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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JASON EDWARD KINLOCH,

APPELLANT

APPELLATE CASE NO. 2014-002332

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #43 (DVD of Appellant's Interview)

STATE'S EXHIBIT #44 (DVD of Appellant's Interview)

COURT'S EXHIBIT #1 (Redactions to State's Exhibit #43)

COURT'S EXHIBIT #2 (Redactions to State's Exhibit #44)

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY	)	
State of South Carolina	)	
	)	
v.	)	Case No. 10-GS-08-2248 et al
	)	
Jason Edward Kinloch,	)	
	)	
Defendant	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial in the above-captioned matter was commenced on October 27, 2014, before The Honorable W. Jeffrey Young in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel as follows:

APPEARANCES:

Matthew Ozment, Assistant Solicitor
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Before The Honorable R. Markley Dennis

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1

2

(DEFENDANT PRESENT)

3

(JURY PANEL IN @ 11:15 A.M.)

4

(ROLL CALL)

5

(STATUTORY QUALIFICATION)

6

THE COURT: All right. I find all

7

of you that have not been transferred or

8

excused qualified as jurors in this case.

9

Thank you. Are we ready to go right into the

10

case or do they need a short break?

11

CLERK: I think they're okay.

12

THE COURT: The Solicitors are

13

ready?

14

SOLICITOR OZMENT: Yes, Your Honor.

15

Your Honor the State calls three indictments:

16

2012-GS-08-2248, 2012-GS-08-2249 and 2012-GS-

17

08-2252. All of those indictments are

18

against Jason Edward Kinloch. Mr. Kinloch is

19

charged with murder, armed robbery and

20

criminal conspiracy.

21

THE COURT: All right. All right.

22

Ladies and gentlemen, as the Solicitor --

23

yes, sir? I thought you were going to say

24

something.

25

MR. FALK: No, sir.

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Heard before The Honorable W. Jeffrey Young

1 MR. FALK: No, Your Honor.

2 THE COURT: All right. Ladies and
3 gentlemen, we will now begin the trial of
4 this case.

5 Solicitor? Solicitor West?

6 SOLICITOR WEST: Thank you, Your
7 Honor. May it please the Court?

8 THE COURT: Yes, sir.

9 SOLICITOR WEST: Now, "you can't
10 turn back the hands of time." It's a very
11 profound statement from Jason Kinloch
12 himself.

13 It's interesting he chose those
14 words when describing his own hand in the
15 murder of Robert Moultrie. It's interesting
16 he chose those words because that's exactly
17 what we're going to do here this week. We're
18 going to turn back the hands of time so that
19 you, as a jury, can see and hear just how
20 Jason Kinloch is guilty of armed robbery,
21 criminal conspiracy and murder.

22 Now, this case involves a lot of
23 different people with a lot of different
24 names and places. So I want you, as a jury,
25 to be able to visualize where things happened

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1 and who was involved.

2 First of all, this case involved a
3 guy named Christopher Tiller. This all
4 happened at Christopher Tiller's house in
5 Huger. Christopher Tiller sold drugs out of
6 that house.

7 Now, unfortunately, the victim in
8 this case, Robert Moultrie, wanted to buy
9 drugs from Christopher Tiller. So he
10 arranged to go down to Christopher Tiller's
11 house and he drove from Conway to Huger.

12 Now, when he showed up, Christopher
13 Tiller was next door at that shack you see
14 called the "Sweet Shop." But when Robert
15 Moultrie showed up, he pulled up into the
16 driveway and was met by Jason and Patrick
17 Kinloch.

18 The problem during all of this was
19 that Christopher Tiller didn't have any drugs
20 to sell. So what he did, along with Jason
21 and Patrick Kinloch, was come to an agreement
22 to rob Robert Moultrie. So when Robert
23 Moultrie pulls into this driveway here, Jason
24 and Patrick Kinloch come out of the house
25 with a display of guns. Patrick Kinloch is

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1 holding a .40 caliber pistol. Jason Kinloch,
2 through his own words is holding a shotgun
3 and demanding money from Robert Moultrie.
4 During this robbery, Patrick Kinloch shoots
5 Robert Moultrie straight through the chest
6 and he kills him. Then Patrick Kinloch
7 throws Robert's body into the back seat of
8 Robert's own car, drives him into the middle
9 of the Francis Marion National Forest and he
10 leaves him there to rot.

11 That's the basic facts of this case
12 and a brief version that you'll hear from the
13 testimony from this stand.

14 But you're going to hear from a
15 whole list of witnesses. And each of those
16 witnesses is going to present testimony,
17 which is valuable in its own right. So
18 listen carefully to what each of them has to
19 say. At the end of this trial, that
20 testimony that you will hear will make up the
21 charges that the Judge is going to instruct
22 you on. And at the end of the trial, you're
23 going to be able to deliberate and apply
24 those facts that you've heard to the law in
25 the case.

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1 So briefly, I want to break down
2 what the law is that you are going to be
3 deliberating about when you have your chance:

4 Now, one of the first things that
5 you need to understand as a jury is that this
6 case is about a murder and armed robbery and
7 a conspiracy among three, at least three,
8 different people. But in this case there's a
9 premise in the law that underlies this entire
10 scheme. And that's what's called the hand of
11 one is the hand of all. What that basically
12 means is that if Jason Kinloch knew a robbery
13 was going to be committed and he participated
14 in any way; then he is criminally responsible
15 for the actions which are the natural and
16 probable consequence of each of his co-
17 conspirators.

18 What that means is that Jason
19 Kinloch is responsible for the actions of
20 Patrick Kinloch. He legally steps into the
21 shoes of Patrick Kinloch. He is legally
22 holding, not only the shotgun, which he
23 admits, but the gun that was used to fire and
24 kill Robert Moultrie. And let me clarify
25 that last sentence. Nothing from this

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1 witness stand that the State is going to
2 allege is going to say that Jason Kinloch
3 physically fired the gun that killed Robert
4 Moultrie. That's not what the State's here
5 to prove. But that's not what the law
6 requires. What the law requires under the
7 hand of one hand is the hand of all theory is
8 that Jason Kinloch had knowledge and he
9 participated. So be on the lookout for
10 things that Jason knows and he does. But not
11 only what he knows and does, but what knows
12 and he does.

13 So that gets me to the charges that
14 Jason is facing. First, he's facing criminal
15 conspiracy. That's basically what it sounds
16 like. It is an agreement between the parties
17 to commit a crime. There was a meeting of
18 the minds between Christopher Tiller, Patrick
19 Kinloch and Jason Kinloch. They had a meet-
20 ing and an agreement to rob Robert Moultrie.

21 That leads me to the next charge,
22 armed robbery. "Armed robbery" is the taking
23 of money or property by force or intimidation
24 while armed with a deadly weapon. The
25 evidence you will hear is from Jason Kinloch

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1 himself when he says he was holding a shotgun
2 saying, *"Give it up. Give me the money."*
3 That's armed robbery.

4 That leaves us with the last charge,
5 of murder. "Murder" is legally defined as
6 the unlawful killing of another with malice
7 aforethought.

8 So what is malice? Malice is
9 exactly what it sounds like. It's an ill
10 will or an evil heart. So when you're
11 deliberating you'll be able to ask yourself,
12 does robbing someone sound like malice? How
13 about shooting them straight through the
14 heart when they're just a few feet away? Or
15 dumping their body in the middle of the
16 Francis Marion National Forest?

17 That's the three charges that Jason
18 Kinloch is facing today. And you'll be able
19 to deliberate about those charges.

20 When you do, you should reflect on
21 things like what is the value of a human
22 life? Robert Moultrie was murdered and
23 robbed right here in Berkeley County. And
24 for what? A few extra dollars?

25 Jason Kinloch is set to have his day

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1 in court and you have been sworn to be
2 the triers of fact. And that's all the
3 State's asking you is to simply apply the
4 facts that you hear from the witness stand
5 this week to the law as the Judge instructs
6 you. And when you do, the facts applied to
7 the law mean that Jason Kinloch is guilty of
8 criminal conspiracy, armed robbery and
9 murder.

10 THE COURT: Thank you. Mr. Falk?

11 MR. FALK: Good morning. I'm
12 James Falk. I'm representing Jason Kinloch.

13 This is a story that you're going to
14 have to sort through the facts, because
15 unfortunately it never comes through exactly
16 like you see on TV. The Judge already
17 explained to you that this isn't going to be
18 high drama. You're going to get bits and
19 pieces of facts and you're going to have to
20 try and weave this all together.

21 I think what will be helpful when
22 you're trying to weave through this, is sort
23 of maybe think of this, that there are at
24 least five people involved in the events on
25 that day:

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1 You have Patrick Kinloch. Patrick
2 Kinloch, I don't think there was any question
3 he was the shooter. Patrick Kinloch has
4 already pled to those charges.

5 The next person who I think is
6 important, and I don't think we're going to
7 hear any testimony from him, is a gentleman
8 called Chris Tiller. The prosecution has
9 suggested that Chris Tiller was a drug dealer
10 and that he set, he set this plan in motion.
11 He's the one that -- Robert Moultrie would
12 never come down from Horry County if it
13 wasn't for a contact that he had with Chris
14 Tiller.

15 And Chris Tiller, I think you'll
16 hear that he'd probably sold him some drugs
17 in the past, that there's a prior
18 relationship between Mr. Moultrie and Mr.
19 Tiller. And he was coming down this time.
20 Chris Tiller may not have had all the drugs
21 that he was supposed to sell. Chris Tiller's
22 the one who came up with this plan. Chris
23 Tiller's the one that put this game in
24 motion.

25 You're also possibly going to hear

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1 about another gentleman that I think has a
2 significant role in this and that the
3 prosecution hasn't really talked about. It's
4 a gentleman called Joshua Pruitt. After Mr.
5 Moultrie died, it was Joshua Pruitt that
6 helped Patrick Kinloch hide the body. I
7 believe the evidence is going to show that
8 Joshua Pruitt helped put Mr. Moultrie in the
9 backseat of the car and then the two of them
10 drove off together.

11 You're never going to hear any
12 evidence that my client was in the car. I
13 don't believe you're going to hear any
14 evidence that my client was near the car.
15 And I don't think we'll hear any evidence
16 that there are any fingerprints of my client
17 near the car.

18 I think we may hear some testimony
19 that there was another gentleman involved
20 with this case and his name is Gilbert Grant.
21 And I'm not really sure what his role is, but
22 I think you'll hear some testimony that
23 there's another gentleman there.

24 Granted, Jason Kinloch was there.
25 It's going to be your job to consider what is

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1 an appropriate verdict based on what Jason
2 Kinloch's role was in this. But also I
3 think, basically as the prosecution said,
4 you're going to have to consider: what was
5 the plan? I don't think the prosecution is
6 going to put forth evidence that the plan was
7 to kill Mr. Moultrie when he came down here.
8 I don't even think that was Patrick Kinloch's
9 plan.

10 You're not going to hear testimony
11 that Mr. Moultrie's car drove up and in a
12 hail of gunfire, shots fired all over the
13 place and Mr. Moultrie lost his life. I
14 think we'll hear testimony that it was one
15 shot. Whether or not that shot came off
16 accidentally, whether or not Patrick Kinloch
17 had intended to shoot him with malice is
18 something that you're going to have to
19 consider because if Patrick Kinloch didn't
20 have malice to shoot Mr. Moultrie, then
21 certainly my client be responsible for
22 anything more than that.

23 When you're going to consider the
24 evidence, I want you to consider several
25 facts. I mean you're going to have to

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1 consider what was Jason's role in all of
2 this?

3 You're going to have to consider
4 whose plan this was.

5 Who put this plan in motion, whether
6 or not Jason was just in a room while this
7 plan was being discussed or whether he took
8 part in the planning?

9 Whether the planning was to kill Mr.
10 Moultrie or rob Mr. Moultrie, what the plan
11 was.

12 You're going to have to consider
13 whether or not Jason Kinloch withdrew from
14 this plan once he realized that things were
15 getting serious, that these people weren't
16 just sitting around, drinking beer and
17 talking tough, that they actually were going
18 to do this.

19 And you're going to have to consider
20 whether or not my client was holding a gun.
21 You'll hear some testimony from which you
22 might draw the conclusion that he was holding
23 the gun. I believe you're also going to hear
24 some testimony that you're going think that
25 maybe he wasn't holding a gun at the time.

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1 At the end of the day you're going
2 to have to decide what is the appropriate
3 verdict based on my client's role in this
4 offense. And I think at the end of the day
5 I'm confident that you'll see that my client
6 did not intend the murder of Mr. Moultrie.
7 And I think you'll find at the end of the day
8 that really Patrick Kinloch didn't intend for
9 the murder of Mr. Moultrie. But it's some-
10 thing that happened. I think that at the end
11 of the day you'll see that my client wasn't
12 the ringleader of this, wasn't the one
13 instigating this plan.

14 He may have been there and we're
15 going to have to determine what his role is
16 and how much he should be responsible for the
17 consequences of this.

18 I think you'll also need to consider
19 what role my client played in attempts to
20 cover up this crime. I think that you'll see
21 that my client played no role in that. I
22 think we'll find that Patrick Kinloch and
23 this Joshua Pruitt were responsible for that.
24 My client was nowhere in that and was not a
25 part of those plans.

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Heard before The Honorable W. Jeffrey Young

1 I'm hoping that you will give this
2 case your attention and your consideration.
3 And at the end of the day that you'll reach a
4 verdict that is appropriate for my client's
5 responsibility. Thank you.

6 THE COURT: Thank you, Mr. Falk.
7 The State may call its first witness.

8 SOLICITOR WEST: Thank you, Your
9 Honor. The State calls Francis Kinloch.

10 THE COURT: Come forward, sir.

11 (WITNESS TAKES STAND).

12 FRANCIS KINLOCH, having been duly sworn
13 to tell the truth, and nothing but the truth,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR WEST:

17 Q. Good morning, Mr. Kinloch, how are
18 you today?

19 A. I'm pretty good.

20 Q. Where do you live?

21 A.

22 Q. Is that in the Huger area of
23 Berkeley County?

24 A. Yes, it is.

25 Q. Do you remember the incident that

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1 brings us here today?

2 A. Yes, I do.

3 Q. Can you describe for the jury what
4 you remember about that incident?

5 A. That morning I had got off work. I
6 work at Kendall Morgan. And I had got off
7 work like quarter to eight.

8 And as I came through Brick Church Road
9 and there was a SUV pulled up inside of the
10 woods. I thought it was my cousin. So I
11 stopped and checked to see if he needed any
12 help.

13 I walked up to the vehicle and as I was
14 approaching the vehicle, I looked through the
15 back glass and I could see somebody was
16 laying across the back seat to the front
17 seat.

18 And that's when I called the dispatch and
19 the lady said that she would have an officer
20 there in a minute.

21 And Officer John Riley arrived up there.
22 And we went back to the vehicle. And he had
23 went to the driver's side door to try to open
24 it and it was locked. He went to the back
25 door and it was locked too. And he went

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1 around to the passenger's side. When he
2 opened the door, that's when he discovered
3 the body.

4 Q. Did you ever physically touch the
5 vehicle?

6 A. No, I didn't. Uh-huh, (negative
7 gesture).

8 Q. Do you know this Defendant?

9 A. No, I didn't.

10 Q. When you were there, was Deputy
11 Riley the only officer that arrived on scene?

12 A. No, there was probably like, I
13 guess, maybe six or seven more officers came
14 up to it.

15 Q. Did you ever give a statement to law
16 enforcement?

17 A. Yes, I did.

18 Q. Did you ever have any other role,
19 other than the discovery of the car?

20 A. No.

21 Q. Okay.

22 SOLICITOR WEST: Thank you. No
23 further questions for this witness at this
24 time.

25 THE COURT: Mr. Falk?

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1 MR. FALK: We have no questions
2 of this witness.

3 THE COURT: All right. Thank you.
4 You may step down.

5 THE COURT: All right.

6 (WITNESS STEPS DOWN)

7 THE COURT: Any objection to this
8 witness being excused?

9 SOLICITOR WEST: None from the
10 State, Your Honor.

11 THE COURT: All right. Thank you.

12 SOLICITOR WEST: The State would
13 call Deputy John Riley.

14 (WITNESS TAKES STAND)

15 JOHN RILEY, having been duly sworn to
16 tell the truth, and nothing but the truth,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR WEST:

20 Q. Good morning, Officer Riley. Could
21 you please tell the jury where you work?

22 A. Berkeley County Sheriff's Office.

23 Q. And what is your rank?

24 A. I'm a corporal in the patrol
25 division.

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1 Q. Okay. How long have you worked for
2 Berkeley County Sheriff's Office?

3 A. A little over six years.

4 Q. Do you remember the incident that
5 brings us here today?

6 A. Yes, I do.

7 Q. Would you describe to the jury your
8 role that you played?

9 A. The role I played in it was I was
10 dispatched the area of Brick Church Road,
11 which is in the Huger area of Berkeley
12 County. It's a forestry road that runs
13 between Highway 41 and Cainhoy Road, in
14 reference to a SUV that was in the woods with
15 a unresponsive male subject in the vehicle.

16 Upon my arrival, EMS pulled up behind me.
17 We checked the vehicle, saw a black male
18 subject slumped over in the fetal position in
19 the back seat, behind the passenger's seat.
20 I opened the side door, the passenger door.
21 EMS checked him and he had no vital signs.

22 So at that point myself and Deputy
23 Goodwin set up the crime scene tape. And
24 Deputy Goodwin started a crime scene log.
25 And we held the scene until forensics and

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1 detectives could arrive on the scene.

2 Q. Can you describe for the jury how
3 you secure a scene?

4 A. Securing the scene is where we
5 completely, from the roadway all the way
6 around the vehicle, put up yellow crime scene
7 tape. Allowing no one in it unless directed
8 to go in it, and then they -- we'll put you
9 on the crime scene log, the time you went in
10 and the time that you exited the crime scene.

11 Q. Can you describe your role in the
12 forensics of this scene? Did you have any
13 role in searching the vehicle?

14 A. No, I didn't. No, I didn't.

15 Q. Were you able to identify the
16 victim?

17 A. No, I didn't. Once EMS took the --
18 found that the victim had no vitals, we
19 exited and set up the crime scene and waited
20 for forensics.

21 Q. So you called forensics to the
22 scene?

23 A. I didn't call them. I believe my
24 supervisor called them.

25 Q. Okay. And did anyone tamper with

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1 the vehicle while you were on scene?

2 A. No.

3 SOLICITOR WEST: No further
4 questions for this witness at this time.

5 THE COURT: Mr. Falk?

6 MR. FALK: No questions.

7 THE COURT: Thank you. You may
8 step down.

9 THE COURT: Thank you.

10 (WITNESS STEPS DOWN)

11 THE COURT: Any objection to this
12 witness being excused?

13 SOLICITOR WEST: None from the
14 State, Your Honor.

15 MR. FALK: None, Your Honor.

16 THE COURT: All right. Thank you.

17 SOLICITOR WEST: The State would
18 call Deputy Randy Goodwin.

19 (WITNESS TAKES STAND)

20 RANDY GOODWIN, having been duly sworn to
21 tell the truth, and nothing but the truth,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR WEST:

25 Q. Deputy Goodwin, how long have you

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1 worked for the Sheriff's Office?

2 A. Since 2008, sir.

3 Q. Can you describe for the jury your
4 background, training and experience in law
5 enforcement?

6 A. I started law enforcement in Hancock
7 County, Mississippi, back in 2005, January.

8 I transferred in the Navy to Naval
9 Weapons Station Charleston, where I became a
10 reserve deputy in 2008 for Berkeley County
11 Sheriff's Office. And I was hired full-time
12 in 2010, February.

13 Q. Do you remember the incident that
14 brings us here today?

15 A. Yes, sir.

16 Q. Would you describe for the jury your
17 role in the investigation?

18 A. I arrived on scene and I set up a
19 major crime scene log and tapped off the
20 area.

21 Q. Okay. Was anybody there when you
22 got there?

23 A. Yes. Corporal Riley and EMS.

24 Q. Can you describe for the jury how
25 you set up a scene?

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1 A. I take a wide tape. It's
2 approximately that wide (indicating width
3 with fingers spread apart), and it says
4 "Sheriff's Line, Do Not Cross."

5 I went around the vehicle. It was a
6 heavily wooded area. I tied-off to a tree
7 and went all the way around that vehicle,
8 taping off the area with that crime scene
9 tape.

10 And I started a log that logs people in
11 and out.

12 Q. What is the purpose of the crime
13 scene log?

14 A. It's to keep a log, whoever goes
15 into the crime scene.

16 Q. I'm showing the witness what's been
17 marked as State's Exhibit Number 54 for
18 identification purposes. Do you recognize
19 that document?

20 A. Yes, sir.

21 Q. Would you tell the jury what it is?

22 A. That's the major crime scene log
23 that I established when I put up the yellow
24 tape.

25 Q. Has there been any alterations,

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1 deletions, modifications of that document?

2 A. No, there isn't. On the very bottom
3 I put a line across that says no further
4 entry to this page. And that's my initials
5 underneath it showing there was nothing added
6 to the document.

7 SOLICITOR WEST: At this time the
8 State would move State's Exhibit Number 54
9 into evidence.

10 THE COURT: Any objection from the
11 Defense?

12 MR. FALK: No objection.

13 THE COURT: Without objection
14 State's Exhibit 54 is admitted into evidence.

15 (SO ENTERED AS STATE'S EXHIBIT 54)

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR WEST:

18 Q. Deputy Goodwin, are you aware if
19 anybody tampered with the scene when you were
20 out there?

21 A. No, sir.

22 Q. Okay. Would it have been logged if
23 anybody did tamper with the scene?

24 A. Yes.

25 Q. Would all the people that were

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1 involved at the scene be on that log?

2 A. Yeah. Anybody that went underneath
3 that tape is on this log.

4 SOLICITOR WEST: Thank you. No
5 further questions for this witness at this
6 time.

7 THE COURT: Mr. Falk.

8 MR. FALK: No questions.

9 THE COURT: Thank you. You may
10 step down. Any objection to this witness
11 being excused?

12 SOLICITOR WEST: No, Your Honor.
13 Thank you.

14 THE COURT: Have a good day, sir.

15 SOLICITOR OZMENT: Your Honor, at
16 this time, the State calls Juan Rodriguez to
17 the stand.

18 (WITNESS TAKES STAND)

19 JUAN RODRIGUEZ, having been duly sworn to
20 tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR OZMENT:

24 Q. How are you today, Mr. Rodriguez?

25 A. Good.

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1 Q. What do you do for a living?

2 A. I work on a horse farm.

3 Q. All right. Where is that horse
4 farm?

5 A. It's on Wando Road, like near -- on
6 Wando.

7 Q. What road does Wando come off of?

8 A. Brick Church. Brick Church Road.

9 Q. Is that in Berkeley County?

10 A. Yes.

11 Q. Okay. Were you working for that
12 horse farm back in September of 2012?

13 A. Yes.

14 Q. All right. Do you recall seeing a
15 vehicle in the woods back in September of
16 2012 in the area you work?

17 A. Yes.

18 Q. Do you remember the first time you
19 saw that vehicle?

20 A. Yes.

21 Q. When was that?

22 A. I don't remember the date, but that
23 was on a Sunday.

24 Q. It was on a Sunday.

25 A. I don't remember the date, yeah.

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1 Q. How do you know it was on a Sunday?

2 A. Because I'm coming back from work we
3 -- we going out to work and we came back on
4 Sunday, we was off that weekend. We came
5 back Sunday night.

6 Q. Okay. Do you recall what type of
7 vehicle or anything like that, that you saw?

8 A. That was a SUV. I don't know what
9 exactly but like a Tahoe or something.

10 Q. All right. And where was it? Was
11 it on the road? Tell me kind of where you
12 saw it?

13 A. Like outside the road, like thirty
14 to forty feet off the road in the woods.

15 Q. Okay. And when you saw it Sunday
16 night, did you think anything about it?

17 A. I was just thinking that was maybe
18 the hunters still there or something.

19 Q. Okay.

20 A. Yeah.

21 Q. Was it dark, light?

22 A. Yeah. No.

23 Q. About what time was it?

24 A. Yeah, well that was around night.

25 It was dark already.

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1 Q. Okay.

2 A. I just -- on Sunday night I just saw
3 it there, reflections with my light.

4 Q. Okay.

5 A. Yeah, that's all. And ---

6 Q. All right. And so then after
7 Sunday, when was the next time you noticed
8 the vehicle again?

9 A. On Monday, like when I left to
10 school, to take my son to school.

11 Q. Okay.

12 A. I saw the vehicle then.

13 Q. All right. Did you do anything
14 about it on Monday?

15 A. No, I just called my boss to let him
16 know the vehicle was still there, like it was
17 there.

18 Q. And to your knowledge, did your boss
19 do anything about it?

20 A. No, you know, I just tell her, too,
21 so that ---

22 Q. Okay.

23 A. --- she could call the police or
24 something.

25 Q. Okay. And then after Monday, did

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1 you see the vehicle again?

2 A. No, because I don't go out again.

3 You know, I just stay home.

4 Q. All right. Then at some point did
5 you speak with the police about this vehicle?

6 A. Yes.

7 Q. Okay. Do you remember when that was
8 approximately?

9 A. I think that that was like a day
10 after Monday, like Tuesday.

11 Q. All right. And ---

12 A. When they find it.

13 Q. --- what did you tell them?

14 A. I just tell them like what I saw and
15 around that time and everything, like around
16 what time.

17 Q. Now, when you saw the vehicle on
18 Sunday and you saw it again on Monday, did it
19 look like it have moved or been anything
20 happened with it?

21 A. No. It was in the same spot.

22 Q. Okay. And when you spoke to the
23 police, did you see the vehicle at that time
24 again?

25 A. No, no. No.

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1 Q. Okay.

2 SOLICITOR OZMENT: No further
3 questions, Your Honor.

4 THE COURT: Mr. Falk?

5 MR. FALK: No questions.

6 THE COURT: Thank you. You may
7 step down.

8 THE COURT: Thank you.

9 (WITNESS STEPS DOWN)

10 THE COURT: Any objection to this
11 witness being excused?

12 MR. FALK: No, Your Honor.

13 THE COURT: Thank you. Have a
14 nice day, sir.

15 SOLICITOR WEST: The State calls
16 Lieutenant Dean Kokinda.

17 (WITNESS TAKES STAND)

18 DEAN KOKINDA, having been duly sworn to
19 tell the truth, and nothing but the truth,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY SOLICITOR WEST:

23 Q. Good morning, Lieutenant Kokinda.
24 How are you today?

25 A. Good.

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1 Q. Could you tell the jury where you
2 work?

3 A. I'm a Lieutenant with the Berkeley
4 County Sheriff's Office.

5 Q. And how long have you worked there?

6 A. In thirty days, it'll be twenty-five
7 years.

8 Q. Okay. Can you tell the jury what
9 you do for the Sheriff's Office?

10 A. I'm lieutenant over the forensic
11 services unit. We process crime scenes as
12 directed by the criminal investigations unit.
13 And we also store and analyze evidence that's
14 submitted by the deputies.

15 Q. Can you tell the jury what you mean
16 by forensic processing?

17 A. Processing is just a general term we
18 use to collect evidence, depending on what
19 type of crime it is.

20 Q. Do you remember the incident that
21 brings us here today?

22 A. Yes.

23 Q. Would you describe to the jury your
24 role in the investigation?

25 A. September the 11th I was called out

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1 to Brick Church Road in reference to a
2 deceased body that was located in a Suburban
3 that was off in a wooded area.

4 Q. And where is Brick Church Road?

5 A. It's in the Huger area of Berkeley
6 County.

7 Q. Why would you have been called out
8 there?

9 A. Well, it's within the jurisdiction
10 of our agency.

11 Q. And why specifically would you have
12 been called?

13 A. To process the crime scene.

14 Q. Okay.

15 SOLICITOR WEST: I'm going to show
16 the witness what's been marked as State's 1
17 through 17.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR WEST:

20 Q. (Tenders), do you recognize these?

21 A. (Upon review) -- yes, sir. These
22 are photographs that I took in reference to
23 this incident.

24 Q. Is that a true and accurate
25 depiction of the scene as you saw it that

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1 day?

2 A. Yes, sir.

3 Q. And has there been any alterations,
4 deletions, modifications, with respect to
5 those photographs?

6 A. No, sir.

7 SOLICITOR WEST: The State would
8 ask that State's 1 through 17 be moved into
9 evidence.

10 THE COURT: Any objection, Mr.
11 Falk?

12 MR. FALK: No objection.

13 THE COURT: Without objection.
14 State's Exhibit 1 through 17 are admitted.

15 (SO ENTERED AS STATE'S EXHIBIT 1)

16 (SO ENTERED AS STATE'S EXHIBIT 2)

17 (SO ENTERED AS STATE'S EXHIBIT 3)

18 (SO ENTERED AS STATE'S EXHIBIT 4)

19 (SO ENTERED AS STATE'S EXHIBIT 5)

20 (SO ENTERED AS STATE'S EXHIBIT 6)

21 (SO ENTERED AS STATE'S EXHIBIT 7)

22 (SO ENTERED AS STATE'S EXHIBIT 8)

23 (SO ENTERED AS STATE'S EXHIBIT 9)

24 (SO ENTERED AS STATE'S EXHIBIT 10)

25 (SO ENTERED AS STATE'S EXHIBIT 11)

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1 (SO ENTERED AS STATE'S EXHIBIT 12)

2 (SO ENTERED AS STATE'S EXHIBIT 13)

3 (SO ENTERED AS STATE'S EXHIBIT 14)

4 (SO ENTERED AS STATE'S EXHIBIT 15)

5 (SO ENTERED AS STATE'S EXHIBIT 16)

6 (SO ENTERED AS STATE'S EXHIBIT 17)

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR WEST:

9 Q. Lieutenant Kokinda, you told the
10 jury that you went to the scene. Can you
11 tell the jury what you first saw when you
12 arrived?

13 A. Yeah. When I arrived there, there
14 was several deputies already there. They had
15 secured the scene. It was a Chevy Suburban
16 that was located off -- actually, it was off
17 the roadway. And the roadway was a forestry
18 road, so it's a dirt-and-gravel road. It had
19 run off into the woods, it was like a high
20 brush area.

21 Q. Is that the same as what is repre-
22 sented in State's Number 2?

23 A. Yes, sir.

24 Q. Would you publish State's Exhibit 2?

25 A. (Displays to jury).

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1 Q. Now, can you tell the jury what this
2 is?

3 A. Yeah. That's a photograph from
4 Brick Church Road in the roadway, looking
5 into the woods at the vehicle.

6 Q. And that's the same vehicle you
7 found?

8 A. Yes, sir.

9 SOLICITOR WEST: Would you publish
10 State's Number 3?

11 WITNESS: (Complies)

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR WEST:

14 Q. What's this a picture of?

15 A. That's a closer view of that same
16 vehicle.

17 Q. Okay. Did you find anything around
18 the car in the wooded area?

19 A. No, sir. We searched around the
20 vehicle initially. And then we had to
21 actually knock the brush down to process the
22 exterior of the vehicle before it was towed.

23 Q. All right. Well, when you got to
24 the vehicle, what did you do once you got to
25 the vehicle?

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1 A. We searched the area around the
2 vehicle for anything of evidentiary value.
3 Then we cleared around the vehicle so we can
4 process the exterior of the vehicle for any
5 latent fingerprints and any DNA evidence.

6 Q. Okay. Did you go inside the
7 vehicle?

8 A. In this particular case, I went in
9 the left -- I did a DNA sample from the left
10 front door, which was already open. And from
11 the right rear door, because of the fact we
12 had to remove the body from the vehicle. I
13 wanted to go ahead and sample that before any
14 kind of contamination happened.

15 SOLICITOR WEST: Would you publish
16 State's Number 4.

17 WITNESS: (Complies).

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR WEST:

20 Q. What is this a picture of?

21 A. That's a picture from the left side
22 of the vehicle, looking to the right side.
23 And it's the victim.

24 Q. Is this how you found the victim?

25 A. Yes, sir.

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1 Q. What did you do once you found him
2 inside like this?

3 A. We processed the vehicle. After we
4 processed there is -- well, we knew that we
5 were going to have to be able to remove the
6 victim. We called the coroner's office and
7 then the coroner's office removed the victim
8 from the vehicle. We assisted him.

9 Q. Did you do a full search of the
10 vehicle on the scene?

11 A. No, sir, not at the scene.

12 Q. Where do you do that?

13 A. We had the vehicle towed to our
14 forensic services building, then we got a
15 search warrant and continued to search the
16 interior.

17 Q. Why did you have it towed before you
18 searched it?

19 A. Basically, so we -- it's a better
20 environment. We obtained a search warrant
21 and we can take our time.

22 Q. Okay. And did you find anything in
23 the vehicle?

24 A. Yes, sir.

25 Q. Okay.

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1 SOLICITOR WEST: Can you publish
2 State's Number 11?

3 WITNESS: (Complies).

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR WEST:

6 Q. What is this a picture of?

7 A. That's a photograph of the left side
8 of the right front seat. It's consistent
9 with where a bullet went through.

10 Q. Okay. What's State's Number 12?

11 A. (Review).

12 Q. What is this a picture of?

13 A. That's the back side of that same
14 right front seat where the projectile exited
15 the seat.

16 Q. When you're looking at this, are you
17 able to determine a trajectory of the bullet?

18 A. A general path can be determined
19 because once a bullet goes through a body it
20 -- you know, depending on what it hits in the
21 body, you know, it could deviate some, but
22 the general path would be based on that from
23 the left front door, driver door area.

24 Q. Okay. Did you ever find the fired
25 projectile?

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1 A. Yes, sir. That bullet exited the
2 seat and then hit the right rear door in the
3 area of the speaker, and then deflected down.
4 I found the projectile on the floor on the
5 right front side -- right rear side of the
6 vehicle.

7 SOLICITOR WEST: Could you publish
8 State's Number 14.

9 WITNESS: (Complies).

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR WEST:

12 Q. What is this a picture of?

13 A. That's a picture of the speaker
14 that's in the right, rear door.

15 Q. Is that the speaker you just
16 described?

17 A. Yes, sir.

18 Q. Okay. State's Number 16.

19 Q. What is that a picture of?

20 A. That's the picture of the actual
21 projectile that was recovered.

22 Q. All right. When you say it was
23 recovered, what does that mean?

24 A. We collected it, packaged it so it
25 wouldn't get damaged and submitted it into

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1 evidence, stored it until it was transferred
2 for further analysis.

3 Q. When you say it was transferred for
4 further analysis, do you know what happened
5 with it in this case?

6 A. It went to the State Law Enforcement
7 Division's forensic lab.

8 Q. Okay. Did you process the car for
9 anything else?

10 A. Latent prints and any kind of DNA,
11 touch DNA evidence.

12 Q. Okay. Did you find any fingerprints
13 in this case?

14 A I recovered six latent print cards
15 from the exterior of the vehicle.

16 Q. Okay. And can you tell the jury
17 what the results of your examination were?

18 A. Well, that particular -- we
19 submitted those latent fingerprints to the
20 North Charleston Police Department because
21 they have a State AFIS system. We have a
22 local AFIS system, which encompasses Berkeley
23 County and based on -- we found receipts from
24 Conway in the car and, so, we believed the
25 victim was Conway. We wanted to use the

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1 State AFIS system. So they were submitted to
2 North Charleston Police Department. And I
3 don't have a copy of their report.

4 Q. Did you find anything else in the
5 vehicle of evidentiary value?

6 A. We recovered the victim's wallet.
7 Again, I think it was like ten DNA samples,
8 the projectile, a gray t-shirt, a beer bottle
9 that was in the front seat with the gray t-
10 shirt and two receipts.

11 SOLICITOR WEST: I'm going to show
12 the witness what's been marked as State's
13 Exhibit 48.

14 WITNESS: (Complies).

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR WEST:

17 Q. Do you recognize this?

18 A. Yes, sir. This is the bullet, the
19 projectile that I recovered from the rear of
20 the vehicle.

21 Q. Is this the same one you placed in
22 evidence earlier?

23 A. Yes, sir.

24 Q. Okay.

25 SOLICITOR WEST: The State would

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1 move State's Number 48 into evidence.

2 THE COURT: Any objection?

3 MR. FALK: If I could just see
4 it.

5 SOLICITOR WEST: (Tenders)

6 MR. FALK: (Upon review), no
7 objection.

8 THE COURT: State's Exhibit Number
9 48 is admitted without objection.

10 (SO ENTERED AS STATE'S EXHIBIT 48)

11 SOLICITOR WEST: Thank you. No
12 further questions for this witness at this
13 time.

14 THE COURT: Mr. Falk.

15 MR. FALK: Thank you.

16 CROSS-EXAMINATION

17 BY MR. FALK:

18 Q. Officer, you said you have twenty-
19 five years experience?

20 A. Yes, sir.

21 Q. I'm sorry. Your rank was?

22 A. Lieutenant.

23 Q. Lieutenant. When you appeared on
24 the scene you didn't know anything about what
25 acts lead to that; is that correct?

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1 A. That's correct.

2 Q. You weren't trying to identify
3 anybody in particular; is that correct?

4 A. No, sir. Not initially, no.

5 Q. So your goal at that time would have
6 been to collect as much information as you
7 could from the scene; is that correct?

8 A. Yes, sir.

9 Q. All right. And so you said you did
10 a search of the perimeter?

11 A. Yes, sir.

12 Q. And I believe your testimony is you
13 found no evidence relevant from your search
14 of the perimeter?

15 A. Yes, sir.

16 Q. Okay. And I believe you testified
17 that you took latent prints?

18 A. Yes, sir.

19 Q. Now, when you were taking latent
20 prints -- an SUV is obviously a very large
21 car. What was your goal? What were you
22 looking for? I mean, did you start at the
23 rear tailgate and just move all the forward
24 ---

25 A. I don't recall where I started at.

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1 We went around the vehicle.

2 Q. So when you went around the vehicle,
3 and I think you specified that you went
4 around the outside, so you checked the
5 outside doors; is that correct?

6 A. Yes, sir.

7 Q. And you checked the outside handles
8 of the doors?

9 A. Yes, sir.

10 Q. And then did you also check around
11 the steering wheel?

12 A. We didn't process the interior at
13 the scene..

14 Q. Did you process the interior later?

15 A. Yes, sir.

16 Q. Okay. When you processed the
17 interior later, did you then check around the
18 steering wheel?

19 A. For latent prints?

20 Q. Yes, sir?

21 A. Yes, sir.

22 Q. Okay. And did you also check around
23 the driver's side, possibly on the inside
24 handle?

25 A. Yes, sir.

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1 Q. Okay. And that would all be part of
2 a thorough investigation; would that be
3 correct?

4 A. Yes, sir.

5 Q. Because you'd want to know who was
6 driving the car?

7 A. Well, you're collecting any latent
8 fingerprints to link any person to that
9 scene.

10 Q. Whether or not somebody was sitting
11 in the car?

12 A. It could have been -- I mean, if
13 somebody was sitting on the left side or
14 behind the driver's wheel, if there were
15 latent prints there, that would show that
16 they were in that area.

17 Q. And that's the area whether or not
18 you were processing it at the scene or later.
19 That's the area that you were processing for?

20 A. The driver's area?

21 Q. The interior of the cab?

22 A. The interior was done at the
23 forensic services building.

24 Q. Okay. And you were part of that?

25 A. Yes, sir.

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1 Q. Now you testified that -- you said
2 that you found a bullet. Is that correct?

3 A. Yes, sir.

4 Q. Okay. And, again, not knowing
5 anything about this event, you'd been looking
6 for -- if there were two bullets in there,
7 you'd be looking for that as well; is that
8 correct?

9 A. Yes, sir.

10 Q. I mean, you're not going to just
11 stop once you find one bullet; is that
12 correct?

13 A. (Affirmative nod). No, sir.

14 Q. So you did a thorough examination of
15 the inside of the car?

16 A. Yes, sir.

17 Q. Both at the scene and then when it
18 was brought in for further processing?

19 A. Yes, sir.

20 Q. And there was only one bullet found;
21 is that correct?

22 A. Yes, sir.

23 Q. Did you find any evidence that
24 another bullet was fired, maybe a rip in the
25 fabric or ---

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1 A. I didn't observe anything.

2 Q. Okay. And I think you said you
3 looked for DNA evidence. And that would be
4 both blood DNA evidence and touch DNA
5 evidence?

6 A. Yes, sir.

7 Q. And it's my understanding touch DNA,
8 that is when you're looking for epithelial
9 skin cells that might have brushed off in an
10 area?

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

12 Q. Okay. And it doesn't take much
13 contact with a surface in order to transfer
14 those skin cells; is that correct?

15 A. In theory.

16 Q. In theory?

17 A. Yes, sir.

18 Q. But, again, so you look for DNA.

19 A. Right.

20 Q. You found some blood inside the car;
21 is that correct?

22 A. Yes, sir.

23 Q. Then you checked the DNA on that or
24 you processed that and you took swabs of that
25 and sent it off for further processing?

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1 A. Yes, sir.

2 Q. Okay. And how do you check for
3 epithelial DNA, touch DNA?

4 A. You really can't. You just sample
5 it. And then once that sample gets to SLED
6 then they'll extract any DNA that's there.

7 Q. But were you responsible for the
8 sampling?

9 A. Yes, sir.

10 Q. Okay. And so what areas did you
11 sample looking for touch DNA?

12 A. The areas of -- you know, the door
13 handles, the steering wheel, areas where I
14 would think that somebody would have handled
15 that.

16 Q. And so you can look at, whether or
17 not somebody was a passenger or the driver,
18 those inside handles and steering wheel.
19 Wherever it might show up on those kind of
20 items?

21 A. Yes, sir.

22 Q. Okay. And so you processed all the
23 surfaces where you thought it would be
24 reasonable to think that somebody was in the
25 car, might have touched somewhere; is that

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1 correct?

2 A. Yes, sir.

3 Q. All right. Do you know if there was
4 any DNA evidence that was ever -- any results
5 were ever generated?

6 A. I know there's a DNA report. But,
7 again, I don't have a copy of it, so...

8 Q. Again, you don't know the results of
9 that report?

10 A. No, sir.

11 Q. And do you know the results of the
12 fingerprint report?

13 A. Again, I don't have a copy of that
14 report. I know there was an identification
15 made but I don't recall who it was without
16 having a copy of the report.

17 Q. Thank you very much.

18 MR. FALK: No further questions.

19 THE COURT: Any redirect?

20 SOLICITOR WEST: Briefly, Your
21 Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR WEST:

24 Q. Lieutenant Kokinda, were there any
25 weapons ever found in the car?

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1 A. No, sir.

2 Q. Thank you.

3 SOLICITOR WEST: No further
4 questions for this witness.

5 THE COURT: Any recross based on
6 his redirect?

7 MR. FALK: No, Your Honor.

8 THE COURT: Thank you. You may
9 step down.

10 (WITNESS STEPS DOWN)

11 SOLICITOR WEST: The State would
12 ask this witness be excused.

13 THE COURT: Any objection?

14 MR. FALK: No, sir.

15 THE COURT: Thank you, sir. Have
16 a nice morning.

17 SOLICITOR OZMENT: Your Honor, may we
18 approach?

19 THE COURT: You may.

20 (OFF RECORD BENCH CONFERENCE)

21 THE COURT: Ladies and gentlemen
22 of the jury, we seem to be moving faster than
23 anyone expected. That's kind of how it goes
24 sometimes. The next witness is in a location
25 that's not here so they won't be here until

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1 very, very important and it's important
2 that you stay alert. If you need some water
3 to -- you get a little drowsy, you want a sip
4 of cool water, ask one of the bailiff's and
5 they'll be glad to give it to you. It's very
6 important that you stay alert throughout the
7 hearing. All right. Thank you. Is the
8 State ready to present the next witness?

9 SOLICITOR OZMENT: Yes, Your Honor.

10 THE COURT: All right.

11 SOLICITOR OZMENT: The State calls
12 Chad Smith to the stand.

13 (WITNESS TAKES STAND)

14 CHAD SMITH, having been duly sworn to
15 tell the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR OZMENT:

19 Q. How are you today, Mr. Smith?

20 A. Doing fine.

21 Q. Good. What do you do for a living?

22 A. I am a firearm and toolmark examiner
23 at the SLED's Forensic Services Laboratory in
24 Columbia.

25 Q. All right. How long have you been

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1 doing that?

2 A. Approximately six years.

3 Q. All right. What did you do before
4 that?

5 A. I worked for Clemson University in
6 the Chemistry Department.

7 Q. Okay. What exactly do you do for
8 SLED? Explain what that is?

9 A. As a firearm and toolmark examiner,
10 the primary responsibility is examination of
11 firearms, ammunition, ammunition components,
12 tools, and toolmarks. This is a area of
13 forensic science which is called firearm and
14 toolmark identification.

15 And in essence, an examiner, a firearms
16 examiner, tries to determine if a particular
17 firearm component, such as a cartridge case
18 or a bullet, was fired by a specific firearm
19 or if a toolmark was produced by a specific
20 tool, such as bolt cutters or a knife,
21 etcetera.

22 Q. All right. What sort of schooling
23 did you have to become a firearms and tool-
24 mark expert?

25 A. I attended Clemson University where

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1 I earned a Bachelor's of Science Degree in
2 Biological Sciences. When I came on board at
3 SLED, I began my training as a firearms
4 examiner. This program lasts between three
5 to five years. It is supervised by the
6 court-qualified examiners of the firearms
7 department. During this period, I was given
8 many examinations and practical tests that
9 involved extensive reading and studying. And
10 I also helped prepare the other examiners,
11 with their case work. At the end of the
12 training program, I was given a comprehend-
13 sive, multi-part examination, which I
14 successfully passed. Then I began my own
15 casework as an examiner.

16 Q. All right. And how long have you
17 been doing your own casework?

18 A. Let's see. It started in 2012, so
19 approximately three years.

20 Q. All right. And have you ever been
21 certified as an expert witness in court
22 before in firearms?

23 A. Yes, I have.

24 Q. Okay. Do you have any sort of
25 certifications or anything like that?

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1 A. No certifications.

2 SOLICITOR OZMENT: Your Honor, at
3 this time I would move to make Mr. Smith an
4 expert in firearm and toolmark examination.

5 THE COURT: Would you like to *voir*
6 *dire* him?

7 MR. FALK: We have no objection.

8 THE COURT: All right. Ladies and
9 gentlemen of the jury, normally a person can
10 only testify as to what they heard, saw,
11 tasted and smelled or felt. However, when a
12 person has extra education and experience, we
13 allow him to give opinions. And, therefore,
14 because they have that expertise we call them
15 expert witnesses.

16 Now, ladies and gentlemen, whether
17 or not you want to accept his opinion will be
18 up to you. And as jurors, you can give it
19 the weight that you choose to give it.

20 But he's a witness and he will be
21 allowed to give his opinion as to what he
22 saw. And I'm going to deem him to be expert
23 in firearms and toolmark examination. Thank
24 you.

25 SOLICITOR OZMENT: Thank you, Your

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1 Honor. May I approach the witness?

2 THE COURT: You may.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR OZMENT:

5 Q. Mr. Smith, I'm going to hand you
6 what is already been in evidence as State's
7 Exhibit 48. I'm going to ask you to open
8 that and to also look at the outside and tell
9 me if you've ever seen that before?

10 A. (Complies) -- yes, I have. This is
11 a fired bullet, which I received as part of
12 this case.

13 Q. Okay. And how do you know you
14 received it?

15 A. On the packaging, it has my SLED lab
16 number, my item number, SLED item number, and
17 my initials. This is my initials and a seal
18 date, which I have sealed the evidence back
19 for return. And, also, the evidence itself
20 has been scribed with the SLED lab number,
21 SLED lab item number, and my initials.

22 Q. So the actual, the actual bullet is
23 etched or whatever with your initials?

24 A. That's correct.

25 Q. Okay. Do you know approximately

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1 when you examined that bullet?

2 A. Yes. I started my examination on
3 November 6th, 2012.

4 Q. Okay. And were you able to
5 determine a caliber or what type of weapon,
6 anything like that, that fired that bullet?

7 A. Yes. During my examination, what we
8 do is when we just receive a bullet and we
9 don't have a firearm to compare it to, we
10 will weigh the bullet, take a measurement of
11 the diameter, to see if we can determine
12 caliber. And we also have a program, a
13 computer program, which we can type in
14 different information about the bullet, such
15 as the rifling.

16 Rifling is a term that's used by firearms
17 manufacturers. What they do is they put a
18 specific sort of twist inside of the bore or
19 inside the barrel of a firearm to give it a
20 spin as it's traveling down the barrel. That
21 rifling imparts certain sort of impressions
22 on the bullet.

23 So we can measure those impressions, plug
24 it into our computers database of known
25 measurements for specific firearms, and we're

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1 able to actually get a list of potential
2 firearms that could have fired this
3 particular bullet.

4 During my examinations I was able to
5 determine that the bullet was most consistent
6 with being a .40 Smith & Wesson caliber
7 bullet. And I did, was able to print out a
8 small list of firearms that could potentially
9 have fired that bullet.

10 SOLICITOR OZMENT: May I approach?

11 THE COURT: You may.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR OZMENT:

14 Q. Mr. Smith, I'm going to hand you
15 what's been pre-marked as State's Exhibit 55
16 and you can tell me if you recognize that
17 sheet of paper.

18 A. (Upon review), yes. This is a copy
19 of my report of the bullet.

20 Q. Okay. And did you prepare that
21 report?

22 A. Yes, sir.

23 Q. And did you sign it?

24 A. Yes, sir.

25 Q. All right.

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1 SOLICITOR OZMENT: At this time, Your
2 Honor, the State would move State's Exhibit
3 55 into evidence.

4 THE COURT: Any objection?

5 MR. FALK: No objection.

6 THE COURT: Without objection,
7 State's Number 55 is into evidence.

8 (SO ENTERED AS STATE'S EXHIBIT 55)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR OZMENT:

11 Q. And on your report, what did you
12 find first about the caliber and then the
13 types of guns that could have fired this
14 bullet?

15 A. AS I stated, the caliber that I
16 determined that this bullet was most likely
17 to be, was from a .40 Smith & Wesson caliber
18 cartridge. And the list that I have prepared
19 has seven potential firearms.

20 Now, when I say "potential," this list is
21 not all inclusive with every make and model
22 firearm out there, but it's just a potential
23 of known firearms that could have fired that
24 bullet.

25 Q. So there's no way to tell without

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1 having the firearm what firearm actually
2 fired this?

3 A. That's right. Yeah. If I actually
4 had a firearm to compare it to, then I could
5 compare test fires from that firearm to the
6 actual evidence to see if it was a match or
7 not.

8 Q. What -- and when I say what type of
9 gun, I mean a rifle, a shotgun, a pistol, or
10 revolver, what type of gun typically would
11 fire something of this caliber? What's the
12 most common type of gun?

13 A. Typically, it would be a semi-
14 automatic pistol. I think there are some
15 revolvers that could potentially fire this
16 particular caliber, but most likely, what we
17 see is semi-automatic pistols.

18 Q. Okay. And in this case you never
19 received any gun to compare that bullet?

20 A. That's right. I received no firearm
21 to compare.

22 Q. All right. I just have a couple
23 more questions. On that bullet, the nose of
24 it, if you will, is a little bit deformed.
25 Is there any way to tell why that would be or

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1 what could have caused that?

2 A. No. You know, it looks like some
3 sort of damage. Obviously it hit something
4 hard which deformed the bullet. We see this
5 where it strikes metal or, you know, bone.
6 It really could be any sort of material hard
7 enough to actually deform a bullet.

8 Q. And again that wouldn't in itself
9 tell us a specific gun or anything like that
10 that was ---

11 A. No, sir.

12 Q. All right.

13 SOLICITOR OZMENT: No further
14 questions, Your Honor.

15 THE COURT: Mr. Falk?

16 CROSS-EXAMINATION

17 BY MR. FALK:

18 Q. Mr. Smith, you said most likely it
19 was a Smith & Wesson caliber bullet?

20 A. Most likely, yes, sir, depending on
21 the weight of the bullet, the diameter, and
22 the physical characteristics of this bullet.

23 Q. But as an expert you're not
24 testifying with any degree of certainty what
25 kind of bullet maybe -- who was the

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1 manufacturer of that bullet, whether it was
2 Smith & Wesson or any other manufacturer; is
3 that correct?

4 A. As far as -- you mean like a brand
5 of bullet?

6 Q. Yes?

7 A. Who made the actual bullet; no, sir.

8 Q. Is there any real way to do that?

9 A. Depending on the characteristics of
10 the bullets, some have identifying features
11 by the manufacturer that we can tell. But
12 with this, it's just a generic type of
13 bullet.

14 Q. A generic type of bullet?

15 A. Yes, sir.

16 Q. Okay. You've been involved in more
17 than one investigation for SLED?

18 A. Yes, sir.

19 Q. Okay. There is no reason why you
20 couldn't have analyzed more than one bullet
21 during the course of this investigation; is
22 that correct?

23 A. That's correct.

24 Q. I mean, if they submitted two or
25 three bullets, you could have done that?

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1 A. Yes, sir, I could.

2 Q. You were only submitted one bullet
3 to examine?

4 A. That's correct.

5 Q. And other times when presumably more
6 bullets are found, they would have sent them
7 to you; is that correct?

8 A. That's correct.

9 MR. FALK: No further questions.

10 THE COURT: All right. Any
11 redirect?

12 SOLICITOR OZMENT: Nothing further
13 for this witness, Your Honor.

14 THE COURT: Thank you. You may
15 step down. Any objection to this witness
16 being excused for the balance of the trial?

17 SOLICITOR OZMENT: None from the
18 State.

19 MR. FALK: No objection.

20 THE COURT: Thank you. Have a
21 nice day. Have a safe travel back.

22 (WITNESS STEPS DOWN)

23 SOLICITOR OZMENT: Your Honor, the
24 State calls Maurice Lincoln to the stand.

25 THE COURT: Mr. Lincoln.

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1 (WITNESS TAKES STAND)

2 MAURICE LINCOLN, having been duly sworn
3 to tell the truth, and nothing but the truth,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR OZMENT:

7 Q. How are you today, Mr. Lincoln?

8 A. All right.

9 Q. How did you know Robert Moultrie?

10 A. My cousin.

11 Q. All right. And how was he your
12 cousin; first cousin, second cousin or how?

13 A. Like, he ain't my real cousin. We
14 call each other cousins because we grew up in
15 the same community.

16 Q. All right. Where did y'all grow up?

17 A. In North Santee.

18 Q. All right. And where is that in
19 relation to here?

20 A. In Georgetown.

21 Q. How long had you known Mr. Lincoln
22 [sic]?

23 A. Know who?

24 Q. That's you. How long had you known
25 Mr. Moultrie?

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1 A. Like since I was a baby really.

2 Q. Were y'all close growing up?

3 A. No, not really because of the age
4 difference but he was always around.

5 Q. All right. Did you ever ride with
6 Mr. Moultrie, back before he passed in
7 September of 2012?

8 A. Yes.

9 Q. You ever ride with him down to
10 Berkeley County?

11 A. Yeah.

12 Q. Where would you ride with him to
13 Berkeley County?

14 A. I couldn't tell you where; like, I
15 don't know the name of that road.

16 Q. Okay. Do you know who you would be
17 going to see?

18 A. Yeah.

19 Q. Who was that?

20 A. Tiller.

21 Q. Do you know Tiller's first name?

22 A. Naw.

23 Q. Okay. If I show you a picture of
24 the house you went to, would you recognize
25 it?

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1 A. Yeah.

2 SOLICITOR OZMENT: May I approach,
3 Your Honor?

4 THE COURT: You may.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR OZMENT:

7 Q. Mr. Lincoln, I'm going to show you
8 what's been pre-marked as State's Exhibit 24.
9 Do you recognize that photo?

10 A. (Upon review), yeah.

11 Q. What's that a picture of?

12 A. The Tiller house.

13 Q. All right.

14 SOLICITOR OZMENT: At this time,
15 Your Honor, I'd move State's Exhibit 24 into
16 evidence.

17 THE COURT: Have you seen the
18 picture? Do you have any objection?

19 MR. FALK: No objection, Your
20 Honor.

21 THE COURT: Without objection.
22 State's Exhibit 24 is admitted.

23 (SO ENTERED AS STATE'S EXHIBIT 24)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR OZMENT:

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1 Q. How many times have you been to
2 Tiller's house?

3 A. I don't know, about two or three,
4 something like that.

5 COURT REPORTER: How many?

6 THE COURT: About two or three?

7 COURT REPORTER: Two or three?

8 THE COURT: Three or four times.

9 It wasn't many.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR OZMENT:

12 Q. And from the time, the last time you
13 saw Mr. Moultrie, those two or three times
14 you've been to Tiller's house, how close in
15 time were they to that last time?

16 A. I don't understand.

17 Q. So from September of 2012, the two
18 or three times you've been to that house, how
19 close in time were they to September of 2012?

20 A. Probably like a month.

21 Q. What would you and Mr. Moultrie go
22 to Tiller's house to do?

23 A. I mean, that was his friend, so we'd
24 just go down there and see him.

25 Q. Okay. Well, did Mr. Moultrie ever

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1 buy drugs from Mr. Tiller?

2 A. Yeah, a couple of times.

3 Q. Okay. What kind of drugs did he
4 buy?

5 A. A little cocaine.

6 Q. Powder or crack?

7 A. Powder.

8 Q. Okay. Have you ever seen Mr.
9 Moultrie buy those drugs from Mr. Tiller?

10 A. Just one time.

11 Q. But you were with him when that
12 happened?

13 A. Yeah.

14 Q. Moving forward now to September of
15 2012, was there a day that you were invited
16 to go to that house?

17 A. Yeah.

18 Q. Tell me about that day. What were
19 you doing?

20 A. I was just over at my grandma's
21 house and my cousin came down there because
22 Tiller was having a party. He wanted me to
23 go with them.

24 Q. Okay. Did you go with him?

25 A. No.

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1 Q. Why didn't you go with him?

2 A. I ain't want to go.

3 Q. Okay. Did you see him the day that
4 he went down there?

5 A. Yeah. He was at -- his brother was
6 having a cookout down the street and I --
7 yeah, I saw him.

8 Q. Okay. When was the last time you
9 saw him, about?

10 A. That day he left. At what time?

11 Q. Yeah, about what time if you
12 remember?

13 A. I couldn't say.

14 Q. Okay. Was it daylight?

15 A. Yeah. It was daylight.

16 Q. Did you see him leave?

17 A. Yeah.

18 Q. What car did he leave in?

19 A. His truck.

20 Q. What kind of truck was it?

21 A. A Suburban.

22 Q. Okay. Did he have anybody with him
23 when he left?

24 A. No.

25 Q. Did you ever see him again?

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1 A. No.

2 Q. Did you ever try to call him or
3 anything like that?

4 A. I called him about a day or two
5 later?

6 Q. Okay. Did he answer?

7 A. No.

8 Q. How long passed from the time that
9 he left your house until you found out some-
10 thing had happened to him?

11 A. I believe the day they found him his
12 brother had told me.

13 Q. Okay. Was it unusual for you not to
14 hear from him for that many days?

15 A. Oh, one or two days, yeah.

16 Q. Okay. Do you know the day that he
17 went down there that you never saw him again,
18 do you know if he was going to buy drugs on
19 that day?

20 A. No, he told me he was just going to
21 the party.

22 Q. Okay. Do you know of anybody else
23 who stayed at Tiller's house or hung out with
24 Tiller or any of that crowd?

25 A. No.

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1 Q. All right. Do you know Jason
2 Kinloch?

3 A. No.

4 Q. Okay. Do you remember talking to
5 the police in this case?

6 A. Somewhat.

7 Q. Okay. Do you remember meeting with
8 them, though?

9 A. Yeah.

10 Q. Do you remember getting in the car
11 with them?

12 A. Yeah.

13 Q. Where did you take them when you got
14 in the car?

15 A. To Tiller's house.

16 Q. All right. To your knowledge, did
17 they know where Tiller's house was before you
18 took them?

19 A. I mean they said they knew of him
20 but, like, me taking -- I don't know. I
21 doubt it.

22 Q. All right. Well, let me ask this.
23 Did you ever give them directions to get
24 there?

25 A. Yeah. Yeah.

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1 Q. And you rode in the car with them?

2 A. Yeah.

3 Q. Okay. Now, you've been in some
4 trouble before; is that right?

5 A. Yes, sir.

6 Q. Where was that trouble?

7 A. In North Carolina.

8 Q. Okay. What were some of things you
9 were convicted of up in North Carolina?

10 A. Trafficking, robbery, a couple of
11 possessions with intent.

12 Q. When were those?

13 A. Like '06 all the way up until '09.

14 Q. Okay.

15 A. And then trafficking was, I want to
16 say like '11, 2011.

17 Q. Okay. Did you plead guilty or go to
18 trial on those and serve your sentence?

19 A. I pled guilty.

20 Q. Okay. Are you done with all of
21 that?

22 A. Yes, sir.

23 Q. Okay. And certainly anything that
24 happened with that has nothing to do with you
25 testifying today; is that right?

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1 A. Right. No.

2 Q. Okay.

3 SOLICITOR OZMENT: I beg the Court's
4 indulgence.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR OZMENT:

7 Q. Did you have any contact with Tiller
8 or any of the guys that were down in Huger
9 outside of your cousin?

10 A. No.

11 Q. All right. Did you ever talk to
12 them or anything like that?

13 A. No.

14 Q. All right. So in the days leading
15 up to him disappearing, you'd never spoken to
16 anyone down in Huger?

17 A. No.

18 Q. Okay.

19 SOLICITOR OZMENT: No further
20 questions.

21 THE COURT: Cross?

22 CROSS-EXAMINATION

23 BY MR. FALK:

24 Q. Mr. Lincoln, what do you do for a
25 living?

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1 A. I'm on disability.

2 Q. How long have you been on
3 disability?

4 A. Two years.

5 Q. So you were on disability in 2012?

6 A. Yeah.

7 Q. Where did you work before that?

8 A. I didn't.

9 Q. So you're on disability now, but in
10 2010 were you working?

11 A. Not that I -- I don't believe.

12 Q. Okay. Can you recall a job that
13 you've had in the last seven years?

14 A. Yeah. I worked at Taco Bell; the
15 IP, International Paper Company. Been a
16 couple of staffing places. Wal-Mart.

17 Q. When was the last full-time job?

18 A. I want to say IP. That was like --
19 I think that was like the beginning of 2012.
20 It was about like three or four months, and
21 then it shut down.

22 Q. Okay. You said you had a couple of
23 convictions for trafficking?

24 A. Yeah. Marijuana.

25 Q. Do you recall how many?

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1 A. Ten pounds.

2 Q. Do you recall how many convictions?

3 A. The only convictions I got is three,
4 three or four.

5 Q. And when you said trafficking, did
6 you have a conviction for trafficking in
7 anything else?

8 A. Trafficking?

9 Q. Any other drugs?

10 A. No.

11 Q. Did you have a trafficking -- did
12 you have a PWID for cocaine in 2009?

13 A. Yeah, I said I had a coke
14 possession.

15 Q. Was that powder or was that ---

16 A. I believe one time powder and one
17 time crack.

18 Q. Okay. So is that more than one
19 conviction for possession of cocaine?

20 A. No, it was at the same time.

21 Q. Okay. In North Carolina didn't you
22 also have a conviction for possession of a
23 counterfeit instrument?

24 A. Yeah.

25 Q. And obtain property by false

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1 pretenses?

2 A. Yeah.

3 Q. And in South Carolina do you have
4 any trafficking charges?

5 A. No. I don't have no charges in
6 South Carolina.

7 MR. FALK: May I have a moment,
8 Your Honor?

9 THE COURT: You may.

10 CROSS EXAMINATION CONTINUED

11 BY MR. FALK:

12 Q. Now, you said that you'd been to
13 Tiller's house once?

14 A. No, two or three times.

15 Q. Because is kind
16 of a small road in Huger. And you'd kind of
17 know -- you'd have to have been there more
18 than once to be able to direct the police to
19 get there, wouldn't you?

20 A. I remember where I go to. Like the
21 other day, I used GPS to come here. Today, I
22 didn't need it.

23 Q. Did you have GPS to get to Tiller's
24 house?

25 A. No, I was riding with Lamar.

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1 Q. But when you told the police how to
2 get there, you didn't have any GPS, did you?

3 A. I remembered how to get there.

4 Q. Okay. I mean, just -- so you've
5 probably been there more than once?

6 A. Yeah. I've been there more than
7 once.

8 Q. That's a long way to drive. You
9 said that Mr. Moultrie came down there one
10 time to buy drugs?

11 A. No, we done been down there like two
12 or three times. It was just one time I seen
13 him buy some. The other time was just to
14 hang around.

15 Q. And it wasn't to buy drugs those
16 other times or did you just not see it?

17 A. I didn't see if it was or not.

18 Q. So when was the last time that you
19 went with him to buy drugs at Tiller's house?

20 A. It was before the party.

21 Q. Okay. And you were coming down from
22 Conway?

23 A. No, I stays in Santee. He stay in
24 Conway.

25 Q. Okay. So there's obviously more

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1 places to buy drugs between Santee and
2 Huger?

3 A. I don't know nothing about that.

4 Q. Did you get the impression that Mr.
5 Tiller was -- that's what he did for a
6 business? That's how he made his money?

7 A. I can't say that.

8 Q. Do you know how much money Mr.
9 Moultrie gave Mr. Tiller the last time?

10 A. No, I do not.

11 Q. Do you know how much drugs he bought
12 the last time?

13 A. No, I do not.

14 Q. Did you see it?

15 A. No, I did not.

16 MR. FALK: No further questions.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 By SOLICITOR OZMENT:

20 Q. Do you want to be here today, Mr.
21 Moultrie?

22 A. I mean -- not really.

23 Q. All right.

24 THE COURT: Redirect?

25 SOLICITOR OZMENT: I'm done with him.

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

3 (WITNESS STEPS DOWN)

4 SOLICITOR WEST: The State calls
5 Christine Tiller.

6 (WITNESS TAKES STAND)

7 CHRISTINE TILLER, having been duly sworn
8 to tell the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR WEST:

12 Q. Good afternoon, Ms. Tiller.

13 A. Hello.

14 Q. Thank you for coming here today.

15 Will you tell the jury what your relation is
16 to Christopher Tiller?

17 A. Christopher Tiller is my son.

18 Q. Do you own a house on
19 in Huger, down in Murphy Town?

20 A. It was inheritance, my parent's
21 house.

22 Q. Okay. I'm going to show you what's
23 been already admitted as State's Number 24.
24 Do you recognize that?

25 A. Yes.

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1 Q. Is that the house you own?

2 A. Yes.

3 Q. Okay. And how did you come to be
4 the owner of that house?

5 A. Since my parents died, it went to me
6 and my sister and my brother.

7 Q. Did you allow Christopher Tiller to
8 live there?

9 A. Yes, I did.

10 Q. Okay. Did anybody else live with
11 him?

12 A. My daughter would go occasionally
13 back and forth.

14 Q. Okay. Do you know if Jason Kinloch
15 ever stayed there with Christopher?

16 A. Not stayed there.

17 Q. You don't know if he ever spent the
18 night there?

19 A. No.

20 Q. So you don't know or you ---

21 A. I don't know.

22 Q. Don't know, okay.

23 A. The only person who was supposed to
24 be in the house was my daughter and my son.

25 Q. Christopher?

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1 A. Uh-huh.

2 Q. Do you remember the police coming to
3 your house in September of 2012?

4 A. You mean where I live now, 234 ---

5 Q. Did they come to the house here at
6 ?

7 A. Yes. I do.

8 Q. You do?

9 A. Uh-huh.

10 Q. You remember signing any papers that
11 they gave you?

12 A. Yes.

13 Q. Okay. Did you allow them to search
14 that house?

15 A. Yes. Before they had the search
16 warrant I told them, go ahead and search the
17 house.

18 Q. Okay. I'm going to show you what's
19 been marked as State's Number 52. Do you
20 recognize this document?

21 A. Yes, I do.

22 Q. Is that your signature on the bottom
23 of that document?

24 A. Yes, it is.

25 Q. Okay. And what is that document?

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1 A. It's a consent order to search the
2 house.

3 Q. Yes, ma'am.

4 A. Uh-huh.

5 Q. Okay. Thank you.

6 SOLICITOR WEST: The State would
7 ask that State's Number 52 be admitted into
8 evidence.

9 THE COURT: Any objection?

10 MR. FALK: No objection.

11 THE COURT: Without objection
12 State's Exhibit 52 is admitted.

13 (SO ENTERED AS STATE'S EXHIBIT 52)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR WEST:

16 Q. Ms. Tiller, did you have any other
17 involvement in this case?

18 A. No.

19 Q. Okay.

20 SOLICITOR WEST: Thank you. No
21 further questions for this witness.

22 THE COURT: Any cross-examination,
23 Mr. Falk?

24 MR. FALK: Just a couple.

25 CROSS-EXAMINATION

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1 BY MR. FALK:

2 Q. Ms. Tiller, you don't go in that
3 house very much, do you?

4 A. Occasionally I go by and check on my
5 son. I would, you know, cook food and I go
6 take it to him.

7 Q. Did you ever go in the house when
8 he's not there?

9 A. No.

10 Q. Because you don't have a key to the
11 house; is that correct?

12 A. No, I didn't have a key to the
13 house.

14 MR. FALK: No further questions.

15 THE COURT: Any redirect based on
16 his cross?

17 SOLICITOR WEST: Nothing from the
18 State. The State would ask this witness be
19 excused.

20 THE COURT: Yes, ma'am. Have a
21 nice day.

22 THE COURT: Thank you.

23 (WITNESS STEPS DOWN)

24 SOLICITOR OZMENT: The State would
25 call Bobby Shuler to the stand, Your Honor.

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1 THE COURT: All right.

2 (WITNESS TAKES STAND)

3 BOBBY SHULER, having been duly sworn to
4 tell the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR OZMENT:

8 Q. How are you today, Captain Shuler?

9 A. I'm fine. Thank you.

10 Q. And, if you would, please tell the
11 jury where you are employed?

12 A. Berkeley County Sherriff's Office.

13 Q. And what are your duties with the
14 Berkeley County Sherriff's Office?

15 A. I am the Captain and Commander.

16 Q. And how long -- were you doing that
17 back in September of 2012?

18 A. At that time, I was a sergeant in
19 the criminal investigative division. Was a
20 supervisor at that time.

21 Q. So you got promoted?

22 A. Yes, sir, I did.

23 Q. Were you involved, back at that
24 time, with the case of Robert Moultrie?

25 A. Yes.

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1 Q. The subsequent arrest of Mr. Jason
2 Kinloch?

3 A. Yes, sir.

4 Q. How did you originally become
5 involved in that case?

6 A. As one of the investigators.

7 Q. In the course of your investigation,
8 do you recall ever meeting with Maurice
9 Lincoln?

10 A. Yes, sir.

11 Q. Do you recall who Mr. Lincoln is?

12 A. He was a friend of the victim in
13 this case.

14 Q. What was your purpose in meeting
15 with him, if you recall?

16 A. I was contacted by Sergeant Riser in
17 reference to needing a DNA search warrant for
18 Maurice Lincoln, so I obtained a swab kit and
19 met with Sergeant Riser in the Cainhoy area.

20 Q. Was that location in Berkeley
21 County?

22 A. Yes, it was.

23 Q. There is a photograph sitting in
24 front of you, I think that it is State's
25 Exhibit 24. Do you see that?

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1 A. Yes, sir.

2 Q. And is that the residence that you
3 responded to?

4 A. Yes, sir.

5 Q. What was your role in that
6 residence? What were you there to do?

7 A. As one of the investigators in the
8 case, we were there to -- we had learned that
9 this was a possible location where the murder
10 had occurred. So we responded there to see
11 if we could make contact with the owner.

12 Q. Were you able to make contact?

13 A. Yes. The owner of the residence
14 showed up and we met with her.

15 Q. Once you met with her, what did you
16 do?

17 A. We explained to her why we there and
18 we obtained a written consent to search from
19 her. She was the owner of the home.

20 Q. I am showing you what has been
21 marked, entered into evidence, as State's
22 Exhibit 52. Do you recognize that sheet of
23 paper?

24 A. Yes, this is the consent to search
25 form that we obtained from the owner. It has

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1 basically the name of the person who gave the
2 consent or permission to search, and then it
3 lists Detective Riser and myself.

4 Q. And that is for the residence
5 depicted in State's Exhibit 24?

6 A. Yes, sir.

7 Q. Did you end up searching through
8 that residence?

9 A. We did.

10 Q. Did you take some pictures during
11 that search?

12 A. I did.

13 Q. I'm going to show you photographs
14 that we have marked as State's Exhibits 25
15 through 39. (tendering). If you would, look
16 through those and tell us whether or not you
17 recognize those?

18 A. (Upon review), I do. These are the
19 pictures that I took at the time we executed
20 the search warrant.

21 SOLICITOR OZMENT: Your Honor at this
22 time, the State would move State's Exhibits
23 25 through 39 into evidence.

24 THE COURT: Any objection, Mr.
25 Falk?

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1 MR. FALK: Let me just double
2 check them.

3 THE COURT: All right.

4 MR. FALK: No objection.

5 THE COURT: Without objection,
6 State's Exhibits 25 through 39 are admitted
7 and may be published.

8 SOLICITOR OZMENT: All right.
9 Thank you, Your Honor.

10 (SO ENTERED AS STATE'S EXHIBIT 25)

11 (SO ENTERED AS STATE'S EXHIBIT 26)

12 (SO ENTERED AS STATE'S EXHIBIT 27)

13 (SO ENTERED AS STATE'S EXHIBIT 28)

14 (SO ENTERED AS STATE'S EXHIBIT 29)

15 (SO ENTERED AS STATE'S EXHIBIT 30)

16 (SO ENTERED AS STATE'S EXHIBIT 31)

17 (SO ENTERED AS STATE'S EXHIBIT 32)

18 (SO ENTERED AS STATE'S EXHIBIT 33)

19 (SO ENTERED AS STATE'S EXHIBIT 34)

20 (SO ENTERED AS STATE'S EXHIBIT 35)

21 (SO ENTERED AS STATE'S EXHIBIT 36)

22 (SO ENTERED AS STATE'S EXHIBIT 37)

23 (SO ENTERED AS STATE'S EXHIBIT 38)

24 (SO ENTERED AS STATE'S EXHIBIT 39)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR OZMENT:

2 Q. I'm going to put some pictures up
3 behind you, Captain Shuler. I'm going to
4 kind of go through them.

5 A. Okay.

6 Q. On the screen is State's Exhibit 24.
7 What do we see in this picture?

8 A. That's actually what was determined
9 to be the incident location. This is located
10 , which is located in
11 the jurisdiction of the Berkeley County
12 Sheriff's Office.

13 Q. Okay. And go on to the next
14 Exhibit, State's 25. It seems obvious but
15 what is that a picture of?

16 A. You have just another picture of the
17 residence from a different angle.

18 Q. Okay. And is this still just the
19 front of the residence?

20 A. It is.

21 Q. All right. I'm going to move now to
22 State's 26. Now, before we talk about this
23 picture, tell me if you found anything
24 relating to any firearms or anything relating
25 to firearms in this residence?

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1 A. We did. Throughout the residence
2 during the search, we were finding shell
3 casings, spent shell casings and unfired
4 cartridges of different calibers.

5 Q. Were they located at any place in
6 the residence?

7 A. They were just located all over the
8 residence in different places about the
9 residence.

10 Q. Okay. Did you photograph them any
11 time you saw them?

12 A. Yes, sir.

13 Q. Okay. Are we seeing any in this
14 picture?

15 A. Yes, sir. That very top shelf you
16 see kind of a blue and yellow box, with white
17 on the very end of that. And that's some
18 ammo that's kind of poured partially out of
19 the box. And it's Magtech brand ammo.

20 Q. Okay. And I will move on to State's
21 Exhibit 27, the next one. What is that?

22 A. That's just a closer up photograph
23 of the actual box of ammo.

24 Q. Okay. And then State's Exhibit 28
25 the next one, what do we have here?

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1 A. This is unspent cartridges that was
2 found inside the residence.

3 Q. Okay. And the State's Exhibit 29,
4 what do we have in this picture?

5 A. It's electronic scales, some coins,
6 a battery and then also an unspent shell
7 casing.

8 Q. Okay. What significance would
9 electronic scales have to you?

10 A. Through our experience and training,
11 this normally relates to some sort of drugs.
12 A lot of times they would be used to weigh
13 drugs and separate drugs and stuff.

14 Q. Okay. State's Exhibit 32, I want to
15 ask you about that. What do we have here?

16 A. This was in a drawer and it's a
17 bagged up -- a bunch of unspent shell
18 cartridges of different calibers and
19 different types, along with some coins and
20 some sort of pills or vitamins. I don't know
21 what those are.

22 Q. Okay. And now we go to State's
23 Exhibit 35. This is zoomed out, bigger.
24 What are the two little pieces of paper I see
25 there?

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1 A. What it is, I made some number cards
2 for evidence marking for outside. And by
3 each number card is where we found spent
4 cartridge casings, laid out on the driveway
5 in front of the residence.

6 Q. Okay. So if I went back to like
7 State's Exhibit 25, where would those be in
8 this picture?

9 A. Right over here to the edge where
10 the concrete meets up with the grass. They'd
11 be right down there.

12 Q. Did you collect those two shell
13 casings?

14 A. I did.

15 Q. Okay. Do you recall what caliber
16 they were?

17 A. I believe they were both nine mils.

18 Q. And "nine mil" is ---

19 A. Nine millimeters; I'm sorry. Nine
20 millimeter caliber.

21 Q. When you -- there's obviously
22 several more pictures there. Now, when you
23 saw all this ammunition inside the house and
24 the shell casings and the ones outside, were
25 they all the same types or the same caliber

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1 or were they all ---

2 A. Yeah, all different types. Some of
3 them may have matched. Some of them -- just
4 different calibers altogether.

5 Q. All right. And were those all
6 collected?

7 A. Yes, sir, I believe so. Yes, sir.

8 SOLICITOR OZMENT: May I approach,
9 Your Honor?

10 THE COURT: You may. And for the
11 future, y'all don't need to ask to approach.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR OZMENT:

14 Q. Captain Shuler, I'm going to show
15 you State's Exhibit 49. I'm going to ask you
16 to look in there and look at the tag on the
17 outside if you can tell what all of that is.

18 A. On all the different bags?

19 Q. Yeah. If you need to you can pull
20 them out.

21 A. All right. You want me to pull them
22 all out or not?

23 Q. If you need to, yeah.

24 A. Okay, sir.

25 Q. Okay. What does all of that appear

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1 to be?

2 A. Each bag contains some caliber or
3 make and brand of either spent shell casings,
4 unfired cartridges. This particular one
5 contains the box that was in the picture that
6 you put up on the screen and where they were
7 located throughout the residence.

8 Q. Okay. So were these -- some of them
9 or all of them, were the ones that you were
10 taking photos of before they were collected?

11 A. That's correct.

12 SOLICITOR OZMENT: All right. Your
13 Honor, at this time we'd move State's Exhibit
14 49 into evidence.

15 THE COURT: Any objections to
16 State's Exhibit 49?

17 MR. FALK: No objection.

18 THE COURT: Without objection,
19 State's Exhibit 49 is admitted.

20 (SO ENTERED AS STATE'S EXHIBIT 49)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR OZMENT:

23 Q. All right. So we don't lose any,
24 put all of those in the bag and -- so we will
25 know where they are.

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1 A. (Complies)

2 Q. Who'all searched the house with you,
3 if you recall?

4 A. There were several of us from the
5 criminal investigation division. We also had
6 detectives from the drug enforcement unit was
7 with us also.

8 Q. Okay. How long were you on the
9 scene that day, if you recall?

10 A. I know we -- you've seen the
11 pictures. We got there, it was getting --
12 the sun wasn't quite down yet so it was still
13 some daylight; but I know we were there -- I
14 mean, way after -- it was late in the
15 evening.

16 Q. Several hours?

17 A. Oh, yeah. Absolutely.

18 Q. Okay. Following your search of the
19 house, did you continue to be involved in
20 this case?

21 A. Yes, I did.

22 Q. Did you sit in on some interviews?

23 A. I did.

24 Q. Okay. Did you ever have a
25 conversation or interview with Jason Kinloch?

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1 A. Yes, I did.

2 SOLICITOR OZMENT: May I approach,
3 Your Honor?

4 THE COURT: You may.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR OZEMENT:

7 Q. Do you recall when that interview
8 took place?

9 A. I want to say the 19th of September.

10 Q. Okay. And where did that interview
11 take place?

12 A. It took place up at the Berkeley
13 County Sheriff's Office Criminal Investiga-
14 tion Division where we have interview rooms
15 in the back.

16 Q. All right. And tell me about how
17 big are those interview rooms?

18 A. The interview rooms are probably
19 about six by six. They have a table and
20 three chairs normally, because we only have
21 one for whoever we're interviewing and a
22 couple for the investigators.

23 Q. Okay. And when you met with Mr.
24 Kinloch, was he under arrest for anything?

25 A. He was at the time.

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1 Q. Okay. And when someone's under
2 arrest and you interview them, what do you
3 understand the practice?

4 A. Our protocol or our standard
5 practice is when somebody's under arrest
6 before we got into any line of questioning,
7 they're Mirandized. So they're given their
8 *Miranda* advisement.

9 Q. Okay. I'm going to hand you what's
10 been marked State's Exhibit 40. I'm going to
11 ask you if you recognize that sheet of paper?

12 A. Yes, sir, I do.

13 Q. What is that sheet of paper?

14 A. It's a Berkeley County Sheriff's
15 Office *Miranda* advisement form.

16 Q. Okay. And is your signature on it?

17 A. Yes, it is.

18 Q. Okay. And who else's signature is
19 on it?

20 A. The other detective that was in the
21 interview with me, which would have been
22 Sergeant Geno Alteri.

23 Q. Okay. Is Mr. Kinloch's signature on
24 it?

25 A. Yes, it is.

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1 Q. Did you see him sign that?

2 A. Yes we did.

3 Q. This is going to be a little
4 tedious, but I ---

5 SOLICITOR OZMENT: Well, I guess
6 first, Your Honor, we'd like to move that
7 into evidence. That was State's Exhibit 40.

8 THE COURT: Any objection?

9 MR. FALK: No objection.

10 THE COURT: Without objection
11 State's Exhibit 40 is into evidence.

12 (SO ENTERED AS STATE'S EXHIBIT 40)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR OZMENT:

15 Q. All right. Now, I said this may be
16 a little tedious, but did you read that form
17 to Mr. Kinloch?

18 A. The form was read to Mr. Kinloch.

19 Q. Okay. I'm going to ask you to read
20 it for us now if you don't mind?

21 A. Okay. There's five advisements and
22 we go down the line. Number one, starting
23 out with "You have the absolutely right to
24 remain silent. You do not have to answer any
25 questions or give a statement and this fact

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1 cannot be used against you."

2 The second advisement is, (reading): "If
3 you do answer questions or give a statement,
4 anything you say can and will be used against
5 you in a court of law."

6 The third advisement, (reading): "You
7 have the right to consult with a lawyer of
8 your choice before you answer questions or
9 give a statement and also have him present
10 while you're being questioned."

11 Fourth advisement, (reading): "If you
12 wish talk to a lawyer and have him present
13 but unable to afford to hire a lawyer, one
14 will be appointed to represent you free of
15 charge."

16 And the fifth advisement, (reading): If
17 you decide to answer questions and give a
18 statement without having a lawyer present
19 representing you, you have the absolute right
20 during this interview to stop answering
21 questions and to remain silent."

22 Q. All right. And did Mr. Kinloch
23 indicate he understood each of those?

24 A. He did. Verbally and also by
25 placing his initials his next to each

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1 advisement.

2 Q. All right. And then did he sign it
3 as well?

4 A. He also signed it, yes.

5 Q. Okay. At any time did he claim any
6 of those rights? Did he want to remain
7 silent? Did he ask for a lawyer or anything
8 like that?

9 A. No time during the interview.

10 Q. Okay. And before or after you gave
11 him those rights?

12 A. No.

13 Q. Okay. Were any sorts of threats or
14 pressure or, you know, did you draw a gun,
15 anything like that, any sort of pressure put
16 on him to give you a statement?

17 A. No, he wasn't.

18 Q. Okay. What about any promises, any
19 promises that he wouldn't be charged or that
20 you would make a plea deal or anything like
21 that?

22 A. No.

23 Q. Okay. Was that statement audio and
24 video recorded?

25 A. It was.

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1 Q. Okay.

2 SOLICITOR OZMENT: I beg the Court's
3 indulgence. No further questions at this
4 time.

5 THE COURT: All right.

6 CROSS EXAMINATION

7 BY MR. FALK:

8 Q. Now, you have testified that you
9 spent several hours going through the house?

10 A. Yes, sir.

11 Q. And your goal was to find evidence
12 that you thought could be linked to this ---

13 A. To this crime, yes, sir.

14 Q. During the course of that investiga-
15 tion did you find any shotgun shells?

16 A. I don't recall finding any shotgun
17 shells. I'd have to look at the list but I
18 don't recall finding any shotgun shells.

19 Q. Well, I mean, if you saw a shotgun
20 shell, would that be something that you would
21 have photographed?

22 A. Yes, sir.

23 Q. Would you look back over the photo-
24 graphs just to refresh your memory to see if
25 you photographed any shotgun shells?

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1 A. Sure.

2 Q. Thank you.

3 A. (Upon review), there's no shotgun
4 shells in these pictures.

5 Q. Thank you. And you also looked
6 around the outside of the house; did you not?

7 A. That's correct.

8 Q. You didn't find any spent shotgun
9 shells outside either; is that correct?

10 A. That's correct.

11 Q. If you did you would have taken
12 photographs of them?

13 A. Yes, sir.

14 Q. Okay. The two spent cartridges that
15 you found on the driveway, did you believe
16 that they were involved in this shooting or
17 did you ---

18 A. Not knowing at the time, you know,
19 what caliber or rounds were used in this
20 incident, at the time, yes, we believed that
21 they possibly may be a link to the fact that
22 they were just laying in the actual driveway.

23 Q. Was there any effort to try and see
24 if there were fingerprints on those?

25 A. If you'll look at those -- there was

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1 no effort done to them. They looked like
2 they'd been possibly been ran over and drug
3 through some dirt and stuff. And so there
4 was no opportunities of getting any latents
5 off of these, these actual shell casings.

6 Q. There was no attempt; is that
7 correct?

8 A. Yeah. There was no attempt.

9 Q. And there's no way to tell by those
10 spent casings or cartridges, whatever they
11 are, -- cartridges -- of to the way they were
12 fired; is that correct?

13 A. That's correct.

14 Q. Was there any effort to try and
15 match them to a gun?

16 A. We didn't have any gun to match them
17 to.

18 Q. Well, we heard testimony earlier
19 that you were able to look at the slugs and
20 try and make some determinations of what kind
21 of gun the slug was fired from?

22 A. As far as any testimony earlier, I'm
23 -- anything dealing with ballistics would
24 have been sent up to SLED. And I don't
25 specialize in that field, so it would be for

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1 them to determine.

2 Q. Okay. And you had said that you saw
3 -- well, you showed us a photograph of an
4 electronic scale?

5 A. Yes. That was photographed with the
6 actual unspent cartridge.

7 Q. And that is typical of what you're
8 going to find in a house where somebody's
9 selling drugs; is that not correct?

10 A. Typically, just through our training
11 and experience over the years I've been doing
12 this, we do normally find electronic scales
13 connected to the drug industry and drug
14 activity.

15 Q. You went through the kitchen in that
16 house; did you not?

17 A. That was in the kitchen. Yes, sir.
18 Yes, sir.

19 Q. It didn't like any cooking was going
20 on there, was it?

21 A. Any cooking?

22 Q. It didn't look like somebody was
23 using the scale to measure out to do some
24 cooking?

25 A. Oh, no. No, sir.

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1 Q. I mean, no one was cooking dinner?

2 A. No, sir.

3 Q. And you had an opportunity in the
4 course of this investigation to talk to other
5 suspects; did you not?

6 A. Yes, sir.

7 Q. And was Christopher Tiller developed
8 as a suspect?

9 A. He was.

10 Q. Is he still a suspect?

11 A. Yes, sir.

12 Q. And do you know what he is currently
13 charged with?

14 A. I believe the same as the Defendant.

15 Q. Okay. During the course of this
16 investigation, was Joshua Pruitt ever
17 developed as a suspect?

18 A. He was.

19 Q. Is he still a suspect?

20 A. Yes, sir.

21 Q. And did his role, based on your
22 investigation and your interview -- you
23 interviewed Mr. Pruitt, did you not?

24 A. Joshua Pruitt?

25 Q. Joshua Pruitt?

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1 A. Yes, sir.

2 Q. And in your investigation and
3 interviews did you determine what Joshua
4 Pruitt's role might have been?

5 A. Based off of the investigation,
6 Joshua Pruitt assisted with removing the
7 victim from the crime scene and disposing
8 of the body from the crime scene.

9 Q. And, of course, we know that Patrick
10 Kinloch is a suspect or was a suspect?

11 A. Yes.

12 Q. Okay. And during the course of your
13 investigation, did you make a determination
14 of what his role in the shooting was?

15 A. Patrick?

16 Q. Yes?

17 A. During the investigation we deter-
18 mined Patrick Kinloch was the actual, the
19 shooter.

20 Q. During the course of that investiga-
21 tion did you have a chance to or do you have
22 an opinion based on your review of this case
23 as to where he was standing, Patrick Kinloch?

24 A. Patrick Kinloch, based on the
25 investigation and the evidence, it appears

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1 that Patrick Kinloch was standing in the area
2 of the driver's door of the vehicle.

3 Q. Because that lines up with the
4 trajectory of the -- you would have had an
5 opportunity to see the photographs of the
6 inside of the car; did you not?

7 A. Yes.

8 Q. And make some estimates as to the
9 trajectory of the bullet?

10 A. Well, I'm not an expert in that, but
11 based off just our experience, yes.

12 Q. So the shooter is Patrick Kinloch
13 and he was standing at the door of the car,
14 at the driver's side door of the car?

15 A. Yeah, somewhere in the area of the
16 driver's door.

17 Q. Okay. And during the course of this
18 investigation, did you determine that Mr.
19 Tiller was possibly selling drugs out of that
20 house?

21 A. Yes. That's based on the investiga-
22 tion, yes.

23 Q. Did you have any idea of the scope,
24 as to how much he was selling?

25 A. No, sir. When it came to the drug

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1 stuff our drug enforcement unit took that
2 side of the case because that wasn't what we
3 were there for.

4 Q. Okay. If results of fingerprint
5 tests were developed, would that have been
6 something that you would have seen?

7 A. Yeah. If we got any kind of latents
8 back or anything like that, then our
9 forensics folks would have -- or, you know,
10 if it was sent to SLED, then SLED would
11 advise us if there was any kind of hits back
12 off any kind of latents.

13 Q. And, again, based on your
14 examination here, there were no latents that
15 identified Jason Kinloch; is that correct?

16 A. Not that I'm aware of.

17 Q. There were latents, though, that
18 identified Patrick?

19 A. I believe so.

20 Q. Okay. Earlier we have heard
21 testimony that there were attempts made to
22 see if there's any touch DNA evidence?

23 A. Okay.

24 Q. If they had positive results of DNA
25 would that have been something you would have

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1 seen?

2 A. We would have got the results from
3 -- all DNAs get sent up to SLED so the
4 results would have come back to the case
5 agent, which would have been, which is
6 Sergeant Riser. And they would have got that
7 evidence back if there was anything back off
8 of touch DNA.

9 Q. And through your continuing investi-
10 gation of the case you never were presented
11 with any result of DNA testing that
12 identified my client?

13 A. Not that I recall.

14 Q. I would guess as close to going into
15 the house after what you believe the shooting
16 would have occurred, you would have been
17 looking for guns as well; is that correct?

18 A. Inside the residence?

19 Q. Inside the residence?

20 A. Yeah. We had a search warrant for
21 the entire property so we searched the entire
22 property to include the residence; yes.

23 Q. And did you find any guns?

24 A. We did not.

25 Q. That means you also did not find a

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1 shotgun; is that correct?

2 A. That's correct.

3 MR. FALK: One moment, please?

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION CONTINUED

6 BY MR. FALK:

7 Q. Just to summarize it, you didn't see
8 any DNA evidence, fingerprint evidence. Was
9 there any evidence that would specifically
10 link -- based on your view inside the house
11 that would specifically link Jason Kinloch,
12 as opposed to anyone else in that house, with
13 this event?

14 A. Other than Jason Kinloch was staying
15 at that residence. There's evidence that he
16 was staying at that residence. Based off the
17 interviews with your client over the
18 defendant and him, during the course of that,
19 placing himself at the scene, yes.

20 Q. But, again, there was no other type
21 of physical evidence, forensic evidence?

22 A. That's correct.

23 MR. FALK: No further questions.

24 THE COURT: Thank you. Any
25 redirect?

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1 SOLICITOR OZMENT: Briefly, Your
2 Honor.

3 REDIRECT EXAMINATION

4 BY SOLICITOR OZMENT:

5 Q. Captain Shuler, you said there were
6 some things that showed Mr. Kinloch stayed in
7 the house. Do you recall what some of those
8 things were?

9 A. There were some personal items.
10 There was his ID that was found at the
11 residence. That linked him there. And,
12 also, obviously during the course of the
13 interview he stated he stayed there.

14 Q. Did you see his ID in the residence?

15 A. I did.

16 SOLICITOR OZMENT: May I approach,
17 Your Honor?

18 THE COURT: You may.

19 REDIRECT EXAMINATION CONTINUED

20 BY SOLICITOR OZMENT:

21 Q. I'm going to show you what's been
22 marked as State's exhibit 50. Do you
23 recognize that?

24 A. I do.

25 Q. What is that?

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1 A. That's a South Carolina ID bearing
2 the name "Jason Edward Kinloch".

3 Q. And where was that found?

4 A. That was actually found inside -- I
5 believe the dryer mixed in with some drug
6 paraphernalia and some drugs.

7 Q. Okay.

8 SOLICITOR OZMENT: Your Honor, at
9 this time, the State would move State's
10 Exhibit 50 into evidence.

11 THE COURT: Any objection?

12 MR. FALK: No objection.

13 THE COURT: Without objection,
14 State's Exhibit 50 is admitted.

15 (SO ENTERED AS STATE'S EXHIBIT 50)

16 REDIRECT EXAMINATION CONTINUED

17 BY SOLICITOR OZMENT:

18 Q. Do you recall if there were any
19 pictures of Mr. Jason Kinloch in the house?

20 A. I believe there was some pictures I
21 took of some folks on the wall, inside one of
22 the bedrooms.

23 Q. All right. I'm going to show you
24 what's been marked as State's Exhibits 45,
25 46, and 47 and tell me if you recognize

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1 those?

2 A. Yeah. Are the pictures that were
3 actually up on the wall in the bedroom. You
4 can see the holes in them where they were
5 pinned to the wall.

6 Q. Okay. In the
7 house?

8 A. That's correct.

9 SOLICITOR OZMENT: All right. Your
10 Honor, at this time we'd move State's Exhibit
11 45, 46, and 47 into evidence.

12 THE COURT: Any objection?

13 MR. FALK: No objection.

14 THE COURT: Without objection,
15 they're admitted, 45, 46, AND 47.

16 (SO ENTERED AS STATE'S EXHIBIT 45)

17 (SO ENTERED AS STATE'S EXHIBIT 46)

18 (SO ENTERED AS STATE'S EXHIBIT 47)

19 SOLICITOR OZMENT: I beg the Court's
20 indulgence. No further questions, Your
21 Honor.

22 THE COURT: All right. Any
23 recross based on his redirect?

24 MR. FALK: No, Your Honor.

25 THE COURT: All right. Thank you.

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1 Honor. The State calls Malcom Kinloch to
2 the stand.

3 (WITNESS TAKES STAND)

4 MALCOLM KINLOCH, having been duly sworn
5 to tell the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR OZMENT:

9 Q. How are you doing today, Mr.
10 Kinloch?

11 A. I'm all right.

12 Q. What do people call you, other than
13 Malcolm?

14 A. Lonnie.

15 Q. "Lonnie"?

16 A. Uh-huh.

17 Q. Where do you live, Mr. Kinloch?

18 A. Huger, South Carolina,

19

20 Q. On ?

21 A. Yes, sir.

22 Q. I'm going to show you a picture
23 marked State's Exhibit 24. Do you recognize
24 that photo?

25 A. Yeah. That's the house across the

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1 street from me.

2 Q. Okay. And when you say across the
3 street, from your front yard can you see that
4 house?

5 A. Yes, sir.

6 Q. Okay. How long have you lived in
7 your house?

8 A. Maybe twenty years.

9 Q. Okay. Were you living in your house
10 back in September of 2012?

11 A. Yes, sir.

12 Q. All right. Do you recall that
13 evening back in September 2012 where
14 something suspicious may have been going on
15 across the street?

16 A. Yes, sir, I do.

17 Q. Okay. What were you doing that
18 evening?

19 A. I was putting up a mailbox.
20 Somebody hit my mailbox -- I don't know what
21 they day they hit it, but I bought a new
22 mailbox from Lowe's and was about to put it
23 up on that particular day.

24 Q. Okay. And is your mailbox -- is it
25 out on ?

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1 A. Yes, sir.

2 Q. All right. So like that picture I
3 just showed you, which is coming from the
4 roadway, is that approximately where your
5 mailbox would be?

6 A. Yes, basically. Looking at this
7 house, it's to the left in front of my
8 driveway.

9 Q. Okay. What time of day was it when
10 you were out putting up your mailbox, about?

11 A. I don't know. It was afternoon,
12 maybe about 6:00, 6:15, something like that,
13 somewhere in that area.

14 Q. Okay. Did you notice any activity
15 going on across the street?

16 A. Yeah. When I went to put the new
17 mailbox that I put together, you know, in the
18 ground, I was going to put it in. And the
19 old one, I wanted to pull it up. But I was
20 like, you know, 'I don't want to get any
21 splinters in my hand.' So I went back and
22 got my gloves.

23 And when I came back, then that's when I
24 saw -- I think it was -- one gentleman came
25 out and got in the driver's seat ---

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1 Q. And let me stop you. When you said
2 "driver's seat," what are we talking about?

3 A. There was a Suburban, SUV, I guess,
4 a Tahoe or something like that parked in this
5 driveway at this house.

6 Q. Let me stop you one second.

7 A. All right.

8 Q. Let me find -- I'm going to put a
9 picture up behind you. That may help you be
10 able to describe it. This is State's Exhibit
11 25; you recognize what we're looking at?

12 A. Yes, sir.

13 Q. Where was the Suburban in this
14 photo?

15 A. The Suburban was parked up right to
16 the corner of the house. It was pulled up
17 kind of far.

18 Q. Okay. And you could see it though,
19 from where you were ---

20 A. Yes, sir, I could.

21 Q. Okay. You said that Suburban --
22 tell me what you saw next after you saw the
23 Suburban sitting there?

24 A. When the Suburban -- the truck was
25 parked over in this corner right here. A

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1 gentleman came out, got in the driver's seat.
2 And two immediately came out. One went on
3 the passenger's side, and the other one went
4 on the driver's side as well. And then a
5 third guy came out the house.

6 Q. Okay. So a total of four guys came
7 out?

8 A. Yes.

9 Q. And the first got in the driver's
10 seat?

11 A. Yes.

12 Q. Did the other three -- did any of
13 them get in the Suburban?

14 A. Not to my knowledge.

15 Q. Did you hear anything?

16 A. Yes, I did.

17 Q. What did you hear?

18 A. "Where's the money?"

19 Q. Okay. Could you tell who was saying
20 that?

21 A. Not at that time.

22 Q. Okay. Did you recognize any of
23 these three gentlemen or -- excuse me -- any
24 of these four gentlemen. Did you recognize
25 any of the four?

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1 A. Yeah. At the time, one I thought I
2 recognized.

3 Q. Who did you think you recognized?

4 A. I thought it was Jason.

5 Q. How do you know Jason?

6 A. He lives in the area. I don't know
7 him that well. He's much younger than me.
8 But I know his dad. I don't know his dad
9 that well because he's older. And I don't
10 know Jason too well, but I know of Jason.

11 Q. Okay. And are you related to them
12 in any way because y'all have the same last
13 name?

14 A. Fifth, sixth cousins, something like
15 that. I'm not sure.

16 Q. A lot of Kinlochs live out in that
17 area?

18 A. Yeah. Yeah, pretty much. Yes, sir.

19 Q. Do you know where his dad lives?

20 A. Yes, sir.

21 Q. Where does his dad live?

22 A. Maybe about three or four house down
23 from me, on the other side of the street, on
24 the same side of my house, maybe about three
25 or four houses.

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1 Q. All right. And you say you thought
2 it was Jason. Are you sure it was Jason?

3 A. No, I'm not sure.

4 Q. Okay. And the person that you
5 thought was Jason, did you hear that person
6 say anything or do you know?

7 A. At that time I thought he was the
8 one that said that, the guy that came out the
9 house, the third guy.

10 Q. And what did you think he was
11 saying?

12 A. "Where's the money?"

13 Q. Okay. When you say "came out of the
14 house," what -- did he just come out of the
15 door or how close did he get to the car, that
16 third person?

17 A. Well, he came out that same door
18 right there and came up to the truck on the
19 driver's side.

20 Q. All right. Not the guy who got in
21 the truck, but the three guys that came out,
22 did any of them linger back or did they all
23 kind of all go over ---

24 A. No. They all were at the truck.
25 They all were there, right around the truck.

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1 Q. Okay. So the three guys are around
2 the truck, you hear some yelling. How long
3 does that go on?

4 A. A few seconds. It was real quick,
5 very quick.

6 Q. And then what happened?

7 A. There was a shot.

8 Q. Okay. Can you tell who shot?

9 A. No, sir.

10 Q. Could you tell if any of them had
11 guns or anything?

12 A. No, sir.

13 Q. After you heard -- how many shots
14 did you hear?

15 A. At the time, one; one that I can
16 remember.

17 Q. Okay. Do you remember any other
18 shots before or after this?

19 A. No, sir.

20 Q. After you heard that one shot, what
21 did you do?

22 A. I kind of froze and kept -- I didn't
23 want anybody to think I saw anything, so I
24 continued doing what I was doing, which was
25 putting in my mailbox.

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1 Q. Why didn't you want anybody to think
2 you saw anything?

3 A. It's none of my business, you know.
4 Didn't want nothing to do with it.

5 Q. Okay. How long does it take the
6 police to respond out to where you live?

7 A. You mean actually when they came to
8 talk to me?

9 Q. No. I mean, out where you live?

10 A. Oh, God, I don't know. Maybe thirty
11 minutes, forty-five minutes, an hour.

12 Q. Is it in a pretty remote part of the
13 county?

14 A. Yeah, pretty much.

15 Q. Okay. So after you heard the shot
16 you kind of go back to doing your business.
17 What happens with the truck and the people
18 that were around it?

19 A. After I put, you know, my mailbox up
20 and all, I got the old pieces, whatever was
21 going to take it and dump it to the solid
22 waste, stuff that I usually dump to -- we
23 call it a dump area. That's when I saw Jason
24 and Christopher walk down the highway.

25 Q. They were walking on the highway?

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1 A. Yes, sir.

2 Q. Were they near the house or where
3 were they walking on the highway?

4 A. Oh, they were kind of like right --
5 maybe the middle part of the house, on the
6 street itself.

7 Q. All right.

8 SOLICITOR OZMENT: Let's go back just
9 to State's Exhibit 24.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR OZMENT:

12 Q. You hit this button right here. It
13 will make a pointer.

14 A. Okay.

15 Q. All right. Looking at the house,
16 about where were they walking if you can tell
17 on that?

18 A. About right up here.

19 Q. Okay. So dead in front of the house
20 basically?

21 A. Yes.

22 Q. Okay. I'm also going to ask you,
23 since you live there, in this picture I see a
24 little white building over there on the left?

25 A. Yes.

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1 Q. What is that little white building?

2 A. It used to be a club.

3 Q. Okay. Do you know what people
4 called that?

5 A. No. I mean, it's just a club that I
6 know of. I don't know the name.

7 Q. Okay. Back on the day that this was
8 happening, was anybody over there at the
9 white building?

10 A. Yeah. There was two gentlemen
11 sitting outside. As a matter of fact,
12 Christopher was on the left side because I
13 said hello to him.

14 Q. Okay. When you say "Christopher,"
15 who are you talking about?

16 A. Christopher Tiller.

17 Q. Okay. So you said that you
18 collected the stuff from your mailbox and you
19 saw Christopher and Jason walking down the
20 street?

21 A. Yeah.

22 Q. Where were they walking?

23 A. They was walking, you know, just
24 going straight on the street. But, you know,
25 to say where they were going, I can't say

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1 that.

2 Q. All right. Did you acknowledge them
3 in any way?

4 A. I just threw my hand up and they
5 threw their hand up. That was it.

6 Q. Okay. Did you make eye contact?

7 A. No. We didn't really make eye
8 contact. Well, I looked at them but they
9 didn't really look at me.

10 Q. Okay. Are you sure -- I know the
11 first time you said you weren't sure, you
12 thought it was Jason. This time, were you
13 sure that was Jason that you saw?

14 A. Oh, yeah, definitely. Yes, sir.

15 Q. Did you see what happened with the
16 Suburban when it was parked in the driveway
17 after you, like, heard the shot?

18 A. No, sir, I didn't.

19 Q. Do you know how long it sat in the
20 driveway?

21 A. Maybe forty-five minutes, an hour,
22 something like that.

23 Q. So it wasn't -- it didn't move --
24 immediately get moved, did it?

25 A. Oh, no. No, sir.

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1 Q. At some point, did the police talk
2 to you about this?

3 A. Yeah, they did.

4 Q. How long after this happened did the
5 police talk to you?

6 A. I think a couple of days.

7 Q. Okay. And where did you talk to the
8 police?

9 A. They came to my job.

10 Q. Okay. Did you tell them what you're
11 telling me now?

12 A. Not at that time.

13 Q. What did you tell them at the time?

14 A. I told them I didn't really want to
15 talk about it. I didn't have anything to do
16 with it.

17 Q. Okay. And why is that?

18 A. Well, I'm the type of person to mind
19 my business. I don't want any trouble, you
20 know. So, I just mind my own business.

21 Q. Did you eventually tell the police
22 what happened and what you're testifying to
23 here today?

24 A. Yeah. They came to my other job.

25 Q. Persistent, I guess, huh?

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1 A. Yes, very.

2 Q. All right. Is this the truth that
3 you're telling here today?

4 A. Yes, sir.

5 SOLICITOR OZMENT: No further
6 questions, Your Honor.

7 THE COURT: Mr. Falk?

8 CROSS-EXAMINATION

9 BY MR. FALK:

10 Q. You know Chris Tiller; is that
11 correct?

12 A. That's correct.

13 Q. And has he lived in that house for a
14 period of time?

15 A. Yes, sir.

16 Q. Do you know where he works?

17 A. Have no idea.

18 Q. Have you ever seen him going to a
19 job?

20 A. I couldn't answer that.

21 Q. Did you ever see people coming to
22 visit him?

23 A. Quite a few people.

24 Q. He gets quite a few cars driving in
25 and out?

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1 A. That's correct.

2 Q. All times during the day?

3 A. That's correct.

4 Q. Are you a little concerned about
5 what's going on at Mr. Tiller's house?

6 A. If I'm concerned?

7 Q. Yeah?

8 A. As long as it don't effect where I
9 live.

10 Q. When did you call -- so you never
11 called the police once you heard the shot; is
12 that correct?

13 A. No, sir.

14 Q. And why was that?

15 A. Well, I wasn't sure of what actually
16 happened. So I didn't want to call and there
17 was some type of false accusation on my part.
18 And then me and some other people got a
19 problem. So I'm the type of person to mind
20 my business.

21 Q. And when do you recall giving this
22 statement to the police?

23 A. Like I said, I talked to them a
24 couple of days afterwards. And then, I
25 think, a couple days after that or it might

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1 have been day after that, they came to my
2 second job and that's when I talked to them.

3 Q. So the first time you ever told
4 somebody what your memory of the event was,
5 that's four or five days later? Three or
6 four, I'm just ---

7 A. That could be. That could be
8 possible.

9 Q. It wasn't that afternoon?

10 A. No, sir.

11 Q. It wasn't the next day?

12 A. No, sir.

13 Q. And they came to your job one day?

14 A. Yes, sir.

15 Q. And then they came to your other job
16 another day?

17 A. Yes, sir.

18 Q. Four or five days maybe, though?

19 A. Uh-huh, could be.

20 Q. You testified that you saw somebody
21 coming out of the house?

22 A. Uh-huh.

23 Q. How far away were you at the time?

24 A. About halfway in my driveway.

25 Q. I beg your pardon?

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1 A. Halfway in my driveway, so I'm
2 walking ---

3 Q. Is your driveway -- just so they can
4 get an idea, is your driveway about as long
5 as Mr. Tiller's driveway?

6 A. It's longer.

7 Q. Okay. If somebody was carrying a
8 shotgun, would you have been close enough to
9 see it?

10 A. I'm moving towards them. It
11 happened kind of quick. I can't answer that.
12 You know, it was very fast.

13 Q. So your memory of people coming out
14 and people saying stuff and coming to the
15 car, that's all a very quick memory?

16 A. Yeah, because everything happened
17 fast. It was real quick.

18 Q. And you only heard one shot; is that
19 correct?

20 A. That's what I remember.

21 Q. And the whole time you were outside
22 the house; is that correct?

23 A. Uh-huh.

24 Q. You would have been close enough to
25 hear another shot; right?

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1 A. Yeah, because by that time I had
2 already got to my mailbox.

3 Q. Yeah, okay. So based on your
4 recollection now and maybe when you spoke to
5 the police, you're still -- you only heard
6 one shot go off?

7 A. That's all I can remember.

8 Q. I beg your pardon?

9 A. That's all I can remember for right
10 now.

11 Q. Okay. Did you suspect that Mr.
12 Tiller might have been selling drugs out of
13 that house?

14 A. (Witness pauses).

15 Q. Consistent ---

16 A. A lot of activity. I'm not sure.
17 You know, I can't say what he specifically
18 did out there, just a lot of activity.

19 Q. Thank you.

20 A. Okay.

21 THE COURT: Any redirect?

22 SOLICITOR OZMENT: No redirect, Your
23 Honor.

24 THE COURT: Thank you. You may
25 step down.

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1 (WITNESS STEPS DOWN)

2 SOLICITOR OZMENT: May he be released
3 from his subpoena, Your Honor.

4 THE COURT: Any objection?

5 MR. FALK: No objection.

6 THE COURT: Have a nice day, sir.

7 SOLICITOR OZMENT: Your Honor, the
8 State would call Geno Alteri to the stand.

9 (WITNESS TAKES STAND)

10 GENO ALTERI, having been duly sworn to
11 tell the truth, and nothing but the truth,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR OZMENT:

15 Q. How are you today, Mr. Alteri?

16 A. Fine, thank you.

17 Q. What do you do for a living?

18 A. I work for the Berkeley County
19 Sheriff's Office.

20 Q. What capacity do you work with
21 Berkeley County?

22 A. I'm a Sergeant in the forensics unit
23 at this time.

24 Q. All right. What were you doing back
25 in September of 2012?

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1 A. I was a Sergeant in the criminal
2 investigation division, persons crime.

3 Q. All right. Were you involved in the
4 case we're here for today?

5 A. I was.

6 Q. Did you ever have an opportunity to
7 have a conversation with Mr. Jason Kinloch?

8 A. I did.

9 Q. Okay. Do you remember what day that
10 happened?

11 A. I believe it was on the 19th,
12 9/19/2012.

13 Q. September 19th, 2012? All right.
14 Who was present when you had that conversa-
15 tion with Mr. Kinloch?

16 A. At the time it was Sergeant Shuler.

17 Q. Where did that conversation take
18 place?

19 A. At the Berkeley County Sheriff's
20 Office in one of the interview rooms.

21 Q. Was he in -- when I say "he," was
22 Jason Kinloch under arrest at the time of the
23 interview?

24 A. He was.

25 Q. Okay. Did you go over his *Miranda*

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1 rights?

2 A. I did.

3 Q. I'm going to show you what's already
4 in evidence -- excuse me. I'm going to move
5 some of this out of your way -- as State's
6 Exhibit 40. Do you see your signature on
7 State's Exhibit 40?

8 A. I do.

9 Q. Do you see Mr. Kinloch's signature
10 on State's Exhibit 40?

11 A. I do.

12 Q. Did you see him sign that piece of
13 paper?

14 A. I did.

15 Q. And what's the other signature on
16 that sheet of paper?

17 A. That would be Sergeant Shuler.

18 Q. All right. Did you go over with Mr.
19 Kinloch his *Miranda* rights?

20 A. I did.

21 Q. How did you do that?

22 A. I read each one of the lines to him.
23 And after, have him initial them.

24 Q. Did he appear to understand them?

25 A. Yes.

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1 Q. Did he ask any questions or anything
2 like that on any of them?

3 A. I don't recall.

4 Q. Okay. At any point did he say,
5 'well, I do want to remain silent' or 'I want
6 an attorney', or invoke any of those *Miranda*
7 rights?

8 A. No.

9 Q. Okay. At any point in your
10 conversation at all, from beginning to end,
11 did he invoke any of those *Miranda* rights?

12 A. No, sir.

13 Q. All right. Were there ever any
14 threats, coercion, pressure, guns drawn,
15 physical violence, anything to make him talk
16 to you?

17 A. No, sir.

18 Q. Did he voluntarily talk to you?

19 A. Yes, sir.

20 Q. Okay. What about the promises, did
21 you promise to drop the charge or to make a
22 plea deal or anything like that to get him to
23 talk to you?

24 A. No, sir.

25 Q. Okay. Was this conversation record-

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1 ed in any way?

2 A. It was. It was audio and video.

3 Q. Okay. And how was that set up?

4 A. There's a camera mounted in the
5 ceiling with the mic. We basically advise
6 them when they come into the room that the
7 room is audio and video recorded so that they
8 know.

9 Q. Did he know he was being recorded?

10 A. He did.

11 Q. And that system that's recording is
12 there any way to tamper with that or to
13 manipulate the tapes or edit them to make
14 them look one way or another?

15 A. No, sir.

16 Q. Okay. I'm going to show you what's
17 been marked as State's Exhibit 43. I'm going
18 to ask you to look at that and tell me if
19 you've seen that disk before?

20 A. I have.

21 Q. How do you know you've seen that
22 disk before?

23 A. My initials are on here.

24 Q. All right. Is there a date with
25 those initials?

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1 A. Yes. 10/24/2014.

2 Q. What did you do when you initialed
3 that disk?

4 A. I wrote the date and the time.

5 Q. Okay. And did you watch the disk at
6 that time?

7 A. I did.

8 Q. Does that disk contain the conver-
9 sation with Mr. Kinloch we've been talking
10 about?

11 A. It does.

12 Q. All right. And does it contain the
13 *Miranda* rights that we've just talked about?

14 A. It does.

15 SOLICITOR OZMENT: Your Honor, at
16 this time, the State would play Exhibit 43.

17 THE COURT: All right. Ladies and
18 gentlemen, as this is being played, there are
19 certain areas that the attorneys have agreed
20 you would not hear. As it goes through,
21 because it may violate some rule of evidence
22 or something, as I said. Nobody's trying to
23 hide anything from you, but there are certain
24 rules of evidence that do apply. Please do
25 not infer good or bad about anything that is

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1 related. And I think the way they're going
2 to do is they'll play it and they'll cut the
3 sound. Is that correct, Solicitor?

4 SOLICITOR OZMENT: That's correct.
5 Your Honor. It'll be muted.

6 THE COURT: But don't infer
7 anything for the State or for the Defendant
8 or against the State or against the
9 Defendant. What you hear is the only part
10 that will be actual. All right. Thank you.
11 You may proceed.

12 SOLICITOR OZMENT: Thank you, Your
13 Honor. Permission to publish, Your Honor?

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR OZMENT:

17 Q. (Video playing to "...doing that since
18 I was born -- (video paused).

19 (Video resumed with): "...reason we
20 are here...)

21 (Video paused) at "ever rode with
22 Izzy..."

23 (Video resumed with): "...ride down
24 the road."

25 (Video paused with): "That's my

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1 homeboy."

2 (Video resumed with): "me and him
3 used to know..." ---

4 THE COURT: All right. Y'all need
5 a break. I'm going to give you a ten-minute
6 recess and then we'll come back. Do not
7 discuss anything about this while you're out.

8 (JURY OUT @ 4:17 P.M.)

9 THE COURT: All right. Court will
10 be in recess for ten minutes.

11 (BRIEF RECESS)

12 THE COURT: Let's bring our jury.

13 (DEFENDANT PRESENT)

14 BAILIFF: It'll be just a moment,
15 Judge. We've got one ---

16 THE COURT: We've got one, okay?

17 BAILIFF: Yeah.

18 THE COURT: The Court will be at
19 ease.

20 (JURY IN @ 4:30)

21 THE COURT: You may be seated.

22 All right. Ladies and gentlemen, I think
23 we've got about twenty more minutes.

24 Everybody kind of freshened up a little bit.
25 I told you that could happen. It happens

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1 more than it should, but I'm glad you're wide
2 awake now. Solicitor, you may continue.

3 SOLICITOR OZMENT: Your Honor, there's
4 about five minutes of dead time here so I'm
5 going to skip forward to when they reenter
6 the room at about the one hour mark.

7 THE COURT: Okay.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR OZMENT:

10 Q. (Video, State's Exhibit 43 resumed
11 and played to: "I really don't know too much
12 about guns." (Video paused)

13 (Video resumed with): "whatever kind of
14 gun it was" (video played to conclusion).

15 SOLICITOR OZMENT: Your Honor,
16 there's about five minutes of dead time here
17 so I'm going to skip forward to when they
18 reenter the room at about the one hour mark.

19 THE COURT: Okay.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR OZMENT:

22 Q. Sergeant Alteri is that video as you
23 remember it?

24 A. Yes.

25 Q. On the video I noticed Mr. Kinloch

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1 was filling out kind of a map or a diagram.
2 I'm going to hand you State's Exhibit 42. Do
3 you recognize that?

4 A. I do.

5 Q. What is that?

6 A. This is the sketch that we had him
7 draw of the incident location.

8 Q. Okay. And did he sign that?

9 A. He did.

10 Q. All right.

11 SOLICITOR OZMENT: Your Honor, at
12 this time we've move State's Exhibit 42 into
13 evidence.

14 THE COURT: Any objection?

15 MR. FALK: No objection.

16 THE COURT: Without objection,
17 State's Exhibit 42 is admitted.

18 (SO ENTERED AS STATE'S EXHIBIT 42)

19 SOLICITOR OZMENT: No further
20 questions, Your Honor.

21 THE COURT: Mr. Falk?

22 MR. FALK: We have no questions.

23 THE COURT: All right. Thank you.
24 You may step down.

25 (WITNESS STEPS DOWN)

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1 SOLICITOR OZMENT: Your Honor, our
2 next witness is also going to involve a
3 fairly lengthy video. It may be time to call
4 it an evening.

5 THE COURT: All right. I agree.
6 All right. Ladies and gentlemen, that's all
7 the testimony and evidence that you're going
8 to have for today. Please be back here at
9 9:30 tomorrow morning. And we'll proceed.
10 Have a good night's rest. Get some sleep.
11 And we'll see y'all back at -- please do not
12 discuss the case with anyone or read anything
13 in the news. Thank you.

14 (JURY OUT @ 4:54 P.M.)

15 THE COURT: Anything else we need
16 to take up?

17 SOLICITOR OZMENT: Just briefly, Your
18 Honor. I guess maybe I'd ask for it to be
19 made a make Court's Exhibits, we had
20 discussed those redactions to Exhibit 43,
21 which I think Mr. Falk and I kind of went
22 through when we played the tapes yesterday
23 and agreed to these times. I was following
24 them along as my paralegal Nina started and
25 stopped them.

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1 THE COURT: That's just so that
2 the -- for the record is clear?

3 SOLICITOR OZMENT: For the record
4 just so we know exactly where any of it
5 stopped and started.

6 THE COURT: All right. That will
7 be a Court's Exhibit. Is that number 1?

8 COURT REPORER: Yes, sir. Number 1.

9 (SO MARKED AS COURT'S EXHIBIT 1)

10 SOLICITOR OZMENT: And when we play
11 the other video tomorrow we'll have a similar
12 situation.

13 THE COURT: All right.

14 (SO ENTERED AS COURT'S EXHIBIT 1)

15 SOLICITOR OZMENT: But I guess just
16 for the record that's when it's played, all
17 the times on there. And that's played in the
18 windows media player. And the video starts
19 at zero and ends at like about a hour and
20 twenty-seven.

21 THE COURT: And you've put the
22 local times?

23 SOLICITOR OZMENT: Yes. The times
24 refer to the time on the video and played in
25 Windows Media Player.

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1 MR. FALK: Your Honor, maybe for
2 the purpose of the record, we should say into
3 the record what was redacted or what the
4 scope of the redaction was so that some court
5 is reviewing at another time. They know if
6 they --

7 THE COURT: Well, it's not a
8 problem was it?

9 MR. FALK: No, and ---

10 THE COURT: I mean, you just want
11 to know ---

12 MR. FALK: I am concerned -- and
13 maybe I'm needlessly concerned as to, you
14 know, -- if this could get to an appellate
15 court or get somewhere else and they're not
16 going to know what is redacted because they
17 may not be playing this thing in Windows
18 Media Player.

19 THE COURT: No, but y'all consent
20 for this to stay out; correct?

21 SOLICITOR OZMENT: Yes.

22 THE COURT: So it would never come
23 in. I mean, if both the prosecution and the
24 defense -- the appellate court is not going
25 to go back on its own accord and put evidence

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1 back in the record.

2 MR. FALK: Yeah. My point is if
3 they go back in -- there is no -- does she
4 transcribed the record of what you just heard
5 on the record?

6 THE COURT: I doubt it. You don't
7 do that do you?

8 COURT REPORER: No, Your Honor.
9 They are to provide a transcript or a list of
10 redactions. I made a note of when they went
11 off and when they went on, so we'd know
12 exactly it started and stopped. I can
13 reflect that in the record but the video is
14 not of a quality for me to transcribe.

15 MR. FALK: Okay. I think I'm
16 being needlessly worried.

17 THE COURT: I mean, I've never had
18 a situation where something that has been
19 taken out of the record by agreement of the
20 parties and they never even contemplated
21 being put back in the record by appellate. I
22 mean, I don't think they have the ability to
23 do that.

24 SOLICITOR OZMENT: And just to keep
25 it clean, the reason we're doing all of this

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1 is because any references to his prior
2 record, prior interaction with police and
3 probation, I think we successfully ---

4 THE COURT: And they would be
5 absolutely admissible ---

6 MR. FALK: Well, I mean, it would
7 be my point just saying we redacted out his
8 prior record.

9 THE COURT: All right. We're
10 going to have that on the record. And that's
11 fine. And I'll also give a charge for other
12 things that come up that although he has
13 other charges and you've heard about those
14 charges, the jury is only to consider these
15 new charges. You know, I'll cover us on
16 that.

17 MR. FALK: I did not mean word-
18 for-word that it went back in -- what the
19 scope of that was.

20 THE COURT: That is now in the
21 record. All right. My clerk will send you a
22 draft copy of the charge. Please review it
23 and be ready to talk about it in the morning.
24 Of course, we don't have all the evidence and
25 we don't know how it's going to end up but

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1 that'll be -- at least we've got a baseline
2 to start from. All right. Court's adjourned
3 until 9:30 tomorrow morning.

4 SOLICITOR OZMENT: Thank you, Your
5 Honor.

6 (COURT IN RECESS)

7 (TRANSCRIPT CONTINUED NEXT PAGE)

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9:30 A.M.

4

5

(DEFENDANT PRESENT)

6

7

8

THE COURT: Good morning. Do we
need to take up on the record before we bring
our jury in?

9

10

MR. FALK: Nothing from the
Defense, Your Honor.

11

12

SOLICITOR OZMENT: None from the
State, Your Honor.

13

14

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17

THE COURT: All right. Very good.
Let's hope we have a rested jury this
morning. It's nice and cool in here so that
will them even more awake. Please, let's
bring them in.

18

(JURY IN @ 9:39 A.M.)

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THE COURT: Good morning, ladies
and gentlemen. I hope y'all had a good
night's rest. The really nice weather, it
looks like it's going to have some rain
tonight and then it's going to get cold this
weekend. So the typical fall weather, I
guess.

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1 Is the State ready to proceed with
2 its testimony?

3 SOLICITOR WEST: Yes, Your Honor.

4 THE COURT: Is the Defense ready?

5 MR. FALK: Yes, Your Honor.

6 THE COURT: You may call your next
7 witness.

8 SOLICITOR WEST: Thank you, Your
9 Honor. The State calls Dr. Nicholas Batalis.

10 (WITNESS TAKES STAND)

11 NICHOLAS BATALIS, having been duly sworn
12 to tell the truth, and nothing but the truth,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR WEST:

16 Q. Good morning, Doctor. Where do you
17 work?

18 A. I work at the Medical University of
19 South Carolina in Charleston.

20 Q. How long have you worked there?

21 A. I've been on the faculty there for
22 just over six years now.

23 Q. Can you describe for the jury your
24 background, training and experience?

25 A. Sure. As far as background goes, I

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1 graduate college from Butler University in
2 Indianapolis, Indiana. I then moved on to
3 medical school at Emory University School of
4 Medicine. After completing my medical
5 degree, I moved to Charleston for four years
6 of training in anatomical and clinical
7 pathology. After that four years, I took an
8 examination to become Board Certified in
9 General Pathology and then performed a one-
10 year specialized Fellowship in Forensic
11 Pathology, after which, again, I took an
12 examination to become Board Certified and
13 then came to my present employment.

14 Q. What is forensic pathology?

15 A. So, forensic pathology is a field of
16 medicine -- I'll step back for a second just
17 to describe pathology. So pathology is a
18 field of medicine that deals with the study
19 and diagnosis of disease. So a general
20 pathologist would be the one that would tell
21 you if your biopsy is cancer or if it's not
22 cancer. We'd be working with the surgeon and
23 physicians. We're also the ones that
24 interpret laboratory values when you get your
25 blood drawn.

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1 Forensic pathology is in a sub-set of
2 that that deals with really the medical legal
3 aspects of medicine, and mostly performing
4 autopsies to determine the cause and manner
5 of death.

6 Q. How many autopsies would you say
7 you've performed?

8 A. Somewhere between fifteen hundred
9 and two thousand.

10 Q. Have you ever testified in court
11 before?

12 A. Yes, several times. And I've been
13 qualified in Texas, North Carolina and South
14 Carolina.

15 Q. Have you ever been qualified as an
16 expert in forensic pathology?

17 A. Yes.

18 Q. Is your work ever peer reviewed?

19 A. Yes. We have a peer-review process
20 within our office where approximately ten
21 percent of all the cases that come through
22 the office are subject to review by the other
23 five pathologists that we work with.

24 SOLICITOR WEST: Your Honor, at
25 this time, the State would move Dr. Batalis

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1 as an expert in the area of forensic
2 pathology.

3 THE COURT: Mr. Falk, would you
4 like to voir dire him?

5 MR. FALK: No objection.

6 THE COURT: All right. Ladies and
7 gentlemen, as this was with the other expert
8 yesterday, normally a person can only testify
9 as to what they saw, heard, tasted, smelled
10 or felt. However, when somebody has had an
11 extra education and experience, we allow them
12 to give their opinion and then they state
13 their reason for opinion. You, as jurors, do
14 not have to accept his opinion and you can
15 give it the weight that you deem appropriate.

16 Thank you. You may proceed.

17 SOLICITOR WEST: Thank you, Your
18 Honor.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR WEST:

21 Q. Do you remember the incident that
22 brings us here today?

23 A. I do.

24 Q. Did you ever have an encounter with
25 the victim in this case, Robert Moultrie?

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1 A. Yes. I performed the autopsy on Mr.
2 Moultrie on September 11th of 2012.

3 Q. Can you describe for the jury your
4 initial steps in an autopsy?

5 A. Sure. So the -- when we receive a
6 body for autopsy, we bring it in -- the call
7 will come from the coroner to report a death
8 and tell them that they have a body they'd
9 like us to examine. We receive it into our
10 facility bring it up to our autopsy
11 examination room.

12 The first thing we do before we
13 manipulate the body is we take photographs as
14 is, photographs as we receive the body before
15 we've done anything.

16 We then proceed to document any clothing
17 or medical therapy that's on the body and
18 remove that.

19 Get the body cleaned up. Take another
20 set of photographs, then perform our external
21 examination, which is basically moving from
22 head to toe, looking for basic stuff like
23 hair color, eye color, just identifying
24 features, and then also any indications of
25 natural disease or trauma.

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1 Once we've completed that external
2 examination, we then move on to the internal
3 examination where we make some surgical type
4 incisions to open the body. Then examine the
5 organs one by one, again, looking for any
6 evidence of trauma or natural disease.

7 During the course of the autopsy, also we
8 generally collect specimens and submit for a
9 toxicology testing.

10 After that's all done, we'll put report
11 together and get all of our studies and
12 produce a final report.

13 Q. Did you take those steps in this
14 case?

15 A. We did.

16 Q. Did you take photographs in this
17 case?

18 A. We did.

19 Q. I'm showing you what's been marked
20 as State's Numbers 20, 21, 22, and 23. Do
21 you recognize these?

22 A. I do.

23 Q. And what are they?

24 A. These are photographs that I took
25 during the course of the autopsy exam.

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1 Exhibits 20 and 21 are photographs of a
2 gunshot entrance wound that I identified.

3 Exhibits 22 and 23 are photographs of a
4 gunshot exit wound that I identified.

5 Q. Are they true and accurate
6 depictions of the photographs that you took
7 on the day of the autopsy?

8 A. They are.

9 SOLICITOR WEST: At this time, the
10 State would move Exhibits 20 through 23 into
11 evidence.

12 THE COURT: Any objection?

13 MR. FALK: I renew my former
14 objection.

15 THE COURT: Okay. Overruled.
16 They're admitted State's Exhibit Number 20,
17 through 23.

18 (SO ENTERED AS STATE'S EXHIBIT 20)

19 (SO ENTERED AS STATE'S EXHIBIT 21)

20 (SO ENTERED AS STATE'S EXHIBIT 22)

21 (SO ENTERED AS STATE'S EXHIBIT 23)

22 SOLICITOR WEST: Thank you, Your
23 Honor.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR WEST:

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1 Q. Can you describe the gunshot wounds
2 in this case?

3 A. Sure. In this case we had a single
4 gunshot wound. The entrance of the gunshot
5 wound was on the upper left side of the
6 chest, approximately here. The gunshot and
7 the bullet entered the upper left side of the
8 chest. After entering the body, it the
9 perforated one of the ribs, went through the
10 left lung, went through the aorta, which is
11 the big blood vessel that takes the blood
12 from your heart to the rest of your body.
13 Went through the heart, went through the
14 right lung, and then exited on the right side
15 of the chest, kind of almost in a -- right
16 near the line of the armpit, right around
17 where I'm pointing now.

18 SOLICITOR WEST: Publish State's
19 Number 20.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR WEST:

22 Q. What is this a photograph of?

23 A. This is a photograph of the gunshot
24 entrance wound. This photograph is a little
25 bit further away to show the orientation.

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1 And in relation you can see the nipples at
2 the bottom. The left nipple is at the bottom
3 of the photograph; his head is at the top.
4 So, again, showing that the entrance wound is
5 right here.

6 Q. Okay. How about State's Number 21.

7 SOLICITOR WEST: Would you publish
8 State's Number 21.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR WEST:

11 Q. What is this a picture of?

12 A. So this is a picture of the same
13 wound. It's just taken at a much higher
14 magnification to show the features of the
15 wound. Again, this is an entrance wound.
16 You can see at the bottom aspect of this
17 wound, there's a large pink area. And so
18 that's an abrasion. And that helps tell us
19 that it is an entrance wound and also tells
20 us which way the bullet is traveling.

21 So as this bullet struck the skin, it is
22 striking at an angle, traveling from the
23 bottom of the screen towards the top, which
24 on the body would correspond traveling from
25 the left side of the body towards the right

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1 side.

2 SOLICITOR WEST: Publish State's
3 Number 22.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR WEST:

6 Q. What is this a picture of?

7 A. Exhibit 22 here, this is a high-
8 power view of the exit wound that was located
9 on the right side of the chest. You can tell
10 it's an exit wound comparing it or
11 contrasting it to the photograph we just saw,
12 where the entrance wounds are really
13 circular, this is kind of more split-like and
14 a little bit more irregular.

15 Q. Okay. Doctor, how were you able to
16 determine the direction of travel of the
17 bullet.

18 A. So to determine the travel again is
19 based on looking at the -- determining which
20 wound is the entrance, which one is the exit.
21 We then do measurements from the top of the
22 head, from the left of center, to the right
23 of center, so that then using that
24 information and putting it together we can
25 determine the direction that it travels.

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1 Q. Were you able to determine anything
2 about the size of the bullet or the caliber
3 of the gun?

4 A. Not able to determine that just
5 based on the examination of the skin itself.
6 Because of the elastic fibers in the skin, we
7 can't really precisely say exactly what
8 caliber the bullet would be.

9 Q. Could you tell whether it was a
10 shotgun versus a pistol or a rifle?

11 A. Yes. The characteristics of this
12 wound would be consistent with that of a
13 pistol or a handgun.

14 Q. Were you able to determine the
15 distance between Mr. Moultrie and the
16 shooter?

17 A. We were not able to determine the
18 distance in this case. . What we can do to
19 determine distance -- when a gun is fired,
20 two things come out. Obviously, the bullet
21 comes out of the gun. We also get a cloud of
22 burnt up gunpowder or soot. That soot will
23 travel up to maybe a foot or so from the
24 barrel of the gun. Another thing that'll
25 come out of the gun are pieces of gunpowder

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1 that either burned, unburned or still
2 burning. They can strike the skin and cause
3 what we call stippling, so little marks or
4 abrasions or scrapes or burns of the skin.
5 That will occur out to about three to four
6 feet.

7 In this case, we did not have either of
8 those things so that would tell us one of two
9 things. One, that the gun was at least three
10 to four feet from the body when it was fired,
11 or there could have been some sort of
12 intervening object. So if there is clothing,
13 if there was -- anything that the bullet
14 would -- that came between the gun and the
15 body could absorb that soot and that
16 stippling.

17 Q. Was Mr. Moultrie wearing clothing
18 when he was brought to you?

19 A. When he presented to us, he had a
20 white tank top.

21 Q. Okay. Did you ever discover a
22 bullet inside of Mr. Moultrie's body?

23 A. We did not. We performed x-rays
24 before we examined the body and did not
25 identify a bullet on the x-rays. And then,

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1 also in the course of the autopsy we did not
2 find a bullet.

3 Q. Is that the only wound that you
4 found on Mr. Moultrie in relation to the
5 gunshot?

6 A. Yes, it was.

7 Q. What's the difference between the
8 manner of death and the cause of death?

9 A. So a cause of death is essentially
10 why the person is dead. Is it from a heart
11 attack; is it from a gunshot wound, just kind
12 of why they are dead.

13 The manner is how that comes about. So a
14 single cause of death could have several
15 different manners of death.

16 So, for example, a gunshot wound if
17 somebody was to shoot themselves, that could
18 be considered a suicide because they're
19 intentionally taking their own lives.
20 However, if that same gunshot wound was
21 caused by somebody else firing the gun, so
22 taking one's life with the hands of another
23 that would be considered a homicide.

24 Q. Were you able to determine the cause
25 of death in this case?

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1 A. Yes. The cause of death in this
2 case was the gunshot wound to the chest,
3 which resulted in not only the perforation of
4 the organs, but massive internal bleeding.

5 Q. Would you be able to determine from
6 these types of wounds how long it would have
7 taken Mr. Moultrie to die from those wounds?

8 A. Based on the perforations of the
9 lungs and the heart and the aorta, the major
10 blood vessel, this is somebody we wouldn't
11 expect to live beyond maybe a few minutes at
12 the most, because there would be, again,
13 massive bleeding that would occur very
14 quickly because the organs had been damaged.

15 SOLICITOR WEST: Thank you. No
16 further questions from this witness.

17 THE COURT: Mr. Falk?

18 CROSS EXAMINATION

19 BY MR. FALK:

20 Q. You've obviously had an opportunity
21 to perform several forensic autopsies?

22 A. Yes.

23 Q. Can you tell me if the bullet goes
24 into somebody's chest and doesn't hit the
25 aorta, hit the heart, is that necessarily

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1 going to cause immediate death? I mean,
2 if it just punctures a lung, goes through.
3 Is that going to cause immediate death?

4 A. Going just through a lung itself
5 would not cause immediate death. You could
6 get pretty -- again the lung is very
7 vascular, will bleed pretty quickly. So,
8 again, within a couple of minutes, I would
9 expect a gunshot wound to the lung.

10 Q. But certainly a gunshot wound to the
11 head is going to cause death quicker; is it
12 not?

13 A. Generally speaking, yes. It would
14 depend exactly where it hits in the head.
15 Some people, if you come towards the front of
16 the brain, people can actually survive those.
17 But other parts of the brain could be an
18 instantaneous death, yes.

19 MR. FALK: No further questions.

20 THE COURT: Any redirect based
21 upon his cross-examination?

22 SOLICITOR WEST: Nothing from the
23 State, Your Honor.

24 THE COURT: Thank you. You may
25 step down.

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1 THE COURT: Thank you, Your Honor.

2 (WITNESS STEPS DOWN)

3 THE COURT: Any objection to this
4 witness being excused?

5 SOLICITOR WEST: We'd ask that he
6 be excused, Your Honor.

7 THE COURT: You have an objection?

8 MR. FALK: No objection.

9 THE COURT: Thank you. Have a
10 nice weekend.

11 SOLICITOR OZMENT: Your Honor, the
12 State calls detective James Riser to the
13 stand.

14 (WITNESS TAKES STAND)

15 JAMES RISER, having been duly sworn to
16 tell the truth, and nothing but the truth,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. OZMENT:

20 Q. How are you today, Mr. Riser?

21 A. Good, sir.

22 Q. What do you do for a living?

23 A. I work for the Berkeley County
24 Sheriff's Office.

25 Q. What's your law enforcement back-

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1 ground?

2 A. I have approximately two years on
3 the road. I spent seven years in detectives.
4 And I'm presently sergeant over the select
5 enforcement team.

6 Q. Okay. Back in September of 2012,
7 what was your role?

8 A. I was a corporal in criminal
9 investigation division.

10 Q. Okay. Was this your case?

11 A. Yes, it was.

12 Q. All right. How did you first become
13 involved in this case?

14 A. I received information that a body
15 had been located on Brick Church Road, in
16 Huger, County of Berkeley.

17 Q. All right. And the case was
18 assigned to you to investigate; is that
19 right?

20 A. Yes.

21 Q. And as the, kind of lead
22 investigator, if you will in this case,
23 explain to me how that works? What's your
24 role in the case and what are other peoples'
25 role in the case?

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1 A. Basically, I'm involved in all the
2 parts of the case. Interviews, I was
3 involved in a lot of the interviews. If not
4 involved in it, I observed them on the TV
5 that you can watch inside where it's being
6 recorded. I obtained the warrants on people.
7 And, also, had other individuals, other
8 detectives, such as my sergeant, Sergeant
9 Shuler, at the time, which is now Captain
10 Shuler. Sergeant Geno Alteri, and other
11 detectives helped with other parts of the
12 investigation.

13 Q. Okay. Referring to the car that was
14 found on Brick Church Road, obviously you
15 were in here yesterday. There was some
16 testimony about some fingerprints and DNA
17 swabs and stuff, stuff that was collected
18 from that. Are you aware of any results that
19 ever came back from those?

20 A. Fingerprints.

21 Q. Okay. Did any of those results come
22 back as Jason Kinloch?

23 A. No.

24 Q. After you found the car on Brick
25 Church Road, and it's processed, what was the

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1 next step in your investigation? How did you
2 kind of go from this car in the woods with a
3 body in it?

4 A. From there, we located on the -- on
5 scene, we located his wallet. From there, we
6 got his ID. We ran his information off of
7 his driver's license through Berkeley County
8 Central Dispatch. A hit come back through
9 NCIC, which is a National Crime Database.
10 For instance, if you have a warrant or a
11 missing person or something like that, that's
12 where it's kept. It came back a hit as a
13 missing person through Georgetown Sheriff's
14 Office, at which time myself and Sergeant
15 Milks went to Georgetown Sheriff's Office to
16 speak with them about the victim being
17 missing.

18 Q. All right. When you went up to
19 Georgetown, did you speak with any private
20 witnesses up there?

21 A. I did.

22 Q. Who was that?

23 A. I spoke to Maurice and -- if you
24 don't mind, can I look at my notes?

25 Q. Yeah, absolutely.

A. We went in Georgetown and spoke with Bailey Bowens Grant and Maurice Lincoln.

4 Q. All right. And that was Maurice
5 Lincoln that testified here yesterday?

6 | A. Yes.

7 Q. Okay. After you met with them, what
8 did that lead you to?

9 A. After speaking with Maurice -- at
10 first, the first time I spoke with him, he
11 was kind of hesitant about speaking with me.
12 I guess he didn't want to really want to talk
13 to law enforcement. He informed me that his
14 cousin, his friend, had traveled to Berkeley
15 County to possibly go purchase some drugs.
16 He tried to give me a direction of the house
17 that they had attended prior, several times.
18 But him not knowing the area, he couldn't
19 give me a direct location, an address.

20 Q. How did you eventually find that
21 address?

22 A. I went back a second time and spoke
23 to Maurice, and basically at that time he
24 became more comfortable with me, knowing I
25 was trying to help find out what had

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1 happened. He agreed to get into a vehicle
2 with me and we took him back to Berkeley
3 County and he actually, from his address,
4 gave me directions how to get there.

5 Q. And what address did he lead you to?

6 A.

7 Q. And is that in Berkeley County?

8 A. Yes, it is.

9 Q. Okay. And he identified that as --
10 well, how did he identify that house? How
11 did he know it?

12 A. That's where he said that
13 Christopher Tiller, known as Chris Tiller
14 lives. And that's where they had been prior,
15 several times to purchase narcotics.

16 Q. All right. And this has already
17 kind of all been discussed to a point, when
18 that house was searched, were you present for
19 that as well?

20 A. Yes, I was.

21 Q. I'd talked to Captain Shuler when he
22 was up here about some shell casings that
23 were out in the driveway.

24 SOLICITOR OZMENT: If I could get
25 State's Exhibit 35.

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR OZMENT:

3 Q. Do you recall these two shell
4 casings that were in the driveway?

5 A. Yes, I do.

6 Q. In accord with your investigation,
7 what did -- were you able to determine
8 anything about these two shell casings?

9 A. They were, I believe, a nine
10 millimeter. And the victim was shot with a
11 .40 caliber. So we kind of -- it's not the
12 same caliber.

13 Q. Okay. Is there any indication that
14 anyone shot a nine millimeter during the
15 course of this robbery and murder?

16 A. No, he was only shot one time.

17 Q. Okay. In your investigation, do you
18 think that these two shell casings have any-
19 thing to do with this case?

20 A. No.

21 Q. After you searched the house, did
22 you conduct any interviews in this case?

23 A. I did.

24 Q. Did you also cause -- not cause --
25 but did you have detectives under you or with

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1 you conduct other interviews?

2 A. Yes, I did.

3 Q. Was Chris Tiller ever interviewed?

4 A. Yes.

5 Q. Was Joshua Pruitt ever interviewed?

6 A. Yes.

7 Q. Was Gilbert Grant ever interviewed?

8 A. Yes.

9 Q. Was Patrick Kinloch ever inter-
10 viewed?

11 A. Yes.

12 Q. And, obviously, was Jason Kinloch
13 ever interviewed?

14 A. Yes.

15 Q. All right.. Did you ever talk to
16 Malcolm Kinloch?

17 A. I did.

18 Q. Did you ever speak to his wife?

19 A. I did.

20 Q. Okay. And how did you find Malcolm
21 and Shontay Kinloch?

22 A. Basically, when we go to an area
23 like that, we like to speak to the neighbors
24 and walk around and speak to the neighbors.

25 One of the detectives, if I'm not

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1 mistaken, it was Detective Milks, actually
2 made first contact with the wife. And that's
3 when we found out that they actually had
4 heard something and knew something, at which
5 time -- and they were very scared to come
6 forward. Being in that community, it's a
7 very tight community. Everybody's kin to
8 everybody and they were scared. They did
9 not, at first, really want to talk to us, but
10 they finally did.

11 Q. Okay. During the interview we
12 watched yesterday with Jason Kinloch -- I
13 realize you were not in that room -- where
14 were you when that interview was conducted?

15 A. I was sitting in the control room
16 watching them.

17 Q. Okay. What's the control room?
18 What does mean?

19 A. Basically, you have the interview
20 room here. It's about a six by eight, eight
21 by eight room, three chairs and a table.
22 There is a video cam recorder up in the
23 corner of the room, also, audio device in the
24 ceiling. On the other side of the wall, we
25 have monitors where we put somebody for

1 safety that's also involved in the case. We
2 can sit there and listen and watch for
3 officer safety and watch the interview and
4 listen to it as it goes on.

5 Q. So you watched it live?

6 A. Yes.

7 Q. That was on September 19th. Now, did
8 you ever actually speak to Jason Kinloch?

9 A. I did.

10 Q. What day was that?

11 A. That was 10/24/2012.

12 Q. All right. That's a little over a
13 month later?

14 A. Yes, sir.

15 Q. Okay. At that time, was Jason
16 Kinloch under arrest?

17 A. Yes.

18 Q. Okay. And what were his charges?
19 When he did the second interview, what
20 charges at that point were ---

21 A. He was charged with conspiracy to
22 commit armed robbery and armed robbery.

23 Q. And when you interviewed him, where
24 was the interview this time?

25 A. The Berkeley County Sheriff's

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1 Office, Criminal Investigation Division, in
2 our interview rooms as the interview that you
3 saw yesterday.

4 Q. So the same as the first one?

5 A. Yes, sir.

6 Q. Okay. And did you give him *Miranda*
7 rights?

8 A. I did.

9 Q. How did you go through those *Miranda*
10 rights?

11 A. We have a *Miranda* form. And at
12 first when we go into the room, I explain
13 that the room is being audio/video recorded.
14 I make sure he is aware of that.

15 I explain to him that this is a Berkeley
16 County Sheriff's Office *Miranda* form. I read
17 each and every *Miranda* to him.

18 And I'm telling him, you know, as I go
19 through this, 'If you do not understand it,
20 please stop me and I will explain it to you.
21 But as I go through each and every one of
22 them, I'd like for you to verbally
23 acknowledge that you understand it.' And
24 also 'place your initials by each and every
25 number.'

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1 SOLICITOR OZMENT: May I approach,
2 Your Honor?

3 THE COURT: You may.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR OZMENT:

6 Q. I'm going to show you State's
7 Exhibit 41 and ask you if you can identify
8 that document?

9 A. Yes.

10 Q. What is that document?

11 A. This is the Berkeley County
12 Sheriff's Office *Miranda* form in which I
13 provided Jason Kinloch before his interview
14 and advised him of his *Miranda* rights.

15 Q. Are the rights on there -- the form
16 part of it, not the signature but the form
17 part of it -- is it identical to the form
18 that Sergeant Shuler or now Captain Shuler
19 read out yesterday in court?

20 A. Yes, it is.

21 Q. Okay. So I'm not going to make you
22 read it too. Did Mr. Kinloch initial next to
23 each one of his rights?

24 A. Yes, he did.

25 Q. Did you see him do that?

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1 A. Yes, I did.

2 Q. Did he sign it on the bottom?

3 A. Yes, he did.

4 Q. All right. Did you sign that form?

5 A. I did.

6 Q. All right.

7 SOLICITOR OZMENT: At this time, Your
8 Honor, we would move State's Exhibit 41 into
9 evidence.

10 THE COURT: Any objection?

11 MR. FALK: No objection.

12 THE COURT: Without objection,
13 State's Exhibit 41 is admitted.

14 (SO ENTERED AS STATE'S EXHIBIT 41)

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR OZMENT:

17 Q. During the course of you going
18 through his Miranda Rights, and any time
19 before or after that, did he invoke any of
20 those rights?

21 A. No, he did not.

22 Q. Did he just try to stop talking to
23 you?

24 A. No.

25 Q. Did he say he wanted to talk to a

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1 lawyer?

2 A. No.

3 Q. Okay. Did you pressure him, coerce
4 him, pull your gun, anything like that to
5 make him talk to you?

6 A. No, sir.

7 Q. Did you promise him anything, tell
8 him, 'look, if you'll talk, we'll work out a
9 plea deal or we won't charge you' or
10 something like that?

11 A. No, sir. In fact, I informed him
12 that I can't make promises.

13 Q. Okay. Did he seem like he was with
14 it when you were talking to him? Did he seem
15 drunk or anything like that or did he seem
16 fine?

17 A. He seemed fine.

18 Q. All right. Answer your questions
19 appropriately?

20 A. Yes.

21 Q. Okay. I want to show you what's
22 been premarked as State's Exhibit 44. Have
23 you ever seen that before?

24 A. Yes.

25 Q. When have you seen that before?

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1 A. 10/24/2014 when I reviewed it and I
2 put my initials on it right here, and also on
3 the CD.

4 Q. Okay. And when you say you reviewed
5 it, what did you do with that CD?

6 A. Reviewed it over just to refresh my
7 memory of the incident, of the interview, and
8 also that is the same interview, same CD that
9 was placed into evidence.

10 Q. Okay. And so it was watched from
11 beginning to end by you?

12 A. Yes.

13 Q. Does it accurately reflect, as you
14 remember it, the interview as it happened?

15 A. Yes.

16 Q. Is it possible to alter those CDs or
17 DVDs in any way once they're recorded?

18 A. No, sir.

19 Q. All right.

20 SOLICITOR OZMENT: Your Honor, at
21 this time, the State would move Exhibit 44
22 into evidence?

23 THE COURT: Any objection?

24 MR. FALK: No objection.

25 THE COURT: Without objection

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1 State's Exhibit 44 is admitted.

2 (SO ENTERED AS STATE'S EXHIBIT 44)

3 THE COURT: Now, ladies and
4 gentlemen, this is going to be another video
5 tape. How long is that approximately?

6 SOLICITOR OZMENT: It's around forty-
7 five minutes.

8 THE COURT: All right. As it goes
9 through, you'll see a line that goes along
10 the bottom. Once it gets towards the middle,
11 I'm going to call time-out. I'm going to let
12 you stand up and stretch and then we'll come
13 back and watch the rest of it. So we'll
14 watch about twenty minutes. I'll let you get
15 loosened up and then we'll watch it through.
16 Thank you.

17 SOLICITOR OZMENT: And like the last
18 one, Your Honor, there's going to be a few
19 parts that we've agreed to mute.

20 THE COURT: And you're to make no
21 inference on the parts that -- when he
22 doesn't speak -- for or against the
23 Defendant. Thank you.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR OZMENT:

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1 Q. (Video playing to): "...I ain't never
2 sold dope in my life."

3 (Video resumed at): "...you stayed
4 at the house?"

5 (Video played to): "...he ain't
6 got no job."

7 (Video played to): "...\$2,400."

8 Is that video as you remember it,
9 Sergeant Riser?

10 A. Yes, sir.

11 Q. Okay. And Jason Edward Kinloch
12 who's in that video, do you see him in the
13 courtroom here today?

14 A. Yes, I do.

15 Q. Where is he?

16 A. He's sitting right there, the
17 Defendant.

18 Q. Okay. Do you recall when he was
19 actually arrested for murder in this case?

20 A. I obtained a warrant after the
21 interview.

22 SOLICITOR OZMENT: May I approach;
23 Your Honor?

24 THE COURT: You may.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR OZMENT:

2 Q. I'm going to show you a piece of
3 paper. I'm just going to ask if you
4 recognize what that piece of paper is?

5 A. Yes.

6 Q. What is that piece of paper?

7 A. This is the copy of the arrest
8 warrant for murder that I obtained on
9 10/24/2012 on the Defendant, Jason Edward
10 Kinloch.

11 Q. So he was arrested for murder on
12 what day?

13 A. It would be on the 24th, I think is
14 when I served -- yes, the 24th is when I
15 served it on him.

16 Q. Okay. So the same day this inter-
17 view was given?

18 A. Yes.

19 Q. Thank you. Was Christopher Tiller
20 arrested in this case?

21 A. Yes.

22 Q. What charges did you arrest Mr.
23 Tiller on?

24 A. Armed robbery, conspiracy to commit
25 armed robbery and also murder.

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1 Q. Okay. And do you recall where Mr.
2 Tiller was arrested?

3 A. Christopher Tiller was arrested on
4 -- may I?

5 Q. Do you remember the date ---

6 A. And I'll give you the address. He
7 was arrested on 10/26/2012 and taken custody
8 at in Huger, County
9 of Berkeley.

10 Q. Okay. Do you know who owns that
11 home?

12 A. I think that's his aunt's house. It
13 was a two-story house.

14 Q. Okay. Tell me about how that arrest
15 happened? In other words, when you got there
16 that day, tell me what you found when you got
17 there?

18 A. Okay. Myself and Detective McDowell
19 was the one that went out there, was in the
20 interview, when we proceeded up to the house
21 to arrest Christopher Tiller, the house was
22 completely open. All the windows were open.
23 The doors were standing wide open.
24 Everything in the house was open. You could
25 hear a TV playing. At that point in time, we

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1 announced ourself, "Berkeley County Sheriff's
2 Office." "Berkeley County Sheriff's Office.
3 Anybody in here?" We got no response. So
4 for the safety of the residents -- we didn't
5 know if there had been a burglary or what-
6 ever, we did a safety sweep of the house to
7 make sure nobody was in it and everything was
8 okay. We proceeded to clear the downstairs.
9 We went upstairs. There was a bedroom
10 upstairs. In that bedroom was a TV and it
11 was videogame playing like an X-box. And
12 that's what we could hear playing, actively
13 in the middle of the game. We proceeded on
14 down the hallway. And Christopher Tiller was
15 found in the bedroom at the end of the
16 hallway in a closet, kneeled down beside a
17 .12 gauge -- well, a .12 gauge Mossberg
18 Shotgun, serial number U087743.

19 Q. Okay. And when you say Mr. Tiller
20 was crouched down, what do you mean by that?

21 A. Well, he was kind of hiding in the
22 closet with the shotgun right beside of him.

23 Q. Okay. I'm going to show you what's
24 been pre-marked as State's Exhibit 51. Do
25 you recognize this?

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1 A. (Upon review), 087743. Yes, sir.

2 Q. What is that?

3 A. That is the shotgun, the matching
4 serial numbers, everything that was located
5 in the closet with Christopher Tiller when he
6 was taken into custody.

7 Q. Okay. And has that shotgun been
8 disabled so it cannot be fired or loaded
9 right now?

10 A. Yes. There is a locking mechanism
11 on the trigger.

12 Q. Okay.

13 SOLICITOR OZMENT: At this time, the
14 State would move Exhibit 51, Christopher
15 Tiller's shotgun into evidence?

16 THE COURT: Any objection?

17 MR. FALK: Your Honor, we would
18 object. The relevancy of this shotgun as it
19 relates to my client, I think, goes beyond --
20 I think whatever value it has on relevancy of
21 the shotgun that was found at another
22 location at another time, relative to what
23 happened in September at a house at another
24 location, the prejudicial value of ---

25 THE COURT: Let me see the

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1 attorneys over here, please?

2 (OFF RECORD SIDEBAR)

3 THE COURT: Your objection is
4 noted and overruled. State's Exhibit 51 is
5 admitted.

6 (SO ENTERED AS STATE'S EXHIBIT 51)

7 SOLICITOR OZMENT: I have no further
8 questions for this witness at this time.

9 THE COURT: All right. Mr. Falk.

10 MR. FALK: Thank you.

11 CROSS EXAMINATION

12 BY MR. FALK:

13 Q. Sergeant at the beginning of your
14 testimony, you said something about finger-
15 print evidence. And I believe your testimony
16 was that there was no fingerprint evidence
17 recovered from the car or palm print evidence
18 recovered from the car that would make a
19 match to Jason Kinloch; is that correct?

20 A. That's correct.

21 Q. There was fingerprint evidence that
22 matched somebody else in this case; was there
23 not?

24 A. Yes.

25 Q. And who was that?

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1 A. Patrick Kinloch.

2 Q. And do you know where the finger-
3 prints were found?

4 A. No, sir, I don't.

5 Q. During the course of the tape that
6 we just watched, we heard my client discuss
7 Chris Tiller's role in this event. Now,
8 through your course of your investigation, is
9 that consistent with what you think happened
10 as far as Chris Tiller? As far as Chris
11 Tiller -- I think that's too big of a
12 question.

13 Do you think that Robert Moultrie drove
14 all the way from Conway to Huger to see Chris
15 Tiller?

16 A. I think that he possibly -- are you
17 asking my opinion?

18 Q. Well, based on what you know from
19 your investigation? You heard lots of
20 statements?

21 A. Uh-huh. I think he did come down
22 to to purchase
23 narcotics.

24 Q. Thank you. And you were here
25 earlier when Mr. -- when Officer Shuler,

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1 Captain Shuler testified regarding the
2 digital scale?

3 A. Yes.

4 Q. And it was his opinion that that's
5 consistent, a digital scale like that, is
6 consistent with somebody who is dealing
7 drugs, weighing out drugs. Is that also your
8 opinion?

9 A. Yes. Through my experience and
10 training, yes.

11 Q. And you saw the photographs of that
12 house; did you not?

13 A. Yes.

14 Q. And it didn't look like from your
15 review of any of the photographs that
16 anything else was going on in that house that
17 somebody would need a digital scale for? I
18 mean, nobody was weighing it out to cook
19 their food; right?

20 A. Normally, in my experience, that's
21 what it's used for.

22 Q. Okay. And you also heard Jason
23 Kinloch talk about Joshua Pruitt's role in
24 this?

25 A. Yes.

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1 Q. And during the course of your
2 investigation and listening to that tape
3 right there, do you think that Joshua Pruitt
4 is the person that helped Patrick Kinloch
5 move the body from the front seat of the SUV
6 into the back seat?

7 A. Yes.

8 Q. You think it was Joshua Pruitt that
9 helped Patrick Kinloch then drive the SUV
10 away from the location?

11 A. Yes.

12 Q. Do you have any reason to believe
13 that Jason Kinloch was involved in moving the
14 body or driving the car away?

15 A. No.

16 Q. And Maurice Lincoln testified -- and
17 I believe your testimony was he seemed
18 hesitant at first, and then finally he got in
19 y'all's car or whatever?

20 A. Uh-huh.

21 Q. He was able to give you directions
22 to ; is that correct?

23 A. Yes.

24 Q. Did y'all ever get lost along the
25 way?

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1 A. (No verbal response)

2 Q. Was he able to drive you right there
3 once he knew the landmarks?

4 A. Yes.

5 Q. That section of Huger is a little
6 remote; is it not?

7 A. Yeah, sort of.

8 Q. So based on him giving you the
9 direction, do you think he might have been
10 there more than once?

11 A. Probably so.

12 Q. You also testified, I believe, that
13 you thought that Malcolm Kinloch might have
14 been a little scared to come forward, I think
15 were your words?

16 A. Yes, sir.

17 Q. You think he was scared of Chris
18 Tiller in particular?

19 A. I have no idea. He was just scared
20 of repercussions.

21 Q. There was a lot of ammunition found
22 in Mr. Tiller's house; was there not?

23 A. Yes, sir, different calibers, spent
24 cartridge, live rounds.

25 Q. Were any other guns recovered from

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1 Mr. Tiller?

2 A. No, sir. That was the only one, the
3 shotgun.

4 Q. And does that shotgun there, is it
5 loaded? I mean, was it loaded when it was
6 found?

7 A. No, sir.

8 Q. Did you search for shotgun shells in
9 Mr. Tiller's house? In that address at
10 when he was arrested?

11 A. No, sir, we did not obtain a search
12 warrant to search.

13 Q. Well, were there any that you could
14 -- incident to that arrest, were there any
15 right in that area?

16 A. We didn't see any in plain view, no.

17 Q. You believe that it was Patrick
18 Kinloch that fired the .40 caliber gun that
19 hit Maurice -- that hit Robert Moultrie?

20 A. Yes, sir.

21 Q. Do you believe anybody else fired a
22 gun that day?

23 A. No, sir. That's why Patrick was
24 charged the way he was.

25 Q. Who testified about Gilbert Grant

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1 having a gun? Did you have any reason to
2 believe that he was also involved?

3 A. We interviewed Gilbert Grant.

4 Q. Do you think he was present at the
5 time?

6 A. He is still a suspect. However, he
7 has not been charged.

8 Q. You said that you watched the
9 interview that Jason gave on 9/19; that you
10 were in the control room?

11 A. Yes, sir.

12 Q. Okay. And at that time, I think
13 Alteri said that he wrote "Homicide" on that
14 *Miranda* form?

15 A. Uh-huh.

16 Q. So my client knew he was a suspect
17 in a murder here; is that safe to say?

18 A. Well, we were discussing a homicide
19 at that time. We were investigating a
20 homicide. We didn't know about the armed
21 robbery and everything else at that time.

22 Q. Well, when he was arrested on 10/24
23 -- he was arrested on 10/24 for the armed
24 robbery; is that correct?

25 A. Yes.

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1 Q. Okay.

2 A. Through a thorough investigation.
3 That's why one was 9/19, the first interview.
4 And then my interview was 10/24.

5 Q. Who was the other gentleman in the
6 room?

7 A. That was Corporal Detective Shane
8 McDowell.

9 Q. Did he have any conversations with
10 Jason about testifying and, you know, if he
11 testified one way or if he gave a statement
12 one way that, you know, he wouldn't be
13 charged with the murder?

14 A. Not that I know of.

15 Q. You think that Mr. Kinloch thought
16 that he needed to say something to you in
17 order that you wouldn't charge him with that
18 murder?

19 A. No. I mean, I explained his *Miranda*
20 rights to him. He understood everything.

21 Q. It's your testimony that there was
22 no prior conversation, prior to coming into
23 that room with Mr. Kinloch, about promises?

24 A. No, sir.

25 Q. Either by Mr. McDowell or you?

1 A. No, sir. And the reason why he was
2 charged with the murder afterwards is because
3 of the rule, hand of one the hand of all. He
4 was a participant in the armed robbery and
5 the conspiracy, which lead to the death of
6 Mr. Robert Moultrie.

7 Q. But you heard him testify -- I mean,
8 you heard part of the statement that right
9 before it got bad he went back in the house
10 and put the gun down.

11 A. Yes, sir. But he still had the gun
12 in his hand, standing at the sidewalk. And
13 if you looked at the photos before, there's
14 not much room between the door and -- there's
15 a sidewalk, maybe six or eight foot, and then
16 a driveway. And he said he was right there
17 at the edge of the, on the sidewalk, holding
18 a shotgun yelling, "Give it up. Give it up.
19 Give the money up."

20 Q. I think he -- well, ---

21 A. To something in that effect. And
22 that's why he was charged with murder. He
23 was an active participant.

24 MR. FALK: One moment, please?

25 CROSS EXAMINATION CONTINUED

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1 BY MR. FALK:

2 Q. Chris Tiller's also charged with
3 murder?

4 A. Yes, sir.

5 Q. And how was he an active partici-
6 pant?

7 A. He helped. They talked about it.
8 He arranged for everything to be done. And
9 he was also standing, if you remember, by --
10 I think his name was -- the neighbor across
11 the street that was fixing his mailbox. He
12 saw Christopher Tiller standing right there.
13 So Christopher Tiller was not -- did not hold
14 a gun. He helped plan it. He was right
15 there. He watched it all. He knew it was
16 going down. He helped get rid of the body.
17 He told them to get rid of the body. So
18 accessory before the fact, accessory after
19 the fact, you're charged with also the
20 principal.

21 Q. It almost sounds like he's the
22 ringleader of this whole thing?

23 A. All three of them discussed it.

24 MR. FALK: No further questions.

25 THE COURT: Any redirect?

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1 SOLICITOR OZMENT: Very briefly,
2 Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. OZMENT:

5 Q. Mr. Falk asked you about this being
6 Christopher Tiller's house. Was there also
7 things found in the house that were Jason
8 Kinloch's?

9 A. Yes, sir.

10 Q. And did Mr. Kinloch tell you he also
11 slept there some?

12 A. Yes, sir. He lived there.

13 Q. Okay. And do you remember the items
14 that were found in the house that belonged to
15 Jason Kinloch?

16 A. Yes, sir.

17 Q. What were those items?

18 A. There was some photographs in the,
19 one of the bedrooms that had him in it, that
20 Captain Shuler identified. There was also
21 his driver's license in the dryer with a
22 candle that was -- and items that tested
23 positive for, I believe, narcotics.

24 SOLICITOR OZMENT: No further
25 questions, Your Honor.

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1 THE COURT: Any redirect (sic)?

2 MR. FALK: No recross.

3 THE COURT: No. All right. Thank
4 you.

5 (WITNESS STEPS DOWN)

6 SOLICITOR OZMENT: Your Honor, at
7 this time, the State rests.

8 THE COURT: All right. Thank you.
9 It's a perfect time for a break. Ladies and
10 gentlemen, if you'll go back to the jury
11 room. We're going to take up a few matters
12 of law.

13 Do not discuss anything about the
14 case. If you want Coca-Cola or something
15 like that or you need to step out to smoke,
16 you may do so. Thank you.

17 (JURY OUT @ 11:18 A.M.)

18 THE COURT: All right. Are there
19 any motions from the Defense?

20 MR. FALK: Your Honor, at this
21 time, the Defense would move for a directed
22 verdict. Our argument is that -- certainly
23 relating to the armed robbery charge, there
24 doesn't seem to be any evidence that's been
25 offered that a robbery actually occurred.

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1 There may have been an armed assault, but
2 there has been speculative evidence at best
3 that anything was ever taken from Mr.
4 Moultrie. There's no evidence that he had
5 any money with him. There's no evidence that
6 any money was taken from him. But really to
7 the greater point, it's our position that the
8 State needs to provide some other corroborat-
9 ing evidence of Mr. Kinloch's involvement in
10 this, other than his own statement. There
11 has to be some other kind of corroborating
12 evidence and there is none in this case. The
13 closest thing that puts Mr. Kinloch into this
14 mix, other than his statement that was
15 offered before the jury, is the, sort of a
16 half identification that came from Malcolm
17 Kinloch. He said -- I think the question was
18 whether it was Jason Kinloch. And I think
19 his answer is it 'might have been' or 'it was
20 but I can't really tell.' I'm not really
21 sure. There was no further corroboration
22 that he -- I mean, that's the closest thing
23 that comes to corroborating evidence. And
24 granted there's got to be a way -- I mean,
25 granted they're not supposed to look entirely

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1 to the -- or consider the weight. But that
2 is sole speculative evidence and there's
3 nothing else corroborating evidence. We
4 think the State has an obligation to come
5 forward with something else, other than his
6 statement to show that he was involved in
7 this death.

8 THE COURT: All right. Thank you.
9 Mr. Ozment?

10 SOLICITOR OZMENT: Thank you, Your
11 Honor. Obviously, I would disagree.
12 Certainly, we're looking for competent
13 evidence. We're not concerned with the
14 weight of the evidence. Competent evidence
15 is sort of a strange word, but I think it
16 basically means evidence that's admissible.
17 And that's what we have. Certainly, Mr.
18 Malcolm Kinloch's testimony that he said, you
19 know, I'm not a hundred percent sure, but I
20 think it was Jason Kinloch. That
21 corroborates exactly what Jason Kinloch says
22 happened. Three people came out the door.
23 They also said something like "give them the
24 money" or "give it up", and then shortly
25 after the gunshot. Those two stories match

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1 up fairly close. So certainly that testimony
2 corroborates the videos statement as the
3 murder. There's no doubt that a person is
4 dead. As the armed robbery, there is
5 evidence that they planned to rob him that
6 they knew he was coming down there with cash.
7 The dollar figure was twenty-four hundred
8 dollars. There's certainly evidence of
9 discussions afterwards about people being
10 paid to get rid of the body with that money.
11 That implies the money was taken. And
12 certainly, also, Mr. Jason Kinloch says in
13 the video, 'I think they took the money out
14 of his pocket when they went to dump the
15 body.' I think that's plenty of evidence
16 that an armed robbery did occur here. And
17 certainly no money was every found by law
18 enforcement or anything that in their ---

19 THE COURT: Well, also, would you
20 agree that the car was taken?

21 SOLICITOR OZMENT: Yes, also, the car
22 was taken.

23 THE COURT: But that was after the
24 fact of him being shot.

25 MR. FALK: If I could respond to

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1 that?

2 THE COURT: Yes, sir.

3 MR. FALK: I think the property
4 -- he has to be -- I mean, granted at the
5 time that the car was moved, Mr. Moultrie was
6 dead. But I don't think there was ever a
7 removal of property from his person. He was
8 with the car the entire time. The car ---

9 THE COURT: Well, he had
10 constructive ---

11 MR. FALK: He was always in the
12 car. Had they dropped the body and taken the
13 car, that would be a taking. But he was
14 always in the car and they just moved the car
15 to another location. I don't think the car
16 was ever ---

17 THE COURT: But it wasn't their
18 car, was it? It was Mr. Moultrie's car all
19 the time.

20 MR. FALK: There has to be proof
21 that there's a permanent intent to deprive a
22 person of his property. Otherwise, it's joy
23 riding.

24 THE COURT: Of course, the ---

25 SOLICITOR OZMENT: I think that's

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1 absurd to say that the dead man can still
2 possess his car after he's been murdered and
3 then they move his car. Clearly, they took
4 possession of the car. They controlled the
5 car and moved it to a second location.

6 THE COURT: All right. At this
7 point in the trial the Court is more
8 concerned about the existence of the evidence
9 and it still has to be more than a mere
10 suspicion. I think the State has met that
11 burden. I will let the jury give it the
12 weight as they see it as we move forward at
13 this point.

14 Of course, if you decide to put
15 evidence, there'll be another Motion made at
16 the close of the evidence.

17 Now, how about let's question your client
18 as to whether or not he wants to testify.

19 So would the Defendant please rise and be
20 sworn.

21 (WHEREUPON DEFENDANT SWORN)

22 THE COURT: All right. Now, Mr.
23 Kinloch, at this time I'm going to explain to
24 you certain of your rights. If you do not
25 understand anything that I say, please let me

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1 know. And if you want me to explain
2 something in greater detail, I'll be glad to
3 do so. Do you understand?

4 DEFENDANT: Yes, sir.

5 THE COURT: All right. Mr.

6 Kinloch, at this time we have reached the
7 stage of your trial where you may present
8 your defense.

9 Now, you have a right to claim the
10 protections given to you by the Fifth
11 Amendment of the United States Constitution,
12 which states in part that no person shall be
13 compelled in any criminal case to be a
14 witness against himself. Now, this means
15 that you cannot be required to testify in
16 this case and you have a right to testify on
17 your behalf. However, no one can make you
18 testify. This is a personal right and no one
19 can waive it except for you.

20 Now, if you decide to testify, you
21 will be subject to the same rules that govern
22 other witnesses and you may be examined and
23 cross-examined on any relevant issue in this
24 case.

25 In addition, if you have any

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1 convictions involving dishonesty or false
2 statements or for any crime punishable by
3 more than one year and I determine that the
4 probative value of admitting these charges
5 outweighs its prejudicial effect on you, the
6 Solicitor will be able to introduce your
7 record to attack your credibility.

8 Are there any crimes that the State
9 intends to put into evidence should he take
10 the take the stand?

11 SOLICITOR OZMENT: Your Honor, he
12 did have an ABHAN in 2010 or '11 that
13 involved -- he was with Mr. Tiller and they
14 ran from the police and actually Mr. Kinloch
15 ended up getting shot. But he did plead to
16 an ABHAN. Potentially, that could come up
17 depending on kind of where his testimony
18 went.

19 Certainly in his statements he says
20 a lot about he doesn't get in trouble. He's
21 not the type of person that would do this.
22 If that line continued, I think the ABHAN ---

23 THE COURT: Yeah. I think it
24 would only be evidence to impeach him.

25 SOLICITOR OZMENT: Yes, sir.

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1 THE COURT: So unless he goes
2 there with his testimony, you would not be
3 able to raise that.

4 SOLICITOR OZMENT: I agree.

5 THE COURT: All right. Thank you.

6 Now, if you decide to testify, this
7 decision on your part must be freely,
8 voluntarily and intelligently made with the
9 full knowledge of the protections given to
10 you by the Fifth Amendment of the United
11 States Constitution, and knowing the
12 consequences if you testify.

13 Now, if you decide not to testify, I
14 will instruct the jury that they cannot give
15 the fact that you testified any consideration
16 whatsoever. And that there is to be
17 absolutely no prejudice to you because you do
18 not testify. I will give them instruction
19 and I will tell them they can't even talk
20 about it in their deliberation.

21 This decision is left entirely up to
22 you whether or not you want to testify. Or
23 you may talk to Mr. Falk for a little while.
24 You may talk to your family or friends or
25 anyone else, but the final decision will be

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1 up to you.

2 Now, do you understand everything
3 that I've told you?

4 DEFENDANT: Yes, sir.

5 THE COURT: Do you have any
6 questions?

7 DEFENDANT: No, sir.

8 THE COURT: All right. We'll take
9 a fifteen-minute recess and then you can talk
10 with Mr. Falk. And if y'all could make any
11 of his family members available, if he'd like
12 to talk to them. Of course, he's still under
13 your custody but he will be able to discuss
14 that with them for a few minutes. We will
15 reconvene in fifteen minutes. Thank you.

16 (BRIEF RECESS)

17 THE COURT: Mr. Kinloch, have you
18 had an opportunity to speak with your
19 attorney and your family about whether or not
20 you want to testify?

21 DEFENDANT: Yes, sir.

22 THE COURT: Do you want to
23 testify?

24 DEFENDANT: No, sir.

25 THE COURT: You do not?

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1 DEFENDANT: No.

2 THE COURT: Okay. Thank you. You
3 may be seated.

4 DEFENDANT: (Complies)

5 THE COURT: Do you intend to put
6 up any evidence?

7 MR. FALK: No, Your Honor.

8 THE COURT: What?

9 MR. FALK: No, Your Honor.

10 THE COURT: Okay. You want to go
11 ahead and rest now so I don't have to send
12 them back out, because what I'm going to do
13 -- and you'll rest on the record as well. I
14 suppose you'd make another Motion for a
15 directed verdict after that.

16 MR. FALK: If I had to argue my
17 way out of it on an appeal, I could say that
18 I don't have to; but we might as well put it
19 on the record twice. And then there's no ---

20 THE COURT: All right. We'll
21 that's right because I'm going to send them
22 to lunch anyway, so -- okay. Very well.

23 Let's bring our jury in.

24 (JURY IN @ 11:45 A.M.)

25 THE COURT: All right. You may be

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1 seated. All right, Mr. Falk?

2 MR. FALK: At this time, the
3 Defense rests.

4 THE COURT: All right. Thank you.
5 All right. Ladies and gentlemen, that is all
6 the evidence that you're going to hear in
7 this case.

8 What I'm going to do is send you to
9 lunch with strict instructions that you not
10 speak to anyone about the case or anything
11 that you've heard in here, with instructions
12 to be back here at 2:00. At that time, the
13 State and the Defense will give their closing
14 arguments. I'll charge you the law and then
15 you may begin your deliberations.

16 So have a nice lunch. And be back
17 here just a little bit before 2:00 so we can
18 start right at 2:00. Thank you, ladies and
19 gentlemen.

20 (JURY OUT @ 11:46 A.M.)

21 THE COURT: All right. Thank you.
22 You may be seated. Yes, sir?

23 SOLICITOR OZMENT: Very briefly,
24 Your Honor. Just as we did with the other
25 one, we have the redactions to Exhibit 44

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1 where we muted it. I'm just going to ask
2 that it be a Court's Exhibit for appellate
3 purposes.

4 THE COURT: All right. Very well.
5 Do you have any problems with that?

6 MR. FALK: I don't have any
7 problems with that.

8 (SO MARKED AS COURT'S EXHIBIT 2)

9 MR. FALK: I'd like to reopen
10 discussion about the charge.

11 THE COURT: Okay. Let's do it.

12 MR. FALK: And I apologize for
13 not being more prepared for this, but I spent
14 way more time than I needed to on that other
15 thing last night. But anyways, I think there
16 has been evidence that has been introduced
17 that would entitle my client to a charge on
18 withdrawal from the conspiracy. And I can --
19 I mean, he -- there was ---

20 THE COURT: Your client testified
21 that he was yelling to "give it up."

22 MR. FALK: And he testified that
23 he went back inside the house with the gun.

24 THE COURT: Yes, sir. He'd
25 already been part of the -- at least there's

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1 testimony that he was part of the armed
2 robbery by holding a gun and yelling, "Give
3 it up. Give it up." I mean, that was his
4 own testimony. And I don't think you're --
5 and certainly, there's no -- I'll let them
6 argue it. But certainly from my viewpoint,
7 I don't see where there's any evidence
8 whatsoever of him withdrawing at that point
9 in time. But, State do you have any
10 objection to that?

11 SOLICITOR OZMENT: I would object
12 only that the -- if I'm not mistaken that law
13 requires that an overt to withdraw from
14 conspiracy. I'm going to be honest. I
15 haven't read withdrawal from conspiracy cases
16 for a while. But I don't think it's even
17 enough that he just said well, I was in the
18 middle of it and then I sort of backed up. I
19 think there has to be an overt act that the
20 other conspirators can recognize that he is
21 withdrawing from the conspiracy. For
22 instance before this happened, he said, 'You
23 know what guys, I'm out. I'm not taking part
24 in this' and he left the house. Then I think
25 he's -- that's withdrawal. But here there's

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1 not really any act I can point to that he did
2 any overt withdrawal. I think he said I was
3 holding a gun yelling give it up. And then I
4 sort of stepped back some. I don't think
5 that's an overt act that anyone else would
6 take to mean a withdrawal.

7 THE COURT: I just don't -- I
8 don't see it, Mr. Falk, but you're protected
9 on the record.

10 MR. FALK: Well, if I could, if I
11 could photocopy what I want to put in on the
12 charge and just so I can -- so it's, in
13 effect proffered.

14 THE COURT: Certainly.
15 Absolutely.

16 MR. FALK: I think I have to have
17 some proffer ---

18 THE COURT: Yes, sir. Okay. You
19 may do so.

20 MR. FALK: Okay. Thank you.

21 THE COURT: Anything else? Did
22 y'all look at the rest of the charge? I
23 added a charge -- I don't know if you've seen
24 it. He just e-mailed it where -- I basically
25 say that they may have heard evidence during

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1 this trial of the Defendant committing other
2 crimes or bad acts, that he is only on trial
3 for these and they are to draw no inference
4 as to his guilt or innocence. He's only on
5 trial for these three charges and that is all
6 that they should consider. So that just kind
7 of clears up any ---

8 SOLICITOR OZMENT: Was the inferred
9 malice charge also added that we asked for?

10 THE COURT: Yes, that was. And I
11 took out the hypothetical -- two shooters
12 with one gun.

13 SOLICITOR OZMENT: Thank you.

14 THE COURT: All right. All right.
15 We'll take a recess until 2:00 and at that
16 time be ready to -- since you put up no
17 evidence, you will get last argument.

18 MR. FALK: Thank you, Your Honor.

19 THE COURT: Thank y'all.

20 (LUNCH RECESS)

21 (DEFENDANT PRESENT)

22 THE COURT: Okay. Any other
23 changes concerning the charge? I think y'all
24 had one change about the felony. And that
25 would be you have an objection to that?

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1 MR. FALK: No, Your Honor. I
2 have this, what I'd like to proffer as my
3 instruction.

4 THE COURT: Yes, sir.

5 MR. FALK: You want me to read it
6 in or just ---

7 THE COURT: And where is -- is
8 there a stipulation that y'all wanted me to
9 read to the jury or do you need that? I
10 mean, nobody objected to any of the evidence
11 coming in or the chain of custody. I don't
12 know that I need to do that.

13 SOLICITOR OZMENT: And I don't
14 anticipate them arguing my chain, so I don't
15 think we need it necessarily.

16 THE COURT: All right.

17 MR. FALK: You want me to read it
18 in?

19 THE COURT: Yes, sir.

20 MR. FALK: This is my proffer
21 instruction on renunciation or withdrawal as
22 a defense to a conspiracy charge.

23 (Reading): "A member of a
24 criminal conspiracy is not responsible for
25 criminal acts committed by his co-

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1 conspirators if, before the acts were
2 committed, he withdrew entirely from the
3 undertaking and communicated his withdrawal
4 to his co-conspirators under such
5 circumstances as would permit them to take
6 the same action.

7 The law requires that a person
8 involved in a common design must withdraw
9 entirely and completely from it and must
10 communicate the withdrawal to his associates.

11 The person who continues in the
12 common design cannot claim withdrawal."

13 Finally, (reading): 'A person must
14 withdraw entire and unequivocally from the
15 plan. If the withdrawal is not communicated
16 to a particular associate or an associate did
17 not have an opportunity to withdraw after the
18 communication, then the person withdrawing
19 remains responsible for the acts of that
20 associate and with the natural and probable
21 consequences of the common design."

22 THE COURT: All right. Thank you.
23 All right. I've already made my ruling on
24 that. It's just a proffer.

25 All right. Is the jury ready to

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1 come on in? Let's bring them in.

2 (JURY IN @ 2:06 P.M.)

3 THE COURT: You may be seated.

4 All right. Ladies and gentlemen, I hope you
5 had a nice lunch.

6 As I told you earlier all the
7 testimony that you're going to hear has been
8 given to you. Now is the time for the
9 attorneys to make their closing arguments.

10 After that I will charge you the law
11 applicable to this case.

12 Is the State ready to proceed?

13 SOLICITOR OZMENT: Yes, Your Honor.

14 THE COURT: Is the Defense ready
15 to proceed?

16 MR. FALK: We are, Your Honor.

17 SOLICITOR OZMENT: May it please
18 the Court, Your Honor.

19 THE COURT: Yes, sir, Mr. Ozment.

20 SOLICITOR OZMENT: Mr. Falk.

21 MR. OZMENT: "Give it up! Give it
22 up!!" Those were Jason Kinloch's words
23 back in September of 2012 when he took part
24 in a conspiracy that lead to the armed
25 robbery and murder of Robert Moultrie. He

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1 said those words with a shotgun in his hands,
2 facing that truck in furtherance of those
3 crimes.

4 I'm going to first talk a little bit
5 about the facts in this case, the evidence
6 that's going to be back with you in the jury
7 room. And also what you heard from the
8 witness stand.

9 I'm going to talk a little bit about
10 the law in this case. The law in this case
11 can be a little tricky. Anything that I say,
12 though, with regard to the law, the Judge is
13 right. It's just my opinion on it.

14 First, I'm going to talk about how
15 many stories did we hear from Jason Kinloch
16 as to what happened that day? The first
17 story we heard is that Jason Kinloch was at
18 . . . He went to get
19 some beer and he came back. People were
20 acting "down" or weird. He left, went to his
21 father's house. That's all he knows. That
22 later he heard that his cousin had shot
23 somebody. That's all he knows. That's it.

24 Well, we know that story is
25 obviously not true now, but that was story

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1 number one.

2 Story number two, went to get beer,
3 he came back and this time, you'll remember,
4 he said he was in the Sweet Shop, which is
5 the little white building over here. He was
6 sitting there with Chris Tiller. All of a
7 sudden he hears, Pow! Comes outside and it
8 all happened. He didn't know anything about
9 it before then, didn't know anything about it
10 afterwards, just he was sitting in the Sweet
11 Shop, heard a gunshot. And now we know that
12 story's now not true.

13 Then we have the third story.
14 Remember now he's saying he's in the house,
15 he's in the shower or getting in the shower.
16 He hears a "Pow!". Comes outside, sees his
17 cousin, Patrick, holding a gun by the car and
18 sees the aftermath. Patrick left. Patrick
19 took the car. But, again, he didn't have
20 anything to do with it. He just was in the
21 shower and came out and saw Patrick with a
22 gun. That's all he knows.

23 All those stories -- you'll remember
24 he actually says at the end of our first
25 video, Chris Tiller is his "best friend."

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1 That's what he says. He says Tiller didn't
2 have anything to do with it either. He set
3 up the drug deal but Tiller didn't know about
4 the murder and the robbery. Tiller didn't
5 want them to do that.

6 Well, then we finally get the last
7 video and we get to the last story that Jason
8 tells. He's been pointing the finger at
9 Patrick. He says, 'Well, Patrick did it. I
10 heard that.' Then he said, 'Well, Patrick
11 did it. I saw that. I saw it right
12 afterwards.' 'Patrick did it. Patrick did
13 it.'

14 And the last story he starts
15 pointing at Chris. He even says, 'Well,
16 Chris is your best friend.' He goes, "Oh,
17 no, he's not my best friend." He says, you
18 know, 'we're close but he's not my best
19 friend.' He says, 'Tiller was pushing us to
20 do it. Tiller set this deal up', pointing
21 the finger at Tiller, pointing the finger at
22 Tiller. He keeps on pointing that finger at
23 Tiller.

24 But what does he say in the last
25 video? He says, 'I was holding a shotgun.

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1 I went out the door with everybody else and I
2 said, "Give it up. Give it up." He backs
3 off of that a little bit at the end and he
4 said, 'Well, I kind of came back towards the
5 door. I put the shotgun down.' But he
6 admits that he went out there after he'd been
7 planning it all day, talking about it with
8 everybody else. He went out to rob Robert
9 Moultrie, holding a shotgun, yelling "Give it
10 up!"

11 Now, we've heard all these stories,
12 and we've pointed the finger at Patrick and
13 we've pointed the finger at Tiller. But the
14 problem is, when you point a finger at
15 somebody, you have three fingers pointing
16 back at yourself. And that's Jason's
17 problem.

18 Jason says in the last video, 'Ask
19 the dude who lives across the street. He saw
20 everything.' So that's what we did.

21 Remember Malcolm Kinloch? He goes by Lonnie,
22 his cousin, that's the dude that lives across
23 the street.

24 What did Lonnie tell us? He said,
25 and "I wasn't sure. It happened fast, but I

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1 think it was Jason. It was definitely three
2 people came out of the house together after
3 the guy who got in the truck." Lonnie said
4 all three of those people were around the
5 truck.

6 Now, remember Jason when he was
7 telling he says, 'well, I'm back here on the
8 walk.' Here's the walk right here. That's
9 not what Malcolm told us. He said, 'no, all
10 three of them were over here where the truck
11 was parked, over kind of at the corner of the
12 house.'

13 What else did his cousin tell us
14 that Jason said we should ask. He said they
15 were all yelling, saying give up the money.
16 "Give it up!", something like that. And then
17 he said as soon as I kind of looked and heard
18 them and they were yelling, heard that pow.
19 One shot. That's the truth. And that
20 matches a lot of the last story that Jason
21 told us.

22 In this case, what you're here to
23 find is the truth. That's what the word
24 "verdict" means. The Judge may tell you that
25 in his charge. The word verdict is Latin but

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1 it means "the truth." And that's what your
2 job is.

3 We know all of those first stories
4 aren't true. They don't fit with each other.
5 They don't fit with the evidence. They don't
6 fit with anything. But Malcolm Kinloch has
7 no skin in this game, testifying against his
8 own cousin, he told you the truth. And it's
9 close to the last thing Jason told you.

10 It doesn't matter who set this up.
11 It doesn't matter who was standing where
12 exactly. All that matters is that Jason
13 Kinloch is here today getting his day in
14 court, what he did is what we're concerned
15 with. Patrick shot him. I'm not saying
16 anybody but Patrick Kinloch shot him.
17 Christopher called and set up a drug deal.
18 I'm not saying anybody other than Christopher
19 Tiller called and set up that drug deal. But
20 today we're here to try Jason Kinloch. We're
21 not here to try Patrick. We're not here to
22 try Chris. Their day in court comes at a
23 different time. This is Jason's day in
24 court.

25 Jason told us he planned it, he

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1 admits 'we were talking about it all day, I
2 held the shotgun.' Said and yelled, "Give it
3 up. Give it up!" That's what Jason did.

4 Now, I'm going to transition a
5 little bit and talk about the law. We're
6 first going to talk about the hand of one,
7 the hand of all. The Judge is going to go
8 over those. The hand of one the hand of all
9 is kind of what it sounds like. If people
10 are doing something together, everybody's
11 responsible for what one person does.
12 Anytime you have a criminal conspiracy like
13 we had here, there was conspiracy to commit
14 this armed robbery. One person is
15 responsible for what every other person does
16 in that conspiracy. So -- and this is going
17 to be what the Judge reads you, "If a crime
18 is committed by two or more people, acting
19 together committing a crime, the act of one
20 is the act of all."

21 The second one says a person has to
22 be present and with assistance. Well, what's
23 the assistance? The assistance is holding
24 this shotgun. Standing there yelling, "G0ive
25 it up!" That's the assistance. Scaring

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1 Robert Moultrie when he sees three guns
2 pointed at him. That's the assistance.

3 Conspiracy, we've talked about that a
4 little bit already. Conspiracy is kind of
5 what you think it is. And the Judge will go
6 over it. I don't think there's any question
7 there was a conspiracy here. Three, maybe
8 four, maybe five guys went in together to rob
9 in. That's all a conspiracy. Not too
10 complex. I'm not going to spend a lot of
11 time talking about that.

12 I am going to talk a minute, spend a
13 minute talking about armed robbery. These
14 are the requirements for armed robbery. Kind
15 of go in a reverse order:

16 Armed with a deadly weapon?

17 Check.

18 On top of that under the hand of one
19 the hand of all, we know Patrick was armed
20 with a deadly weapon. It was his weapon that
21 killed him. So armed with a deadly weapon.

22 Check.

23 It doesn't matter if this weapon was
24 loaded or unloaded. The Judge will tell you
25 that. When you're robbing someone, it's an

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1 armed robbery if some violence or through
2 fear of violence. And certainly when Robert
3 Moultrie saw this gun, he was just as scared
4 of that as he was the gun that shot and
5 killed him.

6 Now, taking something and carrying
7 it away. Again, it doesn't matter if Jason
8 ended up with the money or not. It doesn't
9 matter if Jason took that Suburban and dumped
10 it out in the woods or not. If anybody
11 involved in this took that twenty-four
12 hundred dollars, if anybody involved with
13 this took that Suburban, drove it down the
14 road and dumped in the woods, that's carrying
15 property away. Anybody in the conspiracy can
16 fill any of these elements. Certainly, the
17 twenty-four hundred dollars, I don't know
18 where it went, but he didn't have it when the
19 police found him. He was coming down there
20 to buy drugs so I bet he had it on him.

21 Lastly, and this is going to be the one
22 we spend the most time on, is going to be
23 murder: Killing another person with malice
24 aforethought.

25 Killing, I don't think there's any

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1 debate here. Robert Moultrie's dead. Y'all
2 saw the pictures of the entry wound, pictures
3 of the exit wound, you heard the pathologist
4 testify, it hit one lung, hit the aorta, hit
5 the heart, hit the other lung, out the other
6 side. Said he would have died very quickly.

7 Well, let's talk about what malice
8 is. "Malice" is a legal term. It means
9 hatred or ill will or hostility towards
10 another person. The intentional doing of a
11 wrongful act -- armed robbery, murder --
12 without just cause or excuse with the intent
13 to inflict an injury pulling the trigger of a
14 gun, inflicting an injury or under
15 circumstances that would infer evil intent.
16 So what I'm going to kind of focus on is
17 hatred, ill will, hostility and evil intent.

18 So what malice do we have? Use of a
19 deadly weapon. And when the Judge charges
20 you on the law he's going to tell you that
21 you can infer malice of the use of a deadly
22 weapon. We've got Patrick's deadly weapon.
23 We've got Jason's deadly weapon. And
24 depending on what version you believe, we
25 have either Gilbert Grant or Joshua Pruitt's

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1 deadly weapon.

2 But no question, he's dead. There
3 was a deadly weapon.

4 Also, murder, murdered during the
5 armed robbery. The Judge is going to tell
6 you that you can also infer malice if a
7 killing takes place during a felony. The
8 Judge is going to tell you armed robbery is a
9 felony. Anytime someone is killed during the
10 commission of a felony, you can infer malice
11 and find that that killing was a murder.

12 Malice isn't something -- it's not
13 premeditated. It doesn't have to mean that
14 they planned to kill him that they thought it
15 out and they planned a trap and that was it.
16 Malice can exist for just a second. That ill
17 will can be there for just a brief second.

18 What else is malice? Shooting and
19 killing Robert Moultrie and leaving his body
20 to rot in Francis Marion National Forest is
21 malice. Having that bullet go in this side
22 and out that side shows malice. Shot to
23 kill.

24 "Give it up!" Jason's Kinloch's own
25 words show malice. He was there to rob him.

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1 That's ill will. That's hostility that he
2 was showing -- this isn't Patrick. This is
3 Jason's words that he was shouting towards
4 Robert Moultrie. They planned it all day.

5 But I think the best malice is at
6 20:06 in the second video. Detective Riser
7 is asking Jason about why he took the gun
8 outside. He said, 'So you come out yelling
9 with a gun, give it up. Give it up.'

10 That's what Riser said. This is
11 what Jason responds -- and if you want to see
12 this again, it can be cued up. Just ask a
13 question when you're back in the jury room --
14 "Yes, but I had an empty gun, you know, I
15 ain't even been -- because the dude been
16 dogging. He been laughing at them. You know
17 what I mean? Like it was funny."

18 That's why Robert Lamar Moultrie got
19 shot.

20 That's why Jason Kinloch had a gun,
21 because Robert Lamar Moultrie wasn't taking
22 them seriously. Apparently he was laughing.
23 He was dogging 'em.

24 You know what? They made sure it
25 wasn't a joke. They made sure nobody thought

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1 this was funny. They killed him right there
2 and dumped his body out in the forest.
3 That's what malice is. It's beyond ill will,
4 it's beyond hostility. You can ask to have
5 that played again if you want to hear it.

6 You know, during his opening Mr.
7 West talked about turning back the hands of
8 time. And it's at the end of the second
9 video that Mr. Kinloch says you can't turn
10 back the hands of time. 'The story is what
11 it is.' And he's exactly right. You can't
12 turn back the hands of time. Robert Moultrie
13 is dead. His time on this earth has ended.
14 You can't take that back and we can't change
15 the story. Jason Kinloch can't change that
16 story as much as he wanted to try, because
17 today is his day in Court. Today, the truth
18 is decided by you. And that's the end of
19 that story.

20 I ask you to weigh the evidence that
21 we've presented. I think you'll find Jason
22 Kinloch guilty of conspiracy, guilty of armed
23 robbery and guilty of murder. Thank you very
24 much.

25 THE COURT: Thank you. Mr. Falk.

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1 MR. FALK: May it please the
2 Court?

3 THE COURT: Yes.

4 MR. FALK: Ladies and gentlemen,
5 let me set the scene for you. September
6 2012, it's a Saturday or Sunday afternoon.
7 Jason spent some time that weekend with his
8 girlfriend. And he spent the rest of the
9 weekend with his friends. He spent the rest
10 of the time hanging until he had to go back
11 to work cutting grass with Dennis West.

12 At the time, Jason was staying in
13 Chris Tiller's house. He used to live in
14 with his father. He used to work with his
15 father. In addition to his landscaping
16 business he worked with his father fixing up
17 cars. And he and his dad had a falling out.
18 That's probably not the first time, won't be
19 the last time that a father and son had a
20 falling out. He needed a place to stay while
21 he could set things right back with his
22 father. He needed a place where he could go
23 to hang out -- put his head down, as he said
24 -- until he could patch things up with his
25 father. That's what brings him to Tiller's

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1 house.

2 And this September weekend Tiller
3 was having a party or I don't know if it was
4 a party or just a group of his friends there
5 hanging out. They were drinking beer. It
6 was Saturday afternoon, Sunday afternoon, a
7 group of guys sitting around drinking beer.
8 Patrick Kinloch, Chris Tiller, Jason Kinloch,
9 Joshua Pruitt, and probably Gilbert Green,
10 they were all there hanging out. A bunch of
11 guys just sitting around on a Saturday
12 afternoon, they've got nothing better to do.
13 And they're sitting around drinking beer.
14 That's not the first time but all of a sudden
15 the BS starts coming out. You know, it just
16 starts flowing. Then the gangster talk
17 starts flowing and these guys are just
18 talking big. That's what Jason Kinloch
19 thought was going on. He just thought some
20 people were just sitting around, trying to
21 act like gangsters, talking big.

22 Then Tiller starts talking about
23 that this guy's coming down from Conway and
24 that they're going to rob him. Now, Jason
25 knows Tiller is a drug dealer. I think

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1 everybody in this courtroom probably even
2 knows that Tiller's a drug dealer. But Jason
3 doesn't think anyone was talking serious.

4 At some point during the afternoon,
5 though, it became serious. Certainly Chris
6 Tiller and Patrick Kinloch, they were serious
7 about it. They were looking for a quick
8 score, a quick buck, you know. None of them
9 had jobs. None of them had jobs and they
10 were looking for some money, you know. Jason
11 works -- but they were looking for some
12 money.

13 But Jason still doesn't know. I
14 mean, Jason's got a problem right now because
15 he still doesn't know that these guys are
16 serious, that they're actually planning on
17 doing this that it's not just talk.

18 Then some time during that afternoon
19 Robert Moultrie shows up in Tiller's
20 driveway. People came out to confront him.
21 We know Patrick Kinloch came out to confront
22 him, whether it was Joshua Pruitt or whether
23 it was Gilbert Grant or whoever else. A
24 group of people came out to confront
25 Moultrie. And then during the course of

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1 that, there was some yelling going back and
2 forth, Patrick's gun goes off. Robert
3 Moultrie's dead. Then they start to panic.
4 They don't know what to do. They're
5 scurrying around.

6 A little while later, Patrick and
7 Joshua Pruitt shove Mr. Moultrie's body into
8 the back seat and they take his truck and
9 they drive away and they go try and hide the
10 truck somewhere.

11 And Tiller doesn't want this car in
12 his front yard anymore so he tells them to go
13 get rid of the car and get rid of the body.

14 Now, Jason Kinloch was at the house
15 that day. And he was at this house the day
16 the shooting occurred but he did not play a
17 role in this armed robbery. He did not play
18 a role in this murder.

19 In order for there to be a robbery,
20 something's got to be taken from the victim.
21 Jason doesn't know if anyone ever took
22 Tiller's money. Jason doesn't even know if
23 Tiller brought any money to the scene. What
24 Jason does know is that no money of Mr.
25 Moultrie's ever found his way into his

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1 pocket. Jason had a job. Tiller and Kinloch
2 didn't. Patrick Kinloch didn't have a job.

3 Now, Jason heard -- I know there's
4 some talk going around. And so Jason heard
5 that Tiller's playing poker with blood-
6 stained money. I'm not sure if that's a
7 metaphor or if he really was throwing down
8 dollar bills that had blood stains on them.
9 But I mean you heard that Tiller had some
10 money. And you also heard that Joshua
11 Pruitt's going around town about how Tiller
12 paid him four hundred dollars to get rid of
13 the body. That's really what Jason knew
14 about whether or not Mr. Moultrie ever came
15 down there with any money.

16 And what we've heard over the last
17 two days, it's been like a mini-crime drama
18 playing out. Although this is not the kind
19 of trial that you see on TV, I submit there
20 was a little crime drama that happened back
21 in September of 2012. That's one that you've
22 seen on TV or you've seen it in the movies.

23 And here's the cast of this drama:
24 You've got Robert Moultrie; he's the victim.
25 He's also coming down from Conway, coming all

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1 the way down from Conway to Huger in order to
2 buy drugs. So you've got somebody coming in
3 to buy drugs.

4 Another member of the cast is Chris
5 Tiller; he's the other drug dealer in this
6 little drama. He's also really the one who
7 wrote the script. He decided everybody's
8 role in this drama.

9 You have Patrick Kinloch; who's also
10 a member of Chris Tiller's group. He's the
11 guy that had the gun. He got assigned the
12 role to go out and confront Mr. Moultrie with
13 a gun when Mr. Moultrie was in the car.
14 Robert Moultrie (sic) pled guilty.

15 Excuse me. Patrick Kinloch has pled
16 guilty for Robert Moultrie's death.

17 SOLICITOR OZMENT: Your Honor, may we
18 approach?

19 THE COURT: You may.

20 (OFF RECORD BENCH CONFERENCE)

21 THE COURT: The jury will
22 completely disregard the last few minutes of
23 testimony -- or statement from the Defense
24 attorney. It was improper to say that and
25 he's admonished not to do that anymore. He

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1 will proceed under my orders. Thank you.

2 MR. FALK: You heard testimony
3 from Detective Shuler. We took testimony
4 from Detective Riser. They all think that
5 Patrick Kinloch is the person that shot
6 Robert Moultrie. And the prosecutor even
7 told you that Patrick Kinloch's the one who
8 shot Robert Moultrie.

9 Now, let's talk about Joshua Pruitt.
10 There's one more person in this drama who
11 got, who had an assigned role eventually. He
12 got assigned the role to help Patrick get rid
13 of the body. He's the one that threw the
14 body in the back seat and he's the one that
15 drove off with Patrick Kinloch.

16 There are other players in this
17 drama. There are other players in this
18 little movie.

19 And our job today is to figure out
20 what Jason Kinloch's role is. And I submit
21 today that Jason Kinloch is a bit player in
22 this drama. He's an extra. He's certainly
23 not the star of the drama. I think that's
24 Patrick Kinloch and that's Chris Tiller.

25 Let's talk a little bit more about

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1 Chris Tiller. We know he has pending drug
2 charges. Detective Shuler testified to that.
3 Both Detective Shuler and Sergeant Riser
4 talked about the fact that that there was a
5 digital scale in the house; and they all know
6 that a digital -- that's the kind of thing
7 that drug dealers use in measuring out the
8 drugs. It's certainly not something that he
9 was using in the kitchen.

10 We also heard some testimony from
11 Malcolm Kinloch talking about when he was
12 watching his neighbor across the street. He
13 was talking about how cars were going in and
14 out of there all of the time, going in and
15 out over there. And that's activity that you
16 might expect to see around someone who's
17 selling drugs like that.

18 We also know that Mr. Moultrie drove
19 all the way down from Conway, drove all the
20 way down to Huger not to see Jason Kinloch.
21 He drove all the way down there to see Chris
22 Tiller. He was going to do business with
23 Chris Tiller. He'd been there. We heard
24 Maurice Lincoln testify that he and Moultrie,
25 he and Robert Moultrie had been maybe a week

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1 before. I'm not sure if he said a month or a
2 week, but in the recent -- prior to that to
3 buy drugs before.

4 Now, you have to remember that
5 Maurice Lincoln, I mean, he would know what
6 drug activity would look like. He's got
7 three prior convictions of trafficking in
8 drugs. And Maurice Lincoln testified that
9 Moultrie drove to Huger to buy drugs from
10 Tiller on at least one other occasion.

11 It's also probably reasonable to
12 assume that Lincoln had been there a couple
13 other times, and probably not to hang out
14 with Chris Tiller. You'll notice that when
15 the police officers -- when he got into the
16 police officers car leaving from Santee, he
17 was able to go from whether they left the
18 police -- I'm not sure if they left all the
19 way from Santee or if they started from
20 Berkeley County Sheriff's Office here, but
21 Mr. Lincoln knew where to go. He knew how to
22 drive them there. And I submit to you that
23 is in a remote part of
24 this county. It's out in the country. It's
25 not on the main drag by any means. And he

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1 was able to drive them there with no problem.
2 He was able to -- he could drive them there
3 because he'd been there several times before.
4 And the only reason why he'd been there
5 several times before was probably do some
6 more business with Chris Tiller. I think
7 Tiller, I think, is also somebody who's more
8 than just some little -- some kind of street-
9 level guy. He's not some little street-level
10 guy selling it, you know, little nickel bags.
11 I mean these guys are driving all the way
12 from Santee. They're driving all the way
13 from Conway to come down to Tiller's house.
14 I think -- and I submit the reason why you
15 drive all that way is because they know that
16 Tiller's somebody who had a lot of stuff that
17 they could sell at one time.

18 Chris Tiller put this plan in
19 motion. Again, he -- I'm not sure if Robert
20 Moultrie called Chris Tiller or Chris Tiller
21 called Robert Moultrie. But the reason why
22 Robert Moultrie is in Huger that afternoon
23 was because of the conversation those two
24 had. Mr. Moultrie, as I said, is not coming
25 down there to see Jason Kinloch. He's

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1 probably not coming down there to see Patrick
2 Kinloch. He's coming down there to see Chris
3 Tiller. And apparently -- I mean clearly
4 Tiller knew why Moultrie was coming. He was
5 coming to -- they were going to do business.
6 He was going to buy drugs.

7 Now Tiller probably at this time
8 knows that he has no drugs to sell to
9 Moultrie. But he did know that Tiller [sic]
10 was coming and that he was coming he probably
11 had cash.

12 Again, this is the plan this is the
13 script that Tiller wrote and he assigned the
14 roles to everybody in this little plan. But
15 I do think that this plan was never -- and I
16 don't think the testimony -- and I don't
17 think any of the evidence you heard was ever
18 to come -- that ever part of this plan was to
19 kill Robert Moultrie. I think the plan was
20 to rob Mr. Moultrie. But I don't think
21 anybody ever contemplated that Robert
22 Moultrie would die as a result of this
23 transaction, this scheme that Tiller put into
24 place.

25 And who's the next cast member here?

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1 Patrick Kinloch. The only thing we have to
2 know about Patrick Kinloch is that he had the
3 gun in his hand. The gun went off and the
4 gun hit Mr. Moultrie. Patrick Kinloch's the
5 shooter in this story. And I think we can
6 probably assume, just based on what we know
7 about the shooting that Patrick Kinloch never
8 intended to shoot Mr. Moultrie -- excuse me
9 -- never intended to kill Mr. Moultrie. I
10 think if that was the intent we probably
11 would have seen evidence of more gunshots
12 going off. I mean, if the plan was that as
13 soon as Mr. Moultrie pulled up into the
14 driveway, they're going to come out with guns
15 blaring, you would have seen more guns. You
16 would have seen -- Mr. Moultrie would
17 probably have been hit more than once.
18 You'd have seen more evidence that gunfire
19 was inside the SUV. There would have been
20 bullet holes in the side of the truck. There
21 would have been more casings around there. I
22 don't think there was ever a plan to kill
23 Robert Moultrie. I think the plan was to rob
24 him. I think Patrick Kinloch in the course
25 of that, the gun went off. And he hit -- he

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1 killed Robert Moultrie.

2 Let me just add one other role
3 Patrick Kinloch played in this. He, along
4 with Joshua Pruitt, they're the ones that got
5 rid of the body. I mean, when the prosecutor
6 was talking about malice and he was showing
7 you examples of malice, he showed the body in
8 the back seat of the SUV that Patrick Kinloch
9 and Joshua Pruitt threw in there. And I mean
10 that's, that's certainly no respect for a
11 dead body. I mean -- and whoever was
12 planning to put that body out there to rot,
13 to die, that was -- if that was something
14 that was planned, that was Patrick Kinloch's
15 plan or Joshua Pruitt's plan. My client,
16 Jason Kinloch, had no malice, had no ill
17 will, had no grievance, had no axe to grind,
18 had no score to settle with Robert Moultrie.
19 There is no evidence he even knew Robert.

20 And, again, as we're going through
21 the cast members It's Joshua Pruitt -- he had
22 a smaller role. But, again, he's the one
23 that helped get rid of the body, was paid by
24 Tiller to help get rid of the body. And he's
25 the one that -- he bragged about it. I mean,

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1 he talked about how someone gave him four
2 hundred dollars and he took part in this kind
3 of play.

4 We know everybody's role in this
5 drama, except I don't think we really know
6 Jason Kinloch's role. We know where Tiller,
7 we know where Pruitt, and we know where
8 Patrick Kinloch fit into the story.

9 Your job today, I really think as
10 jurors, would have been a lot easier if, in
11 this courtroom we would have had our trial at
12 the same time Patrick Kinloch, Joshua Pruitt,
13 Chris Tiller and Jason Kinloch, having their
14 trial together. That way, you could have
15 heard all the evidence and weighed all the
16 evidence as it related to each of the people.
17 You could have compared each person's role
18 and each person's level of responsibility in
19 this. And then your verdict would reflect
20 the whole story.

21 Even though you know that there were
22 multiple players in this drama, there were
23 multiple participants, you're only allowed to
24 really look at a little slice of the story.
25 You're asked today to determine what Jason

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1 Kinloch's role in the story was.

2 What's Jason Kinloch's role?

3 Is he a star in this drama?

4 Is he an extra?

5 Is he a bit player?

6 Was he even on the set when this
7 whole thing took place.

8 You heard Jason's statement on
9 October 24th. You need to decide exactly what
10 Jason admitted to in the statement. As you
11 listen to the statement, if you get an
12 opportunity to listen to the statement, I
13 think you'll hear that Sergeant Riser
14 certainly had a dialogue -- certainly had a
15 narrative that he wanted Jason to say. And
16 whether or not he was putting words in his
17 mouth, I think it certainly -- I think you
18 can draw the conclusion that he was drawing
19 Jason into saying the story that he needed to
20 hear. And if you have the opportunity to
21 listen to that confession again, I want you
22 to look -- did Jason really admit to that or
23 was he just saying whatever? Was he just
24 saying whatever it was going to take to get
25 Sergeant Riser to hear what he needed to

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1 hear?

2 And you did hear something in part
3 of that story. I think that Sergeant Riser
4 acknowledges the fact that somewhere along
5 the line, once things got real, once Jason
6 realized that this was -- that these guys
7 aren't joking, he goes back inside. He went
8 back into his house. If he had a gun, he put
9 the gun down.

10 The State really has no other
11 evidence to prove that Jason Kinloch was
12 involved in the death of Robert Moultrie, no
13 forensic evidence.

14 You heard testimony from both
15 Detective Riser and Detective Shuler that
16 they took fingerprints and they looked for
17 DNA evidence inside the car and they didn't
18 find -- they did find Patrick Kinloch's palm
19 prints inside the car, and I think part of
20 the story is that Patrick Kinloch drove that
21 car away.

22 Had Jason Kinloch played a major
23 role in this story, his fingerprints would
24 have been found at the crime scene.

25 Every time that I brought that point

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1 up on cross examination with Detective Shuler
2 and Sergeant Riser, the prosecution came
3 right back in and said, 'Well, you did find
4 his driver's license at Chris Tiller's house
5 and you did find some photographs on the wall
6 at Chris Tiller's house.' But I submit to
7 you driver's licenses and photographs are
8 hardly evidence of participation in a crime.

9 There were no spent shells outside.
10 There were no shotgun unspent or -- or real
11 shotgun shells in a box inside the house.
12 And you saw photographs of that house. There
13 was tons of ammunition in that house,
14 bullets. There's forty caliber bullets and
15 nine millimeter bullets, there was all kinds
16 of bullets in that house. If that shotgun
17 ever had the opportunity to be loaded, you
18 would have seen shotgun shells in house.
19 There were no shotgun shells. The shotgun
20 was never loaded. He never had a chance to
21 shoot somebody with an unloaded gun. There's
22 really no evidence that the shotgun could
23 have ever been fired.

24 And there's really no evidence that
25 anything more than one bullet was ever fired.

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1 And I think the evidence shows that the
2 bullet was fired by Patrick Kinloch.

3 The State has offered Malcolm
4 Kinloch to testify as a way to tie Jason into
5 this story. We have to consider how reliable
6 Malcolm Kinloch's testimony is. How much
7 faith can we have in the details of his
8 testimony? Was this one of those traumatic
9 events where the details are sort of burned
10 into his memory or was this one of these sort
11 of things that happened and maybe later he
12 realized that -- 'wow, what just happened.'
13 I think that Malcolm's own actions testified
14 to the fact that he must not have thought
15 that this was a serious situation and I'll
16 tell you why. If he thought that there was
17 gunplay and somebody had gotten shot, why
18 would he walk down to the driveway, go closer
19 to Tiller's house and finish planting the
20 mailbox. That's just is inconsistent with
21 anybody who really thought something serious
22 had gone on.

23 Let's just think about what his
24 ability was to recollect. The first time he
25 says anything about this story to anybody is

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1 four or five days later. And, you know, is
2 his mind sort of filling in some of the
3 details. I have no doubt that he knows
4 Larry's son, that he knows Henry's son.
5 That's how he knows Jason Kinloch, as Henry's
6 son. But you will recall that he never in
7 the dramatic moment that we've seen on TV, he
8 never stood from the stand, point at Jason
9 Kinloch and said, 'yeah, he was the guy that
10 was across the street that day.'

11 If he thought it was serious, why
12 would he not have called the police? He
13 never calls the police. They have to come
14 get him two times before he's going to tell
15 them anything about this.

16 And here's the last part of the
17 story. If he saw Jason Kinloch with a shot-
18 gun in his hand, which I submit I don't think
19 he did, I would that that's the detail that
20 would come out through the story. If you
21 were across the street, minding your own
22 business, planting a -- putting in a mailbox
23 and you see somebody walk outside with this
24 gun in their hand -- I mean, this is not your
25 grandfather's, you know, hunting rifle. This

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1 is not a BB gun. This is a weapon that I
2 think if somebody sees, that's a weapon that
3 somebody's going to remember. If somebody
4 walked through that door right now that gun
5 and turned around and walked back out, the
6 only thing I submit that you're going to
7 remember seeing is the gun. You might not
8 know the color of that person's shirt, the
9 color of his hair, or anything else, but
10 you're going to remember the gun.

11 And if you going to talk to the
12 police four or five days later about that
13 event, the gun, if you saw it, that's what
14 you're going to be talking about. He never
15 saw Jason with a gun.

16 And I think you've heard, you've
17 heard the script, you've heard the drama.
18 You know what happened.

19 It's going to be your job now to
20 decide who the major players in this drama
21 are. I'm sure that once you consider the
22 evidence you'll decide that Jason Kinloch, if
23 he played any role at all, he's a bit player.
24 He's an extra. And your verdict is going to
25 reflect that. Thank you.

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1 THE COURT: Let me see the
2 attorneys up here for just a moment.

3 (OFF RECORD BENCH CONFERENCE)

4 THE COURT: Will the bailiffs
5 please secure the courtroom? Make sure no
6 enters or leaves. If anyone wants to leave
7 at this point, now would be a good time.

8 All right. Ladies and gentlemen,
9 as I told you, all the testimony has been
10 presented. All the evidence that you're
11 going to receive has been put into the
12 record.

13 The attorneys have given you their
14 closing arguments and now it's my turn to
15 give you the law that is to be applied in
16 this case.

17 Ladies and gentlemen, I'd remind you
18 that during this trial you and I have certain
19 duties to perform. As the trial Judge, it is
20 my responsibility to preside over the trial
21 of this case. And I also have a duty to rule
22 on the admissibility of evidence that has
23 been offered during this trial.

24 Now you are to consider only the
25 competent evidence before you. If you there

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1 was any testimony ordered stricken from
2 the record in this case, you must disregard
3 that testimony. Ladies and gentlemen, you
4 are to consider only the testimony which has
5 been given from this witness stand and any
6 exhibits, which have been made a part of the
7 record and any stipulations of counsel.

8 Ladies and gentlemen, I have the
9 additional duty to charge you the law that is
10 applicable to this case. And as the presid-
11 ing Judge, I am the sole Judge of the law in
12 this case and it is your duty as jurors to
13 accept and apply the law exactly as I now
14 state it to you.

15 Ladies and gentlemen, if you have
16 any idea as to what the law is or what the
17 law ought to be and it does not agree with
18 what I'm telling you the law is now, you must
19 abandon that idea because ladies and
20 gentlemen, you are sworn to accept and apply
21 the law exactly as I now state it to you.

22 Now, ladies and gentlemen, in every
23 case tried before a jury, you, the jury,
24 become the sole and exclusive judge of the
25 facts. And as the trial Judge I cannot

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1 intimate, state, comment or in any way make a
2 statement to a trial jury about the facts in
3 a case. Since you're the jury, as I said,
4 you're the sole judges of the facts.

5 And please do not infer from
6 anything that I have said during the progress
7 of this trial or how I ruled on the
8 admissibility of evidence or otherwise or
9 anything that I say now during the course of
10 these final instructions, that I have an
11 opinion about the facts in this case. The
12 law simply does not allow me to have an
13 opinion about the case. That's a matter of
14 the facts. That's a matter solely for you,
15 the jury, to determine.

16 As jurors, it is your duty to
17 determine the effect, the value and the
18 weight and the truth of the evidence
19 presented during this trial.

20 Now, ladies and gentlemen, I've told
21 you before the indictments charging the
22 Defendant with various crimes -- and I will
23 remind you the fact that the Defendant was
24 arrested, charged and indicted is not
25 evidence in this case and cannot be

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1 considered by you as evidence of guilt in
2 this case. Nor does it create any
3 presumption or inference of guilt. The
4 indictments are simply the formal written
5 instruments that contain the charges made
6 against the Defendant and they are the formal
7 written documents by which this case is
8 brought into Court.

9 Now, ladies and gentlemen, the
10 indictments in this case allege three
11 different offenses against the Defendant.
12 The charges are under indictment 2012-GS-08-
13 2248, armed robbery; under indictment 2012-
14 GS-08-2249, criminal conspiracy; and, under
15 indictment 2012-GS-08-2250, murder. Each
16 indictment charges a separate and distinct
17 offense and you must decide each indictment
18 separately on the evidence and on the law
19 applicable to it, uninfluenced by your
20 decision as to any other charge in the
21 indictments.

22 The Defendant may be convicted or
23 acquitted on any or all of the offenses
24 charged.

25 And you will be asked to write a

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1 separate verdict on the verdict form, which
2 I'll explain to you as we get into it for
3 each charge.

4 Now, ladies and gentlemen, the
5 Defendant has pled Not Guilty to the charges
6 in these indictments. And that plea puts the
7 burden on the State to prove the Defendant
8 guilty.

9 A person charged with committing a
10 criminal offense in South Carolina is never
11 required to prove himself innocent. Ladies
12 and gentlemen, I charge you that that's an
13 important rule of law that a defendant in a
14 criminal trial, no matter how serious the
15 charge may be, will always be presumed to be
16 innocent of the crime for which the
17 indictment was issued, unless guilt has been
18 proven by evidence satisfying you of that
19 guilt beyond a reasonable doubt.

20 The presumption of innocence does
21 not end when you begin your deliberation but
22 it accompanies the defendant throughout the
23 trial until you reach a verdict of guilt
24 based on evidence satisfying you of that
25 guilt beyond a reasonable doubt.

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1 The presumption of innocence is like
2 a robe of righteousness place about the
3 shoulders of the Defendant, which remains
4 with the Defendant until it has been stripped
5 from the defendant by evidence, again,
6 satisfying you of the Defendant's guilt
7 beyond a reasonable doubt.

8 The presumption of innocence is not
9 a mere legal theory. It is not a legal
10 phrase but is a substantial right to which
11 every defendant is entitled, again, unless
12 you, the jury, are satisfied from evidence
13 that satisfies you of the defendant's guilt
14 beyond a reasonable doubt.

15 Ladies and gentlemen, as I said, the
16 State has the burden of proving the Defendant
17 guilty beyond a reasonable doubt. Now, the
18 question is, well, what is that?

19 Now, some of you may have served as
20 jurors in a civil case where you were told it
21 is only necessary to prove that a fact is
22 more likely true than not true, such as by
23 the greater weight or the preponderance of
24 the evidence.

25 In criminal cases, however, the

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1 State's proof must be more powerful than
2 that. It must be beyond a reasonable doubt.
3 Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of the
5 Defendant's guilt.

6 Now, ladies and gentlemen, there are
7 very few things in this world that we know
8 with absolutely certainty. And in criminal
9 cases, the law does not require proof that
10 overcomes every possible doubt.

11 If based upon your consideration of
12 the evidence you are firmly convinced that
13 the Defendant is guilty of the crimes
14 charged, you must find the Defendant guilty.

15 If, on the other hand you think
16 there is a real possibility that the
17 Defendant is not guilty, you must give the
18 Defendant the benefit of the doubt and find
19 him not guilty.

20 Now, ladies and gentlemen, there are
21 two types of evidence, which are generally
22 presented during a trial. There's direct
23 evidence and circumstantial evidence.

24 Direct evidence is the testimony of
25 a person who claims to have actual knowledge

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1 of a fact, such as an eyewitness. Now, it is
2 evidence which immediately establishes the
3 main fact to be proved.

4 Circumstantial evidence is proof of
5 a chain of facts and circumstances indicating
6 the existence of a fact and evidence, which
7 immediately establishes collateral facts,
8 from which the main fact may be inferred.
9 Circumstantial evidence is based on inference
10 and not on personal knowledge or observation.

11 But the law makes absolutely no
12 distinction between the weight or value to be
13 given to either direct or circumstantial
14 evidence, nor is a greater degree of
15 certainty required for circumstantial
16 evidence than of direct evidence.

17 Ladies and gentlemen, you should
18 weigh all the evidence in this case and after
19 weighing all the evidence if you are not
20 convinced of the guilt of the Defendant
21 beyond a reasonable doubt, you must find the
22 Defendant not guilty.

23 Now, ladies and gentlemen, I in-
24 struct you and I emphasize the fact that the
25 Defendant did not testify is not a factor to

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1 be considered by you in your deliberation and
2 in your consideration of the question of
3 guilt or innocence of the Defendant. It must
4 not be considered by you in any way whatso-
5 ever. The Defendant has the Constitutional
6 Right to remain silent and the assertion of
7 this right must not be considered by you in
8 your deliberations. And I repeat, under your
9 oath you are to draw no conclusions
10 whatsoever from the fact that the Defendant
11 did not testify. And the fact that the
12 Defendant did not testify should not even be
13 discussed in the jury room.

14 As I said, the burden of proof is on
15 the State and the Defendant is not required
16 to prove his innocence.

17 And the burden of proof remains on
18 the State to prove guilt beyond a reasonable
19 doubt.

20 Now, ladies and Gentlemen, you must
21 determine the credibility of witnesses who
22 have testified in this case. Credibility
23 simply means believability.

24 Now, ladies and gentlemen, it
25 becomes your duty as jurors to analyze and

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1 evaluate the evidence and determine which
2 evidence convinces you of its truth. In
3 determining the believability of witnesses
4 who have testified in this case, you may
5 believe one witness over several witnesses or
6 several witnesses over one witness. You may
7 believe a part of the testimony of a witness
8 and reject the remaining parts of the
9 testimony of that same witness. You may
10 believe the testimony of a witness in its
11 entirety or reject the testimony of a witness
12 in its entirety. You may consider whether
13 any witness has exhibited to you any
14 interest, bias, prejudice or other motive in
15 this case. You may also consider the
16 appearance and manner of a witness while on
17 the witness stand.

18 Ladies and gentlemen, the rules of
19 evidence ordinarily do not permit witnesses
20 to testify to opinions or conclusions.
21 There's an exception to this rule that exists
22 for witnesses we call expert witnesses, a
23 witness who by education and experience, has
24 become some expert in some art, science or
25 profession or calling, may state an opinion

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1 as to relevance and material matter in which
2 the witness claims to be an expert and may
3 also state the reason for the opinion. Now,
4 ladies and gentlemen, you should consider any
5 expert opinion received in evidence in this
6 case like any other evidence and give it the
7 weight that you think it deserves.

8 If you decide that the opinion of an
9 expert witness is not based on sufficient
10 education and experience or if you conclude
11 that the reason given in support of the
12 opinion are not sound or that the opinion is
13 outweighed by other evidence, you may
14 disregard the opinion in its entirety.

15 And an expert witnesses testimony is
16 to be given no greater weight than that of
17 any other witness simply because the witness
18 is an expert.

19 And, further, you are not required
20 to accept an expert's opinion even though it
21 is not contradicted.

22 Now, ladies and gentlemen, the
23 Defendant is charged with armed robbery. In
24 order to prove this charge, the State must
25 prove beyond a reasonable doubt that the

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1 Defendant took personal property from the
2 person or presence of another person.

3 Property is in the presence of a
4 person if it is within the person's reach,
5 inspection, observation or control so that
6 the person could, if not overcome with
7 violence or prevented by fear, keep
8 possession of the property. The State must
9 also prove beyond a reasonable doubt that the
10 Defendant carried the property away intending
11 to permanently deprive the owner of the
12 property and to keep the property for the
13 Defendant's own use. The slightest removal
14 of the property or the complete possession of
15 the property, even for an instant, by the
16 Defendant, is a sufficient to show a taking
17 and carrying away of the property. And the
18 taking and carrying away of the property must
19 have been done with violence or by putting
20 the owner of the property in fear of
21 violence.

22 And finally, the State must prove
23 beyond a reasonable doubt that the Defendant
24 was armed with a deadly weapon during the
25 robbery. A deadly weapon is any article,

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1 instrument, or substance which is likely to
2 cause death or great bodily harm.

3 And whether an instrument has been
4 used as a deadly weapon depends upon the
5 facts and the circumstances of each case.
6 And I'll tell you that a gun is a deadly
7 weapon even if it is unable to operate.

8 Now, ladies and gentlemen, the
9 Defendant is charged with conspiracy. The
10 State must prove beyond a reasonable doubt
11 that the Defendant combined with one or more
12 persons for the purpose of committing an
13 unlawful act or of committing a lawful act by
14 unlawful means. And there must be a mutual
15 understanding, agreement or common intention
16 and plan.

17 Mere passive knowledge or consent of
18 the criminal conduct of another is not enough
19 to make a person a co-conspirator. There
20 must be guilty knowledge and participation.

21 Similarly, the mere fact that the
22 Defendant may have associated with another
23 person or met with another person and
24 discussed common aims and interests does not
25 necessarily establish a proof of the

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1 existence of a conspiracy or that the
2 Defendant was involved in a conspiracy. On
3 the other hand, it is not necessary that the
4 agreement be a formal one, that it be in
5 writing, that the persons hold a meeting and
6 expressly state the terms of the common plan,
7 or that the agreement would be stated in
8 words between them. The agreement of a
9 criminal conspiracy may come into being
10 through an implied mutual understanding. And
11 willful intentional and knowing adoption by
12 two or more persons of a common plan is
13 sufficient. And no overt act needs to be
14 shown to establish a conspiracy. And a
15 conspiracy may be shown by circumstantial
16 evidence in the conduct of the parties.

17 In order to convict the
18 Defendant of conspiracy, the State must prove
19 beyond a reasonable doubt not only that the
20 Defendant knew of the unlawful conduct, but
21 that the Defendant agreed to combine with
22 other person for the purposes of accomplish-
23 ing the unlawful conduct.

24 Now, ladies and gentlemen, the
25 Defendant is charged with murder. The State

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1 must prove beyond a reasonable doubt that the
2 Defendant killed another person with malice
3 aforethought.

4 Malice is hatred, ill will or
5 hostility towards another person. It is the
6 intentional doing of a wrongful act without
7 just cause or excuse and with the intent to
8 inflict an injury or under circumstances that
9 the law would infer and an evil intent.

10 Malice aforethought does not require that
11 malice exist for any particular time before
12 the act is committed. But malice must exist
13 in the mind of the Defendant just before and
14 at the time the act is committed.

15 Therefore, there must be a
16 combination of the previous evil intent and
17 the act.

18 Malice aforethought may be express
19 or implied. These terms expressed or implied
20 do not mean a different kind of malice, but
21 merely the manner in which the malice may be
22 shown to exist. That is it is either by
23 direct evidence or by inference from the
24 facts and circumstances from which are
25 proved.

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

375

1 Express malice is shown when a
2 person speaks words which express hatred or
3 ill will for another or when the person
4 prepared beforehand to do the act, which was
5 later accomplished. For example, lying in
6 wait for a person or any other act of
7 preparation going to show that the deed was
8 within the Defendant's mind would be
9 expressed malice. Malice may be inferred
10 from conduct showing a disregard for human
11 life. And inferred malice may also arise
12 when the deed is done with a deadly weapon.

13 A deadly weapon is any article,
14 instrument or substance which is likely to
15 cause death or great bodily harm. And
16 whether an instrument has been used as a
17 deadly weapon depends on the facts and
18 circumstances of each case.

19 Ladies and gentlemen, if one
20 intentionally kills another during the
21 commission of a felony, the inference of
22 malice may arise. If facts are proved beyond
23 a reasonable doubt sufficient to raise an
24 inference of malice to your satisfaction, the
25 inference would simply be an evidentiary fact

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 to be taken into consideration by you, along
2 with all other evidence in the case. And you
3 may give it the weight that you decide it
4 should receive.

5 An armed robbery is a felony.

6 Now, ladies and gentlemen, if a
7 crime is committed by two or more persons who
8 are acting together in committing a crime,
9 the act of one is the act of all. A person
10 who joins with another to commit an unlawful
11 act is criminally responsible for everything
12 done by the other person, which happens as a
13 probable and natural consequence of the act
14 in carrying out the common plan and purpose.
15 If two or more people are together, acting
16 together, assisting each other in committing
17 the offense, the act of one is the act of
18 all. Or as it has been sometimes said, the
19 hand of one is the hand of all.

20 Prior knowledge that a crime is
21 going to be committed without more is not
22 sufficient to make the person guilty of that
23 crime.

24 Mere knowledge that another person
25 is going to commit a crime, even if the

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 Defendant is present when the crime is
2 committed, is not sufficient to convict the
3 Defendant as a principal. And guilt as a
4 principal is shown by actual or constructive
5 presence at the scene, and as a result of a
6 prior arrangement. Therefore, finding of a
7 prior arrangement, plan, or common scheme is
8 necessary for a finding of guilt as a
9 principal.

10 And the State must prove beyond a
11 reasonable doubt by competent evidence the
12 theory of the hand of one is the hand of all.

13 Now, a principal in a crime is one
14 who either actually commits the crime or is
15 present aiding, abetting and assisting in
16 committing a crime. And when a person does
17 an act in the presence of and with the
18 assistance of another, the act is done by
19 both. Where there are two or more acting
20 with a common scheme or plan or intent are
21 present at the commission of a crime, it does
22 not matter who actually commits the crime.
23 All are guilty. The hand of one is the hand
24 of all.

25 Present at the commission of a crime

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 means to be sufficiently near to aid and abet
2 and assist in the commission of the crime.

3 However, mere presence at the scene
4 of the crime is not sufficient to convict one
5 as a principal on the theory of aiding and
6 abetting.

7 Intent is also a necessary element
8 for there to have been a common design or
9 intent to commit the crime. And the crime
10 must have been committed pursuant thereto
11 with the person's aiding and abetting by some
12 overt act. And intent means intending the
13 result, which action occurs, not accidentally
14 or involuntarily. An intent may be shown by
15 acts and conduct from the Defendant and other
16 circumstances, which you may naturally and
17 reasonably infer intent. And the State must
18 prove these elements beyond a reasonable
19 doubt.

20 Now, ladies and gentlemen, during
21 the course of this trial, you may have heard
22 testimony of the Defendant being involved in
23 other crimes or bad acts. I remind you and I
24 emphasize that the fact that the Defendant
25 maybe had been involved or not involved in

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 other crimes is not for your consideration
2 in determining the Defendant's guilt or
3 innocence of the charges that he is facing in
4 this trial.

5 The Defendant is charged in this
6 trial with murder, armed robbery and criminal
7 conspiracy. And you are only to consider the
8 evidence of those charges in your delibera-
9 tions on his guilt or innocence for those
10 particular charges.

11 Now, ladies and gentlemen, there are
12 two possible verdicts which you may find on
13 the charge of armed robbery, criminal
14 conspiracy and murder:

15 Under Indictment 2012-GS-08-2248,
16 armed robbery, not guilty or guilty.

17 Under indictment 2012-GS-08-2249,
18 criminal conspiracy, not guilty or guilty.

19 Under indictment 2012-GS-08-2250,
20 murder, not guilty or guilty.

21 Now, ladies and gentlemen, there is
22 no significance in the order in which I state
23 the possible verdicts but simply that one
24 must be stated first.

25 Now, ladies and gentlemen, your

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 verdict must be a unanimous one. All twelve
2 of you must agree on the verdict and your
3 decision must not be based on sympathy,
4 passion, prejudice, emotion, or any other
5 consideration that is not in evidence in this
6 case.

7 Mr. Foreman, when the jury agrees on
8 a verdict, you will write the verdict in the
9 proper boxes as I have here it says, at to
10 the charge of armed robbery we, the jury,
11 unanimously find the Defendant not guilty or
12 guilty, the same for criminal conspiracy and
13 the same for murder. And then you and then
14 you'll sign your name at the bottom. You
15 will then, please, knock on the jury room
16 door, inform the bailiff that you have
17 reached a verdict. At that time you will be
18 received back in the courtroom for the
19 publication of your verdict.

20 Now, ladies and gentlemen, I ask you
21 to go back to your jury room but do not begin
22 your deliberations until the clerk has told
23 you to do so or the bailiff has told you to
24 do so. There's still some matters that I
25 need to take up with the attorneys.

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 All right?

2 Thank you.

3 And I am going to give you a written
4 copy of everything that I have just read to
5 you so that you may have in the jury room.
6 Thank you.

7 (JURY OUT @ 3:07 P.M.)

8 THE COURT: All right. We need to
9 bring the alternates back out here in just a
10 moment. Y'all may be seated.

11 Are there any other objection to my
12 charges?

13 SOLICITOR OZMENT: None from the
14 State, Your Honor.

15 MR. FALK: Did you mean to say
16 bring the indictment back with them.

17 THE COURT: You know, I did say
18 that, but I showed them the verdict form.

19 MR. FALK: Okay.

20 THE COURT: Yeah. All right.
21 Y'all want to look at the evidence and make
22 sure what's going back, along with copies of
23 the verdict form.

24 BAILIFF: Bring them back in.

25 THE COURT: Yeah. You can bring

1 | them in. I'll talk to them.

3 (COUNSEL APPROVAL OF EXHIBITS)

5 (JURY IN DELIBERATION @ 3:14 P.M.)

9 (COURT IN RECESS)

11 (DEFENDANT PRESENT)

14 (JURY IN @ 3:49 P.M.)

19 FOREMAN: Yes, sir.

25 FOREMAN: Thank you, Your Honor.

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 (TESTIMONY OF MALCOLM KINLOCH PLAYED)

2 THE COURT: Thank you, ladies and
3 gentlemen, if you will return to your jury
4 room and continue with your deliberation.

5 (JURY OUT @ 4:02 P.M.)

6 THE COURT: All right. The court
7 will be at-ease pending the call of the
8 Court.

9 (COURT IN RECESS)

10 (NOTIFIED OF JURY QUESTION @ 5:05 P.M.)

11 THE COURT: If I see the attorneys
12 in chambers.

13 (IN CHAMBERS CONFERENCE -- NOT ON RECORD)

14 THE COURT: We will mark this as
15 Court's Exhibit 3.

16 (SO MARKED AS COURT'S EXHIBIT 3)

17 (JURY NOTIFICATION @ 5:20 P.M.)

18 (DEFENDANT PRESENT)

19 THE COURT: The jury has reached a
20 verdict. Please bring the jury in.

21 BAILIFF: Thank you.

22 (JURY IN @ 5:20 P.M.)

23 THE COURT: Thank you. You may be
24 seated.

25 Mr. Foreman, I understand the jury

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Court's Charge on the Law
Heard before The Honorable W. Jeffrey Young

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1 has reached a verdict.

2 FOREMAN: We have, Your Honor.

3 THE COURT: Is it unanimous?

4 FOREMAN: Yes, it is, Your
5 Honor.

6 THE COURT: All right. Please
7 pass it to the clerk.

8 FOREMAN: (Tenders)

9 CLERK: (Tenders verdict form
10 to Judge.)

11 THE COURT: Please publish the
12 verdict. The Defendant will stand.

13 DEFENDANT: (Complies).

14 CLERK: County of Berkeley,
15 State of South Carolina versus Jason Edward
16 Kinloch.

17 As to the charge of armed robbery,
18 (reading): "We, the jury, unanimously find
19 the Defendant guilty."

20 As to the charge of criminal
21 conspiracy, (reading): "We, the jury,
22 unanimously find the Defendant guilty."

23 As to the charge of murder,
24 (reading): "We, the jury, unanimously find
25 the Defendant guilty."

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Verdict - Polling of the Jury
Heard before The Honorable W. Jeffrey Young

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1 things. He was my backbone. And I miss him
2 dearly and I thank you for allowing me to
3 speak and God bless you all."

4 THE COURT: Thank you. Anyone
5 else?

6 SOLICITOR OZMENT: That's all from
7 the family, Your Honor. I think just in
8 closing from the State, the codefendant pled
9 guilty to murder and got thirty years. I
10 know every Judge is different and every
11 prosecutor's different. To me, there is
12 something to be rewarded to that codefendant
13 for taking responsibility and standing up
14 here and saying 'I did it, you know, and I
15 want to take my punishment.' So certainly I
16 think that would be a baseline, legally a
17 baseline. But certainly, you know, having
18 seen the trial you've seen all the evidence.
19 Certainly, this defendant never took
20 responsibility and the State will leave it at
21 that.

22 THE COURT: Thank you. Mr. Falk?

23 MR. FALK: I recognize Mr.
24 Ozment's point. Patrick Kinloch pled guilty,
25 but then I think the Court's had the

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Sentence

399

Heard before The Honorable W. Jeffrey Young

1 I'm not going to sentence him to the
2 max but he's going to get more than -- he's
3 going to get what he deserves.

4 The sentence on the charge of
5 criminal conspiracy is that you be committed
6 to the State Department of Corrections for a
7 period of five (5) years.

8 On the armed robbery charge, Jason
9 Edward Kinloch, you are sentenced to thirty
10 (30) years.

11 On the murder charge -- and I do
12 recognize that you were not the shooter.
13 That was painfully obvious to everyone. But
14 you were still there, but I don't think you
15 were the ringleader. I think you joined in
16 so I'm not going to sentence you to Life, but
17 you're not going to be a young man when you
18 get jail. I assure you of that because this
19 is day-for-day. The sentence is that you be
20 committed to the State Department of
21 Corrections on the murder charge for a period
22 of thirty-five (35) years.

23 And these sentences, they were all
24 done at one time and therefore they will run
25 concurrent. Good luck, sir.

State of South Carolina v Jason Kinloch
Case No. 10-GS-08-2248 et al - Jury Trial of October 27-29, 2014
Sentence
Heard before The Honorable W. Jeffrey Young

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DAVID FASHION: Revoke his probation?

THE COURT: Oh, yes. Probation is
revoked. And it'll run concurrent. Thank
you.

(DEFENDANT INTO CUSTODY)

(TRIAL COMPLETE)

(TRANSCRIPT CONCLUDED)

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DEJ2012-09-01582

WITNESSES

Berkeley County Sheriff's Office

[Signature]

AGENCY CASE NUMBER

2012-09040658

ARREST WARRANT NUMBER

2012A0810400416

DATE OF ARREST

October 24, 2012

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: 12/12/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0802248

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term

THE STATE

vs.

JASON EDWARD KINLOCH

DOB:

B/M

Indictment for

Armed Robbery

§16-11-0330(A)

CDR: 0139

12 DEC 12 PM 4:04
MARY T. JOHNSON
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED

[Handwritten initials]

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

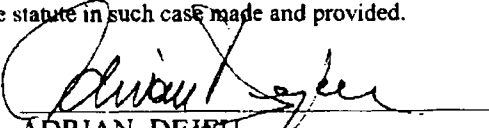
INDICTMENT

At a Court of General Sessions, convened on December 12, 2012 the Grand Jurors of Berkeley County present upon their oath:

Armed Robbery

That JASON EDWARD KINLOCH did in Berkeley County, South Carolina, on or about September 9, 2012, while armed with a deadly weapon, to wit: hand gun, take and carry away personal property of Robert Moultrie from or in the immediate presence of Robert Moultrie with intent to deprive Robert Moultrie of possession by use of force, threats and/or intimidation, in violation of §16-11-0330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ADRIAN DEJEU
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE VS.Jason Edward Kinloch

AKA:

Race: BLACK Sex: M Age: DOB: SS#

Address:

City, State, Zip:

DL#: SID# SC02000207*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed RobberyINDICTMENT/CASE#: 2012GS0802248A/W#: 2012A0810400416Date of Offense: 9/9/2012S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Ozment, Matthew R.SC Bar#

Defendant

Attorney for DefendantSC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and/or to pay a fine of \$ — provided that upon the service of — days/months/years and/or payment
of \$ —; plus costs and assessments as applicable; the balance is suspended with probation for —months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: w/ all charges
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing: ☐ OrderedTotal: \$ — plus 20% fee: \$ —

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

PTUP

— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2156Sentence Date: 29 Oct 2014

DEJ2012-09-01582

WITNESSES

Berkeley County Sheriff's Office

[Signature]

AGENCY CASE NUMBER

2012-09040658

ARREST WARRANT NUMBER

2012A0810400419

DATE OF ARREST

October 24, 2012

ACTION OF GRAND JURY

True Bill

[Signature]
Person of Grand Jury

Date: 12/12/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0802249

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term

THE STATE

vs.

JASON EDWARD KINLOCH

DOB:

B/M

Indictment for

Criminal Conspiracy

§16-17-0410

CDR: 0049

12 DEC 12 PM 4:02
MARY F. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED

JFH

JFH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

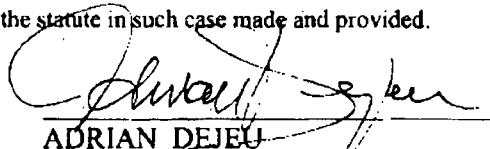
INDICTMENT

At a Court of General Sessions, convened on December 12, 2012 the Grand Jurors of Berkeley County present upon their oath:

Criminal Conspiracy

That JASON EDWARD KINLOCH did in Berkeley County, South Carolina, on or about September 9, 2012, combine with another, and/or other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of §16-17-0410, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ADRIAN DEJEU
ASSISTANT SOLICITOR

ST 280 OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE VS.

Jason Edward Kinloch

AKA:

Race: BLACK Sex: M Age:

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#: SC02000207

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Conspiracy

INDICTMENT/CASE#: 2012GS0802249

A/W#: 2012A0810400419

Date of Offense: 9/9/2012

S.C. Code §: 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or 2nd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: *[Signature]*

Ozment, Matthew R.

SC Bar#

Defendant

Attorney for Defendant

SC Bar# 80125-

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: W/ all charges
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
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§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge *[Signature]*

Judge Code: 2156

Sentence Date: 29 Oct 2014

Clerk of Court/ Deputy Clerk *[Signature]*

Court Reporter: Deborah Garrison

SCCA/217 (03/2011)

281
282

DEJ2012-09-01582

WITNESSES

Berkeley County Sheriff's Office

Det. S-12

AGENCY CASE NUMBER

2012-09040658

ARREST WARRANT NUMBER

2012A0810400586

DATE OF ARREST

October 24, 2012

ACTION OF GRAND JURY

True Bill

Det. Peters
Foreperson of Grand Jury

Date: *12/12/12*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0802250

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term

THE STATE

vs.

JASON EDWARD KINLOCH

DOB:

B/M

Indictment for

Murder

§16-03-0010

CDR: 0116

FILED

12 DEC 12 PM 4:04

MARY E. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

JP

JP

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

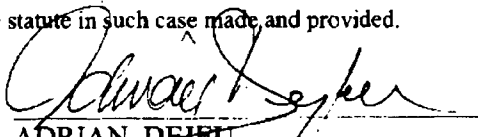
INDICTMENT

At a Court of General Sessions, convened on December 12, 2012 the Grand Jurors of Berkeley County present upon their oath:

Murder

That JASON EDWARD KINLOCH did in Berkeley County on or about September 9, 2012, willfully, feloniously, and intentionally kill the victim, Robert Moultrie, with malice aforethought, either express or implied, by means of a firearm, and the victim did die as a proximate result thereof on September 9, 2012, in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made, and provided.


ADRIAN DEJEU
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

30 yrs - Life

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE: VS.Jason Edward Kinloch

AKA:

Race: BLACK Sex: M Age: DOB: SS#:

Address:

City, State, Zip:

DL#: SID#: SC02000207*CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: MurderINDICTMENT/CASE#: 2012GS0802250A/W#: 2012A0810400586Date of Offense: 9/9/2012S.C. Code §: 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd ActThe charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: 149 80072 80125Ozment, Matthew R.

SC Bar#

Defendant

Shunka

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 35 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: With all charges
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS: Recipient: *Fine: \$

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-14 (DUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90PTUP days/hours Public Service Employment:Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing: ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2156Sentence Date: 29 Oct 2012

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284

DEC 22 2015

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 22nd, 2015



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

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