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NO DEF. BRIEF

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
William Jeffrey Young, Circuit Court Judge

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OCT 02 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TOSHONDA MONIQUE MICKENS

APPELLANT

APPELLATE CASE # 2013-002014

RECORD ON APPEAL

CARMEN V. GANJEHSANI
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
Sumter County Courthouse
141 N. Main Street
Sumter, SC 29150-4965
(803) 436-2185

Attorneys for Respondent

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2 County of Williamsburg

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Plaintiffs 2011GS4500016

5

6 vs.

7 Laquincy Williams & September 9th-13th 2013
Toshonda Mickens, Kingstree, S.C.
8 Defendants

9

10 VOLUME I

11

12 Before the Honorable W. Jeffrey Young, Judge.

13

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

15 Ms. Kimberly Barr,
Assistant Solicitor for the State

16

17 Mr. Tyler Brown,
Assistant Solicitor for the State

18 Mr. Cesar McKnight,
Attorney for Defendant Williams

19

20 Mr. Timothy Griffith,
Attorney for Defendant Mickens

21

22 Margaret T. Sullivan,
Court Reporter

23

24

25

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1 MS. BARR: Your Honor, the first matter for
2 trial this week is the State versus Laquincy Manuel
3 Williams and Toshonda Monique Mickens. Judge, this is
4 an indictment for criminal conspiracy, burglary in the
5 first degree, armed robbery, murder and possession of a
6 weapon during the commission of a violent crime.

7 Mr. Williams is represented by attorney
8 Cesar McKnight. Ms. Mickens is represented by
9 attorney Timothy Griffith. The state is ready for
10 trial.

11 THE COURT: Please pass up the indictment.
12 Ladies and gentlemen, as the solicitor stated,
13 this is the trial of the State versus Laquincy
14 Manuel Williams and Toshonda Monique Mickens.
15 Ladies and Gentlemen, I am going to read the
16 charges in the indictment at this time. This is
17 under Indictment 2011-GS-45-16. Count 1, and you
18 are proceeding on all counts; is that correct?

19 MS. BARR: That's correct, Your Honor.

20 THE COURT: Count 1, criminal conspiracy
21 states that defendants Laquincy Manuel Williams
22 and Toshonda Monique Mickens did in Williamsburg
23 County, South Carolina, on or about November 2nd
24 2007, commit the offense of criminal conspiracy;
25 in that, they did unlawfully and willfully unite,

1 combine, conspire, and agree with each other and
2 or others to commit the criminal offense of
3 burglary and or robbery of the victim James Allen
4 McNeal in violation of Section 16-17-410 of the
5 South Carolina Code of Laws.

6 Count 2, burglary in the first degree.
7 The defendants Laquincy Manuel Williams and
8 Toshonda Monique Mickens did in Williamsburg
9 County, South Carolina on or about November 2nd
10 2007, commit the offense of burglary; in that,
11 they did unlawfully entered the dwelling of the
12 victim James Allen McNeal without consent during
13 the nighttime. And with the intent to commit a
14 crime therein and when in effecting entry or while
15 in the dwelling or in the immediate flight, one or
16 more of the defendants was armed with a firearm or
17 other deadly weapon. And further, that one or
18 more of the defendants caused physical injury to
19 the victim who was not a participant in the crime,
20 in violation of Section 16-11-311 of the South
21 Carolina Code of Laws.

22 Count 3, armed robbery; that the
23 defendants Laquincy Manuel Williams and Toshonda
24 Monique Mickens did in Williamsburg County, South
25 Carolina on about November 2nd 2007, commit the

1 offense of armed robbery; in that, they did while
2 armed with a firearm or other deadly weapon take
3 possession of and carry away money, or other items
4 of personal property belonging to the victim,
5 James Allen McNeal, in violation of 16-11-330 (a)
6 of the South Carolina Code of Laws.

7 Count 4, murder. That the defendants,
8 Laquincy Manuel Williams and Toshonda Monique
9 Mickens, did in Williamsburg County, South
10 Carolina on or about November 2nd 2007, commit the
11 offense of murder; in that, they did willfully
12 feloniously and intentionally kill the victim,
13 James Allen McNeal, with malice aforethought by
14 shooting him with a firearm. And that the said
15 victim did die as a approximate result thereof of
16 in violation of Section 16-3-10 of South Carolina
17 Code of Laws.

18 Count 5, possession of a firearm during
19 the commission of a violent crime; that the
20 defendants Laquincy Manuel Williams did in
21 Williamsburg County, South Carolina on or about
22 November 2nd 2007, commit the offense of
23 possession of a firearm during the commission of a
24 violent crime; in that, he did willfully and
25 unlawfully possess or visibly display a firearm

1 during the commission of a violent crime of
2 burglary, armed robbery, and or murder in
3 violation of Section 16-23-490 of the South
4 Carolina code.

5 Now, ladies and gentlemen, let me remind
6 you the fact that the defendants were arrested or
7 charged, arrested and indicted in no way is
8 indicative that they are guilty of the charges
9 contained in the indictment. Ladies and
10 gentlemen, the defendants have pled not guilty and
11 therefore the state has the burden of proving of
12 each and every allegation of the each count beyond
13 a reasonable doubt.

14 The indictment is like I said, is no way
15 indicative that they committed the crime. And it
16 cannot be used as evidence. And it is only the
17 paper that brings this case in to court. So as I
18 said, the defendants are presumed innocent of the
19 crimes that they have been accused of.

20 Now, Ladies and gentlemen, before we
21 selected the jury there are several questions that
22 I need to ask you. And I need to remind you that
23 you are still under oath from just a little while
24 ago. Now, ladies and gentlemen, the reason that
25 I'm asking you these questions under oath, is

1 because this is such a crucial stage of the trial.
2 You know, your just like a building must have a
3 firm foundation to be protective of those who live
4 in it, so must a jury be strong and a basis for a
5 fair and impartial trial for those who
6 participate; the solicitor for the state and the
7 defendants who are on trial. And your answers to
8 these questions are the foundations by which these
9 attorneys will build a jury. And they're relying
10 on your truthful answers to help them strike an
11 unbiased jury who will diligently listen to the
12 facts and deliver a just and fair verdict.

13 Now, Ladies and gentlemen, thank you again
14 for your truthfulness. The question, the first
15 question is, has any member of the jury panel ever
16 been related by blood or marriage or had a close,
17 personal relationship with the defendants,
18 Laquincy Williams and Toshonda Monique Mickens,
19 who are standing at the defense table? Or have
20 any member of the jury panel been related by blood
21 or marriage or had a close personal relationship
22 to the alleged victim, Mr. James Allen McNeal? If
23 so, please stand.

24 (Whereupon, no response.)

25 THE COURT: Now, Ladies and gentlemen, I

1 am getting ready to read you a long list of
2 witnesses. And now I am going to ask you if you
3 might know these witnesses. And I am going to go
4 through the whole list before I ask the questions.
5 If one of them pops in your head, I'll allow you
6 to just give me the detail on it.

7 Investigator Pamela Wren of the
8 Williamsburg County Sheriff's Office. Lieutenant
9 Deborah Collins of the Williamsburg County
10 Sheriff's Office. Lieutenant Sharon Timmons of
11 the Williamsburg County Sheriff's Office.
12 Investigator Willie Brown of the Williamsburg
13 County Sheriff's Office. Deputy James Page of the
14 Williamsburg County Sheriff's Office. Agent
15 Vincent Flamini of the Federal Bureau of
16 Investigation. Agent Suzanne F. Cromer of the
17 State Law Enforcement Division, firearm's
18 department. Agent David W. Black of the State Law
19 Enforcement, firearm's department.

20 Agent Jennifer L. Clayton of the State Law
21 Enforcement Division, DNA Analysis Department.
22 Agent Verona T. Gibson of the State Law
23 Enforcement Division, Evidence Processing
24 Department. Agent Katie Urka formerly with Sled
25 Forensic Services. Agent Mathew G. Fitts, Ph.D.

1 of the State Law Enforcement Division, DNA
2 Analysis Department. Agent Illa Simmons of the
3 State Law Enforcement Division Trace Evidence
4 Department. Agent Glenn McClellan, State Law
5 Enforcement Division, investigation.

6 Delores Brown of the Williamsburg County
7 911 dispatch. Deputy Jody Lynch of the Florence
8 County Sheriff's Office. Dr. Bradley T. Marcus,
9 Medical University of South Carolina. Lieutenant
10 Michael C. Brandt of the Florence Police
11 Department. Angela Becker formerly of the
12 Florence Police Department. Officer Joshua James
13 of the Florence Police Department. Lieutenant Lee
14 Davis of the Florence Department or the City of
15 Florence Police Department. Jeffrey S. Scott,
16 formerly with the Williamsburg County Sheriff's
17 Office. Alex Yarborough, McLeod Regional Medical
18 Center. James Gquan Henry, Juandalyn Kenyetta
19 Miller. Latasha Ann Williams. Latisha Bell,
20 Phillip James, P.J. Williams, Roy White, Patrick
21 Devon Blankeney, James Gaymon, Antonio Devon
22 Williamson, Victor Bernard Johnson, Jr., Ashley
23 Nicole Polous and Michelle Manley.

24 In addition, Harrison McKnight, the
25 coroner. Vernell Fulton, deputy coroner.

1 Jermaine Green, Adrian Green, Deputy Brenda
2 Lambert, Deputy James Page, Latesha Bell, Frank
3 McGowan, Phillip James Williams. Some of these
4 may be redundant, duplicated. Shermaine Wright,
5 James McNeal, Investigator Pamela Lee,
6 Investigator Pamela Wrenn, Agent Vincent Flamini
7 of the FBI, Toshonda Mickens, Juandalyn Miller,
8 James Gquan Henry, Bradley J. Marcus, MD,
9 Lieutenant Jeffrey Scott, April Williams, Latesha
10 Williams.

11 Is any member of the jury panel related
12 by blood or marriage or have a close personal
13 relationship with any of the potential witnesses
14 in this case? If so, please stand. Yes, ma'am.
15 Come down please.

16 THE CLERK: Juror 17.

17 THE COURT: Yes, ma'am. What is your
18 name?

19 THE JUROR: Coitlett Brown.

20 THE COURT: What is your number?

21 THE JUROR: 17.

22 THE COURT: Who is it that know?

23 THE JUROR: A witness Toshonda is my first
24 cousin and a girlfriend of Latisha Bell.

25 THE COURT: That witness is your first

1 cousin?

2 THE JUROR: Yes.

3 THE COURT: So you don't think you can be
4 fair.

5 THE JUROR: I don't want to do it.

6 THE COURT: Any objection to her being
7 excused for cause?

8 MR. MCKNIGHT: None from us.

9 THE COURT: You will be excused for cause.
10 Just on this case. You are not out for the week.
11 Just on this case.

12 THE BAILIFF: Juror 52.

13 THE JUROR: I know Jeffrey Scott. He is
14 my first cousin.

15 THE COURT: Okay, what's your name?

16 THE JUROR: William Dorrell. No. 52.

17 THE COURT: Mr. Scott.

18 THE JUROR: Jeffrey Scott is my first
19 cousin.

20 THE COURT: Would the fact that he's your
21 cousin make it so that you can't be fair and
22 unbiased---

23 THE JUROR: No, sir.

24 THE COURT: ---during his testimony?

25 THE JUROR: No, sir.

1 THE COURT: Thank you, sir. He can be
2 fair.

3 THE BAILIFF: Juror 76.

4 THE COURT: Yes, sir.

5 THE JUROR: I know Latisha Bell.

6 THE COURT: Would the fact that you know
7 Latisha Bell make it so that you can't be fair and
8 impartial of any testimony that she gives?

9 THE JUROR: No.

10 THE COURT: You can't. You don't think
11 you can.

12 THE JUROR: I don't think I could.

13 THE COURT: How well do you know her?

14 THE JUROR: We grew up together.

15 THE COURT: So you would be biased during
16 her testimony. If you will have a seat back out
17 there. You will not be selected for this trial,
18 but you are still on the jury panel for this week.

19 Ladies and gentlemen, the attorneys in
20 this case are Ms. Kimberly Barr for the
21 Solicitor's office. Ms. Barr, would you introduce
22 yourself and your office, please.

23 MS. BARR: Thank Your Honor. Please the
24 Court, good afternoon, Ladies and gentlemen. My
25 name is Kimberly Barr. And I'm assistant

1 solicitor here in Williamsburg County. In
2 addition, I'm in private practice. I work for the
3 law office of Ronnie Sabb. Seated to my right is
4 Linda Woods. She works in our office. Of course,
5 Investigator Wrenn and Solicitor Finney have
6 introduced themselves to you.

7 THE COURT: Mr. McKnight, would you like
8 to yourself and your law firm.

9 MR. MCKNIGHT: Thank you, Your Honor.
10 May it Please the Court. Good afternoon, Ladies
11 and gentlemen. My name is Cesar McKnight. I have
12 a small practice in Lake City called the law
13 offices of Cesar E. McKnight. And I have the
14 pleasure of representing Mr. Laquincy Williams in
15 this matter. Good afternoon.

16 THE COURT: Mr. Griffith.

17 MR. GRIFFITH: I'm attorney Timothy
18 Griffith from Sumter of the law firm of
19 Timothy L. Griffith. And I represent Ms. Mickens,
20 and I'll be representing her in the trial.

21 THE COURT: Thank you. Ladies and
22 gentlemen, has any member of the jury panel ever
23 been represented by either attorneys or any of the
24 attorneys who are involved in this case, or
25 related by blood or marriage to any of the

1 attorneys who are involved in this case? If so,
2 please stand. Yes, ma'am.. State your name and
3 juror number?

4 THE JUROR: My name is Eleanor Grant, and
5 I was represented by Mr. Barr's office.

6 THE COURT: Okay. And the fact and how
7 long ago was that?

8 THE JUROR: About a year or two years ago.

9 THE COURT: Okay. Would the fact that you
10 were represented by Mr. Barr's office, make it so
11 that you can't fair and impartial to the state and
12 the defendant in this case?

13 THE JUROR: Yes, sir.

14 THE COURT: You can be fair and impartial?

15 THE JUROR: Yes.

16 THE COURT: Thank you, ma'am. Yes, sir.
17 State your name and juror number.

18 THE JUROR: My Juror No. is 75. 75, and I
19 was---

20 THE COURT: And what is your name again,
21 I'm sorry.

22 THE JUROR: John Glover.

23 THE COURT: Yes, Mr. Glover.

24 THE JUROR: And I was represented by Ms.
25 Barr in my divorce handling.

1 THE COURT: And the fact that you were
2 represented by Ms. Barr in your divorce case, how
3 long ago was that?

4 THE JUROR: It's been almost a year.

5 THE COURT: Okay. Would the fact that you
6 were represented by Ms. Barr, make it so that you
7 can't be fair and impartial to both the state and
8 the defense in this case?

9 THE JUROR: No, sir, I can be fair.

10 THE COURT: Thank you, sir. Has any
11 member of the jury panel formed or expressed or
12 know anything about the alleged incident that this
13 case is going to focus on? If so, please stand.

14 (Whereupon, No Response.)

15 THE COURT: Thank you. No one is
16 standing. Are any members of the jury panel
17 related by blood or marriage to any member of law
18 enforcement? If so, please stand.

19 THE JUROR: Any law enforcement?

20 THE COURT: Well, yes, ma'am. What's your
21 name and juror number, please?

22 THE JUROR: Juror No. 72. Nicole Gardner.

23 THE COURT: Yes, ma'am.

24 THE JUROR: My husband.

25 THE COURT: Your husband is in law

1 enforcement?

2 THE JUROR: Yes, sir.

3 THE COURT: And the fact that your husband
4 is involved, and who does he work for
5 specifically?

6 THE JUROR: South Carolina Highway Patrol.

7 THE COURT: The fact that he works for the
8 highway patrol would that make it so that you
9 can't fair and impartial to the state or the
10 defense in this case?

11 THE JUROR: I can be fair.

12 THE COURT: Thank you, ma'am. Are there
13 any members of the jury panel members of the
14 Williamsburg County volunteer fire department or
15 rescue squad? If so, please stand.

16 (Whereupon, no response.)

17 THE COURT: Thank you. No one is
18 standing. Are there any members of the jury panel
19 who are related by blood or marriage to any
20 members of the Williamsburg County fire department
21 or rescue squad? If so, please stand. Yes,
22 ma'am, please stand. What is your name and
23 number?

24 THE JUROR: No. 12. Janice Bellflowers.
25 My husband is with the Muddy Creek Fire

1 Department.

2 THE COURT: Thank you, ma'am. You may be
3 seated. Do any of the members of the jury panel
4 attend church, synagogue or mosque with any of the
5 potential witnesses in this case or employees of
6 the Third Judicial Circuit's office? If so please
7 stand.

8 (Whereupon, no response.)

9 THE COURT: Thank you. No one is
10 standing.

11 THE COURT: Are there any members of the
12 jury panel who are a frequent viewers of CSI and
13 or Law and Order television programs? If so,
14 please stand. Yes, sir, what is your name and
15 juror number.

16 THE JUROR: Clayton Redding. Juror 144.

17 THE COURT: Thank you, sir. Have any of
18 the members of the jury panel been victims of a
19 violent crime or related to persons who have been
20 victims of a violent crime or been accused of
21 committing a violent crime? If, so, please stand.

22 (Whereupon, no response.)

23 THE COURT: Thank you. No one is
24 standing. Have any members of the jury panel
25 worked with law enforcement in any capacity? If

1 so, please stand.

2 (Whereupon, no response.)

3 THE COURT: Thank you, no one is standing.

4 MR. MCKNIGHT: Your Honor, you have a
5 juror standing up.

6 THE COURT: Yes, sir.

7 THE JUROR: I work with---

8 THE COURT: You are, Mr. Glover, right?

9 THE JUROR: Yes.

10 THE COURT: And you are Juror No.---

11 THE JUROR: 75.

12 THE COURT: No. 75. Yes, sir.

13 THE JUROR: I work with security in law
14 enforcement in Berkeley County.

15 THE COURT: In what county?

16 THE JUROR: Berkeley.

17 THE COURT: Berkeley County.

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you sir. Is there any
20 member of the jury panel who is aware of any bias
21 or prejudice towards either the state or the
22 defendants in this case? If so please stand.

23 (Whereupon, no response.)

24 THE COURT: Thank you. No one is
25 standing. Is there any member of the jury panel

1 who was a member of the grand jury which issued
2 the indictments in this case? If so, please
3 stand.

4 (Whereupon, no response.)

5 THE COURT: Thank you, no one is standing.
6 Is there any member of the jury panel who is a
7 member of or a contributor to any group which has
8 as its primary concern the promotion of law
9 enforcement or victim's rights? These groups
10 would include, but certainly would not be limited
11 to, Mother's Against Drunk Drivers, Students
12 Against Drunk Drivers or Citizen's Against Violent
13 Crimes? If so, please stand.

14 (Whereupon, no response.)

15 THE COURT: Thank you. No one is
16 standing. Does any member of the jury panel know
17 of any reason whatsoever why he or she should not
18 serve as a juror in this case with particular
19 emphasis being placed on your ability to be fair
20 and impartial to both the state and the defendants
21 in this case? If so, please stand.

22 (Whereupon, no response.)

23 THE COURT: Thank you. Does the state
24 have any additional questions it would like for me
25 to ask?

1 MS. BARR: We do not, Your Honor.

2 THE COURT: Does the defense have any
3 additional questions? Other than what we've
4 already talked about.

5 MR. MCKNIGHT: Other than those; no, sir.

6 MR. GRIFFITH: No, Your Honor.

7 THE COURT: Thank you. Ladies and
8 gentlemen what will happen now is that your name
9 will be called -- if your name is called, please
10 come forward to the podium here. The state will
11 have an opportunity to strike you, and then the
12 defendants will have the opportunity to strike.
13 Please don't take it personal if they strike you
14 for being a juror in this case.

15 The attorneys in this case have an idea of
16 what they would be a good jury for their parties
17 that they represent. So again, like I said,
18 please don't take it personal. They can strike
19 you for any reason or no reason with the
20 exception. They cannot strike you for race or
21 gender. Are we ready to proceed?

22 MR. GRIFFITH: Yes, Your Honor.

23 THE COURT: We will have two alternates.

24 MR. MCKNIGHT: Your Honor, would I be
25 correct the strike count would be 10 and 20?

1 THE COURT: Yes, sir.

2 MR. MCKNIGHT: Yes, sir. We are ready to
3 proceed.

4 THE CLERK: 144 Clayton Redding (m-b).
5 Accepted.

6 THE COURT: Bring your personal items with
7 you in case you are selected.

8 THE CLERK: Juror No. 124 Desaphine
9 Nesmith f-b) defense struck. Juror No. 13 Jo Ann
10 Black (f-b) accepted. Juror No. 1 Kenneth Nesmith
11 (m-b) accepted. Juror No. 167 Corretta Singletary
12 (f-b) accepted. Juror No. 52 William Dorrell
13 (m-w) accepted. 175 Angela Strickland (f-w)
14 defense struck. Juror No. 126 Rand Nesmith. Your
15 accepted. Juror No. 72 Nicole Gardner (f-b)
16 defense struck. Juror No. 55 MaHerlia Dukes (f-b)
17 accepted. Juror No. 49 Carl Davis accepted.
18 Juror 78 Eleanor Grant (f-b) defense struck. Your
19 No, 101 Trawahanna McCray (f-b) state struck.
20 Juror No. 146 Janice Redding (f-b) accepted.
21 Juror No. 5 Linda Ard (f-w) accepted. Juror No. 9
22 George Barr (m-b) defense struck. Juror No. 28
23 Queen Conyers. (f-b) state struck. Juror No. 12
24 Janice Bellflowers. (f-w) defense struck. Juror
25 no. 125 Donald Nesmith (m-b) state struck. Juror

1 No. 81 Judy Higbe (f-w) accepted. Juror No. 82
2 Mary Houston (f-b) defense struck. Juror No. 69
3 Kertiner Gamble (f-b) accepted. Juror No. 166
4 Ashley Shaw (f-b) defense struck. Juror No. 155
5 Gail Robinson (f-b). Defense struck. Juror No.
6 95 Thomas Lee jr. (m-w) defense struck. Juror
7 No. 120 William Mosely (m-w) defense struck.
8 Juror No. 134 Sheneka Pendegrass (f-b) defense
9 struck. Juror no. 138 Latoya Pressley (f-b)
10 defense struck. Juror No. 111 Rodney McKnight
11 (m-b) accepted. Juror No. 77 John Glover (m-b)
12 defense struck. Juror No. 80 Claire Harrell (f-w)
13 accepted. Juror No. 85 Luella Hunter (f-b)
14 accepted.

15 THE COURT: Are there any objections to
16 the jury that has been selected or the manner in
17 which they have been selected from the state?

18 MS. BARR: No, Your Honor.

19 THE COURT: From the defendant Laquincy
20 Williams, Mr. McKnight?

21 MR. MCKNIGHT: None, Your Honor.

22 THE COURT: For Ms. Toshonda Mickens,
23 Mr. Griffith?

24 MR. GRIFFITH: None, Your Honor.

25 THE COURT: Thank you. Well, Ladies and

1 gentlemen you all are the jury. I am going to let
2 you go to the jury room for just a few minutes,
3 and then I will bring you right back here for just
4 a few minutes. Thank you.

5 While you are back there, if you all can
6 discuss amongst yourselves who you want to be the
7 foreman of your -- or foreperson of your jury.
8 But it can't be the alternates. It has to be 12
9 of the primary jury. And they will be spokesman
10 in court who will lead the discussions in the
11 jury room at the appropriate time. Thank you.

12 (Whereupon, the following takes place
13 outside the presence of the jury.)

14 THE COURT: Is there anything we need
15 bring up before we bring the jury back in or
16 before I dismiss them for the day?

17 MR. MCKNIGHT: Yes, sir, Your Honor.
18 There are some matters -- some objections that I
19 wanted to put on the record with regard to your
20 selection, or your choice to not put up some of my
21 voir dire questions.

22 THE COURT: The two questions that I did
23 not put on.

24 MR. MCKNIGHT: Yes, sir. Your Honor.

25 THE COURT: All right, sir.

1 MR. MCKNIGHT: Your Honor, the defense in
2 chambers, court's indulgence just a second. Your
3 Honor, the defense in chambers presented to His
4 Honor a list of proposed voir dire questions. And
5 His Honor decided to not ask the jury question
6 No. 8, which was are there any members of the jury
7 panel who either live or have lived in single wide
8 mobile homes. And No. 10, are there any members
9 of the jury panel current or former employees of
10 MUSC, or are related by blood or marriage to any
11 person's currently or formerly employed by MUSC.
12 And His Honor elected not to ask the jury panel
13 those questions. And at this time we wanted to
14 list our formal objection to.

15 THE COURT: Ms. Barr.

16 MS. BARR: Your Honor, with regard to the
17 defense's request to charge or not request to
18 charge, per se. Request a jury instruction asking
19 the panel whether or not any of them have ever
20 resided in a mobile home. The state objected to
21 that proposed voir dire based on the fact that we
22 did not believe that it was relevant.

23 Your Honor, I think that to the extent
24 that counsel would seek to elicit testimony that
25 it was a small home, I think clearly he is allowed

1 to do that with the witnesses who testify. But I
2 think that the request is simply not relevant when
3 you look at, you know, if you have a juror
4 standing up and say, yes, I reside in the mobile
5 home. Then you go down the inevitable path of
6 well, have you ever been inside a single wide
7 mobile home. Have you ever spent the night inside
8 a single wide mobile. Have you ever visited one.
9 May have owned a single wide mobile home.

10 As I also understand, counsel would
11 actually have that request be so broad as to say,
12 not just have you lived in a mobile home, but have
13 you ever lived in a single wide mobile home. So
14 we object to that based on a relevance ground.

15 THE COURT: And where is it?

16 MR. MCKNIGHT: Your Honor, we do believe
17 it relevant. And the reason for its relevance is
18 because there, in the alleged murder scene, the
19 alleged crime scene in this matter took place in a
20 single wide mobile home, made in a community of
21 single wide mobile homes. And we believe, and
22 it's the defenses position; in particular,
23 Mr. Williams' position, that jurors, that we would
24 like to know which jurors who have been exposed to
25 that type of living, because we believe they would

1 have a better understanding of the acoustics of
2 such a living condition, and they would
3 understand, and they would be able to decipher or
4 decide upon the facts.

5 THE COURT: And I ruled that it was
6 overly broad---

7 MR. MCKNIGHT: Yes, sir.

8 THE COURT: ---at that time, and that it
9 was not relevant.

10 MR. MCKNIGHT: Yes, sir.

11 THE COURT: And your other one was.

12 MR. MCKNIGHT: The other one was No. 10.

13 We believe that one to be relevant because there's
14 going to be some very -- there's some testimony of
15 a highly technical and a highly professional
16 nature coming from the forensic pathologist who
17 was employed by MUSC. And we wanted to know if
18 anyone was employed or related to anyone that was
19 employed by MUSC. Because it's our position that
20 those persons would tend to lend more credibility
21 to that person's testimony.

22 THE COURT: Ms. Barr.

23 MS. BARR: And, Judge, the basis of my
24 objection was that the only witness who we would
25 call to testify who was employed with at MUSC is

1 the pathologist. And he's going to simply testify
2 as to the nature and manner of death. Clearly the
3 victim in this case died of multiple gunshot
4 wounds. Whether or not that witness is an
5 employee of MUSC and maybe some -- or the jurors
6 might have been employed; is clearly not relevant.
7 Particularly when you look at the fact that
8 counsel never asked whether or not any of the
9 potential jurors were ever employed anyplace where
10 any other witnesses worked.

11 Latisha Bell was in the home when the
12 murder happened. And I believe she was working at
13 Young's at the time. And there was no request
14 that the court inquire of the jury panel as to
15 whether or anybody worked there. So we think that
16 that request was irrelevant. I think the that
17 court's questions to the panel regarding whether
18 or not they can be fair and impartial, which is
19 really all that the state and defense wants is an
20 impartial juror.

21 I think that those questions posed by the
22 court is sufficient.

23 THE COURT: And I held that the question
24 was overly broad. I had one witness, nobody on
25 the jury panel knew that witness, so I don't think

1 that was relevant.

2 MR. MCKNIGHT: Yes, sir.

3 THE COURT: Is there anything further
4 before the panel back out?

5 MR. MCKNIGHT: Yes, sir.

6 THE COURT: And dismiss them for the day?

7 MR. MCKNIGHT: Yes, sir. Your Honor, the
8 defense for Mr. Laquincy Williams respectfully
9 makes a motion to sequester any and all witnesses.

10 THE COURT: Any objection from the state?

11 MS. BARR: No, Your Honor.

12 THE COURT: Granted.

13 MR. MCKNIGHT: Thank you. Your Honor,
14 also at this time, the defense for Mr. Laquincy
15 Williams makes a motion for the state to reveal
16 any plea deals that they have made with any
17 potential witnesses in this case. Specifically,
18 Mr. Henry.

19 THE COURT: Ms. Barr?

20 MS. BARR: Judge, we have not make any
21 plea deals with Mr. Henry.

22 THE COURT: Thank you.

23 MR. MCKNIGHT: That concludes our motions
24 for now. Yes, sir.

25 THE COURT: Okay.

1 MR. MCKNIGHT: Thank you.

2 MS. BARR: Judge.

3 THE COURT: Yes, ma'am.

4 MS. BARR: Well I can deal with this
5 after the court excuses the jury.

6 THE COURT: Okay. Let's bring our jury
7 and make sure they have selected a foreperson.
8 The husband and wife end up being on the same
9 jury, the Reddicks. We have Mr. Reddick and Ms.
10 Reddick as primary jurors. What I am going to do
11 is, because I think it makes it difficult in
12 deliberations if they should have opposite views
13 on something. So in order to eliminate that
14 possibility, I am going to make Mr. Reddick an
15 alternate. And I am going to take the first
16 alternate, which is Ms. Claire Harrell, and make
17 her a primary juror.

18 Does anybody have any objection to my
19 doing that?

20 MS. BARR: No, Your Honor.

21 THE COURT: From the state?

22 MS. BARR: No, Your Honor.

23 THE COURT: Mr. McKnight?

24 MR. MCKNIGHT: None from the defense, Your
25 Honor.

1 THE COURT: Mr. Griffith?

2 MR. GRIFFITH: None, Your Honor.

3 THE COURT: It's an odd situation and it
4 doesn't happen often. And I guess it probably
5 only happens in small towns, in all likelihood.
6 And their daughter was also on the jury pool.
7 They had three Reddicks. And their daughter also
8 on the jury pool. Tell them -- instruct them on
9 how Mr. Reddick is an alternate, and Ms. Harrell
10 is now on the primary jury.

11 You may bring the jury out.

12 (Whereupon, the following takes place
13 within the presence of the jury.)

14 THE COURT: Ms. Higby is our juror
15 foreperson. No. 81. And for Reddick's, I solved
16 that problem by making one of the Reddick's an
17 alternate and the other one being a primary juror.
18 And that will keep you all from having any
19 squabble when it's all over with if you will
20 disagree on the verdict. And again, I've never
21 had that happen before. But, Ladies and
22 gentlemen, we will start this trial tomorrow
23 morning. When you get here, you will sworn in as
24 jurors at that point and time. But it's important
25 that you not discuss the case at all with anyone

1 tonight before we come back in here. And the
2 easiest way I found to do that is just don't
3 say -- don't tell anybody you have got jury duty
4 if you don't have to. Because what happens is
5 they say well, you know, I was on a jury one time
6 and this is what we. And you don't need to have
7 that. You just need to basically make your
8 decision based upon the evidence that you will get
9 in here, and there will be plenty of that for you.

10 So, Ladies and gentlemen, I am going to
11 dismiss you for the evening. Have a good night's
12 rest. And we will see you back at 10 o'clock
13 tomorrow morning. All right, and you will turn in
14 your badges as you leave. Thank you ladies and
15 gentlemen, have a nice evening.

16 (Whereupon, the jury is dismissed.)

17 THE COURT: Anything further from the
18 state or the defense in this case?

19 MR. MCKNIGHT: Not from the defense.

20 MS. BARR: Judge, we do have two matters.
21 One it relates to, and I don't know, judge, if you
22 want to take this up now or when and if the state
23 is -- the statement is offered. But it refers to
24 a statement of the deceased's father, James McNeal.
25 The statement was given to law enforcement on

1 January 14th of 2008. And, Judge, my
2 understanding is that Mr. Williams' counsel would
3 seek to introduce that statement. And in support
4 of his attempting to introduce that statement, he
5 will assert that of course, that witness, the
6 declarant is now deceased.

7 And, Judge quite frankly, if you want to
8 deal with it if and when it is offered we can do
9 that, or we can deal with it.

10 THE COURT: Give the rough of what's your
11 objection to it, and then that gives me overnight
12 to do some research on it.

13 MS. BARR: As I understand it, the
14 declarant told law enforcement about maybe
15 2 months after the murder, that the young lady who
16 was in the home with the victim at the time the
17 killing happened, when she came across the street
18 where the declarant lived, he lived across the
19 street from the victim. She seems unemotional.
20 She seems as if nothing was bothering her. And
21 the brother told the police that when he went
22 inside the victim's home and saw the son, that it
23 appeared that the blood was -- had started to gel.
24 And the implication is that the young lady who was
25 in the home, waited some period of time to call

1 the police, and she may have been involved in his
2 death.

3 Judge, my objection would be, as I
4 understand Rule 804, which talks about a witness
5 being unavailable based on death. The only
6 exception that allows that in, is if the proponent
7 of the statement can show that the prior statement
8 made by an unavailable witness was either former
9 testimony, was made at the time that the declarant
10 was under the belief of impending death, as if a
11 dying declaration. Or that it was statement
12 against his penal interest. Or that it's a
13 statement of personal and or family history.

14 So my objection would be that the
15 statements of Mr. McNeal do not fall into one of
16 those four categories. And therefore, the
17 statement would not be an exception to the hearsay
18 rule.

19 THE COURT: Mr. McKnight.

20 MR. MCKNIGHT: Your Honor, I do -- I
21 take -- well in response to her objections, we
22 believe that the court should allow the statement
23 in pursuant to Rule 804(4) because the defendant
24 is dead and not available to testify.

25 THE COURT: Yeah, but I mean just because

1 they are dead and can't testify doesn't mean it is
2 admissible.

3 MR. MCKNIGHT: Well beyond that, that
4 information is relevant because he testifies as to
5 what his present sense impression was at the time
6 that he walks into the scene. And what he
7 observes with the condition of the body, with it's
8 placement, with the condition in the home. And we
9 believe that---

10 THE COURT: This was 2 months later;
11 correct?

12 MR. MCKNIGHT: But what's when the police
13 took his statement, Your Honor.

14 THE COURT: Yeah, but it's still two
15 months later.

16 MR. MCKNIGHT: I understand that. But,
17 Your Honor, the only reason we---

18 THE COURT: And the reason for that you
19 don't have an opportunity to reflect on it. He's
20 had over 60 days to reflect on what was there and
21 everything like that, so.

22 MR. MCKNIGHT: I do. And that is correct,
23 Your Honor. But that instance, if the court
24 denies that, that's very prejudicial to my client
25 in that number one, he didn't have any ability

1 to -- you can't call the case for trial before the
2 state makes a call to bring it to trial.

3 THE COURT: Right.

4 MR. MCKNIGHT: So and the court has had
5 from 2007, up until now 2013, to bring this matter
6 to trial. So we have had witnesses go off,
7 disappear, die and the like. And this -- and for
8 the court to deny any of that statement in,
9 severely prejudices my client. And I don't
10 believe her interpretation of Rule 804, with it
11 just being allowing the statements of an
12 unavailable witness in, just because they're a
13 dying declarant is applicable in the situation.

14 THE COURT: You mean a dead declarant.
15 It's not a dying declaration.

16 MR. MCKNIGHT: Correct. And, Your Honor,
17 he makes this statement -- he makes this statement
18 in the presence of law enforcement. It's an
19 interview that they conduct.

20 THE COURT: But it was -- you're using the
21 expanse of time, but it was within 60 days of the
22 event; is that correct?

23 MR. MCKNIGHT: Your Honor, that is
24 correct; however, there are statements that he
25 made to them contemporaneously with this

1 investigation that are documented in the incident
2 reports of law enforcement. Because they go to
3 his house, and they talk to him. And he tells
4 them what he saw and what he observed on that
5 morning. So those statements are done
6 contemporaneous with the occurrence. And we
7 believe they are admissible.

8 THE COURT: I'll take it under advisement.

9 MS. BARR: Yes, sir. Judge, we would also
10 ask as a last matter that, in light of the fact
11 that the case has been called for trial, we take
12 the position that the defendant's bond has now
13 been revoked. And we would ask that they be taken
14 into custody.

15 THE COURT: Mr. McKnight, and,
16 Mr. Griffith.

17 MR. MCKNIGHT: Your Honor, respectfully,
18 while technically so, we believe that my client
19 has been out on bond, or for this matter, he got
20 arrested -- he got arrested in 2010. He has been
21 out custody since that time. Your Honor, we're in
22 trial now, and I need him to prepare for trial.
23 And there's going to be evidence that I may
24 introduce using a computer and the like, that I
25 won't be able to talk to him about, expose him to,

1 inside the Williamsburg County Detention Center.

2 It's -- you have got to go when they will
3 let you in. Which I'm sure they will let you in
4 whenever I want to go. But it's not a place where
5 I believe that I can effectively counsel my
6 client. So to force us to just have to brief our
7 client---

8 THE COURT: Well I mean, you knew that was
9 a possibility.

10 MR. MCKNIGHT: I understand it's a
11 possibility. But, beyond that, Your Honor, here's
12 the other thing. There's no secure means of
13 talking in there. The walls have ears. The jail
14 has snitches and it also guards. So if I am going
15 to talk about a particular trial strategy, thus
16 exposing any potential maneuvers I make to the
17 solicitor's office before I make them, it's puts
18 me under -- it puts us at a severe prejudicial
19 disadvantage. And we'd ask that you let them stay
20 out.

21 THE COURT: Are you joining in?

22 MR. GRIFFITH: I join in. As well, Your
23 Honor, of course, my client if she were detained
24 here, it would be difficult for me to get over
25 here and speak to her in a timely manner, and to

1 be able to communicate with her as well. And as
2 well, she has children at home that has been
3 taking care of them, and there is not really any
4 reason to incarcerate her at this time. She's not
5 shown any propensity to run off or anything like
6 that. She gets certain the relevant contact with
7 the community that would keep her here. But, Your
8 Honor, it would make it very difficult for me if
9 she were at the detention center to communicate
10 with her, because of course of the distance, and
11 the difference in the location, Your Honor.

12 THE COURT: All right, due to the nature
13 of the crimes that have been charged, I mean,
14 we're looking -- they are looking at consecutive
15 life terms. Plus more than 30 years. I'm not
16 going to take a chance if they should get cold
17 feet; although they haven't been. They have been
18 out on bond, I am going to have them incarcerated
19 from this time forward in the trial.

20 You, the jail will make every effort to
21 make it available to. You all have known all
22 along this is a possibility, so you should not be
23 prejudiced.

24 MR. MCKNIGHT: Your Honor, if you should,
25 please instruct the sheriff's department.

1 THE COURT: I will. The-sheriff's
2 department is to make these defendants available
3 to their attorneys as long as they need to talk
4 with their client. And no one is to listen in on
5 their conversations. And no one is to -- now if
6 they want to go with other talk with inmates,
7 that's up to them.

8 MR. MCKNIGHT: When I say available, Your
9 Honor, available should not mean me talking to him
10 through a glass. I need to be able to see him.

11 THE COURT: You will need to be in a
12 conference room where you can sit with him like
13 you would in your office. Do you all understand
14 that?

15 THE OFFICER: Yes, sir.

16 MR. GRIFFITH: And I would ask the same.

17 THE COURT: The same for both of you.

18 MR. GRIFFITH: Your Honor, I would ask
19 that my client be able to speak with her mother
20 for a second.

21 THE COURT: She may speak to her mother in
22 front of the bench at this time. There is to be
23 no physical contact though.

24 (Whereupon, at 9:30 a.m. September 10th,
25 2013, the trial commences.)

1 (Whereupon, the following takes place
2 outside the presence of the jury.)

3 (Photographs 1 through 46 marked State's
4 Exhibits for ID only.

5 (Plea agreement marked Defendant's Exhibit
6 No. 1, Williams for ID only.)

7 MR. MCKNIGHT: May it Please the Court,
8 it's at this time that the defendant
9 Mr. Laquincy Williams makes a motion before the
10 court for jurors to be allowed to use note pads
11 during the trial of the case when the client --
12 not clients, pardon me, when a witness is
13 testifying.

14 So due to the detailed nature of this
15 trial, due to the amount of witnesses we have
16 potentially 30 to 40, Your Honor, for both sides.
17 The defendant, Laquincy Williams, respectfully
18 moves before this court for that motion for me to
19 allow the jurors to take notes. It's our
20 proposition that they be provided notebooks, note
21 pads, what have you, and ink pens. And at the end
22 of the day, those items are collected and then
23 provided back to them each subsequent day until
24 deliberation times. And then they are allowed to
25 use them during the deliberations.

1 And that's our motion.

2 THE COURT: Okay. Thank you. Do you join
3 in that motion?

4 MR. GRIFFITH: We join in that motion,
5 Your Honor.

6 THE COURT: Ms. Barr.

7 MS. BARR: Judge, the state would object
8 to the jurors being allowed to take notes. I
9 think one of the problems that it creates if you
10 have one person or two people who decide that they
11 want to take notes, and other 10 choose not to
12 take notes, and there is genuine dispute during
13 their deliberation as to what is fact, I think
14 there may be a tendency on the ones who do not
15 take notes to assume that the ones who did, must
16 have gotten it right.

17 And so I think that that creates a problem
18 in terms of their deliberation. And certainly,
19 Your Honor, if there was some dispute as to
20 testimony or evidence, they would have the
21 opportunity to ask the court to replay testimony.
22 And they will have the evidence back there with
23 them. So we would object.

24 THE COURT: Not that that's the way I am
25 the one who says that's the way it's always been

1 done, we're just going to do it that way. I've
2 never done that in all my years. And I'd had some
3 very complicated cases. I think it is up to
4 attorneys in their summations to give the jurors,
5 like I say, a summation that puts it all together.
6 My concern is that one person is very good at
7 taking notes, and the other one is not. If the
8 one who takes the notes writes something down
9 erroneously, there is no check on that. And for
10 some reason once something is written down, it
11 tends to have a greater degree of acceptance than
12 it would be just from their memory. Again, we
13 have available to play back if necessary, so I am
14 going to respectfully deny your motion,
15 Mr. McKnight.

16 MR. MCKNIGHT: Your Honor, our other
17 motion made in chambers was for the court to take
18 judicial notice of the weather conditions in
19 Hemingway, South Carolina on November 2nd 2007.
20 We believe that it would be appropriate in this
21 matter. When rely on the data provided by the
22 national order -- the national oceanographic and
23 atmospheric---

24 THE COURT: NOA.

25 MR. MCKNIGHT: NOA administration.

1 Commonly known as NOA. And we would that ask that
2 the court allows this cite.

3 THE COURT: Any objection from the state?

4 MS. BARR: Judge, does Mr. McKnight
5 propose to the court at this time, what
6 specifically he's asking the court to take
7 judicial notice of in terms of the temperature and
8 weather conditions?

9 THE COURT: That would be, what I would
10 assume would be the temperature. The atmospheric
11 conditions as to whether there was a thunder storm
12 or whether it was just really if you go back and
13 you look at the historical data, will tell you
14 whether it partly cloudy that day. It will tell
15 you the humidity. It will tell you what time the
16 sun set. It will what time the sun rose. And it
17 will even tell you moon phases if you will. So
18 that's---

19 MR. MCKNIGHT: That is essentially the
20 information that is commonly found in the Almanac.
21 Moon phases, humidity, dew point, temperature, the
22 like; yes, sir.

23 THE COURT: And they are subject to
24 judicial notice because they are events that
25 actually happened. And are routinely documented.

1 MR. MCKNIGHT: Yes, sir, Judge.

2 THE COURT: I will do that about.

3 MR. MCKNIGHT: Your Honor, our last motion
4 is a motion to allow the defendant -- allow me for
5 the defendant Laquincy Williams to videotape
6 testimony of the witnesses in this matter for
7 purposes of closing. We propose in the closing
8 to do a power point presentation illustrating what
9 we believe to be the points that were made or most
10 important failed to be made by the prosecution in
11 this matter. We believe the defendant has a right
12 to try, have his case tried the way he wants it
13 tried within the grounds of the law and the
14 attendant rules. And we respectfully make that
15 motion.

16 THE COURT: Ms. Barr.

17 MS. BARR: Your Honor,---

18 THE COURT: And Mr. Griffith joins in.

19 MS. BARR: Judge, I believe that all
20 requests for videotape for proceedings first, has
21 to be done in advance and in writing. Secondly,
22 there is some concerns as counsel raised in
23 chambers on yesterday that there was indication
24 that some of this, some of these witnesses
25 involved here may have gang affiliations. And,

1 Judge, we would have concerns that the witnesses
2 may be, how should I say, weary, in terms of their
3 testimony if they are being videotaped. And so we
4 would strenuously object to any recordings of any
5 witnesses in this case.

6 THE COURT: I am going to deny your
7 request. First of all, it is distracting to the
8 witness who thinks he is talking in here. But,
9 you know, in here and then he has that. My other
10 concern is that when do your closing arguments
11 that when somebody sees a videotape, it may be
12 taken out of context. I would have to preview it.
13 And I understand that you had said that wouldn't
14 be a problem. But I don't think I have to censor
15 your closing argument. I will let you make your
16 closing argument as you choose. And if some
17 witness made a statement, you are certainly
18 allowed to bring that up. But I don't want to be
19 in a position where I am censoring your
20 videotaping, because you put in or didn't put in
21 the whole story.

22 I'll let you do your closing argument as
23 you want to. But I am not going to go into that
24 at this point. You have a very colorful demeanor
25 about you, as far as your ability to talk to a

1 jury. I have seen you before. I am confident
2 that you can tell your story as you wish to
3 without the use of videotape. Thank you.
4 Anything further before we bring our jury in?

5 MR. MCKNIGHT: Yes, sir, Your Honor.

6 THE COURT: Yes, sir.

7 MR. MCKNIGHT: That motion was made with
8 regard the in limine with regard to gang
9 affiliation. We believe that that -- any
10 references its prejudicial nature robs it of its
11 probative value. There has been only a reference
12 of membership. But there has been no testimony --
13 pardon me. No evidence that indicates that there
14 was -- this was a gang affiliated activity. One
15 that was facilitated under the auspices of a gang.

16 And given the fact that we have the charge
17 of criminal conspiracy, that further makes it even
18 more prejudicial with regard to that. We'd ask
19 that any reference to any gang affiliation be
20 solely stricken from or of Ms. Barr.

21 MR. GRIFFITH: I join in that motion too,
22 Your Honor.

23 THE COURT: Ms. Barr?

24 MS. BARR: I concur with that, Judge.

25 THE COURT: Okay. So you're not -- so you

1 concur?

2 MS. BARR: Yes, sir.

3 THE COURT: Okay. So no reference will be
4 made about gangs unless you all open the door.

5 MR. MCKNIGHT: Your Honor, if I may remind
6 the court, you heard a motion from Ms. Barr at the
7 end of the matter yesterday. And you were going
8 to take it under advisement and issue a ruling
9 this morning; that with regard to unavailable --
10 the admissibility of statements of an unavailable
11 witness.

12 Would His Honor please advise us of any
13 decision?

14 THE COURT: At this point and time, I
15 haven't made my final say, but I'm leaning towards
16 it's hearsay. Just because somebody said
17 something and then dies, what they say does not
18 overcome the hearsay rule. It certainly was, the
19 statement was taken two months after the event.
20 It certainly wasn't a presence sense statement.
21 And it was not a dying declaration. So just the
22 fact that by your -- under your standard, anything
23 somebody says and then they die, would
24 automatically overcome the hearsay statement.

25 MR. MCKNIGHT: I think His Honor---

1 THE COURT: Hearsay rule.

2 MR. MCKNIGHT: I think His Honor is in
3 error when he says that the statement was given
4 two months. Probably there was one statement that
5 was given two months later; however, there was an
6 initial statement given at the scene of the murder
7 by that person who is deceased. Or pardon me, not
8 the murder victim of course.

9 THE COURT: Right.

10 MR. MCKNIGHT: But by the person in which
11 we are talking about. So, Your Honor, I believe
12 that that statement is his present sense
13 impression. And as such, is not hearsay.

14 THE COURT: And you were asking yesterday
15 about the statement that was given 60 days later.

16 MR. MCKNIGHT: Okay. Well if you're --
17 well please understand, that there are multiple
18 statements given by this particular person.
19 Because law enforcement made multiple contacts
20 with him. And so I just don't want the court to
21 issue a blanket bar on any of his statements,
22 because if you are going to bar the one---

23 THE COURT: I am going to bar -- I am
24 barring the one he made to law enforcement 60 days
25 later. If you can show that there was a statement

1 made at the time the incident occurred, that's a
2 different matter. I will review that based upon
3 presence sense impression.

4 MR. MCKNIGHT: Yes, sir.

5 THE COURT: But as far as the statement
6 that was made days 60 days later, that's clearly
7 hearsay.

8 MR. MANNING: Yes, sir. Your Honor, one
9 last thing. My client has been shackled. So
10 when you come in, if he laboring to get up,
11 please don't take that.

12 THE COURT: I'm not taking that. I don't
13 even -- I didn't notice.

14 MR. MCKNIGHT: I just wanted to point it
15 out.

16 THE COURT: No, I take that as no
17 disrespect whatsoever.

18 MR. MCKNIGHT: Yes, sir.

19 MR. GRIFFITH: Your Honor, if I may
20 interject on that last ruling. I would wonder, of
21 course, because the policemen were keeping those
22 or making those statements by writing them down,
23 wouldn't they be admissible under the---

24 THE COURT: I don't think the report comes
25 in, but I certainly think you may be able to cross

1 examine them on that.

2 MR. GRIFFITH: Cross examine them on those
3 statements from the officer.

4 THE COURT: I will let you do that. It
5 depends on how it's presented. I am going to
6 withhold my final judgment until how they are
7 presented.

8 MR. GRIFFITH: Okay, thank you, Your
9 Honor.

10 THE COURT: And when it happened.

11 MR. GRIFFITH: Thank you, Your Honor.

12 THE COURT: Anything further?

13 MR. MCKNIGHT: Nothing from the defendant,
14 Laquincy Williams, Your Honor.

15 THE COURT: Mr. Griffith?

16 MR. GRIFFITH: No, your Honor.

17 THE COURT: Now, let's bring our jury in.

18 (Whereupon, the following takes place
19 within the presence of the jury.)

20 THE COURT: Thank you. Please be seated.
21 Good morning, Ladies and gentlemen, I hope you had
22 a pleasant rest. This time of year I really like
23 because it's starting to get a little cooler.
24 Even though it is hot outside, we have pretty good
25 summers. And down here in Williamsburg County,

1 you all are used to some hot summers. So you've
2 had a busy summer.

3 Now, Ladies and ladies, before we begin
4 this trial, would you please swear the jury?

5 (Whereupon, the jury is sworn.)

6 THE COURT: Before I realized I had not
7 sworn you, before we begin this trial, I want to
8 tell you that this trial will probably be
9 different from you might expect. You know most
10 people never have the opportunity to actually sit
11 on a jury in court session as you are today, and
12 may think from watching TV, movies, or reading in
13 books that trials are always full of high drama,
14 intense action and riveting circumstances. Now
15 while all these things may be true at times, this
16 trial is not for entertainment. This is a real
17 trial, which a fundamental part of our democracy.
18 It is a search for the truth in an effort to make
19 sure that justice is done.

20 And searching for the truth and making
21 sure that justice is done, is often slow,
22 deliberate, repetitive; the exact opposite of what
23 you may have seen on TV, in movies or read in
24 books. Now, Ladies and gentlemen, the beautiful
25 courtroom that you have down here is a place of

1 honor. It is dedicated to the protection and the
2 preservation of our citizen rights and what has
3 been called and what I truly believe is the
4 greatest justice system ever created by men.

5 The attorneys who are appearing before
6 you, are advocates for the parties they
7 represent. But first and foremost, they are
8 officers of this court who sworn to uphold the
9 integrity and the fairness of our judicial system,
10 and to help you in your search for the truth.
11 Ladies and Gentlemen, you should expect them to be
12 professional, competent and ethical in the
13 representation of their client's interest. And
14 remember, Ladies and gentlemen, you also just took
15 an oath to listen to the evidence in this case.
16 And to reach a fair and just verdict. And you're
17 expected to be professional, reasonable and
18 ethical as well.

19 Now, Ladies and gentlemen, what I am going
20 to tell you now is just intending to be an
21 introduction of the trial of this case. These
22 remarks are not a charge on the law. I'll charge
23 you the law as applicable to this particular case
24 at the end of the trial. This is merely an
25 explanation of the procedures that we will follow

1 so you may better understand what will be
2 happening. Let me say up front, Ladies and
3 gentlemen, that you will not be allowed to take
4 notes during this trial. Therefore, it is very
5 important that you listen carefully closely
6 throughout this trial.

7 And, Ladies and gentlemen, the defendants
8 in this case are charged by the indictments filed
9 in court of the charges of murder, burglary in the
10 first degree, armed robbery, possession of a
11 firearm during the commission of a violent crime,
12 and criminal conspiracy.

13 Now, Ladies and gentlemen, the specific
14 elements of each of these charges will be
15 explained to you later in greater detail. But let
16 me remind you as I told you yesterday, the
17 indictments the charging the defendants, are
18 simply the documents by which the case or the
19 cases are brought in to court, and is in no way in
20 any sense evidence of any of the allegations are
21 contained therein.

22 The defendants have pled not guilty. And
23 therefore, the state has the burden of all of the
24 elements of each one of the charges in the
25 indictment beyond a reasonable doubt. And,

1 Ladies and gentlemen, it will be your duty to
2 decide whether the state has met that burden. Now
3 ladies and gentlemen, your purpose as jurors is to
4 determine the facts in this case. You are to
5 determine the facts from the testimony that you
6 hear from this witness stand, and any other
7 evidence that is introduced here in court.

8 It is up to you as jurors to determine the
9 inferences which you feel may be properly drawn
10 from the evidence. And, Ladies and gentlemen,
11 it's especially important that you perform your
12 duty diligently and conscientiously, because
13 ordinarily there is no way to correct an erroneous
14 determination of facts by a jury.

15 On the other hand, but with equal
16 emphasis, the same law that makes you the judges
17 of the facts, makes me the judge of the law. The
18 law as given to you by me is the only law that you
19 may consider. And you must accept the law as I
20 give it to you and follow it, even though you may
21 disagree with me. I cannot tell you what the
22 facts are. And you cannot disagree with me about
23 the law is, or what you think the law should be.
24 Your job as jurors will be to take the law as I
25 give it to you, and apply it to the facts as you

1 find them from the testimony from the witness
2 stand and any other evidence that is presented.
3 And after hearing all the evidence, you will
4 deliberate and render a true and just verdict
5 under the solemn oath that you just took as
6 jurors.

7 Now, Ladies and gentlemen, until I advise
8 you to begin your deliberations at the conclusion
9 of all the testimony, you must not discuss the
10 case with others, including your fellow jurors.
11 Even husbands and wives, who are an alternate and
12 a primary jury, cannot discuss it, except when
13 authorized to do so by me.

14 You may not use a computer, a cellular
15 phone or other electronic device with
16 communications capabilities while you are in
17 attendance at trial or during your deliberations.
18 Now, these devices may be used when you go home,
19 or when we break for lunch. However even then,
20 they cannot be used to disclose information about
21 the case when we are not in court. The
22 information about the case would include, but
23 certainly would not be limited to any information
24 about a party, a witness, an attorney or a court
25 officer. And any other account about the case.

1 Any information collected through jury research or
2 any topic raised during the testimony of a witness
3 or information collected through jury research or
4 any topic that you think might be helpful in
5 deciding the case. But, Ladies and Gentlemen,
6 after the case is submitted to you, you must
7 discuss it only in the jury room with your fellow
8 jurors. And the attorneys and the parties in this
9 case, are advised that they are not to talk to you
10 in any way whatsoever.

11 So, Ladies and gentlemen, if you see
12 anyone involved in the case around this small
13 courthouse square and they don't even say hello,
14 well they are not being rude, they're just
15 following my instructions. Now, Ladies and
16 gentlemen, it's very important that you keep an
17 open mind and not decide any issue in this case
18 until all the evidence has been presented, the
19 attorneys have made their closing arguments, and I
20 have instructed you on the law that is applicable
21 to this case.

22 Ladies and gentlemen, it's your solemn
23 responsibility to determine the guilt or the
24 innocence of these defendants, and your verdict
25 must be based solely on evidence as is presented

1 in this trial and on the law as I give it to you
2 at the close of the trial. Now, Ladies and
3 gentlemen in just a moment, the solicitor will
4 make what is called an opening statement in which
5 she tell you or explain to you what she believes
6 the facts are in this case. The attorneys for the
7 defendants may also make an opening statement;
8 although they are not required to do so. What the
9 attorneys tell you during their opening statement
10 is not evidence. It is only their contention as
11 to what the evidence will show in this case.

12 Now, from time to time, Ladies and
13 gentlemen, you may hear one of the attorneys make
14 a statement like, Your Honor, I believe we have a
15 question or a matter of law that we need to talk
16 to you about. Or your Honor may we approach the
17 bench. Or sometimes I may find it necessary to
18 excuse you from the courtroom for a short while,
19 while the attorneys and I discuss a matter of law.

20 Now the reason for this is, as I've said,
21 you are the judges of the facts. And sometimes
22 when I am talking to the lawyers about a matter of
23 law as to whether or not a certain piece of
24 evidence will come in, it may be necessary for me
25 to comment on the facts in connection with making

1 that ruling. As I said, I'm not supposed to tell
2 you what the facts are, so I will dismiss you from
3 the courtroom while these discussions take place
4 so that you will in no way be influenced by
5 anything I might say or do in connection with the
6 facts.

7 Also during the trial you may hear one of
8 the attorneys make an objection to certain
9 evidence that is about to be presented. Whether
10 or not I sustain or to be to grant the objection,
11 or overrule the objection, which would be to deny
12 it, should not be construed that I favor one side
13 over the other. I do not. Nor should you infer
14 that the objecting party is trying to hide
15 something from you.

16 Ladies and gentlemen, this court as in all
17 situations in life, there are certain rules that
18 must be followed. But the attorneys as officers
19 of this court, are merely trying to follow the
20 rules of evidence in this court in making their
21 objections. And I am only ruling based upon what
22 I believe the law the State of South Carolina to
23 be concerning the evidence being presented.

24 Now, Ladies and gentlemen, in determining
25 what the true facts are in this case, you have to

1 determine whether or not a witness is believable.
2 It will be my responsibility as the presiding
3 judge, to rule as a matter of law as to whether
4 certain testimony is admissible. But once the
5 testimony is admitted, whether or not you decide
6 to believe it is solely for you to determine.

7 In deciding whether to believe a witness,
8 you have a right to consider the interest of any
9 witness, the bias of any witness, the prejudice of
10 any witness, the opportunity for the witness to
11 have actually observed the matters and things
12 about which the witness may testify, and you may
13 gauge the way the witness acts on the witness
14 stand. Ladies and gentlemen, you have a right to
15 consider anything that is in the record in this
16 matter that will help you evaluate the testimony
17 of that witness. That means, Ladies and
18 gentlemen, it's your responsibility to pay close
19 attention to these witnesses, to observe the
20 witnesses and to listen to the witnesses and to
21 pay close attention to attorneys and to the court.

22 Ladies and gentlemen, please don't let
23 your thoughts wander as we go through this trial.
24 But give strict attention to the testimony in this
25 case. So at the end of all of the testimony,

1 after the argument of counsel and the charge on
2 the law by me, you will then be in position to
3 determine what the true facts are and apply those
4 facts to the law as I give it to you, and thus
5 render a true and just verdict.

6 Now, Madam Forelady, in addition, it will
7 be your responsibility to preside in the jury room
8 and be the jury spokesperson here in court. It
9 will also be your duty to write down a verdict on
10 the verdict form, and I will give you further
11 instructions on that at the appropriate time. Now
12 in order to preserve everyone's rights, I'll give
13 the parties an opportunity to object to anything
14 that I have stated to you. Does the state have
15 any objection to anything I stated to the jury?

16 MS. BARR: The state does not.

17 THE COURT: Does the defense?

18 MR. MCKNIGHT: The defendant Williams does
19 not, Your Honor.

20 MR. GRIFFITH: The defendant Mickens does
21 not, Your Honor.

22 THE COURT: Very well. Thank you. We
23 will now begin the trial of this case. Ms. Barr.

24 MS. BARR: Thank you, Your Honor. May it
25 Please the Court.

1 THE COURT: Yes, ma'am.

2 MS. BARR: Ladies and gentlemen, good
3 morning. I want to start first of all, by
4 thanking you all for your service this week. We
5 know that we have imposed on you all greatly. I
6 don't think anybody on this jury would raise their
7 hand if I were to ask how many people want to
8 serve on jury duty this week in a murder case.
9 But one of the things that I want you to know is
10 that you all were here obviously yesterday, and
11 you saw and observed how the jury selection
12 process took place. For the most part, neither,
13 myself or any of the attorneys for defendant, know
14 any of you.

15 And so as lawyers when we're determining
16 who to put on the jury, what we simply really want
17 is just somebody that we think is going to be fair
18 and somebody who is going to be attentive. And
19 some people were selected and some people were
20 not. Folks, I am satisfied and I think the
21 lawyers in this case will agree with me, that
22 we've got the right people who are going to be
23 fair, and who are going to give this case the
24 attention that it deserves.

25 Later on in trial, you may hear the phrase

1 that a trial is a search for the truth. And quite
2 frankly, it's exactly that, a search for the
3 truth. And inevitably when you someone trying to
4 search for the truth as you will do in your
5 deliberations, what you essentially are doing, is
6 you are taking a journey And the journey of this
7 case has been a long one. I don't know if you all
8 remember hearing when Your Honor read the
9 indictment yesterday. This murder happened back
10 on November 2nd 2007. And so our journey began
11 there. And we expect that the journey will end in
12 this courtroom.

13 Our journey to find the killer of James
14 Allen McNeal, began in Hemingway, South Carolina,
15 back on the morning of November 2nd. And that
16 journey took us all over the place. That journey
17 was truly a journey. Law enforcement interviewed
18 hundreds of witnesses. They received hundreds of
19 tips. Some them panned out and some of them did
20 not.

21 That journey involved Florence City Police
22 Department. That journey involved the Florence
23 County Sheriff's Department. That journey
24 involved sled officers, FBI agents. That journey
25 took this case from Hemingway, South Carolina to

1 Florence, South Carolina and to Anderson. And
2 here we are back here almost at the end of that
3 journey. Ladies and gentlemen, I am going to
4 share something with you. You are going to hear
5 about it during the course of the testimony.

6 The victim in this case is 27-years-old.
7 James Allen McNeal, most people refer to him as J.
8 And we believe that the evidence is going to show
9 in this case that J.'s greatest crime, his
10 greatest, what we would call the character today.
11 But his greatest flaw is that he sold drugs. He
12 sold illegal drugs. And because he sold illegal
13 drugs, the evidence is going to show that these
14 defendants and two other individuals conspired to
15 rob him. You are going to hear some nicknames.
16 If I can take the opportunity to kind of tell you
17 who I believe key players are, and how the
18 evidence will satisfy you that you are on the
19 right journey. J. McNeal dated a young lady named
20 Latisha Bell. She's also from the Hemingway
21 community.

22 Latisha and you are going to keep up with
23 me. The names are going to be kind of confusing.
24 Well Latisha has a twin sister. Latisha's twin
25 sister's name is Latasha Williams. Latasha the

1 evidence is going to show, is married to a fellow
2 they called P.J. Williams. P.J. Williams and
3 Toshonda Mickens, the defendant there, had a
4 relationship. She was his girlfriend, and he was
5 married to the twin. The evidence in this going
6 to show that Latasha Mickens and the defendant,
7 Laquincy Williams sort of grew up regarding
8 themselves as brother and sister. And that's how
9 they held themselves out to be to the people.
10 Well the evidence in this case is going to
11 establish that back around November the 1st or
12 November 2nd of 2007, P.J. Williams comes up with
13 this idea. He comes up with the idea of, I know
14 where I can get me some money. I know where I can
15 get me some drugs. I'm going to go rob J. McNeal.
16 Laquincy Williams, P.J. Williams, and I
17 don't think they are related, Toshonda, met. A
18 fellow by the name of James Gquan Henry, then
19 drive from Florence, South Carolina from the
20 defendant Toshona Mickens home in Florence, down
21 to Hemingway. The idea was that because P.J. knew
22 the victim, remember his wife is the sister of the
23 victim's girlfriend. His face could not be shown
24 in any way.
25 So what P.J. had done, the evidence is

1 going to tell you; is that, he had Ms. Mickens to
2 be the driver. Her role in this was that she was
3 to provide the transportation. She went from
4 Hemingway. Laquincy Williams had a firearm. He
5 was to go into the house and commit the robbery.
6 And James Gquan Henry had a gun. He was to go
7 into the house and commit the robbery.

8 The testimony is going to show that
9 Mr. Henry and Mr. Laquincy Williams then goes in
10 the home of the victim, who is in the bed with his
11 girlfriend Latisha. During and while they are in
12 the home, their is gunfire exchanged all over the
13 place. You're going to see the pictures. There
14 are bullets everywhere. During the course of that
15 exchange J. McNeal is fatally shot and killed.

16 Also during the course of that exchange of
17 gunfire, James Gquan Henry is also shot. You will
18 hear that after the shooting, they then take
19 money from the house. They drive back to
20 Florence. And they come up with this "brilliant,"
21 quote/unquote, "brilliant idea;" that they are
22 going to tell the officials in Florence that James
23 Gquan Henry was actually shot in Florence, rather
24 than here in Williamsburg County.

25 The case remained unsolved for a few

1 years. And we were able to get information that
2 is now led us here. Folks, one of the things that
3 you will have to do is when you are called upon at
4 the conclusion of this case, to judge the guilt or
5 the innocence, I want you to take into
6 consideration everything that you are going to
7 hear in this case.

8 You are going to hear from people from
9 sled. People are going to talk about DNA.
10 People are going to talk about firearms. You
11 will hear from a physician who works at MUSC in
12 Charleston who did the autopsy on Mr. McNeal. You
13 are going to hear all of those things. And what I
14 submit to you that you all will be able to do at
15 the conclusion of this case is tie all of the
16 pieces together. You will see how the picture
17 will be clear.

18 Ladies and gentlemen, I submit that after
19 this case is over you will be satisfied that we
20 have in fact reached our journey for the truth.
21 Now I recognize that we have pulled you all from
22 work, from your families, from other commitments
23 that you have outside this courtroom. But this is
24 absolutely the most important case for
25 Williamsburg County, South Carolina today. And I

1 guarantee you that this absolutely the most
2 important case for Laquincy Williams and Toshonda
3 Mickens.

4 One of the people who is not on our
5 journey anymore is J.'s dad. J.'s dad passed
6 after probably about a year ago after the crime
7 was committed. Folks, I am asking you as jurors,
8 as the conscientious jurors that I know you all to
9 be, that you listen attentively; that you
10 deliberate fairly. And once the case is given to
11 you to decide, that you return a verdict that
12 speaks the truth. Thank you all again for your
13 time and for your attention.

14 THE COURT: Thank you, Mr. Griffith.

15 MR. GRIFFITH: Thank you. Ladies and
16 gentlemen of the jury, my name is Timothy
17 Griffith, with a th on end, just like Andy
18 Griffith. But I wanted to let you know that I
19 represent Ms. Toshonda Mickens one of defendants
20 in this case. And I will be very brief. Actually
21 I speak in a lot of places. And I also sing. And
22 if I'm there, and I'll say well listen if I sing,
23 I won't be able to talk as long. And my daughter
24 always stands up and says, sing, sing. She
25 doesn't want me to talk as long. But in the

1 meantime this will be short.

2 Actually I just want to let you know a few
3 things as well. The state would allege that my
4 client was involved in some conspiracy to commit a
5 range of crimes. It's the state's responsibility
6 to prove to you beyond any reasonable doubt that
7 Toshonda Mickens was responsible for those crimes.

8 Ladies and gentlemen, the evidence will
9 show that there is a vast amount of doubt that she
10 was involved in all of these crimes.. The state
11 relies on statements made by people who would
12 benefit from telling the state whatever they want
13 to hear. In particular, people who are already in
14 jail, who would do whatever it takes, say whatever
15 they had to, to get a break in the jail or less
16 time if possible.

17 The evidence will show that Toshonda
18 Mickens was pulled into a big lasso. The state
19 throughout, made so big, it took in every name
20 that they could think of. These people that I am
21 referring to, that are in jail that wanted to give
22 names. Every person they ever knew or were mad
23 at after a breakup. Toshonda Mickens is a mother
24 of two, who has been dragged into an investigation
25 based on the word of those people who would

1 benefit the most from the state solving the crime
2 she is now accused of committing.

3 People who may have actually committed the
4 crimes and want to hide that fact. But the truth
5 is, that all the evidence you will see from the
6 state is just a pile of circumstantial evidence
7 meant to fool you into believing whatever they
8 want you to believe. After you have heard all of
9 the evidence, you have to make a decision. And
10 that decision will mean the difference between
11 Toshonda Mickens raising her two children,
12 finishing school, working to be a member of
13 society, or the possibility of Toshonda Mickens
14 spending the rest to her life in prison for crimes
15 she did not commit.

16 MS. BARR: Judge, we object to that, and
17 we move to strike.

18 THE COURT: Sustained.

19 MR. GRIFFITH: I'll move on. As you hear
20 the evidence of the state, you must keep in mind,
21 could it be that they have it all wrong. And
22 they're just hoping to put somebody, anybody in
23 jail for these crimes so they can put the file
24 away. As you listen to the state's case and then
25 to the defense cases, don't suppose that the state

1 is always right. Let yourself hear all of the
2 evidence. And at the conclusion if you think
3 there is any doubt, any doubt, that the state has
4 it all right, then my client Toshonda Mickens is
5 innocent of these crimes.

6 And I think that's the conclusion you
7 must, and will reach after hearing all the
8 evidence. She doesn't have to prove anything.
9 Toshonda Mickens does not have to prove a thing to
10 you. The state must prove their case beyond a
11 reasonable doubt. There are no facts that can
12 prove we, based on the evidence, beyond any doubt
13 that Toshonda Mickens committed these crimes. And
14 we hope the evidence that you don't see, the
15 evidence that isn't there, will convince you that
16 she was not there, and that she did not commit the
17 crime.

18 I can say at any time that someone
19 committed a crime. That doesn't mean they
20 committed that crime. It's the job of a police
21 officer or investigator and of the solicitor, and
22 they get paid to find anybody that might be a
23 suspect for an unsolved crime. And they can put
24 together stacks and stacks of circumstantial
25 information based on the word of people trying to

1 save their own skins. But circumstantial evidence
2 is not enough. They have to prove beyond any
3 reasonable doubt that it must have been these
4 defendants who committed the crime she is accused
5 of here today. I believe you will find her
6 innocent, because there is just not evidence to
7 prove beyond any reasonable doubt that she is
8 guilty.

9 Ladies and gentlemen, listen to the
10 evidence. And ask yourself in the end, is there
11 any possibility that the state has it wrong? If
12 so, you must find Toshona Mickens innocent. This
13 incident as our solicitor pointed out, happened in
14 2007. This is now 2013. The indictments occurred
15 in 2013, 6 years later.

16 MS. BARR: Judge, it's back in 2011.

17 THE COURT: 2011 is when the indictments
18 were issued.

19 MR. GRIFFITH: 2011. And so a lot can
20 happen in that time. People can be arrested for
21 things that they didn't want to be arrested for.
22 And be willing to say whatever they have to. But,
23 Ladies and gentlemen, as you listen to the
24 evidence, ask yourself, is there any possibility
25 the state could be wrong. And if so, my client is

1 innocent. Thank you.

2 THE COURT: Thank you, Mr. Griffith. Mr.
3 McKnight.

4 MR. MCKNIGHT: Thank you, Your Honor. May
5 it Please the Court.

6 THE COURT: Yes, sir.

7 MR. MCKNIGHT: Mr. Griffith, Ms. Barr,
8 Your Honor, Judge Young. Ladies and gentlemen of
9 the jury, good morning. I am Cesar McKnight. And
10 I have the pleasure of representing the gentleman
11 sitting here, his name is Laquincy Williams. And
12 on behalf of him and myself, I'd like to thank you
13 for you being here today. I'm certain that all
14 12, pardon me, all 14 of you can come up with
15 5,000 different places you would rather be than
16 here. And 5,000 other things that you would
17 rather do then to be here. But you as good and
18 honorable citizens have decided to answer the
19 call, and help us to have justice or what we call
20 justice in America.

21 His Honor has told you that he believes
22 that other than serving your country in a time of
23 war, serving on the jury is your highest calling.
24 And not only does he believe that, but so does
25 Winston Churchill, because he indicated that

1 during World War II. You may wonder why you are
2 here, or what is it I need to be an effective
3 juror. What you need is your individual
4 experiences. Your individual common sense. And
5 you need to apply that individual experience and
6 common sense to the facts -- to the facts that you
7 will hear from witness stand. And from the law
8 that His Honor will give you. And then you will
9 need to issue a verdict.

10 Verdict is from the Latin word, means to
11 speak the truth. So at the end of the trial, the
12 only persons that are going to be able to speak,
13 and most importantly, the only persons whose
14 spoken words matter, will be yours.

15 Now you may ask and what is it I need to
16 consider, to decide in this matter the facts and
17 issue a verdict. We call that in the law, the
18 burden of proof. And in a criminal matter, the
19 burden of proof is beyond a reasonable doubt. The
20 most famous analogy for that, or the best way to
21 explain that is the scale of justice. I'm sure
22 we've all seen it, the lady with the robe is
23 blindfolded and she's holding a scale. For there
24 to be prove beyond a reasonable doubt, the scales
25 must tip all the way over to the side in favor of

1 the state. I simply use it this way. Today is
2 Tuesday, we collect trash in Kingstree on Tuesday.
3 And I was on my way to court. And I had a weekend
4 where I bought a whole bunch of stuff, groceries
5 and whatever, and I knew I had put the trash on
6 the curb. Well I got down the street and I
7 hesitated, because I had to wonder whether or not
8 I put the trash can on the curb for garbage.

9 And so I say to you, once you hear the
10 facts in this case, if you have that level of
11 hesitation with regard to whether or not to
12 convict Laquincy Williams, then you must vote to
13 find him not guilty. It may seem simple, but it's
14 not. Now here's something else that you have to
15 consider. Laquincy sits there right now,
16 innocent. His Honor will tell you in his closing
17 statements that his innocence drapes about him
18 like a cloak that he wears around. And the only
19 persons that can remove that cloak of innocence
20 are you 12.

21 Now you're going to hear some evidence come
22 from this witness stand. You are going to hear
23 testimony. But I submit to you, Ladies and
24 gentlemen, that what you hear, what will leave you
25 resolute, it will be give you more questions, and

1 therein more doubt. Yes, they are going to call
2 people who are going to be qualified as experts,
3 forensic pathologists, police officers. Gentlemen
4 are going to come in here wearing badges, wearing
5 uniforms, having the appearance of uniformity.
6 But that doesn't give them any more credibility.
7 It's what's they going to tell you. And most
8 importantly, what they're not going to tell you
9 that's going to give you the level of doubt that I
10 believe is going to rise to the level of
11 reasonable doubt. And therefore, you have find
12 Laquincy Williams not guilty.

13 I will tell you this about my client.
14 Does he have a sterling record; no, he does not.
15 He's had some encounters with law enforcement, but
16 none of them involve murder. And none of them
17 involve robbery. You're going to hear that
18 somehow they got together and colluded and came up
19 with this plan to rob this gentleman, and that
20 they did. But you're also going to hear some
21 interesting facts that perhaps he wasn't where
22 they say he was. And you may perhaps you will
23 likely hear that on that night, he was someplace
24 else. You're also going to -- but you also must
25 bear in mind, Ladies and gentlemen, that it's --

1 Laquincy has no duty here. He doesn't have to
2 prove one single, solitary thing. He doesn't even
3 have to speak. It is the burden of the people
4 that sit at this bench, Ms. Barr and the
5 witnesses, that she shall call, who will put forth
6 the evidence that will seek to persuade you.

7 But I want you to sit here while you're
8 listening to them, and think about a few things.
9 Like, why did it take so long? Why did it took so
10 long for them to get here until now? When certain
11 people testify there's going to be piece of
12 evidence missing, particularly from officers, who
13 didn't talk to key people. And I want to ask,
14 why. I will say this to you, Ladies and
15 gentlemen, this is my theory in the case. You all
16 are sitting here right now to play clean up for
17 the state. They are not going to give you
18 everything you need, because they can't.

19 They're going to want you to assume
20 certain things. But remember this key fact, if
21 you have to assume anything, anything at all, that
22 is a doubt. And like I said, all doubt. All of
23 it, must go in the benefit of Laquincy. They
24 have to show it. Not make you think it, not make
25 you guess it. Not make you wish that it were.

1 They have to show it. Like my third grade teacher
2 always says, it's not what you know, it's what you
3 can show. When you do the math, you've got to
4 what? Show your work. They have a result, but
5 they can't show you their work. And so your job
6 isn't to do the work for them. Their job is to
7 show you the work. So that the answer that they
8 want you to have, that my client is guilty, adds
9 up. Their math doesn't add up.

10 And now there one thing that I love, and I
11 say this and this isn't high pertinent of me
12 talking here. I love my country. And I love the
13 fact that we have a trial by jury. Because this
14 box here is the great equalizer. And it doesn't
15 matter what you were outside. It doesn't matter
16 what your position is outside. It doesn't matter
17 how much money you have outside. Inside this box,
18 you are equal period. And no one's opinion counts
19 more than anyone else.

20 So if you develop an opinion, you hold on
21 to that opinion. It doesn't matter if everybody
22 else has got their opinion. Or if you're the only
23 one that has the opinion. It's yours, and you
24 hold on to it. Now the clerk had you took an
25 oath. And in that oath you're promising to listen

Juandalyn Miller-Direct by Barr

1 to all evidence. You promise to go in that jury
2 room, and take that evidence each piece of it,
3 look at it inside out and analyze it. And then
4 you promise to come back in here, and after His
5 Honor gives you the law, and what it is, apply
6 those facts to it and issue us a verdict.

7 If you do that, if you keep your promise,
8 regardless of the verdict, you have done your job.
9 My client believes in you, and trusts that you
10 will do that. Thank you for your time. And we
11 will talk with you later.

12 THE COURT: Thank you, Mr. McKnight.

13 MS. BARR: Your Honor, the state calls
14 Juandalyn Miller.

15 THE COURT: All right.

16 Juandalyn Miller, Being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION by MS. BARR:

19 Q Ms. Miller, state your full name for the
20 record, please.

21 A Juandalyn Miller.

22 Q I am going to need you to speak up. You
23 are very soft spoken.

24 A Juandalyn Miller.

25 Q Okay. Would you spell your first name for

Juandalyn Miller-Direct by Barr

1 me?

2 A J-U-A-N-D-A-L-Y-N.

3 Q What's your middle name?

4 A Kenyetta Qua'sshen Miller.

5 Q Spell you middle name. K-e-n---

6 A K-E-N-Y-E-T-T-A.

7 Q And spell the other name that starts with

8 a Q.

9 A Qua'sshen.

10 Q Ms. Miller, how old are you?

11 A 22.

12 Q When did you turn 22? What is your

13 birthday?

14 A September 25th.

15 Q You have a birthday coming up in a couple.

16 of weeks.

17 A Uh-huh. (Affirmative.)

18 Q Is that a yes?

19 A Yes, ma'am.

20 Q Here's what I need you to do for me. When

21 you testify, if you will make sure to give verbal

22 answers, like yes or no, rather than uh-huh or

23 uh-uh, because that lady has to take down

24 everything you say, okay.

25 A Yes, ma'am.

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1 Q Do you live in Florence?

2 A Yes, ma'am.

3 Q Do you have any children?

4 A Yes, ma'am.

5 Q How many children do you have?

6 A One.

7 Q How old is that child?

8 A 8 years old.

9 Q How long have you lived in Florence?

10 A All my life.

11 Q Do you work or go to school?

12 A I go to school.

13 Q Ma'am, you are 22 now. You would have
14 been 17 in November of 2007?

15 A Yes, ma'am.

16 Q Is that right?

17 A Yes, ma'am.

18 Q Do you know the defendant Toshonda
19 Mickens?

20 A Yes, ma'am.

21 Q Tell the ladies and gentlemen of the jury
22 how you know her. How is it that you know her?

23 A I was dealing with her brother.

24 Q Okay. I need you to speak up for me.

25 A I was dealing with her brother, then I met

Juandalyn Miller-Direct by Barr

1 her.

2 Q You said you were telling with her brother
3 when you met her.

4 A Uh-huh. (affirmative.)

5 Q Is that a yes?

6 A Yes, ma'am.

7 Q When you say you were dealing with her
8 brother, who is her brother?

9 A Laquincy Williams.

10 Q How did you refer to Toshonda? What do
11 you call her? Do you call her Toshona?

12 A I call her Shonda.

13 Q You call her Shonda.

14 A Uh-huh. (Affirmative.)

15 Q Is that a yes?

16 A Yes, ma'am.

17 Q Remember you've got to say yes or no.

18 Okay. It's okay. Now you indicated that you were
19 messing with her brother.

20 A Yes, ma'am.

21 Q And you said that his name is Laquincy
22 Williams.

23 A Yes, ma'am.

24 Q Did you have a nickname for him, or what
25 do you call him?

Juandalyn Miller-Direct by Barr

1 A Strap.

2 Q Say again.

3 A Strap.

4 Q Can you spell it for me? Are you saying
5 Scrap?

6 A Uh-huh. (Affirmative.)

7 Q Scrap?

8 A Yes, ma'am.

9 Q Now how long had in 2007, how long had you
10 had a relationship with Laquincy Williams? How
11 long did you all date?

12 A I don't know the actual years because we
13 wasn't dating, we was just missing around.

14 Q Okay. You all had more of a sexual
15 relationship than like a committed romantic
16 relationship? Is that what you're telling me?

17 A Yes, ma'am.

18 Q Did you ever live with Ms. Mickens?

19 A Not live, but I stayed there during the
20 times.

21 Q I'm sorry, you did what?

22 A I didn't stay with her. But I was there
23 most of the time.

24 Q Okay. You were there at her home most of
25 the time?

Juandalyn Miller-Direct by Barr

1 A Yes, ma'am.

2 Q Where did she live in 2007?

3 A I don't know the address, but on Jarrett
4 Street in East Florence.

5 Q In east Florence?

6 A Uh-huh. (Affirmative.)

7 Q Is, and that's you said East Florence,
8 that's a yes.

9 A Yes, ma'am.

10 Q Remember make sure, yes and no. What is
11 across the street from Jarrett Street where
12 Toshonda Mickens was living in 2007?

13 A A house.

14 Q Is there any other landmark that's across
15 the street? Do you know where McLeod---

16 A Not across the street, but it's KFC down
17 the street.

18 Q There's KFC there?

19 A Yep. Home health right there.

20 Q Home health. Is that a yes?

21 A Yes, ma'am. It's home health now. I
22 don't know what it was called then.

23 Q Okay. Where is McLeod Hospital?

24 A All the way up the street.

25 Q Okay.

Juandalyn Miller-Direct by Barr

1 A Well not all the way, but up the street.

2 Q Is Mcleod Hospital within walking distance
3 of where Toshonda Mickens lived back then?

4 A Yes, ma'am.

5 Q Okay. Do you know how many ages you and
6 Toshonda Mickens are apart?

7 A No, ma'am.

8 Q Okay. Is she older than you or younger
9 than you?

10 A She's older, but not that much.

11 Q You know that much.

12 A Yes.

13 Q What about Laquincy Williams, is he older
14 than you or younger than you?

15 A He is older than me.

16 Q Okay. Where was Laquincy Williams from?

17 A From Darlington.

18 Q He's from Darlington?

19 A (Nods in the affirmative.)

20 Q Now you indicated that Laquincy Williams
21 and Toshonda Mickens were brother and sister.
22 Were they biological brother and sisters? Did
23 they same mom and dad?

24 A I don't know.

25 Q Did you ever know an individual named P.J.

Juandalyn Miller-Direct by Barr

1 Williams?

2 A Yes, ma'am.

3 Q How it is that you knew P.J. Williams?

4 A From being around them.

5 Q Being around them who?

6 A Toshonda Mickens and Laquincy Williams.

7 Q When you say you knew P.J. from being
8 around them, tell me what you mean. Being around
9 them in what aspect?

10 A Like being there and stay like I was.

11 Q At Toshonda's house?

12 A Yes, ma'am.

13 Q Is that a yes?

14 A Yes, ma'am.

15 Q Would Laquincy also come over during this
16 timeframe in November of 2007, and spend the night
17 at Toshonda's house? Would Laquincy ever spend
18 the night at Toshonda's house when you were there?

19 A Uh-huh. (Affirmative.)

20 Q Is that a yes?

21 A Yes, ma'am.

22 Q How did Toshonda and P.J. get along?

23 A I guess it was good kind of.

24 Q What kind of relationship did they have?

25 A I don't know.

Juandalyn Miller-Direct by Barr

1 Q You don't know?

2 A Like no, not really.

3 Q Okay. Were they friends? Were they
4 relatives? Did they have a sexual relationship?

5 MR. MCKNIGHT: Objection. That question
6 has been asked and answered.

7 THE COURT: Overruled.

8 Q You can answer. Were they friends? Were
9 they relatives? Did they have a sexual
10 relationship?

11 A Well I can't say whether there was a
12 sexual relationship. But I never, you know, know
13 whether they have sex. I know they was friends.

14 Q Okay.

15 A But sexual, I can't say that.

16 Q Okay. When I asked you about P.J.
17 Williams, do you know what his full name is, his
18 legal name?

19 A - I don't remember his last name. I know,
20 his first name is Phillip.

21 Q Phillip. Okay. How often would P.J. be
22 at Toshonda's house during the fall of 2007? Say
23 in an average week, how often would you see P.J.
24 at Toshonda's house?

25 MR. MCKNIGHT: Objection. Calls for

Juandalyn Miller-Direct by Barr

1 speculation.

2 THE COURT: Overruled.

3 Q You can answer.

4 A I would say like about every other day.

5 Q Every other day?

6 A Uh-huh. (affirmative.)

7 Q How often would you see Laquincy Williams
8 at Toshonda's house in the fall of 2007?

9 A I'd say---

10 Q I need you to speak up for me.

11 A I would see him like every day.

12 Q Now do you know a fellow by the name of
13 James Gquan Henry?

14 A I don't know him.

15 Q Okay.

16 A But I have seen him.

17 Q Okay. Can you describe him to me?

18 A I don't know, light skin. And he had an
19 afro.

20 Q Okay. Did you ever see him in Toshonda
21 Mickens home November of 2007?

22 A Yes, ma'am.

23 Q What did you call him?

24 A G.

25 Q You called him G; is that right?

Juandalyn Miller-Direct by Barr

1 A Yes, ma'am.

2 Q Let me ask you something. You were
3 subpoenaed to testify in this case?

4 A Yes, ma'am.

5 Q You didn't want to be here; did you?

6 A No, ma'am.

7 Q Why did you not want to be here?

8 A I mean---

9 Q I need you to speak up for me, please.

10 A Because I don't want to be here.

11 Q Were you -- did you consider Toshonda
12 Mickens to be a friend of yours?

13 A Yes, ma'am.

14 Q And you considered Laquincy Williams be a
15 friend of yours?

16 A Yes, ma'am.

17 Q Did you consider P.J. Williams to be a
18 friend of yours?

19 A No.

20 Q Not him so much?

21 A Not really.

22 Q Do you know whether or not P.J. Williams
23 was married?

24 A Yeah, I know was married when we got --
25 when we went to jail and had time together, you

Juandalyn Miller-Direct by Barr

1 know.

2 Q Say again.

3 A I knew he was married from the time me and
4 him got locked up together.

5 Q Do you know his wife's name?

6 A No, ma'am.

7 Q Now prior to your testimony here today,
8 have you ever read any statements that anybody
9 gave about this case?

10 A No, ma'am.

11 Q Have you ever seen any crime scene photos
12 connected with case?

13 A No, ma'am.

14 Q Is this the first time you've ever
15 testified in Court?

16 A Yes, ma'am.

17 Q When was the last time you saw Toshonda
18 Mickens?

19 A I haven't seen her in a good while. I've
20 seen her at the DSS office.

21 Q How long ago was that you think? Was that
22 months?

23 A Yes, months. Like a year ago.

24 Q Like a year ago. When was the last time
25 you saw Laquincy Williams?

Juandalyn Miller-Direct by Barr

1 A I mean I see him all the time, because he
2 comes in the area where I am from.

3 Q Has it been weeks or months the last time
4 you saw Laquincy Williams?

5 A Weeks.

6 Q Ms. Miller, on November 2nd of 2007, the
7 night of November 1st, leading up to the morning
8 of November the 2nd of 2007, were you in the
9 company of Toshonda Mickens?

10 A Yes, ma'am.

11 Q Were you in the company of the fellow you
12 call G.?

13 A Yes, ma'am.

14 Q Now, the fellow that you call G., is he,
15 how old is he? Or how old would he have been at
16 the time?

17 A I can't say.

18 Q Was he older than you, younger than you,
19 or about your age at that time?

20 A I never asked.

21 Q Okay. Were you in the presence of P.J.
22 Williams the night of the 1st of November of 07,
23 leading up to the morning of the 2nd?

24 A Can you say that again?

25 Q Was P.J. Williams in your presence along

Juandalyn Miller-Direct by Barr

1 with G. and along with Toshonda Mickens?

2 A Yes, ma'am.

3 Q Okay. What about Laquincy Williams? Was
4 he with you all too?

5 A Yes, ma'am.

6 Q Tell us about a ride that you all took to
7 Hemingway on that day.

8 A Okay. Well---

9 Q And I need you to speak up, Hon.

10 A We took a ride there, all of us. Well
11 everybody that you named just now.

12 Q Okay.

13 MS. BARR: Judge, may I approach the
14 witness?

15 THE COURT: You may.

16 Q Ms. Miller, you said you all took a ride.

17 A Uh-huh. (Affirmative.)

18 Q Is that right?

19 A Right.

20 Q And when you say we took a ride, tell me
21 who you mean, who took a ride. Tell me who all
22 took a ride with you.

23 A Toshonda---

24 THE COURT: Ma'am, I can't hear you. I'm
25 only 3 feet. I need you to speak up.

Juandalyn Miller-Direct by Barr

1 Q Can you come up any closer. All right.

2 A Toshonda, Laquincy, G., and Phillip and I,
3 myself.

4 Q And in what vehicle did you all take ride?

5 A I don't know the name of it, it was a
6 rental car.

7 Q It was a rental car?

8 A Uh-huh. (Affirmative.)

9 Q Is that a yes?

10 A Yes, ma'am.

11 Q Who had gotten the rental car? Who rented
12 the vehicle?

13 A I can't say whose name it was in but.

14 Q Who went to pick it up?

15 A I don't know who picked it up, but I know
16 it was Toshonda's car.

17 Q Okay.

18 A I guess.

19 Q Can you remember what the color of the
20 vehicle was?

21 A I don't remember the color.

22 Q That's fine. That's fine. Where did you
23 all go when you all got in the car?

24 A Hemingway.

25 Q You went you Hemingway? Is that a yes?

Juandalyn Miller-Direct by Barr

- 1 A Yes, ma'am.
- 2 Q Where were you seated in the car?
- 3 A In the front seat.
- 4 Q Who was driving?
- 5 A Toshonda.
- 6 Q Where were the other three individuals?
- 7 A In the back seat.
- 8 Q Was anybody else in the car at the time
- 9 other than you, Toshonda, P.J., Laquincy and G.?
- 10 A The baby.
- 11 Q Whose baby?
- 12 A Toshonda's baby.
- 13 Q Where was the baby at in the car?
- 14 A In my arms.
- 15 Q Okay. How old was the baby at that time?
- 16 A I don't remember.
- 17 Q You don't remember?
- 18 A Her age, I don't remember her age.
- 19 Q Somebody said one time in a case that they
- 20 described the baby as being an arm baby, which
- 21 means you can kind of tote the baby on your hip.
- 22 Was the baby sort of like an arm baby or was it a
- 23 toddler? Was the child walking at the time?
- 24 A She could walk.
- 25 Q You said you all went to Hemingway; right?

Juandalyn Miller-Direct by Barr

1 A Yes, ma'am.

2 MR. MCKNIGHT: Objection, leading.

3 THE COURT: She already said that.

4 Overruled.

5 Q What happened, well first of all, what
6 time was it when you all went to Hemingway?

7 A I can't recall the time.

8 Q Was the sun out or was it dark?

9 A It was dark.

10 Q Okay. When got to Hemingway, tell the
11 jury what happened.

12 A When we got to Hemingway, and we rode
13 around.

14 Q Okay. And y'all said you all just rode
15 around. Who was with you when you just ride
16 around?

17 A The same people. Do I got to say their
18 names all over again?

19 Q The same four or five people we were
20 talking about earlier?

21 A Yes, ma'am.

22 Q Okay, just tell us what happened when you
23 got to Hemingway?

24 A I am. We rode around, and just look
25 around, whatever.

Juandalyn Miller-Direct by Barr

- 1 Q Okay.
- 2 A I got dropped off.
- 3 Q You got dropped off where?
- 4 A I got token back to Florence.
- 5 Q Say it again?
- 6 A I got token back to Florence.
- 7 Q Let's stop right there for a moment. When
- 8 you said you all were driving around, where were
- 9 you all when you drove around?
- 10 A What do you mean by that?
- 11 Q Where were -- were you at the McDonald's?
- 12 Were you at the car wash? Where were you all when
- 13 you were driving around?
- 14 A The neighborhood.
- 15 Q Okay. What kind of neighborhood?
- 16 A I don't remember. I think it was a
- 17 trailer park or something.
- 18 Q Okay. When you all were doing this riding
- 19 around, where was P.J. and Laquincy and G. when
- 20 you all were doing the riding around?
- 21 A In the back seat.
- 22 Q Did they ever get out of the car?
- 23 A I can't remember.
- 24 Q You don't remember if they got out of the
- 25 car?

Juandalyn Miller-Direct by Barr

1 A No, ma'am.

2 Q Ma'am, do you recall giving a statement to
3 law enforcement back on September the 9th of 2010?

4 A September 9th 2010?

5 Q Yes, ma'am.

6 A Yes, ma'am.

7 Q Do you remember talking to Investigator
8 Collins and Investigator Wrenn?

9 A I remember her.

10 Q This lady right here.

11 A Uh-huh. (Affirmative.)

12 Q You remember talking to her?

13 A Yes, ma'am.

14 Q When they asked you about being at trailer
15 park and riding around, what did you tell them?

16 A It was so long ago, I am trying to
17 remember.

18 Q Well let me ask you this. Were you up in
19 the office about 2 hours ago, and were you asked
20 that same question as to what you all were doing
21 in the trailer park?

22 A You didn't ask me that.

23 Q Ma'am?

24 A You didn't ask me did we rode around. You
25 asked me, your question to me was, did we went

Juandalyn Miller-Direct by Barr

1 there, to the McDonald's there. And I told you,
2 yes, we did.

3 Q Okay.

4 A You didn't ask me whether we rode around
5 or not.

6 Q Well let me ask you this. You testified
7 that you all were riding around at the trailer
8 park in Hemingway; correct?

9 A Yes, ma'am.

10 Q And you said they took you back home.

11 A Yes, ma'am.

12 Q Did they take you back home at their
13 request or at your request?

14 A At my request.

15 Q Why did you want to go back home?

16 A Because it was getting late.

17 Q Ms. Miller, tell the ladies and gentlemen
18 of the jury why you wanted to go back home?

19 A I am telling them.

20 Q Well tell them the truth.

21 A I am telling the truth.

22 Q You didn't have any---

23 A It was getting late, and I told them to
24 take me home with the baby. Take me and the baby
25 home.

Juandalyn Miller-Direct by Barr

1 Q In the statement that you gave to law
2 enforcement back on September 9th 2010, did you
3 tell them, and when I say them, I mean law
4 enforcement. Did you tell them that you wanted to
5 go back to home to Florence, because you didn't
6 want to be a part of what they were about to do?

7 MR. GRIFFITH: Objection. Leading, Your
8 Honor.

9 A I didn't want to be part of----

10 THE COURT: Overruled.

11 Q Ma'am?

12 A No, I didn't want to be a part of nothing.

13 Q You didn't want to be a part of nothing.
14 When you said you didn't----

15 A You're confusing me that's why. You're
16 confusing me.

17 Q I don't want to do that. I promise you I
18 don't want to do that. What didn't you want to be
19 a part of?

20 A Whatever was about to happen.

21 Q Okay.

22 A I can't say what was about to happen. But
23 whatever was about to happen, I didn't want to be
24 there. So I told them to take me home with the
25 baby, because it was getting late.

Juandalyn Miller-Direct by Barr

1 Q You testified just now that you don't
2 remember whether or not P.J., G., or Laquincy ever
3 got out of the vehicle when you all rode down to
4 Hemingway. Is that still your testimony? You
5 don't remember if they got out of the vehicle?

6 A I can't remember. That's how long ago it
7 was.

8 MS. BARR: Your Honor, may I approach the
9 witness?

10 THE COURT: You may.

11 Q Ma'am, I am going to show you a
12 transcribed statement of an interview that you
13 gave back on November 9th of 2010.

14 A Yes, ma'am.

15 Q Do you remember that?

16 A I remember that's the day I got locked up.

17 Q I am going to call your attention to page
18 52, line 10. You see the Q there? Do you see
19 that?

20 A Q, question.

21 Q The question, right. The question law
22 enforcement asked was, have you ever been to
23 Hemingway before. Do you remember that? Is that
24 a yes?

25 A Yes, ma'am.

Juandalyn Miller-Direct by Barr

1 Q And when asked have you ever been to
2 Hemingway before, what was your response?

3 A Do you want me to read it?

4 Q Yes, go ahead and read it. Do you want me
5 to read it? I need you to read it out loud.

6 A Okay.

7 Q Start at line No. 12.

8 A That was the time I went to Hemingway.
9 When we went there the first time, I had never
10 been there -- ever been to Hemingway. We rode
11 through the trailer park or whatever. And we rode
12 around about 3 times before he got out of the
13 car. Before P.J. got out of the car. P.J. got
14 out of the car. And we let P.J. out. And then
15 after P.J. got out of the car, Quincy and G. got
16 out of the car too. They got out the car. And
17 then it was me. And then it left me and her in
18 the car. And I was asking her why are riding
19 around a trailer park like that. And she wasn't
20 saying nothing. Not one time did I see any man in
21 the yard or anything like that.

22 Q Keep going.

23 A And we did see a fellow standing in the
24 street on the way, and we stopped him and asked
25 him did he have---

Juandalyn Miller-Direct by Barr

1 Q Go on to page 53.

2 A Any weed or did he know anyone---

3 Q You asked him did he have any what?

4 A Weed.

5 Q Okay.

6 A Or did he know where any weed was at. He
7 said the home boy had some weed, like that. But
8 he never who the home boy was or where the home
9 boy stayed or none of that, because she pulled
10 off.

11 Q Keep reading.

12 A When she pulled off from down there, we
13 were standing around.

14 Q What does that say?

15 A We were steady driving around. Steady
16 driving around, and they called her phone.

17 Q They did what?

18 A Called her phone and said come get them.
19 Come pick them up. And we went back to pick them
20 up. We picked G. and Quincy up. And then P.J.
21 got in the car. And when we was leaving out of
22 the trailer park the second time, I told her to
23 drop me off at home. Drop me off at home and
24 whatever -- and whatever you all are going to do,
25 just drop me off at home with the baby or

Juandalyn Miller-Direct by Barr

1 whatever.

2 When they got in the car, when they got in
3 the car, I don't know who said, let me make sure
4 because I don't want to lie on nobody. Let me
5 make sure it was right person. I think it came
6 out of Quincy's mouth, the screen door is locked.
7 The screen door is locked. Damn, damn. They
8 dropped me off. We rode back in Florence, and
9 they dropped me off.

10 Q So as I understand it during your
11 statement to law enforcement back in September of
12 2010, you told law enforcement that Toshonda
13 Mickens was driving the vehicle down to Hemingway.

14 A Uh-huh. (Affirmative.) Yes, ma'am.

15 Q You all got down to Hemingway. P.J., G.
16 and Laquincy got out of the vehicle.

17 A Yes, ma'am.

18 Q Right? That's what you told law
19 enforcement?

20 A Yes, ma'am.

21 Q And you indicated also in your statement
22 that you told law enforcement that Toshonda just
23 kept driving and driving and driving around in the
24 trailer park.

25 A Yes, ma'am.

Juandalyn Miller-Direct by Barr

1 Q You said you asked her why are you all
2 driving? Why are you just driving around in the
3 trailer park; right?

4 A Yes, ma'am.

5 Q And you said that she never responded back
6 to you; is that right?

7 A Yes, ma'am.

8 Q And you at that point said, take me back
9 home with the baby.

10 A Yes, ma'am.

11 Q You also said that Laquincy and G. got
12 back got back in the car; correct?

13 A Yes, ma'am.

14 Q Then you all went to go pick up P.J.;
15 correct?

16 A Yes, ma'am.

17 Q And that's in Hemingway?

18 A Yes, ma'am.

19 Q And then when Laquincy got back in the
20 car, what did he say about the door?

21 A The screen door was locked.

22 Q He said the screen door was locked; is
23 that right?

24 A Yes, ma'am.

25 Q And in your statement you used the words,

Juandalyn Miller-Direct by Barr

1 the screen door is locked, damn, damn. Is that
2 what he said?

3 A Yes, ma'am.

4 MS. BARR: Your Honor.

5 THE COURT: Yes, ma'am.

6 MS. BARR: Your Honor, may we take a 10
7 minute recess?

8 THE COURT: Yeah, it's a good time.

9 Ladies and gentlemen, we're going to take a 10
10 minute recess. Please do not discuss anything
11 while you are back there in the jury room. If you
12 want a cup of coffee or a coca cola, they are very
13 friendly.

14 Court will be in recess for approximately
15 10 minutes. Ma'am, you are on the stand, you may
16 not speak with anyone. You can get down and go to
17 the restroom, but you may not speak with anyone.
18 Do you understand that?

19 A Yes, sir.

20 (Whereupon, the court takes a recess.)

21 THE COURT: You may bring the jury.

22 (Whereupon, the following takes place
23 within the presence of the jury.)

24 THE COURT: You all may sit down. You may
25 continue.

Juandalyn Miller-Direct by Barr

1 Direct Examination continues by Ms. Barr:

2 Q Ms. Miller, when we left out, we were
3 talking about the notion of Ms. Mickens kind of
4 riding around in the trailer park. How long was
5 she driving the car around in the trailer park?

6 A Can you say that again?

7 Q Yes, ma'am, I'll be happy to. You were
8 talking about the notion of Ms. Mickens driving
9 around in the trailer park. And you asked her why
10 are you just driving around. Do you remember your
11 testimony?

12 A Yes, ma'am.

13 Q How long was she actually just driving
14 around in the trailer park?

15 A Well I can't say exact in hours or what,
16 but for a good while.

17 Q For the good while. Would you help you to
18 refresh your memory if you looked at your
19 statement? Ma'am, I am going to refer you to page
20 62 of that statement. Looking at line 16, you
21 were asked, how long from the time you all were in
22 Hemingway, and they got out and the screen door
23 was locked and you told them to take you home.
24 What was your response?

25 A Like 20 minutes.

Juandalyn Miller-Direct by Barr

1 Q Go ahead.

2 A We were riding around the trailer park.

3 Q Keep going.

4 A It was like 20 minutes. Then they took me
5 home.

6 Q So you told the police back then that
7 Toshonda was just driving around the trailer park
8 for about 20 minutes; is that right?

9 A Yes, ma'am.

10 Q When P.J., Gquan and Laquincy got back
11 into the car, where did you all go at that point?
12 When they told you the screen door was locked,
13 where did you all go from that point?

14 A To Florence.

15 Q You went back to Florence?

16 A Uh-huh. (Affirmative.)

17 Q I am not trying to trick you, I am just
18 asking you. How long did it take you to get from
19 Hemingway to Florence; to get back home?

20 A I don't remember how long it took.

21 Q What happened when you all got back home?

22 A I stood around and we smoked some weed.

23 Q Who all was smoking weed?

24 A Everybody.

25 Q Okay. Everybody? You are going to have

Juandalyn Miller-Direct by Barr

1 to tell me the names. I want to make sure we are
2 clear.

3 A Me, myself, Toshonda, Laquincy, G. and
4 Phillip.

5 Q Laquincy, G. and who else?

6 A Philip.

7 Q And P.J.?

8 A Yes, ma'am.

9 Q After they were sitting around and you all
10 were smoking weed, when we say weed, we are
11 talking about marijuana; right?

12 A Yes, ma'am.

13 Q After you all were smoking marijuana, then
14 what happened?

15 A They left.

16 Q They left. Who left, Ms. Miller?

17 A Laquincy, G., P.J., and Toshonda.

18 Q You were at home with the children?

19 A With the baby.

20 Q With the baby? Okay. Did Toshonda have
21 two children or one child at the time?

22 A She had two kids.

23 Q Where was the other child? Was the other
24 child older or younger?

25 A Older.

Juandalyn Miller-Direct by Barr

1 Q Where was that child?

2 A She was at her auntie's house.

3 Q Say again.

4 A She was her auntie's house.

5 Q Why didn't you go the second time?

6 A Because I didn't want to go.

7 Q When they left, were they driving the
8 same vehicle that they driving when they went the
9 first time? When you were in the vehicle?

10 A Yes.

11 Q Ma'am, I am going to show what's has been
12 marked for identification purposes as State's
13 Exhibit Nos. 3 and 4. I am going to ask you if
14 you recognize what's depicted in those
15 photographs. First of all, what's in the
16 photograph?

17 A The car.

18 Q The car you all were riding in that day?

19 A Yes, ma'am.

20 Q Are you also in the photograph?

21 A Yes, ma'am.

22 Q Is Toshonda Mickens also in the
23 photograph?

24 A Yes, ma'am.

25 Q I'll get back to that in just a moment.

Juandalyn Miller-Direct by Barr

1 So they leave out. Was it still dark when they
2 left?

3 A Yes, ma'am.

4 Q Tell me the next time when you saw the
5 three of them. When you saw, P.J., Toshonda and
6 Laquincy?

7 A Later on.

8 Q Later on that morning?

9 A Yes, ma'am.

10 Q Okay. The sun had come out by the time
11 you saw them again?

12 A No, not the sun, because it was in the
13 morning.

14 Q Okay. Tell me who all and where did you
15 see them at, at Toshonda's house?

16 A Yes, ma'am.

17 Q Tell me what happened when they came up
18 in?

19 A When they came in, Laquincy was crying,
20 and I asked him what was wrong. He told me to
21 mind my business.

22 Q He said what?

23 A To mind my business.

24 Q Okay.

25 A And Toshonda told me that G. had been

Juandalyn Miller-Direct by Barr

1 shot; that he had been shot in Seal Test.

2 Q Okay.

3 A So that's why the photograph shows Seal
4 Test.

5 Q When they came back, Gquan was not with
6 them.

7 A No, ma'am.

8 Q And you asked Laquincy why was he crying;
9 right?

10 A Yes, ma'am.

11 Q And he told you to mind your business.

12 A Yes, ma'am.

13 Q And you said you heard Toshonda say that
14 G. had been shot in Seal Test.

15 A Yes.

16 Q Now for Williamsburg County natives, Seal
17 Test is in Florence?

18 A Yes, ma'am.

19 Q And can you kind of tell us where the Seal
20 Test plant is in Florence? Do you know what
21 street it is on?

22 A It's on---

23 Q Is it Church Street?

24 A No.

25 MR. MCKNIGHT: Objection. Leading the

Juandalyn Miller-Direct by Barr

1 witness.

2 THE COURT: Rephrase your question.

3 Q Tell us to the best characterization where
4 the Seal Test plant is in Florence?

5 A It's Church Street, but I don't know the
6 back part, that end called Church Street. But as
7 you go up it is leading into Church Street.

8 Q Now when they told you that G. had been
9 shot in at Seal Test, did you believe them?

10 A Yeah.

11 Q You believed them?

12 A I mean that's what they told me. What
13 else?

14 Q Let me call your attention to page 55 of
15 your recorded statement. Starting on line 1, now
16 let's go back to page 54 at the bottom so you have
17 some context. You started here, and you said
18 what?

19 A He told me to mind my business.

20 Q Okay. And what else did you tell the
21 police?

22 A He told me to mind my business, and I went
23 to a computer. I went back there to the computer.

24 Q You went back to the computer. And then
25 what happened?

Juandalyn Miller-Direct by Barr

1 A Toshonda came and told me that G. was shot
2 at Seal Test.

3 Q Okay. What else did you say?

4 THE COURT: You have got to speak up,
5 ma'am.

6 Q Start from, so I minded my business.
7 Start from there.

8 A So I minded my business, and I went back
9 there to computer. That's when she came back and
10 said G. got shot at Seal Test. Which we all know
11 is a lie, because I know where you all just came
12 from. He was shot in Seal Test. How was he shot
13 at Seal Test.

14 Q Okay. So when they told Gquan was shot in
15 Seal Test, you told the police officer you knew
16 that was a lie, because you know where you all
17 just came up from. Is that right?

18 A Yes, ma'am.

19 Q They tell you Gquan is shot in Seal Test.
20 Where did they tell you Gquan was?

21 A At the hospital.

22 Q At the hospital? Which one McLeod or
23 Car---

24 A McLeod.

25 Q Okay. Who took him to the hospital?

Juandalyn Miller-Direct by Barr

1 A Toshonda.

2 Q Okay. Was anybody with her when she took
3 him to the hospital?

4 A I can't say, because he was already there
5 when they came.

6 Q Okay. So you actually never saw Gquan
7 bloody when he had been shot.

8 A No, ma'am.

9 Q What happened after Toshonda told you that
10 she had taken Gquan to the hospital?

11 A I took her to the hairdresser.

12 Q You did what now?

13 A I took her to the hairdresser.

14 Q You took Toshonda to the hairdresser? Did
15 she have an appointment.

16 A I guess.

17 Q Okay. You drove her, or did she drive?

18 A She drove herself to the hairdresser and
19 then I drove from the hairdresser.

20 Q Okay. You drove back to the hairdresser
21 to wait for to call you?

22 A No, ma'am. I don't understand what you're
23 saying.

24 Q She -- what I'm trying to figure out is,
25 when she drove to the hairdresser, you were in the

Juandalyn Miller-Direct by Barr

1 car with her.

2 A Yes, ma'am. I left--

3 Q Where -- say again.

4 A I left her at the hairdresser.

5 Q And were you supposed to then come back
6 and pick her up when she got her hair done?

7 A When she called.

8 Q And you did that?

9 A Yes, ma'am.

10 Q Where did you all go after you picked her
11 up from the hairdresser to get her hair done?

12 A To the hospital.

13 Q You didn't get your hair done that day?

14 A No, ma'am.

15 Q So you go McLeod, well when you say the
16 hospital, I'm assuming that's McLeod. You went
17 McLeod?

18 A Yes, ma'am.

19 Q Why did you all go to McLeod?

20 A She was going to check on him.

21 Q On who?

22 A On G.

23 Q You went with her?

24 A Yes, ma'am.

25 Q Tell me what happened when you all got to

Juandalyn Miller-Direct by Barr

1 the hospital?

2 A The police stopped us, and she had showed
3 him -- showed the police where she had got him
4 from, where she had picked him up from or whatever
5 that day. That's in the picture.

6 Q You said that she, that's Toshonda, had to
7 show the Florence Police officers where she
8 claimed she picked up Gquan?

9 A Yes, ma'am.

10 Q Did she do that?

11 A Yes, ma'am.

12 Q Tell us where you all went with the police
13 officers.

14 A To Seal Test.

15 Q And did you all drive the same vehicle to
16 the Seal Test with the Florence City police
17 officers as they drove that night?

18 A Yes, ma'am.

19 Q You remember talking with some of the city
20 police officers?

21 A Yes, ma'am. As in, because my cousin's
22 pants had been in the trunk where her menstruation
23 had got on them. And they wanted to test the
24 pants. And I was telling them that the pants, you
25 know, that was my cousin's pants, where she had

Juandalyn Miller-Direct by Barr

1 messed her pants up at school. And they test it.

2 Q Okay.

3 A And that's as far as I remember the
4 conversation with them.

5 Q I understand. The police officers found
6 some pants in the car that had blood on it?

7 A Yes, ma'am.

8 Q And you were trying to say that your
9 cousin had had a period and it wasn't related to
10 anything about Gquan. Is that essentially what it
11 was?

12 A Yes, ma'am.

13 Q And they did a swab of the pants?

14 MR. MCKNIGHT: Objection. She's leading
15 the witness, Your Honor.

16 THE COURT: Overruled.

17 Q Did the police officers take a swab of
18 anything else?

19 A I can't -- I don't remember. I know they
20 swabbed the pants.

21 Q Okay. Did they take pictures of the
22 vehicle?

23 A I guess. You have got the pictures.

24 Q Somebody took these pictures.

25 A Right.

Juandalyn Miller-Direct by Barr

1 Q And you were present when No. 3 and No. 4
2 were taken?

3 A Yes, ma'am, I think so.

4 MS. BARR: Your Honor, we would move
5 State's 3 and 4 in at this time.

6 THE COURT: Any objection to No. 3 and 4
7 being admitted?

8 MR. MCKNIGHT: Yes, Your Honor.

9 THE COURT: What's your objection?

10 MR. MCKNIGHT: I object to the hearsay.
11 She doesn't know who took those pictures, when and
12 in particular who took the pictures, and how were
13 they handled and we object.

14 THE COURT: Overruled. She said they were
15 an accurate representation in the car. Overruled.

16 (Photos marked State's Exhibit Nos. 3 and
17 4 into evidence.)

18 MS. BARR: Permission to publish, Your Honor?

19 THE COURT: Permission granted.

20 MS. BARR: Ms. Miller, can you come down
21 for a moment, please.

22 (Whereupon, the witness step down from the
23 witness stand.)

24 MS. BARR: Keep your voice up so the court
25 reporter can hear you. If you use my pen, tell us

Juandalyn Miller-Direct by Barr

1 where you are in this particular exhibit.

2 A Right here in pink sweater.

3 Q And who is this individual right in front
4 of you? You're here in the pink sweater?

5 A Yes, ma'am.

6 Q And would that be on the passenger rear of
7 the vehicle; is that right?

8 A Yes, ma'am.

9 Q Who is this individual standing in front
10 of you?

11 A Toshonda.

12 Q Do you see this person in the uniform
13 there?

14 A Yeah, the Florence Police---

15 Q What about these---

16 A ---investigation.

17 Q What about these two individuals here?

18 A Where?

19 Q Right here and right here. The two men.

20 Are those Florence Police Officers as well? They
21 look like guns right there?

22 A They're investigators.

23 Q Okay. You have identified this as
24 Ms. Mickens?

25 A Yes, ma'am.

Juandalyn Miller-Direct by Barr

1 Q She had just gotten her hair done?

2 A Yes, ma'am.

3 Q Okay. I am going to publish State's
4 Exhibit No. 4. And, ma'am, as it relates to
5 State's Exhibit No. 4, is that also a photograph
6 of you in the vehicle along with Ms. Mickens?

7 A Yes, ma'am.

8 Q And you've described this -- do you know
9 anything about make and model of vehicles? Do you
10 know what that symbol is for?

11 A No, ma'am.

12 Q Can you read the tag that's on that
13 vehicle?

14 A 6946468.

15 Q Can you read the state?

16 A I can't. Illinois.

17 Q I'm going to need you to stay up here for
18 just a minute. So you all went to the Seal Test.
19 And what was Toshonda Mickens saying to the
20 police?

21 A I don't remember. I ain't, I was in my
22 own world. I didn't pay attention to all that.

23 Q Now on the date that you gave this
24 statement, did you accompany this investigator
25 with Williamsburg County back out to Hemingway?

Juandalyn Miller-Direct by Barr

1 A What do you mean?

2 Q Did you go where you all had went the
3 first time?

4 A Oh, yes, ma'am.

5 Q You went with her?

6 A Yes, ma'am.

7 Q Were you able to show her where it was,
8 and the trailer park that you all were riding
9 around in?

10 A Yes, ma'am.

11 Q Did you also identify to her what house?
12 And I shouldn't say the house. What mobile home
13 you all went to?

14 A I told her it looked familiar, yeah.

15 Q I am going to show you what's been marked
16 for identification purposes as State's Exhibit
17 No. 47. Is that the mobile home that you pointed
18 out to her that looked like the one that you had
19 went to earlier?

20 A No.

21 Q That's not the one?

22 A It don't look like the one that we went
23 to.

24 Q Have a seat back up there.

25 (Whereupon, the witness resumes the

Juandalyn Miller-Direct by Barr

1 witness stand.)

2 Q Ms. Miller, do you remember the police
3 asking you, when I say police, I mean in
4 Williamsburg County, asking you if you were
5 scared?

6 A Yes, ma'am.

7 Q Did they ask you whether or not you were
8 scared of Ms. Mickens?

9 A No, ma'am.

10 Q Did they ask you whether you were scared
11 of P.J.?

12 A No, ma'am.

13 Q Did they ask you whether or not you were
14 scared of Laquincy?

15 A Yes, ma'am.

16 Q What was your response when they asked you
17 if you were scared of Laquincy.

18 A I told him yeah.

19 Q Tell them why you told, tell the jurors
20 why you told the police that you were afraid of
21 Laquincy.

22 A Because I heard him say one time that if
23 somebody ever told on him, that he would kill
24 them.

25 Q You heard him say one time if anybody ever

Juandalyn Miller-Direct by Barr

1 told on him that he would kill them.

2 A Yes, ma'am.

3 Q Did you see, I am assuming when you rode
4 from the hospital to Seal Test, you were in the
5 front passenger seat?

6 A Yes, ma'am.

7 Q Do you recall whether or not what's
8 depicted in State's Exhibit No. 12, any of these
9 items on the passenger's side floorboard were in
10 the car at that time? Do you remember seeing any
11 of this?

12 A What do you mean by that?

13 Q Were they in the car while you were in the
14 front seat? I am particularly looking at this
15 item that's on the floor.

16 A The book bag?

17 Q Yes.

18 A I don't recall whose it was. I can't
19 remember all that.

20 Q What is -- whose book bag is that?

21 A Her daughter's book bag.

22 Q It's a Dora book bag?

23 A It is a Dora book bag. But I am saying it
24 must have been her daughter's book bag.

25 Q Her daughter's book bag.

Juandalyn Miller-Direct by Barr

1 A Yeah.

2 Q And when you say daughter, whose daughter
3 are you talking about?

4 A Toshonda.

5 Q Toshonda's daughter. You indicated that's
6 Phillip's name is, or P.J.'s name is Phillip.
7 Have you ever heard him called anything other than
8 P.J.?

9 A He called himself Dog.

10 Q He calls himself Dog?

11 A Uh-huh. (Affirmative.)

12 Q Is that a yes?

13 A Yes, ma'am.

14 Q Now, ma'am, when we're talking about
15 Laquincy Williams, are we talking about the man
16 who is seated at the defense table next to
17 attorney McKnight?

18 A Yes, ma'am.

19 Q When we talk about Toshonda Mickens, are
20 we talking about the woman who is seated at the
21 defense table next to Mr. Griffith?

22 A Yes, ma'am.

23 MS. BARR: That's all the questions I
24 have. Please answer any questions defense counsel
25 may have for you.

Juandalyn Miller-Direct by Barr

1 THE COURT: Mr. McKnight or Mr. Griffith.

2 MR. MCKNIGHT: Thank you.

3 Cross Examination by Mr. McKnight:

4 Q Ms. Miller, I'm going to -- I'm Cesar
5 McKnight, I'm going to ask you some questions.

6 And if at any time you do not understand me, ask
7 me to clarify and I will do so, okay.

8 A Yes, sir.

9 Q I need you to say yes or no, because that
10 lady sitting right there is a court reporter and
11 she's taking down what you say.

12 A Yes, sir.

13 Q And if you uh-huh or uh-uh, when we need
14 to read it back, we can't tell if you meant yes or
15 no. So do you understand me?

16 A Yes, sir.

17 Q Good. You're doing good. Now do you know
18 the difference between Hemingway and Johnsonville?

19 A No, sir, I don't.

20 Q Okay. do you know for a fact that you
21 went with Quincy and Toshonda to Hemingway?

22 A No, I don't.

23 Q You could have been in Johnsonville; could
24 you not?

25 A Yeah.

Juandalyn Miller-Cross by McKnight

1 Q What was the day that you all went and
2 rode around like Ms. Bar said you were doing?

3 A November. I don't -- I really, I'll be
4 honest, I don't really remember the day. I just
5 remember the day that she said the date, as I
6 remember the date. I don't remember.

7 Q Why did you go there? Wherever you went,
8 because you don't know. Why did you go there?
9 Why were you guys there?

10 A Well I was riding with them.

11 Q And what were they going there for?

12 A I can't say.

13 Q What did -- weren't you guys going there
14 to buy weed?

15 A Well we went to buy weed. Well we asked
16 for weed. I ain't going to say we went there to
17 buy it.

18 Q Now tell me---

19 A Because I didn't. I know me personally
20 myself, I didn't. I was just riding with them,
21 because I've used it.

22 Q I understand. Have you ever been with
23 anyone before to buy weed?

24 A Yeah.

25 Q Okay. I know it seems silly, but bear

Juandalyn Miller-Cross by McKnight

1 with me. When you go buy weed, it's not like you
2 are going in a store; is it?

3 A No, sir.

4 Q You kind of have to do it on the sly;
5 right?

6 A Yes, sir.

7 Q Okay. And sometimes when you buy weed,
8 you go to spots where you think there is a weed
9 man; don't you?

10 A Yes, sir.

11 Q And sometimes that weed man is out of
12 weed; is he not?

13 A Yes, sir.

14 Q Sometimes that weed man doesn't have good
15 weed; does he?

16 A No, sir.

17 Q Because you want the good stuff; is that
18 right?

19 A Yes, sir.

20 Q What people on the street call cush;
21 right?

22 A Yes, sir.

23 Q It's go that real strong odor?

24 A Yes, sir.

25 Q And you don't want that weak stuff you

Juandalyn Miller-Cross by McKnight

1 want the good stuff; is that right?

2 A Yes, sir.

3 Q So you have to sometimes ride from place
4 to place; do you not?

5 A Yeah, sometimes you do.

6 Q Okay. Now have you ever heard my client
7 planning a robbery?

8 A No, sir.

9 Q Have you ever heard my client planning a
10 murder?

11 A No, sir.

12 Q Have you ever seen him rob someone?

13 A No, sir.

14 Q Okay. I need this Elmore activated. No,
15 I don't. Let the record reflect that I am
16 referring to State's Exhibit No. 47. Permission
17 to approach the witness?

18 THE COURT: 47?

19 MR. MCKNIGHT: 47.

20 THE COURT: You may.

21 Q Is that picture that Ms. Barr showed you?

22 A Yes, sir.

23 Q And wasn't it your testimony on direct,
24 that you do not recognize that scene?

25 A No, sir. I didn't recognize that trailer.

Juandalyn Miller-Cross by McKnight

1 Q Thank you. Now the day they said this
2 happened was on November 2nd 2007; is that
3 correct?

4 A Yes, sir.

5 Q Toshonda has a -- how many children at
6 that time?

7 A She has two. Two girls.

8 Q And what were their ages?

9 A I can't really tell.

10 Q Let me ask you this, were one of those
11 children in school?

12 A Yes.

13 Q Where do they go to school?

14 A Thelma Brown, I think.

15 Q I'm sorry.

16 A I think she went to Thelma Brown.

17 Q What is Thelma Brown?

18 A It's a head start program.

19 Q Did Toshonda used to drop her child off to
20 school?

21 A Yes, sir.

22 Q What time of morning did she used to drop
23 her kid off at school?

24 A About seven something.

25 Q Seven something.

Juandalyn Miller-Cross by McKnight

- 1 A Yes, sir.
- 2 Q Were you there at her house on November
- 3 2nd 2007?
- 4 A Yes, sir.
- 5 Q Were you there in the morning?
- 6 A Yes, sir.
- 7 Q Did she take her child to school?
- 8 A I don't remember.
- 9 Q You don't remember. Was P.J. there that
- 10 morning? I am sorry, correction. Was Laquincy
- 11 there that morning?
- 12 A Yes.
- 13 Q He was there that morning.
- 14 A That morning when everyone came back.
- 15 Q And that's November 2nd.
- 16 A I guess that's the dates. I don't
- 17 remember the date.
- 18 Q So you don't remember the date.
- 19 A I don't remember the exact dates or
- 20 wherever I'm going by is they're really not the
- 21 dates. I don't know the dates.
- 22 Q Okay. Now so you don't know what day it
- 23 was you all went to buy the weed.
- 24 A No, sir.
- 25 Q Do you know how much weed you all bought?

Juandalyn Miller-Cross by McKnight

1 A No, sir.

2 Q Okay. Well let me ask you this. Did you
3 all smoke one blunt or two? Or do you remember?

4 A I can't remember. I just know we smoked
5 some weed.

6 Q When you guys smoked the weed, did you
7 smoke it in a bong or did you roll it up?

8 A We rolled it up.

9 Q Now, you said that the place where, that
10 you came back, and he said that he tried to get in
11 the screen door; is that what he said?

12 A Yes, sir.

13 Q Okay. And he said what about the door?

14 A It was locked.

15 Q Now when they were riding -- when you said
16 you guys were riding around, do you know that you
17 were riding around for 20 minutes in the car?

18 A Not actually.

19 Q Now was this a trailer park?

20 A It -- I think there's a trailer park.

21 Q Now---

22 A I know it's got trailers. And I know,
23 yeah, I seen trailers.

24 Q How many trailers were around this place
25 where you went?

Juandalyn Miller-Cross by McKnight

1 A I mean you can't count how many trailers.

2 Like---

3 Q Let me ask you this. You've been to some
4 trailer parks in Florence; have you not?

5 A Yeah, I lived in one.

6 Q Which one do you live in?

7 A I lived in Pine Creek. I lived in----

8 Q Okay. Let's talk about, did it look like
9 Pine Creek?

10 A No, sir.

11 Q So because like Pine Creek has got
12 multiple streets; is that correct?

13 A Yes, sir.

14 Q And like so you got this street and then
15 you got like the concrete driveway, the trailer
16 and another trailer and another trailer; is that
17 right?

18 A Yes, sir.

19 Q In Pine Creek. But this place didn't
20 look like that; did it?

21 A No, sir.

22 MR. MCKNIGHT: Court's indulgence just one
23 second.

24 THE COURT: Yes, sir.

25 Q Now you said, and I want you to be clear.

Juandalyn Miller-Cross by McKnight

1 You said that P.J. was in the car with you all
2 when went that day.

3 A Yes, sir.

4 Q And how do you know P.J.?

5 A Because I meet him through them.

6 Q Okay. Do you know where he is right now?

7 A I know that he is incarcerated in federal.

8 Q Okay. Now court's indulgence. Okay. Who
9 is Tight Shoe?

10 A Tight Shoe was a crack head that P.J. have
11 that is supposed to, like just in guess he gets
12 stopped by the police or something, he supposed to
13 get his drugs or whatever that he may have.

14 Q Uh-huh. (Affirmative.) You in your
15 statement you talked about tight shoe quite a bit.
16 What did the police ask you about Tight Shoe?

17 A Are you talking about the time of -- I
18 can't remember what they asked me. But if they
19 asked me anything about him, it must have been
20 about the time when we, us, me, Tight Shoe and
21 P.J. got locked up together.

22 Q What did you all get locked up for?

23 A For trafficking, and a gun charge.

24 Q Was Laquincy with you during this time?

25 A No, sir.

Juandalyn Miller-Cross by McKnight

1 Q Do you recall what time of day it was when
2 you all went to buy weed?

3 A I can't say what time it was. I know it
4 was dark outside.

5 Q Okay. So it didn't look like this.

6 A No, sir.

7 Q So it had to be sometime after sunset;
~8 right?

9 A Yes, sir.

10 Q And this is in November; correct?

11 A Yes, sir.

12 Q And in the winter it gets darker than it
13 does now; right? Quicker than it does now; right?

14 A I don't pay attention.

15 Q Okay. Now when you made this statement to
16 the police, where were you when you made that
17 statement?

18 A What do you mean?

19 Q I mean---

20 A Across the street.

21 Q Here? You were in Kingstree?

22 A Are you talking about -- what do you mean
23 statement? What statement?

24 Q Okay. They claim that you made a
25 statement on September 9th 2010. The thing that

Juandalyn Miller-Cross by McKnight

1 Ms. Barr kept showing you---

2 A I was in jail.

3 Q ---and making you read. You were in jail.

4 A When I went, I turned myself in, because I
5 had a warrant for my arrest for this occasion.

6 And I turned myself into the Florence police. And
7 I forgot her name, but the the investigator right
8 here.

9 Q Yeah. Well let me ask you something.
10 They had a tape recorder?

11 A I don't remember if they had a tape
12 recorder.

13 Q Did they talk to you before you started
14 giving the statement?

15 A They just asked me did I know what I was
16 charged with, what I was being brought there for.
17 But...

18 Q They asked you that?

19 A Uh-huh. (Affirmative.) Yes, sir.

20 Q And they asked you that in the beginning?

21 A They asked me that once I got here to the
22 placed called street.

23 Q Who was the lady that asked you that? Do
24 you know? Her? Permission to approach the
25 witness?

Juandalyn Miller-Cross by McKnight

1 A I don't her name.

2 Q You don't know her name?

3 A Her last name, I don't recall.

4 Q Was it Lail at the time?

5 A Yes, sir.

6 Q And that's the lady sitting there with the
7 burgundy shirt on in the black jacket?

8 A Yes, sir.

9 MR. MCKNIGHT: Permission to approach the
10 witness.

11 THE COURT: You may.

12 Q Please don't get this out of sequence,
13 okay. Because I have them in a notebook. But
14 show me in that statement where she asked you all
15 of those questions of why you are being brought
16 there for, or do you know why you are here and the
17 like?

18 A Excuse me?

19 Q You just told me that she had a
20 conversation with you before you, while you were
21 there. And you also mentioned that she asked you,
22 do you know why you are here, do you know why you
23 are being charged. Is that in that statement?
24 Take your time and look at it.

25 A No, sir.

Juandalyn Miller-Cross by McKnight

1 Q So, I'm sorry. When you are done, let me
2 know, Ms. Miller.

3 A Okay.

4 Q You don't see it; do you?

5 A No, sir.

6 Q Can I retrieve this?

7 A Yes, sir.

8 THE COURT: You may.

9 Q Ms. Miller, did you feel like they were
10 trying to make you say certain things?

11 A Who, the police?

12 Q Yeah, the police.

13 A No, sir.

14 Q No.

15 A I mean they do like everybody else.

16 Q When you say just like everybody else.

17 A She asked questions just like she asked me
18 the same way.

19 MR. MCKNIGHT: Your Honor, those are my
20 questions.

21 THE COURT: Mr. Griffith.

22 MR. GRIFFITH: Thank you, Your Honor. May
23 it Please the Court.

24 THE COURT: Yes, sir.

25 Cross Examination by Mr. Griffith:

Juandalyn Miller-Cross by McKnight

1 Q Ma'am, when you left the house, when you
2 got dropped off at the house, did you see all of
3 those people leave the house, or do you just think
4 they all left? Did you see every one of them get
5 in the car?

6 A No, sir, I didn't watch as they got in the
7 car.

8 Q Okay. Did you see every one of them get
9 out of the car when they came back?

10 A No, everyone didn't get out of the car,
11 because one was missing.

12 Q Okay. And so you were at house. But you
13 didn't know whether you were there by yourself or
14 not. You weren't sure. Could someone else have
15 been at the house with you? Could Ms. Mickens,
16 could have been in the house with you while you
17 were there? When the others drove off?

18 A I don't get what you are trying to say
19 like.

20 Q When you told them that you wanted to come
21 back, and you didn't want to ride with them
22 anymore, you came back to where you were staying.
23 And you were still there watching the kids. And
24 some of these other folks left in the car again.
25 But you didn't see who got in the car, you just

Juandalyn Miller-Cross by Griffith

1 said.

2 A I didn't see who got in the car. But when
3 I left I was by myself.

4 Q But you were by yourself in the car or in
5 the house. And when you -- were you initially
6 charged with accessory to murder or accessory to
7 robbery?

8 A I mean it was a warrant put on me for it,
9 but I don't know that I was charged.

10 Q Okay, well that's what I mean. Okay, was
11 there a warrant---

12 A Yeah, there were two warrants.

13 Q ---for you for accessory to this robbery?

14 A There was accessory before the fact to, I
15 don't know if it was an armed robbery. I think it
16 was an armed robbery and accessory to the fact to
17 first degree burglary.

18 Q Okay. So that charge, you did have a
19 warrant for your arrest at that time.

20 A (Witness nods in the affirmative.)

21 Q And after you spoke to the police and gave
22 your statement, you don't have a warrant now; is
23 that right?

24 A I mean, I guess. I did had to go see the
25 judge and all that to get off, still.

Juandalyn Miller-Cross by Griffith

1 Q Okay. And so when you went to this place
2 that you drove around the trailer park for awhile
3 about 20 minutes, and then they took you back to
4 the house; is that right?

5 A Yes, sir.

6 Q How long did it take to get from that
7 trailer park to get you back to the house?

8 A I don't remember the time. I told you I
9 don't remember the exact minutes or what.

10 Q Okay, so you don't remember how long it
11 took. Was it a long time? Was it a short time?

12 A I don't remember whether it was long or
13 short, because---

14 Q You don't just don't remember.

15 A ---I think was sleep on the way back
16 anyway.

17 Q Okay. Because you all went there to get
18 some weed; right? And you smoked some of the weed
19 on the way home.

20 A I smoked it, yeah. Yes, sir.

21 Q So you don't really remember much of what
22 happened then, because you fell asleep.

23 A I mean I fell asleep on the ride back, but
24 at the house I was smoking weed.

25 Q You never heard a Toshonda plan any kind

Juandalyn Miller-Cross by Griffith

1 of robbery; did you?

2 A No, sir.

3 Q You never heard Toshonda plan any kind of
4 going to take some money from somebody or even
5 steal some drugs from someone?

6 A No, sir.

7 Q You ever heard her say anything about any
8 kind of plan to kill anybody?

9 A No, sir.

10 Q You never heard any of that; did you?

11 A No, sir.

12 Q And but you guys were all rode around
13 together, but did you do this pretty often?

14 A What, ride?

15 Q Go riding to find some weed?

16 A No, we were riding to find some weed..

17 Q Okay. Because you did this pretty often.

18 This was just something you normally did; right?

19 A Yes, sir.

20 Q Okay. This wasn't a new thing. This
21 wasn't suddenly one day and they got up and said,
22 let's go here to Hemingway or to Johnsonville
23 wherever you were. It was just something you guys
24 did all the time; right?

25 A Yes, sir.

Juandalyn Miller-Cross by Griffith

1 Q Okay. And so when the police first
2 questioned you, you told them that you didn't know
3 anything about this; isn't that right?

4 A What do you mean by that?

5 Q You didn't know anything about any of this
6 situation that went on Hemingway or what.

7 A What police questioned me.

8 Q The statements that you were giving that
9 she having you read from, you initially told them
10 you didn't know anything about it; is that right?

11 A No, because when I told the police I was
12 under arrest and that's when I gave my statement
13 when I talked to them.

14 Q I understand. Court's indulgence, Your
15 Honor. Okay. So in your statement here this is
16 on page 7 of your statement. Up here you talked
17 about the fact that, you don't, just go ahead and
18 start reading right there.

19 A I don't what they are planing or when they
20 planned it. I don't.

21 Q And how about right there.

22 MS. BARR: I'm sorry, Judge. What is
23 counsel starting?

24 THE COURT: Speak loud so she can hear.

25 MR. GRIFFITH: Page 7, line nos. 6. She

Juandalyn Miller-Cross by Griffith

1 is now on line 6.

2 A I said I don't know where they were going
3 to, whether they were going to rob or whether they
4 going to kill. I don't know.

5 Q So really you just didn't really know
6 anything about this whole thing.

7 A Huh?

8 Q And you still don't. Is that what you're
9 telling me?

10 A No, sir.

11 Q Thank you. Now do you know if Toshonda's
12 kid, her oldest daughter rode the bus to school?
13 You don't know? You don't remember?

14 A No, sir.

15 Q So you don't remember if she put her on
16 the bus that morning or not?

17 A No, sir.

18 MR. GRIFFITH: I have no further
19 questions, your Honor.

20 THE COURT: Any redirect, Ms. Barr?

21 MS. BARR: Yes, judge, if I may.

22 Redirect Examination by Ms. Barr:

23 Q Ms. Miller, you were asked about the idea
24 of you all going to Hemingway to buy marijuana.
25 Do you remember Mr. McKnight asked you that

Juandalyn Miller-Redirect by Barr

1 question?

2 A Yes, ma'am.

3 Q And have you all ever brought marijuana
4 in Florence?

5 A Did we brought marijuana in Florence?

6 Q Yes, ma'am.

7 A Yeah, we buy weed in Florence.

8 Q It's not hard to get in to Florence; is
9 it?

10 A We're in Florence.

11 Q Right. So in your mind would there be a
12 reason why you would drive all the way from
13 Florence to Hemingway just to buy marijuana?

14 A I mean---

15 Q I mean can you think of a reason why?

16 A I mean, not for myself.

17 Q And at the time were you working?

18 A No, ma'am.

19 Q Did you have any income?

20 A No, ma'am.

21 Q So you wouldn't have had any ability to
22 buy any marijuana anyway; would you?

23 A No, ma'am, I wouldn't.

24 Q Ma'am?

25 A I wasn't buying anything.

Juandalyn Miller-Redirect by Barr

1 Q Who was buying the marijuana?

2 A I can't say who was buying it.

3 Q Say again.

4 A I can't say who was buying what.

5 Q Okay. You were asked about and maybe not
6 asked, well maybe you were. Asked about being
7 locked up with the P.J. Do you remember that?

8 A Yes, ma'am.

9 Q And the lawyer asked you what were you
10 charged with? Do you remember that? You remember
11 the lawyer asked you what were you charged with
12 when you were arrested with P.J.?

13 A Oh, yes, ma'am.

14 Q And you told them trafficking?

15 A Trafficking---

16 Q Okay.

17 A ---and gun charges.

18 Q Trafficking drugs; right?

19 A Trafficking.

20 Q Does that mean trafficking drugs?

21 A Trafficking in crack cocaine.

22 Q What happened to that charge against you?

23 A My lawyer got it dropped, because the gun
24 was thrown in my lap. Well P.J. threw the gun in
25 my lap, and he just wouldn't claim the crack or

Juandalyn Miller-Redirect by Barr

1, whatever.

2 Q Have you ever known drugs to be at
3 Toshonda's house while you were staying there?

4 A No.

5 Q Are you sure? Ma'am?

6 A Yes.

7 Q Are you sure?

8 A Yes, I am sure. Drugs is weed, because we
9 smoked it.

10 Q Say again?

11 A Drugs is weed, because we smoke it.

12 Q Let me show you Page 6 of your statement.
13 Line 15. The police asked, Toshonda was doing a
14 lot of drugs and stuff in her apartment. You see
15 that? Do you see that question?

16 A And I said yes. Because if she did, she
17 don't show nobody. She don't show me. She don't
18 show nobody. She don't show me, I can't say what
19 drugs or what. She showed me, because we smoked
20 it.

21 Q Now you indicated that Mr. P.J. Williams
22 threw a gun in your lap. Had you also seen
23 Laquincy Williams with a gun, prior to
24 November 2nd 2007?

25 A I don't get what you're saying like.

Juandalyn Miller-Redirect by Barr

1 Q Prior to Gquan being shot, had you ever
2 seen Laquincy Williams with a gun?

3 A No, ma'am.

4 Q I'll take you to page 24 of your
5 statement. Line 24. So the question is asked,
6 but have you seen Quincy with the gun before. Do
7 you see that question? Is that a yes? Do you see
8 the question? What's your answer?

9 A Yeah, plenty of times.

10 Q Go ahead and finish telling the jury what
11 your answer is.

12 A Yeah, plenty of times I see him with a gun
13 before.

14 Q Okay.

15 A When we first got to jail, that's what I
16 said.

17 Q Keep reading. Now keep telling what your
18 answer was.

19 A When I first start dealing with him, I saw
20 him with a gun. He has a gun on him all the time.

21 Q He has a gun on him all of the time;
22 right? That's what you police on September 9th.

23 A But I didn't say he had it on November
24 2nd. I didn't say I see no gun.

25 Q I said before November 2nd, you've seen a

Juandalyn Miller-Redirect by Barr

1 gun on Laquincy Williams many times; right?

2 A Yes, ma'am.

3 Q In terms of the date when this happened,
4 do you recall law enforcement asking you about
5 trying to get focused in and zeroed in on the
6 date, do you remember telling them about taking
7 the kids tricker treating? Do you remember that?

8 A Say it one more time.

9 Q Yes, ma'am. You remember law enforcement
10 was trying to narrow down the date when Gquan
11 would have been shot. Do you remember that? They
12 were asking you about the dates; do you remember
13 that?

14 A No, ma'am.

15 Q Do you remember telling them that you
16 remember taking the children tricker treating the
17 night before? And I'm looking on page 75 of your
18 statement, line 19. The question is asked, this
19 is about 3 days before Halloween? All right. Do
20 you remember---

21 A Nobody asked me about the---

22 Q Just follow me. Is the question, this was
23 about 3 days before Halloween? Are they talking
24 about around the time frame?

25 A I don't remember. But that's what I am

Juandalyn Miller-Redirect by Barr

1 asking what the question was. What made her even
2 ask me that.

3 Q Okay.

4 A I don't remember her asking me.

5 MS. BARR: That's fair. Fair enough.

6 Ms. Miller, that's all the questions I have.

7 THE COURT: Any recross based on her
8 redirect?

9 MR. MCKNIGHT: Yes. Yes, Your Honor.
10 Very briefly.

11 Recross-Examination by Mr. McKnight:

12 Q On line 75, which Ms. Barr referred to, do
13 you recall telling the police about a trip to
14 Orangeburg? About them going to Orangeburg?

15 MS. BARR: Judge, may we -- I have an
16 objection to the line of questioning. May we
17 approach the bench?

18 THE COURT: You may.

19 (Whereupon, the attorneys approach the
20 bench and confer with judge.)

21 MS. BARR: Judge, I'll withdraw the
22 objection.

23 THE COURT: Withdraw the objection. You
24 may proceed.

25 Q When you were talking about Halloween, or

Juandalyn Miller-Redirect by Barr

1 them asking you about tricker treating, that had
2 nothing to do with what they're accused of here
3 today; is it?

4 A No, sir.

5 MR. MCKNIGHT: That's all my questions
6 thank you.

7 THE COURT: Mr. Griffin.

8 MR. GRIFFITH: No, Your Honor. I have no
9 further questions.

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

11 MR. MCKNIGHT: Your Honor, please don't
12 release her. We may want to recall her.

13 THE COURT: I haven't released her. I
14 think now is a good time to break for lunch.

15 Ladies and gentlemen, I am going to excuse you
16 for lunch, with instructions to be back here about
17 a quarter after two. That should give you plenty
18 of time to go out and get lunch. I'm going to
19 tell you a funny story that happened one time.
20 Don't eat a whole lot for lunch. When you come
21 back here, I had a case, it was a warm day. And
22 the jurors heads were kind of bobbing. So I had
23 all the jurors stand up to kind of make sure
24 everybody was awake. But there one juror that was
25 sound asleep. So while everybody else was

1 standing up, but again don't be that jury. Okay,
2 you all have a nice lunch. Please do not discuss
3 anything about the trial while you are at lunch.
4 And I do see Juror No. 167 for just a moment.
5 Thank you. have a good lunch.

6 (Whereupon, at 12:52 p.m. jury goes to
7 lunch.)

8 (Whereupon, the following takes place
9 outside the presence of the jury.)

10 THE COURT: The juror's name is?

11 MR. MCKNIGHT: Singletary, Your Honor.

12 THE COURT: Ms. Singletary. I think the
13 statement was made to one of the bailiff's that
14 you thought you might have known the wife of the
15 person referred to as P.J.; is that correct?

16 THE JUROR: Yes, sir.

17 THE COURT: You think you know her or you
18 don't?

19 THE JUROR: I think she was---

20 THE COURT: Okay, speak up so they can.

21 THE JUROR: I think that she is probably
22 the co-worker of my sister-in-law during this
23 time. I am thinking -- I think her family is, I
24 don't name her married name. But I think her
25 maiden name was Bell. I'm not sure.

1 MS. BARR: It is.

2 THE COURT: Would the fact that you might
3 know this person, and I don't know whether she is
4 going to testify or not. But the fact that you
5 might know her, would that make you any less
6 unfair to either the prosecution or the defense in
7 this case? Do you think you can be fair and
8 listen to the evidence in this matter concerning
9 her?

10 THE JUROR: I mean I do if it's same, if
11 this is the female, I know her family.

12 THE COURT: But do you know her?

13 THE JUROR: Huh?

14 THE COURT: Do you know her?

15 THE JUROR: I'm thinking that's her name
16 is Latish?

17 MS. BARR: It's Latasha Bell Williams.

18 THE JUROR: Yeah, so I know her. And I
19 know her sister.

20 THE COURT: Knowing that, do you think you
21 can be fair to the prosecution and the defense in
22 this case?

23 THE JUROR: No, sir.

24 THE COURT: You don't think you can. Any
25 objection to releasing her? I wish you had told

1 us that before we started.

2 THE JUROR: I didn't know her married
3 name.

4 THE COURT: Her name was--

5 MR. MCKNIGHT: Is listed as Williams. We
6 didn't say Bell, and that's why she didn't get it.

7 THE COURT: Okay.

8 MR. MCKNIGHT: Because they are twins,
9 that's why she didn't know.

10 THE JUROR: No, her, I mean I didn't catch
11 her.

12 MR. MCKNIGHT: She didn't recognize it.

13 THE COURT: Okay. Is there any objection
14 to releasing this juror and placing the alternate,
15 the first alternate in her place?

16 MR. MCKNIGHT: The first alternate would
17 be?

18 THE CLERK: Mr. Redding.

19 THE COURT: Well the second alternate.

20 MR. MCKNIGHT: The second alternate; yes,
21 sir. That's---

22 THE CLERK: The second alternate.

23 MR. MCKNIGHT: Yeah, that's fine. The
24 second alternate will be fine.

25 THE CLERK: Luella Hunter.

1 THE COURT: Any objection from the state?

2 MS. BARR: No, Your Honor.

3 THE COURT: Thank you.

4 THE CLERK: And what is your name?

5 MR. MCKNIGHT: Collette Singletary.

6 THE COURT: Ms. Singletary---

7 THE CLERK: 167.

8 THE COURT: ---you need to be on call for
9 the next jury. Because you are not released from
10 jury service, but you are released from jury
11 service on this case.

12 THE JUROR: Okay.

13 THE COURT: Thank you. That does leave us
14 in a precarious situation. If we lose one more
15 juror, if that's the case, you all put them on
16 there. I'm not going to -- it will be husband and
17 wife deliberating at that point and time. I'm
18 trying to avoid that---

19 MR. MCKNIGHT: Yes, sir. I see---

20 THE COURT: But y'all put them on there.
21 I am not going to mistry this case simply for that
22 reason. Hopefully our other alternate will remain
23 an alternate. But if it doesn't, you all put them
24 on there, so you all will be responsible. Thank
25 you.

1 MS. BARR: Judge, we are in recess until
2 what time?

3 THE COURT: Come back at 2:15.

4 (Photos marked State's Exhibits Nos. 1 through
5 49 for id.)

6 THE COURT: Anything before we bring the
7 jury back in.

8 MS. BARR: Nothing from the state.

9 MR. MCKNIGHT: Nothing from the defendant,
10 Your Honor.

11 THE COURT: Very well. Let's bring the
12 jury back.

13 (Whereupon the trial commences at 2:24
14 p.m. and the following takes place within the
15 presence of the jury.)

16 THE COURT: Ms. Luella Hunter, you are now
17 a primary juror. You are no longer an alternate.
18 All right.

19 THE JUROR: All right.

20 THE COURT: Is the state ready to proceed?

21 MS. BARR: The state is ready to proceed.

22 THE COURT: Is the defense ready?

23 MR. MCKNIGHT: The defense is ready.

24 THE COURT: Call you next witness.

25 MS. BARR: We call Officer Joshua James.

1 Officer Joshua James, being
2 first duly sworn, testified as follows:

3 MS. BARR: May it Please the Court?

4 THE COURT: Yes, ma'am.

5 Direct Examination by Ms. Barr:

6 Q Officer James, state your full name for
7 the record.

8 A Joshua Alston James.

9 Q And, sir, we see you have your uniform on.
10 But tell the jury what it is that you do for a
11 living.

12 A I work for the Florence Police Department.
13 I have worked since January 31st of 2006.

14 Q Are you a certified police officer?

15 A Yes, ma'am.

16 Q Sir, were to working back on the morning
17 of November 2nd of 2007?

18 A Yes, ma'am, I was.

19 Q And on that occasion, did you respond to a
20 call at McLeod Regional Medical Center involving
21 a James Gquan Henry?

22 A Yes, ma'am.

23 Q Tell the ladies and gentlemen of the jury,
24 the nature of the call, and what you observed when
25 you arrived at the hospital.

Officer James-Direct by Barr

1 A Okay. We got that call by radio
2 dispatch. In other words, our dispatch called us
3 there to the hospital. And the reason for this,
4 anytime the hospital has a patient that comes in
5 that's been shot, stabbed or assaulted in any way,
6 their policy is to call us so that we can find out
7 what happened. Once I got there, I spoke with a
8 nurse there by the name of Alex Yarborough. He
9 had a patient in one of his rooms that had been
10 shot twice. Upon talking with, I believe, the
11 patient's name was a Henry James.

12 Q Henry James or James Henry?

13 A I am sorry, James Henry you are right.

14 Q Yes, sir.

15 A Anyway, he did tell us that he was shot.
16 He wasn't sure where he was shot at.

17 Q How old was James Gquan Henry at the time
18 this report was made?

19 A I believe he was, I would say around
20 16-years-old.

21 Q Yes, sir. The time came in to your
22 dispatch for the call. What time was the call
23 actually brought in to dispatch?

24 A The dispatch call came in at 9:47.

25 Q A.m.?

Officer James-Direct by Barr

1 A A.m, yes, ma'am.

2 Q Okay.

3 A My time of arrival was was 9:58. That's
4 when I got to the hospital. Now these are
5 dispatch times. In other words, this is when the
6 central, how that works; for example, if somebody
7 takes your bicycle, it happened 30 minutes ago.
8 So that's when it would be like when it actually
9 happened, but you call 30 minutes later---

10 MR. MCKNIGHT: Your Honor.

11 THE COURT: Yes, sir.

12 MR. MCKNIGHT: His response goes beyond
13 the scope of the question.

14 THE COURT: What was your question?

15 MS. BARR: I had asked him about the time
16 that dispatch noted the call came in to the police
17 department.

18 THE COURT: I am going to let him explain
19 how the time works on that. Overruled.

20 A And like I was saying, the dispatch time
21 versus the actual incident times. There are two
22 different times. But to help you understand, your
23 bicycle was stolen let's say 12:00 o'clock. You
24 call the police department at 12:30. I arrived at
25 12:35. That's what you call the dispatch time.

Officer James-Direct by Barr

1 Now the time of the incident when your
2 bike was stolen is at 12 o'clock, just to help you
3 clarify so people can understand what is going on,
4 with these times.

5 Q Now you got to the hospital, you spoke
6 with the fellow James Henry; is that right?

7 A Yes, ma'am.

8 Q And you indicated that he told you he
9 wasn't sure where he was shot.

10 A That's correct.

11 Q Do you know how it is that he came to end
12 up in the ER? How he got there?

13 A From what the nurse told me he was dropped
14 off---

15 MR. MCKNIGHT: Objection.

16 THE COURT: Sustained.

17 MS. BARR: Judge, it's not being offered
18 for the truth of the matter asserted. So we take
19 the position it is not hearsay.

20 MR. MCKNIGHT: Well if she's not offering
21 it for the truth of matter asserted, and we can't
22 rely on it, why is she offering it?

23 THE COURT: Yeah, I mean, that's still
24 hearsay.

25 MS. BARR: I'll rephrase it.

Officer James-Direct by Barr

1 THE COURT: Is your purpose there.

2 MS. BARR: I'll rephrase it.

3 Q When you arrived at the hospital and you
4 met with Mr. Henry, was anyone else with you?

5 A No, ma'am.

6 Q Did he have family or friends or anybody
7 with him?

8 A No, ma'am.

9 Q Okay. After your conversation with the
10 nurse at the hospital, were you looking for any
11 particular type of vehicle?

12 A Yes, ma'am.

13 Q What type of vehicle were you looking for?

14 A We were looking for a silver car. I
15 believe it was to be, if my memory serves
16 correctly, I believe it was an Impala, with an out
17 of state tag.

18 Q Do you know how long you stayed at the
19 hospital?

20 A I was there maybe 20, 30 minutes, if I can
21 remember correctly. It's been a while.

22 Q Okay. Sure. After you arrived at the
23 hospital or while you were in route to the
24 hospital, did you make a call in to the Florence
25 Police Department and request an investigator?

Officer James-Direct by Barr

1 A I did.

2 Q Okay. And who was the investigator
3 assigned to this case?

4 A Sergeant Davis who is now Lieutenant
5 Davis.

6 Q Sergeant Lee Davis?

7 A Lee Davis; yes, ma'am.

8 Q Did you and now Lieutenant Davis have an
9 occasion to go back out at the hospital later on
10 that same day?

11 A Yes.

12 Q And does your incident report reflect the
13 time that you and Sergeant Davis went back out to
14 the hospital?

15 A Yes, ma'am.

16 Q Okay. And what time was it that you all
17 went back to the hospital?

18 A I believe it was around 2:20.

19 Q Okay. What caused the two of you to go
20 back out to the hospital?

21 A I believe we got a call from the security
22 officer there that a young lady of Ms.---

23 MR. MCKNIGHT: Objection, hearsay.

24 THE COURT: No, I think this is not
25 offered. He's just saying why he went back out

Officer James-Direct by Barr

1 there.

2 Q You may continue.

3 THE COURT: You may. Overruled.

4 A Security, Sergeant Esslinger, he called
5 us in reference to a Ms. Mickens. She was at the
6 emergency room, saying that she had dropped---

7 MR. MCKNIGHT: Objection, hearsay. He's
8 about to you to tell you what he said. He's
9 called me saying, blah, blah, blah.

10 THE COURT: That would be hearsay.

11 Q You indicated---

12 THE COURT: Sustained.

13 MS. BARR: Thank you, Your Honor.

14 Q You indicated that had gotten a call from
15 the security officer at McLeod.

16 A Uh-huh. (Affirmative.)

17 Q Is that a yes?

18 A Yes, ma'am.

19 Q As a result of that call, you and Sergeant
20 Davis then went back to McLeod.

21 A Yes, ma'am.

22 Q And this is about 2:20 in the afternoon?

23 A That's right.

24 MR. MCKNIGHT: Objection. Now she's
25 leading this witness now, Your Honor.

Officer James-Direct by Barr

1 THE COURT: Watch your questions.

2 Q Officer James, when you went back out
3 along with Sergeant Davis, now Lieutenant Davis,
4 who did you meet with? You called the name. Who
5 did you meet with when you went out there about at
6 2:20?

7 A Toshonda Meekens?

8 Q Toshonda Mickens?

9 A Mickens, I am sorry.

10 Q And when you went out to McLeod, what if
11 anything did Toshonda tell you?

12 A She advised us that she, she took---

13 MR. GRIFFITH: Objection, hearsay.

14 THE COURT: Overruled.

15 Q Continue.

16 A That she took the subject to the emergency
17 room, which would be James Henry.

18 Q Did she tell you how it is that she found
19 him, or how is it that she came to take him to the
20 emergency room?

21 A She said that she saw Henry in the 900
22 block of June Lane, which is in the City of
23 Florence, laying down in the grass.

24 Q And after she made that statement, did you
25 actually see how and when I say how, I mean the

Officer James-Direct by Barr

1 type of vehicle she arrived in to come to the
2 hospital that afternoon at 2?

3 A If I am not mistaken, again, I believe it
4 was an Impala.

5 Q Did you leave the hospital at any point
6 and time, and have any further conversations with
7 Ms. Mickens after that conversation at 2:20 at
8 McLeod?

9 A I don't believe so. I can't remember
10 right off hand.

11 Q You mentioned that she told you something
12 about she found Mr. Henry on June Lane. Do you
13 recall or do you know if Sergeant Davis ever went
14 out to June Lane where Ms. Mickens purports that
15 she found Mr. Henry?

16 MR. GRIFFITH: Objection, leading, Your
17 Honor, again.

18 THE COURT: Rephrase your question.

19 Q Did you go back? Did you ever go to June
20 Lane where Ms. Mickens purports to have found
21 Mr. Henry?

22 A Yes.

23 Q Did Sergeant Lee Davis accompany you?

24 A Yes, he did.

25 Q Did anyone else from the Florence Police

Officer James-Direct by Barr

1 Department accompany you and Sergeant Davis out to
2 June Lane?

3 A Our crime scene unit at that time,
4 Corporal Brandt.

5 Q Mike Brandt?

6 A Mike Brandt.

7 MS. BARR: Officer James, that's all the
8 questions I have. Please answer any questions
9 defense counsel has.

10 THE COURT: Mr. McKnight, Mr. Griffith?

11 MR. MCKNIGHT: Your Honor, I don't have
12 any questions for him.

13 THE COURT: Mr. Griffith.

14 MR. GRIFFITH: I do have some questions,
15 Your Honor.

16 THE COURT: All right.

17 Cross Examination by Mr. Griffith:

18 Q Officer, you did say that it was reported
19 to you that the body was found. Did she not
20 rather say that she got a call to inform you
21 where -- to inform her where the body was found?

22 A I can't recall, it's has been so long. I
23 just remember that she mentioned she picked him up
24 at the 900 block of June Lane.

25 Q And so she picked him up there in

Officer James-Cross by Griffith

1 Florence?

2 A Yes, sir.

3 MR. GRIFFITH: No other questions.

4 THE COURT: Any redirect based upon his
5 cross examination?

6 MS. BARR: No, Your Honor.

7 THE COURT: You may step down.

8 MS. BARR: We call Lieutenant Lee Davis.

9 THE COURT: Any objection to this witness
10 being excused?

11 MR. MCKNIGHT: I don't have any objection
12 to this witness; no, sir.

13 MR. GRIFFITH: No, Your Honor. No
14 objection.

15 THE COURT: You are excused.

16 Lieutenant Lee Davis, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION by Ms. Barr:

19 Q Lieutenant Davis, good afternoon.

20 A Good afternoon.

21 Q Would you please state your full name for
22 us?

23 A Lee Davis.

24 Q And, sir, tell us where you work.

25 A I'm employed with the Florence Police

Lieutenant Davis-Direct by Barr

1 Department.

2 Q You are a certified police officer?

3 A I am.

4 Q How long have you been in law enforcement?

5 A I am currently 15 years in July of this
6 year. I'm a lieutenant and watch commander with
7 the evening shift.

8 Q Back in November of 2007, what department
9 were you assigned within the agency?

10 A Back then I was a sergeant, and I was
11 assigned to the criminal investigation's division.

12 Q Can you tell us kind of what that means,
13 and what your responsibilities would have been?

14 A Back then I was the sergeant for the
15 Financial Crimes Unit. And basically what that
16 does is where you are charged with any crimes that
17 became involved in financial crimes and theft and
18 things of that nature. So typically the case gets
19 assigned by a lieutenant that morning. And then
20 the cases come out and they assign to an
21 investigator. And we work the case and try to
22 find out who might be responsible for a particular
23 crime.

24 Q And, sir, you were working back on
25 November 2nd 2007?

Lieutenant Davis-Direct by Barr

1 A Yes, I was.

2 Q And you became involved in investigating a
3 shooting of James Gquan Henry?

4 A I did.

5 Q Now I understand this has been some time
6 ago, and you may refer to your report if you need
7 to. But do you recall how old Mr. Henry would
8 have been at the time?

9 A I think he was 16 at the time.

10 Q Did you actually meet with him at the
11 hospital?

12 A I did.

13 Q Okay. Did he tell you what happened to
14 him?

15 A Yes, he told us that he had been shot.
16 Well initially he told he was shot, when he said
17 he was 16, because of the fact that he was a
18 juvenile. At some point made an effort to contact
19 his mother, who was responsible for him. Because
20 he was involved in some type of crime, because of
21 the shooting. So we went and found his mother, so
22 that she can be there. And she made aware of what
23 was going on as well.

24 Q Did you happen to record the name of his
25 mother?

Lieutenant Davis-Direct by Barr

1 A Yes, I did.

2 Q Can you tell us her name?

3 A Her name was Michelle Manley.

4 Q Michelle Manley?

5 A Yes. M-A-N-L-Y. L-E-Y. Michelle Manley.

6 Q Now you were testifying earlier that
7 initially he told you, and I think I interrupted
8 you. Please continue, what did he initially say
9 to you?

10 A Initially he told us that he had been
11 shot. He said that the location he thought was on
12 National Cemetery Road.

13 MR. MCKNIGHT: Objection. Hearsay.

14 MS. BARR: Your Honor, hearsay is a
15 statement that is offered for the truth of the
16 matter asserted. Our contention is this is
17 completely not offered for the truth of the matter
18 asserted, because it was a made up story. So we
19 take the position it is not hearsay.

20 THE COURT: I think I am going to sustain
21 the objection.

22 Q He initially gave you a statement as to
23 where he was shot.

24 A That's correct.

25 Q Let me ask you this. For some of us who

Lieutenant Davis-Direct by Barr

1 may not be familiar with the city limits of
2 Florence, can you tell us the approximate distance
3 between Seal Test and National Cemetery Road?

4 A It's approximately maybe a quarter of a
5 mile, a half mile. Depends on how far you go
6 down National Cemetery Road.

7 Q You testified that he initially gave you a
8 statement; is that correct?

9 A That's correct.

10 Q At some point and time, did he give you a
11 different statement regarding what happened to him
12 or how it happened or where it happened?

13 A Yes, he did.

14 Q And based upon the change in statement,
15 what was your perception about what he was telling
16 you at the time?

17 MR. MCKNIGHT: Objection that calls on
18 speculation on the part of the witness.

19 MS. BARR: His opinion---

20 THE COURT: Rephrase your question.

21 MS. BARR: Judge, I am not asking him to
22 speculate as to what anybody else thought. I am
23 asking what his thoughts were.

24 THE COURT: He can say what his thoughts
25 were. Overruled.

Lieutenant Davis-Direct by Barr

1 A I know that he was being deceptive,
2 because he was going back and forth about the
3 different locations that he said it happened at.
4 And eventually what happened was there were
5 several locations, and we weren't able to
6 determine where there was any shooting that
7 occurred, based upon the fact he was shot multiple
8 times. And there was blood or anything that was
9 located. There was no disturbed scene. We
10 couldn't find any witnesses or anything else to
11 account for his story.

12 Q You indicated that you went to where
13 somebody told you he was shot. What made you go
14 out to that particular location? And where is the
15 location?

16 A It's located at June Apartments, which was
17 in the City of Florence. And there was a young
18 lady that came forward to the hospital and said
19 that----

20 MR. MCKNIGHT: Objection.

21 THE COURT: Sustained.

22 MS. BARR: Your Honor, it's the
23 defendant's statement.

24 THE COURT: Oh, that was the young lady.

25 MS. BARR: Yes, sir.

Lieutenant Davis-Direct by Barr

1 THE COURT: Overruled.

2 Q I'm sorry, start again.

3 A She met us at the hospital.

4 MR. MCKNIGHT: Your Honor, he hasn't told
5 us what the young lady's name is, so unless he
6 says that, we don't know.

7 THE COURT: If you would set up your
8 foundation properly.

9 MS. BARR: Absolutely.

10 Q What caused you to go out to that area of
11 June Lane?

12 A Toshonda Mickens came to the hospital, and
13 she met with us. She said that she was the one
14 who went to June Lane and found him there, and she
15 brought him to the hospital.

16 Q Did you ask her why she didn't stay there
17 at the hospital with this person?

18 A Yes, we did.

19 Q What was her response?

20 A She said that she had to go to her
21 daughter's school. And then later that she had a
22 hair appointment.

23 Q Because she had a hair appointment?

24 A Yes.

25 Q Did she look like she had just gotten her

Lieutenant Davis-Direct by Barr

1 hair done?

2 A It is hard to remember. It has been a
3 couple of years.

4 Q Now at the time that you had that
5 conversation with her, Ms. Mickens, where was she?

6 A She was initially at the hospital. McLeod
7 hospital.

8 Q Okay.

9 A Then she went with us to June Lane to show
10 us the area that she said where she located him
11 at.

12 Q Okay. When you went to go to the area
13 where Ms. Mickens told you that she found James
14 Gquan Henry, do you recall the type of vehicle she
15 was driving?

16 A It was a to silver Mazda. Some type of
17 silver Mazda.

18 Q Did anyone else from your agency go out
19 there to June Lane with you?

20 A Yes, several of us went there trying to
21 locate the crime scene area. It would have also
22 been Corporal Brandt and Officer James, who was
23 the responding officer, who did the report.

24 Q Corporal Brandt was working the crime
25 scene at the time?

Lieutenant Davis-Direct by Barr

1 A He was, yes.

2 Q And I'll get back to that in just a
3 moment. Did Corporal Brandt come to the hospital
4 where Mr. Henry was?

5 A Yes, he did.

6 Q Did he photograph pictures? Did he take
7 pictures of Mr. Henry and or his clothing in the
8 room?

9 A Yes, he did.

10 Q Were you present when those pictures were
11 taken?

12 A Yes, I was.

13 MS. BARR: Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 Q Lieutenant Davis, I am going to hand you
17 what has been marked for identification purposes
18 as State's Exhibits No. 34 through 46. And I'll
19 ask you if you recognize what is depicted in those
20 photographs.

21 A This is the victim in the hospital bed,
22 and the clothing that has been photographed and
23 collected on that day.

24 Q And do they accurately depict how the
25 scene was at the time the photographs were taken?

Lieutenant Davis-Direct by Barr

1 A Yes, they do.

2 MS. BARR: Judge, we would move State's
3 Exhibits Nos. 34 through 46 into evidence.

4 THE COURT: Any objection from the
5 defendant?

6 MR. MCKNIGHT: Yes, Your Honor.

7 THE COURT: What is your objection.

8 MR. MCKNIGHT: First of all, proper
9 foundation has not been laid for these pictures.
10 He of his knowledge, doesn't know if that's all of
11 the pictures; whether or not there are any more
12 pictures. He didn't take the pictures himself.
13 And he doesn't know if there are a true
14 representation of what was in fact photographed.
15 So without that, there's not a foundation laid.
16 Nor is there and also they are hearsay without the
17 gentleman who took those pictures to come in.

18 THE COURT: Overruled. Proceed.

19 (Photographs marked State's Exhibit Nos.
20 34 through 46 into evidence.)

21 MS. BARR: Permission to publish?

22 THE COURT: You may publish.

23 Q Lieutenant Davis, I am going to publish
24 what has been admitted as State's Exhibit No. 34.
25 Can you see that where you are?

Lieutenant Davis-Direct by Barr

1 A Yes, I do.

2 Q And tell the jury what that is.

3 A That is the data sheet for the crime
4 scene. It has the date, the time. It has our
5 department's case number. It has the incident
6 type. The location. The investigator who at the
7 time was myself. And the photograph would have
8 been Corporal Brandt.

9 Q In terms of the date, what date is listed
10 on that exhibit?

11 A It is November 2nd 2007.

12 Q And what is the time listed on that
13 exhibit?

14 A It's 11:02 a.m.

15 Q And what is your Florence Police
16 Department case number relative to that incident?

17 A It's 2000 -- 2007-0. He didn't finish
18 putting the numbers on it, but it should be
19 07-011-378. 378. 2007-011-378.

20 MR. MCKNIGHT: Then he can't authenticate
21 those pictures, because they don't match what he
22 has in the record. They can't come in to
23 evidence. Because that case number is totally
24 different than what he just testified to.

25 MS. BARR: Your Honor, that goes to the

Lieutenant Davis-Direct by Barr

1 weight of the evidence. Obviously he had---

2 THE COURT: He said he was there when the
3 pictures were taken, and they were an accurate
4 representation of what he saw when he was there.
5 They are coming in. They're in. Overruled again.

6 Q It indicates the location as being where,
7 Lieutenant Davis?

8 A McLeod Emergency Room. Trauma No. 4.

9 Q And the Investigator it lists there,
10 Sergeant Davis. That would be you?

11 A Yes.

12 Q The photographer was listed as Corporal
13 Brandt. That would be Mike Brandt?

14 A That is correct.

15 Q Okay, I am going to publish what has been
16 admitted as State's Exhibit No. 35. If you tell
17 us what is depicted in that exhibit?

18 A That is the victim laying in the hospital
19 bed. That's the photos we took initially when we
20 first got there, when we met him in the hospital.

21 Q And just so we are clear when you say
22 victim, you are referring to James Gquan Henry?

23 A That's correct.

24 Q And tell us about 36, please.

25 A It's also a photograph of Mr. Henry. Just

Lieutenant Davis-Direct by Barr

1 a facial shot.

2 Q And if you will tell us about 37.

3 A That would been the trauma room after he
4 was taken up to perform some type of procedure.
5 And his clothes were left laying behind in the
6 room.

7 Q And when you talk about his clothes, I'm
8 pointing here in the particular exhibit by what
9 appears to be some type of red box?

10 A Yes, that was in---

11 Q You see where I am pointing?

12 A Yes.

13 Q And this appears to be some type of
14 article of clothing. Is that the clothing?

15 A That would have been the jacket that he
16 had on.

17 Q That Mr. Henry had on?

18 A Yes.

19 Q Tell us about 46. Is that also an item of
20 clothing?

21 A Yes, that's the shirt he would have had
22 on.

23 Q Tell us about 45.

24 A Those were the pants that he was wearing
25 that day.

Lieutenant Davis-Direct by Barr

1 Q And there is, it looks like somebody's
2 hand there with something in the hand. Is that
3 you there?

4 A Yes, that was my hand.

5 Q Tell us about 44.

6 A Those are the opposite side of the pants.

7 Q Now the pants look like there is some type
8 of shoe design or Timberland shoe or?

9 A There are like two types. Two shoes. One
10 is on the left side and one is on the right side.
11 One is a brown and one is a blue.

12 Q Okay. Tell us about what has been
13 admitted as State's Exhibit No. 4.

14 A That would have been the jacket that he
15 had on. A sweater, I guess, he is wearing. And
16 it appears to be to gunshot wound. Or entry for a
17 gunshot.

18 Q And I took it out or order. Let me go
19 back just a little bit. I'm referring to State's
20 37. I think you previously testified that that is
21 a jacket that is listed in that particular
22 exhibit?

23 A That's correct.

24 Q And tell us about 38.

25 A 38 would have been a collection of the

Lieutenant Davis-Direct by Barr

1 jacket, the pants, and his underwear; as well as,
2 his socks that he would had on that day.

3 Q Just so we are clear, what I am pointing
4 to now is what?

5 A That's the jacket.

6 Q Okay. What about what I am pointing to
7 now?

8 A The socks.

9 Q What I'm pointing to now?

10 A Those would have been the underwear.

11 Q And what about that item there?

12 A And those would have been the pants.

13 Q And we saw the up close picture of the
14 pants that he was wearing that night. Is that
15 the, what looks like some type of Timberland boot
16 design on his pants?

17 A Yes, that would have been his shoe. The
18 brown shoe and the blue shoe, that would have
19 been the brown one.

20 Q And publishing State's Exhibit No. 40.
21 Tell us what that is please.

22 A That would have been the jacket laid out
23 on a brown piece of paper.

24 Q And you mentioned something earlier about
25 a, on a previous exhibit, about what appeared to

Lieutenant Davis-Direct by Barr

1 be where he was shot. Is that depicted in this
2 photograph as well?

3 A Yes, it is. Right there where your pen is
4 at.

5 Q And State's No. 41, is that simply a
6 different view of that same sweater?

7 A Yes, it is.

8 Q And State's Exhibit No. 43. Tell us what
9 that is, please.

10 A That would have been his underwear.

11 Q You said after you all left the hospital,
12 tell me again where you went?

13 A Initially when we left the hospital, I had
14 gotten with Detective O'Hara, he's with the
15 sheriff's department.

16 Q Which sheriff's department?

17 A Florence County Sheriff's Department.

18 Q Yes, sir.

19 A And that was because the location that we
20 were initially told was out of the county's
21 jurisdiction.

22 Q Yes, sir.

23 A So we went, we also looked at that
24 location out in the county, myself and Paddel
25 Harrum. And we couldn't find anything there

Lieutenant Davis-Direct by Barr

1 either.

2 Q So let me make sure I am clear. You all
3 went out into a location that was outside the City
4 limits of Florence.

5 A That's correct.

6 Q Within the county's jurisdiction.

7 A That's correct.

8 Q And so based on that was you contacted
9 Paddel Harrum with the Florence County Sheriff's
10 Office.

11 A That's correct.

12 Q And where did you Paddle Harrum go?

13 A We went to National Cemetery Road.

14 Q Okay.

15 A Which is located out in the county.

16 Q And make sure I understand your testimony,
17 with regard to going out there and finding any
18 evidence of a shooting?

19 A We didn't find anything out there.

20 Q Where was the next place you went?

21 A After that, we came back and spoke with
22 Mr. Henry again, and he gave us the name of a
23 female at Darlington High School.

24 Q Okay. You travel a lot to Darlington?

25 A Yes, we do.

Lieutenant Davis-Direct by Barr

1 Q Had a conversation with that individual.

2 A We did.

3 Q And where did you end up? After you left
4 Darlington, where did you end up going?

5 A After we left Darlington, we had spoke
6 with a female at Darlington High School. She
7 said---

8 MR. MCKNIGHT: Objection.

9 THE COURT: Hearsay. Sustained.

10 Q Just tell me what you did as a result of
11 what she said. Where did you go next?

12 A At that point we couldn't find anything
13 that was conclusive, so we left Darlington at
14 point.

15 Q At what point within the day did you
16 actually go out to June Lane?

17 A That would have been about 2:30 in the
18 afternoon.

19 Q And Corporal Brandt accompanied you at
20 that time as well?

21 A That's correct.

22 Q I am going to hand you what has been
23 marked as identification purposes as State's
24 Exhibits No. 1 through 12, and ask you if you
25 recognize what is depicted in those photographs.

Lieutenant Davis-Direct by Barr

1 A This would have been the silver Mazda that
2 was driven by Ms. Mickens. That's the car that
3 she came to the hospital in, and that's the car
4 that she followed us out to June Lane to show us
5 the location.

6 Q And do those photographs accurately depict
7 the scene as it appeared at the time the
8 photographs were taken?

9 A Yes.

10 Q You were present when they were taken?

11 A Yes.

12 MS. BARR: We would move State's Exhibit
13 Nos. 1 through 12 into evidence.

14 THE COURT: Any objection?

15 MR. MCKNIGHT: The same objection.

16 THE COURT: Overruled. Exhibits 1 through
17 12 are admitted.

18 (Photographs marked State's Exhibit Nos. 1
19 through 12 admitted into evidence.)

20 MS. BARR: Thank you, Your Honor. Move to
21 publish?

22 THE COURT: Certainly.

23 Q Lieutenant Davis, I am going to for
24 clarification republish State's No. 34. And you
25 were mentioning something about the case number,

Lieutenant Davis-Direct by Barr

1 your agency's case number not completely shown on
2 that particular exhibit. Is that your testimony
3 in that regard?

4 A That's correct.

5 Q Now I am going to publish State's Exhibit
6 No. 1. It's the entire case number that is
7 reflected on particular exhibit?

8 A That's correct. That's the full case
9 number.

10 Q And describe for the record, the
11 information that is contained within that
12 particular exhibit?

13 A It has the date on it, which would have
14 been November 2nd 2007. The time would have been
15 15:07, which is 3:07 p.m. The case number
16 would 2007-11-378. The incident type would have
17 been an assault and battery with intent to kill,
18 which was the shooting. The location was 920 June
19 Lane. The investigator was myself Sergeant Davis.
20 And the photographer was Corporal Brandt.

21 Q And at the bottom in handwriting, what is
22 the language that's placed at the very bottom?

23 A It says transport vehicle, location victim
24 was found.

25 Q Okay. And when it says at the bottom of

Lieutenant Davis-Direct by Barr

1 that particular exhibit transport vehicle,
2 location victim was found, who gave you that
3 information that the victim was found at that
4 location?

5 A Ms. Mickens.

6 Q Ms. Toshonda Mickens?

7 A Yes.

8 Q I am going to publish State's Exhibit No.
9 2. If you will, tell the ladies and gentlemen of
10 the jury what that exhibit shows.

11 A That was the silver Mazda that was driven
12 by Ms. Mickens.

13 Q Okay. Lieutenant Davis, I am going to
14 publish now what has already been admitted as
15 State's Exhibits Nos. 3 and 4. I am publishing 3.
16 Can you tell us about that particular exhibit?

17 A That would have been the driver's side
18 door of the car, the silver Mazda that Ms. Mickens
19 was driving.

20 Q Do you recognize yourself or any other
21 officers of the Florence Police Department in that
22 exhibit?

23 A Yes, that would be me to the rear of the
24 car with the blue shirt on.

25 Q Okay.

Lieutenant Davis-Direct by Barr

1 A And the blue, navy blue slacks on.

2 Q Okay.

3 A And I believe, I am sorry, the officer
4 that's standing right beside me was Detective
5 O'Hara with the Florence County Sheriff's Office.

6 Q Okay. I am going to publish State's
7 Exhibit No. 5.

8 A That's the front view of the vehicle that
9 Ms. Mickens was driving, the silver Mazda.

10 Q Tell us about State's 6?

11 A That would have been the front also
12 showing a license plate from Illinois on the
13 front of the vehicle.

14 Q Tell us about No. 7.

15 A That's a rear view of the same vehicle,
16 the silver Mazda showing the Illinois license
17 plate on it.

18 Q Tell us about No. 11.

19 A No. 11 is the inside of the car. I
20 photographed the inside of the car, the silver
21 Mazda.

22 Q In terms of Ms. Mickens' statement to you
23 that she had picked up James Henry on the ground
24 from June Lane, did she indicate to what position
25 inside the vehicle he was at, at the time she

Lieutenant Davis-Direct by Barr

1 transported him to the hospital?

2 A I think she made a statement that he was
3 sitting behind her in the vehicle.

4 Q Behind the driver.

5 A Behind the driver of the vehicle.

6 Q I am going to now hand you what has been
7 marked for identification purposes as State's
8 Exhibits 13 through 33, and ask you if you
9 recognize what's depicted in those photographs.

10 A These are photographs that were taken
11 inside the vehicle Ms. Mickens was driving, as
12 well as photos of the outside of the car.

13 Q Were you likewise present when those
14 photographs were taken?

15 A I was.

16 Q And did they accurately depict the scene
17 as the photographs were taken?

18 A Yes.

19 MS. BARR: Your Honor, we would move in
20 those particular exhibits. I want to make sure I
21 have got the numbers correct.

22 THE COURT: Show them to Mr. McKnight and
23 Mr. Griffith.

24 MS. BARR: 13 through 33.

25 MR. MCKNIGHT: The same objection as

Lieutenant Davis-Direct by Barr

1 before.

2 THE COURT: State your objection to make
3 sure.

4 MR. MCKNIGHT: Well, Your Honor, these
5 that are xeroxed there is no objection. There is
6 a picture, there's something indicated in the
7 picture that we can't tell who is holding it. He
8 said he was -- I don't believe the foundation has
9 been laid. We have a lack of foundation.

10 THE COURT: Overruled. Exhibits 13
11 through 33 admitted into evidence.

12 (Photographs marked State's Exhibits Nos.
13 13 through 33 admitted into evidence.)

14 Q We would move to publish. Lieutenant
15 Davis, I would move to publish No. 13. And just
16 for the record explain what side of the vehicle
17 that is depicted in.

18 A It would have been the passenger side in
19 front of the vehicle. I am showing a book bag on
20 the floor, and some other items inside the
21 vehicle.

22 Q And No. 14.

23 A And that's also the front passenger side.
24 And it's showing the floor board of the car.

25 Q And can you tell in that particular

Lieutenant Davis-Direct by Barr

1 exhibit, where the book bag that you mentioned
2 earlier is now?

3 A It's on the seat of the car.

4 Q What would have been the purpose of moving
5 the book bag?

6 A Just to show what if anything was under it
7 or around it.

8 Q And I am pointing to now is that some type
9 of yellow bag?

10 A Yes, it's a yellow plastic bag.

11 Q And tell us about No. 15.

12 A No. 15 is also the front passenger side of
13 the vehicle, and what appears to be a pair of
14 shorts that was in the car.

15 Q Are those jean shorts?

16 A Yes, they are jean shorts.

17 Q Do you know and if you don't, that's
18 fine. Can you tell us why those short jeans are
19 photographed in that way?

20 A Because there was a spot on it that
21 appeared to me that could have been blood.

22 Q And that's here where I am pointing to?

23 A That's correct.

24 Q And I am going to publish No. 16. Is that
25 an up close view of the book bag; as well as, the

Lieutenant Davis-Direct by Barr

1 jeans that you talked about before?

2 A Yes, it is.

3 Q No. 17.

4 A No. 17 is the outside view of the car the
5 passenger side back door.

6 Q No. 18.

7 A No. 18 would have been an inside view of
8 the rear seat of the passenger's side.

9 Q Okay. No. 19.

10 A It is also the same view. It's just a
11 closer shot inside the vehicle on the passenger
12 side rear.

13 Q No. 20.

14 A No. 20 is also the same view. Just closer
15 in. Zooming in, closer to the seat. You can see
16 the items.

17 Q Can you tell us what that is from where
18 you are?

19 A A penny.

20 Q A penny.

21 A Uh-huh. (Affirmative.)

22 Q Yes?

23 A Yes, it's a penny.

24 Q No. 21.

25 A And also it's another view of the inside

Lieutenant Davis-Direct by Barr

1 rear of the car. On the back seat.

2 Q Now tell us about No. 24.

3 A No. 24 is the driver's side rear. It's
4 also on the rear seat of -- the rear seat of the
5 vehicle. It's on the driver's side on the rear.

6 Q Now in terms of this particular location,
7 you testified earlier that it is your
8 understanding that when Mr. Henry was transported
9 to the hospital, he would have been in the seat
10 that is reflected in that particular exhibit?

11 A That's correct. He would have been behind
12 the driver, on the rear seat.

13 Q Does the seat appear to you to be -- to
14 look like how you would expect a seat to look for
15 someone who carried -- when a vehicle carried a
16 person who had been shot?

17 MR. MCKNIGHT: Objection, that calls for
18 speculation.

19 THE COURT: Sustained.

20 Q Well let me ask you this. Was there any
21 blood readily visible to you in that seat?

22 A No, there was not.

23 Q Did that surprise you?

24 A Yes.

25 Q I publish State's Exhibit No. 25. Is that

Lieutenant Davis-Direct by Barr

1 a closer up view of that same area?

2 A Yes, it is.

3 Q Tell us about 26.

4 A That's also a view of the rear inside the
5 door with a stain on the door on the rear. Half
6 way down, there is a stain on the door.

7 Q If I point right here---

8 A Yes.

9 Q ---is that the stain?

10 A Yes. Uh-huh. (Affirmative.)

11 Q Why is that any interest to you?

12 A Because it appears that could have been
13 blood.

14 Q And I publish No. 27. Is that simply a
15 closer view up of the stain that you are talking
16 about?

17 A Yes, it is.

18 Q And that would be on the door jam---

19 A Yes.

20 Q ---of the vehicle?

21 A Yes.

22 Q No. 28 is a really up close.

23 A Yes, that's a zoomed in photo. Zoomed in
24 shot.

25 Q Tell us about No. 29.

Lieutenant Davis-Direct by Barr

1 A 29 would have been, that's a Q tip where
2 they would have swabbed that stain, to see if it
3 came back for blood.

4 Q Who did that swab?

5 A Corporal Brandt.

6 Q Corporal Brandt. And I am going to
7 publish No. 30. That is also a photograph of the
8 rear of the vehicle?

9 A Yes.

10 Q Do you see a stain or discoloration there
11 on the seat as well?

12 A Yes.

13 MR. MCKNIGHT: Objection now she is
14 leading the witness as to what is on the picture.

15 MS. BARR: I'll rephrase it.

16 THE COURT: Rephrase it.

17 Q Tell me what you see where I am pointing.

18 A It's a red stain on the seat of the car.
19 You can see in the photograph.

20 Q Would that have been of interest to you as
21 well?

22 A Yes.

23 Q Why?

24 A Because it appeared that could have been
25 blood also.

Lieutenant Davis-Direct by Barr

1 Q Is that an up close view?

2 A Yes, that's a zoomed in image also.

3 Q Tell us about the last one, No. 33.

4 A That's also on the swab where he is
5 getting ready to swab that test for the presence
6 of possible blood.

7 Q The tip of that swab, there's a little
8 glare here. And I may have to show it to you.
9 Tell me what the color of that Q-tip is. The tip
10 of it.

11 A Pink.

12 Q What does your training in investigations
13 tell you about when the tip of Q-tip has turned
14 pink? If anything.

15 A That's where typically we have our crime
16 scene officers that are crime scene technicians.

17 MR. MCKNIGHT: Your Honor, I am going to
18 object. That's speculating on his part.

19 THE COURT: Sustained.

20 Q The photographs and the tip, the Q-tip
21 swabs in this case, as well as the clothing of
22 James Gquan Henry, where were they taken?

23 A They were packaged and taken to the
24 Florence Police Department evidence room.

25 Q Why were they taken there?

Lieutenant Davis-Direct by Barr

1 A To be sent to sled for testing.

2 Q And tell me, Lieutenant Davis, what
3 ultimately came of the shooting that was alleged
4 to have happened in Florence on November 2nd of
5 2007?

6 A Because we were unable to determine a
7 location of where it occurred based upon the
8 statements that were given to us by Ms. Mickens
9 and by Mr. Henry, we could not determine where it
10 happened at, or where it happened in Florence. So
11 we actually ended up initially closing the case
12 saying we could not determine where it happened
13 at.

14 Q Tell us what a GSR is.

15 A It's gunshot residue.

16 Q What's a GSR kit?

17 A It's a gunshot residue kit.

18 Q And tell us what the purpose of a GSR kit
19 is.

20 A That's basically where we test to have to
21 see if someone actually had or fired a handgun.
22 It leaves behind certain types of residue.

23 MR. MCKNIGHT: Objection, Your Honor.
24 He's testifying. He is not stipulated as an
25 expert.

Lieutenant Davis-Direct by Barr

1 THE COURT: This is not expert testimony.
2 He's just saying what generally goes on.

3 MR. MCKNIGHT: Okay.

4 THE COURT: Overruled.

5 Q I'm sorry, sir. And you were saying that
6 a.

7 A If someone has fired a weapon, it leaves
8 behind certain types of residue. And the gunshot
9 residue kit is collected. It's collected to see
10 if there is anything left behind. If someone has
11 actually fired a handgun, on their clothing or
12 anything like that.

13 Q Was a GSR kit done on Mr. Henry?

14 A Yes.

15 MS. BARR: Make sure. I believe that's
16 all the questions. Please answer any questions
17 defense counsel may have.

18 THE COURT: Mr. McKnight.

19 MR. MCKNIGHT: Thank you, Your Honor.

20 Cross Examination by Mr. McKnight:

21 Q Lieutenant Davis, good afternoon. How
22 long have you been in law enforcement?

23 A 15 years.

24 Q And during that 15 years have you ever
25 been a patrol officer?

Lieutenant Davis-Cross by McKnight

1 A Yes.

2 Q And during that 15 years, how many
3 shootings you have investigated?

4 A As A patrol officer or as an investigator?

5 Q How much shootings have you been involved
6 in the investigation of.

7 A I don't know, maybe 20 or 30.

8 Q Has there ever been an instance where you
9 have investigated a shooting and you not be able
10 to tell from the scene that a shooting occurred
11 there?

12 A Yes.

13 Q You have?

14 A Yes.

15 MR. MCKNIGHT: Court's indulgence just one
16 moment. Court's indulgence for just a second,
17 Your Honor.

18 Q Officer, you testified as to this document
19 picture here; did you not?

20 A Yes.

21 Q And this indicates under the badge, what
22 does that say?

23 A Disk No. 3.

24 Q How many total disks were there?

25 A I am not sure.

Lieutenant Davis-Cross by McKnight

1 Q How many pictures were there?

2 A I am not sure.

3 Q So there's quite possibly some more
4 pictures that we don't have; is that correct?

5 A Yes.

6 Q You're not denying that this picture --
7 this shooting could have happened and there not be
8 any bullets left at the scene.

9 A No, we're just denying that it happened
10 where he said it happened at.

11 Q But it could have happened there.

12 A But we didn't find any evidence of at.

13 Q Right, but you said yourself just now,
14 there have been times that have been shootings
15 that occurred and you haven't found any blood or
16 any shells or what have you on the scene, but the
17 shooting happened.

18 A Correct. Typically when somebody has been
19 shot there is something left behind there at the
20 scene.

21 Q Typically, but not always.

22 A Not always in particular. Especially the
23 types of injuries he had.

24 Q I'm sorry.

25 A The types of injuries he had.

Lieutenant Davis-Cross by McKnight

1 Q Okay. But you not qualified as to
2 testify to the injury; are you? So you don't know
3 what kind of injury it is.

4 A I am talking about the blood that was left
5 behind. Typically.

6 Q Typically, but not always.

7 A Not always, no.

8 Q I'm referring to State's Exhibit No. 41.
9 That's a brightly colored sweater; is it not?

10 A Bright, yes.

11 Q It's bright.

12 A Yes.

13 Q It ain't black; correct?

14 A Yes.

15 Q And this is an outer garment; is it not?

16 A Yes.

17 Q Okay. So it wasn't, nothing was worn over
18 it. That was the outer garment. This is the top
19 garment.

20 A That's what he was wearing when he came to
21 the hospital.

22 Q And this is the same profile of that same
23 picture. And I'm referencing to State's Exhibit
24 No. 40.

25 A That's correct.

Lieutenant Davis-Cross by McKnight

1 Q These are just pants; are they not?

2 A Yes.

3 Q You would not consider those to be dark
4 colored pants; would you?

5 A No.

6 Q Those are faded jeans; right?

7 A That's correct.

8 Q They're not like the Lee's we got. Like
9 little boys used to be dark blue. Those have been
10 worn.

11 A That's correct.

12 Q In fact, the only dark piece of clothing
13 that you found on Mr. Henry on November 2nd, is
14 this tee shirt; is it not?

15 A That's correct.

16 Q And that that tee shirt was worn under his
17 hoody or jacket.

18 A Yes.

19 MR. MCKNIGHT: Please answer any questions
20 that Mr. Griffith may have for you.

21 THE COURT: Mr. Griffith.

22 Cross Examination by Mr. Griffith:

23 Q Officer, you stated that you went to the
24 scene where you were told the body was picked up.

25 A That's correct.

Lieutenant Davis-Cross by Griffith

1 Q And you didn't find evidence of a
2 shooting.

3 A That's correct.

4 Q Is that what you're saying?

5 A That's correct.

6 Q But as you stated, sometimes you don't
7 find evidence of a shooting. But it could be he
8 was shot somewhere else and dumped there.

9 A It's possible.

10 Q So it's possible that he was picked up
11 there.

12 A It's possible.

13 Q So did anybody tell you that they had seen
14 that shooting there?

15 A No, we talked to several of the neighbors
16 who lived there. They didn't hear anything. We
17 went and knocked on the doors if anyone heard any
18 skirmishing or fights or anything.

19 Q Well is it possible he could have been
20 shot somewhere else and left there?

21 A It's possible. Absolutely.

22 Q Okay.

23 A But that's not what we were told.

24 Q Well what were you told?

25 A We were told it happened there on June

Lieutenant Davis-Cross by Griffith

1 Lane.

2 Q Who told you it happened there? Are you
3 sure that you weren't just told he was picked up
4 there?

5 A We were told he was shot there.

6 Q Are you sure you weren't told he was
7 picked up there?

8 A Well actually he told us he was shot
9 several places. One was on National Cemetery, and
10 one was on June Lane.

11 MR. GRIFFITH: No further question.

12 THE COURT: Any redirect based on their
13 cross?

14 MS. BARR: No, redirect.

15 THE COURT: Thank you, you may step. We
16 will take our mid afternoon break. So, Ladies and
17 gentlemen, I am going to send you back to your
18 jury room. If you would like to get a coca cola
19 or something like that, they will be happy to
20 provide it. Please do not discuss anything about
21 the case while you are back there. Thank you.

22 (Whereupon, the Court Breaks.)

23 THE COURT: You may bring the jury.

24 (Whereupon, the following takes place
25 within the presence of the jury.)

Lieutenant Davis-Cross by Griffith

1 THE COURT: Ms. Barr, you may call your
2 next witness.

3 MS. BARR: We would call Lieutenant
4 Michael Brandt.

5 Lieutenant Michael Brandt, Being first
6 duly sworn, testified as follows:

7 Direct Examination by Ms. Barr:

8 Q State your full name.

9 A Michael Christopher Brandt.

10 Q Spell your last name for me.

11 A Brandt. B-R-A-N-D-T.

12 Q And, Lieutenant Brandt, tell us where you
13 work and what you do.

14 A I am employed with the City of Florence
15 Police Department for the last 15 years. For the
16 last 10 years, I have been assigned to the crime
17 scene unit from the corporal assistant supervisor
18 to sergeant, now lieutenant with the unit manager.

19 Q And specifically in your duties in crime
20 scene, tell us sort of what you are called upon to
21 do when you are investigating a shooting.

22 A When we are investigating a shooting or
23 any crime scene for that matter, my role or
24 technician's role is to observe, document, collect
25 and preserve the evidence of what occurred. And

Lieutenant Brandt-Direct by Barr

1 so we can later bring it back to display it to you
2 accurately.

3 Q And, sir, of course, you were working back
4 on November 2nd of 2007.

5 A Yes, ma'am.

6 Q And also before I forget, you are a
7 certified police officer.

8 A Yes, ma'am. I am a certified class one
9 police officer. Hired by the city July 20th,
10 1998.

11 Q Sir, back on that particular day, did you
12 have an occasion to accompany or to meet then
13 Sergeant Lee Davis at the McLeod Regional Medical
14 Center in Florence, relative to a shooting of
15 James Gquan Henry?

16 A Yes, ma'am.

17 Q And we previously admitted photographs of
18 him taken at the hospital. Were you the one who
19 took those photographs?

20 A Yes, ma'am. When I responded, I
21 photographed clothing found in the ER from
22 Mr. Henry. And Mr. Henry himself later that
23 afternoon.

24 Q Now you also if I understand it,
25 accompanied or met Sergeant Davis in the 900 block

Lieutenant Brandt-Direct by Barr

1 of June Lane; is that correct?

2 A Yes, ma'am.

3 Q And did you also take photographs of the
4 vehicle used to transport Mr. Henry?

5 A Yes, ma'am.

6 Q And I won't go through all of those again,
7 but I would like to hand you what has been marked
8 for identification purposes as State's Exhibits
9 109 and 119. And ask you if you recognize what is
10 depicted in those exhibits.

11 A Exhibit, State's Exhibit 109, is a
12 identification photograph of the 920 Apartment

13 A---

14 Q Hold on. I'll publish them in just a
15 second. Let me do this, Lieutenant Brandt, if you
16 can just go through each of them and just tell me
17 after you gone through all of them again, if you
18 recognize all of them.

19 A Yes, ma'am.

20 Q All of those particular exhibits are
21 photographs taken by you.

22 A Yes, ma'am.

23 MS. Barr: Your Honor, we would move in
24 State's Exhibits 109 through 119.

25 THE COURT: Any objection?

Lieutenant Brandt-Direct by Barr

1 MR. MCKNIGHT: None to those pictures,
2 Your Honor.

3 MR. GRIFFITH: No, Your Honor.

4 THE COURT: 109 through 119 are admitted
5 without objection.

6 (Photographs marked State's Exhibit Nos.
7 109 through 119 into evidence.)

8 MS. BARR: Thank you, Your Honor.

9 Q Lieutenant Brandt, I am going to show you
10 what has been marked as State's Exhibit Nos. 109.
11 I think you started testifying about that earlier.

12 A Yes, ma'am. This is an identification
13 photograph of the 920 June Lane area. We, part of
14 our documentation is, we like to tell stories with
15 our photographs to be able from start to finish,
16 represent to you what I saw. And this is the
17 front of that apartment complex that we relayed to
18 you.

19 Q Let me ask you, Lieutenant Brandt, when
20 you were photographing the vehicle and the area,
21 what was your understanding as the reason why you
22 were out there photographing all of this stuff?

23 A The briefing I received that there was
24 a -- the altercation that lead to Mr. Henry going
25 to the hospital occurred outside of this apartment

Lieutenant Brandt-Direct by Barr

1 complex. So I was led there to document and
2 collect any evidence that was at that location.

3 Q I am going to show you what has been
4 admitted as State's 110. Tell us about that,
5 please, sir.

6 A That is a general photograph further back
7 from the first photograph you saw. It gives you a
8 little bit of perspective from the corner of the
9 apartment. It is like taking 20 large steps back
10 from that first photograph.

11 Q Now why was it important to you to
12 document this area from that vantage point and
13 that perspective?

14 A Okay. The left side of the photograph is
15 the area that we were advised the altercation
16 occurred.

17 Q Is that here on this side? You said the
18 left side. I want to make sure I am on your left.

19 A To my left. That's my left; yes, ma'am.

20 Q Okay. You were given information that,
21 and when you say the altercation, do you mean the
22 shooting?

23 A The shooting.

24 Q Okay. You were led to believe that the
25 shooting happened on this side.

Lieutenant Brandt-Direct by Barr

1 A Yes, ma'am.

2 Q Based just upon that particular exhibit,
3 do you see any evidence in that particular exhibit
4 that would indicate to you that somebody was shot
5 there?

6 A No, ma'am.

7 Q Tell us about 111.

8 A 111, this particular photograph is if you
9 were to from, from the similar position in the
10 previous photograph, if you would just turn to
11 your left, there was a sandy open area with a
12 tree. This represents that area. And it is just
13 off to the left of the apartment complex that you
14 saw in the previous photograph.

15 Q Okay. Did you see any indication in that
16 particular exhibit that someone had been shot
17 there?

18 A No, ma'am.

19 Q Now in terms of whether or not somebody
20 had actually been shot there as opposed to
21 somebody being shot in some other location and
22 brought there, do you see any evidence within that
23 particular exhibit that someone had been bleeding,
24 was in that area?

25 A No, ma'am. We -- I had searched that area

Lieutenant Brandt-Direct by Barr

1 thoroughly. I could find no evidence that there
2 was an altercation, shooting or bleeding in close
3 proximity to this time period.

4 Q And 112 is simply a closer view from the
5 last exhibit; is that right?

6 A It's actually the back corner---

7 Q Okay.

8 A ---of that apartment complex. The
9 previous photograph was at the front corner---

10 Q Okay.

11 A ---of the complex. This would be the
12 back corner looking back towards the roadway.

13 Q Okay. And any evidence of blood or
14 somebody having been shot?

15 A No, ma'am.

16 Q Now I'm going to publish State's Exhibits
17 No. 113. And perhaps I will need to come up and
18 actually show this to you because there is a glare
19 here. And I am particularly interested in, can
20 you see whether or not any other people are here?

21 A It's hard to tell what that is.

22 Q I will show you the actual photograph.
23 And this is 113. Tell me if you see any
24 individuals in that photograph.

25 A I do.

Lieutenant Brandt-Direct by Barr

1 Q Okay. If I can point to that general
2 area, will you tell me if I am pointing in the
3 right direction where you saw the individual
4 standing?

5 A Yes, ma'am.

6 Q Would that be in that area there?

7 A Yes, ma'am.

8 Q And that makes it a little better.

9 A Yes, ma'am.

10 Q You can see the individuals there?

11 A Yes, ma'am.

12 Q And in terms of your experience and what
13 you what you believe to be a crime scene, do you
14 sometimes have folks come up just for curiosity to
15 see what the police are doing there?

16 A Yes, ma'am.

17 Q And did that happen in this occasion?

18 A Yes, ma'am. There were a few people who
19 came up standing around.

20 Q Okay. Did anybody ever tell you that they
21 had witnessed a shooting there?

22 A No, ma'am.

23 Q Did anybody tell you that they had heard
24 shots fired there?

25 A No ma'am.

Lieutenant Brandt-Direct by Barr

1 Q Did anybody ever tell you they saw a
2 16-year-old, African American male laying on the
3 ground there, injured.

4 A No, ma'am.

5 Q And with regard to 114, that's also just a
6 photograph of the ground?

7 A Yes, ma'am.

8 Q Again no signs of blood?

9 A No, ma'am.

10 Q Any sign of a struggle?

11 A No, ma'am.

12 Q And 115, do you see any people in that
13 particular exhibit?

14 A Yes, ma'am.

15 Q Again, did those folks come and say they
16 heard a shooting, saw a shooting, or saw anybody
17 injured?

18 A No, ma'am.

19 Q I have got two more. 118, tell us what is
20 depicted in that photograph.

21 A The red brick structure is actually
22 Apartment 120. Or unit 120 and then Apartment A.
23 And then B is further away in the distance. In
24 this sandy area is that same area that we've been
25 looking at in the other pictures. And that area

Lieutenant Brandt-Direct by Barr

1 again, showed no sign of the struggle. No sign of
2 bleeding. In many of the scenes that we've worked
3 or I have worked as a crime scene technician in
4 the last 10 years, we would find some sort of
5 evidence when someone has been shot. Typically
6 when people have been injured lay down, and we
7 would find some sort of trace evidence. In this
8 case we have not.

9 Q And would that same thing hold true for
10 119?

11 A Yes, ma'am. That's part of the 360 degree
12 picture that we try to provide, or I try to
13 provide as a crime scene technician. It's just
14 another axis to look through, and there was no
15 signs of an altercation or struggle there.

16 Q Lieutenant Brandt, I am going to publish
17 it's already been admitted as State's Exhibit
18 No. 126. Is that a view of the rear driver's side
19 door of the vehicle that you photographed?

20 A It appears to be; yes, ma'am.

21 Q And on this particular exhibit, do you see
22 a mark there where I am pointing my pen?

23 A It's hard to see on this photograph, but,
24 yes, ma'am.

25 Q Well let's do---

Lieutenant Brandt-Direct by Barr

1 A I see the plastic, on the plastic inner
2 molding of the door frame just down to the left
3 from the seat belt, you can see a faint red smudge
4 there.

5 Q Let me, and moving from 25, let me publish
6 26. Is it a little more visible on the particular
7 exhibit?

8 A Much more visible. If you move in this
9 picture down and to the right, you can see more
10 clearly a circular pattern there.

11 Q And also I am going to publish State's
12 Exhibit No. 29. Does that picture reflect that
13 there is a Q-tip that was used in connection with
14 that area that you just talked about?

15 A Yes, ma'am. I believe that that was
16 possibly blood. We have a presumptive blood test
17 kit. It's a phenolphthalein blood test kit. And
18 I used that sterile clean swab to take a sample
19 from it. And this is the results of that test.
20 When you test in areas---

21 MR. MCKNIGHT: Your Honor, I object. This
22 question is going beyond the scope.

23 THE COURT: You may want to narrow down
24 this question. Sustained.

25 Q You see obviously a Q-tip there.

Lieutenant Brandt-Direct by Barr

1 A Yes, ma'am.

2 Q In relation to the spot that was
3 previously discussed in the prior exhibit.

4 A Yes, ma'am.

5 Q Tell us, I'm assuming you are the one who
6 actually got that swab---

7 A Yes, ma'am.

8 Q ---and pressed it against the door.

9 A Yes, ma'am.

10 Q As you've indicated. Tell us what were
11 the reasons why you did that?

12 A When we observe red stains like that, that
13 are possibly blood, we conduct a presumptive test.
14 And that would be the use of this swab in this
15 case.

16 Q Okay. I don't know that you can see it
17 well on the projector or on the monitors, so I am
18 going to hand it to you. What color is the tip of
19 that swab or that Q-tip?

20 A Pink or magenta color.

21 Q And is that significant to you in any
22 respect?

23 A When using the presumptive test, when we
24 have that immediate color change to the magenta or
25 pink color, that indicates that that is a

Lieutenant Brandt-Direct by Barr

1 presumptive indication of blood.

2 Q Okay. Did you take any other swabs in
3 connection with this case, that you recall?

4 A I believe I did. If can you give me just
5 a moment.

6 Q And while you are doing that, I am going
7 to publish a previous exhibit if I may. State's
8 Exhibit No. 15.

9 A Yes, ma'am, I did.

10 Q Do you recognize what item of clothing is
11 on the front passenger seat?

12 A Yes, ma'am. A pair of jean shorts.

13 Q Is there anything that is contained within
14 that particular article of clothing that is of
15 interest to you?

16 MR. MCKNIGHT: Objection, Your Honor.
17 She's leading the witness.

18 THE COURT: She's asked if there is
19 anything. Objection, overruled.

20 A In searching the car, I located these
21 jeans. This pair of jean shorts. And as I
22 examined them, I observed a red stain on these
23 jean shorts.

24 Q Okay. I am going to hand you what has
25 been marked for identification purposes as State's

Lieutenant Brandt-Direct by Barr

1 Exhibit No. 120, and ask you if you recognize what
2 is depicted in that photograph.

3 A I do.

4 Q Does it accurately display the scene as it
5 appeared that day?

6 A Yes, ma'am.

7 THE COURT: Any objection from the
8 defense?

9 MR. MCKNIGHT: Not from the defendant
10 Williams, Your Honor.

11 MR. GRIFFITH: No objection.

12 THE COURT: You may publish it.

13 MS. BARR: You may publish.

14 THE COURT: This is 20?

15 MS. BARR: 120.

16 THE COURT: 120.

17 MS. BARR: Yes, sir.

18 (Photograph marked State's Exhibit No. 120
19 into evidence.

20 Q Lieutenant Brandt, tell us what is in
21 Exhibit No. 120.

22 A It is the test swab that we collected from
23 the red stain on the jeans shorts.

24 Q Okay. And do you recall ever having a
25 conversation with a young woman about the jeans in

Lieutenant Brandt-Direct by Barr

1 the vehicle? I know it's been 6 years ago. , But
2 does that---

3 A Juandalyn Miller; yes, ma'am.

4 Q You remember speaking with her.

5 A I remember her as my days working as a
6 patrol officer.

7 Q And Ms. Miller present when these
8 photographs were taken and you did the swabs?

9 A Yes, ma'am.

10 Q Don't tell me what she said, but did you
11 and she have a conversation about the jean shorts
12 that are in this picture?

13 A Yes, ma'am.

14 Q Now at this point, do you know whether or
15 not the jeans had anything to do with the
16 shooting?

17 A Based on the location of the stain and the
18 conversation I had with Ms. Miller, I did not
19 believe that they were involved; however, I still
20 collected samples.

21 Q Just to be on the safe side.

22 A Yes, ma'am.

23 Q Did you request a buccal swab from
24 Juandalyn Miller?

25 A Yes, ma'am.

Lieutenant Brandt-Direct by Barr

1 Q She gave you one?

2 A Yes, ma'am.

3 Q She didn't give you any hassle about it?

4 A Ma'am?

5 Q She didn't give you any hassle about it?

6 A No, ma'am.

7 Q There has been testimony in a case, that a
8 GSR kit was done on James Henry?

9 A Yes, ma'am.

10 Q What happened to the GSR kit with regard
11 to Mr. Henry? Where did it go once---

12 A All of the evidence that I collected was
13 locked in the Florence Police Department evidence
14 room and held there. Later I met with Detective
15 Lail---

16 Q The detective here.

17 A ---seated at the prosecution table. And
18 she discussed her case with us. And we found it
19 probative to -- or we found it would be beneficial
20 for justice to sign over the evidence to her.

21 MS. BARR: Your Honor, may I approach the
22 witness?

23 THE COURT: You may.

24 Q I am going to hand you what has been
25 marked for identifications purposes as State's

Lieutenant Brandt-Direct by Barr

1 Exhibits 48 and 49. Do you recognize those
2 documents?

3 A Yes, ma'am.

4 Q Tell us what they are, starting with 48.

5 A 48 is a Florence Police Department
6 evidence inventory impound form. It's basically
7 our evidence log sheet. When we collect evidence,
8 and we are going to log it into the evidence room,
9 we complete this form, but we give a description
10 that ties it to a case number.

11 Q Okay. Is the same thing as it relates to
12 49?

13 A Yes. 49 is also an evidence impound form
14 that I completed regarding this case.

15 Q As it relates to Exhibit No. 48, tell us
16 what it is that you took into your possession and
17 logged it in to evidence at the Florence County
18 Police Department. I'm sorry, the Florence City
19 Police---

20 A Yes.

21 Q ---Department. I'm sorry.

22 A Item No. 1 is three disks of photographs.
23 These two photographs would be from collecting
24 clothing at the hospital. The photographs of
25 Mr. Henry when I took the gunshot residue kit.

Lieutenant Brandt-Direct by Barr

1 And then photographs of the vehicle, and the area
2 that we looked at.

3 Q So those were the 3 disks of photographs
4 that you took.

5 A Yes, ma'am.

6 Q And all of those photographs are
7 somewhere along these here?

8 A . Yes, ma'am.

9 Q So we've got the three disks of
10 photographs. What else did you take?

11 A Item No. 2 is one gunshot residue kit that
12 I collected myself from James Henry at the
13 hospital.

14 Q Okay.

15 A Item No. 3 are three sets of swabs from
16 the vehicle.

17 Q Okay.

18 A And then item No. 4 is the buccal swab for
19 DNA standard that I collected from Juandalyn
20 Miller.

21 Q Tell us how you collect GSR or how do you
22 test somebody or collect what maybe gunshot
23 residue from a person's hand or clothing, or
24 however you took the kit in this case.

25 A The State of South Carolina, Law

Lieutenant Brandt-Direct by Barr

1 Enforcement Division, Sled, provides for us,
2 sealed kits for gunshot residue collection. They
3 have a form that we complete that has the case
4 information about the party that we're -- about
5 the person that we're collecting gunshot residue
6 from. And inside the kit, there are several
7 items. There are four vials that we collect.
8 It's like a stamp, but it's actually adhesive.
9 And you take for each part of the hand, you have
10 the front side and the back side of the palm or
11 the back of the hand of each hand. So you will
12 have right front, right back. Left front, left
13 back. Each vile we'll collect samples from the
14 entire surface of that side of the hand. And then
15 it's sealed and put in the kit.

16 After that, there is a wet test where we
17 use a very low acidity solution, nitric acid. And
18 then we take a plain cotton tip swab, moisten them
19 with that acid, and then collect again from the
20 surface of the hand. And you'll have one set of
21 swabs from the front and the back of each hand.
22 And then we'll take a controlled sample, which a
23 controlled sample we would take it from the
24 location of the body where gunshot residue would
25 never -- would not have an opportunity to be. And

Lieutenant Brandt-Direct by Barr

1 most of the time, I will, depending on the
2 circumstances and the clothing that the person is
3 wearing, I will take it from the small of the
4 back. You cannot shoot a gun with your back, or
5 the bottom or calf area of the person that's
6 having the collection taken. And that we want to
7 show is 0. That kind of sets the bar for the rest
8 of the testing.

9 Q I understand. And in terms of when you
10 take a GSR kit, if it were -- if it turned out to
11 be that the case were heard in the city limits of
12 Florence and it was a case that your agency was
13 prosecuting, normally what would you then expect
14 to happen with that kit after you take it and you
15 seal it?

16 A Once I seal it and log it into evidence,
17 depending on the direction the cases go in, we
18 would take that kit to the state laboratory in
19 Columbia where they would do their analysis.

20 Q Yes, sir. So as it relates to State's
21 Exhibit No. 48, you testified that you have got 3
22 disks of photos; correct?

23 A Yes, ma'am.

24 Q A GSR KIT on James Henry.

25 A Yes, ma'am.

Lieutenant Brandt-Direct by Barr

1 Q You have got a set of swabs from the
2 vehicle.

3 A Yes, ma'am.

4 Q Including the one that was in the door jam
5 area; correct?

6 A Yes, ma'am.

7 Q And a buccal swab from the Juandalyn
8 Miller.

9 A Yes, ma'am.

10 MS. BARR: Judge, we would move State's
11 Exhibit No. 48 into evidence.

12 THE COURT: Any objection?

13 MR. MCKNIGHT: None from the defendant
14 Williams, Your Honor.

15 MR. GRIFFITH: None from defendant
16 Mickens.

17 THE COURT: Without objection, State's
18 Exhibit No. 48 is admitted into evidence.

19 (Florence Police Department Log sheet
20 marked State's No. 48 into evidence.)

21 Q And Lieutenant Brandt, as it relates to
22 State's Exhibit No. 49, tell us what you took into
23 evidence at that time.

24 A This is Item No. 5. And it contains one
25 jacket that was bloody. One pair of jeans and

Lieutenant Brandt-Direct by Barr

1 belt. One black tee shirt. A pair of boxer
2 shorts and one pair of socks.

3 Q Okay. And those particular items of
4 clothing you would have gotten from where?

5 A I believe it was going to be Trauma Room
6 4, of McLeod Hospital, 555 East Chavis Street.
7 That was our initial call to respond to a shooting
8 victim that was dropped off at the hospital.

9 Q Okay.

10 A He was gone at the time that I responded,
11 but I collected the clothing that was left behind.

12 Q Was he in surgery at that time or do you
13 know?

14 A I believe he was in surgery at the time.

15 Q Those items, what did you do with them
16 after you collected them?

17 A I photographed them first, and then I
18 wrapped them in paper to prevent cross
19 contamination. Number one, if there is different
20 types of blood or different party's blood or
21 different people's blood on different parts of the
22 clothing, we don't want them to have any other
23 contact with each other. So we use brown paper,
24 and we wrap them up and keep them separate from
25 each other.

Lieutenant Brandt-Direct by Barr

1 And then after I collected them, I took
2 them back to the crime scene lab where I allowed
3 them to dry. Once they were dry, I logged them in
4 to evidence.

5 MS. BARR: Judge, we would move State's 49
6 into evidence.

7 THE COURT: Any objection to State's 49?

8 MR. MCKNIGHT: None from the Defendant
9 Williams, Your Honor.

10 MR. MICKENS: None from defendant Mickens.

11 THE COURT: State's Exhibit No. 49 is
12 admitted without objection.

13 (Florence Police Department log marked
14 State's Exhibit No. 49 into evidence.)

15 Q And in terms of again, if this were a case
16 that your agency was prosecuting, what would you
17 have done with the clothing that you suspected
18 contained blood from Mr. Henry? After you logged
19 it into evidence, where would the natural
20 progression of things, where would it end up?

21 A We suspected other blood or if there was
22 other GSR or other trace evidence that would be
23 important to this case, we would submit those
24 clothes to the State Law Enforcement Division for
25 them to further process, to try to recover

Lieutenant Brandt-Direct by Barr

1 evidence.

2 Q Lieutenant Brandt, in terms of
3 specifically the GSR kit of Mr. Henry, the three
4 sets of swabs that were taken from the vehicle and
5 the buccal swab that was taken from the Juandalyn
6 Miller and also all of the clothes that were taken
7 from Mcleod Hospital, were those, is there
8 anything that relates to those particular items
9 that would bear your signature that would note
10 that at some point you handled those particular
11 items?

12 A Yes, when we collect the evidence and
13 package it for storage for transmission to Sled,
14 use evidence sealed tape, my initials MCB would be
15 on that evidence sealed tape, along with the date
16 that I sealed it.

17 Q Okay. And as it relates to State's
18 Exhibit No. 49, which again are the photographs,
19 GRS kit from Mr. Henry, the swabs from the
20 vehicle, and the swab from Ms. Juandalyn Miller,
21 when does it reflect on this particular case that
22 it was logged into evidence?

23 A It's going to be block No. 3.

24 Q Yes, sir.

25 A Of each form, block No. 3 indicates the

Lieutenant Brandt-Direct by Barr

1 date and time that I logged it in to the evidence
2 room.

3 Q Yes, sir.

4 A Which was November 7th of 2007, at 13:40
5 hours or 1:40 in the afternoon.

6 Q Okay. Does it bear your agency's case
7 number?

8 A Yes. Block No. 2 our agency case No. is
9 2007-011378.

10 Q And let me, just so we will know what you
11 are talking about here.

12 A Ms. Barr, on 49, there is a date and time
13 difference from 48.

14 Q Okay.

15 A And that date and time difference is the
16 clothing were dry. The other items of evidence
17 were ready to be logged in to evidence, but the
18 clothing needed to dry so it did not mold or start
19 to become foul. Once they are dry, then I log it
20 into evidence. There is a date and time
21 difference in that.

22 Q Thank you so much. I appreciate the
23 explanation. I am going to publish State's
24 Exhibit No. 48. And again, Lieutenant Brandt, we
25 are talking about the date that it was logged in.

Lieutenant Brandt-Direct by Barr

1 And this would be the photograph, the GSR kit and
2 the swabs from the vehicle and Ms. Miller?

3 A Yes, sir.

4 Q You indicated the date of 11/7/2007.

5 A Yes, ma'am.

6 Q And you also referenced your agency's case
7 number.

8 A Yes, ma'am.

9 Q Which again is?

10 A 2007-011378.

11 Q And at the bottom of that exhibit does it
12 contain your signature here?

13 A Block No. 15 is my name and block No. 17
14 is my signature.

15 Q Whose signature is this?

16 A Block 18 would be Sergeant Becker of the
17 Florence Police Department Evidence Properties
18 Crime Division.

19 Q Whose signature is contained under
20 Sergeant Becker?

21 A I believe that's going to be lead
22 investigator from the Williamsburg County
23 Sheriffs's Office and Sled.

24 Q Pamela Lail.

25 A Detective Lail.

Lieutenant Brandt-Direct by Barr

1 Q I am going to publish Exhibit No. 49,
2 which are the clothes of Mr. Henry. And I believe
3 that you were explaining to us earlier that
4 Mr. Henry's clothes were logged into evidence on
5 11/12/2007?

6 A Yes, ma'am.

7 Q And it also provides the same Florence
8 City Police Department case number?

9 A Yes, ma'am.

10 Q At the bottom Exhibit No. 49, does that
11 also contain your signature?

12 A Yes, ma'am, Block 17.

13 Q And does it also contain the signature of
14 Sergeant Becker?

15 A Yes, ma'am.

16 Q Does it also contain the signature of
17 Pamela Lail?

18 A Yes, ma'am.

19 Q What precautions are taken to preserve the
20 evidence once it comes into your custody until the
21 time in which it is logged into the log?

22 A Like I said, we use the brown paper. In
23 items that possibly contain trace or biological
24 evidence, blood, hair, fibers things of nature,
25 they are individually wrapped in brown paper. And

Lieutenant Brandt-Direct by Barr

1 they are kept separate until they are completely
2 dried. And packaged, sealed in sealed containers.
3 That way they are kept separate so that this is no
4 chance for the cross contamination.

5 Q As it relates to the GSR kit and swabs,
6 and Mr. Henry's clothing, did anybody have access
7 or contaminate those particular items while they
8 were in your custody or care or control?

9 A No.

10 Q Except for having dried out the clothes of
11 Mr. Henry when they were officially logged into
12 evidence, those items would have been as you -- as
13 they were when you first collected them?

14 A Yes, ma'am.

15 MS. BARR: Lieutenant Brandt, that's all
16 the questions I have. But please answer any
17 questions defense may have.

18 THE COURT: Mr. McKnight or Mr. Griffith.

19 MR. MCKNIGHT: Thank, Your Honor. May it
20 Please the Court.

21 THE COURT: Yes, sir.

22 Cross Examination by Mr. McKnight:

23 Q Lieutenant Brandt, good afternoon.

24 A Good afternoon.

25 Q I've never met you before. I'm attorney

Lieutenant Brandt-Cross by McKnight

1 Cesar McKnight and I represent the interest of Mr.
2 Laquincy Williams. Okay. I am going to ask you
3 some questions about the evidence you collected.
4 You don't have a crime lab there in Florence; do
5 you?

6 A No, sir. We use the State Law Enforcement
7 Division Forensic's Laboratory in Columbia.

8 Q In Columbia, correct. Now this item that
9 I am referring to State's Exhibit No. 41. This
10 item that you collected, is that the jacket that
11 you claim you collected at the hospital?

12 A That is the jacket that I collected from
13 the trauma room No. 4.

14 Q Who gave it to you?

15 A I collected it from the room. It was
16 removed by hospital staff from Mr. Henry while
17 they were conducting medical life saving
18 procedures.

19 Q You don't know the names of the hospital
20 staff members; do you?

21 A No, sir.

22 Q Now that jacket what color would you
23 describe it as?

24 A It is multi-colored. It's possibly a
25 basic white with maybe orange and burgundy. I

Lieutenant Brandt-Cross by McKnight

1 would get a more accurate description from viewing
2 it now.

3 Q What I really want to know from you, you
4 would not consider that to be a dark colored
5 jacket or hoody; would you?

6 A I would not; no, sir.

7 Q Like if somebody told you to put on dark
8 clothes and this is in your closet, you are not
9 grabbing that?

10 A No, sir.

11 Q Okay. These pants, you would not describe
12 those to be dark colored jeans; would you?

13 A Actually I would. Those they would be
14 more dark colored blue jeans.

15 Q More dark colored.

16 A Yes, sir. As opposed to be acid wash and
17 things like that.

18 Q So you don't consider those faded.

19 A No, sir.

20 Q Okay. And you took these into custody;
21 right?

22 A Yes, sir.

23 Q And you secured them.

24 A Yes, sir.

25 Q And you made sure the blood was dry.

Lieutenant Brandt-Cross by McKnight

1 A Yes, sir.

2 Q And you kept them in the locker, the
3 evidence locker there in Florence.

4 A In our crime -- in our processing lab.

5 Q Okay. When did you first get contacted by
6 someone in the Williamsburg County Sheriff's
7 Department with regard to this investigation?

8 A Give me just a moment.

9 Q Sure.

10 A On 9 or September 2nd 2010.

11 Q That's the first time you heard from
12 somebody from Williamsburg County?

13 A Yes, sir.

14 Q And what date did they come get that item?

15 A I believe it was September 2nd 2010.

16 Q Okay. So they came -- I'm sorry, you were
17 finishing.

18 A Just confirming; yes, that was the date.

19 Q And got that item almost 3 years after the
20 incident occurred; is that correct?

21 A Yes, sir.

22 Q And the person whom picked it up was who?

23 A The detective, Detective Lail.

24 Q And that's the lady right there with the
25 black on, burgundy shirt; correct?

Lieutenant Brandt-Cross by McKnight

1 A Yes, sir.

2 Q Do you recall how she packaged it when she
3 received it?

4 A I believe she kept it in my original
5 packaging, because we intentionally packaged our
6 evidence in order to safely ship it without cross
7 contamination, for safe storage, for long periods
8 of time for cases such as this.

9 Q Now do you -- is your facility climate
10 controlled?

11 A Yes, sir.

12 Q And you keep -- in particular, you keep
13 DNA evidence in a climate controlled facility; do
14 you not?

15 A All of our evidence is kept in it.

16 Q But in particular DNA; correct?

17 A Yes, sir, all.

18 MS. BARR: Your Honor, I'm sorry, he's
19 interrupting the witness.

20 THE COURT: Let him answer the question.

21 Q I'm sorry. Pardon me.

22 A All of our evidence with the exception of
23 vehicles, are kept in a climate controlled. And
24 even our vehicles are climate controlled storage,
25 as much as reasonably possible, in order to

Lieutenant Brandt-Cross by McKnight

1 facilitate evidence preservation.

2 Q Now in particular, it is necessary for you
3 to keep DNA evidence in a climate controlled
4 environment; is it not?

5 A Yes, sir.

6 Q Because if you don't, it what?

7 A It will, if it's not dry, it will mold or
8 become foul. The DNA will degrade to a point
9 where no identification can be made.

10 Q You've been trained in crime scene
11 investigations; correct?

12 A Yes, sir.

13 Q You have been trained how to gather
14 evidence at a crime scene, and how to preserve
15 that evidence there.

16 A Yes, sir.

17 Q Aren't you supposed to rope off the crime
18 scene?

19 A Yes, sir. When it's freshly committed, we
20 do our best to -- when officers first arrive on a
21 scene where we have an incident, we use barricade
22 tape and mark off the area.

23 Q I'm referring to exhibit -- State's
24 Exhibit No. 119. Can you please tell me in that
25 picture where the crime scene tape is?

Lieutenant Brandt-Cross by McKnight

1 A In the particular case, they was no crime
2 scene tape put up prior to my arrival or at my
3 arrival. Because it was a very broad location.
4 And it was several hours after that location, we
5 could not found an area of a particular incident
6 location to actually rope off at that point. We
7 did go in and try to find that. And I did not put
8 up barricade tape.

9 Q I'm sorry. But getting to this picture,
10 in the right corner of this picture it looks like
11 it's the entrance to the apartment building; is it
12 not?

13 A The right corner of the -- that is the
14 actually the back side of 120 A June Lane.

15 Q What would be the right corner on this
16 picture displayed on the screen.

17 A Is the back side of that apartment
18 complex.

19 Q Right, because there is a door there; is
20 it not?

21 A Yes, sir.

22 Q And where that, and where it's worn on the
23 ground, that's a high traffic area; is it not?

24 A Yes, sir.

25 Q So and in this area under the tree where

Lieutenant Brandt-Cross by McKnight

1 it's worn, that's a high traffic area; is it not?

2 A Yes, sir.

3 Q Okay. So it is quite possible that
4 evidence was there at that tree, and in that worn
5 area, but was lost due to high traffic.

6 A You are asking me to speculate?

7 Q No, I'm asking you to answer the question.

8 MS. BARR: Judge, we would object.

9 Speculation.

10 THE COURT: Sustained. Speculation.

11 MR. MCKNIGHT: Well I mean, he can't
12 object. She has to.

13 THE COURT: Well she objects.

14 Q So you're telling me there's never an
15 instance where you're had a high traffic area and
16 the evidence is gone?

17 A Typically we have some evidence. There
18 have been a few occasions where it's been
19 difficult to find the evidence.

20 Q Okay.

21 A But they're typically hand in hand. We
22 have a witness especially in a residential
23 location where people are, we will have witnesses,
24 not just forensics. Forensics is not the end all,
25 be all. We have a hand and hand correlation.

Lieutenant Brandt-Cross by McKnight

1 Physical witness and witness information that
2 helps us to focus in on a crime scene.

3 Q You are telling me every time you find
4 evidence, there is a witness with it too? Is that
5 what you're telling me today?

6 A I said typically we will have hand and
7 hand.

8 Q But not always.

9 A Not always; no, sir.

10 Q Okay and in this instance where you didn't
11 find any evidence, there weren't any witnesses; is
12 that correct?

13 A There were several people around.

14 Q No, sir. I all going to ask you again,
15 listen to me carefully. Did you have any
16 witnesses at this scene with regard to the matter
17 we are here for now?

18 A No one at this location witnessed any
19 crime at that location.

20 Q Thank you, sir. And I just reflect to
21 Exhibit 118 again. Now do you know what the
22 temperature was outside on this day?

23 A Refer back to my notes. The approximate
24 temperature at that time that I responded to the
25 scene, was 69 degrees.

Lieutenant Brandt-Cross by McKnight

1 Q Do you have any idea of what the humidity
2 was at that time?

3 A I did not have a way of measuring humidity
4 at that time. So, no, sir.

5 Q So how did you measure the temperature?

6 A With a thermometer we keep in our truck.

7 Q And you measured it with -- did you go in
8 the one in your truck, the one that comes with the
9 truck or did you have your own separate?

10 A The one that comes with the truck.

11 MR. MCKNIGHT: I beg the court's
12 indulgence just for a second.

13 Q The disks, yes. You said there were 3
14 disks; did you not?

15 A Yes, sir.

16 Q How many pictures are on each disk?

17 A I could not tell you exactly how many
18 pictures were on a disk. I'd have to physically
19 count them. There is no set---

20 Q You took the pictures; right?

21 A Yes, sir.

22 Q How many pictures did you take?

23 A I do not have a physical count of the
24 pictures.

25 Q But on your sheet, you list 3 disks; do

Lieutenant Brandt-Cross by McKnight

1 you not?

2 A Yes, sir.

3 Q But we don't know what quantity of
4 pictures are on the disk; do we?

5 A No, we don't. Because this is digital
6 format. The pictures will vary in size due to
7 their amount of color from black and white
8 captured by the camera. So it may vary from CD to
9 DVD, the amount of pictures that actually can be
10 contained on the disk. But if you give me a
11 moment to count the pictures, I can you a physical
12 count if I can make---

13 Q Well you've had 6 years; have you not?

14 A Well if you give me 2 minutes, I can count
15 them. I have all the pictures.

16 MR. MCKNIGHT: No further questions on
17 this witness, Your Honor.

18 THE COURT: Mr. Griffith.

19 Cross Examination by Mr. Griffith:

20 Q Thank you, sir. I represent Ms. Mickens.
21 So basically you identified that location. You
22 said that you didn't speak to any witnesses there.

23 A I may have misspoken. I did speak to
24 Ms. Miller. Investigator Davis was the...

25 Q You said you spoke to Ms. Miller. But did

Lieutenant Brandt-Cross by Griffith

1 you speak to every single person who lived in that
2 apartment---

3 A No, sir.

4 Q ---complex? So there could have been
5 witnesses there that you didn't find. Really you
6 just spoke to the people that were walking by.

7 A Correct, Investigator Davis was the one
8 that did most of the talking. I was busy with the
9 evidence.

10 Q So there could have been other witnesses
11 that you guys just didn't happen to see there,
12 that could have seen something that could have
13 corroborated this story; is that correct?

14 A That is a possibility.

15 Q And so when you said there were no
16 witnesses, you didn't talk to any witnesses is
17 what you really meant.

18 MS. BARR: Objection, asked and answered.

19 MR. GRIFFITH: Okay. That's fine.

20 Withdrawn.

21 Q As far as the blood in the car is
22 concerned, the blood in the car, the blood being
23 in the car, could that be consistent with someone
24 taking someone to the hospital for instance?

25 A Yes, sir.

Lieutenant Brandt-Cross by Griffith

1 Q And how much blood was in the car; would
2 you say? Was there -- let's just put it in broad
3 terms. Was there a lot or just a little?

4 A A small amount. There was a small. Less
5 than the size of your hand on most of the...

6 Q So say for instance looking at the
7 clothing, was there a lot of blood on the clothing
8 or a little?

9 A There was more blood on the clothing than
10 there was in the vehicle.

11 Q So the person who was bleeding that caused
12 the blood on those clothes, if they were in that
13 car, it could be they were not transferred very
14 far; could that be?

15 A It's a possibility. It's also a
16 possibility that they were -- had pressure on the
17 wound to keep all the blood from coming out.

18 Q But there just wasn't a big bunch of blood
19 in there like someone was bleeding profusely and
20 bleeding a lot.

21 A I can't make that statement.

22 MR. GRIFFITH: Okay. Thank you. No other
23 questions.

24 THE COURT: Any redirect based upon their
25 cross?

Lieutenant Brandt-Cross by Griffith

1 MS. BARR: Just a few.

2 Redirect Examination by Ms. Barr:

3 Q Lieutenant Brandt, you testified that the
4 items of evidence as it relates to November 2nd
5 2007, were turned over to Williamsburg County
6 Sheriff's Department in September of 2010; is that
7 correct?

8 A Yes, ma'am, I believe so.

9 Q And within that 3-year-period of time,
10 would you or your agency have any reason to know,
11 or any reason to suspect that that incident
12 related to a homicide in Williamsburg County
13 before September of 2010?

14 A No.

15 Q Did Ms. Mickens come up and say that
16 Mr. Henry had actually was shot in someplace else,
17 other than what was initially told to you?

18 A I have no knowledge of any conversation
19 with Ms. Mickens.

20 Q When you were at the hospital with
21 Mr. Henry, did he ever mention being shot in
22 Williamsburg County?

23 A I believe that he was uncooperative with
24 any information toward me.

25 Q When you were asked questions about the

Lieutenant Brandt-Redirect by Barr

1 photographs that were taken at June Lane, and you
2 specifically asked about the crime scene tape, in
3 terms of everything that you saw out there,
4 everything that you heard from Mr. Henry, and
5 everything that you heard from Ms. Mickens, did
6 you have any reason whatsoever to believe that a
7 crime had actually occurred on June Lane that day?

8 A Well based on the information I was
9 receiving from law enforcement, I could not find
10 anything there.

11 Q And not just based on the information that
12 you received from Lieutenant Davis, based on what
13 you saw in that area around the complex, did you
14 see any evidence that a crime had taken place
15 there involving a shooting?

16 A I did not see any evidence.

17 Q And if the crime didn't happen there, is
18 it a crime scene?

19 A No, ma'am.

20 Q You talked about the possibility that an
21 individual who has been shot and is in the back
22 seat of a car, might apply pressure to the wound
23 and that might explain the absence of a lot of
24 blood. Do you remember your testimony in that
25 regard?

Lieutenant Brandt-Redirect by Barr

1 A Yes, ma'am.

2 Q And is also equally possible that persons
3 may have cleaned out the car before they met with
4 law enforcement?

5 A That is a possibility.

6 MS. BARR: Thank you.

7 THE COURT: Any recross based on her
8 redirect?

9 MR. GRIFFITH: Yes, Your Honor.

10 THE COURT: Yes, sir.

11 MR. GRIFFITH: One question.

12 Recross Examination by Mr. Griffith:

13 Q Sir, when you examined the car, did you
14 see any evidence that the car had been cleaned?

15 A I don't recall seeing there any major
16 evidence that it had been cleaned.

17 Q Was there any trash in the car? I mean
18 saw some pictures awhile ago. Was there any trash
19 in the car?

20 A The back seat of the vehicle was -- had
21 very little in the back seat. And in the front
22 seat of the vehicle, there was cords and a
23 backpack.

24 Q Okay.

25 A And some trash on the floorboard.

Lieutenant Brandt-Recross by Griffith

1 Q Empty trash.

2 A The back seat was actually more clean than
3 the front.

4 Q But, you know, if you clean your car, do
5 you generally throw the trash out? That's just a
6 question, a broad question.

7 A Yes, sir. But I typically would do it
8 from the entire car.

9 MR. GRIFFITH: Okay. No further
10 questions.

11 THE COURT: Mr. McKnight.

12 MR. MCKNIGHT: I don't have any redirect
13 for this witness.

14 THE COURT: Thank you. Let me see the
15 attorneys for just a second.

16 (Whereupon, the attorneys approach and
17 confer with the judge.)

18 Angela Becker, being first duly
19 sworn, testified as follows:

20 MS. BARR: And, Judge, for the record, the
21 state is calling Angela Becker.

22 THE COURT: Good afternoon.

23 Direct Examination by Ms. Barr:

24 Q Please the court, Ms. Becker, please state
25 your full name for the record.

Lieutenant Brandt-Recross by Griffith

1 A Angela Ruth Becker.

2 Q Ms. Becker, you are no longer working with
3 the Florence Police Department; is that correct?

4 A I'm a retired police officer, yes.

5 Q Retired after how many years of service?

6 A 28.

7 Q And I usually don't ask a woman that,
8 because that might tell her age. But you were in
9 law enforcement for a long period of time.

10 A Yes, that's correct.

11 Q Back in November of 2007, you were
12 employed by the Florence Police Department?

13 A I was a sergeant in the evidence division;
14 yes.

15 Q And tell the ladies and gentlemen of the
16 jury what your responsibilities would have been,
17 as a sergeant in the evidence.

18 A I was responsible for taking in all the
19 evidence that the officers logged in on a daily
20 basis, and securing it and checking it out to sled
21 and any other place it needed to go.

22 Q Okay, when you say securing it, what do
23 you specifically mean? How do you secure
24 evidence that's been turned in to you?

25 A It's locked in different storage areas

Angela Becker-Direct by Barr

1 inside the police department. That's my whole --
2 that was my whole responsibility.

3 Q And you were in charge of making sure that
4 that stayed locked and limiting who had access to
5 that evidence.

6 A That's correct. Only myself and the
7 lieutenant over the division had access to that
8 evidence.

9 Q Ms. Becker, I am going to show you what's
10 already been admitted as State's Exhibit No. 49,
11 which is the evidence log sheet as it relates to
12 your agency's case number 2007-011 is it 378.

13 A It looks like 11378.

14 Q And the items that were logged into your
15 evidence were 3 disks of photographs, a GSR kit
16 from James Henry, sets of swab from vehicle and a
17 set of buccal swabs from Juandalyn Miller; is that
18 correct?

19 A That's correct.

20 Q At the bottom of State's Exhibit No. 48,
21 does that contain your signature?

22 A That's my signature; yes.

23 Q And does it indicate when it was logged in
24 to you?

25 A That's correct on November 7th, 2007 at

Angela Becker-Direct by Barr

1 14:30 hours.

2 Q And as it relates to State's Exhibit No.
3 are 49, again that contains your agency's case
4 number; is that correct?

5 A That's correct.

6 Q And again, it indicates that 5 items were
7 logged in at time; is that right?

8 A No, Item No. 5. Yes, it's Item No. 5 and
9 there is different items in Item No. 5; yes.

10 Q I understand. And for the record can you
11 tell us the particular items that were logged in
12 under No. 49?

13 A It would have the jacket, a bloody
14 jacket, a pair of blue jeans and a belt, a black
15 tee shirt and a pair of boxer shorts and some
16 socks, a pair of socks.

17 Q And on that particular exhibit, does it
18 tell you where those items were recovered or
19 found?

20 A Yes.

21 Q Okay. And where does it indicate that
22 those items were recovered or found?

23 A 5548 East Chavis Street. I think that --
24 if I remember correctly, that's a hospital
25 address.

Angela Becker-Direct by Barr

1 Q Which hospital's address?

2 A Mcleod's.

3 Q And does it indicate who would have owned
4 those items?

5 A Yes, James Henry.

6 Q And Exhibit No. 49 also contains your
7 signature?

8 A Yes, it does.

9 Q And as it relates to Exhibit No. 49, were
10 those particular 5 items, when were they turned in
11 to you?

12 A On November 13th 2007, at 8 o'clock in
13 the morning.

14 Q And they were returned to you by then,
15 Corporal Michael Brandt?

16 A Correct.

17 Q Of course, he's the crime scene technician
18 at the time.

19 A That's correct.

20 Q And as it relates to Exhibit No.
21 49, it indicates that those items were turned over
22 to Investigator Pamela Lail?

23 A Yes, they were turned over to Williamsburg
24 County by our agency on 9/2/2010 at 10:30.

25 Q And also just to confirm as it relates to

Angela Becker-Direct by Barr

1 State's Exhibit No. 48, those were also turned
2 over to Investigator Pamela Lail on 9/2/2010.

3 A That's correct.

4 Q And it indicates Williamsburg County;
5 correct?

6 A That's correct.

7 Q Now in terms of all of the items that are
8 listed in State's a 48 and 49, from the time that
9 they were taken into your custody in 2007, up
10 until the time that they were turned over to
11 Williamsburg County, did you maintain the custody
12 and control of those particular items?

13 A That's correct. They were locked away and
14 the whole entire area is alarmed.

15 Q And during that 3 years period of time, or
16 nearly 3 year period of time, did anybody have an
17 opportunity to contaminate or take or add anything
18 to those items while they were in the care of the
19 Florence Police Department?

20 A No, ma'am.

21 Q When they were turned over to Investigator
22 Lail of the Williamsburg County Sheriff's Office,
23 were they in the same condition as they were when
24 you first received them from Corporal Brandt?

25 A That's correct.

Angela Becker-Direct by Barr

1 MS. BARR: I beg the court's indulgence.

2 MR. GRIFFITH: No questions, Your Honor.

3 THE COURT: She hasn't finished yet.

4 MS. BARR: Ma'am, that's all the questions
5 I have. Please answer any questions the defense
6 counsel may have.

7 MR. GRIFFITH: No questions, Your Honor.

8 MR. MCKNIGHT: Your Honor, defendant
9 Williams has no questions.

10 THE COURT: Thank you, you may step down.
11 Let me see the attorneys real quick.

12 (Whereupon, the attorneys approach and
13 confer with judge.)

14 THE COURT: Ladies and gentlemen, this
15 will be a good time for us to adjourn for today.
16 We will start back tomorrow morning at 9:30. So
17 be here just a little bit before 9:30 so we can
18 start the trial right on time. You all are very
19 good about your promptness, and I appreciate that.
20 Ladies and gentlemen, please do not discuss this
21 case with anyone including your spouse over the
22 evening. And like I said, just don't tell anybody
23 you are on a jury, and nobody will ask you
24 anything about it.

25 Some of you all need to go to bed early

1 tonight. I want everybody in bed by 10 o'clock
2 tonight. Ladies and gentlemen, have a nice
3 evening. We will see you tomorrow morning at
4 9:30.

5 (Whereupon, at 4:44 p.m. jury is
6 dismissed.)

7 (Whereupon, the following takes place
8 outside the presence of the jury.)

9 THE COURT: Please be seated. Is there
10 anything we need to take up before we adjourn for
11 the evening?

12 MS. BARR: Judge, if I may, the defense,
13 Mr. Williams' defense, noticed the state with
14 alibi. His intent---

15 THE COURT: Right.

16 MS. BARR: ---to offer an alibi defense.
17 And in the notice of alibi, it indicated that he
18 planned to rely on three individuals to establish
19 alibi, Ms. April Williams, I believe it's his
20 mother. Ms. Lakasha Williams, who I believe is
21 his sister. And co-defendant, Toshonda Mickens.
22 However, the notice of alibi is defective; in that
23 it only says he wasn't in Williamsburg County at
24 the time the crime was committed. However I
25 believe in Rule 5 requires that---

1 THE COURT: It's very specific.

2 MS. BARR: It told us where he is alleged
3 to have been at the time the crime was committed.
4 So we would ask that---

5 THE COURT: He can't just say, I wasn't
6 there.

7 MR. MCKNIGHT: Yes, sir, Your Honor.
8 We're aware of that. Ms. Barr had a discussion
9 about that last week and she asked me where he
10 was. And I told her that he was at home in
11 Florence County. You don't recall us having that
12 conversation in the solicitor's office?

13 MS. BARR: I do not.

14 MR. MCKNIGHT: Well we did.

15 MS. BARR: Well it won't be the first and
16 last time.

17 MR. MCKNIGHT: Well let me find the text
18 message that I have, Ms. Barr.

19 MS. BARR: And at home in Florence
20 County---

21 THE COURT: I need an exact address where
22 he is supposed to be.

23 MR. MCKNIGHT: And I misspoke. It's
24 Darlington not Florence. But it's First Street
25 extension, Darlington, South Carolina.

1 MS. BARR: So he doesn't live on 33? 527,
2 33?

3 MR. MCKNIGHT: That's now where he lives.

4 THE COURT: Do you object to his late
5 telling you of the time?

6 MS. BARR: Judge, I am not going to be
7 that way; no, sir.

8 THE COURT: Okay. So we now have the
9 exact location of where he said he was supposed to
10 be.

11 MR. MCKNIGHT: All right.

12 THE COURT: Anything further? Have a nice
13 evening. We'll see you all at 9:30 in the
14 morning. Thank you.

15 (Whereupon, the trial commences on Wednesday at
16 9:30 a.m. on September 11, 2013.)

17 THE COURT: Is there anything we need to
18 take up before we bring our jury in?

19 MS. BARR: Nothing on behalf of the state,
20 Judge. Well, I did have several photographs of
21 the victim at autopsy. And I shared them with
22 defense counsel. I don't know whether or not they
23 have an objection, but I would propose just for
24 the sake of not having the jury come in and out
25 that we address those. And, Judge, I will give

1 you what we will seek to admit in evidence.

2 THE COURT: Mr. McKnight, have you see the
3 pictures?

4 MR. MCKNIGHT: I have seen them, Your
5 Honor. There are some of them that we have an
6 objection to. When the court allows, I will
7 indicate on the record which ones they are.

8 THE COURT: Yeah, if you could. I've got
9 to look through them.

10 MS. BARR: I've got some close.

11 MR. MCKNIGHT: Well if you redact them.

12 MS. BARR: That's what we will do.

13 THE COURT: And that's your objection on
14 that. And I believe they have come up on the
15 record.

16 MR. MCKNIGHT: We've already settled this,
17 I guess.

18 THE COURT: We've resolved it. As long as
19 she does that, she's okay.

20 MR. MCKNIGHT: Okay.

21 THE COURT: Let's bring our jury in.

22 (Whereupon, the following takes place
23 within the presence of the jury.)

24 THE COURT: Good morning, Ladies and
25 gentlemen of the jury. I hope you all had a

1 pleasant night's rest. It looks like we're going
2 to have a productive day today as well. And also
3 in case, we may go a little bit later today.
4 Maybe until 6. You can make a phone call at
5 lunch, and let somebody know that you are going to
6 be a little bit later. But that's kind of my
7 plan. Is the state ready to proceed?

8 MS. BARR: The state is ready, Your Honor.

9 THE COURT: Is the defense ready to
10 proceed?

11 MR. MCKNIGHT: Mr. Williams is ready to
12 proceed, Your Honor.

13 MR. GRIFFITH: We are ready to proceed,
14 Your Honor.

15 THE COURT: The state may call it's next
16 witness.

17 MS. BARR: Please the Court, we call
18 Dr. Bradley J. Marcus.

19 Dr. Bradley J. Marcus, being first
20 duly sworn, testified as follows:

21 MR. MCKNIGHT: Your Honor, before we take
22 up a matter with regard to this witness that we
23 need to take up outside of the jury.

24 THE COURT: Okay. Members of the jury, I
25 need to send you back to the jury room for just

1 one minute. We've got a matter of law we need to
2 take up. Thank you.

3 (Whereupon, the following takes place
4 outside the presence of the jury.)

5 THE COURT: Mr. McKnight, I understand you
6 have an objection to place on the record.

7 MR. MCKNIGHT: Yes, sir, Your Honor. At
8 this time, we would move to suppress the autopsy
9 report to be testified to by this witness
10 Dr. Blake. Our grounds for---

11 MS. BARR: Dr. Marcus.

12 MR. MCKNIGHT: I'm sorry, what's his name?
13 Because I couldn't hear you when you said it.

14 MS. BARR: Dr. Marcus.

15 MR. MCKNIGHT: Dr. Marcus, the pathologist
16 from the Medical University from South Carolina.
17 Your Honor, South Carolina's case law is clear in
18 this matter; that fungible evidence, for fungible
19 evidence there must be provided a complete chain
20 of custody.

21 And I refer the court's attention to State
22 vs. Sweet. And that is 374, S.C., 1. And in
23 that case it is held that a party offering into
24 evidence items; such as, blood or blood samples,
25 must establish a complete chain of custody as far

1 as practical. Also cited and I can provide the
2 court and opposing counsel copies. Permission to
3 approach.

4 THE COURT: Yes, sir.

5 MR. MCKNIGHT: Also, Your Honor, we cite
6 State vs. Carter, which it's citation is 344, S.C.
7 419. And we also cite, pardon me. And those are
8 two citations. Your Honor, so that the court will
9 know, we believe that the body is fungible
10 evidence. And any -- and so any testing that they
11 do of this body, they must account for number 1,
12 where they got it, who handled it, from the time
13 they got it, until the time it's analyzed. And
14 the case law is clear.

15 Now, while there is no specific case in
16 the State of South Carolina that deals with a body
17 per se, it does deal with products of the body.
18 So, it's safe to reason that where you have a
19 standard for products of the body that are tested,
20 if the whole body is tested, then that standard
21 must be applied to the whole body.

22 We have not heard from one witness how
23 this doctor got the body. We have not heard how,
24 from whom the person who gave it to the doctor,
25 got the body. We've not heard in what condition

1 the body was in when it was found. We have not
2 heard what the time of death is. We've not even
3 heard -- we don't even know if the coroner came.
4 We don't who collected it. SO absent that, Your
5 Honor, we cannot then rely on the findings of the
6 pathology report. And you may ask why. Well we
7 believe in this case the time of death is
8 extremely important.

9 If that body was exposed to the elements,
10 chemicals, any number of factors, the particular
11 time of death would be altered. We don't know
12 that. We don't know what was done. And absent
13 them showing that, Your Honor, absent them laying
14 that foundation, they can't bring it in. And the
15 case law -- like I said, the case law is clear.
16 And in particular in Sweet, it says when an
17 analyzed substance is passed through several
18 hands, the identity of individuals who acquired
19 evidence, and what was done with the evidence,
20 between the taking and analysis, must not be left
21 to conjecture. That is a 2007 case from our
22 Supreme Court.

23 So, Your Honor, it is our move that unless
24 they lay the proper foundation, that autopsy
25 report must be suppressed.

1 MR. GRIFFITH: And we would join in that
2 motion, Your Honor.

3 THE COURT: Thank you, Ms. Barr.?

4 MS. BARR: Your Honor, I think counsel
5 misses the point. Dr. Marcus will only be
6 testifying as to the cause and manner of death.
7 And It doesn't matter for the purposes of his
8 testimony whether the deceased died a year ago, 10
9 years ago, or right before he came to MUSC.
10 Mr. -- the case law that Mr.---

11 THE COURT: You may sit down,
12 Mr. McKnight.

13 MS. BARR: The case law that Mr. McKnight
14 references, talks about chain of custody as it
15 relates to drugs. The doctor has not performed an
16 analysis of the victim's blood sample. He's just
17 simply examining the victim's body to determine
18 how he died, and whether or not his death will be
19 considered a homicide. There will be other people
20 from sled who will talk about the analysis of his
21 blood and that sort of thing.

22 So I think that, I understand the
23 argument, but I think that it is misplaced as it
24 relates to this particular witness.

25 THE COURT: Mr. McKnight, anything

1 further?

2 MR. MCKNIGHT: Yes, Your Honor. First of
3 all, the cases I cite do not apply to drugs. They
4 specifically apply to blood and tissue samples.
5 Now---

6 MS. BARR: Well we're not introducing any
7 blood and tissue samples.

8 MR. MCKNIGHT: Your Honor, may I?

9 THE COURT: Let him finish his argument.

10 MR. MCKNIGHT: Your Honor, they are
11 introducing a tissue sample; in that, they are
12 introducing the entire body. The body is made.
13 And what he is going to testify as to what
14 penetrated those tissues, what tissues they
15 penetrated. How they were penetrated. What
16 happened. What condition they were in. He's
17 performing a test. You can join in after that.
18 Thank you. So, Your Honor, with that all being --
19 court's indulgence just for a minute. I got
20 robbed of my thought. The evidence that issue is
21 fungible. Meaning that it is perishable. That's
22 evidence of the body because it deteriorates.
23 That's why timing and testing of it is so
24 important. So, Your Honor, with---

25 THE COURT: Would you propose that he

1 perform the autopsy 10 minutes after the person
2 died? I mean---

3 MR. MCKNIGHT: No, sir.

4 THE COURT: What you are proposing just
5 doesn't work.

6 MR. MCKNIGHT: No, what I am proposing is
7 that they provide a chain. It doesn't matter when
8 he tests it. It matters how they show us how he
9 got the materials to be tested. And they can't do
10 it. And as the court indicated at side bar, the
11 court believes that a body is not fungible
12 evidence. And I respectfully disagree, because a
13 body is fungible evidence. And because if the
14 material from the body is fungible, a body
15 certainly does deteriorate, rot and perish and
16 turn into dust. So it is fungible. And if they
17 can't provide us with that, it cannot come in.
18 And by the time you let jury hear it, there's not
19 a curative instruction for you to give them. The
20 report in itself is inadmissible.

21 And to satisfy them, I can take in the
22 liberty of subpoenaing the coroner, because they
23 never call him in any murder trials here in
24 Williamsburg County. And he himself from his
25 report, cannot tell you who took the body to MUSC.

1 MR. GRIFFITH: Your Honor, in joining with
2 counsel, I would also point out to the court that
3 in the case where a body is exhumed and--

4 THE COURT: That's not the case there.

5 MR. GRIFFITH: I would compare it to that.
6 That would be fungible evidence. And evidence
7 above.

8 THE COURT: Motion overruled. Bring the
9 jury back in. You may come back up, doctor.

10 (Whereupon, the following takes place
11 within the presence of the jury.)

12 THE COURT: Ms. Barr, you may proceed.

13 MS. BARR: Thank Your Honor. May it
14 Please the Court.

15 Direct Examination by Ms. Barr.

16 Q Dr. Marcus, if you would please state your
17 full name for us.

18 A Dr. Bradley J. Marcus, M-A-R-C-U-S.

19 Q Dr. Marcus, if you will, sort of introduce
20 yourself to the ladies and gentlemen of the jury.
21 Tell them what it is that you do for a living.

22 A I'm a forensic pathologist. I'm also a
23 regular pathologist. I also work as a chief
24 medical examiner over in Richland County. As a
25 forensic pathologist, I study cause of death.

1 Cause of death. What causes death and so forth.
2 Anyone that suddenly, and suddenly and
3 unexpectedly dies. And that's one my jobs as a
4 forensic pathologist. And I do that by performing
5 autopsies, okay.

6 As a pathologist which I also work as, I
7 study disease. What causes disease. And I also
8 work at my private practice where I'm a partner in
9 Columbia, South Carolina. So basically that's I
10 do, I am a pathologist and a forensic pathologist.

11 Q And will you give us a little information
12 about your educational background and training?

13 A Sure. I went to college at the University
14 of North Carolina, Chapel Hill. I graduated in
15 96. Then I went to the American University School
16 of Medicine where I graduated in 2001. From there
17 I enrolled in a residency training program at the
18 Medical University of South Carolina in
19 Charleston. And I spent between 2002 and 2008,
20 working in residency and several fellowships
21 there. While at the Medical University of South
22 Carolina, I learned all aspects of pathology;
23 including, forensic pathology. Where I did a one
24 year subspecialty training in forensic pathology.
25 Where I worked one on one with board certified

1 forensic pathologists. ~I did hundreds of hundreds
2 of cases determining cause, manner of death by way
3 of doing autopsies.

4 And I, after that training was over, I
5 took the board exam, and I became board certified
6 in forensic pathology. A forensic pathologist is
7 the highest certification you can get in
8 pathology. So I was considered board certified in
9 that. In addition to that, I ended up doing more
10 training while I was at the Medical University of
11 South Carolina.

12 So in 2007, I also became a fellow in
13 Cytopathology, which is the study of cells. So
14 think about most women can relate this with a pap
15 smear. You go to the doctor and you get a pap
16 smear. Well that pap smear goes to a doctor to
17 at. And I'm that guy. I'm that guy that looks
18 at those pap smears. Okay. So that's another
19 thing I did. So in 2007, I went to fellowship
20 training program at the Medical University of
21 South Carolina in Cytopath. But I had already
22 passed my board exams in forensic pathology. So I
23 also worked as a attending physician on weekends
24 doing autopsies, to help out the medical
25 university. So that's how I worked there. And I

1 worked there until 2008. And in 2008, I took a
2 job in Columbia, South Carolina with my group I'm
3 in now. So I have been there ever since.

4 I'm board certified in anatomic pathology,
5 clinical pathology, forensic pathology and
6 cytopathology. So I have four board
7 certifications.

8 Q Okay. And how often have you testified as
9 an expert witness in state courts in South
10 Carolina?

11 A I've testified greater than 20 times.

12 MS. BARR: Your Honor, at this time, we
13 would tender Dr. Marcus as an expert in the field
14 of forensic pathology.

15 THE COURT: DO you all wish to voir dire
16 him?

17 MR. MCKNIGHT: Most certainly, Judge.

18 Cross Examination by Mr. McKnight:

19 Q Doctor, good morning.

20 A Good morning.

21 Q My question, I've got some questions and
22 forgive me. I'm just a lay person. But, have you
23 been trained in determining the time of death?

24 A Determining the time of death is, I have
25 been. I have been trained in that, yes.

1 Q And what -- where did you get that
2 training?

3 MS. BARR: Judge, and, Your Honor, we
4 would object to the line of questioning. If it
5 does not relay to his qualifications as an expert
6 in the field of forensic pathology. We take the
7 position counsel is free to ask him those
8 questions.

9 THE COURT: Yeah, you can ask him those
10 things on cross examination. But right now we are
11 talking about his qualifications for forensic
12 pathology; is that correct?

13 MS. BARR: That's correct, Your Honor.

14 Q But is time of death part of forensic
15 pathology?

16 A It is.

17 THE COURT: But this is his
18 qualifications. You can ask him that on cross
19 examination.

20 MR. MCKNIGHT: But I'm asking if he is
21 qualified to do it. If it's part of it, yes.

22 THE COURT: I think he just testified he
23 was.

24 MR. MCKNIGHT: May I finish?

25 THE COURT: No, sir. This is his

1 qualification. I'm not going to let you do a full
2 cross examination of him at this point.

3 MR. MCKNIGHT: I'm not doing a full cross.
4 I'm asking him is qualifications.

5 THE COURT: All right.

6 MR. MCKNIGHT: Thank you.

7 Q Your board certification, what boards are
8 those?

9 A They are put on by the American Board of
10 Pathology down in Tampa. And you have to go and
11 sit for these exams. It's a full day per board
12 exam.

13 Q How many boards are you certified by?

14 A I'm certified in four boards.

15 Q Okay. And what are those boards?

16 A Anatomic pathology, clinical pathology,
17 forensic pathology, and cytopathology.

18 Q And what is cytopathology?

19 A Cytopathology, that's the study of cells.
20 You know, if someone has a breast lump, they stick
21 a needle in. I can make a diagnosis of cancer
22 based on a needle biopsy, rather than a full
23 surgical incision, okay.

24 MR. MCKNIGHT: Thank you, doctor. I have
25 no objections to him being certified.

1 THE COURT: Mr. Griffith.

2 MR. GRIFFITH: No objections, Your Honor.

3 THE COURT: He is -- I'll deem him to be a
4 forensic pathology without objection. Ladies and
5 Gentlemen, as I said, I have just deemed him to be
6 a -- have him qualified as an expert. Normally a
7 witness can only testify as to what they saw,
8 heard, tasted, smelled or touched. However, when
9 a witness has a level of experience and education
10 that is more than what the normal person would
11 have, then I can let him testify to opinions.

12 Now, Ladies and gentlemen, and
13 conclusions. Whether you decide to accept his
14 opinion is for you as jurors to decide. And you
15 are not to give any greater weight or less simply
16 because he is as expert. But you take it along
17 with all the other evidence that is presented in
18 this case, and at that point and time, weigh it,
19 and then you will make your evaluation of his
20 testimony. Thank you, you may proceed.

21 Q Dr. Marcus, you were working at the
22 Medical University of South Carolina back in
23 November of 2007.

24 A That's correct.

25 Q And on November 3rd of 2007, did you

Dr. Marcus-Direct by Barr

1 receive the body of James McNeal?

2 A Yes, that's correct.

3 Q And where did you receive the body from,
4 and for what purpose?

5 A I was notified, by of Mr. McKnight of a --
6 of him wishing for me to perform an autopsy on
7 him.

8 Q Now tell who is Mr. McKnight is.

9 A Mr. Harrison McKnight at the time, I am
10 not sure if he is still is. But at that time in
11 2007, he was the coroner here in Williamsburg
12 County. So he can authorize, the coroner is the
13 only person that can authorize an autopsy of
14 someone that is deceased. So he authorized me to
15 perform an autopsy on a Mr. James McNeal.

16 Q Okay. Tell us about how you begin an
17 autopsy, what your initial observations were, and
18 tell us how you are able to -- is there a method
19 that you all assign numbers or letters to the body
20 so that you retrieve information about it later?

21 A Yes. So the body arrives at the MUSC
22 morgue. And then it's brought upstairs into the
23 autopsy suite. I had -- Mr. McKnight had given me
24 some information over the telephone about this
25 case, as I recall, saying that---

Dr. Marcus-Direct by Barr

1 MR. MCKNIGHT: Objection. Hearsay. He
2 said Mr. McKnight gave him some information on the
3 phone saying. That is hearsay.

4 THE COURT: That would be hearsay.

5 Q And, Dr. Marcus, here's what I'll ask you
6 to do. You had a conversation with the
7 Williamsburg County coroner, Mr. McKnight?

8 A That's correct.

9 Q And about the reasons why he was
10 requesting an autopsy?

11 A That is correct.

12 Q And as a result of that conversation, you
13 then began an autopsy of Mr. James McNeal.

14 A That is correct.

15 Q And what was his birthday and his age at
16 the time? When I'm referencing him, I, mean the
17 deceased Mr. James McNeal.

18 A Mr. McNeal had a date of birth of July 21,
19 1980; made him 27 years of age.

20 Q And in terms of identification of the body
21 for later, do you all assign a specific number
22 relative to each body?

23 A We do assign a specific number to each
24 body. That's correct.

25 Q And as it relates to the body of

Dr. Marcus-Direct by Barr

1 Mr. McNeal, what was the number that was
2 associated with his body?

3 A We assigned him FA-07-00758.

4 Q Tell us what FA stands for.

5 A Forensic autopsy.

6 Q Does the numbers 07 have any significance?

7 A 2007.

8 Q And does the last, do the last three
9 digits of the autopsy no. of 758, have my
10 significance?

11 A Yes, it's the chronological order of
12 autopsies starting with No. 1 on January 1, of
13 that year. So that 758th case of the year we have
14 done so far.

15 Q Now if you will, kind of tell us about how
16 you begin your examination.

17 A Mr. McNeal came in. He had a tank top
18 shirt on. And he had some like boxer style
19 underwear on. They were blood stained. I
20 immediately noticed on his body that he had
21 multiple holes that appeared to be gunshot wounds
22 to his body.

23 Q Okay.

24 A So from that point forward, then I
25 removed, I believe I removed the shirt and the

Dr. Marcus-Direct by Barr

1 pants to get a better look. Not the pants, the
2 boxer underwear, excuse me. But I removed the
3 tank top shirt and the -- well we photograph the
4 body. We photograph the body first. We always
5 photograph it. I have an assistant with me who is
6 photographing the body. We then remove, I
7 removed the tank top and the boxer style
8 underwear, because then I want to see. I want to
9 count how many holes there are. And where all the
10 holes are in the body.

11 Q Okay. And, Dr. Marcus, what I will do is,
12 while you're testifying, I will use these
13 photographs to kind of help us understand. Let me
14 ask you if you recognize what is depicted in
15 State's Nos. Exhibits 121 through 142. And just
16 look through all of them very quickly and tell me
17 what is depicted in those exhibits.

18 A Yes, these are some of the photographs
19 that were taken during the autopsy.

20 Q Of Mr. James McNeal?

21 A Of Mr. James McNeal; that is correct.

22 Q Other than the assistant who would have
23 been at MUSC with you, were there any members of
24 law enforcement there at the time?

25 A Yes, I believe there was a deputy there.

Dr. Marcus-Direct by Barr

1 Q Okay. A Williamsburg County deputy?

2 A I am guessing it was. It generally is
3 not another county. Or a sled agent. I can't
4 remember. I just don't remember.

5 Q Let me ask you this, would you have noted
6 in your report whether or not anyone else was
7 there from law enforcement?

8 A No, I don't. It should be on whoever I
9 gave the -- all the clothing to, and so forth like
10 that. Whoever I signed the evidence for. That's
11 part of the packet. So it's whoever is on that,
12 that's what we know.

13 Q And, Judge, I am sorry, may I approach the
14 witness again?

15 THE COURT: You may.

16 Q In terms of all of your reports, do have
17 all of those there with you?

18 A I have the autopsy report here.

19 Q Okay. Make I take a look at it please?

20 A Yes.

21 Q Go ahead. If I can refer to page 8 of
22 your autopsy report. If you look on that
23 particular page, does it refresh your memory as to
24 who might have been there?

25 A Yes.

Dr. Marcus-Direct by Barr

1 Q And would you tell us again?

2 A Okay, yes. That is correct. I apologize.
3 I have changed the style of the autopsy reports
4 over the years. So this is the old style I did.
5 So the evidence transfer; yes. Lieutenant Jeffrey
6 Scott representing the the Williamsburg County
7 Sheriff's Office was there, and all the evidence
8 was transferred to him.

9 Q Okay. When you talk about all the
10 evidence, what are you talking about?

11 A Well all the stuff I collect from the
12 body, like head hair, fingernail scrapings, the
13 clothing, a bullet, a couple of bullets, some
14 blood and so forth like that.

15 MS. BARR: Judge, we would move State's
16 Exhibit's No. 121 through 142 into evidence at
17 this time.

18 THE COURT: Any objection?

19 MR. MCKNIGHT: Your Honor, for the
20 purposes of defendant Williams, there is no
21 objection.

22 THE COURT: Thank you.

23 MR. GRIFFITH: No objection, Your Honor.

24 THE COURT: State's Exhibit's No. 121
25 through 142 are admitted without objection.

Dr. Marcus-Direct by Barr

1 MS. BARR: Thank you, Your Honor.

2 (Photographs marked State's Exhibits Nos.
3 121 through 142 admitted into evidence.

4 Q Dr. Marcus, I am going to publish what has
5 been previously admitted as State's Exhibit
6 No. 121. And will you identify what is depicted
7 in that particular photograph for me?

8 A Yes. That's the decedent, Mr. McNeal.

9 Q Okay. And publish State's 122. And tell
10 the jurors what is depicted in 122.

11 A Okay. So that's Mr. McNeal. We have him
12 on the autopsy table. That's how his body arrived
13 to us in boxer style underwear, and with a tank
14 top style shirt. And you can also see he's got an
15 EKG leak pad there on his right shoulder region.

16 Q Is that the circular right object that I
17 am pointing to right now?

18 A Yes. Generally EMS puts that on victims
19 to see if there's any heart, electrical activity
20 in the heart before pronouncing them dead.

21 Q Tell us about State's 123.

22 A That is another photo just from the other
23 side of the autopsy table showing the left side.
24 The previous photo was the right side of him. So
25 we took photographs from both sides.

Dr. Marcus-Direct by Barr

1 Q And as it relates to the victim's left
2 arm, does there appear to be a name tattooed on
3 the arm?

4 A Yes, on the side of the left arm it
5 appears to have a name saying, JJY.

6 Q And as it relates to this particular
7 exhibit is there any indications to you of the
8 obvious injuries to the victim?

9 A Well on his left arm, there is some blood
10 there. I can kind of make out sort of a hole
11 there in his left arm.

12 Q Is that the area that I am pointing to
13 with my hand that you are referring to?

14 A Yes, ma'am.

15 Q Okay. And you told us about how you began
16 your autopsy. I believe your testimony was that
17 you started by removing the victim's clothing?

18 A Yes. I removed the victim's clothing to
19 look for all the holes that I can see on his body,
20 because one of the things that I first do before I
21 start going in and dissecting the body is, I x-ray
22 the body; getting bullets out bodies is a lot
23 easier said than done, especially if they are
24 small bullets. So what I do is I x-ray the body,
25 and I make sure that I find where the bullets are.

Dr. Marcus-Direct by Barr

1 Sometimes there is no bullets. But then I just,
2 it's a double check for me to make sure I don't
3 miss any; leave any bullets in the body after the
4 autopsy is done.

5 So what I did was, I x-ray the body, find
6 out where all those bullets are. And then
7 basically I start trying to connect, you know,
8 basically trying to connect the dots. There was
9 multiple holes in him. So some are entrances.
10 Some are exits. Some are reentry wounds. So I
11 kind of have to try to figure out where is an
12 entrance, where is an exit. What's a reentry.
13 Where does that bullet relate to, and so forth
14 like that. So that's the thing. And I use my
15 x-rays to help me to figure your that out.

16 Q Now you indicated that you removed his
17 clothing. I am going to show you what's admitted
18 as State's Exhibit No. 124. Are those the items
19 of clothing that would have been removed from
20 Mr. McNeal's body?

21 A Yes, ma'am.

22 Q And you referenced in autopsy number
23 FA-07-758, is that the autopsy number reflected in
24 this exhibit from Mr. McNeal?

25 A Yes, ma'am.

Dr. Marcus-Direct by Barr

1 Q What I am going to do is just bring this
2 over here so I can stay here. Dr. Marcus, you
3 testified that there were multiple holes within
4 the victim's body. And let's start with the first
5 bullet wound that you noted, not necessarily the
6 first bullet wound that he sustained, you follow
7 me? The first bullet wound that you noted in your
8 report, tell us where it is.

9 A So all the gunshot wounds are labeled in
10 an A, B, C, D and so forth. They are labeled for
11 identification purposes only. And do not reflect
12 an order in which they were received. Okay, so
13 let's get that out of here now. So I started, he
14 had multiple holes in him that consistent with
15 gunshots.

16 The x-rays came back and I found -- before
17 that, we also, we did, before we started the body,
18 we also, we did the fingernail clippings and so
19 forth. We took all that from him also. But then
20 I labeled all the gunshot wounds A through J. So
21 A, B, C, D, E, F, G, H, I, J.

22 Q So A, B, C, D, E, F, G, H, I, J. So 10.

23 A There were 10 holes there. That's
24 correct, 10 holes. Yes, 10, that's correct.

25 Q And you would for reference you would mark

Dr. Marcus-Direct by Barr

1 them using the letters of the alphabet.

2 A That's correct.

3 Q And the first one that you concentrated on
4 would have been marked as wound labeled D?

5 A No, I probably started on -- yeah,
6 probably, yes. Well that's just in the order of
7 the report.

8 Q Okay.

9 A I probably concentrated on A first,
10 because I have take measurements of everything.

11 Q Okay.

12 A So I measured whatever I see first usually
13 easily.

14 Q Let's do it that way then. Tell the jury
15 where the gunshot wound you labeled A would be.

16 A Gunshot wound A, gunshot labeled A, was on
17 the forearm area, right about, right about here,
18 okay. Gunshot wound A was there.

19 Q Which arm?

20 A It was on the left arm. The left arm.
21 The left forearm.

22 Q And, sir, I'm going to now publish what's
23 been admitted as State's Exhibit No. 133, and ask
24 you if you recognize what you identified as
25 gunshot wound A. And just for clarify, I have

Dr. Marcus-Direct by Barr

1 placed in a pink posted note over the victim's
2 genitals.

3 A That's fine.

4 Q Do you see what you have labeled as wound
5 A?

6 A Yes, I do. I see A right there. Yes,
7 you are pointing to it. That's gunshot wound
8 labeled A.

9 Q And you've indicated that that is on his
10 forearm?

11 A Forearm, yes. Forearm area. Let me
12 check exactly what I wrote. Since that is really
13 in the elbow area. Let me just double check
14 exactly what I wrote in my report.

15 MS. BARR: Yes, sir.

16 MR. MCKNIGHT: Your Honor.

17 THE COURT: Yes, sir.

18 MR. MCKNIGHT: Just for the sake of form,
19 could he come down and point to what he considers
20 A, B and C?

21 THE COURT: That would be fine, yes. Do
22 you have a pointer for him?

23 MS. BARR: I do, Your Honor.

24 (Whereupon, the witness steps down from
25 the witness stand.)

Dr. Marcus-Direct by Barr

1 Q And, Dr. Marcus, if I can, I will let you
2 hold the pointer. Can you stand over here? Make
3 sure you keep your voice up. We have got a court
4 reporter back there.

5 A No problem.

6 Q Tell the Ladies and gentlemen of the jury
7 where wound A is on the victim.

8 A Wound A is right there.

9 Q Okay. And is there a, did you, okay.

10 A The left forearm region.

11 Q And there's a little black, it looks like
12 the letter A right there. Is that how you
13 referenced that wound?

14 A That's correct.

15 Q And will you describe to the ladies and
16 gentlemen of the jury, what you noted in your
17 report about what is characterize as wound A?

18 A Yes. I characterized wound A, as an
19 entrance gunshot wound, to the lateral aspect of
20 the left forearm 12.5 inches from the top of the
21 shoulder. Okay, there was no soot and no
22 stippling. Now maybe I should explain. Should I
23 go and explain that?

24 Q Please sir.

25 A Okay. So basically what you got is when

1 you -- when a weapon is fired, any type of weapon,
2 you've got out of the barrel, out of the barrel,
3 comes, you know, gunshot. Gunshot is black.
4 Gunshot powder and soot and so forth like that.
5 So if you have a contact range gunshot wound,
6 contact range, where it's just about here, here
7 touching the skin and so forth, you are going to
8 have black carbonaceous soot like material around
9 the wound. Okay. Because the weapon is very,
10 very close.

12 A So then if you move the weapon back -- if
13 you move the weapon back again up to maybe a foot,
14 again depending on the type of weapon and the
15 ammo, what also comes out of the barrel is
16 unburned gunpowder, which is very, very fine
17 material, but it's very abrasive. So what happens
18 is in that case, when you fire a weapon, the
19 projectile comes out and makes a hole in your
20 body. But then also what comes out is this
21 unburned gunpowder, and causes these little
22 punctated abrasions, which are little scratches
23 around the wound. And it's usually around the
24 wound in a vertical and horizontal position.

25 So actually if you found the weapon and

Dr. Marcus-Direct by Barr

1 the gun, you can actually determine and you can
2 test first a weapon and see how far it was away.
3 Again, that you can get that up to like 12 inches.
4 But again, it's very variable depending on the
5 type of weapon and the ammo. It's variable for
6 every weapon. The next type of wound you have is
7 a distant range where the bullet comes out. You
8 know, soot comes out. The gunshot comes out.
9 But the weapon is too far away from the victim
10 where you don't actually see any of that wound,
11 and you just a hole. That's it. Okay.

12 Another time of gunshot is called the
13 interminate range. And I use that when gunshots
14 go through clothing. Because clothing blocks any
15 type of soot. It can block any type of stippling
16 that occurs on the body.

17 So in this case, I put this one this, this
18 one in my opinion was the -- I called it, I think,
19 it was a distant range. Because I didn't see any
20 soot. I didn't see any stippling. So I put it as
21 a distance range of a wound. So this is an
22 entrance wound right here, to the left arm, the
23 left forearm right here. It's an entrance gunshot
24 wound.

25 Q And typically when you're talking about

Dr. Marcus-Direct by Barr

1 entrance wounds, do you also discuss and you find
2 that there is a trajectory related to the bullet?

3 A Yes, ma'am.

4 Q Tell the ladies and gentlemen when you say
5 trajectory, what the trajectory was in your
6 professional opinion as relates to gunshot wound
7 A.

8 A Sure. Well what happened in trajectory
9 is, you know, the bullets. You know, we use
10 trajectory. We use the trajectory, it's always
11 done with a -- we do it when the person is in the
12 anatomic position. Which the anatomic position is
13 laying on the gurney like you saw in that photo
14 right there. But your hands are actually out like
15 so. Okay. That's the anatomic position.

16 So we go -- the gunshot can go front to
17 back or back to front, left to right or right to
18 left. Upward or downward. So in the end when I
19 give you all these -- I'll give you the
20 trajectories of these bullet pathways, y'all
21 understand. So this gunshot No. A, goes into the
22 arm here. Goes to the skin of the subcutaneous
23 tissue, goes upwards, and hits the left humerus,
24 which is this bone in this left arm right here.
25 It breaks that bone. And then the bullet actually

Dr. Marcus-Direct by Barr

1 exits this arm. It exits the to arm, to show you
2 the next -- that gunshot B.

3 Q Before I go to number -- gunshot B, I am
4 going to publish what's been admitted as State's
5 Exhibit No. 127. And is that simply a closer view
6 of what you describe as gunshot wound A?

7 A That's correct. That's a very close up
8 view of the gunshot wound. That is correct.

9 Q I am going to now publish State's Exhibit
10 No. 131. If you will, Dr. Marcus, tell us about
11 what's depicted in that photograph.

12 A So this photograph, this here is a gunshot
13 wound labeled as B. For some reason you guys
14 can't see the B.

15 Q Can you point to it for the jurors?

16 A Yes, sure. So that's gunshot wound B. So
17 I am going to show you on B where that is. That's
18 right about in this region. Okay. And if you
19 look at his arm there and you see it's kind of
20 swollen and deformed, that's because I had said
21 that the humerus bone right here is broken. And
22 that's what happens when it breaks. The arm is
23 swollen and it kind of twists and is funny. So
24 that right there is an exit gunshot wound.

25 Q And I am going to publish 132. Is that

Dr. Marcus-Direct by Barr

1 simply a closer up view of gunshot wound B?

2 MR. MCKNIGHT: Objection, Your Honor, to
3 the her form of the question. She suggesting the
4 answer. She should ask him, what is it rather.

5 THE COURT: Rephrase your questions.

6 Q Dr. Marcus, can you see that a particular
7 exhibit?

8 A Yes, ma'am.

9 Q Tell the ladies and gentlemen of the what
10 it is?

11 A This is a closer up view of the exit
12 gunshot wound labeled as B.

13 Q So if you were to use me as an example,
14 let me get up here. Show us using me, exit,
15 entrance wound A and exit wound B.

16 A Entrance wound A is right about here.

17 Q And for the record you are pointing where?

18 A To the lateral aspect of the left forearm.

19 Q Yes, sir.

20 A And then the exit wound is right about
21 here to the medial aspect of the left arm.

22 Q Thank you, sir. Once the bullet or the
23 projectile exits at wound B, where does it then
24 go?

25 A That bullet, the bullet actually exits and

Dr. Marcus-Direct by Barr

1 then it actually continues and reenters
2 Mr. McNeal's body at the gunshot labeled C.

3 Q I am going to publish State's Exhibit
4 No. 128. Tell the ladies and gentlemen of the
5 jury, what's depicted on that exhibit.

6 A Okay. So in this exhibit you see in this
7 exhibit Mr. McNeal is laying supine on his back.
8 You have there's two gunshot wounds here, okay.
9 You have gunshot wound labeled as C.

10 Q Point to that for me, Dr. Marcus.

11 A Sure. There's C.

12 Q Yes, sir.

13 A And here is D. But if you notice, look at
14 C right here. Okay. I want to just let you know
15 how I determined that that's the reentry. C looks
16 different then D. C is bigger, Okay. Looks a
17 little more irregular. And what happened here is,
18 because this bullet as it went into the arm, it
19 was spinning, it loses its ballistics, okay. So
20 when that bullet exited, it could have started
21 tumbling. Okay, upside down. Now when a bullet
22 comes out of a gun it spins, okay. But it went
23 into the body. And so as soon as it hit
24 something, it kind of loses part of its ballistics
25 and it changes it. It changes. The ballistics

Dr. Marcus-Direct by Barr

1 change. So it made, we don't know if that bullet
2 could have tumbled as it struck him and went into
3 his body again. That's why C is our reentry wound
4 from gunshot wound labeled No. B.

5 Q Dr. Marcus, tell us what happens after the
6 bullet leaves the gunshot wound, and enters the
7 body at gunshot wound C?

8 A Sure. So the bullet now enters the body
9 on the left chest 17 inches from the top of the
10 head, 3.5 inches to the left of the midline. The
11 bullet goes to the skin's subcutaneous tissue. It
12 goes to the left 5th rib in this area. And it
13 goes through the pericardial sacks. And that's
14 the sack that surrounds the heart. Okay, it's the
15 sack that surrounds the heart. It goes to the
16 left ventricle of the heart. It goes to the upper
17 pulmonary lobe of the lung. And then the
18 projectile, the bullet is recovered in the left
19 chest cavity where the lung sits. It sits here.
20 The bullet, that's where the bullet is recovered.

21 Now the bullet was a -- the bullet was
22 recovered in that area was a gray deformed
23 projectile. Gray deformed. But that bullet had a
24 copper colored jacket on it. The bullet had a
25 jacket on it. Okay. So but what happened was,

Dr. Marcus-Direct by Barr

1 that jacket actually ripped off. And I recovered
2 the jacket. The jacket was recovered in gunshot
3 wound No. C, I believe. It was recovered in the
4 subcutaneous tissue. So the bullet actually came
5 apart. Because the bullet is actually like in two
6 pieces. So one piece of the bullet was recovered
7 in -- just underneath the skin surface in C. The
8 other part of the bullet was recovered in the left
9 chest cavity.

10 So the bullet actually struck the heart,
11 and went through the lung. And made a hole in the
12 heart. So that's when Mr. McNeal started
13 bleeding. Bled really.

14 Q In terms of making it easier for you,
15 which is the next wound that you would describe to
16 the jury?

17 A We can describe gunshot wound D.

18 Q As it relates to gunshot wound D, if you
19 will, point to where that wound D is reflected on
20 that particular exhibit.

21 A Gunshot D is right here just below, and to
22 the side of the nipple.

23 Q Okay. And would you explain to us State's
24 Exhibit No. 130?

25 A Yes.

Dr. Marcus-Direct by Barr

1 Q Would you point to where gunshot wound D
2 is, please?

3 A Gunshot wound D is right here. It's a
4 closeup of gunshot wound No. D here.

5 Q And would you describe the wound to us?

6 A Yes. So this gunshot as you see, it's
7 different. It's very, very symmetrical. So this
8 bullet, this is an entrance gunshot wound, okay.

9 Q And when you say entrance gunshot wound, I
10 want to be clear. Tell us specifically what you
11 mean when you say that.

12 A A weapon was fired. And this bullet
13 entered the body here. Entered the body right
14 about here, I guess.

15 Q Okay.

16 A So this is where the bullet entered the
17 body, okay. 18 inches on the top of the head,
18 5.75 inches to the left of the midline. No soot,
19 no stippling was seen. But again, it went -- I
20 call it indeterminate range, because it went
21 through clothing. The bullet goes through the
22 left chest. Left fourth rib, pericardial sack.
23 It grazes the left cardiac ventricle. It doesn't
24 actually perforate the heart. It just kind of,
25 you know, if this is the heart, there is the

Dr. Marcus-Direct by Barr

1 heart, it just kind of grazes it.

2 Lower lung lobe, it goes into the lateral
3 aspect of the left vertebral areas. So we're down
4 in this area, in our back. And then it exits.
5 And gunshot wound labeled No. I on the right back.
6 20.25 inches on the top of the head. And 0.75
7 inches to the right of the midline. The injuries
8 here, we have extensive muscle hemorrhage. Rib
9 fracture. We had a contusion, which is just a
10 hemorrhage in the heart. Again, we had more
11 bleeding. The lung was perforated. We had a 10
12 vertebral destruction. Those are our injuries
13 there.

14 Q And, Dr. Marcus, if you would, I need
15 clarification, because you indicated that that
16 projectile would have gone into the body where you
17 labeled D. And would have exited where on the
18 victim?

19 A Gunshot wound labeled No. I.

20 Q And where would that be on the victim's
21 body?

22 A It's on the right back.

23 Q Okay.

24 A It's right here.

25 Q Right there.

Dr. Marcus-Direct by Barr

1 A There is an exit there, I.

2 Q For the benefit of the ladies and
3 gentlemen of the jury, can you kind of point to on
4 my back where gunshot wound D, where the bullet is
5 reflected on D, where it exited the victim's body?
6 If you will kind of use your pointer.

7 A Right about here. I'm pointing to the
8 right mid back or so.

9 Q Now I am going to publish State's Exhibit
10 No. 141. And can you tell us how that
11 particular -- well tell us first of all, what is
12 in the picture and how it is labeled.

13 A Okay. So this is labeled as No. I here.

14 Q Yes, sir.

15 A And it's a -- this appears to me to be an
16 exit gunshot wound.

17 Q And when you talk about it being that
18 being labeled the letter I, and it being an exit
19 wound, is that what you were referring to when you
20 talk about the bullet that went in at B and exited
21 through the victim's back?

22 A That's correct.

23 Q And if you will, is there anything within
24 this particular exhibit that you can tell the
25 ladies and gentlemen of the jury about, that would

Dr. Marcus-Direct by Barr

1 let them know that they can tell that that's an
2 exit wound?

3 A Again yes, I can. Because again, the
4 bullet again loses its ballistic ability, right.
5 And again, Its could be spinning, but it's
6 probably not. It's tumbling now, because you hit
7 bone and so forth like that. So therefore, if you
8 look at this wound, it's slightly irregular. It's
9 not clean like the first one I showed you,
10 entrance wound No. D. It's not clean. Also in
11 addition to that, I followed the wound track down,
12 so that's I know where the bullet. That's where
13 I know the exit is. So it's not a clean wound
14 again. So that's, it's just, it's the way you
15 kind again, it takes experience in learning to
16 trace these bullets out.

17 Q And describe for me the trajectory of the
18 bullet that created wounds D and I?

19 A Sure. So the bullet is going backward.
20 It's going backward, downward and to the right.
21 So it's, I think it would be going sort of like
22 this. Sort of like this. Backward, downward and
23 left to right. Okay.

24 Q And let me ask you something. Were there
25 any other bullet wounds noted on the victim's back

Dr. Marcus-Direct by Barr

1 other than the exit wound labeled I?

2 A Yes, there was.

3 Q I am going to publish State's Exhibit No.
4 140. And if you will, can you tell me what is
5 depicted on State's No. 140.

6 A Yes. Okay, so here is looking at the
7 back here. Up here that's gunshot wound No. I, so
8 that's like the right back area. Then you move
9 down, this is the lower left back. Okay, that is
10 another gunshot wound. I labeled that one as J.

11 Q And so that we will have some kind of
12 concept here, what is this item here that I am
13 pointing to? That item here? What part of body,
14 I guess?

15 A That, I have him laying face down on the
16 autopsy table.

17 Q Yes, sir.

18 A So that is his arm. That's his arm. His
19 left arm. That would have been in some paper up
20 there. I am going to go and get it.

21 Q Yes, sir. So we talked about wound A, B,
22 C, D and I. Tell me which is the next one that
23 will be better for you to discuss with the jury.

24 A We can discuss E.

25 MR. MCKNIGHT: Your Honor, I am going to

Dr. Marcus-Direct by Barr

1 object to that form. She has to ask the
2 questions not have him direct her. So she is the
3 one conducting this examination. So she has to --
4 the attorney has to do it.

5 THE COURT: I am going to overrule your
6 objection. He did the autopsy report. I am going
7 to let him walk through the record.

8 Q Dr. Marcus, tell us about wound E.

9 A Okay, wound E.

10 Q Tell us the location of wound E.

11 A Sure. Wound E is to the right abdomen
12 area. So to point on me, right about here. Said
13 right about in this region here. 24 inches from
14 the top of the head. 3.25 inches to the right of
15 the midline. And it's an entrance gunshot wound.

16 Q I'm going to publish what's been admitted
17 as State's Exhibit No. 135. Let me let you look
18 at it first. Don't comment about it before I put
19 it up so there is no glare. Publish 135. And
20 again, I have placed a pink posted note over the
21 genitals of the victim.

22 Q Do you see what you describe as wound E on
23 the victim's body in 135?

24 A I do.

25 Q Can you point it to it for us please? I

Dr. Marcus-Direct by Barr

1 am sorry again, tell us where that wound is, and
2 describe it to us.

3 A The wound is in the right abdomen area, 24
4 inches from the top of the head. 3.25 inches to
5 the right of the midline. It's an entrance
6 gunshot wound. There is no soot around it. The
7 stippling is not there. So that bullet, it's an
8 entrance wound. So a weapon was fired, and the
9 bullet entered the body in that location.

10 Q Okay.

11 A That bullet goes to the skin subcutaneous
12 tissue of the right abdomen. It goes to the
13 musculature. You know, like the abdominal tissue,
14 the abdominal muscles. It hits the tip of the
15 ileac spine area. Okay in the pelvic region. And
16 then it exits at gunshot wound labeled F on the
17 lower right flank.

18 Q And before we talk about the exit of the
19 bullet, I am going to going to publish State's
20 Exhibit No. 29, and ask you if you recognize what
21 is depicted in that particular exhibit.

22 A Yes. That again is a gunshot wound
23 right there.

24 Q And what letter is labeled above it?

25 A E.

Dr. Marcus-Direct by Barr

1 Q And is that the gunshot sound that just
2 told the jury about?

3 A It is.

4 Q Now I am going to now publish State's
5 Exhibit No. 134. And you talked about what you
6 labeled as gunshot F. And if will please tell us
7 what is depicted in that particular exhibit.

8 A Here again is a photograph of the victim.
9 You have a gunshot wound No. E is right there.

10 Q Okay.

11 A And gunshot wound No. F, exit gunshot
12 wound is right there, No. F.

13 Q Okay.

14 A So it's on like this area. This region of
15 the body.

16 Q Okay. Do you know anything or does your
17 training suggest anything to you about either the
18 position of the victim at time E and F are
19 sustained, or the position of the shooter at the
20 time E and F are sustained to the victim?

21 A You know, it could be, it could be, you
22 know, it could be any way. If the body is moving
23 and so forth, it's very, very hard to make that
24 exact determination. He could have been lying
25 down. You know, it's very hard to say exactly

Dr. Marcus-Direct by Barr

1 where he was.

2 Q And tell us about the next wound noted in
3 your report. And before you do, I'm sorry, one
4 more thing, Dr. Marcus. And will you publish
5 State's Exhibit No. 137 and just for the record
6 tell us what that is.

7 A Okay this here is a -- this is a close up
8 of gunshot wound No. F. It's an exit gunshot
9 wound. The next gunshot wound is gunshot wound
10 No. G.

11 Q Okay. And tell the ladies and gentlemen
12 of the jury where G is.

13 A Gunshot wound No. G is an entrance gunshot
14 wound. It's to the lateral aspect of the right
15 thigh. So it's right about in this region right
16 here. Right here.

17 Q Okay. And, Dr. Marcus, I am going to
18 publish State's Exhibit No. 135. And again I have
19 covered the victim's genitals with a posted note.
20 Tell us what is depicted in 135 please.

21 A That's a photograph. This is a photograph
22 of the entrance gunshot wound labeled as G.

23 Q Okay. What path does the bullet take that
24 created entrance wound G?

25 A The gunshot G is to the lateral right

Dr. Marcus-Direct by Barr

1 thigh. 38 inches from the top of the head. Seven
2 inches to the right of the midline. No soot. No
3 stippling. The bullet goes to the skin in the
4 subcutaneous tissue, the lateral right thigh. It
5 goes into the right buttock. It goes into the
6 right back musculature and exits at a gunshot
7 wound labeled J on the left back.

8 Q And I going to publish State's No. 138,
9 and ask that you tell jurors what is depicted in
10 that particular exhibit.

11 A Okay. So this here is a close up. This
12 here is a close up of gunshot wound No. G. That's
13 the entrance to the lateral right thigh.

14 Q And you indicated that the bullet had
15 made wound No. the letter G, exited where?

16 A A gunshot labeled No. J on the lower left
17 back.

18 Q So using your pointer, where would that be
19 if you use me as an example?

20 A Right here in the lower left back region.
21 Just above the left buttock.

22 Q I am going to again publish State's
23 Exhibit No. 40. You talked about that relative to
24 another exit wound from, to the victim. Tell the
25 ladies and gentlemen of the jury where that

Dr. Marcus-Direct by Barr

1 particular wound, exit wound labeled J is.

2 A The J is on the left -- it's on the left,
3 the lower left back right there.

4 Q And can you point to it on the exhibit
5 please?

6 A Right here. That's exit wound No. J.

7 Q And I'm just going to publish State's
8 Exhibit 142.

9 A That's a close up. This here is a close
10 up of the exit wound No. J.

11 Q Were there any other signs of wounds to
12 the victim in this case?

13 A I believe there is one more wound.

14 Q All right.

15 A Gunshot wound labeled as H.

16 Q Tell us where that particular wound is
17 located?

18 A That wound is located on the left
19 buttocks. Right about, right about here.

20 Q I am going to publish Exhibit No. 139.
21 And tell the ladies and gentlemen of the jury what
22 that is.

23 A This is the picture of gunshot wound
24 labeled No. H. Entrance gunshot wound. That
25 gunshot wound No. H is the lateral left buttock,

Dr. Marcus-Direct by Barr

1 34.75 inches from the top of the head. Six inches
2 to the left of the midline. No soot. No
3 stippling around the wound. The bullet goes to
4 the left buttock. Extends into the subcutaneous
5 tissue of -- until it goes into the left buttock.
6 And then it crosses the midline, and goes into the
7 right buttock. And then the bullet actually is
8 recovered right under the skin in the right
9 buttock. Okay. That's where I recovered the
10 bullet.

11 Q Now, Dr. Marcus, you were testifying
12 earlier about the proximate distances that the
13 barrel of the firearm would have been from the
14 victim's body at the time the victim was injured.
15 And you talked about this indeterminate range.
16 And you referenced clothing. Is that significant
17 at all as it relates to injury H?

18 A Yes, because I put that as an
19 indeterminate range, because there was a
20 corresponding hole in the boxer underwear. So
21 that means the bullet went through the underwear.
22 So I called it indeterminate range.

23 Q Yes, sir. And did you create a diagram as
24 it relates to the injury and exit wounds on the
25 body of Mr. McNeal?

Dr. Marcus-Direct by Barr

1 A I did. I made a diagram to back up the
2 photos.

3 Q Dr. Marcus, I am going to hand you what
4 has been marked as State's Exhibit No. 144 for
5 identification purposes. Tell me what that
6 particular exhibit is.

7 A This is the diagram---

8 Q Yes, sir.

9 A ---that I made regarding the holes. And
10 these are the corresponding bullet holes that we
11 just described. I do this as a backup in case
12 there is a problem with the pictures or something
13 and they don't get developed.

14 MS. BARR: Judge, we would move State's
15 Exhibit No. 144 into evidence.

16 THE COURT: Any objection to State's
17 Exhibit No. 144?

18 MR. MCKNIGHT: No objection from defendant
19 Williams, Your Honor.

20 MR. GRIFFITH: No objection, but we would
21 like to have a copy of it.

22 THE COURT: Show it to him.

23 THE COURT: State's Exhibits No. 144. Is
24 it two of them or just one?

25 MS. BARR: It's one.

Dr. Marcus-Direct by Barr

1 THE COURT: State's Exhibit No. 144 is
2 admitted without objection.

3 (Diagram marked State's Exhibit No. 144
4 admitted into evidence.)

5 Q Dr. Marcus, can you publish State's No.
6 144? Dr. Marcus, you denoted all of the entrance
7 and exit wounds to the victim's body on that
8 particular diagram?

9 A Yes, ma'am. Yes, that is correct on that
10 diagram.

11 Q Page 2 of the diagram, you also noted the
12 injuries to the victim?

13 A Yes, ma'am.

14 Q Sir, you can take your seat. Thank you.

15 (Whereupon, the witness resumes the
16 witness stand.)

17 THE COURT: Would now be a good time to
18 take a recess? I think it would. Ladies and
19 gentlemen, we are going to take a short recess.
20 You all have been in here over an hour. So we
21 will take a 10 minute recess. Please do not
22 discuss anything about the case while you are back
23 there.

24 (Whereupon, the court takes a short
25 recess.)

Dr. Marcus-Direct by Barr

1 THE COURT: You can stand. You can't talk
2 to anybody.

3 THE COURT: Bring the jury back in.

4 (Whereupon, the following takes place
5 within the presence of the jury.)

6 THE COURT: You may be seated. You may
7 continue, Ms. Barr.

8 MS. BARR: Thank you, Your Honor.

9 Direct Examination continues by Ms. Barr:

10 Q Doctor Marcus, having examined the body
11 for obvious evidence of injury to the victim's
12 body, with the gunshot wounds that you just
13 testified about, was there anything else as
14 relates to Mr. McNeal's overall health condition
15 that would have impacted your findings as it
16 relates to the manner and cause of death?

17 A No.

18 Q In terms of his otherwise overall health,
19 was he a typical healthy 27-year-old?

20 A Yes.

21 Q Did you see any evidence of any illnesses
22 or conditions that would have caused his death?

23 A No.

24 Q Based upon your examination and your
25 expertise, did you form an opinion to a reasonable

Dr. Marcus-Direct by Barr

1 degree of medical certainty as to what caused the
2 death of James McNeal?

3 A Yes.

4 Q Tell the ladies and gentlemen of the jury
5 what that opinion is.

6 A He died due to gunshot, multiple gunshot
7 wounds to his chest. So he basically bled to
8 death. You can't live with those kind of wounds
9 to your heart and lungs. You will bled to death
10 within minutes.

11 Q And as relates to the injuries to his
12 heart and to his heart and his chest, the injuries
13 you described to his abdomen, to his buttocks,
14 would those have been immediately fatal?

15 A No.

16 Q He could have survived those?

17 A Yeah. Those wounds to the buttock and the
18 abdomen, they didn't strike any vital organs. So
19 potentially, you know, if he got to, you know, to
20 the hospital, those, those he could have lived
21 through. You would need surgery, but you could
22 live through.

23 Q And the injury to the heart and to the
24 lungs, would those have been immediately fatal had
25 say, Mr. McNeal had the luck of being in a

Dr. Marcus-Direct by Barr

1 hospital surrounded by surgeons immediately after
2 he was shot?

3 A If he was in a hospital with a trauma
4 surgeon and blood ready to go, in my opinion he
5 would have probably still died.

6 Q Is it -- would it have been possible for
7 him to speak at all following sustaining the
8 gunshot wounds to the chest, heart and to the
9 lungs?

10 A Yes, he could speak, you know, he could
11 speak for, you know, maybe up to 30 seconds to a
12 minute, maybe.

13 Q Okay.

14 A Yes. Yes, you can.

15 Q And in terms of the cause of his death, do
16 you all also render opinions about the manner of
17 death?

18 A Yes.

19 Q Tell the jury what you mean when you talk
20 about the manner of death.

21 A The manner of death is the circumstances
22 surrounding the death. In South Carolina we use
23 five manners. One is, the first one we talk about
24 is natural. Which deaths due, exclusively due to
25 natural disease. An example of that would be,

Dr. Marcus-Direct by Barr

1 you know, complications to metastatic breast
2 cancer. Another manner of death is suicide.
3 That's taking one's own life. Accidental deaths.
4 We attribute those usually to motor vehicle
5 crashes and so forth. Homicide is death at the
6 hands of another person.

7 And then the final manner of death is
8 undetermined. Sometimes, you know, a body left in
9 the woods, you don't, you know, you just don't --
10 you can't determine the manner of death due to the
11 state of the body. In this case I put the manner
12 of death as a homicide.

13 Q And you previously testified that your
14 notes reflected or refreshed your memory as it
15 related to the presence of law enforcement; is
16 that correct?

17 A That's correct.

18 Q And specifically, I need you to outline
19 for me as reflected on page 8 of your report, the
20 particular items that you would have given to
21 Lieutenant Jeffrey Scott of the Williamsburg
22 County Sheriff's Office on November 3rd 2007.

23 A I gave Jeffrey Scott, pulled head hair,
24 right hand fingernail clippings, left hand
25 fingernail clippings. Tank top undershirt, boxer

Dr. Marcus-Direct by Barr

1 short underwear. Bullet from the left plural
2 space, jacket fragment from C gunshot wound.
3 Bullet from the subcutaneous tissue of the right
4 buttock. And two purple top tubes of chest cavity
5 blood.

6 Q Okay. Chest cavity blood means what?

7 A When Mr. McNeal was shot and started
8 bleeding into his chest cavity, you actually
9 have -- where your lungs sit, it's actually a
10 large cavity. So the blood pools in there. We
11 collect blood. We use a purple top tube because
12 that is for DNA purposes. Sled likes that type of
13 blood top.

14 Q So you would have given Lieutenant Scott
15 two tubes of Mr. McNeal's blood.

16 A That's correct.

17 Q You would have given him the bullet from
18 the victim's right buttock.

19 A Correct.

20 Q As well as a jacket fragment that came
21 from one of the gunshot wounds to the chest.

22 A Correct.

23 Q You gave him another bullet that you
24 described from the left plural space. Tell me
25 where is?

Dr. Marcus-Direct by Barr

1 A That's your left lung sits. It's this
2 region where I recovered that bullet.

3 Q Okay. And you gave him the victim's
4 clothes.

5 A The victim's clothes; that's correct.

6 Q And the victim's head hair.

7 A Correct.

8 Q And the victim's fingernail scrapings.

9 A Clippings.

10 Q Clippings, I'm sorry.

11 A That's correct.

12 MS BARR: Thank you, Dr. Marcus. Please
13 answer any questions the defense counsel may have.

14 THE COURT: Mr. McKnight or Mr. Griffith.

15 MR. MCKNIGHT: May it please the court.

16 Cross Examination by Mr. McKnight:

17 Q Dr. Marcus, good morning.

18 A Good morning.

19 Q I am going to ask you some questions. If
20 at anytime you don't understand me, or you need me
21 to clarify, ask me to do so, okay.

22 A No problem, sir.

23 Q You have been a forensic pathologist for
24 how long?

25 A I have doing forensic autopsies for 11

Dr. Marcus -Cross by McKnight

1 years. And I have been doing them on my own now
2 for 6 years. On my own with no direct
3 supervision.

4 Q I got you. So like a total of 11 years or
5 so.

6 A That's correct.

7 Q Do you know where you got this particular
8 body from?

9 A It came from the the Williamsburg County,
10 Mr. McKnight. Whatever transport person he uses,
11 I don't know.

12 Q Okay. So but you don't know of your own
13 knowledge or from your notes, who transported that
14 body to MUSC.

15 A No, don't know, sir. No.

16 Q Do you know what condition it came in when
17 it got to your facility?

18 A Yes. Generally, yes, the bodies come in a
19 body bag, but can't say for certain. I don't
20 remember.

21 Q Well let me ask you this. Is the body
22 prepped for you before you perform your autopsy
23 procedures?

24 A Explain prepped.

25 Q Well what I'm saying is, you just don't

Dr. Marcus -Cross by McKnight

1 walk in and grab it out of the body bag and start
2 performing your dissections; do you?

3 A Sometimes I do. It depends on if, you
4 know, if my tech is there is early or not.
5 Sometimes I'll go and get the body out of the
6 cooler. In this case, I can't remember whether
7 Mr. McKnight, the transport person, dropped the
8 body off at night or brought it that morning. I
9 just don't remember.

10 Q Okay. What's the proper way for a body to
11 be packaged for transport to MUSC? What's the
12 proper way you expected to find it when it comes
13 in the body bag?

14 A The body, the way we do it in Richland,
15 and this is the proper way it's done. The body is
16 at the scene. It's put into a body bag. The body
17 bag has been locked. And then it is transported
18 to the cooler. The cooler keeps the body from
19 decomposing because once the body, you know, once
20 you die, your body goes to whatever the Ambien
21 temperature is here. So it immediately goes to
22 the cooler. The bag is locked. And then the
23 body is brought out. The body is brought out when
24 I arrive, and basically I am present when I unlock
25 the bag, and then I start the exam.

Dr. Marcus -Cross by McKnight

1 Q Do you all keep a record of who handles
2 the body from the time -- let's go back in time
3 when you get it. Do you keep a record as to who
4 brought it to you, then from so on? Is that the
5 proper way to do it?

6 A Yes, now I can say where I work now,
7 that's the way it's done. And at MUSC, I do
8 recall, it's been years. But there is a log book.
9 Whoever brings a body has to sign the body in. So
10 there is a log book there.

11 Q Give us just a minute until the sirens go
12 by.

13 A No problem, sir.

14 Q And you, we in normal parlance, we call
15 that a chain of custody; would we not?

16 A Yeah, that makes sense; yes.

17 Q And the proper way is to have a chain of
18 custody for the body; is that correct?

19 A That's correct.

20 Q You know what evidence is; right?

21 A Correct.

22 Q And you have been trained in the various
23 types of evidence; is that correct?

24 A That's correct.

25 Q Is a body fungible evidence?

Dr. Marcus -Cross by McKnight

1 A Absolutely. No question about it.

2 Q And for fungible evidence, you are
3 supposed to kept a chain of custody up until the
4 point where's it analyzed or tested; is that
5 correct?

6 A That's correct.

7 MR. MCKNIGHT: Court's indulgence.

8 Q Doctor, those pictures that you presented
9 us, I'm sorry, pardon, those drawings, those
10 diagrams, were those diagrams part of your final
11 autopsy report?

12 A No, they -- I do the diagrams. They
13 don't, the way the diagrams work, they stay in the
14 file.

15 Q Yes.

16 A They stay in the file, but they don't
17 go -- when I release the report, I don't release
18 the diagrams.

19 Q So those are like -- those diagrams are
20 your personal notes.

21 A That's correct. They're my personal
22 notes. And what happens is, I don't like to give
23 the diagrams out, because people don't understand
24 what they are. So I basically kept them until the
25 case goes to trial or something, and that's when I

Dr. Marcus -Cross by McKnight

1 bring them out. And they go, and generally we
2 show them during the trial or something.

3 Q Doctor, how do you find out when the time
4 of death is?

5 A Well, the way it works is the coroner,
6 when somebody dies suddenly and unexpectedly, the
7 coroner is basically the person that they call and
8 is in charge of the body and what happens. So
9 basically the coroner then tells -- calls me, and
10 gives me information. Gives me information. I
11 have a sheet I use when I am on call. And I fill
12 it out. And in that, usually he gives me the time
13 of death and so forth.

14 Q Were you given the time of death in this
15 matter?

16 A I was given a time of death. I have
17 something written in my report here, yes.

18 Q What time were you given?

19 A In my report on page 1, I have, it says
20 autopsy information, date of death, 11/2/07, time
21 a.m.

22 Q Now help me out here.

23 A Okay.

24 Q A.m. is morning.

25 A Yes, that is correct. It's morning.

Dr. Marcus -Cross by McKnight

1 Q Okay. And there are 12 hours in a
2 morning.

3 A That's correct.

4 Q From 1 a.m. to 12:00 p.m.

5 A Correct.

6 Q So, is it your testimony here under oath
7 that we've got a 12-hour window here of the time
8 of death?

9 A No. No, we don't. I put a.m., because
10 that's generally the way it keep. I keep it
11 general. But there is some specific stuff in this
12 report that we can kind of narrow it down to.

13 Q Okay. Well what did you narrow it down
14 to?

15 A Okay. So I have in my case history here.
16 Do you mind if I read the case history a little
17 bit?

18 Q No. Well if you are going to read the
19 information that someone else gives you.

20 A Yes, that's---

21 Q Right. Did you do anything independent on
22 your own, to determine the time of death?

23 A No, I did not do anything independent on
24 my own to determine the time of death. I put it
25 a.m.

Dr. Marcus -Cross by McKnight

1 Q And you are only relying on the
2 information as to the time of death as to was
3 given to you by the coroner, which was Mr.
4 Harrison at the time.

5 A That's correct.

6 Q Now do you know what procedures a coroner
7 or a medical examiner, or in this instance, a
8 deputy coroner, would use to determine the time of
9 death?

10 A Yes. There are several things that they
11 can use. You know, one are witness statements.
12 For instance, in this case there were gunshots.
13 So that's, people can hear them.

14 Q Okay.

15 A Those are things, some of the -- that's
16 called the scene investigation. Eye witness
17 statements. Another thing they can use is the
18 rigor of the body. The rigor of the body.

19 Q Are you referring rigor? Rigor-mortis?

20 A Rigor-mortis. Rigor. Okay, Rigor-mortis.
21 That's correct That's the stiffening of the body.
22 So if you don't mind, I can explain it.

23 Q Tell them, yes. Please take the jury
24 through how long it takes a body to stiffen.

25 A Sure. So one of the things about a body

Dr. Marcus -Cross by McKnight

1 is, after your heart stops beating, your body
2 stiffens. Okay. It stiffens up. So this process
3 starts. It starts within 2 hours after death.
4 Within 2 hours. Okay. And you slowly over the
5 first 12 hours after you die, you start becoming
6 extremely stiff. Okay. Stiff where to the point
7 where you can't even bend somebody's arm when they
8 come in the autopsy room. You got it, we call it
9 breaking the rigor. I've got to actually use all
10 my force to break the rigor. They become very
11 stiff.

12 Q Doctor, let me ask, I don't mean to
13 interrupt you, but I'm going to ask you this
14 question. It goes right along with it. Is it
15 true that the rigor-mortis starts in the smaller
16 muscles of the body first?

17 A That's absolutely correct.

18 Q The smaller bodies, the smaller muscles, I
19 mean, like the eyelids, the jaw. Maybe fingers,
20 phalanges. What we commonly call the fingers; is
21 that correct?

22 A That's correct.

23 Q Okay. I'm sorry. Please, sir, continue.

24

25 A So in general the rigor starts -- you

Dr. Marcus -Cross by McKnight

1 become fully stiff at 12 hours after death.
2 Where your rigor, I actually rate the rigor on a
3 scale of 4, 1 to 4. So you become fully stiff at
4 12 hours. Okay. Then you stay stiff for another
5 12 hours or so, okay. Where your body is
6 completely, you're stiff as a board, okay. After
7 that time, your body actually starts decomposing.
8 Okay. Now and then you start losing your rigor,
9 because your muscles are breaking down. And then
10 you become floppy again. Okay.

11 So again that's generally the way it goes
12 It's very variable. It depends on the outside
13 temperature. It depends on things you were doing.
14 Someone who is running -- someone who is running
15 away will develop rigor within 30 minutes, not 2
16 hours.

17 Q Is that because of the lactic acid in the
18 muscles?

19 A The ATP and the lactic acid; that's
20 correct.

21 Q Doctor, let me ask you this. Rigor-mortis,
22 this is something that a coroner would be familiar
23 with, and trained with, would he not?

24 A In my opinion, yes.

25 Q Now other rigor-mortis, what other tools,

Dr. Marcus -Cross by McKnight

1 or let me ask you this. Are there any specific
2 tests ran that a coroner would do to determine the
3 time of death?

4 A There are no specific tests. We don't
5 do body temperature. It's too variable.

6 Q Okay, are you telling me that there is
7 liver probe the. may be the probability?

8 A No, that's only on these TV shows. They
9 might do it in some jurisdictions. In my
10 experience here in South Carolina, and I have
11 worked all over in almost, I've done autopsies for
12 almost every county here, I've never once seen a
13 coroner do a liver probe. And I've never had a
14 body come in with a hole in the liver from a liver
15 probe.

16 Q Let me ask you this, doctor. Is it proper
17 for the coroner or the person who takes possession
18 of the body, is it proper for them to note the
19 temperature where the body is found?

20 A That's generally done, yes. Where I work
21 now that's done.

22 Q And you expect that to be done. Well let
23 me ask you this. If you've got a coroner and he's
24 local parlance, bringing his A game, doing what
25 he is supposed to do, doesn't he make a note, he

Dr. Marcus -Cross by McKnight

1 makes a -- he or she makes a note of that
2 temperature, do they not?

3 A They should.

4 Q Do they also make note of the weather
5 conditions like humidity or those other things.
6 Do they do that?

7 A They should.

8 Q Doctor, isn't it true that the only
9 indication of the time of death that you have is
10 the time of pronouncement of death.

11 A That I have, yes. Yes, that is one thing.

12 Q And isn't it truth that the time that the
13 body is pronounced dead is significantly different
14 than the time that body actually dies?

15 A It could be. We were talking about, you
16 really can't, you can't pinpoint the exact time
17 when someone died unless there was an absolute
18 witness there. It's -- you know, I can say you
19 know, it's within a few hours of this. You know,
20 I can't say. It's not like those TV shows, he
21 died at this time. That's just nonsense.

22 Q Now the pronouncement of death means
23 that's the time the coroner says this that, you
24 know, body A is dead.

25 A That's correct.

Dr. Marcus -Cross by McKnight

1 Q That's a pronouncement. That's him saying
2 it, transcribing it, announcing it to the world.

3 A That's correct, sir. Yes.

4 MR. MCKNIGHT: I beg the court's
5 indulgence just one second.

6 Q Doctor, are there certain conditions,
7 events or chemicals or anything that can alter the
8 time -- alter someone's finding of the time of
9 death?

10 A Yes. There could be, yes.

11 Q And so if somebody doesn't let's say just
12 for the sake, because you can hypothesize. If I
13 don't -- if I transport a body to MUSC, and I
14 transport it on one of our famous July days and
15 it's 100 something degrees. And that vehicle in
16 which I don't -- that I transferred it in was not
17 climate controlled, that's going to cause
18 significant changes in that body, will it not?

19 A Yeah, that would accelerate decomposition.
20 It could accelerate it quickly.

21 Q Okay. And one other thing I would like to
22 know, one of the other ways that you all are able
23 to determine the time of death, is what we call
24 the pooling of the blood as it's laying in the
25 floor; is that correct?

Dr. Marcus -Cross by McKnight

1 A Yeah, that's called liver. Liver. Liver
2 mortis.

3 Q Okay. And tell us, I have a hard time
4 saying this. What exactly is that?

5 A Okay. So liver, your body, your heart
6 and your blood is a closed system. You're pumping
7 blood. Approximately 5 liters of blood and you
8 die. Okay. So what happens is after you die,
9 your heart stops. Okay. Now your system hasn't
10 been penetrated. Okay. And I'll get back to it
11 in a second. Your blood is going to pool to
12 where the gravity pulls. Okay.

13 Q So that's like where I'm laying.

14 A Yes.

15 Q So if I die and I lay here, and I'm here
16 for hours, the blood is going to be all down here.

17 A It will be down there. Half of your body
18 will be very pale and half will be very dark in
19 color.

20 Q Now your skin pigmentation would make that
21 a little harder to see.

22 A That's correct.

23 Q So if I'm, you know, fair skinned, you
24 would be able to see it on me as opposed to
25 someone who is darker.

Dr. Marcus -Cross by McKnight

1 A That's correct.

2 Q Okay. Continue.

3 A And after about and so what happens is,
4 what happens is, after if that body stays there
5 for about 12 hours or so again, it's very variable
6 based on the temperature. That red mark, that red
7 discoloration on the body, the blood pool, if you
8 move that body, it will -- that red discoloration
9 will stay there. So that's why if somebody moves
10 the body and changes the scene, I can tell that
11 the scene has been changed. Okay. So that's what
12 rigor is. That button. If it's it from 4 to 12
13 hours again, it's a very veritable time, the blood
14 can go back. You know, it doesn't fix. It
15 doesn't fix to the body.

16 The other problem though is if someone
17 dies of say, multiple gunshot wounds, okay, the
18 blood then goes out into the body cavities like we
19 talked about. And you really sometimes rigor,
20 can become indiscernible. You can't see it,
21 because it's not -- the blood is gone. You know
22 what I mean. If someone gets shot and they bleed
23 out, the blood is not there to pool; not there to
24 go follow gravity. So...

25 Q Doctor, let me ask you this. Normally a

Dr. Marcus -Cross by McKnight

1 coroner sends along with a body to view, a
2 coroner's report. Is that correct?

3 A Yeah, I get a coroner's report every time
4 I do an autopsy.

5 Q And It describes for you the condition
6 that they found the body in. And it gives you the
7 pertinent information you need; is that correct?

8 A That's correct.

9 Q Did you get a written report from
10 Williamsburg County?

11 A I don't recall. I think I got a
12 permission slip. I don't recall, sir.

13 Q What's a permission slip?

14 A He -- Mr. McKnight usually with the
15 paperwork when they transport a body, he has a
16 lone person, I, who is a sworn coroner in this
17 county, authorize Dr. Marcus to do you an autopsy
18 on this victim. On this person. He writes it and
19 he signs it. I just, I don't recall. It's been
20 many years, I just don't recall, sir.

21 Q And if this coroner in this coroner report
22 is documenting it, do you sometimes get reports
23 from coroner's which they indicate information
24 they received from witnesses?

25 A Yes.

Dr. Marcus -Cross by McKnight

1 Q Like witness X says I see blood -- I saw
2 dried blood on the victim? Or witness Y says that
3 the blood at the scene had begun to separate?
4 Have you Sometimes you get information like that?

5 A Yes, sir.

6 Q And that information about the blood
7 drying and separating, would also help you
8 determine what the time of death would be, or how
9 long that person has been dead.

10 A It could help, yeah.

11 Q Now when we say blood separating, correct
12 me if I am wrong. That's when the blood separates
13 from the plasma and the platelets; is that
14 correct?

15 A It's the serum, and the red blood cells.

16 Q I got you.

17 A Okay, and they separate. It's just like
18 spinning down a tube of blood.

19 Q Right. The fast way to do it is to take
20 the blood and put it in a tube, and put it one of
21 the centrifuges.

22 A That's correct.

23 Q But time itself will eventually cause it
24 to separate.

25 A Right. It's got different densities.

Dr. Marcus -Cross by McKnight

1 Q And based upon the time it takes to
2 separate, you can tell how long that blood has
3 been outside the body, right?

4 A You can, but again these things are very
5 variable.

6 Q I mean, it's not exact like the rate a
7 body falls out of a window.

8 A Right.

9 Q But it gives you a big picture as to what
10 time it is; right?

11 A Yeah, we can make generalizations.

12 Q I got you. It's not pie 3 point,
13 whatever, whatever.

14 A Right, we can make generalizations.

15 Q Got you. Now, doctor, do you have
16 indication in your experience and training, at
17 what rate blood would dry in a room where the
18 temperature was between the high 60's and maybe
19 mid 70-degree's in Fahrenheit?

20 A The only experience I have with blood
21 drying is in our autopsy room, when we're doing
22 an autopsy and some blood falls on the floor.

23 Q What's the temperature usually in there?

24 A It's about 68 degrees.

25 Q So it's pretty cool.

Dr. Marcus -Cross by McKnight

1 A Yeah, it's pretty cool.

2 Q So how long does that usually take for
3 that to happen?

4 A Again a drop of blood on the floor, if
5 there is not a lot of blood, will dry within 15
6 minutes. But, you know, when I can make an
7 accident in the room, and a lot of blood falls on
8 the floor, that can take up to an hour or longer.

9 Q Okay.

10 A It depends, you know, the conditions. And
11 it's very variable on what it falls on. You know
12 a linoleum floor in the room.

13 Q So one drop on a linoleum floor we're
14 talking 15 minutes. You know a lot of it on a
15 linoleum floor, we're talking about an hour.

16 A It could be an hour, it could be 3 hours.
17 I just, you know, It's so variable. So I don't
18 want to get myself in a hole here.

19 Q Yes, sir, I understand. I understand.
20 How long does it take blood to separate in from
21 the -- in from the serum into what was it we
22 called?

23 A Serum and the red blood cells.

24 Q How long does it take for the serum in the
25 red blood cells to separate in the conditions we

Dr. Marcus -Cross by McKnight

1 just described?

2 A That I can't really answer. I am not
3 experienced in that. I've never dealt with that
4 before, I've never been asked that. So I don't---

5 Q Let me ask you this.

6 A Okay.

7 Q There have been times when -- how long
8 does the average autopsy take you?

9 A The natural death takes about an hour.
10 This autopsy for instance, this one, took me a
11 couple of 3 or 4 hours.

12 Q Okay. If you had a body where you did an
13 autopsy for 3 to 4 hours and you left a lot of
14 blood on the floor, within that time, would the
15 red blood cells separate from the serum?

16 A They could probably start separating.
17 They probably could start.

18 Q Would you be able to determine -- would a
19 lay person, just looking at it, saying hey, the
20 blood is separate, would they be able to see that,
21 or would it take someone with your expertise and
22 skill to tell?

23 A I don't know.

24 Q Well is it safe to say then, doctor, it
25 takes a long time, like more than 4 or 5 hours,

Dr. Marcus -Cross by McKnight

1 for blood to begin to separate.

2 A I don't, like I said, I don't want to talk
3 about the separation too much. I don't want to --
4 I don't have the experience in that, sir. You
5 know, I think---

6 Q Okay.

7 A ---more of a crime scene investigator
8 might be the person for that.

9 Q I understand. Yes, sir. Court's
10 indulgence just one second.

11 THE COURT: Yes, sir.

12 Q How did the -- when you got done with the
13 body, and I'm presuming that during your autopsy,
14 you made some incisions in the body. Did you do
15 the standard Y or did you do the I incision?

16 A We did the Y.

17 Q The Y. And when I say, Y, I am meaning we
18 start cutting from the top of the shoulder blades,
19 the meat in the chest cavity down, and pull the
20 cavity apart; is that correct?

21 A That is correct.

22 Q And that's when you examine the individual
23 organs, the liver and the like by itself, to tell.
24 And you weigh them and all that.

25 A That's correct.

Dr. Marcus -Cross by McKnight

1 Q And of all that's memorialized in the
2 report, which I saw. When you do all that, after
3 you do all of that, to whom do you release the
4 body to?

5 A Whoever, whoever is authorized to pick it
6 up. That's our morgue staff handled that down
7 below downstairs. So I----

8 Q So you wouldn't know who released the
9 body?

10 A I have no idea.

11 MR. MCKNIGHT: That's all the questions
12 for right now. Thank you.

13 THE COURT: Mr. Griffith.

14 Cross Examination by Mr. Griffith:

15 Q Dr. Marcus, I am Timothy Griffith. I
16 represent Ms. Mickens.

17 A Nice to meet you, sir.

18 Q And I just have a few questions for you.
19 You say that this autopsy for the year 07, was
20 autopsy No. 758.

21 A That's correct.

22 Q How many autopsies do you generally do in
23 one year?

24 A I do where I am now, I do approximately
25 180 a year. That is me. We kind of keep our

Dr. Marcus-Cross by Griffith

1 standards. The National Association of Medical
2 Examiners, that's our main group we're involved
3 in. They like, their standard is, under 250 per
4 year because their experience is that, when you
5 start going above 250, your error rate will go up.
6 Doing autopsies is physically demanding work,
7 it's, you know, I am on my feet 3 or 4 hours at a
8 time. And I might do several cases that day.

9 Q So the more autopsies you do, the more
10 likelihood for a mistake; is that correct?

11 A Oh, yeah, that's sure. The more autopsies
12 you do, yeah, you get tired; you know, you do.

13 Q And sometimes you make mistakes; is that
14 correct?

15 A Yeah, absolutely. I am human.

16 Q Okay. Now how did you identify this
17 body? He didn't tell you his name, of course; did
18 he?

19 A He gave me the name. He did give me, the
20 coroner gave me the name, that's correct.

21 Q Well that is to say, when the body
22 arrived, had he written the guy's name on the
23 body? I mean, how did you know that that body was
24 the body that you had been told that it was?

25 A I don't remember. Let me check my report

Dr. Marcus-Cross by Griffith

1 here. In my report, I wrote, the body is
2 identified by the Williamsburg County Coroner,
3 Harrison McKnight. We had a lieutenant there with
4 us from Williamsburg County. So and it all
5 matched together. I had only one case of gunshot
6 wounds that day. He said a body was going to be
7 arriving. I don't remember if the body was
8 brought in a body bag. They generally have a name
9 on them. I just don't recall, it was many years
10 ago. I don't recall.

11 Q Okay. I was just wondering. And so of
12 course by not knowing who the body is when it
13 comes in, there is no way for you to identify any
14 documentation, because you didn't sign for that
15 body; is that correct?

16 A No, I did not sign for this body. A
17 morgue attendant that works there and signs for
18 the bodies when they arrive.

19 Q Okay. So you did not identify the body.
20 And then but just to be clear, you can't tell by
21 looking at the body who shot him.

22 A Oh, no, I don't know who shot him.

23 Q You can't tell who was present when he was
24 killed.

25 A No, I don't know.

Dr. Marcus-Cross by Griffith

1 Q You can't even tell where he was killed.

2 A No, that was just based on what I am told.

3 MR. GRIFFITH: Okay. Well I have no
4 further questions.

5 THE COURT: Ms. Barr, do you have any
6 redirect based upon their cross examination?

7 MS. BARR: Judge, very, very brief
8 redirect.

9 Redirect Examination by Ms. Barr:

10 Q Dr. Marcus, when you were asked about
11 trying to determine -- trying to determine the
12 actual cause of death, you were sort of hesitant
13 to do that based on the variables?

14 A The cause of death?

15 Q The timing of death.

16 A Oh, the time of death.

17 Q Yes, sir. And I believe I understood your
18 testimony to be that you can't really say because
19 there are so many variables.

20 A Right.

21 Q Okay. Tell me what you mean when you say
22 there are so many variables.

23 A Well you have, you know, you have the
24 temperature in the room. That's one variable. I
25 don't know if he was running around, what he was

Dr. Marcus-Redirect by Ms. Barr

1 doing before that. I don't know. I based it on
2 what, Mr. McKnight, you know, what Mr. McKnight
3 told me.

4 Q Okay. So the temperatures inside the room
5 would be one variable.

6 A One variable. What he was doing is
7 another variable. How was the body stored after
8 he died. Was it outside? I don't know. These
9 are things I -- that's another thing, you know,
10 because if it was, you know, I don't if he
11 refrigerated him afterwards, I don't know.

12 Q Okay.

13 A Those are the main variables there.

14 Q Okay. And in determining whether or not
15 there has been any separation of the blood, is the
16 inside temperature important?

17 A Yeah, that's one of the important things
18 is the temperature.

19 Q Of the room?

20 A Yeah. But again, I don't want to speak
21 about times, because I have very limited
22 experience in this.

23 Q Yes, sir. What about whether or not you
24 anyone touched the body before law enforcement
25 arrived. Would that have an impact on whether or

Dr. Marcus-Redirect by Ms. Barr

1 not someone would be able to tell whether blood
2 separated?

3 A You know, whether somebody touched the
4 body, I don't how that could effect blood
5 separating. That would tell whether the person is
6 warm to touch or cold. You know, I----

7 Q Okay. And I believe that you testified
8 that there were no other shootings in Williamsburg
9 County that you were aware of that day.

10 A Right. Mr. McKnight sends us -- at that
11 time, was sending us his autopsies. So I didn't
12 do any other Williamsburg County cases that day at
13 MUSC. So I guess that was the only one that he
14 had. You know that's---

15 Q And surely you don't have any reason to
16 suspect the body that you performed the autopsy on
17 was not James McNeal.

18 A No, I don't suspect that at all actually.

19 MS. BARR: Thank you, sir. That's all the
20 questions I have.

21 THE COURT: Any recross based on her
22 redirect?

23 Recross Examination by Mr. McKnight:

24 Q She mentioned those variables as being,
25 that you were unable to tell what the time of

Dr. Marcus-Redirect by Ms. Barr

1 death was. But if you knew those variables, you
2 could come to a general range as to what the time
3 of death was; wouldn't you?

4 A I could come to a general generalization,
5 you know, within 3 or 4 hours maybe.

6 Q I got you.

7 A But, you know, to put that a.m. is a
8 little different, but...

9 Q Uh-huh. (Affirmative.) And you expect to
10 get information about these variables in a
11 coroner's report.

12 A Yeah, I get them now.

13 Q Now, you didn't get a coroner's report in
14 this matter.

15 A Not that I recall.

16 Q So you weren't provided with those
17 variables.

18 A Not that I recall.

19 MR. MCKNIGHT: Those are my questions.

20 THE COURT: Mr. Griffith?

21 MR. GRIFFITH: No further questions, Your
22 Honor.

23 THE COURT: Thank you. You may step down
24 Any objection to this witness being excused?

25 MR. MCKNIGHT: Your Honor, yes. I mean,

Dr. Marcus-Redirect by Ms. Barr

1 he doesn't have to stay here but he's subject to
2 being called.

3 THE COURT: Okay. So he can go back to
4 Columbia?

5 MR. MCKNIGHT: Yes, sir. We will give him
6 a heads up. At least four hours.

7 THE COURT: Let me see the attorneys for
8 just a second.

9 (Whereupon, the attorneys approach the
10 bench and confer with judge.)

11 MS. BARR: Your Honor, at this time the
12 state calls Ms. Deloris Brown.

13 THE COURT: Come forward and be sworn.

14 Deloris Brown, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION by Ms. Barr:

17 Q Good morning, Mrs. Brown.

18 A Good morning.

19 Q State your full name for us.

20 A Deloris Brown. Deloris A. Brown.

21 Q And, Ms. Brown, where do you work.

22 A Williamsburg County Emergency Management.

23 Q And tell us what it is that you do.

24 A Okay. The simple form of it, because we
25 do so much. But to simplify it, we basically take

Deloris Brown-Direct by Barr

1 calls whether it's non-emergent or emergency
2 calls, and dispatch them out to the appropriate
3 agency.

4 Q And how long have you worked here?

5 A 24 years.

6 Q 24 years. And so you would have been
7 obviously working here in November of 2007?

8 A That's correct.

9 Q And in terms of the calls, when a 911 call
10 is placed by a caller, is that call reported?

11 A That's correct.

12 Q Is that the standard practice or procedure
13 for your agency?

14 A Yes, it is standard.

15 Q Okay. Why are 911 calls reported?

16 A Because a simple reason people can
17 actually say that maybe something didn't happen.

18 Q Okay.

19 A And for court procedures like we're into
20 today; yes, it is a standard practice that all of
21 the telephone calls, as well as the radio
22 recordings are recorded.

23 Q Okay. And as it relates to a 911 call
24 made back on November 2nd of 2007, regarding a
25 shooting in the Hemingway community, did you in

Deloris Brown-Direct by Barr

1 fact take such a call?

2 A That's correct, I did.

3 Q And in that particular instance who was
4 the caller?

5 A And in that particular incident who was
6 the caller?

7 Q Yes, ma'am.

8 A Ms. Bell was.

9 Q A Latisha Bell.

10 A Latisha Bell, that's correct.

11 Q And you spoke with Ms. Bell during that
12 entire conversation.

13 A Yes, I did.

14 Q And that entire conversation was recorded
15 by your agency.

16 A Yes.

17 Q And that recording again is done in the
18 ordinary course of business with the 911?

19 A Yes, it is.

20 Q And I am going to hand you what's been
21 marked for identification purposes as State's
22 Exhibit No. 143. Do you recognize that exhibit?

23 A Yes, I do.

24 Q And tell us how it is that you recognize
25 it.

Deloris Brown-Direct by Barr

1 A Actually because it was date stamped time
2 and all here.

3 Q Okay.

4 A Uh-huh. (affirmative.)

5 Q And is that the 911 recording of the call
6 that you received from Ms. Bell?

7 A Yes.

8 Q And have you listened to it?

9 A Yes, I have.

10 Q And does it adequately reflect the
11 conversations that was had between you Ms. Bell?

12 A Yes.

13 Q And in terms of the tone of Ms. Bell, how
14 would you describe her tone during that
15 conversation?

16 A She was very, I'm trying to, for lack of a
17 better word to put it. She was really, really
18 extremely excited. Agitated, upset, frustrated,
19 scared.

20 Q Okay.

21 A All of those things rolled into one.
22 Obviously based on what had just occurred.

23 MS. BARR: Your Honor, we would move
24 State's Exhibit No. 143 into evidence at this
25 time.

Deloris Brown-Direct by Barr

1 THE COURT: Any objection?

2 MR. MCKNIGHT: Not from the defendant

3 Mr. Williams.

4 MR. GRIFFITH: No objection, Your Honor.

5 THE COURT: State's Exhibit No. what?

6 MS. BARR: 143.

7 THE COURT: 143 is admitted without
8 objection.

9 (State's Exhibit No. 143 admitted into
10 evidence.)

11 Q Ms. Brown, what I am going to do is I am
12 just going to play the recorder, and I won't ask
13 you any questions, okay.

14 A Okay.

15 (Whereupon Playing recording.)

16 Q Ms. Brown, I am going to go to where the
17 hearing tape begins, do you any specific
18 recollection of specific call? Because I imagine
19 you have taken hundreds and thousands between then
20 now.

21 A I remember it.

22 Q You remember it?

23 A Yeah, I remember it.

24 Q Do you all keep a written report of when a
25 call comes into 911?

Deloris Brown-Direct by Barr

1 A We do.

2 Q And that's called a CAD report?

3 A That's correct.

4 Q When was the call placed into 911 by
5 Ms. Bell?

6 A The call came in at 8:34 a.m.

7 Q And the time that I played it, it seemed
8 like forever. But what time did law enforcement
9 arrive at the scene?

10 A One law enforcement got on the scene at
11 8:44.

12 Q 8:44.

13 A That's correct.

14 Q Okay. That would have been 10 minutes.

15 A That's correct.

16 Q And when we talk about the scene, where
17 are we specifically talking about Peach Street?

18 A That's correct.

19 Q In Hemingway.

20 A Yes.

21 Q That address is located within
22 Williamsburg County?

23 A That's correct.

24 Q And what Information were you given about
25 the identity of the victim?

Deloris Brown-Direct by Barr

1 A What information?

2 Q Yes, what is the name?

3 A I was given the name of the deceased.

4 Q And what was his name?

5 A Let's see, I cannot remember the name that
6 she gave me right at this time. Even though she
7 played it -- she said it just a while ago. I
8 can't remember the name that she just gave me.
9 Let's see what's in here.

10 Q I may be able to help.

11 A See if I can remember his name. She said
12 it,---

13 Q Yes, ma'am.

14 A ---but I don't remember the name that she
15 said.

16 MR. MCKNIGHT: Your honor, she can't lead
17 the witness now. She can read the report, and
18 recollect. But she can't point it out.

19 THE COURT: It was stated in there.

20 A James McNeal.

21 Q James McNeal?

22 A Uh-huh. (Affirmative.)

23 Q And obviously it was very difficult at
24 times to at times discern what was being said on
25 the 911 call. Is that fair to say?

Deloris Brown-Direct by Barr

1 A That's fair.

2 Q Based upon your having heard the 911 call
3 played in court, and your actually being on the
4 phone with Ms. Bell, what did you understand as to
5 what she told you about what happened to
6 Mr. McNeal?

7 A Obviously that somebody came in and kicked
8 in the door. Shot the boyfriend. The people had
9 on hoodies, and they fled. She was able to get
10 very little of, or any description basically of
11 them.

12 Q Did she indicate during the 911 call
13 whether or not anything was taken from the house?

14 A That's correct. She said some monies were
15 taken out of the wallet. Those kind of things.

16 Q Now at one point, I thought I heard you
17 ask her who is that man screaming in the
18 background.

19 A Yes, I did.

20 Q Do you recall what her answer was?

21 A No, I don't recall what her answer was.

22 Q Did it appear that aside from her
23 screaming and you're hearing a man screaming in
24 the background, did you hear any other voices?

25 A I did. Obviously several people had came

Deloris Brown-Direct by Barr

1 into the -- her -- one her friend's came.

2 Q Okay.

3 A And from I understood, several people came
4 in there, which is customary. Sometimes when a
5 violent crime of this nature occurred, people are
6 going to come in to just to witness, just to see
7 what is going on basically.

8 Q And I notice that during the call you kept
9 telling her, Latisha listen to me, don't let
10 anybody go in that house.

11 A That's correct.

12 Q Why did you tell her that?

13 A I didn't want the evidence and the crime
14 scene to be tampered with.

15 Q Okay.

16 A So that's why.

17 Q And when you asked her or instructed her
18 not to let anybody go in that house, what was her
19 response to you?

20 A She said that they are coming in. I can't
21 stop them from coming in.

22 MS. BARR: Ms. Brown, that's all the
23 questions that I have. Thank you. Please answer
24 any questions the court or the defense may have.

25 THE COURT: Mr. McKnight or Mr. Griffith.

Deloris Brown-Direct by Barr

1 Cross Examination by Mr. McKnight:

2 Q Ms. Brown, good afternoon.

3 A Good afternoon.

4 Q You have there with you, I believe, a
5 report that lists the times the calls came in and
6 the like; do you? Do you still have that with
7 you?

8 A That's correct. I have got it here.

9 Q And on that report it lists that an
10 officer arrived on the scene as you indicated on
11 direct at 8:34 a.m.; is that correct?

12 A Arrived on the scene at 8:44.

13 Q Pardon me; yes, ma'am. 8:44. Do you have
14 any indication as to who that officer was?

15 A Yes, according to this, it was the
16 sheriff's department -- excuse me, investigator
17 officer I-6.

18 Q I-6.

19 A Uh-huh. (Affirmative.)

20 Q Do you have any indication who I-6?

21 A Not right at this moment, because
22 sometimes they change from year to year. So it
23 would be based on this date and this time who I-6
24 was.

25 Q And that's the only identifying factor

Deloris Brown-Direct by Barr

1 that you have for that person who is I-6.

2 A We, based on who it is, normally because I
3 have been there so long, I could associate a voice
4 with the number. But right now, I don't remember
5 who I-6 was.

6 Q Do you reckon the voice?

7 A Would I recognize the voice?

8 Q Do you remember who the voice was?

9 A Not right at this time, that was 6 years
10 ago.

11 Q Yes, ma'am. And the call came in based
12 upon the data you have at 8:34 a.m. Is that
13 correct?

14 A That's correct.

15 MR. MCKNIGHT: Please answer any questions
16 that Mr. Griffith may have.

17 THE COURT: Mr. Griffith.

18 MR. GRIFFITH: Yes, ma'am, thank you for
19 being here.

20 Cross Examination by Mr. Griffith:

21 Q 8:33 that was in November. Was it, do you
22 recall whether it was daylight out? Could you see
23 that?

24 A At that time of the morning it would be.

25 Q Yeah. And so when you got this call,

1 these calls are automatically recorded.

3 Q And that time that was recorded, when you
4 pick up the phone you say it's 08:33?

6 Q Okay. So that's the machine that is doing
7 that?

12 Q Right.

17 Q Okay. So it's an automatic time---

19 Q Stamp.

21 0 And that's a computer that's doing that.

23 0 And it's automatic.

25 MR. GRIFFITH: I have no other questions.

Deloris Brown-Cross by Griffith

1 Thank you.

2 THE COURT: Any redirect based upon their
3 cross examination?

4 MS. BARR: No, sir.

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

6 MR. MCKNIGHT: Your Honor, may she be
7 excused?

8 THE COURT: You may be excused, ma'am.
9 Ladies and gentlemen, now is a good time to break
10 for lunch. I'm going to have you be back here
11 just a little bit before 2. That will give you a
12 little longer for lunch. And then we are going to
13 go a little later today than we yesterday. If you
14 need make arrangements, please do so. Thank you.
15 Please do not discuss the case while you are at
16 lunch. Is there anything we need to take up
17 before we break for lunch?

18 MR. MCKNIGHT: Nothing from the defense,
19 Your Honor.

20 THE COURT: Anything from the state?

21 MS. BARR: No, sir.

22 THE COURT: The court is adjourned until
23 2:00 o'clock.

24 MS. BARR: Judge, we have got a number of
25 sled agents here this afternoon. And what I would

1 like to do is call Investigator Wrenn for the
2 limited purpose of establishing chain of custody
3 from evidence that was taken from the Florence
4 city Police Department. And then call former
5 Williamsburg County Lieutenant Jeffrey Scott to
6 also establish chain of custody from Florence City
7 as well as autopsy. Items taken from the autopsy.
8 Just for that limited purpose I'll have to recall
9 Mr. Scott to testify about crime scene photos.
10 But I wanted to just call him to just related to
11 those issues so we can put the sled officers on
12 the stand, because they're come from Columbia.
13 And hopefully I will be done with their testimony
14 today. . .

15 THE COURT: Okay. So we're hoping to get
16 them out of the way entirely.

17 MS. BARR: That's my plan.

18 THE COURT: we'll go to where we need to
19 go.

20 MS. BARR: I appreciate that.

21 THE COURT: Any problems with that?

22 MR. MCKNIGHT: No, sir.

23 MR. GRIFFITH: No problem.

24 THE COURT: Have you got everybody here?
25 Let's bring our jury in.

1 (Whereupon, the following takes place
2 within the presence of the jury.)

3 THE COURT: Is the state ready to proceed?

4 MS. BARR: The state is ready, Your Honor.

5 THE COURT: Is the defense ready to
6 proceed?

7 MR. MCKNIGHT: The defense is ready.

8 THE COURT: You may call your next
9 witness.

10 MS. BARR: We call Investigator Pamela
11 Jean Wrenn.

12 Pamela Jean Wrenn, Being first
13 duly sworn, testified as follows:

14 Direct Examination by Ms. Barr:

15 Q Ma'am, please state your full name for
16 the record?

17 A Pamela Jean Wrenn.

18 MS. BARR: Your Honor, for the record I
19 have called Investigator Wrenn for the limited
20 purpose of establishing chain of custody. And I
21 would like to preserve the right to recall her
22 later.

23 THE COURT: Absolutely.

24 MS. BARR: Thank, Your Honor.

25 Q Ma'am, tell us back in 2007, what your

1 name was?

2 A Pamela Jean Lail.

3 Q And are an employee of the Williamsburg
4 County Sheriff's Office?

5 A Yes, ma'am.

6 Q You are a certified police officer?

7 A Yes, I am.

8 Q How long have you been in law enforcement?

9 A Since early 90's. And certified since 96.

10 Q Okay. And at that time in 2007, and
11 today, you are employed investigations?

12 A That is correct.

13 Q And certainly, ma'am, you became involved
14 in investigating a shooting of James Allen McNeal
15 in Hemingway back on November 2nd of 2007?

16 A That is correct.

17 Q And as a part of that ongoing
18 investigation, did you receive certain items of
19 evidence from the City of Florence Police
20 Department?

21 A Yes, I did.

22 Q Now on yesterday, you were present in the
23 courtroom when Lieutenant Mike Brandt of the City
24 of Florence Police Department testified?

25 A Yes, ma'am.

Investigator Wrenn-Direct by Barr

1 Q And I am going to publish what has been
2 previously admitted as State's Exhibit No. 48,
3 which is the evidence log sheet from the City of
4 Florence regarding a shooting of James Henry. Can
5 you see that?

6 A I can.

7 Q There is a signature under Sergeant
8 Becker, Investigator Pamela Lail. Can you see
9 where I am talking about?

10 A Yes, ma'am.

11 Q And it also says turned over to
12 Williamsburg County?

13 A That's correct.

14 Q And that would be your signature?

15 A It is.

16 Q And on this particular -- what particular
17 date did you receive the evidence identified in
18 State's Exhibit 48?

19 A September 2nd, 2010.

20 Q Okay. And specifically tell us what it is
21 you received on that date.

22 A I received a quantity of 3 disks of
23 photos.

24 Q Yes, ma'am.

25 A One GSR kit/James Henry.

Investigator Wrenn-Direct by Barr

1 Q Yes, ma'am.

2 A Three sets of swabs from the vehicle. And
3 one set of buccal swabs reference, Juandayln
4 Miller.

5 Q Okay. I am also going to now to publish
6 what's been admitted as State's Exhibit No. 49.
7 And again that's a separate evidence log from the
8 City of Florence Police Department?

9 A Yes.

10 Q It contains your signature?

11 A Yes, it does.

12 Q And this was also received on September
13 2nd 2010?

14 A Yes.

15 Q And whose name appears or whose signature
16 appears under yours?

17 A That is Lieutenant Jeffrey Scott.

18 Q And in September of 2010, where was
19 Lieutenant Jeffrey Scott employed?

20 A Williamsburg County Sheriff's Office.

21 Q And of course you were present in the
22 courtroom when the pathologist Dr. Marcus
23 testified today?

24 A That's correct.

25 Q And his testimony was that he gave certain

Investigator Wrenn-Direct by Barr

1 items of evidence from the autopsy to Lieutenant
2 Scott?

3 A That's correct.

4 Q Would that have been a part of his
5 responsibilities at that time to take those items
6 into evidence?

7 A Yes.

8 Q Now as it relates to the items that are
9 reflected in State's 48 and 49, after you received
10 all of those items; specifically, noted in those
11 two exhibits, what did you do with them?

12 A After I received them on September 2nd
13 2010, at 10:30 a.m., they were then signed over to
14 Lieutenant Jeffrey Scott at 9/2/2010 at 13:51 p.m.

15 Q Ma'am, have you seen the sled evidence
16 log-in report in connection with this particular
17 case?

18 A Yes, ma'am.

19 Q And I want to just talk about the items
20 that are referenced in 48 and 49, which would be
21 the evidence that you collected from the City of
22 Florence Police Department. Do you follow me?

23 A 48 and 49.

24 Q Well not on their log-in sheet on here.
25 And I'll just, and I'll talk with you about those.

Investigator Wrenn-Direct by Barr

1 When you received all of the items that are
2 mentioned in State's Exhibit No. 48 and 49, which
3 is the evidence log from the City of Florence.
4 When you received those particular pieces of
5 evidence, did they appear to have been tampered
6 with at all?

7 A No, ma'am.

8 Q Did they -- were they sealed?

9 A Yes, ma'am.

10 Q Did you as a part of chain of custody, do
11 anything with those particular items of evidence
12 prior to turning them over to Lieutenant Scott?

13 A Absolutely not.

14 Q Ma'am, if you will, let me have you turn
15 to page 4 of the sled evidence log. And let me
16 know when you are there.

17 A I am.

18 MR. MCKNIGHT: Your Honor, if I may, which
19 document is she referring to?

20 THE COURT: Is this in evidence?

21 MS. BARR: No, no. It's just the sled
22 evidence log sheet. And I am not going to have
23 it---

24 THE COURT: Okay.

25 MS. BARR: ---seek to have it admitted

Investigator Wrenn-Direct by Barr

1 into evidence.

2 Q Once you all as a practical matter, submit
3 evidence to sled to be tested, is it your
4 experience that they assign numbers to it?

5 A That's correct.

6 Q And as it relates to sled item No. 55, are
7 you with me?

8 A I am.

9 Q That particular item number, how is it
10 connected with this case as it relates to the
11 things that you received from City of Florence
12 Police Department?

13 A This was the swab. One of the swabs of a
14 swab that was referred to in the evidence sheet
15 from the Florence City.

16 Q Okay.

17 A A swab taken from the vehicle that was
18 driven by Ms. Mickens when Florence City met with
19 her.

20 (DNA swabs marked State's Exhibit No. 145
21 for id.)

22 Q I am going to hand you what has been
23 marked for identification purposes as State's
24 Exhibit No. 145. And ask you if you recognize
25 what is depicted, or what this particular exhibit

Investigator Wrenn-Direct by Barr

1 is.

2 A It does say on the outside; however, it
3 says DNA. Which means it had been to the DNA sled
4 lab.

5 Q Specifically as it relates to this
6 particular exhibit does it contain the signatures
7 that you recognize?

8 A It has the signature of Lieutenant Jeffrey
9 Scott.

10 Q And what date is listed on there?

11 A 9/3/2010.

12 Q And what agency is listed?

13 A WCSO, which is the Williamsburg County
14 Sheriff's Office.

15 Q And did you recognize this particular
16 No. L0716257?

17 A That is the number assigned by sled to any
18 item of evidence that is taken in; to be
19 distinguished between the departments or agencies
20 gets into evidence.

21 Q And as it relates to the number that is
22 associated with that sled number, what item No.
23 is associated by sled with this?

24 A This says No. 55.

25 Q And again, based on the law, what would be

Investigator Wrenn-Direct by Barr

1 No. 55 be?

2 A It says swabs, swabs from a vehicle.

3 Q And on the back of this particular
4 exhibit, you see that there is red label there
5 that says evidence?

6 A That's correct.

7 Q Do you see initials that are associated
8 with that red label?

9 A I do.

10 Q What are those initials?

11 A It appears to be MCB. And it's signed
12 11/7/07.

13 Q And based upon those initials and the date
14 of this particular exhibit that's marked on the
15 evidence stamp MCB would be who?

16 A To my knowledge at this point, Michael
17 Brandt, which would be over evidence with Florence
18 City.

19 Q Okay. What I am going to have you do is,
20 if you could kind of pull that down from there.
21 Can you see here what is listed there on this
22 particular exhibit?

23 A It says in parenthesis, three sets of
24 swabs from vehicle.

25 Q Okay.

Investigator Wrenn-Direct by Barr

1 A And I am not sure what this number is.

2 You would have to actually break the seal to find
3 out. But I can read 694-6068.

4 Q And as it relates to State's Exhibit
5 No. 48. The piece of evidence that you are
6 holding, where would it be reflected on State's
7 Exhibit No. 48?

8 A It would be item No. 3.

9 Q And I am pointing here?

10 A That's correct. Quantity, three sets of
11 swabs from vehicle. That's consistent with what's
12 on the handwritten on this package.

13 (Jacket, jeans, marked State's Exhibit No.
14 146 into evidence.)

15 Q Investigator Wrenn, I am now going to show
16 you what, has been marked for identification as
17 State's Exhibit No. 146. And you are free to kind
18 of look on that exhibit so that we will kind of
19 know what we are talking about here. Do you
20 recognize that exhibit?

21 A Yes, I do.

22 Q Tell us what it is.

23 A It is in reference to the next page?

24 Q I am sorry. I meant to put that other one
25 up. I'm sorry. I am going to publish State's

Investigator Wrenn-Direct by Barr

1 Exhibit No. 49, which again is the evidence log
2 from the City of Florence. Ma'am, can you tell us
3 about that?

4 A This is a, it's showing that Item No. 5,
5 which is on here, is marked Item No. 5 on all
6 sides. And it contains the following items:
7 a jacket that's bloody, which has to dry, as
8 Officer Brandt testified. A pair of blue jeans, a
9 belt, a black tee shirt, a pair of boxer shorts, a
10 pair of socks. And then it gives the case number,
11 which is consistent with the case number on this
12 box.

13 Q And when we talk about the case number,
14 are we talking about the case number from the City
15 of Florence Police Department investigation of the
16 shooting of Mr. Henry?

17 A That is correct.

18 Q Now when you received this particular
19 exhibit, did it appear to have been tampered with
20 in any respect?

21 A No, ma'am.

22 Q And as it relates to sled item No. 57, and
23 the subparts of 57, Item No. 58, Item No. 59,
24 Item No. 60, 61, and 62 and 62.1, is there a
25 correlation between what sled has indicated as

Investigator Wrenn-Direct by Barr

1 those item numbers, and the items that are
2 contained in the exhibit marked for identification
3 as State's 146?

4 A Yes. These are items that were located in
5 this Item No. 5.

6 Q Yes.

7 A The box containing the jacket, the blue
8 jeans, the boxer shorts, socks and tee-shirt. And
9 if there is a suspect stain of any sort, then sled
10 will take what they call a cutting, and that would
11 be tested. And that's what these items are, or
12 cuttings from. James Henry's clothing. And then
13 it depicts which item.

14 (GSR kit marked State's Exhibit No. 147
15 for identification.)

16 Q Now I am going to hand you what has been
17 marked for identification purposes as State's 147,
18 and ask if you recognize that particular exhibit.

19 A Yes.

20 Q Tell us what it is.

21 A This is a GSR, that was collected from
22 James Henry. And that is Item No. 2 from the City
23 of Florence. Item No. 2, quantity of 1, GSR kit
24 of James Henry.

25 Q And that is reflected on again, State's

Investigator Wrenn-Direct by Barr

1 No. 48?

2 A That is correct.

3 Q And if you look at sled Item No. 56, is
4 that depicted on State's Exhibit No. 48? Sled
5 Item No. 56.

6 A Well 56. That is correct, GSR kit from
7 James Henry.

8 (Bullets marked State's Exhibit No.
9 148 for id. only.)

10 Q Now I am going to hand you what has been
11 marked for identification purposes as State's
12 No. 148. Tell us if you recognize that exhibit.

13 A It's a, it has the log number. It's
14 bullets from Mr. Henry.

15 MR. MCKNIGHT: Your Honor, I am going to
16 object to that. She's speculating as to what they
17 contain, because we don't know what is in that
18 envelope. It is not transparent. It may be
19 marked from something. So she may not be able.

20 THE COURT: Rephrase your question.

21 Q How did you identify that particular
22 exhibit? How did you characterize it?

23 A It says, McNeal, two bullets, J.G. Henry.
24 And it has the lab number. The sled lab member
25 consistent with what I deem to be the sled lab

Investigator Wrenn-Direct by Barr

1 number.

2 MR. MCKNIGHT: But that's hearsay.

3 Because we don't know who wrote that on there.

4 We're offering it for the truth of the matter
5 asserted.

6 THE COURT: You're offering this for
7 chain of custody.

8 MS. BARR: I am. Not for the truth of the
9 matter asserted.

10 THE COURT: Overruled.

11 Q And, ma'am, you took possession of what
12 has been characterized in that exhibit as bullets
13 from Gquan Henry?

14 A That's correct.

15 Q And what did you do with those once you
16 took possession of them?

17 A All the items that were collected from
18 Florence City, were turned over to be a chain of
19 custody to Jeffrey -- Lieutenant Jeffrey Scott.

20 Q Now were those collected from Florence
21 City, or were those collected from Mr. Henry
22 later? I just want to make sure I am clear.

23 A The separate bullets were actually given
24 to us by Mr. Henry. But any items taken into
25 evidence were turned over to Lieutenant Scott.

Investigator Wrenn-Direct by Barr

1 Q Lieutenant Scott. ' So these came from Mr.
2 Henry himself.

3 A That is correct.

4 MS. BARR: Those are all the questions I
5 have. Thank you, ma'am.

6 THE COURT: Mr. McKnight.

7 MR. MCKNIGHT: Thank you, Your Honor.

8 MR. MCKNIGHT: May it please the court.

9 Cross Examination by Mr. McKnight:

10 Q Investigator or lieutenant, which is it?

11 A Investigator.

12 Q You're an investigator. Thank you, ma'am.
13 You just testified under direct oath, under direct
14 testimony on the witness stand, that all items
15 were turned over to Lieutenant Scott; is that
16 correct?

17 A The items from Florence City and the
18 bullets given to me by Mr. Henry.

19 Q Yes, ma'am. I am referring you now to
20 what has been marked as State's Exhibit No. 49.
21 This would be -- this would be the Florence
22 Department, Police Department Professional
23 Standards Unit, evidence inventory, do you recall
24 seeing this document?

25 A Yes, I do.

Investigator Wrenn-Cross by McKnight

1 Q And at the bottom of this document, it
2 indicates that the item was first received by
3 Sergeant Burch; is that correct?

4 A This is a sergeant with Florence City.

5 Q Correct.

6 A I do not -- I cannot read it. But it
7 starts with sergeant.

8 Q Okay. And then it is received by you.

9 A That is correct.

10 Q And then it's received by Jeff Scott; is
11 that correct?

12 A Yes.

13 Q And you gave those items specifically on
14 this sheet to Jeff; is that correct?

15 A That's correct.

16 Q I am going to refer you now to State's
17 Exhibit No. 48. This sheet is different in that
18 indicates that what? What items are on here
19 specifically?

20 A That is from the sergeant of Florence
21 City, and then I signed it.

22 Q Okay. What items were given? What items
23 are listed on this inventory sheet?

24 A Because both of those sheets were
25 together. It goes Item 1---

Investigator Wrenn-Cross by McKnight

1 Q No, ma'am. My question, what items are
2 listed on the sheet?

3 A Okay. It says Item No. 1, 3 disks of
4 photos. Item No. 2, one GSR kit, James Henry.
5 Item No. 3, three sets of swabs from vehicle.
6 Item No. 4, one set of buccal swabs from Juandalyn
7 Miller. And then it goes on to page 2.

8 Q Okay. Now the signatures on this page,
9 there are only two signatures on this page, are
10 they not?

11 A That's correct.

12 Q Those two signatures are that the sergeant
13 from Florence and your signature.

14 A That is correct.

15 Q Now normally what's done on a chain of
16 custody, in a chain of custody, on a particular
17 chain of custody form is that all persons that
18 receive that item sign for it; do they not?

19 A Yeah. This is a continued number of the
20 second page, it's a continuation of the 5 items
21 that were collected from Florence City.

22 Q What on this sheet indicates to you that
23 it is a continuation?

24 A A continuation of numbers. 1 through 4.
25 And then it begins Item No. 5.

Investigator Wrenn-Cross by McKnight

1 Q I understand that. But if you look at
2 item. And I am glad you brought that point. You
3 see a line drawn through from where it says pair
4 of socks, all the way down to the bottom; is that
5 correct?

6 A That's because it was---

7 MR. MCKNIGHT: No, ma'am. The question
8 was---

9 THE COURT: Let her answer.

10 MR. MCKNIGHT: She's not answering yes or
11 no. Then she can explain.

12 THE COURT: She didn't -- rephrase your
13 question.

14 Q My question was, there is a line drawn on
15 this sheet from to where it says pair of socks to
16 disposition. Is there not?

17 A There is.

18 Q Okay. And on that line there are
19 initials; are there not?

20 A Yes, sir.

21 Q What are those initials?

22 A M something B.

23 Q Okay. Now in your experience in law
24 enforcement and with your training, particularly
25 when you do inventory sheets. When you draw a

Investigator Wrenn-Cross by McKnight

1 line through there, is it true that that line is
2 drawn through there so that no one else can put
3 any other information in those spots?

4 A Do you want me to explain or?

5 Q I want you to answer yes or no first, and
6 then, yes, ma'am, you can explain.

7 A It's not a yes or no answer.

8 Q Okay. So are you telling me that -- are
9 you telling me that normally when you all draw
10 that line, you intend for other information to go
11 there?

12 A May I explain?

13 Q Yes or no, and then you can explain.

14 A No.

15 MR. MCKNIGHT: No.

16 THE COURT: Can she explain?

17 MR. MCKNIGHT: I said she could explain.

18 A Yes, sir. Normally, when packaging
19 evidence, these 5 items; including in Item No. 5,
20 is all that can be added to that one entry on the
21 evidence shelf. It's included in one box and it
22 is sealed. And that's will be found in Item
23 No. 5. The first 4 items are the only items that
24 can be added to those particular items in that
25 evidence shelf.

Investigator Wrenn-Cross by McKnight

1 Q Okay. But what I am saying to you is,
2 on this page, is there anything on here that says
3 that this is page 1 of 2 or page 2 of 2? I am
4 sorry. Let me make it clear for you. Or better
5 still, permission to approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 Q And I'm referring exhibits, State's
9 Exhibits 48 and 49. And I will repeat my
10 question. Are there any markings or writings on
11 that page that indicates that these pages are
12 together, as in page 1 of 2 and page 2 of 2?

13 A Page 1 of 2 and page 2 of 2, I do not see.

14 Q Okay. So these pages are 2 separate
15 evidence and inventory forms.

16 A One case, 2 forms.

17 Q Correct. And on the one of them you
18 decide to sign; correct?

19 A Incorrect. I signed both of them.

20 Q You signed both of them? Show me where
21 you signed both of them.

22 A Investigator Pamela Lail. Investigator
23 Pamela Lail.

24 Q Excuse me. You are correct. On both of
25 those. But only on one of those did Lieutenant

Investigator Wrenn-Cross by McKnight

1 Scott sign.

2 A The final page.

3 Q But you just said there is two separate
4 forms.

5 A Two forms. One evidence package.

6 Q No, ma'am.

7 A A complete package from Florence City.

8 All of this was one pick up from Florence City.

9 Q Is this -- how many packages is this?

10 A All of this is one pickup from Florence.

11 Q Ma'am, how many packages is this?

12 A One.

13 Q Ma'am, how many packages is this?

14 A One.

15 Q What is this?

16 A And that's 3 of 5.

17 Q And what is it? No, ma'am, what am I
18 holding in my hand?

19 A Sir, I have to look.

20 Q No, you can look at this. What is this
21 item? It's square. It's got 8 sides. What is
22 it?

23 A It's Item No. 5.

24 Q What is it?

25 A It is a box with item No. 5 written on the

Investigator Wrenn-Cross by McKnight

1 side of it.

2 Q Thank you So you didn't -- so you can't
3 prove to me that you gave the items on -- there is
4 nothing on this sheet. And I am sorry.

5 Permission to approach again. And I've got a
6 copy. Thank you, ma'am.

7 This is nothing on the State's Exhibit
8 No. 48, that can correctly show you that gave Item
9 1, 2, 3 and 4, to Investigator Scott.

10 A The continuation page.

11 Q Again, there is nothing saying that this
12 is a continuance page; is there? I am asking.

13 A And, sir, I have answered it three times.

14 Q And that answer was, no; right?

15 A Those 2 pages go together. And Lieutenant
16 Scott signed it.

17 Q Show me that they go together.

18 MS. BARR: Judge, again---

19 THE COURT: Asked and answered.

20 MS. BARR: ---asked and answered.

21 Objection.

22 MR. MCKNIGHT: I have no questions.

23 THE COURT: Any redirect?

24 MS. BARR: No, your honor.

25 THE COURT: You may step down.

Investigator Wrenn-Cross by McKnight

1 MS. BARR: We call Jeffrey Scott.

2 Jeffrey Scott, being first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION by MS. BARR:

5 Q Mr. Scott, state your full name for me.

6 A Full name, Jeffrey Scott.

7 Q Sir, and unfortunately, I am going to have
8 to do this for you, I am going to ask you very
9 limited questions right now as it relates to chain
10 of custody for certain items of evidence.

11 Fortunately I am going to need you to testify
12 again later regarding crime scene and so forth,
13 okay.

14 A Okay.

15 Q So my questions for right now will just be
16 limited to chain of custody. Back in September of
17 2010, where were you working?

18 A Williamsburg County Sheriff's Office.

19 Q And what was your position with the
20 Williamsburg County Sheriff's Office?

21 A I was the training officer, evidence
22 custodian and crime scene investigator at that
23 time.

24 Q And in terms of being the evidence
25 custodian and the crime scene technician, would

Jeff Scott-Direct by Barr

1 that have you required you to take items into
2 evidence in connection with a criminal case and
3 then preserve those items and then transport them
4 to sled?

5 MR. MCKNIGHT: Objection that question is
6 leading.

7 THE COURT: Rephrase your question.

8 Q What would have been your job
9 responsibilities back In September of 2010?

10 A I would have collected evidence that would
11 come in from cases, whether it be on patrol or
12 investigations; make sure that they were packaged
13 properly. Stored. And transferred to sled for
14 analysis.

15 Q Now as a part of your responsibilities,
16 did you take possession of certain items of
17 evidence related to a homicide in Williamsburg
18 County back on November 2nd of 2007?

19 A I did.

20 Q The victim in that case was James Allen
21 McNeal?

22 A That's correct.

23 Q Now earlier we heard the pathologist from
24 MUSC testify about a Jeffrey Scott being there
25 during the autopsy report. You weren't in court

Jeff Scott-Direct by Barr

1 when that happened. But would he have been
2 referring to you?

3 A That's correct.

4 Q And when we have homicides in Williamsburg
5 County while you are employed with the sheriff's
6 office, is it normally your practice to be present
7 during autopsy?

8 A That's correct.

9 Q A quick question. Were you also at the
10 crime scene in this case on Peach Street in
11 Hemingway back on November 2nd 2007?

12 A That is correct.

13 Q I am going to publish what has been
14 previously admitted as State's Exhibit No. 123.
15 Is that an autopsy photo of James Allen McNeal?

16 A That is correct.

17 Q Is that the same individual who was inside
18 the home on Peach Street when you were at the
19 crime scene back on November 2nd 2007?

20 A That's correct.

21 Q I understand that you were at the crime
22 scene as part of your investigation or sheriff's
23 office investigation on November 2nd 2007. Did
24 you have occasion to take items of evidence from
25 Investigator Wrenn, Investigator Lail back then,

Jeff Scott-Direct by Barr

1 from the City of Florence on September of 2010?

2 A That's correct.

3 Q And I am going to show you an evidence log
4 sheet that's already in evidence. Call it State's
5 Exhibit No. 48 first. Is -- do you see
6 Investigator Lail's signature at the bottom of
7 that exhibit?

8 A Yes, that is correct.

9 Q I am going to publish State's Exhibit
10 No. 49. Do you also see Investigator Lail's
11 signature at the bottom of that exhibit?

12 A That is correct.

13 Q Are you familiar with her signature,
14 having worked with her?

15 A Yes.

16 Q And the the signature that is contained
17 under hers is who?

18 A Mine.

19 Q And I may be a little bit out of order,
20 but I think we will be all right. I am going to
21 show you what has been marked for identification
22 purposes as State's No. 146. And I will ask you
23 if you recognize that exhibit.

24 A Yes, I do.

25 Q How is it that you recognize it?

Jeff Scott-Direct by Barr

1 A This is identification markings---

2 Q Okay.

3 A ---on the box. Also there is tape across
4 the seals.

5 Q Okay.

6 A That have my initials on it.

7 Q There are tapes there that have your
8 initials on it?

9 A That is correct.

10 Q Can you stand up for a minute. Tell the
11 jurors where your initials would be on this
12 particular exhibit.

13 A They are right across the sled tape, taped
14 across the box. My initials are right here JSS.
15 9/20/10. And it should be here. This side
16 covering this seal.

17 Q Okay.

18 A And on the bottom, right here and right
19 here across it.

20 Q And as it relates to this particular
21 exhibit, do you also see initials on the red
22 evidence tape?

23 A Yes, I do.

24 Q And those initials are MCB?

25 MR. MCKNIGHT: Your Honor, object to the

Jeff Scott-Direct by Barr

1 form of that question.

2 THE COURT: Overruled.

3 Q I'm sorry, what are those initials?

4 A MCB.

5 Q Okay. I'm going to publish State's
6 Exhibit No. 48. Do you see those same initials on
7 State's No. 48.

8 A That is correct.

9 Q And in terms of the initialed being MCB,
10 what is the name of the individual who signed
11 above Sergeant Becker's name here?

12 A Michael Brandt.

13 Q Okay. And also on State's Exhibit No. 49.
14 Do you also see those same initials here?

15 A Yes.

16 Q MCB?

17 A Yes, ma'am.

18 Q And do you see Michael Brandt's name on
19 that particular exhibit as well?

20 A Yes, I do.

21 Q Now, I am going to hand you State's
22 Exhibit No. 147. Do you recognize that exhibit?

23 A Yes, I do.

24 Q What is it? Or how is characterized?

25 A It's a packaging. It's a trace GSR.

Jeff Scott-Direct by Barr

1 Q GSR is what?

2 A It's gunshot residue under the trace
3 identification.

4 Q Is there anything that's contained in that
5 exhibit that would alert anyone that you had
6 handled or had possession of that exhibit at one
7 time?

8 A My initials are on the back. Sled seal
9 tape. JSS.

10 Q And when we talk about the GSR kit from
11 James Henry, would that have been an item of
12 evidence that you received from Florence City?

13 A Yes.

14 Q Let's talk about 145.

15 A Yes, ma'am.

16 Q Does that also indicate that you handled
17 that as well?

18 A Yes, it has my signature along with the
19 date and Williamsburg County Office initials.

20 Q And how is it represented or how is that
21 exhibit characterized?

22 A It's a heat sealed pack. It's an
23 evidence bag or plastic bag or a heat sealed
24 package on the side. Inside the contents is the
25 paper bag with the buyer stickers. It also has a

Jeff Scott-Direct by Barr

1 red evidence tape.

2 Q And what is the item, how did your agency
3 characterize this item? What is it supposed to
4 be? Or what do you all have it as?

5 A Swabs.

6 Q Okay. Swabs---

7 A Swabs from a vehicle.

8 Q ---from a vehicle. Tell me about 148.

9 And, sir, does what's been marked for
10 identification as 148, does it contain your
11 initials?

12 A Yes, it does.

13 Q And what does it purport to be State's
14 Exhibit No. 148? How do you have them
15 characterized?

16 A Projectiles from JG Henry.

17 (Bullets from JM marked as State's Exhibit
18 No. 152 for Id. only.)

19 Q Tell me about 152. What's been marked as
20 State's Exhibit No. 152. What does it purport to
21 be?

22 A This came from FA or firearm's department.

23 Q Okay.

24 A And it has my initials on it.

25 Q Okay.

Jeff Scott-Direct by Barr

1 A And it's sealed. (

2 Q I am going to press these stickers down so
3 they don't fall off of there.

4 A It would contain the projectiles.

5 Q Projectiles from whom?

6 A James McNeal.

7 Q From James McNeal?

8 A Yes.

9 Q And are these the projectiles that you
10 would have received from Dr. Marcus at the time of
11 autopsy?

12 A That's correct.

13 Q Tell me about 150. Exhibit 150.

14 A Yes, I can. My initials and the date.

15 Q What does it purport to be or how do you
16 have it described?

17 A It's a heat sealed envelope. Plastic
18 packaging. And on the inside it has small manila
19 envelopes, inside a biohazard container.

20 Q Yes, sir.

21 A And these would be consistent with the
22 blood standards of the victim Mr. McNeal.

23 Q Blood standard of the victim, Mr. McNeal?

24 A That's correct.

25 Q And you got these from where?

Jeff Scott-Direct by Barr

1 A That would be from autopsy.

2 Q One last one. Tell me about State's
3 Exhibit No. 149.

4 A This is a heat-sealed pouch. Across the
5 top it has my initials on it, and my signature.
6 This is a buccal swab collection kit.

7 Q Yes, sir.

8 A And this would be from Mr. James Henry.

9 Q Now, sir, the buccal swab, tell us what a
10 buccal swab is, briefly.

11 A A buccal swab is basically the use of a
12 Q-tip type swab. What we do is we take a DNA
13 sample by swabbing the interior parts of the
14 mouth; such as, the cheeks, the side cheek, the
15 mouth, left and right, for buccal cells that would
16 contained within the mouth; which contain DNA.
17 That would be submitted for analysis.

18 Q And did you in fact take the swab from the
19 mouth of James Gquan Henry?

20 A That's correct.

21 Q And when was that done?

22 A It was submitted on 8/5. And inside the
23 envelope packaging, it actually has the dates that
24 it was collected inside the packaging here.

25 Q When you took the buccal swab from

Jeff Scott-Direct by Barr

1 Mr. Henry how did you package it such that you
2 would preserve it so that there would be no
3 concern about contamination?

4 A Inside the buccal swab kit, there is an
5 envelope that is sealed. Once these swabs are
6 taken, they are put inside an envelope, and they
7 are sealed. And this way where it is breathable.
8 Once it's sealed, we put it inside this envelope.
9 And we also reseal it with our initials, which
10 would be the red evidence tape. I don't know if
11 you all can see it. This little red strip right
12 here. And then it would be resealed so both inner
13 and outer would be taken care of.

14 It's also usually put inside what we call
15 a plastic bag, and it's a ziploc bag, that's
16 sealed inside. So it's got three types of seals
17 that is usually used in one of the buccal swab
18 kits.

19 Q As it relates to all the exhibits I just
20 showed you, once you received them, what did you
21 then do with them?

22 A Once received, they are usually,
23 I-labeled. And that's the process we go through
24 to make sure they are going to go sled. We log
25 them into I-lab system. And they give us a number

Jeff Scott-Direct by Barr

1 or a lab number for it. Once we do that, and once
2 we make sure all them are properly packaged, then
3 they are taken to sled and logged in.

4 Q And as it relates to all of the particular
5 items, were you satisfied once, and I'm assuming
6 you would have been the one taking them to sled?

7 A That is correct.

8 Q Once you took them to sled were you
9 satisfied they were properly packaged?

10 A That's correct.

11 Q Properly sealed?

12 A That's correct.

13 Q And to eliminate the risk of
14 contamination?

15 A That's correct.

16 Q And how long have you been in law
17 enforcement?

18 A I have been certified since 1996. Almost
19 19 years.

20 Q And are you familiar with how and don't
21 tell me necessarily how, but just yes or no. Are
22 you familiar with the procedures that sled
23 utilizes to preserve evidence?

24 A Yes, ma'am.

25 MS. BARR: Judge, we would move at this

Jeff Scott-Direct by Barr

1 time into evidence State's Exhibit No. 149, 150,
2 152, 148, 145, 147 and 146.

3 THE COURT: Any objection?

4 MR. MCKNIGHT: Yes, Your Honor. The
5 defendant Mr. Williams objects to State's Exhibit
6 No. 147.

7 THE COURT: Which is?

8 MR. MCKNIGHT: I believe they have it
9 labeled as GSR kit. State's Exhibit No. 145,
10 swabs from the vehicle. State's No. 148, bullets
11 from McNeal. And state's -- and those are our
12 objections.

13 THE COURT: And what is the basis for your
14 objection?

15 MR. MCKNIGHT: They have not provided a
16 complete chain of custody as indicated by their
17 form.

18 MR. GRIFFITH: I would join in that
19 objection, Your Honor.

20 THE COURT: Ms. Barr.

21 MS. BARR: Judge, he's obviously testified
22 that he received all of those items; that they
23 were properly sealed when they received them. And
24 maybe need to ask one qualifying question.

25 Q Sir, with regard to each exhibit that I

Jeff Scott-Direct by Barr

1 have shown you, you can tell from those particular
2 exhibits, or can you tell from those particular
3 exhibits whether or not sled has performed any
4 analysis of those items?

5 A When they perform an analysis on the
6 items---

7 Q Can you tell that though?

8 A Yes. If you would like me to step down I
9 will.

10 Q I just want to make sure you are able to
11 tell whether or not you are able to tell an
12 analysis has been performed on all of them?

13 A Yes.

14 Q In terms of your experience in being a
15 police officer and crime scene, have all of these
16 particular items been properly sealed in its to be
17 returned to the law enforcement agency?

18 MR. MCKNIGHT: Your Honor, before he
19 answers, I have got an objection as to the form.
20 If she is done with her colloquy then she can
21 move. She doesn't get to begin again by examining
22 the witness to put in more information.

23 THE COURT: I am going to overrule your
24 objection. I am going to allow it.

25 MR. MCKNIGHT: Yes, sir.

Jeff Scott-Direct by Barr

1 Q I'm sorry, Mr. Scott, as it relates to
2 those particular items of evidence, each one that
3 I have shown you, can you tell whether or not
4 those items have been properly sealed to in there,
5 so they be properly be returned to the law
6 enforcement agency that requested the testing?

7 A They have.

8 MS. BARR: Your Honor, we renew our motion
9 to have those particular items admitted into
10 evidence.

11 THE COURT: I am going to admit over
12 objection Exhibit No. 146, 145, 147. Actually
13 146, 152, 150 and 149 are without objection. 148
14 and 145 and 147 are admitted over objection.

15 (Swabs, 5 items, GSR, JR, projectiles,
16 swabs, blood standard, projectiles JM, marked
17 State's Exhibit Nos. 145-150, 152 into evidence.)

18 MS. BARR: Judge, that's all the questions
19 I have for this witness.

20 MR. MCKNIGHT: May it please the court,
21 Your Honor.

22 THE COURT: Yes.

23 Cross Examination by Mr. McKnight:

24 Q Lieutenant Scott, you testified that you
25 were present with the body at the time of the

Jeff Scott-Cross by McKnight

1 autopsy.

2 A That's correct.

3 Q Do you know of your own knowledge how the
4 body got to MUSC?

5 A It was transported by whichever funeral
6 home came to pick it up and transported it there.

7 Q Do you know the specific person that took
8 it there?

9 A Not right off hand.

10 Q Do you have any notes from that day?

11 A As far as who took the -- no, not off
12 hand; the funeral home.

13 MR. MCKNIGHT: Okay. Your witness.

14 THE COURT: Any further questions?

15 Cross Examination by Mr. Griffith:

16 Q Do you have a -- I know you already
17 answered particularly this question. But do you
18 normally keep a chain of custody for a body?

19 A Not for a decedent. Usually the coroner
20 is in custody, you know, has control of the body
21 once we release it. The coroner is in control of
22 that person. They make the arrangements for it to
23 go to MUSC. And they make arrangements for pick
24 up, and how it is going to be transported.

25 MR. GRIFFITH: Okay. no further

Jeff Scott-Cross by Griffith

1 questions.

2 THE COURT: Any redirect based on their
3 cross?

4 MS. BARR: No, Your Honor.

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

6 MS. BARR: Your Honor, we would call
7 Dr. Matthew Fitts.

8 THE COURT: Let me see the attorneys.

9 (Whereupon, attorneys approach and confer
10 with judge.)

11 THE COURT: Ladies and gentlemen, I am
12 going to send you back to your jury room for about
13 10 minutes. Don't talk about the case while you
14 are back there.

15 (Whereupon, the court takes a short
16 recess.)

17 THE COURT: Anything before we bring the
18 jury back out?

19 (Whereupon, the following takes place
20 within the presence of the jury.)

21 THE COURT: Is the state ready to
22 proceed?

23 MS. BARR: The state is ready, Your Honor.

24 THE COURT: Call your next witness.

25 MS. BARR: Dr. Matthew Fitts.

1 Dr. Matthew Fitts, Being first
2 duly sworn, testified as follows:

3 Direct Examination by Ms. Barr:

4 Q Sir, state your full name for us please.

5 A Matthew Rand Fitts.

6 Q Spell your last name for us.

7 A F-I-T-T-S.

8 Q And, Dr. Fitts, tell the ladies and
9 gentlemen of the jury what you do for a living.
10 Or I guess, back in 2011, what did you do for a
11 living?

12 A In 2011, I was employed by sled's forensic
13 laboratory in the forensic DNA serology
14 department.

15 Q And when we are talk about sled, we are
16 talking about the South Carolina Law Enforcement
17 Division?

18 A That's correct.

19 Q And you were assigned to the DNA
20 department?

21 A Yes.

22 Q And how long have you been employed at
23 sled?

24 A A total of almost 15 years.

25 Q And tell us a little bit about your

Dr. Fitts-Direct by Barr

1 educational background, your training, and so
2 forth that qualify you for the DNA department at
3 sled.

4 A I received my BS degrees and PH.d. degree
5 from Clemson University in microbiology. I spent
6 3 years at St. Jude Children's Research Hospital
7 in the Department of Immunology. Then 5 years at
8 the National Institutes of Health in laboratory
9 and macular genetics. In 95, is when I joined
10 sled's forensic DNA laboratory. I worked there
11 for almost 12 years. Then I was the chief
12 microbiologist at Clemson University's Veterinary
13 diagnostic center for almost 3 years. Then
14 rejoined sled for an additional 3 years in the
15 forensic DNA serology department.

16 And in 2011, I left and I am an associate
17 professor of biology at Claplin University. As
18 well as, Director of a regional forensic DNA lab
19 that we're setting up in collaboration with the
20 Orangeburg Department of Public Safety.

21 Q Well you are a Clemson tiger. We
22 Gamecocks won't hold that against you, okay. Now,
23 sir, when did you leave the State Law Enforcement
24 Division?

25 A In July of 2011.

Dr. Fitts-Direct by Barr

1 Q And prior to your leaving sled, had you
2 had occasion to testify in the state court's of
3 South Carolina or any other state as an expert
4 witness?

5 A Yes, I have.

6 Q Approximately how many times have you been
7 qualified as an expert witness?

8 A I would say in the range of 30 to 50
9 times.

10 Q And the field of expertise for which you
11 testified is what specifically?

12 A In the area of forensic DNA and serology.

13 MS. BARR: Your Honor, at this time we
14 would tender Dr. Fitts as an expert in the field
15 of DNA analysis and serology.

16 THE COURT: Do the defendants request
17 voir dire?

18 MR. MCKNIGHT: Very limited voir doir.

19 Cross Examination by Mr. McKnight:

20 Q Dr. Fitts, have you ever been disqualified
21 in any court proceeding?

22 A No, I have not.

23 MR. MCKNIGHT: That's all for the
24 defendant Williams, Your Honor.

25 MR. GRIFFITH: No questions.

Dr. Fitts-Direct by Barr

1 THE COURT: Are there any objections to
2 him being---

3 MR. MCKNIGHT: I'm sorry. And no
4 objection.

5 THE COURT: I will deem him to be an
6 expert in the forensic DNA and serology analysis.
7 Ladies and gentlemen, like I said earlier, when
8 somebody has a level of education, experience, we
9 allow them to testify to opinions that they have.
10 But it's up to you as to whether or not you're
11 going to accept his opinion in this matter, and
12 give it the weight you deem necessary for your
13 evaluation. Thank you, you may proceed.

14 Q Thank you. Dr. Fitts, I am going to hand
15 what's been admitted as State's Exhibit No. 50.
16 I'll ask you, sir, if you recognize that
17 particular exhibit. And if you do, tell us how it
18 is you recognize it.

19 A Yes, I can see that in this, it has an
20 envelope marked with an Item No., Item 25 blood
21 from James McNeal. And it has my initials and
22 date. And this is the date that I actually put
23 that blood sample on a cloth to preserve it.

24 Q In terms of any signatures that is
25 contained on that particular exhibit, can you tell

Dr. Fitts-Direct by Barr

1 us whether or not or can you tell us the identity
2 of the person who would have brought that into
3 sled, and what agency that person worked for?

4 A It's Williamsburg County Sheriff's
5 Department. That's an agency case number. The
6 seal band. But I can't read the names and
7 initials on here.

8 Q And this handwriting is probably like
9 mine. But can you read that there?

10 A Is that lieutenant? Is that Lt. for
11 lieutenant? No, I am sorry.

12 Q Okay. That's okay. That's all right.
13 That's okay. I am going to move this sticker just
14 a little bit so you can see the date. Can you see
15 the date in which Williamsburg County would have
16 brought State's Exhibit No. 150 to sled?

17 A November 5th of 2007.

18 Q And you indicated there is a sled lab
19 number associated with this exhibit?

20 A That's correct.

21 MS. BARR: And I am going to move to
22 publish State's 150.

23 THE COURT: Yes, ma'am. That's already in
24 evidence.

25 Q Sir, can you tell us where as reflected on

Dr. Fitts-Direct by Barr

1 that particular exhibit where you would find the
2 sled lab number?

3 A It's on the yellow sticker. And it's the
4 LO7-16257.

5 Q And why is that a lab number associated
6 with items of evidence at sled?

7 A Well it's as items are -- we obviously
8 receive items from a lot of law enforcement
9 agencies. And as they come in, if there is a case
10 for the lab, we have the L in front of it. The 07
11 is just the year that we receive this evidence.
12 And the 16257 is just we start the year with 01,
13 and keep on going throughout the year. So this is
14 the 16,257th case.

15 Q Okay. And, sir, do you see where I am
16 pointing here?

17 A Yes.

18 Q And what do those letters mean?

19 A South Carolina Law Enforcement Division.

20 Q And can you read those initials here?

21 A It looks like a JSS to me.

22 Q And you have indicated the date of
23 11/5/07?

24 A Correct.

25 Q And tell me whose initials are here?

Dr. Fitts-Direct by Barr

1 A Those are my initials.

2 Q And I believe I was asking you earlier
3 about this signature, and you indicated that you
4 could not read that signature.

5 A No, I can't.

6 Q If a witness previously testified that was
7 the signature of Lieutenant Jeffrey---

8 MR. MCKNIGHT: Objection.

9 THE COURT: Overruled.

10 Q If a witness previously testified that
11 that is a signature of Jeffrey S. Scott, would you
12 have any reason to dispute that?

13 A No, I would not.

14 Q Once a particular item of evidence comes
15 into sled, particularly blood, tell us what the
16 protocol is for maintaining chain of custody, and
17 maintaining the integrity and the security of that
18 particular piece of the evidence.

19 A Well when it's received it is, as you can
20 see in these heat sealed pouches, they are placed
21 in a heat-sealed pouch, and it is sealed with the
22 individual bringing the item of evidence; putting
23 their initials and date on there, saying they're
24 the ones that sealed this evidence. And then as
25 it moves through the laboratory, then I take it.

Dr. Fitts-Direct by Barr

1 I will examine it to make sure the seals are in
2 tact. And knowledge by my initials and dating
3 that I am the one that broke the seal to work on
4 that particular item of evidence.

5 Q Now specifically with regard to State's
6 Exhibit 150, and sled item No. 25, the blood
7 standard of James McNeal, when you performed your
8 analysis relating to this exhibit, was there
9 anything that caused you any concern about whether
10 or not the security of this exhibit had been
11 compromised in any way?

12 A No.

13 Q Anything to suggest to you that it had
14 been contaminated in any way?

15 A No.

16 Q On April 25th of 2011, did you generate a
17 report regarding DNA analysis of items of evidence
18 submitted to you in connection with this case?

19 A Yes, I did.

20 Q Specifically referencing sled item No. 55,
21 can you tell us what that is?

22 A Swabs from a vehicle.

23 Q Okay. I am going to hand you, and I know
24 it's a, little odd with the numbers. But I'm
25 going to hand you what's been admitted as State's

Dr. Fitts-Direct by Barr

1 Exhibit 145. Tell me what sled item No. that is?

2 A This is item No. 55.

3 Q Okay.

4 A Uh-huh (affirmative.)

5 Q Now you indicated on the last exhibit, the
6 standard of James McNeal, that you received that,
7 or sled received that item in 2007; is that
8 correct.

9 A That's correct.

10 Q As it relates to Exhibit No. 6, and
11 Exhibit 145, which is sled item No. 55, can you
12 tell us when you received that particular exhibit.

13 A I do not have since I am no longer
14 employed at sled. I do not have the chain of
15 custody form, so I can't tell you exactly when I
16 took custody of this item.

17 Q Let me see if I can help you out with
18 that. I am going to publish what's previously
19 been admitted as State's Exhibit No. 48. And
20 before I do, do you still have the exhibit over
21 there, Dr. Fitts?

22 A I do.

23 Q Again, I am kind of curious as to whether
24 or not this particular exhibit contains any
25 initials and or signatures that you recognize?

Dr. Fitts-Direct by Barr

1 A Yes, it does have my initials and a date.

2 Q Okay.

3 A And that's on November 15th of 2010.

4 MS. BARR: Judge, I would like to publish
5 145.

6 THE COURT: All right.

7 Q Sir, so that the jury will know what you
8 are talking about, do you see a sled Item No. on
9 this exhibit as well?

10 A Yes.

11 Q Okay.

12 A The case number and the item number 55.

13 Q And this is the same case No. that's
14 associated with the previous the standard of
15 James McNeal?

16 A That's correct.

17 Q And do you see initials where I am
18 pointing here?

19 A Yes, I do.

20 Q And can you tell me what those initials
21 appear to be?

22 A JSS.

23 Q And you also see that this particular
24 exhibit is associated with A Williamsburg County
25 case?

Dr. Fitts-Direct by Barr

1 A Yes, I do.

2 Q And the sled Item No. 55?

3 A Correct.

4 MR. MCKNIGHT: objection she is leading
5 the witness.

6 THE COURT: It is already in evidence.
7 Overruled.

8 Q Item No. 55?

9 A That's correct.

10 Q And remember in the previous exhibit I
11 asked you about the signature that you were not
12 able to make out?

13 A Yes.

14 Q Does this signature look familiar at all
15 to the previous exhibit?

16 A Yes, it looks the same as the previous
17 exhibit.

18 Q What's the date that is listed under that
19 signature?

20 A September 3rd 2010.

21 Q What are those initials under the date?

22 A WCSO.

23 Q And do you know what WCSO means?

24 A Williamsburg County Sheriff's Office.

25 Q Okay. I am going to now publish State's

Dr. Fitts-Direct by Barr

1 Exhibit No. 48. Here Item No. 3 on this inventory
2 log, what does it say as it relates Item No. 3?

3 A Sets of swabs from vehicle.

4 Q Do you see that this is associated with
5 the Florence Police Department at the top?

6 A I do.

7 Q Where I am pointing here, do you see that
8 it contains the signature of Investigator Pamela
9 Lail?

10 A Yes, I can see that.

11 Q And what date do you see here?

12 A September 2nd 2010.

13 Q And now I am going to publish State's
14 Exhibit No. 49. This is also an inventory from
15 the City of Florence Police Department. Sir, at
16 the bottom of that particular exhibit No. 49, do
17 you see also see a signature of Pamela Lail,
18 Investigator Lail?

19 A Yes, I do.

20 Q And do you see that that exhibit also
21 indicates it was turned over to Williamsburg
22 County?

23 A That is correct.

24 Q And underneath Investigator Lail's, do you
25 see the signature of Lieutenant J.S. Scott?

Dr. Fitts-Direct by Barr

1 A I do.

2 Q And as it relates to what was done with
3 this particular exhibit, do you see there for
4 reasons?

5 A Yes, turn in to sled.

6 Q Turn in to sled. Now, sir, if you will,
7 explain to us what is meant by DNA, and why is it
8 important in cases; such as, homicides or any
9 other matters, criminal matters, that sled might
10 be called on to investigate for various other law
11 enforcement agencies?

12 A Well in the forensic DNA serology
13 laboratory, we receive evidence from criminal
14 investigations. And it's primarily, you know,
15 blood or semen, hair, saliva, anything biological
16 that we believe we can get a DNA profile from.
17 And so when we get that -- gather that evidence,
18 we will extract the DNA and generate the DNA
19 profile. And at the same time there are standards
20 submitted, so from individuals whether they are
21 victims or suspects, we will either get a -- used
22 to get a blood sample from them. But it's more
23 common now just to get a little buccal swab as a
24 standard, and you develop the same DNA profile
25 from those standards, and we compare the DNA

Dr. Fitts-Direct by Barr

1 profile developed from the evidence from the crime
2 scene, to the standards that were submitted. And
3 we use that to either include or exclude someone
4 as a possible contributor to that evidence.

5 Q And as it relates to your report dated
6 April 25th 2011, again, sled Item No. 55, State's
7 Exhibits 145, how does that characterize in your
8 report just Item No. just 55?

9 A Swabs from a vehicle.

10 Q And how do you have Item No. 55.1?

11 A It's swabs from rear driver's side plastic
12 door jam.

13 Q And tell me why is it that you have, if
14 this is marked as 55, explain to us how it is
15 later broken down to 55.1 or 55.2?

16 A It's in an envelope, a brown envelope.
17 And once you open this up, you will see that there
18 is additional swabs. And with the locations of
19 where these swabs were collected from. So you
20 sub-itemize it once you notice that it's not just
21 one swab for Item 55, there's actually 3 swabs.
22 So that you need to sub-itemize them, and that's
23 why you have a 55.1, 55.2 and 55.3.

24 Q And you've indicated 55.1. That is
25 exhibit is a swab from rear driver's side plastic

Dr. Fitts-Direct by Barr

1 door jam; is that correct?

2 A Correct.

3 Q And 55.2.

4 A Swabs from rear driver's side seat.

5 Q Okay. And 55.3.

6 A Swabs from the blue jean shorts.

7 Q Okay. Tell us Item No. 57.

8 A It's labeled as a pair of pants.

9 Q Okay. I am going to hand you what has
10 been marked as State's Exhibit No. 151. And, sir,
11 I will ask you if you recognize that particular
12 exhibit.

13 A Yes, these are the envelopes that contain
14 the cuttings from the Item 57. And there were
15 5 separate cuttings from a pair of pants. And so
16 there is -- so again these were sub-itemized, as
17 I mentioned earlier. So the pants were Item 57.
18 And then each of these sub-cuttings are
19 sub-itemized 57.1 to 57.5.

20 Q Okay. As it relates to sled Item No. 57,
21 can you tell us how it is that the agency has Item
22 57 characterized within the log of things that
23 were taken into custody by sled?

24 A It's labeled as James Henry clothing.

25 Q James Henry clothing?

Dr. Fitts-Direct by Barr

1 A That's correct.

2 Q And again, I am going to publish State's
3 Exhibit No. 49. Do you see here on the Florence
4 Evidence log, that there are 5 items of evidence
5 associated with James Henry?

6 A I do.

7 Q I am going to now hand you State's No.
8 146. Tell me if you recognize State's 146.

9 A This, I actually do not recognize this,
10 because I never handled this. This is what would
11 be handled by our evidence processing technician.
12 She would -- this is labeled as victim's clothing.
13 And she would have handled this. And that's why I
14 end up receiving cuttings.

15 Q I understand. Your -- that individual's
16 name is Ms. Gibson?

17 A That's correct.

18 Q And she's here today?

19 A She is.

20 Q Once you received what you've identified
21 as cuttings, tell us how many cuttings did you
22 receive relative to sled item No. 57, clothing of
23 James Henry?

24 A 5 cuttings.

25 Q 5 cuttings. And kind of tell me why you

Dr. Fitts-Direct by Barr

1 would have received cuttings as opposed to the
2 whole item, or the whole clothing item?

3 A Well if you have a whole item of
4 clothing, if there is individual blood spots that
5 you are interested in, you would never want to mix
6 all those blood spots together. Because by
7 putting them all in one big sample, you are going
8 to take individual cuttings of those spots in case
9 they come from different people. You wouldn't
10 want to accidentally mix them together.

11 Q Okay. And as it relates to those
12 5 cuttings from sled item No. 57, the clothing of
13 James Henry, did you perform an analysis on the
14 cuttings?

15 A Yes, I did.

16 Q Did your analysis also relate to a
17 previous exhibit, which is the known standard of
18 the victim James McNeal?

19 A Yes.

20 Q If you will, Dr. Fitts, tell us what the
21 results of that analysis was.

22 MR. MCKNIGHT: Your Honor, at this time we
23 object. There hasn't been a complete chain of
24 custody for Mr. McNeal's blood. And we object to
25 any testing or opinion of that testing.

Dr. Fitts-Direct by Barr

1 THE COURT: Ms. Barr.

2 MS. BARR: Judge, actually the blood
3 sample from the victim Mr. McNeal is already in
4 evidence.

5 THE COURT: Overruled.

6 Q And I'm sorry, we will get back on track.
7 Did you perform an analysis on the cuttings of
8 Item No. 57, which has been identified as the
9 clothing of James Henry? And did you make a
10 comparison of sled Item No. No 55, which is the
11 known blood standard of James McNeal?

12 A Yes, I did.

13 Q If you will, tell the ladies and gentlemen
14 of the jury, what the results of your analysis
15 was?

16 A The DNA profile from two of the cuttings
17 from the pair of pants 57.1 and 57.3 match the DNA
18 profile of James McNeal.

19 Q So as it relates to the clothing, and
20 specifically the pants of James Henry, you found
21 DNA that match the profile of the victim, James
22 McNeal?

23 A That's correct.

24 Q Sir, did you also find another -- did you
25 also find other DNA in connection with those

Dr. Fitts-Direct by Barr

1 particular cuttings?

2 A I did. The cuttings labeled 57.4 and 57.5
3 were from an unidentified male individual.

4 Q Okay. An unidentified male individual.
5 Is that correct?

6 A That is correct.

7 Q And these are further cuttings from the
8 pants of Mr. Henry?

9 A That's correct.

10 Q Now, at this time when you performed this
11 analysis in April of 2011, did you have a buccal
12 swab from James Henry?

13 A No, I did not.

14 Q You did have a buccal swab at that time.

15 A No, I did not.

16 Q So you could not compare the DNA of
17 Mr. Henry to anything else that might have been
18 brought in at that time.

19 A That is correct.

20 Q Now when you don't have -- when you have a
21 DNA that comes in and indicates that it's an
22 unidentified male, what do you -- what is the
23 protocol for sled in evidence, as it relates to
24 possibly finding out whether or not you can
25 determine who that unidentified male is?

Dr. Fitts-Direct by Barr

1 A You can if it qualifies, you can put that
2 profile in the DNA, in the state DNA data base and
3 see if you get a hit. Also since you've gotten
4 this identified male profile developed, you are
5 certainly letting investigators know of that, in
6 which they can continue to submit standards for us
7 to develop a DNA profile and see if that
8 individual matches.

9 Q I see in your report that you actually
10 analyzed a buccal swab from, and I am looking at
11 page 3 of your report, of April 2011. You
12 actually analyzed a buccal swab from Juandalyn
13 Miller. Are you with me?

14 A Yes, I am.

15 Q Did anything within your analysis indicate
16 whether or not she was -- she could be tied to any
17 of the evidence that you analyzed?

18 A There was a 55.3, which was swabs from
19 blue jean shorts. And the DNA profile developed
20 from them was from an unidentified female
21 individual, and did not match the DNA profile of
22 Juandalyn Miller.

23 Q And you say those were the blue jean
24 shorts?

25 A Correct.

Dr. Fitts-Direct by Barr

1 Q What about the swabs that came from the
2 vehicle, from the rear driver's seat and from the
3 door jam? Which would be on your sled report, it
4 would be No. 55.1 and 55.2.

5 A Okay, the DNA profile from item 55.1 was
6 from an unidentified male individual. The same
7 DNA profile developed from items 57.4 and 57.5.
8 The DNA profile from item 55.2 is actually a
9 mixture of two individuals. The major contributor
10 to these mixtures is the same unidentified male
11 that we found in the other items.

12 Q Let me make sure I understand.. When you
13 did your analysis and you analyzed the DNA that
14 was taken from the door jam of a vehicle; is that
15 right?

16 A That's correct.

17 Q That is an unidentified person that you
18 know of so far. We don't know who that person is
19 in April of 2011; correct?

20 A That's correct.

21 Q And as I understand your testimony, that
22 DNA profile was the same DNA profile that was
23 also found on the cuttings of pants associated
24 with James Henry.

25 A That's correct.

Dr. Fitts-Direct by Barr

1 Q As it relates to State's Exhibit No. 49
2 that I have got still up here on the screen. The
3 second line here, can you, and it's on this
4 evidence report, and it's listed as the second
5 item of clothing from the Florence Police
6 Department. Can you read to us what the second
7 line says?

8 A Pair of blue jeans and belt.

9 MS. BARR: Dr. Fitts, I believe that's all
10 the questions that I have. If you will, please
11 answer any of the questions the defense counsel or
12 the court may have for you.

13 THE COURT: Mr. McKnight or Mr. Griffith.

14 Cross Examination by Mr. McKnight:

15 Q Doctor, good afternoon. Help me out
16 here. DNA stands for deoxyribonucleic acid; does
17 it not?

18 A It does.

19 Q And we talk about DNA, we are referring to
20 a molecule; in particular, what I believe they
21 call a double helix molecule; is that correct?

22 A That's correct.

23 Q So what it looks like is a stairway?

24 A That's true. yes.

25 Q Now you in your report indicate that you

Dr. Fitts-Cross by McKnight

1 have a cutting from a jacket; is that correct?

2 It's 60.1. And when I say your report, I am
3 referring to your report of April 25th 2011.

4 A Yes, That's Item 60.1 cutting from
5 jacket.

6 Q Did you have an opportunity to test that
7 item?

8 A Yes, I did.

9 Q And based upon your testing, what were the
10 results of your testing?

11 A That the DNA profile developed from that a
12 cutting from the jacket was from an unidentified
13 male individual. The same DNA profile from the
14 other items that were mentioned as the
15 unidentified male individual.

16 Q Now let me ask you this, doctor, you're
17 aware that it's been alleged that these -- this
18 blood was put on these items, when I say put on, I
19 mean accumulated on the items. I'm not suggesting
20 somebody put it on. But they got on there like in
21 2007? Are you aware of that?

22 A Yes. I'm assuming that is when the
23 incident occurred.

24 Q Correct.

25 A Yes, sir.

Dr. Fitts-Cross by McKnight

1 Q May I should say the incident occurred in
2 2007. And you weren't able to test these items
3 until what year?

4 A Well this report is from 2011. But it may
5 be that the actual work was done in 2011 as well.

6 Q Okay. Sometimes you do your work, and you
7 dictate it. And then later on somebody
8 transcribes it for you. Is that how it's done?

9 A It's not dictated. I actually generate
10 the report.

11 Q Okay.

12 A Do all the analysis. And once I'm done
13 with all the analysis, then I generate the report.

14 Q Okay. But it's safe to say that there's a
15 window between from 2007 to 2011, of about 4
16 years?

17 A That's correct.

18 Q Well let's say 3 and a half, because it
19 happened in November, and your test date is April
20 25th; is that correct? Well your result date or
21 your report date is April 25th.

22 A Correct.

23 Q So are there sometimes conditions to which
24 DNA can be exposed to that breaks down or degrades
25 the DNA.

Dr. Fitts-Cross by McKnight

1 A Yes, clearly there are conditions that can
2 break down the DNA. And the primary culprit is
3 moisture. If to preserve the DNA, which would
4 preserve for many, many, many years; is that, is
5 that as long as you keep it dry.

6 Q So then if the DNA is exposed to either a
7 direct moisture, either water, or in some
8 instances, high humidity, would that then alter
9 the DNA?

10 A It would damage the DNA, but it does not
11 alter the profile. We either obtain the profile,
12 or we don't obtain the profile. The type of
13 breakdown we are talking about here with the
14 degeneration would make it so that we don't get a
15 profile. It wouldn't alter it to a new profile.
16 So usually when we are talking about degradation
17 or damage, it means we are not going get a DNA
18 profile from that sample.

19 Q Doctor, do you have any DNA results, any
20 DNA analysis from your lab that identifies a
21 subject named Laquincy Williams?

22 A I do not.

23 Q And were you provided any what we call,
24 buccal swabs, of a subject named Laquincy
25 Williams?

Dr. Fitts-Cross by McKnight

1 A I was not.

2 Q Were you provided any vials of blood from
3 a subject named Laquincy Williams?

4 A I was not.

5 MR. MCKNIGHT: I believe that's all my
6 questions for you. Mr. Griffith may have some for
7 you.

8 THE COURT: Mr. Griffith.

9 Cross Examination by Mr. Griffith:

10 MR. GRIFFITH: Thank you, Your Honor, may
11 it please the court.

12 Q Doctor, did you get, you indicated that
13 there were some blue jean shorts found, and that
14 you took samples of those. And you found DNA of a
15 female on those; is that correct?

16 A That's correct.

17 Q Were you able to identify that DNA?

18 A I was not.

19 Q And where was that DNA taken from? Can
20 you tell us that?

21 A It was swabs from the blue jean shorts
22 55.3.

23 Q Do you know where blue jean shorts were
24 found?

25 A No, I do not.

Dr. Fitts-Cross by Griffith

1 Q Also did you find any DNA for a person
2 named Toshonda Mickens?

3 A No, I did not.

4 Q Were you provided any DNA samples or
5 anything to use blood or otherwise swabs, for a
6 person named Toshonda Mickens?

7 A No, I was not.

8 Q And so you didn't find any on your report.

9 A That's correct.

10 MR. GRIFFITH: Okay. Thank you, doctor.
11 That's all the questions I have.

12 THE COURT: Any redirect on that point in
13 cross?

14 MS. BARR: Yes, sir, just a few.

15 Redirect Examination by Ms. Barr:

16 Q Dr. Fitts, you were asked about your
17 analysis regarding sled item No. I believe counsel
18 indicated 60.2.

19 A Is it 62.1 you mean or 60.1?

20 Q I'm sorry. 60.1, I apologize. Do you
21 remember being asked about those -- being asked
22 that question?

23 A Yes.

24 Q And you characterized item, let me make
25 sure I am saying it right. Sled Item No. 60.1.

Dr. Fitts-Redirect by Barr

1 Now did you characterize that again?

2 A It was a actually a mixture of two
3 individuals.

4 Q No, I mean the item you were actually
5 testing.

6 A Cutting from jacket.

7 Q Cutting from jacket from what? From
8 where?

9 A I don't know.

10 Q Do you have sled log in number? I mean
11 the sled log in sheet in front of you?

12 A 60.1.

13 Q 60.1.

14 A It just says cuttings from jacket, James
15 Henry clothing.

16 Q Cuttings from jacket, James Henry
17 clothing; is that right? Is that what that says?

18 A That's correct.

19 Q And again on State's 49, the Florence
20 evidence log in sheet, do you see here on that
21 form, bloody jacket?

22 A I do.

23 Q And do you see on that particular form
24 that the owner is James Henry?

25 A I do.

Dr. Fitts-Redirect by Barr

1 Q And so as I understand your testimony on
2 cross examination, what you know is that the
3 unidentified DNA profile of the jacket that we
4 associated with James Henry, matched the DNA of
5 the same individual who left the bloody swab on
6 the car door jam; correct?

7 A Correct.

8 Q And it's the same individual whose DNA
9 appeared on pants identified with James Henry.

10 A That's correct.

11 Q You were asked about contamination of DNA,
12 and how that might affect your results of your
13 analysis. I believe you testified that if there
14 is a concern about contamination it wouldn't
15 affect the profile?

16 A Well I was talking about degradation.

17 Q Degradation. I'm sorry, I apologize.

18 A Right.

19 Q Can you explain that to me, I want to make
20 sure I understand that.

21 A If the DNA molecule is a long, a very long
22 molecule. And if you just think about a long
23 string of beads that's, you know, like 3 billion
24 beads long. And what happens is, if you look at
25 this very few seconds of there generate a DNA

Dr. Fitts-Redirect by Barr

1 profile, if that big long chain starts to degrade,
2 and it gets degraded into smaller and smaller and
3 smaller pieces of that long chain of beads, then
4 we cannot generate a DNA profile from that.

5 Q Okay.

6 A If it's degraded too severely.

7 Q Okay. And in this case as it relates to
8 the standard for James McNeal, sled Item No. 25,
9 did you have any concerns regarding any potential
10 degradation to his DNA profile?

11 A No, we were able to obtain a full DNA
12 profile.

13 Q As it relates to the particular sled item
14 number that concerned the swabs taken from the
15 rear driver's side plastic door jam, sled Item No.
16 55.1, which came back to an unidentified male.
17 Did you have any problems with any potential
18 degradation of that DNA profile?

19 A No, I did not.

20 Q What about sled Item No. 57.1, cuttings
21 from pants. Did you have any issues or concerns
22 of degradation of that particular DNA profile?

23 A No, I did not.

24 Q What about the cuttings from the jacket
25 associated with James Henry, sled Item No. 60.1?

Dr. Fitts-Redirect by Barr

1 Any concerns or questions regarding any potential
2 degradation to that particular DNA profile?

3 A No, I was able to get a full profile as in
4 the other samples.

5 Q And oftentimes, candidly, sometimes you
6 don't sufficient material to make an analysis of
7 DNA. In some instances.

8 A That's correct.

9 Q As it relates to 3 specific items of
10 evidence, you had enough DNA material there to
11 make a definite profile?

12 A Yes, I did.

13 Q What are the chances that the DNA
14 associated with James McNeal would you have
15 connected to pants from James Henry, what is the
16 possibility that that DNA would belong to anyone
17 else in the world other than James McNeal?

18 A The probability if we just randomly
19 testing people unrelated to him, if we just
20 started all over the world just randomly testing,
21 you wouldn't expect to see that profile except
22 once in every 190 quadrillion tests.

23 Q You would have to go to another planet and
24 beyond.

25 A Well beyond our world population.

Dr. Fitts-Redirect by Barr

1 MS. BARR: Judge, that's all the questions
2 I have.

3 THE COURT: Any recross?

4 Recross-Examination by Mr. McKnight:

5 Q Doctor, that 1 in 190 quadrillion chance
6 of that sample means that it doesn't match my
7 client, Mr. Laquincy Williams; does it? Based on
8 the evidence you have been provided.

9 A That's correct.

10 THE COURT: Mr. Griffith.

11 MR. GRIFFITH: No further questions.

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

13 MS. BARR: Judge, we would ask that
14 Dr. Fitts be excused.

15 THE COURT: Any objection to this witness
16 being excused?

17 MR. MCKNIGHT: Without objection from
18 defendant Williams.

19 MR. GRIFFITH: Without objection, Your
20 Honor.

21 THE COURT: Thank you, doctor.

22 MS. BARR: We would call Verona Gibson.

23 Verona Gibson, being first duly sworn,
24 testified as follows:

25 Direct Examination by Ms. Barr:

Verona Gibson-Direct by Barr

1 Q Ms. Gibson, where do you work?

2 A For the South Carolina Law Enforcement
3 Division.

4 Q How long have you worked for sled?

5 A Over 5 years.

6 Q And tell us what you do.

7 A I am the evidence processor for the DNA
8 department.

9 Q We have marked and agreed to a large
10 number of photographs. And I am going to ask you
11 to look at the DNA on all of those items that I
12 hand you in order. Did you have occasion to
13 retrieve sled lab No. item 07-16257?

14 A Yes, I did.

15 Q I think apparently the agency sealed the
16 items in this case a different time frame.

17 A Yes.

18 Q And I am going to hand you State's
19 Exhibit No. 146, and ask you if what that item is
20 and if you recognize it. Do you need some gloves.

21 A I have some.

22 Q Okay.

23 A Yes, ma'am. My seal with my initials and
24 the date that is sealed in this box. On the top
25 of this box.

Verona Gibson-Direct by Barr

1 Q And for the record, very general, briefly
2 describe what is shown in that exhibit.

3 A That is clothing; a pair of pants, shirt,
4 and a pair of cuttings from a jacket, socks and a
5 belt.

6 Q And did you list to whom those items
7 belonged to?

8 A It says on the list James Henry.

9 Q And you see the evidence on the evidence
10 log on that particular exhibit.- If you simply
11 would indicate who took those items, and what you
12 would have indicated on your sled lab report.

13 A Yes, ma'am. There is a list of clothing
14 and on top the label here.

15 Q And I imagine when you received that
16 particular item at sled, did you have any concerns
17 as to whether or not the item was comprised in any
18 way?

19 A No, ma'am. I made no notes of seals being
20 broken.

21 Q So if the sealed would have been broken
22 you would have made a note.

23 A Yes, and stopped the process of entry from
24 being entered into the agency.

25 Q So things like a broken seal in the

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1 analysis with production, you would have reviewed
2 that in full on those items at the time of
3 testing.

4 A At time if it is indicated that it is
5 tampered evidence, it is not accepted. Broken
6 seals we can't examine it. It goes in a box that
7 goes over there until it has been opened and we
8 can determine that. If the evidence is from sled
9 they are required to.

10 Q Ma'am, there is a white tape that goes to
11 the top of this exhibit that is put on the right
12 hand side. 2007-011378. State's Exhibit No. 46.

13 Do you see the police department inventory
14 form?

15 A Yes, ma'am.

16 Q GS, the case number required with the
17 form. And a name is required on the top of that
18 exhibit.

19 A Yes, it is.

20 Q As reflected on State's Exhibit No. 49, R
21 is the same type reflected on top of that
22 particular exhibit?

23 A R, yes, ma'am.

24 Q In terms of and being associated with
25 whether or not one of State's Exhibit No. 49, did

Verona Gibson-Direct by Barr

1 you see the owner's name?

2 A It is a list that has James Henry that
3 matches what is on the worksheet.

4 Q Ma'am, having worked at sled.

5 A Yes, ma'am.

6 Q Can you open that? Do you have to change
7 your gloves?

8 A No.

9 Q And when you are doing that, why doo you
10 put on your gloves.

11 A It protects me from if there liquid or
12 fluid from evidence. It protects the evidence of
13 DNA from transferring on items that we touch.

14 Q Or if the bottles indicating evidence of
15 blood, semen, hair.

16 A Blood, hair, saliva, semen, feces.

17 Q Open that for me. Let me get this case
18 back. It may take an instrument to open it. I
19 can see assume that this item that has been
20 presented in the court has not been contaminated.

21 A Myself, the tape was not broken until I
22 just broke it. And I would have seen that.

23 Q Tell me what is this.

24 A This is a jacket and four other items.
25 Each item is given a specific number, a case

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1 number, and something to that case number for
2 sled. And the date I work on that particular
3 piece of evidence.

4 Q And what is the date you worked on this
5 piece of evidence.

6 A 10/5/2010.

7 Q I am going to go ahead and open it. Is
8 this James Henry?

9 A Can I look at it please, ma'am?

10 Q Yes, ma'am.

11 A Yes, ma'am. I received this item number
12 and a lab number with my initials on the side of
13 the item.

14 Q Now there was some testimony earlier that
15 Dr. Fitts testified to cuttings from a jacket of
16 James Henry.

17 A Yes, ma'am.

18 Q Did you take a cuttings from this
19 particular item?

20 A I did, yes, ma'am.

21 Q Tell us where.

22 A Approximately the cuttings I took were all
23 cuttings of item 60, 60.1, 2 or 3. It is cuttings
24 from the jacket. I take it specifically on the
25 jacket the top right hand area.

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1 Q Not cuttings from the front. Mainly they
2 indicate from this.

3 A I am aware the majority placing as far
4 away from it I could get to the front.

5 Q Did it to appear to be a hole on this
6 jacket?

7 A There appears to be; yes, ma'am.

8 Q Does that appear to discolor the rest of
9 the jacket?

10 A It did discolor; yes, ma'am.

11 Q Ma'am, I am going to publish what was
12 previously admitted into evidence as State's
13 Exhibit No. 3. Can you see---

14 A Yes, ma'am.

15 Q ---that particular exhibit? At any point
16 to this particular type of clothing on that
17 exhibit, does it look familiar to all pieces of
18 evidence coming from a box containing the clothes
19 of James Henry?

20 A I reviewed; yes, ma'am.

21 Q I am going to publish State's Exhibit No.
22 42. You remember me asking you about that jacket
23 there and asking you questions on the jacket.

24 A Yes, ma'am.

25 Q For you to characterize it being

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1 discolored.

2 A Yes, ma'am.

3 Q Is this also a range similar to say a hole
4 that is placed on that particular jacket that you
5 took out of the box? Is it not similar?

6 A Yes, ma'am.

7 Q And I am going to publish State's Exhibit
8 No. 40. Does that appear to be a photograph of
9 this jacket that is contained within that box of
10 clothing of James Henry?

11 A It appears to be yes, ma'am.

12 Q Where you got that cutting for that
13 particular exhibit, what did you do? Generally
14 what item with your agency.

15 A It seems it came in an envelope. A small
16 yellow envelope. I sealed, dated and initialed
17 the back of it. Then that cutting along with the
18 collection was made at the time. The name. It is
19 sealed in a heat sealed pouch. I have my
20 initials, number of control of the seal that is at
21 the top.

22 Q No, the reason why you made those
23 cuttings.

24 A I am sorry, I didn't understand.

25 Q In terms of what the actual reason for the

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1 cuttings on the jacket. What was reason to have
2 those cuttings?

3 A So somebody else with those documents, we
4 send to DNA for further tests. DNA does have a
5 room to place large items. We give the small
6 articles of interest to produce sufficient
7 testing.

8 Q So tell me if you recognize that.

9 A This is 57.5 And which are markings and a
10 belt.

11 Q Okay. And those would mainly be
12 associated with whom?

13 A James Henry.

14 Q And does this also indicated that you
15 would have at one point handled it?

16 A Yes, ma'am.

17 Q Did it contain the same information on the
18 outer package as well? All of the items in the
19 box you recognize and were handled by you with the
20 same date?

21 A Yes, ma'am.

22 Q As far as the jacket cutting, do you know
23 who obtained this cutting of the jacket?

24 A I believe it was Matt Fitts. I am not
25 positive.

Verona Gibson-Direct by Barr

1 Q Who is Matt Fitts? Is it Dr. Fitts; is
2 that right?

3 A Yes, ma'am.

4 Q Just to make sure, ma'am, can you tell us
5 if you recognize those paper bags? Paper bag.

6 A Yes, ma'am. This is Item 57, and this is
7 Item 62 as well.

8 Q Okay. And when this bag with the belt,
9 did it come with any unusual smell?

10 A If you didn't---

11 Q Now this evidence has a weird smell to it.
12 I am sorry.

13 A And the belt.

14 Q Does the buckle go on the belt? There is
15 a leather slate with that belt buckle.

16 A There is G on it.

17 Q And what I am holding out jeans that are
18 associated with James Henry?

19 A Yes, ma'am.

20 Q Ma'am, can you tell us where you would
21 have taken the cuttings from jeans associated with
22 Mr. Henry?

23 A I took 5 cuttings from this one. And
24 there was a focus of the left front. The front
25 left representing where the applique.

Verona Gibson-Direct by Barr

1 Q Ma'am, the front, tell the jury what that
2 represents. Let me get you to come around. Hold
3 these up. Tell them where the cuttings are from?

4 A The first cutting 57.1, 57.3, 57.2 and
5 others 57.5 and 57.4.

6 Q How did you determine where you were going
7 to take the cuttings from?

8 A Basically a relevant sample. Indicates
9 reference of time. There is some of the front and
10 some of the back. Some sort of limited top to
11 bottom.

12 Q The type of testing that you do to
13 determine what DNA is on this particular item
14 before it is sent to the DNA department.

15 A We don't test DNA. There is a quick test
16 that we can determine if there is a stain that is
17 a sufficient amount or not and positive for blood.
18 That meaning to indicate if there is blood or not
19 blood. Some of the spots tested positive. And
20 most of this area.

21 Q In regard to these generally the unit
22 design in the front kind of style, you call that a
23 boot applique.

24 A It looks kind of like a brown timberland
25 boot.

Verona Gibson-Direct by Barr

1 Q So this sits here and that is another
2 patch or kind of design on the side.

3 A Yes.

4 Q We call this a boot applique as well.
5 Brown Timberland.

6 A Yes, ma'am.

7 Q In terms of this boot applique, can you
8 describe. And they are the jeans identified with
9 Mr. Henry. This is unified form jeans.

10 A I have never seen them before on a pair of
11 jeans.

12 Q I am going to publish State's Exhibit No.
13 45, which is agreed to already. Pants taken at
14 the hospital with respect to James Henry. Does
15 that look to be the same pants that I have just
16 held up and shown to you?

17 A They appear to; yes, ma'am.

18 Q And you see this is the brown boot
19 applique that you described.

20 A Yes, ma'am.

21 Q See here. And this brown boot applique
22 that you described.

23 A Yes, ma'am.

24 Q And this is a cutting that was taken from
25 what? You cut them out of?

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1 A Again, this is custom for this DNA test.

2 As a whole some of this goes in an envelope.

3 Once I have sealed in a heat-sealed pouch, it
4 would have gone to the DNA department.

5 Q Can you tell me about State's Exhibit 150
6 and 151? Tell me if you recognize that.

7 A Yes, ma'am. This process of cuttings that
8 I collected from the items that was shown in
9 court.

10 Q I am sorry, Ms. Gibson, say it again.

11 A No. 12 item, two cuttings.

12 Q Items you were shown. When I asked you
13 earlier, do you know what the custom is for the
14 item, you indicated you thought it went to Matt
15 Fitts for analysis.

16 A Yes, ma'am.

17 Q And I hand you State's Exhibit 151. Is
18 there anything on that exhibit as to whether or
19 not Matthew Fitts did the analysis?

20 A When I filled out the front of this
21 envelope, then I heat sealed the pouch. Put my
22 initials. Name and date. Name of the defendant.

23 Q This is going to, any note for analysis?
24 Going to?

25 A Evidence identified. I put there evidence

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1 and the name of M. Fitts.

2 Q I understand. You got this jacket, black
3 tee shirt, socks and underwear, jeans and buckle?

4 A Yes, ma'am.

5 Q Were they ever submitted in this package?

6 A No, ma'am.

7 Q A container?

8 A No, ma'am.

9 Q And I am going to publish what is
10 previously admitted as State's Exhibit No. 38.
11 Again would it be clothing that was taken from the
12 hospital room of James Henry and match the photo
13 you see here?

14 A The jeans.

15 Q And that appears to be similar to the one
16 that I just showed you?

17 A They appear to be similar; yes, ma'am.

18 Q Your initials V.G.

19 A Yes, ma'am.

20 Q Do you see a pair of socks in this
21 exhibit?

22 A I do, yes, ma'am.

23 Q Do you see a pair of boxer shorts in this
24 exhibit?

25 A I do, yes.

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1 MS. BARR: Court's indulgence. That's all
2 the questions I have.

3 THE COURT: MR. McKnight.

4 Cross Examination by Mr. McKnight:

5 Q Ma'am, what is your name again?

6 A Verona Gibson.

7 Q And you are technician.

8 A With sled.

9 Q And your job is to select which parts of a
10 particular item, large items there are to be
11 tested by somebody like Dr. Fitts; is that
12 correct?

13 A Correct.

14 Q So certainly in taking sometimes for
15 analysis, it comes down to on certain items they
16 want to process, you have to collect on the
17 precise item, what needs to be removed. And you
18 collect more evidence.

19 A That's an option.

20 Q Now they showed you those pictures, and I
21 want to ask you, when you looked at the items and
22 let's say for instance those boxer shorts, you
23 check top to bottom; do you not?

24 A Yes, sir.

25 Q And 20 other items top to bottom.

Verona Gibson-Cross by McKnight

1 A Yes.

2 Q So in theory as well as a layman, if a
3 spot is found, you so mark: correct?

4 A Correct.

5 Q Semen, sweat.

6 A Yes, sir.

7 Q Every time you process items. You don't
8 do DNA.

9 A I do not do DNA.

10 Q Do you have DNA on bodily fluids?

11 A Yes, sir.

12 Q Some of these are fluids are not
13 necessarily color in nature; are they?

14 A Correct.

15 Q So it is possible then for you to overlook
16 body fluid on pieces of clothing; particularly,
17 dark colored pieces of clothing.

18 A Right. If we are talking about blood, we
19 do a visual examine. We place it and I have a
20 light source. We wave a light on those. The
21 visual light shows blood on dark clothing.

22 Q Did the blue light show a hole in the
23 sleeve of this item?

24 A The blue light showed the results of
25 those.

Verona Gibson-Cross by McKnight

1 Q We know some of the things didn't show
2 under the blue light.

3 A Not on those articles of clothing.

4 Q Those did not.

5 A No.

6 Q Some of those come to light. I assume
7 the doctor did different types of bodily fluids
8 tests.

9 A That is explained on Item 12 of the
10 summary.

11 Q You did not see such a spot when you
12 examined it at the time; did you?

13 A No, sir.

14 MR. MCKNIGHT: Please answer any questions
15 Mr. Griffith may have.

16 MR. GIBSON: No questions, Your Honor.

17 THE COURT: Any redirect based on his
18 cross examination?

19 MS. BARR: I do not. We ask that Ms.
20 Gibson be excused.

21 THE COURT: Any objections?

22 MR. MCKNIGHT: No objection, Your Honor.

23 MS. BARR: Judge, we would call Ms.
24 Jennifer Clayton.

25 Jennifer Clayton, being first duly

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1 sworn, testified as follows:

2 Direct Examination by Ms. Barr:

3 Q Ms. Clayton, would you state your full
4 name for us?

5 A Ms. Jennifer Clayton.

6 Q And tell the ladies and gentlemen of the
7 jury where you work, and what you do.

8 A I am currently employed by the South
9 Carolina Law Enforcement Division, also known as
10 sled. And I am a forensic scientist there. I
11 work in the DNA department as a DNA analyst.

12 Q And we previously heard testimony from
13 Matthew Fitts. Are you familiar with Mr. Fitts?

14 A Yes.

15 Q And he at one point worked in the DNA
16 department at sled?

17 A That's correct.

18 Q How long have you been at sled?

19 A How long have I been at sled?

20 Q Yes.

21 A I have been with sled for approximately 11
22 years.

23 Q And tell us briefly about your educational
24 background and your training?

25 A I earned a bachelor's of Science in

Jennifer Clayton-Direct by Barr

1 Biology from the University of North Carolina at
2 Chapell Hill. I have also taken classes at N.C.
3 State and U.S.C. My course work included
4 Molecular Biology, Biochemistry, Genetics and
5 Statistics. I completed an internship with the
6 North Carolina State Bureau of Investigations,
7 Molecular Genetics Department. Which is the
8 equivalent of sled's DNA department.

9 I originally hired on with sled as a
10 forensic technician in the DNA department. And I
11 worked as a technician for two years before I was
12 hired as a DNA analyst. Once I was hired as a DNA
13 analyst, I completed a one year training program
14 under another qualified analyst, and did case work
15 under his supervision before I allowed to do case
16 work on my own.

17 Q And, ma'am, have you had occasion in your
18 11 years with the State Law Enforcement Division
19 to testify as an expert witness in state courts in
20 South Carolina?

21 A Yes, I have.

22 Q Approximately how many times have you
23 testified as expert?

24 A Approximately 30 times.

25 Q And specifically, the area of expertise

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1 for which you have been before qualified is what.

2 A DNA analysis and serology.

3 MS. BARR: Judge, at this time, we would
4 tender Ms. Clayton as an expert in the field of
5 DNA analysis and Serology.

6 THE COURT: Would you like to voir dire?

7 MR. MCKNIGHT: Very limited, Your Honor.

8 Cross Examination by Mr. McKnight:

9 Q Ms. Clayton, why did you leave North
10 Carolina to come to South Carolina?

11 A Why did I leave North Carolina to come to
12 South Carolina?

13 Q Yes.

14 A I have family down here.

15 Q And have you ever been disqualified in any
16 court of law as an expert?

17 A No, sir.

18 MR. GRIFFITH: Without objection, Your
19 Honor.

20 THE COURT: Any objection?

21 MR. MCKNIGHT: Oh, no. No, sir.

22 THE COURT: Then I will deem her to be an
23 expert in DNA analysis and serology; is that
24 correct?

25 A Correct.

Jennifer Clayton-Cross by McKnight

1 THE COURT: Ladies and gentlemen, as we've
2 done with the other ones, normally a witness can
3 only testify as to what they heard, saw or smelled
4 or felt. However when you have extra education
5 and experience, we allow them to testimony and
6 gave their opinion. Now, ladies and gentlemen, as
7 I said before, you don't have to accept her
8 opinion, and you can give it the weight which you
9 choose to do so. Thank you, you may proceed.

10 Ms. Barr: Thank you.

11 DIRECT EXAMINATION by Ms. Barr:

12 Q Ms. Clayton, in March of this year,
13 Mr. Fitts was no longer employed with sled.

14 A That's correct.

15 Q And tell us what is the policy of sled as
16 it relates to evidence in a particular case, once
17 the person initially handling the evidence has
18 left.

19 A If an analyst leaves the agency, and
20 additional evidence needs to be analyzed, it is
21 assigned to a current DNA analyst. If necessary,
22 if it's just additional evidence that needs
23 comparison, they will only look at the new
24 evidence. If evidence was previously analyzed by
25 the former analyst needs to compared to new

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1 standards that are submitted, then the current
2 analyst will review the profiles that were
3 developed by another analyst, and compare them to
4 the profile developed from the new standard that
5 is submitted.

6 Q Ma'am, and as it relates to sled Lab No.
7 07- 16257, did you have occasion to analyze
8 evidence relating to this particular case?

9 A Yes, I did.

10 Q And tell us about your sled Item No. 55.1.

11 A 55.1 is swabs from the rear driver's side
12 plastic door jam. This item was actually
13 previously analyzed by Mat Fitts. And so the
14 analysis that I did was based on his results.

15 Q Ma'am, if I may, I am going to show what's
16 previously been admitted as State's Exhibit
17 No. 145. Is that the particular exhibit that we
18 are talking about?

19 A This is Item 55. I did not receive the
20 actual evidence item; however, I do recognize Mat
21 Fitts' initials on this pouch. So based on that,
22 I would assume that is the correct item, what's
23 been received. I don't know what beyond what is
24 verified on the pouch.

25 Q Tell me about what has been previously

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1 marked for identification, as State's Exhibit
2 No. 149. Is Id. or is it in?

3 THE REPORTER: It's in.

4 Q Tell me about what's previously been
5 admitted as State's Exhibit No. 159 that's
6 associated with sled Item No. 70. Tell us what
7 that is.

8 A State's Exhibit No. 149?

9 Q Yes, ma'am.

10 A This is sled Item No. 70, and it is a
11 standard James Gquan Henry.

12 Q And when you say it's a standard, tell the
13 jury what you mean.

14 A This is a set of buccal swabs that were
15 collected from James Gquan Henry. Buccal swabs.
16 Buccal is a type of cell that is found on the
17 inside of your mouth. So when that standard is
18 collected, cotton swabs are taken and rubbed on
19 the inside of the cheeks to collect new cells.
20 And from that a DNA analyst is able to develop a
21 DNA profile that can be compared to evidence.

22 Q Now as it relates to your Item No. 7 at
23 State's Exhibit No. 149, do you have any idea when
24 that item came into the custody of sled?

25 A If I can refer to my chain of custody, my

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1 short chain.

2 Q Sure.

3 A It was submitted to sled in August of
4 2011.

5 Q Okay. And if we speak of Mat Fitts'
6 report back in April of 2011, sled would have
7 gotten that sample after Mr. or Dr. Fitts did his
8 report.

9 A If he issued it in April of 2011; that's
10 correct.

11 Q Okay. And in terms of what has been
12 marked as State's No. 149, is there anything
13 associated with this particular exhibit that would
14 tell us that you handled that?

15 A State's Exhibit 149?

16 Q Yes.

17 A Yes, the pouch has the lab number and the
18 item number associated with this item. It also
19 has the date that I resealed the evidence and my
20 initials. I actually cut this pouch twice and
21 resealed it twice. So it has two dates, and my
22 initials twice. I also wrote the lab number and
23 the item number and my initials on the paper
24 envelope that contained the buccal swabs.

25 Q And when you received that particular item

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1 State's Exhibit 149, when you begin your analysis,
2 was the item sealed?

3 A Yes, it was.

4 Q If it had not been sealed, and if the DNA
5 evidence that's contained within that exhibit had
6 been compromised in any way, would you have made a
7 notation of that?

8 A If the evidence was compromised we would
9 have not analyzed it.

10 Q I got you. Now as it relates to that
11 particular item, did you compare it to items of
12 evidence that had previously been submitted in
13 that sled lab number?

14 A Yes, I did.

15 Q Do you have 145 up there with you?

16 A 145, State's Exhibit No. 145? Yes, I do.

17 Q And how was 145 identified?

18 A State's Exhibit item 145, has the sled bar
19 code as well the lab number and the item number.
20 And it has Mat Fitts' initials, and the date as to
21 when he resealed the pouch.

22 Q Okay. And in terms of that particular
23 exhibit, as far as your analysis is concerned, you
24 would have identified that as a swab from the
25 rear side plastic door jam?

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1 A Correct. My analysis or my comparison
2 was based on the results that he obtained when he
3 analyzed the item.

4 Q Based on the results that Dr. Fitts
5 obtained from that particular item number, and
6 based upon your analysis of the buccal swab from
7 Mr. James Gquan Henry, tell us what the results of
8 your analysis were.

9 A The DNA profile developed from Item 55.1
10 matches the DNA profile of James Henry. And the
11 probability of randomly selecting an unrelated
12 individual having a DNA profile matching these
13 items, is approximately 1 in 200 trillion. What
14 that means, what the statistic means, if you were
15 to go out in public and anywhere and choose one
16 person at random, then the probability that that
17 individual would by chance have the same profile
18 as this item of evidence, is approximately 1 in
19 200 trillion.

20 Q Tell me about sled items 57.2, 57.4 and
21 57.5.

22 A Those items are cuttings from pants.

23 Q And I believe that that may be State's
24 Exhibit No. 151. I will let you tell me.

25 A Again, this item or these items were

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1 analyzed by Mat Fitts. I never received the
2 actual items of evidence; however, it does have
3 again the sled bar code. And in this particular
4 case, it has a container, a letter, because it
5 contains multiple items in this pouch. It also
6 has Mat Fitts' initials and date of when he
7 resealed the pouch.

8 Q As it relates to that particular exhibit,
9 those are cuttings from what item of clothing?

10 A Let's see, 57.2, 57.4 and 57.5 are
11 cuttings from pants.

12 Q And with regards to the inventory of items
13 taken in by sled, those would be pants of Gquan --
14 I'm sorry, James Henry?

15 A I am not actually sure. I don't have that
16 portion of the chain, and I didn't receive those
17 items myself.

18 Q Let me show you the evidence log here from
19 sled. Do you see those particular items that I
20 referred to on that log?

21 A Yes, I do.

22 Q Are those cuttings from the pants of James
23 Henry?

24 A Yes. According to this, they are cuttings
25 from the pants of James Henry.

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1 Q And tell me, did compare the analysis that
2 was done by Dr. Fitts, to the buccal swab of James
3 Gquan Henry?

4 A Yes, I did.

5 Q What was the result of that analysis?

6 A The results for 57.2 the DNA profile
7 developed, or the DNA take from Item 57.2, was a
8 mixture of these two individuals. The DNA profile
9 developed from the major contributor also matches
10 the DNA profile of James Henry. And the partial
11 DNA profile developed from the minor contributor,
12 is insufficient for reliable interpretation. For
13 items 57.4 and 57.5, the DNA profile developed
14 from those items also matches the DNA profile of
15 James Henry.

16 Q And again what would be the possibility
17 that those cuttings from the pants associated with
18 James Henry, would belong to or would match the
19 DNA profile of anybody else other than Mr. Henry,
20 based on the buccal swab?

21 A The probability if you randomly selected
22 an individual from the population, the probability
23 that they would have the same DNA profile matching
24 those items, is approximately 1 in 200 trillion.

25 Q And, ma'am, did you also conduct an

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1 analysis on cuttings from the jacket of James
2 Henry?

3 A Yes. Based on the paperwork, it was a
4 jacket from James Henry.

5 Q Okay. And did you compare it to previous
6 results made by Dr. Fitts?

7 A Yes.

8 Q And tell me what the result of that
9 analysis was?

10 A The DNA profile developed from item 60.1
11 matches the DNA profile of James Henry.

12 Q Now I want to make sure I understand.
13 You testified that Dr. Fitts had already performed
14 an analysis on the cuttings of those particular
15 items of clothing.

16 A That's correct.

17 Q And how are you then able to retrieve what
18 he has done? And how are you comparable in
19 accessing what he has already done, compared to
20 the buccal swab that sled received after he
21 performed his analysis?

22 A Okay. During DNA analysis, an analyst
23 develops what is known as a DNA profile. It's
24 printed out in visual format. It's basically a
25 set peaks with numbers associated with them. And

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1 it's simplest terms, the DNA profile is this
2 unique set of numbers for an individual. And this
3 information is recorded and is put in a case file.
4 So any analyst can go back and look at the same
5 electric paragrams, and look at the results. The
6 electric paragrams, that's the name for this
7 printout that we get from the computer. And we're
8 able to develop profiles for additional evidence
9 or additional standards, and compare the profiles
10 that are developed from that new item to the DNA
11 profile that was previously developed from another
12 analyst.

13 MS. BARR: Ms. Clayton, thank you so much.
14 I believe that's all the questions I have for you.

15 THE COURT: Mr. McKnight.

16 MR. MCKNIGHT: Thank you, Your Honor.

17 Cross Examination by Mr. McKnight:

18 Q Ma'am, can you tell me, do you have any
19 DNA evidence of a gentleman named Laquincy
20 Williams?

21 A Laquincy Williams?

22 Q Yes.

23 A Not that I analyzed that I am aware. I am
24 not sure actually where a couple of items that I
25 worked with were collected from.

Jennifer Clayton-Cross by Griffith

1 Q As it relates to the comparisons of DNA,
2 of genetic material that you did, did any of your
3 comparisons match a gentleman, or a subject named
4 Laquincy Williams?

5 A I did not do any analysis that involved a
6 comparison with a Laquincy James.

7 Q Laquincy Williams.

8 A Oh, Laquincy Williams.

9 Q Yes, ma'am.

10 A I apologize. I did not do any analysis
11 with an individual named from a standard with
12 Laquincy Williams.

13 MR. MCKNIGHT: Thank you, ma'am. Please
14 answer any questions Mr. Griffith has for you.

15 THE COURT: Mr. Griffith.

16 MR. GRIFFITH: Thank you, Your Honor.

17 Cross Examination by Mr. Griffith:

18 Q Excuse me, ma'am. In your DNA analysis,
19 did you found any DNA that matches the DNA samples
20 that if any were given to you of a Toshonda
21 Mickens?

22 A I did not receive a standard for a
23 comparison from a Toshonda Mickens, and did no
24 comparison; no.

25 MS. BARR: I have no redirect, Your Honor.

Jennifer Clayton-Cross by Griffith

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

2 Any objection to this witness being excused?

3 MR. MCKNIGHT: I'm sorry, Your Honor.

4 THE COURT: Any objection to this witness
5 being excused?

6 MR. MCKNIGHT: No, sir, not at all.

7 THE COURT: Thank you. Have a safe drive
8 home.

9 MR. BROWN: Your Honor, the state would at
10 this time call Suzann Cromer.

11 Suzann Cromer, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION by MR. BROWN:

14 Q Good morning, Ms. Cromer.

15 A Good morning.

16 Q For the ladies and gentlemen of the jury,
17 would you please let them know who you are, where
18 you are from, what kind of education you have, and
19 what your training experience is and where you
20 work at.

21 A My name is Suzann Cromer. And I employed
22 by the South Carolina Law Enforcement Division,
23 commonly referred to as SLED; as a firearm and
24 tool mark examiner. I have been there just under
25 15 years. In my current position I have been

Suzann Cromer-Direct by Brown

1 there about 13 and a half years. I received a
2 bachelor's degree from Clemson University. I did
3 some did some graduate work at the University Of
4 South Carolina. I did an internship in the
5 firearm's department at sled before being hired.
6 I have completed their in-house training program
7 which is a 3 to 5 intense study program. Sort of
8 like an apprenticeship, if you will, where I
9 studied under five court qualified firearm's
10 examiners. We take written tests, oral tests,
11 practical exercises. And then upon completion, we
12 take a comprehensive final exam.

13 I have taken classes for the association
14 of Firearm and Tool Mark Examiners, which is an
15 international organization for our profession.
16 They get together once a year to discuss issues to
17 our field and offer extra workshops. I have taken
18 such workshops as barrel making, tool mark firearm
19 manufacturer's with FD. And I have taken classes
20 on gunshot residue. I have also taken classes
21 with the South Carolina Chapter of the
22 International Association of Identification. Some
23 of them as pertinent being a 3-day workshop on
24 shooting scene reconstruction. I have also taken
25 classes through the Bureau of Alcohol, Tobacco,

Suzann Cromer-Direct by Brown

1 Firearm's and Explosives. Commonly referred to as
2 the ATF, on serial number restorations and the
3 integrated identification system.

4 Q You know a lot about guns.

5 A Yes, sir.

6 Q During your years of doing all this, have
7 you ever testified in a court of law about your
8 training and experience and talk about bullets or
9 guns that you might have obtained?

10 A Yes, I have.

11 Q Have you ever been qualified as an expert
12 in these fields?

13 A Yes, I have.

14 Q Specifically what have you been qualified
15 as an expert as in a court of law?

16 A I have been qualified approximately 65, 66
17 times as an expert in firearm and tool mark
18 identification.

19 Q And have you ever not been qualified as an
20 expert?

21 A No, sir, I have not.

22 MR. BROWN: Your Honor, at this time I
23 would offer her as an expert in firearm's and---

24 A Tool mark identification.

25 MR. BROWN: Tool mark identification.

Suzann Cromer-Direct by Brown

1 THE COURT: Mr. McKnight, do you want to
2 voir dire her?

3 Cross Examination by Mr. McKnight:

4 Q You have been qualified as an expert in
5 firearm's. That's not all encompassing meaning
6 you know everything about firearm's. It's just
7 firearm identification; is it not?

8 A Yes, firearm identification.

9 MR. MCKNIGHT: And I'm sorry, Your Honor,
10 you were saying something?

11 THE COURT: Yeah, and tool mark
12 identification.

13 Q Okay. So it's firearm's identification
14 and tool mark's identification. Not just
15 everything about a firearm; is that right?

16 A That's correct.

17 MR. MCKNIGHT: I got you.

18 THE COURT: No objection?

19 MR. MCKNIGHT: No.

20 MR. GRIFFITH: No objection, Your Honor.

21 THE COURT: Then I am going to qualify her
22 as an expert in firearms and tool mark
23 identification. Ladies and gentlemen, like the
24 other witnesses you would give it the weight that
25 you -- or the other experts, you may give it the

Suzann Cromer-Cross by McKnight

1 weight that you deem appropriate. You may
2 proceed.

3 MR. BROWN: Thank you, Your Honor.

4 Direct Examination by Mr. Brown:

5 Q Ms. Cromer, did you at some point receive
6 a number of items from the Williamsburg County
7 Sheriff's Office regarding the case that we are
8 about here today?

9 A Yes, sir, I did.

10 Q And did you bring the sled inventory list
11 to figure out when you actually received these
12 items?

13 A I have my chain of custody for the items
14 that I received.

15 MR. BROWN: Permission to approach the
16 witness.

17 THE COURT: You may.

18 Q And, Ms. Cromer, I am showing you what has
19 already admitted as State's Exhibit No. 148. Do
20 you recognize this package?

21 A Yes, I do. This is an envelope that I
22 received in this case with our lab number, and it
23 also has my initials on it.

24 Q And do you have indications as to what
25 day, or when you actually received that package?

Suzann Cromer-Direct by Brown

1 A Let me check my notes.

2 Q Please, by all means.

3 A I received this package on
4 January 7th 2011 at 4:21 in the afternoon from our
5 evidence log in department.

6 Q When you received that package, was it in
7 a form that indicated to you that it had not been
8 tampered with, messed with in any way, shape or
9 form?

10 A That's correct.

11 Q And please tell us how you identified that
12 fact.

13 A When we receive evidence in a case, it
14 will have this bar code label, and that's how I
15 know. We have an inventory and it tells me what
16 is in this container No. R.

17 Q That bar code number, is that the same
18 thing that has your sled lab number?

19 A Yes. It has our lab number and the
20 container number.

21 Q And is that the same sled lab number as
22 what is identified as the case we're talking about
23 here today?

24 A Yes, it is.

25 Q Is there other ways that you can tell that

Suzann Cromer-Direct by Brown

1 that package has not been opened or tampered with
2 in any way prior to reaching your hands?

3 A Well when I receive it, I check the
4 evidence tape seal, to make sure that there is no
5 alterations to the seal. And I always make sure
6 when I open it, I open it in a different location
7 than the original evidence tape seal.

8 Q And when you received that package was
9 there any indications that it had been tampered
10 with?

11 A No, sir.

12 Q And after you actually examined it, did
13 you reseal it?

14 A Yes, sir, I did. As a matter of fact,
15 this is my evidence tape seal right here.

16 Q And is that altered or manipulated in any
17 way from when you resealed it?

18 A No, sir, it does not.

19 Q That's the way that you reseal it after
20 you examine it.

21 A That's correct.

22 Q Did you examine the two items, actually
23 what items are in that package?

24 A This container, container R, contained my
25 items 64 and 65.

Suzann Cromer-Direct by Brown

1 Q And did you have an indication as to what
2 those two items were?

3 A They were labeled as bullets removed from
4 James Henry.

5 Q Did you look at these two bullets?

6 A Yes, sir, I did.

7 Q And did you examine these two bullets?

8 A Yes, sir, I did.

9 Q And did you make any determinations about
10 those two bullets? What type of bullets they
11 were.

12 A These two bullets were consistent with
13 being a 38 special or a 357 magnum caliber. They
14 were round lead bullets. And we do that by
15 weighing them and measuring their diameter.

16 Q And can you please tell us how you
17 actually narrow it down to a 38 or 357? Are there
18 particular weights that you look for, or sizes
19 that you are looking for?

20 A First off, when we are talking about 38
21 special or 357 magnum, we are talking about a
22 nominal 38 caliber. Which usually runs about .355
23 inches in diameter to about .357 inches in
24 diameter. So I'll measure them. I'll weigh them.
25 A 357 mag and a 38 special, that bullet can be

Suzann Cromer-Direct by Brown

1 loaded into either one of those cartridges. It's
2 the cartridge case that's actually a different
3 length.

4 So it can be the same bullet in either.
5 So I measure it. I weigh it. And then I look at
6 it microscopically.

7 Q And you were able to conclusively
8 determine that these bullets were from a either a
9 38 or 357.

10 A A 38 special or 357 magnum.

11 Q A 38 special. Did you prepare a report to
12 this effect?

13 A Yes, I did.

14 Q And this is prepared on June 2nd 2011?

15 A Yes, sir, it was.

16 Q Did you submit it to law enforcement?

17 A I sent it to Jeffrey Scott of the
18 Williamsburg County Sheriff's Department.

19 Q In this case were other bullets also
20 submitted?

21 A Yes, sir.

22 Q And were they initially examined by
23 another investigator?

24 A Yes, they were.

25 Q And so you might, did you have any part in

Suzann Cromer-Direct by Brown

1 that?

2 A In the initial examination?

3 Q Right.

4 A I did the micro-verification. Every time
5 we render a conclusion in the firearm's
6 department, and we render 1 of 4 conclusions, any
7 time we come to a conclusion, we have to have
8 another firearm's examiner come behind us and
9 independently reach that same conclusion. We call
10 it our micro-verification process. So I did this,
11 did the micro-verification process for the other
12 examiner who was originally assigned the case.

13 Q Who was that?

14 A David Black.

15 Q And but he was the one who actually
16 prepared the other report.

17 A Yes, sir.

18 MR. BROWN: Court's indulgence.

19 THE COURT: Yes, sir.

20 Q Is David Black still with sled?

21 A No, sir, he retired.

22 Q And did you also do a micro-verification
23 of the other bullets that were submitted and that
24 David Black initially examined?

25 A Yes, I did.

Suzann Cromer-Direct by Brown

1 Q Were you able to determine how many guns
2 were used in this particular incident?

3 A From the first submission and including
4 this one.

5 Q Yes, ma'am.

6 A I believe that there was approximately at
7 least three firearms.

8 MR. BROWN: Ms. Cromer, if you will,
9 please answer any questions defense counsel asks
10 of you.

11 Cross Examination by Mr. McKnight:

12 Q Ms. Cromer, the results of your firing
13 arm's test, are you indicating that there was more
14 than one type of bullet extracted from the body of
15 James McNeal; is that what you are saying?

16 A There were two bullets that I received.
17 They were both the same. They were both brown
18 nosed lead bullets that were approximately 158
19 grain.

20 Q So would that indicate to you that those
21 bullets came from two different guns or one type
22 of gun?

23 A Well I tried to microscopically compare
24 the to each other. My results were inconclusive
25 due to damage, and lack of the individual markings

Suzann Cromer-Cross by McKnight

1 that I was looking at. So I couldn't say that it
2 was two guns or one gun.

3 Q Now when you say microscopically compare.

4 A Yes, sir.

5 Q That's when you all take a bullet, fire it
6 into that water in the barrel, take it out, and
7 then do a cross section of it. And under -- then
8 under a microscope compare the two and see if they
9 match.

10 A Not in this case.

11 Q Okay. Tell -- I've seen it on TV. Just
12 tell me how you do this.

13 A What I do is, I actually took these two
14 bullets. Since they were labeled from the body,
15 I cleaned them. I decontaminated them first.

16 Q Yes, ma'am.

17 A And then I put these two bullets on my
18 comparison microphone and looked at them versus
19 each other. And it's very similar to putting a
20 160 degree puzzle together. What we are doing is,
21 it's called pattern analysis. And I'm looking at
22 the pattern that's left there by the inside of the
23 gun barrel.

24 Q Okay. And but when you took your control,
25 meaning, and when I say when you take your control

Suzann Cromer-Cross by McKnight

1 sample, the sample you know, were you comparing it
2 to a different one?

3 A I did not have a control in this case---

4 Q You didn't have a control. Okay. So
5 looking at your samples, you weren't able to test
6 them based upon your standard of testing methods
7 and reach a determination.

8 A Can you rephrase that?

9 Q Here's the thing. Were you able to tell,
10 were those bullets from the same weapon or were
11 they from two different weapons?

12 A I was inconclusive as to whether they were
13 from the same weapon.

14 Q So when you say inconclusive that means
15 you could not tell.

16 A Right. I could not say whether it was one
17 gun or two different guns.

18 Q Okay. And your findings were rendered
19 inconclusive by the conditions of the bullet I
20 take it. ,

21 A That's correct.

22 Q And how many bullets did you get? How
23 many bullets were indicated to you to be from that
24 body?

25 A Two.

Suzann Cromer-Cross by McKnight

1 MR. MCKNIGHT: Thank you.

2 THE COURT: Mr. Griffith.

3 Cross Examination by Mr. Griffith:

4 Q You indicated when the solicitor asked you
5 how many guns were involved, you said there were
6 three guns involved, at least.

7 A At least 3.

8 Q Well you examined 2 bullets is all you
9 testified about.

10 A But I've actually examined a lot more than
11 that.

12 Q Okay. Because I was curious how you were
13 going to get three guns out of two bullets. But,
14 so you did examine the other bullets from this
15 incident?

16 A Yes. When these were brought in, I
17 actually received the original evidence and
18 compared it to this.

19 Q Okay. And that didn't compare with any
20 other bullets.

21 A No, it did not.

22 MR. GRIFFITH: No further questions.

23 THE COURT: Any redirect based upon their
24 cross examination, Mr. Brown?

25 MR. BROWN: Very brief, Your Honor.

Suzann Cromer-Cross by Griffith

1 Redirect Examination by Mr. Brown:

2 Q Ms. Cromer, you were just now asked about
3 comparing these two bullets to one another and
4 whether or not you concluded they were fired from
5 the same gun. You testified that there was damage
6 to them. Would you please explain to the ladies
7 and gentlemen of the jury, what you mean by damage
8 to the bullets, and what that would do to your
9 conclusions.

10 A When these were lead bullets and lead is a
11 very malleable substance. It takes in bumps and
12 bruises. And when it goes through something hard
13 like a body and it hits, it can actually damage
14 the markings that are put there by the firearm.

15 Q If I may, what do you mean by markings?
16 Explain to the ladies and gentlemen, how markings
17 are left, and what you are talking about.

18 A What I am looking at is at is the rifling
19 marking. When a bullet goes down a barrel the
20 inside of that gun barrel has what you call---

21 MR. GRIFFITH: Objection, Your Honor. He
22 is questioning into an area that we had not
23 entered as to why.

24 MR. BROWN: Your Honor, damage is ex----

25 THE COURT: I am going to give a little

Suzann Cromer-Cross by Griffith

1 leeway on this.

2 MR. BROWN: Thank you, Your Honor. Please
3 proceed, Ms. Cromer.

4 A The rifling is put there by the firearm
5 manufacturer, to put rotatory motion on the lip
6 It's a series of raised and indented, raised and
7 depressed areas inside the gun barrel that put a
8 rotary motion on it. Very similar to a
9 quarterback when he throws a football, he wants it
10 to go into a tight spiral. That's what the
11 rifling does in a gun barrel. It causes it to
12 twist. And it can twist to the right or to the
13 left.

14 You can have any number lands and grooves
15 which make up the rifling.

16 Q And so when that bullet would go into the
17 body, that rifling that would be on the bullet, it
18 can be damaged and you can't see those lines anymore.

19 A That's correct.

20 Q As it pertains to these two bullets that
21 you did obtain the -- were you able to conclude
22 that they were the; did they appear the same type
23 of bullet? The same size, the same shape, the
24 same diameter?

25 A Yes, sir.

Suzann Cromer-Redirect by Brown

1 MR. BROWN: Thank you. No further
2 questions.

3 THE COURT: Any recross based on this
4 particular?

5 MR. MCKNIGHT: Not from the defendant
6 Williams, Your Honor.

7 MR. GRIFFITH: No, Your Honor.

8 THE COURT: Thank you. You may step down.
9 Any objection to this witness being excused?

10 MR. MCKNIGHT: None.

11 MR. GRIFFITH: No, sir.

12 THE COURT: Have a safe drive back.

13 MS. BARR: Your Honor, may we counsel and
14 I approach the bench?

15 THE COURT: You may.

16 (Whereupon, the attorneys approach and
17 confer with the judge.)

18 MS. BARR: We would call Ila Simmons.

19 Ila Simmons, being first duly sworn,
20 testified as follows:

21 Direct Examination by Ms. Barr:

22 Q Good evening, Ms. Simmons.

23 A Good evening.

24 Q State your full name for the record.

25 A My name is Ila Simmons.

Suzann Cromer-Redirect by Brown

1 Q And spell your first and last name for me.

2 A My first name is spelled I-L-A. My last
3 name is S-I-M-M-O-N-S.

4 Q And, Ms. Simmons, tell the ladies and
5 gentlemen of the jury where you work, and what you
6 do.

7 A I am employed at the South Carolina Law
8 Enforcement Division also known as sled in the
9 Forensic Services Department in the trace
10 evidence.

11 Q And what's trace evidence?

12 A We analyze a multiplicity of different
13 types of forensic evidence. We analyze gunshot
14 residue, gunpowder residue. We perform
15 comparisons of fibers, paints and wax. As well
16 as, analyzing post plastic explosives and fire
17 debris of arsons.

18 Q And will you give us a little bit
19 information about your education and your
20 training?

21 A Yes, ma'am. I have a bachelor of Science
22 degree in Chemistry. After completing that, I
23 came to work at sled, where for my first 3 years
24 of employment there, I worked as a court qualified
25 sled certified trace evidence examiner. During

Ila Simmons-Direct by Barr

1 that time, I had to take written and practical
2 examinations, and passed the efficiency lab. I
3 passed all the examinations, and became certified
4 by sled as a trace evidence examiner.

5 Each year I have to take a proficiency
6 test in every area, every discipline that I
7 analyze. And I'm also a member of the several
8 associations of forensic science, the academy of
9 the forensic science. And I am a member of the
10 FBI gunshot residue centers; where the FBI
11 invited people from around the world who analyze
12 gunshot residue to establish the standards and
13 practices that would be used for gunshot residue
14 analysis in accordance with the AFT guidelines.

15 Q So I would imagine that based upon those
16 that resume you have testified in court on a
17 number of occasions.

18 A Yes, ma'am; over 250 times in state,
19 federal and circuit.

20 Q And you of course have been previously
21 qualified in other cases as an expert.

22 A Yes, ma'am.

23 Q And what specifically field have you been
24 qualified as an expert?

25 A I have been qualified in gunshot residue,

Ila Simmons-Direct by Barr

1 in trace evidence in general. In glass, duct
2 tape, methylene blue, gunpowder, fibers, paint.

3 MS. BARR: Judge, at this time, we would
4 tender Ms. Simmons as an expert in the field of
5 gunshot residue and gunpowder.

6 THE COURT: Any objections or would you
7 like to voir dire?

8 Cross Examination by Mr. McKnight:

9 Q Ms. Simmons, good afternoon. Have you
10 ever been disqualified as an expert in courts?

11 A No, sir, I have not.

12 Q How many times have you testified?

13 A Over 250 times.

14 MR. MCKNIGHT: 250 times. Thank you,
15 ma'am.

16 THE COURT: Mr. Griffith.

17 MR. GRIFFITH: Without objection Your
18 Honor.

19 THE COURT: Do you have any objections?

20 MR. MCKNIGHT: No, sir.

21 THE COURT: Ladies and gentlemen, I will
22 qualify her as an expert in gunshot residue and
23 gunpowder. And she's another expert which means
24 that you can give it the weight that you want to,
25 but she can testify to her opinion. You may

Ila Simmons-Cross by McKnight

1 proceed.

2 Direct Examination by Ms. Barr:

3 (GSR kits marked State's Exhibit No. 153
4 marked for Id. only.)

5 Q Ms. Simmons, I am going to hand you what
6 has been marked for identification purposes. And
7 tell me whether or not you recognize that
8 particular exhibit.

9 A Yes, ma'am. It is marked with my
10 initials, as well as, unique identification
11 number. Every case that is assigned at our
12 laboratory is given a unique identification
13 starting with L, meaning laboratory. Then has the
14 year that it was assigned. And a chronological
15 number. And then each piece of evidence is given
16 an item number.

17 Q And as it relates to that particular item
18 it is under Sled Lab No. it is under 07-16257?

19 A Yes, ma'am.

20 Q Tell us what it is.

21 A These are going to be two gunshot residue
22 analysis kits.

23 Q Two gunshot GSR kits?

24 A Yes, ma'am.

25 Q And in terms of the employee of sled who

Ila Simmons-Direct by Barr

1 would have collected those GSR kits, tell me that
2 person's name.

3 A Okay. One kit was collected by a sled
4 agent whose name is Melissa Skipper.

5 Q Okay.

6 A Okay. And then Lieutenant Jeffrey Scott
7 of Williamsburg at the time, collected the other
8 kit.

9 Q Which item of evidence did Ms. Skipper
10 collect?

11 A She collected Item 1, which was a gunshot
12 residue kit labeled as coming from James McNeal.

13 Q James Allen McNeal?

14 A Yes.

15 Q Okay. Lieutenant Jeffrey Scott of the
16 Williamsburg County Sheriff's Office, would have
17 collected the GSR kit on what individual?

18 A Latisha Bell.

19 Q Latisha Bell. Okay. Ma'am, as it -- well
20 first of all, you conducted an analysis on the GSR
21 kit labeled James Allen McNeal?

22 A Yes, ma'am, I did.

23 Q Tell the ladies and gentlemen of the jury,
24 what the results of your analysis were.

25 A On the the palm of the right hand, I did

Ila Simmons-Direct by Barr

1 not find the presence of gunshot residue. On the
2 back of the right hand, I did not find the
3 presence of gunshot residue. But on the palm of
4 the left hand and the back of the left hand, I did
5 find gunshot residue present.

6 Q Let me ask you something. Can I get you
7 to come down?

8 A Sure.

9 Q Sort of help me out here?

10 A Uh-huh. (Affirmative.)

11 (Whereupon, the witness steps down from
12 the witness stand.)

13 Q When someone attempts to extract gunpowder
14 residue or gunshot residue from a person's hands,
15 can you tell me how an individual would go about
16 doing that?

17 A How they would collect the gunshot residue
18 collection kit.

19 Q Yes, ma'am.

20 A They would just take the samples. There
21 are four standard samples in a kit. A sample
22 would be collected from the palm of the right
23 hand. Another sample from the back of the right
24 hand. A sample from the palm of the left. And a
25 sample from the back of the left. And they would

Ila Simmons-Direct by Barr

1 take a small tube that has a metal disk with a
2 double sided sticky tape on it, and they would
3 just apply it to the hand like this. And it would
4 pick up any particles of gunshot residue that may
5 be present.

6 Q And so when you conducted an analysis of a
7 GSR kit, are you telling us definitely that that
8 individual would have fired a weapon, or what is
9 that particularly designed to show?

10 A If gunshot residue was found, it could
11 mean someone fired a weapon. It could also mean
12 someone was in close proximity to a weapon when it
13 was discharged. Or were standing by someone else
14 who fired a weapon. Or it could be that they
15 handled an object that had gunshot residue on it.

16 Q Now as it relates to Sled Item No. 2,
17 which would be GSR kit associated with Latisha
18 Bell, can you tell us what the result of your
19 analysis of that GSR kit was?

20 A There was no gunshot residue found on any
21 areas of the hand.

22 Q Palm or the back of the hand.

23 A Correct.

24 Q Right and left hand.

25 A Yes, ma'am.

Ila Simmons-Direct by Barr

1 Q Now you also became involved in analyzing
2 what's been previously admitted as State's Exhibit
3 No. 147.

4 A Uh-huh. (Affirmative.)

5 Q Is that correct?

6 A Yes, I did.

7 Q And well first of all, let me ask you
8 this. In terms of your analysis of the GSR kit
9 related to Latisha Bell and James Allen McNeal,
10 what date did you render your report?

11 A December 3rd of 2007.

12 Q And as it relates to what's been admitted
13 as State's Exhibit No. 147, is there is anything
14 that is contained within that exhibit that would
15 let others know that you had performed an analysis
16 of that exhibit?

17 A Yes, ma'am. It's marked with my initials
18 and identification numbers.

19 Q If I could turn it around and let the jury
20 see. Tell us what your initials are?

21 A Right here.

22 Q INS.

23 A Yes, ma'am. And they would also be on
24 the item which is inside of the envelope.

25 Q And would you hold that for me. And you

Ila Simmons-Direct by Barr

1 can have a seat. Thank you.

2 (Whereupon, the witness takes the witness
3 stand.)

4 Q Tell us what Sled Item No. 56 would be.

5 A It would be a gunshot residue collection
6 kit. And it was labeled as coming from James
7 Henry.

8 Q Okay. As it relates to that particular
9 kit, does it also indicate that samples were taken
10 from both of his palms, right and left? And the
11 back of his hands, right and left?

12 A Yes, ma'am. They were four samples
13 collected.

14 Q And when did you conduct a generated
15 report as it relates to State's, I believe it's
16 149? 147?

17 A 147.

18 Q When did you conduct that analysis?

19 A That would have been October 5th of 2010.

20 Q 2010.

21 A Yes, ma'am.

22 Q And tell the jury what your result was?

23 A On the palm of the right hand, I found
24 round lead particles which are a component of
25 gunshot residue. And on the back of the right

Ila Simmons-Direct by Barr

1 hand, I also found round lead particles, which
2 are a component of gunshot residue. And on the
3 left hand, the palm of the back, I did not find
4 the presence of gunshot residue.

5 Q Okay. Is there a certain zone, if you
6 will, by which if an individual is near someone
7 who fires a weapon, you might expect to see
8 evidence of gunshot residue?

9 A That is dependent upon the caliber of the
10 gun, and the type of ammunition that is used. But
11 generally with a handgun it is not going to exceed
12 5 or 6 feet.

13 Q 5 or 6 feet.

14 MS. BARR: I beg the court's indulgence.

15 Q I am going to publish what has been
16 previously admitted as State's Exhibit No. 42. If
17 I represent to you that that is a sweater or a
18 jacket that was submitted into evidence in this
19 case, let me have you assume for the sake of my
20 questioning that this particular spot that I am
21 referring to, which is a gray colored spot to the
22 lower part of that jacket. If you assume that
23 that, and again, you can see from the jacket these
24 are the sleeves here.

25 A Yes, ma'am.

Ila Simmons-Direct by Barr

1 Q If you assume that that is a hole that
2 came from a gun being fired.

3 A Yes, ma'am.

4 Q Would you expect to find gunshot residue
5 on an individual's hands if that in fact happened?

6 A If they were holding that gun?

7 Q Yes.

8 A Yes, ma'am. They could definitely have
9 gunshot residue on them. The hole is large. And
10 it has a large amount of gunpowder and gun residue
11 around it. So it's probably indicating a
12 relatively close shot.

13 Q And I am going to publish State's Exhibit
14 No. 42, which is a closer view of what I have just
15 showed you. Does that confirm what your previous
16 opinion was as it relates to whether or not it's
17 possible that a person would have GS, a gunshot
18 residue on his or her hands?

19 A Yes, ma'am. If you notice the hole looks
20 like a star or a diamond, that is an indication
21 that it was a very close shot. In fact nearly a
22 contact shot. Because when a gun is pressed very
23 close to clothing, it will blow the clothing out
24 like that. It's only if it's very close. Usually
25 within a few inches.

Ila Simmons-Direct by Barr

1 MS. BARR: Thank you, ma'am. That's all
2 the questions I have. Please answer any questions
3 defense counsel may have.

4 THE COURT: Mr. McKnight.

5 Cross Examination by Mr. McKnight:

6 Q Ma'am, with regard to gunpowder or gunshot
7 residue, It doesn't stay on the hands or the
8 bottom; does it?

9 A On a living individual, gunshot residue
10 will not remain more than 4 to 6 hours. On a
11 decedent it will remain indefinitely, because they
12 are no longer making contact with the skin. And
13 they are not sweating or absorbing against their
14 skin.

15 Q So that's why you were pretty much able to
16 find it on Mr. McNeal, the decedent; were you
17 not?

18 A It will remain on decedents longer than
19 living persons.

20 Q Because he is dead and not perspiring and
21 moving around, rubbing it on stuff.

22 A That's correct. It will remain longer.

23 Q Now on a living person is different; are
24 they not?

25 A That's correct.

Ila Simmons-Cross by McKnight

1 Q They're moving. They're wiping their
2 hands. And in this instance, if it's a person
3 such as Ms. Bell, if she's crying and wiping her
4 eyes with her hands, would the gunpowder residue
5 be gone?

6 A If gunshot residue were on hands and she
7 were to get her hands wet in some way, that can
8 remove gunshot residue.

9 Q Okay. Just because a person doesn't have
10 gunpowder or in this instance gunshot residue on
11 their hand, that does not mean that that person
12 did not fire a firearm.

13 A That's correct.

14 Q And in fact there should be, well let me
15 ask you this. Can you find gunpowder residue on
16 clothing?

17 A Yes, sir.

18 Q Okay. And so other than taking it from a
19 hand, you can also take it from a person's outer
20 garment; correct?

21 A Correct.

22 Q Do you find that gunshot residue lasts
23 longer on garments as opposed to human hands and
24 tissue?

25 A Yes, sir. If there is a living person;

Ila Simmons-Cross by McKnight

1 yes. It will remain on clothing until the
2 clothing is washed clean.

3 Q Have you been presented with any items of
4 clothing or articles of clothing to test for
5 gunshot residue?

6 A Yes, sir, I have.

7 Q And whose clothing were you presented?

8 A I was given a bag that was labeled as
9 Jimmy Joy. And also one from Stephanie Dollard.

10 Q Okay. Did you find any gunshot residue on
11 those?

12 A No, sir, I did not.

13 Q Did you get one from a Latisha Bell?

14 A No, sir.

15 Q Answer -- and let me ask you this. I am
16 sorry, excuse me. Did you get any items or
17 gunshot residue from a gentleman named Laquincy
18 Williams?

19 A I did not.

20 MR. MCKNIGHT: Please answer any questions
21 Mr. Griffith may have for you.

22 THE COURT: Mr. Griffith.

23 Cross Examination by Mr. Griffith:

24 Q Yes, ma'am. Did you get any clothing or
25 residue samples from a person named Toshonda

Ila Simmons-Cross by Griffith

1 Mickens?

2 A I did not.

3 MR. GRIFFITH: I have no further
4 questions.

5 THE COURT: Ms. Barr, any redirect?

6 MS. BARR: No, sir. I ask that she be
7 excused.

8 THE COURT: You may step down. Any
9 objection to her being excused?

10 MR. MCKNIGHT: No, sir, Your Honor.

11 THE COURT: Mr. Griffith.

12 MR. GRIFFITH: No, Your Honor.

13 THE COURT: Thank you. Have a safe drive
14 back.

15 MS. BARR: Judge, Your Honor, at the risk
16 of taxing the patience of the jurors, there is one
17 additional witness, if Your Honor, please, that I
18 would like to get in today. He has been on call
19 for two days. If I could please just squeeze him
20 in.

21 THE COURT: I think we're almost getting a
22 second wind here. Yes, you may call him.

23 MS. BARR: We're okay to proceed or do we
24 need to?

25 THE COURT: Yes.

1 MS. BARR: We would call Jeffrey Scott.

2 THE COURT: And Mr. Scott has already been
3 sworn.

4 MR. MCKNIGHT: Your Honor, may we
5 approach for just a moment?

6 THE COURT: You may.

7 (Whereupon, the attorneys approach the
8 bench and confer with judge.)

9 Jeffrey Scott, being previously
10 sworn, testifies as follows:

11 Direct Examination by Ms. Barr:

12 Q Now, sir, you testified earlier that you
13 were the person in charge of crime scene evidence
14 with Williamsburg County Sheriff's Office between
15 2007 and 2010?

16 A That's correct.

17 Q And you had been employed at that capacity
18 before then, but I am specifically talking about
19 those 3 years.

20 A Yes, ma'am, that is correct.

21 Q Now we don't have you anymore. You left
22 us.

23 A No, ma'am.

24 Q What do you do now?

25 A I'm a college professor at

Jeff Scott-Direct by Barr

1 Horry/Georgetown Technical College.

2 Q And you have been teaching full-time?

3 A Full-time I believe since 2012.

4 Q 2012. Now, sir, you also obviously
5 previously testified that you were actually at the
6 home of James McNeal following the report to 911
7 about a shooting.

8 A That's correct.

9 Q And in addition to you being there were
10 other law enforcement agents there?

11 A Yes.

12 Q And did you all have the benefit of having
13 individuals from the crime scene unit of sled
14 there as well, helping?

15 A That is correct.

16 Q Now, sir, as a part of being at the crime
17 scene, were you there when they would have come
18 taking items into evidence when photographs were
19 taken of the home and the victim?

20 A Yes, that is correct.

21 Q Sir, I am going to show you what's been
22 marked for identification purposes as State's
23 Exhibits Nos. 47 through 108. And very briefly,
24 you don't have to go through each one of them.
25 Just kind of flip through them and tell me if you

Jeff Scott-Direct by Barr

1 recognize what's depicted in those photographs.

2 A These are photographs of the crime scene.
3 The McNeal crime scene.

4 Q Yes, sir. And in terms of when you were
5 there and when the photographs were taken, do they
6 accurately depict the scene as portrayed in each
7 of individuals the photographs?

8 A That is correct.

9 Q Let's just start and get those back. And
10 I will move them, as I go through them. Well let
11 me just do this. I am showing you what's been
12 admitted or what has been identified as State's
13 Exhibits 47 through 72.

14 MS. BARR: With regard to---

15 THE COURT: Any objection?

16 MS. BARR: With regard to State's Exhibits
17 47 through 72, Judge, we would move to admit these
18 exhibits in at this time.

19 THE COURT: Now are there any objections?

20 MR. MCKNIGHT: No, sir, Your Honor. I
21 don't have one.

22 THE COURT: Mr. Griffith.

23 MR. GRIFFITH: No objection.

24 THE COURT: State's Exhibit No. 47 through
25 72 are admitted without objection.

Jeff Scott-Direct by Barr

1 (Photos and Florence log sheets marked
2 State's Exhibit Nos. 47 to 72 into evidence.)

3 MS. BARR: Permission to publish?

4 THE COURT: Permission to publish.

5 Q I am going to now publish what's been
6 admitted as State's Exhibit No. 47. Is that the
7 home of the victim, James Allen McNeal?

8 A Yes, is it.

9 Q Tell us what that yellow tape is there?

10 A That is crime scene tape. Usually at a
11 crime scene, the perimeters are secured that way
12 nobody can come in and try to put up a barrier
13 that secures the external part of the crime scene.
14 That way nobody can come in or tamper with
15 anything that is going on inside that barrier
16 area.

17 MS. BARR: Do you mind coming down here
18 with me?

19 A That's fine.

20 (Whereupon, the witness steps down from
21 the witness stand.)

22 Q Sir, do you recognize any familiar law
23 enforcement vehicles in that exhibit?

24 A The vehicle that you see.

25 Q Point to it for us.

Jeff Scott-Direct by Barr

1 A The vehicle that you see right here is a
2 Dodge pickup. It is sled's crime scene unit. And
3 the champagne colored car is one of our county
4 vehicles.

5 Q And, sir, as it relates to that exhibit,
6 does that show the front of the home or the rear
7 of the home?

8 A The front of the home.

9 Q And how do you know that's it the front?

10 A. Where, because the front door and the
11 porch area, and comes up to the front right here.
12 And it is facing toward the street back out this
13 way.

14 Q When you arrived at the crime scene were
15 there any individuals there not related to law
16 enforcement or EMS?

17 A There was some there. There was actually
18 people out around the edge of the areas. Around
19 the other streets and stuff.

20 THE COURT: Mr. Scott, I am going to need
21 you to speak up so we can hear.

22 MS. BARR: And I have taken you away from
23 the microphone.

24 THE COURT: He is turning away from the
25 audience.

Jeff Scott-Direct by Barr

1 A And I am trying not to turn my back to
2 anybody.

3 Q And I will kind of remind you from time to
4 time. And I am going to publish State's Exhibit
5 No. 50. Does that represent the rear of the home?

6 A That is correct.

7 Q And do you also see the yellow crime scene
8 tape continued?

9 A Yes.

10 Q Any other law enforcement vehicles you
11 recognize?

12 A Not in this area other than right here,
13 which would be the sled vehicle. The same vehicle
14 there.

15 Q Tell us what is depicted in State's
16 Exhibit No. 51.

17 A This is the front edge facing out of the
18 mobile home.

19 Q Tell us what is depicted in State's 52.

20 A This is another view of what we consider
21 the front area of the residence. Right here is
22 the front porch area that was leading to front
23 door of the residence.

24 Q Tell us about State's 53, and make sure
25 you keep your voice up.

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1 A This is another photograph or photographic
2 view of the photo of the residence. As you can
3 see one of crime -- one of our investigative units
4 is there. These are vehicles at the crime scene.

5 Q Tell us about State's No. 54.

6 A This is---

7 Q Make sure to keep your voice up.

8 A This is on front porch. In the other
9 photographs, you saw a little front porch, like
10 front porch stoop area, in front of the mobile
11 home. This is a brass fitting off of the door
12 hinge.

13 Q Okay. What if anything does the presence
14 of that item where it is, indicate to you?

15 A Well normally---

16 MR. MCKNIGHT: Objection, Your Honor.
17 That calls for speculation on a part of this
18 witness.

19 THE COURT: Rephrase your question.

20 Q Yes, sir. This is, you all made a
21 conscientious decision to photograph that.

22 A Yes.

23 Q Tell us why you all made a conscientious
24 photograph of that particular brass frame of the
25 door?

Jeff Scott-Direct by Barr

1 A This is usually found on the door, hinge
2 area of the door, where the door open and close
3 it, locks into place.

4 Q Okay.

5 A Usually most common doors even in your
6 house, will have the little brass flange, that
7 when the door closes, it pushes in the little knob
8 and locks shut. And that's the flange that we
9 found on the door jam or casing.

10 Q Tell us about State's Exhibit No. 55.
11 Well let me let you see it here, and then I will
12 publish it. So you can get oriented. Do you want
13 me to place it like this?

14 A Bring it back a little bit.

15 Q Yes, sir.

16 A This is what we're talking about with the
17 door jam even of your homes. This the jam area
18 right here, this metal piece right here is where
19 the outer door or storm door would latch to, and
20 this inner portion would be a deadbolt.

21 Q Yes, sir.

22 A And this bottom flange right here, or this
23 are where the flange should be, would be where
24 that piece of brass would come off.

25 MR. MCKNIGHT: Objection he is speculating

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1 where that piece of brass came from. He has not
2 been stipulated as an expert to opine.

3 MS. BARR: Judge, I don't think that it
4 requires an expert opinion.

5 THE COURT: That's not an expert or
6 anything. It's where the door hinge. Is your
7 question because he didn't match it to it or?

8 MR. MCKNIGHT: No, sir. It's not
9 necessarily question. It's my objection. He can
10 testify as to where he -- what he observed. But
11 as to where he believes it came from, he cannot do
12 that.

13 THE COURT: Sustained, rephrase your
14 question.

15 MS. BARR: Yes, sir.

16 Q Mr. Scott, I am going to publish State's
17 exhibit No. 54 along side State's Exhibit No. 55.
18 When you talked about earlier about the brass
19 frame and the -- or in the area of a door jam and
20 how it would fit and correlate. At the time that
21 this photograph was taken, did you think this
22 particular item of evidence was related to this
23 photograph?

24 A That's correct.

25 Q And in terms of the size of what I am

Jeff Scott-Direct by Barr

1 pointing to here which would be the brass frame,
2 and the door jam here, would it correlate to be
3 placed where the door jam?

4 A Yes. Right in this area right here.

5 Q Now that particular area that you were
6 pointing to, this area here, did that damage
7 appear to be fresh or did it appear old?

8 MR. MCKNIGHT: Objection. Calls for him
9 to speculate, Your Honor.

10 MS. BARR: Your Honor, it's laying a---

11 THE COURT: Rephrase your question.

12 MS. BARR: Yes, sir.

13 Q The area here that I am pointing to would
14 you -- how would you characterize that, in terms
15 of whether or not you would classify it as damage
16 or a defect in the door, or how the door is
17 supposed to look in terms of crime scenes that you
18 been involved in, in the past, as a law
19 enforcement officer.

20 A Well with this one, there is a distinct
21 split from where this brass fitting possibly could
22 be.

23 Q Yes, sir.

24 A All the way up past the door lock or what
25 we call the deadbolt would go, all that way up to

Jeff Scott-Direct by Barr

1 the door frame. You can see a split there.

2 Q Now in terms of that type of split that
3 you see in that particular exhibit, would you
4 expect that you would find if somebody opened the
5 door like you normally would, open a door?

6 A No.

7 Q Tell us about State's Exhibit No. 56.

8 A This is the interior of the residence
9 looking back out to the exterior of the residence,
10 through the front door.

11 Q And do you see people here?

12 A Yes.

13 Q Would you classify that as a large number
14 of people.

15 A Yes, a large number of people from the
16 community.

17 Q Tell us about State's Exhibit No. 57.

18 A As you go into the residence and and you
19 take a right inside the residence, you go into
20 what is the kitchen area. And this is the sink
21 and the countertops for the kitchen area.

22 Q Just so we can orient ourselves, let's
23 assume that I am standing in the front door of
24 Mr. McNeal's residence. Okay. Let's go back to
25 56. If I'm on the porch and I am standing right

Jeff Scott-Direct by Barr

1 at his front door, the kitchen would be to my
2 right or to my left?

3 A To your right. When you come in, you go
4 to the right. This turns right into the kitchen.

5 Q And what room would be to my left?

6 A If you come in like this to the left it
7 would be the living room area. You walk right in
8 to the living room area.

9 Q And are there more rooms on this left side
10 of the home, if I am again standing at the front
11 door?

12 A Yes, as you go through the living room
13 area, you will go down towards the hallway and
14 move towards the other bedrooms.

15 Q And one of the bedrooms that was in the
16 home, was that the bedroom where Mr. McNeal's
17 body was found?

18 A That is correct.

19 Q I am going to publish State's Exhibit
20 No. 59. I guess I better turn it this way. Do
21 you know where we are?

22 A This is a photographic view from inside
23 the kitchen area and to the right. And
24 photographing back out towards the living room
25 area where the TV and couch would be located.

Jeff Scott-Direct by Barr

1 Q And you see the couch here?

2 A Yes.

3 Q And where is the TV?

4 A It looks to be right in front.

5 Q When you talk about the hallway for
6 perspective, the hallway that leads to the
7 bedrooms, can you tell us if you can sort of see
8 where that is here?

9 A When you -- it goes down here. You can
10 actually see a little bit of the lighting in the
11 hallway, and it goes down right there.

12 Q Yes, sir. Tell us about No. 61.

13 A This is another interior view of the
14 living room quarters or living room area. You
15 have the couch and you can see the TV. And this
16 one specifically starts looking at the hallway as
17 you go down. It gives you a little bit of
18 perspective of where the hallway is located.

19 Q Tell us about 64.

20 A This photograph is taken. And it's also a
21 photograph of the hallway. And it's being shot
22 down towards the back portion of the trailer where
23 the back bedroom is.

24 Q And it is what you call the back bedroom,
25 the bedroom where the body of Mr. McNeal was