

27996

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Pickens County
Robin B. Stilwell, Circuit Court Judge

RECEIVED

JUL 14 2015

THE STATE,

SC Court of Appeals
RESPONDENT

V.

TAVISH DOMINIQUE YEARGIN,

APPELLANT

APPELLATE CASE NO. 2013-002508

RECORD ON APPEAL

JEFFREY P. DUNLAEVY

Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, SC 29601
(864) 370-9400

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorneys for Appellant

ALAN WILSON

Attorney General

JOHN W. McINTOSH

Chief Deputy Attorney General

DONALD J. ZELENKA

Sr. Asst. Deputy Attorney General

ALPHONSO SIMON JR.

Assistant Attorney General

SC Attorney General's Office

PO Box 11549

Columbia SC 29211-1549

(803) 734-6307

W. WALTER WILKINS

Solicitor, Thirteenth Judicial Circuit

305 East North Street, Suite 325

Greenville, SC 29601-2185

Attorneys for Respondent

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MARGARET HINSON-DIRECT BY MS. HINTON

1 hand on the Bible, raise your right.

2 MARGARET HINSON, after being duly
3 sworn, testified as follows:

4 THE CLERK: Ma'am, if you would, have a seat,
5 state your name for the record, please.

6 THE WITNESS: My name is Margaret Hinson. I
7 live at Lane in Easley.

8 DIRECT EXAMINATION

9 BY MS. HINTON:

10 Q Okay, Ms. Hinson, if you'll speak up, we got the
11 air on back here so it's really hard to hear, okay?

12 A Okay.

13 Q All right. Ms. Hinson, you told us what your
14 address is but will you state it one more time and loudly
15 for the record.

16 A All right. I stated Lane, Easley,
17 South Carolina.

18 Q Okay. And do you know or did you know Sean
19 Dinneon?

20 A Yes, I did.

21 Q Where is Sean Dinneon house in relation to your
22 house?

23 A Straight across the street from mine.

24 Q Okay. And what's his address, do you know his
25 address?

1 knowledge?

2 A Yes, he owned two of them.

3 Q What type of vehicles did he own?

4 A He owned a Grand Prix, a teal green. And he
5 owned a dark blue Laser [verbatim] Mitsubishi.

6 Q Okay. And Ms. Hinson, I'm going to show you
7 what's been previous marked as State's Exhibit No. 13, do
8 you recognize that?

9 A Yes, I know that one.

10 Q What is that?

11 A That's the Grand Prix.

12 Q Okay. And I'm also going to show you State's
13 Exhibit No. 5, do you recognize that?

14 A The grand -- the Lancer, the Mitsubishi.

15 Q Okay. It is your -- whose cars were these?

16 A To the best of my knowledge they were Sean's.
17 Sean claimed the cars.

18 Q All right.

19 Your Honor, at this time, the State would
20 like to move State's Exhibit No. 13 and No. 5 into
21 evidence.

22 THE COURT: Any objection?

23 MR. DEJONG: Without objection.

24 THE COURT: All right, without objection the
25 same is admitted into evidence.

MARGARET HINSON-DIRECT BY MS. HINTON

1 (WHEREUPON, State's Exhibits Nos. 5 & 13 were
2 marked for identification and received into
3 evidence.)

4 BY MS. HINTON:

5 Q Margaret, do you have any personal knowledge
6 whether Mr. Dinneon was trying to sell those vehicles?

7 A I don't think he ever put them on Facebook or
8 anything like that. But he was going to sell the
9 vehicles.

10 Q Okay. Do you have any personal knowledge of how
11 much he wanted for each of the vehicles?

12 A He wanted, I think, six, \$7000.00 for each one
13 of them.

14 Q Okay. So for each car he wanted \$7000?

15 A Yes.

16 Q Did you receive a phone call on September the
17 17th of 2011?

18 A Yes.

19 Q And what number did they call?

20 A They called my number but I don't know what
21 number it was.

22 Q Okay. Was it a cell phone or a house phone?

23 A It sound like a cell phone.

24 Q I'm sorry, the number that called you, was it
25 your cell phone that rang or your house phone?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A My house phone.

2 Q Okay. And was -- was it a male or female that
3 was calling you?

4 A A male.

5 Q Okay. And what were they calling about?

6 A Sean's cars.

7 Q And what specifically about Sean's cars?

8 A That they was wanting to look at them.

9 Q Okay. How many times did they call that day?

10 A My phone? I only answered it once. But I think
11 they called it twice.

12 Q Okay. And do you know whether or not they
13 called Mr. Dinneon at all?

14 A I think they called him on his cell phone.

15 Q Okay. That evening, of September the 17th of
16 2011, did anyone arrive to look at those cars?

17 A Yes, they did.

18 Q Okay. Around what time did they arrive?

19 A About eight o'clock that night.

20 Q Okay. This was back in September, was it light
21 out?

22 A It was dusk, dark, just getting dark.

23 Q Okay. Did that strike you as strange?

24 A Yes, it struck me as strange.

25 Q Why is that?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A Because you don't go to look at someone's car to
2 buy in the dark you, you go in the daytime. That would be
3 my opinion of it.

4 Q Okay. When they arrived did they come to your
5 house?

6 A No, they went straight to Sean's.

7 Q Did you ever go to Sean's house that evening?

8 A Yeah. Sean went up there first. I told him I'd
9 be up there in a few minutes and I went up on there.

10 Q Okay. When you walked up there, tell me how
11 many people were up there when you got up there.

12 A Well, when I walked up there -- you have to go
13 up like a slight hill to get to Sean's house. And a guy
14 was standing down there. And he looked like he was
15 scared, wringing his hands. And I went on up by him and I
16 went up there and there was two ladies up there, two
17 girls.

18 Q Okay. Can you describe for me, let's start with
19 the male, what did he look like?

20 A He had -- he weren't fat but he was kind of
21 stout built.

22 Q What race was he?

23 A Black.

24 Q Okay. When you went up the hill and you saw the
25 two ladies, describe them to me.

1 A They was a white girl up there, she was kindly
2 fat. And she looked like she had shoulder length, blonde
3 hair. And the girl, the other little girl, she was black.
4 Looked to be about 5'3 and all. She had had a ponytail in
5 her hair and had black hair and all.

6 Q And you said that the black male was down at the
7 bottom wringing his hands.

8 A Yeah, he looked like he was wringing his hands
9 when I went by him.

10 Q Okay. Did he ever come up the hill?

11 A He come half way back up it.

12 Q Okay. Do you know the names of any of the
13 people that were there?

14 A I didn't know them at the time. Because I
15 didn't know who they was.

16 Q Okay. When you got up there, what was
17 Mr. Dinneon doing?

18 A He was -- had the pulled the Grand Prix in front
19 of the Lancer trying to jumper it off to get it to crank.

20 Q Okay. Do you know what they arrived in
21 Sean's -- at Sean's house, what kind of vehicle they
22 arrived in?

23 A No, I don't know the vehicle. But it was
24 sitting on the other side in the shade. And I don't know
25 what kind of vehicle it was.

MARGARET HINSON-DIRECT BY MS. HINTON

1 Q Okay. Was it down on the street or was it up in
2 the driveway?

3 A It was up in the driveway.

4 Q Okay. And you said it was parked in the shade?

5 A Yeah, it was parked up under a tree in the
6 shade.

7 Q Could you see it well?

8 A No, I couldn't see it well.

9 Q Okay. Did -- did the people who arrived at
10 Sean's house remain at Sean's house?

11 A No, they left shortly after.

12 Q Okay. When they left, what did you say to Sean
13 Dinneon?

14 A I told Sean that they was not going to buy his
15 car, that I don't think they had that much money.

16 Q And why did you say that?

17 A Because of the language the girls was using,
18 them and Sean and all that.

19 Q Okay. And so after you told him that you didn't
20 think they were going to buy it, what else did you tell
21 him?

22 A I told him to come on, you know, let's go back
23 down to my house, leave it alone.

24 Q Did y'all go back to your house?

25 A Yes, we went to my house and he brought the car

MARGARET HINSON-DIRECT BY MS. HINTON

1 down there.

2 Q What car?

3 A The Grand Prix, the one that they was, you know,
4 looking at. And he parked it over on the other side of my
5 house on my septic tank. And I asked him to move it off
6 of there. And when he moved it back off of there, he
7 pulled it back in front of my house.

8 Q Okay. Do you know why he didn't bring the
9 Lancer down?

10 A He couldn't get it cranked.

11 Q Okay. Do -- did they ever come back to Sean's
12 to buy the car?

13 A Yes, they come back.

14 Q Okay. When they came back did you go back up to
15 Sean's house?

16 A No, I wouldn't go back up there.

17 Q Okay. When they came back did they pull up to
18 the driveway?

19 A They pulled up to Sean's driveway.

20 Q Did Sean go back up there?

21 A Yes.

22 Q Had Sean been drinking that day?

23 A He was heavily intoxicated.

24 Q Do you know what he had been drinking?

25 A Steel Reserves 211 Malt Liquor.

1 Q Was he drinking while they were there looking at
2 the car?

3 A Yes, he was drinking.

4 Q Okay. When Sean went back up there, did you
5 stay outside?

6 A No, I didn't stay outside, I went -- well, he
7 asked me to get him a beer. And I told him that I
8 wouldn't go up there, take it up there. I'd sit it on the
9 porch, he can come back down there and get it.

10 Q Did you set it on the porch for him?

11 A Yeah, I set it on the porch for him.

12 Q Was that the last time you saw Mr. Dinneon?

13 A Yeah, that was the last time I saw him.

14 Q Okay. Do you know if they stayed up at Sean's
15 house?

16 A I don't think they stayed up there very long.
17 Because they was supposed to take the car on a test drive.
18 And Sean told me that he would be back in 10 to 15
19 minutes. That he didn't have no license or insurance or
20 anything on the Grand Prix. They were going to just take
21 it around the block.

22 Q Okay. After they left to test drive it, what
23 did you do, if anything?

24 A Well, I went in there and I sat down and waited
25 for Sean to come back in 10 to 15 minutes. When he didn't

MARGARET HINSON-DIRECT BY MS. HINTON

1 come back, I went and looked for him.

2 Q Okay. And when you say you went to look for
3 him, where did you go?

4 A First, Heather Ann Main, that's my grandson's
5 wife, we walked up there to Sean's house. We looked all
6 the way around the house, at the swimming pool and all and
7 we didn't see him. And so, when we come back to my house,
8 we got in my car and I went to the Hot Spot and circled
9 the block and all to see if we could see him. To see if
10 they had put him out anywhere or done something to him.

11 Q Why were you concerned about where Sean was?

12 A It's the way that they acted and all up there.
13 I didn't trust them.

14 Q Did you find him?

15 A No, I didn't find him.

16 Q Okay. After you went to the Hot Spot -- when
17 you say the Hot Spot, which Hot Spot are we talking about?

18 A The one on 123.

19 Q Is it near anything?

20 A The racetrack.

21 Q After the Hot Spot, where did you go?

22 A We went back home. And I got the phone book --
23 or Heather got the phone book, we was fixing to call
24 Pickens County to come out there. And Heather was looking
25 in there for the number to Pickens County and David, my

MARGARET HINSON-DIRECT BY MS. HINTON

1 grandson, was standing in the door and he said, You ain't
2 got to look no further, Grandma, because the cops just
3 went on Sean's.

4 Q Okay. Did this cops ever come to see you?

5 A They did later but Baker come first.

6 Q When you Baker, you're referring to Detective
7 Michael Baker?

8 A Yes.

9 Q Did he come speak with you?

10 A Yes, he come talk with me.

11 Q Okay. Was that when you learned what happened
12 to Sean Dinneon?

13 A He didn't tell me at first. He asked me some
14 questions and all. Then he finally told me that Sean had
15 been shot.

16 Q Okay.

17 MS. HINTON: Ms. Hinson, that's all the
18 questions I have at the moment, please, answer any that
19 Mr. DeJong may have. Thank you.

20 THE WITNESS: All right, thank you.

21 MR. DEJONG: May it please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q Ms. Hinson, how long have you lived at

MARGARET HINSON-CROSS BY MR. DEJONG

1 Lane?

2 A Ever since 1999.

3 Q For a good while?

4 A Yes, a pretty good while.

5 Q All right. And if you know, how long did Mr. --
6 how do you pronounce his name?

7 A Dinneon?

8 Q How long did Mr. Dinneon live across the road
9 from you?

10 A I think that him and his wife moved in in 2001.

11 Q 2001, all right. All right. Now, Mr. Dinneon
12 moved in with you about 2007, correct?

13 A Yes.

14 Q Did his wife move in with you?

15 A No, his wife had left him.

16 Q I see. Okay. So, he had lived with you from
17 2007 through September the 17th of 2011?

18 A No, his wife come back and Sean went back home
19 with her.

20 Q When was that?

21 A I don't think it was 2007 because my husband
22 died in 2005. 2006, 2007, that's when it would be.

23 Q So, he came to live with you in 2007 and then
24 his wife came back?

25 A The following summer, 2008.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q 2008?

2 A Yes.

3 Q How long did he stay then?

4 A Until she passed away.

5 Q Okay. Then he moved back in with you?

6 A No, he didn't move back in with me.

7 Q Okay. All right. Well, I want to go back to
8 this time that you say that Mr. Yeargin and his mother and
9 his brother lived up there. Now, I presume you were
10 saying they lived in Mr. Dinneon's house?

11 A Yes, sir, they did.

12 Q And while they were living in Mr. Dinneon's
13 house, Mr. Dinneon was living with you?

14 A No, sir.

15 Q Where was he living?

16 A He was going to go to Iraq. He was at Tamara's
17 [ph]. And then he come back and stayed with them until he
18 got ready to go to Iraq.

19 Q All right. Well, who looked after his property
20 while he was gone?

21 A Teresa and they was supposed to live there. And
22 Tamara, this other girl that he knew.

23 Q Okay. Did you help look after it?

24 A Not then I didn't.

25 Q All right. Did you ever go up there and visit

MARGARET HINSON-CROSS BY MR. DEJONG

1 with these folks?

2 A I think I went up there one time to see Teresa.
3 Most of the time we talked on the phone, things like that.

4 Q Okay. All right. Well, when this phone call --
5 or when you got this call on September 17th of 2011, did
6 you recognize the voice?

7 A No, sir, I did not.

8 Q Okay. And back peddling here a little bit, how
9 long did -- well, I don't know if I asked you, let me ask
10 you this way. Do you know when you say Mr. Yeargin and
11 his mother and brother moved into Mr. Dinneon's house?

12 A No, sir, I do not.

13 Q How long -- do you know how long they lived
14 there?

15 A No, sir, I don't.

16 Q Other than his mother, did you have any contact
17 with anyone?

18 A Yeah, I had spoke to Tavish. And I talked to
19 his other brother, you didn't see him too much. But
20 Tavish, yes. Tavish had come down there at the house a
21 couple of times.

22 Q So, you talked to him on occasion, right?

23 A Yes, Tavish I did.

24 Q All right. But on September the 17th of 2011,
25 you did not recognize Tavish's voice?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A I didn't see Tavish.

2 Q You didn't recognize his voice on the phone
3 call?

4 A No, sir, I did not.

5 Q So, you can't say that that was Tavish Yeargin
6 that called you?

7 A No, sir, I can't.

8 Q Okay. The number that you -- you say you
9 received a phone call, that was your house phone?

10 A That was my home phone.

11 Q You have caller ID on that phone?

12 A Yes.

13 Q Do you know what number that came from?

14 A Baker checked it when he come but I didn't.

15 Q No, ma'am, I'm sorry, I'm not trying to be rude
16 to you, okay? Not what anybody told you, do you
17 personally know what number that--

18 A No, sir, I don't.

19 Q -- came from. All right. It wasn't from Tavish
20 Yeargin's mother?

21 A Oh, okay.

22 Q I'm sorry?

23 A I didn't know.

24 Q Well, you knew Ms. -- you knew Tavish's mother,
25 what was her name by the way?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A Teresa.

2 Q Teresa. You knew Teresa, right?

3 A Yeah, I've talked to Teresa.

4 Q And you knew her phone number?

5 A I didn't know her phone number.

6 Q Maybe I missed -- you said you communicated by
7 phone?

8 A Yeah, every once in a while but not very often.

9 Q So, you would call her, right?

10 A I don't recall I called her. I think she called
11 me most of the time.

12 Q So, the upshot of it was you don't know a call
13 that you say came in maybe one, one that you answered that
14 you know of, you don't know who it came from?

15 A No, sir. Because Sean thought that it come from
16 Jonathan or Justin, another guy that was trying to buy his
17 cars.

18 Q All right. Well, let's just move forward to
19 there. Now, were you present when Sean -- Mr. Dinneon got
20 those calls?

21 A I answered the first call.

22 Q Right.

23 A But I don't remember the second call.

24 Q All right. Well, I'm not asking you what
25 Mr. Dinneon may have said but did he give any indication

MARGARET HINSON-CROSS BY MR. DEJONG

1 that he recognized the caller on the other -- whoever was
2 calling him?

3 A He said he didn't.

4 Q He said?

5 A He said he didn't know who it was.

6 Q He did not know who it was?

7 A Yeah.

8 Q I'm sorry, I'm a little hard of hearing, ma'am,
9 we got a fan blowing back here so bear with me, okay? You
10 said Mr. Dinneon was going to sell these vehicles, that
11 being the Grand Prix and the Lancer?

12 A Both of them.

13 Q Correct. Had he advertised in the newspaper?

14 A Not to my knowledge that I knew of.

15 Q Well, he was going to sell them, that would be
16 logical that the word was out there somehow that he was
17 going to sell these cars?

18 A Yes, sir.

19 Q Okay. Now, you said some people came over, I
20 gather this was on the 17thm, is that correct?

21 A Come to Sean's? Yes, sir. They come up to
22 Sean's.

23 Q Okay. Now, so that I am clear, when those
24 people came, they went directly to Mr. Dinneon's house?

25 A Yes, sir, they did.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q They did not come to your house?

2 A No, sir, they didn't.

3 Q Now, Sean, Mr. Dinneon, was down at your house
4 when they came?

5 A Yes, sir.

6 Q And then he went up to his house?

7 A Yes.

8 Q And then some moments later you went up there?

9 A Yes, sir, I did.

10 Q You did not go together, correct?

11 A Huh-uh.

12 Q Now, what time of the night was this?

13 A I think they got there about eight o'clock.

14 Q Okay. And you say you saw a man standing down
15 the driveway a little bit?

16 A Yes, sir.

17 Q You couldn't identify that man?

18 A I didn't know who he was.

19 Q Right. And certainly you had seen Mr. Yeargin
20 while he was living up there at Mr. Dinneon's house,
21 right?

22 A Yes, sir, Tavish, yes, sir I had seen him.

23 Q And you had seen him on more than one occasion?

24 A Yes, sir.

25 Q And you couldn't identify that person as being

MARGARET HINSON-CROSS BY MR. DEJONG

1 Mr. Yeargin?

2 A That was not Tavish.

3 Q Okay.

4 A I knew that it was not Tavish.

5 Q Okay, thank you, ma'am. So, that was not

6 Mr. Yeargin standing in the driveway that you

7 characterized him as wringing his hands?

8 A Yes, it was someone else. And I think they told
9 me it was his brother. But Tavish, I did not see him that
10 night.

11 Q Okay. So, you never saw Tavish on the night --
12 when we say Tavish, we're talking about Mr. Yeargin,
13 right?

14 A Yes.

15 Q Okay. You never saw Tavish on the night of
16 September the 17th, 2011?

17 A No, sir, I did not.

18 Q Okay. When the people first came, this man that
19 was standing down the driveway, let's just forget about
20 him for if minute, okay? I gather there were three people
21 that came?

22 A Yes.

23 Q And that was one male, that we said we were
24 going to forget?

25 A Yes.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q And two females?

2 A Two females.

3 Q All right. One white female, one black female?

4 A Yes, sir.

5 Q Now, who -- were they doing the talking to Sean,
6 Mr. Dinneon?

7 A Yes, they was talking to Sean.

8 Q Were they saying they wanted to buy the cars?

9 A I don't think so. Because I think they said the
10 boy at the bottom of the hill is going to buy the cars.

11 Q But that was not Tavish Yeargin?

12 A No. To me -- I had seen Tavish more than I had
13 the other one and I knew that it was not Tavish standing
14 down there.

15 Q All right, ma'am. But nonetheless they were the
16 ones talking to Mr. Dinneon?

17 A Yes, sir.

18 Q And they were the ones, shall we say, that were
19 setting up the deal?

20 A Yes, I think so.

21 Q All right. Now, they leave and they come back,
22 right?

23 A Yes, sir.

24 Q Now, do you see a male when they come back?

25 A I didn't see any of them. Because I did not go

HAROLD SLOAN-DIRECT BY MS. HINTON

1 A I drive a truck.

2 Q Okay. Cut right to it, did officers come to
3 your house on September 18th of 2011?

4 A Yes.

5 Q Okay. And where do you live? Or were did you
6 live at the time?

7 A , Greenville, South
8 Carolina.

9 Q Is that in Greenville County?

10 A Greenville County.

11 Q Okay. And do you know what they were coming to
12 your house in reference to?

13 A The telephone, the sell phone.

14 Q Okay. When they asked you about the sell phone,
15 did you know who that cell phone belonged to?

16 A Yes.

17 Q Who did that cell phone belong to?

18 A Taz's.

19 Q What's Taz's full name? First and last.

20 A I can't pronounce her first name, I know it
21 starts with a U.

22 Q Okay. Can you spell it?

23 A U-S-T-E-Y, I think.

24 Q Okay. Does -- what HER full first name, do you
25 know?

1 A Taz, I just call her Taz.

2 Q All right. That's fine. How do you know Taz?

3 A By her grandbaby.

4 Q Okay. Your grandbaby is related to Taz how?

5 A By her daddy -- by my wife -- Kirk, his name's
6 Kirk, her son.

7 Q Okay. So, is your son the father of Taz's baby?
8 Your stepson?

9 A Yes, yes.

10 Q All right. Do you know Tavish Yeargin at all?

11 A That's her brother.

12 Q Whose brother?

13 A Taz.

14 Q All right. How did you know that Taz had that
15 phone?

16 A I got the -- I got where I had -- I had three
17 lines so I got -- I got the line for her.

18 Q And why did you do that?

19 A It's for the grandbaby, you know, for contacting
20 for the grandbaby. And, you know, she needed help. You
21 know, if we could help her out with things.

22 Q Okay. And so, did she have that number back in
23 September of 2011?

24 A Yes.

25 Q Does she still have that number?

HAROLD SLOAN-DIRECT BY MS. HINTON

1 A No.

2 Q Okay. When officers asked you about that cell
3 phone did you provide them with that information?

4 A Yes.

5 Q Do you know who the provider was of that cell
6 phone? What cell phone carrier it was?

7 A It was T-Mobile.

8 Q Okay.

9 MS. HINTON: Mr. Sloan, I don't have anything
10 else, please answer anything that Mr. DeJong might have.

11 MR. DEJONG: Thank you, Your Honor, may it
12 please the Court?

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DEJONG:

16 Q Mr. Sloan, I'm hard of hearing and I've got a
17 fan roaring back here. Taz and Tav sound a lot alike.
18 The phone you are talking about was for Taz, T-A-Z, right?

19 A That's correct.

20 Q Okay. I want to be sure, it's Taz, not Tavish?

21 A No.

22 Q Okay. Although Taz and Tavish are brother and
23 sister?

24 A That's correct.

25 Q Okay. On September the 17th of -- yeah,

JOSQUEZE THOMAS-DIRECT BY MS. HINTON

1 on September the 17th of 2011?

2 A Yes.

3 Q Okay. And where were you when you were with
4 him?

5 A At that house.

6 Q Whose house?

7 A Taznick's house.

8 Q Were you living there at that time?

9 A No.

10 Q What were y'all doing that day?

11 A Played ball earlier and we just drunk the rest
12 of the night, really.

13 Q Okay. When you were Taznick's house with Tavish
14 Yeargin, do you remember Tavish asking you anything?

15 A You said do I remember him asking me anything?

16 Q Yeah.

17 A Not really. I saw him, I don't remember him
18 asking me really anything.

19 Q Okay. You don't recall him wanting you to give
20 him anything?

21 A No, not me. Not give me anything.

22 Q Okay. Did you recall him asking anybody for
23 anything?

24 A No, not really.

25 Q Did you see Tavish Yeargin with a phone that

JOSQUEZE THOMAS-DIRECT BY MS. HINTON

1 day?

2 A Yeah, I seen him with a phone.

3 Q Do you know whose phone he had that day?

4 A Taz's phone.

5 Q Okay. And is Taz Taznick?

6 A Yes.

7 Q Okay.

8 MS. HINTON: That's all I have, Mr. Thomas, just
9 answer any questions that Mr. DeJong might have.

10 THE WITNESS: Okay.

11 MR. DEJONG: Thank you, you may it please the
12 Court?

13 THE COURT: Yes, sir.

14 ///

15 ///

16 CROSS-EXAMINATION

17 BY MR. DEJONG:

18 Q And how many people were at the house that day?

19 A It was me, Taznick, Chris, Tav and Quala and the
20 other sister Angel.

21 Q Was Kayla there? Kayla Williams?

22 A Was Kayla there? No, she wasn't there at the
23 time.

24 Q Was Nyia Utsey there?

25 A Yeah, I think she was a little later on.

JOSQUEZE THOMAS-CROSS BY MR. DEJONG

1 Q Okay. What time of the day would you say Nyia
2 Utsey got there?

3 A About 11 or 12 because she gave me a ride home.

4 Q Eleven or 12 in the morning?

5 A At night.

6 Q Okay. All right. Now, you say you saw
7 Mr. Yeargin with Taz's phone, right?

8 A Yeah.

9 Q But that phone was certainly accessible to the
10 other people that were there in the house as well, was it
11 not?

12 A Yeah, of course.

13 Q Okay. So basically, anybody could have used
14 that phone that day?

15 A Yeah.

16 Q That was there?

17 A Yes.

18 Q I mean, that was, I guess, kind of common
19 knowledge, if you need to make a phone call or wanted to
20 make a phone call, use Taz's phone, right?

21 A True.

22 Q So, there was you, Tavish -- how many other
23 males?

24 A Their cousin Chris, me, I think, there was
25 really -- and hold on. It was me, Tav, Chris, I'm not

JOSQUEZE THOMAS-CROSS BY MR. DEJONG

1 Q So, you can't really say?

2 A No, I really can't to be honest with you.

3 MR. DEJONG: Thank you, sir, no further
4 questions.

5 THE COURT: Redirect?

6 MS. HINTON: No, Your Honor. May he be excused?

7 MR. DEJONG: No objection.

8 THE COURT: You may be excused, you can step
9 down. Thank you, I appreciate it.

10 Yes, ma'am.

11 MS. HINTON: Thank you, Your Honor. The State
12 would call David Alexander.

13 THE CLERK: If you would, place your left hand
14 on the Bible, raise your right.

15 DAVID ALEXANDER, after being duly
16 sworn, testified as follows:

17 THE CLERK: If you would, have a seat and state
18 your name for the record, please.

19 THE WITNESS: David Alexander.

20 DIRECT EXAMINATION

21 BY MS. HINTON:

22 Q Mr. Alexander, if you'll just speak up, we got a
23 loud unit back here, okay?

24 A Okay.

25 Q Mr. Alexander, where do you live?

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A Road.

2 Q Okay. Is that in Pickens?

3 A Yes.

4 Q Okay. And what is located directly across the
5 street from your home?

6 A Baptist Church.

7 Q Okay. I'm going to show you what's been marked
8 as State's exhibit No. 1. Do you recognize what this is?

9 A Yes, that's the church parking lot and this is
10 my front yard right here.

11 Q Okay.

12 Your Honor, at this time the State would
13 like to move State's Exhibit No. 1 into evidence and have
14 permission to publish it to the jury.

15 MR. DEJONG: Can I take one more look at that,
16 please?

17 Without objection, Your Honor.

18 THE COURT: All right, the same is moved into
19 evidence.

20 (WHEREUPON, State's Exhibit No. 1 was marked for
21 identification and received into evidence.)

22 MS. HINTON: Thank you, Your Honor.

23 THE COURT: Have you marked all of those?

24 THE COURT REPORTER: I have not, sir.

25 THE COURT: Okay, as you introduce them, if

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 you'd give them to the Court Reporter so she can mark them
2 and record them into the record, please.

3 (WHEREUPON, State's Exhibit 1 was
4 published to the jury.)

5 BY MS. HINTON:

6 Q Mr. Alexander, I think there's a laser pointer
7 up here. Okay, can you tell us where your yard is on this
8 picture?

9 A This is my fence right here.

10 Q Okay. And what is that the view from?

11 A They probably took that picture -- right there I
12 got a gate right here from my front yard but that's right
13 at the corner of my house. Which would be right here.

14 Q Okay. And what rooms are on the front of your
15 home?

16 A My kitchen and my living room.

17 Q Okay. So, let's go to September the 17th of
18 2011. Were you home that evening?

19 A Yes.

20 Q What were you doing?

21 A Watching TV.

22 Q Okay, what were you watching?

23 A Football.

24 Q Okay. Do you remember what day it was. What
25 day of the week?

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A Yes, it was a Saturday night.

2 Q All right. And when -- now, at night can you
3 see the parking lot as well as you can see it here?

4 A Yeah, I mean, obviously, not that good but you
5 can see that -- that's the view that I get from the
6 kitchen window right there.

7 Q Okay. All right. Now, on that night, on
8 September the 17th of 2011, did you notice anything in the
9 church parking lot that evening?

10 A Yeah. I seen two cars, they entered this right
11 here and pulled and parked right in this area right here.
12 One behind the other.

13 Q You said you saw two cars, do you know what kind
14 of cars they were?

15 A I wasn't real sure but I could tell one of them
16 was a Mustang.

17 Q Okay. Was the Mustang the first or the second
18 car to enter?

19 A The second car.

20 Q All right. And when you noticed them, and I
21 think you said they entered here, is that correct?

22 A Yes, ma'am.

23 Q And pulled around to about right here?

24 A About right there.

25 Q Okay.

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A One behind the other.

2 Q Okay. When you saw those cars pull in, what
3 were you doing?

4 A I was fixing me something to drink. I just had
5 walked in from my living room to my kitchen.

6 Q Okay. And just to be clear, was it an alcoholic
7 beverage?

8 A No.

9 Q Had you been drinking that night?

10 A No, I don't drink.

11 Q Okay. When you saw the cars pull in, what did
12 you see next?

13 A Like I said, I was kind of looking in my living
14 room, watch the game still and glancing out the window.
15 And I seen some people kind of get out. I thought they
16 was just talking. But then I could hear some muffle
17 because my windows was down. I could hear some maybe
18 cursing, stuff like that.

19 Q Okay. Let me stop you real quick. When you say
20 you saw people get out, did you see male, female --

21 A I don't even really know if I seen them get out
22 of the cars because I was watching the game. Like I said,
23 I just kind of glanced back out there and I seen maybe two
24 or three people together.

25 Q Okay.

1 A And I kept glancing back in there at the game.
2 And then I could tell maybe it was kind of getting a
3 little heated, I could hear them.

4 Q Okay. Were these people inside their vehicles
5 or outside?

6 A Outside.

7 Q Okay. All right. So, when you hear them
8 arguing, did you see anything else?

9 A No.

10 Q Okay. What happens next?

11 A I get my drink, I'm getting ready to walk back
12 into the living room and I look out the window again and I
13 see some glass fly. So, I walk over, I figure it was a
14 bottle or somebody broke a windshield or something. So, I
15 walk over to the other window and go to lift it up. By
16 the time I lift the window, I hear one or two gunshots.

17 Q Okay. After you hear that, what do you see?

18 A I don't really see nothing. I didn't even see
19 them get back in the car. I just heard something, you
20 know, real fast. Maybe something say, Get in the car,
21 let's go. Then the cars, they got together and the cars
22 was gone. Just that fast.

23 Q Okay. How did the cars exit?

24 A This drive right here, they left and went back
25 down that way.

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 Q All right. Who was -- what -- well, we know one
2 of them was a Mustang. Was the Mustang the first or the
3 second car to leave?

4 A It would have been the second one to go.

5 Q All right. So, after the cars leave, what
6 happens?

7 A I watched them go on down the road a ways and
8 the hill goes down so I couldn't really see too far. And
9 then I just kind of looked back over in the parking lot,
10 about right here, and I seen, it looked like a blanket or
11 something, I wasn't sure what it was. Then, I -- since
12 the gun shots I said I probably need to call 911. So I
13 called 911.

14 Q Okay.

15 A And told them I thought somebody been shot. And
16 that was about it.

17 Q Okay. And you said right about here you say you
18 saw a blanket?

19 A Yes, ma'am.

20 Q Did you ever think it was anything other than a
21 blanket?

22 A Well, I kind of figured it was a body because I
23 heard the shots.

24 Q Okay.

25 A By I didn't notice it when the cars first pulled

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 off, until I watched the cars. And I looked back over
2 there and I seen it. So.

3 Q After you noticed the body, what did you do?

4 A I called 911.

5 Q Okay. Did you ever go over to the church
6 parking lot?

7 A No. I talked to the 911 operator and she
8 said -- I said, I'm not sure it's a body, I just see
9 something lay in the parking lot. And I said, I'm not
10 going over there.

11 And she said, No, you stay in your house.

12 So, that's what I did.

13 Q Do you have any idea what time of night this
14 was?

15 A 9:30, 9:45.

16 MS. HINTON: Mr. alexander, that's all I have
17 right now, if you will answer any questions Mr. DeJong may
18 have.

19 CROSS-EXAMINATION

20 BY MR. DEJONG:

21 Q Mr. Alexander, this was about 9:30, 9:45 on
22 Saturday evening?

23 A Yes, sir.

24 Q Okay. Now, I'm trying to look at this picture
25 here. Does your -- I guess it's hard to say but you said

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 you were looking from the corner of your front yard, is
2 that correct?

3 A From my kitchen -- you mean this picture?

4 Q Yeah, the picture.

5 A Yeah, it's kind of the corner of my house right
6 there.

7 Q So, your house would be setting back further
8 this way?

9 A Correct.

10 Q To the left or to the right?

11 A To the left.

12 Q All right. Now, I noticed there's is pole here
13 that looks like it's in the right away across from your
14 house, I don't see any lights on that pole?

15 A They're not.

16 Q Are there any lights in that parking lot.

17 A Yes, sir. There would be one there and then
18 there's one -- there's another pole, not that pole but
19 there's another pole about middle way of these trees. It
20 might be directly behind that pole. But I would say it
21 was in line with this pole.

22 Q Do you know if those lights were on that evening
23 or not?

24 A Yes, sir, they was on.

25 Q But then you say the two cars pulled in and they

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 pulled in more towards the Road side?

2 A Correct.

3 Q Right?

4 A Correct.

5 Q Now, did you watch people get out the vehicles?

6 A I didn't see them get out of the vehicles.

7 Q So, you can't say if people got out of both
8 vehicles or only one vehicle?

9 A Correct.

10 Q Okay. And I'm not sure if you or the solicitor
11 said but there was terminology used that there was an
12 argument, is that. . .

13 A Correct.

14 Q Okay. Now, I know from based on -- what I
15 gather you said, you couldn't identify who was who out
16 there in the parking lot outside of the cars?

17 A No, sir.

18 Q Okay. But could you identify as between male
19 and female voices?

20 A No, sir.

21 Q Okay. So you don't know?

22 A Because I had my windows down and I had my air
23 on, you know.

24 Q Okay. So your house was pretty much closed up?

25 A Uh-huh.

1 Q Okay. But now you did hear breaking glass?

2 A I didn't hear the glass, I was walking towards
3 my living room.

4 Q Uh-huh.

5 A And, you know, how the glass under lights, I
6 just seen it through --

7 Q So, you saw glass flying?

8 A Yes, sir.

9 Q Okay. You saw it flying, you don't hear it
10 land, you didn't hear it break?

11 A No, sir.

12 Q Now, the glass that was flying, could you see
13 where it came from?

14 A No, sir.

15 Q When the vehicles pulled into the parking lot, I
16 just want to be sure, the car that you said was a Mustang,
17 that was behind the other car?

18 A Correct.

19 Q Directly behind it?

20 A Correct.

21 Q Would you say it was pulled right up on its
22 bumper?

23 A Maybe three or four foot apart.

24 Q Okay. So, the Mustang was backed off a little
25 bit from the other car, correct?

1 A Correct.

2 Q Okay. Now, before they left the church parking
3 lot, did you've ever see either of those vehicles move?

4 A No. I'm not sure. I think one time I said they
5 did move but I wasn't sure about that.

6 Q Okay. And you're not sure today?

7 A I'm not sure about it.

8 Q All right. And then when they left, they came
9 out of the, I guess the upper --

10 A Right here.

11 Q Thank you.

12 A This another one, uh-huh.

13 Q Did they go left or right?

14 A They would have went back to the right of the
15 screen. Back towards my gates on my fence there.

16 Q Okay. Well, let me get oriented then. If
17 you'll help me out. If I turn right out of the drive that
18 they came out of --

19 A Right here, yeah.

20 Q Where am I headed?

21 A You mean, where would you be headed? You'd be
22 headed towards Road in Greenville County.

23 Q Okay.

24 A This road comes out on Road.

25 Q That's if you come out left?

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 A You mean, if you went the way I seen the cars
2 go?

3 Q Yes.

4 A This way? Yes, sir.

5 Q Towards Road?

6 A Yes, sir.

7 Q Okay. If you went out right, would that be back
8 toward 123?

9 A Yes, sir.

10 Q Okay.

11 A Uh-huh.

12 Q Okay. All right. But there's no doubt in your
13 mind that there was an argument going on out there?

14 A No, sir. I heard that.

15 Q What the argument was about--

16 A I couldn't tell you.

17 Q You don't know?

18 A It was just over so fast.

19 Q All right. And you heard one gunshot?

20 A I'm not sure about that.

21 Q Okay.

22 A It might have been an echo from the building or
23 the church or something. I'm not sure about that.

24 Q I know you said maybe one, maybe two and that
25 was my next question?

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 A Right.

2 Q When a gun fires or can be an echo?

3 A Yeah, and that's a big church, you know.

4 Q Right.

5 A Uh-huh.

6 Q So, at best you can say you heard one gunshot?

7 A One, yeah.

8 MR. DEJONG: Thank you, Mr. Alexander.

9 THE WITNESS: Okay.

10 THE COURT: Any redirect?

11 MS. HINTON: No, Your Honor. May he be excused?

12 MR. DEJONG: No objection.

13 THE COURT: Thank you for being here, sir. I
14 appreciate it.

15 Ladies and gentlemen, we're going to take a
16 short break. We've got 15 minutes, we've been at it for
17 about an hour and 15 minutes or so. So, let's take a
18 break, we'll come back in and we'll resume testimony at
19 that time. Please, don't discuss the case.

20 (WHEREUPON, the jury left open court at
21 approximately 2:56 p.m.)

22 THE COURT: Okay, you're Mr. Ellis, I presume?

23 MR. ELLIS: Yes, sir.

24 THE COURT: I signed your order. I see that
25 you're taking pictures and that's okay. And I know you

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Sir, where are you currently employed?

A Currently employed with the South Carolina Highway Patrol.

Q Okay. And how long have you been with the highway patrol?

A About two years now.

Q Okay. So, back on September the 17th of 2011, were you with the highway patrol then?

A No, sir, at the time I was employed as a deputy with the Pickens County Sheriff's Office.

Q Okay. Sir. At that time, back in June [verbatim] 17th of 2011, what capacity were you employed? Road patrol or?

A Yes, road patrol.

Q How long have you been in law enforcement, sir?

A For about a total of five and a half years now.

Q Okay. Let me take your memory back to that night, September the 17th of 2011. Were you dispatched to Crosswell Baptist Church?

A Yes, sir.

Q Okay. Now, where is a Crosswell Baptist Church located?

A It's within Pickens County, just off of Highway

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 123 off of Road.

2 Q Okay, sir. Now, when you arrived at that scene,
3 were you the first there on location?

4 A Yes, sir.

5 Q Okay. Can you just explain to the jury briefly,
6 what did you view when you arrived at the scene?

7 A When I first pulled up there was a street light
8 within the parking lot. I observed--

9 MR. DEJONG: Your Honor, I'm sorry, I don't mean
10 to apologize -- I apologize for interrupting. Could we
11 get him a little closer to the mic?

12 THE WITNESS: My bad, I'm sorry.

13 BY MR. RICHARDSON:

14 Q I should have told you that, I'm sorry.

15 A I'm kind of heavy, it's a little hard for me to
16 fit in here.

17 Q Yes, sir.

18 A Pulled up to the church, there was a street
19 light in the parking lot. I observed a male laying down
20 on the ground in the parking lot. No one else around him.

21 Q Okay. And in that type of scenario, what is
22 your first step? What's the first thing that you do as a
23 deputy sheriff?

24 A My first -- my first action was to approach him
25 while keeping an eye for anybody else. Once again, there

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 was no one readily in the area. When I tried to make
2 contact with him, I observed that he was face down and was
3 nonresponsive, there was blood on the ground.

4 Q Okay. Sir. Now, at this point in time do you
5 actually make any calls or what's going on at this point?

6 A I did note that he had shallow breathing so I
7 called EMS, advised my supervisors and requested
8 additional assistance. And began to look around to secure
9 the immediate scene.

10 Q Okay, sir. And that's the next question that I
11 was going to go to. When you refer to securing the scene,
12 what exactly do you do to do that?

13 A Well, at the time, taking a quick visual scan to
14 look for any readily available evidence. At that time,
15 just stay close with the victim at the time until
16 additional help could arrive. Department Stanley arrived
17 within minutes and we took crime scene tape and surrounded
18 the scene.

19 Q Okay, sir. Now, it is part of your duties at
20 this point in time to attempt to revive the victim in any
21 way?

22 A Due to the level of injuries that he had, I
23 didn't feel it in my capacity to be able to assist him.

24 Q Okay. And you secured the tape -- did you
25 testify, correct me if I'm wrong, did you say you secured

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 MR. DEJONG: No thank you, Your Honor.

2 THE COURT: All right.

3 MR. DEJONG: No objection to him being excused,
4 Your Honor.

5 THE COURT: All right.

6 Trooper, you can step down. Thank you, I
7 appreciate your being here, sir.

8 THE WITNESS: Thank you.

9 MR. RICHARDSON: The State calls Justin
10 Mitchell.

11 THE CLERK: Place your left hand on the Bible,
12 raise your right.

13 JUSTIN MITCHELL, after being duly
14 sworn, testified as follows:

15 THE CLERK: If you would, have a seat and state
16 your name for the record, please.

17 THE WITNESS: First name Justin, last name
18 Mitchell.

19 DIRECT EXAMINATION

20 BY MR. RICHARDSON:

21 Q Mr. Mitchell, where are you presently employed?

22 A I'm currently full-time with Williams EMS,
23 part-time Pickens County EMS, part-time Belton EMS.

24 Q How long have you been with EMS?

25 A Approximately seven years now.

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 Q Okay. Sir, were you working back on September
2 the 19th -- excuse me September the 17th of 2007?

3 A I do believe so, yes, sir.

4 Q And at that time were you working Pickens County
5 EMS?

6 A Yes, sir, I actually had just come on full-time
7 with Pickens County.

8 Q Okay. Sir. Do you recall being dispatched to a
9 shooting scene?

10 A Yes, sir.

11 Q At Crosswell Baptist Church?

12 A Yes, sir, I do.

13 Q Okay. Was anybody riding with you or were you
14 in the unit alone or how does that work?

15 A My partner, Chevy Harrelson, she was with me.
16 We were working medicate together.

17 Q And when you arrive at a scene -- let me ask you
18 this. When you arrive at a scene involving a shooting and
19 they're no police officers there, do you go in?

20 A No.

21 Q Why not?

22 A Safety issue.

23 Q Okay. In this particular situation had police
24 officers arrived yet?

25 A Yes, sir, we had about -- we had staged about 10

1 minutes after getting close to where the scene was at
2 Crosswell, went out, took us about 18 minutes to get to a
3 staging location near the area. Then about -- excuse me,
4 about five to seven minutes afterwards the sheriff's
5 office cleared us to enter.

6 Q Okay. Sir. At that time do you recall seeing a
7 subject or a victim on the ground?

8 A I do after -- yes, sir, when I pulled up I saw a
9 male subject laying on the ground.

10 Q Okay, sir. And were you able to review your
11 reports prior to today?

12 A Just once or twice, not much.

13 Q All right. And do you recall what you did once
14 you saw the male subject?

15 A Immediately checked for a pulse. He was
16 pulseless. He was apneic, which means he was not
17 breathing. No signs of life form. I had my partner,
18 Chevy, pretty much cut the back of his shirt because he
19 was laying face down on the ground, on his stomach. And
20 she cut the back of his shirt and I did a three lead
21 placement with a cardiac monitor on his back.

22 Q Okay, sir.

23 MR. DEJONG: May we approach, Your Honor?

24 THE COURT: Yes, sir.

25

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 BY MR. RICHARDSON:

5 Q Sir, let me show you what's what been previously
6 marked as State's Exhibit No. 4. Do you recognize that as
7 him being the victim that you worked on that night. You
8 can take it in your hand if you'd like.

9 A From the picture along, with it being dark as it
10 is, I mean, I feel sure it's him.

11 Q Okay, sir.

12 Your Honor, at this time we would move
13 State's 4 into evidence.

14 THE COURT: Objection, sir?

15 MR. DEJONG: Other than my objection as stated
16 at the bench, Your Honor. I'll be happy to put it on the
17 record at the appropriate time.

18 THE COURT: Yes, sir. And I believe your
19 objection was as to relevance and its unduly prejudicial
20 under 403?

21 MR. DEJONG: Correct, Your Honor.

22 THE COURT: Okay. I respectfully overrule the
23 motion, find it's relevant and that it's not unduly
24 prejudicial under 403 analysis. It's admitted over
25 objection. That's State's Exhibit number?

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Four. State's Exhibit No. 4.
2 (WHEREUPON, State's Exhibit No. 4 was marked for
3 identification and received into evidence.)

4 BY MR. RICHARDSON:

5 Q Okay, sir, is that the position that you found
6 the victim at Crosswell Baptist?

7 A Yes, sir.

8 Q Okay. And what -- there's a little pointer --
9 right up there on the Judge's desk is a little pointer.
10 Can you point to the leads that you're referring to?

11 A Lead one, lead two, lead three. It's the same
12 as if it were on the front. White over right and smoke
13 over fire. Which basically means this would be the white.
14 Because the patient's laying on the ground, you're having
15 to work from the back end, so it's basically like your
16 mirrored image. So, white would be on the left shoulder.
17 The black would be on the right shoulder. And the red
18 would be down at the patient's right side, around the
19 waistline area.

20 Q What's the purpose of those?

21 A Those are where the cardiac monitor, they are
22 what determines the rhythm interpretation. They're what
23 feeds the electrical, lack of better terminology,
24 electrical waves. It shows those waves, basically.

25 Q Is that med into a. . .

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 A It's fed into a larger box from three wires that
2 goes into a larger box which converts the signal over into
3 something that we can read.

4 Q Okay, sir. And did you, in fact, read that
5 signal box?

6 A Yes, sir. It was confirmed three lead asystole.
7 Which means no heartbeat. Nothing. The heart's not
8 having any form of mechanical or electrical capture on the
9 cardiac monitor.

10 Q Okay, sir. And once you do that and you have
11 that information coming from that particular instrument,
12 what do you do?

13 A That point in time, after got on the scene,
14 check for a pulse, all of that, saw what I saw on the
15 cardiac monitor, I decided to call the coroner.

16 Q Okay, sir. Did you, in fact, call the coroner?

17 A Yes, I did.

18 Q Is that part of your duties?

19 A Yes, sir.

20 MR. RICHARDSON: Thank you. That's all the
21 questions I have. Please answer any questions Mr. DeJong
22 has for you.

23 THE COURT: Mr. DeJong.

24 MR. DEJONG: Thank you, Your Honor, may it
25 please the Court.

JUSTIN MITCHELL-CROSS BY MR. DEJONG

1 MR. DEJONG: Thank you Mr. Mitchell, I have no
2 further questions.

3 MR. RICHARDSON: Nothing further from the State,
4 Your Honor.

5 THE COURT: All right, sir, thank you. I
6 appreciate you being here.

7 MR. RICHARDSON: May he be excused?

8 MR. DEJONG: No objection to him being excused,
9 Your Honor.

10 THE COURT: Sure, yeah.

11 MR. RICHARDSON: The State calls Ben Dow to the
12 stand.

13 THE CLERK: Place your left hand on the Bible,
14 raise your right hand.

15 BEN DOW, after being duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, be seated. State your
18 name for the record.

19 THE WITNESS: Benjamin Dow.

20 DIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q Sir, where were you employed back in
23 September 17th of 2011?

24 A I was a detective with the Pickens County
25 Sheriff's Office.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Okay, sir. And how long had you been in law
2 enforcement at that time?

3 A Since 2005, I believe.

4 Q Yes, sir. And that particular day were you
5 actually working?

6 A It was a Saturday, I was on call at that time of
7 night. I worked during the day but I was on call at
8 night.

9 Q Can you just explain real briefly?

10 A Okay. At that time as a detective, we had a
11 weekend duty rotation where we come in on Saturday
12 mornings. So, I'm assigned cases and start following up
13 on any cases that needed investigation that came in. We
14 usually work until about 4:30. In the nighttime we're on
15 call for any calls that may have come in for both Saturday
16 and Sunday night. And also Sunday we work during the day
17 just like we would have on Saturday.

18 Q Okay. Now, in fact, were you called to a scene?

19 A I was.

20 Q Okay, where was that?

21 A It was at the Crosswell Baptist Church on
22 Road in Easley, South Carolina.

23 Q Okay, sir. And when you got there were there
24 other personnel present yet?

25 A There were.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Do you recall, I know it's been a while, do you
2 recall who was present?

3 A I recall Deputy Westmoreland being on scene. I
4 believe by that time Lieutenant Tony Robinson had arrived
5 on scene, who was with the forensics unit. Lieutenant
6 Robbie Thomas was there and also Sergeant McKinney was
7 there, also, along with David Stanley to the best of my
8 recollection right off hand.

9 Q Okay, sir. And you had been in lawsuit for a
10 long time?

11 A Yes, sir.

12 Q Was the scene secured?

13 A It was.

14 Q Okay. And did you notice any civilians on the
15 scene?

16 A I did notice a few civilians standing off to the
17 side speaking with one of the deputies. I don't exactly
18 recall what their names were but I do remember them been
19 on the scene.

20 Q Okay, sir. And what else did you notice? Did
21 you notice at the scene in and of itself?

22 A Just looking at the scene, when I arrived on the
23 scene, I noticed the body laying in the parking lot. It
24 was covered with a sheet at that time. Several feet away
25 from the body was apparently some sort of broken liquor

1 bottle. And on further away from the body, past the
2 liquor bottle was also a tennis shoe.

3 Q Okay, sir. Let me hand you what's previously
4 been marked for identification State's Exhibit No. 2 and
5 State's Exhibit No. 3:00. Can you identify those?

6 A That is the way the scene looked when I arrived.

7 Q Okay, sir. And you didn't take those pictures?

8 A No, sir, I did not.

9 Q Was that taken by Forensic ID Unit?

10 A It was. It was taken by Lieutenant Robinson.

11 Q Okay. Does that accurately depict what you saw
12 on the evening of September the 17th of 2011?

13 A It does.

14 MR. RICHARDSON: Your Honor, at this time the
15 State would move State's Exhibit No. 3 and 2 into
16 evidence.

17 MR. DEJONG: Your Honor, I have no objection to
18 State's Exhibit No. 3. I do object to State's Exhibit No.
19 2.

20 THE COURT: Okay, what's the objection, sir?

21 MR. DEJONG: The objection is, Your Honor,
22 relevancy, prejudicial effect, probative value. There is
23 nothing in State's 2 which would indicate any relevance,
24 if you will to State's 3 of where the shoe was found. I
25 think this officer can testify to it. But certainly not

BEN DOW-DIRECT BY MR. RICHARDSON

1 as far as the picture goes. I do not think that picture
2 or those pictures of State 2 has any relevancy whatsoever
3 with regards to the shoe at this point in time. And I
4 would therefore object to it based upon relevancy,
5 probative value and prejudicial effect, Your Honor.

6 THE COURT: All right, I'll respectfully
7 overrule your objection. He's testifying that these are
8 pictures of the crime scene and he's testified to the date
9 and time of the same. And its accuracy based on the date
10 and time. And I'll allow the same into evidence as
11 State's Exhibits 2 and 3.

12 Is that what you said, Mr. Richardson?

13 MR. RICHARDSON: That's correct, Your Honor.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibits Nos. 2 & 3 were
16 marked for identification and received into
17 evidence.)

18 BY MR. RICHARDSON:

19 Q Detective Dow, I'm referring to State's Exhibit
20 No. 2, sir. Can you explain to the jury what it is that
21 picture is showing?

22 A Yes.

23 Q Okay.

24 A Here we have the body of the victim. The victim
25 is only wearing one shoe. Up here at this first cone is

BEN DOW-DIRECT BY MR. RICHARDSON

1 broken, appears to be a liquor bottle. Up at the second
2 cone is a another tennis shoe that appears to match the
3 same one as this one right here.

4 Q Okay, sir. And let me also refer to -- I'm
5 recovering to State's Exhibit No. three now, sir.

6 A Okay. This is just shooting back from the
7 tennis shoe back towards the victim. You have the tennis
8 shoe here, the liquor bottle here at this traffic cone and
9 then the victim on past that traffic cone.

10 Q Okay, sir. And this is at Crosswell Baptist
11 Church?

12 A It is.

13 Q Okay, sir. And was he -- was he covered? Was
14 the victim covered at the time or?

15 A He was.

16 Q You when came on scene?

17 A He was.

18 Q Okay. Once you arrive at the scene, Detective,
19 what did you do?

20 A I made contact with Detective Westmoreland who
21 was the initial responding officer. Just wanted him to
22 kind of fill me in on what had taken place so far. He
23 provided, if I remember correctly, he provided me with the
24 victim's driver's license which identified who he was. He
25 also stated that Deputy Stanley was across the street

1 speaking with a witness, who was Mr. Alexander that you
2 heard from earlier. I did not ask who the other people
3 were at that time who was still on the scene as far as
4 individuals you asked for earlier. After speaking with
5 Deputy Westmoreland, I went over to Mr. Alexander's house,
6 made contact with him and spoke with him about what he had
7 seen.

8 Q So we're clear, I'm sorry for interrupting.

9 A Yes, that's fine.

10 Q Mr. Alexander is the individual that testified
11 somewhat earlier?

12 A He is. He testified earlier.

13 Q Okay, go ahead, I'm sorry.

14 A In speaking with Mr. Alexander, he explained to
15 me what he's already testified to today, but that night --

16

17 MR. DEJONG: I'm going to object, Your Honor, to
18 that. Two grounds. Number one, he is testifying to
19 hearsay. Number two he's doing nothing but attempting to
20 bolster the State's witness. And I object on both
21 grounds, move that it not be allowed in and that the jury
22 be given an instruction to disregard the testimony.

23 THE COURT: Okay. All right. I'll sustain the
24 objection.

25 The -- ladies and gentlemen, one witness cannot

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1 testify as to another witness' testimony under the law or
2 the rule regarding hearsay. And one witness can't bolster
3 another witness' testimony by essentially recounting the
4 same. This officer testified and he was setting the scene
5 in that regard. And to the extent that it bolstered this
6 other witness' testimony, I charge you to discount that
7 and disregard it.

8 Go ahead, Mr. Richardson.

9 MR. RICHARDSON: Thank you, Your Honor.

10 BY MR. RICHARDSON:

11 Q Okay, sir. You interviewed Mr. Alexander?

12 A That's correct.

13 Q Okay. After you interviewed Mr. Alexander, what
14 did you do then in furtherance of your investigation?

15 A I then went back to the scene to see if I could
16 find any other leads that maybe there. At that time, once
17 I returned back over there, Coroner Kelly uncovered the
18 victim. We saw where he had been shot in the shoulder.
19 Basically, just viewed the body and the injuries he had.
20 I also at made contact with Captain Karl Hudson who was on
21 the scene who was the OIC or Officer In Charge for the
22 weekend. Once, he viewed the body we determined there was
23 nothing else that we could do at that point on the scene.
24 I checked the victim's wallet for any other identification
25 he had or anything that may lead to some sort of lead on

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1 this. I took position of his DL, I gave Officer Hudson--

2 Q I'm sorry, to interrupt you.

3 A That's okay, go ahead.

4 Q When you say DL?

5 A I'm sorry, driver's license. I'm sorry, drive's
6 license. I took possession of his driver's license. He
7 did have a military identification card in his wallet with
8 his picture. I provided that to Captain Hudson. By that
9 time Lieutenant Thomas had already left the scene. I
10 contacted him either by radio or by telephone, I don't
11 remember which one. And asked him to check the Citco Gas
12 Station which was at the corner of and 123
13 to see if they had any sort of outside cameras that may
14 have shown the victim come through there with anybody that
15 he may have been with.

16 I provided Captain Hudson with the military
17 identification of the victim, asked him to go to the
18 Say-A-Ton Gas Station, show his ID, see if he had been in
19 there earlier. I took his driver's license photo or his
20 driver's license with his photo on it, went to the Hot
21 Spot on 123 near the racetrack. Let me back up. Before
22 we left, I could hear the cars still racing at Greenville
23 Pickens Speedway. I didn't know if this was a result of
24 something that may have stemmed from an altercation at the
25 racetrack. I knew several officers were working security

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1 there. I first called; at that time it was Detective Gary
2 Anthony, to find out if he had any fights over there
3 involving the victim. He stated he couldn't think of any.
4 I then called Detective Baker who also working security
5 there. Detective Baker told me he was familiar with the
6 victim but he said he had not seen him at the racetrack.
7 I explained to him what was going on. He was familiar
8 with the victim but couldn't provide any leads at that
9 time. From there I asked Captain Hudson to go to the
10 Sav-A-Ton. I went to the Hot Spot.

11 Q So we're clear for the jury so they understand
12 where you're talking about, when you say the Citco and the
13 Sav-A-Ton.

14 A Yes, sir.

15 Q What roadway are you talking about?

16 A We're talking about the Sav-A-Ton on 123. If
17 anybody knows where the Greenville Pickens Speedway is, it
18 is right in front of the Greenville Pickens Speedway. The
19 Hot Spot is also on 123 near the entrance of the
20 fairgrounds on 123.

21 Q Once again, so we're clear for the jury, clear
22 for me.

23 A Okay.

24 Q I'm not familiar with Pickens County, initially,
25 but Crosswell Church is approximately how far from the Hot

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1 Spot and the, I believe, you said the Sav-A-Ton?

2 A Crosswell is probably a half mile to a mile from
3 where these gas stations are.

4 Q Okay. What, if anything, did your investigation
5 ascertained?

6 A Okay, I was informed by Lieutenant Thomas when
7 he went to the Citco, they had no cameras outside. So, we
8 had to dismiss that at that time. I went to the to Hot
9 Spot, spoke with the clerk and showed the victim's ID and
10 asked if he had been earlier. She said she was familiar
11 with the victim and thought he had been in earlier. And I
12 asked her if I can look at the store video to see if he
13 was with anyone at that time. They called the manager in,
14 the manager came, started the video for me. We went back
15 over a course of several hours to see if the victim had
16 actually come into the Hot Spot. We did not view him come
17 into the Hot Spot over that course of time.

18 Q Let me ask you this.

19 A Yes.

20 Q Why did you think it maybe important to see if
21 the victim had come into the Hot Spot?

22 A Chances are if he came into the Hot Spot with a
23 situation that transpired from what I was told from the
24 witness, Mr. Alexander, he'd probably been with someone at
25 the Hot Spot. I thought that if we could find out if he

BEN DOW-DIRECT BY MR. RICHARDSON

1 was with anyone at the Hot Spot, we could start tracking
2 from there to see if we can get a lead on anything.

3 Q Did you get any leads from the Hot Spot?

4 A No, sir, we did not. Not from the Hot Spot
5 video.

6 Q From that point what did you do?

7 A While we were still there trying to view the
8 video over the course of time, I received a call from
9 Detective Baker who advised that he had gone to
10 Ms. Hinson's residence and spoken with her.

11 MR. DEJONG: Your Honor, I'm going to have to
12 jump in here again, we're getting close to hearsay.

13 BY MR. RICHARDSON:

14 Q Don't tell me what --

15 I'm sorry, Your Honor, I apologize.

16 THE COURT: Right now, I don't think you posed
17 an objection and I haven't heard any hearsay. Therefore,
18 I'm not going to rule on anything except to give just a
19 general admonition against hearsay.

20 MR. DEJONG: Very well, Your Honor.

21 THE COURT: All right, you may proceed,
22 Mr. Richardson.

23 MR. RICHARDSON: Thank you.

24 BY MR. RICHARDSON:

25 Q Detective, don't tell me anything Detective

BEN DOW-DIRECT BY MR. RICHARDSON

1 Baker said, okay? But you had that conversation with
2 Detective Baker?

3 A I did, yes.

4 Q Okay. And from that conversation, what did you
5 do?

6 A From the conversation I had with Detective
7 Baker, I was given a phone number. And from that phone
8 number that I was given, I contacted Verizon Wireless to
9 see, their law enforcement line, to see if I could get the
10 information for the subscriber of that phone number. When
11 I gave them the phone number, they told me that it was a
12 T-Mobile number and they provided me with their law
13 enforcement line. I contacted T-Mobile, they faxed me the
14 appropriate paperwork so I explained what I was
15 investigating. And signaled the information so I could
16 get the personal information of the subscriber for that
17 number.

18 Q Okay. Now, once you got that information, where
19 did you go?

20 A After receiving the information -- first of all,
21 you want me to tell who the information came back to?

22 Q Yes.

23 A All right. The information I received came back
24 to Mr. Harold Sloan of -- Way, I
25 believe, it is in Greenville.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q That Mr. Harold Sloan, is that who testified
2 earlier?

3 A It is.

4 Q Okay. At that point in time, what did you do?

5 A By this time it was approximately four o'clock,
6 4:30 in the morning. Captain Hudson and I left with we
7 were at with Detective Baker by that time and went to

8 Way, basically, looking for the car. We weren't
9 able to locate--

10 Q Whoa, whoa, whoa. You said you were looking for
11 the car, what car were you looking for?

12 A We were looking for the victim's Pontiac Grand
13 Prix.

14 Q Okay. Continue, I'm sorry.

15 A Yes, sir. We left going to the address for
16 Mr. Sloan to see if we could locate the victim's Pontiac
17 Grand Prix. Which where we were going into Greenville
18 County. We agreed we'd do a drive through to see if the
19 car was there. If were to be there, we'd contact
20 Greenville County and meet up with them to explain what
21 was going on. But once we drove through we did not see
22 the car anywhere.

23 Q Okay, sir. What did you do at that point? So,
24 is this still Saturday evening?

25 A This is -- this a getting into early Sunday

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1 morning. Four o'clock, 4:30 a.m. around that time.

2 Q Okay.

3 A Once we got to Mr. Sloan's residence, I checked
4 one of the tags in the parking lot to make sure is that we
5 were at the right residence, which we were. There were no
6 lights on, we did not see the car. So therefore, we left
7 to pick up with the investigation on what we could find
8 the next morning.

9 Q And did you, in fact, do that?

10 A We did.

11 Q Okay. The next morning I was contacted -- I
12 contacted Lieutenant Byers to advise him of what was going
13 on, who is the lieutenant over criminal investigations,
14 would have been my immediate supervisor. He came in on
15 Sunday morning and worked with me from there. We went
16 back to Mr. Sloan's residence that morning to see if we
17 could get anyone to the door. We could not get anyone to
18 the door the first time we went by. During the day we
19 were trying to find ways of how we could figure out who --
20 or how we could find that phone. Because we thought if we
21 could find the phone, then the car would be close by. We
22 contacted T-Mobile, asked them to ping the phone. Which
23 means to see if they could get a location on the phone.
24 We asked them to do that. They did give us a--

25 MR. DEJONG: Your Honor, I'm going to object,

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1 that's hearsay.

2 THE COURT: As to the information obtained from
3 T-Mobile?

4 MR. DEJONG: Yes, sir. It was obviously
5 gathered for law enforcement purposes. There's certainly
6 a statement by somebody that I don't have an opportunity
7 to cross-examine.

8 THE COURT: Okay. All right, I respectfully
9 overrule, you may proceed.

10 MR. DEJONG: Thank you, Your Honor.

11 BY MR. RICHARDSON:

12 Q You may proceed.

13 A Okay. With the information provided we tried --
14 they could only give us a radius within a mile of where
15 the phone was being pinged. We went to that general area.
16 At that time we were looking for a needle in a haystack
17 trying to find this Pontiac Grand Prix. Within a certain
18 square mile radius. We checked several apartment
19 complexes, several back roads and never could find it.

20 Later on in the day we went back to
21 Mr. Sloan's residence and first made contact with his
22 wife. Ms. Sloan advised Mr. Sloan was not there. We -- I
23 don't believe we advised her at that time of exactly what
24 we were investigating. We just said we need to speak with
25 him in reference to a crime that took place the night

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1 before in Pickens County. She said that he was off--

2 MR. DEJONG: Objection to what she said.

3 THE WITNESS: I'm sorry.

4 BY MR. RICHARDSON:

5 Q Don't say what she said.

6 A We were told he was not home. We left at that
7 time, checked the phone, check some more areas for the
8 car, came back later on and Mr. Sloan was home.

9 Q And ultimately, you had a conversation with
10 Mr. Sloan?

11 A We did, yes.

12 Q Okay. And that conversation, where did that
13 lead you to?

14 A After speaking with Mr. Sloan we went to Taznick
15 Utsey's residence.

16 Q So, we're clear, who is Taznick Utsey to the
17 Defendant?

18 A Taznick Utsey is the Defendant's sister.

19 Q Okay.

20 A I believe.

21 Q Where did she live at that time?

22 A At that time -- let me give you the exact name
23 of the apartment complex. It was an apartment complex in
24 Greenville County close to where we were looking for the
25 phone to begin with. I want to say it was

BEN DOW-DIRECT BY MR. RICHARDSON

1 Apartment, if I remember correctly. We went to her
2 apartment complex and made contact with her.

3 Q Okay. And, of course, we've heard her boyfriend
4 testify but at that point in time did you -- were you able
5 to establish some suspects?

6 A Yes.

7 Q Okay.

8 A In speaking with her we were able to establish
9 the Defendant as a suspect along with Nyia Utsey and Kayla
10 Williams.

11 Q Okay. And this -- at this point in time we are
12 Sunday just after Saturday?

13 A Yes, sir. This would have been Sunday evening.

14 Q Okay. Once you ascertained that, what did you
15 do?

16 A It was pretty late in the day by that time. We
17 came back, started doing our homework on the three
18 suspects we had received information on. Monday morning
19 we came back into work, contacted SLED, asked them to send
20 me a photo lineup with Ms. Utsey in it. I could not -- I
21 did not have a last name for Kayla at that time. And
22 also, I had not received -- or did not get a photo lineup
23 of the Defendant at that time. The only one I was certain
24 of was Ms. Nyia Utsey.

25 Q Yes, sir.

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1 A I went back later on that morning and spoke with
2 Ms. Hinson and showed her the photo lineup.

3 Q That's Barbara Hinson?

4 A It is. I went back to Ms. Hinson's residence,
5 showed her the photo lineup containing Ms. Utsey, she was
6 unable to pick her out of the photo lineup as one of the
7 people at the -- that she saw the night the car was
8 missing.

9 Q Okay, sir.

10 A While we were there I received a call from the
11 United States Marshall Service saying they had located the
12 victim's vehicle at and -- at Avenue and
13 Avenue in Greenville. From there I left
14 Ms. Hinson's residence and went to that location.

15 Q You say the victim's vehicle, we're referring to
16 the Grand Prix?

17 A We are.

18 Q Where was -- okay, did you go to where the Grand
19 Prix was?

20 A I did.

21 Q At that time?

22 A Yes. After I left Ms. Hinson's I went directly
23 to where the Grand Prix was.

24 Q Was Detective Baker with you at that time?

25 A No, he was not.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Okay. At some point in time did Detective Baker
2 come to that --

3 A He did, yes.

4 Q All right. Now, the location of the vehicle,
5 the Grand Prix, how far, approximately, was that location
6 from the Defendant's sister's home?

7 A From the Apartments where we were at
8 the day before?

9 Q Yes, sir.

10 A I would say within a mile from that location.

11 Q Okay, sir.

12 Beg the Court's indulgence?

13 THE COURT: Sure.

14 BY MR. RICHARDSON:

15 Q Let me show you what's been marked for
16 identification purposes as State's Exhibit 10 and State's
17 Exhibit 8. Can you identify those, please, sir?

18 A That is the victim's Grand Prix.

19 Q Is that the location where the--

20 A It is--

21 Q --Grand Prix --

22 A It is. It is there at the location I gave on
23 Avenue and Avenue in Greenville.

24 Q Okay, sir. Does that accurately depict that
25 vehicle and that area as you saw it when you arrived?

1 A It does.

2 Q Okay. And was that the -- that was the Sunday?
3 That was Sunday?

4 A This would have been Monday.

5 Q Monday?

6 A Yes, sir.

7 Q So, that would have been the 19th of September?

8 A Yes.

9 Q Okay, sir.

10 Your Honor, at this time the State would
11 offer State's Exhibit 8 and 10 into evidence.

12 THE COURT: Any objections, sir?

13 MR. DEJONG: Without objection, Your Honor.

14 THE COURT: All right, without objection the
15 same is moved into evidence.

16 Have they been marked?

17 THE COURT REPORTER: No, sir.

18 (WHEREUPON, State's Exhibits Nos. 8 & 10 were
19 marked for identification and received into
20 evidence.)

21 BY MR. RICHARDSON:

22 Q Okay, sir, I'm going to show you, referring to
23 State's Exhibit 10. Can you tell the jury what that is a
24 picture of, Detective?

25 A That is the front of the victim's Grand Prix.

1 Q And where is that Grand Prix located?

2 A At that current time the -- it was at
3 Avenue and Avenue in Greenville.

4 Q Okay, sir. And I'm referring to State's Exhibit
5 8, Detective, can you tell the jury what that is?

6 A That is the rear of the same car at the same
7 location.

8 Q Okay, sir. And while at the scene, did you call
9 anybody else to come out to this scene?

10 A At that scene there was myself, several people
11 from the Marshall's Task Force, Detective Baker and
12 Detective Taylor eventually arrived on the scene. And
13 Investigator Owens was with me at that time.

14 Q Okay. And was any ID units or forensic units
15 called out to that scene?

16 A Not at this time. When I received a call from
17 the Marshall Task Force saying they had located the
18 vehicle, I immediately contacted Lieutenant Robinson, who
19 was the lieutenant over our forensics unit and advised him
20 of the car being located. He instructed me to have the
21 next duty wrecker in route to bring the car back to
22 Pickens County for it to be processed in our impound yard.

23 Q Okay, sir. And were you there when the wrecker
24 arrived and impounded that vehicle?

25 A I believe I was, yes.

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1 Q Okay, sir. At some point in the time, was some
2 other evidence discovered at the scene?

3 A While we were there at that the scene we, I
4 guess for lack of a better term, canvassed the area,
5 checked the area for anything that would be substantial to
6 this case. At the back of the car was found a screw that
7 looks like it would be a screw to hold a license plate in
8 place on the car. I believe that was found by Detective
9 Baker. Also found by Detective Baker in a storm drain was
10 a license plate that had been rolled up.

11 Q Hold on one second.

12 A Yes, sir.

13 MR. RICHARDSON: Your Honor, at this time I
14 would like to approach if I may, sir?

15 THE COURT: Yes, sir you may.

16 (WHEREUPON, an off-the-record bench conference
17 was held in the presence of the jury but out of
18 the hearing of the jury.)

19 BY MR. RICHARDSON:

20 Q I apologize, Detective. And you -- did you
21 testify what else was found at the scene?

22 A At the scene was found the screw behind the car
23 which looks like it would be a screw to hold a license
24 plate on to the car. Behind the car, probably 20 feet
25 behind the car was a storm drain. It was checked by

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1 Detective Baker. And the license plate that had been
2 rolled up was in the drain.

3 Q Okay, sir, let me hand you what's been marked as
4 State's Exhibit No. 9, can you identify that?

5 A That is the license place that was found within
6 the drain.

7 Q Okay.

8 Your Honor, at this time the State moves
9 State's 9 into evidence.

10 THE COURT: Objection, sir?

11 MR. DEJONG: No objection as to the Exhibit
12 itself, Your Honor.

13 THE COURT: Yes, sir, I understand.

14 Without objection, the same is moved into
15 evidence as State's Exhibit No. 9.

16 (WHEREUPON, State's Exhibit No. 9 was marked for
17 identification and received into evidence.)

18 BY MR. RICHARDSON:

19 Q Just very briefly, Detective, so the jury can
20 see it, is that the license plate?

21 A It is.

22 Q How far from the vehicle was it found?

23 A I would say, to the best of my recollection,
24 maybe around 20 feet.

25 Q Okay, sir. And I want you to answer me yes or

BEN DOW-DIRECT BY MR. RICHARDSON

1 no.

2 A Okay.

3 Q On this. Did that license plate, was it
4 reported stolen?

5 A Yes, sir.

6 Q Now, did you do any type of forensic work or
7 anything of that nature with that vehicle?

8 A No.

9 Q Any further than what you. . .

10 A No. Everything that was collected there,
11 whoever collected the items had gloves on and placed them
12 in plastic baggies. The license plate was left just as it
13 is to return it to Pickens County to turn it over
14 Lieutenant Robinson for him to perform forensics on it.
15 All the items that were collected there were secured in
16 the trunk of my car and brought back to Pickens.

17 Q At some point in time did officer Robinson give
18 you a represent?

19 A He did.

20 Q Okay. Let me show you what's been marked
21 State's Exhibit 28, can you identify that, please, sir?

22 A That is the receipt that was given to me by
23 Officer Robinson.

24 Q Okay, sir. When you received this receipt, what
25 did you do?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A After I received the represent, I believe I
2 received a copy of it, I went to -- can I see that one
3 more time?

4 Q Sure. And I'm referring to State's Exhibit 28
5 that's been marked for identification.

6 A Okay. In reference to the receipt, it's a
7 Family Dollar receipt store number 0190 which is on
8 Augusta Street in Greenville. I went to that location,
9 and it also has the timestamp on the receipt. I asked to
10 look at the video that they have in the store on that date
11 and time to see if I could develop anymore leads inference
12 to the case.

13 Q Okay, sir. Simply while Mr. DeJong is looking
14 another that, you -- Lieutenant Robinson is the one that
15 processed the vehicle at the Pickens County Sheriff's
16 Office?

17 A He is, yes.

18 MR. RICHARDSON: Your Honor, at this time, the
19 State would move State's Exhibit 28 into evidence.

20 THE COURT: Any objection, sir?

21 MR. DEJONG: Well, yes, Your Honor. There's no
22 foundation at this point in time other than he received
23 that from somebody. I think there has to be more of a
24 foundation laid before the State can introduce that just
25 based on what the witness said. It may be introduced

BEN DOW-DIRECT BY MR. RICHARDSON

1 later on and may not be an objection. But I do object to
2 it at this time point in time.

3 THE COURT: Yes, sir.

4 Mr. Richardson.

5 MR. RICHARDSON: Your Honor, I can do it that
6 way, later on is fine.

7 THE COURT: Okay.

8 We should do that, I'll sustain the objection.

9 BY MR. RICHARDSON:

10 Q After you went to the Family Dollar, did you
11 testify that you looked at the video?

12 A I did, yes, sir.

13 Q Okay, sir. And after you looked at the video,
14 did you obtain any pictures off that video?

15 A Yes. Pictures and I had the actual video.

16 Q Okay, sir. And let me hand you what's been
17 marked previously marked as State's Exhibit 22 and 23, can
18 you identify those please, sir?

19 A These are still photos from the video that I
20 took from the Family Dollar.

21 Q Okay, sir. And do those accurately depict --

22 A They do.

23 Q As you saw it from the video?

24 A Yes, sir, they do.

25 Q Okay, sir. Is there a date on there?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A The date that's on here is 9/18/2011.

2 Q Okay, sir.

3 MR. DEJONG: Without objection, Your Honor.

4 THE COURT: All right, without objection, the
5 same is admitted. State's Exhibits. . .

6 MR. RICHARDSON: 22 and 23.

7 THE COURT: Okay.

8 (WHEREUPON, State's Exhibits Nos. 22 & 23 were
9 marked for identification and received into
10 evidence.)

11 BY MR. RICHARDSON:

12 Q Okay, Detective, I'm going to show you what's
13 now been placed into evidence as State's Exhibit 22. When
14 you saw that video was there anything in particular that
15 stood out to you?

16 A It appears to be the Defendant.

17 Q Okay, anything else?

18 A Right here is the car that the Defendant drove.
19 Based on the wheels and the color of the car and also the
20 shape of the hood, it appears to be the same car as we
21 recovered that belonged to the victim.

22 Q Okay, sir. And what color jacket would you say
23 that is?

24 A Right here, he's wearing a black color jacket.

25 Q Yes, sir. And is this just a further video of

1 the same?

2 A These are just different vantage points of the
3 same video, it's the same person.

4 Q Okay. Let me show you what's been marked as
5 State's Exhibit 13. Is that the Grand Prix?

6 A That is the victim's, car, yes.

7 Q Okay, sir.

8 A The thing that stood out with this and also the
9 pictures from the video are the wheels. Also, the shape
10 of the hood and the color of the car appear to all be the
11 same.

12 Q Okay, sir. And the date on the receipt, did it
13 correspond with the date on the picture at the Family
14 Dollar.

15 A It did, yes.

16 Q Was that date before or after--

17 A The date was after the victim had been shot.

18 Q Okay, sir. Now, at some point, did you receive
19 any information on the location of the suspects?

20 A I did, yes.

21 Q Okay, sir. When you received that information,
22 what did you do?

23 A I contacted -- actually, I was contacted by
24 Lieutenant Byers and told him I would meet him at the
25 sheriff's office. It was approximately 12:00 a.m. And

BEN DOW-DIRECT BY MR. RICHARDSON

1 also we were met there by Detective Baker. From there we
2 went to Asheville, North Carolina.

3 Q Okay, sir. And had the -- had the Defendant
4 been placed into custody in Asheville, North Carolina?

5 A At that time he was placed in the custody in
6 Asheville, North Carolina.

7 Q Who did that?

8 A The United States Marshall Service Task Force.

9 Q And was anybody else placed into custody?

10 A Also along with the Defendant was his sister,
11 Nyia Utsey and also, I guess lack of a better term, Nyia's
12 girlfriend, Kayla Williams.

13 Q Were all suspects, Ms. Utsey, Ms. Williams and
14 the Defendant placed into your custody at that time?

15 A At that time they were in custody of the
16 Marshall Service and also Asheville City Police
17 Department.

18 Q Okay. Was there also an individual that went
19 there from the Pickens County Sheriff's Office?

20 A Yes, sir. Deputy Scott Ticknor is a member of
21 the US Marshall's Task Force and he was up there with them
22 when the three Defendants were arrested.

23 Q Okay. And what was the date of the arrest?

24 A I believe it was the -- it was the 21st.

25 Q September 21st?

1 A Yes, sir.

2 Q 2011?

3 A Yes, sir.

4 Q And while you were in Asheville, did you -- did
5 you come across a blue Mustang?

6 A We did. There was the blue Mustang sitting in
7 the end parking lot of the Sleep Inn Motel in Asheville,
8 North Carolina.

9 Q Okay, sir. And was that Mustang remarkable to
10 you in some way?

11 A It matched the description of the Mustang that
12 were given to us earlier as far as the wheels, tinted
13 windows and the color of the Mustang.

14 Q Okay, sir. Let me show you what's been marked
15 State's Exhibit 17 and 18 for identification purposes.
16 Can you identify that, please, sir?

17 A Yes, sir. This is the Mustang that was located
18 in the parking lot of the motel.

19 Q On both Exhibits?

20 A It is.

21 Q Okay, sir.

22 A The -- on Exhibit 18 is the inside of the
23 Mustang. On Exhibit 17 is the exterior of the Mustang.

24 Q Does that accurately depict what you saw that
25 day?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A It does, yes.

2 Q And that was from September 21st.

3 A September 21st, yes.

4 Q Of 2011?

5 A Yes, sir.

6 MR. DEJONG: No objection as to State's Exhibit
7 No. 17. I do object to State's Exhibit No. 18 that there
8 appears to be a weapon on the floorboard of that vehicle.
9 There have been no foundation laid at this point in time
10 as to a weapon or anything else. I hesitate to even point
11 out what is in there but I no other way of doing it. At
12 that point in time, Your Honor, I object to 18 coming in.

13 THE COURT: I'll respectfully overrule the same.
14 I believe that he indicated that that was a picture that
15 fairly and accurately represented the scene at the time.
16 And given that I would think that it is admissible and
17 appropriate foundation has been laid. Overrule the same
18 and admit the over objection as State's Exhibit Nos?

19 MR. RICHARDSON: Seventeen and 18.

20 THE COURT: Seventeen and 18.

21 (WHEREUPON, State's Exhibits Nos. 17 & 18 were
22 marked for identification and received into
23 evidence.)

24 BY MR. RICHARDSON:

25 Q Can you tell the jury, I'm referring to State's

1 Exhibit 17 that's now in evidence, what that shows?

2 A This is the Mustang that the three were
3 traveling in when they were arrested in North Carolina.

4 Q And can you show -- this is State's Exhibit 18.

5 A This is the passenger seat of the Mustang that
6 they were traveling in.

7 Q Okay. Now, did you search that vehicle?

8 A I did.

9 Q Personally?

10 A Yeah, after.

11 Q I'm sorry.

12 A Go ahead.

13 Q Personally, did you personally search it.

14 A I did. After getting to North Carolina I
15 realized what we needed to do, I met with a investigator
16 with the Asheville Police Department, I worked with him,
17 he obtained a search warrant for one of the rooms and also
18 the vehicle. After getting the search warrant, went back
19 executed the search warrant on the vehicle and I searched
20 the car myself.

21 Q And did you obtain any evidence from the
22 Mustang?

23 A From the mustang, as I searched it, the gun,
24 when I was searching the interior of the car, the gun was
25 up under the passenger seat. For photographic purposes, I

BEN DOW-DIRECT BY MR. RICHARDSON

1 had the forensic person from Asheville City Police there
2 doing the photographing and any forensic work that needed
3 to be done. They had gloves on, they pulled the gun out
4 from under the seat to photograph it.

5 Q And if you can point to that with your laser?

6 A Yeah, the gun right here was under the passenger
7 seat right here.

8 Q What did you do with that? So, we're clear for
9 the jury, that's a BB gun, right?

10 A It is. It is a BB gun.

11 Q What did you the with that gun?

12 A I took possession of the gun to bring back to
13 Pickens. I secured it in the trunk of my car.

14 Q Okay, sir. Let me show you what's been marked
15 as State's Exhibit 9 that's been secured by our ID folks.
16 Can you identify that, please sir?

17 A That appears to be the same gun that's pictured
18 here.

19 Q Okay, sir. And once you obtained that gun, you
20 may have testify to this, I apologize, what did you do
21 with it?

22 A I secured it in the trunk of my car to bring
23 back to Pickens County.

24 Q Did you bring it back to Pickens County?

25 A I did and turned it over to Lieutenant Robinson.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q And one of Lieutenant Robinson's duties is to
2 handle evidence?

3 A It is, yes.

4 Q And while you were -- did you also -- you
5 weren't there during the time of the arrest of the three
6 subjects?

7 A No, I wasn't.

8 Q But at some point in time did you enter the room
9 of the Defendant, that the Defendant had rented at that
10 hotel?

11 A I did.

12 Q What was the hotel? Do you recall the hotel?

13 A It was the Sleep Inn in Asheville, North
14 Carolina.

15 Q Okay, sir. And when you did that, did somebody
16 take pictures?

17 A Yes, the Asheville City Police, their forensic
18 unit, like I said, was on scene. They also went into the
19 room and photographed everything in the room as it was
20 when the Defendant was arrested.

21 Q And let me show you what's been marked now as
22 Exhibit 20 for identification purposes. What is that,
23 sir?

24 A This is the Defendant's jacket laying on the bed
25 in the motel room. It appears to be the same jacket that

BEN DOW-DIRECT BY MR. RICHARDSON

1 he was wearing in the Family Dollar video.

2 Q Okay, sir. And does that accurately depict how
3 you saw it?

4 A It does, yes.

5 Q Okay.

6 MR. RICHARDSON: Your Honor, we move State's
7 Exhibit 20 into evidence.

8 MR. DEJONG: Without objection, Your Honor.

9 THE COURT: All right, without objection, same
10 is admitted and moved into evidence as State's 20.

11 (WHEREUPON, State's Exhibit No. 20 was marked
12 for identification and received into evidence.)

13 BY MR. RICHARDSON:

14 Q Okay, sir. If you could just tell the jury what
15 that picture -- excuse me.

16 A Okay --

17 Q Excuse me, one second. I'm referring to State's
18 Exhibit 20. Can you, please, sir?

19 A This is the motel room that the Defendant was
20 staying in when he was arrested at that motel. This is
21 the coat that the Defendant appears to be wearing in the
22 Family Dollar video.

23 Q Okay, sir. And so we're clear, the other two
24 suspects, Nyia Utsey and the other one's escaping my mind.

25 A Kayla Williams.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Thank you, Kayla Williams. Did they have a
2 separate room?

3 A Yes, they had a separate room.

4 Q Okay. At some point in time were all three put
5 into your custody or custody of the Pickens County
6 Sheriff's Office?

7 A Not that night. The Defendant was taken by
8 Asheville City Police. Also, Kayla Williams was taken by
9 Asheville City Police. And eventually, after a while at
10 the motel, Ms. Utsey was taken by the Asheville City
11 Police.

12 Q Okay, sir. And ultimately?

13 A Ultimately, they were extradited back to South
14 Carolina.

15 Q Okay, sir. And they're certain process that you
16 have to go through --

17 A Yes, sir.

18 Q -- for extradition from another state?

19 A Yes, sir.

20 MR. RICHARDSON: Beg the Court's indulgence?

21 THE COURT: Yes, sir.

22 MR. RICHARDSON: That's all the questions I
23 have, please answer any questions Mr. DeJong has.

24 MR. DEJONG: Thank you, Your Honor, may it
25 please the Court?

1 Q Okay. Now, you're on call of the nighttime
2 hours of September the 17th of 2011?

3 A That's correct.

4 Q By the way, where are the pictures of
5 Ms. Williams and Ms. Utsey's room? Did you make any
6 pictures of those?

7 A I believe pictures were made, I can't tell you
8 why they're not here.

9 Q All right.. Oh, one other point. You referred
10 to Ms. Williams as being Ms. Utsey's girlfriend?

11 A Yes.

12 Q Did your investigation reveal that they were in
13 some type of relationship?

14 A Yes.

15 Q Okay. Now, Mr. Yeargin was -- well obviously,
16 Ms. Utsey was his sister?

17 A That's correct.

18 Q And he was involve in no relationship whatsoever
19 with Ms. Williams based on your investigation?

20 A Based on my investigation, no.

21 Q All right. Now, you what time did you get out
22 to Crosswell Baptist Church on September the 11th -- I
23 mean, September the 17th of 2011?

24 A I can't give you an exact time, I would say it
25 was probably close to 10 o'clock or so.

BEN DOW-CROSS BY MR. DEJONG

1 Q When you got there how many people were there?

2 A There were several deputies there. EMS was
3 there. Also, there were several rescue workers there, as
4 well.

5 Q Were they all in the parking lot at Crosswell
6 Baptist Church?

7 A Some were in the parking lot. I believe a few
8 deputies were at Mr. Alexander's house speaking with him.

9 Q All right. So, when you got there how many
10 deputies were in the parking lot?

11 A The best I can recall, three, I believe.

12 Q All right. Was EMS there?

13 A They were.

14 Q Okay. Were you there when the coroner got
15 there?

16 A Yes.

17 Q Okay. Were you there when all the other law
18 enforcement personnel got there?

19 A They were there before I was.

20 Q Okay. So, certainly there were a lot of people
21 on this alleged crime scene when you got there?

22 A That's correct.

23 Q All right. Now, I note you referred to this
24 person who we now know is deceased as the victim. When
25 you got there, you didn't know that he was a victim of

1 anything, did you?

2 A I didn't know anything about the status of what
3 was going on.

4 Q All right. And actually, what transpired out
5 there in the parking lot on September the 17th of 2011,
6 how that person ended up in that parking lot, you don't
7 know?

8 A At that time or right now?

9 Q Of you're own personal knowledge, not what
10 people have told you, you don't know?

11 A That is correct.

12 Q Now, the shoe, were you -- before we get to the
13 shoe, were you involved in the collection of evidence out
14 at the church parking lot on September 17th of 2011?

15 A No, I wasn't.

16 Q All right. So, the shoe that you described in
17 State's Exhibit 2 and State's Exhibit 3, if you need to
18 see them, you said it appeared to match the shoe that was
19 on the diseased person's body; is that correct?

20 A That is correct.

21 Q Was any testing done?

22 A Not that I know of.

23 Q Okay. So again, it just appeared to match the
24 shoe?

25 A Yes.

1 Q Okay. Now, how the diseased person became
2 separated from his shoe, again, you have no personal
3 knowledge of that happening?

4 A Other than what people told me.

5 Q Correct. And where, I think it's on one of
6 these Exhibits you pointed out. Let me hand them back to
7 you. Again, I'm still referring to State's Exhibit and 3,
8 you said there was a liquor bottle?

9 A Yes, sir.

10 Q Which Exhibit is that in?

11 A It's actually in both but you can see them best
12 in 2.

13 Q Two?

14 A Yes, sir.

15 Q Was that a liquor bottle?

16 A Right here, yes, sir.

17 Q Okay. Now, does it appear to be broken?

18 A Yes, sir.

19 Q Shattered?

20 A Yes, sir.

21 Q But that bottle met the parking lot with some
22 force and it shattered?

23 A That's correct.

24 Q Now, so basically what you did, you interviewed
25 Mr. Alexander, is that correct?

1 A Yes, I spoke to Mr. Alexander.

2 Q All right. And then you go back -- well, where
3 did you interview him, at his the house?

4 A At his residence, yes.

5 Q So, that would have across the street from the
6 parking lot where this deceased person was found?

7 A Correct.

8 Q Okay. So, after you talked to Mr. Alexander,
9 you go back across the street?

10 A Correct.

11 Q Now, you then say, I believe you looked at the
12 body of the deceased person?

13 A Yes.

14 Q Did you know he was deceased at that point in
15 time?

16 A Based on what EMS told us and -- yes.

17 Q Now, you then canvassed these various gas
18 stations, right?

19 A Yes, sir.

20 Q Everything with negative results?

21 A That's correct, yes.

22 Q So, nothing there. Now, you call Greenville
23 Pickens Speedway and talked to some officers there?

24 A While I was still at the scene, yes, sir, I did.

25 Q Ultimately, you talked to -- well -- well, based

BEN DOW-CROSS BY MR. DEJONG

1 on a two IDs, you shared with Detective Baker, the names
2 on those IDs?

3 A Yes.

4 Q By the way, was one a driver's license or was it
5 a ID card?

6 A One was a, I believe, it was a driver's license.
7 The other -- or it may been an ID card, I can't say for
8 sure. The other was his Military ID.

9 Q So, you give Defendant's Exhibit Baker his name?

10 A Yes, sir.

11 Q And he indicates to you that he is familiar with
12 Sean Dinneon?

13 A That's correct.

14 Q Did he share with you that that is in a personal
15 capacity or professional capacity?

16 A No, sir, it was a professional capacity.

17 Q All right, sir. Now -- now, we get to, I guess,
18 we're late into -- no, we're not we're on a Saturday
19 morning. Now, we're on the 18th, all right.. Now, you
20 finally, I gather from one of a better term, cleared the
21 scene at some time around four, five o'clock in the
22 morning?

23 A No, I left the scene long before that.

24 Q Oh, okay.

25 A There were still units on the scene. And, I

BEN DOW-CROSS BY MR. DEJONG

1 believe, the body was still on the scene when I left the
2 scene.

3 Q Okay. Now, you're getting with T-Mobile?

4 A Yes, sir.

5 Q All right. Now, I want to be very clear because
6 I'm kind of hard of hearing. The phone number that you
7 called and sent paper work to T-Mobile, it came back to
8 Harold Sloan?

9 A That's correct.

10 Q Now -- the train derailed, I lost my train of
11 thought. Okay. So, that number simply came back to
12 Harold Sloan?

13 A That's correct.

14 Q Okay. And then somewhere I gather you decided
15 that Taz -- that was Taz's phone?

16 A It was Taznick. We were told by Mr. Sloan -- he
17 is the subscriber, he let's her use the phone.

18 Q Now, that's Taz?

19 A Taz, yes.

20 Q Not Tavish?

21 A Taznick.

22 Q That's Mr. Yeargin's sister we're talking about?

23 A Yes. Yes.

24 Q All right. Now, you and Lieutenant Byers then
25 go to her house -- well actually, you go looking for the

BEN DOW-CROSS BY MR. DEJONG

1 car and can't find the car, right?

2 A Yes, sir.

3 Q Well, let me ask you this, Kayla Williams, was
4 she charged?

5 A Yes, sir, she was.

6 Q What was she charged with?

7 A Murder and grand larceny.

8 Q Nyia Utsey, was she charged?

9 A The same.

10 Q Murder and grand larceny?

11 A That's correct.

12 Q All right, sir. To your knowledge they're not
13 on trial today?

14 A No, sir.

15 Q Have they gone to trial?

16 MR. RICHARDSON: Objection, Your Honor.

17 MR. DEJONG: Withdraw the question, Your Honor.

18 THE COURT: All right, sustained.

19 BY MR. DEJONG:

20 Q Now ultimately, you end up at and
21 correct?

22 A That's correct.

23 Q That's where I gather State's Exhibit 10 and 8
24 come into play?

25 A Yes, sir, that is correct.

BEN DOW-CROSS BY MR. DEJONG

1 Q Now, those were taken where the car was
2 recovered?

3 A Yes, sir.

4 Q When the car got there you don't know?

5 A That I don't know.

6 Q How the car got there you don't know?

7 A No, I don't.

8 Q Okay. When the car was allegedly taken, did you
9 know whether or not it had a tag on it?

10 A I believe from information we received it did
11 not have a tag.

12 Q Okay. And the tag that was found was found some
13 20 feet away from the car?

14 A Yes, sir.

15 Q In a storm sewer?

16 A Yes, sir.

17 Q Okay. And not on the car?

18 A Not on the car.

19 Q All right. You're not -- well, strike that.
20 Now, at that point in time, investigator Owens is with
21 you?

22 A He is, yes.

23 Q Okay. Then Baker came later on, is that
24 correct?

25 A Yes, we met there about the same time.

1 Q Okay. The -- well, you went to Asheville, North
2 Carolina?

3 A That's correct.

4 Q And Baker went to Asheville, North Carolina?

5 A That's correct.

6 Q Did you talk to Utsey?

7 A We did.

8 Q Did you talk to Ms. Williams?

9 A We did.

10 Q All right. After you talked to Ms. Utsey and
11 Ms. Williams -- well let take them one at a time. After
12 you talked to Ms. Utsey in Asheville, did you talk to her
13 again?

14 A I did.

15 Q Okay. And when was the second time you talked
16 to her?

17 A I believe, I want to say it was March but let me
18 check to make sure. It was on April the 30th, 2012.

19 Q All right. So, some six or seven months after
20 you talked to her in Asheville, you talked to her again.
21 Where did you talk to her the second time?

22 A At the Pickens County sheriff's office.

23 Q When you talked to her -- before you talked to
24 her in Asheville, did you tell her she was being charged
25 with murder and grand larceny?

1 A She knew. She had already been served with her
2 warrants then.

3 Q She had?

4 A Yes, sir.

5 Q Okay. How about Ms. Williams? You talked to
6 her in Asheville on September the 21st, correct?

7 A Yes, sir.

8 Q 2011?

9 A Yes, sir.

10 Q Did you ever talk to her again?

11 A No.

12 Q Okay.

13 A Only in the car ride back from extradition but
14 nothing more came of the conversation than what came of it
15 the first time.

16 Q Mr. Yeargin didn't fight extradition, did he?

17 A No, I don't believe he did.

18 MR. DEJONG: May I have one moment please, Your
19 Honor?

20 THE COURT: Yes, sir.

21 MR. DEJONG: Thank you, Detective Dow.

22 THE COURT: Redirect, sir?

23 MR. RICHARDSON: No redirect, Your Honor.

24 THE COURT: Thank you, Detective, I appreciate
25 it, sir. You may step down.

1 MR. RICHARDSON: Thank you, Your Honor. The
2 State calls Michael Baker to the stand.

3 THE CLERK: Place your left hand on the Bible,
4 raise your right hand.

5 MICHAEL BAKER, after being duly sworn,
6 testified as follows:

7 THE CLERK: Have a seat, state your name for the
8 record, please.

9 THE WITNESS: Michael Baker.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q Detective, were you employed with the Pickens
14 County Sheriff's Office back on November -- excuse me
15 September 17th, 2011?

16 A I was.

17 Q Okay, sir. And in what capacity were you
18 employed?

19 A I was a investigator for Pickens County
20 Sheriff's Office.

21 Q How long had you been in law enforcement?

22 A In 2011, approximately nine years.

23 Q Okay, sir. Now, were you working the actual day
24 of September the 17th of 2011?

25 A I was. I was working an off duty job at the

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Greenville Pickens Speedway.

2 Q Okay, sir. Did you an occasion to assist
3 Detective Dow in this incident?

4 A I did. Detective Dow called me the night I was
5 working that off duty job and advised me of a call out
6 involving the Victim, Mr. Dinneon, being shot and found
7 dead in the Crosswell Baptist Church parking lot. He
8 asked me if there had been any disturbances involving the
9 victim at the race that night.

10 Q Okay. Detective, I'm going to -- that
11 microphone system is not working.

12 A It didn't seem like it was.

13 Q Right. So, if you can speak up loud enough so
14 that this last juror can hear you.

15 A Sure.

16 Q Do you want me state it all over again?

17 A That's fine, you can proceed. He asked me --
18 Detective Dow asked me if there had been disturbances that
19 night involving the Victim, Mr. Dinneon. I advised him I
20 had not seen Mr. Dinneon or heard of any disturbances that
21 particular night.

22 Q Okay, sir. And then from that point did you
23 proceed anywhere?

24 A I did. After the race was over, I knew -- it
25 was a Saturday, the 17th was a Saturday. I knew Detective

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Dow would be working by himself. Since it was a call out.
2 And no one else would be working. So, I left the race and
3 went to -- I knew where Mr. Dinneon lived and I went to
4 speak to his neighbor, Margaret Hinson, after leaving the
5 race.

6 Q Okay. And you, in fact, speak with Ms. Hinson?

7 A I did.

8 Q Okay. And at that particular time did you
9 obtain a telephone number from Ms. Hinson?

10 A I did.

11 Q What did you do with that telephone number?

12 A I forwarded it on to Detective Dow.

13 Q Okay. Did you also go to the Victim's house?

14 A I did.

15 Q Okay. And at the house did you notice any
16 vehicles?

17 A I did. I noticed a Mitsubishi Lancer. Older
18 model.

19 Q I'm sorry?

20 A Older model Mitsubishi Lancer.

21 Q Let me show you what in evidence as State's
22 Exhibit 5. Do you recognize that?

23 A I do. That's the vehicle parked in the Victim's
24 driveway that I saw that night.

25 Q Okay, sir. And did you do anything in regards

MICHAEL BAKER-DIRECT BY MR. BAKER

1 to that vehicle?

2 A I contacted or I notified Lieutenant Robinson to
3 see if he could process the vehicle.

4 Q Okay. And do you know if Lieutenant --
5 Lieutenant Robinson's with the Forensics ID Division?

6 A That's correct, Pickens County Sheriff's Office.

7 Q And do you know if Lieutenant Robinson processed
8 that vehicle?

9 A He did. I met with him in the driveway and he
10 did process the vehicle.

11 Q Okay, sir. And at any time did you put out any
12 bolos or anything of that nature?

13 A I did. I BOLO-ED a vehicle that was missing
14 from the driveway, supposedly the Victim's vehicle. And I
15 had it entered into NCIC.

16 Q Okay. And just for the jury, what is a BOLO?

17 A BOLO, Be On The Look Out For. Basically, gives
18 officers -- give it to communications. Communications
19 then forwards it to the officers that are working that
20 night as well as surrounding agencies. To be on the look
21 out for the vehicle description, color, make, model,
22 things of that nature.

23 Q Okay, sir. And does that also go into the
24 general NCIC system?

25 A That's right. The NCIC, National Crime

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Information Center, I had dispatched, logged that vehicle
2 in. So, that if the tag or VIN had been run by any other
3 agency in the country, it would have shown up stolen.

4 Q Yes, sir. And that would be in the case of a
5 car that you're looking for where the drive is pulled over
6 for speeding or something of that nature?

7 A That's correct.

8 Q And the BOLO went out for what type of vehicle?

9 A A 2006 Pontiac Grand Prix.

10 Q Okay. And was that 2006 Pontiac Grand Prix
11 eventually found?

12 A It was.

13 Q Okay. Did you proceed to go to the scene of
14 that vehicle, where that vehicle was found?

15 A I did. It was on the 19th of September. I
16 believe Detective Dow notified me that it had been
17 recovered on Avenue in Greenville. And I
18 responded there to assist Detective Dow with processing
19 the scene.

20 Q Okay, sir. Let me show you what's been marked
21 Plaintiff's -- excuse me, State's Exhibit 8. What is
22 that?

23 A That's the 2006 Pontiac Grand Prix.

24 Q And State's Exhibit 10?

25 A That's the same vehicle.

1 Q Okay. And back to State's Exhibit 8, is there a
2 license tag on the back of that vehicle?

3 A There is not.

4 Q Did you do any investigation around that
5 vehicle?

6 A I did. I looked around the vehicle, I found
7 below where the license plate would normally be on the
8 ground, a screw. Looked like someone may have taken off
9 the license plate. And looked around the area. And about
10 10, 15 feet from the location of the car, on the same side
11 of the road, there was a storm drain. Looked inside the
12 storm drain and saw what appeared to be a folded up
13 license plate.

14 Q And about how far from the vehicle was that?

15 A About 10 to 15 feet, on the same side of the
16 road.

17 Q And when you -- when you -- let me show you
18 State's Exhibit 9. Can you identify that, please, sir?

19 A That's the license plate I located in the storm
20 drain.

21 Q Okay, sir. And is that the condition it was in
22 when you located it?

23 A It is.

24 Q When you located it, what exactly did you do?

25 A I had another Detective with me, Detective

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Taylor photograph the location. Then I removed it with a
2 latex glove. I didn't unfold it, I didn't try to see what
3 the numerics were on the tag. Gave it to Detective Dow
4 and he bagged it. And that's all I did with it.

5 Q Okay, sir. When you say bagged it?

6 A He put it in I put it in a -- I put it in a
7 brown paper bag and then he took control of it from there.

8 Q Did you say, were you or were you not wearing
9 gloves at that time?

10 A I was wearing latex gloves.

11 MR. RICHARDSON: Beg the Court's indulgence.

12 Thank you, Detective, please answer any questions

13 Mr. DeJong may have for you.

14 THE COURT: Cross-examination.

15 MR. DEJONG: Thank you, Your Honor, may it
16 please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. DEJONG:

20 Q So, your investigation in this case was limited
21 to the nighttime hours of September the 17th or early
22 morning hours of September the 18th. And what you
23 indicated the recovery of the vehicle on September the
24 19th?

25 A Yes, sir.

1 MR. RICHARDSON: Your Honor, the state calls
2 Lane Byers to the stand.

3 THE CLERK: Place your left hand on the Bible,
4 raise your right.

5 LANE BYERS, after being duly sworn,
6 testified as follows:

7 sworn{,}testified as follows:{F}

8 THE CLERK: Have a seat, state your name for the
9 record, please.

10 THE WITNESS: Lane Cole Byers.

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q You're a lieutenant at the Pickens County
14 Sheriff's Office, is that correct?

15 A Yes, sir.

16 Q How long have you been employed with law
17 enforcement?

18 A I worked full-time for about 29 plus years. I was
19 part-time reserve officer for about two and a half years
20 before that.

21 Q Okay. So, you were employed back in September
22 of 2011?

23 A Yes, I was.

24 Q Okay sir. And did you become involve in the
25 incident that we're here about today?

LANE BYERS-DIRECT BY MR. RICHARDSON

1 A Briefly I did. There at the beginning.

2 Q Okay. I will tell you that the microphones in
3 our is not working. So, if you can speak up a little bit.

4 A Okay.

5 Q I'm hearing you pretty good time, I'm not sure
6 about back here.

7 A Okay.

8 Q Did you initially -- was your initial
9 involvement to assist Detective Dow?

10 A Yes.

11 Q Okay. How did you do that.

12 A Sunday morning Detective Dow made contact and
13 briefed me on what had happened the night before. Since
14 he was working by himself I came out to assist him, have
15 somebody with him while he was questioning people and
16 talking to people that day.

17 Q Okay. And did you, in fact, go over to the
18 Holder house with Detective Dow?

19 A No. We went -- earlier that day we went to a
20 Harold Sloan's house.

21 Q Excuse me, Sloan?

22 A Yeah.

23 Q I misspoke whim.

24 A And we spoke with him. We made a couple of
25 stops there. He was not home but he did come in later and

LANE BYERS-DIRECT BY MR. RICHARDSON

1 he spoke to us while we were there.

2 Q Okay. And then after that, did you assist
3 Detective Dow in any other way?

4 A Detective Dow called me on Monday and ask that a
5 car had turned up. And that's what we had been looking
6 for on Sunday. And he asked that I get there at the
7 request of another officer just to make sure that nobody
8 touched that car. Because I was in Greenville, he was
9 not.

10 Q Okay. So, did you actually go to the scene of
11 that vehicle?

12 A I did.

13 Q Let me show you State's Exhibit 8. Do you
14 recognize that?

15 A Yes, I do.

16 Q What is that?

17 A That appears to be the car that called us that
18 we had been looking for that day on Monday.

19 Q Okay, sir. And once you arrived at the scene,
20 did you stay with that car the entire time?

21 A I did.

22 Q Okay. And at some point in time, was that car
23 impounded?

24 A Yes, that day. We took it from that scene to
25 our impound lot in Pickens County.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 microphones are off, so if you can speak up, I'd
2 appreciate it.

3 A Okay.

4 Q Loud enough so this juror back here can hear
5 you.

6 A All right.

7 Q You are a lieutenant with the Pickens County
8 sheriff's Office, is that correct?

9 A I am.

10 Q Okay. And how long have you been employed with
11 the Pickens County Sheriff's Office.

12 A I've been a full-time employee for 24 years.

13 Q Okay. Is that how long you've been in law
14 enforcement?

15 A I was a reserve officer for a few years before
16 that. So, I have been about 27 years total.

17 Q Okay. And what do you do for the Pickens County
18 Sheriff's Office?

19 A I'm the lieutenant, the supervisor over the
20 forensic and the property and evidence unit.

21 Q Okay, sir. And were you that on September the
22 17th of 2011?

23 A I was.

24 Q Okay. Can you just tell the jury in general
25 what you're duties are.

1 A We respond to crime scenes. We're the people
2 responsible for photographing, documenting the crime
3 scene, collecting the evidence and having evidence
4 analyzed that needs to be analyzed.

5 Q Okay, sir. And, in fact, did you respond to
6 Crosswell Baptist Church on September the 17th of 2011?

7 A I did.

8 Q And upon responding to there, what did you
9 observe?

10 A The scene, some units had already arrived on the
11 scene and they had roped off the parking lot area. There
12 was a body covered under a sheet laying in the middle of
13 the parking lot.

14 Q And did you take -- is part of your duties to
15 take pictures?

16 A Yes, sir, I photographed that scene.

17 Q Okay, sir. Showing you State's Exhibit No. two,
18 sir, do you recognize that?

19 A I do.

20 Q What is that?

21 A That's a photograph of the body that's in the
22 parking lot that is covered by -- I believe EMS covered
23 the body with a sheet.

24 Q Did you take that photograph?

25 A I did.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Is that the way you observed it upon your
2 arrival to the scene?

3 A That's the way it looked when I arrived, yes,
4 sir.

5 Q And Plaintiff's -- excuse me, State's Exhibit
6 No. 3, I think I'm in a civil trial, State's Exhibit No.
7 3?

8 A I took that photograph, also. That's a
9 photograph of a shoe, a tennis shoe, that was laying some
10 distance from the body.

11 Q Okay, sir. Now, is part of your duties,
12 Lieutenant, to make measurements?

13 A It is.

14 Q Did you make many measurements this night?

15 A I did.

16 Q Did you make any measurements in relation from
17 the body to that shoe?

18 A Yes, I did.

19 Q Can you relate those measurements to the jury?

20 A The shoe is 41 feet 10-inches from the body.

21 Q Okay, sir. And also at the scene, refer back to
22 State's Exhibit No. 2, you said it was 41 feet?

23 A Forty-one feet 10-inches.

24 Q Okay, sir. Is there also on there, if you can
25 take a laser pointer. Point this out, it's kind of hard

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 to see. Is there also a bottle located?

2 A Yes. That's a broken bottle right here.

3 Q Okay, sir. And that bottle is -- did you take
4 measurements of the bottle, distance wise?

5 A I did. I measured the location of the bottle.
6 It was -- the bottle was actually close to the body but I
7 measured it from the curbs and from the road to the
8 position of the bottle.

9 Q Okay.

10 A Or the pieces of the bottle. It was scattered
11 over the pretty good area.

12 Q It was a broken bottle?

13 A Yes, sir.

14 Q Is that correct? So, when your measurements,
15 when you're making the measurements of that, were you
16 measuring it from a particular part -- piece of the bottle
17 or how did that work?

18 A I think I measured just to about whether that
19 cone is that was that used to mark the area where the most
20 of the debris was from the bottle.

21 Q Okay. So, if you can point to the cone.

22 A The cone's right here. And the bottle is in
23 that area right there.

24 Q Okay, sir. Now, part of -- well, let me ask you
25 this. Was the crime scene secured when you got there?

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 A It was.

2 Q Were any civilians or lay or any people walking
3 through the scene?

4 A No.

5 Q And is part of your forensic duties as a
6 forensic officer to certainly detain all the evidence but
7 also to look for weapons?

8 A It is.

9 Q Okay. Did you look for weapons that evening?

10 A I did.

11 Q Did you find any weapons?

12 A No weapon was found at the scene.

13 Q Okay, sir. Did you also -- and part of your
14 duties to look for things such as bullets that are unfired
15 or shell casings that have been fired, is that part of
16 your duties?

17 A That's part of our duties, yes, sir.

18 Q Okay. Did you look for those at the scene?

19 A I did.

20 Q And did you find any?

21 A No, we found a bullet wound on the body but we
22 found no other bullets. I found no bullets in the parking
23 lot, no spent shell casings or anything like that in the
24 parking lot.

25 Q Okay, sir. And other than documenting this

1 scene with measurements and pictures, did you do anything
2 else at the scene?

3 A No, sir..

4 Q Okay. Now, did you go, at some point in time,
5 to the to Defendant's home?

6 A I did.

7 Q Excuse me, not the Defendant's home, the
8 Victim's home?

9 A The Victim's home, yes, sir, that same night.

10 Q Okay. What was the purpose of going there?

11 A Detectives had gone there and there was a
12 vehicle there that they wanted me to process there for
13 fingerprints.

14 Q Okay, sir. And did you process that vehicle for
15 fingerprints?

16 A I did.

17 Q Do you remember what kind of vehicle it was?

18 A A Mitsubishi Lancer.

19 Q Show you State's Exhibit 5, do you recognize
20 that, sir?

21 A I do, that's the vehicle.

22 Q And when you process that vehicle for
23 fingerprints, what do you do?

24 A Fingerprint processing is a process where when
25 was leave a fingerprint it's the moisture from your skin

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 that you transfer onto an object. We use a powder during
2 substance that we dust on with a brush and it adheres to
3 that moisture that you leave behind. It works better on
4 some surfaces than it does on others. And I processed
5 that car for fingerprints.

6 Q Okay, sir. And were you able to obtain any type
7 of latent prints from this vehicle?

8 A I did obtain at least, I know, one latent
9 fingerprint lift from that vehicle.

10 Q Okay. When you obtained that, how do you -- how
11 do you secure it?

12 A Well, once the powder adheres to the latent
13 print, you can see it at that point. Then we can take
14 tape and lift it off and place on it onto a index card.

15 Q Okay. Did you do that?

16 A I did.

17 Q Okay. What did you do with the index card?

18 A I kept it with me and kept it in evidence until
19 I had it analyzed or had it compared.

20 Q Okay. Did you -- are you able to analyze
21 fingerprints.

22 A I can analyze fingerprints, yes.

23 Q In this particular case did you analyze these --

24 A I did not analyze these fingerprints in this
25 case, no.

1 Q Why did you not analyze these fingerprints in
2 this case?

3 A I didn't have access to any card -- any known
4 fingerprints from the individuals that it needed to be
5 compared to.

6 Q Okay. So, what did you do with the
7 fingerprints.

8 A I took them to Greenville forensic division and
9 they compared them for me.

10 Q Okay. And does Greenville also have a
11 capability of run fingerprints through the computer?

12 A They do have that capability, yes, sir.

13 Q And who did you give it to in Greenville?

14 A Christopher Gary with Greenville County
15 Forensics.

16 Q As far as you know Mr. Gary analyzed those
17 prints?

18 A He did.

19 Q Okay, sir. Now, is part of your duties also to
20 obtain an autopsy in a death case such as this?

21 A I attended the autopsy of Mr. Dinneon in this
22 case, yes, sir.

23 Q Okay. And did you obtain any evidence from the
24 autopsy?

25 A I did.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 on those bags? Did you put any particularized type of
2 markings--

3 A Our case number and it's got the description.
4 It says, Projectile removed from Sean Dinneon and the date
5 and time it was removed.

6 Q What's the case number?

7 A Our Pickens County Sheriff's Office case number
8 is 11-22349.

9 Q Okay, sir. At some point -- at some point did
10 you receive a call about an abandoned Grand Prix?

11 A Detective Dow notified me of the Grand Prix on
12 Monday the 19th.

13 Q And when was the first time you saw that Grand
14 Prix?

15 A When they towed it to the Pickens County
16 Sheriff's Office impound yard.

17 Q Okay. And this impound yard, is it a secured
18 facility?

19 A It is.

20 Q Located at the law enforcement center?

21 A It's a fenced in lot, fenced in area at the law
22 enforcement center.

23 Q Bobwire across the top of the fence?

24 A That's correct.

25 Q Let me hand you what's marked as State's Exhibit

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 14, can you identify that?

2 A That's a picture of the Grand Prix that was
3 towed in on that day.

4 Q Does that accurately depict the Grand Prix?

5 A It does.

6 Q On that day.

7 A It does.

8 Q Did you take that picture?

9 A I did.

10 MR. RICHARDSON: Your Honor, the State moves
11 State's Exhibit 14 into evidence.

12 THE COURT: Okay, sir.

13 MR. DEJONG: No objection, Your Honor.

14 THE COURT: All right, without objection the
15 same is admitted into evidence.

16 MR. DEJONG: Thirteen or 14?

17 MR. RICHARDSON: It's 14.

18 MR. DEJONG: Thank you, sir.

19 MR. RICHARDSON: Yes, sir.

20 (WHEREUPON, State's Exhibit No. 14 was marked
21 for identification and received into evidence.)

22 Q So, once it's impounded and it's into your lot,
23 your impound lot, what do you do?

24 A My job with that car was to process that car for
25 evidence. And I began by photographing it.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Okay. So, that was the first step was to
2 photograph it?

3 A First step was to take photographs of that car.

4 Q And after you photograph it -- you've been asked
5 to to process this car, is that right?

6 A That is correct.

7 Q Okay. After you photograph it, do you start
8 processing the car?

9 A I do.

10 Q And in general, what do you do to process a
11 vehicle?

12 A Processing involves looking for evidence in the
13 vehicle. And it includes any swabs, looking for any type
14 of evidence, visually that you may see and fingerprints.
15 And processing for fingerprints at some point during that
16 time.

17 Q Okay, sir. Did you, in fact, process this Grand
18 Prix for fingerprints?

19 A I did.

20 Q Sir, let me show you what's marked State's
21 Exhibit 15 and State's Exhibit 16. Can you identify those
22 photographs, please, sir?

23 A This is photographs of the car as I began the
24 process of putting the dust on the car. And these
25 pictures just show what I was starting to see as I was

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 applying the powder. I'm starting to see fingerprints
2 develop on the car.

3 Q Did you -- do those photographs accurately
4 depict what you were seeing?

5 A They do.

6 Q They accurately depict -- you took these
7 photographs?

8 A I did.

9 Q Do they accurately depict the photographs as you
10 took them?

11 A Yes, they do?

12 Q These photograph were taken the day the car was
13 impounded.

14 A Yes, sir, right after they brought it in.

15 MR. RICHARDSON: Your Honor, State moves State's
16 Exhibit 15 and 16 into evidence.

17 THE COURT: Any objection, sir?

18 MR. DEJONG: Without objection, Your Honor.

19 THE COURT: All right, without objection the
20 same is admitted into evidence as State's 15 and 16.

21 (WHEREUPON, State's Exhibits Nos. 15 & 16 were
22 marked for identification and received into
23 evidence.)

24 BY MR. RICHARDSON:

25 Q And Lieutenant, I believe you were testifying to

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 this, referring to State's 16 that's now in evidence, I
2 believe there's a laster pointer there, can you show the
3 jury where you're dusting?

4 A Well, I'm dusting the entire car but the powder
5 is going to adhere to anything that maybe a fingerprint.
6 And not every fingerprint's a good fingerprint. Sometimes
7 it's a smear or smudge, doesn't mean we can match it. But
8 I took this photograph just to show that I am starting to
9 see evidence of fingerprints. You can see some here,
10 here. There were -- you can't see them as well on this
11 black surface here but they were actually starting to
12 appear all the way around the car as I was processing.

13 Q Okay, sir. And likewise, I'm referring to
14 State's Exhibit 15, what are you showing?

15 A The same thing. Those are, I think that's on
16 that back spoiler area where I was starting to see some
17 prints in that area, also.

18 Q Okay, sir. Now, at this point in time, are you
19 able to develop prints that you could lift?

20 A Yes. I developed at least probably 30 to 31
21 latent lifts. Or took 31 latent lifts off of that car.

22 Q Okay. And those latent lifts, what did you do
23 with those?

24 A The same thing I did with the one from the other
25 car. I delivered all the latent lifts to Greenville to be

1 compared.

2 Q And is it the name process where you pull a
3 latent off and you put it on some type of. . .

4 A Pull it off and -- I put them on a plain, white
5 index card.

6 Q Okay, sir. And who did you give that to in
7 Greenville?

8 A The same person, Christopher Gary at Greenville
9 County Forensics.

10 Q And did you give them to him for the purpose of
11 having those analyzed and matched?

12 A Yes, sir.

13 Q Okay. And prior to your -- well, let me ask
14 you. This. Did you actually physically take those over
15 to Greenville --

16 A I did.

17 Q -- and give them to Gary?

18 A I did. On the 20th, this next day.

19 Q The next day. And prior to that where do you
20 keep them?

21 A In -- locked in the sheriff's office in this
22 evidence area.

23 Q Is that secured?

24 A It is.

25 Q In addition to lifting fingerprints, dusting and

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 that type of thing, do you also look for evidence within
2 the vehicle?

3 A I do.

4 Q Okay, sir. And do you also take pictures of
5 inside the vehicle?

6 A Yes, I do.

7 Q Okay. Let me show you what's State's Exhibit 6,
8 7 and 11. Can you identify these?

9 A These are photos that I took of the interior of
10 the vehicle.

11 Q And that was the day impound?

12 A It is.

13 Q So, this accurately depicts the vehicle as you
14 photograph it?

15 A It does.

16 Q And also as you saw it?

17 A Yes, sir.

18 MR. RICHARDSON: Your Honor, at this time the
19 State offers State's Exhibit 6, 7 and 11 into evidence.

20 THE COURT: Any objection?

21 MR. DEJONG: Without objection, Your Honor.

22 THE COURT: All right, without objection, the
23 same is introduced into evidence.

24 (WHEREUPON, State's Exhibits Nos. 6, 7 & 11 were
25 marked for identification and received into

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 evidence.)

2 BY MR. RICHARDSON:

3 Q Sir, what's that a picture of?

4 A That's a picture of the Grand Prix with the
5 driver's door opened showing this interior driver's area.

6 Q And can you point out to the jury where the gear
7 shift is in the vehicle?

8 A Here.

9 Q Okay, sir. I'm referring to State's Exhibit 7.
10 What's that Lieutenant Robinson?

11 A That's a photo of the same vehicle from the
12 passenger side with the passenger side door opened.

13 Q Okay, sir. Can you with that pointer show the
14 jury where the key ignition switch is in this particular
15 vehicle?

16 A (The witness complies.)

17 Q Thank you, sir. And referring to State's
18 Exhibit 11, what is in that photo?

19 A That's with the back doors opened and it shows a
20 set of jumper cables on the backseat. And there's a piece
21 of paper right here.

22 Q What's that piece of paper?

23 A I looked at it and found that it's a receipt
24 from the Family Dollar store in Greenville.

25 Q Okay, sir. Did you take that receipt into

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 evidence?

2 A I did.

3 Q Let me show you what's marked State's Exhibit
4 28, do you recognize that?

5 A Yes, sir. This is the receipt that was in the
6 car.

7 MR. RICHARDSON: Your Honor, State would now
8 move State's Exhibit 28 into evidence.

9 THE COURT: Any objection, sir?

10 MR. DEJONG: Without objection, Your Honor.

11 THE COURT: Without objection the same is
12 admitted into evidence.

13 (WHEREUPON, State's Exhibit No. 28 was marked
14 for identification and received into evidence.)

15 BY MR. RICHARDSON:

16 Q Okay, sir, I'm going to hand you back State's
17 Exhibit 28, sir. Did you attempt to process that?

18 A I processed it for fingerprints, yes.

19 Q Were you able to lift any fingerprints?

20 A No, no fingerprints developed on it.

21 Q Okay, sir. Is there -- can you tell me is there
22 a date and time stamped on that receipt?

23 A 9/18/11 at 10:14 a.m.

24 Q Okay, thank you?

25 A I'm assuming that's a.m.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Detective, did you also receive in your
2 possession a license plate?

3 A I did.

4 Q And who gave that to you?

5 A Detective Dow.

6 Q Okay. When Detective Dow gave that to you, what
7 did you do with it?

8 A I secured it in evidence. It was folded up and
9 I unfolded it then processed it for fingerprints, also.

10 Q Okay. Let me ask you, I'm referring to State's
11 Exhibit No. 9, what is that?

12 A That's the license plate. And that's the way
13 he -- that the way -- it's my understanding, that's the
14 way it was found, it was bent like that.

15 Q I'm referring to State's Exhibit 27, do you
16 recognize that?

17 A I do.

18 Q What is that?

19 A That's the license plate you see in that
20 photograph.

21 Q And that license plate is no longer folded, who
22 unfolded it?

23 A I unfolded it.

24 Q Why?

25 A So I could process it for fingerprints.

TONY ROBINSON-CROSS BY MR. DEJONG

1 pictures closer up of it but I don't have that.

2 Q Okay. If I handed you this picture of a closer
3 can you --

4 A You can try that.

5 Q Would that help you any?

6 A It appears it's still laced from what I can
7 tell.

8 Q Well, perhaps laced is not a good choice of
9 words. Can you tell whether it was tied or not?

10 A I can't say for sure if it was tied.

11 Q And again, I don't want to beat the horse but?

12 A It doesn't look like it tide but.

13 Q Okay, very good. Thank you, sir. Now, as far
14 as the -- you said the shoe was 41 feet and 10-inches from
15 the body that was covered with the sheet?

16 A I think measured from the shoe to the victim's
17 head, yes.

18 Q All right. Now, the broken bottle, perhaps
19 State's Exhibit 13 might show that a little better. This
20 I believe you indicated was the shattered glass?

21 A Yes, it is.

22 Q And in looking at that shattered glass, did that
23 battle hit with a certain amount of force to shatter the
24 way it did?

25 A I would think so, yes.

1 Q In other words, my question is in looking at it
2 and your experience and expertise as a forensic person,
3 that was more than just having dropped it on the pavement?

4 A Yes. It was scattered enough that it was
5 thrown.

6 Q It was what?

7 A It was probably thrown from some distance.

8 Q Thrown. Okay. All right. Did you collect that
9 glass?

10 A I did.

11 Q Did you attempt to process it for fingerprints,
12 if any?

13 A I did.

14 Q Were any prints lifted?

15 A No.

16 Q Okay. Now, as far as between the shoe, the
17 broken glass and the body, you can't say what the sequence
18 of events is and how they got there?

19 A No, sir.

20 Q Okay. I'm not going to put the picture back up
21 unless you need it, but as far as, as I recall your
22 testimony, as far as the bottle, any distance from that
23 between the body covered by the sheet and the glass, you
24 didn't measure that?

25 A I don't think I took any specific measurements

1 Pickens County.

2 Q How long have you been there?

3 A Since the mid 90's.

4 Q Okay. And what capacity are you employed there?

5 A I work the warrants fugitive section.

6 Q How long have you been in that section?

7 A A little over 12 years.

8 Q Okay. Did you first become involved in a case
9 with Mr. Yeargin on September the 20th of 2011?

10 A That is correct.

11 Q Okay. And was that at a Wal-Mart in Travelers
12 Rest?

13 A Yes, ma'am.

14 Q Okay. Speak up just a little bit for me.

15 A Yes, ma'am.

16 Q Can you tell the Court what transpired to set
17 that up?

18 A Earlier that morning we received a tip that the
19 person in question would be at this location. We took a
20 team up there and things didn't go as well as planned.

21 MR. DEJONG: Your Honor, I'm sorry, I can't
22 hear. May I move in the corner?

23 THE COURT: Sure, yes, sir, you may.

24 MR. DEJONG: I'm sorry, Ms. Hinton.

25 MS. HINTON: That's all right.

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 BY MS. HINTON:

2 Q Go ahead.

3 A Things didn't go as well as planned and the
4 vehicle in question took off. There was a small chase
5 that went down Road and then we were called off
6 the chase.

7 Q Let's back up a little bit.

8 A Yes, ma'am.

9 Q Who was with you? Not names but was it just
10 Pickens County that was involved in this?

11 A No, ma'am. I'm a special deputy with the US
12 Marshall Task Force and our office was called in to come
13 up and assist in this case.

14 Q Okay. And are you able to disclose the details
15 of how this operation was supposed to happen?

16 A In some form I can. We receive tips just like
17 anything else. And informants and things of that nature.
18 And we got some tip that this would be transpiring in that
19 area. So, we grabbed a group of guys went up there and
20 set up and things just didn't go as planned. And they
21 were able to escape that day.

22 Q What was your goal in meeting at the Wal-Mart in
23 Travelers Rest?

24 A To take down the subject in question.

25 Q Okay. Was -- did you have any information of

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 whether he was alone or whether he would be with other
2 people?

3 A We understood that he was going to be with other
4 people and there was a vehicle in play. It was a blue
5 Mustang that we're talking about and that's what we were
6 looking for at the time.

7 Q I believe you testified that there was a small
8 chase that happened, can you tell us a little bit about
9 that?

10 A The vehicle was able to get out to the end of
11 the parking lot, hit Road. Myself and a couple
12 other people were involved. The chase went through Sandy
13 Flats, I believe, it is down through there. And the
14 speeds were high so they went ahead and called that chase
15 off.

16 Q Okay. And called it off for what reason?

17 A For safety. The vehicle was passing on double
18 yellow lines and things of that nature.

19 Q Okay. So, were you able to catch up to the car
20 that day?

21 A No. No.

22 Q Did you become involve in this case again in
23 Asheville, North Carolina?

24 A Yes, ma'am. Received a call about eight o'clock
25 on the 21st. And was asked to come to Asheville and we

1 met in a parking lot up there. Where we received a tip,
2 also, that the persons in question were at a motel. We
3 staged at a bank parking lot up the road. And then when
4 we got the go ahead I came in and I made contact with the
5 clerk at the motel. Showed some photographs of some
6 people of interest. She confirmed two rooms for us. And
7 then we went up and took two times -- or three teams. One
8 team outside and two teams on the inside.

9 Q Okay. Let me stop you real quick. When you
10 showed the photographs to the clerk, how many photos did
11 you show her?

12 A I had three photographs.

13 Q Okay. What were the sex and the race of the
14 people you showed her?

15 A We were looking for two females and one male.

16 Q Do you know the race of the females?

17 A I believe it was a black female and a white
18 female.

19 Q What about the male?

20 A A black male.

21 Q Was the clerk able to provide you with
22 information of where they were staying?

23 A Yes. She provided two room numbers. Without
24 any question.

25 Q When you received those room numbers did you go

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 to those rooms?

2 A Yes, we did.

3 Q Did all of you go to one room?

4 A No. One team went outside and covered the back
5 of the building. Then one team went to one of the rooms
6 at the 300 hall then he went to the other room.

7 Q Okay. All right. Who was in the room that you
8 took down?

9 A The room that I took down, there was a lady that
10 answered the door. A young lady, I don't remember her
11 name. And then the gentleman in question.

12 Q Okay. Can you point to the gentleman in
13 question that was --

14 A Right over here.

15 Q And let the record reflect that he pointed to
16 the Defendant.

17 The woman that answered the door, was she
18 involved at all in this case to your knowledge?

19 A Not to my knowledge, no.

20 Q All right. Let's talk about entering that room
21 specifically. Do you recall how that process went?

22 A I made first entry myself and Joe Distori. And
23 on our way in we noticed the gentleman at the back of the
24 room. And from what I understand on the radio, we heard
25 that he was trying to make exit out the back window. I

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 guess he was confronted there with weapons and flashlights
2 so he came back -- it's my understanding that he came back
3 in and we met him.

4 MR. DEJONG: Your Honor, I'm going to object.
5 If he's guessing -- that's guessing, that's not evidence
6 and I move that that be stricken. If he knows he can
7 testify to that. But I heard, I guess.

8 THE COURT: Okay. I'll let you restate the
9 question and you can answer that question again. I didn't
10 hear the guessing so clearly but you may be right, let's
11 try it again.

12 MR. DEJONG: Thank you, Your Honor.

13 BY MS. HINTON:

14 Q When you entered the room of where the Defendant
15 was, what did you observe him doing?

16 A I observed -- we moved the female out the door
17 immediately and I went in and I observed him in the middle
18 of the room coming from the back of the room. The window,
19 it's lined right up with the door. I went towards him, he
20 was coming back towards us. There was radio traffic that
21 I heard as we were entering that he was coming out the
22 window, somebody was coming out the window. And like I
23 said, that would have been him, he was the only other
24 person in the room, so.

25 Q All right. He comes back to the center of the

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 room, what do you do?

2 A We take him down to the ground and handcuff him
3 with no incident.

4 Q Okay. Were you involved in any questioning of
5 any of the people that evening?

6 A I was notified by Deputy Dow when I went down to
7 the next room, there was two females in the room and a
8 small child. And I was asked by Deputy Dow to interview
9 Ms. -- I don't know if I'm going to pronounce her name
10 correctly, Utsey.

11 Q Okay, what's her first name?

12 A Nyia. And I pulled her out of earshot of Kayla
13 and mirandized her and ask her a few questions about the
14 case.

15 Q Okay. Aside from that did that end your
16 involvement in this case?

17 A Yes, it did.

18 MS. HINTON: That's all I have at this time,
19 please answer any questions Mr. DeJong might have.

20 MR. DEJONG: Thank you, Your Honor, may it
21 please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q Deputy Ticknor?

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 MR. DEJONG: No objection.

2 MR. RICHARDSON: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. RICHARDSON: The State calls Kayla Williams.

5 THE CLERK: Place your left hand on the Bible,
6 raise your right.

7 KAYLA WILLIAMS, after being duly
8 sworn, testified as follows:

9 THE CLERK: Have a seat, state your name for the
10 record, please.

11 THE WITNESS: My name is Kayla Williams.

12 DIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Okay, Ms. Williams, our system is out, the sound
15 system, so you're going to have to speak really loud,
16 okay?

17 A Okay.

18 Q That mic's not picking you up.

19 A All right.

20 Q Now, Ms. Williams, how old are you?

21 A I'm 22.

22 Q Okay. And are you presently working?

23 A Yes.

24 Q Where are you working?

25 A Columbia Farms.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q All right. And are you married?

2 A No.

3 Q Do you have any children?

4 A No.

5 Q Okay. Ms. Williams, you have been indicted and
6 charged by me for murder, is that correct?

7 A Yes.

8 Q You've also been indicted and charged by me for
9 grand larceny, is that correct?

10 A Yes.

11 Q And that relates to this incident that we're
12 here today about, is that correct?

13 A Yes.

14 Q Okay. And you're here under my subpoena?

15 A Yes.

16 Q Okay. Are you represented by an attorney?

17 A Yes.

18 Q Who are you represented by?

19 A Elizabeth Wiygul.

20 Q Elizabeth Wiygul, is she in this courtroom?

21 A Yes, right there.

22 Q This nice looking young lady here?

23 A Yes.

24 Q Okay. How do you know the Defendant?

25 A He was my ex girlfriend's brother.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. So well, what his ex -- what's your ex
2 girlfriend's name?

3 A Nyia Utsey.

4 Q Okay. Nyia Utsey's also been charged with the
5 murder, is that correct?

6 A Yes.

7 Q She's also been charged with the grand larceny,
8 is that correct?

9 A Yes.

10 Q Okay. How long -- how long have you known the
11 Defendant?

12 A Probably two months, not even that.

13 Q All right. When you say two months you mean two
14 months prior to the incident that we're here about?

15 A Yes.

16 Q And you said Ms. Utsey, Nyia, y'all were -- she
17 was your girlfriend?

18 A Yes.

19 Q Okay. So, y'all had a inmate relationship?

20 A Yes.

21 Q How long had you known her?

22 A For about six months.

23 Q Okay. At the time of this incident, were you
24 living with Nyia Utsey?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Am I saying that right? Is it Utsey or Utsey?

2 A Utsey.

3 Q Okay. And where did y'all live?

4 A We lived at in Greenville.

5 Q I'm sorry, can you say that again?

6 A in Greenville.

7 Q is a hotel/motel?

8 A Yes.

9 Q How long had y'all lived there?

10 A A month.

11 Q Okay. A month, when you say a month prior to
12 the incident?

13 A Yes.

14 Q Now, at that time, were y'all working?

15 A Yeah -- oh no, no. Not at that time, no.

16 Q Okay. And so we're clear, you're out on bond
17 right now, is that correct?

18 A Yes.

19 Q Your grandfather posted your bond and got you
20 out of jail?

21 A Yes.

22 Q Do you have any special conditions of bond?

23 A Just I got to work, church, hospital, report to
24 my lawyers and that's it.

25 Q And do you have to wear anything?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q What do you wear?

3 A A ankle monitor, GPS, ankle monitor.

4 Q So in effect, you're house arrest, too?

5 A Right, yes.

6 Q Okay. Now, at the time of the incident you
7 stated you and Nyia Utsey were not working?

8 A Yes, right.

9 Q Okay. Let me take your memory back -- I'm going
10 to take your memory back to Friday before the incident
11 took place, okay? September 16th.

12 A Okay.

13 Q Do you remember that time?

14 A Yes.

15 Q Okay. Did you have an occasion to have any
16 contact with the Defendant on that day?

17 A Yes.

18 Q Okay. How did that come to be?

19 A He had called me and told me that he wanted to
20 go get some cars that supposedly was his he said. He had
21 made up some titles that I had later found out was fake.
22 But at that time he was making me believe that they were
23 real for two cars. The Grand Prix and some other car.

24 Q Okay. Did he say where he was going to get
25 these cars?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He said in Pickens, Easley area.

2 Q All right. Now, did you talk to him about money
3 or anything of that nature?

4 A Yes.

5 Q What did you talk to him about?

6 A I told him I needed gas money because I don't
7 have my job and we needed money.

8 Q Okay. Did he agree to give you money?

9 A Yes.

10 Q Did he tell you how much money he would give
11 you?

12 A Yes.

13 Q How much is that?

14 A About 10, \$20.

15 Q Now, did he call you on a cell phone?

16 A Yes.

17 Q Whose cell phone?

18 A Nyia's.

19 Q All right. But you the conversation with him?

20 A Yes.

21 Q Was Nyia there?

22 A Yes.

23 Q What did y'all do then?

24 A After I hung up with him?

25 Q Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He told me that he wanted to meet up with me
2 later on that night to go to his house to see about the
3 cars.

4 Q Okay. So, when you say he, are you talking
5 about the Defendant wanted to meet up with you?

6 A Yes.

7 Q Did y'all meet up?

8 A Yes.

9 Q Okay. Who met?

10 A Me and Nyia met him at his sister Taz's house.

11 Q Okay. Now, let me ask you this, I forgot to ask
12 you. In the hotel room where y'all lived, did anybody
13 else live in that room?

14 A No.

15 Q Did Nyia have a baby?

16 A Oh, yes. Her little baby, yes.

17 Q That baby also lived in that room?

18 A Yes.

19 Q Okay. Where did you go when you left that room
20 that Friday night?

21 A We went to Taz's. Well, we went to his momma's
22 house to drop her son off, then we went to Taz's.

23 Q You went to the Defendant's mother house?

24 A Right.

25 Q And did you go inside?

1 A No. She went in -- Nyia went in, dropped the
2 baby off, got back in the car, we left and went to Nyia's
3 sister's house.

4 Q Okay. And what's her name?

5 A Taznick Utsey.

6 Q All right. And was that where you picked the
7 Defendant up?

8 A Yes.

9 Q Okay. Now, when you picked the Defendant up,
10 did you -- did you go inside?

11 A No.

12 Q Okay. Did you notice him -- how did he know you
13 were outside? How did he know you -- to come out?

14 A I guess he seen me pull up or he was already
15 standing outside. One of the two, I can't remember.

16 Q Okay. And did he get in the car with you?

17 A Yes.

18 Q Where did he go?

19 A He got in the backseat of my car.

20 Q Okay. Did he have anything in his hands at that
21 time.

22 A No.

23 Q What kind of car were you driving?

24 A A Mustang.

25 Q What color?

1 A Blue.

2 Q Whose Mustang was that?

3 A It's my grandfather's but he gave it to me as a
4 gift.

5 Q Is this a picture of that car?

6 A Yes.

7 Q Excuse me, I'm referring to State's 17. Is that
8 the car you drove from Taz's house?

9 A Yes.

10 Q All right. Who was in the car?

11 A Me, Nyia and Yeargin.

12 Q Okay. Who was driving?

13 A Me.

14 Q And where were you? Excuse me, where was Nyia?

15 A Passenger side.

16 Q Okay. And where was the Defendant?

17 A In the backseat.

18 Q All right. Is this nighttime?

19 A Yes. Well, it's getting late, dark, yeah.

20 Q Okay. What, if anything, does the Defendant
21 tell you to do?

22 A What does he tell me to do?

23 Q Yes.

24 A He tells me which way to go to get to Dinneon's
25 house.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Sean Dinneon's house?

2 A Yes.

3 Q Now, do y'all discuss what you're going to do
4 when you get over to Sean Dinneon's house?

5 A He just tells me that we're going to go get the
6 cars. But he had planned that he wanted to rob him. So.

7 Q When you say he wanted to rob him, who are you
8 referring to?

9 A Yeargin wanted to rob Dinneon.

10 Q Okay. And is he talking about this in the car
11 with you?

12 A Yes.

13 Q In the Mustang?

14 A Yes. Yes.

15 Q Is that on the way over to Sean Dinneon's house?

16 A Yes.

17 Q Is Nyia listening to this conversation?

18 A Yes.

19 Q All right. Does he tell you how he wants to do
20 it?

21 A He wanted to tie him up with zip ties. Knock
22 him out and tie him up.

23 Q Okay. Now, approximately how long, I know it's
24 been a while, but how long does it take you to get from
25 Taz's house to Dinneon's house? Sean Dinneon's house?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Maybe an hour or less.

2 Q Okay. And do y'all stop anywhere prior to going
3 to Sean Dinneon's house?

4 A No.

5 Q Once you get to Sean Dinneon's house, what do
6 you do?

7 A It's dark so he -- I think Nyia gets out and
8 goes and knocks on the door. Nobody's there. No lights
9 are on. So, he tells us to get back in the car and we're
10 going to try the next night.

11 Q Now, when you say he, who are you talking about?

12 A Yeargin.

13 Q The Defendant?

14 A Yes.

15 Q After you left, nobody was home, did you testify
16 to that?

17 A Right, yes.

18 Q After you left Sean Dinneon's house Friday,
19 where did you go?

20 A Back to Taznick's house and dropped Tav off.

21 Q Tav is the Defendant?

22 A Yes.

23 Q Then what?

24 A Then we went and picked up Nyia's baby at her
25 mom's and we went back to the hotel.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. Back to the InTown Suites?

2 A Yes, sir.

3 Q All right. Now, I may have asked you this but
4 where is that located?

5 A Greenville.

6 Q Do you know what road it's on in Greenville?

7 A Do what?

8 Q Do you know what road it's on in Greenville?

9 A

10 Q Okay. Okay. Do y'all do anything else with the
11 Defendant that night, Friday night?

12 A No.

13 Q Do you talk the him anymore Friday night?

14 A No.

15 Q Okay. Do y'all, in fact, go to sleep at the
16 InTown Suites?

17 A Yes.

18 Q Do you have contact with the Defendant again on
19 Saturday morning?

20 A Yes.

21 Q Okay. And is this September the 17th?

22 A Yes.

23 Q 2011?

24 A Yes.

25 Q Okay. How do you have the contact?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He calls Nyia's phone again.

2 Q When you say he, are you talking about the
3 Defendant?

4 A Yes.

5 Q And who answered Nyia's phone?

6 A Me.

7 Q Does Nyia have a cell phone?

8 A Yes.

9 Q And what do y'all discuss?

10 A That he wants to go get the cars again, try
11 again.

12 Q Okay. And do you agree to that?

13 A Yes.

14 Q Okay. Do you talk about money anymore?

15 A Yes.

16 Q Okay. What do you talk about?

17 A I tell him I need gas money.

18 Q All right. Does he agree to give you gas money?

19 A Yes.

20 Q All right. At some point in time do you make
21 physical contact with the Defendant?

22 A Yes.

23 Q Okay, when is this?

24 A Later on in the evening.

25 Q Okay. Do you recall when he called you? Was it

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 morning, evening?

2 A It was around lunchtime.

3 Q Okay. What do y'all do?

4 A When I hang up or?

5 Q Yeah, sure. When you hang up, what do y'all do?

6 A We wait until it gets dark -- well, almost dark.

7 And we go over to Taz's house and -- well, we dropped her
8 baby off again at her mom's house at first.

9 Q So, you go to Nyia's mom's house?

10 A Yes. Then we dropped her baby off, then we go
11 back to Taznick's to pick up Tav.

12 Q By Tav you mean the Defendant?

13 A Yes.

14 Q Tav is a nickname for him?

15 A Yes.

16 Q Okay. When you get to Taznick's house, is that
17 right?

18 A Yes.

19 Q Okay. Was the Defendant there?

20 A Yes.

21 Q Okay. Where were you?

22 A I was in my car.

23 Q All right. Did -- did the Defendant come out?

24 A Yes.

25 Q Okay. What, if anything, did he have in his

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 hands?

2 A He didn't have nothing in his hands.

3 Q Okay. At that point in time do y'all go some
4 where else?

5 A Yes.

6 Q Where do you go?

7 A We go back to his mom's house.

8 Q Okay. And do you recall where his mother lived?

9 A All I know it's near Piedmont Manor in
10 Greenville.

11 Q Okay. What does he do at his mother's house?

12 A That's when he gets the gun from his brother.

13 Q Okay. Did you -- when you say gun, did you see
14 the gun?

15 A Yes.

16 Q Okay. When did you see the gun?

17 A When he pulled it out. When Mike Utsey pulled
18 it out of the closet.

19 Q Now, who is Mike Utsey?

20 A Nyia Utsey's brother.

21 Q Okay. So, he's also the Defendant's brother?

22 A Right.

23 Q Okay. Was this a short gun, a long gun; can you
24 describe the gun to the jury?

25 A It was a long barrel gun.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. At that point in time what does he do?

2 A He gets it and puts it in the trunk of my car.

3 Q Okay. Does he attempt to cover the gun in any
4 way?

5 A He covers it with, I think, a black T-shirt.

6 Q Okay. All right. Now, do you know is the gun
7 loaded?

8 A He told me that the gun wasn't loaded, that
9 nobody was going to get hurt. That it was going to be
10 used for like a prop, you know.

11 Q That's what the Defendant told you?

12 A Yes.

13 Q Okay. Now, after he puts it in the trunk --
14 well, let me ask you this, when he first went back into
15 the room with Mike, did you see them then at that point in
16 time?

17 A Did I see what?

18 Q Did you see when they first went back into the
19 room, Mike and him went back into the room, did you see
20 them together when they first went back there?

21 A No.

22 Q Okay. All right. So, when you leave there you
23 stated he put the gun in the trunk?

24 A Yes.

25 Q Where does he get into the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A What do you mean where?

2 Q Where was he sitting in the car?

3 A Oh, when he gets in the car?

4 Q Yes.

5 A In the backseat.

6 Q Okay. And where were you sitting?

7 A In the driver's seat.

8 Q Okay. Where does Nyia sit?

9 A In the front beside me.

10 Q Okay. And on this particular car, is there a
11 way to get from the backseat into the trunk?

12 A Yes.

13 Q Without getting out of the car?

14 A Yes.

15 Q How do you do that?

16 A There's little buttons in the backseats, that's
17 on the back of the seats, that you mash down and you let
18 down the seat.

19 Q Okay. And does that give you full access to the
20 entire trunk?

21 A Yes.

22 Q So, at that point in time when you leave there,
23 where do you go?

24 A We leave there and we start to head over towards
25 Dinneon's. And then he tells me to turn around and go to

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Taylors to go pick up his brother, Charles.

2 Q When you say he, talking about the Defendant,
3 right?

4 A Right.

5 Q Did you know Charles?

6 A I knew him a little bit but not a lot.

7 Q Okay. Where did Charles live?

8 A I'm not sure where he lived. I'm not sure where
9 we went to pick him up. But all I knew it was Taylors.

10 Q All right. So, did you go to Charles' home?

11 A Yes.

12 Q Okay. When you went to Charles' home, what
13 happened?

14 A While we are on our way there he calls him and
15 tells him to be waiting out. To get in the car, we're
16 going to leave. So, we get there, he's there, we--

17 Q And when you say he, I'm going to keep doing
18 that so the jury knows exactly who you're talking about.
19 When you say he, who are you talking about?

20 A Charles. Charles gets in the car, in the back
21 with Tav and we drive to Dinneon's.

22 Q All right. Now, prior to going to Charles'
23 house, did you witness the Defendant call him or anything
24 of that nature?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. And where did he call him from?

2 A Nyia's phone.

3 Q Was that -- was he in the Mustang at that time?

4 A Yes.

5 Q What did he tell Charles?

6 A That he's got something he wants him to help him
7 with and to be waiting on him when he gets there.

8 Q Okay. How long did the -- excuse me, how long
9 did the conversation between the Defendant and Charles
10 last, approximately?

11 A Around five minutes.

12 Q Okay. When you get to Charles' house, is
13 Charles there?

14 A Yes.

15 Q And does he get in the car?

16 A Yes.

17 Q All right. Where is Charles sitting?

18 A Behind Nyia.

19 Q All right. Now, at this point in time, where do
20 y'all go?

21 A To Dinneon's.

22 Q Okay. And do y'all talk about what you're going
23 to do when you get to Dinneon's?

24 A Yes.

25 Q Tell the jury what y'all talked about.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Tav talks about that he wants Charles to act
2 like he wants to buy the cars. And that, you know, like
3 one of me or Nyia's his girlfriends. That way there is
4 cover up for that. But he just acts like we're going to
5 buy the cars. And when we do -- when we say we're going
6 to buy the cars, we're going to test drive them. And then
7 that's when we were supposed to steal them.

8 Q Okay. Do y'all talk about how you were going to
9 steal them?

10 A Yeah.

11 Q How?

12 A Test drive them and steal them like that.

13 Q Okay. Does he discuss the gun?

14 A Yeah.

15 Q To Charles?

16 A Yes. Use it as a prop.

17 Q Okay. Now, when this is all taking place, is
18 Charles agreeable to it?

19 A Yes.

20 Q Okay. Why did he need Charles there?

21 A At first I didn't realize what he needed Charles
22 for but then I realized, you know, he needed him because
23 he couldn't -- Dinneon couldn't see Tav.

24 Q Why could Dinneon not see the Defendant?

25 A He never told me why but after all this happened

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 I did figure out why, though.

2 Q Okay. Why is that?

3 A Because they use to live with him and I didn't
4 know that.

5 Q Okay. So, did you ascertain that Dinneon and
6 the Defendant knew each other?

7 A Yes.

8 Q Okay. So, when you get to Sean's house, it is
9 dark outside?

10 A Yes.

11 Q Dark, dark?

12 A Yes.

13 Q Okay. Does your Mustang, does it have a light
14 in it?

15 A Yes.

16 Q Where's that light.

17 A It was up at the top but Tav told me to bust it
18 out.

19 Q I'm sorry, say that again.

20 A Tav told me to bust it out.

21 Q Bust out the light?

22 A Yes.

23 Q If that light is busted out, is there any light
24 in the car after that?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Was the light busted out prior to you getting to
2 the victim's house, Sean Dinneon's?

3 A Yes.

4 Q Prior to getting to the victim's house, is
5 there -- does the Defendant give you anything?

6 A He -- I don't know how he got it but he gave me
7 a BB gun.

8 Q What did he tell you he wanted you to do with
9 that BB gun?

10 A He told me to use it on that -- the lady that
11 Dinneon was with.

12 Q Use it how?

13 A Hit her with it. Point it at her, use it on
14 her.

15 Q Okay. Would you recognize that BB gun if I
16 showed it to you today?

17 A Yes.

18 Q I'm referring to State's Exhibit 29.

19 A Yes, that's it.

20 Q No question about it?

21 A No question.

22 Q When he gave you the BB gun, what did you do
23 with it?

24 A Stuck it in my coat pocket, in the front.

25 Q Okay. Were you wearing a heavy coat?

1 A A hoodie.

2 Q A hoodie. Is it a sweatshirt?

3 A Yes.

4 Q Okay. And would it hide the gun all the way?

5 A Yes.

6 Q When you get to the -- when you get to
7 Mr. Dinneon's house, who gets out of the vehicle?

8 A Me, Nyia and Charles.

9 Q Where is the Defendant?

10 A He's still in the car.

11 Q Where do you park the vehicle in relation to the
12 house?

13 A I pull upright beside the house and back up.

14 Q Okay. And from that point where do y'all go?

15 A Well, when we get there Dinneon isn't up there.
16 But I guess he sees that somebody's up at his house so he
17 walks up there with his girlfriend. And when he gets up
18 there we ask him about that car, we're the ones that
19 wanted to buy it. And while me and Nyia are up there
20 talking to him, Charles moves on down the hill towards the
21 road. And -- and I guess they get suspicious, wanted to
22 know why he's all the way down at the road, why he ain't
23 up there talking with us. So, I go down there and ask
24 him, What's wrong? And he tells me he don't want to do
25 this. Because he knew, you know, we was about to rob him

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 and everything and he didn't want to do it.

2 Q Talking about he now, we're talking about
3 Charles, right?

4 A Charles, yes. Charles didn't want to go through
5 with it.

6 Q Okay. And did you go back up the hill?

7 A Yes.

8 Q Okay. And then what are -- who are you talking
9 to up the hill?

10 A Going up the hill?

11 Q No, once you're up the hill, who do you talk to?

12 A I tell Nyia that I've got to use the restroom.
13 So, we tell them, Dinneon and his girlfriend, that we got
14 to use the restroom. So, we were going to go back the Hot
15 Spot to use the restroom.

16 Q Okay. How long do you think you were at the
17 house at this point in time?

18 A Maybe 10, 15 minutes.

19 Q Had y'all gone and looked at the cars? Had
20 y'all looked at the cars yet?

21 A We looked on the outside of the cars but we
22 never got them cranked up.

23 Q Okay. Did you attempt to get them cranked up at
24 that time?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. So, at this point you, I think your
2 testimony is, that you go back to the Hot Spot?

3 A Yes.

4 Q Which Hot Spot is that?

5 A Off of 123.

6 Q All right. And is that fairly close to the
7 Victim's house?

8 A Yes.

9 Q Okay. And what do y'all do at the Hot Spot?
10 Well, let me ask you this. On the way over to the Hot
11 Spot, do y'all have any discussion with the Defendant
12 about what's going on?

13 A He tells us, you know, he's mad at Charles and
14 cursing Charles for not doing what he said he was going to
15 do.

16 Q Okay. Which was what?

17 A Help rob the man.

18 Q Okay. So, when you get to the Hot Spot, what do
19 y'all do?

20 A Me and Nyia get out of the car and go use the
21 restroom. And Charles gets out of the and goes in the
22 store. And when we get done using the restroom, me and
23 Nyia, we go back to the car and leave him there.

24 Q Okay. When you're at the Hot Spot does the
25 Defendant get out the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A No.

2 Q When you're at Hot Spot is ever alone in the
3 car?

4 A Yes.

5 Q When you're at the Hot Spot, is he sitting in
6 the front seat or backseat?

7 A Back.

8 Q After you leave the Hot Spot, who's driving?

9 A Me.

10 Q And where is Nyia?

11 A In this passenger side.

12 Q Okay. Defendant's in the backseat?

13 A Right.

14 Q And I may have asked you this, did the Defendant
15 get out at the Hot Spot?

16 A No.

17 Q Where do you go from this point?

18 A Back to Dinneon's house.

19 Q Okay. And what are you talking about doing on
20 the way back to Dinneon's house?

21 A He tells us just to keep to the plan, that
22 Charles -- make like Charles is the one in the car now, in
23 my car when we pull up because he don't get out. Nobody
24 gets out but me and Nyia. So, in case he asks where's the
25 other guy that was with me, which was Charles, I can say

1 that he's in the car.

2 Q Okay.

3 A And so when we get there, me and Nyia get out,
4 we go over to the man.

5 Q The man being Sean Dinneon?

6 A Sean, yes. And his girlfriend isn't there with
7 him.

8 Q His girlfriend is or is not?

9 A Isn't.

10 Q Is not?

11 A Yes.

12 Q Okay.

13 A So, he -- he gets up to the blue car. And he
14 tries to crank it up and it won't crank. So, I think he
15 tries to jump up it off too and it wouldn't start up. So,
16 that's when we get in the Prex [verbatim] -- the Grand
17 Prix.

18 Q Okay. And so, it's you and Nyia dealing with
19 Sean Dinneon?

20 A Right.

21 Q Does the Defendant ever get out of the car?

22 A No.

23 Q And you said that they were trying to jump off
24 the vehicle?

25 A Yes.

1 Q Which vehicle were you trying to jump off? Do
2 you recognize, referring to State's Exhibits 5, do you
3 recognize this?

4 A Yes, that's the car that was trying to be jumped
5 off.

6 Q Okay. That was that car you were trying to jump
7 off?

8 A Right.

9 Q Okay. Were you able to get that car started?

10 A No.

11 Q Okay. In your talking with Mr. Dinneon, were
12 you offering prices and things of that nature? How much
13 you wanted to buy the car for?

14 A No because he had already told us that he wanted
15 7000 each for each of them.

16 Q Okay. So, he told you that earlier?

17 A Yes.

18 Q Before you went to the Hot Spot?

19 A Yes.

20 Q So, when you couldn't get that car jumped off,
21 what did you do?

22 A We got in the Grand Prix.

23 Q Okay. And who got in the Grand Prix?

24 A Me and Nyia and Dinneon.

25 Q Referring to State's Exhibit 14, do you

1 recognize that vehicle?

2 A Yes, that's the Grand Prix we got in.

3 Q And who -- you -- who got in that car?

4 A Me and Nyia and Dinneon.

5 Q Dinneon, the Victim?

6 A Yes.

7 Q Okay. And when you were jumping off the Lancer,
8 where they using jumper cables.

9 A Yes.

10 Q Okay. Do you recognize. . .

11 A Yes. Those are the jumper cables they used to
12 jump off the car.

13 MR. RICHARDSON: For the record, we're referring
14 to state's 11.

15 Q When you got in the Grand Prix, who drove?

16 A Me.

17 Q Okay. Where was Nyia?

18 A In the passenger seat.

19 Q Where was Sean?

20 A In the backseat behind her, behind Nyia.

21 Q Was Sean drinking?

22 A Yes.

23 Q Is it fair to say that he was drunk?

24 A Yes.

25 Q Did he have a drink in his hand?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q Do you remember what it was?

3 A Some kind of Malts liquor, 711 or something like
4 that.

5 Q Was it in a can or bottle?

6 A Glass bottle.

7 Q It was in a bottle. Had y'all -- had you talked
8 to the Defendant about what you were going to do once you
9 left in one of those cars, about where to go?

10 A No, we never discussed where we were going or
11 nothing like that.

12 Q Okay. Well, when you pulled out of the Victim's
13 driveway at some point in time?

14 A Yes.

15 Q Where did you go?

16 A We ended up at the church.

17 Q Okay. But prior to ending up at the church, did
18 you drive around for a little while?

19 A Yes.

20 Q Where was the Defendant?

21 A In my car.

22 Q Okay. And was he following you?

23 A Yes.

24 Q All right. Was he telling you where to go?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q How was he telling you where to go?

2 A Turning the turning signal.

3 Q Okay. He was driving your Mustang?

4 A Right.

5 Q The turn signal turn came on -- right turn
6 signal came on right, which way would you go?

7 A Right.

8 Q Now, how long do you think you drove around?

9 A Probably 10, 15 minutes.

10 Q Then what happened?

11 A Then I got tired of driving around and I pulled
12 over at the church.

13 Q What church is that?

14 A I'm not sure what it was called.

15 Q Okay. And when you pulled over at the church,
16 did you pull aside the road or where did you pull?

17 A In the parking lot.

18 Q All right. And why were you doing that?

19 A To see what Tav wanted to do about getting the
20 car.

21 Q Okay. So, did you have a conversation with the
22 Defendant at that time?

23 A No. I told Nyia to get out and go see what her
24 brother wanted. What Tav wanted to do next.

25 Q Okay. Did Nyia ever get out of the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q And did she go talk to the Defendant?

3 A Yes.

4 Q All right. And what happened after she talked
5 to the Defendant?

6 A She came back and she realized that she couldn't
7 say nothing in front of Dinneon or it would ruin the plan.
8 So, I told her I'd get out and go see what he wanted to
9 do. So, while I was getting out of the car and making my
10 way to my car where he was, where Tav was at--

11 Q Well, let me -- before we go there, where is the
12 Mustang and where is the Grand Prix in relation to each
13 other?

14 A The Grand Prix was parked in front of the
15 Mustang. So, we had parked in front of my Mustang. So he
16 was like right behind me.

17 Q Okay. So, when you get out do you leave your
18 door opened or closed?

19 A Opened.

20 Q Then what happens?

21 A I start my way to my car to talk to Tav. And
22 Dinneon, I guess, realizes what's going on, he gets out--

23 MR. DEJONG: Objection, Your Honor, as to what
24 she guess he--

25 THE COURT: Okay, sustained.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q Just tell me what Dinneon did, okay. Did he get
3 out of the car?

4 A Yes.

5 Q Then what does he do?

6 A He stumbles around the car and tries to go to
7 the driver's side. And I--

8 Q When you say he stumbles, does he -- is he. . .

9 A He's holding on to the car and like drunk,
10 trying to walk.

11 Q Okay.

12 A And I go past him and get in the car before he
13 does.

14 Q Okay, before that, does Tav, the Defendant, tell
15 you anything?

16 A He tells me to run, go get in the car before he
17 gets in it.

18 Q Okay. And do you get in the car?

19 A Yes.

20 Q What happens now?

21 A I get in and I try to start the car and he gets
22 in on top of me --

23 Q When you say he, you talking about Dinneon?

24 A Dinneon. Gets in on top of me and tries to jerk
25 the keys out of my hand and tries to put it in park. I'm

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 trying to fight back with him to get it back in drive.

2 Q Okay. And at this point in time is he -- are
3 y'all both grabbing at the keys?

4 A Yes.

5 Q And at this point in time is he hitting you?

6 A He's not hitting me, he's just trying to get me
7 out of the car, trying to pull me out.

8 Q Was he saying anything to you?

9 A No, he was just trying to get me out.

10 Q Okay. All right. Where's Nyia during all of
11 this?

12 A I think she gets out of the car, I'm not sure
13 where she is at this time.

14 Q When it started was she sitting in the passenger
15 seat?

16 A Yes.

17 Q Okay. At some point does Sean Dinneon, does he
18 ever get the keys from you?

19 A No.

20 Q Did the keys actually ever come out of the key
21 whole, to socket?

22 A No.

23 Q Okay. Was the car in park or drive?

24 A Park.

25 Q Okay. What happens then?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A It happened so fast. Tav pulled up beside the
2 car, the Grand Prix that we were in. And the window was
3 rolled down on the passenger side of the Grand Prix. And
4 my window won't roll down in my Mustang on the driver's
5 side. So, he opens his door, sticks the gun out and tells
6 him to get up off me or he's going to shoot him.

7 And Dinneon says, Shoot me, I don't care.

8 And he shoots him on top of me.

9 Q Okay. When you say on top of you, Dinneon,
10 where are his legs?

11 A Dangling out of the car.

12 Q So, half of his body in car and half his body is
13 out of the car?

14 A Yes.

15 Q Did you hear the shot?

16 A Yes.

17 Q Did you see the Defendant pull the trigger and
18 shoot him?

19 A Yes.

20 Q As soon as you heard the shot, what did Sean
21 Dinneon do?

22 A Went limp on me.

23 Q Did he say anything after that?

24 A No.

25 Q Yes or no?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A No.

2 Q After he went limp on you, did the Defendant say
3 anything to you?

4 A No.

5 Q What did you do?

6 A I panicked. I pushed him off of me and started
7 the car and drove off.

8 Q When you drove off, did you, coming out of the
9 church, did you take a right or did you take a left?

10 A A left.

11 Q Did you know where you were?

12 A No.

13 Q When you drive off, where is Nyia?

14 A Still there with her brother.

15 Q Okay. So you're alone in the car at that point?

16 A Yes.

17 Q What happens then?

18 A I drive down the road a little bit and I see
19 that they're not behind me, so I kind of slow down. Then
20 I see car lights. And I pull over to the side and it's
21 them. And she tells me to pull all the way over so he can
22 get in the car.

23 Q The Defendant tells you that?

24 A Yes.

25 Q Do you do that?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q What does he do?

3 A He gets in the Grand Prix and tells me to get in
4 my Mustang and follow him to his mother's house.

5 Q Did you do that?

6 A Yes.

7 Q And where is Nyia at this time?

8 A In the Mustang with me.

9 Q Okay. Do you go directly to the Defendant's
10 mother house?

11 A Yes.

12 Q What happens there?

13 A When he gets out he goes in his mom's house and
14 brags about shooting Dinneon. That he got her her car
15 back.

16 Q And what do you do -- does he tell you to do
17 anything with the tags?

18 A He tells me to put my tag onto the Grand Prix
19 but I put it on but then I take it back off and put it on
20 my car.

21 Q Did the Grand Prix have a tag?

22 A No.

23 Q At this point in time, did you see the gun
24 again?

25 A Honestly, I don't remember. After I seen it

1 when it was pointing at me, I don't remember seeing it no
2 more.

3 Q Okay. Now, how long do you stay, I'm talk about
4 you stay at his mother's house?

5 A Not more than 10 minutes.

6 Q Then where do you go?

7 A We get her baby and we go back to InTown Suites.

8 Q Get Nyia's baby?

9 A Yes.

10 Q All right. And which car are you driving?

11 A My car, the Mustang.

12 Q All right. Get back to InTown Suites, where do
13 y'all go? Do you go into your room?

14 A Yes.

15 Q Do you stay there the rest of the night?

16 A Yes.

17 Q Was there any further contact with the Defendant
18 that night?

19 A I don't think so, no.

20 Q All right. Okay. Do y'all go to sleep at that
21 time or what do you do?

22 A I was worried about Dinneon and I called the
23 hospital. I called two hospitals. I called St. Frances
24 and Greenville Memorial and asked if he was there. And
25 they said he wasn't. So, we went to sleep.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. The next morning, this would be Sunday
2 morning?

3 A Yes, the 18th.

4 Q Do you have any contact with the Defendant
5 Sunday morning?

6 A Yes.

7 Q How?

8 A Through Nyia's phone.

9 Q Okay. And how did that come to be?

10 A He called. And he told me that he wanted to
11 come stay with us, that we needed to be together, all
12 there of us.

13 Q Why did y'all all three need to be together?

14 A I guess he--

15 MR. DEJONG: Objection, to what she guesses,
16 Your Honor.

17 MR. RICHARDSON:

18 Q Yeah, if you don't know -- if he didn't tell you
19 why you all three needed to be together.

20 A So -- I'm not sure.

21 Q Okay. So, at that point in time do y'all get
22 back up with the Defendant?

23 A Yes.

24 Q Okay. When he called, was that morning or
25 nighttime?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A It was evening.

2 Q Okay. When did you meet back up with him?

3 A Like when or where?

4 Q Both.

5 A We met up it was dark. We met up at Krispy
6 Kreme Doughnuts on 291.

7 Q Okay. So, this would have been September the
8 18th?

9 A Right.

10 Q You said it was dark, can you remember a time?

11 A Probably around 9:00.

12 Q Okay. But it was nighttime?

13 A Yes.

14 Q All right. Did he have the Grand Prix?

15 A No.

16 Q How did he get to Crispy Cream?

17 A Mike Utsey drove him in one of Taz's ex
18 boyfriend's car.

19 Q Okay. And Mike Utsey, is that the individual
20 that give him the gun?

21 A Yes.

22 Q Okay. Did he get in the car with y'all?

23 A Yes.

24 Q Where did y'all go?

25 A Back to InTown Suites.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q All right. And what did you the at InTown
2 Suites?

3 A We went to sleep.

4 Q Okay. Did you wake up again Monday morning?

5 A Yes.

6 Q What did you do then?

7 A He told me that we needed to get the money back
8 from the refund from the hotel, get the 50 back and leave.

9 Q Okay. You had to put down a \$50 deposit?

10 A Right.

11 Q Did you get that money back?

12 A Yes.

13 Q Why did you need that money?

14 A To put in my gas tank.

15 Q Did you have gas in the car at that time?

16 A Not much, no.

17 Q And where did he want you to leave to?

18 A He never said.

19 Q Okay. Where did y'all go at this point in time?

20 A When we got the money back we got in the car and
21 we left and got gas at Hickory Point. And I told him of a
22 place that I thought, you know, might help us with some
23 money. And so, we went all the way to Gatlinburg,
24 Tennessee. It was like for a timeshare thing that you can
25 do to get like \$100. But you had to be married. So, we

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 didn't get that money.

2 Q Okay. Other than the -- did anybody have any
3 money?

4 A No.

5 Q Okay. After you didn't get that money, you said
6 that was Gatlinburg, Tennessee?

7 A Yes.

8 Q After you didn't get that money, what did y'all
9 do?

10 A We -- I went to fill out an application at the
11 Aquarium, Ripley's Believe It Or Not Aquarium. I'm not
12 sure if I turned it in or not but I know I did fill one
13 out. Then when I came back, the phone was ringing. And
14 when I answered it he -- Tav told me to put it on speaker
15 phone so he can hear who it was. And it was my mom
16 telling me that the police was at my grandparents, wanted
17 to know where we was -- where I was. And she asked me
18 where I was. I told her I was in Greenville, I lied to
19 her. And she told me to come home. And I told her I
20 would be coming home. And she said, Okay. And we hung up
21 and I never went home.

22 Q And that conversation happened in Gatlinburg?

23 A Yes.

24 Q At some point in time did you ever leave
25 Gatlinburg?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q Did you stay overnight up there before you left?

3 A I'm not sure.

4 Q Okay. Where did you go after Gatlinburg?

5 A We left and went to North Carolina.

6 Q Okay.

7 A I think we stopped at rest stops and slept.

8 Q Okay.

9 A But other than that.

10 Q Okay. At some point in time did you make your
11 way back to Spartanburg, South Carolina?

12 A Yes.

13 Q Why did you go to Spartanburg, South Carolina?

14 A Somehow we ended up there while I was driving
15 because I didn't know where I was going. And when we got
16 there he found -- Tav had found some checks of Dinneon's.
17 And he told me to write one out that I had worked for
18 Dinneon. And I forgot the amount of money he told me to
19 put on it. But I wrote it out and signed it and he told
20 me go in SunTrust in Spartanburg and cash it. And I don't
21 think -- it wasn't cashed but it was deposited into like a
22 checking account or something. And it was to be like
23 starter checks. I got starter checks to write bad checks.
24 And so.

25 Q I mean, this is a method for y'all to get money?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Right.

2 Q Okay. Why did y'all need to get money?

3 A Because we had no money to get gas, food.

4 Q Why didn't you go back to Greenville? Why
5 didn't you go back to Greenville to get money?

6 A Because we didn't have nowhere to get money.

7 Q Okay. Well, at some point in time did you, in
8 fact, go back to Greenville?

9 A Yes.

10 Q Okay. Or more specifically you go to Travelers
11 Rest?

12 A Travelers Rest, yes.

13 Q Why did you go to Travelers Rest?

14 A My cousin had called me and told me that she
15 wanted to help me out, that she wanted to give me a place
16 to stay. I told her, No. She told me she wanted to buy
17 me something to eat. I told her, No. Then she told me
18 she would give me money. And I told her how much? And
19 she told me about \$300. I told her, Okay. Where do you
20 want to meet? And she told me TR at the Wal-Mart. And I
21 told her that was -- because Tav had told me nowhere near
22 Greenville.

23 Q Why did he not want to go near Greenville?

24 A Because he had -- throughout all this, he was
25 getting his brother Mike to tell us what was going on with

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Dinneon. And that he had been shot and they were looking
2 for the car. And that they had leads about Tav and
3 everything.

4 Q Okay. So when you get to Travelers Rest, what
5 happens there?

6 A He tells me not to go into Wal-Mart parking lot.

7 Q Who's he?

8 A Tav, I'm sorry. Tav told me not to go in
9 Wal-Mart parking lot, to keep driving around and circle
10 around and go back past it. And I did what he said. And
11 then that's when he saw -- he called them The Jump Out
12 Boys. And when he seen them people he started hitting on
13 me and telling me to go. So, I started to go. And that's
14 when the big truck pulled out behind me. And when we came
15 out at the red light I took a right on and
16 went down through there and they were still behind me.
17 And he kept telling me to go and hitting me.

18 Q So, he was hitting you? The Defendant was
19 hitting you?

20 A Yes.

21 Q Where was he hitting you?

22 A On my shoulder.

23 Q Okay. And was he telling you anything else
24 about your driving, etcetera?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q What?

2 A If we got delayed behind a car he'd tell me to
3 pass it and I did.

4 Q Okay. You were driving that blue Mustang that's
5 been shown?

6 A Yes.

7 Q Eventually, did you get away from the police?

8 A Yes.

9 Q Where did y'all go at that point in time?

10 A Back to Spartanburg.

11 Q Okay. And in Spartanburg, did you still have
12 the Victim's checks, Sean Dinneon's checks?

13 A Yes.

14 Q Okay. And did you attempt to do anything with
15 those checks at a Ingles?

16 A Yes.

17 Q What?

18 A Wrote a check for, I'm not sure how much, but he
19 told me to write it out and it was for food and I signed
20 it. And we ended up getting \$40 I think it was. I'm sure
21 it was.

22 Q Okay. And did you -- at this point did y'all
23 head back out of town, out of Spartanburg?

24 A No.

25 Q Where did you go?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A That's when we. . .

2 Q Let me ask you this, okay? Let me ask you this.
3 At some point in time did y'all end up in Asheville, North
4 Carolina?

5 A Yes.

6 Q Why did you go to Asheville, North Carolina?

7 A Tav told me that there was this girl that he
8 wanted to see in Asheville. So, that's why we went.

9 Q Okay. Did you go to a hotel up there?

10 A Yes.

11 Q What hotel was that?

12 A Sleep Inn.

13 Q Okay. And did the Defendant get a room?

14 A Yes, two rooms.

15 Q Okay. And who was in which room?

16 A Me, Nyia -- Me, Nyia and her baby was in the
17 top, very top room. Tav and the girl was in the second
18 story I think it was.

19 Q The girl he was going to see?

20 A Yes.

21 Q Okay. And when you got there, how long do you
22 think you were there? How long do you think you were at
23 the hotel?

24 A About two hours.

25 Q Okay. Then what happens?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A I hear a knock on the door.

2 Q Okay. And what happens?

3 A And I go look out the peep hole on whoever is at
4 that end of the door had their fingers covering it. And I
5 knew it was the police so I opened the door. And they got
6 me and Nyia.

7 Q Okay. And at that point in time was the
8 Defendant in that room?

9 A No.

10 Q Beg the Court's indulgence.

11 I want to go back real quick to the
12 shooting incident, was there ever any blood on you from
13 the Victim?

14 A No. No.

15 Q Did you check that when you got back to the
16 hotel?

17 A Yes.

18 Q All right. And did the Victim ever threaten you
19 with a weapon of any type?

20 A Threaten me with a weapon?

21 Q Yeah, Sean Dinneon ever threaten you in any way
22 with a weapon?

23 A No.

24 Q Did he ever beat you up in any way?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Were you harmed after that incident?

2 A No.

3 Q Did you go to the hospital or doctor or anything
4 like that?

5 A No.

6 Q And was there, when Charles was there at the
7 scene back at the Victim's house, were y'all calling him
8 Charles or something else?

9 A We were calling him something else but I can't
10 remember what the name was.

11 Q Okay. But you used -- it wasn't his name?

12 A Right.

13 Q And that photo probably describes it but your
14 Mustang has tinted windows, is that correct?

15 A Right.

16 Q Okay. Let me ask you this, Kayla, the
17 individual that you described today who pulled out a gun
18 and shot Sean Dinneon, is he in this courtroom?

19 A Yes.

20 Q Can you, please, point him out?

21 A Right there.

22 Q What's he got on?

23 A A blue -- bluish dark, like gray shirt.

24 MR. RICHARDSON: Please let the record reflect
25 that she has identified the Defendant.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Yes.

2 Q All right. Not good?

3 A Right.

4 Q All right. You'd seen him in passing as a
5 result of your relationship with Ms. Utsey, right?

6 A Right.

7 Q Now, you tell this jury today that for gas
8 money, what you told the detectives on September 19th, you
9 never got the gas money, correct?

10 A Correct.

11 Q Today you say he gave you gas money, right?

12 A Right.

13 Q What is the truth, which is a lie?

14 A He gave me -- he did give me gas money the first
15 night but the second night he didn't.

16 Q Okay. And that first night is the part that you
17 forgot to tell the detectives in Asheville, right?

18 A You got to understand this happened so fast and
19 I was scared and disoriented and everything.

20 Q Yes, ma'am. Even though they relatedly asked
21 you to tell them everything, right?

22 A Right.

23 Q All right. Now -- now you say on September the
24 16th you're talking to -- my client was talking about and
25 showing you fake titles, right?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Right.

2 Q Well, why in the world, if he was telling you he
3 had titles to the vehicle, would you have to go test drive
4 the vehicle?

5 A Right. But he showed me that they were fake,
6 though.

7 Q Well, you knew good and well that wasn't the
8 issue, didn't you?

9 A What that?

10 Q That they belonged to him?

11 A Right.

12 Q And yet, according to you today, everything was
13 Mr. Yeargin's plan. You were very significantly involved
14 in the theft of that vehicle?

15 A Right.

16 Q Right. Now, so today you say you went over
17 there, nobody was home and you left?

18 A Right.

19 Q And you got gas money, 10 or 20 bucks?

20 A Ten.

21 Q Okay. Now, so then you say Mr. Yeargin called
22 you and or Ms. Utsey on the 17th?

23 A Right.

24 Q After -- well let me back up a little bit. Now,
25 what day was it that you say you went to pick Charles up?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A The 17th.

2 Q Pardon me?

3 A The 17th.

4 Q Okay. Now, you told Detective Dow and Detective
5 Baker that you didn't have much gas in your car on the
6 17th, right?

7 A Right.

8 Q And yet, according to your testimony today, you
9 drive, as I understood it, almost all the way to Pickens
10 and then you turn around and drive back to Taylors to pick
11 up Charles?

12 A Right. But it wasn't really almost in Pickens.
13 It was like not even half way there.

14 Q Okay. But you were a third piece from Taylors,
15 weren't you?

16 A Right.

17 Q Okay. Now, today you say that Mr. Yeargin gave
18 you what's been marked as State's Exhibit No. 29, which is
19 a BB gun, right?

20 A Yeah.

21 Q All right. Now, you didn't tell Detective Dow
22 or Detective Baker anything about that BB gun, do you?

23 A I'm not sure.

24 Q Do you want to see your statement?

25 A Sure.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q Pardon?

2 A Sure.

3 Q All right. I'll show you this. That's a photo
4 copy that's been provided to me by the State. Okay. If
5 you think that one is different from the one you wrote
6 I'll get the State to give you their's.

7 A I didn't say it in my interview in the
8 recording.

9 Q I'm sorry, ma'am, I can't answer questions
10 today. But if need be -- I'm sorry, I'll just leave that
11 up there. If needs be I'll ask, His Honor, for a
12 opportunity for you to review the CD if you want me to?

13 A I mean, I might not have mentioned it but he did
14 give me the gun. The BB gun.

15 Q But, you know, today you come in here and you
16 say well he gave you this BB gun, he told you to shoot
17 this lady, hit her over the head or whatever. That wasn't
18 significant to you on September, that doesn't mean
19 anything to you on September the 21st when you were
20 talking to Detective Dow and Baker? That just went right
21 out of your mind?

22 A Well, I was -- I was -- I mean, I was in a lot
23 of stress. I had just got caught. I mean, I was thinking
24 all kinds of things. I couldn't remember everything.

25 Q But you remember a lot better 26 months after

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Right.

2 Q Right. Now, today you come in and you share
3 with this jury this grand scheme and grand plan that
4 supposedly y'all came up with on September the 17th of
5 2011, right?

6 A Right.

7 Q There was nothing in your statement to Detective
8 Dow and Detective Baker about breaking out a dome light,
9 was there?

10 A No.

11 Q Now, let's talk a little bit about the gun.
12 Now, when you talked to Detective Baker and Detective Dow
13 on September the 21st of 2011, you said you didn't know
14 where the gun came from, right?

15 A Right.

16 Q And you thought maybe it had been put in the
17 trunk of your car, right?

18 A Right.

19 Q But you weren't sure?

20 A Right.

21 Q That was your car, right?

22 A Right.

23 Q And you were driving the car, right?

24 A Right.

25 Q So, either you had to have a key to get in the

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 trunk or you had the little lever on the driver's side,
2 right.

3 A Right. And also you can get through it through
4 the back of the seat.

5 Q Yes, ma'am, I understand that.

6 A Right.

7 Q But in your statement to Detective Dow and
8 Detective Baker, you never said anything about seeing
9 Mr. Yeargin get a gun from Michael Utsey, did you?

10 A Right. But did you notice that they had woke me
11 up?

12 Q No, I didn't notice that.

13 A Yeah, I was asleep for a good minute or two.

14 Q So, you're saying that four days after the fact
15 you can't remember all of this important stuff but 25, 26
16 months after the fact you can remember all this important
17 stuff?

18 A Well, you've got to learn, I seen a man get shot
19 in front of me. I mean, it's traumatic.

20 Q And you were in a motel room with Nyia Utsey
21 when they came in to arrest you?

22 A Right.

23 Q You'd had sleep and you'd had rest, right?

24 A No, sir.

25 Q You hadn't been drinking on this night, had you?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 have street lights where the church was. It wasn't
2 completely dark.

3 Q But those lights were pretty far removed,
4 weren't they?

5 A They was not that far away no, sir. I could see
6 pretty good.

7 Q Well, getting back to the gun just a moment, you
8 told Dow and Baker -- I'm sorry, to just use their last
9 name but just to shorten it up a little bit, you told Dow
10 and Baker you didn't know where the gun came from, right?

11 A Right.

12 Q Now, the whole night, day, whatever, of
13 September the 17th of 2011, you drove the Mustang until
14 you got to Sean Dinneon's house?

15 A Right.

16 Q Right. Now, did y'all, y'all being the Grand
17 Prix and the Mustang, did they leave Sean Dinneon's house
18 at the same time?

19 A I can't remember who but one of us left first
20 out. But I can't remember who left out first.

21 Q So, you don't know, Mr. Yeargin may have left
22 first in the Mustang?

23 A Right.

24 Q And then you were behind the Mustang?

25 A Well, eventually he was behind me but I'm not

1 sure who left out first.

2 Q Well, how long is eventually?

3 A When I got up the road to the top stop sign.

4 Q I'm sorry?

5 A When I got up to the road to the stop sign he
6 was behind me. He left -- he left first and when I pulled
7 out I didn't know where he went. He circled around and
8 came up behind me. And when I stopped at the stop sign,
9 that's when he came up behind me and started turning his
10 turn signals on.

11 Q I see. Now, when did you say you discussed the
12 turn signal thing?

13 A We never did discuss it. He just started doing
14 it so I followed.

15 Q Okay. So, he was turning a turn signal on, you
16 didn't know whether that was him trying to signal you to
17 do anything, did you?

18 A Right.

19 Q All right. So, you just saw his turn signal and
20 whatever way that was, it was -- you went that way, too?

21 A Right.

22 Q But it was not somewhere along the line that he
23 directed you to look at his turn signals and go that way?

24 A Well, every time I would stop he would follow
25 and turn his turning signal on before we even got to the

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 to stop to turn.

2 Q Well, that's rather normal, isn't it?

3 A So, I mean, it....

4 Q Now, when you left Dinneon's house, you were
5 driving the Grand Prix?

6 A Right.

7 Q Ms. Utsey was in the passenger seat?

8 A Right.

9 Q And Dinneon in the backseat?

10 A Right.

11 Q Behind you or behind Ms. Utsey?

12 A Behind Nyia.

13 Q Okay. So he was in the backseat on the
14 passenger side?

15 A Right.

16 Q Now, when you get to the church parking lot, you
17 pull into the church parking lot, you pull into a parking
18 spot?

19 A I'm not sure.

20 Q Nonetheless Mr. Yeargin in the blue Mustang
21 pulls behind the Grand Prix?

22 A Right.

23 Q Doesn't pull up beside it?

24 A Right.

25 Q He stays behind it?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Yes.

2 Q Now, Ms. Utsey gets out of the Grand Prix, where
3 does she go?

4 A To go talk to Tav at my car behind the Grand
5 Prix.

6 Q Then you get out of the Grand Prix and you go to
7 the Mustang?

8 A Right.

9 Q Now, somewhere in there Mr. Dinneon gets out of
10 the backseat of the Grand Prix and goes to the driver side
11 of the Grand Prix?

12 A Right.

13 Q Now, there still has not been any discussion
14 between you, Nyia and -- or Dinneon about taking the car,
15 has there?

16 A Huh-uh, no.

17 Q So now, you see Dinneon getting back in the
18 Grand Prix, headed for the driver's side, right?

19 A Right.

20 Q Now, you get into the driver's side?

21 A Because Tav, when he sees Dinneon running
22 towards the car to the driver's side, he tells me to run
23 and get in the car.

24 Q Right. Right, I understand what you're saying.
25 And for \$10 worth of gas money you do that, correct?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Correct.

2 Q Okay. Now -- now there is a struggle that took
3 place between you and Mr. Dinneon?

4 A Correct.

5 Q And in your statement on September the 21st of
6 2011, you described that as Mr. Dinneon grabbing at you,
7 correct?

8 A Uh-huh, yes.

9 Q And indeed, you want to point out to Dow and
10 Baker that you have bruises on your arm where Dinneon has
11 grabbed you?

12 A Right.

13 Q So, it's not just that he was leaning over as
14 you have described to try to get the keys, he was grabbing
15 at you?

16 A Right.

17 Q And actually you had bruises on your arm?

18 A I'm not sure.

19 Q Okay. Well, that's what you shared with Dow and
20 Baker?

21 A Well then I guess so.

22 Q All right. Now, in your statement to Dow and
23 Baker on September the 21st of 2011, you say the car was
24 rolling. Now, I'm not clear on what you're saying today
25 because I understood you to say the car was in park,

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 correct?

2 A Yes.

3 Q Okay. And if I understood you correctly, that
4 the car stayed in park, never got out of park?

5 A Right.

6 Q All right. Now, in your statement you said the
7 car was rolling, correct?

8 A Right.

9 Q Let me ask you this, what point did the beer
10 bottle get broken?

11 A I'm not sure.

12 Q Okay. Was it dropped or was it thrown?

13 A I'm not sure.

14 Q Well, when Mr. Dinneon went around to get into
15 the driver's side of the Grand Prix, did he have a beer
16 bottle?

17 A Yes, when he was coming around to the driver's
18 side, yes, he did.

19 Q Then you say Tav, Mr. Yeargin, pulled up beside
20 the Grand Prix?

21 A Yes.

22 Q All right. Pulled up beside it, how much
23 distance was between the two vehicles?

24 A Probably from here to that table.

25 Q To where?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A To that table that they're sitting at.

2 Q Right here?

3 A Yes.

4 Q Fifteen feet?

5 A Yes.

6 Q I'm not good at distance so I don't really know.

7 But we'll say, I'm almost 6 foot, so yeah, that's a little

8 more than two of me, okay. So, Mr. Yeargin is in the

9 Mustang, approximately 15 feet away from the Grand Prix?

10 A Right.

11 Q Right. Now, Mr. Yeargin never gets out of that
12 vehicle?

13 A Right.

14 Q And a shot is fired?

15 A Right.

16 Q Now, how many shots?

17 A One.

18 Q One shot. Okay. Now there was some words
19 exchanged between Mr. Dinneon -- or Mr. Dinneon is yelling
20 at Mr. Yeargin, correct?

21 A Correct.

22 Q Okay. So, if Mr. Yeargin never got out of the
23 vehicle -- was the window on your Mustang broken?

24 A It wouldn't roll down, yes, it was broke.

25 Q Did he shoot through the window?

1 A No, he opened the car door.

2 Q But never got out of the car?

3 A Exactly.

4 Q So, he's sitting in the car, that Mustang, 15
5 feet away, actually a little further away from where you
6 and Sean Dinneon were, right? Because it would have been
7 the width of the car?

8 A Right. Because he shot through the window,
9 through the passenger side and we were in the driver's
10 seat, yes.

11 Q So, that Mustang and that Grand Prix, if I put
12 them side by side, are they about equal heights, equal
13 distance from the ground?

14 A I'm not sure.

15 Q Okay. So, in that one shot that was fired, you
16 certainly can't say whether Mr. Yeargin could see if that
17 shot was being fired or not?

18 A Right.

19 Q And indeed, I think you said when you were
20 talking to Baker and Dow, he was simply trying to get him
21 off of you?

22 A Yes, that's what I said in that, yes.

23 Q Mr. Yeargin was trying to get him off of you.
24 Mr. Dinneon was grabbing at you and at that point in time,
25 there's no way for you to know what was being seen by

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Mr. Yeargin, correct?

2 A Correct.

3 Q You couldn't tell?

4 A Correct.

5 Q Other than he could possibly have seen him
6 grabbing at you, right?

7 A (The witness nods.)

8 Q And I think further in the tape, in the
9 interview on September the 21st of 2011, you were quite
10 adamant with Baker and Dow, he didn't mean to do it,
11 correct?

12 MR. RICHARDSON: I'm going to object to that
13 question. She cannot testify to what the Defendant was
14 thinking, thought process.

15 MR. DEJONG: May I be heard on that?

16 THE COURT: Yes, sir.

17 MR. RICHARDSON: I would ask that we approach.

18 THE COURT: Sure, come on up.

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 BY MR. DEJONG:

23 Q Did you share with Baker and Dow what you
24 believed to be the state of mind to Mr. Yeargin when he
25 shot?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q I can't go to jail, I can't go to jail.

2 Correct?

3 A Correct.

4 Q And that's still what you feel today, right?

5 A Yes.

6 Q Now, September the 21st of 2011, when you said
7 when y'all left the church parking lot and you switched
8 drivers and you did all of that, you and Ms. Utsey and
9 Mr. Yeargin went to Mr. Yeargin's and I guess Mr. Utsey's
10 momma's house, correct?

11 A Yes.

12 Q September the 21st of 2011, you said you never
13 got out of the car, correct?

14 A Right.

15 Q And today you got out of the car and report to
16 this jury all these things that you heard Tavish Yeargin
17 say?

18 A Right.

19 Q Which one's the truth, which one's the lie?

20 A I did get out of the car. The only reason I
21 said didn't get out of the car is because I didn't want to
22 be involved in it. I didn't want to get in trouble. And
23 I thought I could say that just to get myself out of it.
24 But it --

25 Q But --

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 A Exactly.

2 Q And what did I tell you I wanted you to tell
3 this jury when you came in here?

4 A The truth.

5 Q You understand that I have in no way made you
6 any promises?

7 A Yes.

8 Q Or deals?

9 A Right.

10 Q I told you that?

11 A Yes, sir.

12 MR. RICHARDSON: Thank you.

13 THE COURT: Any additional questions,

14 Mr. DeJong?

15 MR. DEJONG: Thank you, Your Honor, but I think
16 not.

17 THE COURT: Okay, Ms. Williams, thank you, very
18 much. You may step down.

19 MR. RICHARDSON: The State calls Nyia Utsey.

20 THE COURT: Ms. Utsey, if you'd come around,
21 please.

22 THE CLERK: Place your left hand on the Bible,
23 raise your right.

24 NYIA UTSEY, after being duly sworn,
25 testified as follows:

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 larceny, is that correct?

2 A Yes, sir.

3 Q And that's for this incident that we're here
4 today about?

5 A Yes, sir.

6 Q Okay. Now, how do you know the Defendant?

7 A That's my brother. Well. . . .

8 Q Okay, I'm sorry?

9 A The Defendant?

10 Q Yes.

11 A That's my brother.

12 Q Okay. Are y'all -- did y'all live together
13 prior to your arrest or what was y'all's living status?

14 A We was living together for a little while at the
15 time.

16 Q Where did you live.

17 A We lived at

18 Q Okay. Is that in Greenville County?

19 A Yes, sir.

20 Q All right. There's been some mention of Taz
21 Utsey, is she kin to you?

22 A Yes, sir.

23 Q Okay. And who is?

24 A She's my sister.

25 Q Okay. And Kayla Williams, you know Kayla

1 Williams?

2 A Yes, sir.

3 Q Who is she?

4 A She was my girlfriend at the time.

5 Q Okay. And at the time of this incident?

6 A Yes, sir.

7 Q Okay. Prior to this incident, how long had
8 y'all dated?

9 A Like six months.

10 Q Okay. And when you were -- while you were
11 dating, did you live together?

12 A For a little while, yes, sir.

13 Q Okay. Where did you live?

14 A We lived at

15 Q Is that in Greenville County?

16 A Yes, sir.

17 Q Is that located on ?

18 A Yes, sir.

19 Q Okay. Now, do you have -- do you have a child?

20 A Yes, sir.

21 Q How old is that child?

22 A He's three.

23 Q Where is that child now?

24 A He's in foster care.

25 Q Okay. Let me take your memory back to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 September 2011, okay. Specifically September the 16th,
2 that would be Friday. Do you remember having contact with
3 the Defendant on that day?

4 A Yes, sir.

5 Q Can you tell the jury about that contact?

6 A Yes, sir. The Defendant, my brother, he called
7 me and asked me to give him a ride.

8 MR. DEJONG: Excuse me, ma'am, I'm sorry.

9 Can I stand over here, Your Honor, I cannot hear
10 her.

11 THE COURT: Sure. Yes, sir, you may.

12 BY MR. RICHARDSON:

13 Q Which means they may not be able to hear.. Pull
14 up a little bit.

15 Your Honor, may approach to adjust the
16 microphone?

17 THE COURT: Yeah, you're welcome to.

18 BY MR. RICHARDSON:

19 Q Okay. So, you had contact with the Defendant
20 Friday, September 16th, 2011, tell the jury about that?

21 A Really it started about Kayla's car or whatever.
22 She tried to get rid of it because her and momma had got
23 into a incident or whatever. My brother--

24 Q Now, when you say, Momma, who are you talking
25 about?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Janice Bridget, Kayla's mother?

2 Q Okay.

3 A They had got into a little incident to where
4 Kayla came to my house or whatever. My sister house,
5 really. And she had the Mustang. It wasn't her Mustang,
6 it was her grandpa Mustang or whatever. That she needed
7 to get rid of it. My brother told her that she needed the
8 title for it or whatever. And she said she was going to
9 work on trying to get the title or whatever. She tried to
10 go back to her grandpa house to get it but she couldn't
11 get it nor whatever. So then, my brother told her that he
12 got some cars for her or whatever.

13 Q Now, when that conversation was going on, is
14 that -- are y'all all in the same room or over the
15 telephone or how was that?

16 A No, we was out at the front of Piedmont Manner.

17 Q Okay. So, when we're talking about your
18 brother, we're talking about the Defendant?

19 A Yes, sir.

20 Q Okay, go ahead.

21 A Okay, after that conversation or whatever, he
22 told her he had the cars or whatever. And I didn't know
23 that he was talking about Sean's cars or whatever. Well,
24 he told us that he needed a ride. And he told Kayla he
25 was going to give her some gas money or whatever.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay, slow up a little bit. Now, you say he
2 told you he needed a ride?

3 A Yes, sir.

4 Q Okay. Where were y'all when he told you that.

5 A We was on the phone at that time.

6 Q Okay. And where were you and Kayla at that
7 time?

8 A At the motel.

9 Q That's the InTown Suites that you referred to?

10 A Yes, sir.

11 Q Okay. At that point in time what happens?

12 A After he told us that he needed a ride to go get
13 the car or whatever, Kayla told him that she needed some
14 gas money or whatever.

15 And he said, I gotch you.

16 Well, Kayla found--

17 Q Do you know what he meant by, I gotch you?

18 A He was going to give it to her.

19 Q Okay. So then what happened?

20 A Okay, we got my son dressed or whatever. Called
21 my sister and asked her could she watch the baby? She
22 said yeah, she can watch the baby for us.

23 Q So the jury understands, was the baby living
24 with you at that time?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Was the baby living in the InTown Suites with
2 you and Kayla?

3 A Yes, sir.

4 Q Okay. So, you go from the InTown Suites to
5 where?

6 A After we left the InTown Suites we went to my
7 sister house.

8 Q What's her name?

9 A Tequala [ph] Utsey.

10 Q Okay. What did you do at Tequala's house?

11 A I dropped my son off.

12 Q Then what did you?

13 A After we dropped the baby off then we went to my
14 mom's to go pick up my brother.

15 Q Okay. And was your brother, the Defendant, at
16 your mother's house at that time?

17 A If I'm not mistaken, yes, sir.

18 Q Okay. So, do you go to your mother's house?

19 A Yes, sir.

20 Q And what do you do then?

21 A We pick him up or whatever. And he -- well, we
22 go in the house or whatever to get him. And he's in
23 there. He told us that what the plan was or whatever.

24 Q Okay. And what exactly did he tell you?

25 A He told us just get Sean to the door and talk to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 him.

2 Q Okay. And once you got Sean to the door and
3 talked to him, what, if anything, were you going to do?

4 A He was going in the backdoor -- kick the
5 backdoor in, get the car keys and tie him up.

6 Q And when you say, He was going to go in the
7 backdoor, who are you talking about?

8 A My brother.

9 Q Talking about the Defendant?

10 A Yes, sir.

11 Q Okay. Now, at that point in time did he get
12 anything out of the house?

13 A Yes, sir.

14 Q What did he get?

15 A He got the gun.

16 Q Okay. Did you see him get a gun?

17 A Yes, sir.

18 Q What kind of gun was it? A long gun, a short
19 gun or?

20 A It was a long gun.

21 Q Okay. And where did he -- did -- do you know if
22 that gun was loaded or not?

23 A Yes, sir.

24 Q From whom did he get the gun from?

25 A My brother, Michael.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Your brother, Michael.

2 A Yes, sir.

3 Q What's Michael's last name?

4 A Michael Utsey.

5 Q It's Utsey, too?

6 A (The witness nods.)

7 Q Okay. Do you know if that gun was loaded?

8 A Yes, sir.

9 Q How do you know it was loaded?

10 A Because I seen it.

11 Q When you say you seen it, what did you see?

12 A I seen him putting the bullets in the gun.

13 Q Who put the bullets in the gun?

14 A My brother Michael and Yeargin.

15 Q Okay. At that point in time, what did y'all do?

16 A After that we put -- we got in the car and left
17 and he put in it in the trunk.

18 Q Who put what in the trunk.

19 A The Defendant.

20 Q Okay. He put the gun in the trunk?

21 A Yes, sir.

22 Q Okay. Now, what car were you driving at that
23 time?

24 A Kayla's Mustang.

25 Q Who was driving the Mustang?

NYIA UTSEY-DIRECT BY MR. RICHARDSON.

1 A Kayla.

2 Q Where were you sitting?

3 A In the passenger seat.

4 Q Okay. And where was the Defendant?

5 A In the backseat.

6 Q Okay. Now, do you go from there to Sean
7 Dinneon's house?

8 A On that Friday night we did.

9 Q Okay. Did you go anywhere before you went to
10 his house, did you go anywhere else?

11 A The second night we did.

12 Q Okay. Not talking about the second night.
13 Right now I'm just talking about Friday, the night before.

14 A No.

15 Q Did you go directly to his house?

16 A Yes, sir.

17 Q Okay. And did y'all talk about what you were
18 going to do when you went over to his house? Inside the
19 car, did you talk about it?

20 A Not that I remember.

21 Q Okay. So, had you previously discussed that?

22 A Yes, sir.

23 Q Okay. Now, did he -- did the Defendant talk to
24 you about what he was going to do with the gun?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q What did he say?

2 A He said he was going to go get him. He might
3 have to pop him in the leg or something.

4 Q Okay. And what did you think he meant by
5 popping him in the leg?

6 A Shooting him in the leg.

7 Q Okay. So, once you get to the Victim's house,
8 what happens then? Let me ask you this, is this daytime
9 or nighttime?

10 A It's nighttime.

11 Q What happened at the Victim's house?

12 A Well, you really couldn't see his house because
13 he had a whole bunch of bushes on top of it or whatever.
14 So, we drove past it. Kayla drove past it or whatever.

15 And he said, That's the house right there,
16 you need to turn back around.

17 And they had this big ole barrel outside in
18 the driveway. And Kayla got out of the car and moved it.
19 And we drove up in the driveway.

20 And Kayla said, ooh, ooh, I want that car,
21 I want that car.

22 My brother told her it had an alarm on it.
23 And he want the blue car. So, my brother told us to get
24 out and knock on the door. We got out, knocked on the
25 door and wouldn't nobody come to door. I was scare that

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Sean was going to come to the door but he wasn't there.

2 Then after that we got back in the car.

3 And he said, What do y'all want to do.

4 I told him I want to go home and get my
5 baby.

6 And we left that night.

7 Q Okay. So, when you say you left, nobody was
8 home. You left--

9 A Sean's house.

10 Q Okay. Where did you go from there?

11 A We went back to my mom's house and dropped my
12 brother off.

13 Q Okay. And then where did you go?

14 A Go pick up my son.

15 Q Then where did you go?

16 A Back to InTown Suites.

17 Q Okay. Did y'all stay at InTown Suites that
18 evening?

19 A Yes, sir.

20 Q Okay. At some point in time did you have a
21 conversation with the Defendant again the next morning,
22 this would be the 17th?

23 A Yes, sir. I think it was that evening.

24 Q Okay. What was -- how was that conversation
25 initiated?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A He called and he said that he needed a ride back
2 up there or whatever.

3 I told him, No, it wasn't my car. I hung
4 up on him.

5 Well, he text and said, That's messed up.

6 I said, What's messed up? I told him I
7 said --

8 He told me that we wouldn't take him up
9 there, that's that messed up.

10 And I told him I said, That's not my car,
11 you're going to have to talk to Kayla.

12 So, I gave Kayla the phone. He told Kayla
13 that she could get all this stuff out of Sean's house.
14 And he was going to give her some gas money.

15 So, she said, Okay.

16 And after that we got dressed and we left.
17 Went to go pick him up and dropped my son off.

18 Q Okay. When you say He, you're talking about the
19 Defendant?

20 A Yes, sir.

21 Q Okay. Now, where did you meet the Defendant
22 that evening?

23 A We met him at Piedmont Manor.

24 Q Okay. And who's home were you at?

25 A My sister.

1 Q All right. And was it daylight out or?

2 A Yes, sir.

3 Q It was still daylight?

4 A Yes, sir.

5 Q Okay. And when you got to -- which sister is
6 this again?

7 A Taz.

8 Q When you got to Taz's house, what did you do?

9 A We went to go pick him up or whatever. And
10 after we picked him up we had to go drop my son off. We
11 had dropped him off at Ms. Close [verbatim] house, then we
12 went back to my mom's house.

13 Q Why did you go back to your mother's house?

14 A He had to get the gun.

15 Q Okay. Let's go back to Friday night. Did he --
16 did he -- did the Defendant remove the gun out of the
17 Mustang?

18 A Yes, sir.

19 Q And where did he take it that night?

20 A He put it back in my mom's house.

21 Q Okay. So, on Saturday night when you go back to
22 your mother's, do you go inside?

23 A Yes, sir.

24 Q Where does he get the gun from?

25 A The closet.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. And does he cover it up or anything of
2 that nature?

3 A I'm not sure.

4 Q Okay. Where did he take the gun then?

5 A After he put it in the closet?

6 Q Yeah -- no, I'm sorry. This is Saturday night
7 now, I apologize, okay? So, Saturday night when he goes
8 and gets the gun, did he cover it up at that time?

9 A Yes, sir, he covered it up and took it outside
10 and put it in the trunk.

11 Q Okay. And where does he get in the car?

12 A In the backseat.

13 Q Okay. And who is driving?

14 A Kayla.

15 Q And you're in the passenger seat?

16 A Yes, sir.

17 Q Okay. Front passenger seat?

18 A Yes, sir.

19 Q Okay. Now, do y'all discuss at this time what
20 y'all are going to do?

21 A Yes, sir.

22 Q What do y'all discuss?

23 A He told us that--

24 Q When you say, He, you're talking about the
25 Defendant?

1 A The Defendant, yes. He called Sean and he
2 already talked to Sean and told him that he was going to
3 come buy the cars or whatever.

4 Q Okay.

5 A Okay, we get to McDonald's to put gas in the
6 car. And Kayla is standing in McDonald's paying for the
7 gas.

8 And he was like, No, I can't be seen
9 because they know me. So he said, I need--

10 Q Wait a minute, who says that?

11 A The Defendant.

12 Q Okay. He says he cannot be seen?

13 A Yes, sir.

14 Q Okay. I'm sorry, you kind of hard, so see if
15 you can speak up a little bit more, okay? He says I can't
16 be seen why?

17 A Because they know me.

18 Q Okay. So then what happens?

19 A So, he calls my brother Charles.

20 Q Okay.

21 A And axe [verbatim] him do he want to go with us
22 and be a buyer of the car. At the time Charles said yes
23 he would go with us to be the buyer. So, I had to get out
24 the car and go tell Kayla what was going on. And my
25 brother called Charles back and him and Charles is having

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 a conversation. Then we got Kayla to put the gas in the
2 car and we went to go pick up my brother Charles.

3 Q Y'all going over there to buy tow cars? Or what
4 were you going to do?

5 A That was the plan, to buy the two cars.

6 Q What was the ultimate plan of what you were
7 going to do?

8 A Take the cars.

9 Q Steal the cars?

10 A Yes, sir.

11 Q Okay. Now, do y'all go get Charles?

12 A Yes, sir.

13 Q Where does he live?

14 A In Taylors.

15 Q Okay. After you pick Charles up, what do you
16 do?

17 A After we pick Charles up we go back -- we go to
18 the Defendant's house.

19 Q Okay. And are y'all discussing what you're
20 going to do at this time?

21 A Yes, sir.

22 Q What are you discussing?

23 A My brother, the Defendant, told Charles he was
24 going to have to be the buyer of the car. And me and
25 Kayla was gonna have to talk to the lady and keep her calm

1 so she won't go try to call the police on him.

2 Q And at some point in time did you see a BB gun?

3 A Yes, sir.

4 Q And where was that BB gun?

5 A With Kayla. It was on Kayla.

6 Q Okay. And did the Defendant give her that BB
7 gun?

8 A Yes, sir.

9 Q Okay. Would you recognize that gun if you saw
10 it today?

11 A Yes, sir.

12 Q I'm referring to State's Exhibit 29, do you
13 recognize that?

14 A Yes, sir.

15 Q What is that?

16 A The BB gun.

17 Q That's the BB gun the Defendant gave to Kayla?

18 A Yes, sir.

19 Q And did he discuss with Kayla what he wanted her
20 to do with that BB gun?

21 A Yes, sir.

22 Q And what was that?

23 A Not to let Ms. Hinson go nowhere to call the
24 police. And if she go somewhere, pop her with it.

25 Q Okay. Now, at some point you actually go -- you

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 go directly from Charles' house to Sean's or what?

2 A Yes, sir.

3 Q Okay.

4 A No. No. No.

5 Q Okay, where you go?

6 A We stopped on the side of the road to knock the
7 light out.

8 Q Who wanted to knock the light out?

9 A My brother, the Defendant.

10 Q Why did he want to knock the light out?

11 A So he wouldn't be seen.

12 Q Okay. Is this a, the light interior light in
13 the Mustang?

14 A Yes, sir.

15 Q Do you recall who knocked it out?

16 A The Defendant and my brother Charles.

17 Q Okay. Do you remember how they knocked it out?

18 A They pulled it out.

19 Q Okay. Now, at this point in time do you go to
20 the Victim's house? Sean's house?

21 A After they knocked the light out.

22 Q Okay. Who was driving at this point in time?

23 A Kayla.

24 Q And where are you sitting?

25 A In the passenger seat.

1 Q So Charles and the Defendant were in the
2 backseat?

3 A Yes, sir.

4 Q Okay. Now, when you get to the Victim's house,
5 what do y'all do?

6 A When we get to the Victim's house we hurried up
7 the driveway so he couldn't see who's in the car, really.
8 We hurried and jumped out so he wouldn't see my brother,
9 the Defendant, in the backseat.

10 Q Okay. And did you get out of the car?

11 A Yes, sir.

12 Q Okay. Who else got out of the car.

13 A Kayla and my brother Charles.

14 Q Okay. And once you got out of the car, where
15 did you go?

16 A Sean started copping up the hill and we started
17 talking to him. My brother Charles was standing at the
18 bottom of the hill because he was scared or whatever. And
19 he didn't want to be down with the plan or whatever. So,
20 Sean come up the hill and he started trying to the get car
21 crank or whatever but it wouldn't crank.

22 Q Which car are we talking about he's trying to
23 get cranked?

24 A The blue one.

25 Q Okay. The blue Lancer?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Uh-huh.

2 Q Okay. All right, go ahead.

3 A So, he couldn't get it crunk. So, he jumped it
4 off with the other car. He pulled it in the front or
5 whatever. He kept slapping those the little thing
6 together. He kept asking Kayla, Do you want to help me?

7 And she said, No.

8 And he put it on there and got the car
9 jumped off or whatever. And he kept telling me to try to
10 find the button to pop the trunk open.

11 Q This is Sean?

12 A Yes, sir.

13 Q And does the Lancer actually get cranked up at
14 one point?

15 A Yes, sir.

16 Q What happens then?

17 A Once it got cranked up Kayla tried to drive it
18 but it shut gown.

19 Q Okay. After it shut down -- and during all of
20 this, where is Charles?

21 A At the bottom of the hill..

22 Q Okay. Where is the Defendant?

23 A In the car.

24 Q In the mustang?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Once that Lancer, you try to jump the
2 Lancer off, what do you do at this point.

3 A Once the Lancer wouldn't go?

4 Q Yes.

5 A After it wouldn't go we told Ms. Hinson --
6 because Charles, he come up the hill or whatever. And he
7 told Kayla that if she hit Ms. Hinson with that BB gun or
8 whatever, he was going to punch her in the face. And I
9 stepped back and got in the car and told my brother what
10 was going on. And we told -- after I told him what
11 happened, we told Ms. Hinson that we had to go the
12 restroom or whatever. And after we told her that we got
13 in the car and we dropped my brother Charles off at Hot
14 Spot.

15 Q Okay. So Hot Spot -- you returned from the
16 Victim's house directly to the Hot Spot?

17 A Yes, sir.

18 Q At the Hot Spot -- what road is that Hot Spot
19 on?

20 A I'm not sure.

21 Q Okay. Is it on like a four lane highway?

22 A I don't think so. I know it's some railroad
23 tracks you got to go over.

24 Q Okay. At that Hot Spot, did y'all get out of
25 the vehicle at that time?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Yes, sir.

2 Q Okay. And did you go to the bathroom?

3 A Yes, sir.

4 Q All right. Where did Charles go?

5 A In front of the store.

6 Q I'm sorry?

7 A In front of the store.

8 Q Okay. What happens after that?

9 A After that me and Kayla get back in the car.

10 And my brother said, I'm tired of this, I'm
11 fixing to get him or whatever..

12 Q Fixing to get him?

13 A Yes, sir.

14 Q Who is he talking about?

15 A Sean.

16 Q Okay. Is -- at that point in time is Charles in
17 the car?

18 A No, sir.

19 Q Why is Charles no longer in the car?

20 A Because he didn't--

21 MR. DEJONG: I'm going to object, Your Honor.

22 Number one, it's been asked and answered, I think. Number
23 two, I don't know why he didn't get in the car and I don't
24 think she knows why he didn't get in the car.

25 THE COURT: I'll sustain that. I believe it has

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 been asked and answered.

2 MR. RICHARDSON: I'll move on.

3 THE COURT: Yes, sir.

4 BY MR. RICHARDSON:

5 Q After that do you go back to Sean's house?

6 A Yes, sir.

7 Q Okay. What do y'all talk about on the way back
8 to Sean's house from the Hot Spot?

9 A He said that he was going to go get him.

10 Q Who said that?

11 A My brother. He said he was tired.

12 Q Okay. And have you seen the gun at this point
13 in time?

14 A Yes, sir, it was in the backseat.

15 Q Okay. And it is the same gun that he got from
16 your other brother?

17 A Yes, sir.

18 Q Okay. So, what do y'all do at this point?

19 A After we get back in the car? I forgot to say
20 something to you. He told Kayla to follow his signals,
21 too.

22 Q I'm sorry, you need to repeat that.

23 A He told Kayla to follow his signals. He was
24 going to give her signals.

25 Q Okay.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A On which way to go, which way to turn.

2 Q Okay. He was saying that on the way over to the
3 Victim's house?

4 A Yes, sir.

5 Q Okay. What do you mean by that?

6 A Because he wanted her -- we was going to test
7 drive the car. He was going to give her signs on which
8 way to go.

9 Q Okay. And how was he going to give those signs?

10 A Turn signals.

11 Q I'm sorry?

12 A Turn signals.

13 Q Okay. Was there any discussion on what -- what
14 about Charles now that Charles was gone?

15 A (The witness shook her head.)

16 Q And when you got to the Victim's house, what did
17 you do?

18 A After we got back to the Victim's house?

19 Q Yes.

20 A We pull up in the driveway. My brother, he
21 switched over and started driving. Me and Kayla get in
22 the car with Sean and test drive the car. And he start
23 following us.

24 Q Okay. So we're clear, which car are you in at
25 this in time?

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1 A Sean's car. The Grand Prix, I think.

2 Q Referring to State's Exhibit 10. Is that the
3 car?

4 A Yes, sir.

5 Q Okay. So who's in that car?

6 A Me and Kayla and Sean.

7 Q And Sean. Okay. Where is Sean in the car?

8 A He is in the backseat.

9 Q Is he drinking?

10 A Yes, sir.

11 Q What was he drinking?

12 A A 40, I believe.

13 Q Okay. Was it a can or glass or what?

14 A A glass bottle.

15 Q All right. As you're driving with him, are
16 y'all talking about the car? What are you talking about?

17 A We got loud music playing.

18 Q Okay. So, you having any conversation
19 whatsoever?

20 A Yes, sir. We asked him like how much do he want
21 for the car. I'm not sure but I think he said 15. I'm
22 not sure, I can't remember. But we asked him how much he
23 wanted for it.

24 Q Now, where is the Defendant at this time?

25 A He's driving Kayla's car behind us.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. About how long -- as some point in time
2 did you end up in a church?

3 A Yes, sir.

4 Q Okay. Why did you end up there?

5 A Because Kayla got tired of driving.

6 Q All right. What happens at the church?

7 A I get out the car to go ask what happened -- I
8 mean, what my brother want us to do.

9 Q Let me ask you this first, do y'all pull into
10 the church parking lot or are you on the road?

11 A We pull into the parking lot.

12 Q Okay. And who pulls in first?

13 A Kayla.

14 Q All right. And that would be the Grand Prix?

15 A Yes, sir.

16 Q Okay. And does -- where does the Mustang pull
17 in?

18 A Behind it.

19 Q Okay. All right. And that point you do what?

20 A I get out the car and go ask my brother, the
21 Defendant, what he want us to do with the car?

22 And he said, Tell Kayla keep driving.

23 Well, I go get back in the car and try to
24 tell Kayla to keep driving. But I couldn't tell her
25 because Sean's like getting suspicious or whatever. And

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 she was like, Do you want me to go ask him?

2 I said, Yeah.

3 She got out of the car to go ask or
4 whatever my brother, the Defendant, what he want her to do
5 with the car. And I was sitting in the car and Sean was
6 sitting in the backseat. And I guess he noticed the
7 Defendant.

8 MR. DEJONG: Your Honor, I'm going to object to
9 testimony about guessing -- excuse me, if she knows, she
10 knows. If she doesn't know, she doesn't know. But not
11 guessing, please.

12 THE COURT: All right. I'm not so certain it's
13 not just a term of reference. However, I will sustain and
14 say you can't testify to things you don't know. You have
15 to testify to things you know of your own personal
16 experience.

17 BY MR. RICHARDSON:

18 Q Well, how was Sean acting at this time?

19 A He was acting like he knew that that was my
20 brother, the Defendant.

21 Q Okay. So, what does he do.

22 A He get out the car. And Kayla, she started --
23 he get out the car, he started trying to go toward the
24 driver's seat and Kayla started running from the Mustang.
25 And she--

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Kayla starts running which way?

2 A From the Mustang?

3 Q Okay.

4 A And she jumps in the car and her Sean is
5 fighting over the car. He turns it off and she turned it
6 back on, trying to put it in drive.

7 Q Okay, let me ask you this. Who got to the car
8 first?

9 A Kayla.

10 Q Kayla did?

11 A Uh-huh.

12 Q Did she get in the driver seat first or did Sean
13 get in first?

14 A She got in the driver seat.

15 Q Okay. And was Sean holding a bottle at that
16 time?

17 A Yes, sir.

18 Q Did he do anything with that beer bottle?

19 A He threw it behind him.

20 Q He threw it behind him?

21 A Yes, sir.

22 Q Okay. And then -- what happens then?

23 A Kayla finally get the car to go a little bit and
24 his shoe comes off. And she drag him a little bit. And
25 they still fighting over the car.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Now, while this is going on, where are
2 you?

3 A I was in the car and I got out.

4 Q You got out?

5 A Yes, sir.

6 Q When you got out did you close the door or what
7 did you leave it open?

8 A I closed it.

9 Q Could you see inside the car?

10 A Yes, sir.

11 Q Was -- was Kayla -- was the Defendant hitting
12 Kayla? Excuse me, was the Victim hitting Kayla?

13 A He was like laying on top of her.

14 Q Okay. Where was his hands?

15 A On the driver seat. And at some point in time
16 he was kind of in the switch.

17 Q Where were Kayla's hands?

18 A Her hands on the steering wheel and in the
19 switch, too. They was fighting a little bit over it.

20 Q Was he hitting her?

21 A Not that I know of. Might be pushing her a
22 little bit.

23 Q Was he trying to get her out of the car?

24 A Yes, sir.

25 Q Okay. What happens then?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A After trying to get her out of the car?

2 Q Yes.

3 A So the Defendant, he drives around and he told
4 Sean he said, Get off her.

5 And Sean looked up at him and said, Kill
6 me.

7 And he had the gun pointed at the window.
8 And he shot him.

9 Q Okay. So, let's back up. Now, he pulls on
10 which side of the car?

11 A The passenger side?

12 Q Okay. And was his -- was the Mustang door
13 opened or closed?

14 A It was opened.

15 Q And did you see the gun?

16 A Yes, sir.

17 Q Okay. And did you see the Defendant fire the
18 gun?

19 A Yes, sir.

20 Q Okay. In which direction did he fire it?

21 A He hung it out the window and he fired it
22 towards Sean.

23 Q What happens then?

24 A After he shot it, Sean was laying on top of
25 Kayla and she pushed him off.

1 Q And what did you do?

2 A I stood there for a little minute and then Kayla
3 took off in the car. And I went back and got in the
4 Mustang with my brother, the Defendant.

5 Q Okay. Did you notice was Sean using any weapons
6 or anything or threatening her in any way? Was Sean using
7 any weapons towards Kayla?

8 A No, sir.

9 Q Okay. Once she pushed him off, where did she
10 go?

11 A She took off in the car.

12 Q Okay. And what did you and the Defendant do?

13 A He told me first he said, Go get his wallet out
14 of his back pocket.

15 I told him, No.

16 Q Go get whose wallet?

17 A Sean's.

18 Q Okay.

19 A And I told him, No.

20 I got in the car with him and we pulled
21 off.

22 Q All right. And where did you go then?

23 A Then we tried to catch up with Kayla. She was
24 driving real fast down the road. We finally caught up
25 with her. And after they that switched cars. She started

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 driving her Mustang and he started driving the other car,
2 the Grand Prix.

3 Q Where did you switch cars?

4 A I think it was like a bridge or something on the
5 side of the road.

6 Q And where did you go, did you stay in the
7 Mustang?

8 A Yes, sir.

9 Q Where did y'all go at that point in time?

10 A We went back to my Mom's.

11 Q Okay. Was the gun in the mustang?

12 A Yes, sir.

13 Q Where was it?

14 A In the trunk.

15 Q Okay. From this point on, where did you go?
16 You said you went back to your Mother's?

17 A Yes, sir.

18 Q At your Mother's house, did everybody go back,
19 the Grand Prix and the Mustang?

20 A Yes, sir.

21 Q What happened at your Mother's house?

22 A My brother got the gun and he went in the back
23 door and I went in the front door and Kayla was still
24 outside. She was taking the tag off her car trying to put
25 it on the Grand Prix car. My brother went in the house to

1 put the gun away. And I went in the house to talk to my
2 mom. And she was like, Where the baby at? She can tell
3 that something was wrong.

4 Q Okay. And did the Grand Prix have a tag on it?

5 A No, sir.

6 Q Okay. Did -- do you know if Kayla ever put her
7 tag on the Grand Prix?

8 A Yes, sir.

9 Q Okay. And did she ever take it back off?

10 A Yes, sir, she did.

11 Q Okay. Now, at this point in time, where do
12 y'all go?

13 A From my Mom's house?

14 Q Yes.

15 A After we left my Mom's house we went to my
16 sister house to go pick up some money.

17 Q Okay. And which car are y'all driving?

18 A The Mustang.

19 Q Who's driving?

20 A Kayla.

21 Q Where's the Defendant?

22 A He's still at my Mom's.

23 Q Okay. Did you get your son?

24 A Yes, sir, I did. But not from that sister
25 house. After we got--

1 Q I'm sorry, say that again.

2 A Not from that sister house. Not from Taz house.
3 We got the money from Taz house. Then we went to Quala
4 house to go pick up my son.

5 Q Okay, let me get this straight. You went to
6 Taz's house to get some money, how much money did you get?

7 A Like five or ten dollars.

8 Q What was that for?

9 A Gas.

10 Q Then after that you went to?

11 A Quala house to pick up my son.

12 Q Did you get your son?

13 A Yes, sir.

14 Q Now, at this point in time, where did y'all head
15 to?

16 A Back to InTown Suites. After we get some gas,
17 InTown Suites.

18 Q And you got gas, then back to InTown Suites?

19 A Yes, sir.

20 Q Did y'all stay the night at InTown Suites?

21 A Yes, sir.

22 Q Okay. Was your son with you all night?

23 A Yes, sir.

24 Q Okay. The next morning, this would be Sunday
25 morning, what did y'all do?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A We woke up and my brother called us because I
2 guess they heard like the police was at my sister house
3 and saying that somebody was dead or whatever. I mean,
4 not whatever but said that somebody was dead, Sean was
5 dead.

6 Q Okay.

7 A And the call came from her phone. Well my
8 brother called us and said he need somewhere to lay his
9 head at.

10 Q Your brother--

11 A The Defendant.

12 Q Okay. All right. Then did you -- did you go
13 get your brother, what happened?

14 A We didn't go get him right then because Kayla
15 told him she needed some gas money?

16 Q Okay. Did you ultimately go get your brother?

17 A Yes, sir.

18 Q Okay. Where was that?

19 A We met him at Krispy Kreme Doughnuts?

20 Q Okay. Was that morning or evening?

21 A It was that night.

22 Q It was that night?

23 A (The witness nods.)

24 Q So it was after noon on the 18th?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. And what did he tell you at that point in
2 time, the Defendant?

3 A After we picked him up?

4 Q Yes.

5 A He was supposed to have some gas money but he
6 lost the gas money. And we went back to Intown Suites to
7 stay the night. And I told him, I said, You don't got us
8 in a world of trouble, what do we do?

9 And he just looked like crazy. And he was
10 like, We need to get out of town for a little while. And
11 that's it.

12 Q Okay. And at that time, this is Sunday evening,
13 did you get out of town Sunday evening?

14 A I think so.

15 Q Okay. And where did y'all go?

16 A We went to North Carolina and Tennessee.

17 Q Okay. Do you remember where in North Carolina
18 you went? Tennessee, North Carolina?

19 A Yes, sir.

20 Q Where?

21 A We went to Asheville and somewhere in Tennessee.

22 Q Okay. And at this point do you know that the
23 police are after y'all?

24 A Yes, sir.

25 Q When you're in -- what's the reason for going to

1 Tennessee?

2 A Because we was running from the police.

3 Q Okay. Had you gotten some money at some point
4 in time Intown Suites?

5 A Yes, sir, we got the deposit back.

6 Q All right. How much was that?

7 A \$50.00.

8 Q Okay. What did you do with that?

9 A Put it in gas.

10 Q Okay. Did you have any other money?

11 A No, sir.

12 Q All right. Were you able to get any money up in
13 Tennessee, Maggie Valley?

14 A No, sir.

15 Q Okay. Did y'all try to do something up there to
16 get some money?

17 A Yes, sir, we did. We went to some like places,
18 homeless places or shelters, stuff like that to try to get
19 money.

20 Q Okay. At some point in time do you recall when
21 you left Maggie Valley?

22 A I can't remember.

23 Q Okay. After you left Maggie Valley, do you
24 remember where you slept? Were you sleeping in hotel
25 rooms or where were you sleeping?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A We were sleeping in the car.

2 Q Okay. And after you left Maggie Valley, do you
3 recall where you went then?

4 A We went to Asheville.

5 Q Okay. And then how long were you in Asheville?

6 A Like a night, maybe two nights at the most.

7 Q Where did you sleep then?

8 A We slept in rest areas and stuff.

9 Q Okay. At some point in time did you get to
10 Spartanburg, South Carolina?

11 A Yes, sir.

12 Q All right. And when you were in Spartanburg --
13 well let me ask you this, did the Defendant have any
14 checks of the victim's?

15 A Yes, sir.

16 Q Did you see those checks?

17 A Yes, sir.

18 Q Did y'all attempt to do anything with those
19 checks?

20 A Cash them to get money back.

21 Q Were you successful in doing that?

22 A Yes, sir.

23 Q Okay. Do you recall how much money you got?

24 A No, sir.

25 Q All right. Was it -- did there come a time that

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 you went to -- that you went to Travelers Rest?

2 A Yes, sir.

3 Q Okay. Tell the jury about that.

4 A We was in Spartanburg, we went to McDonald's to
5 go charge up the phone. And Kayla's peoples called, her
6 cousin, called her and asked her did she need some money?
7 She said, Yes, she needed some money. And they told
8 her -- asked could she meet them in TR at Wal-Mart. And
9 she said yes she could met them there. So, we get there
10 to TR, Wal-Mart. And my brother's like, Kayla turn the
11 car around because she was going to park the car.

12 He said, I think that's the jump out boys.
13 He told Kayla he said, Step on the gas.

14 As soon as she stepped on the gas it was
15 the police, they start following us. And they got behind
16 us. And there was a car coming, there was one coming this
17 way, one going that way.

18 He told Kayla he said, You gotta go --

19 Q You're saying he told Kayla --

20 A The Defendant.

21 Q Talking about the Defendant?

22 A Yes, sir.

23 He told she had to go around.

24 She was screaming in the car.

25 He said, Chill, Kayla, just chill. Calm

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 down. And he told her how to drive the car.

2 Q Okay. And, ultimately, did you get away from
3 the police?

4 A Yes, sir.

5 Q Okay. After you got away from the police, at
6 some point in time -- well, let me ask you this. Do you
7 know where he got the Victim's checks from?

8 A Yes, sir.

9 Q Where?

10 A When he was staying with him.

11 Q Okay. After that, when you got to -- at some
12 point in time did you get to Asheville?

13 A Yes, sir.

14 Q And where did you go in Asheville?

15 A We went to Ingles to cash the check.

16 Q Okay. All right. But did you ever get to a
17 hotel in Asheville?

18 A Yes, sir.

19 Q Okay. And did y'all get any rooms at that
20 hotel?

21 A Yes, sir.

22 Q Okay. And how many rooms did you get?

23 A It was two rooms.

24 Q All right. And who stayed in which room?

25 A Me and Kayla stay in one room, my brother stay

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 in another room with his girlfriend or his friend girl.

2 Q Okay. And his friend girl, is this somebody you
3 knew?

4 A No, sir.

5 Q Is that why you were up in Asheville?

6 A Yes, sir.

7 Q Okay. What happened then?

8 A The police -- well they went to Applebee's to go
9 get something to eat. Me and Kayla stayed in the hotel to
10 get a shower. When he came back the police came and got
11 us and kicked in the door. We not kicked in our door. He
12 said they kicked in his door.

13 Q And did they arrest you at that time?

14 A Yes, sir.

15 MR. RICHARDSON: Beg the Court's indulgence?

16 THE COURT: Yes, sir.

17 BY MR. RICHARDSON:

18 Q Nyia, lastly, this individual that pulled that
19 gun out and shot Sean Dinneon dead on the night of 9/17 of
20 2011, is he in this courtroom?

21 A Yes, sir.

22 Q Can you point him out?

23 A Yes, sir.

24 Q What's he wearing?

25 A A blue shirt, black shirt.

NYIA UTSEY-CROSS BY MR. DEJONG

1 A No, sir.

2 Q And I think you did talk a little bit about the
3 night before to Detective Dow and Detective Baker, didn't
4 you?

5 A Yes, sir.

6 Q That was on September the 20 -- can we just say
7 September the 21st and you know what I'm talking about?

8 A Yes, sir.

9 Q On September the 21st 2011, you talked a little
10 bit about the night before, correct?

11 A Yes, sir.

12 Q All right. Now, you shared when Mr. Richardson
13 was asking you questions, when Kayla saw that Grand Prix
14 she said, I want that car, I want that car, correct?

15 A Yes, sir.

16 Q Now, you and Kayla were in a intimate
17 relationship at this point in time, correct?

18 A Uh-huh.

19 Q And certainly it was Kayla that wanted the Grand
20 Prix?

21 A Uh-huh.

22 Q Right. Now, so nothing happens on the night of
23 the 16th?

24 A No, sir.

25 Q And indeed when you're talking to Detective Dow

NYIA UTSEY-CROSS BY MR. DEJONG

1 and Detective Baker about the 16th, you don't say anything
2 about where a gun came from, when it was put in the trunk
3 or anything else; do you? You don't talk about a gun on
4 the 16th when you're talking to Dow and Baker, correct?

5 A I'm not sure.

6 Q Well, it is in your statement?

7 A No, it's not.

8 Q All right. And now, as I understand your
9 testimony today, you said on the night of the 17th, if I
10 understood you correctly, that your brother gave you and
11 or Kayla Williams gas money, is that correct?

12 A Yes, sir.

13 Q All right. So, there was money that changed
14 hands on the 17th according to you?

15 A Yes, sir.

16 Q Okay. And were you going to get anything out of
17 this?

18 A No, sir.

19 Q All right. So you know -- well, let me back up
20 a little bit further, I'm sorry. On the 16th, Kayla
21 Williams wanted to get rid of the Mustang, correct?

22 A I think it was before the 16th.

23 Q Okay. But before the 16th or on the 16th but
24 Kayla Williams wanted to get rid of Mustang?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q All right. And she wanted to get rid of the
2 Mustang, as I understand your testimony, because she
3 thought the cops may be looking for it?

4 A Yes, sir.

5 Q Okay. Now, then there's a conversation between
6 her and your brother about she needed to get a title this
7 that and the other?

8 A Yes, sir.

9 Q Okay. Was that on the 16th?

10 A I think it was.

11 Q Now at some point in time, I think you mentioned
12 it today, that your brother supposedly had these titles to
13 the Grand Prix and the -- what's the other one, a Lancer?

14 A Yes, sir.

15 Q Okay. But then there was testimony that
16 somebody was going to test drive these cars?

17 A Yes, sir.

18 Q Why would anybody have to test drive a car if
19 they have a title to the vehicle?

20 A That's which he her, to test drive the car.

21 Q Pardon me?

22 A That's what my brother told her, to test drive
23 the car.

24 Q Well, let me ask you this, when you say that
25 your brother lived with Sean Dinneon, did he live with

1 Sean Dinneon?

2 A Yes, sir, he did.

3 Q They lived in the same house?

4 A Yes, sir.

5 Q Okay. So how long did they live in the same
6 house together, if you know?

7 A Maybe a couple of months.

8 Q Did your momma live there with them?

9 A Yes, sir.

10 Q But there's no doubt in your mind that when your
11 brother and your momma lived at that house, Sean Dinneon
12 was there and lived in the house?

13 A Yes, sir.

14 Q Did you live there?

15 A No.

16 Q Did you go visit?

17 A No.

18 Q You didn't go around?

19 A Huh-uh.

20 Q Okay. Now, on the night of the 17th or the day
21 of the 17th, when is the first time that you had, to the
22 best of your memory today, did you have contact with your
23 brother?

24 A Before the 17th?

25 Q On the 17th.

1 A Can you repeat the question?

2 Q Yes. What time of the day was it that you had
3 your first talk, conversation with your brother on the
4 17th?

5 A I'm not sure, it might have been six something.

6 Q I'm sorry?

7 A I'm not sure, it might have been at 6:00 or
8 7:00. I'm not sure.

9 Q Morning or nighttime?

10 A Nighttime.

11 Q Okay. And then you go -- you and Kayla go pick
12 him up?

13 A Yes, sir.

14 Q Where do you pick him up?

15 A From my Mom's house.

16 Q All right. Now, again, so that I'm sure, again,
17 you say the gun resurfaced on 17th?

18 A What you mean resurfaced?

19 Q Pardon me?

20 A What you mean resurfaced?

21 Q Well, you saw it again?

22 A Yes, sir.

23 Q When you talked to Detective Dow and Detective
24 Baker on the 21st, you never said that; did you?

25 A I'm not sure.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q Okay. Well, was it in your statement?

2 A No.

3 Q Okay. Now, that statement, if you read the
4 whole thing, it says it's a true and accurate statement;
5 correct?

6 A Yes, sir.

7 Q And Detective Dow and Detective Baker asked you
8 to put everything in that statement that you knew, right?

9 A I'm not sure they asked me to put everything I
10 knew.

11 Q I'm sorry?

12 A I'm not sure they asked me everything I knew.
13 They asked me to put -- they told me -- they gave me the
14 option to write down...

15 Q They did what?

16 A They gave me the option to write a statement.

17 Q Right. And you said you would write a statement
18 based upon what y'all discussed, right?

19 A Yes, sir.

20 Q All right. So, there's nothing in that
21 statement about a gun on the 16th or 17th, is there?

22 A No, sir.

23 Q So, you go to Dinneon's house on September the
24 17th?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q You're going to have to answer out loud, young
2 lady, the Court Report's got to get your answer down. You
3 went to Dinneon's house on September the 17th of 2011?

4 A Yes, sir.

5 Q Okay. And what time did y'all get there?

6 A Around seven.

7 Q I'm sorry?

8 A We got there around 7:00, 7:30.

9 Q Seven thirty?

10 A Seven or 7:30. It was dark.

11 Q Okay. So, you picked your brother up around
12 seven, is that what you said?

13 A Yes, sir. I mean, it might have been -- it was
14 dark. I don't remember the time actually but it was dark.

15 Q Okay. Well, after you picked your brother up,
16 did you go straight to Sean Dinneon's house?

17 A On the 17th, no, sir.

18 Q Pardon me?

19 A On the 17th, no, sir.

20 Q All right. Well, did you -- once you and Kayla
21 picked up your brother, did you head toward Sean Dinneon's
22 house?

23 A No, we went to McDonald's put gas in the car.
24 Then, we went to Sean Dinneon's house.

25 Q Okay. Now, did you get all the way to Sean

1 Dinneon's house before you picked up your brother Charles?

2 A Yes, sir.

3 Q So, you got all the way to Sean Dinneon's house
4 from was it Piedmont Manor you picked your brother up at?

5 A It was around Piedmont Manor.

6 Q Around Piedmont Manor. So you drove all the way
7 from Piedmont Manor -- well you picked your brother up,
8 you're not sure what time, you said around 7:00, stopped
9 at McDonald's and got gas. Who paid for the gas by the
10 way?

11 A On the 17th, my brother.

12 Q Okay. And you drove all the way from there to
13 Easley to Sean Dinneon's house?

14 A Uh-huh.

15 Q You get to Sean Dinneon's house and today your
16 testimony is that then you turn around and you drive all
17 the way back to Taylors.

18 A Yes, sir.

19 Q To pick up your brother Charles. Now, then you
20 from Taylors, again, you drive all the way back to Easley?

21 A Yes, sir.

22 Q Okay. Now, what time did you get to Easley?

23 A I'm not sure what time exactly.

24 Q All right. All right. So, some things you can
25 remember better today than others, is that what you're

1 telling us?

2 A No, I'm not telling you that.

3 Q Okay. Well, then once you get to Dinneon's, you
4 say that Charles got out of the car, correct?

5 A Yes, sir.

6 Q Your brother Tav, Tavish, stayed in the car, the
7 Mustang?

8 A Yes, sir.

9 Q And you and Kayla get out and talk to Dinneon?

10 A Yes, sir.

11 Q So you and Kayla are talking to Dinneon. You
12 are the people that's trying to strike the deal with
13 Dinneon, right? You're wanting to buy the cars, that's
14 what you're telling him; right?

15 A Yes, sir.

16 Q Pardon me?

17 A Yes, sir. No, we didn't tell him we wanted to
18 buy the car.

19 Q Pardon me?

20 A We didn't tell him we wanted to buy the car.

21 Q What did you tell him?

22 A My brother had already talked to him about it.
23 He told--

24 Q So, you just went up there and said absolutely
25 nothing?

1 A He had already talked to him about it. When he
2 went up there jumped the car off.

3 Q So, you didn't say anything to Dinneon?

4 A About the car? I asked him how much he wanted
5 for the car.

6 He said, Same price.

7 Q All right. So, it was you and Kayla that was
8 doing the talking when you got to Dinneon's house?

9 A Yes, sir.

10 Q Okay. Now, was not your brother Tavish, he
11 didn't talk to Dinneon, did he?

12 A No, sir.

13 Q He didn't talk to Dinneon than whole night, did
14 he?

15 A No, he talked to him on the phone before we
16 went.

17 Q Were you there when he talked to him on the
18 phone?

19 A No, I wasn't.

20 Q Then you don't know he talked to him, do you?

21 A That's what he told me.

22 Q Now, you leave there, who's driving the Grand
23 Prix?

24 A When we leave there?

25 Q When you leave Dinneon's house, who's driving

NYIA UTSEY-CROSS BY MR. DEJONG

1 the Grand Prix?

2 A Kayla.

3 Q Okay. Let me back up a little bit. You said
4 that you got the Lancer started, was running?

5 A Yes, sir.

6 Q And actually Kayla drove it for a while?

7 A No, it didn't even move the driveway.

8 Q Okay.

9 A She tried to get it go it going but it wouldn't
10 go.

11 Q Did she get in to try to drive it?

12 A Yes, sir.

13 Q Okay. So, it did crank up?

14 A Yes, sir.

15 Q Just didn't stay cranked up?

16 A Yes, sir.

17 Q So now you're leaving Dinneon's house in the
18 Grand Prix. Kayla's driving, where are you seated?

19 A Uh?

20 Q Where are you sitting?

21 A In the passenger seat.

22 Q Where's Dinneon?

23 A In the back.

24 Q With his beer bottle?

25 A Yes, sir.

1 Q Okay. And when do you say that this discussion
2 occurred between your brother and Williams about turn
3 signals?

4 A When we left from the Hot Spot.

5 Q Okay. So, you say that there was a discussion
6 between your brother and Williams when you left the Hot
7 Spot about him giving turn signals?

8 A Yes, sir.

9 Q You're sure of that?

10 A Yes, sir.

11 Q Okay. All right. Well, when you left Dinneon's
12 house, did both cars leave at the same time?

13 A No, sir. When like from the Hot Spot?

14 Q From Mr. Dinneon's house. When Kayla's driving
15 the Grand Prix, who's driving the Mustang?

16 A My brother.

17 Q Okay. So, you leave Dinneon's house, Kayla's
18 driving the Grand Prix, your brother is driving the
19 Mustang, do both cars leave at the same time?

20 A Yes, sir.

21 Q Okay. Not one before the other?

22 A The Grand Prix left out and he went around the
23 corner.

24 Q Okay. So, the Grand Prix was the first one to
25 leave?

1 A Uh-huh.

2 Q Okay. Now, you finally end up at the church.
3 And the -- do you go talk to your brother first?

4 A Yes, sir.

5 Q Okay. And then Kayla gets out and talk to your
6 brother?

7 A Yes, sir.

8 Q That's your testimony, right?

9 A Yes, sir.

10 Q Okay. Now, then some sort of argument breaks
11 out between Kayla and Dinneon?

12 A Yes, sir.

13 Q Well how -- well was he drunk?

14 A Yes, sir.

15 Q Pretty drunk?

16 A (The witness nods.)

17 Q Correct?

18 A Yes, sir.

19 Q And certainly nobody at that point in time had
20 told Dinneon that there was any idea about stealing the
21 car?

22 A No, sir.

23 Q All right. So, for whatever reason Dinneon
24 then, according to you, gets out of the back seat of the
25 Mustang?

1 A No, not the Mustang.

2 Q I'm sorry of the Grand Prix?

3 A Uh-huh.

4 Q And goes towards the driver's side?

5 A Yes, sir.

6 Q Now, Kayla also is going to the driver's side,
7 right?

8 A Yes, sir.

9 Q And that's when some struggle breaks out between
10 them?

11 A Yes, sir.

12 Q Do you remember on September the 21st of 2011,
13 do you remember describing or attempting to describe the
14 struggle between Kayla Williams and Dinneon?

15 A Yes, sir.

16 Q What did you say?

17 A Kayla ran from the car and Sean came from the
18 back seat and tried to get on top of her.

19 Q Okay. You say it like -- when you looked out he
20 was trying to rape her or something, do you remember that?

21 A Yes, sir. Like he was trying to hurt her.

22 Q All right. And when you looked at it and when
23 you were telling Dow and Baker about it, that's what it
24 looked like to you, right?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q Okay. It looked to you like drunk Dinneon was
2 trying to rap Kayla Williams?

3 A Yes, sir.

4 Q All right. Now, at that point in time, if not
5 before, but somewhere in there you get out of the Grand
6 Prix?

7 A Yes, sir.

8 Q Okay. On September the 21st of 2011, you told
9 Dow and Baker you covered your eyes, right?

10 A I'm not sure.

11 Q You don't remember that?

12 A I'm not sure.

13 Q Don't remember that?

14 A I'm not sure.

15 Q Okay. Well, that's not in your statement
16 either, is it?

17 A (There was no response.)

18 Q That's not in your statement?

19 A No.

20 Q You just don't remember if you said that or not,
21 right?

22 A Yes, sir.

23 Q Okay. When you got to the church parking lot,
24 Kayla goes in the parking lot first?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q And the Mustang driven by your brother, pulls up
2 behind the Grand Prix?

3 A Not like right behind but behind, yes, sir.

4 Q So not bumper to bumper, right?

5 A No, sir.

6 Q So, there was some distance?

7 A Yes, sir.

8 Q So, at that point in time there was no
9 appearance that your brother was trying to do anything
10 with the Grand Prix?

11 A No, sir, just told us to keep driving.

12 Q Okay, keep driving. But he did not pull the
13 Mustang right on top of or right bumper to bumper to the
14 Grand Prix?

15 A No, sir.

16 Q Let me ask you this, Ms. Utsey, was it dark out
17 there?

18 A Yes, sir.

19 Q All right. A little light but not much, was
20 there?

21 A No, sir.

22 Q Okay. And you certainly were not under a street
23 light at that point in time, were you?

24 A No, sir, it was pitch dark.

25 Q Do you remember -- do you remember how the

1 church parking lot looked?

2 A It was just a big ole parking lot.

3 Q Let me show you this one. Does that refresh
4 your memory at all, what the church parking lot looked
5 like?

6 A Yep.

7 Q When you pulled in, were you more back here or
8 more closer?

9 A More closer to the road.

10 Q All right. More in this area right here,
11 correct?

12 A Yes, sir.

13 Q Okay. All right. Now, it wasn't until the
14 struggle broke out between Dinneon and Kayla that your
15 brother pulled the Mustang around beside the Grand Prix?

16 A Yes, sir.

17 Q When he pulled the Mustang around the Grand
18 Prix, how far away was the driver's door of the Mustang,
19 how far away was it from the passenger door of the Grand
20 Prix?

21 A Not that far away. He opened it. It's like
22 about that much away. About that much -- far away.

23 Q Two inches?

24 A It might have been two inches. I'm not sure how
25 many inches it was.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q So, you're saying that the Mustang, when your
2 brother pulled it around, was two inches away from the
3 passenger door of the Grand Prix?

4 A Yes, sir.

5 Q All right. And two inches away from the --
6 well, let me back up. So, the driver's door of the
7 Mustang was two inches away from the passenger door of the
8 Grand Prix?

9 A Yes, sir. I'm not sure how many inches it was
10 but I know he just pulled it around.

11 Q You held your fingers up about that much, right?

12 A Yes, sir.

13 Q Being that close, Ms. Utsey, there was no way
14 that someone could have opened the passenger door -- or
15 excuse me, the driver's door on the Mustang, right?

16 A Right, but he did pull it around. It might not
17 have been two inches but he pulled the car around, he
18 opened the door and laid the gun on top.

19 Q Well, if he was that close, he couldn't open the
20 door. Do you agree with that?

21 A Yes, I agree but he did it.

22 Q All right. All right. So, how many shots were
23 fired?

24 A Just one.

25 Q Where were you when that shot was fired?

1 A Outside the car.

2 Q Both cars?

3 A Yes, sir.

4 Q Okay. You were standing in the parking lot?

5 A Yes, sir.

6 Q More on the driver's side or passenger side of
7 the Mustang or passenger side of the Grand Prix?

8 A The passenger side of the Grand Prix.

9 Q Okay. So, at that point in time you still
10 saying you had not gotten into the Mustang, right?

11 A Right.

12 Q Okay. When you leave the church parking lot,
13 you finally get back to -- well, where do you go?

14 A Repeat your question again.

15 Q When you left the church parking lot, where did
16 you go?

17 A I got in the car with my brother and went back
18 to my momma's house.

19 Q All right. When you got back to your momma's
20 house, who went in your mom's house?

21 A Me and my brother.

22 Q Kayla didn't go in, did she?

23 A No, sir.

24 Q She never went in, did she? Not that night?

25 A Not that night, no, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q And then from there you and Kayla -- well, did
2 you go pick your baby up?

3 A Went to go get some money from my sister, then
4 went to go pick up my baby.

5 Q And then you, your baby and Kayla went to InTown
6 Suites?

7 A Yes, sir.

8 Q Did you sleep that night?

9 A Yes, sir.

10 Q Okay. That would have been the night of Sunday
11 night, September 18th, right?

12 A Yes, sir.

13 Q The next day would have been Monday. Did you
14 sleep Monday night?

15 A No, sir.

16 Q Where were you?

17 A That Sunday night we had to go pick up my
18 brother.

19 Q Okay. So, where did you go?

20 A We went to Tennessee.

21 Q And where in Tennessee did you go?

22 A Pigeon Forge, I'm not sure.

23 Q Okay. Well, when did you go to Maggie Valley?

24 A Maggie Valley?

25 Q Uh-huh.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Charles was not going to go back with you?

2 A Yes, sir.

3 Q Okay. So, at what point in time did you become
4 aware that Charles was not going to go back with you?

5 A Before we left the house, Dinneon's house.

6 Q To go to the Hot Spot?

7 A Before we went to the Hot Spot we knew he wasn't
8 coming back with us. Okay. All right.

9 Q But then this is the same guy that you said was
10 pulling out the dome light in the Mustang?

11 A Yes, sir.

12 Q Okay.

13 MR. DEJONG: One moment, please, Your Honor.

14 THE COURT: Yes, sir.

15 BY MR. DEJONG:

16 Q So, on September the, I believe the 20th of
17 2011, that's when y'all were going to the Wal-Mart in
18 Travelers Rest, is that right?

19 A Yes, sir.

20 Q Who was who all was in the car then?

21 A Me, Kayla, my brother and my baby.

22 Q All right. Who was driving?

23 A Kayla.

24 Q And she drove the entire time, right?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q She was the one -- did y'all get going pretty
2 fast?

3 A Yes, sir.

4 Q She was driving?

5 A Yes, sir.

6 Q Did she ever attempt to stop?

7 A No, sir.

8 Q All right. Did she ever give any indication
9 that she had enough and was going to stop that Mustang?

10 A No, sir.

11 Q She was running?

12 A Yes, sir.

13 Q And you were running?

14 A Yes, sir.

15 Q When you were at the church parking lot, at what
16 point in time did you say that the beer bottle got broken?

17 A Before Sean ran to get on top of Kayla.

18 Q Was this while the argument was going on
19 between -- or struggle going on between Dinneon and
20 Williams?

21 A Yes, sir.

22 Q Okay. Did he throw the beer bottle?

23 A Yes, sir.

24 Q And he threw it and splattered pretty much
25 around in an area, right?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A Yes, sir.

2 Q Okay. And when he threw it, was it thrown
3 towards Kayla Williams?

4 A No, back behind the car.

5 Q Okay. Did it keep any of the bottle in his
6 hand?

7 A No, sir.

8 MR. DEJONG: Thank you, Ms. Utsey.

9 THE COURT: Any redirect, sir?

10 MR. RICHARDSON: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q You said -- Mr. DeJong was referring to a
14 statement that you made in April. Do you remember doing
15 that? When you were talking to Detective Dow?

16 A Yes, sir.

17 Q And he referred to, I know it's been a long
18 time, but he referred to you saying that there was -- that
19 you didn't make any mention of a BB gun, do you remember
20 Mr. DeJong asking you that question?

21 A Yes, sir.

22 Q Do you remember stating to Detective Dow that
23 Williams said they would shoot Hinson with a BB gun?

24 A Yes, sir. I'm not sure, it's been a little
25 while but, yes.

1 November 20, 2013

2 THE COURT: Anything we need to take up before
3 we bring the jury in this morning?

4 MR. RICHARDSON: Your Honor, a matter for the
5 State, as I discussed with Mr. DeJong, we have come in
6 receipt of a letter this morning. From a jailer at the
7 Pickens County Law Enforcement Center. And that letter is
8 from the Defendant to the -- to a co-defendant. I
9 provided that letter to Mr. DeJong. Certain redactions
10 have been made. It's our intent to call the jailer and
11 introduce that letter into evidence.

12 THE COURT: Okay. If you would, please, just as
13 a foundational matter, state the circumstances under which
14 the State came into possession of that letter.

15 MR. RICHARDSON: Your Honor, this morning at
16 approximately 8:30, I received a call from Detective Ben
17 dow. At that point in time he told me he was in receipt
18 of two letters. That had come from a jailer at Pickens
19 County Law Enforcement Center. That jailer, Your Honor,
20 is Shane Brummitt, B-R-U-M-M-I-T-T. Your Honor, at that
21 point in time he read both letters to me. I instructed
22 him at that time to bring those letters directly to me at
23 my office and also bring the jailer with him. They
24 arrived in my office, I questioned the jailer on when he
25 received the letters. He said he directly received the

1 letters from the Defendant on Saturday, late afternoon.

2 At that time, Your Honor, I read the letters,
3 took them into possession, gave Mr. DeJong a copy.
4 Mr. DeJong read that letter, both letters in front of me.
5 And then we came to your office for a in-chambers
6 conference.

7 THE COURT: Okay. So, that's Saturday, the
8 evening of Saturday the 16th, they came into possession of
9 the jail?

10 MR. RICHARDSON: That's correct.

11 THE COURT: Then they came into Officer Dow's
12 possession late on the 19th, is that correct?

13 MR. RICHARDSON: Excuse me. Yes, this morning,
14 Your Honor.

15 THE COURT: This morning. So, this morning on
16 the 20th, the State received that letter?

17 MR. RICHARDSON: That is correct.

18 THE COURT: Okay. All right, Mr. DeJong?

19 MR. DEJONG: Thank you, Your Honor, may it
20 please the Court?

21 THE COURT: Yes, sir.

22 MR. DEJONG: I have and was given copies of both
23 letters this morning. I understand the State's burning
24 desire to introduce them. I am not sure what the basis is
25 that they want to introduce them. There's no direct

1 admission in either of those letters as to anything. Both
2 of the letters are addressed to a co-defendant, Ms. Nyia
3 Utsey -- well, they're not addressed to Ms. Nyia Utsey,
4 let me clarify that. There is, I gather on the back of
5 one of the letters, mine are copies on front and back.

6 And it says, To Utsey.

7 The tenor of the letters is asking her to sway
8 her testimony. Now, number one, I don't think Utsey ever
9 got the letters. At least that's what I have been advised
10 off the record, Your Honor. So, I'm not -- I'm not clear
11 what the purpose is that they want to introduce them. If
12 it was for impeachment of their own witness, I could
13 understand it. But I can't see in the letters themselves,
14 I'm not sure that Your Honor had been privy to the
15 letters, that there is anything in there other than a
16 direct admission on my client's part of anything other
17 than what has already been testified to in this courtroom.
18 Obviously, I'm very surprised about getting these this
19 morning. I can't really lay fault to the State, I have to
20 take Mr. Richardson's word as an officer of the court,
21 that this just came into his possession today. And
22 Detective Dow's today.

23 But be that as it may, Your Honor, without
24 knowing the basis, it's hard for me to argue against it or
25 with it, Your Honor. I'm kind of shooting fish in a

1 barrel here.

2 THE COURT: I understand. I understand.

3 And you intend on introducing that letter,
4 Mr. Richardson, by and through the jailer who received it
5 directly from the Defendant?

6 MR. RICHARDSON: That is correct, your Honor.

7 THE COURT: All right. Okay. I haven't heard
8 the foundation from the jailer, yet. However, I tend
9 to -- I tend to believe it would be admissible if he lays
10 the appropriate foundation and indicates that he got it
11 from the Defendant. I have looked at the letter and I
12 haven't read it word for word, but it would appear to me
13 generally speaking what it is, is a request to a another
14 Defendant to tell something less than the truth on the
15 stand. And you know, generally the purpose of its
16 introduction, I would suspect, is essentially to lend to
17 his culpability in this crime, asking another witness to
18 tell an untruth on the stand. Whether it was conveyed to
19 the actually witness or not is a completely and entirely
20 different issue. And I don't think it's relevant to it.
21 It is a voluntary statement by the Defendant that was
22 willfully and voluntarily transferred to a jailer. If he
23 lays the appropriate foundation, I believe that it's
24 admissible. Now, there may be objections to be posed when
25 and if he testifies. But at this point, generally

1 speaking, in a vacuum, I think that it would be
2 admissible.

3 MR. DEJONG: I'm not arguing with, Your
4 Honor's --

5 THE COURT: Yes, sir.

6 MR. DEJONG: -- ruling, but listening to, Your
7 Honor, to me, that by admitting the letters is to say that
8 he's asking somebody to lie or that he is a liar. That's
9 getting into his character. And if we're getting into his
10 character, then I think we're getting on a very, very
11 shaky ground since his character has not been put in issue
12 by the Defense. If he took the witness stand that would
13 be one thing. I think that that can come back and try to
14 use the letters for two reasons. They can -- well,
15 assuming his character was put into evidence, they could
16 use them to attack his character. They could also it to
17 impeach him.

18 But at this point in time, again, I understand
19 Your Honor's ruling and I'm not trying to argue with that,
20 but I just want that to be a part of the record --

21 THE COURT: I understand.

22 MR. DEJONG: -- Your Honor, that I think we're
23 getting into character issues.

24 THE COURT: I understand. I haven't heard the
25 testimony yet. I don't anticipate that it's an

1 impeachment of his character or credibility. I think what
2 it goes to is culpability. That's my understanding of it
3 without having heard the foundation to be laid by the
4 State in this case. So, I'm not suggesting at this point
5 that any evidence with respect to his character is
6 admissible.

7 MR. DEJONG: No further argument on that, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. DEJONG: He was not on the witness list,
11 obviously. I doubt seriously if any of the jurors would
12 know the jailer, but out of an abundance of caution, since
13 he was not on the original witness list. I would ask the
14 court to inquire of the jury if any of them know him.

15 THE COURT: I will.

16 Mr. Richardson, what's his name again? I'm
17 sorry. So, I can write it down.

18 MR. RICHARDSON: Yes, sir. Shane Brummitt.
19 Last name spelled, B-R-U-M-M-I-T-T.

20 THE COURT: Shane Brummitt of the Pickens County
21 Detention Center.

22 MR. RICHARDSON: That's correct, Your Honor.

23 THE COURT: All right, good enough.

24 All right, gentlemen, anything further before we
25 bring the jury in?

1 All right, let the record reflect no affirmative
2 response.

3 Okay, Mr. Richardson, I believe it's your case.

4 Or Ms. Hinton.

5 MS. HINTON: Thank you, Your Honor, may it
6 please the Court. The State would call James Armstrong.

7 THE COURT: Y'all want to come up here, real
8 quick?

9 (WHEREUPON, an off-the-record bench conference
10 was held in the presence of the jury but out of
11 the hearing of the jury.)

12 JAMES ARMSTRONG, after being duly
13 sworn, testified as follows:

14 THE CLERK: If you would have a seat, state your
15 name for the record, please.

16 THE WITNESS: James Williams Armstrong.

17 DIRECT EXAMINATION

18 BY MS. HINTON:

19 Q Good morning, Mr. Armstrong.

20 A Good morning.

21 Q Could you tell the jury where you are employed?

22 A I'm employed with the Greenville County
23 Department of Public Safety Forensics Division Crime
24 Laboratory.

25 Q How long have you been there?

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 testified in the area of firearm identification at least
2 35 times in Federal and State Court as an expert.

3 Q So, you have been qualified as an expert in this
4 area 35 times?

5 A Yes, ma'am.

6 Q Do you receive continuous training as part of
7 your duties?

8 A Yes, ma'am, I do.

9 MR. DEJONG: I don't mean to interrupt, Madam
10 Solicitor, I'll stipulate his expertise. I'll take him as
11 an expert I presume as a firearm examination or whatever.

12 MS. HINTON: Thank you, Your Honor. I'd still
13 like to--

14 THE COURT: All right, go ahead. You may
15 proceed.

16 MS. HINTON: Okay.

17 But I appreciate that.

18 So, Your Honor, at this time we would be
19 entering him as an expert in firearms and tool marketing
20 analysis.

21 THE COURT: All right, I take from that--

22 MR. DEJONG: No objection, Your Honor.

23 THE COURT: -- colloquy--

24 MR. DEJONG: I stipulate.

25 THE COURT: Okay, he's so admitted.

1 projectile and the fragment to tell me what kind of
2 firearm that projectile may have come from. If I don't
3 have one to compare it to. Then from there, generate our
4 report.

5 Q So, are there markings on specific bullets?

6 A Yes, ma'am, there are?

7 Q And is part of the analysis to look at those
8 markings?

9 A Yes, ma'am, it is.

10 Q And after you have analyzed a bullet, do you
11 make a report as to your findings?

12 A Yes, ma'am, I do.

13 Q After that report is made, what do you do with
14 the actual, physical evidence?

15 A The evidence is sealed back up and placed back
16 in the property and evidence room for storage or for pick
17 up for other agencies.

18 Q Okay. Did you become involved in the analysis
19 of a bullet or a fragment in the case with Mr. Yeargin?

20 A Yes, ma'am, I did.

21 Q Okay. I'm going to show you what's been marked
22 as State's Exhibit 25, do you recognize that item?

23 A Yes, ma'am, I do.

24 Q Okay. And what do you recognize it as?

25 A This is -- the outer bag is a heat sealed pouch

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 with my initials and date. A inside the tube appears to
2 be a .22 caliber fire bullet specimen.

3 Q Okay. Has that package been tampered with at
4 all that you can tell?

5 A No, ma'am.

6 Q Does that appear to be in the condition it was
7 when you sealed it into that bag?

8 A It is the same condition?

9 MS. HINTON: Your Honor, at this time the State
10 would like to admit State's Exhibit No. 25 into evidence.

11 THE COURT: Any objection?

12 MR. DEJONG: No objection, Your Honor.

13 THE COURT: All right. Without objection the
14 same is admitted into evidence as State's Exhibit No. 25.

15 (WHEREUPON, State's Exhibit No. 25 was marked
16 for identification and received into evidence.)

17 BY MS. HINTON:

18 Q Mr. Armstrong, in testing that bullet, did you
19 go through the same process that you stated earlier that
20 you do generally?

21 A Yes, ma'am, I do.

22 Q And what were your findings on that bullet?
23 What type of bullet was that?

24 A I found the item to be a .22 caliber fire bullet
25 specimen?

1 Q Now to be clear, can a .22 caliber bullet come
2 from a handgun?

3 A Yes, ma'am.

4 Q Can it always come from a riffle?

5 A Yes, ma'am.

6 Q Did you compare that bullet to a Greenville
7 County case?

8 A Yes, ma'am, I did.

9 Q And to be clear, did that bullet match up with
10 the firearm in that Greenville County case?

11 A It did not match.

12 Q Were you able to the specifically what type of
13 firearm it came from?

14 A Not specifically. I gave them a general idea
15 based on the riffle and characteristics. It's just a
16 general -- kind of give the idea of -- an investigative
17 guidance as to what type of firearm they may be looking
18 for.

19 Q Do you provide a list of potential firearms?

20 A Yes, ma'am, I did.

21 Q Okay. And you said that you memorialized those
22 findings into a report, is that correct?

23 A That's correct.

24 Q I'm going to show you State's Exhibit 31, do you
25 recognize that?

CHRIS GARY-DIRECT BY MS. HINTON

1 BY MS. HINTON:

2 Q Mr. Gary, where are you employed?

3 A I work for the Greenville County Department of
4 Public Safety in the forensics division.

5 Q And as a member of the forensic division what,
6 do you do on a daily basis?

7 A I accept latent fingerprint evidence from our
8 technicians as well as technicians from other agencies. I
9 examine the fingerprints and other latent print evidence
10 for their quality. And I compare those fingerprints to
11 any known standards and I issue reports based on my
12 findings.

13 Q And can you tell the Court a little bit about
14 your educational background?

15 A Yes, I have a Bachelor's Degree in biology from
16 the College of Charleston. As well as an Associates in
17 crime law and society.

18 Q And what about training? Have you received any
19 training in this field?

20 A May I make a correction?

21 Q Sure.

22 A I'm sorry, I have a minor in crime law and
23 society, not an associates, I apologize.

24 Q Thank you. Can you tell --

25 MR. DEJONG: Excuse me, Madam Solicitor, can we

CHRIS GARY-DIRECT BY MS. HINTON

1 A Yes, I've been qualified nine times.

2 Q Is that in General Sessions Court?

3 A Yes, that is.

4 MS. HINTON: Your Honor, at this time the State
5 would move Mr. Gary as an expert in fingerprint
6 examination and identification.

7 MR. DEJONG: No questions, Your Honor.

8 THE COURT: Okay.

9 All right, ladies and gentlemen, I will accept
10 him as an expert witness. The same caveat applies. No
11 preferential treatment is to be given to an expert
12 witness. You consider an expert witness' testimony
13 exactly like you would examine any other piece of evidence
14 presented in the case.

15 Yes, ma'am.

16 MS. HINTON: Thank you, Your Honor.

17 BY MS. HINTON:

18 Q Mr. Gary, can you explain to the jury what a
19 latent print is?

20 A Yes. On the surface of your hand you have
21 raised ridges. Maybe you've noticed them before in the
22 past in just everyday life. Or when you touch glasses or
23 something like that. But we have these raised ridges on
24 the bottom of our hands and bottom of our feet. These are
25 called friction ridges. These ridges kind of act like a

CHRIS GARY-DIRECT BY MS. HINTON

1 A May I examine my notes?

2 Q Sure.

3 A I received 33 latent lifts from Lieutenant Tony
4 Robinson.

5 Q And were those lifts from various surfaces?

6 A Yes, they were.

7 Q And at the time that you received them, did you
8 have any known standards to compare them to?

9 A Lieutenant Tony Robinson submitted some known
10 standards for me to compare the latent fingerprints he
11 lifted to.

12 Q Okay. And where those known standards Tavish
13 Yeargin?

14 A Yes, they were.

15 Q And Nyia Utsey.

16 A Yes, they were.

17 Q And Kayla Williams?

18 A Yes.

19 Q Okay. Was there another potential lead in this
20 case to your knowledge?

21 A To my knowledge at the very beginning, I
22 remember Lieutenant Tony Robinson did give two other names
23 at the very first time he brought these latent
24 fingerprints. But none of individuals are matched. We
25 were also supplied the Victim's elimination prints in this

1 case. And he was not matched as well.

2 Q Okay. And if we could now, if we could turn to
3 the prints themselves. If you could go through first the
4 cards and how they're identified.

5 A Okay. This is a latent envelope. And this is
6 what -- what exactly Tony Robinson brought to me. It has
7 all the case information with the case number, the case
8 type, the Victim's information and any other information
9 that, you know, he may have that is pertaining to this
10 case. On a latent envelope -- or a latent fingerprint
11 card, the actual latent lifts, it looks something like
12 this. On one side they have all the information with the
13 case number. The same thing that was on the envelope, the
14 case number, where it was lifted. But on these they
15 actually have the information about where the latent lift
16 came from. Which is important to keep track of. So, if I
17 was working the scene, I would be dusting a scene and when
18 I lift a print, I would put where the print came from. If
19 it was from a piece of glass or if it were from a piece of
20 metal, I would document that as to where the fingerprint
21 came from. So, that I can say that the fingerprint on
22 this latent lift came from this surface. And I would
23 describe it the best I could so that we could, you know,
24 document that in our reports.

25 Q And was that done in this case on the 33 lifts?

CHRIS GARY-DIRECT BY MS. HINTON

1 A Yes, it was.

2 Q Okay. All right. I believe earlier I premarked
3 some of these with you?

4 A Yes, you did.

5 Q And I want to start with what's been marked as
6 State's Exhibit No. 32. Can you identify what that is?

7 A Yes, this is a latent fingerprint card.

8 Q Okay. And from the back, can you tell where
9 that was lifted from?

10 A Yes. Latent lift number 25, marked as State's
11 Exhibit 32, was lifted from the gas tank lid of a
12 Mitsubishi Lancer. And it is identified as being made by
13 the number two, which is the right index finger, of Nyia
14 Shanise Utsey.

15 Q And State's Exhibit No. 33, can you identify
16 that in the same fashion?

17 A Latent lift number 26, which is State's Exhibit
18 33, is from the gas tank lid of a Mitsubishi Lancer. And
19 it is identified as well as being the number two, right
20 index finger, of Nyia Shanise Utsey.

21 Q And you may have to refer to your report for
22 this but were those the only prints that were lifted from
23 the Mitsubishi Lancer?

24 A One second.

25 Q Sure.

1 A That is incorrect. There was one other latent
2 lift lifted from the Mitsubishi Lancer from the front
3 corner bumper of the driver's side. And it was
4 unidentified.

5 Q Okay. And what does that mean?

6 A Unidentified means that no one that we were
7 given standards for to compare, none of those people
8 matched that fingerprint. Or that that fingerprint was
9 not of enough quality in that fingerprint to actually
10 compare it to anyone. That's something we call not
11 comparable.

12 Q Do you know in this case whether it was
13 unidentifiable or not comparable? Do you differentiate?

14 A No, we don't differentiate in our notes. Only
15 if the entire case is not comparable is that when we
16 determine that the whole case is not comparable. But we
17 don't go through individual latent lifts and determine if
18 they were not comparable or unidentifiable. They're just
19 simply unidentifiable. Kind of just the way they group
20 them together. Is we did not make a fingerprint match on
21 that particular print.

22 Q So, the only known prints that you have from the
23 Mitsubishi Lancer connect back to Ms. Utsey, is that
24 correct?

25 A That is correct.

1 Q Okay.

2 Your Honor, at this time The State would
3 move State's Exhibit number 32 and 33 into evidence.

4 THE COURT: Any objection?

5 MR. DEJONG: I'm sorry, without objection, Your
6 Honor.

7 THE COURT: All right, without objection, the
8 same is admitted into evidence.

9 (WHEREUPON, State's Exhibits Nos. 32 & 33 were
10 marked for identification and received into
11 evidence.)

12 BY MS. HINTON:

13 Q Mr. Gary, next State's Exhibit No. 34 and 35, I
14 believe they are attached. So if you would refer to them
15 by their exhibit number and explain what those are.

16 A Okay. This is a latent fingerprint lift,
17 there's actually two of them.

18 Q Okay. And specifically as to State's Exhibit
19 34, what was that identified as?

20 A State's Exhibit 34. And this is from South
21 Carolina tag, , I believe it's a , is identified as
22 being made by the number eight, left middle finger of
23 Tavish Yeargin.

24 Q And as to State's 35, what is that?

25 A State's Exhibit 35 is an additional lift off of

1 the same surface. It is from a South Carolina tag

2 And it is also -- or it is identified by being made
3 by the number nine, which is the left ring finger of
4 Tavish Yeargin.

5 Q Okay. And as to State's 36 and 37, those are
6 also attached, so if you would do those in the same
7 fashion. State's 36, what is that?

8 A State's 36 is from South Carolina tag
9 And it is identified as being made by the number one.
10 Which is the right thumb of Tavish Yeargin.

11 Q Oaky. And -- I'm sorry, I forget. Are we on 36
12 or 37?

13 A Thirty-seven.

14 Q Thirty-seven, thank you. Could you explain what
15 that is?

16 A State Exhibit 37 which is the second lift from
17 the South Carolina tag. Is identified as being
18 made by the right thumb finger as well as the left thumb
19 of Tavish Yeargin.

20 Q And I'm going to show you what's already been
21 introduced as State's 27. Can you read the numbers and
22 letters off of that?

23 A Yes.

24 Q And Mr. Gary, as to State's Exhibit 38, can you
25 identify what that is?

CHRIS GARY-DIRECT BY MS. HINTON

1 A State's Exhibit 38, which is from a Pontiac
2 Grand Prix, is identified -- or is from the top driver's
3 side of the Grand Prix by the way. It is identified as
4 the right palm of Tavish Yeargin.

5 Q And as to State's Exhibit 39, can you identify
6 that?

7 A State's Exhibit 39, which is from the top
8 driver's side of a 2006 Pontiac, Grand Prix. Is
9 identified as being made by the right palm of Tavish
10 Yeargin.

11 MS. HINTON: Your Honor, at this time the State
12 would move State's Exhibit number 34, 35, 36, 37, 38 and
13 39 into evidence.

14 THE COURT: Yes, sir.

15 MR. DEJONG: No objection, Your Honor, as to
16 State's Exhibit 39, 37, 35, 34. I think I got all that.
17 I do have a bit of a problem with State's Exhibit No. 38.
18 I don't know. This is the first time I've seen these and
19 I'm not raising discovery issues, Your Honor --

20 THE COURT: Yes, sir.

21 MR. DEJONG: -- this is just the first time I
22 have seen them. Certainly aware of the report. But there
23 is a diagram -- or appears to be a diagram drawing on the
24 back of one of these cards. I don't know who did it.
25 Where it came from or anything else. As far as the prints

CHRIS GARY-DIRECT BY MS. HINTON

1 themselves, front side of the card I don't have a problem
2 with. The back side of the card I have a bit of a problem
3 with.

4 THE COURT: All right, can you lay a foundation
5 for the diagram itself?

6 MS. HINTON: He can. There's also a diagram on
7 39, which I don't think he objected to but I'm happy to
8 lay a foundation--

9 MR. DEJONG: Missed that one, Your Honor.

10 MS. HINTON: -- on 38.

11 BY MS. HINTON:

12 Q Mr. Gary, who did you receive those prints from,
13 again?

14 A I received those fingerprint cards from
15 Lieutenant Tony Robinson.

16 Q Okay. And when you received those cards, were
17 they in that condition?

18 A Yes, they were. Minus the fact that I did write
19 on here's the identifications that I made. As well as my
20 initials on the card when I accepted them.

21 Q So, you did not draw the diagram?

22 A No, I did not.

23 MS. HINTON: Your Honor, I think that there was
24 prior testimony from Lieutenant Robinson that he lifted
25 the prints and then placed them on these cards. So, I

CHRIS GARY-DIRECT BY MS. HINTON

1 think the -- it's the State's position that's sufficient
2 enough to lay a foundation.

3 THE COURT: Okay. Do you have a residual
4 objection to that foundation?

5 MR. DEJONG: I do not, Your Honor.

6 THE COURT: All right, without objection, the
7 same is admitted into evidence.

8 (WHEREUPON, State's Exhibits Nos. 34-39 were
9 marked for identification and received into
10 evidence.)

11 BY MS. HINTON:

12 Q Mr. Gary, were there any other prints lifted
13 from the license plate ?

14 A One second. Yes. There was one additional
15 fingerprint that was the lifted from South Carolina tag

16

17 Q Okay, and who did that print belong to?

18 A It was unidentified.

19 Q Okay. So, it was not identified as to Ms. Utsey
20 or Ms. Williams?

21 A That is correct.

22 Q And as to the Lancer, there was one unidentified
23 on that one as well, is that correct?

24 A That is correct.

25 Q And that did not -- was not able to be

1 identified as Mr. Yeargin or Ms. Williams?

2 A It was unidentified to anyone.

3 Q And just in the interest of full disclosure, you
4 had some prints as to Kayla Williams as well?

5 A Yes, that is correct.

6 Q Okay. And can you tell me what surfaces those
7 all originated from?

8 A Yes. Latent lift number 16, which is from back
9 of trunk lid of a 2006 Pontiac, Grand Prix. Is identified
10 as being made by the number two, which is the right index
11 finger, of Kayla Nicole Williams.

12 Latent lift number 17 from top of spoiler
13 on the trunk of a 2006 Pontiac, Grand Prix, is identified
14 as being made by the number one, which is the right, thumb
15 finger, of Kayla Nicole Williams.

16 Latent lift number 18, from top of spoiler
17 of trunk of a 2006, Pontiac, Grand Prix. And this is the
18 second lift from that location. Is identified as being
19 made by the right, thumb finger of Kayla Nicole Williams.

20 Latent lift number 19, which the from the
21 top of spoiler on trunk of a 2006, Pontiac, Grand Prix, is
22 identified as being made by the number six, which is the
23 left thumb finger, of Kayla Nicole Williams.

24 Latent lift number 20, from top of spoiler
25 on trunk of 2006, Pontiac, Grand Prix, is identified as

CHRIS GARY-DIRECT BY MS. HINTON

1 being made by the number six, which is left thumb finger,
2 of Kayla Nicole Williams. And that again is the second
3 lift from that location.

4 Latent lift number 21, from passenger side
5 of a 2006, Pontiac, Grand Prix, is being identified by the
6 number seven, which is the left index finger of Kayla
7 Nicole Williams.

8 Q So to be clear, all of Ms. Williams prints that
9 you have come from the Grand Prix, is that correct?

10 A That is correct.

11 Q And because we're here on Mr. Yeargin today, I
12 want to shift back to him. Did you memorialize your
13 finding in a report?

14 A Yes, I did.

15 Q Okay. And I'm going to show you what's been
16 marked as State's Exhibit No. 30, do you recognize that?

17 A Yes. This is a copy of my original report.

18 Q Referencing who, specifically?

19 A These are the fingerprint matches that we
20 detailed earlier that were identified as being made as
21 Tavish Dominique Yeargin.

22 Q Are you peer reviewed at all?

23 A Yes. Every identification we make that we write
24 a report on is peer reviewed by our supervisor.

25 Q And is that referenced on the report?

CHRIS GARY-CROSS BY MR. DEJONG

1 there at different times?

2 A That is also correct.

3 Q But now when you do it, when a lift is done for
4 a latent print, it is done print by print, right?

5 A Not always. If fingerprints are too close
6 together to lift them separately, they can be lifted
7 together. Which is the case where I identified as one
8 print being made by the right thumb and one print being
9 made by the left thumb, they couldn't be lifted separately
10 so they were lifted together.

11 Q And on the license plate you had one
12 unidentified latent?

13 A That is correct.

14 Q Now, talking about Kayla Williams, her prints
15 were found on the back trunk lid of the Grand Prix,
16 correct?

17 A The back trunk lid as well as the passenger side
18 of the Grand Prix.

19 Q Correct. And also, three on the spoiler?

20 A There were four from the spoiler.

21 Q Miscounted. Four from the spoiler. Okay. So,
22 you have Kayla Williams on the passenger side, correct?

23 A That is correct.

24 Q Kayla Williams on the trunk?

25 A That is correct.

1 Q And Kayla Williams on the spoiler?

2 A That is correct.

3 Q Okay. And the only person you have on the
4 Lancer Mitsubishi is Nyia Utsey?

5 A That is correct.

6 Q Now, when you do latent lifts, as you indicated
7 a moment ago, I believe when you get a latent, you can't
8 tell when it was put there or how long it's been there or
9 anything else, right?

10 A That is correct.

11 Q And certainly there could be other individuals,
12 based on the surface that may have touched hand or
13 whatever the objects and there wouldn't be fingerprints?

14 A That is correct, as well.

15 Q So, you can't necessarily say based on
16 fingerprint or latents, that those are the only people
17 that ever handled those objects?

18 A No, I cannot say that. But I can that they did
19 touch -- the fingerprints that were identified were
20 touched by them at some in time. But I can't say what
21 timeframe they were touched.

22 Q And let me ask you this, on the Grand Prix, of
23 the 19 that were unidentifiable, how many came off of the
24 Grand Prix, if you know?

25 A I believe it was 18.

1 Q Eighteen came off of the Grand Prix?

2 A Total prints of the 33? Or unidentified?

3 Q No, the 19 you did not identify.

4 A Okay.

5 Q How many of those came off of the Grand Prix?

6 A It would be 17. Because there's one additional
7 from the license plate, one additional from the Lancer.
8 And 17 from the Grand Prix.

9 Q Do you know the location of the 17 that were
10 unidentifiable on the Grand Prix?

11 A Yes, I could read through those.

12 Q Please do.

13 A The driver's door, the rear driver's side door,
14 the passenger side front door, the passenger side front
15 door, the driver's side above the gas lid, the top spoiler
16 on the trunk, the top of the spoiler on the trunk again,
17 says from a Pontiac, Grand Prix. Passenger side front
18 door, passenger side front, the front of the hood, the
19 driver's door, the passenger side, the driver's door, the
20 driver's door, the front of the hood and the front of the
21 hood.

22 Q So, of the, and we'll keep it to the Grand Prix
23 now, still trying to do my math here. Think there were 29
24 on the Grand Prix, is that correct?

25 A I'll have to recount them.

1 Q Let's not go through that again. You had 33,
2 two from the Lancer, right?

3 A Three from the Lancer.

4 Q Three from the Lancer. So, that gets us down to
5 30?

6 A Yes.

7 Q Then you had two from the license plate?

8 A I believe there were more than that but I'd have
9 to count.

10 Q Okay. So, you had unidentifiable on the license
11 plate, other than one?

12 A No, I had one unidentifiable from the license
13 tag as well as four identifications to Tavish Yeargin on
14 the license tag. So, it would be five total.

15 Q Okay. Now, I got lost again.

16 A I believe we're at 25 on the Grand Prix.

17 Q Okay, 25 on the Grand Prix. But I think we
18 established, you had one unidentifiable on the Lancer, one
19 unidentifiable on that tag and that left us 17 remaining
20 unidentifiable?

21 A That is correct.

22 Q So, out of that -- all of those latent prints on
23 the Grand Prix more were unidentifiable than identifiable,
24 is that correct?

25 A That is correct.

1 Q And I believe you said, but I want to be sure.
2 You had known prints of the alleged victim in this case,
3 is that correct?

4 A That's correct.

5 Q So, you eliminated him from any of those unknown
6 prints?

7 A That's correct.

8 Q Okay. So, truly those unknowns are truly
9 unknowns?

10 A That is correct.

11 MR. DEJONG: Thank you, Mr. Gary.

12 THE COURT: Redirect?

13 MS. HINTON: No, Your Honor.

14 THE COURT: Thank you, you may step down.

15 MS. HINTON: May he be excused, Your Honor?

16 MR. DEJONG: No objection.

17 THE COURT: Thank you for being here, I
18 appreciate it.

19 THE WITNESS: Thank you.

20 THE COURT: All right, Mr. DeJong, do you have a
21 motion with respect to the next witness?

22 MR. DEJONG: I'm sorry, Your Honor?

23 THE COURT: Do you have a motion with respect to
24 the next witness? Did you indicate that --

25 MR. DEJONG: Yes, Judge, my apologies.

1 testified as follows:

2 THE CLERK: If you would, have a seat. State
3 your name for the record.

4 THE WITNESS: James William Fulcher.

5 DIRECT EXAMINATION

6 BY MS. HINTON:

7 Q Good morning, Dr. Fulcher, how are you?

8 A I'm well.

9 Q Where are you employed?

10 A I'm a forensic pathologist with Pathology
11 Associates of Greenville, South Carolina.

12 Q Okay. And can you tell the jury a little bit
13 about your educational background?

14 A Sure. I'm a medical doctor. I went to college
15 in Virginia, medical school in Virginia, did a four year
16 residency in anatomical and clinical pathology in
17 Virginia, in Richmond, Virginia. Then I had a one year
18 fellowship in forensic pathology in Richmond, Virginia at
19 the medical examiner's office there.

20 Q Do you have any additional training in this
21 field?

22 A I've been practicing here for four years. And
23 I'm also board certified as a forensic pathologist by the
24 American Board of Pathology.

25 Q Are you currently employed in any other capacity

JAMES FULCHER-DIRECT BY MS. HINTON

1 other than as a forensic pathologist?

2 A I am. I'm also an assistant professor of
3 pathology at the medical school in Greenville.

4 Q And how many autopsies have you performed?

5 A Approximately 1200 in my career.

6 Q Okay. And how many -- have you ever testified
7 as an expert before?

8 A I have.

9 Q How many times have you been called to testify

10 A Ten to 15.

11 MS. HINTON: Your Honor, at this time the State
12 would move Dr. Fulcher as an expert in forensic pathology.

13 MR. DEJONG: No questions, Your Honor.

14 THE COURT: All right, without objection, he's
15 admitted as an expert witness.

16 I remind you of my previous charge, ladies and
17 gentlemen of the jury.

18 You may proceed.

19 MS. HINTON: Thank you, Your Honor.

20 BY MS. HINTON:

21 Q Dr. Fulcher, did you have the opportunity to
22 perform an autopsy on Sean Dinneon?

23 A I did.

24 Q Okay, when was that autopsy?

25 A I'm going to refer to my notes. September 19th

JAMES FULCHER-DIRECT BY MS. HINTON

1 of 2011.

2 Q How do you become involve in cases in Pickens
3 County?

4 A The Pickens County Coroner, Candy Kelly, does an
5 investigation. And if she feels that an autopsy is
6 necessary, she sends the body to us for autopsy.

7 Q Okay. So, are all autopsies from Pickens County
8 performed with your office?

9 A Yes.

10 Q And when you get a body, what's the first thing
11 that you do?

12 A We do an external examine, make sure it's the
13 right person, identification. And then we do an external
14 examine, looking for wounds, tattoos, injuries, document
15 those.

16 Q And did you do that in this case?

17 A I did.

18 Q Was the body you had, in fact, Sean Dinneon?

19 A It was.

20 Q And did you notice any injuries on his body?

21 A Yes. There is a gunshot wound, an entrance
22 wound, on the right upper chest.

23 Q Okay. Using your body, would you point to the
24 jury where that wound was?

25 A Sure. The wound enters right at the clavicle,

JAMES FULCHER-DIRECT BY MS. HINTON

1 the collar bone. Actually fractures the mid point of the
2 clavicle as it enters the body on the right side.

3 Q Once it enters the body, were you able to
4 determine the path that the bullet took?

5 A Yes.

6 Q Can you explain to the jury what path that was?

7 A Yes. The bullet crosses diagonally downwards
8 towards the back, injuring the left lung, piercing the
9 diaphragm, which is in between the thoracic and abdominal
10 portions of the body. And then ends up right in front of
11 one of the large vessels. It does not injure that vessel.
12 So the fatal wound was, in fact, to the lung.

13 Q So just to be clear, it enters on the right?

14 A Correct.

15 Q Pierces the left lung.

16 A Right.

17 Q Right lung, thank you. Then lodges?

18 A Right below the diaphragm in front of inferior
19 vena cava, which is a large vessel in the body. And it
20 actually does injure a small of the liver on its way to
21 the inferior vena cava. Although, I did not feel that the
22 liver injury was life threatening.

23 Q And you say it punctures the lung --

24 A Yes.

25 Q -- can you explain a little bit about what that

JAMES FULCHER-DIRECT BY MS. HINTON

1 means?

2 A Sure. Bullets don't cut through anything,
3 they're really quite blunt. So when they enter the human
4 body, they create a fairly devastating pressure wave
5 which obliterates tissue in its path. In this case we had
6 a very large hemorrhagic wound going through the right
7 side of the lung, causing a significant amount of
8 bleeding.

9 Q And what are ccs?

10 A Ccs? A cc is a unit of volume. It's a cubic
11 centimeter. It's like you look at a ruler and look at
12 what a centimeter looks like, it's one of those cubed.

13 Q Were you able to determine -- well let me back
14 up. Are ccs used to measure blood loss?

15 A They are.

16 Q And you were able to determine how many ccs
17 Mr. Dinneon lost?

18 A Yes, approximately 800 ccs. A man his size
19 should have about 5000 ccs of blood or five liters of
20 blood in their body, approximately. So, this is almost
21 one fifth of the blood volume just in that side of the
22 chest.

23 Q And when someone has a wound such as
24 Mr. Dinneon, how did they actually die?

25 A From blood loss.

JAMES FULCHER-DIRECT BY MS. HINTON

1 Q Okay. And I'm going to show you what's been
2 marked as State's Exhibit No. 4. And this is in black and
3 white but are you able to see any blood loss in that
4 picture?

5 A Yes, there's a significant amount of blood
6 coming from the mouth and nose on the pavement. You can
7 see it glistening there near the face.

8 Q Just so the jury can see.

9 MR. DEJONG: Your Honor.

10 THE COURT: Yes, sir.

11 MR. DEJONG: It hasn't been introduced but I'm
12 objecting to it. I'm not sure --

13 MS. HINTON: It's already in evidence.

14 MR. DEJONG: Is that the one that's already
15 introduced? Okay, then I stand corrected. I'm sorry.

16 THE COURT: Okay, good enough.

17 MS. HINTON: And, Your Honor, just for the
18 record, referring to State's 4.

19 BY MS. HINTON:

20 Q And is this what you're referring to right here?

21 A Yes.

22 Q And is the blood loss?

23 A Yes.

24 Q When a bullet enters a body, are there certain
25 characteristics that help determine the distance --

JAMES FULCHER-DIRECT BY MS. HINTON

1 correct?

2 Q And up by his collar bone?

3 A Correct.

4 Q Okay. And Dr. Fulcher, just one final question.
5 Were you able to determine the manner of death in this
6 case?

7 A I was.

8 Q What was that?

9 MR. DEJONG: Your Honor, again, just for
10 precautionary purposes, I object to that, Your Honor.

11 THE COURT: Yes, sir, I understand.
12 Respectfully overrule the same.

13 MS. HINTON: Thank you, Your Honor.

14 BY MS. HINTON:

15 Q And Dr. Fulcher, what was the manner of death?

16 A The manner of death in this case is homicide.

17 MS. HINTON: Dr. Fulcher, I don't have anything
18 further at this time. Please answer any questions
19 Mr. DeJong may have.

20 THE WITNESS: Thank you.

21 MR. DEJONG: May it please the Court.

22 CROSS-EXAMINATION

23 BY MR. DEJONG:

24 Q Dr. Fulcher, you say the manner of death is
25 homicide?

JAMES FULCHER-CROSS BY MR. DEJONG

1 A I do.

2 Q Now, when we talk about homicide -- well, let me
3 ask you this. Are basically homicide and murder used
4 interchangeably?

5 A They're not.

6 Q They're not?

7 A They're not.

8 Q Okay. Tell me the distinction between homicide
9 and murder.

10 A Homicide for forensic pathologist is a legally
11 neutral term that does not imply guilt or culpability. It
12 simply means that this person died by the action of
13 another person.

14 Q All right. So that we're clear on that, just
15 the action of another person, it could have justified --

16 A Absolutely.

17 Q -- it could be unjustified, it could be any
18 number of things but not the equivalent of legal murder?

19 A You are absolutely correct, sir.

20 Q I'm not trying to get you into discussing law
21 with me but we agree that by your saying homicide, it is
22 of no way -- it can't be correlated to the legal term of
23 murder?

24 A That's correct.

25 Q All right, sir. Now, in this particular case,

JAMES FULCHER-CROSS BY MR. DEJONG

1 did you do a toxicology on Mr. Dinneon?

2 A We did.

3 Q What were your findings on the toxicology?

4 A Toxicology showed a blood alcohol concentration
5 of .268 percent weight by volume.

6 Q .26 whatever. High, low, medium?

7 A What does that mean?

8 Q Yeah.

9 A The legal limit to operate a motor vehicle in
10 the State of South Carolina is .08. So, this is several
11 times over the legal limit to operate a motor vehicle in
12 the State of South Carolina.

13 Q I believe we can say that Mr. Dinneon was
14 intoxicated, could we not?

15 A Absolutely.

16 Q Probably grossly intoxicated?

17 A Most likely.

18 Q Okay. Now, you found one wound and that came in
19 on the right shoulder? You say chest and I guess that
20 is --

21 A Right --

22 Q -- still in the chest.

23 A -- we define that as being the chest. You can
24 debate that, right.

25 Q I guess maybe put a little differently, it would

1 A That's correct.

2 Q All right. Now, on this case -- well, obviously
3 there was a gunshot?

4 A Yes.

5 Q But the cause of death was actually bleeding to
6 death is what it amounted to?

7 A Correct.

8 Q So, the -- I guess the gunshot wound was almost
9 secondary to the loss of blood?

10 A The gunshot wound caused the loss of blood, yes.

11 Q Right. But the actual cause of death was loss
12 of blood?

13 A Correct.

14 Q And again, so I'm clear, that small caliber
15 bullet could certainly have veered, moved whatever when it
16 hit the clavicle?

17 A Absolutely.

18 Q So, that path, as described by you, does not
19 necessarily show anything as far as the person who fired
20 the shot, aiming or anything else?

21 A Correct.

22 Q Okay. Now, let's talk a little bit about the
23 distance. If it is close range -- and I didn't understand
24 some of what you said and I apologize.

25 A Okay.

SHANE BRUMMITT-DIRECT BY MR. RICHARDSON

1 Q Mr. Brummitt, where are you employed?

2 A Pickens County Detention Center.

3 Q Okay. And what are your duties at the Pickens
4 County Detention Center?

5 A I'm a detention officer.

6 Q Okay. And is Pickens County Detention Center
7 the one that's located at the law enforcement center?

8 A Yes, sir.

9 Q Okay. How long have you been in detention?

10 A Six weeks.

11 Q Okay. And were you working on Saturday evening,
12 this past Saturday evening?

13 A Yes, sir.

14 Q Okay. Do you recall that date?

15 A The 16th.

16 Q Okay. And when you were working, did you have
17 a -- or did the Defendant make contact with you?

18 A Yes, sir.

19 Q Okay. And when he made contact with you, did he
20 give you anything?

21 A Yes, sir.

22 Q What did he give you?

23 A He handed me a letter or a note.

24 Q Okay. All right. Did he hand you more than one
25 or do you recall?

1 A When he handed it to me it was fold up, so. At
2 the time I didn't but now it was four.

3 Q Okay.

4 A Four piece of paper.

5 Q Okay. And did you unfold that piece of paper?

6 A Not immediately.

7 Q Okay. At some point in time did you unfold it?

8 A Yes, sir.

9 Q And did you read it?

10 A Yes, sir.

11 Q Let me hand you what's been marked as State's
12 Exhibit 40, 41 and 42. Can you identify those three
13 exhibits, please sir?

14 A Yes, sir.

15 Q What are those?

16 A It's the letter that was written and handed to
17 me.

18 Q Okay, sir. And once you received this letter
19 and after you read it, what did you do with it?

20 A I asked my Senior Officer what I should do with
21 it. She told me to --

22 MR. DEJONG: Objection, as to what she told him,
23 Your Honor.

24 THE COURT: All right, I sustain as to hearsay.

25

1 BY MR. RICHARDSON:

2 Q Okay, don't tell what somebody said, but what
3 did you actually, physically do with the letter?

4 A I put it in my Lieutenant's box.

5 Q Okay. And at some point in time did you receive
6 those letters back?

7 A Yes, sir.

8 Q And when did you receive those letters back?

9 A This morning.

10 Q Okay. And when you received those letters back
11 this morning, what did you do?

12 A I read over them again to make sure they were
13 the same letters.

14 Q Okay. At that point in time, what did you do?

15 A Um. . .

16 Q Did you ever have any contact with Detective
17 Dow?

18 A Yes, sir.

19 Q Okay. And what did you tell Detective Dow?

20 A Those were the letter that was written to me.
21 Or written that I had seen.

22 MR. RICHARDSON: Your Honor, the State moves
23 Exhibits 40, 41 and 42 into evidence.

24 MR. DEJONG: Subject to my previous objection,
25 Your Honor.

SHANE BRUMMITT-DIRECT BY MR. RICHARDSON

1 THE COURT: All right, yes, sir. Let's just say
2 that the Court analyzed that letter in accordance with the
3 mandates of Jackson v. Denno and find that all of the
4 prerequisites have been met for the threshold of
5 admissibility. Therefore, I respectfully deny the motion.
6 And I'll admit those as State's Exhibit number?

7 MR. RICHARDSON: 40, 41 and 42.

8 THE COURT: 40, 41 and 42.

9 (WHEREUPON, State's Exhibits Nos. 40-42 were
10 admitted into evidence.)

11 BY MR. RICHARDSON:

12 Q Okay. Sir, when the Defendant gave you these
13 letters, what did he ask you to do with them?

14 A He asked me to give them to Utsey.

15 Q I'm sorry, say that again.

16 A He asked me to give them to Utsey.

17 Q Okay. Sir, I'm going to hand you State's
18 Exhibit 41.

19 Your Honor, at this time I would ask that
20 the witness be allowed to publish that to the jury.

21 THE COURT: Any objection, sir? Other than your
22 previous standing objection.

23 MR. DEJONG: Continuing objection.

24 THE COURT: Yes, sir.

25 All right, you may do so.

SHANE BRUMMITT-DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q If you'd, please, read that to the jury.

3 (WHEREUPON, State's Exhibit 41 was
4 published to the jury.)

5 BY MR. RICHARDSON:

6 Q Okay, sir. And State's Exhibit 42, hand you
7 that. Would you, please, publish that for the jury.

8 (WHEREUPON, State's Exhibit No. 42 was
9 published to the jury.)

10 BY MR. RICHARDSON:

11 Q And I'll hand you what's been marked State's
12 Exhibit 40, what does that say?

13 A That was to Utsey.

14 Q Is that who he told you to give those to?

15 A Yes, sir.

16 MR. RICHARDSON: Thank you. Please answer any
17 questions Mr. DeJong may have for you.

18 MR. DEJONG: Thank you, Your Honor, may it
19 please the Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. DEJONG:

23 Q What sequence those letters were supposedly
24 written, you don't know; do you, Officer?

25 A No, sir.

1 Q Okay. And you're saying both of them are handed
2 to you at the same time?

3 A Yes, sir.

4 Q Do the jailers at Pickens routinely reads notes
5 or letters or mail that inmates either send out or
6 receive?

7 A Yes, sir.

8 Q Okay. That is done routinely?

9 A Yes, sir.

10 Q All right, sir. Now, I note -- well, let me ask
11 you this. You didn't see Mr. Yeargin write the letters,
12 did you?

13 A No, sir.

14 Q Okay. He merely asked you to deliver the
15 letters?

16 A Yes, sir.

17 Q Did you ever deliver the letters?

18 A No, sir.

19 Q So, Ms. Utsey never got the letters, right?

20 A That is correct.

21 Q Okay. Then you got the letters and as I
22 understand it, you read them at that point in time, right?

23 A Yes, sir.

24 Q Then you put them in your lieutenant's box?

25 A Yes, sir.

SHANE BRUMMITT-CROSS BY MR. DEJONG

1 Q What action, if any, did the lieutenant take on,
2 if you know? Did he do anything about it?

3 A I do not know.

4 Q All right. But they went into the lieutenant's
5 box, then they came back to your box, correct?

6 A They came back to my hand.

7 Q From?

8 A My senior officer.

9 Q Who?

10 A My senior officer.

11 Q Who is that?

12 A Corporal Tomberline.

13 Q Okay. All right. So, went to your lieutenant
14 to -- or Corporal Tomberline, then back down to you,
15 right?

16 A Yes, sir.

17 Q All right. Then you take upon yourself to call
18 Detective Dow, right?

19 A No, sir.

20 Q Pardon?

21 A No, sir. He had been notified.

22 Q Do you know by whom?

23 A No, sir.

24 Q Okay. So, whoever this unknown person is that
25 notified Detective Dow, they don't do anything with the

1 letters, they sent them back to you, right?

2 A Yes, sir.

3 Q When were the letters given to you?

4 A This morning.

5 Q When were the letters given to you, as you say,
6 by Mr. Yeargin?

7 A Saturday, four o'clock.

8 Q No action was taken on those letters until
9 sometime this morning?

10 A I returned to work -- my shift returned to work
11 this morning.

12 Q Okay. And that's when they went to Detective
13 Dow?

14 A I believe so.

15 Q So, basically somebody sat on those letters for
16 Saturday, Sunday, Monday, Tuesday until Wednesday morning;
17 right?

18 MR. RICHARDSON: Your Honor, I object to the
19 characterization.

20 MR. DEJONG: I'll rephrase the question.

21 BY MR. DEJONG:

22 Q Nothing was done about the letters until Sunday,
23 Monday, Tuesday -- well, three plus days, right?

24 A I don't know.

25 Q You didn't do anything?

1 A I did not do anything.

2 Q Other than what's shared with us, right?

3 MR. DEJONG: Thank you, sir, no further
4 questions.

5 THE COURT: Redirect?

6 MR. RICHARDSON: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q What you have in front of you, that's a actual
10 copies of those letters, right?

11 A Yes, sir.

12 Q And the originals had come folded up, initially?

13 A Yes, sir.

14 MR. RICHARDSON: Okay, thank you, that's all the
15 questions I have.

16 MR. DEJONG: Nothing on recross, Your Honor.

17 THE COURT: All right, thank you for being here,
18 I appreciate it. You may step down.

19 MR. RICHARDSON: Your Honor, may this witness be
20 excused?

21 THE COURT: Any objections?

22 MR. DEJONG: No, no objection. He may be
23 excused, Your Honor.

24 THE COURT: Anything further from the State?

25 MR. RICHARDSON: Your Honor, that's the case for

SHANE BRUMMITT-REDIRECT BY MR. RICHARDSON

1 the State.

2 THE COURT: All right.

3 All right, ladies and gentlemen, when the State
4 rests, then it's necessary that I hear some legal issues
5 from both parties. Therefore, we're going to take a short
6 break and then we'll come back in and we're going to do
7 one of two things. We're either going to resume the trial
8 and hear more testimony or we're going to break for lunch
9 and get ready for closing arguments and closing charge. I
10 don't know yet but I have to have a discussion with the
11 attorneys about that outside your presence. So, if you
12 would, please, retire to your jury room for the immediate
13 time being. Please don't discuss the case.

14 (WHEREUPON, the jury left open court at
15 approximately 11:50 a.m.)

16 THE COURT: All right, motions?

17 MR. DEJONG: Yes, Mr. Richardson, don't have any
18 so it's my turn. Your Honor, at this point in time, on
19 behalf of Mr. Yeargin, I would move for a directed verdict
20 on the murder case. I understand, Your Honor, at the --
21 on my motion for a directed verdict you must take the
22 testimony in light most favorable to the State. However,
23 in this case, we know there was a shooting. That's a
24 given. Now, once you get past that there was a shooting,
25 it is incumbent upon the State to prove malice

1 THE COURT: All right. Gentlemen, I know that
2 when we had taken a recess, I had advised Mr. Yeargin of
3 his right to testify and his right to remain silent. Has
4 the Defendant made a decision in that regard?

5 MR. DEJONG: I'm sorry, Your Honor?

6 THE COURT: Has the Defendant made a decision
7 whether to testify?

8 MR. DEJONG: He has, Your Honor.

9 THE COURT: Okay. Mr. Yeargin, have you, in
10 fact, made a decision whether to testify or not?

11 MR. YEARGIN: Yes, sir.

12 THE COURT: And what is your decision in that
13 regard?

14 MR. YEARGIN: No, sir, I do not want to testify.

15 THE COURT: Okay. Good enough.

16 All right, anything further?

17 MR. DEJONG: With that, Your Honor, the Defense
18 rests. Before the jury comes back in I would renew my
19 motion for a directed verdict, Your Honor.

20 THE COURT: Okay, I respectfully deny the same
21 on the same basis.

22 So, I know that we had the opportunity to have a
23 short charge conference. Incident to that charge
24 conference, Mr. DeJong, do you have any motions to make,
25 sir?

1 MR. DEJONG: Your Honor, I do. And not to get
2 into the informal setting too much, I'm going to ask that
3 the Court not charge inference of malice by use of a
4 weapon and murder. I'm not sure exactly what, Your Honor,
5 position is.

6 THE COURT: Yeah, I am going to grant that. I
7 have already looked at the charge and I have taken that
8 out. Out of the wealth of caution, and I think under the
9 facts of this case, that it could be charged. And it
10 would be in accordance with the law. However, in this
11 instance I'm going to take it out. I'm going to take it
12 out.

13 MR. DEJONG: Thank you, Your Honor. Your Honor,
14 I would also move for a charge on defense of others. In
15 this case, again, albeit through cross-examination,
16 certainly one of the Co-Defendant's testified that her
17 perception was, not her words mine, characterized the
18 struggle between Williams and Dinneon. She characterized
19 It looks like he was trying to rape her something. I
20 would contend, Your Honor, as a result of that, certainly
21 the Williams would have had the right to defend herself
22 from that. Mr. Yeargin would have had a right, under what
23 I read on defense of others, had a right to come to her
24 defense and defending her on that, Your Honor.

25 THE COURT: Yes, sir.

1 Position of the State?

2 MR. RICHARDSON: Your Honor, yes, we would ask
3 that you not charge that. I believe the testimony was
4 laid out in my asking the question whether there was a
5 weapon involved. And also in regards to her talking about
6 a rape, I didn't see any type of testimony that came out
7 that said that she was in any position of harm or rape or
8 anything of that nature. I don't think the evidence is
9 there to support such a charge.

10 THE COURT: Okay. All right. I'm going to
11 respectfully deny the motion to charge defense of others
12 in this case.

13 MR. DEJONG: Thank you, Your Honor.

14 THE COURT: And I'll tell you -- put on the
15 record why. I heard that line of testimony as well. And
16 I know that you elicited answers to questions that were
17 posed in cross-examination. But I thought that each
18 witness who testified with respect to self-defense or
19 facts and circumstances which would purport to
20 self-defense and defense of others, in court they actually
21 denied that they thought that they were in any harm or
22 jeopardy. And also I would, and I don't -- I think it was
23 a very wise decision in your regard not to enter any
24 evidence into the record, particularly in the form of the
25 Defendant's testimony. However, without that and standing

1 alone on the evidence that has been presented, it just
2 doesn't rise to the level of a self-defense charge.

3 MR. DEJONG: Thank you, Your Honor. Finally,
4 Your Honor, I would move the Court for the charge on
5 involuntary manslaughter. Certainly do not need to
6 educate Your Honor on involuntary manslaughter, but simply
7 bring to the Court's attention, the intentional killing of
8 another without malice while engaged in a unlawful
9 activity, not naturally intending to cause death or great
10 bodily injury, to engaged in a unlawful activity, I don't
11 know that that would particularly apply in this particular
12 case. I would take the position that the grand larceny
13 auto, and I'm certainly aware of what the State is asking
14 you to charge.

15 THE COURT: Yes, sir.

16 MR. DEJONG: But on grand larceny or theft of
17 the vehicle, Your Honor, I would submit that that is not a
18 crime that will tend to cause death or great bodily
19 injury. Depending on what website you want to take into
20 consideration, over a million cars are stolen in the
21 United States a year. One website said that's a car every
22 24 seconds. Another said every 28 seconds. Either one,
23 that's a lot of cars. I would simply submit that that is
24 not a crime that would tend to cause death or great bodily
25 injury. And respectfully move the Court for a charge on

1 involuntary manslaughter.

2 THE COURT: Okay.

3 Position of the State?

4 MR. RICHARDSON: Likewise, Your Honor, we would
5 ask that you not charge that. Evidence that was presented
6 in trial, as I established, in no way, form or fashion to
7 have that type of charge.

8 THE COURT: Okay. In the case at bar, I don't
9 think the evidence supports a charge of involuntary
10 manslaughter. I'm just not going to state into record
11 involuntary manslaughter in all of the requisite--

12 MR. DEJONG: I'm sorry, Your Honor, I'm having a
13 very hard--

14 THE COURT: That's all right. I'm not going to
15 state into the record all the requisite elements, but I
16 find that it doesn't meet them. So, I'll respectfully
17 deny that request.

18 MR. DEJONG: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 Okay, anything further before we bring the jury
21 in?

22 MR. RICHARDSON: Nothing further from the State,
23 Your Honor.

24 THE COURT: Okay. So, the State argues first
25 then Defense. I don't believe you presented any evidence,

1 aforethought. And bring back verdicts of not guilty.
2 Thank you so very much for your patience and your time.

3 THE COURT: All right, ladies and gentlemen, the
4 time has come for me to give you the charge on the law.
5 It's going to take about 20 minutes. So, I ask you before
6 I get started, is there anybody who wants to take a break
7 beforehand?

8 There was no response.

9 JURY CHARGE

10 Okay. Good. Ladies and gentlemen, I told you
11 at the very beginning of the case that you have certain
12 duties in the trial of the case and I have certain duties
13 in the trial of the case. Your duty in the trial of the
14 case is to be the judges of the facts in this case. So,
15 you will take all of the evidence and you will make
16 determinations based on the evidence that's presented in
17 this case. That's you're sole and exclusive province. I
18 can't encroach upon that. However, understand that I am
19 the judge of the law in this case. Which means that I am
20 responsible for giving you the law as it relates to the
21 evidence that was presented. You must under your oath
22 accept the law as I give it to you in this case. You may
23 come into this courtroom with certain notions of what you
24 think the law is or what you think the law should be.
25 But I tell you, disregard that. Because under your oath

1 you must accept the law as I give it to you in this case.

2 Now, as I read the law to you in this case,
3 there are going to be certain instances where I start to
4 read. I am reluctant to read a charge because I know that
5 it gets tedious and boring when I do that. It also
6 suggest to you that perhaps I'm either lazy or I'm not
7 very smart. And I don't want to put in the time or the
8 effort to learn the law. But this is serious case. And
9 because it's a serious case for both the State and the
10 Defense and for you, because you put in two and a half,
11 three days on this case, it's important that I get
12 everything right. And I don't want to just tell you what
13 I think off the top of my head but that I tell you precise
14 definitions precisely. So I may revert from reading from
15 time to time, just bear with me.

16 Ladies and gentlemen, as you know in this case
17 there are multiple charges. There are two charges which
18 are before you today. The murder indictment and also the
19 grand larceny indictment. Those are two separate and
20 distinct charges. What that means is you have to consider
21 then separately and distinctly. Consider each one without
22 with regard to the other. What the means is that the
23 State has the burden of proof as I suggested to you. They
24 have the burden of proof of proving each and every element
25 of each individual indictment. So, when you go to your

1 jury room and you begin your deliberations, you consider
2 each indictment and each charge independent of one
3 another. Understand that you can return a verdict on one
4 charge of not guilty and then return a verdict of guilty
5 on the other charge. Or vice versa. You -- it's not
6 necessary that you return the same exact verdict on each
7 indictment. Consider them separately and distinctly. And
8 you determine whether the State has met its burden of
9 proof in this instance.

10 Now, ladies and gentlemen, I told you at least
11 twice in this case, maybe three times, that the Defendant
12 is presumed innocent until proving guilty beyond a
13 reasonable doubt. He retains that presumption of
14 innocence until such time as you determine collectively in
15 your deliberations whether the State has met its burden of
16 proving each and every element of the offense beyond a
17 reasonable doubt. Now, ladies and gentlemen, before you
18 start your deliberations, I'm going to tell you again, in
19 this instance the Defendant elected to exercise his
20 Constitutional right not to testify. That is his
21 Constitutional right. I told you that. You can't hold
22 that against him. You can't hold it against him that he
23 merely elected to exercise a Constitutional right that we
24 all enjoy. You must not consider it. You must not even
25 discuss it in your deliberations.

1 Now, ladies and gentlemen, I've talked to you
2 about -- I've said reasonable doubt any number of times.
3 So, it's important that I define that for you. And I will
4 tell you that you may have been in other cases or you may
5 have heard of other cases where the burden of proof is
6 either preponderance of the evidence or clear and
7 convincing -- clear -- by clear and convincing evidence.
8 In this case it is neither of those two. Those two are
9 forms of prove that are required in a civil setting, this
10 is a criminal setting. So, this is the highest burden of
11 proof. And it is proof beyond a reasonable doubt.

12 Now prove beyond a reasonable doubt is that
13 doubt -- is that prove which would firmly convince you of
14 the Defendant's guilt. Now, there's nothing in this world
15 we can know with absolute certainty. And the law does not
16 require that the State prove its case beyond any possible
17 doubt. But know, after your analysis of the testimony and
18 evidence in this case, you are firmly convinced of the
19 Defendant's guilt, you must return a verdict of guilty.
20 However, understand that after your review and analysis of
21 the evidence in this case, if you believe there is a real
22 possibility that the Defendant is not guilty, then under
23 your oath you must find him not guilty of the offense.

24 Now, ladies and gentlemen, in determining
25 whether in fact the State has met its burden of proof,

1 you're going to review all of the evidence that was
2 submitted in this case. And one of the things that you're
3 going to review in analyzing evidence is the credibility
4 of witnesses. And you are going to decide who to believe
5 and who not to believe. You will look at the witnesses
6 who took the stand, you saw them testify. You can use
7 your own common sense to look at them and say, what was
8 their body language? What was their facial expressions?
9 How did they say certain things? And you will look at all
10 of that collectively and determine whether you believe
11 them or not? You can also look and determine whether they
12 had anything to gain by function of their testimony.
13 Whether they had anything to gain or whether they had
14 anything to lose. You look at all of that and you apply
15 your common sense to it and you decide whether that
16 testimony was credible or not. Understand that you can
17 look at that testimony, you can take a portion of it and
18 you can decide that it was very credible and then discount
19 another portion of it. Meaning that you don't have to
20 take all of it and just accept it at face value. You
21 decide what's important and what you're going to believe
22 and what you're not going to believe.

23 The same is true with any evidence that you
24 receive in this case. You decide what weight to put on
25 the evidence that was introduced into the record. You

1 decide what's important. You decide what's not important.
2 You put whatever weight on it you think is appropriate
3 based on your analysis of the evidence that was presented
4 in this case.

5 I remind you, ladies and gentlemen, that you did
6 hear from expert witnesses, I've given you a charge on
7 that at least twice. And I would just remind you again
8 that a expert witness is a witness who by function of his
9 or her respective education or experience or expertise is
10 allowed to testify as to opinion witness. However,
11 understand that that witness does not receive any
12 preferential treatment. Just like any other piece of
13 evidence, you put whatever weight on it that you think is
14 appropriate under the circumstances.

15 Now, ladies and gentlemen, ordinarily evidence
16 will take one of two forms. And it's either going to be
17 direct evidence or circumstantial evidence. Now, the law
18 doesn't give preference to either direct or circumstantial
19 evidence. Direct evidence is that type of evidence which
20 immediately establishes the fact to be proven. That is it
21 immediately establishes that like an eye witness who sees
22 something. Direct evidence. Circumstantial evidence is
23 prove of a chain of facts or collateral evidence which
24 when put together proves the main fact to be proven, a
25 chain of facts.

1 So, let me give you an example of it so it will
2 make it perhaps a little bit more concrete for you. Let's
3 say that in a January evening you go to sleep and you walk
4 past your front door and you look out at your front yard
5 and you see that there's no precipitation, it's a clear
6 and blank front yard or parking lot. The next morning you
7 wake up and you walk past that very same window or door.
8 And you look out into your front lawn or parking lot and
9 you see that there's a blanket of snow covering the
10 grounds. Well, when you see that snow you recognize it.
11 You have direct evidence that it snowed that night.
12 Because you can see it. You can pick it up, you can taste
13 it, you can feel it. You can make a snowball out of it.
14 Direct evidence that it snowed last night. But you also
15 see in the snow footprints which led to your door and then
16 lead away. You have circumstantial evidence that someone
17 came to your door early that morning or that night and
18 then left. You don't see the person, you can't touch
19 them, you can't feel them, you can't taste them. But you
20 know because of the timing of when that snow fell, that
21 that person must have come to your door and left early
22 that morning or that night. That is circumstantial
23 evidence.

24 Now, ladies and gentlemen, crimes can be proven
25 by circumstantial evidence. The law makes no distinction

1 between the weight or value to be given to either direct
2 or circumstantial evidence. However, to the extent that
3 the State relies on circumstantial evidence, all of the
4 circumstances must be consistent with each other. And
5 when taken together point conclusively to the guilt of the
6 accused beyond a reasonable doubt. If these circumstances
7 merely portray the Defendant's behavior as suspicious, the
8 proof has failed. The State has the burden of proving the
9 Defendant guilty beyond a reasonable doubt. The burden
10 rests with the State regardless of whether the State
11 relies on direct or circumstantial evidence or a
12 combination of the two.

13 Now, ladies and gentlemen, I'll read a portion
14 to you but I'll sit down to do it for you. As I suggested
15 to you there are two indictments which you must consider
16 in this case. The first is murder. And I will read you
17 the law on the definition of murder. The State must prove
18 beyond a reasonable doubt that the Defendant killed
19 another person with malice aforethought. Malice is
20 hatred, ill will or hostility towards another person. It
21 is the intentional doing of a wrongful act without just
22 cause or excuse and with an intent to inflict an injury or
23 undue circumstances that the law will infer an evil
24 intent. Malice aforethought does not require that malice
25 exist for any particular time before the act is committed.

1 But malice must exist in the mind of the Defendant just
2 before and at the time the act is committed. Therefore,
3 there must be a combination of the previous evil intent in
4 the act. Malice aforethought may be expressed or
5 inferred. These terms expressed and inferred do not mean
6 different kinds of malice but merely the manner in which
7 malice may be shown to exist. That is entirely by direct
8 evidence or by inference from the facts and circumstances
9 which are proved. Expressed malice is shown when a person
10 speaks words which express hatred or ill will for another.
11 Or when a person prepared beforehand to do the act which
12 was later accomplished.

13 For example, lying in wait for a person or any
14 other acts of preparation going to show that the deed was
15 within the Defendant's mind would be expressed malice.
16 Malice may be inferred from conduct showing a total
17 disregard for human life. The law says if one
18 intentionally kills another during the commission of a
19 felony, the implication of malice may arise. If facts are
20 proven beyond a reasonable doubt sufficient to raise an
21 inference of malice to your satisfaction, this inference
22 would simply be an evidentiary fact to be take into
23 consideration by you along with all other evidence in the
24 case. And you may give it the weight that you decide it
25 should receive. I charge you that under the law in the

1 State of South Carolina grand larceny is a felony.

2 Ladies and gentlemen, the Defendant is also
3 charged with the grand larceny. The State must prove
4 beyond a reasonable doubt that the Defendant took and
5 carried away the property of another against the will or
6 without the consent of the other person. The slightest
7 removal of the property or the complete possession of the
8 property, even for an instance, by the Defendant is enough
9 to show that the taking and carrying away of the property.
10 The State must also prove beyond a reasonable doubt that
11 the Defendant intended to permanently deprive the owner of
12 the property. Finally, the State must prove that the
13 value of the thing taken was \$2,000 or more.

14 Y'all had the opportunity to look at those
15 verdict forms?

16 MR. DEJONG: I have, Your Honor. No objection,
17 Your Honor.

18 MR. RICHARDSON: None from the State.

19 THE COURT: All right.

20 Ladies and gentlemen, I have here two verdict
21 forms. As I suggested to you before, you have two
22 charges. You consider them independent of one another.
23 So, I have a verdict form for the grand larceny and I have
24 one for the murder as well. And in substance what this
25 says is, We, the jury, duly impaneled, enter the following

1 unanimous verdict. As to grand larceny, we find the
2 Defendant, two options, not guilty or guilty. And then
3 your signature. The other one for the murder is the exact
4 same. So, what you will do is you will return to your
5 jury room and you will deliberate. In your deliberations
6 your decision must be based on the evidence that was
7 presented in this trial. It can't be based on passion or
8 prejudice or any emotion or anything outside of what you
9 heard in this courtroom. It must be reasoned and
10 calculated based on the evidence that was presented at
11 trial. Also, your verdict must be unanimous. That is the
12 12 of you must agree on the verdict. Can't be 11 to one
13 or 10 to two or any other combination that had up to 12.
14 It must be a unanimous verdict.

15 Now, I'm going to send you back to your jury
16 room. And I'm going -- I'm not going to tell you to start
17 deliberating yet. Because I'm going to give the attorneys
18 the opportunity to correct anything that I may have said.
19 Or to tell me that I have left something important out.
20 So, if I, in fact, have misstated something or if I left
21 something out, then I will bring you back out and I'll
22 recharge you. Otherwise, if there are no exceptions, then
23 what I will do is I will send back to you these verdict
24 forms. And I will send back to you the evidence that was
25 presented in this case for your review and give you

1 instructions to begin your deliberations. So, with that
2 having been said, I ask you to retire to your jury room.

3 (WHEREUPON, the jury came into open court at
4 approximately 2:38 p.m.)

5 THE COURT: All right, exceptions to the charge?

6 MR. RICHARDSON: No objections from the State.

7 THE COURT: Okay.

8 MR. DEJONG: None as you charged, Your Honor.

9 But I would renew my request for the defense of others and
10 for involuntary manslaughter.

11 THE COURT: Okay. Good enough. You're
12 protected on the record in that regard from my
13 perspective, at least. And I respectfully deny the same.

14 I am going to -- I'm going hand these to the
15 Clerk. I am going to instruct the Bailiff to send to me
16 Ms. Chelsea James, juror number 76, the alternate. And
17 I'm going to release her from chambers. Okay. All right.
18 So, we'll be in recess until such time as we receive a
19 verdict. You can collect -- y'all can do an inventory of
20 the exhibits, make sure that everything is there. Hand
21 them the Bailiff.

22 And when you receive them, First Sergeant, you
23 can tell them to begin their deliberations.

24 THE BAILIFF: Yes, sir.

25 THE COURT: And would you send, please, to me

1 Ms. Chelsea James, the alternate.

2 (WHEREUPON, deliberations began at
3 approximately 2:54 p.m.)

4 (WHEREUPON, court was in recess awaiting a
5 verdict.)

6 THE COURT: All right, ladies and gentlemen, I'm
7 advised that we have a verdict.

8 The parties ready to receive the verdict?

9 MR. RICHARDSON: State's ready, Your Honor.

10 THE COURT: Ready to receive the verdict;
11 Mr. DeJong?

12 MR. DEJONG: We are, Your Honor.

13 THE COURT: Bring the jury in, please.

14 (WHEREUPON, the jury came into open court at
15 approximately 4:11 p.m.)

16 THE COURT: All right, Ms. Murphy, has the jury
17 reached a unanimous verdict on both charges?

18 MADAM FORELADY: Yes, sir.

19 THE COURT: Okay. Would you hand the same to
20 the Clerk of Court, please.

21 All right, Mr. Welborn, if you would please
22 publish the verdicts.

23 VERDICT

24 THE CLERK: This is case number 2011-GS-39-2149,
25 we, the jury, duly impaneled sworn to try this issue in

1 the above-entitled cases enter the following unanimous
2 verdict. To the charge of grand larceny, we, the jury,
3 find the Defendant, Mr. Tavish Yeargin, guilty.

4 This is case number 2011-GS-39-2148, we, the
5 jury, duly impaneled sworn to try this issue in the
6 above-entitled cases enter the following unanimous
7 verdict. To the charge of murder we, the jury, find that
8 Mr. Tavish Yeargin, guilty.

9 Is this is your verdict and still your verdict?
10 So say you all by raising your right hand.

11 (WHEREUPON, all members of the jury panel raised
12 their right hand.)

13 THE CLERK: Thank you, very much.

14 THE COURT: Anything further from this jury,
15 gentlemen?

16 MR. RICHARDSON: Nothing from the State, Your
17 Honor.

18 MR. DEJONG: Nothing from the Defense, Your
19 Honor.

20 THE COURT: Thank you, very much.

21 All right, ladies and gentlemen, I thank you for
22 your service on this case. I know it's difficult, it's a
23 difficult decision. I'm going to release you from jury
24 duty and ask you to call back tonight after 18 -- six
25 o'clock, not 18:00, okay. Before I release you what I'm

1 going to ask you just return to your jury room and I'm
2 going to come back and thank you a little less formally
3 and give you the opportunity to ask me questions that you
4 may have.

5 Counsel, I will proceed to sentencing after I've
6 spoken to them and released them informally. I'll come
7 right back in. I'll be less than ten minutes.

8 (WHEREUPON, the jury left into open court and
9 was excused at approximately 4:13 p.m.)

10 (WHEREUPON, a short break was taken.)

11 THE COURT: All right, gentlemen, if you'd come
12 forward for sentencing, please.

13 All right, Mr. Richardson, I've heard all the
14 facts in this case and received the jury's verdict. Is
15 there anything that you would like to add that bears upon
16 sentencing?

17 MR. RICHARDSON: I would, Your Honor. First,
18 I'm going to speak but the victims' family who live out of
19 state have given my victim advocate a statement to read at
20 the appropriate time. As far as we on behalf of the
21 State, Your Honor, this Defendant in October of 2005 was
22 convicted of burglary in second degree and a failure to
23 stop. He received a activity YOA sentence. He did in
24 2006 have a breach of trust, that's a Magistrate's Court
25 level offense, Your Honor.

1 THE COURT: Yes, sir.

2 MR. DEJONG: -- at this point in time. For the
3 record, Your Honor, I would move the Court for a new trial
4 based on the fact that, in my opinion, the evidence does
5 not substantiate the verdict, Your Honor.

6 THE COURT: All right, sir, I respectfully
7 consider your motion in this case and deny the same.

8 MR. DEJONG: Thank you, Your Honor.

9 With regard to Mr. Yeargin, Your Honor, he's now
10 27 years of age. Prior to his arrest he did live in
11 Greenville. I think that probably came out through the
12 testimony. He had lived with his sister in Greenville for
13 four years and her two children. He is single, he has no
14 children. He was last employed at Michelin Warehouse. He
15 worked there for about two years. Worked there -- I
16 believe he loaded tires, if I can read my handwriting.
17 Eleventh grade education, no GED and attended Woodmont
18 High School. You've heard his prior record, Your Honor.
19 You heard the facts and obviously we have heard the
20 verdict of the jury. I would add, Your Honor, that he
21 lived in Greenville. Lived in this area all of life. His
22 father died before my client was born as a result of
23 motorcycle accident. His mother lives in Greenville, his
24 sisters live there. Three sisters, all live in
25 Greenville. They are younger. To his benefit, he never

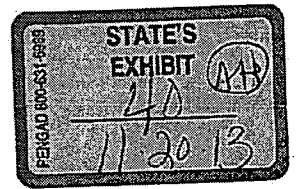
1 THE COURT: Mr. Yeargin, it's indeed unfortunate
2 and regrettable that we find ourselves here today. This
3 was a tragic situation. And it had tragic consequences
4 for if Victim in this case and it had tragic consequences
5 for your co-defendants. But again, unfortunately,
6 regrettably it has tragic consequences for you as well.
7 This was a cold and calculated decision that you made.
8 And you assumed a when you under took this enterprise.
9 And when you shot the individual, whether you meant to
10 kill him or not, I don't know. But certainly, certainly
11 your actions caused the death of the Victim in this case.

12 Sentence of the Court is that you be committed
13 to the Department of Corrections for a period of 60 years.
14 Concurrent, credit for time served. On your grand
15 larceny, sentence of the Court is that you be committed to
16 the Department of Corrections for five years. Concurrent,
17 credit for time served. Good luck to you, sir.

18 MR. DEJONG: Thank you, Your Honor.

19 MR. RICHARDSON: Thank you, Your Honor.

20 (WHEREUPON, the proceedings were concluded.)
21
22
23
24
25



To: Utsey



Hay Phoo,

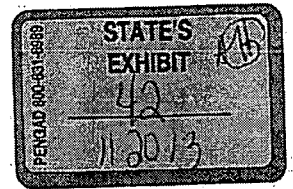
Why did you write them statement on me I have the paper over what you said about me.

[REDACTED] So the family will be there to see what you is going to say about me we need to put everything on Kyle just because I'm your brother Kyle don't give a fuck about you she is not your ~~brother~~ family. This is what you need to say when you take the stand on me 09-17-2011 KYLE Williams

come up with the Idiot to Call Sean Diemen and ask about his car's Kyle Williams told him she want to come and see the car's so he gave her the address you and Kyle went to the man with other brother Tavish yeargin stay at his mom's house that night say you and Kyle test drive the car when you come back from the store were you left your brother at Kyle was driving Sean Diemen's car and you drive behind her she pull in the Park lot and got out and came to the car you was driving as her car Sean Diemen got out the back seat walks around the back of the car when Kyle seen ~~she~~ Sean Diemen she run and jump in the front seat and Sean Diemen jump on her she then drive off while e was on her that when his shoe came and he drop the bottle out his hand and ~~she~~ she pull out the gun from her pocketbook shot him in the time Kyle took his car and you follow her in her car my brother Tavish yeargin was not there when the ~~incident~~ shot incident happen that why the witnesses seen two girls my brother Tavish yeargin was at home he don't know what happen that still to this day

say you and Kyle come up with this ~~story~~ made this story up on me because all the car to my home the next day and ask for a tag to put on her new car so Tavish yeargin got a tag for the car but he did not know the car was stolen he ask can he drive the car to the store so Kyle said yeah ~~go~~ so he went to the store on his way back Kyle call him and ask him to take ~~to~~ the car to her friend home

that he park the car at and put the tag in the whole
and Kyle had seen check's before she went to his home she gave my
brother Tavis a check's she knew he had been drinking all day so she
drive him to the bank with the check's I never said i was going to kill him
Please say you and made up the whole statement because yall was made
at me for not babysitting we both can go home week if you stick to
this please ~~so~~ tell the jury you and Kyle plan this out and tell the
jury that Tavis was not they said yall lie on me Please Phoo De it for
me if you love me fuck Kyle so let the Cto know that
you is going to stuck with this or call mike or me
at 483-8968 517-9555 and let them know you going to say this



hey Peck what is going on with you ~~to~~ I was told by
my lawyer you taking the stand on me yes or no I will see you
in the court room tuesday well you need to ~~so~~ put everything
on Kyle but saying I was not there but I will write you
a other letter ^{so} ~~so~~ when you take the stand so you can
say what I write on the next letter [REDACTED]
[REDACTED] So if you don't want
to go alone with my stacie let me know tuesday when
I see you I'm playing

w/B
ASAP

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
GRAND LARCENY

At a Court of General Sessions, convened on **APR 17 2012** the Grand Jurors of Pickens

County present upon their oath:

That TAVISH DOMINIQUE YEARGIN did in Pickens County on or about the 17th day of September, 2011, feloniously take and carry away the personal property of SEAN TIMOTHY DINNEEN to wit: a Pontiac Grand Prix, with a total value of more than Two Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on

the Grand Jurors of Pickens

APR 17 2012

County present upon their oath:

That TAVISH DOMINIQUE YEARGIN did in Pickens County, on or about the 17th day of September, 2011, unlawfully and with malice aforethought kill SEAN TIMOTHY DINNEEN by means of shooting the victim, and that SEAN TIMOTHY DINNEEN died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

342

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Pickens

VS.

Tavish Dominique Yeargin

AKA:

Race: BLACK

Sex: M

Age: 27

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED]

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

INDICTMENT/CASE#: 2011GS3902148

A/W#: M521460

Date of Offense: 9/17/2011

S.C. Code § 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020

of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Richardson, Doug

66112

SC Bar#

Defendant

John W. DeJoy

Attorney for Defendant

00/620
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 60 days/months/years or☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 25.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea.	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
1% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

RECEIVED

DEC 06 2013

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

343

COUNTY OF
STATE

Pickens

VS.

Tavish Dominique Yeargin

AKA:

Race: BLACK

Sex: M

Age: 27

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000

in violation of § 16-13-0030(B)

of the S.C. Code of Laws, bearing CDR Code # 3420

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,The plea is: ☐ Without Negotiations or Recommendation,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

ATTEST:

Richardson, Doug

66112
SC Bar#

Defendant

John W. DeFoy
Attorney for Defendant001620
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

5 days/months/years or

☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

of \$

; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code

§ 24-13-40 to be calculated and applied

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 36-5-2995 (DUI Assessment)	\$12	\$ 12.00
§ 36-1-286 (DUI Breath Test)	\$25	\$ 25.00
Proviso 47.9 (Public Def/Prob)	\$500	\$ 500.00
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$ 50.00
§ 36-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 40.00
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
% to County (if paid in installments)	\$	\$ 2.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3902149

A/W#: M521461

Date of Offense: 9/17/2011

S.C. Code § 16-13-0030(B)

CDR Code #: 3420

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSThe charge is: ☒ As Indicted, ☐ Lesser Included Offense,The plea is: ☐ Without Negotiations or Recommendation,☐ Defendant Waives Presentment to Grand Jury,

(defendant's initials)

ATTEST:

Richardson, Doug

66112
SC Bar#

Defendant

John W. DeFoy
Attorney for Defendant001620
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

5 days/months/years or

☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

of \$

; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code

§ 24-13-40 to be calculated and applied

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 36-5-2995 (DUI Assessment)	\$12	\$ 12.00
§ 36-1-286 (DUI Breath Test)	\$25	\$ 25.00
Proviso 47.9 (Public Def/Prob)	\$500	\$ 500.00
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$ 50.00
§ 36-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 40.00
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
% to County (if paid in installments)	\$	\$ 2.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

SC Court of Appeals

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

DEC 06 2013

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

344

VS.

Tavish Dominique Yeargin

AKA:

Race: BLACK Sex: M Age: 27

DOB: SS#

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3902148

A/W#: M521460

Date of Offense: 9/17/2011

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020

of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Richardson, Doug

66112
SC Bar#

Defendant

John W. DeJoy

001620
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 60 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 25.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

345

VS.

Tavish Dominique Yeargin

AKA:

Race: BLACK

Sex: M

Age: 27

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000

in violation of § 16-13-0030(B)

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS

of the S.C. Code of Laws, bearing CDR Code #

3420

☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Richardson, Doug

66112

SC Bar#

Defendant

John W. DeTig

Attorney for Defendant

001620

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of

5 days/months/years or

☐

and/or to pay a fine of \$

; provided that upon the service of

under the Youthful Offender Act not to exceed

years

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 25.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
% to County (if paid in installments)		\$ 5.00
TOTAL		\$ 7.90
		\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning _____

\$ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCA/217 (03/2011)

Harold P. Vello

April Herrera

Presiding Judge

Judge Code:

Sentence Date:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3902149

A/W#: MS21461

Date of Offense: 9/17/2011

S.C. Code § : 16-13-0030(B)

CDR Code #: 3420

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 14, 2015

By: Robert M. Dudek
Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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ATTORNEY FOR APPELLANT

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Pickens County
Robin B. Stilwell, Circuit Court Judge

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JUL 14 2015

SC Court of Appeals
RESPONDENT

THE STATE,

V.

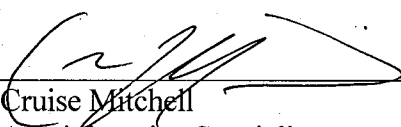
TAVISH DOMINIQUE YEARGIN,

APPELLANT

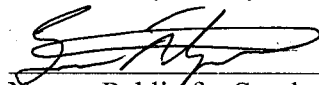
APPELLATE CASE NO. 2013-002508

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Alphonso Simon, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of July, 2015.



(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.