

22062

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

PRINCE DEVEN SNIPES

APPELLANT

APPELLATE CASE NO. 2013-001651

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (dated July 16 - 17, 2013)	1
JURY VOIR DIRE	21
JURY SELECTION	38
PRE-TRIAL MOTIONS	46
COURT'S INSTRUCTIONS TO THE JURY	56
OPENING STATEMENT BY MR. BARNETTE	62
OPENING STATEMENT BY MR. CAMPBELL	66
TESTIMONY	
ROSE MARIE HOUEY	69
MARTHA JEAN HOUEY	80
DOROTHY BOYD	98
BILLY ANTHONY	107
ILA SIMMONS	144
JANICE ROSS	152
DENNIS FOWLER	181
IRA PARNELL, JR.	182
D. M.	196
PRINCE DEVAN SNIPES	211
NIKITA HARDY	246
ROSE MARIE HOUEY	264

TIM CLARK	266
MOTION FOR A DIRECTED VERDICT	270
CLOSING ARGUMENT BY MR. CAMPBELL	273
CLOSING ARGUMENT BY MR. BARNETTE	289
CHARGE ON THE LAW	301
VERDICT	332
SENTENCING	336
INDICTMENT	339
CERTIFICATE OF COUNSEL	341

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 PRINCE DEVEN SNIPES,) 2012-GS-11-00608
7 DEFENDANT.) JULY 16, 2013
GAFFNEY, SOUTH CAROLINA

8 (VOLUME I)
9

10 B E F O R E:

11 THE HONORABLE J. DERHAM COLE, JUDGE. ; And a Jury.
12

13
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INDEX

(JULY 16, 2013)

WITNESSES

PAGE

JURY VOIR DIRE -- PAGE 18

JURY SWORN -- PAGE 56

OPENING STATEMENT BY MR. BARNETTE -- PAGE 62

OPENING STATEMENT BY MR. CAMPBELL -- PAGE 66

ROSE MARIE HOUEY (SW)

DIRECT EXAMINATION BY MR. BARNETTE 69

CROSS EXAMINATION BY MR. CAMPBELL 76

MARTHA JEAN HOUEY (SW)

DIRECT EXAMINATION BY MR. BARNETTE 80

CROSS EXAMINATION BY MR. CAMPBELL 88

REDIRECT EXAMINATION BY MR. BARNETTE 97

DOROTHY BOYD (SW)

DIRECT EXAMINATION BY MR. BARNETTE 98

CROSS EXAMINATION BY MR. CAMPBELL 102

INVESTIGATOR BILLY ANTHONY (SW)

DIRECT EXAMINATION BY MR. BARNETTE 107

CROSS EXAMINATION BY MR. CAMPBELL 133

REDIRECT EXAMINATION BY MR. BARNETTE 140

RECROSS EXAMINATION BY MR. CAMPBELL 143

1	INDEX	
2	(JULY 16, 2013)	
3	WITNESSES	PAGE
4	SLED AGENT ILA SIMMONS (SW)	
5	DIRECT EXAMINATION BY MR. BARNETTE	144
6	CROSS EXAMINATION BY MR. CAMPBELL	148
7	REDIRECT EXAMINATION BY MR. BARNETTE	151
8	DR. JANICE ROSS (SW)	
9	DIRECT EXAMINATION BY MR. BARNETTE	152
10	CROSS EXAMINATION BY MR. CAMPBELL	159
11	REDIRECT EXAMINATION BY MR. BARNETTE	166
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

INDEX

(JULY 17, 2013)

WITNESSES PAGE

CORONER DENNIS FOWLER (SW)

DIRECT EXAMINATION BY MR. BARNETTE 181

(NO CROSS EXAMINATION)

SLED AGENT IRA PARNELL, JR. (SW)

DIRECT EXAMINATION BY MR. BARNETTE 183

CROSS EXAMINATION BY MR. CAMPBELL 190

STATE RESTS -- PAGE 191

D.M. (DW)

DIRECT EXAMINATION BY MR. CAMPBELL 196

CROSS EXAMINATION BY MR. BARNETTE 203

REDIRECT EXAMINATION BY MR. CAMPBELL 209

PRINCE DEVEN SNIPES (DW)

DIRECT EXAMINATION BY MR. CAMPBELL 211

CROSS EXAMINATION BY MR. BARNETTE 227

REDIRECT EXAMINATION BY MR. CAMPBELL 241

RECROSS EXAMINATION BY MR. BARNETTE 243

NIKITA HARDY (DW)

DIRECT EXAMINATION BY MR. CAMPBELL 246

CROSS EXAMINATION BY MR. BARNETTE 256

REDIRECT EXAMINATION BY MR. CAMPBELL 262

DEFENSE RESTS -- PAGE 263

INDEX

(JULY 17, 2013)

1		
2		
3	WITNESSES.	PAGE
4	ROSE MARIE HOUEY (SW) (REPLY)	
5	DIRECT EXAMINATION BY MR. BARNETTE	264
6	CROSS EXAMINATION BY MR. CAMPBELL	265
7	OFFICER TIM CLARK (DW) (REPLY)	
8	DIRECT EXAMINATION BY MR. BARNETTE	266
9	(NO CROSS EXAMINATION)	
10		
11	CLOSING ARGUMENT BY MR. CAMPBELL -- PAGE 273	
12	FINAL ARGUMENT BY MR. BARNETTE -- PAGE 289	
13	COURT'S JURY INSTRUCTION -- PAGE 301	
14	JURY VERDICT -- PAGE 332	
15	SENTENCING -- PAGE 336	
16	REPORTERS' CERTIFICATE -- PAGE 338	
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-1	MAP OF DRIVE, GAFFNEY, SC AREA		109
S-2	DIAGRAM OF CRIME SCENE AT DRIVE, GAFFNEY, SC		110
S-2-A	LARGER DIAGRAM OF CRIME SCENE AT DRIVE, GAFFNEY, SC		140
S-3	PICTURE OF TRUCK WHERE THE FURNITURE WAS BEING TAKEN OUT OF BY THE VICTIM, "BREEZY"		72
S-4	PICTURE OF TRUCK ON THE DRIVER'S SIDE TOWARDS THE AREA OF THE INCIDENT THAT "BREEZY" TOOK THE FURNITURE OUT OF THE TRUCK		72
S-5	PICTURE OF THE AREA WHERE THE VICTIM WAS FOUND FROM THE DIRECTION THAT THE DEFENDANT, PRINCE SNIPES, CAME FROM		114
S-6	PICTURE OF CONES WHERE SEVERAL SHELL CASINGS WERE FOUND (#1 THRU #7) AT CRIME SCENE		114
S-7	PICTURE OF CONES WHERE THE VICTIM'S BODY WAS FOUND (#8 THRU 17) AT CRIME SCENE		114
S-8	FIREBULLETS REMOVED FROM Breezy AT AUTOPSY BY DR. ROSS		131

EXHIBITS			
	NO.	DESCRIPTION	ID. EV.
1			
2			
3	S-9	GSR KIT DONE ON THE VICTIM	131
4		"BREEZY"	
5	S-10	FIREB CBC BRAND 9-MILLIMETER LUGER	128
6		CALIBER CARTRIDGE CASE (CONE #1)	
7	S-11	FIREB CBC BRAND 9-MILLIMETER LUGER	128
8		CALIBER CARTRIDGE CASE (CONE #2)	
9	S-12	FIREB CBC BRAND 9-MILLIMETER LUGER	128
10		CALIBER CARTRIDGE CASE (CONE #3)	
11	S-13	FIREB CBC BRAND 9-MILLIMETER LUGER	128
12		CALIBER CARTRIDGE CASE (CONE #4)	
13	S-14	FIREB CBC BRAND 9-MILLIMETER LUGER	128
14		CALIBER CARTRIDGE CASE (CONE #5)	
15	S-15	FIREB CBC BRAND 9-MILLIMETER LUGER	128
16		CALIBER CARTRIDGE CASE (CONE #6)	
17	S-16	FIREB WINCHESTER BRAND 9-MILLIMETER	128
18		LUGER CALIBER CARTRIDGE CASE (CONE #7)	
19	S-17	ONE FIREB BULLET FROM THE GROUND	128
20		(CONE #8)	
21	S-18	FIREB WINCHESTER BRAND 9-MILLIMETER	128
22		LUGER CALIBER CARTRIDGE CASE (CONE #11)	
23	S-19	FIREB WINCHESTER BRAND 9-MILLIMETER	129
24		LUGER CALIBER CARTRIDGE CASE (CONE #13)	
25			

	EXHIBITS			
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-20	ONE FIRED BULLET FROM THE WALL OF THE		129
4		TRAILER (CONE #18)		
5	S-21	SLED FIREARM REPORT AND SUPPLEMENT		147
6		REPORT (SLED LAB NO: 11-4365) FROM		
7		IRA PARNELL, JR.		
8	S-22	SLED GSR REPORT (SLED LAB NO: 11-4365)		184
9		FROM ILA SIMMONS		
10	S-23	CLOSE-UP PICTURE TO CONES #1 THRU #7		114
11		ON DRIVE, GAFFNEY, SC		
12	S-24	PICTURE OF CONE #1 WHERE 9-MILLIMETER		114
13		SHELL CASING WAS FOUND		
14	S-25	CLOSE-UP PICTURE OF CONE #1 AND		114
15		9-MILLIMETER SHELL CASING		
16	S-26	PICTURE OF CONE #2 WHERE 9-MILLIMETER		114
17		SHELL CASING WAS FOUND		
18	S-27	CLOSE-UP PICTURE OF 9-MILLIMETER		114
19		SHELL CASING AT CONE #2		
20	S-28	PICTURE OF CONE #2 AND #3		115
21	S-29	CLOSE-UP PICTURE OF 9-MILLIMETER		115
22		SHELL CASING AT CONE #3		
23	S-30	PICTURE OF CONES #2 AND #4 THRU #7		115
24	S-31	CLOSE-UP PICTURE OF 9-MILLIMETER SHELL		115
25		CASING AT CONE #4		

EXHIBITS

	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-32	PICTURE OF CONES #4 THRU #7		115
4	S-33	CLOSE-UP PICTURE OF 9-MILLIMETER		115
5		SHELL CASING AT CONE #5		
6	S-34	CLOSE-UP PICTURE OF 9-MILLIMETER		115
7		SHELL CASING AT CONE #6		
8	S-35	CLOSE-UP PICTURE OF 9-MILLIMETER		115
9		SHELL CASING AT CONE #7		
10	S-36	PICTURE OF CONES #8 THRU #17 AT		115
11		CRIME SCENE		
12	S-37	PICTURE OF BULLET FRAGMENT FOUND AT		115
13		CONE #8		
14	S-38	CLOSE-UP PICTURE OF BULLET FRAGMENT		115
15		FOUND AT CONE #8		
16	S-39	PICTURE OF CONES #8, #9, AND #10 AND		115
17		SHOWING TRENCH IN GROUND FROM BULLET		
18	S-40	PICTURE OF CONES #9 AND #10 AND THE		115
19		TRENCH FROM BULLET BETWEEN THEM		
20	S-41	PICTURE OF RULER BESIDE TRENCH FROM		116
21		BULLET FROM CONE #9 AND CONE #10		
22	S-42	PICTURE OF 9-MILLIMETER SHELL CASING		116
23		FOUND AT CONE #11		
24	S-43	PICTURE OF 9-MILLIMETER SHELL CASING		116
25		FOUND AT CONE #13		

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-44	PICTURE OF CONES #11 THRU #14 AT		116
4		CRIME SCENE		
5	S-45	PICTURE OF CIGARETTE FILTER FOUND AT		116
6		CONE #14 AT CRIME SCENE		
7	S-46	PICTURE OF NEWPORT CIGARETTE FILTER		116
8		FOUND AT CONE #15 AT CRIME SCENE		
9	S-47	PICTURE OF CONES #16 AND #17 AT		116
10		CRIME SCENE		
11	S-48	PICTURE OF RULER BESIDE THE TRENCH		116
12		FROM BULLET FROM CONE #16 TO #17		
13	S-49	PICTURE OF CONE #18 AT THE BULLET HOLE		116
14		NEAR THE FRONT PORCH OF DR.		
15	S-50	PICTURE OF BULLET HOLE MARKED BY CONE #18		116
16	S-51	CLOSE-UP PICTURE OF BULLET HOLE IN THE		116
17		SIDE OF DRIVE		
18	S-52	PICTURE OF THE BULLET HOLE ON THE INSIDE		116
19		OF SIDING OF DRIVE		
20	S-53	PICTURE OF BULLET HOLE IN THE WOOD FRAME		117
21		OF DRIVE		
22	S-54	PICTURE OF LEAD BULLET FOUND IN THE		117
23		INSULATION OF DRIVE		
24	S-55	PICTURE OF 1997 LINCOLN TOWN CAR		75
25		VIN #1LNLM82W6VY655642		

EXHIBITS

	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-56	911 REPORT		266
4				
5	D-1	VOLUNTARY STATEMENT OF MARTHA HOUEY	93	
6				
7	CT-1	DEFENDANT'S CERTIFIED NORTH CAROLINA	51	
8		SENTENCING SHEETS		
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, JULY 16, 2013)

2 (Map of the Drive, Gaffney, South
3 Carolina area marked as State's Exhibit No. 1 for
4 identification)

5 (Diagram of Crime Scene at Drive,
6 Gaffney, South Carolina marked as State's Exhibit No. 2 for
7 identification)

8 (Larger Diagram of Crime Scene at
9 Drive, Gaffney, South Carolina marked as State's Exhibit No.
10 2-A for identification)

11 (Picture of Truck where the furniture was being
12 taken out of by the victim "Breezy" marked as
13 State's Exhibit No. 3 for identification)

14 (Picture of Truck on the driver's side towards the
15 area of the incident that "Breezy" took the
16 furniture out of the truck marked as State's Exhibit No. 4
17 for identification)

18 (Picture of the area where the victim was found
19 from the direction that the defendant, Prince Snipes, came
20 from marked as State's Exhibit No. 5 for identification)

21 (Picture of cones where several shell casings were
22 found (#1 thru #7) at crime scene marked as State's Exhibit
23 No. 6 for identification)

24 (Picture of cones where the victim's body was
25 found (#8 thru #17) at crime scene marked as State's Exhibit

1 No. 7 for identification)

2 (Fired bullet fragments removed from Breezy
3 at autopsy by Dr. Ross marked as State's Exhibit No. 8 for
4 identification)

5 (GSR Kit done on the victim, "Breezy"
6 , marked as State's Exhibit No. 9 for identification)

7 (Fired CBC brand 9-millimeter Luger caliber
8 cartridge case (Cone #1) marked as State's Exhibit No. 10
9 for identification)

10 (Fired CBC brand 9-millimeter Luger caliber
11 cartridge case (Cone #2) marked as State's Exhibit No. 11
12 for identification)

13 (Fired CBC brand 9-millimeter Luger caliber
14 cartridge case (Cone #3) marked as State's Exhibit No. 12
15 for identification)

16 (Fired CBC brand 9-millimeter Luger caliber
17 cartridge case (Cone #4) marked as State's Exhibit No. 13
18 for identification)

19 (Fired CBC brand 9-millimeter Luger caliber
20 cartridge case (Cone #5) marked as State's Exhibit No. 14
21 for identification)

22 (Fired CBC brand 9-millimeter Luger caliber
23 cartridge case (Cone #6) marked as State's Exhibit No. 15
24 for identification).

25 (Fired Winchester brand 9-Millimeter Luger caliber

1 cartridge case (Cone #7) marked as State's Exhibit No. 16
2 for identification)

3 (One fired bullet from the ground (Cone #8) marked
4 as State's Exhibit No. 17 for identification)

5 (Fired Winchester brand 9-millimeter Luger caliber
6 cartridge case (Cone #11) marked as State's Exhibit No. 18
7 for identification)

8 (Fired Winchester brand 9-millimeter Luger caliber
9 cartridge case (Cone #13) marked as State's Exhibit No. 19
10 for identification)

11 (One fired bullet from the wall of the trailer
12 (Cone #18) marked as State's Exhibit No. 20 for
13 identification)

14 (SLED Firearm report and supplement report (SLED
15 Lab No.: 11-4365) from Ira Parnell, Jr., marked as State's
16 Exhibit No. 21 for identification)

17 (SLED GSR report (SLED Lab No.: 11-4365) from Ila
18 Simmons marked as State's Exhibit No. 22 for identification)

19 (Close-up picture to cones #1 thru #7 on
20 Drive, Gaffney, S.C. marked as State's Exhibit No. 23
21 for identification)

22 (Picture of Cone #1 where 9-millimeter shell
23 casing was found marked as State's Exhibit No. 24 for
24 identification)

25 (Close-up Picture of Cone #1 and 9-millimeter

1 shell casing marked as State's Exhibit No. 25 for
2 identification)

3 (Picture of Cone #2 where 9-millimeter shell
4 casing was found marked as State's Exhibit No. 26 for
5 identification)

6 (Close-up picture of 9-millimeter shell casing at
7 Cone #2 marked as State's Exhibit No. 27 for identification)

8 (Picture of Cone #2 and #3 marked as State's
9 Exhibit No. 28 for identification)

10 (Close-up picture of 9-millimeter shell casing at
11 Cone #3 marked as State's Exhibit No. 29 for identification)

12 (Picture of Cones #2 and #4 thru #7 marked as
13 State's Exhibit No. 30 for identification)

14 (Close-up picture of 9-millimeter shell casing at
15 Cone #4 marked as State's Exhibit No. 31 for identification)

16 (Picture of Cones #4 thru #7 marked State's
17 Exhibit No. 32 for identification)

18 (Close-up picture of 9-millimeter shell casing at
19 Cone #5 marked as State's Exhibit No. 33 for identification)

20 (Close-up picture of 9-millimeter shell casing at
21 Cone #6 marked as State's Exhibit No. 34 for identification)

22 (Close-up picture of 9-millimeter shell casing at
23 Cone #7 marked as State's Exhibit No. 35 for identification)

24 (Picture of Cones #8 thru #17 at crime scene
25 marked as State's Exhibit No. 36 for identification)

1 (Picture of bullet fragment found at Cone #8
2 marked as State's Exhibit No. 37 for identification)

3 (Close-up picture of bullet fragment found at Cone
4 #8 marked as State's Exhibit No. 38 for identification)

5 (Picture of Cones #8, #9 and #10 and showing
6 trench in ground from bullet marked as State's Exhibit No.
7 39 for identification)

8 (Picture of Cones #9 and #10 and the trench from
9 bullet between them marked as State's Exhibit No. 40 for
10 identification)

11 (Picture of ruler beside trench from bullet from
12 Cone #9 to Cone #10 marked as State's Exhibit No. 41 for
13 identification)

14 (Picture of 9-millimeter shell casing found at
15 Cone #11 marked as State's Exhibit No. 42 for
16 identification)

17 (Picture of 9-millimeter shell casing found at
18 Cone #13 marked as State's Exhibit No. 43 for
19 identification)

20 (Picture of Cones #11 thru #14 at crime scene
21 marked as State's Exhibit No. 44 for identification)

22 (Picture of Cigarette Filter found at Cone #14 at
23 crime scene marked as State's Exhibit No. 45 for
24 identification)

25 (Picture of Newport Cigarette Filter found at Cone

1 #15 at crime scene marked as State's Exhibit No. 46 for
2 identification)

3 (Picture of Cones #16 and #17 at crime scene
4 marked as State's Exhibit No. 47 for identification)

5 (Picture of ruler beside the trench from bullet
6 from Cone #16 to #17 marked as State's Exhibit No. 48 for
7 identification)

8 (Picture of Cone #18 at the bullet hole near the
9 front porch of Drive marked as State's Exhibit
10 No. 49 for identification)

11 (Picture of bullet hole marked by Cone #18 marked
12 as State's Exhibit No. 50 for identification)

13 (Close-up picture of bullet hole in the side of
14 Drive marked as State's Exhibit No. 51 for
15 identification)

16 (Picture of the bullet hole on the inside of
17 siding of Drive marked as State's Exhibit No. 52
18 for identification)

19 (Picture of bullet hole in the wood frame of
20 marked as State's Exhibit No. 53 for
21 identification)

22 (Picture of lead bullet found in the insulation of
23 Drive marked as State's Exhibit No. 54 for
24 identification)

25 (Picture of 1997 Lincoln Town Car VIN

1 #1LNL82W6VY655642 marked as State's Exhibit No. 55 for
2 identification)

3 THE COURT: All right, ladies and gentlemen, we
4 are ready to begin with jury selection in the first case
5 that's going to require some of your participation, and the
6 title of that case is the State versus Prince Deven Snipes.

7 Mr. Snipes has been accused by the prosecutor with
8 having committed the crimes of murder and possession of a
9 firearm during the commission of a violent crime, that
10 violent crime being alleged to be the murder. And the State
11 alleges by way of this indictment --

12 And an indictment is simply a charging paper.
13 It's not evidence of anything. It's not proof of anything.
14 It doesn't establish anything. It simply is the means by
15 which any person who is accused of a crime, who is brought
16 into this court to stand trial on a charge, is notified of
17 what crime the State claims they committed. So you have to
18 have an indictment. Otherwise, you can't go to trial.

19 But the indictment in this case alleges that
20 Prince Deven Snipes did, here in Cherokee County, on or
21 about December the 16th of 2010, willfully and with malice
22 aforethought kill one Breezy by shooting him
23 with a firearm and that he died as a proximate result of
24 that wound.

25 And they also allege that Mr. Snipes did visibly

1 display a firearm in the commission of the crime for murder,
2 as alleged in Count I.

3 Now, as to those allegations and as to that charge
4 the defendant has entered a plea of not guilty. And a plea
5 of not guilty places upon the State the burden of proving
6 the allegations that they have made against the defendant,
7 the burden of proving each of the essential elements that
8 constitute the crime that is alleged against the defendant.
9 And, therefore, the burden is upon the State to establish
10 the defendant's guilt to the satisfaction of twelve jurors
11 beyond a reasonable doubt before any verdict of guilty could
12 be returned as to either of the charges.

13 Before we begin with jury selection I have got
14 some questions to ask you. The purpose of the questions is
15 to determine if there is a reason why any one or more of you
16 jurors should not be selected to participate in the trial of
17 this case; in other words, do you have some reason why you
18 think you could not be fair and impartial as it relates to
19 this particular case.

20 I will also be introducing some people to you.
21 The purpose of the introductions is to determine if you have
22 any connection with anybody that's involved in this
23 particular case, whether it be the lawyers, whether it be
24 the potential witnesses, or whether it be the defendant, or
25 the person who is alleged to have been the victim of these

1 particular crimes.

2 So as these people are introduced to you, I need
3 to know if you have any family connection, if you have any
4 employment connection, if you have any church connection, if
5 you have any school connection, if you socialize with these
6 individuals, or you just happen to know them from somewhere
7 in some way. If you know anybody who is introduced to you,
8 I'll ask that you please stand so that we can determine what
9 that connection is and find out whether or not it would
10 affect your judgment or your ability to be fair in the trial
11 of the case.

12 Now, first of all, as I have already stated, the
13 defendant, the person who is accused of having committed
14 these crimes, is Prince Deven Snipes.

15 Mr. Snipes, if you will stand and face the jury
16 panel. Please, sir, so that they may see who you are.

17 Mr. Snipes is the gentleman who is standing to
18 your left in the white short sleeve shirt.

19 The gentleman in the suit is Shawn Campbell.
20 That's Mr. Snipes' lawyer and he will be assisting him in
21 the trial of this case.

22 Presenting the case on behalf of the State is
23 Barry Barnette. He's the circuit solicitor for the Seventh
24 Judicial Circuit.

25 The person who is alleged to have been the victim

1 of these events was Breezy . Bree , of
2 course, is deceased, but he has family members here and I
3 will ask them to please stand and face the jury panel so
4 that the jury, by seeing you, they might be able to identify
5 with whether or not they know Breezy .

6 And if y'all don't mind, introduce yourselves for
7 me, please. Let me start with the lady on the end. Your
8 name, please, ma'am?

9 MARTHA JEAN HOUEY: Martha Jean Houey.

10 THE COURT: Martha Jean Houey?

11 MARTHA JEAN HOUEY: Yes.

12 THE COURT: And your connection is what with
13 Breezy ?

14 MARTHA JEAN HOUEY: My grandson.

15 THE COURT: All right. And the next lady, your
16 name, please?

17 ROSE HOUEY: Rose Houey.

18 THE COURT: Rose Houey?

19 ROSE HOUEY: Yes.

20 THE COURT: And what's your connection, ma'am?

21 ROSE HOUEY: I'm his mother.

22 THE COURT: All right. Thank you, ma'am.

23 And the next lady?

24 DOROTHY BOYD: Dorothy Boyd.

25 THE COURT: All right, Ms. Boyd, what's your

1 connection?

2 DOROTHY BOYD: Friend.

3 THE COURT: Ma'am?

4 MR. BARNETTE: She's a family friend, Your Honor.

5 THE COURT: Friend, okay. All right. Thank you,
6 ma'am. You may be seated.

7 Potential witnesses to be called during the trial
8 include Tim Clark --

9 Well, the following are all employed with the
10 Cherokee County Sheriff's Department. They include Tim
11 Clark.

12 Tracy Fowler.

13 J.B. Peterson.

14 Nick Federico.

15 Billy Anthony.

16 And Jimmy Henson.

17 We also have -- they are standing in the back,
18 some of the officers.

19 All right. Yes, ma'am.

20 JUROR NUMBER 47: Tracy Fowler is my son.

21 THE COURT: Tracy Fowler is your son?

22 JUROR NUMBER 47: Yes.

23 THE COURT: Is Mr. Fowler actually going to
24 testify?

25 MR. BARNETTE: Probably not, Your Honor. He just

1 took the statements from the victim's family, so I do not
2 think he will be testifying.

3 THE COURT: All right. I don't know if he will
4 not.

5 MR. BARNETTE: He will not.

6 THE COURT: All right. But you are -- Tracy
7 Fowler is your son?

8 JUROR NUMBER 47: Yes.

9 THE COURT: I'm told that he is -- he was a
10 potential witness. They say he will not be called to
11 testify as a witness.

12 But besides that fact, is there anything about
13 your connection with Tracy Fowler, he being your son working
14 with the Cherokee County Sheriff's Department, that would
15 prevent from you being able to be fair and impartial in the
16 trial of this case?

17 JUROR NUMBER 47: No.

18 THE COURT: All right. Thank you, ma'am. You may
19 be seated.

20 What was your number, please, ma'am?

21 JUROR NUMBER 15: 15. 15.

22 THE COURT: No, I'm talking --

23 JUROR NUMBER 47: 47.

24 THE COURT: 47, all right.

25 All right.

1 Juror number 15?

2 JUROR NUMBER 15: I know Mr. Clark. I was in the
3 fire department with him a long time ago, and I got my CWP
4 with Mr. Henson.

5 THE COURT: All right. And would either of those
6 facts have any bearing upon your decision in the case?

7 JUROR NUMBER 15: No, sir.

8 THE COURT: All right. Thank you. Be seated.
9 Yes, sir.

10 JUROR NUMBER 131: Juror number 131.

11 THE COURT: All right. Who is it that you know?

12 JUROR NUMBER 131: I know Billy, I know Tim, and I
13 know Nick Federico.

14 THE COURT: How do you know them?

15 JUROR NUMBER 131: My uncle is in law enforcement
16 and over the years I have grown to know them.

17 THE COURT: And your number was 131?

18 JUROR NUMBER 131: Yes, sir.

19 THE COURT: All right. Would those connections
20 having any bearing upon your decision in the case?

21 JUROR NUMBER 131: No, sir.

22 THE COURT: Thank you. Be seated.

23 Yes, ma'am?

24 JUROR NUMBER 40: 40. Juror number 40, and I know
25 Tim Clark.

1 THE COURT: You know Tim Clark?

2 JUROR NUMBER 40: Uh-huh.

3 THE COURT: How?

4 JUROR NUMBER 40: His daughter and my daughter are
5 friends.

6 THE COURT: Would that have any bearing on your
7 decision?

8 JUROR NUMBER 40: No, sir.

9 THE COURT: Thank you. Be seated.

10 All right. I also have D.M.

11 And if your name is called and you are present,
12 I'm going to ask that you stand so the jury can see who you
13 are.

14 D.M.

15 Martha Houey. She already stood. You already
16 stood. That's all right, you don't need to stand again,
17 ma'am.

18 Micah Sturgis. He's employed by the Cleveland
19 County Sheriff's Department.

20 Ira Parnell, Ila Simmons, and Nikki Perry are each
21 employed by the State Law Enforcement Division.

22 We also have Dennis Fowler, who is the coroner of
23 Cherokee County.

24 Janice Ross, who is a medical doctor employed by
25 Newberry Pathology Associates.

1 We also have Nikita Hardy.

2 C.M.

3 And Pierre Houey.

4 Are there any other potential witnesses by the
5 State?

6 MR. BARNETTE: None from the State, Your Honor.

7 THE COURT: By the defendant?

8 MR. CAMPBELL: None from the defendant, Your
9 Honor.

10 THE COURT: All right. If you have not already
11 responded, if you know anybody who has been identified? If
12 so, please stand.

13 JUROR NUMBER 35: 35.

14 THE COURT: 35.

15 JUROR NUMBER 35: Yes, sir.

16 THE COURT: All right. Who do you know?

17 JUROR NUMBER 35: Several of the detectives; Clark
18 and Henson, Fowler through -- I'm a business owner of
19 Gaffney Pawn Shop, working with them over the years. Just
20 did business with them.

21 THE COURT: Would any of those connections have
22 any bearing upon your decision in the case?

23 JUROR NUMBER 35: No, sir.

24 THE COURT: Thank you. Be seated.

25 Yes, ma'am.

1 JUROR NUMBER 68: 68.

2 THE COURT: Who is it that you know?

3 JUROR NUMBER 68: D.M. . We went to high school
4 together.

5 THE COURT: You went to high school together?

6 JUROR NUMBER 68: Yes.

7 THE COURT: And would that have any bearing on
8 your decision in the case?

9 JUROR NUMBER 68: No.

10 THE COURT: Thank you. Be seated.

11 Yes, ma'am.

12 JUROR NUMMBER 72: D.M. . Sorry, 72. We
13 went to high school together.

14 THE COURT: Would that have any bearing upon your
15 decision in this case?

16 JUROR NUMBER 72: No, sir.

17 THE COURT: Thank you. Be seated.

18 Next row.

19 Yes, ma'am?

20 JUROR NUMBER 46: Number 46. D.M.

21 THE COURT: How do you know him?

22 JUROR NUMBER 46: Through school.

23 THE COURT: Would have any bearing upon your
24 decision?

25 JUROR NUMBER 46: No.

1 THE COURT: Thank you. Be seated.

2 Next.

3 JUROR NUMBER 110: Number 110. I know Pierre
4 Houey. We went to school, friends.

5 THE COURT: And would that have any bearing upon
6 your decision in the case?

7 JUROR NUMBER 110: No, sir.

8 THE COURT: Thank you. Be seated.

9 Yes, ma'am.

10 JUROR NUMBER 129: Number 129. I know Martha
11 Houey.

12 THE COURT: And how do you know her?

13 JUROR NUMBER 129: I was working at the store.
14 They were people, customers at the store that I used to work
15 at.

16 THE COURT: And would that make any difference to
17 you, so far as your verdict is concerned?

18 JUROR NUMBER 129: No.

19 THE COURT: Thank you. Be seated.

20 Next row.

21 JUROR NUMBER 138: 138.

22 THE COURT: Yes, sir.

23 JUROR NUMBER 138: I know Niki.

24 THE COURT: You know who?

25 JUROR NUMBER 138: Niki. I don't know her last

1 name.

2 THE COURT: Nikita Hardy?

3 JUROR NUMBER 138: Yes.

4 THE COURT: All right. How do you know her?

5 JUROR NUMBER 138: Old friend.

6 THE COURT: Would that have any bearing upon your
7 decision in the case?

8 JUROR NUMBER 138: No.

9 THE COURT: Thank you. Be seated.

10 Yes, sir.

11 JUROR NUMBER 114: 114. Pierre Houey.

12 THE COURT: And would that any bearing upon your
13 decision in the case?

14 JUROR NUMBER 114: No, sir.

15 THE COURT: Thank you. Be seated.

16 Yes, sir.

17 JUROR NUMBER 14: 14. Several years ago I became
18 acquainted with Officer Henson.

19 THE COURT: And would that have any bearing upon
20 your decision in the case?

21 JUROR NUMBER 14: No, sir.

22 THE COURT: Thank you. You may be seated.

23 Anyone else know any person who has been
24 identified?

25 (No response).

1 THE COURT: Or you know anybody else that works in
2 the circuit solicitor's office, or works in the Cherokee
3 County Sheriff's Department that's not been identified, but
4 that you happen to know somebody else who is employed in
5 either of those officers? If so, please stand.

6 All right. I'll start with you, ma'am.

7 JUROR NUMBER 138: 138. I know Carl Whisnett.
8 John, your bailiff.

9 THE COURT: And they are employed where?

10 JUROR NUMBER 138: Here in Cherokee County.

11 THE COURT: With the sheriff's department?

12 JUROR NUMBER 138: Yes.

13 THE COURT: Would that have any bearing upon your
14 decision?

15 JUROR NUMBER 138: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, ma'am.

18 JUROR NUMBER 12: I know the sheriff. He's a
19 friend.

20 THE COURT: And your name and number?

21 JUROR NUMBER 12: Number 12, sorry.

22 THE COURT: Would the fact that you know the
23 sheriff have any bearing upon your decision in this case?

24 JUROR NUMBER 12: No.

25 THE COURT: Thank you. Be seated.

1 Yes, ma'am.

2 JUROR NUMBER 30: Juror 30. I know the sheriff.

3 THE COURT: And would have any bearing on your
4 decision?

5 JUROR NUMBER 30: No, sir.

6 THE COURT: Thank you. Be seated.

7 JUROR NUMBER 14. 14. I have a neighbor that
8 works at and a close friend who is associated with the
9 sheriff's department.

10 THE COURT: Would that matter, so far as your
11 decision is concerned?

12 JUROR NUMBER 14: No, sir.

13 THE COURT: Thank you. Be seated.

14 JUROR NUMBER 54: Juror Number 54. I know John
15 McCall as a friend, and I taught Greg Phillips son about
16 eight years ago in elementary school.

17 THE COURT: And would either of those facts have
18 any bearing on your decision?

19 JUROR NUMBER 54: No, sir.

20 THE COURT: Thank you. Be seated.

21 Next row.

22 JUROR NUMBER 137: 137. I know David Walker who
23 works for the sheriff's department.

24 THE COURT: Would that make any difference in your
25 decision?

1 JUROR NUMBER 137: No, sir.

2 THE COURT: Thank you. Be seated.

3 Yes, ma'am.

4 JUROR NUMBER 108: 108. I'm an acquaintance with
5 Glen Bolin and Joey Spencer, and also I barber in
6 Blacksburg, so I do cut some hair.

7 THE COURT: And would any of those facts have any
8 bearing upon your decision at all?

9 JUROR NUMBER 108: No, not at all.

10 THE COURT: Thank you. Be seated.

11 Yes, ma'am.

12 JUROR NUMBER 139: 139: One of the sheriff's
13 officers is a member of my Sunday School class.

14 THE COURT: Would that make any decision, so far
15 as your decision is concerned?

16 JUROR NUMBER 139: No, sir.

17 THE COURT: Thank you. Be seated.

18 Yes, ma'am.

19 JUROR NUMBER 117: Number 117. My brother-in-law
20 works for the Cherokee County Sheriff's Department.

21 THE COURT: And would that have any bearing in
22 your decision?

23 JUROR NUMBER 117: No.

24 THE COURT: Thank you.

25 JUROR NUMBER 9: Number 9. I want to go back. I

1 know Mr. Clark and Mr. Henson. Long time friends from years
2 ago.

3 THE COURT: Okay. And would either of those facts
4 have any bearing on your decision?

5 JUROR NUMBER 9: No.

6 THE COURT: Thank you. Be seated.

7 I'm going to ask you a question about you or an
8 immediate family member, and I'm going to define an
9 immediate family member as one who is a parent, or a spouse,
10 or a child, or a sibling of you. You, or a parent, child,
11 spouse, or a sibling.

12 Have you or any members of your immediate family
13 ever been the victim of any type of criminal offense that
14 could be characterized or classified as a violent crime?
15 And those would include murder, manslaughter, armed robbery,
16 criminal sexual conduct, criminal domestic violence of a
17 high and aggravated nature, resisting arrest, kidnapping,
18 any degree of assault and battery.

19 I need to know if you or a family member has ever
20 been the victim of such a crime; or, have you or a family
21 member ever been accused of having committed such a similar
22 offense. If so, please stand.

23 You or a family member has ever been the victim of
24 any of those types of offenses, or ever been accused of
25 having committed those types of offenses, I would ask that

1 you please stand.

2 All right. And I'll start on the end there.

3 JUROR NUMBER 15: 15.

4 THE COURT: Was it you or a family member?

5 JUROR NUMBER 15: My father.

6 THE COURT: And was he a victim or an accused?

7 JUROR NUMBER 15: He shot and killed a man.

8 THE COURT: All right. Would that fact have any
9 bearing on your decision in this case?

10 JUROR NUMBER 15: No.

11 THE COURT: Thank you. Be seated.

12 Yes, ma'am.

13 JUROR NUMBER 139: Juror 139. My husband --

14 THE COURT: What was the number?

15 JUROR NUMBER 139: 139.

16 THE COURT: Okay.

17 JUROR NUMBER 139: My husband was suspected in
18 murder of his aunt probably thirty years ago.

19 THE COURT: Would that have any bearing on your
20 decision?

21 JUROR NUMBER 139: No, sir.

22 THE COURT: Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NUMBER 36: Juror 36, and I was the victim.
25 I was beaten by my baby's daddy.

1 THE COURT: Would that experience have any bearing
2 upon your decision?

3 JUROR NUMBER 36: No, sir.

4 THE COURT: Thank you. Be seated.

5 Yes, sir.

6 JUROR NUMBER 105: 105. My father was shot.

7 THE COURT: And would that experience have any
8 bearing upon your decision?

9 JUROR NUMBER 105: No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, sir.

12 JUROR NUMBER 71: 71. I have a first offense for
13 a CDV charge and my wife was the victim.

14 THE COURT: All right. Would that have any
15 bearing upon your decision?

16 JUROR NUMBER 71: No.

17 THE COURT: Thank you. Be seated.

18 Yes, ma'am.

19 JUROR NUMBER 118: 118. I was beaten.

20 THE COURT: And would that have any bearing upon
21 your decision?

22 JUROR NUMBER 118: No.

23 THE COURT: Thank you. Be seated.

24 Yes, ma'am.

25 JUROR NUMBER 51: 51. My son-in-law was convicted

1 of child molestation.

2 THE COURT: Would that have any bearing upon your
3 decision in this case?

4 JUROR NUMBER 51: No.

5 THE COURT: Thank you. Be seated.

6 Anyone else need to respond to that question?

7 (No response).

8 THE COURT: Tell me -- this event occurred on
9 Conner Drive in Gaffney?

10 MR. BARNETTE: Yes, sir. It happened outside the
11 radio station. There is a mobile home park right there off
12 of 150.

13 THE COURT: What?

14 MR. BARNETTE: Where the radio station is at.
15 It's right beyond there. It's the trailer park beyond that.

16 MR. BARNETTE: Okay. The events that led up to
17 this charge are alleged to have occurred, as I indicated to
18 you, back on December the 16th of 2010. It's also alleged
19 to have occurred out on Conner Drive, which is out 150 where
20 the radio station is, if you are familiar with that, out in
21 the neighborhood in that area.

22 Does any member of the jury panel think you might
23 have heard, seen or read something that relates to this
24 case? In other words, have you been exposed to any type of
25 information that relates to the case, either from radio,

1 television, newspaper, or just somebody talking about the
2 case?

3 Again, the defendant is Prince Deven Snipes. The
4 person alleged to be the victim is Breezy , and
5 it's alleged to have occurred back off of Conner Drive here
6 in Gaffney.

7 Anyone think they already know something about it
8 or heard something about the case, or you read something
9 about it? If so, please stand.

10 (No response)

11 THE COURT: All right. I have introduced the
12 defendant to you. I have introduced some of the family
13 members of Mr. Houey, and I have introduced the witnesses to
14 you and the lawyers to you. I have asked those questions
15 that I have asked.

16 Does any juror -- understanding what this case is
17 about, understanding the nature of the charge, understanding
18 who the people are involved, understanding who the witnesses
19 are, does any juror know of any reason whatsoever why you
20 think you could not be fair and impartial if you were called
21 upon to serve as a juror in this case? Does anyone know of
22 any reason why you cannot be fair and impartial, if selected
23 as a juror? If so, please stand.

24 (No response)

25 THE COURT: Any other questions requested by the

1 State?

2 MR. BARNETTE: No, sir. Thank you, Your Honor.

3 THE COURT: By the defendant?

4 MR. CAMPBELL: None, Your Honor.

5 THE COURT: All right. We are going to select the
6 jury. The way that is done, the computer generates a list.
7 You will be called randomly as selected by the computer.

8 When your name is called, you are going to be
9 asked to come forward. You will see the bailiffs. Just
10 come down through that gate. Step directly towards Ms.
11 McBee, the clerk. When you get there, turn around and face
12 your fellow jurors.

13 Each side has a chance to have you excused from
14 service in the case, or both may agree to have you seated
15 for service in the case.

16 If either asks that you be excused from serving,
17 you simply go back and have a seat where you are in the
18 audience.

19 If both agree to have you seated for service in
20 the case, you will be having a seat in the jury box to your
21 right and to my left.

22 So please come forward as your name is called.
23 You will be instructed if you will be seated for service or
24 excused from serving in the case.

25 THE CLERK: Juror 78, Phillip Littlejohn.

1 What says the State?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. CAMPBELL: Please excuse Mr. Littlejohn.

5 THE CLERK: You have been excused.

6 Juror 54, Ryan Godfrey.

7 What says the State?

8 MR. BARNETTE: Please present the juror.

9 THE CLERK: What says the defense?

10 MR. CAMPBELL: Please seat Mr. Godfrey.

11 THE CLERK: Please take a seat in the jury box.

12 Juror 1, Rocky Allison.

13 What says the State?

14 MR. BARNETTE: Please present the juror.

15 THE CLERK: What says the defense?

16 MR. CAMPBELL: Please seat Mr. Allison.

17 THE CLERK: Please take a seat in the jury box.

18 Juror 124, Amie Sullivan.

19 What says the State?

20 MR. BARNETTE: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. CAMPBELL: Please excuse Ms. Sullivan.

23 THE CLERK: You have been excused.

24 Juror 2, Heather Teague.

25 What says the State?

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What says the defense?

3 MR. CAMPBELL: Please seat Ms. Teague.

4 THE CLERK: Please take a seat in the jury box.

5 Juror 117, Nicole Smith.

6 What says the State?

7 MR. BARNETTE: Please present the juror.

8 THE CLERK: What says the defense?

9 MS. CAMPBELL: Please excuse Ms. Smith.

10 THE CLERK: You have been excused.

11 Juror 38, Calvin Dowdle.

12 What says the State?

13 MR. BARNETTE: Please excuse this juror from
14 service.

15 THE CLERK: You have been excused.

16 Juror 20, Maria Cavallini.

17 What says the State?

18 MR. BARNETTE: Please present the juror.

19 THE CLERK: What says the defense?

20 MR. CAMPBELL: Please excuse this juror.

21 THE CLERK: You have been excused.

22 Juror 40, Leslie Ellis.

23 What says the State?

24 MR. BARNETTE: Please present the juror.

25 THE CLERK: What says the defense?

1 MR. CAMPBELL: Please excuse Ms. Ellis.

2 THE CLERK: You have been excused.

3 Juror 35, Winfred Davis, Jr..

4 What says the State?

5 MR. BARNETTE: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. CAMPBELL: Please seat Mr. Davis.

8 THE CLERK: Please take a seat in the jury box.

9 Juror 118, Robin Sparnroft.

10 What says the State?

11 MR. BARNETTE: Please excuse this juror from

12 service.

13 THE CLERK: You have been excused.

14 Juror 71, Donald Jenkins.

15 What says the State?

16 MR. BARNETTE: Please excuse this juror from

17 service.

18 THE CLERK: You have been excused.

19 Juror 30, Katherine Crawford.

20 What says the State?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. CAMPBELL: Please seat Ms. Crawford.

24 THE CLERK: Please take a seat in the jury box.

25 Juror 21, Albert Clark.

1 What says the State?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. CAMPBELL: Please seat Mr. Clark.

5 THE CLERK: Please take a seat in the jury box.

6 Juror 68, Noelle In.

7 What says the State?

8 MR. BARNETTE: Please present the juror.

9 THE CLERK: What says the defense?

10 MR. CAMPBELL: Please seat Ms. In.

11 THE CLERK: Please take a seat in the jury box.

12 Juror 72, Nicole Kessler.

13 What says the State?

14 MR. BARNETTE: Please excuse this juror from
15 service.

16 THE CLERK: You have been excused.

17 Juror 0108, Celeste Ruppe.

18 What says the State?

19 MR. BARNETTE: Please present the juror.

20 THE CLERK: What says the defense?

21 MR. CAMPBELL: Please excuse Ms. Ruppe.

22 THE CLERK: You have been excused.

23 Juror 116, Jonathan Smith.

24 What says the State?

25 MR. BARNETTE: Please present the juror.

1 THE CLERK: What says the defense?
2 MR. CAMPBELL: Please seat Mr. Smith.
3 THE CLERK: Please take a seat in the jury box.
4 Juror 73, Doris Kirby.
5 What says the State?
6 MR. BARNETTE: Please present the juror.
7 THE CLERK: What says the defense?
8 MR. CAMPBELL: Please seat Ms. Kirby.
9 THE CLERK: Please take a seat in the jury box.
10 Juror 137, Brian Whelchel.
11 What says the State?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What says the defense?
14 MR. CAMPBELL: Please seat Mr. Whelchel.
15 THE CLERK: Please take a seat in the jury box.
16 Juror 4, Kimberly Bellefeuille.
17 What says the State?
18 MR. BARNETTE: Please present the juror.
19 THE CLERK: What says the defense?
20 MR. CAMPBELL: Please excuse this juror.
21 THE CLERK: You have been excused.
22 Juror 84, Jennifer Mckinney.
23 What says the State?
24 MR. BARNETTE: Please present the juror.
25 THE CLERK: What says the defense?

1 MR. CAMPBELL: Please seat Ms. McKinney.
2 THE CLERK: Please take a seat in the jury box.
3 Juror 12, Kimberly Bradley.
4 What says the State?
5 MR. BARNETTE: Please present the juror.
6 THE CLERK: What says the defense?
7 MR. CAMPBELL: Please excuse Ms. Bradley.
8 THE CLERK: You have been excused.
9 Jury 61, Ashely Hemphill.
10 What says the State?
11 MR. BARNETTE: Please present the juror.
12 THE CLERK: What says the defense?
13 MR. CAMPBELL: Please seat Ms. Hemphill.
14 THE CLERK: Please take a seat in the jury box.
15 THE COURT: This would be for the alternate.
16 THE CLERK: Juror 51, Sherry Garren.
17 What says the State?
18 MR. BARNETTE: Please excuse this juror from
19 service.
20 THE CLERK: You have been excused.
21 Juror 98, Randy Pennington.
22 What says the State?
23 MR. BARNETTE: Please present the juror.
24 THE CLERK: What says the defense?
25 MR. CAMPBELL: Please excuse Mr. Pennington.

1 THE CLERK: You have been excused.

2 Juror 114, Channing Smith.

3 What says the State?

4 MR. BARNETTE: Please present the juror.

5 THE CLERK: What says the defense?

6 MR. CAMPBELL: Please seat Mr. Smith.

7 THE CLERK: Please take a seat in the jury box.

8 THE COURT: Those who have been selected, I'll ask
9 you to please go with the bailiff to the jury room and I'll
10 bring you back in just a few minutes.

11 (The following takes place outside the presence of
12 the jury panel)

13 THE COURT: Are there any matters that need to be
14 addressed regarding jury selection, by the State?

15 MR. BARNETTE: None from the State, Your Honor.

16 THE COURT: By the defense?

17 MR. CAMPBELL: None by the defense, Your Honor.

18 THE COURT: Those not selected, you are excused
19 for the balance of the day. Please call back to the number
20 that you have in the black box on your juror information
21 pamphlet the juror information line. Call that number after
22 six o'clock this evening to receive further reporting
23 instructions. Thank you for your participation and have a
24 good afternoon.

25 (Whereupon, the jury venire panel left the

1 courtroom)

2 THE COURT: We have some pretrial motions. How
3 long do you anticipate those will take?

4 MR. BARNETTE: Your Honor, I don't think it will
5 take very long. I think basically it's more arguing the law
6 to Your Honor. Basically I think we can -- third-party
7 guilt I think is not going to be an issue. Mr. Campbell is
8 going to put up self-defense as the defense, I believe.

9 MR. CAMPBELL: That's correct, Your Honor,
10 third-party guilt is not an issue in this case.

11 THE COURT: Okay.

12 MR. BARNETTE: The second one, Your Honor, there
13 was prior events in the victim's past between the defendant
14 and the victim, as well as others. I don't think those
15 would be relevant to this case and I would ask a motion in
16 limine to have those kept out, Your Honor, or made mention
17 in the trial.

18 MR. CAMPBELL: Your Honor, it is our opinion that
19 these incidents are absolutely relevant, especially when it
20 comes to our self-defense argument. Mr. Houey had made
21 threats before against my client and that goes to my
22 client's state of mind on the day this incident occurred.

23 In addition, my client was aware of Mr. Houey's
24 past, including incarceration and the offenses he had been
25 convicted of, which also affected my client's state of mind

1 during this incident, Your Honor.

2 And I will tell all the incidents that -- and;
3 slash, threats that we are going to bring forth happened
4 within five to six months of the incident in December, Your
5 Honor, so it is all closely related in time.

6 MR. BARNETTE: Your Honor, I think that would be
7 too remote. I don't think any prior convictions or prior
8 charges the defendant has, unless it relates to this
9 individual defendant himself concerning the victim, is not
10 relevant in this case.

11 THE COURT: Well, I don't disagree with that
12 portion of it, but, I mean, the defendant has a right --
13 they have a right to present evidence as to the reputation
14 of the deceased, if that affected his state of mind on the
15 date of this event. As it was to the prior difficulties
16 between the defendant and the deceased, if it affects the
17 defendant's -- or if it's relevant to the defendant's state
18 of mind on the day in question, it would be relevant.

19 We might need an in-camera hearing to determine
20 what you intend, Mr. Campbell, to offer and we will
21 determine if it's more probative than prejudicial.

22 MR. CAMPBELL: Yes, Your Honor.

23 THE COURT: All right. We won't know if there is
24 any relevance until such time as the court has ruled on the
25 actual specifics of what you intend to introduce.

1 MR. CAMPBELL: Yes, sir, Your Honor.

2 THE COURT: Okay. All right, what else?

3 You got a tattoo motion?

4 MR. BARNETTE: Yes, sir. Obviously the tattoos I
5 think are not relevant to this case in any way, Your Honor.
6 We would ask for no reference to be made to them.

7 THE COURT: Mr. Campbell?

8 MR. CAMPBELL: Your Honor, the only tattoo that is
9 concerning to us, the victim does have a tattoo of South
10 Carolina Dirty Boys on his arm, Your Honor. We believe that
11 is gang related and would also go to my client's state of
12 mind, Your Honor.

13 THE COURT: Well, I'll have to hear -- I will have
14 to hear, I guess, the testimony of your client, if he's
15 going to testify about his state of mind before that would
16 become too. I'm not sure what the connection it is, but if
17 you can establish one and make it relevant, we will allow
18 it.

19 MR. CAMPBELL: Yes, Your Honor.

20 THE COURT: All right. We would have to hear it
21 in-camera.

22 MR. BARNETTE: Well, Your Honor, I think one
23 thing, just to put on the record, I don't think there is any
24 allegation that any gang activity or anything involving
25 gangs in this case.

1 THE COURT: Well, that's what I'm saying, I don't
2 know -- I don't know if it is relevant, but I will have to
3 hear the testimony or the proffer in-camera. Then I'll make
4 that determination.

5 MR. BARNETTE: Yes, sir.

6 MR. CAMPBELL: And, Your Honor, from the defense
7 we have a motion in regards to my client's -- a motion in
8 limine in regards to my client's criminal record being
9 mentioned. We would ask that that be precluded, Your Honor.

10 THE COURT: Mr. Barnette, have you got some 609
11 convictions you want to offer?

12 MR. BARNETTE: Yes, sir, I do.

13 These are from North Carolina, Your Honor. Both
14 these occurred in 2007. It's assault -- I want to make sure
15 I'm telling the court correctly. I'm having to read through
16 their information. It's assault with a deadly weapon
17 causing serious injury and discharge of a weapon in occupied
18 property, Your Honor. He was convicted of those in 2008,
19 Your Honor. They both were felonies in North Carolina.

20 I have the actual sentencing sheets, Your Honor.
21 I have given a copy to Mr. Campbell. I would like to make
22 that part of the record also, Your Honor, if you would like
23 me to do that, Your Honor.

24 And the legal name, according to them, assault
25 with a deadly weapon inflicting serious injury is one

1 charge, Your Honor. And the other one is discharge of a
2 weapon in occupied property.

3 THE COURT: Are they both classified as felonies?

4 MR. BARNETTE: Yes, sir, they are, in North
5 Carolina.

6 THE COURT: All right, Mr. Campbell?

7 MR. CAMPBELL: Your Honor, obviously we would
8 argue that that offense does not go to the veracity and
9 truthfulness of my client and it should be excluded.

10 In addition, there is no evidence -- or should I
11 say whether those charges are actually closely enough
12 related to this, we believe that it is more prejudicial for
13 that to be entered into evidence than probative, Your Honor.

14 THE COURT: You have got certified convictions?

15 MR. BARNETTE: Yes, sir, I do.

16 Do you want me to make those part -- or hand it up
17 to the court, Your Honor, and make it a court exhibit?

18 THE COURT: I'll rule on that prior to the
19 defendant's testifying, if he does, but it won't be
20 mentioned before that time.

21 MR. BARNETTE: Your Honor, I'll put this as Court
22 Exhibit 1, if that's okay.

23 THE COURT: Okay.

24 MR. BARNETTE: And this is a certified copy of the
25 sentencing sheets, Your Honor.

1 (North Carolina Sentencing Sheets marked as
2 Court's Exhibit No. 1 for identification)

3 THE COURT: All right, anything else?

4 MR. CAMPBELL: None from the defense, Your Honor.

5 MR. BARNETTE: Your Honor, just for clarification,
6 nothing will be mentioned about any prior violence or
7 anything until you actually have the in-camera hearing
8 concerning that?

9 THE COURT: Are you talking about the prior
10 convictions?

11 MR. BARNETTE: Well, I know about the prior
12 convictions, but about the prior instances involving the
13 defendant and the victim?

14 THE COURT: Yeah, there would be no evidence
15 presented until we have an in-camera hearing to determine
16 whether or not that evidence is more probative than
17 prejudicial and relevant.

18 THE COURT: All right. Who do you intend to call
19 as your first witness?

20 MR. BARNETTE: Rose Houey, Your Honor.

21 THE COURT: And what do you anticipate the length
22 of that to be?

23 MR. BARNETTE: Not real long, Your Honor, I
24 wouldn't think. I don't know how long Mr. Campbell's cross
25 will but, but she will just testify about what she saw. It

1 depends -- I don't know if he plans to get into anything
2 else with her, other than what she saw that day.

3 MR. CAMPBELL: Your Honor, we would need to have
4 an in-camera hearing before she testifies, Your Honor.

5 THE COURT: Well, what would you be asking her
6 about? I mean, I don't know -- do you think she can
7 establish the state of mind of the defendant?

8 MR. CAMPBELL: I believe -- Your Honor, she knows
9 of the prior history, Your Honor, and also she can testify
10 to prior threats that were made against my client by her
11 son, Your Honor.

12 THE COURT: All right. Well, I mean, she can be
13 recalled as a witness, but what I'm saying is it may or may
14 not be relevant, but if you think it's relevant as to the
15 defendant's state of mind as to why he did something he may
16 have done, he's going to have to make that relevant, not
17 her.

18 MR. CAMPBELL: I understand, Your Honor, and I
19 believe he can do so.

20 THE COURT: Well, I know, but right now I don't
21 know if he's going to testify or not. I know that you
22 believe that he's going to, but if he makes the decision not
23 to, then the evidence would come in that would not be
24 relevant and it's already been presented to a jury. So we
25 will have to have an in-camera hearing, but what I'm saying

1 is it might be that you will have to present that in the
2 trial of your case.

3 MR. CAMPBELL: And just recall these witnesses?

4 THE COURT: Yes, sir.

5 MR. CAMPBELL: That's fine, Your Honor.

6 THE COURT: Because I don't know that it would be
7 relevant until your client makes it relevant.

8 MR. CAMPBELL: That's fine, Your Honor.

9 THE COURT: All right. Are y'all ready to begin?

10 MR. BARNETTE: I just want to make sure. So there
11 won't be any mention until after the defendant makes a
12 showing in his case?

13 THE COURT: There is not going to be any mention
14 of any prior bad blood between the defendant and the
15 deceased until such time as any potential evidence of that
16 nature is shown to be relevant on some point.

17 MR. BARNETTE: Thank you, Your Honor.

18 THE COURT: And we have an in-camera hearing for
19 me to determine the relevancy, as well as the probative and
20 prejudicial nature of it.

21 MR. BARNETTE: Yes, sir.

22 THE COURT: All right. Bring the jury in and ask
23 Mr. Godfrey to take the foreperson's seat. Mr. Godfrey.

24 (The following takes place in the presence of the
25 jury panel)

1 THE COURT: All right, ladies and gentlemen, we
2 are ready to begin with the trial of the case for which each
3 of you have been selected.

4 And Mr. Godfrey, I'm going to ask you to serve as
5 the foreperson of the jury. And as the foreperson you will
6 have three specific duties that none of the other jurors
7 will have.

8 First of all, you will be asked to serve as the
9 spokesperson for the jury. And that just means that if
10 something arises during the trial, you or a fellow juror has
11 some difficulty, problem, or question, it will be you who
12 will direct those comments to me and I will address any
13 issue that you or a fellow juror may have or any answer any
14 questions.

15 Secondly, you will be called upon to preside over
16 the jury deliberations in the jury room at the trial's
17 conclusion, after all the evidence has been received and I
18 have instructed you on the law that's applicable. And when
19 the time comes for jury deliberations, you will preside over
20 that process in the jury room, simply to ensure that those
21 deliberations are carried out in some orderly fashion.

22 Thirdly, you will actually write a verdict or the
23 decision of the jury. You will do that on a verdict form
24 that I'll provide you at the trial's conclusion on which you
25 will indicate the jury's unanimous decision.

1 The foreperson has those specific duties that I
2 have just indicated, but that doesn't mean that he's any
3 more important than any of you other jurors, and that's
4 because the decision of a jury is the unanimous consensus
5 opinion of all twelve jurors. And so all of you will have
6 an equal say and an equal vote in what the ultimate
7 decisions in this case will be. Someone simply has to be
8 delegated those responsibilities that I have just indicated
9 and I have delegated those to Mr. Godfrey in appointing him
10 as the foreperson, but all of you jurors are equally
11 important, so far as the ultimate decision is concerned,
12 because, as I have stated, the verdict has to be unanimous.
13 All twelve of you must be in agreement.

14 And, Mr. Smith, you have been selected as an
15 alternate juror. And the function of an alternate juror is
16 to take the place of one of the original twelve jurors if
17 during the trial one of these twelve cannot continue to
18 serve for some reason. And so if one is called away because
19 of an emergency, or an illness, or some other circumstance
20 that precludes them from continuing to serve as a juror, you
21 would be called upon to take that person's place. In that
22 event you would become the twelfth jurors.

23 If you become the twelfth juror, then you
24 participate throughout the trial, including the jury
25 deliberations at the trial's conclusion. If, however, when

1 the time comes for the jury deliberations, the original
2 twelve are able to participate in that function, your
3 service would end and you would not participate any further,
4 and that's because the decision of the jury is that of
5 twelve. No more than twelve are permitted to engage in that
6 deliberation process, but it is important that you pay just
7 as careful attention, as we ask of all the jurors in the
8 case, because it does occur from time to time for one reason
9 or another one of these twelve may be unable to continue.
10 In that event you become the twelfth, so we do appreciate
11 your participation as an alternate juror, just as we
12 appreciate the participation of each of you jurors who have
13 been selected for the purpose of deciding the verdict in
14 this particular case.

15 You may swear the panel.

16 THE CLERK: Mr. Foreman, ladies and gentlemen,
17 please stand and raise your right hand.

18 Do you solemnly swear that you will truly try the
19 issues joined in this case and true verdict render,
20 according to the law and evidence, so help you God?

21 JURY PANEL: (Collectively said I do.)

22 THE CLERK: You may be seated.

23 THE COURT: Ladies and gentlemen, as you know, you
24 have been selected to decide the verdict in the case of the
25 State versus Prince Deven Snipes. As you also know, he's

1 been accused by the prosecutor by way of this indictment
2 with having committed the crimes of murder and possession of
3 a firearm during the commission of the crime of murder.

4 The State alleges on December the 16th, 2010, Mr.
5 Snipes did, with malice aforethought, kill Breezy

6 by shooting him with a firearm, that he died as a
7 result of that gunshot wound, and that in the commission of
8 that crime of murder he was visibly displaying a firearm.

9 As you also know, as to each of those allegations
10 he's entered a plea of not guilty. He denies the
11 allegations. And, therefore, the burden is placed upon the
12 State to prove his guilt beyond a reasonable doubt. The
13 State has the burden of proving the allegations they have
14 made against the defendant. The State has the burden of
15 proving each of the essential elements of the crimes they
16 have alleged against the defendant. The burden is on the
17 State to establish the defendant's guilt to the satisfaction
18 of each of you twelve jurors beyond a reasonable doubt
19 before a verdict of guilty could be returned.

20 Every person and any person who is accused of a
21 crime is always presumed to be innocent of the charge. It
22 doesn't matter how serious the offense might be. Every
23 person accused of a crime is always presumed to be innocent.
24 And that presumption of innocence remains with every
25 defendant, as it does with Mr. Snipes, from the time he is

1 placed under arrest, and throughout the course of the
2 criminal process, and even throughout the course of the
3 actual trial in the case. And that presumption of innocence
4 will be with Mr. Snipes even as you go back at his trial's
5 conclusion to begin your deliberations in the jury room.
6 And that presumption of innocence will be with him in that
7 jury room, and it will be with him forever, unless you
8 twelve jurors determine that he's no longer entitled to that
9 presumption of innocence. In other words, after you have
10 carefully considered all the evidence in the case at the
11 trial's conclusion and from that evidence you decide the
12 facts. Upon deciding the facts, you apply the law that I
13 will have provided you. If you twelve jurors unanimously
14 determine that his guilt has been proven beyond a reasonable
15 doubt as to a particular crime, then he would no longer be
16 entitled to that presumption of innocence. But it's only
17 if, unless, and until you are satisfied of his guilt beyond
18 a reasonable doubt that the presumption of innocence would
19 no longer be applicable.

20 Now, the way this trial will proceed is in a
21 moment the lawyers are going to address you in what are
22 called opening statements. There are two occasions in the
23 trial of a case where lawyers are permitted to address the
24 jury, and that is at the beginning of the trial before any
25 evidence has been introduced; then again at the conclusion

1 of the trial, after all of the evidence has been received.
2 But keep in mind, as I have just indicated, the lawyers
3 statements are not evidence. The evidence comes in during
4 the course of the trial by way of witnesses testifying from
5 the witness stand or the introduction of other types of
6 exhibits, whether they be photographs, documents, charts, or
7 other physical exhibits. So what the lawyers tell you is
8 not to be considered as evidence in the case, and you should
9 not consider it as such, but the lawyers statements do serve
10 a purpose, and so you should listen to what they have to
11 say, but they are not witnesses in the case and they don't
12 know anything about the case of their own personal knowledge
13 or perception, like the witnesses will be testifying to you,
14 and they are not going to be placed under oath and they are
15 not going to take the witness the stand. But, nevertheless,
16 even though it's not evidence, you should listen to what
17 they have to say, because the opening statements will serve
18 to provide you with a basic understanding as to what this
19 case is about from both the perspective of the State, as
20 well as the defense, so that you will have some context in
21 which to place the evidence that we will be receiving
22 shortly thereafter.

23 The closing statements occur after all the
24 evidence has been received. And, of course, again, they are
25 not to be considered as evidence, but it does afford the

1 lawyers an opportunity to discuss with you the evidence that
2 you have seen and heard during the course of the trial. And
3 through that discussion each will have an opportunity to try
4 to persuade you or to convince you that the evidence in the
5 case does or does not support a particular decision. And,
6 as you know now, it's between the opening and the closing
7 statements that we actually receive the evidence upon which
8 you will make your determination of fact and upon which you
9 will base your decision.

10 The State has the burden of proof. The State will
11 go forward first in its presentation of evidence.

12 After the State has concluded, a defendant has the
13 same opportunity to testify or to call witnesses or to
14 present evidence, but a defendant in a criminal trial is
15 never under any obligation to testify or to present any
16 evidence. And that's because the burden is not on a person
17 accused of a crime to prove that they are not guilty or to
18 prove that they are innocent, because in some cases that
19 might not be possible. The burden is always upon the State,
20 because they have made the accusation to prove a person's
21 guilt beyond a reasonable doubt. If a defendant chooses not
22 to present evidence, you can't hold it against him or her.
23 You can't consider it in any way. You can't allow it to
24 influence your judgment, but both sides are afforded an
25 opportunity to present evidence.

1 So after all the evidence has been received and
2 you hear the final summations of the lawyers, I will then
3 instruct you fully on the law, the criminal law, generally,
4 and these particular crimes specifically, and then you will
5 be asked to go back and begin with your deliberations in the
6 case. And you are simply going to be called upon through
7 the exercise of good judgment and common sense,
8 conscientiously applied to the testimony and evidence in the
9 case, to determine the facts that are relevant to the
10 allegations. And then once you decide those facts, you will
11 apply the law that I will have provided you and you will
12 determine whether or not the State has proven the defendant
13 to be guilty beyond a reasonable doubt. If he has, then
14 your verdict would be guilty. And if they have not, then
15 your verdict would be not guilty.

16 So all that we are going to ask for you to do is
17 pay careful attention throughout the course of the trial.
18 Give every witness the same degree of attention as they
19 testify. That, of course, doesn't mean that you are going
20 to give the same degree of weight or credibility assessment
21 to a witness' testimony, but in order for you to be in a
22 proper position to be able to fairly evaluate the
23 credibility of a witness' testimony, it's important that you
24 give all of the witnesses the same degree of attention as
25 they testify, so that when you do go back to begin your

1. deliberations at the trial's conclusion you will be in a
2. proper position to fairly evaluate each witness' testimony
3. in light of not just that witness' testimony, but in light
4. of all of the testimony and all of the evidence received
5. during the course of the trial.

6. And it is also important to keep an open mind
7. throughout the course of the trial. And that just means
8. that you are not to begin making up your minds or
9. formulating your opinions as to what you think the ultimate
10. decisions in the case ought to be until all of the evidence
11. has been received, until I have instructed you on the law
12. that's applicable in the case, and until you have been asked
13. to go back into your jury room and to begin with your
14. deliberations in this case.

15. That is the process that has been designed over
16. the last 237 years to ensure that you can arrive at a fair
17. and impartial decision in this case, or in any case. So I
18. do want to thank you in advance for your participation, as
19. well as for your careful attention.

20. I would ask that you please give the lawyers your
21. attention now as they give you their opening statement.

22. Mr. Barnette?

23. MR. BARNETTE: May it please the court?

24. THE COURT: Yes, sir.

25. MR. BARNETTE: Mr. Foreman, ladies and gentlemen

1 of the jury, I want to take you back to December 16th, 2010.

2 Where this occurred at, you go out 29 here and you
3 hit 150 and you go by the radio station. If you are
4 familiar with where that's at, there is a trailer park out
5 there. One of the roads you go down in the trailer park,
6 it's the second road on the right is called Conner Drive.
7 And what happened that day, Breezy -- and you will hear
8 Breezy is called "Breezy". That's what his family calls
9 him. That's the name they had used for him for years.
10 "Breezy" was with his family that day. Martha Houey is his
11 grandmother. His mother Rose.

12 What he was doing was helping them move furniture
13 that day. It was actually the last trip they had made.
14 They went over to Martha Jean Houey's house, picked a
15 dinette set, tables and chairs. They put it in the truck,
16 Dot Bishop, Dorothy Bishop's truck. And what happened was
17 Ms. Houey and Ms. Bishop was in that truck and Rose took
18 "Breezy" and her daughter with them in another car. They
19 went down and they were going into basically Rose's
20 daughter's trailer. She's two trailers down where from
21 where the defendant was staying. When I mean two doors
22 down, the trailers are in a row. So there was a trailer
23 here, a trailer in between, and then another trailer. The
24 defendant was in this trailer. They were actually taking
25 the furniture to the trailer two doors down.

1 When they got there, they jumped out and realized
2 they had forgotten the key to the trailer, so Rose and her
3 daughter went back to get the key. During that time
4 "Breezy" went and started taking the furniture out of the
5 truck. At that time Martha Jean and Dot was still sitting
6 in the front seat of the truck.

7 "Breezy" gets a phone call. He goes up and he
8 talks to a fellow that comes out of the trailer, whispering
9 to him. The fellow goes back to the trailer. "Breezy" just
10 stays outside. He'd waiting for Rose and them to get back
11 with the key. And all of the sudden out of the back of that
12 trailer Prince Snipes comes out, out of the back door of the
13 trailer, two doors up. He takes a gun, a rifle it appears
14 to be, and shoots "Breezy" in the street. "Breezy" runs to
15 get away from him. Several shots were fired. He's hit
16 several times. He literally falls on his back.

17 They get out of the car trying to stop Prince
18 Snipes from keeping on shooting him.

19 Prince Snipes goes up and shoots him point blank
20 in the head. You will hear testimony from the pathologist
21 that it was within inches the head shot to "Breezy" that
22 day.

23 After he shoots him, he jumps in his car, which is
24 a gold 1997 Lincoln Town Car, and leaves the scene. He goes
25 to North Carolina. The car isn't found for days until it's

1 found in North Carolina. The defendant is not found until
2 January the next month in North Carolina. He never calls
3 anybody.

4 Rose had came back with the key, was pulling into
5 the mobile home park down that road when she heard the shots
6 and saw the defendant jump into the car and leave the scene.
7 He almost ran right over the top of her.

8 Martha Jean and Dorothy saw this man here shoot
9 and kill "Breezy" right in front of them.

10 We know that nine shots were fired by that gun.
11 You will hear from a SLED expert that will come and testify
12 that nine shell casings were found that was fired from the
13 same weapon.

14 "Breezy" did not have a weapon on him. There was
15 none seen beforehand. There was none seen at the scene by
16 witnesses, and none was found by law enforcement, which
17 arrived there a short time after the shooting occurred.

18 Ladies and gentlemen, the defendant has been
19 charged with murder and possession of a weapon during a
20 violent crime.

21 Murder is shown by malice, and malice can happen
22 that quick. It doesn't have to be premeditated. It doesn't
23 have to be anything. You just have to have that evil in
24 your heart to do that. And for a man to come out and a man
25 just standing there moving furniture and come out and shoot

1 him the way that he was shot -- and you will have the
2 evidence. You will hear the pathologist tell you how many
3 times he was shot. You will hear how many shell casings was
4 fired, and they were all fired by that man right there. The
5 evidence will show that.

6 Please listen to every witness in this case.

7 What I'm going to ask you to do after we come back
8 to you, I will come back to you a second time in closing
9 arguments, but I'm going to ask you to find him guilty of
10 both counts, because the evidence will show what happened
11 that day, and that day is what we are dealing with here
12 today.

13 Thank you very much for your time.

14 Thank you, Your Honor.

15 MR. CAMPBELL: May it please the court?

16 THE COURT: Yes, sir.

17 MR. CAMPBELL: There are several facts in this
18 case that are undisputed. They are undisputed by the State
19 and they are undisputed by Mr. Snipes.

20 One, "Breezy", yes, he was there that day. He was
21 in my client's backyard. He was talking to the son of my
22 client's fiance, Nikita Hardy.

23 Now, this individual is important, because Ms.
24 Hardy, and you will learn that, is the mother of "Breezy's"
25 son. "Breezy" and my client's fiance had a prior

1 relationship, so there was a reason for Mr. Houey to
2 approach the backyard.

3 There was a conversation that took place. I don't
4 think there is going to be any dispute in regards to that
5 between Mr. Houey and D.M. . And after that my
6 client exited the residence.

7 Now, Mr. Snipes will testify here in this case.
8 He's not required to, but I'm telling you right now before
9 we ever get started that he's going to testify, because we
10 are not denying whatsoever that he shot Mr. Houey. Mr.
11 Snipes walked outside with a 9-millimeter Highpoint. It's a
12 semi-automatic rifle. He walked outside and shot Mr. Houey.

13 Now, his testimony will be that he observed, or he
14 thought, Mr. Houey had a gun, he made a motion for it, and
15 as a result he was in fear for his life and shot him. The
16 fact that he shot him we are not disputing whatsoever. This
17 is not a who done it case.

18 Also not in dispute, my client got in his car and
19 left and went to North Carolina. We are not going to
20 dispute that whatsoever.

21 Now, you will hear from several witnesses, but
22 only three or four saw what happened or were there in the
23 close proximity: Mrs. Dorothy Boyd, Ms. Martha Jean Houey,
24 D.M. , and Prince Snipes. Those four individuals, a
25 short period of time, will testify to that.

1 Now, in addition you will hear from the
2 pathologist and she will testify that there was a fatal,
3 quote, gunshot to Mr. Houey's head, but please pay attention
4 to everything else she testifies to about the other gunshot
5 wounds, about everything she testifies to.

6 In addition, you will hear from other detectives,
7 other SLED investigators, and they will give you evidence,
8 such as gunshot residue. The detectives will show you where
9 the bullets were fired from.

10 Take all this testimony into consideration and
11 then match it up with the witness statements. What makes
12 sense? What corresponds, because only you twelve, thirteen,
13 individuals will be able to make that determination. You
14 will be able to look every single individual in the eye.
15 You will be able to tell. You can make that determination.
16 Are they telling the truth? Are they bias? Are they
17 correct in some details? Are they not correct in some
18 details? Only you get to make that determination. I
19 cannot. Mr. Barnette cannot. Mr. Houey's family can't.
20 Mr. Snipes can't. That is your job. You get to determine
21 who is truthful, who is not truthful, what evidence do I
22 really want to weigh and what evidence is important? And
23 that is important, because a great burden has to be
24 overcome.

25 You have to find my client guilty beyond a

1 reasonable doubt, and this burden is placed because look at
2 the caption in this case. It's the State versus Prince
3 Snipes. It's not the City of Gaffney. It's not the County
4 of Cherokee, but the State of South Carolina. All of the
5 State of South Carolina's resources can be used to try and
6 convict my client. That's why this burden has been
7 established. It is a great burden that has to be overcome,
8 and only you twelve individuals can overcome that.

9 I would put forth to you, after you have listened
10 to the testimony, after you have viewed the evidence, that
11 you cannot reach that burden and you will find my client not
12 guilty. Thank you.

13 THE COURT: Mr. Barnette?

14 MR. BARNETTE: May it please the court, Your
15 Honor, I would like to call Rose Houey to the stand, please.

16 ROSE MARIE HOUEY, having been first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION BY MR. BARNETTE:

19 Q. Ms. Houey, I'm going to have to ask you to keep your
20 voice up, okay? I know it's going to be hard, but I want to
21 make sure that they can hear you in the back row, okay?

22 A. Okay.

23 Q. Could you give me your full name, please?

24 A. Rose Marie Houey.

25 Q. And Ms. Houey, where do you live at?

1 A. Circle, Apartment , Gaffney.

2 Q. Let me pull that a little bit closer to you.

3 THE COURT: Adjust that microphone so she's
4 speaking into it. You might have to pull your chair up.

5 BY MR. BARNETTE:

6 Q. If you will, ma'am, please give your full name.

7 A. Rose Marie Houey.

8 Q. And where do you live at, Ms. Houey?

9 A. Circle, Apartment , Gaffney.

10 Q. And how long have you lived in Gaffney, ma'am?

11 A. All my life.

12 Q. And what kind of work did you do?

13 A. Dry cleaning.

14 Q. And how long did you do that, ma'am?

15 A. For about seven years.

16 Q. And where was that at, ma'am?

17 A. Quick as a Wink in Gaffney.

18 Q. Your son, Breezy , what was his nickname?

19 A. "Breezy".

20 Q. And Ms. Houey here, Martha Jean Houey, who is this?

21 A. My mother.

22 Q. And "Breezy" was her grandson?

23 A. Yes.

24 Q. Going back to December 10th -- or December 16th, 2010,
25 if you would, tell the jury what y'all were doing that day.

1 A. We were moving furniture from my grandma's house to my
2 mother's house, and from my mother's house to McIntyre
3 Trailer Park at my niece's house.

4 Q. That was your niece that lived in the trailer park,
5 ma'am?

6 A. Uh-huh, yes.

7 Q. And whose truck did y'all use that day?

8 A. Dorothy Boyd.

9 Q. And when they went over to your house to get -- or to
10 your -- was it your mom's house to get the furniture to move
11 to the trailer park?

12 A. Right.

13 Q. Who went over to your mother's house?

14 A. Me, "Breezy", and Tatasha, and mom and Dot went to my
15 mother's house, and then all of us went to the trailer park.

16 Q. And who loaded the furniture in the truck?

17 A. "Breezy".

18 Q. Okay. And when the -- who took the truck to the mobile
19 home park?

20 A. Dorothy Boyd.

21 Q. Who is that?

22 A. Dorothy Boyd.

23 Q. And who was in the truck with her?

24 A. Martha Houey.

25 Q. Okay. Let me show you what has been marked as State

1 Exhibits 3 and 4. Are these pictures of the truck, Dorothy
2 Boyd's truck, at the trailer park?

3 A. Yes.

4 MR. BARNETTE: Your Honor, I would like to enter
5 those into evidence at this time.

6 MR. CAMPBELL: No objection, Your Honor.

7 THE COURT: They are admitted.

8 (Whereupon, State's Exhibit No. 3 was entered into
9 the record as evidence)

10 (Whereupon, State's Exhibit No. 4 was entered into
11 the record as evidence)

12 BY MR. BARNETTE:

13 Q. Before I show the pictures to the jury, did you follow
14 them in your car, ma'am?

15 A. Yes, I did.

16 Q. And who was in your car?

17 A. Myself, "Breezy", and Tatasha.

18 Q. And what kind of car was you driving, ma'am?

19 A. Honda.

20 Q. When y'all got to the trailer park, if you would, tell
21 the jury what happened then.

22 A. Well, when we got there, we unloaded a -- we was trying
23 to unload the furniture, but the trailer door was locked and
24 we went back to get the key.

25 And when me and Tasha was pulling in the trailer park

1 we heard the gunshots. And as I was going -- turning down
2 the driveway, I seen Prince had a gun and he went and got in
3 the car and he like to ran me over. By that time Tasha said
4 "Breezy" is on the ground. And she jumped out of the car,
5 and I tried to open her door and jump out, but I couldn't
6 because Prince was like to ran me off the road. And I
7 went -- finally went and parked.

8 Q. And do you see the man that had the gun that day?

9 A. Yes.

10 Q. Could you point and identify what he's wearing, ma'am?

11 A. He's wearing a white shirt, right over there sitting at
12 the table.

13 MR. BARNETTE: Your Honor, I would like her to --
14 she's identified the defendant today.

15 THE COURT: Sitting next to Mr. Campbell, the
16 lawyer?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. It shall so reflect.

19 BY MR. BARNETTE:

20 Q. And that was the man that you saw that day?

21 A. Yes.

22 Q. And you said that you parked your car after that, once
23 you got by him?

24 A. Yes.

25 Q. Or he had left.

1 Did he leave -- he didn't come back or anything after
2 that?

3 A. No, sir.

4 Q. Let me go ahead and put up State's Exhibit No. 3 for
5 the jury here.

6 Was this the truck, ma'am, that y'all had
7 unloaded the -- previously unloaded the furniture from?

8 A. Yes.

9 Q. Okay. And whose car is this right beside of it?

10 A. That's my car.

11 Q. Okay. And I'm showing you State Exhibit 4. Is that
12 the truck that y'all used to move the furniture that day?

13 A. Yes.

14 THE COURT: Be sure when you respond to the
15 question you use the microphone, please.

16 THE WITNESS: Oh, yes, sir.

17 BY MR. BARNETTE:

18 Q. And let me show you State's Exhibit 55. Was this the
19 vehicle that Mr. Snipes, the defendant, was driving --

20 A. Yes.

21 Q. -- when he left the scene?

22 MR. BARNETTE: Your Honor, I would like to enter
23 State Exhibit 55 into evidence at this time.

24 MR. CAMPBELL: No objection, Your Honor.

25 THE COURT: Admitted.

1 (Whereupon, State's Exhibit No. 55 was entered
2 into the record as evidence)

3 MR. BARNETTE: Permission to publish to the jury,
4 Your Honor?

5 THE COURT: You may.

6 BY MR. BARNETTE:

7 Q. I'm showing you State's Exhibit No. 55, ma'am. Was
8 this the vehicle that the defendant was driving when he left
9 the mobile home park?

10 A. Yes, it was.

11 Q. When you got your car parked, what did you do then,
12 ma'am?

13 A. Ran up there to where "Breezy" was laying at.

14 Q. If you would, tell the jury what you saw when you got
15 to "Breezy".

16 A. I seen "Breezy" laying on the ground. My mother was
17 beside him. He had gunshot wounds up there, and he had --
18 his eyeball was hanging out, and blood was coming out of
19 his -- out of his -- on the side, and you could see the
20 smoke coming out of it.

21 Q. Okay. Who called 911, ma'am?

22 A. Dorothy Boyd.

23 Q. Did the police arrive there pretty quickly, or seem to
24 get there pretty quickly?

25 A. It seemed -- sort of, yeah.

1 Q. Did "Breezy" have any gun at any time that day?

2 A. No, he didn't.

3 Q. Did he have a gun when you left the trailer park?

4 A. No, sir.

5 Q. Did he have a gun when you got back to his body?

6 A. No, sir.

7 Q. So you never saw a gun that day?

8 A. No, sir.

9 Q. And, ma'am, this trailer park, this is in Cherokee
10 County, is that right?

11 A. Yes, sir.

12 MR. BARNETTE: One moment, Your Honor, please.

13 (Off the record)

14 (Back on the record)

15 BY MR. BARNETTE:

16 Q. If you will, ma'am, please answer any questions that
17 Mr. Campbell may have for you. Thank you.

18 A. All right.

19 CROSS EXAMINATION BY MR. CAMPBELL:

20 Q. Ms. Houey, just briefly.

21 You have three grandchildren, correct?

22 A. Yes.

23 Q. Okay. And one of your grandchildren, the parents are
24 Breezy and Nikita Hardy, is that correct?

25 A. Yes.

1 Q. And Prince Snipes was residing with Nikita Hardy,
2 correct?

3 A. Yes, sir.

4 Q. And that was in the trailer park?

5 A. Yes.

6 Q. Okay. And your grandson was living there as well,
7 correct?

8 A. Yes.

9 MR. CAMPBELL: No further questions at this time,
10 Your Honor.

11 MR. BARNETTE: No further questions.

12 We would ask the witness to be excused, Your
13 Honor.

14 THE COURT: You may step down.

15 May she also be --

16 MR. BARNETTE: Well, not excused. He may --

17 MR. CAMPBELL: Your Honor, I reserve the right to
18 recall her in my case.

19 THE COURT: She would have to remain.

20 MR. BARNETTE: Yes, sir. I think she plans to
21 remain anyway.

22 THE COURT: Okay.

23 (Whereupon, the lawyers approached the bench for
24 an off-the-record discussion)

25 THE COURT: All right, ladies and gentlemen, this

1 is a convenient time to break for lunch, because the next
2 witness probably is longer than the last, so we will break
3 for lunch.

4 Let me caution you, though, that at any time that
5 you are excused, you are never permitted to talk about this
6 case. You are only permitted to talk about the case during
7 jury deliberations at the trial's conclusion.. So during the
8 lunch recess, or an overnight recess, or even a break during
9 the trial you can't talk about the case with any person
10 whatsoever in any fashion whatsoever, and that includes your
11 fellow jurors. You can't talk among yourselves, unless and
12 until you are engaged in jury deliberations, and that won't
13 be until the end of the case after all the evidence has been
14 received and I have instructed you to begin jury
15 deliberations. So, during the trial don't talk about the
16 case at all.

17 Also you are never permitted to supplement your
18 knowledge of the case by conducting outside -- by consulting
19 outside resources. You can't go on the Internet. You can't
20 watch television. You can't listen to a radio. You can't
21 read newspaper articles that relate to the case. You have
22 got to base your decision upon what you see and hear during
23 the trial and you are not to be influenced by any outside or
24 extraneous information.

25 So while you are not to discuss it with anybody,

1 you are also not to conduct any research or do your own
2 investigation into any issues, and do not permit yourselves
3 to be exposed to any type of media coverage that might
4 relate to the case, whether it be television, radio, or
5 newspaper.

6 You are going to now be excused for lunch. I
7 would ask that you please report back to your jury room at
8 2:15. At 2:15 this afternoon.

9 Now, when you reported this morning, you came
10 through the front door. When you come back this afternoon,
11 now that you are serving in the case, you will be entering
12 the courthouse from the side door, which is the door right
13 behind the First Baptist Church. That's the side door of
14 the courthouse. So when you come back, someone will meet
15 you at that door, one of the bailiffs, and then they will
16 take you upstairs to the jury room.

17 So, please, as soon as you come back from lunch,
18 report to your jury room, and do not report any later than
19 2:15. 2:15 this afternoon.

20 All right, we will see you after lunch.

21 All others remain seated. I don't have to say
22 that but once.

23 (The following takes place outside the presence of
24 the jury panel).

25 (Whereupon, the lawyers approached the bench for

1 an off-the-record discussion)

2 THE COURT: Court is in recess until 2:15.

3 (Whereupon, proceedings were recessed)

4 (Whereupon, proceedings were reconvened)

5 THE COURT: All right. Are we ready for the jury?

6 MR. BARNETTE: The State is ready, Your Honor.

7 MR. CAMPBELL: We are ready.

8 THE COURT: All right. Bring them in.

9 (The following takes place in the presence of the
10 jury panel)

11 THE COURT: Good afternoon, ladies and gentlemen.
12 As you know, when we recessed for lunch the State had begun
13 with its presentation of evidence, so we will continue with
14 that presentation this afternoon.

15 Mr. Barnette.

16 MR. BARNETTE: May it please the court, Your
17 Honor, I would call Martha Jean Houey to the stand, please.

18 MARTHA JEAN HOUEY, having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE:

21 Q. Ms. Houey, I would like to ask you to speak -- I know
22 it's going to be hard for you, but I'm going to ask you to
23 speak loud enough so they can hear you in the back row,
24 okay?

25 A. Yes.

1 Q. If you would, give me your full name, please?

2 A. Martha Jean Houey.

3 Q. And Ms. Houey, where do you live at?

4 A. Road.

5 Q. And how long have you lived in Gaffney, ma'am?

6 A. All my life.

7 Q. And where did you work at prior to retiring, ma'am?

8 A. Martha Randolph. I worked there fourteen years.

9 Q. And where did you work before that?

10 A. Gaffney Manufacturing, twenty-five.

11 Q. "Breezy", what relation is "Breezy" to you, ma'am?

12 A. My grandson.

13 Q. And back on December 16th, 2010, was he helping y'all
14 move furniture that day?

15 A. Yes.

16 Q. And was he taking the dinette set, helping y'all with a
17 dinette set from your house to, I guess, your great niece's
18 house?

19 A. My granddaughter's house, yes.

20 Q. Granddaughter's house, okay.

21 And whose truck did y'all use that day?

22 A. Dorothy Boyd's.

23 Q. And when they went over to your house, who loaded the
24 furniture into the truck?

25 A. Myself and Dot.

1 Q. Did "Breezy" help you or did "Breezy" come too?

2 A. Sir?

3 Q. Did "Breezy" come to help you too?

4 A. Yes, he did.

5 Q. And when y'all left your house with the furniture in
6 the truck, who was in the truck?

7 A. Me and Dorothy Boyd.

8 Q. And who was in the other car?

9 A. My daughter Rose, my granddaughter Tatasha and
10 "Breezy".

11 Q. And did y'all go to the trailer park?

12 A. Yes, sir.

13 Q. And when y'all got there, can you tell the jury what
14 happened?

15 A. When we got there, Tasha didn't have her key, so
16 "Breezy" had took the dining table -- he took the table off
17 from the truck, and my granddaughter and my daughter Rose
18 went to get the key so he could get in the house.

19 Q. And did you stay with the truck, ma'am?

20 A. Yes.

21 Q. And who else stayed there?

22 A. Me and Dorothy Boyd.

23 Q. Was y'all in the truck?

24 A. We was sitting in the truck.

25 Q. Where was "Breezy" at?

1 A. "Breezy" was standing in the road.

2 Before then "Breezy" was standing behind the truck and
3 Niki's tallest boy, that oldest boy, called "Breezy" for
4 some reason, I don't know what, but he went back up to the
5 trailer, and "Breezy" was standing in the road smoking a
6 cigarette.

7 Q. So after he talked to him, what did "Breezy" --

8 A. The tall boy talked to him. I don't know what they
9 were saying, because I was in the truck.

10 Q. Sure. But they were talking to him? Where were they
11 talking to him at?

12 A. Yes.

13 Q. Where were they talking at, ma'am?

14 A. Then they was right above Dorothy's truck next to that
15 second trailer, my granddaughter's trailer.

16 Q. You got to talk loud enough so they can hear you.

17 A. My granddaughter's trailer, we was at her trailer, and
18 there was a second trailer sitting there, and then Niki
19 lived above that trailer.

20 Q. So basically you had the trailer that your
21 granddaughter was moving into. Then a trailer above it.
22 And then the next trailer was where Nikita and Prince Snipes
23 lived at?

24 A. Yes.

25 Q. So her son, Niki's son, came out and called "Breezy" --

1 A. Called "Breezy".

2 Q. -- and was talking to him.

3 Where did they talk at? Was it right beside the
4 trailer?

5 A. Right up above there.

6 Q. Okay. And did "Breezy" come back into the road?

7 A. "Breezy" -- the boy went back home and "Breezy" come
8 back out and was smoking a cigarette.

9 Q. Okay. So just to sure the jury understands. Niki's
10 son that came and talked to him went back to Niki's trailer?

11 A. He went back to Niki's trailer.

12 Q. And "Breezy" went out -- was in the road smoking a
13 cigarette?

14 A. Yes. Me and Dot was sitting in the truck.

15 Q. And after "Breezy" was in the road smoking a cigarette,
16 tell the jury what happened.

17 A. Dorothy Boyd told me said "look at that boy shooting
18 that boy." And I turned around and looked and he was
19 shooting him. Oh, God. And "Breezy" turned to run, but he
20 fell. And Dot dropped out of the truck and started dialing
21 911. And she told him -- she told Prince, she said "you
22 didn't have to shoot that boy like that," and Prince went
23 back and shot him in the head.

24 THE COURT: Ma'am, we are not going to be able to
25 understand you if you put your hands over your mouth, so

1 let's try to gather yourself as best you can.

2 A. Well --

3 THE COURT: Make sure you speak distinctly so the
4 jury can understand what you have to say.

5 A. I'm sorry..

6 BY MR. BARNETTE:

7 Q. Let's go back. You got to make sure the jury can hear,
8 okay? This is important.

9 You said that -- who was the person that came out of
10 that trailer and started shooting at "Breezy"?

11 A. Prince.

12 Q. Do you see him here in the courtroom today?

13 A. Yes, sir, he sit over there.

14 Q. Can you point at him and describe what he's wearing?

15 A. He's got that white shirt on.

16 Q. Is he sitting beside Mr. Campbell?

17 A. Yes, he is.

18 MR. BARNETTE: Your Honor, I would like the record
19 to reflect that she's ID'd the defendant.

20 THE COURT: It shall.

21 BY MR. BARNETTE:

22 Q. You said that he came out of the trailer, out of the
23 back door, and started -- come down shooting at "Breezy"?

24 A. When I seen him, he was coming down the road he was
25 shooting. He had a long gun.

1 And after Dot asked him -- or she said "you didn't have
2 to shoot that boy like that," and after he went -- he shot
3 and went back and shot him in the head.

4 And then I was out of the truck then and I asked him
5 why he shoot him like that? And then he said ""Breezy" come
6 to me. I didn't go to him."

7 Q. So to make sure I understand, or rather the jury
8 understands it, he had started shooting him in the road?

9 A. In the road.

10 Q. And "Breezy" had fell trying to get away from him?

11 A. Yeah.

12 Q. And that's when Dot asked him why he was shooting, or
13 what he was shooting for? Or Dot asked him a question, is
14 that right?

15 A. She asked him -- she told him, she said "you didn't
16 have to shoot that boy like that."

17 Q. And then what did that defendant do?

18 A. He went back and shot him in the head.

19 Q. After he shot him in the head, what did he do then?

20 A. He stood there. I was out of the truck, and he stood
21 there and I asked him why did he shoot that boy like that.
22 He said ""Breezy" come to me. I didn't go to him." That's
23 exactly what he said, and then he turned and went on up the
24 road.

25 Q. What did you do after that?

1 A. Well, the police had got there then.

2 And when my daughter come up there, I guess I was
3 laying over -- or laying beside him, or standing up, or
4 something.

5 Q. Can you tell the jury about what "Breezy" looked like
6 there on the ground?

7 A. He was just laying there. He was -- he had fell --
8 fell this way, and then it looked like he had a shot or
9 something in his head. Then he had -- his eyeball had
10 popped out.

11 Q. And you said Dot was -- or Dorothy had called 911?

12 A. She had called 911, but somebody was -- she couldn't
13 tell the people where to come to, so some white man took the
14 phone out of her hand and called and was talking to them.

15 Q. During that day did you ever see "Breezy" with a gun?

16 A. He did not have no gun, no.

17 Q. Did he have a gun when this shooting occurred?

18 A. No.

19 Q. Did you ever see a gun?

20 A. I didn't see nobody but Prince's gun.

21 Q. And you said Prince Snipes just left after that?

22 A. (Shaking head yes).

23 Q. And you said the police got there shortly after that?

24 A. Yes.

25 MR. BARNETTE: One moment, Your Honor, please.

1 (Off the record)

2 (Back on the record)

3 BY MR. BARNETTE:

4 Q. And did "Breezy" ever go up to Prince Snipes, into
5 Prince Snipes trailer, or anything like that?

6 A. No.

7 Q. Snipes came out of the trailer shooting at him?

8 A. Yes, sir.

9 Q. If you would, please answer any questions Mr. Campbell
10 has for you.

11 CROSS EXAMINATION BY MR. CAMPBELL:

12 Q. Ms. Houey, if you need to take a break at any time,
13 just let me know and I can pause and let you get a drink of
14 water, or whatever, okay?

15 A. All right.

16 Q. And also if at any point you don't understand any of my
17 questions, just let me know and I'll try to rephrase it,
18 because sometimes I can be confusing, okay?

19 A. All right.

20 Q. Okay. Thank you, Ms. Houey.

21 Now, you were -- you rode to the trailer park in Ms.
22 Boyd's truck, Dot's truck, correct?

23 A. Yes.

24 Q. And what furniture did you all have in the back of that
25 truck?

1 A. What? I couldn't understand you.

2 Q. What furniture did you all have in the back of the
3 truck?

4 A. We had brought a kitchen table and some chairs from my
5 house.

6 Q. Okay. And when you pulled up into the trailer park,
7 where did you park?

8 A. In the driveway.

9 Q. Okay.

10 A. She was backed in.

11 Q. You backed into the driveway?

12 A. (Shaking head yes).

13 Q. Now, I believe you said that Tasha and Rose left, is
14 that correct?

15 A. Yes.

16 Q. And you were actually moving into Tasha's apartment?

17 A. We moved a kitchen table there.

18 Q. Okay. And they left because they didn't have a key?

19 A. Yes.

20 Q. Okay. But "Breezy" stayed behind, correct?

21 A. Yes.

22 Q. Now, in that trailer park -- your great-grandson
23 resided in that trailer park as well, correct?

24 A. Yes.

25 Q. Okay. And his name is D.H. too, correct?

1 A. Yes.

2 Q. And his mother is Niki Hardy?

3 A. Yes.

4 Q. And she actually lived with Prince Snipes, correct?

5 A. Yes.

6 Q. Okay. And so that's how "Breezy" and Prince know each
7 other?

8 A. I guess.

9 Q. Okay. Well, I mean, it wasn't just some random
10 occurrence, was it? I mean, they actually knew each other?

11 A. Yes.

12 Q. Okay. Thank you.

13 Now, I believe it's your testimony that "Breezy" walked
14 down to meet with D.M. , correct?

15 A. Yes.

16 Q. And that's Niki's -- I believe you have already told us
17 that's Niki's oldest son, is that correct?

18 A. I don't know whether he's the oldest or not. All I
19 know that's her son.

20 Q. Okay. But one of her older sons?

21 A. (Shaking head yes).

22 Q. Okay. And "Breezy" and D.M. had a conversation,
23 correct?

24 A. Yes.

25 Q. Down there near D.M.'s trailer?

1 A. No, down there next to my granddaughter's, between
2 Niki's trailer and that second trailer.

3 Q. Okay. But it was between Niki's trailer and the second
4 trailer?

5 A. And my granddaughter's.

6 Q. Okay. Now, how long was their conversation?

7 A. I don't know. Two or three minutes, five minutes. I
8 don't know, really.

9 Q. Okay. But you were in the car this entire time,
10 correct?

11 A. I was sitting in the truck.

12 Q. Okay. Or in the truck.

13 And you couldn't hear their conversation?

14 A. No.

15 Q. Okay. And then after a period of time D.M. left and
16 went back inside his trailer, is that correct?

17 A. He went up across the yard. I guess he went back in
18 his trailer.

19 Q. Okay. Now, at that period of time you said "Breezy"
20 was standing there smoking a cigarette, correct?

21 A. Yes, he was in the -- he was almost in the middle of
22 the road.

23 Q. Okay. Now, while he was smoking his cigarette, he had
24 his other hand in his waistband, didn't he?

25 A. Yes.

1 Q. Okay. Essentially, you know, as a demonstration about
2 like this, correct?

3 A. Yes.

4 Q. Okay. And he was smoking a cigarette?

5 A. Yes.

6 Q. Okay. Would you say, with my left hand in my waistband
7 and smoking, this is a fair description of what he was
8 standing like?

9 A. Yes.

10 Q. Okay. Then after a period of time Prince Snipes came
11 out of his apartment, correct?

12 A. Yes.

13 Q. Carrying a gun?

14 A. (Shaking head yes).

15 Q. And he was walking towards "Breezy", wasn't he?

16 A. When I -- yes, he was walking, but he was shooting
17 while he was walking.

18 Q. Okay. But do you remember giving a statement in this
19 case, a written statement?

20 A. Yes.

21 Q. Okay. Do you recall in that statement you stating that
22 you saw a black guy walking?

23 A. No, I didn't say that.

24 Q. With a stocking cap and a gun?

25 A. No, I didn't say that.

1 Q. You didn't say that?

2 A. No, I didn't say that.

3 Q. Okay.

4 (Voluntary Statement of Martha Houey marked as
5 Defendant's Exhibit No. 1 for identification)

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

8 THE COURT: You may.

9 BY MR. CAMPBELL:

10 Q. Ms. Houey, I'm showing you a document here, okay?

11 Over where it says name, can you identify that for me,
12 please?

13 A. I need my glasses.

14 Q. I'm sorry.

15 Here you go, Ms. Houey.

16 Ms. Houey, is that your name at the top?

17 A. Yes, it is.

18 Q. Okay. And beside of it it has a birth date of
19 Is that your birth date?

20 A. Yes, it is.

21 Q. And down below at the bottom of the page is a
22 signature. Is that your signature?

23 A. Yes, it is.

24 Q. And I believe it's also dated 12-16-2010, is that
25 correct?

1 A. Yes.

2 Q. Now, I'm going -- I understand you did not write this
3 statement, did you?

4 A. No, I didn't write it.

5 Q. But your initials are at the top and at the bottom,
6 correct? You initialed this statement, is that correct?

7 A. Yes.

8 Q. Okay. Now, I asked you when you gave this statement
9 whether or not you said that you saw a black guy with a
10 stocking cap walking from behind a trailer with a long gun.
11 Would you -- and you said that you didn't remember saying
12 that. I'm going to ask you to read your statement and see
13 if that refreshes your memory.

14 A. "I had rode Dot --

15 THE COURT: Just a minute.

16 BY MR. CAMPBELL:

17 Q. Just read it to yourself, Ms. Houey. I'm sorry.

18 A. Oh.

19 THE COURT: Familiarize yourself with the
20 statement.

21 A. Yes, sir, that's on there.

22 BY MR. CAMPBELL:

23 Q. Okay. Now, you had a chance to familiarize yourself
24 with this statement, correct?

25 A. Yes.

1 Q. And in that statement you state that you saw a man
2 walking in a stocking cap with a long gun, correct?

3 A. Uh-huh.

4 Q. Okay. Thank you, Ms. Houey.

5 Now, I believe it's after that you said you heard the
6 gunshots, is that correct?

7 A. Yes, sir, I heard the gunshot.

8 Q. Okay. And that's when you turned and saw "Breezy" run
9 and fall, correct?

10 A. Yes.

11 Q. Okay. Now, is it your testimony that you saw Mr.
12 Snipes shooting and that you got out of the vehicle and went
13 towards him while he was shooting?

14 A. I was sitting in the truck. I was on the -- I had got
15 out and was on the side of the truck when he shot him in the
16 head.

17 Q. I understand.

18 My question is -- you just testified you walked towards
19 Mr. Snipes and asked him a question, and I'm trying to
20 understand. While he was shooting "Breezy", you got out of
21 your truck and walked towards him?

22 A. No.

23 Q. So that didn't happen?

24 A. What, about me walking towards him?

25 Q. That's correct.

1 A. I had -- I was on the side of the truck.

2 Q. Okay. So you wasn't near "Breezy" when you asked this
3 question?

4 A. I wasn't near "Breezy"?

5 Q. Whenever you -- let me back up.

6 When Mr. Snipes is shooting your grandson, what did you
7 do?

8 A. I got out of the truck. I was standing on the side.

9 Q. And you didn't go towards Mr. Snipes or "Breezy", did
10 you?

11 A. No.

12 Q. Okay.

13 A. But I did ask him why he did that.

14 Q. Okay. How far away was he?

15 A. About from here to where you are standing at.

16 Q. So your -- I guess your testimony is "Breezy" was
17 approximately I would say ten feet from --

18 A. No, I don't know all of that. All I know is it was
19 about from here to where you are standing at.

20 Q. Okay. And your testimony is you asked him why he shot
21 him?

22 A. Yeah, I asked him why he did that.

23 Q. Okay. While he's still carrying a gun?

24 A. I sure did.

25 MR. CAMPBELL: No further questions, Your Honor.

1 MR. BARNETTE: Just a couple of question on
2 redirect, Your Honor.

3 REDIRECT EXAMINATION BY MR. BARNETTE:

4 Q. Your statement, except for that one part that he
5 pointed out, that's what you told the police, wasn't it,
6 that day?

7 A. Yes.

8 Q. And what you are saying is you staying in the car, he
9 actually shot him first, and then Dot was the one that asked
10 him the first question, is that what you said?

11 A. Yes.

12 Q. Then after he shot him in the head, you asked him the
13 question that you asked him?

14 A. Yes, I asked him -- after he shot him in the head,
15 that's when I asked him why did he do that.

16 Q. What did he say to you?

17 A. He said "because "Breezy" come to me. I didn't go to
18 him."

19 Q. Thank you, ma'am.

20 MR. BARNETTE: That's the only questions I have.

21 THE COURT: Okay, you may step down. Watch your
22 step.

23 MR. BARNETTE: Your Honor, the State would like to
24 call Dorothy Bóyd to the stand, please.

25

1 DOROTHY BOYD, having been first duly sworn,
2 testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE:

4 Q. Ms. Boyd, I would like to ask you to speak up loud so
5 everybody in the back row can hear you, okay?

6 A. (Shaking head yes).

7 Q. Could you give me your full name, please?

8 A. Dorothy R. Boyd.

9 Q. And Ms. Boyd, where do you live at?

10 A. Heights.

11 Q. Okay. And how long have you lived in Gaffney, ma'am?

12 A. All my life.

13 Q. And back on December 16th, 2012 -- or 2010, excuse me,
14 did you give a truck to help move furniture for the Houey
15 family?

16 A. Yeah.

17 Q. And one thing I wanted this jury to know, have you had
18 health problems with your heart and so forth in the past
19 couple of years?

20 A. No, it was the time before I had moved them. I had
21 that after I had moved them.

22 Q. Right. I know, but between -- before testifying here
23 today you have had some heart problems, is that correct?

24 A. Oh, yeah, I had two open heart surgeries.

25 Q. Yes, ma'am.

1 And that was after all this happened, is that correct?

2 A. Yeah.

3 Q. And did y'all go over to Mrs. Martha Jean's house to
4 get the dinette set?

5 A. Yeah.

6 Q. Okay. And after y'all got the dinette set, who drove
7 the truck over to the trailer park?

8 A. I did.

9 Q. And who was in the truck with you, ma'am?

10 A. Martha Jean Houey.

11 Q. Okay. And who was in the other car following you?

12 A. It was Rose Houey and Martha Jean's granddaughter and
13 her son.

14 Q. Was that "Breezy" in the car with Rose?

15 A. Yeah.

16 Q. When y'all got over to the trailer park, did they
17 forget the key for the trailer?

18 A. Yeah.

19 Q. Okay. And who went to pick up the key for the trailer?

20 A. Rose and Martha Jean's granddaughter.

21 Q. And who stayed at the truck?

22 A. Me, Martha Jean and "Breezy".

23 Q. Did "Breezy" finish unloading the truck, moved the
24 furniture out of the truck?

25 A. He had laid the chairs right beside the trailer on the

1 ground. He had lined them up, but the table didn't have no
2 legs on it because they had screwed them off.

3 Q. Yes, ma'am.

4 A. And he was waiting for Rose to get back before they
5 could take the table off from the truck.

6 Q. And during this time where did you and Martha Jean stay
7 at?

8 A. I was sitting on the driver's side and she is sitting
9 on the passenger side looking at Breezy and I was
10 catty-corner in the truck.

11 Q. Did somebody come down and talk to "Breezy" for a short
12 period of time?

13 A. No. We heard a voice --

14 Q. Uh-huh.

15 A. -- two times. The first time he said "hey, "Breezy",
16 come here."

17 Q. Uh-huh.

18 A. "Breezy" didn't hear him.

19 Q. Uh-huh.

20 A. He said it again, "hey, "Breezy" come here." So
21 "Breezy", he was smoking him a cigarette, so he walked on up
22 there to -- let's see, one, two -- at the third trailer, and
23 I could see him, because I was sitting looking straight up
24 that way. And there was a tall thin boy was the one calling
25 him. He come about middle ways of that trailer. And

1 "Breezy" was standing there with his hands up on the trailer
2 and they -- I -- I don't think they talked five minutes
3 there, and "Breezy" -- I mean Prince come out that back
4 step --

5 Q. Well, let me ask you a question before that, ma'am.

6 Did they quit talking and then did the boy go back and
7 "Breezy" come back to the road?

8 A. No, the way this happened, he -- he saw Prince when he
9 come out the door. He had stopped immediately. He jumped
10 and looked around and Prince had that long gun in his hand.
11 And when he saw that gun, he just took off to running.

12 Q. Okay. And what happened then, ma'am?

13 A. And when he got in the road -- it's a one-lane road
14 down through there. He just went to pop, pop, pop right
15 in -- right in behind him. He was walking just as fast as
16 he could walk and he was whipping him down every time he put
17 a bullet in his back.

18 Q. What happened then, ma'am?

19 A. And then "Breezy" run until he couldn't run no more.
20 He turned around and looked at Prince about a split second
21 and fell backwards.

22 I done jumped out of the truck and asked him why did he
23 shoot him like that. He didn't say nothing to me. He
24 didn't say not one word to me.

25 He walked on to him, and I was about as far from here

1 to that man right there to him. I was scared to go any
2 closer. And he raised that gun up, aimed at him and shot
3 him right in the head and shot his eyeball clean out. His
4 eyeball was on his cheek bone up there. And he was laying
5 there with his mouth half hanging open. You could see blood
6 in his throat and it was coming out of his ears.

7 Q. Did you call 911?

8 A. Yeah. I didn't finish it, though. A white man took
9 the phone out of my hand and told them that the address that
10 was down off in there, the address, because I didn't know
11 it.

12 Q. And did you ever see "Breezy" have a gun that day?

13 A. "Breezy" -- I ain't never seen "Breezy" with a gun.

14 Q. He didn't have a gun that day, did he?

15 A. Uh-uh.

16 Q. Okay.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Off the record)

19 (Back on the record)

20 BY MR. BARNETTE:

21 Q. Please answer any questions that Mr. Campbell may have
22 for you, ma'am.

23 CROSS EXAMINATION BY MR. CAMPBELL:

24 Q. Thank you, Mrs. Boyd.

25 I understand -- and the same thing I told Ms. Houey, if

1 at any time you need to take a break, take a drink of water,
2 you just let me know. Any time that you don't understand
3 any of my questions, you just let me know, okay?

4 A. (Shaking head yes).

5 Q. Ms. Boyd, it was your truck that they drove to the
6 trailer, correct?

7 A. Uh-huh.

8 Q. And you physically drove this truck, correct?

9 A. Yes.

10 Q. And where did you park the truck as y'all were
11 preparing to unload the furniture?

12 A. We just barely got off the edge of the one-lane
13 highway. It goes off down in that trailer park.

14 Q. Okay. Now, it's -- I want to get this straight. Rose
15 and Tasha had to leave because they forgot their key,
16 correct?

17 A. That's right.

18 Q. So it was just you, Martha and "Breezy", right?

19 A. That's right.

20 Q. Okay. Now, what is your relationship to "Breezy" and
21 the Houeys?

22 A. We have been friends for many, many long years.

23 Q. Okay. So as a result of that, I mean, you are aware
24 that "Breezy" had a son who lived in the trailer park as
25 well, correct?

1 A. No, I did not know that.

2 Q. You did not know that?

3 A. Uh-uh.

4 Q. Okay. Now, I believe it's your testimony that -- and I
5 want to get this straight. Were you -- you were sitting in
6 the truck this whole time, correct?

7 A. Uh-huh.

8 Q. And you say that you heard someone yell "Breezy's" name
9 out?

10 A. Yes, I did.

11 Q. Okay. And at that point he walked down to that person,
12 right?

13 A. Who did?

14 Q. "Breezy" walked down to that person?

15 A. Yeah, he walked up to that person.

16 Q. Okay. He walked up to that person?

17 A. That's right.

18 Q. Okay. And I believe it's your testimony that he sat
19 and talked to this individual three, four, five minutes?

20 A. That's -- about like that. I wouldn't say five
21 minutes.

22 Q. Okay. But a few minutes?

23 A. That's right.

24 Q. Okay. And you said it was a tall slim boy, correct?

25 A. That's right.

1 Q. Now, at some point did this -- I'm assuming this
2 conversation ended at some point, correct?

3 A. When they -- when "Breezy" saw that boy, this guy they
4 called Prince, saw him with that gun, he just started
5 running, took off to running. That ended the conversation
6 right there.

7 Q. Okay. Now, I want to get this right. Is it your
8 testimony that D.M. was still outside talking to "Breezy"
9 when Prince came outside?

10 A. No, sir. I seen Prince when he stepped on the last
11 step on the ground.

12 Q. Okay. Was the tall slim boy who was talking to
13 "Breezy", was he still out there when Prince came outside?

14 A. Yeah, he was still standing there talking to "Breezy".
15 And so when "Breezy" saw him, he turned and started to
16 running, and Prince was walking towards him with the gun.

17 Q. Okay.

18 A. It was rusty looking on the end, brown handle.

19 Q. Okay. Now -- and I apologize. I just want to get
20 it -- I want to make one hundred percent that there is no
21 confusion, okay?

22 You say "Breezy" was standing there with his hand on
23 the trailer?

24 A. Yeah, like this.

25 Q. Okay. And he was talking to a tall slim boy?

1 A. Uh-huh.

2 Q. And that's when Mr. Snipes came out with the gun,
3 correct?

4 A. That's right.

5 Q. Did he come out walking, or did he come out running
6 with the gun?

7 A. He come out of the back step. And when he stepped down
8 on the step, he was walking real fast towards that way where
9 "Breezy" was.

10 Q. And the tall slim boy?

11 A. The tall slim boy was standing there looking in
12 "Breezy's" face talking to him.

13 Q. Okay. And then I believe it's your testimony that you
14 saw Prince start shooting, correct?

15 A. That's right.

16 Q. And "Breezy" took off running?

17 A. Yeah, he was running -- he started running before he
18 even got to him.

19 Q. Okay.

20 A. Before he started shooting, he started -- he went to
21 running before he started shooting.

22 Q. What happened to the tall slim boy? Is he still
23 standing there?

24 A. He -- when he seen Prince, he turned around and went
25 back in the front of that trailer. I couldn't see in the

1 front of that trailer.

2 Q. Okay. And I believe it's your testimony when saw him
3 shooting, you got out of your truck, correct?

4 A. That's right.

5 Q. Even though this gentlemen had a long gun, you still
6 got out and went towards him?

7 A. Yes, I did.

8 MR. CAMPBELL: No further questions for this
9 witness, Your Honor.

10 MR. BARNETTE: Nothing further from this witness,
11 Your Honor.

12 THE COURT: You may step down.

13 MR. BARNETTE: I would like to call Investigator
14 Anthony at this time.

15 INVESTIGATOR BILLY ANTHONY, having been first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE:

18 Q. If you would, sir, please state your full name for the
19 record.

20 A. Billy Anthony.

21 Q. And where do you work at, sir?

22 A. Cherokee County sheriff's office.

23 Q. And what is your position there, sir?

24 A. I'm a crime scene investigator.

25 Q. And how long have you been in law enforcement, sir?

1 A. I have been in law enforcement since 2000.

2 Q. Back on December 16th, 2010, were you called to a crime
3 scene at Drive here in Gaffney?

4 A. Yes, sir, I was.

5 Q. Is that in Cherokee County, sir?

6 A. Yes, sir.

7 Q. And when you arrived there -- where was you at when the
8 call went out from 911?

9 A. I was traveling on Highway 18 just up above, probably
10 five, six miles from the scene.

11 Q. Did you immediately go to the scene when the call was
12 sent out?

13 A. Yes, sir, I did.

14 Q. When you arrived there, did y'all secure the crime
15 scene?

16 A. Yes, sir, myself, Investigator Henson, and there were
17 two other road patrol officers on the scene when I arrived.

18 Q. So y'all were able to get there pretty quick then?

19 A. Yes, sir.

20 Q. Let me show you what has been marked as State Exhibit
21 No. 1. Is this a map of the area that we are talking about?

22 A. Yes, sir, it is.

23 Q. Okay.

24 MR. BARNETTE: Your Honor, I would like at this
25 time to enter No. 1 into evidence and publish it to the

1 jury, Your Honor.

2 MR. CAMPBELL: No objection, Your Honor.

3 THE COURT: It's admitted.

4 (Whereupon, State's Exhibit No. 1 was entered into
5 the record as evidence)

6 MR. BARNETTE: May I publish it to the jury at
7 this time, Your Honor?

8 THE COURT: You may.

9 BY MR. BARNETTE:

10 Q. I believe this is I-85, is that right?

11 A. Yes, sir.

12 Q. And this is 150 --

13 A. Yes, sir.

14 Q. -- going down here?

15 A. Yes, sir.

16 Q. And actually Gaffney -- I'm sorry, I keep blocking the
17 juror there, but Gaffney is down in here somewhere, is that
18 right, the City of Gaffney?

19 A. Yes, sir.

20 Q. And right out here, you go by -- there is a radio
21 station right in this area?

22 A. Yes, sir, right about where the 150 sign is.

23 Q. Okay. About right there.

24 You go beyond the radio station, there is a trailer
25 park. Is it McEntire's Trailer Park?

1 A. McEntire's, yes.

2 Q. And then is this the road we are talking about, Conner
3 Drive?

4 A. Yes, the second road on the right when you turn into
5 the trailer park.

6 Q. Okay. Once you secured the crime scene, was the
7 suspect still there or had he left?

8 A. No, sir, he had already left the scene.

9 Q. Okay. And after roping it off and everything, did you
10 draw a diagram of the crime scene, sir?

11 A. Yes, sir.

12 Q. Okay. Let me show you what's been marked as State
13 Exhibit No. 2.

14 Is that your crime scene diagram, sir?

15 A. Yes, sir.

16 MR. BARNETTE: Your Honor, I would move this into
17 evidence at this time.

18 MR. CAMPBELL: No objection, Your Honor.

19 THE COURT: It's admitted.

20 (Whereupon, State's Exhibit No. 2 was entered into
21 the record as evidence)

22 MR. BARNETTE: May I publish it at this time, Your
23 Honor.

24 THE COURT: You may.

25 BY MR. BARNETTE:

1 Q. I'm actually -- it's hard to put it up at the time up
2 here.

3 This is Conner Drive, is that right?

4 A. That's correct.

5 Q. Is this the truck that they were unloading the
6 furniture out of that day?

7 A. Yes, sir.

8 Q. And was this the trailer they were moving the furniture
9 to?

10 A. Yes, sir, it was.

11 Q. And is this the trailer where the defendant was
12 staying?

13 A. Yes, sir.

14 Q. And is this the area where -- I guess you started --
15 you obviously secured the crime scene. Is this the area
16 where you found a lot of evidence at, sir?

17 A. Yes, sir, it is.

18 Q. And what did you do? Did you number the items of
19 evidence as y'all went through?

20 A. Yes, sir, as we were -- when we arrived on the scene,
21 we started marking the evidence with orange cones to keep
22 them from being -- any being moved, and to make sure nobody
23 stepped on anything that was there inside the -- where we
24 had taped it off.

25 Q. Like this is number 1, 2, 3, 4, 5, 6, 7. Then 8, 9,

1 10, 11, 12, 13, 14, 15, 16, 17?

2 A. Yes, sir.

3 Q. I guess you actually had one up here too?

4 A. One up there. It's actually on Drive.

5 Q. And number 18 is actually right there, is that correct?

6 A. Yes.

7 Q. And I think on the diagram you marked the items that
8 you found in each part of the cone, is that right?

9 A. That's correct.

10 Q. I think 3 and 4 is already into evidence.

11 And did you take these pictures, sir?

12 A. Yes, sir, I did.

13 Q. Okay. State Exhibit 4, which is already into evidence,
14 is this the truck that the furniture was being emptied out
15 of?

16 A. Yes, sir.

17 Q. That white towel right there -- the body has been
18 moved, is that right?

19 A. That's correct.

20 Q. Is that where the huge blood spot from the head injury?

21 A. Yes, sir.

22 Q. So that covered the blood where the head was?

23 A. Yes, sir, that's correct.

24 Q. And that is approximately where his body was?

25 A. Yes, sir.

1 Q. State Exhibit 3 shows that on -- I know you have seen
2 that before. Right over there is where y'all went ahead and
3 got it secured and you are putting the cones out, is that
4 right?

5 A. That's correct.

6 Q. I'll show you State Exhibit 55.

7 Before we get too much of the crime scene, this is
8 the -- who is this car registered to?

9 A. Prince Snipes.

10 Q. That was the defendant's car?

11 A. Yes, sir.

12 Q. And where was it located at?

13 A. When I was in contact with it, it had been towed to our
14 impound lot.

15 Q. Was it found in North Carolina?

16 A. Yes, sir, it was found in North Carolina.

17 Q. Was that several days after this incident occurred?

18 A. Yes, sir, it was.

19 Q. Let me show you what has been marked as State Exhibit
20 5, 6, 7. I'll let you look at those three first.

21 And do those three photographs represent what you saw
22 that day, sir?

23 A. Yes, sir, they do.

24 Q. Thank you.

25 Let me show you State Exhibits 23 through 54. Do those

1 pictures fairly represent what you saw at the crime scene
2 also?

3 A. Yes, sir, they do.

4 MR. BARNETTE: Your Honor, I would like to move
5 these into evidence at this time. That's going to be
6 Exhibits 5 through 7, and 23 through 54.

7 MR. CAMPBELL: No objections, Your Honor. I have
8 previously seen them.

9 THE COURT: They are admitted.

10 (Whereupon, State's Exhibit No. 5 was entered into
11 the record as evidence).

12 (Whereupon, State's Exhibit No. 6 was entered into
13 the record as evidence)

14 (Whereupon, State's Exhibit No. 7 was entered into
15 the record as evidence)

16 (Whereupon, State's Exhibit No. 23 was entered
17 into the record as evidence)

18 (Whereupon, State's Exhibit No. 24 was entered
19 into the record as evidence)

20 (Whereupon, State's Exhibit No. 25 was entered
21 into the record as evidence)

22 (Whereupon, State's Exhibit No. 26 was entered
23 into the record as evidence)

24 (Whereupon, State's Exhibit No. 27 was entered
25 into the record as evidence)

1 (Whereupon, State's Exhibit No. 28 was entered
2 into the record as evidence)

3 (Whereupon, State's Exhibit No. 29 was entered
4 into the record as evidence)

5 (Whereupon, State's Exhibit No. 30 was entered
6 into the record as evidence)

7 (Whereupon, State's Exhibit No. 31 was entered
8 into the record as evidence)

9 (Whereupon, State's Exhibit No. 32 was entered
10 into the record as evidence)

11 (Whereupon, State's Exhibit No. 33 was entered
12 into the record as evidence)

13 (Whereupon, State's Exhibit No. 34 was entered
14 into the record as evidence)

15 (Whereupon, State's Exhibit No. 35 was entered
16 into the record as evidence)

17 (Whereupon, State's Exhibit No. 36 was entered
18 into the record as evidence)

19 (Whereupon, State's Exhibit No. 37 was entered
20 into the record as evidence)

21 (Whereupon, State's Exhibit No. 38 was entered
22 into the record as evidence)

23 (Whereupon, State's Exhibit No. 39 was entered
24 into the record as evidence)

25 (Whereupon, State's Exhibit No. 40 was entered

1 into the record as evidence)

2 (Whereupon, State's Exhibit No. 41 was entered
3 into the record as evidence)

4 (Whereupon, State's Exhibit No. 42 was entered
5 into the record as evidence)

6 (Whereupon, State's Exhibit No. 43 was entered
7 into the record as evidence)

8 (Whereupon, State's Exhibit No. 44 was entered
9 into the record as evidence)

10 (Whereupon, State's Exhibit No. 45 was entered
11 into the record as evidence)

12 (Whereupon, State's Exhibit No. 46 was entered
13 into the record as evidence)

14 (Whereupon, State's Exhibit No. 47 was entered
15 into the record as evidence)

16 (Whereupon, State's Exhibit No. 48 was entered
17 into the record as evidence)

18 (Whereupon, State's Exhibit No. 49 was entered
19 into the record as evidence)

20 (Whereupon, State's Exhibit No. 50 was entered
21 into the record as evidence)

22 (Whereupon, State's Exhibit No. 51 was entered
23 into the record as evidence)

24 (Whereupon, State's Exhibit No. 52 was entered
25 into the record as evidence)

1 (Whereupon, State's Exhibit No. 53 was entered
2 into the record as evidence)

3 (Whereupon, State's Exhibit No. 54 was entered
4 into the record as evidence)

5 MR. BARNETTE: Permission to publish these to the
6 jury, Your Honor?

7 THE COURT: You may.

8 BY MR. BARNETTE:

9 Q. Let me show you what has been marked as State Exhibit
10 No. 5. I'll show that to the jury.

11 Okay. Is this the crime scene that y'all secured and
12 marked, sir?

13 A. Yes, sir, it is.

14 Q. And this is the direction from the defendant's trailer?

15 A. Yes, sir.

16 Q. That he would have been coming from this direction
17 going downhill towards that spot?

18 A. That's correct.

19 Q. And this is like on a hill, sits kind of like an
20 incline, is that right?

21 A. Yes, sir.

22 Q. Let me show you State's Exhibit No. 6.

23 And like you said, you marked the cones where the
24 evidence was found, is that right?

25 A. That's correct.

1 Q. And this is like number 1?

2 A. Yes, sir.

3 Q. And number 1 would show a close-up of that. Was there
4 a shell casing found there?

5 A. Yes, sir, there were.

6 Q. Was that a 9-millimeter shell casing?

7 A. Yes, sir.

8 Q. And, of course, you have got the other one marked here
9 a little closer.

10 So really you had this bullet, these shell casings -- I
11 mean that shell casing, items here, and you had some more
12 items here, and then you had these way over here, is that
13 right?

14 A. That's correct.

15 Q. Let me show you State Exhibit 7, which this is actually
16 a close-up of this area, is that correct, State Exhibit No.
17 7?

18 A. Yes, sir, that's correct.

19 Q. I think I asked you this before, but where the towel
20 is, that was where the pool of blood was from the head of
21 the victim?

22 A. Yes, sir.

23 Q. And his -- I guess 12 actually stood for his body?

24 A. That's about the center of the body.

25 Q. Where number 12 was?

1 A. Yes, sir.

2 Q. And then items -- you found different items than these
3 items here, right?

4 A. That's correct.

5 Q. Number 11 and number 13, what did you find at those two
6 locations?

7 A. 11 and 13 were fired cartridge casings.

8 Q. And those were also 9-millimeter casings?

9 A. Yes, sir, they were.

10 Q. So they were kicked out while the gun was being fired,
11 is that right?

12 A. That's correct.

13 Q. Let me go to State Exhibit No. 23.

14 Going back to the other group above that, what did you
15 find at State Exhibit No. 1?

16 A. Number 1, it was a 9-millimeter cartridge casing.

17 Q. What did you find at number 2?

18 A. Number 2 was a 9-millimeter cartridge casing.

19 Q. What did you find at number 3 -- I'm sorry, sir, what
20 did you find at number 3?

21 A. It was also a 9-millimeter cartridge casing.

22 Q. What did you find number 4?

23 A. 9-millimeter cartridge casing.

24 Q. What did you find at number 5?

25 A. 9-millimeter cartridge casing.

1 Q. What did you find at number 6?

2 A. 9-millimeter cartridge casing.

3 Q. What did you find at number 7?

4 A. A 9-millimeter cartridge casing.

5 Q. So these are all 9-millimeter cartridge casings all
6 right there that you found?

7 A. That's correct.

8 Q. Let me show you. This is number 1. What's that item
9 right there, sir?

10 A. That's a cartridge casing laying in the roadway.

11 Q. Okay. I'm showing you State Exhibit 25. Is that a
12 close-up of the shell casing that you found at cone 1?

13 A. Yes, sir, it is.

14 Q. And you are just measuring it, is that right?

15 A. That's correct.

16 Q. Let me show you State Exhibit No. 2, our number State
17 Exhibit 26, that's at cone 2, what's this item right here,
18 sir?

19 A. That's a 9-millimeter cartridge casing.

20 Q. And that was found at cone 2?

21 A. That's correct.

22 Q. I'm showing you 27 and that's where you are just
23 measuring where that bullet was, or that shell casing was?

24 A. Yes, sir. We always take scaled -- we take a distance
25 photograph to show a reference point of all of our evidence.

1 Then we take a photograph closer of the evidence, and we
2 take a scaled photo of where the evidence is recovered from.

3 Q. I'm showing you State Exhibit 28. These are -- 2 and 3
4 were shell casings that were found, is that right?

5 A. That's correct.

6 Q. I'm showing you a close-up of No. 3, cone 3, which is
7 State Exhibit 29. What is that item right there, sir?

8 A. That's a 9-millimeter cartridge casing.

9 Q. I'm showing you State Exhibit No. 30. These just
10 showing -- I think this is actually cone -- is that the cone
11 2?

12 A. That's cone 2, yes, sir.

13 Q. And then you have 4, 5, 6 and 7?

14 A. Yes, sir.

15 Q. I'm showing you State Exhibit 31. This is cone number
16 4. What's that item right there?

17 A. That's a 9-millimeter cartridge casing.

18 Q. And I'm showing you State Exhibit 32. I think it's a
19 close-up here. These are items where shell casings were
20 found beside the cones, is that right, sir?

21 A. That's correct.

22 Q. And you also took close-up pictures of each cone. Is
23 that 5, 6 and 7?

24 A. Yes, sir.

25 Q. I'm showing you State Exhibit 33, which is cone 5. Is

1 that the 9-millimeter casing that you found at cone 5?

2 A. Yes, sir, it is.

3 Q. I'm showing you State Exhibit 34. Is this the
4 9-millimeter shell casing that you found at cone 6?

5 A. Yes, sir, it is.

6 Q. I'm showing you State Exhibit 35. Was that the
7 shell -- is this cone 7? What is that item there, sir?

8 A. That's a 9-millimeter cartridge casing.

9 Q. So from 1 through 7 you found 9-millimeter shell
10 casings, is that right?

11 A. That's correct.

12 Q. I'm showing you State Exhibit No. 36. Again, this
13 white towel, what did it represent, sir?

14 A. That was covering up the blood there where the victim
15 had been located.

16 Q. What did you find at item 8?

17 A. Item 8 was a fired bullet that had -- that already been
18 fired.

19 Q. And showing you State Exhibit -- okay, let's just go
20 through these. What did you find in item 9?

21 A. Item 9?

22 Q. Or cone 9.

23 A. That, 9 and 10, there was a mark in the ground beside
24 the cones that where a bullet had struck the ground and had
25 traveled and dug a portion of the grass up and ricocheted

1 out off of the ground.

2 Q. So 9 and 10 -- 9 is where it entered the ground and 10
3 is where it came back out of the ground?

4 A. That's correct.

5 Q. Number 11, what was that again?

6 A. Number 11 was 9-millimeter shell casing.

7 Q. What was number 12 is about where the scene of the body
8 was?

9 A. Yes, sir.

10 Q. That's that cone right there?

11 A. That's correct.

12 Q. Cone 13, what was there, sir?

13 A. That was a 9-millimeter shell casing.

14 Q. And what was at cone 14?

15 A. Cone 14 was -- it was a brown cigarette filter that was
16 laying on the ground. Right -- it was found right between
17 the victim's legs.

18 Q. Okay. And cone 15, what was found there?

19 A. That was another brown -- it was a Newport cigarette
20 filter.

21 Q. What was found at 16 and 17 out here?

22 A. 16 and 17 was another bullet ricochet where it actually
23 struck the ground, traveled, and come back and ricocheted
24 off the ground.

25 Q. I'll show you State Exhibit 37. I think it's at cone

1 8. What is that item right there, sir?

2 A. That's a fired bullet.

3 Q. And State Exhibit 38, is this just where you measured
4 that at cone 8?

5 A. Yes, sir, it is.

6 Q. State Exhibit 39, is this just showing cone 8, 9 and
7 10?

8 A. Yes, sir.

9 Q. I'm showing you State Exhibit No. 40 now, closer to the
10 jury. What is this right here, sir?

11 A. That's -- that's where the bullet had ricocheted and
12 had thrown the dirt up, where it actually entered the ground
13 just in front of cone 9 and exited right beside cone 10.

14 Q. And showing you State Exhibit 41. Did you put -- I
15 guess -- is that a ruler, I guess?

16 A. Yes, sir.

17 Q. And did you put it right beside the trench or where it
18 went at?

19 A. Yes, sir.

20 Q. I'm showing you State Exhibit No. 42. This is cone 11.
21 What is that item right there, sir?

22 A. Cone 11 was a fired 9-millimeter cartridge casing.

23 Q. And is that the item that y'all collected?

24 A. That is.

25 Q. Cone 12, that was about where the center of the body

1 was, is that right?

2 A. Yes, sir.

3 Q. Going to cone 13 on State Exhibit 43, and it's harder
4 to see, but what was that right there, sir?

5 A. That was a 9-millimeter cartridge casing.

6 Q. And showing you State Exhibit 44. This is where his
7 head was, where the blood was?

8 A. Yes, sir.

9 Q. At 11 and 13 was shell casings that were found there?

10 A. That's correct.

11 Q. State Exhibit 45, which is cone 14, what's this item
12 here that you found, sir?

13 A. A brown cigarette filter.

14 Q. And State Exhibit 46, number 15, what was this item
15 that you found, sir?

16 A. Brown cigarette filter.

17 Q. What kind was it?

18 A. 15 was the -- it was a Newport cigarette filter.

19 Q. Okay. I'm showing you State Exhibit 47, at cone 13,
20 and these are cones I think 16 and 17, is that right?

21 A. Yes, sir.

22 Q. I'll show you State Exhibit 48. What is this right
23 here, sir?

24 A. That's the second location that a bullet has
25 ricocheted. That's where that it entered the ground at 16

1 and exited at cone 17.

2 Q. I'll show you State Exhibit 49. What is this?

3 A. This is a mobile home at 10 -- I believe it was
4 Conner Drive. There's a round that actually struck the
5 trailer right beside the front door, to the right of the
6 front door.

7 Q. Was it the near the cone?

8 A. Yes, sir, it was right up above it.

9 Q. And showing you State Exhibit 50. Can you tell us what
10 that is, sir?

11 A. Yes, sir, I had to actually hold the cone up to get our
12 reference, our evidence number in the photograph. The hole
13 was just up above the hand railing. Inside the front door
14 is a bullet hole.

15 Q. Let me show you State Exhibit 51 now. What is this,
16 sir?

17 A. That's a close-up of the bullet hole.

18 Q. Did y'all go inside the trailer to locate the bullet?

19 A. Yes, sir, we did.

20 Q. And let me show you State Exhibit 52. What is that a
21 picture of, sir?

22 A. When we went inside the trailer, we pulled the piece of
23 paneling down. You can see the left was the other piece of
24 paneling that's still attached to the two-by-four. We took
25 it out and the insulation and that is the hole coming

1 through the exterior of the mobile home.

2 Q. Okay. State Exhibit 53, can you tell us what that is,
3 sir?

4 A. Yes, sir, that's going to be where the round went into
5 the two-by-four beside the -- just inside the interior wall.

6 Q. Okay. Let me show you State Exhibit 54. What is that,
7 sir?

8 A. That's a fired bullet we recovered out of the
9 insulation beside the two-by-four.

10 Q. Okay. And when you collected all these items, were
11 they sent to State Law Enforcement for testing, sir?

12 A. Yes, sir.

13 Q. Okay. And was you and Investigator Henson, did y'all
14 collect these items?

15 A. Yes, sir, we were both present. Investigator Henson
16 actually picked them up at each cone, and they were -- I
17 actually took them to the Law Enforcement Division for
18 testing.

19 Q. Okay. Let me show you State Exhibit 20, 19. This is
20 16, 15, 14. Actually that's 18, if you want to put it back
21 in order there. There is State Exhibit 17, and State
22 Exhibit 13, 12, 11, and 10. Were those items collected by
23 Investigator Henson with you present also, sir?

24 A. Yes, sir, they were.

25 MR. BARNETTE: Your Honor, I would like to move

1 these into evidence at this time.

2 THE COURT: All right, tell me what the numbers
3 are again.

4 MR. BARNETTE: Yes, sir, I'll try to get them in
5 order. State Exhibit 10, 11, 12, 13, 14, 15, 16, 17, 18,
6 19, and 20.

7 MR. CAMPBELL: No objection, Your Honor.

8 THE COURT: They are admitted.

9 (Whereupon, State's Exhibit No. 10 was entered
10 into the record as evidence)

11 (Whereupon, State's Exhibit No. 11 was entered
12 into the record as evidence)

13 (Whereupon, State's Exhibit No. 12 was entered
14 into the record as evidence)

15 (Whereupon, State's Exhibit No. 13 was entered
16 into the record as evidence)

17 (Whereupon, State's Exhibit No. 14 was entered
18 into the record as evidence)

19 (Whereupon, State's Exhibit No. 15 was entered
20 into the record as evidence)

21 (Whereupon, State's Exhibit No. 16 was entered
22 into the record as evidence)

23 (Whereupon, State's Exhibit No. 17 was entered
24 into the record as evidence)

25 (Whereupon, State's Exhibit No. 18 was entered

1 into the record as evidence)

2 (Whereupon, State's Exhibit No. 19 was entered
3 into the record as evidence)

4 (Whereupon, State's Exhibit No. 20 was entered
5 into the record as evidence)

6 BY MR. BARNETTE:

7 Q. And just show an example of this. State Exhibit 20 I
8 think was the bullet that y'all found from the trailer at
9 . You had logged this evidence in, and this is I think
10 is the actual bullet right there that you all got from the
11 trailer and you submitted the evidence, is that right?

12 A. Yes, sir.

13 Q. And you signed for it and you took it to SLED and
14 gave --

15 A. Yes, sir.

16 Q. -- it to them?

17 A. I did.

18 Q. And all these items were secured and put in a heat
19 sealed bag to be opened by SLED's analysis lab?

20 A. We actually put them in those brown envelopes that are
21 inside the heat-sealed bag. If you turn it over, up top you
22 see the blue tape. They have actually folded the top over,
23 but we sealed the tops of the bags when we put our evidence
24 in. That's my initials and the date that I sealed that
25 envelope.

1 Q. Okay. And these are the items that were collected out
2 there at the scene on December 16th, 2010?

3 A. That's correct, yes, sir.

4 Q. What time did you receive the call? What is 12:20 when
5 y'all received the call concerning this incident that
6 afternoon?

7 A. Yes, sir. Whenever the call went out, we actually
8 heard it on the radio and responded to the scene.

9 Q. Okay. And when did the first officer arrive, or
10 approximately arrive? Was it 12:23, or shortly after that?

11 A. Thereabout, yes, sir.

12 Q. Did you go to the autopsy, sir?

13 A. Yes, sir, I did.

14 Q. And who performed the autopsy, sir?

15 A. Dr. Ross at Newberry Pathology.

16 Q. And at there did you do a GSR testing on the victim's
17 hands?

18 A. Yes, sir, I did.

19 Q. Okay. That State Exhibit No. 9, is that the GSR kit
20 that you performed or the test that you performed on the
21 victim in this case?

22 A. Yes, sir, it is.

23 MR. BARNETTE: Your Honor, I would like to enter
24 this into evidence at this time.

25 MR. CAMPBELL: No objection.

1 THE COURT: All right.

2 (Whereupon, State's Exhibit No. 9 was entered into
3 the record as evidence):

4 BY MR. BARNETTE:

5 Q. And was that sent for testing down at SLED also, sir?

6 A. Yes, sir, it was.

7 Q. And then let me show you State Exhibit No. 8. Were you
8 present when Dr. Ross took the bullet from Mr. Houey's body,
9 the one that was left in his body?

10 A. Yes, sir, I was.

11 Q. And was this submitted to SLED also at a later date?

12 A. Yes, sir, it was.

13 MR. BARNETTE: Your Honor, I would like to move
14 State Exhibit 8 into evidence at this time.

15 MR. CAMPBELL: No objection.

16 THE COURT: It's admitted.

17 (Whereupon, State's Exhibit No. 8 was admitted
18 into the record as evidence)

19 BY MR. BARNETTE:

20 Q. How many shell casings did you actually find out there?

21 A. We recovered nine shell casings.

22 Q. And were they all 9-millimeter shell casings?

23 A. Yes, sir, they were.

24 Q. And those were all submitted to SLED?

25 A. Yes, they were.

1 Q. And you also took the bullets that was gathered, two at
2 the scene, as well as the one from the body?

3 A. Yes, they were all taken to SLED.

4 Q. And did you ever see a gun there on the crime scene?

5 A. No, sir, we found no firearm at the scene.

6 Q. Okay. Did you check the victim for any firearms or
7 anything like that?

8 A. Yes, sir, we did. We checked there at the scene. We
9 checked his clothing, and I was present. Once he arrived at
10 autopsy, they actually cut the seal on the bag. And when
11 they removed all of the clothing and the items I was there.

12 Q. So there was -- you never saw a gun, period, at that
13 crime scene?

14 A. No, sir, I did not.

15 Q. The victim did not have a gun. Nobody had a gun there
16 that you found?

17 A. No, sir, not that we found.

18 Q. And one of the reasons that you got the GSR -- could
19 you tell us what the GRS kit is?

20 A. Yes, the GRS is the gunshot residue test. We --
21 whenever we get a call at a shooting, we always -- it's our
22 protocol we will do a GSR, a gunshot residue kit, on any
23 suspects we have. We will do them on the victims also.

24 And some photographs, you may can tell, it started
25 misting rain when we arrived. At the time we arrived, we

1 bagged his hands, put paper bags over them to keep any rain
2 from damaging or removing any evidence. He was placed --
3 the coroner picked the body up, and that's the reason the
4 GSR kit was done at autopsy rather than on the scene.

5 Q. Was there also a sheet put on him beforehand too?

6 A. Yes, sir, there were.

7 Q. And you also bagged his -- you had put like bags over
8 his hands to make sure the GSR wouldn't be contaminated?

9 A. Yes, sir, we put bags over the hands and secured them.

10 Q. And I'm going to show you a piece of evidence here,
11 State Exhibit 19. We are talking about shell casings. This
12 is a example of a shell casing, is that right?

13 A. That's correct.

14 Q. And that was one of the nine that you found out there
15 at the crime scene?

16 A. Yes, sir.

17 Q. If you would, please answer any questions that Mr.
18 Campbell may have for you, sir.

19 CROSS EXAMINATION BY MR. CAMPBELL:

20 Q. Just one moment, Mr. Anthony, okay?

21 A. Yes, sir.

22 (Off the record)

23 (Back on the record)

24 BY MR. CAMPBELL:

25 Q. Now, Mr. Anthony, when you got to the scene, how many

1 people were there?

2 A. There was a large crowd in the area.

3 Q. Okay. And who was in charge of taking statements from
4 people and gathering, you know, information from the people
5 who were there?

6 A. When we arrived there was two other road officers that
7 were getting preliminary information, and then there was
8 several other investigators arrived just shortly after that
9 would have took any statements.

10 Q. Okay. But you were not one of the individuals who took
11 statements from people?

12 A. No, sir, I did not.

13 Q. Okay. Essentially you were there to mark the evidence
14 and things such as that, is that correct?

15 A. That's correct.

16 Q. Okay. It's my understanding that the casings were
17 found were 9-millimeter casings, is that correct?

18 A. Yes, sir, that's correct.

19 Q. And the -- I believe it was a combination of Winchester
20 or CBC, is that also correct?

21 A. Yes, sir, that's correct.

22 Q. Okay. Now, the corresponding casings or the bullets
23 that go with the casings, would that fit into a 9-millimeter
24 Highpoint semiautomatic rifle?

25 A. Yes, sir, they would.

1 Q. So these would be -- that would be the type of bullet
2 that would be used in that type of gun?

3 A. That's correct.

4 Q. Okay. And it's your understanding that a semiautomatic
5 rifle was used?

6 A. That's what I was told.

7 Q. Okay.

8 A. Yes, sir.

9 Q. And I believe you answered Mr. Barnette's question
10 earlier. When a shot is fired from a semiautomatic rifle,
11 the casing is shot out, is that correct?

12 A. Yes, sir.

13 Q. I mean, it's immediately popped out?

14 A. Yes, sir.

15 Q. In this -- this is a sketch of the -- essentially the
16 complex, correct?

17 A. Yes, sir, it is.

18 Q. The trailer park.

19 The -- and I'm going to point out, the sort of
20 catty-corner truck, that -- is that Ms. Boyd's truck?

21 A. Yes, sir, it was.

22 Q. And the trailer corresponding to that left, is that the
23 trailer that they were moving furniture to?

24 A. Yes, sir, the one that's directly behind it to the left
25 of it.

1 Q. Okay. Now, I'm going to ask you, two trailers down
2 from that, essentially on the right, the bottom right, that
3 would be Mr. Snipes' trailer, is that correct?

4 A. That's correct.

5 Q. Okay. Did you find any shell casings at all near that
6 porch?

7 A. The --

8 Q. The porch on Mr. Snipes' residence.

9 A. No, sir.

10 Q. Did you find any shell casings whatsoever in their
11 backyard?

12 A. No, sir.

13 Q. If Mr. Snipes had begun firing as soon as he exited
14 that back door, you would have found shell casings there,
15 wouldn't you?

16 A. If somebody was to shoot as soon as they came out the
17 back door, you would expect to find shell casings in the
18 area, yes, sir.

19 Q. As a matter of fact, all the shell casings were grouped
20 together in one spot, weren't they?

21 A. All except the two that were close to the victim's
22 body.

23 Q. Exactly. I understand.

24 Would that indicate, with all the shell casings being
25 in that same spot, that that individual was standing in that

1 spot?

2 A. Well, the amount of crowd that was there, some of them
3 could have been kicked around. You know, it's hard to say
4 that every shell casing that didn't get kicked or hit, but
5 that's where they were located when we found them.

6 Q. When you found them, they were all -- essentially only
7 seven of them were all in one spot, correct?

8 A. Yes, sir, that's correct.

9 Q. And then you found the other two grouped together near
10 the body, is that correct?

11 A. That's correct.

12 Q. Now, is it your understanding that Mr. Houey was shot
13 one time at close proximity?

14 A. I -- I don't know. All I can say is the injuries he
15 had, I didn't -- I can't testify to the extent. The range
16 of the injuries I'm not certified to do that.

17 Q. Okay. From the period of time that the 911 call came
18 in to you getting on the property, how long was that?

19 A. It would have been a matter of just a few minutes.

20 Q. Can you -- three to five? Can you guestimate for me?

21 A. I would say probably -- I was there probably five to
22 seven minutes, because the other officers arrived I think
23 within about five minutes --

24 Q. Okay.

25 A. -- and I arrived shortly after they did.

1 Q. You would agree with me that -- that if Mr. -- if
2 "Breezy" had a gun, that that is plenty of time to --

3 MR. BARNETTE: Objection, Your Honor. That's
4 asking for speculation of the witness.

5 THE COURT: Sustained.

6 BY MR. CAMPBELL:

7 Q. But it took officers five -- approximately five minutes
8 to get to the scene, correct?

9 A. Yes, sir.

10 Q. Okay. Now, I believe that you also testified that you
11 performed the GSR test, is that correct?

12 A. That's correct.

13 Q. Now, can you describe to the jury exactly what a GSR
14 test is?

15 A. We -- we actually are trained. We follow the
16 instructions that come with the GSR kit to perform them. We
17 actually do not do any analysis to it to -- all we do is --
18 what we are informed of is that it is a test to pick up
19 gunshot residue, gunshot particles.

20 Q. Okay. It's essentially a test to determine whether or
21 not there are gunshot particles on the hand, correct?

22 A. Yes, sir.

23 Q. And you test both the back of the hand and the palm of
24 the hand, is that correct?

25 A. That's correct.

1 Q. And you test -- and I believe it was your testimony
2 that you essentially bagged "Breezy's" hands, I think, when
3 you got there, correct?

4 A. Right after he was covered with the sheet, we took the
5 photographs of the injuries to his hands and then we bagged
6 them.

7 Q. And you do that essentially to ensure that if there was
8 any gunshot residue, it's not washed away, is that correct?

9 A. That's correct.

10 Q. Okay. And I believe you testified that you actually
11 performed the test while Ms. Ross was doing the autopsy, is
12 that correct, or --

13 A. Yeah, or right prior to.

14 Q. Okay. Can you describe to the jury what that test
15 entails? What exactly you do?

16 A. Yes, sir. What we do, we have a GSR kit and everything
17 is packaged in an envelope. Whenever -- there is four what
18 they call particle lifts. It's small round, about the size
19 of a quarter lifts, and you have one for the back of the
20 each hand and for the palms, the fronts of each hand. And
21 we take the particle lift and you just stick it to the whole
22 surface of the hand on the back and to the palm and package
23 those up. Then we take a swab and we swab the hands, two
24 swabs to each side of the hand, and we also do a control
25 sample somewhere that there wouldn't be any gunshot residue

1 left.

2 Q. Okay. And I believe after that test you said that you
3 packaged it up and you send it to SLED, is that correct?

4 A. That's correct.

5 Q. You don't actually know the results when you perform
6 the test, do you?

7 A. No, sir, we do not.

8 Q. Okay. And --

9 MR. CAMPBELL: No further questions for this
10 witness, Your Honor.

11 MR. BARNETTE: Just a couple on redirect, Your
12 Honor.

13 REDIRECT EXAMINATION BY MR. BARNETTE:

14 Q. Let me show you -- this may help the jurors later on.

15 Let me show you State Exhibit 2-A. Is this a larger
16 diagram of the crime scene?

17 A. Yes, sir, it is.

18 MR. BARNETTE: Your Honor, I would like to enter
19 this into evidence at this time.

20 MR. CAMPBELL: No objection, Your Honor.

21 THE COURT: Admitted.

22 (Whereupon, State's Exhibit No. 2-A was entered
23 into the record as evidence)

24 BY MR. BARNETTE:

25 Q. If you would just step down for a second, sir, if you

1 would.

2 (Witness off the witness stand)

3 BY MR. BARNETTE:

4 Q. This is basically what we are looking up there, but a
5 bigger lettering and so forth, so that they can see it on
6 the sheet, is that correct?

7 A. Yes.

8 Q. And this is the trailer that we are talking about were
9 moving furniture to?

10 A. Yes, sir.

11 Q. And this is the one where the defendant lived at?

12 A. That's correct.

13 Q. And these are approximately where y'all found the items
14 where the cones are, is that right?

15 A. Yes.

16 Q. They got a list of the items they found up here, is
17 that correct?

18 A. Yes, sir, that's correct.

19 Q. Thank you. You can go back to your seat.

20 (Witness back on the witness stand)

21 BY MR. BARNETTE:

22 Q. Mr. Campbell asked you about the injuries. When you
23 arrived there, could you tell us what injuries you could see
24 that happened to the victim in this case, Mr. Houey, or
25 "Breezy"?

1 A. Yes, sir. When we arrived the victim was laying on his
2 back on the ground just off the right side of the roadway.
3 He had a gunshot wound to the left side of his head, just
4 below the -- right near his left eye. He -- as the others
5 have said, the eye was actually out of the socket.

6 He had bullet wounds to both hands, to his left hand
7 and to his right hand.

8 And he also had numerous bullet holes in his clothing
9 and his chest area, and I think we have got -- there was one
10 that we photographed on the back there at the scene.

11 Q. So he had a shot in his back?

12 A. Yes, sir.

13 Q. Numerous ones in his chest?

14 A. Yes, sir.

15 Q. And he had one in each hand?

16 A. Yes, sir.

17 Q. Okay. And he also had the one in the head?

18 A. Yes, sir.

19 Q. Is that correct?

20 A. That's correct.

21 Q. And was there a lot of blood that came from the head
22 wound?

23 A. Yes, there was.

24 Q. You said the eye had popped out?

25 A. Yes, sir, it was actually out of the socket.

1 Q. And you and several other officers searched the area
2 and you never found any gun whatsoever?

3 A. That's correct.

4 Q. And that's you and the other officers who were there,
5 Investigator Henson?

6 A. Yes, sir.

7 Q. Thank you, sir.

8 MR. CAMPBELL: Briefly, Your Honor.

9 RECROSS EXAMINATION BY MR. CAMPBELL:

10 Q. You were asked about the gun. Did you search any of
11 the victim's family in regards to the gun?

12 A. No, sir, we did not.

13 Q. Did you search Ms. Boyd's truck?

14 A. No, sir, I did not.

15 Q. And did you happen to search the vehicle that Ms. Houey
16 and her daughter Tasha was in?

17 A. No, sir, I did not.

18 Q. How about the apartment that Tasha, the one on I
19 believe it's three or?

20 A. The last one, no, sir.

21 Q. So that apartment wasn't searched either?

22 A. No, sir.

23 MR. CAMPBELL: No further questions.

24 MR. BARNETTE: No further questions of this
25 witness, Your Honor.

1 THE COURT: You may step down.

2 We will take a short break. I'll ask the jury to
3 please go to your jury room. Do not yet discuss the case.
4 I'll bring you back after that break.

5 (The following takes place outside the presence of
6 the jury panel)

7 THE COURT: We will be at rest for fifteen
8 minutes.

9 (Whereupon, proceedings were recessed)

10 (Whereupon, proceedings were reconvened)

11 THE COURT: Bring the jury in.

12 (The following takes place in the presence of the
13 jury panel)

14 THE COURT: All right, Mr. Barnette.

15 MR. BARNETTE: Your Honor, I would like to call
16 Ila Simmons to the stand, Your Honor.

17 SLED AGENT ILA SIMMONS, having been first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE:

20 Q. If you would, ma'am, please give your full name for the
21 record.

22 A. My name is Ila Simmons.

23 Q. And where do you work at, ma'am?

24 A. At the South Carolina Law Enforcement Division in the
25 forensics laboratory's trace evidence department.

1 Q. And can you tell the jury a little bit about what the
2 State Law Enforcement Division is, or SLED, as you call it?

3 A. We are an assisting agency. We assist the different
4 agencies; the police departments, sheriff's department, in
5 investigations. We have a full-service forensics laboratory
6 and that's what I'm a part of.

7 Q. And are you qualified to examine gunshot residue tests?

8 A. Yes, sir, I am.

9 Q. We commonly call it I guess GSR for short?

10 A. Yes, sir.

11 Q. And how long have you been working as a gunshot residue
12 expert or analyst?

13 A. Almost fourteen years.

14 Q. And how many times have you been qualified in court,
15 ma'am?

16 A. Over 200 times.

17 MR. BARNETTE: Your Honor, I would move her as an
18 expert in gunpowder residue at this time, or gunshot
19 residue.

20 MR. CAMPBELL: No objection, Your Honor.

21 THE COURT: She is qualified.

22 BY MR. BARNETTE:

23 Q. Ma'am, if I could, I believe this has been entered as
24 part of the evidence before, State Exhibit No. 9. Was this
25 GSR kit that you received, I guess Investigator Anthony did

1 for the Gaffney Sheriff's Department -- I mean Cherokee
2 County Sheriff's Department?

3 A. Yes, sir, I did receive it. It's marked with our
4 unique identification number, the evidence item number, as
5 well as my initials.

6 Q. Can you tell the jury a little bit about gunpowder
7 residue and what you do for the testing of it?

8 A. Uh-huh. Gunshot residue is a mixture of microscopic
9 chemicals that come off a gun when it's discharged. If you
10 have seen the Old West movies, you will see a large puff of
11 smoke. Well, the gunshot residue is mixed up in this smoke.
12 It can get on the hands of any person shooting the gun, or
13 on anything that's in close proximity to the gun when it's
14 discharged. It's made up primarily of leads, barium and
15 antimony.

16 When we find particles that consists of lead, barium
17 and antimony and they are round, it is consistent with the
18 discharge of a firearm, and only the discharge of a firearm.

19 Q. Did you test the kit that was taken from the victim in
20 this case?

21 A. Yes, sir, I did.

22 Q. And let me show you State Exhibit 21. Is this a copy
23 of your report concerning your examination?

24 A. Yes, sir, it is.

25 MR. BARNETTE: Your Honor, I would like to move

1 this into evidence at this time and publish it to the jury.

2 MR. CAMPBELL: No objection, Your Honor.

3 THE COURT: Admitted.

4 (Whereupon, State's Exhibit No. 21 was entered
5 into the record as evidence)

6 BY MR. BARNETTE:

7 Q. And is this a copy of your report that I'm publishing,
8 State Exhibit No. 21, to the jury, ma'am?

9 A. Yes, sir, it is.

10 Q. Okay. And on the right palm of the victim did you find
11 any gunpowder residue or gunshot residue?

12 A. No, sir, I did not.

13 Q. On the back of his right hand did you find any
14 gunpowder residue?

15 A. No, sir.

16 Q. On the left palm did you find anything indicating
17 gunpowder residue?

18 A. I did not, no, sir.

19 Q. And on the back of his left hand did you find something
20 that could have been associated with gunpowder residue?

21 A. Yes, sir, something that may have been associated with
22 gunshot residue, yes.

23 Q. Based off these results, in your expert opinion, would
24 this be consistent with somebody that was handling the gun
25 or that gun had been shot at?

1 A. It's most consistent with someone who had been in the
2 vicinity of a gun when it discharged or had a gun discharged
3 at them.

4 If someone were handling the gun, the contact would
5 have been made to the gun with their palm, and there was
6 nothing found on the palm. It was only on the back of the
7 hand.

8 Q. Okay. So that would be more consistent with somebody
9 being shot at?

10 A. Yes, sir.

11 Q. Okay. I believe I showed some pictures to you of the
12 victim of his hands?

13 A. Yes, sir.

14 Q. And as a matter of fact, had he been shot once in each
15 hand?

16 A. Yes.

17 Q. So it's more consistent -- these are results are more
18 consistent with him being shot at and not handling the gun or
19 shooting a gun, is that correct?

20 A. Yes, sir, that's correct.

21 Q. If you would, please answer any questions that Mr.
22 Campbell may have for you, ma'am.

23 CROSS EXAMINATION BY MR. CAMPBELL:

24 Q. Ms. Simmons, I believe you testified that you tested
25 left back, left front, right back, right front, is that

1 correct?

2 A. Yes, sir.

3 Q. And I believe you also testified that you saw pictures
4 of both hands, correct?

5 A. Yes, sir.

6 Q. And Mr. Houey was actually shot in both hands, correct?

7 A. Correct.

8 Q. But you didn't find gunshot residue on his right hand
9 at all, did you?

10 A. No, sir.

11 Q. And you didn't find it at all on his left palm,
12 correct?

13 A. No, sir, I did not.

14 Q. It was only on his left back, correct?

15 A. Yes, sir.

16 Q. Now, can you explain, and I believe you did briefly,
17 how potentially the hands get gunshot residue on when a
18 weapon is fired?

19 A. Uh-huh. Someone can fire a gun and the gunshot residue
20 will wrap back around on their hands. Someone can be in
21 front of a gun when it's discharged and they can be in the
22 plume of smoke as it comes out of the gun, or someone can
23 handle a gun and -- or any object that has gunshot residue
24 on it and it can be transferred onto their hand.

25 Q. So if an individual fires a gun, you would expect to

1 find gunshot residue on the back of their hands, is that
2 correct?

3 A. On the palm and the back, yes, sir.

4 Q. Okay. And the fact that you found gunshot residue on
5 the left back of Mr. Houey's hand, is that correct?

6 A. Yes, sir.

7 Q. So it is certainly possible that Mr. Houey fired a gun
8 with his left hand, correct?

9 A. I would expect to have found gunshot residue on the
10 palm as well.

11 Q. I know, but it is possible, correct?

12 A. It is a possibility, if the gunshot residue had been
13 removed in some way.

14 Q. Because as you did find it on the back of the left
15 hand, correct?

16 A. Yes, sir, it's just most consistent with having been in
17 the vicinity of a gun when it was fired.

18 Q. I understand.

19 And it was -- strike that.

20 If it had been raining that day, or when the incident
21 occurred, it's possible that gunshot residue could have
22 been, you know, washed away from the palm of the hands,
23 correct?

24 A. That is a possibility. However, if the hands were
25 bagged, and I believe they were, that should preserve the

1 gunshot residue on the hands from the rain.

2 Q. And I just want to make sure. It's when -- you stated
3 that when a gun is fired is when you find it on the back
4 because it plumes around, is that correct?

5 A. Or if you are in the vicinity of a gun when it's
6 discharged and your hand is up in a situation like this, it
7 can get on just the back of the hand.

8 Q. When you say vicinity, how close are you talking?

9 A. With a handgun, it's probably within five feet.

10 Q. What about an assault rifle?

11 A. That could be probably be a little farther. Maybe ten
12 feet.

13 Q. Okay. But --

14 MR. CAMPBELL: No further questions, Your Honor.

15 MR. BARNETTE: Just one followup, Your Honor.

16 REDIRECT EXAMINATION BY MR. BARNETTE:

17 Q. So with a rifle it would be ten feet away? Could be?

18 A. Yes, sir.

19 Q. And if the shot entered from this direction, I guess it
20 would be his left hand?

21 A. Uh-huh.

22 Q. Then it's very consistent with being shot and then the
23 bullet going through their palm?

24 A. Yes, sir, it is.

25 MR. BARNETTE: I think that's all the questions

1 that I have.

2 THE COURT: You may step down.

3 MR. BARNETTE: We would ask this witness be
4 excused, Your Honor.

5 THE COURT: She may be.

6 Your Honor, I would like to call Dr. Ross to the
7 stand, please.

8 DR. JANICE ROSS, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE:

11 Q. Dr. Ross, if you would, give us your full name for the
12 record, please.

13 A. Janice Edwards Ross.

14 Q. And where do you work at, ma'am?

15 A. In Newberry, South Carolina, Newberry Pathology
16 Associates.

17 Q. And what is your position there, ma'am?

18 A. I'm a forensic pathologist.

19 Q. And how long have you been a pathologist, ma'am, a
20 forensic pathologist?

21 A. Thirty-seven years.

22 Q. And how many times have you been qualified as a
23 forensic pathologist in court?

24 A. In South Carolina, about eighty times.

25 Q. How many times in other courts?

1 A. About a dozen in New York state.

2 Q. Okay.

3 MR. BARNETTE: Your Honor, I would move at this
4 time that she's an expert in forensic pathology.

5 MR. CAMPBELL: No objection.

6 THE COURT: She is so qualified.

7 BY MR. BARNETTE:

8 Q. Doctor, did you perform the autopsy on the victim in
9 this case, Mr. Breezy ?

10 A. Yes, I did.

11 Q. And when did you first see Mr. Houey's body?

12 A. That day of the autopsy, December 17th, 2010.

13 Q. And before that was done, did Investigator Anthony do a
14 GSR testing before that?

15 A. Yes.

16 Q. And, if you would, tell this jury what the results of
17 your autopsy were, ma'am.

18 A. We found a number of gunshot wounds, a total of at
19 least seven, as well as two graze wounds, which means the
20 wounds that just scraped the top of the skin, which may be
21 continuations of some of the other gunshot wounds or
22 individual wounds. So there was anywhere from seven to nine
23 total gunshot wounds.

24 Q. Okay. If you would just step down and demonstrate on
25 me where the gunshot wounds was, ma'am --

1 A. Yes.

2 Q. -- that you observed.

3 (Witness off the witness stand)

4 BY MR. BARNETTE:

5 Q. I'll let you direct it.

6 A. All right. We just go from top to bottom. It doesn't
7 mean that's the order in which they were received.

8 One wound went into the left -- almost the side of the
9 left eye, went through the brain straight back, slightly to
10 the right. And those bullet fragments were found in the
11 back of his brain.

12 Another wound went in the left back. It went towards
13 the front, slightly upward, and that one went through the
14 heart. And that went out the left chest.

15 Another one went in the right abdomen. It went
16 slightly downward and it went -- it grazed the liver and it
17 went out the back. So that went through and through.

18 There were two wounds in the top of the right arm that
19 just went in and out. Two separate bullets.

20 There were graze wounds above each nipple above -- in
21 the upper chest area.

22 And there were two wounds; a wound in the left hand
23 that went in close to the thumb, back of the hand, and it
24 came out through the palm of the hand; and there was a wound
25 that went in the right lower hand and came out palm of the

1 hand..

2 Q. I the -- I know the clothing is on and everything. You
3 really couldn't tell how far away most of the bullet wounds
4 were when they were -- when he was shot, is that right?

5 A. That's correct. When a bullet comes out of the gun,
6 also there is smoke and soot and little fragments of lead
7 and other chemicals, but those particles only go a certain
8 distance. If they hit the skin, they will make little marks
9 called tattooing and/or stippling.

10 There was evidence of tattooing and stippling on the
11 wound in the head, but I did not see it on the skin of the
12 rest of the wounds, arm, or hands, but sometimes if it's
13 covered by clothing or thick hair, you won't see it.

14 Q. And then the hands, you didn't see stippling in those,
15 is that correct?

16 A. No, I did not.

17 Q. Okay. And explain to the jury what stippling -- how
18 close was he when -- how close was the gun to his head when
19 it went off?

20 A. Probably within a couple of inches. To get an exact
21 measurement you would have to take the actual weapon with
22 the same ammunition and do target practicing to see how big
23 an area you stipple.

24 Q. So based off your experience, you are saying the barrel
25 of the gun, the end of the gun, was within a couple inches?

1 A. One or two inches.

2 Q. One or two inches of his head when the gun was shot?

3 A. Yes.

4 Q. And you didn't see the stippling on the hands, so
5 obviously more than one or two inches off the hands?

6 A. Correct.

7 Q. And the rest of them are kind of covered by the
8 clothing, obviously?

9 A. Correct.

10 Q. But you could tell this one was definitely very close?

11 A. Yes.

12 Q. If you would please have a seat, ma'am. Thank you.

13 (Witness back on the witness stand)

14 BY MR. BARNETTE:

15 Q. And these bullets -- obviously -- was the head wound a
16 fatal shot?

17 A. Yes.

18 Q. And did you recover bullet fragments from the brain and
19 turn that, I guess, over -- it was later took to SLED, is
20 that right?

21 A. Yes, Dennis Fowler picked up the toxicology and the
22 bullet fragments.

23 Q. And I believe -- this is State Exhibit 8. It's already
24 been entered into evidence. I believe you collected that
25 and that was placed into evidence and sent to SLED.

1 And if you need to open it, ma'am, you can.

2 MR. BARNETTE: Permission to open Exhibit 8, Your
3 Honor?

4 BY MR. BARNETTE:

5 Q. I believe SLED took it out of the packaging and so
6 forth, I think, and put it into their packaging?

7 A. Yes, these are the bullet fragments that we retrieved
8 out of the head of Mr. Houey at the autopsy.

9 Q. Thank you.

10 MR. BARNETTE: Permission to publish State Exhibit
11 8 to the jury, Your Honor?

12 THE COURT: You may.

13 BY MR. BARNETTE:

14 Q. So these are the bullets fragments that were taken from
15 the brain?

16 A. Yes.

17 Q. And obviously that was the fatal shot.

18 The shot that went through the heart, and I believe is
19 that the one that went from the back or from the front?

20 A. From the back.

21 Q. From the back.

22 Was that a fatal shot, ma'am?

23 A. Yes.

24 Q. And the angle it went at in the back, what kind of
25 angle did it go at, ma'am?

1 A. It went back front and upward.

2 Q. What degree angle did it go up?

3 A. I don't measure degrees.

4 You are going to be bending over, so it indicates to me
5 that perhaps the victim was bent over forward.

6 Q. So he could have been bent over like this, like they
7 were trying to run or falling down, I guess?

8 A. Yes, sir.

9 Q. And there was a bullet to the chest, is that right?

10 A. The bullet to the right upper abdomen, it went
11 downward.

12 Q. Okay. And was that -- did that go through the liver?

13 A. It hit the liver, yes.

14 Q. Would that have been a fatal shot?

15 A. Potentially.

16 Q. And other one is obviously serious, but I think you
17 said at least seven gunshots that hit the body?

18 A. Yes.

19 Q. And only one bullet was recovered, is that right?

20 A. Correct.

21 MR. BARNETTE: One moment, Your Honor, please.

22 (Off the record)

23 (Back on the record)

24 BY MR. BARNETTE:

25 Q. Please answer any questions that Mr. Campbell may have

1 for you. Thank you, 'ma'am.

2 CROSS EXAMINATION BY MR. CAMPBELL:

3 Q. Ms. Ross, at any time -- or excuse me, Dr. Ross, if at
4 any time if ask you a question you don't understand, please
5 let me know. You are much smarter than I am, so it is very
6 possible I will be confused at some point, okay?

7 Now, I want to start with the gunshot wound to the left
8 hand. I believe you just testified that it entered into the
9 base of the thumb?

10 A. Yes.

11 Q. Did you prepare a report in this case?

12 A. Yes.

13 Q. Do you have that report with you?

14 A. Yes, I do.

15 Q. And I believe you numbered that gunshot wound to the
16 left hand number 6, is that correct, or -- I'm sorry, number
17 7?

18 A. 7, uh-huh.

19 Q. Okay. In your report don't you indicate that the
20 bullet entered the dorsal aspect at the left hand at the
21 base of fingers 4 and 5?

22 A. Yes, you are correct.

23 Q. Now, I'm going to --

24 Dr. Ross, I'm going to hold my hand up so the jury can
25 see. Is that essentially entering into I guess around the

1 knuckles of my ring finger, my pinky finger?

2 A. Yes.

3 Q. Okay. And then I believe it -- this bullet exits and I
4 believe you state the palmer aspect of the left hand. I'm
5 assuming you mean the palm, correct?

6 A. Correct.

7 Q. Then you state that it exits and re-enters again and
8 then exits the palm again, correct?

9 A. Yes, it went kind sideways -- well, somewhat in through
10 here, came out the palm, but it went in and out a couple of
11 times and then finally went through the thumb.

12 Q. Okay. Now, I would like to, if at all possible, go
13 through each gunshot wound individually, irrespective of all
14 the other gunshot wounds. Is that possible?

15 A. Yes.

16 Q. Okay. Now, you have gunshot wound number 1, and I
17 believe that is the gunshot wound -- and I think you got it
18 five -- the wound was five inches below the top of the head
19 and to the left and at 3.4 inches left of the midline, is
20 that correct?

21 A. Yes.

22 Q. Essentially this is the gunshot wound that was point
23 blank, correct?

24 A. It was what we call intermediate range.

25 Q. Okay.

1 A. Closest, yes.

2 Q. And you indicated this gunshot wound lacerated the
3 brain and was a fatal gunshot wound, correct?

4 A. Correct.

5 Q. And why was this gunshot a fatal gunshot wound?

6 A. In going through the brain with the energy it has, it
7 causes lacerations of the brain and an increase in the
8 volume inside the skull, which is ordinarily a closed space,
9 and it causes enough brain damage to die.

10 Q. Massive trauma.

11 Irregardless of all the other gunshot wounds present
12 here, this one gunshot wound -- if this had been the only
13 gunshot wound, Mr. Houey would have died from this gunshot
14 wound, correct?

15 A. Correct.

16 Q. Okay. Now, gunshot wound number 2 I believe you
17 indicated is the gunshot wound to Mr. Houey's back that
18 penetrated his heart and comes out the front, correct?

19 A. Correct.

20 Q. Okay. And I believe you indicated that that was a
21 perforating gunshot wound of the back which lacerates the
22 heart causing a left hemathorax of 1100 CC's, is that
23 correct?

24 A. Correct.

25 Q. A couple questions.

1 Perforating gunshot wound, I'm assuming, does that mean
2 through and through?

3 A. Through and through, yes.

4 Q. Okay. Now, you stated it lacerated the heart. Can you
5 be more specific exactly what the bullet did to the heart?

6 A. It went through the -- it went through the back wall of
7 the left ventricle.

8 Q. Yes.

9 A. And it went through, and then it came out through the
10 front wall of the right ventricle. It went right through
11 the heart.

12 Q. Okay. It went right through the heart?

13 A. Correct.

14 Q. And I believe a left hemathorax, can you explain to the
15 jury what that is?

16 A. It just means blood -- the blood went out from the
17 heart into the left chest space around the lung.

18 Q. And 1100 CC's, I'm assuming that's a quantity of blood?

19 A. Yes.

20 Q. Okay. Now, you indicated that this gunshot wound was a
21 fatal gunshot wound, correct?

22 A. Correct.

23 Q. Now, irregardless of all the other gunshot wounds, just
24 this gunshot wound, this gunshot alone would have killed Mr.
25 Houey, correct?

1 A. Yes.

2 Q. Okay. Now, gunshot wound number 3 that you examined
3 was a gunshot wound to the abdomen. And I believe you also
4 stated that this was a perforating gunshot wound, meaning it
5 was a through and through, correct?

6 A. Correct.

7 Q. Okay. And you stated that it lacerated the liver, the
8 left kidney and the adrenal gland causing an -- I can't
9 pronounce that.

10 A. Hemoperitoneum, which means blood, free blood, inside
11 the abdominal cavity.

12 Q. Okay. Now, you indicated that this wound was
13 potentially fatal. Can you describe to the jury what that
14 means?

15 A. If that was the only wound he had, that would cause
16 excessive bleeding. The wound to the liver was a graze
17 wound. Sometimes it will clot up itself and it will give
18 the person long enough time to get to the hospital for
19 intervention. But left alone it could -- he could bleed out
20 slowly then.

21 Q. So I guess, simple enough, if an individual -- if that
22 was the only wound the individual had and they received
23 medical attention quick enough, they would survive -- could
24 survive that wound?

25 A. Correct.

1 Q. Okay. Now, you also have listed as number 4, you have
2 two, I guess, superficial gunshot wounds to the right upper
3 arm, is that correct?

4 A. Correct.

5 Q. Can you describe to the jury this gunshot wound?

6 A. These wounds went from front to back and they just went
7 underneath the skin.

8 Q. So it entered in the front and went through the back,
9 is that correct?

10 A. Correct.

11 Q. Is that -- and it was actually two gunshots that did
12 that and not one that created two wounds, correct?

13 A. Two separate gunshot wounds, yes.

14 Q. Okay. Irregardless of all, you know, these other
15 gunshot wounds we are talking about, if I suffered two
16 gunshot wounds like this, I'm not going to die?

17 A. No.

18 Q. Okay. So those weren't -- and I believe you listed
19 them as two nonfatal, which essentially means that you are
20 not going to die?

21 A. Correct.

22 Q. Now, gunshot wound number 5 was to the right hand. And
23 I believe you have actually -- it's listed -- you actually
24 got it listed as 6 filed on your numbering. Can you
25 describe that gunshot wound to the jury?

1 A. 4 and 5 were in the right upper arm.

2 Number 6 is in the right hand. It entered, well, close
3 to the wrist, the back of the hand, and it came out the palm
4 of the hand.

5 Q. Okay. That one went straight through. There was no
6 reentry or anything like that?

7 A. Correct.

8 Q. Okay. And then we discussed the left hand.

9 Now, graze wound -- and I apologize. The gunshot wound
10 to the hand, obviously nonfatal, nobody is going to die from
11 that?

12 A. Correct.

13 Q. Okay. Also you have -- you have got listed a graze
14 gunshot wound to the chest. Essentially they just grazed
15 the body, correct?

16 A. They just grazed the skin, yeah.

17 Q. Okay. And it's possible one of those came from another
18 gunshot wound, or that was actually one gunshot wound,
19 correct?

20 A. Yes, correct.

21 Q. Okay. Now, when you did this report, I believe you
22 stated that you actually numbered these essentially from top
23 to bottom, not which one happened sooner or later, correct?

24 A. Correct.

25 Q. So if the gunshot wound to the back perforated the

1 heart happened first, he's going to die from that wound,
2 correct?

3 A. Yes, but it would take a few minutes.

4 Q. But that is a fatal gunshot wound, correct?

5 A. Yes.

6 Q. Irregardless of the gunshot wound to the head?

7 A. Correct.

8 MR. CAMPBELL: No further questions for this
9 witness, Your Honor.

10 MR. BARNETTE: Just briefly on redirect, Your
11 Honor.

12 REDIRECT EXAMINATION BY MR. BARNETTE:

13 Q. Mr. Campbell asked you, Dr. Ross, that defendant don't
14 know that man is dead from that back shot, does he? Like
15 you say, it would take a few minutes for him to die from
16 that, wouldn't it?

17 A. With the heart wound, yes.

18 Q. And you said the shot to the hand, both of them was to
19 the back areas of the hand?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. And then the back -- the shot in the back, if I
24 understood right, I just want to re-emphasize, he asked you
25 about, it was at an angle, is that right?

1 A. Correct.

2 Q. That would be consistent with somebody bending over?

3 A. Yes. Bullets go straight, so whichever way that you
4 can put two people.

5 Q. Right. It would be awful hard to shoot from the ground
6 that direction? It would have to put some kind of angle to
7 it to get that, would that be correct?

8 A. Yes.

9 Q. And then, of course, the head, like Mr. Campbell said,
10 is basically at point blank range, one or two inches away,
11 is that right?

12 A. Correct.

13 MR. BARNETTE: Thank you, ma'am.

14 THE COURT: You may step down.

15 MR. BARNETTE: Your Honor, we would ask this
16 witness be excused.

17 THE COURT: She may be.

18 MR. BARNETTE: Your Honor, our next witness has to
19 come from Columbia.

20 THE COURT: All right. Ladies and gentlemen, we
21 are going to recess for the afternoon.

22 Let me remind you of my caution given to you prior
23 to us recessing for lunch. No discussions about the case
24 with any family members, friends, neighbors. Don't let
25 anyone discuss it with you. Don't even discuss it among

1 yourselves.

2 Don't conduct any research. Don't do any
3 investigation. Do not permit yourself to be exposed to any
4 type of media coverage that relates to the case, whether it
5 be television, radio, or any newspaper article.

6 Do have a good evening. Please report to your
7 jury room at 9:30 in the morning. 9:30 in the morning.
8 Have a good afternoon.

9 (The following takes place outside the presence of
10 the jury panel)

11 THE COURT: All right, court is in recess until
12 9:30 in the morning.

13 (Whereupon, proceedings were adjourned to July 17,
14 2013)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 PRINCE DEVEN SNIPES,) 2012-GS-11-00608
7 DEFENDANT.) JULY 17, 2013
GAFFNEY, SOUTH CAROLINA

8
9 (VOLUME II)

10
11 B E F O R E:

12 THE HONORABLE J. DERHAM COLE, JUDGE. ; And a Jury.

13
14 A P P E A R A N C E S:

15 BARRY J. BARNETTE, SOLICITOR
16 ATTORNEY FOR THE STATE

17 SHAWN M. CAMPBELL, ESQUIRE
18 ATTORNEY FOR THE DEFENDANT

19
20 MICHAEL R. WATTS
CIRCUIT COURT REPORTER
21
22
23
24
25

INDEX

(JULY 16, 2013)

WITNESSES	PAGE
JURY VOIR DIRE --	PAGE 18
JURY SWORN --	PAGE 56
OPENING STATEMENT BY MR. BARNETTE --	PAGE 62
OPENING STATEMENT BY MR. CAMPBELL --	PAGE 66
ROSE MARIE HOUEY (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	69
CROSS EXAMINATION BY MR. CAMPBELL	76
MARTHA JEAN HOUEY (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	80
CROSS EXAMINATION BY MR. CAMPBELL	88
REDIRECT EXAMINATION BY MR. BARNETTE	97
DOROTHY BOYD (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	98
CROSS EXAMINATION BY MR. CAMPBELL	102
INVESTIGATOR BILLY ANTHONY (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	107
CROSS EXAMINATION BY MR. CAMPBELL	133
REDIRECT EXAMINATION BY MR. BARNETTE	140
RECROSS EXAMINATION BY MR. CAMPBELL	143

INDEX

(JULY 16, 2013)

	WITNESSES	PAGE
	SLED AGENT ILA SIMMONS (SW)	
	DIRECT EXAMINATION BY MR. BARNETTE	144
	CROSS EXAMINATION BY MR. CAMPBELL	148
	REDIRECT EXAMINATION BY MR. BARNETTE	151
	DR. JANICE ROSS (SW)	
	DIRECT EXAMINATION BY MR. BARNETTE	152
	CROSS EXAMINATION BY MR. CAMPBELL	159
	REDIRECT EXAMINATION BY MR. BARNETTE	166

INDEX

(JULY 17, 2013)

WITNESSES	PAGE
CORONER DENNIS FOWLER (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	181
(NO CROSS EXAMINATION)	
SLED AGENT IRA PARNELL, JR. (SW)	
DIRECT EXAMINATION BY MR. BARNETTE	183
CROSS EXAMINATION BY MR. CAMPBELL	190
STATE RESTS -- PAGE 191	
D.M. (DW)	
DIRECT EXAMINATION BY MR. CAMPBELL	196
CROSS EXAMINATION BY MR. BARNETTE	203
REDIRECT EXAMINATION BY MR. CAMPBELL	209
PRINCE DEVEN SNIPES (DW)	
DIRECT EXAMINATION BY MR. CAMPBELL	211
CROSS EXAMINATION BY MR. BARNETTE	227
REDIRECT EXAMINATION BY MR. CAMPBELL	241
RECROSS EXAMINATION BY MR. BARNETTE	243
NIKITA HARDY (DW)	
DIRECT EXAMINATION BY MR. CAMPBELL	246
CROSS EXAMINATION BY MR. BARNETTE	256
REDIRECT EXAMINATION BY MR. CAMPBELL	262
DEFENSE RESTS -- PAGE 263	

INDEX

(JULY 17, 2013)

WITNESSES	PAGE
ROSE MARIE HOUEY (SW) (REPLY)	
DIRECT EXAMINATION BY MR. BARNETTE	264
CROSS EXAMINATION BY MR. CAMPBELL	265
OFFICER TIM CLARK (DW) (REPLY)	
DIRECT EXAMINATION BY MR. BARNETTE	266
(NO CROSS EXAMINATION)	
CLOSING ARGUMENT BY MR. CAMPBELL --	PAGE 273
FINAL ARGUMENT BY MR. BARNETTE --	PAGE 289
COURT'S JURY INSTRUCTION --	PAGE 301
JURY VERDICT --	PAGE 332
SENTENCING --	PAGE 336
REPORTERS' CERTIFICATE --	PAGE 338

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-1	MAP OF DRIVE, GAFFNEY, SC AREA		109
S-2	DIAGRAM OF CRIME SCENE AT DRIVE, GAFFNEY, SC		110
S-2-A	LARGER DIAGRAM OF CRIME SCENE AT C DRIVE, GAFFNEY, SC		140
S-3	PICTURE OF TRUCK WHERE THE FURNITURE WAS BEING TAKEN OUT OF BY THE VICTIM, Breezy		72
S-4	PICTURE OF TRUCK ON THE DRIVER'S SIDE TOWARDS THE AREA OF THE INCIDENT THAT Breezy TOOK THE FURNITURE OUT OF THE TRUCK		72
S-5	PICTURE OF THE AREA WHERE THE VICTIM WAS FOUND FROM THE DIRECTION THAT THE DEFENDANT, PRINCE SNIPES, CAME FROM		114
S-6	PICTURE OF CONES WHERE SEVERAL SHELL CASINGS WERE FOUND (#1 THRU #7) AT CRIME SCENE		114
S-7	PICTURE OF CONES WHERE THE VICTIM'S BODY WAS FOUND (#8 THRU 17) AT CRIME SCENE		114
S-8	FIREBULLETS REMOVED FROM Breezy AT AUTOPSY BY DR. ROSS		131

EXHIBITS			
	NO.	DESCRIPTION	ID. EV.
1			
2			
3	S-9	GSR KIT DONE ON THE VICTIM	131
4		"BREEZY"	
5	S-10	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
6		CALIBER CARTRIDGE CASE (CONE #1)	
7	S-11	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
8		CALIBER CARTRIDGE CASE (CONE #2)	
9	S-12	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
10		CALIBER CARTRIDGE CASE (CONE #3)	
11	S-13	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
12		CALIBER CARTRIDGE CASE (CONE #4)	
13	S-14	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
14		CALIBER CARTRIDGE CASE (CONE #5)	
15	S-15	FIREDB CBC BRAND 9-MILLIMETER LUGER	128
16		CALIBER CARTRIDGE CASE (CONE #6)	
17	S-16	FIREDB WINCHESTER BRAND 9-MILLIMETER	128
18		LUGER CALIBER CARTRIDGE CASE (CONE #7)	
19	S-17	ONE FIREDB BULLET FROM THE GROUND	128
20		(CONE #8)	
21	S-18	FIREDB WINCHESTER BRAND 9-MILLIMETER	128
22		LUGER CALIBER CARTRIDGE CASE (CONE #11)	
23	S-19	FIREDB WINCHESTER BRAND 9-MILLIMETER	129
24		LUGER CALIBER CARTRIDGE CASE (CONE #13)	
25			

EXHIBITS			
	NO.	DESCRIPTION	ID. EV.
1			
2			
3	S-20	ONE FIRED BULLET FROM THE WALL OF THE	129
4		TRAILER (CONE #18)	
5	S-21	SLED FIREARM REPORT AND SUPPLEMENT	147
6		REPORT (SLED LAB NO: 11-4365) FROM	
7		IRA PARNELL, JR.	
8	S-22	SLED GSR REPORT (SLED LAB NO: 11-4365)	184
9		FROM ILA SIMMONS	
10	S-23	CLOSE-UP PICTURE TO CONES #1 THRU #7	114
11		ON DRIVE, GAFFNEY, SC	
12	S-24	PICTURE OF CONE #1 WHERE 9-MILLIMETER	114
13		SHELL CASING WAS FOUND	
14	S-25	CLOSE-UP PICTURE OF CONE #1 AND	114
15		9-MILLIMETER SHELL CASING	
16	S-26	PICTURE OF CONE #2 WHERE 9-MILLIMETER	114
17		SHELL CASING WAS FOUND	
18	S-27	CLOSE-UP PICTURE OF 9-MILLIMETER	114
19		SHELL CASING AT CONE #2	
20	S-28	PICTURE OF CONE #2 AND #3	115
21	S-29	CLOSE-UP PICTURE OF 9-MILLIMETER	115
22		SHELL CASING AT CONE #3	
23	S-30	PICTURE OF CONES #2 AND #4 THRU #7	115
24	S-31	CLOSE-UP PICTURE OF 9-MILLIMETER SHELL	115
25		CASING AT CONE #4	

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-32	PICTURE OF CONES #4 THRU #7		115
4	S-33	CLOSE-UP PICTURE OF 9-MILLIMETER		115
5		SHELL CASING AT CONE #5		
6	S-34	CLOSE-UP PICTURE OF 9-MILLIMETER		115
7		SHELL CASING AT CONE #6		
8	S-35	CLOSE-UP PICTURE OF 9-MILLIMETER		115
9		SHELL CASING AT CONE #7		
10	S-36	PICTURE OF CONES #8 THRU #17 AT		115
11		CRIME SCENE		
12	S-37	PICTURE OF BULLET FRAGMENT FOUND AT		115
13		CONE #8		
14	S-38	CLOSE-UP PICTURE OF BULLET FRAGMENT		115
15		FOUND AT CONE #8		
16	S-39	PICTURE OF CONES #8, #9, AND #10 AND		115
17		SHOWING TRENCH IN GROUND FROM BULLET		
18	S-40	PICTURE OF CONES #9 AND #10 AND THE		115
19		TRENCH FROM BULLET BETWEEN THEM		
20	S-41	PICTURE OF RULER BESIDE TRENCH FROM		116
21		BULLET FROM CONE #9 AND CONE #10		
22	S-42	PICTURE OF 9-MILLIMETER SHELL CASING		116
23		FOUND AT CONE #11		
24	S-43	PICTURE OF 9-MILLIMETER SHELL CASING		116
25		FOUND AT CONE #13		

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-44	PICTURE OF CONES #11 THRU #14 AT		116
4		CRIME SCENE		
5	S-45	PICTURE OF CIGARETTE FILTER FOUND AT		116
6		CONE #14 AT CRIME SCENE		
7	S-46	PICTURE OF NEWPORT CIGARETTE FILTER		116
8		FOUND AT CONE #15 AT CRIME SCENE		
9	S-47	PICTURE OF CONES #16 AND #17 AT		116
10		CRIME SCENE		
11	S-48	PICTURE OF RULER BESIDE THE TRENCH		116
12		FROM BULLET FROM CONE #16 TO #17		
13	S-49	PICTURE OF CONE #18 AT THE BULLET HOLE		116
14		NEAR THE FRONT PORCH OF DR.		
15	S-50	PICTURE OF BULLET HOLE MARKED BY CONE #18		116
16	S-51	CLOSE-UP PICTURE OF BULLET HOLE IN THE		116
17		SIDE OF DRIVE		
18	S-52	PICTURE OF THE BULLET HOLE ON THE INSIDE		116
19		OF SIDING OF DRIVE		
20	S-53	PICTURE OF BULLET HOLE IN THE WOOD FRAME		117
21		OF DRIVE		
22	S-54	PICTURE OF LEAD BULLET FOUND IN THE		117
23		INSULATION OF DRIVE		
24	S-55	PICTURE OF 1997 LINCOLN TOWN CAR		75
25		VIN #1LNLM82W6VY655642		

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-56	911 REPORT		266
D-1	VOLUNTARY STATEMENT OF MARTHA HOUEY	93	
CT-1	DEFENDANT'S CERTIFIED NORTH CAROLINA SENTENCING SHEETS	51	

(PROCEEDINGS, JULY 17, 2013)

THE COURT: All right, juror number 68 has been excused based upon information provided to the court. I have shared that information with counsel, the solicitor and counsel for the defendant, and I have excused the juror from any further participation in the trial. Counsel is aware of the reason for that excusal.

Is there any objection to the juror being excused, from the State?

MR. BARNETTE: None from the State, Your Honor.

THE COURT: From the defendant?

MR. CAMPBELL: None, Your Honor.

THE COURT: All right. Any other matters we need to address prior to the jury being returned to the courtroom?

MR. BARNETTE: None from the State, Your Honor.

MR. CAMPBELL: None, Your Honor.

THE COURT: All right. Mr. Campbell, have you talked with --

How many more witnesses have you got?

MR. BARNETTE: I have got two more witnesses.

THE COURT: Two, okay.

Bring the jury in, please.

(The following takes place in the presence of the jury panel)

1 THE COURT: Good morning, ladies and gentlemen.
2 One of your fellow jurors has been excused from any further
3 participation, so Mr. Smith, you are now the twelfth juror
4 and you will participate fully and that includes jury
5 deliberations at the trial's conclusion.

6 As we know, when we recessed yesterday the State
7 was in the midst of their presentation of evidence, so we
8 will continue with that presentation this morning.

9 Mr. Barnette.

10 MR. BARNETTE: May it please the court, Your
11 Honor, I would like to call Dennis Fowler to the stand,
12 please.

13 CORONER DENNIS FOWLER, having been first duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE:

16 Q. If you would, sir, please state your full name for the
17 record.

18 A. Dennis Glenn Fowler.

19 Q. And what is your position here in Cherokee County, sir?

20 A. I'm the Cherokee County coroner.

21 Q. As part of your duties, is it to document and make
22 official records for certain victims of crimes in this
23 county, sir?

24 A. Yes, it is.

25 Q. Breezy , did your office work that case where he

1 was the victim?

2 A. Yes, we did.

3 Q. And could you tell the jury how tall he was?

4 A. If I could refer to my notes, please?

5 Q. Yes, sir.

6 A. 68 and a half inches in height. That is based on not
7 only our measurement, but also the measurement at autopsy
8 through the forensic pathologist.

9 Q. Is that 5'8"?

10 A. Yes, sir.

11 Q. Approximately.

12 And how much was his weight? What was his weight?

13 A. Approximately weight was 150 pounds.

14 Q. Thank you, sir. If you would, please answer any
15 questions that Mr. Campbell may have for you, sir.

16 MR. CAMPBELL: No questions, Your Honor.

17 THE COURT: You may step down.

18 MR. BARNETTE: Your Honor, we would ask the
19 witness be excused.

20 THE COURT: He may be.

21 MR. BARNETTE: Your Honor, the State would like to
22 call Ira Parnell to the stand.

23 SLED AGENT IRA PARNELL, JR., having been first
24 duly sworn, testified as follows:

25

1 DIRECT EXAMINATION BY MR. BARNETTE:

2 Q. If you would, sir, please state your full name for the
3 record.

4 A. My name is Ira Byrd Parnell, Jr., P-A-R-N-E-L-L.

5 Q. And where do you work at, sir?

6 A. I'm employed by the South Carolina Law Enforcement
7 Division, also known as SLED.

8 Q. And what is your position there, sir?

9 A. I'm a forensic firearm and tool mark examiner at the
10 SLED laboratory in Columbia.

11 Q. And how long have you worked for SLED, sir?

12 A. Forty-one years.

13 Q. And how many times have you been qualified in firearms
14 and tool mark examiner, sir?

15 A. Approximately 643.

16 MR. BARNETTE: Your Honor, I would move he's an
17 expert in firearms at this time, sir.

18 MR. CAMPBELL: No objection.

19 THE COURT: He is so qualified.

20 BY MR. BARNETTE:

21 Q. Yes, sir, did you receive shell casings and bullets
22 concerning a case involving the defendant here, Prince
23 Snipes, and the victim Breezy ?

24 A. Yes, sir, I did.

25 Q. And did you generate a report concerning your

1 examination of this?

2 A. I did.

3 Q. Let me show you what's been marked as State Exhibit 22.
4 Let me let you review that report.

5 A. Yes, sir, State's Exhibit 22 is the documentation and
6 reporting that I generated in regard to this case. I did,
7 however, note a technical or a clerical error in the last
8 paragraph on page one, which should have been item 18
9 instead of item 20, as is listed here. I'm my only
10 administrative person and my typing skills are not the best.

11 Q. Yes, sir.

12 MR. BARNETTE: Your Honor, I would like to enter
13 this into the record.

14 BY MR. BARNETTE:

15 Q. What I'll do, is I'll have you make the change on the
16 screen so the jury will see exactly where you made the
17 change at, if that's okay.

18 MR. BARNETTE: Let me show this to Mr. Campbell.

19 MR. CAMPBELL: No objection, Your Honor.

20 THE COURT: It's admitted.

21 (Whereupon, State's Exhibit No. 22 was entered
22 into the record as evidence)

23 BY MR. BARNETTE:

24 Q. If you would, sir, step on down here and I would let
25 you make the change so the jury can see it.

1 (Witness off the witness stand)

2 BY MR. BARNETTE:

3 Q. And before we make the change, let me do this. If you
4 would, let's look at the shell casings here real quick and
5 let me let you look at the shell casings and bullets. Did
6 you examine those, sir?

7 A. Yes, sir, I examined State's Exhibit 8, a fragmented
8 fired bullet. State's Exhibits 10, 11, 12, 13, 14, 15, 16,
9 17, 18, 19, and 20. They all bear my case number, specimen
10 number, and initials, and are still under my seal.

11 Q. Okay. And those casings, what kind of ammunition are
12 those, sir?

13 A. Those are 9-millimeter Luger caliber cartridges.

14 Q. And could be fired from a high powered -- or I mean
15 from a 9-millimeter rifle in that case, or a Highpoint
16 rifle, sir?

17 A. Yes, sir.

18 Q. If you would, come on over to the report, sir, if you
19 would and we'll talk about that. Let me let you make the
20 change first so the jury can see what change that you are
21 making on it to make sure it's correct.

22 A. It's in the lower paragraph here. Everywhere else I
23 had correctly listed bullets. It was State's Exhibit 8, 17,
24 and 20, except in the last sentence there I transposed 18
25 instead of 20. So it needs to be changed to 20.

1 Q. And, if you would, go ahead and put your initials
2 beside the 20 so they will know that's your initials there.

3 A. Yes, sir.

4 Q. Thank you, sir.

5 Going through the report here, number 8, that was the
6 fired bullet fragment from -- I guess removed from the
7 victim in this case?

8 A. Yes, sir, it was listed as having been removed at the
9 autopsy and was in several fragments as I received them.

10 Q. And then you received items 10 through 15 were six
11 9-millimeter cartridges or shell casings that you --

12 A. Yes, they were fired cartridge casings.

13 Q. And then 16, 18 and 19 was three more 9-millimeter
14 shell casings, is that right?

15 A. That's correct.

16 Q. Okay. And then 17 was actually a fired bullet that you
17 received? I guess it was located -- it was actually found
18 on the ground by the Cherokee County Sheriff's Department?

19 A. Correct, yes.

20 Q. And then item 20 was actually the one I guess they
21 found in the wall in the trailer?

22 A. Based on the listing on the evidence wrapper, yes, sir.

23 Q. In your examination -- I know that you looked at all
24 the shell casings, which are the six and the three, which is
25 item 10, 11, 12, 13, 14, 15, 16, 18 and 19, is that correct?

1 A. That's correct.

2 Q. And when you do your examination of those shell
3 casings, if you would, tell the jury about that, please.

4 A. Almost everything that is examined by a forensic
5 firearms examiner is done under a microscope.

6 In the case of State's Exhibits 10, 11, 12, 13, 14, 15,
7 16, 18 and 19, the fired cartridge casings, I
8 microscopically examined those items and compared them with
9 each other. What I compared was the markings left on the
10 cartridge casing, or cartridge cases, by the firearm in
11 which they were fired.

12 When a firearm is made, there are many machining
13 processes that go on. In the case of cartridge casings
14 there are five areas of identification that can be used to
15 associate a fired cartridge case with a particular firearm.

16 There are the firing pin, which actually causes the
17 cartridge to be fired.

18 The breech face, which is the area around the firing
19 pin.

20 The extractor, which grabs the cartridge case and pulls
21 it out.

22 The ejector, which actually ejects it from the firearm.

23 And then chamber marks, which is put there when the
24 cartridge is fired, and the cartridge case expands in the
25 chamber and any imperfections that are left inside the

1 chamber are left on the outside of the cartridge casing when
2 it's pulled out of the chamber and expelled from the gun.

3 In the case of the cartridge cases here, 10, 11, 12,
4 13, 14, 15 16, 18 and 19, I was able to match successfully
5 all the breech face impressions to conclude, based on those
6 examinations, that they were all fired by one firearm.

7 Q. All nine shell casings were fired by one weapon?

8 A. Correct.

9 Q. And they were all fired by the same weapon?

10 A. Yes, sir.

11 Q. And you also looked at the bullets, I believe, two
12 fired bullets, as well as the fragments?

13 A. I did.

14 Q. Were you able to do anything from those or were they
15 too badly damaged to do it?

16 A. Item 17 -- or State's Exhibits 17 and 20, two bullets,
17 one being listed as being from the ground, and the other
18 being listed from a wall, were both highly abraded. And
19 just looking at them in your hand, they don't look like they
20 are damaged badly, but, again, most of my work is done
21 microscopically. And the markings left on the bullet are
22 somewhat fragile, so when they came in contact with dirt and
23 the wall, then these microscopic markings were obliterated,
24 so I could not tell anything individually about them.

25 I could say that based on my microscopic comparison to

1 State's Exhibit No. 8, the bullet listed as being removed
2 from the body of the victim, as compared to State's Exhibit
3 17 and 20, they were both consistent with -- or all three
4 were consistent with having been fired from the same type of
5 firearm, based on general markings that I found on State's
6 Exhibit 17 and 20 and State's Exhibit 8.

7 Q. So, in other words, 8, 17 and 20 could have been fired
8 by the same firearm, but you can't tell exactly if it was or
9 not because of the markings?

10 A. That's correct. That was what we call inconclusive,
11 which I think you will see in the report.

12 Q. So the main thing is here, though, obviously the nine
13 shell casings were fired by the same weapon, by one weapon?

14 A. Yes, sir.

15 Q. Thank you. Please have a seat.

16 (Witness back on the witness stand)

17 BY MR. BARNETTE:

18 Q. And all these were 9-millimeter -- even though I know
19 there was two different types of ammunition, they were all
20 9-millimeter shell, could have been easily fired from the
21 same weapon and was fired from the same weapon?

22 A. That's correct.

23 Q. And you never received the rifle or this gun to try to
24 match anything up with it, or did you?

25 A. No, sir, I never received the firearm for comparison.

1 MR. BARNETTE: One moment, Your Honor, please.

2 (Off the record)

3 (Back on the record)

4 BY MR. BARNETTE:

5 Q. Just to show the jury, and going through just your
6 report here, this is actually -- you actually worked on two
7 sets of things? This is actually your supplemental report.
8 You initially received the one bullet -- or the fragments by
9 itself, is that right?

10 A. Yes, sir, State's Exhibit No. 8 was the fragmented
11 bullet initially submitted by the coroner's office.

12 Q. And then later on you received the other items from the
13 Cherokee County Sheriff's Department and did more of
14 examination on those items?

15 A. That's correct, yes, sir.

16 Q. Thank you, sir. Please answer any questions that Mr.
17 Campbell may have for you, sir.

18 CROSS EXAMINATION BY MR. CAMPBELL:

19 Q. Mr. Parnell, just briefly I want to follow up with you
20 in regards to I guess items 17 and 20.

21 Those were two separate bullets, one -- I think 17 was
22 retrieved from the ground and 20 from a wall, is that
23 correct?

24 A. That's what they were listed as.

25 Q. That's what you were told, correct?

1 A. Correct.

2 Q. And you matched, or tried to match, those with item 8,
3 which was the bullet that was removed from the victim,
4 correct?

5 A. That's correct.

6 Q. And I believe you -- and I want to get this straight is
7 you were inconclusive in trying to match those three, is
8 that correct?

9 A. That's correct.

10 Q. And I believe you stated they could have been fired by
11 the same weapon, but there is no evidence of that, or you
12 don't know that?

13 A. I can't prove that scientifically, that's correct.

14 Q. Okay. As a matter of fact, these could have been fired
15 by another weapon, other than the one used in this case,
16 correct?

17 A. That's correct.

18 MR. CAMPBELL: No further questions, Your Honor.

19 MR. BARNETTE: No further questions of this
20 witness, Your Honor. We would ask that he be excused.

21 THE COURT: You may step down and you may also be
22 excused.

23 MR. BARNETTE: Thank you, Your Honor.

24 Your Honor, the State would rest at this time,
25 Your Honor.

1 THE COURT: All right. Ladies and gentlemen, that
2 is all of the testimony or evidence to be offered by the
3 State, at least in their case in chief. Before we go
4 further I have got some matters I'll need to address with
5 the lawyers, so I'll ask you, please, to go to your jury
6 room. Do not yet begin any discussions about the case.
7 I'll bring you back after I address those matters.

8 (The following takes place outside the presence of
9 the jury panel)

10 THE COURT: All right, any motions or other
11 matters to make?

12 MR. CAMPBELL: None from the defense at this time,
13 Your Honor.

14 THE COURT: Okay. Who is your first witness, Mr.
15 Campbell?

16 MR. CAMPBELL: Your Honor, my first witness is
17 going to be Daquan Morgan.

18 It's my understanding we will be taking my
19 client's testimony in-camera at some point. We can do that
20 first, or we can deal with Mr. Morgan first.

21 THE COURT: Well, what do you propose Mr. Morgan
22 to be testifying to?

23 MR. CAMPBELL: The incidents on that day. No past
24 threats. He will not testify to any past threats.

25 THE COURT: He will only be testifying to what he

1 observed on December the 16th, 2011 (sic), that relates to
2 this case?

3 MR. CAMPBELL: That is correct, Your Honor.

4 THE COURT: 2010.

5 Okay. And then after Mr. Morgan who is your next
6 witness?

7 MR. CAMPBELL: It would be Prince Snipes, Your
8 Honor.

9 THE COURT: All right. Mr. Snipes, do you
10 understand that when you are charged with a crime, you have
11 an absolute right to remain silent? And that just means
12 that nobody can make you testify. Nobody can call you to
13 the witness stand. Nobody can require that you make any
14 statement or answer any questions that relate to these
15 charges.

16 You always have an absolute right to remain silent
17 and to require the State to come into court with sufficient
18 evidence to establish your guilt beyond a reasonable doubt.
19 And you never have to assist them in their efforts to prove
20 your guilt by you taking the witness stand and testifying
21 and being required to answer questions that relate to the
22 charges.

23 At the same time, if you wish to testify or
24 present any evidence before this jury personally, now or at
25 least during the presentation time, is the only opportunity

1 that you will have to testify in the trial of the case. In
2 other words, you can't wait until the end after the jury has
3 reached a decision and then you change your mind about
4 wanting to take the witness stand where you previously
5 indicated you would not testify.

6 Do you understand you do have a right to testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that you also have a
9 right not to testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that it's your
12 decision and only you can make that decision?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Have you had time to talk with Mr.
15 Campbell about the advantages and disadvantages of
16 testifying, as well as not testifying?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And do you appreciate what those
19 advantages and disadvantages are?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: And have you had time to reflect upon
22 your decision as to whether or not you will testify?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And have you reached a decision?

25 THE DEFENDANT: Yes.

1 THE COURT: What is that decision?

2 THE DEFENDANT: I want to testify.

3 THE COURT: You will testify?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And is that a decision that you
6 reached of your own free will and accord?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Has anybody forced you into it?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anybody pressured you into it?

11 THE DEFENDANT: No, sir.

12 THE COURT: Has anyone even suggested that that's
13 the decision that you ought to make?

14 THE DEFENDANT: No, sir.

15 THE COURT: You made that decision on your own?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you are satisfied with it?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay.

20 All right. Let's bring the jury in.

21 (The following takes place in the presence of the
22 jury panel)

23 THE COURT: All right, as you know, the State has
24 rested their presentation, so we will now proceed with any
25 to be offered by the defense.

1 Mr. Campbell.

2 MR. CAMPBELL: Your Honor, at this time the
3 defense calls D.M.

4 D.M. , having been first duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION BY MR. CAMPBELL:

7 Q. D.M. , please state your full name for the record.

8 A. D.M.

9 Q. And where do you reside? Where do you live?

10 A. Oh, at Drive.

11 Q. Drive?

12 A. (Shaking head yes).

13 Q. And who do you live with?

14 A. (No response).

15 Q. Who do you live with, D.M. ?

16 A. My mom and my little brother.

17 Q. And who's your mother?

18 A. Nikita Hardy.

19 Q. And who is your brother?

20 A. D.H.

21 Q. Okay. And D.H. , who is D.H. ' father?

22 A. Breezy . I just know him as "Breezy".

23 Q. "Breezy".

24 And how long -- before "Breezy" was killed in 2010, how
25 long had you known him?

1 A. Since I was like in like the third or fourth grade.

2 Q. Did "Breezy" ever stay with you?

3 A. Yes, sir.

4 Q. When was that?

5 A. About that time, like during my third or fourth --
6 well, I was like in the elementary school, sometime like
7 that.

8 Q. So he stayed with you for a period of time?

9 A. Yes, sir.

10 Q. Okay. Now, I want to get to December 16th, 2010, okay?
11 What happened that day?

12 A. Well, I pulled up at home. I was going in the house.
13 I left my cell phone in the car, so I'm going back to get my
14 cell phone. On my way back to the house "Breezy" called my
15 name and he said "come here." So when we meet up, we
16 probably meet up in the little driveway behind my trailer.

17 Q. Okay.

18 A. And He was like "is Prince still in there talking that
19 big boy talk?"

20 I was like "what do you mean?"

21 He was like "well, don't play with me, man. Your momma
22 ain't here to save him this time."

23 I was like "what do you mean, man?"

24 He was like "either you go in there and get him or I'm
25 going in myself."

1 I'm like "y'all don't got to do that. It's only going
2 to make things worse."

3 So I go in the house and I tell Prince there's somebody
4 outside wanting to talk to him.

5 Prince was like "I know he ain't coming to my road to
6 diss me."

7 So when Prince get up to retaliate I tried to stop him,
8 but it wasn't nothing I could do.

9 Q. Okay. Now, how long was your conversation with
10 "Breezy" outside?

11 A. No more than about five minutes.

12 Q. And can you describe "Breezy" at that time?

13 A. He just -- just had a crazy look in his eye, man,
14 like -- like he was serious, like -- I don't know. I was
15 pretty much in a lose-lose situation at that time.

16 Q. What was "Breezy" wearing?

17 A. I think he had on a -- like a sweatshirt. Maybe a
18 hoodie and some pants and shoes.

19 Q. Sweat pants?

20 A. Something like sweat pants.

21 Q. Okay. And you said he had a crazed look. Describe
22 that to the jury.

23 A. Like his eyes, man, like they was real red, like --
24 like cracked glass, something like -- you know how glass is
25 when it's cracked? That's how his eyes looked, like a crazy

1 look.

2 Q. Okay. Now, D.M. , if you don't mind, step down here.

3 I'm going to show you what's been previously marked State's

4 Exhibit 2-A.

5 (Witness off the witness stand)

6 BY MR. CAMPBELL:

7 Q. Turn around here so we can show the jury.

8 Can you point out your residence where you lived, to

9 the jury?

10 A. Right here.

11 Q. Right there.

12 And that's your back door?

13 A. Uh-huh. .

14 Q. When you pulled in, where did you initially park?

15 A. The trailer there I parked at is not really like across
16 the street.

17 Q. Okay. It's over here?

18 A. Yeah, it's still the same road, but it's -- you know,
19 it's two sides of the trailer on each road, but I parked at
20 the trailer on this side of the road, but -- I think it was
21 this one right here.

22 Q. Okay.

23 A. That's not my car right there, but it's on this side of
24 the trailer.

25 Q. Okay. And you said that you left your phone in your

1 car, correct?

2 A. (Shaking head yes).

3 Q. Then what happened?

4 A. I went back to get it. I was on my way back. "Breezy"
5 was down here at this trailer:

6 Q. Okay.

7 A. And he called me from this trailer. And so we ended up
8 meeting in his driveway of this trailer, which is initially
9 in my back yard there. It's the driveway of their trailer.

10 Q. Okay.

11 A. It's , I believe.

12 Q. Okay. And so he met you in between trailers and

13 ?

14 A. (Shaking head yes).

15 Q. Now, where was this black -- did you see anybody in
16 this black truck when you came in?

17 A. From my understanding I didn't. But the only person
18 that I seen when I pulled up was "Breezy". He was carrying
19 a chest inside the trailer.

20 Q. Now, I want to get this absolutely certain. Did you
21 call out to "Breezy", or did "Breezy" call out to you?

22 A. He called me.

23 Q. Okay.

24 A. For me to come down.

25 Q. And you all met?

1 A. In this driveway. I was coming from -- it's probably
2 the trailer up above this one. I was coming from that
3 trailer. We met in the driveway in between these two
4 trailers.

5 Q. Okay.

6 (Witness back on the witness stand)

7 BY MR. CAMPBELL:

8 Q. I want to get -- I know that you touched on it briefly.
9 I want to get into more detail of your conversation with
10 "Breezy", okay?

11 A. Uh-huh.

12 Q. You walked up to him and how did the conversation
13 start?

14 A. He asked me "is Prince still in there talking that big
15 boy talk?"

16 And I asked him what was he talking about.

17 And he told me not to play with him, that -- he said
18 "you're not playing with me, man. You momma ain't here to
19 save him."

20 I was like "what are you talking about, man?"

21 He was like, "well, you go in there or I'm going in and
22 get him," so I went in there and told Prince.

23 Q. Okay. I want to stop you.

24 He stated that "your momma ain't here to save him"?

25 A. (Shaking head yes).

1 Q. How did that make you feel?

2 A. I mean, at the time I really didn't know what was going
3 on, so I didn't know how to feel, you know, what to feel,
4 really.

5 Q. And then after that he told you "you go get him or I'm
6 coming in."

7 A. Yes, sir.

8 Q. How did that make you feel?

9 A. At that point I didn't know what to do.

10 Q. So --

11 MR. BARNETTE: I'm going to object. He keeps
12 asking him how it's going to make him feel. That's asking
13 for speculation on that.

14 THE COURT: Sustained.

15 BY MR. CAMPBELL:

16 Q. So after that -- after he told you "go get him or I'm
17 coming in," what did you exactly do?

18 A. I went in the house and told him.

19 Q. You went in the house and told Prince Snipes?

20 A. (Shaking head yes).

21 Q. What did you tell him?

22 A. I told him that somebody wanted to talk to him outside.

23 Q. Did you tell him who?

24 A. No, I didn't tell him who. I just said somebody wants
25 to talk to him outside.

1 Q. Okay. Did -- did you tell Prince that "Breezy" said he
2 was coming in if he didn't come out?

3 A. After -- I was trying to stop him, man. He had seen
4 who he was. I was trying to stop him from going outside.

5 Q. Okay. But did you ever tell him that?

6 A. (Shaking head no).

7 THE COURT: Is that a yes or a no?

8 A. Oh, no, sir.

9 BY MR. CAMPBELL:

10 Q. But Prince looked outside and saw who it was, correct?

11 A. Yes, sir.

12 MR. CAMPBELL: No further questions, Your Honor.

13 MR. BARNETTE: May it please the court, Your
14 Honor.

15 CROSS EXAMINATION BY MR. BARNETTE:

16 Q. Mr. Morgan, you didn't tell him he was outside, did
17 you? You didn't tell Prince who was outside, did you?

18 A. No, I just told him somebody was wanting to talk to
19 him.

20 Q. As a matter of fact, you and T.M. tried to
21 stop him from going out, didn't you?

22 A. Yes, sir.

23 Q. And didn't y'all step in front of him, both of you
24 trying to stop him from going out?

25 A. Yes, sir.

1 Q. And what did he take -- what did he get in his hands
2 before he went out?

3 A. It had to be a gun, but I didn't see a gun. I just
4 seen the strap like hanging on his side.

5 Q. So the strap -- you saw the strap from the gun?

6 A. Yeah, like the strap.

7 Q. And what did he tell you when you two guys in front of
8 him tried to stop him from going out?

9 A. It was like "D.M. , T.M. , get out my way."

10 Q. You knew he was serious, didn't you?

11 A. (Shaking head yes).

12 Q. As a matter of fact, when you talked to "Breezy"
13 outside, you never saw a gun, did you?

14 A. It was just like had one of his hands in his pants.

15 Q. But you didn't see a gun, did you?

16 A. No, I didn't see a gun.

17 Q. You didn't see a gun anywhere on him, did you?

18 A. No, sir.

19 Q. As a matter of fact, when Prince went outside, you
20 heard the gunshots?

21 A. Yes, sir.

22 Q. As a matter of fact, wasn't "Breezy" running away from
23 him or stumbling away from him and he followed him?

24 A. He was trying to run away like -- like he -- like he
25 lost his balance. You know how you lose your balance? You

1 put your hand down to catch yourself?

2 Q. Yes, sir.

3 A. Yeah, that's what I saw.

4 Q. So he was going like this? He was going like this
5 trying to catch his --

6 A. Yeah, trying to catch himself.

7 Q. But Prince kept shooting him, didn't he?

8 A. I didn't see the shooting. I just -- when I heard the
9 gunshots, that's what was happening. He was falling to the
10 ground.

11 Q. But Prince was still behind him or following him,
12 wasn't he?

13 A. He was still outside.

14 Q. Was he in the road at that point?

15 A. Who was in the road?

16 Q. Prince in the road at that point?

17 A. They was like in the middle of the -- well, he probably
18 was like at the end of the driveway going into the road,
19 like into the middle of the road. It was like a one-way
20 road or street.

21 Q. And you heard the gunshots, so you knew he fired the
22 gun?

23 A. Yes, sir.

24 Q. When you saw "Breezy" falling down and holding onto the
25 ground, what did you do then?

1 A. I went outside --

2 Q. Uh-huh.

3 A. -- and stood at the edge of the trailer and I seen
4 everybody just standing down in there, so I knew.

5 Q. What did Prince do?

6 A. He was gone.

7 Q. He is already gone by the time you got outside the
8 trailer?

9 A. Yeah, he was gone.

10 Q. And what kind car did he drive?

11 A. It's a Lincoln, an orange Lincoln.

12 Q. Oh, by way, too, when you first saw "Breezy", what was
13 he taking out of the truck?

14 A. A chair. He was taking a chair off the truck.

15 Q. So he was talking furniture out of the truck down
16 there?

17 A. It was a table and like some chairs on the back of the
18 truck.

19 Q. Let me show you State's Exhibit 3 here real quick. I
20 know the jury has seen this.

21 Is this the truck that "Breezy" was taking furniture
22 out of?

23 A. Yes, sir.

24 Q. I'm showing you State Exhibit 55.

25 Whose car is that, sir?

1 A. That's Prince's car.

2 Q. Is that Prince's car?

3 A. Yes, sir.

4 Q. And it was gone when you got outside?

5 A. Yes, sir.

6 Q. Okay. Did you ever see Prince again that day?

7 A. No, sir.

8 Q. Did you ever see him the next day?

9 A. No, sir.

10 Q. Did you ever see him the rest of that month through
11 December?

12 A. No, sir.

13 Q. Did you ever hear from him?

14 A. No, sir.

15 Q. Did your momma ever hear from him?

16 A. I really couldn't tell you that.

17 Q. So through Christmas and everything else he was gone?

18 A. Yes, sir.

19 Q. How long had he been at that trailer with y'all?

20 A. Probably about a year or two, if I'm not mistaken.

21 About a year or two. Three years at the most.

22 Q. And you had your cell phone on you, didn't you?

23 A. Yes, sir.

24 Q. I mean, he could have -- Prince could have called 911,
25 couldn't he?

1 A. Yes, sir.

2 Q. I assume he had a phone, too, Prince, or had a phone in
3 the trailer?

4 MR. CAMPBELL: Objection, Your Honor.
5 Speculation.

6 THE COURT: Well, you can ask him if he knows.
7 You can't assume, but you can ask him if he knows.

8 BY MR. BARNETTE:

9 Q. Do you know if Prince had a telephone or not?

10 A. Yes, sir. House phone.

11 Q. He had the house phone in there. So he could have
12 picked up the phone and called 911?

13 A. Yes, sir.

14 Q. As a matter of fact, you and T.M. stopped him -- tried
15 to stop him from going out there?

16 A. Yes, sir.

17 Q. And what did he say -- what did he say about "Breezy"
18 before he went out?

19 A. Oh, he said "I know he didn't come to my road." That
20 was pretty much all he said.

21 Q. And you knew when he went outside what he was going to
22 do, didn't you?

23 A. Like I really did, but I had a thought about it. I
24 didn't know it was going to go that way.

25 Q. But you and T.M. tried to stop him before he went out

1 there, didn't you?

2 A. Yes, sir.

3 Q. And you never saw "Breezy" with a gun, did you?

4 A. No, sir.

5 MR. BARNETTE: One moment, Your Honor, please.

6 (Off the record)

7 (Back on the record)

8 MR. BARNETTE: Thank you, sir.

9 REDIRECT EXAMINATION BY MR. CAMPBELL:

10 Q. D.M. , you said that you saw "Breezy" turn and
11 stumble?

12 A. Yes.

13 Q. How many steps did he take?

14 A. Well, it was like -- it was something like you know how
15 when you are watching football, might -- somebody might get
16 hit, but they will bounce up playing. Like -- it wasn't a
17 lot of steps, man, because he was like he was going to turn
18 around, but he fell, so --

19 Q. Like two or three steps?

20 A. It wasn't too many steps.

21 Q. Two or three?

22 A. Yeah, probably two or three, at the most at four, four
23 steps.

24 Q. Okay. So it's not like he was running a long distance?

25 A. No, he wasn't -- it wasn't like he was trying to run a

1 long distance.

2 Q. Okay. It was just two or three steps?

3 A. (Shaking head yes).

4 Q. And are you sure that you never told Prince that
5 "Breezy" said "come in or I'm coming out"?

6 A. Yeah, I told him somebody was outside and they wanted
7 to talk to him.

8 Q. You told him somebody was outside and they wanted to
9 talk to him?

10 A. (Shaking head yes).

11 Q. And then what's when Prince looked outside, correct?

12 A. Yes. At that time trying to stop him.

13 MR. CAMPBELL: No further questions, Your Honor.

14 MR. BARNETTE: No further questions of this
15 witness, Your Honor.

16 THE COURT: You may step down.

17 All right, ladies and gentlemen, I have got one
18 matter I'm going to need to address with the lawyers, so
19 again I'll ask you to please go to your jury room. Don't
20 talk about the case. I'll bring you back just shortly.

21 (The following takes place outside the presence of
22 the jury panel)

23 THE COURT: We are going to take ten minutes.

24 Let me see the lawyers in chambers.

25 (Whereupon, proceedings were recessed)

1 (Whereupon, proceedings were reconvened)

2 THE COURT: All right. Bring the jury in, please.

3 (The following takes place in the presence of the
4 jury panel)

5 THE COURT: All right, the jury is present.

6 You may proceed.

7 MR. CAMPBELL: Your Honor, at this time the
8 defense calls Prince Snipes.

9 PRINCE DEVEN SNIPES, having been first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION BY MR. CAMPBELL:

12 Q. Prince, please state your full name for the record.

13 A. Prince Deven Snipes.

14 Q. And where do you reside?

15 A. Drive.

16 Q. And who do you live there with?

17 A. Nikita Hardy, my son D.M. , C.M. and

18 D.H.

19 Q. Okay. And how long have you lived there?

20 A. Approximately three to four years. Four years.

21 Q. Okay. I want to take you back some period of time.

22 You lived --

23 Ms. Nikita Hardy obviously has a son named D.H.

24 , correct?

25 A. Yes, sir.

1 Q. And who is the father?

2 A. Breezy . "Breezy".

3 Q. All right. You know him by "Breezy", correct.

4 A. Yes, sir.

5 Q. And you first met "Breezy" approximately in 2008, is
6 that correct?

7 A. Yes, sir.

8 Q. And how was your relationship with "Breezy"?

9 A. We didn't have it together. I mean, I seen him at my
10 son's birthday party. I seen him at Christmas at my house.
11 I seen him at Easter occasionally.

12 Q. And there were no issues?

13 A. No, sir.

14 Q. That changed somewhat in July of 2010, is that correct?

15 A. Yes, sir.

16 Q. Explain to the court exactly what happened around that
17 period of time.

18 A. On July 2010 we was all at the house on
19 Drive, me Nikita and the kids, and a phone call came in late
20 that night. The telephone -- the telephone ring. I
21 answered the phone. I said "hello." And -- "Breezy"
22 was on the other end. He said "hello. Who is this?"

23 I said "this is Prince."

24 He said "I have been meaning to talk to you."

25 I said "okay."

1 And he stated then that he had a problem, and I was
2 like "what's the problem?"

3 And he said "if you mistreated my son, I will come to
4 your house and we are going -- I will gangstered and we was
5 going to bring it to your front door."

6 Q. What was your state of mind then?

7 A. Shock, in fear.

8 Q. Did that concern you?

9 A. Yes, sir.

10 Q. Did you feel threatened?

11 A. Yes, sir.

12 Q. After he told you he was going to bring it to your
13 front door on that night, what did you do?

14 A. I was concerned for the safety of my family.

15 Q. Did you tell Nikita about it?

16 A. Yes.

17 Q. Okay. And then afterwards, you know, what did you do?

18 A. Later on I went and purchased a firearm.

19 Q. What type of gun did you purchase?

20 A. A Highpoint 9-millimeter rifle.

21 Q. Okay. Semiautomatic?

22 A. Yes, sir.

23 Q. And why did you purchase this rifle?

24 A. Because I was in fear of my life and I wanted to
25 protect my household.

1 Q. Because "Breezy" tell you he was going to bring it to
2 your front door?

3 A. Yes, sir.

4 Q. Now, after this phone call he made, did "Breezy"
5 threaten you again?

6 A. Yes, it was more other threats. It was several other
7 threats after the fact.

8 Q. So he threatened you several times after this?

9 A. Yes, sir.

10 Q. Okay. I would like to go into details of these
11 threats.

12 The next one that happened, what happened? Explain to
13 the jury.

14 A. He seen Nikita at the store with my kid and he
15 threatened Nikita and he said "tell him I'm still going to
16 get him. It's not over with. I'm still going to get him."

17 Q. Okay. And was Nikita in your car at this point?

18 A. Yes, sir.

19 Q. Okay. Now, another incident occurred a short period of
20 time later?

21 A. Yes, sir.

22 Q. Explain to the court what happened -- or to the jury
23 what happened this time.

24 A. He seen Nikita and he told her "oh, it ain't over. I'm
25 still going to get him. I'm still going to get him."

1 Q. Was your daughter with Nikita at this time?

2 A. Yes, sir.

3 Q. And what's your thought process after Nikita is telling
4 you about this?

5 A. I'm in fear.

6 Q. And I know -- that's three threats there. Did he
7 threaten you any more?

8 A. Yes, sir. His mother, Ms. Rose, called to the house
9 and had a conversation with Nikita.

10 MR. BARNETTE: Your Honor, I'm going to object at
11 this point. It's hearsay.

12 MR. CAMPBELL: Your Honor, it goes to my client's
13 state of mind. It's not for the matter asserted.

14 THE COURT: All right, I'll overrule the
15 objection.

16 BY MR. CAMPBELL:

17 Q. I'm sorry, you were beginning to say Rose called the
18 house, correct?

19 A. Yes, sir, and had a conversation with Nikita.

20 Q. Okay.

21 A. To the fact she had to stop from coming to the
22 house -- "Breezy" from coming to the house. And he
23 threatened that he would possibly kill everyone in the
24 house.

25 Q. All right. And was this around November of 2012 (sic)?

1 A. Yes, sir.

2 Q. Did you call the cops?

3 A. No, sir.

4 Q. Why not?

5 A. I asked Nikita if -- she asked me did I want him to
6 call the cops and I told her no, because I didn't want them
7 to interfere with him seeing his son, stop ever seeing his
8 son in no way.

9 Q. Okay. Now, I want to take you --

10 Let's go to December 2010, the day of the incident.

11 A. All right.

12 Q. What happens this day?

13 A. December 2010 -- December 16th, 2010, I had just
14 returned home from the barbershop. Nikita was in the house.
15 She had cooked breakfast. We sat down and we ate breakfast
16 and I took a shower. Nikita left to go to work.

17 And D.M. and T.M. came in and I asked D.M. what was
18 wrong. D.M. stated "Breezy" is outside. He said "if you
19 are not going out, he said he was coming in here."

20 Q. So D.M. told you this?

21 A. Yes, sir.

22 Q. Now, you were sitting here in the courtroom earlier and
23 D.M. says he didn't tell you that.

24 A. Yes, sir.

25 Q. All right. Is it your testimony that he is just

1 mistaken?

2 A. He had to, because it was the exact words that came out
3 of his mouth.

4 Q. So you knew that "Breezy" had said "I'm coming in or
5 he's coming out?"

6 A. Yes, sir.

7 Q. At that point what did you do?

8 A. I looked out the window and seen "Breezy" standing in
9 the backyard.

10 Q. Okay. What was he doing there?

11 A. Standing out there smoking a cigarette with his
12 hands -- with his hand in his pants.

13 Q. And which hand did he have in his waistband?

14 A. His left hand.

15 Q. Okay. Sitting there smoking a cigarette?

16 A. Yes.

17 Q. When you see this, how does this affect you?

18 A. I was scared.

19 Q. Why?

20 A. Because he was literally at my house.

21 Q. And he had threatened to come to your house before?

22 A. On numerous occasions.

23 Q. Threatened to bring it to your front door?

24 A. Yes, sir.

25 Q. And here he was at your door?

1 A. Yes, sir.

2 Q. So you look out the window and you see "Breezy", what
3 do you do?

4 A. I went in the house, I retrieved my firearm out from
5 under the bed.

6 Q. And that's the 9-millimeter Highpoint?

7 A. Yes, sir.

8 Q. What's this gun look like?

9 A. It's black and it's silver, a rifle.

10 Q. Okay. Now, is this the type of a firearm when you
11 shoot it, do you have to cock it and pull it, or is it just
12 rapid trigger?

13 A. It's a continuous firing. It's a semiautomatic.

14 Q. Okay. Now, you grabbed your firearm. Why?

15 A. Because I didn't want him coming in the house and
16 putting my life and kids life in danger.

17 Q. So you decided to go outside?

18 A. Yes, sir.

19 Q. Did D.M. and T.M. try to stop you?

20 A. Yes, sir.

21 Q. And why did you continue to go on outside?

22 A. Because I didn't want him to come in the house.

23 Q. So you are scared?

24 A. Yes, sir.

25 Q. Okay. You go outside?

1 A. Yes, sir.

2 Q. Describe to the jury what happens when you step
3 outside.

4 A. I seen people at the back steps of the trailer, exit
5 the back door, I walked towards "Breezy".

6 Q. Okay. Where are you carrying your firearm, the rifle?

7 A. Down by my side.

8 Q. And just carrying it down by your side?

9 A. (Shaking head yes).

10 Q. You don't have it leveled on him, or anything like
11 that?

12 A. No, sir.

13 Q. And you walked towards "Breezy"?

14 A. Yes, sir.

15 Q. Does he run away?

16 A. No, sir.

17 Q. He is standing right there?

18 A. Yes, sir.

19 Q. Does he say anything to you as you are walking towards
20 him?

21 A. Yes.

22 Q. What's he saying?

23 A. He is saying that "Niki is not here to save you now."

24 Q. Then what do you say in return?

25 A. I asked him "I know you didn't bring this to my street."

1 I know you didn't come to my home."

2 Q. And when you say that, what are you talking about?

3 A. The gun that he has in his waistband.

4 Q. What's going through your mind at this point?

5 A. I'm scared.

6 Q. Okay. You state "I know you didn't bring this to my
7 house, to my street and my home," correct?

8 A. Yes, sir.

9 Q. Then what happens?

10 A. He proceeded to pull his gun out of his waistband and I
11 was scared and I started shooting.

12 Q. How many times did you shoot?

13 A. I don't -- I don't recall. I was scared. I just shot.

14 Q. You just started shooting?

15 A. Yes, sir.

16 Q. And when did you stop?

17 A. After he had fell.

18 Q. Okay. He stumbles and falls, then what do you do?

19 A. I walked towards him to check and then I was still
20 scared and I fired one last round.

21 Q. You had to make sure the threat was over?

22 A. Yes, sir, I was still scared.

23 Q. Because he had brought it to your door?

24 A. Yes, sir.

25 Q. At any point during this does Ms. Martha Houey or does

1 Dorothy Boyd, do they approach you or say anything to you?

2 A. No, sir.

3 Q. After you fired that last shot into "Breezy", what do
4 you do?

5 A. I went back up to the house. I ran in the house. I
6 dropped the gun right there on the floor and grabbed my keys
7 and I left.

8 Q. Okay. Now, where did you go?

9 A. I went to North Carolina.

10 Q. Why did you leave the scene?

11 A. I was scared.

12 Q. Scared of what?

13 A. I didn't -- I feared for my life, feared I had taken a
14 life. I was scared. It was just like a blur.

15 Q. Okay. Now, you were in North Carolina a period of
16 time, weren't you?

17 A. Yes, sir.

18 Q. And did you turn yourself in?

19 A. Yes, sir, when I was charged with murder.

20 Q. Now, did they catch you or did you turn yourself in?

21 A. They caught me in Gastonia, North Carolina.

22 Q. And at the time you were hiding in a closet, weren't
23 you?

24 A. Yes, sir.

25 Q. And why didn't you turn yourself in after this day?

1 A. I was scared. I was scared. This is like in a blur,
2 in a haze. It scared me.

3 Q. You had taken someone's life?

4 A. Yes, sir.

5 Q. You were charged with murder?

6 A. Yes, sir.

7 Q. Even though you acted in self-defense?

8 A. Yes, sir.

9 Q. Now, Prince, step down here for me, if you will. I
10 want to go back over these things, okay?

11 (Witness off the witness stand)

12 BY MR. CAMPBELL:

13 Q. Now --

14 THE COURT: Don't block his view of the court
15 reporter, please.

16 BY MR. CAMPBELL:

17 Q. Prince, can you point to the jury where you were living
18 at this point?

19 A. Right here at Drive.

20 Q. And I need you to speak up, okay, so the court reporter
21 can hear you, okay?

22 A. Okay.

23 Q. Now, when -- D.M. and T.M. come out, correct?

24 A. Yes, sir.

25 Q. You stated that you looked out the window and saw

1 "Breezy". Where was he standing?

2 A. Right here. Approximately like the backyard. It would
3 be behind this driveway.

4 Q. Okay. Now, when you exit 105, you come out running?

5 A. No, I walked.

6 Q. You walked.

7 And where do you walk to?

8 A. To right here behind this driveway, which is the back
9 door of the next trailer.

10 Q. Okay. And eventually you end up around here, correct?

11 A. Yes, sir.

12 Q. Now, did you at any point come running out of the house
13 firing your weapon?

14 A. No, sir.

15 Q. When you began firing your weapon, were you standing in
16 the same spot?

17 A. I was standing right here, in this area right here.

18 Q. Okay. Did you at any point take off running after
19 "Breezy"?

20 A. No, sir, I was standing right here in this area.

21 Q. Okay. And you stated that "Breezy" took -- when you
22 began firing, what did "Breezy" do?

23 A. He started walking towards this way, down towards this
24 way in this area over here.

25 Q. Okay. Then you walked towards him?

1 A. Yes, sir.

2 Q. And you fired one more time?

3 A. Yes, sir, it was right in this area.

4 Q. Okay. And then what did you do?

5 Where was your car parked?

6 A. My car was parked in the driveway right here.

7 Q. Okay. So after you fired that last time, what do you
8 do?

9 A. I went back to the house. I dropped the gun on the
10 floor, grabbed the keys, and the driveway is right here, and
11 I left.

12 Q. Okay.

13 (Witness back on the witness stand)

14 BY MR. CAMPBELL:

15 Q. Did you have any other options in your mind that day?

16 A. I was scared. I didn't -- I didn't know what to do.

17 Q. You felt like you had to go outside?

18 A. Yes, sir. I didn't want him coming in the house.

19 Q. Because he brought it to the door?

20 A. Yes, sir.

21 Q. Did you feel like you had any other option than to fire
22 your weapon when you did?

23 A. No, sir, I was scared. I seen the gun and I shot.

24 Q. Now, you have been sitting here throughout all the
25 testimony and you understand that no weapon was found?

1 A. Yes, sir.

2 Q. Is it possible that you were mistaken that he had a
3 weapon?

4 A. No, sir.

5 Q. You are pretty certain he had a weapon?

6 A. Yes, sir.

7 Q. But, nonetheless, you saw him standing out there with
8 his hand in his waistband?

9 A. Yes, sir.

10 Q. And that's when he said "Niki ain't here to save your
11 ass then"?

12 A. Yes, sir.

13 Q. Now, I want to address a couple more things.
14 You are a convicted felon, aren't you?

15 A. Yes, sir.

16 Q. And did that play a role in why you escaped?

17 A. Yes, sir.

18 Q. When you were in North Carolina?

19 A. Yes, sir.

20 MR. BARNETTE: Your Honor, I'm going to object to
21 this, unless it's -- I mean --

22 May we approach the bench for a second?

23 THE COURT: Sure.

24 (Whereupon, the lawyers approached the bench for
25 an off-the-record discussion)

1 BY MR. CAMPBELL:

2 Q. Prince, I wanted to talk about the rifle real fast,
3 okay?

4 I know that you said it was a 9-millimeter Highpoint,
5 correct?

6 A. Yes, sir.

7 Q. And it's a semiautomatic rifle?

8 A. Yes, sir.

9 Q. Black and silver in nature?

10 A. Yes, sir.

11 Q. What type of clip did it have on it?

12 A. A ten-round clip.

13 Q. The standard ten-round clip?

14 A. Yes, sir.

15 Q. Okay. And I believe the evidence has shown that the
16 casings were from a Winchester and a CDC, is that correct?
17 Winchester bullets?

18 A. Yes, sir.

19 Q. Okay. And those correspond to the rifle that you had?

20 A. Yes, sir.

21 Q. You are not denying that?

22 A. No, sir.

23 Q. And after you shot "Breezy", you took the rifle and
24 left it in the house?

25 A. Yes, sir.

1 Q. You never saw it after that?

2 A. No, sir.

3 Q. Okay. Now, when you got in your car and left, okay,
4 did you encounter Rose Houey?

5 A. Yes, sir.

6 Q. Okay. What happened?

7 A. As I was exiting Conner Drive, she was turning into
8 Conner Drive and we passed each other.

9 Q. Okay. Did you almost run her off the road?

10 A. No, sir.

11 Q. As a matter of fact, did she -- she seen you?

12 A. She seen me.

13 Q. And how do you know that?

14 A. Because she looked directly at me and she threw up her
15 hand.

16 Q. Okay. Now, I believe she testified earlier that she
17 saw you and a gun in the car. Is that possible?

18 A. No, sir.

19 Q. And why not?

20 A. Because the gun was left in the house.

21 Q. Okay.

22 MR. CAMPBELL: No further questions, Your Honor.

23 MR. BARNETTE: If it please the court, Your Honor.

24 CROSS EXAMINATION BY MR. BARNETTE:

25 Q. Mr. Snipes, isn't it true you have been convicted of

1 two felonies, sir?

2 A. When?

3 Q. Two different felonies? You have been convicted of two
4 of those, right?

5 A. Yes.

6 Q. Felony crimes?

7 A. Yes.

8 Q. You said that you bought a gun. Where did you buy this
9 gun at?

10 A. At 321 flea market in Dallas.

11 Q. So you bought it at a flea market?

12 A. Yes.

13 Q. Why did you buy it at a flea market?

14 A. After receiving the threats, I went ahead and purchased
15 it.

16 Q. You are not supposed to possess a firearm, are you?

17 A. No, sir.

18 Q. And you know that?

19 A. Yes, sir.

20 Q. And D.M. , he was in the trailer. You didn't go back
21 with the gun in that trailer, did you? You took the gun out
22 in the car?

23 A. No, sir.

24 Q. D.M. testified he saw you leaving -- you were gone by
25 the time he came outside the trailer. He was inside the

1 trailer.

2 A. He was inside the trailer?

3 Q. Right, he was inside the trailer --

4 A. Yes.

5 Q. -- the whole time. He said he saw you following him as

6 "Breezy" was falling and touching the ground. He watched

7 you do that and was following him. Then when he came

8 outside the trailer you were gone and the car was gone.

9 A. No, sir, I had went back into the house.

10 Q. You keep talking about all these threats. What did you
11 do to his son?

12 A. I did nothing to his son.

13 Q. So your testimony is you did nothing to his son?

14 A. No, sir, absolutely nothing.

15 Q. But your testimony is that he told -- Rose supposedly
16 said that he's going to come over and kill everybody in the
17 house.

18 A. Yes, sir.

19 Q. The mother of his child, his own child that was living
20 in that house, is that what you are saying?

21 A. Yes, sir.

22 Q. So "Breezy" is going to kill his own child, too,
23 because of you?

24 A. That was the conversation that Ms. Rose had with
25 Nikita. She said she had to stop him from coming down

1 there.

2 Q. And you said he never called the police? On any of
3 these instances you never called the police or asked for any
4 help from any of them?

5 A. No, sir.

6 Q. Why not?

7 A. Because I didn't want to interfere with him seeing his
8 child.

9 Q. Yeah, but you just said he said he was going to kill
10 his own child.

11 A. Yes, sir.

12 Q. In North Carolina -- where did you go to in North
13 Carolina?

14 A. Gastonia, North Carolina.

15 Q. And you was up there for over a month, weren't you?

16 A. Close to a month.

17 Q. As a matter of fact, when the sheriff's department up
18 there caught you, you were hiding in a closet at the time,
19 weren't you?

20 A. Yes, sir.

21 Q. You never called 911, did you?

22 A. No, sir.

23 Q. Why didn't you stay -- if this is self-defense, why
24 didn't you stay there and wait until the police was there
25 within five minutes?

1 A. I was scared. I didn't know what to do.

2 Q. Isn't it true D.M. and T.M. tried to stop you from
3 going out there that day?

4 A. Yes, sir.

5 Q. Why did you go out there? I mean, the man is out
6 there, and supposedly he's out there. Call the police and
7 have them go to arrest him or stop him.

8 A. I did not want him in the premises of my home.

9 Q. He hadn't entered the premises of your home, had he?

10 A. No, but he made the threat that he was coming in or I
11 was going to come out.

12 Q. As a matter of fact, D.M. didn't even tell you who it
13 was. You looked out the window and saw who it was, didn't
14 you?

15 A. D.M. told me who it was. Then I looked out the
16 window.

17 Q. As a matter of fact, you didn't know about the threat.
18 You went out and just took care of business, didn't you?
19 You didn't like him in your neighborhood around you, did
20 you?

21 A. I knew about the threat because D.M. stated the
22 threat to me before I could exit the residence.

23 Q. You were the one that had the problem with "Breezy",
24 weren't you?

25 A. No, sir.

1 Q. Do you know how many times you shot that day?

2 A. I don't remember. I was scared.

3 Q. Why did you get a 9-millimeter rifle? Why did you get
4 that kind of weapon? Why didn't you get a pistol? Why
5 didn't you get something else?

6 A. That was what was available.

7 Q. And who gave -- who sold this gun to you? Who was the
8 person?

9 A. I don't recall the lady's name. She works at the flea
10 market. She has a booth at the flea market.

11 Q. Where did you get the ammunition?

12 A. Wal-Mart.

13 Q. And how much ammunition did you get at Wal-Mart?

14 A. It's a Winchester. A box of probably a fifty count for
15 8.99.

16 Q. And that's what you used to load the weapon up with?

17 A. Yes, sir.

18 Q. Well, that's kind of interesting. Why did it have two
19 different type of ammunition in the gun then?

20 A. I only purchased Winchester bullets. I don't recall no
21 other ammunition.

22 Q. Well, it has two different types of ammunition in it.
23 That's what the SLED person said right here on the report.

24 A. I haven't seen the report until just now.

25 Q. Well, that would have changed your story, wouldn't it?

1 A. No, sir.

2 Q. The jury can see it. It's right there. Winchester and
3 then CBC brand, two different types.

4 And you say that you saw a gun that day?

5 A. Yes, sir.

6 Q. Nobody else saw a gun. D.M. didn't see a gun. None
7 of his family saw a gun. The police never found any gun
8 there.

9 He's wearing sweat pants. He's moving furniture. Do
10 you think he's going to carry a gun in sweat pants when he's
11 moving furniture?

12 A. I can't say that in fact nobody seen the gun. I knew I
13 saw a gun with my own eyes physically.

14 Q. What kind of gun was it?

15 A. The handle was black and it was like a brown handle.

16 Q. So all you saw -- what your testimony is all you saw
17 was the handle?

18 A. I saw the gun, once he retrieved it from his waistband.

19 Q. Okay. Was his hand on the weapon when he pulled it
20 out?

21 A. His left hand was on the gun in his waistband. He
22 pulled it with his left hand.

23 Q. You said he was smoking in his right hand?

24 A. Yes, sir.

25 Q. And he's pulling a gun and smoking with the thing?

1 He's pulling this gun out while he's still smoking a
2 cigarette?

3 A. With the left hand. With his left hand.

4 Q. Okay. And your testimony is he just walked away? He
5 started walking away from you and you started shooting at
6 him?

7 A. No, we had that conversation. I asked him why he had
8 come to my road. He said "Nikita is not going to save you
9 now."

10 Q. When did you start shooting him then?

11 A. When he was pulling his gun from his waistband.

12 Q. When he started pulling his gun, where did you shoot
13 him first?

14 A. I don't recall. I was -- I just started shooting.

15 Q. Well, you can recall everything else. Why can't you
16 recall where you first shot him at, sir?

17 A. It's like a blur. I don't know. It was -- I was
18 scared. I don't remember. I just remember shooting.

19 Q. Well, if you was scared, why didn't you call the
20 police?

21 A. Because I didn't want him to come in the house.

22 Q. He hadn't come onto your house yet or in your house
23 yet, had he?

24 A. He was in the backyard.

25 Q. Just standing there is your testimony?

1 A. Yes, sir.

2 Q. And after you shot him, we know at least there was nine
3 shell casings that came from that weapon. Why did you go
4 down to his body, if you were so scared of him?

5 A. Because he had a gun on him.

6 Q. So he's still -- where was the gun at?

7 A. By this time the gun was out of his waistband.

8 Q. Well, where was it?

9 A. It was like to the left of his body.

10 Q. Okay. You had shot him numerous times; in the back, in
11 the chest, in both hands.

12 A. I don't know where I had shot him. I had just started
13 shooting. I was scared.

14 Q. Well, if he didn't have the gun in his hand, why did
15 you go up and shoot him at point blank range in the head?

16 A. He had the gun in his hand. His hand was to the left.

17 Q. You just testified it wasn't in his hand. Why didn't
18 you just go over and kick the gun away from him, if that was
19 the case?

20 A. I didn't kick the gun. The gun was in his left hand
21 away from his -- to the left side of his body.

22 Q. Now, you wanted to make sure he was dead, didn't you?

23 A. I was scared.

24 Q. You went in front of these ladies right here, in front
25 of his family, and you are going to send a message you don't

1 mess with Prince Snipes, do you?

2 A. No, sir.

3 Q. As a matter of fact, you kept going at him. Why didn't
4 you just shoot him, leave, go back and call the police, once
5 he was going away from you and fell down?

6 A. I didn't even know what to do. I was in a state of
7 shock, scared.

8 Q. So what you do is you go take this rifle that you
9 purchased at the flea market and you just say you laid it on
10 the floor of the trailer?

11 A. When I walked in the back door I dropped it on the
12 floor.

13 Q. Well, who picked it up after that?

14 A. I have no idea. I left.

15 Q. So you didn't call the police then?

16 A. No, sir.

17 Q. You had a cell phone, right?

18 A. I didn't have a cell phone. The cell phone was in the
19 house.

20 Q. Well, you went in the house with the gun, supposedly,
21 isn't that right? Is that your testimony?

22 A. I went in the house, I dropped the gun on the floor and
23 I grabbed my keys and I left.

24 Q. After you grabbed your keys, your phone was in there
25 with you. There is a house phone in there, too, right?

1 A. Yes, sir.

2 Q. You could have easily picked up the phone and called
3 the police.

4 A. I was scared. I was still in a daze.

5 Q. Scared all the way to North Carolina?

6 A. In fear the whole time.

7 Q. Where did you stay the whole month, or almost
8 approximately the month, before you were picked up in late
9 January?

10 A. Different abandoned places. I don't recall.

11 Q. What places -- who did you stay with?

12 A. I don't --

13 Q. You are telling this jury you can't recall who you
14 stayed with?

15 A. I had a room. I purchased a room at a house.

16 Q. You purchased a room at a house. Whose house did you
17 purchase the room at?

18 A. A lady named Cat.

19 Q. Cathy.

20 How did you know Cathy?

21 A. Not Cathy. Cat. I don't know her real name.

22 Q. How long did you stay there?

23 A. I don't -- it wasn't long.

24 Q. Where did you go next?

25 A. That was it.

1 Q. They didn't pick you up until late January. Where else
2 did you stay, sir?

3 A. Gastonia, North Carolina at the place I was picked up
4 from.

5 Q. Okay. Where else? Was that the only place? You said
6 that you stayed at several places, and now you saying you
7 stayed at two different places?

8 A. I stayed at -- it's an abandoned apartment behind it.
9 I was at the abandoned apartment at the house.

10 Q. Abandoned apartment?

11 A. Yes, sir.

12 Q. Where did you get your food?

13 A. The store right down the road.

14 Q. Where did you get your money from?

15 A. I had money on me.

16 Q. How much money did you have on you?

17 A. I don't recall.

18 Q. You don't recall how much money you had on you?

19 A. No.

20 Q. Well, you had to have certain money to buy food and
21 stuff. How much did you have?

22 A. I don't recall the amount of money that I had on me.

23 Q. You recall all these other details, but you don't
24 recall how much money you had on you when you ran to North
25 Carolina?

1 A. No, sir.

2 Q. Do you remember how much you weighed when this incident
3 occurred?

4 A. No, sir.

5 Q. Do you remember how much you weighed when they brought
6 you back to the Cherokee County Sheriff's Department?

7 A. I haven't been weighed since I have been at the
8 sheriff's department.

9 Q. Didn't you weigh 170 pounds?

10 A. I have no idea. I hadn't been weighed.

11 Q. You have lost a lot of weight, haven't you?

12 A. Yeah. Physically, yes.

13 Q. You weighed a lot more when this incident occurred,
14 didn't you?

15 A. Yes.

16 Q. You was a much bigger man back then?

17 A. Yes.

18 MR. BARNETTE: One moment, Your Honor, please.

19 (Off the record)

20 (Back on the record)

21 BY MR. BARNETTE:

22 Q. Well, it's interesting. You know, "Breezy" is
23 right-handed. So why would he pull a gun out of a pair of
24 sweat pants, that nobody saw but you, with his left hand?

25 A. I can't answer that question.

1 Q. And he's got a cigarette in his right hand.

2 A. Yes, sir.

3 Q. Even you testified to that. We have even got pictures
4 showing that the cigarette butt was right beside of him.

5 A. Yes, sir.

6 Q. He had it in his hand all the way trying -- I mean,
7 trying to get away from you, didn't he?

8 A. No, sir.

9 Q. How close was you when you shot him in the head to him?

10 A. It was in the emient (sic) range. It was close.

11 Q. Eminent (sic) range, where did you get that word from?

12 A. The lady saying that he was there.

13 Q. Do you realize that gun barrel had to be one to two
14 inches to his head?

15 A. It wasn't -- I ain't an expert. I can't tell you the
16 distance.

17 Q. Well, you were there.

18 A. Yes.

19 Q. You shot him in the head.

20 A. It was close, but I can't tell you the incident range.

21 Q. Point blank range. The man is down. He's been shot in
22 the back. He's been shot in the chest, both hands, wounds
23 on the front, shots that have ricocheted and actually hit a
24 trailer behind him, but you shot him point blank range,
25 because you still thought he was a threat when he's laying

1 down and dying. Why?

2 A. Like I was saying, I was scared. I didn't know.

3 Q. So if you were scared, that gives you a right to shoot
4 somebody numerous times and shoot them like a dog when they
5 are laying down on the ground, isn't it?

6 A. (No response).

7 MR. BARNETTE: No more questions, Your Honor.

8 REDIRECT EXAMINATION BY MR. CAMPBELL:

9 Q. I just want to clarify some things, Prince, briefly.
10 When you walked towards "Breezy" and you have your gun,
11 does he run away?

12 A. No, sir.

13 Q. How far, distance-wise, is it from your back door to
14 where "Breezy" was standing?

15 A. A pretty good distance.

16 Q. Well, twenty feet, thirty feet?

17 A. It's a pretty good distance. I wouldn't know the exact
18 feet.

19 Q. There was a lot of distance that you had to cover?

20 A. Yes, sir.

21 Q. Okay. And you walked toward him?

22 A. Yes, sir.

23 Q. And he didn't move?

24 A. No, sir.

25 Q. "Because Niki wasn't here to save your ass any more,"

1 was she?

2 A. That's what he stated. That's a fact what he stated.

3 Q. His hand was in his waistband?

4 A. Yes, sir.

5 Q. He makes a move?

6 A. Yes, sir.

7 Q. And you start firing?

8 A. Yes, sir.

9 Q. And you don't stop until when?

10 A. Until it's over. Until I fired the last shot.

11 Q. Until he went down, right?

12 A. Yes, sir.

13 Q. Then you walked up to him?

14 A. Yes, sir.

15 Q. Why did you walk up to him?

16 A. I was scared. He's still moving. The gun was still in
17 his hand.

18 Q. You thought he was still a threat?

19 A. Yes, sir.

20 Q. And so you shot him one last time, didn't you?

21 A. Yes, sir.

22 Q. At point blank range?

23 A. Yes, sir.

24 Q. Because he was still a threat?

25 A. Yes, sir.

1 Q. To you and your family?

2 A. Yes, sir.

3 MR. CAMPBELL: No further questions, Your Honor.

4 THE COURT: You may step down.

5 MR. BARNETTE: One more question, Your Honor, if I
6 could.

7 THE COURT: Okay.

8 RECROSS EXAMINATION BY MR. BARNETTE:

9 Q. You said that "Breezy" was in your backyard, right?

10 A. Yes, sir.

11 Q. Well, how did he get across the street down a couple
12 trailers down over in the yard, if he didn't get away from
13 you or didn't run away from you?

14 A. After the fact of the shooting, that's when he started
15 to go a couple steps into the other yard.

16 Q. Well, you say he went two or three steps, or whatever.
17 He had to go farther than that to get from your backyard
18 where you are saying that he was all the way down where his
19 body winds up.

20 A. Yes, he went --

21 Q. They can look at the map here.

22 A. Yes, he wasn't but a couple steps away from where we
23 were standing where we was talking at. After the shooting
24 and the place he went two, maybe three, four steps down.

25 Q. Well, how close -- well, that's farther than that

1 across that road where he wound up, where you are saying he
2 was. I mean, this is basically -- and they can look on the
3 map here and see that.

4 I mean, if your yard is where his body winded up, you
5 are saying he's in your backyard and winds up over here,
6 that's a lot more than two or three steps.

7 A. He was at the back door at the top of the next driveway
8 in the next yard.

9 Q. Okay. So now he's not in your backyard now?

10 A. Yes, he's -- that's my backyard?

11 Q. Okay. Well, how did he get that far over if he -- it
12 couldn't have happened the way that you said it happened, if
13 that's the way. The distance is too far.

14 A. Well, he was in the driveway. The backyard -- this is
15 my backyard. The driveway is right here. I come out of the
16 house. We talked right there. Right there where the shots
17 are coming together, that's where we were at. He took two
18 or three steps away from me and that's where his body ended
19 up.

20 Q. Okay. How close was he to you --

21 A. We was close.

22 Q. -- when y'all talked?

23 A. We was close. We was right there like at the back door
24 to the driveway.

25 Q. How close. Tell me to stop where he was.

1 A. Come closer.

2 Right there.

3 Q. So you got a rifle beside him and you are talking to
4 him like this?

5 A. Yes, sir.

6 Q. And you are basically in your backyard?

7 A. Yes, sir, backyard, top of the next driveway.

8 Q. You said -- how many steps did he take?

9 A. Two or three.

10 Q. Okay, let's take two, three. Sir, that distance is a
11 lot farther than this.

12 A. Well, we was at the driveway. The top of my back yard
13 is the driveway, and he is backed up to the middle of the
14 road.

15 Q. They can look at the pictures. I know we can keep
16 arguing back and forth, but that's longer than two or three
17 or four steps.

18 The truth of the matter is he was in the road, wasn't
19 he?

20 A. The backyard of the driveway.

21 Q. And he was trying to get away from you when you started
22 shooting at him, because he's not going to stand there. If
23 he's got a -- you have got a rifle there, he's going to
24 stand that close to you and talk to you like that?

25 A. He stood there.

1 MR. BARNETTE: Thank you, Your Honor.

2 MR. CAMPBELL: Nothing further.

3 THE COURT: You may step down.

4 MR. CAMPBELL: The defense calls Nikita Hardy,
5 Your Honor.

6 NIKITA HARDY, having been first duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION BY MR. CAMPBELL:

9 Q. Nikita, please state your full name for the record.

10 A. Nikita Deon Hardy.

11 Q. And you go by Niki, is that correct?

12 A. Yes, sir.

13 Q. Okay. Niki, where do you live?

14 A. Drive.

15 Q. And who do you live with at Drive?

16 A. I live with D.M. and D.H., and I was living
17 with Prince at the time.

18 Q. Okay. And you have obviously a son, D.H.,
19 correct?

20 A. Yes.

21 Q. And his father is "Breezy"?

22 A. Yes.

23 Q. Okay. Now, how old is D.H. right now?

24 A. He's eleven.

25 Q. Okay. And so the day of this incident, July -- or I'm

1 sorry, December 16th, 2010, how old was D.H. then?

2 A. Eight.

3 Q. Okay. Now, obviously you had a relationship with
4 "Breezy" because of D.H. , correct?

5 A. Yes.

6 Q. Now, describe to the jury you and "Breezy's"
7 relationship.

8 A. We never did have a relationship. It had got to the
9 point to where I didn't talk to him any more. He was
10 doing -- like he wasn't doing the right things. He was
11 acting crazy, doing crazy stuff like he always did, but I
12 didn't have a relationship with him, because he didn't
13 really come around like for me and my son.

14 Q. Now, starting in 2008, though, he would visit every now
15 and again, correct?

16 A. Every now and again, yes.

17 Q. And you and Prince were living together at this
18 point --

19 A. Yes.

20 Q. -- correct?

21 A. Yes.

22 Q. And how was Prince's and "Breezy's" relationship at
23 this point?

24 A. In the beginning they were okay. We had a party at the
25 park that they attended. They shook hands. "Breezy" had

1 came to the house and got D.H. a couple of times, maybe a
2 handful of times, and he didn't -- they didn't show any kind
3 of -- to me nothing that was wrong, you know, at the time.

4 Q. And Christmas of '09, did "Breezy" spend time at your
5 house for Christmas?

6 A. Yeah, him and his mother bought gifts.

7 Q. And Prince was there, you were there, the entire family
8 was there?

9 A. Yes.

10 Q. Any issues?

11 A. No.

12 Q. Okay. Now, approximately July of 2010 --

13 A. Uh-huh.

14 Q. -- there became some issues between Prince and
15 "Breezy", correct?

16 A. Yes.

17 Q. Okay. And I believe there was an allegation that
18 Prince was mistreating you and D.H. , is that correct?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. Okay.

23 A. D.H. had started having seizures and he -- he's
24 epileptic, you know, and I took him to the doctor. It's in
25 the genes. The Houey family has -- their family has

1 seizures, and it just started when he was eight, and they
2 were saying that his seizures came from us doing something
3 to him, I would imagine.

4 Q. Okay. And did you have a meeting with Rose and D.H. ?

5 A. On his second seizure I called Ms. Houey from the
6 hospital and I told her that D.H. was out there having a
7 seizure. And she told me that D.H. had told her --
8 D.H. , my son, told her that Prince was mistreating him.
9 So me, as a mother -- I -- I'm still with Prince, but as a
10 mother I took -- when we left the house with her, I took
11 D.H. to her home. It was her, "Breezy" and another cousin
12 that was sitting on the porch, and I said "D.H. , tell
13 momma -- you know, because I'm a mother --

14 MR. BARNETTE: I'm going to object at this point.

15 We are --

16 A. Tell --

17 THE COURT: Just a minute.

18 A. Tell --

19 THE COURT: Just a minute.

20 A. Okay.

21 MR. BARNETTE: I'm going to object. We are
22 getting into all kinds of hearsay issues.

23 THE COURT: I'll sustain the objection.

24 MR. BARNETTE: Thank you, Your Honor.

25 A. Okay.

1 BY MR. CAMPBELL:

2 Q. Did you have a meeting with D.H. ? I'm not asking to
3 get into the details, but there was a meeting between
4 D.H. , "Breezy" and Rose, correct?

5 A. Uh-huh.

6 Q. Later that night did "Breezy" call the house?

7 A. Yes.

8 Q. Okay. What happened that night?

9 A. He told me that I had embarrassed him in front of his
10 son.

11 Q. And did he threaten Prince that night?

12 A. Yes.

13 Q. What did he tell Prince?

14 A. He told Prince he was -- they could handle it like
15 regular people handle it like gangsters, or something to
16 that. Then I told him don't call the house any more.

17 Q. Okay. Now, did you see "Breezy" after that?

18 A. I did.

19 Q. Okay. Did you have an interaction with him?

20 A. I did.

21 Q. And approximately how long after that incident in July
22 was it?

23 A. Maybe two, three weeks, maybe.

24 Q. Okay. What happened?

25 A. I went to the Redwood store. The first time I was in

1 Prince's car. My car was tore down, so I went to the party
2 to D.H. ' school that morning. And "Breezy" walked over to
3 the car and was saying "tell your boyfriend I'm still going
4 to get him," and he was trying to kick his car. And I said
5 "don't do that." You know, this is the car -- this is the
6 only transportation we have. How we going to get to the
7 games and "don't do that," and I just pulled off and left
8 him.

9 Q. And you told Prince about this incident?

10 A. I did.

11 Q. Did you have another altercation with "Breezy"?

12 A. I did.

13 Q. When was that?

14 A. This was maybe a couple weeks after that.

15 MR. BARNETTE: Your Honor, I'm going to object at
16 this point. If it's an altercation between him and her, I
17 don't know how this is relevant to the defendant.

18 THE COURT: Sustained.

19 BY MR. CAMPBELL:

20 Q. Did "Breezy" threaten -- and I know -- did "Breezy"
21 threaten Prince to you?

22 A. Yes.

23 Q. What happened?

24 A. He just done numerous things. He would call the house.

25 Q. Okay. Was there --

1 MR. BARNETTE: Your Honor, I'm going to object.
2 She says "called the house." There is no basis, no
3 substantiation of this or anything.

4 MR. CAMPBELL: I'm trying to lay the foundation.

5 THE COURT: Oh, I understand. Go ahead.

6 BY MR. CAMPBELL:

7 Q. I believe you testified there was -- and I know I
8 classified it as an incident, okay --

9 A. Yes.

10 Q. -- Prince's daughter was with you at, correct?

11 A. Uh-huh.

12 Q. Did Prince get threatened --

13 Excuse me, did "Breezy" threaten Prince to you in front
14 of his daughter?

15 A. Yes.

16 Q. Describe for the jury what happened.

17 A. I was pumping gas. I took Kia to the store. "Breezy"
18 came out of the store and came to my car and he said "where
19 is your boyfriend? Tell him I'm still going to kick his,"
20 and I said "you need to go on," and Prince's little girl was
21 in the back seat.

22 Q. And you told Prince about this incident?

23 A. I did.

24 Q. Okay. Now, was there ever an incident -- did you ever
25 have a chance to talk to Rose Houey?

1 A. I did.

2 Q. "Breezy's" mother?

3 A. I did.

4 MR. BARNETTE: Your Honor, I'm going to object to
5 this at this point as being double hearsay.

6 THE COURT: Overruled.

7 BY MR. CAMPBELL:

8 Q. Did she relate to you a threat that "Breezy" had made?

9 A. Yes.

10 Q. What did she tell you?

11 A. She told me -- she called the house to speak to D.H.
12 When she does, I never stopped her.

13 She called the house and I answered the phone and she
14 said "girl, I had to stop "Breezy" from coming to your house
15 killing up everybody. If it wasn't for BB being in there,
16 he would have been down there."

17 Q. Did you tell Prince about this incident?

18 A. I did.

19 Q. Why didn't y'all call the cops?

20 A. Because I never -- physically he was never -- you know,
21 I just didn't -- you can't do anything calling the police
22 saying what he said, and he would say he didn't say it.

23 Q. But you were still scared?

24 A. I sure was, because he had done it before.

25 Q. And Prince was scared?

1 A. Yes.

2 Q. Now, after this, the July threat that was made that you
3 were at the house and part of --

4 A. Uh-huh.

5 Q. -- did Prince -- is that when Prince got the gun?

6 A. Yes.

7 Q. And where did he keep it in the house?

8 A. Under the bed.

9 Q. And it was because of that threat that he bought it?

10 A. Yes.

11 Q. Now, on the day of the incident you were not present,
12 were you?

13 A. No, I was at work and D.H. was at school.

14 Q. Okay. But you got a call somehow?

15 A. Yeah, that I needed to come home.

16 Q. What did you do?

17 A. I got home -- I left work. First I stood outside and
18 talked to my boss lady and I came home.

19 When I came home, I seen, you know, a body on the side
20 of the road. I parked my car and got out and walked down
21 the road and I looked at him. And my first thought was I
22 hope you had a word with God. Then I said "why did you come
23 over here with that? What did you do?" And then that's
24 when we started arguing.

25 Q. Had Prince already left at this point?

1 A. Yeah, his car wasn't there when I got there.

2 Q. How long after you got there did the police get there?

3 A. Maybe about five minutes after I had came. I had to
4 leave work then getting home. Then the police got there
5 maybe five minutes. There was people everywhere.

6 Q. Where did you work? Where do you work?

7 A. At Pete's of Gaffney.

8 Q. How far away is that from your apartment?

9 A. It's not maybe two miles, maybe.

10 Q. So it only takes you two or three minutes to get there?

11 A. Yeah, but I stood outside and talked to my boss lady at
12 first because she was calming me down. I had to walk to
13 State Farm to get to my car, because we don't park on
14 Pete's.

15 Q. Okay. So it took you approximately six or seven
16 minutes to get home?

17 A. Maybe at the most, yes.

18 Q. Did you ever talk to the police? Did the police ever
19 talk to you?

20 A. When I got -- when the police pulled in, he pulled me
21 back up the street from arguing with them and he took us in
22 the house and separated everyone.

23 Q. Now, was your house ever searched?

24 A. No. There was people in the house, no.

25 Q. When you went in the house did you ever see a gun?

1 A. No.

2 Q. You don't know what happened to it?

3 A. No.

4 Q. Who was at your house when you got there?

5 A. I can't recall, but D.M. , he was -- D.M. was
6 outside when I pulled in, but it was so many people.

7 Q. Was T.M. still at your house?

8 A. No.

9 MR. CAMPBELL: No further questions, Your Honor.

10 MR. BARNETTE: May it please the court, Your
11 Honor?

12 THE COURT: Mr. Barnette.

13 CROSS EXAMINATION BY MR. BARNETTE:

14 Q. Yes, ma'am. "Breezy's" concern the whole time was his
15 son, right?

16 A. I don't know.

17 Q. Well, this was --

18 A. He didn't come around. He didn't -- he wasn't around.
19 He didn't do anything for our child, so what do you mean by
20 concern?

21 Q. Well, he -- you know, Mr. Snipes just testified that
22 he's come around all the time.

23 A. No, not all the time. He came a handful of times. He
24 didn't come around, no, uh-uh. He said he come around. He
25 didn't come around like that.

1 Q. So Mr. Snipes was wrong then?

2 A. No, he's not wrong. He said he come around. You
3 didn't ask him how many times. He came around sometimes.
4 Everybody knows it.

5 Q. He said that when he was talking to Mr. Campbell, not
6 when he was talking to me, ma'am..

7 A. But he came around, but he didn't come around lots of
8 times. He be calling Prince daddy.

9 Q. Okay.

10 A. Uh-huh.

11 Q. In July --

12 A. Uh-huh.

13 Q. -- when he called, it was concerning your son, right?

14 A. When he called the house?

15 Q. Yes.

16 A. No, he told me he didn't want Prince putting his hands
17 on our child.

18 Q. Right, but it was about his -- he was concerned about
19 his child?

20 A. I don't really think so. Well, if that's what you want
21 to say, yes, but I don't think it was that.

22 Q. That's what he -- I mean, wouldn't you agree with me he
23 called about his son and what he thought was happening to
24 his son?

25 A. Could have been.

1 Q. As a matter of fact, all these -- and like you said,
2 none of these things -- you never called the police, is that
3 right, on none of these things?

4 A. No.

5 Q. And even the conversations done between the family and
6 everything was about D.H. , Breezy ' son?

7 A. Why didn't they call the police, DSS, or anything? I
8 mean, they are the one that talked to Breezy s on their own
9 without me there. If it was such an issue, why didn't they
10 call the police? If you thought your child was being
11 endangered in July, would you wait until December to come?
12 The child would have been hurt.

13 I took my son to his doctor, the neurologist, and asked
14 him "is it anything anybody can do for this child?" He will
15 give you the report. I was -- he will tell you exactly what
16 I said. And he said "no, this is in his genes."

17 It started from D.H. ' seizures, the allegations. You
18 can't do that, not when it's in ya'll's genes, no.

19 Q. So obviously they were concerned about him?

20 A. If that's what you want to make it to be.

21 Q. And you weren't there that day, were you?

22 A. I was at work. I had took D.H. to school that
23 morning.

24 Q. Okay. And, ma'am, why are you so combative right now?

25 A. I'm not combative. I just got my own --

1 Q. Excuse me?

2 A. I'm just wanting -- just paying attention.

3 Q. Okay. And you realize the police was called at 12:20
4 and arrived there at 12:23?

5 A. No, they couldn't have. If the police was called at
6 12:20, I was at work. Me and my boss lady had just hung up
7 with Prince. She was going to let me go home. And if you
8 call her, she will say the same thing.

9 Q. Wait a minute, slow up.

10 A. The police --

11 Q. You said you just hung up with Prince. What was Prince
12 and you talking about?

13 A. When I called home, she wanted to know about an I-POD
14 that goes on an MP-3 player, something to that nature,
15 something about the gigabytes in it, and she asked -- I
16 called to ask Prince did he know what kind -- she wanted to
17 purchase it for her son. And I hung up the phone with
18 Prince with her in the office. You can call her.

19 Q. When was this phone call?

20 A. It was made -- you can check the records. It was made
21 maybe twelve o'clock, ten minutes to twelve. Her name is
22 Dorothy Killoughrow.

23 Q. Okay.

24 A. Okay?

25 Q. What happened to the gun that Prince supposedly left in

1 the trailer?

2 A. I don't know, and I went in with the police. I have no
3 clue.

4 Q. So you went in with the police?

5 A. Yeah, I -- I went in with the police, yeah.

6 Q. So there wasn't any gun in there, was there?

7 A. I didn't see one.

8 Q. Okay.

9 A. But it was people in the house, lots of people. People
10 in there. There was lots of people there before I got
11 there.

12 Q. Okay. But in your trailer?

13 A. Yeah, they was in the trailer. Do you know how many
14 people was out there before the police got there? You seen
15 the scene. I mean, they seen that scene. It was lots of
16 people out there.

17 Q. But you said it took you six or seven minutes to get
18 there?

19 A. Oh, yes.

20 Q. After talking to your --

21 A. No, no, no, uh-uh. When they called me and told me I
22 needed to come home, it took me six or seven minutes to get
23 there.

24 Q. Who called you?

25 A. I don't recall. I think my son called me and told me I

1 needed to come home.

2 Q. Okay. So D.M. called you?

3 A. C.M. , I think.

4 Q. C.M. called you.

5 Where was C.M. at?

6 A. I don't recall.

7 Q. So C.M. called -- so somebody called C.M. , because
8 C.M. wasn't there.

9 A. I don't -- I guess. I don't know where he called from.
10 He called me at work.

11 Q. Okay. And then he called you at work. Well, that
12 would take time, too, right?

13 The police got there before you did.

14 A. No, they didn't. I beat the police there. No, sir, I
15 beat the police there. Federico pulled in after I was
16 there. I was already there.

17 Q. Uh-huh.

18 A. I was sitting on the ground when the police came.

19 Q. Where were you sitting?

20 A. Right -- when I went down the street, I said "what did
21 you do," and I sat down, and he pushed me in the house. I
22 was sitting on the ground saying "why did you come over here
23 with that?" I just could not believe it.

24 Q. Well, you know he was moving furniture that day?

25 A. Yeah, but he also came in our yard starting trouble.

1 It's not the first time.

2 Q. You don't know that. You weren't there.

3 A. It's not the first time. It's not the first time this
4 has happened. This is not the first guy either, uh-uh.

5 Q. Where is the gun at then supposedly left in your house?

6 A. I have no clue. I didn't see it. I wasn't even --

7 Q. Did Prince Snipes ever call you after this happened?

8 A. No.

9 Q. Why didn't he call you?

10 A. Why would he call me? He's been out there all week.

11 MR. BARNETTE: No further questions.

12 A. Okay.

13 REDIRECT EXAMINATION BY MR. CAMPBELL:

14 Q. You had no concerns that D.H. was being abused?

15 A. No. Prince went to every football game, basketball
16 game, every school event. Anything that went on with
17 D.H. , Prince was there every time. Not sometimes. Every
18 time. When the school called, they called Prince. If
19 something was going on with D.H. , Prince was called.
20 While I was at work, he went there.

21 Q. Prince was the acting as D.H. ' dad?

22 A. Yes.

23 Q. And that's what "Breezy" was mad about?

24 A. Yes.

25 Q. And that's why he brought it to the front door?

1 A. Yes.

2 MR. CAMPBELL: No further questions.

3 MR. BARNETTE: No further questions of this
4 witness, Your Honor.

5 THE COURT: You may step down.

6 MR. CAMPBELL: Your Honor, court indulgence?

7 (Off the record)

8 (Back on the record)

9 MR. CAMPBELL: Your Honor, at this time the
10 defense rests.

11 THE COURT: Any reply?

12 MR. BARNETTE: Your Honor, could I have a second
13 just to check on something?

14 THE COURT: Yes.

15 All right, let me ask the jurors to please go to
16 the jury room. I'll bring you back in just a few minutes.
17 Don't talk about the case.

18 (The following takes place outside the presence of
19 the jury panel)

20 MR. BARNETTE: Could I just go back and talk to
21 the --

22 THE COURT: You may.

23 MR. BARNETTE: Thank you, Your Honor.

24 THE COURT: We will be at ease for ten minutes.

25 (9-1-1 Report marked as State's Exhibit No. 56 for

1 identification)

2 THE COURT: Solicitor, do you have a reply
3 witness?

4 MR. BARNETTE: Yes, I have two of them, Your
5 Honor. It should be short.

6 THE COURT: All right, bring the the jury in,
7 please.

8 THE COURT: All right, Mr. Barnette, you have a
9 reply witness or two?

10 MR. BARNETTE: Yes, Your Honor, I would like to
11 call Rose Houey to the stand, please.

12 THE COURT: Ms. Houey, you have previously been
13 sworn in the case, so you remain under oath for the purposes
14 of these questions.

15 DIRECT EXAMINATION BY MR. BARNETTE:

16 Q. Ms. Houey, I just have really two questions for you.
17 The first one is did you call Niki?

18 A. Yes, I did.

19 Q. But did you say anything about "Breezy" coming over and
20 killing everybody?

21 A. No, I didn't.

22 Q. Did you just call about your grandson?

23 A. Uh-huh, about -- they call him DD. I called to see how
24 he was doing, what was going on, and told him them and
25 "Breezy" had a problem, how he said he got a whoopin.

1 Q. But you never said anything about "Breezy" coming
2 over --

3 A. No.

4 Q. -- or killing anybody, anything like that?

5 A. No.

6 Q. Did you ever see "Breezy" threaten Prince in your
7 presence?

8 A. No.

9 Q. Thank you, ma'am.

10 MR. BARNETTE: That's all the questions that I
11 have.

12 CROSS EXAMINATION BY MR. CAMPBELL:

13 Q. Ms. Houey -- and I want to -- you called Niki and said
14 "Breezy" had a problem, didn't you?

15 A. I was calling asking about how BB was.

16 Q. Yes. But you said "Breezy" got a problem, didn't you?

17 A. About how Prince had been whooping BB.

18 Q. Okay. Now, this July incident or July situation, was
19 there a meeting in July with "Breezy", you, and Niki about
20 D.H. ?

21 A. Yes, there was.

22 Q. There was.

23 So that meeting did take place in July?

24 A. I don't know if it was in July or not, but it was at my
25 house.

1 Q. Okay.

2 MR. CAMPBELL: I have no further questions, Your
3 Honor.

4 MR. BARNETTE: No further questions of this
5 witness, Your Honor.

6 THE COURT: You may step down.

7 MR. BARNETTE: Your Honor, I would like to call
8 Tim Clark to the stand.

9 Your Honor, previous to his testifying, I have got
10 State's Exhibit 56, which is part of the 911 record on this
11 case. I have shared that with Mr. Campbell. I believe he's
12 going to stipulate to this record. We would call the 911
13 person, but I think he's going to stipulate to this.

14 MR. CAMPBELL: I'm going to stipulate, Your Honor.

15 (Whereupon, State's Exhibit No. 56 was entered
16 into the record as evidence)

17 OFFICER TIM CLARK, having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE:

20 Q. Officer Clark, where do you work at, sir?

21 A. Cherokee County Sheriff's Office.

22 Q. What is your position there, sir?

23 A. I'm a captain over the Criminal Investigation Division.

24 Q. When somebody -- when the 911 call comes in, is
25 somebody dispatched usually to that scene?

1 A. Yes, sir.

2 Q. And is there a record of those calls that come in and
3 when the officer is dispatched and when they arrive on the
4 scene?

5 A. That's correct.

6 Q. Let me show you State Exhibit 56. Is this a copy of
7 the 911 record here in Cherokee County concerning this
8 incident?

9 A. Yes, sir.

10 Q. And on that, when did the -- when did the 911 call come
11 into Cherokee County Sheriff's Department, or the 911?

12 A. It came in at 12:19:06 seconds.

13 Q. Okay. And when was the first officer dispatched?

14 A. Unit number 127 was dispatched at 12:20:18 seconds.

15 Q. And was there another unit dispatched also?

16 A. Yes, sir.

17 Q. What unit was that?

18 A. Unit number 122.

19 Q. Okay. And when did the first unit arrive on the scene?

20 A. It was 12:23:03 seconds.

21 Q. Okay.

22 MR. BARNETTE: Your Honor, may I publish this to
23 the jury?

24 THE COURT: You may.

25 BY MR. BARNETTE:

1 Q. Obviously this call came into the Cherokee County
2 Sheriff's Department on December 16th, 2010. It came in at
3 12:19:06 was the first call the call that you got initially?

4 A. That's correct.

5 Q. And the first officer that was dispatched was 12:20:18?

6 A. That's correct.

7 Q. And then another officer was dispatched at 12:20:22, is
8 that correct?

9 A. Yes, sir.

10 Q. And the first one who actually arrived on the scene was
11 12:23:03?

12 A. That's correct, because he was closest to the call.

13 Q. So that would have been three minutes --

14 A. That's correct.

15 Q. -- from the time he was dispatched that arrived on the
16 scene?

17 A. Yes, sir, that's correct.

18 Q. Thank you, sir.

19 Please answer any questions that Mr. Campbell may have
20 for you.

21 MR. CAMPBELL: Nothing from this witness, Your
22 Honor.

23 THE COURT: You may step down.

24 That would be the State's showing, Your Honor.

25 THE COURT: All right. Ladies and gentlemen, that

1 is all of the testimony or other evidence to be offered in
2 the case. What remains to be done are the lawyers final
3 summations, after which I will instruct you on the law and
4 then you will begin with jury deliberations. We will do
5 that after lunch. So you will be excused now for lunch.

6 Remember the caution I have previously given you;
7 no discussions, no research, no investigation, no exposure
8 to any type of media coverage.

9 Have a good lunch. Please report to your jury
10 room at two o'clock. At two o'clock this afternoon. Have a
11 good lunch.

12 All the others are to remain seated while the jury
13 is leaving the courtroom.

14 (The following takes place outside the presence of
15 the jury panel)

16 THE COURT: Court is in recess until two o'clock.

17 MR. BARNETTE: Thank you, Your Honor.

18 MR. CAMPBELL: Thank you, Your Honor.

19 (Whereupon, proceedings were recessed)

20 (Whereupon, proceedings were reconvened)

21 THE COURT: All right, any matters to address
22 before the jury is brought in, which includes jury
23 instructions, please?

24 MR. BARNETTE: Your Honor, the only thing, I know
25 we talked in chambers on the jury charge conference. The

1 State would just object to a manslaughter charge, but I
2 understand the court's position on that also.

3 THE COURT: All right.

4 Mr. Campbell?

5 MR. CAMPBELL: Yes, Your Honor.

6 The defense provided some jury charges we would
7 like charged. It's our understanding that several of the
8 charges we have asked to be charged is actually covered in
9 Your Honor's self-defense charge already.

10 And, in addition, you did agree to charge an
11 additional one.

12 Also we are asking for the manslaughter charge.
13 We feel like that it is appropriate in this matter as a heat
14 of passion provocation, Your Honor, and we feel that it's
15 appropriate.

16 In addition, Your Honor, at the appropriate time
17 the defense has a motion for a directed verdict, when you
18 are ready to hear it.

19 THE COURT: All right. Now is the time.

20 MR. CAMPBELL: Okay. Your Honor, at this time the
21 defense moves for a directed verdict.

22 We have -- my client claims self-defense. As you
23 know, this places the burden on the prosecution, the State,
24 to rebut this beyond a reasonable doubt. And in the light
25 and the evidence most favorable towards them, we don't

1 believe that that burden can be met, Your Honor.

2 It's clear, or through my client's testimony that
3 an incident occurred. He was acting in a reasonable and
4 responsible manner, in fear for his life. He fired several
5 shots as a result of that the -- in a close proximity of
6 range. This is a situation where a reasonable and prudent
7 individual would have acted in the same manner.

8 And, in addition, Your Honor, we believe since he
9 was at his residence when this incident first occurred, he
10 had no duty to retreat. So that would cover the fourth
11 prong, Your Honor.

12 THE COURT: All right. Mr. Barnette?

13 MR. BARNETTE: Thank you, Your Honor.

14 I believe in the light most favorable to the State
15 you have Daquan, one of their own witnesses they called,
16 basically he came in and told him somebody was outside. He
17 didn't tell him about the threats or anything like that.

18 The defense -- I know the defendant has testified
19 to that, but then he decides, once he looks out and sees
20 "Breezy", in this case the victim, he decides to go get a
21 rifle himself. The two fellows, T.M. and D.M. tried to
22 stop him from going out there. He basically told them to
23 get out of his way.

24 He goes out and faces the man and shoots him at
25 least -- we know nine shots was fired. That's the only

1 casings that were found. At least those. At least nine
2 shots. He shoots the man. And, of course, the wounds were
3 described by Dr. Ross. Even at point blank range, he walks
4 up to him, once he is down.

5 There is no evidence of a gun, other than the
6 testimony of the defendant. Even D.M. saw him before that
7 never saw no gun, from his standpoint.

8 I think in viewing all the evidence in the light
9 most favorable to the State, I would ask you to deny their
10 directed verdict motion.

11 THE COURT: All right. Well, there is conflicting
12 evidence that has been presented regarding the existence, or
13 lack of, relating to self-defense. And so based upon that
14 conflicting evidence, I find that the defendant's motion for
15 a directed verdict on that ground should be denied.

16 Any others?

17 MR. CAMPBELL: Nothing further, Your Honor.

18 THE COURT: Okay. I will instruct the jury at the
19 defendant's request, and based upon the evidence as I see
20 it, I would be instructing the jury on the lesser included
21 offense of voluntary manslaughter.

22 All right, anything else?

23 MR. BARNETTE: Your Honor, we would waive opening
24 in this case.

25 THE COURT: All right. Bring the jury in.

1 (The following takes place in the presence of the
2 jury panel)

3 THE COURT: All right, ladies and gentlemen, as
4 you know, all of the evidence has been received. Therefore,
5 what remains to be done are the lawyers final summations.
6 I'll then instruct you on the law, and then you can begin
7 with your deliberations in the case. So please give the
8 lawyers your attention now as they give you their final
9 summations.

10 Mr. Campbell.

11 MR. CAMPBELL: Your Honor, may it please the
12 court?

13 Ladies and gentlemen of the jury, when I was a
14 child one of my favorite things to do was put together large
15 puzzles; you know, the 500, 1,000 piece puzzles you get in
16 the box with the pictures on it. I really enjoyed doing
17 that. But when I did it, I would always start with the edge
18 pieces, the corner, and then you go to the edge pieces and,
19 you know, start the foundation of my puzzle. And then after
20 I got that done, I had all my edges completed. I had my
21 foundation built, you know, and then I'd work on the inside.
22 Then I started matching like pieces together, putting the
23 small pictures in there, to where eventually I was on that
24 last piece and had that sense of accomplishment; you know, I
25 just completed a 1,000 piece puzzle. And I still enjoy

1 doing that today. This case is not unlike putting together
2 a 500, 1,000 piece puzzle, and I hope that you follow along
3 with me and complete this puzzle.

4 Now, my children, whenever they ask me about these
5 cases, you know, they tell me -- they ask me, you know,
6 "dad, don't you wish that you had like the special ability,
7 you know, special powers just to be able to take the jurors
8 back and let them see exactly what happened so they know
9 without a hundred percent," because when you are sitting
10 here in the seats that you are sitting in, nobody ever
11 everybody knows one thousand percent, because you are
12 relying on other people telling you what happened.

13 I always tell them "well, God has given us a great
14 gift, a gift that dogs and other animals don't have. We
15 have got the gift of common sense and we have got the gift
16 of logic. We can discern the situation and develop and
17 figure out what happened."

18 Now, let's begin and work on our foundation of our
19 puzzle, if you would, if you will. That begins with the
20 witnesses, the witnesses that you heard testify. We will
21 start it right at the beginning.

22 Rose Houey, the mother of the victim "Breezy".
23 This is a difficult situation for that lady. That mother --
24 and I'm not going to sit here and tell you it's not, because
25 she's had to sit here for two days and hear about her son,

1 her baby, being killed. It's not easy.

2 And what's more, she wasn't there. She doesn't
3 know what happened. She didn't see anything.

4 What she does know is that when she was entering
5 the trailer park on December the 16th, 2010, Prince Snipes
6 was going out. And I believe she testified that, you know,
7 he almost ran over her. Prince testified that she noticed
8 him wave. Either way she was driving in and didn't see
9 anything that happened that day.

10 Now, the next witness you heard from was Martha
11 Jean Houey, "Breezy's" grandmother, another family member,
12 whose grandchild she saw killed. One hundred percent
13 absolutely a horrific thing, and I'm not going to tell you
14 it's not, but let's look at her testimony, okay?

15 And what I say is not one hundred percent gospel,
16 it's not the truth, you have to go on your recollection and
17 your memory, but I'm pretty certain this is what she
18 testified to, that "Breezy" got a call and went down, or up
19 the road, and talked to the tall slim boy, Niki's son. I
20 don't think she ever said his name, but she knew it was
21 Niki's boy that he went down and talked to. She said they
22 had a conversation a few minutes, and then D.M. left and
23 went in his trailer.

24 Now, in the interim she said that "Breezy" was
25 standing there with his hand in his waistband smoking a

1 cigarette.

2 Later she said that she saw a man walking across
3 the yard. Not running, walking across the yard with what
4 looked like a gun. She thought she saw a gun. She heard
5 shots and then she said she got out of the car and
6 approached this individual. Okay. That is Ms. Martha
7 Houey's testimony.

8 Now, in addition you heard from Dorothy Boyd.
9 Now, Ms. Boyd, I believe she testified and told you she's
10 had some health problems recently, but I suggests to you
11 when you listen or go back and think about her testimony,
12 it's just not credible. What she says happened, it just
13 didn't happen, because she said she was sitting in her truck
14 and she heard somebody holler out "hey "Breezy", hey
15 "Breezy", and then "Breezy" went down there.

16 Now, Ms. Houey said that, you know, "Breezy" got
17 called, but Dorothy Boyd says the tall slim boy called out
18 to him and "Breezy" goes and talks to him. And then she
19 says that a man come out running firing his weapon while the
20 tall slim boy was still out there talking to "Breezy".

21 Now, you have heard the testimony. You have seen
22 evidence. You have to determine is that credible, because
23 then she also testified, too, that with a man who is running
24 and shooting, that she gets out of the truck and approached
25 him. Now, I suggests to you that's just not credible.

1 Now, the next witness laying our foundation to
2 testify was detective, Mr. Anthony, and he testified how
3 when he arrived on the scene there were tons of people
4 there. It was essentially a mass, thirty, forty people
5 there, but -- and they -- someone had it under control.

6 Now, what also did he testify to? He set out the
7 cones for the shell casings. Do you remember, he set them
8 all down. You saw several pictures. I think fifty
9 something, or a lot of pictures came in, and you will have
10 the chance to go back and look at these pictures when you go
11 back in the jury room, but if you will remember, they are
12 all clumped together in one spot. You have several, I
13 believe, six, seven casings altogether in one spot. Then
14 several feet in a diagonal manner you have the body -- you
15 didn't actually see the body. You saw a cone representing
16 the body, and a couple more cones for shell casings, and a
17 couple cones for ricocheted bullets.

18 Now, I would suggest to you that Mr. Anthony's
19 testimony is extremely credible. He just walks up, he sees
20 the shell casings there and he places the cones. That's all
21 he does.

22 In addition, he performed the GSR kit. He said
23 "when we got there, we bagged the hands as soon as we could,
24 and at the autopsy I performed the GSR exam, the kit, and I
25 sent it off." Now, he didn't actually perform the GSR exam

1 or do the analysis of it, but he did perform the test.

2 Then, in addition, if you will remember, he
3 testified about a cigarette being at "Breezy's" feet. There
4 was a cigarette butt there. Ms. Houey testified that
5 sitting there, hand in his waistband, smoking a cigarette,
6 and Mr. Anthony says there was a cigarette butt laying at
7 the bottom of his body.

8 Now, Ms. Simmons, Ila Simmons, did the SLED
9 analysis -- or the GSR analysis. She's the one that came
10 here and testified and told y'all about how gunshot residue
11 and the tests they run. And who does she work for? She
12 works for SLED, the South Carolina Law Enforcement Division.
13 She works for the State, okay? She's not an independent
14 third-party. She actually works for the State of South
15 Carolina.

16 And what did she tell you? She tells you that
17 gunshot residue was found on the back left hand of "Breezy",

18 . It wasn't found on the palm. It wasn't found
19 on the right hand at all, but on the back of the left hand.

20 And if you will remember, she also testified, too,
21 that when firing a weapon, a plume of smoke comes out and it
22 envelopes the hand and that's where you get the GSR residue.

23 Finally you heard from the pathologist, Dr. Ross.
24 Now, her testimony is very important in this matter, and she
25 went through each and every gunshot wound with you. Each

1 and every one.

2 Now, when she initially told you about them, with
3 Mr. Barnette standing here, when it came to the gunshot
4 wound on the left hand, she was wrong. She mis-told you
5 about that. She never -- she told you that it initially
6 went through the base of the thumb and came out. That's not
7 what happened. And if you remember, I asked her and
8 corrected her on that, "where did that gunshot bullet wound
9 take place?" She said it went through the pinky, ring
10 finger, the back of the left hand, went through, and she
11 said the dorsal side, which means top, and she showed you.
12 It went through here and came out the palm. She held up her
13 palm and it came out like this. Well, what did she also
14 say? She said it reentered the palm and came out the back
15 of the base of the thumb. So the bullet came out of the
16 palm and then reentered and came out. That's what she said
17 about the left hand.

18 Now, let's go through the other gunshot wounds,
19 because they are important in regards to piecing everything
20 together. Two gunshot wounds to the right shoulder or right
21 arm, went straight through the front out the back. They
22 went through the front and then out the back.

23 In addition, he had a gunshot wound through his
24 abdomen that lacerated his kidneys and liver, I believe she
25 testified to, and this wound she told you was potentially

1 fatal, which means if he could get medical attention, then
2 you know, it would potentially not be fatal.

3 Also she told you about graze wounds that "Breezy"
4 had on his chest. She couldn't identify exactly if they
5 were from a single wound, or if it was from another gunshot
6 that came in and came out, but she said he had, you know,
7 graze bullet wounds across his chest; completely nonfatal.

8 Now, what else did she testify to? "Breezy" had a
9 shot to his back that went through his heart causing severe
10 damage and it was a fatal gunshot wound. The gunshot wound
11 through his heart was a fatal wound. Irregardless of any
12 other gunshot wounds, "Breezy" was dead from that gunshot
13 wound.

14 Now, she also testified to about the gunshot to
15 the head. I believe she actually listed that as gunshot
16 wound number one. She testified it was a close range, one
17 to two centimeters, and that that was a fatal gunshot wound
18 as well.

19 Now, who else did you hear from as we build our
20 foundation? D.M. testified. Now, D.M.
21 was on the State's witness list. He was an eyewitness to
22 this event. We had to call him. We had to bring him forth
23 to let you hear his testimony. And what did he testify to;
24 that "Breezy" called him; that he had known "Breezy" for
25 several years. "Breezy" called him down and they met and

1 they talked for several minutes. What did "Breezy" tell
2 him? He said "is Prince in there and is he talking that big
3 boy stuff?" Niki ain't here -- or "your momma ain't here to
4 save him now."

5 "Is he here talking that big boy stuff," and,
6 "your momma ain't here to save him now. Go get him or I'm
7 coming in. Go get him or I'm coming in."

8 "Breezy" sent him a message to go get Prince
9 Snipes.

10 Now, then you heard from my client. He testified
11 that him and "Breezy" were cool from 2008 to 2010. They
12 would see each other at birthday parties. Everything was
13 fine. And then approximately July of 2010 "Breezy" thinks
14 Prince is mistreating his son and becomes upset, threatens
15 him, tells him "you want to get gangstered? We can get
16 gangstered. I'll bring it to your front door. I'll bring
17 it to your front door." Now, after that Prince says he was
18 scared. I mean, this was a legitimate threat, so he goes
19 and buys a gun at the flea market.

20 Now, you heard the testimony. Prince has been
21 convicted of a felony in the past. That's all in the past,
22 but he was threatened. He felt like he had to do something,
23 so he goes to the flea market and he buys a 9-millimeter
24 Highpoint semiautomatic weapon.

25 In addition, he tells you and he testifies to

1 numerous other threats that "Breezy" makes toward him that
2 he's going to get him. His day is coming and he's coming
3 his way.

4 In November of 2012 (sic) he gets a threat or he
5 hears that they had to stop "Breezy" from coming down there
6 and killing everybody.

7 Now, you heard from Ms. Rose Houey later and she
8 said "Breezy" had a problem with it. Now, she stated it was
9 because he didn't like the way Prince was spanking his son,
10 but she told you "Breezy" had a problem.

11 Then you heard from Nikita Hardy, Niki, who used
12 to date "Breezy"; it was the mother of his child; living
13 with Prince Snipes. She told you about the July incident
14 where she went over to Rose Houey's house and met them and
15 then that night "Breezy" called her, "getting gangstered.
16 Bringing it to your front door."

17 She told you how when she was out with her kids
18 and with Prince's daughter, "Breezy" makes a threat to her
19 "I'm going to get him. I'll get him."

20 She also testified to you and told you about the
21 phone call of Ms. Houey around November where she said
22 "girl, I had to stop him from coming down there and killing
23 everybody." And if it wasn't for -- and she told you if it
24 wasn't for BB, that's what they called D.H. , the baby, he
25 would have been down there.

1 And she told you about all these incidents, and
2 it's important, because when laying a foundation of my
3 client, Prince Snipes', thought process and mind on December
4 the 16th, 2010.

5 Now, we've laid the foundation. Let's finish, you
6 know, putting this puzzle together, if you will.

7 You have got the trailer park here. No doubt
8 about it. I think everybody can tell you. Everybody has
9 testified that Prince Snipes lived in , okay? That they
10 were moving in to . And you will have a chance -- this
11 will go back with you and you can have a chance to look at
12 it, okay?

13 You know, Prince walked out from the front door,
14 had a confrontation with "Breezy", and "Breezy" said "Niki
15 ain't here to save your ass now. Niki ain't here to save
16 your ass now." And he said he saw him, he was standing
17 there with his hand in the waistband holding a gun.

18 Now, no gun was ever recovered in this incident,
19 none, but you heard the testimony of Mr. Anthony. There
20 were thirty to forty to fifty people out there and they
21 never search any members of the victim's family, they never
22 searched their truck, they never searched the other vehicle,
23 and they never searched 109.

24 Now, this is where when we put the picture
25 together, let's use the common sense, the gift that God gave

1 us. Ms. Houey testified standing -- that "Breezy" was
2 standing outside, hand in his waistband; that Prince says he
3 looks outside and sees his left hand in his waistband, says
4 holding a gun, or what he thinks is a gun.

5 Now, let's look. is several paces away, okay,
6 from these clumps of bullets. He didn't come out firing
7 from . And do you know how you know that? Not one
8 single shell casing was found around this trailer. Not one.
9 They were all found in a clump together right here. All of
10 them. And I asked the officer -- I asked Detective Anthony,
11 you heard me, "if he came out firing, would you have found
12 shell casings," and he told you "yes."

13 Now, let's use -- like I said, use our common
14 sense. If he's coming out the door going to kill him, you
15 are coming out and ambush you right away. You come out
16 shooting right away. Ms. Houey says -- she said she saw
17 him, a man with a gun walk over there.

18 Prince Snipes says he had the gun to his side
19 walking towards him. Now, "Breezy" saw that. He didn't
20 take off running. And we know this by where his body ended
21 up. It's impossible from the length of the distance from
22 the back porch of trailer to the initial shots. Common
23 sense, logic, it just didn't happen that way. It just
24 didn't happen that way.

25 And how else do you know that? Because two bullet

1 wounds right here in his shoulder or into the arm straight
2 ahead, through and through. He was standing in front of
3 him. He didn't run away. He stood there toward the
4 confrontation because Niki wasn't there to save his ass any
5 more and he was going to get gangstered.

6 Now, Prince says that D.M. told him about
7 "Breezy" telling him "you go in and get him or I'm coming
8 in."

9 Now, D.M. sat there and said "look, I didn't
10 tell him. I tried to stop him. I didn't tell him that."

11 Prince says "look, he did tell me that."

12 Nevertheless, if he looked out the window and saw
13 a man with a hand in his waistband who had previously
14 threatened him several times that he was going to get
15 gangstered, he was going to bring it to his front door. He
16 was scared and he was worried that he was going to bring it
17 to his front door.

18 Now, let's look at some other evidence. You see
19 the other numbers. And like I said, you got these pictures
20 as well that you will be able to take back with you. That's
21 two, three, four steps at the most from where his body ended
22 up from where the initial shell casing was. At the most.
23 So it's not like "Breezy" just took off running and he
24 blasted him as he's running. This is a moment, (finger
25 snap) just like that, because it's a semiautomatic rifle.

1 It's not a situation where you locked it, unload, the shell
2 casing comes out. It's a repeat trigger, da, da, da, da,
3 da, da, da, bang, boom. At an instance you have unloaded
4 six, seven bullets -- six or seven bullets before anything
5 happens. All in a moment, because he is scared for his
6 life.

7 Now, let's piece together some other testimony.
8 Hand in his waistband, left hand. Where was the gunshot
9 residue found? Back of the left hand. Where -- is there
10 any found -- and I know, you know, you know Dr. Simmons, or
11 Ms. Simmons who works for SLED told you, you know, that
12 could have been from the assault rifle, you know, at close
13 range. Well, it just happened to get on the left hand, the
14 back of the left hand. It didn't get any at all on the
15 right hand? He's shot in the right hand as well. He had a
16 bullet wound in his right hand as well.

17 Also let's talk about this gunshot wound to the
18 left hand. Injures in the base and pinky ring finger, comes
19 out through the palm, and then reenters the palm and out the
20 base. Bullets aren't magic. They can't change angles.
21 It's physics. Physics are physics. A bullet, it hit
22 something. Something he was holding in his left hand
23 ricocheted and comes back at him.

24 Now, Prince then tells you that you know what? "I
25 walked up to him and I was still scared." After these first

1 burst of shots and "Breezy" stumbles away, falls, stumbles.
2 I believe even D.M. said it was almost like a football
3 player, you know, like running back gets hit, spins and
4 falls. He said "I was still scared. I felt like he was
5 still a threat and I walked up to him and I shot him one
6 last time in the head."

7 Now, I won't argue to you that after you hear, and
8 the judge will instruct you on the law of self-defense, that
9 Prince Snipes is still acting in self-defense when he does
10 that, because "Breezy" is still a threat.

11 But, let's say you are like "well, that attorney
12 is just wrong. He's crazy and wrong and that's not the
13 case." Let's take a step back to the patterns. She had
14 mentioned a gunshot wound to the head as first, so we all
15 know there is no disputing one hundred percent fact that it
16 was last. But -- and that is the fatal shot. But what did
17 she also say? The shot to the back through the heart is a
18 fatal shot.

19 Prince Snipes was acting in self-defense here.
20 That's the fatal shot, through the back. "Breezy" is dead
21 at this point. It's a fatal shot. No matter that he comes
22 up and shoots him later, because he's still going to be
23 deceased. It's still fatal. It was already gone at that
24 point. You know -- and that's a tough thing to think about
25 and that's a tough reality, but it's the one hundred percent

1 truth, because the pathologist, she told you that was the
2 case. The shot through the heart, he wasn't going to live
3 any more. And if you believe that Prince Snipes was acting
4 in self-defense, that's your fatal blow.

5 Now, Prince Snipes also testified to you
6 afterwards that after he shot him that last time he was
7 scared, went to his trailer, left the gun, got in his car
8 and left, went to North Carolina. It's not disputed
9 whatsoever that he stayed for, you know, a month and they
10 caught him. He didn't turn himself in. We are not denying
11 that, but you know what that doesn't do? None of that
12 changes the fact that Prince Snipes is still acting in
13 self-defense on December the 16th, 2010.

14 I will tell you he made a bad decision, a stupid
15 decision of leaving the scene that day. He made an idiotic
16 decision, and I would tell you he's an idiot for doing it,
17 but what it doesn't make him is a murderer just because he
18 left the scene. It does not, because he was still acting in
19 self-defense here.

20 Now, the judge will read to you and describe to
21 you the elements that must be met for self-defense, for
22 murder, for the lesser included offense of voluntary
23 manslaughter, and you will get the opportunity to go back --
24 you listen to everything that he tells you and listen to the
25 testimony, you know, if you look at the evidence, and you

1 get to use your logic and your common sense to put
2 yourselves there. You get to put that final piece of the
3 puzzle down and completed. And I tell you that Breezy
4 was there that day looking for trouble. He brought it to
5 Prince Snipes' front door. He got there. He -- because
6 Niki wasn't there to save his ass, and he drew on him and
7 Prince Snipes had to defend his life.

8 And I ask you when you go back and you complete
9 this puzzle and you look at everything, look at the
10 evidence, think about what makes sense, you know. What
11 sounds right, you know, you will come back and determine my
12 client is not guilty, because the State has the burden of
13 proving beyond a reasonable doubt that Prince Snipes was not
14 acting in self-defense. And when you use that common sense
15 about what I have said, I suggests to you the only answer is
16 not guilty. Thank you.

17 THE COURT: Mr. Barnette.

18 MR. BARNETTE: May it please the court, Your
19 Honor.

20 Ladies and gentlemen, you have been in the
21 courtroom. You have heard the evidence in here. I want you
22 to remember it the way that you heard it, but you remember
23 Mr. Snipes was testifying, and I asked him how close did
24 "Breezy" get to him. I said was it here?

25 He said "no, closer."

1 "Here?"

2 "No, closer. Here, in my backyard."

3 Well, if you are afraid of somebody, like he's
4 been scared to death of him, would you get that close to
5 somebody with a gun where he can reach out and basically
6 grab it and take it out of your hand? No, you wouldn't do
7 that. That's the reason why he got a rifle, so he could
8 shoot a distance.

9 And if you take it that he saw -- that he met him
10 in the backyard and that he saw him have a gun, which nobody
11 else saw, D.M. never saw it, no witness has ever saw it,
12 law enforcement never found it there. So if you take that
13 he pulled the gun right there in his backyard -- and you
14 will have the pictures. I am probably going to show a
15 couple of these, where is the shell casing? The first one
16 is in the middle of the road and the rest of them is on the
17 other side of the road. Then you go down where "Breezy"
18 laid and there is two more shell casings.

19 D.M. never told him who was outside. He told
20 him that "somebody is outside for you."

21 Prince goes there and looks out the window of his
22 own home and sees him. He goes and gets the gun. They try
23 to stop him... He said "get out of my way." He goes out and
24 he confronts him. He could have called 911. He could have
25 done anything. He could have even gotten in his car and

1 drove away then, if he wanted to, but, no, he made the
2 decision to go out that day. He made the decision he's
3 going to take care of this once and for all.

4 Look where the shell casings are. You will have
5 the pictures. You will see how many times that he shot. He
6 shot nine times. Nine different shots. I know that they
7 keep saying about a semiautomatic weapon, but there was two
8 shots from there.

9 And the thing you remember about D.M. that he
10 asked, he said, "I did look out once I heard the shooting
11 and I saw him basically fall like this and then he fell."

12 Well, do you remember Dr. Ross' testimony, the
13 back shot, standing over in front is very consistent with
14 what D.M. described that day, showing that "Breezy" was
15 trying to get away from him. He didn't see a gun then
16 neither.

17 We are not even talking about the witnesses that
18 was in the truck watching.

19 You got to remember, he's moving furniture that
20 day. And when he got the furniture taken out, they run for
21 the keys, because they don't have a key that day. He didn't
22 approach him. He didn't go do that.

23 Prince decides he was going to take care of this
24 once and for all.

25 They would believe Niki Hardy didn't testify.

1 "Oh, "Breezy" didn't have nothing to do with his kid,
2 nothing to do with him, whatever." Well, Prince testified
3 "we had no trouble until July of 2010." They can't get it
4 right on their own side from that.

5 And what did he call about? He called about his
6 son. That's what he was concerned about, and they make a
7 big deal out of that. Wouldn't you be concerned about your
8 son, if your son is telling you something is happening? You
9 would. That's being a parent. That's being a father.

10 Now, one thing they keep telling you is "we didn't
11 want to keep him away from his son, keep him away from his
12 son forever." Because of that man right there his son will
13 never see him again. They were so concerned about keeping
14 him away from his son.

15 They come up saying that Rose told this story
16 about "I'm going to keep him away from going over and
17 killing him and killing the whole family," and she did
18 testify it never happened. She did call. It was about her
19 grandson.

20 Here is a man that wants you to believe -- he's a
21 convicted felon, convicted of two different felonies,
22 shouldn't be in possession of a weapon. Then he goes out
23 and tells you "yeah, I went and bought this ammunition at
24 Wal-Mart and I used it out of a Wal-Mart box." You will see
25 that's not true, because it's two different types of

1 ammunition. It didn't come out of the same box.

2 They keep saying, you know, there wasn't a gun.
3 Neither gun was found at the scene. He tells the story that
4 he shoots him. And after he shoots him, he takes it and
5 goes back to the trailer and puts the gun in and gets the
6 keys.

7 D.M. says "I get out and he's gone by then."
8 He's been in the trailer. He never saw him bring that gun
9 in.

10 And Niki Hardy says she was there almost
11 immediately after that. She got there before the police.
12 Well, you got the 911 call time sheet when the officers were
13 notified, when they were dispatched, and when they got
14 there. She even said the police went with them in there.
15 Well, where is this gun? Where is this rifle that he used?

16 No, if you are acting in self-defense, the first
17 thing you should have called the police, especially after
18 you shoot somebody in self-defense you call the police and
19 say "I have done this. This is the reason why I have done
20 it, protecting myself and protecting my home." But you see
21 where the shooting occurred. It didn't occur on his
22 property. It occurred in the street and on the other side
23 of the street.

24 He ran. He got in his car and ran. He went to
25 North Carolina and hid. And when they did catch up with him

1 he was in a closet hiding from them.

2 Then I asked him, I said "who did you stay with?"
3 He kept saying abandoned buildings and all this and that.
4 Well, let me tell you, he can tell you all the detail that
5 happened that day, but he can't tell you what happened after
6 that.

7 Then he talked about the money. I said "well, how
8 did you eat food?

9 "Well, I had money."

10 "Well, how much money did you have?"

11 "Oh, I don't know. I can't remember. I can't
12 recall."

13 Come on. He knows exactly where he went in North
14 Carolina. He knew exactly who took care of him. He knew
15 exactly where he spent the money and where he got the money
16 from.

17 He wants you to believe his story. The problem
18 is, yeah, he made a huge mistake that day. He should have
19 never done what he did, because what he did, ladies and
20 gentlemen, was commit murder. He went out there. He was
21 mad because "Breezy" was in his neighborhood and he was
22 going to show him, and he took that rifle out and he showed
23 him, and he fired several times.

24 And this thing about shooting and saying he's
25 already killed by the heart shot, the one that when he was

1 shot in the back while he was trying to get away? No, he
2 was going to send a message that you don't mess with Prince.
3 He went over and he made sure he was dead.

4 You got to remember there is two shell casings
5 over there, and he shot him point blank range. You heard
6 Dr. Ross, one to two inches.

7 What I'm telling you, ladies and gentlemen, we
8 ain't even got to our witnesses. If you listen to our
9 witnesses, everything matches up consistently, especially
10 with his grandmother. I mean, Ms. Boyd, she's had some
11 heart problems and things like that and she's trying to do
12 the best she can, but you can look in the evidence. There
13 is no question he went over and shot, in front of these
14 people, shot and killed "Breezy". The grandmother had to
15 sit and watch it. She had to sit and watch her grandson
16 murdered in front of her. He just walks off, gets in his
17 car and leaves and drives by his mother as she is coming
18 into the parking lot and comes to see that.

19 He talks about the gunpowder residue. You
20 remember Mr. Simmons' testimony the way that you remember
21 it, but she said the gunpowder residue was on the left side.
22 I said "is that consistent with having a gun or shooting a
23 gun," and she said "no, it's consistent with somebody
24 shooting at you."

25 And he keeps talking about there if this was a gun

1 in this hand -- unfortunately I hate to bring this up, you
2 are going to have State Exhibit No. 8. This is the last
3 shot when he shot him in the brain. And I'm telling you, a
4 gun bullet is a lot harder than what you think it is. You
5 would have had bullets fragmented. You would have had them
6 everywhere, I submit to you, just like -- look what they
7 said it did to the brain in this one. They would have been
8 severely damaged.

9 What you got to think is here is he trying to run
10 away. Both gunshots, if you look, was on the outside of the
11 hand, trying to get away. And if you remember, Mr. Campbell
12 asked Ms. Simmons, the gunpowder residue person, the gunshot
13 residue person, he said "if you were shooting with a gun,
14 how far away would you usually get gunpowder residue, once
15 you are right on top of him?"

16 "Five feet away."

17 "Well, what about with an assault rifle?"

18 "Ten feet away."

19 So he could have been running from him and been
20 ten feet away and got the gunpowder residue, and falling
21 away, trying to fall away, he got hit with the other shot.
22 The gunpowder residue shows that he was not -- he didn't
23 have a gun and he did not shoot a gun. Well, there is no
24 other shell casings found other than 9-millimeter.

25 I got to go back to it. He's wearing a pair of

1 sweat pants.. He's not wearing a belt. Sweat pants, and
2 supposedly he's going to keep a heavy gun in his sweat pants
3 without falling through it? Come on. I know we all -- we
4 brought our common sense in this courtroom, your every-day
5 experiences. Do you think a pair of sweat pants is going to
6 hold a gun in your waistband?

7 And here he is, he's smoking a cigarette with his
8 right hand. He's right-handed, and supposedly he's got his
9 hand in here like this. Well, if you are going to draw a
10 gun, I think you would draw it with your right hand, not
11 going to get it with your left hand. And they did find a
12 cigarette butt right there by him, so he was smoking a
13 cigarette. No question about that.

14 The judge will charge you on self-defense, and if
15 one element is disproven of that, it's not self-defense,
16 ladies and gentlemen.

17 He brought on the difficulty. He didn't have to
18 go out of that trailer. He didn't know about any threats at
19 that point. He claims he did, but D.M. said he didn't.
20 He gets the gun. He goes out. He had a home phone. He
21 could have called 911. D.M. had his cell phone. He said
22 Prince had a cell phone. He said he could have called.

23 Then he goes out and he claims this happened in
24 the backyard. Well, we know it didn't happen in the
25 backyard. There is no way. If you look at the shell

1 casings, and there is one picture in particular.

2 I want to show you State Exhibit No. 5. Do you
3 remember Investigator Anthony testified. He said this is
4 from the yard, basically, where Prince Snipes came from.
5 Look where the shell casings are. The first one is there.
6 There is a pocket of them here, and the other two are right
7 here.

8 I would agree that it was only three or four steps
9 there, but I guarantee it's a whole lot farther than that
10 from here to here. So if this happened in his backyard
11 area -- and this is actually the driveway of the one
12 between. You got the car right there that he was driving.
13 The truck is on the other side. This is the empty driveway.
14 And actually where he's going down here, the picture would
15 actually be of that driveway. He's going from his backyard
16 all the way over here and he claims that it happened here?
17 There is no way. The shell casings tell that. He was
18 falling and he went after him and shot him down and he fell
19 down. That picture there speaks a thousand words, ladies
20 and gentlemen. It wasn't in Prince Snipes' house or his
21 yard. It was actually two trailers down.

22 I'm showing you State Exhibit No. 3. There is the
23 car that I was talking about in State Exhibit 5. There is
24 the truck. There is the scene over there. You can see it
25 is quite a distance away.

1 Mr. Snipes' story makes absolutely no sense in
2 this case what happened that day. The evidence shows it.
3 It shows this lady here being the most credible person and
4 she had to come back and re-live it yesterday in front of
5 you, and today.

6 Like I say, you will have the evidence to look at
7 back there, but like State Exhibit No. 5, and you will have
8 the diagram. We actually -- we got two of them. We have
9 got the one we showed. Of course, this one helps you out
10 too. I know it's not to scale, but that actually shows you
11 a better picture of it. We know all nine shell casings came
12 from that rifle.

13 This isn't self-defense, ladies and gentlemen.
14 This is not even manslaughter. That is outright murder. To
15 shoot a man in the back, you shoot him all the numbers that
16 he was shot and then you walked up there in front of these
17 folks, Ms. Boyd and Ms. Houey, and put a gun within one or
18 two inches of the person's head at point blank range.

19 Now, the judge is going to talk to you about
20 malice. Malice can happen (finger snap). There is no time
21 limit involved. They don't have to be a thought over. It
22 (finger snap) just has to be that quick. It don't have to
23 be premeditated. It's just evil will, evil heart.

24 Malice can be taken from the person's actions, and
25 I can't imagine a more callous heart, when you have already

1 put a man down, going over there and just actually making
2 sure that he's put down and he's dead in front of these
3 ladies right here. I'm just glad his son wasn't there to
4 see it, because he will never see -- his son will never see
5 him again. He keeps saying "well, I'm trying to protect
6 him." He took care of that.

7 His family, his friends are all here will never
8 see him again. His son will never see him again, because
9 the actions of that man right there, there is no question
10 that he's the one that pulled the trigger. He's the one
11 that killed "Breezy" Houey that day.

12 The one thing I'm going to ask you, ladies and
13 gentlemen, is return a guilty verdict, like I told you in
14 the opening, but it's got to speak the truth. It's got to
15 speak what just happened.

16 Mr. Campbell talks about a puzzle. He says
17 yeah -- no, you don't. Just imagine doing a puzzle of the
18 White House, the Statue of Liberty, the American flag. You
19 you have got 500 pieces. You start putting those pieces in.
20 You don't have to have all 500. You can have enough to see
21 what that picture is. And, ladies and gentlemen, I submit
22 to you right now you have got the pieces there. You have
23 got the piece of the puzzle that you need in this case. And
24 all the other pieces -- you may not have -- I wish I could
25 have a videotape and take you back to show exactly what

1 happened that day. I can't, but I can show what the
2 evidence shows. I can show you through this lady's
3 testimony right here and that's what happened.

4 You can't even believe what the defendant says.
5 He can't even be consistent with his own witnesses. He
6 wants you to believe he was scared to death when he was
7 within three feet of a man with a gun. Supposedly the other
8 guy had a gun. Come on. You are not going to get that
9 close to somebody with a rifle. A rifle is used for one
10 thing - to shoot somebody from a distance, and he did. He
11 followed him and started shooting at him. Can you imagine
12 putting a rifle at someone else's head? Bang, pow. If that
13 ain't murder, I don't know what is, and that's the verdict
14 I'm going to ask you to return today.

15 Thank you all very much for your time. And I know
16 the family thanks you too.

17 Thank you, Your Honor.

18 THE COURT: Does any juror need a quick break
19 before I provide you the instruction on the law?

20 (No response).

21 (Whereupon, at 3:30 p.m., the Court gave the jury
22 panel the jury instructions)

23 THE COURT: Ladies and gentlemen, you, of course,
24 have heard and seen all the evidence in the case and you
25 have now heard the final summations of the lawyers. And,

1 therefore, it now becomes my duty and obligation to instruct
2 you on the law that's applicable in the case, and then you
3 will be asked to go back and begin with jury deliberations.
4 And through that process you will examine all of the
5 evidence, you will decide the facts, you will apply the law,
6 and arrive at a fair and impartial decision.

7 It is your exclusive duty to determine what the
8 facts are, and you do that through your own common sense
9 examination and evaluation of all of the testimony and the
10 other evidence received during the course of this trial.
11 And you twelve jurors will only decide what weight, value
12 and effect to give to any particular witness' testimony or
13 other evidence in the case. Your sole objective is to
14 simply render a fair and impartial decision based solely
15 upon the law as I provide it to you and the evidence
16 presented during the trial and the facts as you determine
17 them to be, based upon your view of that evidence.

18 Now, as you know, this case, the State, through
19 the solicitor, has accused the defendant, Prince Deven
20 Snipes, with having committed two separate and distinct
21 offenses, although each of those offenses is alleged to have
22 arisen out of one particular event or a course of events
23 which the State alleges occurred back on December the 16th
24 of 2010.

25 Both of the charges brought against the defendant

1 are contained in one indictment, which you will be called
2 upon to render separate and distinct decisions, and those
3 decisions will be reflected on the back of the indictment.
4 Mr. Foreman, you will see in the lower left-hand corner on
5 the indictment the word verdict, and it's beneath that word
6 that you will indicate the jury's decisions after your
7 deliberations have been concluded, but the indictment serves
8 no purpose, so far as the jurors are concerned, other than
9 serving as a verdict form.

10 As I told you, the indictment is not evidence of
11 anything. It's not proof of anything. It does not
12 establish anything. It's simply the means by which any
13 person brought into this court to stand trial is put on
14 notice as to what crime or crimes the State claims that they
15 have committed.

16 But as to allegations in this indictment and as to
17 the charges contained therein the defendant has entered a
18 plea of not guilty. And that plea of not guilty has placed
19 upon the State the burden of proving each of the allegations
20 made, the burden of proving each of the essential elements
21 of the crimes charged, and, therefore, the burden of proving
22 the defendant's guilt to your satisfaction beyond a
23 reasonable doubt.

24 The burden is never upon a defendant or a person
25 accused of a crime to prove that they are not guilty or to

1 prove that they are innocent, because in some cases that
2 might not be possible. The burden is always upon the State,
3 because they brought the charge against the defendant, to
4 establish his guilt to your satisfaction beyond a reasonable
5 doubt.

6 It is a vital, important, and cardinal rule of law
7 that every defendant in a criminal trial, no matter how
8 serious might be the offense for which that person stands
9 charged, that person shall always be presumed innocent of
10 that charge. And that presumption of innocence remains with
11 any defendant, as it does with this defendant, from the time
12 that he is placed under arrest, and throughout the course of
13 the criminal process, and even throughout the course of the
14 actual trial in the case. That presumption of innocence
15 will be with Mr. Snipes even as you go back into your jury
16 room to begin with jury deliberations at this trial's
17 conclusion. And that presumption of innocence will be with
18 him in that jury room; and it will be with him forever,
19 unless you twelve jurors determine that he's no longer
20 entitled to that presumption of innocence.

21 In other words, after you carefully consider all
22 the evidence during the trial of the case, and from that
23 evidence you have determined what you believe to be the
24 facts, and upon deciding those facts you apply the law that
25 I will have provided you, if you twelve jurors unanimously

1 determine that his guilt has been proven beyond a reasonable
2 doubt, then he would no longer be entitled to that
3 presumption of innocence. But it is only if, unless, and
4 until you are satisfied of his guilt beyond a reasonable
5 doubt that a presumption of innocence would no longer be
6 applicable.

7 Now, while the State does have the burden of
8 proving the defendant's guilt beyond a reasonable doubt,
9 that doesn't mean that the State has to prove his guilt
10 beyond all doubt, or beyond any possible doubt, but it does
11 require the State to prove his guilt to your satisfaction
12 beyond a reasonable doubt.

13 The term reasonable doubt should be given its
14 plain and ordinary meaning. A reasonable doubt is the kind
15 of doubt that would cause a reasonable person to hesitate to
16 act upon the information provided. And a defendant in a
17 criminal trial is entitled to any reasonable doubt that
18 arises from the evidence, or lack of evidence in the case.
19 And if, upon any factual issue essential to the finding of a
20 verdict of guilty you have some reasonable doubt as to how
21 that issue should be resolved, it would be your duty to
22 resolve that reasonable doubt in favor of the defendant.
23 And, therefore, if upon your consideration of the whole case
24 as it relates to a particular charge, if you have a
25 reasonable doubt as to his guilt, you must resolve that

1 doubt in his favor and return a verdict of not guilty.

2 And at the same time, after you have considered
3 the evidence in the case and you have decided the facts and
4 applied the law, if you have no reasonable doubt as to his
5 guilt, then it would be your corresponding duty to find him
6 guilty of any crime that has been proven to your
7 satisfaction beyond a reasonable doubt.

8 Now, the same law that provides that you are the
9 judges of the facts also provides that I am the judge of the
10 law. And that simply means that nobody is going to tell you
11 how to arrive at your determination of the facts in this
12 case. You do that, as I have already stated, through the
13 exercise of good judgment and common sense, conscientiously
14 applied to the testimony and evidence received during the
15 course of the trial.

16 You must, however, under your oath as a juror
17 accept the law as I provide it to you as being the law that
18 you are to apply in this case. In other words, you are not
19 to concern yourself with what you thought the law was before
20 you came to serve as a juror this week, or what you think
21 the law ought to be. Under your oath as a juror you must
22 simply accept the law as I provide it to you as being the
23 law that you are to apply in the case and you take that law
24 and you apply it to the facts as you twelve jurors determine
25 those facts to be, based upon your common-sense examination

1 of the testimony and evidence received during the course of
2 the trial.

3 Now, because you are the sole judges of the facts
4 in this case, you are, therefore, necessarily the sole
5 judges of the credibility and the believability of each
6 witness that has testified and you twelve jurors alone will
7 decide what weight, value, and effect to give any particular
8 witness' testimony or other evidence in the case. But in
9 assessing a witness' credibility, there are several factors
10 which you should take into consideration, and I'm going to
11 list those factors for you.

12 You should consider the demeanor of the witness;
13 that is, how the witness appeared to you as the witness
14 testified from that witness stand. Was the witness
15 straightforward in responding to questions, or was the
16 witness hesitant or evasive in responding to questions that
17 were asked of that witness. Simply put, did the witness
18 appear to you to be telling the truth and to have knowledge
19 of the fact to which that witness has testified.

20 You should also consider whether or not the
21 testimony of a witness is consistent or is it inconsistent
22 with that witness' own testimony or any other statement made
23 by that witness outside the court, as well as whether or not
24 the witness' testimony is consistent or inconsistent with
25 other testimony or other evidence received during the course

1 of the trial.

2 You should also consider how the witness came to
3 know the fact to which a witness has testified. In other
4 words, what was that particular witness' opportunity and
5 ability to perceive the existence of those facts which they
6 have testified by having previously used his or her senses
7 and then what is the ability of that witness to be able to
8 come into court and to accurately recollect to you as to
9 what they have previously perceived.

10 You should also consider any bias or prejudice or
11 interest that a witness might have with regard to the case.
12 In other words, do you find some reason that a particular
13 witness would testify one way or another to help or to hurt
14 one side or the other. And you should consider any interest
15 that a witness might have in the outcome of the case, if you
16 determine that a witness does have such an interest and you
17 find that that interest would bear upon that particular
18 witness' credibility.

19 You should also consider whether or not the
20 testimony of a witness is strengthened or is it weakened by
21 other testimony or other evidence received during the course
22 of the trial.

23 Now, during the course of this trial you have
24 heard certain evidence relating to the defendant having had
25 prior convictions for certain types of criminal offenses.

1 Ordinarily evidence of those types of convictions would not
2 be admissible into evidence because it's not relevant to
3 anything the jury has to decide. However, when a defendant
4 takes the witness stand and testifies during the course of
5 the trial, evidence of certain types of criminal offenses
6 may be inquired about during the defendant's testimony, but
7 the admission of that evidence is limited for a very
8 specific purpose, and it may only be considered by you for
9 that purpose, if you consider it at all, but the purpose of
10 allowing those convictions is for the purpose of impeaching
11 the credibility of the defendant's testimony. And,
12 therefore, you may consider such evidence of those
13 convictions as it may relate to the issue of his
14 credibility, if you determine that that evidence is
15 probative on that point, but you may not consider it for any
16 other purpose. Such evidence is not being offered as
17 evidence of the defendant's guilt of the crime for which he
18 now stands charged, and under your oath as a juror you may
19 not consider that evidence as evidence of his guilt. You
20 may only consider it on the issue of the credibility of his
21 testimony, should you find it to be credible and probative
22 on that particular issue.

23 Now, you as the finders of the fact and you as the
24 judges of the credibility of each witness are permitted to
25 believe as much or as little of what a witness has testified.

1 to as you deem is appropriate. And, therefore, you may
2 believe everything that a witness testified to. You may
3 choose to believe none of it. You may believe some portion
4 of a witness' testimony and reject some other portion of
5 that same witness' testimony. In a given case you could
6 believe one witness as opposed to several, or several as
7 opposed to one. But whatever your good judgment and common
8 sense tells you is the most believable and credible
9 testimony is the testimony that you should accept, and you
10 should reject any testimony or other evidence that you find
11 not to be credible or believable.

12 Now, in this case, as you know, the defendant is
13 charged with the crime of murder and the crime of possession
14 of a firearm during the commission of a violent crime, and
15 those crimes are actually set forth in the indictment in
16 Count I and Count II of the indictment.

17 I will in my instruction to you with regard to the
18 crime of murder will also be instructing you on a lesser
19 included offense. That offense is the crime of voluntary
20 manslaughter. So I'm going to first instruct you on the law
21 as you it relates to the crime of murder. Then I'll
22 instruct you on the law as it relates to the lesser included
23 offense of voluntary manslaughter. And then I'll struck you
24 on the law as it relates to the offense of possession of a
25 firearm during the commission of a violent crime.

1 South Carolina Code Section 16-3-10 is the Code
2 Section where the legislature defined the crime of murder.

3 Every year the legislature meets from January to
4 June. During that time they pass a number of laws and rules
5 and regulations that govern our conduct in a variety of
6 ways. Some of those laws that are passed are criminal
7 penalty statutes and they just prohibit us in engaging in
8 certain types of conduct. And where we engage in that
9 conduct in violation of that particular statute, then it
10 subjects us to some form of punishment or penalty as a
11 result. But please understand that you are never to be
12 concerned with punishment or penalty. That's not something
13 that you decide. Your sole obligation and duty under your
14 oath as a juror is to determine if the defendant has been
15 proven guilty beyond a reasonable doubt of a crime, and you
16 are to make that determination without regard to any
17 consequence that your decision might bring.

18 But the statutory references for murder is
19 16-3-10, and that statute provides that murder is defined as
20 the killing of any person with malice aforethought, either
21 expressed or implied.

22 Expressed or implied refers to how malice
23 aforethought may be shown to have existed.

24 So, in order for you to find the defendant guilty
25 of the crime of murder, it would be necessary that the

1 evidence in this case does establish to your satisfaction
2 beyond a reasonable doubt that the defendant did commit some
3 act or acts which proximally caused the death of the
4 decedent and that the killing was done with malice
5 aforethought.

6 Malice aforethought is an essential element of the
7 crime of murder.

8 Malice, as an essential element of the crime of
9 murder, is a state of mind connoting an ill will and having
10 the intent to do harm.

11 An intent refers to the state of a person's mind
12 which directs his actions towards a specific object or goal.
13 An intent would include those consequences which represent
14 the very purpose for which an act is done, as well as those
15 consequences which are known to be substantially certain to
16 result, whether actually intended or not.

17 Malice is a technical term importing wickedness
18 and excluding just cause or legal excuse. It is something
19 which springs from depravity from a heart devoid of social
20 duty and fatally bent on mischief. It is a state of mind
21 indicating an extreme disregard for or an extreme
22 indifference to human life.

23 Malice may be likewise defined as a state of mind
24 which indicates a formed purpose and design to do a wrongful
25 act under circumstances that exclude any legal right to do

1 it.

2 And the word expressed or implied malice do not
3 mean different kinds of malice, but merely the manner in
4 which malice may be shown to have existed; that is to say,
5 either by direct evidence or by circumstantial evidence from
6 which a fact might reasonably be inferred.

7 And an inference is simply a deduction of fact
8 which may logically and reasonably be drawn from the proof
9 of some other fact or set of facts. In other words, you may
10 infer that a particular event occurred or that a particular
11 fact exists based upon the proof of sufficient factual
12 circumstances which would reasonably warrant your arriving
13 at a particular conclusion.

14 Malice may be expressed as where there is an
15 expressed threat to kill, or a lying in wait, or where the
16 circumstances show directly that an intent to kill was
17 entertained by the defendant.

18 Malice may be inferred, though no expressed intent
19 to kill is proven by direct evidence, where the facts and
20 circumstances which have been proven by the evidence in the
21 case satisfies you beyond a reasonable doubt that malice was
22 present in the mind of the defendant at the time any killing
23 took place.

24 The existence of malice may be inferred from acts,
25 declarations, and conduct of the defendant, as well as from

1 any other circumstances shown to have existed at the time of
2 the event from which you might reasonably infer the
3 existence of malice. As often, the state of a person's mind
4 can only be proven by circumstantial evidence.

5 Malice as an essential element of the crime of
6 murder does not necessarily require proof of an actual or a
7 specific intent to take human life, but rather it means a
8 state of mind accompanying conduct signifying a general
9 malignant recklessness and an extreme disregard for or an
10 extreme indifference to human life.

11 The State is required to prove malice, just as it
12 must prove any other essential element of the crime charged,
13 and it is for you twelve jurors to determine whether or not
14 evidence in this case establishes malice beyond a reasonable
15 doubt.

16 It's also essential that there exists not only
17 malice, but it be malice aforethought. The law does not
18 require that malice must exist for any appreciable length
19 of time, but for the commission of an act proximately causing
20 a fatal result. Indeed it may be conceived at the very
21 moment that the fatal act is committed. It is sufficient in
22 the law, so long as the State proves beyond a reasonable
23 doubt both the existence of malice and the commission of an
24 act or acts by the defendant which proximately caused the
25 fatal result.

1 You must determine whether or not the malice
2 aforethought existed based upon your consideration of all
3 the evidence introduced in the trial of the case and any
4 reasonable inference it might be drawn from that evidence.

5 You are further instructed that an indictment for
6 the crime of murder may also include the lesser included
7 offense of voluntary manslaughter, even though that lesser
8 included offense is not actually set out in the indictment
9 itself.

10 A jury may find a defendant guilty of the lesser
11 included offense where the evidence in the case warrants
12 such a finding. In other words, the defendant who has been
13 charged with the crime of murder may be found guilty of the
14 lesser included offense of voluntary manslaughter if the
15 jury determines that the evidence in the case warrants such
16 a finding, whether or not the lesser offense is actually
17 stated in the indictment itself.

18 Manslaughter is defined as an unlawful killing of
19 a human being without the element of malice, either
20 expressed or implied being present. While the element of
21 malice must be proven in order for the defendant to be found
22 guilty of the crime of murder, malice is not an element of
23 the offense of manslaughter.

24 Voluntary manslaughter, being a lesser included
25 offense of the crime of murder, is defined in the law as the

1 unlawful killing of another human being which is committed
2 in a sudden heat of passion provoked by a sufficient legal
3 provocation.

4 The law recognizes that sudden heat of passion
5 arising out of exasperation, rage, anger, sudden resentment,
6 fear, or terror may for the time being affect the
7 self-control of an individual, temporarily disturbing the
8 ability to properly reason, creating an uncontrollable
9 impulse to do violence, and, therefore, reduces the crime of
10 that of murder to that of voluntary manslaughter, provided
11 the sudden heat of passion arose from a sufficient legal
12 provocation.

13 The law does not reduce from murder to
14 manslaughter every homicide that is committed in the heat of
15 passion. It must be the heat of passion justly excited by a
16 sufficient legal provocation. If a sufficient legal
17 provocation does not exist, then the killing, even
18 committed in the heat of passion, is murder and not
19 voluntary manslaughter.

20 The sudden heat of passion aroused by a sufficient
21 legal provocation, which may reduce a homicide from that of
22 murder to that of manslaughter, need not be thrown reason
23 entirely or shut out knowledge and volition, but it must be
24 such heat of passion provoked by such facts or circumstances
25 as would naturally disturb the ability of an ordinary,

1 reasonable and prudent person to properly reason rendering
2 in his mind incapability of cool reflection and producing
3 what, according to human experience, may be described as an
4 uncontrollable impulse to do violence.

5 Although no mere words alone, however insulting or
6 offensive, would ever constitute a sufficient legal
7 provocation or justify the use of deadly force in
8 retaliation, if such words are accompanied by overt,
9 threatening or hostile acts, or by a physical encounter,
10 then such conduct may give rise to a sufficient legal
11 provocation, depending upon the circumstances of the case,
12 and, therefore, reduce the offense from that of murder to
13 that of voluntary manslaughter.

14 In determining whether an act resulting in the
15 death of another was compelled by heat of passion aroused by
16 a sufficient provocation or by malice, you should take into
17 consideration all of the surrounding circumstances and
18 conditions accompanying the event in question.

19 So, therefore, as I have stated, voluntary
20 manslaughter is an unlawful homicide committed in the
21 absence of malice, but in sudden heat of passion aroused by
22 a sufficient legal provocation, and a sufficient legal
23 provocation being the existence of the facts or
24 circumstances as would naturally affect the ability of an
25 ordinary, reasonable and prudent person to properly reason

1 and render in their mind the incapability of cool reflection
2 and produce what, according to human experience, may be
3 described as an uncontrollable impulse to do violence.

4 Now, in this case there has been presented
5 evidence raising what is known in the law as the defense of
6 self-defense. The law recognizes the right of every person
7 to defend himself from death or from sustaining serious
8 bodily injury. And to do this, a person may use such force
9 as is reasonably necessary, even to the point of taking
10 human life under the appropriate circumstances.

11 The right of self-defense is founded upon
12 necessity, either actual or reasonably apparent necessity,
13 and it is a complete defense to a charge of an unlawful
14 homicide.

15 The existence of self-defense entitles a person
16 charged with the commission of unlawful homicide to a
17 verdict of not guilty.

18 Now, although the defendant has raised the defense
19 of self-defense, the burden of proof is not on the defendant
20 to prove the existence of that defense, because, as I have
21 previously told you, the burden is always upon the State to
22 prove the defendant's commission of the crime alleged
23 against him beyond a reasonable doubt. And this burden
24 would, therefore, necessarily require that the State prove
25 beyond a reasonable doubt the absence of self-defense.

1 In your consideration of the existence or absence
2 of self-defense, you are instructed that there are four
3 basic elements which must be present in order for
4 self-defense to be established in a particular case.

5 First, it must be shown that the defendant was
6 without fault in bringing on the immediate difficulty which
7 necessitated the use of deadly force against another that
8 resulted in the death of another.

9 A defendant cannot provoke, initiate, or otherwise
10 through his own fault bring about a difficulty and then
11 claim the right of self-defense in the use of deadly force
12 in repelling any attack caused by such provocation.

13 As to the second element, one is entitled to
14 defend one's self against death or the infliction of
15 reasonably anticipated unlawful serious bodily harm, and in
16 doing so may use such force as is reasonably necessary, even
17 to the point of using deadly force, where appropriate under
18 the law and circumstances relating to the event.

19 Where deadly force is employed in response to any
20 assault, it must be shown that at the time the force was
21 employed the defendant actually believed that he was in
22 imminent danger of losing his life or sustaining serious
23 bodily injury; or, it must be shown that the defendant
24 actually was in imminent danger.

25 The term imminent danger means an immediate or

1 present danger and not a past or a future danger.

2 As to the third element, if the defense is based
3 upon a belief of imminent danger, then it must be shown that
4 the defendant's belief was reasonable; that is, that a
5 reasonably prudent person of ordinary firmness and courage
6 would have entertained the same belief, if acting under the
7 same or similar circumstances as established by the evidence
8 in this case.

9 If the defendant actually was in imminent danger,
10 then it must be shown that the circumstances were such as
11 would warrant a person of ordinary reason and courage to act
12 as the defendant acted in order to save himself from
13 suffering death or serious bodily injury.

14 Deadly force, in repelling any assault, is only
15 appropriate and necessary and may only be exercised where
16 the defendant entertains a reasonable belief that he is
17 about to sustain a loss of life or serious bodily injury, or
18 he actually was in such danger.

19 The law of self-defense encompasses preventative
20 action taken to protect one's self from sustaining death or
21 sustaining serious bodily injury, provided that that action
22 is taken in anticipation of imminent danger of bodily injury
23 and such action is in response to an immediate threat.

24 The defendant has the right to act upon
25 appearances. He may be mistaken. The law does not hold

1 someone to a refined assessment of the actual danger as
2 might be accomplished, having the adequate time to properly
3 reflect, provided, however, that the defendant has acted as
4 a person of ordinary reason, firmness and courage would have
5 acted or should have acted in meeting the appearance with
6 the danger. In other words, he does not have to wait until
7 his aggressor gets an advantage, for one always has the
8 right to act under the loss of preservation and to prevent
9 the aggressor from getting the advantage over him.

10 There is, however, a requirement of objectivity.
11 That is, the belief of the necessity to act must be
12 reasonable; that is, it must be such that a reasonable and
13 prudent person, acting in the same or similar circumstances,
14 would have so reasonably believed and been warranted in so
15 acting.

16 There are some factors that should be considered
17 and it would give the defendant the right to judge the
18 conduct of an adversary more harshly than otherwise might be
19 appropriate, and those factors would include, but not
20 necessarily be limited to the following:

21 Any differences in age.

22 Physical characteristics or conditions of the
23 defendant, as well as the person who has been killed.

24 The existence of any prior difficulties between
25 the parties.

1 Any prior threats made by the person killed made
2 against the defendant, as well as any reputation for
3 violence that the deceased might have had, should there have
4 been any.

5 And you may also consider the present threats made
6 by the person assaulted, in this case the decedent, toward
7 the defendant which is accompanied by hostile acts.

8 Words accompanied by hostile acts may give rise to
9 a right to act in self-defense, where the circumstances to
10 establish that the defendant entertained a reasonable belief
11 that he was about to suffer death or serious bodily injury
12 and he had to act in order to avoid that harm.

13 As to the fourth element, it must be shown that
14 the defendant had no other means of avoiding the danger of
15 losing his life or sustaining serious bodily injury other
16 than to act as he did under the particular circumstances,
17 because, as I have stated, self-defense is founded upon a
18 necessity to take human life in order to avoid loss of one's
19 own life or the sustaining of serious bodily injury. And it
20 is, therefore, a person's duty to avoid the use of deadly
21 force and taking of human life where it is possible to avoid
22 such actions, even to the extent of retreating from one's
23 adversary, if retreating from one's adversary can be done
24 without increasing the danger to one's self. In other
25 words, avoid the necessity of using deadly force against

1 another, the person who is being assaulted must retreat from
2 the aggressor, unless it is shown that by retreating the
3 defendant would increase the danger of sustaining loss of
4 life or serious bodily injury to himself.

5 And while one does ordinarily have a duty to
6 retreat before employing deadly force to repel an attack,
7 there is no duty to retreat where one is attacked in one's
8 own home or within its curtilage.

9 A person ordinarily does have a duty to retreat
10 before employing the use of deadly force when on a public
11 street or otherwise in a public place, unless the
12 circumstances show that by retreating the person employing
13 the use of deadly force would increase the danger to himself
14 of losing his own life or sustaining serious bodily injury.

15 All right. If you have a reasonable doubt as to
16 the defendant's guilt, after considering all the evidence
17 received during the trial of this case, including any
18 evidence relating to the issue of self-defense, then it
19 would be your duty to resolve that reasonable doubt in favor
20 of the defendant and then find him not guilty.

21 If, on the other hand, after you have carefully
22 considered all the evidence in the case you have no
23 reasonable doubt as to the defendant's guilt, including any
24 evidence relating to the issue of self-defense, then it
25 would be your duty to find the defendant guilty of any

1 unlawful homicide that he has been proven to have committed,
2 based upon my instructions already provided to you as to the
3 elements of those offenses. In this case that would be
4 murder and voluntary manslaughter.

5 Count II of the indictment alleges possession of a
6 firearm during the commission of a violent crime. That's
7 also a statutory offense. That statute is set forth in
8 Section 16-23-490, and that particular section provides that
9 it shall be unlawful to possess a firearm or visibly display
10 what appears to be a firearm during the commission of a
11 violent crime. And you are instructed that the crimes of
12 murder and voluntary manslaughter are classified as violent
13 crimes under the law of this state.

14 So, in order to be found guilty of a violation of
15 this particular section of the law, it would be necessary
16 that the evidence in this case establishes to your
17 satisfaction beyond a reasonable doubt that the defendant
18 did commit the crime of murder, or of voluntary
19 manslaughter, and that during the commission of that crime
20 he did possess or visibly display a firearm.

21 Now, Mr. Foreman, ladies and gentlemen, I am not
22 in any way concerned with what your decisions are, but you
23 are instructed that your verdict has to be unanimous. All
24 twelve of you must be in agreement before any decision may
25 be rendered and returned to the court.

1 Mr. Foreman, as I told you, you are going to be
2 presiding over jury deliberations in the jury room, simply
3 to ensure that those deliberations are carried out in some
4 orderly fashion, but all of you jurors are expected to
5 participate in those deliberations, because, as I have
6 stated, the verdict has to be unanimous. It has to be a
7 consensus of all twelve jurors.

8 So, Mr. Foreman, as you know, in addition to all
9 the evidence that's been introduced, you are going to have
10 the verdict form. And on the back of the verdict form in
11 the lower left-hand corner beneath the word verdict you will
12 indicate the jury's decision.

13 Now, in this particular case you will have Count I.
14 and Count II. I will write -- it's handwritten Count I and
15 Count II.

16 Count I is the crime charging the defendant
17 with -- Count I are the allegations charging the defendant
18 with the crime of murder.

19 With respect to that particular charge, you are
20 going to have three potential verdict forms. Those three
21 potential verdict forms are guilty, that one word, which
22 would mean guilty of the crime of murder, as alleged in the
23 indictment.

24 If the State has failed to prove one, or more, of
25 the essential elements of the crime of murder beyond a

1 reasonable doubt, then you would be permitted to consider
2 the lesser included offense of voluntary manslaughter.

3 If the State has proven to your satisfaction
4 beyond a reasonable doubt the crime of voluntary
5 manslaughter, then the verdict form would be guilty of
6 voluntary manslaughter. You would have to write that out,
7 because that's not alleged in the indictment.

8 And if the State has failed to prove the defendant
9 to be guilty of the crime of murder beyond a reasonable
10 doubt and the State has failed to prove the defendant to be
11 guilty of the crime of voluntary manslaughter beyond a
12 reasonable doubt, then the verdict form would be not guilty.

13 So, again, the three verdict forms for Count I
14 would be guilty; or, guilty of voluntary manslaughter; or,
15 not guilty.

16 Count II of the indictment, there are two
17 potential verdict forms. Those are guilty and not guilty.

18 So whatever the decisions are of you and your
19 fellow jurors, they have to be unanimous. Once you have
20 decided that, indicate the verdict in the space provided.
21 Also sign your name as the foreperson. You are the only
22 juror that needs to sign the verdict form. There is also a
23 place for the appropriate date.

24 Now, during deliberations there may come a time
25 where you have some question about the facts of this matter

1 or evidence in the case. I am never permitted to respond to
2 the questions that relate to issues of fact. That's
3 something that the jury has to determine on your own.

4 I also am not permitted to comment upon evidence
5 in this case, nor can any additional evidence be received,
6 now that the case has been closed and you are going back to
7 deliberate. So sometimes a juror might think "well, you
8 know, if we just had this other piece of evidence, we could
9 decide this case fairly easily." You want to know if it
10 exists. Well, even if there is somehow that evidence exists
11 that you might think would assist you, you can't have it,
12 because the case is closed, so don't even inquire as to
13 whether or not you can have something else, because you
14 could not, even if it did exist. You have to base your
15 decision upon the evidence that has been presented, or lack
16 thereof, for that matter.

17 If, however, you have a question about the
18 witness' testimony, while I don't have transcripts to
19 provide you, we can bring you back into the courtroom to
20 have a witness' testimony replayed in its entirety, or you
21 can do just some portion, if that's all you need. So if you
22 want a witness' testimony replayed, let me know and I'll be
23 happy to bring you back into the courtroom to accomplish
24 that purpose.

25 If at any time you ever have a question about the

1 law that is applicable, I am permitted to answer those
2 questions. So should you need me to reinstruct you on the
3 law that I have provided, or should you need an explanation
4 or a clarification of that law, let me know and I'll be
5 happy to provide you with that additional instruction,
6 explanation, or clarification.

7 If we have any smokers on the jury, you can smoke
8 during deliberations, but not in the jury room. You have to
9 go outside for that purpose. So if anybody needs to smoke,
10 let the bailiff know and he will take those persons outside,
11 but you are instructed that deliberations have to stop, and
12 deliberations may only resume and be engaged in when all
13 twelve jurors are present, so all twelve have to
14 participate.

15 So, Mr. Foreman, if at any time there is any issue
16 that needs to be addressed to me, if you will write it on a
17 piece of paper, give it to the bailiff and he will give it
18 to me and I will respond to that issue or answer that
19 question.

20 Once you and your fellow jurors have arrived at
21 your decision, you will indicate it on the back of the
22 indictment, as I have indicated, and then you will hold onto
23 the verdict form. While you may, after you have reached a
24 decision, you can give the evidence back to the bailiff.
25 You hold onto the verdict form. Don't give him the verdict

1 form. I'll receive that from you after you and your fellow
2 jurors have been returned to the courtroom to accept that
3 verdict.

4 I think that covers everything, but if I have
5 neglected to tell you something, I'm sure one of these
6 lawyers will remind me. If that's the case, I'll bring you
7 back and provide you with additional instruction.

8 If I do not need to bring you back for any reason,
9 I'll send word by way of the bailiff that you may begin your
10 deliberations. In that event he will bring to the jury room
11 all of the exhibits which have been introduced during the
12 trial. And to you, Mr. Foreman, he will also bring the
13 indictment which will serve as the verdict form.

14 Please retire to your jury room, but do not yet
15 begin deliberations until I send word to do so.

16 (Whereupon, at 4:13 p.m. the jury panel went to
17 the jury room, awaiting instructions to begin deliberations)

18 THE COURT: All right, any exceptions taken to the
19 instruction or requests or additions to the instruction, by
20 the State?

21 MR. BARNETTE: None from the State, except the
22 previous objection to the manslaughter is the only thing,
23 Your Honor.

24 THE COURT: All right.

25 From the defense?

1 MR. CAMPBELL: Your Honor, the only thing is in
2 regards to the bringing on the difficulty charge, that how
3 the defense presented to you earlier. We would ask that
4 those words be charged to the jury, Your Honor.

5 MR. BARNETTE: I believe the court did that, Your
6 Honor.

7 THE COURT: Well, I think my instruction
8 sufficiently covers all of those that have been requested,
9 so I'm going to leave it as it is.

10 Okay. Let me ask y'all to verify all the
11 exhibits, please, before they go back.

12 (Off the record)

13 (Back on the record)

14 THE COURT: All right. All the exhibits are
15 accounted for?

16 MR. BARNETTE: Yes, Your Honor.

17 MR. CAMPBELL: Yes, Your Honor.

18 THE COURT: All right, take them back. Tell the
19 jury to begin their deliberations and notify us when they
20 have completed.

21 We'll be at ease while the jury is deliberating.

22 (Whereupon, at 4:16 p.m., the jury was instructed
23 to begin deliberations).

24 (Whereupon, at 4:17 p.m., proceedings were
25 recessed, pending the verdict of the jury panel)

1 (Whereupon, at 5:25 p.m., proceeding were
2 reconvened).

3 THE COURT: I'm told the jury has reached a
4 decision.

5 Are we ready to receive it?

6 MR. BARNETTE: The State is ready, Your Honor.

7 MR. CAMPBELL: The defense is ready, Your Honor.

8 THE COURT: Okay. Bring the jury in, please.

9 (Whereupon, at 5:26 p.m., the jury returned to
10 open court to render its verdict)

11 THE COURT: Mr. Foreman, have you and your fellow
12 jurors reached a unanimous decision?

13 JURY FOREMAN: Yes, we have, sir.

14 THE COURT: Have you reflected those decisions on
15 the back of the indictment as requested?

16 JURY FOREMAN: I have.

17 THE COURT: Have you signed it and dated it?

18 JURY FOREMAN: I have not dated it, sir.

19 THE COURT: All right, let me ask you to do that.

20 (Off the record)

21 (Back on the record)

22 THE COURT: All right, you can just hand me that
23 verdict form.

24 Thank you, sir.

25 All right, you may publish the verdict.

1 THE CLERK: 2012-GS-11-608, the State versus
2 Prince Deven Snipes, indictment for murder, Count I, the
3 jury responds guilty.

4 Indictment for possession of firearm during
5 commission of a violent crime, Count II, the jury responds
6 guilty.

7 It's signed by foreperson Ryan Godfrey.

8 Ladies and gentlemen of the jury, if this is the
9 verdict of you all, please indicate by raising your right
10 hand.

11 (Whereupon, all jurors raise their right hand)

12 THE CLERK: Thank you.

13 THE COURT: All right. Does the defendant wish to
14 have the jury polled?

15 MR. CAMPBELL: We do, Your Honor.

16 THE COURT: All right. Poll the jury, please,
17 ma'am.

18 THE CLERK: When I call your name, please raise
19 your hand.

20 Juror 54, Ryan Godfrey, is this your verdict?

21 JURY FOREPERSON: Yes, it is.

22 THE COURT: Jury 1, Rocky Allison, is this your
23 verdict?

24 JUROR NUMBER 1: Yes, it is.

25 THE COURT: Juror 2, Heather Teague, is this your

1 verdict?

2 JUROR NUMBER 2: Yes, it is.

3 THE CLERK: Juror 35, Winfred Davis, Jr., is this
4 your verdict?

5 JUROR NUMBER 35: Yes, it is.

6 THE CLERK: Juror 30, Katherine Crawford, is this
7 your verdict?

8 JUROR NUMBER 30: Yes, it is.

9 THE COURT: Juror 21, Albert Clark, is this your
10 verdict?

11 JUROR NUMBER 21: Yes, it is.

12 THE CLERK: Juror 68 -- excuse me, she was excused
13 earlier.

14 Juror 116, Jonathan Smith, is this your verdict?

15 JUROR NUMBER 116: Yes, it is.

16 THE CLERK: Juror 73, Doris Kirby, is this your
17 verdict?

18 JUROR NUMBER 73: Yes, it is.

19 THE CLERK: Juror 137, Brian Whelchel, is this
20 your verdict?

21 JUROR NUMBER 137: Yes, it is.

22 THE CLERK: Juror 84, Jennifer McKinney, is this
23 your verdict?

24 JUROR NUMBER 84: Yes, it is.

25 THE CLERK: Juror 61, Ashely Hemphill, is this

1 your verdict?

2 JUROR NUMBER 61: Yes, it is.

3 THE COURT: All right. Juror 114, Channing Smith,
4 is this your verdict?

5 JUROR NUMBER 114: Yes, it is.

6 THE CLERK: All right. Are there any other
7 matters that we need to address with the jury present?

8 MR. BARNETTE: Nothing from the State, Your Honor?

9 MR. CAMPBELL: Nothing from the defense, Your
10 Honor.

11 THE COURT: All right, thank you, ladies and
12 gentlemen, for your participation in the trial of the case.

13 We have sufficient nonjury matters to occupy the
14 court's time for tomorrow and Friday, so that is going to
15 conclude your service as jurors this week. So I do want to
16 take this opportunity to thank you for your willingness to
17 serve as jurors this week, and, of course, for your actual
18 service in the trial of this case. I do hope that that
19 experience has been an educational and a beneficial
20 experience for you, and I do sincerely hope that it has not
21 posed too much of a hardship or inconvenience on you, but
22 you will not need to report any further this week, so thank
23 you again for your participation.

24 (Whereupon, at 5:30 p.m., the jury panel was
25 discharged)

1 THE COURT: All right, Mr. Campbell, any matters
2 we need to address prior to the imposition of sentence?

3 MR. CAMPBELL: None, Your Honor.

4 THE COURT: All right. Solicitor, anything
5 further from the State?

6 MR. BARNETTE: Your Honor, I have spoken with the
7 family. They do not want to address the court. They
8 believe the facts speaks for themselves, that they would
9 just like to ask the court for justice, Your Honor.

10 He does have a prior record, Your Honor. I did
11 enter two of those exhibits. I think he's got two of those
12 convictions in a prior exhibit.

13 In 2006, he was convicted of second degree
14 trespass in North Carolina, Gaston County, Your Honor.

15 And then in 2008, Your Honor, he was convicted of
16 assault with a deadly weapon, inflicting serious injury, and
17 also discharging a weapon in occupied property, Your Honor.
18 Those are both felony convictions in North Carolina.

19 And Court Exhibit 1 is certified copies of those
20 convictions, Your Honor.

21 THE COURT: All right. Mr. Campbell, does your
22 client agree with the convictions as stated by the
23 solicitor?

24 MR. CAMPBELL: Yes, Your Honor.

25 THE COURT: Okay. Anything that you or he would

1 like to tell me prior to the imposition of sentence?

2 MR. CAMPBELL: Nothing, Your Honor.

3 THE COURT: Mr. Snipes, do you have anything that
4 you would like to say before I impose sentence?

5 THE DEFENDANT: Yes, sir.

6 I'd just like to ask the family of the victim if
7 they could find it in their hearts to forgive me. I'm truly
8 sorry for the actions that took place on that day. May God
9 bless them.

10 THE COURT: Okay. Thank you.

11 On Indictment 2012-608, an indictment for murder
12 and possession of a firearm during the commission of a
13 violent crime, Count I, the charge of murder, wherein you
14 have been found guilty by a jury of that offense, the
15 sentence of the court is that you, Prince Deven Snipes, be
16 confined to the South Carolina Department of Corrections for
17 the period of your natural life.

18 Count II, the indictment, possession of a firearm
19 during the commission of a violent crime, five years.

20 MR. BARNETTE: Your Honor, may I approach for one
21 second?

22 THE COURT: Yes.

23 (Whereupon, the lawyers approached the bench for
24 an off-the-record discussion)

25 THE COURT: All right. Based upon the applicable

1 statute, the sentence for possession with a firearm just
2 imposed is vacated based upon the defendant's conviction and
3 sentence for the crime of murder.

4 All right, anything else?

5 MR. BARNETTE: Nothing else from the State, Your
6 Honor?

7 MR. CAMPBELL: Nothing from the defense, Your
8 Honor.

9 (END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for CHEROKEE County, South Carolina, on the 16th and 17th days of July, 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

JULY 9, 2014

Michael R. Watts

Michael R. Watts
Circuit Court Reporter

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

M132919

Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

7/19/12

VERDICT

Count 1 - Guilty Murder

Count 2 - Guilty

Foreperson of Petit Jury

Date:

7-17-13

12-GS-11-0608

The State of South Carolina

County of Cherokee

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 19 2012

TERM

THE STATE

v.

PRINCE DEVEN SNIPES

Indictment for

MURDER (Count 1)

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

POSSESSION OF FIREARM
DURING COMMISSION OF A VIOLENT
CRIME (Count 2)

SC Code: 16-23-490

CDR Code: 549

Class FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2012 JUL 19 AM 10 07
BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on JUL 19 2012, the

Grand Jurors of Cherokee County present upon their oath:

COUNT ONE - MURDER

That the Defendant, Prince Deven Snipes, did in Cherokee County on or about December 16, 2010, feloniously, willfully, and with malice aforethought, kill one Breezy, by shooting him with a firearm, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

**COUNT TWO - POSSESSION OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME**

That the Defendant, Prince Deven Snipes, did in Cherokee County on or about December 16, 2010, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended

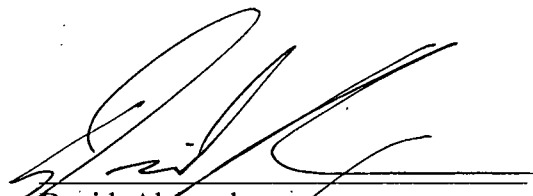
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 14th, 2015,


David Alexander
Appellate Defender**RECEIVED**

JAN 14 2015

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

J. Derham Cole, Circuit Court Judge

RECEIVED

JAN 14 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

PRINCE SNIPES,

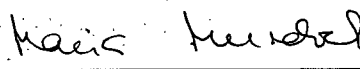
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Prince Snipes, #356225, Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 14th day of January, 2015.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of January, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.