

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Sumter County

George C. James, Jr., Circuit Court Judge

RECEIVED

JAN 27 2018

SC SUPREME COURT

TERON JACKSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001690

APPENDIX

BENJAMIN JOHN TRIPP
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

DANIEL GOURLEY
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
UNPUBLISHED OPINION NUMBER 2011-UP-430	509
APPLICATION FOR POST-CONVICTION RELIEF	511
RETURN	525
ORDER SUBSTITUTING COUNSEL	533
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF	534
POST-CONVICTION RELIEF HEARING TRANSCRIPT	536
ORDER OF DISMISSAL	575
INDICTMENT	592

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF SUMTER) 2007-GS-45-816

State of SC,)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD)
)
 Teron Jackson and)
 Jermel Robinson,)
DEFENDANTS)

April 15, 17, 20-22, 2009
 Sumter, South Carolina

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., JUDGE; and
 a jury.

A P P E A R A N C E S:

HARRY CONNER, ASSISTANT SOLICITOR
 Attorney for the Plaintiff

TIMOTHY MURPHY, ASSISTANT PUBLIC DEFENDER
 DAVID SULLIVAN, ASSISTANT PUBLIC DEFENDER
 Attorneys for the Defendants

Kathleen Richardson, RPR, CRR
 Official Court Reporter

INDEX OF WITNESSES

IRENE CULICK

Direct By Mr. Conner 10

Cross By Mr. Sullivan 19

CALVIN FULMORE

Direct By Mr. Conner 24

Cross By Mr. Sullivan 28

JERMEL ROBINSON

Direct By Mr. Sullivan 29

Cross By Mr. Conner 33

ANGELA RABON

Direct By Mr. Conner 38

Cross By Mr. Murphy 42

ROBERT RICHBURG

Direct By Mr. Conner 43

Cross By Mr. Murphy 54

ALVIN HOLSTON

Direct By Mr. Conner 60

Cross By Mr. Murphy 68

TERON JACKSON

Direct By Mr. Murphy 71

Cross By Mr. Conner 77

ALVIN HOLSTON

Direct By Mr. Conner 80

BENJAMIN STILES

Direct By Mr. Conner	.138
Cross By Mr. Sullivan	.141
TALISHA KINARD	
Direct By Mr. Conner	.143
Cross By Mr. Sullivan	.153
Cross By Mr. Murphy	.154
TRUMAN DUGGIN	
Direct By Mr. Conner	.157
Cross By Mr. Sullivan	.206
Cross By Mr. Murphy	.209
ROBERT RICHBURG	
Direct By Mr. Conner	.210
Cross By Mr. Murphy	.226
Cross By Mr. Sullivan	.230
ALVIN HOLSTON	
Direct By Mr. Conner	.234
Cross By Mr. Murphy	.262
Cross By Mr. Sullivan	.269
VINCENT JONES	
Direct By Mr. Conner	.271
Cross By Mr. Sullivan	.277
CHYENNE ROSENBERG	
Direct By Mr. Conner	.278
Cross By Mr. Sullivan	.286
WILLIE GIBSON	

Direct By Mr. Conner	.287
Cross By Mr. Sullivan	.294
DR. JANICE ROSS	
Direct By Mr. Conner	.297
Cross By Mr. Sullivan	.309
Cross By Mr. Murphy	.310
SAMUEL LEON WILSON	
Direct By Mr. Conner	.312
SAMMY WILSON	
Direct By Mr. Conner	.316
Cross By Mr. Sullivan	.323
KIMBERLY TINDAL	
Direct By Mr. Conner	.324
CALVIN FULMORE	
Direct By Mr. Conner	.331
Cross By Mr. Sullivan	.335
IRENE CULICK	
Direct By Mr. Conner	.336
Cross By Mr. Sullivan	.370
Redirect By Mr. Conner	.381
KENNETH KINSEY	
Direct By Mr. Conner	.384
KATIE COY	
Direct By Mr. Conner	.389
FRANK DAN DEFREESE	

Direct By Mr. Conner 396

Cross By Mr. Sullivan 405

Cross By Mr. Murphy 406

IRENE CULICK

Direct By Mr. Conner 407

JERMEL ROBINSON and TERON JACKSON

Opening Statement by Mr. Conner	.123
Opening Statement by Mr. Sullivan	.131
Opening Statement by Mr. Murphy	.135
Closing Statement by Mr. Sullivan	.422
Closing Statement by Mr. Murphy	.427
Closing Statement by Mr. Conner	.437
Jury Charge	.456
Verdict	.484
Sentencing	.490

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
S-1	diagram	117	162
S-2a-d	photos	117	162
S-3a-e	photos	117	117
S-4a-d	photos	117	117
S-5a,b	photos	117	117
S-6	photo	117	
S-7	bullet in botttle (vic)	117	181
S-8	bullet in bottle (vic)	117	181
S-9a-e	photos	117	117
S-10	box w/pistol, magazine	117	177
S-11	40 cal cartridge case	117	174
S-12	Charter Arms revolver	117	179
S-13	small box w/bullet	117	172
S-14	small box w/bullet	117	172
S-15a-d	photos	117	117
S-16a-i	photos	117	117
S-17a-d	photos	117	175,176
S-18a-e	photos	117	181,304-5
S-19a-c	photos	117	344
S-20	black ski mask	117	185
S-21	box/evidence	117	395
S-22	black hoodie	117	186

1	S-23	waiver	117	218
2	S-24	consent to search	117	225
3	S-25	waiver	117	349
4	S-26	interview	117	353
5	S-27	interview	117	225
6	S-28	casts	117	167
7	S-29	interview	117	226
8	S-30	shoes	117	183
9	S-31	bullets	187	
10	S-32	diagram of wounds		302
11	S-33a-d	photos		354
12	S-34	bag w/swabs		393
13	D-Robinson-1	photo		371
14	D-Robinson-2	medical records		374
15	C-1	question of jury	483	
16	State's pretrial 1-waiver of rights			16
17	State's pretrial 2-transcribed interview			18
18	State's pretrial 3-waiver/Jackson			47
19	State's pretrial 4-transcribed interview			53
20	State's pretrial 5-typed interview			53

21

22

23

24

25

1 THE COURT: Okay. Whose motions are they?

2 MR. SULLIVAN: Your Honor, this is my motion,
3 Jermel Robinson and also Mr. Tim Murphy.

4 MR. MURPHY: We independently filed motions both
5 under Jackson Deno and also mutual motions for
6 severance. And my understanding is we're going to
7 proceed with Jackson v Deno hearing first and then
8 afterwards -- I don't believe any testimony would be
9 required for the severance, we'll just argue about
10 the issue.

11 THE COURT: Okay. And is your motions --
12 obviously we have got statements. Is your motions
13 based on the statements for severance?

14 MR. MURPHY: Yes, Your Honor.

15 THE COURT: Okay. So you don't -- outside of
16 the statements, you don't have inconsistent defenses?

17 MR. MURPHY: No, Your Honor. I don't.

18 MR. SULLIVAN: No, Your Honor.

19 THE COURT: Okay. All right. So Mr. Solicitor,
20 you want to proceed with the Jackson v Deno?

21 MR. CONNER: I'm going to call Irene Culick,
22 Your Honor, in regards to the statement given on the
23 defendant Robinson.

24 THE COURT: Okay.

25 IRENE CULICK, after being duly

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. CONNER:

4 Q Okay. Irene, would you tell us where you work and in
5 what capacity?

6 A Yes, sir. I work at the Sumter Police Department and
7 I'm currently assigned to the detective division in
8 violent crimes, senior detective over violent crimes.

9 Q And how long have you worked for the Sumter Police
10 Department?

11 A I have been there 11 years now.

12 Q And what duties have you had other than this working
13 as a detective in the Investigative Services Division?

14 A I have worked in the evidence as an evidence
15 custodian. I have also worked on patrol and in
16 investigations.

17 Q And how long have you worked as an investigator?

18 A Seven years.

19 Q And were you working back in June of 2007 when this
20 murder occurred over at Poplar Square Apartments?

21 A Yes, sir.

22 Q And in that regard, did you have an occasion on June
23 the 22nd, 2007 -- what day did the shooting occur?

24 A A shooting incident occurred on June 18th, 2007.

25 Q Okay. And at -- did you go to the scene of that?

1 A Yes, sir.

2 Q And that night did you also have an opportunity to go
3 to the hospital?

4 A Morning hours, yes, sir.

5 Q And did you see there Jermel Robinson who had been
6 injured?

7 A Yes, sir, I did. I saw Jermel Robinson who had a
8 gunshot wound and also a Dominic Wimberly who had several
9 gunshot wounds.

10 Q And subsequently Robinson was transferred to another
11 hospital; wasn't he?

12 A Yes, sir. He was transferred to Richland Memorial
13 for care of his injuries.

14 Q And did they notify your department anything in
15 regards to his release on June the 22nd, 2007?

16 A Yes, sir. They called and stated that he was going
17 to be released that evening.

18 Q And did you and another officer from your department
19 go over there to get him?

20 A Yes, sir. Myself and Calvin Fulmore with the Sumter
21 Police Department who is now a sergeant went.

22 Q And did y'all arrive separately or in -- in one car?

23 A Separately.

24 Q So Sergeant Fulmore drove one car over and met you
25 over there?

1 A Yes, sir. Sergeant Fulmore went to Richland Memorial
2 Hospital, and then I left shortly after and met him at the
3 hospital.

4 Q And at the hospital would -- were people there aware
5 of the fact that y'all were picking them up to take
6 them -- to take him to jail?

7 A Yes, sir. I had called ahead of time to let them
8 know when he was to be released to please let me know.
9 They had my cell numbers and the agency numbers so we
10 could know upon his release because we had a warrant for
11 him.

12 Q And so they notified y'all that he was ready to be
13 released?

14 A Yes, sir.

15 Q And when you got there, tell us what happened.

16 A When I got to the hospital, believe it was on the
17 seventh floor, I met Sergeant Fulmore in the room with
18 Jermel Robinson. There was also a young female in the
19 room also with him.

20 Explained to them that we were there, I was from the
21 Sumter Police Department. Asked if he remembered me from
22 the other day. Explained to him that we had a warrant.
23 And we waited for the nurse to come and bring him his
24 discharge paperwork in which she read off his discharge
25 paperwork.

1 He stated to her that he understood all the
2 instructions that were given, signed the discharge
3 paperwork, and then we were taken -- we took him from the
4 hospital.

5 Q Now, did he ride in the car back to Sumter with you
6 or did he ride separately?

7 A No, sir, he rode separately. He rode with Sergeant
8 Fulmore.

9 Q And you--

10 A And I followed behind them.

11 Q When the nurse talked to him there in the room, he
12 seemed to understand things, he didn't ask any -- he
13 didn't indicate any confusion about what was happening?

14 A No, sir. He was alert. He was -- he responded
15 appropriately and -- to the nurse and her instructions,
16 and did as he was asked and signed his discharge
17 instructions.

18 Q And where did y'all take him to after you got back
19 here to Sumter?

20 A We brought him to the Sumter Police Department to
21 interview him in reference to this case.

22 Q And was -- when he got here, where did you interview
23 him?

24 A We have an interview room set up at the Police
25 Department that we normally do all of our interviews in

1 'that room unless it's occupied at the time and we have to
2 do it somewhere else. It's located inside the Police
3 Department in the Investigative Services Division.

4 Q And it's just a regular office-like setting?

5 A Yeah, there's a -- a desk and a few chairs in there,
6 an AC unit. Sometimes there's a TV in there, just
7 depends--

8 Q What do you mean, AC unit?

9 A Just a wall unit that kind of--

10 Q A wall air conditioner?

11 A Yes, and heat.

12 Q Now, did Calvin Fulmore participate in the
13 questioning of him over there at the Police Department?

14 A No, sir.

15 Q Who was -- who was -- who questioned him?

16 A Myself and Sergeant Mike Rogers.

17 Q And did you give him what's called his Miranda
18 rights?

19 A Yes, sir.

20 Q And I show you this form here and ask if you can
21 identify that.

22 A Yes, sir. This is a form that we use at the Sumter
23 Police Department. It's an interview form that just
24 basically states the rights on it. We read these to
25 everybody that we're going to interview in reference to a

1 crime that they're accused of.

2 And if they wish to talk to us, we ask them to
3 acknowledge by signing it after we explain all the rights
4 to them.

5 Q And who -- who explained his rights to him?

6 A I did.

7 Q You did?

8 A Yes, sir.

9 Q And did you read each right set out on that form?

10 A Yes, I did. First I asked if he could read and
11 write. He stated that he could. I showed him the form.
12 And as he's looking at the form, I follow along and read
13 every line to him.

14 Before we ask you any questions, you must understand
15 what your rights are. You have the right to remain
16 silent. And as I'm reading, I'm pointing so they can
17 follow along as I'm going on the form for them, but they
18 can read at the same time.

19 Q So he could -- he read it and you told him what it
20 said, too?

21 A Yes, sir. He followed along as I was reading the
22 form to him.

23 Q And when you got finished, did you ask him if he
24 wanted to waive his rights and talk to you?

25 A Yes, sir, I did.

1 Q And he indicated he would?

2 A Yes, he did. He understood that he could stop at any
3 time if he felt like he wanted to or talk to a lawyer, and
4 he wanted to talk to me without a lawyer present at that
5 time.

6 Q Okay.

7 MR. CONNER: Your Honor, we'd offer this
8 document into evidence at this time.

9 THE COURT: Okay. What says the defense?

10 MR. SULLIVAN: No objection. Well... no
11 objection.

12 THE COURT: Okay.

13 (Whereupon, State's Exhibit 1 was admitted into
14 evidence.)

15 BY MR. CONNER:

16 Q Now, did either you or Mike Rogers threaten this
17 young man in order to get him to talk to you?

18 A No, sir.

19 Q Did you promise him anything in order to persuade him
20 to talk to you?

21 A No, sir.

22 Q Did you -- did you apply any kind of physical force
23 to get him to talk with you?

24 A No, sir.

25 Q Did he talk to you freely and voluntarily?

1 A Yes, he did.

2 Q Did he seem to understand the conversation you were
3 having with him? Did he understand your questions?

4 A Yes, sir. He was alert. He was very oriented. He
5 was -- when questions were asked of him, he responded
6 appropriate. He was... he was fine.

7 Q Okay. I show you this document here which is a --
8 ask if you can identify that.

9 A Yes, sir. After we -- this is -- this is the
10 interview with Jermel Robinson. This is a transcript. We
11 actually talked to him and asked if he would give us a --
12 what we call a formal statement.

13 And we give them the choice -- I always give somebody
14 the choice. I ask if I could record or interview, if they
15 would be okay with that, or if they would like to write
16 what we talked about or their statement in their own words
17 or if they'd like me to type it since some people can or
18 can't write that well, or a lot of times I say, do you
19 want me to write it for you?

20 And he agreed to a taped interview of what happened,
21 what he had already told us had happened after he waived
22 his rights, and this is a transcript of that --

23 Q Okay.

24 A -- tape.

25 MR. CONNER: Your Honor, we would offer this

1 document into evidence at this time.

2 THE COURT: What says the defense?

3 MR. SULLIVAN: No objection.

4 THE COURT: Okay.

5 (Whereupon, State's Exhibit 2 was admitted into
6 evidence.)

7 BY MR. CONNER:

8 Q Now Detective Culick, when y'all picked him up over
9 at Richland Memorial Hospital, did you come directly back
10 here?

11 A Yes, sir.

12 Q And how long would that have taken?

13 A A little less than an hour.

14 Q And what time did you give him his Miranda rights?

15 A At 8:15 pm on the 22nd of June, 2007:

16 Q And what time did he give you this statement?

17 A Well, after we talked -- I mean, after the initial
18 waiver, we started talking, and so we had a statement.

19 But what time the taped statement was was at 9:12 pm.

20 Q In other words, he talked to you some before you
21 taped the statement?

22 A Correct. And then he agreed to put it on tape what
23 we had already talked about instead of typing or
24 handwriting.

25 Q But the first thing you did when you got to your

1 department was give him his Miranda rights; is that right?

2 A Yes, sir.

3 Q Did he walk into the department from outside?

4 A Yes, sir, he did.

5 Q Did he need any assistance in walking?

6 A No, he was able to walk fine on his own.

7 Q After -- after you finished interviewing him that
8 night, where did you take him?

9 A I took him to the Sumter Lee Regional Detention
10 Center.

11 Q When he was released over in Columbia at Richland
12 Memorial, was he given medications -- did y'all bring over
13 here?

14 A No, sir. He was given a discharge sheet that he
15 signed.

16 Q Just some instructions?

17 A Yes, sir.

18 Q Answer any questions that the lawyer might have for
19 you.

20 A Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q Hello, Detective Culick.

24 A Hello.

25 Q You knew how old Mr. Robinson was; didn't you?

1 A Yes, sir.

2 Q Okay. You said that you -- y'all picked him up from
3 the hospital in Columbia and he rode with Fulmer and you
4 rode behind?

5 A Yes, I followed them. Yes, sir.

6 Q So there's no question that he was in custody?

7 A Yeah, he knew that there was a warrant for his
8 arrest, yes, sir.

9 Q Okay. And he was in handcuffs?

10 A Yes, sir, in the front.

11 Q Okay. Whenever you were -- when you and Detective
12 Rogers were questioning him once you got back to Sumter to
13 the police station, compared to other subjects you have
14 dealt with, did he seem -- did he seem aggressive or did
15 he seem more docile?

16 A He seemed normal.

17 Q Okay. When y'all were at Tuomey the night of the
18 incident, was it -- did you say it was just you who was up
19 there asking some questions?

20 A It was the morning, yes, sir.

21 Q Okay. Was there--

22 A It was the early -- it was the early morning hours.

23 Q Okay. Was there anybody else with you or was it just
24 you asking him some questions?

25 A It was just me basically -- you're talking about at

1 the Tuomey Hospital?

2 Q That's right.

3 A Yes. When I responded to the hospital, I was at
4 home. I didn't initially go to the scene. I was told we
5 had two shooting victims at the hospital, one was more
6 severe than the other.

7 At the time -- well, one had more I guess gunshot
8 wounds, so I would consider them more severe, but one
9 gunshot wound could obviously kill you. But I went up
10 there to try to interview both subjects. Both were in the
11 ER still when I arrived at the hospital in the trauma
12 room, and I was going back and forth.

13 The other subject, Dominic Wimberly, I was not able
14 to talk to but was talking to the nurses and -- so there
15 was nursing staff and others around, but as far as
16 detectives, it was me.

17 Q Okay. And whenever you questioned him several days
18 later at the police station, did you know that or that it
19 was likely that he was on some pain medication? You knew
20 that he had gotten shot in the chest.

21 A Yes, sir. That was on the 18th, yes, sir.

22 Q Okay. And you were -- I mean, you were aware that it
23 was right through his -- the upper part of his chest, so
24 it was severe and that he probably would have been in some
25 pain.

1 A On the 18th?

2 Q No--

3 A Yes, sir. He was in pain on the 18th.

4 Q On the 22nd.

5 A On the 22nd?

6 Q Right.

7 A I'm -- what are you asking? He -- I mean, he had
8 bandages on, but he was able to be released. He was
9 discharged. He was doing -- he was doing fine and was
10 able to be released to go to jail.

11 Q Okay. But you were -- you were aware he had gotten
12 shot in the upper part of his chest?

13 A Oh, yes, sir. Yes, sir.

14 Q Now, you didn't begin -- y'all questioned him some
15 before you turned the tape on; didn't you?

16 A We -- we did. We talked to him for a while before we
17 asked him if it was okay to turn -- if we could do a
18 recorded interview or if he'd like to do a written or a
19 typed or would like us to write a statement.

20 Q Did you ever tell him that that would be it for him
21 if he didn't give a confession before the tape was turned
22 on?

23 A What do you mean that would be it for him?

24 Q That he better give a confession or that would be it
25 for him or anything like that before the tape was turned

1 on?

2 A No, sir.

3 Q Okay.

4 A You mean, be it like, this would be your statement,
5 this would be it as far as the case? No.

6 Q Like, you better give us a confession or that's it
7 for you, you're...

8 A No, sir.

9 Q Did -- okay. So when you talked to him before you
10 turned the tape recorder on, he didn't -- he didn't say
11 that he wanted to talk to a lawyer?

12 A No, sir.

13 Q Okay.

14 A Not at any time.

15 Q Okay.

16 A And the tape recorder wasn't in there until he said
17 it was okay --

18 Q Okay.

19 A -- to do that.

20 Q And there wasn't anybody on the 22nd when he was at
21 the law enforcement center in Sumter being questioned,
22 there wasn't any sort of advocate for him there. It was
23 you, Detective Rogers, and just Jermel Robinson.

24 A Yes, it was Jermel, me and Sergeant Mike Rogers.

25 Q That's all the questions that I have. Thank you,

1 Detective Culick.

2 A Thank you.

3 MR. CONNER: I have nothing. No further
4 questions. I would call Calvin Fulmore at this time,
5 Your Honor.

6 CALVIN FULMORE, after being duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. CONNER:

10 Q Sergeant Fulmore, where do you work?

11 A Sumter Police Department.

12 Q How long have you worked for the Sumter Police
13 Department?

14 A Soon to be seven years.

15 Q And prior to coming to work with the Sumter Police
16 Department, did you work for another police agency?

17 A Yes, sir, Williamsburg County Sheriff's Department.

18 Q How long had you worked there?

19 A About five years.

20 Q Now, on -- back on June the 22nd, 2007, did you have
21 an occasion to go to Richland Memorial Hospital and pick
22 up a subject?

23 A Yes, sir.

24 Q And that was Jermel Robinson?

25 A Yes, sir.

- 1 Q And did -- did you drive your car or did you --
2 Mrs. Culick just testified she drove a car and you drove
3 separately; is that correct?
- 4 A That's correct.
- 5 Q And was it a marked vehicle?
- 6 A It was.
- 7 Q Now, did you get there before her or after her?
- 8 A I got there before her.
- 9 Q And did you find that Robinson was still there?
- 10 A Yes, sir.
- 11 Q Was there anybody else with him?
- 12 A His girlfriend was there at the time.
- 13 Q And did -- what did you do when you got there?
- 14 A I stood with him while Detective Culick was in route.
- 15 Q Until she got there?
- 16 A Yes, sir.
- 17 Q Did you have any conversation with him?
- 18 A No, sir.
- 19 Q Did -- you didn't advise him of his rights or --
- 20 A No, sir.
- 21 Q -- anything.
- 22 A No, sir.
- 23 Q Okay. Did you hear him have conversations with other
24 people?
- 25 A His one with his girlfriend about something, I'm not

1 sure, that he asked me how was the victim. He didn't call
2 out the name. How was the victim at the apartment
3 complex.

4 Q So he -- he did ask you a question?

5 A Yes, sir.

6 Q Did he appear to act reasonably as far as you could
7 tell?

8 A Yes, sir, he did.

9 Q His questions were -- were not off the wall? They
10 were reasonable?

11 A Yes, sir, they were.

12 Q And did he seem to understand anything that he was
13 told?

14 A I didn't say anything to him. I just advised him
15 that I couldn't talk because investigator was still going
16 on, and I left it like...

17 Q So you let her do the talking when she got there?

18 A Yes, sir.

19 Q And you brought him back to Sumter?

20 A I did.

21 Q What -- on the way back to Sumter, did you have any
22 conversation with him?

23 A No, sir.

24 Q Okay. And you didn't -- you never advised him of any
25 rights, any Miranda rights or anything?

1 A I did not.

2 Q Did he ask you any questions?

3 A On the way back to Sumter?

4 Q Yeah.

5 A He did not.

6 Q And when he got back to the department, did you take
7 him inside?

8 A I did. He walked freely on his own after I let him
9 out the car.

10 Q He could walk okay?

11 A Yes, sir.

12 Q He didn't stagger?

13 A No, sir.

14 Q He didn't waiver?

15 A No, sir.

16 Q Was his speech -- in the few words he said to you,
17 was his speech clear and easy to understand?

18 A They were.

19 Q Wasn't slurred?

20 A No, sir.

21 Q Sergeant, you had a opportunity to deal with a lot of
22 people who were under the influence of drugs or alcohol or
23 I would take it during your 12 years as a law enforcement
24 officer?

25 A I have.

1 Q And in your opinion, was he under the influence of
2 anything?

3 A No, sir.

4 Q He appeared normal?

5 A He did.

6 Q Answer any questions that the defense lawyer might
7 have for you.

8 CROSS-EXAMINATION

9 BY MR. SULLIVAN:

10 Q You don't think that Mr. Robinson would have thought
11 that he was free to go, though. He was in custody; wasn't
12 he?

13 A Detectives took care of that portion of it. I just
14 went there for him to be relieve until the Sumter Police
15 Department.

16 Q Okay. And you don't really know if he was on any --
17 I mean, if he was in his right mind. You just said that
18 he wasn't staggering, he wasn't falling down when he get
19 out of the car or on his way to the car?

20 A He appeared to be normal.

21 Q Okay. All right. I don't have any further
22 questions.

23 THE COURT: Okay.

24 MR. CONNER: Your Honor, we'd ask that Sergeant
25 Fulmore be excused.

Jermel Robinson - direct by Sullivan

29

1 THE COURT: Any objection?

2 MR. SULLIVAN: No, sir.

3 THE COURT: All right. Thank you, sir.

4 (Witness left the stand.)

5 MR. CONNER: That's all we have in regard to
6 that defendant, Your Honor.

7 THE COURT: Okay.

8 MR. SULLIVAN: Your Honor, I would like to call
9 the defendant Jermel Robinson.

10 THE COURT: Okay.

11 JERMEL ROBINSON, after being duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SULLIVAN:

15 Q Mr. Robinson, what happened -- what were you in the
16 Hospital for at Tuomey and at the hospital -- Richland
17 hospital in Columbia?

18 A I was shot incident of June 18th.

19 Q Okay. Where were you shot?

20 A In the upper chest.

21 Q Okay. At the time of this incident, how old were
22 you?

23 A Seventeen.

24 Q Okay. And were you -- and did you feel like that you
25 were restrained or that you were free to leave when you

1 were at the police station when they brought you back to
2 Sumter?

3 A If you explain yourself better. What you mean?

4 Q Did you feel as though you could just leave when
5 they -- when the police brought you from the hospital at
6 Richland in Columbia back to Sumter?

7 A To the police station for questioning?

8 Q Right. Right.

9 A No, I didn't feel free to just leave.

10 Q Okay. Were you in handcuffs or shackles or anything?

11 A Yes.

12 Q Okay. Tell me about your physical condition the day
13 that -- June 22nd, the day that you were brought from
14 Columbia back to the police station and they -- and they
15 questioned you. Can you tell me -- in other words, can
16 you tell me about --

17 A The condition I was in?

18 Q -- any medications that were administered to you?
19 What happened at the hospital that day and before you were
20 brought to the law enforcement center in Sumter?

21 A On the 22nd?

22 Q Yes, sir.

23 A My chest tube was removed from my body the same day,
24 and I was placed under medication. I can't quote the
25 names of what the medication was.

1 Q But--

2 A Placed under medication and my chest tube was removed
3 from my side that day.

4 Q Okay. When that tube was removed that day, what was
5 that like? Was that painful for you?

6 A Yes, it was.

7 Q Okay. I believe you said that you're not sure what
8 kind of medication they had given you that day, and that's
9 fine, but can you tell me how that medication made you
10 feel?

11 A I can't remember.

12 Q Okay. Did you feel like you were light-headed
13 because of -- after you took that medication?

14 A Slight.

15 Q Okay. But you said that you were in pain --

16 A Yes.

17 Q -- from having the tube pulled out. What was said
18 between you and either Detective Culick or Detective
19 Rogers before -- before the tape recorder was turned on?

20 A Detective Culick as I was at the police station for
21 questioning, she -- we -- I was questioned in a room. She
22 sat me down. She read my Miranda warnings to me, her and
23 Sergeant Mike Rogers at the time, and Detective Culick
24 read the Miranda warnings. I signatured my name.

25 And at the time immediately after, I told her this is

1 not the dance, I don't want to speak about this, I would
2 like to remain silent. She then questioned me, well, when
3 do you want to talk about this?

4 I told her -- no, I didn't say anything. I continued
5 to remain silent. That's when she spoke -- can't remember
6 exactly what was said after. That next -- Sergeant Mike
7 Rogers spoke, and his statement was that your only way out
8 of this is giving us a statement.

9 And I told him I would like to consult with my
10 lawyer. He told me if I hold back now and wait for a
11 lawyer, by the time all my paperwork and everything is
12 processed, by that time it will be too late, we have this
13 thing wrapped up.

14 Q Okay. When you told the police that you didn't want
15 to talk to them, did you after that, whenever they got you
16 on the tape recorder, did you initiate and you tell them,
17 okay, I'm ready to talk now, or did they kind of prod you
18 into -- kind of badger you?

19 A Yes, I never initiated that, ready to talk.

20 Q Okay. But there was in fact some questioning before
21 the tape recorder was turned on?

22 A Yes, there was questioning before.

23 Q Okay. Okay. Did you feel like you needed to -- I
24 think you stated earlier that you said that you were in
25 some pain because the test tube -- the chest tube had been

1 pulled out of your chest.

2 A Yes.

3 Q Did you tell them what you think that they wanted to
4 hear because you just kind of wanted to go because you
5 were in pain, you didn't want to talk any more?

6 A Yes, on the grounds of that.

7 Q Okay. I don't have any further questions.

8 THE COURT: Hang on a minute.

9 MR. SULLIVAN: Your Honor, I have -- I don't
10 necessarily want to introduce it into evidence, but I
11 have got some of the medical records that Mr. Conner
12 already has that shows that he took Tylox and -- if
13 you would like to look at that.

14 THE COURT: Well, you have got to introduce it
15 into evidence before I can see it.

16 MR. SULLIVAN: Okay. Well, I would move to --
17 to introduce it.

18 THE COURT: What says--

19 MR. CONNER: I will object, Your Honor. It
20 would have to be through the records keeper.

21 THE COURT: Okay.

22 MR. SULLIVAN: All right. I have no further
23 questions.

24 CROSS-EXAMINATION

25 BY MR. CONNER:

1 Q Mr. Robinson, you say Detective Culick gave you your
2 rights?

3 A Yes, sir.

4 Q And she explained that you have the right to remain
5 silent; didn't she?

6 A She said that.

7 Q She said that?

8 A Yes.

9 Q You have a very soft voice. Lean over a little
10 closer to this microphone and slide your chair up a little
11 bit if you would. And she said anything you say could be
12 used against you in court. She told you that; didn't she?

13 A Yes.

14 Q And she told you that you had a right to talk with a
15 lawyer for advice before you were asked any questions and
16 to have the lawyer present with you during the
17 questioning.

18 A Yes.

19 Q And she told you that you -- if you couldn't afford a
20 lawyer, one would be appointed for you.

21 A Yes.

22 Q And she told you that you decided to answer any
23 questions -- that if you decide to answer any questions
24 now without a lawyer present, you will still have the
25 right to stop answering at any time until you talk with a

1 lawyer.

2 A Yes.

3 Q And when all that was over, you told her you would
4 talk with them and you signed your name down here at the
5 bottom. That's your signature; isn't it?

6 A Yes, sir.

7 MR. CONNER: And that's State's Exhibit number
8 one, Your Honor.

9 THE COURT: Okay.

10 BY MR. CONNER:

11 Q And you talked to them, you -- after they cut the
12 recorder on, you continued to talk to them; didn't you?

13 A As they cut the recorder on, yes.

14 Q And you -- you told them -- just one minute -- you
15 told them what had happened that night; didn't you?

16 A I told them.

17 Q You did?

18 A Yes.

19 Q And nobody twisted your arm behind your back to make
20 you talk; did they?

21 A No.

22 Q And nobody threatened you; did they?

23 A No threats were made.

24 Q And no promises were made; were they?

25 A No.

1 Q They didn't tell you they think that you could get
2 off of the charge by talking to them?

3 A Not that I could remember that.

4 Q Okay. You understood what they were asking you;
5 didn't you?

6 A I understood.

7 Q You understood. Thank you. I have nothing further.

8 THE COURT: Anything further?

9 MR. SULLIVAN: I don't have anything further for
10 Mr. Robinson.

11 THE COURT: All right. You can step down.
12 Thank you, sir. Watch your step.

13 (Witness left the stand.)

14 THE COURT: Anything further on this?

15 MR. CONNER: Nothing further, Your Honor.

16 THE COURT: Anything further from the defense?

17 MR. SULLIVAN: I would just move to suppress
18 Mr. Robinson's confession because I -- based on the
19 due process clause with 14th amendment, I don't think
20 it is voluntary.

21 He's a young guy. He had just gotten out of the
22 hospital, serious gunshot wound to the chest. And he
23 testified that he was in some pain when he was being
24 questioned, so I would just move that be suppressed.

25 THE COURT: Okay. You want to respond to that,

1 Mr. Solicitor?

2 MR. CONNER: I -- I think we just have a
3 disagreement, Your Honor, but I don't -- I don't
4 think I'll respond.

5 THE COURT: Okay. Based on the testimony that's
6 before me, the police officer testified that when
7 they picked him up, he appeared to be normal, they
8 didn't see the nurse give him any medication, that he
9 responded appropriately to the nurse, he responded
10 appropriately to them.

11 I don't think there's any question he was in
12 fact in custody. The police officer testified that
13 they gave him his Miranda rights, they went over them
14 line by line.

15 He testified that they gave him his Miranda
16 rights, that no threats were made, no promises were
17 made, and that he understood their questions. So I
18 respectfully deny your request.

19 I think they have met the threshold requirements
20 under Miranda and the litany of cases that follow,
21 that it was a freely and voluntarily statement, that
22 he was advised of his rights prior to giving it, he
23 gave up his rights and gave law enforcement a
24 statement. Okay. What's next?

25 MR. CONNER: Next would be the Jackson versus

1 Deno of Mr. Murphy.

2 THE COURT: I assume, Mr. Murphy, you're making
3 a motion to suppress his statement?

4 MR. MURPHY: Yes, Your Honor.

5 THE COURT: Okay. Mr. Solicitor?

6 MR. CONNER: Your Honor, I want to call
7 Lieutenant Rabon.

8 THE COURT: Okay.

9 ANGELA RABON, after being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. CONNER:

13 Q And Lieutenant Rabon, where do you work?

14 A For the Sumter Police Department.

15 Q In what capacity?

16 A I'm the Investigative Services Division Supervisor.

17 Q And were you working in that capacity back in June of
18 2007?

19 A Yes, I was.

20 Q And did you res -- how long had you been a policeman?

21 A Approximately 15 years total, and 12 of those years
22 with Sumter Police Department.

23 Q And where were you prior to coming to Sumter Police
24 Department?

25 A With Charleston Police Department.

1 Q And how long had you been in the Investigative
2 Services Division?

3 A Since 1998, so right at 11 years.

4 Q On June the -- the early morning hours of June the
5 18th, 2007, did you go out to Poplar Square, and for what
6 reason?

7 A I was contacted by the detective on call, which is
8 Detective Richburg, that we had had a shooting at Poplar
9 Square, and there were two shooting victims in that
10 incident and they were both at Tuomey Hospital.

11 Q And did you go directly to the scene of the -- at
12 Poplar Square?

13 A Yes, I went straight to Poplar Square Apartments.

14 Q And while there, did you have an opportunity to have
15 a conversation with various people who were occupants of
16 the apartment complex or potential witnesses?

17 A I did.

18 Q And in talking to people, was somebody pointed out to
19 you as somebody who was real good friends with the
20 defendant, Jermel Robinson, the one that had gotten shot,
21 the young man that just testified?

22 A That's correct. There were some females in the
23 parking lot that were witness to the incident, and one of
24 them stated -- pointed out a young black male who at the
25 time was wearing a white T-shirt, pointed him out to me

1 and stated that one of the shooting victims at the
2 hospital was -- that the male in the white T-shirt was
3 really good friends with him and hung around with him
4 frequently.

5 Q So did you subsequently have any conversation with
6 that individual?

7 A I did. After I was in the parking lot for a while,
8 because we had at least three scenes that we were focused
9 on in reference to the incident, so at some point I
10 directed two detectives to make contact with the
11 individual that had been pointed out to me.

12 And once they made contact with him, I went over and
13 told him that we're trying to sort things out, we know
14 that we have had a shooting, there's two people at the
15 hospital, and we understand that he's friends with one of
16 them, and I needed for him if he would to come down and
17 let us talk with him and get some information about what
18 he may know and -- about the -- one of the subjects at the
19 hospital.

20 Q So you asked him to go down to the department and
21 talk to you, with the detectives?

22 A That's right, if he could just come down to the
23 station so we could talk with him about what he knew, and
24 he agreed, was cooperative.

25 Q Okay. And that subject was who?

1 A Mr. Jackson who is over there.

2 Q Teron Jackson?

3 A That's right.

4 Q And subsequently did somebody pick him up and take
5 him down to the Police Department to talk?

6 A They did. That was Sergeant Mike Rogers and
7 Detective Richburg.

8 Q And this here fellow with the hair on his face?

9 A Yes, in the pink shirt, Detective Richburg.

10 Q Okay. So the two of them picked him up and took him
11 down to the Police Department?

12 A That's correct.

13 Q And do you have any idea what time of day this
14 occurred?

15 A He was pointed out to me -- the shooting happened at
16 two in the morning. He was pointed out sometime before 6
17 am, and I instructed the detectives to make contact with
18 him and bring him down. I know he was transported
19 probably around 6:30 that morning.

20 Q Okay. Did you remain out there at the scene?

21 A I did.

22 Q And did you continue to talk with people who lived
23 there and were potential witnesses?

24 A Yes, sir.

25 Q And did you have any conversation with anybody at the

1 police department in regard to what y'all had learned?

2 A As far as the people being questioned?

3 Q Yes.

4 A No, I did not.

5 Q Answer any questions the defense lawyer might have
6 for you.

7 CROSS-EXAMINATION

8 BY MR. MURPHY:

9 Q Lieutenant, you weren't there the next day when Mr.
10 Jackson was picked up; is that correct?

11 A This happened I believe at two in the morning.

12 Q Right.

13 A So he was picked up later on that morning.

14 Q And were you present when he was picked up?

15 A Yes.

16 Q And he was in handcuffs?

17 A No. When I spoke with him, he was not in handcuffs.

18 Q I'm not asking that question. I'm asking were you
19 there when Sergeant Rogers and Detective Richburg picked
20 him up?

21 A When they made contact with him and I spoke with him
22 after they had made contact with him in the parking lot,
23 he was not in handcuffs.

24 Q So--

25 A And they transported him to the station.

1 Q At two in the morning?

2 A No. It was probably around 6:30 in the morning.

3 Q So you were there when he was picked up by -- I mean,
4 that's my question. Were you there when he was picked up
5 by Sergeant Rogers and Detective Richburg?

6 A Yes. I stated I was.

7 Q Okay. And your testimony is he was not in handcuffs
8 at that time.

9 A No..

10 Q To your knowledge was he put in handcuffs later?

11 A I don't know. I -- I'm sure at some point because we
12 ended up charging him.

13 Q And you weren't there when he was interviewed?

14 A No, sir.

15 Q All right. Thank you. That's all the questions I
16 have.

17 THE COURT: Okay. Anything further, Mr. Conner?

18 MR. CONNER: I have nothing further.

19 (Witness left the stand.)

20 MR. CONNER: Your Honor, I would call Robert
21 Richburg.

22 ROBERT RICHBURG, after being duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. CONNER:

1 Q Richburg, where do you work?

2 A I'm with Sumter Police Department.

3 Q And how long have you worked for the Sumter Police
4 Department?

5 A I have worked with Sumter Police Department for seven
6 years now.

7 Q And what are your duties?

8 A I am a detective assigned to the Investigative
9 Services Division.

10 Q And back in June of 2007, what were your duties at
11 that time?

12 A I was an investigator with the Investigative Services
13 Division, a detective.

14 Q And -- now, on the night this occurred, were you the
15 duty detective that was on call?

16 A Yes, sir, I was.

17 Q And did you respond to the apartment complex in
18 regards to the call?

19 A Yes, sir, I did.

20 Q And after you got there, what -- do you know what
21 time you got there?

22 A I responded around 2:00 is the time notification,
23 sometime shortly after 2:00.

24 Q And at some point in the -- you -- in the process of
25 this thing, did you -- your supervisor, Lieutenant Rabon

Robert Richburg - direct by Conner

45

1 advise you that Teron Jackson might have some knowledge of
2 what went on out there and had asked you and Mike Rogers
3 to talk with him?

4 A Yes, sir, she did.

5 Q And did y'all talk with Teron Jackson?

6 A Yes, sir, we did.

7 Q And did you ask him to go down to the department and
8 talk to you?

9 A Yes, sir.

10 Q And did he agree to go?

11 A Yes, sir.

12 Q Now, do you know what time it was you picked him up
13 out there at the department -- at --

14 A It was approximately 6:30, 6:35.

15 Q And did -- and you took him directly to the Police
16 Department?

17 A Yes, sir, we did.

18 Q And was he in handcuffs or not in handcuffs?

19 A No, sir, he wasn't.

20 Q And when you got there, where did you interview him?

21 A In our interview room.

22 Q And what kind of facility is the interview room?

23 A It's a room with a table, couple chairs and an air
24 conditioner unit and heater unit.

25 Q Did anybody give him his rights?

1 A Yes, sir.

2 Q Were you with him the whole time?

3 A Yes, sir, I was, from the time we took him from the
4 scene to the time he was transported to the jail.

5 Q And now, when he was given his rights, who read the
6 rights to him?

7 A Sergeant Mike Rogers.

8 Q And I show you this form here and ask you if you can
9 identify that.

10 A Yes, sir. This is our interview form, our waiver of
11 rights form that we use in an interview.

12 Q And that's the form that tells him what his rights
13 are.

14 A Yes, sir, it is.

15 Q You have the right to remain silent and so forth?

16 A Yes, sir.

17 Q And you were in the room when he was read these
18 rights by Rogers?

19 A Yes, sir, I was.

20 Q And tell me about the procedure that was used. How,
21 what--

22 A It was read to him line by line, and Sergeant Mike
23 Rogers had him initial each line as he read it and say
24 that he understood what it was. And then at the end it
25 was read to him that, you know, I have read or had read to

1 me these statements of my rights, I understand what my
2 rights are, I'm willing to answer questions at this time
3 without a lawyer present, no promises or threats have been
4 made to me and no pressure has been used against me, and
5 he was asked to sign, which he did.

6 Q And...

7 A It was witnessed by me and Sergeant Mike Rogers.

8 Q He indicated that he would waive his rights?

9 A Yes, sir.

10 Q And both you and Rogers signed down at the bottom
11 that y'all witnessed it?

12 A Yes, sir, we did.

13 MR. CONNER: Your Honor, we'd offer this
14 document at this time, State's Exhibit number three.

15 THE COURT: What says the defense?

16 MR. MURPHY: No objection.

17 THE COURT: Okay. It's in without objection.

18 (Whereupon, State's Exhibit 3 was admitted into
19 evidence.)

20 BY MR. CONNER:

21 Q Now, what time of day was it when the rights were
22 read to him?

23 A It was signed at 6:18:07 at 7:00 am or -- yeah, 7:00
24 am.

25 Q Seven am that morning?

1 A Yes, sir.

2 Q Now after that happened, did you and Rogers have a
3 little conversation with him?

4 A Yes, sir, we did.

5 Q And did -- could you give us some idea what you
6 talked about?

7 A Just background information, where he went to school,
8 where he lived, hobbies, just -- at that time just
9 background to get to know him a little bit before, you
10 know, just kind of fill out who we were talking to.

11 Q Okay. At some point in time did Rogers leave?

12 A Yes, sir, he did.

13 Q And where did he go?

14 A He went to the crime scene along with the other
15 detectives.

16 Q And did another officer come in?

17 A Yes, sir, Captain Holston come in the interview room
18 with us.

19 Q Captain Holston seated right back here?

20 A Yes, sir, he is.

21 Q And after Captain Holston came in, did he start
22 talking with him, Teron?

23 A Yes, sir, he did.

24 Q And did he -- did he begin to tell y'all more about
25 what had happened out there?

1 A Yes, sir, he did.

2 Q I take it up to this point he hadn't told you
3 anything --

4 A No, sir, nothing.

5 Q -- indicated any knowledge of all that had gone on?

6 A Right.

7 Q Officer Richburg, prior to Captain Holston coming in
8 and starting a conversation with him, if the defendant had
9 indicated that he wanted to leave and he wanted a ride
10 back out to Poplar Square, what would y'all have done?

11 A We would have let him leave. We would have given him
12 a ride.

13 Q Did he ask -- did he in fact ask for that?

14 A No, sir, he did not.

15 Q Did y'all ever tell him that he was under arrest?

16 A No, sir, we did not.

17 Q And then you say Holston came in and begin talk with
18 him, and that -- tell us how that went.

19 A He talked with him for a little while, then his
20 involvement started to come a little bit more clear as it
21 went along. We went through the statement about what
22 happened.

23 He -- he then asked him if he would agree to do a
24 statement, a formal statement, which he agreed to, and
25 that's whenever the option was given for a tape recorder,

1 which we brought into the room and sat in front of him and
2 went from there.

3 Rights were read, you know. He was -- he
4 acknowledged that he had been read his rights once again
5 on the tape recording. And we went through that again,
6 then he still wanted to talk with us and that he
7 understood what was going on, his education level and
8 everything else and he knew what was going on and he was
9 willing to talk.

10 Q Did anybody have any guns on him in the interview
11 room?

12 A No, sir.

13 Q Is that policy that --

14 A Yes, sir, it is.

15 Q -- you don't have guns in the interview room?

16 A Right.

17 Q Now, did anybody, either you or Rogers before he left
18 or Captain Holston after he arrived, did any of y'all
19 threaten him to make him talk to you?

20 A No, sir, we did not.

21 Q Did you offer him any -- any deals, any promises of
22 what you -- you could do for him or what you would do for
23 him?

24 A No, sir, we did not.

25 Q Did -- did you put any physical pressure on him,

1 force him to talk with you?

2 A No, sir, we did not.

3 Q Did he talk to you freely and voluntarily?

4 A Yes, sir, he did.

5 Q And during the time that he was there, did -- were
6 the restroom facilities available there in the vicinity of
7 this interview room?

8 A Yes, sir, they are.

9 Q And if he needed to use the restroom, that wouldn't
10 have been any problem?

11 A No problem.

12 Q How about anything to eat or drink, any snacks?

13 A The vending machines and drink machines are right
14 there, and it's standard procedure, it's offered and it's
15 seen, and if it's wanted, it's there.

16 Q Now, show you first this document here that was
17 marked at 9:45 on June the 18th, 2007, an interview took
18 place with Teron Jackson. Can you identify the document?

19 A Yes, sir, this is a transcript of our interview.

20 Q Of...

21 A Of our interview of Mr. Jackson.

22 Q You mean the interview?

23 A Captain Holston and I -- the interview Captain
24 Holston and I conducted of Mr. Jackson.

25 Q And I show you this one also. And this one is

1 11:41 on it --

2 A Yes, sir.

3 Q -- June the 18th.

4 A This is a transcript from the interview from Captain
5 Holston and I with Mr. Jackson.

6 Q And did he talk to you freely and voluntarily?

7 A Yes, sir, he did.

8 Q And why did -- why did you do this second statement
9 after he had already given you a statement?

10 A Because he kind of cleared it up a little bit better
11 after we talked the first time, facts coming from the
12 scene and what we had, his involvement, he just come a
13 little bit, you know, he cleared it up a little bit more,
14 so we went back in and did it again.

15 Q Okay.

16 MR. CONNER: Your Honor, we would offer these
17 two documents as State's Exhibits number four and
18 five.

19 THE COURT: What says the defense?

20 MR. MURPHY: No objection in -- for purposes of
21 this hearing.

22 THE COURT: Okay. State's Exhibits four and
23 five are in without objection.

24 (Whereupon, State's Exhibits 4 and 5 were
25 admitted into evidence.)

1 BY MR. CONNER:

2 Q Now, he had already been given his rights earlier at
3 7:00, but when y'all turned on the tape recorder, did you
4 refresh his memory in regards to his rights?

5 A Yes, sir.

6 Q And how do we know that?

7 A It's in the transcripts.

8 Q And where were the rights physically, this --

9 A This form.

10 Q -- this first document, yeah, what State's Exhibit
11 number is that?

12 A It is exhibit number 3.

13 Q Where would -- State's Exhibit number three while
14 y'all were having this conversation with him?

15 A In front of him on the table.

16 Q So it was laying there --

17 A Yes, sir.

18 Q -- for him to look at.

19 A Yes, sir.

20 Q And y'all refreshed his memory by asking him about
21 his rights and whether he understood them; is that
22 correct?

23 A Right, yes.

24 Q Did he ever hesitate about answering your questions?

25 A No, sir, he didn't.

1 Q I have nothing further of him. Ask him to answer any
2 questions the defense lawyer might have for him.

3 CROSS-EXAMINATION

4 BY MR. MURPHY:

5 Q Is it normal policy for rights to be read to
6 witnesses?

7 A Whenever you don't -- with a severe crime like that,
8 don't know where it's going, rather to be safe than sorry.

9 Q So there was -- you -- by reading him his rights,
10 you -- there was at least some level of suspicion on your
11 part that my client may have been involved.

12 A Some suspicion, but not knowing what level.

13 Q Well enough to read him his rights.

14 A Precaution.

15 Q And it's your testimony that he was not put in
16 handcuffs at the time--

17 A That's right.

18 Q Well, what point was he put in handcuffs?

19 A Whenever -- before he was transported to the jail.

20 Q So it's your -- it's your testimony that he was not
21 in handcuffs throughout the entire interview?

22 A That's right.

23 Q Now, you testified that you -- in response to Mr.
24 Conner's questions that you got some background
25 information from my client?

- 1 A Yes.
- 2 Q Are you aware he was 17 years old?
- 3 A Yes.
- 4 Q You were aware he lived with his grandmother?
- 5 A Yes.
- 6 Q You were aware that his mother had passed away;
- 7 correct?
- 8 A I can't -- I don't recall that.
- 9 Q Can you recall what grade he was in?
- 10 A He had finished -- in the interviews he had finished
- 11 like the 11th grade, tenth, 11th grade. I don't...
- 12 Q Okay. My client stutters; correct?
- 13 A I don't recall.
- 14 Q You don't recall stuttering?
- 15 A No, sir.
- 16 Q Do you recall at any time him indicating any sort of
- 17 awkward speech pattern or anything like that?
- 18 A No, sir.
- 19 Q Did you at any time during your discussions with him
- 20 tell him that -- and this is a -- words to this effect --
- 21 if you don't stop sucking your teeth, you're going to be
- 22 swallowing them?
- 23 A No, sir, I didn't.
- 24 Q You never said anything like that?
- 25 A No, sir.

1 Q Did you ever inform my client that Mr. Wimberly had
2 died?

3 A I don't recall.

4 Q So you might have?

5 A I don't recall.

6 Q Did you discuss with him his knowledge of the
7 decedent, whether he knew the decedent previously?

8 A In the interviews he was asked if he knew him or saw
9 him.

10 Q Do you recall what he told you?

11 A No, sir.

12 Q Do you recall any discussion about the decedent --
13 knowing the decedent from a fight in a gas station?

14 A I don't recall. I could look through here and see,
15 but I don't recall right off-hand.

16 Q Yeah, why don't you look. Do you have your notes
17 with you?

18 A I have the transcripts, but I don't recall that
19 being -- anything said about a fight at a gas station, no,
20 sir.

21 Q If you look at your notes, do you think that might
22 refresh your recollection?

23 A No, sir. I see nothing about a gas station or a
24 fight at a gas station.

25 Q Why don't you look at the first transcript?

1 A Okay.

2 Q Page 15.

3 A I'm on it.

4 Q All right. Line two through six which is his
5 response to some questions y'all were asking about him.

6 A Uh-huh.

7 Q Now, he's talking clearly. He's talking that he went
8 to the driver's side, that he backed up, that he told Mr.
9 Robinson that the person in the car had a pistol, then he
10 heard a shot and then ran away.

11 A Right.

12 Q Now, without going through the entire transcript, you
13 know, the Judge can read that if he wants to. Generally
14 speaking, that was his conversations with you or that was
15 his version of events during the initial part of the
16 interview; is that correct?

17 A That's what it says in the transcript.

18 Q Well, is that your recollection that that was
19 generally his version of the events at that time?

20 A Yes, sir.

21 Q Now, the second transcript on the other hand my
22 client admits to actually shooting the decedent.

23 A That's correct.

24 Q And there was a period of time where you turned off
25 the first series of interviews, you had some more

1 discussion with him, and then you turned the tape back on;
2 correct?

3 A That was -- yes.

4 Q Why?

5 A Because we were getting information from our
6 detectives on scene about things as they progressed
7 through scenes and facts and everything else, and his
8 story wasn't quite as clear. It was still muddy and, you
9 know, he wasn't coming off with the complete truth.

10 And it says in the second transcript that he's
11 wanting to tell the complete truth now, and that's what he
12 does.

13 Q So you had a series of questions with him that are
14 not taped in between the two taped interviews?

15 A I'm sure, yes.

16 Q And this was after my client had initially said he
17 would agree to taped interviews. It was more --

18 A Right.

19 Q -- statements?

20 A Both of them were taped, put the big tape recorder
21 right in front of him on both of them.

22 Q Did you -- and I -- maybe the word challenges is too
23 harsh a term. Did you challenge him with the information
24 that you had developed from your other sources on the
25 scene to try to--

- 1 A I don't recall if I did. I don't recall.
- 2 Q Do you recall if Detective Holston did?
- 3 A I can't -- I don't recall.
- 4 Q Okay. All you know is that at some point my client
- 5 was willing to...
- 6 A Clear up his first story.
- 7 Q Right. Going to admit to what the -- to the
- 8 shooting.
- 9 A That's correct.
- 10 Q Do you recall whether or not Detective Holston --
- 11 were you there the entire time Detective Holston was
- 12 there?
- 13 A Yes, sir, I was.
- 14 Q Do you recall him discussing with my client anything
- 15 along the lines of how dangerous it was in prison?
- 16 A No, sir.
- 17 Q You never talked about homosexual rape in prison?
- 18 A No, sir.
- 19 Q And that's my client -- that's the road my client was
- 20 heading down?
- 21 A No, sir.
- 22 Q You don't recall or he didn't say it?
- 23 A He didn't say it.
- 24 Q And is it your testimony that after my client gave
- 25 his first tape recorded statement, he would have been free

1 to go if he had asked to go?

2 A No, sir.

3 Q He wouldn't have been?

4 A He admitted some involvement in an armed robbery in
5 the first one.

6 Q Okay. So then he wouldn't have been?

7 A That's correct.

8 Q I have no further questions. Thank you.

9 MR. CONNER: Your Honor, I have no further
10 questions of him.

11 THE COURT: Okay. You can step down.

12 THE WITNESS: Thank you, sir.

13 (Witness left the stand.)

14 THE COURT: Do you have any other witnesses?

15 MR. CONNER: I have got another witness, Your
16 Honor. I'm going to call Detective Holston.

17 ALVIN HOLSTON, after being duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. CONNER:

21 Q Officer Holston, what do you do for the Sumter Police
22 Department?

23 A I'm employed with the Sumter Police Department as a
24 criminal investigations commander.

25 Q And how long have you been in that job?

1 A Two years, but I have a total years of 15 years
2 experience in the Sumter City Police Department Detective
3 Division and...

4 Q You have been a detective with the Sumter Police
5 Department for 15 years?

6 A Yes, sir.

7 Q But you -- two years is being in charge of the
8 detective group?

9 A Yes, sir. I'm well -- I'm currently now as of the
10 two years actually in charge of all of the aspects, the
11 investigative aspects, but spent I think prior to that
12 maybe two years just in charge of the criminal detective
13 division.

14 Q And did you -- did you get involved in this case in
15 the early morning of June the 18th, 2007?

16 A Yes, sir, I did.

17 Q And did you have an occasion to talk with Teron
18 Jackson?

19 A Yes, sir.

20 Q And when you -- where was Mr. Jackson when you met
21 him?

22 A He was in the interview room at the law enforcement
23 center.

24 Q And who was with him?

25 A The Detective Richburg and Detective Rogers were

1 initially with him. Rogers departed the interview. I
2 spoke briefly with him because he was needed back at the
3 Poplar Square location.

4 I inquired as to how the interview was going and said
5 it was just getting started, but the young man wasn't
6 saying much.

7 Q And after learning a little bit about what was going
8 on, did you proceed into the interview room and talk with
9 him yourself?

10 A Yes, sir. I had been informed -- well, prior to
11 going into the room, I had been informed by the detectives
12 out on the scene -- particular at that time Lieutenant
13 Rabon, and between communicating with Rabon and Culick,
14 just getting a little more insight as to what had actually
15 taken place down at the location.

16 I had been there prior just to check on personnel,
17 and then I proceeded to the station because I was at the
18 station at the time, and then I entered the interview room
19 with Detective Richburg.

20 Q And this document here which is marked as State's
21 Exhibit number three, was it on a table there where the
22 detective could see it, the defendant could see it,
23 everybody could see the rights form?

24 A Yes, sir. Me -- unless I open the door, I mean, it
25 was sitting right there. The table is kind of horizontal

1 in the room. I mean, it was obvious that it was on the
2 desk, and I had glanced it, and it had been completed, so
3 I knew that he was under Miranda.

4 Q He had been advised of his Miranda rights?

5 A Yes, sir.

6 Q Now, did you sit down there at the table with him?

7 A Yes, sir, I did.

8 Q And did you have a conversation with him?

9 A Yes, sir. Just basically I entered the room, and
10 based off of what Detective Rogers had told me and wasn't
11 really talking much and the information I had -- what I
12 had been informed from the detectives on scene, I kind of
13 had a little insight on the situation and kind of looked
14 at the detective a little bit, looked at the young man who
15 was just -- I mean, he was sitting there, and I introduced
16 myself to him, sat down.

17 Immediately just to the point. I told him that it's
18 a bad situation last night, two lives are ultimately in
19 jeopardy. He had one that -- one at the scene had been
20 injured, and person or persons who shot him.

21 And I had a little old saying a little bit that, you
22 know, it's kind of advisable that if you are involved in
23 it, you know, it'd be best for you to give your side of
24 the story first and not allow someone else to tell your
25 side of it.

1 Q So he began to talk to you about what had happened?

2 A Sat back for a minute and then he began to kind of
3 talk about it a little bit.

4 Q And did you threaten him in order to get him to talk
5 to you?

6 A No, sir. My -- my repore, at least I felt like my
7 repore with him was -- was good. I saw a young man that I
8 was looking to in the face as I was talking to, so I -- I
9 have -- I had been in interview -- several interviews
10 before, I didn't find this one to, you know, saw a young
11 man in front of me.

12 Q And did you promise him anything to get him to talk
13 with you?

14 A No, sir.

15 Q And did you force him to talk to you?

16 A No, sir.

17 Q Did he talk to you freely and voluntarily?

18 A Yes, sir.

19 Q And did -- when you -- after he admitted some
20 involvement there in attempting to rob Dominic Wimberly,
21 one of the -- the victim that was in the car, did you --
22 you continued your conversation with him?

23 A That's correct.

24 Q And you gave him -- you gave him an opportunity to
25 talk to you on tape?

1 A That's correct. After we initially -- after we had
2 talked the first go-around and I had allowed him to speak
3 and asked a couple of questions about the incident, we
4 ended that conversation and told him I'd like to get a
5 statement.

6 And of course, there's a -- I opted on this one to do
7 a tape recorded statement, and we proceeded I think
8 maybe -- or actually went on tape a little bit before 10,
9 best that I can recall.

10 And I knew that he had been under -- he had already
11 been Mirandised by Richburg and Rogers, so I proceeded to
12 make sure that that was clear when we went on tape, and I
13 think I may have asked a couple of questions about the
14 fact that he had been read his rights, my normal stuff
15 that I like to ask a little bit, how old you are, what
16 grade you finish in school.

17 I know I -- I want to say I asked him if he could
18 read and write, but it's obvious if in he's ninth, tenth,
19 going into 11th grade, that it should have been kind of
20 clear that he can read and write, so then we proceeded
21 to...

22 Q Well, is all that information you talked about
23 covered in that transcript?

24 A Yes, sir.

25 Q Starting on page two.

1 A Yes, sir.

2 Q And he -- he confirmed then that he had been advised
3 of his Miranda rights and he understood them?

4 A That's correct.

5 Q And during the course of that conversation -- that
6 conversation on the first conversation you had with him,
7 did he indicate that they were there with the purpose of
8 robbing Mr. Wimberly, the guy that was in -- that got shot
9 and was killed?

10 A Yes, sir. I -- I would have to probably read a
11 little further if it was clear, but I don't think -- he
12 didn't indicate to me that he actually knew this
13 gentleman, he just knew that the car had been there, that
14 the car had been out there on time, they had kind of
15 checked it out, but their intent of going to the car was
16 going to rob.

17 Q So at that point you would have had adequate
18 information to place him under arrest?

19 A Yes, sir.

20 Q Now, why did you take this second statement from him
21 at 11:41? I hand that -- State's Exhibit number five.

22 A From certain details that I was informed -- informed
23 of from the detectives working down at the scene, I knew
24 that from the -- after we ended this first statement, I
25 conferred back with the detectives.

1 I was kind of comfortable again from the information
2 I received from the detectives that the young man had not
3 told all of the truth about what had -- what actually
4 happened, his part.

5 That was based off of some of the stuff from speaking
6 to the individual that processed the crime scene and a
7 couple of other just details that went on, and it was kind
8 of obvious that there was another weapon that was fired.

9 And went back in to inquire more and inquire more
10 with the young man about it, and he told -- he told more,
11 what I would consider after speaking with him on that
12 second go-around, more what I would feel to be factual
13 that would actually compare with what I had learned about
14 the crime scene.

15 Q Well, in the first incident he hadn't admitted too
16 much about it. He hadn't admitted having a weapon
17 himself; is that adequate?

18 A I think to my understanding what he does--

19 Q Would have been a shooting in any event?

20 A Right. Yes, sir. What he was doing, he put himself
21 there, but he didn't really commit to what he had actually
22 done. He didn't really do that until after we talked the
23 second time around.

24 Q He put himself there with the intent to be involved
25 in an armed robbery.

1 A Yes, sir. That was clear.

2 Q But he didn't say that he did any shooting?

3 A That's correct.

4 Q And then the second statement he admitted that he did
5 some shooting.

6 A Yes, sir.

7 Q Answer any questions that the defense lawyer might
8 have for you.

9 CROSS-EXAMINATION

10 BY MR. MURPHY:

11 Q Do you recall my client stuttering and being hesitant
12 in his speech?

13 A I didn't contribute that to stuttering. I just --
14 young man may have been a little bit nervous is the way I
15 would gather it.

16 Q Okay. And do you -- was Detective Richburg there the
17 entire time you were there? Did you ever have the
18 occasion to talk to my client by yourself?

19 A Particularly they were taking the lead. I wanted to
20 make sure that I was just up-front, make sure that one of
21 the lead investigators were there present and so that...

22 Q Do you remember or did you ever hear Detective
23 Richburg say something to the effect of, if you don't stop
24 sucking your teeth, you're going to be swallowing them?

25 A No, sir, not in my presence.

1 Q Now, as part of your discussions with him, did you
2 ever talk about the path he was heading down and that the
3 prospect of the dangers of going to prison ever arise? Do
4 you remember any conversation like that?

5 A No, sir, I -- be honest, my repore was -- I would
6 compare it to, young man -- I would compare it to as a --
7 as awkward as it may sound, father-son type conversation.
8 Was -- it wasn't that type. He didn't--

9 Q So you didn't talk about homosexual rape or anything
10 like that, the -- that occur if he continued down this
11 path?

12 A No, sir.

13 Q Now, is it fair to say that by the time you started
14 this talking to my client, he was suspected of being more
15 than just a witness in this case?

16 A Least from where I -- well, from where I stood, by
17 the time I entered the room, some facts were kind of clear
18 that he had some involvement and not, you know, even prior
19 to that based off of the information there that it was
20 kind of clear in bringing him down that he was -- at a
21 minimum, he was there at the scene, clear to -- determine
22 the fact of whether he was a witness or suspect, that was
23 kind of unclear.

24 When they all brought him down, I think that was
25 in -- was kind of one of the standards that I teach the

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MURPHY:

4 Q Mr. Jackson, how old are you?

5 A Nineteen.

6 Q At the time of this incident that we're talking about
7 today, how old were you then?

8 A Seventeen.

9 Q How far had you gone in school?

10 A To the tenth grade.

11 Q When you say tenth grade, were you in any sort of
12 special program? I mean--

13 A I was in -- I was the step up program.

14 Q Okay. Can you describe what that is?

15 A Basically special ed.

16 Q At the time of this incident, who were you living
17 with?

18 A My grandmother.

19 Q Why is that?

20 A Because my mother had passed.

21 Q Now, you heard the testimony of the officers just
22 now.

23 A Yes, sir.

24 Q So what I'm going to do is I'm just going to go
25 through and ask you basically what your recollection is of

1 the time you were picked up until the time you gave those
2 two statements. Okay?

3 A Yes, sir.

4 Q First of all regarding to getting picked up, tell me
5 about that. What -- where were you picked up on that day?

6 A I was picked up from Poplar Square.

7 Q Okay. Now, how long had you been awake prior to
8 getting picked up?

9 A I was wake up for 24 hours.

10 Q And the testimony was Detective Richburg was here
11 today, and then another detective, Detective Rogers came
12 out and picked you up?

13 A Yeah.

14 Q In their car; correct?

15 A Yeah, in a grand car.

16 Q Now, what point was he -- were handcuffs put on you?

17 A Soon as I step inside the car, the vehicle.

18 Q Were they placed on so that you had them in front of
19 you or behind you?

20 A In front.

21 Q Let's talk about where you were transported to. Do
22 you remember the police station?

23 A Yes, sir.

24 Q Okay. Will you describe what you remember about the
25 police station and the room you were interviewed in?

1 A It just was -- it just was a little room with a
2 table.

3 Q Okay. And where was the door in relation to where
4 you were?

5 A To my right hand side.

6 Q Now, did you have the handcuffs on the whole time you
7 were in there?

8 A Yes, sir.

9 Q Did you feel free to go?

10 A No, sir.

11 Q Do you remember talking with Mr. Rogers on the way to
12 the police station?

13 A Yes, sir.

14 Q What kind of questions did he ask?

15 A He was asking me about my past, who was I living
16 with, school, school education.

17 Q Now, I want to show you what's been marked as State's
18 Exhibit three, okay. Do you remember this document?

19 A Yes, sir.

20 Q Okay. Who went over that document with you?

21 A I think it was Richburg.

22 Q Okay. What was -- what do you remember about going
23 over that document? What was going through your mind?

24 A Really I don't remember them reading it to me because
25 I was zone out.

1 Q What do you mean by zoned out?

2 A Just my first time in trouble. I ain't know what was
3 going to happen. I was scared. I just remember they put
4 me in front of me and I signing my name.

5 Q What was your understanding of your right to an
6 attorney?

7 A I never knew I could have get an attorney. I always
8 thought I had to pay for one. I never knew I could get
9 one free. You know, my family ain't got that much money.

10 Q Did you ever ask about your grandmother?

11 A No, sir.

12 Q Did they ever tell you, you know, or ever indicate to
13 you that you might want your grandmother present or
14 anything like that?

15 A No, sir.

16 Q What do you remember about the questioning between
17 you and Detective Richburg, Detective Rogers, why don't
18 you just...

19 A They just was asking a whole lot of questions. And
20 like at first I wasn't going to tell them nothing, so I
21 guess they got mad, so they went and they raise they
22 voice, started screaming and yelling.

23 Q Okay. Do you remember any -- anything specific that
24 either of them -- either of the -- by them, who do you
25 mean?

1 A I was ask could I put my chapstick on. So with my --
2 I had my handcuffs -- I had handcuffs on, so he put it on
3 my lips for me.

4 Q Who did?

5 A The Detective Rogers.

6 Q Okay.

7 A He put it on my lip for me. So as I reach up to rub
8 it in more, Richburg like grab at me, and I jumped back
9 because it was a statement said earlier that -- that day.

10 Q Okay. Well, what was the statement?

11 A Statement was -- I was leaning back in my chair
12 and -- when they was asking me questions, I kind of suck
13 my teeth. So Richburg told me if I suck them again, I'm
14 going to be swallowing them, and put a chair back down
15 four legs.

16 Q Were you nervous?

17 A Yes, sir.

18 Q Now, did this happen before or after the tape
19 recording went on?

20 A Before.

21 Q Which time, the first time the tape recorder went on
22 or the second time?

23 A The second time.

24 Q So it was in between your first statement and the
25 second statement?

1 A Yes, sir.

2 Q Do you remember being asked about whether or not you
3 knew the deceased before the night in question?

4 A Yes, sir.

5 Q They had talked to you about a gas station?

6 A Yes, sir.

7 Q What do you remember about that?

8 A I told them I didn't know the -- the victim, and I
9 never was by the gas station.

10 COURT REPORTER: Did you say, I never was by the
11 gas station?

12 THE DEFENDANT: Yes, ma'am.

13 BY MR. MURPHY:

14 Q Do you remember anything about a fight at a gas
15 station?

16 A No, sir.

17 Q Did anybody talk to you about the differences between
18 county jail and prison?

19 A Yes, sir.

20 Q What's your recollection of that?

21 A It was Detective Holston, I think. He told me I be
22 all right in the county jail, but if I was to go to
23 prison, I'd be someone's bitch.

24 Q Again, was this before or after the--

25 A It was after the first statement.

1 Q I have no further questions. Please answer any
2 questions Mr. Conner may have for you.

3 ~~A~~ Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. CONNER:

6 Q I show you here this document State's Exhibit Number
7 3. Now, I want to call your attention to this right here.
8 Is that your signature?

9 A Yes, sir, it is.

10 Q And that's where you signed this document after they
11 gave you your rights?

12 A Yes, sir.

13 Q And they told you first that you had a right to
14 remain silent; didn't they?

15 A I didn't hear none.

16 Q Say again?

17 A I didn't hear none of it.

18 Q You didn't hear none of it?

19 A I just remember signing it.

20 Q You put your initials right there by it; didn't you?

21 A Yes, sir.

22 Q TJ, that's you?

23 A Yes, sir.

24 Q Okay. And then they told you anything you say can be
25 used against you in court.

1 A I don't remember hearing none of it. I just remember
2 signing it.

3 Q You don't remember it? You put your initial right by
4 it; didn't you?

5 A That what they told me to do. I was following they
6 directions.

7 Q And you were looking at the document. And you can
8 read and write; can't you?

9 A Yes, sir.

10 Q Yes, sir?

11 A Yes, sir.

12 Q Okay. You can read and write. Now, you have that
13 right in front of you and they were reading it to you and
14 you could read it, too.

15 A I didn't take time to go over it.

16 Q You didn't take time?

17 A No, sir.

18 Q And when Mr. Holston talked with you -- let's see --
19 on page two of the first statement you gave him or the
20 first taped statement you gave him, he says, prior to this
21 taped interview, you have been read your constitutional
22 rights, and you said, yes, sir.

23 So he asked you -- this first thing was by Mike
24 Rogers and Richburg. They were in there, right --

25 A Yes, sir.

1 Q -- when you signed this statement, State's Exhibit
2 Number 3?

3 A Yes, sir.

4 Q But then Holston talked to you about it again; didn't
5 he?

6 A Yes, sir.

7 Q Are you saying yes, sir?

8 A Yes, sir.

9 Q And Holston said, and you have signed off on these
10 documents, right, meaning this thing here.

11 A Yes, sir.

12 Q And you said what? Yes, sir.

13 A Yes, sir.

14 Q And you told him you went to Sumter High.

15 A Yes, sir.

16 Q And he said, okay. And you had your rights read to
17 you and you have stated that you agree to talk freely and
18 voluntarily without an attorney present. That's correct.
19 You said, yes, sir.

20 A I said that, but at the same time I didn't know what
21 was going on. I was scared. I would have do anything
22 just to get out of that room and go home.

23 Q But you -- that's not what you told Mr. Holston. And
24 you talked to him freely and voluntarily. You told him
25 what you knew; didn't you?

1 A Yes, sir.

2 Q And you -- you told him on page four where he said,
3 okay, go ahead, tell me what happened, and you said, it
4 was a robbery went bad; didn't you?

5 A Yes, sir.

6 MR. CONNER: I have nothing further of him, Your
7 Honor.

8 THE COURT: Anything further?

9 MR. MURPHY: Nothing further.

10 THE COURT: You can step down.

11 (Witness left the stand.)

12 THE COURT: Anything further?

13 MR. MURPHY: Your Honor, nothing further from
14 the defendant.

15 MR. CONNER: I'm going to call -- recall
16 Mr. Holston in rebuttal.

17 THE COURT: Okay.

18 ALVIN HOLSTON, after being duly
19 reminded of oath, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CONNER:

22 Q Captain Holston, the defendant testified that he was
23 in cuffs there in the interview room. When you entered
24 the interview room, did he have on cuffs?

25 A No, sir.

1 Q Did he have on cuffs any time while he was in the
2 interview room until you got ready to take him out to the
3 jail?

4 A No, sir.

5 Q I have nothing further.

6 MR. MURPHY: No questions.

7 THE COURT: Thank you, sir. You can step down.

8 (Witness left the stand.)

9 THE COURT: All right. You through, Mr. Conner?

10 MR. CONNER: Might be.

11 MR. MURPHY: Your Honor, the -- we would ask the
12 Court to consider certain factors in determining
13 whether or not the statement is voluntary. Certain
14 all the factors regarding my client -- first of all,
15 his age. He was young. He was a minor.

16 More importantly, the authorities were well
17 aware he was a minor and were aware of who he was
18 living with. He had no -- there is no indication
19 that he attempted to make his guardian...

20 You are aware his mental capacity. He's a
21 special ed -- schools. He had the opportunity to
22 observe him.

23 In regard to the statement whether or not it's
24 in custody, I mean, to some degree the handcuff issue
25 begs the point, that from the perspective of the

1 defendant, he wasn't free to go.

2 From the perspective of the defendant -- I mean
3 the testimony -- he wasn't free to go either. From
4 the perspective of the officers, clearly the captain
5 indicated by the time he walked in, he -- based upon
6 his information, he would have read him his rights.

7 He was clearly a suspect at that point. That
8 encompasses both of these transcripts and both of the
9 statements that we're talking about here today.

10 So for that purpose, for purposes we would
11 submit that there is no issue regarding custodial
12 interrogation in regard to the statements. Both of
13 these statements the -- for all intents and purposes
14 and under the law assume was in custody, so therefore
15 the effectiveness of the Miranda is important.

16 You know, Miranda has to be knowing. It's more
17 than just having somebody go over a form and initial.
18 And you have the testimony of my client regarding
19 what was going through his mind at the time he was
20 Mirandised.

21 He wasn't focused. He said he was -- you know,
22 perhaps had a guardian been there with him, a more
23 effective Mirandised statement would have been made.
24 I mean, based on my research, typically that's one of
25 the factors the courts look at is, look, there was a

1 guardian with him, there was an adult with him who
2 assisted him in understanding what the -- that is
3 absent in this case.

4 In particular regarding the last factor to look
5 at is the course of -- nature of the interview. Now,
6 I -- obviously under the law, the law recognizes that
7 to some degree when you have a vulnerable person, IE
8 a minor, who has some level of, you know, mental
9 infliction for lack of a better word, learning
10 disability in this case, there is a -- there is by
11 nature in the interrogation department an element --
12 obviously that in and of itself is insufficient to
13 warrant that a confession be suppressed, and we
14 understand that.

15 In this case you have additional information.
16 And in regard to his credibility, we would note that
17 if this was a lack of -- the fact that he talks about
18 these issues regarding the statements that were made
19 to him after the first tape recorded statement prior
20 to the second tape recorded statement we submit is an
21 indication of the credibility simply because
22 obviously from the testimony of the officers, they
23 had his permission, he gave a statement, and the
24 statement he gave wasn't sufficient and wasn't jiving
25 with the other information they had.

1 And you know, they -- they wanted a confession
2 and, you know, that -- we understand that. It's
3 consistent with that. And clearly the nature of the
4 coercion we would submit based on this testimony
5 would step up a bit with regard to that second
6 statement.

7 Your Honor, for all these reasons we would
8 submit that our -- that my client's statements, both
9 statements, in fact the entirety should be suppressed
10 under my client's due process rights under both the
11 State and Federal standards and constitutions. Thank
12 you.

13 THE COURT: All right, sir. Mr. Conner?

14 MR. CONNER: Your Honor, we contend that he was
15 given his Miranda rights within a very short time of
16 arriving at the police station, and they were gone
17 over with him, this form -- I believe it's State's
18 Exhibit Number 3 -- is the standard form that they
19 use and the standard form is recognized as being
20 acceptable.

21 He indicated that he waived his rights and
22 signed it. He's admitted that here on the record.
23 The -- he -- also in addition to that, in both of
24 these statements, both the 9:45 statement and the
25 11:41 statement he was again reminded of his rights.

1 And the officers testified that the form was
2 right there on the table for him to read, to ask
3 questions about, and he was given an opportunity to
4 ask the questions, and he didn't. He didn't contest
5 it in any way.

6 He just at this point in time I submit has a
7 little bit different story in that he realizes that
8 what he has done is a terrible crime.

9 THE COURT: Okay. It appears from the record
10 that the question is whether he was in custody or
11 not. And at one point he may have been or may not
12 have been.

13 But I think it's undisputed that he was read his
14 Miranda rights before any statement was given. So if
15 he was in custody -- I think based on the police's
16 testimony, only when he admitted to being involved
17 with an armed robbery in their mind he was not free
18 to go, he was placed in custody.

19 On either hand, he was read his Miranda rights.
20 He indicated from the stand that he could read and
21 write, he reviewed those Miranda rights, and his
22 response to both counsel seem to be appropriate.

23 He -- in reading the statements that he gave,
24 and both statements, the 9:45 statement as well as
25 the 11:45, they started out with the officers talking

1 to him about his constitutional rights and reviewing
2 those to the extent that he had been given his rights
3 and he understood those and he wanted to give them a
4 statement.

5 Now we have a transcript of that -- those tapes.
6 I don't have the tapes themselves to see whether
7 anybody is screaming or raising their voice, but it
8 appears at least from the transcripts that there
9 seems to be no threats or coercion made based on the
10 written documentation.

11 So based on what is before me I think that the
12 statement is admissible, that he was advised of his
13 rights, he waived them, he knowingly and
14 intelligently waived those rights.

15 In fact, he was 17 years old, he says he can
16 read and write. I don't know. I don't have anything
17 in the record as far as his IQ. And at least the
18 lawyers alluded he may have a learning disability,
19 but that -- that on itself doesn't show that he did
20 not understand his constitutional rights so he gave
21 up those rights and voluntarily gave a statement.

22 So I -- my ruling based on what I have is the
23 statement is admissible.

24 MR. CONNER: Your Honor, I do have the tapes
25 here. I'm a little bit reluctant to give them up

1 because we won't be trying the case until next week.
2 And... I can go ahead and have them marked.

3 THE COURT: Do you have...

4 MR. MURPHY: Your Honor, I believe the testimony
5 was -- and this might satisfy Mr. Conner -- the
6 testimony was that these -- that the yelling and
7 everything occurred while the tape recorder was off,
8 so listening to the tape -- I mean, we'll -- if the
9 tapes are pretty matter of fact.

10 THE COURT: So you have listened to the tape?

11 MR. MURPHY: Yes, sir.

12 THE COURT: So you have not heard anything on
13 the tapes, anybody raising their voice or threats
14 or --

15 MR. MURPHY: No, sir.

16 THE COURT: -- tones of voice on the tapes. So
17 at least as far as the tapes are concerned and the
18 transcript, there are no threats that you will be
19 able--

20 MR. MURPHY: No, not from -- not on tape, that's
21 correct.

22 THE COURT: And you in fact have heard--

23 MR. MURPHY: In fact, the testimony -- I don't
24 believe we made that accusation in the testimony.
25 The testimony was this was all off the tape.

1 THE COURT: Okay. I understand. I wondered
2 whether you have been provided the actual tape to
3 listen to or whether inflexion in voices...

4 MR. MURPHY: No. I agree with that, Your Honor.

5 MR. CONNER: We provided them with tapes and
6 with transcripts, Your Honor.

7 THE COURT: Okay. All right. Anything else
8 now, gentlemen?

9 MR. CONNER: We still have the redaction.

10 MR. MURPHY: Slash redaction.

11 THE COURT: Okay. And do y'all want to just
12 argue that?

13 MR. MURPHY: I don't think we need any
14 testimony.

15 THE COURT: Okay. Since it's y'all's motion, who
16 wants to go first?

17 MR. MURPHY: Your Honor, we are moving for
18 severance primarily because of the nature of the
19 statements. Obviously under the confrontation
20 clause, the statements can't be used against the
21 individual, they do not have the right to be used.

22 We have been advised by the Government or by the
23 State that they intend to submit the statements of
24 co-defendant Mr. Robinson. We have also looked into
25 the redactions that were provided by Mr. Conner.

1 The redactions themselves -- and I have got two
2 arguments. Number one is the redactions themselves
3 are insufficient because they really don't hide the
4 fact that Mr. Robinson is talking about Mr. Jackson.

5 I -- you know, to -- changing Mr. Jackson's name
6 to the other person or the other person I was with or
7 other person it said, whatever, it -- that statement
8 read in context with -- now that you have ruled my
9 client's statements are admissible are clearly with
10 the fact finder going to be able to put two and two
11 together so that they -- they will have impact.

12 And I would argue -- I'm not going to argue for
13 my colleague, but that's the problem that we both
14 have.

15 Secondly, in regard to substance of the
16 statement, like to point out a couple of things.
17 First of all, Mr. Robinson's statements -- and I will
18 state this for the record -- there are certain
19 periods throughout the process where Mr. Robinson
20 talks about my client's involvement that night
21 where -- where substantively appears to the Court or
22 to the jurors that -- that they -- and from a legal
23 standard and from a legal standard somewhat
24 self-serving.

25 On page three lines one through six there is a

1 discussion of -- basically along the lines of whose
2 idea it was, and my client has indicated the person
3 who -- at page four lines one through seven, similar
4 discussions about whose idea it was, the change of
5 clothes.

6 Page 13 lines one through 16, page 16 lines 14
7 through 25, and 17, one through eight, there's a
8 whole discussion here where--

9 THE COURT: Wait. After page 16, 14 through 25
10 and then what did you tell me?

11 MR. MURPHY: Page 17, line one through eight.

12 THE COURT: Okay.

13 MR. MURPHY: There's a whole discussion about
14 the -- whose gun it was and how long he had had his
15 where it's basically talking about my client. Not
16 talking about himself. He's talking about my client.
17 The redaction doesn't make any sense.

18 I'm talking about another person and talking
19 about the gun they had wouldn't be relevant if it
20 wasn't my client. So again it points the finger to
21 my client.

22 Page 18 line 25 and page 19 line one through 10,
23 again we're talking about the bike. Clearly the
24 implication is the other person's bike they are
25 talking about, the two of them that night.

1 And finally page 19 line 25 and page 20 lines
2 one through 20. The bottom line is is that, Your
3 Honor, for those reasons we do not believe both again
4 to reiterate, number one, there's a confrontation
5 issue using these any way to begin with.

6 And number two, the redactions are inadequate
7 because his changing my client's name to the other
8 person doesn't fit the bill, and substantively there
9 are issues involving shifting of responsibility or
10 shifting the blame at least to some degree to my
11 client. Thank you.

12 THE COURT: But I think in both of these
13 statements, sometimes in co-defendant statements you
14 have inconsistencies and they are pointing the finger
15 at each other. But in both of these statements, both
16 of them agree that your guy was the shooter. Isn't
17 that correct? These--

18 MR. MURPHY: Ultimately, yes, that is correct.

19 THE COURT: Okay. And I don't -- I haven't
20 heard the rest of the evidence, so -- and I don't
21 know whether the victim in this case was shot at all
22 by Mr. Jackson or -- well, I'm sorry, Mr. Robinson.

23 Is there any indication that that was -- that
24 both guns were shot?

25 MR. CONNER: If -- both guns were -- appeared to

1 have been fired. Let's put it this way.

2 THE COURT: Okay. Is there any--

3 MR. CONNER: On the other hand, the bullets that
4 we got out of the body matched the gun that we got
5 from Mr. Jackson.

6 THE COURT: Okay. All right. I just wanted to
7 make--

8 MR. CONNER: And another thing, that the
9 location that they put themselves in, one on the
10 driver's side and one on the passenger's side. Mr.
11 Jackson was on the passenger's side.

12 And the angle that the bullets entered the
13 driver's body would indicate that the shots came --
14 the passenger side and hit him in the right flank.

15 THE COURT: Okay. All right. Yes, sir, Mr.
16 Sullivan?

17 MR. SULLIVAN: Thank you. I would join in
18 Mr. Murphy's motions. My arguments are obviously
19 that -- pretty much the same as his.

20 My client needs to have the opportunity to
21 confront the witness against him under the
22 constitution, and I don't think the redaction, that
23 would be -- the redactions would be sufficient at
24 all.

25 There's references to the other person living in

1 such and such apartment, L5. I think the jury's
2 going to know exactly who is being spoken about, so
3 just to kind of echo what Mr. Murphy has already
4 said.

5 *THE COURT:* Okay. And outside of the
6 confrontational clause and redaction, y'all don't
7 have inconsistent defenses? I mean, one is not
8 saying the other one did it?

9 *MR. MURPHY:* We do not have inconsistent
10 defenses.

11 *THE COURT:* All right. Mr. Conner?

12 *MR. CONNER:* Your Honor, the federal and state
13 courts have indicated you can redact statements, and
14 it's my understanding of the law that if it's a --
15 may be able to connect other people to the statement
16 by other evidence.

17 In other words, it might become evidence that
18 he's talking -- that Mr. Robinson is talking about
19 Mr. Jackson or Mr. Jackson is talking about Mr.
20 Robinson because other evidence has come into the
21 case.

22 But if it's -- if there's statements that are
23 offered that have been redacted to take out the names
24 so that facially it doesn't appear to be identifying
25 each other, and I would submit that that meets both

1 federal and state rules.

2 THE COURT: All right. And I have been provided
3 certain copies of cases of the State. Does the
4 defense have any cases that they would like me to
5 consider, any case law?

6 MR. MURPHY: No, Your Honor.

7 MR. SULLIVAN: No, Your Honor.

8 THE COURT: Well, now that I have heard the
9 testimony and the facts, I want to read these cases
10 again and I will let y'all know either later today or
11 sometime tomorrow whether I will grant your motion to
12 sever the case and grant your -- and whether the
13 redaction is adequate. Okay? Anything else?

14 MR. SULLIVAN: I don't have anything else, Your
15 Honor.

16 MR. MURPHY: No.

17 THE COURT: All right. Now, the Court will be
18 in recess until 2:30.

19 (Court in recess for lunch.)

20 ***** April 17, 2009 *****

21 THE COURT: Gentlemen, y'all ready?

22 MR. SULLIVAN: Yes, Your Honor.

23 THE COURT: I have reviewed the cases as well as
24 the statements of the co-defendants. I reviewed
25 State versus Howard as well as Richardson versus

1 Marsh, Morris, Lee versus Illinois, Gray versus
2 Maryland.

3 And based on the United States -- as well as
4 United States versus Lujan -- based on United States
5 Supreme Court cases as well as South Carolina Supreme
6 Court cases and based on my review of the facts
7 concerning each statements, as counsel has told me,
8 there's not inconsistent defenses in these
9 statements.

10 It's between the two parties. In fact, both
11 those statements, they don't point the finger at each
12 other, they both point the finger at the alleged
13 shooter in this case.

14 And I think that the -- that they are reliable
15 in themselves in that the fact that they corroborate
16 each other and -- as well as the other evidence in
17 this case and that under Richardson versus Marsh,
18 that -- I think that they are redactable, and in
19 that -- based on the proposal of the State to change
20 the names to the other person.

21 It doesn't leave a blank there. It doesn't
22 refer to gender. And it doesn't refer to the
23 existence of the defendants.

24 So I think it's redactable where the jury could
25 in fact understand, they could read these redactions

1 if they're re-typed as far as you can't leave blanks
2 in there, so I think that they're going to be
3 admissible in this trial.

4 Anything further? Because that -- my
5 understanding that was the only issue that we got
6 through the Jackson v Deno. And so I think the
7 State's allowed to try them together.

8 And if these -- now having said that, Mr.
9 Conner, the statements that I got were in fact struck
10 out in 10. Between now and whenever you intend to
11 call this case for trial, I'd like to be sure that
12 you show me the -- as well as the defense counsel the
13 form of the redaction that you intend to offer to the
14 jury to be sure it complies and in no way points to
15 indicate the identity of the co-defendants in their
16 statement.

17 So if you can provide them a copy, the Court a
18 copy, and then I -- for the record, I think the
19 original statements are already in the record. So I
20 would like to have the redacted ones in the record as
21 well as any -- Appellate Court can review both
22 statements. Anything further?

23 MR. SULLIVAN: I don't have anything further.

24 MR. MURPHY: No, Your Honor.

25 MR. CONNER: I have talked with the typist who

1 did the -- did these, Your Honor, and he's indicated
2 to me that he can have them redacted over the weekend
3 in accordance with the copies that I gave you and
4 also the defense counsel.

5 *THE COURT:* And I have reviewed -- do y'all --
6 based on those redactions, do you have any specific
7 lines on a specific page that you feel is not in
8 compliance with the law?

9 *MR. SULLIVAN:* I don't have any problem with any
10 of the particular redactions.

11 *THE COURT:* Okay.

12 *MR. SULLIVAN:* I looked it over and I don't have
13 any issues or anything.

14 *THE COURT:* All right. What about you,
15 Mr. Murphy?

16 *MR. MURPHY:* No.

17 *THE COURT:* All right. Then if you'll provide
18 those to them on Monday, Mr. Conner. I don't know
19 when you plan on calling this case for trial, but
20 obviously we have got to have that done before you --
21 before you can submit at least the statements to the
22 jury.

23 *MR. CONNER:* There's a couple of places in the
24 documents, Your Honor, where I deleted what I thought
25 might be objectionable information that --

1 THE COURT: Right.

2 MR. CONNER: -- any problems with that. One --
3 one concern is unrelated matter like whether this
4 person stole a gun or whether he was selling dope or
5 something like that, and I just deleted that.

6 THE COURT: Y'all have any objection to that?
7 And I saw those deletions which -- basically whole
8 sentences and whole paragraphs.

9 MR. MURPHY: No, we have no objection to
10 deleting the relevant information. That's fine.

11 THE COURT: Okay.

12 MR. SULLIVAN: Yes.

13 THE COURT: Okay. All right. Anything further?

14 MR. CONNER: We intend to call it for trial on
15 Monday morning.

16 THE COURT: Okay. Is that y'all's understand as
17 well, gentlemen?

18 MR. SULLIVAN: That's the understanding that I
19 have gotten from Mr. Conner.

20 THE COURT: And y'all have been presented copies
21 as well as the Court of a, you know, struck-out,
22 deleted copy. So assuming that the new typed copy
23 the jury will see will in fact reflect what's in --
24 what you have submitted to the Court, and then I will
25 review those Monday to be sure that the new copies

1 are in compliance with what I have been submitted,
2 and y'all can do that as well. If we have any
3 issues, we will deal with them at that time.

4 MR. SULLIVAN: Yes, sir.

5 MR. MURPHY: Yes, sir.

6 THE COURT: Okay.

7 (Whereupon this case was in recess for the day.)

8 **** April 20, 2009 ****

9 MR. CONNER: May it please the Court. At this
10 time the State would call indictment 2007-816, the
11 State versus Teron Hakeen Jackson and Jermel Anthony
12 Robinson indicted for murder, attempted armed robbery
13 two counts, also for possession of a firearm during
14 the commission of a crime of violence, possession of
15 a pistol by one less than 21 years of age, and
16 lynching first degree.

17 We hand up the indictment. They are in court
18 here represented by David Sullivan and Timothy
19 Murphy.

20 THE COURT: Ladies and gentlemen, if you'll give
21 me your attention. I apologize. I caught the crud
22 from somewhere. But I'm going to try to get through
23 this week.

24 The State has called the case of the State
25 versus Teron Jackson and Jermel Robinson. Is there

1 any member of the jury panel connected by blood or
2 marriage, close personal friends or social relations
3 with either two of these defendants; if so, please
4 stand. Okay. Yes, ma'am.

5 *THE CLERK:* Before you -- hold on just a minute.

6 *MR. JACKSON:* May we approach?

7 *THE COURT:* Yes. Hold on just a minute, please
8 ma'am.

9 (Whereupon a bench conference was held.)

10 *THE COURT:* Yes, ma'am. You're Mrs. Addison,
11 number one?

12 *JUROR:* Yes, sir.

13 *THE COURT:* I'm going to excuse you from
14 participating in this trial. Thank you, ma'am.
15 Anyone else?

16 The alleged victim in this case is Dominique
17 Wimberly. Is there any member of the jury panel
18 connected by blood or marriage, close personal
19 friends or social relations with Mr. Wimberly; if so,
20 please stand.

21 The potential witnesses in this case are Alvin
22 Holston, Irene Culick, Robert Richburg, Truman
23 Duggin, BR Styles, Calvin Fulmore, Dustin Smith, Tim
24 Grambow, Kate Coy, Dan Defreese, Ken Kinsey, Jim
25 Alsbrooks, Janice Ross, Ila Simmons, Tony Wilson,

1 Samuel Wilson, Vincent Jones, junior, and Vincent
2 Jones, senior, Chyenne Rosenberg, Kimberly Tindal,
3 Talisha Kendal -- I'm sorry -- Willie Gibson, Gibson,
4 Sharell Williams, Shyrea Williams, Angela Rabon, Mike
5 Rogers.

6 Any member of the jury panel connected by blood
7 or marriage, close personal friends or social
8 relations with any of the potential witnesses in this
9 case; if so, please stand. And if you can't
10 understand me, raise your hand, too. I will try to
11 do better. Okay.

12 The Solicitor's Office is being represented by
13 Harry Conner. The Mr. Jackson is being represented
14 by Tim Murphy and Mr. Robinson is being represented
15 by David Sullivan.

16 Are there any members of the jury panel
17 connected by blood or marriage, close personal
18 friends, social relations or represented by any of
19 these attorneys; if so, please stand.

20 These charges allegedly arose on June the 18th
21 of 2007. Is there any member of the jury panel
22 formed or expressed an opinion about any of the
23 matters or issues involved in this case; if so,
24 please stand.

25 Is there any member of the jury panel aware of

1 any bias or prejudice either toward the State of
2 South Carolina or these defendants; if so, please
3 stand.

4 Is there any member of the jury panel that
5 served on the Grand Jury here in Sumter County that
6 heard these cases; if so, please stand.

7 Is there any member of the jury panel due to
8 religious or moral reasons unable to judge your
9 fellow man? If so, please stand.

10 Any member of the jury panel know any reason
11 whatsoever they can't give both the State of South
12 Carolina and this defendant a fair and impartial
13 trial; if so, please stand. Any further questions on
14 behalf of the State?

15 MR. CONNER: None from us, Your Honor.

16 THE COURT: From the defense?

17 MR. SULLIVAN: None from Mr. Robinson, Your
18 Honor.

19 MR. MURPHY: Your Honor, we would ask you to
20 inquire whether any panel members been a -- or close
21 family member of -- and member been a victim of a
22 violent crime.

23 THE COURT: Okay. Any member of the jury panel
24 or a close family member of the jury panel been a
25 victim of a violent crime; if so, please stand.

1 Anything further, Mr. Murphy?

2 MR. MURPHY: No, Your Honor.

3 MR. SULLIVAN: No, sir.

4 THE COURT: Okay. Madam Clerk or Mr. Clerk, if
5 you will give us a jury. It will be 10 and 20.

6 BAILIFF: May it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 BAILIFF: Ladies and gentlemen, if your name is
9 called, please come forward through the double gates
10 in the center aisle or either the single gate on your
11 right. Come stand in front of the bar and face the
12 back of the courtroom, please, and bring with you any
13 personal belongings you may have.

14 Juror number 154, April Charlene Geddings (white
15 female). What says the State?

16 MR. CONNER: Present Mrs. Geddings.

17 BAILIFF: What says defendant Robinson?

18 MR. SULLIVAN: Please excuse this juror.

19 BAILIFF: Have a seat back with the jury panel.
20 You have been excused from this trial, please ma'am.

21 Juror number 56, Martha Green (black female). What
22 says the State?

23 MR. CONNER: Present Mrs. Green.

24 BAILIFF: What says defendant Robinson?

25 MR. SULLIVAN: Seat Mrs. Green, please.

1 BAILIFF: What says defendant Jackson?

2 MR. MURPHY: Please seat Mrs. Green.

3 BAILIFF: Have a seat in the jury box, please
4 ma'am. Ma'am, this way. Juror number 146, Chenelle
5 Wilson (black female). What says the State?

6 MR. CONNER: Excuse the lady for this trial.

7 BAILIFF: Have a seat back with the panel. You
8 have been excused from this trial, please ma'am.
9 Juror number 149, Tamara Wise (white female). What
10 says the State?

11 MR. CONNER: Present Mrs. Wise.

12 BAILIFF: What says defendant Robinson?

13 MR. SULLIVAN: Seat Mrs. Wise, please.

14 BAILIFF: What says defendant Jackson?

15 MR. MURPHY: Please excuse this juror.

16 BAILIFF: Have a seat back with the panel. You
17 have been excused from this trial, please ma'am.
18 Juror number 103, Floretty Nelson (black female).
19 What says the State?

20 MR. CONNER: Present Mrs. Nelson.

21 BAILIFF: What says defendant Robinson?

22 MR. SULLIVAN: Please seat this juror.

23 BAILIFF: What says defendant Jackson?

24 MR. MURPHY: Please seat this juror.

25 BAILIFF: Have a seat in the jury box, please

1 ma'am. Juror number 125, Joan Singleton (black
2 female). What says the State?

3 MR. CONNER: Please excuse the lady from this
4 trial.

5 BAILIFF: Have a seat back with the panel. You
6 have been excused from this trial, please ma'am.
7 Juror number 12, Michael Boyd (black male). What
8 says the State?

9 MR. CONNER: Present Mr. Boyd.

10 BAILIFF: What says defendant Robinson?

11 MR. SULLIVAN: Seat the juror, please.

12 BAILIFF: What says defendant Jackson?

13 MR. MURPHY: Please seat this juror.

14 BAILIFF: Have a seat in the jury box, please
15 sir. Juror number 49, Sandra Geddings (white
16 female). What says the State?

17 MR. CONNER: Present Mrs. Geddings.

18 BAILIFF: What says defendant Robinson?

19 MR. SULLIVAN: Please excuse this juror.

20 BAILIFF: Have a seat back with the panel. You
21 have been excused from this trial, please ma'am.
22 Juror number 122, Letitia Simien (black female).
23 What says the State?

24 MR. CONNER: Present the lady.

25 BAILIFF: What says defendant Robinson?

1 MR. SULLIVAN: Excuse this juror, please.

2 BAILIFF: Have a seat back with the panel. You
3 have been excused from this trial, please ma'am.
4 Juror number 34, Lakisha Dyer (black female). What
5 says the State?

6 MR. CONNER: Excuse Mrs. Dyer for this trial.

7 BAILIFF: Have a seat back with the panel. You
8 have been excused from this trial, please ma'am.
9 Juror number 83, Salena Kirkpatrick (white female).
10 What says the State?

11 MR. CONNER: Present Mrs. Kirkpatrick.

12 BAILIFF: What says defendant Robinson?

13 MR. SULLIVAN: Excuse this juror, please.

14 BAILIFF: Have a seat back with the panel. You
15 have been excused from this trial, please ma'am.
16 Juror number 126, Calvin Smith (white male). What
17 says the State?

18 MR. CONNER: Present Mr. Smith.

19 BAILIFF: What says defendant Robinson?

20 MR. SULLIVAN: Seat Mr. Smith.

21 BAILIFF: What says defendant Jackson?

22 MR. MURPHY: Please seat this juror.

23 BAILIFF: Have a seat in the jury box, please
24 sir. Juror number 151, Easter Canty (black female).
25 What says the State?

1 MR. CONNER: Present Mrs. Canty.

2 BAILIFF: What says defendant Robinson?

3 MR. SULLIVAN: What number is she?

4 BAILIFF: 151.

5 MR. SULLIVAN: Please seat the juror.

6 BAILIFF: What says defendant Jackson?

7 MR. MURPHY: Please seat this juror.

8 BAILIFF: Have a seat in the jury box, please
9 ma'am. Juror number 109, Sharon Parker (white
10 female). What says the State?

11 MR. CONNER: Present Mrs. Parker.

12 BAILIFF: What says defendant Robinson?

13 MR. SULLIVAN: Please excuse Mrs. Parker.

14 BAILIFF: Have a seat back with the panel. You
15 have been excused from this trial, please ma'am.
16 Juror number 152, Belinda Lowder (white female).
17 What says the State?

18 MR. CONNER: Present Mrs. Lowder.

19 BAILIFF: What says defendant Robinson?

20 MR. SULLIVAN: Seat Mrs. Lowder, please.

21 BAILIFF: What says defendant Jackson?

22 MR. MURPHY: Please seat this juror.

23 BAILIFF: Have a seat in the jury box, please
24 ma'am. Juror number 113, James Reid (black male).
25 What says the State?

1 MR. CONNER: Excuse the gentleman for this
2 trial.

3 BAILIFF: Have a seat back with the panel. You
4 have been excused from this trial, please sir. Juror
5 number 79, Joseph Kennedy (black male). What says
6 the State?

7 MR. CONNER: May it please the Court. Could we
8 ask about Mr. Kennedy's employment? Apparently we
9 missed that when we were standing...

10 THE COURT: Yeah. Mr. Kennedy, do you work
11 anywhere?

12 JUROR: Laid off Sander Brothers, pipe work.

13 THE COURT: Laid off by who?

14 JUROR: Sanders Brothers.

15 THE COURT: Okay. Any other additional
16 information to those questions? He said he was laid
17 off by Sanders Brothers.

18 MR. CONNER: Present this juror.

19 BAILIFF: What says defendant Jackson?

20 MR. SULLIVAN: Seat the juror, please.

21 BAILIFF: What says defendant Jackson?

22 MR. MURPHY: Seat this juror.

23 BAILIFF: Have a seat in the jury box, please.
24 sir. Juror number 92, Danny Marshall (white male).
25 What says the State?

1 MR. CONNER: Present Mr. Marshall.

2 BAILIFF: What says defendant Robinson?

3 MR. SULLIVAN: Excuse this juror.

4 BAILIFF: Have a seat back with the panel. You
5 have been excused from this trial, please sir. Juror
6 number 50, Regina Giles (black female). What says
7 the State?

8 MR. CONNER: Present Mrs. Giles.

9 BAILIFF: What says defendant Robinson?

10 MR. SULLIVAN: Excuse this juror, please.

11 BAILIFF: Have a seat back with the panel. You
12 have been excused from the panel, ma'am. Juror
13 number 148, Patrice Wilson (black female). What says
14 the State?

15 MR. CONNER: Present Mrs. Wilson.

16 BAILIFF: What says defendant Robinson?

17 MR. SULLIVAN: Seat Mrs. Robinson, please.

18 BAILIFF: What says defendant Jackson?

19 MR. MURPHY: Please seat this juror.

20 BAILIFF: Have a seat in the jury box, ma'am.
21 Ma'am, have a seat over here, please. Juror number
22 94, Angler McDaniel (black female). What says the
23 State?

24 MR. CONNER: Present Ms. McDaniel.

25 BAILIFF: What says defendant Robinson?

1 MR. SULLIVAN: Seat the juror, please.

2 BAILIFF: What says defendant Jackson?

3 MR. MURPHY: Please excuse this juror.

4 BAILIFF: Have a seat back with the panel. You
5 have been excused from this trial, please ma'am.

6 Juror number 32, Earnest Dow (black male). What says
7 the State?

8 MR. CONNER: Present Mr. Dow.

9 BAILIFF: What says defendant Robinson?

10 MR. SULLIVAN: Seat Mr. Dow, please.

11 BAILIFF: What says defendant Jackson?

12 MR. MURPHY: Please excuse this juror.

13 BAILIFF: Have a seat back with the panel. You
14 have been excused from this trial, please sir. Juror
15 number 95, Vivian McGriff (white female). What says
16 the State?

17 MR. CONNER: Present Mrs. McGriff.

18 BAILIFF: What says defendant Robinson?

19 MR. SULLIVAN: Seat the juror, please.

20 BAILIFF: What says defendant Jackson?

21 MR. MURPHY: Please excuse this juror.

22 BAILIFF: Have a seat back with the panel. You
23 have been excused from this trial, please ma'am.

24 Juror number eight, Leland Benenhaley (white male).

25 What says the State?

1 MR. CONNER: Present Mr. Benenhaley.

2 BAILIFF: What says defendant Robinson?

3 MR. SULLIVAN: Excuse this juror, please.

4 BAILIFF: Have a seat back with the panel. You
5 have been excused from this trial, please sir. Juror
6 number 28, Tillman Cuttino (white male). What says
7 the State?

8 MR. CONNER: Present Mr. Cuttino.

9 BAILIFF: What says defendant Robinson?

10 MR. SULLIVAN: Seat the juror, please.

11 BAILIFF: What says defendant Jackson?

12 MR. MURPHY: Please excuse this juror.

13 BAILIFF: Have a seat back with the panel. You
14 have been excused from this trial, please sir. Juror
15 number four, Wendy Allen (black female). What says
16 the State?

17 MR. CONNER: Present Mrs. Allen.

18 BAILIFF: What says defendant Robinson?

19 MR. SULLIVAN: Seat the juror, please.

20 BAILIFF: What says defendant Jackson?

21 MR. MURPHY: Please seat this juror.

22 BAILIFF: Have a seat in the jury box, please
23 ma'am. Juror number 153, Tracy Gerecke (white male).
24 What says the State?

25 MR. CONNER: Present the gentleman.

1 BAILIFF: What says defendant Robinson?

2 MR. SULLIVAN: Excuse the juror, please.

3 BAILIFF: Have a seat back with the panel. You
4 have been excused from this trial, please sir. Juror
5 number 44, Michael Fullard (black male). What says
6 the State?

7 MR. CONNER: Present Mr. Fullard.

8 BAILIFF: What says defendant Robinson?

9 MR. SULLIVAN: Seat Mr. Fullard, please.

10 BAILIFF: What says defendant Jackson?

11 MR. MURPHY: Please seat the juror.

12 BAILIFF: Have a seat in the jury box, please
13 sir. Juror number 62, Lucious Harvin (black male).
14 What says the State?

15 MR. CONNER: Present Mr. Harvin.

16 BAILIFF: What says defendant Robinson?

17 MR. SULLIVAN: Seat Mr. Harvin, please.

18 BAILIFF: What says defendant Jackson?

19 MR. MURPHY: Please excuse this juror.

20 BAILIFF: Have a seat back with the panel. You
21 have been excused from this trial, please sir. Juror
22 number 123, Janie Sims (black female). What says the
23 State?

24 MR. CONNER: Excuse the lady for this trial.

25 BAILIFF: Have a seat back with the panel. You

1 have been excused from this trial, please ma'am.
2 Juror number 19, Stephen Byrd (white male). What
3 says the State?

4 MR. CONNER: Present Mr. Byrd.

5 BAILIFF: What says the defendant Robinson?

6 MR. SULLIVAN: Seat Mr. Byrd, please.

7 BAILIFF: What says defendant Jackson?

8 MR. MURPHY: Please seat Mr. Byrd.

9 BAILIFF: Have a seat in the jury box, please
10 sir. Juror number 104, Roberta Nelson (black
11 female). What says the State?

12 MR. CONNER: Present Mrs. Nelson.

13 BAILIFF: What says defendant Robinson?

14 MR. SULLIVAN: Excuse the juror.

15 BAILIFF: Have a seat back with the panel. You
16 have been excused from this trial, please ma'am.
17 Juror number 38, Mozette Edwards (black male). What
18 says the State?

19 MR. CONNER: Present Mr. Edwards.

20 BAILIFF: What says defendant Robinson?

21 MR. SULLIVAN: Seat Mr. Edwards.

22 BAILIFF: What says defendant Jackson?

23 MR. MURPHY: Please excuse this juror.

24 BAILIFF: Have a seat back with the panel. You
25 have been excused from this trial, please sir. Juror

1 number 37, Michael Edwards (black male). What says
2 the State?

3 MR. CONNER: Present Mr. Edwards.

4 BAILIFF: What says defendant Robinson.

5 MR. SULLIVAN: Seat Mr. Edwards, please.

6 BAILIFF: What says defendant Jackson?

7 MR. MURPHY: Please excuse this juror.

8 BAILIFF: Have a seat back with the panel. You
9 have been excused from this trial, please sir. Juror
10 number 54, Jerome Graham (black male). What says the
11 State?

12 MR. CONNER: Present Mr. Graham.

13 BAILIFF: What says defendant Robinson?

14 MR. SULLIVAN: Seat the juror, please.

15 BAILIFF: What says defendant Jackson?

16 MR. MURPHY: Please seat Mr. Graham.

17 BAILIFF: Have a seat in the jury box, please
18 sir. Alternate juror.

19 THE COURT: One alternate be enough? How long
20 do you think this trial is going to last?

21 MR. CONNER: I would think we probably need two,
22 Your Honor.

23 THE COURT: Well, we'll see how we go. All
24 right.

25 BAILIFF: Alternate juror. Number 74, Latasha

1 Jackson (black female). What says the State?

2 MR. CONNER: Present Mrs. Jackson.

3 BAILIFF: What says defendant Robinson?

4 MR. SULLIVAN: Seat Mrs. Jackson, please.

5 BAILIFF: What says defendant Jackson?

6 MR. MURPHY: Please seat Mrs. Jackson.

7 BAILIFF: Have a seat in the jury box, please

8 ma'am. Second alternate, juror number 46, Beverly

9 Gardner (white female). What says the State?

10 MR. CONNER: Present Mrs. Gardner.

11 BAILIFF: What says the defendant Robinson?

12 MR. SULLIVAN: Seat this juror, please.

13 BAILIFF: What says defendant Jackson?

14 MR. MURPHY: Please excuse this juror.

15 BAILIFF: Have a seat back with the panel. You

16 have been excused from this trial, please ma'am.

17 Juror number 53, Cindy Goines (black female). What

18 says the State?

19 MR. CONNER: Present the juror.

20 BAILIFF: What says defendant Robinson?

21 MR. SULLIVAN: Seat the juror, please.

22 BAILIFF: What says defendant Jackson?

23 MR. MURPHY: Please seat this juror.

24 BAILIFF: Have a seat in the jury box, please

25 ma'am.

1 THE COURT: Are there any matters of law
2 pertaining to the selection of the jury on behalf of
3 the State?

4 MR. CONNER: Not at this time, Your Honor.

5 THE COURT: Defense?

6 MR. SULLIVAN: None, Your Honor.

7 MR. MURPHY: No, Your Honor.

8 THE COURT: Okay. My understanding, Mr.
9 Solicitor, that Judge James is coming in here to
10 draw... so he sent me a message to give them, the
11 panel a 10 minute break, and he'd come in here while
12 we are waiting to transition.

13 Ladies and gentlemen who were not selected to
14 serve on this case, I'm going to give you a 10 minute
15 break. Judge James is coming back in here to select
16 the next jury. So we are going to take 10 minutes to
17 try to switch judges around.

18 So you have got 10 minutes. If you'll be back
19 in your chair in 10 minutes, I'd appreciate it.
20 Thank you.

21 I'm going to excuse you to go to the jury room.
22 It's probably going to take 30 minutes to select the
23 next jury. So y'all can -- it's kind of --
24 ultimately what I want you to do before this case is
25 over with is select your own foreperson so the --

1 y'all get to know each other before this case is over
2 with, so sometime -- select your own foreperson.

3 If you'll go to the jury room. All right. Wait
4 a minute. I will remind you, don't discuss this case
5 yet. You don't know anything about it and I will
6 explain to you why later, but don't talk anything
7 about this case.

8 You can talk about the weather, turkey season,
9 anything else, but you can't talk about this case.
10 I'll get you back out as quick as I can. Thank you.

11 (Jury left the courtroom at 12:01 pm.)

12 *THE COURT:* Want to start the trial at 2:30?
13 Okay. I should have told them that. Just tell them
14 that they can go to lunch and be back in the jury
15 room at 2:30. Any objection to the Clerk telling
16 them?

17 *MR. SULLIVAN:* None, Your Honor.

18 *MR. MURPHY:* None, Your Honor.

19 (Whereupon court was in recess for lunch.)

20 (Whereupon, State's Exhibits Nos. 1-30 were
21 marked for identification only.)

22 (Whereupon, State's Exhibits 2a-d, 3a-e, 4a-d,
23 5a-b, 9a-e, 15a-d, 16a-i were admitted into
24 evidence.)

25 *THE COURT:* Okay, gentlemen. I understand y'all

1 have pre-marked certain items of evidence and that
2 the State's Exhibit number 2, 3, 4, 5, 9 are in
3 without objection; is that correct?

4 MR. SULLIVAN: That's correct.

5 MR. MURPHY: That's correct.

6 THE COURT: Okay. Anything before we bring in
7 the jury from -- behalf of the State or the defense?

8 MR. SULLIVAN: No, sir.

9 MR. MURPHY: No, sir, Your Honor.

10 MR. CONNER: Nothing from us.

11 THE COURT: All right, sir. If you would bring
12 us the jury.

13 (Jury entered the courtroom at 2:53 pm.)

14 THE COURT: You can swear the jury.

15 (Whereupon the jury was sworn.)

16 THE COURT: Ladies and gentlemen, I apologize
17 about my voice, but I have come down over the weekend
18 with the Carolina crud or something.

19 We are about to begin the trial of the State
20 versus Teron Jackson and Jermel Robinson. And we are
21 beginning this trial on an indictment which charges
22 these two defendants with the crimes of murder, two
23 counts of attempted armed robbery, possession of a
24 firearm during the commission of a violent crime, and
25 possession of a pistol by a person under the age of

1 18 years, and lynching in the first degree.

2 Now, to this indictment these two defendants
3 have entered a plea of not guilty. Therefore it
4 shifts the burden upon the State to prove each and
5 every element of these indictments beyond a
6 reasonable doubt.

7 Now, the elements of these indictments I will
8 explain to you at the end of this trial. But
9 basically this indictment is not evidence in this
10 case. It's simply a formal document which gets this
11 case into court to be tried.

12 The evidence that you are to consider in this
13 case is going to come to you in basically three
14 forms. First through sworn testimony on this witness
15 stand where witnesses will come in, be placed under
16 oath, and testify from this stand.

17 Then any exhibits that are introduced by the
18 parties will also -- be evidence that I will allow
19 in. And any stipulations that the attorneys might
20 make. That's the evidence that you are to consider.

21 And your job is simply to listen to the evidence
22 in this case and determine what the true facts are.
23 My job is to rule upon the admissibility of evidence,
24 to determine under our rules and under our laws what
25 evidence you should hear.

1 And then once I do that, at the end of this
2 trial, I will instruct you on the law that you must
3 apply in this case to the facts that you determine to
4 be true to reach a verdict that speaks the truth in
5 this case.

6 It is very important throughout this trial that
7 you pay attention to the evidence because if you make
8 a mistake in your job, it is very hard to correct
9 that mistake.

10 If I make a mistake on the law, then at some
11 other time and some other place it would be reviewed
12 and corrected if I made one. But it's very difficult
13 to correct a mistake that you have made. And that's
14 why we got 12 of you, because it's an important
15 decision.

16 And your job is simply to listen to the evidence
17 and determine what you deem to be the truth in this
18 case and then to apply the law that I give to you.

19 Now, the way this trial is going to go, the
20 State has the burden of proof and they're going to go
21 first by making an opening statement to you.

22 And that opening statement is not evidence.
23 That's simply the Solicitor's roadmap so to speak or
24 to tell you about this case and to tell you about
25 where he thinks the evidence is going to take you in

1 this case.

2 After he makes his opening statement, then the
3 attorneys for the defendants have a right to make an
4 opening statement. They don't have to make an
5 opening statement because they don't have to prove
6 anything.

7 The burden of proof is upon the State of South
8 Carolina. But in most cases the defense attorneys
9 will make an opening statement to you. And as I tell
10 you, that's not evidence either. What the lawyers
11 say is not evidence. Even the questions the lawyers
12 ask is not evidence.

13 It's what you hear from this witness stand
14 that's evidence in this case. But once we have the
15 opening statements, then we begin with the testimony
16 of the case.

17 And then after you hear all of the testimony, I
18 will charge you on -- well, you will hear the closing
19 arguments first, and at that time both attorneys will
20 get up and argue to you as to what they think the
21 evidence shows in this case, then I will give you the
22 law and you're to take that law in the jury room and
23 reach a verdict that speaks the truth.

24 Now, throughout this trial we will take
25 breaks -- and I will try to take one about every

1 hour, hour and a half. In the mean time, if you need
2 a break, just raise your hand and we'll stop and take
3 one because it's very important that all of you pay
4 close attention.

5 And if you're uncomfortable, you're not paying
6 attention. So just simply raise your hand if you
7 need a break.

8 Now when we do -- I may have to send you to the
9 jury room throughout this trial to rule on certain
10 legal points outside of your presence. If I do, then
11 every time I send you to the jury room I'm going to
12 tell you please don't discuss this case yet.

13 And you may get back there and say, well, we
14 have heard testimony from one or two witnesses, why
15 can't we talk about what that witness said? And the
16 reason you can't is if some of you get back there and
17 start -- and make a statement as to where you think
18 this case is going, then at the end of the case you
19 are going to want to defend that opinion you had at
20 the beginning of the case.

21 And it's not right for you to start forming
22 opinions until you have heard all the evidence, till
23 you have heard the entire case, and then and only
24 then is it proper for you to start forming an
25 opinion.

1 So that's why I tell you please don't discuss
2 the case yet. And it's only proper for you to start
3 discussing after you have heard all of the evidence
4 and the law that I'm going to charge you.

5 The -- if at any time you can't hear me or you
6 can't hear the witnesses, just simply raise your hand
7 and I will move the microphone and have them speak up
8 where you can hear because it's very important for
9 you to hear.

10 And we will try to stop every day around five.
11 Sometimes if we have a witness that we're in the
12 middle of, I may go a little longer than that.
13 Sometimes we may stop a little earlier than that.
14 And I will try to start back at 9:30 every morning.

15 We usually break for lunch around one and come
16 back at 2:30. That's normally the schedule. But we
17 may have to deviate from that based on how the
18 witnesses fall out and how this trial runs.

19 So if you would please pay close attention to
20 the Solicitor, he will begin with the opening
21 statement. Mr. Solicitor?

22 OPENING STATEMENT

23 MR. CONNER: Ladies and gentlemen of the jury,
24 my name is Harry Conner and I'm an Assistant
25 Solicitor here in Sumter County. As you have already

1 heard, we're here -- these two defendants are Jermel
2 Robinson and Teron Jackson are charged with armed
3 robbery and -- well, attempted armed robbery.

4 They never actually got any money in this case.
5 That's why they are charged with attempted armed
6 robbery and murder.

7 And in addition to that, there's three other
8 charges in the indictment. One of them is lynching.
9 I'm going to talk briefly about that later on.

10 But all five of these charges stem from this one
11 incident. It's not something that happened on five
12 different days. It all happened at one time. But
13 under the law of South Carolina, you can be charged
14 with more than one crime stemming from one incident.

15 Now, I put this diagram up here. This is
16 State's Exhibit number one. And we'll be referring
17 to it throughout the case and you will also see some
18 photographs of the scene.

19 This is what -- a apartment complex known as
20 Poplar Square Apartments. The victim in this case
21 was a young 19 year old boy named Dominique Wimberly,
22 and he was killed.

23 And he -- and you're going to learn from some of
24 the witnesses that testify -- that will testify in
25 this case is that he was dating a girl or talking

1 with a girl that lives at this apartment right here,
2 Apartment F. There are several units in there. So
3 she was living in F4.

4 And they had -- this happened late Sunday night
5 early Monday morning about 2 am in the morning. But
6 you're going to find out that they were together on
7 and off all day socializing.

8 They -- first place they went is they went to
9 church. They went to church that morning and then he
10 brought her home and then he had to swap cars with
11 his mother, and several things happened through the
12 day. She'll be telling you about that at some point
13 during this trial.

14 And they got back over there. A friend of hers
15 named Talisha Kinard was living with her at the time.
16 And the three of them got back there about midnight.
17 And they parked right here, this -- there's a street
18 light. It's not shown on this diagram right on
19 there -- and you'll see it in some of the pictures.

20 Dominique parked his car here. He was seated in
21 the driver's seat, and his friend Toni Wilson, the
22 girl he was talking to, was seated there in the
23 passenger's seat.

24 This -- during the time that they sat there
25 talking, they talked for a good while. The -- we

1 submit that the two defendants charged from this
2 direction over here at the corner of this building,
3 F, they came around the corner and rushed this car.

4 Both of them armed with pistols. One was a
5 .40 caliber semiautomatic pistol and one was a 38
6 special pistol. The -- and they were there with the
7 purpose of robbing this young man and this young
8 woman, too.

9 They are charged in the indictment with robbing
10 them both. It so happened that when they got there,
11 there's some room for conjecture as to exactly what
12 happened.

13 But when they got there, somehow Wimberly got a
14 hold to one of the robber's guns, and when he -- he
15 was killed. He suffered at least four, perhaps five
16 gunshot wounds.

17 He's got holes in his body that the doctor that
18 examined him at the autopsy will be telling you
19 about. And most of those came from the passenger's
20 side of the vehicle it would appear from looking at
21 the photographs because the holes -- most of the
22 holes are on that right side of the body.

23 The -- one of the defendants was at this window
24 on the driver's side and one was on the other side,
25 on the passenger's side. And that this -- two

1 possibilities that allowed him to get his gun.

2 One of these robbers, Mr. Robinson, was on this
3 side of the vehicle, on the driver's side, and he was
4 shot. He was either shot with his own gun or he was
5 shot with -- by his buddy who was over here on the
6 opposite side of the car.

7 Both guns it would appear from what we have been
8 able to gather and what you will see in this case is
9 both guns were fired and that they went there with
10 the purpose of committing an armed robbery.

11 Now, the police arrived, of course, and what
12 they found is they found Mr. Wimberly, he was all --
13 apparently when he was shot, his motor was running so
14 fast and the excitement was so great, even though he
15 was fatally wounded, he had the power to jump out of
16 that car and run into Toni Wilson's apartment here in
17 this building, and that's where we found his body or
18 where the police found his body and they also found
19 that .40 caliber gun that we submit belonged to Mr.
20 Robinson.

21 They also found Mr. Robinson over here at this
22 building, L2. And there's going to be some witnesses
23 that testify that when -- that they were out here in
24 this yard and they saw what happened.

25 They couldn't tell exactly who it was because

1 they had on masks, but they could tell you that the
2 masked men run there, they pointed the guns at the
3 car, they heard loud talking, and they heard the
4 gunfire, and then they saw the masked men turn and
5 run this way and around this corner.

6 And the police are going to tell you that they
7 trailed Jermel Robinson to this building here, L
8 building, along that path, and they took swabs of the
9 blood they found on the pavement and they sent that
10 to SLED, and they're going to say that the swabs
11 matched the DNA of Jermel Robinson.

12 And also, as a matter of interest, they went to
13 apartment L2 here which happened to be somebody Mr.
14 Robinson knew, but he actually lived in this same
15 building, in apartment L5.

16 They were riding bicycles. And you're going to
17 hear something about that during the course of this
18 trial. They were riding a red bicycle and a silver
19 colored bicycle.

20 And you're going to find from the police that
21 the bicycles were on the opposite side of this fence
22 right here about where this utility pole is in this
23 area. You will see photographs of that.

24 You are also going to find that the police took
25 footprints here from a pair of shoes, and that's been

1 matched by the SLED laboratory latent print people
2 with Mr. Robinson.

3 We'll also have firearms testimony by SLED in
4 regards to these two weapons. There was a -- I told
5 you a few minutes ago that there's proof that both of
6 these guns were fired, and there's proof in more than
7 one way. I won't go into that altogether at this
8 time.

9 However, I think the SLED firearms expert will
10 confirm that, and we found a -- Truman Duggin with
11 the Sumter Police Department found a cartridge case
12 that came out of this .40 caliber pistol right here
13 in the victim's car right at the -- at the bottom of
14 the door.

15 And the bullets that were taken out of the car,
16 Mr. Duggin also found bullets in this automobile, and
17 those were submitted to SLED where they examined it
18 along with two bullets that were recovered from the
19 victim's body.

20 We did not recover the bullet that went into
21 Mr. Robertson because it passed through. It hit in
22 the chest and passed through and exited his back.

23 The -- I believe I told you when we started here
24 that we have got several charges in this indictment.
25 One is murder. Dominique Wimberly was a 19 year old

1 boy who was doing nothing wrong insofar as we have
2 been able to determine other than he had been to
3 church with his girlfriend and that he was sitting in
4 an automobile talking.

5 He died. He died right there at -- well, he
6 died at Tuomey Hospital. They called the emergency
7 crew, they picked him up, took him to the hospital.
8 Shortly after he arrived, he died.

9 There's two counts of attempted armed robbery.
10 There's no doubt, ladies and gentlemen, you will hear
11 evidence that these young men wore masks on their
12 face, they had on hoodies.

13 They both admit that they were armed with
14 pistols, one with a .40 caliber, and one with a
15 .38 caliber revolver. They are also charged with
16 possession of firearms during a violent crime, and I
17 can't think of anything more violent than murder.

18 They are also charged with possession of
19 firearms by a person less than 18 years of age and
20 also what's called lynching.

21 Lynching is when two or more people get together
22 and plan and carry out an unlawful act, a violent act
23 that causes a death. So those are the charges.

24 And I submit to you that we have ample evidence
25 that -- you will see ample evidence that -- to

1 convince you that these defendants are guilty as
2 charged. We thank you for your attention throughout
3 this case.

4 OPENING STATEMENT

5 MR. SULLIVAN: Hello, ladies and gentlemen. My
6 name is David Sullivan. I'm with the Public
7 Defender's office here in Sumter County. I'm
8 representing Jermel Robinson, the gentleman at that
9 table closest to us.

10 As y'all probably put -- I'd like to thank y'all
11 for being here. I know that you had to -- quite a
12 time. It's difficult to take off work, take off time
13 from work, so appreciate y'all -- y'all being here.

14 As you can probably imagine since this is a
15 murder trial, it's likely to be a longer trial. But
16 the Constitution of our United States provides
17 citizens like -- a jury trial in these type serious
18 cases.

19 The purpose for which you all are here today is
20 a very important one. You're being asked to decide
21 the guilt or innocence of a man, which is not
22 something to be taken lightly.

23 One of the most precious things that each of us
24 possess is our freedom. And you all have the grave
25 responsibility of rendering a verdict that may

1 deprive a man of his freedom.

2 And I don't have to tell you all that, you know,
3 that murder is a serious charge under the laws of our
4 state.

5 Now, the State has the burden of proving every
6 element of a crime charged beyond a reasonable doubt.
7 That burden is on the State, not the defendant. The
8 defendant's not required to prove anything.

9 And the Judge will instruct you that you are not
10 permitted to draw any inference from Mr. Robinson's
11 decision to not take the stand. Often a defendant's
12 decision to not take the stand has nothing to do with
13 the defendant trying to hide anything. It may just
14 be that there's no need for the defendant to testify.

15 Maybe that evidence can come in some other way
16 or that all that the defendant then needs to do is to
17 attack the State's case.

18 Think of the State's burden of proof like this.
19 What if neither I nor the defendant were here today.
20 Ask yourself if the State has provided enough
21 evidence to convince you all beyond a reasonable
22 doubt that the defendant's guilty.

23 In other words, please keep in mind the
24 defendant comes into this courtroom with a clean
25 slate.

1 Now, whereas the judge is the ultimate authority
2 on the law, you all are the ultimate authority on the
3 facts. Y'all have something unique that you bring to
4 this process which is common sense. You have got a
5 sixth sense that tells you when something just
6 doesn't sound right.

7 And if inquiry into whether the defendant's
8 guilty or innocence is -- you got. Just because the
9 police have charged him with a crime is not evidence
10 of anything. Police are human, they make mistakes
11 like the rest of us.

12 Also consider that witnesses have biases.
13 Actually it's y'all's job to consider the possible
14 biases of witnesses. And believe it or not -- aren't
15 always honest. A lot of times people have a -- have
16 an angle, they have a bias. And like I said, it's --
17 it's y'all's job to consider these biases.

18 Now, y'all are probably going to hear about
19 what's referred to as the felony murder rule in this
20 case, which is when an individual engages in a felony
21 and death results, it's putting it very simply, that
22 that's felony murder.

23 However, the element of -- you all still have to
24 find element of malice aforethought. That's a
25 element of a crime of murder. And y'all will get

1 some instruction about that later.

2 Now, I suspect that Mr. Conner and the State may
3 try to introduce some statements that it will allege
4 that my client made that incriminates him.

5 If he does, I want y'all to ask yourself as the
6 trial goes on whether you think the statements were
7 freely given or whether you think those statements
8 were coerced by law enforcement.

9 And I'd also like you all to keep in the back of
10 your mind throughout this trial that -- that Mr.
11 Robinson, we believe the evidence will show, didn't
12 himself shoot anyone, and it was actually himself
13 shot.

14 And I would also like for you all to consider
15 that the last thing that -- the State has to show,
16 like I said, malice aforethought. And the indictment
17 states that Teron Jackson and Jermel Robinson did in
18 Sumter County on or about June 18th, 2007
19 willfully -- feloniously, willfully, and with malice,
20 et cetera.

21 Mr. Robinson never -- the last thing he ever
22 wanted was for anybody to get hurt in this incident.
23 I would ask that you all listen to the testimony of
24 all the witnesses and weigh all the evidence before
25 deciding as to the guilt or innocence of Mr.

1 Robinson.

2 Don't deprive that man of his freedom unless the
3 State has met its burden of proving every element of
4 the crime charged beyond a reasonable doubt. He's
5 entitled to that just as any of you all would be if
6 you were charged with a crime. Thank you.

7 THE COURT: All right.

8 OPENING STATEMENT

9 MR. MURPHY: Good afternoon. My name is Tim
10 Murphy and I represent Teron Jackson who is the
11 gentleman at the far end of the table.

12 As you have heard from Mr. Conner and Mr.
13 Sullivan and the Judge, this is a very serious case.
14 A young man, a 19 year old, is dead. Mr. Jackson was
15 17 years old at the time of this incident and now
16 he's facing a -- probably a -- the ultimate crime,
17 and that is murder.

18 I'm not going to get up here and reiterate
19 basically some of the things that Mr. Conner and what
20 Mr. Sullivan said. But as -- what I would like to do
21 briefly is discuss very briefly a couple of concepts
22 and ask you to keep these concepts in mind as you're
23 going through evaluating the evidence.

24 Understand that murder is a legal concept. And
25 the State is required if it is going to prove the

1 charge of murder beyond a reasonable doubt to prove
2 certain facts beyond a reasonable doubt.

3 So we would ask you to listen very carefully
4 when the judge, who is the provider of the law,
5 instructs you at the end regarding what is required
6 for murder, we would ask you to pay particular
7 attention to the concepts of malice and what is truly
8 required for murder. Not all killings result in a
9 murder. Okay. That's what we ask.

10 Obviously, the State must prove its case beyond
11 a reasonable doubt. You must be certain, firmly
12 convinced of every single element of every charge.

13 The second concept with which I'd like you to
14 think about, and it goes hand in hand really with the
15 beyond a reasonable doubt standard, it's kind of a
16 hook side of that same coin, is the presumption of
17 innocence that my client is entitled to throughout
18 this process.

19 Not just the presumption that, you know, he's
20 not guilty. Presumption of he's innocent of this
21 particular charge or these particular charge,
22 innocent.

23 And the Judge will tell you later on that that
24 presumption, like a cloak that's with him throughout
25 the process until you decide long after all the

1 evidence is presented, when the instructions are
2 provided to you, you sit back in that deliberation
3 room and you decide as the jury whether or not there
4 is sufficient evidence to overcome that presumption.

5 And the American legal system, those two
6 concepts, proof beyond a reasonable doubt and the
7 presumption of innocence is what really makes us
8 different.

9 And it doesn't really matter what kind of case
10 we're talking about. This could can be a very
11 emotional case, but we're asking you to set that
12 aside.

13 And on behalf of my client I'm asking you to set
14 that aside and focus on the evidence, focus on the
15 facts, and hold the State to its burden. Hold the
16 State to the burden that it is required under our
17 legal system to meet.

18 Ladies and gentlemen, as I said, this is a
19 serious case. A young man has died. Two young men
20 are really on trial for -- for their -- for, you
21 know, face serious sanctions.

22 And all my client really asks is that the
23 system -- that you consider his case, as serious as
24 it is, and apply the law to the facts and not draw
25 any conclusions about anything until this case is

1 completed.

2 Keep an open mind until this case is totally
3 done and arrive at your decision. Thank you very
4 much.

5 THE COURT: Mr. Solicitor, you may call your
6 first witness.

7 MR. CONNER: Your Honor, I call Officer Stiles.

8 BENJAMIN STILES, after being duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. CONNER:

12 Q Officer Stiles, where are you employed?

13 A Sumter Police Department.

14 Q What do you do there?

15 A I'm a corporal and also a field training officer.

16 Q And how long have you worked for the Sumter police?

17 A A little over six years.

18 Q And were you working back in June, June the 18th,
19 2007?

20 A Yes.

21 Q Night time?

22 A Yes, sir, I was.

23 Q And what were you doing at that time?

24 A I was on patrol at the time.

25 Q And so you have been a police officer for some six

1 years?

2 A That's correct, sir.

3 Q In addition to being a police officer back in 2007,
4 did you have some other type of work also that you did?

5 A Yes, sir. I worked part-time for Sumter County EMS
6 as a emergency medical technician.

7 Q Okay. And did you go to Poplar Square sometime
8 around 2:00 in the morning on June the 18th, 2007?

9 A Yes, sir.

10 Q What was the -- what was the call to go there for?

11 A We had a call of a possible gunshot victim in F4.

12 Q In F4, apartment F4?

13 A Yes, sir.

14 Q And just tell us in your own words about getting
15 there and what you found.

16 A When I arrived, there was a -- I believe a -- there
17 was a female standing at the top of the stairs right
18 outside of apartment number F4. She was waving me into
19 the apartment.

20 I went into the apartment and to my left in front of
21 the couch I observed the victim laying on the ground. He
22 had what appeared to be several gunshot wounds to his
23 upper chest and abdomen area.

24 I immediately rendered aid to the victim, attempting
25 to stop any bleeding, and began basically the first part

1 of the investigation.

2 Q Now, who was the victim?

3 A Mr. Wimberly, a Dominique Wimberly.

4 Q Mr. Wimberly, a Dominique Wimberly.

5 A Yes, sir.

6 Q Now, did you find any weapons in his vicinity?

7 A Yes, sir. Just next to his left hand was a 40
8 caliber -- I believe it's Iberia .40 caliber semiautomatic
9 handgun.

10 Q And was he bleeding?

11 A Yes, sir, he was.

12 Q And the -- did some detectives come?

13 A Yes, sir, they did.

14 Q And do you recall who came?

15 A Yes, sir. Detective Richburg was on scene, also
16 recall Detective Mike Rogers and Lieutenant Detective
17 Duggin were all on scene.

18 Q And did they take into custody the weapon that was
19 found there?

20 A Yes, sir, they did.

21 Q Now, did you -- did you get notified of a second
22 gunshot wound of another person there in the apartment
23 complex?

24 A Yes, sir. While I was attending to Mr. Wimberly, I
25 was notified that there was a second victim in building

1 number L or building L. Believe it was apartment number
2 two, but I don't really recall the exact apartment. I
3 just remember that it was building L.

4 Q It was L? Now, what happened to Wimberly?

5 A EMS arrived and began to treat him. Because of the
6 way that the hallway is shaped, I assisted them in
7 carrying him down the stairs and placing him in the
8 ambulance at which time they took him to Tuomey Hospital.

9 Q Did you go over to the L building to this second
10 gunshot person?

11 A No, sir, I did not.

12 Q Answer any questions the defense might have for you.

13 A Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. SULLIVAN:

16 Q So you're pretty much just the responding officer?

17 A That's correct, sir.

18 Q Okay. Do you know if Jermel Robinson was originally
19 listed as a victim on the -- if he was originally
20 considered a victim?

21 A I listed him as a victim at the time because we did
22 not know the details surrounding how he would have been
23 shot at the time.

24 Q Okay. Did y'all do a pretty good search of the
25 parking lot for any kind of casing?

1 A Yes, sir, a search was done of the parking lot. I
2 was not involved in the entire search, but I was involved
3 in some of the search.

4 Q Do you know if there was a .32 caliber casing that
5 was found in the parking lot close to the victim's
6 vehicle?

7 A I do not know, sir.

8 Q Okay. And really all that you can say about the
9 incident is what you just testified to. You can't say
10 if -- you don't have any knowledge that there was any
11 money or jewelry or anything that you're aware of that was
12 found on either one of the defendants or taken from the...

13 A I was not there during any of the time that the
14 defendants were with the others.

15 Q And you said that Mr. Robinson had himself been shot?

16 A That's what I had been told that night, yes, sir. I
17 did not see Mr. Robinson.

18 Q Okay. All right. And you stated that they -- a
19 .40 caliber Iberia firearm was actually found beside
20 Wimberly.

21 A That's correct, sir.

22 Q Okay. Do you think -- do you think it's possible
23 that -- that Wimberly himself had a weapon or you just --
24 your scope of what you did didn't go that far?

25 A My scope of this was to the effect that there was a

1 weapon there. I do not know if that was his weapon or if
2 that was anybody else's weapon.

3 Q All right. That's all the questions that I have.
4 Please answer any questions that Mr. Murphy has.

5 A Yes, sir.

6 MR. MURPHY: Your Honor, I have no questions.

7 THE COURT: Okay. No questions? You can step
8 down.

9 THE WITNESS: Thank you.

10 (Witness left the stand.)

11 MR. CONNER: Call Talisha Kinard.

12 TALISHA KINARD, after being duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. CONNER:

16 Q Talisha, where do you live?

17 A Poplar Square.

18 Q Where?

19 A Poplar Square.

20 Q You were living at Poplar Square when this happened?

21 A Yes, sir.

22 Q And what apartment were you living in?

23 A F8 I think.

24 Q You sure it wasn't F4?

25 A Yeah, I don't know.

- 1 Q You don't remember? But it was in the F building?
- 2 A Yes, sir.
- 3 Q Who were you living there with?
- 4 A Toni Wilson.
- 5 Q Toni Wilson? And on the day -- well, let me ask you.
- 6 Do you live somewhere else now?
- 7 A Yes, sir.
- 8 Q Where do you live?
- 9 A I stay in Columbia.
- 10 Q In Columbia? And what -- do you work over there?
- 11 A Yes, sir.
- 12 Q Where do you work?
- 13 A The Hot Spot on Farrow Road.
- 14 Q And how long have you been working at the Hot Spot?
- 15 A Two months.
- 16 Q And how long have you been living in Columbia?
- 17 A Two months.
- 18 Q Two months? The -- on Sunday, June the 17th, 2007,
- 19 did you have occasion to go to church that day?
- 20 A Yes, sir.
- 21 Q Tell us about how you got there and who you went
- 22 with.
- 23 A Dominique and Derrick came and pick us up from my
- 24 house, me and Toni.
- 25 Q So Dominique Wimberly --

- 1 A Yes, sir.
- 2 Q -- and a fellow named Derrick?
- 3 A (Nodded.)
- 4 Q Okay. What kin -- was Derrick and Dominique kin
- 5 or...
- 6 A I believe so. They were cousins.
- 7 Q They were cousins? And they picked you and Toni
- 8 Wilson up?
- 9 A Yes, sir.
- 10 Q And what -- where did y'all go to church?
- 11 A Love Covenant on Oswego Road.
- 12 Q Love Covenant Church?
- 13 A Yes, sir.
- 14 Q And that's on the Oswego Road?
- 15 A Yes, sir.
- 16 Q Now, did you go to the -- a morning service or an
- 17 afternoon service or when did you go?
- 18 A Morning.
- 19 Q The morning service?
- 20 A Yes, sir.
- 21 Q And after the service was over, where did y'all go?
- 22 A We went back to Toni's house.
- 23 Q Went back to the apartment in F building there that
- 24 Toni lived in?
- 25 A Yes, sir.

1 Q Who did Toni -- who else lived there other than Toni?

2 A Her mother, Brenda, and her brother, Leon.

3 Q So she had -- her mother lived in the house and her
4 brother?

5 A Uh-huh.

6 Q Can I -- did Dominique and Derrick stay there with
7 y'all at the apartment after they brought you home or did
8 they leave and go somewhere?

9 A They stayed for a little while, then they left to
10 take the car back.

11 Q Take whose car back?

12 A His mother's.

13 Q So the car that Dominique was driving was his
14 mother's car?

15 A Yes, sir.

16 Q And did they come back later in the day and pick
17 y'all up again?

18 A Yes, sir.

19 Q Tell us about that.

20 A They came back and picked us up and we went out to
21 eat at Logan's.

22 Q At Logan's restaurant?

23 A Yes, sir.

24 Q And do you have any idea what time that was?

25 A Like 3:00 pm.

1 Q And after you finished eating, did they take you back
2 home?

3 A Yes, we went -- we was on our way to Derrick house,
4 but we stop at the gas station, and then they took us
5 home.

6 Q And then they took you home?

7 A Yes, sir.

8 Q And did they come back later and pick you up and take
9 you somewhere else?

10 A Yes, sir.

11 Q Where did they take you?

12 A We went to Derrick's house.

13 Q And what did y'all do at Derrick's house?

14 A Played cards.

15 Q And what happened next in that day?

16 A We went to McDonald's, then we took Derrick back home
17 before we went -- we went back to Poplar Square.

18 Q So you went to McDonald's restaurant. And then
19 who -- whose vehicle were you riding in then?

20 A Dominique's.

21 Q Dominique's vehicle?

22 A Yes, sir.

23 Q And after you went to McDonald's, he took Derrick
24 back to his house?

25 A Yes, sir.

1 Q And then he took y'all back to Poplar Square

2 Apartments?

3 A Yes, sir.

4 Q How long had you known Dominique?

5 A Since elementary school.

6 Q Say again.

7 A Since elementary school.

8 Q Elementary school. So you had known him all of your
9 life?

10 A Just about.

11 Q Did he -- on this particular day that this thing
12 happened, did you see him with a pistol?

13 A No, sir.

14 Q Had you ever seen him with a pistol?

15 A No, sir.

16 Q So insofar as you knew, he had no pistol and you had
17 never seen him with one.

18 A No.

19 Q Now, when you got back to Poplar Square, where did
20 you park?

21 A In front of the F building.

22 Q In front of the F building?

23 A Yes, sir.

24 Q And did you sit there and talk with him a while?

25 A Yes, sir.

1 Q About how long were you in the car talking with Toni
2 and Dominique?

3 A About 30, 45 minutes.

4 Q And were you in the back seat or the front seat?

5 A Back seat.

6 Q And where was Toni seated?

7 A Passenger's side.

8 Q Passenger's side in the front?

9 A Yes, sir.

10 Q And where was Dominique seated?

11 A Driver's side.

12 Q And after y'all sat there and talked for a while,
13 where did you go?

14 A I went in the house.

15 Q And what did you do after you got inside?

16 A Got something to eat and laid down.

17 Q You laid down? Did you go off to sleep?

18 A Yes, sir.

19 Q And what happened next?

20 A Toni came in the house.

21 Q I'm sorry.

22 A (Witness crying.) Toni came run in the house
23 screaming my name. I went in the living room. He was
24 sitting on the floor.

25 Q So Toni came in yelling your name?

- 1 A Yeah.
- 2 Q And you went in the living room. And when you got in
- 3 the living room, did you see Dominique?
- 4 A Yes.
- 5 Q Where was he?
- 6 A He was sitting on the floor.
- 7 Q Sitting on the floor?
- 8 A Yes, sir.
- 9 Q What was his condition?
- 10 A He was still awake.
- 11 Q I'm sorry.
- 12 A He was still awake.
- 13 Q He was still awake? Could you tell that he had been
- 14 wounded?
- 15 A Yes.
- 16 Q And how could you tell that he had been wounded?
- 17 A I could see blood on his shirt.
- 18 Q Had blood on his shirt? Now, after this was over,
- 19 after they took Dominique to the hospital, did you have
- 20 occasion to go outside?
- 21 A Yes.
- 22 Q And do you know Teron Jackson?
- 23 A Yes.
- 24 Q How long have you known him?
- 25 A Since I moved to Sumter, like maybe three years.

- 1 Q Since you moved to Sumter about three years ago?
- 2 A Yes.
- 3 Q So you knew who he was.
- 4 A Yes, sir.
- 5 Q And did -- did you see him outside after the shooting
- 6 occurred?
- 7 A Yes.
- 8 Q Tell us about that.
- 9 A He was sitting on the curb.
- 10 Q And what kind of clothes did he have on?
- 11 A He had on all black.
- 12 Q All black?
- 13 A Yes, sir.
- 14 Q And shortly after that, did he go somewhere and come
- 15 back in different clothes?
- 16 A Yes, sir.
- 17 Q Tell us about that.
- 18 A He left and came back with a white shirt on.
- 19 Q Came back with a white shirt on?
- 20 A Yes, sir.
- 21 Q Now, did you direct the policewoman's attention to
- 22 him as maybe somebody that knew something?
- 23 A Yes.
- 24 Q You pointed him out to her?
- 25 A Yes, sir.

1 Q Now, this happened early Monday morning, late Sunday
2 night. How about Saturday night, were -- you seen Teron
3 around the apartment complex on Saturday night?

4 A Yes, sir.

5 Q And tell us about what kind of clothing he was
6 attired in when you saw him.

7 A He had on all black.

8 Q All black clothes?

9 A He had on black mask.

10 Q Had on a black mask?

11 A He had it in his hand.

12 Q Had it in his hand?

13 A (Nodded.)

14 Q And did he have anything else?

15 A Yes.

16 Q What did he have?

17 A A black gun.

18 Q He had a gun?

19 A Yes, sir.

20 Q And did he say anything?

21 A Yes, sir.

22 Q What did he say?

23 A He was going to rob the next nigger he saw.

24 Q He was going to do what?

25 A He was going to rob the next nigger that he saw.

1 Q He was going to rob the next...

2 A Nigger he saw.

3 Q Oh. And he had a mask in his hand?

4 A Yes, sir.

5 Q Had on black clothes?

6 A Yes, sir.

7 Q And this was on Saturday night, just -- the day
8 before the killing took place?

9 A Yes, sir.

10 Q Answer any questions the defense lawyer might have
11 for you.

12 CROSS-EXAMINATION

13 BY MR. SULLIVAN:

14 Q Ms. Kinard, you talked some about what happened prior
15 to the incident and you talked some about what happened
16 after the incident. You didn't actually see the shooting,
17 though; did you?

18 A No, sir.

19 Q Okay. So when the shooting occurred, you didn't --
20 you weren't looking out?

21 A No, sir.

22 Q Okay. All right. Do you -- how -- are you aware of
23 most of what Mr. Wimberly owned? I mean, would -- you
24 stated earlier that you had never seen him with a gun?

25 A No.

1 Q Okay. I don't have any more questions. Thank you.

2 CROSS-EXAMINATION

3 BY MR. MURPHY:

4 Q What time Saturday night did you allegedly see my
5 client at Poplar Square?

6 A About 11 pm.

7 Q Your testimony is he had a mask and he had a gun?

8 A Yes, sir.

9 Q So when did -- did you call the police after you
10 heard him say this?

11 A No, sir.

12 Q You didn't call the police?

13 A No.

14 Q Who else was there?

15 A Me, Toni and Derrick.

16 Q You know if Derrick or Toni called the police?

17 A No.

18 Q Well, was Mr. Jackson friends with you?

19 A I mean, we spoke to each other.

20 Q Excuse me?

21 A We used to speak to each other. You could say we was
22 friends. I didn't know him like that.

23 Q So you used to speak to each other?

24 A Yes.

25 Q Has he ever been over to your house?

- 1 A No.
- 2 Q Good friends with Ms. Wilson or Derrick?
- 3 A Toni know him, too. I don't know about Derrick.
- 4 Q So your testimony is he just happened to be talking
5 about he's going to rob the next nigger he saw?
- 6 A Yes.
- 7 Q And he showed you the gun?
- 8 A Uh-huh.
- 9 Q And you didn't call the police.
- 10 A No.
- 11 Q To your knowledge did Ms. Wilson or Derrick call the
12 police?
- 13 A Not that I know of.
- 14 Q Did you take any action?
- 15 A No, sir.
- 16 Q Tell anybody else?
- 17 A No, sir.
- 18 Q Did you tell Toni's mother?
- 19 A Probably did. I can't remember.
- 20 Q You can't remember?
- 21 A No.
- 22 Q Now let's move on to Sunday night, all right, after
23 the shooting. You said you were down at Poplar Square and
24 saw my client at Poplar Square?
- 25 A Uh-huh.

1 Q In all black clothes?

2 A Yes, sir.

3 Q What time was this?

4 A About four or 5 am.

5 Q Four or five...

6 A Am.

7 Q Am. Then you saw him later on with a white shirt on?

8 What time was that?

9 A About 5:30 am.

10 Q 5:30?

11 A Uh-huh.

12 Q I have no further questions. Thank you.

13 MR. CONNER: You may come down, ma'am.

14 THE COURT: Watch your step. Watch your step
15 going down.

16 (Witness left the stand.)

17 MR. CONNER: Sir? I think Mr. Duggin is going
18 to be on the stand for some time.

19 THE COURT: Okay. All right. We'll take about
20 a 10 minute break. If you will go to the jury room.
21 I will remind you don't discuss the case yet and I'll
22 get you back out.

23 (Jury left the courtroom at 3:54 pm.)

24 THE COURT: All right. We'll be in recess.

25 (Whereupon a short recess was taken.)

Truman Duggin - direct by Conner

157

1 MR. CONNER: We're ready, Your Honor.

2 THE COURT: Bring them on.

3 (Jury entered the courtroom at 4:19 pm.)

4 THE COURT: Mr. Solicitor, you may call your
5 next witness.

6 MR. CONNER: Your Honor, I call Lieutenant
7 Duggin.

8 TRUMAN DUGGIN, after being duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. CONNER:

12 Q Lieutenant Duggin, where do you work?

13 A Sumter Police Department.

14 Q And how long have you been employed by the Sumter
15 Police Department?

16 A Full-time for 16 years. I'm retired from the Air
17 Force, and my last five years I was on the reserve force,
18 and so I have got 16 years full-time and total of 21 years
19 associated in law enforcement.

20 Q And what's your duties with the Sumter Police
21 Department?

22 A I'm the Investigative Services Commander, lieutenant,
23 oversee the polygraph examiner, oversee and operate the
24 Automated Fingerprint Identification System, evidence.
25 And my primary job along with the polygraph would be crime

1 scene investigator.

2 Q And how long have you been doing this kind of work?

3 A Approximately 12 years.

4 Q And were you working back on June the 18th, 2007?

5 A Yes, sir, I was.

6 Q And did you become involved in the investigation of
7 this case that happened at Poplar Square Apartment
8 complex?

9 A Yes, sir, I did.

10 Q And did you actually go to the scene that evening?

11 A Yeah, that's correct. Yes.

12 Q And tell us about some of the places you went and
13 what you saw.

14 A I arrived on scene on June 18th of '07 at
15 approximately 0240 hours and was briefed by the patrol
16 officers at the scene. And there was a vehicle in the
17 parking lot and there was a -- in apartment F4 where
18 Mr. Wimberly was at, I went up there, found the parking
19 lot, through the apartment complex over later in the
20 morning into apartment L2 and then later in the day to
21 apartment L5.

22 So it was the basically my -- when I first got there,
23 it was the vehicle, apartment F4, then apartment L2.

24 Q And now, would you come down here and use this
25 diagram and show us where these various different places

Truman Duggin - direct by Conner

159

1 you went and what you found.

2 A With your permission.

3 THE COURT: Yes, sir.

4 THE WITNESS: Thank you.

5 (Witness left the stand.)

6 THE WITNESS: When I arrived -- up here down at
7 this end, we have the nursing home's over here, Manor
8 Healthcare. This is a chain link fence dividing
9 apartments.

10 I came -- I was right around in this area. This
11 is the vehicle that Mr. Wimberly was in. Apartment
12 F4 is the upstairs apartment which is where he was
13 located, and I recovered the weapon, the Iberia
14 .40 caliber weapon.

15 And as concentrated this area through this area
16 through here, across the street. L2 is on the street
17 side bottom floor and L5 is on the other side. But I
18 was mainly -- I was concentrating here, here, this
19 area through here, and L2, and around this pole, a
20 utility pole.

21 BY MR. CONNER:

22 Q You say there's a chain link fence there. Did you
23 find any breaks in the chain link fence?

24 A There was some breaks in the fence down through here.
25 It's been repaired since then, but it was breaks in the

1 fence, yes.

2 Q Places you could get through the fence?

3 A That's correct.

4 Q And did you see any bicycles out there?

5 A Yes. Over on the property of the Manor Healthcare,
6 there was two bicycles right over here laying on their
7 side. And I made the -- I photographed these. I made the
8 annotation of the utility -- of the telephone pole.

9 The telephone pole has a number on it, and it was
10 right here. The telephone pole was on the Poplar Square
11 Apartments. You have a fence. And bicycles were over on
12 the Manor Healthcare property.

13 Q If you would use this marker, put a little X where
14 you found these bicycles.

15 A Somewhere something like that (complied).

16 Q Now, did you take photographs of these various
17 different locations that you're referring to?

18 A Yes. One of the first duties that I have after my
19 briefing is to document the scene the best I can with
20 photography, and that was what I did initially, basically
21 a lot pictures.

22 Q And I show you these four photographs and ask if you
23 can identify them.

24 A State's Exhibit 2A is a photograph of the victim's
25 vehicle. It shows the door open. There's some crime

Truman Duggin - direct by Conner

161

1 scene tape. And it's -- I'm on one side of the parking
2 lot looking towards the vehicle.

3 Exhibit 2B is a photograph of the victim's vehicle
4 with a busted windshield. Exhibit 2C is the victim's
5 vehicle showing the make and the tag. State's Exhibit 2D
6 is closer shot of the vehicle with the door open. Yes,
7 sir, these are photos that I took.

8 Q And that's --

9 MR. CONNER: Your Honor, we would move to have
10 these introduced into evidence. I understand there's
11 no objection.

12 MR. MURPHY: No objection.

13 MR. SULLIVAN: No objection.

14 THE COURT: What numbers are those?

15 MR. CONNER: And in an abundance of precaution,
16 I don't believe we've noted that this diagram has
17 been agreed upon, too.

18 MR. SULLIVAN: No objection.

19 MR. MURPHY: No objection.

20 THE COURT: The diagram is State's one.

21 MR. CONNER: Diagram is State's one. And these
22 four photographs are number 2A, B, C and D are
23 pictures of the automobile and the surroundings.

24 THE WITNESS: Yes, sir.

25 (Whereupon, State's Exhibits 1, 2a-d were

1 admitted into evidence.)

2 THE COURT: Okay. So my understanding, though,
3 y'all stipulated that 2A through D are in evidence.

4 MR. CONNER: That's right.

5 THE COURT: Okay.

6 BY MR. CONNER:

7 Q Now, in the apartment F4, did you take photographs
8 there?

9 A Yes, sir, I did.

10 Q And I show you these photographs marked as State's
11 Exhibit number 3A, B, C, D and E, and ask if you can
12 identify those. Since we're going to publish those, show
13 them to the jury. If you would, just -- if you could just
14 identify them as being pictures of that apartment.

15 A Yes, sir. State's Exhibit 3A, B, C, D and E are
16 photographs that I took of apartment F4 and some of the
17 contents.

18 MR. CONNER: Your Honor, we would offer these
19 into evidence, and I understand there's no objection
20 to that.

21 THE COURT: That's State's three?

22 MR. CONNER: 3A, B, 3C, 3D and 3E.

23 THE COURT: Is that correct?

24 MR. SULLIVAN: That's correct. No objection.

25 MR. MURPHY: Yes, Your Honor.

Truman Duggin - direct by Conner

163

1 THE COURT: They are in without objection.

2 (Whereupon, State's Exhibits 3a-e were admitted
3 into evidence.)

4 BY MR. CONNER:

5 Q Now, did you also go to apartment L2 and find --
6 well, answer that.

7 A Yes, sir, I looked at apartment L2.

8 Q And did you take photographs there?

9 A Yes, sir, I did.

10 Q And was it your understanding that that was the
11 location of where the defendant Robinson was found?

12 A That's correct.

13 Q And I show you these photographs, 4A, B, C and D and
14 ask if you can identify them.

15 A Yes, sir. These are photographs 4A, B, C and D and
16 correct, apartment L2.

17 MR. CONNER: Your Honor, we would offer these
18 into evidence at this time, and I understand there's
19 no objection.

20 MR. SULLIVAN: Yes.

21 THE COURT: That correct, gentlemen?

22 MR. MURPHY: No objection.

23 THE COURT: They are in without objection.

24 (Whereupon, State's Exhibits 4a-d were admitted
25 into evidence.)

1 BY MR. CONNER:

2 Q Now, did you later go to apartment L5?

3 A Yes, sir, I did.

4 Q And did anybody take any pictures there?

5 A Yes, sir. Yes, sir. Detective Culick was taking
6 photos out there.

7 Q Did you have an opportunity to observe anything that
8 she took pictures of?

9 A Yes, sir. I was there with her along with some other
10 task members, all in that same apartment.

11 Q And these two photographs here, I'd ask if you can
12 identify them.

13 A These are photographs that were taken in apartment
14 L5, bathroom.

15 Q And that's the apartment that the defendant Robinson
16 lived in?

17 A Yes, sir.

18 MR. CONNER: Your Honor, we'd offer those into
19 evidence at this time.

20 THE COURT: Okay. That's four, State's four?

21 MR. CONNER: 5A and 5B.

22 THE COURT: Okay. They are in -- any objection,
23 gentlemen?

24 MR. MURPHY: No objection.

25 MR. SULLIVAN: No objection.

Truman Duggin - direct by Conner

165

1 THE COURT: They are in without objection.

2 (Whereupon, State's Exhibits 5a, 5b were
3 admitted into evidence.)

4 BY MR. CONNER:

5 Q And I show you here this photograph and ask if you
6 can identify that.

7 A State's Exhibit six. Yes, sir, it's a photograph
8 that I took of some footwear casting.

9 Q And show us where you found that footwear impression.

10 A Right on the corner of the F apartments, little dirt
11 path coming around by the bushes. And right up where the
12 downstyling is itself, some dirt, and there was some
13 footwear impressions in the dirt.

14 Q And did you submit the footwear casting that you made
15 to the SLED laboratory for examination?

16 A Yes, I photographed it in detail, and cast it, and
17 sent the cast and photos to SLED for -- State Law
18 Enforcement Division for analysis.

19 Q And maybe I wasn't listening carefully enough, but
20 did you make a -- tell us about this casting that you
21 made.

22 A On making a cast, it's -- in the dirt there was an
23 impression of a shoe. So I have what's called dental
24 stone casting which are like Plaster of Paris, if you
25 will.

1 You mix it up and you put a frame around this
2 shoeprint and you pour the cast -- casting material into
3 that and let it dry. It comes out like Plaster of Paris
4 or almost like cement. It has an actual representation of
5 what was there.

6 And before you do this, you take photographs of it.
7 So I took photographs of it and the cast, and they go to
8 State Law Enforcement Division. And when there's a set of
9 shoes, then you can compare shoes with that.

10 And it's just like -- just like a fingerprint, if you
11 will. Footwear, different pattern wear patterns, cuts,
12 things of that nature.

13 Q And do you have that footwear casting here in the
14 courtroom today?

15 A Yes, sir, I do.

16 Q If you would, could you retrieve it? I will let you
17 pick it up.

18 A Okay.

19 MR. CONNER: Your Honor, we would offer this
20 item as State's Exhibit number 28 into evidence.

21 THE COURT: What says the defense?

22 MR. SULLIVAN: No objection.

23 MR. MURPHY: No objection.

24 THE COURT: Okay. State's Exhibit 28 is in
25 without objection.

1 (Whereupon, State's Exhibit 28 was admitted into
2 evidence.)

3 BY MR. CONNER:

4 Q Would you take it up and just -- so these ladies and
5 gentlemen can see what it looks like.

6 A This is State's Exhibit number 28. I have my
7 identifying marks on the back so I will know this is my
8 work. And if you examine it, you look at it with the
9 naked eye without the assistance of magnification,
10 photography or lights, you can see ridges, circles, things
11 of this nature, and this is what was cast at the scene.

12 Q And that was submitted for analysis by SLED?

13 A Yes, sir.

14 Q In comparison to a shoe?

15 A That's correct.

16 Q Okay. Thank you. And next I ask you did -- did you
17 follow a blood trail and make a -- swabs of blood along
18 the cement?

19 A Yes, sir, I did. There was blood, there's a trail I
20 followed between apartment C and D. Come around, there's
21 a sidewalk. This came -- a parking lot here. There's a
22 sidewalk. And you can see drops of blood, blood parts
23 flying.

24 And from here across the street there was -- there
25 was some right here, some over on the other side of the

1 rope on into apartment L2. And for identification
2 purposes I took swabs from this blood for submittal for
3 DNA analysis.

4 Q And I show you here State's Exhibit number 9A, B, C,
5 D and E, these photographs, and ask if you can identify
6 them.

7 A Yes, sir. These are photographs that I took of
8 the -- during the daylight hours of the trail of blood.

9 Q And did you mark that with some other kind of marker
10 so it -- so that it was easier to get a picture of it?

11 A Yes, sir. During the night after I took the
12 photographs, being dark, which is very hard to see, and so
13 I could get some type of -- to show the path, I used
14 fluorescent orange, traffic marking paint that you see on
15 the highways. It's a fluorescent orange.

16 When the light hits it, it glows. And during the day
17 it stands out very white, very vivid.

18 Q And did you also get some swabs to -- of the blood
19 that was on the ground to send to the SLED laboratory?

20 A Yes, sir, I did. I took swabs for analysis to
21 determine whose blood it was.

22 Q And was that forwarded to them for examination?

23 A Yes, sir, it was forwarded to the State Law
24 Enforcement Division's DNA lab.

25 Q Thank you.

1 MR. CONNER: Your Honor, we'd offer 9A, B, C, D
2 and E into evidence.

3 THE COURT: What says the defense?

4 MR. SULLIVAN: No objection.

5 MR. MURPHY: No objection.

6 THE COURT: All right. 9A, B, C, D and E are in
7 without objection.

8 (Whereupon, State's Exhibits 9a-e were admitted
9 into evidence.)

10 BY MR. CONNER:

11 Q Now I next show you State's Exhibit number 15A, 15B,
12 15C and 15D and ask you if you can identify these
13 photographs.

14 A Yes, sir. These are photographs that I took that
15 night and the following few days later of the bicycle, two
16 bicycles that were parked over near the fence.

17 MR. CONNER: Your Honor, we'd offer those in
18 evidence at this time. 15A, B, C and D.

19 MR. SULLIVAN: No objection.

20 MR. MURPHY: No objection.

21 THE COURT: They are in without objection.

22 (Whereupon, State's Exhibits 15a-d were admitted
23 into evidence.)

24 BY MR. CONNER:

25 Q I show you next 16A through 16I and ask you to

1 examine these photographs, please.

2 A 16A through 16I are photographs of the victim's
3 vehicle, the green Hyundai at -- it's a couple of pictures
4 from the scene, and the rest of the pictures were from the
5 city impound area while -- process vehicles.

6 Q Okay.

7 MR. CONNER: Your Honor, we'd offer these into
8 evidence at this time. I understand there's no
9 objection.

10 MR. SULLIVAN: No objection.

11 MR. MURPHY: No objection.

12 THE COURT: They are in without objection.

13 (Whereupon, State's Exhibits 16a-i were admitted
14 into evidence.)

15 BY MR. CONNER:

16 Q Now, Lieutenant Duggin, did you have an
17 opportunity -- I believe you said you had an
18 opportunity -- to examine the victim's car down at the
19 city impound?

20 A Yes, sir, I did.

21 Q And did you find in there any evidence that -- the
22 use of firearms, any bullets or anything that had been
23 fired, a bullet projectile, any casings?

24 A Yes, sir, I did. At the scene I noticed on the
25 driver's seat in the floorboard on the left side area

1 where the controls are on the floor, a .40 caliber shell
2 casing. That was retrieved at the scene so it wouldn't
3 get moved around or lost during transport.

4 The vehicle at the city impound, I noticed it was --
5 well, before the -- I noticed that it was bullet holes in
6 the driver's seat, so photographed that and disassembled
7 the seat back, and found two projectiles of bullets.

8 Q I show you here this item which I believe we got that
9 as 13 and 14 and ask if you can identify it.

10 A Taped up, but, yes there's a -- items 13 and 14 are
11 the projectiles, the bullets that I removed from the seat.

12 Q And are those -- those items also shown in some of
13 these photographs?

14 A That's correct.

15 Q And 16A through 16I, I believe.

16 A That's correct, sir.

17 Q And I show you here also State's Exhibit number 11
18 and ask you if you can identify that. Before you answer
19 that question --

20 MR. CONNER: Let me ask that this be introduced
21 into evidence at this time, Your Honor. It's a
22 number 13 and 14, these two expired bullets that were
23 found inside of the victim's car.

24 THE COURT: What says the defense?

25 MR. MURPHY: No objection.

1 MR. SULLIVAN: No objection.

2 THE COURT: Okay. 13 and 14 are in without
3 objection.

4 (Whereupon, State's Exhibits 13, 14 were
5 admitted into evidence.)

6 BY MR. CONNER:

7 Q How about number 11 there?

8 A State's item number 11 is the .40 caliber shell
9 casing that was removed at the scene from the floorboard
10 on the driver's seat side.

11 Q It was found in the victim's car?

12 A Found in the victim's car. Sitting down, little
13 running board when you step in, and the seat around near
14 the controllers of the seat.

15 Q Now, I show you next State's Exhibits 17C and D and
16 ask you to examine those if you would.

17 A Yes, sir. These are the photographs that I took at
18 the -- at a small laboratory of the law enforcement
19 center, and these are the photos that I took there.

20 Q And...

21 A They are the Iberia .40 caliber pistol.

22 Q Now, where did you recover that pistol?

23 A We recovered from the floor of the apartment F4 near
24 the couch.

25 Q And was the pistol -- let me see this. It's shown

1 here in 17C, is that the condition that it was found in?

2 A Partially. The -- when I found the weapon at the
3 scene, the magazine was installed, it had seven rounds in
4 the magazine. On this photo it shows the slide about
5 half-way back with a round jam in it, so it's keeping the
6 slide from functioning properly. It's not -- re-load the
7 way it's supposed to. So I found that it was fully loaded
8 weapon with a jam.

9 Q And what -- what causes a weapon like that, a
10 semiautomatic pistol, to jam?

11 A It could be several instances. It could be faulty
12 ammunition. One thing that we are taught in the firing
13 range is you must hold a semi-auto, because they are gas
14 operated, must hold it firm so that you have that back and
15 forth action.

16 You hold it with a very limp wrist, you don't have
17 that -- the ability for it to cycle properly, so you have
18 to hold it firmly. So it could be a number of things.
19 Could -- you know, it could just be just a bad gun also,
20 just doesn't feed properly. But a number of things could
21 cause it not to -- not to feed properly.

22 Q Now, once it jams, it wouldn't continue to fire then?

23 A That's correct. The -- the photograph, as you can
24 see, it shows the cartridge going up but not going into
25 the chamber, so it -- there's no way it could fire in this

1 configuration.

2 Q Now, this -- this cartridge casing that's in State's
3 Exhibit number 11 --

4 MR. CONNER: Incidentally, I don't believe I
5 moved State's Exhibit number 11 into evidence; did I?

6 THE COURT: No, sir.

7 MR. CONNER: I move it into evidence at this
8 time.

9 THE COURT: What says the defense?

10 MR. MURPHY: No objection.

11 MR. SULLIVAN: No objection.

12 (Whereupon, State's Exhibit 11 was admitted into
13 evidence.)

14 THE COURT: Eleven is in.

15 BY MR. CONNER:

16 Q This cartridge casing, number 11 that's in this
17 envelope, the one that you got out of the victim's car, it
18 would indicate it was ejected by that pistol; wasn't it?

19 A According to the reports that we have back, yes, it
20 is.

21 Q So that gun, that pistol was fired at least one time?

22 A Yes, sir.

23 MR. CONNER: Your Honor, we'd move these two
24 photos into evidence at this time, State's Exhibit
25 number 17C and D.

Truman Duggin - direct by Conner

175

1 THE COURT: What says the defense?

2 MR. SULLIVAN: No objection.

3 MR. MURPHY: No objection.

4 THE COURT: Okay. 17C and D?

5 MR. CONNER: Yes.

6 (Whereupon, State's Exhibits 17C and 17D were
7 admitted into evidence.)

8 BY MR. CONNER:

9 Q Also I show you these two pictures and ask if you can
10 identify them.

11 A Yeah. 17A and 17B are photos of a firearms
12 undercover 38 special. It was turned into evidence. And
13 these are photographs of this weapon at the law
14 enforcement laboratory.

15 Q And they were turned in by Officer Culick?

16 A That's correct.

17 Q Okay.

18 MR. CONNER: Your Honor, we'd move these two
19 photographs into evidence at this time. State's
20 Exhibit 17A and B.

21 THE COURT: What says the defense?

22 MR. MURPHY: Your Honor, I object. One based on
23 the foundational, and then if we could approach.

24 THE COURT: Okay.

25 (Whereupon a bench conference was held.)

1 THE COURT: 17A and B are in evidence over
2 objection of defense.

3 (Whereupon, State's Exhibits 17A, 17B were
4 admitted into evidence.)

5 BY MR. CONNER:

6 Q Now, Officer Duggin, I ask you to examine State's
7 Exhibit number 10. Ask if you can identify that.

8 A State's Exhibit number 10 is the firearm that I
9 recovered from apartment F4. This is the magazine. And
10 go in here and this gun is unloaded.

11 Q And is that what you would call a semiautomatic
12 pistol?

13 A Yes, sir. This would be a semiautomatic. Every time
14 you pull the trigger, as long as it was feeding properly,
15 there's ammunition available, it would fire.

16 Q And some of these folks might not be familiar with
17 it, but tell us how it works.

18 A They're gas and spring activated. Once the cartridge
19 goes into the chamber, which is right up here, the end of
20 the barrel, all one piece, it fires. The bullet goes out
21 the muzzle and there is back pressure.

22 This back pressure is routed to bring the gun, the
23 slide back such. As it does that, there's an extractor
24 that grabs the rim of the cartridge, pulls it out, kicks
25 it away from the weapon, and at that time the magazine --

1 there will be a cartridge here.

2 As this slides forward, it will pick it up and slide
3 it into the chamber if everything is working properly.
4 This one, something went wrong and it jammed in about this
5 position right here with a mechanical lock in it, if you
6 will, of -- cartridge was locking. It was not in proper
7 alignment.

8 Q So it was fired one time and then as it reached --
9 went forward, this second bullet jammed?

10 A Correct.

11 MR. CONNER: Your Honor, we'd offer this item
12 into evidence at this time, State's Exhibit number
13 10.

14 THE COURT: What's the exhibit number?

15 MR. CONNER: Number 10.

16 THE COURT: What says the defense?

17 MR. SULLIVAN: No objection.

18 MR. MURPHY: No objection.

19 THE COURT: All right. Ten is in without
20 objection.

21 (Whereupon, State's Exhibit 10 was admitted into
22 evidence.)

23 BY MR. CONNER:

24 Q Next I show you State's Exhibit number 12 and ask you
25 if you can identify it.

1 A This is the State's Exhibit 12, Charter Arms Charter
2 2000, 38 special. It's turned in by Detective Culick for
3 further analysis and as evidence in this incident. And
4 there's markings on the cylinder.

5 And a weapon such as this, ask it be marked before
6 you open -- so you can put it back in the same
7 configuration, but it's a 38 special revolver.

8 Q And tell them how a revolver works.

9 A This is -- would be a hammerless revolver. There's
10 no hammer right here. Lot of them you have pull it back,
11 cock it, and pull the trigger. But what happens -- have
12 the rounds. And as you pull the trigger, there is inside
13 here a little firing pin.

14 The cylinder will rotate holding a round up, align it
15 with the barrel, the firing pin will drop firing the
16 cartridge. The bullet will leave the cylinder and go
17 through the first portion of the barrel which is called a
18 forcing cone which aligns it properly with the barrel and
19 the bullet will exit the barrel.

20 In order for this to fire, this one right here is a
21 five shot, you have to pull the trigger five times, it's
22 not an automatic weapon. It's -- you pull the trigger,
23 get the shots.

24 MR. CONNER: Your Honor, we would offer this
25 weapon into evidence at this time.

1 THE COURT: What says the defense?

2 MR. SULLIVAN: No objection.

3 MR. MURPHY: Your Honor, I object to this.

4 THE COURT: All right. Twelve is in over the
5 objection of Mr. Murphy.

6 (Whereupon, State's Exhibit 12 was admitted into
7 evidence.)

8 THE WITNESS: Just might add, the weapons you
9 will see my initials, THD.

10 BY MR. CONNER:

11 Q And both of these weapons were submitted to SLED
12 examination?

13 A Yes, sir, they were.

14 Q Get these... now, Officer Duggin, did you go to the
15 autopsy?

16 A Yes, sir, I did.

17 Q And where did you take the body for the autopsy?

18 A To Newberry Regional Hospital in Newberry, South
19 Carolina.

20 Q And is that a pretty much standard procedure for
21 Sumter County?

22 A That's -- yes, it is. Dr. Sexton at that time was
23 running the practice. Believe Dr. Ross is the one who
24 performed the autopsy.

25 Q And did you observe certain injuries to this

1 defendant?

2 A Yes, sir, I did.

3 Q This -- not the defendant, to the victim?

4 A Yes, sir. I observed several.

5 Q And did you observe some bullets that were taken from
6 the victim's body and turned over to you?

7 A Yes, sir.

8 Q And I show you here State's Exhibit 18C and 18D and
9 ask if you could identify those.

10 A Yes. State's Exhibit 18C and 18D, these are bullets
11 that were removed from the body of Mr. Wimberly at the
12 autopsy. And they are away from the body over on a
13 little, a stand, and there's scale tape to -- using
14 millimeter and inches to show its relative size of the
15 projectile.

16 Q And in addition to those bullets, did you also
17 receive body fluids like blood and other body fluids
18 and -- that you brought back to Sumter and then
19 subsequently took to Columbia to SLED?

20 A That's correct. There's a -- basically a routine
21 that they do at the autopsy that includes taking samples,
22 not only look for cause of death but different injuries
23 but also look for any disease.

24 Q Do we have those bullets here?

25 A Yes, sir, we do, right there.

1 Q This bag?

2 A Yes, sir.

3 Q What is that number on there?

4 A Be State's Exhibit seven and State's Exhibit eight.

5 Q And what are those items, seven and eight?

6 A These items are -- the projectiles from the body of
7 the victim are inside each one of these bottles, and they
8 removed at the autopsy and placed in these -- they are
9 self-sealing for security, and transferred back to our
10 evidence room and then taken to SLED.

11 MR. CONNER: And we would ask that number seven
12 and eight be introduced into evidence at this time,
13 and also 18C and D, pictures of...

14 THE COURT: What says the defense?

15 MR. SULLIVAN: No objection.

16 MR. MURPHY: No objection.

17 THE COURT: Okay. Seven and eight are in
18 evidence and 18C and D are in without objection.

19 (Whereupon, State's Exhibits 7, 8, 18c, 18d were
20 admitted into evidence.)

21 BY MR. CONNER:

22 Q And did you also submit to SLED a pair of black Nike
23 shoes submitted by Officer Culick?

24 A That's correct.

25 Q And...

1 A Will be in there. This is State's Exhibit number 30,
2 pair of shoes. And once again, they have my initials on
3 them. And what's on the bottom is, is it's a fingerprint
4 powder, and it's -- it's basically sent to our State Law
5 Enforcement Division, may hear them refer to what's called
6 SLED Red, and it's made for doing footwear comparisons.

7 And so you have something to compare to the
8 photographs and to the casts taking the fingerprint out
9 SLED Red, and you make an impression on the transparency
10 so you can see, plus photographs of this also, but these
11 are the shoes that were submitted as evidence that I
12 submitted them to SLED.

13 Q Do you know where Mrs. Culick got the shoes?

14 A These are from Jermel Robinson.

15 Q And what was the purposes of submitting those shoes
16 to SLED? What were they to be compared with?

17 A From the casts that I found and the footwear
18 impressions that I found at the scene were the -- this
19 pattern of shoe. And so I cast that, advised the
20 detectives what I had at the crime scene, and these shoes
21 had just an eyeball to eyeball look were the same type
22 pattern or had similarities to that, and so it was enough
23 for us to send them to SLED for them to do a -- an
24 analysis.

25 Q So SLED would be a looking at this casting you got

1 here?

2 A They would look at the shoes, the photographs, and
3 the casts and compare them.

4 Q And that came from the corner of building F there; is
5 that right?

6 A The casts came from the corner of building F, yes.

7 Q If you would, how about a little Z there so I --
8 where the casts of the shoes made.

9 MR. CONNER: Your Honor, we would offer item
10 number 30 into evidence at this time.

11 THE COURT: Okay. What says the defense?

12 MR. SULLIVAN: No objection.

13 THE COURT: Thirty is in without objection.

14 (Whereupon, State's Exhibit 30 was admitted into
15 evidence.)

16 BY MR. CONNER:

17 Q Now, I believe you said you sent some swabs from the
18 roadway or this trail that you followed over from the
19 scene to the building L. You sent some swabs to the SLED?

20 A Yes. Yes, sir, I did.

21 Q And did you take some swabs on -- from the carpet in
22 apartment L2?

23 A That's correct. Yes, I did.

24 Q And sent those to SLED also?

25 A Yes, sir.

1 Q Now, was there a -- did you go to apartment L2?

2 A Yes, I did.

3 Q And was there a bathtub there where there was some
4 bloody clothing found?

5 A Yes, sir, there was.

6 Q And what was found in the -- in the bathtub?

7 A Notably it was a mask, T-shirts, and a black hoodie.

8 Q And were they bloody?

9 A Yes, sir, they were.

10 Q And did you swab those items and submit them to SLED
11 for DNA --

12 A Yes, sir.

13 Q -- purposes? And was -- also is that the apartment
14 that Mr. Robinson was located in after this thing
15 happened?

16 A Yes, sir, it was.

17 Q And I show you this item, State's Exhibit number 20
18 and ask if you could identify that.

19 A Yeah. State's Exhibit 20 is the mask from the
20 bathtub in L2, and it had -- it had blood on the front of
21 it as you'll see some of that, and it was collected and
22 sent to SLED DNA.

23 Q All right.

24 MR. CONNER: Your Honor, we would move State's
25 Exhibit number 20 into evidence at this time.

1 THE COURT: What says the defense?

2 MR. SULLIVAN: No objection.

3 MR. MURPHY: No objection.

4 THE COURT: Twenty is in without objection.

5 (Whereupon, State's Exhibit 20 was admitted into
6 evidence.)

7 BY MR. CONNER:

8 Q Now, did -- in addition to the mask, did you find any
9 other items of clothing in that bathtub?

10 A Yes, there -- most noteworthy was a black hoodie that
11 had been cut. That's it.

12 Q And I show you here State's Exhibit number 22 and ask
13 if you can identify that.

14 A Yes. This is State's Exhibit 22. I have had to kind
15 of do some taping together because it was -- had cuts in
16 it. And there was large amount of blood, so that's why
17 the heavy plastic, biohazard. Yes, this is the hoodie
18 that I found.

19 Q Did you swab that, the blood on that and send that to
20 SLED for DNA analysis?

21 A Yes, sir, I did.

22 MR. CONNER: Your Honor, we'd offer number 22
23 into evidence at this time.

24 THE COURT: What says the defense?

25 MR. SULLIVAN: No objection.

1 MR. MURPHY: No objection.

2 THE COURT: All right. Twenty-two is in without
3 objection.

4 (Whereupon, State's Exhibit 22 was admitted into
5 evidence.)

6 BY MR. CONNER:

7 Q And I show you this item and ask if you can identify
8 it.

9 A Yes. These were the ammunition that was in the
10 .40 caliber weapon that -- that the law enforcement
11 laboratory removed from the magazine. The ones down in
12 the bottom seven are from the magazine, and the one on the
13 top is the one that was jammed.

14 There is a discoloration. If you see the
15 photographs, they're going to be a shiny brass color. And
16 these are very discolored. That's from the chemical
17 processing that I did at the lab.

18 Q And that's from the .40 caliber pistol?

19 A Yes, sir.

20 MR. CONNER: Your Honor, we'd have that marked
21 as State's Exhibit number 31. We don't intend to
22 send it in for the jury handling, for safety reasons.

23 THE COURT: Okay. So -- but you want it into
24 evidence or you want it for identification?

25 MR. CONNER: I was just going to mark it for

1 identification.

2 THE COURT: Okay. 31 is marked for
3 identification.

4 (Whereupon, State's Exhibit No. 31 was marked
5 for identification only.)

6 MR. CONNER: Your Honor, we are prepared to
7 exhibit these photographs, but it's about a quarter
8 after five. What you -- what's your pleasure? We
9 can do it in the morning or we can do it now.

10 THE COURT: How long is it going to take?

11 MR. CONNER: Well, these are the photographs we
12 were going to be exhibiting.

13 THE COURT: All of those that you put in?

14 MR. CONNER: All of them that I put in, yeah.

15 THE COURT: Okay. How long -- do it in the
16 morning unless you have some reason that... because
17 obviously I -- I wasn't going to begin
18 cross-examination tonight, so he is going to still be
19 on the stand in the morning.

20 MR. CONNER: We will just do it in the morning
21 if that suits you. I don't want to...

22 THE COURT: Okay. And we'll get -- then we'll
23 just be in recess. 9:30 suit everybody? All right.
24 We'll stop with this witness right here and we'll
25 start back in the morning.

1 I promised to try to get y'all home as close to
2 five as I can every day. So I will stop here and
3 start back at 9:30 in the morning.

4 I remind you, you can't discuss this case. When
5 you get home, everybody's going to want to know what
6 you have been doing all day. When this case is over
7 with, you can tell them.

8 But you have got to decide this case based on
9 what you hear in this courtroom. And it's a very
10 important case to the State of South Carolina and
11 these defendants.

12 So please do what I say and don't discuss it
13 yet. And as soon as you finish, you can talk to
14 anybody you want to. Have a nice evening. Come
15 straight back to the jury room at 9:30 in the
16 morning.

17 You also can't read anything in the newspaper or
18 TV. I don't know whether it's going to be or not,
19 but you have got to decide this case only on what you
20 hear in the courtroom. Thank you.

21 (Jury left the courtroom at 5:13 pm.)

22 THE COURT: Anything before we close?

23 MR. MURPHY: I want to note the objection we
24 made at the bench in regard to exhibit 12, which is
25 the gun, and exhibits 17A and B, which was the

1 photographs of the gun.

2 My objection is based on their -- nature from
3 the Court's ruling last week in regard to the
4 statement and...

5 THE COURT: My understanding, your objections
6 came from the fact that they came out of a result of
7 a confession that your client made.

8 MR. MURPHY: Yes, sir.

9 THE COURT: And that was grounds for your
10 objection. I understand that. I have overruled that
11 objection, but you're covered for the record.

12 MR. MURPHY: Good.

13 THE COURT: Anything else?

14 MR. SULLIVAN: I don't have anything else.

15 MR. MURPHY: No, Your Honor.

16 THE COURT: Okay. Then we will be in recess
17 until 9:30 in the morning.

18 (Court in recess for the evening.)

19 **** April 21, 2009 ****

20 THE COURT: Anything before we bring the jury
21 in?

22 MR. MURPHY: Got to bring our clients in, Your
23 Honor. They are getting dressed.

24 THE COURT: Okay. I'm sorry.

25 (Whereupon there was a pause.)

1 THE COURT: State ready to proceed?

2 MR. CONNER: We are ready, Your Honor.

3 THE COURT: Defense ready?

4 MR. SULLIVAN: Yes, sir.

5 THE COURT: Okay. If you will bring us the
6 jury.

7 (Jury entered the courtroom at 9:39 am.)

8 THE COURT: Morning, ladies and gentlemen.
9 Mr. Solicitor, I think when we closed court
10 yesterday, we had Mr. Duggin on the stand.

11 MR. CONNER: Lieutenant Duggin, come around.

12 THE COURT: I remind you, Mr. Duggin, you're
13 still under oath.

14 THE WITNESS: Yes, sir.

15 MR. CONNER: May it please the Court. We'd ask
16 permission to publish through Lieutenant Duggin the
17 photographs that were admitted yesterday.

18 THE COURT: All right, sir.

19 MR. CONNER: And we'd like to do that with this
20 machine. Takes us about a minute to get that set up.

21 THE COURT: Okay.

22 MR. CONNER: Okay. Down?

23 THE WITNESS: With your permission, Your Honor?

24 THE COURT: Yes, sir.

25 (Witness left the stand.)

1 BY MR. CONNER:

2 Q Lieutenant Duggin, I show you first exhibit number 2A
3 and ask you to describe what we are looking at for the
4 jury and...

5 A Yes, sir. This is exhibit number 2A. And we have --
6 this is a photograph at night time as I arrived. This is
7 the victim's vehicle.

8 This would be apartment -- the F apartments right
9 here. The victim's vehicle. I'm on the sidewalk. And
10 another description would be right here would be the
11 victim's vehicle. I would be back over in this area
12 taking the photograph. It's a night time version of the
13 scene.

14 Q Next I'd show you number 2B.

15 A Exhibit 2B is the photograph, I was standing in the
16 driver's side front of the vehicle taking a photograph of
17 the windshield where you could see there's a -- damage to
18 the windshield. It's been shattered.

19 Q And I show you next 2C.

20 A Exhibit 2C is more of an identification picture of
21 the vehicle showing the type vehicle, the color of the
22 vehicle, and the South Carolina license tag, the rear of
23 the vehicle.

24 Q I show you next 2D.

25 A Exhibit 2D is a photograph of the victim's vehicle.

1 This is with the door open. You'll see some orange
2 marking paint. I was marking where the vehicle was, could
3 go back the next day or two and know exactly where the
4 vehicle was at. So this is as I was finishing up right
5 before the wrecker got there to pick it up.

6 Q And next I would show you photograph 3A.

7 A State's Exhibit 3A is more of an identification
8 photo. This is the apartments where Mr. Wimberly was
9 found. This is the F apartments. Would be over here on
10 this drawing.

11 Q This is 3B.

12 A Exhibit 3B is another identification as to where
13 Mr. Wimberly was at. This is apartment F4, be upstairs in
14 the apartment building.

15 Q This is 3C.

16 A State's Exhibit 3C is inside apartment F4. Items
17 left by someone in either rescue or police officers,
18 rubber gloves, and there's spots of blood on the floor.

19 Q 3D.

20 A Is to be exhibit 3D, this is a far-away shot of the
21 living room and showing the couch, items left by rescue.
22 And over here on the floor, the end of the couch, is the
23 Iberia pistol that I recovered.

24 Q This is 3E.

25 A This is as I found the Iberia pistol. As you can see

1 it, the magazine is intact. It does not functioned
2 properly. There is a shell casing or a cartridge that
3 jammed in there in the weapon. That is as I found it.

4 Q That would be an unfired bullet?

5 A Correct. That would be a loaded cartridge. It did
6 not make entry into the chamber. It was jammed as it was
7 trying to re-load.

8 Q And would that -- weapon being jammed like that,
9 would that stop it from being fired further until the
10 round was removed?

11 A That's correct. It -- in this configuration, it
12 would not fire because the cartridge is not in the chamber
13 and that will be there, firing pin be in the compartment
14 to be fired, so it's in the -- in a jammed configuration.

15 Q Now again, did you find that this weapon had been
16 fired in the vicinity of the victim's vehicle?

17 A Yes, sir, we did.

18 Q And how did you determine that?

19 A It was a .40 caliber shell casing found in the
20 victim's vehicle that has been traced back, linked to
21 that -- to that weapon, being the weapon that fired
22 through SLED analysis.

23 Q And what does the caliber of the pistol, like you
24 talk about a 40 and then there's another gun you refer to
25 as a 38, what does that really describe?

1 A It's -- this is a .40 caliber. That's going to be
2 the diameter of the bullet. It's a 40 -- 40 caliber,
3 point -- same size weapon we carry here in the Sumter
4 Police Department.

5 And the other one was a 38 revolver. And so it would
6 be the diameter of the bullet itself been a little bit
7 smaller in a 38 versus the 40. The 40 is typically a
8 semiautomatic or an automatic type round, but the 38 is
9 more of the revolvers.

10 Q And I show you next State's Exhibit 4A.

11 A Exhibit 4A is the identification shot. This would be
12 over going into L2 where the -- the -- when the subjects
13 were found, the injuries, and transported to the hospital.
14 That would be over in L2 right over here. It's the bottom
15 door entrance to the apartments on this side.

16 Q And did -- I show you next 4B.

17 A 4B is a photograph of the bathroom area of apartment
18 L2 where Mr. Robinson was found. And there is -- where
19 the clothes were taken, they were extremely bloody, and
20 you see blood dripping on the -- on the bathtub and items
21 of clothing with the blood on the inside of the tub.

22 Q And I show you next 4C.

23 A This is just another photograph of the same, just a
24 little bit closer up. The dark enclosure is just kind of
25 hard to discern what they are, but it's going to be a

1 hoodie-type jacket or pullover hoodie, black, white
2 T-shirt with blood on it, and a mask and it -- mask.

3 Q Lieutenant Duggin, those items there, the hoodie and
4 the mask, are they items that we introduced into evidence
5 in this case?

6 A Yes, sir, I believe they are introduced as evidence.

7 Q And if you would, this is State's Exhibit number 20.

8 A State's Exhibit number 20 is a knit mask with the --
9 has holes cut out for the nose and the eyes, and State's
10 Exhibit 20 would be this item right here where -- the
11 bathtub.

12 Q And also this item, State's Exhibit number 22.

13 A State's Exhibit number 22 is the hoodie, and that's
14 going to be this item right here on the bathtub.

15 Q And did those items have blood on them also?

16 A Yes, sir, they did.

17 Q And what did you do in regards to taking samples?

18 A Well, I collected the evidence at the scene, took it
19 back to the -- our laboratory at the Police Department,
20 and took cotton swabs and took samples of the blood and
21 sent it to SLED for analysis.

22 Q And what section would have analyzed that?

23 A It would be the DNA department.

24 Q And I show you next 4D.

25 A 4D is in apartment L2. And what we are looking at

1 here is it's just -- it's blood that's on the carpet
2 and -- in front of the couch, and where EMS had to come in
3 and get Mr. Robinson.

4 Q And did you -- did you take swabs of these blood
5 spots?

6 A Yes, sir, I did. And likewise, a swab with a little
7 cotton swab and sent that to SLED to the DNA department
8 for analysis.

9 Q And I show you next exhibit number 5A from apartment
10 L5.

11 A 5A is the picture of apartment L5, this being the L
12 building, entry on the other side. L2 is on this side.
13 L5 is on the other side. And this is the small bathroom
14 and it shows an open door in the vanity.

15 Q Now I show you this, 5B.

16 A It's a little small garbage can that was in the
17 vanity. You open the door, you could see it, part of it,
18 and it has a black knit-type mask.

19 Q And was a swab taken of that and submitted to SLED or
20 was the item submitted?

21 A The item was submitted to SLED. Went to SLED DNA
22 department.

23 Q Now I show you next item six.

24 A Item six would be -- this is the photograph of the
25 cast that I took of the footwear impression, and that

1 would be right here where we have the S for shoes, the
2 corner of the F apartments.

3 Q And that would be the casting that's already been
4 introduced into evidence here?

5 A Yes, sir, that's correct.

6 Q I believe that's -- I believe it's item 28.

7 A Yes, sir. Item 28 is a dental stone cast, a footwear
8 impression.

9 Q And was that submitted to SLED for an examination by
10 a latent print expert?

11 A Yes, sir, it was.

12 Q And I show you next State's Exhibit number nine.
13 That's -- I believe that's 9A; isn't it? 9A.

14 A State's Exhibit 9A is photographs that were
15 determined to be a path that was taken, and apartment F
16 coming through here would be coming from here, coming down
17 through here, so it was in this general area between C and
18 D.

19 Q Okay. Now, where was the victim's vehicle parked?
20 This -- this picture incidentally wasn't taken at night;
21 was it?

22 A That's correct. We went back out the following day
23 to do daytime -- we have to it in the daytime. These
24 items, you can see it's marked with red -- with the orange
25 marking from the night before, so we had daytime

1 photographs.

2 Nighttime photographs you may not see as much. So
3 this is the following day where it would be later today
4 because we were already out that morning. Later that day.

5 Q Now, first show us where the victim's vehicle was.

6 A Be over here in this area. It's kind of hard to see,
7 you can see actually the little orange marks where the
8 tires were.

9 Q And the -- the orange spot that's shown there on the
10 right of the photo, what is that?

11 A It's just some items were coming from here. There's
12 a sock found was -- believe it was a drop of blood over on
13 this area. As we continued on the sidewalk, found other
14 blood. This item was not collected.

15 Q And I show you next 9B.

16 A The same photograph, just a little bit of a different
17 angle looking down this way towards the vehicle, just
18 coming down through here, it's a little orange spot were
19 coming down this way till we hit the sidewalk which would
20 be right here.

21 So it's just a -- farther away shot of the same thing
22 that you just saw.

23 Q And I show you 9C.

24 A You see there's numerous orange spots that I have
25 made on the sidewalk. And each one of those spots

1 represents some type of blood spatter coming from --
2 falling from the victim that was shot.

3 And so that's leaving a little cutway between the two
4 apartments, coming down the sidewalk. And that would be
5 the first orange spot right here coming down the sidewalk
6 going this way.

7 So there's blood drops all along this. So it may
8 just be one small blood drop or it may be several, but
9 someone that was bleeding came through this way.

10 Q And I show you 9D.

11 A This is over at looking from L2 back over in this
12 direction from the sidewalk. This sidewalk here is the
13 one that was just up showing the numerous blood drops.
14 There's also a blood drop here, blood drop here, and the
15 sidewalk, taking the picture back at the way the person
16 came. So just additional blood that was leading towards
17 apartment L2.

18 Q And this is 9E.

19 A This is 9E. Another -- just a different angle, if
20 you will, of the blood going down the sidewalk and across
21 over here to L2.

22 Q Now, Lieutenant Duggin, L2, that is where Mr.
23 Robinson, Jermel Robinson was found; is that right?

24 A That's correct.

25 Q And the bloody garments in the bathtub with him.

1 A Yes, sir, that's correct.

2 Q And did you make swabs of this material along the way
3 and submit that to SLED?

4 A Yes, sir, submitted to the SLED DNA department for
5 analysis.

6 Q Now I show you next 17A and 17B. Well, let's go do
7 them one at a time. 17A.

8 A State's Exhibit 17A is the Charter Arms 38 that was
9 submitted into evidence by Detective Culick that came back
10 to the lab for processing, some of my -- my identification
11 photo.

12 Q And this is 17B.

13 A This is 17B, and it's just a photograph of the ,
14 revolver that was turned in by Detective Culick for -- it
15 would be eventually sent to SLED. I was doing my
16 documentation. It's a scale in the photograph, that's a
17 scale to identify the weapon.

18 Q And that is what caliber weapon?

19 A This is a 38.

20 Q And is that the same weapon that we have here in
21 evidence?

22 A Yes, sir. State's Exhibit 12 is the 38 revolver that
23 I received into evidence.

24 Q And you could put it back down there if you would. I
25 show you next 17C.

1 A 17C is the -- a photograph of the Iberia pistol that
2 I seized from apartment F4. In this configuration I have
3 taken the magazine out and unloaded the magazine. I have
4 seven rounds .40 caliber cartridges.

5 I have not done anything with the slide as of yet.
6 If you will see, the cartridge is jammed in the -- in the
7 slide, my left four fingers.

8 Q Show you next 17D.

9 A Identification photo would have been the weapon,
10 serial number, and the date.

11 Q And it's a .40 caliber pistol I believe; is that...

12 A That's correct, .40 caliber. It's identified right
13 here, 40 Smith and Wesson.

14 Q Next I show you 18C.

15 A 18C is the -- one of the projectiles that was removed
16 from the body of Mr. Wimberly. This is at the autopsy.

17 Q You were at the autopsy?

18 A Yes, sir, I was.

19 Q And you saw them remove that bullet from him?

20 A That's correct.

21 Q And also 18D.

22 A 18D is another cartridge and projectile that was
23 removed from the body of Mr. Wimberly at the autopsy.

24 Q And the items that you received at the autopsy,
25 these -- these bullets and blood samples and other body

1 fluids, what did you do with those?

2 A I brought them back to -- I left our evidence room
3 here in Sumter at the Sumter Police Department, and then
4 they went to State Law Enforcement Division. And once
5 they're there, they go to several different divisions
6 inside SLED, one being DNA, one firearms, toxicology, for
7 different types of analysis.

8 Q And okay.

9 MR. CONNER: Y'all interested in leaving this
10 machine here?

11 MR. MURPHY: No.

12 BY MR. CONNER:

13 Q Have a seat.

14 A (witness complied.)

15 Q Lieutenant Duggin, I'm going to show you these two
16 photographs, 16C and 16D, and ask you to examine them.

17 A Sixteen -- State's Exhibit 16C and 16D are
18 photographs that I took at the scene concerning a shell
19 casing inside the victim's vehicle.

20 Q And what do they show?

21 A They're a downward looking photo of the driver's seat
22 showing a shell casing which was later learned to be a
23 .40 caliber shell casing setting on the carpet between the
24 seat and the frame of the vehicle just behind the seat
25 controls. There's two photographs showing that. One was

1 far away. One is a little bit of a closer-up photo.

2 Q And that cartridge casing, let's see... would -- is
3 the one enclosed here in State's Exhibit number 11; is
4 that correct?

5 A That's correct. State's Exhibit number 11 is one
6 that's depicted in State's Exhibit 16C and 16D.

7 Q And that cartridge casing, that -- that size
8 cartridge would be fired by which one of these pistols?

9 A That would be the Iberia weapon that was found in
10 apartment F4, the .40 caliber.

11 Q .40 caliber.

12 A Correct.

13 MR. CONNER: Your Honor, we'd ask permission to
14 publish those two photos just by circulating through
15 the jury.

16 THE COURT: Okay.

17 BY MR. CONNER:

18 Q And I show you next State's Exhibit 16E and F and ask
19 you to examine those if you would.

20 A State's Exhibit 16E is a photograph of the victim's
21 vehicle. It's the driver's seat back. And State's
22 Exhibit 16F is a photograph of the driver's seat, and it
23 has the bullet trajectory rod inserted in one of the --
24 the bullet holes. And these were taken at the city
25 impound during processing.

1 Q And how many holes in the seat there?

2 A There was two.

3 Q And the -- this 16G, what does it indicate?

4 A 16G is a photograph of the seat back, the driver's
5 seat back lower portion, and it shows a blood swipe.

6 Q And did you swab that blood that was on the seat of
7 the vehicle?

8 A Yes, sir, I did, and sent it to SLED DNA department
9 for analysis.

10 Q And all of -- we're talking about the victim's
11 automobile.

12 A That's correct.

13 Q And that would have been the seat that he was seated
14 in?

15 A That's correct.

16 MR. CONNER: Your Honor, we'd ask permission to
17 circulate these three photos.

18 THE COURT: All right, sir.

19 BY MR. CONNER:

20 Q Incidentally, in 16F, are there any bikes there that
21 are related to this case?

22 A Yes, sir. There's two bicycles that were seized.
23 They were on the property at the nursing home next door.
24 These are the bicycles that were at the telephone pole or
25 utility pole.

1 Q You want to come down here and point those out?

2 THE WITNESS: Your Honor?

3 THE COURT: Yes.

4 (Witness left the stand.)

5 A Two bicycles that I seized were in this position
6 right here. This is the chain link fence dividing Manor
7 Healthcare from the apartment complex, and there's two
8 bicycles, a red one and a silver chrome-plated one right
9 there.

10 MR. CONNER: And Your Honor, we would ask
11 permission to circulate these pictures of the
12 driver's seat that he's just described.

13 THE COURT: All right, sir.

14 MR. CONNER: That would be 16G, 16E and 16F.

15 BY MR. CONNER:

16 Q Have a seat.

17 A (Complied.)

18 Q Now Lieutenant Duggin, I ask you about these two
19 photographs, 16I and H -- H and I.

20 A 16H is a photograph of a projectile that I recovered
21 from the seat back of the photographs that you're now
22 looking at. And 16I is the second projectile that I
23 recovered from the seat back from the victim's car.

24 Q And were those -- those bullets or projectiles
25 recovered and sent to SLED?

1 A That's correct.

2 Q And I believe we have them in evidence here; don't
3 we?

4 A Yes, sir, we do. That's from the autopsy. The one
5 next to it.

6 Q This one here?

7 A Be State's Exhibit 13 and 14, fired bullet from the
8 driver's seat back. They're encased in plastic from SLED.
9 But these are the bullets that I did retrieve.

10 Q And these -- those are the bullets that are shown in
11 these two photographs?

12 A Yes, sir, that's correct.

13 MR. CONNER: Your Honor, we'd ask permission to
14 publish these just by circulating them. That's 16H
15 and I.

16 THE COURT: You may.

17 BY MR. CONNER:

18 Q Answer any questions these lawyers might have for
19 you, please.

20 A Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q Lieutenant Duggin, you found a .32 caliber cartridge
24 and shell casing in the parking lot and noticed that you
25 are unable -- unable to determine if it was involved in

1 this incident?

2 A That's correct. The -- as we were doing our survey
3 of the crime scene, some distance away, I'm not sure
4 exactly, I didn't measure it, but five or six car parking
5 spots away from the victim's vehicle there was a 32
6 caliber cartridge and a .32 caliber shell casing that was
7 found.

8 And during all of our -- during the investigation,
9 everything came up .40 caliber or .38 caliber.

10 Q Okay. And you are unable to determine if it -- you
11 said it was about five car spaces away?

12 A Yes, sir.

13 Q Unable to determine if it had anything to do with
14 this incident?

15 A That's correct. It could have been from an incident
16 out in the parking lot sometime ago. But at the time
17 during the initial investigation it was collected because
18 at that time we didn't know.

19 Q The bullets that were recovered from the victim's
20 body and in the car, you said all those came from a
21 .38 caliber; correct?

22 A That's correct.

23 Q Okay. And you noted that on the .40 caliber Smith
24 and Wesson Iberia that there were no prints found on that
25 firearm.

1 A That's correct.

2 Q Okay. Now, do you know how many rounds that
3 .40 caliber would hold?

4 A No, sir, I -- I didn't try to re-load it to determine
5 that. I know there was seven cartridges, unfired
6 cartridges in the magazine, and one that was jammed in,
7 eight, plus the one shell casing we found, nine. But I
8 don't know if this magazine's capacity is nine, 10, I
9 don't know.

10 Q Okay. You said earlier that you thought it was full
11 with one stuck in the chamber; is that right?

12 A That it was full with one -- I don't know if I said
13 full or seven. It had seven in the magazine.

14 Q All right. As far as ballistics that were done on
15 that .40 caliber, you don't have anything that indicate
16 other than the shell casing that was fired; do you?

17 A That's correct. It was -- no projectile was
18 recovered. All we have is the shell casing from the
19 vehicle.

20 Q All right. But you didn't do any -- you didn't
21 actually check the gun to see if it was fired. You say
22 you are not sure how many rounds it holds. You're basing
23 the fact that it's fired on the .40 caliber, the shell
24 casing that was in the victim's vehicle?

25 A That's correct.

1 Q Okay. I don't have any further questions. Please
2 answer any questions that Mr. Murphy has.

3 A Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. MURPHY:

6 Q Good morning.

7 A Morning.

8 Q Would you explain -- how do you do the trajectory
9 process that -- you stick basically pieces of plastic
10 through the holes and you try to arrive at a conclusion as
11 to where the trajectory of the bullets were? Is that
12 basically it?

13 A Basically the bullet's going to travel in a straight
14 line unless it hits something to cause it to -- to vary
15 its travel. And when it goes through an item, fabric, or
16 like foam in a seat, it leaves a channel. And so what I
17 did was I took a trajectory rod and just let it follow
18 that channel that was left.

19 Q Now, you said earlier that the two -- the two bullets
20 were either a .38 caliber or a -- either came from a 38 or
21 from a .40 caliber in this investigation.

22 A The bullets came from a 38.

23 Q Okay.

24 A The empty shell casing in the car came from a
25 .40 caliber.

1 Q Could it also have -- isn't it true, though, that the
2 357 magnum carries the same rifling characteristics as a
3 38?

4 A Thirty-eights can be shot in 357 magnum pistols or
5 revolvers, yes.

6 Q As far as any attempt to marry up the particular 38
7 into evidence with any of these bullets, you didn't
8 perform that analysis; is that correct?

9 A I didn't perform the analysis, no. I sent that to
10 SLED for them.

11 Q Thank you. I have no further questions.

12 MR. CONNER: You may come down.

13 THE COURT: Mr. Duggin, you can step down.

14 THE WITNESS: Thank you.

15 (Witness left the stand.)

16 ROBERT RICHBURG, after being duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CONNER:

20 Q Officer Richburg, where do you work?

21 A I'm employed with the Sumter Police Department.

22 Q And how long have you worked for Sumter Police
23 Department?

24 A I have been with Sumter for approximately seven years
25 now.

1 Q And tell us something about the kind of work you have
2 done for them.

3 A Over the past first two years I was assigned to
4 patrol division. Over the past five years I have been
5 with Investigative Services Division.

6 Q And when you first came on seven years ago, did you
7 work for some other agency?

8 A Yes, sir. Prior to coming to Sumter Police
9 Department, I worked for the Summerton Police Department
10 for two years.

11 Q And did you go to the SLED Criminal Justice Academy
12 for basic training while --

13 A Yes, sir.

14 Q -- you were there?

15 A Yes, sir. I graduated from the South Carolina
16 Criminal Justice Academy, honor graduate with the academy.

17 Q So you had nine years in police work?

18 A Yes, sir, I have.

19 Q And you became a detective how long ago?

20 A Approximately five years ago.

21 Q And you -- were you working or did you get called out
22 back on June the 18th, 2007 about 2 am in the morning?

23 A Yes, sir. That night I was the detective on call.

24 Q What is the detective on call?

25 A We are responsible for any situation that they may

1 need a detective to respond to, so they called us and we
2 respond to the scene.

3 Q And did other detectives also get called out?

4 A Yes, sir. Any major situation we make command
5 notification for our command on call which at that time
6 was Lieutenant Angela Rabon. Called her, and then she
7 made the calls to our crime scene and any other detectives
8 that we may need for support or help.

9 Q And did you go to Poplar Square Apartments?

10 A Yes, sir, I did.

11 Q And tell us what you found when you got there.

12 A Whenever I responded to the scene, we had already had
13 one victim that had been transported to Tuomey Hospital.
14 Officers showed me around the area what -- they had up in
15 the apartment. Then at that time I called Lieutenant
16 Duggin from the Major Crime Scene Processing.

17 And Lieutenant Rabon and all them were kind of
18 getting there just shortly after I got there, so we all
19 kind of arrived on the scene pretty close to the same
20 time.

21 Q And did you go to any of these apartments and see any
22 of the people that had been shot?

23 A Yes. I no they had already been transported by the
24 time I got there.

25 Q EMS?

Robert Richburg - direct by Conner

213

1 A Correct.

2 Q Had taken him away?

3 A Yes, sir, they had.

4 Q Well, did you have an opportunity to go to the
5 various places?

6 A Yes, sir, I did.

7 Q Now, early that -- of course, I believe Officer
8 Styles said he got the call somewhere around 2:04 am.

9 A Yes.

10 Q But sometime around 6:30 in the morning did Officer
11 Rabon say anything to you in regards to Teron Jackson
12 seated over at the defense table?

13 A Yes, sir, she did. She told us that she had talked--

14 MR. MURPHY: Objection to hearsay.

15 MR. CONNER: Based on--

16 THE COURT: I'll sustain that objection.

17 BY MR. CONNER:

18 Q Based on your conversation with Officer Rabon, is she
19 your supervisor?

20 A Yes, sir, she is my supervisor.

21 Q She was out there.

22 A Yes, sir, she was.

23 Q And this was 630 in the morning?

24 A Right.

25 Q And she asked you--

1 MR. MURPHY: Objection.

2 THE COURT: Okay.

3 BY MR. CONNER:

4 Q What did she ask you to do?

5 A We were advised by Lieutenant Rabon to make contact
6 with Mr. Jackson and see if he would go with us to the
7 station because he may have had some involvement in this
8 situation.

9 Q So you talked with him?

10 A Yes, sir, I did.

11 Q And did -- what did he say?

12 MR. MURPHY: Objection. I'm renewing my
13 objection.

14 THE COURT: Okay. I will overrule your
15 objection. I understand your position. Go ahead,
16 sir.

17 A I'm sorry. Could you repeat?

18 BY MR. CONNER:

19 Q What did he say in regards to talking to y'all?

20 A He agreed to come to the law enforcement center and
21 talk with us. So at that time Sergeant Mike Rogers and
22 myself transported him to the law enforcement center and
23 Sergeant Mike Rogers' car, carried him to the interview
24 room and we began to talk to him.

25 Q Now, when y'all talked with him, when y'all asked him

1 to go there and talk with him, did you tell him he was
2 under arrest?

3 A No, sir, we did not.

4 Q What was he in fact under arrest?

5 A No, sir. At that time he wasn't. He was transported
6 unhandcuffed in the front seat of the car.

7 Q And you were in the car with him?

8 A Yes, sir. Sergeant Mike Rogers and myself and him.
9 He was in the front seat passenger seat, and I was in the
10 back seat.

11 Q And Rogers was driving?

12 A Yes, sir, he was.

13 Q And so y'all came to the Police Department. And
14 after you got him down there, where did you talk with him?

15 A In our interview room. We have an interview room set
16 up.

17 Q Tell me what the interview room is like.

18 A It's a room. It has a table, two, three chairs, at
19 least three chairs, air conditioner unit, and a door
20 that's right in front of them whenever they go in there.

21 Q And the size of the room, what would you say, is it
22 the 10 by 10?

23 A Yes, sir, that's pretty close. I don't know. I
24 never measured it, but it's pretty close to 10 by 10.

25 Q And did you -- do you allow people in there with

1 guns?

2 A No, sir. It's part of our standard procedure that we
3 go in unarmed into an interview room.

4 Q And so you and Rogers sat down around the table and
5 talked to him?

6 A Yes, sir, we did.

7 Q And did anybody advise him of what's called his
8 Miranda rights?

9 A Yes, sir, we did. At that time Miranda -- we decided
10 to give him his Miranda rights even though he was not
11 under arrest, just as a precaution because there may have
12 been some involvement and we didn't know exactly what it
13 would entail.

14 And once you get into the involvement, it's kind of
15 too late to do that, so better to be safe than sorry in
16 that area.

17 Q So you advised him of his Miranda rights up front?

18 A Yes, sir, we did.

19 Q And who read him his Miranda rights?

20 A That would be Mike Rogers.

21 Q And you were seated there at the table with them?

22 A Yeah.

23 Q While they were being read.

24 A Yes, sir, I was.

25 Q I show you this form here marked State's Exhibit

1 number 23 and ask if you can identify that.

2 A Yes, sir. This is our Sumter Police Department
3 interview form. This is a form that have we made up,
4 standard procedure. It's got the bullets above the rights
5 which we read them, have them initial by it, sometimes
6 have them initial acknowledging that they have read that
7 and they understand what it is.

8 And at the bottom it just basically says that, you
9 know, I have read or read to me this statement of my
10 rights. I understand what my rights are, am willing to
11 answer questions at this time without a lawyer present,
12 and no promises, threats have been made to me and no
13 pressure has been used against me.

14 They sign it, time it and date it, and the detectives
15 that are in the room sign it as a witness.

16 Q Okay.

17 MR. CONNER: Your Honor, we would offer this
18 document State's Exhibit number 23, into evidence at
19 this time.

20 THE COURT: Okay. What says the defense?

21 MR. MURPHY: Your Honor, we object for the
22 purposes previously stated.

23 THE COURT: I will allow it over defense
24 objection.
25

1 (Whereupon, State's Exhibit 23 was admitted into
2 evidence.)

3 BY MR. CONNER:

4 Q Now, I noticed on the form number 23 beside each one
5 of these rights that it has the initials TJ.

6 A Yes, sir. As we go through it and we have the
7 bullets there and we -- each part of it, allow the
8 detectives seem -- at that time Rogers chose to have him
9 initial that, just confirm the fact that he did in fact
10 read that line and he understood what it was by putting
11 his initials by it.

12 Q Well, I want you to read each right for these ladies
13 and gentlemen.

14 A Okay. On the top of the form we have, before we ask
15 any questions, you must understand your rights. And then
16 it says, you have the right to remain silent. Anything
17 you say can be used against you in court. You have the
18 right to talk to a lawyer for advice before we ask you any
19 questions and to have him or her with you during the
20 questioning.

21 If you cannot afford a lawyer, one will be appointed
22 for you before any questioning if you wish. If you decide
23 to answer any questions now without a lawyer present, you
24 will still have the right to stop answering at any time
25 till you talk to a lawyer.

1 And at the bottom right here it's got, waiver of
2 rights. And then it says, before any questions, I was
3 affirmed -- I was furnished the above statement of my
4 rights at 7:00, and it's got the time, on 6-18-07 at
5 Sumter law enforcement by Officer Rogers.

6 So that is filled in by the detective, the date and
7 time in there again, prior to us reading it, and then
8 whenever they sign it, we put the date and time again.

9 Q And Rogers read him those rights?

10 A Yes, sir, he did.

11 Q And did he give him an opportunity to read it?

12 A Yes, sir, he did.

13 Q And did he -- did the defendant Jackson, did he
14 initial each one of those statements?

15 A Yes, sir, he did, right above--

16 Q Read the first one and tell me what it is.

17 A The first right?

18 Q First right.

19 A You have the right to remain silent.

20 Q And did he initial that one?

21 A Yes, sir, he did.

22 Q And the second right.

23 A Anything you say can be used against you in court.

24 And he initialed above that in the same place.

25 Q And how many of those individual times did he sign --

1 put his initials on there?

2 A It's broke down into five bullets, and he's initialed
3 above each bullet five times.

4 Q That mean -- what you mean as five statements?

5 A Yeah, five statements. It's bullet format, it's how
6 it's typed.

7 Q And he initialed five times?

8 A Yes, sir, he did.

9 Q And then did he sign the documents saying he would
10 waive his rights to a lawyer and talk to you freely?

11 A Yes, sir, he did.

12 Q And --

13 A And--

14 Q -- did you actually witness the whole thing?

15 A Yes, sir, I did. That's my signature--

16 Q Sign it down at the bottom?

17 A Yes, sir.

18 Q And did Rogers sign it?

19 A Yes, sir, he did.

20 Q Did either you or Rogers threaten him to make him
21 talk to you?

22 A No, sir, we did not.

23 Q Did he talk to you freely and voluntarily?

24 A Yes, sir, he did.

25 Q Did you promise him anything --

1 A No, sir.

2 Q -- in order to get him to talk to you?

3 A No, sir, we did not.

4 Q Were restroom facilities and a Pepsi Cola or a soft
5 drink or anything like that available to him during the
6 course of the time he was there talking to y'all?

7 A Yes, sir, they are. And once you walk in, we have a
8 vending machine, we have two Coke can, Pepsi machine, and
9 there's a restroom actually kind of just down the hall.
10 It's about 10-foot from the interview room.

11 Q Now, did you stay there with him the entire morning?

12 A Yes, sir, I did. From the time he was transported
13 from the apartment complex to the time he was taken to the
14 jail I was with him.

15 Q Now, at some time early in the morning did this
16 gentleman right here, lieutenant -- Captain Holston come
17 in?

18 A Yes, sir. Captain Holston joined me in the interview
19 room.

20 Q And did Sergeant Rogers leave?

21 A Yes, sir, Sergeant Rogers left to return to the crime
22 scene.

23 Q So he went back out to the apartment complex?

24 A Yes, sir, he did.

25 Q And Captain Holston came in and started talking to

1 the defendant?

2 A Yes, sir, he did.

3 Q And you were present during that conversation?

4 A Yes, sir, I stayed.

5 Q Did Captain Holston promise him anything or threaten
6 him to get him to talk?

7 A No, sir, he did not.

8 Q And about 9:45 did y'all have -- did he agree to talk
9 with you, and y'all -- to give you a more -- a formalized
10 version of what had happened out there?

11 A Yes, sir, he did. And we started going through
12 things. And he was asked if he would mind putting it on a
13 recording, and that's when we brought a large tape
14 recorder in the room, sat it on the desk right in front of
15 him, plugged it up, and kind of did a little sound check
16 with it.

17 Q And was he reminded of his Miranda rights again?

18 A Yes, sir. We went through it again on the -- Captain
19 Holston went through it again on the tape.

20 Q And the form itself, that form you have there, was it
21 there on the table right in front of him so that he could
22 see it if he wanted to?

23 A Yes, sir. It sits on the table kind of like it is in
24 front of me now. It sits right in front of him on the
25 table.

1 Q So he had it available to him?

2 A Yes, sir.

3 Q Now, you took a statement from him about 9:45 and
4 then you took another statement; is that right?

5 A Yes, sir, we did.

6 Q And that would have been later in the morning?

7 A Yeah, it was couple hours, an hour or so later, not
8 sure exact time.

9 Q And Captain Holston was present during that?

10 A Yes, sir, he was -- he actually stayed. Once he come
11 in the room, he stayed until he was transported, and he
12 stayed right there with me.

13 Q During the course of your interview with him that
14 morning, did he have an opportunity to execute this form
15 that's on State's Exhibit number 24?

16 A Yes, sir. As we went into the interview, he admitted
17 that he had a gun, his involvement.

18 MR. MURPHY: Your Honor, I'm just going to renew
19 my objection regarding this entire interview.

20 THE COURT: Your objection is noted. Overruled.
21 You're allowed to answer the question.

22 THE WITNESS: Thank you, sir. And he actually
23 told us where he had taken the gun after the
24 incident. It was -- he told us it was in his '93
25 Caprice Classic.

1 So I contacted the other detectives, let them
2 know that he had taken it somewhere else and to go in
3 the car. We brought him a consent to search form.
4 This is our form that we do give them, say, hey, you
5 give us permission to check in this automobile
6 without a search warrant.

7 And he was given this, and he consented to us
8 going in that automobile and retrieving that weapon.

9 BY MR. CONNER:

10 Q Okay. And did you -- you wit -- did he sign the
11 form?

12 A Yes, sir, he did.

13 Q And did anybody else witness it?

14 A I witnessed it and Detective Irene Culick witnessed
15 it.

16 Q That would be this lady right here to my left?

17 A Yes, sir, it would be.

18 Q And do you know who went to the location indicated to
19 make the...

20 A Detective Culick.

21 Q Detective Culick?

22 A Yes, sir. I stayed in the room with him, so she left
23 and--

24 MR. CONNER: Your Honor, we would offer into
25 evidence State's Exhibit number 24 if we haven't

1 already got it. He said he objected.

2 THE COURT: Right. That's a consent to search
3 form?

4 MR. CONNER: Right.

5 THE COURT: Overruled.

6 MR. MURPHY: Your Honor, same objection.

7 THE COURT: Right. Okay. Then it's in over the
8 defense objection.

9 (Whereupon, State's Exhibit 24 was admitted into
10 evidence.)

11 BY MR. CONNER:

12 Q Now, I show you these two exhibits marked State's
13 Exhibit number 27 and 29. Now, first of all, as to number
14 27, is that a transcription of the taped conversation
15 y'all had with him at about 9:45 that morning?

16 A Yes, sir, it is.

17 MR. CONNER: Your Honor, we would offer that
18 transcription into evidence.

19 MR. MURPHY: Same objection.

20 THE COURT: It is in over objection.

21 (Whereupon, State's Exhibit 27 was admitted into
22 evidence.)

23 BY MR. CONNER:

24 Q And would you also number 29.

25 A Yes, sir, it is.

1 MR. MURPHY: Same objection.

2 BY MR. CONNER:

3 Q Is that -- what is number 29?

4 A Number 29 is the second tape interview where he kind
5 of cleared his involvement up a little bit better than he
6 did on the first one.

7 Q Okay. Answer any questions the defense lawyer might
8 have for you.

9 MR. MURPHY: He offered it?

10 THE COURT: Do you...

11 MR. MURPHY: I object to 29.

12 THE COURT: I understand that and it's noted on
13 the record and I overrule your objection.

14 (Whereupon, State's Exhibit 29 was admitted into
15 evidence.)

16 CROSS-EXAMINATION

17 BY MR. MURPHY:

18 Q Good morning, Detective Richburg.

19 A Good morning.

20 Q Now, at the time you picked up my client, you were
21 aware he was 17?

22 A Sir?

23 Q You were aware he was 17 years old at that time, at
24 the time you picked up my client?

25 A We cleared date of birth and all that in the

1 interview room, yes, sir.

2 Q Okay, but you -- you became aware that he was 17
3 years old?

4 A In the course of the interview, yes.

5 Q And he had a tenth grade education?

6 A We -- yeah.

7 Q No steps were taken to notify either his grandmother
8 or any other relative that he was with -- that he was
9 being interviewed?

10 A No, sir.

11 Q Correct. Now, with regard to the interview itself,
12 there is -- let me see if I'm correct here. There's a
13 period of time where you are talking with him, you're
14 getting information, and then there's a period of time
15 correct -- I mean, there's a period of time, then he
16 decides to make a statement with the tape recorder;
17 correct?

18 A Right.

19 Q And then there -- the tape recorder is off, you have
20 a transcript of that statement, and then there is more
21 information or there -- you decided to ask him some more
22 questions later on based on other information that you
23 had?

24 A Generally we get this first statement, you know.
25 It's not really adding up with what we are getting from

1 detectives from the crime scene. We are relaying
2 information back and forth from us. Really wasn't quite
3 clear.

4 Saw some things that he may needed to clear up, so he
5 was talked to about the information we were getting, and
6 then as he cleared up, he did a second statement.

7 Q Well, what do you mean by cleared up?

8 A His involvement.

9 Q Now, the first statement he indicated that he didn't
10 shoot a weapon; correct?

11 A That's correct.

12 Q And in the first statement he indicated he saw the
13 victim of a -- with what he thought was a gun; correct?

14 A Right.

15 Q All right. And that he backed off; correct?

16 A Yes, sir.

17 Q Then later on, you -- you continued the interview
18 process because you don't believe that; is that correct?

19 A Wasn't adding up with what we were getting from the
20 scene, yes.

21 Q Is it fair to say that he's being challenged with
22 this information that you have?

23 A I wouldn't say challenged, no.

24 Q Well, what would you say?

25 A Just basically it's not adding up. You need to, you

1 know, what is your full part in it?

2 Q And that enterprise is being done or that dialogue is
3 being done off the tape recorder where he's being -- you
4 say not challenged, but where he's being told, this isn't
5 adding up, all that is off the tape recorder; correct?

6 A Yes, sir.

7 Q Then when it appears that things are starting -- that
8 his version of events corresponds with what y'all have, he
9 was -- the tape recorder is put back on; correct?

10 A Right.

11 Q Did you -- did you and or Captain Holston raise your
12 voice at all during the times it wasn't on the tape
13 recorder?

14 A No, sir.

15 Q Not at all?

16 A No, sir.

17 Q Did you ever make a statement to the effect of, if
18 you don't stop sucking your teeth, you're going to be
19 swallowing them?

20 A No, sir, I did not.

21 Q Did you or Captain Holston ever discuss the fact that
22 he might be facing a long time in prison if he didn't come
23 clean?

24 A No, sir.

25 Q Did you -- did you and or Captain Holston discuss the

1 fact that he could find himself a victim of homosexual
2 rape in prison if he didn't come clean?

3 A No, sir.

4 Q Now, in the second statement my client indicated
5 something to the effect that he shot because the person on
6 the other side of the car was shot; isn't that correct?

7 A Something to that effect, yes, sir.

8 Q And it was only after the other person was shot that
9 my client said he shot?

10 A I'm just referring to the statement real quick.

11 Q Maybe pages 12 and 13 would be helpful.

12 A He said he fired because he saw a gun.

13 Q Where are you referencing, what page?

14 A Page 12. He said, I ran up... I seen him with a gun,
15 so I fired on him and the other person ran. Yes, he did
16 say he heard a shot and saw a gun.

17 Q So he heard a shot, he saw a gun. And that's when he
18 fired.

19 A Right.

20 Q I have no further questions. Refer to Mr. Sullivan
21 if he has questions for you.

22 CROSS-EXAMINATION

23 BY MR. SULLIVAN:

24 Q Detective Richburg, based on the -- what you have
25 seen in the investigation that you have done, do you --

1 does it appear to you that Mr. Robinson shot the victim?

2 A I -- no, sir.

3 Q Okay. And again, based on what you have seen, your
4 investigation, would you say that the bullets, the shots
5 to the victim came from the passenger's side of the car?

6 A I didn't -- I wasn't involved in the trajectory or
7 the victim or anything of that nature to where I could
8 answer that question.

9 Q You said that you're one of the first to arrive the
10 night of the incident.

11 A That's correct.

12 Q Okay. Was there any time when the victim's car was
13 left unattended from the time that the 911 call was made
14 until--

15 A I can't answer from the 911 call, but from my time
16 and my arrival, there was somebody with that vehicle until
17 Lieutenant Duggin got there.

18 Q Okay. So there was no time at all where the car
19 would have been left unattended and whatever?

20 A From law enforcement's arrival, from my arrival, no,
21 sir.

22 Q Okay. All right. Thank you, Detective Richburg.

23 MR. CONNER: You can come down.

24 (Witness left the stand.)

25 THE COURT: Okay. Y'all need a break now? We

1 are going to take a 10 minute break. I remind you
2 you can't discuss the case yet.

3 (Jury left the courtroom at 10:52 am.)

4 *THE COURT:* All right. We'll be in recess for
5 10 minutes.

6 (Brief recess was taken.)

7 *MR. CONNER:* May it please the Court. At this
8 time I'm going to call Officer Holston. And the
9 reason I mention it before we bring the jury in is
10 we'll -- we're going to publish these statements by
11 having him read them.

12 And I would also -- I also have duplicate copies
13 made of each one of the statements that -- that he
14 would be reading. I'd like to give a copy of that to
15 the jury to read along with it.

16 *THE COURT:* Okay.

17 *MR. CONNER:* Have 14 copies made.

18 *THE COURT:* What says the defense?

19 *MR. MURPHY:* Your Honor, I'm going to just renew
20 the objection already noted.

21 *THE COURT:* All right. Outside of y'all's
22 objection, they aren't admissible any way.

23 *MR. MURPHY:* As far as the technique it's being
24 done, that's up to the State.

25 *THE COURT:* Okay. All right. Then I understand

1 your objection and I will allow the State to give the
2 jury a copy of the statement.

3 Are y'all comfortable -- any questions that the
4 copies of the statement going to the jury is exactly
5 what I have ruled on -- probative, based on my
6 ruling?

7 MR. MURPHY: I have no -- we reviewed the
8 statements. They are consistent with your ruling.

9 THE COURT: Okay.

10 MR. CONNER: I might add one thing, Your Honor,
11 that is on the back of what I gave y'all it had a
12 note back there saying that it was a redaction, and
13 I -- and he had made -- I took that off. It's not on
14 the ones we have introduced and it's not on these
15 either.

16 THE COURT: Okay. You understand that?

17 MR. MURPHY: That's fine. I'm not...

18 THE COURT: Okay. All right. Anything else
19 before we bring in the jury?

20 MR. SULLIVAN: Just our clients.

21 THE COURT: Okay. Yeah, got to have them.
22 Can -- just from a scheduling standpoint gentlemen,
23 you think we're going to get this case to the jury
24 today?

25 MR. CONNER: No.

1 MR. MURPHY: No.

2 THE COURT: Okay. That's good because I didn't
3 feel like charging the jury today. Okay. Is the
4 State ready now?

5 MR. CONNER: State's ready, Your, Honor.

6 THE COURT: Defense ready?

7 MR. MURPHY: Yes, Your Honor.

8 MR. SULLIVAN: Yes.

9 THE COURT: Bring them in.

10 (Jury entered the courtroom at 11:15 am.)

11 THE COURT: Mr. Solicitor, you may call your
12 next witness.

13 MR. CONNER: I call Captain Alvin Holston, Your
14 Honor.

15 ALVIN HOLSTON, after being duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CONNER:

19 Q Captain Holston, where are you employed?

20 A I employed with the Sumter City Police Department.

21 Q And what do you do for them?

22 A Currently I'm the captain over all the investigative
23 services for the Sumter Police Department.

24 Q And tell us something about your law enforcement
25 experience.

Alvin Holston - direct by Conner

235

1 A I have been with the Sumter Police Department for 18
2 years. First came on, I worked year and a half on patrol.
3 Also worked as a DARE officer for about a year and a half.
4 But prior to that, I was enlisted in the United States Air
5 Force where I served about eight years as a law
6 enforcement specialist.

7 Q And how long have you been an investigator or
8 involved in criminal investigations with the Sumter Police
9 Department?

10 A Right at 15 years.

11 Q And when were you made the supervisor of the
12 investigative group there?

13 A About two years ago. But prior to that, I was the
14 lieutenant over the -- just the criminal investigations
15 section, and that would be the section that would handle
16 crimes against persons and property.

17 Q And on June the 18th, 2007 did you become involved in
18 talking with one of the defendants, Teron Jackson, in
19 regards to his involvement in this killing at Poplar
20 Square?

21 A Yes, sir, I did.

22 Q And tell us where you -- where you met with the
23 defendant and who was present.

24 A I was at the law enforcement center in the -- working
25 area of the detective division. Was actually in my

1 office. I had come out a little bit earlier to make
2 contact with the detectives out at the incident location
3 at Poplar Square, and I proceeded back to my office
4 probably around six, 6:30 after going out briefly, taking
5 a look at the scene.

6 And I proceeded back to my office just to kind of do
7 my normal thing as a supervisor, kind of monitor the flow
8 of the investigation.

9 I was informed and was aware that the -- they had an
10 individual that they had escorted down to the station for
11 a follow-up and -- for a follow-up interview based off of
12 what they had discovered down at the -- at the scene.

13 So I knew that there were two detectives with a young
14 man -- I believe his name was Teron Jackson -- in the
15 interview room. They were in for I would say a little
16 while.

17 And one of the detectives came out, Detective Rogers
18 came to my office, and I kind of asked him how things were
19 going. He said that it wasn't really talking too much,
20 and I was still kind of corresponding with the detectives
21 on the scene and was kind of giving a little insight.

22 And they also requested someone else to come back
23 down to the scene to assist. I instructed Mike Rogers,
24 who had had some of the skills and training that -- to
25 assist in the case to proceed back down to Poplar Square

1 Apartments and see how his help may be needed.

2 I then proceeded to kind of check in with Detective
3 Richburg and to see if I may offer any assistance on the
4 interview.

5 Q And did you go in the interview room?

6 A Yes, sir, I did.

7 Q And did you make yourself aware of the fact that he
8 had been given his Miranda rights, Teron Jackson?

9 A Yes, sir. It was clear basically when I walked in
10 the office that the interview form, the waiver of rights
11 form was on the desk where it should be as a supervisor,
12 of course, and that it was clear that it had been signed
13 plus I had already -- was made aware of it from Detective
14 Rogers.

15 Q And he had indicated then that he would talk with
16 y'all freely and voluntarily?

17 A Yes, sir.

18 Q And did you sit down and begin to talk with him?

19 A Yes, sir, I did.

20 Q Did you promise him anything in order to get him to
21 talk to you?

22 A No, sir.

23 Q Did you threaten him to make him talk to you?

24 A No, sir.

25 Q Did you use any force at all on him?

1 A No, sir. I didn't see a need for any of that, of
2 course, and I -- I came in and sat down and basically
3 gotten follow-up information from detectives on the scene,
4 and I came in, and of course I saw a young man sitting at
5 the table with the detective, and I simply proceeded
6 and -- to just say to him basically after I was assured
7 that everything -- that he was under Miranda and that we
8 were following our protocol, that I just simply made a
9 comment to him, and that comment being, of course, that
10 it's a -- kind of a bad night out there and there's a --
11 two lives that have been lost here, and the individual
12 that died at the scene and the person or persons may have
13 been involved in the shooting of the individual, and just
14 up front, be best for him to -- if there was some
15 involvement -- be best for him to tell his side of the
16 story so there can be a clear understanding of what
17 happened with regards to his participation if he was
18 involved.

19 Q And did he begin to talk with you some?

20 A There was a silence drawn for a little bit, but yes,
21 sir, he did begin to give an account of what took place.

22 Q Now, after you talked with him for a little while
23 and -- did you decide that his -- that some of the things
24 that he had would be worth tape recording?

25 A Yes, sir. I mean, basically it was taking a

1 statement, a recorded version. I mean, it's different
2 versions, of course, but we did a recorded version in
3 this.

4 Q And at about 9:45 did y'all turn on your tape
5 recorder and tape the statement?

6 A Yes.

7 Q And did you -- in that course of doing that, did you
8 remind him of his Miranda rights again?

9 A Yes, sir, I did.

10 Q And after you -- the -- and this State's Exhibit
11 number 27, is this the transcription of your statement he
12 got -- gave you at 9:45?

13 A Yes, sir.

14 Q And after you took that statement from him, were you
15 getting more information from the scene, from the
16 detectives at the scene?

17 A Yes, sir. I had inquired a little bit just to kind
18 of basically relay what was told from us -- told from me
19 in the interview -- and Richburg from the interview back
20 to the detectives at the scene, and some things were not
21 consistent with what the detectives had learned from
22 working out on the scene.

23 And so decided to go back again and conversate with
24 him further about what I had learned, and I asked him
25 basically to be -- if something else we need to talk

1 about, for him to be truthful or more truthful about it,
2 that would be a good thing.

3 Q And did he indicate that -- in a separate statement
4 that he would -- or after his first statement was over,
5 did he indicate to you that he was more involved than he
6 had admitted originally?

7 A Yes, sir.

8 Q And did you take a second statement from him?

9 A Yes, sir, I did.

10 Q And is this a transcription of that statement? This
11 is State's Exhibit number 29.

12 A Yes, sir.

13 Q And...

14 MR. CONNER: Your Honor, which would request
15 permission to publish those statements at this time
16 by having him read them.

17 THE COURT: Do you have -- permission granted.

18 MR. CONNER: We would also ask permission to
19 give the jury copies of these statements so that they
20 can read along with him.

21 THE COURT: All right, sir.

22 BY MR. CONNER:

23 Q Officer Holston, if you would start please with the
24 9:45 statement given to you on June the 18th, 2007. Just
25 one minute if you would. Okay.

Alvin Holston - direct by Conner

241

1 A Detective Alvin Holston. Today is June 18th, 2007.
2 Time now is 9:45 am. This is an interview concerning a
3 shooting incident which occurred at Poplar Square
4 Apartments located in the city of Sumter off of Miller
5 Road.

6 Present in this interview is myself, Detective Alvin
7 Holston, and Detective Robert Richburg, both of the Sumter
8 City Police Department. This is an interview being
9 conducted with one Teron Hakeen Jackson of [REDACTED] Frazier
10 Street. Teron, if you would state and spell your name.
11 Teron Jackson. Detective Richburg, whole name. Question,
12 yeah. Teron Hakeen Jackson, T-e-r-o-n H-a-k-e-e-n
13 J-a-c-k-s-o-n. Teron, how old are you? Seventeen.

14 Okay. Prior to this taped interview, you have been
15 read your constitutional rights. Yes, sir. And you have
16 agreed to talk to detectives freely without a lawyer
17 present. Yes, sir. Okay. And you signed off on these
18 documents; right? Yes, sir.

19 Tell me a little bit about your education for the
20 past two years. Where have you attended school at?
21 Sumter High School. Okay. And that's Sumter High here in
22 Sumter, South Carolina of course. Yes, sir. What grade
23 did you attend? Ninth and tenth grade.

24 Ninth and tenth grade? So you did -- you passed the
25 11th? Yes, sir. Okay. You can read and write? Yes,

1 sir. Okay. And you have had your rights read to you and
2 you stated that you agree to talk freely without an
3 attorney present. That's correct. Yes, sir.

4 Okay. And you have signed those waiver of rights.
5 Yes, sir. All right. What I want to do is just have you
6 tell us about a shooting incident that occurred at Poplar
7 Square Apartments in the early morning hours of today.
8 Let's start back around 10:00.

9 Just tell me where you were at and who you were with
10 and how you ended up at Poplar Square Apartments. That
11 would be about 10 pm. So actually we'll be talking about
12 June 17th rolling over into the morning of June 18th. And
13 just take your time and just tell the truth about what
14 happened.

15 At about 10 pm I was in Poplar Square. If you'll
16 just talk up, the mic will pick it up. I was in Poplar
17 Square watching a DVD with two of my home boys. Where
18 were you at? L5. L5. Speak up so we can hear you. Go
19 ahead. The L5.

20 Who all was present. Me, another person, and
21 Chyenne. Okay. And how do you know that? How do you
22 know the other person. From school. Since third grade.
23 Okay. Go ahead. Tell -- tell me what happened.

24 It was a robbery went bad. Well, let's back up. How
25 long were you at the -- let's start there. How long were

1 you at the apartment. What time did you get there? We
2 got there about around 8:30 going on nine. Okay.

3 And y'all watched a movie? Yes, sir. Okay. What
4 was the movie you watched? East Coast Riders. East Coast
5 Riders? And what now? Okay. Tell me what -- let's pick
6 up from there. Y'all watched movies for a while? Yeah.

7 And then what? Just take it from there. As best as
8 you can remember, just take -- take your time and go
9 through everything that got you out there. We went
10 outside. About what time? About 11. Try and remember
11 the time, put the times together. Go ahead.

12 We rode bikes and we met up with these girls we know.
13 Where did y'all ride bikes at? Around the complex. Okay.
14 And we met up with the girls we know in Poplar Square. So
15 you and the other person was riding, riding around in
16 Poplar Square? Yes, sir.

17 And y'all met up with some girls? Yeah. What were
18 the girls' names? Shyrea Williams and Sharell Williams.
19 Shyrea Williams and Sharell Williams? How old are they?
20 Fifteen and 16. Okay. Go ahead.

21 And was sitting out talking and we met up with our
22 friend. Where were y'all sitting at? In my parking lot.
23 In your parking lot? Of what? L5? Yeah. Okay. Y'all
24 were sitting outside on the sidewalk or where at. On the
25 car. On a car? Yes, sir.

1 What type of car has the other person got? A Maxima,
2 Nissan Maxima and a box Chevy. All right. They have got
3 two cars? Yes, sir. Nissan Maxima and a Chevrolet.

4 They have both of them out there. Excuse me. They
5 had both of them out there? Yes, sir. A Nissan, what
6 year is the Maxima? I don't know. Maybe a '96. An older
7 model? And you say a box Chevy? What is that? Help me
8 out on that.

9 I think it's a '92. Okay. All right. So y'all were
10 sitting outside. Okay. Go ahead. And then we just start
11 riding back up to the girls, you know, where they were at.
12 Where did y'all get the bikes from? Had the bikes. My
13 little brother, they both was his -- his bikes.

14 Your little brother's bikes? Where did y'all have
15 them at, the car? Nah, inside the house. Inside the
16 house? Yes, sir. Okay. Go ahead. And then we just rode
17 around.

18 Then we seen them pulling in the parking lot around
19 12 about -- right -- in the parking lot about 12, about
20 11:30 going on 12. Saw who? I don't know his name.
21 Well, what did you see? Tell me what -- I mean, you said
22 you saw.

23 Saw a green car. We didn't know who was driving it.
24 We didn't know who was driving it, but you know, we don't
25 know him like that. We just know the person has money.

1 How do you know he has money? You know, people talk.

2 Okay.

3 And where were y'all when y'all saw him? Still in my
4 parking lot. Still in your parking lot? Yeah. Y'all
5 were on bikes? Yeah. Okay.

6 So we rode around to the nursing home where I find
7 the bike. The whole time? So y'all rode through the
8 nursing home. Yeah. Where y'all found the bikes. No.
9 Where you -- where y'all guys found the bikes. Okay.

10 Where the police -- where the police found the bikes?
11 Yeah. Okay. And where was that at? Where did y'all park
12 the bikes at? It was on the other side of -- on the other
13 side of Poplar Square. What type of bikes was it?
14 Freestyle. Freestyle? A Mongoose? A Mongoose, yeah.
15 What color. Chrome. I think the Mongoose was chrome and
16 the -- was red.

17 Was red? Which one of you were riding? Which one
18 were you riding? The chrome Mongoose. You were riding
19 the chrome Mongoose? Yeah. And the other person was
20 riding the red. Yeah. Okay.

21 Were y'all parked? Y'all all were -- y'all were in
22 the parking lot first of all, when y'all saw him come in
23 there. Yes, sir. Then y'all rode off? Yeah. To the
24 other side of the nursing home? To see what they had been
25 doing, see what they had on and see what... what did they

1 have on.

2 It was -- I know they were chains -- I mean jewelry,
3 you know what I mean. Was he by himself or someone was
4 with him? We thought somebody was with him. I mean, you
5 know what I mean, so we just saw him in the car.

6 So what did -- what did he have on? Not sure. I
7 didn't see him. Okay. So he rode back to the house. We
8 got our black clothes on. Rode to whose house? The other
9 person's house. Which is what. L5. L5 Poplar Square?
10 Yes, sir.

11 Y'all rode back to the house. Where did y'all --
12 y'all rode the bicycles back to the house? Yes, sir. All
13 right. Go ahead. I'm going to be -- all right. Go
14 ahead. I'm going to be quiet and I'm going to let you
15 talk. Go ahead.

16 So we put the -- you know, on your -- on our black
17 stuff. We was going to rob him. The other person got his
18 gun. And what type of gun. .40 caliber? Forty cal?
19 What black stuff did you put on? My black, my black and
20 gray Nike shoes and a black T-shirt, my black hoodie with
21 the gray hood, and my ski mask.

22 Where did y'all get this from? All right. And what
23 did the other person put on? Same thing, black Nikes,
24 some dark blue jeans, some dark blue jeans, and a black
25 shirt and -- and the gun.

Alvin Holston - direct by Conner

247

1 Where did the gun come from? I heard you mention
2 something about a gun. Yeah. I don't remember. But who
3 had the gun? The other person. All right. And y'all
4 talked about going to do what? To rob them. To rob them?
5 Go ahead. To rob them.

6 After y'all got dressed, y'all left out of the
7 apartment. Got to where we was which was in the nursing
8 home where you -- where the police found the bikes. So
9 y'all could see -- y'all could see them from there? So
10 where were they? What were they doing?

11 Just -- just sitting in the car -- side. How many
12 people were sitting in the car? We thought it was more
13 than what it was. I only seen two. I seen the driver and
14 the girl. Had you -- do you know the girl? I couldn't
15 see. I know the girls what he was with, but I couldn't
16 see who was in the car at the moment. Okay.

17 Go ahead. So we ran up from around the building.
18 Did y'all come along beside the fence? And then on the
19 back side of the nursing home fence and then come through
20 the fence? Yeah. Where at? We came in front, not -- not
21 like we came off the edge of the building.

22 So y'all came from around the corner? Yeah. Where
23 the fence was down by the tree? Yeah. Y'all came by the
24 tree. Yeah. And then come up on the corner? And we ran
25 up on the sidewalk.

1 They ran up, I ran to the other side -- excuse me --
2 and we ran up on the sidewalk. They ran up, I ran to the
3 other side because I was planning on holding the gun.
4 What side did the other person go to?

5 The other person went to -- to the -- well, we used
6 to call it part facing this way. Uh-huh. And the other
7 person fired a shot. I ran. Who fired the shot? The
8 driver. He fired a -- what did y'all say when y'all came
9 up to him? Something -- I think I said, give me all you
10 got or something, or something.

11 And he... what did the other person do? The other
12 person just ran up with the gun. Hold it. The other
13 person ran up on your side or the passenger's side? No,
14 the other person ran up on the passenger's side.

15 All right. So I went to the driver's side to hold
16 him. I seen he get the gun so I done back up. Told the
17 other person, come on, he got a pistol. I heard a shot.
18 Heard several more, like four more after that.

19 I seen the other person behind me. What did you see
20 of the guy? You look back to see him? No, sir. Was he
21 down? I don't think he never got out the car, so you know
22 we ran.

23 The other person was over here when they got -- I
24 mean, the ambulance take them, they was over there, but we
25 ran around like this like going towards the -- and I ran

Alvin Holston - direct by Conner

249

1 straight to the house and take off -- take off my clothes.

2 And where did the other person with you go? The
3 person went to where they found him in L2. Did y'all know
4 the people at L2? Not L2. Yeah, L2. Yeah, hold on.
5 Yeah, we know the people at L2.

6 So we walked around there. I know they was shot but
7 I thought they still was like laying on the ground
8 somewhere. Did the other person fall at all? No, sir. I
9 guess they got shot, they fired -- they fired back, then
10 they ran.

11 When they caught up with me, said you need to call
12 the -- call the ambulance. I said all right. Take off
13 everything.

14 The phonecall. You called the ambulance? What did
15 you say? I said we need somebody at the -- at the
16 apartment, Summer Arms, that I heard a gunshot and I think
17 someone was hit. So she said you already have a cop right
18 there.

19 So I came back out the door. The other person was
20 out there. Nah, the other person was inside the house.
21 Was the cop -- was the police out there then? Yeah.
22 Okay. And what did you do? What did you see? You saw
23 the cops around the car? Yes, sir. Yes, sir.

24 Where did you -- where were you sitting at? I was
25 over there with the other person with the -- and then the

1 ambulance came over there? Yes, sir. And got the other
2 person. Yes, sir.

3 What did the other person tell you? They didn't
4 tell -- straight up. Did they tell you not to say
5 anything? I just told the other person that it would be
6 all right, don't worry about it. The other person said
7 they know that.

8 Well, what did the other person do with the gun,
9 though? I have no idea. So you are saying you never --
10 you never -- you didn't have a gun? No, sir. You didn't
11 fire a gun. No, sir. I fired a gun, but not -- but not
12 last night.

13 When? When did you fire a gun? I'm not sure.
14 Probably, have y'all -- probably. Have y'all robbed
15 anybody else like this or tried to? No, sir. Well,
16 what's so much about the guy that y'all were trying to rob
17 tonight? What was so -- so -- I mean, what did y'all know
18 about him? We just heard he got money.

19 Did you know? When did you find out who the other
20 people were or the other person was in the car? The --
21 when I came back out. Uh-huh. People were talking like,
22 yeah, that was -- Toni was in the car with him.

23 Do you know Toni? Yes, sir. How do you know Toni?
24 Went to school with. Well, what did you think to
25 yourself? You didn't see Toni when you came around on the

Alvin Holston - direct by Conner

251

1 driver's side of the car when you were looking at him?

2 You didn't see her -- see her then? Uh-huh.

3 No, sir. She must have ran out. I didn't see her
4 because after I seen him draw his gun, I backed up like
5 I -- like I ain't want no part of it. All right. But
6 explain to me. You was on the driver's side? Yes, sir.

7 And you said something about holding him down --
8 excuse me -- and you said something about holding him.
9 How were you holding him? I was going to hold him. You
10 was going to hold him? But I seen him draw his gun, so I
11 backed up off.

12 All right. You didn't see him draw his gun and you
13 pulled your gun out and fired it, didn't you? Be honest,
14 now. Yes, sir. Hmm. Is that what happened? Well, how
15 did the other person get around? I mean, when -- when did
16 you see the other person fire or -- I just heard the
17 shots.

18 And what type of gun did the other person have?
19 .40 caliber. Automatic or revolver? Automatic. Do you
20 know what the difference is? Yes, sir. Yes, sir, I
21 believe so. Are you telling the truth? Yes, sir.

22 All right. So after the ambulance got the other
23 person, you just stayed outside for a little bit watching
24 what was going on? Went to the hospital. You went to the
25 hospital? Okay.

1 Now, is everything you're telling us the truth? Yes,
2 sir. That's questions by Detective Richburg. Where was
3 the clothes that you had on? At the other person's. Did
4 you hide them under something? It was in the other
5 person's room in the apartment. Yes, sir. L5? Yes, sir.

6 Where at again? Last room on the right. Last room
7 on the right. Yeah. And what did -- what did y'all do
8 with -- do to the mask? I just cut it open. And what
9 else? Okay. And you did that? Yes, sir. All right.
10 Detective Holston, this ends the interview. Time now is
11 10:09 am.

12 Next interview, that was taken at 11:41 am,
13 June 18th, 2007. Today is June 18th, 2007. It's
14 approximately 11:41 am. This is an interview with
15 Mr. Teron Hakeen Jackson in reference to a shooting
16 incident at Poplar Square Apartments this morning.

17 Mr. Jackson, if you would, just say your name and
18 spell your complete and total name. Teron Hakeen Jackson,
19 T-E-R-O-N H-A-K-E-E-N J-A-C-K-S-O-N.

20 And Mr. Jackson, you currently in the room now as
21 both myself, Detective Richburg, Detective Robert Richburg
22 and Detective Holston. You've been advised of your
23 constitutional rights in reference to talking with us,
24 haven't you? Yes, sir. And you wish to talk with us
25 freely and voluntarily without an attorney present. Yes,

1 sir. Okay.

2 And we -- this is the second time we have talked and
3 this is the second statement we have done. There are
4 other statement was done -- done about 9:45 this morning.
5 Am I right? Yes, sir. Okay.

6 And you were advised of your constitutional rights
7 then and you wanted to talk with us then. Yes, sir.
8 Okay. The same as you do now. Yes, sir. Okay.

9 And basically we have been talking about a shooting
10 incident that happened over at Poplar Square apartments
11 this morning, right? Yes, sir. Let's go through the
12 events of that -- events of the day starting around 9:00
13 this afternoon or yesterday afternoon.

14 Detective Holston. And just so we are clear, you're
15 actually clearing up I guess from where you didn't quite
16 tell all the truth the first time. But you're telling the
17 truth this time around exactly what your role was this
18 time. This time, right? Yes, sir. I mean, the truth
19 about what actually happened. Yes, sir.

20 There's a few things you left out or didn't quite
21 tell right the first statement taken, right? Yes, sir.
22 Okay. Well, go ahead. Take your time once again and just
23 talk.

24 Where to start from. He's going to ask you and start
25 it from the beginning. What time. It was about 9:00

1 whenever you went over to Poplar Square this morning or
2 yesterday afternoon. 9:00. I was in Poplar Square and we
3 watched a movie. Okay.

4 We as in -- when you say we, we need you to state who
5 all was... we as in the other person, Chyenne and myself,
6 by 11:00 we met up with some girls in Poplar Square. We
7 talk and chat. But they left around -- okay. Who was the
8 girls? Shyrea Williams and Sharell Williams. And they
9 left around 11:30 or going on 12.

10 So we seen the car pull in the parking lot, so we
11 already know who it was and we was trying to rob them. So
12 we ride to the nursing home over the gate to scope --
13 scope them out first. And then we came back home, got our
14 ski masks and our clothes and came back and we set up as
15 we was running out. We both draw our guns.

16 I ran to the passenger's side and the other person
17 ran to the driver's side. I heard a shot so I fired my
18 gun and we both ran. Was this you fire you gun at? In
19 the driver's side. I was on the passenger's side. I
20 fired into the driver's side.

21 Okay. And how many? You said I fired. What side of
22 the car were you on? The passenger's side. So you was
23 over on the passenger's side. Yes, sir. Well, why did
24 you fire your gun? Because he fired at mine first.

25 Okay. When you say he, who is he? I -- I don't

Alvin Holston - direct by Conner

255

1 know, sir. Okay. And what kind of car was it? A -- a
2 dark green car with tint windows. Okay. You didn't see
3 what the guy looked like? No, sir.

4 Okay. And what kind of gun was it that you had?
5 Thirty-eight special. Recover, automatic? Revolver.
6 Okay. And how many times did you say you fired? Four.
7 Was somebody else in the passenger's seat of the car? I
8 seen a girl at the moment, but I didn't see her any more.

9 But you got -- I mean, but yeah, I let her out and I
10 heard a shot, so I was -- I was protecting myself and my
11 friend not knowing my friend got shot, too. So we ran
12 around the building. I ran home.

13 The other person ran to one of our friend's house. I
14 changed clothes, came back out around the scene. Where
15 did you run home to? I mean, earlier you said you went to
16 somebody's -- yeah -- apartment and change. Yeah. Which
17 was it? L5. Okay.

18 Changed clothes. Changed clothes, I hide the gun, I
19 came back out. Where did you hide the gun? In the
20 kitchen, in the kitchen under -- under -- under -- um --
21 some boxes. So we came back out and we went to the
22 hospital.

23 And we came -- I took the gun and I took it to my
24 grandmother's house on ■ Frazier. I hide the gun under
25 my passenger seat of my car. What type of car you got? A

1 93 Caprice Classic. What color is it? Navy blue and
2 white. Okay.

3 Came back to Poplar Square and that's when the
4 detectives came and picked me up from L5. Okay. Whenever
5 you said you put the gun under the passenger's seat of
6 your car. Yeah. Okay. You have signed a consent giving
7 us permission to go in that car without a search warrant,
8 right? Yes, sir.

9 Okay. And that's freely and voluntarily you allowed
10 us to go in there to retrieve the gun, right? Yes, sir.
11 You said earlier you shot four times. Yes, sir. Okay.
12 What did you do with the shell casing. I flushed them
13 down the toilet.

14 Okay. And so you took them out of the gun and then
15 you flushed them down the toilet. Where at? In L5. In
16 L5? Did anybody else see you do it? No, sir. No, sir.
17 Okay. What clothes was you wearing? What was you
18 wearing?

19 I know you said it earlier, but, black and green
20 Nikes, black dickies, a black T-shirt, and a black hoodie.
21 And you changed your clothes where at? At L5. L5. And
22 what part of the house was you in when you changed
23 clothes? In the last room on the right.

24 So you was in that room when you changed clothes.
25 Both of y'all changed clothes at the same time? Oh, no.

Alvin Holston - direct by Conner

257

1 The other person got shot when I -- the other person done
2 got shot when I change my clothes, so I ran.

3 Let's -- let me back up, though. To start with, so
4 you were -- to start with so -- so we're clear. Now, just
5 like you said in the previous -- when we talked
6 previously, all right, you were there, out there watching
7 a movie, right? Yes.

8 Y'all came outside and you saw this car drive up.
9 Yeah. We spoke to the girls first. We had a conversation
10 with the girls. Okay. And then the car pulled up. All
11 right.

12 The car pulled up and y'all -- when y'all were
13 outside at first, y'all was -- when did you get on the
14 bikes and ride around to take a look to see what you were
15 doing? Like right when he pulled up, like it was about
16 12:30. Did y'all discuss what you was going to do -- do
17 then? That's what made y'all pull around? Yes, sir.

18 What were y'all talking about? Like how we was going
19 to approach, approach him without seeing us, without them
20 seeing us, and panicking and shooting. All right. So
21 what were y'all talking about doing? Y'all were talking
22 about robbing them? Yes, sir. Then? Yes, sir.

23 Well, who was -- well, who said what? The other
24 person was like, we have got to do it right. You know, I
25 mean, because when you're, when you're to get something,

1 you got to get something.

2 If not money, jewelry. So when we did ran up, we
3 didn't know he had a gun. So shots was fired. Well, wait
4 wait, wait here. I don't want to get ahead of myself.
5 I'm trying to get it right. Okay.

6 Because when y'all saw him in the parking lot, that's
7 when y'all were talking about robbing and that's when
8 y'all rode the bicycles back behind the nursing home?
9 Yes, sir. All right. But y'all hadn't change. Oh, no,
10 sir.

11 You looked down to see what they were doing? Yes,
12 sir. And then y'all rode the bikes back to the apartment.
13 Yes, sir. And that's -- and changed then. And changed
14 then? Yes, sir. And you changed then, tell me again, you
15 changed into what now. Black and green Nikes. Uh-huh.
16 Black Dickies, a black T-shirt, and a black hoodie and my
17 ski mask.

18 All right. And the other person? Yeah. What did
19 the other person change into? Black Nikes, some dark blue
20 jeans, a black T-shirt, black hoodie, and a ski mask. All
21 right. And what? Where did y'all -- where did y'all have
22 the gun then. On us.

23 You had your gun -- you had your gun on you the whole
24 time? Yeah. And you carried again what? A 38. All
25 right. And the other person carried what? Forty cal. A

1 40 cal. What kind is the other person's? Automatic.

2 What color? Describe it. Black.

3 Okay. All right. So then y'all changed and y'all
4 road the bikes back around where you went before. Yes,
5 sir. All right. And because that was the -- that was the
6 plan? Yes, sir. They were still outside talking? Yes,
7 sir.

8 In the car? Only person we could see was then -- we
9 couldn't see -- we couldn't see the bill, you know what I
10 mean, the people on the other side. We just couldn't see
11 the car.

12 All right. So y'all put the bikes up where at? And
13 then -- by the gate, on a -- inside the nursing home
14 parking lot. All right. And then y'all walked down?
15 Yes, sir, walked down to the gate. Past the tree? Yeah,
16 where the tree -- where the fence dented.

17 And then y'all walked up. Walked up what? Beside
18 the building? Yeah. And then what? We just ran out on
19 him. You ran out on him? You ran -- you ran to what
20 side? The passenger. And the other person ran to. The
21 driver's.

22 All right. Y'all got the girl out the car. Yes,
23 sir. All right. And then what were y'all saying --
24 saying to them when you ran up? We couldn't hardly get no
25 words. He just saw us and fired.

1 I thought -- you remember you said something earlier,
2 give it up. Yeah. We ran up, we said, give it up,
3 something -- we said something like that. I think it -- I
4 think it was, give me all your shit, or something like
5 that. Uh-huh.

6 I ran up, I let the girl out, I heard a shot. I seen
7 him with a gun, so I fired on him, and the other person
8 ran. All right. Well, what did the other person do with
9 it -- with his? Y'all ran? Yes, sir.

10 And you said you think you fired how many times?
11 Four. Do you remember hitting him? Not that I remember.
12 But you was aiming it at him. Yes, sir. All right. When
13 did you find out that the other person had gotten shot,
14 before you fired?

15 Sir? Before you fired? Yes, sir. Well, what did
16 you know the other person -- well, excuse me. Well,
17 what -- how did you know the other person had been hit?
18 Because when they got hit, they started running, and the
19 other person was running like this. So run like what?
20 Like holding their shoulder.

21 Did the other person say anything? No, they just
22 start running. So I seen he had the gun and I guess I was
23 his next victim. So I used my gun in self-defense to
24 shoot him. So then we ran around, and I -- where was the
25 girl at? I think she was inside the building.

Alvin Holston - direct by Conner

261

1 She ran inside the building and then we just ran
2 around. I went into the house the other person went to,
3 our neighbor's. Your neighbors as in who? Vincent Jones.
4 Okay. All right. And -- okay.

5 Now, the bikes that y'all were riding, which bike was
6 you riding? Chrome Mongoose. And which one was the other
7 person riding? The red necks. The red necks. And that's
8 pretty much -- that's how y'all rode the bikes? That's
9 how y'all rode the bikes all day?

10 And that's -- who rode which one. Sir? Y'all rode
11 the same one all day. Yes, sir. You rode the chrome one
12 all day and the other person rode the red one. All right.
13 Well, what did the other person do with his gun? I have
14 no idea. All right.

15 And how long has the other person had his gun? They
16 didn't tell me. How long have you had yours? Not too
17 long, like say about six months or five. Where did y'all
18 get them from? Straight up. I found it. Where at?
19 Well, like -- so you brought it cheap? Bought it cheap
20 off the street? Yes, sir.

21 Where at? From the -- I mean, I ain't know the dude.
22 I know he was like in Gamecock. Gamecock Apartments? How
23 much did you pay for it? A buck 50. 150? Yes, sir. Um.
24 Yes, sir. Where did you get money from? I -- I get money
25 from my mom who died. I was saving up. Saving?

1 Now, is this the complete truth? Yes, sir. Anything
2 else you'd like to say? No, sir. That I was using my gun
3 in self-defense and if I could change that whole night, I
4 would change it.

5 But you do understand that you went over there --
6 y'all went over there with not-so-good intent, you know,
7 trying or attempting to rob -- yes, sir -- this guy,
8 whoever he was. You understand that, right? Yes, sir.

9 Now, we said earlier you may didn't say it yet this
10 time, but what grade did you complete at any school?
11 Tenth. I completed tenth grade. Okay. And you can read
12 and write? Yes, sir.

13 All right. And you understand like exactly what's
14 going on today and everything else as far as when we have
15 been talking to you; right? Yes, sir. This ends it.
16 This ends it.

17 BY MR. CONNER:

18 Q Answer any questions the defense lawyer might have
19 for you, please.

20 A Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. MURPHY:

23 Q Good afternoon.

24 A Afternoon.

25 Q Detective Holston, when you went out to the -- try to

1 get the timeline straight again. You were outside Poplar
2 Apartments before the interview with my client?

3 A Yes, sir. Before going to the station, I mean,
4 it's -- it would be standard for me, particularly on a --
5 a case such as this one, a homicide, that the -- that the
6 commander comes down to kind of make sure that every --
7 that the detectives and some of the supervisors are --
8 that they got all the help they need to do the job.

9 So it wouldn't be uncommon for me to show up, get a
10 briefing. And I kind of allow my people to do their own
11 thing, and I more or less work as a mediator between the
12 two of them.

13 So I went on down to the station. And it was clear
14 that forensics was needed there on the scene and some
15 working detectives for interviews, and I allowed them to
16 do their job, and I proceeded back to the station.

17 Q Now, my client was already being interviewed when you
18 went out, did all this, and came back; is that correct?

19 A No, sir. I mean, it was to be -- so that you're
20 clear on things, I probably got there maybe around four or
21 five, then proceeded to the station, went to my office,
22 which my office is in the confines of detective division
23 where the interview room and everything was in.

24 Q All right. And your testimony earlier was that
25 Detective Rogers came to you and said he wasn't -- that my

1 client wasn't talking too much?

2 A Right.

3 Q So -- and that's one of the reasons why you went in
4 to see if you'd be a little bit more forthcoming?

5 A Two things on that. Rogers was needed back at the --
6 at the scene to assist in interviewing and utilization of
7 resources. Of course, that left me there and Detective
8 Richburg.

9 And I had already had communications with the
10 detectives on scene and got the gist of what they had
11 developed -- well, what they had developed from working
12 the case out at Poplar Square as the interviews, looking
13 at what they had, at the scene, so I was kind of aware,
14 and Rogers did in fact said he wasn't talking much, and I
15 sent Rogers--

16 Q About what time did you go in initially and start
17 speaking with my client?

18 A Had to be close to about 8:00 or shortly after.

19 Q And he gave a statement at about 9:45 am?

20 A He went on -- yes, sir, that's correct.

21 Q All right. So about an hour and 45 minutes prior to
22 that, you were engaged in the discussion with him?

23 A That's correct.

24 Q And in this statement, the first statement takes
25 about -- ends at 10:10, 10:09 I believe, correct? You got

1 10:09, page 18. Is that your recollection?

2 A Yes, sir.

3 Q And then the next statement starts at 11:41, so it's
4 about an hour and a half later then.

5 A That's correct.

6 Q And during that hour and a half period, either you or
7 Detective Richburg were with my client the entire time?

8 A That's correct.

9 Q Now, the time my client gave the first statement, you
10 were -- well, let me ask you this. You -- did you have
11 information that he was the shooter?

12 A At the first?

13 Q First statement?

14 A No, sir. It wasn't clear.

15 Q It wasn't clear. So on page 16 where you say when
16 you -- when you ask him, you didn't see him draw his gun
17 and you pulled out your gun and fired, was that just based
18 on a guess or was -- did you have information that that
19 was what you suspected? Was that based on information or
20 was that just a guess on your part?

21 A Where are you at?

22 Q Page 16 of the first statement.

23 A What line, sir?

24 Q Line 16.

25 A I knew one -- so I can clear it up a little bit. I

1 knew that Mr. Jackson was involved along with another
2 person -- involved in this particular incident. I knew
3 that based off the information I had received from the
4 detectives in speaking on the telephone.

5 So obviously he was an active member, an active
6 participant in this crime. And of course, I felt like
7 during the course of this first interview that he was not
8 quite giving all of the facts, and I knew that based off
9 of when they had discussed, that the shooter was on that
10 left side of the vehicle, and this was from that '16 -- I
11 was testing his honesty by asking that question.

12 Q Now, you went off -- the tape recorder was turned
13 off, though, at 10:10 after he gave a statement?

14 A Right.

15 Q And from 10:10 to 11:41 when the tape recorder goes
16 back on, is it fair to say that you're challenging him
17 about whether or not he's being truthful with regard to
18 his first statement?

19 A Right. After we ended that first statement, I -- we
20 talked more, discussed more with the detectives that had
21 been out at the scene, and they were able to determine,
22 one, that there were two weapons involved.

23 And once again, from the crime scene portion, that --
24 that our shooter was down at the station and that there
25 was a robbery going on, but that our -- that it was clear

1 that our subject, Mr. Jackson, had fired -- fired a
2 weapon.

3 And I went back in the second time to discuss about
4 being truthful about everything, that certain facts were
5 not adding up from what he had previously discussed with
6 us.

7 Q And obviously your goal was to get him to admit that.

8 A Goal was to get him to tell the truth about his part.

9 Q And that took an hour and a half approximately?

10 A Well, two things. These were two statements that
11 were given. When I entered -- entered the room and talked
12 around 8:00, that was the standard interview. He -- I
13 mean, I didn't have any problems with him. As far as I
14 knew, that when I walked in the room, he had some -- it
15 appeared to have some an appearances based off experience
16 he had--

17 Q I just asked you the time. It's an hour and a half,
18 right?

19 A Say again? Repeat the question.

20 Q It's an hour and a half until -- the time you talked
21 to him to try to get him to, as you say be truthful, took
22 an hour and a half of time to do that?

23 A Is that the first time or the second time?

24 Q The second time. Took an hour and a half from the
25 time the first statement was over to the beginning of the

1 second statement, takes about an hour and a half of you
2 convincing him to, as you say, tell the truth?

3 A On that second statement?

4 Q Yes.

5 A No, sir. The time had to be less than that because
6 it took a little time to get the information from the
7 detectives, so I would probably say I already had a -- a
8 repore with him 40 minutes to an hour to be fair.

9 Q Okay. Now, obviously you were aware he's 17;
10 correct?

11 A Yes, sir.

12 Q And I believe I asked Detective Richburg the same
13 question. Did you make any attempts to contact his
14 guardian, his grandmother, or any other family member or
15 adult family member?

16 A No, sir. Primarily because he was 17 and, of course,
17 for us in South Carolina, that's considered an adult.

18 Q Did you have any discussions with him about the
19 prospect of spending time in prison and that's where he
20 was heading?

21 A No, sir. I -- you know, to be honest, when I walked
22 in the room, I saw a young man. I didn't see the
23 difficultness in even having a -- what I would call a hard
24 interview. I didn't make any comments in regards to that.

25 Q So you had no discussion with him about potential for

1 being raped or anything like that?

2 A No, sir.

3 Q Would you characterize him as being rather passive?

4 A I wouldn't say passive. That's not the word that I
5 would use. I mean, I --

6 Q Overwhelmed?

7 A He knew from my -- based off solely off my experience
8 in interviews, he knew that he had done something and he
9 was going to -- he was not going to just easily tell his
10 part.

11 Q Well, you describe him on prior occasions as just a
12 young man. What did you mean by that?

13 A Just when I walked in the room, I saw my -- well, I
14 saw my son. It was easy to tell that he was about 17, 18,
15 19.

16 Q So you didn't display a cocky attitude or anything
17 like that; did he?

18 A No, he wasn't cocky.

19 Q Thank you. I have no further questions.

20 A Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q Mr. Jackson indicated to you that -- when you
24 interviewed him -- that Mr. Wimberly, the victim, had a
25 gun? If you look on... the -- the second interview.

1 A 11:41?

2 Q It's about line four. He -- he gave the indication
3 that...

4 A Said the second interview or the first one?

5 Q The second one.

6 A Page nine?

7 Q Yes, sir. So he -- he seemed to indicate that the
8 victim had a gun.

9 A Page nine line four? Is that what you're saying?

10 Q Yes, sir.

11 A If I'm looking at the...

12 Q The 11:41 am.

13 A If I'm looking at page nine line four, line is
14 reading, not money, jewelry, so we did ran up, we ain't
15 had -- we ain't know he had a gun, and shots were fired.

16 Q Okay. All right. That's all I have. Thank you.

17 THE COURT: Anything further from the State?

18 MR. CONNER: You may come down.

19 (Witness left the stand.)

20 THE COURT: Mr. Solicitor, can you get your next
21 witness up and down in 30 minutes?

22 MR. CONNER: I believe so, Your Honor. We'd
23 call Vincent Jones at this time, Your Honor.

24 VINCENT JONES, after being duly
25 sworn, testified as follows:

DIRECT EXAMINATION

1
2 BY MR. CONNER:

3 Q Mr. Jones, where do you work?

4 A Red Lobster on Broad Street.

5 Q How long have you worked at Red Lobster?

6 A Two years and six months.

7 Q And do you live here in Sumter?

8 A Yes.

9 Q Do you still live at the same place you lived back in
10 June of 2007?

11 A Yes.

12 Q And what apartment number? Do you live in the same
13 apartment now or you...

14 A Same apartment, [REDACTED]

15 Q [REDACTED]?

16 A Uh-huh.

17 Q And I show you here this diagram. I will just turn
18 it around so you can see it. That building there marked
19 L, does that look like a reasonable outline of the
20 apartments' layout out there?

21 A Yeah.

22 Q And you live in building [REDACTED]?

23 A [REDACTED], yeah.

24 Q And you live on the bottom floor?

25 A Yes, sir.

1 Q And that's State's Exhibit number one. Now, did you
2 know Jermel Robinson?

3 A Well, I know him as just friend kid. He went to
4 school with my son, that's about all.

5 Q He went to school with your son?

6 A Yeah.

7 Q And he have -- so you have a son about the same age
8 as Jermel?

9 A Yeah, you can say. Yeah, probably a year or two they
10 went to school together, yeah.

11 Q And now back on June the 18th about 2 am in the
12 morning, did anything out of the ordinary happen there at
13 your apartment? That was June the 18th, 2007. That's
14 been quite -- close to two years ago.

15 A Been a while. Well, the time when I got home, when I
16 had got home from work, wash up, then I went to sleep. At
17 that time, my son had came in the room and told me that it
18 was Jermel at the door, something about something happened
19 to him. I said, huh?

20 So I got out of bed. He told me it was blood and
21 stuff coming out his nose and mouth. So I said, okay. So
22 I got up. Then when I got to the door, he had open the
23 door, that's when he came in but I caught him before he
24 got -- before he got all the way into the living room.

25 That's I say about -- about 2 feet, 2 feet before he

1 got to the -- to the couch. He was going down like he was
2 going to drop, so I had caught him. Then I said, you got
3 to go to the restroom. I told him, I ain't want no blood
4 around here, so we went to the restroom.

5 Q Did you end up with some blood on your -- on your
6 floor there?

7 A Yes, sir, from the living room to the bathroom, the
8 corner of the bathroom where you first go into the
9 bathroom.

10 Q But you got him into the bathroom thinking that you
11 could clean him up better there or...

12 A No. In a way that I had -- when we went to the
13 restroom, he sat in the tub and I sat on the stool. But
14 he saw that -- he had his back turned towards me. I
15 didn't know what was going on, you know.

16 And I seen him go -- he would go into his shock, you
17 know. So he was talking out his head, you know, like he
18 ain't know what was going on. So I said, what happened?
19 He said, I don't know man, I think I got shot.

20 I said, look. I said, I don't see nothing. So I
21 ain't seen nothing from the clothes you could see
22 anything. But it was wet. Then I checked him and I said,
23 well, let's come from a little bit -- I see hole. Then I
24 looked again in the back, that's when I saw another hole,
25 so I said, oh man, I got to get you -- you got to get

1 straight.

2 He said, man, call the police. He was hurting.
3 That's how -- had pain it was. He said, I got -- call the
4 police, call my mama, call somebody, help me out. I said,
5 okay, tell you what, I said, all right, let me get -- I
6 got a towel, and I got a -- not a towel, a T-shirt.

7 I had a white T-shirt. And I picked that on him. I
8 said, that won't work. So I said -- first thing came out
9 my mouth is where is -- I like to look at west -- so I
10 said -- well, I said -- well, what I got to do now? So I
11 said, I got put pressure on it.

12 So I went in and I got the T-shirt, I turned around,
13 the T-shirt was there in the dirty clothes, so I had
14 picked that up. So when I picked that up, I said, let me
15 go get me a sheet. So I had to find something else.

16 And plus I was hollering down in the house, get an
17 ambulance, call the police, do something, you know, for
18 help. And he wasn't -- he wasn't doing too much talking.
19 So when I came back with the sheet, that's when I put
20 pressure on.

21 It then I looked again, I said, what's this doing
22 here? I was telling myself that really. And he -- he had
23 a hat in the tub. So I know -- I ain't had no hat. I
24 ain't got -- I don't wear no stuff like that. I don't buy
25 my kids nothing like that.

1 So after that, put the pressure on him. Then I try.
2 to talk to him and, you know, because he kept going down
3 like that. You know, I try to talk to him, but -- then I
4 kept putting the pressure on him, then the police came and
5 they told me I had to leave.

6 Q So the police did come?

7 A They came. The ambulance people came in the bathroom
8 and the police came in there, too, he told me I had to go.

9 Q So EMS came, emergency medical people came?

10 A Yeah.

11 Q And they took him away?

12 A Well, when I--

13 Q Took him to the hospital?

14 A Yeah. Before that time, he was -- well, he was on --
15 well, he was on the tub, you know, and I was still trying
16 to talk to him, but you know, he wouldn't -- he wouldn't
17 say too much. And after that, they told us we had to -- I
18 had to leave. I said okay, when I left, that was it.

19 Q And I show you here this photograph marked 4C, and
20 ask you--

21 A Okay. That T-shirt mine.

22 Q The T-shirt is yours?

23 A The T-shirt mine.

24 Q Well, how about the black ski mask and the black
25 hoodie that were in the tub?

1 A The little -- I thought it was a hat because when he
2 came to the house, he didn't have any -- he didn't have no
3 mask or no hat or nothing on.

4 Q The stuff that was in the tub were other--

5 A That's the -- that's the -- that's the T-shirt.

6 Q The other--

7 A That was mine.

8 Q Everything else in the tub belonged to him?

9 A Yeah. I didn't have the rest of this stuff, no.

10 Q That's stuff he had on?

11 A Yeah. I ain't seen him with no hat or nothing. I
12 just saw him with the hood, the jacket, so I just lift it
13 up and put the pressure on it.

14 Q And you took the jacket off and put it in the tub.
15 And it was soaked with blood; wasn't it?

16 A No, I didn't -- the only time -- I don't know what I
17 did. I had just -- I had to move fast, you know, because
18 I didn't want this man die in my bathroom.

19 Q The only thing in that tub that belonged to you was
20 the T-shirt.

21 A Was the T-shirt, yeah.

22 Q The rest of it belonged to him?

23 A Yeah.

24 Q Okay.

25 MR.. CONNER: Your Honor, we would request

1 permission to publish this photo by just circulating
2 it to the jury.

3 THE COURT: All right, sir.

4 MR. CONNER: Answer any questions these lawyers
5 might have for you, Mr. Jones.

6 CROSS-EXAMINATION

7 BY MR. SULLIVAN:

8 Q Mr. Jones, you said that when Mr. Robinson came into
9 your apartment, that he didn't have on a hat or a mask.
10 Did I hear you right?

11 A He ain't had no hat or mask on, no.

12 Q And did you say that you stayed there until the EMS
13 got there?

14 A Yeah, until the -- the police and the ambulance got
15 to my -- came into my house.

16 Q When they found him, wasn't he actually on the
17 commode?

18 A I was -- well, I was sitting on the commode.

19 Q Do you--

20 A Facing him like this. He was in the tub.

21 Q He was in the tub?

22 A Like with his feet inside the tub, and I'm right here
23 on the commode. So his back was sort of like turned
24 against me.

25 Q Okay. He was in the tub when the police got there?

1 A Yeah.

2 Q All right. That's all the questions I have.

3 MR. MURPHY: No questions, Your Honor.

4 THE COURT: All right. Anything further from
5 this witness, Mr. Conner?

6 MR. CONNER: Nothing further.

7 THE COURT: All right. You can step down.

8 (Witness left the stand.)

9 MR. CONNER: I'd ask that he be excused, Your
10 Honor.

11 THE COURT: Any objection?

12 MR. MURPHY: No.

13 MR. SULLIVAN: No, sir.

14 THE COURT: Okay. He's excused.

15 MR. CONNER: Your Honor, at this time I'm going
16 to call Chyenne Rosenberg.

17 THE COURT: Is this another short witness?

18 MR. CONNER: I believe.

19 CHYENNE ROSENBERG, after being
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CONNER:

23 Q Chyenne, how old are you?

24 A Eighteen.

25 Q And do you still live at Poplar Square Apartments?

- 1 A Yes, sir.
- 2 Q And were you living there back in -- in June of 2007?
- 3 A Yes, sir.
- 4 Q And who do you live with there?
- 5 A My mother.
- 6 Q And how long have y'all lived there?
- 7 A Like 11 years or so.
- 8 Q About how long?
- 9 A Eleven years.
- 10 Q And have you finished high school yet?
- 11 A No, sir.
- 12 Q What grade are you in?
- 13 A Eleventh.
- 14 Q Did you know Jermel Robinson?
- 15 A Yes, sir.
- 16 Q How did you know him?
- 17 A A long-time friend.
- 18 Q And how long would you say you had known him?
- 19 A Mostly all my life.
- 20 Q And did he live there in the apartments, too?
- 21 A Yes, sir.
- 22 Q And what apartment did he live in?
- 23 A Building ■, I think ■
- 24 Q He lived in building ■?
- 25 A Yes, sir.

1 Q But you don't know the exact number?

2 A Huh-uh.

3 Q What building did you live in?

4 A ■

5 Q You lived in building M? Now, did you also know
6 Teron Jackson?

7 A Yes, sir.

8 Q And how long had you known him?

9 A For like five years.

10 Q And the night this incident took place, it took it --
11 it took place later on a Sunday night after midnight. It
12 would have been actually the early hours of Monday
13 morning. But were you there that day, that Sunday? Were
14 you present in the apartment complex on Sunday?

15 A Yes, sir.

16 Q And did you have an occasion to join Teron and Jermel
17 in looking at any movies?

18 A Yes, sir.

19 Q And where did that occur?

20 A In building L, Jermel house.

21 Q At Jermel's home?

22 A Yes.

23 Q In building L? And who was present?

24 A Me, Jermel and Teron.

25 Q So the three of y'all were there?

1 A Yes, sir.

2 Q Do you remember what movie you might have seen?

3 A East Coast Riders.

4 Q And who had the movie?

5 A It was Teron movie.

6 Q Teron's movie. He brought the movie?

7 A Yes, sir.

8 Q Did -- do you recall sometime that night talking to
9 some girls?

10 A No, sir.

11 Q You don't remember seeing them?

12 A No, sir.

13 Q And did -- do you -- did you see any bicycles that
14 were ridden by Teron and Jermel?

15 A Yeah, they was in the house because me and Teron rode
16 them earlier to get the movie.

17 Q They were in whose house?

18 A Jermel.

19 Q Jermel's house?

20 A Yes, sir.

21 Q And you and Teron did what?

22 A Rode the bike earlier to go get the movie from his
23 house.

24 Q Oh, so you rode over to where Teron lived --

25 A Where his grandmother--

1 Q -- to pick up the movie?

2 A Yes, sir.

3 Q Did Teron also have an automobile?

4 A Yes, sir.

5 Q And where was it parked?

6 A Beside his house.

7 Q Now, what time or how long would you say you were
8 with them that evening?

9 A Probably about -- probably about four hours.

10 Q And what time did you part company with them?

11 A I can't remember because I had a dinner at my grandma
12 house and I came back home and I saw -- we was chilling
13 all the day.

14 Q You saw what?

15 A I saw them when I got home, and I was chilling with
16 them all that day.

17 Q So after you went to a dinner at your grandmother's
18 house and you came home, and after you came home, you hung
19 out with them for about four hours?

20 A Yes, sir.

21 Q Now, had you -- you knew them real well; didn't you?

22 A Yes, sir.

23 Q Had you ever seen either one of them with a gun prior
24 to this thing happening?

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

1 that based on prior objections.

2 *THE COURT:* All right. I will allow it.

3 Overrule your objection.

4 *THE WITNESS:* What was the question?

5 BY MR. CONNER:

6 Q Had you ever -- well, let's take them one at a time.

7 Had you ever seen Jermel with a gun?

8 A Yes, sir.

9 Q And could you describe the gun to me?

10 A A black gun.

11 Q And was it a -- a clip-fed gun, one that had a
12 magazine?

13 A Yes, sir.

14 Q Okay. I show you here State's Exhibit number 10.
15 And ask you to examine that.

16 A Yeah it looked something like that.

17 Q That's the kind of gun you saw?

18 A Yes, sir.

19 Q And where did you see that gun?

20 A He had it in his room.

21 Q He had it in his room?

22 A Yes, sir.

23 Q And where did he keep it in his room?

24 A In a closet.

25 Q And when he showed it to you, did he just point to it

1 up in the closet or did he give you a chance to inspect it
2 more closely?

3 A Yeah, he brought it out the closet.

4 Q And where did he put it for you to look at?

5 A On the bed.

6 Q Now, how about Teron, did he -- did he also stay a
7 lot of times at Jermel's place?

8 A Yes, sir.

9 Q And did he sleep over there?

10 A Yes, sir.

11 Q Now, had you ever seen Teron Jackson with a gun
12 before?

13 A Yes, sir.

14 Q And where was that that you saw that gun?

15 A I can't remember.

16 Q Well, I thought -- could you describe the gun you saw
17 that Teron Jackson had?

18 A It was a silver gun.

19 Q A silver gun? And I -- I'd show you here State's
20 Exhibit number 12 and ask you to examine that.

21 A Yes, sir.

22 Q Is that similar to the one you saw him with?

23 A Yes, sir.

24 Q And did you see that at Teron's house or did you see
25 it at Jermel's apartment?

1 A Teron's house.

2 Q At Teron's house?

3 A Yes, sir.

4 Q Now, on the night of the shooting on the 18th of
5 June, where were you when this happened?

6 A In the house.

7 Q In -- in whose house?

8 A My mother, me and my mother.

9 Q And had you gone to bed?

10 A Yes, sir. Well, I was really on the phone.

11 Q You were on the phone?

12 A Yes, sir.

13 Q And what brought your attention to it?

14 A Gunshots.

15 Q You heard the gunshot?

16 A Yes, sir.

17 Q And shortly after that, did you get a call from
18 somebody?

19 A From Teron.

20 Q And what did he say?

21 A He just told me Jermel got shot. Me and my mom went
22 outside to see what happened.

23 Q And did -- did you -- did you go to the hospital?

24 A No, ma'am. No, sir.

25 Q Did they say anything to you about going to the

1 hospital?

2 A No, he asked me would I go, and mom like, no, I
3 wasn't going.

4 Q Well, did Teron leave to go to the hospital?

5 A Yes, sir.

6 Q Answer any questions these lawyers might have for
7 you.

8 CROSS-EXAMINATION

9 BY MR. SULLIVAN:

10 Q Can you say for sure that the gun that you were just
11 showed has any connection with this incident?

12 A No, sir.

13 Q You didn't actually see the incident?

14 A No.

15 Q You can't testify to anything about that; can you?

16 A No, sir.

17 Q Okay. Thank you.

18 MR. MURPHY: No questions, Your Honor.

19 THE COURT: You can come down.

20 (Witness left the stand.)

21 MR. CONNER: You can come down. Your Honor, I
22 have another witness that I believe we can work in
23 before lunch.

24 THE COURT: All right, sir.

25 MR. CONNER: Willie Gibson.

1 WILLIE GIBSON, after being duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. CONNER:

5 Q Willie, where were you born?

6 A Sumter, South Carolina.

7 Q And have you always been a resident of Sumter?

8 A Yes, sir.

9 Q How old are you?

10 A Twenty-five.

11 Q And in -- back in June of 2007, were you living at
12 Poplar Square Apartments?

13 A Yes. I used to stay out there, yes, sir.

14 Q And how long had you lived there?

15 A Like probably a little bit over a year during that
16 time.

17 Q Now, were you present some time about 2 am in the
18 morning when something out of the ordinary happened
19 outside of the -- or right there in the apartment complex?

20 A Yes, sir.

21 Q Tell -- just tell these ladies and gentlemen in your
22 own words what happened.

23 A All right. It was me, Sam and Kim. We was cooking
24 on the grill or whatever, and I -- I was turning some meat
25 over or something on the grill, and I heard -- I heard

1 some noise like somebody said, what's up.

2 I look back and I see two fellows with hoodies on
3 with guns in their hand, and all of a sudden and it's
4 like -- it just -- it just start shooting. And once that
5 happen, everybody started -- started running, so I ran to
6 the -- to my baby mother's house or whatever and told her
7 what happened. By that time the police been already out
8 there.

9 Q Okay. Now, the -- what apartment were you living in
10 or what building?

11 A Like -- it's D building.

12 Q Okay. I show you this diagram here, State's Exhibit
13 number one. I'm going to ask you to come -- come down
14 here and look at this. Let's -- let's put it up on this,
15 this stand here.

16 A (Complied.)

17 Q Give you this pointer here. Ask you a few questions
18 in regards to it. Now Willie, let me give you a little
19 basic information here. This is State's Exhibit number
20 one, Mrs. Court Reporter. And this is -- this is where
21 the car was, right here?

22 A Yes.

23 Q This is building F, this is building E.

24 A Yes, sir.

25 Q And this is, of course, over here is C and D. Now, I

1 will give you back the pointer. Now, if you would, let me
2 get a marker in case we want to mark something. Thank
3 you. Need to make a mark on it, draw on it, we'll use
4 this.

5 A All right.

6 Q Okay. If you would, how about show me where you were
7 located.

8 A All right. Me and Kim and Sam was right here cooking
9 on the grill in front of this building right here.

10 Q And that's in front of building E?

11 A Yes, sir.

12 Q And you and Kim, do you know her last name?

13 A No, sir.

14 Q But she lived in one of the apartments?

15 A She stayed in E building.

16 Q In the E building. And the other guy's name was
17 what?

18 A Sam.

19 Q And do you know his last name?

20 A No, I couldn't tell. I don't know it by heart, so...

21 Q Do you know which building he lived in?

22 A He stayed on the front right there F building.

23 Q So he lived in the F building and Kim lived in the E
24 building, and y'all were cooking out in the front between
25 them in front of the E building?

1 A Yes, sir.

2 Q And now, the -- where the car was located, did you
3 know the people in the car?

4 A Well, Sam told me that his sister was in the car.

5 MR. MURPHY: Objection, hearsay.

6 THE WITNESS: Sister was in the car.

7 MR. MURPHY: Objection, hearsay.

8 THE COURT: Hold on a minute. You can't say
9 what somebody else said, okay?

10 BY MR. CONNER:

11 Q Just did you see anybody get out of the car?

12 A No. No, sir. I never seen anybody get out the car,
13 no, sir.

14 Q What -- now, tell us what happened. And you said you
15 were cooking and...

16 A I'm cooking on the grill right here. I bend over
17 about to turn the meat over or whatever, and I heard
18 somebody -- I heard something -- by that time I just knew
19 people doing come around the corner or whatever, and two
20 fellows with like black hoodies on. I ain't seen nobody's
21 face.

22 Q Two guys with black hoodies on?

23 A Yes, sir.

24 Q And you couldn't see their face from where you were?

25 A No, sir, I couldn't see nobody face. And when I

1 saw -- I saw the gun pulled or whatever, I mean, that made
2 me kind of scared, so next thing, you know, I heard shots.

3 So everybody just like -- after they started
4 shooting. And I look back, it was like one dude was
5 standing like right in front of the car and the other dude
6 was standing on the driver's side, and then they started
7 shooting.

8 And once they started shooting, Kim ran in the house,
9 Sam ran, everybody ran. And by that time, I stayed in the
10 E building, so I had to run all the way across -- all the
11 way across the parking lot really to go in the house. I
12 told my old lady what happened.

13 Q Which way did -- did the people with the gun run?

14 A They ran like straight through middle and slant off
15 to the left.

16 Q So they ran between C and the D building --

17 A Yes, sir.

18 Q -- turned to the left and went out?

19 A Toward the -- or whatever, the parking lot.

20 Q Okay. And -- but you say both of them had guns?

21 A When I look back, I saw -- I saw -- I saw two people
22 with guns, and one was standing like right in front of the
23 car and one was standing on the driver's side of the car.
24 They started shooting.

25 And once they started shooting, everybody just ran

1 after that. And like -- I saw Dominique, he got out the
2 car or whatever, and like he had the gun in his hand. I
3 ain't know where it come from. He had a gun in his hand.
4 He was like this, so...

5 Q And where--

6 A He ran past -- well, he didn't. He was walk. He
7 walked past me, and I ran past him, and I guess he was
8 going Sam -- into Sam's building.

9 Q So he was going to Sam's building?

10 A Yes, sir.

11 Q And he did have a gun when you saw him?

12 A Yes, sir. He, he had this, yes, sir.

13 Q Could you tell that he had been wounded?

14 A Yes, sir. I could see blood, blood drops on his
15 shirt because he had a white T-shirt on and he was
16 bleeding.

17 Q How many shots did you hear, do you know Willie?

18 A At least three or four that I could remember.

19 Q And after they -- the two guys with hoodies on and
20 the ones -- the ones that had the guns ran between
21 building C and D, which way did they go?

22 A Ran between -- I say after they ran from the car,
23 they ran between here. They went to the left.

24 Q Went--

25 A Went to the left, I have no idea because by that time

1 I'm being in the house.

2 Q Have a seat, please.

3 A (Complied.)

4 Q Now, did you know the two defendants in this case,
5 Jermel Robinson and Teron Jackson?

6 A Yes, sir.

7 Q How did you know them?

8 A I just knew them for like, you know, I seen them
9 around. I seen them around out there in our apartment
10 complex. We had conversation, you know, but...

11 Q And were -- did they pretty much hang together all
12 the time?

13 A Yes, sir.

14 Q Did -- you called the Dominique guy by his name, the
15 fellow that -- that got out of the car. But did you know
16 him?

17 A No, sir. No, sir.

18 Q Had he been coming out there to go with...

19 A I seen him like -- I seen him coming out there or
20 whatever, but you know, I didn't pay it no mind because a
21 lot of people come out there, so -- you know.

22 Q And he was going with Sam's sister?

23 A Oh, see, I have no idea nothing about that. See, I
24 don't be getting involved with that, so...

25 Q Okay. Answer any questions these lawyers might have.

CROSS-EXAMINATION

1

2

BY MR. SULLIVAN:

3

Q Did you give a statement to the police when this happened?

4

5

A No, sir.

6

Q You didn't?

7

A No, sir.

8

Q Okay. But you remember all this stuff?

9

A It's like -- yeah, I remember, but you know...

10

Q From two years ago about--

11

A I mean, I can't tell you that I could remember like

12

the back of my hand. I just remember -- I remember

13

cooking on the grill. I remember looking back to seeing

14

two fellows with the guns in they hand with black hoodies

15

on. I remember that.

16

Q You say that you saw both assailants shoot the guns?

17

A I saw two -- no, I didn't say -- I said I saw two

18

people standing. One was standing in front of the car and

19

one was standing on the driver's side, and I heard

20

gunshots.

21

Once I heard the shots, that's where like everybody

22

started to run or whatever. I mean, I wasn't trying to

23

sit there and watch who shoot the gun and see one -- none

24

of that.

25

Q Okay. But you didn't -- you didn't know who the

1 assailants were?

2 A No, sir.

3 Q You remember all this from a couple of years ago?

4 Thank you. No more questions.

5 MR. MURPHY: No questions.

6 THE COURT: All right. You can step down.

7 (Witness left the stand.)

8 THE COURT: Seems like you made it right up to
9 1:00. You ready to take a lunch break?

10 MR. CONNER: We're ready.

11 THE COURT: Okay. Ladies and gentlemen, we are
12 going to go to lunch. I will ask you to come back to
13 the jury room at 2:30. And remind you, don't discuss
14 this case yet, don't allow anyone to discuss it with
15 you.

16 Don't read anything in the newspaper and I will
17 see you back at 2:30. Thank you.

18 (Jury left the courtroom at 1:00 pm.)

19 THE COURT: Okay. Be back at 2:30.

20 (Court in recess for lunch.)

21 MR. CONNER: May it please the Court. I
22 think -- I have here two photographs, one marked 18C
23 and one marked 18E. And I think we had some
24 confusion.

25 We put the one with the bullet in it, which is

1 E, and I called it C, and we have got that wrong on
2 the record here, and we'd like to reflect that. At
3 this time 18C is the one which -- with the bullet
4 hole in the arm is not entered into evidence
5 yesterday.

6 THE COURT: Okay. Can you correct that, Kathy?
7 (Whereupon, State's Exhibit 18e was admitted
8 into evidence.)

9 (Whereupon, State's Exhibit No. 18C was marked
10 for identification only.)

11 MR. CONNER: I have shown these to Mr. Murphy
12 and Mr. Sullivan and they agree.

13 THE COURT: State ready for the jury?

14 MR. CONNER: We're ready.

15 THE COURT: Defense ready?

16 MR. SULLIVAN: Yes, sir.

17 MR. MURPHY: Yes, sir.

18 THE COURT: All right.

19 (Jury entered the courtroom at 2:37 pm.)

20 THE COURT: Mr. Solicitor, you may call your
21 next witness.

22 MR. CONNER: Your Honor, I'm going to call Dr.
23 Janice Ross.

24 THE COURT: Okay.

25 DR. JANICE ROSS, after being duly

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. CONNER:

4 Q Dr. Ross, where are you employed or where do you
5 work?

6 A With Newberry Pathology Associates in Newberry, South
7 Carolina.

8 Q And what do y'all do there at Newberry Pathology?

9 A We are forensic pathologists. We do hospital
10 pathology along with doing autopsies for Coroners of
11 the -- of different counties of the State of South
12 Carolina.

13 Q And of what does a pathologist do?

14 A A Pathologist is an -- has an MD, has gone through
15 college and medical school, and further training in
16 pathology, which is the study of disease. So we look at
17 tissue and blood work on people to help to diagnose if
18 they have cancer or no -- have infections and that kind of
19 thing.

20 A forensic pathology -- pathologist uses that medical
21 knowledge for legal things. A forensic -- the word
22 forensic means legal. So we learned to do autopsies and
23 to look at patterns of injury and look at organs to
24 identify a cause of death and then try to determine a
25 manner of death.

1 Q And tell us something about yourself. What kind of
2 education do you have?

3 A I have a Bachelors from the University of South
4 Carolina. Started medical school at Medical University of
5 South Carolina. Finished up in Upstate Medical Center in
6 Syracuse, New York, where I got my MD, and I did my
7 pathology training there also.

8 I have been a medical examiner, a coroner, and a
9 hospital pathologist for 33 years.

10 Q And how long have you been in Newberry?

11 A Since May of 2000.

12 Q And have you ever testified in South Carolina
13 courts --

14 A Yes.

15 Q -- in regards to pathology, forensic pathology
16 questions, and cause of death and things of that sort?

17 A Yes.

18 MR. CONNER: Your Honor, we would submit she's a
19 qualified forensic pathologist.

20 THE COURT: Okay. What says the defense?

21 MR. SULLIVAN: No objection.

22 MR. MURPHY: No objection.

23 THE COURT: Okay. The Court so finds she's an
24 expert in the field of forensic pathology.

25 BY MR. CONNER:

1 Q Now, did you receive the body of Dominique Wimberly
2 from Sumter County back on June the eighth of 2007?

3 A June 18th, yes, 2007.

4 Q I'm sorry.

5 A Yes, sir.

6 Q The 18th. And could you tell us about what you
7 observed about him when you got his body.

8 A He -- we first look at the external body and -- and
9 any clothing that came with him, and we found that he had
10 multiple gunshot wounds.

11 Q Now, in doing your autopsy, do you examine all of --
12 all organs of the body for major disease problems?

13 A Yes.

14 Q And did you find that he had any other disease that
15 would have caused his death --

16 A No.

17 Q -- other than these gunshot wounds?

18 A No, we did not.

19 Q And now tell us about the gunshot wounds. Would you
20 describe each one of them and tell us where it went in the
21 body and -- and whether you found the bullet in the body
22 or whether it had passed through, starting with the --
23 what you labeled as gunshot wound number one.

24 A Yes. We label the gunshot wounds just for
25 convenience of our description starting with number one on

1 the front of the body and the towards the -- from the top
2 to the bottom.

3 So we had four -- well, actually five gunshot wounds.
4 And gunshot wound number one went into the chest just to
5 the right of midline, just to -- just towards the middle
6 of the chest. It went from right to left backward and
7 downward and it went through the left lung and went out of
8 the body underneath the armpit.

9 Gunshot wound number two went in a little lower
10 towards the abdomen. It also went from right to left and
11 went from front to back, and it went downward. It went
12 through the liver and caused some bleeding there.

13 The -- and it went outside the left side of the body.
14 The first bullet caused a lot of bleeding internally in
15 the chest from the lung.

16 Gunshot wound number three went in the right side of
17 the body towards the back. And that one went actually a
18 little bit upward from right to left, and it -- we were --
19 we found the bullet beneath the pancreas towards the
20 middle of the body.

21 Gunshot wound number four went into the right buttock
22 towards the back, and it went upward again, went towards
23 the front, and it was found lodged near the middle of the
24 body, near the back bone but not in it.

25 There was a fifth wound through the arm, the right

1 arm, that was in and out. And that one may be a fifth
2 shot or it may be a shot that went in the arm, out of the
3 arm, and then went back in the chest or what we call
4 number -- gunshot wound number two.

5 Q So the one you have got labeled as number five could
6 have actually been one shot, also been the one that
7 entered the gun -- what's marked gunshot wound two?

8 A Yes, sir.

9 Q Now, would any of these gunshot wounds been fatal?

10 A The first two would be fatal. The third and fourth,
11 the ones that went in the back -- excuse me -- were
12 potentially fatal. They didn't seem to bleed a lot at the
13 time but altogether there was much bleeding from
14 especially gunshot wound numbers one and two.

15 Q And how -- what would you describe as being the cause
16 of death?

17 A It's a hypovolemic shock. He went into shock from
18 losing so much blood due to the gunshot wounds through the
19 long and the liver to the -- through -- to -- due to the
20 gunshot wounds.

21 Q Now, did you take samples of the body fluids and give
22 those to Truman Duggin who accompanied the body to the
23 autopsy?

24 A Yes, I did.

25 Q And also did you take some tissue samples that you

1 sent along to SLED?

2 A Yes.

3 Q And the bullets that came from the body, I guess they
4 were given to Mr. Duggin, too?

5 A Yes.

6 Q I would show you here at this time this exhibit --
7 what's our next number -- and ask if you can identify
8 that.

9 A Yes. This is a diagram we made from the autopsy
10 findings on Mr. Dominique Wimberly.

11 Q And does it show the general location of the bullets
12 that entered the body and whether they passed through or
13 whether they remained in the body?

14 A Yes.

15 MR. CONNER: Your Honor, we would offer this
16 document into evidence at this time.

17 THE COURT: Okay. What says the defense?

18 MR. CONNER: I understand there is no objection.

19 MR. SULLIVAN: No objection.

20 MR. MURPHY: No objection.

21 (Whereupon, State's Exhibit 32 was admitted into
22 evidence.)

23 BY MR. CONNER:

24 Q I show you next what has been marked as State's
25 Exhibit number 18C for identification and ask you to

1 examine that. Can you identify it?

2 A That's a photograph of the -- what we refer to as
3 gunshot wound number five through the right arm with the
4 probe in it to show the direction it went.

5 Q Tell us about those probes. What -- how do you use
6 those?

7 A We just use them to -- once we have identified the
8 gunshot wounds, entrance and exit wounds, we put the probe
9 in just to -- to further document the direction of the
10 bullet.

11 Q And how do you determine where the bullet enters and
12 where it exits?

13 A By the -- well, in this case it -- we used the Q-tip
14 so that the cotton part of the Q-tip is where the bullet
15 came out, is the direction where it came out.

16 Q And this is a Q-tip that was stuck through this, this
17 wound?

18 A Yes.

19 MR. CONNER: Your Honor, we're going to offer
20 18C at this time.

21 THE COURT: What says the defense?

22 MR. MURPHY: Your Honor, we object based on
23 the...

24 MR. SULLIVAN: I join in that objection.

25 THE COURT: All right. Then I will overrule

1 your objection. I think probative value outweighs
2 the prejudicial value.

3 (Whereupon, State's Exhibit 18C was admitted
4 into evidence.)

5 BY MR. CONNER:

6 Q I show you next 18B. Can you identify that picture?

7 A This is a photograph of mainly the back of Dominique
8 Wimberly at the time of autopsy with entrance wounds
9 numbers three and four showing and one exit wound to X,
10 the exit wound of gunshot wound number two.

11 Q Now, number three and number four, tell us about the
12 direction or the path of three and four.

13 A Three and four are going from right to left from
14 bottom to top. They are going upward somewhat and they
15 are going forward from back to front.

16 Q And they enter -- where does three enter the body?

17 A In the back, the right lower back. The outside of
18 the back we call lateral.

19 Q And number four, where does it enter?

20 A Number four is almost on the side of the right
21 buttock area, the right upper thigh.

22 MR. SULLIVAN: Your Honor, we would also object
23 to this evidence.

24 MR. MURPHY: Same basis.

25 THE COURT: Okay. Then I will overrule your

Dr. Ross - direct by Conner

305

1 objection. I will allow it in. I think the
2 probative value outweighs the prejudicial.

3 (Whereupon, State's Exhibit 18B was admitted
4 into evidence.)

5 BY MR. CONNER:

6 Q Next I show you 18A. Can you identify that picture?

7 A Yes. This shows entrance wounds numbers one, two,
8 three and four with probes put in them. In this case you
9 can't see the exit wounds because they were a little
10 further away and on the other side of the body. But in
11 general, the probes just show the direction of the bullet.

12 Q The probes that are inserted in the picture show the
13 direction of the bullet?

14 A Yes.

15 Q And they all enter which side of the body?

16 A The right side of the body.

17 Q The right side of the body. So...

18 MR. SULLIVAN: We will object to that evidence
19 also, Your Honor.

20 THE COURT: And I will overrule your objection,
21 the same basis. I think the probative value
22 outweighs the prejudicial value. I will allow it in.

23 (Whereupon, State's Exhibit 18A was admitted
24 into evidence.)

25 MR. CONNER: Your Honor, we'd ask permission to

1 publish these three photographs and this chart at
2 this time.

3 *THE COURT:* All right, sir.

4 BY MR. CONNER:

5 Q Dr. Ross, if you would come down and stand here on
6 the side pointer on the screen.

7 A (Complied.)

8 Q And start with exhibit number 32. And would ask you
9 to point to the various different wounds that show the
10 direction of travel and whether the bullet was found in
11 the body and where it was found.

12 A Yes, sir. The bullet number one -- obviously is
13 front of the body and the back of the body. Bullet number
14 one is -- comes in here in the right chest just close to
15 the middle.

16 It goes downward and it comes out near this -- this
17 is a chest tube that's inserted into him, underneath the
18 armpit almost. And that one goes through the left lung
19 and causes a lot of bleeding in the left chest.

20 Number two goes from here to right downward and
21 backward from right to left, and it comes out a -- the
22 left background here.

23 On these diagrams when there is an exit wound, there
24 is like a -- you probably can't see it right now, but if
25 you look closely, there's an open circle. When the bullet

1 is left in the body, it's a solid bullet shaped form. So
2 that is one and two.

3 Three goes the right back, lower back towards the
4 side, and goes slightly upward and is found underneath the
5 pancreas towards the middle of the body. Number four goes
6 in the right buttocks and the upper thigh, and it goes
7 upward and it's located right next to the spinal cord but
8 not in the spinal cord.

9 Gunshot wound number five is located here. It's
10 going from the outside of the arm here through it, in and
11 out. And depending on how you move your arm, it
12 couldn't -- it can be lined up to then re-enter the
13 chest -- I'm sorry -- re-enter the abdomen here is what
14 this shows.

15 Q I show you next 18C.

16 A That's the back of the elbow. Obviously the bullet
17 number -- what we call number five, which is the right
18 elbow, is -- just goes underneath the skin in and out.

19 Q And that's the one that could have possibly caused
20 the wound number two, too; is that correct?

21 A Yes.

22 Q And I show you next State's Exhibit 18A.

23 A These are -- bullet wounds number one you -- see too
24 well. Entrance wound. Two entrance wound number. Three
25 entrance wound. And number four entrance wound. And

1 the -- the probes are put in the path of the bullet.

2 So this one obviously is going right, left and
3 downward, right to left and downward. This one is
4 going -- number three is going right to left and upward.
5 Number four is going right to left and upward.

6 Q And these all -- well, except for the one in the
7 middle of the chest there, they seem to come from the
8 right side.

9 A They are all--

10 Q Enter the right side of the body?

11 A They all going into the right side of the body. This
12 wound, that's -- where they inserted the chest tube.

13 Q And if he was seated in a automobile, it would be
14 consistent to conclude based upon the direction of travel,
15 the bullets, that they came from the right side that he
16 was shot from the passenger's side of the vehicle?

17 A Yes.

18 Q And how -- how would you explain the fact that some
19 of them go down and some of them go up?

20 A The bullets go straight, so it's very likely that
21 when he received bullets number one and two, had to be
22 sitting upright, the bullets were coming downward, but
23 then maybe he moved, bent over as defensive wound or
24 whatever, kind of, and then the bullets would go in and
25 up. Well, they go straight, but when I stand up it looks

1 like they are going up.

2 Q Show you next 18B.

3 A This is the back again just showing entrance wound
4 number three. Again that went upward. Number four went
5 upward. And this is the exit wound of number two.

6 Q Have a seat, please ma'am.

7 A (Complied.)

8 Q Answer any questions these lawyers might have for
9 you, please ma'am.

10 CROSS-EXAMINATION

11 BY MR. SULLIVAN:

12 Q Dr. Ross, you didn't find any .40 caliber bullet or
13 any evidence of .40 caliber in the body; did you?

14 A I don't measure caliber. We send the bullets to SLED
15 for their measurement. The wounds in the skin are more
16 consistent with a medium caliber wound, but skin is
17 elastic, so it's not tried and true.

18 Q Okay. And when you talked about the bullet coming
19 from the passenger's side and going in a downward
20 direction, that angle was pretty sharp, wasn't it, so that
21 it wasn't -- if it were to come out on the driver's side
22 of the car, it would be going almost -- if it were to
23 go -- it was at a very sharp angle, it would go into the
24 ground?

25 A I -- it would go -- the number two came out of the

1 back, so that apparently would go into the seat of the
2 vehicle. Number one came out underneath the arm and it
3 went straight, whatever -- where ever it was able to go.

4 Q Uh-huh. But if there was, for instance, a grown man
5 stand on the other side, that bullet, because of the
6 trajectory, after it went through his body, if it -- it
7 wouldn't hit that man, it -- if he were standing on the
8 driver's side of the car in the chest, would it? That
9 would be too high?

10 A I would think so, yes.

11 Q Okay. Thank you.

12 CROSS-EXAMINATION

13 BY MR. MURPHY:

14 Q Doctor, you indicated that the two wounds were fatal
15 as opposed to potentially fatal?

16 A Yes.

17 Q How do you distinguish between that?

18 A The amount of damage it did. And knowing that once a
19 bullet has gone through a lung, for instance, it will keep
20 bleeding unless it's surgically clamped off. And the
21 liver similarly.

22 And we saw -- saw a thousand -- a thousand cc's of
23 blood in the right chest -- left chest cavity, excuse me,
24 and 700 cc's in the abdomen.

25 Q And that's why the tube was in, right, was to try to

1 alleviate -- that's what the surgeons did?

2 A Yes.

3 Q Did you review the records that the -- of the
4 attempts to save Mr.--

5 A I don't believe I got them.

6 Q Okay. So by fatal you're saying that these -- these
7 injuries caused death, not that he's beyond all hope or
8 anything; is that correct?

9 A May cause death, yes.

10 Q And he was pronounced dead at about 4:47 am; is that
11 correct?

12 A Yes. Yes.

13 Q So that's over two hours after the incident?

14 A Yes.

15 Q I thank you.

16 MR. CONNER: You may come down.

17 (Witness left the stand.)

18 MR. CONNER: Your Honor, we'd ask that she be
19 excused.

20 THE COURT: Any objection?

21 MR. SULLIVAN: No objection.

22 MR. MURPHY: No objection.

23 THE COURT: Okay. You're excused, doctor.

24 Thank you.

25 THE WITNESS: Thank you.

1 (Witness left the stand.)

2 MR. CONNER: I'd call Kimberly Tindal, Your
3 Honor. Call Samuel Leon Wilson.

4 MR. MURPHY: Your Honor, I object to this
5 testimony. May we...

6 THE COURT: Yes, sir.

7 MR. CONNER: Have a seat...

8 (Whereupon a bench conference was held.)

9 THE COURT: 'Ladies and gentlemen, I need you to
10 go to the jury room while I take up a matter of law
11 outside of your presence. I'll get you back out just
12 as quick as I can. Remind you don't discuss the case
13 yet.

14 (Jury left the courtroom at 3:09 pm.)

15 MR. CONNER: Samuel, come around please.

16 SAMUEL LEON WILSON, after being
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CONNER:

20 Q Okay. State your name for the record, Mr. Wilson.

21 A Sammy Wilson.

22 Q And do you have a middle name?

23 A Leon.

24 Q Leon? Most people call you Leon?

25 A Yes, sir.

1 Q And who do you live with?

2 A My mother, Brenda Wilson.

3 Q And anybody else in the home other than you and your
4 mother?

5 A No, sir.

6 Q And were you living at Poplar Square Apartment back
7 in 2007?

8 A Yes, sir.

9 Q And who lived with you there?

10 A Me, my mother and my sister.

11 Q And what's your sister's name?

12 A Toni Wilson.

13 Q And now, were you there on the day Dominique Wimberly
14 got shot?

15 A Yes, sir.

16 Q And did you give a statement to the police in regard
17 to that incident and...

18 A Yes, sir.

19 Q And in talking with the police, did you also tell
20 them about any other, that you -- that you had seen Teron
21 Jackson with a pistol on some previous occasion?

22 A Yes, sir, I saw -- I seen the gun before.

23 Q You had seen the gun before?

24 A Yes, sir.

25 Q And did -- was that at the apartment complex?

1 A Yes, sir, it was out there.

2 Q And did -- do you remember, what do you remember
3 about the gun? What did it look like?

4 A It was silver.

5 Q It was silver?

6 A Revolver.

7 Q A silver revolver?

8 A Yes, sir.

9 MR. CONNER: That is essentially what I was
10 going to ask him about that. And I would ask him not
11 to say anything else in regards to that incident.

12 THE COURT: Is that all? Is that all the
13 testimony you're going to solicit from him?

14 MR. CONNER: No. I'm going to -- he was present
15 out here with the Gibson gentleman and another person
16 grilling some...

17 THE COURT: Grilling out.

18 MR. CONNER: Cooking out. And I'm going to ask
19 him about what he saw.

20 THE COURT: There's no issues about the second
21 half of his testimony.

22 MR. MURPHY: No.

23 THE COURT: Any objection to what he just
24 testified to?

25 MR. MURPHY: That's exactly what he testifies

1 to, then it satisfies my objection.

2 THE COURT: Okay. Assume you all don't open
3 some door on cross-examination.

4 MR. MURPHY: Sir?

5 THE COURT: Assuming you don't open a door on
6 cross-examination.

7 MR. MURPHY: Right. Yes, Your Honor.

8 THE COURT: Okay.

9 MR. CONNER: Now, I'd like to tell Mr. Wilson,
10 Your Honor, not to say anything else about the pistol
11 except what he just said.

12 THE COURT: Do you understand that, Mr. Wilson?

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. All right. You ready for the
15 jury? You want me... y'all need -- anybody need a
16 break while I got the jury out? Kathy, you all
17 right? All right. You need one?

18 MR. CONNER: I might take one.

19 THE COURT: All right. Well, I might as well
20 take a break before we bring them back in. They are
21 probably breaking, too.

22 (Witness left the stand.)

23 THE COURT: All right. We ready for the jury?

24 (Whereupon the jury entered the courtroom at
25 3:17 pm.)

1 THE COURT: Mr. Solicitor, you may call your
2 next witness.

3 MR. CONNER: Come on. We'd call Sammy Wilson,
4 Your Honor.

5 SAMMY WILSON, after being duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CONNER:

9 Q Okay. Mr. Wilson, were you born in Sumter?

10 A No, sir.

11 Q Where were you born?

12 A Ohio.

13 Q Ohio. How long have you lived in Sumter?

14 A All my life.

15 Q All your life.

16 A Most of it since I got -- my dad was in the Army, we
17 was out of town, came back before I hit one I think.

18 Q Before you got to be one year old?

19 A (Nodded.)

20 Q How old are you now?

21 A Sixteen.

22 Q And do you go to school?

23 A Yes, sir.

24 Q Where do you go?

25 A Burlington Academy.

- 1 Q And do you live in Sumter?
- 2 A Yes, sir.
- 3 Q And where were you living back in June of 2007?
- 4 A Summer Arms Apartments.
- 5 Q Summer Arms?
- 6 A Yes, sir, Poplar Square.
- 7 Q Poplar Square? And how long had you lived there?
- 8 A I think like five years.
- 9 Q And who did you live with?
- 10 A My mother and my sister, Brenda and Toni Wilson.
- 11 Q And where is Toni Wilson?
- 12 A Right there.
- 13 Q At -- where -- stand up, please. Is this Toni
- 14 Wilson?
- 15 A Yes, sir.
- 16 Q You can... and she's your sister?
- 17 A Yes, sir.
- 18 Q Now, what were you doing on the night that the
- 19 shooting occurred out there?
- 20 A Cooking on a grill.
- 21 Q And where were you cooking?
- 22 A Right in front of the -- I think the ■ building.
- 23 Q And that was right across from the ■ building where
- 24 you live?
- 25 A Yes, sir. Yes, sir.

1 Q And I show you here this diagram, State's Exhibit
2 number one. And do you see the E and F building on there?

3 A Yes, sir.

4 Q And where were y'all cooking?

5 A Right in front of the E building.

6 Q Right in front of the E building?

7 A Yes, sir.

8 Q About the middle of the building?

9 A No, right in front of the E building.

10 Q Okay. I'm going to put it up over here, and maybe --
11 maybe in a minute we'll look at it closer. Can y'all see
12 that? How about now? Now, who were you -- who were you
13 cooking with, Sammy?

14 A Will and Kimberly.

15 Q Will and Kimberly. And did they live in the
16 vicinity?

17 A Yes, sir.

18 Q And who was furnishing the meat?

19 A I think it was me.

20 Q Think you? You were the... now, just tell us in your
21 own words what happened.

22 A We was just cooking on the grill, and next thing you
23 know I heard gunshots. I started to run. I take couple
24 steps and I look back and I seen my sister running like
25 coming towards the house, and then I see Dominique.

1 And I open the door and let him run up the stairs. I
2 went in the house. He fall on the floor. My mom and me
3 panic and call the police and that been it.

4 Q And did the police come pretty quick?

5 A Yes.

6 Q Now your sister, Toni, was -- where was she?

7 A Talk about where were in the house?

8 Q No, where was she before the shooting occurred?

9 A I think she was in the car.

10 Q She was in the car?

11 A Yes, sir.

12 Q And whose car was it?

13 A Dominique Wimberly.

14 Q And you knew Dominique Wimberly?

15 A No, sir. I knew him from being over there before.

16 Q He was taking your sister out?

17 A Yes, sir.

18 Q So you had met him before?

19 A Yeah, I seen him. I didn't really meet him.

20 Q You knew who he was when you saw him?

21 A Yes, sir.

22 Q And you knew that he was going out with Toni?

23 A Yes, sir.

24 Q And you knew she was up there in that automobile and
25 they were sitting there talking?

1 A Yes, sir.

2 Q Now, when you looked up there, when you heard the
3 shot, how many shots do you think you heard?

4 A I don't know how many exactly.

5 Q Was it more than one?

6 A Yes, sir.

7 Q Was it several?

8 A Yes, sir.

9 Q Would that be a appropriate description?

10 A Yes, sir.

11 Q And where did you meet up with Wimberly, Dominique?

12 A He was coming towards my house running right in front
13 of the F building.

14 Q And how about Toni, where was she?

15 A I think she came from around behind a van.

16 Q Behind a van?

17 A She came from the side of a van.

18 Q And did she come first or Dominique come first?

19 A She came first.

20 Q She came first? Now, these -- when you looked down
21 there to where the car was where the gunshots were taking
22 place, what did you see?

23 A Excuse me?

24 Q How many people did you see there at the car where
25 the gunshots were taking place?

1 A I just seen my sister and Dominique and I seen two
2 people running.

3 Q You saw two people run?

4 A Yes, sir.

5 Q And which way did they run?

6 A Like towards the front of Summer -- of the
7 apartments.

8 Q That would be out toward Miller, Miller Street or
9 Miller?

10 A Yes, sir. Yes, sir.

11 Q Come down here and look at this diagram if you would.

12 A (Complied.)

13 Q Hold that stick. Now, show -- show me where the
14 cooking out was taking place?

15 A Right here.

16 Q Right there in front of the E building between E and
17 F?

18 A Yes, sir.

19 Q And where is the door that you go in F building to go
20 to your apartment?

21 A Right here.

22 Q Right there in the middle of the building?

23 A Yes, sir.

24 Q And when you saw these people running, point where
25 you saw them running from.

1 A This here.

2 Q They were running that way down through C and D going
3 toward Miller Street.

4 A Yes, sir.

5 Q Have a seat.

6 A (Complied.)

7 Q Now, did you know Teron Jackson and Jermel Robinson?

8 A Yes, sir.

9 Q How did you know them?

10 A From the apartment complex.

11 Q They lived in the apartment complex?

12 A Yes.

13 Q Or one of them lived in the apartment complex and the
14 other one was there frequently?

15 A Yes, sir.

16 Q Had you ever seen either one of them with a pistol?

17 A I seen the silver revolver.

18 Q And which one had that?

19 A Teron.

20 Q Teron?

21 A Yes, sir.

22 Q And this is State's Exhibit number 12.

23 A Yes, sir.

24 Q Ask you to examine that. Does that look like it?

25 A Yes, sir.

1 Q Answer any questions the defense lawyers might have
2 for you, please.

3 CROSS-EXAMINATION

4 BY MR. SULLIVAN:

5 Q You don't have any idea who that was that you saw out
6 there?

7 A No, sir.

8 Q What, what were they wearing?

9 A Black, black clothing, dark black clothing.

10 Q What else were they wearing?

11 A I didn't -- that's all I seen.

12 Q That's all I have.

13 MR. MURPHY: No questions, Your Honor.

14 THE COURT: All right. Anything further of this
15 witness?

16 MR. CONNER: We'd ask that -- ask him to come
17 down.

18 THE COURT: Watch your step.

19 (Witness left the stand.)

20 MR. CONNER: Your Honor, we would call Kimberly
21 Tindal.

22 THE COURT: All right, sir.

23 MR. CONNER: Your Honor, this young lady has
24 some problems with her leg, and we might have to make
25 a little bit different seating arrangement for her.

1 THE COURT: If she can't get up in the witness
2 stand, she can sit in the chair on the floor as long
3 as she keeps her voice up so my court reporter and
4 the jury can hear her.

5 KIMBERLY TINDAL, after being duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CONNER:

9 Q Okay. Kimberly, can you state your name for us,
10 please?

11 A Kimberly Tindal.

12 Q Okay. Don't hold your hand form over your mouth,
13 please, because sometimes that makes it difficult for this
14 lady to hear exactly what you say. The -- are you a
15 native of Sumter?

16 A Yes, sir.

17 Q And did -- do you still live here?

18 A Yes, sir.

19 Q And what -- are you employed?

20 A No, sir.

21 Q Not at the present time?

22 A No, sir.

23 Q How old are you?

24 A Twenty-three.

25 Q Twenty-three? Now, were you living at Poplar Square

1 Apartment back in June of 2007?

2 A Yes, sir.

3 Q And how long had you lived at Poplar Square?

4 A For three years.

5 Q Three years? And who did you live with there?

6 A My mother.

7 Q And on the evening of the shooting out there on June
8 the 18th, 2007, what were you doing?

9 A Cooking on the grill.

10 Q And who was -- who was there with you cooking on the
11 grill?

12 A Me, Sam and Will.

13 Q So Sam Wilson and Will Gibson?

14 A Yes, sir.

15 Q And that was right there in front of the E building;
16 is that right?

17 A Yes, sir.

18 Q And what apartment did you live in at the time?

19 A [REDACTED].

20 Q In the [REDACTED]?

21 A (Nodded.)

22 Q The -- just tell us in your own words how it
23 happened.

24 A I was bending down fumbling with the meat, and I
25 heard something, and I look back and I seen two boys in

1 all black running up on the car, and they -- when I seen
2 them, I just start -- I ran -- running up -- ran in the
3 house -- in the house I just heard gunshot.

4 And I looked out the window and I seen Dominique car
5 drove by and Sam sister running.

6 Q Sam's sister, that was Toni?

7 A Yes, sir.

8 Q And you -- how many gunshots did you hear?

9 A I'm not sure. I just heard -- I just heard them.
10 I'm not sure how many. I just know one was louder than
11 the other. I heard that one once, big old shot, then I
12 heard a couple of little other ones.

13 Q And y'all had been out there cooking for a while?

14 A Yes, sir.

15 Q And that car had been parked up there under the --
16 under the light for quite sometime, hadn't it?

17 A Yes, sir.

18 Q And what color was the car, do you remember?

19 A Like a bluish green and like I'm not really sure.

20 Q A green car?

21 A Kind of or either a bluish color. I'm not sure, but
22 that's the color of the car.

23 Q That look like it?

24 A Yes, sir.

25 Q That's State's Exhibit 16A. And you -- how long had

1 you been out there cooking?

2 A We had a cookout that day, but it was like I was out
3 there a long time, maybe eight hours. I was...

4 COURT REPORTER: I'm sorry. I couldn't hear
5 you.

6 THE WITNESS: I was outside for like eight hours
7 in and out at the time.

8 MR. CONNER: She said back and forth she had
9 been in and out of the house.

10 BY MR. CONNER:

11 Q But that car had been parked there for a while?

12 A Yes, sir.

13 Q And you knew that Toni was up there talking with
14 Dominique?

15 A Yes, sir.

16 Q Did you know him?

17 A I didn't know him like that, but one day like three
18 or four days before it happened I spoke -- I met him
19 through Sam, and he was talking to me and I was talking
20 back, that's the day I met him, but know him like that.

21 Q So you knew who he was, but you didn't know him real
22 good, in other words?

23 A Yes, sir.

24 Q Is that what you're saying?

25 A Yes, sir.

1 Q And the -- did you know that they had been to church
2 the day before?

3 A Yes, sir, because I seen them when they came back. I
4 seen them when they was -- I seen them that day dressed up
5 out there, so I guess they was coming from church earlier.

6 Q Okay. So you had seen him earlier?

7 A In church clothes.

8 Q In church clothes.

9 A (Nodded.)

10 Q Now, did you hear anything? You say they were
11 dressed in all black?

12 A Yeah, dark colored clothes.

13 Q Dark colored clothes? Could you see their face or
14 did they have on masks?

15 A I -- I think they had on masks. I mean, when I seen
16 them, I just ran, but I...

17 Q You knew something was up?

18 A Yeah, I knew something was up the way they ran.

19 Q And it wasn't good.

20 A Yes, sir.

21 Q Did you see any guns?

22 A Yes, sir.

23 Q Both of them had guns?

24 A I seen -- yes, I don't -- I mean, yes, sir, both of
25 them had guns, but I only seen one that was in Sam house

1 when he was holding it with jam back, and we were sitting
2 on the floor with it in our--

3 Q I'm talking about the people up there that ran the
4 other way. Did you see them? Did they -- did you see
5 guns in their hands?

6 A Oh, I seen when they came up and they ran up.

7 Q Oh, you saw them come up with guns in their--

8 A When I seen them run to the car, they had the guns in
9 their hands.

10 Q Oh. So when they got to the car, did they have the
11 guns in their hands?

12 A Yes, sir.

13 Q Did -- you ever seen either one of them with a pistol
14 before?

15 A Yes, sir.

16 Q Which one?

17 MR. MURPHY: Your Honor, I'm going to object.
18 There's no foundation she's given.

19 THE COURT: I will allow the question.

20 BY MR. CONNER:

21 Q Did you seen either one of them with a gun before?

22 A Yes, sir.

23 Q Which one?

24 A I seen when he was fighting, it was -- tall one. I
25 don't know him like that. I seen him, one day he was

1 fighting and he pulled it out hand it to --

2 MR. MURPHY: Your Honor, I'm going to object.

3 A -- Jermel.

4 THE COURT: I'm not...

5 BY MR. CONNER:

6 Q So--

7 THE COURT: I will sustain the objection to that
8 question. I'm not sure she was responsive to the
9 question any way.

10 BY MR. CONNER:

11 Q So the one on this end, Jermel, you had seen him with
12 a gun?

13 A Yes, sir.

14 Q And he handed it to the -- to Teron?

15 A Yes, sir.

16 Q Did you know--

17 MR. SULLIVAN: Your Honor? Didn't you just
18 sustain our objection? I mean...

19 THE COURT: Yeah, I did, but she wasn't
20 responding to -- the question was relevance. I will
21 allow the question have you seen them with a gun.
22 But if it -- Mr. Solicitor, are you talking about
23 this particular incident on this particular day?

24 MR. CONNER: This is not the same incident, Your
25 Honor.

Kimberly Tindal - direct by Conner

331

1 THE COURT: Okay. Then I will sustain the
2 objection.

3 BY MR. CONNER:

4 Q Answer any questions these lawyers might have for
5 you.

6 MR. SULLIVAN: I don't have any questions.

7 MR. MURPHY: No questions, Your Honor.

8 THE COURT: Thank you, ma'am. You -- they got
9 to get your crutches now, pick you up.

10 (Witness left the stand.)

11 MR. CONNER: Your Honor, we would ask that
12 Kimberly be excused.

13 THE COURT: Any objection from the defense?

14 MR. MURPHY: No, Your Honor.

15 MR. SULLIVAN: No, Your Honor.

16 THE COURT: She can be excused.

17 MR. CONNER: At this time I'd call Calvin
18 Fulmore.

19 CALVIN FULMORE, after being duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CONNER:

23 Q Officer Fulmore, where do you work?

24 A Sumter Police Department.

25 Q And how long have you worked for the Sumter Police

1 Department?

2 A Soon be seven years.

3 Q And prior to going in the Sumter Police Department,
4 did you work for any other police agency?

5 A Yes, sir, Williamsburg County Sheriff's Office,
6 almost six years.

7 Q So you were in Williamsburg County for six years. Is
8 that where you got your basic training and went to SLED
9 academy?

10 A Yes, sir.

11 Q And what year was it that you attended SLED academy?

12 A I got hired in '96. I graduate in '97.

13 Q Now, were you working back on -- incidentally, what
14 do you do for the Sumter Police Department?

15 A Neighborhood empowerment team during that time, '07
16 of the incident date. We give out common -- person, we
17 get our orders to go out different areas and look for
18 wanted people or different type crime, gather information
19 for our investigators.

20 Q So you were working then on June 18th, 2007. Well,
21 not June 18th, but I believe you -- you may have been
22 working June 18th, but the day you came in contact with
23 one of these defendants was on June the 22nd; 2007?

24 A Yes, sir.

25 Q And how did you come in -- get involved in it?

1 A I was called to go out to the hospital in the county
2 to sit with the defendant in reference to incident that
3 took place.

4 Q And that was Jermel Robinson?

5 A Yes, sir.

6 Q And you went to Richland Memorial Hospital?

7 A I did.

8 Q And did another officer meet you over there?

9 A Yes, sir.

10 Q And who got there first?

11 A I arrived there first.

12 Q And after you got there, did you have any contact
13 with Mr. Robinson?

14 A Yes, sir.

15 Q And did he ask you any questions?

16 A He did.

17 Q Tell us about his mental alertness.

18 A He appeared to be fine, talking in his right frame of
19 mind when he saw me.

20 Q Did he appear to be in good shape?

21 A Yes, sir, he did.

22 Q Did he -- did he ask logical questions?

23 A Yes, sir. He asked me about the victim of the
24 shooting. I advised him I couldn't talk to him because
25 the investigation still going on.

1 Q Now, shortly after you got there, did Officer Culick,
2 Irene Culick arrive?

3 A Yes, sir, she did.

4 Q Now, after she talked with the medical staff, did
5 y'all leave?

6 A Yes, sir, we did.

7 Q And did you bring him back to Sumter or did she bring
8 him back?

9 A Talking about Jermel?

10 Q Yes.

11 A I brought him back.

12 Q You brought him back?

13 A I did.

14 Q And did -- did you have any conversation with him on
15 the trip back?

16 A No, sir.

17 Q Did you hear him talk with anybody else in the room
18 while you were there?

19 A I did. He spoke with his girlfriend during that
20 time.

21 Q And did his conversations seem to be logical?

22 A It was. It was in there laughing, talking, him and
23 his girlfriend.

24 Q Was any -- did you bring him back to the Sumter
25 Police Department?

1 A I did.

2 Q Did you take him to jail or did you just take him
3 over to the law enforcement center?

4 A I brought him back to the law enforcement center.

5 Q And when you got him to the law enforcement center,
6 did you take him inside?

7 A I escort him inside. He walked freely on his own.

8 Q He didn't have any trouble walking?

9 A No, sir, he did not.

10 Q And you didn't have to hold him up?

11 A No, sir, I did not.

12 Q And his speech, was it slurred?

13 A It was not. It was clear, understanding.

14 Q So he seemed to understand what was going on?

15 A Yes, sir.

16 Q And he could handle himself okay?

17 A Yes, sir, he did.

18 Q Answer any questions his lawyer might have for you.

19 CROSS-EXAMINATION

20 BY MR. SULLIVAN:

21 Q So you picked him up from the hospital in Columbia.

22 A Yes, sir.

23 Q And drove him back to -- straight to the law
24 enforcement center in Sumter?

25 A Yes.

1 Q So he was clearly in custody. He wasn't free to go
2 anywhere?

3 A My job was to transport him back for our
4 investigators.

5 Q Okay. But you knew that he had gotten shot in the
6 chest?

7 A I'm not sure if he got shot at. I know he was
8 injured.

9 Q Okay. All right. That's all I have.

10 MR. MURPHY: No questions, Your Honor.

11 THE COURT: Okay. Anything further?

12 MR. CONNER: Nothing further. We'd ask the
13 Officer Fulmore be excused.

14 THE COURT: Any objection?

15 MR. SULLIVAN: No, sir.

16 MR. MURPHY: No.

17 THE COURT: He's excused.

18 (Witness left the stand.)

19 MR. CONNER: At this time I'd call Irene Culick.

20 IRENE CULICK, after being duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CONNER:

24 Q Now Officer Culick, where do you work?

25 A I work for the Sumter Police Department.

1 Q And how long have you worked for the Sumter Police
2 Department?

3 A Approximately 11 years now, little over 11.

4 Q And tell us something about the kind of duties you
5 have had there.

6 A I started off as the evidence technician, and then I
7 went to patrol as a patrolman, officer on the streets, and
8 then I was promoted to detective about seven years ago.

9 Q The -- were you working on June the 18th, 2007?

10 A Yes, sir.

11 Q And you also worked on June the 22nd, 2007?

12 A Yes, sir.

13 Q That's the day you -- you picked up Jermel Robinson
14 at the hospital in Columbia?

15 A Yes, it was.

16 Q Tell us about your involvement on the first day, June
17 the 18th, the day the shooting occurred.

18 A I hesitated for a minute because actually it was the
19 weekend and the 18th, you know, just shortly after
20 midnight turned into the 18th, I was called around shortly
21 after two in the morning and asked if I could come out to
22 help with the shooting incident.

23 It wasn't my weekend on call, but -- and in a case
24 like this where you have got a shooting incident, somebody
25 may lose their life or there's a couple victims, they -- a

1 person that is on call needs help and assistance, and so
2 we have to come out to help even though we have rotating
3 shifts and schedules.

4 So I became involved in this case because I was
5 called by my supervisor and asked if I could come out and
6 help. I was told we had two victims at the hospital with
7 gunshot wounds.

8 Q And did you go to the hospital first or did you go to
9 Poplar Square first?

10 A I responded to the hospital first. They had enough
11 officers on scene at Poplar Square, so they didn't need me
12 at that moment. They needed somebody at the hospital, so
13 I went straight to Tuomey ER.

14 Q And while at Tuomey, did you have an opportunity to
15 come in the contact with the two victims?

16 A Yes, I did. They were both still in the ER at the
17 time in the trauma room. There's three different bays and
18 beds, and they were both in there when I arrived.

19 Q And did -- tell us first about Mr. Wimberly. What
20 was his condition and -- and were you able to talk with
21 him?

22 A Mr. Wimberly's condition was very serious. I was not
23 able to talk to him. He was unresponsive. They were
24 working on him. While I was there, the surgeon came in.
25 They had a surgical team that had to be called out in the

1 middle of the night because they don't -- they're not
2 there also in the evenings.

3 Just like we get called out, they get called out. So
4 as soon as they were in place at the hospital, they were
5 rushing him up to surgery and they told me they would
6 notify me of his condition, and the surgeon left at that
7 time also with Mr. Wimberly.

8 Q Okay. And how about Robinson?

9 A Robinson, he was not as critical. He was in the
10 trauma unit in a bed. He was able to talk with me. I was
11 able to talk to him for a little bit as the nurses were
12 coming in, talking to him and doing things with him, and
13 they were talking about shipping him out also to Richland.

14 He was not going to surgery. He was going to be
15 transferred to Richland Memorial for his wound.

16 Q And then some four days later on the 22nd of June,
17 you picked him up over there or went over there with
18 Calvin Fulmore to have -- have him brought back to Sumter?

19 A Yes, sir, I did.

20 Q Now, did you obtain his shoes while you were at the
21 Tuomey Hospital checking on him?

22 A Yes. When I was at the hospital, I was trying to get
23 the basics, where were you, what happened, what did you
24 see, can you tell me anything about the subject that shot
25 you, those type of questions at the time.

1 He indicated he didn't know. He indicated that he
2 was out there at Poplar Square with another person in the
3 front parking lot. He stated that there were six other
4 people around, that he wasn't sure who the other people
5 were.

6 He couldn't give me names. Because I was trying to
7 find any kind of witness names, somebody we could go talk
8 to. He couldn't give me names at the time.

9 Then he stated that he heard one shot and he took off
10 running and he did not realize he was shot until he was
11 coughing up blood and he went to a friend's apartment.
12 Believe he called him Old School, and he did not know who
13 did this.

14 When I got through talking with him, he was in pain.
15 He was having labored breathing. And so I collected his
16 clothing. And then when I found out from the surgeons
17 that Mr. Wimberly had passed away, I collected his
18 clothing, went into the OR where he was, did some
19 photographs of both Mr. Robinson and also Mr. Wimberly.

20 And I met with Mr. Wimberly and Mrs. Wimberly in the
21 surgical waiting area at Tuomey to give them my
22 condolences, introduce myself, and let them know that we'd
23 be investigating the case and I was sorry this was
24 happening on Father's Day.

25 Q And I show you this pair of shoes that's in a box

1 labeled -- I believe it's State's Exhibit number 30 -- it
2 is 30 -- and ask you if you have ever seen those before.

3 A Yes, sir. These were Jermel Robinson's shoes. His
4 shoes along with his clothing were collected from the ER
5 that were taken off of him by the EMS workers. They all
6 save the clothes for us. And these were turned in along
7 with his other clothes he was wearing at the time he was
8 picked up.

9 Q And you turned those in where?

10 A I turned those into evidence which is Truman Duggin.
11 Lieutenant Duggin that testified earlier, he's over the
12 evidence room, and he was out that morning handling the
13 case, so I turned all the evidence over to him for
14 processing.

15 Q Now, sometime in the mid-day on June the 18th, 2007,
16 did Richburg inform you that -- that they had talked with
17 Teron Jackson and he had consent to -- to allow you to
18 look in an automobile for a gun?

19 A Yes, sir. After I left the hospital, I went out to
20 the crime scene. And when I left the crime scene -- well,
21 actually Poplar Square apartments -- when I came to the
22 station, and that's when I was told by Detective Richburg
23 and also Captain Holston that Teron Jackson stated that a
24 gun involved in this incident was located in his vehicle.
25 And at that time--

1 MR. MURPHY: Your Honor, I'm just going to renew
2 my objection.

3 THE COURT: Your objection is noted. You can
4 continue.

5 THE WITNESS: At that time I went in with what
6 we call a consent form. Sumter Police Department's
7 made up a consent form. And I read this consent form
8 to him, made sure that he understood he did not have
9 to let us go look in his vehicle and retrieve this
10 weapon, and he indicated that he wanted to and was
11 cooperating, and he signed the form.

12 BY MR. CONNER:

13 Q And this is State's Exhibit number 24. Show you
14 that.

15 A Yes, sir.

16 Q Is -- what is that?

17 A This is the consent to search form that we have at
18 the Sumter Police Department. Someone can give you verbal
19 consent, but we always like to have somebody sign it so
20 they can't say later on we didn't explain and tell this to
21 them.

22 So we had this form. And it just basically states
23 the date, which was June 18th, 2007. Location was at the
24 Sumter Police Department. And it states, I -- and he
25 filled it in -- Trevon (sic) Jackson do hereby give

1 consent to the search of my premises and or automobile --
2 and I underlined automobile because that's what we were
3 searching.

4 And above it I wrote it was a '93 Caprice Classic,
5 navy blue and white, and I had him initial that I wrote
6 that vehicle. He put his initials TJ after that. And
7 then it basically states, the City of Sumter Police
8 Department or the Sheriff's -- Sumter County Sheriff's
9 Department of Sumter South Carolina, these officers are
10 authorized by me to take from my premises and or
11 automobile letters, papers, materials, illegal drugs,
12 contraband, or other property which they may desire, and
13 that can be used in their investigation of criminal
14 activity.

15 And it says, description of property to be searched
16 for. And I just stated items of evidence related to
17 shooting incident such as guns, bullets, shell casings.
18 And states, I have been advised that I do not have to give
19 my consent and I'm aware that any evidence obtained as a
20 result of the search can be used against me in a court of
21 law.

22 This written permission is being given to me -- give
23 to me to the officers -- this written permission is being
24 give by me -- excuse me -- to the officers voluntarily and
25 without any threat or promises of any kind.

1 And then I just wrote at the bottom, vehicle listed
2 above is located at ■ Frazier Street. That's where he
3 told me his car was. I had him initial that also with TJ.

4 Q And I show you these three photographs marked State's
5 19A, B and C, and ask if you can identify those.

6 A Yes, sir. These are pictures of Mr. Jackson's
7 vehicle. It was located just like he told me, beside the
8 residence at ■ Frazier Street. It shows his--

9 Q Don't -- don't show -- wait just one minute.

10 MR. CONNER: We'd move to have them introduced
11 as 19A, 19B and 19C, Your Honor.

12 THE COURT: What says the defense?

13 MR. MURPHY: Your Honor, I object under grounds
14 of my previous objection.

15 THE COURT: Okay. Then your objection is
16 overruled. I will allow them in.

17 (Whereupon, State's Exhibits 19A, 19B, 19C were
18 admitted into evidence.)

19 BY MR. CONNER:

20 Q Now, Mrs. Culick, tell us what the pictures show.

21 A Okay. They're Mr. Jackson's vehicle, his Caprice
22 Classic, the navy blue and white that he described, he
23 stated that was on the side of the residence ■ Frazier
24 Street.

25 When I arrived there, it was myself and Sergeant Mike

1 Rogers, spoke with his grandmother and stated that we had
2 been given consent to go into the vehicle and explained
3 what happened, and I showed her the consent form.

4 I didn't want her to think we are just showing up in
5 her yard doing anything that we shouldn't be doing. She
6 was very cooperative, told us to go ahead. We looked
7 inside the vehicle, and exactly where he said the gun was,
8 we found it.

9 It's actually in a little cut-out in the seat. This
10 is the passenger's seat in the vehicle, and you have to
11 pull the cover up, the seat cover, and there's a little
12 hole cut out of the foam, and the gun was inside of there.

13 Q Okay. Let me see.

14 MR. CONNER: Your Honor, we would like to
15 publish maybe by just having them circulate through
16 the jury.

17 THE COURT: All right.

18 BY MR. CONNER:

19 Q And I show you here State's Exhibit number 10 and ask
20 if you can identify that.

21 A Yes, sir. This is -- this is actually the weapon,
22 same weapon that's in the photograph that was found in the
23 seat.

24 Q Now, tell us about your trip to Richland Memorial on
25 June the 22nd.

1 A We had called Richland Memorial Hospital where Jermel
2 Robinson was being treated for his injuries and asked them
3 to notify us upon his release and let them know that we
4 wanted him, that we had a warrant for his arrest.

5 And we were called late that afternoon by Richland
6 Memorial Hospital and told that he was going to be
7 released, and so that's when I got together with my
8 supervisors and we had Sergeant Fulmore with the Sumter
9 Police Department head on over to Richland and wait with
10 Mr. Robinson until I could get over there with my
11 paperwork to pick him up upon his release.

12 Q Did you have any conversation at all with him over
13 there?

14 A Just brief conversation. I entered the room and told
15 him who I was again. He had already met me before at
16 Tuomey, but I just wanted to make sure that he remembered
17 who I was, explained that I had a warrant for him, and
18 that we were bringing him back to Sumter because he was
19 released.

20 Q Did his reaction and response to anything you said be
21 reasonable?

22 A Oh, yes, sir. He was alert. He was talking. He was
23 cooperative. He's nice.

24 Q Now, the hospital also was aware that he was going to
25 jail; is that correct?

1 A Yes, sir. They knew that we had a warrant for him
2 and that we would be picking him up and that he would be
3 going to the detention center in Sumter.

4 Q And Sergeant Fulmore brought him back?

5 A Yes, sir. He gave him a ride and I followed them.

6 Q And where did you -- where did you take him?

7 A We brought him back to the Sumter Police Department.
8 And when we got here -- when we got back to the police
9 department, we got out of the vehicle and we walked in and
10 I showed him where the interview room was, and that's
11 where we went.

12 Q And--

13 A Inside the Police Department.

14 Q Could -- did he walk in to the department down there
15 on his own esteem?

16 A Yes, sir. He could walk. He was able to walk and
17 talk, respond appropriately.

18 Q He didn't stagger or seem unsteady or anything --
19 anything, did he?

20 A No, sir.

21 Q How about his speech and his speech pattern?

22 A Oh, his speech was fine. It wasn't slurred. It
23 wasn't anything out of the ordinary. He answered
24 questions appropriately. He responded, talked with us.

25 Q Did y'all threaten him in any way or give him -- make

1 any promises to him in order to get him to talk with you?

2 A No, sir, we didn't.

3 Q Did you give him what's called his Miranda rights?

4 A Yes, sir, I did.

5 Q And I show you here this form, State's Exhibit number
6 25, and ask if you can identify that.

7 A Yes, sir. This is our Sumter Police Department
8 interview form. This is what we use to give anybody that
9 we're interviewing in reference to a crime, let them know
10 their rights ahead of time before we talk to them about
11 that crime.

12 Again, it's like the consent form. You don't have to
13 have one of these and signed as long as you tell somebody
14 their rights. But according to our policy, this is just
15 what we do as a extra measure of precaution.

16 Q Okay. Let's see that.

17 A Yes.

18 MR. CONNER: Your Honor, we would move item 25
19 into evidence at this time.

20 THE COURT: Okay. What say--

21 MR. CONNER: And I understand there's no
22 objection.

23 THE COURT: What says the defense?

24 MR. SULLIVAN: Actually, I -- I object to the
25 Miranda form.

Irene Culick.- direct by Conner

349

1 THE COURT: Okay. Let me see it.

2 (Whereupon there was a pause.)

3 THE COURT: I will allow it in over objection of
4 defense counsel.

5 (Whereupon, State's Exhibit 25 was admitted into
6 evidence.)

7 BY MR. CONNER:

8 Q Officer Culick, did you just allow him to read it as
9 that's his form and he could sign at the bottom, or how
10 did you handle that?

11 A No, sir. I talked to him to start with. Found out
12 that he was 17 years old, where he lived, and that he
13 could read and write. And that's when I told him that I
14 didn't want to insult him, but I read it to everybody
15 because some people are embarrassed and they don't want to
16 tell you they can't read, and so I read it to everyone any
17 way.

18 But I turn it in front of them so they can follow
19 along with me as I read it. And this is how -- I show it
20 to him and then I start at the beginning.

21 Before we ask you any questions, you must understand
22 your rights. And I go line by line as I'm reading it so
23 they can follow along.

24 You have the right to remain silent. Anything you
25 say can be used against you in court. You have the right

1 to talk to a lawyer for advice before we ask you any
2 questions and to have him or her with you during the
3 questioning.

4 You cannot afford a lawyer, one will be appointed for
5 you before any questioning if you wish. If you decide to
6 answer any questions now without a lawyer present, you
7 will still have the right to stop answering at any time
8 until you talk with a lawyer.

9 Then it states, before any questioning I was
10 furnished the above statements of my rights at 8:15 pm on
11 June 22nd, 2007, at Sumter PD -- which is for Police
12 Department -- by Detective Culick of the Sumter Police
13 Department.

14 Then it states, I have read or have read to me this
15 statement of my rights. I understand what my rights are.
16 I am willing to answer questions at this time without a
17 lawyer present. No promises or threats have been made to
18 me and no pressure has been used against me.

19 And then I ask them if they would like to talk to me,
20 and if so, would they indicate it by signing.

21 Q And did he sign it?

22 A Yes, he did.

23 Q And did you sign as a witness?

24 A Yes, I did.

25 Q And after doing that, did you talk with him?

1 A Yes, I did.

2 Q Was anybody else present with you when you talked to
3 him?

4 A Yes. Sergeant Mike Rogers, who used to work with us,
5 he's no longer with us. He took a federal job as a postal
6 inspector now, but he was with me at the time helping me.
7 It was after hours. And I called him on the way back and
8 asked if he would help me with the interview.

9 Q Did he at any time promise Robinson anything or
10 threaten him in any way?

11 A No, he didn't.

12 Q Did Robinson talk to you freely and voluntarily?

13 A Yes, he did.

14 Q And I show you here State's Exhibit number 26 and ask
15 you if -- did you take a tape statement from him?

16 A Yes, I did. After we talked in the interview room
17 and he had told me what happened that night, his side of
18 the story--

19 MR. SULLIVAN: Again renew my objection to
20 anything Mr. Robinson said.

21 THE COURT: Okay. And I note your objection. I
22 will allow her to continue.

23 THE WITNESS: And then afterwards I asked
24 people, would you like to put it on paper, would you
25 like to write a statement, or would you like us to

1 write one for you or type it or record your
2 statement.

3 And I like recording. That way nobody can
4 change their words, but I let them decide. And he
5 stated it would be okay to do a recorded statement of
6 what he had told us happened of the events that
7 night. And so I went and got the tape recorder and
8 brought it in to the interview room.

9 BY MR. CONNER:

10 Q And the document that I have handed you, I believe
11 that's State's Exhibit number 26?

12 A Yes, it is.

13 Q Is that a transcription of the tape?

14 A It is.

15 MR. CONNER: Your Honor, we'd offer that
16 document into evidence at this time.

17 THE COURT: Okay. What exhibit is that?

18 THE WITNESS: Number 26.

19 THE COURT: Okay. What says the defense?

20 MR. SULLIVAN: I would object, Your Honor.

21 THE COURT: All right.

22 MR. SULLIVAN: On prior grounds argued earlier.

23 THE COURT: Okay. Then I will allow the
24 document in over objection of defense counsel.
25

1 (Whereupon, State's Exhibit 26 was admitted into
2 evidence.)

3 BY MR. CONNER:

4 Q Before we publish the document, I'd like to ask you a
5 couple more questions, Mrs. Culick. At some point in time
6 did you take a swab, a cotton swab of the -- what's called
7 a buccal swab, some people call it a buckle swab, of the
8 inside of each one of these defendants' mouths?

9 A Yes, I did.

10 Q And was that submitted to the evidence room to be
11 transmitted to SLED?

12 A Yes, it was. After I was -- after I collected the
13 swabs, with the permission of the attorneys, I collected a
14 DNA sample. Now-a-days we don't have to take them to the
15 hospital for blood, thank God. We can just take a Q-tip
16 and swab the gums on the inside of the person's mouth and
17 fill out the paperwork and submit those into evidence,
18 which would go to Truman Duggin.

19 And they are taken to SLED to analyze and compare
20 against any other evidence turned in in a crime scene.

21 Q And I show you these photos and ask if you can
22 identify them.

23 A Yes, sir, I can.

24 Q And what are they?

25 A These are photographs taken at Mr. Robinson's

1 apartment at Poplar Square L5.

2 Q Did you take them?

3 A Yes, sir, I did.

4 MR. CONNER: Your Honor, we'd offer these into
5 evidence at this time. Be number 33A, B, C and D.

6 THE COURT: What says the defense?

7 MR. SULLIVAN: No objection.

8 MR. MURPHY: No objection.

9 THE COURT: They are in without objection.

10 (Whereupon, State's Exhibits 33A, 33B, 33C, 33D
11 were admitted into evidence.)

12 BY MR. CONNER:

13 Q Now, would you tell us about the photographs.

14 A Yes, sir. These are pictures from inside the
15 apartment that morning. After I left the hospital, I
16 stated I went to the crime scene. While out there, we
17 were directed to apartment L5.

18 Inside of L5 we found a trash can that was located up
19 under the bathroom sink. There is a trash can on the
20 outside beside the sink, and then there was also a trash
21 can underneath the sink.

22 And so when you open the cabinet door and look
23 inside, there was this what appeared to be cloth that
24 could have been used as a mask that was cut. So this was
25 photographed and collected and turned into evidence.

1 While searching the apartment, we also found dark
2 clothing in the back bedroom on the right in the
3 apartment. There were black Dickie pants. There was also
4 black hoodie hanging up, T-shirt in the closet that we
5 photographed, took into evidence.

6 Also in the cabinet in the kitchen there is a sink,
7 and then there's some cabinets up top. And in one of the
8 upper cabinets, there was some knives, and this knife was
9 in the cabinet and it appeared to have black fibers on it.

10 And this knife was collected and placed into evidence
11 to compare those fibers with the one from the mask to see
12 if it was used to possibly make the mask, cut eye holes,
13 or cut the mask up after the incident occurred, along with
14 some black fibers we found in the sink, in the kitchen
15 sink, cotton fibers.

16 MR. CONNER: At this time, Your Honor, we'd ask
17 permission to publish the statement of the defendant,
18 and we also have copies made for the jurors in that
19 regard.

20 THE COURT: All right, sir.

21 MR. CONNER: And we...

22 THE COURT: Yes, sir, you want...

23 MR. CONNER: Where is the... Could we have that
24 marked into evidence?

25 THE COURT: It's already in evidence.

1 BY MR. CONNER:

2 Q You can proceed.

3 A This is the taped interview that we did, myself and
4 Sergeant Mike Rogers, along with Jermel Anthony Robinson.
5 This was done on June 22nd, 2007. It's about 9:12 pm in
6 the evening.

7 And where it has questions, that's going to be me
8 asking the questions. And when Mike Rogers asks any
9 questions, it will have his name in there, but where you
10 see just the Q, that's me talking.

11 And it's, you know, Detective Culick. This is a
12 taped interview with Jermel Anthony Robinson. We're at
13 the Sumter Police Department. Present in the room is
14 Detective Culick, myself, and Sergeant Mike Rogers is also
15 present along with Jermel.

16 We are talking about the shooting incident that
17 happened at Poplar Square Apartments on June 16th, 2007.
18 Today's date is June 22nd, 2007, and it is 9:12 pm in the
19 evening. And question is by me, Detective Culick.

20 And I just wants to make sure for the record, Jermel,
21 you were given your rights; correct? You were read your
22 rights and you understand them and you want to talk to us
23 now. He answered, yes, ma'am.

24 Stated, okay. If you could just speak up a little
25 bit. We are talking about what happened the night that

Irene Culick - direct by Conner

357

1 you were shot because you were actually shot on the
2 sixth -- I mean -- the 18th of June.

3 So if you could just in your words tell me what
4 happened that night. The mic couldn't pick it up.
5 Stated, okay, you got to talk up a little bit or move
6 closer, okay. Yeah. It was my -- it was me and my
7 friend, we was like hanging out.

8 Well, you know, we saw some boy whatever, and then
9 they told -- they just looked at him and like that's a
10 chance for us that we don't want to miss whatever. We
11 went back to the house and got the things that we were
12 going to use to get him through -- we were going to do, so
13 we went back around.

14 Okay. And you and the other person saw somebody pull
15 through. Is that at Poplar Square? Yeah. Where you
16 live, Poplar Square Apartments? Yes, ma'am. Okay. And
17 where do you live out there? [REDACTED] You live at [REDACTED] And
18 does the other person live out there? Yeah. The other
19 person stays there some time off and on. Most of the time
20 the other person is at my house.

21 Okay. So you and the other person saw some people
22 pull through and they said they didn't want to let this
23 chance go by. Yeah. That was his answer. Question. Go
24 by? What did they mean by that?

25 Jermel answered, the other person got the idea like,

1 um, let's go get em, like other words, like, man, let's go
2 rob em. Go rob him. Yes, ma'am. Okay. So you said you
3 rode your bikes around and then you went back to your
4 apartment; is that correct? Yes, ma'am.

5 Okay. And then what happened when you got to your
6 apartment? What did you do? We got -- um -- our guns and
7 our masks and stuff. You got a gun. What kind of gun did
8 you get? I had my -- um -- .40 caliber.

9 So you had a -- he answered, the other person had
10 a -- I believe it was a 38. Okay. So you had a
11 .40 caliber handgun. He answered and the other person had
12 a 38.

13 I asked, and the other person had a 38. Was his a
14 revolver? He answered, yes, ma'am. I asked, okay. And
15 yours, what color was it? Stated black. It was black.
16 Do you know the brand? No, ma'am.

17 Okay. And you said you also got your mask. Yes,
18 ma'am. What kind of mask are these? Um -- blue -- um --
19 the other persons was like a skully hat and mine was like
20 a ski mask. Okay. What color were they. They was black.

21 Okay. Did y'all get anything else from the house?
22 No, that's basically all we need. Okay. Did you get any
23 hoodies or -- he interrupted, yes, like that with our
24 clothes. Okay. So you put on a hoodie. Yes, ma'am. And
25 your mask? Yes, ma'am.

1 Okay. And then what did y'all do? We went -- we
2 went -- we walked back around to the other side. He came
3 up to where we could see him, and then we ran from there.
4 Okay. You came up to the other side where you could see
5 him. Yes.

6 And where was that at? What apartment was that near?
7 I don't know the apartment that it was close by, close to
8 the apartment they could be by. By what? A car? A car.
9 It's a whole bunch of cars ride up in the parking lot.
10 Okay.

11 We could just see them from where we were looking.
12 What did the car look like are that you could see? Um --
13 it was like color-wise? Yeah, the color. Kind of like --
14 it looked like a greenish-dark color like.

15 Okay. Do you know what kind of car? No, ma'am. And
16 you said -- were the windows tinted? Yes. Earlier? Yes.
17 When we talked, okay. So you got to the building. And
18 then what happened. That's when we ran over to where they
19 were.

20 Okay. And where did you run to? To the car. You
21 ran to the driver's side? The passenger's side. I ran to
22 the driver's. Okay. Where did the other person go? They
23 must have went around the other side because when we ran,
24 I -- I didn't see them ever since then, but they had to go
25 to the other side.

1 Okay. And what happened when you got to the driver's
2 side? A shot was fired, and from there on, I don't know.
3 Okay. A shot was fired at you? Yes, ma'am. Dominique or
4 the driver of the vehicle? I don't know. You didn't know
5 who was driving the car? No, ma'am.

6 Okay. What did the guy look like? I didn't -- I
7 didn't see him close-up. Okay. It was like when there
8 was a shot, like -- it was like that, but -- and I'm going
9 the other way. Where were you shot at? Come closer.

10 Were you shot in your chest? Yes. Yes, ma'am. Yes,
11 ma'am. I was shot in my chest through my back. Okay. So
12 you were shot from the front? The bullet went in the
13 front of your chest? Yes, ma'am. And it went out your
14 back. Yeah.

15 Okay. What happened after that? I ran. Where did
16 you run to? A friend house of mine. I mean, a friend
17 house of -- um -- of my mom. He's my friend, but he's
18 much older, so he know my mom. What's -- we call him Old
19 School. I ran to his house.

20 Okay. And where is that at? Where is his house?
21 Um -- it's the building on the opposite side of my
22 building.

23 Okay. So yeah, it's on the reverse side of L5. And
24 reverse side of L5, so it's still in the L building? Yes.
25 Okay. And Detective Rogers asks, now, you say you got

1 shot by the guy that was in the driver's or the... he
2 stated I -- I -- I don't know who.

3 Detective Rogers asked, you don't know, but I mean,
4 did he have a gun already or did he take your gun? Jermel
5 stated, um, I don't know. Detective Rogers asked, you
6 don't -- you don't remember, but you know you had a gun
7 when you went up to him. Jermel answered, yes, sir.

8 Detective Rogers then asked, but you're not -- you
9 can't remember whether he grabbed your gun and shot you
10 with your own weapon or you don't know if he had a gun.
11 Jermel stated, I don't remember what happened from there.
12 Detective Rogers stated, okay. And witness stated, I
13 don't remember.

14 Then I asked, so you're not sure if he took it. He
15 could have taken your gun -- taken your gun? He could
16 have. I was thinking about that in the hospital. I
17 really -- where -- that's the part where I lost about
18 everything. I don't know what happened after then.

19 Okay. So you -- you have been -- just to clarify,
20 you have been in the hospital since the shooting happened
21 on Monday morning, early Monday morning. Yes, ma'am. And
22 you have been in Columbia. Yes, ma'am. Okay.

23 Detective Rogers then asked him, well, let me ask you
24 this real quick. When you ran into the apartment, do you
25 remember having the gun with you at... and before he could

1 finish Jermel stated, no, sir.

2 Detective Rogers asked, you didn't have the gun with
3 you in the apartment? Jermel stated, no, sir. No, sir.
4 Detective Rogers asked, so between the time you got shot
5 and the time you got to the apartment, you don't remember
6 what happened to your gun? Jermel stated, no, sir.

7 Detective Rogers asked, did you give it to the --
8 um -- the other person? Jermel stated, no, I didn't know
9 I had -- I didn't see them because I didn't see them ever
10 since they ran from the... Detective Rogers. Okay.

11 Detective Rogers asked, all right. You didn't ditch
12 it in the bush or anything like that? The witness
13 stated -- Jermel stated, no, sir. Detective Rogers
14 stated, okay. All right.

15 So then I asked, okay, so you remember going up to
16 the car, but you don't know if your gun was taken or not.
17 And Jermel answered, no, ma'am, I don't remember that.
18 Question. Did you have anything on your hands? Did you
19 have socks on your hands? Stated, no, ma'am. Or gloves?
20 No, ma'am.

21 Okay. Not with the heels cut or -- cut out or
22 anything like that? No, ma'am. Okay. So when you got to
23 Old School's, tell me what happened from there. I ran in
24 and told him I was shot and -- um -- I told him to call
25 the ambulance, and that's what he did, and he said, lay

1 down in the bathroom.

2 That's when he just started pressing on my wound.

3 From there we just waited for the ambulance. Okay. Were
4 you hurt anywhere else? Did you have blood anywhere else
5 if you can remember? No, ma'am. On your face or anything
6 like that? No, ma'am.

7 Okay. And Detective Rogers asked, what about the
8 clothes that you were wearing? What happened to your
9 clothes that you were wearing when you got there? Um --
10 Detective Rogers asked, did Old School take them off or
11 did you take them off or -- Jermel stated, I think the
12 paramedics took all those.

13 Detective Rogers, okay. All right. Do you remember
14 what happened to those clothes? Do you know where they
15 put them? Jermel stated, no, ma'am. I mean, no, sir.
16 Detective Rogers, okay. Jermel stated, I'm sorry.
17 Detective Rogers said, all right.

18 Then I asked him again, question, okay, did you know
19 the person that was driving that car? No, ma'am, not
20 like, you know. Did you think it was somebody else that
21 was in the car? Jermel answered, yeah. I had like -- I
22 got -- like really who was in there. That's when we both
23 told each other that -- or who it is, but that's who we
24 was trying to look at the whole time.

25 How long did y'all try to look at them? It was a

1 good while, like say an hour or -- might be longer.

2 Longer? I don't -- I don't know about. It was a while.

3 It was a long time. I know that.

4 Okay. So then Detective Rogers asked him, who do you
5 think it was? We'll put it that way. Who do you guys
6 think it was? Jermel stated, yeah, guy that -- um -- they
7 had known because they -- they -- they was like telling
8 that for anybody, get anybody, so it had to be somebody.
9 That -- that who, the other person?

10 Yeah, either one of us. Yeah, like it -- they going
11 to tell me like you probably know them when you see them
12 or whatever, just like that kind of thing. Okay. What
13 were y'all planning on getting from him or whoever was in
14 the car?

15 Oh, it was just like whatever they had that could
16 help. Like money, Jewelry? Yeah. What -- anything you
17 could. Anything that could help. Okay. When you -- when
18 you ran up to the driver's side, was the window down? Was
19 his window down when y'all came up?

20 It had -- it had to have. It had to have. Okay.
21 Did you say anything to him like, give it up, give me the
22 money? No, ma'am.

23 Okay. Did the other person? I didn't hear them.
24 Okay. If they -- if they did, I didn't because if they
25 say anything, they probably already shot me before then.

1 Okay. Did you hear any other shots after you were shot?

2 No, ma'am.

3 Okay. So the first shot was you. Yeah. Yeah..

4 Okay. Did you ever fire your gun? No, ma'am. I never

5 fired my gun. You did not fire it? No, ma'am. Did and

6 you don't remember having your gun after it happened? No,

7 ma'am. Okay. Where did you get your gun from?

8 He was like -- he was -- um -- I got a gun, so

9 whatever. He sells guns. Let me know. I stated, so you

10 have got a cousin. No, I'm just saying like -- that's the

11 way he talked. That's all it was.

12 So you bought it out in the country. Yes, ma'am.

13 How much did you pay for it? Two to 250. 250? Yeah.

14 Okay. And you said the only time you ever -- no, it

15 wasn't 250, it was 200. It was 200.

16 \$200? Yes. And you said that the only time you've

17 ever fired the gun was in the country, right? Yes, ma'am.

18 And what problem did you say you had with the gun? The

19 gun jammed. It jammed on you? Yes, ma'am.

20 Okay. Would it jam -- how? When would it jam, like

21 after you fired a shot, after you fired? He answered,

22 yeah, like any time. Any time you fired a shot? He

23 answered, yeah. It could fire on the first?

24 Question, it could fire on the first one but it would

25 jam? And Detective Rogers asked, it would jam after the

1 first one? Jermel stated, yeah, or it could jam on the
2 first one. Okay. Sometimes it would jam on the first
3 two. Yes, ma'am.

4 Okay. What about the other person, where did he get
5 his gun from? Um -- a -- a friend that stays out -- out
6 where they stay at. At Poplar? He answered, Poplar
7 Square. Poplar Square. And what is his name? We call
8 him Jock, Derrick -- um -- but -- um -- okay. But you
9 call him Jock and his name is Derrick. Yes, ma'am.

10 Well, do you know what apartment he stays in? Um --
11 I don't know. That Apple Jack, but I don't know the --
12 okay. How long have you had your gun? About -- about two
13 months or less. It's not more than two months.

14 Okay. How about the other person, how long has he
15 had his? Oh, I don't know. I think they had -- they had
16 that before I had mine. Okay. Have you ever shot at
17 anyone before? No, ma'am. At Poplar Square Apartments or
18 anywhere? No, ma'am.

19 Okay. Is there anything else you'd like to tell us
20 about that night? No, ma'am. Did you mean for that to
21 happen? No, ma'am. I didn't mean for that to happen at
22 all. Can you speak up? I didn't mean for that to happen
23 at all.

24 Okay. Did you tell the other person anything before
25 y'all went up there to rob them? Yes, ma'am. I told the

1 other person that no matter what happens that we're not
2 going to shoot him. You told the other person that? Yes,
3 ma'am.

4 And what did the other person say? They said, all
5 right, I got it. And they are the most trustworthy person
6 I have ever known and like -- but what you say the other
7 person probably was scared for me, that's probably why the
8 other person did it.

9 Is the other person kind of like your brother? Yeah.
10 I mean, I know -- I mean, like you can't be somewhat sure
11 of someone like I know them. If I told them not to do it,
12 they wouldn't do it. But like I know that's what
13 happened. They said they was scared and they thought I
14 was going to die is why they did it.

15 Okay. Well, where were your bikes? Where did you
16 leave your bikes at? On the other side of the fence from
17 where we lived. And what kind of bikes were you riding?
18 Freestyles, my bike. What color were you riding? My bike
19 was red. And what color bike was the other person riding?
20 A silver bike.

21 And where did you get them from? Um -- um -- those
22 were the other person's brother's bike. The other
23 person's brother's? Yeah. And you said you left them on
24 the other side of the fence? Yes, ma'am. Okay. How did
25 you get back to the apartments? We walked down -- um --

1 half-way to the side and -- and go over.

2 You -- there's a little place in the fence where you
3 can get through? Yes, ma'am. Or go over. And that's the
4 way you went. Yes, ma'am. Okay. And Detective Rogers
5 asked, what kind of shoes were you guys wearing that
6 night, do you remember?

7 Jermel stated, um -- they had -- um -- like -- like
8 they confiscated from me from the hospital. Detective
9 Rogers, okay. Detective Rogers, what about the other
10 person? The other person had on black shoes. Detective
11 Rogers, do you know what kind they were? Jermel stated,
12 no.

13 Then I asked, was the other person wearing his black
14 Dickies? Oh, I don't remember what they had. I know it
15 was like -- and you were wearing the clothes that we got
16 from the hospital, got from you at the hospital, correct?
17 Yes, ma'am.

18 Detective Rogers, did any -- did either you or the
19 other person have any additional weapons that we don't
20 know about? Jermel stated, no, ma'am. Detective Rogers,
21 you know what I mean. Witness. I mean, no sir. I'm
22 sorry. Where did the ammunition come from? Where did you
23 get the bullets? They were already with the guns that we
24 had.

25 Okay. So you didn't have any extra? No, ma'am. Or

1 anything like that? Where did you get your ski mask --
2 ski mask from? Oh, I bought that. What did you buy it
3 for? Well, really it was just cold at the time and I was
4 using it outside, so when it's really -- real cold, I just
5 wear it with my -- I wear it when I walk down the road.

6 A lot of people stand around me. I put it on them
7 because obviously someone knows nothing is going on.
8 That's when I bought it and just keep it on my neck and my
9 mouth when it's real cold. I just put it on and nothing
10 to -- to that.

11 I never thought like when I -- did anyone see y'all
12 when you were riding your bikes around the apartment and
13 you said you were watching the people in the car or trying
14 to get a better look? No. No. No, ma'am. I couldn't
15 tell you. I wouldn't know.

16 Do you remember seeing anybody in the apartment
17 complex that you knew? Because I mean, there was a lot of
18 people out there just hanging around. Do you remember any
19 of them? No, ma'am. Okay.

20 Detective Rogers. Where would you keep your gun when
21 you weren't -- when you didn't have it on you? It would
22 be at my house. Where? Do you remember where at your
23 house? Jermel answered, no, sometimes in my closet.

24 Detective Rogers, okay. What about -- then I asked,
25 so you would keep your gun at your house in your closet?

1 Yeah. Your bedroom? Detective Rogers, did you ever see
2 the other person keep it at their house? Um -- yeah.
3 Where at? Like in the room with them sometimes.

4 Detective Rogers asked, anywhere else? Detective
5 Rogers, no. Then I asked, would the other person keep it
6 in their car sometimes? Yeah. Yeah. They kept it there.
7 I asked, in the seat? Jermel answered, up under the seat
8 of their car.

9 Under the seat? Yes, sir. I mean, yes, ma'am.
10 Which seat in their car? The passenger -- or not the
11 passenger, the driver's seat. Yeah, yeah. It's the one
12 that has the hole cut under it. The one -- the seat
13 that's got the hole? Yes, ma'am.

14 Detective Rogers, okay. Then I asked, and what kind
15 of car does the other person have? A Caprice. Is there
16 anything else you can think of that we haven't asked you
17 or you would like to say? Um -- no, I don't know nothing
18 else. Okay. Detective Culick, this interview is now
19 over. The time is 9:30 pm.

20 MR. CONNER: Answer any questions the other
21 lawyers might have for you, please.

22 CROSS-EXAMINATION

23 BY MR. SULLIVAN:

24 Q Detective Culick, you said that the night of the
25 incident that you went to the hospital at Tuomey to see

1 Mr. Robinson?

2 A Yes, sir, and Mr. Wimberly.

3 Q Okay. Would you say that this is an accurate
4 depiction of Mr. Robinson at the hospital there?

5 A Yes, sir.

6 MR. SULLIVAN: Your Honor, I'd like to introduce
7 this photo into evidence.

8 THE COURT: What says the State?

9 MR. CONNER: I have no objection.

10 THE COURT: All right. Be defense number one?

11 (Whereupon, Defendant Robinson Exhibit 1 was
12 admitted into evidence.)

13 BY MR. SULLIVAN:

14 Q You have to concede, Detective Culick, that a lot of
15 that interview was him sort of agreeing with you in that
16 he was -- he seemed somewhat incoherent?

17 A How did he seem incoherent?

18 Q Could you -- you talked about or we have heard
19 testimony about him being able to -- to walk to the -- to
20 the law enforcement center. He could still be in pain and
21 walk, though; couldn't he?

22 A Certainly, anybody could, yes, sir.

23 Q You don't -- you don't think that Robinson shot the
24 victim; do you?

25 A Excuse me?

1 Q You don't -- it's not law enforcement's theory and
2 you don't think that Mr. Robinson himself shot the victim?

3 A I don't know if Robinson shot Mr. Wimberly or not.
4 That gunshot number five that was through and through, I'm
5 not sure if that's -- if that's from Mr. Robinson's gun
6 or --

7 Q Okay.

8 A -- that's from...

9 Q But you knew that Mr. Robinson had himself been shot
10 in the chest.

11 A Yes, and I'm not sure how he was shot, if it was from
12 Mr. Jackson's weapon or if his own weapon was taken and he
13 was shot during that struggle. I'm not sure.

14 Q You're not aware of any -- any money or jewelry or
15 goods or anything that were -- that were found on Robinson
16 that you think was taken from the victim?

17 A I don't think they had a chance to carry out the
18 robbery.

19 Q Okay. So you -- you said that you followed Officer
20 Fullmore from the hospital in Columbia back to the law
21 enforcement center in Sumter?

22 A Yes, sir.

23 Q And when -- he was in handcuffs and shackles at the
24 law enforcement center?

25 A He was not in shackles, no, sir.

1 Q He was in handcuffs?

2 A He was in handcuffs during the transport, not during
3 the interview.

4 Q Okay. All right. And there wasn't anybody in the
5 interview room there for Mr. Robinson, was there, like an
6 advocate for him?

7 A No, sir. He's considered an adult at 17.

8 Q Okay. So there wasn't any -- like there wasn't any
9 attempt to contact any family or anything?

10 A No, sir, there wasn't.

11 Q Okay.

12 A No. His girlfriend was there upon his release and
13 knew that we were taking him back to law enforcement.

14 Q How long had Robinson been in the interview room?

15 A We did the waiver right after he arrived and
16 that's -- that time on the waiver is about 8:15 p.m. and
17 we talked to him, he told us about what happened. Then we
18 did a taped statement around 9:12 and then I think we
19 finished around 9:30, and then after that he was taken to
20 the Sumter Lee Regional Detention Center.

21 Q And so he was...

22 A With me about an hour and 15 minutes.

23 Q Okay. So he was discharged probably about 6 pm on
24 6-18 from the hospital in Columbia.

25 A No, sir. We -- we picked him up and drove straight

1 to Sumter, and that's about an hour drive and did the
2 waiver right away, so he was probably discharged around
3 7:00.

4 MR. SULLIVAN: I would like to -- to introduce
5 into evidence medical records from Richland Hospital.
6 I understand that the State's already -- is going to
7 stipulate to that.

8 (Whereupon there was a pause.)

9 MR. CONNER: I have got no objection to it.

10 (Whereupon, Defendant Robinson Exhibit 2 was
11 admitted into evidence.)

12 THE COURT: Without objection, Mr. Conner?

13 MR. CONNER: I have no objection to it, Your
14 Honor.

15 THE COURT: Okay.

16 BY MR. SULLIVAN:

17 Q Leave you his medical records.

18 A Okay.

19 Q Detective Culick, if you would look on the last page.
20 Were you aware or would you be surprised that he was -- on
21 the last page it says that he was prescribed Tylox, one or
22 two tablets every four to six hours for pain?

23 A Actually that's what was listed on the discharge
24 sheet, Tylox, one to two tablets every four to six hours
25 as needed for pain relief. There was no prescription

1 given to us along with the discharge paperwork and there
2 were no medication given to us, no Tylox given to us, so
3 guess it's just like anyone who is discharged or -- like
4 after I have had surgeries and discharge, pain medicine as
5 needed afterwards, but there was no prescription or pills
6 given with us to take with him.

7 Q Okay. If you'd look a couple of pages from the last
8 page.

9 A Yes, sir.

10 Q On the 22nd, the day he was interviewed by law
11 enforcement in Sumter, the hospital noted that he was --
12 pain quality, character are aching and sharp, and
13 grimacing and guarded.

14 A Where is that at?

15 Q Couple of pages...

16 A Seventy-seven to 92?

17 Q Yes, ma'am.

18 A Okay.

19 MR. SULLIVAN: Your Honor, could I--

20 A I see it, yes, sir, I have got it.

21 MR. SULLIVAN: Your Honor, could I have
22 permission to circulate.

23 THE COURT: What?

24 MR. SULLIVAN: The medical records?

25 THE COURT: Yeah. But you want her to read from

1 it or you want to circulate -- you got more than one
2 copy?

3 MR. SULLIVAN: Yes, sir.

4 THE COURT: I mean, it's hard for her to be able
5 to read from it when you take it from her, hand it to
6 the jury. You can do it either way you want to.

7 MR. SULLIVAN: I will just finished asking her
8 about it.

9 THE COURT: Okay.

10 BY MR. SULLIVAN:

11 Q So you were obviously aware of his age when y'all
12 were interviewing him. Were you aware of his level of
13 education, that he hadn't finished high school?

14 A Yes, sir, I was.

15 Q Okay. And did he seem -- his demeanor, was he
16 aggressive or was he more passive?

17 A He was just normal.

18 Q All right. And did you -- were you aware that he had
19 just gotten a chest tube taken out that same day, taken
20 out of his chest where he got shot?

21 A No, sir.

22 Q Okay. Isn't it true that -- that -- well, first of
23 all, there was some time this interview -- what -- what
24 time did you start this interview?

25 A I started after he signed his waiver of rights around

1 8:15 pm.

2 Q Okay. So there was -- there was some time where he
3 was being questioned that the tape recorder was not turned
4 on.

5 A Right. The tape recorder was only for his statement
6 because he's given an option how you want to give a
7 statement, would you like to hand write it. Some people
8 want to write their own. Would you like us to write it,
9 type it.

10 So we -- we talked to him, questioned him about
11 things, being shot, the mask found in the bathtub with
12 blood on it, the hoodie, things like that, the apartment
13 that he ran to, that bathtub, a black mask and hoodie.

14 He was aware that the other person was arrested and
15 charged, so we talked about these things. He told us what
16 happened. And then that's when I asked if he would put it
17 on tape or if he'd like to write it, and he agreed to do
18 it on tape.

19 Q Okay. So would it be safe to say that when you got
20 to the point where he was going to say what you thought --
21 what y'all thought the physical evidence from the scene or
22 whatever suggested, that that's when you were going to
23 turn the tape on?

24 A No. After -- he started talking right away. I think
25 he wanted to get it off his chest. He wanted to talk

1 about it. He was tearful at some times talking about it,
2 and he just told us what happened.

3 And I asked him basically the same questions that is
4 on the tape. And he answered that. He answered
5 appropriately. He talked about it. He just... I think he
6 just wanted to get it off his chest, what happened and his
7 side.

8 Q Isn't it true that -- that either you or Rogers told
9 him that -- that if he didn't give a confession, that that
10 would be it for him, implying that it would -- that
11 something bad would happen if he didn't give the
12 confession?

13 A No, sir, we did not.

14 Q Okay.

15 A He didn't have to.

16 Q And you -- you said or you believe that a -- the
17 .40 caliber was found close to the victim in apartment F4?

18 A Yes, sir, that's what the witnesses testified to,
19 that it was jammed. And that's why we talked to him a lot
20 and ask him several questions on the tape about the gun
21 being jammed.

22 We were -- from the witnesses we had talked to, they
23 stated Wimberly did not have a gun, and you know, but then
24 after the shooting he has a gun in his hand that's jammed,
25 and then he's unresponsive, couldn't talk, so that's why

1 Jermel Robinson stated he had a .40 caliber handgun, this
2 is a .40 caliber handgun, it was jammed.

3 He stated when he shot in the country it had a
4 problem jamming. So I was thinking, hey, that's the --
5 that was Robinson's gun. He didn't know where his gun
6 went after the fact. When he ran, he didn't ditch it, he
7 didn't throw it, he didn't take it to apartment L2 where
8 he ran and had his other clothing on. So I'm thinking the
9 victim took his gun.

10 Q Okay. And there weren't any -- any bullets to the 40
11 caliber that were found with Robinson and he was located
12 in -- in the bathtub?

13 A No, sir. And when I interviewed him, I asked him if
14 he had any extra rounds or any other, and he stated he
15 didn't.

16 Q Okay. Okay. And Robinson never told you at any
17 point that there was a struggle or that -- think he said
18 he didn't know. It's basically just that it's law
19 enforcement's theory that there was a struggle with the
20 gun.

21 A Robinson did not -- did not tell us about a struggle.
22 He basically -- he remembers everything to running up to
23 the vehicle and being shot, just getting shot, and running
24 away. What happened with the gun, what happened there
25 while he was there, he -- he couldn't recall.

1 Q Don't you think that if Mr. Robinson -- I mean, we
2 have heard testimony that law enforcement believes that
3 the -- a .40 caliber was fired -- if Mr. Robinson
4 wanted -- wanted himself to kill the victim, couldn't he
5 have just shot him, I mean, if the gun was operable?

6 A Say that again.

7 Q If Mr. Robinson wanted to kill the victim, could --
8 himself, couldn't he have -- if the .40 caliber was
9 working, he could have just fired the gun at him?

10 A He could have, and the victim could have tried to
11 fight for his life.

12 Q Okay. Would you say that when that happened and the
13 victim -- um -- fired it at Mr. Robinson, that the -- that
14 Mr. Jackson -- um -- could have been filled with emotion
15 and was provoked?

16 A I don't know if Mr. Wimberly -- you stated
17 Mr. Wimberly fired at...

18 Q Right.

19 A At Jermel?

20 Q Right.

21 A I don't know if he fired at Jermel or -- or how he
22 ended up getting shot and what Mr. Jackson was -- was
23 thinking at the time that he -- that he shot also.

24 Q Okay. That's all I have.

25 A Thank you.

1 MR. MURPHY: No questions, Your Honor.

2 THE COURT: Okay. You got any further
3 questions, Mr. Conner?

4 MR. CONNER: I have got a couple of questions
5 I'd like to ask her, Your Honor.

6 THE COURT: All right, sir.

7 REDIRECT EXAMINATION

8 BY MR. CONNER:

9 Q Officer Culick, you were the lead investigator in
10 this case; is that correct?

11 A Yes, sir, I was.

12 Q And both of these defendants in their statements
13 admitted that they were there for the purpose of robbing
14 Dominique Wimberly and the woman in the car; didn't they?

15 A Yes, sir, they did.

16 Q And they admitted, and this defendant, Robinson, the
17 one that you testified about his statement, he admitted
18 that he had a .40 caliber pistol?

19 A Yes, he did. Had had a problem jamming.

20 Q The -- where is the medical record that... now, I
21 show you here on the first page, page 67 on these medical
22 records, right here, in -- indication of mobility. And
23 this would have been at this time, June the 21st, 2007 at
24 8 pm. And what does the hospital indicate about his
25 mobility at that time?

1 A Excellent. No limitation. Sorry. No limitation.

2 Q No limitation?

3 A Yes.

4 Q And this is June the 22nd, 2007, on page 68 of this
5 medical record. In regards to his ability to read, what
6 does it indicate?

7 A States, able to read, yes.

8 Q And here is another entry at the time he was -- or
9 about the time he was released from June the 22nd, 2007 at
10 7:33 pm -- or 7:32 pm. What does it say about his ability
11 to read?

12 A Yes, that he's able to read.

13 Q It says, yes; right?

14 A Correct. Says yes.

15 Q And going back to the first page, June the 21st,
16 2007, the day before he was released, what -- tell us what
17 it says about his activity and his mobility right here in
18 the middle of the page.

19 A Activity. Walks frequently, mobility, no
20 limitations.

21 Q And you say you had him back here about what time,
22 8:15 or...

23 A Yes, sir.

24 Q I have no further questions of her.

25 A Thank you.

1 THE COURT: Okay. All right. You can step
2 down.

3 (Witness left the stand.)

4 THE COURT: Any reason we can't stop today?

5 MR. CONNER: There's absolutely none.

6 THE COURT: All right. Ladies and gentlemen,
7 we're going to quit for the day. I remind you please
8 don't discuss this case among yourselves. Don't talk
9 about it. Don't read anything in the newspaper. I
10 will see you back at 9:30 in the morning.

11 (Jury left the courtroom at 5:10 pm.)

12 THE COURT: Court will be in recess until
13 9:30 in the morning.

14 (Court in recess for the evening.)

15 ***** April 22, 2009 *****

16 THE COURT: Anything before we bring the jury
17 in?

18 MR. MURPHY: No, Your Honor.

19 MR. SULLIVAN: No, Your Honor.

20 MR. CONNER: Ready, Your Honor.

21 THE COURT: All right. If you will bring us the
22 jury, please, sir.

23 (Jury entered the courtroom at 10:28 am.)

24 THE COURT: Thank you, sir. I apologize, ladies
25 and gentlemen, about the delay this morning. I think

1 we're ready to proceed. Mr. Solicitor, you can call
2 your next witness.

3 MR. CONNER: At this time I call Kenny Kinsey.

4 KENNETH KINSEY, after being duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CONNER:

8 Q All right. Mr. Kinsey, where are you employed?

9 A I'm employed at the South Carolina Law Enforcement
10 Division commonly known by the acronym SLED.

11 Q And what do you do for SLED?

12 A I'm a crime scene examiner, crime scene and latent
13 print examiner.

14 Q And how long have you been working as a law
15 enforcement officer?

16 A As a law enforcement officer in different capacities
17 approximately 19 years.

18 Q And how long have you been working for SLED?

19 A Four years.

20 Q And tell us something about your educational
21 background.

22 A Well, I'm high school graduate, certified police
23 officer. I hold Bachelor of Science degree from Clemson
24 University. I'm certified by the International
25 Association for Identification as a crime scene examiner,

1 and I have approximately a thousand hours courses,
2 classes, and seminars in advanced training in different
3 aspects of the field.

4 Q And tell us something about your practical training
5 in latent prints and fingerprint work.

6 A As I mentioned, I have several hundred hours of
7 advanced training. What we do at SLED in my job, we
8 respond to crime scenes and we also process evidence that
9 are sent to us in the disciplines of footwear and tire
10 wear examination, latent fingerprint identification,
11 fabric impressions, blood pattern analysis, and crime
12 scene reconstruction. And in those, I have met
13 proficiency, and we have annual training.

14 Q Have you testified in South Carolina courts
15 previously in regards to shoe impressions, tire
16 impressions and fingerprint?

17 A Yes, sir, I have.

18 MR. CONNER: Your Honor, we would submit that he
19 is a latent print, a qualified latent print examiner
20 and expert in that area.

21 THE COURT: What says the defense?

22 MR. MURPHY: No objection.

23 MR. SULLIVAN: No objection.

24 THE COURT: The Court so finds he's an expert in
25 latent print examination.

1 BY MR. CONNER:

2 Q Now, I show you here this pair of shoes, State's
3 Exhibit number 30, and ask you to examine those.

4 A (Complied.)

5 Q Have you ever had an opportunity to examine those
6 shoes before?

7 A Yes, sir, I have.

8 Q And did you receive them at your laboratory?

9 A I did. Yes, sir. They were logged in as item 30 in
10 this case.

11 Q Okay. And I show you here this item, and this is
12 number 28, I believe.

13 A Yes, sir.

14 Q Did you receive that at SLED?

15 A I did. This is item 28.

16 Q Okay. And did you have -- what is that?

17 A This is what's commonly called a footwear cast. It's
18 a direct 3D representation of a footwear impression in
19 some substraat. In this case it was sand.

20 Q And tell us about what you did when you receive these
21 items.

22 A Well, the first thing we do, we clean them up. We
23 have to remove any debris or pinestraw or anything of that
24 nature that is contained that will not hurt the impression
25 but really gets in our way.

1 After we clean it up, we will send the cast over to
2 photography and we'll have a direct one-to-one photograph
3 of that item taken to scale.

4 Q And after -- after that, what do you do?

5 A After we receive the cast and the shoes back from
6 photography, we will do test impressions with the shoes
7 where I physically will place the shoes on my feet and
8 will powder them with a special colored powder that we
9 use, and then we will walk on a Mylar film that is clear,
10 put a chemical on that film to dry it, and then we will
11 use the test impressions to actually form our opinions.

12 Q And based upon your work, what was your conclusion?

13 A Well, this footwear cast here in particular, item 28,
14 actually contains four distinguishable footwear
15 impressions, four different impressions. And I rendered
16 results on those four different impressions, which were
17 sub-items 28.1, which was the one in the far corner, was
18 class characteristic with item 30 left shoe.

19 And with class characteristic, that means the same
20 shape, size, and outsole design as the known, which is our
21 left shoe.

22 Q That's item -- you compared -- comparing that to item
23 30?

24 A Yes, sir. Where -- yes, sir. And item 28.2 was
25 found to be class characteristic also, which is shape,

1 size, and outsole design. That was also with the right
2 number 30 shoe, not the left one.

3 The third impression, which was 28.3, I could
4 eliminate item 30. Neither one of these shoes made that
5 impression. And then the fourth impression was in such
6 bad shape I could not render a conclusion on that one.

7 Q Okay. So two of them matched what we got in the
8 shoes labeled item 30?

9 A Yes, sir. Their shape, size, and outsole design,
10 that's about all I could tell you with it -- with this
11 cast, that's about all I can tell you. This shoe or
12 another shoe just like it left these impressions.

13 Q Answer any questions from the defense lawyer might
14 have for you.

15 A Yes, sir.

16 MR. SULLIVAN: I don't have any questions for
17 this witness.

18 MR. MURPHY: No questions, Your Honor.

19 THE COURT: All right. Thank you, sir. You can
20 step down.

21 THE WITNESS: Thank you, Your Honor.

22 (Witness left the stand.)

23 MR. CONNER: We would ask that officer Kinsey be
24 allowed to leave, Your Honor.

25 THE COURT: Any objection?

Katie Coy - direct by Conner

389

1 MR. MURPHY: No, Your Honor.

2 MR. SULLIVAN: No objection.

3 THE COURT: Okay. He's excused. Thank you,
4 sir.

5 MR. CONNER: At this time we would call Katie
6 Coy.

7 KATIE COY, after being duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CONNER:

11 Q Mrs. Coy, where do you work?

12 A I also work for the South Carolina Law Enforcement
13 Division as a forensic DNA analyst.

14 Q And where is that physically located?

15 A Columbia, South Carolina.

16 Q And how long have you worked there?

17 A Just over three years.

18 Q And could you tell us something about -- you say you
19 do DNA analysis?

20 A Yes.

21 Q And could you tell us something about your
22 educational background.

23 A I have a Bachelor of Science degree in forensic
24 science with a concentration in forensic biology from
25 Virginia Commonwealth University in Richmond, Virginia. I

1 also have a Master of Science degree in forensic science
2 with a concentration in forensic biology from the same
3 University.

4 Q And tell us something about your training at SLED.

5 A I have completed a year long training program at SLED
6 under the supervision of court-qualified analysts. During
7 that time I was trained in serology, DNA analysis, report
8 writing, and evidence handling.

9 Q And that was under an experienced chemist there?

10 A Yes.

11 Q Now, have you testified in South Carolina courts in
12 regards to DNA on previous occasions?

13 A Yes, I have.

14 MR. CONNER: Your Honor, we would submit that
15 she's a qualified expert in area of DNA analysis.

16 MR. MURPHY: No objection.

17 MR. SULLIVAN: No objection.

18 THE COURT: Court so finds.

19 BY MR. CONNER:

20 Q Now, did you also receive what's called buccal swabs
21 from the defendants Jermel Robinson and Dominique Wimberly
22 at your SLED laboratory?

23 A Yes, I received item 39 and 40, which were buccal
24 swabs from the defendants, and item number two which was a
25 blood standard from Dominique Wimberly.

1 Q And tell these ladies and gentlemen what buccal swabs
2 are.

3 A Buccal swabs are a known standard from a person. We
4 take a cotton swab like a Q-tip and rub inside of your
5 cheeks and we get the cells from your cheeks and create a
6 DNA profile.

7 Q And you could do the same thing with blood; is that
8 correct?

9 A Yes.

10 Q So you had blood from Mr. Wimberly and buccal swabs
11 from the two defendants?

12 A That's right.

13 Q Okay. Now, did you see -- receive an item that
14 indicated that it was a swab from a 1999 Hyundai
15 automobile, your item number 30 I believe?

16 A Yes.

17 Q And did you compare that to the DNA of the two
18 defendants and Mr. Wimberly?

19 A Yes.

20 Q And what did you find?

21 A The partial DNA profile developed from item 35
22 matches the DNA profile of Dominique Wimberly.

23 Q That would -- that matched Mr. Wimberly?

24 A Yes.

25 Q And that was the one from the -- from the 1999

1 Hyundai automobile?

2 A Yes.

3 Q Now, did you receive swabs that in -- that were --
4 reportedly were swabs from a roadway?

5 A Yes.

6 Q From this crime scene:

7 A Yeah.

8 Q And tell us about the DNA analysis of that, what your
9 results were.

10 A The DNA -- the DNA profile developed from item 32
11 matches the DNA profile of Jermel Robinson.

12 Q Just one minute, please: Now, did you receive a swab
13 from a black ski mask?

14 A Yes, that was item 36.

15 Q Item 36?

16 A Uh-huh.

17 Q And did you compare that to the standards you
18 received from the two defendants and Mr. Wimberly?

19 A Yes.

20 Q And what did you find about the black ski mask or the
21 swab from the black ski mask?

22 A The DNA profile developed from item 36 matches the
23 DNA profile of Jermel Robinson.

24 Q And also did you receive item number 37, swabs from a
25 black hoodie?

1 A Yes.

2 Q And tell us about your results.

3 A The DNA profile developed from item 37 matches the
4 DNA profile of Jermel Robinson.

5 Q And I show you this item and ask if you can identify
6 that.

7 A Yes. It contains our SLED lab number and also my
8 initials on the seal.

9 Q And what did you receive in that enclosed envelope?

10 A I believe it was the items 32, 33, 34, 35, 36 and 37.

11 Q So all those swabs that you have been talking about
12 were received from the Sumter Police Department in that
13 envelope?

14 A Yes.

15 MR. CONNER: Your Honor, we'd offer that into
16 evidence at this time.

17 THE COURT: What number? Any objection?

18 MR. SULLIVAN: No objection.

19 MR. MURPHY: No objection.

20 THE COURT: All right. It's in evidence without
21 objection.

22 (Whereupon, State's Exhibit 34 was admitted into
23 evidence.)

24 BY MR. CONNER:

25 Q Now, did you recently receive a swab from a knit cap,

1 I believe your item number 21?

2 A Yes.

3 Q And did you -- and the item number 21, is that the --
4 the SLED item number for this item, for this box and the
5 contents?

6 A It's labeled as our SLED item number and item number
7 21. However, I did not receive that box.

8 Q It was received at your laboratory?

9 A It was, yes.

10 Q The swabs were provided to you?

11 A Correct. The evidence processing department provided
12 swabs to me from this item.

13 Q From that item. And did you analyze those swabs?

14 A Yes.

15 Q Tell us about your results.

16 A A partial DNA profile was developed from item 21.1.
17 Teron Jackson cannot be excluded as a contributor of DNA
18 to this item. Dominique Wimberly and Jermel Robinson are
19 excluded as possible contributors.

20 And the DNA profile developed from item 21.2 is a
21 mixture of at least two individuals. Teron Jackson cannot
22 be excluded as a possible contributor to this mixture.

23 No conclusive statement can be made as to the
24 inclusion or exclusion of Jermel Robinson as a possible
25 contributor to this mixture. Dominique Wimberly is

1 excluded as a possible contributor to this mixture.

2 MR. CONNER: Your Honor, we would offer this
3 item into evidence at this time.

4 THE COURT: What says the defense?

5 MR. SULLIVAN: No objection.

6 MR. MURPHY: No objection.

7 THE COURT: In without objection.

8 (Whereupon, State's Exhibit 21 was admitted into
9 evidence.)

10 THE COURT: It's a black ski mask removed from
11 apartment L5. Okay.

12 MR. CONNER: Answer any questions these lawyers
13 might have for you, please ma'am.

14 MR. SULLIVAN: I don't have any questions of
15 this witness.

16 MR. MURPHY: No questions.

17 THE COURT: Okay. You can step down. Watch
18 your step. Thank you. Any objection to her being
19 excused?

20 MR. SULLIVAN: No, sir.

21 MR. MURPHY: No, sir.

22 THE COURT: Okay. You're excused.

23 (Witness left the stand.)

24 MR. CONNER: Next I'd call Dan Defreese, Your
25 Honor.

1 FRANK DAN DEFREESE, after being
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. CONNER:

5 Q Mr. Defreese, where are you employed?

6 A I'm employed with the South Carolina Law
7 Enforcement -- excuse me -- Division. I work in the
8 forensic services laboratory in Columbia.

9 Q And how long have you worked for SLED?

10 A For 42 years.

11 Q And the forensic services laboratory, is that --
12 isn't that where you say you worked?

13 A Yes, sir.

14 Q And the part that you work in, do you -- do you
15 become involved in the examination of firearms and testing
16 firearms?

17 A I do. I'm assigned to the portion of the laboratory
18 where we do the identification of firearms evidence and
19 toolmark evidence.

20 Q And tell us about some of your educational
21 background.

22 A Well, I'm a graduate of the University of South
23 Carolina in Columbia. That's where I completed my formal
24 education. And I -- well, after my employment with SLED,
25 which occurred in 1967, I was assigned to the firearms

1 laboratory and I began a course of instruction in firearm
2 and toolmark identification which lasted approximately two
3 and a half years.

4 At the conclusion of that, I began accepting cases on
5 my own and testifying as to my results. I have been doing
6 that since 1969.

7 Q So you testified many times then in -- in courts of
8 South Carolina in regards to firearm questions?

9 A Yes, sir, and General Sessions Courts in South
10 Carolina and in Federal District Court.

11 MR. CONNER: Your Honor, we'd submit he's a
12 qualified firearms expert.

13 THE COURT: What says the defense?

14 MR. SULLIVAN: No objection.

15 MR. MURPHY: No objection.

16 THE COURT: I so find.

17 BY MR. CONNER:

18 Q Now, I show you here this item marked as State's
19 Exhibit number seven and eight and ask you if you received
20 that in your laboratory.

21 A Yes, sir, I did receive this.

22 Q And do your records reflect that are the those
23 bullets that were recovered at the autopsy on the
24 decedent, Mr. Wimberly?

25 A Yes, sir. That -- that's the way they were described

1 to me.

2 Q And I show you next this envelope which is marked
3 State's Exhibit number 13 and 14, and ask you to examine
4 that if you would.

5 A (Complied.) Yes, sir.

6 Q Did you receive those two items?

7 A I did.

8 Q And where -- what was the source of those two items?

9 A They were submitted by the Sumter Police Department,
10 I believe. These were on the -- the package container,
11 they -- they say from 1999 Hyundai driver's seat back.

12 Q Okay. I show you next this shell casing that's been
13 State's Exhibit number 11 that Officer Duggin has --
14 introduced through Officer Duggin, and he indicates -- the
15 testimony thus far has been that it was recovered from the
16 Hyundai automobile also.

17 A Yes, sir. I received this item, item 11.

18 Q I will let you open this. This is State's Exhibit
19 number 10.

20 A Yes, sir. I received State's Exhibit 10.

21 Q And that is -- what is State's Exhibit number 10?

22 A State's Exhibit -- pardon me -- State's Exhibit 10 is
23 an Iberia firearms 40 Smith and Wesson caliber
24 semiautomatic pistol with its magazine.

25 Q Okay. I also -- also show you State's Exhibit number

1 12.

2 A Yes, sir. I recognize State's Exhibit 12 which is a
3 charter -- a charter 2000 model undercover. This is a 38
4 special caliber revolver.

5 Q Now, did you -- in the course of your examination of
6 the objects you received, did you determine whether item
7 10 could be fired and whether it was in proper working
8 condition?

9 A Yes, sir. I -- after we received the evidence, we
10 collect certain information about it. After that, with
11 firearms, I'll end up taking the firearms and loading them
12 with ammunition similar to the components that I receive,
13 and I'll test fire the firearms to obtain known bullets
14 and cartridge cases that we use for our microscopic
15 comparison with the evidence bullets and evidence
16 cartridge cases.

17 I loaded the pistol, item 10, and test fired it and
18 obtained bullets and cartridge cases from it and found the
19 pistol to be in operating condition. I similarly loaded
20 the revolver in item 12 and test fired it.

21 Q Okay. Now, tell us how you do your work and what
22 you're looking for.

23 A Within the barrel of a rifled firearm -- and a rifled
24 firearm includes pistols, revolvers and rifles, not
25 generally shotguns. Most shotguns have the inside of

1 their barrel is smooth.

2 But in these other guns, there's a series of
3 spiraling grooves that are cut on the interior surface of
4 the barrel for the purpose of gripping the bullet as the
5 bullet passes down the barrel and out of the gun.

6 The bullet is gripped by these grooves which are
7 rifling for the purpose of imparting a spin on the bullet
8 to make the bullet stable and accurate in flight. This is
9 done much in the same way that a quarterback puts a spin
10 on a football so that it doesn't tumble end over end.

11 We have found that by examining recovered bullets
12 that there are markings which when the bullet's recovered
13 in sufficiently good condition can be used to identify to
14 a particular bullet back to the very gun barrel in which
15 it was fired.

16 And what I perform my examination of bullets, I'll be
17 comparing the marks that I see on test bullets fired by a
18 given gun with the marks that I see on an evidence bullet
19 specimen to see if I find the same individual marks on
20 both of them.

21 And in the case of a cartridge case, because there's
22 a very rapid burning of the propellant powder inside the
23 cartridge case that builds up the pressure that's used to
24 expel the bullet from the gun, the cartridge case comes
25 into very hard contact with certain surfaces within the

1 gun.

2 The imperfections that are present on these surfaces
3 such as the breach face are transferred to cartridge
4 cases. The impression of the firing pin can be
5 transferred on to the cartridge case. And then certain
6 mechanism marks such as the extractor and the ejector can
7 leave markings on a cartridge case.

8 When we have recovered cartridge cases, we can
9 compare these marks to see if they're present. And where
10 they're present in sufficient, we can conclude that one
11 particular cartridge case came from one particular
12 firearm.

13 Q Now, what tools do you use in your laboratory to
14 examine these items?

15 A My examination is done with a comparison optical
16 microscope. It's a kind of microscope that has two stages
17 so that I can mount two different specimens at the same
18 time and then I can view portions of one specimen versus
19 another.

20 And as I look into the microscope, there's a -- a
21 dividing line or hair line so that I can see the marks on
22 one object and the marks on another object and can bring
23 them together to see if I have a match.

24 Q Now, tell us about item seven, eight, 13 and 14, the
25 two bullets from the autopsy and two bullets received from

1 the victim's automobile, 13 and 14. Tell us what
2 conclusion you made about that in regards to the pistol
3 you received.

4 A All right, sir. The four bullets that are item
5 seven, eight, 13 and 14 are all fired copper alloy
6 jacketed bullets that are consistent with 38 special full
7 metal case bullets. They are all the same kind of bullet.

8 On all four of these bullets I found rifling that was
9 consistent with eight lands and grooves with right hand
10 twist. Now. There are a lot of guns that have that kind
11 of rifling.

12 And further, I went to look at the individual
13 striated marks that were on these bullets to compare the
14 four evidence bullets, seven, eight, 13 and 14 with each
15 other, and also with test bullets that I found, that I
16 recovered from this revolver, from State's Exhibit 12.

17 While I found some similarities in the markings, and
18 I found the same class characteristics on all the bullets,
19 I was not able to identify the four bullets as being fired
20 by this particular gun. They could have been fired by
21 State's Exhibit 12, by this -- this gun, but I can't say
22 so for certain.

23 Q Everything is consistent with the possibility that it
24 could have been fired by that gun. The .38 caliber has
25 the same type of rifling or marks?

1 A Yes, sir. They have the same general rifling
2 characteristics. And beyond that, they have certain
3 individual similarities, but just not enough similarities
4 to conclude that they were fired by that particular gun.

5 Q Now, tell us about the cartridge casing, item number
6 11, the .40 caliber Smith and Wesson cartridge casing.

7 A Yes, sir. Item 11 is a fired Independence brand 40
8 Smith and Wesson caliber cartridge case. I compared the
9 markings I found on item 11 with those found on test
10 cartridge cases fired by the item 10 pistol.

11 I found sufficient matching markings and was able to
12 conclude that this cartridge case was fired by this
13 pistol.

14 Q Now, I show you a photograph that's been introduced
15 in this case marked item 3E. And the testimony thus far
16 has been that's the .40 caliber pistol that was submitted
17 to you for examination. I notice in the picture that
18 appears to be a round and -- jammed in it. Tell us how
19 that happens.

20 A You know, I see on State's Exhibit 3E an unfired
21 cartridge that's visible through the ejection port that
22 appears to be wedged between the breach face of the open
23 slide and the back of the barrel or side of the barrel.

24 Q And what -- what causes that particular thing to
25 happen?

1 A Well, there are many causes of malfunctions to
2 semiautomatic firearms. It could be a defective magazine.
3 The magazine being that -- that object that holds the
4 cartridges in preparation for firing within the grip.

5 See, each time this pistol is fired, the slide moves
6 forwards and backwards. It does so so quickly that it's
7 really hard for the eye to see it. But in -- in the -- as
8 it fires -- and it is empty. After you pull the trigger,
9 firing pin drops, cartridge fires, and a bullet goes down
10 the barrel and out of the gun.

11 A short period of time thereafter, the slide starts
12 to move to the rear. It moves substantially all the way
13 to the rear and the fired cartridge case is extracted from
14 the chamber and it's ejected out of the firearm.

15 There's a spring that's acting against the slide.
16 And as soon as I turn loose of it, the spring wants to --
17 wants to close the slide. As it does it, it's supposed to
18 grab the top cartridge out of the magazine and it runs up
19 a little ramp and into the chamber to prepare the pistol
20 for the next shot.

21 There are a lot of reasons why it doesn't always run
22 up the little ramp and run into the chamber the way that
23 it should. Sometimes it can be defective cartridges,
24 sometimes it can be a defective magazine, or the magazine
25 not fully inserted into the pistol.

1 It can be the fact that the person holding the pistol
2 for the prior shot held it somewhat loosely because the
3 slide has to work against the resistance of the shooter
4 holding the pistol.

5 There are -- there are so many different factors that
6 come into play that just -- every now and again you get a
7 situation where a semiautomatic pistol does not work as it
8 should.

9 Q Well, once it jams, then that -- it can no longer be-
10 fired until the cartridge is removed; is that correct?

11 A Correct. If it's jammed such as this, where the
12 cartridge is holding the slide open, it would take some
13 action on the part of the operator to clear the jam, to
14 take what's known as a immediate action or a jam clearing
15 to -- to open the slide further where the cartridge could
16 be expelled and the gun properly loaded to permit it to
17 continue firing. It could not continue firing with a
18 cartridge wedged in it holding the slide open.

19 Q Answer any questions these lawyers might have for
20 you.

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q You received a Smith and Wesson long caliber
24 cartridge case to analyze that had been fired that you --
25 I believe it was number 15.

1 A Yes, sir, I did. It's a fired 32 Smith and Wesson
2 long caliber cartridge case.

3 Q Okay.

4 A Which is not the correct caliber of ammunition to use
5 in either item 10 or item 12.

6 Q Yes, sir. None of the bullets, the bullet in item
7 seven recovered from the victim's body, item eight -- item
8 13 was recovered from the driver's seat back or the bullet
9 that was recovered item 14, none of those were from a --
10 an Iberia .40 caliber firearm; were they?

11 A That's correct.

12 Q Okay.

13 A They were .38 caliber. They're a smaller diameter
14 bullet.

15 Q All right. Thank you, Mr. Defreese.

16 CROSS-EXAMINATION

17 BY MR. MURPHY:

18 Q Good morning. And once again, none of the
19 .38 caliber bullets that you examined you can conclusively
20 state came from the --- believe it's item number 10 which
21 is the 38 you examined?

22 A Item 12.

23 Q Item 12?

24 A Yeah. None of the four fired .38 caliber bullets can
25 be positively identified as being fired by the item 12

1 revolver.

2 Q Thank you. I have no further questions.

3 MR. CONNER: I have nothing further of him, Your
4 Honor. I'd ask that he be excused.

5 THE COURT: Any objection?

6 MR. SULLIVAN: No objection.

7 MR. MURPHY: No, Your Honor.

8 THE COURT: Okay. Good to see you.

9 (Witness left the stand.)

10 MR. CONNER: At this time we would call Irene
11 Culick.

12 IRENE CULICK, after being duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. CONNER:

16 Q Officer Culick, I show you here this item which is
17 marked State's Exhibit number 21 and ask if you can
18 identify it.

19 A Yes, sir.

20 Q And what is it?

21 A This was what we found in the trash can at apartment
22 L5 that we believed appeared like a mask that was used
23 that had been cut with a knife, cut up.

24 Q And I show you here State's Exhibit 5A and 5B and ask
25 you if that is the same trash can you are talking about.

1 A Yes, sir, it is. This is the trash can in apartment
2 L5, in Robinson's apartment, where the defendant stated
3 that he left his mask after he had cut up -- cut it up.

4 Q Okay. You can fold it back up. It's in evidence.

5 A (Complied.)

6 MR. CONNER: Answer any questions the defense
7 lawyers might have for you, please ma'am.

8 MR. SULLIVAN: I don't have any questions.

9 MR. MURPHY: No questions.

10 THE COURT: Okay. You can step down.

11 THE WITNESS: Thanks.

12 (Witness left the stand.)

13 MR. CONNER: Your Honor, at this point the State
14 would rest.

15 THE COURT: Okay. Ladies and gentlemen, I need
16 to deal with some matters of law so I need to send
17 you to the jury room.

18 While you're in the jury room, I need you to
19 select a foreperson. And that person won't have any
20 more vote than anybody else. That person will simply
21 preside over the deliberation and sign the verdict
22 form.

23 And it needs to be out of one of the original
24 12. The two alternates can't serve as foreperson. I
25 will get you -- I don't know how long it's going to

1 take, but I will get you back out just as quick as I
2 can.

3 And while you're back there, if you just select
4 a foreperson. I will remind you, you can't discuss
5 the case yet. Okay?

6 (Jury left the courtroom at 11:16 pm.)

7 THE COURT: Okay. Are there any matters of law
8 on behalf of the State?

9 MR. CONNER: I have nothing at this point.

10 THE COURT: From the defense?

11 MR. SULLIVAN: We would move for a -- directed
12 verdicts. We believe that the State has not met its
13 presumption.

14 THE COURT: All right, sir. And I respectfully
15 deny that. I think at this stage the question is
16 whether the existence of evidence. And the jury can
17 give it whatever weight they feel appropriate, but I
18 think there is a sufficient evidence in this record
19 for it to go forward.

20 MR. MURPHY: Your Honor, I just would join his.

21 THE COURT: Okay. Then I will deny your motion
22 as well. Now, do y'all's client's plan on testifying?

23 MR. SULLIVAN: Mr. Robinson I don't believe...

24 Mr. Robinson: No, sir.

25 THE COURT: All right. Mr. Robinson, how about

1 stand up, please sir, and raise your right hand.

2 JERMEL ROBINSON, after being duly
3 sworn, testified as follows:

4 THE COURT: And -- well, I can do both of them
5 at once. Mr. Jackson, if you will do the same thing.

6 TERON JACKSON, after being duly
7 sworn, testified as follows:

8 THE COURT: Y'all realize we have reached this
9 stage in this trial where you have a right to put up
10 evidence. You also have a right to testify, but you
11 also have a right not to testify under the Fifth
12 Amendment of the constitution.

13 Now, this right solely belongs to you. You have
14 a right to consult with your attorney and get his
15 advice, but it's your right as to whether you decide
16 to testify or not to testify.

17 If you choose to testify, you will be treated
18 like any other witness on the witness stand. You
19 will be subject to cross-examination and impeachment
20 by the State.

21 If you have prior records that qualify under our
22 rules, that record may be brought out. If you choose
23 not to testify, then I will instruct the jury that
24 they can't hold that against you in any way.

25 They can't even discuss that in the jury room.

1 That you have a right to remain silent is a
2 Constitutional Right. The State has the burden of
3 proving you guilty beyond a reasonable doubt and
4 you're not required to testify and they can't even
5 discuss that.

6 Y'all understand what I have just explained to
7 you?

8 DEFENDANT ROBINSON: Yes, sir.

9 DEFENDANT JACKSON: Yes, sir.

10 THE COURT: You want to ask me any questions
11 concerning your rights?

12 DEFENDANT ROBINSON: No, sir.

13 THE COURT: Have you had enough time to talk to
14 your lawyers about your decision whether to testify
15 or not?

16 DEFENDANT ROBINSON: Yes, sir.

17 DEFENDANT JACKSON: Yes, sir.

18 THE COURT: Have you?

19 MR. JACKSON: Yes, sir.

20 THE COURT: Okay. All right. Then have y'all
21 made up your mind whether you're going to testify or
22 not or you need more time to talk?

23 DEFENDANT ROBINSON: Yes, sir. Made my mind up.
24 I made my mind up.

25 THE COURT: You made your's up, too?

1 MR. JACKSON: I made my mind.

2 THE COURT: All right. All right. Thank you,
3 sir. Y'all can sit down. Now gentlemen, are y'all
4 planning on putting up any other evidence?

5 MR. MURPHY: No, Your Honor.

6 MR. SULLIVAN: No, sir.

7 THE COURT: Okay. Then I'm trying to figure out
8 schedule-wise. How long do you think your closing is
9 going to last?

10 MR. MURPHY: I haven't really totally finish --
11 probably -- Your Honor, I would think probably no
12 more than a half hour.

13 THE COURT: Okay.

14 MR. MURPHY: I talk briefly, so...

15 MR. SULLIVAN: Mine will probably be maybe 15,
16 20 minutes.

17 THE COURT: All right. Mr. Conner?

18 MR. CONNER: About 30 minutes.

19 THE COURT: Well, we -- it's 11:20. My option
20 if we go to closing -- and we can either do closing
21 arguments, stop, go to lunch and come back and charge
22 after lunch or we can stop, go to lunch now and come
23 back and do closing arguments and charge this
24 afternoon or we can work straight through and have --
25 the Clerk will have to bring the jury lunch. What is

1 y'all...

2 MR. MURPHY: Your Honor, personally I -- this is
3 just me now -- I would prefer you break for lunch and
4 then we will, you know, then we will all be ready
5 with any motions we have on instruction and
6 everything.

7 And maybe the jury comes back, they get the
8 case, they -- arguments, they have the instructions,
9 they are off.

10 THE COURT: All right. What--

11 MR. CONNER: I would prefer that, too.

12 THE COURT: Okay. Then what time you want to
13 bring the jury back here? 1:00? 1:15? I'm
14 trying -- normally we give them an hour and a half to
15 consider traveling time and everything else.

16 So -- but I want y'all to have an opportunity to
17 have lunch, too. So you tell me whether you want
18 them back at one, 1:15, 1:30, 2.

19 MR. MURPHY: 1:30?

20 MR. CONNER: 1:30 sounds good.

21 THE COURT: Okay. So anything else? I'm going
22 to bring them in and dismiss them until 1:30, then
23 we'll come back and do closing arguments and charge
24 at that time.

25 MR. SULLIVAN: Okay.

1 MR. CONNER: Judge, my hearing is kind of poor,
2 but I -- my understanding is correctly, they are not
3 going to testify?

4 THE COURT: My hearing is poor, too, but that's
5 my understanding.

6 MR. MURPHY: That's correct.

7 THE COURT: That neither one are going to
8 testify and they're not going to put up any evidence
9 other than what they have already put up. And so as
10 far as the order of the closing arguments, the State
11 will waive opening and go last or the State -- I
12 mean, how...

13 MR. CONNER: I'd -- that would suit me.

14 THE COURT: So you waive opening and they'll go
15 first, you go last? That suit y'all, gentlemen?

16 MR. SULLIVAN: For us to go last?

17 THE COURT: No. You don't get to go last. You
18 put up evidence.

19 MR. SULLIVAN: Yeah, that suits me, Your Honor.

20 MR. MURPHY: That's fine.

21 THE COURT: Okay. You introduced two pieces of
22 evidence and knocked you out of last argument. Okay.
23 Then I'll bring the jury back out, send them to
24 lunch, we'll come back at 1:30. Is that the plan?
25 Okay. If you'll bring us the jury.

1 (Jury entered the courtroom at 11:22 am.)

2 THE COURT: You select a foreperson? I see
3 you're in the hot seat. All right. Well, you have
4 heard all of the evidence you're going to hear in
5 this case. So now it's time for closing arguments
6 and charge.

7 Once I give you the closing argument and charge,
8 I can't let you go to lunch. So what we've decided
9 to do is stop now and let you go to lunch and come
10 back at 1:30. And then you'll have the closing
11 arguments of the attorneys, I will charge you on the
12 law, then give you this case to decide.

13 So have a nice lunch. Don't talk about this
14 case during lunch. Don't let anybody talk to you
15 about it. And if you will be back in the jury room
16 at 1:30, I'll get you out and we will proceed. Thank
17 you.

18 (Jury left the courtroom at 11:24 am.)

19 THE COURT: I will be back early if y'all have
20 any potential charges.

21 MR. SULLIVAN: We were just talking about that,
22 Your Honor.

23 (Whereupon court was in recess for lunch.)

24 THE COURT: Have you shown these to the defense?

25 MR. CONNER: They do have them.

1 THE COURT: Okay.

2 MR. CONNER: They have copies.

3 THE COURT: And I have charge number two in my
4 charge book that I already plan on charging, felony
5 murder inference.

6 MR. MURPHY: We wouldn't have any objection to
7 that -- the inference malice question? I wouldn't
8 have any objection to that.

9 THE COURT: Okay. And that's--

10 MR. MURPHY: That's pretty standard.

11 THE COURT: It is. And I already had that in my
12 standard book any way.

13 MR. SULLIVAN: I don't have any objection to
14 charge number two either. It --

15 MR. MURPHY: Regard to charge number one, I --
16 Your Honor, I -- I'm only familiar with Judge King's
17 charge on the hand of one hand of all. And I prefer
18 that one.

19 I think that the language the State's provided
20 is -- is much too suggestive from my point of view,
21 especially the second paragraph, lack of evidence
22 suggests... you know, the fact -- the -- Judge King's
23 hand of one hand of all I think properly couches
24 the -- the inferences that can be drawn and the
25 permissible inferences, and uses words like may or

1 might, and really gives the jury the leeway to draw
2 those inferences, especially in a case like this
3 whereas this instruction, you know, the person kills
4 another in doing or attempting to do an act amounting
5 to a felony, the killing is murder.

6 Well, the answer is not necessarily. I mean,
7 you know, they -- it depends on the elements, it
8 depends on certain factors, you know, it -- I would
9 suggest to the Court that this instruction is way,
10 way, way too...

11 *THE COURT:* All right. Well, let me show you--

12 *MR. MURPHY:* Definitive.

13 *THE COURT:* Y'all come look at my standard hand
14 of one hand of all charge. Now...

15 *MR. CONNER:* That language, Your Honor, in
16 number one is almost directly out of this Gore case.

17 *THE COURT:* All right. And I'm...

18 *MR. CONNER:* It's not in -- in fact, I think
19 lifted it from judge Ervin's charge book published
20 several years ago. And I'm sure he went by the
21 language in Gore and...

22 *THE COURT:* All right. There's the standard
23 charges and all -- two judges. That's what they have
24 given us all. Every judge in the State has that
25 charge in his charge book. It's issued by the

1 Supreme Court.

2 And I also -- this is what I was going to charge
3 on the statement of the defendant. It's just pretty
4 standard. Then this is definition.

5 MR. MURPHY: Obviously I don't have any
6 objection.

7 MR. SULLIVAN: No, I don't either.

8 THE COURT: Okay. Then the rest is just
9 murder...

10 (Whereupon a bench conference was held.)

11 MR. MURPHY: I have no objection.

12 THE COURT: Okay.

13 MR. MURPHY: Is that on line or anything?

14 (Whereupon a bench conference was held.)

15 THE COURT: All right. Gentlemen, is there
16 anything else from the State beside what we discussed
17 at the bench?

18 MR. MURPHY: Your Honor, on behalf of my
19 colleague, Mr. Sullivan, we jointly request a
20 instruction on voluntary manslaughter. Very briefly,
21 the evidence -- we believe the evidence shows that
22 Mr. Jackson acted in the heat of passion.

23 In regard to the issue of provocation, few
24 arguments. Number one, we would contend that the --
25 that issue of legal provocation can be done in

1 isolation from other factors such as the activity
2 which actually brought him there.

3 There is some testimony in the statements
4 that -- at least for his statement -- I'm
5 specifically referring to his first statement -- that
6 when he saw the gun, he backed off.

7 So it would suggest there's some indicia or some
8 evidence that there was a -- a withdrawal, and there
9 was only the shot that -- that if you read that in
10 conjunction with his second statement, it was only
11 the shot with -- and seeing the gun that led to him
12 actually shooting.

13 Finally, and this is a more of a legal argument.
14 We would contend that the failure of South Carolina
15 to provide a -- what is commonly referred to as an
16 imperfect self-defense theory unconstitutionally
17 shifts the burden of persuasion to the defense and
18 violates the United States Constitution's 14th
19 Amendment. Thank you, Your Honor.

20 THE COURT: Okay. And I -- I don't think that
21 it's is -- well, let me ask you. Do you want to be
22 heard on that, Mr. Conner?

23 MR. CONNER: I'm sorry?

24 THE COURT: Do you want to be heard on the
25 argument that this -- what is your position on

1 voluntary manslaughter?

2 MR. CONNER: My position is that it's not an
3 involuntary manslaughter case and it shouldn't be an
4 involuntary manslaughter -- not involuntary --
5 voluntary manslaughter charge.

6 The -- there's -- there's no indication that
7 this victim did anything improper that would have
8 provoked these people to do what they did and they
9 were there to do him serious bodily harm and that
10 they did do him serious bodily harm.

11 THE COURT: All right.

12 MR. CONNER: In fact, he was under the -- under
13 the facts as set forth in the statements and in
14 the -- by the witnesses, he would have had a right to
15 defend himself under the circumstances.

16 THE COURT: And I'm trying to find -- I think
17 it's a case directly on point on this issue. And
18 basically that case, he does have a right to defend
19 himself, and he was a victim -- a victim has a right
20 to use deadly force to defend himself and that the
21 fact -- does not create legal provocation under the
22 manslaughter section and so therefore -- and I will
23 have that case in a minute, but I respectfully
24 decline to charge voluntary manslaughter in that the
25 victim had a right to use deadly force to protect

1 himself in an armed robbery. And I don't feel this
2 is a voluntary manslaughter case. Anything else?

3 MR. MURPHY: No, Your Honor.

4 MR. SULLIVAN: No, sir.

5 THE COURT: All right. Anything before we bring
6 the jury in?

7 MR. MURPHY: No, Your Honor.

8 MR. SULLIVAN: No, sir.

9 THE COURT: All right. If you will bring us the
10 jury. Oh, I'm sorry. I didn't realize we didn't
11 have the defendants. Yeah, hold on a minute.

12 My understanding, gentlemen, y'all have no
13 problem with the hand of one hand of all charge that
14 you read from the bench?

15 MR. MURPHY: That's correct.

16 MR. SULLIVAN: That's correct.

17 THE COURT: Okay.

18 (Defendants now entering the courtroom.)

19 (Whereupon the jury entered the courtroom at
20 1:46 pm.)

21 THE COURT: Thank you, sir. Ladies and
22 gentlemen, I hope you had a nice lunch. You're going
23 to pay attention to the attorneys, they are going to
24 give you their closing arguments and I will charge
25 you on the law. Gentlemen?

CLOSING STATEMENT

1
2 MR. SULLIVAN: Y'all heard from a lot of
3 witnesses in this case. Some of them had more of a
4 major role and some of them didn't add quite as much
5 to the case.

6 You had a lot of them -- or not a lot. You had
7 some of them who just basically testified that they
8 heard gunshots and some who said that they just saw
9 masked men wearing dark clothes running.

10 I don't think that there were any witnesses who
11 could identify the assailants actually at the time
12 that the incident occurred. I'm not going to insult
13 y'all's intelligence. I think to some extent myself
14 and Mr. Murphy have to concede some of the facts.

15 The -- I think the facts would tend to show that
16 Mr. Robinson and Mr. Jackson approached the victim's
17 vehicle and with the evidence would tend to show that
18 maybe with -- with guns.

19 I think the evidence also shows that -- that the
20 victim shot my client, Mr. Robinson. And what I base
21 that on is that a gun that, a .40 caliber, was found
22 beside the victim, Mr. Wimberly.

23 Also base that on the angle of the shot from the
24 passenger's side of the car which in my opinion would
25 make it unlikely that the shot would have hit Mr.

1 Robinson came from Mr. Jackson.

2 So like I said, I think that the evidence tends
3 to show that Mr. Robinson didn't shoot anyone. And I
4 think you or I would submit to you all that had he
5 wanted to, he could have shot Mr. Wimberly, but just
6 was not aggressive enough to have done it. And had
7 he really intended to kill Wimberly, he could have by
8 just pulling the trigger.

9 You heard evidence that the .40 caliber was
10 working. I would submit to you all that Mr. Jackson,
11 after Mr. Robinson was shot, panicked and got caught
12 up in the heat of the moment and then fired on
13 Wimberly. I -- that's what I would submit to you all
14 and I think the facts probably tend to support that.

15 Malice aforethought is an element of a crime of
16 murder that -- and y'all may infer from the facts of
17 the case. However, because it's an element of the
18 crime of murder, y'all are not required to infer it.

19 And the Judge is going to instruct y'all about
20 what malice is. This case as y'all are well aware at
21 least partly probably mostly hinges on the
22 confessions of the defendants. What y'all have to do
23 when you go back into the jury room is y'all's job to
24 decide if those confessions were voluntary. And if
25 they are not voluntary, you will not consider them.

1 I hope that when you're looking at and
2 considering the voluntariness of those confessions,
3 that there are certain things that you all will
4 consider.

5 I hope that you all consider the age of Mr.
6 Robinson when this incident occurred, which he was, 17
7 years old, and the fact that he didn't have anyone
8 with him to advocate for him in the interview room.

9 And also, I would hope that y'all would consider
10 the fact that several days earlier Mr. Robinson had
11 been shot in the chest and may have been under the
12 influence of some medication.

13 Maybe most of all I really hope that y'all
14 consider and talk about what could have -- the
15 conversations that could have transpired in the
16 interview room when the tape recorder was not
17 playing.

18 And consider whether you -- whether you all
19 think that law enforcement coerced those statements.
20 In other words, whether y'all think that while the
21 tape recorder was turned off, if law enforcement had
22 their theory of what happened based on the physical
23 evidence at the crime scene and tried to sort of push
24 that on the defendants, and then when they got them
25 so-to-speak where they wanted them, then they turned

1 the tape recorder on and taped the confessions.

2 I hope y'all consider whether or not the
3 defendants were in custody. I would submit to you
4 that Mr. Robinson was in custody. He was picked up
5 from the hospital in Columbia. He was put in -- he
6 was in handcuffs, I believe, when he was in the
7 interview room.

8 He was driven by law enforcement from Columbia
9 to Sumter. I would submit to you that he was in
10 custody at that time.

11 Something else that I hope y'all talk about when
12 you're deliberating is y'all listened to the -- to
13 all the confessions. And I hope that you consider
14 that a lot of what Mr. Robinson said was him agreeing
15 with Detective Culick.

16 In other words, than -- and with the detectives,
17 that the detective would say did so and so happen,
18 and Mr. Robinson would just say, yes, I agree, that's
19 true.

20 And I would ask y'all to -- to -- when you're
21 looking at the confessions, the transcript, to
22 consider whether you think that his speech -- maybe
23 if you could imagine the defendant speaking, I mean,
24 all y'all can do is agree it, but when you read it,
25 if you think that it was kind of incoherent or if

1 maybe they were just nervous, I would submit that
2 there is speech -- Mr. Robinson's speech was
3 incoherent.

4 Consider the fact that a .32 caliber casing was
5 found in the vicinity and there was some testimony
6 that law enforcement didn't know if it was connected
7 to this incident.

8 And also one more thing about the voluntariness
9 or involuntariness of Mr. Robinson's confession to
10 the police. I would submit to you all that he was in
11 a very vulnerable position, 17 years old. He was a
12 scared kid and he was -- he was overwhelmed. It was
13 just him against the world.

14 Lastly -- but I'd like thank y'all for your
15 service, too, by the way. But lastly, I would say
16 that if there's some angle, if y'all notice something
17 about the case that maybe I didn't bring up, that
18 doesn't mean that y'all can't talk about it when
19 you're deliberating.

20 If I missed something, you know, one of y'all
21 can bring that up and y'all can still talk about
22 that. But once again, I appreciate y'all's service.
23 Thanks.

24 THE COURT: Mr. Murphy?

25 CLOSING STATEMENT

1 MR. MURPHY: Good afternoon. What I'd like to
2 do -- and I just don't want to repeat everything that
3 Mr. Sullivan said. But what I would like to do is
4 give you a little bit of a roadmap of where I'm going
5 to be going with my remarks and then talk about those
6 concepts and then...

7 First of all, when I addressed you, I guess two
8 days ago, I talked a little bit about concepts of two
9 sides of the coin. There are part and parcel of the
10 American Judicial System. And that's concepts of
11 reasonable doubt and presumption of innocence.

12 Going to talk a little bit about that and ask
13 you to use those concepts as a prism for how you're
14 going to evaluate certain facts, okay, then I'm going
15 to review those facts with you.

16 Let's talk a little bit first about those two
17 concepts. They are really the hallmarks or the
18 benchmarks of our judicial system. And my client is
19 an innocent man. Despite all the information you
20 have heard over the last couple of days, he is an
21 innocent man.

22 That's not my opinion. That is at this point
23 what the law mandates. Even now after two days of
24 testimony. That gives meaning of the presumption of
25 innocence.

1 He walked into this courtroom an innocent man
2 and he sits over there right now an innocent man.
3 And until you decide that the State has met its
4 burden, he's innocent. Not just not guilty,
5 innocent.

6 Now that's the hallmark of the American Judicial
7 System. So it makes us special. It's what makes us
8 special. And I want to remind you of that at the
9 very beginning of this because sometimes, you know,
10 maybe over the course of time you start -- it's
11 natural. Look, you start drawing conclusions. Let's
12 set that aside at this point and remember that my
13 client is an innocent man.

14 The second thing I want to talk a little bit
15 about is really the flip coin of that, and that is
16 the burden that is on the State. Now, that burden is
17 to prove these charges beyond a reasonable doubt.
18 They must prove these charges beyond a reasonable
19 doubt. What does that mean?

20 What that means in a case is simply this. You
21 know, you can conclude the defendant, a defendant
22 such as my client might have committed a crime, and
23 that's not enough, or you can conclude based on the
24 evidence that's presented that my client or any
25 client or any defendant probably committed a crime,

1 and that's not enough.

2 You must be convinced beyond a reasonable doubt.
3 You must be firmly convinced. That is the highest
4 standard known to the law. And again, as with the
5 presumption, it separates our system from other
6 systems around the world.

7 If you recall whenever I spoke to you in my
8 opening statement, I asked you, that the only thing
9 that my client requests is -- was that those
10 protections that he was entitled to under our system
11 be afforded to him and that you make your decision
12 based on those facts upon those standards, and I
13 remain -- tell you that.

14 So now let's focus on one aspect of this case.
15 And what I'm going to focus on primarily in my
16 remarks is the murder charge.

17 Now, that doesn't mean that I'm conceding that
18 the State's met its burden regarding guilt or
19 innocence, all right. I'm not conceding that. But
20 what I am focusing on is the murder charge.

21 Now, in order to prove murder under the State of
22 South Carolina, I anticipate that you will be
23 instructed about certain concepts, and some of them
24 Mr. Sullivan mentioned, and that is that murder is --
25 is taking the life of another with willfulness, with

1 felonious killing, malice. These are concepts which
2 the Court will instruct you.

3 What I want to focus on is the concepts of
4 willfulness and malice aforethought because I submit
5 to you that the State has failed to meet its burden
6 with regard to those.

7 Now, malice must be proven. It's an element of
8 the crime, murder. And it's got to be proven beyond
9 a reasonable doubt.

10 Now, how do you do that? Well, one way to do it
11 is, you know, you have -- you're able to prove that
12 an individual intended to kill someone. Intended to
13 kill. Or you had some element of premeditation.
14 That is not -- and I would submit there's no evidence
15 of that in this case.

16 Other ways that you can prove malice is through
17 other factors that you can infer certain things. For
18 example, use of a gun. Clearly that's present in
19 this case. Use of a gun in this case in and of
20 itself you can, you can certainly infer malice from
21 that.

22 Now, we are going to ask you not to because of
23 certain reasons, but you're free to infer them. You
24 can consider that as sufficient to show malice or you
25 cannot. It's up to you.

1 And what I'm going to suggest to you is why you
2 shouldn't. Okay. Under these facts. The other
3 thing you can consider, for example, is an underlying
4 felony such as robbery.

5 You can certainly infer again based on facts you
6 have heard, but I am suggesting to you in this case
7 you shouldn't. Again it's up to you. You don't have
8 to infer it. You're the fact finder.

9 Now, I'm going to suggest to you there is
10 reasons why in this case you shouldn't infer it just
11 based on the existence of weapons or the existence
12 of -- a potentially another crime. Why. Why should
13 you make these inferences?

14 Well, first of all, let's get back to the
15 presumption of innocence itself. All right. Let's
16 get back to that. The presumption that my client is
17 innocent.

18 I will suggest that the evidence you have heard
19 in and of itself doesn't overcome that presumption.
20 But more importantly, unlike some cases, I would
21 submit that the State's own evidence provides us a
22 window into what my client is thinking and what was
23 going on in my client's head at the time of the
24 shooting.

25 In his first statement, which was submitted, my

1 client indicated that when he initially saw the
2 victim with the weapon, he backed off. Then the
3 second statement -- and I would submit to you that
4 that was his inclination.

5 If you recall from Mr. Robinson's statement, he
6 indicates that prior to approaching the car, they
7 agreed that no one was going to get shot no matter
8 what, and that -- and that my client concurred with
9 that, agreed with that, that they didn't want anybody
10 to get shot.

11 My client's second statement it is clear that he
12 shoots after -- and I would submit it's undisputed --
13 he shoots after he hears the shot. He shoots after
14 Mr. Robinson is shot.

15 And I would submit to you that what that shows
16 in regard to his mind, well, not malice, but the
17 thought that he's protecting a buddy, thought that,
18 that he's protecting a friend.

19 And he describes it in legal terms that I don't
20 want to get into, but that he's protecting someone.
21 That's what was going through his mind.

22 Now again, I'm not here to justify that thought.
23 All right. But what I am here to do on behalf of my
24 client is to explain what the evidence shows was
25 going through his mind and submit to you that that is

1 not malice.

2 That is not a depravity. It's not the
3 willfulness, the maliciousness, the malignancy that
4 is required for a conviction for murder.

5 A second reason that I would submit to you the
6 State has failed to meet its burden centers as Mr.
7 Sullivan just said, on the facts and circumstances
8 surrounding my client's confession.

9 Now, without that confession -- I would submit
10 to you that look the confession is the lynchpin of
11 the case. All right. The lynchpin of the case. And
12 I would submit to you that without it there -- there
13 clearly is some problems with their case.

14 Now, the law states that in order to consider
15 the confession, you must be convinced again beyond a
16 reasonable doubt that it was freely and voluntarily
17 given. And we would submit to you that once again
18 the burden is on the State to show that, and they
19 have failed to do it in this case.

20 Now, how did they fail to do that? Well, look.
21 As with Mr. Robinson, my client was 17 years old when
22 he -- when this incident occurred. And he was picked
23 up in the morning, that day, driven to the police
24 station, two adult police officers, and questioned
25 about this incident. A 17 year old tenth grader at

1 Sumter High.

2 Now look, there's some testimony by some of the
3 officers, well, that's considered an adult. Last
4 time I looked, you can't vote when you're 17. You
5 can't buy cigarettes when you're 17.

6 And you know, maybe you're old enough to be
7 interviewed without a guardian present when you're
8 17, but you're not an adult. He was a kid. He's not
9 an adult.

10 You can consider that in regard to whether or
11 not that statement was freely or voluntarily given.
12 And we would ask -- we would suggest to you that you
13 shouldn't.

14 We would ask you to consider the fact that there
15 was no adult guardian. You know, police officers
16 didn't know who he lived with. That is no big
17 surprise. They -- they made no effort at all to
18 contact the guardian, to contact his guardian.

19 We would ask you to consider the nature of the
20 interview, as Mr. Sullivan put it -- the on again off
21 again back and forth with the tape recorder. Let's
22 take a look at the scenario and the timeline, okay.

23 Now, there's testimony my client's picked up I
24 believe around 8:00. And again, you know, your
25 recollection is what counts. If you have some

1 confusion, ask for the record.

2 I believe he's picked up around 8:00 after being
3 at the hospital where Mr. Robinson is being treated
4 and he's driven to the police officers' station, two
5 adult police officers.

6 Taken into a room, read his rights. And there
7 is a period of time between eight and his first tape
8 recorded statement, about an hour -- from that point
9 to the first tape recorded statement about 9:41 I
10 believe he said. And that's an hour and 40 minutes.

11 Now, the testimony from the police officers,
12 well, you know, we were just trying to get some
13 information. I believe one -- one -- and one of the
14 detectives comes out about being -- Detective Wilson
15 says, well, we are not getting much out of him. Not
16 saying anything.

17 Now, what that shows is insight and, you know,
18 look, I'm not -- I'm not here to say anything that
19 the police did anything inappropriate or anything
20 that violated anybody's rights, but what I am saying
21 it was coercive. The nature of it was coercive.
22 They are here. They are trying to get a confession
23 or to get information. It's understandable.

24 But it's still coercive. I mean, you got to
25 look at it from the perspective of whether or not

1 this is a freely and voluntarily given statement. He
2 is not talking so, you know, Detective Holston comes
3 in.

4 And again some time. And then finally he gives
5 a 40 -- he gives a statement. Read to you from the
6 bench. Then it stopped. Tape recorder is off. They
7 go back, check the facts.

8 And anywhere from another hour and a half to I
9 believe 40 minutes is what Detective Richards said it
10 took them, they come back and, you know, and in their
11 words trying to clarify what happened.

12 Well, look. Bottom line is that they knew what
13 happened -- really happened. They -- they suspected
14 he was the -- more than suspected, he was the actual
15 triggerman and they were looking to get a confession.
16 That's clear.

17 Well, some of the comments made. Well, it's
18 good for you to tell your side of the story. You
19 know, if you basically you want to come clean. Look,
20 you don't have to be yelling and screaming at
21 somebody for it to be coercive given my client's age,
22 given my client's, you know... status as a tenth
23 grader.

24 Subtle coercion is still coercion. And we would
25 submit to you that this statement was not the product

1 of free will. Now, if you conclude that, we're going
2 to ask you to totally disregard everything that's in
3 this statement.

4 And we would submit to you you can't prove
5 murder based on the other evidence. Even if you
6 didn't believe what was said is primarily true, you
7 can discount it.

8 Now, this is a difficult case. A young man is
9 dead, killed, senseless killing. Two young men are
10 on trial for a crime that quite frankly is one of the
11 worst crimes you can think of.

12 I will end my statement as I began yesterday,
13 two days ago, and that is all my client asks is that
14 you apply the law, apply the presumptions that he is
15 entitled to and the protections he is entitled to and
16 apply it to the facts.

17 It's what the American system is all about. And
18 I am convinced -- as difficult as it may seem at this
19 point to believe, I'm convinced that if this process
20 is done as it should be, that your verdict on the
21 count of murder will be not guilty. Thank you.

22 MR. CONNER: May it please the Court.

23 THE COURT: Yes, sir.

24 CLOSING STATEMENT

25 MR. CONNER: Ladies and gentlemen of the jury, I

1 want to thank you for your attention. And I feel
2 like the third preacher coming up on a Sunday
3 morning. I notice you have been very attentive and I
4 know that becomes hard to do after you sit for a long
5 time. But I -- I ask you to bear with us for a
6 little while longer.

7 The -- this is a sad case, and I agree with Mr.
8 Murphy on that, even though I don't agree with him on
9 anything else. But a 19 year old boy has been just
10 gunned down for doing nothing, for just being an
11 innocent person.

12 Anybody 19 years old that's going to church on
13 Sunday morning, dating his girlfriend, taking her out
14 to a restaurant to eat, and just socializing with her
15 and sitting there in a car talking with her past
16 midnight.

17 I can remember many, many years ago when I was
18 that age. I submit that that's just normal conduct
19 for a person of that age and it's perfectly innocent.
20 There's nothing wrong with what he did. He didn't do
21 anything to bring this thing on.

22 He wasn't out there arousing, causing trouble.
23 He was just behaving himself and he was gunned down
24 like an animal.

25 It's sad. It's sad for the defendants, but it's

1 sadder for the Wimberlys. The -- let's start at the
2 bottom line. These guys, they were out for no good.
3 They planned the thing. They scoped it out as they
4 said in some of these statements, somewhere in there
5 you'll have the statement in the jury room if you
6 want to read it.

7 But they -- they were scoping it out. In other
8 words, they were checking them out, had their
9 materials, their masks, and their dark clothes and
10 everything at that -- at Robinson's apartment, L5,
11 and they -- they were riding around on their bicycles
12 checking out the thing, and they see this guy come in
13 and they thought he had money for whatever reason.

14 They had seen him out there picking up this
15 young lady. And so they developed the idea, let's
16 rob him, let's get him. In fact, it says in there,
17 get what we could, money, jewelry, whatever, anything
18 that could help. That was the way they looked at it.

19 They were up to no good. They talked about it.
20 They schemed it. And they rushed the car. One of
21 them had a 38 and he admits that's the caliber of gun
22 he had. And that's the caliber guns we got here.

23 The 38 in fact was collected out of the
24 automobile. This is the 38, I believe, State's
25 Exhibit number 12, because it's lighter. This is it.

1 Right here.

2 They collected it out of his automobile, Officer
3 Culick and Richburg, and they got his permission,
4 they got him to sign a consent form. They could have
5 gotten a search warrant based on the fact that he had
6 made a statement about it at that time.

7 But they got the consent, got him to sign the
8 consent form. He signed it. They went around there
9 and looked in his automobile. The pictures are there
10 on the counter and the pictures will be with you in
11 the jury room. You can see where they found it in
12 his car.

13 And this gun right here, this gun came out of
14 Ms. Wilson's apartment because that's where Wimberly
15 ran after it was all over with. And somehow or
16 another Dominique Wimberly gained control of this
17 pistol. But the -- Robinson says he had a
18 .40 caliber pistol. Somewhere in there it says
19 .40 caliber automatic.

20 This is a clip-fed semiautomatic .40 caliber
21 pistol. We submit to you that that is Robinson's
22 pistol that -- I'm going to be talking about some of
23 the people that said they had seen him with the gun.

24 These young men were involved in a very
25 dangerous activity. There's nothing much more

1 dangerous than armed robbery. It's an invitation for
2 somebody to die.

3 If anybody, anybody would be entitled to act in
4 self-defense, it was the victim, Dominique Wimberly.
5 My goodness, if you -- our law is if you are at fault
6 on bringing on the difficulty, you -- you can't
7 complain yourself that you acted in self-defense.

8 You have no grounds for self-defense if you were
9 at fault in bringing on the difficulty. And
10 Dominique Wimberly was not involved with anything.
11 He's the only one there who could act in self-defense
12 because these people intended to do him harm or rob
13 him in any event.

14 These statements -- one thing I'd like for you
15 to think about is -- and talk about the statements or
16 review the statements is, these guys gave statements,
17 but they wanted to soft-pedal their involvement.
18 It's only natural.

19 If you were charged with doing something wrong,
20 you'd want to make it look a little better than it
21 really was if you were involved in it. If you were
22 admitting something, you -- you would, as I say,
23 soft-pedal it.

24 And the best example I can think of that is Mr.
25 Jackson. You know, he gave a statement here at

1 9:45 am on the June the 18th, 2007. And in the first
2 statement he didn't admit that he did any shooting.

3 And in fact, at first he denied that he had done
4 any shooting. He made it sound like the guy with the
5 .40 caliber was the main one. Somebody had a
6 .40 caliber out there, but he didn't have a gun.

7 And then these officers are not dummies. They
8 begin to talk to those witnesses out there saying
9 both guys had guns, this, that, and the other, and
10 they started talking to him some more.

11 And finally he comes clean and he admits that he
12 had this .38 caliber. And in the first statement he
13 said something about he was on the passenger's side
14 of -- on the driver's side, and then in the second
15 statement he's got himself on the passenger's side.

16 I say that to tell you he's trying to make
17 the -- light on himself. He's trying to make it look
18 better for himself. And the other guy, Robinson, he
19 has a memory fade. Let me read about the memory fade
20 here.

21 He can't -- he can't remember good. He admits
22 some things and then he's -- he has certain failures.
23 Detective Rogers asked him, now, you said you got
24 shot by the guy was in the driver's or the -- I don't
25 know who. You don't know? But I mean, did he have a

1 gun already or did he take your gun?

2 I submit to you Rogers apparently thought he
3 had -- that Dominique Wimberly had gotten the gun
4 from him. But the -- Robinson said, I don't know.
5 You don't remember but you know you had a gun when
6 you went up to him. And Robinson said, yes, sir.

7 But you are not -- you can't remember whether he
8 grabbed your gun and shot you with your own weapon or
9 you don't know if he had a gun. Robinson said, I
10 don't remember what happened from there.

11 And down a little lower Rogers asks him, when
12 you ran into the apartment, do you remember -- into
13 the apartment, do you remember having the gun with
14 you? No, sir.

15 You didn't have the gun with you in the
16 apartment? No, sir. So between the time he got shot
17 and the time you got to the apartment, you don't
18 remember what happened to your gun. No, sir.

19 He wants to separate himself from that gun.
20 What happened here -- excuse me -- this Robinson
21 defendant in this apartment building here at L5. As
22 you know, Ms. Wilson was living over here and,
23 Dominique Wimberly had brought her home, and there
24 were three people out here cooking out.

25 The bicycles were found over here. And one

1 thing you might find interesting if you read those
2 statements carefully, you can -- you can find that
3 both of them say that they put their bicycle on the
4 other side of the fence in the nursing home area.

5 There's a nursing home back in here. One of the
6 officers, I believe Truman Duggin, testified that
7 this one was -- rode into that nursing home or rehab
8 center back in here.

9 In any event, the people here all testified that
10 they saw -- not all, I think two of them -- two of
11 the three testified that they saw the robbers run
12 back this way.

13 Mr. Duggin followed the blood trail all the way
14 over here to building L, and of course he found more
15 blood in L2 where -- at the home of Mr. Jones where
16 this boy had run.

17 The -- the shoeprint that's right here on the
18 corner of the building, they ran off -- off the
19 corner of the building, both armed with pistols, and
20 Willie Gibson and that Kimberly Tindal, the girl with
21 the broken leg, both said that two of them -- they
22 could see two of them with guns, they heard several
23 gunshots.

24 The -- these -- the people in the car had --
25 have a chance to do absolutely nothing. The -- I'd

1 like to -- I don't want to bore you, but I'd like to
2 just read back over a few things. I'm not going to
3 go back to the first statement that Jackson gave.
4 You have that with you.

5 And the first thing I -- I marked that -- this
6 is the second statement he gave. And incidentally,
7 talking about coercion and that kind of thing, they
8 gave him his rights.

9 You have got the Miranda form. You can see --
10 he was given his rights, he signed it, he put his
11 initials by each one of them. And Alvin Holston over
12 here, every time they talked with him on -- on the
13 statements, you can see he reminds him of his
14 constitutional rights, and both officers testified,
15 Captain Holston and Richburg, that the paper lay
16 right there on the desk, he could look at it, he
17 could re-read it.

18 But they asked him about it and he agreed to
19 talk with them and he agreed that he had had his
20 rights read to him. He had his rights. The person
21 that didn't have any rights is Mr. Dominique
22 Wimberly.

23 And page four of this second statement pretty
24 well sets it out in real quick language. So we seen
25 a car pull in the parking lot. So we already know

1 who it was and we was trying to rob them.

2 So we ride to the nursing home over the gate to
3 scope them out first. Then we came back home, got
4 our ski masks and our clothes, and came back, and we
5 set up. As we was running out, we both draw our
6 guns.

7 I ran to the passenger's side and the other
8 fellow, person, ran to the driver's side. I heard a
9 shot, so I fired my gun and we both ran. One of the
10 lawyers said something about the way that officers
11 were asking questions.

12 Well, you know, sometimes these fellows beat
13 around the bush and the officer has to ask them a
14 right blunt question in order to get -- get out
15 the -- to get right down to brass paddies and find
16 out what happened. But that's pretty straight
17 forward right there.

18 That pretty well summarizes a whole lot of time.
19 Okay. What kind of gun was it you had? This is
20 Jackson, now. A 38 special. Revolver or automatic?
21 Revolver. How many times did you say you fired?
22 Four.

23 You know it's either four or five bullet holes
24 in Mr. Wimberly's body. There's a photograph there,
25 and it's a rather graphic photograph. Some of you

1 might not want to look at it, but it shows where the
2 bullet -- where the bullets went in, and you have
3 heard the doctor testify in that regard.

4 And this is what I'm talking about the plan.
5 All right. So what were y'all talking about doing?
6 That's Officer Holston. The defendant Jackson said,
7 sir. Holston said, y'all were talking about robbing
8 them. Yes, sir.

9 Detective Holston, then? Yes, sir. Detective
10 Holston, well, who said what? And this -- the way
11 the answer, the other person was like, we got to do
12 it right, you know, I mean, because when you --
13 you're to get something, you got to get something, if
14 not money, jewelry.

15 And this is more description of the guns. And
16 you changed. Tell me again. Changed into what?
17 Jackson says, black and green Nikes. Black Dickies,
18 a black T-shirt, a black hoodie and my ski mask.

19 Just tell me what you need a ski mask on June
20 the 18th to run around in? June the 18th. Usually
21 in June it's pretty warm. I don't believe you need a
22 ski mask in Sumter, South Carolina.

23 All right. Where did you have the gun then? On
24 us. You had the gun on you the whole time. Yeah.
25 You carried what? A 38. All right. The other

1 person carried what? A .40 caliber.

2 What kind is the other person's? An automatic.
3 What color? Describe it. Black. Here is -- here is
4 the thing about the bicycles in this statement, and
5 there's also in -- Robinson's statement references
6 the bicycles.

7 So y'all put the bikes up where at? By the gate
8 on -- inside the nursing home parking lot. And
9 talking about malice. This shows malice to me.
10 This -- Mr. Jackson knew that -- what he was doing.

11 We hardly get no words in. He just saw us and
12 fired. I thought you remember -- you said something
13 earlier about give it up. Yeah, we ran up, we said,
14 give it up, something. We said something like that.
15 I think it was, give me all your shit.

16 Does that sound like he's got an evil intent?
17 Does it? I submit to you it does. And you said you
18 fired how many times? Four. I think that gun holds
19 more than four, but at least it -- the doctor said
20 there was either four or five bullet holes.

21 That's because one of the bullets went in the
22 arm and she thinks they passed through and into the
23 chest. They went into his right elbow and -- there's
24 also another possibility, but I'm going to talk about
25 that in a minute, as to what happened to all the

1 bullets.

2 Now let's talk about what some of the witnesses
3 said. And you know, the witnesses weren't close
4 enough -- and another thing. They weren't close
5 enough that they could see the face and -- and know
6 exactly who did it.

7 And another thing, if you got this on your face,
8 they are not going to know who you are. And both of
9 them had on masks. The other one is in that small
10 box here, number 21. It's in here. It's all cut up.

11 Chyenne Rosenberg, let's talk about Chyenne
12 Rosenberg: He's the buddy. They come out together.
13 They were socializing that night watching a movie,
14 and that's perfectly all right. But it's what they
15 did after they got through with the movie.

16 Rosenberg went home. Went, got into bed
17 because -- laying on the bed talking to somebody on
18 the telephone I believe. But in any event, he had
19 been friendly with him and they had both shown him
20 pistols.

21 And I showed him these two pistols. He said,
22 yes, that looked like the pistols I saw. He didn't
23 copy down the serial numbers, so if he can't say
24 100 percent that that's -- that's the pistol, you
25 know, because you would have to copy down that kind

1 of information to say 100 percent.

2 But it looked like a pistol that they had shown
3 them. These two guys were running out of control,
4 running around flashing these guns, and other people
5 had seen them.

6 He said Teron called him immediately after the
7 shooting. He heard the gunshots, and then shortly
8 thereafter he got a call from Teron saying Jermel had
9 been shot.

10 Let's talk about these people that were out here
11 cooking out. Sam Wilson. He was the brother of the
12 girl in the passenger's seat here with Dominique.
13 And he said he had seen Teron with a silver revolver.

14 Kimberly Tindal and Willie Gibson, that was the
15 other guy and girl that were here. And they said
16 that the guys had two guns. They pointed them at
17 Dominique Wimberly's vehicle. They heard several
18 gunshots.

19 Willie and Sam both say that the defendants ran
20 through here. And Truman Duggin went along circling
21 that thing in arms, and you have seen the pictures
22 showing the trail all the way back over here, the
23 building they owned, and sent those swabs to SLED,
24 and the lady came this morning and she said that that
25 matched the blood of Jermel and also in the bathtub

1 in L2 there with the mask there, the hoodie.

2 It's his blood on those garments showing that
3 this mask right here was what he was wearing. This
4 thing here, she couldn't be 100 percent positive, but
5 said she couldn't exclude Teron Jackson as having
6 contributed the DNA on this.

7 This is one that's all cut up and found in the
8 room L5. L5 is Robinson's apartment, but apparently
9 that's where they were changing their clothes.

10 Another interesting witness was Talisha Kinard.
11 She was the girl that was riding in the vehicle with
12 him. She had been dating -- she had been out
13 socializing with the group all day. I think there
14 was another guy there named Derrick, and they had
15 dropped him off somewhere else before Dominique
16 brought these two girls home.

17 But she said she sat there in the car and talked
18 with them for a while and then she went upstairs and
19 laid down. When she heard the yelling and screaming
20 and Toni came running in, that the shooting occurred
21 and -- but she said some interesting things.

22 She said she had seen Teron with a gun just the
23 night before was my understanding. This happened on
24 a Sunday night. It was actually Monday morning. It
25 was after midnight.

1 But she had seen it. And I believe she said she
2 saw it -- it was on a Saturday night, and he had the
3 gun and he said something like this, and he was going
4 to rob the next nigger I see.

5 I don't know why anybody would say that, but it
6 just shows that these -- that the whole -- the
7 attitude of the whole thing was a malignant, with
8 malice, viewpoint.

9 The Judge is going to tell you what malice is.
10 And essentially I -- and to me it means an evil
11 intent, intent to do something that you've got no
12 business doing, something without just cause.

13 And the -- but he's also going to tell you this,
14 that you can infer malice, that you can -- you know,
15 there's two kinds of malice. There's express malice
16 where I go -- come up to you and say, I'm going to
17 kill you and call you some bad names and all. That
18 shows evil intent.

19 But suppose I didn't say anything, I just pulled
20 out my gun and shot you. Well, one thing is you can
21 infer malice from the use of a deadly weapon. That's
22 what he's going to tell you and that's what we've got
23 here is an inference of malice and we got some
24 malicious malice, too, because when he says, give me
25 all your you know what, then that indicates malice.

1 It indicates an intention to do something evil.

2 Also he's going to tell you that you can infer
3 malice from -- from the commission of a felony. And
4 you can't think of any more violent felony than armed
5 robbery. It is a felony and it is a violent felony.

6 Intent to rob I think you can infer from that.
7 But listen very carefully to the Judge when he
8 instructs you on that.

9 And another thing I'd like to remind you of is
10 the hand of one is the hand of all. And essentially
11 what that means is that if two or three people get
12 together and do an unlawful act and they -- in the
13 process of committing, they are there cooperating
14 with each other, and one of them pulls a trigger, the
15 other one's just as guilty of the crime as the one
16 who pulled the trigger because they are part and
17 parcel of the claim.

18 I'm just going to read some of that to you. The
19 hand of one is the hand of all you might say. If the
20 crime is committed by two or more people who were
21 acting together in committing a crime, the act of one
22 is the act of all.

23 A person who joins with another to commit an
24 unlawful act is criminally responsible for everything
25 done by the other person which happens as a probable

1 or natural consequence of the acts done in carrying
2 out common plan and purpose.

3 For example, two people can be guilty of killing
4 another person when only one of the two had a gun.
5 There was only one bullet. Now, only one of the two
6 fired the shot that caused the death.

7 If two or more people are together, acting
8 together, assisting each other in committing the
9 offense, the act of one is the act of all, or as it
10 is sometimes said, the hand of one is the hand of
11 all.

12 One thing -- and perhaps we have got one missing
13 witness, and that is Dominique Wimberly. If he was
14 here, he might be able to unravel this thing and tell
15 us whether -- exactly how he got that gun from
16 Robinson.

17 But I submit to you that there's two things
18 could have happened here. One is Robinson stuck the
19 gun in the window there -- you know it's June. You
20 know it's people sitting out there talking for a
21 couple of hours, they had the windows down.

22 And he stuck the gun in the window. And
23 naturally, just out of a reflex, Mr. Wimberly could
24 have grabbed that gun and tried to take it from him
25 and in the process it went off. Maybe that's how

1 Robinson got shot.

2 There's another way it could have happened.
3 Here is Mr. Jackson over here on the passenger's
4 side. And boy, he was cussing. We know he shot him
5 at least four times. We got four bullet holes in
6 him.

7 Maybe five, not sure, but we think it was four.
8 That's what the doctor said, also one that went --
9 one of them went through his arm and into his chest
10 she thinks.

11 What happened to the fifth bullet? The fifth
12 bullet could have been -- that Mr. Jackson shot his
13 old buddy Robinson over here on this side, that
14 bullet went in his shoulder, passed out his back.
15 Never was recovered. Never was recovered because
16 hard to find something that small in a wide area, and
17 passes through, no telling where it went.

18 In any event, under the hand of one is the hand
19 of all, these people were out there to do an evil
20 act, to do a dangerous act and a violent act, and I
21 submit to you they are guilty on all charges. Thank
22 you for your attention.

23 *THE COURT:* Ladies and gentlemen, y'all have
24 been listening patiently for over an hour. We will
25 take a quick break. I have to charge you on the law.

1 It's going to take a little while.

2 So I don't know whether y'all need a break, but
3 I do, so we will be back in 10 minutes. Remind you,
4 don't discuss the case yet.

5 (Jury left the courtroom at 2:49 pm.)

6 THE COURT: All right. We'll be in recess for
7 10 minutes.

8 (Brief recess was had.)

9 THE COURT: Okay. State ready?

10 MR. CONNER: We're ready, Your Honor.

11 THE COURT: Defense ready?

12 MR. SULLIVAN: Yes, Your Honor.

13 MR. MURPHY: Yes, sir.

14 THE COURT: Okay. If you will bring us the jury
15 please.

16 (Jury entered courtroom at 3:03 pm.)

17 JURY CHARGE

18 THE COURT: I want to apologize. This is not
19 going to be pretty. My voice is about gone, so if
20 you can't hear me or understand me, if you will raise
21 your hand, I will try to do it again.

22 But now that you have heard all of the evidence
23 in this case as well as the arguments of the
24 attorneys, it's now my duty to explain the law to you
25 that you're to apply in this case.

1 And under our constitution and code of laws,
2 only the jury can make a finding of facts in this
3 case. I am not permitted to indicate to you how I
4 might feel about the facts in this case.

5 So if I have said anything or done anything
6 throughout this case that you think I have an opinion
7 on the facts, you're to disregard that because I'm
8 not allowed to have an opinion on the facts. That is
9 solely your province.

10 But the same constitution and laws that makes
11 you the exclusive judge of the facts makes me the
12 exclusive judge of the law. So if you have an idea
13 of what you think the law is or what the law ought to
14 be and it differs from what I now tell you the law
15 is, you're to disregard your idea and apply the law
16 precisely as I give it to you.

17 The fact that these defendants were arrested,
18 charged, and indicted in this case is not evidence in
19 this case and cannot be considered by you as evidence
20 of guilt in this case. Nor does it create any
21 presumption or inference of guilt.

22 The indictment is simply the formal written
23 instrument which contains the charges that brought
24 this case to court.

25 Now, to these indictments the defendant -- the

1 defendants have pled not guilty. That casts the
2 burden upon the State of South Carolina to prove each
3 and every element of the indictments beyond a
4 reasonable doubt.

5 A person charged with committing a criminal
6 offense in South Carolina is never required to prove
7 himself or herself innocent. And I instruct you and
8 emphasize to you the fact that the defendants in this
9 case did not testify is not a factor to be considered
10 by you in any way in your deliberations or in your
11 considerations on the questions of guilt or innocence
12 of the defendant.

13 It must not be considered by you in any manner
14 whatsoever. The defendants have a constitutional
15 right to remain silent. And the assertion of this
16 right must not be considered by you in your
17 deliberations.

18 Under your oath you're to draw no conclusions
19 whatsoever from the fact that the defendants did not
20 testify. The fact that the defendants did not
21 testify should not even be discussed in the jury
22 room.

23 Now, it is an important rule of law in this
24 country that the defendant in a -- in a criminal
25 trial will always be presumed innocent of the crime

1 for which he is -- he or she is charged unless and
2 until his guilt has been proven by evidence that
3 satisfies you, the jury, of that guilt beyond a
4 reasonable doubt.

5 The presumption of innocence is not a mere legal
6 theory. It is not just a legal phrase. It is a
7 substantial constitutional right to which every
8 defendant is entitled.

9 The presumption of innocence accompanies a
10 defendant from the time he is charged throughout the
11 trial and until you reach a verdict of guilt based on
12 the evidence that satisfies you of that guilt beyond
13 a reasonable doubt.

14 Now, a reasonable doubt is a doubt which makes
15 an honest, sincere, conscientious juror in search of
16 the truth to hesitate to act.

17 Proof beyond a reasonable doubt must therefore
18 be proof of such a convincing character that a
19 reasonable person would not hesitate to rely and act
20 upon it in the most important of his or her own
21 affairs.

22 Proof beyond a reasonable doubt can also be
23 described as proof that leaves you firmly convinced
24 of the defendant's guilt.

25 Now, there are very few things in this world

1 that we know with absolute certainty. And in a
2 criminal case, the law does not require proof that
3 overcomes every possible doubt.

4 If based on your consideration of the evidence
5 you're firmly convinced that the defendant or
6 defendants are guilty of the crime charged, you must
7 find them guilty or him guilty.

8 If on the other hand you think there's a real
9 possibility that he is not guilty, you must give him
10 the benefit of that doubt and find him not guilty.

11 Now, in determining what factors in a case --
12 what the facts are in a case, you must necessarily
13 pass upon the credibility which simply means the
14 believability of the witnesses and the weight and
15 value to be given to their testimony.

16 You alone must decide the force and the effect,
17 the truth of that testimony. In making these
18 decisions, there are many things you may consider
19 such as the appearance and manner of the witness on
20 the stand, sometimes referred to as the demeanor of
21 the witness.

22 Was the witness forthright or hesitant. Was the
23 witness's testimony consistent or did it contain
24 discrepancies. What was the ability of the witness
25 to know the facts about which he or she testified?

1 Did the witness have a cause or reason to be
2 biased or prejudiced in favor of the testimony he or
3 she gave? Was the testimony of a witness
4 corroborated or made stronger by other testimony or
5 evidence or was it made weaker or impeached by such
6 other testimony or evidence.

7 Now, the rules of evidence do not ordinarily
8 permit a witness to testify to opinions or
9 conclusions. An exception to this rule exists for
10 witnesses we call expert witnesses.

11 A witness who by education and experience has
12 become an expert in some art, science, profession or
13 calling may state an opinion as to relevant and
14 material matters in which the witness claims to be an
15 expert and may also state reasons for that opinion.

16 You should consider any expert opinion received
17 in evidence in this case like any other evidence.
18 Give it the weight you think it deserves. If you
19 decide that the opinion of an expert is not based on
20 sufficient education or experience or if you conclude
21 that the reasons given in support of the opinion are
22 not sound or that the opinion is outweighed by other
23 evidence, you may disregard the opinion in its
24 entirety.

25 An expert witness's testimony is to be given no

1 greater weight than that of any other witness simply
2 because the witness is an expert. Further, you're
3 not required to accept an expert's opinion even
4 though it is not contradicted.

5 As jurors you have a right to believe a small
6 portion of a witness's testimony and disregard the
7 larger or vice versa. You may believe the -- the
8 testimony of one witness over that of many or the
9 other way around.

10 Now, there are two types of evidence generally
11 presented during a trial. That's direct evidence and
12 circumstantial evidence.

13 Direct evidence is the testimony of a person who
14 asserts or claims to have actual knowledge such as an
15 eye witness.

16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence of a
18 fact. The law makes absolutely no distinction to the
19 weight or value to be given to either direct or
20 circumstantial evidence, nor is there a greater
21 degree of certainty required in circumstantial
22 evidence than that of direct evidence. You should
23 weigh all of the evidence in this case.

24 Now, to give you an example of circumstantial
25 evidence. While we're in here trying this case,

1 nobody has really paid much attention to what's going
2 on outside.

3 You walk outside after this case and the ground
4 is covered in water, it's mud puddles everywhere on
5 the street, then you can assume that sometime today
6 it rained outside.

7 And you may not have seen it rain. If you had
8 seen it rain, that's direct evidence. But you can
9 assume by the circumstances because the ground is
10 soaking wet that sometime today it rained outside.
11 That's circumstantial evidence.

12 And I have told you you're to give no greater
13 weight to direct evidence than circumstantial
14 evidence. You should treat all evidence in this case
15 as equal or -- well, give it whatever weight, whether
16 circumstantial or direct that you deem appropriate.

17 After weighing all of the evidence, if you're
18 not convinced of the defendants' guilt beyond a
19 reasonable doubt, you must find them not guilty.

20 Now, criminal intent is a necessary element of
21 each crime that must be proved by the State beyond a
22 reasonable doubt.

23 Criminal intent is always a matter that must be
24 determined by the jury from circumstances surrounding
25 the situation. There is no way to prove intent to a

1 mathematical certainty. There is no way medical
2 science can dissect a person's brain and determine
3 what he or she had in mind.

4 So the law states criminal intent may be
5 inferred from the circumstances shown to have existed
6 before and after the fact. And this is how the jury
7 make a determination of whether or not the element of
8 intent was present.

9 Criminal intent is a state of mind that operates
10 jointly with an act or omission in the commission of
11 a crime. Criminal intent is a mental state of
12 conscious wrongdoing.

13 So it is up to you, the jury, to determine what
14 the defendant or defendants intended to do based on
15 the circumstances shown to have existed. And I tell
16 you that the State must prove criminal intent beyond
17 a reasonable doubt just as the State must prove every
18 element beyond a reasonable doubt.

19 Now, a state's -- statements have alleged to be
20 made by the defendants in this case. And a statement
21 alleged to have been made by a defendant has been
22 admitted into evidence in this case as I have told
23 you.

24 And while the Court has determined that the
25 statements are admissible, I instruct you that the

1 ultimate decision of whether or not the defendant's
2 statements were -- whether the defendant or
3 defendants made the statements, you must determine
4 whether the statement was made by the defendant
5 voluntarily, of his -- and his own free will.

6 This means that the statement was not caused by
7 pressure, force, fear, or threats, coercion or
8 intimidation or by hope or promise of leniency or a
9 reward of any kind.

10 In determining whether the statement was
11 voluntary, you should consider both the
12 characteristics of the defendant and the details of
13 the questioning.

14 Some of the factors that you must consider are:
15 The age of the defendant; the defendants' education
16 or lack of education; the defendants' mental ability
17 or capacity; the defendants' IQ or intelligence; the
18 defendants' background and environment; the place and
19 length of the detention, the nature of the
20 questioning; the advice or lack thereof to the
21 defendant of his or her constitutional rights
22 including but not limited to the right to remain
23 silent and that any statement could be used against
24 him in a court of law, the right to have a lawyer
25 present and that if he could not afford a lawyer, a

1 lawyer would be appointed to represent him without
2 any cost, and that he -- he could stop making a
3 statement at any time.

4 You must also consider all of the surrounding
5 circumstances before you give any weight to the
6 alleged statement.

7 The State has the burden of proving beyond a
8 reasonable doubt that the alleged statements were
9 voluntary. If you determine it was, you give the
10 statement any further consideration that you deem
11 proper.

12 You must decide what weight, if any, you should
13 give the alleged statement. And if you decide the
14 alleged statement was not free and voluntary, not a
15 free and voluntary statement of the defendant, you
16 should not consider the statement or statements at
17 all.

18 Now, if a crime has been committed by two or
19 more people who are acting together in the committing
20 of a crime, the act of one is the act of all. A
21 person who joins with another to commit an unlawful
22 act is criminally responsible for everything done by
23 the other person which happens as a probable or
24 natural consequence of the acts done in carrying out
25 the common plan and purpose.

1 For example, if two people -- two people can be
2 guilty of killing another person, but only one of the
3 two had a gun and there was only one bullet and only
4 one of the two fired that shot that caused the death.

5 If two or more people are together, acting
6 together, assisting each other in committing the
7 offense, the act of one is the act of all. And it is
8 sometimes referred to as the hand of one is the hand
9 of all.

10 Prior knowledge that a crime is going to be
11 committed without more is not sufficient to make a
12 person guilty of that crime. Mere knowledge that
13 another person is going to commit a crime, even if
14 the defendant is present when the crime is committed,
15 is not sufficient to convict the defendant as a
16 principal.

17 Guilt as a principal is shown by action or
18 constructive presence at the scene as the result of a
19 prior arrangement. Therefore, a finding of a prior
20 arrangement or prior arranged plan or common scheme
21 is necessary for a finding of guilt as a principal.

22 The State must prove beyond a reasonable doubt
23 by competent evidence the theory of the hand of one
24 is the hand of all.

25 A principal in a crime is one who either

1 actually commits the crime or who is present, aiding,
2 abetting or assisting in the committing of a crime.

3 When a person does an act in the presence of and
4 with the assistance of another, the act is done by
5 both. Where there are two or more people acting on a
6 common plan or intent and they are present at the
7 commission of a crime, it does not matter who
8 actually commits the crime. All are guilty. Hand of
9 one is the hand of all.

10 Intent is also a necessary element. For there
11 must have been a common design or intent to commit
12 the crime, and the crime must have been committed
13 pursuant thereto with the person aiding and abetting
14 by some overt act.

15 Intent means intending the results which
16 actually occurred, not accidentally or involuntary.
17 Intent may be shown by acts and conducts of the
18 defendants and other circumstances from which you may
19 naturally infer a reason -- naturally and reasonably
20 infer intent. The State must prove these elements
21 beyond a reasonable doubt.

22 Now, the defendants are charged with the crime
23 of murder. The State must prove beyond a reasonable
24 doubt that the defendant or defendants killed another
25 person with malice aforethought.

1 Malice is hatred, ill will, or hostility towards
2 another person. It is the intentional doing of a
3 wrongful act without just cause or excuse and with
4 the intent to inflict an injury or under
5 circumstances that the law would never -- will infer
6 an evil intent.

7 Malice aforethought does not require that the
8 malice exist for any particular time before the act
9 is committed. Malice must exist in the mind of the
10 defendant just before and at the time the act is
11 committed. Therefore, there must be a combination of
12 the previous ill intent and the act.

13 Malice aforethought may be express or inferred.
14 These terms, express and inferred do not mean
15 different kinds of malice, but merely the manner in
16 which the malice may be shown to have existed.

17 That is, either by direct evidence or by
18 inference from the facts and circumstances which are
19 proved. Express malice is shown when a person speaks
20 words which express hatred or ill will for another or
21 when the person prepares beforehand to do the act
22 which was later accomplished.

23 For example, lying in wait for a person or in
24 any other act of preparation going to show that the
25 deed was within the defendant's mind would be express

1 malice.

2 Malice may be inferred from the conduct showing
3 a total disregard for human life. Inferred malice
4 may also arise when the deed is done with a deadly
5 weapon.

6 A deadly weapon is any article, instrument or
7 substance which is likely to cause death or great
8 bodily injury. Whether an instrument has been used
9 as a deadly weapon depends on the facts and
10 circumstances of each case.

11 The following are examples of instruments which
12 may be deadly weapons. A pistol, a shotgun, a rifle,
13 a dirk, a dagger, a knife, a slingshot, metal
14 knuckles, a razor, gasoline, a fire bomb, a Molotov
15 cocktail, and lighter fluid. A gun may be a deadly
16 weapon even if it is not operating.

17 If one intentionally kills another during the
18 commission of a felony, the inference of malice may
19 be -- may arise. If facts are proved beyond a
20 reasonable doubt sufficient to raise an inference of
21 malice to your satisfaction, this inference would
22 simply by an evidentiary fact be taken into
23 consideration by you along with all other evidence in
24 this case and give it the weight that you
25 determine -- for you to decide it should receive.

1 Now, the defendants are charged with attempted
2 armed robbery. An attempted -- an attempt is an
3 effort to accomplish the crime which does not
4 succeed. An attempt includes a specific intent to do
5 a particular criminal act along with the act falling
6 short of the act intended.

7 The State must show more than mere preparation
8 and intent. There must be some overt act committed
9 in the effort to commit the crime.

10 Intent means intending the results which
11 actually occurred, not accidentally or involuntarily.
12 Intent may be shown by acts and conducts of the
13 defendant or defendants and other circumstances for
14 which you may naturally and reasonably infer intent.

15 In order to prove this offense, the State must
16 first prove beyond a reasonable doubt that the
17 defendant attempted to take personal property from
18 the person or presence of another person.

19 Property is in the presence of a person if it is
20 in -- if it is within the person's reach, inspection,
21 observation, or control so that the person could, if
22 not overcome with violence, have -- or prevented by
23 fear keep possession of the property.

24 The State must also prove beyond a reasonable
25 doubt that the defendant intended to carry the

1 property away, to permanently deprive the owner of
2 the property, and to keep the property for the
3 defendant's own use.

4 The slightest removal of the property to the --
5 or the completion of the -- or the complete
6 possession of the property even for an instant by the
7 defendant is sufficient to show a taking and carrying
8 away of the property.

9 The intent -- the attempted taking and carrying
10 away of the property must have been done with
11 violence or by putting the owner of the property in
12 fear of violence.

13 Finally the State must prove beyond a reasonable
14 doubt that the defendant was armed with a deadly
15 weapon during the attempted robbery. A deadly weapon
16 is any article, instrument, or substance which is
17 likely to cause death or great bodily injury.

18 And whether an instrument has been used as a
19 deadly weapon depends on the facts and circumstances
20 of each case. And I have given you examples of
21 deadly weapons just a few minutes ago.

22 Now, the defendants are also charged with
23 possession of a weapon during the commission or
24 attempt to commit a violent crime.

25 The State must prove beyond a reasonable doubt

1 that the defendants possessed a firearm or visibly
2 displayed what appeared to be a firearm during the
3 commission of a violent crime.

4 A firearm means any machine gun, automatic
5 rifle, revolver, pistol, or any weapon which will or
6 is designed and may be readily converted to expel a
7 projectile.

8 In order to find the defendant -- to find the
9 defendant or defendants guilty of possession of a
10 weapon during the commission of a violent crime, you
11 must find first that the defendant is guilty either
12 of committing a violent crime or attempting to commit
13 a violent crime. And I instruct you that murder and
14 attempted armed robbery are considered violent crimes
15 under our law.

16 Now, the defendants are also charged with
17 possession of a handgun by one less than 18 years of
18 age. The State must prove beyond a reasonable doubt
19 that a person under the age of 18 possessed or
20 acquired a handgun in this state.

21 Now, the defendants are also charged with
22 lynching in the first degree. First degree lynching
23 is defined as an act of violence inflicted by a mob
24 upon the body of another person which results in the
25 death of the person.

1 The elements of lynching in the first degree
2 state -- the State must prove beyond a reasonable
3 doubt: One, an act of violence; two, inflicted by a
4 mob; three, upon the body of another; and four, which
5 resulted in death.

6 Mob is defined as the assemblage of two or more
7 persons without color or authority of law for the
8 premeditated purpose and with the premeditated intent
9 of committing an act of violence upon another person.

10 Common intent to do violence may be formed
11 before or during the assemblage. However, to sustain
12 a conviction for lynching, the State must produce at
13 least some evidence of premeditation.

14 And premeditation connotes willful deliberation
15 or planning or conscious consideration preceding a
16 particular act.

17 Now ladies and gentlemen, you're not here to
18 reward your friends or punish your enemies. You're
19 not partisans or advocates for the State of South
20 Carolina or these defendants.

21 You're simply here to determine what the true
22 facts are in this case. You have been selected by
23 both the State and these defendants to be fair and
24 impartial jurors.

25 And it is your duty then by your joint

1 deliberation to determine the truth in this case,
2 giving to the defendants the benefit of every
3 reasonable doubt on each and every issue.

4 Then to the facts which you determine to be
5 true, you're to take and apply the law which I am now
6 giving to you and arrive at a verdict which speaks
7 the truth.

8 And when you have accomplished this, you will
9 have satisfied your responsibilities and oaths that
10 you took as jurors and your responsibility to this
11 court.

12 Now, I have asked my law clerk to type up
13 possible verdict forms in this case. And I have two
14 possible verdict forms, one for each defendant.

15 And you're to consider each defendant separately
16 on each one of these charges. And we've simply
17 listed them in the order they are on the indictment.
18 And it's the caption of the case and possible
19 verdicts.

20 On Teron Jackson, is count one, murder. We the
21 jury find the defendant Teron Hakeen Jackson guilty
22 of murder or we the jury find the defendant Teron
23 Hakeen Jackson not guilty of murder.

24 It must be a unanimous verdict. And whichever
25 your verdict is from that, you would sign the

1 appropriate box.

2 The order that I place them in makes no
3 difference. You're to draw no inference from that's
4 whatsoever. We just put them in some order.

5 Count two is attempted armed robbery of
6 Dominique Wimberly. We the jury find the defendant
7 Teron Hakeen Jackson guilty of attempted armed
8 robbery of Dominique Wilson. If that's your verdict,
9 you should sign it there.

10 Your other option is we the jury find the
11 defendant Teron Hakeen Jackson not guilty of
12 attempted armed robbery of Dominique Wilson. And if
13 that's your verdict, you would sign there.

14 Number three is -- count three is attempted
15 armed robbery of Toni Wilson. We the jury find the
16 defendant Teron Hakeen Jackson guilty of attempted
17 armed robbery of Toni Wilson or we the jury find the
18 defendant Teron Hakeen Jackson not guilty of
19 attempted armed robbery of Toni Wilson.

20 Whichever is your verdict, you would sign the
21 appropriate space. Then you would go down. Same
22 thing to possession of weapon during a violent crime.
23 Guilty or not guilty.

24 The possession of a handgun by one less than 18
25 years of age, guilty or not guilty. And the last is

1 lynching.

2 And these verdict forms are exactly the same.
3 It's just two different names, so you consider each
4 of the defendants separately, go down these verdicts
5 of each one.

6 Now, if you find on any one of these verdict
7 forms like you find Mr. Jackson guilty of murder, you
8 will not consider lynching.

9 If you -- if you find him not guilty of murder,
10 then you may consider whether he -- the State's
11 proved beyond a reasonable doubt he's guilty of
12 lynching.

13 But he can't be -- neither one of them can be
14 guilty of both murder and lynching on the same death.
15 They can be guilty of one or the other, but they
16 can't be -- if you find the State has proved beyond a
17 reasonable doubt they are guilty of murder, then you
18 wouldn't go to lynching.

19 If you find that the State has not proven beyond
20 a reasonable doubt that they are guilty of murder,
21 then you may consider whether they have proved beyond
22 a reasonable doubt that they are guilty of lynching,
23 because they are separate elements in those two
24 crimes as I explained to you.

25 But you can't find them guilty of both. You can

1 find obviously not guilty of both, but you can't find
2 them guilty of both.

3 If you don't think the State has met its burden
4 of proof on murder, you would find them not guilty of
5 murder or, you know, you can deal with them one
6 guilty and one not guilty, you have to treat them
7 separately, but you can't just find them guilty of
8 murder and lynching.

9 And so I'm going to send you to the jury room.
10 I'm going to be sure that I have covered everything
11 with these attorneys. If I have forgotten something
12 to charge you with, I will bring you back out and
13 charge you further on the law.

14 If they think I have covered everything that
15 applies to this case, then I will send this verdict
16 form into the jury room with you along with all of
17 the evidence.

18 When you receive the verdict form and evidence,
19 that will be your signal to start your deliberation.
20 And you -- when you finish your deliberation, you
21 will knock on the door and tell the bailiff you have
22 reached a verdict, I will bring you back out to
23 receive the verdict.

24 Now, for some reason any of you need to go to
25 the restroom, you have got to stop your

1 deliberations. You can only talk about this case
2 when all 12 of you are in the room.

3 So if somebody leaves, stop your deliberation
4 until that person returns and then start back up
5 where you left off till you have reached a unanimous
6 verdict. And it must be a unanimous verdict which
7 means all 12 of you must agree on the verdict.

8 Now, it looks like my -- all my original 12 are
9 in reasonably good health. Y'all think y'all going
10 make it the rest of the afternoon? If you do, I'm
11 not going to put an alternate in place, and the two
12 alternates need to stay with me, because once it goes
13 back, only the original 12 can decide this case.

14 The only reason I have got alternates in this
15 case is if I lost one of the members of the jury and
16 we didn't have an alternate in place, we would have
17 to start the trial all over again. So that's why I
18 did that.

19 So I will send you to the jury room and either
20 when you get these, this evidence means you can
21 start. If you don't, I will bring you back out.
22 Don't start discussing the case yet till you get this
23 paperwork.

24 Then you -- my two alternates y'all can stay
25 with me.

1 (Jury left the courtroom at 3:34 pm.)

2 THE COURT: Any exceptions or deletions on
3 behalf of the State?

4 MR. CONNER: None from us, Your Honor.

5 MR. MURPHY: No, Your Honor.

6 MR. SULLIVAN: None, Your Honor.

7 THE COURT: All right. Gentlemen, if y'all will
8 come up here with the Court Reporter and be sure that
9 we all agree she has all the evidence, then we'll
10 send it in to the jury.

11 (Whereupon there was a pause.)

12 THE COURT: I assume y'all have looked at the
13 verdict form. Y'all have any objection to the
14 verdict form?

15 MR. MURPHY: No, sir. They are fine.

16 THE COURT: Okay.

17 (Jury began deliberations at 3:42 pm.)

18 THE COURT: Gentlemen, I have a question.
19 Somebody get Mr. Devoe (sic) and get your clients in
20 here.

21 (Whereupon there was a pause.)

22 THE COURT: Mr. Conner, I have a question from
23 the jury. Now, you want to read it?

24 (Whereupon there was a pause.)

25 THE COURT: Now, I have a question from the

1 jury. Question is, why didn't Toni Wilson testify.
2 Signed by Belinda Lowder, foreman. I can either
3 write the answer to that question out, send it back
4 in there, or bring them back out and explain it to
5 them.

6 And the only answer that I know I can give them
7 is that I can't tell them the answer. That is --
8 that is an evidentiary issue that they have to
9 consider.

10 They heard all the evidence they are going to
11 hear in this case, they have got to decide this case
12 based on the evidence they heard, but I can only
13 answer questions of law, so I can't answer that
14 question, that they must decide this case based on
15 the evidence that's in this record and the law that I
16 gave them. Does either side disagree with that
17 answer?

18 MR. MURPHY: No, Your Honor.

19 MR. SULLIVAN: No, sir.

20 THE COURT: All right. Make this easier for me
21 to bring them out explain and it to them real quick
22 and send them back. So if you will get me the jury.

23 (Jury entered the courtroom at 4:12 pm.)

24 THE COURT: Thank you, sir. Madam forelady and
25 ladies and gentlemen, I have received the question

1 from y'all, the question is, why didn't Toni Wilson
2 testify.

3 And I'm not allowed to answer that question
4 because that's a question dealing with evidence in
5 this case. I can only answer questions of law.

6 So if you have a question about what the law is
7 and what I -- I can answer that, but I can't answer
8 questions of fact. All I can tell you is you have
9 heard all of the evidence you're going to hear in
10 this case.

11 So you have got to decide this case based on the
12 evidence you heard and not speculate on things you
13 didn't hear. You simply must decide this case based
14 on the facts of what you heard from this witness
15 stand or from the exhibits and the evidence that was
16 introduced.

17 So I can only explain to you the law. So if you
18 have any legal questions or if there is something you
19 didn't understand, I can bring you back out and try
20 to explain that to you, but I can't comment on the
21 facts. I can't explain the facts.

22 You have heard the evidence and you have got to
23 decide based on what you heard, okay? So if you will
24 go back and continue your deliberations. And if you
25 have any questions of law, if you will write them

1 down, I will bring you back out and try to answer
2 them.

3 If you have got a question of facts, you have
4 heard all you're going to hear. You have got to
5 figure it out, okay? Thank you.

6 (Jury left the courtroom at 4:14 pm.)

7 THE COURT: Any exceptions or deletions from the
8 State?

9 MR. CONNER: None from us, Your Honor.

10 THE COURT: From the defense?

11 MR. MURPHY: No, Your Honor.

12 MR. SULLIVAN: No, sir.

13 THE COURT: All right. Then we will stand at
14 ease till we get another knock on the door.

15 (Whereupon a recess was had in this case.)

16 (Whereupon, Court's Exhibit No. 1 was marked for
17 identification only.)

18 (Whereupon there was a recess.)

19 THE COURT: All right. Ladies and gentlemen, I
20 understand we have a verdict. I understand this has
21 been an emotional case for everybody involved. And
22 if you don't think you can -- I don't know -- none of
23 us know what this verdict is going to be.

24 But if you don't think you can control yourself
25 when this verdict is read, you need to leave now

1 because I'm not going to have any outbursts in the
2 courtroom.

3 So if you don't think you can control yourself,
4 get up and leave now. Otherwise I respect or expect
5 you to be reverent and quite while this verdict is
6 read. Anything before I bring the jury in from the
7 State?

8 MR. CONNER: Nothing from us, Your Honor.

9 THE COURT: From the defense?

10 MR. MURPHY: No, sir.

11 MR. SULLIVAN: No, sir.

12 THE COURT: All right. Bring us the jury.

13 VERDICT

14 (Jury entered the courtroom at 5:11 pm.)

15 THE COURT: Well -- yeah, I'm sorry. You have
16 got -- that's all right. I was counting chairs.
17 Madam forelady, I understand y'all have reached a
18 verdict?

19 FORELADY: Yes, sir, we have.

20 THE COURT: Is it unanimous?

21 FORELADY: Yes, sir, it is.

22 THE COURT: If you would pass it up.

23 (Bailiff approached the forelady and then
24 approached the Court.)

25 THE COURT: All right, sir. You may publish the

1 verdict.

2 BAILIFF: For the State of South Carolina,
3 County of Sumter, in the Court of General Sessions,
4 docket number 2007-GS-43-816, the State of South
5 Carolina versus Teron Hakeen Jackson and Jermel
6 Anthony Robinson, defendants.

7 As to Teron Hakeen Jackson, count one, murder,
8 we the jury find the defendant Teron Hakeen Jackson
9 guilty of murder.

10 As to count two, attempted robbery, armed
11 robbery of Dominique Wimberly, we the jury find the
12 defendant Teron Hakeen Jackson guilty of attempted
13 armed robbery on Dominique Wimberly.

14 Count three, attempted robbery, armed robbery of
15 Toni Wilson, we the jury find the defendant Teron
16 Hakeen Jackson not guilty of attempted armed robbery
17 of Toni Wilson.

18 As to count four, possession of a firearm during
19 the commission of a violent crime, we the jury find
20 the defendant Teron Hakeen Jackson guilty of
21 possession of a firearm during the commission of a
22 violent crime.

23 As to count five, possession of a handgun by one
24 less than 18 years of age, we the jury find the
25 defendant Teron Hakeen Jackson guilty of possession

1 of a handgun by one less than 18 years of age.
2 Signed by Belinda Lowder.- Dated April the 22nd,
3 2009.

4 *THE COURT:* What about...

5 *BAILIFF:* As to Jermel Anthony Robinson, count
6 one, murder, we the jury find the defendant Jermel
7 Anthony Robinson not guilty of murder.

8 As to count two, attempted armed robbery of
9 Dominique Wimberly, we the jury find the defendant
10 Jermel Anthony Robinson guilty of attempted armed
11 robbery of Dominique Wimberly.

12 Count three, attempted armed robbery of Toni
13 Wilson, we the jury find the defendant Jermel Anthony
14 Robinson not guilty of attempted armed robbery of
15 Toni Wilson.

16 Count four, possession of a firearm during the
17 commission of a violent crime, we the jury find the
18 defendant Jermel Anthony Robinson guilty of
19 possession of a firearm during the commission of a
20 violent crime.

21 As to count five, possession of a handgun by one
22 less than 18 years of age, we the jury find the
23 defendant Jermel Anthony Robinson guilty of
24 possession of a handgun by one less than 18 years of
25 age.

1 Signed by foreperson, Belinda Lowder. Dated
2 April the 22nd, 2009.

3 Ladies and gentlemen of this jury, if this is
4 your verdict, so say so ye all by raising your right
5 hand. Thank you.

6 THE COURT: Did you read count six?

7 BAILIFF: Sir?

8 THE COURT: Did you read count six?

9 BAILIFF: Wasn't no count six.

10 THE COURT: Let's see.

11 BAILIFF: I beg your pardon, Judge. It was. I
12 apologize. As to count six, as far as Teron Hakeen
13 Jackson, count six lynching in the first degree, we
14 the jury find the defendant Teron Hakeen Jackson not
15 guilty of lynching in the first degree. Thank you.

16 THE COURT: And did you read it on Mr. Robinson?

17 BAILIFF: Wasn't on Mr. Robinson.

18 (Bailiff was conferring with Judge.)

19 THE COURT: Mr. Robinson was found guilty of
20 lynching and not guilty of murder. Mr. Jackson was
21 found guilty of murder and not guilty on lynching.
22 And I don't know whether we got that straight in the
23 record, but I -- maybe I didn't follow it close
24 enough.

25 (The Court was conferring with the bailiff.)

1 THE COURT: Followed my instructions, they
2 couldn't find him guilty of both. On murder they
3 found him not guilty of murder but guilty of
4 lynching. I just wanted to clear up for the record.
5 He may have made it clear, but I didn't follow it
6 real well. So is there anything from the State?

7 MR. CONNER: Let me be sure that I understand,
8 Your Honor.

9 THE COURT: All right.

10 MR. CONNER: Jackson was found guilty of murder
11 but not of lynching?

12 THE COURT: That's correct.

13 MR. CONNER: And Jermel Robinson was found
14 guilty of lynching first degree but not of murder.

15 THE COURT: That's correct.

16 MR. CONNER: I understand.

17 THE COURT: Anything from the State before I
18 dismiss this jury?

19 MR. CONNER: Nothing from us.

20 THE COURT: From the defense?

21 MR. MURPHY: No, Your Honor.

22 MR. SULLIVAN: No, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, I
24 want to thank you for your service in this case. I'm
25 sorry. They want y'all back at 9:30 in the morning

1 to draw another jury.

2 And I am not sure I'm going to be here, but
3 Judge James is going to be here. You -- I have told
4 you earlier you couldn't talk about this case. Now
5 you can talk about it with anybody you want to.

6 You can go tell your family what you did. You
7 can talk about it with anybody. But you don't have
8 to. If you don't want to talk about it, simply tell
9 them you don't want to. I appreciate your service.

10 Y'all were a good jury. You paid close
11 attention to the evidence in this case, and I
12 appreciate that. And I may see you tomorrow, may
13 not.

14 But I don't know whether they are going to start
15 a case tomorrow. But if it is, it ain't going to be
16 a long one. If I have still got fever in the
17 morning, I ain't coming. Any way, y'all have a nice
18 evening. Thank you.

19 (Jury left the courtroom at 5:20 pm.)

20 *THE COURT:* Is there anything before we pass
21 sentence? Do you need some time? Have you got the
22 paperwork filled out?

23 *MR. CONNER:* I haven't got the paperwork ready.

24 *THE COURT:* Need me to give y'all a minute? I
25 mean...

1 MR. CONNER: It would take me a minute to fill
2 this out.

3 THE COURT: I will give you a copy of these
4 verdict forms because I know -- where you can follow.
5 I will step down a second. Y'all get all the
6 paperwork and everybody and we'll...

7 MR. MURPHY: Your Honor, we'd just make --
8 briefly just renew all motions.

9 THE COURT: I'm sorry. I should have done that.
10 Okay. And you want to renew the motions you made
11 during the trial?

12 MR. MURPHY: Yes, sir, and ask for a new trial
13 based on the initial denial of the suppression of the
14 statement.

15 THE COURT: And I understand that. And I
16 respectfully deny your motions. I think, you know,
17 the jury has made their decisions. There's
18 sufficient evidence in this record to make -- their
19 verdicts are consistent and I respectfully deny your
20 motion.

21 I will step down a minute. Y'all get ready, I
22 will come back for sentencing.

23 (Whereupon there was a pause.)

24 SENTENCING

25 THE COURT: Mr. Solicitor, you need to tell me

1 anything else?

2 MR. CONNER: Your Honor, this is Thomas
3 Wimberly, and his wife is also here, and they have
4 indicated an interest in addressing the Court.

5 THE COURT: Okay. Certainly. Mr. Wimberly?

6 MR. WIMBERLY: I'm not a very good writer, but
7 this is from the heart. And it took us from
8 June 2007 to get here. Like I said, I'm Thomas
9 Wimberly, the father of Dominique Thomas Michael
10 Wimberly.

11 And his mother, Gloria Jean Wimberly is right
12 here. And also his sister, Sharika and Tiani and his
13 older brother Virgil which couldn't make it here
14 today. He's stationed at -- air field in Savannah,
15 Georgia.

16 Let me say that Dominique was robbed with dreams
17 of becoming a lawyer and a psychologist. He loved
18 music and writing songs. Sharika, Virgil, and Tiani
19 can't have the baby brother they wanted so much while
20 we were -- while we were in Honolulu, Hawaii, which
21 where Dominique was born December the ninth, 1986.

22 My wife Gloria and I will never see the
23 grandson, granddaughters, and, yes, maybe great
24 grandchildren. Not only us, but his sister and
25 brothers won't get their chances to have be aunt and

1 uncles.

2 Dominique will -- would extend his hand to help
3 you and even give you the clothes off his back if
4 needed so. Dominique loved and liked people
5 including all of his family and friends.

6 Dominique was very athletic and also he liked
7 the game of pool or billiard. There is no telling
8 how much more Dominique would do. We will also miss
9 his smile and him making people laugh and, well, just
10 a beautiful person and a son.

11 All of these valuable things we have seen of him
12 and know of Dominique will be no more. Why? Because
13 Jermel Robinson and Teron Jackson murdered him. They
14 took away a valuable and lovable young man's life.

15 Those killers didn't give Dominique, my son, a
16 chance or choice to live. Instead, they just killed
17 him and robbed him and -- of his life. They
18 shouldn't be given a chance to live and talk about
19 how they killed my son, Dominique Wimberly.

20 Justice must be served. And we the family will
21 seek the death or life penalty to both of these
22 killers, Jermel Robinson and Teron Jackson.

23 Dominique had a good life to live. The killings
24 must stop here with them. They deserve the death or
25 life penalty. And you know what? Dominique will

1 also be in our memories and in our hands of the God.

2 The last words I heard from Dominique -- and it
3 was on Father's Day -- that, I love you, Dad. And
4 Dominique, you place these criminals off the street
5 and possibly save another lives, we the family have
6 had a thorn in our sides for a long time.

7 And we do not want to say -- excuse me -- and I
8 say it again. Do not want to wait another -- over
9 another two years for a trial like this again.

10 Jermel Robinson and Teron Jackson I would like
11 for you to while sitting -- sit in there to think
12 about if you were at the age of 53 of age and your
13 child at the age of 19 and you have by law the right
14 to put away a criminal act like this, how would you
15 feel of this?

16 If the shoe fits, wear it. If the chain or
17 shackles fit -- excuse me -- if the chain or shackles
18 fits you where you cannot run away, and your cell
19 room is just enough space for you and you'll have
20 something to think about every day is why -- why did
21 I take someone else's child's life.

22 Again, we ask for justice to be served. And
23 Dominique, we know that you're in heaven and we're
24 missing and missing you and you're looking upon us.
25 I know that one day that the music sounds and our

1 hearts cry its tears because we cannot let you go
2 until the case is closed. Thank you.

3 THE COURT: Thank you, sir.

4 MR. WIMBERLY: This here is picture of my 19
5 year old son, Dominique, which is 20 years old
6 right -- 21 years old. And in school he used to be
7 an A and B student. He graduated in 2006.

8 And if he was still alive today, he would have
9 been going with his third year of college. And we
10 won't get that chance to see him graduate being a
11 lawyer or psychologist.

12 THE COURT: Thank you, sir.

13 DEXTER WIMBERLY: I want to say, you know what
14 I'm saying -- my name is Dexter. I'm Dominique
15 second cousin. Felt like first cousin. But when,
16 you know what I'm saying, they put it in mind to go
17 forth to the robbery, they didn't rob, they -- it
18 wasn't attempted, you know what I'm saying. The
19 robbery went through.

20 They just didn't understand that, you know what
21 I'm saying, they said money or jewels or anything,
22 and they took a life and they took their life and
23 they took their, you know what I'm saying, from their
24 parents' point of view, they took themselves away
25 from they parents, you know what I'm saying.

1 They took -- you know what I'm saying. It could
2 have been -- they could have had a sister or son. It
3 took them. They took a parent. Somebody -- you know
4 what I'm saying. They took a child from somebody.

5 Now they got to sit in a cell and they are
6 taken from their loved ones. That's why everybody
7 just need to come together. You know what I'm
8 saying. This needs to stop.

9 Let this be a lesson. When you do something
10 wrong, don't expect something wrong to go right. It
11 ain't going to never go right. Nothing wrong can go
12 right. And that's all I got say.

13 *THE COURT:* Thank you, sir. Anybody else?

14 *TERRANCE FREDERICK:* Say one thing. Dominique,
15 we know he's in heaven. But I want to tell these
16 young men, you have an opportunity to give your life,
17 turn your life around. Your life is not over, so you
18 have an opportunity to make things right with God.
19 Please do that.

20 *THE COURT:* Thank you. Thank y'all. I'm truly
21 sorry about your loss. Truly your son didn't deserve
22 this. He was minding his own business. He was a
23 victim, and I hate that you had to go through this
24 and I wish I could do something to bring your son
25 back, but I can't.

1 MR. WIMBERLY: Well, they are going to have a --
2 hopefully a long time to think about this. Every day
3 they wake or go to sleep, they are going to -- they
4 are going to think of Dominique. You know, they
5 shouldn't have done it.

6 THE COURT: They made some terrible decisions
7 that night that affected a lot of peoples lives, will
8 affect a lot of peoples lives for a long time.

9 MR. WIMBERLY: Right.

10 THE COURT: Thank y'all.

11 MR. WIMBERLY: All right.

12 THE COURT: Anything else, Mr. Conner?

13 MR. CONNER: No, sir.

14 THE COURT: All right. Who wants to go first?

15 MR. SULLIVAN: I'll go first, Your Honor. Mr.
16 Robinson when this happened was 17 years old, so I
17 would ask you to take that in consideration. I can't
18 tell you why -- what would cause him to do this.

19 I don't know if it was just because he was
20 impressionable, I don't know if he was led by
21 anybody. When I have talked to him out at the jail,
22 he's -- you know, he's always seemed like a very nice
23 guy to me, particularly, you know, I -- I have had
24 clients who aren't nice like he is.

25 And -- and whenever I talk to him, I can't -- I

1 talk to him and I -- and I imagine what happened that
2 night and it's, you know, I -- I have a hard time
3 putting it together.

4 I don't think that he has any significant prior
5 record. I -- I spoke with him. I think Mr. Murphy
6 and I spoke with both our clients about a plea, and I
7 don't know if you know we -- we recognized the
8 strength of the State's case from the beginning.

9 And I don't know if maybe with Mr. Robinson if,
10 like I said, him just being young and impressionable,
11 if he was listening to the -- to the jailhouse
12 lawyers out at the jail or -- but like I said, I
13 would just ask that you take into consideration that
14 he was 17 years old when this happened, and allow him
15 to have some life to look forward to one day.

16 And this is Betty Robinson and Melvin Robinson,
17 who they -- I don't know if -- they are here to
18 support him. And I don't think Betty Robinson wants
19 to say anything. She just wants to be here and show
20 her support. And -- and I don't know if Mr. Melvin
21 Robinson wants to say anything.

22 MR. ROBINSON: No, not. Want to say anything?

23 THE COURT: Yes, ma'am. Want to tell me
24 anything?

25 MRS. ROBINSON: Yes, sir. My son, this is the

1 first time he ever been in trouble. He never been
2 did in no trouble ever since he grow up until now.
3 After that, you know, grow up and what's go on -- I
4 don't know if been in the wrong crowd, the wrong
5 group.

6 You know, children going to be children. And I
7 ain't going to say mine better than nobody else
8 because what mine do, I don't know what the others
9 do -- other kids do the same. Somebody ain't no
10 better than nobody else. Melvin?

11 MR. ROBINSON: That's it.

12 THE COURT: You want to tell me anything?

13 MR. ROBINSON: That's all. Thank y'all, too.

14 THE COURT: Okay. Anybody else?

15 DEFENDANT ROBINSON: Your Honor, I'd like to
16 say -- I speak to the family of the victim, and I'm
17 not very well speaking. What I'll say is I sat down
18 to take a lot of time to think about this and just I
19 would say -- because I know offer an apology for the
20 loss of your child, you know, anyone is -- it's just
21 more than that.

22 It's more than sorry or I apologize. And I'm --
23 I was speaking from the truth. Mr. Wimberly and
24 Mrs. Wimberly, I never known your son and I have
25 never seen him a day in my life whether than someone

1 believed honesty behind that or not.

2 And I want to inform the Courts that as Mr.
3 Sullivan said, he don't know if it was jailhouse
4 lawyers influence or what it was, and it wasn't
5 influence of anything.

6 My behalf -- on my part of taking this case to
7 trial was I really wanted the Court as well as the
8 victim's family to truly know my behalf of what
9 happened that night on my part as well.

10 And I speak to Mr. Wimberly again. Sir, I --
11 I'll say, it's not a lot of fathers like you today
12 that -- the way you have raise your child or the
13 things I know or known of him or heard of him, and
14 it's not a lot of fathers out there like that.

15 And from what I understand, he had good guidance
16 in his life, he had understanding, and I'm sorry more
17 than I can probably ever speak of him because I never
18 know him.

19 But I'm a person. I can be friends with anyone
20 or get along with anyone, but I never got the chance
21 to know him. And I'm not speaking back on the case
22 of the trial, but as Mr -- as Captain Fulmore --
23 Sergeant Fulmore said, when I was in the hospital,
24 which he said I questioned him about the victim, his
25 son, and so the questions -- that's true.

1 I did question him after the incident that night
2 due to what happened, and it was all positive. I had
3 nothing negative to think because he stayed with me
4 for a long time to just know the fact that someone
5 got killed behind an incident that really just
6 took -- shouldn't have took place or that happened
7 that night. And he's speaking -- your name again?

8 DEXTER WIMBERLY: Dexter.

9 DEFENDANT ROBINSON: Dexter. As you said, you
10 know, man, I truly feel you from my heart when you
11 say that everyone as one should come together and
12 stop all of what is going on because I'm a person who
13 truly feel that way.

14 And I done -- I do everything I can to try to
15 have others see it that way, too. But like I said, I
16 can't explain exactly from my heart what I'm trying
17 to say.

18 And Terrance, as you saying, man, I just hope to
19 God in my life that I can see you again one day or
20 get on the right track. And when I say the right
21 track, I'm not at all a bad person.

22 I want to --- Mrs. Wimberly, Mr. Wimberly, the
23 Court, I want you all to know that I'm not a bad
24 person. As my record can show, I never been
25 convicted of any crime in my life or anything that