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SC Court of Appeals
22423

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Fairfield County
R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEREKEE JOHNSON,

APPELLANT

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WITNESSES

WPS

Scribes

ARREST WARRANT NUMBER/DOA

K682508 (DOA-05-19-12)

ACTION OF GRAND JURY

TRUE BILL

7/31 2012

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-20-214

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

JULY TERM 2012

THE STATE
vs.

Derekee Johnson

Indictment for
Murder

SC Code: §16-3-10
CDR Code: 0116
Class: Felony, EXM

2012 JUL 31 P 1:35

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

STATE OF SOUTH CAROLINA)

INDICTMENT

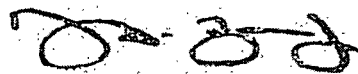
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on July 31, 2012, the Grand Jurors of
Fairfield County present upon their oath:

MURDER

That Derekee Johnson did in Fairfield County on or about May 18, 2012,
feloniously, willfully and of his malice aforethought kill and murder by
shooting the victim and the victim did die as a proximate cause then and there of, in
violation of the common law of South Carolina and §16-3-10, *Code of Laws of South
Carolina*.

Against the peace and dignity of the State, and contrary to the statute in such case
made and provided:



Douglas A. Barfield, Jr., SOLICITOR

WITNESSES

WPS

Seibles

DOCKET NO. 2012-GS-20-215

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

JULY TERM 2012

2012 JUL 31 P 1:35

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

ARREST WARRANT NUMBER/DOA

K682509 (DOA-05-19-12)

ACTION OF GRAND JURY

TRUE BILL

7/31/2012

Foreperson of Grand Jury

Date:

VERDICT

THE STATE

vs.

Derekee Johnson

Indictment for

Possession or Display of Firearm or
Knife During Commission of a Violent
Crime

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

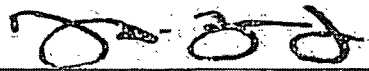
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on July 31, 2012, the Grand Jurors of Fairfield County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A
VIOLENT CRIME**

That Derekee Johnson did in Fairfield County on or about May 18, 2012, possess or visibly display a firearm or knife, to wit: a handgun during his/her commission of a violent crime, to wit: Murder, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Douglas A. Barfield, Jr., SOLICITOR

WITNESSES

WPS

Scibles

ARREST WARRANT NUMBER/DOA

K6825#O (DOA-05-19-12)

ACTION OF GRAND JURY

TRUE BILL

7/31/2012

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-20-216

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

JULY TERM 2012

THE STATE

vs.

Derekee Johnson.

POSSESSION FIREARM OR AMMUNITION BY
PERSON CONVICTED OF FELONY VIOLENT
CRIME

SC Code: §16-23-500

CDR Code: 3434

Class: Felony F

2012 JUL 31 P 1:35

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on July 31, 2012, the Grand Jurors of Fairfield County present upon their oath:

**POSSESSION OF FIREARM OR AMMUNITION BY PERSON CONVICTED OF
FELONY VIOLENT CRIME**

That Derekee Johnson did in Fairfield County on or about May 18, 2012, possess a firearm or ammunition, to wit: a handgun, within this state, the Defendant having been previously convicted of a violent crime defined in Section 16-1-60 of the Code of Laws of South Carolina that is classified as a felony offense in violation of Section 16-23-500 of the *Code of Laws of South Carolina*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Douglas A. Barfield, Jr., SOLICITOR

VOIR DIRE.

1 THE COURT: I apologize, when I asked you to call the
2 case for trial all of our jurors had not had time for their
3 break. If you would now again call your case for trial,
4 please?

5 MR. MAXWELL: Your Honor, the State calls State versus
6 Derekee Johnson, one indictment is for murder,
7 2012-GS-20-214; an indictment for possession of a firearm
8 during the commission of a violent crime, 2012-GS-20-215; a
9 third indictment for possession of a firearm by a person
10 convicted of a violent crime, 2012-GS-20-216.

11 THE COURT: Thank you very much, Solicitor. Mr. Dunn,
12 you represent Derekee Johnson?

13 MR. DUNN: I do, Your Honor.

14 THE COURT: And is Mr. Johnson present in the
15 courtroom?

16 MR. DUNN: He is, Your Honor.

17 THE COURT: Is Mr. Johnson ready for trial?

18 MR. DUNN: He is, Your Honor.

19 THE COURT: Thank you, very much. Ladies and gentlemen
20 of the jury panel, if you would please give me your complete
21 and undivided attention, we're going to begin and go through
22 a procedure whereby we select a trial jury for the trial of
23 this case. As part of that procedure I will ask you a
24 number of questions. Our purpose in this procedure is to
25 select a fair and impartial jury for the trial of this case

1 jury.

2 (The jury returned to the courtroom and was
3 sworn.)

4 THE COURT: Thank you very much, Madam Clerk. Mr.
5 Foreman, ladies and gentlemen of the jury, good morning. I
6 apologize again for the delay but you know how I am about
7 time so I'm sure it wasn't a surprise to you. I will do as
8 I told you yesterday try, to manage your time better.
9 Ladies and gentlemen of the jury, the case we are about to
10 try is the case of State versus Derekee Johnson seated over
11 to my far right next to his attorney, Mr. Dunn. What I now
12 say is intended to serve as an introduction to the trial of
13 this case. These remarks are not a charge on the law in the
14 case. I will instruct you on the law that applies to this
15 case at the end of the trial before you retire to consider
16 your verdicts. This is merely an explanation of the
17 procedure that we will follow so that you may better
18 understand what may be happening. The defendant is charged
19 by indictments filed with this court with the crimes of
20 murder, possession of a firearm or ammunition by a person
21 convicted of a violent crime, and possession or display of a
22 firearm during the commission of a violent crime, the
23 elements of each of those will be explained to you later.
24 The indictments, ladies and gentlemen, again are simply the
25 formal charging documents by which a case is brought before

1 the Court and they are not in any sense evidence of any of
2 the allegations that they contain. The defendant has pled
3 not guilty to these indictments, the State therefore, the
4 party to my front left, the State therefore has the burden
5 of proving each of the elements of the indictments beyond a
6 reasonable doubt. A criminal defendant in South Carolina
7 regardless of the seriousness of the offense charged is
8 always presumed to be innocent and does not have any
9 responsibility to prove himself or herself innocent. The
10 State bears the burden of proving its case beyond a
11 reasonable doubt, and it will be your duty, ladies and
12 gentlemen, to decide whether the State has met that burden.
13 I generally tell jurors the architecture within the
14 courtroom itself kind of lays out our judicial parties,
15 although in a criminal case the defendant is presumed to be
16 innocent. The party bearing the burden of proof is the
17 State, the party sitting closest to the jury panel. But if
18 you notice when you come into the courtroom you either take
19 one step up or two steps up if you're on the back row, you
20 are the judges of the facts of the case to determine what
21 the facts are, and then you see where I sit, is what,
22 perhaps three steps up and that is the rule of the law. And
23 that's the architecture in most of our courthouses and
24 courtrooms, circuit courtrooms throughout South Carolina.
25 No person is above the law, but we have the jury system that

1 determines what the facts are and it will be your duty to.
2 decide whether or not the State has met its burden of proof.
3 Your purpose as jurors is to find and determine the facts.
4 You are the sole judges of the facts in this case. If at
5 any time I say or make any comment regarding the facts you
6 must disregard it. You determine the facts of the case, and
7 using your good judgment and your common sense from the
8 testimony that you hear from this witness stand -- you
9 determine the facts from the testimony you hear from the
10 witnesses testifying under oath from this witness chair and
11 any other evidence that may be introduced; photographs,
12 diagrams, charts, exhibits, I don't know what may be
13 introduced. It will then be up to you, the jury, to decide
14 also any inferences which you think may properly be drawn
15 from the evidence. It is especially important that you
16 perform your duty of determining the facts diligently and
17 conscientiously, because ordinarily there is no way to
18 correct an erroneous determination of the facts by a jury.
19 Now, on the other hand and with equal emphasis the same law
20 that makes you, the jury, the judges of facts make me the
21 judge of the law. The law as given by the Court is the only
22 law you may consider. You must accept it and follow it even
23 though you may disagree with it. I cannot tell you what the
24 facts are; you cannot disagree with me about what the law is
25 or what the law should be. Your job is to take the law, the

1 standard of the law as I tell you it is, determine the facts
2 as you find them to be, then apply those facts to the law as
3 I have told you and find from the -- as found from the
4 testimony of the witnesses and any other evidence that's
5 introduced. After doing that you are to render your
6 verdicts, true and just verdicts; under the solemn oath that
7 you just took as jurors. Ladies and gentlemen, it is
8 important that you keep an open mind and not decide any
9 issue in the case until all of the evidence has been
10 presented, the parties have made their closing arguments to
11 you and I have instructed you on the law in the case. It is
12 your solemn responsibility to determine the guilt or
13 innocence of the defendant and your verdicts must be based
14 solely on the evidence as it is presented to you in this
15 trial and on the law as I instruct you during and at the
16 close of the trial. Now, in just a moment when I conclude
17 my remarks the Solicitor will make what is called an opening
18 statement in which the Solicitor will explain to you the
19 issues in the case, or at least what the Solicitor thinks
20 the issues are in the case. Mr. Dunn, the attorney for the
21 defendant, may also make an opening statement although he is
22 not required to do so. What the attorneys tell you during
23 their opening statements is not evidence, what the attorneys
24 say in their closing arguments is not evidence. The
25 questions by the attorneys to the witnesses is not evidence.

1 That's the framework by which the evidence is extracted from
2 the witnesses that are testifying under oath, however give
3 them your complete and undivided attention.. That is how the
4 evidence will be presented by the testimony of the sworn
5 witnesses from the witness stand and any exhibits introduced
6 in the evidence. From time to time during the trial you may
7 hear one of the lawyers say something like, "Your Honor, I
8 believe we have a question of law or a matter of law to
9 discuss with you," or, "Your Honor, may we approach the
10 bench," or sometimes I myself might find it necessary to
11 excuse you from the courtroom for a short while so the
12 attorneys and I can discuss a matter of law. The reason for
13 this is to not hide anything from you but it's because you
14 are the judge of the facts in the case and sometimes when I
15 am discussing matters of law with the attorneys as to
16 whether or not a particular law applies, it may be necessary
17 for me to make some comment as to the facts. I am not
18 supposed to tell you what I think the facts are so I will
19 excuse you from the courtroom while those discussions take
20 place so that in no way anything that I might -- you will be
21 influenced by anything that I might say or do in connection
22 with the facts. In determining what the true facts are in
23 this case you must decide whether or not the testimony of
24 the witnesses is believable. It will be my responsibility
25 to rule as a matter of law as to whether certain testimony

1 is admissible or not, in other words, whether the jury hears
2 it or not. But once the testimony is admitted, once you've
3 heard it, whether or not you believe it is solely for you,
4 the jury, to determine. In deciding whether to believe a
5 witness you have a right to consider the interest of any
6 witness, the bias of any witness, the prejudice of any
7 witness, the opportunity for the witness to have seen the
8 matters and things about which the witness may testify, and
9 the demeanor or the way the witness acts on the witness
10 stand. You have the right to consider anything that is in
11 the record that will help you evaluate the believability and
12 the testimony of the witnesses. That means that it is your
13 duty to pay close attention to these witnesses, to observe
14 them, to listen to them, to pay close attention to the
15 attorneys and to the Court. Don't let your thoughts wander
16 but give strict attention to the testimony in the case so
17 that at the end of all of the testimony after the closing
18 arguments by the attorneys and the instructions on the law
19 by the Court you will then be in that position to determine
20 what the true facts are, to apply the law to those facts and
21 thus render true and just verdicts in this case. It will be
22 your added responsibility, Mr. Foreman, to preside in the
23 jury room and be the jury spokesperson here in the
24 courtroom. It will also be your duty to write and sign the
25 verdicts, but I will give you further instructions about

1 that at the conclusion of the case. Just administrative
2 issues, ladies and gentlemen, if I allow an item into
3 evidence, a photograph, diagram chart exhibit, we're now in
4 the days of technology, many times they may be viewed on the
5 screen but sometimes they may be handed to the foreperson
6 and passed amongst you here in the courtroom. If it's
7 introduced to you, a physical item of evidence, you will
8 also have it with you in the jury room at the time of your
9 deliberations. You may look at it as long as you wish in
10 the courtroom, but keep in mind that will not be the only
11 opportunity to see a particular item of evidence. As far as
12 seating arrangements I need to keep up with 14 people, I
13 need to take up with specifically our foreperson, if you
14 would always maintain that seat, and then our two
15 alternates, if y'all would also maintain your seats. The
16 other 11, you may sit wherever you wish to sit in the jury
17 box. I have done a study over time and found many jurors
18 are very territorial, that they like to sit in the same seat
19 and have the same view of the courtroom each and every time.
20 You're certainly welcome to do that but you do not have to
21 do that, that will be entirely up to you. Also from time to
22 time you may see me on my computer. I tell you this only
23 because imagine, a juror complained one time that it was
24 distracting to that particular juror, I don't tweet, I don't
25 repeat, I don't email, voice mail, nothing. I may look up

1 the road and think of a legal issue that may be coming
2 around the curve and I do some research, that's why you will
3 see me on my computer. Finally, what am I in charge of?
4 Well, not finally, ultimately I should say, if you cannot
5 hear or see a particular witness, please get my attention or
6 the attention of the bailiff and we will certainly try to
7 have that witness speak up so you can hear them. If you
8 can't hear the testimony you won't be able to determine what
9 the true facts are. And now finally what I'm in charge of?
10 I am in charge of taking breaks. And I have a real simple
11 rule when I want to take a break, we take a break it works
12 out well. This is not some type of judicial marathon, if at
13 anytime you need a break, any of you, please raise your
14 hand, y'all will take y'all's break, we will take our break.
15 You're probably not the only one that needs one, believe me,
16 if you sit out here too long your thoughts get to wondering,
17 if you need a break just please let me know. As I say, this
18 is not some type of marathon, it's an important case. It's
19 an important case to Mr. Johnson, it's an important case to
20 the State of South Carolina, it's an important case to Bobby
21 McCloud's family. This is an important case. Please keep
22 that in mind. Any objection to anything I have told the
23 jury, Solicitor?

24 MR. MAXWELL: None from the State.

25 THE COURT: Mr. Dunn?

JAMES LAWSON

1 THE COURT: Mr. Foreman, ladies and gentlemen, step out
2 please, do not discuss the case during the recess.

3 (The jury left the courtroom.)

4 THE COURT: All right. Your objection, Solicitor?

5 MR. MAXWELL: Your Honor, I think he's asking him to
6 interpret gang signs, I don't think Mr. Lawson is qualified
7 to say what hand signs somebody else has given, what they
8 mean.

9 THE COURT: Well, what's the rule for the admissibility
10 of these items?

11 MR. DUNN: I think I have the burden to -- at this
12 point I think I'm allowed him to ask him if he recognizes
13 the signs and if he says no then I was not going to put the
14 pictures in at that point because I don't think that the
15 foundation would have been laid. But I certainly have the
16 right to ask him to see if he recognizes them, if he says no
17 then he says no.

18 THE COURT: What is the relevance of the photograph of
19 the victim giving signs, gang signs or not? What's the
20 relevance?

21 MR. DUNN: Well, the relevancy for me is that he has
22 testified that Bobby McCloud is not in a gang.

23 THE COURT: All right. So therefore you're impeaching
24 him by pictures? He says he has no personal knowledge, then
25 how can he be impeached by extrinsic evidence? How can a

ALLEN "REB" WATKINS.

1 the right of me on the Johnson Street area it was a crowd
2 there of a group of people standing thereabouts, and
3 straight ahead of me I could see Mr. Jamie Lawson squatting
4 over the victim pressing his shirt to the chest area of the
5 victim.

6 Q. Did you go to where the victim was?

7 A. Yes, I proceeded to the victim there. I got to Mr.
8 Lawson and the victim there and I asked him what had
9 happened, and he said that Clyde had got shot. He told me
10 who it was but I didn't know who it was at first and I asked
11 him was he still breathing and he said he didn't think so.
12 He said he had checked the pulse and he didn't think he was
13 breathing. So at that time I checked his pulse and I didn't
14 feel anything so figured he was gone as well.

15 Q. Did you happen to call backup?

16 A. Yes, I did.

17 Q. Go ahead, I'm sorry.

18 A. As I was in route backup had responded and said that
19 they was on the way.

20 Q. And did several law enforcement agencies as well as
21 first responder type people come to the scene?

22 A. Yes.

23 Q. Can you say what other agencies responded?

24 A. Yes. It was Fairfield County Office deputies and SLED
25 agent.

ALLEN "REB" WATKINS

1 Q. Did EMS come to the scene?

2 A. Yes. EMS had responded because one of my officers
3 radioed me on the radio and said that EMS had received the
4 call and they were in route.

5 Q. Was EMS able to treat Mr. McCloud as far as you saw?

6 A. They checked the body but as far as treating him, they
7 did what they could for him.

8 Q. He, being Mr. McCloud, he was not removed from the
9 scene by EMS and taken by ambulance anywhere, is that right?

10 A. No.

11 Q. Was the coroner's office also called?

12 A. Yes, the coroner's office was called.

13 Q. Were there a lot of people coming out of their houses
14 kind of surrounding the scene?

15 A. Yes, it was.

16 Q. What did you or other officers do about the crowd
17 forming?

18 A. Well, we tried to secure the crime scene the best we
19 could and keep everyone back. And any evidence that we
20 could collect and preserve we kind of kept everyone away
21 from there, and then we went about through the crowd asking
22 anyone did they see anything to see what happened.

23 Q. Were crime scene agents from the South Carolina Law
24 Enforcement Division also called to the scene?

25 A. Yes, they were.

ALLEN "REB" WATKINS.

1 Q. Can you describe what types of items were collected
2 into evidence that night?

3 A. We collected a cellphone, a plastic bag containing a
4 white substance.

5 Q. A white substance.

6 A. Yes.

7 Q. What was the substance believed to be?

8 A. It was believed to be crack cocaine.

9 Q. Okay.

10 A. We collected a .25 caliber weapon.

11 Q. Handgun?

12 A. Handgun. We collected several fired shells,
13 cartridges.

14 Q. Cartridge casings?

15 A. Cartridge casings. And we collected a cellphone,
16 wallet and hat.

17 Q. And those were -- the wallet and the hat were found
18 very close to Mr. McCloud's body?

19 A. That's correct.

20 Q. Believed to be his personal items?

21 A. Yes.

22 Q. Was there any bullets found that evening?

23 A. No.

24 Q. Was there an effort to look for the bullet that struck
25 the Smith residence?

ALLEN "REB" WATKINS

1 A. Yes.

2 Q. Was there one located either that day or the day after?

3 A. Yes. The day after we located the bullet that struck

4 Ms. Smith's house.

5 Q. The day after?

6 A. It was days after.

7 Q. You don't know if it was the day -- did law enforcement
8 personnel go back out to the scene when it was daylight the
9 Saturday after this occurred?

10 A. Yes.

11 Q. Do you recall if the bullet was found then or at some
12 later date?

13 A. As I recall the bullet was found in later days.

14 Q. But there was a bullet found that was entered into
15 evidence as well.

16 A. That's correct.

17 Q. As far as Mr. McCloud's body, did the coroner take
18 possession of the body that night?

19 A. Yes, the coroner took possession of the body.

20 Q. Did you along with other law enforcement personnel
21 start identifying witnesses and talking to witnesses that
22 evening?

23 A. Yes.

24 Q. Did Derekee Johnson become a suspect shortly after the
25 investigation began that night?

ALLEN "REB" WATKINS

1 Q. And this is looking at the other side, opposite side of
2 Ms. James' house here on the left?

3 A. Yes.

4 Q. And can you see the abandoned house there?

5 A. Yeah, the abandoned house on the right.

6 Q. And is that a similar picture to State's Exhibit 12?

7 A. Yes, it is.

8 Q. And can you point out Rick James' studio?

9 A. Rick James' studio here, the mobile home.

10 Q. And describe again about where the body of Bobby
11 McCloud was when you first saw it.

12 A. The body of the victim was at the rear of the back
13 corner back here.

14 Q. You can have a seat right back.

15 MR. MAXWELL: No further questions, Your Honor.

16 MR. DUNN: May it please the Court, Your Honor?

17 CROSS EXAMINATION

18 BY MR. DUNN:

19 Q. Do you know who owns that abandoned house?

20 A. No, I do not.

21 Q. All right. You saw -- there was a gun found in the
22 abandoned house's yard, correct?

23 A. That's correct.

24 Q. There is also found a cellphone, a black -- that looked
25 like a Smart Phone or PDA or something of that shape and

CRYSTAL BAUGHMAN

1 A. Not that I can see.

2 THE COURT: All right. I will allow it subject to --
3 State's 17 is in evidence subject to defense objection.

4 (The photo was received as State's 17.)

5 MR. MAXWELL: No further questions, Your Honor.

6 THE COURT: Recross.

7 MR. DUNN: No, Your Honor.

8 THE COURT: Thank you, Captain, you may step down.

9 MR. MAXWELL: State calls Crystal Baughman.

10 The witness, CRYSTAL BAUGHMAN, was first duly
11 sworn and testified as follows:

12 THE CLERK: I need you to state your full name.

13 THE WITNESS: Crystal Baughman.

14 DIRECT EXAMINATION

15 BY MR. MAXWELL:

16 Q. Can you spell your first and last name?

17 A. Crystal, C-r-y-s-t-a-l. Baughman, B-a-u-g-h-m-a-n.

18 Q. And Ms. Baughman, where are you employed?

19 A. I'm employed with the Fairfield County Coroner's
20 Office.

21 Q. And how long have you been employed at the coroner's
22 office?

23 A. Four years.

24 Q. And were you working with the coroner's office back in
25 May of 2012, specifically May 18th?

CRYSTAL BAUGHMAN

1 A. I was.

2 Q. And was the coroner's office and you yourself
3 specifically called to the scene at 500 Spring Street?

4 A. Yes.

5 Q. And did you go to that location?

6 A. Yes, sir.

7 Q. Was there a deceased person at that location?

8 A. Yes, sir.

9 Q. Do you know who it was?

10 A. Yes, sir.

11 Q. Who was it?

12 A. Bobby McCloud.

13 Q. Was he already deceased when you arrived?

14 A. He was deceased.

15 Q. Did you or someone else with the coroner's office
16 remain there for some period of time until he was
17 transported?

18 A. I was there until I transported.

19 Q. Any idea about when you transported his body away?

20 A. Not sure.

21 Q. Was it several hours?

22 A. Yes.

23 Q. Was there a reason why there was a delay in removing
24 his body?

25 A. We waited for SUEDE to get there to process the scene.

1 MR. MAXWELL: You can have a seat back on the stand.

2 Q. I'm going to hand you a bag. Can you describe what is
3 inside that bag?

4 A. Yes, sir, it was two cartridge cases.

5 Q. Was there any type of identifying information on the
6 bag to identify what they are?

7 A. Yes, sir, it's actually in my handwriting. It's what I
8 identified them as when I collected them to my best
9 knowledge, I'm not a ballistics expert.

10 Q. Are those the two casings that were taken in possession
11 by you and Agent Blackmon some time on Saturday the 19th of
12 May 12?

13 A. Yes, sir.

14 Q. And is there some documentation of you signing those
15 casings over to Winnsboro Public Safety?

16 A. Yes, sir.

17 Q. And who did you sign them over to? Is it William
18 Gonzales?

19 A. Yes, sir.

20 Q. Is there any markings on the casings themselves?

21 A. Yes, sir, there is.

22 Q. What types of markings are on the casings?

23 A. It appears to be the number 3,2 --- 32.

24 Q. Anything else? Any head stamp or anything like that
25 that you can see?

SHANNON BOLING

- 1 A. There's black markings on both and it appears to be the
- 2 number 31 on this second shell casing.
- 3 Q. 31 and 32 are numbers assigned by SLED?
- 4 A. It would have been the ballistics department at SLED,
- 5 it wouldn't have been something I would have labeled.
- 6 Q. What I'm asking is whoever made, manufactured the
- 7 casing did not put 31 and 32 on there.
- 8 A. No, sir.
- 9 Q. Are there any markings, any manufactured type markings
- 10 on the casings that you can see?
- 11 A. There on the head of the margins there are.
- 12 Q. What are those markings?
- 13 A. Appears to be the number 40.
- 14 Q. Would that refer to possibly the caliber?
- 15 A. Yes, sir.
- 16 Q. Any other manufactured type markings?
- 17 A. Not that I can read.
- 18 Q. That's fine. What other things did you do in regards
- 19 to the investigation?
- 20 A. I assisted Major Seibles with the city police
- 21 department interview witnesses, possible witnesses and
- 22 community members regarding the homicide.
- 23 Q. Were you involved in any type of effort to locate the
- 24 whereabouts of the Derekee Johnson?
- 25 A. Yes, sir, I was.

SHANNON BOLING

1 Q. Was there some information -- did you receive
2 information about where he was some time about late Saturday
3 afternoon or early Sunday morning?

4 A. Yes, sir.

5 Q. Where was he? What information did you receive --
6 where did the information tell you he was?

7 A. At a friend's house in Blythewood, South Carolina,
8 which is also Richland County.

9 Q. Did you end up going to that location that night?

10 A. Yes, sir.

11 Q. Any idea about the approximate time you went there?

12 A. No, sir. I mean, it was later in the evening.

13 Q. Was there a lot of people, a lot of law enforcement
14 going as well?

15 A. Yes, sir.

16 Q. What happened when you arrived at that location at the
17 house in Blythewood?

18 A. Mr. Derekee, he was attempting to flee from the back
19 door of the residence. At that point we were all in
20 apprehension mode, weapons drawn; also there was a K-9 there
21 who also went into apprehension mode, and at that time he
22 fell to the ground with his hands up and I actually was the
23 one who handcuffed him.

24 Q. That was in the back yard?

25 A. Yes, sir.

SHANNON BOLING

1 Q. He was inside the house when agents and law enforcement
2 first arrived?

3 A. Correct, he would have had to have been. Because the
4 first time we saw him was when he was fleeing from the back
5 door of the residence.

6 Q. Once he -- did y'all have him surrounded or close to it
7 at that point?

8 A. Yes, sir. We were fixed in a triangulated position,
9 tactical position by means of -- for our safety, make sure
10 that we were safe as well as other people in the residence
11 because we didn't know at that time if anyone else was there
12 when he fled and we were in apprehension mode around the
13 back of the residence, and that's when he was taken into
14 custody.

15 MR. MAXWELL: No further questions, Your Honor.

16 THE COURT: Thank you. Thank you, Solicitor.

17 Mr. Dunn?

18 CROSS EXAMINATION

19 BY MR. DUNN:

20 Q. When you arrived at the house I believe you said it was
21 Blythewood, is that what you said, in Richland County?

22 A. Yes, sir.

23 Q. You weren't wearing a uniform like the deputies or
24 Major Gonzales is wearing, correct?

25 A. I would have had on green pants, a black T-shirt and a

SHANNON BOLING

1 tactical SLED vest.

2 Q. So you would have looked like a -- green pants, you

3 mean like pants that have got a bunch of pockets on it

4 and --

5 A. Yes, sir, they're tactical BDU's.

6 Q. And you said he fled, but the reality is he didn't go

7 very far, correct?

8 A. No, sir. He was obviously not running towards us, he

9 was running away from us.

10 Q. But you just said a second ago that you were in a

11 triangular position, so anywhere he ran he would have been

12 running towards one of y'all, correct?

13 A. Not necessarily.

14 Q. Did you have to run very far to catch him?

15 A. No, sir.

16 Q. And the reality is he put his hands up and got down,

17 correct?

18 A. Yes, sir. The dog actually ran farther than we did.

19 Q. And you didn't have to -- once you got to him he did

20 not resist, correct?

21 A. No, sir.

22 Q. This was in the back part of the house or the back yard

23 I guess.

24 A. Yes, sir.

25 Q. Did you announce yourself as a police officer before

SHANNON BOLING

1 the dogs were released?

2 A. When we get out of the vehicle and we draw our weapons,
3 we announce, "State police, state police, get on the ground,
4 get on the ground."

5 Q. You were not part of the investigation that Friday
6 evening, the night of the actual shooting, correct?

7 A. No, sir, it was not.

8 Q. You showed the next day when it was all light outside.

9 A. Yes, sir.

10 Q. Are you aware where the other shell casings were found?

11 A. No, sir.

12 Q. You have never seen -- during your investigation you've
13 never looked at any other picture or spoken to anybody who
14 made you aware of where those other shell casings were
15 found?

16 A. Just prior to us coming to court and who was going to
17 testify and things of that nature. But as far as me
18 physically laying eyes or being at the scene when they were
19 collected, no, sir.

20 Q. And the two shell casings that you found, your
21 testimony is they were found -- it looked like they were
22 pointing towards the -- let's do this. You were looking at
23 the screen a second ago. I'm going to hand you State's
24 Exhibit Number 2, which is the same way I've oriented the
25 rest of the time. Do you recognize this map or this

SHANNON BOLING

1 picture?

2 A. Yes, sir, I do.

3 Q. And what is it depicting?

4 A. The crime scene area.

5 Q. Can you point to the area on here where you found the
6 two shell casings?

7 A. Yes, sir. This is the corner where I showed you
8 earlier where I had parked my patrol car.

9 Q. Yes, ma'am.

10 A. And the trash cans were here, they were up in front of
11 like the highway polls, but it was still a very grassy area,
12 it wasn't like -- some of the area looked like it had
13 been -- I guess the grass had died but it was grassier,
14 there was another greenage, you know, to the grass.

15 Q. And when you found them, was it done by visual
16 observations?

17 A. Yes, sir. I believe Captain Watkins is the one who
18 initially located them and then we bagged them.

19 Q. Were you aware of whether or not a metal detector was
20 used to locate those two?

21 A. No, sir.

22 Q. But as far as how they got there you don't know,
23 correct?

24 A. No, sir.

25 Q. The manner in which they were lying, is it possible

SHANNON BOLING

1 that they had been kicked over there or disturbed and moved
2 in that direction?

3 A. I can't speak how they got there, no, sir.

4 Q. But it's your testimony they were found up towards the
5 intersection.

6 A. Yes, sir. In that grassy area, there was more
7 greenage.

8 MR. DUNN: Beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 (Break in proceedings.)

11 Q. Before Mr. Johnson ran or attempted to flee as you
12 testified, did you say, "Police?"

13 A. "State police, state police, get on the ground, get on
14 the ground."

15 Q. Were all of y'all yelling that --

16 A. I know I was yelling it.

17 Q. -- or just one person?

18 A. I know I was yelling it.

19 Q. You said that there was three of y'all in the back in
20 some kind of tactical, triangle tactical --

21 A. There was more than three law enforcement officers
22 there.

23 Q. How many?

24 A. I want to say there was at least two vehicles and two
25 Richland County vehicles.

SHANNON BOLING

1 Q. Plus folks in front, including the folks in front?

2 A. I'm not sure of who went to the front. I do know that
3 people went to the front, but I went to the back.

4 Q. Including a dog?

5 A. Dog went to the back.

6 Q. Is it fair to say that there was a lot going on at that
7 time?

8 A. Sir?

9 Q. A lot going on?

10 A. A lot of responsibilities, yes, sir.

11 Q. I mean, as far as just a lot of commotion and a lot of
12 activity from people, a lot of movement and a lot of people
13 showing up on that house?

14 A. It was tactical response, yes, sir.

15 Q. And it was tactical response only because it was in
16 response to a murder investigation, correct?

17 A. It was tactical response because we were there to
18 apprehend a murder suspect and we had information that he
19 was there.

20 MR. DUNN: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. MAXWELL: No redirect, Your Honor.

23 THE COURT: Thank you very much.

24 MR. MAXWELL: State calls William Gonzales.

25 The witness, WILLIAM GONZALEZ, was first duly

WILLIAM GONZALEZ

1 sworn and testified as follows:

2 THE CLERK: State your full name.

3 THE WITNESS: Williams Gonzalez.

4 DIRECT EXAMINATION

5 BY MR. MAXWELL:

6 Q. And is it Captain Gonzalez?

7 A. Major.

8 Q. Major, I'm sorry. Who are you employed with?

9 A. Winnsboro Department of Public Safety.

10 Q. And again, what is your position with Winnsboro Public
11 Safety?

12 A. Major.

13 Q. Were you with the Winnsboro Public Safety back in May
14 of 2012?

15 A. Yes.

16 Q. And did you respond to the shooting incident on Spring
17 Street on May 18th that evening?

18 A. Yes.

19 Q. What was your duties, what roles did you play at the
20 crime scene?

21 A. Once I arrived there I met with Captain Watkins and
22 kind of took charge of the crime scene so he could focus on
23 trying to find witnesses and find out exactly what was going
24 on.

25 Q. Do you remember who contacted SLED for assistance?

WILLIAM GONZALEZ

1 A. I did. I called them while I was in route to the
2 scene.

3 Q. And did both -- I'm not sure exactly how SLED
4 distinguishes between field agents and crime scene people,
5 but did both investigative agents show up along with crime
6 scene forensic type people from SLED?

7 A. They did. Once I called SLED they received a contact
8 number from me and I think the lieutenant called me and
9 wanted to know what we needed assistance with and we advised
10 him of what we had going on. And they sent crime scene as
11 well as investigators and also the fugitive task force?

12 Q. Did SLED crime scene come to the location that night?

13 A. Yes.

14 Q. And did they go to the crime scene, take a lot of
15 pictures and collect a lot of different types of evidence?

16 A. Yes, they did.

17 Q. And were you -- did you take part in that examination
18 of the crime scene?

19 A. Yes, I did.

20 Q. Was there a metal detector used at some point?

21 A. Yes, it was.

22 Q. Who used it?

23 A. I did.

24 Q. Were there casings found on the night of the 18th of
25 May?

WILLIAM GONZALEZ

- 1 A. Yes, there were.
- 2 Q. And was it SLED that actually took pictures and
- 3 collected those casings into evidence?
- 4 A. Yes, it was.
- 5 Q. Was there any effort to locate -- were there any
- 6 bullets located that night?
- 7 A. No.
- 8 Q. Was there an effort to look for fired bullets?
- 9 A. Yes, it was.
- 10 Q. There was a cellphone found, correct?
- 11 A. I believe there were two cellphones found.
- 12 Q. Well, were those found at the scene?
- 13 A. Yes.. No, I think there was just one found at the
- 14 scene.
- 15 Q. The other cellphone that you're referring to, who did
- 16 that belong to?
- 17 A. I think that came from Mr. Johnson.
- 18 Q. When he was arrested.
- 19 A. Yes.
- 20 Q. But there was one cellphone collected into evidence at
- 21 the scene.
- 22 A. Yes.
- 23 Q. And that was found in the yard where Mr. McCloud's body
- 24 was?
- 25 A. Yes.

WILLIAM GONZALEZ

1 Q. Did you go back to the scene the next day, the
2 Saturday?

3 A. No, I didn't.

4 Q. At some point did you take possession of some casings
5 that were found that Saturday by agents from SLED?

6 A. Yes.

7 Q. I'm going to show you what has been marked for court
8 purposes. Can you take a second to look at that and say
9 what those are, what it is in the bag?

10 A. It's two shell casings and a paper bag.

11 Q. Does it indicate on there that those were collected by
12 Shannon Boling, or from Shannon Branham I think was her name
13 at the time, from SLED?

14 A. Yes, it does.

15 Q. And is there any documentation that shows where she
16 transferred the custody of those casings to you?

17 A. Yes, it is.

18 Q. And what did you do with them once they came into your
19 custody?

20 A. I placed them in our evidence and turned them over to
21 our evidence officer.

22 Q. Did those casings end up going to SLED?

23 A. Yes, they did.

24 Q. Who took them to SLED?

25 A. I believe I did.

1 Q. And that's what you all have been referring to as the
2 abandoned house?

3 A. Yes, sir.

4 Q. Is where the seven shell casings that you saw -- I'm
5 not asking about the two that we just heard testified to by
6 the SLED agent but the rest of the shell casings, can you
7 show the general area of where they were?

8 A. If I remember they were at the edge of the yard here
9 and into the street.

10 Q. And just one more time, point where you -

11 A. In this area here.

12 Q. All right. There was a weapon found in that yard,
13 correct?

14 A. Yes...

15 Q. And that weapon was determined that it was a .25
16 caliber Lordin.

17 A. I believe so.

18 Q. And in that gun a live round was found in the chamber?

19 A. I don't recall.

20 Q. Do you recall whether or not there was two rounds found
21 in the magazine loaded in the gun?

22 A. I don't recall.

23 Q. Did you have any dealings with the gun?

24 A. Other than knowing where it was, no.

25 Q. And you weren't actually the one that picked it up?

QUINTON ADAMS

1 Q. Is that what most people called him?

2 A. Yes, sir.

3 Q. What kind of relationship did y'all have?

4 A. We were cool, we were like family.

5 Q. Did you know Derekee Johnson?

6 A. Not like that, I seen him around.

7 Q. If you saw him could you tell that's who that was?

8 A. Yeah.

9 Q. On May 18th of 2012, were you with Clyde?

10 A. Yeah, he got in my car. He got in the my car at Walk

11 One.

12 Q. Walk One is another neighborhood, right?

13 A. Yes, sir.

14 Q. Is that where Clyde lives and where he's from?

15 A. Clyde lived back and forth, he didn't really have a

16 stable place to stay.

17 Q. But Walk One, I think, is on another side of town than

18 Zion Hill.

19 A. Yeah.

20 Q. Y'all left Walk One.

21 A. Yeah. I just walked up and he wanted to get a bag of

22 weed.

23 Q. And where did y'all go?

24 A. Zion Hill.

25 Q. Where did you specifically go on Zion Hill?

QUINTON ADAMS

- 1 A. C.C.'s house.
- 2 Q. C.C. Bouknight?
- 3 A. Yes, sir.
- 4 Q. And did C.C. live -- what street did C.C. live on?
- 5 A. I don't know the name of the street.
- 6 Q. Did he live at the intersection of two streets?
- 7 A. Yes, by the court.
- 8 Q. Like on the corner.
- 9 A. By the court.
- 10 Q. By the Basketball court you're referring to?
- 11 A. Yes.
- 12 Q. Who were y'all intending to buy weed from?
- 13 A. Charles Bouknight.
- 14 Q. Is that C.C.'s brother?
- 15 A. Yes, sir.
- 16 Q. Did he live with C.C.?
- 17 A. Yes, sir.
- 18 Q. And whose car did y'all go into Charles and C.C.'s
- 19 house in?
- 20 A. My car.
- 21 Q. Just the two of y'all?
- 22 A. Yes, sir.
- 23 Q. Did you park your car near C.C.'s house?
- 24 A. Yes, sir.
- 25 Q. And did you meet up with Charles?

QUINTON ADAMS

1 A. Yes, sir.

2 Q. Where were y'all, I guess, hanging out when you
3 interacted with Charles Bouknight?

4 A. Charles was standing on the steps, C.C. was sitting on
5 the steps, and me, Clyde, Taz and Donnell was standing right
6 there talking.

7 Q. Were you on the front side or the back side of the
8 house?

9 A. On the back side.

10 Q. Can you take a look at that picture on the TV? Does
11 that picture look familiar to you?

12 A. Yes, sir.

13 Q. Whose house is that, whose trailer is that?

14 A. That was C.C.'s trailer.

15 Q. And that's where y'all went.

16 A. Yes, sir.

17 Q. Now, the step you said Charles was sitting on, is that
18 in the picture?

19 A. No, it was on the backside.

20 Q. It's on the back side. So y'all were gathered around
21 the back side of the house?

22 A. Yes, sir.

23 Q. Who lives across the street?

24 A. His aunt and them.

25 Q. From C.C.'s?

QUINTON ADAMS

- 1 A. His aunt and them.
- 2 Q. You say his aunt, who are you referring to?
- 3 A. Clyde's aunt.
- 4 Q. Is that Lynetta Mitchell?
- 5 A. I guess that's her name.
- 6 Q. Were there some other people hanging out there?
- 7 A. It was couple of girls over there, Sheretta, there was
- 8 a couple of people over there.
- 9 Q. Okay. Before you and Clyde went from Walk One to Zion
- 10 Hill, were you aware of any problems that Clyde had with
- 11 anybody?
- 12 A. No. He didn't say anything about no problems, he ain't.
- 13 had no problems..
- 14 Q. Were you aware of any problems Clyde would have had
- 15 with Derekee Johnson specifically?
- 16 A. No, sir.
- 17 Q. Did Clyde ever make you aware that he was going over
- 18 there to do anything other than to see Charles Bouknight and
- 19 hang out there and buy weed?
- 20 A. No, sir.
- 21 Q. Do you remember seeing Derekee Johnson when y'all were
- 22 at Charles and C.C.'s trailer?
- 23 A. He popped up.
- 24 Q. Was he on foot or was he in a car?
- 25 A. He was on foot when he popped up behind the house.

QUINTON ADAMS

1 Q. Do you know what direction he came from?

2 A. No, sir.

3 Q. Did he come and talk to y'all?

4 A. He stood there, we were talking and he said something,
5 Clyde told him Carl McDaniel wanted to talk to him about the
6 problem they had.

7 Q. Now, when Derekee first arrived -- I'll get back to
8 that in a second, just go back and just take a step back.
9 When Derekee first arrived, did he greet Clyde and everybody
10 else that you can recall?

11 A. He said, "What's up," and whatnot, shook Charles and
12 C.C.'s hand.

13 Q. Do you remember if he shook Clyde's hand?

14 A. No, sir. He didn't shake my hand either.

15 Q. And you said Clyde -- what did Clyde again tell
16 Derekee?

17 A. He wanted to talk -- Carl wanted to talk to him about
18 the situation that they got going on.

19 Q. Were you aware of what that situation was?

20 A. No, sir, not at the time.

21 Q. Did Clyde have an attitude or did he say it in an upset
22 or angry manner about Carl McDaniel to Derekee?

23 A. No, sir.

24 Q. Did Derekee and Clyde exchange words or any cuss words,
25 any words back and forth at all?

QUINTON ADAMS

1 A. No, sir.

2 Q. Did Clyde make any threats towards Derekee?

3 A. No, sir.

4 Q. Did Clyde do anything physically to try to intimidate
5 Derekee?

6 A. No, sir.

7 Q. Did Derekee end up leaving there from Charles' house?

8 A. He left.

9 Q. Who left -- was he the first person to leave of all of
10 the people you've named so far?

11 A. Yeah, he left first.

12 Q. Did you see where he went?

13 A. He went up the hill in the hole.

14 Q. Can you see what that's a picture of?

15 A. Yes, sir.

16 Q. Is that a path going up the hill?

17 A. Yes, sir.

18 Q. You say up the hill in the hole, are you referring to
19 going up that path where the dirt is here and continuing up
20 that hill?

21 A. Yes, sir.

22 Q. Did you see Derekee go up the hill?

23 A. I seen him up the hill.

24 Q. What did Clyde do after Derekee had left?

25 A. He went over there to her house.

QUINTON ADAMS

1 Q. Across the street from C.C.'s.

2 A. Yes, sir.

3 Q. Move it around just a little bit more. Are you
4 referring to that house that's shown in that picture?

5 A. Yes, sir.

6 Q. That's right across the street from Charles and C.C.'s
7 trailer.

8 A. Yes, sir.

9 Q. What did Clyde go over there to do again?

10 A. I don't know, Sheretta had called him over there.

11 Q. And do you know what the relationship between Sheretta
12 and Clyde was?

13 A. They're cousins, I think they're like first or second
14 cousins, something like that.

15 Q. Now, when Clyde left from C.C.'s, was he upset, angry
16 about anything?

17 A. No, sir.

18 Q. Did you see where Clyde went after he left to go talk
19 to Sheretta at Lynetta's?

20 A. No.

21 Q. Did you see anywhere else he went?

22 A. I seen him about the time I was going up the hill and
23 he was right there standing by the stop sign.

24 Q. You ended up going up the hill?

25 A. Yes, sir.

QUINTON ADAMS

1 Q. Did you ever see Clyde walk up that path to go up the
2 hill?

3 A. No, I didn't see him at first.

4 Q. Does that picture there look familiar to you?

5 A. Yes, sir.

6 Q. Is that looking back down from the intersection back
7 down towards where the path comes out to at the dead-end in
8 the back of the picture?

9 A. Yes, sir.

10 Q. That's the path you walked up and you were basically --
11 did you walk up that street?

12 A. I just walked up that street.

13 Q. So you were walking towards, I guess, where that camera
14 would be taking that picture down that hill; is that
15 correct?

16 A. Yes, sir.

17 Q. When did you see Clyde again?

18 A. I seen Derekee before I seen Clyde, though. Clyde was
19 standing at the stop sign and Derekee was by Rick James'
20 trailer.

21 MR. MAXWELL: Permission for the witness to leave the
22 stand, Your Honor?

23 THE COURT: Yes, sir, you may step down.

24 Q. Just stand right here and don't block the TV and grab
25 one of the sticks there. Okay. Tell the jury where you

QUINTON ADAMS

1 came out of the path at.

2 A. Right in there.

3 Q. Next to that tree right there?

4 A. Right there where the hole is at.

5 THE COURT: You may need to speak up a little bit.

6 Q. Talk louder so everybody can hear you. Okay?

7 A. Right where the hole at right there where the path come
8 to.

9 Q. And you continued to walk up towards the stop sign up
10 here.

11 A. A little ways, and Derekee was standing right in there,
12 right here by Rick's trailer and I walked on up this way.

13 Q. What was Derekee doing?

14 A. He was just standing there.

15 Q. Anybody else with him?

16 A. I didn't see nobody else at the time, I didn't see
17 nobody.

18 Q. Where did you see Clyde at?

19 A. I seen Clyde up here by the stop sign. Well, it's a
20 pole but there's a stop sign right there.

21 Q. Okay. What was Clyde doing?

22 A. He was just standing there, he was on the phone. I
23 guess he was talking or whatnot because he was talking about
24 some food, they was supposed to fix him a plate or something
25 like that.

QUINTON ADAMS

1 Q. Did he appear angry, upset, agitated about anything at
2 that point?

3 A. No, sir.

4 Q. Did you talk with Clyde at that point?

5 A. I told him I was going to get me a cigarette.

6 Q. Where were you going to get the cigarette at?

7 A. From Ms. Tink's (phonetically) store, it's all the way
8 up Main Street here.

9 Q. Which street is that?

10 A. I don't know what the name of that street is.

11 Q. Are you familiar with where College Street is?

12 A. Yeah, that's College Street, yeah.

13 Q. So you were walking up College Street?

14 A. Yeah.

15 Q. How many blocks up from that intersection is that, do
16 you know?

17 A. From this intersection?

18 Q. Yeah.

19 A. I don't know, ten.

20 Q. We're just talking about just a block just back up to
21 College Street.

22 A. Sir?

23 Q. Just back up to College Street. Let me -- can you see
24 the intersection where you saw Clyde at on that map?

25 A. Right in there.

QUINTON ADAMS

1 Q. And where is the place you were going to get a
2 cigarette at on there?

3 A. Ms. Tink stay in this house and that's her store right
4 there.

5 Q. So you were going up another block and then take a
6 right to get your cigarette?

7 A. It's still on College Street, you know what I'm saying?

8 Q. But were you going to follow Spring Street up to
9 College Street? Is that where you were walking?

10 A. Yeah. I went straight up all the way to the area right
11 there, came down, by the time I got about right in here
12 halfway to the store that's when I starting hearing shots,
13 "boom, boom, boom, boom, boom, boom."

14 Q. How many shots did you hear?

15 A. I heard like four or five, and then like three or four,
16 somewhere like that.

17 Q. What did you do once you heard the shots?

18 A. I kept walking, sir, went down here. I can't even
19 remember whether I got my cigarette or not.

20 Q. Could you tell where the shots came from?

21 A. It came from down this way where I just came from.

22 Q. At the time that you heard the shots, did you have any
23 idea about what exactly had happened?

24 A. No, sir. I just knew something wasn't right.

25 Q. What did you continue to do?

QUINTON ADAMS

1 A. Went down this way, went down whatever that name of
2 that road, Manigault, whatever the name of that road, went
3 down here, and there's a path right here. I went through
4 that path and that path lead you all the way back to the
5 court by C.C.'s house. By the time I come through I got
6 through the path, went through right here, I seen Taz coming
7 out the hole.

8 Q. Taz who?

9 A. I guess he's a Bouknight.

10 Q. Okay.

11 A. I just know him by Taz.

12 Q. Taz, T-a-z?

13 A. Yeah. By the time I come like halfway right there he's
14 coming out of the hole saying, "He shot him. He shot Clyde,
15 he shot him." I just shook my head and got in my car.

16 Q. Is there a reason why you didn't go back up and check
17 on Clyde?

18 A. I just knew something wasn't right, I was scared, I
19 didn't know what to do.

20 Q. You left in your car?

21 A. Yes, sir.

22 Q. Where did you go after that, do you remember?

23 A. I rode around, went to the hospital hoping. I didn't
24 know he was dead already, I just heard he shot him.

25 Q. Did you ever see Clyde with a gun?

QUINTON ADAMS

1 A. No, sir.

2 Q. At any point in time did you see Derekee with a gun?

3 A. No, sir. I didn't see him with no gun either.

4 Q. Did you yourself ever have a gun?

5 A. No, sir.

6 Q. Did you ever see Derekee and Clyde ever -- other than
7 what you've testified to about Clyde telling Derekee Carl
8 wanted to talk to him, did you ever see them exchange any
9 other harsh words, argument, any type of thing that may lead
10 to a fight?

11 A. No, sir.

12 MR. MAXWELL: No further questions, Your Honor.

13 THE COURT: All right. You can come retake the stand,
14 Mr. Adams. Mr. Dunn?

15 CROSS EXAMINATION

16 BY MR. DUNN:

17 Q. I just wanted to make sure I heard you correctly, Mr.
18 Adams, that when you were down at C.C.'s house, or in that
19 area, which you believe would be right in this area, is that
20 correct?

21 A. Uh-huh, I think so.

22 Q. Here is the path and it's down near the path, right?

23 A. Uh-huh.

24 Q. So when you were down in that area, the first person to
25 leave C.C.'s Bouknight's was Derekee?

1 Q. Nothing in there saying Bobby or Clyde was mad about
2 anything.

3 A. No, sir.

4 MR. MAXWELL: No further questions, Your Honor.

5 THE COURT: Thank you very much, Solicitor. You may
6 step down, Mr. Adams. All right. Mr. Foreman, ladies and
7 gentlemen of the jury, perhaps now would be a good time to
8 take our luncheon recess. I remind you during this recess
9 you are not to discuss this case with anyone, that includes
10 your fellow jurors, lunch mates or anyone else. Do not
11 watch, read or listen to any news reports about the case
12 should there be any, do not do any investigation,
13 independent investigation, in other words don't drive by
14 scenes or such like that, or any investigation on the
15 Internet. Investigation on the Internet would also
16 include -- as you note the parties are using Google Maps,
17 don't go on Google Map or anything else of that nature,
18 don't do any research whatsoever. Remember, research
19 includes but is not prohibited to information by the party
20 and witness and attorney, court officer, news accounts of
21 the case, information about any issue that has been brought
22 before the jury in court, or any information the jurors
23 might think would be helpful. You decide the case based on
24 the evidence and testimony presented before you in the
25 courtroom and the law as I tell you the law is. With that

QUINTON ADAMS

1 being said we'll take about an hour and 15 minutes, I've got
2 1:25 right there, we'll say 2:40, you will be back in an
3 hour and 15 minutes. I hope y'all have a pleasant lunch.
4 Thank you, thank you very much.

5 (The jury left the courtroom.)

6 THE COURT: Anything before we take or recess,
7 Solicitor?

8 MR. MAXWELL: None from the State.

9 THE COURT: Mr. Dunn?

10 MR. DUNN: No, sir.

11 THE COURT: All right. We'll be in recess an hour and
12 15 minutes.

13 (A lunch break was taken.)

14 THE COURT: Anything from the State before we bring in
15 our jury, Solicitor?

16 MR. MAXWELL: Nothing from the state.

17 THE COURT: Defense?

18 MR. DUNN: There's just one issue. It sounds like this
19 last time -- he didn't have leg irons on this morning, he
20 has leg irons on now, that maybe some of the jurors saw --
21 that one of the jurors saw and that would cause me concern
22 just to be sure he gets a fair trial that they're not going
23 to hold that against him. I would just ask that as much as
24 they can to make sure that the hallway is clear before they
25 do that, Your Honor.

QUINTON ADAMS:

1 THE COURT: Have you got that, sheriff?

2 DEPUTY: Yes, sir.

3 THE COURT: Do you want to do anything else? Do you
4 want me to question the juror?

5 MR. DUNN: I would ask out of an abundance of caution I
6 think we might ask the juror.

7 THE COURT: What do you want me to ask her, "Did you
8 see leg irons on Mr. Johnson?"

9 MR. DUNN: To be honest I think -- let's just leave it
10 alone, I don't want to bring more attention to it because
11 that creates another issue then.

12 THE COURT: And of course, they may think it is
13 standard operating procedure, too, that is required, not to
14 Mr. Johnson specifically but with anybody.

15 MR. DUNN: And I know that the deputies have got a
16 tough job, I would just ask they take precautions.

17 THE COURT: Anything else, Mr. Dunn?

18 MR. DUNN: No, sir.

19 (The jury returned to the courtroom.)

20 THE COURT: Welcome back, ladies and gentlemen. We are
21 continuing the trial of the case by the presentation of the
22 State in their case in chief. If you would please continue
23 to give the parties your complete and undivided attention as
24 you have done throughout the trial of this case. Solicitor,
25 you may call your next witness.

1 A. I have no idea.

2 Q. What did Clyde do next?

3 A. Clyde walked up the hill.

4 Q. All right... I'll move to that in a second. Now, did
5 you observe anything about Clyde's demeanor or his attitude?

6 A. He didn't seem like he had a problem, he just was a
7 little upset.

8 Q. Describe what you mean by that as best you can.

9 A. I can't really describe.

10 Q. When was he upset? What was he doing when you observed
11 him being upset?

12 A. He was walking up the hill.

13 Q. Was he on the phone?

14 A. He was on the phone.

15 Q. Okay. And when you say up the hill, are you referring
16 to that path as shown on that screen there?

17 A. Yeah, that path right there will take you up the hill.

18 Q. Did anybody go up the hill with Clyde?

19 A. He walked by himself.

20 Q. Did you see Derekee again in that area?

21 A. I would say about five or ten minutes later Derekee
22 walked up that same path.

23 Q. After Clyde?

24 A. After Clyde.

25 Q. Not saying he was following Clyde but he walked up the

YOLANDA HILL

1 same path Clyde walked up.

2 A. Yes, sir.

3 Q. What do you remember you doing next?

4 A. Me and Net was trying to be noseey so we walked up the
5 hill too.

6 Q. Describe as you can what you mean by being noseey, what
7 you were trying to find out?

8 A. Really nothing, we just wanted to walk up there to be
9 noseey.

10 Q. Did you know specifically what was going on up there?

11 A. No, sir.

12 Q. Did you make it all of the way up the hill to the top
13 of the hill?

14 A. No, sir.

15 Q. Does that picture there look familiar to you?

16 A. Yes, sir.

17 Q. Is that the end of the Spring Street where the path
18 where you walked up, is that the top of the path where you
19 end up at?

20 A. Yes, sir.

21 Q. Did you walk up to anywhere that's shown on that
22 screen?

23 A. Yes. We probably --

24 Q. Where did you end up walking to?

25 A. Probably right here. We didn't get to make it that far.

YOLANDA HILL

1 past the tree.

2 Q. Were you on the concrete?

3 A. Yes, we was on the concrete.

4 Q. When you got to the top of the hill, what was the first
5 thing that you saw?

6 A. Derekee running from beside Jesse James' house aiming
7 his gun and shooting.

8 Q. Hold on one second. Now, do you see that green on the
9 screen now?

10 A. Yes.

11 Q. Is that essentially the view you had from where you
12 were standing looking back up Spring Street?

13 A. Yes, sir.

14 Q. Where did you first see Derekee.

15 A. Seen him running from right there.

16 Q. You were pointing towards that stop sign there at the
17 corner of the house?

18 A. Yeah.

19 Q. Was he running in the front of the house, on the front
20 side which I think is Russell Street, or was he behind the
21 house where those cars were at?

22 A. No, he was in front of the house.

23 Q. Up there near the stop sign.

24 A. Near the stop sign.

25 Q. And again, where was he running towards?

YOLANDA HILL

1 A. He was running towards this direction over here
2 shooting the gun.

3 Q. So he was running from the right to the left, right?

4 A. Yes, sir.

5 Q. And could you see the gun?

6 A. I really couldn't see it that good.

7 Q. Did you hear gunshots?

8 A. I heard them.

9 Q. And could you tell the gunshots were coming from where
10 Derekee was?

11 A. Yes, sir.

12 Q. Where was he aiming the gun at?

13 A. Over here, this direction.

14 Q. Did you see Clyde?

15 A. Not at the time I didn't.

16 Q. Now, let me ask you to go back a second. Was Derekee
17 aiming his gun towards the area where the abandoned house is
18 on the left side?

19 A. Yes, sir.

20 Q. Did you see Derekee before he started shooting, or was
21 the first time you saw him he was shooting?

22 A. The first time I seen him he came running out shooting,
23 was running out by the stop sign shooting.

24 Q. And were all his shots aimed towards the area of that
25 abandoned house?

YOLANDA HILL

1 A. Yes, sir.

2 Q. Now, could you tell whether he was aimed towards this
3 back side of the abandoned house or was it near the front or
4 this side?

5 A. I can't really tell, I wasn't trying to notice his
6 position.

7 Q. Well, about how many shots did you see or hear?

8 A. About five or six.

9 Q. And did you see Clyde?

10 A. I saw Clyde after I guess he was shot and he was trying
11 to run at the back of the abandoned house to go across the
12 fence.

13 Q. Now, from that view -- if you had that view could you
14 see Clyde? Or tell the jury where you saw Clyde at.

15 A. This is where the house end that he was running to this
16 direction to jump over this fence right here..

17 Q. In that back left corner?

18 A. Yes, sir.

19 Q. Was he running from the back side of the house and
20 that's where you couldn't see him, or was he running between
21 here?

22 A. No. He was running from the back side of the house
23 where I couldn't see him at.

24 Q. And you saw Clyde after Derekee had started firing
25 those shots or before?

YOLANDA HILL

- 1 A. After Derekee fired his shots.
- 2 Q. Did you see Clyde fall?
- 3 A. Yes. I guess his body was getting weak and he fell.
- 4 Q. He didn't make it across the fence that you saw.
- 5 A. He didn't get to make it.
- 6 Q. What did you do next?
- 7 A. The first thing I was in shock so I didn't know whether
- 8 I wanted to run or stand still, I didn't know what to do.
- 9 Then me and Net finally walked up towards Clyde, left him,
- 10 ran down the hill to Lynetta's house.
- 11 Q. Did you tell them what had happened, people at
- 12 Lynetta's house?
- 13 A. Yes. We told them that Clyde had just been shot.
- 14 Q. Did you see Derekee again?
- 15 A. Yes.
- 16 Q. Where did you see Derekee next?
- 17 A. He was running from -- can you slide it up a little bit
- 18 more? He was running from this direction by the park.
- 19 Q. And the park you're referring to is the basketball
- 20 courts?
- 21 A. Yes, sir.
- 22 Q. Where was he running to?
- 23 A. To First Avenue at the time. I thought he was running
- 24 to me to ask me could I give him a ride or something and I
- 25 was telling him, "I just seen what you did, don't run this

YOLANDA HILL

1 way, don't run this way. I seen what you did."

2 Q. What did he respond?

3 A. He was running and he was like, "I didn't did nothing,

4 I didn't do nothing, you didn't see me do nothing."

5 Q. Now, you had your hand in your back as you were

6 demonstrating that. Tell the jury what you saw Derekee

7 doing?

8 A. He was running holding the gun I guess so the gun

9 couldn't fall out underneath his shirt.

10 Q. Could you see the gun?

11 A. Yes.

12 Q. Did he run down First Avenue?

13 A. Yes, sir.

14 Q. Kind of the same direction you saw him walking down

15 earlier?

16 A. Yes, sir.

17 Q. Where were you at when you saw him do that?

18 A. The first time or the second time?

19 Q. Well, the second time. When you ran back down the hill

20 after the shooting, where were you standing at when Derekee

21 ran by?

22 A. My truck was parked right there and I was standing

23 beside my truck.

24 Q. Near the roadway?

25 A. Yes, sir.

SHANTENETTE SAMPSON

- 1 Q. Do you remember who was driving the car?
- 2 A. Yes.
- 3 Q. Who was that?
- 4 A. Quinton.
- 5 Q. Quinton Adams?
- 6 A. Yes..
- 7 Q. It was just the two of them that you saw?
- 8 A. That I know of.
- 9 Q. And where did they go?
- 10 A. They had parked on the side of C.C. Bouknight's
- 11 trailer.
- 12 Q. Did you see Clyde get out of the car?
- 13 A. Yes.
- 14 Q. What was his demeanor and attitude that you observed?
- 15 A. Angry.
- 16 Q. While he was on the phone?
- 17 A. Yes.
- 18 Q. Do you know who he was talking to?
- 19 A. No.
- 20 Q. Do you remember if Clyde talked to any of y'all?
- 21 A. No..
- 22 Q. Do you remember seeing Derekee in that area?
- 23 A. No.
- 24 Q. When y'all were down at the bottom of the hill y'all --
- 25 I said the bottom of the hill at Lynetta's, you don't

SHANTENETTE SAMPSON

1 remember seeing Derekee?

2 A. No.

3 Q. What did Clyde do -- what did you see Clyde do next?

4 A. Well, he was pacing back and forth on his phone
5 talking, he sounded angry.

6 Q. Do you remember anything he may have said?

7 A. No.

8 Q. What did he do after that?

9 A. He left and started walking up the hill.

10 Q. And does that picture there look familiar to you?

11 A. Yes.

12 Q. When you say up the hill, are you referring to this --
13 the path that goes from Gaither Street up to the end of
14 Spring Street?

15 A. Yeah.

16 Q. And is it this little dirt -- you can see the dirt path
17 here going up there?

18 A. Yes.

19 Q. Did you ever see Derekee go up that path that you can
20 remember?

21 A. No.

22 Q. Did anybody else go up the path with Clyde?

23 A. No.

24 Q. You don't remember seeing Derekee --

25 A. Yeah, I remember seeing Derekee.

SHANTENETTE SAMPSON

1 Q. All right. Let's just talk about that. When did you
2 see Derekee?

3 A. Probably a good five minutes after.

4 Q. After what?

5 A. Clyde was found dead.

6 Q. But you didn't see Derekee before that walking down the
7 street.

8 A. No.

9 Q. Was anybody with Derekee when you walked up the path
10 that you remember?

11 A. No.

12 Q. What did you do next?

13 A. Well, as we were still sitting in the truck Sheretta
14 was telling Clyde to come here but he didn't come. So after
15 that me and Yolanda got of the truck and we went up the hill
16 to see what was going on, and about the time we got to the
17 stump --

18 Q. We'll get to that in just a second. Okay. Can you see
19 that picture on the TV?

20 A. Uh-huh.

21 MR. MAXWELL: Your Honor, permission for the witness to
22 leave the stand.

23 THE COURT: Yes, you may step down.

24 Q. Go ahead and step down. And stand -- don't block the
25 TV, grab one of the pointers there. All right. Do you see

SHANTENETTE SAMPSON

1 the top of the hill where you come out the path at?

2 A. Yes.

3 Q. Is that right there?

4 A. Uh-huh.

5 Q. How far did you get before you stopped?

6 A. I was a little back farther behind the tree.

7 Q. Do you see a rock there?

8 A. Yes.

9 Q. Were you close to the rock?

10 A. Yeah.

11 Q. Where was Yolanda at?

12 A. She was a little bit further than me by the stump.

13 Q. Now, was that view close to the perspective that you

14 had from where you stopped when you walked up the hill?

15 A. Yes..

16 Q. Did you see -- what's the first thing you saw when you

17 got to the top of the hill?

18 A. Derekee pulled that gun out and started shooting..

19 Q. Where did you see Derekee at first?

20 A. Standing right here..

21 Q. Was he near the trailer or close enough to the stop

22 sign?

23 A. No, he was near the trailer.

24 Q. Do you remember if he was standing in the road or

25 standing in the grass?

SHANTENETTE SAMPSON

1 A. In the road.

2 Q. But was he close to the edge?

3 A. Yeah.

4 Q. When you got to the -- when you first saw him, did he
5 already have the gun out?

6 A. No.

7 Q. Did you see him pull the gun out?

8 A. No. Well, I seen it out, I don't know where he pulled
9 it from.

10 Q. Did you see him aim the gun?

11 A. Yes.

12 Q. You don't know where he got the gun from, like back
13 pocket, front pocket or anything like that?

14 A. No.

15 Q. Where did he aim the gun towards?

16 A. Towards right here on the side of this abandoned house.

17 Q. And did he immediately start shooting or was the gun
18 aimed for some moments before he began shooting?

19 A. He immediately started shooting.

20 Q. How many shots do you remember him firing?

21 A. Seven.

22 Q. Is it definitely seven or about seven?

23 A. I heard seven.

24 Q. Did you see him move -- well, after the first shot --
25 after you heard the first shot what did you do?

SHANTENETTE SAMPSON

1 A. I ran back down the hill.

2 Q. Did you see -- were you able to see Derekee moving from
3 where the position you first saw him first shooting, did you
4 see him move from that position at all?

5 A. No.

6 Q. Did you see Clyde?

7 A. No.

8 Q. Could you see the bullets hitting the house or anything
9 else?

10 A. No.

11 Q. But Derekee was aiming again towards this abandoned
12 house to the left?

13 A. Yes.

14 Q. In this direction?

15 A. Yeah.

16 Q. Could you see at all where he was shooting at?

17 A. No.

18 Q. Did you end up going to Lynetta's?

19 A. Yeah.

20 Q. Did you or Yolanda tell them what happened?

21 A. I just said Derekee shot a gun.

22 Q. And do you know if Yolanda told them anything
23 different?

24 A. No, I don't remember.

25 Q. What did you see next when y'all were back at

SHANTENETTE SAMPSON

1 Lynetta's?

2 A. I seen him running down the road.

3 Q. When you say him, what are you referring to?

4 A. Derekee.

5 Q. When you were back at Lynetta's, where were you at? On
6 the porch? In the car? Near the road?

7 A. On the porch.

8 Q. Do you know Derekee ran from when you first saw him?

9 A. Yeah.

10 Q. Where did he run?

11 A. Could you pull up the park?

12 Q. Are you referring to the basketball courts?

13 A. Yes.

14 Q. All right. Where did you see Derekee run from?

15 A. It's a big hill that you can come down right here, he
16 came from the hill, he ran through the parkway and ran
17 through this road and came on First Avenue.

18 Q. And First Avenue is where Lynetta's --

19 A. Yeah.

20 Q. Where did he run from there?

21 A. He ran straight down the road.

22 Q. And again, where were you at?

23 A. On the porch.

24 Q. Do you remember if he said anything as he ran by?

25 A. Yes.

SHANTENETTE SAMPSON

- 1 Q. What did he say?
- 2 A. "That wasn't me, Bro."
- 3 Q. Did you observe anything about what he was doing with
- 4 his hand when ran by?
- 5 A. Yeah.
- 6 Q. What was that.
- 7 A. He took his shirt and covered the gun.
- 8 Q. Could you see the gun?
- 9 A. Yeah.
- 10 Q. Was the gun in his back pocket or waistband or could
- 11 you tell?
- 12 A. Waistband in the back.
- 13 Q. And you saw him flip his shirt back over the top of the
- 14 gun?
- 15 A. Yeah.
- 16 Q. Did you see where he went as he ran down the road?
- 17 A. Yeah.
- 18 Q. Did you go back -- what did you do after you lost sight
- 19 of Derekee? You can have a seat back in the stand, I'm
- 20 sorry.
- 21 A. Me Yolanda, we went back up the hill where we had found
- 22 Clyde laying there.
- 23 Q. Was he in the same area that Derekee was shooting
- 24 towards?
- 25 A. Yeah.

1 A. No. It's an abandoned house, nobody live in it.

2 Q. Was it abandoned in May of 2012?

3 A. Yes, sir.

4 Q. Did you know Bobby McCloud?

5 A. No, I did not.

6 Q. Did you know who he was?

7 A. No, I did not.

8 Q. Ever heard his name before?

9 A. No, I didn't.

10 Q. Before all of this happened.

11 A. Yes, sir.

12 Q. Did you know Derekee Johnson?

13 A. Yes, I know him.

14 Q. How did you know Derekee?

15 A. Through my son.

16 Q. How well did you know Derekee?

17 A. I didn't know him, but I did know of him.

18 Q. Were you around him from time to time?

19 A. No, sir.

20 Q. Did you ever have a chance to hear him talk, I guess?

21 A. Yeah. I used to hear him talk when he used to be

22 talking to my son.

23 Q. Tell the jury what you were doing on the afternoon of

24 May 18th of 2012.

25 A. I had just got off from work and I sat down in a

MARGARET SMITH.

1 straight chair in my front living room, and I had nodded off
2 to sleep, I was supposed to be watching the TV but the TV
3 was watching me. And I heard a gunshot and I jumped up and
4 I looked out the window.

5 MR. MAXWELL: Permission for the witness to leave the
6 stand, Your Honor?

7 THE COURT: Yes, ma'am, you may step down, please.

8 Q. Come step down over here, Ms. Smith. Grab one of those
9 rods. And don't stand in front of the TV -- kind of stand
10 over here to the side. Okay? Point out your house.

11 A. This is my house.

12 Q. Okay. And point out the abandoned house.

13 A. This is the abandoned house.

14 Q. Okay. And you said when you woke up you went and
15 looked out a window. What window did you look out of?

16 A. I looked out this one right here where the air
17 conditioner here.

18 Q. So the first window on your house closest to the road.

19 A. Yes.

20 Q. When you looked out your window, what did you see?

21 A. I seen Derekee was standing up here in the dirt where
22 no grass at right here.

23 Q. Okay.

24 A. And then when I looked Clyde was standing back here.

25 Q. Did you even know who that was again?

MARGARET SMITH:

1 A. No. I didn't know who that was.

2 Q. Now, what did you see Derekee doing when you saw him
3 here?

4 A. Derekee was shooting a gun down this way. He was
5 saying something but I couldn't hear him.

6 Q. Could you hear his voice?

7 A. Yeah, I could hear his voice.

8 Q. Were you able to see his face that well?

9 A. No, I couldn't see his face. It like he had a baseball
10 cap on and he had it pulled down on his face.

11 Q. How did you identify that person shooting the gun as
12 Derekee?

13 A. By his voice.

14 Q. And once you were able to get -- well, before you got
15 to the window how many shots did you hear?

16 A. About two.

17 Q. Again, continue on with what you saw happened once you
18 got to the window.

19 A. Okay. He was shooting the gun, Clyde was standing
20 behind the house with his back facing the abandoned house,
21 his front, I mean, and his back was towards my house.

22 Q. So was he facing Derekee?

23 A. Well, he was facing the house. Really, Derekee could
24 see him and Clyde couldn't see him.

25 Q. Okay. What happened next?

MARGARET SMITH

- 1 A. After he got -- Derekee got through shooting --
- 2 Q. How many shots did you hear that time?
- 3 A. Two.
- 4 Q. So right now you've heard a total of four shots?
- 5 A. No, I just heard only two right here.
- 6 Q. Let's go back a second. Okay?
- 7 A. Okay.
- 8 Q. One shot woke you up.
- 9 A. Yeah. The first shot woke me up.
- 10 Q. How many shots when you are looking out the window --
- 11 A. He shot one more time.
- 12 Q. At that point in time you heard two shots.
- 13 A. Yeah, two shots.
- 14 Q. All right. What happened next?
- 15 A. After he got through shooting these two shots he walked
- 16 in front of the house, came on the side, it's like a iron
- 17 fence between these two houses, there's another house on the
- 18 other side.
- 19 Q. You're referring another house that's back behind the
- 20 abandoned house.
- 21 A. Yeah, on the side of it.
- 22 Q. Okay.
- 23 A. So he walked down through the fence, Clyde ran down
- 24 through this way, he stopped like he was trying to -- was,
- 25 "I'm going to jump the fence."

MARGARET SMITH

1 Q: Okay. Stop for a second.

2 A: Okay.

3 Q: Did you change your position from where you were?

4 A: Yes, I changed my position. I ran from my front room
5 where this window and went on my back porch right there
6 where you see like wood and screen.

7 Q: Yes, ma'am.

8 A: And after that, that's when Derekee came through, ran
9 down here and Clyde ran like he stopped, was like, "I'm
10 going to jump this fence." About the time he thought of
11 that Derekee shot him one time, I don't know where about,
12 and he fell to the ground where his front face on the ground
13 and then that's when Derekee shot him three more times.

14 Q: Now, did you see the bullets impact the body of the
15 victim?

16 A: No, he wouldn't move.

17 Q: Did you see the bullets hit him?

18 A: Yeah, the bullet hit him.

19 Q: Which way -- which direction was the person who was
20 later identified as Bobby McCloud, which direction was he
21 facing? Was he facing toward your house?

22 A: He was facing towards my house.

23 Q: He wasn't facing towards Derekee.

24 A: No.

25 Q: What did you see next?

MARGARET SMITH

1 A. After he had shot him Derekee came back through, it's
2 like a dead-end road, a car can't get there but you can walk
3 just like a little path.

4 Q. You're referring to the end of Spring Street.

5 A. Yes...

6 Q. Going back down the hill.

7 A. Uh-huh.

8 Q. That's where you saw Derekee running?

9 A. Yeah.

10 Q. Now, before or at any point in time did you see the
11 person later identified as Bobby McCloud with a gun?

12 A. No, I did not.

13 Q. Did you see anybody else other than Derekee with a gun,
14 other individuals out there with a gun?

15 A. No, sir.

16 Q. Was your house struck by anything?

17 A. Yes, a bullet.

18 Q. And can you point out kind of the area where the bullet
19 hit?

20 A. Right... It's two posts, one is like an iron post, one
21 right here and one over there and it hit this polls right
22 here, it went all of the way through it.

23 Q. What did you think -- did you hear an impact of
24 anything?

25 A. Yeah, it's like it had hit iron.

MARGARET SMITH

1 Q. What did you think about that?

2 A. I thought he had hit my car. At the time my car was
3 parked right here.

4 Q. Was your car hit?

5 A. No, it wasn't hit.

6 Q. And it turned out to be a part of your porch, or a
7 column on your porch?

8 A. Uh-huh.

9 Q. How close did Derekee get to the person later
10 identified as Bobby McCloud as far as you saw?

11 A. About from me to you.

12 Q. When that happened was it face to face or Bobby McCloud
13 facing the other way?

14 A. He was on the ground facing -- well, his back was like
15 turned like this.

16 Q. To who? Back was turned to who?

17 A. To Derekee.

18 Q. You can have a seat back up to the stand. Thank you.

19 MR. MAXWELL: No further questions, Your Honor.

20 THE COURT: Thank you, Solicitor. Mr. Dunn?

21 MR. DUNN: Yes, sir. May it please the Court?

22 CROSS EXAMINATION

23 BY MR. DUNN:

24 Q. So at the time of the first shot you were sleeping,

25 or --

1 A. No.

2 Q. Do you know who Derekee Johnson is now?

3 A. Yes.

4 Q. Did you see anybody -- did you see Derekee Johnson
5 walking around your neighborhood around First Avenue or
6 Gaither Street before Clyde got there or before Clyde went
7 up the hill?

8 A. Earlier that day he was on Zion Hill, and me and my
9 friend had went to the store up there and she was like -- it
10 was some other guys around that I know of couple of their
11 names. But my friend Margie, we walked back down to go back
12 to my house and she was like, "Um, that's Derekee. What's
13 he doing on Zion Hill?"

14 Q. Where were y'all at when you saw Derekee then?

15 A. He was sitting right across from where Rick James
16 lived.

17 Q. All right. Now, how long before Clyde arriving that
18 afternoon did you see Derekee, or did your friend make a
19 mention that Derekee was on Zion Hill near Rick James'
20 house?

21 A. That was earlier that morning when Derekee was on the
22 hill that morning.

23 Q. So it was several hours --

24 A. Yes, it was later.

25 Q. -- between seeing -- when y'all passed Derekee and when

LYNETTA MITCHELL

1. Clyde came back later on that afternoon.
2. A. Uh-huh.
3. Q. After Clyde went up the hill what did you observe or
- 4 hear next?
- 5 A. Well, it wasn't long before I heard gunshots.
- 6 Q. How many shots did you hear?
- 7 A. Maybe about four or five.
- 8 Q. Do you know where they came from?
- 9 A. Off in the hill.
- 10 Q. Up the hill, up towards Spring Street?
- 11 A. Yeah. Rick James live over in the area?
- 12 Q. Say that again, I'm sorry.
- 13 A. Over in the area there where Rick James live at.
- 14 Q. Okay. That's where you had seen Derekee earlier that
- 15 day, right?
- 16 A. Yes.
- 17 Q. What happened next after you heard the shots?
- 18 A. Well, it was --
- 19 Q. I'm sorry to interrupt, let me ask one more question
- 20 before you answer that one. How long after Clyde walked up
- 21 the hill did you hear the shots?
- 22 A. It wasn't five or six minutes.
- 23 Q. And then I interrupted you. Tell me what happened
- 24 after you heard the shots, tell the jury what happened.
- 25 A. Well, the girl named Yodi and Net and it was somebody.

LYNETTA MITCHELL

1 else, I can't really remember who it was, was running back
2 down the hill. But Derekee came down first and he was
3 walking past my house real fast looking back and they were
4 saying, "That's him, Derekee, that's who just shot Clyde."

5 Q. Who was saying that?

6 A. Yolanda and them.

7 Q. They were already back down the hill?

8 A. Uh-huh. They said they seen Derekee shoot Clyde and
9 that's why she said that was.

10 MR. DUNN: Your Honor, objection, it's hearsay.

11 THE COURT: Solicitor?

12 MR. MAXWELL: Your Honor, it's an excited utterance at
13 the time.

14 THE COURT: You want to lay the foundation under 803-1?

15 MR. MAXWELL: I can just rephrase the question, Your
16 Honor.

17 THE COURT: All right.

18 Q. Yolanda and them came down, or did Yolanda and Net --

19 A. At first when the shooting was going on we jumped up
20 off the porch and went inside my house, Sheretta, my niece,
21 and Yolanda and Net and them was coming down the hill
22 hollering saying that Derekee shot Clyde.

23 Q. And then you saw the person you identified as Derekee
24 running down the street?

25 A. No. He ran off the hill first, then he started

LYNETTA MITCHELL

1 walking. When he ran down off the hill right there to get
2 in the road he started walking past where I live real fast
3 looking back as he was walking, and as he got to my mailbox
4 he reached back behind him like that and went running
5 looking like this here, like he was holding something in his
6 back.

7 Q. Could you tell what it was he was holding?

8 A. No.

9 Q. And that was his right hand, kind of on his back right
10 hip?

11 A. It was the left hand holding back on his hip.

12 Q. Okay. And what did he do next?

13 A. He ran into Net's yard and then he ran from there he
14 went in the back of the Bouknight yard. Where he went from
15 there -- I watched him and where he went from there I don't
16 know.

17 Q. Was he running at that point?

18 A. Yes, sir, he was, like somebody might have been in
19 behind him.

20 Q. Did anybody else run behind him that you saw?

21 A. Nobody. But there was a guy that came off that hill --
22 I remember this -- after Clyde got killed, he jumped in a
23 white car, he jumped in that car so fast and pulled off like
24 maybe he was involved, I don't know. But I know that --

25 Q. You don't know anything about that, do you, other than

LYNETTA MITCHELL.

1 you seeing somebody --

2 A. Yeah, I do, what I saw.

3 Q. Other than him in the car running away you don't know
4 anything about what happened at the top of the hill.

5 A. No.

6 Q. What did you do next?

7 A. I didn't do nothing but say, "Lord, please don't let my
8 nephew be killed."

9 Q. Did you go up the hill?

10 A. Uh-huh.

11 Q. Did you see Clyde up there?

12 A. Yeah.

13 Q. Was he already passed away by the point you got up
14 there?

15 A. Uh-huh.

16 MR. MAXWELL: No further questions, Your Honor.

17 THE COURT: Thank you, Solicitor. Mr. Dunn?

18 CROSS EXAMINATION.

19 BY MR. DUNN:

20 Q. Ms. Mitchell, Clyde was your family, correct?

21 A. Yes.

22 Q. Is it fair to say that your family is important to you?

23 A. Very.

24 Q. Is it fair to say that you do what you need to do to
25 take care of your family?

1 had the phone on his ear but I don't know, I just know he
2 had the phone on his ear when he went walking up the hill.

3 Q. When you say he walked up the hill, can you look at the
4 TV?

5 A. Yes.

6 Q. Are you referring to him going up --

7 A. Through that path right there.

8 Q. -- this path where the dirt -- there's dirt here and
9 that goes up to the end of Spring Street?

10 A. Uh-huh.

11 Q. Do you remember seeing Derekee Johnson in that
12 neighborhood down on First Avenue around the same time you
13 saw Clyde down there?

14 A. Yeah.

15 Q. Where did you see Derekee?

16 A. I seen him in C.C.'s yard.

17 Q. Did you see him interact with Clyde at all, talk to
18 Clyde, anything like that?

19 A. Yeah. I seen them talking but I don't know what they
20 were talking about, so I don't think they had altercation or
21 something was going on. But I know they was in the yard
22 talking, but it was no --

23 Q. You didn't see them arguing --

24 A. No.

25 Q. -- in each others' face or anything like that?

SHERETTA DAVIS

- 1 A. No.
- 2 Q. Did you see where Derekee went?
- 3 A. No.
- 4 Q. Did you see him walk away from C.C.'s house or C.C.'s
- 5 yard?
- 6 A. No.
- 7 Q. You didn't notice when he walked away?
- 8 A. No.
- 9 Q. What was the next thing that you can remember
- 10 happening -- well, after Clyde went up the hill what
- 11 happened next?
- 12 A. He went up the hill and he ignored me when I called him
- 13 back.. When said, "I'm on the way, Cuz," and started talking
- 14 up the phone going up the hill and I called him back he
- 15 didn't respond.
- 16 Q. When you say you called him, do you mean you called out
- 17 to him or you called him on the phone?
- 18 A. No. I called out to him and he didn't respond so
- 19 that's when I called my cousin, Earl, to come outside, and
- 20 the first time I called my cousin, Earl, he didn't respond.
- 21 The second time he came out the house and I told him to go
- 22 up the hill and see what's going on. Because I called Clyde
- 23 the first time and he didn't respond, so he was like, "If he
- 24 didn't respond what make you think he's going to respond to
- 25 me?"

SHERETTA DAVIS

1 Q. What was your concern there -- what made you worried
2 about Clyde?

3 A. Because, I mean, we just decided to have conversation
4 and for him to ignore me because he got a phone call, I just
5 felt like something about to go down.

6 Q. And when you say something, what do you mean?

7 A. Like trouble, I mean, like he was about to get in an
8 altercation.

9 Q. Were you aware at the time if Clyde had any problems
10 with anybody that was in that area?

11 A. No.

12 Q. Did you know about any problems between Clyde and
13 Derekee?

14 A. No.

15 Q. After you had talked to Earl and -- Earl didn't go up
16 the hill, did he?

17 A. No.

18 Q. What happened next?

19 A. He continued to walk up the hill, my cousin, Earl, went
20 back in the house. That's when Yodi and Net said, "Let's go
21 up the hill, girls," and I told them no. Why I didn't go I
22 don't know, because normally if something go down or people
23 want to be nosey, I will go and be nosey but that day I
24 didn't go up the hill, they went.

25 Q. Yolanda and Net went up the hill.

SHERETTA DAVIS

1 A. Yes.

2 Q. Did you see anybody else other -- now you see Yolanda,
3 Shantelette and Clyde go up the hill, anybody else you
4 remember seeing going up the hill?

5 A. No.

6 Q. What do you remember observing or hearing next?

7 A. Gunshots.

8 Q. Where were you at when you heard the gunshots?

9 A. I was on the porch.

10 Q. And where did the -- could you tell where the gunshots
11 came from?

12 A. I mean, I don't know, I can't tell you where that came
13 out. I just know I heard the gunshots, that's it.

14 Q. Could you tell if they came in the direction of up the
15 hill?

16 A. Yeah. But it wasn't like where I'm sitting on the
17 porch I can hear gunshots and know, it just sounded like it
18 was away, not close range.

19 Q. About how long after Clyde walked up the hill did you
20 hear the shots?

21 A. Not long.

22 Q. What do you mean by not long?

23 A. At least about five minutes.

24 Q. Okay. How many shots do you remember hearing?

25 A. Three.

SHERETTA DAVIS

1 Q. Three, maybe more?

2 A. Yeah.

3 Q. What did you do or what did you see next after you
4 heard the shots?

5 A. Yodi and Net came back down -- Yodi and Net came
6 running back down the hill and told me my cousin had got
7 shot.

8 Q. When did you see Derekee next?

9 A. Before I seen Derekee I seen Quinton.

10 Q. Quinton Adams?

11 A. Yes.

12 Q. What did Quinton do?

13 A. He ran through the pasture and jumped in his car and
14 left.

15 Q. What did you see Derekee do?

16 A. He ran right on the side of my aunt's holding his side
17 and looking nervous.

18 Q. What direction was he looking at?

19 A. Towards my aunt's trailer.

20 Q. When he was running --

21 A. He was just looking right at us, looking like he had
22 done something pretty much.

23 Q. Do you remember if he said anything?

24 A. No, he just was looking weird.

25 Q. Was he running fast?

SHERETTA DAVIS

1 A. No, not really.. He didn't run fast until he got on
2 down.

3 Q. On first -- was he running down First Avenue?

4 A. Yes.

5 Q. Did you see where he ran to?

6 A. Through Net's mama's yard..

7 Q. And did you see him past that?

8 A. No.

9 Q. Could you tell what -- you said he had his hand --

10 A. In the back holding his side. I couldn't tell what it
11 was but he was running and holding it, holding something but
12 I didn't see what it was.

13 Q. Could you tell where he came from when he came down the
14 hill?

15 A. I assumed he came down the hill..

16 Q. Don't assume anything. Were you able to see where he
17 came from?

18 A. No.

19 Q. When you first caught sight of him at that time, was he
20 already in the road?

21 A. Yes.

22 Q. Did you end up going up the hill at some point?

23 A. Uh-huh.

24 Q. Did you see Clyde?

25 A. No.

1 Q. And there's a house on the right side on the other
2 corner, or the opposite corner from where your mother's
3 house is, it's a white house there, right?

4 A. Yes.

5 Q. And back when this happened maybe since this happened,
6 does anybody live there?

7 A. No.

8 Q. And is that the house on the right side there that had
9 the open yard on the right side of the screen?

10 A. Is that the what?

11 Q. The house that's diagonal on the opposite corner across
12 the intersection from where your house is, is that the
13 abandoned house where there's a field?

14 A. Yes.

15 Q. Do you remember who else was at your mother's house on
16 the afternoon of the 18th?

17 A. My mom was there, she was on the inside, a friend of
18 hers and my grandkids, they were on the inside.

19 Q. Was your daughter also with you?

20 A. Yes, my daughter was there.

21 Q. What do you remember happening that afternoon? What
22 caught your attention?

23 A. What caught my attention is I heard a gunshot and I
24 came to the door, I got on the porch, that's when I came out
25 on the porch when I hear the gunshot.

MAXINE MOBLEY

1 Q. Now, were you seated next to your door when you heard
2 the gunshot?

3 A. I was sitting at the door, yes.

4 Q. And is it a door that you can see out of?

5 A. Yes..

6 Q. Has it got glass on the door?

7 A. Yes..

8 Q. Before the gunshot, could you see anything outside or
9 through the door, through the glass door?

10 A. No..

11 Q. You went on the porch when you heard the shots?

12 A. No.. I was in the inside when I heard the first two
13 shots.

14 Q. And then you went on your porch?

15 A. Yes..

16 Q. And again, when you went out on the porch, is that
17 basically the view you had?

18 A. That's the exact view I had.

19 MR. MAXWELL: Permission for Ms. Mobley to leave the
20 seat, Your Honor?

21 THE COURT: Yes, ma'am.

22 Q. Step down here, Ms. Mobley, right here. Stand here and
23 just don't block the TV and I'll hand you this so you can
24 point out some things. Okay. What did you see when you
25 went on your porch?

MAXINE MOELEY

1 A. When I went out on the porch I saw Clyde come across
2 the street and I saw Derekee coming across after Clyde
3 shooting.

4 Q. Which street are you referring to, Spring Street or
5 Johnson Street?

6 A. This right -- go down. This is Johnson Street.

7 Q. Where did you see Derekee at?

8 A. I saw Derekee running up across.

9 Q. Point to the point where you first saw Derekee.

10 A. I'm on the wrong side, I'm sorry. I saw Derekee coming
11 up this way.

12 Q. Was he coming up from the dead end or --

13 A. He was coming up -- well, like I said, I was coming up
14 from the porch and at the porch I just seen him running. By
15 the time I seen him running I saw Derekee running also
16 shooting.

17 Q. Where did you first -- again, where did you first see
18 Derekee running from? Was he running from the bottom of the
19 dead-end or from this trailer over here or where?

20 A. He was running from approximately right in here, right
21 around the car and the trailer.

22 Q. Was he running across the street towards the --

23 A. He was running diagonally towards this way.

24 Q. Towards the abandoned house.

25 A. That way.

MAXINE MOBLEY

1 Q. Could you see the gun in his hand?

2 A. Yes, I saw the gun.

3 Q. And was he firing the gun as he was crossing the
4 street?

5 A. He was firing the gun as he was running.

6 Q. As he was crossing the street.

7 A. Yes.

8 Q. Could you see Clyde?

9 A. Yes.

10 Q. Where was Clyde at?

11 A. Clyde was a little further in front of Derekee.

12 Q. What was Clyde doing?

13 A. He was running.

14 Q. Which direction was Clyde running?

15 A. He was running diagonal also.

16 Q. Was Derekee chasing Clyde when you saw him?

17 A. Yes. He was running behind Clyde, yeah.

18 Q. Where did Derekee stop running at?

19 A. Derekee stopped running approximately behind the second
20 bush and -- between the second bush and the end of the
21 house. Clyde got to the end of the fence, noticed there was
22 bushes on the fence and decided to turn around, that's when
23 Derekee kept firing and that's when I seen Clyde hit the
24 ground.

25 Q. How many shots did you hear?

MAXINE MOBLEY

1 A. I would say approximately three to four, maybe five, I
2 don't quite remember.

3 Q. Did you see Clyde with a gun?

4 A. No, I did not.

5 Q. Did you see anybody else other than Derekee with a gun
6 up there shooting?

7 A. No, I did not.

8 Q. What did Derekee do after he quit shooting?

9 A. He turned around and went down through there.

10 Q. Back down towards the dead-end, back down towards that
11 path?

12 A. Yes.

13 Q. And did you see him again?

14 A. No, I did not.

15 Q. Again, point out, how far did Derekee get into the yard
16 of the abandoned house?

17 A. He got right to the second bush, approximately to the
18 second bush to the end of the house.

19 Q. And again, let me move this a little bit. How far did
20 you see Clyde get?

21 A. Like right here. See the fence is right here, you
22 can't see it because of the bushes, the fence was right up
23 under the bushes. Clyde must have knew there was a fence
24 but he didn't know the bushes were there, when he got to the
25 bushes he decided he couldn't get over there so he turned

MAXINE MOBLEY

1 around and he then fell, after like the fourth shot he then
2 fell as Derekee was approximately right in between the
3 second bush and the end of the house.

4 Q. Now, could you see the impact of the shots hitting
5 Clyde?

6 A. I could see him, you know, jerk and fall.

7 Q. Now, let's go back. You can go back and have a seat at
8 the stand. When you first came out and you saw that it was
9 Derekee shooting, could you see his face and tell it was
10 Derekee?

11 A. Not at first, no.

12 Q. When did you identify the person as Derekee?

13 A. When he turned around.

14 Q. And where was he at when he turned around? In the
15 yard? Or you tell me, I'm sorry..

16 A. He was turned around -- after he shot and he turned
17 around that's when I said, "Oh God, it's Derekee.." At this
18 time he had turned around and went down the street..

19 Q. That's when he ran away?

20 A. Yes.

21 Q. And that's when you got a good look at his face?

22 A. Yes.

23 Q. During the shooting, did you know it was Clyde running
24 away from him?

25 A. No, I didn't.

MAXINE MOBLEY

1 Q. When did you find out it was Clyde?

2 A. After everybody started coming around and going to see
3 who it actually was.

4 Q. And again, I think I just asked you this, did you ever
5 see Clyde with a gun?

6 A. No, I didn't.

7 Q. Now, prior to any gunshots, did you hear anybody
8 arguing outside?

9 A. No. I was in the inside at the time, no.

10 MR. MAXWELL: No further questions, Your Honor.

11 THE COURT: Thank you, Solicitor. Mr. Dunn?

12 MR. DUNN: May it please the Court, Your Honor?

13 CROSS EXAMINATION

14 BY MR. DUNN:

15 Q. You did not see the first shots being fired, you heard
16 them, correct?

17 A. Exactly.

18 Q. And you did not see what led up to the shooting,
19 correct?

20 A. Exactly.

21 Q. And you heard anywhere from three to five shots?

22 A. Altogether, yes.

23 Q. Altogether?

24 A. Yes.

25 Q. Now, back two years ago you gave a statement to the

- 1 A. Yeah, they call him Bouknight too.
- 2 Q. And who else do you remember being there?
- 3 A. I don't really remember exactly.
- 4 Q. Okay. Did you talk to Clyde?
- 5 A. Uh-huh..
- 6 Q. Did Clyde seem upset about anything?
- 7 A. No, sir.
- 8 Q. Did he seem angry about anything?
- 9 A. No, sir..
- 10 Q. Agitated about anything?
- 11 A. No, sir.
- 12 Q. Did he bring up Carl McDaniel at all?
- 13 A. Yes, sir.
- 14 Q. What did he say about Carl McDaniel?
- 15 A. Derekee had walked up and he told Derekee that Carl
- 16 wanted to holler at him..
- 17 Q. All right. We'll get back to that in a second. Before
- 18 Derekee gets there, did Carl -- Carl being Carl McDaniel?
- 19 A. No.
- 20 Q. Again, before Derekee got there, did he bring up
- 21 Derekee's name at all?
- 22 A. No.
- 23 Q. Did Derekee show up at your house?
- 24 A. Yes, sir.
- 25 Q. Were y'all still outside on the back side when Derekee

CHARLES BOUKNIGHT

1 showed up?

2 A. Yes, sir.

3 Q. What happened when Derekee arrived?

4 A. Carl was just -- Clyde was like, "Carl wanted to holler
5 at you."

6 Q. Did he say it in a threatening way?

7 A. No, sir.

8 Q. Did he say it in a harsh tone?

9 A. No, sir.

10 Q. Did they exchange any other words that you can
11 remember?

12 A. No, sir.

13 Q. Do you remember if Clyde said anything other than
14 telling Derekee that Carl wanted to talk to him or holler at
15 him or whatever?

16 A. No, sir.

17 Q. Do you remember if Clyde made any threats to Derekee?

18 A. No, sir.

19 Q. Do you remember if Derekee shook hands with people or
20 dapped people I think is the term that has been used?

21 A. I don't remember.

22 Q. Did at some point both Derekee and Clyde leave your
23 residence?

24 A. Yes, sir.

25 Q. And I don't mean together, but at some point did both

CHARLES BOUKNIGHT

1 of them leave from where y'all were meeting at?

2 A. Yes, sir.

3 Q. Who left first?

4 A. Derekee.

5 Q. Do you know where Derekee went?

6 A. No, sir.

7 Q. Was he on foot?

8 A. Yes, sir, to my knowledge.

9 Q. Where did Clyde go when he left?

10 A. Sheretta had called him and he went across the street
11 to my knowledge.

12 Q. Now, you said Sheretta called him, did she call out to
13 him?

14 A. She called his name, yeah.

15 Q. She was at --

16 A. Across the street at Lynetta's house.

17 Q. And Sheretta lived over there as well, across the
18 street from where y'all lived.

19 A. Yes, sir.

20 Q. And Clyde went over there when he left your house?

21 A. Yes, sir.

22 Q. Did you see Clyde leave there at any point?

23 A. No, sir.

24 Q. And when Clyde left, was he angry, upset or agitated
25 about anything?

CHARLES BOUKNIGHT

1 A. No, sir.

2 Q. What was the next thing that you remember happening?

3 A. All I know I still was standing on the back porch and I

4 heard gunshots.

5 Q. About how many shots did you hear?

6 A. I don't know the exact count.

7 Q. More than one shot?

8 A. Yes, sir.

9 Q. Multiple shots?

10 A. Uh-huh.

11 Q. Could you tell where the shots came from?

12 A. Yeah. It sounded like it was coming from the hole like
13 up the hill.

14 Q. And that's -- are you referring to the end of Spring
15 Street where the path goes up from Gaither up to that
16 dead-end?

17 A. Yes, sir.

18 Q. What did you do next?

19 A. I went up out the house and went towards Lynetta's
20 house.

21 Q. Did you see Derekee again?

22 A. No, sir.

23 Q. About how long -- jump back a second. About how long
24 after Clyde left your house did you hear the gunshots?

25 A. I don't really know the exact time.

CHARLES BOUKNIGHT

1 Q. And you didn't see Derekee again?

2 A. No, sir.

3 Q. When you got up the hill, what was going on?

4 A. I had seen Flame and I asked Flame where is my brother
5 at and he was like around the house.

6 Q. And who is Flame?

7 A. I don't know his real name.

8 Q. And you mentioned your brother, who are you referring
9 to?

10 A. Clyde.

11 Q. He's not your brother but you were close like brothers,
12 is that what you mean?

13 A. Uh-huh.

14 Q. Did you see Clyde?

15 A. Yes, sir.

16 Q. What was his condition?

17 A. He was laying down on the ground face first.

18 Q. Did you do anything with him?

19 A. I turned him over and pulled up his pants.

20 Q. Do you know James Lawson?

21 A. Uh-huh.

22 Q. Do you remember James Lawson coming there?

23 A. Uh-huh.

24 Q. And what did James do?

25 A. I seen him take off his shirt and pressure it against

CHARLES BOUKNIGHT

1 his chest.

2 Q. You said you messed with or pulled up Clyde's pants or
3 something.

4 A. Uh-huh.

5 Q. Did you touch his pockets or anything?

6 A. No, sir.

7 Q. Did you see Clyde at any point with a gun when he was
8 down at your house earlier or when you saw his body --

9 A. No, sir.

10 Q. -- at the top of the Hill? Do you remember if Clyde
11 was ever on the telephone when he was in your presence at
12 your house?

13 A. No, sir.

14 Q. Did you know about any beef other than what you've
15 already testified to about Clyde telling Derekee about Carl?
16 Did you know of any other beef between Clyde and Derekee?

17 A. No, sir.

18 MR. MAXWELL: No further questions, Your Honor.

19 THE COURT: Thank you, Solicitor. Mr. Dunn?

20 CROSS EXAMINATION

21 BY MR. DUNN:

22 Q. So it's fair to say that you and Clyde were close like
23 brothers, right?

24 A. Yes, sir.

25 Q. And it's true that Clyde is a member of the crib gang?

CHARLES BOUKNIGHT

1. A. Yes, sir.

2. Q. And is it also true that when you were down -- I think

3 this is -- that's C.C.'s house that's in the picture there,

4 right?

5 A. Yes, sir.

6 Q. And that's where you saw Clyde down there, right --

7 A. Yes, sir.

8 Q. -- right before the shooting?

9 A. Uh-huh.

10 Q. And you saw Derekee down there before the shooting?

11 A. Yes, sir.

12 Q. And there were angry words exchanged between Clyde and

13 Derekee down there.

14 A. No, sir.

15 Q. Clyde was on his telephone.

16 A. Not to my -- no, I don't remember.

17 Q. Derekee left first?

18 A. Yes, sir.

19 Q. And you don't know where he went.

20 A. No, sir.

21 Q. Clyde left then, or Clyde left at some point after

22 that?

23 A. Yes, sir.

24 Q. How long?

25 A. I don't really remember exactly.

CHARLES BOUKNIGHT

1 Q. And when he left he actually just walked across the
2 street over to Net's house, or Sheretta's house?

3 A. Uh-huh. That's where I thought he was going, she had
4 called his name.

5 Q. You didn't see him back up the path, did you?

6 A. No.

7 Q. When the shooting happened you were inside or outside?

8 A. Sitting on like the back steps outside the house.

9 Q. So not on this side of the house but the other side of
10 the house?

11 A. Uh-huh.

12 Q. And when the shooting happened you were heading towards
13 where it came from?

14 A. Uh-huh.

15 Q. Is that a yes?

16 A. Yes, sir.

17 Q. You saw Derekee come down the path?

18 A. No, sir.

19 Q. You saw Yodi and Net come down the path?

20 A. No, sir.

21 Q. Did you see anybody come down the path?

22 A. No, sir.

23 Q. Did you go straight up the path --

24 A. Yes, sir.

25 Q. -- as soon as the shooting was over?

CHARLES BOUKNIGHT

1 A. Pretty much, yes, sir.

2 Q. How long?

3 A. I don't remember exactly.

4 Q. Are we talking like a minute or ten or are we talking
5 five, 10 or 15 minutes?

6 A. About five maybe.

7 Q. You didn't go inside when the shooting started.

8 A. What you say?

9 Q. You didn't go inside when the shooting started.

10 A. Inside where?

11 Q. Inside the house there at C.C.'s house.

12 A. Yes, sir. I went inside and put on my shoes, other
13 than that -- I just went inside and put on my shoes.

14 Q. You didn't run because you were scared or anything or
15 hide?

16 A. No.

17 Q. Did you ever tell the police that you saw Clyde with a
18 gun?

19 A. I never talked to the police at all.

20 MR. DUNN: No questions, Your Honor.

21 THE COURT: Redirect?

22 MR. MAXWELL: None, Your Honor.

23 THE COURT: Thank you very much for being with us,

24 Mr. Bouknight, you may step down.

25 MR. MAXWELL: I think we are at a good stopping point,

CHARLES BOURKNIGHT

1 Your Honor.

2 THE COURT: All right. Thank you, Solicitor. All
3 right, Mr. Foreman, ladies and gentlemen of the jury,
4 perhaps now would be a good time to take our evening recess.
5 I will give you these instructions and you have already
6 heard them several times, do not talk with anyone about the
7 case, that includes your fellow jurors, family, friends or
8 anyone else. Do not read, watch, listen to any news reports
9 about the case. Do not use your computer or cellular phone
10 to do any type of research or to obtain or disclose
11 information about the case when you're not in court.
12 Information about the case includes but is not limited to
13 the following, information about a party, a witness, an
14 attorney or a court officer, news accounts of the case past
15 or present, if any, information collected through juror
16 research on any topic raised or testimony offered by any
17 witness, or information collected through juror research on
18 any other topic the juror might think would be helpful in
19 deciding the case. In other words, don't do any other
20 independent investigation, don't do any investigation on the
21 Internet. I believe at the lunch and recess, I don't know
22 if I mentioned or not, but for example, the parties have
23 been using Google Maps, don't google map or google anything
24 that would -- you think would assist you in the case or
25 help. You have to decide the case based on the evidence and

CHARLES BOUKNIGHT

1 the testimony you hear in the courtroom and the facts as you
2 find them to be and the law as I tell you the law is. With
3 that being said, 9:30 in the morning, 9:30 in the morning.
4 You are now excused for the remainder of the day, we've
5 taken up most of it but not all of it. I hope y'all have a
6 pleasant evening. Thank you, thank you very much.

7 (The jury left the courtroom.)

8 THE COURT: Anything further from the State before we
9 take our recess, Solicitor?

10 MR. MAXWELL: None from the State.

11 THE COURT: Defense?

12 MR. DUNN: Your Honor, my only -- this is not really
13 nothing that needs to be on the record, Your Honor.

14 (Court recessed for the day and resumed at 9:30
15 a.m. on April 17, 2014.)

16 THE COURT: Anything before we bring in our jury from
17 the State?

18 MR. MAXWELL: None from the State.

19 THE COURT: Mr. Dunn?

20 MR. DUNN: No, sir.

21 (The jury returned to the courtroom.)

22 THE COURT: Mr. Foreman, ladies and gentlemen of the
23 jury, good morning, I hope y'all had a pleasant evening. As
24 you recall, we are continuing the trial of the case by the
25 presentation of evidence and testimony by the State in its

1 hill at some point?

2 A. Yes, sir.

3 Q. Antonio, can you see that picture on the screen?

4 A. Yes, sir.

5 Q. Is that looking back down from Spring Street toward the
6 dead-end?

7 A. Yes, sir.

8 Q. And do you see Jesse James' house on there?

9 A. Yes, sir.

10 MR. MAXWELL: Your Honor, permission for the witness to
11 leave the witness stand.

12 THE COURT: Yes, sir, you may step down. Keep your
13 voice up.

14 Q. Hold that and just stand to the side of the TV and talk
15 loud and clear. Okay. Do you see Jesse James' house in the
16 picture that you've already referred to?

17 A. Yes, sir.

18 Q. Point it out with the rod.

19 A. (Witness complies.)

20 Q. The blue house. Where were you standing at?

21 A. (Witness complies.)

22 Q. Next to the house in the grass area there?

23 A. Right beside the stop sign.

24 Q. Do you remember if you were standing with anybody?

25 A. I was standing by myself right there at the stop sign.

ANTONIO HOLLINS

- 1 Q. Did you see Derekee while you are on Spring Street?
- 2 A. Yes, sir.
- 3 Q. Where was Derekee at?
- 4 A. Right there.
- 5 Q. Standing next to those trees in the dirt area?
- 6 A. Yes, sir.
- 7 Q. Did you see Clyde?
- 8 A. Yes, sir.
- 9 Q. Where was Clyde at?
- 10 A. Coming from around the house.
- 11 Q. Did you see what was going on between them or what
- 12 either one of them were doing before Derekee got to that
- 13 dirt path?
- 14 A. No, sir.
- 15 Q. Did you see where Derekee came from?
- 16 A. No, sir.
- 17 Q. Did you see where Clyde came from?
- 18 A. No, sir.
- 19 Q. Say again where you first saw Clyde at.
- 20 A. Coming from behind the building.
- 21 Q. Coming out into the yard?
- 22 A. Yes, out this way.
- 23 Q. What happened next when Derekee was standing there by
- 24 the trees and Clyde was coming from around the corner?
- 25 A. Clyde came from around the corner and said, "Cuz, we're

ANTONIO HOLLINS

1 straight, we're straight."

2 Q. Say that again, say that clearer.

3 A. When he came from around the corner he said, "Cuz,
4 we're straight." And then that's when Derekee just started
5 shooting.

6 Q. How close did Clyde and Derekee get when Derekee
7 started shooting?

8 A. About right there. You can see it right there.

9 Q. Did Derekee walk towards Clyde when he started
10 shooting?

11 A. No. He was standing right there.

12 Q. You just -- when Clyde said, "We're straight, we're
13 straight," was he talking to Derekee as far as you could
14 tell?

15 A. That's who it looked like he was talking to.

16 Q. And was -- you motioned with your hands up. Did
17 Clyde -- are his hands up when he said that?

18 A. When he walked around the building.

19 Q. Did he have anything in his hands that you saw?

20 A. I didn't see nothing in his hands.

21 Q. At any point in time did you see Clyde with a gun?

22 A. No, sir.

23 Q. How many times did Derekee fire the gun?

24 A. There was a lot of shots.

25 Q. Multiple shots?

ANTONIO HOLLINS

1 A. Yes, sir.

2 Q. Did you see what Clyde did when Derekee started
3 shooting?

4 A. When he started shooting I guess he had got hit and he
5 fell on the ground.

6 Q. Where did he fall on the ground at?

7 A. Right there.

8 Q. Did you know if he got up from that point?

9 A. After that I had ran.

10 Q. Where did you run to?

11 A. That way.

12 Q. Up on down I guess Russell Street, down the front of
13 Ms. James' house?

14 A. Yes, sir.

15 Q. Did you see anybody else outside on Spring Street other
16 than Clyde and Derekee?

17 A. I really didn't pay no attention, after that I was
18 running.

19 Q. Do you remember seeing anybody else with a gun on
20 Spring Street?

21 A. No, sir.

22 Q. You can have a seat back in the witness stand. Do you
23 remember if Derekee said anything prior to shooting?

24 A. Could you explain a little bit better?

25 Q. Do you remember if Derekee -- did you hear Derekee say

BRITTANY SANDERS.

1 A. I gave him a ride.

2 Q. Would he come to your house and ask for a ride and you
3 would oblige?

4 A. Yes, sir.

5 Q. On the afternoon or early part of the evening on
6 May 18, 2012, were you at your apartment at Winfield West?

7 A. Yes.

8 Q. Was there a knock at the door?

9 A. Yes.

10 Q. Describe what happened once you answered the door and
11 who was there.

12 A. We were playing cards and someone knocked on my door
13 and I opened it.

14 Q. Who was there?

15 A. Derekee.

16 Q. And can you describe your observations of him at the
17 time?

18 A. He came in, he was sweating and --

19 Q. How was his breathing?

20 A. I mean, it was heavy.

21 Q. Do you remember telling law enforcement that he looked
22 like he had been in a fight or something?

23 A. Yes, but that wasn't what happened.

24 Q. Did you see any injuries that he may have had?

25 A. No, sir. If I did I didn't see it.

BRITTANY SANDERS

- 1 Q. Did he ask you to do anything for him?
- 2 A. Yes.
- 3 Q. And what was that?
- 4 A. He told me to give him a ride home.
- 5 Q. Did you do that?
- 6 A. Yes, I did.
- 7 Q. Did you ask Derekee anything?
- 8 A. Yes.
- 9 Q. What was that?
- 10 A. I asked him, I was like, "What's wrong?" And he was
- 11 like, "I need your help, I need a ride home." I gave him a
- 12 ride like I would every other day.
- 13 Q. Did you ever ask him what happened?
- 14 A. Yes.
- 15 Q. What was his response to that?
- 16 A. He would never tell me, he was like, "You'll hear about
- 17 it in the streets."
- 18 Q. Derekee said you would hear about it in the streets?
- 19 A. Yes.
- 20 Q. Where did you take Derekee?
- 21 A. To his sister's house.
- 22 Q. Do you know what part of town she lives in?
- 23 A. In Middle Six, I think that's what you call Middle Six.
- 24 Q. And that's away from Zion Hill and away from Winfield
- 25 West, is that right?

BRITTANY SANDERS.

1 A. Yes.

2 Q. I guess kind of towards the Mill Village.

3 A. Yes, across the bridge.

4 Q. Did you ever see Derekee with a gun?

5 A. No, sir.

6 Q. Do you remember if he appeared nervous to you at all?

7 A. I mean, he was breathing heavy and was sweating.

8 Q. Do you remember what the last thing Derekee said was
9 when you dropped him off?

10 A. He said, "You probably won't see me no more," and I was
11 like, "Okay."

12 MR. MAXWELL: No further questions, Your Honor.

13 THE COURT: Thank you, Solicitor. Mr. Dunn?

14 CROSS EXAMINATION

15 BY MR. DUNN:

16 Q. With the exception of talking with and giving a ride to
17 Mr. Johnson, you didn't know anything else about the events
18 of why we are here, correct?

19 A. No, sir.

20 Q. And beyond what he just told you, you don't know
21 anything else -- he didn't tell you anything else, right?

22 A. No, sir.

23 Q. And did you know Bobby McCloud?

24 A. Yes.

25 Q. How did you know him?

1 collected it. This is in my handwriting, it has my initials
2 and at the time it was logged in it was given an identifying
3 lab number, and then subsequently each item has a unique
4 item number and then these are also my initials.

5 Q. And what items number is -- what item numbers, I guess,
6 are in those containers?

7 A. We have ten through 15 and item 29.

8 Q. And those are all cartridge casings?

9 A. These are all cartridge casings collected from the
10 scene.

11 Q. A total of seven of them.

12 A. Correct.

13 Q. Were there any identifying head stamps on those
14 cartridge casings?

15 A. They were all reported to be Federal 40 S and W's.

16 Q. 40 caliber cartridge casings?

17 A. Correct.

18 Q. Do you recall if there were any .25 caliber casings or
19 bullets found at the scene?

20 A. We did not recover any .25 cartridge casings.

21 Q. Was there any evidence at all that the .25 had been
22 fired?

23 A. When we collected it there was a live cartridge in the
24 chamber and two in the magazine, I could not tell whether or
25 not it had been fired or not.

TIFFANY HEZEL

1 THE COURT: Now, Solicitor, I'm required to give y'all
2 the guidelines on the handling of firearms as evidence in
3 court and the ammunition. You are familiar with those?

4 MR. MAXWELL: I am with some precautionary measures.

5 THE COURT: Are you familiar with those, Mr. Dunn?

6 MR. DUNN: Yes, sir.

7 THE COURT: All right. Make sure they're handled in
8 the proper manner, that someone has to identify to the Court
9 that there's a gun lock on it through the magazine, one of
10 the officers can do that, or this officer can do that. The
11 ammunition has to be separate from the weapon itself also at
12 all times.

13 Q. I'm going to show you a box. Can you tell me what's in
14 that box?

15 A: Here we have the magazine with the three cartridges,
16 one having initially been found in the chamber, the other
17 two were held within the magazine.

18 THE WITNESS: It's clear, Judge.

19 THE COURT: Is there a lock in it?

20 THE WITNESS: There is no lock through it.

21 THE COURT: Do you have a lock for it, Solicitor, that
22 you can place through the --

23 THE WITNESS: And I don't believe that the slide lock
24 works.

25 THE COURT: Do you have a lock?

TIFFANY HEZEL

1 MR. MAXWELL: I don't believe so, Your Honor.

2 THE COURT: Well, if you're going to offer it just

3 offer it for identification purposes only at this time until

4 such time there's a lock put through it.

5 Q. Is that the .25 Lorcin handgun that was at the scene

6 kind of off the corner of the house that evening?

7 A. The serial number for the gun collected was 187165.

8 The serial number on this weapon is 185176.

9 Q. I did not ask you this earlier, was there a particular
10 lab number assigned to this case?

11 A. Yes, there is, it's L126003.

12 Q. And the L12 refers to the year?

13 A. Yes.

14 Q. And the other numbers, 6003, is that just a sequence?

15 A. Yes. That's an automatic number that's assigned, it's
16 the next numerical number in order.

17 Q. So all of the evidence you're talking about, everything
18 that was collected and logged in with SLED was logged in
19 under the lab number L126003.

20 A. Correct.

21 Q. And there were item numbers assigned to each piece of
22 evidence, correct?

23 A. Correct.

24 Q. And I think you already testified that the casings were
25 assigned ten through 15 and number 29?

1 particle contains lead, barium or antimony.

2 Q. And just to simplify, what you're looking for is
3 gunshot residue on those stamps.

4 A. Yes, sir.

5 Q. Well, did you do that process on this GSR kit regarding
6 Bobby Lee McCloud?

7 A. Yes, sir.

8 MR. MAXWELL: Your Honor, I would offer the GSR kit
9 into evidence.

10 THE COURT: Mr. Dunn?

11 MR. DUNN: No objection.

12 (The GSR kit was received as State's 47.)

13 Q. Can you tell us the results of your analysis?

14 A. The results for the GSR kit were Bobby Lee McCloud from
15 the right palm, no gunshot residue was found. For the right
16 back, the results are inconclusive. In this case the
17 inconclusive means that I only found one round gunshot
18 residue particle, and I found an additional round antimony
19 particle. During the time that this was written that was
20 our protocol to write that up as inconclusive. The left
21 palm, no gunshot residue was found, and the left back, no
22 gunshot residue was found.

23 Q. Did you also examine some bags that were placed on his
24 hands?

25 A. There was a trace evidence request on the bags, however

MEGAN FLETCHER.

1 I never took those bags into my custody and I reported that
2 as no gunshot residue analysis performed.

3 Q. Let's go back to the inconclusive result on I think the
4 back of the right hand?

5 A. Yes, sir.

6 Q. What could have caused -- you said one particle of
7 gunshot residue was there. Can you talk a little bit more
8 about what could have caused one part being there?

9 A. One particle of gunshot residue leads me to all three
10 of the scenarios that I described before discharging a
11 firearm, being in the vicinity to the discharge of a
12 firearm, or handling something that had gunshot residue on
13 it. So I can't really make an opinion which one is more
14 likely in this instance.

15 Q. So just because someone has gunshot residue on their
16 person or part of their hands, that does not necessarily
17 mean they fired a gun.

18 A. No, especially if they're the victim of a gunshot
19 wound.

20 Q. And did you generate a report with those findings?

21 A. I did generate a report.

22 Q. And I'm going to -- they haven't been marked yet but

23 I'm going to show you that document, and can you identify
24 that?

25 A. This appears to be a copy of the report that I

MIKE CARRELL

1 case.

2 A. No, sir.

3 MR. DUNN: No further questions, Your Honor.

4 THE COURT: Redirect?

5 MR. MAXWELL: No redirect, Your Honor?

6 THE COURT: Thank you very much, Agent Fletcher. You
7 may step down. Any objection to the agent being excused?

8 MR. MAXWELL: None from the State.

9 MR. DUNN: No, sir.

10 THE COURT: You may be excused.

11 MR. MAXWELL: State calls Mike Carrell.

12 The witness, MIKE CARRELL, was first duly sworn
13 and testified as follows:

14 THE CLERK: State your name for the record.

15 THE WITNESS: Mike Carrell.

16 DIRECT EXAMINATION

17 BY MR. MAXWELL:

18 Q. Officer Carrell, who are you employed with?

19 A. Winnsboro Department of Public Safety.

20 Q. Just for the record; spell your last name.

21 A. C-a-r-r-e-l-l.

22 Q. How long have you been with the Winnsboro Public
23 Safety?

24 A. I've worked with the department twice, this time four
25 years, previous approximately six years.

MIKE CARRELL

1 Q. And you are a certified law enforcement officer in
2 South Carolina?

3 A. Yes.

4 Q. And how old have you been a law enforcement officer?

5 A. Approximately 13 years.

6 Q. Did you have some involvement of the investigation into
7 the shooting incident on May 18th of 2012?

8 A. Somewhat. I obtained search warrants for the scene.

9 Q. You weren't one of the initially lead or chief
10 investigators starting May 18th of 2012.

11 A. No, sir.

12 Q. Can you talk about, or did you lead an effort to try to
13 find this .40 caliber gun that was used to fire the
14 cartridge casings and the bullet that were found at the
15 scene?

16 A. Yes, sir.

17 Q. There was an effort to look for the gun.

18 A. Yes, sir.

19 Q. Did you ever receive information that you acted upon in
20 trying to search for the gun?

21 A. Yes, sir, I did.

22 Q. Did any of that information ever pan out?

23 A. No, sir.

24 Q. Can you talk about the timeframe of how long there was
25 an interest in trying to find the .40 caliber weapon?

MIKE CARRELL

1 A. While the other investigators were handling the
2 suspects and things of that nature, I spent most of my time
3 trying to locate the weapon, there was interest in trying to
4 find the weapon daily.

5 Q. Do you remember if this lasted almost until a year
6 later?

7 A: Yes, sir.

8 Q. Is there still a continuing interest to try to find any
9 weapons that may have been involved in crimes if they
10 haven't already been located?

11 A. Yes, sir.

12 Q. At some point was there a .40 caliber gun turned in to
13 Winnsboro Public Safety as the possible weapon used in this
14 incident?

15 A. Yes, sir.

16 Q. Do you know about when that was?

17 A. I can't give you an exact date, maybe a couple of
18 months after the initial incident.

19 Q. Can you give me the month?

20 A. What's that?

21 Q. Can you give me the month when that came into Winnsboro
22 Public Safety's possession?

23 A. Maybe November. I don't know right off the top of my
24 head.

25 Q. It was around November?

MIKE CARRELL

- 1 A. November, I believe so.
- 2 Q. That would have been 2012?
- 3 A. Yes, sir, 2012.
- 4 Q. And the incident happened May of 2012.
- 5 A. Yes, sir.
- 6 Q. Do you know who brought the gun to the Winnsboro Public
- 7 Safety, who handed it over?
- 8 A. Shirley Gaither.
- 9 Q. And does she live in the Zion Hill neighborhood?
- 10 A. Yes, sir.
- 11 Q. Did you know who found the gun in order to give it to
- 12 Ms. Gaither for her to give it to y'all?
- 13 A. She told me that her father found the gun.
- 14 Q. Who is her father?
- 15 A. I can't recall his name.
- 16 Q. Is that Virgil Gaither?
- 17 A. Yes, sir, that's it, Virgil Gaither.
- 18 Q. And does he live also in Zion Hill?
- 19 A. Yes, sir, they're both from Zion Hill.
- 20 Q. Do you know where Mr. Gaither found this gun?
- 21 A. I believe she stated to us that he was doing some
- 22 yardwork and he found it in the area -- kind of consistent
- 23 with the area they call Flat Rock on Zion Hill, near that
- 24 area.
- 25 Q. Is that a wooded area?

MIKE CARRELL

1 A. Yes, sir.

2 Q. If someone was traveling from Zion Hill to Winfield
3 West, would -- could they have possibly gone through that
4 Flat Rock area?

5 A. It's known to officers that that's the areas that's
6 highly traveled to go to Winfield West and that side of
7 town.

8 Q. Is it your understanding that that's where that gun was
9 found in kind of the route someone would take from Zion Hill
10 to go to Winfield West?

11 A. Yes, sir.

12 Q. Other than having that information, was there anything
13 else that you had or you're aware of that said this .40
14 Caliber gun that was turned in by Shirley Gaither was the
15 gun used in this incident?

16 A. No, sir.

17 Q. Was the gun sent down to SLED?

18 A. Yes, sir.

19 Q. As far as you know, did the .40 caliber gun turned in
20 by Shirley Gaither that was sent down to SLED, did it fire
21 the casings and the bullet that were reflected in the
22 evidence?

23 A. No, sir.

24 Q. Has any other gun that you're aware of been found that
25 is believed to have been used in this incident, a

MIKE CARRELL

1 .40 caliber weapon?

2 A. No, sir.

3 Q. Is there a continuing interest by law enforcement to
4 locate this .40 caliber weapon?

5 A. Yes, sir.

6 Q. It has not been located?

7 A. No, sir.

8 MR. MAXWELL: Thank you, Your Honor. No further
9 questions.

10 THE COURT: Mr. Dunn?

11 CROSS EXAMINATION

12 BY MR. DUNN:

13 Q. So you found a .40 caliber, or somebody found -- Ms.
14 Gaither found a .40 caliber and brought it to you. Do you
15 know it was from Zion Hill?

16 A. Yes.

17 Q. And you're still looking for the gun that was in
18 question on the night of May 18th of 2012?

19 A. If anymore information comes in we will continue to
20 search for, it, yes, sir.

21 MR. DUNN: No further questions.

22 THE COURT: Redirect?

23 MR. MAXWELL: No redirect, Your Honor.

24 THE COURT: Thank you very much, Officer Carrell, you
25 may step down. All right. Solicitor?

1 us a little bit more. We can measure the rifling
2 characteristics, which is the number of lands and grooves
3 that are on it, that's particular to specific firearms. We
4 can give a general list to investigators of what kind of
5 firearm they might be looking for.

6 Q. And are you aware about -- are you aware of an incident
7 that occurred May 18th of 2012 in Winnsboro, South Carolina
8 where there was a gun fired?

9 A. Yes.

10 Q. Did you go to the scene -- come up here and actually go
11 to the crime scene?

12 A. No, I don't. The evidence generally comes to the lab
13 and I just go downstairs to our logging department to pick
14 it up.

15 Q. And did you perform several analysis in lab number
16 L1206003?

17 A. I did.

18 Q. And that does -- that lab number refer to the incident
19 in Fairfield County that took place on May 18th of 2012?

20 A. It does.

21 Q. I'm going to hand you two envelopes, and it's one at a
22 time. Take your time and examine, or look inside and tell
23 the Court what's in those envelopes?

24 A. Whenever I receive evidence I will take pictures of how
25 I received it, and then once I've taken my pictures I'll

MICHELLE EICHENMILLER:

1 write my initials, the item number and the lab number on
2 each item so that I can verify the actual evidence that I
3 looked at. These are all of the cartridge casings that I
4 examined in this case.

5 Q. Is there a total of nine of them?

6 A. Yes.

7 Q. And are they SLED item numbers ten through 15, 29, and
8 31 and 32?

9 A. They are.

10 Q. Is there a similar head stamp on all nine of those
11 cases?

12 A. If I can refer to my notes. Yes. They all have the
13 same head stamp which is just the manufacturer's name on
14 the head stamp.

15 Q. And what does the head stamp say?

16 A. It was federal.

17 Q. Does it give caliber? You may have just said it.

18 A. It does. It says Federal 40 S and W.

19 Q. And the 40 refers to it being a .40 caliber cartridge
20 casing?

21 A. Correct.

22 Q. Are there certain types of guns that can fire those
23 cartridge cases?

24 A. It will be a firearms only chambered for .40 S and W
25 calibers.

MICHELLE EICHENMILLER

1 Q. Could a .25 caliber handgun have fired any of those
2 cartridge casings?

3 A. No, it couldn't.

4 Q. Did you perform an analysis on those nine cartridge
5 casings?

6 A. I did. I compared them all to each other and came up
7 with a conclusion.

8 Q. And before we get to that, can you talk about how those
9 came into your possession for you to perform your analysis?

10 A. In general when evidence comes into the laboratory it
11 goes down to the evidence log-in department, I'll go down
12 there and pick it up, and then it transfers to my custody
13 via a bar code which is individual for each item. I bring
14 it back to my office, I take overall pictures and then we
15 have several work sheets we have to document what it looks
16 like, what the head stamp is, what caliber it is, what
17 condition we received it in. After I fill out all of the
18 paperwork I generally put it on the microscope, which is my
19 main area that I work is basically two different microscope
20 stages, I can put one cartridge case on one side and one on
21 the other, look through a pair almost like binoculars and
22 see both of them and then try to attempt to match them up
23 based on the marks that are present on the primer.

24 Q. When the casings came into your possession, were they
25 in secured bags or containers?

MICHELLE EICHENMILLER

1 A. Yes. They're always in evidence tape-sealed
2 containers.

3 Q. Could you tell if anything had been tampered with?

4 A. No, they haven't been tampered with.

5 Q. Were there any issues with the chain before you
6 received any of those items?

7 A. No.

8 Q. I'll hand you another envelope and if you need to open
9 it up, please do. Tell the Court what is in that.

10 A. This is SLED item number 33, a fired bullet.

11 Q. And is there any identifying information on the bullet
12 itself that identifies what type of caliber it was?

13 A. Nothing on the bullet itself.

14 Q. Can you visually examine it and tell what kind of
15 caliber it may have been?

16 A. I can. Based on my training and experience and also
17 the instruments I have available in my office, we measure
18 the diameter and come up with an approximate caliber.

19 Q. And what kind of caliber was that bullet?

20 A. This one is a .40 caliber, S and W caliber.

21 Q. Could that bullet have been fired by a .25 handgun?

22 A. No, it couldn't.

23 Q. Did you -- well, before I ask you that, were any of the
24 casings damaged when you received them?

25 A. On item 12 and 14 I noted that the sides were bent.

MICHELLE EICHENMILLER

1 Q. Any testimony that you could give about how they were
2 bent?

3 A. No, I wasn't there. I just noted that they were bent
4 in.

5 Q. Did it appear pressure had been put towards -- put to
6 them in order to deform them?

7 A. Yes.

8 Q. If you would, go through as best you can and describe
9 it for the jury, what you specifically do in order to
10 compare those items including the bullet along with the
11 casing.

12 A. Whenever an ammunition component is fired from a
13 firearm there are marks that are put on it from the firearm
14 that can be identified back to that particular firearm.
15 Those marks come from either the manufacturing process,
16 which isn't always perfect so there's real small pieces of
17 metal that might be hanging off either the breach face or
18 the barrel that can impart marks, or during the use and care
19 of the firearm. If it has really good care it might have
20 not very many marks but it will still have marks based over
21 the use and abuse of that item. So what we do is we have --
22 compare them to each other, there are several marks that can
23 be put on. The breach face is an impression that happens
24 when the power of the primer exploding hits the breach face,
25 we get an impression of what was there, and then during the

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1 action of the slide opening and the firing pin hitting it we
2 also get striations, so movement items that we -- or marks
3 that we look at. I look at all of those and based on
4 training come up with an opinion as to if it was fired by
5 that firearm. Bullets are very similar, they get marks when
6 they go down the barrel, they get the marks that the
7 manufacturer put there on purpose. The rifling could be six
8 lands, it could be five lands, it could be right, it could
9 be left, it depends on the width of the manufacturer, how
10 large they wanted them as well. The bullet also gets
11 individual marks based on, as I said, before the
12 manufacturing process or the use and abuse of the firearm.
13 And those are the unique marks that I evaluate to attempt to
14 identify them to a firearm.

15 Q: And you performed that test on all of the casings on
16 the bullet, correct?

17 A: Correct. I had nothing to compare the bullet to, but I
18 did all of the measurements and counting. We also have a
19 database that will give us an idea of what kind of firearm
20 could have fired that bullet.

21 Q: In regards to the casings, do you have an opinion on if
22 the casing were all fired by one firearm or multiple
23 firearms?

24 A: All of the cartridge cases that were submitted in this
25 case were fired by the same firearm.

MICHELLE EICHENMILLER

1 Q. And that would have been a .40 caliber handgun.

2 A. Correct.

3 Q. Same question with the bullet, can you tell if the
4 bullet was fired by the same firearm as the casings?

5 A. I can't tell if it was the same firearm, I can just
6 tell you that it was a .40 caliber firearm that fired that
7 bullet.

8 MR. MAXWELL: Your Honor, I would offer the casings and
9 the bullet into evidence at this time.

10 THE COURT: All right. Any objection, Mr. Dunn?

11 MR. DUNN: One second, Your Honor.

12 (Break in proceedings.)

13 MR. DUNN: Your Honor, I don't have any objection to
14 the casings, there's some argument I would like to make on
15 the bullet on the record.

16 THE COURT: All right. Mark State's 49, the seven
17 cartridges, please. State's 50 will be the two cartridges.

18 (Bench conference was held.)

19 THE COURT: The bullet will be marked State's 51,
20 subject to defendant's objection 51 is in evidence.

21 (The cartridges and bullet were received as
22 State's 49-51.)

23 Q. Agent Eichenmiller, did you also examine a .25 pistol
24 that was logged into evidence in SLED?

25 A. I did.

MICHELLE EICHENMILLER.

1 Q: Can you tell us what analysis and tests you did on
2 that?

3 A. Based on my training that none of the fired ammunition
4 components that I received was fired by that firearm, in an
5 absence of any fired components to compare with the firearm
6 we'll just enter it into IBIS, which is the Integrated
7 Ballistics Identification System, write up a short form and
8 just place that cartridge and bullet into IBIS.

9 THE COURT: Which weapon were you just asking about,
10 Solicitor?

11 MR. MAXWELL: I'm sorry, Your Honor?

12 THE COURT: Which weapon were you just asking about?

13 MR. MAXWELL: The .25.

14 THE COURT: All right. Thank you.

15 Q. I'm going to hand you a box and take a look in there.
16 And I believe the gun is locked. Can you tell the jury
17 what's in that box?

18 THE COURT: Is it safe?

19 THE WITNESS: It is.

20 A. This is a .25 caliber pistol, it's a Lorcain model L25.
21 This is the firearm I examined in this case.

22 Q: And you determined that it does not fire the bullets or
23 the casings that have already been entered into evidence..

24 A. Correct.

25 MR. MAXWELL: Your Honor, I'll offer the .25 handgun

MICHELLE EICHENMILLER

1 into evidence at this time.

2 THE COURT: All right. Mr. Dunn?

3 MR. DUNN: No objection to the gun.

4 THE COURT: State's 52, will be in evidence.

5 (The gun was received as State's 52.)

6 THE COURT: What about the magazine and the ammo? Mark
7 that separate.

8 Q. Is there anything else in the box besides the handgun?

9 A. There's a magazine and three unfired cartridges that I
10 also examined for this case.

11 Q. And can you tell how many bullets can fit into that
12 magazine?

13 A. Not just by looking at it, I would have to --

14 Q. Is there anything in the report about that?

15 A. No.

16 Q. The gun is alone in the box.

17 MR. MAXWELL: I will just go ahead and offer the
18 ammunition and the magazine into evidence.

19 THE COURT: Any objection?

20 MR. DUNN: No, sir.

21 THE COURT: State's 53 is the magazine and the three
22 rounds unfired for the .25 are in evidence.

23 (The ammunition was received as State's 53.)

24 Q. Sometime several months after you performed that
25 analysis, was a .40 caliber logged into SLED and came into

MICHELLE EICHENMILLER

1 your possession for testing?

2 A. It was.

3 Q. Can you identify more specifically what kind of gun it
4 was?

5 A. It was a Highpoint firearm, model JCP and .40 S. and W
6 caliber.

7 Q. So the caliber did match the casings and the bullet
8 already in evidence that you previously tested.

9 A. It did.

10 Q. When you got the .40 caliber gun in your possession, do
11 you have a date of when you exactly performed the test or
12 when you, I guess, completed your analysis in regards to the
13 .40 caliber, the weapon itself?

14 A. According to my notes it was April 2nd of 2013.

15 Q. And did you compare the casings and the bullets with
16 that .40 caliber?

17 A. I didn't --

18 Q. Or describe the process you used.

19 A. I test-fired the firearm that I received and I compared
20 the cartridge casings that I already knew came from one
21 firearm. I compared them to the cartridge cases I received
22 from that firearm during my test firing and came up with the
23 conclusion we didn't have -- let me check to make sure. The
24 bullet had actually already been returned, but based on its
25 general rifling characteristics the bullet could not have

MICHELLE EICHENMILLER

1 been fired by that firearm.

2 Q. And the casings could not have either?

3 A. No. My result was that it was a negative result, they
4 were not fired by my Item 34 either.

5 Q. So the .40 caliber weapon handgun did not match
6 anything that you previously examined, the casings or the
7 bullet.

8 A. Correct.

9 Q. Did you generate reports from all of the testing that
10 you did?

11 A. I did. All of the cartridge casings and bullet and
12 that initial .25 were on one report, and the Highpoint was
13 on a separate report.

14 Q. I hand you two documents. Can you take a minute to
15 look at those?

16 A. These are the two reports that I generated.

17 Q. And do those reports include your findings that you've
18 already testified to?

19 A. Yes.

20 MR. MAXWELL: Your Honor, I offer the two reports into
21 evidence as 54 and 55.

22 THE COURT: 54 would be the cartridge cases and fired
23 bullet?

24 MR. MAXWELL: Yes, sir. And there's also some
25 information about the .25 in there.

MICHELLE EICHENMILLER.

1 A. Not that I saw.

2 MR. DUNN: Beg the Court's indulgence, Your Honor.

3 (Break in proceedings.)

4 MR. DUNN: Your Honor, I have no further questions.

5 THE COURT: Redirect, Solicitor?

6 MR. MAXWELL: No redirect, Your Honor.

7 THE COURT: Thank you very much for being with us
8 today, Agent Eichenmiller, you may step down. Any objection
9 to the agent being excused:

10 MR. MAXWELL: None from the State.

11 MR. DUNN: None from the defense, Your Honor.

12 THE COURT: You may be excused.

13 MR. MAXWELL: I think we're at a good time for a break.
14 Your Honor. The next witness will be ready at 2:00 o'clock.

15 THE COURT: All right, thank you very much. Mr.
16 Foreman, ladies and gentlemen of the jury, we're going to
17 take our luncheon recess at this time, I realize we're going
18 a little bit early, we'll have to take an hour and a half,
19 the next witness will not be available until 2:00. Please
20 remember, do not discuss the case with anyone during this
21 recess. Do not read, watch, listen to any news reports. Do
22 not do any independent research or any research on the
23 Internet. Remember to keep an open mind, do not begin your
24 deliberations until you have heard all of the evidence, all
25 of the testimony, closing arguments by the attorneys and

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1 instructions on the law by the Court to begin your
2 deliberations with your fellow jurors in your jury room.
3 Y'all can probably repeat that back to me now. With that
4 being said, if you'll be back promptly at 2:00, that gives
5 you an hour and a half.

6 (The jury left the courtroom.)

7 THE COURT: Solicitor, anything further from the State?

8 MR. MAXWELL: Nothing from the State.

9 THE COURT: Mr. Dunn?

10 MR. DUNN: Your Honor, I would like to put on the
11 record the objection that I had that we took the side bar
12 for as -- and I can't remember the exhibit number.

13 THE COURT: It's actually State's 51 the bullets.

14 MR. DUNN: It's the bullet, Exhibit Number 51, Your
15 Honor.

16 THE COURT: All right. And your objection?

17 MR. DUNN: My objection is this, that -- and this is
18 even further clarified even after we got done at our side
19 bar from this last witness, that my objection is nobody can
20 testify with any certainty that it came from the gun in
21 question, can't testify with any kind of certainty that it
22 was shot from one of the shell casings that were found, and
23 there's nine shell casings found. The evidence has shown
24 that the bullet itself was not found either that day or the
25 next day. I believe it was May 30th or May 31st, so that's

JANICE ROSS

1 Q. And maybe I did ask you this; when was the autopsy
2 performed?

3 A. What time?

4 Q. What date?

5 A. May 19th of 2012.

6 Q. And do you have a time of death available to you?

7 A. I was given the -- the time of death 7:18 p.m. on
8 May 18, 2012.

9 Q. So the next day is when you performed the autopsy?

10 A. Correct.

11 Q. Can you tell the jury what your findings were in
12 regards to Bobby McCloud's body?

13 A. Yes... We found a total of four gunshot wounds, one that
14 went into the back and came out the front chest, one in the
15 left forearm that went through and through, and two in the
16 left leg that went through and through.

17 Q. Let's talk about the two in the leg first. Those are
18 gunshot wounds as listed in your report, gunshot wounds
19 number three -- excuse me, number three and number four?

20 A. Correct. We number them just for organization, it does
21 not mean that they came -- that they were done in that
22 order.

23 Q. And while you're on that, can you from the autopsy
24 determine which bullet impacted first or second or so on?

25 A. No, sir.

JANICE ROSS

1 Q. But gunshot wound three just for identification
2 purposes given number three, can you talk about the
3 specifics of where it entered the body and where it exited
4 the body?

5 A. Yes. It went in the front of the left thigh, and it
6 went sort of to the left, so it went -- it came out the left
7 back side of the left thigh.

8 Q. And can you give specifics on gunshot wound number
9 four?

10 A. That went in the left thigh lower than number three, it
11 went in the thigh just above the knee, and it went somewhat
12 upward and came out the back of the thigh on the left.

13 Q. And can you talk about the specifics of gunshot wound
14 number two which was the left arm?

15 A. Number two went through the forearm on the left.

16 Q. And can you tell me where it entered at, what part of
17 the forearm?

18 A. It entered on the outside of the forearm and came out
19 on the inside of the forearm.

20 Q. And were any of those three wounds fatal?

21 A. No.

22 Q. The gunshot wound number one, where did it enter the
23 body at?

24 A. It entered the back, the left back -- let me give you
25 measurements here. We measured from the top of the head,

JANICE ROSS

1 and it entered the back 24-inches below the top of the head
2 and one and a half inches from the left of midline.

3 Q. And did it exit the body, is there an exit wound there?

4 A. It exited the left chest 14 inches below the top of the
5 head and one inch to the left of the midline, so basically
6 it went from back to front and upward.

7 Q. Can you talk about the path of the bullet that entered
8 the back and exited the chest, what types of organs and
9 other things it may have come in contact with?

10 A. It went through the stomach, the liver and the heart.

11 Q. And was that gunshot wound, gunshot wound number one in
12 your opinion the fatal wound?

13 A. Yes.

14 Q. And you said that the bullet traveled upward after it
15 entered the back?

16 A. Correct. If you're in a standing position the bullet
17 went back to front and upward.

18 Q. Is there anything that you can tell us about why the
19 bullet could have gone up when it entered the body, or why
20 it indicated that it went up?

21 A. Bullets go straight, so this could have been, for
22 instance, the victim bent over forward while he was being
23 shot from the back from somebody who was standing in the
24 back of him.

25 Q. Is there anything that you can tell us about the

JANICE ROSS

1 distance from where the shooter would have been in relation
2 to Bobby McCloud from examining the wounds that he had?

3 A. All I can say is they appear to be what we call distant
4 wounds. When a bullet comes out of a gun there's burning
5 powder and soot that also comes out, but the powder and soot
6 will only go a certain distance depending on the caliber and
7 the type of gun. So if we don't see any evidence of soot or
8 tattooing or powder around the entrance wound of the skin or
9 the clothing then we call it a distant wound. And again, it
10 depends on the gun, et cetera, but it's probably at least
11 two feet away.

12 Q. It would indicate -- your findings would indicate that
13 the gun was not pressed up against the body or within inches
14 of Bobby McCloud's body when it was fired and the bullets
15 entered the body.

16 A. Correct.

17 Q. And can you tell us what exactly caused Bobby McCloud's
18 death?

19 A. Yes. When the bullet went through the heart it caused
20 blood to go out of the heart and surround it in the sack
21 that the heart sits in; it's called the pericardial sack,
22 and because that blood is around there giving pressure to it
23 it keeps the heart from being able to beat, and that's what
24 we call cardiac tamponade. It's basically bleeding out from
25 the gunshot wound.

JANICE ROSS

1 Q. Did you have the opportunity to examine other parts of
2 Bobby McCloud's body to determine if he had anything else
3 wrong with him that could have caused his death?

4 A. We didn't see any other wounds on him, scratches or
5 bruises, and we didn't see any significant natural diseases.

6 Q. To a reasonable degree of medical certainty, can you
7 give an opinion as to Bobby McCloud's cause of death?

8 A. Yes.

9 Q. And what is that?

10 A. It's what we call a cardiac tamponade, which is
11 bleeding out around the heart due to laceration of the heart
12 due to the gunshot wound in the back.

13 Q. Do you produce a report once you have completed an
14 autopsy?

15 A. Yes.

16 Q. I'm going to show you a document, and if you could take
17 a moment to look at that and then identify that to the
18 Court.

19 A. This is my autopsy report on Bobby McCloud.

20 MR. MAXWELL: Your Honor, at this time I would offer
21 Dr. Ross' autopsy report into evidence.

22 THE COURT: All right, Mr. Dunn?

23 MR. DUNN: I don't have any objection.

24 THE COURT: State's 56 in evidence without objection.

25 (The autopsy report was received as State's

JOHN SEIBLES

1 Q. And what is your position with Winnsboro Public Safety?

2 A. I'm a major.

3 Q. And were you a major back in May of 2012?

4 A. Yes, sir.

5 Q. And just kind of briefly describe your duties as a
6 major.

7 A. I'm responsible for investigations, I oversee
8 investigations and internal investigations within the
9 department, and mostly anything else that come up actually.

10 Q. Were you part of the investigation of the shooting
11 incident on May 18th of 2012?

12 A. Yes, sir.

13 Q. Do you recall what you did and where you were at that
14 evening, the 18th?

15 A. Yes, sir. I was out of town when I got the call on my
16 cellphone, actually I was in Rock Hill and it took me some
17 time to get back to Winnsboro. And once I got back to
18 Winnsboro I came and got involved in the investigation.

19 Q. Would it be fair to consider you one of the lead if not
20 the lead investigator in this case?

21 A. Yes, sir.

22 Q. Are you aware of a .25 caliber pistol handgun that was
23 located in the yard of this abandoned house, same yard where
24 Bobby McCloud's body end up?

25 A. Yes, sir.

JOHN SEIBLES

1 Q. Earlier Captain Watkins testified that the gun belonged
2 to Bobby McCloud. Do you have evidence that says that gun
3 belonged to Bobby McCloud?

4 A. No, sir. We don't have any way that we can put that
5 gun in his hand and say it was on him. The gun was found in
6 the vicinity of the body but we have no way to say 100
7 percent that was his.

8 Q. Again, the only thing you can say about that gun is it
9 was found in the yard along Bobby McCloud's body.

10 A. Yes, sir, in the general area.

11 Q. I think Agent Hezel talked about the location of the
12 gun in relation to the body.

13 A. Yes, sir.

14 Q. Are you aware if Derekee Johnson has been convicted of
15 a violent crime as defined under South Carolina Code Section
16 16-1-60?

17 A. Yes, sir.

18 Q. I'm going to hand you a document, and if you would take
19 a second to look it over and then I will ask you some
20 questions about it.

21 A. (Witness complies.)

22 Q. Is that indictment along with the sentence sheet for
23 Derekee Johnson?

24 A. Yes, sir.

25 Q. What is the crime he was indicted for?

JOHN. SEIBLES.

1 A. Armed robbery.

2 Q. And what is the crime he was sentenced and convicted
3 for?

4 A. Armed robbery.

5 MR. MAXWELL: Your Honor, at this time I would offer
6 the indictment and the sentence sheet into evidence.

7 THE COURT: All right. Mr. Dunn?

8 MR. DUNN: I have no objection, Your Honor.

9 THE COURT: State's 57 is in evidence without
10 objection.

11 (The documents were received as State's 57.)

12 Q. Let me ask you this again, is armed robbery considered
13 a violent crime under 16-1-60 under the South Carolina Code
14 of Laws?

15 A. Yes, sir.

16 Q. Thank you. What types of other things did you do as
17 part of your investigation in this matter?

18 A. When I got back to town that particular night I was
19 briefed by Captain Watkins, and our primary concern at that
20 point was to attempt to locate Mr. Derekee Johnson.

21 Q. And were you aware that he was located -- when was he
22 located?

23 A. The next day.

24 Q. And that was down in Blythewood?

25 A. Yes, sir.

JOHN SEIBLES

1 Q. And that's when he was taken into custody and arrested?

2 A. Yes, sir. I was there at the time when he was
3 arrested, I was part of the team.

4 Q. Did you have the opportunity to talk to some other
5 witnesses and further the investigation?

6 A. Yes, sir. We were being assisted by SLED, and it was
7 Shannon Branham at the time.

8 Q. Shannon Boling now?

9 A. Shannon Boling now. We interviewed quite a few people.

10 Q. On May 24 of 2012, did you, along with Captain Watkins,
11 meet with Derekee Johnson?

12 A. We did.

13 Q. And who else other than the people I just named were
14 present?

15 A. Present was Mr. Frick, Derekee Johnson, Captain Watkins,
16 and you were there very briefly.

17 Q. All right. I wasn't there during any part of the
18 interview portion.

19 A. No.

20 Q. Now, Mr. Frick is who, is that Williams Frick?

- 21 A. William Frick, yes, sir.

22 Q. And do you know who he was employed by back in May of
23 2012?

24 A. The public defender's office.

25 Q. And is it to the best of your knowledge that Mr. Frick

JOHN SEIBLES

1 was representing Mr. Johnson in this matter?

2 A. Yes, sir. I was advised that he was his attorney.

3 Q. And where did y'all end up meeting at?

4 A. At the department of public safety in the
5 investigations division.

6 Q. Was Mr. Johnson housed in the Fairfield County
7 Detention Center at the time?

8 A. Yes, sir. He was transported there from the detention
9 center.

10 Q. And were you -- and you said Officer Watkins was also
11 there, were both of y'all in uniform, had badges, had guns?

12 A. Yes, sir.

13 Q. Is it to the best of your knowledge that Derekee
14 Johnson knew who you were?

15 A. Yes, sir, he know both of us.

16 Q. Did he know that y'all were law enforcement officers?

17 A. Yes, sir.

18 Q. In talking with Mr. Johnson, did you observe any
19 problems he had communicating with you or Officer Watkins?

20 A. No, sir.

21 Q. Did he appear to understand things that y'all were
22 telling him?

23 A. Yes.

24 Q. Did you and Officer Watkins understand things he was
25 telling y'all?

JOHN SEIBLES.

1 A. Yes, sir.

2 Q. Was Mr. Frick present during any type of questioning or
3 any statements Derekee Johnson gave to y'all?

4 A. Yes, sir.

5 Q. Do you remember if at any point during your meetings
6 that Derekee Johnson asked to go to the bathroom, asked for
7 anything to drink, I guess the question is was he denied the
8 opportunity to do anything like that?

9 A. No, sir. He didn't have any requests as far as
10 bathroom or anything.

11 Q. Did you go through Mr. Johnson's Miranda rights?

12 A. Yes, sir, I did.

13 Q. I'm going to show you a couple of documents. Can you
14 first identify those top two pages?

15 A. Both pages are Winnaboro Department of Public Safety
16 investigations, these are forms that contain their Miranda
17 warnings and information on the offender or the victim as
18 being advised of their rights.

19 Q. And there's two forms. Were both of those forms --
20 they're the same form with maybe different stuff filled in,
21 but as far as the template they're the same, is that right?

22 A. Yes, sir.

23 Q. Now, were both of those forms used during y'all's
24 meeting with Derekee Johnson?

25 A. Yes.

JOHN SEIBLES

1 Q. At any -- was Mr. Johnson given the opportunity to meet
2 in private with his attorney, Mr. Frick?

3 A. He did at one point did have -- we left the room and
4 left them in there to have a private conversation.

5 Q. And did you read out those right forms -- rights forms
6 word for word to Derekee Johnson before you talked to him?

7 A. He was advised of his rights, and on the form he's
8 given an opportunity to read and initial if he understood
9 them.

10 Q. Can you read through the rights form and bring up -- I
11 guess note where there's a blank that where something is
12 written in?

13 A. On the first one, "I, Derekee Johnson, am 34 years old.
14 My address is 316 Crawford Street, Apartment E, Winnsboro,
15 completed the 9th grade in school and can read. I have been
16 told by officer Allen Watkins, who I understand is a public
17 safety officer for the Town of Winnsboro, that he would like
18 to question me concerning the crime of murder. This officer
19 has also explained to me and I understand the following: I
20 have a right to remain silent, this means I do not have to
21 say anything or answer any questions," and beside that there
22 is a blank space underneath with the word initials written
23 there and that space provided that if he understands that he
24 can put his initials in this space. And there is a crossed
25 out initial and beside it there are legible initials written

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1 there.

2 Q. And those are Derekee Johnson's initials that are not
3 scratched out.

4 A. DMJ.

5 Q. Okay.

6 A. Second, "Anything I say can be used against me in a
7 court of law," and also the initials and space where the
8 initials to be written. And they are initialed DMJ.

9 Q. And there's something underlined there?

10 A. One is scratched out and the initials is -- I think
11 that's from the other initials that he wrote in under that
12 word, but there were initials there. There is a scratch out
13 there and DMJ right beside it.

14 Q. Is there a word that's underlined in --

15 A. Anything is underlined in that sentence.

16 Q. Do you recall if that was when he asked to meet in
17 private with Mr. Frick?

18 A. Yes, sir.

19 Q. And was he given the opportunity to do that?

20 A. Yes, sir.

21 Q. Later on -- well, after they had a chance to meet for
22 some point in time, did y'all go back in and meet with him
23 again?

24 A. We did, yes, sir.

25 Q. Did you fill out another rights form?

JOHN SEIBLES.

1 A. Yes, sir. Because there was some scratched out on this
2 form and we didn't want to use it with the scratched out
3 version so we do another complete form making sure he was in
4 agreement to talk with us.

5 Q: I'm sorry to ask you to do this, can you read that form
6 in its entirety along with noting where there's a blank with
7 something written in?

8 A. Yes, sir. Winnsboro Department of Public Safety
9 Investigations. "I, Derekee M Johnson, am 34 years old. My
10 address is 317 Crawford Street, Apartment E, Winnsboro,
11 South Carolina, 29810. I have completed the 9th grade in
12 school and can read. I have been told by Captain Allen
13 Watkins and Major John Seibles, who I understand is a public
14 safety officer for the Town of Winnsboro, that he would like
15 to question me concerning the crime of murder. This officer
16 has also explained to me and I understand the following:
17 Number one, I have the right to remain silent, this means I
18 do not have to say anything or answer any questions." And
19 beside that is underlined with the word initials underneath
20 and the initials DMJ is written in black ink. "Number two.
21 Anything I say can be used against me in a court of law."
22 Same initials to the side with a line with the initials DMJ
23 written also in black ink. "I have the right to talk to a
24 lawyer and to have a lawyer with me now to advise and help
25 me before and during questioning." The initials, the line

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1 and the initials DMJ written in in black ink. "Number four.
2 If I want to have a lawyer with me before and during
3 questioning but cannot afford to pay a lawyer one will be
4 provided to me at no cost before and while I am questioned."
5 To the side initials, the line and DMJ written in black ink.
6 "Number five. If I decide to answer questions now without a
7 lawyer here I still have the right to stop," and stop is
8 underlined, "answering questions whenever I want to."
9 Initials with a line, DMJ written in black ink.

10 Q. Let me just ask you, you said stop is underlined. Is
11 it underlined in handwriting or is that part the template of
12 the form?

13 A. That's part of the form where it's underlined.

14 Q. And you can continue on.

15 A. "Number six. I also have the right to stop answering
16 questions until I have talked to a lawyer." Initials to the
17 left with a line, DMJ written in black ink. "I understand
18 my rights as explained to me by Officer Major John Seibles
19 and Captain Watkins. I now state that I do wish to answer
20 questions at this time and I do not wish to have a lawyer
21 here before or during questioning. My decision to answer
22 questions now without a lawyer is made freely and in my own
23 choice, no one has threatened or coerced me in way or
24 promised me special treatment. To show my decision I am
25 signing my name in the space below." There is a sign and a

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1 line and there's a signature, Derekee M. Johnson. To the
2 right of that is date, and the date is 5/24/12, to the right
3 of that is time with line and it's 5:00 p.m. Below that is
4 witness, and there's a line and there's a signature up here
5 of Mr. William Frick. To the right of that, date 5/24/12,
6 time 5:00 p.m. There's a second witness space provided with
7 a line and there's a signature Allen Watkins to the right of
8 that, 5/24/12 time 5:00 p.m.

9 Q. And you were present when this rights form was gone
10 over, correct?

11 A. Yes, sir.

12 Q. And I know it says on there referencing that he was
13 going to be speaking without a lawyer, but Mr. Frick was
14 there, correct?

15 A. Yes, sir.

16 Q. And the part -- this is just a template form that y'all
17 use on a daily basis -- on a regular basis I should say, and
18 there was just no change made because he had a lawyer there
19 is why part of the form says -- talks about not having a
20 lawyer present.

21 A. Yes, sir. This is an effort to make sure that whoever
22 we talk to understand their rights.

23 Q. Did Derekee Johnson have any questions about these
24 rights as you went through them?

25 A. No, sir.

JOHN SEIBLES

1 Q. Did he appear to understand those rights?

2 A. Yes, sir.

3 Q. Do you recall any threats or promises that were made to
4 Derekee Johnson in order to get him to talk about what
5 happened?

6 A. No, sir.

7 Q. Was there anything -- did he bring up anything about
8 or -- did he have any hesitation about anything involving
9 Carl McDaniel?

10 A. He was hesitant and I think he was more concerned about
11 being charged with something separate to what we were
12 speaking to him about.

13 Q. And was there any type of ongoing investigation in
14 regards to any type of dispute between Derekee Johnson and
15 Carl McDaniel?

16 A. No, sir. We have no reports to any kind of situation
17 with him and Carl McDaniel.

18 Q. Did Mr. Johnson have any hesitation about talking about
19 the events of May 18, 2012?

20 A. No, sir, not at all.

21 Q. And did he give a statement after he went through this
22 rights form, his version of what happened on May 18th of
23 2012?

24 A. Yes, sir, he did.

25 Q. And was that -- was his statement recorded?

JOHN SEIBLES

1 A. Yes, sir.

2 Q. And was it audio and video recorded?

3 A. Yes, sir.

4 Q. Can you talk about that?

5 A. Once we got him in we did set -- there was a camera
6 there provided. And at first the camera was turned to me
7 and I introduced everybody that was in the room, and as we
8 started the process the camera was turned to Derekee and he
9 proceeded to give the statement.

10 Q. Do you remember if there was a microphone put out on
11 the table?

12 A. The camera itself is a smaller version of the camera
13 and it was sitting on the table.

14 Q. Was there any secret that this conversation was being
15 recorded?

16 A. No, sir.

17 Q. Mr. Johnson as well as Mr. Frick knew that this was
18 being recorded in some manner.

19 A. Yes, sir.

20 Q. At the end or after he was done speaking during the
21 recorded portion, was his statement reduced to writing?

22 A. Yes, sir. He did give a written statement in addition
23 to the video.

24 Q. And do you have that written statement?

25 A. Yes, sir, I do.

JOHN SEIBLES

1 Q.. If you would, read the written statement in its
2 entirety, please.

3 A. Winnsboro Public Safety, voluntary statement, State of
4 South Carolina, County of Fairfield. Person sworn to before
5 me -- and this line is not filled out because there's
6 another line that carries his name. "My name is Derekee
7 Montez Johnson. My address is 317 Crawford Street,
8 Winnsboro. Date of birth, 11/25/77. Social security
9 number," there's not a social security number there, I don't
10 require social security numbers because some people are a
11 little bit concerned about their numbers. "Phone number,
12 315-9045. I completed the 9th grade in school and I can
13 read and right. Before making -- answering any questions or
14 making any statements, John Seibles, a person who identified
15 himself as a public safety officer with the Town of
16 Winnsboro dually warned and advised me and I know and
17 understand that I have the following rights. That I have
18 the right to remain silent and do not have to answer any
19 questions or make any statements at all. That any statement
20 I make can and will be used against me in a court of law or
21 courts for the offense or offenses concerning which the
22 following statement is hereafter made. That I have the
23 right to consult with a lawyer of my own choice before or
24 anytime during any questioning or statements I make. That
25 if I cannot afford to hire a lawyer I may request to have a

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1 lawyer appointed for me by the proper authority before or at
2 anytime during any questioning or statements that I make
3 without cost or expense to me. That I can stop answering
4 any questions or make any statements at any time that I
5 choose and call for the presence of a lawyer to advise me
6 before continuing anymore questioning or making any
7 statements whether or not I have already answered some
8 questions or made some statements. I do not want to talk to
9 a lawyer and I hereby knowingly and purposely waive my right
10 to remain silent and my right to have a lawyer present while
11 I make the following statement to the aforesaid person
12 knowing that I have the right and privilege to terminate any
13 interview at any time hereafter and have a lawyer present
14 with me before answering anymore questions or making anymore
15 statements if I choose to do so. I declare that the
16 following voluntary statement is made of my own free will
17 without promise or hope of reward, without fear or threat of
18 physical harm, without coercion, favor, without leniency or
19 other offer of leniency by any person or persons
20 whomsoever."

21 Q. Stop right there. Everything you've read so far has
22 pretty much been in print except some entering names and
23 addresses in the blanks, correct?

24 A. Yes, sir, this is a part of the form. The only thing
25 that would not be would be the personal information of the

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1 person giving the statement or the individual who is taking
2 the statement.

3 Q. And then at the bottom -- how many pages is the
4 statement?

5 A. It's two and a half pages.

6 Q. Well, three separate pieces of paper, correct?

7 A. Yes, sir.

8 Q. And at the bottom of each piece of paper are there
9 places for signatures?

10 A. Yes, sir.

11 Q. And is Derekee Johnson's signature on the bottom of
12 each one of the pages?

13 A. Yes, sir, it is.

14 Q. All three of them?

15 A. All three of them, yes, sir.

16 Q. Who else's signatures are at the bottom of those pages?

17 A. William Frick and Allen Watkins.

18 Q. On all three pages.

19 A. Yes, sir. There is a second place for the person
20 giving the statement to sign if they wanted to receive a
21 copy of the statement, so his signature is on there twice.

22 Q. On each page?

23 A. On each page, yes, sir.

24 MR. MAXWELL: Your Honor, I would offer the written
25 statement into evidence at this time as State's 58 along

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1 with the rights forms.

2 THE COURT: All right. Mr. Dunn?

3 MR. DUNN: Your Honor, same objection I had earlier.

4 THE COURT: Subject to previous objections 58 is in
5 evidence.

6 (The statement and rights forms were received
7 as State's 58.)

8 Q. I'm now going to hand you what's been marked as State's
9 Exhibit 58. I interrupted you a second ago, will you now
10 read out the substance of Mr. Johnson's statement?

11 A. Okay. This statement starts with the initials DMJ, and
12 these are initials that were placed there to make sure that
13 nothing is added to the statement, and at the end of the
14 statement to make sure that nothing is added at the end of
15 the statement.

16 Q. That's on each page.

17 A. On each page, yes, sir.

18 Q. And Derekee Johnson, who had made those initials, and
19 kind of first line on each page and the last line on each
20 page.

21 A. Yes, sir.

22 Q. And that's in addition to all of his signature he did
23 at the bottom.

24 A. Yes, sir.

25 Q. All right.

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1 A. "On May 18th of 2012 at approximately 12:00 p.m. I
2 walked to Zion Hill to Rick James' house; talked for awhile;
3 then we went to Blythewood, came back to Ridgeway, then came
4 back to Zion Hill. We were at Rick James' house for about
5 five minutes. I walked down to C.C. Bouknight's house.
6 When I got there C.C. was there along with Charles
7 Bouknight, two young guys, Bobby McCloud and Quinton. I
8 dapped everybody, then talked C.C. Bobby interrupted and
9 said, "You know my homeboy is looking for you?" And I said
10 'All right.' He had more to say but I didn't follow him up.
11 Charles tried to calm him down, he said, "Leave that man
12 alone." C.C. said that was his homeboy, we had words. I
13 went across the street to talk to Yodi. She stopped me and
14 said, "No, Derekee, don't come over here and get my truck
15 shot up, I got my son with me." I turned and went up the
16 hill. The two young -- the two little young boys came up
17 behind me telling me not to worry, they had my back, they
18 were not going to let them blitz me. I went in Rick James'
19 house. I told Rick James they were talking about shooting,
20 he asked who, I told him Clyde. I went back out of the
21 house towards C.C.'s house. As I was walking down the hill
22 I looked to the right, he, Clyde, was on the side of the
23 rear near the back of the house. I turned around, went to
24 Rick James' house and told him they were behind his house,
25 he jumped up and went to confront Clyde. Rick asked Clyde

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1 what's going on. I asked Clyde, 'Man, where is me and your
2 beef?' I don't know what he said because I was going to hit
3 him. I saw Quinton at the stop sign, then turned by Ms.
4 Jesse's house. Once I got on the grass I heard somebody
5 yell, 'Derekee, watch out,' I believe it was one of the
6 young boys. I looked back over my right shoulder and saw
7 Quinton cocking and aiming and firing his gun, it was about
8 four rapid shots, I dived to the left. I heard rapid gun
9 fire. I saw Clyde fall and his pants fell. He tried to get
10 up and pull his pants up. I ran towards C.C.'s house. I
11 saw Yodi and she asked me where I shooted, I said, 'Hell no,
12 they are shooting at me.' I was running and talking at the
13 same time. A small red car came and I asked for a ride, an
14 older dude was driving, he dropped me off on the road going
15 towards Middle Six. I took the railroad tracks to the
16 four-way, I got off and went to my sister Wanda's house. Me
17 and my brother-in-law Robert Thompson Jr. went to Meat house
18 on Doty Road. I saw crip at the house, I turned around and
19 something told me to go to my ex-girlfriend's house, her
20 name is Alvetta Coffee.

21 Q. And that was -- is there a time and date on that?

22 A. Of the statement?

23 Q. Yes.

24 A. Yes, sir. It was 6:40 p.m. on the 24th day of May of
25 2012.

JOHN SEIBLES

1 Q. Thank you. And again, you stated earlier that this was
2 all recorded?

3 A. Yes, sir.

4 Q. And was that recording -- were you able to put that on
5 a disc?

6 A. Yes, sir.

7 MR. MAXWELL: Your Honor, at this time I would ask to
8 publish for the recorded statement to be offered into
9 evidence and actually publish it to the jury.

10 THE COURT: If he can identify the tape. Subject to
11 previous objections?

12 MR. DUNN: Subject to previous objections, Your Honor.

13 THE COURT: That would be 59, right?

14 (The disc was received as State's 59.)

15 Q. I'm showing you a disc. Is that a disc that contains
16 the recording of the interview of Derekee Johnson?

17 A. It's a disc identified by the name of Derekee Johnson,
18 stating interview.

19 MR. MAXWELL: Ask now to offer it into evidence?

20 THE COURT: All right. Yes, sir. It's about 38
21 minutes now, ladies and gentlemen, if you want to press on
22 it would suit me to press on and take a break after that,
23 perhaps, Solicitor.

24 MR. MAXWELL: No, sir, I was ready to publish it now.

25 (At this time the video was played.)

JOHN SEIBLES

1 Your Honor, to that line of questioning about the value of
2 crack cocaine.

3 THE COURT: I thought he said he didn't know. He said
4 he could give you a guess and a guess isn't admissible. You
5 can continue, Mr. Dunn.

6 MR. DUNN: I don't have any further questions, Your
7 Honor.

8 THE COURT: Thank you, Mr. Dunn. Redirect, Solicitor?

9 MR. MAXWELL: No redirect, Your Honor.

10 THE COURT: Thank you very much, Major, you may step
11 down. All right, Solicitor, you may call your next witness.

12 MR. MAXWELL: May I have just one minute, Your Honor?

13 THE COURT: Yes, sir.

14 (Break in proceedings.)

15 MR. MAXWELL: Your Honor, at this time the State rests.

16 THE COURT: Thank you, thank you very much, Solicitor.
17 Any matters I need to take up outside of the presence of the
18 jury?

19 MR. DUNN: Yes, sir.

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen, if you would please step to your jury room, I
22 have matters I must take up at this stage of the proceeding.
23 do not discuss the case at this brief recess.

24 (The jury left the courtroom.)

25 THE COURT: All right. Mr. Dunn?

RICK JAMES

1 A. No, sir.

2 Q. Do you remember talking with me about this case three
3 days ago on Monday?

4 A. No, sir.

5 Q. And you are willing to leave that door right there and
6 not tell a story that you know to help both the McCloud's
7 family out and the Johnson family out, you're willing to
8 leave that -- just to walk out of here not telling your side
9 of the story.

10 A. Yes, sir.

11 MR. DUNN: I don't have anything further.

12 THE COURT: Solicitor?

13 MR. MAXWELL: No questions, Your Honor.

14 THE COURT: All right. Mr. James is in the custody of
15 the Fairfield County Detention Center for an indeterminate
16 time period that he can testify in this case.

17 (The jury return to the courtroom.)

18 THE COURT: Mr. Foreman, ladies and gentlemen, you have
19 now heard all of the evidence and all of the testimony that
20 you are going to hear from the State in its case in chief.
21 As you will recall, I have told you before the State is the
22 party that bares the burden of proving its case beyond a
23 reasonable doubt. Further a criminal defendant in South
24 Carolina regardless of the seriousness of his charges is
25 always presumed to be innocent and has no duty to prove

RICK JAMES

1 himself or herself innocent. However, a criminal defendant
2 may present evidence and testimony in his or her own behalf
3 if he or she chooses to do so. So we will now turn our
4 attention to Mr. Dunn and ask, does the defendant intend to
5 present any evidence or testimony, Mr. Dunn?

6 MR. DUNN: He does, Your Honor.

7 THE COURT: All right. Will you call your first
8 witness, please?

9 MR. DUNN: Your Honor, we call Jarrett Lawson.

10 THE COURT: All right. Mr. Lawson, if you would come
11 around and be sworn.

12 The witness, JARRETT LAWSON, was first duly
13 sworn and testified as follows:

14 THE CLERK: State your name for the record.

15 THE WITNESS: Jarrett Lawson.

16 THE COURT: All right. Mr. Dunn?

17 MR. DUNN: Please the Court, Your Honor?

18 DIRECT EXAMINATION

19 BY MR. DUNN:

20 Q: Mr. Lawson, you are currently incarcerated in the South
21 Carolina Department of Corrections?

22 A: Yes.

23 Q: What are you in prison for?

24 A: For a probation violation.

25 Q: What is the underlying charge of the violation?

JARRETT LAWSON

1 A. It was kind of like in between, you know what I'm
2 saying? We don't follow them like that.

3 Q. I understand.

4 MR. DUNN: Thank you, Your Honor.

5 THE COURT: Any recross?

6 MR. MAXWELL: Nothing further, Your Honor.

7 THE COURT: Thank you, Mr. Lawson, you may step down.

8 All right. Do you have another witness for this afternoon?

9 MR. DUNN: No, sir.

10 THE COURT: All right. All right. Ladies and
11 gentlemen, I realize it has already been a long week for
12 you, I appreciate your patience and attention and the focus
13 you have given to all of the parties throughout this week
14 throughout the trial of this case. I think there are
15 approximately -- and I don't want to misstate it, my numbers
16 may be wrong, I think there are approximately three
17 witnesses left, is that right, Mr. Dunn, approximately
18 three?

19 MR. DUNN: I think so, Your Honor.

20 THE COURT: All right. And I'm not trying to pin
21 Mr. Dunn down, I'm just trying to give y'all --

22 MR. DUNN: And two of them are short, Your Honor.

23 THE COURT: I'm trying to give y'all a little timeline
24 of where I think we're at. When the defense rests and the
25 law in South Carolina is that State can offer evidence or

1 testimony in reply. Reply testimony is usually very brief
2 and very focused, just to any new matters that may have been
3 brought up during the defense's case, and then the law in
4 South Carolina is that the defendant could then offer sir
5 reply which is very direct and focused to any new matter,
6 which there should not be any new matter necessarily brought
7 up in reply. You know my ability to estimate time, but I do
8 feel like we would conclude the testimony by midday
9 tomorrow. Does anyone disagree with that?

10 MR. DUNN: I would hope so.

11 THE COURT: But I mean, I'm trying to anticipate where
12 I think we are at. I have talked with Madam Clerk to bring
13 lunch in tomorrow so that we could save some time there, and
14 you can take 30 minutes, up to an hour, in other words no
15 less than 30 minutes but up to an hour for lunch and just
16 all kind of eat in and get started back. Anybody have a
17 problem with starting at 8:30 in the morning? 8:30? Why
18 don't we do this then, take our evening recess, start back
19 at 8:30 in the morning. Do not discuss the case with
20 anyone, don't read, watch or listen to any TV or radio,
21 Internet. Don't do any independent research or any research
22 on the Internet and let's start back at 8:30 in the morning.
23 After all of the evidence and testimony we will be in a
24 position for the closing arguments by the attorneys and the
25 instructions on the law by the Court. Hopefully we can

1 accomplish that. Now, I'm not the type of Judge that -- I
2 don't rush the parties, it's an important case, y'all know
3 that, I don't have to tell you that. It's not an important
4 case, it's important to Mr. Johnson, it's important to the
5 State, important to the families and it's important to the
6 Court and to the criminal justice system, it's very
7 important so I don't rush people. If we don't get it
8 finished tomorrow we will talk later, we may come back
9 Monday because I realize what weekend this is and a lot of
10 y'all probably have family and friends. See y'all at 8:30
11 in the morning.

12 (The jury left the courtroom.)

13 THE COURT: Anything further from the State?

14 MR. MAXWELL: Nothing from the State, Your Honor.

15 THE COURT: Defense?

16 MR. DUNN: Your Honor, the only thing I would ask is
17 that -- I'm an eternal optimist, that we bring Mr. James
18 over tomorrow morning and maybe he remembers things, if not
19 I'll just cut him loose. I keep hoping, that's all I can do
20 sometimes is hope. I'm just telling the Court I don't know
21 if we can bring him over tomorrow morning and maybe he'll
22 have a change of heart and remember things.

23 THE COURT: If y'all would like you can bring him over
24 tomorrow morning, that's fine with me.

25 (Break in proceedings and colloquy with Rick

1 THE COURT: All right. Well, let me think about --
2 what are you asking me to do?

3 THE WITNESS: I don't know what I'm asking you to do,
4 I'm asking you to -- hoping to just understand where I'm
5 coming from.

6 THE COURT: Let me think about it.

7 THE WITNESS: Yes, sir.

8 THE COURT: Court will be in recess. Thank y'all for
9 staying.

10 (Court adjourned for the evening and resumed at
11 8:45 a.m. on April 18, 2014.)

12 THE COURT: All right. Anything from the State before
13 we bring in our jury, Solicitor?

14 MR. MAXWELL: Nothing from the State.

15 THE COURT: Anything from the defendant?

16 MR. DUNN: Your Honor, we have a few issues that we
17 need to address with the Court that have come up since -- as
18 a result of yesterday. The first is just again, as my
19 client was being brought up this morning his feet were
20 shackled, of course, and his arms were shackled, but he
21 ran -- they ran into a juror being brought up or I don't
22 think it was there at the same time, but a juror saw him
23 coming up the stairs in shackles. I'm not asking for a
24 curative instruction, I would prefer not to bring -- I would
25 prefer not to make the whole jury panel aware of it if it's

1 just one person. They've been told not to discuss the case,
2 I'm hoping they haven't discussed the case. The second
3 issue is my client is concerned, I did not overhear it but
4 he overheard yesterday, a couple of the ladies that were on
5 the victim's side of the courtroom after the court was in
6 recess and we were all going around and leaving, heard them
7 discussing one of the jurors. And apparently it sounds like
8 that juror knows the victim's sister, and if that's true
9 then that should have come up during voir dire when she
10 asked was she aware of the victim --

11 THE COURT: What is the sister that -- what is the
12 sister's name?

13 MR. DUNN: The last name is Pickney, Your Honor.

14 THE COURT: What is her first name?

15 MR. DUNN: I do not know, Your Honor.

16 THE COURT: Does Mr. Johnson know?

17 MR. DUNN: Possibly Sheretta Pickney?

18 THE COURT: Excuse me?

19 MR. DUNN: Sheretta Pickney. You're asking for the
20 sister's name, Your Honor, right?

21 THE COURT: Sheretta Pickney. Was she a witness?

22 MR. DUNN: No, sir. She was the victim's sister.

23 THE COURT: And she was not listed on the State's or
24 the defense witness list?

25 MR. DUNN: I don't believe she was, Your Honor.

1 THE COURT: All right..

2 MR. DUNN: But she was, I mean --

3 THE COURT: Sheretta Pickney.

4 MR. DUNN: Yes, sir. We believe that's whose she is.

5 THE COURT: All right. And next, Mr. Dunn?

6 MR. DUNN: Well, Your Honor, if that's the case with
7 that particular juror and she knows the family then I think
8 we have issues that she may need be questioned and removed
9 as a juror.

10 THE COURT: What's the next issue?

11 MR. DUNN: Then the laugh issue?

12 THE COURT: Yes, sir.

13 THE DEFENDANT: And last one has to do with whether or
14 not the prosecutor has engaged in misconduct since he has
15 told the Court that he was not present during the
16 questioning of Mr. Johnson. And it may very well -- it's
17 not an issue that I sought but he has brought to my
18 attention, he may need to address the Court on that, Your
19 Honor, not the prosecutor, but Mr. Johnson.

20 THE COURT: All right. So as far as number one, jurors
21 observing Mr. Johnson with leg shackles, is that correct?

22 MR. DUNN: Yes, sir..

23 THE COURT: There's nothing you want me to do about
24 that, correct?

25 MR. DUNN: There's nothing I want you to do about it,

1 Your Honor, my client is disagreeing with me.

2 THE COURT: What does he want me to do?

3 THE DEFENDANT: Your Honor, this issue is a very
4 important issue dealing with my right to a fair trial --

5 THE COURT: Tell me what you want me to do.

6 THE DEFENDANT: I'm asking for a mistrial, Your Honor.

7 THE COURT: Denied. I will give you any curative
8 instruction you want me to give the jury concerning you
9 being shackled; I am not going to grant a mistrial based on
10 the fact that a juror may or may not have seen you shackled.
11 Now, do you want me to tell the jury anything about you
12 being shackled?

13 THE DEFENDANT: I don't know what it is you can tell
14 them.

15 THE COURT: I asked you a question. Do you want me to
16 tell the jurors anything about you being shackled?

17 THE DEFENDANT: No, sir, Your Honor.

18 THE COURT: All right. The motion for a mistrial based
19 on being shackled is denied, and further there's no curative
20 instruction requested, there will be no curative instruction
21 given. All right. Now, overheard a couple of individuals
22 on the victim's side of the courtroom after Court discussing
23 one of the jurors that may know the victim's sister,
24 Sheretta Pickney. What juror is that, Mr. Dunn?

25 MR. DUNN: If you will bear with me one second, Your

1 Honor, I will --

2 THE DEFENDANT: Your Honor, while he looks for that,
3 may I continue that particular juror? It is something that
4 he had left out.

5 THE COURT: Yes, sir.

6 THE DEFENDANT: That particular juror is not only
7 friends with Ms. Pickney but also friends with the victim
8 himself and worked -- I don't know if she continues to work,
9 I believe that the place is closed down now, but it was a
10 fast food restaurant/club called J Stop and the victim was
11 there all of the time and they were also friends or
12 associates.

13 THE COURT: What is that juror's name or number?

14 MR. DUNN: Her number, Your Honor, is 142, her name is
15 Tiffany Robinson, at least I believe that's who it is based
16 on his description to me, Your Honor.

17 THE COURT: And then number three, the prosecutor has
18 engaged in misconduct by stating -- there has been no
19 testimony by the prosecutor because he is not a witness --
20 stating that he was not present during the questioning of
21 Mr. Johnson.

22 MR. DUNN: Yes, sir.

23 THE COURT: All right. What are you asking me to do
24 about that?

25 MR. DUNN: For a mistrial, Your Honor.

DEREKEE JOHNSON

1 A. I was a lot of things, I was scared, everything.

2 Q. Were you -- all right. So let's go back before the
3 shooting on May 18th of 2012. Did you have any occasion to
4 have a run-in or a problem with Carl McDaniel?

5 A. Yes. We had a run-in that Wednesday on the 16th, the
6 Wednesday night on the 16th.

7 Q. What was the run-in?

8 A. He had approached me when I was coming from the store
9 at the pantry in front of Davey Jones' shop at about --

10 Q. Is that here in Winnsboro?

11 A. Yes, the road I don't know.

12 Q. And just the bottom line, what happened during that
13 incident?

14 A. I heard someone call me, I went to go see who it was,
15 it was him. I knew that we don't associate.

16 Q. Why don't you associate?

17 A. Well, I don't associate with him because I knew he was
18 having a relationship with my baby mama so it wasn't for me
19 and him to talk about. Me and him --

20 Q. You didn't like him.

21 A. I didn't dislike him. I mean, it was just a point
22 that, you know, me and him didn't anything in common other
23 than we were actually having a relationship with the same
24 female.

25 Q. All right. What happened?

DEREKEE JOHNSON

1 A. I began to walk off, he followed me, he was like --

2 Q. Let's not say what he said. As a result of that
3 encounter what happened during that encounter?

4 A. Well, okay. We had got into a physical altercation, we
5 fought.

6 Q. Before y'all fought did y'all have words?

7 A. Yes.

8 Q. When I say did y'all have words what does that mean?
9 Were they happy words?

10 A. No. Well, I wouldn't say that they were happy words
11 with me.

12 Q. Well, I know, but you were angry with him. He was
13 jawing at you, right?

14 A. Yes.

15 Q. All right. And you got into a fight with him?

16 A. Yes.

17 Q. Who won the fight?

18 A. I would say I did.

19 Q. Why would you say that?

20 A. Because the results of him after the fight, his lip was
21 busted up, he was bleeding pretty bad from the mouth.

22 Q. And that was two days before the fight, right?

23 A. Yes.

24 Q. Was he a friend of Bobby McCloud's?

25 A. Yes, close friend.

DEREKEE JOHNSON

1 Q. So after the fight where did you go?

2 A. I went to my sister's house.

3 Q. After that night were you worried there would be any
4 kind of repercussions?

5 A. I knew there were going to be repercussions because of
6 him being a crip member or associated with the crips.

7 Q. Did you know of anybody in particular you were going to
8 have problems with or you just thought maybe you were going
9 to have problems with the crips in general?

10 A. The overall, the crips in general.

11 Q. All right. So on the -- the day of May 18th, did you
12 at some point come to Zion Hill?

13 A. Yes.

14 Q. When?

15 A. I first came to Zion Hill I would say maybe 12:30 or
16 1:00.

17 Q. Where did you go?

18 A. Rick James Studio.

19 Q. How did you get there?

20 A. I either caught a ride or walked.

21 Q. We've seen this picture all through the week, right?

22 A. Yes.

23 Q. This has been identified numerous times as Rick James'
24 studio?

25 A. Yes.

DEREKEE JOHNSON

1 Q. Is that Rick James' studio? So that's where you went?

2 A. Yes.

3 Q. What did y'all do?

4 A. We had took a ride to Blythewood and Ridgeway and ended
5 up back.

6 Q. What time did you come back?

7 A. We came back I would say about 5:30 or 6:00.

8 Q. When you got back, what did you do?

9 A. I went into Rick James' studio, I would say I stayed
10 about two minutes, and I left from Rick James' studio and
11 went down through Spring Street right there.

12 Q. All right. Hang on one second.

13 MR. DUNN: With permission to let the witness come to
14 the TV screen.

15 THE COURT: All right, yes, sir.

16 Q. I'm going to give you what's been referred to as the
17 official pointing stick. All right. So point out Rick
18 James' studio.

19 A. (Witness complies.)

20 Q. Where did you go?

21 A. I came down here. I came all of the way down -- no,
22 this right here would be -- that would be C.C. Bouknight's.

23 Q. How did you get to C.C. Bouknight's house?

24 A. Coming down through the cut right here.

25 Q. Did you take any other way to get there?

DEREKEE JOHNSON

1 A. No.

2 Q. There has been some testimony earlier that you had
3 either come up First Street or come up Gaither Street. Are
4 any one of those true?

5 THE COURT: No, sir, no, sir, that's an improper
6 question, you can't pit witnesses. You can rephrase your
7 question, please.

8 Q. Did you ever come up First Street?

9 A. No, sir. This right here is way short of where you
10 could get from here to here is to come straight down through
11 the cut.

12 Q. At any point did you come down through the path that
13 comes out around the basketball courts?

14 A. No, sir.

15 Q. So you came down to -- you went straight to C.C.'s
16 house from Rick James' house?

17 A. Yes.

18 Q. Or Rick James' studio?

19 A. Yes.

20 Q. You may be seated. When you got to C.C.'s house who
21 was there?

22 A. Bobby McCloud, Quinton Adams, C.C., Charles Bouknight,
23 Antonio Hollins is called Taz Bouknight, and Donnell Irby.

24 Q. Why did you go to C.C.'s house?

25 A. I just went to C.C.'s house -- me and C.C. we were real

DEREKEE JOHNSON

1 A. After I had sat down on the back step Clyde been like
2 "Derekee, man, my homeboy looking for you." And I knew
3 where he was leading to, and I be like, "Word." He be like,
4 "You had jumped on my homeboy about your stinky ass baby
5 mama."

6 Q. When he was talking and using those words, what was his
7 demeanor like? What he was he like?

8 A. He was -- I mean, you could hear it in his voice but
9 you couldn't see it in his body language. The only thing he
10 was doing, he was pacing back and forth with the look on his
11 face but he wasn't, you know, as in pointing or using body
12 language, he was just walking back and forth when he was
13 saying it. But he had a look on his face like you did this
14 and something about to happen.

15 Q. Then what happened?

16 A. After he had told me I had jumped on his homeboy about
17 my stinky ass baby mama, the word he used was -- he told me,
18 say, "I'm about to call him right now." He jumped on the
19 phone, he talked and then he told me, he said, "When my
20 homeboy get around here y'all are going to shoot the one."

21 Q. What does that mean?

22 A. That means me and him we were going to fight basically.

23 Q. What kind of fight?

24 A. We were going to fight.

25 Q. Well, I mean, fistfight, were you going to gunfight?

DEREKEE JOHNSON.

1. What kind of fight was it going to be?

2. A. Fistfight, I guess. So he told me, he say, "Y'all are
3. going to shot the one, win or lose I'm going to do you. The
4. only thing he got to do is tell me to do you, I'm going to
5. do you."

6. Q. And what did you take that to mean?

7. A. That the do me was to cease me from living, kill me.

8. Q. All right. Then what happened?

9. A. Charles Bouknight told him, he was like, "Man, leave
10. that man alone man, that man ain't bothering you." So Bobby
11. McCloud be like, "Man, that man jumped on my homeboy about
12. his stinky ass baby mama," well, the word he used was, "That
13. bitch fucking everybody, that bitch a whore man, that a
14. slut." I felt myself getting mad, I got up, C.C. Bouknight,
15. he told me, said, "Man, that's my homeboy."

16. Q. Meaning who?

17. A. Meaning Clyde -- I mean, meaning Carl McDaniel, "That's
18. my homeboy. You jumped on that man about your baby mama?"
19. I wanted to know this -- that is how C.C. do, C.C. just -- I
20. know he ain't mean no harm to me, he just was using it as
21. a -- basically a joke or just some brush off, but I had took
22. it and then I be like, "Man, that's your homeboy? I grew up
23. on the hill, I'm your homeboy." I'm like, "I had grew up on
24. the hill my whole life but he your homeboy?" I got up and I
25. walked over to --

DEREKEE JOHNSON.

1 Q. Why did you leave?

2 A. I mean, I was going to leave regardless right after

3 Bobby stated what he said.

4 Q. Why?

5 A. Because it was just getting too heated down there with

6 McCloud.

7 Q. So you left?

8 A. Yes, I left C.C.'s.

9 Q. Where did you go from C.C.'s?

10 A. From C.C.'s I went and started to go to -- I don't know

11 the address, I was going to tell you the address.

12 Q. Which way?

13 A. Right across the street and try to get a ride from Yodi

14 from the hill.

15 Q. All right. Where was Yodi at the time?

16 A. She was either on the porch or by her truck.

17 Q. So did you go --

18 A. No. I hadn't made it because she told me, said -- she

19 told me, say, "Derekee, don't come over here by my truck, I

20 don't want to get my truck shot up, I've got my son with

21 me."

22 Q. So where did you go?

23 A. I turned around and went back up through the path up

24 through the hill.

25 Q. The one we just looked at a second ago?

DEREKEE JOHNSON

- 1 A. Yes. And then I went to Rick James' studio.
- 2 Q. When you got to Rick James studio what did you do?
- 3 A. I told Rick James, I be like, "Man, this fool down here
- 4 talking about shooting me, man." And he be like, "Who?"
- 5 And I be like, "Clyde." So he be like, "Yeah?" And I would
- 6 be like, "Yeah." So I had come back out of the trailer, I
- 7 was going to tell -- I was going to try and talk with Clyde.
- 8 Q. How long were you in the trailer?
- 9 A. I would say I wasn't -- I wasn't in the trailer -- I
- 10 couldn't have been in the trailer over five minutes.
- 11 Q. Anybody else in the trailer?
- 12 A. I don't remember nobody but Rick James.
- 13 Q. What did you tell Rick James again?
- 14 A. I told Rick James that the fool was talking about
- 15 shooting me.
- 16 Q. By this fool who do you mean?
- 17 A. Bobby McCloud.
- 18 Q. So then what happened?
- 19 A. I had left out of the trailer, my intention was to go
- 20 down there and try to talk to Bobby McCloud.
- 21 Q. All right. By down there you mean back down the cut
- 22 toward the Gaither Street?
- 23 A. Yeah.
- 24 Q. But what happened?
- 25 A. When I came out of the trailer and I had ran into Taz

DEREKEE JOHNSON

1 Bouknight, Taz Bouknight was trying to tell me --

2 Q. Where was Taz Bouknight?

3 A. He was coming back, he was coming to Rick James'

4 studio.

5 Q. From where?

6 A. From C.C.'s.

7 Q. Well, where did you see him walking, or where did you

8 see him coming from? Did you see him come from anywhere or

9 was he outside already?

10 A. He was outside already but I had just left C.C.'s and

11 he was down there.

12 Q. Just a second, let me try to operate this computer.

13 That's a picture of Rick James' studio, correct?

14 A. Yeah.

15 Q. Where Taz Bouknight was -- is that also Antonio

16 Hollins?

17 A. Yes.

18 Q. Is where he was shown in this picture?

19 A. Yes.

20 MR. DUNN: With the Court's permission, of course, come

21 on down.

22 THE COURT: All right. You may step down.

23 Q. Just use this so we don't block views of anybody.

24 A. Taz Bouknight was here, I was coming from around here.

25 Q. The door to Rick James' studio, you can't see it on

DEREKEE JOHNSON

1 this picture but it's on the side of that trailer?

2 A: Yes.

3 Q: All right.

4 A: I was coming from inside Rick James' house here, me and
5 Taz, we ran into one another here, up in this area here:

6 Q: And what happened?

7 A: He was telling me like, "Man, let them cribs come
8 around here, we ain't going to let them blitz you, we ain't
9 going to let them blitz you." At that time I had looked and
10 I seen Bobby McCloud around the abandoned house.

11 Q: When you say behind, was he all of the way in the back
12 or -- before I moved it.

13 A: Yeah. If you continue to bring the view around.

14 Q: We'll do it like this. I'm showing you what's marked
15 as State's Exhibit 2, which is -- where was he?

16 A: If this here the fence he was in this area here when I
17 seen him. I'm over here in this area, me and Taz Bouknight
18 and he was in this area right here.

19 Q: All right. Then what happened?

20 A: I had told him, I'm like, "Man, be quiet, man, the man
21 right there behind the house with a gun." I had turned
22 around and came back into Rick James' trailer and told Rick
23 James. I'm like, "Man, the man behind Tony James' house,"
24 which is this house, Tony James is Rick James' brother. He
25 be like, "What?" I be like, "Man, the man behind Tony

DEREKEE JOHNSON

1 James' house with a gun, man."

2 Q. All right. What happened?

3 A. I asked Rick James to give me a ride off Zion Hill, and
4 he had grabbed his keys, I'm thinking he was going to give
5 me a ride off of Zion Hill. He had his car parked in this
6 area right here.

7 Q. On the same side of the road as the abandoned house?

8 A. Yes.

9 Q. Which way was the car pointed?

10 A. The hood of the car was pointed going down into Spring
11 Street.

12 Q. So the car was pointed down towards the path.

13 A. Yes. Me -- I'm first, I'm leading. Me and Rick James,
14 we come out the trailer and head to the car, I head to the
15 passenger's side. I tried the door, the door locked. Rick
16 James came to the driver's side. And at this time Bobby
17 McCloud coming from behind the trailer -- I mean, excuse me,
18 from behind the house, he's walking up here. Rick James,
19 been like, "Man, what's going on, man? How come you out
20 here with that crazy shit, man?" Bobby stated, he said, "My
21 bad. I know what y'all boys do around here but I'm about to
22 show this nigger here some gangsta shit." At that time --

23 Q. When he said that where was he?

24 A. He had to be up in this area here.

25 Q. You're pointing to the area where the two windows are

DEREKEE JOHNSON.

1 close side by side and there's some bushes?

2 A. Yes.

3 Q. How far away from the house was he?

4 A. I would say -- just to give a marker, I'm not going
5 to -- I can't really say exactly where he was, but to give a
6 marker you can see I would say some trash or something, like
7 a little white -- what's got here about right there.

8 Q. Is it fair to say he was closer to the house than he
9 was to the other side of the --

10 A. Yes.

11 Q. Where were you?

12 A. Like I say, I was on the passenger side of the car and
13 the car is pointed right here, so I'm up in this area right
14 here.

15 Q. So you're -- were you off the road?

16 A. Yes, I was in the dirt.

17 Q. You were in the dirt.

18 A. Yes.

19 Q. How far away from Bobby would you say you were?

20 A. I don't know exactly the feet. But you can measure
21 from here to there, that's our original distance.

22 Q. So he said what he said, then what happened?

23 A. At that time Rick James was coming around talking to
24 him. When he said that he was about to show some gangsta
25 shit I had stated, I said, "Man " -- I had took about two

DEREKEE JOHNSON.

1 steps, and I be like, "Man, where is me and your beef?"

2 When I did that he went to go pull up his pants and he

3 dropped his --

4 Q. With which hand?

5 A. His left. He went to go pull up his pants and dropped

6 his hand in his back pocket and pulled out a gun, he cocked

7 it and I pulled out my gun.

8 Q. Did you see what kind of gun it was?

9 A. It was black, a small gun --

10 Q. A small gun?

11 A. -- that they showed yesterday.

12 Q. Is it possible that he put his hand in his front

13 pocket?

14 A. I mean, his pants was basically halfway down to his

15 knees, when he pulled his pants up I'm sure he went into his

16 back pocket.

17 Q. All right. You said he pulled out his gun?

18 A. Yes, sir.

19 Q. Then what happened?

20 A. He cocked it.

21 Q. And then what happened?

22 A. And pointed it at me. I had pulled my gun, cocked it,

23 I stepped around the car, I began to open up shots and

24 shooting.

25 Q. What happened? When you started shooting, what did you

DEREKEE JOHNSON.

1 do?

2 A. When I stepped back from around the car shooting I got
3 up I would say around up in this area here, I heard --.

4 Q. When you say you got back up around the car, is that as
5 you were going towards Bobby or going away from Bobby?

6 A. I'm going away. When I was shooting?

7 Q. Yes.

8 A. I'm going away.

9 Q. All right.

10 A. I had come around the car. Once I got in this area
11 here I heard shots along with my shots. I continued to
12 fire --

13 Q. How many times did you shoot?

14 A. Well, it was everything I had in my clip.

15 Q. And how much -- tell us about -- what kind of gun was
16 it?

17 A. A .40 caliber.

18 Q. Revolver, semiautomatic or automatic or what was it?

19 A. I don't know the difference between semiautomatic or
20 automatic.

21 Q. Did your gun carry a magazine?

22 A. Yes.

23 Q. And how many bullets did the magazine carry?

24 A. Ten.

25 Q. How many bullets were in your gun?

DEREKEE JOHNSON

- 1 A. Actually I don't know, but I know my clip --- well
2 excuse me, you had asked me how many --
3 Q. How many bullets were in the gun? Go ahead.
4 A. My clip carries ten but my clip, the frame was broke
5 and you could only fit nine in it. I don't know if I had
6 nine or what, or seven or what, but whatever I had in the
7 clip I didn't have no more after I had stopped shooting.
8 Q. As you were shooting what was Bobby doing?
9 A. Well, I only basically saw two shots where it hit him
10 twice.
11 Q. And where was he hit that you saw?
12 A. In his arm and in his leg.
13 Q. As you were shooting at him what was he doing?
14 A. Trying to fire his gun.
15 Q. You said that you went around the car. Were you
16 walking -- did you turn around and walk straight or did you
17 walk backwards or did you walk sideways?
18 A. Backwards. I wouldn't say walking but I was in a
19 backward motion.
20 Q. Once you shot your gun what do you do?
21 A. I started to shoot. Like I said, I heard shots along
22 with my shot.
23 Q. All right. Where were they coming from?
24 A. Behind this house right here, like behind this truck.
25 Q. Like down along the side of Ms. James' house, or around

DEREKEE JOHNSON:

1 the back of her house?

2 A. Yes, Jesse James.

3 Q. You said the back of her house?

4 A. Yes.

5 Q. Did you see who it was?

6 A. Yes.

7 Q. Who was it?

8 A. Quinton Adams.

9 Q. What direction was he shooting?

10 A. He was shooting in this direction, he was shooting at
11 me.

12 Q. All right. So your gun, it gets emptied. How long did
13 it take you to fire your bullets?

14 A. Couldn't have been seconds.

15 Q. You were just pulling it until it was empty?

16 A. I mean, like I had stated then before, I remember
17 pulling the trigger at least maybe two or three times, and
18 then after that it seemed like the gun began to fire on its
19 own.

20 Q. Then what do you do?

21 A. My gun had -- well, the top of it, I don't know what
22 it's called, the part that you cock back.

23 Q. Kind of the slide of the gun.

24 A. Yeah. The slide of the gun had eject back. At that
25 time I had took off running straight down --

1 occupation is?

2 A. I'm an attorney.

3 Q. And how long have you been an attorney?

4 A. About 13 years.

5 Q. Back in May of 2012 where were you employed?

6 A. Sixth Circuit Public Defender's Office.

7 Q. How many years over the course of your career have you
8 been a public defender?

9 A. Seven or eight.

10 Q. And in other years have you had the opportunity to
11 defend clients as a private attorney?

12 A. Yes.

13 Q. And I say defend clients, meaning defending them in
14 criminal court?

15 A. Yes.

16 Q. Do you know Derekee Johnson?

17 A. I do.

18 Q. And back in May of 2012, did you come into being his
19 attorney for some period of time?

20 A. Yes.

21 Q. Are you aware that self-defense is a law -- is a law of
22 South Carolina?

23 A. Yes, it is.

24 Q. Has self-defense existed as a law in South Carolina the
25 entirety of your career as best as you can recall?

WILLIAM FRICK

1 A. Yes, as an absolute defense in any case. And then I
2 think they changed it a little bit and codified it into the
3 stand your ground law. So yes, it has been around for
4 awhile.

5 Q. And have you ever asserted self-defense in any cases in
6 which you have represented someone claiming self-defense?

7 A. Yes.

8 Q. Any rough estimate of how many times you have done
9 that?

10 A. I couldn't even estimate how many trials that I have
11 had, but at least a half dozen times that I can recall in
12 the last seven years.

13 Q. And when you say half dozen are you referring solely to
14 trials?

15 A. Yes, solely jury trials. I'm not talking about
16 negotiating cases.

17 Q. But you are aware back in May of 2012 that self-defense
18 did exist as a law in South Carolina.

19 A. Yes, it did.

20 Q. And on May 24th of 2012, did you meet with Derekee
21 Johnson?

22 A. Yes, I did.

23 Q. Do you recall if you told him that self-defense is not
24 a law in South Carolina, does not exist in South Carolina?

25 A. I would not have told him that.

WILLIAM FRICK

1 Q. When you met with Derekee Johnson in May of 2012, where
2 did y'all meet at?

3 A. I believe that was over at public safety, it was
4 upstairs in where the investigator's offices are.

5 Q. Do you recall who you and he met with?

6 A. Yes.

7 Q. Who is that?

8 A. Major Seibles and -- Was it captain at the time?
9 Captain Watkins.

10 Q. Do you recall if I was there at any point in time?

11 A. You were not there throughout the interview. There was
12 one point where I think I asked you about something, and I
13 do not recall whether you physically came over or not. But
14 as far as being present throughout the interview, no, you
15 were not.

16 Q. And do you recall if Mr. Johnson had hesitations about
17 anything before talking about the May 18th shooting
18 incident?

19 A. Yes, he did.

20 Q. And do you recall what his concern was?

21 A. I don't know specifically. I know as we started
22 talking about -- or as we began on the interview when you go
23 over the rights so to speak, the Miranda warnings, he had
24 something that was causing him some issue, I didn't know
25 specifically what it was. I honestly cannot recall whether

WILLIAM FRICK

1 I had met with him prior to that day, I would think that I
2 did but I may not have, that might have been our first
3 meeting. He had some kind of hesitation, I asked the
4 officers if they could step out so Mr. Johnson and I could
5 speak and they did and we did.

6 Q. Do you remember the name Carl McDaniel coming up as
7 part of Mr. Johnson's hesitation?

8 A. Yes. I believe that was what the hesitation was.

9 Q. And do you know if that was in regard to some fight the
10 two of them had?

11 A. I came to understand that those two had had a prior
12 incident prior to this case, a couple of days before or
13 whatever, the time was before. And it appeared to me that
14 Mr. Johnson was worried about some legal liability on that
15 issue.

16 Q. On the assault that was your understanding?

17 A. Yes.

18 Q. Now, Mr. Johnson is charged with three counts -- three
19 charges in this case, you're aware of what those charges
20 are.

21 A. I know he got charged with murder, I think it was
22 possession of a weapon during a crime of violence, I do not
23 recall what the third one is.

24 Q. But he was charged with the gun charge and -- you were
25 aware that he was charged with a gun related charge back in

WILLIAM FRICK

1 May of 2012 --

2 A. Yes.

3 Q. -- when y'all met?

4 A. Yes. I knew what the charges were at the time we were
5 having that statement.

6 Q. Do you remember if Mr. Johnson had any hesitation about
7 talking about the gun -- him having the gun?

8 A. No. In our conversations the hesitation seemed to be
9 about the situation with Carl McDaniel.

10 Q. Did you ever tell Derekee Johnson that when he was
11 going to tell his story not to put a gun in his hand?

12 A. No.

13 MR. MAXWELL: No further questions, Your Honor.

14 THE COURT: Mr. Dunn?

15 CROSS EXAMINATION

16 BY MR. DUNN:

17 Q. Typically when somebody gets into a fight somebody is
18 facing 30 days in jail; is that correct?

19 A. Depends on how bad the fight, but yeah, it can be.

20 Q. Didn't you tell Derekee that the statement wouldn't
21 hurt him, or didn't hurt him?

22 A. I don't know if I specifically said that, I don't know
23 in what context you mean. Anytime you sit down and you
24 waive your rights and talk to law enforcement it's clear in
25 the rights that the statement can be used against you.

1 We will take either no less than a 30 minute but up to a one
2 hour break. In other words if y'all are ready to come back
3 early just let me know, if you want to take the whole hour
4 that's fine too, thirty minutes to one hour. Do not discuss
5 the case, remember to keep an open mind. Do not begin your
6 deliberations until you've heard the closing arguments,
7 instructions on the law by the Court and directed by the
8 Court.

9 (The jury left the courtroom.)

10 THE COURT: Any motions, Mr. Dunn?

11 MR. DUNN: Your Honor, I would just renew all previous
12 motions that I had made, but as far as any other motions --
13 at the appropriate time I would like to discuss jury
14 charges.

15 THE COURT: Yes, sir. I'm headed in that direction
16 right now. Well, as far as previous motions and motions for
17 a directed verdict, I would respectfully deny motions for a
18 directed verdict based on the standard of direct and
19 sufficient circumstantial evidence in this matter, and it's
20 clearly a question for the jury's credibility. Requested
21 charges?

22 MR. DUNN: I didn't make a copy of them so I'm letting
23 the Solicitor look at them real quick before I hand them up,
24 Your Honor.

25 MR. MAXWELL: Mr. Dunn is handing up some charges, I

JURY CHARGE

1 testimony. You are to consider only the testimony which had
2 been presented to you from the witness stand and any
3 exhibits which have been made part of the record and any
4 inferences that you think may properly be drawn from the
5 evidence. I have the additional duty to charge you the law
6 applicable to this case. As the presiding judge I am the
7 sole judge of the law of this case and it is your duty as
8 jurors to accept and to apply the law as I now state it to
9 you. If you already have any idea as to what the law is or
10 what the law ought to be and it does not agree with what I
11 now tell you the law is, you must abandon, you must set
12 aside your idea because you are sworn to accept the law and
13 apply the law exactly as I state it to you. In every case
14 tried in this court before a trial jury the jury becomes the
15 sole and exclusive judges of the facts in a case. A trial
16 judge cannot intimate, state, comment on or make any
17 statement to a trial jury about the facts in the case.
18 Since you, the jury, are the sole judges of the facts in
19 this case you are not to infer from what I have said during
20 the progress of this trial in ruling upon the admissibility
21 of evidence or otherwise, or anything that I now say during
22 the course of my instructions to you, that I have any
23 opinion about the facts in this case. The law does not
24 allow me to have an opinion about the facts in the case.
25 You are the fact finders, that is a matter solely for you

JURY VERDICT

1 in the courtroom that are observing, that the rendering of a
2 verdict can be a very emotional time particularly in a case
3 such as this for one side or the other, or both sides quite
4 frankly. I do not allow any display of emotions. The jury
5 had a hard enough job to do and I feel like that's
6 disrespectful to the jury, disrespectful to the decorum of
7 the Court. So if you do not feel you can hold your emotions
8 I would ask you to please leave at this time. All right.
9 Seeing that no one leaves that indicates to me that you can
10 control your emotions and please keep that in mind. Mr.
11 Bailiff, if you would please bring us our jury please.

12 (The jury returned to the courtroom.)

13 THE COURT: All right, Madam Clerk.

14 THE CLERK: Ladies and gentlemen, have you reached a
15 verdict?

16 FOREMAN: Yes, ma'am, we have.

17 THE COURT: All right. The verdict appears to be in
18 the proper form. Madam Clerk, if you would publish the
19 verdicts of the jury, please.

20 THE CLERK: State of South Carolina versus Derekee
21 Johnson, 2012-GS-20-214, 215 and 216. The indictment for
22 number 2012-GS-20-214 as to murder; we, the jury, find the
23 defendant guilty. Indictment number 2012-GS-20-215,
24 possession of a firearm during the commission of a violent
25 crime, we find the jury (sic) guilty. Indictment

JURY VERDICT

1 2012-GS-20-216 as to possession of a firearm by a person
2 convicted of a violent crime, we find the jury (sic) guilty.

3 THE COURT: Jury guilty of the defendant?

4 THE CLERK: I'm sorry. We find the defendant guilty.
5 Ladies and gentlemen of the jury, if this was your verdict
6 and still now your verdict please signify by raising your
7 right hand. Let the record reflect that all jurors raised
8 their right hand, the verdict stands as read.

9 THE COURT: Thank you very much, Madam Clerk. Anything
10 additional of the jury from the State?

11 MR. MAXWELL: None from the State, Your Honor.

12 THE COURT: From the defense?

13 MR. DUNN: Your Honor, we would just ask that the jury
14 be polled.

15 THE COURT: All right. Madam Clerk, would you explain
16 that procedure to the jury, please, and then poll the jury?

17 THE CLERK: As I call your name you need to let me know
18 if this was your verdict and still now your verdict.
19 Jeffrey Bell, was this your verdict and still now your
20 verdict?

21 THE JUROR: Yes.

22 THE COURT: And would you mind raising your hand?
23 Thank you so much.

24 THE CLERK: Do you want them to speak and let me know?

25 THE COURT: Just speak and let the Clerk know were

JURY VERDICT

1 these your verdicts and are they still your verdict.

2 THE CLERK: Just say yes if it was and no if it wasn't.

3 THE JUROR: Yes, it was my verdict.

4 THE CLERK: Carolyn Boyd, if this was your verdict and
5 still now your verdict.

6 THE JUROR: Yes.

7 THE CLERK: Thank you. Donna Brown, if this was your
8 verdict and still your verdict please respond.

9 THE JUROR: Yes.

10 THE CLERK: Thank you. Kenneth Collins, if this was
11 your verdict and still now your verdict.

12 THE JUROR: Yes.

13 THE CLERK: Thank you. Patricia Cronin, was this your
14 verdict and still now your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Gregory Gaddy, if this was your verdict and
17 still now your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Thomas Gardner, is this your verdict and
20 still now your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Shalonda Goins, is this your verdict and
23 still now your verdict?

24 THE JUROR: Yes.

25 THE CLERK: Joey Locklear, is this your verdict and

JURY VERDICT

1 still now your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Linda Reed, is this your verdict and still
4 now your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Tiffany Robinson, was this your verdict and
7 still now your verdict?

8 THE JUROR: Yes.

9 THE CLERK: Donna Shealy, was this your verdict and
10 still now your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Thank you. Let the record reflect all
13 jurors responded it was their verdict.

14 THE COURT: All right. Thank you. Anything further
15 from the defense?

16 MR. DUNN: No, sir.

17 (The jury was released.)

18 THE COURT: Any motions from the defense, Mr. Dunn?

19 MR. DUNN: No, sir, I don't think so. I guess just for
20 the record I would ask that you set aside the verdict, that
21 there wasn't enough evidence there to find him guilty.

22 THE COURT: All right. Thank you very much, Mr. Dunn.
23 In reviewing the testimony of the witnesses, 22 witnesses on
24 behalf of the State and I believe four on behalf of the
25 defense, I think there was more than sufficient evidence for

SENTENCING HEARING

1 danger, I had to do what I had to do and I guess I'll have
2 to fight it on appeal. But also I just hope that they find
3 in their heart to forgive me for doing what I had to do, and
4 that one day that they will know that I was just placed in a
5 predicament that that was the only way for me to be out.
6 And I hope that his daughter do in some kind of way in some
7 type of way have some type of way in dealing with her
8 father.

9 THE COURT: Thank you, thank you very much, Mr.
10 Johnson. 2012-GS-20-214, the State versus Derekee Johnson
11 for the offense of murder, the jury having returned a
12 verdict of guilty, he having been properly noticed under
13 17-25-540, he has a prior most serious offense under that
14 statute, this being a most serious offense, the defendant is
15 committed to the state department of corrections for a term
16 of life without the possibility of parole, to be transported
17 to the South Carolina department of corrections.
18 12-GS-20-215, possession of a weapon during the commission
19 of a violent crime, no sentence is imposed as the defendant
20 has been sentenced to life without parole. 2012-GS-20-216,
21 possession of a weapon by a person convicted of a violent
22 felony, that being a previous armed robbery which is a most
23 serious violent felony, the defendant is committed to the
24 state department of corrections for a determinate term of
25 five years, that is concurrent. Good luck to you, Mr.

SENTENCING HEARING

1 Johnson.

2 (End of trial proceedings.)

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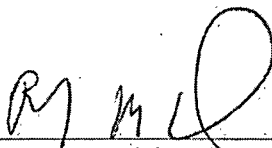
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CERTIFICATE OF COUNSEL FOR APPELLANT

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 11, 2015



Robert M. Dudek
Chief Appellate Defender

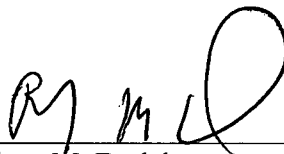
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