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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM KERSHAW COUNTY

D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANK TERRANCE SINGLETON, III,

APPELLANT

APPELLATE CASE NO. 2014-002004

RECORD ON APPEAL

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	)	
VERSUS	)	TRANSCRIPT OF RECORD
	)	
FRANK T. SINGLETON, III,	)	VOLUME I of IV
	)	
DEFENDANT.	)	DAY 1 OF 4
	)	

KERSHAW COUNTY, SOUTH CAROLINA
 SEPTEMBER 8-11, 2014

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JUSTIN DILL- REDIRECT EXAMINATION BY MS. CAMPBELL:

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1 at this point, this juncture or this stage of the trial
2 that will give the Court any concerns to anything that
3 would suggest or that law enforcement at this stage, again,
4 did anything to suggest who the alleged perpetrator was, so
5 to speak.

6 Therefore, I will reserve a ruling based on whether or
7 not there are further arguments about the Defendants,
8 excuse me, co-defendants, I guess, testify. All right.
9 Anything else?

10 MR. STRICKLER: On this, no, sir.

11 THE COURT: No other matters, I guess, it relates
12 to this firearms; is that correct? Firearm examiner?

13 MR. STRICKLER: Yes, sir.

14 THE COURT: All right. Does the State have
15 anything to put up on that?

16 MS. McDUFFIE: Your Honor, I believe it's Mr.
17 Strickler's motion. I don't know what he's prepared to
18 argue before the Court and then we ---

19 THE COURT: Have you seen it?

20 MS. McDUFFIE: I have seen the -- we received a
21 copy of his written motion this morning prior to the jury
22 selection.

23 THE COURT: Does the State needs some time to
24 look at it?

25 MS. McDUFFIE: No, Your Honor, we don't need any

1 time to look at it. I don't know what exactly Mr.
2 Strickler is arguing -- I think parts are unclear.

3 In his motion he repeatedly talks about Mr. Collins,
4 Mr. Collins, there is no Mr. Collins in this case. He also
5 talks about a revolver. There's no revolver in this case.
6 Things of that nature. I think he needs to make it a
7 little clearer ---

8 MR. STRICKLER: Okay.

9 MS. McDUFFIE: --- so I can could address him
10 appropriately.

11 MR. STRICKLER: Mr. Collins should refer to Ms.
12 Suzanne Cromer which is, correctly, stated on the first
13 page.

14 Also, correctly, we refer to a .45 calibre semi-
15 automatic pistol on the first page which it, directly,
16 relates to this.

17 Also, correctly, refers to Item One , a bullet jacket.
18 Item Seven, being a cartridge case which were compared with
19 Item Two, the .45 semi-automatic pistol in this case.
20 Those comparisons were all done -- my understanding is --
21 by Sled Firearm Examiner, Cromer and so to the extent that
22 I had forgot to change the name twice later in the body
23 which I realized this afternoon as I reviewed it. Please
24 consider that and I request that you change it.

25 None of it which affects the argument in the brief in

SUZANN CROMER- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 the slightest. That goes to the validity of the science if
2 you want to call it that, employed by the firearms
3 examiners. And I think, Your Honor, has to make a decision
4 regarding the admissibility of an opinion on her part that
5 these two items, evidentiary items were fired from the
6 pistol that was recovered, the semi-automatic that was
7 recovered..

8 And the point being, that there is no scientific basis
9 for such a conclusion. The -- I think, we can talk to the
10 examiner about that and we can flush it out a little bit.

11 THE COURT: Is the State prepared to go forward
12 on that?

13 MS. CAMPBELL: Yes, Your Honor, we are.

14 THE COURT: This afternoon?

15 MS. CAMPBELL: Yes, Your Honor.

16 THE COURT: All right. Let's go.

17 MS. CAMPBELL: The State would call Suzann
18 Cromer.

19 (Whereupon, the witness is sworn)

20 MS. CROMER: May name is Suzanne Cromer, C-r-o-m-
21 e-r.

22 COURT REPORTER: And your first name please?

23 MS. CROMER: Suzann, S-u-z-a-n-n.

24 SUZANNE CROMER, first being
25 duly sworn, testified as follows:

DIRECT EXAMINATION MS. McDUFFIE:

Q. Ms. Cromer, where are you employed?

A. I'm employed by the South Carolina Law Enforcement Division commonly referred to as Sled.

Q. And what are your duties with the South Carolina Law Enforcement Division?

A. I'm in the Firearm and Toolmark Department of the forensic service laboratory. I do what we call firearms identification. I look at ammunition components; bullets; cartridges cases; shotgun shells to determine whether if they were fired by or loaded into or extracted out of specific firearm.

Q. And please tell the Court a little bit about your education background training and experience in the field of Firearms and Toolmark examination?

A. I have a bachelor's degree from Clemson University. I did some graduate work at the University of South Carolina. I have completed Sled's in house training program for Firearm and Toolmark examiners which is a three to five year extensive program where we study under court qualified firearm examiners. It's more of an apprenticeship, if you will. We do practical exercises; we take written test; Oral test; and we actually prep or prepare cases for firearm -- training firearm examiners.

Upon completion of the training program, we are given

SUZANN CROMER- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 a comprehensive final exam which is graded by our
2 lieutenant and our training officer.

3 I have attended conferences of the Association of
4 Fireman and Toolmarks Identification -- I'm sorry
5 Association of Firearm and Toolmark Examiners. I have
6 attended conference through the South Carolina Chapter of
7 the International Association of Identification. I had
8 attended conferences with the Bureau of Alcohol, Tobacco
9 and Firearms. I have taken training on the Integrated
10 Ballistics Identification System. I have attended numerous
11 seminars through AFTE which is the Association of Firearms
12 and Toolmark Examiners. Barrel making ethics. I have also
13 taken classes or been allowed to represent North and South
14 Carolina in the National or in the Years Congress for the
15 Integrated Ballistics Identification System.

16 Q. And you've been with Sled how long?

17 A. It will be sixteen years this December.

18 Q. And have you ever been qualified as an expert
19 before and testified in Court's record in this State in
20 Firearms and Toolmark Examination?

21 A. Yes, I have.

22 Q. Approximately, how many times?

23 A. Seventy-seven, approximately.

24 Q. And in this case in particular, you were asked to
25 analyze a .45 caliber gun as well as a projectile in a

1 cartridge cases?

2 A. Yes, ma'am.

3 Q. And please describe for the Court what you're
4 looking at when you're giving these items to evidence to
5 analyze?

6 A. When I'm given a firearm in particular and fired
7 evidence to look at, first; what I usually do, is I examine
8 the evidence. I looked to see if it's suitable for
9 identification. If it has the individual markings,
10 individual identification characteristic; I weigh it; I
11 measure it; I take notes on it's composition and makeup.
12 Then I moved to the firearm itself. I look at it's
13 safety's. Does it work? What's it made up of? What type
14 of rifling does it have? What caliber is it? And then I
15 will test fire that firearm and I will go do a microscopic
16 comparison of those test specimens that I knowingly fired
17 from that firearm to each other. And what I'm doing is I'm
18 looking at consistency of those markings to see how these
19 guns or this gun marks the bullets and the cartridge cases.
20 Then I will compare them to my unknown or my evidence.

21 Q. And in this testing that you just described to
22 the Court when you received this type of evidence, how you
23 analyze it, um, what conclusions, if any, can you reach
24 after you do the testing?

25 A. After I do my testing and reach my conclusion,

SUZANN CROMER- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 we, usually, issue one of four conclusion.

2 A positive conclusion meaning this cartridge case or
3 this bullet was fired by this gun.

4 A negative conclusion which means this bullet or this
5 cartridge case was not fired by this gun.

6 A unsuitable conclusion, meaning that this particular
7 piece of evidence did not have enough markings on it for me
8 to rendered a conclusion, it was to damaged.

9 Or an inconclusive result, meaning that there was not
10 enough corresponding markings for me to say that it was
11 fired by that gun or for me to say that it wasn't.

12 COURT REPORTER: Do you need some water?

13 MS. CROMER: Yes, please, sorry. I've got some.
14 Thank you.

15 Q. Now, Ms. Cromer, when you were analyzing these
16 items of evidence and you're looking at them and you're
17 doing the microscopic comparisons and what you've just
18 described to the Court has your process, what do you based
19 that on? Is this something that you just decided to do or
20 is this Sled's practice? Please tell the Court what you're
21 basing it on?

22 A. What we use in a Sled Firearms Department is we
23 go by the Association of Firearm and Toolmark Examiners,
24 theory of identification. Do we have sufficient agreement
25 of those individuals identifying markings to conclude that

1 this was fired by that firearm? We're looking at this
2 sufficient agreement, is it better than any known non-
3 matched and I know that sounds confusing. But we do look
4 at consecutively or we have in our training, looked at
5 consecutively made rifle barrels or barrel rifles and we've
6 looked at consecutively made breach phases. So we can see
7 how those tools mark from one to the next. So what we're
8 doing is we're looking at those impressions that are made
9 onto the evidence behind the firing process. Once we've --
10 I'm sorry. Can you complete -- can you re-ask the
11 question?

12 Q. When you're analyzing evidence and when you're
13 doing your testing to make these conclusions, what protocol
14 or methodology are you basing that on?

15 A. We based that on the AFT, theory of
16 identification.

17 COURT REPORTER: Say it again?

18 A. AFT, A-F-T, theory of identification.

19 Q. And again what is that theory of identification
20 or does your protocol require you to do?

21 A. The theory of identification is that we find
22 sufficient agreement better than any known non-match.
23 After we come to a conclusion then we have to get another
24 qualified firearms examiner to also look at the evidence,
25 agreed with our conclusion before we can issue a report.

SUZANN CROMER- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. And in this particular case, was your case looked
2 at by another firearms examiner?

3 A. Yes, it was.

4 Q. And who -- and you called that technical review a
5 peer review?

6 A. We call it micro verification. And after the
7 micro verification which actually happens on the comparison
8 microscope as well, they do a technical review of our case
9 file and then they'll do an administrative review of our
10 case file.

11 Q. So this case in particular has been micro
12 reviewed, technically reviewed, and then administrative
13 reviewed?

14 A. Yes, ma'am.

15 Q. And who did those reviews in this case?

16 A. Let me check my notes real quick.

17 (Whereupon, the witness checks her notes)

18 A. Most of them were done by former Lieutenant Ira
19 Byrd Parnell.

20 Q. And, Mr. Parnell, how long -- is he still with
21 Sled?

22 A. He actually just retired this year.

23 Q. And how long was he with Sled prior to his
24 retirement?

25 A. I want to say forty-two (42) years.

1 Q. As a Firearms and Toolmarks examiner?

2 A. Yes.

3 Q. And Mr. Parnell's reputation in the Firearms and
4 Toolmarks Examination in the community, can you tell the
5 Court what that is?

6 A. He is very well known. Most places we go in the
7 State you can't find somebody who doesn't know about Ira
8 Byrd Parnell. He's been with Sled for a long time. He's
9 very well respected in our community.

10 Q. The underlined science, the underline methodology
11 in which you and Mr. Parnell when he reviewed the work that
12 you did used in this case, tell the Court a little bit
13 about that?

14 A. Firearms Identification has been around really
15 the very beginnings of it. It started in the early 1800's.
16 Actual testimony on firearms id was in the late 1917 I
17 believe. That's been -- that hasn't really changed. In
18 April of 1925 the person that we claim is the father of
19 Firearms Identification, Calvin Goddard, opened up a
20 forensic laboratory in New York and was, I believe, the
21 Bureau Forensic Ballistic and at that time they started
22 using the comparison microscope to look at bullets and
23 cartridge cases. That has not changed. We still use a
24 comparison microscope as our main tool. Now, obviously,
25 it's been upgraded a little but since 1925 but that

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1 particular part has not changed.

2 Q. And since 1925, have there been studies in which
3 you and Sled's laboratory rely on to assess the validity
4 and reliability of Firearms and Toolmarks Examination?

5 A. Yes, ma'am, there has been.

6 Q. Can you please tell the Court a little bit about
7 the number of those studies if you can, or studies in which
8 you rely on that have a peer reviewed and have been
9 accepted by the scientific community?

10 A. Yes, ma'am, there's a number studies. Some of
11 the ones that we participated in at Sled if from the Hamby
12 Ten Consecutively made Ruger barrel. That was actually
13 originally published in 1998. It was again published I
14 believe -- I want to say in 2009 but I'm not correctly sure
15 about that date.

16 We've also participate Fadul's Glock, this, E-b-i-s
17 Barrel Test which is another consecutively made rifling
18 test. We've also participated in the Glock Cartridge Case
19 Test which was consecutively made breach phases. There's
20 been numerous studies, Butts 1970; Skolrood in 1975. Ron
21 Nichols who is a respected firearm and toolmarks examiner
22 currently now with ATF has published numerous papers and
23 all of these papers that have been published have been
24 published in journals like the AFTE Journal; the Journal of
25 Forensic Science; Forensic Science International; the

1 International Association of Identification Journal; all of
2 those journals have a peer review process prior to
3 publication.

4 Q. And these are all -- do you have a list of
5 studies in which you rely on, review or ---

6 A. We do not have a generic list but we do have
7 several siting of cases that are studies that we do look
8 at.

9 Q. In that list has tens of studies, hundreds of
10 studies, were ordered?

11 A. I would say there's probably been hundreds of
12 studies in the last, ah, well, in the last hundred years
13 there have been probably be almost hundred studies, over a
14 hundred studies probably.

15 Q. And you, yourself have participated in some of
16 the studies that help validate and have been found reliable
17 on peer review through accepted scientific methodology of
18 journals?

19 A. Yes. Part of the training program at Sled we do
20 have copies of the Brundage and Hamby study; the Glock EBIS
21 barrel study; the Glock cartridge case study. So we've all
22 participated in that.

23 Q. And Mr. Strickler has filed a motion in this case
24 about, um, it specifically references a 2009 study that was
25 done. Are you familiar with that?

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1 A. Yes.

2 Q. Please tell the Court a little bit about that
3 study?

4 A. The 2009, I believe you're talking about is the
5 NAS study which laid out specific standards that they
6 believe, all forensic sciences, not just firearms, should
7 meet. Is that the one you're talking about?

8 Q. The author of that study, the primary researcher
9 in that study, who was that?

10 A. Oh, well that is a different study, um, the NAS
11 put out a, which is National Academy of Sciences, put a
12 study on ballistics imaging and the author or the co --
13 that chair of that committee was Doctor Rolph?

14 Q. Dr. Rolph is a doctor of statistic or a
15 statistician?

16 A. I believe so but I'm not positive.

17 Q. And in that study and when they were looking at
18 ballistics in that study, what was their focus or purpose
19 of that study?

20 A. It actually was on the digital imagining used by
21 the Integrated Ballistic Identification System. Their
22 focus was not firearm and toolmarks identification.

23 Q. So they're - and that Integrate Ballistic System
24 is called NIBIN?

25 A. Well, NIBIN is the network that EBIS system works

1 on.

2 Q. And so that is where firearms fires cartridge
3 casing and then that cartridge casing is put into that
4 system for potential match in other cases?

5 A. That's correct.

6 Q. And that's what that study was focusing on?

7 A. That's correct.

8 Q. In terms of your methodology -- your methodology
9 and what you rely on at making firearms and tool marks
10 examination and comparison, are you aware of any study that
11 discredits the methodology that you use?

12 A. No, I'm not.

13 Q. Are you aware of any study or any scientific
14 experiments or reports that had been done that say that
15 what you are doing at Sled laboratory unreliable, non-
16 scientific or doesn't have a bases that's sufficiently
17 grounded?

18 A. No, I'm not.

19 Q. When you reach these conclusions and you analyze
20 evidence in cases, are these subjective or objective
21 conclusion that you reach?

22 A. They're actually both. We first do a lot of
23 objective work meaning we take our measurements, we do our
24 weights.

25 Objective examinations means that another examiner can

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1 come in and use our same equipment and come to the same
2 conclusions.

3 The only part of our examination that's subjective is
4 classifying of which of the four conclusions that we
5 reached that we're going to call this particular piece of
6 evidence. That's the only subjective part.

7 Q. So whether it's not sufficient for other
8 comparisons that damaged, things of that nature, that you
9 described earlier those are the -- what you -- that are
10 subjective conclusions?

11 A. Yes.

12 Q. And, in this case, please tell the Court what
13 you're conclusion was as to the .45 caliber semi-automatic
14 pistol, the projectile and also the cartridge casing?

15 A. I concluded that I found sufficient agreement
16 between that fire bullet jacket and that fire cartridge
17 case to state that they were indeed fired by the .45 semi-
18 automatic pistol I received

19 Q. And Mr. Strickler, in the Defenses motion, are
20 asking the Court to require your conclusion to be that you
21 cannot exclude or that based on your examination you cannot
22 excluded the possibility that the bullet was fired from the
23 handgun?

24 A. It is my professional opinion based on my
25 education; my training; my background; my participation in

1 research studies; that sufficient agreement was found
2 between the tested fires of that .45 semi-automatic and the
3 evidence in this case such so that I believe that another
4 firearm having that much of agreement would be a practical
5 impossibility.

6 Q. And so if the Court were to require you or do
7 what the Defense is requested to require you to make that
8 statement is that a truthful statement that you would be
9 making?

10 A. Yes.

11 Q. I'm sorry, that you can not excluded that you can
12 actually -- the possibility that the evidence bullet was
13 fired from the handgun?

14 A. Oh, no. I -- sorry. I can -- I can say that I
15 can exclude another firearm because I believe it would be
16 practically impossible to have as much agreement between
17 another firearm and this evidence.

18 Q. So this statement wouldn't be untrue, then, in
19 this particular case?

20 A. That's correct.

21 Q. And again the research and the methodology and
22 what you're relying on to make these conclusions and
23 determinations, are you aware of any study including the
24 one that Mr. Strickler's cites in this report that says
25 that methodology is not valid or unreliable?

1 A. No, I'm not.

2 MS. CAMPBELL: No further questions.

3 THE COURT: Cross examination.

4 MR. STRICKLER: Thank you. May it please the
5 Court?

6 **CROSS EXAMINATION BY MR. STRICKLER:**

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. Your BA from Columbia?

10 A. Clemson.

11 Q. Right. Involved no work as far as doing firearm
12 in the area; correct?

13 A. Correct. At that time they were no established
14 firearm and toolmarks curriculum in college.

15 Q. And you reference some graduate work at USC?

16 A. Yes, sir.

17 Q. And what field was that?

18 A. Criminal justice.

19 Q. Okay. Did you firearms examination ---

20 A. I did an internship in the Sled Firearms
21 Department.

22 Q. Okay. And then you did three to five years with
23 Sled, I believe, you said it was like an apprenticeship?

24 A. Yes, sir.

25 Q. And you used the term sufficient agreement in the

1 pattern that you're comparing as far as arriving at your
2 conclusion; right?

3 A. That's correct.

4 Q. How much of agreement is sufficient agreement?

5 A. It's actually based on my training and my
6 education. Now, when I say sufficient agreement, if I'm
7 going to call something positive I need to be hundred
8 percent sure because I am putting that out there and I am
9 basing, basically, putting up my career; my house; my food
10 on my kids table; if I make an incorrect conclusion. So I
11 am hundred percent positive before I call anything positive
12 or negative.

13 Q. All right. When I talk with someone who does
14 DNA testing, for example, they will get up and testify that
15 there's one chance in five quintillions of a random match
16 between the evidentiary sample and someone other than the
17 person they've identified with. That's -- you get numbers
18 like that thrown around, you can't give us a number on
19 this; can you?

20 A. No, I can't because DNA and firearm
21 identification are different animals.

22 Q. Right. One is susceptible to empirical analysis
23 and what one not; correct?

24 A. I'm not sure I understand what you mean by
25 empirical analysis.

1 Q. Give me the percentage, likelihood, that there --
2 what studies have -- that would generate the potential for
3 there being another weapon out there that you imagine?

4 A. I'm still not sure I understand either what
5 you're asking.

6 Q. Can you understand -- you understand a empirical;
7 right? I'm sure you do.

8 A. Mmm, hmm.

9 Q. Okay. You reference a number of studies, barrel
10 studies, etc, etc, okay? So I couldn't understand exactly
11 the names of these studies. So if you could, start again,
12 what's the first one you referenced?

13 A. Oh, well, I referenced the Brundage and Hamby
14 Study

15 Q. Okay. And that study did what?

16 A. We looked -- they had participates look at ten --
17 test fires from ten different consecutively rifle Ruger
18 firearms ---

19 Q. Okay.

20 A. --- to make identifications ---

21 Q. Right.

22 A. --- and then send it in.

23 Q. Okay. So that's ten firearms?

24 A. Ten consecutively made riffle ---

25 Q. Right.

1 A. --- barrels.

2 Q. Ten firearms from which you can extrapolate that
3 your conclusions are universally always correct?

4 A. I'm still not sure I understand what you're
5 getting out. In that study we could tell the difference
6 between the first barrel rifle and the second barrel rifle
7 and the third and the forth and the fifth all the say down
8 the line. Now, it happened again with in the Glock study.
9 We could tell the difference between the first one and the
10 second one.

11 Q. And how many weapons were involved the Glock
12 study?

13 A. It was another ten barrel consecutively made.

14 Q. All right. And what other studies did you have?

15 A. There's also the Breech Face one. There is a
16 Raven ---

17 Q. How many in Breech Face -- how many weapons were
18 compared to that?

19 A. It varied from study to study but in the one that
20 we participated in it was also ten.

21 Q. Okay. And from studies consisting of, sounds
22 like sample sides of ten, you can extrapolate universal
23 principals, applicable to your field; is that what you're
24 saying?

25 A. Well, yes, but that's just three studies. I

1 mean, they've been studies throughout the last hundred
2 years of a validity of firearm and toolmarks
3 identification.

4 Q. Right. What you do, is you compare the two
5 families; one of evidentiary sample and one I guess a
6 known sample that you fired, you know which firearm it
7 comes from; correct?

8 A. Actually, we fire at least two, usually, three,
9 four sometimes we can test fire up to, you know, five and
10 six times and then we compare them to each other and then
11 we compare our evidence.

12 Q. Okay. And then you decide if you think there's a
13 sufficient comparison?

14 A. If there's a sufficient agreement?

15 Q. Yeah.

16 A. Mmm, hmm. Yes, I do.

17 Q. You decide?

18 A. I do.

19 Q. There is no, in your field, definition of what
20 constitutes sufficient agreement beyond that which you feel
21 comfortable with?

22 A. It's sufficient agreement better than any known
23 non-match, like the barrel one versus barrel two but no
24 there is not a number. You have to have so many that match
25 up. There's not a number. And also, it has to be -- there

1 are other things before we get to the microscope. First
2 off, it has to be the same caliber. It has to be the same
3 rifling. The same number of lands and grooves. The same
4 dimension. The same twist or raves of direction of spin.

5 Q. Those would be class characteristics ---

6 A. That's correct.

7 Q. --- Correct? Okay. And those things are -- you
8 can pretty much interpret what those, I mean, the weapon
9 itself will tell what the class characteristics are; right?

10 A. Yes.

11 Q. Those are not minor imperfections from the
12 production process or from the use of sub-production
13 process; right?

14 A. That's correct. They're not.

15 Q. And then you have what are called sub-class
16 characteristics?

17 A. Yes, sir.

18 Q. And those are these minor infections or minor
19 variations?

20 A. Well, but they're not individual. They might be
21 sub-class or particular to a certain type of weapon or
22 firearm.

23 Q. You're aware of studies that done comparisons
24 between firearms and found the sub-class characteristics
25 that are different?

1 A. Yes, we are very aware of sub-class and we're
2 very careful not to make an identification based on sub-
3 class characteristics.

4 Q. Okay. At what point, does the characteristic
5 change from being a sub-class characteristic to an
6 individual characteristic? How is that define?

7 A. How is that define?

8 Q. Mmm, hmm.

9 A. Well sub-class, like I said, sub-class is
10 something that is not unique to that particular firearm.
11 So what we do is first off, I have a gun that I know has
12 potential sub-class, I don't just look at one area, I look
13 at multiple areas of before I base my identification.

14 Q. Well, okay. How do you arrive to the
15 determination as to what is a sub-class characteristic and
16 what is an individual characteristic? What makes this, the
17 scratch on, that you're looking at in one case a sub-class
18 characteristic which is not unique and in another case an
19 individual characteristic which is unique?

20 A. You're just very careful that you basing your
21 identification on an individual markings and if you can
22 hold on one minute and let me look something up.

23 (Whereupon, there was a pause while the witness looked
24 up information)

25 A. Okay. I'm sorry can you repeat the question?

1 Q. Probably not. Are you appointed in the area of
2 science in general, okay, with the concept of a false
3 positive?

4 A. Yes.

5 Q.. And a false negative?

6 A. Yes.

7 Q. Are you aware in the area of those concepts are
8 controlled mechanism, you can test for the presence of the
9 false positive or the false negative that's done in DNA
10 testing; correct?

11 A. That's correct.

12 Q. Okay. They can take a look and make sure that
13 their testing is not going wrong, okay, they run those
14 controls. What controls are available for your use other
15 than your opinion, okay, in your field?

16 A. In our field we do have aquality ensure and
17 quality control. That is based by having our protocols and
18 procedures that try to eliminate for individuals bias. We
19 also have our proficiency testing which does have an error
20 rate program and I participate -- I participated just last
21 year in a study of the error rates for false positive and
22 false negatives.

23 Q. Okay.

24 A. And we also have our micro verification process
25 which another examiner independently make the same

1 conclusion from -- the same conclusion that we did. We
2 also have a technical review and then the administrative
3 review.

4 Q. All of which are found on your and then someone
5 else's opinion regarding ---

6 A. Opinion based on what we have seen.

7 Q. What you see?

8 A. Mmm, hmm.

9 Q. Yeah. Did you have any error rate when you
10 participated in the study ---

11 Q. I don't have a personal error rate. I have the
12 error rates from the studies -- who we do our proficiency
13 testing through, it's Collaborative Testing Services, they
14 issue an error rate from the whole test.

15 Q. Right.

16 A. And that error rates test that I participated in
17 had an error rate.

18 Q. What was that error rate?

19 A. The study that I participated in last year the
20 error rate for false positives were one percent. The false
21 negatives were .367 percent. CTS, their error rate from
22 1992 to 2005, false positives was a 1.5 percent error rate
23 and false negatives was a .5 percent error rate.

24 Q. Okay. So, I'm sorry, CTS is?

25 A. Collaborative Testing Services ---

1 Q. So -- go ahead.

2 A. --- and also this error rate that I participated
3 in, the error rate study that I participated last year,
4 it's not accurate, I don't believe because they did not
5 allow for micro verification process in this error study so
6 it could be even lower.

7 Q. It's the numbers that you have at this point,
8 though; correct?

9 A. Yes, it's the numbers that I have.

10 Q. And that number would be one percent in the one
11 study and the 1.5 in ---

12 A. In the collaborative testing services ---

13 Q. The study of over a period of twenty years ?

14 A. Well -- yes, about a hundred.

15 Q. And people who were tested on that whose error
16 rate was being evaluated, were people who employed these
17 same standards as you, they're all doing the same testing
18 as you; correct?

19 A. Yes and no. The error rate study we were all
20 acting members and we're all employed and then accredited
21 laboratory. The CTS testing in the earlier years they
22 would allow trainees to take the test and people who didn't
23 have any prior training in firearms identification, they
24 didn't, they didn't balance it out.

25 Q. Okay. So we can restricted to the one percent,

1 rather than the 1.5 percent. So that once percent number
2 is one percent of the people who have the all employed
3 sufficient agreement standard; correct?

4 A. The AFTE theory of identification?

5 Q. Right. And they're wrong one percent of the
6 time?

7 MR. STRICKLER: I don't have anything further.
8 Thank you.

9 THE COURT: Any re-direct?

10 MS. CAMPBELL: Briefly.

11 **REDIRECT EXAMINATION BY MS. CAMPBELL:**

12 Q. That study that you and Mr. Stricker were talking
13 about, Sled takes it a step further in their verification;
14 is that correct?

15 A. That is correct. We do have the micro
16 verification process and we have the technical review
17 process and the administrative review process so that way
18 hopefully there isn't error in our examinations.

19 Q. And those were not done as part of the study?

20 A. No, they were not.

21 Q. But those were done in this case and are done in
22 every case that are analyzed by Sled?

23 A. That is correct.

24 MS. CAMPBELL: Thank you. No further questions.

25 THE COURT: Anything else?

1 MR. STRICKLER: No, sir. Thank you.

2 THE COURT: You may step down. Thank you.

3 (Whereupon, the witness steps down)

4 THE COURT: All right. Anything by way of
5 argument, Mr. Stricker?

6 MR. STRICKLER: Yes, sir. We ask for which was a
7 very reasonable request which is that the conclusion be
8 that, not that this wasn't fired from the weapon but that
9 you cannot exclude the weapon as something which fired, the
10 testing or the evidentiary objects. We ask that because
11 as is made abundantly clear in the brief there is no
12 scientific bases for these conclusions. We're referring to
13 strengthening forensic science in United States path
14 forward. That is a study, a report which covers not just
15 ballistic, it covers vertically all forensic sciences in
16 the United States. It's not a report put out by some fly
17 by night group. It's a report of the National Research
18 Counsel which is an operating agency of the National
19 Academy and Sciences in which it's the most highly regard
20 in the scientific body in the country. It is a huge honor
21 to be a member of the National Academy of Sciences and the
22 National Research Counsel doesn't issue reports willy nilly
23 and for no reason. They condemn for many of the same
24 reasons on lot of the -- condemn is a too strong of term --
25 they find problems in the area with a lot of the standard

1 forensic tools that we use simply because there not
2 susceptible or has not been or have not been, put to the
3 test of the sort of scientific studies that need to be done so
4 they can verify the conclusion arrived at are based on
5 science and not just by an opinion.

6 So in this particular case you can take a look and you
7 can see that the class characteristics are such that you
8 couldn't exclude the evidentiary items from having them
9 fired by the weapon that was taken into custody, taken into
10 evidence. Number of lands; number of grooves; twist; all
11 that sort of thing. It's when you get into the microscopic
12 comparisons of the areas that are either sub-class
13 characteristics that were imparted during the course of the
14 productions of these firearms or individual characteristics
15 which are ones that have been -- that are unique to a
16 weapon, those the things that aren't qualified or have not
17 been qualified, have not -- have not subjected to double
18 blind studies, the sort of research that I use to deal with
19 when I talk to people about DNA. That has been tested on
20 both sides, down the other and there's very little room for
21 argument about it because it's not based on anyone's
22 opinion. It's based on, here's the science; it's been
23 subjective to every possible review you could subject it
24 to; everyone is in agreement on it, everyone is in
25 agreement on it; and we can rely on it. It's been tested

1 and verified every way possible. Such is not the case with
2 this. Such is not the case with this. This is the person
3 who gives her opinion. She's certainly qualified to give
4 her opinion, I don't want anyone to misunderstand me.
5 She's studied it. She's arrived at an opinion. But when
6 the opinion is that this -- these questioned items, shell
7 casing and a jacket to a bullet, my opinion is they were
8 fired from this gun because the conclusion of any other gun
9 on the face of the earth had ever existed. There's no
10 basis for making that statement. It's her opinion. You
11 know, a DNA expert can't actually make that statement.
12 They can say there's a one chance in 5.6 quintillion which
13 makes it pretty unlikely that anyone else would be involved
14 but they can say -- make statements such as that. So
15 that's the problem that I have and I know the suggest is
16 that she'll be able to testify it can't be excluded --
17 testify why it or say it can proven, that's not a lie if
18 she testifies to. The obverse would be a lie. If she
19 testifies that it can't be excluded, includes it in the
20 world of guns which could've fire the questioned items
21 which is exactly what she said. She includes it in the
22 world of guns could've fired these items, it's just that
23 she's then restricts the world that guns that could've
24 fired those items too just one weapon on the face of the
25 earth.

1 I submit there's no basis of science for making that
2 sort of conclusion.

3 THE COURT: All right.

4 MS. CAMPBELL: Your Honor, under Council and
5 Jones and even White which is still non-scientific
6 evidence, I believed that we've laid the proper foundation.
7 We've, you know, laid what is necessary to do to allow any
8 of this evidence. Your Honor, through the witness it has
9 been demonstrated that they're publications and there's
10 peer review of, at least, the applications of method to
11 this type of method. It's been also peer reviewed
12 published and accepted scientifically not only
13 scientifically unique, Your Honor, but also the legal
14 community and Your Honor, based on my research every
15 jurisdiction in this country.

16 Your Honor, the quality control procedures used have
17 been outlined for the Court and also the consistency of the
18 methodology and the method which have been used in this
19 case. I don't think as Mr. Strickler just said that
20 they're objecting to her qualifications or expertise in
21 this field, Your Honor, and I don't know that they're
22 objecting to underline science, Your Honor, but rather more
23 of what she is praising her conclusions as or how she has
24 made a determination that she has and she will testify to a
25 Court. Your Honor, I don't think that's a function that is

1 a fresh whole function for admissibility of the evidence as
2 our Courts have laid out specifically, in Council, Jones
3 and White.

4 Your Honor, what Mr. Strickler is asking you to do is
5 to ask the expert to change her conclusions or change her
6 opinion in this case. What he's asking her to do is to say
7 one of the four conclusions that were possible conclusions
8 that Sled has, however, it's not the one that she came to
9 in this case and to ask her to do that, Your Honor, would
10 be asking her to change her opinion that would underlined
11 any scientific methodology, reliability, or credibility
12 that there is in this case.

13 Furthermore, Your Honor, there is no evidence before
14 the Court that this science is unreliable. All that's
15 before the Court, Your Honor, as Mr. Strickler's
16 interpretation of this study that was done, um, and there's
17 no evidence that the science or the underlining methodology
18 or how Sled conducts firearms and toolmarks examination.
19 It isn't anything but reliable, Your Honor, and the
20 methodology and the bases for that has been testified to.

21 Furthermore, Your Honor, the individuals that created
22 this report that Mr. Strickler is relying on, Your Honor, I
23 don't believe were firearms and toolmarks examiners. I
24 further that the error rate that's been testified to in
25 additional quality controls that Sled has put in place to

1 address any error rates at all, Your Honor.

2 Further, I believe that Mr. Strickler just said that
3 this person is qualified to state her opinion, Your Honor,
4 and her opinion is that this projectile in this cartridge
5 case matched to a specific firearm to the exclusion of all
6 other, Your Honor, and to ask the Court to change her
7 opinion I don't believe it's within the balance of the law.

8 THE COURT: All right. Mr. Stricker, anything
9 else?

10 MR. STRICKLER: No, sir.

11 THE COURT: Let me ask you this question, Mr.
12 Strickler, the argument that you presented here and why
13 would that argument not go to the weight of their evidence
14 as opposed to the admissibility of it?

15 MR. STRICKLER: Well, I certainly -- the evidence
16 is admissible ---

17 THE COURT: It's widely accepted, based upon the
18 testimony that was elicited from this stand, the method,
19 manner, and procedure in which she performed the testing in
20 the conclusions that she came to based upon her testimony
21 is accepted within the scientific community of this
22 particular expert area.

23 MR. STRICKLER: And I will submit to if so it is
24 because it's on recently people who started actually
25 looking at ---

1 THE COURT: What you're putting forward here is
2 simply the -- and correct me if I'm wrong here, is a
3 disagreement by the National Association or Academy of
4 Sciences; correct?

5 MR. STRICKLER: Yes, sir.

6 THE COURT: As to the method and manner of
7 identifying firearms and toolmarking, the National Academy
8 of Science is critiquing the entire scientific community as
9 it relates to that area of expertise; is that right?

10 MR. STRICKLER: They're critiquing the entire
11 scientific community as it relates to forensic science.
12 That's exactly what ---

13 THE COURT: And what we're dealing with here
14 though is the identification of firearms and toolmarkings.

15 MR. STRICKLER: Yes, sir.

16 THE COURT: Okay.

17 MR. STRICKLER: All I'm saying is the report was
18 not restricted solely -- it was not something generated
19 from looking solely at firearms or toolmarks, it looks at
20 across the board of forensic science.

21 THE COURT: Right. All right. Based upon what
22 I heard here today, I certainly believe that the testimony
23 of Ms. Cromer is outside of the ordinary lay knowledge of
24 individuals. Even Defense counsel has acknowledge that she
25 is an expert entitled to testify with regards to the

1 firearms and toolmarkings. Ms. Cromer, testified that her
2 study whether it be through schooling; through intern;
3 through three I believe she said three to four years of
4 study at Sled; as well as subsequent continuing education;
5 as such method manner and procedure is relied upon within
6 scientific community accepted within the field that it goes
7 through a micro technical administrative review all of
8 which were done in this case of which they are entitled or
9 they can through their studies come to one of four
10 conclusions one of which is the projectile was fired from
11 this firearm and it was not fired from a firearm that's
12 unsuitable I believe she said unsuitable conclusion or
13 inconclusive. Her testimony here has been elicited from
14 this stand is that it came from the firearm in question in
15 this case and I do not believe that it would be proper for
16 the Court to order that she change her conclusion to fit
17 within the other three categories for which she testified
18 were viable conclusions had such been warranted.

19 Therefore, I am respectfully denying Defense counsel's
20 motion. I do find that she is qualified to render such
21 opinion.

22 Anything further, Mr. Strickler?

23 MR. STRICKLER: No, sir. Thank you.

24 THE COURT: From the State?

25 MS. CAMPBELL: Nothing more additional.

1 and to apply the law to those facts and thus arrive at a verdict.

2 Now, later in this case, as I told you before, a
3 foreperson will be selected to preside over deliberations
4 in the jury room. It will be the foreperson's added duty
5 to preside in the jury room and be the jury spokesperson
6 here in court. It will be also be the foreperson's duty to
7 write the verdict, but I will give the foreperson further
8 instructions at the conclusion of the case.

9 Now, in order to preserve everyone's rights, I will
10 give the parties an opportunity to object to anything that
11 I have said. Any exception or objection to anything that I
12 have said to the jury by the State?

13 MR. COBLE: No, Your Honor.

14 THE COURT: Defense counsel?

15 MR. STRICKER: No, sir.

16 THE COURT: Ladies and gentlemen, we are now
17 going to begin the trial of this case. I am going to
18 recognize the State for opening statements. The State is
19
20 so recognized.

21 MR. COBLE: Thank you, Your Honor. May it please
22 the Court?

23 THE COURT: Yes, sir.

24 **OPENING STATEMENTS BY MR. COBLE:**

25 MR. COBLE: Good morning, ladies and gentlemen.
26 November 14, 2008 was suppose to be a normal day of a

1 thirteen, Nick Mackey, who just gotten out of school,
2 hanging out with his little sister and father, Robert
3 Mackey around Christmas time. They were talking about
4 presents, what he wanted and what he should get his mother
5 but what Nick Mackey didn't know is that in just a few
6 short minutes, mask armed men would break into his trailer
7 with them, put a gun to his sister's head, shoot his father
8 in the leg and in the gut and his father would die from
9 that gun shot wound.

10 Now, the events that lead up to this murder began at
11 an apartment across town. Over there a group of guys had
12 gather and they had planned this armed robbery. They had
13 received information from a friend from Robert Mackey, the
14 victim, that he sold drugs. So they decided they were
15 going to rob him for money, drugs, whatever they could get.

16 So they armed themselves with weapons, two pistols, a
17 shotgun and a BB gun and they got a car that they had
18 borrowed from a friend, Randy Lewis, Richard Roach, Will
19 Smith, Darrien Jackson and that Defendant, Frank Singleton
20 and they drove to that side of town on a dirt road. Parked
21 on the side of the street, popped the hood so the car
22 wouldn't look to suspension if anybody drove by. Got out
23 and went to the woods lead by the Defendant, over a fence,
24 over barb wire through the woods. At one point, the
25 Defendant, goes to a deer stand, and he goes up there to
26 check and make sure nobody's up there because he doesn't

1 want anybody to see what they are about to do. As they
2 come to the clearing of the woods, they come upon an old,
3 empty abandon trailer and they all get inside. And this
4 trailer was right across from where Robert Mackey's trailer
5 is. A good view.. And they sit and they wait and they
6 watched and when the Defendant seen the last person to
7 leave Robert Mackey trailer, it was time to go. Leads them
8 across the yard, up the steps to the front door, Robert
9 Mackey's trailer, banging on the door, yelling, Kershaw
10 County Sheriff's Department, kicks the door open. Upon
11 entering this trailer, gun in hand, Robert Mackey is
12 sitting on a stool. He goes straight to him, tackles him.
13 Start hittings him, beating him on the face, in the head,
14 blood coming out, asking where's the money, where's it at.
15 Everybody is else is coming into the as well. Robert
16 Mackey beaten now, doesn't say anything about money or
17 anything that he has. So the Defendant continues to beat
18 him with the pistol. His co-defendant, Darrien Jackson,
19 armed with the .22 pistol, takes it, Robert Mackey's leg,
20 and pulls the trigger and still, Robert Mackey doesn't say
21 anything about money or drugs or what he has.

22 So Darrien Jackson with that same .22 picks up Nick's
23 younger sister, puts the gun to her head, and he threaten
24 Robert, he will kill her if he doesn't tell me where the
25 money and the drugs are. At this point, Robert Mackey,

1 still beaten and bloody, doesn't say anything about money
2 or drugs.

3 And, so they end up taking Robert Mackey to the back
4 room where there's safe. The Defendant is still beating
5 Robert Mackey in the face with his pistol and there is this
6 back room and all of a sudden they hear a knock at the
7 door. And so the three of them armed, two pistols and a
8 shotgun, they leave Robert Mackey with two other co-
9 defendants and they answer the door. And at the door is
10 Robert Sullivan, he had come by to see Robert Mackey and
11 when he realized what's going on, he tries to back away but
12 they grab for him and they try to pull him in and they all
13 began tussling.

14 And this point, Robert Mackey, in the back room
15 decides to head out and he runs into Darrien Jackson and
16 they began tussling and struggling, Darrien still owns that
17 .22 and it goes off. Striking Robert Sullivan in the head
18 but miraculously he lives. Not only does he live, he's
19 able to flee to go get help. And after Darrien Jackson and
20 Robert Mackey stopped tussling, the Defendant begins
21 fighting with Robert Mackey.

22 With this point, had been on his head, his face, shot
23 in his leg, and at some point, Robert Mackey and the
24 Defendant, he has him in the head lock. And that
25 Defendant, Frank Singleton, armed with a .45 caliber

1 , pistol, pulls the trigger, shooting Robert Mackey in his
2 gut which he would eventually he would die from.

3 At this point, people began to run, disperse, except
4 for Frank Singleton. He doesn't want to leave yet. He
5 wants the money. He wants that safe. So he goes back in,
6 grabs the safe, gun still at hand, and follows his co-
7 defendants back to the car that they left. And they loaded
8 up and they head back to the apartment where they first
9 started. And over there is another one of their friends,
10 Marcellus Juggins, goes by Shawn, he knows somebody that
11 can help them open this safe. So they drive over to his
12 house, with a sledge hammer, they break the door of that
13 safe, open it up and pull out worthless papers. Nothing.
14 No drugs, no money in that safe. Now, at this point, they
15 all go their separate ways.

16 Three years later, 2011, investigator Justin Dill at
17 the Kershaw County Sheriff's Department, he receives
18 information about this murder, a tip that leads him to each
19 and every co-defendant and they tell the story about what
20 happen. And before this -- a few months before this,
21 investigator Dill also recovers the murder weapon. And
22 you're going to hear about this .45 caliber pistol by it's
23 uniqueness, how it's distinguishable. You're also going to
24 hear about the bullet recovered from Robert Mackey that
25 killed him and the shell casing found outside of his

1 trailer that all matched this .45 caliber. You're also
2 going to hear from several of these co-defendants and
3 they're going to tell you what happened on that evening.

4 Now, for the events that took place that day, that
5 Defendant, Frank Singleton, has been charged with murder,
6 armed robbery, burglary first, and possession of a weapon
7 during a violent crime. When that Defendant when to Robert
8 Mackey's house, kicked in the door, went in there armed
9 with the intention of robbing him, he committed burglary in
10 the first degree.

11 While he was beating him in the face and in the head
12 holding that weapon, he was in a possession of a weapon
13 during a violent crime. When he held the gun to Robert
14 Mackey and told him to give him the money, give me the
15 stuff, and he took that safe out of his trailer, he
16 committed armed robbery. And, ladies and gentlemen, when
17 that Defendant pulled that trigger with malicious
18 aforethought and striking Robert Mackey and eventually
19 killing him, committed murder.

20 Now, as I told y'all earlier, Nick Mackey, thirteen
21 (13) years old, didn't know what was going to happen to him
22 that day, but you're going to hear from him six (6) years
23 from then and he's going to tell you what about he didn't
24 know then but what he knows now.

25 At the end of this trial, ladies and gentlemen, Ms.

1 Campbell will address you and we the State are going to ask
2 you the jury to return a verdict of guilty.

3 Thank you.

4 THE COURT: Mr. Strickler? Defense counselor?

5 MR. KIRINCICH: Thank you, Your Honor.

6 **OPENING STATEMENT BY MR. KIRINCICH: _____**

7 Opening statements from the Defense are sometimes an
8 odd thing. As the Judge told you we're not obligated to
9 give you one. As the Judge has explained, Mr. Singleton
10 sit there innocent. Has no duty to prove his innocence.
11 You see, the State tells you they weren't welcomed the
12 burden of proof. The burden of proof is beyond a
13 reasonable doubt, proof that doesn't give you hesitate to
14 act. So, you know, I said Mr. Singleton has no duty to
15 give you an opening statement explaining anything but it's
16 a great time to remind you again what the Judge said and
17 how important your role is in this entire process. You're
18 the deciders, the verdict finders and you decide what
19 happens.

20 So how do you do that? Right here is the witness
21 stand. And the State has told you that they're going to
22 introduce several witnesses and you listen to the evidence
23 and you decide do, I believe those witness? Do I trust
24 those witnesses?

1 I like how the State did their introduction for
2 Darrien Jackson, Jerome Lewis, and William Smith -- Will
3 Smith, that's a familiar name, it's friendly name. Those
4 guys don't go by what they call their government names.
5 Jerome Lewis is Sticky. Will Smith that's Ill Will. And
6 Darrien Jackson, that's my favorite, Diablo. That's how
7 those guys know each other. They don't know each others
8 real names. So can you trust a thief, a robber, convicted
9 felon, maybe, but I think it takes a lot to get there so
10 why should you trust them when they get up there to
11 testify. Is there any reason to trust what they're saying
12 to believe what they say from that witness stand? Are
13 their stories out of the goodness of their heart? You're
14 not going to believe that when they get up there that
15 they're just telling you this out of the goodness of their
16 heart. You know, by didn't they talk for two half or three
17 years if this is out of the goodness of their heart to come
18 here to testify. You're going to trust their word? Pay
19 close attention to the way they act on the stand. The
20 Judge told you that can look for bias and you can chose to
21 believe what those guys are saying. Like I'm said, you're
22 not getting the good stuff from the good guys. The guys
23 that wear nice uniforms and badges on their shirt. No, the
24 State is going to march up all the guys that you don't want
25 to meet. The guys that you don't want to see in the

1 street. That's how they're going to try to convict Mr.
2 Singleton. The guys that can't be trusted. Guys that all
3 have admitted that they did this. Diablo, Darrien Jackson,
4 excuse me that's a government name, Darrien Jackson.
5 Diablo puts the gun to the leg and pulls the trigger.
6 Diablo puts the gun to a four year old girls head threaten
7 to kill her. Those are the guys they want to put up on the
8 stand that they want you to believe. You're not going to
9 see like on t.v. This isn't Law & Order or CSI, we're not
10 going to be in and out of here in an hour but you're also
11 not going to see the stuff that you would expect to see
12 like DNA, fingerprints, footprints. They don't have any of
13 that here. Instead, what they're going to ask you to do is
14 believe Sticky, Ill Will and Diablo. Is that good enough
15 for you? It's not good enough -- it's not good enough.
16 Come back and let us know.

17 Thank you.

18 THE COURT: All right. Call you first witness
19
20 please?

21 MR. COBLE: The State calls Brian Morris.

22 (Whereupon, the witness was sworn)

23 MR. MORRIS: Lieutenant Brian Morris of the
24 Kershaw County Sheriff's Office. B-r-i-a-n, M-o-r-r-i-s.

25 BRIAN MORRIS, being first duly

BRIAN MORRIS- DIRECT EXAMINATION BY CB

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1
2 sworn, testified as follows:

3 **DIRECT EXAMINATION BY MR. COBLE:**

4 Q. Lieutenant Morris, where are you currently
5 employed?

6 A. Kershaw County Sheriff's Office.

7 Q. How long have you been there?

8 A. Just over thirteen years.

9 Q. What is some of the -- what's your capacity there
10 as lieutenant?

11 A. I'm over road patrol. I ---

12 Q. How long have you been a lieutenant?

13 A. Been lieutenant five years now.

14 Q. Do you recall the incident date for what we're
15 here for?

16 A. Yes, sir.

17 Q. What was your -- were you still lieutenant then?

18 A. I was a corporal at that time.

19 Q. What were some of your duties then as corporal?

20 A. If the lieutenant wasn't there I was in charge of
21 the shift. If the lieutenant was there I just did whatever
22 he needed me to help him out with and answer calls.

23 Q. Were you on duty -- were you on duty on November
24 14, 2008?

25 A. Yes, sir.

1 Q. Did you respond to this incident?

2 A. Yes, sir.

3 Q. What were you doing at this time?

4 A. The call come out that Lancaster County was out
5 with two gun shot victims in Lancaster County and so we
6 responded.

7 Q. Now, is Lancaster -- why was Lancaster County
8 involved ?

9 A. Because the victims were in Lancaster County.

10 Q. Okay. And then, did you end up going somewhere
11 else?

12 A. Yes, we went where the incident took place which
13 was across the street up there where it happened at, one
14 side of the road is Lancaster County, the other side would
15 be Kershaw County.

16 Q. And this incident that you responded to occurred
17 in Kershaw County?

18 A. It occurred in Kershaw County.

19 Q. And what did -- when you arrived on the scene
20
21 what was the scene?

22 A. When I got there the Lancaster County Sheriff's
23 Office would have been there, um, EMS. I was brief by
24 Lancaster County that they had two gun shot victims. One
25 being Mr. Mackey and the other being Mr. Sullivan.

1 Q. So when you arrived there, they were already law
2 enforcement personnel there?

3 A. Yes, sir.

4 Q. Who did you speak with beside law enforcement
5 personnel, anybody?

6 A. We got -- we talked to Marlo Patterson.

7 Q. Did you speak with anybody else?

8 A. Um, we spoke to Mr. Sullivan's cousin and we
9 spoke to Mr. Sullivan, briefly. We couldn't talk to Mr.
10 Mackey.

11 Q. And what's your purpose when you arrived on the
12 scene as corporal? What was your purpose of the crime
13 scene?

14 A. Get there and find out what's going on and with
15 it being a shooting incident we would just secure the scene
16 and notify investigations and turn everything over to them.

17 Q. And after speaking with several of these people,
18 what did do you next to the crime scene?

19 A. All we did was call for investigations which
20 would be the on call investigator and they would respond
21 and the only thing we would do is just secure everything.
22 Nobody would come in or out.

23 Q. Could you describe securing the scene? What are
24 some of the procedure you follow?

25 A. If it's not a big area, we would, you know, put

1 up barricade tape and if it's a large area we would have
2 several deputies up there just to surround the place so
3 nobody would go in or out.

4 Q. Were you able to go inside the residents where
5 the incident occurred?

6 A. Yes, sir.

7 Q. What did you see inside there?

8 A. The house was kinda of disarray, tossed, um,
9 stuff laying everywhere, chairs knocked over, you had blood
10 throughout the house.

11 MR. COBLE: Your Honor, may I approach the
12 witness?

13 THE COURT: Yes, sir.

14 Q. Lieutenant, do you recognize this?

15 A. Yes, that would be a map that we got the address
16 marked at and then right behind it
17 would be a dirt yard, and then it would run
18 into .

19 Q. Now, I'm just going to stop you right there.
20 Does this map fairly and accurately represent and depict
21
22 the scene the map of the location?

23 A. Yes, sir.

24 MR. COBLE: Your Honor, I would now move State's
25 Exhibit, I guess, it's Number 61, into evidence?

BRIAN MORRIS- DIRECT EXAMINATION BY CB

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1

2

THE COURT: Any objection?

3

MR. KIRINCICH: No, Your Honor.

4

5

THE COURT: Without objection. State's Exhibit
Number 61 is admitted into evidence.

6

7

(BLOW-UP MAP HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS
STATE'S EXHIBIT NUMBER 61)

8

MR. COBLE: May I publish, Your Honor.

9

THE COURT: Yes, sir.

10

11

Q. Lieutenant, you were describing where -- this red
dot, where is that dot?

12

A. That would be in Kershaw County.

13

Q. And what is that?

14

A. That would be an incident location of

15

in Kershaw County.

16

17

Q. And which road did you -- when you responded,
which road did you come up on?

18

A. I would come in on

19

20

Q. How long were you at the scene, lieutenant, do
you recall?

21

A. No, sir, not right off hand.

22

Q. But you didn't do any further investigation?

23

A. No, sir. No, sir.

24

25

Q. Do you recall what time you responded to this
incident?

BRIAN MORRIS- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. The dispatch time was 16:40.

2 Q. Four, forty?

3 A. Four, forty in the afternoon.

4 MR. COBLE: Thank you. Nothing further, Your
5 Honor.

6 THE COURT: Cross examination?

7 **CROSS EXAMINATION BY MR. KIRINCICH:**

8 Q. Good morning, Lieutenant Morris.

9 A. Good morning, sir. How are you?

10 Q. Doing well. You?

11 A. Tired.

12 Q. As a responding officer, you would be in charge
13 of marking any evidence that you saw?

14 A. No, sir.

15 Q. Would you be in charge of collecting in evidence
16 that you saw?

17 A. No, sir.

18 Q. All you would do is what you already testified
19 to; right?

20 A. Right. We would just secure the scene and turn
21 everything over to investigations.

22 Q. And you didn't see anything there with Mr.

23

24 Singleton's name on it; did you?

25 A. No, sir.

RASHEED HALLEY- DIRECT EXAMINATION BY MS. McDUFFIE: 134

1 Q. And you didn't see anything there that belonged
2 to Mr. Singleton; did you?

3 A. No, sir.

4 Q. You didn't have anything at the scene that you
5 saw that connected Mr. Singleton to this; did you?

6 A. No, sir.

7 MR. KIRINCICH: Thank you.

8 THE COURT: Any redirect?

9 MR. COBLE: No, Your Honor.

10 THE COURT: Sir, you may step down. Thank you.

11 MR. MORRIS: Thank you, sir.

12 THE COURT: Call your next witness?

13 MS. McDUFFIE: The State would call Rasheed
14 Halley.

15 (Whereupon, the witness was sworn)

16 COURT REPORTER: State your name?

17 MR. HALLEY: Rasheed Halley.

18 COURT REPORTER: Spell it for me?

19 MR. HALLEY: R-a-s-h-e-e-d.

20 COURT REPORTER: Last name?

21 MR. HALLEY: H-a-l-l-e-y.

22 RASHEED HALLEY, being first duly
23 sworn, testified as follows:

24 **DIRECT EXAMINATION BY MS. McDUFFIE:**

25 Q. Mr. Halley, where are you currently employed?

1 A. Shirley's Construction.

2 Q. And back in November of 2008, where were you
3 employed then?

4 A. Gadgets in Camden.

5 Q. And do you know Jerome Lewis?

6 A. Yes, ma'am.

7 Q. And do you know Will Smith?

8 A. Yes, ma'am.

9 Q. In November of 2008, did you see Will and Jerome
10 at all during November?

11 A. No, ma'am.

12 Q. On November 14, 2008, did you go to
13 ?

14 A. Yes, ma'am.

15 Q. And please tell the, ladies and gentlemen of the
16 jury, what that was about or why did you go there?

17 A. I usually go to that to gamble.

18 Q. And whose apartment specifically did you go to?

19 A. Trim's.

20 Q. And do you know Trim's real name?

21 A. No, ma'am.

22 Q. And when you got to Trim's apartment who, if
23 anyone else, was there?

24 A. Just Jerome and William.

25 Q. And how do you know Will?

RASHEED HALLEY- DIRECT EXAMINATION BY MS. McDUFFIE: 136

1 A. Childhood.

2 Q. And does Will have any nicknames or go by any
3 other names?

4 A. No, ma'am.

5 Q. You just know ---

6 A. Not that I know of.

7 Q. And when you went there with Jerome and Will,
8 what, if anything, happened?

9 A. Pardon me?

10 Q. What, if anything, happened once you were there
11 with Jerome and Will?

12 A. I don't understand.

13 Q. I'm sorry. I'll repeat the question. Did you
14 drive a vehicle on November of 2008?

15 A. Yes, ma'am.

16 Q. And what kind of car did you have in November of
17 2008?

18 A. A 1992 Mercury Grand Marquis.

19 Q. And what color was that car?

20 A. Grey.

21 Q. Did you let anyone use your car on November 14,
22 2008?

23 A. Yes, ma'am.

24 Q. And who did you let use your car?

25 A. William Smith.

1 Q. And when you let him use your car, did you know
2 what he and his co-defendants were going to do that day?

3 A. No, ma'am.

4 Q. And when you let him use your car, where did you
5 stay or where were you?

6 A. I stayed at the apartment.

7 Q. And did anyone stay at the apartment with you?

8 A. Yes, ma'am.

9 Q. And who was that?

10 A. Jerome Lewis.

11 Q. And how long was Will gone with your car?

12 A. I'm not sure.

13 Q. Was it light out when he left?

14 A. Yes, ma'am.

15 Q. And when it was got back was it light or dark?

16 A. It was dark.

17 Q. So he left some time during the day time and came
18 back in the evening time?

19 A. Yes, ma'am.

20 Q. And when he came back with your car, what, if
21 anything, did you observe?

22 A. A safe.

23 Q. And where was the safe?

24 A. It was in the trunk.

25 Q. And was anyone else with him in your car, at that

RASHEED HALLEY- DIRECT EXAMINATION BY MS. McDUFFIE: 138

1 point?

2 A. No, ma'am.

3 Q. And the safe that you saw in the trunk of your
4 car, had you ever seen that safe before?

5 A. No, ma'am.

6 Q. Did you have any idea where it came from?

7 A. No, ma'am.

8 Q. Please tell the ladies and gentlemen of the jury,
9 what happened after that?

10 A. We actually went out to to some
11 address and some guy opened the safe.

12 Q. Do you recall what the guy who opened the safe
13 looked like?

14 A. Stocky white guy, maybe around twenty-eight.

15 Q. Have you ever seen him before?

16 A. No, ma'am.

17 Q. And after the safe was opened, please described
18 to the ladies and gentlemen of the jury, what you observed?

19 A. Papers.

20 Q. And did you and Will do anything or say anything
21 after that?

22 A. No, ma'am.

23 Q. And please tell the ladies and gentlemen of the
24 jury, what happened next after the safe was opened?

25 A. I went home.

1 Q. And your car the '92 Grand Marquis, where did
2 that go?

3 A. I sold it to a junk man.

4 Q. And why did you do that?

5 A. It tore up.

6 Q. How?

7 A. Transmission went.

8 Q. So the car broke down and you got rid of it?

9 A. Yes, ma'am.

10 Q. And after that, did you see Will or Jerome or
11 anyone involved in this after that?

12 A. No, ma'am.

13 Q. Mr. Halley, you a 2012 drug conviction?

14 A. Yes, ma'am.

15 Q. You got probation for that?

16 A. Yes, ma'am.

17 MS. McDUFFIE: No further questions.

18 THE COURT: Cross examination?

19 **CROSS EXAMINATION BY MR. KIRINCICH:**

20 Q. Good morning, Mr. Halley.

21 A. Good morning.

22 Q. You said you and Will grew up together?

23 A. Yes, sir.

24 Q. You didn't know him as Ill Will? You don't know
25 him as Ill Will?

RASHEED HALLEY- CROSS EXAMINATION BY MR. KIRINCICH: 140

1 A. No, sir.

2 Q. You never heard anybody call him by that
3 nickname?

4 A. No, sir.

5 Q. And are you friends with him now?

6 A. No, sir.

7 Q. Any reason? Any reason you aren't friends with
8 him?

9 A. No, sir.

10 Q. All right. You said when he left -- because he
11 was the only one that you would let use your car; right?

12 A. Yes, sir.

13 Q. No one else was with him?

14 A. No, sir.

15 Q. And when he came back, no one else was with him?

16 A. No, sir.

17 Q. But he had a safe with him?

18 A. Yes, sir.

19 Q. And you and Jerome road out to get it opened?

20 A. No, sir, me and Will.

21 Q. Just you and Will went to get it opened?

22 A. Yes, sir.

23 Q. No one else was there?

24 A. Not at the moment.

RASHEED HALLEY- CROSS EXAMINATION BY MR. KIRINCICH: 141

1 Q. And you said you got rid of your car shortly
2 after all of this happened?

3 A. About three weeks.

4 Q. The transmission was torn up?

5 A. And the motor blew up. The transmission went and
6 the motor blew up.

7 Q. And the motor blew up. Okay. You didn't go with
8 Will?

9 A. No, sir.

10 Q. You didn't know where he was going?

11 A. No, sir.

12 Q. Did you know what he was doing?

13 A. No, sir.

14 Q. Didn't discuss it with him at all?

15 A. No, sir.

16 Q. Nobody tried to get you to ride along?

17 A. No, sir.

18 MR. KIRINCICH: Thank you, Mr. Halley.

19 THE COURT: Any redirect?

20 MS. McDUFFIE: No, Your Honor. May I ask that
21 this witness be excused?

22 THE COURT: Sir, you may step down. Any
23 objection to this witness being excused?

24 MR. KIRINCICH: No, sir.

25 THE COURT: Defense counsel?

MARCELLUS JUGGINS- DIRECT EXAMINATION BY MR. COBLE: 142

1 MR. KIRINCICH: No, sir.

2 THE COURT: All right. Sir, you may step down.
3 You're excused. You have no further responsibility under
4 this subpoena. You are free to go. Thank you for being
5 here.

6 Call you next witness please?

7 MR. COBLE: The State calls Marcellus Juggins.

8 (Whereupon, the witness was sworn)

9 MR. JUGGINS: Marcellus Juggins. M-a-r-c-e-l-l-
10 u-s, Juggins, J-u-g-g-i-n-s.

11 MARCELLUS JUGGINS, being first
12 duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY MR. COBLE:**

14 Q. Mr. Juggins, where are you from?

15 A. Quantico, Virginia.

16 Q. Where do you live now?

17 A. I live in Camden, South Carolina.

18 Q. How long have you lived here?

19 A. Ten years.

20 Q. Do you recall an incident for what you're here
21 for today?

22 A. Yes, sir.

23 Q. Are you friends -- do you know Jerome Lewis?

24 A. Yes, I know him.

25 Q. Did you know -- did you hang out with them back

1 in November of 2008?

2 A. I didn't hang out with them but I went over to
3 where they stayed.

4 Q. Have you ever met -- do you know Robert Mackey?

5 A. No, sir.

6 Q. Do you know where is?

7 A. Yes, sir.

8 Q. Have you ever been in that area before?

9 A. Yes, sir.

10 Q. When did you go over there?

11 A. Probably about two months before this accident
12 happened.

13 Q. Who did you go out there with?

14 A. It was me, Sticky, Diablo, Mae-Mae, um, and Randy
15 Lewis.

16 Q. Who is ---

17 COURT REPORTER: I'm sorry, Randy Lewis?

18 A. Yes, ma'am.

19 Q. Who is Mae-Mae?

20 A. Frank Singleton.

21 Q. And why did y'all go out there?

22 A. We went out there to rob the Defendant, the --
23 the victim.

24 Q. Did y'all?

25 A. No, sir.

MARCELLUS JUGGINS- DIRECT EXAMINATION BY MR. COBLE: 144

1 Q. What happened?

2 A. We went out there, a bunch of people was on the
3 porch in the other houses and I told him I wasn't -- I
4 wasn't down for it so let's leave.

5 Q. And what did y'all do?

6 A. We left.

7 Q. Had you been out between that day and November
8 14, 2008, did you go back out there again?

9 A. No, sir.

10 Q. What did you do on November 14, 2008?

11 A. Say that again.

12 Q. What did you -- what were you doing on November
13 14th?

14 A. I was working earlier that day.

15 Q. Did you end up going to
16 that night?

17 A. Yes, sir.

18 Q. Why did you go over there?

19 A. I went to purchase marijuana.

20 Q. From who?

21 A. Randy Lewis.

22 Q. Did he live over there?

23 A. I think they were staying over there at the time.

24 Q. And when you got over there, who was over at the
25 apartment?

1 A. I think just Jerome was over there at the
2 apartment.

3 Q. Jerome, also known as, Sticky?

4 A. Yes, sir.

5 Q. How long did you stay over there?

6 A. Might have been an hour, hour and half.

7 Q. And while you were there did anybody else come to
8 the apartment?

9 A. After an hour and half, yes, somebody else came
10 to the apartment.

11 Q. Who else came back to the apartment?

12 A. It was Diablo, Randy Lewis, Sticky, Frank
13 Singleton.

14 Q. And who is Diablo, if you know his real name?

15 A. I don't know. I know him as Diablo.

16 Q. When those four people came back over there, what
17 were they doing?

18 A. They came in, um, they came in and -- well they
19 came into the apartment and they -- what was they doing?

20 Q. Correct.

21 A. They came in -- I don't understand the question.
22 They came in ---

23 Q. I'll move on. When they came in there, did they
24 have anything with them?

25 A. Oh, yeah, they had a safe.

MARCELLUS JUGGINS- DIRECT EXAMINATION BY MR. COBLE: 146

1 Q. Did they say whose safe it was?

2 A. No, sir.

3 Q. Who had the safe, do you recall?

4 A. I'm not sure on that one.

5 Q. What did you do when you saw that safe?

6 A. I didn't do anything at the time.

7 Q. Did you eventually do anything?

8 A. Yes, sir. They was having problems in getting in
9 it and I said I might know somebody who can get in it.

10 Q. Who did you know?

11 A. A guy name Shawn.

12 Q. How do you know Shawn?

13 A. We worked over there at Build a Lowe's over there
14 in Camden.

15 Q. So through work?

16 A. Yes, sir.

17 Q. And at this point, who was still at the
18 apartment, the same people?

19 A. Yes, sir.

20 Q. So you said you knew Shawn, what did y'all do
21 when you left?

22 A. I got in my car. They got in the other car.
23 They followed me out there and he opened the safe for them.

24 Q. All right. Let's back up just a minute. You
25 said you got in your car, what kind of car did you drive at

1 this time?

2 A. I had the Suzuki Trooper.

3 Q. And you drove over there?

4 A. Yes, sir.

5 Q. Who rode with you?

6 A. I think Sticky rode with me known as Jerome
7 Lewis.

8 Q. Anybody else ride with you?

9 A. No, sir.

10 Q. Do you know who rode in the other car?

11 A. Um, well I know Diablo, Randy Lewis, Frank -- I
12 know we all went out there so they was in one of the cars.
13 I don't know what car they was in.

14 Q. So y'all met a Shawn's house, who was there at
15 that point?

16 A. At the house?

17 Q. At his house?

18 A. Shawn and his family was there.

19 Q. And who in your group, who were they?

20 A. It was me, Frank, Diablo, Jerome, Frank, um, I
21 can't think of the other guys name.

22 Q. And what did Shawn, the other Shawn, do with this
23 safe?

24 A. Well, he like just dropped it on a rock -- tapped
25 it on a rock and it opened up.

MARCELLUS JUGGINS- DIRECT EXAMINATION BY MR. COBLE: 148

1 Q. And what was inside the safe?

2 A. Just papers.

3 Q. Do you also go by Shawn too?

4 A. Yes, sir.

5 Q. Once the safe was open with papers, what do y'all
6 do from there?

7 A. Everybody went their separate ways.

8 Q. Now, Mr. Juggins, you have been charged with
9 accessory after the fact of this incident; correct?

10 A. Yes, sir.

11 Q. And the State hasn't made you any offers or
12 promises for you testimony today; have they?

13 A. No, sir.

14 Q. Did you end up speaking with law enforcement
15 several years later?

16 A. Yes, sir.

17 Q. Who did you speak with?

18 A. I spoke to the county cop there and a detective.

19 Q. And where did speak with them?

20 A. First they came to the job site where I was at
21 over there behind the jail, I was transporting dirt back
22 and forth over there and then we went to the Kershaw County
23 Sheriff's Office over in Lugoff.

24 Q. Do you know what they wanted from you?

25 A. They was asking me about the incident that

MARCELLUS JUGGINS- DIRECT EXAMINATION BY MR. COBLE: 149

1 happened ---

2 Q. Which incident?

3 A. That happened in Kershaw.

4 Q. This incident?

5 A. Yes, sir.

6 MR. COBLE: Your Honor, may I approach the
7 witness?

8 THE COURT: Yes, sir.

9 Q. Mr. Juggins, let me show what's been marked as
10 State's Exhibit Number 2. What do you recognize this to
11 be?

12 A. A line-up.

13 Q. Does this fairly and accurately depict the
14 line-up that was shown to you by those two officer?

15 A. Yes, sir.

16 MR. COBLE: Your Honor, I now would move State's
17 Exhibit Number 2 into evidence.

18 THE COURT: Any objection?

19 MR. STRICKER: No, sir.

20 THE COURT: Without objection. State's Exhibit
21 Number 2 into evidence.

22 (PHOTO LINE-UP HAS BEEN MARKED AND ENTERED INTO
23 EVIDENCE AS STATE'S EXHIBIT NUMBER 2)

24 MR. COBLE: May I publish, Your Honor?

25 THE COURT: Yes, sir.

MARCELLUS JUGGINS- CROSS EXAMINATION BY MR. STRICKLER 150

1 Q. Before I publish, did you -- I'm going to let you
2 hold that -- did they ask -- what did they ask you to do
3 when they showed this photo line-up?

4 A. They ask me did I know anybody in this line-up.

5 Q. And did you?

6 A. Yes, sir.

7 Q. Who did you recognize in that line-up?

8 A. Mae-Mae, number five.

9 Q. How did you recognize him?

10 A. He grew up with my son. We lived in the same
11 community.

12 Q. Did they pressure you to pick somebody?

13 A. No, sir.

14 Q. They promise you anything?

15 A. No, sir.

16 Q. Did they say you had to pick somebody?

17 A. No, sir.

18 Q. How sure are you that number five is Frank -- was
19 Mae-Mae?

20 A. I'm hundred percent that's Mae-Mae.

21 MR. COBLE: Thank you. Nothing further.

22 THE COURT: Cross examination?

23 **CROSS EXAMINATION BY MR. STRICKER:**

24 Q. Good day, Mr. Juggins. You are charged with.
25 accessory after the fact for the crime that happened that

1 we're on trial here today; correct?

2 A. Yes, sir.

3 Q. Do you have a lawyer?

4 A. Yes, sir.

5 Q. Who is your lawyer?

6 A. George Speedy.

7 Q. Okay. Have you talked to your lawyer about the
8 case?

9 A. Did I talk to ---

10 Q. Yes, sir.

11 A. Yes, sir.

12 Q. Okay. You talked to your lawyer about what
13 possible penalty you were looking at, if you're convicted
14 of this crime?

15 A. Yes, sir.

16 Q. Okay. What's your understanding of the possible
17 penalty you can get?

18 A. It's still pending.

19 Q. I know. If you convicted of accessory after the
20 fact to murder, what's the possible penalty; fifteen years?

21 A. I think it's one -- one to fifteen.

22 Q. There you go. Okay. And as I understand your
23 testimony, you haven't talked with anyone or no one from
24 the State has made you any promises about what would
25 happened?

MARCELLUS JUGGINS- CROSS EXAMINATION BY MR. STRICKLER 152

1 A. No, sir.

2 Q. Okay. You certainly have some expectations as
3 what you want to happen; correct?

4 A. No, sir.

5 Q. No. So fifteen years is the possibility, you
6 don't expect to end up with a fifteen year sentence though;
7 do you?

8 A. Well, I hope my lawyer can handle that.

9 Q. Your lawyer can handle that.

10 A. I said I hope he can.

11 Q. Yeah. And you certainly expect or certainly hope
12 that you're testimony here today will not hurt your chances
13 as far as your penalty; right?

14 A. I can't say that.

15 Q. Okay. So you testify out of the goodness of your
16 heart here today?

17 A. No ---

18 Q. Because it's the right thing to do?

19 A. I'm testifying to the statement that I gave the
20 officer and the detective.

21 Q. Now, I'm just trying to get straight as to what
22 happened. The evening of this -- when you with the safe,
23 okay, because you know about that, you saw that yourself;
24 right?

25 A. Yes, sir.

1 Q. Okay. Let's talk about what you saw, okay?

2 A. Yes, sir.

3 Q. You were first contact, that evening, with these
4 folks was at the ?

5 A. Yes, sir.

6 Q. Okay. You were over there?

7 A. I went over there, yes, sir ---

8 Q. Okay.

9 A. --- after work.

10 Q. After work?

11 A. Yes, sir.

12 Q. And were with whom? Whose apartment were you at?

13 A. That's Trim's apartment.

14 Q. Trim's apartment?

15 A. Yes, sir.

16 Q. And when you got there who was there?

17 A. Just Jerome Lewis.

18 Q. Just Jerome?

19 A. Yes, sir.

20 Q. Not Trim?

21 A. I think Trim was at work.

22 Q. Okay. All right. And the fellows leave the
23 apartment?

24 A. They wasn't nobody there but Jerome Lewis.

25 Q. And when -- you stayed at the apartment; correct?

MARCELLUS JUGGINS- CROSS EXAMINATION BY MR. STRICKLER 154

1 You didn't go anywhere at that point in time?

2 A. No, sir, I waited.

3 Q. And how did the people leave the apartment?

4 A. Like I said I wasn't there when they left.

5 Q. You weren't there when they left?

6 A. No, sir.

7 Q. You left before them?

8 A. Come back with that again.

9 Q. You had left before them?

10 A. You ask me how did they leave the apartment;
11 right?

12 Q. Right.

13 A. I wasn't there when they left.

14 Q. Where were you?

15 A. I was at work.

16 Q. And when they came back you left with them at
17 that point in time; correct?

18 A. When they came back?

19 Q. Yeah, mmm, hmm.

20 A. Well, I drove.

21 Q. You drove?

22 A. Yes, sir.

23 Q. There was more than one car that went; right?

24 A. Yes, sir.

25 Q. Okay. And in your car was whom? Who was with

1

2 you?

3

A. Jerome Lewis.

4

Q. Jerome?

5

A. Yes, sir.

6

Q. That's the only person that was in your car?

7

A. Yes, sir.

8

Q. To your knowledge there was one other car that

9

drove over there to where the safe got busted open; right?

10

A. I think it was two.

11

Q. You think it was two?

12

A. Yes, sir.

13

Q. Now, it was your suggestion to go see the man

14

that y'all went to see about opening the safe; right?

15

A. I said ---

16

Q. You knew somebody?

17

A. I said I knew somebody.

18

Q. Right. Okay. And who else traveled out there in

19

the other car or cars?

20

A. Diablo, Randy Lewis, Frank Singleton, um, and the

21

kid they call Ill Will.

22

Q. The kid they call Ill Will?

23

A. Yes, sir.

24

Q. Okay. So you all went out there and Trim and

25

Randy rode out with you in your car; right?

MARCELLUS JUGGINS- CROSS EXAMINATION BY MR. STRICKLER 156

1 A. Nah, I think Trim was at work. It was just
2 Randy, um, Jerome Lewis rode out with me.

3 Q. In -- this was back in 2008; right, do you
4 remember correctly?

5 A. What was back in 2008?

6 Q. When the whole stuff happened?

7 A. Yes, sir.

8 Q. All right. And then when the police talked with
9 you and you circled this picture, that was in 2011; right?

10 A. Yes, sir, I think it was. Yes, sir.

11 Q. And in 2011 when you circled this picture in
12 August of 2011 ---

13 A. You said was it August of 2011 ---

14 Q. Was it August of 2011?

15 A. It might have been. I'm not quite sure what
16 month it was, sir.

17 Q. Okay. When you talked with the police and did
18 this you also gave him a statement; right?

19 A. Yes, sir.

20 Q. And let me show you this document here.

21 MR. STRICKER: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes, sir.

24 Q. I ask if you recognize this, sir?

25 A. Yes, sir.

1 Q. What is that?

2 A. That's a voluntarily statement.

3 Q. Do you know whose voluntarily statement it is?

4 A. Mine.

5 Q. Yours?

6 A. Yes, sir.

7 Q. Okay. Can you look at this statement right here
8 and tell us what the date and the time of the interview
9 was? It listed right there where my finger was?

10 A. August 3rd at 2:30.

11 Q. Okay. Then right down here at the bottom of this
12 page, the third line from the bottom, talking about when
13 y'all drove out to Shawn's house. Can you tell us, from
14 the third line from the bottom, who was in the car with
15 you?

16 A. It say ---

17 Q. According to your statement?

18 A. Yes, sir. "Drove with Trim and Randy".

19 Q. You drove with Trim and Randy; correct?

20 A. Yes, sir, that's what it say. Yes, sir.

21 Q. That's what it says?

22 A. Yes, sir.

23 Q. All right. That's not what you said today;
24 right?

25 A. Well, I didn't remember Trim riding out there

MARCELLUS JUGGINS- CROSS EXAMINATION BY MR. STRICKLER 158

1 with me.

2 Q. And then earlier, I didn't ask you about this,
3 but during your direct testimony you say -- you said, hit
4 it with a rock to open, this Shawn fellow, hit it with rock
5 to open it; correct?

6 A. I think that's how he opened it -- was -- dropped
7 it.

8 Q. Okay. Let's take a look again at the same
9 statement and I direct your attention to the second line
10 from the bottom, right there. In 2008, how do you
11 remember, excuse me, in 2011, how did you remember the safe
12 being opened?

13 A. In 2011?

14 Q. Yeah, when you give that statement.

15 A. I thought it opened it when he dropped it on a
16 rock.

17 Q. Take a look ---

18 A. Oh, but that says, "he opened with a screw
19 driver."

20 Q. Well, read that sentence, if you will please ---

21 A. "He got the ---

22 Q. --- that's what I'm asking?

23 A. --- safe open with a screw driver."

24 Q. Okay. So in 2011, you say he opened the safe
25 with a screw driver; right?

MARCELLUS JUGGINS- REDIRECT EXAMINATION BY MR. COBLE: 159

1 A. Yes, sir.

2 Q. Yes, sir.

3 MR. STRICKER: Nothing further, Your Honor.

4 MR. COBLE: Just briefly, Your Honor ---

5 THE COURT: Redirect.

6 **REDIRECT EXAMINATION BY MR. COBLE:**

7 Q. Mr. Juggins, you were just asked to read your
8 voluntarily statement?

9 A. Yes, sir.

10 Q. Could you go back to that sentence Defense
11 counsel had you just read?

12 A. He got ---

13 Q. Do you have it?

14 A. He got the thing.

15 Q. I got a copy for you right here. Could you read
16 that statement that's highlighted?

17 A. "They got the safe opened at Shawn's -- they got
18 the safe opened at Shawn's and Shawn opened it with the
19 screw driver. He dropped it -- he popped it open. I ain't
20 really sure I just know he got it open."

21 Q. Now, you were also just asked about what you saw
22 that night, you saw Frank Singleton; correct?

23 A. Yes, sir.

24 MR. STRICKER: I object. Not appropriate
25 redirect. He ask the question about the ---

MARCELLUS JUGGINS- REDIRECT EXAMINATION BY MR. COBLE: 160

1 MR. COBLE: Your Honor, I can lay the foundation
2 for my next question.

3 THE COURT: I'll allow it right now. Go ahead.

4 Q. You said you saw Frank Singleton. What did you
5 see him with; do you recall?

6 MR. STRICKER: I objection again, Your Honor.

7 MR. COBLE: Your Honor ---

8 THE COURT: Can the lawyers approach please?

9 (Whereupon, a bench conference is held in the presence
10 of the jury panel but out of the hearing of the jury)

11 THE COURT: Objection noted for the record, Mr.
12 Strickler.

13 Q. Mr. Juggins, I believe I ask you what did
14 you see Frank Singleton with that night?

15 A. Um, a gun.

16 Q. Can you describe that gun?

17 A. Um, I can't ---

18 Q. If you had your statement would it refresh your
19 memory?

20 A. It should because it's been a while.

21 Q. And the question is, just describe the gun?

22 A. A .25.

23 Q. Was there anything else with that gun that you
24 remember?

25 A. Was anything else with gun?

MARCELLUS JUGGINS- REDIRECT EXAMINATION BY MR. COBLE: 161

1 Q. Correct. Would having your statement might help
2 you?

3 A. Yeah. You mean, the bullets?

4 Q. Correct.

5 A. Yes, sir.

6 Q. What was unique about those bullets?

7 A. They had red tips on it.

8 Q. Had you seen those before?

9 A. No, sir.

10 MR. COBLE: Thank you. Nothing further, Your
11 Honor.

12 THE COURT: Any re-cross?

13 MR. STRICKER: No, sir.

14 THE COURT: Sir, you may step down.

15 MR. JUGGINS: Thank you.

16 THE COURT: Call your next witness?

17 MR. COBLE: The State would call Robert Sullivan.

18 (Whereupon, the witness IS sworn)

19 MR. SULLIVAN: May name is Robert Sullivan,
20 Robert Wesley Sullivan.

21 COURT REPORTER: Would you spell your middle name
22 for me please?

23 MR. SULLIVAN: W-e-s-l-e-y.

24 ROBERT SULLIVAN, being first
25 duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. COBLE:

Q. Mr. Sullivan, where are you from?

A. Kershaw.

Q. How long have you lived in Kershaw?

A. All my life, thirty-two years.

Q. Did you live in Kershaw in November of 2008?

A. Yes, sir.

Q. Do you recall this day, November 14, 2008?

A. Yes, sir.

Q. What were you doing that day?

A. That day?

Q. Yes, sir.

A. Working.

Q. Where did you work?

A. With my uncle.

Q. What time did you get off work?

A. Four o'clock.

Q. And after you got off work, where did you go?

A. To Mr. Mackey's house.

Q. Why were you going to Mr. Mackey's house?

A. To try to score some pot.

Q. Had you ever -- by score, you mean, bought pot?

A. No.

Q. Have you ever gone to Mr. Mackey's for pot
before?

1 A. No, sir.

2 Q. How -- did you know Mr. Mackey before this beside

3 ---

4 A. I know of him.

5 Q. And did you drive -- who did you go there with?

6 A. I was by myself.

7 Q. And do you remember about what time you got
8 there?

9 A. It was about ten after four.

10 Q. And you drove yourself?

11 A. Yes, sir.

12 Q. Was anybody else at Mr. Mackey's when you arrived
13 outside?

14 A. Not outside.

15 Q. What did you do when you arrived at his trailer?

16 A. I got out and approached the door and knocked on
17 the door and a gun was stuck in my face.

18 Q. Do you remember -- that's coming from the inside?

19 A. Yes, sir.

20 Q. Do you remember -- what did you see on the
21 inside, you said a gun, what else did you see?

22 A. A bunch of people with guns.

23 Q. Did you see Mr. Mackey?

24 A. Not at the moment.

25 Q. Now, as you have the gun in your face what

1 happened next?

2 A. I turned and ran.

3 Q. Did you go -- you didn't go inside the apartment?

4 A. No, sir.

5 Q. Could you describe the people that had guns?

6 A. They were all, um, wearing mask and stuff.

7 Q. What type of guns, do you recall?

8 A. They had pistols and a long gun.

9 Q. Were you able to leave the apartment -- the
10 trailer?

11 A. I -- yes, sir.

12 Q. What did they do to you when you tried to run?

13 A. They come up behind me and we struggled and
14 that's when I got shot.

15 Q. Do you recall that moment being shot, how it
16 happened?

17 A. He stuck it to the side of my head as I was
18 trying to get in the car to leave.

19 Q. What did that feel like?

20 A. Being shot?

21 Q. Yes, sir.

22 A. Very painful.

23 Q. What were you able to do after you were shot?

24 A. I went across the road because my cousin lived
25 over there to get some help.

1 Q. Did you see your cousin over there?

2 A. Yes, sir.

3 Q. Who is your cousin?

4 A. Patricia Veal.

5 COURT REPORTER: I'm sorry, last name again?

6 A. Veal.

7 Q. About how long did it take you to get from Mr.
8 Mackey's trailer to your cousins?

9 A. Probably a minute.

10 Q. How did you get there?

11 A. I drove.

12 Q. Was there blood?

13 A. Yes, sir.

14 Q. What other type of injuries did you sustain
15 throughout this?

16 A. None that I know of.

17 Q. How has this affected your life?

18 A. Well, I have trouble ---

19 MR. KIRINCICH: Objection.

20 THE COURT: Grounds for your objection.

21 MR. KIRINCICH: Your Honor, it's not relevant to
22 the trial.

23 THE COURT: I'll allow it. Go ahead.

24 A. Can you repeat the question?

25 Q. How has this affected your life?

R. SULLIVAN- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. Um, it's hard to find work.

2 Q. Are you still living in Kershaw?

3 A. Yeah -- well, Heath Springs.

4 Q. Did you -- you went over to see Robert Mackey,
5 did you ever see him?

6 A. Yes, after he -- after he was shot and came
7 running out.

8 Q. Where did you see him?

9 A. On my -- me and him was on my cousins porch.

10 Q. What was his condition?

11 A. He was in bad shape.

12 Q. What do you mean by bad shape, do you recall?

13 A. He was bleeding heavily.

14 Q. And do you remember where he was bleeding?

15 A. I think he was bleeding in the stomach and maybe
16 the chest.

17 MR. COBLE: Thank you. Nothing further.

18 MR. SULLIVAN: Thank you.

19 THE COURT: Cross examination?

20 MR. KIRINCICH: Thank you, Your Honor.

21 **CROSS EXAMINATION BY MR. KIRINCICH:**

22 Q. Good afternoon, Mr. Sullivan.

23 A. Good afternoon.

24 Q. You don't know who shot you; do you?

25 A. No, sir.

1 Q. You didn't recognize anybody; did you?

2 A. No, sir.

3 Q. Do you know how many people were there?

4 A. I think there was five, could have been six.

5 Q. Could it have been four?

6 A. No. I seen five.

7 Q. You seen five. Do you remember giving a
8 statement to law enforcement?

9 A. Yeah.

10 Q. You gave a couple of statements; didn't you?

11 A. Yeah.

12 MR. KIRINCICH: Your Honor, may I approach the
13 witness?

14 THE COURT: Yes, sir.

15 Q. Mr. Sullivan, do you recognize that?

16 A. Yes -- yes, sir.

17 Q. Is that your handwriting?

18 A. Yes, sir.

19 Q. Is that your statement?

20 A. Yes, sir.

21 Q. Have you had an opportunity to review that?

22 A. Yes, sir.

23 Q. Now, do you remember telling law enforcement that
24 there were four or five people there?

25 A. Yes, sir.

R. SULLIVAN- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. Okay. So you were unsure of the number of people
2 that were actually there; right?

3 A. No, I'm pretty sure they was five.

4 Q. You gave the statement back in 2008; right?

5 A. Yes, sir.

6 Q. Right around -- shortly after you were shot?

7 A. Yes, sir.

8 Q. And you were very lucky; right?

9 A. Yes, sir.

10 Q. I mean, unlucky you got shot but you were in and
11 out of the hospital within the same day?

12 A. Yes, sir.

13 Q. And you told them at the time four or five?

14 A. Yes, sir.

15 Q. And now, you're saying it's definitely five, six
16 years later? You remember better than you did when it
17 happened?

18 A. No, sir. It was four or five.

19 Q. But you don't know who it was?

20 A. No, sir.

21 MR. KIRINCICH: Thank you, Mr. Sullivan.

22 THE COURT: Redirect?

23 MR. COBLE: Nothing further, Your Honor.

24 THE COURT: Sir, you may step down. Thank you.

25 Call your next witness?

ERIC TISDALE- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 MS. McDUFFIE: The State would call Eric Tisdale.
2 (Whereupon, the witness was sworn)

3 MR. TISDALE: Eric Tisdale.

4 COURT REPORTER: Spell your first name please?

5 MR. TISDALE: E-r-i-c.

6 ERIC TISDALE, being first
7 duly sworn, testified as follows:

8 **DIRECT EXAMINATION BY MS. McDUFFIE:**

9 Q. Mr. Tisdale, where are you currently employed?

10 A. I worked for the Fifth Circuit Judicial Circuit
11 which is the Solicitor's Office for Richland and Kershaw
12 County.

13 Q. You work for my office?

14 A. I do.

15 Q. And what are your duties with our office?

16 A. I'm the investigator for the solicitors office
17 assigned to Kershaw County.

18 Q. And back in November of 2008, where were you
19 employed?

20 A. With the Kershaw County Sheriff's Office.

21 Q. And what was your rank with the sheriff's office?

22 A. I was lieutenant. One of the lieutenants in
23 investigations.

24 Q. And please tell the, ladies and gentlemen of
25 jury, as a lieutenant in investigations, what your duties

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1
2 were with the Kershaw County Sheriff's Department?

3 A. When cases -- when the road deputies would
4 complete an incident report, it was automatically turned
5 into our computer system. One of the duties is we look at
6 the cases that come in, distinguished whether it's a case
7 that needs to be handled by the road guys for signing a
8 ticket for magistrate's court or if it needs to be
9 investigated by the sheriff's office. We assign cases to
10 our investigators at the time for different areas that they
11 were assigned to the county. We investigate crimes from
12 anything from a homicide right on down to a theft of a
13 bicycle.

14 Q. And on November 14, 2008, were those your duties
15 at the sheriff's department at that time?

16 A. Yes. I was still a lieutenant but I was assigned
17 to the -- I was a juvenile investigator for the county but
18 we have a captain and two lieutenants and I was one of the
19 lieutenants that was available to answer this call this
20 particular day.

21 Q. So on November 14th, did you respond to

22 ?

23 A. I did.

24 Q. And that's in Kershaw County?

25 A. It is.

1 Q. And when you responded there, what was your
2 purpose in responding?

3 A. Our captain was on vacation and the other
4 lieutenant was out either sick or something and I was next
5 on call to respond. We always -- when we have a major case
6 we always had a supervisor in investigations to respond and
7 assist the on call investigator and I was the next on the
8 list and I got a call.

9 Q. And you said you were there to assist the on call
10 investigator, who would that have been?

11 A. The on call investigation at that time was Jamey
12 Jones. He was one of our investigators.

13 Q. And did any other lieutenant that you described
14 respond out there with you or investigators?

15 A. The road supervisor which was Lee Hardin, was the
16 lieutenant on the road for the patrol.

17 Q. And, did investigator Knaflec also respond with
18 you?

19 A. Yes. On any major crime scene we always actually
20 call in a additional investigators because at that time we
21 processed our own crime scene so we wanted an extra set of
22 hands to help us process the crime scene so we did call
23 investigator Steve Knaflec to the scene.

24 Q. And when you arrived at on
25 November 14, 2008, please tell the ladies and gentlemen of

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1 the jury, what you observed?

2 A. I found a single wide mobile home, ah, our road
3 deputies were already there and had the scene secured.
4 When we get there, of course, I think investigator Jones
5 may have already arrived before I did just moment before I
6 did, so when we get there we try to find out from the road
7 guys what information they had gathered so we'll know what
8 angle we need to go at. But we found a single wide mobile
9 home there. I want to say the front door was still left
10 opened when we got there.

11 Q. And so as the lieutenant and the supervisor that
12 evening, what were your duties or what were you trying to
13 accomplish that evening at ---

14 A. Just to assist the on call investigator and
15 whatever avenues or make sure everything was covered as far
16 as processing the crime scene, photographing; if there were
17 fingerprints that needed to be gather; or foot tracks that
18 needed to be gather; or measurements; if we found evidence;
19 we have to measure different things like that. We want to
20 make sure the crime scene is covered and then potentially
21 once the crime scene was complete, we try to go and run
22 down witnesses to obtain statements, talk to them to figure
23 out what had happened.

24 Q. And so that evening when you arrived or that late
25 afternoon when you arrived, was the crime scene secured?

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1	A. It was.

2 Q. And please described to the ladies and gentlemen
3 of the jury, what exactly that means?

4 A. When we say the crime scene was secure, we have
5 deputies that responded originally and they actually either
6 put up crime scene tape so nobody can enter the crime scene
7 until the investigators can get there so we can photograph
8 to make sure things are still in tact the way it happened
9 before everybody just trampled on the crime scene or
10 whatever and that's what the road deputies did that
11 particular day.

12 Q. And so you said that Kershaw County processed
13 your own crime scene in 2008?

14 A. Yes, ma'am.

15 Q. And what is that?

16 A. Photographing; obtaining measurements if we find
17 evidence, we measure. We try to triangle it, measurements.
18 To try to paint a picture as to how we found the crime
19 scene when we got there..

20 Q. And did you do that -- did you process the crime
21 scene at that evening?

22 A. Yes, ma'am.

23 Q. And you were assisted by Lieutenant Knaflect ---

24 A. He wasn't a lieutenant at the time. He was just
25 an investigator but yes, it was me, investigator Knaflec

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1 and investigator, Jamey Jones.

2 Q. And the three of y'all worked together to process
3 this crime scene?

4 A. That's correct.

5 Q. And as part of your processing, you mentioned you
6 took photographs?

7 A. Yes. Photographs were taken.

8 Q. By you or investigator Jones or ---

9 A. Yeah, one of the three of us. I'm not really
10 sure.

11 Q. And did you also make a rough diagram of the
12 crime scene?

13 A. I did.

14 Q. And have you had the opportunity to create what's
15 in State's Exhibit 62?

16 A. I did.

17 Q. And is this a diagram of the crime scene taken
18 from your notes?

19 A. Yes, it is.

20 MS. McDUFFIE: Your Honor, at this time, we'd
21 offer State's Exhibit 62 into evidence.

22 THE COURT: Any objection?

23 MR. KIRINCICH: No, objection, Your Honor.

24 THE COURT: Without objection. State's Exhibit
25 Number 62 admitted into evidence.

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1 (BLOW-UP DIAGRAM HAS BEEN MARKED AND ENTERED INTO
2 EVIDENCE AS STATE'S EXHIBIT NUMBER 62)

3 Q. Investigator Tisdale, you were also present and
4 observed ?

5 A. I'm sorry.

6 Q. You observed the inside of the home and the
7 exterior of the home ---

8 A. Yes, I did.

9 Q. And took -- and were there photographs taken?

10 A. Yes.

11 Q. And you'd had the opportunity to review State's
12 Exhibit 3 through 38 and 63 through 69?

13 A. Yes, I have.

14 MS. McDUFFIE: Your Honor, at this time, we'd
15 offer State's Exhibit 3 through 38 and 63 through 69.

16 THE COURT: Sixty-three through 69?

17 MR. KIRINCICH: Your Honor, can we just take a
18 look at them. I don't think they were approved previously.

19 THE COURT: Ms. McDuffie, did you say 63 through
20 69?

21 MS. McDUFFIE: Yes, sir, Your Honor.

22 MR. KIRINCICH: Your Honor, as long as
23 investigator Tisdale can testify that they fairly and
24 accurately depict the scene, we won't object.

25 Q. Investigator, these photographs, they're marked

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1 as 3 through 38 and 63 through 69, do they fairly and
2 accurately depict what you observed on November 14, 2008?

3 A. Yes, ma'am.

4 MS. McDUFFIE: Your Honor, we'd offer these into
5 evidence.

6 THE COURT: Any objection?

7 MR. KIRINCICH: None, Your Honor.

8 THE COURT: Without objection. State's Exhibit 3
9 through 38 and 63 through 69 admitted into evidence.

10 (PHOTOGRAPHS HAS BEEN MARKED AND ENTERED INTO EVIDENCE
11 AS STATES EXHIBITS NUMBER 3 THROUGH 38 AND 63 THROUGH 69)

12 MS. McDUFFIE: Your Honor, may I have the witness
13 step down please?

14 THE COURT: Yes.

15 (Whereupon, the witness steps down from the stand)

16 COURT REPORTER: As long as he keeps his voice
17 up.

18 Q. Investigator Tisdale, please describe for the
19 jury when you first arrived at the crime scene, did you
20 start on the interior or exterior of the crime scene?

21 A. Well, before we originally arrived we look at the
22 exterior first. The layout, if there are any vehicles
23 there. Anything, I mean, we look at the outside before we
24 go inside.

25 Q. And when you arrived it was becoming evening or

1 it was evening, at that point?

2 A. Yes. If I remember correctly it was a real bad
3 storm that evening. It has rained verily hard and, of
4 course, this time of year it gets dark around 5:00, 5:15 or
5 5:30, of course, with the clouds and the rain it seemed
6 like it was a little bit darker than usual.

7 Q. State's Exhibit Number 3, can you please tell the
8 jury what that depicts?

9 A. This looks to be from the road looking into the
10 property -- actually the mobile home sat this way, not
11 running with the highway but it sat this way and these two
12 vehicles, the red pick-up and a red vehicle, car, sitting
13 almost directly in front of the house.

14 Q. And also State's Exhibit 4, is that a closer shot
15 of 3?

16 A. Yes. It's just a better shot of the front door
17 with the pick-up, the red pick-up and red vehicle, car,
18 sitting near the porch.

19 Q. And on State's Exhibit 62 to your diagram, are
20 those vehicles depicted there?

21 A. Yes. This would have been the pick-up, the red
22 pick-up truck here. This would have been the red vehicle
23 near the front door.

24 Q. State's 5, 6, and 7, can you please describe to
25 the jury what these photographs depict?

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1 A. It's kinda of hard to see because we had a flash
2 on the camera but I see and it wasn't showing up that well
3 but this would have been the front of the house. It has
4 the oval shape top of the windows in the front of the
5 mobile home.

6 Q. And that's State's Exhibit 6?

7 A. Yes. State's Exhibit 5, would still would have
8 been the front of the mobile home where the underpinning
9 was pulled back, that's exhibit 5. And exhibit 7, still
10 would have been another photo in front of the mobile home
11 near the corner where the vehicle was, closer to the
12 vehicle where the car was sitting on the front of the
13 house.

14 Q. And that's State's Exhibit 7?

15 A. Yes.

16 Q. Did you notice anything significant about the
17 door to the home or the entrance of the home?

18 A. If I remember correctly, I think the front door
19 was opened and there were some dirt reflecting on the front
20 door, we photograph it as well, where somebody had kicked
21 it opened.

22 Q. And is that depicted in State's 9, 10, and 11?

23 A. Yes.

24 Q. Please described to the jury what's in State's
25 Exhibit 9 and 10?

1 A. Let's -- a lot of dirt where somebody, like had
2 kicked the door in, or tried to kick the door in, actually
3 the kick marks, the dirt on the door on both photos.

4 Q. And you photographs these to document them so
5 that you would have them for any future evidentiary
6 purposes?

7 A. That's correct.

8 Q. And this is what you observed when you got there
9 on November 14, 2008?

10 A. That's correct. Yes.

11 Q. Staying in the exterior of the home, did you find
12 anything else evidentiary value of the exterior of the
13 home?

14 A. Yes. We found a ball cap near the front steps.

15 Q. And is that what's depicted in State's Number 38?

16 A. Yes. It was a South Carolina hat. A blue South
17 Carolina hat.

18 Q. And when you arrive at a crime scene, do you
19 always necessary know what is relevant or may be relevant
20
21 to a potential future investigation?

22 A. When you get there you don't know what you have
23 and you try to collect everything that would look out of
24 the ordinary.

25 Q. I mean, is it possible to collect every item of

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1 potential evidence?

2 A. I mean, we could collect the whole mobile home if
3 we -- I mean, without -- that's just -- would have been
4 overkill. So we try to collect what we feel necessary to
5 help assist in the case.

6 Q. So you try to collect anything that could be
7 potentially relevant?

8 A. Yes.

9 Q. And did you collect item 38?

10 A. Yes, we did.

11 Q. And that was where? You can use the diagram ---

12 A. It was found right here at the front door of the
13 steps. The blue South Carolina hat was found on the ground
14 right above the steps.

15 Q. State's Exhibit 33, can you please describe for
16 the jury what depicted in that photograph? Rather it be 33
17 and 34?

18 COURT REPORTER: I'm sorry.

19 Q. I'm sorry, 33 and 34?

20 A. Yes. It was a spent casing.

21 Q. And that was located towards the rear of the red
22 vehicle?

23 A. Yes. It would have been right here. Right in
24 the rear of the red car, the vehicle near the front door.

25 Q. And that's what depicted in State's Exhibit 33

1 and a close up in 34?

2 A. That's correct.

3 Q. And when you say a spent casing, what do you
4 mean?

5 A. It was a bullet before and somebody shot it and
6 it was a spent casing, the bullet had been extracted from
7 the casing.

8 Q. From the shell casing?

9 A. Right.

10 Q. And so you -- item, what's marked on your diagram
11 number 2, was collected?

12 A. Yes.

13 Q. State's 35, 36, and 37, can you tell the jury
14 what these photographs depict?

15 A. That's a spent shotgun shell.

16 Q. And please show the ladies and gentlemen of the
17 jury on State's 62, where this shotgun shell was located?

18 A. The shotgun shell was still behind the red
19 vehicle just a little further distance away near the spent
20 casing of a pistol .45 and there was a spent shotgun shell
21 right behind the vehicle.

22 Q. When you say spent that means it's been shot?

23 A. It had been shot, yes.

24 Q. And both of those were found by the vehicle on
25 the exterior of the home?

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1 A. Yes

2 Q. After you processed the exterior of the home both
3 of those items were collected and turned into evidence?

4 A. Yes.

5 Q. By investigator Jones.

6 A. Yes..

7 Q. And when you collect items for evidence, did you
8 actually process the evidence yourself or did y'all have to
9 send it somewhere?

10 A. We send them to Sled, South Carolina Law
11 Enforcement Division in Columbia.

12 Q. And so after the items are collected then that
13 process is turned over to Sled, the future testing is
14 turned over to them?

15 A. Yes.

16 Q. And that was done in this case?

17 A. Yes.

18 Q. Moving to the interior of the home please tell
19 the ladies and gentlemen of the jury, what you observed
20
21 once you entered the front door?

22 A. Walked into the front door we found a vacuum
23 cleaner was laying on it's side or it's back. The handle
24 was not standing up, it was laying down. It appeared to
25 have some blood on it. The living room ---

1 Q. Let me stop you right there. Is that what
2 depicted in State's Exhibit 63?

3 A. That's correct. Yes.

4 Q. And you said that there was possible blood on it?

5 A. Yes, ma'am.

6 Q. And so you photograph that to have a record of it

7 ---

8 A. Yes.

9 Q. --- or for purposes -- and please tell the ladies
10 and gentlemen of the jury, what else you saw?

11 A. The living room was kinda of dis-shuffled like
12 something had taken place there. There was a table here
13 right outside of the counter right before you get to the
14 kitchen counter was kinda in a different angle. I think
15 the chair here was either out of place or turned over, I
16 can't remember unless some -- there was some dis-shuffle
17 inside the living room and kitchen area.

18 Q. And what you just described, is that depicted in
19 State's 64, 65, and 66?

20 A. Yes.

21 COURT REPORTER: I'm sorry.

22 A. Yes. That was a kitchen table chair turned over.

23 Q. So 64 is a picture of the table that still in the
24 kitchen?

25 A. That's correct.

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1 Q. And 65 and 66, show the chair where it had been
2 knocked over?

3 A. Yes, ma'am. That's correct. Yes.

4 Q. And this is what you observed when you entered
5 the home?

6 A. Yes.

7 Q. And please continue, what else did you observe in
8 the home, kitchen area or living room area of the home?

9 A. As we walked further into the kitchen toward the
10 master bedroom, we also found a bullet hole in the floor.
11 It was a nylon floor, like nylon, also several blood
12 splatters near it blood smearing and stuff right there.

13 Q. And that was depicted in State's Exhibit 69?

14 A. That's correct.

15 Q. And you saw the bullet hole and then the blood
16 around it?

17 A. Yes.

18 Q. And the blood appeared to be smeared?

19 A. Yes.

20 Q. And did you do anything or did you or Mr. Jones
21

22 do anything to try to recover anything from this location?

23 A. Yes, we tried. We had noted the bullet was still
24 lodged in the floor itself so we tried to dig it out so we
25 could get it for examination. Well, when we tried, we went

1 underneath the mobile home and it actually has a thin
2 coating of vapor coating underneath the mobile home so we
3 cut it and in hopes of trying to find the bullet in the
4 hole. We found a hole and we went through the floor to try
5 to find it but it went through and through. And we also, I
6 think, a day later or so I think investigator Jones and
7 investigator Knaflec went back with the metal detector
8 thinking it may have went into the ground. I don't think
9 we ever recovered that bullet.

10 Q. And then once you observed it and photographed it
11 and documented it, you then went into the master bedroom
12 area of the home?

13 A. We did. And the bedroom was or had a good bit of
14 blood in different spots. Some on the bed, some on the
15 floor. It looked like it -- they -- it looked like World
16 War III in there with everything dis-shuffled.

17 Q. State's Exhibit 12, please describe to the jury
18 what this is photograph of?

19 A. This would be the bed in the bedroom and it had
20 like the bed liens kinda of pulled up off the bed.

21 Q. And was there blood also depicted in this
22 photograph?

23 A. Yes. Yes. We had pulled the linen on the bed.

24 Q. State's 13, is this more of the disarray that you
25 were discussing?

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1 A. Yes. That would have been at the foot of the bed
2 with a dresser against the wall near the bathroom.

3 Q. In State's 14, does that show the dresser drawers
4 pulled out?

5 A. Yes, it does. Two or three dressers drawers and
6 it looks like a camcorder container at the foot of the bed.

7 COURT REPORTER: Did you say a camcorder?

8 A. Camcorder.

9 COURT REPORTER: I'm having a hard time with your
10 back to me.

11 A. I'm sorry.

12 COURT REPORTER: Please stand here maybe.

13 A. Yes.

14 COURT REPORTER: Thank you.

15 Q. And investigator Tisdale, in State's 16 is that
16 the camcorder bag you were referring to?

17 A. I think that's a camera bag but there was
18 actually a VHS camera on the floor I think.

19 Q. And this was located on the bed as well?

20 A. That was on the bed, yes.

21 Q. State's 17 and 18, if you could describe to the
22 jury what these in photographs?

23 A. That's the dresser and clothing on the floor. The
24 doors were opened. The drawers were opened. It looked
25 like somebody had rummaged through them. Some of them are

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1 on the floor, some of the drawers were on the floor.

2 Q. State's 19, if you'd describe that to the jury?

3 A. That's a book bag that had some blood splatter on
4 it as well at the foot of the bed, I think, that was on the
5 floor.

6 Q. And the information that you had at this point,
7 was that there were two individuals that were shot?

8 A. Yes.

9 Q. Did you have any indication that anyone else
10 could have been bleeding in that home?

11 A. No, that's the only two that we knew that had
12 been injured.

13 Q. And you have the ability to swab samples to test
14 for DNA?

15 A. Yes.

16 Q. Was that done in this case?

17 A. No, ma'am.

18 Q. And why not?

19 A. We were told that the victim was pistol whipped
20 and had gotten shot so we didn't do it.

21 Q. And you assumed it was his blood ---

22 A. Yes.

23 Q. --- that was in the house?

24 A. Yes.

25 Q. And is that normally what you observe when

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1 someone is shot ---.

2 A. Yes.

3 Q. --- that didn't leave?

4 A. Yes. Yes.

5 Q. States 23, um, 20, 21, 22, and 23, does this
6 depict the blood that you observed in the master bedroom?

7 A. Yes, that was a box in the master bedroom. That
8 was a money jar, blood on the -- stained the carpet.

9 Q. And this is all what's indicated on State's 62,
10 that diagram?

11 A. Yes, ma'am.

12 Q. Did you also look in the closet of the home?

13 A. We did.

14 Q. State's 24 and 25, please tell the ladies and
15 gentlemen of the jury, what's depicted in these
16 photographs?

17 A. In 24, it looks like a plastic container, also
18 clothes on the floor and it looks like a belt on the floor.
19 Exhibit 25, to the left hand side of the -- facing the foot
20 of the bed to the right hand side of the bed appears some
21 kind of syringes or some kind of medical supplies.

22 Q. And is that a five bio-hazard box with medical
23 supplies?

24 A. Yes. It's a bio-hazard plastic container.

25 Q. And did you learn that Mr. Mackey was a diabetic

1 at some period?

2 A. Not at that time but, yeah, later on we did.

3 Q. But all of this was photograph and documented ---

4 A. Yes, it was.

5 Q. --- that night? And then finally we spoke about
6 the bed earlier, is this a photo of the blood that you
7 observed in the bed, State's Exhibit 15?

8 A. Yes, it is.

9 Q. There were also two other bedrooms in the home?

10 A. Yes.

11 Q. And those were on the other side of the trailer?

12 A. Yes. On the other end of the trailer, yes.

13 Q. Were you aware at the time who Mr. Mackey lived
14 in the trailer with?

15 A. I understood his two children and his children's
16 mother, I don't think they were married. I think it was
17 his girlfriend or fiance -- I don't think they were married
18 but two kids and another -- well a lady and he.

19 Q. State's 31 and 32 depict one of the bedroom, ah,
20 other bedrooms in the home?

21 A. Yes. That -- yes.

22 Q. And you photographed this that night?

23 A. Yes.

24 Q. Did you see anything out of ordinary in these
25 bedrooms or any ---

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1 A. In that particular bedroom there was a t.v. in
2 the middle of the floor. It was in the floor but there was
3 also another t.v. on a stand.

4 Q. And so you documented just so you would have a
5 record of it?

6 A. Yes.

7 Q. And also 26, 27, 28 and 29, is that the other
8 bedroom in the home?

9 A. Yes. That would have been the far bedroom on the
10 very end.

11 Q. And did you find any items or collect any items
12 of evidentiary items in this bedroom?

13 A. Not that I can remember.

14 Q. You can have a seat please. Investigator
15 Tisdale, after you process the scene that night you were
16 aware that the two shell casing found outside the home were
17 collected?

18 A. I'm sorry say again.

19 Q. The two shell casings outside the home were
20 collected?

21 A. Yes, they were.

22 Q. But not by you, by another investigator?

23 A. That's correct.

24 Q. And did you personally collected any items
25 evidence from the home that night?

1 A. No, I think investigator Jones was going to be
2 the custodian.

3 Q. And so it's his responsibility to collect those
4 items of evidence?

5 A. Yes.

6 Q. And you took the measurements that are depicted
7 on the diagram?

8 A. Yes, I did.

9 Q. And that's so you'll have an accurate location of
10 where the evidence was found?

11 A. Yes, ma'am.

12 Q. When you typically process a crime scene you have
13 the ability, like for a better word, to test for DNA?

14 A. Yes.

15 Q. You also have the ability to dusk for
16 fingerprints?

17 A. Yes.

18 Q. If we went into any of our homes right now could
19 you find fingerprints?

20 A. I'm sure, if you dusted good enough, yes, ma'am,
21 you'd find fingerprints.

22 Q. And sometimes depending on the surface and
23 different variables, is it easy for someone to leave a
24 fingerprint on some surfaces?

25 A. Yes.

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1 Q. If you were to walk into my house right now or
2 your house, would you expect to find our fingerprints
3 there?

4 A. Oh, absolutely.

5 Q. But you have to first touch something to leave
6 fingerprints?

7 A. Yes. Usually on a smooth surface.

8 Q. And if you aren't aware of anything that was
9 touched by the people that invaded Mr. Mackey's home that
10 night what, if anything, could you do to process for
11 fingerprints?

12 A. If we found something that could have been
13 fingerprints?

14 Q. Mmm, hmm.

15 A. We would have brought our fingerprinting kit out
16 and dusted but in this case, I mean, we could have dusted
17 everything from one end to the other but, I mean, it was
18 difficult to, you know, we knew -- we found out later on
19 that there was a safe missing and that a child had been
20 threatened, picked up so we wouldn't get a fingerprint from
21 a child but

22 Q. And other than the safe and the child, were you
23 aware of anything in the home that they touched with their
24 bare hands?

25 A. We didn't know of anything.

1 Q. And so did you process anything for fingerprints
2 that night?

3 A. No, ma'am.

4 Q. And as you said earlier because you were unaware
5 you would have to dust the entire house from top to bottom?

6 A. That's correct.

7 Q. And also, DNA, you weren't aware that any of the
8 suspects were injured or bleeding or could have potentially
9 left DNA?

10 A. Not that we knew of.

11 Q. And so that wasn't done in this case either?

12 A. No, ma'am.

13 Q. And you did photograph the shoe print or the dirt
14 that was left on the door?

15 A. We did photograph it, yes. It didn't have a
16 distinct pattern of a shoe or anything.

17 Q. And you're aware in order to match something to a
18 shoe you needed a distinct pattern?

19 A. That's correct.

20 Q. And in this case there wasn't one?

21 A. There was not one.

22 Q. But you photograph that anyway?

23 A. We did.

24 Q. And after you processed the scene, I think you
25 said earlier, that y'all went back the next day and tried

ERIC TISDALE- DIRECT EXAMINATION BY MS. McDUFFIE: 194

1 or some of the other investigators tried to do something
2 further to recover that bullet that was in the floor?

3 A. Yes. They took a metal detector that we had at
4 the sheriff office out there in hopes in finding it in the
5 dirt in the ground but we never found one. And we checked
6 inside the door, inside the knitting that was underneath
7 the mobile home and we never did, I don't think we ever did
8 recover that bullet.

9 Q. And after you left that
10 evening on November 14th, did you have any further
11 involvement in this investigation?

12 A. I went with investigator Jones after we finished
13 processing to Spring's Hospital in Lancaster in hopes of
14 trying to talk to the victims in the case. When we got
15 there Mr. Mackey had already been transported or flown to
16 Charlotte Mecklenburg Hospital, I'm not sure what the name
17 of the hospital is but at the big Charlotte Hospital and we
18 had found out that Mr. Sullivan had been released to go
19 back home that was a shocker to us. We thought he got shot
20 in the head, something worse could have happened.

21 Q. But he did get shot in the head?

22 A. He did get shot in the head.

23 Q. But luckily he was able to be treated and
24 released that evening?

25 A. That's correct.

1 Q. And after you and investigator Jones did that,
2 did you have any further involvement in the investigation
3 in this case?

4 A. Yes. We went, actually, we left Lancaster
5 Hospital, Springs and went back to Kershaw to interview or
6 try to interview Mr. Sullivan and we, of course, we did
7 locate him and we did talk to him and I think that's when
8 the statement was written, I think that same day. I know
9 we interviewed him.

10 Q. And after you spoke with Mr. Sullivan, did you do
11 anything further in this investigation?

12 A. I want to say that I went with investigator Jones
13 a few places to try to interview some people later on but I
14 can't really remember who all it was we went and
15 interviewed.

16 Q. But you're main role of processing the scene was
17 done that evening?

18 A. Yes.

19 Q. And then you worked along investigator Jones?

20 A. That's correct.

21 Q. And he was what we would call the lead
22 investigator on a case?

23 A. Yeah, he was the lead investigator on this case.

24 Q. And so he was responsible for investigation from
25 that point forward?

1 A. Yes.

2 Q. And you assisted him whenever he would need it?

3 A. Yes.

4 MS. McDUFFIE: No further questions of this
5 witness, Your Honor.

6 MR. TISDALE: Thank you.

7 THE COURT: Would the lawyers approach a minute
8 please.

9 (Whereupon, a bench conference is held in the presence
10 of the jury panel but out of the hearing of the jury)

11 THE COURT: All right. Ladies and gentlemen,
12 what we're going to do right now, you probably wondering
13 whether or not I was going to stop for lunch but we are
14 going to stop for lunch. I'm going to let you go to lunch
15 right now. I'm going to ask that you be back in the jury
16 room at 2:30 and we'll resume the trial of this case at
17 that time. And you're going to get tired of me telling you
18 this but I'm going to say it over and over and over, do not
19 -- do not discuss the case at all with anyone. Do not do
20 any independent investigation on your own. You're to
21 decide this case base solely -- base solely upon the
22 testimony and evidence listed in this courtroom and no
23 where else.

24 Anything from the State for I release the jury for
25 lunch?

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 MR. KIRINCICH: No cross examination, Your Honor.

2 THE COURT: All right. Sir, you may step down.

3 Thank you. Call you next witness please?

4 MS. McDUFFIE: The State would call Dr. Janice
5 Ross.

6 (Whereupon, the witness was sworn)

7 DR. ROSS: I do.

8 COURT REPORTER: State your name for the record
9 please.

10 DR. ROSS: Janice Edwards Ross, R-o-s-s-.

11 JANICE ROSS, being first
12 duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY MS. McDUFFIE:**

14 Q. Dr. Ross, where are you employed?

15 A. I am with Newberry Pathology Associates in
16 Newberry, South Carolina.

17 Q. And what do you do at Newberry Pathology
18 Associates?

19 A. I'm a forensic pathologist. We do autopsy for
20 coroners at their request.

21 Q. Can you please tell the ladies and gentlemen of
22
23 the jury, what forensic pathology is?

24 A. I have had -- gotten a degree, a bachelors of
25 science degree from the University of South Carolina and my

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 MD from Upstate Medical Center in Syacruse, New York and
2 have done five years of studying in pathology. Pathology
3 is the study of medicine in which we identify and diagnose
4 tissue diseases like cancers and we use the laboratory work
5 for also diagnosing diseases. The word forensic means
6 legal. So a forensic pathologist uses the pathology
7 knowledge for legal matters such as rapes; homicides;
8 suicides; accidents. We learn how to do a specific
9 autopsy, a forensic autopsy in order to identify the cause
10 of death and the manner of death.

11 Q. And why you're touching on it a little bit please
12 tell the jury your educational background and training in
13 the field of forensic pathology?

14 A. A bachelors degree from the University of South
15 Carolina and MD from Upstate Medical Center in Syacruse,
16 New York. And then four years of pathology training at
17 Upstate Medical Center and a year of, more than a year of
18 training in the medical examiners office in Syacruse, New
19 York.

20 Q. And how long have you been a forensic
21 pathologist?

22 A. Thirty-eight years.

23 Q. And in your career, possibly how many autopsy
24 have you performed?

25 A. Over seven thousand.

1 Q. And have you been qualified as an expert in the
2 court's of record in this State?

3 A. Yes.

4 Q. Do you know how many times?

5 A. Over seventy times.

6 MS. McDUFFIE: Your Honor, at this time we would
7 offer Dr. Ross as an expert in the field of forensic
8 pathology?

9 THE COURT: Anything ---

10 MR. STRICKER: I have no voir dire from the
11 doctor.

12 THE COURT: All right. Ladies and gentlemen,
13 before we go any further let me give you an instruction
14 here. Normally a person can not give an opinion testimony.
15 Normally, when a person testified they must testify as to
16 what either they saw, heard or sense by smell or something
17 of that nature.

18 However, there is an exception when someone is
19 qualified because of education or experience. They are
20 permitted to give their opinion in certain areas if the
21 Court qualified them that way. This witness is going to be
22 deem qualified in the area of forensic pathology to give an
23 opinion testimony in that area. That does not mean that
24 you must accept the opinion but it's evidence for you to
25 use in anyway that you see fit and give it the weight and

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 credibility that you believe is appropriate. Madam,
2 Solicitor?

3 MS. McDUFFIE: Thank you, Your Honor.

4 Q. Dr. Ross, would you please tell the jury what the
5 difference between pathology and forensic pathology is,
6 ma'am?

7 A. General pathologist works in a hospital and looks
8 at tissue that comes out of you from surgery to identify
9 cancers or infections. We also use the laboratory work to
10 identify things like leukemia and to help diagnose liver
11 failure; kidney failure; or whatever. Again the word
12 forensic means legal so we use -- a forensic pathologist,
13 is a medical legal death investigator, trained to perform
14 autopsy in a forensic manner so that we can collect and
15 document data for a court of law.

16 Q. And, specifically in this case, did you perform
17 an autopsy on a Robert Lewis Mackey?

18 A. Yes.

19 Q. And when did you perform that autopsy?

20 A. On January 24, 2009. I'm sorry, January 26,
21 2009.

22 Q. And when was Mr. Mackey's date of death?

23 A. January 24, 2009.

24 Q. Are you aware that the incident that we're here
25 in court today for happened on November 14, 2008?

1 A. Yes.

2 Q. And where was Mr. Mackey from November 14, 2008
3 until his death in January 24, 2009?

4 A. In a hospital.

5 Q. And which hospital was that?

6 A. I believe it was Charlotte, North Carolina.

7 Q. And Mr. Mackey was admitted to the hospital on
8 November 14, 2008?

9 A. Yes.

10 Q. And as part of your performing an autopsy or
11 reviewing things to do your autopsy, do you look at medical
12 records?

13 A. Yes.

14 Q. Do you also consult law enforcement or any other
15 individuals that may have knowledge on this subject before
16 you perform an autopsy?

17 A. Yes. Usually the coroner calls us to begin with
18 to schedule the autopsy and gives us the history of what
19 happened?

20 Q. And what, if any, information, did you have
21 before you began the autopsy of Robert Mackey?

22 A. That this person had been shot in November and
23 was in the hospital. Then we subsequently really had to
24 wait for medical records in order to finalize our total
25 report.

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. And you performed, I think you said, January
2 26th?

3 A. Correct.

4 Q. When you performed on this case or on any case
5 what's the first thing that you do before your autopsy?

6 A. The body was brought to us in the morgue, we use
7 Newberry County Memorial Hospital Morgue, in a body bag.
8 We open up the body bag and take photographs of the body as
9 received. If they are clothed, we take the clothes off and
10 inventory those and then identify and photograph the
11 external body. In this case because of the history of gun
12 shot wounds, we did x-rays of almost of the whole body to
13 look for any residual bullet fragments or bullets and we
14 saw none.

15 Q. And he had been in the hospital some three months

16 ---

17 A. Yes.

18 Q. --- prior to this? Are there things that are
19 done in autopsies normally in other criminal cases like
20 taking of gun shot residue from individuals hands or things
21 of that nature by law enforcement?

22 A. Yes. That's done usually at the scene or soon
23 thereafter.

24 Q. But in this case you were receiving the body some
25 three months later?

1 A. Correct.

2 Q. And so that wasn't done in this case?

3 A. Correct.

4 Q. When you began Mr. Mackey's autopsy, you said
5 that you x-rayed the body?

6 A. Yes.

7 Q. And, what, if anything, or what findings did you
8 have, as a result of those x-rays?

9 A. No fragments of bullets, no whole bullets, only a
10 little bit of metal from the surgery.

11 Q. And please describe for the ladies and gentlemen
12 of the jury, what you then did after you x-rayed Mr.
13 Mackey's body?

14 A. We do a throughal autopsy in looking at each
15 organ to identify any kind of disease process or any injury
16 to the organs. We take little pieces of tissues to look at
17 under the microscope also to see what microscopic disease
18 things we can identify.

19 Q. And you also reviewed what medical records were
20 available to you of Mr. Mackey's?

21 A. Yes.

22 Q. And those records indicated that Mr. Mackey had
23 been shot in the abdomen ---

24 MR. STRICKER: I'll objection to the leading,
25 Your Honor.

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 THE COURT: All right. Restate your question
2 please. Rephrase it.

3 Q. Please tell the ladies and gentlemen of the jury,
4 what information you had prior performing his autopsy?

5 A. Well, prior to we just had the -- that the fact
6 that this person had been shot in the chest abdomen and
7 right leg.

8 Q. And when you performed your autopsy please
9 described to the ladies and gentlemen, what, if any,
10 findings you had when you performed the autopsy?

11 A. We found scars consist with gun shot wounds.
12 Again, they were scarred so we couldn't really identify any
13 characteristic of them. We also saw ---

14 Q. Can I stop you right there, doctor, when you say
15 you couldn't identify characteristics, what do you mean?

16 A. For instance, a fresh entrance wound of a gun
17 shot would have certain perhaps stippling to identify the
18 range of the gun shot wound and also identify whether it's
19 an entrance wound or an exit wound or just a graze wound.
20 So he had scars consistent with healed gun shot wounds but
21 we also had scars from surgery.

22 Q. And so you couldn't tell if the bullet entered
23 the body, exited it, re-entered or what was the entry or
24 what was an exist wound?

25 A. Correct.

1 Q. And please further tell the jury about your
2 findings?

3 A. We found once we were able to get the chart, we
4 found scars consistent with the wounds that they described
5 -- well what little they described, in other words,
6 consistent with having wounds -- having a wound in the
7 chest, a wound in the abdomen and a wound in the right leg.
8 There had been a lot of laparotomies or a laparotomy, at
9 least. A laparotomy is an opening of the abdomen,
10 surgically to look at intestines and then in the medical
11 records we noted that the intestines had been lacerated by
12 the gun shot wound to the abdomen and some intestine had to
13 be removed because of that and then because of the spillage
14 of intestinal content into the abdomen it was a lot of
15 adhesion, a lot inflammation, infection and adhesions.

16 Q. So the gun shot wound to the abdomen ripped
17 through his intestines?

18 A. Correct.

19 Q. And what result or what effect did that have on
20 the body once that was done?

21 A. It causes an infection, peritonitis. While
22 you've heard of bursting appendix, you get peritonitis or
23 inflammation or infection there and that infection went
24 through the body so that what we refer to as, sepsis. So
25 it really involved all the organs in the body.

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. And the sepsis was the result of the gun shot
2 wound?

3 A. Yes.

4 Q. And the, excuse my pronunciation, peritonitis ---

5 A. Yes.

6 Q. --- was also result of the gun shot wound?

7 A. Yes.

8 Q. And had Mr. Mackey not been shot, would he have
9 developed peritonitis or sepsis?

10 A. No.

11 Q. And what happens when an individuals has
12 peritonitis and sepsis?

13 A. Again the infection goes through the entire body
14 so it can be, in this case, ended up with liver failure and
15 kidney failure, all the organs are effected.

16 Q. And so as a result of the gun shot wound it
17 caused the infection which lead to his organs be infected?

18 A. Correct.

19 Q. And we talked about it earlier, you x-rayed the
20 body and didn't find any projectiles?

21 A. Correct.

22 Q. Are you aware whether or not projectile was
23 removed at the hospital?

24 A. Yes. In my re-review of the chart, um, in
25 preparation of this court, I find one short little

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 statement from the surgery note from November 14th that a
2 bullet had been retrieved from the abdomen.

3 Q. And that was by doctors performing surgery at the
4 hospital?

5 A. Yes.

6 Q. And in your initial report you said that no
7 bullet was retrieved?

8 A. Correct.

9 Q. But when you reviewed the records, you notice the
10 discrepancy?

11 A. Yes.

12 Q. But when you examined Mr. Mackey's body there was
13 no bullet or no projectile in his body?

14 A. Correct.

15 Q. And as a result of the gun shot wound that
16 developed the infection which lead to the organ shutting
17 down?

18 A. Correct.

19 Q. Did anything else contribute or cause his death?

20 A. Well, he was already in kidney failure so that
21 added to it.

22 Q. He was a diabetic?

23 A. I believe so, yes.

24 Q. And would he have died from that kidney failure
25 alone on November 24, 2009?

JANICE ROSS- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 A. Not necessarily.

2 Q. Again what was Mr. Mackey's cause of death?

3 A. It was the multi organ failure due to the gun
4 shot wound of the chest and abdomen.

5 Q. And again you can't say because of when you got
6 the body whether it was entrance wound or exit wound or --
7 what was an entrance or exit wound in his body?

8 A. Correct. I did not see any scars on the back so
9 I can't say for sure -- in other words, I couldn't say that
10 there was any exit out of the back.

11 Q. Okay. But you're not, you know -- a bullet --
12 could a bullet hypothetically go into a person and then
13 exit on the same plane and re-enter the same plane?

14 A. Yes. And one of these it may have been a graze
15 wound so it may have just cut through the skin.

16 Q. And he also had a gun shot wound to his leg?

17 A. Yes.

18 Q. Did that contribute to his death as a direct
19 cause?

20 A. Potentially.

21 Q. And please describe that for the jury or how that
22 contributed to it?

23 A. All I saw was a scar and it could have caused
24 some added infection and bleeding.
25

1 Q. But again please tell the ladies and gentlemen of
2 the jury, what your main finding is the cause of death of
3 Robert Mackey was?

4 A. It was multi organ failure, a lot of organs
5 failed because of sepsis because of the infection caused by
6 the tearing of the intestines causing peritonitis from the
7 gun shot wound of the abdomen.

8 Q. And the tearing of the intestines was caused by?

9 A. The gun shot wound, the bullet going through the
10 intestines.

11 MS. McDUFFIE: Beg the Court's indulgence. No
12 further questions from this witness, Your Honor.

13 THE COURT: Cross examination?

14 MR. STRICKER: Thank you, sir. May it please the
15 Court?

16 **CROSS EXAMINATION BY MR. STRICKLER:**

17 Q. Good afternoon, doctor.

18 A. Good afternoon.

19 Q. My name is Doug Strickler and I am the attorney
20 who is representing Mr. Singleton. Just a few question
21 please. Prior to -- well, yeah, prior to conducting the
22 autopsy, you had received information that Mr. Mackey had
23 been shot in November, had, of course, been in the hospital
24 and had died in the hospital ---

25 A. Correct.

1 Q. --- is that correct? Do you remember who
2 provided that information to you?

3 A. The coroner -- was called by, actually, Deputy
4 Coroner Doris McGuigan.

5 Q. Okay. And was that call -- was in January, I
6 take it, then?

7 A. Yes, sir.

8 Q. Okay. And did they correctly summarize the
9 information passed on to you by the coroner? Was there any
10 more information than that passed on to you?

11 A. No, that was it.

12 Q. Okay. You were not provided with any
13 investigative reports, any sort of police reports and
14 association?

15 A. No, sir.

16 Q. At least, at that point in time?

17 A. Not at that -- no.

18 Q. And given the death occurred a couple of months
19 after the incident, um, you weren't involved in going to
20 the scene yourself, reviewing anything at the scene, which
21 sometimes it's done by people who conduct forensic
22 pathology; correct?

23 A. Correct.

24 Q. Okay. The situation in this case was such that
25 would not have been possible; correct?

1 A. Correct.

2 Q. Okay. Now, you conducted the autopsy on the
3 26th, at that point in time, the time you conducted the
4 autopsy, you didn't have the medical records from Mr.
5 Mackey's stay at the hospital?

6 A. Not the full chart.

7 Q. I'm sorry.

8 A. Not the full chart.

9 Q. Not the full chart. Did you have portions of the
10 chart?

11 A. I don't believe so.

12 Q. Okay. And what point in time did you get the
13 chart to review?

14 A. I don't have that dated but we sign this case out
15 approximately a month later, February 24th and 25th ---

16 Q. Right.

17 A. --- so it took us almost a month to go through
18 and obtain all the medical records and go through them
19 thoroughly.

20 Q. So your testimony is that you received the full
21 medical record prior to signing off on the conclusions?

22 A. Yes.

23 Q. Okay. Would it be fair to say that your
24 conclusions that he had gun shot wound to the leg was based
25 on the fact that, that's where an injury was reported?

1 A. Yes.

2 Q. I'm sorry, is that a yes?

3 A. Yes.

4 Q. Okay. Is part of what you do as a forensic
5 pathologist, is assimilate the information from wherever
6 you can get it in addition to whatever medical conclusion
7 you have brought; correct?

8 A. Yes.

9 Q. Okay. So you have my report from the coroner and
10 from the hospital medical records there was a gun shot
11 wound to the leg. You found scarring -- scarring to the
12 leg which would be consistent with that so that's what you
13 report; correct?

14 A. Yes.

15 Q. And that would be correct as to all the injuries
16 associated with gun shot wounds in this case; right?

17 A. Correct.

18 Q. As opposed to, I think you described, being
19 called in on a case the day after the shooting, you'd be
20 able to observe the wound itself, you'd be able to trace
21 the ---, potentially trace the trajectory through the body,
22 recover of foreign substances from the body, possibly,
23 nature of the thing in this case was such that was
24 impossible; right?

25 A. That's correct.

JANICE ROSS- REDIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. Okay. So, your conclusions then are largely
2 based on the review of information provided you by other
3 people?

4 A. Correct.

5 Q. And that's part of the process of forensic
6 pathology; correct?

7 A. Yes.

8 Q. Okay.

9 MR. STRICKER: Thank you very much.

10 THE COURT: Any redirect?

11 REDIRECT EXAMINATION BY MS. McDUFFIE:

12 Q. Dr. Ross, it's not usually that after a person is
13 shot, that there's medical intervention?

14 A. It's not usual. Correct.

15 Q. And the person who lived for a period of time,
16 lived and then die?

17 A. Yes.

18 Q. And when you're performing an autopsy your
19 conclusions are based on the medical records and also on
20 your visual observations, training and experience in
21 rendering a cause of death?

22 A. Correct.

23 Q. And Mr. Mackey died from a gun shot wound to the
24 abdomen that caused an infection that you've described
25 earlier?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL: 217

1 A. Correct.

2 MS. CAMPBELL: No further questions, Your Honor.

3 MR. STRICKER: No, sir.

4 THE COURT: Doctor you may step down. Thank you.

5 DR. ROSS: Thank you.

6 MS. CAMPBELL: The State would call Jamey Jones.

7 (Whereupon the witness was sworn)

8 MR. JONES: Investigator Jamey Jones.

9 COURT REPORTER: Spell your first name please?

10 MR. JONES: J-a-m-e-y, J-o-n-e-s.

11 JAMEY JONES, being first
12 duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY MS. CAMPBELL:**

14 Q. Sir, where are you currently employed?

15 A. The Fifth Circuit Solicitor's Office.

16 Q. And how long have you been working there?

17 A. A year.

18 Q. And prior to be employed by our office, where did
19 you work?

20 A. The Kershaw County Sheriff's Office.

21 Q. And what did you do there?

22 A. I was a -- ended up as a criminal investigator.

23 Q. How long have you actually been in law
24 enforcement?

25 A. Eighteen years.

1 Q. And as a criminal investigator for the sheriff's
2 department, what did youR duties include?

3 A. My duties included investigating criminal
4 activities, conducting criminal investigations.

5 Q. Following up on leads?

6 A. Following up on leads. Going to court,
7 testifying.

8 Q. I want to turn your attention back to 2008, did
9 you become involved in an investigation in this case?

10 A. I did.

11 Q. And how did you become involved?

12 A. I was the on call investigator at the time.

13 Q. And as the on call investigator what did you do
14 the night of this or the afternoon this occurred?

15 A. The -- on the report it says that the call was
16 dispatched at 4:40 p.m. Obviously, the road patrol got up
17 there and observed what they had and once they saw -- once
18 what they saw was confirmed, they ended up calling the on
19 call investigator.

20 Q. And when you got there at the scene, were you
21 able to confirm how many people had actually been shot
22 prior to getting there?

23 A. No, ma'am.

24 Q. So this was information that you got once you got
25 to the scene?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. Once we got to the scene, yes, ma'am.

2 Q. And the scene that we're talking about where is
3 it located here in Kershaw County?

4 A. Ah, in Kershaw County it's at
5 the, right on the Lancaster County line, um, right below
6 the Kershaw area of Lancaster.

7 Q. The Kershaw area of Lancaster?

8 A. The Kershaw area of Lancaster but this residence
9 was in Kershaw County. This side of the road was Kershaw
10 and the other side of the road was Lancaster County.

11 Q. And initially in this case was there some
12 confusion as to whether this occurred actually in Lancaster
13 or Kershaw, itself?

14 A. No, ma'am, not to me.

15 Q. Not to you?

16 A. No, ma'am.

17 Q. But there was some confusion as to where the
18 victims ran to?

19 Q. Yes, ma'am. This incident occurred in Kershaw
20 County but ran to, across the road which was Lancaster
21 County and before, in sorting all the facts, we did want to
22 know everything and try to find out where this actually
23 took place and where.

24 Q. When you first went up to this area of the county
25 did you first go to where the victims ended up or did you

1 go to the actual scene of the crime?

2 A. The scene of the crime.

3 Q. And when you got there were there other officers
4 already there?

5 A. They were.

6 Q. And Lieutenant Tisdale, was he already there when
7 you got there?

8 A. I don't recall.

9 Q. Once you got there, what, if anything, did you
10 do?

11 A. I talked to the road patrol who arrived on scene
12 first, probably to Lieutenant Hardin or Corporal Morris,
13 one of the supervisors that were there. Exactly what the
14 dispatcher said; what they saw; what they observed; who
15 they spoke with; so on and so forth.

16 Q. And when you got there, did you make contact with
17 the victims in this case or had they already been removed
18 from the scene?

19 A. The victims had already been removed at the time
20 when I got there.

21 Q. And were you aware of where they were initially
22 taken?

23 A. Initially, they were taken -- I was initially
24 told they were taken to Springs Hospital in Lancaster
25 County.

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. That evening while you were there at the scene,
2 did you help process the scene?

3 A. I did.

4 Q. And tell the jury what y'all did that evening?

5 A. Myself, investigator Tisdale and investigator
6 Knaflec, obviously, we photographed the scene, we collected
7 evidence from the outside. We worked -- we started off
8 outside of the scene and worked our way in. We collected
9 two, I'm sorry, one shot gun shell casing outside of the
10 residence and one .45 caliber shell casing outside of the
11 residence within close proximity of each other. Once we
12 got up to the door of the residence we noticed that the
13 door appeared to be kicked in or bashed in, in some way.

14 Q. And when you say you noticed that, what's
15 specifically on the door did you see to indicate ---

16 A. There was -- there was what appeared to be a kick
17 mark or a bash mark with some fresh dirt up on the door.

18 Q. And at this point, these are observations you're
19 making prior to having been able to talk to any of the
20 victims in the case; is that correct?

21 A. Correct.

22 Q. And that was an observation you made of the door,
23 as shown here in State's Exhibit Number 10?

24 A. Yes, ma'am.

25 Q. And simply, that was consistent with your

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

222

1 experience when someone may have used their foot or
2 something to kick it in?

3 A. Bashed in -- some -- in some way with a foot or
4 something of that nature.

5 Q. You also mentioned that in the exterior of the
6 residence that you are looking for certain signs of where
7 the actual shooting may have taken place; is that correct?

8 A. Yes, ma'am.

9 Q. And were there certain things that you found
10 outside near the cars in the front of the residence that
11 were significant to you?

12 A. Yes, ma'am. It was an empty shot gun shell and a
13 empty .45 caliber shell casing outside of the residence.

14 Q. I'm going to show you what's been marked as
15 State's Exhibit 33 and 34, do you recognize these?

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

17 Q. Is one of them a close up of the other?

18 A. Yes, ma'am.

19 Q. And what is this that was found that was
20 significant, are appeared to be significant later in your
21 investigation?

22 A. A .45 caliber spent shell casing.

23 Q. And typically in your experience, how did a spent
24 shell casing end up at a scene such as this where a
25 shooting was involved?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

223

1 A. It gets -- it gets shot by a gun. I'm sorry, is
2 that what you're asking?

3 Q. What I'm saying if you have a semi-automatic
4 weapon ---

5 A. Yes, ma'am.

6 Q. --- typically, is there, what we call a shell
7 casing, found at the scene?

8 A. It is ejected from the gun after the gun is
9 fired.

10 Q. Okay.

11 A. So with the semi-automatic weapon it's going to -
12 - when another round is chambered, the spent shell casing
13 is going to pop up, out of the top of the gun and fall onto
14 the ground.

15 Q. And in your experience and you've investigated
16 many violent crimes?

17 A. Many.

18 Q. Involving shootings?

19 A. Involving shootings.

20 Q. So this is the type of evidence you would look
21 for at scene?

22 A. Yes, ma'am.

23 Q. And that's what you found?

24 A. Yes, ma'am.

25 Q. And addition to that, I want to show you State's

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Exhibit's 35 and 36, do you recognize those?

A. I do.

Q. And is that two photos of the same item?

A. Yes, ma'am.

Q. One's closer, I believe, than the other? And what is this?

A. That is a spent shot gun shell. An empty shell casing for, obviously, ejected from a shot gun after being fired.

Q. And for those of us that aren't as familiar with guns, you're saying a shot gun, is that what we call or refer to a long gun?

A. A long gun. Yes, ma'am.

Q. And again this is all evidence that you find prior to talking to any of the victims of the scene?

A. Yes, ma'am.

Q. After photographing these exterior, excuse me, let me back up -- State's Exhibit Number 38 that was also outside at the scene?

A. Yes, ma'am.

Q. And was that a hat?

A. That's a hat with a South Carolina symbol on it.

Q. Once these areas had been photographed, did you then collect certain evidence in the case?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

225

1 A. I'm sorry.

2 Q. Did you collect these items ---

3 A. Yes, ma'am, I did.

4 Q. And I'm going to show you what's been marked as
5 State's Exhibit Number 90 and 91, and first ask you, do you
6 recognize these?

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

8 Q. And are these -- did you review these before
9 coming ---

10 A. I have.

11 Q. And are these the casings as well as the shell
12 casing that are depicted ---

13 A. Yes, ma'am.

14 Q. --- in those photographs?

15 A. Yes, ma'am.

16 MS. CAMPBELL: Your Honor, at this time we offer
17 State's Exhibit 90 and 91 into evidence?

18 THE COURT: Any objection?

19 MR. KIRINCICH: May we take a look?

20 MS. CAMPBELL: Sure.

21 MR. KIRINCICH: Yes, sir, Your Honor. No
22 objection, Your Honor.

23 MS. CAMPBELL: Thank you.

24 THE COURT: Without objection. State's Exhibit's
25 90 and 91 admitted into evidence.

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 (SHOT GUN CASING AND A .45 CASING FOUND OUTSIDE HAS
2 BEEN MARKED AND ENTERED INTO EVIDENCE AS STATE'S EXHIBIT'S
3 NUMBER 90 AND 91)

4 Q. The State's Exhibit Number 90, which piece of
5 evidence is this?

6 A. That's the shot gun shell.

7 Q. And that was actually collected at the scene by
8 you that night?

9 A. Yes, ma'am.

10 Q. And once you collected it at the scene, did you
11 then place it into evidence?

12 A. In evidence at the Kershaw County Sheriff's
13 Office.

14 Q. And during the time period it was in your custody
15 did anyone tamper or alter it?

16 A. No, ma'am.

17 Q. The additional item which is in State's Exhibit
18 91?

19 A. Yes, ma'am, .45 caliber spent shell casing.

20 Q. And what caliber did you say this was?

21 A. A .45.

22 Q. And again this is what you collected. Once you
23 collected this item as well as number, exhibit number 90,
24 did anyone alter or tamper with in anyway while it was in
25 your possession?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

227

1 A. No, ma'am.

2 Q. And was it later submitted for further test by
3 another agency?

4 A. It was.

5 Q. And additional to the crime scene there were the
6 crime actually occurred, did you also become aware after
7 arrived on the scene that the victims had fled across the
8 street?

9 A. Yes, ma'am. We did learn that a short time
10 later.

11 Q. And I'm gonna show you some photographs
12 specifically State's Exhibit's 39 through 46 first.

13 A. Yes, ma'am.

14 Q. And then State's Exhibit's 47 through 50.

15 A. Yes, ma'am.

16 Q. And were those all photographs taken either of
17 the vehicle located at the Veal's residence across the
18 street or at the residence themselves?

19 A. Yes, sir.

20 Q. And does that fairly and accurately depict how it
21 appeared that night when y'all were out there?

22 A. Yes, ma'am.

23 MS. CAMPBELL: Your Honor, at this time I'd offer
24 39 through 50, I believe, into evidence.

25 THE COURT: Any objection?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 MR. KIRINCICH: No objection, Your Honor.

2 THE COURT: Without objection. State's
3 Exhibit's 39 through 50 admitted into evidence.

4 (PHOTOGRAPHS HAS BEEN MARKED AND ENTERED INTO EVIDENCE
5 AS STATE'S EXHIBIT'S NUMBER 39 THROUGH 50)

6 Q. Again were the photographs taken and all this
7 documented prior to you speaking to any of the victims?

8 A. Yes, ma'am.

9 Q. I want to show you State's Exhibit's 39 through
10 41, does that show the exterior of an automobile?

11 A. Yes, ma'am.

12 Q. Did that later prove to be somewhat significant
13 in your investigation?

14 A. Yes, ma'am.

15 Q. And whose vehicle was this?

16 A. Mr. Sullivan's.

17 Q. Mr. Sullivan. And who is Mr. Sullivan in this
18 case?

19 A. The young man that testified here this morning.
20 Robert ---

21 Q. Was he one of the people shot?

22 A. --- I believe it was Robert Wesley Sullivan. We
23 found out he was shot in the head.

24 Q. And specifically in State's Exhibit's Number 42,
25 43, 44, 46, does these show the interior of the vehicle

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

229

1 with certain substances?

2 A. Yes, ma'am.

3 Q. And the red substance is depicted -- what is that
4 substance?

5 A. It appeared to be blood.

6 Q. And was that consistent with what you later found
7 out to be a wound suffered by Mr. Sullivan in this case?

8 A. Yes, ma'am.

9 Q. And, in the course of your investigation, did you
10 also find out how Mr. Sullivan got over to the Veal house?

11 A. Yes, ma'am.

12 Q. How did he get there?

13 A. He drove his vehicle.

14 Q. Okay.

15 A. That vehicle.

16 Q. Had the second victim, Mr. Mackey, also been able
17 to get across the street to the Veal residence?

18 A. Yes, ma'am.

19 Q. And ---

20 A. We ---

21 Q. Go ahead.

22 A. We were told that he ran across the street.

23 Q. He ran across the street. And I show State's
24 Exhibit's 47 and 49, do those show areas where he may have
25 been inside the interior?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

230

1 A. Yes, ma'am.

2 Q. And what in these pictures are significant as far
3 as ---

4 A. It appears to be blood on the carpet.

5 Q. And again by the time you got there, Mr. Mackey
6 had already been transported?

7 A. Mr. Mackey and Mr. Sullivan had been transported,
8 yes, ma'am.

9 Q. Once you had photographed and I don't believe
10 there were any items that you actually collected at the
11 Veal household?

12 A. No, ma'am.

13 Q. What did you do next at the Veal home?

14 A. We, myself and investigator Tisdale or Knaflec, I
15 can't recall which one, we spoke with the Veal's where the
16 Veal's shed a lot of light in the case on what exactly
17 happened with the two victims running to their house.
18 State that ---

19 MR. KIRINCICH: Objection. Hearsay, Your Honor.

20 THE COURT: Restate your question.

21 A. We ---

22 THE COURT: Hold on a minute.

23 A. Yes, sir.

24 Q. During the course of your investigation, were you
25 able to get any printed information from the Veal

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

231

1 household?

2 A. Yes, ma'am.

3 Q. And as a result of the information they were able
4 to give you, what did you do?

5 A. We then had more information on what was or had
6 gone on in the household.

7 Q. And during the course of your investigation, did
8 you become aware that also two young children were present
9 during this crime?

10 A. Yes, ma'am.

11 Q. And did you ever find out what happened to those
12 children that evening?

13 A. I was -- I was told that ---

14 Q. That was significant to you, what happened to
15 them?

16 A. That was significant to me.

17 Q. Do you know what happened to those children that
18 evening?

19 A. With them being away from the scene or at the
20 scene?

21 Q. At the scene and then away from the scene?

22 A. Yes, ma'am. They were held hostaged.

23 Q. I understand. And then were they able to escape
24 out of the house?

25 A. Yes, they were.

1 Q. And where did they go to?

2 A. They went to the Veal's as well.

3 Q. And did they stay at the Veal's household or did
4 someone come and get them?

5 A. I -- someone came and got them.

6 Q. After getting the information you were able to
7 from the Veal's household, you then proceed, where?

8 A. After the Veal's household, we went back to the
9 crime scene across the street.

10 Q. And once you were at the crime scene across the
11 street what, if anything, addition did you do while there?

12 A. After obtaining the information that we obtained
13 at the Veal's house, what was stated to us, a lot started
14 falling into place with the house being in disarray with
15 blood all over the floor, in multiple areas of the house,
16 streaming from the kitchen or living room area of the
17 residence to the back bedroom.

18 Q. And, specifically, when you say the back bedroom
19 are we referring to the master bedroom?

20 A. Yes, ma'am. The master bedroom.

21 Q. What ended up being the master bedroom. You also
22 mentioned the kitchen area of the house?

23 A. Yes, ma'am. There -- we found blood on the
24 floor, what appeared to be blood on the floor and a hole in
25 the middle of that blood that appeared to be a bullet hole.

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

233

1 Q. And as far as the master bedroom, I show you
2 State's Exhibit'S.Number 12, 22, 23 and 15?

3 A. Yes, ma'am.

4 Q. Were those areas that become more significant to
5 you?

6 A. Yes, ma'am.

7 Q. And what areas of the house is all this located?

8 A. This is the master bedroom.-- the master bedroom.

9 Q. So these are all in the master bedroom and again,
10 what, if any, substances in this is significant?

11 A. The -- what appeared to be blood.

12 Q. And in addition you also mentioned the kitchen
13 area?

14 A. Yes, ma'am.

15 Q. I show you State's Exhibit Number 69?

16 A. Yes, ma'am.

17 Q. What is this?

18 A. It's a hole in the middle of what appeared to be
19 blood on linoleum surface.

20 Q. And again what area of the house is this in?

21 A. The kitchen.

22 Q. And does that corroborate information you already
23
24 had from the Veal's house?

25 A. Yes, ma'am.

1 Q. Once you went back to the actual scene and made
2 this additional observations, did where did you go?

3 A. After we finished processing the scene, myself
4 and investigator Tisdale went to Spring's Hospital to try
5 to speak with both victims in this case.

6 Q. Okay. And once you got to Spring's Hospital,
7 what did you find?

8 A. Once we got to Spring's Hospital we had found out
9 that Mr. Sullivan who was, we found out that he was shot in
10 the -- had a gun shot wound to head, he was discharged from
11 the hospital and sent home. And Mr. Mackey was transported
12 up to Carolina Medical Center in Charlotte.

13 Q. And did you find out why Mr. Mackey had to be
14 transported to Carolina Medical Center in Charlotte?

15 A. Very critical condition due to his gunshot wound.

16 Q. That evening or the next day, did you make
17 contact with Mr. Sullivan?

18 A. That evening -- that evening after we left
19 Spring's we did.

20 Q. And where did you make contact with him?

21 A. At his residence.

22 Q. And what was the purposes of you making contact
23 with him?

24 A. Because he was a victim in the case that had been
25 shot.

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. Was he able to give you information about what
2 happened?

3 A. He was.

4 Q. Has he testified to today?

5 A. He has.

6 Q. While you were there, there were also some
7 photographs taken of some of the wounds to his head?

8 A. Yes, ma'am.

9 Q. And I show you State's Exhibit 51, 52, and 53, do
10 these fairly and accurately depict the wounds that -- after
11 they had been sown up, obviously?

12 A. They do.

13 MS. CAMPBELL: Your Honor, at this time we offer
14 51 through 53.

15 THE COURT: Any objection?

16 MR. KIRINCICH: No objection, Your Honor.

17 THE COURT: Without objection. State's Exhibits
18 51, 52, and 53 admitted into evidence.

19 (PHOTOS HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS
20 AS STATE'S EXHIBIT'S NUMBER 51, 52, AND 53)

21 MS. CAMPBELL: Thank you.

22 Q. And does this show -- where did Mr. Sullivan
23 sustain his injuries?

24 A. To his head -- to his head.

25 Q. And these show -- and in your observance of this

1 and in your experience is this consistent with a gun shot
2 wound to the head and you admit he was lucky?

3 A. Yes, ma'am, very lucky.

4 Q. That evening did you attempt to see if you could
5 talk to the other victim in the case, Mr. Mackey?

6 A. Mr. Mackey -- I made telephone calls to the
7 hospital in Charlotte and they told me ---

8 MR. KIRINCICH: Objection, Your Honor, hearsay.

9 MS. CAMPBELL: I'm not offering for the truth of
10 the matter asserted just to show what he did.

11 THE COURT: Answer the question. Objection
12 overruled.

13 A. I made phone calls to the hospital in Charlotte
14 in attempts to see if I could talk to Mr. Mackey or if he
15 was in a state that he could even see people and they told
16 me, no, that he could not see anybody.

17 Q. And, in fact, during the course of your
18 investigation were you able to interview him?

19 A. No, ma'am. He was in a -- he was in a state of a
20 coma. From my understanding from when he went in until the
21 day he passed.

22 Q. Did you attempt to talk to any of the other
23 witnesses from the scene including any of the children ---

24 A. I did, yes, ma'am.

25 Q. And were you able to interview -- how old were

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

237

1 the children in this case; do you remember?

2 A. The son, Domanic Mackey was approximately twelve
3 years of age and his sister that was in the house with him
4 I don't recall but she was smaller.

5 Q. And was she of an age to where you could
6 interview her?

7 A. No, ma'am, not at all.

8 Q. However, with the son, the twelve year old, were
9 you able to interview him?

10 A. I was, yes, ma'am.

11 Q. And you can't say what he said, but was he able
12 to give you information about what he witnessed that night?

13 A. Yes, ma'am.

14 Q. Did you also interview the victim Mr. Mackey's
15 wife in this case?

16 A. I did, yes, ma'am.

17 Q. And was she an eye witness to the event?

18 A. No, ma'am, she was not.

19 Q. Was she present at any point when the event
20 occurred?

21 A. She was not. No, ma'am.

22 Q. And in the course of the next several months, did
23 you continue find out about information in this case?

24 A. Yes, ma'am. There was a lot of talk on the
25 street so to speak and there was a lot of rumors flying

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 around and whatever would pop up I would run down and
2 nothing that -- everything that I would run down lead to a
3 dead end.

4 Q. This occurred on what date, November the ---

5 A. The 14th.

6 Q. The 14th. Then on the 16th, did you become aware
7 the victim had surgery?

8 A. Yes, ma'am.

9 Q. I believe that he had surgery the day before or
10 two days before; is that correct?

11 A. I was ---

12 Q. But it was the 16th ---

13 A. The 16th I was advised that they had extracted
14 the bullet from his body.

15 Q. I want show you what's been marked as State's
16 Exhibit Number 92, do you recognize this?

17 A. Yes, ma'am.

18 Q. And what is this?

19 A. This is the bullet from Nick Mackey's body.

20 Q. And how had actually abstracted it from the body,
21 do you know?

22 A. No, ma'am, I don't. A surgeon.

23 MS. CAMPBELL: Your Honor, at this time would
24 admit State's Exhibit 92 into evidence.

25 THE COURT: Any objection?

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 MR. KIRINCICH: Yes, sir, Your Honor. Your
2 Honor, the State has never established a chain of custody
3 of this item.

4 MS. CAMPBELL: Non-fungible.

5 THE COURT: Can the lawyers approach a minute?

6 (Whereupon, a bench conference is held in the presence
7 of the jury panel but out of the hearing of the jury)

8 Q. In conjunction with -- I show you a copy of this
9 chain of evidence form, Plaintiff's Exhibit Number 96 -- oh
10 you've got that?

11 A. Yes, ma'am.

12 Q.. Anyway, does this -- is this a document that you
13 retrieved along with the bullet when you got it?

14 A. Yes, ma'am. I actually sign for it on the
15 bottom.

16 Q. And what is this document?

17 A. This is a chain of custody from the hospital to
18 me.

19 Q. And does it indicate the name of the victim?

20 A. It does, Robert Mackey.

21 Q. And does it indicate the date and time the bullet
22 was actually removed from him?

23 A. It does. November 14, 2008 at 21:26 which is
24 9:25 p.m.

25 Q. And does it indicate the type of evidence that

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 was collected?

2 A. Bullet. It has a check mark by bullet.

3 Q. And in State's Exhibit Number 92 is that the item
4 that you received in connection with this chain, copy?

5 A. Yes, ma'am.

6 Q. And that's when you actually had to sign for it
7 at the bottom?

8 A. Yes, ma'am.

9 MS. CAMPBELL: Your Honor, at this time we'd
10 offer State's Exhibits 92 and 96 into evidence.

11 THE COURT: Any objection?

12 MR. KIRINCICH: Your Honor, may please see the
13 chain?

14 MS. CAMPBELL: It's been provided in discovery.

15 MR. KIRINCICH: Your Honor, as far as the
16 document that the bullet was released to Mr. Jones, we
17 don't object to that. We still object to the chain, the
18 complete chain for the actual ---

19 THE COURT: All right. Over Defense's counsel
20 objection, admitted evidence.

21 MS. CAMPBELL: Thank you.

22 THE COURT: But so noted for the record, though.

23 (PROJECTILE AND HOSPITAL CHAIN OF EVIDENCE FORM
24 HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS STATE'S
25 EXHIBIT'S NUMBERS 92 AND 96)

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. This document, State's Exhibit 92, is the actual
2 item you recovered from the hospital from the nurse there?

3 A. Yes, ma'am.

4 Q. Your name on that form?

5 A. Yes, ma'am.

6 Q. And is this how it appeared when you recovered
7 it?

8 A. Yes, ma'am.

9 Q. At some point, you've already mentioned that
10 there was a hole in the floor in the kitchen area or near
11 the kitchen area of the trailer?

12 A. Yes, ma'am.

13 Q. At some point did you go back in recover any type
14 of projectile that may have gone through that floor?

15 A. Yes, ma'am. Actually ---

16 Q. What attempts did you make?

17 A. Actually the night of that this occurred, myself
18 and investigator Tisdale went under the residence itself
19 and tried to attempt to locate the hole from the kitchen
20 floor and then, obviously, when we did locate the hole
21 itself there was sand and stuff up under it. We tried to
22 dig for the projectile and were unable to locate.

23 Q. And I believe some time in December as well, did
24 you go to go under with a metal detector?

25 A. The residence was a mobile home and I believe it

1 had been moved by that time and I took a metal detector out
2 there at that time.

3 Q. And during the course of your investigation and
4 your participation in this case, you interviewed a number
5 of people?

6 A. A number of people.

7 Q. And, in fact, some eight, nine, ten months after
8 the fact did you actually go back and re-interview Domanic
9 Mackey again ---

10 A. I did, yes, ma'am.

11 Q. --- to try to further information?

12 A. Yes, ma'am.

13 Q. And the time that you were assigned to this case
14 and followed up on leads that you had, were you able to
15 develop anyone as a suspect in this case?

16 A. No, ma'am, not at all.

17 Q. And after a period of time, let's say a year or
18 so, what happened in this case, was it solved?

19 A. No, it was not solved.

20 Q. And it remained unsolved?

21 A. It remained unsolved, yes, ma'am.

22 Q. And, in fact, at some point, I believe you had to
23 move on to other investigations?

24 A. Yes, ma'am.

25 Q. At a later date, did someone else come back and

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 become involved in the investigation in addition to you?

2 A. Yes, ma'am. investigator Dill was provided with
3 some information and he took his information and went and
4 stemmed off and did his own investigation on the
5 information that he had.

6 MS. CAMPBELL: Beg the Court's indulgence.

7 Q. And in the course of your investigation, did you
8 get any information as to where the -- during the course of
9 your investigation, did you develop that there was more
10 than one person that entered the house?

11 A. Yes, ma'am.

12 MR. KIRINCICH: Objection.

13 THE COURT: Objection overruled. Go ahead.

14 Q. Did you also develop information about where they
15 may have come from?

16 A. Yes, ma'am, I did.

17 Q. Okay. What was that?

18 A. We had learned that and received information that
19 it was -- we were looking for a silver either Grand Marquis
20 or a silver Crown Victoria early '90's model and it was
21 parked on the multiple occupants that entered the residence
22 parked on I believe it was on . May I see
23 that map please? I'm sorry.

24 Q. I'll show you, I'll speed this up, State's
25 Exhibit Number 60, number one, do you recognize this?

1 A. I did, yes, ma'am.

2 Q. And what does this show?

3 A. This is the Address here in
4 Kershaw County and back here is and this is
5 supposedly an area back on is where the silver
6 sedan was supposedly parked and staged until they could
7 leave from it and come back to it.

8 MR. KIRINCICH: Objection, Your Honor, he's
9 testifying to hearsay for all these details.

10 THE COURT: Madam Solicitor?

11 Q. Eliminate it to -- was there an area you were
12 interested in

13 A. Yes, very -- Yes, ma'am, on

14 Q. And near by there, did you also come across some
15 additional items thought might be evidence?

16 A. I did, yes, ma'am.

17 Q. And let me show you State's Exhibit Number 95, do
18 you recognize those?

19 A. I do.

20 Q. And where did you collect these?

21 A. Those were from the side of

22 Q. When you collected them, did you know whether or
23 not they played any part in this?

24 A. I did not. I didn't know but I took them just to
25 be on the safe side.

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. And that was just to be on the safe side and, in
2 fact, did they become significant?

3 A. No, ma'am.

4 MS. CAMPBELL: Your Honor, at this time, we offer
5 State's Exhibit Number 95 into evidence.

6 THE COURT: Any objection?

7 MS. CAMPBELL: Shell casing from the side of the
8 road.

9 THE COURT: Shell casings from the side of the
10 road?

11 MR. KIRINCICH: May I see? No, objection, Your
12 Honor.

13 MS. CAMPBELL: Thank you.

14 THE COURT: Without objection. Admitted.

15 (SHELL CASINGS HAS BEEN MARKED AND ENTERED INTO
16 EVIDENCE AS STATE'S EXHIBIT NUMBER 95)

17 MS. CAMPBELL: Your Honor, may the witness step
18 down just once ---

19 THE COURT: Yes.

20 MS. CAMPBELL: --- in front of the jury? Can you
21 come over to this side so the court reporter can hear
22 better.

23 Q. Where is the actual scene where this occurred on.

24 MS. CAMPBELL: I haven't offered yet, Your
25 Honor, I apologize. He identified it I just haven't

JAMEY JONES- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 offered it.

2 THE COURT: I thought it had been entered into
3 evidence. It is not. The court reporter tells me it is
4 not.

5 MS. CAMPBELL: Sorry.

6 THE COURT: Go ahead.

7 MS. CAMPBELL: I'm offering this into evidence at
8 this point.

9 THE COURT: Any objection?

10 MR. KIRINCICH: No objection, Your Honor.

11 THE COURT: Without objection. Admitted into
12 evidence.

13 MS. CAMPBELL: I apologize.

14 (BLOW UP HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS
15 STATE'S EXHIBIT NUMBER 60)

16 Q. Now that it's in evidence, what does this show?

17 A. This is ---

18 Q. I'm sorry.

19 A. This is -- in Kershaw
20 County. This is the road right here -- this is

21 itself and this is behind it here.

22 Q. And we've talked about on one side of
23 the street is actually Kershaw County and the other side is
24 what county?

25 A. Lancaster. This is Kershaw, this is Lancaster.

JAMEY JONES- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. Okay. And that's shown on here. And then
2 where you found the area you were interested in?

3 A. Right. In this area right here.

4 Q. Right there. And the shell casing you picked up
5 to be safe, where were those ---

6 A. We in this area ---

7 Q. This general area?

8 A. Right. The general area right here.

9 Q. And during the course of your investigation, did
10 you later eliminate them in this case?

11 A. Yes, ma'am.

12 MS. CAMPBELL: Thank you.

13 Q. The reason that this area was significant to you
14 in addition ---

15 MR. KIRINCICH: Objection, Your Honor. Can the
16 witness can testify as to what significant and not the
17 soliciotor?

18 THE COURT: Restate your question please.

19 Q. Were they're dogs called out that night?

20 A. Yes, ma'am, there was.

21 Q. In the area you just described to the jury on the
22 What about what the dogs did that night was
23 important?

24 A. The blood -- the Kershaw County Sheriff's Office
25 Blood Hound Team they were called out to respond to the

JAMEY JONES- CROSS EXAMINATION BY MR. KIRINCICH:

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1 scene. The blood hound tracked through the woods from the
2 residence to a location on

3 Q. And was that the near area that you just pointed
4 out to the jury?

5 A. That was near the area that I just pointed out.

6 Q. And you tell me if that was significant or not
7 significant in your investigation?

8 A. That was very significant.

9 MS. CAMPBELL: Thank you. I don't have anything
10 further.

11 THE COURT: Cross examination?

12 CROSS EXAMINATION BY MR. KIRINCICH:

13 Q. Investigator Jones, how long did you work this
14 case?

15 A. It never closed.

16 Q. But after some time you weren't working on it
17 anymore; right?

18 A. I was always working on it. I had other cases
19 that were going on as well but I don't -- I never closed
20 it.

21 Q. But you did speak to a number of witnesses;
22 right?

23 A. Yes, sir.

24 Q. A number of people gave you information about the
25 case; right?

JAMEY JONES- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. Yes, sir.

2 Q. How many different leads did you get as far as
3 people of interest that might have done this?

4 A. Several.

5 Q. You got names of people out of Lancaster County?

6 A. Yes, sir.

7 Q. That's ---

8 A. And Kershaw -- Lancaster and Kershaw Counties.

9 Q. Most of the names were out of the Kershaw area;
10 right?

11 A. The Kershaw area, yes, sir.

12 Q. And that would be parts of Kershaw County and
13 Lancaster ---

14 A. Parts -- there are -- Kershaw the town itself is
15 Lancaster County but there is a part of Kershaw that is in
16 Kershaw County, um, that's not the town part so, yes names
17 came from both counties, Lancaster and Kershaw.

18 Q. You got information that some Hough's might be
19 involved?

20 A. Yes, sir.

21 Q. You had information just based on street names,
22 that Half Dead might be involved?

23 A. Yes, sir.

24 Q. And he's not connected with Hough's; right?

25 A. Not -- I don't know.

JAMEY JONES- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. I believe Dural was somebody that you were
2 looking into?

3 A. Yes, sir.

4 Q. It all added up that there were within your first
5 year of investigation four to six suspects; right?

6 A. Yes, sir.

7 Q. Serious suspects?

8 A. Yes, sir.

9 Q. People that had some sort of animosity with Mr.
10 Mackey?

11 A. That was -- let me say, when you say serious
12 suspects, let me say that I took everyone of them seriously
13 but I -- my investigation never lead them to be a serious
14 suspect. I looked at everybody seriously.

15 Q. People like I think it was Derrick Clyburn and
16 Derrick Railey; right?

17 A. Yes, sir.

18 Q. And you stopped investigating Derrick Railey
19 whenever you found out he was killed shortly after this;
20 right?

21 A. Yes, sir.

22 Q. But when you actually investigated the crime
23 scene because you were there, you were the lead
24 investigator, what did you do to eliminate the suspects
25 based on your work at the actual crime scene?

1 A. Well, I didn't have the names of those suspects
2 while I was at the actual crime scene.

3 Q. No but in these pictures that you've identified
4 and that you took, you did things like take pictures of
5 this hat, for example; right?

6 A. Yes.

7 Q. Well, what became of that hat?

8 A. I learn that it was Mr. Sullivan's and he was
9 wearing it at the time he was shot.

10 Q. Okay. And the blood inside, who checked on that
11 blood to find out whose blood that was?

12 A. No one.

13 Q. No one?

14 A. No, sir.

15 Q. And who dusted for any finger prints on the
16 overturned items in the house?

17 A. No one because of the information that we
18
19 received on both.

20 Q. Oh, received that information afterwards; right?

21 A. Yes, sir, at the Veal's.

22 Q. Okay. But in your initial investigation no one
23 attempted to collect of any that evidence?

24 A. This was -- the Veal's lived right across the
25 street and this investigation was not over and we went to

1 the Veal's. This was concurrent in our initial
2 investigation.

3 Q. Nothing in your investigation never revealed
4 anything about Frank Singleton; did it?

5 A. No, sir.

6 Q. And you work this case hard for a year and never
7 gave up on it; right?

8 A. Yes, sir.

9 MR. KIRINCICH: Thank you, Mr. Jones.

10 THE COURT: Any redirect?

11 MS. CAMPBELL: Just briefly, Your Honor.

12 **REDIRECT EXAMINATION BY MS. CAMPBELL:**

13 Q. And you processed the crime scene based on
14 information -- you can't say what was said to you but
15 based on information that you got?

16 A. Yes, ma'am.

17 Q. And he ask about, did anything in the
18 investigation lead you to Frank Singleton ---

19 A. Yes, ma'am.

20 Q. --- there at the crime scene?

21 A. No, ma'am.

22 Q. But did anything lead you to Randy Lewis?

23 A. No, ma'am.

24 Q. Did anything lead you to Darrien Jackson?

25 A. No, ma'am.

SHAWN EBERTS- DIRECT EXAMINATION BY MR. COBLE:

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1 Q. To Richard Roach?

2 A. No, ma'am.

3 Q. To Will Smith?

4 A. No, ma'am.

5 Q. To Jerome Lewis?

6 A. No, ma'am.

7 Q. Was that all developed later?

8 A. Yes, ma'am.

9 MS. CAMPBELL: Thank you. I don't have any
10 further.

11 THE COURT: Anything? Sir, you may step down.

12 MR. JONES: Thank you, sir.

13 THE COURT: Call your next witness?

14 MR. COBLE: The State calls Shawn Eberts.

15 (Whereupon, the witness was sworn)

16 THE COURT: Mr. Coble, while he is coming around
17 would you gather the items of evidence that are on the rail
18 over there ---

19 MR. EBERTS: Shawn Lee Eberts.

20 THE COURT: --- and bring it up there.

21 COURT REPORTER: Please spell your name for me
22 please?

23 MR. EBERTS: S-h-a-w-n.

24 COURT REPORTER: Last name?

25 MR. ERBERTS: E-b-e-r-t-s.

1 COURT REPORTER: Thank you.

2 THE COURT: So speak -- move up a little closer
3 to the microphone.

4 MR. EBERTS: Is that better?

5 THE COURT: I want to make sure everybody in the
6 jury can hear you, okay?

7 MR. EBERTS: Yes, sir.

8 THE COURT: Go ahead, sir.

9 MR. COBLE: Thank you, Your Honor.

10 SHAWN EBERTS, being first
11 duly sworn, testified as follows:

12 **DIRECT EXAMINATION BY MR. COBLE:**

13 Q. Mr. Eberts, how long have you lived in Kershaw
14 County?

15 A. Just about all my life.

16 Q. Do you know Marcellus Juggins?

17 A. I do.

18 Q. How do you know Mr. Juggins?

19 A. We met at work one day and we became friends.

20 Q. Do you call him by any other name?

21 A. I call him by Shawn or Snook.

22 COURT REPORTER: Or Snook?

23 A. Yes, ma'am.

24 Q. Did you have a chance to see him November 14,
25 2008?

SHAWN EBERTS- DIRECT EXAMINATION BY MR. COBLE:

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1 A. I did.

2 Q. How -- where did you see him?

3 A. He came to my house.

4 Q. Did you live in Kershaw County then as well?

5 A. I did.

6 Q. Who did he come there with?

7 A. A lot -- a bunch of people.

8 Q. Could you describe these people their race, sex?

9 A. Quite a few black males.

10 Q. And was Shawn, Mr. Juggins, the only one you
11 recognize?

12 A. He was.

13 Q. And what did he do when he came to your house?

14 A. He ask me to come outside and open a box for him.

15 Q. Who else was at your home with me?

16 A. My wife and two children. We were getting ready
17 to eat dinner.

18 Q. And where were they when you went outside?

19 A. They stayed in the house.

20 Q. Did they ever come outside?

21 A. No.

22 Q. And could you describe Mr. Juggins when he ask
23 you open this safe box, could you describe it?

24 A. It's probably a one foot by one foot square.

25 Q. And why did he come to your house for this?

1 A. I do various work for people sometimes, welding
2 and things like that.

3 Q. Did you know where this safe came from?

4 A. I did not. He told me it was his.

5 Q. Did you know what was in it?

6 A. I did not.

7 Q. What did you do when he ask you to help him?

8 A. I opened the box.

9 Q. How did you open the box?

10 A. I hit it with a two pound handle.

11 Q. How did -- did it take a while to open or

12 A. It popped right open.

13 Q. And then what was in the box once you opened?

14 A. I don't know. I assume there was a ---

15 MR. KIRINCICH: Objection, Your Honor.

16 THE COURT: What's the grounds for your
17 Objection?

18 MR. KIRINCICH: Your Honor, he said he doesn't

19
20 know and he's assuming now. I don't think he bases ---

21 THE COURT: Testify as to what you know that was
22 in the box; all right, sir?

23 A. I do not know.

24 Q. After you opened it, what did the open people at
25 this residence, at your residence, what did they do?

1 A. They grabbed, excused me, they grabbed the box
2 and put in the car and took off.

3 Q. Did you talk with Mr. Juggins after this?

4 A. No.

5 Q. Did you speak with anybody of those men that came
6 over, did you speak with any of them?

7 A. I just ask ---

8 Q. I apologize -- did you give a number of how many,
9 approximate, number of how many men came over?

10 A. Roughly eight, ten.

11 Q. How did they get to your house?

12 A. They drove up in several different cars.

13 Q. Like several, do you have a number?

14 A. Probably three, four different cars.

15 Q. And do you remember what type of cars those
16 were?

17 A. I don't.

18 MR. COBLE: Thank you, Mr. Ebert. Nothing
19 further.

20 THE COURT: Cross examination?

21 MR. KIRINCICH: No, sir, Your Honor.

22 THE COURT: Sir, you may step down. Thank you.

23 MR. EBERTS: Thank you.

24 THE COURT: Call you next witness?

25 MS. McDUFFIE: Your Honor, may we approach?

1 COURT REPORTER: Can you spell your first name
2 for me?

3 MR. LEWIS: J-e-r-o-m-e.

4 JEROME LEWIS, being first
5 duly sworn, testified as follows:

6 **DIRECT EXAMINATION BY MS. McDUFFIE:**

7 Q. Good afternoon, Mr. Lewis.

8 A. How you doing?

9 Q. Mr. Lewis, you're currently incarcerated at the
10 Kershaw County Detention Center?

11 A. Yes, ma'am.

12 Q. And you're presenting charged with murder, three
13 counts of armed robbery, two counts of kidnapping,
14 conspiracy, burglary in a first degree and accessory before
15 the fact?

16 A. Yes, ma'am.

17 Q. And you're represented by whom?

18 A. Nicole Singletary.

19 Q. And is she in the courtroom today?

20 A. Yes, ma'am.

21 Q. And you're aware that you're charges which
22 include murder, the penalty for those charges?

23 A. Yes, ma'am.

24 Q. And in exchange for your testimony have I offered
25 you anything in exchange for your testimony here today?

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 A. No, ma'am.

2 Q. Okay. Any promises ---

3 A. No, ma'am.

4 Q. --- that have been made to you?

5 A. No, ma'am.

6 Q. Any deal struck?

7 A. No, ma'am.

8 Q. Why are you testifying here today?

9 A. I was subpoenaed to come to court.

10 Q. And has anyone from my office ever told you
11 anything about what you should testify to, or shouldn't
12 testify to?

13 A. No, ma'am.

14 Q. And we only ask you to do one thing today?

15 A. Yes, ma'am.

16 Q. And what's that?

17 A. To be here.

18 Q. To tell the truth?

19 A. Yes, ma'am.

20 MR. KIRINCICH: Objection, Your Honor, leading.

21 THE COURT: Objection overruled. Go ahead.

22 Q. Do you know Frank Singleton?

23 A. Yes.

24 Q. Please tell the ladies and gentlemen of the jury,
25 how you know him?

1 A. I just know him from staying in the same trailer
2 park.

3 Q. And Mr. Lewis, how old are you?

4 A. Thirty seven now.

5 Q. And how long have you known Mr. Singleton?

6 A. For a little while now.

7 Q. Five years? Ten years? Two years?

8 A. About ten, a little more.

9 Q. And do you see Mr. Singleton in the courtroom
10 here today?

11 A. Yes, ma'am.

12 Q. And can you point him out to the ladies and
13 gentlemen of the jury?

14 (Whereupon, the witness complies)

15 Q. And what's he wearing?

16 A. A white shirt.

17 Q. Seated where?

18 A. To the left.

19 MS. McDUFFIE: Your Honor, please let the record
20 reflect that he's actually identified the Defendant.

21 THE COURT: So noted for the record.

22 Q. And you've -- and you said you know Mr. Singleton
23 from a trailer park from when you lived there?

24 A. Yes, ma'am.

25 Q. And please describe your relationship with Mr.

1 Singleton to the jury?

2 A. We was cool. We hang out. Whatnot.

3 Q. Friends?

4 A. Yes.

5 Q. Does Mr. Singleton go by a nickname?

6 A. Yes.

7 Q. And what is that?

8 A. Mae-Mae.

9 Q. And do you go by a nickname?

10 A. Yes.

11 Q. And what's that?

12 A. Sticky.

13 Q. In the latter part of 2008, did you start dating
14 a young woman?

15 A. Yes, I was seeing someone.

16 Q. And who was that?

17 A. Lori Anderson.

18 Q. And how did you meet Ms. Anderson?

19 A. At the gas station.

20 Q. And please tell the ladies and gentlemen of this
21 jury, about you and Ms. Anderson's relationship?

22 A. It was just -- it was cool and stuff like that.

23 Q. A romantic relationship?

24 A. We was just seeing each other.

25 Q. And during the course of your relationship with

1 Ms. Anderson, did you learn of an individual named Robert
2 Mackey or Nick Mackey?

3 A. Yes.

4 Q. And please tell the ladies and gentlemen of the
5 jury, about that?

6 A. Well, you know, I just ask her about, you know,
7 who we could get some drugs from and she told me who we
8 could get it from.

9 Q. And please tell the ladies and gentlemen of the
10 jury, what information you had about Mr. Mackey?

11 A. That he sold cocaine, drugs.

12 Q. And as a result of that information, what, if
13 anything, did you with that information?

14 A. Well, we -- all I knew is that, um, we plan on
15 robbing ---

16 Q. And who did you plan on robbing Mr. Mackey with?

17 A. It was a group of us.

18 Q. And who was in that group?

19 A. It was me, Mae-Mae, my cousin, ---

20 Q. And whose your cousin?

21 A. Cousin, Randy.

22 Q. Okay. And Mae-Mae ---

23 A. Shawn ---

24 Q. I'm sorry. Mae-Mae is?

25 A. Yes.

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 Q. Frank Singleton?

2 A. Yes.

3 Q. Shawn?

4 A. Shawn ---

5 Q. Do you know who that is?

6 A. I don't know his last name. Shawn, Roach,
7 Diablo.

8 Q. Prior to you, Shawn, Frank Singleton, Randy Lewis
9 and Diablo, did you and Frank Singleton drive by Nick
10 Mackey's house?

11 A. Yes.

12 Q. And why did you do that?

13 A. Just to make sure it was the right spot.

14 Q. Do you recall where it was?

15 A. It was somewhere around . I don't
16 know the exact spot but I know it's down .

17 Q. And after you and Frank Singleton drove to Mr.
18 Mackey's residence, did you go in? What, if any, did you
19 do?

20 A. Nah, we just passed by and that was it.

21 Q. And what did you observe when you passed by?

22 A. Just people out there in the yard. That was it.
23 Cars and stuff.

24 Q. And after you and Frank Singleton drove passed
25 Mr. Mackey's house, what, if anything, did you then do?

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 A. We just left. That was it. We just came back.

2 THE COURT: Hold on just a second.

3 (Whereupon, there was a lot moving around in the
4 courtroom)

5 THE COURT: Go ahead.

6 Q. So you drove passed the house, you saw where it
7 was?

8 A. Yes.

9 Q. And then what did you and Frank Singleton do
10 after you left the house that day?

11 A. Probably came back to

12 Q. Okay. And you mentioned just a minute ago that
13 at some point there was a plan to rob Mr. Mackey?

14 A. Yes.

15 Q. And who went with you to rob Mr. Mackey prior to
16 November 14, 2008?

17 A. When we went down there it was me, my cousin,
18 Randy, Diablo, Roach, and Shawn.

19 Q. And Frank Singleton, was he present?

20 A. Yes.

21 Q. And y'all drove out to Mr. Mackey's house again?

22 A. Yes, we were going out there.

23 Q. And please the ladies and gentlemen of the jury,
24 what happened when you drove out to Mr. Mackey's house with
25 Frank Singleton, Randy Willis, Shawn, Diablo and Roach?

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 A. Well, when we went out there it was dark. So,
2 um, we got out the car and went through the woods. We was
3 somewhere in the woods but, you know, it was a lot of
4 noise, the dogs were barking and we left.

5 Q. Do you remember whose care you were in at that
6 time?

7 A. We was in Shawn's car.

8 Q. Do you remember what kind of car that was?

9 A. I think it was Suzuki Trooper or something like
10 that.

11 Q. And so y'all went out to Nick's house that day
12 and then there was noise and they were dogs barking?

13 A. Yes, we just decided not to do it then.

14 Q. And what happened once you decided not to do it?

15 A. We left.

16 Q. And again that was you and who else?

17 A. Me, Mae-Mae, cousin Randy, Diablo, Roach and
18 Shawn.

19 Q. After you left Nick's house that day did you
20 personally ever go back to Nick's house?

21 A. No. No, ma'am.

22 Q. On November 14, 2008, did you learn that -- well
23 tell the ladies and gentlemen of the jury, what you learn?

24 A. Well, in two thousand -- they went to rob --
25 well, rob him again.

1 Q. And who is they?

2 A. Let's see it was Mae-Mae -- it was Mae-Mae -- it
3 was Will -- it was Will this time, um, Roach, Diable, and
4 my cousin.

5 Q. So on November 14, 2008, Frank Singleton, Richard
6 Roach, Will Smith, your cousin, Randy Lewis and Diablo or
7 Darrien Jackson went to go rob Nick again?

8 A. Yes, ma'am.

9 Q. And how do you know this?

10 A. Because that's what I was told and I knew it.

11 Q. Where were you on November 14, 2008?

12 A. I was .

13 Q. Did anyone come over to the apartment that you
14 were at ?

15 A. Mae-Mae.

16 Q. And when Frank Singleton or Mae-Mae got to that
17 apartment that day, what, if any, happened?

18 A. They was setting up to go rob Nick.

19 Q. Do you recall anything that was said,
20 specifically?

21 A. He just said, he wanted to rob him.

22 Q. Did you see Frank Singleton with anything that
23 day?

24 A. He had a gun on him.

25 Q. What kind of gun did Frank Singleton have on him

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 on November 14, 2008?

2 A. It was a .45.

3 Q. Anything unique about this .45 or different?

4 A. It had like, you know, a little tip on it.

5 Q. What do you mean?

6 A. Like, you know, a a little tip on the barrel.

7 Q. Was that -- did that stand out to you for some
8 reason or

9 A. It was a big gun. It was pretty big.

10 Q. So it was a big .45 with a tip on the barrel?

11 A. Yes.

12 Q. And you saw that on November 14, 2008?

13 A. Yes, ma'am.

14 Q. And that was at ?

15 A. Yes, ma'am.

16 Q. You said that they were planning on going to rob
17 Nick?

18 A. Yes.

19 Q. Did you go with them?

20 A. Nah, I didn't go.

21 Q. Why not?

22 A. I stayed with Lori so I guess to make it look
23 like, you know, we ain't had nothing to do with it.

24 Q. So you decided not to go with them on that day?

25 A. Yes, ma'am.

1 Q. Who did you see leave ?

2 A. So Mae-Mae left.

3 Q. And do you know who was with Mae-Mae?

4 A. I'm not sure who was with him.

5 Q. But you knew that Mae-Mae was going to go rob

6 Nick?

7 A. Yes.

8 Q. And you know for -- how?

9 A. I knew that.

10 Q. And how do you know that?

11 A. Because we had planned it up.

12 Q. And he ask you to come with him?

13 A. Yes.

14 Q. And you told him what?

15 A. I wasn't going I didn't want to.

16 Q. Later that day, November 14, 2008, after you saw
17 Frank leave with the gun and you heard him say he was going
18 to rob Nick, what, if anything, did you see?

19 A. I just seen the gun.

20 Q. After he left the house, did he come back at any
21 point?

22 A. Nah, he didn't come back, no.

23 Q. Who, if anyone, came back to the house or the
24 apartment at that day?

25 A. Nobody that I recall.

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 Q. Later that evening did you see Frank again?

2 A. Later on that night?

3 Q. Mmm hmm.

4 A. Yes.

5 Q. And please tell the ladies and gentlemen of the
6 jury, about that?

7 A. I ask him what happened and he told me what
8 happened at the robbery. The robbery went bad.

9 Q. Tell the ladies and gentlemen of the jury exactly
10 what Frank Singleton told you about when he robbed Mr.
11 Mackey on November 14, 2008?

12 A. Well, he said that when they went to the house it
13 was raining or whatever, and they at a trailer they waited
14 for some lady to leave.

15 Q. Let me stop you right there. What trailer, did
16 he say?

17 A. Nick Mackey trailer.

18 Q. So they were going to Nick Mackey's trailer and
19 they were waiting were?

20 A. They was in the trailer waiting.

21 Q. Okay.

22 A. I guess to make a move and as soon as the lady
23 left, they went to -- they went over there and he said he
24 kicked the door in and seen Nick Mackey at the table.

25 Q. And he did -- did he say how Mr. Mackey looked

1 when kicked the door ---

2 A. Nah, he didn't describe him. He just said I
3 guess he was shocked when he seen him.

4 Q. And tell the ladies and gentlemen of the jury,
5 what Frank Singleton, told you happened after that?

6 A. He said when he seen him he table he hit him in
7 the head with the gun and he ask the man where the drugs
8 was at and he ask the man, he want to get his drugs us. So
9 that's when Darrien Jackson -- that's when Darrien Jackson
10 grabbed his little baby -- well he shot him first -- and
11 his grabbed little baby and said he would kill her. He
12 needed to tell him where the money at and the drugs.

13 Q. And so Frank Singleton told you that he kicked in
14 the door and then Darrien Jackson shot Mr. Mackey in the
15 leg?

16 A. Yes.

17 Q. And Darrien Jackson picked up the little baby?

18 A. Yes.

19 Q. And please tell the ladies and gentlemen of the
20 jury, what else Frank told you?

21 A. And after that, um, he said someone came to the
22 door, knocked on the door and that's when everything went
23 haywire. They went to the door and there was a white dude
24 and that's when he tried to grab the dude in the house and
25 the dude got away. So they ran outside to get him and

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1. Nick, Nick Mackey got away from the fellows in the house
2. and jumped on his back and that's when he shot him with the
3. .45 and then I guess, the dude started running and that's
4. when Will shot the shotgun.

5. Q. And who shot Mr. Mackey with the .45?

6. A. Mae-Mae.

7. Q. Mae-Mae told you that on November 14, 2008 he
8. shot Nick Mackey with the .45?

9. A. Yes, ma'am.

10. Q. And he shot him while he was -- they were trying
11. to take drugs and money from him?

12. A. Yes, ma'am.

13. Q. And please go on.

14. A. And, um, that was it.

15. Q. Did they say -- did Mr. Singleton tell you how he
16. left the residences that day?

17. A. They didn't even tell me -- they didn't tell me
18. how they got to the residents.

19. Q. After he shot Mr. Mackey, what, if anything, did
20. he tell you happened after that?

21. A. I didn't say nothing after that. I know he got
22. the safe out the house and that was it. They got a safe
23. out there and there was no money in it. It was a notebook.

24. Q. Were you there when the safe was opened?

25. A. Yes.

1 Q. Please tell the ladies and gentlemen of the jury,
2 about that?

3 A. We went to some house out in the country and I
4 don't know exactly what road but we went there and the safe
5 was on the ground and the dude cut the safe opened, there
6 was a note book and that was it.

7 Q. And did anyone show you the notebook?

8 A. Yeah. He took it out the safe.

9 Q. Who took it out the safe?

10 A. Mae-Mae.

11 Q. Frank Singleton?

12 A. Yeah. He thought it was drugs. It was nothing.

13 Q. So, Mr. Singleton took the notebook out of the
14 safe and showed to you?

15 A. Yes.

16 Q. And what was in it?

17 A. It was a notebook. It was just a notebook. That
18 was it. They were numbers in it.

19 Q. After he showed you the notebook that was in the
20 safe, did you see any money or drugs?

21 A. I didn't see nothing.

22 Q. Did Mr. Singleton ever talked to you about a gun
23 that was taken during the robbery?

24 A. He said he took a .22 from the house, a little
25 small .22.

JEROME LEWIS- CROSS EXAMINATION BY MS. McDUFFIE:

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1 Q. Did you ever see it?

2 A. Yeah, I seen it.

3 Q. Please describe to the ladies and gentlemen of
4 the jury, how the .22 looked?

5 A. If I'm not mistaken it was small and it was
6 silver.

7 Q. And is that all you remember about it?

8 A. That's all I remember.

9 Q. In July of 2011, did law enforcement officers
10 with the Kershaw County Sheriff's Department come and talk
11 to you about this?

12 A. Yes.

13 Q. And when they approached you about this, did you
14 tell them what you're telling the ladies and gentlemen of
15 the jury, today?

16 A. Yes. Yes, ma'am.

17 Q. And then they came back and you gave another
18 statement to the same effect?

19 A. Yes.

20 Q. With your attorney present?

21 A. Yes.

22 Q. On November 14, 2008, who told you that they shot
23 Nick Mackey with a .45 caliber handgun?

24 A. Mae-Mae.

25 Q. Who did you go to Nick Mackey's house with on two

JEROME LEWIS- CROSS EXAMINATION BY MR. KIRINCICH:

280

1 prior occasions to case it out or scope it in once
2 incidence to rob him?

3 A. Frank.

4 MS. McDUFFIE: No, further questions, Your Honor.

5 THE COURT: Cross Examination?

6 **CROSS EXAMINATION BY MR. KIRINCICH:**

7 ____Q. You say yougo by Sticky?

8 A. Yes.

9 Q. That's what your friends call you? That's how
10 you're known?

11 A. Yeah.

12 Q. Well, Sticky, whenever Ms. McDuffie started to
13 cross examination or excuse me, her direct examination, she
14 was asking you about what you're charged with. So for this
15 incident, you're charged with accessory before the fact of
16 murder; is that correct?

17 A. Yes.

18 Q. And you also have charges, two charges for
19 kidnapping pending?

20 A. Yes.

21 Q. A conspiracy charge?

22 A. Yes.

23 Q. Burglary first?

24 A. Yes.

25 Q. Multiple counts of armed robbery?

JEROME LEWIS- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. Yes.

2 Q. And a murder charge?

3 A. Yes.

4 Q. And you're represented by Ms. Nicole Singletary -

5 --

6 A. Yes, sir.

7 Q. --- for everything?

8 A. Yes, sir.

9 Q. And you've discussed all of those charges with
10 her?

11 A. Yes.

12 Q. And has she represented since you were initially
13 charged?

14 A. Yes, sir.

15 Q. And you've discussed the penalties for all those
16 charges?

17 A. Yes.

18 Q. Ms. McDuffie, if she had offered you anything to
19 come to testify; right?

20 A. Yes.

21 Q. You said you're here because you were subpoenaed?

22 A. Right.

23 Q. At some point, didn't you try to get immunity
24 from Special Agent Blackmon to give information in this
25 case?

1 A. No, sir.

2 Q. When you spoke to him in July of 2011, it was
3 without your attorney present; right?

4 A. I'm not sure.

5 Q. And do you remember discussing with him, you
6 know, various things about what your nickname was where
7 you grew up; remember that?

8 A. Yeah.

9 Q. He ask you about your social security number; do
10 you remember that?

11 A. I don't recall.

12 Q. The first three digits of your social security
13 number, ; right?

14 A. Yes.

15 Q. All right. So what did that mean to Agent
16 Blackmon does that jog your memory at all?

17 A. I mean, I can't recall right now.

18 Q. You weren't born in South Carolina; right?

19 A. No, sir.

20 Q. That's a northern social security number?

21 A. Yes.

22 Q. You talked about growing up in South Carolina but
23 you were born in New York?

24 A. Yes. Raised down here.

25 Q. All right. None of this is jogging your memory

JEROME LEWIS- CROSS EXAMINATION BY MR. KIRINCICH:

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1 about your conversation with him?

2 A. I remember he came and talked to me.

3 Q. All right. And you don't remember that you
4 didn't need your attorney that because you thought you had
5 immunity for what you were saying?

6 A. I don't recall.

7 Q. Do you remember any previous members of the
8 solicitor's office making any sort of offers to you for
9 your cooperation?

10 A. No, sir.

11 Q. Did you expect a reduced charged based on your
12 cooperation?

13 A. No, sir.

14 Q. You've never had the expectation that you
15 testifying is going to lead to a reduce charge?

16 A. No, sir.

17 Q. So you're okay with what you say here today going
18 towards what you're charged with?

19 A. Say again.

20 Q. You're okay with what you're saying here today
21 just going towards what you're charged with?

22 A. I'm just here to testify.

23 Q. No expectation of leniency or mercy?

24 A. That's right.

25 Q. And you're doing this one, because you were

1 subpoenaed?

2 A. Right.

3 Q. And two, because you said you're doing what's
4 right?

5 A. I never said -- I just here because I was
6 subpoenaed.

7 Q. You're here out of the goodness of your heart?

8 A. I'm here.

9 Q. You didn't come forward back in 2008 after this
10 happened; did you?

11 A. What you mean?

12 Q. You didn't go to law enforcement and offer any
13 assistance in 2008 with this charge; did you?

14 A. No, I didn't.

15 Q. You were sort of the man that set this all in
16 motion though; right?

17 A. I wouldn't really say that just, you know, the
18 robbery, that's what we were doing out there.

19 Q. You ever play the game, six degrees of
20 separation?

21 A. Nah.

22 Q. Are you familiar of that at all?

23 A. Nah.

24 Q. About how people are connected, make any sense to
25 you at all?

JEROME LEWIS- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. No, sir.

2 Q. All right. I'll try this way. Did anybody or
3 did you have any connection with Nick Mackey before Lori
4 Anderson?

5 A. No.

6 Q. So you learned about Nick Mackey through Lori
7 Anderson?

8 A. Yes.

9 Q. And you learned that Nick sold weight; right?

10 A. Yes.

11 Q. And weight would be a large amount of drugs?

12 A. Yes. Yes.

13 Q. He wasn't just a small, little street dealer;
14 right?

15 A. Yes.

16 Q. So you talked to Ms. Anderson up in an effort to
17
18 find out information about Mr. Mackey and his drugs sales?

19 A. Well, no, we just -- like I said I was talking to
20 her and wanted to know where some drugs was at and that's
21 when she told us.

22 Q. So instead of setting up a relationship based up
23 the drugs, you were finding this information out to go rob
24 him?

25 A. Well, yeah.

1 Q. And so you began recruiting people that you knew

2 ---

3 A. I recruit ---

4 Q. --- to help you with this

5 A. --- I ain't -- I ain't recruited nobody.

6 Q. Ms. McDuffie, ask you if you told this same story
7 about in July of 2011 and you said, yes; right?

8 A. Yeah.

9 Q. That's not exactly true; is it? You left out a
10 good number of details when you initially talked to them;
11 right?

12 A. I'm not sure.

13 Q. Did you tell them your cousin Randy was involved?

14 A. Yes.

15 Q. You told them that in 2011, in July of 2011, when
16 you came and talked to them to begin with?

17 A. At first -- at first I didn't.

18 Q. You didn't. So they came back to you later in
19 August and you gave them a little more information; right?

20 A. Yes.

21 Q. And they came back to you again after that and
22 you told them you were done talking?

23 A. I don't recall.

24 Q. You remember when they came to see you in 2012
25 and you said you were done talking about that?

JEROME LEWIS- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. I don't recall.

2 MS. McDUFFIE: Your Honor, we have a matter of
3 law that we need to take up.

4 THE COURT: All right. Ladies and gentlemen, I'm
5 going to have to ask you to step to the jury room for a
6 minute while we take up a matter of law. Do not discuss
7 the case. I'll get you back out here as quickly as
8 possible.

9 (Whereupon, the jury exits the courtroom at 4:30 p.m.)

10 THE COURT: Yes, ma'am?

11 MS. McDUFFIE: Your Honor, I think that Mr.
12 Kirincich is mischaracterizing that interview to the jury.
13 In 2012 when they went back and talked to them that they
14 were interviewing him about a number of incidents in which
15 he was completely cooperative and told law enforcement what
16 he knew. When they brought up the 2008 incident again, he
17 told them, I've already told you everything about that.

18 Mr. Kirincich is making it appear to the jury is that
19 he wasn't forthcoming and that he wasn't providing
20 information and that he wasn't telling law enforcement
21 everything, when, in fact, he gave a very lengthy interview
22 about all the other crimes that he and Mr. Singleton were
23 involved in.

24 THE COURT: Okay.

25 MR. KIRINCICH: Ms. McDuffie ask if he told that

1 MR. KIRINCICH: It didn't come out on direct?

2 THE COURT: Right.

3 MR. KIRINCICH: So if they ask him about it
4 again, I don't know why they did. I was not there or
5 whatever these notes ---

6 THE COURT: Well, if -- I think that the door has
7 been opened. If they want to ask him something about it on
8 redirect to clear it up, I'll let them do that.

9 All right. Anything else?

10 MR. KIRINCICH: No, sir.

11 THE COURT: Ms. McDuffie, anything else?

12 MS. McDUFFIE: No, sir, Your Honor.

13 THE COURT: All right. Bring me the jury back
14 please.

15 (Whereupon, the jury enters the courtroom at 4:36
16
17 p.m.)

18 THE COURT: All right. You may continue.

19 MR. KIRINCICH: Thank you.

20 Q. Speaking of who you talked to about this
21 incident, you've also had the opportunity to go over this
22 testimony with the solicitor's office; right?

23 A. What you mean?

24 Q. You've had at least one, if not more, meetings
25 with the solicitor's office to discuss court and testimony?

1 A. Discus this court, yes.

2 Q. And you've also had the opportunity to discuss
3 your testimony with other people involved, like your
4 cousin, Randy?

5 A. What you mean?

6 Q. You're currently housed at the detention center;
7 right?

8 A. Right.

9 Q. And the detention center is set up in a Pod
10 system; correct?

11 A. Yes.

12 Q. And so people, detainees are housed in different
13 pods at the detention center; right?

14 A. Right.

15 Q. And even though these pods are separated that
16 doesn't mean you can't communicate between the pods; does
17 it?

18 A. I mean, you can, I guess.

19 Q. So if you're in one pod -- they've reassigned the
20 letters recently so I think it used to be B and D you can
21 talk through a door ---

22 A. You can talk through a door, yeah, F pod go by B.

23 Q. Okay. And I'm not sure what the new lettering
24 system is down there. And they are certain pods where you
25 can actually talk between the floors, through vents; right?

1 A. Yeah.

2 Q. You can see people in a hallway going to get
3 medication or going to religious services; right?

4 A. Sometimes.

5 Q. There's opportunity to see other people there;
6 right?

7 A. Yes.

8 Q. So you've had an opportunity to discuss this
9 case, the testimony, your statement with people like your
10 cousin, Diablo, Roach; right?

11 A. No, sir.

12 Q. So the whole time you been there you haven't
13 discussed your testimony, your story, your statement with
14 anyone ---

15 A. No, sir.

16 Q. --- connected?

17 A. No, sir.

18 Q. You never ask for a deal in this case?

19 A. No, sir.

20 Q. You never expected to get immunity when you
21 talked with Special Agent Blackmon?

22 A. No, sir.

23 Q. And you don't expect any kind of leniency for
24 your testimony?

25 A. No, sir.

JEROME LEWIS- REDIRECT EXAMINATION BY MS. McDUFFIE: 295

1 MR. KIRINCICH: Your Honor, if I could have just
2 a moment?

3 THE COURT: Yes, sir.

4 MR. KIRINCICH: No further questions, Your Honor.

5 THE COURT: Any redirect?

6 **REDIRECT EXAMINATION BY MS. McDUFFIE:**

7 Q. In August of 2011 you meet with investigator Dill
8 and Lee Blackmon with your attorney, Nicole Singletary?

9 A. Yes.

10 Q. And in 2011 during that interview at one point
11 Ms. Singletary stopped it so she could talked to you
12 privately?

13 A. Yes.

14 Q. And as a result of that, Ms. Singletary talked to
15 investigators Dill and Blackmon about immunity?

16 A. No.

17 Q. You don't recall that?

18 A. I don't recall that, no.

19 Q. Do you recall investigators Dill and Blackmon
20 telling you anything you said, could and would be used
21 against you?

22 A. Yes.

23 Q. And that they weren't promising you anything?

24 A. Yes.

25 Q. And that there was no immunity?

JEROME LEWIS- REDIRECT EXAMINATION BY MS. McDUFFIE: 296

1 A. Yes.

2 Q. And in July of 2011 and in August of 2011, the
3 information you gave law enforcement that's the information
4 you're providing here to the jury today?

5 A. Yes.

6 Q. And Mr. Kirincich brought up an interview in
7 2012?

8 A. Yes.

9 Q. And law enforcement ask you about this incident
10 again in 2012?

11 A. I think so.

12 Q. And did you have any further information or had
13 you already told them everything?

14 A. I can't recall.

15 Q. But any information you had, you provided to law
16 enforcement?

17 A. Yes.

18 Q. And you're providing it to the ladies and
19 gentlemen of the jury, today?

20 A. Yes.

21 MS. McDUFFIE: Thank you. No further questions.

22 THE COURT: Any re-cross?

23 MR. KIRINCICH: No, sir. Thank you.

24 THE COURT: All right, sir. You may step down.

25 Thank you.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 alternates. I had to excuse Mr. Walker from service at
2 this time and he has been instructed along with the
3 remaining jury panel that was not selected for this case to
4 call back tonight after six -- to call back tonight after
5 six.

6 At this time, Madam Forelady, and ladies and gentlemen
7 of the jury, let me ask each of you this. Have each of you
8 abided by the Court's instructions of not discussing this
9 case and not doing any independent investigation on your
10 own, has everybody complied with the Court's order as it
11 relates to that?

12 (Whereupon, the jurors all agreed they had complied)

13 THE COURT: All right. At this time, ladies and
14 gentlemen, we are going to continue the trial of this case.
15 The State is recognized. Call your next witness please.

16 MS. CAMPBELL: May it please the Court?

17 THE COURT: Yes, ma'am.

18 MS. CAMPBELL: The State calls Randy Lewis.

19 (Whereupon, the witness was sworn)

20 MR. LEWIS: Randy Lewis

21 RANDY LEWIS, being first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MS. CAMPBELL:

24 Q. Mr. Lewis, how old are you?

25 A. Thirty.

1 Q. And you live here in Kershaw County?

2 A. Yes.

3 Q. Are you from Kershaw County?

4 A. Yes..

5 Q. Do you suffer from any kind of medical condition?

6 A. Yes.

7 Q. And what medical condition do you have?

8 A. Sickle cell anemia SS.

9 Q. Sickle cell anemia?

10 A. Yes, it's a type, SS.

11 Q. And last night did you have to go to the
12 hospital?

13 A. Yes.

14 Q. And, in fact, you checked yourself out this
15 morning, I believe?

16 A. Yes. In the middle of a blood transfusion. Yes,
17 ma'am.

18 Q. So you are a little bit woozy here today?

19 A. I am.

20 Q. Can you continue, though, if I ask you questions?

21 A. I will try my best.

22 Q. Thank you. Do you know Frank Singleton?

23 A. Yes, I do.

24 Q. Can you tell this jury how you know him?

25 A. He likes a family member to me.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. He likes a family member?

2 A. Yes, to me.

3 Q. So how long have you known him?

4 A. For more than ten years, I would say.

5 Q. More than then years?

6 A. Yes.

7 Q. Are y'all from the same area?

8 A. Same town.

9 Q. The same town?

10 A. Huh, huh.

11 Q. That's here in Camden?

12 A. Yes.

13 Q. Does he have a nickname?

14 A. Yeah.

15 Q. What's his nickname?

16 A. Jug or Mae-Mae.

17 Q. Jug or Mae-Mae. And do you know Jerome Lewis?

18 A. Yes.

19 Q. How do you know Jerome Lewis?

20 A. That's my first cousin.

21 Q. What was the relationship between Jerome Lewis
22 and Frank Singleton?

23 A. The same as me and Mae-Mae's relationship,
24 friends, you know.

25 Q. Do you know a guy named Will Smith?

1 A. Do I know a guy name Will Smith?

2 Q. Ill Will?

3 A. Yes.

4 Q. How do you know Ill Will?

5 A. I was introduced to him by my little cousin a few
6 years ago.

7 Q. Was he also kinda of a part of a group with you
8 and Mae-Mae and Jerome?

9 A. Yes.

10 Q. Did you know Darrien Jackson?

11 A. Yes.

12 Q. Tell this jury how you knew Darrien Jackson?

13 A. Darrien Jackson ---

14 Q. Diablo?

15 A. Oh, okay. Yeah. I met him some years ago from
16 my aunts trailer, there was a trailer park and was
17 introduced to him by another cousin of mine so that's how I
18 had knew him.

19 Q. And did you know a guy name Richard Roach ?

20 A. Yes.

21 Q. How did you know Richard Roach?

22 A. Since -- since I was in school around '90's I met
23 Roach.

24 Q. I want to turn your attention back to November of
25 2008, when all this happened?

RANDY LEWIS-- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. Yes.

2 Q. Do you remember that day, November 14th?

3 A. Yes, I remember.

4 Q. What were you doing that day?

5 A. What was I doing that day when I woke up, things
6 like that?

7 Q. Or just in general, what were you doing prior you
8 going over to -- do you remember Trim lived?

9 A. Yes.

10 Q. Did you end up going to Trim's apartment that
11 day?

12 A. Yes.

13 Q. And who was at Trim's apartment when you got over
14 there; do you remember?

15 A. I think it was me and my cousin ---

16 Q. Your cousin Jerome?

17 A. Yeah, Jerome.

18 Q. Okay.

19 A. Me, Jerome, Mae-Mae, Roach, Diablo and Ill Will.

20 Q. Did y'all have a plan to do something that day?

21 A. Yes. Yes. We actually -- we was going to leave
22 there that day?

23 Q. Where were y'all going to go?

24 A. To some guys house that my cousin, you know, he
25 knew about from his girl I guess he talks to -- it's a

1 girl he was talking to in the area.

2 Q. So did you actually know Mr. Mackey yourself?

3 A. No, ma'am.

4 Q. And why were you going over to this trailer that
5 day?

6 A. Supposedly to get money and drugs.

7 Q. How did y'all get over there?

8 A. We actually got over there in a car. The -- a
9 fellow own the car. Shawn had owned the car.

10 Q. The person who owned car lent it to y'all?

11 A. Yes.

12 Q. And do you remember what kind of car it was that
13 day?

14 A. I believe it was a Crown Vic or a Mercury.

15 Q. Something like that?

16 A. Yes.

17 Q. When you got over there, who all was in the car
18 and who all went over there to Mr. Mackey's or near him?

19 A. It was me, Roach, Mae-Mae, Diablo and Will.

20 Q. Who was actually driving that day, do you
21 remember?

22 A. I believe it was Will.

23 Q. And when you got over there, were you right there
24 at Mr. Mackey's or where did y'all park?

25 A. We parked out in the back somewhere on a dirt

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

311

1 road, I believe.

2 Q. On a dirt road?

3 A. Yes.

4 Q. And who was the one that actually knew how to get
5 from the dirt road to Mr. Mackey's trailer?

6 A. Who knew how to get there?

7 Q. Do you remember?

8 A. I can't recall a specific name, I mean, it wasn't
9 just ---

10 Q. Did someone lead y'all through the woods?

11 A. No. We all just walked through the woods ---

12 Q. Okay.

13 A. --- nobody lead us.

14 Q. Were y'all armed in any way that day? Did y'all
15 have any guns?

16 A. Yeah, Diablo -- yeah, Diablo had a gun.

17 Q. Diablo had a gun?

18 A. Yeah.

19 Q. Did he have a hand gun or a long gun or what kind
20 of gun?

21 A. A hand gun.

22 Q. Okay.

23 A. Will had a gun, a long gun.

24 Q. Will had a long gun?

25 A. Huh, huh. Mae-Mae had a hand gun.

1 Q. Mae-Mae had a hand gun?

2 A. Yes.

3 Q. Do you remember what Mae-Mae's hand gun looked
4 like?

5 A. No.

6 Q. What kind of gun did you have?

7 A. Didn't have a gun.

8 Q. What able, who else, Diablo, had a gun. Mae-Mae
9 had a gun. Will had a gun. What about Roach, do you
10 remember?

11 A. I couldn't tell you.

12 Q. If he had one or not? Once y'all got there what
13 was the plan -- what were you -- did you have anything to
14 disguise your appearance in anyway?

15 A. Yes. I had on gloves and probably a mask or
16 something.

17 Q. You had on gloves and a mask?

18 A. Yes.

19 Q. And was everybody taking the same precautions to
20 conceal their identity?

21 A. Yeah.

22 Q. And once y'all had walked through the woods,
23 where did you go?

24 A. We went to this trailer.

25 Q. You went to a trailer?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

313

1 A. An abandoned trailer.

2 Q. An abandoned trailer?

3 A. Yeah.

4 Q. What did y'all do when you got to the abandon
5 trailer?

6 A. We went in and sat down for a while.

7 Q. Why were y'all going into the abandoned trailer
8 and sat down for a while? Why were y'all in there?

9 A. Because we didn't go straight to the guys trailer
10 or anything so that was the closest place we could sit
11 until I guess the time was right, whatever time to go in
12 there.

13 Q. Were y'all able to see the trailer, Mr. Mackey's
14 trailer from there?

15 A. Yes.

16 Q. Okay. So y'all were watching Mr. Mackey's
17 trailer in the abandoned trailer?

18 A. Yes.

19 Q. And at some point did y'all make the decision it
20 was a good idea to go inside then?

21 A. Yeah.

22 Q. And what was the plan once you got inside? What
23 were y'all looking for?

24 A. Like I said, drugs, I believe, cocaine ---

25 Q. Drugs?

1 A. Yeah.

2 Q. What happened when y'all went inside; do you
3 remember?

4 A. Okay. Well, um, from what I saw, I saw Diablo,
5 you know, in the kitchen with the guy, I guess ---

6 Q. And let me stop you there. Did all of y'all go
7 inside?

8 A. We all went, yes.

9 Q. And how did you get inside the trailer; do you
10 remember?

11 A. Yeah.

12 Q. How?

13 A. The door was kicked in.

14 Q. Do you remember who kicked in the door?

15 A. Yes.

16 Q. Who?

17 A. Mae-Mae kicked the door in.

18 Q. Mae-Mae kicked the door in?

19 A. Yeah.

20 Q. Once y'all got inside what did you see?

21 A. I saw the guy sitting on the floor in the
22 kitchen.

23 Q. And who was next to the guy sitting on the floor
24 in the kitchen?

25 A. Diablo, ah, there was a little girl here -- well

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

315

1 here and a little boy sitting at the table area ---

2 Q. In a table area?

3 A. Yes.

4 Q. There was a little boy and a little girl?

5 A. Yes.

6 Q. And what were they doing?

7 A. Nothing but I believe homework, I think.

8 Q. They were what; homework?

9 A. Yes. I believe it was homework.

10 Q. And you said you saw Diablo in the kitchen with
11 the guy?

12 A. Yeah.

13 Q. And he was a grown person; right?

14 A. Yes. Who the guy was?

15 Q. The guy with Diablo?

16 A. Yeah.

17 Q. And what was Diablo -- was anybody else in the
18 kitchen area at that point?

19 A. Yeah. That was Diablo, me, Will -- we all was in
20 the kitchen.

21 Q. Did anybody hit the victim in this case?

22 A. In the kitchen?

23 Q. In any area?

24 A. Diablo actually grabbed his leg and shot it.

25 That much I do know.

1 Q. Do you remember anybody using a pistol to hit
2 him?

3 A. Yes, ah, yeah, I know he got hit in his head with
4 a gun.

5 Q. You know he got hit in this head?

6 A. Yes.

7 Q. Did you hit him?

8 A. No.

9 Q. But somebody near by hit him?

10 A. Yeah. I just know I heard it. I know that.

11 Q. Was anybody saying anything to him while he was
12 getting hit and shot?

13 A. Um, yeah, a lot of things were being said, you
14 know, where's the money, where's the cocaine and, you know,
15 he's not answering, so -- he's actually not asking a word
16 and just out of the blue Diablo actually grabbed the child
17 ---

18 Q. Which child?

19 A. He grabbed the little girl.

20 Q. And what did he do?

21 A. Diablo grabs her and walks towards the guy and
22 says look, you see her, you better tell me where it's at,
23 you know, he was saying that to the guy and the guy looked
24 at him like ---

25 Q. Had he been shot at that point?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

317

1 A. Yes. Diablo shot him before he grabbed the girl.

2 Q. And he had hit by that point?

3 A. Yes. Yeah, he had got shot on the kitchen floor
4 and ended up in his room.

5 Q. Do you remember how he got to the room, to the
6 bedroom?

7 A. Yeah. You know, he got up off the floor and, you
8 know, they walked him, you know, we all walked in ---

9 Q. Y'all walked into the bedroom ---

10 A. --- the room with him. And he still wasn't, you
11 know, saying anything and he actually was -- he reached in
12 his closet and grabbed the coffee jar and he was checking,
13 you know, it wasn't what we thought it was going to be.

14 Q. What was it?

15 A. It was a cutter or something like that, you cut
16 cocaine, I guess.

17 Q. And at some point -- what happened next?

18 A. You know, a lot of fumbling around going on
19 inside the room and I heard a smack, he had got smacked in
20 his head.

21 Q. He got smacked in his head?

22 A. Yeah.

23 Q. Did you see who smacked him in the head with the
24 pistol?

25 A. I didn't.

1 Q. You couldn't see?

2 A. It was crowded so I couldn't see -- saw who
3 smacked him but I know he did get smacked because he
4 started bleeding afterwards and he actually went for a key
5 and the key actually it was going to a safe that he had
6 there that I didn't see -- but still nobody's finding
7 anything in there ---

8 Q. Nobody is finding anything at this point?

9 A. Nah. Nothing. And just out of the blue the door
10 knocked.

11 Q. Okay. So out of the blue there's a door knock.
12 Could you tell where the knock was happening in the house?

13 A. The knock was coming from the front door. The
14 same door ---

15 Q. The same door where y'all come in?

16 A. Where we entered, yes.

17 Q. And had y'all knocked prior coming into the door
18 too?

19 A. Did we knock?

20 Q. Do you remember?

21 A. No. No. No.

22 Q. Do you remember anybody saying something before
23 you went into the door?

24 A. I believe, yes -- yes -- Mae-Mae, had actually
25 was, you know, he actually, yelled, ah, Kershaw County -- I

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

319

1 heard him scream Kershaw County.

2 Q. Kershaw County?

3 A. Yes.

4 Q. Like he was the police?

5 A. Yeah.

6 Q. And that was prior to y'all coming in?

7 A. Yeah.

8 Q. And this was the same door y'all came in where
9 you heard the knock?

10 A. Yeah.

11 Q. Okay. Once you heard the knock, you are all
12 still back in the bedroom with him?

13 A. Um, no.

14 Q. Okay. Where is everybody?

15 A. Everybody was running towards the knock.

16 Q. Okay. Where are the children?

17 A. They're still seated, you know, with their head
18 down and, um, the knock came and -- we was with the guy in
19 his room, me and Roach, we were back there actually just us
20 three.

21 Q. Just the three at that point, the rest run
22 towards front door?

23 A. Yeah.

24 Q. And what happens when they run towards the front
25 door?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

320

1 A. I guess a struggle went on, you know, they --
2 somebody tried to pull the guy in ---

3 MR. KIRINCICH: Objection, Your Honor. He
4 speculating. He said he was in the back room, he's
5 testifying to what happened outside.

6 THE COURT: Restate your question please.
7 Objection sustain.

8 Q. Do you know what happened at the front door?

9 A. I couldn't -- no, because I was in the room ---

10 Q. So you couldn't see.

11 A. I heard the gun ---

12 Q. But at some point, what's the next thing you
13 heard near the front door?

14 A. I heard a gun shot. I heard a gun shot.

15 Q. So this is the second gun shot there at the
16 trailer that day?

17 A. Yeah. That's the second shot.

18 Q. And at that point, could you see who had been
19 shot?

20 A. No.

21 Q. Or how that happened?

22 A. No.

23 Q. What's the next thing you were able to -- that
24 you did or were you able to see?

25 A. The guy -- when we was in the room with him,

RANDY LEWIS- DIRECT EXAMINATION BY MS.. CAMPBELL:

321

1 actually, he was looking at me and Roach and, um, I knew
2 from then on this went to far because they caused chaos in
3 the front yard so, me and Roach actually backed up, threw
4 our hands up ---

5 Q. You and Roach backed up?

6 A. --- and, you know, the guy ran out, you know, he
7 just left out ---

8 Q. And was he the only one bleeding in there that
9 day?

10 A. Was the only one bleeding?

11 Q. He had been shot so he was the one bleeding;
12 right?

13 A. Yeah. Yeah.

14 Q. Then once he ran out of the room, were y'all
15 still back there, in the back, you and Roach?

16 A. We was actually getting out of there too, like,
17 you know, we wasn't just gonna stay there.

18 Q. What you just said, things had just gotten to
19 far?

20 A. Yeah. It escalated to bad out in the front yard
21 when that knock happened.

22 Q. So where did you and Roach run to?

23 A. Ran out the door tool.

24 Q. With the victim?

25 A. Yes. He was actually in front of us.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

322

1 Q. He was in front of you, okay, that was my next
2 question. And then what did you see?

3 A. They, actually, when we got outside Diablo was --
4 Diablo had done got through the woods but ---

5 Q. Diablo was running through the woods?

6 A. Yeah.

7 Q. And what happened to the victim, did you see
8 that?

9 A. Yeah, grabbed Mae-Mae and I can't explain the
10 position ---

11 Q. Okay.

12 A. --- that they were in, you know, he was trying to
13 choke Mae-Mae, they were actually going in circles ---

14 Q. So they were in a physical altercation together?
15 They were fighting?

16 A. Yeah. A real awkward position standing up like
17 that and Mae-Mae's gun went off ---

18 Q. When Mae-Mae's gun went off could you tell where
19 or if it had hit anyone?

20 A. Nah.

21 Q. But that's while the struggle was going on with
22 the victim?

23 A. Yeah, it was a struggle going on.

24 Q. And it was Mae-Mae's gun that went off?

25 A. Yeah, it went off, yes.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

323

1 Q. And what were you doing at that point; running?

2 A. Um, I think I stood -- I was trying -- I was
3 about to run ---

4 Q. Mmm, hmm.

5 A. --- you know -- yeah, after that shot went off I
6 think I said, I gotta go. And then the guy actually let
7 Mae-Mae go and started running ---

8 Q. Himself?

9 A. Yeah. He was limping because the bullet had done
10 hit him in the house from Diablo's gun so he was limping
11 across -- just running away and another gun shot went off
12 as he was running.

13 Q. Do you know whose gun shot that was?

14 A. Yeah, it was Will's gun that went off, you know,
15 and it went off but ---

16 Q. Do you know if that one hit the victim too?

17 A. I couldn't tell you if it hit him.

18 Q. At this point, where are you?

19 A. At that point, I'm running.

20 Q. You running?

21 A. Yeah. We running ---

22 Q. Where are you running to?

23 A. Back through the woods where we came at.

24 Q. Did you see which direction the victim went in?

25 A. Nah.

1 Q. And did you ever see the second guy that came to
2 the door? Did you ever get to see him?

3 A. Never.

4 Q. Once you ran back through the woods, where did
5 you ever end up?

6 A. Back at the car.

7 Q. Once you got in the car what happened?

8 A. Got to the car me and Mae-Mae and Will were like
9 the last ones to get there. Diablo was there.

10 Q. Diablo was already there?

11 A. He was already there, like, he was actually
12 saying some stuff, um, he was very, you know, he had -- he
13 was just telling me some thing's, that had happened?

14 Q. He was telling you things that happened?

15 A. Before we even made it to the car or before any
16 of us made it to the car.

17 Q. About what happened with the other guy at the
18 front yard?

19 A. Yeah.

20 Q. And did y'all get into the car?

21 A. Yes. We all got back into the car. We put out
22 things -- we took all our things off and ---

23 Q. Because everybody had on a mask and gloves and
24 everything?

25 A. Mmm, hmm.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

325

1 Q. And then at some point, though, did the safe end
2 up in the car?

3 A. Yes.

4 Q. How did the safe end up in the car; do you know?

5 A. Yeah. Mae-Mae was the last one -- well, I guess
6 Mae-Mae was running with the safe and I waited around ---

7 Q. For him?

8 A. Yeah. And ---

9 Q. So after the gun shot went off, when he was
10 struggling with the victim, did he have to go back inside
11 and get the safe?

12 A. Yeah.

13 Q. And he did that?

14 A. Yes.

15 Q. And you waited for him?

16 A. Yes, I did.

17 Q. And then y'all ran through the woods together?

18 A. Yeah.

19 Q. Once you got in the car, what did Mae-Mae do with
20 the safe?

21 A. Um ---

22 Q. Did he put in the car or did he leave it?

23 A. Put it in the trunk, I believe. Put it in ---

24 Q. The trunk or somewhere?

25 A. Yeah.

1 Q. And then did all get back in the car?

2 A. Yes.

3 Q. And where did you go?

4 A. Back to Trim's apartment.

5 Q. Once you got back to the apartment, did y'all
6 stay there or did you go somewhere else?

7 A. We actually left there.

8 Q. Okay.

9 A. And went to the country.

10 Q. And you went to the country for what purpose?

11 A. To a fellows house for him to break the safe open
12 and he did.

13 Q. And when the safe got broken open, what was in
14 it?

15 A. Papers. A notebook or something like that.

16 Q. Was there any money?

17 A. No.

18 Q. Was there any drugs?

19 A. No.

20 Q. So once y'all got the safe open, the guy got it
21 opened for you, excuse me, what happened, where did y'all
22 go?

23 A. Went our separate ways, you know.

24 Q. Went your separate ways?

25 A. Yeah.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

327

1 Q. And in back of 2008 you didn't go to the police
2 and tell them what happened; did you?

3 A. No.

4 Q. But then in August of 2011, did the police make
5 contact with you?

6 A. In regard to what, the situation is?

7 Q. This situation what were here today about.

8 A. Yes, they did.

9 Q. And do you remember initially meeting with them
10 and at that point I think you told them you didn't want to
11 talk to them right then?

12 A. Yeah. Yeah. It was Justin Dill and that other
13 fellow ---

14 Q. Another guy?

15 A. --- just saw him in here.

16 Q. In the back?

17 A. Oh, yeah, that guy right there.

18 Q. The Sled agent?

19 A. Yeah. That guy right there.

20 Q. And they tried to talk to you on August 4th;
21 right, but your lawyer wasn't present at that point; right?

22 A. No, he wasn't.

23 Q. So then on August 18th, did they talk to you
24 again with your lawyer there?

25 A. I believe so, yeah.

1 Q. And do you remember of them advising of your
2 rights?

3 A. Yeah.

4 Q. And, in fact, I'll show you this form, is this
5 your signature?

6 A. Yes.

7 Q. And after they advised you of your rights when
8 your lawyer there, did you give them information about this
9 case?

10 A. Yes.

11 Q. And they actually took, I believe, a two page
12 statement from you about what you knew about this case?

13 A. Probably did.

14 Q. Well, you told them what you knew; is that
15 correct?

16 A. Yes. Yes, I did.

17 Q. And did you tell them the truth?

18 A. Yes.

19 Q. During the robbery, let me go back up to, when
20 y'all went in, in addition to taking the safe, was there
21 anything else they took, that y'all took?

22 A. Yeah. It was -- some guns there.

23 Q. A gun?

24 A. Yeah. It was a few guns there but, um, ---

25 Q. Do you remember who took the gun?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

329

1 A. Yes. I believe just one gun got tooke.

2 Q. It just got taken?

3 A. Yeah.

4 Q. Do you remember what happened to the gun after it
5 was taken?

6 A. Yeah, it was sold.

7 Q. Who sold it?

8 A. Roach, sold it.

9 Q. Do you remember who he sold it to?

10 A. Yeah, C.

11 Q. C or Shawn?

12 A. Yeah.

13 Q. And who is Shawn?

14 A. Like a -- he's real close with everybody.

15 Q. He was also close with everybody?

16 A. Yeah.

17 Q. Do you remember anything about the bullets that
18 went with that gun?

19 A. I believe, it was like some red tips, long, red
20 sharp tip, bullets

21 Q. When y'all were running through the woods away
22 from the house, do you remember if anybody dropped anything
23 in the woods?

24 A. Yeah.

25 Q. Who dropped something?

1 A. I believe Diablo say he dropped that gun.

2 Q. His gun?

3 A. Yeah, his gun.

4 Q. Prior to going out there that day on November
5 14th, had you ever been out to where the victim lived
6 before?

7 A. Yes.

8 Q. And when had you been out there before y'all
9 actually did the robbery and kill him.

10 A. I couldn't tell you the day. It was the night
11 time. We was just all there.

12 Q. You were all there? And why were you all were
13 there before this happened? Was this weeks before this
14 happened or months before it; do you remember?

15 A. I ---

16 Q. It wasn't the day before; was it?

17 A. No.

18 Q. Why were y'all there before when y'all went back
19 to the robbery?

20 A. Because, you know, my cousin actually said we
21 should go and, you know, get his money now, tonight and so
22 we all did, just went out there and actually just went out
23 there and just do nothing?

24 Q. Check it out?

25 A. Yeah, was just out there.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

331

1 Q. And then it was sometime later you actually did
2 the robbery?

3 A. Yeah.

4 Q. Before y'all went in y'all went in the abandoned
5 trailer like you testified?

6 A. Yeah.

7 Q. And why were y'all in the abandoned trailer
8 watching his trailer?

9 A. Yes.

10 Q. Do you know why y'all were watching that trailer
11 that day on the 14th from the abandoned trailer y'all were
12 in?

13 A. Do I know why we were watching?

14 Q. Mmm, hmm.

15 A. Yeah. So, you know, when going in at the wrong
16 time.

17 Q. You didn't want to go in at the wrong time. And
18 got some pending charges in our office? In the solicitor's
19 office, you've got pending charges?

20 A. Pending charges?

21 Q. Is your lawyer here today?

22

23 A. Yes, she is.

24 Q. You were charged with, I believe, with accessory
25 before the fact to a felony?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

332

1 A. Okay.

2 Q. You were charged with kidnaping?

3 A. Okay.

4 Q. And you were charged with conspiracy?

5 A. Yeah.

6 Q. Burglary in the first degree?

7 A. Yes.

8 Q. Armed robbery?

9 A. Yes.

10 Q. And murder?

11 A. Yes.

12 Q. And those are still active cases; right?

13 A. Yes. I think so.

14 Q. And burglary in the first degree that carries
15 what; do you know?

16 A. I don't know.

17 Q. Does it carry fifteen to life?

18 A. I think so.

19 Q. And armed robbery, do you know what it carries?

20 A. No.

21 Q. It carries up to thirty?

22 A. Okay.

23 Q. Just like kidnaping?

24 A. Okay.

25 Q. And murder carries, thirty to life?

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

333

1 A. Okay.

2 Q. Have you been promised anything in exchange for
3 your testimony here today?

4 A. No.

5 Q. Has anybody told you that they're going to be
6 lenient on you if you testify here today on this case?

7 A. No.

8 Q. Has anybody from my office promised you anything?

9 A. Nothing.

10 Q. Why are you testifying?

11 A. Basically, there's no way around the situation
12 and it's the right thing and, like, what's done in the
13 darkness, you know, it's going to come to the light
14 eventually and, um, ---

15 Q. Is it the truth?

16 A. Yes.

17 Q. And this happened in the daytime; didn't it?

18 A. Yes, daytime.

19 Q. Mae-Mae, the person that you saw struggling with
20 the victim when his gun went off, do you see him here in
21 the courtroom?

22 A. Yes.

23 Q. Can you identify for the jury? Can you point him
24 out?

25 A. Yes.

RANDY LEWIS- DIRECT EXAMINATION BY MS. CAMPBELL:

334

1 Q. Can you point to him?

2 A. Yes.

3 Q. And what's he wearing?

4 A. A white shirt.

5 Q. Is he seated at the table on the far side?

6 A. Yes.

7 MS. CAMPBELL: Your Honor, may the record reflect
8 that he identified the Defendant.

9 THE COURT: So noted for the record.

10 MS. CAMPBELL: Thank you, sir.

11 THE COURT: You done?

12 MS. CAMPBELL: Yes, sir.

13 THE COURT: Sir, do you need any water or
14 anything?

15 MR. LEWIS: Yeah. I actually have a bottle of
16 water right here.

17 THE COURT: Can someone get him some water
18 please. All right. Cross examination?

19 MR. STRICKER: Your Honor, I beg the Court's
20 indulgence one moment.

21 THE COURT: All right, sir.

22 MR. KIRINCICH: No cross, Your Honor.

23 THE COURT: No questions. Sir, you may step
24 down. Thank you.

25 MS. CAMPBELL: Your Honor, may he be excused from

ROGER WILLIAMS- DIRECT EXAMINATION BY MR. COBLE:

335

1 his ---

2 THE COURT: Any objection from him being excused?

3 MR. KIRINCICH: No, sir.

4 THE COURT: All right, without objection, sir,
5 you are excused. You have no further responsibility under
6 your subpoena. You're free to leave. Thank you.

7 (Whereupon, the witness is excused)

8 MR. COBLE: The State calls Roger Williams.

9 (Whereupon, the witness is sworn)

10 MR. WILLIAMS: Roger Wayne Williams.

11 ROGER WILLIAMS, being first
12 duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY MR. COBLE:**

14 Q. Mr. Williams, where are you from?

15 A. Kershaw.

16 Q. How long have you lived in Kershaw?

17 A. Forty-four years.

18 Q. Do you know Robert Mackey?

19 A. Yes, sir.

20 Q. How did you know him?

21 A. I've been knowing him since high school. Since
22 school. His son and my son were good friends. We use to
23
24 ride four wheelers and stuff together.

25 Q. Y'all live near each other?

ROGER WILLIAMS- DIRECT EXAMINATION BY MR. COBLE:

336

1 A. Yeah. I was about a mile and a half from him.

2 Q. Do you recall this incident date; November 14,
3 2008?

4 A. Yes, sir.

5 Q. What were you doing that day?

6 A. That day I think I had a yard to cut. I had
7 called him earlier to get in contact with him. Me and my
8 son was riding after he got home school, just cutting the
9 block, you know, riding around the neighborhood on dirt
10 roads. I went by Nick's and I didn't stop but like said we
11 was just riding and turned and went down the dirt road
12 there behind him. I rode them all my life, you know, I use
13 to ride dirt bikes and everything on them and as I turn the
14 curve there was a car sitting on the side, it was like a
15 late '80's or early '90's white or silver ---

16 Q. And I'm going to stop you right there. Where is
17 this dirt road located in reference to Mr. Mackey's mobile
18 home?

19 A. It goes directly through the woods to it but it's
20 located behind his off of in between it's
21 about three dirt roads that come but it comes out above my
22 house.

23 Q. Do you often travel down this dirt road?

24 A. Yes, sir. Me and my son. Like I said, when we
25 ride four wheelers and stuff all the time.

ROGER WILLIAMS- DIRECT EXAMINATION BY MR. COBLE:

337

1 Q. And you said you noticed the vehicle, what made
2 you -- noted this vehicle stand out to you?

3 A. Because usually, you don't see nothing sitting on
4 this dirt road but maybe a hunter and he's passed away now,
5 Mr. Cato, he usually hunts down there but it was just
6 sitting on the side. I really didn't think nothing about
7 it that day. Like I say, I just noticed it was like a
8 silver or white four door Mercury and I didn't get a tag or
9 nothing but it was just sitting there parked on the side,
10 no one was around it. And like said, me and him was just
11 riding and we just kept on going around and went towards
12 the house.

13 Q. Was anything open on the car ---

14 A. No, sir.

15 Q. --- or anything sticking out?

16 A. It wasn't nothing obvious, it was just parked
17 like it was broke down or something.

18 Q. Why did you think it was broken down?

19 A. I said it was just parked up on the side like
20 somebody might had trouble or something.

21 Q. Okay. And after you saw this vehicle what did
22 you do next? Where you go?

23 A. We continued on through the dirt road, me and my
24 son, riding and talking and went on back to the towards the
25 house, like I said, I was only a mile or so from this

1 house. And we sat there listened, I had a scanner at my
2 mom's and all of a sudden I hear somebody had been shot on
3 and I took off over there.

4 Q. Now you said -- let me stop you right there, you
5 said you have a police scanner?

6 A. Yes, sir.

7 Q. And about from the time you saw that vehicle on
8 the dirt road until you would have heard that report on the
9 scanner about how much time was that?

10 A. It was about thirty minutes or so. Like I said,
11 I went back in at my moms and it went off and I hear the
12 address and all and the next neighbor across the road, the
13 one across the road is like a brother, he lives over here
14 too and his mom lives right beside me.

15 Q. And do you recall and I know it's been years ago
16 but about what time of day ---

17 A. It was the afternoon. It was after they got out
18 of school around four a little after four or so.

19 Q. And after you heard this come over scanner,
20 you're close to this area; correct?

21 A. Right. Right.

22 Q. So what did you do?

23 A. I jumped in my vehicle and went over and pulled
24 up at the neighbors across the road, I seen a couple of
25 them outside and I just -- really didn't know what to do.

ROGER WILLIAMS- DIRECT EXAMINATION BY MR. COBLE:

339

1 I got Nick, Domanic, his son, and we left and I carried
2 back home and just stayed by and kept in contact to here
3 what it was. Like I said, I seen the white guy that was
4 shot, he was sitting on the back porch holding his head,
5 bleeding, tussling and everything. I was just his
6 hysterical. Like I said, I just come and got his son and
7 got him out of there, you know,

8 Q. So by the time you pulled up on your four wheeler
9 to the , did you see Robert Mackey?

10 A. I never seen Robert.

11 Q. But you saw Robert Sullivan?

12 A. Yeah. Yeah.

13 Q. And who is he -- the one with the gun shot, who
14 was he there with?

15 A. All I remember seeing Domanic outside walking
16 around crying hysterically. Like I said, he was sitting on
17 the porch that's the only two I remember coming in contact.
18 It seem like -- it seem like the homeowner she might have
19 been going hysterically some but I can't remember that part
20 but the two I remember is Domanic all upset and Sullivan
21 boy sitting on the steps holding his head. He had blood
22 over him and I told him the ambulance and stuff was on the
23 way.

24 Q. And how do you know Domanic?

25 A. Domanic, his son -- him and my son have always

ROGER WILLIAMS- DIRECT EXAMINATION BY MR. COBLE: 340

1 been good friends. We use to ride four wheelers and stuff
2 together.

3 Q. Now you said you saw Domanic Mackey there, did
4 you see him with anybody else?

5 A. No. He was -- they was just outside, he was, you
6 know, he was just all upset.

7 Q. Did you have a chance to speak with Robert
8 Mackey?

9 A. No, sir. I never did -- I never did see Robert.

10 Q. After you saw Domanic upset what did you do with
11 him?

12 A. I carried him back to my house, me and my son,
13 you know, just hung out that day and messed around trying
14 to comfort him.

15 Q. And after you take Domanic back to your place,
16 what was his emotional state?

17 A. He was just all broken, man, I mean, Domanic
18 always holds a lot of stuff, I mean, he didn't really show
19 much, you know, he was just heart broken over his dad,
20 being in the trauma, the whole thing.

21 Q. And about how much longer -- how long did Domanic
22 stay at your house that night?

23 A. I think he ended up spending the night. I'm not
24 exactly sure of all that.

25 MR. COBLE: Thank you. Nothing further.

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE: 342

1 MS. McDUFFIE: No, Your Honor.

2 THE COURT: Defense counsel?

3 MR. STRICKER: No, sir.

4 THE COURT: All right. If you'll bring me the
5 jury please, sir.

6 (Whereupon, the jury enters the courtroom 10:38 a.m.)

7 THE COURT: All right. Madam Forelady, ladies
8 and gentlemen of the jury hope you all are ready to proceed
9 at this time. I'm going to recognize the State. If you'll
10 call you next witness please.

11 MS. McDUFFIE: If it pleases the Court, the State
12 call Will Smith.

13 (Whereupon, the witness was sworn)

14 MR. SMITH: My name is William Smith.

15 WILLIAM SMITH, being first
16 duly sworn, testified as follows:

17 **DIRECT EXAMINATION BY MS. McDUFFIE:**

18 Q. Mr. Smith, you're currently in the Department of
19 Corrections?

20 A. Yes, ma'am.

21 Q. You pled guilty to a Sumter County, accessory
22 after the fact of a murder case and got twelve years?

23 A. Yes, ma'am.

24 Q. And how long have you been in the Department of
25 Corrections?

1 A. Five years.

2 Q. Since when?

3 A. Since 2009.

4 Q. And you were represented in this case by Tim
5 Lupton?

6 A. Yes, ma'am.

7 Q. And he's in the courtroom today?

8 A. Yes, ma'am.

9 Q. And you were charged with murder, armed robbery,
10 burglary first and possession of a weapon during a violent
11 crime?

12 A. Yes, ma'am.

13 Q. Can you tell the ladies and gentlemen of the jury
14 -- do you know Frank Singleton?

15 A. Yes, I do.

16 Q. And how do you know him?

17 A. I mean, we use to, you know, hang out, chill,
18 smoke.

19 Q. And how long have you known him?

20 A. Give or take may be -- may be a year.

21 Q. Prior to this incident that we're here for today?

22 A. Mmm, hmm.

23 THE COURT: Is that a yes? Yes or no, please,
24 sir.

25 A. All right.

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. Is that a yes?

2 A. Yes.

3 Q. And does Frank go by a nickname?

4 A. Mae-Mae.

5 Q. And do you have a nickname?

6 A. Little Will.

7 Q. Little Will?

8 A. Yes, ma'am.

9 Q. People some time call you Ill Will?

10 A. Yes, ma'am.

11 Q. And do you know anybody by the name Jerome Lewis?

12 A. Yes, I do.

13 Q. And how do you know him?

14 A. The same way.

15 Q. And does he have a nickname?

16 A. Yes.

17 Q. And what's that?

18 A. Sticky.

19 Q. What about Randy Lewis?

20 A. I call him 'D'.

21 Q. How long have you known him?

22 A. Probably about the same length.

23 Q. And what about Richard Roach?

24 A. Same length.

25 Q. Do you know him to the same -- for the same

1 reason?

2 A. Yeah.

3 Q. And Darrien Jackson?

4 A. Same reason.

5 Q. And what did you call him or did he have a
6 nickname?

7 A. Diablo.

8 Q. In November of 2008, were you hanging around with
9 Frank and Darrien Jackson, Richard Roach, Jerome and Randy
10 Lewis?

11 A. Yes, I was.

12 Q. Specifically, in November of 2008, y'all were
13 together during that month?

14 A. Yes.

15 Q. Did you know Robert or Nick Mackey?

16 A. No.

17 Q. Never heard of him?

18 A. No.

19 Q. Never met him?

20 A. No.

21 Q. Had you ever been to ?

22 A. Where is that?

23 Q. Where Nick Mackey lived?

24 A. No.

25 Q. On November 14, 2008, would you tell the ladies

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE: 346

1 and gentlemen of the jury, what you were doing that day?

2 A. On November 14, 2008, when Reshaad Halley had
3 came to house; he woke me up out of my sleep; I got up and
4 he ask me what I was doing. I told him I said what does it
5 look like I'm doing, I was asleep. So he ask me he said, I
6 am about to ride to Camden. I told him to give me a minute
7 to get myself together and I'm gonna ride with you. On the
8 way to Kershaw, he said, um, he was going to stop by

9 so I said that's cool with me. I'm riding
10 with you. So upon , you know it was Randy
11 Lewis, Jerome Lewis, Frank Singleton, Darrien Jackson and
12 Trim. While -- when we get into the house, Jerome Lewis,
13 makes a statement like, you know, y'all just the people we
14 need, you know, we need to dollar y'all, he said we need a
15 ride. ---

16 Q. Tell the ladies and gentlemen of the jury, what
17 that means?

18 A. Like what you mean?

19 Q. What does it mean you need a ride?

20 A. He say, he just needed a ride -- like -- see,
21 what -- the thing I use to do a hustle for me was, I would
22 take a taxi, you know, people paid me to drive, you know,
23 to drive them places, people that didn't have vehicles. So
24 they paid me and I would take them where ever they needed
25 to go. So when Jerome stated they needed a ride, I was

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 like, um, well, I don't have a vehicle so Rasheed stated
2 like, um, I'm chilling -- he said I came over here to
3 chill. He said, um, but if Will want to drive, if you know
4 what I'm saying, you know, Will could drive because he's
5 the only person that know how to operate my car because I
6 had to hit the started wire the battery of the car to crank
7 the care

8 Q. And what kind of car -- what kind car was that?

9 A. Grand Marquis.

10 Q. Was it an older model or newer?

11 A. Like a -- I'm not sure -- it might have been the
12 late '90's or probably early 2000.

13 Q. And tell the ladies and gentlemen of the jury
14 again, how you had to start that car?

15 A. I had to hit the starter wire on the battery of
16 the car to crank the car up.

17 Q. And so you volunteered to drive that day?

18 A. I mean, yeah.

19 Q. So, did y'all all leave
20 together, or who went with you?

21 A. Upon, you know, after Rasheed said he was
22 chilling and he pretty much told them, you know, that, um,
23 if Will wanted to drive, you know, Will could drive, you
24 know, because, I'm -- I'm chill'in or whatnot so he went
25 upstairs. I ask Jerome Lewis, I ask Jerome, I was like

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 what's up? I said, um, what's going on? He was like
2 nothing, he was like, they need a ride. So, I was like
3 aight so I went upstairs, I used the bathroom and when I
4 came back down stairs, everybody was in the car already.

5 Q. And who was everybody?

6 A. Frank Singleton, Richard Roach, Randy Lewis and
7 Darrien Jackson.

8 Q. Was Jerome in the car?

9 A. No.

10 Q. Do you know why?

11 A. He just said he was staying.

12 Q. Said he wasn't going?

13 A. No.

14 Q. And so you got in the car and you were seated
15 where in the car?

16 A. The driver.

17 Q. And tell the ladies and gentlemen of the jury,
18 what happened after y'all got in the car?

19 A. After we got in the car, I started the car up.
20 We left. They gave me direction to where I was headed.
21 They told me to go Dusty Bend. So on my way through Dusty
22 Bend we stopped up at a gas station, you know, we got gas.
23 They bought like, you know, little necessities like cigars
24 and cigarettes and then they gave me, you know keep gave me
25 directions to where I was going. They told me to make a

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 left by a church. I turned by a church, you know, kept on
2 going. They said turn on a dirt road. So, um, I turned on
3 the dirt road. They ask me if I could turn the car around.
4 The reason why they ask me that was because, not only was
5 his started messed up, but the transmission was messed up
6 too and sometime the reverse, it be hard to catch. So I
7 manage to turn the car around, you know, I cut the car off.
8 I popped the hood. I felt my phone vibratin' and I went in
9 my pocket and I pulled my phone out and seen a text message
10 from my girl. They got out the car and walked through the
11 woods. Pretty much like a couple had lapsed, I dozed off.
12 The next thing I know I'm getting a knock on the trunk of
13 the car and when I look up they telling me pretty much to
14 pop the trunk. So I popped the trunk. I hear like a
15 thump. Pretty much it was like something -- like something
16 being placed in the trunk of the car. So, you know, they -
17 - they gets in the car and we leave. When we leaving Dusty
18 Bend we passed a couple of police officers with the blue
19 lights on. I'm not really -- I'm not really, you know,
20 thinking it's anything serious. I'm just, like, maybe it's
21 like a domestic violence crime or something like that going
22 on, you know, anything in that nature. So when we get back
23 to , um, Jerome was there, and this dude name,
24 um, we call him -- I call him Shawn.

25 Q. Let me stop you right there. Do you

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE: 350

1 remember in August 2, 2011, at Trenton Prison, giving a
2 statement to Lee Blackmon and Justin Dill of the Kershaw
3 County Sheriff's Office?

4 A. Yeah.

5 MS. McDUFFIE: Your Honor, may I approach?

6 THE COURT: Yes.

7 Q. Do you recognize this?

8 A. Yes. That's the statement that the investigator
9 wrote.

10 Q. And did you sign the statement at the bottom of
11 the page?

12 A. Yeah.

13 Q. And this is the statement you gave them on August
14 2, 2011?

15 A. Yeah. That's their, um, that's their words and
16 thoughts put on paper.

17 Q. On August 2, 2011, did you tell the investigators
18 that you had a shot gun, it was a pump all black, it was a
19 Mossberg and it has belonged to Mae-Mae?

20 A. Can I make a statement to that?

21 Q. Well, did you make that statement?

22 A. I mean, they referred that. That's their
23 handwriting. I didn't make that statement.

24 Q. Did you tell law enforcement that on August 2,
25 2011?

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 A. No.

2 Q. You did not?

3 A. No.

4 Q. Did you tell law enforcement on August 2, 2011
5 that Diablo had a .22 revolver, I think, it may have been a
6 nine shot chrome with a white pearl handle?

7 A. No.

8 Q. Did you tell law enforcement that Mae-Mae had a
9 Grizzly .45, the barrel stuck out at the end of the gun
10 just a little bit?

11 A. No.

12 Q. Did you tell law enforcement that Randy Roach
13 didn't have a gun?

14 A. No.

15 Q. That we went through the woods and we came up to
16 an abandoned trailer that was right beside the dude's
17 house?

18 A. No.

19 Q. That you could see under the trailer. That Mae-
20 Mae said the window was up and we went inside the empty
21 mobile home. We stayed there for a while watching the cars
22 come and go?

23 A. No.

24 Q. Did you tell law enforcement that there was a lot
25 of traffic so we knew the information was good?

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 A. No.

2 Q. That it was kinda of getting late and we saw a
3 car leave. We went out the back door of the empty trailer
4 and we ran up to the dude's house?

5 A. No.

6 Q. That Mae-Mae kicked the door in. I was in the
7 door right behind Mae-Mae and we went in?

8 A. No.

9 Q. Diablo was right behind me and Randy Roach was
10 behind him. The dude was sitting at the bar at his house
11 on a stool and his two kids were sitting there with him?

12 A. No.

13 Q. That it was a boy and a girl?

14 A. No.

15 Q. When we came into the house I slipped because it
16 was wet. Mae-Mae tackled the dude out of the stool and
17 started hitting him in the head?

18 A. No.

19 Q. Diablo grabbed the little girl and picked her up
20 and put the gun the to her head?

21 A. No.

22 Q. Finally, the dude said it was in the closet on
23 the top shelf. Mae-Mae was hitting him in the head?

24 A. No.

25 Q. Me Roach and Randy found the safe in the bottom

1 of the closet?

2 A. No.

3 Q. There were two rifles in the bedroom?

4 A. No.

5 Q. Mae-Mae brought the dude in the bedroom and ask
6 him what was in the safe?

7 A. No.

8 Q. The dude said there was nothing in the safe. He
9 said that he didn't have a key to it?

10 A. No.

11 Q. They were in the bedroom and we heard a knock on
12 the door. I opened the door with one hand, I had a shot
13 gun in the other. There was a white dude at the door. He
14 stood there and kept saying I ain't seen nothing?

15 A. No.

16 Q. That he stood -- that Mae-Mae came outside and
17 told the dude to get in the house. The white dude started
18 backing up and Mae-Mae hit him in the head with the .45?

19 A. No.

20 Q. That Diablo was outside too. Roach and Randy
21 were inside with the guy they was robbing but they didn't
22 have a gun?

23 A. No.

24 Q. That the dude they were robbing ran out the door
25 and started tussling with Diablo?

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 A. No.

2 Q. I heard the .22 go off. Then the dude started
3 tussling with Mae-Mae and he shot the dude with the .45?

4 A. No.

5 Q. And when that happened the dude started running?

6 A. No.

7 Q. I yelled and I said don't run but he kept running
8 so I fired a shot to scare him with the shot gun?

9 A. No.

10 Q. Mae-Mae said let's get the safe. We went in the
11 house and got the safe and started back towards the car.
12 Mae-Mae was trying to carry the safe, holding the .45?

13 A. No.

14 Q. I remembered the white dude, tearing out of there
15 with his truck. As we were going to the truck, I told
16 Mae-Mae to let me hold the .45?

17 A. No.

18 Q. I was trying to unload it and it went off?

19 A. No.

20 Q. It was aimed at the ground?

21 A. No.

22 Q. When we threw everything in the trunk except --
23 we went and threw everything in the trunk except for the

24

25 .45 and we left out. We went back towards Dusty Bend?

1 A. No.

2 Q. So you didn't go back towards Dusty Bend, you
3 didn't tell law enforcement that?

4 A. On August 2, 2011, the investigators came and
5 talked to me. The sergeant pulled me out my cell and said,
6 you know, Kershaw County wants to talk to you. So we go
7 inside a little room, um, they pretty much said, you know,
8 we want to talk to you about an armed robbery and murder.
9 So I'm looking at them, like, an armed robbery and a
10 murder. So he ask me did I know Nick Mackey. I ask him,
11 um, no. He said, as a matter of fact, I don't even think
12 you know this guy died. He died in North Carolina. So,
13 now I'm really looking at him like I'm not understanding
14 this. So then he names, um, you know, Frank Singleton and
15 Richard Roach, Randy Lewis and Jerome Lewis. So then he
16 starts running this whole case down to me from beginning to
17 the end about, yeah, you know, we know you was the driver,
18 you know, we know you had a shot gun, and, um, and all
19 these other little details, they write that statement. I'm
20 -- I'm on lock-up inside a little cell, sleeping on a
21 concrete slab. I'm mentally, emotionally and physically,
22 you know, disturbed. I was nowhere in my right mind and
23 here is it they talking about a murder charge and all these
24 other charges, um, so he pretty much slide me the statement
25 and I signs it. He slipped me my waiver of rights. I sign

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE: 356

1 the paper too and then he just left it at that. About --
2 about a month maybe two months later, um, I'm getting a
3 call from, um, classification, um, not only -- well the
4 same day I got a parol paper so I'm thinking this is for my
5 parol hearing, you know, classifications wants to talk to
6 me about my parol or something. So when I goes in there
7 she's pretty much telling me that you got detainers for a
8 murder, a armed robbery, first degree burglary and a
9 possessing of a weapon. So I'm looking at this lady like
10 I'm not understanding what you're saying is. So she
11 saying, um, seeing that you have a murder charge, you know,
12 it automatically, you have to get shipped from this level -
13 - you got to get your custody bust from a level two to a
14 level three, you go SMU, you being transferred so, you
15 know, they ships me. I'm -- I'm not understanding how I
16 get a murder charge when I ain't killed nobody. How I get
17 an armed robbery charge when, um, I ain't rob nobody. How
18 I get a first degree burglary charge when I was never
19 there. How I get a possession of a weapon charge with a
20 gun which I don't even have.

21 Q. So you're telling the ladies and gentlemen of
22 this jury, that on August 2, 2011 at Trenton Correctional
23 Facility you did speak with investigators but these are not
24 your words in this statement? You did not make these
25 statements?

1 A. No.

2 Q. And last week, I believe, last Friday when you
3 were brought over to the Richland County Detention Center,
4 did you meet with your attorney and Justin Dill in
5 preparation for trial?

6 A. Ah -- yeah.

7 Q. And did you tell them that what was in the
8 statement was true and that's what happened on ---

9 A. I had -- I had that same statement in front of me
10 so, um, pretty much I read the statement over and memorized
11 it that's what they recorded me saying. The investigators
12 words that were on that paper.

13 Q. Did you tell them last week that this is the
14 statement that you made?

15 A. I don't recall -- I don't recall saying that.

16 Q. What did you tell them?

17 A. Um, they ask me what would I say in trial.

18 Q. And what did you tell them?

19 A. Pretty much read that paper right there.

20 Q. So you just read that to them?

21 A. Yeah.

22 Q. And you're telling the ladies and gentlemen of
23 the jury today, that you didn't say any of this? These are
24 not your words?

25 A. Those are not my words.

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 Q. And what you just told the ladies and gentlemen
2 of the jury, is what happened that day?

3 A. Yes, ma'am.

4 Q. That you drove them there?

5 A. Yes, ma'am.

6 Q. And then you parked the car and you fell asleep?

7 A. Yes, ma'am.

8 Q. And after you parked the car and fell asleep, now
9 what is your vision of eventy?

10 A. Um, like I said, you know, they tapped on the
11 trunk of the car. They told me to pop the trunk. I popped
12 the trunk. I hear a thump like something is being placed
13 inside the trunk. While they gets inside the car, I ask no
14 questions. They give me directions, you know, back to
15 where I was going. So when we get back to , a
16 dude name Shawn was there. Jerome is present and I think
17 Trim was there. So I hear Diablo talking to Jerome,
18 something -- saying something about a safe. So Shawn
19 overheard that and he said, um, you know, I'm not trying to
20 be in y'all's business or anything but if, you know, y'all
21 need assistance on trying to get a safe open, he was like I
22 know somebody that probably could assist y'all. So, um,
23 Jerome, was like aight that's cool, you know, what I'm
24 saying, we need your assistance. So, he, I think he calls
25 a dude by the name of -- I didn't know his name so I just

1 called him, you know, white dude but I see from my
2 paperwork his name was Shawn Eberts or something like that.
3 Anyway, he calls him and we goes out there and he's sitting
4 on his porch and he gets up, you know, he gives Shawn that
5 and he's pretty much like, um, what's going on. So Shawn
6 tell him, like, you know, I got somebody, um, that needs
7 some assistance they needed a safe opened. So he said
8 aight well go get the safe. So he goes inside the trunk of
9 the car to get the safe and he place the safe on the
10 ground. He looks at the safe and he ask, like, well I need
11 to know, you know, what's inside the safe, you know, is
12 there's anything in there that's worth value or important,
13 I need to know this so they made a statement like, um, we
14 not sure, you know, we don't even know it's paper. So he
15 got a grinder out and he started, you know, trying to
16 opening it with the grinder. It started creating a lot of
17 spark so he was like, you know, I'm going to use a
18 different tactic because I don't want to set whatever, you
19 know, what's inside the safe on fire. So he goes into this
20 little trailer and he pulls a slug hammer out, he bangs the
21 safe about two or three times and the safe comes open. He
22 pulls the safe door open, reached inside the, um, safe and
23 pulls out contents which like is a ledger book or some
24 papers or something like that.

25 Q. So what you're telling the ladies and gentlemen

WILLIAM SMITH- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 here today, is not what you told your lawyer and
2 investigators last week?

3 A. What I'm telling the ladies and gentlemen
4 today is I don't know who killed Nick Mackey. I wasn't
5 present.

6 Q. All you know is that you drove a car with Richard
7 Roach, Frank Singleton, Jerome Lewis, and I'm sorry, not
8 Jerome Lewis, Randy Lewis and Darrien Jackson ---

9 A. Yes, ma'am.

10 Q. --- into the woods, and you parked and you fell
11 asleep?

12 A. Yes, ma'am.

13 Q. And you opened the trunk and then safe was opened
14 sometime later by a white guy?

15 A. Yes, ma'am.

16 Q. And when you met with your lawyer, Daniel Coble
17 from our office, and investigator, Justin Dill last week,
18 you didn't tell them that this was fabricated that
19 investigators just put all this down on paper at that point
20 in time; did you?

21 A. No.

22 Q. You told them this was the truth and that's what
23 you're going to testify to?

24 A. No. I didn't tell them that was the truth I told
25 them -- they ask me was I going to testify to and, um, and

1 I gave them -- I read that statement to them. That's what
2 -- that's what they got.

3 Q. But today you're saying you did not make this
4 statement?

5 A. Yes.

6 MS. McDUFFIE: Thank you, Your Honor. No further
7 questions.

8 THE COURT: Cross examination?

9 MR. STRICKER: Thank you, Your Honor, very
10 briefly.

11 **CROSS EXAMINATION BY MR. STRICKLER:**

12 Q. Just a couple of questions if you would please.
13 You spoke with investigators, August 2, 2011 at Trenton
14 Correctional where you were housed at; right?

15 A. Yes, sir.

16 Q. You did?

17 A. Yes, sir.

18 Q. Okay. When you spoke with them, did they bring
19 in a video camera to record what you had to say?

20 A. No, sir.

21 Q. Did they bring in a tape recorder to record what
22 you had to say and their questions to you what they had to
23 say?

24 A. No, sir.

25 Q. Did they take an iPhone out of their pocket, sit

WILLIAM SMITH- CROSS EXAMINATION BY MR. STRICKLER

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1 down and record with the iPhone?

2 A. No, sir.

3 Q. And I believe you met with the investigator and
4 the prosecutor, what, last week?

5 A. Yeah, about twelve or thirteen days ago.

6 Q. Okay. And the same question, that was where?
7 Where did you meet with them?

8 A. Richland County.

9 Q. Richland Count, Alvin S. Gleen Detention Center?

10 A. Yes, sir.

11 Q. And when you met with them then, did they record,
12 video record their conference with you at that point in
13 time?

14 A. Yes, sir.

15 Q. They did with video?

16 A. They, um, recorded it..

17 Q. They recorded it?

18 A. Mmm, hmm. Voice recorder.

19 Q. Okay. Voice recorder?

20 A. Mmm, hmm.

21 Q. Okay.

22 MR. STRICKER: Thank you, sir.

23 THE COURT: Any redirect?

24 MS. McDUFFIE: No, Your Honor.

25 THE COURT: Sir, you may step down. Call you

PAUL MEDLEY- DIRECT EXAMINATION BY MR. COBLE:

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1 next witness please.

2 MR. COBLE: The State calls Paul Medley.

3 (Whereupon, the witness was sworn)

4 MR. MEDLEY: Paul Thomas Medley.

5 PAUL MEDLEY, being first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. COBLE:

8 Q. Mr. Medley, where are you from?

9 A. From Lancaster.

10 Q. How long have you lived in Lancaster?

11 A. About nine years.

12 Q. Did you know Robert Mackey?

13 A. Yes, I did.

14 Q. How did you know him?

15 A. I met him a couple of years after I moved to
16 Lancaster through a guy name Jason Robertson.

17 Q. And what were y'all friends or

18 A. Yes, sir.

19 Q. And did you know anybody else in this family?

20 A. I met his wife and his children.

21 Q. Did you ever have -- did you ever sell a gun to
22 Mr. Mackey?

23 A. I had a .17 caliber revolver that shot a
24 ballistic tip bullet and Nick had traded a -- a -- he had
25 traded some drugs for a pistol and the guy that traded to

PAUL MEDLEY- DIRECT EXAMINATION BY MR. COBLE:

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1 him told him that he was -- he was in my family. So Nick
2 sent me word that the wanted me to come look at this pistol
3 because he didn't know if it was stolen or not. So when I
4 went to look at the pistol I realized that it came from a
5 gun shop in Van Wyck. I recognized the tag on it because I
6 am friends with the guy that owns the gun shop in Van Wyck.
7 So I told Nick if he let me take this pistol back to the
8 gun shop I'd get him his money back for it. So he wanted
9 to hold something until I did this. So I let him hold my
10 little pistol.

11 Q. Could you describe the gun that he gave you to
12 get the money back?

13 A. It was an Army Colt .38 special revolver.

14 Q. And could you describe the gun that you let him
15 hold in it's place?

16 A. It was a .17 caliber revolver with a ballistic
17 tip bullet.

18 MR. COBLE: Your Honor, may I approach the
19 witness?

20 THE COURT: Yeaj.

21 Q. Mr. Medley, let me show you what's been marked as
22 State's Exhibit Number 93. Do you recognize this?

23 A. That is the gun.

24 Q. What about the bullets?

25 A. That is the bullets.

PAUL MEDLEY- DIRECT EXAMINATION BY MR. COBLE:

365

1 Q. Does this fairly and accurately represent the gun
2 that you just described that you let Robert Mackey hold?

3 A. Yes.

4 MR. COBLE: Your Honor, I'd now move State's
5 Exhibit Number 93 into evidence.

6 THE COURT: Any objection?

7 MR. STRICKER: Let me take a look, Your Honor.

8 MR. COBLE: Your Honor, the gun is secured,
9 locked.

10 (Whereupon, there is a pause while the lawyers take a
11 look at the evidence)

12 THE COURT: Ladies and gentlemen of the jury
13 while they talking over to the side, I will tell you prior
14 to you all coming out here that it was confirmed to me that
15 these guns are locked in a safe matter so they can not
16 utilized. I just wanted advise you on that right before
17 they come into evidence.

18 MR. STRICKER: Your Honor, it's without
19 objection.

20 THE COURT: Without objection. State's Exhibit
21 93 moved into evidence.

22 (GUN HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS
23 STATE'S EXHIBIT NUMBER 93)

24 Q. Was this your gun at one point?

25 A. Pardon me?

PAUL MEDLEY- DIRECT EXAMINATION BY MR. COBLE:

366

1 Q. Was this your gun?

2 A. Yes, it was.

3 Q. And after you and Mr. Mackey swapped, what did
4 you do with his weapon?

5 A. I took the gun back to the gun shop in van Wyck.
6 The owner said that was his gun. He gave \$325.00 for it
7 because I told him Nick was holding my pistol and that's
8 what it would take to get my gun back.

9 Q. And let me just pause you right there. Do you
10 know when this occurred, this ---

11 A. Probably six months or so before Nick was shot.

12 Q. So sometime in the summer of 2008?

13 A. Yes.

14 Q. So after you received this money from the pawn
15 shop, what did you do with that money?

16 A. I went back to Nick and he said that we had made
17 an even trade for the gun and he was going to keep the gun,
18 he wouldn't give me the gun back so.

19 Q. Is that this gun you're talking about?

20 A. That's that gun, yes.

21 Q. So to your knowledge, Mr. Mackey, still had this
22 gun in his possession?

23 A. Yes.

24 Q. Had you seen that gun since?

25 A. No.

1 Q. Today is the first day you've seen it?

2 A. I saw it in August of 2011 when I was approached
3 by a Sled agent and I gave him a statement.

4 Q. You gave them that statement in 2011, what did
5 you tell them -- what did you do with the gun after this
6 incident, November 14, 2008, what did you do in reference
7 to your gun?

8 A. I gave it to Nick Mackey.

9 Q. Did you talk to law enforcement at any point?

10 A. No.

11 Q. Did you ever report your gun being stolen?

12 A. After Nick got shot and when he passed away then
13 I reported the gun stolen.

14 Q. Why did you do that?

15 A. I feel it was still in my name and I was afraid
16 somebody would get shot with my gun with the gun still in
17 my name. So I reported the gun stolen.

18 Q. So when you reported the gun stolen, were you
19 being truthful?

20 A. Yes, sir. No. No. The gun wasn't stolen. I
21 was afraid of what would happen to me because Nick had the
22 gun and it was still in my name.

23 Q. But Mr. Mackey still had the gun?

24 A. Yes.

25 MR. COBLE: All right. Thank you. Nothing

PAUL MEDLEY- CROSS EXAMINATION BY MR. STRICKLER

368

1 further.

2 THE COURT: Cross examination?

3 MR. STRICKER: Thank you. May it please the
4 Court?

5 **CROSS EXAMINATION BY MR. STRICKLER:**

6 Q. Mr. Medley, when did you purchase that gun?

7 A. I don't remember the date of purchase. I bought
8 it in Lancaster, at a gun and pawn shop. I don't remember
9 the day.

10 Q. And what's the serial number on the ----

11 A. I have it on a paper at home. I don't have that
12 present.

13 Q. And whose the manufacturing company?

14 A. Northern Arms.

15 Q. Okay. And that's a .17 caliber hand gun?

16 A. Yes, sir, revolver.

17 Q. And how many of those .17 caliber revolver did
18 Northern Arms produce?

19 A. I have no idea.

20 Q. And subsequent to you leaving the gun or trading
21 the gun with Mr. Mackey, okay, and returning there the
22 \$325.00 and not getting the gun back, all right, You've
23 never seen the gun again until, when did you say, 2011?

24 A. Correct.

25 Q. So between the time you gave it to him and the

1 time a gun was shown to you in 2011, you got no idea, from
2 your knowledge, where the gun was?

3 A. No, sir.

4 Q. You know that in 2008 the gun got to Mr. Mackey;
5 right ---

6 A. Mmm, hmm.

7 Q. --- from your own knowledge? Not what anyone has
8 told you or anything like that?

9 A. Yes.

10 Q. From your own knowledge. You know he got it in
11 2008 from you?

12 A. Yes, sir.

13 Q. And you know in 2011, you were shown a .17
14 caliber revolver of the same make and model ---

15 A. Yes.

16 Q. --- is that correct?

17 A. Yes, sir.

18 Q. That's what you can testify to ---

19 A. Yes.

20 Q. --- of your own knowledge; correct?

21 A. Yes.

22 MR. STRICKER: Thank you very much. That's all.

23 THE COURT: Any redirect?

24 MR. COBLE: No, Your Honor.

25 THE COURT: Sir, you may step down. Thank you.

MARLO PATTERSON- DIRECT EXAMINATION BY MS. McDUFFIE: 370

1 Call your next witness.

2 MS. McDUFFIE: The State calls Marlo Patterson.

3 (Whereupon, the witness was sworn)

4 MR. PATTERSON: Full name, Marlo Patterson.

5 MARLO PATTERSON, being first
6 duly sworn, testified as follows:

7 **DIRECT EXAMINATION BY MS. McDUFFIE:**

8 Q. Mr. Patterson, where do you live or where are you
9 from?

10 A. Kershaw. Been here my whole life, forty-two
11 years.

12 COURT REPORTER: I'm sorry, forty, how many?

13 A. Forty-two.

14 Q. Do you know Robert Mackey?

15 A. Yes, ma'am, that's like my cousin and like my
16 brother.

17 Q. And you had a close relationship with him?

18 A. Yes. We was real close.

19 Q. Was Robert also called Nick?

20 A. Mmm, hmm. Yes, ma'am.

21 Q. And on November 14, 2008, did you see or did you
22 talk to Nick that day?

23 A. Yes, ma'am. It was probably, like, I was at my
24 mama's house around 9:30 that morning. I can't remember if
25 he called me or I called him. So I went down to his house,

MARLO PATTERSON- DIRECT EXAMINATION BY MS. McDUFFIE: 371

1 kinda maybe around like 10:00 or 10:30 maybe and we chit-
2 chatted, talked, talked, talked. And he was like I feel
3 good today. He was a dialysis patient. He had just done
4 his dialysis that morning. He said maybe let's go out
5 tonight and play pool. So we make plans to play pool me
6 and him and my old lady. So I stayed at his house until my
7 girlfriend called me. I had to met her on her lunch break.
8 So Nick was like make us some hot wings so whenever we come
9 from playing pool or whatever. I said, okay that's fine.
10 So I started to make the hot wings around like 4:15 that
11 afternoon. And around 4:30 somewhere in around there, my
12 house phone rung it was a private call. I normally
13 wouldn't answer private calls on my phone and some told my
14 heart, Marlo you better answer this call today. So when I
15 picked up the phone and said hello it was Nick. He said
16 man get over here I've been shot, man, hurry up, please
17 hurry up. So I had started done cooking that chicken so I
18 had to cut my fry daddy off or whatever. So I rushed in my
19 truck. I ran over there. He was at his neighbors house,
20 Patricia, across the road from him.

21 Q. And how far away were you approximately?

22 A. From my house to Nick house probably maybe three
23 miles.

24 Q. And how long did it take you to get over after he
25 called you and told he had been shot?

MARLO PATTERSON- DIRECT EXAMINATION BY MS. McDUFFIE: 372

1 A. Maybe it was six minutes, maybe, somewhere around
2 there.

3 Q. And when you got there please tell the ladies and
4 gentlemen of the jury, what you -- how Nick looked? What
5 you observed?

6 A. When I got there it was Nick and Mr. Sullivan
7 also who had been shot. They was -- there was just blood
8 everywhere.

9 Q. And where did you see Nick bleeding from?

10 A. From his head. All over and his stomach, his leg
11 and the back of head, you could really about see his skull
12 he had got beat so bad.

13 Q. And describe the condition Nick was in when you
14 first arrived?

15 A. When I first arrived he was walking around and
16 talking so I thought he was going to be aight. And by the
17 time the ambulance got there his condition worsen at the
18 time.

19 Q. Could he talk at that point?

20 A. Well, he talked before but I was never able to
21 talk to him once they got him in the ambulance.

22 Q. And why was that?

23 A. They wouldn't let nobody talk to him, basically.

24 Q. And did you go see him when he was in the
25 hospital after he was shot?

MARLO PATTERSON- DIRECT EXAMINATION BY MS. McDUFFIE: 373

1 A. Yes, ma'am.

2 Q. And could he talk then?

3 A. No, ma'am.

4 Q. And what was his condition?

5 A. It was bad.

6 Q. And he never made out of the hospital?

7 A. No, ma'am. But this one day I went up there I
8 talked to him. I was like Nick, everything will be aight.
9 He kinda of shook his head no and tears ran down his eyes
10 when but he never did talk to me or anything. It was
11 terrible.

12 MS. McDUFFIE: Thank you, Your Honor. No further
13 questions.

14 THE COURT: Cross examination?

15 MR. STRICKER: No, sir. Thank you.

16 THE COURT: Sir, you may step down. Thank you.

17 MS. CAMPBELL: Your Honor, we have a matter of
18 law for the next witness.

19 THE COURT: Ladies and gentlemen, I'm going to
20 ask you step to the jury room for a minute. Do not discuss
21 the case. I'll get you back out here as quickly as
22 possible.

23 (Whereupon, the jury exits the courtroom at 11:13

24

25 a.m.)

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 375

1 (Whereupon, the Court off the record at 11:15 a.m.)

2 (Whereupon, back on the record at 11:36 a.m.)

3 THE COURT: Thank you. Be seated please. Is
4 the State ready to proceed?

5 MS. CAMPBELL: The State is ready, Your Honor.

6 THE COURT: Defense counsel?

7 MR. STRICKER: Yes, sir.

8 THE COURT: Bring me the jury please, sir.

9 (Whereupon, the jury enters the courtroom at 11:37
10 a.m.)

11 THE COURT: All right. Ladies and gentlemen,
12 thanks you for your patience. Solicitor you are
13 recognized. Call your next witness please.

14 MS. CAMPBELL: May it please the Court? The
15 State would call Darrien Jackson.

16 (Whereupon, the witness was sworn)

17 MR. JACKSON: My name is Darrien Jackson.

18 COURT REPORTER: Could you spell your first name?

19 MR. JACKSON: D-a-r-r-i-e-n.

20 DARRIEN JACKSON, being first
21 duly sworn, testified as follows:

22 **DIRECT EXAMINATION BY MS. CAMPBELL:**

23 Q. Mr. Jackson, how old are you?

24 A. Twenty-seven.

25 Q. Where are you from?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 376

1 A. Cassatt.

2 Q. Have you lived in the Kershaw area your whole
3 life?

4 A. Yes, ma'am.

5 Q. And you're currently incarcerated?

6 A. Yes, ma'am.

7 Q. And I believe you've got pending charges in our
8 office; do you not?

9 A. Yes, ma'am.

10 Q. Currently in our office you've got pending an
11 accessory before the fact of murder?

12 A. Yes, ma'am.

13 Q. And do you know what that carries?

14 A. No, ma'am.

15 Q. I told you it carries the same thing as murder if
16 it's accessory before the fact and then armed robbery?

17 A. Yes, ma'am.

18 Q. That carries up to thirty?

19 A. Yes, ma'am.

20 Q. Murder?

21 A. Yes, ma'am.

22 Q. What does that carry?

23 A. Life.

24 Q. Up to life?

25 A. Yeah.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 377

1 Q. Possession of a weapon during a violent crime?

2 A. Yes, ma'am.

3 Q. And burglary in the first degree?

4 A. Yes, ma'am.

5 Q. And what does burglary in the first degree carry?

6 A. Life.

7 Q. Fifteen to life?

8 A. Yes, ma'am.

9 Q. Do you have a lawyer?

10 A. Yes, ma'am.

11 Q. Is he in the courtroom today?

12 A. Yes, ma'am.

13 Q. Have you been made any promises in this case?

14 A. No, ma'am.

15 Q. For your testimony?

16 A. No, ma'am.

17 Q. Has anybody ask you to tell anything but the
18 truth?

19 A. No.

20 Q. As far as your prior record you also have I
21 believe in 2008 a possession of drug charge?

22 A. Yes, ma'am.

23 Q. Do you know Frank Singleton?

24 A. Yes, ma'am.

25 Q. How do you know Frank Singleton?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 378

1 A. Friend.

2 Q. He's a friend?

3 A. Yes, ma'am.

4 Q. And how did y'all meet or how long have you known
5 each other?

6 A. Prior to this?

7 Q. Prior to this happening ---

8 A. Prior to 2008, November, 14th, maybe two or three
9 years.

10 Q. Two or three years. Do you know Jerome Lewis?

11 A. Yes.

12 Q. Randy Lewis?

13 A. Yes.

14 Q. Richard Roach?

15 A. Yes, ma'am.

16 Q. And Ill Will?

17 A. Yes, ma'am.

18 Q. How did you know all them?

19 A. Through, um, -- through, um, -- I met them all
20 through Mae-Mae.

21 Q. Through Mae-Mae. When you say Mae-Mae, who are
22 you talking about?

23 A. Frank Singleton.

24 Q. Do you see him here in the courtroom?

25 A. Yes.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 379

1 Q. Can you point him out to the jury?

2 A. He's over there in the white shirt.

3 Q. Seated at the table far side?

4 A. Yes, ma'am.

5 Q. In the white shirt.

6 MS. CAMPBELL: Your Honor, may the record reflect
7 he's identifying the Defendant.

8 THE COURT: So noted for the record.

9 Q. So when you're referring to Mae-Mae when you talk
10 that's who you're talking about?

11 A. Yes, ma'am.

12 Q. Mae-Mae and Frank Singleton are the same person?

13 A. Yes, ma'am.

14 Q. Back in 2008, people we just referred to, Jerome,
15 Randy, Richard Roach, Ill Will, and Mae-Mae, y'all did
16 things together?

17 A. Yes, ma'am.

18 Q. And how often would y'all see each other?

19 A. All the time.

20 Q. Did you know Nick Mackey?

21 A. No, ma'am.

22 Q. Did you come to know who he was?

23 A. Yes.

24 Q. And how did y'all target Nick Mackey? How did
25 that come about?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 380

1 A. We met him through -- well we found out about him
2 through, Sticky.

3 Q. Through Sticky. And when you say Sticky, who do
4 you mean?

5 A. Jerome Lewis.

6 Q. And what information did Sticky have about him or
7 thought he had about him?

8 A. He said he had a lot of money and a lot of dope.

9 Q. At some point prior to November 14th, did you
10 ever go over to where Nick Mackey lived to scoped it out?

11 A. Yes, ma'am.

12 Q. And approximately how long before November 14th
13 was that you went over there?

14 A. A couple days.

15 Q. A few days?

16 A. Yes, ma'am.

17 Q. And who went with you when you went out to kinda
18 of look at the place?

19 A. Me, Mae-Mae ---

20 Q. You, Mae-Mae ---

21 A. --- and Richard Roach and Shawn.

22 Q. Shawn. Do you know Shawn's real name?

23 A. No, ma'am.

24 Q. You never knew him by the name of Marcellus
25 Juggins?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 381

1 A. No, ma'am.

2 Q. And was Shawn a guy that kinda of hung with
3 y'all?

4 A. Yeah.

5 Q. When y'all went over there a few days before this
6 happened on November 14th, what was the purpose of y'all
7 going there? What was y'all's original intent?

8 A. We went there to rob him and take his money and
9 dope.

10 Q. And when you got there what happened?

11 A. Well, before we entered the house or do you want
12 ---

13 Q. In the days before when you went over there
14 before this happened on the 18th, two or three days before?

15 A. Oh, okay.

16 Q. When you first went over there, what happened?

17 A. We went through the woods and heard the dogs
18 barking and seen some people outside at another residents
19 drinking and stuff and that's when we turn around and left
20 and went back.

21 Q. Okay.. I can barely hear you. Can you talk up
22 just a little bit, I'm sorry.

23 A. I said that's when we -- after we saw the people
24 drinking out there on the porch, we heard some dogs barking
25 we turn around and left.

1 Q. And left?

2 A. Yes, ma'am.

3 Q. So y'all abandoned your plan?

4 A. Yes, ma'am.

5 Q. And where had y'all left your car on that
6 occasion?

7 A. On the side of the road.

8 Q. The road out there in the back?

9 A. Not in the dirt.

10 Q. Not the dirt road?

11 A. No.

12 Q. But a different road?

13 A. A different road. I think it was the same road
14 where his residents was on.

15 Q. But that day you heard dogs barking?

16 A. Yes, ma'am.

17 Q. And then saw some people on a porch, was that on
18 the porch of the residents of where Nick Mackey lived or
19 near by?

20 A. Near by.

21 Q. And why did that concern y'all and make you
22 abandoned your ideas?

23 A. Because we didn't want no -- the dogs to tell on
24 us what we was doing out there. We thought maybe they saw
25 us or something.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 383

1 Q. Okay. And on that day were y'all armed?

2 A. Yes, ma'am.

3 Q. What kind of guns did y'all have on that day, the
4 first time?

5 A. It was -- we had a .45 and a .22.

6 Q. And who had the .45?

7 A. Frank Singleton.

8 Q. Is that his gun?

9 A. Yes.

10 Q. Who had the .22?

11 A. Me.

12 Q. And you said, I believe, Richard Roach was with
13 you?

14 A. Yes, ma'am.

15 Q. Did he or Shawn have a gun?

16 A. No, ma'am.

17 Q. So on that day, two or three days before hand,
18 y'all just decided it wasn't your time? You didn't go
19 through with it?

20 A. Yes, ma'am.

21 Q. Turning your attention to November 14th, what
22 were you doing that day, do you remember?

23 A. What was I doing that day?

24 Q. Yes, sir.

25 A. We was at the house. We were at

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 384

1 Q. You were at ?

2 A.

3 Q. And who lives at ?

4 A. Trim.

5 Q. Trim. Do you know his real name?

6 A. Uh-uh.

7 Q. Okay. And who all was over at Trim's house that
8 afternoon before y'all went over?

9 A. It was Randy Lewis -- Randy Lewis, Jerome Lewis,
10 Richard Roach, myself, Sticky and Mae-Mae.

11 Q. And at some point, did Ill Will show up as well?

12 A. Yes, ma'am.

13 Q. And with him was there another guy?

14 A. Yes, ma'am.

15 Q. And at some point, did y'all come to a discussion
16 about doing the robbery again?

17 A. Yes, ma'am.

18 Q. What was decided on the 14th that y'all were
19 going to do?

20 A. Well we decided that we was gonna gone on and rob
21 him because it was raining ---

22 Q. It was raining that day?

23 A. Yes, ma'am.

24 Q. Why did y'all think it would be a good idea to
25 rob him on a day that it was raining?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 385

1 A. It was kinda of, you know, it was already loud
2 because it was raining so a little noise, you know,
3 wouldn't hurt to much, if it got to loud.

4 Q. And that day how were y'all going to get over
5 there?

6 A. On that day, um, Ill Will and I can't remember
7 the boy's name is -- Ill Will and Rasheed pulled up.
8 That's when -- that's when Sticky was like, we got a ride,
9 we them to do it, you know what I'm saying.

10 Q. Said y'all, you got a ride at that point?

11 A. Mmm, hmm.

12 Q. And that's Rasheed's car?

13 A. Yes, ma'am.

14 Q. What kind of car was that; do you remember?

15 A. Um, it a blue Crown Vic.

16 Q. Crown Vic type?

17 A. Yes, ma'am.

18 Q. And who all decided that they would go over and
19 do the robbery that day?

20 A. It was me, Mae-Mae, Richard Roach, Ill Will,
21 Randy Lewis.

22 Q. And Randy Lewis. Did Jerome go?

23 A. No, he didn't go.

24 Q. Do you know why he didn't go?

25 A. Because he wanted to, you know, he had a friend

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 386

1 that he was talking to and wanted to let her know, you
2 know, just talk to her so she wouldn't think we was robbing
3 the fellow.

4 Q. Who was driving that day?

5 A. Driving that day -- Ill Will drove.

6 Q. And did Will have to do anything special to make
7 the car start; do you remember?

8 A. Yes.

9 Q. What did he have to do; do you remember?

10 A. He had to pop the hood, touch something together
11 so it would crank up. It wouldn't operate that well. It
12 wouldn't crank up by the key.

13 Q. Once y'all got in the car, where did y'all go
14 before you went over to Nick Mackey's place?

15 A. We stop by the BP gas station.

16 Q. Mmm, hmm.

17 A. Got some gloves.

18 Q. Some gloves. And why were y'all getting gloves
19 that day?

20 A. So when we can rob him, not leaving no prints,
21 fingerprints.

22 Q. Did you get anything else at the BP?

23 A. Not that I'm sure of.

24 Q. What were y'all wearing as far as your
25 appearance?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 387

1 A. What were we wearing?

2 Q. Huh-huh.

3 A. We all had mask or something to cover up our
4 faces.

5 Q. And why was that?

6 A. So we wouldn't be seen.

7 Q. So you had gloves, you had mask, and did y'all
8 have weapons?

9 A. Yes, we had weapons.

10 Q. Which weapons did y'all have that day?

11 A. A 12 gauge, .45 and a .22.

12 Q. And who had the 12 gauge?

13 A. Ill Will.

14 Q. Who had the .22?

15 A. Myself.

16 Q. And who had the .45?

17 A. Frank Singleton.

18 Q. When you're referring to the 12 gauge, what type
19 of gun is that?

20 A. A shotgun.

21 Q. A long gun?

22 A. Yes, ma'am.

23 Q. And then the .22 and the .45 what type are those?

24 A. The .22 is a small revolver.

25 Q. It's a revolver?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 388

1 A. Yes, ma'am.

2 Q. And then the .45, what's it?

3 A. It's one you put the clip in it.

4 Q. So that's different from the revolver?

5 A. Yes, ma'am.

6 Q. And that's the one that Mae-Mae had?

7 A. Yes, ma'am.

8 Q. Who knew -- did you know how to get over to Nick
9 Mackey's house or near his house wheere y'all were going to
10 park?

11 A. No, ma'am.

12 Q. Who was giving directions that day?

13 A. That day I believe -- well, I really don't know.
14 I'm not really to sure who gave us directions.

15 Q. Okay. But y'all were able to get over there?

16 A. Yeah.

17 Q. And once you got there, where did y'all park?

18 A. We parked -- went down a dirt road.

19 Q. On a dirt road?

20 A. Yeah. We parked on the side.

21 Q. And why did y'all park that far away from Nick
22 Mackey's actually house?

23 A. Because we didn't want the car to be seen near
24 the house.

25 Q. Okay. And once you got there, did everybody get

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 389

1 out of the car?

2 A. Yes, ma'am.

3 Q. Did anybody stay in the car?

4 A. No, ma'am.

5 Q. And once you got out of the car, the people that
6 you mentioned that had certain weapons, did they still --
7 you still had your weapon?

8 A. Yes, ma'am.

9 Q. Mae-Mae still had his .45?

10 A. Yes, ma'am.

11 Q. And Ill Will still had his shot gun?

12 A. Yes, ma'am.

13 Q. And at that point, what did y'all do?

14 A. At that point, we went through the woods, headed
15 towards the resident, the trailer that Nick Mackey was at.

16 Q. Mmm, hmm.

17 A. And on our way going down there, I saw a deer
18 stand.

19 Q. You saw a deer stand?

20 A. Yes.

21 Q. And what happened when y'all saw the deer stand?

22 A. Got down. Mae-Mae went up there and checked to
23 make sure nobody was in there.

24 Q. Y'all were trying to be careful about nothing
25 seeing you?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 390

1 A. Yes.

2 Q. Okay. Once y'all checked out the deer stand, did
3 y'all continue down through the woods?

4 A. Yes, ma'am.

5 Q. And where did you go next?

6 A. Next, we went to a little abandon trailer that
7 was close to his trailer.

8 Q. An abandoned trailer that was close to his
9 trailer?

10 A. Yes, ma'am.

11 Q. And how close was it to his trailer; do you know?

12 A. Real close.

13 Q. Were you able to see from the abandon trailer to
14 where Nick Mackey's trailer was?

15 A. If you look out the window you could see.

16 Q. When you saw -- when y'all to the abandon trailer
17 what did you do?

18 A. We laid down there and Mae-Mae was checking it
19 out.

20 Q. Mae-Mae was checking out?

21 A. Yes.

22 Q. And where was it checking out from? What was he
23 checking?

24 A. I think he was checking out from the back, all
25 the way to the back of the house, closer to their trailer

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 391

1 out the window somewhere, he was looking.

2 Q. Trying to see what?

3 A. Trying to see who was leaving and who was coming.

4 Q. And were you looking out the trailer or were you
5 just laying down?

6 A. I'm lying down.

7 Q. What were y'all waiting on?

8 A. Waiting on for Mae-Mae to tell us to come on.

9 Q. What happened next?

10 A. He told us it was time. We all crawled out.

11 Q. Where did you go?

12 A. We went, like, on the side of the trailer closer
13 to -- closer to the end and we waited until we got ready to
14 go.

15 Q. And when you said you got ready to go, did you
16 get inside the trailer?

17 A. Inside the -- inside the abandon trailer?

18 Q. No. I'm sorry. Y'all were waiting on the side
19 of the abandon trailer at this point?

20 A. Yeah.

21 Q. And then at some point did y'all decide it was
22 time to go make your entrance?

23 A. Yes.

24 Q. Which door did you go up to?

25 A. Of the -- of the ---

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 392

1 Q. Of Mr. Mackey's trailer?

2 A. We went to the front door.

3 Q. Once you got to the front door what happened?

4 A. Mae-Mae kicked the door in and said Kershaw
5 County Police Department and kicked the door in.

6 Q. And once the door was kicked in, who all went in?

7 A. Mae-Mae, Ill Will, second. I was third and then
8 Roach and Randy was behind me.

9 Q. Once inside what did you see?

10 A. Once inside, we saw two kids, um, Mackey.

11 Q. Did you know the kids were going to be there?

12 A. No.

13 Q. What happened once y'all got inside?

14 A. We went inside I was suppose to shoot the man in
15 the leg because I had the smallest gun.

16 Q. Who told you to do that?

17 A. Mae-Mae.

18 Q. Why were you suppose to shoot the guy in the leg
19 with the smallest gun?

20 A. Because it does the less damage.

21 Q. Why were you shooting him? What was that going
22 to do for y'all?

23 A. Let him know we meant business.

24 Q. So once inside, where was Mr. Mackey, do you
25 remember what part of the trailer he was in?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 393

1 A. He was in the kitchen, I believe.

2 Q. Kitchen area. And who all went in the kitchen
3 area once y'all went in? Did you make contact with him?

4 A. Yes. I shot him in the leg.

5 Q. Prior to that, where was Mae-Mae?

6 A. Prior to that -- prior to the me shooting him in
7 the leg?

8 Q. Did you go in and just shoot him in the leg or
9 was he already being ---

10 A. Yeah. He was hitting the man ---

11 Q. Who was hitting the man?

12 A. Frank Singleton.

13 Q. Mae-Mae was hitting him?

14 A. Yes, ma'am.

15 Q. And then you shot him in the leg?

16 A. Yes.

17 Q. And that was all in the kitchen area?

18 A. Yes, ma'am.

19 Q. Where were the children?

20 A. On the floor.

21 Q. What were they doing?

22 A. Lying down being quiet like we told them to.

23 Q. What else was being said? Were y'all ask Mr.
24 Mackey for anything or what was going on?

25 A. Was we asking -- yeah, we was asking him where

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 394

1 the dope was at. He just didn't want to talk. He just
2 didn't want to tell where it as at.

3 Q. You -- he wouldn't tell you?

4 A. Mmm, huh.

5 COURT REPORTER: Was that a no?

6 A. No, ma'am.

7 Q. Once you shot him in the leg were y'all still
8 asking him where the dope was at?

9 A. Yes, ma'am.

10 Q. And was he able to tell you?

11 A. No.

12 Q. What happened next?

13 A. What happened next, he kept hitting him, you
14 know.

15 Q. Who was hitting him?

16 A. Frank Singleton.

17 Q. And where was he hitting him at?

18 A. In the face.

19 Q. Then what happened?

20 A. Then I picked the little girl up.

21 Q. You picked her up?

22 A. Yes, ma'am.

23 Q. And what did you do with the little girl?

24 A. I told him if he didn't tell us where it was at
25 then I was going to shot the little girl and he didn't say

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 395

1 nothing. He just kept -- he didn't say nothing so I put
2 the little girl down.

3 Q. And then what happened?

4 A. And then Mae-Mae forced dude into the room and
5 kept beating him.

6 Q. Into what room?

7 A. His living -- I guess, his master bedroom.

8 Q. The bedroom?

9 A. Yes, ma'am.

10 Q. Did you go into the bedroom with him?

11 A. Yes, ma'am.

12 Q. Who else went into the bedroom?

13 A. All of us.

14 Q. All five of you?

15 A. I believe so.

16 Q. And what happened in the bedroom area?

17 A. Kept hitting him -- blood ---

18 Q. He kept hitting him?

19 A. Yeah.

20 Q. And who was getting hit?

21 A. Nick Mackey.

22 Q. And who was the person bleeding that day?

23 A. Mackey.

24 Q. Once you were inside the bedroom what happened
25 next?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 396

1 A. Once inside we were inside the bedroom the man
2 was like, there's the safe take it and leave. And we was
3 like, what's the combination. While he was trying to think
4 of it he kept getting hit he couldn't never get a chance to
5 tell it where it was at. That's when we heard the knock at
6 the door.

7 Q. You heard a knock at which door?

8 A. At the front door.

9 Q. Once you heard the knock at the front door, what
10 did y'all do?

11 A. When we heard the knock at the front door, we
12 went to the front door, opened it up, Ill Will was pointing
13 the shotgun at him and told him to come on in

14 Q. Who was at the front door? Was it anybody you
15 knew?

16 A. No. A white man.

17 Q. Had you ever seen him before?

18 A. No, never seen him before.

19 Q. You said Ill Will had a shot gun?

20 A. Yes, ma'am.

21 Q. And he told him to come on in?

22 A. Come on in.

23 Q. What did the guy do?

24 A. He was resisting. He wouldn't come in. He was
25 like, uh, uh, no, no, no.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 397

1 Q. Where were all of y'all at this point when you
2 were at the door -- when Ill Will was at the door?

3 A. Who was at the door? Randy -- from the best I
4 can remember Randy and Roach was still in the back suppose
5 to be keeping watch on them.

6 Q. On Mackey ---

7 A. Mackey and the kids.

8 Q. And the kids were back in the bedroom at that
9 point?

10 A. They were still on the floor in the kitchen.

11 Q. Okay.

12 A. And we opened the door, tried to get the man in
13 and he didn't want to come so we tried to grab him and pull
14 him in, he was pulling back, he was a tough fellow. We
15 couldn't really get him in and by that time, I heard
16 somebody yelling from the inside, and then they jumped on
17 my back, jumped on my back and I turn towards him. When I
18 turn towards him and grabbed my gun, pulled it, you know,
19 the trigger went off and that's when I turn around and he
20 jumped on -- he jumped on Mae-Mae that's when Mae-Mae hit
21 him in the chest -- turn around and hit him in the chest.

22 Q. Let me slow you down a little bit. You said you
23 were at the door, and y'all -- you were with Ill Will, and
24 y'all had tried to pull him in?

25 A. Yes.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 398

1 Q. And who all is at the door at this point, you

2

3 A. Me, Mae-Mae, and Ill Will.

4 Q. And y'all were trying to get the guy on the front
5 porch, in?

6 A. Yes.

7 Q. And he's resisting?

8 A. Yes, ma'am.

9 Q. And then you said, the next thing you know,
10 somebody's jumped on you?

11 A. Yes, ma'am.

12 Q. And do you know who it was that jumped on you?

13 A. It was the man I shot in the leg.

14 Q. The victim in this case?

15 A. Yes, ma'am.

16 Q. Mr. Mackey.

17 A. Yes, ma'am.

18 Q. And at that point, you said you tried to turn
19 around?

20 A. Yes, ma'am.

21 Q. And what happened with your gun?

22 A. He tried to grab it.

23 Q. Who tried to grab it?

24 A. The victim.

25 Q. The victim that ---

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 399

1 A. Yes, ma'am.

2 Q. --- ended up dying from this?

3 A. Yes, ma'am.

4 Q. And then the gun went off?

5 A. Yes, ma'am.

6 Q. And did you know that it had hit somebody?

7 A. No, I didn't know if it had somebody or not. I
8 thought it hit him, the victim. I wasn't sure.

9 Q. Okay. Which victim?

10 A. Mackey or the one that was on the ground.

11 Q. You didn't know which one you have shot?

12 A. No, ma'am.

13 Q. Then you mentioned that Mr. Mackey jumped on
14 Mae-Mae?

15 A. Yes, ma'am.

16 Q. And at this point does Mae-Mae still have his
17 gun?

18 A. Yes, ma'am.

19 Q. You still got your gun?

20 A. Yes, ma'am.

21 Q. And Will's still got the shotgun?

22 A. Yes, ma'am.

23 Q. What happens next?

24 A. Next, he jumps on Mae-Mae's back. He turns
25 around and shoots him in the chest area.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 400

1 Q. Who shot who in the chest area?

2 A. Mae-Mae had shot Mackey in the chest area.

3 Q. Then what happened? And where was this taking
4 place, inside or outside?

5 A. Outside.

6 Q. Right out side on the front ---

7 A. Right on the front ---

8 Q. In the front. And where was the dude that
9 knocked on the door at this point?

10 A. He was on the ground, I believe.

11 Q. And did you know he had been shot at that point?

12 A. No, I didn't know.

13 Q. You didn't know you had shot him?

14 A. Mmm, uh.

15 Q. But he's on the ground?

16 A. Yes, ma'am.

17 Q. And is there an automobile or anything out front
18 of his?

19 A. Yes, ma'am.

20 Q. Are there other automobiles out front?

21 A. I'm not sure.

22 Q. Okay. Once Mae-Mae shoots Mr. Mackey in the
23 chest area, what happened?

24 A. Once he shoots him, he takes off running.

25 Q. Who takes off running?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 401

1 A. The victim, Mackey.

2 Q. Okay.

3 A. He takes off running and then Ill Will racks his
4 shotgun and shoots.

5 Q. And shoots?

6 A. And shoots.

7 Q. And did you know whether or not he hit him with
8 that shot?

9 A. No, I wasn't sure.

10 Q. What happened next?

11 A. Then he fell to the ground.

12 Q. Mr. Mackey?

13 A. Yes, ma'am.

14 Q. As Ill Will shot his gun he fell to the ground?

15 A. Yeah.

16 Q. What happened next?

17 A. After that I took off running.

18 Q. Where did you run?

19 A. Ran back to the car.

20 Q. Were you the first one to take off running?

21 A. Yes, ma'am.

22 Q. And when you got to the car, were you first one
23 back to the car?

24 A. Yes, ma'am.

25 Q. And as you were running through the woods or as

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 402

1 y'all were going there, did y'all notice any kind of
2 fencing or anything?

3 A. Yeah, like a barb wire or something.

4 Q. Once you got back to the car what did you do?

5 A. Before I got back to the car, I took my gun and
6 hid it in some leaves, some straw, leaves ---

7 Q. Back down in the woods?

8 A. Yes, ma'am. And then took my gloves off and ran
9 back to the car and waited on the other side.

10 Q. So everyone had taken precaution putting on
11 gloves that day?

12 A. Yeah.

13 Q. So you were waiting at the car, when y'all had
14 left the car there, had you done anything to the hood of
15 the car?

16 A. Yeah.

17 Q. Do you remember?

18 A. We lifted the hood up so it would look like we
19 broke down -- the car broke down.

20 Q. Once you got back to the car, you were waiting
21 there, who else showed up?

22 A. I heard the gun go off before

23 Q. You heard another gun shot?

24 A. A gun go off again. And then I waited and then I
25 seen Mae-Mae -- Mae-Mae with safe and then I saw Randy,

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 403

1 Roach and Ill Will.

2 Q. They all kinda of came up after you?

3 A. They came up.

4 Q. And Mae-Mae was the one with the safe?

5 A. Yeah.

6 Q. Prior to the knock at the door, had y'all been
7 aware that there was a safe there?

8 A. Before we -- yeah, I think so.

9 Q. But y'all hadn't moved it out yet?

10 A. No, ma'am.

11 Q. And then the struggles take place outside ---

12 A. Yes

13 Q. --- the final struggles? So in order to get the
14 safe would Mae-Mae have had to gone back in the house?

15 A. Yes

16 Q. Once everybody got back to the car, what
17 happened?

18 A. Got back to the car I heard Randy say you almost
19 shot me, you stupid. Cuz his gun went off when he was
20
21 carrying the safe and almost shot him with the 12, ah, no
22 the 12 but with the .45.

23 Q: When you say, you almost shot me stupid, who was
24 Randy talking to?

25 A. Mae-Mae.

1 Q. And again you heard shot after you left?

2 A. Yes.

3 Q. What happened next?

4 A. Next -- you talking about after we -- after they
5 made it back to the car?

6 Q. Did everybody get in the car?

7 A. Everybody through gun in the car, the safe in the
8 truck and we left.

9 Q. Where did y'all go?

10 A. Back to

11 Q. Trim's apartment?

12 A. Yes.

13 Q. And when you got back to , did y'all
14 stay there for long?

15 A. Not long.

16 Q. Where did y'all next?

17 A. We went to the -- went to some place down in the
18 country toward Rembert area.

19 Q. Towards Rembert.

20 A. Towards Rembert.

21 Q. And why were y'all going to down county, Rembert?

22 A. Get the safe -- get that safe opened because
23 Sticky knew somebody that could get it open.

24 Q. And who all went down in the country?

25 A. It was all of us.

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 405

1 Q. And did y'all go in different cars?

2 A. Yes, ma'am.

3 Q. Do you remember who you rode with down there?

4 A. No, I can't quite remember.

5 Q. Once you got down in the country, were you there
6 when the safe was opened?

7 A. Say that again.

8 Q. Were you there when the guy opened the safe?

9 A. Yes, ma'am.

10 Q. And when he opened the safe, did you see what was
11 inside?

12 A. Yes, ma'am.

13 Q. What was inside?

14 A. Papers.

15 Q. Any drugs?

16 A. No, ma'am.

17 Q. Any money?

18 A. No, ma'am.

19 Q. Do you remember when y'all got back to the car,
20 you said, they put the guns inside the car?

21 A. Yes, ma'am.

22 Q. Is one of those guns a new gun not one y'all took
23 with you?

24 A. Yeah. One was a small .22.

25 Q. A small .22?

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 406

1 A. Yes, ma'am.

2 Q. And that wasn't one of your guns or Roach's, Ill
3 Will's or anyone's that went there?

4 A. No, ma'am.

5 Q. And do you know how they got that gun?

6 A. Yes, ma'am.

7 Q. How?

8 A. They got it off the victim, Nick Mackey.

9 Q. They got it from his house?

10 A. Got from him -- off his, I believe -- off of him,
11 I believe.

12 Q. And was there anything unique about that gun,
13 that you recall?

14 A. Yes, it was small. It had little red caps in it,
15 the bullets.

16 Q. When you say little red caps, what do you mean?

17 A. It was, you know, it's hard to explain. It's
18 like -- looks like it had like bird shots but it's a little
19 small bullet cap on the end of it.

20 Q. Cap on the end was red?

21 A. Yes.

22 Q. And that wasn't a gun that y'all had taken there
23 with you that day?

24 A. No, ma'am.

25 Q. The gun that Frank had that day, Mae-Mae, it was

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 407

1 a .45?

2 A. Yes, ma'am.

3 Q. Do you remember anything unique about it?

4 A. Other than it had a long, had a long nose on it.

5 Q. A little thin long nose on it?

6 A. Yes, ma'am.

7 Q. It was a little bit unusual for a semi-automatic?

8 A. Yes, ma'am.

9 Q. Do you remember what kind of gun it was?

10 A. A .45.

11 Q. And do you know what happened to that gun?

12 A. I wasn't there when he done it but I know it sold
13 it ---

14 MR. STRICKER: I would object, Your Honor.

15 THE COURT: What's your objection?

16 MR. STRICKER: Hearsay. I ---

17 THE COURT: Objection, sustained.

18 Q. You didn't take that gun; did you?

19 A. Did I take the gun?

20 Q. Did Frank end up going back with gun?

21 A. Yes, ma'am, he went back with it.

22 Q. And that day, did he still have possession of
23 that gun after y'all left?

24 A. Yes.

25 Q. Once you've been to the country and got the safe

DARRIEN JACKSON- DIRECT EXAMINATION BY MS. CAMPBELL: 408

1 opened and found the papers, after that, where did you go?

2 A. After that I went home.

3 Q. You went home?

4 A. Yes, ma'am.

5 Q. And where was home?

6 A. Cassatt.

7 Q. In Cassatt. And did any of the other people,
8 Richard Roach, Ill Will, Mae-Mae, or Jerome or Randy go
9 with you?

10 A. No, ma'am.

11 Q. You're facing thirty years up to life, has
12 anybody made you any promises in exchange for your
13 testimony?

14 A. No, ma'am.

15 Q. Had anyone from my office represented that you'd
16 be given any leniency, or a reduction or anything of that
17 sort?

18 A. No, ma'am.

19 Q. Why are you testifying?

20 A. I'm testifying because I just want this to come
21 to light what I've done my participation in it, you know,
22 it's the truth. I think the victim's found should know
23 what happened.

24 Q. And you realize under the law you're just as
25 cooperable as everyone else that participated?

DARRIEN JACKSON- CROSS EXAMINATION BY MR. STRICKLER 409

1 A. Yes, ma'am.

2 MS. CAMPBELL: Thank you, sir. I don't have any
3 further questions.

4 THE COURT: Cross examination?

5 MR. STRICKER: May it please the Court, Your
6 Honor?

7 THE COURT: Yes, sir.

8 MR. STRICKER: Mr. Dowdy, could I ask you to
9 bring the easel over here. I don't want to go back to the
10 jury room.

11 (Whereupon, the easel was brought in)

12 MR. STRICKER: Thank you very much.

13 **CROSS EXAMINATION BY MR. STRICKLER:**

14 Q. All right, sir, Ms. Campbell ask you earlier on
15 in your testimony, you are currently charged with accessory
16 before the fact, I believe she said to murder; is that
17 correct?

18 A. Yes.

19 Q. And your understanding of the penalty for that is
20 the same as it is for murder; correct.

21

22 A. Yes.

23 Q. Penalty for murder is thirty years to life;
24 correct?

25 A. Yes.

1 Q. And that thirty years as opposed to being able to
2 make parol, thirty years is day for day; correct?

3 A. Yes.

4 Q. There is no way to get out earlier than thirty
5 years; right?

6 A. Yes, sir.

7 Q. And life is, life; correct?

8 A. Yes.

9 Q. Some times called pine box life the only way to
10 get out; right?

11 A. Yes, sir.

12 THE COURT: Mr. Stricker?

13 MR. STRICKER: Yes, sir.

14 THE COURT: Hold on, can you see the witness, you
15 that's seating -- is it Mr. Floyd?

16 MR. STRICKER: I'm trying to make sure the jury
17 can see.

18 THE COURT: Well, I want them to see but I don't
19 want the easel to block any of the jurors view of the
20 witness.

21 MR. STRICKER: Yes, sir. I apologize

22 THE COURT: All right. Go ahead.

23 Q. Now, you're also charged from this incident with
24 armed robbery; right?

25 A. Yes.

DARRIEN JACKSON- CROSS EXAMINATION BY MR. STRICKLER 411

1 Q. And that's ten to thirty; correct?

2 A. Yes.

3 Q. Now, since it carries over twenty years as the
4 maximum penalty, armed robbery is what's called a non-
5 parolable offense; correct?

6 A. Yes, sir.

7 Q. That means ---

8 THE COURT: Hold on a minute. I need a yes or no
9 answer from you, okay?.

10 A. I'm sorry.

11 THE COURT: That's okay.

12 A. Yes, sir.

13 THE COURT: I need it for the record.

14 Q. Okay.. That means that you have to do at least
15 eighty-five percent of whatever sentence you receive before
16 you have a chance of getting out; correct?

17 A. Yes..

18 Q. You're charged with a weapon during a crime of
19 violence that's up to five years in prison; correct?

20 A. Yeah.

21 Q. You're charged with murder from this incident;
22
23 right?

24 A. Yes.

25 Q. The same penalty as we talked about before on

1 accessory, thirty years, day-for-day to life; correct?

2 A. Yes.

3 Q. Okay. And you're charged with burglary in the
4 first degree; correct?

5 A. Yes.

6 Q. From this incident; right?

7 A. Yes, sir.

8 Q. Now, that carries fifteen years to life; correct?

9 A. Yes.

10 Q. And the State's maximum penalty for burglary is.
11 greater than twenty years that requires you to serve at
12 least eighty-five percent of that sentence, whatever it
13 might be, fifteen years and up, eighty-five percent of that
14 before you have any chance of getting out of prison;
15 correct?

16 A. Yes, sir.

17 Q. Now, all these charges are being prosecuted by
18 the solicitor's office in this case; correct?

19 A. Yes.

20 Q. Okay. And you understand that the solicitor's
21 office has completed discretion in what they do as far as
22 prosecuting charges; right?

23 A. Say that again, sir.

24 Q. The solicitor's office can decide whatever they
25 want to decide as far as prosecuting charges; right?

DARRIEN JACKSON- CROSS EXAMINATION BY MR. STRICKLER 413

1 A. Yes, sir.

2 Q. Okay. They can prosecute you to the max, they
3 can dismiss charges; right?

4 A. Yes.

5 Q. And you're hoping they prosecute you to the max
6 in this particular case; right?

7 A. No, sir.

8 Q. Yeah. In 2008, where were you working?

9 A. In 2008?

10 Q. Yeah, the time of this incident?

11 A. I wasn't working.

12 Q. Okay. So I understand you correctly, your
13 testimony correctly, you have confessed being an armed
14 robber; right?

15 A. Yes.

16 Q. Possession of this weapon; right?

17 A. Yes.

18 Q. You are a confessed murderer; correct?

19 A. Yes.

20 Q. And you a confessed burglar; correct?

21 A. Yes.

22 MR. STRICKER: And that's all I have. Thank you,
23 Your Honor.

24 THE COURT: Any redirect?

25 MS. CAMPBELL: Just one question.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

414

REDIRECT EXAMINATION BY MS. CAMPBELL:

Q. He ask you about where you were working. Were any of y'all working anywhere at that time?

A. No.

MS. CAMPBELL: Thank you. I have nothing further.

THE COURT: Any re-cross, Mr. Stricker?

MR. STRICKER: No, sir. Thank you.

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

(Whereupon, the witness complies)

THE COURT: Call your next witness.

MS. McDUFFIE: The State would call Special Agent Lee Blackmon.

(Whereupon, the witness was sworn)

MR. BLACKMON: My name is Lee Blackmon. I am a special agent with the South Carolina Law Enforcement Division.

LEE BLACKMON, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. McDUFFIE:

Q. Agent Blackmon, where are you employed?

A. With Sled, it's most commonly known we're the state police in South Carolina.

Q. Please tell the, ladies and gentlemen of the jury, your background and training experience in law

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

415

1
2 enforcement?

3 A. I grew up in the Town of Kershaw and went to
4 Andrew Jackson High School. Graduated. Went to college at
5 the University of South Carolina in Columbia and received a
6 Bachelors in Science through criminal justice. In 1983
7 started working for the Lancaster Police Department. I
8 worked there for approximately four years before me
9 transferring to the Lancaster County Sheriff's Office. I
10 worked for Lancaster County for about nine months or so
11 before moving into the investigators section. I worked in
12 Lancaster County for ten years. The last five of those
13 years I was the supervisor in investigations in Lancaster
14 County. In 2007, I was hired by the State Law Enforcement
15 Division and that's where I'm employed now.

16 Q. And what are you duties with Sled?

17 A. Sled is a assisting agent who is -- that's one of
18 the primary reason it was organized, was for us to -- for
19 the state to have a law enforcement entity that they could
20 assist local sheriff's office or sheriff's office within
21 the state, police department within the state, to
22 supplement their manpower when it came to investigations.

23 Q. And specifically in this case, were you requested
24 by the Kershaw County Sheriff's Office to assist
25 specifically investigator Dill in the investigation in the

1 homicide that occurred November 14, 2008?

2 A. Yes, ma'am, I was.

3 Q. And describe to the ladies and gentlemen of the
4 jury, what you do as a Sled agent or as an assisting
5 partner to local law enforcement?

6 A. We work hand and hand with them. We are an
7 assisting agency. They really take the lead and we just
8 supplement, you know, whatever needs they may have with our
9 services. We have lab services that we can offer for
10 forensic services and different things. But we are just
11 there to assist them in the their investigation with
12 whatever they may need.

13 Q. And this isn't the only investigation criminal
14 case you were working on with Kershaw County Sheriff's
15 Department at that time?

16 A. No, ma'am, it's not.

17 Q. In fact, May of 2011, were you assisting them on
18 a narcotics case on a search warrant?

19 A. Yeah, I was in Kershaw County working with Justin
20 Dill on a separate case and we received information that
21 the narcotics unit was fix'in to go execute a search
22 warrant at a residence at an apartment complex.

23 Q. And that search warrant of narcotics, that had
24 nothing to do with what we're here for today?

25 A. No, ma'am.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

417

1 Q. And during the course of that search warrant you
2 entered the home?

3 A. I did.

4 Q. And did you look at any property or items during
5 that search?

6 A. I did. I located a firearm.

7 Q. I show you what's been marked as State's Exhibit
8 94 and ask if you recognize this?

9 A. I do..

10 Q. State's Exhibit 94, is this the gun that you
11 recovered that day?

12 A. It is. That gun was located, it was behind a
13 chester drawer that was in an upstairs bedroom ---

14 MS. McDUFFIE: Your Honor ---

15 A. --- I observed it. I'm not exactly sure who
16 placed their hands on it and took it from behind that
17 chester drawer but I'm the one who located it, actually
18 found it sitting there.

19 Q. And this .45 is somewhat unique?

20 A. Yeah. The barrel of it -- the end of the barrel
21 sticks out, I don't know, maybe an inch or so passed the
22 end of the frame here.

23 Q. And you recognize this as the weapon you found
24 that day?

25 A. Absolutely.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

418

1 Q. And then it was subsequently collected by local
2 law enforcement and turned into Sled?

3 A. That's correct.

4 MS. McDUFFIE: Your Honor, at this time we'd
5 offer State's 94.

6 THE COURT: Any objection?

7 MR. KIRINCICH: If we can take a look at it
8 before we consent.

9 (Whereupon, the lawyer looks at the weapon)

10 MR. KIRINCICH: No objection, Your Honor.

11 THE COURT: Without objection. State's Exhibit
12 94 admitted into evidence.

13 (GUN .45 HAS BEEN MARKED AND ENTERED INTO EVIDENCE AS
14 STATE'S EXHIBIT NUMBER 94)

15 MS. McDUFFIE: Your Honor, if I may approach?

16 THE COURT: Yes, ma'am.

17 Q. Mr. Blackmon, if you could please state the
18 firearm, State's 94 and show the jury what you were talking
19 about. What makes that gun unique or identifiable from
20 other guns?

21 A. To me it's just this part here that sticks out
22 past the end. If you can imagine most semi-automatic
23 weapons that you see handguns likes this, most of the time
24 they look, I guess, like this without the barrel continuing
25 forward pass the frame.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

419

1 Q. And Mr. Blackmon you said you've been in law
2 enforcement how long?

3 A. Twenty-two years now.

4 Q. And how many guns like that have you seen?

5 A. I don't know if I've ever seen a semi-automatic
6 handgun that had a barrel that extended pass the frame. I
7 don't think I've ever seen one.

8 Q. And you recovered this gun sometime earlier in
9 2011?

10 A. That's correct.

11 Q. And at that point time you weren't working on the
12 homicide of Nicholas Mackey?

13 A. No, ma'am.

14 Q. And didn't know that it could be relevant at all
15 in that case later?

16 A. No, ma'am.

17 Q. In July of 2011, were you ask by investigator
18 Dill to assist you in the homicide investigation of
19 Nicholas Mackey?

20 A. Yes. I was asked by him, yes, ma'am.

21 Q. And you participated in interviews?

22 A. I did.

23 Q. Did you, as well as investigator Dill interview
24 Jerome Lewis?

25 A. We did.

1 Q. And where was that done?

2 A. That was at the Kershaw County Detention --
3 Kershaw County Sheriff's Office.

4 Q. And have you been here on and off throughout the
5 course of this trial?

6 A. I have.

7 Q. Were you here when Mr. Lewis testified?

8 A. I was not present when Mr. Lewis testified.

9 Q. Did you promise Mr. Lewis immunity, grant him
10 immunity or make any offers or promises of exchange for
11 giving law enforcement a statement?

12 A. No, ma'am, I did not. I don't have immunity to
13 offer anyone so that not something we do.

14 Q. And when you interviewed him the first time on
15 July 26, 2011, did he specifically ask you about maybe
16 getting a bond?

17 A. I believe he did ask about a bond and I remember
18 telling him that I don't do bonds, that's not what I do.
19 That's handled by either magistrates judge or general
20 sessions court as far as a bond goes. I can't -- I don't
21 do bonds.

22 Q. And did you make any effort in any way to help secure
23
24 bond or do anything on Mr. Lewis' behalf?

25 A. No, ma'am, I did not.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE: 421

1 Q. And did you later interview him in August of 2011
2 and was his attorney present?

3 A. Yes, ma'am, I did. It was Nicole Singletary.

4 Q. And at some point in time, did she tell him to
5 stop talking and that she needed to speak with him?

6 A. She did. She interrupted, there was a specific
7 questioned asked and he started to answer it and she told
8 him to stop and she, I think, she may have been mentioned
9 something about immunity.

10 Q. And what did you tell Ms. Singletary and Mr.
11 Lewis?

12 A. I told them that he had waived his rights and
13 that she was present, of course, and being his attorney, I
14 I told her that, you know, he had waived his rights and
15 that he had been told in that Miranda warning that anything
16 he said could and would be used against him in a court of
17 law and I reminder her of that at that point.

18 Q. And did he agree even though he knew that what he
19 said could and would be used against him to go ahead and
20 continuing talking to you?

21 A. Well, we had -- I think we had a pause there in
22 the interview and myself and Justin actually stepped out of
23 the interview room while she conferred with her client in
24 there with Jerome Lewis and she step out and said, yeah, we
25 would continue the interview.

1 Q. And on August 2, 2011, did you go to Trenton
2 Correctional Institution?

3 A. Yes, ma'am, I did.

4 Q. And where is that located?

5 A. I couldn't tell you specifically where it is,
6 it's in Trenton.

7 Q. And that's a facility managed by the South
8 Carolina Department of Corrections?

9 A. That is a South Carolina Department of
10 Corrections Facility. Much like the Wateree and much like
11 Kershaw Correctional Institute.

12 Q. When you even as a law enforcement officer go
13 into a Department of Corrections Facility, are you allowed
14 to bring anything in with you?

15 A. No, ma'am. They want even let us bring our cell
16 phones inside. Anytime I pull up at a correction facility
17 and interview someone at the SCDC location I pretty know
18 what I can't carry in no phones, no electronic devices of
19 any kind like that.

20 Q. Even though you're law enforcement?

21 A. Even though I'm law enforcement. I get treated
22 just as if I was a visitor there visiting someone I get
23 striped down and search and everything.

24 Q. You take paper and pen in with you?

25 A. I can.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

423

1 Q. And August 2, 2011, did you met along with
2 investigator Dill with William Smith?

3 A. We did.

4 Q. And during the course of you speaking with him
5 was he advised of his rights?

6 A. He was.

7 Q. And did he waive his rights?

8 A. He did waive his rights.

9 Q. And what did you tell Mr. Smith you were there to
10 talk to him about that day?

11 A. We told him we were there to talk to him about an
12 incident that had occurred in 2008.

13 Q. And did you provide him any further details or
14 elaborate any further?

15 A. We did not. We simply just told him that we were
16 there to investigate this case and that we wanted to hear
17 what his side of the story was.

18 Q. And when you take a statement from a suspect or
19 from a witness or an individual in a case, how do you do
20 that? What's your process?

21 A. Generally, what -- every single time there's
22 probably a different aspect to it but generally we start
23 the interview process by just finding out what the guys
24 want to tell us. What the individuals is going to tell us
25 and let him talk through it and explain to us, you know,

1 what is his or her side of the story. And then after we
2 believe that we have gather that information we either then
3 get them to write a voluntarily statement out or we'll
4 write it out for them sometimes and then go back over it
5 again with them and have them signature it and initial it
6 at certain locations on the document itself.

7 Q. And is that what was done in this case?

8 A. It was. I actually wrote Will Smith's statement
9 in his presence.

10 Q. I'm going to show you what's been marked as
11 State's Exhibit 97 and ask if you recognize this?

12 A. I recognize it. That's my handwriting and this
13 is the statement that I -- of Will Smith, it was given by
14 him on August 2, 2011.

15 Q. And did he sign acknowledging that statement?

16 A. He did. He initial the start of the paragraph on
17 the first page and at the end of the paragraph he signed
18 the first page with his signature. He initial the top of
19 the second page. He initialed where he stopped on the
20 second page and signed his name at the bottom of the second
21 page. He initialed at the top of the third page and
22 initialed at the end in the concluding part of the
23 statement on the third page and signed his name to the
24 bottom of the third page.

25 MS. McDUFFIE: Your Honor, at this time, we'd

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE: 425

1 offer State's 97?

2 THE COURT: Any objection?

3 MR. KIRINCICH: Yes, Your Honor, we'd object. We
4 might need to take this up as a matter of law.

5 THE COURT: Ladies and gentlemen, I'm going to
6 have to ask you to step to the jury room. Do not discuss
7 the case. I'll get you back out here as quickly as
8 possible.

9 (Whereupon, the jury exits the courtroom at 12:28
10 p.m.)

11 THE COURT: Mr. Kirincich, yes, sir?

12 MR. KIRINCICH: Your Honor, the first thing I
13 believe Ms. McDuffie went through this line by line earlier
14 with Mr. Smith so it's already gotten out I believe in full
15 to the jury but at no point was Mr. Smith asked if he was
16 given a copy of his statement. I believe you'll have to
17 look at it, and Your Honor, to be honest with you I can't
18 put my finger on the rule right now but if a copy as not
19 been given to the one whose statement is attributed to, it
20 can't be introduced. Your Honor, I believe Special Agent
21 Blackmon has testified that he was the one who wrote this
22 out, to see if they would matched up with Mr. Smith's
23 earlier statement to introduce it now, I guess, I don't
24 really see any point, Your Honor.

25 THE COURT: All right. Mr. Strickler?

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE: 428

1 that, that includes the beginning of the statement through
2 the line I mentioned which we submit is prior consistent
3 statement.

4 THE COURT: I'm allowing it all ---

5 MR. STRICKER: Thank you, sir.

6 THE COURT: I'm allowing it in and it's entirety.

7 MR. STRICKER: Thank you, sir. Just note our
8 exception.

9 THE COURT: So noted for the record.

10 (WRITTEN STATEMENT/DOCUMENT OF WILLIAM SMITH HAS BEEN
11 MARKED AND ENTERED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
12 97)

13 MR. STRICKER: Thank you.

14 THE COURT: Anything else?

15 MS. McDUFFIE: No, Your Honor.

16 THE COURT: All right. Bring the jury back
17 please, sir.

18 (Whereupon, the jury enters the courtroom at 12:34
19 p.m.)

20 THE COURT: All right. Ms. McDuffie, you may
21 continue.

22 MS. McDUFFIE: Thank you, Your Honor.

23 Q. State's Exhibit 97, that's the statement that
24 William Smith gave to you on August 2, 2011?

25 A. This is his statement, yes, ma'am.

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE: 429

1 Q. And who actually physically wrote that statement?

2 A. I did.

3 Q. And -- but whose words are they on that piece of
4 paper?

5 A. These are William Smith's words.

6 Q. And did he acknowledge that, that statement that
7 those were his words by doing what?

8 A. He had initialed it twice on each page and signed
9 the bottom of each one of these pages plus it's the words
10 that he gave us that day.

11 MS. McDUFFIE: Your Honor, permission to publish
12 State's Exhibit 97 to the jury?

13 THE COURT: So granted.

14 Q. Investigator -- Special Agent Blackmon, if you
15 could start at the beginning of the statement and start
16 reading that to the jury.

17 A. It says, "I am currently," -- these are the words
18 of William Smith. "I am currently serving a sentence for
19 twelve years for accessory to murder. I go by Will, Little
20 Will and Ill Will. In November of 2008, Sticky ask me to
21 help him do a robbery. Sticky was talking to a white girl.
22 I think she was a girlfriend of the guy we was going to
23 rob. He lived up there at Kershaw. Sticky was fucking
24 with the girl and the girl was fucking with the guy we was
25 going to rob. He said it was going to be sweet. They had

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 already been up there and scoped it out. We went over and
2 at Trim's apartment. I don't know his name
3 but Trim works at the hospital. I rode to Trim's with
4 Rasheed Halley in a gray Grand Marque. When I got there
5 the day we did the robbery Sticky was at Trim's. I think
6 Trim was there, Randy Lewis, Mae-Mae, his real name is
7 Frank and Roach was there. He's from New York or somewhere
8 and Diablo was there."

9 Q. Let me stop you right there at the end of page
10 one, and again, please show the ladies and gentlemen of the
11 jury where Mr. Smith acknowledges this statement?

12 A. This is just standard -- what I do anytime I can
13 write one and really anytime I take a statement from
14 someone I'll have them initial where the first -- at the
15 start of their first word and also initial at the bottom at
16 the end of their last word. That's -- and the reason I do
17 that is so that no one later can say hey well somebody
18 added a word or a sentence there at that point, we have
19 initials on this page and then there again at the bottom of
20 it there's a place here that says, signature of the person
21 giving the statement and you can clearly see the name
22 William Smith signed there.

23 Q. And if you could read that typed paragraph before
24 that line?

25 A. It says, "I have made the forgoing statement

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 freely and voluntarily without fear, threat, promise of
2 reward or hope of reward of any kind. This is to certify
3 that I have read or have read to me the forgoing statement
4 consisting of, in this case, three pages and a true copy
5 has been given to me this date."

6 Q. And please continue on to the second page of the
7 statement.

8 A. It says, "Roach was there. He's from New York or
9 somewhere and Diablo was there. Sticky made up some reason
10 why he couldn't go. He was told he was too old or
11 something plus he was talking to the girl so that she that
12 wouldn't know. We used Rasheed's car. I drove the car.
13 It had problems with the transmission and you had to raise
14 the hood and put the starter wire on the battery. It was
15 me, Mae-Mae, Randy Lewis, Roach and Diablo. It was during
16 the day time when we drove up there. Randy was telling me
17 where to go. I don't know if he had been up there or not.
18 He told me where to park on the dirt road near a four
19 wheeler trail. I turned around and popped the hood. We
20 all got out. I had the shotgun. It was a pump, all black,
21 it was a Mossberg and it belonged to Mae-Mae. Diablo had a
22 .22 revolver. I think it may have been a nine shot chrome
23 with a white pearl handle. Mae-Mae had a Grizzly .45. The
24 barrel stuck out the end of the gun just a little bit.
25 Randy and Roach didn't have a gun. We went through the

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 woods and came over to this abandon trailer that was right
2 beside the dude's house. There was a dip and you could see
3 up under the trailer. Mae-Mae slide the window up and we
4 all went inside the empty mobile home. We stayed in there
5 for a while watching cars come and go. They were a lot of
6 traffic so we knew the information was good. It was
7 getting" -- I'm sorry, "it was kinda of getting late and we
8 saw a car leave. We went out the back door of the empty
9 trailer and we ran up to the dude's house. Mae-Mae kicked
10 the door in. I was in the door right behind Mae-Mae when
11 we went in. Diablo was right behind me and Randy and Roach
12 were behind me. The dude was sitting at the bar in his
13 house on a stool and his two kids were sitting there with
14 him. It was a boy and girl. When we came into the house I
15 slipped because it was wet. Mae-Mae tackled the dude out
16 of the stool and starting hitting dude in his head with his
17 .45. Diablo ran over and shot him in the leg with his .22
18 revolver. Diablo grabbed the little girl and picked her up
19 and put the gun to her head and told the dude to give it up
20 or he would shot the girl. Mae-Mae was still hitting him
21 in the head. Finally dude said it was in the closet on the
22 top shelf. Me, Roach and Randy found the safe in the
23 bottom of the closet. They were two rifles in the bedroom.
24 Mae-Mae brought the dude into the bedroom and ask him what
25 was in the safe. He said there wasn't nothing but papers

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 in the safe."

2 Q. And that's the end of the second page?

3 A. Yeah. That's right there at the end of the
4 second page and again he initialed the start of the second
5 page because where I had written the word 'Diablo' and he
6 initialed it at the bottom of that page where the last word
7 was 'that' on that page. He also had placed his signature
8 on the bottom of that page as well.

9 Q. And whose words are these on this ---

10 A. These are Williams Smith's words, told as he told
11 us -- written as he told us.

12 Q. Please continue.

13 A. "He said that he didn't have the key to it. Then
14 we're in the bedroom and we hear a knock at the door. I
15 opened the door with one hand and I had the shotgun in the
16 other. There was a white dude at the door. He stood there
17 and kept saying I ain't seen nothing. Mae-Mae came outside
18 and told the dude to get in the house. White dude starting
19 backing up. Mae-Mae started hitting him in the head with
20 the .45. Diablo was outside too. Roach and Randy were
21 inside with the guy we was robbing but they didn't have a
22 gun. Dude which we were robbing came running out the door
23 and starting tussling with Diablo. I heard the .22 go off.
24 Then the dude started tussling with Mae-Mae and he shot the
25 dude with the .45. When that happened the dude started

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 running. I yelled and said, don't run but he kept running
2 so I fired a shot to scare him with the shotgun but he
3 didn't stop. I didn't shot at him. I started to run and
4 then Mae-Mae said let's get the safe. We went in the house
5 and got the safe and started back toward the car.
6 Mae-Mae was trying to carry the safe holding the .45. I
7 remember the white dude tearing out of there with his
8 truck. As we were going to the car I told Mae-Mae to let
9 me hold the .45. I was trying to unload it and it went
10 off. It was aimed at the ground. We threw everything in
11 the trunk except for the .45 and we left out. We went back
12 toward Dusty Bend. We passed three or four police cars on
13 the way back to Camden. We went back to
14 Somebody knew a white guy I think he lived off of
15 that had a blow torch. We all went out there. Sticky
16 and Rasheed went with us. It was a white dude. His wife
17 came out there with him. The dude said all he needed was a
18 sledge hammer. He opened the safe and there wasn't nothing
19 but papers in there. All we got out of there, out of the
20 house was about seven grams that I grabbed off the counter
21 top in the house. I know that Diablo dropped his gun in
22 the woods. I gave the shotgun back to Mae-Mae. We left
23 the safe back at the white dude's house. I heard later on
24 that the dude, robbed, was in Charlotte" -- let me start
25 over with that sentence. "I heard later on that the dude

LEE BLACKMON- DIRECT EXAMINATION BY MS. McDUFFIE:

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1 we robbed was in Charlotte in ICU. I didn't know that he
2 died. We split the seven grams of weed between us." And
3 again he signed at the started of the last page or he
4 initialed at the start of the last page.. Initialed the
5 end of his statement there and signed it again on the line
6 that was for his signature.

7 Q. And again those are whose words?

8 A. These are William Smith's words.

9 Q. When he gave that statement to you and
10 investigator Dill did y'all suggest anything to him? Did
11 you tell him what to say? Did you give him the facts of
12 the crime and say is this correct?

13 A. No, ma'am.

14 Q. Did you force him in any manner? Threatened him?

15 A. No, ma'am.

16 Q. And when he was giving you this statement if he
17 had wanted to change anything, correct anything, please
18 tell the ladies and gentlemen of the jury what would have
19 happened?

20 A. If he would have said -- because at the
21 conclusion of writing his words down, we or I, in this
22 case, read back to him what he had told us. And at any
23 point if he would have stopped us and said well I didn't
24 say it that way, it would have been either redacted or
25 changed on his statement before I would have allowed him to

1 sign it. Anytime I take a statement from someone I don't
2 want anything in there but the truth. Because if we take
3 any information that's not the truth it's simply just --
4 it's not justice and plus it may send us off on path that
5 we really don't need to down. But what we want is in this
6 particular situation is the truth and this was the truth as
7 William Smith gave it on August 2, 2011.

8 Q. And you didn't force him or threatened him or
9 coerced him or put words in his mouth ---

10 A. No, ma'am

11 Q. -- do anything in that nature? Did you do that
12 with any witness that you interviewed in this case?

13 A. No, ma'am.

14 Q. A little while after you took the statement from
15 Mr. Smith, did you locate and go see Richard Roach?

16 A. Yes, we did.

17 Q. And where was that?

18 A. It was way up north somewhere. I've forgot the
19 name of the prison we went to.

20 Q. He was in federal custody?

21 A. He was.

22 Q. And how did you get there?

23 A. We got there on a Department of Natural Resources
24 Single Prop Airplane.

25 Q. And who was with you then?

LEE BLACKMON- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. Justin Dill.

2 Q. And y'all flew up there on a state plane?

3 A. We did.

4 Q. To interview Richard Roach?

5 A. Yes, ma'am.

6 Q. And when you got there would he talked to you or
7 give you a statement or tell you anything about this case?

8 A. He didn't tell us anything about this case.

9 Q. Why didn't you just make up a statement for him?

10 A. I don't make up statements. That's unethical.

11 That's no what we do.

12 MS. McDUFFIE: Thank you, Your Honor. No further
13 questions.

14 THE COURT: Cross examination?

15 **CROSS EXAMINATION BY MR. KIRINCICH:**

16 Q. Special Agent Blackmon, Mr. Lewis didn't really
17 come forward out of the goodness of his heart; did he?
18 Jerome Lewis?

19 A. Didn't come forward out of the goodness of his
20 heart?

21 Q. Right.

22 A. I'm not sure why he came forward. I believe he
23
24 came forward voluntarily with the statement he gave us.

25 Q. Do you remember talking to his attorney before

1 you actually interviewed him?

2 A. Yes, sir, of course we would.

3 Q. And she was out of town; right?

4 A. I think she was -- I think investigator Dill
5 spoke to her by the telephone.

6 Q. Okay. And you don't remember the beginning of
7 the interview with Mr. Lewis that you had advised him that
8 you had spoke to his attorney; right? And that maybe the
9 word immunity wasn't used but he wasn't going to be charged
10 with anything that he told y'all about?

11 A. You're asking me if I -- if that information was
12 relayed to him?

13 Q. Yes, sir.

14 A. No, sir.

15 Q. No. But later ---

16 A. There was never a time when any information was
17 given to Jerome Lewis or his attorney that he would have
18 any kind of immunity. That was -- that was never given.
19 That information was never given from myself or while I was
20 in the presence of Justin Dill, was never given to Nicole
21 Singletary, his attorney or Jerome.

22 Q. But later, I mean, we're talking what, two weeks
23 later, she stopped the interview because she believed that,
24 that was what the deal was; right?

25 A. I don't know what she believed. I know what she

LEE BLACKMON- CROSS EXAMINATION BY MR. KIRINCICH:

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1 believed when I got through because I told her that we
2 didn't offer immunity. That I had just read him his rights
3 and that anything he said could and would be used against
4 him in court. I don't know why she asked that question. I
5 know how I answered it.

6 Q. Do you remember reassuring Jerome that you were
7 going to talk with the solicitor's office and make sure
8 they knew how cooperative he was?

9 A. I may have mentioned that. You know, if I am in
10 an interview and someone does that then I, you know, I may
11 talk with the solicitor and say we have a witness here who
12 was cooperative in this case. That's just something I
13 would say to them and would talk to the solicitor's office
14 about it.

15 Q. Do you remember him thanking you for trying to
16 help him out?

17 A. I don't recall.

18 Q. You don't remember that. Is there anything --
19 I'll withdraw that. Regarding Mr. Smith's interview, you
20 said you went to visit him at Trenton; right?

21 A. That's correct.

22 Q. Now, you could have requested that he be brought
23 somewhere else for an interview; could you have?

24 A. I -- we've could have made that request but it
25 was easier for us to travel there to do the interview.

LEE BLACKMON- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. You could have made a request for him to be taken
2 to probably, Sled on Broad River, if you wanted to; right?

3 A. We could have made that request. It was easier
4 at that point for us just to drive to where he was at.

5 Q. Where it could have been recorded, via video, or
6 audio?

7 A. Well we could have taken him to any facility
8 anywhere that would have been there but in this particular
9 case it was easier for us to travel there to him.

10 Q. And the words on those papers, what you said are
11 his, you actually ---

12 A. The words on the paper are his words.

13 Q. But you wrote them all out?

14 A. Yeah. I wrote out what William Smith told us.

15 MR. KIRINCICH: Thank you.

16 THE COURT: Any redirect?

17 MS. McDUFFIE: No, Your Honor.

18 THE COURT: Sir, you may step down. Thank you.

19 Ladies and gentlemen, we are now going to take a lunch
20 break. Some of you may was wondering whether or not we
21 were going to do that. I told you I would try to go to
22 about 1:00 if possible before we take a lunch break. I'm
23 going to let you go to lunch. Do not discuss the case. Do
24 not discuss the case at all. Do not do any independent
25 investigation on your own. Please be back in the jury room

TREVOR BURNETT- DIRECT EXAMINATION BY MR. COBLE:

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1 and are ready to proceed. At this time I'm going to
2 recognize the State. Call your next witness please.

3 MR. COBLE: Thank you, Your Honor. The State
4 calls Trevor Burnett.

5 (Whereupon, the witness was sworn)

6 THE COURT: Go ahead, sir.

7 MR. BURNETT: Trevor Burnett.

8 COURT REPORTER: Please spell your last name?

9 MR. BRUNETT: B-u-r-n-e-t-t.

10 TREVOR BURNETT, being first
11 duly sworn, testified as follows:

12 **DIRECT EXAMINATION BY MR. COBLE:**

13 Q. Mr. Burnett, where are you from?

14 A. Camden, South Carolina.

15 Q. How long have you lived there?

16 A. All my life.

17 Q. Where did you live in November of 2008?

18 A. What was that?

19 Q. Where did yo live in November of 2008 within in
20 Camden?

21 A.

22 Q. How long have you been there?

23 A. I'd say about two or three years..

24 Q. On the date of this incident, November 14, 2008,
25 do you recall that day?

1 A. Yes, sir.

2 Q. Who was over at your apartment that day?

3 A. Um, Frank Singleton ---

4 Q. If you could just speak up for us.

5 A. Frank Singleton and Jerome Lewis.

6 Q. And about what time of the day, did you see them
7 over at your apartment?

8 A. I say about between 9:00 and 10:30.

9 Q. Was it odd for Jerome Lewis and Frank Singleton
10 to be at your apartment?

11 A. Nah.

12 Q. Did you see anybody else there with them?

13 A. No, sir.

14 Q. How long at what time -- you saw them at 9:30;
15 correct?

16 A. Right.

17 Q. How long did you see them there until?

18 A. I couldn't really know because I had left out --
19 I had left out to Columbia.

20 Q. What time did you leave your apartment to go to
21 Columbia?

22 A. I'd say about 9:30.

23 Q. What time did you return to your apartment?

24 A. Between 12:00 and 1:00.

25 Q. Of that same night?

TREVOR BURNETT- DIRECT EXAMINATION BY MR. COBLE:

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1 A. Yes.

2 Q. When you returned to your apartment was anybody
3 at your place?

4 A. No, sir.

5 Q. The next day did you see anybody at your
6 apartment?

7 A. Yes. They came through later on.

8 Q. And who is -- who is they?

9 A. The same two people.

10 Q. Frank Singleton and Jerome Lewis?

11 A. Yes, sir.

12 Q. And what were they doing at your apartment?

13 A. We was just sitting around talking that was about
14 it.

15 Q. You didn't know what they were talking about?

16 A. No, sir.

17 Q. I'm going to take you back two days prior, the
18 day before November 14th, did you see anybody at your
19 apartment?

20 A. No, sir.

21 Q. Was Mr. Singleton not at your apartment?

22 A. He came in somewhere around 5:00, about
23 5:00/5:30.

24 Q. On the day before?

25 A. Yes, sir.

1 Q. Who did you see him there with?

2 A. He was by himself.

3 Q. Did he have anything with him?

4 A. Not that know of.

5 Q. Do you recall giving a statement to law
6 enforcement back in 2011?

7 A. Yes, sir.

8 Q. Do you think having that statement might help you
9 refresh your memory?

10 A. Probably.

11 MR. COBLE: Your Honor, may I approach the
12 witness?

13 THE COURT: Yes, sir.

14 Q. If you would just read over this to yourself that
15 second page right there, just to help refresh your memory.

16 (Whereupon, the witness complies)

17 THE COURT: Go ahead, Mr. Coble.

18 Q. Have you had time to read over it?

19 A. Yes.

20 Q. I just want to take you back briefly. You said
21 you went to Columbia on November 14th.

22 A yes.

23 Q. Why did you go to Columbia?

24 A. My mom was in the hospital. She's a real bad
25 diabetic and I went up there to visit her and see how she

TREVOR BURNETT- DIRECT EXAMINATION BY MR. COBLE:

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1 be doing.

2 Q. Now, do you have any nicknames, Mr. Burnett?

3 A. Yes, sir.

4 Q. What do they call?

5 A. Trim.

6 Q. And you've mentioned Frank Singleton earlier,
7 does he have any nicknames?

8 A.. Not that I know of, sir.

9 Q. You just call him Frank?

10 A. Yes, sir.

11 Q. Did you ever, between the days of the 13th, the
12 14th, the 15th, see any weapons in your house?

13 A. I saw a black shotgun and a .9 millimeter -- I
14 can't think of the name of it.

15 Q. And who had these weapons?

16 A. Mr. Frank Singleton..

17 Q. And do you recall which day he had ---

18 A. I couldn't remember what day he had it.

19 Q. But you saw him at some point with both of those
20 weapons?

21 A. Yes, sir.

22 Q. Do you recall anything distinct about the pistol
23 type of weapon?

24 A. I couldn't remember what kind of .9 millimeter it
25 was.

1 Q. But it was a handgun?

2 A. Yes, sir.

3 Q. Mr. Burnett, I'm just going to ask you on your
4 statement on that same page that you were just looking at.

5 MR. COBLE: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes, sir.

8 Q. Let me ask you about the weapon. Do you see that
9 sentence where it say I remember?

10 A. Yes.

11 Q. Would you begin reading that sentence, out loud?
12 I'm sorry. Out loud so the jury can hear you.

13 A. "I remember seeing a black shotgun and ---

14 Q. It was ---

15 A. "It was a pump shotgun".

16 Q. Could you read that next sentence as well?

17 A. Which one?

18 Q. Well, I believe -- did you tell law enforcement
19 that day that Mae-Mae had the shotgun?

20 A. Yes, sir.

21 Q. And then did you next say the .45 was long and
22
23 the end of it was kinda of shape funny and the barrel's
24 stock out pass the end of the gun?

25 A. Yes, sir.

TREVOR BURNETT- CROSS EXAMINATION BY MR. KIRINCICH: 453

1 Q. And you also said Mae-Mae had that gun too?

2 A. Yes, sir.

3 Q. And you also said Mae-Mae was Frank Singleton?

4 A. Yes, sir.

5 Q. And did you also say the .45 was black?

6 A. Yes, sir.

7 Q. And that's the two guns I remember seeing?

8 A. Yes, sir.

9 Q. And Mr. Burnett, do you see Mr. Frank Singleton
10 here today in the courtroom?

11 A. Yes, sir.

12 Q. Can you point him out to the jury?

13 A. Right there.

14 Q. The man wearing the white shirt at the end of the
15 table?

16 A. Yes, sir.

17 THE COURT: Your Honor, may the record reflect
18 that the witness had identified the Defendant.

19 THE COURT: So noted for the record.

20 MR. COBLE: Thank you, Mr. Burnett.

21 THE COURT: Cross examination?

22 MR. KIRINCICH: Thank you, Your Honor.

23 **CROSS EXAMINATION BY MR. KIRINCICH:**

24 Q. Good afternoon, Mr. Burnett. You gave that
25 statement in August of 2011; right?

1 A. Yes, sir.

2 Q. And now we're in August or excuse me, September
3 of 2014 and we're talking about things that happened back
4 in 2008; right?

5 A. Right.

6 Q. I mean, if I ask you what you were doing August
7 of last year, could you really recall the details of what
8 you were doing on any particular day in August?

9 A. No, sir.

10 Q. If I ask you another year back, August of 2012,
11 or September of 2012, could you recall the details of what
12 you were doing on any particular day?

13 A. No, sir.

14 Q. You didn't actually write this statement; did
15 you?

16 A. No, sir.

17 Q. Somebody else wrote the statement?

18 A. Yes, sir.

19 Q. You said that you did not refer to Mr. Singleton
20 by a nickname; correct?

21 A. No, sir.

22 Q. But in the statement here it has him listed by
23 the nickname, Mae-Mae, Me-Me?

24 A. Mae-Mae.

25 Q. Would you have told that to the officer or was

SUZANN CROMER- DIRECT EXAMINATION BY MS. CAMPBELL: 455

1 that something they put in there?

2 A. That's something he probably put in there.

3 Q. And this was 2011, two and half years after 2008,
4 did you clearly remember the details or did they perhaps
5 feed you some information?

6 A. I couldn't remember.

7 Q. Okay. And you're having a hard time even
8 remembering what you told them in 2011; right?

9 A. Yes, sir.

10 MR. KIRINCICH: Thank you, Mr. Burnett.

11 THE COURT: Any redirect?

12 MR. COBLE: No, Your Honor.

13 THE COURT: Sir, you may step down. Thank you.
14 Call you next witness.

15 MS. CAMPBELL: May it please the Court? The
16 State calls Agent Cromer.

17 (Whereupon, the witness was sworn)

18 MS. CROMER: My name is Suzann Cromer, C-r-o-m-e-
19 r.

20 COURT REPORTER: Spell your first name.

21 MS. CROMER: S-u-z-a-n-n.

22 SUZANN CROMER, being first
23 duly sworn, testified as follows:

24 **DIRECT EXAMINATION BY MS. CAMPBELL:**

25 Q. Agent Cromer, where are you employed?

1 A. I'm employed by the South Carolina Law
2 Enforcement Division commonly referred to as Sled.

3 Q. And what do you do there, ma'am?

4 A. I am in the forensic service laboratory as the
5 firearm and toolmarks examiner.

6 Q. What is a firearm and toolmarks examiner?

7 A. What we do is called a firearm identification.
8 We look at the age and components, bullets, cartridge
9 cases, shotgun shells to determine whether they were fired
10 by or loaded into and extracted out of a specific weapon.

11 Q. Can you tell this jury a little bit about your
12 education and your training in the field?

13 A. Yes, ma'am. I received a bachelors degree from
14 Clemson University. I did some graduate work at the
15 University of South Carolina. While there I also did an
16 internship at the Sled Forensic Laboratory at the Firearms
17 Department. I was hired by Sled. I completed their in
18 house training program which is a three to five year
19 intense study program where I study under court qualified
20 firearms examiners, it's more than an apprenticeship, if
21 you will. We take written test, oral test, practical
22 exercises and prepare cases for examiners. Upon completion
23 of the course of instruction we are given a comprehensive
24 final exam that is graded by our training officer and our
25 lieutenant. I have taken classes with the Association of

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1 Firearm and Toolmarks examiners which is an international
2 organization for our profession. They get together each
3 year for week long seminar and also offer extra workshops.
4 I've been lucky enough to attend several of those seminars
5 and extra workshops like barrel making, ethics, high point
6 firearms familiarization. I've also taken classes with the
7 International Association of Identification, most pertinent
8 being a three day shooting and reconstruction. I've also
9 taken classes with the Bureau of Alcohol and Tobacco and
10 Firearms on serial numbers restoration and the Integrated
11 Ballistic Identification System.

12 Q. And how long have you actually been in this
13 field?

14 A. I was hired on at Sled in December of '98 so it
15 will be sixteen years with Sled in December. I started the
16 firearms examiner training in February of 2000.

17 Q. And is your laboratory accredited?

18 A. Yes, it is.

19 Q. And is that by -- by what entity is your lab
20 accredited?

21 A. Right now we are credited by ASCLD which is
22 American Society of Crime Lab Directors. We just went
23 through a accreditation process that's not completed yet
24 under the International Standards Organization.

25 Q. And as part of ASCLD and part of your

1 accreditation program, are there certain precautions and
2 testing in place to assure the quality of your results?

3 A. Yes we have a quality department and we also, in
4 the firearms department have several of those quality
5 assure protocols. We have hundred percent micro-
6 verification. That means any conclusion I render on
7 evidence has to be agreed upon by another examiner. We
8 also have a full technical review of all of our bench notes
9 and then administrative review.

10 Q. And the procedures that you've gone through as
11 far as what you have to go through before you can actually
12 issue a report, those were all done in this case?

13 A. Yes, ma'am, they were.

14 Q. And have you ever been qualified before as an
15 expert?

16 A. Yes, ma'am, I have.

17 Q. And approximately how many times have you been
18 qualified as an expert in this field?

19 A. Over seventy-seven times in federal and state
20 court's.

21 MS. CAMPBELL: Your Honor, at this time we offer
22 her as an expert in the field of firearm examination for
23 purposes of this trial?

24 MR. STRICKER: I have no voir dire for this
25 witness, Your Honor.

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1 THE COURT: Ladies and gentlemen, I previously
2 gave you a charge on expert testimony, that same charge is
3 applicable here. This individual is being qualified as an
4 expert in firearms and I believe, did you say toolmarks
5 examination?

6 MS. CAMPBELL: Yes, Your Honor.

7 THE COURT: All right. That does not mean, just
8 because they're being qualified as expert she's being
9 qualified to give an opinion testimony in that area but
10 that does not mean that you must accept the opinion. It is
11 evidence for you to use as you see fit and give it the
12 weight and credibility that you believe is appropriate.

13 Ma'am, solicitor.

14 MS. CAMPBELL: Thank you.

15 Q. Agent, I want to turn your attention -- well let
16 me back up a little bit, in any case, typically, when
17 firearms are involved what type of evidence is submitted to
18 you for examination?

19 A. I can get bullets, cartridge cases, shotgun
20 shells, fragments, pieces of bullets and usually handguns,
21 rifles, revolvers.

22 Q. Okay. I'm going to talk a little bit about the
23 different kinds of weapons that can be submitted to you.
24 You mentioned that you can get a revolver or a semi-
25 automatic, I believe; is that correct?

1 A. That's correct.

2 Q. And for those of us, for me, a layman, would
3 consider a hand or a regular pistol that type of weapon?

4 A. Yes. A handgun.

5 Q. Handgun. And you mentioned the word revolver
6 versus semi-automatic, can you explain to the jury the
7 difference between those two?

8 A. The revolver is what we commonly see in like a
9 western movie. It has a round cylinder that rotates around
10 the same old firing pin or firing mechanism. So every time
11 you cock the hammer and pull the trigger that cylinder
12 would rotate. And in that cylinder they're several
13 different chambers in which will hold an unfired cartridge.

14 Q. And when you say unfired cartridge, for the
15 laymen such as myself, is that kinda of like what you see
16 as the bullet before it's been fired?

17 A. Yes, ma'am, it is.

18 Q. And this, you've mentioned that there's a round
19 cylinder in the middle and how does the mechanism actually
20 work as the trigger is pulled or do you have to pull it
21 individually? How does that work?

22 A. What you -- there are several different types of
23 revolvers. There is a single action meaning you have to
24 pull the hammer back and then when you pull the trigger it
25 will fire. There's also called a double action which you

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1 can just pull the trigger and it will rotate the cylinder
2 and fire with one pull of the trigger. So it's double
3 action meaning it does two things, it rotates and cock's
4 the hammer and fires.

5 Q. And typically with a semi-automatic weapon how
6 does that mechanism work?

7 A. Semi-automatic is usually magazine feed meaning
8 you have a column or a block type device that has your
9 unfired ammunition that is introduced into the firearm.
10 You'll have a slide that you pull back to chamber a round.
11 Once that round is chambered semi-automatic means one pull
12 of the trigger, one fire the gun. It will fire, eject that
13 fire cartridge case and load another one into the chamber
14 with another unfired round into the chamber.

15 Q. And when you said it eject that cartridge case or
16 it's also I think sometimes referred to as shell casing?

17 A. Yes, ma'am.

18 Q. Those are kinds of use in somewhat
19 interchangeably at least between people that don't know
20 better. When that gets ejected how does it actually come
21 out of the gun?

22 A. It depends on the particular design of the
23 firearm. It will be designed to come out of an ejection
24 port. Now on different firearms they can be on top or they
25 could be on the side.

1 Q.. And with every firearm that's semi-automatic
2 handgun, does the shell eject the exact same direction or
3 same length or how does that work? Does it depend on the
4 gun?

5 A. It depends on the gun. It depends on the
6 ammunition itself and it also depends on the shooter, how
7 you're holding the weapon, if you're holding it in the
8 proper way or you're holding it sideways, ejection port
9 downward or ejection port pointed upward, depends on the
10 ammunition or how much pressure it can go further. It also
11 depends on the area itself. If it has a firearm it could
12 hit something and bounce and roll.

13 Q. And with different handguns, we also hear what's
14 different calibers such as .45 versus .22, .25 things of
15 that nature, can you explain to the jury how that works?

16 A. A caliber is basically a termination of size.
17 When you're talking about .40 caliber or .45, that usually
18 refers to the dimension of the bullet that can go down the
19 barrel of the gun. So when you're talking about .40
20 caliber it's usually a .40 inch diameter of the bullet. A
21 .45 is usually around about .45 inches. A .22 is smaller.
22 So usually the smaller the number the smaller the
23 projectile.

24 Q. Okay. And with different types of ammunition,
25 say if it's a .22 or a .25 caliber bullet, can that be

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1 fired by just any gun?

2 A. No. Usually they're designed to be fired by that
3 particular caliber firearm. They are some interchanging
4 ones. You obviously can't fire a .45 in a gun that's been
5 designed to fire a .22 because if you're barrel size is .22
6 inches in diameter, you can't fit something as a .45 inches
7 down it.

8 Q. And vice versa, a .22,-- can a .45 necessarily
9 fired that ammunition?

10 A. It shouldn't unless there's been some alterations
11 to it.

12 Q. Also in your examinations you also are familiar
13 with shotguns?

14 A. Yes, ma'am.

15 Q. And the type of ammunition used in shotguns?

16 A. Yes, ma'am.

17 Q. And what type of ammunition is typically used in
18 a shotgun?

19 A. What we call a shotgun shell. It is a projectile
20 usually a cartridge or shell that usually has a brass
21 bottom and a classic tube that comes out. And inside that
22 tube it's designed to hold a bunch of little pellets like
23 ball bearings, what we call bird shot or the larger
24 diameter type are buck shots or it could hold one single
25 projectile which is usually referred to as a slug.

1 Q. And with a shotgun and the shotgun action, when
2 the shotgun is fired does anything come out of the gun in a
3 similar matter to a semi-automatic weapon?

4 A. Yes. The shotgun shells is ejected.

5 Q. I want to show you evidence in this case now and
6 talk about it. When did you initially receive evidence for
7 your examination in this case?

8 A. I received the first batch of evidence -- I
9 received evidence from our logging department in December
10 17, 2008.

11 Q. And as I show you State's Exhibit Number 90, 91,
12 92 and I left one down there. Let me first ask you to look
13 at those.

14 A. State's Exhibit 92, is a fired bullet jacket that
15 I received in this case. Again, you can see the container
16 with my initial and my item number.

17 Q. And what is that item number?

18 A. It's my item one.

19 Q. Which is?

20 A. State's Exhibit 92.

21 Q. Okay.

22 A. State's Exhibit 90, was my item six and this is a
23 fired shotgun shell. State's Exhibit 91, was my item seven
24 and it's a fired .45 auto caliber cartridge case.

25 Q. And State's Exhibit 95?

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1 A. State's Exhibit 95, was my item two through five
2 and it is four fired .9 millimeter caliber cartridge cases.

3 Q. And was that the extent of evidence that was
4 initially submitted to you ---

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

6 Q. And so at that point, you didn't have any weapons
7 involved in this case?

8 A. No, ma'am, I did not.

9 Q. And what initial examinations were you able to do
10 based on what was provided to you?

11 A. Well, what we do we weigh them, we measure them.
12 I determine the caliber of the bullet jacket that I
13 received. I determined it to be .45, consistent with a .45
14 auto. And then I do a microscopic examination to see if
15 they do have the markings that I need to identify it to a
16 firearm. And then I also compare these four .9 millimeter
17 cartridge cases to each other.

18 Q. And when you compare the .9 millimeter, the four
19 .9 millimeter cartridge cases, and again for the record is
20 a .9 millimeter different from a .45?

21 A. Yes, ma'am, it is. It's smaller.

22 Q. And for a lay person would the guns maybe look
23 interchangeable possibly?

24 A. They could.

25 Q. What were you able to determine when comparing

1 the four cartridge cases from the .9 millimeter -- they
2 were .9 millimeter?

3 A. It was my determination that they were all fired
4 by the firearm.

5 Q. And as far as looking at the shell casing that
6 was the .45 caliber shell casing, what, if anything, were
7 you able to determine about that?

8 A. That it was identifiable with a specific firearm
9 meaning it did have markings that I needed for
10 identification purposes and that the .45 was the cartridge
11 case that was not fired by the same firearm that fired
12 these .9 millimeters.

13 Q. And do you have to look at it microscopically to
14 determine that or can you based it on just the ammunition
15 alone?

16 A. I based it alone on just the ammunition alone.

17 Q. There's no way that those are all fired by the
18 same gun?

19 A. Well, these did not display any sort of markings
20 that would have given me -- believed that they were fired
21 in a larger caliber device.

22 Q. Okay. So they would be -- the four were the same
23 to each other but they would be different from the single
24 .45?

25 A. That's correct.

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1 Q. And in addition to that I believe you also
2 received a projectile from the autopsy, I mean, excuse me,
3 from the -- that was removed from the victim?

4 A. Yes.

5 Q. And what, if any, were you able to determine
6 about that?

7 A. I was able to determine that this was most
8 consistent with being a bullet jacket from a .45 auto
9 caliber projectile.

10 Q. And at that point based on what you have there,
11 are you able to compare the two to each other, the .45
12 shell casing you have to that one?

13 A. No. That's not an examine that we do.

14 Q. Okay. And at this point, you still don't have a
15 gun; right?

16 A. At this point ---

17 Q. When you did your initial ---

18 A. --- I did not.

19 Q. And finally with the shotgun shell, what were you
20 able to determine about that?

21 A. The shotgun shell, I determined that it may or
22 may not be suitable for identification with this specific
23 firearm.

24 Q. And that shell that you see there is that how it
25 looks before it's fired or after?

1 A. After.

2 Q. So that's what would have been expelled say at a
3 crime scene ---

4 A. Yes ---

5 Q. --- if it was fired? If a shotgun was fired?

6 A. When it's fired, first off, there's markings on
7 the primer of the shotgun shell, a firing pin and breech
8 face marks. And also a shot shell when it's closed we call
9 it a crimped close. This particular one had, looks kinda
10 of like, a star and when it's opened up you can kinda of
11 see the ridges in it.

12 Q. And in this case was a weapon, a shotgun ever
13 submitted for you analysis?

14 A. No, ma'am, it was not.

15 Q. So it was never -- is it unusual in a case such
16 as a murder case for guns not to be recovered?

17 A. No, it's not.

18 Q. And a later date, I believe in 2011, there were
19 additional firearms submitted for your comparison in this
20 case?

21 A. Yes, ma'am, there was.

22 Q. And I'm show you State's Exhibit Number 93 first
23 and ask if you recognize that?

24 A. No, ma'am, I never received this firearm.

25 Q. You've never received that firearm?

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1 A. No, ma'am.

2 Q. Excuse me. I apologize. State's Exhibit ---

3 A. Ninety-four.

4 Q. I apologize.

5 A. What I'm doing is I'm looking for my markings
6 that I placed on this. We usually describe firearms with
7 our lab number and our item and our initials. Yes, ma'am,
8 I did receive this firearm.

9 Q. And once you received that firearm, what, if any,
10 comparisons did you make to any of the ammunition and/or
11 shell casings that had already been submitted?

12 A. I test fired the firearm. And first I look at
13 those test fires versus each other microscopically on
14 comparison on a scope and then I compared the .45 caliber
15 evidence I received earlier.

16 Q. And let me stop for a second. When a bullet is
17 fired from a gun, you've mentioned some markings that may
18 come on parts of that bullet that will be important to you
19 as far as examination?

20 A. Yes, ma'am.

21 Q. And explain how each guns has it individual
22 characteristics that can later be used by you to identified
23 who fired the gun, what was fired with the gun?

24 A. What I'm looking for on a bullet in particular is
25 the markings from the rifling in the firearm. Rifling is

1 what's placed in the gun barrel to put rotatory motion on
2 the bullet and it's a series of raised and depressed areas
3 that we call lands and groves. Different manufactures have
4 different numbers of lands and groves. In this particular
5 case this fireman has six lands and groves and what we call
6 left twist meaning it's going to spend that bullet to the
7 left. During manufacturing process, defects can occur that
8 leaves markings in that kind of barrel that can be
9 imprinted on the bullet when it passes down the barrel.
10 Those markings are unique and an individual to that
11 firearm. Also, wear and tear of the firearm of use of the
12 firearm can also lead individual markings in that firearm.
13 So that's what we're doing, we looking at the microscopic
14 marks in the rifling or that are impressed on the bullet
15 during the firing process. Also the cartridge case, the
16 cartridge case can be marked in five different areas in a
17 semi-automatic, you have the primer which is the initial
18 ignition component of the cartridge case. That primer is
19 hit by the firing pin, creates a spark, the spark goes
20 through the flash hole, enough to ignites the gunpowder,
21 that builds the pressure, pushes the bullet down the barrel
22 but it's also pushing that cartridge case back into what we
23 call the breech face of the firearm. So any manufacturing
24 defects left on that breech face can be imprinted in that
25 head of the cartridge case. So that the firing pin, the

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1 breech face, also the ejector which is the part of the
2 firearm that, that cartridge case hits to come out through
3 the ejection port. And the extractor, it's a cloth type
4 part of the firearm that holds the firearm into the slide.
5 And the chamber itself, the chamber is part of the barrel
6 where the cartridge rest during firing. That cartridge
7 case expands so any defects that in the walls of the
8 chamber can be imprinted into the cartridge case.

9 Q. And even if a gun, say it's a .45 manufacture on
10 the same day ten of them are manufactured by the same
11 company, the same caliber the same processed used, are
12 those all going to be alike or will they be individual
13 characteristics that you can determine?

14 A. They actually can display or do display different
15 individual identifying characteristics.

16 Q. So even if the gun was all with -- was
17 manufacturing in the same like of other guns of the same
18 caliber by the same manufacture on the same day, each will
19 have individual or different characteristic from each
20 other?

21 A. Yes, ma'am, that's correct.

22 Q. And you were able to use that in determining
23
24 whether or not a bullet may have been fired by our gun?

25 A. Yes.

1 Q. And when doing this in using the actual gun the
2 .45 that was submitted to you, what were you able to
3 compare it to and what were the results?

4 A. I compared this firearm to the fired .45 bullet
5 jacket and the firing .45 cartridge case that I received
6 and I determined that there was enough individual
7 identifying characteristics for me to say that those were
8 fired, the fired bullet jacket and the fired .45 auto
9 caliber cartridge case were fired by this gun.

10 Q. And that was based on your testing of the weapon
11 and your observation of the characteristics?

12 A. Yes, ma'am.

13 Q. And so that one was fired by that gun?

14 A. Yes, ma'am.

15 Q. Were you able to compare any of the other items
16 that was submitted to you to this gun?

17 A. No, ma'am.

18 Q. That was the extent of it. And what were you
19 able to determine the projectile in this case?

20 A. That the projectile was fired by this firearm.

21 Q. And the shell casing?

22 A. And the cartridge case.

23 Q. The four that were found at different place,
24 those were not?

25 A. The four .9 millimeter caliber cartridge cases

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1 were not fired by this firearm.

2 MS. CAMPBELL: Your Honor, may the witness
3 identify for the jury, the gun?

4 THE COURT: Yes, ma'am.

5 Q. For illustration for this jury.---

6 MS. CAMPBELL: This gun, Your Honor, it does have
7 the lock in place.

8 Q. State's Exhibit Number 94, I believe it was, what
9 type of gun is this?

10 A. This is a LAR Grizzly Model, Grizzly .45 Win Mag
11 semi-automatic pistol.

12 Q. And when you say Grizzly is that what's actually
13 on this gun?

14 A. Yes, ma'am.

15 Q. And is this a revolver or a semi-automatic that
16 you were talking about?

17 A. This is a semi-automatic.

18 Q. And this is the gun that was actually submitted
19 to you along with this?

20 A. Yes, ma'am. This is what I referred to a
21 magazine.

22 Q. And how was the gun actually loaded, I know you
23 can't because the locks are there?

24 A. What you do is you place unfired cartridges into
25 the magazine, spring load it do you push them down in, and

1 without checking my notes. I don't remember off the top of
2 my head, how many it will hold, but you push them in and
3 then you introduce the magazine into the magazine well of
4 the firearm, you want to chamber around, you pull, this
5 what we call the slide, you pull the slide back and let
6 fall forward. What it does it will push that top round
7 into the chamber of the firearm.

8 Q. And once there's a bullet actually in the chamber
9 and this magazine is loaded, how many times can it fire
10 without having you to re-chamber it?

11 A. Once you've loaded one, you can pull the trigger
12 and it can fire one time. Then each time after, as long as
13 there is a round in the magazine that you feed into the
14 chamber, all you have to do is pull the trigger.

15 COURT REPORTER: All you have to do is what? I'm
16 sorry.

17 A. Pull the trigger.

18 Q. And as far as the comparisons you were able to
19 make, there is no doubt that the projectile in State's
20 Exhibit 92 ---.

21 A. Yes, ma'am.

22 Q. --- was fired by the gun?

23 A. No, ma'am.

24 Q. You also mentioned a revolver and I know this gun
25 wasn't submitted to you but I want you to use it for

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1 comparison to distinguish between a revolver looking at
2 this item, you can explain to the jury how that would've
3 been, here's another piece of this, I think is a part of
4 this?

5 A. This was what I was talking about the round piece
6 with multiple holes in it that are call the chambers. What
7 it does is this fits in here and as long as I can cock the
8 hammer it will rotate around and all I have to do is pull
9 the trigger to shoot. Now, this does not eject any
10 cartridge cases until you open it up and on this particular
11 model, open it up and pull out the firing cartridge case.

12 Q. And so if I shoot that gun, unlike the semi-
13 automatic, it's not going have something fall right there,
14 you have to open it up and remove it?

15 A. That's correct.

16 Q. And as far as ammunition are you familiar with
17 these -- this type of ammunition?

18 A. These are red tipped cartridges, rimmed fired
19 cartridge.

20 Q. Okay.

21 COURT REPORTER: I'm sorry.

22 A. Red tipped rimmed fired cartridges.

23 (Whereupon, the witness returns to the stand)

24 Q. The shotgun shell, obviously, was never matched
25 to anything that was submitted to you?

1 A. No, ma'am, it was not.

2 Q. And as far being able to determine anything about
3 State's Exhibit 91 which is the shell casing?

4 A. State's Exhibit 91 is the .45 auto caliber
5 cartridge case which I determined to be fired by that
6 firearm I believe was State's Exhibit 94.

7 Q. So both the spent round and projectile that was
8 submitted to you as well as the shell casing matched this
9 gun?

10 A. Yes, ma'am, it did.

11 MS. CAMPBELL: I beg the Court's indulgence.

12 THE COURT: Yes, ma'am.

13 Q. The gun that was submitted to you in this case
14 the .45, is that a somewhat unusual gun?

15 A. Yes, ma'am, it is. I had never particular seen
16 that firearm before.

17 Q. And what makes it unusual?

18 A. It is chambered in .300/.500, Winchester Magnum
19 Caliber, that's not a typical caliber that we see in semi-
20 automatics.

21 Q. And this gun you've never seen before?

22 A. I had never seen one of those before so I had to
23 do some research before I actually started working on it.

24 Q. And how many years have you been doing this?

25 A. I've been in the firearms department sixteen

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1 years and I've have been working firearm examiner for
2 fourteen.

3 MS. CAMPBELL: Thank you. I don't have anything
4 further.

5 THE COURT: Cross examination?

6 MR. STRICKER: May it please the Court?

7 THE COURT: Yes, sir.

8 **CROSS EXAMINATION BY MR. STRICKLER:**

9 Q. Agent Cromer, these examinations that you've
10 discussed as to both bullet, hat's not the right term
11 actually, the portion of the projectile that was recovered
12 and the shell casing, these examinations by you are done,
13 visually, done?

14 A. Visually and microscopically.

15 Q. Microscopically being visually enhanced by an
16 instrument?

17 A. That's correct.

18 Q. All involves you using your eyes and looking at
19 items and then testify on your items; correct?

20 A. That's correct.

21 Q. And the process is, I guess, when you once you
22 get your firearms and compare to the evidentiary items the
23 portion of the bullet and the shell casing, and you do test
24 firing from the firearms?

25 A. Yes, sir, I do.

1 Q. And you'll see on the shell casing or whatever
2 markings on the shell cases ---

3 A. That's correct.

4 Q. --- from the test fire? And whatever markings
5 are left of the projectile from the test fire; correct?

6 A. That's correct.

7 Q. You do several test fire, I take it?

8 A. Yes, I do.

9 Q. And then you compare those test fire rounds and
10 casings with the evidentiary items that you have?

11 A. First I compare those test fire rounds to each
12 other to see how they mark.

13 Q. Okay. And after that you compare with the
14 evidentiary items?

15 A. That's correct.

16 Q. In this comparison that you're talking again that
17 is the visual comparison of both the naked eye and
18 microscopically?

19 A. Yes, sir.

20 Q. And you look for individual identifying
21 characteristics; right?

22 A. That is correct.

23 Q. And that's both as to the shell casing and as to
24 a projectile; right?

25 A. That's correct.

1 Q. You've identified the shell casing I believe you
2 just talked about five different areas of could've been
3 part characteristics to the shells; right?

4 A. That's correct.

5 Q. And then on the projectile you looked for micro
6 level you look for the lands and grooves that are present?

7 A. Usually, when can see the number of lands and
8 grooves with our visual eye. What we do is then we get the
9 microscope and we look at those individual identifying
10 characteristics. Also on microscope I measure the lands
11 and grooves dimensions.

12 Q. And then the lands and grooves are not individual
13 identifying characteristics?

14 A. Not by the themselves they are not.

15 Q. Those would be classed characteristics?

16 A. That's correct.

17 Q. Because you said they were what, eight lands or
18 six lands and grooves in this particular shell or bullet
19 round?

20 A. Yes, sir.

21 Q. Okay. Fired actually. There could be number of
22 weapons that share six lands and grooves?

23 A. I had a four list of manufacture that had six
24
25 lands and grooves with left twist.

1 Q. Okay. And whose was manufacture in this case?

2 A. This was LAR Grizzly.

3 Q. And was LAR -- the four manufactures that you
4 came up with, that was when you did the initial review of
5 the recovered round; correct?

6 A. That is when I did my initial examination of the
7 fired bullet jacket case.

8 Q. Right. The fired bullet jacket, okay. So LAR
9 Grizzly what four manufactures did you list as a result of
10 your initial evaluation?

11 A. My four manufactures were all .45 auto caliber
12 because that's what caliber I determined the bullet to be
13 and it was Norinco Sea Arms Springfield Incorporated and US
14 Military.

15 Q. Okay. And that evaluation examination was done
16 in 2008/2009?

17 A. In 2010.

18 Q. In 2010. And then when you got the firearm,
19 itself to use, that was in 2011; correct?

20 A. I believe so. Let me check my notes. Yes, sir.
21 I did receive the firearm until 2011.

22 Q. And that resulted in determining that what -- you
23 know what firearm it is, it's printed on the firearm just
24 testified that for the jury; right?

25 A. I didn't understand the question.

1 Q. You know what the firearm is, the one you have,
2 it's printed on the firearm, it's manufacture and brand
3 name; right?

4 A. Yes.

5 Q. And you testified that you're looking for
6 individual identifying characteristic, sufficient
7 individual identifying characteristics; is that correct?

8 A. That's correct.

9 Q. Okay. And that is both as to the bullet jacket
10 and as to the shell casing; right?

11 A. That's correct.

12 Q. Different sort of characteristics you are looking
13 for but you are looking for individual identifying
14 characteristics?

15 A. That's correct.

16 Q. Now, as to the bullet jacket, okay, if I'm using
17 the right term, how many individual identifying
18 characteristics do you need to find to say that it's a
19 match?

20 A. We need sufficient agreement. What I have to do
21 is look at my test specimens and see how they match then
22 compare it to that evidence specimens and I have to find
23 sufficient agreement on the whole three hundred sixty
24 degree bullet.

25 Q. How many characteristic would that be?

1 A. There's not a particular number. What we do is
2 called pattern, um, pattern matching. We look for
3 different patterns on the bullets and cartridge cases,
4 usually on the bullets and compare them to each other.

5 Q. Okay. And when you feel as the analyst that
6 there's sufficient number then, and someone agrees with you
7 because you have a second person look at it; correct?

8 A. That's correct.

9 Q. You look at it and another one of your co-workers
10 looks at it and you agree there is sufficient
11 characteristics, then in deed there are sufficient
12 characteristics?

13 A. That's correct.

14 Q. You definid what's a sufficient number of
15 characteristics and that means that's a sufficient number
16 of characteristics?

17 A. Based on my training that's how I determine
18 whether it's sufficient by looking at bullets that I had
19 knowingly fired from the gun, seeing how it marks, knowing
20 how it reacts and how it does mark a bullet in a cartridge
21 case and then comparing it to the evidence. I have to find
22 enough corresponding marks of about you before I would say
23 that it is, or sufficient agreement before I can say it was
24 fired by the firearm.

25 Q. You are the author, you are the decider as to

1 what qualifies this as sufficient number?

2 A. Yeah: Based on my training and education and
3 background.

4 Q. That's right. And in making that determination
5 you are dealing with samples, in this case, a bullet jacket
6 and a shell casing, that you know are thought to be or the
7 issues is whether, were fired from a particular gun that's
8 also been fired; right? If the shell casing, you have,
9 bullet jacket, okay, you have a gun and that's what you're
10 testing; right, a particular gun?

11 A. Yes, sir.

12 Q. Okay. So it's not a matter of being-- let's see
13 -- having a shell casing and being presented with a series
14 of shell casings from a number of different weapons, being
15 asked to do comparison between them in determining whether
16 the shell casing that you, the evidentiary shell casing,
17 matches one of those particular shell casings?

18 A. I don't think I understand what you're asking.

19 Q. You understand the concept of blind testing?

20 A. Yes, sir, I do.

21 Q. What's blind testing?

22 A. Blind testing is when you do not know an answer,
23 you're just given a particular item to test.

24 Q. Okay. What's double blind testing?

25 A. Double blind testing is when the testing is made

1 and they don't even the know the answer, the correct
2 answer.

3 Q. Right. In this case, you know that the correct
4 answer is to say the shell casing and the bullet jacket
5 came from the gun, that's the correct answer in this case;
6 isn't it?

7 A. No, it's not. It's never a correct answer. What
8 we do is we use the scientific method and we have a
9 hypothesis or we formulate a question, was that bullet or
10 was that cartridge case fired by that gun and then we test
11 it. We can render one of four conclusion in the lab.

12 Positive. Yes, it was fired by the gun.

13 Negative. No, it was not fired by that gun.

14 Unsuitable, it does not have enough of the individual
15 markings on it for us to ever say it was fired by or not
16 fired by a particular firearm.

17 And our last one conclusion is inconclusive. There is
18 not enough sufficient agreement for me to render a positive
19 conclusion or render a negative conclusion. If I don't
20 feel that there's enough sufficient agreement I can say
21 it's inconclusive with that gun.

22 Q. In you're opinion as to whether there's
23 sufficient agreement is what constitutes the scientific
24 method? You're opinion is what constitutes scientific
25 method?

SUZANN CROMER- REDIRECT EXAMINATION BY MS. CAMPBELL: 485

1 A. My opinion is what is enough sufficient agreement
2 and does it correspond with my test specimens.

3 Q. So you brought the photos along to show the jury
4 here and demonstrate what you're talking about?

5 A. No, sir, I was not asked to. We don't usually
6 bring photos to court. I had to study for between three to
7 five years to know how to do this and if I pull out a photo
8 and ask y'all to look at it you might make your
9 conclusions. And also we are taking pictures of a three
10 hundred and sixty degree round surface. It's, you know, a
11 picture is just for my notes later on.

12 Q. Yeah, a picture which would demonstrate that the
13 test fired object has same characteristics as the
14 evidentiary sample, that's what you're testifying to show;
15 right?

16 A. That's correct.

17 Q. But we're not bringing them to court.

18 MR. STRICKER: I have nothing further.

19 MS. CAMPBELL: Is the ---

20 THE COURT: Redirect?

21 MS. CAMPBELL: I'm sorry, Your Honor.

22 **REDIRECT EXAMINATION BY MS. CAMPBELL:**

23 Q. Is the actually evidence you examined here in
24 court?

25 A. Yes, ma'am, it is.

SUZANN CROMER- REDIRECT EXAMINATION BY MS. CAMPBELL: 486

1 Q. And he ask you about the review procedure in your
2 case notes which I believe you have up there?

3 A. Yes, ma'am.

4 Q. Those are provided to my office?

5 A. Yes.

6 Q. And ultimately to the defense?

7 A. Yes, ma'am.

8 Q. And are those available for review by anyone?

9 A. Yes, ma'am. And my photos are a part of them.

10 Q. And do you get paid more to get a positive
11 finding versus a negative?

12 A. No, ma'am, I'm not.

13 Q. And is it even submitted to you whether or not oh
14 this needs to match or anything of that nature?

15 A. No, sir, I mean, no, ma'am. Sorry.

16 Q. And, in fact, you went over the different
17 classifications and your laboratory is accredited and in
18 the process of being internationally accredited?

19 A. That's correct.

20 Q. And you followed all the procedures and it was
21 reviewed properly?

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

23 Q. And it's available for review?

24 A. Yes, ma'am, it is.

25 Q. Is your opinion, is based on your training?

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1 A. That is correct.

2 MS. CAMPBELL: Thank you.

3 MR. STRICKER: No, sir. Thank you.

4 THE COURT: You may step down. Thank you.

5 (Whereupon, the witness complies)

6 THE COURT: Call your next witness.

7 MR. COBLE: The State call Andrena Belton.

8 (Whereupon, the witness was sworn)

9 MRS. HARRISON: Andrena, A-n-d-r-e-n-a, Harrison,
10 H-a-r-r-i-s-o-n.

11 ANDRENA HARRISON, being first
12 duly sworn, testified as follows:

13 **DIRECT EXAMINATION BY MR. COBLE:**

14 Q. Agent, you were currently, recently married since
15 this report; correct?

16 A. Yes.

17 Q. Agent Harrison, where are you currently employed?

18 A. South Carolina Law Enforcement Division.

19 Q. And what do ---

20 A. Also known as Sled.

21 Q. And what do you do there?

22 A. I'm a Latent Print Examiner in the crime scene of
23 the Latent Department.

24 Q. And how long have you been at Sled?

25 A. I've been with Sled since 2003 and I got promoted

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1 in the crime scene, Latent Print Department in 2007.

2 Q. So you've been working at the Latent Print
3 Department for seven years about, now?

4 A. About seven years but in 2003 I came as a finger
5 print specialist. I've been dealing with finger prints
6 since 2003.

7 Q. What type of training to work in this field, what
8 type of training have you done before in your career?

9 A. I'm a member of the South Carolina International
10 Association for Identification. I also did a two year
11 comprehensive in house training under court qualified
12 examiners where we're tested for efficient testing,
13 competent testing and you have to pass. It's not a -- you
14 either make it or you don't. There's not a chance to
15 chance to do it again. I've done a host of training under
16 Ron Smith. I've done a host of training with comparison
17 with finger prints, comparison with latent prints,
18 comparison of latent too known for fingerprints. I've done
19 a host of training a chemical processing as well for
20 fingerprints.

21 Q. And you've done all that training -- and you've
22 done training before you went to Sled as well?

23 A. That was all done in 2003.

24 Q. That was all -- and where did you get your
25 bachelors degree?

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1 A. Bachelors degree from the Columbia College and
2 master degree from Scranton University.

3 Q. Have you ever been qualified as an expert in the
4 court of record?

5 A. Yes.

6 Q. About how many times?

7 A. Probably about twelve times.

8 Q. In what field?

9 A. Finger prints. Latent prints.

10 Q. Latent prints.

11 MR. COBLE: Your Honor, at this time, the State
12 would offer this witness as expert in the field of latent
13 prints.

14 MR. STRICKER: I have no voir dire of this
15 witness, Your Honor.

16 THE COURT: All right. Ladies and gentlemen,
17 this individual is being qualified as an expert in the
18 field of latent prints. The same charge to you on expert
19 witnesses applies to this witness as well. You may
20 continue.

21 MR. COBLE: Thank you, Your Honor.

22 Q. Agent Harrison, could you explain to the jury
23 what latent prints means as oppose to finger prints?

24 A. Okay -- well, before we talk about latent prints
25 let me tell you a little bit about finger prints. So if

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1 you look at the inside of your hand and the bottom of your
2 feet you notice that you skin is different. You have
3 raised portions of the skin and you have different pattern
4 types. So the pattern type on fingers two which is this
5 finger two, would be different from the pattern type next
6 to it which would be the middle finger. You have arches,
7 whirls and loops that's known as finger prints.

8 A road ink finger print is intentional. Like if you
9 go -- a teacher would give fingerprinted for a job. Police
10 officers get fingerprinted. Babies are fingerprinted when
11 they come out. That's intentional and you just take it and
12 roll the nail down that's known as a known fingerprint.

13 The latent print means hidden easily concealed. A
14 latent print is what's left behind. You can leave that by
15 the oils and moisture from your hand. So if you're doing
16 something and you touch it, you leave a latent behind but
17 that doesn't necessarily mean you easy see it or that it
18 will be seen. That's the difference between a known print
19 or a fingerprint and latent print.

20 Q. And how does someone -- how do you get latent
21 prints or how do you compare in your role at Sled?

22 A. Okay. So we get evidence from around the State
23 from all the agencies and you process them. So come and
24 need to be process and in this case the evidence needs to
25 be processed. Some come already on little backers. With

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1 this, you process you look at the kind -- the surface type
2 and you determine how you're going to process the evidence.
3 Once the evidence is processed you look and see can find a
4 fingerprint.

5 Q. Now in your role with latent print, are some
6 surfaces different than other surfaces in collecting latent
7 prints?

8 A. Yes. A smooth surface will be a lot easier to
9 get a print from versus a texture surface.

10 Q. And how does someone collect or attempt to
11 collect a fingerprint or a latent print?

12 A. It depends how what type of surface you dealing
13 with. If I was to relate it to this case, what I did was I
14 used, I did visual examination first to look and see if I
15 can find anything. I didn't see anything. Then I used
16 cyanoacrylate which is a fancy for super glue. I put some
17 super glue in the tank, put the evidence in there and it
18 cooks for about fifteen minutes. I went back and I did
19 another visual examination. I used lighting magnification
20 on this incident and I didn't see anything. From there I
21 went another step and did black powder meaning you just
22 kinda of twirl it and put it on there and again nothing was
23 developed.

24 Q. Now, how long can a fingerprint or does a
25 fingerprint usually stay on a surface?

1 A. A fingerprint does not age usually because it
2 could be as earlier as a cashier coming in the store to
3 cleaning the windows the prints gone. As long it's there
4 it's going to be there but they are also fragile. So it's
5 only ninety-nine -- it's ninety-nine percent moisture so
6 it's easy to wipe off, it's easy for different surface to
7 cause it to be eliminated.

8 Q. And that leads me to my next question. So
9 between how easy and difficult it is for a fingerprint to
10 go away in your opinion?

11 A. Oh, yeah, it's easy. And then there are other
12 factors as well that we didn't talk about.

13 Q. What are some of those other factors?

14 A. If it's hot, if it's too hot, or like if you're
15 nervous, you start sweating, you're nerves, you're not
16 going to leave behind a good quality print. If it's too
17 cold or if you have dry hands. Back to the teachers, they
18 use a lot of paper, grading papers, so they leave like thin
19 ridges behind. That's one thing. If you're like a
20 constructor worker, you have calculus on your hands, you
21 know, it rubs away your prints. Those kinds of things that
22 would cause it. If you relate it to this case, if it's a
23 cartridge case and it shot out the firing pin, the heat
24 would cause it to rub some of that moisture out and it's
25 left on the ground, it could be gravel, the dirt, the

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1 temperature, the wind, air, just water, anything to cause
2 it to eliminate that print.

3 Q. What if someone is wearing gloves?

4 A. If you're wearing gloves we have to try to
5 process gloves to get the prints because, of course, the
6 prints would be covered with the gloves.

7 Q. But touching something else outside of the
8 gloves?

9 A. You would not leave a print.

10 Q. And now you've been referring this specific case,
11 you processed items from this case; didn't you?

12 A. Yes.

13 Q. And I believe you did that in -- what year was
14 that?

15 A. In 2008, December 19, 2008.

16 Q. And what items did you process?

17 A. I processed, they are my items 2 through 7.

18 Q. And do you know -- could you tell the jury what
19 those items were? You have a copy of your report with you?

20 A. I do.

21 Q. Could you tell them what those items were?

22 A. Okay. Item 2, is one .9 millimeter shell casing.
23 Item 3, is a .9 millimeter shell casing. Item 4, is a .9
24 millimeter shell casing. Item 5, is a .9 millimeter shell
25 casing. Item 6, a black shotgun shell; and Item 7, a .45

1 caliber shell.

2 MR. COBLE: Your Honor, may I approach the
3 witness?

4 THE COURT: Yes, sir.

5 Q. Do you recognize these items, 2, 3, 4 and 5?

6 A. I do and what I'm looking for is we put our
7 standard for the lab, which lab number, item number and
8 initial on your evidence so that's what I was looking for .

9 Q. And what were the results of, when you tried to
10 look for latent prints on those cartridge shells, what were
11 the results?

12 A. No value. Which means there wasn't enough there
13 to identify or eliminate.

14 Q. And what do you mean there's not enough of what?

15 A. Of a latent print left behind.

16 Q. So it's not that you found a print and could not
17 identify it, it's ---

18 A. It's just not enough, it's no value.

19 Q. And as you said why is it difficult for
20 cartridges?

21 A. Well, okay, cartridges, if you can kinda of see,
22 that size there, that's a very small size, so I'm touching
23 now it doesn't leave an entire print behind it's just a
24 fragment piece of your print and if you remember when
25 Suzann was testifying she was saying push it down to that

ANDRENA HARRISON- DIRECT EXAMINATION BY MR. COBLE:

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1 magazine. When you're pushing it, you're causing more
2 friction on top of, you're pushing this down and you're
3 pushing that down, you causing friction and then when it
4 goes to that firing, there's heat. So, remember we talked
5 about those different factors on why you can't leave a
6 print. So that doesn't mean there probably wasn't one
7 there it's just not enough for me to do anything with it.

8 Q. I'm going to show you what's been marked as
9 State's Exhibit Number 91. Did you process this item as
10 well?

11 A. Yes.

12 Q. What is that?

13 A. This is my Item 7.

14 Q. And could you describe what Item 7 is?

15 A. Brass .45 caliber shell casing.

16 Q. And what were the results of that?

17 A. No value.

18 Q. And is that the same type of shell casing as the
19 .9 millimeter you described?

20 A. Yes. The same type of surface. It's a little
21 bit different but the same thing.

22 Q. I'm going to show you what's been marked as
23 State's Exhibit Number 90.

24 A. Okay.

25 Q. Do you recognize that?

1 A. Yes.

2 Q. What is that?

3 A. This one is my Item 6 and it's a black shotgun
4 shell.

5 Q. And results for that?

6 A. No value.

7 Q. And does the shotgun shell, it's different than a
8 pistol shell; correct?

9 A. It is. Actually, you can see it's bigger so you
10 think oh yeah, that should be something good but if you
11 look very closely it has groove texture lines on it.
12 Remember I told you this is the surface and then you have
13 this which is smooth but you think about it, you pushing it
14 in and it's going back to that heat again and it's causing
15 friction.

16 Q. So the same results as you described earlier?

17 A. Yes.

18 Q. Now, how often as in latent prints, do you get
19 cartridge often to examine?

20 A. Yes.

21 Q. And do you typically retrieve prints off of it?

22 A. Prints of no value.

23 Q. That's ---

24 A. They're just fragment and pieces.

25 Q. And that's what you typically ---

ANDRENA HARRISON- CROSS EXAMINATION BY MR. STRICKLER 497

1 A. Yes.

2 Q. So this case is what you normally expect?

3 A. Yes.

4 MR. COBLE: All right. Thank you. Nothing
5 further.

6 THE COURT: Cross examination?

7 MR. STRICKER: May it please the Court?

8 THE COURT: Yes, sir.

9 **CROSS EXAMINATION BY MR. STRICKLER:**

10 Q. Good afternoon.

11 A. Hello.

12 Q. So you examined -- did you examine a shotgun
13 shell in this case?

14 A. I did.

15 Q. Okay. You examined four .9 millimeter shell
16 casings?

17 A. I did.

18 Q. You examined one .45 caliber shell casing?

19 A. I did.

20 Q. And that's what you examined; is that correct?

21 A. Yes, sir.

22 Q. Okay. Now, you examined for the presence of
23 latent prints; correct?

24 A. Yes, sir.

25 Q. Okay. And your testimony is, basically whatever

1 was there was insufficient in go ahead ---

2 A. Yes..

3 Q. --- and do a comparison with them; is that fair
4 to say?

5 A. Yes.

6 Q. Okay. Now, from you, when were these items
7 submitted for DNA analysis?

8 A. I didn't do DNA on this ---

9 Q. I understand ---

10 A. --- evidence so I couldn't tell you when it was
11 submitted for DNA.

12 Q. Okay. Can you tell me whether they were
13 submitted for DNA?

14 A. No, sir, I can not.

15 Q. That's not your field, someone else's ---

16 A. No, sir.

17 Q. Gotcha. So when or even if they were submitted
18 for DNA analysis that's a question for someone else to
19 answer; right?

20 A. Yes, sir.

21 Q. Okay.

22 MR. STRICKER: Thank you very much.

23 THE COURT: Any redirect?

24 MR. COBLE: No, Your Honor.

25 THE COURT: You may step down. Thank you.

NICHOLAS, MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 499

1 MRS. HARRISON: Thank you..

2 THE COURT: Call your next witness.

3 MS. CAMPBELL: May it please the Court? The
4 State calls Nicolas Domanic Mackey.

5 (Whereupon, the witness was sworn)

6 MR. MACKEY: Nicholas Domanic Mackey.

7 COURT REPORTER: Can you spell your name for me
8 please.

9 MR. MACKEY: N-i-c-h-o-l-a-s, D-o-m-a-n-i-c, M-a-
10 c-k-e-y.

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: Thank you.

13 NICHOLAS MACKEY, being first
14 duly sworn, testified as follows:

15 **DIRECT EXAMINATION BY MS. CAMPBELL:**

16 Q. You go by Nick?

17 A. Yes, ma'am.

18 Q. Nick, how old are you now?

19 A. Eighteen.

20 Q. And are you in school?

21 A. Yes, ma'am.

22 Q. Where do you go to school?

23 A. North Central High School.

24 Q. North Central High School. Is that here in
25 Kershaw County?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 500

1 A. Yes, ma'am.

2 Q. And your dad was Nicholas Mackey?

3 A. Yes, ma'am.

4 Q. And do you remember back in 2008 when this all
5 happened?

6 A. Yes, ma'am.

7 Q. And where were you living at the time?

8 A.

9 Q. ?

10 A. Yes, ma'am.

11 Q. And who was living with you there at the time?

12 A. Me, my two sisters and my mom.

13 Q. How old were your sisters?

14 A. My youngest sister was four or five. My oldest
15 sister was seventeen or eighteen.

16 Q. And what's your date of birth?

17 A.

18 Q. You were born in , of ? So you would
19 have been about twelve when this happened?

20 A. Yes, ma'am.

21 Q. I want to turn your attention to November the
22 14th, okay? What did you do that day?

23 A. I went to school. Got out of school.

24 Q. Where were you in school?

25 A. Ma'am?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 501

1 Q. Where did you go to school back then?

2 A. Kershaw County Elementary.

3 Q. And when ---

4 A. No, A.J. Middle School. I'm sorry.

5 Q. Middle School?

6 A. Yes, ma'am.

7 Q. And when you got out of the middle school, where
8 did you go?

9 A. Home.

10 Q. How did you get home that day?

11 A. The bus.

12 Q. And when you got home that day off from the bus,
13 who all was at your house?

14 A. My mom, my dad and my little sister.

15 Q. And, at that point, was it just a normal day you
16 coming home from school?

17 A. Yes, ma'am.

18 Q. And when you said your little sister, is that
19 your little four year old sister?

20 A. Yes, ma'am.

21 Q. After you got home, what did you and your dad do?

22 A. Sat at the kitchen table and I was doing my
23 homework and we was talking about Christmas.

24 Q. And what were y'all talking about Christmas?

25 A. He wanted to know what we should get my mother

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 502

1 and us for Christmas and what we wanted.

2 Q. And that's what y'all were talking about. And
3 about what time was it, do you remember, when you got home
4 from school?

5 A. I don't ---

6 Q. You don't know exactly.

7 A. Three forty-five, 3:50.

8 Q. About 3:50?

9 A. Yes, ma'am.

10 Q. When you and dad was sitting there having the
11 conversation about Christmas presents, was your mom still
12 there?

13 A. No, ma'am. She done left to go the store.

14 Q. She had left to go the store. So who all was
15 left in your house at that point when y'all were sitting
16 there talking about Christmas presents?

17 A. Me, my little sister and my dad.

18 Q. And where was your little sister in the house?

19 A. Sitting at the kitchen table with us.

20 Q. While y'all were having that conversation, what
21 happened?

22 A. I heard three bangs like the screen door was
23 opening and closing and then the door started opening and
24 four black males rushed in on us.

25 Q. And could you described how they were dressed

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 503

1 when you first saw them?

2 A. They had ski mask on, all black. That's

3 Q. Could you see their faces?

4 A. No, ma'am.

5 Q. You could see their eyes?

6 A. Yes, ma'am and their mouths.

7 Q. Did they have any weapons?

8 A. Yes, ma'am.

9 Q. And how many weapons do you remember seeing that
10 day?

11 A. Three..

12 Q. And what kind of weapons were they, do you
13 remember?

14 A. Two handguns and a shotgun.

15 Q. And when the -- you saw at least four of them
16 come in?

17 A. Yes, ma'am.

18 Q. Do you know actually how many actually came in?

19 A. No, ma'am.

20 Q. Were they saying anything?

21 A. Somebody yelled Kershaw County Police Department
22 and then the next thing I know they said get down on the
23 floor.

24 Q. And they were in the house?

25 A. Yes, ma'am.

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 504

1 Q. And when they said get down on the floor, what
2 happened, what did you do?

3 A. I grabbed my little sister and laid on the floor.

4 Q. And what was going through your mind?

5 A. I hope nothing bad happens.

6 Q. And when you grabbed your little sister and went
7 to the floor, where was your dad?

8 A. Still sitting in the chair.

9 Q. And where did the men go once they got inside the
10 door?

11 A. Straight to my dad.

12 Q. And what happened?

13 A. I heard like somebody hitting him and then I
14 heard the chair tip over and kept on hearing, "where's the
15 money, where's the dope," and I heard a gunshot and then I
16 heard somebody say, "that's a lot of blood you're losing."
17 And I heard my sister crying.

18 Q. Was your dad saying anything?

19 A. Please don't hurt my family.

20 Q. And what were you trying to do with your sister?

21 A. Keep her safe.

22 Q. When you heard the gunshot go off, was it near
23 where your dad was?

24 A. Yes, ma'am.

25 Q. And you said that you heard all this, could you

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 505

1 see it as well?

2 A. No, ma'am. I wouldn't trying to look.

3 Q. Were you trying to stay alive?

4 A. Yes, ma'am.

5 Q. Was your dad still in the kitchen when the
6 gunshot went off?

7 A. Yes, ma'am.

8 Q. And were you and your little sister on the floor
9 there in the kitchen?

10 A. Yes, ma'am.

11 Q. What happened next that you remember?

12 A. I remember them picking him up and forcing him to
13 the room.

14 Q. When you say into the room, what room?

15 A. The master bedroom.

16 Q. And was the master bedroom on one end of the
17 house off the living area?

18 A. Yes, ma'am.

19 Q. What were they saying at this point?

20 A. Where's the money. Where's the dope. Then I
21 kept on hearing them hit him. And my sister kept on
22 crying.

23 Q. At some point did one of the men approach you and
24 your sister?

25 A. Yes, ma'am.

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 506

1 Q. And was your dad still in the living area at that
2 point?

3 A. No, ma'am. He wasn't here.

4 Q. And did one of them actually approach your
5 sister?

6 A. Yes, ma'am.

7 Q. And what happened?

8 A. He said where is the money or dope or I'll shoot
9 her.

10 Q. Did he touch her?

11 A. Yeah. He picked up off the floor and held the
12 gun to her head.

13 Q. And what were you trying to do at that point?

14 A. Save my little sister from getting hurt.

15 Q. Once they got your dad back into the bedroom,
16 could you hear what was going on?

17 A. I just heard stuff just getting throw around,
18 everything

19 Q. Were you and your sister in the kitchen area?

20 A. Yes, ma'am.

21 Q. And all of the people there had gone into the
22 back area?

23 A. Yes, ma'am, except for one.

24 Q. He kept an eye on you?

25 A. Ma'am?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 507

1 Q. Did that one stay back in that area?

2 A. Yes, ma'am.

3 Q. What could you hear going on in the bedroom?

4 A. They kept asking, where was the money. I kept
5 hearing him get hit and I finally heard a knock on the
6 door.

7 Q. Which door did he hear the knock on?

8 A. The front door.

9 Q. Then what happened?

10 A. Then one of them went to the door and opened it
11 and I heard them tussling outside and then two more of them
12 ran outside and one was still in the room with my dad, I
13 think and they started tussling and then I seen my dad run
14 out the front door and that's when I heard another gunshot.

15 Q. Do you remember how many gunshot you heard
16 outside?

17 A. Two, I think.

18 Q. At least, two?

19 A. I think. I don't know.

20 Q. Could you see what was going on outside out
21 front?

22 A. No, ma'am.

23 Q. And when the gunshots starting going off, what
24 happened with the guys that were still inside, the guy that
25 was still inside?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 508

1 A. He had ran outside with the other.

2 Q. After that did some of them come back in to get
3 something?

4 A. I seen one of them run back in to grab my dad's
5 safe and his keys.

6 Q. And did you see him actually carry the safe out?

7 A. No, ma'am.

8 Q. And did you even know they took a gun as well?

9 A. No, ma'am.

10 Q. Once they were all out of the house, what
11 happened?

12 A. I grabbed my little sister and ran.

13 Q. And where did y'all go?

14 A. Across the street to my neighbors house.

15 Q. How did you get there?

16 A. Our four wheeler.

17 Q. At that point, did you know that your dad had
18 been shot?

19 A. Yeah.

20 Q. When you got over to your neighbors, where were
21 the neighbors located?

22 A. Inside the home.

23 Q. Across the street?

24 A. Yes, ma'am.

25 Q. And when you got there, what happened?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 509

1 A. I walked in and I seen my daddy laying on the
2 floor and I seen the other dude sitting on the porch
3 bleeding.

4 Q. When you say the other dude, who was that?

5 A. I can't remember his name.

6 Q. Was he the guy that had come to the door?

7 A. Yes, ma'am.

8 Q. You saw him sitting on the porch?

9 A. Yes, ma'am.

10 Q. And what condition was he in?

11 A. He was holding his head down, bleeding
12 everywhere.

13 Q. You said you saw your dad on the floor inside?

14 A. Yes, ma'am.

15 Q. What condition was he in?

16 A. He was bad.

17 Q. Did you try to talk to him?

18 A. Yeah.

19 Q. Was he able to talk to you at all?

20 A. He just said, I love you, son.

21 Q. Did the neighbors call the police?

22 A. Yes, ma'am.

23 Q. And did they come?

24 A. Yes, ma'am.

25 Q. And did the ambulance come before they even got

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 510

1 there?

2 A. I don't know. I left.

3 Q. And did the neighbors think it was best for you
4 to leave?

5 A. Yes, ma'am.

6 Q. And who did you go with?

7 A. Ted Williams.

8 Q. Mr. Williams?

9 A. Yes, ma'am.

10 Q. And did he take you to his house?

11 A. Yes, ma'am.

12 Q. And did you stay there the rest of the evening?

13 A. Yes, ma'am.

14 Q. At some point, did you get back with your family?

15 A. Yes, ma'am.

16 Q. And when was the next time you saw your dad?

17 A. Well, when he was in the hospital.

18 Q. Up in North Carolina?

19 A. Yes, ma'am.

20 Q. Did he ever recover from his wounds?

21 A. No, ma'am.

22 Q. And when you saw him at the hospital, could you
23 see where they had hit him in the head?

24 A. Yes, ma'am.

25 Q. And then the wounds to his chest?

NICHOLAS MACKEY- DIRECT EXAMINATION BY MS. CAMPBELL: 511

1 A. They had them covered up when I walked in.

2 Q. And the wound to the leg?

3 A. Yes, ma'am.

4 Q. Was he ever able to talk to you anymore?

5 A. No, ma'am.

6 Q. The only person that was hurt and bleeding inside
7 the house that day, was who?

8 A. My dad.

9 Q. And the only other person that got hurt, he was
10 outside when he got hurt?

11 A. Yes, ma'am.

12 Q. Were you able to see a face of any of the men
13 that did this to y'all?

14 A. No, ma'am.

15 Q. You remember it?

16 A. Yes, ma'am.

17 Q. Will you ever forget it?

18 A. No, ma'am.

19 MS. CAMPBELL: That's all I have, Your Honor.

20 THE COURT: Cross examination?

21 MR. STRICKER: Nothing, Your Honor.

22 THE COURT: Sir, you may step down. Thank you.

23 All right. Ladies and gentlemen, we've been going for
24 about an hour and half, I'm going to give you a break at
25 this point. I'll ask you to step to the jury room. Do not

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 (Whereupon, back on the record at 3:58 p.m.)

2 THE COURT: Anything from the State before I
3 bring the jury back out?

4 MS. CAMPBELL: Nothing, Your Honor.

5 THE COURT: Defense counsel?

6 MR. STRICKER: No, sir.

7 THE COURT: All right. If you'll bring the jury
8 please, sir.

9 (Whereupon, the jury enters the courtroom at 3:59
10 p.m.)

11 THE COURT: Please note all jurors are back in
12 the courtroom. Madam, Solicitor or solicitor, you are
13 recognized, call your next witness.

14 MS. CAMPBELL: Thank you. The State calls Justin
15 Dill.

16 (Whereupon, the witness was sworn)

17 MR. DILL: Justin Dill, D-i-l-l.

18 THE COURT: Go ahead.

19 MS. CAMPBELL: Thank you.

20 JUSTIN DILL, being first
21 duly sworn, testified as follows:

22 **DIRECT EXAMINATION BY MS. CAMPBELL:**

23 Q. Lieutenant Dill, where are you employed?

24 A. Kershaw County Sheriff's Office.

25 Q. What do you do there, sir?

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. I'm a criminal investigator.

2 Q. How long have you been in law enforcement?

3 A. Right at nine years.

4 Q. And what is your current title?

5 A. Lieutenant over investigations.

6 Q. Over investigations?

7 A. Yes, ma'am.

8 Q. How did you become involved in this case?

9 A. I was working another case and during working
10 that case I was contacted and informed that an inmate at
11 the Kershaw County Detention Center had some information
12 for me regarding this case.

13 Q. And when was that, sir?

14 A. That was July 25, 2011.

15 Q. And you can't say what he said to you but did you
16 make contact with that inmate?

17 A. I did.

18 Q. And as a result of that contact on July 26th, I
19 believe, of 2011?

20 A. Yes, ma'am.

21 Q. What did you do?

22 A. We obtained information that we should talk to
23 Jerome Lewis, also known as, Sticky who was also currently
24 retained in Kershaw County.

25 Q. Prior to 2011, did you have any involvement in

1 the investigation in this case?

2 A. Other than I heard talk about it, no, ma'am, had
3 not involvement in it.

4 Q. And, in fact, I believe investigator Jones was
5 the chief investigating officer prior to you becoming
6 involved; is that correct?

7 A. Correct.

8 Q. Once you got this information that you should
9 talk to a guy name Jerome Lewis, you actually went and made
10 contact with him?

11 A. Yes, ma'am. We actually made contact with his
12 attorney at first to be able to speak with him.

13 Q. And who was his attorney, do you recall?

14 A. Nicole Singletary.

15 Q. And when did you actually interview Jerome Lewis
16 or Sticky?

17 A. First time we interviewed him, I believe Nicole
18 was deployed or activated, I think she's in the National
19 Guard.

20 Q. She's military, yeah.

21 A. We actually made contact with her via cell phone
22 and told her what was going on and allowed her to speak
23 with Jerome on the cell phone, on that same cell phone and
24 she agreed that we could speak with him as long as we video
25 taped that statement that he made or that interview that we

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 did with him that day.

2 Q. And did you comply with her wishes?

3 A. Yes, ma'am.

4 Q. And based on the information that you got from
5 Jerome Lewis, did you also make contact with Michelle Bass?

6 A. Yes, ma'am.

7 Q. What kind of information were you trying to get
8 from Ms. Bass?

9 A. We followed up on Ms. Bass, she'd originally been
10 talked to by investigator Jones and we obtained some
11 information from her about a firearm that was stolen during
12 the robbery that occurred back in 2008 and we also set up a
13 time to be able to speak with Domanic Mackey, her son.

14 Q. At this point, did you have an opportunity to
15 review the actual initial case file?

16 A. Yes, ma'am.

17 Q. And so you were familiar with the general facts
18 of what had happened that day?

19 A. Yes, ma'am.

20 Q. As told by the young man?

21 A. Yes, ma'am.

22 Q. After talking with Jerome Lewis at the Kershaw
23 County Detention Center and that's here in Camden?

24 A. We actually talked to him at the Kershaw County
25 Sheriff's Office, yes, ma'am.

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. I'm sorry. The sheriff's office?

2 A. Yes, ma'am.

3 Q. And he was being detained at the time?

4 A. He was detained at the time.

5 Q. On the 28th of July, who did you make contact
6 with?

7 A. We made contact with Darrien Jackson which is
8 someone that we obtained information about who we should
9 speak to from Mr. Lewis.

10 Q. And where was Mr. Jackson located when you made
11 contact with him?

12 A. I'm familiar with Mr. Jackson just because I've
13 lived here all my life. I know who Mr. Jackson is. I had
14 become aware that he was on probation of some type so I
15 went and made contact with his probation officer. I can't
16 remember which one that was at the time. They indicated
17 that he had voluntarily signed himself into a
18 rehabilitation program in Florence.

19 Q. And did you actually travel to Florence to make
20 contact with him?

21 A. Yes, ma'am, myself and Special Agent Blackmon
22 traveled to Florence and spoke to Mr. Jackson.

23 Q. And that's one thing I skipped over. Once you
24 started realizing the implications of the information you
25 were getting, did you then call for assistance from Sled?

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. Yes, ma'am, I did.

2 Q. And is that unusual in a case such as this?

3 A. No, ma'am.

4 Q. Why is that?

5 A. Kershaw County is a small department and very
6 busy with very limited staff and I just -- State law
7 enforcement is there to assist whenever needed just because
8 of their resources and their manpower.

9 Q. And so during the course of these interviews I'm
10 talking to you about, was Mr. -- Agent Blackmon also
11 involved in these?

12 A. Yes, ma'am.

13 Q. Once you spoke to Darrien Jackson at Palmetto
14 Rehab in Florence, did you actually take a statement from
15 him that day?

16 A. Yes, ma'am, we did. I believe it was about
17 thirteen/fourteen pages.

18 Q. And did you charge him on that day or was that at
19 a later day?

20 A. It was at a later day.

21 Q. Was he cooperative?

22 A. Yes, ma'am. We actually advised him on that day
23 that he was going to be charged in this case. We just had
24 made a decision not to make the charges as of then.

25 Q. And as I go through and talk to especially the

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 co-defendants in this case which I want to focus on, Jerome
2 Lewis, Randy, all the co-defendants, were they all advised
3 of their rights prior to you talking to them?

4 A. Yes, ma'am. I always -- even for witnesses and
5 people that aren't ever going to be suspects, I always read
6 them their rights to everyone.

7 Q. And that's to protect their rights?

8 A. Correct.

9 Q. And that was done in this case with Mr. Jackson?

10 A. Yes, ma'am.

11 Q. What was his demeanor like that day when you were
12 talking to him?

13 A. When we first talked to Mr. Jackson he seem
14 surprised that we were even there. Once we brought up what
15 we wanted to talk to him about ---

16 Q. Which were the events of November 14th ---

17 A. The events of ---

18 Q. 2008?

19 A. 2008. He seemed a little surprised that I guess
20 that anyone had ever heard anything about it. Mr. Jackson
21 like I said I've spoken to him numerous times in the past
22 and he, in my words, he started to kinda of break down when
23 he started telling the story. He gave a very detailed,
24 very lengthy story of all the events from, before it
25 happened to everything that happened afterwards. He

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 actually cried during the time he was talking about the
2 information and he told us that he felt like a huge weight
3 had been moved off his shoulders.

4 Q. And after speaking to him, did you also make
5 contact with Marcellus Juggins?

6 A. Yes, ma'am. After talking to Darrien we kinda of
7 had a list of people that we needed to go and talk to.

8 Q. And so you were working your way through the
9 list?

10 A. Yeah, kinda of working our way down the list of
11 names. I actually went -- Marcellus Juggins was a name
12 that I got while I was talking to Mr. Jackson along with
13 Mr. Blackmon. I found out where Mr. Juggins worked. I
14 went to his place of employment. He was actually driving a
15 dump truck hauling dirt from behind the jail here in
16 Camden. And when I talked to Mr. Juggins that day I
17 actually lined up another time that was convenient for him
18 to come into the sheriff's office to speak with us.

19 Q. Okay. And was he cooperative?

20 A. Yes, ma'am.

21 Q. Over the next several days, did you continue to
22 interview different people whose name had come up during
23 the course of your investigation?

24 A. Yes, ma'am. It was a couple of weeks in a roll
25 it was everyday just marking people off the list that we

1 had.

2 Q. Specifically, I want to turn your attention to
3 August 2nd, did you interview a Rasheed Halley, I believe
4 is his name?

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

6 Q. And that same day did you also interview a man
7 named William Smith?

8 A. We did. We actually traveled to Trenton, I can't
9 remember exactly where that prison is, it's the South
10 Carolina Department of Corrections. I know it's above
11 Aiken. We traveled there. We had arranged the
12 investigator there to actually speak with him. Mr. Smith
13 was actually on lock down at the time so we had to make
14 special arrangements to be able to go into the lock down.
15 We even had to put on triple extra large staff proof vest
16 to go into just to speak to him.

17 Q. And was he able to be transported out of that
18 point since he was on lock down?

19 A. Not on the prison grounds, no, ma'am. We had to
20 make arrangements to go inside the lock down.

21 Q. And, at that point, did you think it was
22 necessary or were you even able to take any kind of
23 recording equipment for him?

24 A. No, ma'am. I think the only thing we were
25 allowed to take was something to write on and something to

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1 write with.

2 Q. And when you interviewed Mr. Smith that day, did
3 he give you a statement?

4 A. Yes, ma'am, he did.

5 Q. And I'm going to show you what's been marked as
6 State's Exhibit Number 97, I first ask do you recognize
7 this?

8 A. Yes, ma'am. It's the statement that was given by
9 Mr. Smith.

10 Q. And the statement was written out by whom?

11 A. Special Agent Lee Blackmon.

12 Q. And were you there to witness it?

13 A. Yes, ma'am, I was.

14 Q. The words that are in that statement, the body of
15 that statement, the story that's told in that statement,
16 whose words were those on that day?

17 A. The are words -- William Smith's words. Well,
18 actually he told us the story first because I actually took
19 notes while he was talking and how we went back with him
20 and Special Agent Blackmon actually recorded this statement
21 in his words.

22 Q. In Ill Will's words?

23 A. Correct.

24 Q. And, in fact, in there he actually mentions his
25 two nicknames, not only Ill Will but Little Will?

1 A. Yes, ma'am.

2 Q. And that's what he told you?

3 A. Yes, ma'am.

4 Q. Along with all the other information in there?

5 A. Yes, ma'am.

6 Q. At any point, did you or Agent Blackmon, were
7 y'all the only two present?

8 A. Yes, ma'am. They were some guards sitting
9 outside of the room but they couldn't hear what we were
10 talking about.

11 Q. Did any of y'all just make up a story, write it
12 down and make him sign it?

13 A. No, ma'am.

14 Q. Did you beat him?

15 A. No, ma'am.

16 Q. Did you force him?

17 A. No, ma'am.

18 Q. Did you threaten him in any way?

19 A. No, ma'am, we didn't.

20 Q. And on that day was he willing to tell you what
21 he knew?

22 A. Yes, ma'am, he did.

23 Q. And is that the information he gave y'all?

24 A. Yes, ma'am, these are his words.

25 Q. And was he able to then review it?

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1 A. Yes, ma'am.

2 Q. Was it read back to him?

3 A. Yes, ma'am. It was gone over with him and as it
4 was explained earlier, just to show that the whole thing
5 had been covered back with Mr. Smith, he initialed at the
6 beginning of every paragraph and at the end as well as
7 signed at the bottom.

8 Q. And at this point, when you were interviewing Mr.
9 Williams, the only other co-defendant that actually went in
10 that you talked to is whom?

11 A. Darrien Jackson.

12 Q. And was Mr. Smith able to give you additional
13 information or details that Darrien Jackson did mentioned?

14 A. Yes, ma'am. His statement that he gave that day
15 was very consistent with what Jackson had said. As far as
16 the major points of say where they parked, how they, you
17 know, went through woods, how they got into the home, you
18 know, the roles of each person but there was specific
19 things that he told us that were a little bit different
20 than what Jackson had said which were just things he would
21 have seen from his own perspective since he's his own
22 person.

23 Q. And, in fact, in everyone's statement had every
24 single last detail down to the same, you would be worried?

25 A. Yes, ma'am.

1 MR. KIRINCICH: Objection, Your Honor. It's
2 leading.

3 THE COURT: Restate your question.

4 Q. Would you be worried?

5 A. Yes, ma'am. It would seem like it was planned.

6 Q. And in that statement at one point, does he
7 mention about when he goes to the door when someone knocks
8 at it?

9 A. Yes, ma'am. He tells in the statement that he
10 actually, what hand he held the shotgun in, one hand while
11 he opened the door with the other hand. He also gives
12 details like, I remember when I went in and I slipped and
13 fell on the floor, which that day of the incident, actually
14 there was a bad storm that day and these were things that
15 weren't provided by Mr. Jackson.

16 Q. I want to turn your attention to August 3rd, did
17 you actually make contact with Marcellus Juggins on that
18 day?

19 A. I believe Special Agent Blackmon actually made
20 contact with him at the sheriff's office.

21 Q. And what's his nickname?

22 A. I've heard him called Shawn in this case. I've
23 also him called Snook in this case.

24 Q. That same day, did you also interview a Trevor
25 Burnett?

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1. A. Yes, ma'am. I actually drove out to Trevor
2. Burnett, also known as, Trim, I drove out to his house
3. which is toward Castlebury in Kershaw County. I believe he
4. was living with his mother out there. I made contact with
5. him. Spoke with him briefly about how I wanted to talk to
6. him and what kind of case I wanted to talk to him about and
7. I arranged for another time that was convenient for him for
8. Special Agent Blackmon where he actually took a statement
9. from him.

10. Q. And at that point, was Mr. Burnett more
11. cooperative?

12. A. Yeah. He was a little reluctant at first to talk
13. about the incident, obviously, because of the nature of it
14. but when Special Agent Blackmon came back and had obtained
15. a statement from him, he even made mentioned that, you
16. know, he remembered a lot more than what he had spoken
17. about to begin with.

18. Q. Then on August 4th, did you continue to work
19. through some of the names you felt like you needed to make
20. contact with in order to corroborate the initial
21. information you had?

22. A. Yes, ma'am. I actually traveled with Special
23. Agent Blackmon out to which is towards Lee
24. County in the edge of Kershaw County to try to talk to
25. Shawn Eberts who was the actually the individual that

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1 testified that he opened the safe for all the Defendants.
2 He wasn't home. He was at work. So we spoke with his wife
3 that day. She did recall the incident and we obtained some
4 information from her about it. We actually, as I said
5 before, we had already arranged with Ms. Bass to speak with
6 her son Domanic. We drove out to his house after he got
7 out of school that day and we sat down and spoke with him
8 and took a statement from him. While we were out in that
9 area of the top part of the county, we went and spoke with
10 Patricia Veal who was actually the neighbor that was across
11 the street from Nick Mackey's residence where Nick ran to
12 after he had been shot. We talked to Wes Sullivan that
13 day. He lives in somewhat close proximity and we went to
14 his home and spoke with him and talked to him about how he
15 recalled the incident.

16 Q. And Mr. Sullivan is who?

17 A. Mr. Sullivan was actually the individual who
18 knocked on the door while the robbery was going on and was
19 shot in the head that night.

20 Q. Did you also make contact that day with Roger
21 Williams?

22 A. We did. We actually went to his house as well
23 and talked to him about the incident.

24 Q. Also on that day, were you able to make contact
25 with Randy Lewis?

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1 A. Excuse me just one second. Yes, ma'am, we did.
2 We actually -- I transported Mr. Lewis from the jail over
3 to the sheriff's office where we were going to attempt
4 Mirandize him and speak with him on that day. Special
5 Agent Blackmon actually doesn't have a very good rapport
6 with Mr. Lewis so he didn't want to cooperate that day.

7 Q. And later on did you make contact, and I'll get
8 back to that with his lawyer, and arrange to speak with to
9 him ---

10 A. Yes, ma'am, I did.

11 Q. On the August 5th, did you make contact with
12 Shawn Eberts?

13 A. Yes, ma'am. From like I said earlier, we went
14 and spoke with wife, he was at work. As soon -- I think as
15 soon as he got home that day and talked to his wife, he
16 actually called in and arranged for a time to come down and
17 speak with us at the sheriff's office where we did obtain a
18 statement from him about opening up a safe for the
19 individuals.

20 Q. And what's the purpose of you going and getting
21 all these statements and trying to -- what are you trying
22 to do?

23 A. Basically, what we're trying to do is we started
24 out with, say I talked to Tyrone Dennis, that's the very
25 first person that I talked to. During talking to Mr.

1 Dennis, he had very detailed information about ---

2 Q. You can't say what Mr. Dennis said, okay.

3 A. I'm sorry.

4 Q. After talking to Mr. Dennis ---

5 A. After talking to Mr. Dennis I ended up going to
6 person to person as this case kinda of lead me. Some
7 people were not involved. Most who were involved in some
8 way, shape or form, I just went from person to person to
9 get their story and as I was going around and getting these
10 stories with Special Agent Blackmon, had seen that all of
11 these stories appeared to be somewhat the exact same as far
12 as what the story was telling.

13 Q. So at this point, having talked to these people
14 is your information, your initial information from say Mr.
15 Lewis, Mr. Jackson, and Mr. Smith being corroborated?

16 A. Yes, ma'am, it is.

17 Q. On August 8th, did you make contact with a Jeremy
18 McCray?

19 A. We actually weren't able to talk to Mr. McCray.
20 I went out to his grandmother's house on
21 which it's just in the edge of Lee County. I was
22 attempting to talk with him because he was the individual
23 that was charged with the .45 caliber firearm that was
24 connected to this case.

25 Q. And were you able to locate him?

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1 A. No, ma'am, not yet.

2 Q. And currently, is he able to be located?

3 A. No, ma'am. I can't make contact with him.

4 Q. Why not?

5 A. He doesn't care to much for law enforcement.

6 Q. On August 10th, did you make an arrest in this
7 case?

8 A. Yes, ma'am. We actually -- when we first spoke
9 to Darrien Jackson at the rehabilitation center in
10 Florence, I don't think he really had a definite time he
11 was going to be there. I think it was a treatment program
12 that you stayed in until you felt that you were
13 rehabilitated. We did advise him at the time, the first
14 time we spoke to him that he was going to be charged in
15 this case and, you know, we would be back to see him if he
16 were still there. We did actually travel that day back to
17 Florence to the rehabilitation center where he still was
18 receiving his voluntary treatment and we did place him
19 under arrest for this offense.

20 Q. And at this point, who all is under arrest for
21 this offense?

22 A. At this point, I think Darrien Jackson is
23 actually the very first person to be arrested in this
24 particular case.

25 Q. That day when you made contact with Darrien

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1 Jackson and pick him up and arrest him from the rehab
2 center, where did y'all go and take him?

3 A. Like I said, we arrested him at the
4 rehabilitation center. We had to collected the things that
5 he had taken with him when he checked himself in there.
6 Myself and Special Agent Blackmon and another agent
7 actually transported him back Kershaw County. We had --
8 before we even left we had arranged that some other people,
9 some support units to meet us out on up towards
10 Kershaw because Mr. Jackson or we obtained information that
11 there maybe a weapon hidden in the woods off of
12 that was involved in this case.

13 Q. And that was information from Mr. Jackson?

14 A. Yes, ma'am.

15 Q. And was he able to take you there where he had
16 said he dumped the gun?

17 A. We actually drove him in close proximity for
18 and again we knew where we were going but we
19 allowed him to guide us into where he recalled parking the
20 vehicle on the date of the incident when he was riding in
21 the car. He did take up almost directly to the spot where
22 we have previous information from the initial call where
23 the dogs ended up and where some other stuff happened. He
24 took us there and he directed us in the woods. They may
25 have been fifteen or twenty Sled agents and investigators

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1 from Kershaw County with metal detectors in the woods and
2 he attempted to recall exactly where it was that he had hid
3 this gun when he running through the woods. The landscape
4 at the time that we went had changed from the time he had
5 been, I think there had been some timber cut so, it looked
6 a little different and we were not able to find that .22
7 caliber.

8 Q. Is that unusual if you go back three years later
9 not to be able to find a gun?

10 A. No, ma'am.

11 Q. And again at this point he's implicating himself
12 with that gun; is that correct?

13 A. Yes, ma'am.

14 Q. But you were never able to recover the gun?

15 A. No, ma'am.

16 Q. While you were out there that day, did you take
17 some photographs?

18 A. I did. I, like I said, before I -- personally I
19 have never been to the spot where Mr. Mackey's house was
20 and in this case I actually was coming into this crime
21 scene or where the crime scene was, I was coming from the
22 backside from where the criminals allegedly parked to go to
23 it, myself. All I was going on was these statements and
24 stories that all these co-defendants had given me in
25 different, you know, all these defendants are in different

1 places away from each other, I'm going by all the stories
2 and things they're giving me. When I -- we parked the car
3 where Jackson had taken us to and I'm going through the
4 woods, it was almost as if I can hear him talking from my
5 head as I'm walking through these woods. I'm on a four
6 wheeler trail. I'm come to a deer stand. Just like
7 described. The trail leads right to an abandoned trailer.
8 I had information that you could see underneath this
9 abandoned trailer. You could see all the way to Mr.
10 Mackey's house without even getting into the trailer. And
11 I took some photographs of the view point of the
12 information that I had that someone was watching out of the
13 end window of the abandoned trailer which at the time I got
14 there, Mr. Mackey's trailer was gone and it was just a dirt
15 lot.

16 Q. So in August of 2011, the trailer that Mr. Mackey
17 lived in was gone?

18 A. Yes, ma'am.

19 Q. But the abandoned trailer, it was ---

20 A. The abandoned trailer was still there ---

21 Q. --- still there. The deer stand was still there?

22 A. Yes, ma'am ---

23 Q. And the ---

24 A. And also I think the barb wire fence ---

25 Q. And the information where you could look under

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1 the trailer and see to Mr. Mackey's, under the abandoned
2 trailer to see Mr. Mackey's house, who did that come from?

3 A. That came from Will Smith.

4 Q. Nobody else?

5 A. No, ma'am.

6 Q. And in fact that was corroborated when you got
7 there?

8 A. I even took a photograph of it.

9 Q. I'm going to show you a series of photographs and
10 ask if you recognize these. Have you reviewed those by
11 request?

12 A. Yes, ma'am, I have.

13 Q. And are those all the photographs that were taken
14 out there in August of 2011?

15 A. Yes, ma'am, by myself.

16 Q. You actually took them?

17 A. Yes, ma'am.

18 MS. CAMPBELL: Your Honor, at this time, we'd
19 offer State's Exhibit's 70 through 84 and State's Exhibit
20 89.

21 THE COURT: Any objection?

22 MR. KIRINCICH: Your Honor, I'm just looking.

23 MS. CAMPBELL: These are the same ones we showed
24 you.

25 MR. KIRINCICH: No objection, Your Honor.

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1 THE COURT: Without objection. State's Exhibit's
2 70 through 84 and I believe you said 89?

3 MS. CAMPBELL: Yes, Your Honor. I should have
4 said 88 and 89, I apologize.

5 THE COURT: --- 88 and 89. Admitted without
6 objection.

7 (PHOTOGRAPHS HAS BEEN MARKED AND ENTERED INTO EVIDENCE
8 AS STATE'S EXHIBITS NUMBER 70 THROUGH 84 AND 88 AND 89)

9 MS. CAMPBELL: Your Honor, may the witness step
10 down?

11 THE COURT: Yes, ma'am.

12 (Whereupon, the witness complies)

13 Q. If you would come down on this side so the court
14 reporter can hear you better.

15 A. Okay.

16 Q. Come over on this side, over here. And I'm going
17 to show you what's been marked as State's Exhibit 61 or 60,
18 I don't know which one suits you better, this one is
19 further out, that one is closer up.

20 A. Probably 60, it's closer.

21 Q. Sixty?

22 A. Yes, ma'am.

23 Q. Is this the area you're talking about where y'all
24 went out that day on the 10th of August?

25 A. Yes, ma'am. As you can see here the

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1 dirt road, and over here is where Mr. Mackey's home was.

2 Q. I'm sorry. Which one is Mr. Mackey's home?

3 A. Mr. Mackey's home, it's actually, I believe,
4 here's the abandoned trailer ---

5 Q. This is the abandon trailer?

6 A. I believe right there on the edge of the -- yes,
7 ma'am, I believe that's where the trailer use to sit.

8 Q. And this is one we just pulled up this year off
9 Google, so it's missing the trailer that would have been
10 back there during the time?

11 A. Yes, ma'am.

12 Q. And where was the Veal residence have been on
13 this?

14 A. I believe this is Veal's right directly across
15 the street from where the trailer was..

16 Q. Right here. And the area where the dirt road
17 where they parked their car, is that shown on here?

18 A. Yes, ma'am. It's actually right here.

19 Q. And where approximately on that dirt road were
20 you able to determine based on the tracking that went on
21 the co-defendants told you they were?

22 A. There's a curb here and basically another curb
23 right here and it's kinda of in this straight way right
24 here.

25 Q. The straightway right here?

1 A. Yes, ma'am.

2 Q. And the trail that you refer to and again let me
3 show you some pictures of that you know -- where does it
4 run?

5 A. It runs directly through, you kinda of see the
6 break in the trees here ---

7 Q. Right.

8 A. --- there's a little open and the deer stand is
9 somewhere in here and the trail behind it comes out right
10 to the edge of the old abandoned trailer.

11 Q. And this is the abandoned trailer right here?

12 A. It's right here in the edge of the tree line.

13 Q. I'm going to show you first off, State's Exhibit
14 70, what does this show?

15 A. That's actually the dirt road where the car would
16 have been parked.

17 Q. And does that show the beginning of the actual
18 trail?

19 A. Yes, ma'am.

20 Q. And once you enter the wood line, State's Exhibit
21 Number 71?

22 A. Yes, ma'am. You see there is a bit of decline
23 path with a couple of four wheel tracks on it.

24 Q. And these photographs don't depict every inch of
25 the trail, just ---

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1 A. No, ma'am.

2 Q. --- different sites, during the trail. State's
3 Exhibit Number 72, State's Exhibit 73 and 74, and State's
4 Exhibit 75, is that still the trail?

5 A. Yes, ma'am. Once you were in the woods it was
6 easy to follow the path ---

7 COURT REPORTER: I'm sorry.

8 A. Once you were in the woods it was easy to follow
9 the path that -- the pre-existing path.

10 Q. The deer stand that you mentioned at
11 approximately where is along with the path?

12 A. I'd say the path runs through here, it was about
13 half way there was a deer stand that we came up on..

14 Q. And I show you State's Exhibit 76 and 77, is this
15 a further away picture and this is closer?

16 A. Yes, ma'am. Just as we were approaching it.

17 Q. And that's approaching coming from which area?

18 A. Coming from -- here is

19 Q. Finally, a close up of State's Exhibit 78, again,
20 that's a deer stand and again you're taking these
21 photographs trying to corroborate the information ---

22 A. Yes, ma'am.

23 Q. --- given to you? I'm going to show you State's
24 Exhibit 79, what does this show?

25 A. That's the abandon trailer that sat on the edge

1 of the property.

2 Q. And the abandon trailer, this is photographed
3 from what view point?

4 A. That's actually photographed from the
5
6 looking back at the back of the yard.

7 Q. Looking into the woods?

8 A. Yes, ma'am.

9 Q. So the wood line would be behind it where they
10 came up?

11 A. Yes, ma'am.

12 Q. And where was the trailer that Mr. Mackey
13 actually live, it is depicted in this photograph?

14 A. Yes, ma'am. Right where this tall -- where this
15 dirt spot is where Mr. Mackey's trailer would have been at
16 sitting ---

17 Q. Approximately there?

18 A. --- in the same direction as the abandoned
19 trailer.

20 Q. And the clearance beneath the abandoned trailer,
21 State's Exhibit Number 80?

22 A. Yes, ma'am.

23 Q. You can actually see through that, that
24 illustrates it?

25 A. You can actually lean down on the side being of

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1 the trailer and you can see all the way underneath. You
2 can see where the other home at sat.

3 Q. State's Exhibit 81, shows what?

4 A. That's the path -- the path at the edge of the
5 woods comes around, so that's the back side of the
6 abandonetrailer. That's actually an open door right there,
7 we just walked right in.

8 Q. State's Exhibit 82 and 83?

9 A. Those show the vantage point of standing at the
10 end window as someone would be watching Mackey's trailer
11 from the side of the abandon trailer.

12 Q. Finally, a better picture, State's Exhibit 84, is
13 what you're talking about?

14 A. Yes, ma'am. It's just a better view of the fact
15 that you could see underneath the trailer and you could
16 look all the way across as Ill Will had told us.

17 Q. I'm going to turn your attention to August 12,
18 2011, did you then make contact with Jerome Lewis again?

19 A. Yes, ma'am. His attorney, Nicole Singletary, was
20 able to meet with us at the sheriff's office and we were
21 able to speak with Jerome along with his attorney.

22 Q. And again for the record in this case, did you or
23 the Sled agent ever promise anybody anything in exchange
24 for their testimony?

25 A. No, ma'am. We don't have anything to promise

1 them.

2 Q. Were they threatened in any way?

3 A. No, ma'am.

4 Q. Were they coerced in anyway?

5 A. No, ma'am.

6 Q. And then after that interview, I believe, on
7 August 15th did you sign warrants on additional people in
8 this case?

9 A. Yes, ma'am.

10 Q. And what charges were made in this case as far as
11 Randy Lewis, Darrien Jackson, Richard Roach, and the
12 Defendant, Frank Singleton and the finally co-defendant,
13 who I'm blanking on ---

14 A. Will Smith.

15 Q. Will Smith. Thank you. What charges were
16 actually brought on those five?

17 A. I believe they were charged with burglary first,
18 armed robbery, possession of a weapon during a violent
19 crime and murder and I believe Jerome Lewis was actually
20 charged as an accessory.

21 Q. And ultimately Marcellus Juggins also was charged
22 in this case ---

23 A. Yes.

24 Q. --- as an accessory?

25 A. Yes, ma'am.

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1 Q. On the 16th of August, did you and Agent Blackmon
2 fly to Pennsylvania?

3 A. Yes, ma'am. As the agent said it belonged to the
4 Department of Natural Resources.

5 Q. And who did you make contact with up there?

6 A. We contacted the investigator at that particular
7 I think it was McLean Federal Institution, the investigator
8 there arranged for us to try to speak to Richard Roach who
9 was incarcerated there.

10 Q. And did you advise him of his rights that day?

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

12 Q. And did he speak to you about anything?

13 A. He didn't wish to speak with us that day.

14 Q. I'm going to turn your attention to March of
15 2012, I believe that there's been something about Jerome
16 Lewis was talked to again, was he ever not cooperative with
17 y'all?

18 A. No, ma'am, not in this case.

19 Q. Did he ever -- and at that point, when y'all ask
20 him about this incident where, I guess the third time, did
21 he say he just simply didn't have anything to add?

22 A. Basically, on that particular interview I'd
23 already spoken to Jerome twice about this incident, what
24 that interview was all about was recapping numerous of
25 other incidents and it just so happened that I was going

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1 over them in chronological order and when we got to this
2 particular incident he just said we had already spoken
3 about it and we just moved on to the next incident.

4 Q. All of the co-defendants charges in this case are
5 still pending?

6 A. Yes, ma'am.

7 Q. I want to show you two more photographs, one of
8 the co-defendant's also mentioned to you something about a
9 barb wire fence or a fence?

10 A. Yes, ma'am, Darrien Jackson.

11 Q. I show you State's Exhibit's 88 and 89, do you
12 recognize those?

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

14 Q. And are these photographs that were taken that
15 day along that same trail?

16 A. Yes, ma'am. Same path leading to over to
17 where the residence was on.

18 Q. And that was all information you had prior going
19 into the woods yourself?

20 A. Yes, ma'am.

21 Q. In this case, were there photo line-up shown to
22 at least one or two individuals?

23 A. Yes, ma'am, they were.

24 Q. I want to show you what's been marked as State's
25 Exhibit 1, was this a photo line-up that was shown to

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Darrien Jackson?

2 A. Yes, ma'am.

3 Q. And what was the purpose -- is the only photo
4 line-up you showed him that day?

5 A. No, ma'am. I showed one that included each co-
6
7 defendant in this case.

8 Q. Each co-defendant. And what was the purpose of
9 doing that?

10 A. Although I knew Mr. Jackson I already knew all
11 his people because they've always been acquaintances I
12 would just follow up on anything that I possible could do
13 to corroborate the evidence in this case.

14 Q. To make sure you talking about the right person?

15 A. Yes, ma'am.

16 Q. And State's Exhibit Number 1, when you showed it
17 to him, was he able to identify anyone?

18 A. Yes, ma'am.

19 Q. And who did he pick?

20 A. Frank Terrance Singleton.

21 Q. And that's in number five here?

22 A. Yes, ma'am. He circled it and signed it.

23 Q. And when y'all showed him this photograph line-up
24 did you influence him in anyway?

25 A. No, ma'am.

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. Did you tell him who to pick?

2 A. No, ma'am.

3 Q. And was he able to identify him?

4 A. Yes, ma'am, he was.

5 MS. CAMPBELL: Your Honor, at this time I'd offer
6 State's Exhibit 1 into evidence.

7 MR. STRICKER: Without objection, sir.

8 THE COURT: Without objection. Admitted into
9 evidence.

10 (PHOTO LINE-UP HAS BEEN MARKED AND ENTERED INTO
11 EVIDENCE AS STATE'S EXHIBIT NUMBER 1)

12 Q. And, additionally, I believe another person
13 identified independently of this, identified Mr. Singleton?

14 A. Yes, ma'am.

15 Q. And who was that?

16 A. That was Marcellus Juggins.

17 Q. And he identified Mae-Mae as I believe it's
18 written on the bottom?

19 A. Yes, ma'am.

20 Q. And that was in State's Exhibit Number 2. And
21 these two photo line-ups were shown to these two
22 individuals separately; right?

23 A. Yes, ma'am.

24 Q. And all of the individuals that were interviewed
25 in this case were interviewed separately; is that correct?

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. Yes, ma'am. Most of them were in different
2 places.

3 Q. During the course of your investigation, did you
4 come along with some information that the people who had
5 committed this robbery used gloves?

6 A. Yes, ma'am, I did on top of ---

7 Q. And in the course of your experience as the
8 investigator, why did they use gloves and mask?

9 A. Because everybody watches t.v. and everybody the
10 first thing they think is, oh, I can't leave my
11 fingerprints anywhere. That's very common to wear gloves.

12 Q. And ultimately everyone of the co-defendant's
13 including Mr. Singleton were arrested in this case?

14 A. Yes, ma'am, they were.

15 Q. The guns that have been introduced into evidence,
16 can you explain to the jury taken in any order you want,
17 basically, how this information came to you and how you
18 came to recover these guns?

19 A. Well, I think it was May of 2011, as Special
20 Agent Blackmon testified to earlier, we were working on a
21 different case at the Kershaw County Sheriff's Office
22 together and narcotic agents were going to knock and talk a
23 search warrant or something and they ask for assistance.
24 We rode over to and I was actually was well,
25 where the, that large .45 caliber semi-automatic pistol was

1 recovered. Later on during interviewing I believe the
2 first person I talked to was Darrien Jackson, I believe, I
3 obtained information about the description of the weapon
4 that was allegedly used by Mr. Singleton.

5 Q. Mmm hmm.

6 A. Right when he said -- when he started to describe
7
8 the gun I recalled that I had seen the gun that looked
9 exactly like what he was describing. I believe right after
10 we talked to Mr. Jackson I actually went back to the
11 sheriff's office and we pulled that firearm from that case
12 up in evidence and it appeared to look just like how it had
13 been described. That's when we sent that particular .45
14 caliber handgun off to Sled to be compared with the
15 evidence that Investigator Jones had collected at the
16 initial incident.

17 Q. And it is unusual after a gun has been used,
18 let's so say a murder, homicide of some sort for a person
19 to get rid of a gun?

20 A. Yes, ma'am.

21 Q. That is unusual?

22 A. I'm sorry. I thought you said is it usual? It's
23 not unusual.

24 Q. And it this the gun that y'all've actually
25 recovered in that search warrant?

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 A. Yes, ma'am, that's it.

2 Q. And as far as the description, what made it
3 unique to you as far as the description?

4 A. Not only did it have a barrel sticking around an
5 inch of the actual what I would call the frame of the gun,
6 it has the word Grizzly stamped into the side of it in
7 large letters.

8 Q. The second gun that was involved in this case was
9 the gun that was actually from Mr. Mackey?

10 A. Yes, ma'am.

11 Q. And that's State's Exhibit Number 93?

12 A. Yes, ma'am.

13 Q. And how did you come to find this?

14 A. When we were talking to Ms. Bass and just talking
15 to her about the case and talking to Domanic she had
16 described a firearm that was taken from Mr. Mackey during
17 this home invasion. While she was talking about the
18 firearm she told us that Nick had gotten that gun from a
19 Paul Medley.

20 MR. KIRINCICH: Objection, Your Honor, hearsay.

21 MS. CAMPBELL: He's testified to -- just about
22 the course of his investigation ---

23 THE COURT: Objection overruled.

24 MS. CAMPBELL: Thank you, Your Honor.

25 A. I obtained information that, that gun had been --

1 come from Paul Medley from Lancaster.

2 Q. Mmm hmm.

3 A. As in many cases that work, I use a program
4 that's provided to us by State Law Enforcement Division
5 called Sciex ---

6 COURT REPORTER: Sciex?

7 A. S-c-i-e-x, which allows you to research people by
8
9 name, description of vehicles, property, there's a number
10 of things you can research through this program. Most
11 commonly I use it to try to locate people that I'm looking
12 for. Just following down the list of names and just wanted
13 to talk to Mr. Medley so I looked him up and when I did I
14 found a report that where he had reported just a few days
15 after Mr. Mackey was shot that his, a small caliber firearm
16 was stolen from him. I also strolled further down the
17 report and found that, that same firearm had been recovered
18 in Richland County or Lexington County and that it was now
19 back in the evidence at Lancaster County. I had Special
20 Agent Blackmon, he's originally from Lancaster so I had him
21 go by and look at this firearm in Lancaster County and
22 obviously the first thing that stood out to us was these
23 red tip bullets that everybody was talking about was still
24 along with the gun. Special Agent Blackmon then retained
25 information from Mr. Medley about what he's already

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 testified to that, that's where the gun was gone.

2 Q. And I show you the report you're referring to on
3 Sciex, do you recognize that?

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

5 Q. Or that's a copy of the report. And the serial
6 number on that gun is what?

7 A. R, Ramoe, S, Sierra, 2-5-6-6.

8 Q. RS2566?

9 A. Yes, ma'am.

10 Q. And what's the serial number on this gun?

11 A. RS2566.

12 Q. So that's the gun that Mr. Medley reported
13 stolen?

14 A. Yes, ma'am, it is.

15 Q. And serial numbers and gun are unique to the gun?

16 A. Oh, yes, ma'am.

17 Q. I show you photographs 54 through 59, are these
18 photographs were taken of the gun I think prior to them
19 being sent off to be tested?

20 A. Yes, ma'am. I think only the .45 was sent off to
21 be tested ---

22 Q. I'm sorry.

23 A. --- I took the photographs of the guns?

24 Q. Of the two guns?

25 A. Yes, ma'am.

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 THE COURT: What's the numbers, Madam, Solicitor?

2 MS. CAMPBELL: Fifty-four through 59, sir.

3 THE COURT: Okay.

4 MS. CAMPBELL: Your Honor, at this time, we'd
5 offer them into evidence.

6 THE COURT: Any objection?

7 MR. KIRINCICH: I just want to see them.

8 THE COURT: Sir?

9 MR. KIRINCICH: Can I look at them, Your Honor?

10 MS. CAMPBELL: These are the same ones.

11 MR. KIRINCICH: No objection, Your Honor.

12 THE COURT: Without objection. State's Exhibit's
13 54 through 59 admitted into evidence.

14 (PHOTOGRAPHS HAS BEEN MARKED AND ENTERED INTO EVIDENCE
15 AS STATE'S EXHIBITS NUMBER 54 THROUGH 59)

16 Q. And the .45 we're referring to as State's Exhibit
17 Number 54, what is unique part about this gun?

18 A. The way the barrel stick out at the end of it.

19 Q. And this is the actual gun that's already in
20 evidence?

21 A. Yes, ma'am, it is.

22 Q. And then the small gun that was taken from Mr.
23 Mackey's, State's Exhibit Number 57, does that show when
24 it's still assembled?

25 A. Yes, ma'am.

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 Q. And the bullets that are there are the bullets
2 they are referring to?

3 A. Yes, ma'am. The red tip bullets that had been
4 referred to.

5 Q. They're in evidence?

6 A. Yes, ma'am.

7 Q. Did you make any attempts to try to locate the
8 car that was used in this murder?

9 A. I did. I actually went out to
10 trying to follow up on where it was alleged that, that
11 vehicle had been taken I think that's where Mr. Rasheed
12 Halley was originally from but I was unable to locate the
13 vehicle. I think it had been crushed.

14 Q. It had been crushed?

15 A. I believe so, yes, ma'am.

16 Q. And were you also aware that Marcellus Juggins he
17 said, a Trooper, may have been used as a part of this?

18 A. Yes, ma'am. As described by earlier testimony he
19 still did have a black, I believe, it was a Suzuki Trooper
20 that I didn't take pictures of.

21 Q. And I show you State's Exhibits Number 85, 86,
22 and 87, do you recognize these?

23 A. Yes, ma'am. They are photographs of Marcellus
24 Juggins vehicle at Trailer Park where he was at.

25 MS. CAMPBELL: Your Honor, at this time we'd

JUSTIN DILL- DIRECT EXAMINATION BY MS. CAMPBELL:

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1 offer 85 through 87.

2 THE COURT: Any objection?

3 MR. KIRINCICH: No, sir, Your Honor.

4 THE COURT: Without objection, State's Exhibits
5 85 through 87 admitted into evidence.

6 (PHOTOGRAPHS HAS BEEN MARKED AND ENTERED INTO EVIDENCE
7 AS STATE'S EXHIBITS NUMBER 85 THROUGH 87)

8 Q. The type of car that was described as the one

9

10 used during the robbery that's been described I think it's
11 a Crown Vic or ---

12 A. It was originally described as a Crown Vic but we
13 later found out it was a Mercury Grand Marquis kind of a
14 big body sudan.

15 Q. Are those similar cars?

16 A. Yes, ma'am. It's a similar body type.

17 Q. But this is Marcellus Juggins car in State's
18 Exhibit 85?

19 A. Yes.

20 Q. Which I believe is one of the car that was used
21 for what?

22 A. It was described as being driven up to kinda of
23 scout out Mr. Mackey's residence on the prior incident as
24 well as being described as used to go out and get the safe
25 broken open.

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. The person that's known as Mae-Mae, the person
2 that was arrested along with the co-defendants ---

3 A. Yes, ma'am.

4 Q. --- and charged with the same thing? Do you see
5 him in the courtroom?

6 A. I do.

7 Q. Can you identify him for the jury?

8 A. Yes, ma'am. He's sitting with the defense in the
9 white shirt.

10 Q. In the white shirt at the table?

11 A. Yes, ma'am.

12 MS. CAMPBELL: Your Honor, may the record
13 reflect.

14 THE COURT: So noted for the record.

15 MS. CAMPBELL: Thank you, sir. I have no
16 further.

17 THE COURT: Cross examination?

18 MR. KIRINCICH: Thank you, Your Honor.

19 **CROSS EXAMINATION BY MR. KIRINCICH:**

20 Q. You said this all started with Tyrone Dennis?

21 A. Yes.

22 Q. Drop?

23 A. I have no idea what you're talking about.

24 Q. Is that his nickname?

25 A. I don't know.

1 Q. You don't know his nickname?

2 A. No, sir.

3 Q. He's currently in federal custody ---

4 MS. CAMPBELL: Objection, Your Honor. May we
5 approach?

6 THE COURT: Yes.

7 (Whereupon, a bench conference is held in the presence
8 of the jury panel but out of the hearing of the jury panel)

9 THE COURT: All right. You may continue.

10 MR. KIRINCICH: Thank you, Your Honor.

11 Q. Started with Mr. Dennis and then you made contact
12 with Jerome Lewis' attorney; is that right?

13 A. Yes.

14 Q. She was out of town for guard duty?

15 A. As far I know, yes..

16 Q. So she said it's okay to talk with Jerome as long
17 as it's recorded?

18 A. Yes. She actually spoke to him on the cell phone
19 at the same time that we had spoke to her. We allowed her
20 to speak to him on the same phone. She then told us that
21 it was okay for us to speak with him as long as we recorded
22 that particular incident.

23 Q. Okay. And it was recorded July 27th?

24 A. If that's what was written on the disk. I don't

25 ---

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. In 2011?

2 A. I'm not going to disagree with you.

3 Q. And you were present?

4 A. As far as I know.

5 Q. And Agent Blackmon from Sled was present; right?

6 A. As far as I recall.

7 Q. Have you had an opportunity to review that video
8 recently?

9 A. Not recently, no.

10 Q. Have you reviewed it at all?

11 A. Not anytime this year.

12 Q. Do you recall every reviewing it after the
13 initial or I mean, after you finished the interview, did
14 you ever go back and watch it again?

15 A. I always watch the video to make sure they are on
16 the disk once I make them, at least once.

17 Q. And this was done at the Kershaw County Sheriff's
18 Office; right?

19 A. Yes, sir.

20 Q. In one of the interview rooms?

21 A. Yes, sir.

22 Q. And when someone goes into the interview room and
23 turns the light on, is that what triggers the recording to
24 start?

25 A. It's just standard movement. It doesn't

1 necessarily have to be the light.

2 Q. I'm sorry, you said sound ---

3 A. Sound or movement. It doesn't necessarily have
4 to be the light.

5 Q. So from the time Mr. Lewis goes into the room
6 light, sound, movement it records; right?

7 A. It should, yes.

8 Q. And y'all didn't actually leave him in there very
9 long before you went in and talked to him; right?

10 A. I don't recall.

11 Q. Do you, I know you will, but do you recall it
12 being cold in that room?

13 A. It's always cold in the whole, that side of the
14 office.

15 Q. That's the coldest area in the sheriff's office;
16 right?

17 A. It's pretty cold. I don't -- no particular
18 reason it's just cold.

19 Q. Do you particular remember going to get Mr. Lewis
20 a jacket from the sheriff's office, jacket collection?

21 A. I don't remember. I know sometimes I would crack
22 the door open with the trash can because I mean it's cold
23 to me too it's for no particular reason.

24 Q. Whenever the interview began, were you conducting
25 the interview or was Agent Blackmon conducting the

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 interview?

2 A. I don't recall.

3 Q. And you haven't gone back to review this video?

4 A. Not recently, no, sir.

5 Q. Do you remember approximately, I would say, four
6 minutes into the video, probably two minutes after you and
7 Agent Blackmon came back into the room after getting Mr.
8 Lewis' jacket, discussions about what you're going to talk
9 about?

10 A. I don't recall any of that video.

11 Q. You don't recall any of that video?

12 A. No, sir.

13 Q. Did you take notes during the video?

14 A. I can't say yes or no. I'd have to look at my
15 case file.

16 Q. Did you review everything else for today but just
17 skip over that?

18 A. We talked to Mr. Lewis several times about the
19 exact same thing over and over. I didn't particularly go
20 back and look at this one video.

21 Q. In comparing that video to his interview on
22 August 12th, you were present for that as well; right?

23 A. On -- in 2011?

24 Q. Yes, sir.

25 A. Correct. I was there every time we talked to

1 Jerome.

2 Q. And his attorney was actually there at that
3 point; right?

4 A. The one in the interview room she was not.
5 That's when we talked to her on the phone. The one we
6 actually met with her, yes, his attorney was there.

7 Q. Okay. And do you remember her stopping the
8 interview when Mr. Lewis began answering a question?

9 A. I believe I remember a couple of times where she
10 stopped and asked to speak with her client out of our
11 presence.

12 Q. Do you remember specifically the exchange where
13 she indicated she believed her client had immunity?

14 A. I don't ever remember her thinking that her
15 client had immunity.

16 Q. Do you remember Agent Blackmon explaining to her
17 that the client had been Mirandize, had waived those rights
18 and therefore, anything he said would be used against him?

19 A. Correct. That's what we read to everybody.

20 Q. Do you remember specifically Agent Blackmon going
21 over that with her during the middle of the interview?

22 A. Personally, no, I don't recall.

23 Q. You didn't go back and review your notes for that
24 either?

25 A. I did read the notes and it is stated in his

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 notes, it's not my notes.

2 Q. All right. You didn't go back and review and you
3 can't recall so we'll move on. Do you recall in the first
4 interview being directed by Jerome Lewis to go talk with
5 Darrien Jackson?

6 A. I don't recall the first interview.

7 Q. Do you remember Jerome Lewis telling you, go ask
8 Darrien Jackson, he'll tell you everything?

9 A. I don't recall the first interview.

10 Q. And you didn't go back and review any notes or
11 watch the interview before today?

12 A. Not recently but, yes, I have watched over it.

13 Q. You were present in May of 2011 when the officers
14 went into the apartment at, I think it's changed names, but
15 the ?

16 A. I was in the vehicle around the back of the
17 apartments along with Special Agent Blackmon.

18 Q. And that was at Ms. Halley's apartment?

19 A. I don't have any knowledge of that. I was just
20 in the back in case someone ran out the back door.

21 Q. Did you ever go inside?

22 A. I did go inside.

23 Q. Did you see the firearm, the .45?

24 A. I did see the firearm.

25 Q. And Mr. McCray was charged with that firearm;

1 right?

2 A. As far as I know.

3 Q. That wasn't your case?

4 A. No, sir.

5 Q. But you and Special Agent Blackmon were there ---

6 A. We were only there to assist in case someone ran
7 out the back door.

8 Q. And it wasn't you that testified that Mr. McCray
9 was later charged with that firearm?

10 A. As far as I he was because I reviewed the case
11 file.

12 Q. For that, but not the video for what we're
13 actually here for today?

14 A. That's right. I did watch the first video but
15 not recently.

16 Q. So this gun wasn't found with Mr. Singleton?

17 A. No, sir.

18 Q. And the .17 caliber small revolver was found in
19 Lancaster County; right?

20 A. As far as I know it was recovered in Lexington
21 County.

22 Q. Lexington County?

23 A. Correct.

24 Q. And then it was taken back to Lancaster because
25 that's where it was reported stolen?

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 A. Correct.

2 Q. Gotcha. But that wasn't found with Mr.
3 Singleton; right?

4 A. The .17 caliber?

5 Q. Yes, sir.

6 A. No. He wasn't never alleged to have had it.

7 Q. It wasn't found with Mr. Roach or Mr. Smith?

8 A. No, sir.

9 Q. Mr. Juggins?

10 A. No, sir.

11 Q. Either one of the Mr. Lewis'?

12 A. No, sir.

13 Q. During your multiple interviews with all of the
14 co-defendants, they've never ask for a deal?

15 A. No, sir. I can't make deals with people.

16 Q. They've never told you that they've expected a
17 deal?

18 A. No, sir.

19 Q. Have you ever been present for any conversations
20 with the solicitor's office where deals were discussed?

21 A. No, sir.

22 Q. And you didn't investigate this case to begin
23 with; right?

24 A. No, sir. I wasn't even an investigator.

25 Q. You were still on the road?

1 A. I was in the warrants division.

2 Q. Warrants division?

3 A. Yes, sir.

4 Q. So you never responded to the scene?

5 A. No, sir.

6 Q. For this?

7 A. No, sir.

8 Q. Never had any involvement before 2011?

9 A. No, sir.

10 Q. You can't comment on why certain things weren't
11 done back in 2008?

12 A. I wasn't, like I said, I had never been there
13 until the day that we arrested Darrien Jackson, that was
14 the first time I had ever stepped foot there.

15 Q. Now, one thing that you've done is you did go
16 with Agent Blackmon, you called him for assistance and
17 interview multiple people?

18 A. Correct.

19 Q. Darrien Jackson, interviewed in Florence, right?

20 A. Correct.

21 Q. But he didn't write his own statement; did he?

22 A. No.

23 Q. Somebody else wrote it for him?

24 A. In his words.

JUSTIN HILL- CROSS EXAMINATION BY MR. KIRINCICH:

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1 Q. And William Smith was interviewed at Trenton
2 Correctional Institution; right?

3 A. Correct. In lock down.

4 Q. And he doesn't write his own statement?

5 A. It was written by Special Agent Blackmon in his
6 own words, Will Smith's own words.

7 Q. And Mr. Trevor "Trim" Burnett is interviewed was
8 it at the sheriff's office after you talked to his mom?

9 A. I wasn't present for that statement.

10 Q. But you've seen it; right?

11 A. Yes, sir.

12 Q. And that's not written by him?

13 A. It appears to be Special Agent Blackmon writing
14 as well.

15 Q. So in all of the written statements, those are
16 written by law enforcement officers; right?

17 A. I can't say all of them. The ones you named,
18 yes.

19 MR. KIRINCICH: Your Honor, if I could have just
20 a moment?

21 THE COURT: Yes, sir.

22 Q. By default did you become the lead investigator
23 on this in 2011?

24 A. Yes, sir.

25 Q. And it was your case to work after that?

1 A. Yes.

2 Q. You called in Sled for assistance?

3 A. Yes.

4 Q. So you were present on the 27th for the -- July
5 27th interview with Jerome Lewis?

6 A. As far as I know.

7 Q. You don't recall after reviewing the video
8 Agent Blackmon saying, your attorney is not present with
9 you. I've instructed her and talked with her and let her
10 know that if during this interview if you mention anything
11 about crimes you have committed that we can not use that
12 against you, okay ---

13 A. I don't -- I don't recall that.

14 Q. --- and we're in agreement with her on that so
15 today I just want you to tell me about some of the things
16 that you may know about is that clear?

17 A. I don't recall that.

18 Q. But you were the lead investigator?

19 A. Yes.

20 Q. And you called him in for assistance?

21 A. Yes, sir.

22 Q. And you've gone back and reviewed that video at
23 some point but not within the last year in preparation for
24 this trial this week; right?

25 A. I don't recall.

JUSTIN HILL- REDIRECT EXAMINATION BY MS. CAMPBELL: 566

1 Q. And you don't recall Mr. Lewis asking for help,
2 asking for a deal, looking for some kind of cooperation
3 agreement?

4 A. I don't recall.

5 MR. KIRINCICH: Thank you, Lieutenant Dill.

6 THE COURT: Any redirect?

7 **REDIRECT EXAMINATION BY MS. CAMPBELL:**

8 Q. He ask you in preparation for trial here, who's
9 on trial here today?

10 A. Frank Singleton.

11 Q. And as far as you're case notes and everything,
12 you've reviewed all the information on Frank Singleton?

13 A. Yes, ma'am.

14 Q. Including Jérôme's other statements just not the
15 one, you didn't review the video again?

16 A. Yes, ma'am.

17 MS. CAMPBELL: Thank you, Your Honor.

18 THE COURT: Anything else?

19 MR. KIRINCICH: No, sir, Your Honor.

20 THE COURT: Sir, you may step down.

21 MR. DILL: Thank you.

22 THE COURT: Can the lawyers approach please?

23 (Whereupon, a bench conference is held in the presence
24 of the jury panel but out of the hearing of the jury)

1 MR. STRICKER: Yes, sir.

2 THE COURT: All right. If you'll bring me the
3 jury please, sir.

4 (Whereupon, the jury enters the courtroom at 10:38
5 a.m.)

6 THE COURT: Madam forelady, ladies and gentlemen
7 of the jury, I hope you all had a good restful, peaceful
8 evening last night. Before we go any further, I will ask
9 you all again has everybody continued to abide by this
10 Court's instructions?

11 (Whereupon, the jury implies they had)

12 THE COURT: All right. At this time, ladies and
13 gentlemen I am going to recognize the State. The State so
14 recognized.

15 MS. McDUFFIE: Your Honor, at this time, the
16 State of South Carolina rest.

17 THE COURT: All right. Ladies and gentlemen, the
18 State has presented it's case to you. At this time, I'm
19 going to recognize the Defense counsel. Mr. Strickler?

20 MR. STRICKER: Thank you, Your Honor. If it
21 pleases the Court? At this time, the Defense rest.

22 THE COURT: We'll also note for the record that
23 all prior motions have been made or renewed and all prior
24 motions in the Court's rulings remain the same.

25 MR. STRICKER: Yes, sir.

1 THE COURT: Now, Defense is recognized.

2 MR. STRICKER: And the Defense rest, Your Honor,
3 at this time and renew all prior motions.

4 THE COURT: And all the Court's prior rulings re-
5 so remain the same.

6 MR. STRICKER: Thank you.

7 THE COURT: You may be seated. Thank you.

8 All right. Ladies and gentlemen, you have heard all
9 of the testimony and seen all of the evidence that's going
10 to be presented in this trial. At this time or that which
11 remains are closing arguments by the State, followed by
12 closing arguments of the Defense counsel and then my charge
13 on the applicable law to this case to you. What I will say
14 to you, Ladies and gentlemen, before I recognize the State
15 for closing arguments is what the attorneys tell you in
16 their closing arguments is not evidence in this case -- it
17 is not evidence in this case. Ms. Campbell, you are so
18 recognized for closing argument.

19 MS. CAMPBELL: May it please the Court?

20 THE COURT: Yes, ma'am.

21 **STATE'S CLOSING ARGUMENTS:**

22 MS. CAMPBELL: Good morning.

23 (Whereupon, the jury greets Ms. Campbell)

24 MS. CAMPBELL: First thing I would like to do on
25 the behalf of the State of South Carolina the citizens of

1 Kershaw County and the Mackey family is to thank you for
2 your service in this case. I know on Monday morning you
3 showed up for jury duty probably wondering if I might be on
4 a wreck case, maybe a stolen car, or something of that
5 matter, and as the days progressed, after you had been
6 sworn in to uphold your duties, I noticed that you paid
7 very close attention to all of the evidence that was
8 presented to you. And on behalf of the State we thank you
9 for that because as you probably figured it out this is a
10 very important case, all be it, six years old, it happened
11 in 2008....

12 Now, I'm going to take this opportunity and I'm going
13 to get -- this is the last time I'm going to be before you..
14 And at this point I am going to be able to talk a little
15 bit about the law in this case and then I am going to be
16 able to talk about the facts. And then Mr. Strickler is
17 going to get up here and he's going to talk on behalf of
18 the Defendant. This will be the last thing you hear from
19 either one of these parties. And as I talk about the law
20 in the case, if I say something different from what the law
21 is that, Judge Brown, give you, it's not intention on my
22 part. You take the law as he gives you and in that same
23 thing, if either side mischaracterizes the facts as you
24 remember them, you remember them the way that you heard
25 them, the way that they were here in this courtroom because

1 you have now heard all of the evidence that you can
2 considered in this case and the Judge will tell you what is
3 it, what is evidence. It is the sworn testimony and it's
4 the physical exhibits that will go back to you. But listen
5 carefully to him because he will tell you, not tell you,
6 questions by the lawyers are not evidence. If a lawyer ask
7 a question and the answer is no, the answer is the evidence
8 before you. You can't base it on questions by lawyers.
9 Fishing expedition. And you end up -- and you end up,
10 speculation, conjecture, that is not evidence. And the
11 Judge will also tell you as he's already told you, roles in
12 this courtroom are very important. They are very well
13 defined. The role of the State is to bring forth including
14 all of the admissible relevant evidence as to what happened
15 back on November 14, 2008 and the Defense role is very
16 similar to that to defend his client. The Judges role is
17 to determine what is admissible and what evidence you're
18 actually allowed to hear as to what this crime was and to
19 instruction on what the law is. But finally, ladies and
20 gentlemen, the most important role in this courtroom is
21 yours. Each of you individually and once you get back to
22 that jury room collectively because you must determine what
23 the facts were back on November 14, 2008. And then apply
24 them to the law as the Judge gives it to you and as I'm
25 going to talk to you a little bit about it in just a

1 moment.

2 Now, I want to take this opportunity to apologize, I
3 don't know what's been wrong with me this week. I've given
4 witnesses wrong exhibits, I've forgotten co-defendants
5 names, things of that nature, just been off. At times
6 you've heard us getting into legal rambling and we've had
7 to approach the bench. At times evidence was not
8 admissible, it may be admissible, things of that nature.
9 Please don't hold that against the State. At times my
10 questions have been clumsy, sloppy. Don't hold that
11 against Robert Mackey's family, Nick Mackey family.

12 Now, in criminal cases that are some what unique. As
13 you have noticed everyone that has gotten up before you,
14 you heard live testimony from each and every witness.
15 You've heard references to statements, to recorded
16 statements, to written statements but as you've noticed
17 there's been no depositions, there's been no audio
18 depositions, no audio statements that are before you, only
19 in certain circumstances such as what happened in Court,
20 can even a written statement be introduced and that's a
21 very limited amount that can be on. You hear from live
22 testimony and the reason for that is very simple, ladies
23 and gentlemen, because the Defendant has the absolute
24 right, as he should, to confront each and every witness
25 that comes before him, medical reports, not admissible,

1 live testimony and the reason for that is so that you, the
2 jury, can judge the credibility of each and every witness.
3 Be it an expert, a lay witness, a co-defendant because
4 those are the determinations you must make and the Judge
5 will instruct you, and I'll get back to the credibility in
6 a minute. The most important thing -- the one of the most
7 important things you have here are you life experiences and
8 common sense and that's what makes each of you uniquely
9 qualified to be jurors in this case to evaluate the
10 evidence.. To see whether each and every witness is
11 corroborated or contradicted and all the State ask is for
12 that you go back there just to consider the evidence as a
13 whole as it's been presented to you.

14 Now, the burden of proof in criminal cases as it
15 should be is on the State of South Carolina to prove this
16 Defendant guilty beyond a reason doubt and I'm somewhat
17 surprised in listening to the opening statement because the
18 Defense counsel got up here and said oh, the State is going
19 to get up here in this case and say they welcome that
20 burden. They anticipated it because, ladies and gentlemen,
21 they are absolutely right. In this case, in this
22 courtroom, in this county, the State welcomes the burden.
23 Perhaps more than any other case with this evidence. The
24 burden is firmly where it should be on the State to prove
25 this Defendant guilty beyond a reasonable doubt.

1 Now, the Judge will instruct and you hear the term
2 beyond a reasonable doubt. What does that mean? It's very
3 simple, ladies and gentlemen, perhaps the shortest
4 definition, a traditional definition, it's a kind of act
5 that will make a reasonable person hesitate to act. That's
6 a reasonable doubt but our Court's have gone a little
7 further in describing or defining what reasonable doubt is
8 and what it should be.

9 The Judge will charge you that proof beyond a reason a
10 doubt -- can every body see -- is proof that leaves you
11 firmly convinced of the Defendant's guilt. They are very
12 few things in this world that we know with absolute
13 certainty and in criminal cases the law does not require
14 proof that overcomes every possible doubt. If based, on
15 your consideration of the evidence, you are firmly
16 convinced that the Defendant is guilty of the crime
17 charged, you must find him guilty. If on the other hand,
18 you think there is a real possibility that he is not
19 guilty, then you give him the benefit of the doubt and find
20 him not guilty. All the State, the only standard the State
21 must meet is that makes you firmly convinced. The law
22 recognizes that we made not be able to overcome every
23 possible doubt. A person will doubt whether sun will rise
24 tomorrow is that reasonable. Only that type of evidence
25 that leaves you firmly convinced and I submit, ladies and

1 gentlemen, in this case, we aren't asking you to rely on
2 one co-defendant. We aren't asking you to rely on one
3 stranger i.d. We have brought in witness after witness
4 after witness who has gone through and told you their
5 observations of Mae-Mae, Frank Singleton, that day before,
6 during, and after this crime was committed on November
7 14th. It's not one witness that coming here. It is
8 witness after witness after witness, who has gotten on that
9 stand, all be it, they didn't want to and told you the
10 cold, hard, violent acts of Frank Singleton and his
11 buddies. That is the evidence before you. Is that proof
12 beyond a reasonable doubt?

13 Now, the Judge is going to instruct you that you're
14 going to be charged with four different offenses and that's
15 not unusual when a crime occurs a person may commit more
16 than one offense, say armed robbery and a murder, in this
17 case, an armed robbery and murder and burglary and I want
18 to talk to you a little bit about that and the Judge is
19 going to tell you when reaching a verdict you must reach a
20 verdict separately on each and every indictment that's
21 before you and they are four indictments that he's going to
22 talk to you about. And I'm going to talk to you just a
23 little bit about the elements of each of those charges and
24 what is murder. They are codes of law, ladies and
25 gentlemen, to be perhaps the most heinous offense that can

1 be committed who has the shortest definition on it's face.
2 Because very simply under our law, murder is the unlawful
3 killing of another with malice aforethought either
4 expressed or inferred. That's it. That is the only charge
5 being considering whether or not Frank Singleton, if he
6 killed Robert Mackey who had malice aforethought either
7 expressed or inferred. Those are the elements that the
8 State must use. And the Judge will charge on some of these
9 definitions, like what is the term malice. To me the
10 easiest way to think of it is, was the Defendant on that
11 day acting maliciously. Was there malice in his heart?
12 Ladies and gentlemen, this case reeks of malice. It
13 doesn't get much more maliciously than to be in your home
14 and have people kick in your door, shoot you in the leg,
15 pistol whip you, and kill you when you try to defend on
16 behalf of your children. It reeks of malice.

17 Now, what does the term malice mean, and the Judge
18 will instruct you in terms similar to what I'm getting
19 ready to talk to you. Malice, typically, is considered as
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 the intent to inflict an injury or
23 under circumstances that the law will infer an evil intent.
24 It doesn't get any more evil, was there evil intent. They
25 laid and wait. They scoped it out. They executed their

1 plan. And part of their was to shoot him. The gun shot to
2 the leg that hit the right artery along is enough to kill
3 him but it went much further than that. I submit and I've
4 been wrong before, no one is going to get up here and say
5 this is not a murder.

6 What is malice aforethought, what does that mean? The
7 law -- malice aforethought does not require that malice
8 exist for any particular time before the act is committed
9 but malice must exist in the mind of the Defendant just
10 before and at the time of the act is committed. Therefore,
11 there must a combination of the previous evil intent and
12 the act. And listen carefully to the Judge. The plan
13 didn't have to initially include killing him. The malice
14 can be infer to the acts leading up to that. It doesn't
15 have to be in this mind when he's laying there next door in
16 the abandon trailer. Every act that Frank Singleton did
17 that day had malice.

18 The Judge will also instruct you that malice
19 aforethought maybe express or inferred. These terms
20 "expressed" and "inferred" do not mean different kinds of
21 malice but merely the manner in which the malice may be
22 shown to exist. BY direct evidence or inference from the
23 facts and circumstances where accured.

24 The Judge will instruct you or may instruct you that
25 some types of expressed malice because the law recognizes

1 that every person that commits a murder it's not
2 necessarily going to walk up to the person and prior to
3 pulling out their gun, pointing it at them and saying I am
4 going to kill you, that's expressed malice. Malice may be
5 inferred from other ways and I'll talk to you a little bit
6 about those. But what is expressed malice that is in this
7 case because this case has both, and it's not that they're
8 different types of malice it's just a way in which they are
9 shown. Expressed malice, lying and waiting in order to rob
10 him. Planning to do the evil that ended up happening. The
11 Judge will instruct you that when you think about whether
12 there is an inference of malice, the use of a deadly
13 weapon, is inferred malice. And beyond that the Judge will
14 instruct you that when a person is in a middle of
15 committing a felony, an inference of malice may arise if
16 during that, bad things happen like murder. This case,
17 ladies and gentlemen, I submit again, I do not think anyone
18 is going to get up here and say that this isn't a murder.

19 But further than that, the Judge is going instruct you
20 malice may be inferred from conduct showing a total
21 disregard for human life and if that doesn't sum up what
22 those five men were doing that day, nothing does. They had
23 no regard for anybody. The only good part of this case is
24 that they left before they killed the children.

25 Proximate cause because in this case you've heard

1 evidence from the pathologist that the victim in this case
2 did not die right away from his gun shot wounds. It took
3 time over time his condition worsen and worsen he never
4 recovered. You heard from his friends, from his son, the
5 condition he was in when he got to the hospital. He never
6 came out of it. Was there proximate cause between the time
7 of the shooting and his death. The pathologist told you
8 unequivocally that he died as a result of sepsis or
9 infection that would not have happened but for the gut shot
10 which took his life which was complicated by the shot to
11 the leg. It didn't help that he was bleeding profusely
12 from the pistol whipping.

13 Proximate cause where a person inflicts a fatal injury
14 on another person and that other person dies at a later
15 time. You must be convinced beyond a reasonable doubt that
16 the infliction of the first injury was the proximate cause
17 of the victim's death.

18 Proximate cause is the direct cause, it is the
19 immediate cause, it is the efficient cause. It is the
20 cause without which the death of the victim would not have
21 resulted. And remember when we questioned the pathologist
22 would he have died but for that and the answer was, no.
23 The cause of his death, the initial cause, was the gunshot
24 wound. There must be a chain of causation from the time
25 of the injury inflicted by the Defendant until the time of

1 the victim's death. Proximate cause does not necessarily
2 mean that it occurred immediately prior to death. There
3 may be more than one proximate cause. The acts of two or
4 more persons may combine together to be a proximate cause
5 of the death of a person. The gunshot wounds by each of
6 them and I'll get to the, hand of one, hand of all, in a
7 minute. The Defendant's act may be regarded as the
8 proximate cause if it is a contributing cause to the death
9 of the victim. The fact that other causes also contributed
10 to the death of the victim does not relieve the Defendant
11 from responsibility. The Defendant's act need not to be
12 the sole cause of the death, but must be a proximate cause
13 contributing to the death of the victim. And I submit,
14 would be wrong again, no one is going to say that the
15 gunshot didn't contribute to his death.

16 The second indictment that's before you is burglary in
17 the first degree and I've taken these just in the order.
18 The Judge may give them to you in a separate order. What
19 is burglary in the first degree? A person is guilty of
20 burglary in the first degree if the person enters dwelling,
21 it doesn't mean he has to break in, although in this case
22 that's undisputed, you've got the shoe prints, without
23 the consent and with the intent to commit the crime
24 therein. It's also undisputed in this case, there intent
25 was pretty clear. They went in there to rob or whatever

1 means necessary if someone had to die to make it happen
2 that's okay they got the safe. When an effected entry or
3 went in the dwelling or an immediate flight he or another
4 participate of the crime, this what makes this a burglary
5 in the first degreee, is armed with a deadly weapon or --
6 we don't have to prove all of these, listen to the Judge,
7 there's or between each one, we just have to prove one. I
8 submit all of these are there but we only need one to
9 actually prove burglary first -- causes physical injury to
10 a person who is a non-participate in the crime, in this
11 case, Robert Mackey, and/or Robert Sullivan, we have
12 multiples, uses or threatened to use the use of a dangerous
13 instrument, a shotgun, a .22, a .45, or displays what
14 appears to be a knife, pistol, revolver, rifle, shotgun,
15 machine gun or other firearm. Any one of those makes it
16 burglary in the first degree. And I submit the elements of
17 burglary are here.

18 So what is armed robbery and the Judge will go through
19 the definition of armed robbery. And very simply our
20 statute says "A person who commits armed robbery while
21 armed with a pistol, dirk, slingshot, knuckles, razor, or
22 other deadly weapon, or even while alleging the second
23 partner fired, the Judge will define to you and take you
24 through the steps, but basically what is robbery, and he'll
25 be much more articulate in saying this than I am, but

1 basically it's stealing from the person of another or
2 within the area where they have control and I submit nobody
3 is going to argue that Robert Mackey didn't have to be in
4 control other than things in his house. But from the
5 person of another while using violence and while armed with
6 a deadly weapon. It doesn't get anymore violent and it
7 doesn't anymore deadly than this weapon. Those are the
8 elements of armed robbery and the Judge will describe them
9 for you better.

10 And finally possession of a weapon during the
11 commission of a violent crime. And very simply the law
12 recognizes that when deadly weapons are you used it makes
13 that bad things happen. It makes homicides occur. So very
14 simply there is a law that our legislature had enacted. It
15 says is it is unlawful for a person to possess a firearm or
16 visibly display what appeared to be a firearm or an item
17 during the commission of a violent crime. And the Judge
18 will instruct you the burglary in the first degree, armed
19 robbery and murder are violent crimes. Anyone of them is a
20 sufficient but we have all three.

21 And finally, ladies and gentlemen, there's a thing in
22 the law that's called the hand of one, hand of all and the
23 law recognizes that two or more people may combine
24 together, in this case five, to commit a crime and during
25 the course of that crime or any other crimes that weren't

1 anticipated that may happen and it doesn't matter because
2 even say, if I am the look out my cohorts takes his gun and
3 goes in and I tell them before hand don't shoot and kill
4 anybody, when you go in there but I stand to look out
5 outside, that could of any sort, I am just responsible for
6 everything he does as if I were there because I am present,
7 aiding and abiding. It's called the hand of one is the
8 hand of all. It's part of our law because the recognizes
9 that just because you're part may not be as great as the
10 other one, although, in this case Frank Singleton couldn't
11 get any bigger. That's why you heard all these co-
12 defendants. Two of whom I don't think were even armed, it
13 doesn't matter. They're still charged with the same
14 crimes. Burglary, armed robbery, murder, possession of a
15 weapon because under our law if a crime is committed by two
16 or more people who are acting together and committing a
17 crime the act of one is the act of all. A person who joins
18 with another to commit an unlawful act is criminal
19 responsible for everything done by the other person which
20 happens as a probable or natural consequence of the acts
21 done in carry out the common plan and purpose. For
22 example, two people can be guilty of killing another person
23 and only one of two had a gun. It was only one bullet and
24 only one of the two fired the shot that caused the death.
25 If two or more people are together acting together

1 assisting each other and committing the offense, the act of
2 one is the act of all or as it is sometimes said, the hand
3 of one is the hand of all. Listen carefully, when the
4 Judge instructs you on this. That's why all five co-
5 defendants are charged with the same because each of them
6 had a role, each of them participated, each of them were
7 aiding and abiding. The hand one is the hand of all.

8 Now, as we get ready for these cases, preparation, you
9 kinda of wonder what's the defense going to be. We start
10 looking at the evidence, what it may show or what he may
11 not. Whether the witnesses will testify truthfully,
12 whether they may or not. And in this case as I was looking
13 at the evidence you think about ones that are kinda of
14 typically for homicide cases. Is it id. Is there one
15 person whose never seen the person before, got a glimpse of
16 their face, who comes in a points them out. The defense
17 is, they're mistaken. That one person could be mistaken as
18 far as their id goes and the whole case rest on that. Or
19 is it a self-defense case or is it just not a murder case
20 at all it's just a accidental killing, not during the
21 commission of a felony. It wasn't plan before hand. Just
22 was a manslaughter type case. This isn't that case.
23 Listen carefully, the Judge will instruct you on that on
24 any of them because none of those defense weren't here.
25 And I was interested in listening to opening because the

1 first thing they said was, oh, the State's got the burden
2 which we did, as we should. And then they said, I wrote
3 some notes, that you can not believe the State's witnesses
4 because they have nicknames. Remember he said, Ill Will,
5 Sticky, I think one that was his favorite was Diablo. And
6 then he said that you can't trust any of them because they
7 are thieves, robbers, convicted felons. That makes you
8 can't trust them, you can't base your burden on that. And
9 they didn't come forward for like three years and, you
10 know, they weren't coming forward out of the goodness of
11 their heart, it took them three years. And then finally I
12 think the last thing he kinda of talked about was, well,
13 you can't believe anyone, who put the gun to the head of a
14 three year. And as listenedo this and I was thinking to
15 myself as they were defending -- as the defense was up here
16 talking about trashing the witnesses. You can't believe
17 them, they're thieves and robbers, they are inherently
18 unreliable. It's kinda of ironic, we don't pick the
19 witnesses. The only witnesses that were available to come
20 forward that could id anyone was Robert Sullivan and poor
21 Nick Mackey they made sure they couldn't. They made sure
22 there was no DNA at that scene. They made sure there was
23 no fingerprints. The only people available that they
24 trashed are his friends. He chose them. And then they get
25 up here and trash them. You can't believe them. They're

1 his cohorts and more importantly they are his co-workers.
2 This is what they did to get drugs, to get money. They'll
3 get up here and talk about there's no fingerprints, no DNA.
4 No kidding this is about as professional and violent as
5 home invasions go. They took all the precautions. You
6 heard about how they scoped out the place. They went there
7 on a prior occasion to do the deed. Wouldn't good, there
8 were dogs and people around. They made sure -- they had
9 all their t's crossed, their i's dotted. On the way this
10 day they stopped to get gloves. They made sure they had
11 their mask, professionals.. This wasn't amateur hour.
12 They're plan was to hit this, oh, high stakes drug dealer.
13 And don't you hate it when you information is bad. The
14 best they could score was a little pot from this high
15 stakes drug dealer. They even observed the traffic.
16 That's how professional they were. Mask; gloves; multiple
17 guns; plan; you shoot him in the leg; make him talk; so
18 good he almost got away with it. But for Jerome Lewis
19 talking. But for Darrien Jackson coming clean. But for
20 Ill Will at one moment, at least, had an ounce of remorse.
21 But for all the others witnesses that I'll talk about in a
22 minute. But then as I listen, during the course of cross
23 examination it kinda of changed, the defense. Because then
24 suddenly, oh, Ill Will, he didn't really say that. And
25 they're going to get up here and argue that Ill Will didn't

1 say it. The police put that story in their mouth. That
2 the police told Trim what his friend and he got up here,
3 his nickname was, that's in dispute, that Trim didn't --
4 nobody even knew Trim by anything but a nickname. So, now
5 suddenly I guess the theory and I'm working with it, is
6 that these thieves, convicted felonies, were now only
7 cahoots with Justin Dill and Lee Blackmon from Sled from
8 two different agencies and they've all gotten together and
9 for some reason three years after the fact, out of the
10 blue, because Jerome Lewis started talking he decided to
11 frame poor, poor, Frank Singleton, Mae-Mae, their fiend.
12 And, in doing so these thieves and robbers, are willing to
13 sacrifice the balance of their lives in prison because
14 that's what they're facing. The defense got up here and
15 wrote on the board, what all their facing, life sentences,
16 multiple sentences. Thirty years here. Thirty years
17 there. More than enough to put them away. And Darrien
18 Jackson, Randy Lewis, Ill Will, because even in his version
19 he's still a look out, they're all willing to sacrifice
20 their lives to Frank, poor, Frank Singleton because to find
21 him not guilty that's what you have to believe. But
22 suddenly now all these people, the sheriff's department,
23 Sled, our State wide agency, are in cahoots to frame them.
24 If they were going to do this, why they wait three years?
25 I submit, ladies and gentlemen, the fact that this didn't

1 come forward right away. Nobody tried to take that square
2 peg and put it in a round hole. They followed the evidence
3 when it finally developed. They want to condemn him for
4 that, commend him. This case was corroborated by good
5 police work once the evidence the developed. And by the
6 way, if they're just going to make this all up to make
7 everyone say these stories, and I would just note, that
8 when Justin Dill became involved in this case, he didn't
9 know anything about it. All he had was some notes from the
10 incident report to review. He hadn't even interviewed Nick
11 Mackey until August the 4th and by that time he had already
12 talked to him, remember this, remember because we went
13 those dates, you may wonder by I do that, he had already
14 talked to Jerome. He had talked to Darrien Jackson. And
15 he had talked to Ill Will and isn't it just amazing that
16 those three people independent because they were all in
17 separate institutions, were able to come up with the exact
18 same story that on August the 4th was totally corroborated
19 by the only other person that could talk because the four
20 year old was too small and that's Nick Mackey. Isn't that
21 amazing that Justin Dill and Lee Blackmon were able to do
22 that before they even talked to him to know the details.

23 And finally, if that defense doesn't work just do the
24 traditional argument, Robert Mackey, yeah, he sold pot.
25 Why should you care. Why should anyone care. Just trash

1 the victim and hope the jury buys it and move on. I mean,
2 there is no fingerprints. There is no DNA. And we'll be
3 the first tell you that we were the ones that brought that
4 before you. There are no fingerprints and there is no DNA
5 because he and his professional crew made sure there
6 wouldn't be.

7 Now, I want to talk to you for just a few minutes
8 about the witnesses' you did hear from and about the facts
9 in this case.

10 Who did you hear from first? Rasheed Halley. He told
11 you about what he saw that day. Basically, minimized it.
12 He said I was just with Ill Will. I went out there. I lent
13 him my car. There's no dispute he didn't go out there.
14 But yeah, I did lend him my car. It's an old car, it's
15 been trashed since then. They came back. He went with
16 them out, remember he was one of the cars who drove out
17 there with Will in order to get the safe open. He told you
18 about that and he told you he was there when that happened and
19 one of those people was Ill Will was the only one he was
20 willing to talk to and he claimed he didn't know the
21 others.

22 Shawn Eberts, who was he? He was the one that
23 actually opened the safe for them that day. And what was
24 he able to tell you? Again, all he does is corroborate the
25 information and that's important when you are dealing with

1 co-defendants because this case every single thing they
2 said was corroborated by other witnesses. Now, were some
3 details different about what they told and what they
4 observed. It's the same thing when you're considering
5 things. Credibility is very essential here and listen to
6 the Judge when he talks to you a little bit about that.
7 Because in judging credibility you have to determine and
8 consider things like demeanor of a witness on the stand.
9 How he was hesitate, forthright. Had they given them prior
10 statements that were consistent or prior statements that
11 were inconsistent. Was their evidence corroborated by the
12 other witnesses? At least one other witness. In this
13 case, multiple other witnesses or was it limited to that
14 one witness and not corroborated by the evidence.
15 Specifically, ladies and gentlemen, again, the victim, his
16 son, totally corroborates that what they said happened with
17 details of little things. He knows there were at least
18 four people in there but couldn't remember if there was a
19 fifth and that's what makes it credible. It's like when
20 two people see a car wreck from two front corners, because
21 if everyone give -- the details are the exact same thing,
22 then there is something wrong. There maybe a person
23 standing on one street corner and another one on another
24 street corner, they see a car run through a red light, one
25 says the red light was turning from yellow to red, one says

1 it was still yellow, they are two independent witnesses.
2 Are they trying to say something different, no, their few
3 points are different. Their vantage points are different.
4 What they observed. If they had been exactly the same then
5 there's a problem. But the substance of what they saw,
6 ladies and gentlemen, is the car went through the light and
7 hit someone. That's what makes it credible.

8 You heard from Tank Williams, he's the young man that
9 went over there and I believe he's the one and he's
10 important, because remember how Ill Will was supposedly
11 asleep in the car -- I'll get back to Ill Will in a minute
12 -- he went by that car. He said he was, I think his term
13 was, and I could be wrong, abandon, so no one around it or
14 in it. Abandon.

15 Who else did you hear from Marlo Patterson. He went
16 over to try to help the victim afterwards. He was friends
17 with the victim, the victims family. Try to help him
18 afterwards. Williams actually took the children that day.

19 Paul Medley, and what was he able to tell and it's
20 amazing that the police's in this case were able to recover
21 the actual gun they used. And by the way, this
22 professional crew, what did they do with the guns right
23 afterwards, they got rid of them. Paul Medley told you
24 that he had given the gun to Robert Mackey. It was
25 something about another gun, I didn't understand that part

1 but being stolen and then he had gone and got the money and
2 then Mr. Mackey wanted to keep this gun he had given him,
3 things of that nature. The unique nature of that one, they
4 were able to recover that gun. That was the gun that was
5 stolen during a crime.

6 And then Trevor Burnett or Trim, and he got here and
7 you heard from investigator Dill, Lieutenant Dill, and he
8 told you he wasn't forthcoming. This was his friend. They
9 use to come to his house and hang out was he reluctant.
10 Remember he didn't want -- we had to show him his
11 statement. He didn't want to be here and you can't blame
12 him. Is he scared? is it, this is his friend. They are a
13 number of reasons but I submit, ladies and gentlemen, his
14 big sticking point, was he didn't know Mae-Mae's nickname
15 name and the police must have just put that in. Is that
16 even reasonable? He's also the person, and this is very
17 important, that puts Mae-Mae there that morning with Jerome
18 but he leaves because he has to go to Columbia because
19 remember when his mother was in the hospital, and when he
20 gets back it's all done, it's over with. He gets back late
21 in the evening. Well, what is the importance to is, he
22 even told the police, yeah, he saw Mae-Mae, who he knows as
23 Frank Singleton, not dispute over who it was, with two guns
24 right before this happened. He called one a .9 millimeter
25 that being the .45 and the other one was a shotgun which

1 it's just consequential were the two weapons that was used
2 during this crime. Trevor Burnett.

3 You heard from law enforcement in this case.
4 Lieutenant Brian Morris went to the crime scene, basically,
5 when he got there and what he observed. What little
6 information he was able to get.

7 You heard from Eric Tisdale, who was working at the
8 time that based on the information they got, and they can't
9 talked about hearsay what they hear from other people.
10 Hearsay is not admissible. That's why you can't hear about
11 it. You heard they were instructed not to say what they
12 were told. But based on that they processed the crime
13 scene. There is no dispute and if any body guess, there's
14 no DNA at the scene. There's no dispute that the only
15 people bleeding inside the house are now dead. So, no,
16 they did not swab the blood that belong to the victim to
17 show it was the victims blood. They did not fingerprint
18 gloves. They were reasons they did what they did that day.
19 Try to muddy the water, make it seems something it's not.

20 Jamey Jones the initial investigator, he had many
21 leads he followed up on them. He wished he could have
22 solved this case. Give him credit. He followed the leads.
23 He eliminated people. He did his job even though it took
24 three long years for this to be solved, six long years for
25 this family to get justice.

1 Dr. Janice Ross, the Newberry Pathologist, what did
2 she tell you? Enequivocally the cause of death were
3 wounds. She observed what appeared to be when the bullet
4 went to the leg which was testified to by different people
5 and I submit this is not the huge issue this case.

6 You talk from a Ageny Lee Blackmon, there was
7 something about how he supposedly at one point promised
8 somebody immunity, Jerome, think, when he fact as he
9 testified the opposite is true. He told them specifically
10 if you want to talk to us great but you aren't getting
11 immunity. As much as they may try to spin it that's what
12 was the test testimony.

13 You heard from Suzann Cromer. . She was submitted the
14 evidence initially. She was able to make the initial
15 determination about the ballistics and once the gun was
16 recovered and it submitted to her she was able to actually
17 talk about how it match, that was the gun, the Grizzly,
18 that unique gun that matched. The projectile recovered and
19 there's no dispute the projectile that's in evidence is
20 recovered from the surgery that was performed on the
21 victim. You have the change of evidence and the casing
22 found at the scene.

23 And then you heard from Andrena Harrison she actually
24 tried to fingerprint the shell casing and she told you how
25 difficult it was. You can't get fingerprints really from

1 that type of material. She was questioned about DNA, was
2 DNA done. No, she didn't do DNA. She talked to you about
3 how the heat that goes through the gun and there's
4 absolutely no evidence of their testimony from anywhere
5 that there was any blood on those items and even if there
6 had been blood on those items, it would have been the
7 victims. She tried to get fingerprints but very simply
8 there weren't any. And remember as they're loading their
9 guns, were they using gloves? As they were doing this
10 crime they were using these gloves? Are they making sure
11 they did their job well, professionally?

12 You've heard from the victims in this case. And I say
13 that Nick Mackey is a victim, I guess I should say the son
14 of the victim, I see that he was victimized. And I beg you
15 would they lie? Do they have a reason not to tell the
16 truth? And isn't it amazing that they were able
17 independently totally corroborate what all the co-
18 defendants said happened when they were interviewed by
19 investigator Dill after he had talked to those three co-
20 defendants. I beg you to judge his credibility because if
21 you find he is credible that he totally corroborates
22 everything the co-defendants and the other witnesses told
23 you. I beg you, he got shot in the head it's a miracle we
24 aren't here on a double homicide. Judge his credibility.

1 When looking at a case it's not about necessarily, or
2 sometimes it is about, all the State ask in this case is
3 that you look at each and every witness that had something,
4 and we can only bring witnesses that had something to add
5 about what happened that day, and who do they corroborate.
6 You heard from Darrien Jackson who is corroborated by Will
7 Smith; and I'll get back to his statement in the minute;
8 Richard Roach doesn't talk who is corroborated by Randy
9 Lewis; who has then corroborated by Jerome Lewis; who has
10 been corroborated by Marcellus Juggins; remember Shawn,
11 he's the one that goes with him afterwards; who is
12 corroborated by Trim; puts him with two guns which just
13 happen to be the same two guns that were used; who is
14 corroborated to a limited extent by Rasheed Halley; who is
15 corroborated by Shawn Eberts; who is corroborated by
16 Nicholas Mackey; who is corroborated by Robert Sullivan.
17 So all the co-defendants but for Richard Roach are
18 corroborated by Jerome Lewis, another co-defendant; who
19 were corroborated by Marcellus Juggins. another co-
20 defendant; who is corroborated by Trim, his friend; who is
21 corroborated by Rasheed Halley; who is corroborated by
22 Shawn Eberts; who is corroborated by Nicholas Mackey; it
23 goes on.

24 Ladies and gentlemen, I submit and the reason I say
25 this it doesn't get much better than this as far as

1 evidence goes. Will Smith got up here, he testified and
2 changed his story completely. Get up here and say , oh,
3 the police officer just put mouth in my mouth and I submit
4 is that credible in this case because if were going to do
5 that why didn't they do it that six years ago.

6 And what about his statements. Remember according to
7 Will you can believe all the statement up until the car
8 gets to the dirt road. So let's go to page two and you'll
9 have Will's statement back there and again the reason
10 you'll be able to get that is for limited reasons for you
11 to consider it. But look at everything, the details that
12 he puts in this statement that aren't necessarily details
13 that Justin Dill already had at the time. He had to raise
14 the hood and put the starter wire on the battery. He was
15 the one that talked about that because he was the driver.
16 He was the one that knew how to drive the car. Remember
17 that's why he had to drive. He told me where to parked on
18 the dirt road near a four wheeler trail. That's unique. A
19 four wheeler trail. He knew it was a four wheeler trail.
20 Well, he didn't get out of the car, how did he know. The
21 shotgun it's a pump all black, a Mossberg, and it belonged
22 to Mae-Mae, consequently, that's information Trim had.
23 They didn't have it at the time they talked to Will. There
24 was a dip and you could see up under the trailer. You've
25 got the photographs. He's the one that mentions that

1 first. The only one. Mae-Mae slide the window up and we
2 all went inside. When he went into the house, I slipped
3 because it was wet. Wasn't anything anybody else would say
4 that's because that's one of those details when something
5 happens. Finally, dude said it was on the closet on the
6 top shelf and that was when they were trying to get money,
7 remember the coins, and you see the pictures of the coins.
8 He tried to get some money, try to get something because
9 they didn't have the drugs they wanted. There two rifles
10 in the bedroom, first mention of that. Said that there was
11 nothing in the safe but papers. How right he was. And it
12 goes on, details he knew that because he lived it. He
13 didn't have the key, the first mentioned of that. I opened
14 the door with one hand and I had the shotgun in the other,
15 details, he knew that. I yelled and said, don't run. I
16 fired a shot at the scene to scare him but I didn't shoot
17 at him. I told Mae-Mae to let me hold the .45, I was
18 trying to unload it and it went off. This is somebody
19 trying to explain away why he kept shooting at the scene so
20 it makes it credible. There was about seven grams I
21 grabbed off the counter top, first time we heard any
22 mention of any weed being taken because he's the one who
23 took it. I gave the shotgun back to Mae-Mae. We split
24 seven grams. And if you look at everything that's not
25 highlighted totally corroborate by what the other witnesses

1 say. The final co-defendants that I want to talk about,
2 is Randy Lewis. And you saw him, he had just gotten out of
3 the hospital. He almost fell getting up there. I didn't
4 know if he was going to make it through his testimony. And
5 you see an actually, sometimes come and go like this
6 because he was feeling that bad. But he was able to get up
7 here and I submit, ladies and gentlemen, his testimony is
8 credible because he got up here and you know how when you
9 fabricate a lie sometimes you get details mixed up. He got
10 here and he told you, he would have been impeached if he
11 told you anything differently, exactly what he told. His
12 appearance, his demeanor, it reeks of the truth because
13 when you experience something you don't have to sit there
14 and worry of messing up on your lies. Judge him. Look at
15 his demeanor.

16 There is no DNA. They are no fingerprints and if they
17 were, you should be worried. Frank Singleton and his crew
18 did their job and it got out of hand. They made sure there
19 was no physical evidence at that scene and they got rid of
20 the guns afterwards and guess what, three years later,
21 there was no blood and no DNA on that gun. He made sure of
22 that as a professional wood.

23 Frank Singleton counted on the fact that if they just
24 rob a drug dealer it would probably never get report even
25 if they shot him in the leg. Who cares? It's just a drug

1 dearer. He's not going to expose himself to that kind of
2 time and go to the police. And even if it got reporter the
3 police would never care. They would never investigate.
4 It's just one more dead drug dealer so they thought. And
5 even it was investigated, they use their mask, they used
6 their gloves. There wouldn't be any fingerprints. There's
7 not going to be any DNA. There's no physical evidence. And
8 even the investigation continued, the only witnesses, he
9 knows them they're thieves and they are. They robbers and
10 they are. And they're murders because of him. Even if
11 they told the truth whose going to believe them. All his
12 defense attorney is got to get up here and say the only
13 witnesses the State has are a bunch of thieves, robbers,
14 murders because of him. The police would never charge
15 anyway based on that kind of evidence. They'd never do
16 their job, go out and corroborate, find these other
17 witnesses. And even if the police were to charge, what
18 prosecutors would take that into court. And even it if
19 goes to court his defense is just going to get up and say,
20 no fingerprints, no DNA. No jury would believe because it
21 wouldn't corroborated because the police wouldn't do their
22 job. Frank Singleton miscalculated.

23 All the State ask of you, is when you go back to that
24 jury room you reach a verdict and the word verdict comes
25 from a Latin phrase called *veredictum* and it means to speak

1 the truth.

2 I submit to you this case, ladies and gentlemen,
3 overwhelming evidence, that same evidence, which makes
4 Jerome guilty, Randy, Darrien, Will, Richard, Marcellus,
5 all guilty and they have nicknames, Sticky, Ill Will,
6 Diablo, Shawn and Mae-Mae. All we ask that you hold him
7 responsible for his choices on behalf of the State and
8 behalf of Nick Mackey and his family give them justice.

9 That's all.

10 THE COURT: Mr. Stricker?

11 MR. STRICKER: Thank you, sir. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 **CLOSING ARGUMENTS BY MR. STRICKLER:**

15 Madam Foreperson, ladies and gentlemen of the jury,
16 Frank Terrance Singleton, III, is not guilty of murder.
17 He's not guilty of burglary in the first degree. He's not
18 guilty of armed robbery. He's not guilty of possessing a
19 weapon in a violent crime. I'd like to speak with you for
20 just a few minutes about what we know in this case. And
21 when I use the term "what we know" I mean what has been
22 proven in this case.

23 So we know Mr. Mackey was killed. We know Mr.
24 Sullivan is a extremely lucky man. We know Mr. Mackey has
25 a son who loves him. That's a good thing to know. We know

1 that some people thought Mr. Mackey dealt drugs. That
2 hadn't been proven. So people believed he did and that's
3 what we know, okay? Regardless of whether he did or not
4 there's no excuse for him being dead as a result of that.
5 I don't want anyone to think that, that's a proposition the
6 defense, advantage. No. Okay? So we know that.

7 The law, I'm not going to spend a lot of time talking
8 about the law. I'm not going to spend any time mudding the
9 water about the law. Murder, is the law for killing
10 another human being with malice forethought and a lot of
11 other things that go into it. You'll hear the Judge charge
12 it. Ms. Campbell has spoken about it. Let's just clear
13 things up while we're mudding the water, putting these up
14 our sleeves. Mr. Mackey was murdered, okay? Burglary,
15 entering to a dwelling with attempt to commit a crime
16 therein. And burglary in the first degree is accompanied
17 by what I just short hand as aggravated circumstances. His
18 Honor, is gonna charge on that. She spoke about it.
19 Let's just make clear about that. A burglary in the first
20 degree was committed in this case. November 14, 2008 Mr.
21 Mackey's house was burglarized in the first degree, period.
22 No question about it. Armed robbery, robbery is taking
23 from the person or presence of another through the use of
24 force or intimidation. Armed robbery has the element of
25 doing while armed with a weapon, deadly weapon. His Honor,

1 is going to charge you on it. She spoke with you about it.
2 I take no issue with any of that. An armed robbery
3 occurred on November 14, 2008. And there was people, some
4 of the people involved in it were armed with deadly
5 weapons, okay? Get that all out of the way. That's not
6 the issue.

7 The issue is Frank Singleton's participation or not in
8 this event. And what do we know about that and how do we
9 decide what we can trust about that. She's right. Ms.
10 Campbell is right. There are no fingerprints. There are
11 no DNA. There is no DNA. Okay? Down one, to determine
12 that the people who committed this wore mask, wore gloves.
13 That's been the testimony. When they arrived at the scene
14 the evening -- afternoon -- evening, of the incident, they
15 don't know that. They got blood on the scene. Do they
16 process the scene? No. Was the blood end up being Mr.
17 Mackey's? Well probably. But you know what, I know how
18 you can never find DNA, you don't look for it. You never
19 find fingerprints when you don't look for them. You
20 process a scene, you process a scene. You collect.
21 Everything falls where it may. This shell casing that's in
22 evidence here that was collected from the scene, they tried
23 to get prints off of it. They were unsuccessful. Maybe
24 there some portions there if I remember the testimony
25 correctly. They didn't try to get DNA off of that. If the

1 gun is loaded by someone who is not wearing gloves at the
2 time it is loaded, not when it's used, DNA. My DNA is on
3 this weapon right now. It doesn't require blood. Skin
4 cells, DNA. You don't know and you don't have that
5 evidence available if you don't look for it. They didn't
6 look. Okay? They relied on the testimony of this
7 professional crew. That is laughable. This professional
8 crew used a car that you had to open the hood on, take a
9 wire, hot wire, just to get it to start. That's a
10 professional crew. That's key, it's not key stone cops
11 because they're different from police but that's laughable
12 as far as a professional crew. There's nothing
13 professional about these guys.

14 So what we have as far as Frank's involvement, is
15 Jerome Lewis, Sticky, charged in this event with accessory
16 before the fact of murder, thirty years to life in prison.
17 Independent of this event -- independent of this event,
18 remember he was brought to talk with police, he was already
19 in jail. Independently of this event, he's charged with
20 murder, itself, thirty to life. Three counts of armed
21 robbery, then to thirty. Kidnaping, three counts zero to
22 thirty. Burglary in the first degree, fifteen to life.
23 Each year involved, I'm not going to try to total them up,
24 each year in those charges is a reason for him to try to
25 tell police what they want to hear. Each time he spoken

1 with and we don't know exactly what was said to him, you
2 don't know what he supplied and you don't know what the
3 police supplied. If Jerome Lewis were to offer to sell
4 someone a car, you think that person ought to check out the
5 condition of the car or do you think they aren't to rely on
6 what Jerome Lewis as to say to them.

7 Randy Lewis, he's charged with charges of this crime.
8 Burglary first, armed robbery, murder and we'll go through
9 because independent -- independent of this crime, he has a
10 conspiracy charge. He has a kidnaping charge and he has an
11 accessory before the fact charge. Each of which supplies
12 all the info they need to try to help out the State. You
13 thinks these people are just doing it out of the goodness
14 of their heart. They are public spirited citizens. They
15 never ask for anything. Do you honestly think that's the
16 case? Don't. Check your common sense at the door when you
17 come to sit in this box. That's why you're here is to
18 bring your common sense.

19 No. Of course, they expect something. Of course,
20 they expect something and they know as Darrien Jackson, no,
21 when I spoke with him yesterday, that prosecution can do
22 whatever they want to with their charges. Now, I've known
23 counsel for a long time, I would never suggest the charges
24 are going to disappear, okay? They can do whatever they
25 want to with them. Cooperate, great. Don't cooperate,

1 well, we'll see. William Smith, Ill Will, we'll see.
2 What's going to happen though if somewhere down the line
3 these guys are going to come up and their charges is going
4 to be disposed of and I submit they're not going to be
5 getting life in prison for murder. I'm not going to say
6 they're going to get a slap on the wrist. They're going to
7 better their life by their assistance in prosecuting Frank
8 Singleton.

9 So, Randy Lewis, if you shook hands with Randy Lewis
10 would you check to see where your wallet is by the time
11 y'all separated. Credible witness.

12 Ill Will, the name speaks volumes. Ill Will says, not
13 my words, not my words. He also says, you know, my last
14 interview with the solicitor and everything, shortly before
15 this, about promises, it's recorded. We haven't heard
16 anything about that.

17 And Diablo, charged with the offenses here. Murder,
18 armed robbery, burglary first and the gun. Independent of
19 this, he's charged with accessory before the fact of
20 murder. Additionally, what you hear from him in his
21 testimony is distancing. I came in, shot Mr. Mackey in the
22 leg because Frank told me to. Nowhere in any of his
23 statements that you hear about mentioned that. That's a
24 new thing. Just comes up for this trial. So I did because
25 Frank told me to and the gun went off and it just happened