
14 that.

15 Q. Now, in your testimony, when Miss Shealy was
16 asking you about some questions about the events that
17 occurred after you arrived at Apartment Five that night,
18 she asked you about instructions, and she asked you, if I
19 recall correctly, did you all receive any instructions
20 about how to behave, correct?

21 A. Uh-huh.

22 Q. And your answer was no?

23 A. No, correct.

24 Q. When you were there at Apartment Five -- could you
25 switch back to 17, please. Most of the time were you in

1 this area that you call the living room slash den --

2 A. Yeah.

3 Q. Am I characterizing that correctly? You were in
4 the living room slash den, correct?

5 A. Uh-huh.

6 Q. And most of the time you were there, Ta'Mequa,
7 Pookie, Durant was in the same room with you?

8 A. Yeah.

9 Q. And Megan White was in the same room with you,
10 correct?

11 A. Correct.

12 Q. And was there any reason that you could not hear
13 the things that Megan White heard? Was there some -- I
14 apologize. Go ahead.

15 A. That night I was in and out of sleep, so as in
16 before that incident happened, I mean, if they said
17 anything, I didn't hear anything, because I was going in
18 and out. I wasn't paying no attention.

19 Q. All right. All right. So in response to my
20 question, was any obstacle to your hearing, anything
21 Megan White heard, or Pookie, Ta'Mequa Durant heard, your
22 response was you were drifting in and out of sleep?

23 A. Correct.

24 Q. Because of your headache?

25 A. Uh-huh.

1 Q. Now, you gave a statement to Detective Osborne
2 back on July 10 of 2008. I would ask you, if you don't
3 mind, take a look at that and see if that is a fair copy,
4 an accurate copy, of the statement that you gave to
5 Detective Osborne at that time.

6 A. Yeah, this looks like it. Yeah, this is it.

7 Q. Are you satisfied that's it?

8 A. Yeah.

9 Q. Could I have that back, please. Thank you. Now,
10 at the time you were giving this statement to Detective
11 Osborne, it was about 10:00 in the morning, right?

12 A. Uh-huh, yeah.

13 Q. And you had all the time you needed to discuss
14 what you saw and what you heard with Detective Osborne,
15 did you not?

16 A. I did.

17 Q. You weren't under any kind of scheduling problems
18 or time constraints?

19 A. No.

20 Q. Was it clear to you he was interested in finding
21 out facts about Terrell Chandler?

22 A. Yeah.

23 Q. All right. Show me in your statement that you
24 gave him on July the 10th of 2008 where you describe
25 anybody changing into black.

1 A. Find it in the statement?

2 Q. Yes, ma'am.

3 A. It's not in here. It's not in the statement.

4 Q. Is your testimony here today Che changed into
5 black? Che changed into black?

6 A. Yeah, he was one of them.

7 Q. Storme?

8 A. Yeah.

9 Q. Troop, Steven Brown?

10 A. Yeah.

11 Q. And Terrell?

12 A. Yes.

13 Q. Find in the statement you gave Detective Osborne
14 anywhere in that statement that you told him in July of
15 2008 that anybody turned out any lights.

16 A. No, that's not in here.

17 Q. Now, you testified a little earlier, in
18 Ms. Shealy's direct examination, that your explanation of
19 why you neglected to mention seeing a gun like this that
20 night was you were concerned about the appearance that
21 would make to your parents, correct?

22 A. Uh-huh.

23 Q. Tell me what there is about lights going on in an
24 apartment that would cause some concern to your parents.

25 A. Could you rephrase the question?

1 Q. Tell me what it is about people turning out lights
2 in the apartment that would make you choose not to say
3 that in front of your parents.

4 A. I guess -- I mean, they would have probably said
5 why didn't I leave, or why did I stay, or why I was
6 around there, why I didn't tell them.

7 Q. And when you gave this statement -- that's your
8 reason?

9 A. Yeah.

10 Q. That is your reasoning for withholding that
11 information?

12 A. Well, that's my reason for not saying it in front
13 of my parents.

14 Q. Now, this was taken on June the 10th, 2008,
15 correct?

16 A. Correct.

17 Q. And you continued at that point to go see Terrell,
18 correct?

19 A. I did.

20 Q. And you continued to exchange phone calls with
21 him?

22 A. I went over there. We never were on the phone.
23 When I went over there that day, he knew I was coming.

24 Q. But you continued to see him, you continued the
25 sort of girlfriend/boyfriend relationship past the time

1 you spoke to Detective Osborne at your parents' house?

2 A. I did.

3 Q. Now, let's talk about hairstyles for a moment. In
4 your direct detective with Ms. Shealy, you testified that
5 Terrell had his hair braided on Sunday night, right?

6 A. Uh-huh.

7 Q. And what time did you and Ta'Mequa get over to
8 Apartment Five on Sunday?

9 A. I can't recall the time. It was before -- it was
10 before 12:00, I know that, but I can't recall.

11 Q. Before 12:00 noon?

12 A. Probably 7:00, 8:00, 9:00, around that time.

13 Q. 7:00, 8:00.

14 A. Yeah.

15 Q. And you testified that Ta'Mequa braided his hair,
16 correct?

17 A. His, as in --

18 Q. I'm sorry?

19 A. His, as in who?

20 Q. Terrell.

21 A. No, Che. She braided Che's hair.

22 Q. Terrell's hair was already in braids, correct?

23 A. Yeah.

24 Q. And it was in braids on the night of May the 30th,
25 2008, right?

1 A. I believe so. I'm not 100 percent.

2 Q. And Che's hair was long, long enough to put in
3 twists?

4 A. Yeah.

5 Q. And Ta'Mequa, one of the things she came over to
6 the apartment for -- well, strike that. Let me start
7 over.

8 Ta'Mequa was always over at Apartment Five,
9 correct?

10 A. Correct.

11 Q. And one of the reasons she was over there, she was
12 constantly braiding these guys' hair, correct?

13 A. Yeah.

14 Q. She was fooling with their hair all the time,
15 constantly putting it in braids, right?

16 A. Yeah, sometimes.

17 Q. Che's, Storme's, and Terrell's.

18 A. Correct.

19 Q. Now, and you were there on May the 30th of 2008.
20 At some point they turned the lights back on, according
21 to your testimony, right?

22 A. Uh-huh.

23 Q. And that was after you heard gunshots, right?

24 A. Correct.

25 Q. So they turned, somebody in the apartment, turned

1 the lights on?

2 A. Uh-huh.

3 Q. The lights were on in the den, right?

4 A. Yeah.

5 Q. In the kitchen, right?

6 A. Yeah.

7 Q. And in the bedrooms?

8 A. Uh-huh.

9 Q. So to your recollection of that night, you weren't
10 in pitch black dark until 4:00 or 5:00 or 6:00 in the
11 morning, right?

12 A. No. When they came back in the house, they turned
13 the lights back on, but when the police came, somebody
14 turned them back off.

15 Q. My point is, you weren't in pitch black the entire
16 evening, were you?

17 A. Not every second, no.

18 Q. And after you heard gunshots, the lights were on
19 for a while, right?

20 A. Uh-huh.

21 Q. Show me in the statement you gave Detective
22 Osborne anywhere where you say you saw Terrell walking
23 around in the house with a gun.

24 A. Just in general, just --

25 Q. You went through in your testimony a lengthy or a

1 demonstration of how Terrell walked around with this gun.

2 Show me in your statement where you said any of that.

3 A. I know that's not in there.

4 Q. When did you decide to change your story from what
5 you told Detective Osborne to what you told today?

6 A. When Osborne came, I was just distraught that day,
7 but when I talked to the solicitor, I felt more
8 comfortable with them, and they asked me the questions,
9 and that was something that I really didn't think about
10 when I was talking to Osborne as well.

11 Q. So Osborne comes over, is talking to you about a
12 murder case. You understood that?

13 A. Yeah.

14 Q. And it just wasn't something you thought about to
15 describe any activity of Terrell's with a gun.

16 A. No.

17 Q. Just didn't occur to you?

18 A. I mean, it just wasn't in my mind.

19 Q. At some point you decided to say that you seen
20 Terrell walking around in an apartment with a gun, right?

21 A. Yes.

22 Q. At some point you decided to say that you saw
23 everybody change into black, correct?

24 A. Correct.

25 Q. And you have discussed these changes with someone

1 on the prosecution team, correct?

2 A. Correct.

3 MS. SHEALY: Your Honor, my we approach the
4 bench for a moment?

5 (Discussion held at sidebar.)

6 BY MR. SLADE:

7 Q. Let's discuss the changes you have made to your
8 statement from July the 10th to what you said today. You
9 changed to say everybody -- or all the guys changed into
10 black, correct?

11 A. Correct.

12 Q. But they weren't hoodies.

13 A. I can't recall what they had on.

14 Q. But you know what a hoody is.

15 A. Yeah. I know what a hoody is.

16 Q. You know what a black hoody is.

17 A. Yeah.

18 Q. And you changed to say the lights were turned off
19 at some point, correct?

20 A. Correct.

21 Q. And tell me about the dancing. Who was dancing
22 that night?

23 A. I don't remember nobody dancing. To be 100
24 percent, I don't remember anybody dancing.

25 Q. Well, if -- when you're at the chill out spot, or

1 the chill out apartment, in prior evenings, did dancing
2 ever occur?

3 A. Not that I can recall.

4 Q. Okay. Well, I'm asking now about dancing that
5 evening. Did he -- you don't recall anybody dancing?

6 A. Huh-uh, no.

7 Q. Well, were Megan and Ta'Mequa in the living room
8 there with you most of the time?

9 A. That night?

10 Q. Yeah.

11 A. Yeah.

12 Q. Where was the music? Where is the source of music
13 in that apartment?

14 A. I think a stereo was in there by the TV, I think.

15 Q. So in this room, in this picture behind you?

16 A. Yeah, right there.

17 Q. All right. And you've discussed the changes that
18 you made to your statement with the folks in the
19 prosecutor's office, correct?

20 A. Correct.

21 Q. And you've gone over what you were going to say
22 today, correct?

23 A. With them? Yeah.

24 Q. Right. Okay.

25 MR. SLADE: I don't have any other questions.

1 THE COURT: Redirect?

2 REDIRECT EXAMINATION

3 BY MS. SHEALY:

4 Q. Ms. Smalls, you were telling us about the day were
5 you speaking with Detective Osborne, and at that time
6 were you still involved romantically with Terrell? That
7 would have been -- let me see -- July 10 of 2008.

8 A. Yeah, I was, kind of, a little bit.

9 Q. And I think you told us that your parents were
10 right there.

11 A. Yeah.

12 Q. Now, have you, in fact, come to the solicitor's
13 office for us to question you?

14 A. I did.

15 Q. And when you have come to the solicitor's office,
16 could you tell the jury who asked more details of you,
17 did Detective Osborne or did we, me or Mr. Neely?

18 A. The solicitor's office, they asked more questions,
19 and go more into detail.

20 Q. So when Mr. Slade keeps indicating that you
21 changed your statement, did you change it or did you add
22 to it?

23 A. I add to it.

24 Q. And what you've said today, is this the truth?

25 A. It's the truth.

1 MS. SHEALY: Thank you very much. I have no
2 further questions.

3 THE COURT: Recross?

4 RECCROSS-EXAMINATION

5 BY MR. SLADE:

6 Q. Let me ask you about a question Miss Shealy just
7 asked. You don't view adding facts to your previous
8 statement as changes?

9 A. No.

10 Q. You don't view it as a change to say that -- to
11 say now that these people went, the guys, went in and
12 changed all to black? That is not a change in your mind?

13 A. No.

14 Q. It's not a change in your mind to say now Terrell
15 came back in, carrying a rifle?

16 A. No.

17 Q. In your mind, that's not changing anything?

18 A. It's not a change.

19 Q. And in your mind, it's not a change in what you
20 were saying to Detective Osborne, to say that the lights
21 were turned off, correct?

22 A. Correct.

23 Q. And you had -- when you were -- those are all --
24 those are all important, memorable facts, correct?

25 A. Uh-huh.

1 Q. And you had all the time you wanted to talk to
2 Detective Osborne when he came to interview you, right?

3 A. Correct.

4 Q. And you just didn't tell him.

5 A. It wasn't like that. It just didn't run across my
6 mind at the time.

7 Q. Okay.

8 MS. SLADE: I beg indulgence of the Court.
9 Thank you, Your Honor.

10 THE COURT: All right. Anybody need her or
11 is she excused?

12 MR. SLADE: Yes, sir. I'm sorry.

13 THE COURT: All right. You can step down.
14 You're excused.

15 Let's take a ten-minute break before we call
16 your next witness. Go back. Again, don't begin
17 discussions or deliberations. Take a ten-minute break.

18 (Recess taken.)

19 THE COURT: Let the record reflect the
20 defendant is in the courtroom.

21 (In open court, jury present.)

22 THE COURT: All right. Call your next
23 witness.

24 MS. SHEALY: Cherelle Anderson.

25 CHERELLE ANDERSON,

1 having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SHEALY:

5 Q. Cherelle, tell the jury, please, do you live in
6 Charleston?

7 A. Yes, ma'am.

8 Q. Okay. And did you know Calvin Gibbs?

9 A. Yes, ma'am.

10 Q. Would you tell the jury what your relationship
11 with Calvin Gibbs was.

12 A. He was my boyfriend.

13 Q. And how long had he been your boyfriend?

14 A. For five years.

15 Q. You're talking really quietly, and I know you talk
16 quietly, but can you get closer or something with that
17 microphone for me.

18 A. Okay.

19 Q. Focussing your attention on May 30, 2008, would
20 you tell the jury whether you were with Calvin Gibbs that
21 day?

22 A. Yes, I was.

23 Q. And if you would start with the early evening
24 hours, could you tell the jury what you and Calvin were
25 doing.

1 A. Just sitting at my house, basically, and then we
2 drove off to his mom's house.

3 Q. Okay. And where did his mother live?

4 A. On Moss Street.

5 Q. What neighborhood was that?

6 A. Ponderosa.

7 Q. It's sometimes hard to hear in here, and the court
8 reporter has to take down every word, so just a little
9 louder than you normally talk. Okay?

10 When y'all went over to Ponderosa, what was the
11 reason for stopping by his mom's house?

12 A. Wash clothes.

13 Q. After y'all left Ponderosa, would you -- first of
14 all, where is that in relationship to Charleston? What
15 area of Charleston?

16 A. West Ashley.

17 Q. And is it off of Highway 17?

18 A. I guess.

19 Q. Or do you know? After you left Ponderosa, where
20 did y'all go?

21 A. Where did we go? To the -- I think we went to the
22 Waffle House, I guess.

23 Q. Okay. And when you went to the Waffle House, did
24 y'all eat there or did you take food to go?

25 A. No, we took food to go.

1 Q. And where were you planning on going to eat the
2 food? Where were y'all going to actually eat the food?

3 A. Home.

4 Q. And where was home?

5 A. On Delowe Street, on Remount Road.

6 Q. And what area of Charleston is that?

7 A. Remount Road.

8 Q. Let me ask you this: What cell phones did Calvin
9 have that night?

10 A. Little Daddy's and his.

11 Q. Beg the Court's indulgence. When you say Little
12 Daddy, who was Little Daddy?

13 A. Christopher Watkins.

14 Q. Where was Christopher Watkins that day?

15 A. In jail.

16 Q. Did Calvin have anything else of Christopher
17 Watkins' that night?

18 A. He went to go get some money from him.

19 Q. Got some money from him?

20 A. Yeah, that he told him he would go get.

21 Q. Okay. Do you head straight to Remount Road or
22 y'all go and make a stop somewhere?

23 A. No, we made a stop somewhere.

24 Q. And where did you think y'all were going?

25 A. I thought we were going home, but he had to make

1 one more stop.

2 Q. And do you recall where that was in relationship
3 to Charleston, what area of town y'all were going in?

4 A. Are you talking, like, what was I told where were
5 I going?

6 Q. As y'all go there, can you tell us what area of
7 town it was?

8 A. Sycamore. I guess that is West Ashley too.

9 Q. Okay. Let me show you State's Exhibit No. 2, and
10 if I could orient you, can you figure out what we're
11 looking at?

12 A. Yeah.

13 Q. Do you see Sycamore Avenue?

14 A. Yeah.

15 Q. Okay. Could you tell the jury what way you
16 traveled that night. Can you point that out to us, and
17 you're going to have to speak really loud when you do
18 this. This is the entrance, right, to Sycamore? That is
19 where St. Andrews and Sycamore is? Have a seat back down
20 and let me see if I can help you get oriented.

21 Do you see where this says highway 61 and St.
22 Andrews?

23 A. Yeah.

24 Q. This is an old picture. This is a building that
25 is not there now, used to be there. Okay? And this is

1 Sycamore, that is Battery Avenue, here is some
2 apartments, and this is Hillsboro. Can you take this and
3 point at it and tell us what way y'all went in, if you
4 remember? If you don't feel comfortable with that map,
5 you don't need to do it that way.

6 A. It was, like, basically, like a circle. We went
7 up this way, around there and, like, there.

8 Q. Okay. And as y'all were traveling down from the
9 Waffle House to this area of Charleston, was Calvin
10 receiving any phone calls?

11 A. Yeah.

12 Q. Okay. Do you recall whether he was receiving
13 those on his phone or on Little Daddy's phone?

14 A. Little Daddy's phone.

15 Q. What was going on with Calvin's cell phone that
16 night?

17 A. It was dead.

18 Q. Now, as y'all enter on Sycamore, could you tell
19 the jury whether or not y'all could find the location
20 easily.

21 A. No.

22 Q. Okay. So what happened?

23 A. He called him back, and he asked him where he was
24 and stuff like that.

25 Q. You overheard that conversation?

1 A. Uh-huh.

2 Q. With Calvin and someone on the phone?

3 A. (Nods head.)

4 Q. And how do y'all then decide where to turn in?

5 A. We saw a guy waving.

6 Q. Okay. And can you tell me about where it was that
7 you saw him waving y'all in.

8 A. (Indicating.)

9 Q. Okay. And when you say he was waving you in,
10 could you show the jury with your arms what you mean?

11 A. (Indicating.) Like that.

12 Q. All right. Now, showing you State's Exhibit 13,
13 is that the area you were indicating y'all were being
14 directed to?

15 A. Yes, ma'am.

16 Q. Okay. Now, if you'll use the pointer and show us
17 where y'all parked.

18 A. It's not clear enough.

19 Q. It's not wide enough a view?

20 A. No.

21 Q. Okay. Beg the Court's indulgence just a minute.

22 Okay.

23 Showing you Defendant's Exhibit 5, can this help
24 you out? Why don't you come down here with me. Now,
25 I'll tell you what. You get here, I'll get here. Take a

1 minute and look at it. Does that picture help you?

2 A. (Shakes head.)

3 Q. If you could stand there for just a second, let me
4 see if I got a better picture. Let me ask you, do either
5 of these help? If not, I'll try to find you a different
6 one. They're not helpful? Okay. Go ahead and have a
7 seat.

8 Let's try State's Exhibit 16. Does that help you?

9 A. We were a little past the breezeway.

10 Q. A little past the breezeway. And do you see the
11 breezeway on that picture?

12 A. Uh-huh.

13 Q. Can you use the pointer and show us that.

14 A. It's somewhere up in --

15 Q. That is how far y'all pulled up. Now, tell the
16 jury, if you would, what happens as y'all pull up.

17 A. Well, as we pull up, him and the guy start
18 talking. I don't know what they're talking about,
19 because I wasn't paying any attention. All I know is
20 they exchanged some things and he was, like, some B stole
21 his money and stuff like that.

22 Q. Let me slow you down a little bit.

23 A. Okay.

24 Q. You told us that someone was waving you in. Did
25 you get a look at that guy?

1 A. Uh-huh.

2 Q. When you are now telling us about something that
3 happened at the car, was it the same guy or a different
4 guy that came up to the car to talk to you?

5 A. It was the same guy.

6 Q. Do you remember what he looked like?

7 A. Uh-huh.

8 Q. Can you describe him for the jury.

9 A. He had twists and was kind of like five-six, five
10 something.

11 Q. And when you say he and Calvin -- I can't remember
12 how you referred to it, but did Calvin give him some
13 drugs?

14 A. Yeah.

15 Q. And when Calvin gave him some drugs, did you see
16 what Calvin actually gave him?

17 A. It was some white stuff, some powder stuff.

18 Q. And what was the powder stuff in?

19 A. A Dollar bill or something.

20 Q. And when you say someone said something, was that
21 the guy at the car?

22 A. Uh-huh.

23 Q. And what did you indicate he said?

24 A. He said some B stole his money. He got to go back
25 and get his money, and he went back to the apartment.

1 Q. Now, when you said that he said some B stole his
2 money, did he say B or did he say bitch?

3 A. Yeah.

4 Q. Did he B -- did he say bitch?

5 A. I don't want to say the B word out loud.

6 Q. After that was said, where did you see him go?

7 A. Into the breezeway, somewhere off to the right.

8 Q. What happened when you and Calvin were in the car
9 alone then?

10 A. We was waiting for some minutes for him to come
11 back.

12 Q. And how did that make you feel, waiting?

13 A. Uncomfortable. I told him I was ready to go.

14 Q. Okay. What is the next thing that happens?

15 A. Two -- I see two guys come up to the car. Like, I
16 didn't see them come up to the car, but they was at the
17 car.

18 Q. Okay. Let's slow down with that too. If you
19 would explain to the jury when it is that you next see
20 people near the car. Did you see them approach the car,
21 or did you saw them when they got to the car?

22 A. When they got to the car. I didn't see them
23 approach the car.

24 Q. And tell the jury, when these two people got to
25 the car, what could you see? What did you see?

1 A. I seen dude with the dreads and someone a little
2 taller than him come -- approach the car.

3 Q. And who was standing closest -- or who did you see
4 best from where you were seated?

5 A. The one I pointed to.

6 Q. Okay. Are you talking about the taller guy or the
7 guy you had seen earlier?

8 A. The guy I had seen earlier.

9 Q. Tell the jury where you saw him when you saw him
10 at the car. Where was he?

11 A. Like, they were, like, somewhat together.

12 Q. Okay. And do you see the face of the guy you had
13 seen earlier?

14 A. Uh-huh.

15 Q. Do you see the face of the tall guy?

16 A. No.

17 Q. Now, other than the face of the short guy and the
18 fact that somebody taller is standing near him, what else
19 do you see when you're sitting in that car?

20 A. Like other people running and stuff. I seen two
21 other guys running, but I didn't see them, like, faces
22 wise.

23 Q. And was there anything else in the window of the
24 car when you saw the guy you had seen earlier, any
25 object?

1 A. A gun.

2 Q. Okay. That is what I'm asking about.

3 A. Okay.

4 Q. So when you see the face of the guy you had seen
5 earlier, the other thing that you can see is what?

6 A. A gun.

7 Q. And could you describe for the jury what happens
8 then.

9 A. It was -- they had all shot the gun, and we were
10 trying -- I put the car in reverse, and he was trying to
11 drive it and I was trying -- he had his foot on the
12 pedal, and he was trying to drive the car and stuff like
13 that.

14 Q. I'm going to slow you down for a second, but
15 before we get to that, when you hear the gun go off,
16 describe to the jury whether that was a loud sound or a
17 quiet sound..

18 A. It was a loud sound.

19 Q. And after that, did Calvin say anything?

20 A. Uh-huh.

21 Q. What did he say?

22 A. All these curse words, oh, the S word, and he was
23 like, baby, oh, shit -- I don't even want to say the
24 word.

25 Q. We can handle it.

1 A. He was, like, Oh, shit, baby, and he was trying to
2 leave the scene and stuff.

3 Q. Did either of the guys standing at the car say
4 anything?

5 A. Something about, I got you now, nigga.

6 Q. Cherelle, tell me what he said.

7 A. I got you now nigga, or something.

8 Q. And when you say y'all started trying to back up,
9 do you see -- let me hold that pointer for a second.
10 This area here where those marks are, is that the way
11 y'all were backing out?

12 A. Uh-huh.

13 Q. Now, how easy was it to back out? Who was doing
14 what?

15 A. He was pushing the pedals. I was trying to
16 control the reverse, to put it back in drive because you
17 had to back out and drive to get out of there, so --

18 Q. Okay. And did y'all go back out the same way you
19 came in?

20 A. Are you talking about like around the curve? No.
21 We went just straight out and to the right.

22 Q. Okay. When you say straight out and to the right,
23 did you go back out on to the Hillsboro Road you had
24 looped on?

25 A. No. Is that Battery Road, Battery Avenue or

1 something?

2 Q. Let's look at State's Exhibit 2 again, and if on
3 this picture --

4 A. That is Hillsboro Drive here.

5 Q. If y'all are back here, can you take --

6 A. And then that way.

7 Q. And just to orient you, that was not there, it was
8 vacant?

9 A. That is where we stopped at. There was nothing
10 there.

11 Q. Do this for me. Take the pointer and show the
12 jury which way y'all went out.

13 A. Went back out that way.

14 Q. Where did y'all stop, approximately?

15 A. Like, somewhere up in here, because there was
16 nothing there at that point in time.

17 Q. As y'all were going to your ultimate resting place
18 there, who was doing what in the car?

19 A. I was already on the phone, making a 911 call and
20 trying to drive and stuff.

21 Q. Now, taking you back to when the shooting actually
22 happens, when y'all are back behind the building, when
23 you saw the gun, and when you saw the guy that you had
24 seen earlier, can you tell the jury whether you can tell
25 who was holding the rifle.

1 A. No.

2 Q. Okay. Now, as you were driving there, what makes
3 y'all ultimately stop?

4 A. I think we hit something on the ground, something.

5 Q. Okay. And you were trying to call 911?

6 A. Yes, ma'am.

7 Q. Do you remember whose phone you dialled 911 from?

8 A. Christopher Watkins.

9 Q. Okay. I'm going to play you the 911 recording.
10 You've had the opportunity to listen to that, right?

11 A. Uh-huh.

12 Q. Was that, in fact, the call you made that evening?

13 A. Yes, ma'am.

14 MS. SHEALY: I guess we need to get that
15 marked.

16 THE COURT: Go ahead and play it. You can
17 have it marked later.

18 (Whereupon the 911 call was played to the
19 jury.)

20 BY MS. SHEALY:

21 Q. That was the 911 call you made that evening?

22 A. Uh-huh.

23 Q. After y'all came to that stop and you made the
24 call, did the police arrive?

25 A. Uh-huh.

1 Q. And EMS.

2 A. (Nods head.)

3 Q. Could you tell us what was going on with Calvin?

4 A. He was still breathing. I checked on him, just as
5 she told me to, and after that they took him in the
6 ambulance and that was it.

7 Q. Okay. Now, when they take him in the ambulance,
8 are you still at the scene?

9 A. Uh-huh.

10 Q. And do people start talking to you, police
11 officers and such?

12 A. (Nods head.)

13 Q. Could you describe to the jury how you were
14 feeling at that point?

15 A. At that point in time, I felt like I just lost my
16 mind.

17 Q. Okay. Do you remember talking to several officers
18 about what had happened?

19 A. Yeah.

20 Q. And did one officer, in fact, put you in a patrol
21 car?

22 A. Uh-huh.

23 Q. And was that for you to be able to kind of sit and
24 calm down?

25 A. Yeah.

1 Q. Okay. Where did you go? Did you walk back at all
2 to the Battery Avenue area with the police at that point?

3 A. No.

4 Q. Okay.

5 A. Just -- I think a little bit I did.

6 Q. And just kind of pointed out where it happens?

7 A. Yeah.

8 Q. And that is after you had talked to how many
9 officers, do you remember?

10 A. I saw so many, I probably only talked to about
11 four.

12 Q. Where did you go -- when you left Sycamore Avenue,
13 where did you leave and go?

14 A. To the hospital.

15 Q. And were you at the hospital when Calvin died?

16 A. Yes, I was.

17 Q. After -- I'm sorry. I know all these questions
18 are upsetting.

19 A. Yeah, they are.

20 Q. After you left the hospital, where did you go?

21 A. Home.

22 Q. And when you got out of the car, did you take
23 anything out of the car with you? Did you take Little
24 Daddy's cell phone?

25 A. Yeah, but I think -- yeah.

1 Q. Okay. And at some point do you give that to
2 his -- Calvin's family members?

3 A. Yeah.

4 Q. Now, when you arrived home, tell the jury, if you
5 would, who was at your house when you got there.

6 A. Mr. Osborne.

7 Q. That is Detective David Osborne?

8 A. Uh-huh.

9 Q. Did you speak to him that night?

10 A. No, we didn't spoke that night.

11 Q. Did you ask anything of him? Did he want to talk
12 to you?

13 A. Yeah.

14 Q. And what did -- do you remember what you asked
15 him, about when you could talk?

16 A. I think I told him tomorrow or something like
17 that.

18 Q. The next day, did you speak with any officers?

19 A. Him.

20 Q. And did you and he go back to Battery Avenue?

21 A. Yes, we did.

22 Q. What were y'all doing when you were back at
23 Battery Avenue?

24 A. Just looking, observing where we were at.

25 Q. Were you showing him where things happened?

1 A. Yes, ma'am.

2 Q. Now, you told us earlier that there were some
3 other guys running around the car when all of this was
4 going on.

5 A. Yes.

6 Q. Tell the -- how many other guys were there, do you
7 remember?

8 A. Four totally.

9 Q. Four totally? And when y'all were pulling out,
10 did you see any people at that point as y'all are trying
11 to pull out?

12 A. Yeah.

13 Q. And what were they doing?

14 A. They are, like, just -- I don't know. It could be
15 just because of the gunshot I heard, but it sounded like
16 I heard some more, but I don't know.

17 Q. Some more gunshots?

18 A. Uh-huh.

19 Q. Tell us what happened with your ear that night.

20 A. It was -- it still wasn't working real good. I
21 still have to put a phone to the right ear because people
22 think I'm deaf on the left or something.

23 Q. And that happened why? What happened to it?

24 A. Because of that gunshot sound was so loud. It was
25 so close.

1 Q. Do you remember you told us you remember talking
2 to several officers.

3 A. Uh-huh.

4 Q. And, in fact, you gave -- let's see, three written
5 statements, I believe. Do you remember that?

6 A. Uh-huh.

7 Q. Do you remember being shown a line-up by Detective
8 Osborne?

9 A. Uh-huh.

10 Q. With some photographs in it? Okay. And do you
11 recall that being May 31 that you were shown the line-up,
12 or do you remember the day?

13 A. I don't remember.

14 Q. Let me show you this and ask you if you recognize
15 this. Do you remember this? You're going to need to
16 answer for me for the record.

17 A. Yeah.

18 MS. SHEALY: Your Honor, at this time I'll
19 mark into evidence the 911 call disk, and also I would
20 move into evidence the line-up, two-page document.

21 THE COURT: Any objection to either?

22 MR. SLADE: No, Your Honor.

23 THE COURT: All right. Both admitted.

24 (CD of 911 call and line-up marked for
25 identification and admitted into evidence as State's

1 Exhibit Nos. 101 and 102.)

2 BY MS. SHEALY:

3 Q. I'm showing you State's 102. You hold on to that
4 for me, okay? Do you remember where you and Detective
5 Osborne were when he showed you the line-up?

6 A. Downtown.

7 Q. Were you at the police department?

8 A. I think so.

9 Q. And did you realize how important it was to take a
10 look at the line-up?

11 A. Uh-huh.

12 Q. Did Detective Osborne go over the admonition at
13 the beginning of the page?

14 A. Yeah.

15 Q. Okay. Do you have any difficulty reading? Could
16 you read that to the jury or would you like me to read
17 it?

18 A. You can go ahead. I --

19 Q. Okay. I am going to show you a group of
20 photographs. These photographs may or may not contain a
21 photo of the person who committed the crime being
22 investigated. Please keep in mind that the photographs
23 may not always show the true complexion of an individual.
24 It's possible they may be lighter or darker than shown in
25 the photos. Also remember that hairstyles, beards, and

1 mustaches are features that can easily change.

2 When you finish looking at all of the photos, tell
3 me if you can make a positive identification of the
4 person who committed the crime. If you are positive in
5 your identification, I will ask you to sign and date the
6 back of the photograph.

7 Do you remember Detective Osborne going over that
8 with you?

9 A. Uh-huh.

10 Q. And, in fact, is your signature on that admonition
11 form?

12 A. Yeah.

13 Q. Okay. When he showed you the photographs -- would
14 you tell the jury whether or not you were able to
15 identify someone.

16 A. Yeah, I was.

17 Q. Okay. And tell the jury who the person was that
18 you identified, the person who did what that night.

19 A. I don't even know his name.

20 Q. You don't need to know his name, but is he the
21 person that waved you in?

22 A. Yeah, he's the person that waved us in.

23 Q. And is he the person whose face you saw at the
24 window?

25 A. Yeah, yeah.

1 Q. Okay. I'm sorry. I'm waiting on -- okay. Can
2 you point out to the jury which one you selected?

3 A. (Indicating.)

4 Q. And the signature that is to the left of that
5 signature is their signature?

6 A. Uh-huh.

7 Q. Now, I'm going to ask you again when you saw this
8 individual at the vehicle when the shooting occurred,
9 could you tell where people's hands were?

10 A. No, I could not.

11 Q. And if you were describing how close up to the
12 window he was, was he close up to the window?

13 A. Yeah, close enough not to shoot a window out.

14 Q. Okay.

15 A. They were down a little bit.

16 Q. Now, on the first page of that statement document,
17 it's written -- I'm not sure if you wrote it or Detective
18 Osborne wrote it --

19 A. I didn't write it.

20 Q. Detective Osborne wrote it then. It says, He
21 looks like the guy who ran up to the car with the long
22 gun. And the CA, are those your initials?

23 A. Those are my initials, yeah.

24 Q. Now, when it says that he looks like the guy that
25 ran up to the car with the long gun, did you actually see

1 them run up?

2 A. No.

3 Q. Why did you use the word run?

4 A. That's not my definition, that's his.

5 Q. Okay.

6 A. If I would have wrote it, it would be different.

7 Q. How would you have said it?

8 A. I just see them at the window, basically.

9 Q. Okay. Did you know when you made this
10 identification that the person you selected had an
11 identical twin?

12 A. No. I didn't have no clue.

13 Q. Were you ever shown a line-up with an identical
14 twin in it?

15 A. No. That was the first line-up I saw.

16 Q. Now, do you remember describing the hair of any of
17 the other guys who were outside that night?

18 A. Yeah, I did, but then I can't remember at this
19 point.

20 Q. You don't remember what the hair looked like?

21 A. No. It's been too long.

22 Q. Okay. Do you remember -- right now you don't
23 remember anything about the hair?

24 A. No. Just what I saw -- it's two years from now,
25 you know.

1 Q. I beg the Court's indulgence, just a moment.

2 When the guy comes up to the car and you see his
3 face, were the windows up or down?

4 A. It was down. It was, like, halfway cracked, both
5 sides.

6 Q. And when you saw the gun, was the gun in the car
7 or outside the car?

8 A. Like, somewhere in the car -- not, like, in the
9 car in the car, but, you know, at the window.

10 Q. Okay. And did you see it any more closely than
11 that? Can you tell us anything else about the gun?

12 A. It was long, that's about it.

13 Q. And the height of the person that was with the guy
14 whose face you saw was taller or shorter than that guy?

15 A. Taller.

16 MS. SHEALY: I have no further questions.
17 Please answer any that defense counsel may have.

18 THE COURT: Cross?

19 MR. SLADE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SLADE:

22 Q. Good morning, Miss Anderson. I'm Mitch Slade.
23 I'm one of the lawyers helping Waring Howe, who I think
24 you talked to a week or so ago, and I have a series of
25 questions about the events on the night of May the 30th

1 and your descriptions of them.

2 You went up to the apartment that we've been
3 talking about with Calvin Gibbs, and the first thing you
4 saw behind the apartment was somebody waving his arms,
5 right?

6 A. (Nods head.)

7 Q. And that person you described as being about
8 five-five, five-six, right? And he had on a white
9 T-shirt, correct? And he was waving you into -- waving
10 you and Calvin into that area --

11 A. Yeah.

12 Q. -- that you saw on that, I guess that picture that
13 was dark, rather than light, right, somewhere in that
14 area? Are you familiar enough with that area --

15 A. No, I don't. I'm not -- I don't even go in the
16 West Ashley area.

17 Q. That's fine. And what happened after y'all saw --
18 the reason the guy was waving was Calvin couldn't find
19 where he was supposed to be?

20 A. Yeah.

21 Q. And what he was going do is he was going to sell
22 these people some type of herb, marijuana, or cocaine,
23 right?

24 A. Cocaine.

25 Q. Cocaine?

1 A. That's what it was.

2 Q. There was some marijuana in the car as well,
3 correct?

4 A. Yeah. We was just -- what we were smoking.

5 Q. Right. Okay. And so the guy who is five-five,
6 five-six -- and I think you described that guy as having
7 twists or dreads right?

8 A. Twists.

9 Q. And --

10 A. It's like dreads.

11 Q. It's like dreads?

12 A. Uh-huh.

13 Q. And you make a living as a hairdresser, as a hair
14 stylist? That is part of what you do?

15 A. Uh-huh.

16 Q. So you're familiar with dreads, twists, that kind
17 of thing?

18 A. Yeah.

19 Q. You know what a low fade haircut is?

20 A. Yes.

21 Q. And can you describe that for us. What are you
22 talking about when you use that term?

23 A. Like, it's just like --

24 Q. Real close cut?

25 A. Yeah.

1 Q. Typically a man's hairdo?

2 A. Uh-huh.

3 Q. Okay. And when the guy waves y'all in, Calvin
4 pulls in to where the guy is waving y'all to, and the guy
5 with the twists or dreads, white T-shirt, who is about
6 five-five or five-six, walks up to the window, and they
7 start talking about some kind of dope deal.

8 A. I don't know what they were talking about. I was
9 not listening.

10 Q. Okay.

11 A. All I know is what was said before he left to go
12 and talk about he was going to get his money. That's
13 about it.

14 Q. Okay. And Calvin liked his music, right?

15 A. Yes.

16 Q. And at the time y'all were pulling up off of
17 Sycamore and trying to find the place, the music was --
18 his music -- the windows were down and the music was
19 playing loud, right?

20 A. Yes.

21 Q. And when the guy -- after the guy who was at the
22 car was negotiating, he said something about, Bitch stole
23 my money, and started walking away from your car.

24 A. Yes.

25 Q. And what you have described for the police is that

1 next, the next time you saw somebody, you saw the guy
2 with the white T-shirt, five-five, five-six, running back
3 to the car shooting, correct?

4 A. No. My statement was kind of twisted, and that is
5 why I'm here today, you know, to get it all together.

6 No.

7 Q. Okay. Go ahead. I'm sorry.

8 A. No. It was -- I told -- I don't know. I guess by
9 me just explaining it so fast that he just put it the
10 way -- you know, whereas he felt comfortable. If I was
11 to write it, it wouldn't be like that.

12 Q. Okay. Well --

13 A. I have my statements. You don't have to show me.

14 Q. Do you have them in front of you?

15 A. No.

16 Q. Let me see if I can -- I beg the indulgence of the
17 Court. I apologize. All right. Let's take a look at
18 the statement, if you don't mind. If you would,
19 Ms. Anderson, would you take just a moment and take a
20 look at that statement and just identify it for
21 everybody, if you don't mind. Do you recognize that
22 document?

23 A. Yes.

24 Q. It's a two-page statement you gave about 12:30 on
25 May the 30th of 2008, correct?

1 A. Yeah.

2 Q. And you gave it to --

3 A. A couple days before that happened. I gave them
4 my last statement, and I told them, you know, that these
5 statements, the first two ones that I had, wasn't written
6 too good. I didn't write them.

7 Q. I understand.

8 A. So it's better you not going from them than just
9 asking me a question you need to.

10 Q. Right. The policeman that evening, you were
11 basically still at the scene at that point, at 12:30 or
12 1:00, correct, and you were talking with, I believe this
13 was -- a female officer, Antonio?

14 A. Uh-huh.

15 Q. And Officer Antonio was asking you some questions
16 about what was happening, and she was trying to get some
17 information, and you were doing the best you could to try
18 to describe the people so that they could try to do
19 something about it, right?

20 A. Uh-huh.

21 Q. And let's look -- the first part of your statement
22 essentially covers going to the Waffle House and going by
23 Calvin's mom's and those things, right?

24 A. Yeah.

25 Q. So let's look at the second part of your

1 statement. You told Officer Antonio that you were
2 driving with your windows down, right?

3 A. Uh-huh.

4 Q. Because the music was very loud, right?

5 A. Not when we got there it wasn't.

6 Q. The music in your car was loud?

7 A. Yeah. I'm talking about when we got to the scene
8 it was not.

9 Q. And you told Officer Antonio that you saw people
10 running up, shooting, correct?

11 A. Uh-huh.

12 Q. That is in your statement?

13 A. Uh-huh.

14 Q. One of the first three lines, correct?

15 A. Uh-huh.

16 Q. And Officer Antonio asked you to describe the
17 suspects?

18 A. Yeah, and at that time I did.

19 Q. And you described the man who you saw come running
20 up to the car, right?

21 A. Uh-huh.

22 Q. With the gun, right? And you described that man
23 as a black male, in your statement.

24 A. Uh-huh.

25 Q. You described him as five-five, five-six, right?

1 Am I reading that correctly? And you described him as
2 having on black and white patched short pants, and you
3 told Officer Antonio so she could try to help find these
4 people that he was wearing a white T-shirt; is that
5 right?

6 A. Uh-huh.

7 Q. You described his hairstyle, correct, and you went
8 on to describe his hairstyle as little twists or dreads,
9 right? And you have talked about some other people being
10 around the car at some point?

11 A. Uh-huh.

12 Q. And you were trying to describe for her --

13 A. What they were wearing, but --

14 Q. I'm sorry?

15 A. What they were wearing, or their haircuts, yeah.
16 It was like two different people I saw. Not like, see,
17 like, actually, people.

18 Q. And we're just looking at what you were telling
19 them at that time, and you told them -- you saw another
20 person there, right? And you were trying to describe
21 that person, and you said that person had a black shirt,
22 am I reading that correctly?

23 A. Uh-huh.

24 Q. And your recollection was he had blue jeans and
25 had a fade hairstyle, correct? And you said a fade

1 hairstyle is real close cut on the side, right?

2 A. Yeah.

3 Q. Almost shaved?

4 A. Yeah.

5 Q. And a little bit on the top? Okay. So you were
6 able to see his head. All right. At any point in these
7 descriptions, did you describe any -- well, let me back
8 up a step. Do you know what a hoody is?

9 A. No.

10 Q. Okay. Have you ever seen a sweat shirt --

11 A. Oh, yeah, with a hoody on it? No.

12 Q. So that is what I'm calling a hoody.

13 A. Yeah.

14 Q. Is that what you call a hoody?

15 A. Yeah.

16 Q. At any point in these descriptions that you
17 gave -- you talked with a number of policemen, describing
18 what you saw that night, correct? Did you ever at any
19 point describe any of these people you saw as wearing
20 hoodies?

21 A. (Shakes head.)

22 Q. You were able to describe a low fade hairstyle so
23 whoever that person was didn't have anything covering his
24 hair, right?

25 A. Huh-uh.

1 Q. And you were able to describe the twists or dreads
2 that the five-five, five-six --

3 A. When he came out to the car the light was already
4 shining on him, so he was already noticeable.

5 Q. Right. Sure. And thank you. And did he have on
6 any kind of hoody?

7 A. No, not at that time.

8 Q. Okay. At any point?

9 A. It was too hot for a hoody.

10 Q. It was really hot that night, wasn't it?

11 A. Yeah.

12 Q. Now, you talked with Detective Osborne again --
13 I'm sorry. You talked with Detective Osborne about 6:30
14 or so in the evening on May the 31st, right?

15 A. Uh-huh.

16 Q. Down --

17 A. At the office.

18 Q. At the city police department, and that was a
19 Saturday, the shooting occurred later near midnight on
20 Friday.

21 A. Uh-huh.

22 Q. And he had asked you to come down to the city
23 police department, and he wanted you to try to help him
24 with the investigation, right? So the first thing that
25 y'all want -- he wanted you to talk about was the

1 description of the folks that you had seen there on
2 Hillsboro off Battery Avenue, right?

3 A. Uh-huh.

4 Q. And you described -- you told him that the boy
5 said something like I'm right here. That was your
6 impression of the other end of that phone call when he's
7 trying to locate him?

8 A. Uh-huh.

9 Q. And the boy you're talking about the kid who was
10 waving -- that is the five-five, five-six guy with the
11 white T-shirt. All right? And you told Detective
12 Osborne when the car pulled up, the lights --

13 MS. SHEALY: Your Honor, may we approach just
14 for a moment?

15 (Discussion held at sidebar.)

16 BY MR. SLADE:

17 Q. You told Detective Osborne that this five-five,
18 five-six guy walked up to him, right?

19 A. (Nods head.)

20 Q. And you told him that that guy said something
21 about, Bitch stole my money, I got to go back to the
22 house and get some more money.

23 THE COURT: You need to affirmatively say yes
24 or no, don't just nod your head.

25 THE WITNESS: Oh, yes.

1 BY MR. SLADE:

2 Q. And you told Detective Osborne that then he walked
3 back into the apartment cut, and by that you mean that
4 breezeway we're talking about?

5 A. Uh-huh.

6 Q. And you told Detective Osborne y'all's car was in
7 park, and y'all waited five or ten minutes?

8 A. Uh-huh.

9 Q. And you told him that then two dudes came running
10 up, right?

11 A. I don't know why it's still the running up thing.

12 Q. I just want to make sure -- at the time y'all were
13 talking about that, that is the way it appeared in your
14 mind, right?

15 A. Yeah -- not in my mind.

16 Q. Okay. Detective Osborne, you had a nice
17 conversation with him.

18 A. Yeah, we did.

19 Q. Okay. And he was appeared to you, at least, to be
20 trying to get some information about this.

21 A. Yeah.

22 Q. He was giving you as much time as you needed.

23 A. Uh-huh.

24 Q. I mean, it was not a hurried conversation or
25 anything. Right? Okay.

1 THE COURT: Ma'am, again, you have to say --
2 because what happens is she's got to take down everything
3 you are saying. And so when you just nod your head or
4 move your head, we don't know what it means, and when you
5 just go uh-huh, uh-huh could be read as a yes or no.

6 So I just need to you say out loud when he
7 asks you a question, yes or no, and if you want to
8 explain any of your answers, you can, but I do need you
9 to say yes or no when he asks you a question, okay?
10 Thank you.

11 MR. SLADE: Thank you.

12 BY MR. SLADE:

13 Q. And you told him that two dudes came running up,
14 right?

15 A. I don't know if I said running up.

16 Q. Well, at the time you told him they came running
17 up?

18 A. I don't know if -- it wasn't running up.

19 Q. And you said one was the same boy that he spoke
20 to, meaning that Calvin spoke to about this transaction?

21 A. Uh-huh.

22 Q. And that would be been the five-five, five-six guy
23 with the white T-shirt, and you told Detective Osborne
24 back on Saturday, May the 31st, that the dude with the
25 white T-shirt was shooting at y'all with a long gun that

1 went pop pop pop. Right?

2 A. Yeah, but --

3 Q. And that was your recollection.

4 A. Yeah, but I don't know why it's like that, though,
5 because it's not like that in my other one.

6 Q. Which other one?

7 A. I have -- that's -- I think -- I don't know why
8 it's written like that. When I went over it last night,
9 I don't know it was written like that.

10 Q. Did you go over all of your statements?

11 A. Yes, I did.

12 Q. You've got three written statements, right?

13 A. Yeah, and I got -- because, like, I could have
14 wrote them myself, basically, and made more sense.

15 Q. But you read over this statement last night?

16 A. Yeah.

17 Q. So you know what I'm talking about.

18 A. Uh-huh.

19 Q. And no question that, at least back then, you told
20 Detective Osborne, The dude with the white shirt was
21 shooting at us with a long gun, and shot pop pop pop real
22 fast, pop pop pop?

23 A. Yeah. I am understanding.

24 Q. That is what you told him then, and you and he
25 went over this statement for a while after you completed

1 it, right?

2 A. No, we didn't. I wrote that statement, and then I
3 didn't see him for a good while, no conversations, no
4 nothing.

5 Q. You mean that evening? Did he leave the room? Is
6 that what you're telling us? Or it was a while before
7 you saw him again the next day?

8 A. Yeah.

9 Q. Okay. I'm just specifically talking about the
10 statement you gave him --

11 A. Yeah. I'm saying I wrote that statement and then
12 we left. There was no discussions, really.

13 Q. He gave you a chance to look over it.

14 A. I looked over it when I got home. I didn't really
15 pay it no attention until I got home.

16 Q. Okay. And you didn't see anything to change at
17 that point, when you looked over it.

18 A. It's a statement. What can you change?

19 Q. Now, you told Detective Osborne, The dude was
20 standing right out of Dolla's window with the long gun.
21 So by the dude, that is the dude you were referring to in
22 the preceding sentence, or two sentences back, as the
23 dude with the white T-shirt, right?

24 A. Him and another dude.

25 Q. And you told Detective Osborne -- would you like a

1 copy of your statement?

2 A. No. I have all my copies of my statements with
3 me. I read over them last night.

4 Q. Okay. Thank you. I appreciate that, you doing
5 that. And you told Detective Osborne you saw two other
6 dudes run up to your side, and by that you mean the
7 passenger side, right? But you couldn't really see
8 exactly what they were doing.

9 A. Uh-huh.

10 Q. And one of them had on a black T-shirt, blue
11 jeans, six-two, and low fade hair. Right?

12 A. That wasn't the person I saw on my side.

13 Q. Well, that evening, on May the 31st, you were
14 telling Detective Osborne that is who you had seen on
15 your side of the car, right?

16 A. That wasn't -- I mean, it was like so much -- I
17 mean, I think I gave, like -- I don't know, it's like so
18 much different things on there.

19 Q. Right. And --

20 A. It seemed like it doesn't make sense to you
21 neither. I don't know. You look lost. I look lost.

22 Q. Now, Detective Osborne asked you first down in
23 your May the 31st statement if the suspect said anything,
24 referring to the five-five, five-six guy with the white
25 T-shirt; is that right? Is that the way you understood

1 the question? Would you like to look at your statement?

2 A. (Shakes head.) Can I have somebody bring me my
3 statement? It's right there.

4 Q. You would like them? We can get them.

5 A. Which one was that this.

6 Q. This is the one you gave on May the 31st at 6:32.
7 I can show you the front of it if you like. Got it?
8 Okay. And I'm looking at page three, and it's the second
9 question down on page three. The second question down on
10 page three. All right?

11 Detective Osborne asked you, did the suspect say
12 anything, or Detective Antonio asked if you, the suspect,
13 said anything, and my question at the beginning of this
14 line of questioning was, the suspect you're referring to
15 is a guy you called the dude with the white T-shirt with
16 twists or dreads who is five-six, right?

17 A. Uh-huh.

18 Q. That is who you're referring to, and you'll need
19 to answer yes or no, I apologize.

20 A. Yes.

21 Q. Yes. All right. And when he asked you, did the
22 suspect say anything, you said the guy identified in the
23 picture came back, meaning returned from --

24 A. Yeah.

25 Q. -- the transaction at the window --

1 A. And I also told him that he didn't came back by
2 his self.

3 Q. Right.

4 A. So that is not -- and that is not written in here.
5 That is when I went over it last night. I knew I was
6 going to have difficulty standing on the stage.

7 Q. And you told him the guy came back, running up,
8 and that guy said, I got you now, nigga, he then -- and
9 you're referring to the guy, the dude with the white
10 T-shirt, five-five, five-six, he then put the lone gun in
11 the window and started shooting, right? And that was the
12 way you recalled it back on the --

13 A. That is the way it was written. I don't know why
14 it was written like that. This is the way it was
15 written.

16 Q. You had a chance to go over the whole statement,
17 right?

18 A. I didn't read the statement -- I didn't read no
19 statements until I got home, like.

20 Q. Yes. And at the bottom of each page is your
21 signature.

22 A. Yeah, it is.

23 Q. Okay. Now, getting the statement, or answering
24 these questions from -- it was actually Jennifer Antonio
25 with Detective Osborne, correct?

1 A. She wasn't there when he was asking me the second
2 time. I only talked to her one time other than that
3 time.

4 Q. And at that time, they asked you to take a look at
5 the pictures -- do you have the --

6 A. No, I didn't get to look at the pictures until
7 this year.

8 Q. One of the things that Detective Osborne wanted
9 you to do in order to try to solve this shooting, this
10 killing, was to try to identify the five-five, five-six
11 guy with twists or dreads wearing a white T-shirt that
12 you told him came running up to the car with the lone
13 gun, right? That was one of the things he wanted you to
14 do?

15 A. Yeah, but how it was told was not like that.

16 Q. And you looked at this line-up, right? And in
17 about 20 seconds, you picked out number two, who is Che
18 Carr, right?

19 A. Uh-huh?

20 Q. You have to speak up.

21 A. Yes.

22 Q. Yes. And you told Detective Osborne he looks like
23 the guy, meaning Che Carr, he looks like the guy who
24 came -- who ran up to the car with the lone gun, right?

25 A. Yes.

1 Q. And that was your recollection that you were
2 talking --

3 A. That is where he wrote it.

4 Q. I understand he wrote it, but that is your
5 recollection. You told him that?

6 A. No, I didn't tell him that. I didn't put in my
7 own terms what I'm saying.

8 Q. Yes. Detective Osborne came back to see you on
9 June the 10th of 2008. Remember that?

10 A. Where did we meet?

11 Q. Y'all met again at the police department.

12 A. No, I was only down here one time.

13 Q. Okay. You met with him at about 2:00, 2:30?

14 A. I was only down there one time. I was at the
15 solicitor's office. That must be what you're talking
16 about.

17 Q. Okay. You met with Detective Osborne at the
18 solicitor's office?

19 A. Yes.

20 Q. Do you mind getting out your statement that you
21 made on 6/10 of '08?

22 A. I have them.

23 Q. And at that point, Detective Osborne had again
24 some more questions for you about what went on on the
25 Hillsboro side of Apartment Five at 930 Battery Avenue on

1 that occasion, didn't he? And he asked you about what
2 you saw, and I'm referring now to the bottom of page one
3 of your four-page statement. You told him he, meaning
4 Calvin Gibbs, pulled to the back of the same -- excuse
5 me, of some apartments and a black male came up to the
6 car, right?

7 You told him the black male had flagged or waved
8 Calvin down, right? And you told him black male came up
9 to Calvin, and this is the guy who is five-five, five-six
10 with a white T-shirt, right?

11 A. Yeah.

12 Q. And you told him Detective Osborne that he said,
13 The bitch stole my money. Right? That's what you told
14 Detective Osborne on June 10th of 2008, right?

15 A. Yes.

16 Q. And you told him -- skip down a couple of lines
17 where you described -- well, you described Dollar, who is
18 Calvin Gibbs, right? And you told him Dollar, or Calvin,
19 pulled out a balled up dollar bill that had white powder,
20 right? That's what you told Detective Osborne?

21 A. Yeah.

22 Q. Calvin removed a chunk, meaning a chunk of crack
23 rock, or cocaine, right?

24 A. Yeah.

25 Q. And put it in the black male's hand.

1 A. Yeah.

2 Q. There at the window.

3 A. Uh-huh.

4 Q. And Calvin -- you said Calvin was sort of fumbling
5 with the dollar and the powder, right?

6 A. Yeah, because they asked me how it got on his
7 pants or something.

8 Q. Yeah, you mean the cocaine powder got on his
9 pants.

10 A. Yeah.

11 Q. Right, sure. And you told them the black male
12 left and said, I am coming right back with your money,
13 man, right? That is what you recalled on 6/10 of 2008,
14 right? You'll need to answer yes or no.

15 A. Yeah.

16 Q. You told Detective Osborne on June 10 that about
17 five minutes later you heard a commotion in front and in
18 back of you, right?

19 A. Yeah.

20 Q. And your windows were half down, our windows were
21 half down, right?

22 A. Yeah.

23 Q. That's what you told him, because that is what you
24 recalled at the time. And you told Detective Osborne, I
25 looked and saw the same black male. You're talking about

1 the black male who waved y'all in, the guy with the white
2 T-shirt, and you saw the same black male and another
3 taller black male standing behind him.

4 That is what you recalled at the time, and you had
5 no description of the taller black male, right? Right?

6 A. Huh?

7 Q. At the time you had no description of the taller
8 black man. You didn't give him any description.

9 A. No, no.

10 Q. Because you had no recollection what he looked
11 like, right?

12 A. No.

13 Q. And you told him the first black -- you're using
14 BM, but you mean black male, the first black male looked
15 like he was holding something big, right?

16 A. It's not me using it. It's not my writing.

17 Q. Detective Osborne wrote it while were you sitting
18 there talking to him?

19 A. Yeah.

20 Q. Okay. He was asking you questions as he was
21 writing, right?

22 A. Yeah, but this is his terms, not mine, so I'm
23 saying --

24 Q. You told him a black guy or black male?

25 A. Yeah. I'm saying this is what I'm telling him,

1 but this is -- some stuff is kind of unorganized here.

2 Q. All right. And you told him the first black male
3 looked like he was holding something big, and, again,
4 you're referring to the five-five, five-six guy with the
5 white T-shirt, right?

6 A. Uh-huh.

7 Q. And you told him, I could see the gun was being
8 pointed inside the window, right, by the five-five or
9 five-six guy with the white T-shirt, right? It's not in
10 your statement, but that --

11 A. No, that's not in my statement.

12 Q. But that is you what meant. The five-five,
13 five-six guy is pointing the gun in your window?

14 A. No, because he wasn't by his self.

15 Q. I understand.

16 A. I'm saying he wasn't by his self, so no,
17 basically, it's like this is all messed up.

18 Q. All right. On June the 10th you told him --

19 A. I understand what you're saying. You're not
20 understanding me.

21 MS. SHEALY: Judge, I would ask that she be
22 allowed to finish her sentences.

23 THE WITNESS: Yes, please, because I'm saying
24 he's not understanding what I'm saying. This is not my
25 handwriting. Stuff is going to get mixed up in the

1 process, so I would rather him just ask me questions from
2 off the paper, you know, and then I understand more and
3 give him more answers than he's looking for. Right now
4 I'm getting frustrated.

5 BY MR. SLADE:

6 Q. Right. And he did ask you some questions at the
7 end of your statement, right?

8 A. Uh-huh.

9 Q. In a question and answer format, and if you would
10 look at page three of the statement you gave Detective
11 Osborne on June the 10th, he asked you, in the first
12 question on that page, how many people did it seem there
13 were outside? You said -- your answer to him, for sure,
14 four people when we were backing up. I saw two separate
15 people coming from across the street, right?

16 A. Uh-huh.

17 Q. One of these guys had a handgun. Right? Then
18 Detective Osborne asked you to describe --

19 A. Yeah.

20 Q. It is Osborne asked you to describe the guy with
21 the handgun. You said he was muscular, right, six
22 something, braided hair or low haircut -- excuse me, or
23 low cut, right? And at any point during -- you said
24 several times that these aren't your words --

25 A. Yeah. I'm saying -- I'm not saying they're not my

1 words, but I'm saying that the words that I would use --

2 Q. Right.

3 A. -- it would make sense. It's not making sense to
4 me right now when I read over. It wasn't making sense,
5 so I have -- I would have rather have wrote it myself, is
6 what I'm saying.

7 Q. Did Detective Osborne offer you an opportunity to
8 write?

9 A. No.

10 Q. At the end of his asking you questions about any
11 of these statements, the one you gave him on June the
12 10th, the one you gave him on Saturday, May the 31st, and
13 the one you gave Detective Antonio earlier that morning,
14 at any point did you have the opportunity to ask them
15 questions?

16 A. At the point in time I wasn't really wanting to
17 ask any questions or wanting to be bothered.

18 Q. Okay. At the time of any of these three
19 statements, right?

20 A. Uh-huh.

21 Q. And did he give you an opportunity to add anything
22 to these statements?

23 A. No.

24 Q. Did they ask you, Is this all? Is there anything
25 else you would like to add?

1 A. No.

2 Q. Now, at the time you gave this statement, the one
3 on June the 10th of 2008, you said Detective Osborne used
4 different words than you would have used. Did you ever,
5 in telling Detective Osborne anything about this, tell
6 him you saw anybody out there with a black hoody on?

7 A. No.

8 Q. Nobody you saw out there had on a black hoody; is
9 that correct?

10 A. I can't remember at this point in time. It just
11 happened so long ago to me.

12 Q. Let's talk for a moment about the second person
13 you saw out there. You've described in several of your
14 statements --

15 A. Yeah, but I don't know who I'm describing.
16 There's just so many different people.

17 Q. I understand, but use your words --

18 A. I'm just describing.

19 Q. You use your words to describe him. Detective
20 Osborne and Detective Antonio asked you to describe as
21 best you could the other person, or the other people,
22 besides the one with the white T-shirt who was five-five
23 with twists or dreads, right?

24 A. Yeah.

25 Q. And the first time you talked with Detective

1 Antonio --

2 A. That was the first time out there. She was
3 writing in the dark, basically.

4 Q. And you told her the second black male you saw had
5 a black shirt, blue jeans, and a low fade hairstyle,
6 right?

7 A. Yeah.

8 Q. Because that is what you recollect at that point
9 in time about what you had seen and heard out there on --
10 at that apartment. And when you gave Detective Osborne a
11 statement later on on the day of -- you went down there
12 and looked at the photo line-up?

13 A. Uh-huh.

14 Q. He asked you about -- describe any of the other
15 people out there besides the guy who was five-five,
16 five-six with the white T-shirt, and you said one with a
17 black T-shirt, blue jeans, six-two?

18 A. It's like people I'm seeing as we're driving away
19 from the scene now.

20 Q. And he was asking you to describe that person.

21 A. Yeah.

22 Q. And you told him that person had on a black
23 T-shirt, blue jeans, was six-two, and had a low fade
24 hairstyle, and by that you mean really close cut, right?

25 A. Yeah.

1 Q. And that is what you recalled about seeing that
2 guy, right?

3 A. Uh-huh.

4 Q. And that is stuck in your mind, and that is why
5 you told Detective Osborne that. Now, you have picked
6 Che Carr out of this line-up that Detective Osborne
7 showed you the afternoon after the shooting on Saturday
8 afternoon. Did you see anybody there with a messed up
9 eye?

10 A. How would I be able to see if it was dark?

11 Q. Well, with a lazy eye or lazy eyelid or something
12 like that? Okay.

13 MR. SLADE: Beg the indulgence of the Court
14 for just one moment, Your Honor.

15 I don't have any other questions of this
16 witness, Your Honor.

17 THE COURT: Redirect?

18 MS. SHEALY: I have nothing further.

19 THE COURT: All right. Do we need this
20 witness any longer?

21 MR. SLADE: No, we don't.

22 THE COURT: Ma'am, you're free to go, and
23 you're excused from your subpoena.

24 THE WITNESS: Okay.

25 THE COURT: Okay, folks. We're going to go

1 ahead and take our lunch break now. Let's see. It's a
2 little after 12, so if y'all would be back, say, about
3 quarter to 2:00 in the jury room, we'll get started at
4 that time.

5 Again, don't talk with anybody about the
6 case, including each other. Don't comment upon witnesses
7 or discuss the case in any way. If you would be back in
8 the jury room at 1:45, we will begin at that time. See
9 you then.

10 (In open court, jury present.)

11 THE COURT: Anything we need to deal with
12 before we break? Okay. See you back in a little bit.

13 MS. SHEALY: Actually, one thing, I guess.
14 Our next witness has entered a proffer in the case.
15 There is a proffer agreement, and I would intend to offer
16 the proffer with the language regarding the polygraph be
17 redacted.

18 THE COURT: All right. Who is it?

19 MS. SHEALY: This is Steven Brown.

20 THE COURT: Do you have any objection to her
21 offering the redaction?

22 MR. SLADE: I think the language with the
23 polygraph information redacted is admissible. I'm not
24 sure about the document itself. Are you intending to
25 offer the document?

1 MS. SHEALY: I think I am.

2 THE COURT: All right. So do you object to
3 the introduction of the document or just the redaction of
4 the reference to a polygraph?

5 MR. SLADE: I object to the introduction of
6 the document, Your Honor.

7 THE COURT: All right. And on what grounds?

8 MR. SLADE: Well, Your Honor, I think it just
9 unnecessarily reinforces the bolstering that is going to
10 occur before we attack him. You can't -- my objection to
11 getting into that --

12 THE COURT: Let me ask you this: Do you have
13 an objection to her getting into the subject or just the
14 document?

15 MR. SLADE: Just the document, Your Honor.

16 THE COURT: All right. Well, is there any
17 reason why you absolutely need the document? You can ask
18 him about it.

19 MS. SHEALY: I think the jury is entitled to
20 know what the agreement is.

21 THE COURT: You can get into the terms of it.
22 I just think the document itself is --

23 MS. SHEALY: But, I mean, the document itself
24 is the --

25 THE COURT: It's like any other statement,

1 though. Unless they deny the existence of it, if he
2 admits it, he admits it. There is no reason to put the
3 actual document in, just the same as any other statement.

4 MS. SHEALY: I think I'm entitled to go
5 through all the terms of the proffer.

6 THE COURT: I agree with you.

7 MS. SHEALY: And -- okay.

8 THE COURT: Okay.

9 MS. SHEALY: I don't know how I'm going to do
10 it without handling it in some kind of a leading fashion.
11 He's not going to be able to regurgitate all the terms.
12 Typically, we try to offer the document itself. It just
13 eases the presentation of what the actual agreement is.

14 THE COURT: Well, it's bolstering, clearly,
15 and so I don't -- we don't typically allow you to bolster
16 your client until his credibility has been attacked. But
17 I can see where you want to make a preliminary, oh, by
18 the way, let's get this out, but as long as he admits the
19 existence of it, there is no reason to get the document
20 in, because normally it would just be used to impeach.
21 If he tries to impeach him on the terms of it, then can
22 you perhaps --

23 MS. SHEALY: On redirect?

24 THE COURT: -- yeah, on redirect actually get
25 the physical document in, but I'm saying you can bring it

1 out and go over the general terms with him. He promises
2 to tell the truth. He made a deal. It's just the same
3 as everybody else. The actual introduction of the
4 document is probably not necessarily at this point.
5 Okay. See y'all back in a little bit. Oh, I have a
6 preliminary jury charge if y'all want to take a look at
7 it.

8 (Recess taken.)

9 A F T E R N O O N S E S S I O N

10 THE COURT: Go ahead.

11 MR. SLADE: If we could just put our
12 objection on the record, we object to the admission of
13 the letters that were allegedly written by our client to
14 a witness who is about to testify. That is Steven Brown.

15 We object to the admission of the letters
16 because, at least at this point in the course of the
17 trial, we don't plan for Mr. Chandler to take the stand,
18 so obviously his character cannot be placed in evidence.
19 We think that the letters, essentially because of the
20 language that is in those letters, referring to things
21 that have nothing to do with this case --

22 THE COURT: Like what?

23 MR. SLADE: Use of the N word, use of the
24 F word, that kind of thing, I think --

25 THE COURT: You're saying they don't have

1 anything to do with his character?

2 MR. SLADE: No, sir, I'm saying -- I
3 apologize. My point is they have nothing to do with the
4 proof that he committed the act that he's on trial for.
5 They don't form any kind of link that I've been able to
6 see yet in the state's proof against him that he was the
7 shooter in this case.

8 So given that -- and when Ms. Shealy was
9 arguing her side of this in some of the prior discussions
10 we've had of this matter with the Court, her point was,
11 well, you know, we're going to get a big ugly gun
12 admitted, and that certainly shows something about his
13 character. We're going to get a proof of marijuana in
14 the house admitted, and that is going to have a
15 detrimental effect on his character or comment on his
16 character.

17 My point in response to that, Your Honor, is
18 that evidence comes in because it fits into the logic of
19 what they're trying to prove. What these letters, and
20 what I understand Miss Shealy to be trying to put these
21 letters in for, is some comments in the letters that she
22 reads as our client telling Mr. Brown not to come to
23 court and telling Mr. Brown some of the things that in
24 his view Mr. Brown ought to be saying to police.

25 Now, those are comments that don't directly

1 link Mr. Chandler with anything in this case, and what
2 our problem is with it is that the character evidence,
3 just the incessant use of some of this F word language,
4 N word language, some of the references to sex in the
5 letters, is a comment on his character and the
6 prejudicial effect, especially with regard to the
7 character, is much, much greater than any probative value
8 than writing someone a letter telling him not to come to
9 court would have in the proof of this case. That is our
10 argument, Your Honor.

11 THE COURT: Okay. What is the state's
12 position on this?

13 MS. SHEALY: First, I would disagree with his
14 assessment saying that the gun being presented and other
15 evidence being presented reflecting the defendant's
16 character. What my comments were addressed to was he was
17 originally asserting that because the F word and the N
18 word were being used that that would negatively reflect
19 on his client, and when I mentioned the gun and the other
20 evidence, that is pure evidence in this case, and my
21 position was the use of the F word or the N word seems
22 pretty minimal, if you're thinking someone is in
23 possession of an AK47 and shooting one that evening.

24 I know Your Honor has had the opportunity to
25 read the letters. I think the letters, certainly the

1 jury could conclude that Mr. Chandler is guilty, that
2 Mr. Chandler is contriving a story and trying to dictate
3 it to Steven Brown and that he tries on not one occasion,
4 but multiple occasions. He addresses the other people
5 who are involved in this case. He references, you know,
6 what he wants the story to be. I think they are
7 completely relevant, and the use of the N word and the
8 F word just seems ludicrous to be concerned about the use
9 of language when we're dealing with a murder case and his
10 attempting to contrive a story and tell Steven Brown
11 exactly what to do.

12 THE COURT: Would you like to respond?

13 MR. SLADE: Your Honor, I don't think it's a
14 test of the relative merits of how degrading to one's
15 character use of an AK47 is versus this kind of use of
16 graphic descriptions or very graphic sexual terms and the
17 N word. We all know when we hear somebody using that
18 kind of language, I think it's just common human
19 experience, we form a view of that person's character
20 through their constant use of those words, and that's
21 clearly a reflection on somebody's character.

22 Given the posture of the case at this point,
23 I think its probative value is so minor considering the
24 effect on the character, or considering the view that
25 people would have of someone's character who is doing

1 that, is character evidence, whether it's at a level that
2 the solicitor thinks is a greater weight of character
3 evidence or a lesser weight of character evidence, it's
4 still character evidence, and we think it ought not come
5 in, Your Honor.

6 MS. SHEALY: If I may respond to that, Your
7 Honor --

8 THE COURT: Yes.

9 MS. SHEALY: I think the use of that language
10 in the context of these letters is less about his
11 character and more about the closeness of his
12 relationship with Steven Brown, and I think that it's
13 appropriate for me to be able to explore that.

14 MR. SLADE: Your Honor, if that's the reason
15 it's being offered, then I don't -- I think that evidence
16 can be developed by the solicitor simply asking Mr. Brown
17 if he's received any letters: Y'all are friends, y'all
18 are close, y'all have written each other back and forth
19 since you've been in jail. We don't need the substance
20 of the letters to develop that.

21 THE COURT: Well, the letters themselves say
22 many different things, but they do, from time to time,
23 show an attempt overall for him to get Steven Brown to
24 keep his mouth shut from talking to authorities, and for
25 that reason I think they're entirely relevant and

1 appropriate for admission.

2 Now, the F word, well, we've heard it in this
3 courtroom. We've heard it a lot, and, you know, I don't
4 know that it has the shock value in society to hear it
5 that it once had. The infamous N word is a word that
6 depends on what is being said, the context which it's
7 being said, and who is doing the saying.

8 N-i-g-g-e-r, spoken by somebody who doesn't
9 know you and usually of the opposite race, is an
10 inflammatory word. From what I understand in street
11 language, n-i-g-g-a, when spoken from a person who is
12 somewhat close to another person, usually of the same
13 race, does not carry the same negative connotation as the
14 word n-i-g-g-e-r, so used in the context like it is here,
15 it's actually probably more of a term suggesting a
16 closeness to the recipient than it is an actual term of
17 derisiveness or anything along those lines.

18 So I think the state's appropriate to -- I
19 think it's appropriate to allow the document with the
20 word n-i-g-g-a in it because it does not, in fact, have a
21 derogatory effect of the word n-i-g-g-e-r in this
22 context. It would show this closeness to this recipient
23 as opposed to saying it as a term in which he is using it
24 in anger, or race baiting or something along those lines.

25 MR. SLADE: Your Honor, my -- and I hear your

1 ruling. I'm not arguing. My concern is that if these
2 folks have that carefully calibrated view of it, that
3 would be one thing. I think it's just so inflammatory
4 not everybody has that view of it.

5 THE COURT: I understand that, but while not
6 everyone may, I cannot -- the rules aren't based on what
7 one particular person may feel but is more aligned to
8 what a reasonable person might feel, and I find that the
9 use of it is probably in the whole of the type I've been
10 saying where it suggests closeness as opposed to hatred,
11 at least as I understand street lingo.

12 In that context, then, the probative value of
13 the documents, in my opinion, outweighs the prejudicial
14 effect. So, again, I'm going to allow it.

15 All right. How are we doing on jurors over
16 there? Do we have anything else we need to take up
17 before we move forward?

18 MR. SLADE: I don't think so, Your Honor.

19 THE COURT: Do you have anything else,
20 Ms. Shealy?

21 MS. SHEALY: No, we don't have anything
22 further.

23 THE COURT: Okay.

24 All right. Let record reflect defendant is
25 in the courtroom.

1 (In open court, jury present.)

2 THE COURT: Folks, we're going to resume now
3 with the state calling the next witness, whenever you're
4 ready.

5 MS. SHEALY: Steven Brown.

6 STEVEN BROWN,
7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SHEALY:

11 Q. Steven, if you would, please, tell the jury how
12 old you are.

13 A. Twenty-two.

14 Q. And would you tell us how far you went in school?

15 A. Eleventh.

16 Q. Do you know Terrell Chandler?

17 A. Yes, ma'am.

18 Q. How long have you known Terrell Chandler?

19 A. Since we were young.

20 Q. And when you say young, how old are you talking
21 about?

22 A. Like diapers.

23 Q. Diapers?

24 A. Yeah.

25 Q. How was it that you knew each other?

- 1 A. Parents went to church together.
- 2 Q. And as a young boy would you see him frequently?
- 3 A. Yes, ma'am.
- 4 Q. When y'all became young adults, you would see him
- 5 frequently?
- 6 A. Yes, ma'am.
- 7 Q. What do your friends call you?
- 8 A. They call me Troop.
- 9 Q. And what did you call Terrell Chandler?
- 10 A. Trouble.
- 11 Q. Trouble?
- 12 A. Yeah.
- 13 Q. You have entered into a proffer agreement with the
- 14 state; is that correct?
- 15 A. Yes, ma'am.
- 16 Q. And as a part of that agreement, you have to give
- 17 the solicitor's office truthful information; is that
- 18 correct?
- 19 A. Yes, ma'am.
- 20 Q. Will you be testifying in other trials in
- 21 connection with this incident?
- 22 A. If need be, yeah.
- 23 Q. You are required to testify in Che Carr's murder
- 24 trial?
- 25 A. Yes, ma'am.

1 Q. Is that correct?

2 A. Yes, ma'am.

3 Q. And in Storme Carr's murder trial; is that
4 correct?

5 A. Yes, ma'am.

6 Q. Did you know the twins, Che and Storme?

7 A. So so. See them around.

8 Q. I'm sorry?

9 A. I see them around, yeah.

10 Q. Would you do me a favor and speak up just a little
11 bit for us. When you say you saw them around, did you
12 meet them close to the time of the shooting?

13 A. Yes, ma'am.

14 Q. Tell the jury how you can tell the difference
15 between the twins.

16 A. One has a, like, a lazy eye.

17 Q. And one which has the lazy eye?

18 A. Storme.

19 Q. Back in May of 2008, did you go over to Terrell
20 Chandler's apartment often?

21 A. Yes, ma'am.

22 Q. And that was located on Battery Avenue?

23 A. Uh-huh.

24 Q. And when you would go over there, what kind of
25 stuff would you and Terrell do?

1 A. Kick it with a couple of females and something
2 like that.

3 Q. Kick it with a couple females?

4 A. Yes, ma'am.

5 Q. How often would you say you saw Terrell back then?

6 A. A few times out of the week.

7 Q. A few times out of a week?

8 A. Yeah.

9 Q. Were you working anywhere during that time period?

10 A. No, ma'am.

11 Q. When you were over there, would you ever see
12 weapons?

13 A. Yes, ma'am.

14 Q. And can you describe those weapons to us?

15 A. A pistol and a rifle.

16 Q. A pistol and a rifle?

17 A. Yeah.

18 MR. HOWE: Your Honor I'm having a little
19 difficult hearing.

20 BY MS. SHEALY:

21 Q. We have all the jury members, the court reporter,
22 and the defense attorneys, and you're going to have to
23 speak up a little bit for us, okay? I'm showing you
24 State's Exhibit 99. Could you tell us whether or not
25 this is the pistol you refer to.

1 A. Yes, ma'am.

2 Q. And showing you State's Exhibit 98, is this the
3 rifle that you have referred to?

4 A. Yes, ma'am.

5 Q. Now, are you aware of whether or not this will
6 bend back?

7 A. Yeah.

8 Q. Excuse me?

9 A. It come down.

10 Q. It will come down?

11 A. Yeah.

12 Q. Okay. Usually when you saw this rifle, was this
13 banana clip usually on it?

14 A. Yes, ma'am.

15 Q. That is State's Exhibit 100. Do you remember the
16 first time you saw that rifle?

17 A. Yeah.

18 Q. Tell us the circumstances of that.

19 A. We was in the car going to see a friend.

20 Q. Who was in the car going to see a friend?

21 A. Me and Trouble.

22 Q. Okay. And what friend were y'all going to see?

23 A. Fat Mack.

24 Q. Fat Mack?

25 A. Yeah.

1 Q. When you got to Fat Mack's house, did -- tell us
2 if anything was taken into Fat Mack's house.

3 A. The rifle.

4 Q. And who took it in?

5 A. Terrell.

6 Q. And what was the reason of taking it over to Fat
7 Mack's?

8 A. Just to show it off.

9 Q. Had Terrell just recently gotten it at that point?

10 A. To my knowledge, yeah.

11 Q. Okay. While you were in there that day, were any
12 photographs taken?

13 A. Yeah.

14 Q. Who was taking photographs?

15 A. I can't remember.

16 Q. Okay. Who all was there?

17 A. It was me, Terrell, and Fat Mack.

18 MR. SLADE: Your Honor, I have an objection
19 at this point. Could we approach the bench?

20 (The following discussion was held at
21 sidebar.)

22 BY MS. SHEALY:

23 Q. You were telling us some photographs were being
24 taken?

25 A. Yes, ma'am.

1 Q. Were y'all taking them on a cell phone or with a
2 camera?

3 A. Cell phone.

4 Q. I ask if you can identify this, just whether you
5 recognize it.

6 A. Yeah, I recognize it.

7 MS. SHEALY: At this time I would offer this
8 photograph into evidence, I understand, without
9 objection.

10 MR. SLADE: That's correct.

11 (Photograph marked for identification and
12 admitted into evidence as State's Exhibit No. 103.)

13 THE COURT: Admitted.

14 BY MS. SHEALY:

15 Q. Now, showing you what's been marked as State's
16 Exhibit 103, who is that a picture of?

17 A. That's me.

18 Q. And what weapon is that in your hand?

19 A. That's the rifle.

20 Q. The rifle I just showed you?

21 A. Yes, ma'am.

22 Q. You look pretty happy in that photograph. Were
23 you?

24 A. Sort of, kind of.

25 Q. Explain to the jury, what was fun about getting

1 your hands on that kind of rifle?

2 A. Cause I never had one of that before.

3 Q. Talk a little louder.

4 A. I never seen one like that before.

5 Q. It was kind of exciting?

6 A. Yeah.

7 Q. How often would Terrell have that rifle out at the
8 apartment?

9 A. All the time.

10 Q. And would you get your hands on it as well?

11 A. Trying to take it apart.

12 Q. Trying to take it apart?

13 A. Yeah.

14 Q. So you definitely have seen that weapon at
15 Terrell's house and touched it?

16 A. Yeah.

17 Q. Now, I need to ask you something. Is that kind of
18 gun cool to you?

19 A. I mean, I know what it can do, and I never seen
20 one like it, so I was, like, you see it in the movies and
21 stuff like that.

22 Q. Like in the movies?

23 A. Yeah.

24 Q. I'm going to focus your attention now back on the
25 night in question, that being May 30, 2008, okay?

1 A. Uh-huh.

2 Q. And tell us, if you would, what was going on that
3 evening.

4 A. It's like Terrell and --

5 Q. You're going to have to talk up.

6 A. It was Terrell and me and the twins just hanging
7 out, kicking it, Terrell trying to get some more reefer.

8 Q. Kicking what?

9 A. Chilling out, trying to get some more weed.

10 Q. Why did y'all need more weed?

11 A. Because I like pot to last a little bit.

12 Q. Who did you buy it from?

13 A. Terrell.

14 Q. Tell us what efforts were made to get some more
15 weed, or reefer.

16 A. Storme was making a few calls around to see what
17 he could get.

18 Q. Who was?

19 A. Storme.

20 Q. Okay. I thought you were thinking of something.
21 Storme was making phone calls. Was there any talk about
22 money, how y'all were going to get it?

23 A. Yeah. Terrell, he had the majority of it.

24 Q. Had the majority of what?

25 A. The money.

1 Q. Who else contributed towards it?

2 A. Storme.

3 Q. And you were present when Storme was making the
4 phone calls?

5 A. Yes, ma'am.

6 Q. Now, at some point that evening, do the girls come
7 over?

8 A. Yeah.

9 Q. Okay. Do you remember which girls came over?

10 A. It was Pookie and Trice.

11 Q. Pookie and Trice?

12 A. Yeah.

13 Q. And later does someone else come over?

14 A. Megan.

15 Q. Would you describe for us what was going on in the
16 apartment that evening.

17 A. Not much. Like, once the girls came over, we was
18 like kind of lolly gagging about, stuff like that.

19 Q. Okay. And Che's girl was Megan?

20 A. Yeah.

21 Q. And Storme's girl was Pookie?

22 A. Yeah.

23 Q. And who was Terrell's girl?

24 A. Trice.

25 Q. Okay. Did you have a girl over there that

1 evening?

2 A. No.

3 Q. Do you remember what type of clothing y'all had on
4 that night?

5 A. I had on -- I don't remember what I had on. I
6 remember what Storme had on.

7 Q. Okay. And do you remember at any point y'all
8 changing into darker clothing?

9 A. No, ma'am.

10 Q. You don't remember that?

11 A. No, ma'am.

12 Q. Okay. When the girls were inside, were y'all
13 staying inside with them or were you going in and out?

14 A. In and out, going in and out.

15 Q. And when this in and out was going on, did you
16 know where the rifle was?

17 A. Usually it was, if everybody was outside, would be
18 sitting by the door.

19 Q. Sitting by what?

20 A. By the door.

21 Q. Which door?

22 A. Whichever door was we was out.

23 Q. Do you remember specifically that night where it
24 was?

25 A. During the day I know it was on the bed.

1 Q. During the what?

2 A. During the day, it was on the bed.

3 Q. Where did Terrell usually keep that gun?

4 A. Close.

5 Q. What do you mean, close?

6 A. Like close to him.

7 Q. Close to him?

8 A. Yeah. Usually kept it on the bed, though.

9 Q. Do you know where he kept it when he slept?

10 A. Right beside him.

11 Q. Okay. Now, at some point that evening, do y'all
12 exit the apartment before the shooting occurs?

13 A. Yeah.

14 Q. Okay. Now, I need you to explain to the jury, if
15 you would, what happened at that point.

16 A. It was me walking out, and I was walking out and
17 there was Storme walking in. I was walking ahead.

18 Q. Say that again?

19 A. I was walking out, like, pointing toward when I
20 came out the back door.

21 Q. The headlights of the car that had driven up?

22 A. Yeah. Storme was coming in when I was leaving
23 out. I was leaving out with the telephone, so when I
24 went out, I, like, bent to the right. I was going
25 through the breezeway, and that is when Storme was coming

1 back up.

2 Q. So let me stop you there for a second. You said
3 you remember what Storme had on.

4 A. Uh-huh.

5 Q. Could you tell me what he had on.

6 A. He had on black short pants, Jabos with a white
7 strap.

8 Q. When you say Jabos, is that a name brand?

9 A. Yeah.

10 Q. And when you say white stripes, where on the
11 shorts were the stripes?

12 A. Like a little past the knees, underneath the
13 knees.

14 Q. And when you say short pants, how long are the
15 short pants?

16 A. Pretty big on him.

17 Q. Did they come above the knee or beneath the knee?

18 A. Beneath.

19 Q. Do you remember what type of top he had on?

20 A. White T-shirt.

21 Q. Okay. And when you then were coming outside, you
22 say he was going inside?

23 A. Yeah.

24 Q. He had obviously already been outside?

25 A. Yeah.

1 Q. And when you leave the house to go outside, the
2 car is already there.

3 A. Yeah.

4 Q. Okay. Now, showing you what has been marked as
5 State's Exhibit 16, Steven, can you take a look at that
6 for me. I know that is a dark photo, but can you point
7 out to us where Terrell's back door is? Can you see
8 that?

9 A. Right here.

10 Q. And where is the breezeway that you were talking
11 about?

12 A. That way.

13 Q. And do you remember about where the car was?

14 A. Right in this area.

15 Q. Okay. So when you walked out of the house and
16 Storme walked back in, where did you go?

17 A. Right, right -- we were standing right there.

18 Q. Okay. Go ahead and have a seat for me. What do
19 you see after you see Storme walk inside?

20 A. He was walking back out.

21 Q. Who was?

22 A. Storme.

23 Q. And was he by himself or was he with someone else?

24 A. He was alone.

25 Q. Okay. What happens next?

1 A. He went out to the car.

2 Q. And what happened when you saw him come to the
3 car?

4 A. He started talking to the fellow in the front
5 seat.

6 Q. And where were you when that was going on?

7 A. Standing in the breezeway.

8 Q. What happens after he talks to the guy in the car?

9 A. I went and turned around, because I didn't want to
10 be nosey.

11 Q. Okay. And then where do you go?

12 A. Back deep into the breezeway.

13 Q. Okay. What happens next?

14 A. I see Terrell come out.

15 Q. Where does Terrell come out?

16 A. Back door.

17 Q. And if you're in the breezeway, how are you able
18 to see him come out the back door?

19 A. I look to the right, see him coming out.

20 Q. Okay. Can you stand up and show us what route he
21 took toward where he was going?

22 A. He was coming out right this way.

23 Q. What is the next thing that you see?

24 A. I see nothing.

25 Q. What is the next thing that happens?

- 1 A. I heard, like, bickering, arguing.
- 2 Q. And what do you do?
- 3 A. Turn my head, see them at the car, and I see
- 4 Terrell pointing a gun at old boy, the fellow in the
- 5 vehicle.
- 6 Q. I couldn't understand you.
- 7 A. Pointing the gun in the vehicle.
- 8 Q. First you said -- old boy?
- 9 A. Yeah.
- 10 Q. When you say you saw Terrell pointing the gun at
- 11 the vehicle, where were you standing?
- 12 A. In, like, the breezeway.
- 13 Q. Stand up and point where you were.
- 14 A. In the breezeway.
- 15 Q. And when you turned back to look at what was going
- 16 on where the bickering was, that is when you saw what?
- 17 A. Saw him pointing the gun.
- 18 Q. Show me with your arms how he was pointing the
- 19 gun.
- 20 A. Like this.
- 21 Q. And where was the end of barrel from what you
- 22 could see?
- 23 A. In the driver's window.
- 24 Q. What is the next thing that happened or what did
- 25 you hear?

1 A. I turn around and started running, and that is
2 when the gun went off.

3 Q. That's when you heard the shots?

4 A. Yeah.

5 Q. Now, showing you State's Exhibit 15 -- sorry.

6 Let's do State's Exhibit 11 first. Take a look at this
7 for me, Steven. Is this the other end of the breezeway?

8 A. Yeah.

9 Q. Would you show the jury in what direction you ran?

10 A. I ran this way, right over here.

11 Q. And when you ran back through there, showing you
12 State's Exhibit 12, which direction do you run?

13 A. Straight down to the end.

14 Q. Okay. Show us where Terrell's apartment is.

15 A. Probably right there.

16 Q. Do you go into Terrell's apartment at that point?

17 A. No.

18 Q. Why not?

19 A. I just kept moving.

20 Q. Okay. Showing you State's Exhibit 13, can you
21 show us where you continued to work.

22 A. I end up right there.

23 Q. And what do you see when you get back there?

24 A. I see the car backing up and swerving, backing up.

25 Q. Swerving and backing up?

- 1 A. Yeah.
- 2 Q. Could you see where Storme was?
- 3 A. Running after the vehicle.
- 4 Q. And could you tell whether he had anything in his
5 hands?
- 6 A. No, not really.
- 7 Q. Not really?
- 8 A. No.
- 9 Q. Could you tell where Terrell was?
- 10 A. Running after the vehicle.
- 11 Q. And could you see whether he had anything in his
12 hands?
- 13 A. Yeah.
- 14 Q. What did he have in his hands?
- 15 A. The rifle.
- 16 Q. What was he doing with the rifle?
- 17 A. Running towards the car.
- 18 Q. Running towards the car?
- 19 A. Yeah.
- 20 Q. Did you hear the rifle go off again?
- 21 A. It went off when I was coming around the building.
- 22 Q. While you were still running around the building?
- 23 A. Yeah.
- 24 Q. Do you hear any other weapon go off?
- 25 A. No. Not at that time, no.

1 Q. Not at that time? Do you know where Che was when
2 all of this was going on?

3 A. No, I don't really remember, no.

4 Q. You don't know where he was?

5 A. No.

6 Q. Now, were you and Che close buddies before this
7 happened?

8 A. No different than me and his brother.

9 Q. Just like Storme?

10 A. Yeah.

11 Q. Okay. What is the next thing that happens after
12 you see them running after the car?

13 A. The car takes off, and they are on their way back,
14 coming back toward the house.

15 Q. Who is on their way back?

16 A. Storme and Terrell.

17 Q. Could you tell whether anything was going on with
18 the rifle?

19 A. He was, like, fidgeting around with it. I guess
20 it was jammed.

21 Q. And what do you mean he was fidgeting around?
22 Stand up for me.

23 A. Like, pulling at it; like, trying to unjam it.

24 Q. That is what Terrell was doing?

25 A. Yeah.

- 1 Q. Did you hear any other shots?
- 2 A. Not at that time, no.
- 3 Q. Okay. At any other point that evening, do you
4 hear some more shots?
- 5 A. Yeah.
- 6 Q. When does that happen?
- 7 A. When I was standing at the back door, after I went
8 into the house.
- 9 Q. Tell me about that. Where do you go after you
10 come around the corner?
- 11 A. I went to the back door.
- 12 Q. Okay. And then where does Terrell go?
- 13 A. He come and went into the house.
- 14 Q. You're going to have to talk a little louder.
- 15 A. He went into the house.
- 16 Q. He came into the apartment?
- 17 A. Yeah.
- 18 Q. Where was Storme?
- 19 A. Storme was standing outside the door. That is
20 when he started shooting into the air.
- 21 Q. He was shooting into the air?
- 22 A. Yeah.
- 23 Q. Does he come back in after doing that?
- 24 A. Yeah.
- 25 Q. What do y'all do when you get back inside?

1 A. Go into the room.

2 Q. What room?

3 A. Terrell's room.

4 Q. And what happens when y'all get into Terrell's
5 room?

6 A. Messing around with the gun, trying to unjam it.

7 Q. Who was?

8 A. It was Terrell. Mostly him and the twins.

9 Q. Him and the twins were trying to unjam it?

10 A. Yeah.

11 Q. Did they get it unjammed?

12 A. No.

13 Q. At any point does -- do y'all leave that bedroom?

14 A. Yeah.

15 Q. And then what happens?

16 A. That is when he started looking for, like, bleach
17 and stuff to wash their hands.

18 Q. Who was?

19 A. Storme.

20 Q. Where did Terrell go?

21 A. Try to help him find the bleach.

22 Q. Did you hear or see any of them go into the
23 bathroom?

24 A. Well, I know they was in the bathroom. I heard
25 them in the bathroom.

- 1 Q. Who all was in the bathroom?
- 2 A. Him and the twin.
- 3 Q. Him and the twin?
- 4 A. Yeah.
- 5 Q. Okay. And at any point do you hear the shower
- 6 going?
- 7 A. After twin came out, yeah.
- 8 Q. Where was -- did Terrell came out the same time
- 9 the twin did?
- 10 A. Got some clothes, went back in.
- 11 Q. And what happened?
- 12 A. Took a shower.
- 13 Q. Terrell took a shower?
- 14 A. Yeah.
- 15 Q. Showing you State's Exhibit 23. Is this a picture
- 16 of Terrell's room?
- 17 A. Yeah.
- 18 Q. Do you see over by that trash can some Ajax?
- 19 A. Right there, yeah.
- 20 Q. After Terrell got out of the shower, what was
- 21 going on in the apartment?
- 22 A. It was quiet, it was dark. The girls was
- 23 giggling. Che was standing at the window, looking out.
- 24 Police was outside.
- 25 Q. And what happens in the apartment the rest of the

1 night?

2 A. Like, not much because I fell asleep, sitting on
3 the couch.

4 Q. Were you there the next morning?

5 A. Yeah.

6 Q. And the next morning, could you tell the jury
7 whether anybody came over to the -- first of all, did the
8 girls leave the next morning?

9 A. They must have left when I was asleep, yeah.

10 Q. And did another girl come over the next morning?

11 A. Yeah.

12 Q. Who was that?

13 A. Tammy.

14 Q. What was going on with Tammy's car when she came
15 over?

16 A. It was overheating.

17 Q. Now, do you know where the rifle and the pistol
18 were the next morning?

19 A. In the room with Terrell.

20 Q. And when Tammy came over, do you know what might
21 have happened with either of the weapons?

22 A. Put into the vehicle.

23 Q. And who put it into the vehicle?

24 A. Terrell.

25 Q. Put which weapon into the vehicle?

1 A. The rifle.

2 Q. Were you around when he talked to her about that?

3 A. No.

4 Q. When you went back inside after helping her with
5 her car, was the weapon still at the house or was it
6 gone?

7 A. It was gone.

8 Q. The rifle was?

9 A. Yeah.

10 Q. The day that the police came and searched the
11 apartment, were you there that day?

12 A. No, ma'am.

13 Q. Did you learn that both Terrell and Che had gotten
14 arrested?

15 A. Yes, ma'am.

16 Q. Did you give a statement to the police at some
17 point during this case?

18 A. Yes, ma'am.

19 Q. Do you recall the first statement you gave, or
20 when it was? If not, can I show you a copy to refresh
21 your memory?

22 A. I don't remember when it was but I remember it.

23 Q. Does that refresh your memory as to when you gave
24 that statement?

25 A. Yeah.

1 Q. And what was that day?

2 A. July 16.

3 Q. Okay. Did you get arrested after that?

4 A. No, ma'am.

5 Q. Tell the jury when you were arrested.

6 A. December 6, 2009.

7 Q. 2009?

8 A. Uh-huh.

9 Q. So that was a good bit later than Che and Terrell,
10 right?

11 A. Yes, ma'am.

12 Q. Do you know whether Storme has been arrested?

13 A. Ma'am?

14 Q. Do you know whether Storme had been arrested?

15 A. Yes, ma'am.

16 Q. After were you arrested, did you get interviewed
17 by Detective Osborne again?

18 A. Yes, ma'am.

19 Q. Where are you currently residing?

20 A. Leeds Avenue.

21 Q. At the jail?

22 A. Yes, ma'am.

23 Q. And while at the jail, are you able to receive
24 communications, letters?

25 A. Uh-huh.

1 Q. Can you receive letters from other inmates?

2 A. Yes, ma'am.

3 Q. Okay.

4 MS. SHEALY: I beg Court's indulgence just a
5 moment.

6 BY MS. SHEALY:

7 Q. Did you receive any letters from Terrell Chandler?

8 A. Yes, ma'am.

9 MR. SLADE: Your Honor, we discussed this. I
10 just wanted to note my objection on the prior --

11 THE COURT: Your objection is noted and
12 overruled.

13 MR. SLADE: Thank you.

14 BY MS. SHEALY:

15 Q. I'm going to show you some documents, Steven, and
16 ask you whether you can identify these. Can you just
17 tell me whether you recognize those.

18 A. Oh, yeah, I do.

19 Q. Tell the jury what those are?

20 A. Letters from Terrell.

21 Q. Okay. And I'm going to show you a set of
22 envelopes and ask you whether you recognize these.

23 A. Yes, ma'am.

24 Q. And what are those?

25 A. Envelopes with the letters from Terrell.

1 Q. You're going to have to talk louder for me.

2 A. Envelopes with the letters from Terrell.

3 Q. You kept the letters that Terrell sent you?

4 A. Uh-huh.

5 Q. And did you provide those to your lawyer?

6 A. Yes, ma'am.

7 Q. Could I hang on to those for a second? Your
8 Honor, at this time we would move the letters into
9 evidence, and the envelopes.

10 THE COURT: Admitted over defendant's
11 objection.

12 (Letters marked as State's Exhibit 104, and
13 envelopes marked as State's Exhibit 105 were marked and
14 admitted into evidence.)

15 MS. SHEALY: There is an additional letter
16 that is going to need to be joined on this one, but we're
17 going to mark them all as one.

18 BY MS. SHEALY:

19 Q. I'm going to ask you to hang on to that, and let
20 me first ask you, you've explained that y'all had been
21 friends since you were small children.

22 A. Yes, ma'am.

23 Q. How would you describe your level of closeness
24 with Terrell?

25 A. I call him my cousin.

1 Q. You called him cousin?

2 A. Yeah.

3 Q. And your families are friends?

4 A. Yeah.

5 Q. Is it easy for you to be here today?

6 A. No.

7 Q. Okay.

8 A. It's not.

9 Q. Steven, if I could show you -- we're going to pull
10 up the first -- make sure we're on the first letter.

11 Will you read this to the jury, please.

12 (Whereupon, the letter, having been
13 previously marked for identification and admitted into
14 evidence, was read into the record by the witness.)

15 BY MS. SHEALY:

16 Q. And when you're reading this letter and there are
17 things said like "dip" and the way that it is worded,
18 could you tell the jury, does that sound like how Terrell
19 talks?

20 A. Yeah, exactly.

21 Q. Now, if you would, please, if you could just try
22 one more time, Steven, to talk a little bit louder for
23 us. The next letter, let me make sure you have the same
24 one I do, that's right, starting with that letter. Would
25 you read that to us, please. You had written him back

1 before you got this letter?

2 A. Yes, ma'am.

3 Q. Okay. And did you say anything to him about
4 trying to be handled?

5 A. Yeah.

6 Q. Tell us about that.

7 A. He was, like, trying to handle me like I was some
8 little dude, little fellow.

9 Q. What do you mean he was trying to handle you?

10 A. Like I was a child or something.

11 Q. By telling you what to do?

12 A. Yeah.

13 Q. So go ahead and start that again, please.

14 (Whereupon, the letter, having been
15 previously marked for identification and admitted into
16 evidence, was read into the record by the witness.)

17 BY MS. SHEALY:

18 Q. Did you finish?

19 A. Yeah.

20 Q. And then if you would, Steven, let's see if I can
21 speed this up a little bit. The next letter which is
22 dated 3/21/2010, would you go ahead and read that one for
23 us.

24 (The witness resumes reading the letter into
25 the record.)

1 Q. Do you know what the term is meant by sky writing?

2 A. Yeah.

3 Q. Tell the jury what that means.

4 A. It's, like, writing, like, with your hands.

5 Q. Is that how you have to communicate sometimes when
6 you see people in the jail?

7 A. Yeah.

8 Q. Okay. Go ahead.

9 (The witness resumes reading the letter into
10 the record.)

11 Q. At this point, Steven, is he talking about other
12 people y'all know at the jail?

13 A. Yeah.

14 Q. Okay. Who is Mama Nita?

15 A. That is his mother.

16 Q. Okay.

17 (The witness resumes reading the letter into
18 the record.)

19 Q. Let me interrupt you there. Is that true, what
20 he's saying there?

21 A. About what?

22 Q. Were you -- let me find my spot -- when he tells
23 you to tell them you were in West Ashley?

24 A. I was in West Ashley, yeah.

25 Q. And when he tells you -- I'm sorry. Let me just

1 find it real quick. That you were just coming to holla
2 at him because you had been at West Ashley and you been
3 stuck, is that part true?

4 A. No.

5 Q. Okay. Go ahead.

6 (The witness resumes reading the letter into
7 the record.)

8 Q. Was that true? Did Che have the gun when you
9 first saw them?

10 A. No.

11 Q. Okay. So what he's asking you to tell, is any of
12 that true?

13 A. No.

14 Q. Okay. Go ahead.

15 (The witness resumes reading the letter into
16 the record.)

17 Q. How is that letter signed?

18 A. At the end. Trouble, on the back, holla back at
19 me ASAP, for real, bitch.

20 Q. The next one, Steven?

21 A. Short one.

22 (Whereupon, the letter, having been
23 previously marked for identification and admitted into
24 evidence, was read into the record by the witness.)

25 Q. Let me interrupt you. Who is Big Rich?

1 A. That is my old man.

2 Q. Who is Auntie Lane?

3 A. That is my mother.

4 (The witness resumes reading the letter into
5 the record.)

6 Q. Okay. The next letter, the jury will have the
7 benefit of having it back with them, so let's skip one so
8 we'll keep moving here. If you'll go to the letter,
9 let's see. This one.

10 (Whereupon, the letter, having been
11 previously marked for identification and admitted into
12 evidence, was read into the record by the witness.)

13 Q. He tells you to read it slowly.

14 A. Yeah.

15 Q. Okay.

16

17 (The witness resumes reading the letter into
18 the record.)

19 Q. Okay. So let me interrupt you there, Steven. Did
20 Che -- let's see. Did Storme and some other guys roll up
21 on you with pistols and threaten you to write a
22 statement?

23 A. No.

24 Q. Okay. Go ahead.

25 (The witness resumes reading the letter into

1 the record.)

2 Q. Let me ask you one question that is referencing
3 the letter we did not read, there is some mention of a
4 pickle suit. Can you tell the jury what a pickle suit
5 is?

6 A. Suicide watch.

7 Q. Something they put you in at the jail?

8 A. Yeah.

9 Q. And were you at some point put on suicide watch?

10 A. Yeah, that Sunday.

11 Q. Okay. Was that your request?

12 A. No.

13 Q. Okay. Were you suicidal?

14 A. No.

15 Q. Okay. Then if you'll just read us that last
16 letter.

17 (Whereupon, the letter, having been
18 previously marked for identification and admitted into
19 evidence, was read into the record by the witness.)

20 Q. Now, again, on the night when y'all were outside,
21 tell the jury, please, if you ever saw Che or Storme Carr
22 with the rifle?

23 A. Earlier messing around with it, yeah.

24 Q. Earlier that day?

25 A. Yeah, inside the apartment.

1 Q. Okay. But I'm talking about outside that night.

2 A. No.

3 Q. Did you see either of the twins with the rifle?

4 A. No.

5 Q. Okay. Who was the only person that you saw with
6 the rifle?

7 A. Terrell.

8 Q. And when you told us that Storme was shooting
9 outside up into the air, could you tell which weapon he
10 had?

11 A. The handgun.

12 Q. I beg the Court's under indulgence.

13 MS. SHEALY: Mr. Brown, thank you. I have no
14 further questions. Please answer any that the defense
15 counsel have.

16 THE COURT: I think we'll take a little break
17 before we go into cross. We'll take about a 15 minute
18 break. If somebody needs to take a smoke break, they can
19 escort you downstairs. Please don't talk about the case
20 or discuss it in any way or comment on any witnesses
21 you've heard so far. We'll see you back in about 15
22 minutes.

23 (Recess taken.)

24 THE COURT: All right. Let the record
25 reflect the defendant is in the courtroom. Bring the

1 jury back.

2 (In open court, jury present.)

3 THE COURT: All right. We're going to resume
4 now with the cross-examination of the witness, if you're
5 ready, Mr. Slade?

6 MR. SLADE: Yes, sir. Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. SLADE:

9 Q. Mr. Brown --

10 A. Yes, sir.

11 Q. You've known Terrell Chandler a long time?

12 A. Uh-huh.

13 Q. Would you speak up and answer yes or no, sir --

14 A. Yeah, a long time.

15 Q. -- so the court reporter can take down what you're
16 saying.

17 A. Long time.

18 Q. You've known him since you were children.

19 A. Right.

20 Q. He's a little older than you are, right?

21 A. Right.

22 Q. And he's always been a close friend of yours?

23 A. Right.

24 Q. Somebody you looked up to?

25 THE COURT: You need to answer that.

1 THE WITNESS: Look up to?

2 BY MR. SLADE:

3 Q. Somebody you looked up to?

4 A. I mean, no more than he would to me.

5 Q. I'm sorry?

6 A. No more equal to me, yeah.

7 Q. Somebody who has throughout y'all's years of
8 friendship, y'all are almost like brothers?

9 A. Right.

10 Q. In fact, you called each other cousin?

11 A. Right.

12 Q. And you know him fairly well?

13 A. Yeah.

14 Q. And he knows you fairly well?

15 A. Yes, sir.

16 Q. And when you know somebody fairly well, because
17 you know their habits, know their character, you kind of
18 got some idea what they're do in certain situations,
19 correct?

20 A. Right.

21 Q. And you know how they respond or perform in good
22 times, right?

23 A. Right.

24 Q. And you now how they respond, perform, or act in
25 times of stress, in times where there is a lot of

1 pressure on them, right?

2 A. Right.

3 Q. Now, during the time that we're talking about in
4 this case, which would be May the 30th, May the 31st and
5 the months preceding that, you were over at Terrell
6 Chandler's a good bit, right, Apartment Five?

7 A. Right.

8 Q. And when you were over there, you would come in
9 any time of the day, right?

10 A. Right.

11 Q. Just whenever you felt like it. You weren't
12 working?

13 A. No.

14 Q. Didn't have anything else to do.

15 A. Right.

16 Q. Would you call Apartment Five a chilling place, a
17 place people went to chill out?

18 A. Yeah.

19 Q. And other people hung around the chilling place,
20 right?

21 A. Yeah.

22 Q. And some of the other people that hung around the
23 chilling place were the twins, Che and Storme, right?

24 A. Right.

25 Q. Basically, where you see one, you see the other

1 one, right?

2 A. Right.

3 Q. Now, I'm going to ask you to take a look here at
4 State's Exhibit No. 102 and ask you to look at that
5 circled picture and tell us who that is.

6 A. Bring it a little closer.

7 Q. How close?

8 A. That's Che.

9 Q. That's Che?

10 A. Yeah.

11 Q. All right. And the way you tell Che and Storme
12 apart is that Storme has a lazy eye, right?

13 A. Right.

14 Q. The lid hangs down, right?

15 A. Right.

16 Q. And this person here, Che Carr, in this picture,
17 does he have any sign to you of a lazy eye?

18 A. No, no.

19 Q. Now, when you would be -- when you would just show
20 up at the Apartment Five, the chilling place, plenty of
21 times you wouldn't call Terrell ahead of time, right?

22 A. Right.

23 Q. Just show up, right?

24 A. Right.

25 Q. A lot of times the twins would be there?

1 A. Right.

2 Q. Other people would be there, and sometimes girls
3 would be over there, right?

4 A. Right.

5 Q. And there were times that they would just -- those
6 people would just show up, right?

7 A. Right.

8 Q. So y'all are there, and Troy White's not there,
9 right?

10 A. Right.

11 Q. And Terrell is not there?

12 A. Say again?

13 Q. There would be times that people, like Che and
14 Storme or you or the girls, would be hanging out at this
15 apartment and either one of the people who lived there
16 would be there, right?

17 A. No, not really.

18 Q. No?

19 A. Not that I know.

20 Q. When y'all were over there, you, Che, and Storme
21 and sometimes Terrell would be there; sometimes the girls
22 would be there, correct?

23 A. Right.

24 Q. And y'all could watch television, right?

25 A. No, not really.

1 Q. You couldn't watch television?

2 A. No.

3 Q. Had some kind of rule against watching television?

4 A. No. That television was broken.

5 Q. All right. Y'all played video games?

6 A. Yeah.

7 Q. And that was all Terrell's stuff or Troy's stuff,
8 right?

9 A. Right.

10 Q. And y'all just used it how you wanted? You and
11 one of the twins, getting ready to play a video game, you
12 just played it, right?

13 A. Right.

14 Q. You didn't need Troy's permission, right?

15 A. No.

16 Q. Didn't need Terrell's permission, just picked up
17 their stuff and used it, right?

18 A. Yeah.

19 Q. And it was the same with the other stuff at the
20 house. There was marijuana in that house, excuse me, in
21 that apartment, correct?

22 A. Right.

23 Q. And when y'all were over there enjoying the
24 atmosphere of the chilling place and y'all needed some
25 marijuana, y'all would help yourselves to that, right?

- 1 A. No. Had to buy it.
- 2 Q. You had to buy it?
- 3 A. Yeah.
- 4 Q. But it was there?
- 5 A. It was there.
- 6 Q. And you knew where it was, right?
- 7 A. Right.
- 8 Q. And you had access to it.
- 9 A. After I pay for it, yeah.
- 10 Q. Well, sometimes you got a little when the party
- 11 was going good and you paid him back later on, right?
- 12 A. Only to his recognizance.
- 13 Q. Only to his recognizance?
- 14 A. Yeah.
- 15 Q. Okay. Now, I'm going to show you State's Exhibit
- 16 No. 103. This is a picture of you holding an AK47, or
- 17 this AK47, right?
- 18 A. Right.
- 19 Q. And you could pick that up and play with it
- 20 whenever it suited you, right?
- 21 A. I wouldn't play with it, no.
- 22 Q. I'm sorry?
- 23 A. I said I wouldn't play with it, no.
- 24 Q. You wouldn't play with it?
- 25 A. I wouldn't play with it; no, I wouldn't.

1 Q. You had access to it?

2 A. Right.

3 Q. You wanted to -- play may be my word -- handle it.
4 You could handle it whenever you wanted to. You had
5 access to it?

6 A. Yeah.

7 Q. And everybody in that apartment who was enjoying
8 the atmosphere at the chilling place had access to that
9 gun, the twins?

10 A. Right.

11 Q. You saw the twins handling that gun at times,
12 right?

13 A. Yeah, a lot.

14 Q. A lot?

15 A. Yeah.

16 Q. And what would happen when they, again, handle it,
17 was the gun would be somewhere in the apartment, right?

18 A. Yeah.

19 Q. And it would be -- the twins are acting crazy most
20 of the time, right?

21 A. Right.

22 Q. I mean, they are just that kind of guys, right?

23 A. Yeah.

24 Q. I think in some of the statements you had given,
25 or one of the statements you had given, you told

1 Detective Osborne that the twins are crazy, right?

2 A. Yeah.

3 Q. And I think you told Detective Osborne they'll set
4 you up?

5 A. Right.

6 Q. That means they'll get you in trouble?

7 A. Yeah.

8 Q. Because they're always willing to do crazy stuff
9 you might not be willing to do, right?

10 A. Right.

11 Q. And that is not only your observation. You told
12 Terrell about that, didn't you?

13 A. Somebody told us about it, yeah.

14 Q. What Terrell knew about that too, right?

15 A. Right.

16 Q. Somebody else told y'all, they got a reputation
17 for being crazy?

18 A. Yeah.

19 Q. So sometimes when they're acting crazy, they start
20 fooling around with these guns, right?

21 A. Right.

22 Q. And they talk crazy stuff, don't they?

23 A. Yeah.

24 Q. You've seen -- well, in this exhibit here, with
25 you posing with this gun, you've seen the twins in

- 1 similar poses with this gun, right?
- 2 A. Yeah.
- 3 Q. Pretending to shoot it.
- 4 A. Yeah.
- 5 Q. Acting crazy with it, right?
- 6 A. Yeah.
- 7 Q. All over that apartment?
- 8 A. Uh-huh.
- 9 Q. Going outside with it, right?
- 10 A. No, not outside.
- 11 Q. Now, you gave a statement early on in this case,
12 correct?
- 13 A. Right.
- 14 Q. You talked to Detective Osborne back on July the
15 16th of 2008, right?
- 16 A. Right.
- 17 Q. And at the time that you gave Detective Osborne
18 this statement, you thought you had made it out of this
19 case, right?
- 20 A. Say it again?
- 21 Q. You thought you had -- you didn't think you were
22 going to be charged.
- 23 A. Till after I made the statement?
- 24 Q. You made a statement on July the 16th of 2008.
- 25 A. Right.

1 Q. To Detective Osborne.

2 A. Right.

3 Q. You didn't think you were going to be charged in
4 this case, did you?

5 A. Right.

6 Q. You thought the statement that you gave was going
7 to keep you from being charged in this case.

8 A. Right.

9 Q. And August of 2008 went by, September, October,
10 November, December; months go by, and you're not charged,
11 right?

12 A. Right.

13 Q. And, in fact, the last time you talked with
14 Detective Osborne in this case, he told you, See you at
15 the trial, right?

16 A. Right.

17 Q. Meaning you were just going to be a witness.

18 A. Right.

19 Q. Now, let's look at the statement that you gave on
20 July 16 of 2008. You told Detective Osborne that Storme
21 and Che were beside the car, right?

22 A. Right.

23 Q. Talking to the driver, right?

24 A. Right.

25 Q. And then you heard a gunshot, boom. Right?

1 A. Right.

2 Q. And what you meant was you saw them right there at
3 the car, the car Mr. Gibbs, Calvin Gibbs, was driving,
4 right?

5 A. Right.

6 Q. And you heard a gunshot, right, and the important
7 thing to you in giving this statement was to make sure
8 you kept Steven Brown out of this case, correct?

9 A. Yeah, right.

10 Q. Right?

11 A. Right.

12 Q. And what you told Detective Osborne that keeps, in
13 your mind, you out of this case is -- can everyone see
14 this? Now, I'm showing the witness Defendant's Exhibit
15 No. 4, and in your mind what kept you out of this case
16 when you talked to Osborne back in July of 2008 is that
17 you told him you were on the other side of this cut,
18 right?

19 You discussed that a little bit with Ms. Shealy.
20 You told him you were on the -- you told him you were
21 on -- I'm showing the witness Defendant's Exhibit No. 2.

22 You told him you were on this side of the
23 breezeway there, right?

24 A. Right.

25 Q. And what you told him was you heard boom, which

1 you meant as a gunshot, right?

2 A. Right.

3 Q. And then you took off running. Now, the car is
4 here, and Che and Storme, according to your first
5 statement, are standing beside the car, right?

6 A. Yeah.

7 Q. It was up by the breezeway, right?

8 A. Right.

9 Q. And what keeps you out of this case in statement
10 number one is you claim you ran through the breezeway,
11 right?

12 A. I was already in the breezeway, yeah.

13 Q. You were in the breezeway?

14 A. Right.

15 Q. And you ran to the other side of the breezeway?

16 A. Right.

17 Q. Right? Out this way, to the other -- this is the
18 other side of the breezeway, right?

19 A. Yeah.

20 Q. And then you ran this way, right?

21 A. Yeah.

22 Q. To the opposite -- Sycamore Avenue is down this
23 way?

24 A. Right.

25 Q. So you run this way, up, all the way to the end of

1 the building, and then what did you tell them you did?

2 A. Ran to the other side.

3 Q. And you ran to the other side.

4 MS. SHEALY: Excuse me, Your Honor. Could we
5 do this --

6 THE COURT: I'll tell you, why don't you move
7 over there by the bailiff? That might be easier.

8 BY MR. SLADE:

9 Q. So the way you were trying to keep yourself out of
10 this case in your first statement is you said -- you
11 heard a gunshot. You ran away from it and ran through
12 the breezeway and up this way.

13 A. Right.

14 Q. And you told Detective Osborne that when you hear
15 the gunshot, you looked in the opposite direction, right?

16 A. Yeah.

17 Q. So you heard a loud noise, and your reflex action
18 is not to look toward the noise, your reflex action is to
19 look away. Is that what you're telling us?

20 A. No.

21 Q. Now, I'm talking about your first statement to
22 Detective Osborne. Do you recall what you told him?

23 A. No.

24 Q. You told Detective Osborne that I'm not really
25 paying attention, right, when you're out there?

1 A. Right.

2 Q. I was on the phone. I kind of walked to the side
3 so I wouldn't make the driver nervous?

4 A. In the breezeway, yeah.

5 Q. That's when I heard a single gunshot. I ran
6 through the breezeway to the front of the building. I
7 ran around the building and back to the back of the
8 apartment.

9 You claim -- he asked you if you saw who shot?

10 A. Right.

11 Q. And you told him you didn't.

12 A. Right.

13 Q. And that is the statement that you thought was
14 going to keep you out of this case, right?

15 A. Right.

16 Q. And you thought you were going to keep from being
17 charged with murder?

18 A. Yeah.

19 Q. Based on that statement?

20 A. Yeah.

21 Q. Now, you knew when you got arrested some 18 months
22 after you gave this statement that you would have to tell
23 a different story to get out of this case, didn't you?

24 A. No, no.

25 Q. You knew you were going to have to change your

1 statement to get out of this case, right?

2 A. No. Do I have to tell the truth? Yeah.

3 Q. You knew you couldn't tell this same statement you
4 gave Detective Osborne and still get some kind of proffer
5 deal, right?

6 A. Say it again?

7 Q. You knew you couldn't tell the same statement you
8 gave Detective Osborne and get some kind of proffer deal,
9 right?

10 A. I said basically the same thing.

11 Q. Now, when you went over to -- let's move ahead to
12 the statement that you gave today, to the statement you
13 gave when Ms. Shealy was asking you questions.

14 A. Right.

15 Q. You got to the apartment, to Apartment Five,
16 before the girls got there?

17 A. Yeah.

18 Q. All right. And how long had you been there before
19 the girls got there?

20 A. I would say a couple hours, maybe.

21 Q. And you don't -- there wasn't anybody there who
22 was putting on hoodies, was there?

23 A. No.

24 Q. You were there from several hours before the girls
25 got there?

1 A. Right.

2 Q. All night long, correct?

3 A. Correct.

4 Q. And did you see Che put on a hoody?

5 A. No..

6 Q. Do you know what a hoody is?

7 A. Yeah.

8 Q. Could you describe what a hoody is.

9 A. Over top.

10 Q. It's a sweat shirt that has a pullover hood?

11 A. Right.

12 Q. And did you see Storme put on a hoody?

13 A. No.

14 Q. Did you see Terrell put on a hoody?

15 A. No.

16 Q. Now, there wasn't anybody during that time, girls
17 who were there, or the men who were there, who put on any
18 darker clothing, right?

19 A. No.

20 Q. And when you were there, nobody was -- before any
21 shooting was heard in the back yard, nobody had all the
22 lights on, did they?

23 A. Yeah.

24 Q. Nobody had turned off all the lights, had they?

25 A. No.

1 Q. There was basically a living room in the front
2 that faces the -- this side, the Battery Avenue side,
3 right?

4 A. Right.

5 Q. And then there is two bedrooms back this way,
6 right?

7 A. Right.

8 Q. And then the kitchen is on the --

9 A. Back side.

10 Q. I forgot the name of that street, but this side
11 right here?

12 A. Right.

13 Q. And there were lights on in some of the rooms that
14 evening, weren't there?

15 A. Yeah.

16 Q. Was it pitch black when the girls got over there?

17 A. No. The living room was on when they got there,
18 yeah.

19 Q. Now, that evening, several of the people over
20 there at this chilling place location had been smoking
21 some pot, smoking some marijuana?

22 A. Me mostly, yeah.

23 Q. I'm sorry?

24 A. I said me mostly, yeah.

25 Q. Terrell had been smoking some?

1 A. No.

2 Q. Che and Storme had been smoking some?

3 A. Yeah.

4 Q. And y'all were low. Y'all were out, right?

5 A. Did you say low?

6 Q. Y'all were out of marijuana to smoke?

7 A. Right.

8 Q. For the evening?

9 A. Right.

10 Q. And the girls were coming over, right?

11 A. Right.

12 Q. And so y'all were wanting to create a good party
13 atmosphere?

14 A. Girls don't smoke, though.

15 Q. You want to create a party atmosphere for
16 yourselves. I mean, if the girls at the party don't
17 drink beer, it doesn't mean the guys don't drink beer,
18 right?

19 A. Right.

20 Q. So y'all wanted some more dope?

21 A. Not I.

22 Q. All right. Somebody over there wanted some more
23 dope?

24 A. Right.

25 Q. Che and Storme called for some -- called somebody

1 he knew for some marijuana, right?

2 A. Right.

3 Q. Now, let's look at your July 16 statement. When
4 you were -- you said you testified a few minutes ago, I
5 believe, and correct me if I'm wrong that there really
6 wasn't any difference in this statement that you gave
7 back on July 16, two years ago, nearly two years ago, and
8 what you've said today, right?

9 A. Right.

10 Q. You said that you saw -- in your direct testimony,
11 you said you saw Terrell walk out the door to the car
12 with the gun, right?

13 A. Yes.

14 Q. Is that a major detail in the statement or a minor
15 detail, to you? I'm just asking your judgment, how you
16 size up these particular facts.

17 A. Well, when I saw him, it wasn't major, no.

18 Q. That isn't a major detail to you?

19 A. No.

20 Q. Now, if you would -- so it's a minor detail. Is
21 that the way you would describe it, Terrell walking out
22 the door of Apartment Five with an AK47? Could you find
23 a reference to what you describe as that minor detail in
24 that statement that you gave Detective Osborne two years
25 ago.

1 A. I doubt it, no.

2 Q. Take all the time you like.

3 A. No. No.

4 Q. You left that minor detail out --

5 A. Yeah.

6 Q. -- when you talked to him before?

7 A. Right.

8 Q. Now, when Detective Osborne came back to arrest
9 you in -- when did you get arrested on this murder charge
10 you're facing now?

11 A. December the 7th.

12 Q. December the 7th of --

13 A. 2009.

14 Q. Right, which is a little better than 18 months
15 after you gave this statement?

16 A. Right.

17 Q. Now, you knew Terrell had been charged, right?

18 A. Right.

19 Q. And you know how tall Che and Storme are, right?

20 A. No.

21 Q. Are they shorter than you?

22 A. Yeah.

23 Q. Substantially shorter, by several inches?

24 A. Yeah.

25 Q. How tall are you?

1 A. Six foot.

2 Q. Six foot even?

3 A. Yeah.

4 Q. Now, and Terrell is a little taller than you are,
5 right?

6 A. Right.

7 Q. Now, when Detective Osborne -- or when you were
8 arrested in December of last year, you realized that the
9 story you had been telling up to this point wasn't going
10 to keep you out of jail, right?

11 A. Right.

12 Q. So -- and you knew that there were other people
13 out there behind Apartment Five that did not -- there
14 were other people besides Che and Storme out there,
15 right?

16 A. Other people?

17 Q. Well, let's do it this way: This is the back of
18 Apartment Five.

19 A. Right.

20 Q. On the night of May the 30th, Che and Storme were
21 out there when the car pulls up, right?

22 A. I remember Storme, yeah.

23 Q. And there were a couple of people out there at
24 that time taller than Che and Storme, right?

25 A. Me.

1 Q. And you knew that given the prosecution's theory
2 of the case, they thought that some of these other people
3 out there had something to do with this shooting.

4 A. There wasn't some other people out there.

5 Q. You knew that somebody taller than Che and Storme
6 was going to get charged, right?

7 A. If I knew somebody taller --

8 Q. You knew one of the tall people who was out there
9 that night was going to get charged, didn't you?

10 A. There was nobody taller but me.

11 Q. You knew somebody -- now, somebody out there,
12 according to your statement, didn't have anything to do
13 with the shooting, right?

14 A. Right.

15 Q. And you knew they were charging Terrell with
16 murder, right?

17 A. Right.

18 Q. And you knew -- you know Terrell is taller than
19 Che and Storme, right?

20 A. Right.

21 Q. And so you knew -- you know one of the taller
22 people is going to get charged, right?

23 A. Right.

24 Q. And you want to make sure it's not you.

25 A. Right.

1 Q. Right?

2 A. I'm trying to make sure it's not me, but I'm
3 listening.

4 Q. You want to make sure you tell a story that gets
5 you out of this case.

6 A. No. I'm telling the truth.

7 Q. You want to make sure you tell the truth?

8 A. Right.

9 Q. Now, you told Mrs. Shealy in your direct
10 testimony -- and I assume you're saying that is a true
11 story.

12 A. Yes.

13 Q. You told Ms. Shealy you were standing here in the
14 cut, in the breezeway, and you were able to hear the talk
15 between Storme or Che standing at the car and the driver
16 of the car, right?

17 A. Argument, sounded like argument, yeah.

18 Q. Tell us what you heard.

19 A. Can't tell you.

20 Q. You told Detective Osborne in one of your earlier
21 statements you heard Terrell said, Give me your money.

22 A. Yeah. That is what I told him, yeah.

23 Q. You're not saying that today? You're not claiming
24 that now?

25 A. Tell me what I saw.

1 Q. I'm asking you if you are claiming that today.

2 A. Yeah, the same thing.

3 Q. So you're claiming he said that?

4 A. Yeah.

5 Q. There was nothing to keep you from hearing that?

6 A. That's when I was looking.

7 Q. All right. Now, let me ask you this: Did you
8 hear anybody say, I got you now, nigga?

9 A. No.

10 Q. You didn't hear that?

11 A. No.

12 Q. Now, you were close enough to hear the stuff that
13 fits your story today, right?

14 A. Right.

15 Q. And in the preparation that you did to get ready
16 to testify, you don't know what Cherelle Anderson, the
17 woman in the car heard, did you?

18 A. No.

19 Q. But there was nothing to interfere with you
20 hearing anything that went on in the conversation that
21 went on between Storme or Che Carr and the driver, right?

22 A. I ain't hear none of that, no.

23 Q. Tell us about your deal.

24 A. Say it again?

25 Q. Tell us about your deal. Tell us what you did in

1 exchange for this story that you have changed from your
2 July 16th story.

3 A. Don't get nothing. Don't get promised nothing.

4 Q. You know the charge against you is going to be
5 reduced or dropped, right?

6 A. No. Not necessarily, no.

7 Q. Well, you told the first statement, you tried to
8 get out from under any murder charge, right? You've
9 admitted that in your earlier testimony.

10 A. Correct.

11 Q. And you're telling this story to try to get out
12 from under the murder charge that you're on?

13 A. No.

14 Q. Right? And you have an agreement with the
15 prosecutor's office?

16 A. To tell the truth, yeah.

17 Q. That if you tell the story you told today
18 something good is going to happen to you, right?

19 A. No.

20 Q. You're going to get out, right?

21 A. No.

22 Q. Now, you wouldn't have -- how has the arrangement
23 been described to you? How has this -- whatever it is,
24 this deal, no deal -- how has that been described to you?

25 A. It's an agreement to tell the truth.

1 Q. And that means the story you told today?

2 A. Right.

3 Q. Now, beg the indulgence of the Court, Your Honor.
4 Terrell has written you some letters, right?

5 A. Right.

6 Q. And he knows you well, right?

7 A. Right.

8 Q. And you're willing to change your story to come in
9 here to talk about you saw him walking up to that car
10 with that gun. That is what you're willing to say,
11 right?

12 A. That's what I'm saying, yeah.

13 Q. And you knew that Terrell wasn't involved in this,
14 right?

15 A. Say what?

16 Q. You knew Terrell wasn't involved in this.
17 Somebody out there taller than the twins who wasn't
18 involved, right?

19 A. No.

20 Q. According to your testimony, that's you?

21 A. Correct.

22 Q. Tall guy that didn't have anything to do with it.

23 A. Right.

24 Q. And Terrell has tried to look out for you, right?
25 Right?

1 A. If you say so, yeah.

2 Q. I'm not asking -- it's not my judgment, it's
3 yours.. Terrell has looked out for you, right?

4 A. In the past?

5 Q. Yeah.

6 A. Yeah.

7 Q. He has.

8 A. Yeah.

9 Q. And he tells you that he's trying to look out for
10 you, right?

11 A. In the letter, right.

12 Q. Yeah.

13 A. Okay.

14 Q. Right? And you understand you got to change your
15 story to get out of this, right?

16 A. I got to tell it how it was, yeah.

17 Q. And he is just asking you not to change your
18 story, right?

19 A. Telling me to tell another story.

20 Q. And in some of these letters, he asked you, or
21 tells you, that if the police come to you and have told
22 you that he's talking about you, that's not so, right?

23 A. Right.

24 Q. He tells you if Detective Osborne tells you I call
25 your name, don't believe him, or words to that effect,

1 right?

2 A. Right.

3 Q. Do you know if this is one of Detective Osborne's
4 techniques to tell defendants or suspects in crimes that
5 he has evidence that he doesn't?

6 A. Say it again?

7 Q. Do you know if that is one of his techniques?

8 A. His technique to do what?

9 Q. To try to get statements from people.

10 A. I couldn't tell you.

11 Q. All right. Now, he told you in the letter that
12 was dated 3/21/2010 that he's talking with some of Calvin
13 Gibbs's people, right?

14 A. Right.

15 Q. In the jail?

16 A. Right.

17 Q. And he's telling you they know he didn't have
18 anything to do with it, right?

19 A. Yeah.

20 Q. And they're telling him that?

21 A. Yeah.

22 Q. Today you're saying you saw Terrell walk up to the
23 car with a gun, right?

24 A. I didn't say I seen him with a gun.

25 Q. I'm sorry?

1 A. I didn't see him with a gun, no.

2 Q. You saw him walk up to the car.

3 A. Yeah.

4 Q. And when you were talking to Detective Osborne
5 back in July of 2008 --

6 A. Right.

7 Q. -- you left out that minor detail?

8 A. Right.

9 Q. Now, let's take a look at some of the other minor
10 details you have left out in your statement. You told --
11 I'm sorry. You told Ms. Shealy that you saw Terrell with
12 the gun right before, right?

13 A. Yeah.

14 Q. Take a look -- is that a major detail to you or
15 minor?

16 A. That's a major.

17 Q. That's a what?

18 A. That's major.

19 Q. I'm going to ask you to take a look at the
20 statement you gave back on July the 16th and tell me
21 where you find that in your statement.

22 A. No.

23 Q. It's not there, is it?

24 A. No.

25 Q. If you hadn't added that to your testimony today,

1 you wouldn't be getting this deal, would you?

2 A. Say it again?

3 Q. If you hadn't added that to your testimony today,
4 you wouldn't be getting whatever this deal is, would you?

5 A. If I hadn't added --

6 Q. Yes.

7 A. If I hadn't told it?

8 Q. It wasn't in this statement.

9 A. Right.

10 Q. It's in your statement today.

11 A. Right.

12 Q. You've added it, right? My question to you is, if
13 you had hadn't added it, you wouldn't be getting out of
14 this murder charge, you would?

15 MS. SHEALY: Objection, Your Honor.

16 THE COURT: Overruled.

17 THE WITNESS: I wouldn't know that, no.

18 BY MR. SLADE:

19 Q. You wouldn't be getting out of that murder charge,
20 would you?

21 A. I wouldn't know that, no.

22 MR. SLADE: I beg the indulgence of the Court
23 for one moment.

24 BY MR. SLADE:

25 Q. Your purpose here today is to give evidence

1 against and try to convict the other tall guy out there
2 that night, right, and make sure it isn't you, correct?

3 A. Correct.

4 MR. SLADE: That's all I have.

5 THE COURT: Redirect?

6 MS. SHEALY: May it please the Court.

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Steven, I don't think that Mr. Slade asked you
10 about the statement you gave in December of 2009.

11 A. Right.

12 Q. Did you give a statement to Detective Osborne?

13 A. Yeah.

14 Q. Do you see him seated in the courtroom.

15 A. Right.

16 Q. Okay. And when you gave that statement, who did
17 you tell them shot Calvin Gibbs that night?

18 A. Terrell.

19 Q. Let's go back to that first statement for a
20 second. Do you have a copy of it up there?

21 A. No, ma'am.

22 Q. This was the statement that was taken in July.
23 Would you tell the jury whether the beginning of that
24 statement is in your own handwriting and then later
25 Detective Osborne's? Do you understand my question?

1 A. Say it again?

2 Q. The first part of the statement --

3 Wait a minute. That's is not the right
4 statement. Yes, it is. The first part of the statement,
5 is that in your handwriting?

6 A. Right.

7 Q. And would you tell the jury, looking at that
8 bottom line, who did you say had the rifle outside that
9 night?

10 A. Terrell.

11 Q. Then further in the statement -- let me look at my
12 copy for a second. On page four of that statement, would
13 you indicate to the jury what you said about Terrell and
14 the gun, the rifle.

15 A. Terrell is going to the back door.

16 Q. Talk a little louder, Steven.

17 A. Terrell going to the back door holding the rifle.

18 Q. So as far as back as July, on two occasions in
19 that statement, you tell Detective Osborne that it's
20 Terrell with the rifle; is that correct?

21 A. Right.

22 Q. When you met with Detective Osborne in December of
23 2009, do you repeatedly tell him that in the statement
24 you give him?

25 A. Say it again.

1 Q. Do you keep telling him that in the statement you
2 give him in December of 2009?

3 A. Right.

4 Q. Okay. Now, let me make sure we understand what
5 your belief is about the agreement that you made with the
6 state.

7 What is the one thing that you have to do?

8 A. Tell the truth.

9 Q. Now, Mr. Slade has asked you about Storme Carr and
10 showed you a picture of Che Carr. I'm going to ask you
11 if you can identify the person in this photograph. Just
12 tell me whether you can or not.

13 A. It's Storme.

14 MS. SHEALY: Your Honor, at this time I move
15 this into evidence.

16 THE COURT: Admitted.

17 (Photograph marked for identification and
18 admitted into evidence as State's Exhibit No. 106.)

19 BY MS. SHEALY:

20 Q. Showing you what has been marked as State's
21 Exhibit 106, I ask you, who is that?

22 A. That's Storme.

23 Q. That's Storme Carr?

24 A. Right.

25 Q. And is this the lazy eye you're talking about?

1 A. Right.

2 Q. How would you describe that hairstyle?

3 A. Like mine, dreads.

4 Q. Dreads?

5 A. Right.

6 Q. I'm going to ask you if you recognize the person
7 in this photograph.

8 A. That's Che.

9 MS. SHEALY: Your Honor, at this time I would
10 move in the photograph of Che Carr.

11 THE COURT: Any objection?

12 MR. SLADE: No, Your Honor.

13 THE COURT: Admitted.

14 (Photograph marked for identification and
15 admitted into evidence as State's Exhibit No. 107.)

16 BY MS. SHEALY:

17 Q. Showing you State's Exhibit 107, who is that
18 that's?

19 A. That's Che.

20 Q. So showing you 106 and 107 at the same time, the
21 one on the right is who?

22 A. That is Storme and that is Che.

23 Q. Now, Mr. Slade asked you about the angry voices
24 that you heard when you were in the breezeway.

25 A. Yeah.

1 Q. And tell us whether you could make out what was
2 being said at that point.

3 A. No.

4 Q. And is that before or after -- I'm sorry. After
5 that, where do you go once you hear the angry voices?

6 A. I turned away.

7 Q. What time do you run through the breezeway, before
8 or after the shot?

9 A. Right directly before it.

10 Q. Directly before the shot?

11 A. Right.

12 Q. So whatever may have been said at the car after
13 the shot, after the shot --

14 A. Right.

15 Q. -- you are then heading through the breezeway and
16 around the building?

17 A. Right.

18 Q. Is that correct? Who was interested in buying
19 some drugs that night?

20 A. It was Terrell and Storme.

21 Q. And the term you keep using is re-upping?

22 A. Yeah.

23 Q. Did you hear them talking to each other about it?

24 A. Yeah. During the day, yeah.

25 Q. During what?

1 A. During the day, yeah.

2 Q. Do you remember -- you said you don't remember a
3 black hoody. Do you remember what Terrell had on?

4 A. Just the pants.

5 Q. You just remember the pants Terrell had on?

6 A. Yeah.

7 Q. What kind of pants did he have on?

8 A. Some jeans, some stripes, blue and white stripes.

9 Q. Okay. And did you indicate to Mr. Slade that you
10 had been smoking some marijuana already that day?

11 A. Yeah.

12 Q. Okay. When you told us earlier that Storme was
13 making phone calls, do you remember seeing him make more
14 than one phone call, or was there just one phone call?

15 A. A little bit.

16 Q. Do you remember if he started talking to someone
17 when he was inside the apartment and then he walked
18 outside?

19 A. Say it again.

20 Q. Well, tell us what you remember about Storme being
21 on the phone, close to the time of the incident.

22 A. Called a couple people, he was calling a good bit
23 of people, and everybody was telling him, Call the next
24 person, so, like --

25 Q. Talk up a little bit for us.

1 A. Everybody kept telling him to call the next
2 person. He keep getting numbers to call the next person,
3 and he would call somebody, telling them, like, it would
4 be an hour or something like that.

5 Q. Okay. And do you recall whether or not Terrell
6 gave him any suggestions about who to call?

7 A. No.

8 Q. Okay. Now, Mr. Slade asked you about the
9 language, Give me the money.

10 A. Right.

11 Q. Can you tell the jury when it is that you hear
12 that statement being made.

13 A. It was when I turned my head. It was -- I mean, I
14 don't remember exact words, but I know it was something
15 with give me; like, give it up, give me, so I imagine
16 give it to me, like that.

17 Q. Did you have any idea that Terrell was going to
18 try to rob the guy?

19 MR. SLADE: Your Honor -- I withdraw.

20 THE COURT: All right.

21 BY MS. SHEALY:

22 Q. Did you?

23 A. When I saw the gun, yeah.

24 Q. When you saw the gun out there?

25 A. Yeah.

1 Q. When did you actually learn that the young man in
2 the car died?

3 A. It was the next day, next morning.

4 Q. And how did you find that out?

5 A. I guess it was an officer sitting on the side of
6 the road.

7 Q. Beside the road near Battery Apartments?

8 A. Yeah, on Battery Avenue, yeah.

9 Q. This is the day after?

10 A. Yeah, next morning, right.

11 Q. And when you got back in the apartment, did you
12 tell anyone in the apartment that you had heard the guy
13 died?

14 A. Terrell.

15 Q. What did Terrell say when he heard the guy died?

16 A. He was, like, word.

17 Q. Word?

18 A. Yeah. That's it, word.

19 Q. Now, when Terrell, in his statement, tells you
20 that he's all good with Calvin Gibbs's people, do you
21 know whether or not that was true?

22 A. No.

23 Q. And Mr. Slade has asked you whether you have
24 changed your story to try to get out of the murder and
25 you added to it just to try to help yourself out. When

1 you got those letters from Terrell -- and do you have a
2 copy of those still up there with you?

3 A. Yeah.

4 Q. On the letter that starts out, What man, what the
5 F, when he tells you, Listen to me carefully, when them
6 crackers come see you, all you got to tell them is
7 Terrell wasn't there. I don't know where Terrell was the
8 night of the murder. I wasn't at his house the night of
9 the murder; is that true?

10 Do you see where I'm looking? Hold on. Right
11 here. Starting here, listen to me carefully --

12 A. Right.

13 Q. -- when Terrell tells you that what you need to
14 say is into he wasn't there and I wasn't there the night
15 of the murder I is that true?

16 A. No.

17 Q. And further down on that page, beginning with, And
18 all you got to tell them -- turn it this way so I can
19 help you find it, right here -- when Terrell says, And
20 all you got to tell them, Che and Storme tried to rob the
21 dude and shot him, Terrell ain't had nothing to do with
22 it. He ain't even been there, and if you told them
23 you've been outside when that bullshit began, they going
24 to ask you why didn't you come to my apartment? Just
25 tell them you ain't know they killed a due -- excuse

1 me -- and you ain't know they killed a dude and you been
2 scared and you called a can or some shit. Did you call a
3 cab?

4 A. No, ma'am.

5 Q. Is any of that which he's telling you to say true?

6 A. No, ma'am.

7 Q. And you went back home. If they ask you why you
8 round the area tell them you came to see me but twin and
9 them, Storme and Che, was outside. So you F'd with them
10 awhile, but you ain't know what they were going to do and
11 when they did that shit you got scared and dip just keep
12 it solid. Don't, I repeat, don't bring my name up at
13 all.

14 Is any of that which he's telling you to say true?

15 A. No.

16 Q. Tell them you don't think anybody was in the house
17 with me. Tell them the only people who went to my house
18 was Che and Storme. Just tell them Terrell wasn't
19 outside at all. Terrell didn't know about the murder at
20 all.

21 Is any of that true?

22 A. No, ma'am.

23 Q. Okay. Looking at this statement, beginning here,
24 when Terrell Chandler tells you in his letter if when
25 they come see you asking you about me, all you got to

1 tell them is, Rell ain't been outside at all, being that
2 you done put yourself out there. Tell them we, you, Che,
3 and Storme, been out front, went to smoke weed, and they
4 been like hold up, one of them went to the back shed and
5 you heard talking and gunshot. You jump in the car and
6 smash out.

7 Tell them you been about to holla Rell but you
8 said F it and dip. If they ask you if Trice and Megan
9 and Pookie been there at my house tell them no. You
10 ain't see that car outside. When he tells you to say
11 that, is any of that true?

12 A. No.

13 Q. Okay. And looking at this letter, dated 3/21,
14 beginning there, when Terrell tells you, So when the time
15 comes around, all you got to tell them people is that on
16 the night of the murder, you were coming to holler at me,
17 because you been in West Ashley. You been stuck, so you
18 know I might have been home, so you didn't have a cell
19 phone to call me, and so you just going to pop up, hoping
20 I, Rell, was going to be home. When you got in
21 Ashleyville you see Che and Storme with a choppa. What
22 is a choppa?

23 A. A gun.

24 Q. They roll on you and ask you if you want to hit a
25 blick. You brush them off, so on the way turning around,

1 they went through the breezeway, get to the back yard.
2 You saw a car and didn't pay it no attention. You heard
3 some shots, seven or eight, and so instead of going to
4 Rell's house you dip because you ain't want to get caught
5 in the mix with nothing.

6 You ain't seen nothing, but you know Che or Storme
7 done the shooting. Something or someone. Che had the
8 gun when you first saw them. Then GX boom. Just tell
9 them you never went to my house. You dip. Peep game.

10 Are those instructions that he gave you what
11 really happened?

12 A. No.

13 MS. SHEALY: Beg the Court's indulgence just
14 a moment.

15 Mr. Brown, I have no further questions.

16 THE COURT: Recross?

17 MR. SLADE: Yes, sir.

18 RECROSS-EXAMINATION

19 BY MR. SLADE:

20 Q. Your December statement, your December 2009
21 statement Ms. Shealy was asking you about in redirect, is
22 the statement you gave to Detective Osborne after you had
23 been out, after you had been on the street 18 months, and
24 then you had been arrested for murder, right?

25 A. Right.

1 Q. It was a statement you gave when you realized your
2 July 16 statement wasn't going to get you out of a murder
3 case, right?

4 A. Right.

5 Q. And you know that one of the taller guys who was
6 in that back yard it going to be charged with murder,
7 right? You want to make sure it's not you? You want it
8 to be Terrell, right? And if you tell the stories in
9 this letter, you're not going to be getting out of this
10 murder charge, are you?

11 A. No.

12 Q. And if you just tell the stories that you told
13 Detective Osborne on July 16, you're not going to be
14 getting out of this murder charge, are you?

15 A. Yeah.

16 Q. The only way you're getting out of this murder
17 charge is to tell the story that you have changed from
18 your July 16th statement, right?

19 A. No.

20 Q. Well, the story that is going to get you out of
21 this murder charge has the minor details you left out of
22 your July 16th statement in it, correct?

23 A. Correct.

24 Q. So if you don't change it to add in those minor
25 details, like Terrell walking up to the car with a gun,