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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Steven H. John, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

THOMAS JAMES,

APPELLANT

APPELLATE CASE NO. 2014-002326

RECORD ON APPEAL

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9 vs.) 2012-GS-26-3077
10 Carnail Marchindla Graham)

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12

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October 14, 2014
Conway, South Carolina

14

15 BEFORE:

16 Honorable Steven H. John, Judge.

17

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Official Court Reporter

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1 Regarding the opening statements and the closing
2 arguments, they are important. The opening statements,
3 they are the attorneys' introduction to you of what
4 they believe will happen during the course of the
5 trial. The closing, their comments on what has already
6 happened during the course of the trial.

7 The opening statements, closing arguments, that's
8 not evidence, can't be considered by you in any way as
9 evidence in this case. Pay attention, but it's not
10 evidence. It's their suggestions, it's their comments,
11 that's all it is. All right.

12 So with that, I'll turn it over to the lawyers for
13 their opening statement. Solicitor?

14 MS. LIVESAY: Thank you, Your Honor.

15 Ladies and gentlemen of the jury, I am Nancy
16 Livesay, I am a prosecutor in this case. And I am a
17 prosecutor for here in Horry and Georgetown County.
18 Now, the judge has already told you, you are here for a
19 murder case. Right away, there is no doubt this is a
20 murder case. I'm going to give you very quickly what
21 you're going to see.

22 But first of all, I'm going to tell you, it's a
23 murder because a 19-year-old unarmed young woman was
24 shot in the chest. That is a murder, make no mistake
25 about it. When she was shot, that was a murder. She

1 was 19 years old.

2 Now, the question is what happened? Not only what
3 happened but who did it? The first witnesses I call to
4 the stand are going to tell you what happened. What
5 unfolded, was she just shot, what were the
6 circumstances around it.

7 First of all, I'm going to tell you she was shot
8 around 3 o'clock in the morning, 3 a.m., on a Tuesday
9 night. So that's where we start, in her own home.
10 Then I'm going to tell you at 3 o'clock while she's in
11 there watching TV, laying on the couch, boyfriend lived
12 in the house, cousin lived in the house, they were in
13 their rooms, boyfriend was in his bed, the cousin was
14 in his bed, and the victim is laying down watching TV;
15 while she's in there watching TV laying on the couch
16 Tuesday night, you're going to hear a brown van starts
17 circling that neighborhood.

18 She lives in a little neighborhood dead end, 10,
19 15 mobile homes in there. Dead-end road, the street is
20 a dirt path, that's her neighborhood. So while she's
21 in there sleeping, watching TV, hanging out, laying on
22 the couch, you're going to hear a brown van starts
23 circling that neighborhood looking around.

24 Then you're going to hear that brown van dropped
25 off two men. Then that brown van goes to the end of

1 that dirt road and sits there and waits, parks.

2 Driver's side out, ready to go.

3 Then you're going to hear the next thing people
4 hear once he drops off those two men and he's waiting
5 at the end of the road. You're going to hear the
6 neighbors -- some of the neighbors heard, pow, pow,
7 pow, gunshots coming from inside the house. You're
8 also going to hear from one of the men that lived in
9 the house at the time what he heard, pow, pow, pow.

10 But before he hears that, he's going to tell you
11 he hears a boom. That boom is when they break the
12 front door in. This isn't a case where somebody
13 knocked at the door, this is a case where they are
14 circling that neighborhood. While she's asleep on that
15 couch, they break the door in immediately in a mobile
16 home, small house. Immediately they're on top of her
17 with two handguns. That's what you're going to hear
18 right off the bat, the door is broken in, pow, pow,
19 pow.

20 Then you're going to hear somebody from inside
21 that house tell you the last thing they hear is her
22 hollering for her boyfriend. They are breaking in,
23 they are breaking in, pow, pow, pow. And then you're
24 going to hear him say what was going on in that house.
25 He's going to tell you that, I'm not going to tell you.

1 I wasn't there, he was. He's going to tell you what he
2 saw and heard.

3 But that's a glimpse of he's going to tell you he
4 heard that door broken in. He hears her call out. And
5 then as soon as she calls out, bang, the gunshots.

6 Now, then, what we hear or what goes on after
7 those gunshots, pow. You're going to hear that then
8 that van cranks up and starts down that road, and two
9 men come running out of that mobile home. They get in
10 that van and take off.

11 Now, that's what happened, planned, organized,
12 driver, two guns men. They break the door in, they
13 shoot her, kill her, then take off. That is what
14 happened in this case. That's what the evidence is
15 going to show.

16 Now, I'm going to show you pictures of the house,
17 you're going to see that. You're going to hear from
18 the boy that was in the house. You're also going to
19 hear from Dr. Proctor. He's going to tell you the
20 cause of death and how she was shot. She was shot in
21 the left front chest area. He's also going to tell you
22 that he removed the bullet that was lodged in her back.
23 Now, that's what happened, this young woman was killed,
24 she was murdered.

25 So the question is, who did it? There's no doubt

1 she was murdered. Who did it? There's no doubt it was
2 planned out. 3 o'clock in the morning they come
3 busting in with loaded handguns with a driver. The
4 driver cranks up, picks them up, heads off. So there's
5 no doubt we have a planned and a premeditated murder.
6 Now, the question is, who did it?

7 Who is driving that van, who is in that van, what
8 happened in that small room of that mobile home when
9 she was shot? Because the only people that were in
10 that room when she was shot was her and the two men
11 that shot her. So these are the holes that we're now
12 trying to fill. What happened, who did it, who was in
13 that room, who was driving that van?

14 But what you're going to hear is after they did it
15 they went and ditched the van. Because obviously now
16 they've been involved in a burglary and a murder. They
17 broke in, they killed a young girl. So the first thing
18 is ditch that vehicle. That's when it starts unfolding
19 who did it, who was in that van.

20 You're going to hear shortly after that van was
21 ditched what brought it to the police's attention, it
22 was reported stolen. Because people were seen in that
23 van before this murder, so nobody wanted to put
24 themselves in that van. Then it was stolen. I didn't
25 have the van, it was stolen. That's when we start

1 unfolding who did it, who had something to do with it.

2 You're going to find out that a man named Keir
3 Johnson was the driver of that van. That's what you're
4 going to find out. And the way you're going to find
5 that out is Keir Johnson is going to tell you he was
6 driving that van. That's what he's going to tell you.

7 See, three people were involved in this murder
8 because it took three to execute it, a driver and two
9 guns men. Three people are charged with murder,
10 including Keir Johnson. He was the driver and he's
11 also charged with murder. He's going to tell you, I
12 was driving that van.

13 But you don't have to take his word for it because
14 we're going to have another witness that's going to
15 tell you, yeah, a little earlier that night I saw him
16 driving that van. So you're going to have a guy that
17 tells you, yeah, before all this unfolded I saw him
18 driving that van.

19 And who was in that van? That guy is also going
20 to tell you earlier right before this shooting I saw
21 him pick up Thomas Booker James. That's the defendant
22 right there, white shirt shaking his head, that's
23 Thomas Booker James. He's going to tell you I saw him
24 get picked up. And Keir Johnson's going to tell you
25 that's who I picked up.

1 The witness is also going to tell you there was a
2 third person in the van, but I couldn't see who it was.
3 Who better to tell us who was in that van other than
4 the driver. And he's going to tell you, I picked up
5 these two men right here. That's what he's going to
6 tell you.

7 Now, we already knew from the witnesses that a
8 brown van came up. There was a driver, two men went in
9 the house, all this unfolded. And Keir is going to
10 come in and tell you, I know who had the van, it was
11 me. I know who I picked up and I know who I dropped
12 off at that mobile home. And he's going to tell you
13 when they came out in that van, they threw those guns
14 out the window. And then we ditched the van and ran.
15 He's going to tell you all of that.

16 Now, but what happened in that room, what happened
17 in that small room in that mobile home. Keir Johnson
18 can't tell us that because he wasn't in the house. He
19 cannot tell us that. The only people that could tell
20 us that information and fill that loophole would be one
21 of the men that were in that house. That's no good, so
22 it would be one of those two defendants sitting at this
23 table.

24 And you're going to hear from a witness that tells
25 you, I heard, I heard Carnail Graham talking about what

1 happened in that house that night. I heard him talking
2 about it. That's the last loophole, what happened when
3 that door was busted in. Because it was only the three
4 of them in that room. And the victim is not here to
5 tell us, she's not here to tell us.

6 But you're going to hear from a witness who was
7 able to collect that information, who overheard a
8 conversation from the defendant Carnail Graham that
9 fills that last hole. And what you'll find out is when
10 they busted that door open and they were armed with
11 weapons, she jumped up off that couch and he
12 immediately shot her in the chest.

13 You need to know, this victim knew these guys.
14 All these people live right here in this area of
15 Conway, Horry County. Make no mistake about it. She
16 knew both of these guys, and they knew her. You're
17 going to hear that. They knew her. Carnail Graham's
18 girlfriend was close friends with the victim. They
19 knew where she lived.

20 And when you see the pictures of that mobile home,
21 you're going to see two cars, a black Tahoe; hers, and
22 a white Lexus, the boyfriend's. And Keir is going to
23 tell you, we saw those two cars there that night when
24 they busted in that home. They knew that girl was in
25 that house. They knew she was in that house, and they

1 went in there anyway with two loaded weapons.

2 She was laying there sleeping. You're going to
3 see the blanket and the pillow and her pocketbook.
4 When they busted open that door, she immediately jumped
5 up. And when she jumped up, she saw these two boys.
6 As soon as she saw them and could identify them, she
7 was shot immediately in the chest.

8 That's how we know what happened that night.
9 That's how we know she was asleep or watching TV trying
10 to go to sleep. And while she's laying there unarmed
11 in her own home, this bunch over here is circling that
12 neighborhood. That's what they are doing. And you're
13 going to hear they busted open that front door. She
14 jumped up, and immediately as soon as she jumped up she
15 was shot in the chest, immediately. And they took off
16 and ran.

17 Now, I want -- this is only a preview of the case,
18 so you'll know what to expect. It's like a preview of
19 a movie, so you'll know beforehand what to expect. And
20 the first set of witnesses we put up are going to be
21 the ones to tell you what happened, what happened that
22 night. And then the second set of witnesses are going
23 to tell you who did it. And that's how we are going to
24 present this case.

25 And I ask you, please, to listen to every witness.

1 This will be multiple witnesses. And I know sometimes
2 days get long, and I ask you, please, try to pay
3 attention to every witness. Everybody has something
4 important to say. Everybody that we put up is going to
5 add facts and evidence that are important to this case
6 and important to all of you as the fact finders.

7 Now, this is a very important case, not only for
8 the State but also the defense. This morning when I
9 was driving to work, I saw -- I almost -- I never
10 hardly ever introduce anybody from the victim's family.
11 But this morning I was driving to work and I saw a man
12 with his dog standing at the bus stop with the
13 umbrella. It wasn't raining yet, but he was out there
14 with his daughter with that umbrella just in case.

15 This is an important day for Ronnie Pertelle, that
16 is the victim's father, right there on the end with
17 that collared shirt. This is an important day for him.
18 This little girl was killed unarmed and innocent in her
19 own home. Please pay attention to all the evidence
20 presented. And at the end, I'm going to come back and
21 ask you to find those two defendants guilty. Thank you
22 for your time.

23 THE COURT: All right. Mr. Frederick.

24 MR. CANTY: Your Honor, he's actually deferred to
25 me to go ahead.

1 THE COURT: I'm sorry. Mr. Frederick, you're not
2 going to make an opening statement?

3 MR. FREDERICK: Judge, can we approach?

4 THE COURT: Yes.

5 (WHEREUPON, a bench conference was held off the
6 record in the presence of the jury but out of the
7 hearing of the jury.)

8 MR. FREDERICK: It's my turn. First, I got to
9 tell you that standing here in front of y'all, I'm
10 terrified, I am scared. I'm terrified for Thomas. For
11 about going on three years now I've been entrusted with
12 Thomas' case and Thomas' life.

13 On the night that this happened -- let me begin by
14 saying Thomas is no angel. From what I understand,
15 Carnail is no angel, they know that. On the night that
16 this happened, Thomas, not Carnail, my client, Thomas,
17 was at Billy Freshley's house. You're going to hear a
18 lot of names during this trial. And I apologize for
19 that, but it is what it is. We have to try to keep
20 them straight, Billy Freshley's house.

21 There were a lot of people at Billy Freshley's
22 house. And people hang out at Billy Freshley's house.
23 They call it the studio. They hang out there, they
24 deal drugs from there. They record music. There were
25 many people at Billy Freshley's house like there

1 usually are.

2 Keir Johnson, Bootsie he goes by, came to Billy
3 Freshley's house in this van, the same van that you
4 heard the prosecutor describing that was driven to the
5 robbery where Keia was killed. He came to this house
6 in a van, we don't know the exact time, around one or
7 2 o'clock. And into that van piled a bunch of people,
8 including Thomas, people who are not on trial, some of
9 them who did not go on this robbery. And you should
10 hear that through the State's witnesses.

11 They left Billy Freshley's house, they went to
12 McDonald's, they left McDonald's, they went to Kel's
13 house, K-E-L, Kel, that's Markel Rush. At Markel
14 Rush's house is Markel and his brother Cordel Rush,
15 Markel's ex-girlfriend, his girlfriend at the time, her
16 name is Kirstan West. They're all hanging out at Kel's
17 house, they're partying, they are doing what they do.

18 And a group of those people with Bootsie, Keir
19 Johnson, got into that van and went to commit a
20 robbery. They planned it. It was no accident. They
21 planned it, they knew where they were going. Thomas
22 was supposed to go with them. The people that got into
23 that van were Bootsie, Keir Johnson who was driving the
24 van, Donavan Johnson, 110, Sha'Rah McCray called Lil
25 Manzy or Lil D, and Brandon Wells, they call him

1 B-Wells.

2 Thomas said, I ain't going, I ain't doing it, I'm
3 staying and I'm playing it safe. And he stayed at
4 Kel's house with Kel, Cordel Rush and Kirstan West
5 while they drove off in the van.

6 It wasn't too long after that at Kel's house the
7 front door bust open and Brandon Wells, B-Wells, comes
8 running in, runs straight to the bathroom and starts
9 throwing up in the toilet. As that happens,
10 everybody's phone starts blowing up. Something
11 happened, something went wrong, somebody's dead. Kel
12 tells everybody, get the F out of my house, none of you
13 are staying here. And everybody that was in the house
14 left on foot, walking.

15 What happened in the van? The person's house it
16 was was Rodney McElveen. They call him Splurge.
17 Splurge also is a drug dealer. When they were going to
18 this house, they were going to rob him for his drugs,
19 maybe some money if he's got cash in the house.

20 At the house the witnesses on the scene, the fact
21 witnesses, a guy named David Grissett sees that van
22 pull in, sees it pulling through that mobile home park.
23 It's right around 3 o'clock in the morning. Now, this
24 is kind of a scary place, this mobile home park. It
25 ain't a nice neighborhood.

1 But David Grissett sees that van riding around
2 slow, and he calls another neighbor, Conswella Smith,
3 and he says, look out, something is about to happen.

4 Conswella comes out, outside, to see what's going
5 on, and she sees the van. And there is somebody in the
6 driver's seat of the van. She told this to the police,
7 there is somebody in the driver's seat of the van. And
8 there's somebody that gets out of the van and walks up
9 to her and talks to her, asking her for directions,
10 playing it cool. He says his name is Q. None of these
11 people that I just told you were in the van, their
12 names are not Q.

13 While she's out there and David Grissett is still
14 outside, they hear gunshots. Right after they hear the
15 gunshots two more people, two people in the van, two
16 people in that house, come running out of the house.
17 They are wearing blue latex gloves. They jump in the
18 van and the van takes off.

19 Conswella Smith told the police there were two
20 people in that van, and there were two people in the
21 house. She told investigators that those two people
22 who came running out of the house were short,
23 light-skinned black men. Conswella Smith and David
24 Grissett know Thomas and they know Graham. Both of
25 them said it was not Thomas and it was not Carnail.

1 So what happened when they left the house. They
2 took off immediately. David Grissett and Conswella
3 Smith called 911. They told them, we just heard
4 gunshots, they described the van, and the police came
5 from all different directions, they came. The van has
6 taken off, Bootsie, Keir Johnson, is flying down the
7 road.

8 As they are going down the road, one of the
9 officers responding to the scene passes them, sees the
10 van, recognizes the van from the description that
11 Conswella and David Grissett gave them. He does a
12 U-turn and he chases them. And he follows it.

13 And Bootsie, Keir Johnson, gets away from him. He
14 loses them, he don't know where they went. He keeps
15 looking for a little while, and then finally they say,
16 look, you got to get back to the scene, we need you out
17 here. Then he goes back to the scene.

18 They got to Keir Johnson because he ditched that
19 van in a girl's yard named Tiffany Oliver. And Tiffany
20 called the police and said, there's a van in my yard.
21 As soon as he had ditched the van -- you see, to back
22 up to before, Keir Johnson went out to Billy Freshley's
23 house. He was seeing this girl, and he didn't tell her
24 what he was into. He had only been seeing her about a
25 month, but he took her van.

1 The van belonged to that girl's mother. The
2 girl's name is Tiara Brown. He took her van. She
3 said, don't, don't go, don't do this. He just said he
4 was going to get some food or something. And she said,
5 you can't go, you don't have a driver's license. And
6 he took the van anyway.

7 And then after all of this happened, he calls her
8 and he tells her, somebody just robbed me. I pulled up
9 to a convenience store and some guy just came up to me,
10 put a gun to my head and said, you know what time it
11 is. And he took the van and he stole your van and he
12 stole my cell phone. Call the police and tell them
13 that I just been robbed and your van was stolen.

14 And so while they are at the crime scene trying to
15 figure out what the heck happened, they get this call
16 about the van being stolen that matches the description
17 of the van that was at the crime scene.

18 They start looking into it, they go straight to
19 Keir Johnson and talk to him. Keir, Bootsie, gives
20 them an elaborate lie about how he was robbed. There's
21 no simple lie, he goes into details. There's a man who
22 robbed me, he was missing a tooth. He had another
23 tooth with a -- a gold tooth with a little star on it.
24 Gives him details about exactly where the car was
25 parked when the guy came up to him, exactly what they

1 were doing there..

2 Surely there's video cameras, you can pull the
3 video and see that this really happened to me. And the
4 whole time he's talking to the investigator he just
5 keeps saying, I'm telling you the truth. I ain't going
6 to sit up here and lie to you, I'm going to tell you
7 the truth over and over. I'm going to tell you the
8 truth, I ain't no liar.

9 And then they already know that he's lying. They
10 know that the cell phone wasn't stolen, they found the
11 van. This investigator gets his cell phone records and
12 looks at his cell phone records. And these cell phone
13 records will tell you where a person was when they were
14 making phone calls, where that phone was. And sure
15 enough, Bootsie, Keir Johnson was at the murder scene
16 at 3 o'clock in the morning. And then he was at the
17 place where he dumped the van right after that, steady
18 making phone calls the whole time.

19 They go back, they confront him again. They say,
20 we know you were there, we know you did it. Your phone
21 records tell us you were there. We're not stupid. And
22 now, Keir Johnson, Bootsie is in a position.

23 He's got two problems. One problem is the guys
24 that were in that car with him and him are Crips, local
25 Crips. And usually in these trials we are trying to

1 not talk about gang activity. I don't know want to
2 hide anything from you people. I want you to know what
3 happened. I want you to see the evidence in this case,
4 and we are not trying to hide anything. They were
5 Crips. Thomas is not a Crip. Now, he's got a local
6 gang, people that he hangs with, but he was not a Crip.

7 Here's the problem that Keir Johnson had. The
8 evidence is going to show that Keir Johnson, if he
9 named the people who were with him, not only is his
10 life in danger, but his family's life is in danger.
11 These people are threatening to kill your family if you
12 talk about them. Donavan Johnson, 110; Sha'Rah McCray,
13 Little Manzy; Brandon Wells, B-Wells.

14 So he names -- and the other half of his problem,
15 if he doesn't name somebody and he doesn't start
16 talking, because they've got him, he ain't getting out
17 of it, if he doesn't start talking he is not going to
18 get a deal, and he's going to go to prison for life.
19 He knows that.

20 So he names two people that he knows are not
21 Crips, one that was with him earlier that night,
22 another one, Mr. Canty's client, that wasn't there at
23 any point that night. Mr. Canty's client wasn't at
24 Billy Freshley's house, he was not at Kel's house, he
25 was not in the van.

1 And he tells the police -- at first he tells the
2 police, he has told the police many different stories,
3 and you're going to hear them -- he tells them that he
4 picked up these two. He doesn't say anything about the
5 rest of them. He doesn't say anything about Billy
6 Freshley.

7 He says he just picked up these two because they
8 wanted to go get some drugs. He wasn't going to get
9 drugs himself, he was taking them to get drugs. He
10 didn't know anything about what happened in the house.
11 He was just driving, he didn't know what happened.
12 He's just a driver. He thinks this is going to get him
13 out of it.

14 He tells them that -- he tells them that these two
15 put a gun to his head, made him drive, forced him to
16 drive. Then they threw the gun out the window. But
17 after they threw the gun out the window, he kept
18 driving. And then they ditched the van, and then he
19 walked back to Conway. Later we find out he didn't
20 walk back to Conway, he's still lying to them. Someone
21 picked him up and drove him back to Conway. You're
22 going to hear from that person too.

23 Every time they talked to him, he is lying. Every
24 time they talked to him, it changes. Every time they
25 figure out a lie, he says, yeah, I was lying, but I'm

1 telling you the truth now.

2 The investigators got his phone records, looked at
3 everybody he called. They took Keia's phone, they took
4 every phone that they could get, looked at everybody
5 they called. They got their phone records, over 30,000
6 pages worth of phone records. And I don't know what he
7 did with those phone records. I'll let him explain it
8 to you.

9 As far as I know, he either didn't look at the
10 rest of the phone records or he looked at it and then
11 ignored it. Because Thomas James' cell phone, based on
12 the coverage area, these cell phones, you're going to
13 hear when you make a phone call or a text message, it
14 goes to the nearest cell tower in a specific coverage
15 area. If you're outside of that coverage area, you
16 either got no service or it goes to the next closest
17 cell tower.

18 Thomas James was at Billy Freshley's house, and
19 then he was at Markel's house. Before Markel's house
20 he was at McDonald's, and then he was at Markel's
21 house. Then at 3 o'clock, just after 3 o'clock,
22 minutes after this robbery and murder, minutes, I mean,
23 two or three minutes, he was at Kel's house getting
24 texts from Billy Freshley, telling Billy Freshley he
25 stayed at Kel's house because he wanted to play it

1 safe.

2 When the investigator continued to interview
3 people, he got a warrant signed for murder, first for
4 Bootsie, Keir Johnson, then for these two, Thomas
5 James, Cutty, his name is Cutty. It's like a character
6 from the Wire, if anybody has seen that, Cutty.
7 Carnail Graham is Dubba.

8 When the investigator got warrants signed for
9 murder against these two based on what Bootsie, Keir
10 Johnson told him, from that point forward when he
11 interviewed these witnesses, he didn't say, tell me
12 what happened, he didn't say, tell me what you know.
13 He said, tell me something that corroborates what Keir
14 Johnson told me. From that point forward they've
15 ignored the evidence in the case. In the prosecutor's
16 opening statement, she is still ignoring the evidence
17 in the case.

18 Let's talk about what happened in the house based
19 on their CSI guy and their investigators. Keia was
20 texting back and forth with Splurge the day this
21 happened. She was texting back and forth with
22 Carnail's girlfriend who was a good friend of hers.

23 When -- and I don't know what you do with what's,
24 I have an idea but I don't know -- when the two went
25 into the house, they kicked the door in, they didn't

1 kick the door in, see Keia, say, oh, my God, you know
2 me, and shoot her, not based on their evidence that
3 you're going to hear.

4 They kicked the door in, Keia jumped up. She ran
5 down, it's a narrow hallway in this small mobile home,
6 she ran down the hallway yelling for Splurge yelling,
7 somebody is trying to come in the house. And Splurge,
8 Rodney McElveen, is in the bedroom at the end of the
9 hall with his guns and his drugs. And there is a door
10 that opens into the bedroom. If you're facing that
11 door, it opens to the right, the doorknob's on the
12 left.

13 And behind that door is an end table that stops
14 the door from opening all the way. So when you go in
15 that door, you got to go in sideways. She runs down
16 the hall. And the witness that the prosecutor was
17 telling you is going to tell you what happened, Rodney
18 McElveen, he ain't going to tell you what she said just
19 now, that they came in and immediately shot her.

20 He's going to tell you that they busted in and she
21 ran down that hallway into his door which hardly opens,
22 and she came -- he came -- she came through that door.
23 And he's going to tell you that he picked up his .357
24 Magnum, that she jumped onto the bed, and in the dark
25 before he turned the lights on, in a panic he started

1 firing, and he unloaded that gun.

2 Their SLED ballistics expert is going to tell you
3 that the bullet that was -- that killed Keia was a .357
4 Magnum. Then he's going to tell you it didn't come
5 from Splurge's gun. They issued two reports. You're
6 going to hear about both of those ballistics reports.
7 The first one is confusing. The second one is
8 confusing too, but the first one was ambiguous at best
9 when you add up the number of bullets that they say
10 came from Splurge's gun. It could be four bullets
11 based on their own report. And there are five shell
12 casings in this gun. But conclusively, they say this
13 bullet didn't come from Splurge's gun.

14 And then just last week they got a different SLED
15 analyst because the original one was going on vacation
16 and he can't be here this week. They got a different
17 SLED analyst to issue a new report which cleaned it up
18 and makes it crystal clear that the State's position is
19 that the evidence shows that there were five bullets
20 that come from Splurge's gun and that the bullet that
21 killed her did not come from Splurge's gun.

22 I think the judge talked a little bit about
23 presumption of innocence. I don't believe anybody gets
24 that in actuality. I wish they did. But what it is is
25 when anybody is charged with any crime, accused of a

1 crime, we have to presume that that person is innocent.

2 If this was a continuum right here in front of us
3 and down here is guilty, 100 percent guilty, no doubt
4 in my mind, absolutely no doubt, 100 percent guilty,
5 and along the way somewhere up here is reasonable
6 doubt, preponderance of the evidence, probable cause,
7 100 percent innocent, we have to assume and presume
8 that this person who has been accused of a crime is 100
9 percent innocent, and we give them every benefit of the
10 doubt.

11 One life has been lost, and it was wrong and
12 people are suffering. That injustice has got to stop.
13 Listen, and you got your note pads, listen and take
14 notes. You listen and take notes on the
15 inconsistencies in everything that these State's
16 witnesses tell you.

17 And at the end of the trial, I'm here for Thomas
18 James, but if you listen to what they did during this
19 investigation, if you listen to these witnesses, you
20 will find both of them not guilty at the end of the
21 trial. Thank you.

22 THE COURT: Mr. Canty?

23 MR. CANTY: May it please the Court, Your Honor.

24 THE COURT: Yes, sir.

25 MR. CANTY: Ladies and gentlemen of the jury,

1 first let me thank you for your time and attention. It
2 is often said that jury service is the highest service
3 that a civilian can render in the governmental
4 community. We are most grateful for your attendance
5 here today.

6 After many years of practicing law, I finally got
7 an opportunity to serve on a trial jury not that long
8 ago, and it was very beneficial. I gained a new
9 perspective on the courtroom in a trial setting from
10 the jury box. And I'd say that the most important
11 thing that I took away from that experience serving as
12 a juror is juries appreciate brevity.

13 Now, I will try to be brief. If at some point you
14 feel that I'm not being very brief, first let me
15 apologize, second, let me say that there's probably a
16 reason for that. And third, and this is perhaps most
17 important, please do not hold that against Carnail
18 Graham. Blame me, please do not blame Carnail.

19 Presumption of innocence. Let's assume for a
20 moment that you have lived at the same address for 30
21 years, and there's a couple that moved in next door to
22 you 30 years ago. You're friends, you talk over the
23 fence, you share moments together. And they brought
24 home a child from the hospital, the wife delivered a
25 child, a son. And you saw them bring the boy home and

1 you watched that boy grow up.

2 You saw him shortly after he took his first steps,
3 you saw him learn how to ride a bicycle. You saw him
4 start school, watched the school bus come and pick him
5 up. As he got older, he joined the Boy Scouts. He
6 even cut your grass. If you were sick he would cut
7 your grass and wouldn't take any money for it.

8 So he became an Eagle Scout. And like an Eagle
9 Scout, he was -- you knew him from years of living next
10 door as trustworthy, loyal, helpful, friendly,
11 courteous, kind, obedient, cheerful, thrifty, brave,
12 clean, and bred good. You knew this boy's character.

13 You watched him grow up. You interacted with him
14 on a daily basis. You saw him win the state
15 championship on the baseball team. You saw him date
16 the homecoming queen. You saw him go off to college,
17 succeed in college, do well, marry his high school
18 sweetheart, move back to your town.

19 They have a child, they have another child, they
20 have two children. He has a successful business. His
21 wife is a leader in the community. You know his
22 character, you've known him since the day they brought
23 him home from the hospital 30 years ago. And you trust
24 him with your life.

25 And then one day you open the newspaper and you

1 see a color photograph above the fold, and this boy has
2 been arrested and has been charged with armed robbery
3 and murder. And you read on. And it says that he
4 protests his innocence, he says he didn't do it. And
5 what is your response to that. Your response is,
6 they're going to have to prove that to me. I know that
7 boy, I've known him all his life. I don't think he did
8 it. They are going to have to prove that to me.

9 That is a presumption of innocence. And as
10 Mr. Frederick indicated, down here at 0 percent, that's
11 where you start. Our system of criminal justice
12 depends upon juries who subscribe to the notion of the
13 presumption of innocence. And my client is presumed
14 innocent.

15 Let's talk about the burden of proof. The judge
16 will tell you, everyone who comes into this courtroom
17 as an accused comes wearing a cloak, like the black
18 robe the judge has on, they come in wearing a cloak of
19 innocence, every accused person. And it's the burden
20 of the State to strip away that cloak of innocence.

21 And we've got different standards of proof of
22 evidence. There's something called a scintilla of
23 evidence, that is the slightest evidence, that's not
24 going to convict him. Then you have something more
25 substantial, some evidence, not enough to convict him.

1 Tie goes to the runner, another way of considering it.

2 Then you can have substantial evidence, not enough
3 to convict. You can have a preponderance of the
4 evidence. Let's say you envision the scales of
5 justice. And in a civil case, a wreck case, for
6 example, one side or the other has to tip those scales
7 ever so slightly. Think of it as the 51 percent rule,
8 a preponderance of the evidence, not enough to convict.

9 Under your oath, if they show a preponderance of
10 the evidence, you must bring back a verdict of not
11 guilty. They have to go beyond that. They have to go
12 way on down to this end, and this is evidence beyond a
13 reasonable doubt. And the judge is going to tell you
14 what beyond a reasonable doubt means.

15 There are several ways to look at it. A doubt for
16 which you can give reason. When you're in the jury
17 room and you're deliberating, you're discussing the
18 evidence that you've seen, one person says, I think
19 they're guilty, one person says I don't think they are
20 guilty, I don't think the State has proven their case.
21 If you can give a reason, that is a reasonable doubt,
22 if you can give a reason, what a reasonable person
23 would consider a reason to doubt.

24 Now, let's talk about objective evidence. There's
25 two types of evidence, there's objective and

1 subjective. And the difference is pretty simple.
2 Subjective evidence is a matter of opinion. I saw the
3 guy and I think that was him. That's my opinion. I
4 look at all this data and this is the conclusion that I
5 reach. That's subjective. I see that oil painting, I
6 think that's a nice oil painting. That's subjective,
7 that's somebody's feeling, somebody's opinion.

8 Then you've got objective evidence. And the best
9 way I can describe objective evidence is it's not
10 somebody's opinion, it's something in black and white.
11 And as Mr. Frederick alluded to earlier, the State has
12 got 30,000 pages of cell phone data collected between
13 the hours of midnight and 6 a.m. on November the 8th,
14 2011, from cell towers in Conway, west of Conway, south
15 of Conway.

16 Cell towers don't have friends to reward. Cell
17 towers don't have enemies to punish. Cell towers do
18 not form opinions. All they do is record what
19 transpires, what number called at what time, who did
20 they call, how long did they talk. Text messages, it
21 actually had the texts of the text messages. And the
22 State has 30,000 pages of cell phone data. So we've
23 got objective evidence.

24 We've got 911 recordings, 911 database. They
25 don't just record what people said, they also record

1 the time of the call, the telephone number of the
2 person calling, etcetera. That's objective evidence.

3 The computer that records that data, no friends to
4 reward and no enemies to punish, all that does is make
5 a record of everything that happens. The State has
6 that data.

7 They have the bullets, they have bullet fragments.
8 They have gunshot residue, tests that they've done.
9 They have ballistic tests that they've done. They have
10 fingerprints and palm prints from the van that was
11 involved in the murder. They have DNA evidence. They
12 have tire tracks, they have footprints, they have
13 plaster casts of tire tracks and footprints. All of
14 that is objective evidence, that is not somebody's
15 opinion.

16 And here's the problem that they have. I
17 characterize it as a mountain, they have a mountain of
18 objective evidence, forensic evidence, a mountain of
19 it, 30,000 pages of cell phone data. And here's the
20 problem that the State has. That mountain of objective
21 evidence is not somebody's opinion. Not only does it
22 not implicate Carnail Graham, it exonerates Carnail
23 Graham.

24 And under the rules we're required to give notice
25 of an alibi. And we did that, because Carnail Graham

1 was about seven miles away when this crime was
2 committed. And we will put up witnesses who will
3 corroborate that, and cell phone data will corroborate
4 that.

5 Now, you heard the solicitor say, we've got a
6 cooperating witness, a state's witness. His name is
7 Bootsie. And Bootsie's claim to fame in this case is
8 of the four men who committed this crime, and there
9 were four of them, Bootsie is going to tell you there
10 were three. He's only named my client and Mr.
11 Frederick's client. In fact, there were four, and I
12 think Mr. Frederick actually named the other three.

13 Of the four men that committed this crime, Bootsie
14 is the only one who got caught. And when he got
15 caught, he made up this fantastic story which was a
16 lie, we'll call it statement number one. And I
17 mentioned an oil painting earlier and subjectivity.
18 Some artists work in oil colors, some artists work in
19 water colors.

20 Bootsie is an artist who works in mendacity. And
21 mendacity is just a fancy word for saying untruths.
22 That's what Bootsie does. And you don't have to take
23 my word for it, you don't have to take anyone else's
24 word for it. Bootsie himself will sit on that stand
25 under oath, and he will tell you, I'm a liar, I lied a

1 lot in this case. He actually made four statements.

2 Here's what Bootsie is going tell you. He's going
3 to say that first statement, lies, disregard that. The
4 second statement that I gave, some of that was true,
5 some of it was a lie. Disregard the lying part and
6 believe the truth part. The third statement, that was
7 the truth. And the fourth statement, that was a lie.

8 So you're going to need your notepads when you
9 listen to Bootsie's testimony to keep track of what he
10 admits he was lying about and what he claims he was
11 telling the truth about. And what he claims he was
12 telling the truth about is going to be contradicted by
13 a stream of witnesses, disinterested third-party
14 witnesses who had no friends to reward and no enemies
15 to punish, and the objective data, the cell phone
16 records.

17 You're going to hear what Bootsie now tells you
18 that you should believe because he ain't lying. And
19 all the other evidence is going to say, yeah, he's been
20 lying.

21 And now, we need to talk about something else, and
22 that is the jailhouse snitch. There was a reference to
23 someone who overheard a conversation. Bootsie was
24 arrested on November the 8th, and he made bond on that
25 charge. Then when the police had gathered enough

1 evidence to prove that he was involved in the murder,
2 about three weeks later they arrested him for the
3 murder. They put him in jail around the 1st of
4 December, 2011. And Bootsie sits in jail day after
5 day, week after week, month after month.

6 Round about, oh, February, March, he says, here's
7 what I can do to get out of here, and he concocts the
8 story that was related to law enforcement. And they
9 are saying now that they've got somebody who overheard
10 Carnail admit the crime. Well, we'll see. I think
11 you're going to find, once again, objective evidence,
12 that is not someone's opinion, objective evidence that
13 that person is not telling the truth.

14 This case is a tragedy. I have a daughter. I
15 hate thinking of how I would feel if I lost her. And I
16 feel sorry for Mr. Pertelle. Everything I've heard
17 about Keia, and one of her good friends is going to be
18 a witness in this case, is that she wasn't just
19 beautiful on the outside, she was beautiful on the
20 inside. She did not have an enemy. This is a tragedy.

21 And the case we're trying here today is murder,
22 the murder of Keia Pertelle. And what Mr. Frederick
23 alluded to is the possibility -- I wasn't there -- the
24 possibility based on the ballistic evidence and changes
25 in the SLED ballistic report from report one from 2011

1 and report two in 2014, the possibility that Splurge
2 who was asleep when the door was kicked in, he may or
3 may not have been under the influence of some drugs at
4 the time, heard Keia yell, they are breaking in.

5 His testimony, his statement is, she came running
6 down the hall. The door would only open about
7 45 degrees, it was obstructed. And she jumped over him
8 onto the bed behind him, and then he emptied his .357
9 down that hallway. And you'll see the photographs and
10 you'll see the ballistics. They put ballistic rods in
11 the bullet holes so you can tell which direction the
12 bullet came from.

13 There's a bullet in the door frame, there's a
14 bullet in the kitchen cabinet, there's a bullet in the
15 floor and there's a bullet in the ceiling. And
16 unfortunately, no one intimates or contends that
17 Splurge had any ill feelings whatsoever towards Keia,
18 just that she was beautiful inside and outside.

19 But by accident, a tragic accident, a tragic
20 mistake, in the dark, protecting his cocaine -- they
21 found about four ounces of cocaine in his room and an
22 assault rifle and a .44 Magnum revolver and about \$1200
23 in cash -- and protecting his guns and his drugs and
24 his money in the dark, awakening, that he may have
25 accidentally shot her and killed her. And that would

1 be a tragedy. Her death is a tragedy.

2 When you listen to all of the evidence in this
3 case and you retire to deliberate, you consider whether
4 or not there is a reason to doubt. There are dozens,
5 there are scores, there are hundreds of reasons to
6 doubt, A, that this was in fact a murder as opposed to
7 a tragic accident, a mistake; B, most certainly that
8 Carnail Graham had anything whatsoever to do with it.

9 And I would ask you follow your oath after you
10 hear all of the evidence, and return a verdict of not
11 guilty. Thank you.

12 THE COURT: All right. Madam forelady, ladies and
13 gentlemen of the jury, go to your jury room for a few
14 minutes, please. Thank you very much. Leave the pads
15 and pens here. Thank you.

16 (WHEREUPON, the jury exited the courtroom at
17 11:01 a.m.)

18 THE COURT: We'll take a short break about ten
19 minutes. Thank you very much.

20 (WHEREUPON, a brief recess was taken at
21 11:02 a.m.)

22 THE COURT: Thank you very much, you may be
23 seated.

24 MR. FREDERICK: Judge, can we approach?

25 THE COURT: Sure, absolutely.

1 THE COURT: While he's doing that, ladies and
2 gentlemen, look at your pads and pens, make sure,
3 number one, you've got your pad and your pen. And if
4 you made any notes prior to this first witness, what I
5 want you to do is you take your pen and you draw this
6 great big line across your notes. Because that will
7 indicate to you everything above that line is not
8 evidence in this case. You may not use it to make your
9 decision. It is not evidence. Thank you very much.

10 CARLTON DARNELL WATTS, after being duly sworn,
11 testified as follows:

12 CLERK OF COURT: Please be seated, state your full
13 name, spell your last name for the Court, please.

14 THE WITNESS: Carlton Dontrell Lamonte Watts,
15 W-A-T-T-S.

16 THE COURT: All right, sir. We're going to need
17 you to spell your whole name. Start with the first
18 name, please.

19 THE WITNESS: C-A-R-L-T-O-N, Carlton.

20 THE COURT: And did you have a middle name? I'm
21 sorry.

22 THE WITNESS: Yeah. Dontrell.

23 THE COURT: Okay. Can you spell that also,
24 please.

25 THE WITNESS: D-O-N-T-R-E-L-L.

1 THE COURT: Thank you, sir. You may proceed,
2 solicitor.

3 MS. LIVESAY: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q And Mr. Watts, where are you currently living?

7 A

8 Q Okay. And where are you from?

9 A Conway, South Carolina.

10 Q Okay. And have you lived here your whole life?

11 A Majority of it.

12 Q Okay. And where are you currently working?

13 A Nostalgia, Pavilion Park.

14 Q Okay. And how long have you been working there?

15 A Five years.

16 Q Okay. And do you remember where you were living
17 in August of 2011?

18 A Yes, ma'am.

19 Q And where were you living then?

20 A Brown Swamp.

21 Q Okay. And who was living in that mobile home with
22 you?

23 A Me, my cousin Keia and Splurge.

24 Q Okay. What's Keia's last name?

25 A Pertelle.

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1 Q Okay. And about how long had y'all lived there in
2 Brown Swamp?

3 A Probably about five months.

4 Q Okay. And is Brown Swamp in Conway?

5 A Yes, ma'am.

6 Q Okay. And had you lived there the entire five
7 months?

8 A Yes, ma'am.

9 Q Okay. And did you have your own room there?

10 A Yes, ma'am.

11 Q And did they have a separate room?

12 A Yes, ma'am.

13 Q Okay. Where was their room in relationship to
14 yours?

15 A On the other end of the trailer.

16 Q Okay. So yours is on this side, and there's was
17 on the other side (indicating)?

18 A Yes, ma'am.

19 Q Okay. And it was a mobile home?

20 A Yes, ma'am.

21 Q Okay. Did you have a car at that time?

22 A No, ma'am, I didn't.

23 Q Okay. Did Keia or Splurge have a car?

24 A Yes, ma'am.

25 Q Okay. And if you don't mind, tell the jury what

1 kind of car Keia had.

2 A She had a black Tahoe.

3 Q And what kind of car did Splurge have?

4 A A white Lexus.

5 Q Okay. And had they had those cars for the five
6 months they had lived there?

7 A Yes, ma'am.

8 Q Okay. And where did they park those cars?

9 A In the back yard.

10 Q Now, did all of y'all use the same entry door in
11 that trailer in the home?

12 A Yes, ma'am, the back door.

13 Q And was it the front door or the back door?

14 A The back door.

15 Q Okay. Now, do you remember the night that Keia
16 was shot?

17 A Yes, ma'am, I do.

18 Q Okay. Now, were y'all all at the house that
19 night?

20 A Yes, ma'am.

21 Q Okay. And were both cars at the house that night?

22 A Yes, ma'am.

23 Q Okay. If you don't mind, tell this jury what
24 happened that night.

25 A All that night I been in my room or whatever, I

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1 didn't really come out that night. But prior to that I
2 have came out to get something to drink, and she was on
3 the chair or whatever. So I asked her like why you was
4 on the chair. She didn't really say nothing. But I
5 was like, well, you need to get up and go into bed.
6 And she was like, I am in a minute.

7 So I went back to the room or whatever, and I
8 start listening to music on the iPad. Then I fell
9 asleep. Probably like 30 minutes to 45 minutes, that's
10 when I hear a big boom and like three or four shots go
11 off. And I jumped up, then I just jumped back on the
12 bed and just rolled under it and just started praying
13 and everything.

14 And then like I hear like two or three more shots
15 go off. And then I hear her scream, and she's like,
16 Splurge, Splurge, they're breaking in. And then
17 another two shots go off. By that time I'm just
18 thinking to myself like, I don't really know what to
19 think really, to be honest with you. I just started
20 praying to God because that's the only thing I know to
21 do.

22 So then after that, I just hear whoever was in the
23 house or whatever, they just screaming, where is it,
24 where is it, we're not playing, where is it. And by
25 that time, I'm just still there just thinking like that

1 I just don't let it -- let it be long. So then more
2 minutes go by, I'm just there, just listening to
3 everything that's going on.

4 Then it got -- it just get quiet, real quiet, and
5 then the alarm was just going off, it's just steady
6 going off. So I just waited until I felt like it was
7 safe to come out. And once I did, I just ran out the
8 back door. And as I'm running out the back door, a
9 woman and a man, they approaching me. I'm running
10 towards them.

11 They on the phone and they like, we already called
12 the police, we heard the shots so we called the police.
13 We already -- we already called the police and whatnot.
14 And so I asked them do they have a phone because I
15 wanted to call my family and let them know what
16 happened and whatnot.

17 And by that time they had let me go into their
18 trailer or whatever because I didn't have on no shoes
19 or no shirt. So I had to go inside the trailer, and I
20 used their cell phone. And I had called her brother
21 and my aunt, and I had told them what happened. And I
22 had told them that somebody had broke in and they were
23 shooting.

24 And so by that time I'm headed back towards the
25 apartment -- I mean, heading towards the trailer and

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1 whatnot. So as I'm heading back, the police are
2 coming, I see the lights on the road, on the main
3 highway. So them coming or whatever. And as I'm
4 approaching the parking lot, me and the other young
5 man, the police had came through the back way, and he
6 was already --- already up on us.

7 So he jumps up or whatever. Then he's like, where
8 it at. And I pointed to the apartment -- to the
9 trailer, and I'm like, someone still in there, two
10 people still in there actually. And he's like, okay,
11 okay. So he tells me to stand back. And then he start
12 demanding whoever was in the house to come out with
13 their hands up.

14 For like two or three minutes nobody had said
15 anything, so I was -- I'm already panicking like God,
16 God knows what happened. So by that time -- eventually
17 he just kept demanding for him to come out, for anyone
18 to come out. So then as they know, he comes out with
19 his hands up, which is Splurge. So I immediately start
20 thinking, he's the only one coming out. So I don't --
21 so only thing I'm really thinking is she's either shot
22 or she's either dead.

23 And so, I don't know, I just -- just start losing
24 it a little bit. Just like I'm really just start
25 thinking to myself like this is crazy because she

1 didn't come out. So I don't know what really to think.

2 So I'm asking him questions as the officer is
3 asking him questions too, but he's not really saying
4 anything. He acting like he's retarded. So and by
5 that time my whole family and everybody was there,
6 everybody pulls up or whatever. Everybody out there.
7 And they asking me questions, but I can't really answer
8 because I was in my bedroom the whole time. So I can't
9 give them the answers that they wanted.

10 So then I didn't see nothing and they feeling they
11 was getting frustrated with me. But I couldn't give
12 them something I didn't know. So I'm just standing
13 there asking him because I'm sure that he know.
14 Because if you're on the other end and I'm on the other
15 end, you're closer to her than I was. So we all like
16 and we just -- everybody just tempers flaring,
17 everything just started going into motion or whatever.

18 So I just thinking to myself like, I just don't
19 know anything really. But once I see the coroner come,
20 then I knew it was real. I knew that, you know, we're
21 outside and she's not. So when I see the coroner, then
22 I knew she was gone. So that's...

23 Q Let me ask you this, Carlton. Did she ever come
24 out of that trailer that night?

25 A No, ma'am, she didn't.

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1 Q Okay. Did you ever see her again after you went
2 back to bed when you saw her on the couch?

3 A No, ma'am.

4 Q Okay. Now, if you don't mind, I want to back up
5 just a little bit. You need any water?

6 A No. I'm fine.

7 Q Okay. Now, when you got up that night --

8 A Yes, ma'am.

9 Q -- where was everybody in the house?

10 A She was on the couch and he was in the room, their
11 room.

12 Q Okay. Now, then did you see her move from that
13 couch?

14 A No, ma'am.

15 Q Okay. And then what did you do; did you just go
16 back to bed?

17 A Yes, ma'am.

18 Q Okay. And then what was the next thing you heard?

19 A A big boom.

20 Q Okay. Could you tell where that was coming from
21 inside the house?

22 A Yes, ma'am.

23 Q Where was that coming from?

24 A The front door.

25 Q Okay. Would you recognize the layout of that

1 mobile home if I showed it to you?

2 A Yes, ma'am, I would.

3 Q Okay. And would that assist you in telling the
4 jury where she was and where you were during that time?

5 A Yes, ma'am.

6 MR. FREDERICK: No objection.

7 MR. CANTY: No objection, Your Honor.

8 (WHEREUPON, State's Exhibit No. 1 was marked for
9 identification only.)

10 Q Carlton, I'm showing you what's been marked as
11 State's Exhibit 1.

12 A Yes, ma'am.

13 Q Do you recognize this?

14 A Yes, ma'am, I do.

15 Q Okay. And if you don't mind, tell the Court what
16 it is.

17 A This is the way that the house was set up.

18 Q Okay. And is this a accurate diagram of that
19 mobile home?

20 A Yes, ma'am, it is.

21 Q And would this assist you in your testimony?

22 A Yes, ma'am, it would.

23 MS. LIVESAY: At this time, Your Honor, the State
24 asks to put State's Exhibit No. 1 into evidence and
25 publish it to the jury.

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1 THE COURT: Any objection, Mr. Frederick?

2 MR. FREDERICK: No objection.

3 THE COURT: Mr. Canty?

4 MR. CANTY: None, Your Honor.

5 THE COURT: All right. It's in evidence, and you
6 may publish.

7 (WHEREUPON, State's Exhibit No. 1 was admitted in
8 evidence.)

9 MS. LIVESAY: Thank you.

10 Q Mr. Watts, if you don't mind, step down so I can
11 show this to the jury while you testify. And I'm going
12 to need you to stand right there in front of this
13 microphone so everybody can hear you. Back up maybe
14 just a shade, okay. Now, if you don't mind, looking at
15 this diagram, point out where your bedroom was.

16 A Here (indicating).

17 Q Okay. And if you don't mind, point out where Keia
18 and Splurge's bedroom was.

19 A Right here (indicating).

20 THE COURT: Could you speak up just a little bit,
21 please. Thank you.

22 THE WITNESS: Right here (indicating).

23 Q Okay. Now, if you don't mind, show the jury,
24 point out what couch she was laying on that night.

25 A This one right here (indicating).

- 1 Q Okay. And show the jury where the front door is.
- 2 A Right here (indicating).
- 3 Q Okay. And where is the back door?
- 4 A Right here (indicating).
- 5 Q Now, what entrance did you and Keia and Splurge
- 6 use?
- 7 A The back one, right here (indicating).
- 8 Q Okay. And where did you hear that boom come from?
- 9 A Right there (indicating).
- 10 Q Okay. And then, what was the next thing you
- 11 heard?
- 12 A Two or three gunshots.
- 13 Q Okay. And then where were you when those gunshots
- 14 were fired?
- 15 A Right here (indicating).
- 16 Q When you heard the gunshots, what did you do?
- 17 A I initially jumped up. Then I jumped back and
- 18 just rolled under the bed.
- 19 Q Okay. And what did you hear next?
- 20 A I heard her scream his name twice.
- 21 Q I'm sorry, what?
- 22 A I heard her scream his name twice.
- 23 Q Okay.
- 24 A She said that they was breaking in.
- 25 Q You heard who screamed?

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1 A Keia.

2 Q Could you tell where she was screaming from?

3 A No, ma'am, I can't.

4 Q Okay, that's okay. Now, could you tell where the
5 gunshots were coming from?

6 A Yes, ma'am.

7 Q What area were they coming from?

8 A Inside this area right here (indicating).

9 Q Okay. And this is a mobile home?

10 A Yes, ma'am.

11 Q Okay. What was the next thing -- so you hear the
12 gunshots, I want to make sure I'm clear, and then you
13 hear her scream?

14 A Yes, ma'am.

15 Q Okay. What is the next thing you hear?

16 A More gunshots.

17 Q Okay. And then where were you when those gunshots
18 were going on?

19 A Under the bed.

20 Q Okay. Then what was the next thing you heard
21 after that?

22 A I heard her scream, where it's at, where it's at,
23 we not playing, where it's at.

24 Q You heard what?

25 A I heard the guys screaming, where it's at, where

1 it's at, we're not playing, where it's at.

2 Q Could you tell where they were when they were
3 screaming that?

4 A No, ma'am, I couldn't. But if I had to guess, it
5 was still in this area (indicating).

6 Q Okay. Now were you under your bed the whole time?

7 A Yes, ma'am, I was.

8 Q Okay. And did you ever see anything from under
9 your bed?

10 A Yes, ma'am. I seen two pair of sneakers, all
11 black and one black with red check marks on it.

12 Q Okay. So you saw two sets of footsteps?

13 A Yes, ma'am.

14 Q Okay. And you saw them where?

15 A When I was inside my -- or under the bed.

16 Q Okay. And at that time were they saying anything?

17 A No, ma'am, they wasn't.

18 Q Did you say anything?

19 A No, I didn't.

20 Q Okay. What happened next after they -- could you
21 tell what they were doing in your room?

22 A No, ma'am, I couldn't.

23 Q Okay. And then what did you hear next?

24 A Just the alarm going off, just was nothing.

25 Q Okay. And then when did you finally leave from

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1 under the bed?

2 A When I felt like it was safe to go.

3 Q Okay. And then where did you go?

4 A Out the back door.

5 Q Okay. After you went out the back, what did you
6 see?

7 A A gentleman and a lady.

8 Q Okay. If you don't mind, have a seat back in the
9 witness stand, Mr. Watts. Where were the gentleman and
10 the lady you saw?

11 A They was coming towards the trailer front to back.
12 I was running towards them.

13 Q Did you recognize them?

14 A No, ma'am, I don't.

15 Q Okay. When you came out --

16 A Yes, ma'am.

17 Q -- from the mobile home, did you see anybody else
18 coming from the mobile home?

19 A No, ma'am.

20 Q Okay. So you didn't see anybody at that time
21 running out of the mobile home or running into the
22 mobile home?

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

24 Q Okay. Now, after that, you met these two people
25 which you did not recognize; is that correct?

1 A That's correct.

2 Q Okay. While you were out there, did you see
3 anybody come out of the mobile home before Splurge did?

4 A No, ma'am.

5 Q Okay. Mr. Watts, I'm going to ask you to look at
6 these pictures and tell me if you recognize them.

7 A Yes, ma'am.

8 (WHEREUPON, State's Exhibit Nos. 2 through 19 were
9 marked for identification only.)

10 Q Mr. Watts, if you don't mind, take a look at these
11 pictures, and tell me if these are pictures of your
12 mobile home and if these pictures are accurate
13 depictions of that mobile home.

14 A Yes, ma'am.

15 Q Look through them real quick and tell the -- let
16 the Court know, look through all of them at one time,
17 if you don't mind. Are they all pictures of your
18 mobile home?

19 A Yes, ma'am.

20 Q Are they all accurate depictions of your mobile
21 home that night or at some point shortly thereafter?

22 A Yes, ma'am.

23 Q Okay. And you've lived there five months?

24 A Yes, ma'am.

25 Q And this is what it looked like, this is pictures

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1 of that mobile home?

2 A Yes, ma'am.

3 Q Thank you.

4 MS. LIVESAY: Your Honor, at this time the State
5 wishes to put 2 through 17 into evidence and publish
6 them to the jury.

7 THE COURT: Any objection, Mr. Frederick?

8 MR. FREDERICK: No objection.

9 THE COURT: Mr. Canty?

10 MR. CANTY: No objection, Your Honor.

11 THE COURT: All right, very good. 2 through 17
12 are in evidence, and you may publish to the jury.

13 (WHEREUPON, State's Exhibit Nos. 2 through 17 were
14 admitted in evidence.)

15 MS. LIVESAY: Thank you, Your Honor.

16 Q Mr. Watts, if you don't mind, I'm going to ask you
17 to step down so the jury can see these while you're
18 testifying about them.

19 Now, if you don't mind, I'm showing you now what's
20 marked as State's Evidence No. 9.

21 A That's the living room.

22 THE COURT: You need to speak up just a little
23 bit, please.

24 THE WITNESS: That's the living room.

25 Q Is this what it looked like that night?

1 A Yes, ma'am.

2 Q Now, you testified earlier that Keia was laying on
3 a couch?

4 A Yes, ma'am.

5 Q Is that couch in this picture?

6 A Yes, ma'am.

7 Q Point it out to the jury.

8 A It right here (indicating).

9 Q Now, I'm showing you what's been marked as
10 State's-10; what is that?

11 A Same living room.

12 Q Okay. Is this a more complete picture?

13 A Yes, ma'am, it is.

14 Q Okay. Now, is that how it looked that night?

15 A Yes, ma'am.

16 Q Okay. Now, if you don't mind, this is the whole
17 room, point out which couch you saw her laying on that
18 night.

19 A Right here (indicating).

20 Q Point it out for me one more time so everybody can
21 see.

22 A This one over here (indicating).

23 Q Is it the one with the blanket on?

24 A That's right.

25 Q Okay. Now, in this picture the TV was on. Was

1 the TV on that night when you saw her?

2 A Yes, ma'am, it was.

3 Q So this is, absent her being in the picture
4 obviously, this is what it looked like that night?

5 A Yes, ma'am.

6 Q Okay. Was that dog in there?

7 A Yes, ma'am, it was.

8 Q Okay. Just like in the --

9 A Um-hum.

10 Q Now, there's a door in this picture; you see it?

11 A Yes, ma'am.

12 Q Okay. Where does that door lead to?

13 A That's the front door, it leads to outside.

14 Q So the front door leads right into that den?

15 A Yes, ma'am.

16 Q Now, when you went to bed that night, was that
17 door open?

18 A No, ma'am. It was closed.

19 Q Okay. How about the back door?

20 A Closed.

21 Q Is there any other entrance into that house?

22 A No, ma'am, there isn't.

23 Q Now, I'm showing you what's been marked State's
24 No. 13. You recognize this?

25 A Yes, ma'am.

- 1 Q Okay. Whose shoes are they?
- 2 A Splurge's.
- 3 Q Okay. Is that what it looked like that night?
- 4 A Yes, ma'am.
- 5 Q Okay. Now, there's also a door in this picture;
- 6 do you see that?
- 7 A Yes, ma'am, I do.
- 8 Q Okay. And if you don't mind, tell this jury where
- 9 that door leads.
- 10 A That door leads to the back, outside.
- 11 Q Okay. Is that the back door you used?
- 12 A Yes, ma'am.
- 13 Q Now, is that the back door that Splurge and Keia
- 14 used?
- 15 A Yes, ma'am, it is.
- 16 Q Okay. Now, I'm going to show you some pictures.
- 17 First of all, I'm sorry, let me back up one. Number
- 18 13.
- 19 A Yes, ma'am.
- 20 Q Do you see that hallway?
- 21 A Yes, ma'am, I do.
- 22 Q Where does that hallway lead?
- 23 A To my bedroom, my bathroom, the back door.
- 24 Q Okay. So that hallway leads to your bedroom?
- 25 A Yes, ma'am.

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1 Q Are there any other bedrooms down there?

2 A No, beside the bathroom.

3 THE COURT: He has to speak up.

4 THE WITNESS: Beside the bathroom.

5 Q Okay. So just a bathroom and a bedroom is at the
6 end of that hallway?

7 A Yes, ma'am.

8 Q Okay. Now, do you recognize what I'm showing you
9 that's been marked as State's Evidence No. 17?

10 A Yes, ma'am.

11 Q What is that a picture of?

12 A My room.

13 Q Okay. Is that what it looked like before you went
14 to bed?

15 A No, ma'am.

16 Q Is that what it looked like when you left that
17 morning?

18 A Yes, ma'am.

19 Q Okay. Was that dresser turned over when you went
20 to sleep that night?

21 A No, ma'am.

22 Q I'm showing you what's been marked as State's
23 Evidence No. 18. You recognize it?

24 A Yes, ma'am.

25 Q What is it?

1 A My room.

2 Q Okay. Is that what it looked like before you went
3 to bed?

4 A No, ma'am.

5 Q Okay. Was your nightstand turned over like that
6 before you went to bed?

7 A No, it wasn't.

8 Q Now, this picture shows your bed, Mr. Watts. Can
9 you point out to this jury where you were when all this
10 was going on in the house.

11 A This here.

12 Q If you don't mind, point that out to the jury.

13 A I was right under here (indicating).

14 THE COURT: What was that? I'm sorry, I didn't
15 hear you.

16 THE WITNESS: Under here (indicating).

17 THE COURT: Thank you.

18 Q So you were under the bed the entire time?

19 A Yes, ma'am.

20 Q Okay. If you don't mind, tell the jury how you
21 got under there.

22 A I rolled under the front of this.

23 Q I'm showing you now what's been marked as State's
24 No. 2; you recognize it?

25 A Yes, ma'am, I do.

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1 Q And what is that a picture of?

2 A Their cars.

3 Q Okay. And whose cars are those?

4 A Keia and Splurge.

5 Q Okay. Which car is whose?

6 A This is Keia's and this is Splurge (indicating).

7 Q Okay. And there's a picture --

8 THE COURT: He has to -- just by pointing to it,
9 you have to identify what kind it is, ma'am.

10 THE WITNESS: The black truck is Keia's and the
11 white car is Splurge's.

12 Q Okay. And that door, where does that door lead?

13 A Into the house.

14 Q Okay. And is that the back door or the front
15 door?

16 A The back door.

17 Q Okay. This fenced-in area, what is that?

18 A It's the dog kennels.

19 Q Okay. And were there dogs in that pen?

20 A Yes, ma'am, there was.

21 Q How many?

22 A I don't know, probably two or three.

23 Q Now, is that the way the back of that house looked
24 that night?

25 A Yes, ma'am.

- 1 Q Both cars home?
- 2 A Yes, ma'am.
- 3 Q Two dogs in the kennel?
- 4 A Yes, ma'am.
- 5 Q I'm showing you what's been marked as State's
- 6 Evidence No. 3; you recognize that?
- 7 A Yes, ma'am, I do.
- 8 Q What is it?
- 9 A The front door.
- 10 Q Okay. And did you ever use the front door?
- 11 A No, ma'am, I didn't.
- 12 Q Okay. And are there any cars parked in the front
- 13 drive?
- 14 A No, ma'am.
- 15 Q Were there any cars parked there that night in the
- 16 front yard?
- 17 A No, ma'am.
- 18 Q Were there any dogs in the front yard?
- 19 A No, ma'am.
- 20 Q Were there any dogs ever kept in the front yard?
- 21 A No, ma'am.
- 22 Q Is that the way the front of that mobile home
- 23 looked that night?
- 24 A Yes, ma'am, it is.
- 25 Q While you lived there, did anybody ever park in

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1 the front of the house?

2 A No, ma'am.

3 Q Were there ever any dogs kept at the front of the
4 house?

5 A No, ma'am.

6 Q When y'all had people over, did anybody use the
7 front door?

8 A No, ma'am.

9 Q I'm showing you State's Evidence No. 5. You
10 recognize this?

11 A Yes, ma'am, I do.

12 Q What is it a picture of?

13 A Front door.

14 Q Okay. Let me ask you something; is that a light?

15 A Yes, ma'am, it is.

16 Q Okay. And was the light on?

17 A No, ma'am, it's not.

18 Q Okay. Did y'all keep that light on at night?

19 A No, ma'am.

20 Q Okay. So there was no light at the front door?

21 A No, ma'am.

22 Q Okay. I'm showing you what's been marked State's
23 Evidence No. 4. You recognize that?

24 A Yes, ma'am.

25 Q What is it?

1 A The front door.

2 THE COURT: I'm sorry. Solicitor, you're either
3 going to have to have him return here --

4 MS. LIVESAY: Okay.

5 THE COURT: -- or he's going to have to speak up
6 because the court reporter can't hear him.

7 Q Make sure you speak up because your back is to all
8 of these people, they got to hear you. What is this a
9 picture of?

10 A The front door.

11 Q Okay. Did the front door look like this before
12 that night?

13 A No, ma'am.

14 Q Okay. Did it ever have this damage before that
15 night?

16 A No, ma'am.

17 Q Showing you State's Evidence No. 4. I'm showing
18 you what's been marked as State's Evidence No. 6. Now,
19 what is this a picture of?

20 A The trailer.

21 Q Okay. Is it an accurate picture of what it looked
22 like that night?

23 A Yes, ma'am, it is.

24 Q Okay. And is this the front area of your trailer?

25 A Yes, ma'am.

CARLTON WATTS-DIRECT BY MS. LIVESAY

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1 Q Okay. And let me ask you something. Is it always
2 this dark in the front of that trailer?

3 A Yes, ma'am, it is.

4 Q Okay. And is there a car parked out there?

5 A Yes, ma'am, it is.

6 Q Okay. Could you see it good enough to be able to
7 describe it?

8 A Yes, ma'am, I can.

9 Q Okay. Now, are there any street lights around the
10 front of this mobile home?

11 A No, ma'am.

12 Q Okay. So even, obviously, the police are out
13 there; what is that?

14 A It's a Horry County car.

15 Q Okay. So that's not one of y'all's cars?

16 A No, ma'am.

17 Q Okay. So the police have arrived at this point?

18 A Yes, ma'am.

19 Q Okay. And even then the front is that dark in
20 that front of that mobile home?

21 A Yes, ma'am.

22 Q Okay. And I'm showing you now what's been marked
23 as State's Evidence No. 6. Let me ask you, could you
24 see whether or not there was somebody standing around
25 that car?

1 A No, ma'am, I can't.

2 Q Can you even see if there's somebody in the car?

3 A No, ma'am.

4 Q Okay, thank you. Would you say this is your back
5 yard here (indicating)?

6 A Yes, ma'am.

7 Q Okay. So this picture was taken right basically
8 from your back yard?

9 A Yes, ma'am.

10 Q And y'all didn't have that front light on at that
11 time?

12 A No, ma'am.

13 Q Now, I'm showing you what's been marked as State's
14 Evidence No. 7. Is that what your front door looked
15 like before that night, the entranceway?

16 A No, ma'am.

17 Q Okay. Is that what it looked like after that
18 night?

19 A Guess so, yes, ma'am.

20 THE COURT: I'm sorry, what did he say?

21 THE WITNESS: Yes, ma'am.

22 Q I'm showing you now what's been marked as State's
23 Evidence No. 7. Mr. Watts, did you know what Keia and
24 Splurge's room looked like?

25 A Yes, ma'am, I do.

CARLTON WATTS-DIRECT BY MS. LIVESAY

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1 Q Okay. And are you familiar with the hallway that
2 went down to that bedroom?

3 A Yes, ma'am, I am.

4 Q Okay. I'm showing you what's been marked as
5 State's Evidence No. 12.

6 A Yes, ma'am.

7 Q Do you recognize that?

8 A Yes, ma'am, I do.

9 Q What is that?

10 A That's the hallway leading from their bedroom to
11 the front door.

12 Q Okay. And is that the front door?

13 A Yes, ma'am, it is.

14 Q Okay. This hallway, this is the front door?

15 A Yes, ma'am.

16 Q And the shot is from their bedroom --

17 A Yes, ma'am.

18 Q -- to the front door?

19 A Um-hum.

20 Q Is there another entrance anywhere along that part
21 of the house in order to get out?

22 A No.

23 Q Okay. So the quickest entrance from their bedroom
24 would be the front door?

25 A Yes, ma'am.

1 Q Now, I'm showing you now what's been marked as
2 State's-11; do you recognize it?

3 A Yes, ma'am, I do.

4 Q What is it?

5 A It's the hallway leading from the front door to
6 their bedroom.

7 Q What is this room to the left?

8 A It's an empty room.

9 Q Okay. And what is this next room to the left?

10 A Bathroom.

11 Q Okay. And this mark on the floor was not there
12 before that night?

13 A I don't know.

14 Q Now, is there any exit or entry along this hallway
15 in or out of that mobile home?

16 A No, ma'am.

17 Q I'm showing you what's been marked as State's
18 Exhibit No. 11. So this is a direct shot from the
19 front door to their bedroom?

20 A Yes, ma'am.

21 Q And is their bedroom the door that's open at the
22 end?

23 A Yes, ma'am, it is.

24 Q If somebody is standing at the front door of this
25 mobile home --

CARLTON WATTS-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am.

2 Q Okay, and would you say this shot is about at the
3 front door?

4 A Yes, ma'am.

5 Q Okay. If that person is just standing there --

6 A Yes, ma'am.

7 Q -- is there any way to get in -- I'm sorry, is
8 there any way to get from this bedroom out of that
9 trailer without passing that person?

10 A No, ma'am, it isn't.

11 Q Okay. And you have to pass the front door, the
12 den and the kitchen to get to the back door?

13 A Yes, ma'am, I do.

14 Q But under any circumstances if you're in that
15 bedroom, there is no --

16 A No.

17 Q Okay. No way to get out without passing that
18 front door?

19 A That's right.

20 Q Okay. So if somebody's standing at that front
21 door, there's no way to get out without passing them?

22 A No, ma'am, there isn't.

23 Q Now, I'm showing you now what's been marked as
24 State's Exhibit No. 16; do you recognize that?

25 A Yes, ma'am, I do.

1 Q What is that?

2 A It's their bedroom, Keia and Splurge bedroom.

3 Q Okay, make sure you speak up.

4 THE COURT: I'm sorry, I didn't hear you.

5 THE WITNESS: Keia and Splurge bedroom.

6 Q Okay. And is this the way it looked?

7 A Yes, ma'am.

8 Q And is that the furniture that was in there?

9 A Yes, ma'am, it is.

10 Q Okay. I'm showing you now what's been marked as
11 State's Evidence No. 16. Is this the bedroom at the
12 end of the hallway? Is this the bedroom at the end of
13 the hallway?

14 A Yes, ma'am, it is.

15 Q Now, if you came out of your bedroom --

16 A Yes, ma'am.

17 Q -- and somebody -- let me get the diagram. Point
18 out your bedroom again to the jury.

19 A (Indicating.)

20 Q Okay. Point it out again so everybody can make
21 sure they see it.

22 A (Indicating.)

23 Q Okay. Now, point out the back door.

24 A (Indicating.)

25 Q Now, if somebody came through the front door of

1 that trailer, point that out.

2 A (Indicating).

3 Q Could you have gotten out of that trailer without
4 passing the front door?

5 A Yes, ma'am, I could.

6 Q Okay. And this is the back door here
7 (indicating); is that correct?

8 A Yes, ma'am.

9 Q Okay. So the only bedroom in that house that was
10 confined basically to, you said, that front door if
11 they had to get out immediately would be Splurge and
12 Keia's?

13 A Yes, ma'am.

14 Q Okay. And they had to pass that front door
15 ultimately to get out any exit of that mobile home?

16 A Yes, ma'am.

17 Q Okay. Mr. Watts, if you don't mind, have a seat
18 for me. We're going to bring a couple more questions.

19 I'm going to show you one more picture, this is
20 State's Exhibit 15.

21 A Yes, ma'am.

22 Q Do you recognize that?

23 A Yes, ma'am.

24 Q What is that?

25 A Their bedroom.

1 Q Okay. Whose bedroom?

2 A Keia and Splurge.

3 Q Mr. Watts, whose house was this?

4 A Keia and Splurge's.

5 Q Okay. And you were just staying there?

6 A Yes, ma'am.

7 Q Okay. And I think you stated earlier, but I may
8 have missed it, what if any relationship is Keia to
9 you?

10 A It's my cousin.

11 Q Okay. And about how long had y'all lived
12 together?

13 A All our life.

14 Q Okay. And how did you know Splurge?

15 A Through her.

16 Q Okay.

17 (WHEREUPON, State's Exhibit No. 20 was marked for
18 identification only.)

19 Q Mr. Watts, I'm going to show you what has been
20 marked as State's Evidence No. 20.

21 A Yes, ma'am.

22 Q This is a map here, and this is to get your
23 bearings Colletta Court and Brison Court.

24 A Yes, ma'am.

25 Q Do you recognize this area?

CARLTON WATTS-DIRECT BY MS. LIVESAY

1 A Yes, ma'am, I do.

2 Q Is it an accurate depiction of that area?

3 A Yes, ma'am, it is.

4 Q Okay. And would you be able to show us which
5 mobile home it was you were living in.

6 A Yes, ma'am, I can.

7 Q Okay.

8 MS. LIVESAY: At this time, Your Honor, I would
9 like to introduce State's Evidence No. 20 -- I'm sorry,
10 State's Exhibit No. 20 into evidence and publish it to
11 the jury.

12 THE COURT: Any objection?

13 MR. FREDERICK: No objection.

14 MR. CANTY: Without objection, Your Honor.

15 THE COURT: Very good. State's-20 is in evidence,
16 and you may show it to the jury.

17 (WHEREUPON, State's Exhibit No. 20 was admitted in
18 evidence.)

19 MS. LIVESAY: Okay.

20 Q Okay. If you don't mind, Mr. Watts, I'll ask you
21 to step down one more time for me.

22 THE COURT: Remember, speak up, please.

23 MS. LIVESAY: I will, judge.

24 Q Is this the mobile home park?

25 A Yes, ma'am.

1 Q Your neighborhood?

2 A Yes, ma'am.

3 Q Okay. And is this the neighborhood you lived in
4 on or around August 8th of 2011?

5 A Yes, ma'am.

6 Q Okay. And the pictures of the mobile home I just
7 showed, is that mobile home in this map?

8 A Yes, ma'am.

9 Q Okay. And is that the mobile home y'all were
10 living in?

11 A Yes, ma'am.

12 Q Okay. If you don't mind, point that mobile home
13 out to the jury.

14 A Right here (indicating).

15 Q Okay. And that is the mobile home that y'all
16 lived in?

17 A Yes, ma'am.

18 Q Okay. I think that even somehow this map got that
19 black truck in here. Now, this map shows two roads.
20 Are those roads dirt roads or paved roads?

21 A Dirt roads.

22 Q Okay. When those roads, when you turn in to this
23 mobile home, is there a way out other than back out the
24 same way you came in?

25 A You got to go back out the same way you come in.

CARLTON WATTS-DIRECT BY MS. LIVESAY

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1 Q Okay. So they both dead end?

2 A Yes, ma'am.

3 Q Okay. So was there a lot of traffic in this
4 neighborhood?

5 A No, ma'am.

6 Q Okay. And you had lived, show us one more time
7 where you lived.

8 A (Indicating.)

9 Q Okay. Now, does these two dirt roads encompass
10 that neighborhood?

11 A Yes, ma'am.

12 Q Okay. Now, these -- what is back here, just so
13 the jury will know?

14 A Woods.

15 Q Okay. So it dead ends into nothing but woods?

16 A Right.

17 Q Okay. Now, on this map I don't really see any
18 street lights. Are there a lot of street lights in
19 that neighborhood?

20 A No, ma'am, there's not.

21 Q So this map is accurate as to the street lights?

22 A Yes, ma'am.

23 Q Thank you, Mr. Watts. Have a seat, I got two more
24 questions. Y'all had only lived in that house about
25 five months; is that correct?

1 A Yes, ma'am.

2 Q Okay. While y'all lived there, did you have a lot
3 of guests over?

4 A No, ma'am.

5 Q Okay. Did you have a guest over that night?

6 A Yes, ma'am, we did.

7 Q Who was that?

8 A My aunt, Lavena Jackson.

9 Q Who?

10 A Lavena Jackson.

11 Q Okay. Who is she to you and Keia?

12 A She's our aunt.

13 Q Okay. And about what time was she over that day?

14 A I don't recall.

15 Q Okay, okay. Had there been anybody else over that
16 day?

17 A No, ma'am.

18 Q Okay. If anyone, was there anybody else that ever
19 lived in the house during the timeframe you lived
20 there?

21 A No, ma'am.

22 Q Okay. Other than Keia and Splurge?

23 A That's right.

24 Q Okay. If anyone, was there anybody that hung out
25 a lot at that mobile home?

CARLTON WATTS-DIRECT BY MS. LIVESAY

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1 A No, ma'am.

2 Q Okay, okay. And Lavena Jackson is your aunt and
3 Keia's aunt?

4 A Yes, ma'am.

5 Q Okay. Now, do you know the two defendants in this
6 case?

7 A Yes, ma'am, I do.

8 Q Okay. And how do you know them?

9 A I went to school with one of them.

10 Q Okay. Did they ever come over to the house and
11 hang out?

12 A No, ma'am.

13 Q Okay. Do you know Keir Johnson?

14 A I know of him.

15 Q Okay. But you don't know him?

16 A No.

17 Q Okay. Had he ever been over to the house?

18 A No, ma'am.

19 Q Had either one of these boys been over to the
20 house?

21 A No, ma'am.

22 Q Okay. And how long had you and Keia been close?

23 A All our life.

24 Q Did she have any close friends?

25 A No, ma'am. No.

1 Q Okay. But she did have friends?

2 A She had friends.

3 Q Okay. Mr. Watts, you testified earlier that there
4 were a couple dogs out in the kennel?

5 A Yes, ma'am.

6 Q Okay. I couldn't see in the picture, and I'm not
7 sure the jury could, what kind of dogs were they?

8 A Pit Bulls.

9 Q Okay. And how many did you have back there?

10 A Two or three.

11 Q Okay. Now, was there an alarm in that house?

12 A Yes, ma'am, it was.

13 Q Okay. And do you know if that alarm was there
14 when y'all moved in or if it was put in?

15 A No, ma'am, I don't know that.

16 Q Okay. Did the alarm go off that night?

17 A Yes, ma'am, it did.

18 Q Okay. Now, you said earlier that you heard voices
19 when all this was going on; is that correct?

20 A Yes, ma'am.

21 Q Keia's voice and other voices?

22 A Yes, ma'am.

23 Q Did you recognize the other voices in the house?

24 A No, ma'am, I didn't.

25 Q Okay. And could you recognize who was in the

1 house when you were under the bed?

2 A No, ma'am, I couldn't.

3 Q Okay. So all you saw were the shoes?

4 A Yes, ma'am.

5 Q Okay. And you couldn't recognize the voices or
6 who it was that was in that house?

7 A No, ma'am, I can't.

8 Q Okay, okay. And when you came out, did you see
9 anybody else running from that mobile home?

10 A No, ma'am, I didn't.

11 Q Okay. And when you got out, were people
12 approaching the mobile home?

13 A Yes, ma'am.

14 Q Okay. And had 911 been contacted?

15 A Yes, ma'am.

16 Q Okay. About how long was it between the time that
17 you were -- you got -- you were hiding that you felt
18 like it was safe to come out?

19 A I would say approximately 10, 15 minutes.

20 Q Okay. And was there anything else that indicated
21 it was safe for you to come out?

22 A No, ma'am.

23 Q Okay.

24 MS. LIVESAY: No further questions, Your Honor.

25 THE COURT: Go ahead, Mr. Frederick.

1 MR. FREDERICK: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. FREDERICK:

4 Q You go by Dontrell?

5 A Yes, sir.

6 Q Okay. And Dontrell, I'm sorry that this happened
7 to you. Nobody said it, but you were a victim here
8 too.

9 A Thanks. Yes, sir.

10 Q I just want to go over just a couple of things. I
11 think you had said earlier that after you heard the
12 shots go off, you heard Keia scream?

13 A Yes, sir.

14 Q And she was yelling Splurge's name?

15 A Yes, sir.

16 Q Okay. You did not recognize the voices in the
17 house?

18 A No, sir.

19 Q In July of this year, do you remember meeting with
20 this lady over here, Ms. Ginger Pop?

21 A Yes, sir.

22 Q Okay. And did you tell her that when you were
23 under the bed that you saw -- you told her you saw two
24 pair of shoes?

25 A Yes, sir.

CARLTON WATTS-CROSS BY MR. CANTY

1 Q That was really all you could see; right?

2 A Yes, sir.

3 Q And you told her that they were Air Force One
4 shoes?

5 A Yes, sir.

6 Q And one pair was all black?

7 A Yes, sir.

8 Q And the other pair was red and black?

9 A Yes, sir.

10 Q Okay.

11 MR. FREDERICK: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 MR. FREDERICK: No more questions, judge.

14 THE COURT: All right. Cross-examination, Mr.
15 Canty?

16 MR. CANTY: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. CANTY:

19 Q Mr. Watts, first let me say I'm sorry for your
20 loss, and I appreciate you relating these facts to the
21 jury here today. Let me ask you, if I may, about those
22 moments before the police arrived and after these
23 intruders had apparently left. You said you waited
24 several minutes, and then you exited the trailer?

25 A Yes, sir.

1 Q And then some moments later the police arrived?

2 A Yes, sir.

3 Q Okay, let's focus on that time. First of all, let
4 me ask you, did Splurge have a job that you knew of?

5 A No, sir.

6 Q During those moments did you hear any flushing of
7 the toilet?

8 A No, sir.

9 Q Do you know whether or not Splurge had taken any
10 prescription drugs?

11 A No, sir, I don't.

12 Q You testified, and let me know if I have this
13 correct, that after the police arrived they ordered
14 anybody in the mobile home to come out --

15 A Yes, sir.

16 Q -- with their hands up?

17 A Yes, sir.

18 Q And I assume that these officers had their guns
19 drawn?

20 A Yes, sir, they did.

21 Q One in the back and one in the front, as far as
22 you knew?

23 A As far as I know.

24 Q You were more toward the back, the dog kennels,
25 that area?

CARLTON WATTS-CROSS BY MR. CANTY

1 A Yes, sir.

2 Q Further away?

3 A Yes, sir.

4 Q Okay. Now, describe, if you would, again for the
5 jury, Splurge's demeanor when he finally came out.

6 A He had his hands up.

7 Q And the officer, I assume, was shouting questions
8 at him, is there anyone else in the trailer, etcetera,
9 etcetera?

10 A Yes, sir.

11 Q And what did you tell the jury he was acting like
12 at that point?

13 A Like he was kind of off.

14 Q Retarded, was that the word that you used?

15 A Yes, sir.

16 Q As far as you knew, he was -- when you spoke to
17 Keia half an hour earlier or so, he was sound asleep?

18 A Yes, sir.

19 Q He was in his bedroom, and you didn't hear
20 anything from him?

21 A No, sir.

22 MS. LIVESAY: Your Honor?

23 THE COURT: Yes, ma'am.

24 MS. LIVESAY: I'm not sure where this is going as
25 far as Splurge's activities.

1 THE COURT: I appreciate that, but I'm going to
2 allow Mr. Canty to ask the questions. Thank you.
3 Continue on.

4 MR. CANTY: Thank you, Your Honor.

5 Q I think you testified initially that you -- first
6 of all, with regard to the mobile home diagram, is it
7 correct that that was a 65 by 13 mobile home?

8 A Yes, sir.

9 Q And it says at the bottom here in big letters, not
10 to scale?

11 A Right.

12 Q And a little simple arithmetic would say if it was
13 13 by 65, it would be five times longer than it is
14 wide. So these hallways, the length of these hallways
15 is actually kind of under-represented on this diagram,
16 the hallways are longer, as shown in the photographs?

17 A Um-hum.

18 THE COURT: Is that a yes, sir, or no?

19 THE WITNESS: Yes, sir.

20 THE COURT: When you say "um-hum," the court
21 report doesn't know what that is, so sorry. Go ahead.

22 Q You indicated on this diagram when the solicitor
23 asked you that the first gunshots came from the front
24 door?

25 A Yes, sir.

CARLTON WATTS-CROSS BY MR. CANTY

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1 Q And you were in this bedroom?

2 A Yes, sir.

3 Q How did you know anything more than that they came
4 from that direction, how did you know they came from
5 here and not from here (indicating)?

6 A That's the only thing they do.

7 Q So they came from this direction?

8 A Yes, sir.

9 Q Okay. And are you aware or not that Splurge
10 emptied his .357 Magnum revolver through this doorway?

11 A I wasn't aware of that.

12 Q Now, how long have you known Carnail?

13 A I don't know him. I know of him.

14 Q You don't know him, but you know of him?

15 A Yeah.

16 Q Would you recognize him on the street?

17 A Yes, I would.

18 Q Okay. Now, you attended Keia's funeral; correct?

19 A Yes, I did.

20 Q Was Carnail there?

21 A Yes, he was.

22 Q Tell the jury whether Brandon Wells, B-Wells, was
23 he at the funeral?

24 A I don't know who he is.

25 Q What about Mr. Donovan, 110, was he at the

1 funeral?

2 A I don't know.

3 Q How about Sha'Rah McCray, Little Manzy, was he at
4 the funeral?

5 A I don't know who he is.

6 Q And Bootsie, do you know Bootsie?

7 A Yes, I know who he is.

8 MS. LIVESAY: Your Honor, at this point I'm
9 starting to wonder the relevance.

10 THE COURT: Well, I'm going to allow him to ask
11 that question. If there's anything further, then we'll
12 have a discussion.

13 Q Did Bootsie attend the funeral?

14 A I don't know.

15 MR. CANTY: That's all I have, Your Honor.

16 THE COURT: Thank you. Redirect?

17 MS. LIVESAY: Just a couple questions, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. LIVESAY:

20 Q Mr. Watts, Mr. Canty asked you some questions
21 about Splurge coming out of the trailer.

22 A Yes, ma'am.

23 Q Do you understand that; do you remember those
24 questions?

25 A Yes, I do.

1 Q Okay. Did you see Splurge come out of that
2 trailer?

3 A Yes, I did.

4 Q Okay. So if two people went running from the
5 trailer, Splurge could not have been one of those
6 people?

7 A No, ma'am, he wasn't.

8 Q Okay. And did he ever try to run out of the
9 trailer?

10 A No, ma'am, he didn't.

11 Q Okay. And when the police came, did he get in the
12 police car?

13 A No, ma'am, he didn't.

14 Q Okay. And did you?

15 A No, ma'am, I didn't.

16 Q Okay. Now, let me ask you this: How long had him
17 and Keia been dating?

18 A Probably about two or three years.

19 Q Okay. How long?

20 A Two to three.

21 Q Okay. And how long had you known Splurge as far
22 as through them dating?

23 A Those years, two or three years.

24 Q Okay. And there were some feet in these pictures?

25 A Yes, ma'am.

- 1 Q Showing you State's Evidence No. 15.
- 2 A Yes, ma'am.
- 3 Q Whose feet are those?
- 4 A Keia Pertelle.
- 5 Q Okay. And that's the victim in this case?
- 6 A Yes, ma'am, it is.
- 7 Q And what bedroom is that?
- 8 A Theirs.
- 9 Q Okay. So she was running to Splurge?
- 10 A Yes, ma'am, she was.
- 11 Q Okay. So he never ran out of that trailer?
- 12 A No, ma'am, he didn't.
- 13 Q Okay. And you never saw him try to run from the
- 14 police?
- 15 A No.
- 16 Q Okay. And, in fact, when the police showed up,
- 17 you were already out of the trailer; is that correct?
- 18 A Yes, ma'am, I was.
- 19 Q Okay. And you approached them?
- 20 A Yes, ma'am, I did.
- 21 Q Okay. So if you wanted to, you could have left,
- 22 gone, before the police ever showed up?
- 23 A Yes, ma'am, I could have.
- 24 Q Okay. You could have?
- 25 A Yes.

CARLTON WATTS-REDIRECT BY MS. LIVESAY

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1 Q Did you?

2 A No.

3 Q Did Splurge?

4 A No, he didn't.

5 Q Okay. Did you ever see a brown van out there when
6 you came out?

7 A No, ma'am, I didn't.

8 Q Okay. So that had had to already leave by the
9 time you got out?

10 A Yes, ma'am, it did.

11 Q Okay. So when the police got there, you were
12 still there and Splurge was still there?

13 A Yes, ma'am, we was.

14 MS. LIVESAY: No further questions, Your Honor.

15 THE COURT: Questions on those questions just
16 asked, Mr. Frederick?

17 MR. FREDERICK: Nothing, Your Honor.

18 THE COURT: Mr. Canty?

19 MR. CANTY: No recross, Your Honor.

20 THE COURT: Very good. You may step down, sir.

21 (Witness excused.)

22 THE COURT: Do you wish the witness to be excused,
23 ma'am?

24 MS. LIVESAY: Yes, sir, Your Honor.

25 THE COURT: Any objection?

1 name, spell your last name for the Court, please.

2 THE WITNESS: Sharon Renee Hardwick,

3 H-A-R-D-W-I-C-K.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Ms. Hardwick, where are you currently employed?

7 A Horry County 911.

8 Q And how long have you been employed there?

9 A 30 years.

10 Q How many years?

11 A 30.

12 Q And what is your job responsibilities?

13 A I'm over day-to-day operations, personnel matters,
14 equipment, keeper of the records for our department.

15 Q Okay. And are you familiar with the procedure of
16 when a 911 call comes in?

17 A Yes.

18 Q And are those calls recorded?

19 A They are.

20 Q And if you don't mind, are they kept in any form
21 or fashion there at 911?

22 A They are currently, they are stored on a hard
23 drive, and we are mandated by law to keep them for 60
24 days.

25 Q Okay. And are they kept in such a form or fashion

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1 that they cannot be tampered with?

2 A Yes.

3 Q And are they kept in the regular course of
4 business?

5 A They are.

6 Q Okay. And are you familiar with a call that was
7 made on November 8th of 2011?

8 A I am.

9 Q Okay. And I'm showing you now what's been marked
10 as State's Exhibit No. 28?

11 A Yes.

12 Q Are you familiar with that call?

13 A I am.

14 Q And was that call kept in the regular business,
15 course of business?

16 A It was.

17 Q And did you recognize the 911 employee taking the
18 call?

19 A I did.

20 Q And who was that?

21 A Her name is Paula McMillen.

22 Q Okay. And has that call been tampered with in any
23 form or fashion?

24 A No.

25 MS. LIVESAY: Your Honor, at this time the State

1 wishes to admit State's Exhibit No. 22 into evidence
2 and publish it at the appropriate time.

3 THE COURT: Any objection?

4 MR. FREDERICK: I have no objection.

5 THE COURT: Mr. Canty?

6 MR. CANTY: None, Your Honor.

7 THE COURT: And it was 22?

8 MS. LIVESAY: Thank you, Your Honor. No further
9 questions for this witness.

10 THE COURT: All right. I'm sorry, was the
11 Exhibit 22?

12 MS. LIVESAY: It's the 911 tape. I'm sorry, could
13 you please place it into evidence as State's Evidence
14 No. 28.

15 THE COURT: 28?

16 MS. LIVESAY: Yes.

17 THE COURT: Okay, so you said two different
18 numbers.

19 MS. LIVESAY: Sorry.

20 THE COURT: That's what I was trying to get clear.
21 All right. So State's-28 is in evidence without
22 objection.

23 (WHEREUPON, State's Exhibit No. 28 was admitted in
24 evidence.)

25 MR. FREDERICK: Can we just identify which call

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1 that was.

2 MS. LIVESAY: David Grissett.

3 MR. FREDERICK: Thank you.

4 MS. LIVESAY: No further questions.

5 THE COURT: Any questions, Mr. Frederick?

6 MR. FREDERICK: No questions, judge.

7 THE COURT: Mr. Canty?

8 MR. CANTY: No, Your Honor.

9 THE COURT: All right. Do you wish to release the
10 witness?

11 MS. LIVESAY: Yes, sir, Your Honor.

12 THE COURT: Any objection?

13 MR. FREDERICK: No objection.

14 THE COURT: Mr. Canty?

15 MR. CANTY: No, Your Honor.

16 THE COURT: All right, ma'am. You are released
17 from your subpoena, and you may go back to your regular
18 duties.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: Next witness, please, ma'am.

22 MS. LIVESAY: Thank you, Your Honor. At this time
23 the State calls David Grissett to the stand.

24 THE COURT: All right, Mr. Grissett if you come
25 all the way over here. Come up to the front, please.

1 DAVID D. GRISSETT, after being duly sworn,
2 testified as follows:

3 CLERK OF COURT: Please be seated. State your
4 full name for the Court, please.

5 THE WITNESS: David Duran Grissett.

6 DIRECT EXAMINATION

7 BY MS. LIVESAY:

8 Q And Mr. Grissett, if you don't mind, tell the jury
9 about how old you are.

10 A 33.

11 Q Okay. And what are you doing currently for
12 employment?

13 A Floor maintenance.

14 Q Okay. And where are you from?

15 A Conway, South Carolina.

16 Q Okay. And where were you living on or around
17 August the 8th of 2011?

18 A Colletta Court. That's in Conway.

19 Q Okay. And did you have an occasion to call 911 on
20 that day?

21 A Yes.

22 Q Okay. And have you heard your 911 tape?

23 A Yes.

24 Q Okay. And is that your voice on the tape?

25 A Yes.

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1 Q Okay. And is that an accurate representation of
2 your call?

3 A Yes.

4 Q Okay.

5 MS. LIVESAY: Your Honor, at this time I wish to
6 publish State's Evidence No. 28.

7 THE COURT: Yes, ma'am, you may go ahead.

8 (WHEREUPON, a CD was played for the jury.)

9 Q Now, Mr. Grissett, when you -- how long had you
10 lived out there in that area before this happened?

11 A Over a year.

12 Q Okay.

13 THE COURT: Would you scoot up a little bit closer
14 to the microphone, please, sir.

15 THE WITNESS: All right.

16 THE COURT: Thank you.

17 Q When was the first time you saw that brown van
18 that night?

19 A A few minutes earlier before the whole thing
20 happened and whatnot.

21 Q Okay. And if you don't mind, tell the jury when
22 that van first caught your eye.

23 A When I was outside and it went down to a end
24 trailer and just parked there.

25 Q Okay. And did it ever move once it was parked?

1 A Yes, it did.

2 Q Okay. And if you don't mind, tell the jury where
3 it went.

4 A Well, like two streets over and came back.

5 Q Okay. And when it came back, what did it do?

6 A Parked again.

7 Q And where did it park?

8 A In the same spot at the end trailer, the last
9 trailer.

10 Q Okay. And you had been living out there a couple
11 of years?

12 A Over a year.

13 Q Okay, over a year. Had you ever seen that van
14 before?

15 A Never.

16 Q Okay. And when you first saw it, were you
17 suspicious of the van?

18 A Yes, ma'am.

19 Q About what time of night was it?

20 A It was like, two or three in the morning.

21 Q Okay. So about around 2 in the morning?

22 A Right.

23 Q Okay. Now, when you saw that van, did you do
24 anything, when you first saw the van?

25 A No, not when I first saw it.

DAVID GRISSETT-DIRECT BY MS. LIVESAY

1 Q Okay.

2 A I just watched.

3 Q Okay. How about the second time?

4 A Yeah. The second time I did.

5 Q What did you do?

6 A I called Conswella and a couple other people that
7 was in the neighborhood.

8 Q Okay. So you were suspicious enough to contact
9 other people and say, hey, look out for this van?

10 A Right.

11 Q Okay. Now, what do you see after that; does the
12 van move again a third time?

13 A Right. It moved again and went like two streets
14 over. Being that it was dark, I mean, I could see the
15 lights and I could hear the van or whatnot. So it went
16 down just a little bit, and it came back up and it
17 parked again the same spot.

18 Q Okay. And then what happened?

19 A Then I just heard like gunfire. I think Swella
20 came out on the porch and she asked one of the guys
21 something. And like right after or while she was
22 asking a question, you know; some gunfire, again, you
23 know; a bunch of commotion. And, you know, I seen
24 somebody run, like two people.

25 Q Run from where?

1 A From the house.

2 Q Okay. And where did they run to?

3 A They ran like -- they ran to the van or whatnot.

4 Q Okay. Did they get in the van?

5 A Yes.

6 Q And then where did the van go?

7 A To, I mean, it had left out of the area or
8 whatnot.

9 Q Okay. You just know it left the area?

10 A Right.

11 Q And then what did you do?

12 A I made the phone call.

13 Q That's when you called 911?

14 A Right.

15 Q So when you called 911 that van had already left
16 the area?

17 A Right.

18 Q Okay. Now, I'm going to show you what's already
19 been put into evidence. This is State's Evidence No.

20 20. You recognize this?

21 A Yes.

22 Q Okay. And you've lived out there for over a year.
23 Is this an accurate depiction of that neighborhood?

24 A Yes.

25 Q Okay. And on this can you show where the van went

1 that night? Just yes or no for now.

2 A Yes.

3 Q Okay. And can you point out where your house is.

4 A Yes.

5 Q And can you point out where Splurge and Keia's
6 house was.

7 A Yes.

8 Q Okay. If you don't mind, I'll ask you to step
9 down so the jury can look at this map while we're
10 looking at it, and you can tell them where you lived.

11 A Okay.

12 Q Okay. When you step down, make sure you speak up
13 because your back is going to be to the judge and to
14 the court reporter.

15 A Okay.

16 Q And make sure you speak into that microphone.
17 Now, first start off by telling this jury where your
18 house was.

19 A Right here (indicating).

20 Q Okay.

21 A Wherever the bushes at.

22 Q Okay. And show where Keia and Splurge lived.

23 A Straight across right here (indicating), where
24 this little shed is at.

25 Q Okay. I'm going to point it this way too so they

1 can see. And you were pointing to Splurge and Keia's
2 house as this one (indicating)?

3 A Right.

4 Q Okay. And now, where is your house?

5 A Right here on Brison, all along Brison.

6 Q Now, if you don't mind, the first time you see the
7 van, where is it?

8 A That at this end trailer right here (indicating).

9 Q Okay. And is there an outlet down there to get
10 out of that neighborhood?

11 A No.

12 Q Okay. So it's down at the dead end?

13 A Right.

14 Q Okay. And then where did it go?

15 A It went to Wayside right here like (indicating).
16 It's small, it's small if you want to look. It went to
17 this street right here, Wayside.

18 Q Okay. So this is a relatively small area?

19 A Right.

20 Q Okay. Let me ask you just so we can put it in
21 terms, your house here, could you walk over here to
22 this street?

23 A Yeah.

24 Q Would it be a short walk?

25 A Yeah, no problem.

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1 Q More than -- more than three blocks?

2 A No.

3 Q Okay, no more than three blocks. So you see the
4 van again where? Point it out to the jury. It went
5 somewhere on Wayside Road?

6 A I don't know exactly where it went.

7 Q Okay.

8 A But it went on this side (indicating).

9 Q Okay.

10 A And when it came back, it came back the same spot.

11 Q Okay. So it was parked down here again a second
12 time (indicating)?

13 A Right, right.

14 Q Okay. And then after it parked the second time,
15 is that when you heard the gunshots?

16 A Yeah.

17 Q Okay. And after you heard the gunshots, you said
18 earlier you saw two people running?

19 A Right.

20 Q Where did you see them running from?

21 A They ran from this house right here (indicating)
22 like straight across. I mean, because there wasn't
23 nothing sitting right there.

24 Q Okay. And where was the van when they were
25 running from that house?

1 A Still parked right here (indicating).

2 Q Okay. And then what happened?

3 A And then they made off with the van, and the van
4 picked them up like right along in here or whatnot
5 (indicating).

6 Q And then left the area?

7 A Right.

8 Q Did you see that van back in that area since that
9 day?

10 A No.

11 Q Okay. And about how -- do you remember how long
12 it took the police to get there?

13 A No.

14 Q Okay. Now, I asked somebody earlier, and I just
15 wanted to make sure I understand, is this a
16 neighborhood type situation?

17 A Yeah.

18 Q Okay. And is there an outlet on either one of
19 these roads?

20 A No.

21 Q Okay. So there's only one way in and one way out?

22 A Right.

23 Q Okay. Now, are there street lights along in this
24 neighborhood?

25 A No.

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1 Q Okay. So there are no street lights along in
2 here?

3 A No.

4 Q Okay. Now, and you said you saw them sometime
5 around 2 o'clock in the morning or after?

6 A Right.

7 Q Okay. Now, you saw them. Could you describe the
8 two people you saw running from the trailer?

9 A No.

10 Q Okay. And where were you standing when you saw
11 them running from the trailer?

12 A Right in front of my house.

13 Q Okay. Right here (indicating)?

14 A Right.

15 Q And they were running from this house
16 (indicating)?

17 A Right.

18 Q Okay. And there are no street lights along in
19 here (indicating)?

20 A No.

21 Q Okay. So you couldn't see good enough to get a
22 actual description of them?

23 A No.

24 Q Okay. And did you call 911 immediately?

25 A Yes.

1 Q Okay.

2 A After I heard the gun.

3 Q Okay. If you don't mind, have a seat,

4 Mr. Grissett.

5 A Yeah.

6 Q Thank you. Now, how did you -- do you remember
7 what that van looked like now?

8 A No. I mean, it's been a while.

9 Q Okay.

10 A Haven't seen it before then and...

11 Q Okay. That 911 tape you describe it as a old van;
12 did you hear that?

13 A Right.

14 Q Okay. And was that description accurate in the
15 911 call?

16 A Right.

17 Q Okay. Okay. Now, after that van left, did you
18 see anybody else run out of that trailer?

19 A Yes.

20 Q Who did you see?

21 A I don't know his name. I seen a black guy, a
22 little skinny guy.

23 Q Okay. And was he running to leave the area?

24 A Right. He was -- he was running to leave the
25 house.

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1 Q . Okay, okay. This is a third person?

2 A Right..

3 Q And did a car pick him up?

4 A Not to my knowledge.

5 Q Okay. And do you remember what he was wearing?

6 A I don't think he was wearing nothing, to be
7 honest.

8 Q Okay. Just some pants? Okay.

9 A Probably some -- may have been some drawers,
10 that's it.

11 Q Okay. And he came out after the two guys jumped
12 in the van?

13 A Right.

14 Q Okay. And no car came and picked him up?

15 A No.

16 Q Okay.

17 MR. CANTY: Your Honor, I haven't objected to
18 leading up to this point, but it's getting to the
19 point --

20 Q Do you know all who was --

21 THE COURT: Solicitor.

22 MS. LIVESAY: I'm sorry.

23 THE COURT: There is an objection.

24 MR. CANTY: She's testifying and asking him --

25 THE COURT: I appreciate that. Solicitor, don't

1 lead your witness, please.

2 MS. LIVESAY: I understand, Your Honor.

3 THE COURT: Thank you, ma'am.

4 Q Did you know all who lived in that mobile home at
5 that time?

6 A No.

7 Q Okay. You just knew well enough to know somebody
8 lived in there?

9 A Right.

10 Q Okay. And you had never seen that brown van in
11 that neighborhood ever before that night?

12 A No.

13 Q Okay. And you say you called and gave -- I'm just
14 making sure I understand -- at least one person a
15 heads-up about that van being in the neighborhood?

16 A Right.

17 MR. FREDERICK: Judge, I got to join and object to
18 hearsay, I mean --

19 THE COURT: Well, I appreciate that. But she was
20 not talking about the contents of the conversation but
21 that he made a phone call to someone else. I'm going
22 to allow that. You may continue.

23 MR. FREDERICK: Judge, I didn't mean to say
24 hearsay, I meant to say leading.

25 THE COURT: All right. And I appreciate that. I

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1 don't think it was leading also because the question
2 was previously asked and answered by the witness, and
3 she was rephrasing his answer.

4 Q Do you remember what was behind their house that
5 night? There were two guys running from Splurge's
6 house, Splurge and Keia's house; do you remember what
7 was behind the house, if anything?

8 A Only a shed. I mean, that's about it.

9 Q Okay.

10 MS. LIVESAY: No further questions, Your Honor.

11 THE COURT: Cross-examination, Mr. Frederick?

12 MR. FREDERICK: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. FREDERICK:

15 Q It is David; right?

16 A Correct.

17 Q You also when you saw the van before you heard
18 gunshots and all, did you call Conswella to warn her
19 about the van?

20 A Right.

21 Q Okay. And because it was unusual; right?

22 A Right.

23 Q I understand. And after you heard the gunshots,
24 you saw two people running from the trailer; right?

25 A Right.

1 Q And earlier you said a third person ran from the
2 house; right?

3 A Right.

4 Q Do you know Dontrell Watts?

5 A No.

6 Q Okay. Do you know Thomas?

7 A No.

8 Q Do you know Carnail?

9 A No.

10 Q Do you remember speaking with an investigator
11 named Bill Beam in January of last year?

12 A No.

13 Q Okay. Did you tell an investigator in January of
14 last year that you knew Thomas and Carnail?

15 A No. Not that I recall, no.

16 Q Okay.

17 A Only by maybe seeing them around, not knowing
18 them.

19 Q So you do know them. Do you recognize them?

20 A Right.

21 Q Okay. You know who they are?

22 A Right.

23 Q And you recognize them?

24 A Right.

25 Q Okay. And you did tell the investigator that;

1 right?

2 A No, I don't recall that.

3 Q Okay. Did you also tell the investigator that
4 this was not Thomas or Carnail running from the house?

5 A Sir, I don't recall that. I really don't.

6 Q Okay. Do you know Sha'Rah McCray?

7 A No.

8 Q He also goes by Migo; do you recognize that?

9 A No.

10 Q Lil Manzy?

11 A No.

12 Q Lil Deep?

13 A No.

14 Q Never heard of him?

15 MS. LIVESAY: Your Honor, at this time I'm going
16 to have to object to the relevancy.

17 THE WITNESS: No.

18 THE COURT: I'm going to allow it.

19 Q Do you know Brandon Wells?

20 A No.

21 Q He also goes by B-Wells.

22 A No.

23 Q Never heard of him?

24 A No.

25 Q Do you know Donavan Johnson?

1 A No.

2 Q He also goes by 110.

3 A No.

4 Q Never heard of him?

5 A No.

6 MR. FREDERICK: Beg the Court's indulgence. No
7 further questions. Thank you, David.

8 THE COURT: Cross-examination?

9 MR. CANTY: Thank you, Your Honor. May it please
10 the Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. CANTY:

14 Q Mr. Grissett, I noticed the solicitor got you to
15 say 2 o'clock; is that your recollection?

16 A Yes, it was about 2 o'clock.

17 Q About 2 o'clock?

18 A Right.

19 Q And if the 911 tape says that your call came in at
20 eight minutes after three, would that be accurate?

21 A I mean, if the proof is there, I mean, this ain't
22 happened yesterday, this happened a couple years ago.

23 Q All right. Well, that's my question, if the 911
24 tape says 3:08 a.m., would that be accurate?

25 A Yeah.

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1 Q And your previous testimony that it was 2 o'clock
2 would not be accurate?

3 A Right.

4 Q Now, this is Highway 548 up here at the top. This
5 is the access road to get to your trailer park;
6 correct, 548?

7 A Correct.

8 Q Is it called Brown Swamp Road sometime?

9 A Yeah.

10 Q Okay. And your trailer park has two dirt roads in
11 it. The far one is Brison and this one is Collette, or
12 Colletta; correct?

13 A Right.

14 Q You were here with the tall bushes in front;
15 correct?

16 A Correct.

17 Q And when all of this was going on, you were
18 actually out in your front yard; isn't that correct?

19 A Right.

20 Q And from your front yard you could see what was
21 going on, but you could not be seen; is that correct?

22 A Right.

23 Q All right. Now, this last trailer at the end of
24 Colletta Court, that's where Conswellia lives?

25 A Right.

1 Q You knew Conswella?

2 A Right.

3 Q And I think you testified you did not know

4 Mr. Dontrell Watts?

5 A Right.

6 Q But you did know Rodney McElveen, also known as

7 Splurge?

8 A From the neighborhood, right.

9 Q You did know him?

10 A From the neighborhood.

11 Q You named him in that 911 call; didn't you?

12 A By nickname from the neighborhood, yeah.

13 Q And you actually referred to him as your man;

14 didn't you?

15 A Right.

16 Q Okay. Now, you correct me if I'm wrong, this was
17 an old van with a bad muffler that made a lot of noise?

18 A Right.

19 Q And that got your attention?

20 A Right.

21 Q And correct me if I'm wrong, did it first go down
22 Brison, or did it first go down Colletta?

23 A It went down Colletta.

24 Q And it stopped there; and you thought that was
25 suspicious?

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1 A Right.

2 Q So you kept your eyes on that van?

3 A Right.

4 Q And it left and it went up to 548; correct?

5 A Right.

6 Q Then did it go down Brison, or did it go down

7 Wayside or both?

8 A Went down Wayside.

9 Q Wayside. But you could still see it because of no
10 obstruction of your view there; correct?

11 A Right.

12 Q See the lights?

13 A Right.

14 Q And then it went back up to 548 and then back down
15 Colletta?

16 A Right.

17 Q At this point you were extremely suspicious;
18 correct?

19 A Right.

20 Q And it goes down to the end of Colletta, and once
21 again, it stops and it parks in front of Conswella's
22 house?

23 A Right.

24 Q Did you ever see two men get out of the van?

25 A No.

1 Q How long was it at the end of Colletta the second
2 time before you called Conswella?

3 A I guess a few minutes, I guess.

4 Q 30 seconds, a minute, two minutes?

5 A A few minutes.

6 Q Okay. Did you have to look up her number, or did
7 you have it in your phone?

8 A I had it in my phone.

9 Q Okay. Then you said Conswella, there's a van
10 outside your house?

11 A Um-hum.

12 Q It looks -- well, tell the jury what you said to
13 her. What did you tell her at 3 o'clock in the
14 morning?

15 A I told her there was a van outside of her house,
16 that's about it. And it looked strange.

17 Q Okay.

18 A I mean, to my recollection, you know.

19 Q How long was the van there the second time before
20 you heard the gunshots?

21 A About a minute or two.

22 Q All right. And describe to the jury the gunshots.
23 Was it pow, pow, pow, pow, pow, or was it five in a row
24 or six in a row; or what did it sound like?

25 A It was about three or four in a row.

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1 Q And that was all?

2 A Yeah, that I remember.

3 Q And what was the time lapse -- and you're out here
4 in your front yard kind of hidden by these bushes, but
5 you hear the gunshots coming from the direction of
6 Splurge's house.

7 A Right.

8 Q That's what you told the 911 operator; correct?

9 A Right.

10 Q What was the time between hearing the gunshots and
11 seeing the two men run towards you?

12 A A few seconds.

13 Q Okay. Now, the van came up and intercepted, met
14 the two running men who jumped in the van; is that
15 correct?

16 A Right.

17 Q They did not run down to Colletta's house and then
18 the van started up and proceeded, the van was already
19 underway, met them and continued up to 548; is that
20 correct?

21 A Right.

22 Q Okay. Who else did you call besides Conswella to
23 tell them about this van?

24 A I don't remember.

25 Q Your cell phone records would reflect who you

1 called?

2 A Right.

3 Q Now, when you met with the investigator about,
4 well, exactly January the 8th of 2013, Mr. Bill Beam,
5 the investigator, went to your house; do you remember
6 that?

7 A No.

8 Q You don't remember meeting with the investigator?

9 A No, no.

10 Q Did you tell the investigator that you were
11 hesitant to discuss this?

12 A No.

13 Q Did you express a fear of retribution --

14 A No.

15 Q -- which you felt could jeopardize your physical
16 safety?

17 A No.

18 Q You did not say that?

19 A No.

20 Q Okay.

21 MS. LIVESAY: Your Honor, I'm not sure what
22 investigator we're referring to.

23 MR. FREDERICK: He just said Bill Beam.

24 MS. LIVESAY: Just for my clarification.

25 THE COURT: He did say the name of the

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1 investigator. He asked.

2 MS. LIVESAY: And I'm assuming he is an
3 investigator for Mr. Canty?

4 MR. CANTY: That's correct, Your Honor.

5 THE COURT: Mr. Canty just answered the question.

6 MS. LIVESAY: I understand, Your Honor. Am I
7 going to get a copy of that statement he gave to that
8 investigator or?

9 THE COURT: Ma'am, if you have an objection, I'll
10 be glad to hear it. If you don't have an objection,
11 we're not discussing the matter between you and the
12 attorney. Sit down.

13 MR. CANTY: Your Honor, there is some impeachment
14 matters. I don't know if you want to review them at
15 the bench beforehand.

16 THE COURT: Ladies and gentlemen of the jury, go
17 to your jury room, please.

18 (WHEREUPON, the jury exited the courtroom at
19 2:44 p.m.)

20 THE COURT: You doing this from an NCIC?

21 MR. CANTY: Yes, Your Honor.

22 THE COURT: Somebody have a copy for me?

23 MR. CANTY: Do you have a copy that he can refer
24 to?

25 MS. LIVESAY: I don't have a copy. I gave my copy

1 to Mr. Canty.

2 MR. CANTY: I can recite the offenses and the
3 dates, Your Honor.

4 THE COURT: Very well, if you would do that,
5 please.

6 MR. CANTY: The first one is a conviction and a
7 one-year suspended sentence on three years probation
8 for resisting arrest. And that sentence was imposed
9 June the 16th of 2005. The second is a conviction for
10 possession of cocaine, sentence of two years suspended
11 on time served, three years probation on the same date.

12 Another charge of resisting arrest, three years
13 probation. In 2008 there is a conviction for carrying
14 an unlawful weapon. In 2009 another conviction,
15 one-year sentence, 18 months probation, unlawful
16 carrying of a weapon. And 2013 receiving goods or
17 services fraudulently under a thousand dollars. And
18 that's all within the timeframe.

19 THE COURT: All right. So?

20 MS. LIVESAY: Your Honor, just very briefly, I'm
21 not sure -- I've got these written down now -- I'm not
22 sure how any of these go towards what his truthfulness
23 as far as a conviction for drugs, resisting arrest and
24 unlawful carrying of a weapon.

25 The 2013 was after this incident, it was after the

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1 phone call. It was after he gave a statement to the
2 police. So I'm not sure how these three previous
3 convictions are relevant to whether or not Mr. Grissett
4 is telling the truth about an incident that happened
5 November 8th, 2011.

6 THE COURT: All right. Well, whether or not it's
7 before or after doesn't matter, okay. What does matter
8 is if he's been convicted of a crime that was
9 punishable by death or imprisonment in excess of one
10 year. So the potential punishment has to be more than
11 one year first, or that the witness has been convicted
12 of a crime that involved dishonesty or false
13 statements. So you want to start with the first one,
14 tell me what it is.

15 MR. CANTY: The first one is resisting arrest.
16 His sentence was one year suspended on four days in
17 jail and three years probation. And that went to court
18 June 16, 2005.

19 THE COURT: All right, resisting arrest. Was that
20 under the A section or not? A section is just up to
21 one year, so you can't use it.

22 MR. CANTY: Well, Your Honor, if he got a sentence
23 of three years probation, I would submit that it must
24 have been --

25 THE COURT: Well, you can give somebody up to five

1 years probation no matter what the active time is. You
2 can give them the maximum sentence which could be six
3 months or whatever and give them up to the maximum time
4 of probation. You can suspend the active time to the
5 term of probation.

6 So you're asking to impeach him, so you need to
7 provide to the Court the information.

8 MR. CANTY: It indicates subsection A,
9 misdemeanor.

10 THE COURT: Very good. So that's only up to one
11 year, so you can't use that because it has to be in
12 excess of one year. All right, what's next?

13 MR. CANTY: The next one is possession of schedule
14 one, two, etcetera, cocaine first, convicted two years
15 suspended on four days time served and three years
16 probation. And that was the same court date. And
17 that--

18 THE COURT: I'm sorry, possession of a schedule
19 one, two or three drug, first offense?

20 MR. CANTY: Correct. 44-53-370(d).

21 THE COURT: D what?

22 MR. CANTY: That's all it says, Your Honor.

23 THE COURT: All right. Well, because D starts it,
24 and then they have all of the laundry list after that
25 that are one, two, four, whatever.

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1 MR. CANTY: Your Honor, the two years suspended
2 sentence.

3 THE COURT: Okay. Possession of a schedule one,
4 two or three drug, first offense, the maximum sentence
5 is six months. You can't get more than six months for
6 possession of a schedule one, two, three drug, first
7 offense.

8 MR. CANTY: Your Honor, my understanding of the
9 law is that with the exception of marijuana, that
10 possession of controlled substances has been held to be
11 a crime of moral turpitude. For marijuana you need
12 possession --

13 THE COURT: Please provide me with the case. I do
14 not know of that case.

15 MR. FREDERICK: He got sentenced for two years.

16 THE COURT: I understand that, Mr. -- all right.
17 Mr. Frederick, I appreciate the fact that he got
18 sentenced to two years, all right. That would indicate
19 that the crime is not possession of a schedule one, two
20 or three drug. But the NCIC apparently reflects that
21 he's guilty of possession of a schedule one, two, or
22 three drug.

23 MR. FREDERICK: I think it says cocaine, judge.

24 THE COURT: All right. Well then, that's
25 different.

1 MR. FREDERICK: Yes, sir.

2 THE COURT: Okay. That's a different crime.
3 That's not possession of a schedule one, two or three
4 drug, that's different. All right, so -- all right, so
5 possession of cocaine, all right. So maximum sentence
6 there is up to two years, \$5,000 fine. So that falls
7 within the one year.

8 And now I have to determine under the rule whether
9 the prohibitive value of admitting it is more
10 beneficial to the jury or not. You said you had a case
11 that says possession of a illegal substance is a crime
12 of moral turpitude.

13 MR. CANTY: With the exception of simple
14 possession of marijuana, there is a case that says that
15 is not a crime of moral turpitude. Marijuana has to be
16 possession with intent or distribution, but for other
17 drugs, simple possession of cocaine, for example, my
18 understanding is -- I can't give you a cite right now,
19 but tomorrow morning I could -- that says that
20 possession of cocaine is --

21 THE COURT: Yes, sir. Yes, sir, Mr. Frederick.

22 MR. FREDERICK: If I can help, several years ago
23 in a trial with Your Honor, this issue came up and I
24 was arguing that I could impeach a witness with a crime
25 of moral turpitude based on research my associate had

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1 done for me. And Your Honor went to the rule and
2 pointed out in the annotations that --

3 THE COURT: Let's look.

4 MR. FREDERICK: -- morale turpitude is no longer a
5 distinction that applies.

6 THE COURT: Well, and I was just about to say
7 that. In the rule it doesn't -- we're not to talk
8 about that, that's in subsection 2. In subsection 1 it
9 talks about if the crime is punishable by death or
10 imprisonment in excess of one year. And if he's --

11 MR. FREDERICK: So moral turpitude no longer
12 applies.

13 THE COURT: So you'll be able to ask him, were you
14 convicted -- well, let's see now. Are we going to be
15 violative of the ten-year rule. Evidence of a
16 conviction under this rule is not admissible if a
17 period of more than ten years has passed since the date
18 of the conviction or the release of the witness from
19 confinement, whichever is later. All right. And this
20 has a conviction date, looks like 2004.

21 January 15th, 2004. So we got ten years that have
22 passed. And two years suspended, time served, three
23 years probation. All right. I'll say three years
24 probation extends it. I'm going to allow you to ask
25 him if he was convicted on January 15th, 2004 of the

1 crime of possession of cocaine, first offense. All
2 right. So you want to go on to the next one?

3 MR. CANTY: Yes, Your Honor.

4 THE COURT: What's the next one?

5 MR. CANTY: Next one is unlawful carrying of a
6 weapon. Court date was October the 8th of 2009. One
7 year suspended to 18 months probation, and it cites
8 16-23-20, and notes a misdemeanor.

9 THE COURT: I'm sorry, the code section again?

10 MR. CANTY: 16-23-20.

11 THE COURT: Right. Unlawful carrying of a pistol,
12 not more than one year. So again, you can't ask him
13 because it's not more than one year.

14 MR. CANTY: Very good. And apparently the
15 receiving goods and services fraudulently is still
16 pending, has not been disposed of.

17 THE COURT: Well, then that's not a conviction, so
18 you can't ask him about that.

19 MR. CANTY: Very good.

20 THE COURT: So you can ask him if he was convicted
21 on January 15th, 2004 of the crime of possession of
22 cocaine.

23 MR. CANTY: Very good.

24 THE COURT: All right. Ask the jury to come back
25 in, please.

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1 (WHEREUPON, the jury came into open court at
2 approximately 2:56 p.m.)

3 THE COURT: You may proceed, Mr. Canty.

4 MR. CANTY: Thank you, Your Honor. May it please
5 the Court.

6 THE COURT: Yes, sir.

7 Q You are the same David Grissett who pled guilty to
8 possession of cocaine in January of 2004 and received a
9 three-year probationary sentence; is that correct?

10 A Yes.

11 MR. CANTY: That's all I have.

12 THE COURT: Thank you very much. Redirect, ma'am?

13 MS. LIVESAY: No further questions from the State,
14 Your Honor.

15 THE COURT: Do you wish the witness to be excused?

16 MS. LIVESAY: I do.

17 THE COURT: Any objection, Mr. Frederick?

18 MR. FREDERICK: Judge, we also have him under
19 subpoena. I would like him to remain subject to
20 recall.

21 THE COURT: All right, very good. All right, Mr.
22 Grissett you are free to step down, but you do remain
23 under subpoena, that is the call of the Court again.
24 All right. Thank you, sir.

25 (Witness excused.)

1 THE COURT: Next witness, ma'am.

2 MS. LIVESAY: Thank you, Your Honor. At this time
3 the State calls Officer Matthew Singleton.

4 THE COURT: All right. Come all the way around
5 here, please, sir, and meet the clerk.

6 MATTHEW SINGLETON, after being duly sworn,
7 testified as follows:

8 CLERK OF COURT: Please be seated. State your
9 full name, spell your last name for the Court, please.

10 THE WITNESS: Matthew Singleton. Last name is
11 S-I-N-G-L-E-T-O-N.

12 DIRECT EXAMINATION

13 BY MS. LIVESAY:

14 Q And Officer Singleton, if you don't mind, tell the
15 jury where you're currently employed.

16 A Horry County Police Department.

17 Q And how long have you been employed there?

18 A Nine years.

19 Q Okay. And what kind of training have you
20 undergone to be a policeman?

21 A Just standard basic law enforcement training at
22 the Criminal Justice Academy in Columbia.

23 Q Okay. And what are your current -- your
24 responsibilities?

25 A My current responsibility is burglary

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1 investigation out of the west precinct.

2 Q And what were your responsibilities back on
3 November 8th, 2011?

4 A I was a patrol corporal responsible for trouble
5 shift.

6 Q Okay. And at that time -- I see you're in a suit
7 now. Do you normally wear a suit as an investigator?

8 A Sometimes.

9 Q Okay. And what did you wear back in
10 November 2011?

11 A I was a uniformed officer.

12 Q Okay. And were you in a uniformed car?

13 A Yes, ma'am.

14 Q Okay. And on November 8th, 2011, did you happen
15 to have an occasion to respond to a call on Brison
16 Court or Colletta Court?

17 A I did.

18 Q Okay. And if you don't mind, tell the jury about
19 that.

20 A I responded to a call reference to a shooting near
21 the intersection. I believe the call come in somewhere
22 off of Colletta Court. I responded to Colletta Court,
23 at which point in time I saw several people standing
24 outside. They appeared to be pretty frantic.

25 I was able to -- they kept saying, someone's shot,

1 someone's shot. I was able to calm some -- one of them
2 down just long enough to kind of ascertain where it
3 was. They pointed in the direction of a house or the
4 residence where the shooting had occurred or they
5 believe the shooting had occurred.

6 I got to the back of that residence where I found
7 the door ajar. I maintained my position there until I
8 could get some further back-up to further assess the
9 situation.

10 Q Okay. And about what time did you respond to that
11 call?

12 A I believe it was around 3 a.m.

13 Q Okay. And is that about when you were dispatched
14 out?

15 A I don't recall the exact dispatch time, but...

16 Q Okay. Did you go out to the call as soon as you
17 got dispatched?

18 A Yes, ma'am.

19 Q Okay.

20 A There would have been an emergency response.

21 Q And you got out of there around 3 a.m. in the
22 morning?

23 A Yes, ma'am.

24 Q Okay. And once backup came, what did you do?

25 A When a secondary officer arrived we -- like I

MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 said, the door was ajar on the rear of the home. We
2 heard something inside the home, so we began to
3 challenge whomever may be inside. By that point an
4 individual came to the back of the house saying that
5 someone was shot inside.

6 At that point we entered the home to protect the
7 -- you know, to do a sweep of the home, at which point
8 in time we located a female in there.

9 Q Okay. Who came out of the house?

10 A I don't recall his name.

11 Q Okay. If I show you your report, will that
12 refresh your memory?

13 A Yes, ma'am.

14 Q Okay. And I believe, correct me if I'm wrong, is
15 that your report?

16 A Yes, ma'am.

17 Q Okay. And if you don't mind, look through it and
18 see if that refreshes your memory.

19 A I believe it was Rodney --

20 THE COURT: All right, sir. You can use the
21 report and read through it and refresh your memory.
22 Give the report back to the solicitor, and then she'll
23 ask you the question.

24 THE WITNESS: Rodney McElveen.

25 Q Okay. And when you went inside the home, did you

1 touch anything or move anything?

2 A Not that I recall.

3 Q Okay. When you go as the first responder on the
4 scene, what are ultimately your responsibilities?

5 A To, first off, check on the status of the victim
6 and secure the crime scene as best as possible for the
7 following investigators to arrive and crime scene
8 personnel for evidence collection.

9 Q Okay. And do you remember the layout of that
10 mobile home?

11 A Yes, ma'am.

12 Q Okay. And do you remember where the victim was
13 when you entered the mobile home?

14 A Yes, ma'am.

15 Q Where was she?

16 A As I entered the residence from the back, I made
17 my way through the kitchen of the home. And when I --
18 I got to the edge of the hallway, I could see the front
19 bedroom of the residence, and I could see the upper
20 torso or head reach of the female laying on the bed.

21 Q Okay. And how did the victim appear when you saw
22 her?

23 A She did not appear to -- she did not appear alive
24 at that particular point in time.

25 Q Okay.

1 A At first sight.

2 Q Okay. And what made you believe that she was not
3 alive?

4 A She was making no movements, there was -- there
5 was -- when we made our entry into the room, there was
6 numerous attempts to, you know, recall her. There was
7 no -- there was no movement at all.

8 Q Okay. At any point did you call her name or call
9 anything to try to see if she would respond?

10 A I was unaware of her name at that particular time.

11 Q Okay. And did you see any injuries to her at that
12 time?

13 A I did. I saw there was blood coming out of her
14 mouth, and there was also blood on her left chest
15 region.

16 Q Okay. When you saw the victim, did you move her
17 in any form or fashion?

18 A No, ma'am.

19 Q Okay. Did you move or collect anything from the
20 house?

21 A No, ma'am.

22 Q Okay.

23 A Not that I recall.

24 Q And once you saw the victim, at that point what
25 did you do?

1 A We called for the medic. Upon the ambulance
2 arriving, we allowed them to come into the home to
3 render aid if -- if there was any to be given. By that
4 point the paramedic advised that there was -- he didn't
5 feel that they could do anything, and they exited the
6 home.

7 Q Okay.

8 A And we secured the scene as best we could.

9 Q And while you were out there on the scene, did you
10 collect any information that furthered this
11 investigation?

12 A I was told by someone, I don't recall the name, I
13 was told by someone that there was a van parked at the
14 end of Colletta Court, and they saw two people run
15 towards it and get in and say, go. But I don't recall
16 where I learned that information exactly from.

17 Q Okay. And that's the only information you
18 collected from the scene?

19 A Yes, ma'am.

20 Q Okay. And you didn't collect any evidence?

21 A No, ma'am.

22 Q Okay. Now, is it your job as the patrolman to
23 follow up on those leads in a murder case?

24 A No, ma'am. My responsibility was crime scene
25 security.

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1 Q Okay.

2 A At that particular point.

3 Q Okay. And after you arrived, were there further
4 Horry County officers around?

5 A Yes, ma'am. I contacted the violent crimes
6 section who responded along with crime scene --

7 Q Okay.

8 A -- to assume the investigation.

9 Q Okay. And is it their responsibility then, like
10 you said, to take over the investigation?

11 A Yes, ma'am.

12 Q Okay. About what time did you leave the scene
13 that night?

14 A It was after what our normal shift change would
15 have been. I don't recall the time. It would have
16 been somewhere -- I would be estimating close to 7 a.m.

17 Q Okay.

18 A 6:45, 7 a.m.

19 Q When does shift change?

20 A 6 a.m.

21 Q Okay. So sometime after that?

22 A Yes, ma'am.

23 Q Did you do any further investigation on this case
24 when you left that area that night?

25 A No, ma'am.

1 Q Okay. When Rodney came out of that house, was he
2 detained for questioning?

3 A I don't -- I know he was placed in a vehicle. I
4 don't know that -- I don't remember if it was -- I
5 think it was after we had done the sweep of the home
6 and came -- and came back out, if I recall correctly.

7 Q And was anybody else placed in a vehicle for
8 questioning?

9 A There was another individual that we -- we just
10 tried to separate the two parties that said they were
11 in the home whenever the incident happened. And that
12 was the only two people we had found inside the home.

13 Q Okay. And was anybody else other than Horry
14 County let back into that mobile home that night?

15 A No, ma'am.

16 Q Okay. And you said two different people were put
17 in cars for y'all to follow up and talk to?

18 A We placed them there to wait for the investigators
19 when they showed up if they needed to talk to them or
20 not, which we figured they would. So we tried to
21 sequester them the best we could --

22 Q Okay.

23 A -- in two separate patrol cars.

24 Q And were both of those people from right out there
25 in that area?

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1 A It was my understanding they both were residing in
2 that residence at that time.

3 Q Okay. And when you got there, did you see a brown
4 van?

5 A I did not.

6 Q On your way to that area, did you pass a brown
7 van?

8 A No, ma'am.

9 Q Do you remember how long it took you to get to
10 that area?

11 A I don't. I don't know where I was responding
12 from --

13 Q Okay.

14 A -- when the call came out.

15 Q Okay. But when you were out there, you never saw
16 a van that met that description?

17 A No, ma'am.

18 MS. LIVESAY: No further questions for this
19 witness, Your Honor.

20 THE COURT: All right. Cross-examination?

21 MR. FREDERICK: Just a couple questions.

22 THE COURT: All right, sir.

23 CROSS-EXAMINATION

24 BY MR. FREDERICK:

25 Q Based on your information and being there, there

1 was a different officer that saw the van; is that
2 right?

3 A There was another officer that said they saw a
4 van.

5 Q Okay.

6 A I'm not sure exactly.

7 Q You don't know the details, I understand.

8 A Right.

9 Q I'm not asking you for the details.

10 A Okay.

11 Q Okay. And just for clarification, you had said a
12 minute ago that there were two people found in the
13 house. One is Rodney McElveen or Splurge; right?

14 A I'm not sure his -- his street name.

15 Q Well, the one you identified as McElveen; is that
16 correct?

17 A Yes, sir.

18 Q Okay. The other one, Dontrell Watts, he had
19 actually ran out of the house before you got there; was
20 that right?

21 A Yes, sir.

22 Q Okay.

23 MR. FREDERICK: That's all. Thank you.

24 THE COURT: Mr. Canty?

25 MR. CANTY: Thank you, Your Honor, if it please

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1 the Court.

2 CROSS-EXAMINATION

3 BY MR. CANTY:

4 Q Officer Britt or, forgive me, Detective Britt now.

5 A I'm Detective Singleton.

6 Q I'm sorry, Singleton. Officer Britt was the
7 second one at the scene?

8 A Yes, sir. Officer Britt was the other officer.

9 Q I apologize.

10 A No problem.

11 Q Did you have -- you had your video on when you
12 pulled up to the scene; correct?

13 A Yes, sir.

14 Q And did you have an opportunity to review that
15 video before your testimony today?

16 A No, sir.

17 Q When you got -- once you identified the trailer,
18 who was it that pointed out which trailer the shooting
19 had happened?

20 A I don't recall. There was several -- there were
21 several persons when I pulled up that were just kind of
22 pointing in a general direction that way. And it took
23 me a minute to figure out what exactly they were
24 talking about, because I was trying to get as much
25 information as I could.

1 Q And Christopher Britt arrived, if you remember,
2 how long after you?

3 A I don't remember. It would have been -- it was a
4 short time. I don't remember exactly.

5 Q When you approached knowing that shots had been
6 fired, as you approached the back door of the trailer
7 you would have had your weapon drawn?

8 A Yes, sir.

9 Q All right. And that would have been while Officer
10 Britt was on the front side of the trailer?

11 A I don't remember. I know we both entered the rear
12 of the home.

13 Q And you yelled for occupants in the home to come
14 out with their hands up?

15 A Um-hum.

16 Q And if I read your report correctly, there was
17 some delay --

18 A Um-hum.

19 Q -- before Mr. McElveen --

20 THE COURT: Is that a yes or no?

21 THE WITNESS: Yes, sir.

22 Q And after some period of time Mr. McElveen came to
23 the door?

24 A Yes, sir.

25 Q The back door. And he exited with his hands up?

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1 A Yes, sir.

2 Q Did you hear a toilet running at any time while
3 you were -- before he came out?

4 A No, sir, I did not.

5 Q Tell the jury what Mr. McElveen's demeanor was at
6 that point.

7 A I don't recall his -- I don't recall his demeanor.

8 Q Did he appear at all lethargic?

9 A I don't remember that.

10 Q The other occupant of the mobile home was placed
11 in another police car separated from Mr. McElveen. I
12 believe his name was Mr. Watts; does that sound
13 correct?

14 A Yes, sir.

15 Q He is a thin fellow?

16 A I believe so.

17 Q Mr. McElveen had glasses on?

18 A Yes, sir.

19 Q Do you recall if Mr. Watts identified himself as
20 an occupant? I assume he was not in the mobile home,
21 he was outside when you arrived?

22 A Right.

23 Q Did he identify himself as an occupant, or did the
24 crowd say, that fellow lives there too?

25 A I cannot -- I don't recall exactly how we learned

1 he was in the home. I would -- and I would -- I don't
2 want to speculate exactly.

3 Q Well, the doorway at the end of the hall, you
4 could see the decedent through the doorway on the bed?

5 A I'm sorry, say that.

6 Q When you entered the mobile home, to your left
7 there was a hallway; correct?

8 A Yes, sir.

9 Q And at the end of the hallway was a bedroom with a
10 bed, and the decedent was on that bed?

11 A Yes, sir.

12 Q The door to that bedroom, was it all the way open,
13 45 degrees or some other angle, if you recall?

14 A I -- I don't recall.

15 MR. CANTY: Your Honor, if I may, Court's
16 indulgence one moment.

17 THE COURT: Yes, sir.

18 MR. CANTY: That's all I have, Your Honor.

19 THE COURT: Any redirect?

20 MS. LIVESAY: No, sir, Your Honor.

21 THE COURT: All right. Do you wish the witness to
22 be excused?

23 MS. LIVESAY: Yes, please.

24 THE COURT: Any objection?

25 MR. FREDERICK: No objection.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 THE COURT: All right. Solicitor, your next
2 witness, please, ma'am.

3 MS. LIVESAY: Thank you, Your Honor. At this time
4 the State calls Dr. Edward Proctor.

5 THE COURT: Please come right up and be sworn,
6 sir.

7 EDWARD PROCTOR, JR., M.D., after being duly sworn,
8 testified as follows:

9 CLERK OF COURT: Please be seated. State your
10 full name, spell your last name for the Court, please.

11 THE WITNESS: Yes, ma'am. I am Edward Proctor,
12 Jr., and that's P-R-O-C-T-O-R.

13 DIRECT EXAMINATION

14 BY MS. LIVESAY:

15 Q And Mr. Proctor, where are you currently working?

16 A I am a physician, I am self-employed, but my
17 office is at Grand Strand Regional Medical Center,
18 Myrtle Beach.

19 Q Okay. And what states are you licensed to
20 practice in?

21 A North Carolina and South Carolina.

22 Q Okay. And how long have you been a practicing
23 physician?

24 A I have been a practicing physician board certified
25 in my specialty since 1982.

1 Q Okay. And if you don't mind, tell the jury a
2 little bit about your education and training.

3 A I received my undergraduate degree from Clemson
4 University, my med degree from the Medical University
5 of South Carolina in Charleston. I did a residency in
6 anatomic and clinical pathology at Walter Reed Army
7 Medical Center in Washington, DC, and was chief of
8 clinical pathology at Womack Army Hospital, Fort Bragg,
9 North Carolina.

10 Subsequently, I received credit and competency and
11 took the boards, and I am fully board certified in
12 anatomic pathology, clinical pathology and forensic
13 pathology.

14 Q Okay. And if you don't mind, tell the jury what
15 pathology is.

16 A Pathology is the medical basis of disease. In
17 anatomic pathology we look at specimens, blood,
18 biopsies, that kind of stuff, to determine what the
19 disease process is. The clinical side, there's a blood
20 bank, the lab, and chemistry section to do that.

21 And forensic is the medical legal evaluation of
22 cause and manner of death. And as a forensic
23 pathologist, I get information from investigative
24 authorities, perform an examination and based on that
25 information provide cause and manner of death.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q Okay. And what are your current responsibilities
2 as a pathologist?

3 A Very much what I just said. And that's what I do
4 everyday.

5 Q Okay. And how many autopsies do you perform in
6 the course of a week?

7 A I average about four to six per week.

8 Q Okay. And how long have you been working at Grand
9 Strand doing autopsies?

10 A I have been in Myrtle Beach since 1986.

11 Q Okay. And how long have you been assisting law
12 enforcement by doing autopsies?

13 A I was doing that while in the military, so from
14 about 1982 to current time.

15 Q Okay. And have you ever testified as an expert in
16 pathology before?

17 A I have.

18 Q And how many times?

19 A Probably several hundred.

20 Q And in what court?

21 A This court and federal court and courts in North
22 Carolina.

23 MS. LIVESAY: Your Honor, at this time the State
24 offers Dr. Proctor as an expert in pathology.

25 THE COURT: Do you wish to voir dire the witness

1 as to qualifications or challenge the State's offering,
2 Mr. Frederick?

3 MR. FREDERICK: I do not, Your Honor. No
4 objection.

5 THE COURT: Mr. Canty?

6 MR. CANTY: Your Honor, I so do stipulate.

7 THE COURT: All right, very good. I do find that
8 Dr. Proctor is qualified to give his opinion. You may
9 continue.

10 MS. LIVESAY: Thank you, Your Honor.

11 Q Did you perform an autopsy on or around
12 November 8th, 2011 on a Ms. Pertelle?

13 A Yes, I did.

14 Q Okay. And if you don't mind, give the external
15 description of that victim.

16 A Okay. Ms. Pertelle was a young woman about
17 5 feet, 2 inches tall, approximately 140 pounds in
18 weight estimated, externally appeared extremely
19 healthy. External finding of significance was a
20 gunshot wound that entered the left chest just above
21 the breast. The other external finding was a palpable
22 projectile. There's a typographical error in my
23 autopsy report. It was on the right side and not the
24 left side under the scapula area.

25 Q Okay. So just so I'm correct, on me, I'm facing

1 the jury now, the entry wound on the victim was here
2 (indicating)?

3 A It was above, just above the left breast traveling
4 anterior to posterior and to the right. And it
5 penetrated internal organs, the aorta, hit the
6 vertebral column and was deflected back to the left and
7 was in the subcutaneous tissues below the scapula which
8 is the big bone in your back.

9 Q Okay. So it went in here, and it came out
10 approximately right there (indicating)?

11 A That's correct.

12 Q So it went in the left side, traveled through left
13 to right, moving this way (indicating), and ultimately
14 ended up right here on the right side of her back?

15 A About midback area just below the angle of that
16 scapula. So it came across the midline striking at the
17 headline, hit back towards the vertebral column to
18 deflect it somewhat to the right. So it's sort of
19 coming in and deflected to the right, hits the bone.

20 Q Okay. So it went in the left side?

21 A That's correct.

22 Q And was stuck in her back in the right midway down
23 the back?

24 A That's correct.

25 Q Okay. Now, did you see any injuries externally to

1 her other than that gunshot wound?

2 A In my examination, I did not.

3 Q Okay. So the only injury was the gunshot wound?

4 A Yes, ma'am, that's correct.

5 Q Okay. Internally other than the damage that the
6 bullet did, was there any other possible causes of
7 death?

8 A No, ma'am.

9 Q Okay. Now, when you named several injuries that
10 were going on inside, if you don't mind, tell us first
11 what the bullet hit internally on that victim.

12 A Okay. This bullet hit the left chest at the space
13 between the fourth and fifth ribs, the fifth rib
14 interspace. It passed into the chest cavity in a left,
15 slightly right direction. It hit the heart, it hit the
16 aorta coming behind the heart, it hit the vertebral
17 column right at that same level, T5, was deflected
18 slightly to the right to penetrate the -- the lung.

19 Q Okay. When we're talking it hit the aorta, tell
20 the jury what that means.

21 A Basically what this bullet did as it traversed the
22 body it put a whole in the heart, put a hole in the
23 aorta and a hole in all of the other soft tissues of
24 the lungs that it went through, thus leaving a hole
25 which bled.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q Okay. And once it hit the heart and the aorta,
2 what starts happening in the body?

3 A Well, once it hits a vital organ anywhere, as the
4 heart beats, where there is an injury it actually pumps
5 blood through the jury.

6 Q Okay. And what other injuries other than the
7 heart and the aorta?

8 A There was -- it passed through the heart, the
9 aorta and lungs and into the soft tissues of the back.

10 Q Okay. Once that bullet hit the lung, what
11 happens?

12 A Well, again, most importantly, as it hits the
13 lung, it creates an injury where those blood vessels
14 and all that supply the lung and heart, as you breathe
15 and as the heart beats, blood is actually pumped
16 through those vessels and fills -- it just goes to
17 where the opening is, fills the spaces, fills the
18 lungs.

19 Q Okay. What happens once that blood starts filling
20 up the lung?

21 A Well, once it starts filling up the lungs, the
22 victim can't really get oxygen. The blood does not
23 exchange oxygen in the lungs, the blood is leaving the
24 vascular system. It's just basically filling up the
25 body.

1 Q Okay. Now, the officer said that when he got in
2 there, there was blood coming out the mouth and out of
3 the injury.

4 A The -- an injury of this type when it hits the
5 lungs, you're breathing in air through the trachea, and
6 it hits the lungs and it actually exchanges oxygen in
7 the capillaries of the lungs with the blood. So when
8 you have damage there, blood is able to get into the
9 air space and actually come up through the trachea.

10 Q Okay.

11 A That's why there was blood there.

12 Q Okay. Now, we talked a little bit earlier of
13 course about the injuries, the extent of the injuries.
14 Now, what kind of timeframe are we talking about from
15 the time that this bullet hits her until the time she
16 is completely deceased?

17 A Completely deceased would probably take several
18 minutes.

19 Q Okay. Let me ask you, how long would she be
20 conscious from the time these injuries occur, how long
21 would she be able to hold consciousness?

22 A The -- of course that's somewhat variable, but I
23 would say a few seconds to approximately a minute or
24 so.

25 Q Okay. If she's moving when she sustained this

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 injury, does that have any ultimate effect?

2 A This -- the movement of the victim would only just
3 change the angle that the bullet would have gone
4 through.

5 Q Okay. Now, did you find any gunshot residue or
6 burn on this victim?

7 A I did not. I did have clothing on this victim
8 which I took a fairly close look at but did not see
9 any. And it was given to the investigative
10 authorities, and I know there are some tests they can
11 run. I don't know if they found anything or not.

12 Q Okay. And if you don't mind, tell the jury the
13 significance if you find gunshot residue on the
14 clothes; what does that mean?

15 A If I as a pathologist see residue on clothing,
16 that usually indicates that the weapon was fired within
17 about 18 to 24 inches variable, just a little bit.

18 Q If 18 to 24 inches here?

19 A Within about a couple feet.

20 Q Okay. So if there's gunshot residue, we're
21 talking the end of the gun here and entry about right
22 here of the bullet (indicating)?

23 A About 18 inches, two feet, that's correct.

24 Q Okay. And when we're talking this small of a
25 space period, it leaves actual gunshot residue on the

1 victim?

2 A Well, it will leave two things. It will leave --
3 the smoke coming out of the end of the gun will stain
4 or soil the body or the clothes. And the actual
5 burning powder coming out of the end of the gun will
6 actually burn items of clothing or leave a little burn
7 on the body.

8 Q Okay. So the fact that you didn't see any gunshot
9 residue, we're talking a distance further than this
10 distance?

11 A Based on the fact that I didn't see it, plus the
12 fact that I did not see it on the clothes, I feel that
13 it was probably greater than a distance of 18 to 24
14 inches.

15 Q Okay. And is it possible sometimes for a gunshot
16 residue to or a gunshot to burn the external part of
17 the body?

18 A When it is close enough, the burning powder coming
19 out of the end of the gun will leave a burn.

20 Q A burn on the body?

21 A Um-hum, that's correct.

22 Q Did you see a burn mark on her body?

23 A I did not.

24 Q Okay. So that tells you this was not a close
25 range shot?

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 A I could -- I could tell you it was, in my opinion,
2 greater than the distance that I said because the outer
3 clothing that I did see had no residue on it. So
4 anything that would impede the residue getting to the
5 body needs to be examined. And what I examined I did
6 not see it. And not seeing it on the body would
7 suggest that it was greater than 18 to 24 inches.

8 Q Okay. And you didn't see any sort of injuries to
9 any other part of the body?

10 A No, ma'am.

11 Q Okay. Including her arms or legs?

12 A My external examination, I have not stated that I
13 have seen any entry -- any defense wounds or any type
14 of external injury, no, ma'am.

15 Q Okay. And if you don't mind, briefly since you
16 mentioned it, explain to the jury what a defensive
17 wound is.

18 A A defensive wound would be if someone is coming at
19 you with knife, gun or whatever, you throw your hands
20 up or your arms up and you receive an injury to your
21 arms or whatever portion of your body you throw in
22 front of the projectile.

23 Q Okay. And you didn't see any defensive wounds or
24 anything like that showing she had done like this
25 (indicating)?

1 A I didn't.

2 MS. LIVESAY: No further questions for this
3 witness, Your Honor.

4 THE COURT: Very good. Cross-examination?

5 CROSS-EXAMINATION

6 BY MR. FREDERICK:

7 Q Doctor, this may just be common sense, but she
8 wasn't shot from behind?

9 A No, sir.

10 Q She was shot from somewhere in the front?

11 A In the front, that's correct.

12 Q And probably a left angle?

13 A The -- based upon the trajectory that I have, even
14 with the correction of my typo, the wound would have
15 come slightly to the victim's left because it came in
16 over the left breast and basically swerved anterior
17 posterior slightly medial, then once it hit the bone
18 was deflected a little more medial and back.

19 Q Okay. Thank you.

20 A Yes, sir.

21 Q And I just want to be sure, you said the bullet
22 struck the heart?

23 A That's correct.

24 Q And the aorta?

25 A Correct.

EDWARD PROCTOR, MD-CROSS BY MR. CANTY

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1 Q And is the aorta the main artery?

2 A The aorta is the main blood vessel coming out of
3 the left ventricle. It arches up, over and back down.
4 And where the bullet caught the aorta was that it
5 arches over, comes down slightly on the left. And as
6 that bullet came through, it came through on the left
7 side. The heart overlies the aorta on the left, so it
8 caught the heart and the aorta as it came through.

9 Q Okay. And it also struck the lungs?

10 A Yes, it came through the lungs..

11 Q Okay. And I saw in your report you had noted
12 associated massive hemorrhage. What does that mean?

13 A That means as the bullet came through causing the
14 damage where the injuries were to the heart and the
15 lungs, as that heart beat the blood was flowing through
16 the wound, that's hemorrhaging, bleeding.

17 MR. FREDERICK: Okay. Thank you.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Mr. Canty?

20 MR. CANTY: May it please the Court, Your Honor.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. CANTY:

24 Q Doctor, I notice you mentioned the military. Were
25 you in the military medical corp. in the military?

1 A That's correct.

2 Q Were you ever given any firearms training?

3 A Yes, I was.

4 Q And are you a sportsman, by any chance?

5 A Sort of.

6 Q Do you have some familiarity with firearms?

7 A I do. That's correct.

8 Q And a .357 Magnum is the -- did you identify the
9 bullet, or you just removed the bullet?

10 A I removed the bullet and did not have any other
11 bullets to prepare, but it was a large caliber jacket,
12 the projectile, which, you know, .357, .40, .45. It's
13 of that size, it's a large caliber.

14 Q And I think you indicated 1.5 liters of blood in
15 the chest?

16 A Let's see, approximately -- I believe that is
17 correct.

18 Q And when a bullet strikes a human body, it doesn't
19 just make a hole, there is -- in effect, there's a
20 shockwave that spreads out?

21 A That's correct.

22 Q From the path of the bullet. And that shockwave
23 causes damage to the tissue that it impacts; correct?

24 A The actual physical or physics phenomenon that
25 happens is the deceleration of the bullet as it hits a

1 solid object, as it slows down it does this
2 (indicating), so the -- and yes. But it does create --
3 it does create a space around it as it passes through.

4 Q Would you characterize it as a shockwave; is that
5 a fair way --

6 A That's a fair way.

7 Q -- to describe it?

8 A Yes, sir.

9 Q And it's the energy of that bullet being expended,
10 the transferring from the bullet to the body?

11 A The rate of acceleration through the body, that's
12 correct.

13 Q And would you characterize a .357 Magnum as a high
14 energy round?

15 A Actually, it is a high energy but not high
16 velocity rifle. It moves at a rate slower than say a
17 high powered rifle, so it -- it has a much more rapid
18 deceleration of the force which will stop something
19 rather than as a high velocity which will go through
20 and rip something up.

21 Q And there's a difference in the lung weights, 250
22 for one and 200 for the other?

23 A That's correct.

24 Q And the one that weighs less, was that any
25 consequence of the damage from this projectile?

1 A Actually, no. The right lung weighs a little bit
2 more than the left because the right lung has three
3 lobes, left lung has two. So usually there's a slight
4 difference in weight.

5 Q And when you say the T-spine or the bracket spine,
6 that just means the middle of the back?

7 A That's correct.

8 Q And the fact that you -- when you say scapula, you
9 mean the shoulder blade?

10 A Shoulder blade, yes, sir.

11 Q And the fact that it was beneath the right
12 shoulder blade, in your analysis, was the result of it
13 deflecting off of the thoracic spine?

14 A That's correct, yes, sir.

15 Q I noticed in two of your images you had placed a
16 ballistic rod. And can you tell the jury the angle of
17 penetration of the bullet; would you say it was on a
18 horizontal plane, above a horizontal plane or below?

19 A It was pretty much on a horizontal plane coming in
20 at the fifth rear interspace. It actually struck the
21 thoracic vertebra T5. So it was somewhat on a
22 horizontal plane, angled slightly lateral to medial,
23 and then once it hits that bone, then that bullet
24 deflects and changes.

25 Q Very good. Now, I think we've -- you've

EDWARD PROCTOR, MD-REDIRECT BY MS. LIVESAY

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1 established that this was a catastrophic injury, it was
2 a lethal injury?

3 A That's correct.

4 Q Fairly quickly?

5 A Yes, sir.

6 Q Let me ask you if you have an opinion as to
7 whether someone who sustained an injury like this would
8 then be able to run 30 to 35 feet and then jump over
9 someone, jump over an obstacle after this wound.

10 A I would say that it is -- I would say that it is
11 possible, in my opinion not likely, but it is certainly
12 possible that that could happen.

13 MR. CANTY: That's all I have. Thank you, doctor.

14 THE WITNESS: Yes, sir.

15 THE COURT: Any redirect?

16 MS. LIVESAY: Just a couple, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. LIVESAY:

19 Q Dr. Proctor, did this bullet, was there anything
20 to indicate to you that it hit a bone inside her body?

21 A It struck the --

22 Q Okay.

23 A -- the thoracic vertebrae T5, which is basically
24 midback and came in at the T5 interspace, so it was
25 pretty much on plane.

1 Q So was the bullet moving straight across or
2 downward?

3 A The bullet was moving anterior posterior in a
4 horizontal plane slightly medial to catch that bone,
5 and then it was deflected more to the right.

6 Q Okay. I asked you a little bit earlier about the
7 movement, if the victim was moving if that would make a
8 difference. If that victim was moving in a certain
9 direction when she got shot, would the body immediately
10 drop to the ground?

11 A Not necessarily, no.

12 Q Okay. So the body could keep moving for a matter
13 of seconds?

14 A These injuries are lethal injuries. People under
15 stress in certain circumstances, it's possible that
16 these people can move, can move a few feet, a few
17 yards. But it's very difficult to say how much. It's
18 certainly possible, but in all likelihood with these
19 injuries, after -- I'd say after 15, 20, 30 seconds,
20 she was pretty much incapacitated, not necessarily dead
21 but losing a lot of blood.

22 Q Okay. So we're saying in at least 20 seconds
23 she's down?

24 A Probably, in all likelihood.

25 MS. LIVESAY: No further questions, Your Honor.

EDWARD PROCTOR, MD-RE CROSS BY MR. FREDERICK

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1 THE COURT: Anything on that question?

2 MR. FREDERICK: Just one thing for clarification.

3 RE CROSS-EXAMINATION

4 BY MR. FREDERICK:

5 Q When you say vertebrae, you're talking about the
6 spinal column; right?

7 A I'm talking about the bone, bony part of the
8 spinal cord -- the spinal column, excuse me. The cord
9 is the soft part that runs through the middle of the
10 vertebral column, yes. The T5 vertebra is the bone,
11 correct.

12 Q The spinal column?

13 A Yes, sir.

14 MR. FREDERICK: Thank you.

15 MR. CANTY: Nothing further, Your Honor.

16 THE COURT: All right, very good. Do you wish the
17 witness to be excused?

18 MS. LIVESAY: Yes, sir, Your Honor.

19 THE COURT: Any objection?

20 MR. FREDERICK: No objection, judge.

21 MR. CANTY: None, Your Honor.

22 THE COURT: All right, doctor, you're released
23 from your subpoena, you may go back to your regular
24 duties, sir.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: Yes, sir.

2 (Witness excused.)

3 THE COURT: All right. Solicitor, your next
4 witness, please, ma'am.

5 MS. LIVESAY: Thank you, Your Honor. At this time
6 the State calls Tiffany Oliver to the stand.

7 THE COURT: All right. Just come all the way up,
8 please, ma'am, and meet the clerk up here, please.
9 Where is she at?

10 A DEPUTY: She's in the restroom.

11 THE COURT: All right. Well, I guess we'll sit
12 and wait.

13 MS. LIVESAY: Here she comes.

14 THE COURT: All right.

15 TIFFANY OLIVER, after being duly sworn, testified
16 as follows:

17 CLERK OF COURT: Please be seated. State your
18 full name, spell your last name for the Court.

19 THE WITNESS: Tiffany Oliver, O-L-I-V-E-R.

20 CLERK OF COURT: Have a seat.

21 THE COURT: Go ahead, solicitor.

22 MS. LIVESAY: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MS. LIVESAY:

25 Q Ms. Oliver, if you don't mind, how old are you?

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A 28.

2 Q Okay. And where do you currently live?

3 A Dirty Branch.

4 Q And where are you from?

5 A Conway.

6 Q Have you lived here all your life?

7 A Yes, ma'am.

8 Q And where are you currently working?

9 A Arby's in Conway.

10 Q And where were you living back in November 8th,
11 2011?

12 A Off Dirty Branch.

13 Q Okay. And who lived at that house with you?

14 A Me, my two kids and my boyfriend.

15 Q Okay. And about how long had you lived there?

16 A Now or at the time?

17 Q At the time.

18 A Probably five, six years.

19 THE COURT: All right. You need to speak up,
20 ma'am.

21 THE WITNESS: I'm sorry. About five or six years.

22 THE COURT: Just get behind the microphone as best
23 you can, directly behind it.

24 THE WITNESS: All right.

25 Q Do you remember calling the police the morning of

1 November 8th, 2011?

2 A Yes, ma'am.

3 Q And if you don't mind, tell this jury why you
4 contacted the police.

5 A I didn't know who the van belonged to, but I
6 didn't want it in my yard. I was home by myself, so I
7 called to have the van removed from my yard.

8 Q I'm sorry, Ms. Oliver, say that one more time. I
9 want to make sure everybody hears you.

10 A I didn't know who the van belonged to, so I wanted
11 the van out my yard. I just wanted it removed.

12 Q Okay. And who noticed the van first?

13 A My son. He was seven or eight at the time.

14 Q Okay. And about what time was it?

15 A 6 o'clock, like 6:45, around the time to get on
16 the bus --

17 Q Okay.

18 A -- to go to school.

19 Q Okay. That's an early bus.

20 A Yeah.

21 Q Now, if you don't mind, do you remember seeing
22 that van there before you went to bed?

23 A No, ma'am.

24 Q And if you don't mind, tell the jury about what
25 time you went to bed that night.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A I went to bed around, about nine, 10 o'clock.

2 Q Okay.

3 A Yes, ma'am.

4 Q And you didn't see the van there?

5 A No, not at all.

6 Q Okay. Now, you said at the time your kids and you
7 and your boyfriend lived at the mobile home?

8 A Yes, ma'am.

9 Q Okay. About what time did your boyfriend leave
10 the house that morning?

11 A He left for work like five because he had to be at
12 six, so he left around five.

13 Q Okay. And he didn't say anything to you about the
14 van?

15 A No, ma'am.

16 Q Okay. And then you noticed the van at what time?

17 A Around 6:40.

18 Q And when did you contact the police?

19 A I know it had to be before 7:30. Because right
20 when I seen it I called my boyfriend first, and then I
21 called police.

22 Q Okay. And if you don't mind, to the jury describe
23 what that van looked like.

24 A It was a champagne colored van with tinted
25 windows. I didn't get real close to it, so I don't

1 know exactly if he had any extra stuff on it.

2 Q And had you ever seen that van before?

3 A No, ma'am.

4 Q Okay. If you don't mind, tell the jury a little
5 bit about your road; is that a dead end or a straight
6 through?

7 A It's a dead end, there's no way from back there.
8 It's one way in and one way out.

9 Q Okay. And is that a dirt road or a paved road?

10 A Dirt road.

11 Q Okay. So you live down the -- are you the very
12 last house?

13 A Yes, ma'am.

14 Q Okay. And are there houses around yours?

15 A It's one next door but not real close.

16 Q Okay.

17 A Not real, real close. But it is one next door to
18 us.

19 Q Are there houses on both sides?

20 A No, ma'am.

21 Q Okay. So there's a house on one side, and then
22 what's on the other side?

23 A Trees and other houses on the opposite side of the
24 trees.

25 Q Okay. And where was the van parked?

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A It was closer to the trees on the side of my home.
2 But, I mean, it wasn't like in my front yard, it was
3 like on the side of the house -- behind the house, I'm
4 sorry.

5 Q Okay. I'm going to show you what's been marked
6 State's Exhibit 21 through 27. If you don't mind, look
7 at these pictures and tell me if these are accurate
8 pictures of that morning of what you saw.

9 A Yes, ma'am.

10 Q Just look at all of them at one time.

11 A This is the van that I seen that morning.

12 Q Okay. It's okay. Are those accurate pictures of
13 what you saw?

14 A Yes, ma'am.

15 Q Okay. And is that the van there beside your yard?

16 A That's the van and that's my yard.

17 Q Okay.

18 MS. LIVESAY: Your Honor, at this time I ask to
19 introduce State's Exhibit 21 through 27 and publish
20 them to the jury.

21 THE COURT: Any objection, Mr. Frederick?

22 MR. FREDERICK: No objection.

23 MR. CANTY: None, Your Honor.

24 THE COURT: All right. So State's 21 through 27
25 are in evidence without objection. You may show them

1 to the jury.

2 (WHEREUPON, State's Exhibit Nos. 21 through 27
3 were admitted in evidence.)

4 MS. LIVESAY: Thank you, Your Honor.

5 Q Ms. Oliver, if you don't mind, I'm going to have
6 to ask you to step down. These are small and I'm going
7 to show them to the jury while you're testifying.

8 A Yes, ma'am.

9 Q Okay. And if you don't mind, speak up because
10 your back will be, you know, to all these people.

11 A Yes, ma'am.

12 THE COURT: You have to really speak up.

13 THE WITNESS: All right.

14 THE COURT: Thank, you ma'am.

15 Q That's just a microphone. Now, I'm going to show
16 you now what's been marked as State's Exhibit 26, or
17 State's Evidence 26. If you don't mind, is this your
18 house?

19 A Yes, ma'am.

20 Q Okay. And is this the area beside your house?

21 A Yes, ma'am.

22 Q Okay. And is the van in this picture?

23 A Yes, ma'am.

24 Q Where --

25 A It's right there, behind the tree (indicating).

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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- 1 Q If you don't mind, point the van out to the jury.
- 2 A It's right there (indicating).
- 3 Q Do cars normally park back there?
- 4 A No. It's right there (indicating).
- 5 Q And do cars normally park right there?
- 6 A No, ma'am.
- 7 Q Okay. And that mobile home that's in the picture,
- 8 is that your house?
- 9 A Yes, ma'am.
- 10 Q And is that how everything looked on that day?
- 11 A Yes, ma'am.
- 12 Q And that's your car in the yard?
- 13 A Yes, ma'am.
- 14 Q That must be your son's wheelbarrow?
- 15 A Yes.
- 16 Q Now, I'm going to show you another picture,
- 17 State's Evidence No. 27. Is that how everything looked
- 18 that morning?
- 19 A Yes, ma'am.
- 20 Q Okay. Now, are there any dogs in this picture?
- 21 A One right there (indicating).
- 22 Q Okay. And is that your dog?
- 23 A Yes, ma'am.
- 24 Q Is it running loose or tied up?
- 25 A He's tied up.

1 Q Was it there just like that that day?

2 A Yes, ma'am.

3 Q And is this all at -- is this at the end of that
4 dirt road you live on?

5 A Yes, ma'am.

6 Q Now, just so I'm clear and the jury's clear, are
7 these both the same morning?

8 A Yes, ma'am.

9 Q Okay. Is one just a closer shot?

10 A Yes, ma'am.

11 Q How many -- what kind of dog do you got?

12 A I have a Red Nose Pit Pull.

13 Q How long have you had that dog?

14 A Five years.

15 Q And this is a picture of what?

16 A My house, my front yard and, you know, the van in
17 my whole yard.

18 Q Okay. If you don't mind, tell the jury, is there
19 a house in front of yours?

20 A No, ma'am.

21 Q Is there a house behind yours?

22 A No, ma'am.

23 Q Okay. And there are no houses to this where the
24 van is parked?

25 A Not at all.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 Q Is this road traveled a lot?

2 A Not really.

3 Q Is there any outlet once you pass your house to
4 get --

5 A Not at all.

6 Q Okay. So you got to come in and go out the same
7 road?

8 A Same road, yes, ma'am.

9 Q Okay. Now, I'm showing you State's Evidence No.
10 25. Is that the van you saw?

11 A Yes, ma'am.

12 Q Is that it way it looked that morning?

13 A Yes, ma'am.

14 Q Now, if you don't mind, just to give the jury some
15 reference, I'm going to hold up State's Evidence 21 and
16 25. Same morning, same parking, same place; is that
17 correct?

18 A Yes, ma'am.

19 Q Okay. So where would this picture have to be
20 taken from to see the van like that?

21 A It's a water pump right here (indicating). It
22 would had to be like on the side of it.

23 Q Okay. So they'd have to be on the other side of
24 that water pump and that tree?

25 A Yes, ma'am.

1 Q When you got up that morning, did you notice it?

2 A No, ma'am. My son seen it first, and then I came
3 outside and I seen it.

4 Q Okay. So you didn't even notice it that morning?

5 A No, ma'am.

6 Q Now, I'm going to show you also what's been marked
7 as State's No. 22 and 24. Is that the way that van
8 appeared that morning?

9 A Yes, ma'am.

10 Q Now, this looks like, when I look at this picture
11 here, is this just kind of a empty field beside your
12 house?

13 A Yes, ma'am.

14 Q Do you hang out over there?

15 A No, ma'am.

16 Q Do people in your neighborhood hang out over
17 there?

18 A No, ma'am.

19 Q So it's just kind of a vacant area?

20 A Yes, ma'am.

21 Q Okay. So these trees, these woods, did they kind
22 of surround all behind --

23 A Behind the house.

24 Q -- the end of your road?

25 A Yes, ma'am.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 Q Okay. So when you go to the end of your road,
2 it's your house and then this field?

3 A Yes, ma'am.

4 Q And then trees?

5 A Yes, ma'am.

6 Q Okay. And this van was parked, would you say,
7 closer to the trees or closer to your house?

8 A Closer to the trees --

9 Q Okay.

10 A -- than to my house.

11 Q Okay. Now, how long have you lived down there?

12 A I want to say seven to eight years.

13 Q Okay, okay. Now, on the -- what's on the other
14 side of these trees; do you know?

15 A It's a house development on the other side of it,
16 of the trees.

17 Q Okay. And what housing development -- I mean,
18 what road is that housing development on?

19 A I don't know the name of the street, but it's off
20 of Cates Bay.

21 Q Okay. How close is that housing development to
22 your house through those woods?

23 A Probably about a minute or two.

24 Q Okay. You mean if you just walked through the
25 woods --

1 A Through the woods, yeah, it should be right there.

2 Q Okay. If you don't mind, have a seat, Ms. Oliver,
3 and we'll use the microphone. Now, so a minute or two
4 through those woods ends you in a housing development;
5 is that correct?

6 A Yes, ma'am.

7 Q And that housing development is off Cates Bay
8 Road?

9 A Yes, ma'am.

10 Q Now, during 2011, was that housing development
11 there?

12 A It was develop -- it was starting, you know, it
13 was houses out there, though.

14 Q Okay. And how did you know it was started?

15 A You can hear it from my house to whatever the
16 development is.

17 Q Okay. So it's close enough range when they were
18 over there banging, you could hear it through the
19 woods?

20 A Yes, ma'am.

21 Q Okay. And that was going on November 8th, 2011?

22 A Yes, ma'am.

23 Q Okay. And that development, again, is right off
24 Cates Bay?

25 A Yes, ma'am.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 Q When you go back out from that dirt road, what is
2 the highway you would hit?

3 A Dirty Branch.

4 Q Dirty Branch?

5 A Yes, ma'am.

6 Q Okay. Is that a paved road, or is that a --

7 A Yes, ma'am, it's paved.

8 Q That's the first paved road you hit?

9 A Yeah. After you come off of my dirt road, that's
10 the first paved road you hit, yes, ma'am.

11 Q Okay. Are there a few other dirt roads back there
12 in your area, kind of different roads?

13 A There's one next to me, but it's a dead end too.

14 Q Okay, okay. So there's -- it's basically a dead
15 end circle, that area?

16 A No, ma'am. It's one dead road and another one.

17 Q Okay. Are there any street lights on your road?

18 A Yes, ma'am, there's two.

19 Q Okay.

20 A There's one in my neighbor's yard and there's one
21 in my front yard.

22 Q Okay. And is there one in that area where that
23 van was parked?

24 A No, ma'am.

25 Q Okay. Now, and you say you've never seen that van

1 before?

2 A No, ma'am.

3 Q Okay. Do you know the defendants in this case?

4 A I know one of them, he has two kids with my
5 cousin. But I don't know the other one.

6 Q Okay. You know one of them?

7 A Yes, ma'am.

8 Q Which one do you know?

9 A I know his nickname, I don't know his government
10 name.

11 Q What's that?

12 A Dubba.

13 Q And is he the one wearing a tie or not wearing a
14 tie?

15 A Wearing a tie.

16 Q Okay. And you call him?

17 A Dubba.

18 Q Okay, that's what you call him?

19 A Yeah.

20 Q And how do you know him?

21 A He has two kids with my cousin.

22 Q Okay. And who is his -- you know him through his
23 girlfriend?

24 A Yeah.

25 Q And who is she?

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

1 A Nakeema Crooms.

2 Q Okay. And do you know the victim in this case?

3 A Yes, ma'am.

4 Q And how do you know the victim?

5 A Her and my cousin was best friends, Nakeema, was
6 best friends.

7 Q I'm sorry, you got to speak up.

8 A I'm sorry. Nakeema and Keia was best friends.

9 Q Okay. The victim, Keia, and Keema were best
10 friends?

11 A Yes, ma'am.

12 Q Okay. And just so I can get the relationship
13 straight, Keema and -- not Keia but Keema and Dubba are
14 boyfriend and girlfriend?

15 A Yes, ma'am.

16 Q Okay. Do you know if they have any children in
17 common?

18 A Yes, ma'am.

19 Q How many?

20 A Two.

21 Q Okay. Does she have any other children?

22 A No, ma'am.

23 MS. LIVESAY: No further questions, Your Honor.

24 THE COURT: Cross-examination?

25 MR. FREDERICK: No questions, judge.

1 THE COURT: All right, very good. Mr. Canty?

2 MR. CANTY: Thank you, Your Honor. May it please
3 the Court.

4 CROSS-EXAMINATION

5 BY MR. CANTY:

6 Q Ms. Oliver?

7 A Yes, sir.

8 Q Do you know Bootsie?

9 A No, sir.

10 Q Keir Lamont Johnson, also known as Bootsie?

11 A No, sir.

12 Q All right. What about Billy Freshley?

13 A No, sir.

14 Q You do not know Billy Freshley?

15 A No, sir.

16 Q And you're not Facebook friends with him?

17 A Probably. I'm not sure, but I'm not his friend
18 personally. I'm not really sure if we're friends on
19 Facebook either, though.

20 Q Okay. How about Little Papi?

21 A No, sir.

22 Q You don't know Keir --

23 A No, sir.

24 Q -- Lamont Johnson, you wouldn't know if he walked
25 in the room?

TIFFANY OLIVER-CROSS BY MR. CANTY

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1 A No, sir.

2 Q Okay.

3 MR. CANTY: That's all I have.

4 THE COURT: Any redirect?

5 MS. LIVESAY: No, sir.

6 THE COURT: All right, ma'am. Do you wish the
7 witness to be excused?

8 MS. LIVESAY: Yes, sir.

9 THE COURT: Any objection, Mr. Frederick?

10 MR. FREDERICK: No, sir.

11 MR. CANTY: No, Your Honor.

12 THE COURT: All right, ma'am, you're released from
13 your subpoena. You may go back to your regular
14 activities.

15 (Witness excused.)

16 THE COURT: All right, solicitor, your next
17 witness.

18 MS. LIVESAY: Your Honor, at this time the State's
19 going to call Sammy, Samuel Hoffman from SLED.

20 Your Honor, he's downstairs. If I need to, I can
21 call Robbie Caulder.

22 THE COURT: No, ma'am. They are finding him.
23 He's going to come.

24 Y'all send somebody to go get him, ma'am?

25 A DEPUTY: Yes, sir.

1 THE COURT: All right. All right, sir, if you
2 come all the way around up here and meet the clerk
3 right up here, sir.

4 SERAPHIM HAFTOGLOU, after being duly sworn,
5 testified as follows:

6 CLERK OF COURT: Please be seated. State your
7 full name, spell your last name for the Court, please.

8 THE WITNESS: Okay. My name is Seraphim
9 Haftoglou. The last name is H-A-F-T-O-G-L-O-U.

10 THE COURT: Spell your first name too, please.

11 THE WITNESS: Yes, sir. It's S-E-R-A-P-H-I-M.

12 THE COURT: Thank you. Go ahead, solicitor.

13 DIRECT EXAMINATION

14 BY MS. LIVESAY:

15 Q And where are you currently employed?

16 A I work for South Carolina Law Enforcement
17 Division, otherwise known as SLED.

18 Q And how long have you been employed there?

19 A I've been with SLED for seven years.

20 Q And what are your current responsibilities?

21 A My current responsibilities, I'm the AFIS
22 supervisor at SLED, which means I am the keeper of the
23 records. I'm kind of in charge of all the fingerprints
24 that come into our system.

25 Q Okay. And what kind of training or education have

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 you had to work at SLED with AFIS?

2 A It's on-site training. When I was hired from SLED
3 I -- my lieutenant at the time, Joseph Means, trained
4 me on fingerprinting, identifying fingerprints, and
5 just some on-site training throughout my years there.

6 Q And if you don't mind, briefly explain to the jury
7 what AFIS is.

8 A AFIS is our Automated Fingerprint Identification
9 System. It's what stores all records, fingerprints
10 that are sent to SLED. It's used to identify
11 individuals.

12 Q Okay. And is a fingerprint assigned a
13 identification number like a social security number?

14 A Yeah. Each person is assigned a unique South
15 Carolina ID number. It's a, I believe, 12-digit number
16 that starts with SC. Each person has their own unique
17 one.

18 Q Okay. And is the number to protect the
19 identification of that person?

20 A Yes.

21 Q Okay. When an agency requests a possible match
22 through AFIS, does it report back that number?

23 A Yeah, it gives them back the number.

24 Q Okay. So it doesn't report back a name, just
25 whatever that number is, like a social security number?

1 A Right. It gives them back, yes, a unique
2 identification number, or it could be a unique incident
3 number which correlates with that SID number, state ID
4 number.

5 Q Okay. So that number is basically to protect the
6 integrity of AFIS?

7 A Yes. Because we are not name based, we do
8 everything based on fingerprints. That's how we can
9 identify people.

10 Q Okay. And are the records in AFIS kept in the
11 regular course of business?

12 A Yes.

13 Q Okay. And how do you maintain the integrity of
14 those records?

15 A Our system is always backed up every week.
16 It's -- for anything that's coming into our system has
17 to go through security protocol. That comes back, it
18 actually starts with the FBI, and then we implement
19 those and make sure that anything that's coming to us
20 is sent securely.

21 Q Okay. And to your knowledge, have the records in
22 AFIS ever been tampered with in any form or fashion?

23 A No.

24 Q Okay. Now, did you receive a subpoena for this
25 case?

1 A Yes.

2 Q Okay. And did you receive a list of SC numbers
3 regarding this case?

4 A Yes.

5 Q Okay. And if you don't mind, I'm going to mark
6 those SC numbers.

7 (WHEREUPON, State's Exhibit Nos. 30 through 33
8 were marked for identification only.)

9 Q Now, has anyone else come in contact with these
10 cards other than yourself?

11 A No.

12 Q Okay. And is that to protect the integrity of
13 those cards?

14 A Yes.

15 Q Okay. So when you pulled it out of that envelope,
16 that was the first time anybody else had touched those
17 particular cards?

18 A Yeah.

19 Q Okay. And that's to protect, again, to make sure
20 nothing is manipulated or tampered with?

21 A Correct.

22 Q Okay. I'm going to show you what's been marked as
23 State's Exhibit 30 through 33.

24 A Okay.

25 Q If you don't mind, identify for the Court what the

1 numbers are that are -- that identify those cards.

2 A Okay. Want me to read each SC --

3 Q Yes, ma'am -- yes, sir.

4 A Okay. Yeah, it's SC01942665.

5 THE COURT: Is associated with what exhibit?

6 THE WITNESS: Associated with a Mark Hasheem Rush.

7 THE COURT: No. The State's exhibit number.

8 THE WITNESS: Oh, I'm sorry, apologize. Exhibit

9 No. 30. SC01903693, Exhibit 31. SC0198250, Exhibit
10 32. And SC01913804 is Exhibit 33.

11 Q Thank you.

12 MS. LIVESAY: And at this time the State requests
13 to put those into evidence.

14 THE COURT: Any objection, Mr. Frederick?

15 MR. FREDERICK: Judge, I think so. And I think I
16 have a matter of law.

17 THE COURT: All right, very good. All right,
18 ladies and gentlemen of the jury, go to your jury room
19 for a little while, please. Thank you.

20 (WHEREUPON, the jury exited the courtroom at
21 4:19 p.m.)

22 THE COURT: Yes, sir, Mr. Frederick.

23 MR. FREDERICK: Well, judge, I'm not sure what
24 we're doing with these fingerprint cards. She's moving
25 into evidence cards that have five different names. Is

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1 to you, Mr. Frederick had an objection, do you have any
2 objection?

3 MR. CANTY: No objection, Your Honor.

4 THE COURT: All right, very good. You may
5 continue, ma'am.

6 MS. LIVESAY: No further questions for this
7 witness, Your Honor.

8 THE COURT: Cross-examination?

9 MR. FREDERICK: No questions, judge.

10 THE COURT: Mr. Canty?

11 MR. CANTY: No questions, Your Honor.

12 THE COURT: All right, sir, you may step down.

13 (Witness excused.)

14 THE COURT: Until we're done for the day, it's
15 probably best you don't leave, sir.

16 THE WITNESS: Yes, sir.

17 THE COURT: Thank you, sir. Next witness.

18 MS. LIVESAY: Robbie Caulder, Your Honor.

19 JOHN ROBERT CAULDER, II, after being duly sworn,
20 testified as follows:

21 CLERK OF COURT: Please be seated, state your full
22 name, spell your last name for the Court, please.

23 THE WITNESS: John Robert Caulder, II,
24 C-A-U-L-D-E-R.

25 DIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q And Mr. Caulder, where are you currently employed?

3 A With the Horry County Police Department.

4 Q And how long have you been employed there?

5 A 16 years.

6 Q Okay. And what kind of training have you gone
7 through?

8 A For?

9 Q To be a police officer and then crime scene
10 investigation.

11 A My original training was with the South Carolina
12 Criminal Justice Academy for my basic law enforcement
13 class, which at that time was nine weeks. Since then,
14 of course, you have annual training, you had to meet so
15 many hours every year to keep your law enforcement
16 credentials up to date.

17 And since then for the past ten years I have been
18 with crime scene unit where I have ongoing training. I
19 have in excess of 600 hours in different aspects of
20 crime scene, whether it's reconstruction, latent
21 fingerprint, blood, blood spatter classes, tire wear,
22 shoe wear training and photography.

23 Q Okay. And how long have you been -- what are your
24 current responsibilities?

25 A Currently I'm the senior investigator with the

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1 crime scene unit with the Horry County Police
2 Department.

3 Q Okay. And if you don't mind, tell the jury what
4 your responsibilities are.

5 A My responsibilities as the senior investigator is
6 there are two other investigators under me with the
7 police department. I am to help supervise those two
8 investigators when we were called out in regards to
9 various crime scenes, whether it's simple burglaries on
10 up to major crimes. We, in essence, we go out when
11 we're called out, we first by logging all the important
12 information, photographing things as we see it upon our
13 arrival, finding out any pertinent information that
14 help me, help in our investigation and what type of
15 evidence we may find or search for while we're at
16 whatever type scene we were at.

17 Q And if you don't mind, tell the jury specifically
18 as to fingerprints what your training is.

19 A In regards to training, I have attended -- my
20 initial training was a basic latent examiners course to
21 the South Carolina Criminal Justice Academy, which was
22 a 40-hour course.

23 Since then I have been through in excess of a
24 hundred hours through the Federal Bureau of
25 Investigation's laboratory up in Quantico, Virginia. I

1 have also attended the National Forensic Science
2 Technology Center in Florida in excess of 160 hours in
3 latent print and ten print examination.

4 Q And are you familiar with the case that we're here
5 today for?

6 A Yes, ma'am.

7 Q Okay. And in this particular case, did you take
8 in evidence and examine the evidence?

9 A Yes, ma'am.

10 Q Okay. If you don't mind, tell the jury what
11 evidence you took in.

12 A I was the initial responder to the call that
13 night. My initial response was the photography. And I
14 also was the one that went to the house and searched
15 for evidence in the house. In the course of the
16 investigation, I recovered several fired bullets that
17 were in the residence as well as a weapon, some
18 narcotic memorabilia and narcotics.

19 I also had the occasion to -- there was a van that
20 was associated with the case that was found a short
21 distance from the residence. The van was then towed to
22 the police department where I processed the van and was
23 able to find some latent or unknown prints on the van,
24 at which point in time I take those latent prints and
25 put them into AFIS or the Automated Fingerprint

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1 Identification System.

2 Q Okay. So you examined fingerprints off the brown
3 van that was collected?

4 A Yes, ma'am, that is correct.

5 Q Okay. Now, as to fingerprints, have you been
6 qualified as an expert to testify about fingerprints?

7 A Yes, ma'am, I have.

8 MS. LIVESAY: Your Honor --

9 Q And how many times, Mr. Caulder?

10 A These two times prior to this.

11 Q Okay. And in what court?

12 A In General Sessions court here in Horry County.

13 Q Okay.

14 MS. LIVESAY: Your Honor, at this time the State
15 wishes to qualify Robbie Caulder as an expert in
16 fingerprints.

17 THE COURT: Fingerprint analysis or fingerprint --
18 just what?

19 MS. LIVESAY: Fingerprint analysis, yes, sir.

20 THE COURT: All right, all right, very good. Do
21 you wish to voir dire the witness, challenge his offer
22 by the State?

23 MR. FREDERICK: I'm okay with that, judge.

24 THE COURT: All right.

25 MR. FREDERICK: No objection.

1 THE COURT: All right, very good. Mr. Canty?

2 MR. CANTY: No objection, Your Honor.

3 THE COURT: All right. So he's qualified to give
4 his opinion in the field of fingerprint analysis. You
5 may continue.

6 MS. LIVESAY: Thank you, Your Honor.

7 Q If you don't mind, let's start off, Mr. Caulder,
8 by talking about, a little bit about, general
9 fingerprints. Please tell the jury what a latent print
10 is.

11 A A latent print is any unseen print that would need
12 some type of development technique to help enhance or
13 develop that print where it can be seen with the eye.

14 Q Okay. And what is a patent print?

15 A A patent print is any print that is left behind,
16 intentional or unintentional, that may be left behind
17 in some type of substratum that does not need any
18 enhancement, i.e., like a -- in a oil or some type of
19 fluid where the print is actually visible just with no
20 development technique used.

21 Q Okay. And if you don't mind, tell the jury what
22 ten prints are.

23 A Ten prints are also called known exemplars. They
24 are the ten digits of a hand. They range from finger
25 one, which is your right thumb to finger ten which is

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1 your left pinkie. They are numbered each way one, two,
2 three, four, five, six, seven, eight, nine, ten. They
3 are know from a known person so you collect them from a
4 known -- it's collected from a person or someone you
5 know.

6 Q Okay. And is there different distinguishing
7 characteristics between a fingerprint and a palm print?

8 A There is as far as the actual ten print itself
9 that it looks different, I mean, the palm looks
10 different than the fingers. But each individuals have
11 unique characteristics inside of those prints, whether
12 it's the actual ten print or the finger and the digits
13 to the inner digital palm area.

14 Q Okay. And is every fingerprint specific to each
15 person?

16 A Every fingerprint is unique and persistent to each
17 individual.

18 Q Okay. And if you don't mind, tell the jury how
19 it's possible for people to leave behind fingerprints.

20 A There is several knowns about that. Everybody
21 would naturally assume that you would leave a print
22 behind every time you touch, which is not necessarily
23 true. You can leave back a print behind. The surface
24 has to be conducive to prints, which is kind of like
25 most -- the most optimal area would be a flat,

1 nonporous surface.

2 The conditions have to be right, i.e., is the
3 person wearing gloves, is the person sweating, is it a
4 sweat print, is it an oil print, is the substrate or
5 the surface conducive, or is it dusty or it's different
6 environmental factors also play in.

7 Q Okay. Tell the jury, is it possible to touch a
8 surface and not leave a fingerprint?

9 A Yes, ma'am. It's -- people naturally assume once
10 you touch something that you do leave behind those
11 prints, which is not necessarily the truth. It's if
12 you constantly touch your car doors on each one of
13 these individual car, you're constantly touching that
14 surface to get in and out of that vehicle.

15 Because you're constantly rubbing or causing
16 friction or force against that door with your hand, you
17 can possibly just rub what is already there off, if
18 you're leaving anything there at all.

19 Q Okay. And is it possible to touch something one
20 time and not leave a fingerprint?

21 A Yes.

22 Q Okay. If you don't mind, tell the jury what kind
23 of surfaces are conducive to leaving a fingerprint.

24 A Any solid, flat surface that is nonporous is
25 really the best, a sheet of glass, a flat surface is

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1 ink. And most surfaces appear to be flat but actually
2 have indentions in them that give a false setting.
3 Like this surface here would not be -- it's not flat.
4 The surfaces, there are indentions in that wood grain
5 that you cannot see with the actual eye.

6 But once you start using techniques like dust or a
7 chemical to spray on it, you'll notice that there is an
8 indention in the surface.

9 Q Okay. And, again, how many times have you
10 testified as an expert?

11 A This is my third.

12 Q Okay. And how long have you been doing
13 fingerprint matches?

14 A Since 2005.

15 Q Okay. So would you say it's more common or
16 uncommon to work a case where there's actually
17 fingerprints left behind?

18 A It's more -- that's a hard question to answer,
19 because it's -- it's not really common that you -- it's
20 something not a case that you would actually look for
21 fingerprints on every individual case. And it's not
22 common to find a lot of usable prints or prints where
23 there are enough friction where you see the actual
24 ridges of the prints where it can be used to get an
25 identification in the case.

1 Q Okay. So a lot of times there are partial prints
2 but not enough for you to actually make a match?

3 A That's correct.

4 Q Okay. So there's got to be close to a full
5 fingerprint for you to be able to say, in my opinion
6 this is a match?

7 A Not necessarily a full print but enough of unique
8 characteristics or enough ridges for me to actually
9 make that conclusion there's enough of a print there --

10 Q Okay.

11 A -- to examine.

12 Q Okay. And if you don't mind, tell the jury a
13 little bit about the process of lifting a print off of
14 a area.

15 A Well, take this case for instance. The basic
16 thing that we did -- I did for this case on the van, is
17 you would just take a black volcanic type of ash or a
18 powder, it's called black powder, and you just use it
19 and place it on the car. If there are any latent
20 prints or unseen prints, the black powder would adhere
21 to that print, the materials in the print, and help
22 develop the print, actually where you can start to see
23 the ridges develop.

24 After those prints are developed, generally what
25 we try to do is try to photograph in place, which is

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1 kind of hard with the limited materials we have at
2 Horry County Police Department. But we do try to
3 photograph where the area where we were lifting it from
4 to kind of show where we've gotten it from.

5 At that point in time there are different
6 techniques on a flat, nonporous surface where we would
7 use a clear lifting tape which is pretty much a fancy
8 Scotch Tape, for lack of a better term. And you just
9 place it over the print, then you slowly lift it. Then
10 it goes onto a white backing card, because it is black
11 powder and the contrast sits out from the white. Then
12 it is marked and notated on the print card itself where
13 the print was lifted from. And then...

14 Q Okay. And did you lift any prints you were able
15 to make -- first, did you lift any prints off the van?

16 A Yes, ma'am, I did.

17 Q Okay. And if you don't mind, tell the jury a
18 total of how many prints you collected, whether you
19 were able to use them for a comparison or not.

20 A Give me just a second. There were a total of 19
21 prints lifted the from van.

22 Q Okay. So a total of 19 were left or lifted off
23 that van?

24 A Yes, ma'am.

25 Q Okay. If you don't mind, tell this jury, out of

1 19 how many were enough of a print for you to actually
2 make a comparison?

3 A There were -- give me just a second. There were
4 13 prints of -- with enough ridge detail to make a --

5 Q How many prints?

6 A 13.

7 Q 13?

8 A Yes, ma'am.

9 Q So 13 out of 19 were enough to make a comparison?

10 A Yes, ma'am.

11 Q Okay. And the other six prints you really can't
12 tell us anything about?

13 A There was -- there was not enough ridge detail to
14 be able to identify them to be usable or classifiable
15 as anything other than maybe a ridge or two or no
16 ridges at all where they can't be used in the
17 comparison process.

18 Q Okay. And when you lifted those prints, did you
19 put them on anything to keep the integrity of the
20 print?

21 A They are -- once they are lifted, they are put on
22 that -- the backing card itself on the card. And then
23 they are identified. Then they are placed -- they are
24 taken and actually put into a -- in the envelope. When
25 they are being transferred and they're logged, I have

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1 to log them into a system showing I have them. And
2 then I have to put them into the AFIS system.

3 Q Okay. So you lifted the print off the van, put it
4 on a card; is that correct?

5 A Yes, ma'am.

6 Q And then you enter that card into evidence to
7 protect the integrity of that print?

8 A Yes, ma'am.

9 Q Okay. Can anybody come in and have access to
10 those print cards?

11 A Not without going through evidence first, no,
12 ma'am.

13 Q Okay. If you don't mind, you were just talking
14 about you were taking the print card to put into AFIS;
15 is that correct?

16 A That's correct.

17 Q Okay. If you don't mind, explain to this jury
18 what AFIS is and how you use it.

19 A AFIS is the Automated Fingerprint Identification
20 System. Basically it's a camera. There are -- there
21 are three different ways to put prints into this system
22 via camera that is set up beside the computer. It's
23 just like a regular home computer, it's a -- it has a
24 camera attached to it as well as a scanner and of
25 course the USB ports for things that are downloaded

1 onto a thumb drive or fingerprints that are loaded onto
2 a thumb drive.

3 The camera is our primary source. The latent
4 print that were lifted off the vehicle was then placed
5 up under the camera, a photograph was taken of the
6 latent print itself. Then I have to enter it into a
7 system with certain identifiers. The identifiers are,
8 it always starts out with H because that's what we are
9 assigned to us as far as Horry, so we use an H, the
10 year, my identifying number which is one. At that time
11 it was three, it since changed. Then we use our county
12 case number to help identify as far as the print that's
13 in the system.

14 Once I put it into the system, what I have to do
15 is I have to go and I have to identify the type of
16 pattern that the print is, if it's even identifiable as
17 a pattern type. In the pattern I have to pick out each
18 individual characteristic that is seen. The
19 characteristics are things like short ridges, dots,
20 bifurcations, triple bifurcations, a delta or a core,
21 if they're found in the print itself. All of these
22 have to be marked, and they are called minutia for
23 computer purposes.

24 Once they are marked, I send them off and click a
25 search through the State, the State of South Carolina's

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1 computer system. And it does a search and sends back X
2 amount of results based on things in the system that
3 have matching characteristics within a certain
4 parameter.

5 After it sends back those matching or what the
6 computer calls matching results or comparison results,
7 I have to take the ones the computer sends back and
8 compare them each individually to the latent that I had
9 put into the system. And those latents vary from one
10 to 99.

11 Q Okay. So just so I'm clear, because it seems very
12 complex and confusing, you take the characteristics off
13 the print that you lifted?

14 A Yes, ma'am.

15 Q But you only use prints you know have enough
16 characteristics for you to determine whether or not
17 it's a match?

18 A Yes, ma'am.

19 Q Okay. And AFIS has prints in it that spits out a
20 number to you that might possibly be a match?

21 A It matches -- once it's -- I'm not familiar with
22 the algorithm that it uses because it is a mathematic
23 algorithm that I'm not familiar with. But once I place
24 those points or those characteristics or points of
25 minutia onto my latent print, it searches prints within

1 that same parameter or area in which I've searched.
2 I've already named the pattern type, what the print is,
3 and then the points of minutia.

4 So it -- the machine actually -- the computer
5 actually narrows down -- if I put in a loop or a whirl,
6 which is a pattern type, it narrows down all the other
7 types of loops or whirls or arches, takes them away.
8 Then it measures within that print the actual minutia
9 points and as far as their placement.

10 Q Okay. So you put in basically the specifics about
11 the prints?

12 A Yes, ma'am.

13 Q The identifying characteristics?

14 A Yes, ma'am.

15 Q And then it gives you a possible match for those
16 identifying characteristics?

17 A Yes, ma'am.

18 Q Okay. So that way it's not giving you every
19 print?

20 A Not every print, no, ma'am.

21 Q Okay. So and then once it gives you these
22 possible matches, do you go through each of those?

23 A Yes, ma'am.

24 Q Okay. And when you are going through these
25 possible matches, how are those prints identified to

1 you?

2 A Once I -- once I visually identify them and then
3 once they are visually identified, there is a -- at the
4 top of the -- the top of the AFIS machine are two
5 different identifying numbers. One is a South
6 Carolina, it will say SC zero, and it will give some
7 type of number, or it will say SC something with a
8 number behind it. Then it will -- inside the -- that
9 number is the incident number, and it could vary
10 whatever that number is.

11 I can go further into the AFIS system and either
12 type the incident number or the SC number into the
13 system, and it will spit back the known exemplars or
14 those ten prints as well as if there's any palm prints
15 in the system. And it will also identify the
16 descriptors which is the name, date of birth of the
17 person that has that SC number or that incident number.

18 Q Okay. So when you get these possible matches
19 back, you have no idea what the name is to that
20 fingerprint, only the SC number?

21 A Yes, ma'am.

22 Q Okay. So then you look through these possible
23 matches, and then you decide whether or not one is a
24 match; is that correct?

25 A Yes, ma'am.

1 Q Okay. Once you've done that, you are still
2 identifying the possible match from AFIS only through
3 the SC number?

4 A Only through the SC number, yes, ma'am.

5 Q Okay. And is that number given to protect the
6 identification of the person?

7 A From my understanding, the only reason that they
8 give the number is after a person has been arrested.

9 Q Okay. But you don't have the name?

10 A No, I don't have the name.

11 Q Okay.

12 A At that point in time I do not have a name.

13 Q Okay.

14 A And in some instances, some of the older SC
15 numbers may not even have a name. I may have to go
16 through the NCIC computer to run the SC number to find
17 out, A, if there -- a name that's identified with it.

18 Q Okay. So you only have a number?

19 A Yes, ma'am.

20 Q And ultimately, when you make that match, you say,
21 this belongs to SC, and whatever the number is?

22 A Yes, ma'am.

23 Q Okay. So it's only until you determine that match
24 that you have the SC number?

25 A Yes, ma'am.

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1 Q Okay. Now, tell me if I'm wrong, because I know
2 you've already explained it, I just want to make sure I
3 understand it. It is then you take that SC number and
4 put it in that you are able to retain the name?

5 A Yes, ma'am.

6 Q Okay. Now, did you put the evidence you took off
7 that van, the prints, into evidence?

8 A The latents were entered into evidence and --

9 Q Okay. And do you have that evidence today?

10 A Yes, ma'am.

11 Q Okay. And has that evidence been sealed or in
12 your possession since it was taken from that van?

13 A Yes, ma'am.

14 Q Okay. So no one has tampered with or even touched
15 those prints but you?

16 A Yes, ma'am.

17 Q If you don't mind, I'm going to mark those for
18 State's exhibits.

19 A There's two more, Nancy.

20 THE COURT: Solicitor, there's two more.

21 MS. LIVESAY: Thank you.

22 Q Now, Mr. Caulder, are these all 19 prints that
23 were pulled off the van?

24 A Yes, ma'am.

25 Q Okay. And on the back of these cards, does it

1 point out the location where you took the print from?

2 A Yes, ma'am.

3 Q Okay. And is there also a case number on it for
4 identification purposes?

5 A Yes, ma'am.

6 Q Okay.

7 (WHEREUPON, State's Exhibit Nos. 34 to 52 were
8 marked for identification only.)

9 Q Bobby, I'm showing you now what's been marked as
10 State's Exhibit 34 to 52. Do you know what all those
11 are?

12 A Yes, ma'am.

13 Q And if you don't mind, tell the jury what they
14 are.

15 A Each of them -- each of these are the latent
16 prints that were lifted from the van after I processed
17 them. They are placed on the little white backing
18 cards that you can see the little shiny is the actual
19 -- the tape itself is placed over the white, over the
20 white backing card.

21 On the back side is the date I -- date lifted, the
22 date and person that lifted them, which is myself and
23 the location on the vehicle. And they also have their
24 own individual number that was put there by me, so I
25 could reference back to where it had come from.

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1 MS. LIVESAY: Your Honor, at this time the State
2 wishes to place those exhibits in as State's evidence.

3 THE COURT: All right. State's-34 through 52?

4 MS. LIVESAY: Yes, sir, Your Honor.

5 THE COURT: Any objection?

6 MR. FREDERICK: No objection.

7 MR. CANTY: None, Your Honor.

8 THE COURT: All right. State's-34 through 52 are
9 in evidence without objection.

10 (WHEREUPON, State's Exhibit Nos. 34 through 52
11 were admitted in evidence.)

12 Q Now, those are 19 fingerprints; is that correct?

13 A Yes, ma'am.

14 Q Okay. Now, did you fingerprint the entire van?

15 A Yes, ma'am.

16 Q Okay. So if I showed you a picture of the van,
17 would you recognize it?

18 A Yes, ma'am.

19 Q Okay. Try to get a good picture, some of these
20 are -- I'm showing you now what's in evidence already,
21 State's Evidence No. 25.

22 A Yes, ma'am.

23 Q Is that the van you fingerprinted?

24 A Yes, ma'am.

25 Q I'll show it to the jury. So you fingerprinted

1 this entire van, front, back and both sides?

2 A And interior.

3 Q Okay. And out of the entire van all over, you
4 only removed 19?

5 A Yes, ma'am.

6 Q Okay. And out of those 19, 13 were worth actually
7 making a comparison?

8 A Yes, ma'am.

9 Q Okay. If you don't mind, go through and tell the
10 jury so they'll know where you located those 19 prints
11 on the van.

12 A Of the 19 prints, most of them were lifted from
13 the exterior side of the van, from the front
14 passenger -- front passenger quarter panel which is
15 just above the tire well of the passenger side of the
16 vehicle, the front passenger door, the exterior on the
17 passenger side, the sliding door, the exterior side of
18 it, the door itself and also on the glass.

19 The interior side of the front passenger door, the
20 exterior side of the driver's door window, the front
21 driver's door near the front windshield, which would be
22 in the actual A-frame between the window and the
23 driver's window and front windshield. The front end of
24 the hood, there again, the front passenger door, the
25 frame between the front and rear passenger door, the

1 glass on the sliding door.

2 Exterior side door on the passenger side, the rear
3 sliding door, the sliding door window, the interior;
4 the interior of the -- there were actually several of
5 these from the interior side of the sliding door
6 window.

7 Q Okay. Now, if you don't mind, tell the jury
8 specifically where you got the 13 that you were able to
9 make a comparison on.

10 A Latent print number one, that's my number one, I
11 had liftings from the exterior side of the front
12 passenger side quarter panel which is that quarter
13 panel which is above the tire wheel. My latent print
14 identified as number three was lifted from the exterior
15 side of the window on the sliding door on the passenger
16 side. Number four was lifted from the exterior side of
17 the window on the front passenger door.

18 Number six was lifted from the exterior side of
19 the sliding door on the passenger side below the
20 window, and so it was actually on the metal below the
21 window. Number seven, which is the interior side of
22 the window on the front passenger door. Number eight
23 was the exterior side of the front driver's door
24 window. Number nine was the exterior side of the front
25 driver's door and the front windshield.

1 Number ten was the exterior side of the front end
2 of the hood. Number 12 was the exterior side of the
3 front passenger door. Number 13 was the exterior side
4 of the frame between the front and rear passenger door.
5 Number 14 was the exterior side of door on the
6 passenger side and then the rear sliding door. 15 was
7 no value. 16 is the exterior side of door on passenger
8 side near the sliding -- rear sliding door. Number 17
9 was the interior side of the sliding door, the window
10 on the passenger side. 18 was the interior side of the
11 sliding door window on the passenger side.

12 Q Okay. Now, just so I'm clear, out of the 13, how
13 many were found on the passenger side, that were able
14 to actually be matched up out of the 13?

15 A Ten.

16 Q Okay. So 10 out of 13 were on the passenger side?

17 A Yes, ma'am.

18 Q Okay. And it was a, and correct me if I'm wrong,
19 the passenger door opened like a regular door; is that
20 correct?

21 A Yes, ma'am.

22 Q And like any other van, the back slides open?

23 A Yes, ma'am.

24 Q Okay. So ten were found either on that passenger
25 door or the sliding door?

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1 A Yes, ma'am.

2 Q Okay. And three were found, and correct me if I'm
3 wrong, around the passenger door?

4 A Yes, ma'am.

5 Q Okay. So we got ten on the doors on the passenger
6 side and three on the driver's door?

7 A Three on the driver's door, yes, ma'am.

8 Q Okay. Now, those 13 you put in evidence; is that
9 correct?

10 A 13, yes, ma'am.

11 Q Okay. And after you looked at the print and
12 performed an analysis, were you able to determine if
13 that print had a match?

14 A On five, five of the prints I was able to identify
15 it, yes, ma'am.

16 Q Okay. And were you given an SC number for those
17 prints that you had a match for?

18 A Yes, ma'am.

19 Q Okay. If you don't mind, first tell us the number
20 that it matched.

21 A My latent print that identified as number one come
22 back to an SC number of 01903693, which was Thomas
23 Booker James. Latent print number three was identified
24 with South Carolina ID number SC01982506, and I
25 apologize if I pronounce this wrong, Letitia Tasha

1 Freshley. Latent print number four, my number four,
2 was also identified to Ms. Freshley.

3 Latent print number six was identified as South
4 Carolina ID number SC01913804 which was for Keir Lamont
5 Johnson. And latent print number seven was identified
6 as South Carolina ID number SC01942665, which came back
7 to a Marke1 Hasheem Rush.

8 Q Okay. So in your opinion those fingerprints that
9 you removed off the vehicle belonged to, give me those
10 names as far as on the passenger side.

11 A Passenger side came back to Thomas Booker James,
12 Letitia Freshley, Keir Johnson and Marke1 Rush.

13 Q Okay. And those were the ones you were just able
14 to identify?

15 A Yes, ma'am.

16 Q Okay. So 13 of the prints belonged to one of
17 those people?

18 A Yes, ma'am.

19 Q Okay. Now, whose prints were on the driver's
20 side?

21 A I was not able to identify any print from the
22 driver's side.

23 Q Okay. So none of the 13 prints you were able to
24 make a match on the driver's side?

25 A No, ma'am.

1 Q Okay. So there were three lifted off the driver's
2 side; is that correct?

3 A Yes, ma'am.

4 Q Okay. But you weren't able to make a match due to
5 the quality of the print?

6 A There was -- there was insufficient ridges for me
7 to be able to make any conclusion to it as far as if
8 they belonged to anyone, or they did not match the
9 already four names that I had.

10 Q Okay. So none of the ones on the driver's side
11 were able to be matched up?

12 A That's correct.

13 Q Okay. So, and correct me if I'm wrong, that then
14 leaves ten prints that you lifted you thought you were
15 going to be able to make a comparison to?

16 A That is correct.

17 Q Okay. So then out of the 19 total that you
18 collected, just ten -- I'm sorry, I think I was wrong
19 earlier when I was using 13 -- ten were able to be
20 matched up to a actual person?

21 A That is correct.

22 Q Okay. If you don't mind, how many of those prints
23 belonged to each one of those people?

24 A Only the four which were identified, the Thomas
25 James which was actually a palm, and it was his right

1 hyposthenia area, which is the actual -- this part of
2 the palm (indicating).

3 The Letitia Freshley, her fingers matched up on
4 two prints, which were my latent print three and four
5 from the sliding passenger door, sliding -- the window
6 on the sliding door and the front passenger door. And
7 they were fingers seven and eight, which are your left
8 index and your left middle finger.

9 Latent print number six from the exterior side of
10 the sliding door on the passenger side below the window
11 was identified to -- back to Keir Johnson, which is the
12 left palm inner digital area. The inner digital area
13 is this part of the palm (indicating).

14 Latent print seven was identified back to Markel
15 Rush, and those were simultaneous prints. Simultaneous
16 prints are anytime you lay these prints down
17 simultaneously. They were fingers number three and
18 four. This is finger three which is your middle, your
19 right middle, and your right ring finger. They were
20 found on the interior side of the window on the front
21 passenger door.

22 Q Okay. So out of 19 prints you were able to match
23 up or find a match to ten?

24 A To five.

25 Q Okay. To five prints?

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1 A (Nodding affirmatively.)

2 Q Okay. So out of 19 you were able to match up five
3 prints?

4 A Yes, ma'am.

5 Q Less than half?

6 A Yes, ma'am.

7 Q Okay. And that was just due to the quality of the
8 print removed off the van?

9 A That is correct.

10 Q Okay. Did you have any other responsibilities in
11 this investigation other than crime scene analysis?

12 A Not other than the initial response with the crime
13 scene and then the processing of the van and then the
14 latent print work.

15 Q Okay. So your responsibilities do not include
16 interviewing people or anything like that, merely
17 analyzing and collecting evidence?

18 A That is correct.

19 MS. LIVESAY: No further questions, Your Honor.

20 THE COURT: Solicitor, you come up and talk to me.
21 Mr. Frederick and Mr. Canty, y'all come up and talk to
22 me.

23 (WHEREUPON, a bench conference was held off the
24 record in the presence of the jury but out of the
25 hearing of the jury.)

1 MS. LIVESAY: Your Honor, can I ask Mr. Caulder a
2 couple more questions?

3 THE COURT: Yes, ma'am, please.

4 Q Mr. Caulder, if you don't mind, for the Court's
5 purposes and the jury, give us first the SC numbers of
6 the people that you were able to detain a match for.

7 A SC number 01903693.

8 Q And who does that SC number belong to?

9 A That number comes back to Thomas Booker James.

10 Q Okay. And if you don't mind, tell me the other SC
11 numbers and who that number belongs to.

12 A South Carolina ID number SC01982506 comes back to
13 a Letitia Tasha Freshley. South Carolina ID number
14 SC01913804 comes back to a Keir Lamont Johnson. South
15 Carolina ID number SC01942665 comes back to a Markel
16 Hasheem Rush.

17 Q Okay. And you received all those numbers out of
18 the AFIS system?

19 A Yes, ma'am, that is correct.

20 Q Okay. And the fingerprints that belong to those
21 numbers came from the AFIS system?

22 A That is correct.

23 Q Okay. And then those numbers and prints were
24 matched to the ones off the van?

25 A That is correct.

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1 Q Thank you.

2 MS. LIVESAY: And Your Honor, if the State hasn't,
3 we'd like to put in, I believe I did, State's Exhibit
4 34 to 52 into evidence, if it hasn't already been done.

5 THE COURT: They are in evidence, they already
6 are.

7 MS. LIVESAY: Thank you, Your Honor.

8 THE COURT: And then 30 through -- are you going
9 to offer 30 through 33?

10 MS. LIVESAY: If they haven't, we'd like to put
11 in, let me see the first number, 34?

12 THE COURT: No, ma'am. 30 through 33.

13 MS. LIVESAY: 33, okay, I didn't see that one.

14 THE COURT: Do you see those? Those are the four
15 from the other witness.

16 MS. LIVESAY: Okay.

17 THE COURT: Do you see those?

18 MS. LIVESAY: I think he took them back with him.
19 You talking about -- oh, these, okay. These are -- I
20 am, Your Honor -- these are 30 through 33.

21 THE COURT: Okay, that's all. Let him look at
22 those.

23 Q Have you seen those prints before, Mr. Caulder?

24 A Yes, ma'am.

25 Q Okay. And where did those prints come from?

1 A These prints appear to be inked prints.

2 Q Ink prints. And are those the prints that you
3 used to compare to the ones off the van?

4 A These specific cards? Not these specific cards.

5 Q Okay.

6 A These are the same identifying numbers.

7 Q Okay. And if you don't mind, for the Court, look
8 at those numbers, and are those numbers the matches to
9 the ones that you matched on the van?

10 A Yes, ma'am.

11 Q Okay. And just so everyone's clear, when you get
12 a match from AFIS, you just get it off the computer; is
13 that correct?

14 A That is correct.

15 Q Okay. With the SC number?

16 A Yes, ma'am.

17 Q And if you don't mind, just for clarification,
18 look at each card and SC number.

19 A This SC number is 019442665, State's Exhibit 30
20 comes back to a Markel Hasheem Rush, which is the same
21 one that I used from that day.

22 Q Okay.

23 A SC01903693, Thomas Booker James, the same one
24 identified with the number that I identified that day.
25 This is actually the ten print card, this is not the

1 palm card that I used.

2 Q Okay.

3 A South Carolina ID number 01982506, Letitia
4 Freshley. It's the same identifying number that I used
5 that day to compare to it the AFIS. The SC01913804 is
6 Keir Lamont Johnson, the same -- it's the same number.
7 This is a ten print card and not the palm print card
8 that was used for identification.

9 Q Okay. Do those cards and identification on those
10 cards match the prints that you compared to the van?

11 A It's a hard question to answer because the SC
12 number matches.

13 Q Okay.

14 A And for the fingerprints, yes. But these are ten
15 prints and not palm prints. So two of them, even
16 though they have the SC number on their card, I used a
17 palm comparison which is, these are ten prints just the
18 digits.

19 Q Okay.

20 A So on two of them I can -- Letitia Freshley and
21 Markel Rush, yes, these are the same print cards that I
22 would have printed out from the AFIS system.

23 Q Okay.

24 A But the same numbers for Thomas Booker James and
25 Keir Lamont Johnson, I would not have used the ten

1 print card, I would have used the palm print card from
2 the same system with the same number.

3 Q Okay. So just so I'm clear, does the number on
4 the card, the ten print card, for Keir Johnson and
5 Thomas Booker James match the number that you got out
6 of AFIS that you used to make a match to the van?

7 A Yes, ma'am.

8 Q Okay.

9 THE COURT: Mr. Frederick, any objection?

10 MR. FREDERICK: To the admission of those cards?

11 THE COURT: Yes, 30 through 33.

12 MR. FREDERICK: I think I have to object, judge.

13 He just said that it's not the card that he used, it's
14 not even the same print.

15 THE COURT: Well, that's not exactly what he said.
16 Let me see the cards.

17 MR. FREDERICK: It's the ten print, not the palm
18 print.

19 THE COURT: But that wasn't all of it, okay.

20 MR. FREDERICK: For the record, for the record,
21 judge, I object to them.

22 THE COURT: I appreciate that, but that's not what
23 he said. All right, sir, look at 30 and 32. Are those
24 the two that match the number and are what you used?

25 THE WITNESS: Yes, sir.

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1 THE COURT: Okay, 30 and 32?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. And then; so do you have
4 an objection to those, Mr. Frederick, 30 and 32?

5 MR. FREDERICK: I don't even know without looking,
6 judge.

7 THE COURT: Well, please come up and look at them.

8 MR. FREDERICK: No objection, judge.

9 THE COURT: Very good. And Mr. Canty, you had no
10 objection to any of it; correct?

11 MR. CANTY: Your Honor, I just -- I didn't hear my
12 client's name mentioned, so I don't know that it's
13 material to our alibi defense. But whatever he
14 objected to, I would have to join in that in terms
15 of --

16 THE COURT: Well, he didn't object to that.

17 MR. FREDERICK: No objection to 30 and 32, judge.

18 THE COURT: Very good, thank you. All right, so
19 30 and 32 are in evidence without objection.

20 (WHEREUPON, State's Exhibit No. 30 was admitted in
21 evidence.)

22 (WHEREUPON, State's Exhibit No. 32 was admitted in
23 evidence.)

24 THE COURT: 31 and 33, those are, you said, ten
25 print fingerprints; correct?

1 THE WITNESS: They are ten prints, yes, Your
2 Honor.

3 THE COURT: Thank you very much.

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. And those are not what you
6 used?

7 THE WITNESS: No, sir.

8 THE COURT: You used palm prints?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. So those two, and those
11 numbers are?

12 THE WITNESS: The numbers do match the same.

13 THE COURT: The numbers. But the exhibit numbers
14 are?

15 THE WITNESS: They are 33 and 31.

16 THE COURT: And 31?

17 THE WITNESS: Yes, sir.

18 THE COURT: 33 and 31 are not in evidence. Thank
19 you very much. Cross-examination?

20 MR. FREDERICK: Very briefly, judge.

21 CROSS-EXAMINATION

22 BY MR. FREDERICK:

23 Q In general, I mean, fingerprints can tell you some
24 things, they can't tell you other things; do you agree
25 with that?

1 A Yeah, they can just identify a person.

2 Q It has it's limitations.

3 A I mean, I don't know what you're exact question
4 is.

5 Q In general, I'm not asking specific to this case.
6 But when you're looking at fingerprints, let's say if
7 there's a fingerprint on a gun or a knife, a murder
8 weapon, that would be important; wouldn't it?

9 A Yes, sir.

10 Q Okay. On the other hand, if there's a fingerprint
11 on a vehicle, what does that tell you?

12 A That a person has at least come in contact with
13 the vehicle.

14 Q Correct.

15 A At some point.

16 Q It doesn't tell you time?

17 A No, sir.

18 Q It doesn't tell you location?

19 A No, sir.

20 Q Okay. So it can be relevant; yes?

21 A Yes, sir, it can be. And it can't be sometimes.

22 MR. FREDERICK: Okay. Thank you.

23 THE WITNESS: You're welcome.

24 THE COURT: Mr. Canty?

25 CROSS-EXAMINATION

1 BY MR. CANTY:

2 Q Did you find my client's fingerprints anywhere on
3 that van?

4 A I don't know your client's name, sir.

5 Q Carnail Graham.

6 A No, sir, I did not.

7 MR. CANTY: That's all I have.

8 THE COURT: Any redirect?

9 MS. LIVESAY: No, sir, Your Honor.

10 THE COURT: All right. You may step down, sir.

11 THE WITNESS: Thank you, Your Honor.

12 (Witness excused.)

13 THE COURT: All right, ladies and gentlemen, we're
14 going to break for the evening. And I'm going to give
15 you the same instructions I've given you every time you
16 leave. Don't talk about the case, don't allow anybody
17 to talk to you about it. You're not researchers,
18 you're not investigators, don't look up anything.
19 Obviously if somebody attempts to talk to you, you
20 report back to the Court, and we'll take care of that
21 situation.

22 Please be back downstairs in the assembly room
23 like you were this morning 9:15, be downstairs at 9:15.
24 They'll bring you upstairs tomorrow morning and to the
25 jury room. There'll be something different, they will.

SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

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1 THE COURT: Come back to the stand. Once you get
2 situated, just state your name again for the record,
3 please, sir.

4 THE WITNESS: Yes, sir. Seraphim Haftoglou.

5 THE COURT: All right, sir. You understand you
6 were placed under oath, and you remain under oath at
7 this time?

8 THE WITNESS: Yes, sir.

9 THE COURT: Very good. You may continue,
10 solicitor.

11 MS. LIVESAY: Thank you.

12 SERAPHIM HAFTOGLOU, after being previously sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LIVESAY:

16 Q And where are you working still?

17 A I still work for South Carolina Law Enforcement
18 Division, otherwise known as SLED.

19 Q Okay. And you are still under subpoena; is that
20 correct?

21 A Yes.

22 Q Okay. And were you contacted regarding further
23 up -- follow up as to the prints that were introduced
24 yesterday?

25 A Yes, I was.

1 Q Okay. And if you don't mind, tell the Court and
2 this jury what print cards you have with you today.

3 A Today I have a print card that belongs to
4 SC01913804, it's a palm print, and SC01903693 which is
5 also a palm print.

6 Q Okay. And have those palm prints been tampered
7 with in any form or fashion?

8 A No, they have not.

9 Q And are they kept in AFIS?

10 A Yes, they are.

11 Q Okay. And just so we can clarify from yesterday,
12 when AFIS puts out a possible match, does it send both
13 palm prints and fingerprints?

14 A It sends back whatever the individual put a latent
15 hit on. If it put a fingerprint in, brings back
16 possible matches for fingerprints. If they put a palm
17 print image, then it sends back palm images. All palm
18 print images are correlated with ten prints when they
19 are arrested. So that's how we keep them.

20 Q Okay. So in AFIS, they're all kept together, that
21 SC number has all the palm prints as well as the
22 fingerprints?

23 A Right. It keeps -- each arrest has a incident
24 number, which it may have ten -- which will have ten
25 prints and may or may not have palm prints, though.

1 All of them get palm prints, but more and more nowadays
2 all of them are kept together.

3 Q Okay. So there's one number for basically the
4 entire hand?

5 A Right.

6 Q Okay, palm print and fingerprints?

7 A Right.

8 Q Okay. Now, correct me if I'm wrong from the
9 understanding of what you just said. So if someone
10 sends in the characteristics from the palm print, then
11 that is the information and SC number that goes through
12 AFIS?

13 A Right.

14 Q Okay. And if they send the characteristics of the
15 fingerprint, that is then what's sent from AFIS as a
16 possible match?

17 A That's correct.

18 Q Okay. And both of these are the cards that you
19 brought to court today?

20 A Yes.

21 Q And they have SC numbers?

22 A Yes, they do.

23 Q Okay. Now, did these SC numbers and cards
24 correlate to the same ones yesterday only that these
25 are the palm prints?

1 A Correct.

2 Q Okay. So we discussed the prints yesterday on a
3 Thomas Booker James and a Keir Lamont Johnson; is that
4 correct?

5 A Yeah.

6 Q Okay. And these cards are merely the palm prints
7 that correlate with those fingerprints?

8 A Correct. That's the left and right palm.

9 (WHEREUPON, State's Exhibit Nos. 62 and 63 were
10 marked for identification only.)

11 Q And these have not been tampered with in any form
12 or fashion?

13 A Correct.

14 Q Okay. And what you send to anyone who's trying to
15 make a possible match, in this case Robbie Caulder, it
16 just depends on what he is asking for, either a palm
17 print or a fingerprint?

18 A Correct.

19 MS. LIVESAY: Okay. No further questions for this
20 witness, Your Honor.

21 THE COURT: Could you tell me what the State's
22 numbers are, Madam Court Reporter.

23 COURT REPORTER: Yes, judge. 62 and 63, judge.

24 THE COURT: All right, 62 and 63. And solicitor,
25 will you move to introduce them for identification

1 purposes at this point in time?

2 MS. LIVESAY: Yes, sir, Your Honor.

3 THE COURT: Any objection to that?

4 MR. FREDERICK: No, sir.

5 THE COURT: Mr. Canty?

6 MR. CANTY: No, Your Honor.

7 THE COURT: All right, very good.

8 Cross-examination?

9 MR. FREDERICK: No questions. Thank you.

10 THE COURT: Mr. Canty?

11 MR. CANTY: None, Your Honor.

12 THE COURT: Did you wish to excuse the witness?

13 MS. LIVESAY: Yes, please, Your Honor.

14 THE COURT: Any objection?

15 MR. FREDERICK: None.

16 MR. CANTY: No, Your Honor.

17 THE COURT: Very good. All right, sir, you're
18 released from your subpoena, you may go back to
19 Columbia and resume your regular duties.

20 THE WITNESS: Thank you, Your Honor.

21 (Witness excused.)

22 THE COURT: Solicitor, your next witness.

23 MS. LIVESAY: Yes, sir. At this time the State
24 calls Robbie Caulder to the stand.

25 THE COURT: All right, Mr. Caulder, if you come

1 all the way back around here. If you'd state your name
2 for the record, please, sir.

3 THE WITNESS: John Robert Caulder, II.

4 THE COURT: All right, sir. Do you remember that
5 you are and remain under oath?

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you very much. You may
8 continue, solicitor.

9 JOHN ROBERT CAULDER, II, after being previously
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LIVESAY:

13 Q Mr. Caulder, do you remember testifying to the
14 finger and palm prints off the cards that I showed you
15 yesterday?

16 A Yes, ma'am.

17 Q Okay. And who were the two individuals that you
18 made a match for as to the palm prints?

19 A Thomas Booker James and Keir Lamont Johnson.

20 Q Okay. And at this time I'm showing you what's
21 been marked as State's Exhibit 63 and State's
22 Exhibit 62. Would you look at that and tell me if that
23 identification name and number on that palm print
24 template matches the name and identification number
25 that you matched it to on the brown van.

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am. Both ID -- South Carolina ID numbers
2 and the names match those ones that I found off of the
3 AFIS system.

4 Q Okay. And for the Court's record and for the
5 jury, please tell us what the name and identification
6 card is on that template.

7 A South Carolina ID number SC01903693 is for Thomas
8 Booker James. And South Carolina ID Number SC01913804
9 is for Keir Lamont Johnson.

10 MS. LIVESAY: Your Honor, at this time the State
11 moves to place these temp prints into evidence as
12 State's Evidence No. 62 and No. 63.

13 THE COURT: Any objection?

14 MR. FREDERICK: No objection, judge.

15 THE COURT: Mr. Canty?

16 MR. CANTY: None, Your Honor.

17 THE COURT: Very good. 62 and 63 are in evidence
18 without objection.

19 (WHEREUPON, State's Exhibit Nos. 62 and 63 were
20 admitted in evidence.)

21 THE COURT: You may proceed.

22 MS. LIVESAY: Thank you, Your Honor.

23 Q And if you don't mind, do you mind telling the
24 jury where those palm prints came from on that brown
25 van.

1 A The palm prints came from the passenger side of
2 the van.

3 Q Okay. And the passenger side of the van was
4 Thomas Booker James and Keir Johnson?

5 A Yes, ma'am.

6 Q And the other matches were also on the passenger
7 side?

8 A Yes, ma'am.

9 Q Okay. Now, as part of the investigation of this
10 case, you did all of the fingerprints from the van; is
11 that correct?

12 A That's correct.

13 Q Okay. If you don't mind, tell this jury what else
14 you did as part of crime scene investigation for this
15 particular case.

16 A I was the initial responding investigator to the
17 scene on Brison Court the night of November the 8th, or
18 the morning of.

19 MR. CANTY: No objection.

20 Q Mr. Caulder, is it part of your practice to
21 document your investigation through photograph to show
22 how the scene appeared when you arrived?

23 A Yes, ma'am.

24 Q And did you do that in this case?

25 A Yes, ma'am, I did.

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1 Q Okay. And is it also proper to diagram the
2 certain area that you are taking photographs in?

3 A That's correct.

4 Q Okay. And did you do that in this case?

5 A Yes, ma'am, I did.

6 Q Okay. And if you don't mind, tell the jury, I'm
7 assuming when you first got there prior to receiving a
8 search warrant, did you take photographs of that
9 residence?

10 A Yes, ma'am. Immediately upon arrival we, as a
11 general rule, try to find out what's going on. We talk
12 with the initial responding officers or the officers
13 that are there on the scene. This one in particular, I
14 arrived before Detective Vescovi who was the -- who is
15 the lead detective in the case.

16 Prior to his arrival and after receiving all of
17 the information from Officer Singleton who was on the
18 scene, I went ahead and photographed the exterior of
19 the residence and photographed the complete area.

20 Q Okay. And if you don't mind, describe the area,
21 the exterior area, to the jury that you saw when you
22 arrived.

23 A When I arrived it was -- when I first arrived,
24 there had -- was a big, large crowd of onlookers that
25 were on the scene. The initial officer, responding

1 officer, Officer Singleton, had already roped off the
2 area with crime scene tape. I know of they had two
3 persons in a patrol car that were in the residence,
4 that I was told that they were in the residence at the
5 time. But they had removed them, put them in the back
6 of their patrol cars and were standing there with them
7 and had the area secured with crime scene tape.

8 Like I say, there was a -- there was a large group
9 of onlookers that were outside the crime scene tape. I
10 noticed that there wasn't very much lighting from the
11 outside. The only lighting around the house is coming
12 from inside of the house, what little there was.

13 There were two vehicles parked at the back of the
14 residence, it was a single wide mobile home. The front
15 door was slightly ajar but not completely open on the
16 residence. The two vehicles were parked in the back
17 side. But that was pretty much as is when I got there.

18 Q Okay. And if you don't mind, in looking at the
19 circumference of that mobile home, were there cars
20 parked at the mobile home?

21 A Yes, there were two vehicles parked at the rear.

22 Q How many cars were parked behind that mobile home?

23 A Two.

24 Q Okay. And what kind, if you don't mind, tell the
25 jury what kind of cars they were.

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1 A It was a black Chevy Tahoe and a white Lexus.

2 Q Okay. And did you document that through pictures?

3 A Yes, ma'am.

4 Q Okay. And did you see anything else in the back
5 of the house that you documented through pictures?

6 A Dog kennels.

7 Q Okay. And were there dogs in the dog kennels?

8 A Yes. There were three canines in the kennel.

9 Q Okay. And as to the neighborhood, did you
10 document or remember as to whether there were street
11 lights in that neighborhood?

12 A Yes, ma'am. And there were none.

13 Q There were no street lights in the neighborhood?

14 A No, ma'am.

15 Q If you don't mind, I'm going to show you a picture
16 that's already into evidence as State's Evidence No.
17 20. Do you recognize that area?

18 A Yes, ma'am.

19 Q Okay. If you don't mind, I'm going to point it
20 just like this so the jury can see. Were there any
21 street lights from this street back through this
22 neighborhood?

23 A No, ma'am, there were no street lights. The only
24 street light that I recall is here at the intersection
25 of Wayside and 4 Mile Road.

1 Q Okay. And was there any street lights, just so
2 I'm clear, at the end of either one of these roads?

3 A No, ma'am.

4 Q Okay. Did you collect any evidence in that
5 neighborhood that assisted in the investigation?

6 A Yes, ma'am. When I was photographing the exterior
7 of the residence, information was garnered from persons
8 on the scene through the initial onset of the
9 investigation that a van was located at the end of, I
10 think it was -- I can't think of the name of the drive
11 here -- was on the end of Colleta Court, which is the
12 next street over in that mobile home park, and that at
13 the end of Colleta Court there were where the van had
14 parked, which was kind of strange because the van sped
15 away and two persons got -- the information gleaned to
16 me -- said two persons were jumped -- had gotten back
17 into the van shortly after shots were heard in the
18 area.

19 So I immediately went to the end of Colleta Court,
20 photographed some tire impressions and some shoe
21 impressions that were in the gravel sand area on the
22 end of Colleta Court.

23 Q Okay. So you saw evidence that corroborated the
24 testimony that a van had been parked back on Colleta
25 Court?

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1 A Well, I was told it was a van. I do -- I did have
2 tire impressions and shoe impressions.

3 Q Okay. So tire imprints, a vehicle --

4 A Yes, ma'am.

5 Q -- was back there. If you don't mind, using this
6 map, show me the residence that you went to to collect
7 evidence from.

8 A This is the residence here (indicating).

9 Q Okay. And if you don't mind, show me where you
10 collected tire prints from after getting this
11 information regarding the van.

12 A Tire impressions and some shoe impressions were in
13 at the end of the Colleta Court, which is here
14 (indicating).

15 Q Okay. Now, did you collect any more evidence or
16 information from the exterior of that residence or that
17 neighborhood?

18 A No, ma'am.

19 Q Okay. What did you do next as part of your
20 investigation in this case?

21 A Well, while I was in the process of photographing
22 and casting tire impressions and shoe impressions on
23 Colleta Court, Detective Vescovi was made aware that we
24 needed a search warrant for the residence. He sent a
25 detective Brad Townsend to the judge's residence and

1 secured a warrant, search warrant, for the residence.

2 By the time I had finished on Colleta Court,
3 search warrant had been signed, then I made entry into
4 the residence on Brison Court.

5 Q Okay. So after you looked for evidence and
6 collected evidence from the exterior, you then entered
7 the mobile home to start your investigation?

8 A Yes, ma'am.

9 Q Did you make a diagram of that mobile home to
10 assist in the investigation?

11 A Yes, ma'am.

12 Q If you don't mind, I'm going to show you what's
13 been marked as State's Evidence No. 1. Take a look at
14 this and tell the jury and the Court if you recognize
15 it.

16 A Yes, ma'am. It's just a -- just an enlargement of
17 my hand drawn, well, computer drawn sketch of the
18 residence.

19 Q Okay. So this is the diagram you did as part of
20 your investigation?

21 A Yes, ma'am.

22 Q Okay. And if you don't mind, show the jury where
23 you first entered this mobile home to begin your
24 investigation.

25 A Entered the front door which was on the Brison

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1 Court side. Brison Court's right here or the road for
2 Brison is here (indicating), and this is the doorway to
3 that area.

4 Q Okay. And if you don't mind, tell the jury if you
5 collected any evidence or saw anything that
6 corroborated or assisted in this investigation from the
7 front door.

8 A Yes, ma'am. In the door jamb itself on the left
9 side of the door frame were entry marks where a bullet
10 or fired bullet had been -- had entered the actual door
11 frame in fragments where they were eventually
12 photographed and collected.

13 Q Okay. And did there appear to be any damage to
14 the front door?

15 A Other than to the frame itself, there was some --
16 there was some slap damage to the doorway.

17 Q And when you first arrived, to your knowledge had
18 anybody touched any evidence in that house or moved
19 anything?

20 A Not to my knowledge.

21 Q Okay. And when you first got there, the front
22 door was already ajar?

23 A Yes, ma'am, it was slightly ajar.

24 Q Okay. And the frame appeared to be damaged?

25 A That's correct.

1 Q Okay. And when you moved through that front door,
2 where was the next room you went to?

3 A The next room was -- it actually opened up into
4 the living room of the residence, and the living room
5 was attached to the kitchen. The kitchen was more to
6 the left of the residence.

7 Q Okay. If you don't mind, I'm going to put you on
8 pause just one minute. Show us what you walked into.

9 A When I walked in the front -- when I walked in the
10 front door and walked into the living room, the kitchen
11 was just to the left of the doorway. This was the
12 dining area of the kitchen. All this was an open space
13 (indicating).

14 Q Okay.

15 A So that's what I initially walked into. Then I
16 come around, and my initial walkthrough was just
17 photograph, to make sure everything is as I see it when
18 I walk in. There's no searching or anything takes
19 place at this point in time, it's just a photographic
20 collage.

21 I'm collecting photographs, entered in through
22 the -- through the kitchen, went to the back, there's a
23 back bathroom here. This is like a laundry room, the
24 back exit door (indicating). And then there's a
25 bedroom on the far end, on this end of the residence

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1 (indicating), which is the south end.

2 This one appeared to -- was disheveled as if
3 someone had went through the residence or went through
4 the bedroom itself and pulled out the drawers and
5 mattress as if they were looking for something. And
6 then after I photographed all this as I saw it, I
7 exited the bedroom, came back through the kitchen and
8 came back to the hallway to the back north end of the
9 residence where the victim was located.

10 Q Now, if you don't mind, you first walked into the
11 den area and the kitchen area. If you don't mind, tell
12 the jury what if any evidence you collected or saw in
13 the den.

14 A Out of the den there was the two -- the two
15 fragments were collected on the bullet -- bullet --
16 fired bullets were collected from the door and only the
17 fragments from -- bullet fragments from the kitchen
18 cabinet there to the left of the door. The kitchen
19 cabinets were -- was another bullet fragment was
20 collected. And also a bullet, fired bullet, was
21 collected from under the couch in the living room,
22 which was directly in front of where the doorway
23 entering into the residence was collected from the
24 living room.

25 There was a bullet hole through the television

1 which was also right in front of the couch. Right in
2 front of the door as I entered, a bullet hole in the
3 far left corner streaming in front of the television.
4 But no round was able to be collected from there,
5 because it did enter and exit through the television
6 and entered the back wall. But the bullet itself was
7 unable to be located.

8 Q Okay. And then where was the next room you went
9 to to collect evidence?

10 A To collect evidence would have been the actual
11 room that the victim was in, in the north bedroom, the
12 north end of the residence where the victim was
13 located.

14 Q Okay. Did you collect or see any evidence in the
15 hallway from the bedroom to the end hallway where the
16 victim was?

17 A I did not collect any evidence from the hallway,
18 but there were obvious marks in the flooring where
19 someone a fired round and went through the flooring of
20 the hallway.

21 Q And was a round collected from that?

22 A No, ma'am. An attempt was made, but none was
23 located.

24 Q Okay. And where was the next room you either saw
25 or collected evidence?

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1 A The next room I saw was a little short bedroom or
2 a single bedroom just to the left of the hallway. It
3 was -- it was photographed, nothing was in the bedroom
4 so nothing -- nothing of evidentiary value was gained
5 from that.

6 The next room I came to was the bathroom, right
7 before the bedroom where the victim was at. And on the
8 counter of the bathroom was a cell phone and charger
9 that was photographed and collected.

10 Q Okay. Now, Investigator Caulder, I'm going to
11 show you some pictures, and tell me if you recognize
12 the pictures and if you took the pictures and if they
13 are accurate as to that night.

14 A Yes, ma'am.

15 Q Okay. So these are pictures you took?

16 A Yes, ma'am.

17 Q Okay. Do they appear to have been tampered with
18 or changed in any form or fashion?

19 A No, ma'am.

20 MS. LIVESAY: Your Honor, at this time the State
21 asks to move State's Exhibits 58 to 61 into evidence
22 and publish them to the jury.

23 THE COURT: Any objection, Mr. Frederick?

24 MR. FREDERICK: No objection.

25 THE COURT: Mr. Canty?

1 MR. CANTY: None, Your Honor.

2 THE COURT: All right, 58 through 61 are in
3 evidence without objection. You may show them to the
4 jury.

5 (WHEREUPON, State's Exhibit Nos. 58 to 61 were
6 admitted in evidence.)

7 MS. LIVESAY: Thank you, Your Honor.

8 Q Investigator Caulder, this is State's Evidence No.
9 61?

10 A Yes, ma'am.

11 Q What is that a picture of?

12 A It's the picture of the door frame leading into
13 the front door where I entered into the residence.

14 Q And what are you documenting in that picture?

15 A Documenting the damage to the door frame itself,
16 the door latch, the actual damage to the door frame
17 itself.

18 Q Okay. As a crime scene investigator, what does
19 this indicate to you?

20 A Indicates that there was some type of forced entry
21 into the residence.

22 Q Okay. And I'm showing the jury now what's been
23 put in as evidence as State No. 61.

24 Now, I'm showing you now what's been marked
25 State's Evidence No. 60. If you don't mind, tell the

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1 jury what that is and what you're trying to document in
2 that picture.

3 A This is the bottom of the door frame as I entered.
4 The bottom portion of the -- it's the actual porch on
5 the outside, the lid of the door at the bottom of the
6 door. I'm showing -- what I'm showing is pieces of the
7 door or fragments of the door where the forced entry
8 was made. And those are actual wooden particles from
9 the door, actually the frame being broken.

10 Q And that's State's Evidence No. 60 being published
11 to the jury. Now, I'm showing you now what's been
12 marked State's Evidence No. 59. Tell the jury what
13 that is and what you were trying to document in that
14 picture.

15 A This is the -- this is a view of the closet that
16 was in the bedroom where the victim was found in the
17 north end of the residence. In the background of the
18 photograph is the number, my evidence number collection
19 three. It documents a bag that was found or located in
20 the closet where there were some items that were
21 collected from inside of the closet. I'm just
22 documenting that.

23 Q So this is the victim's closet?

24 A That's the closet that the room -- in the room
25 where the victim was found.

1 Q Okay, sir. And that is State's Evidence No. 59
2 being published to the jury. Now, I'm showing you
3 State's Evidence No. 58. Tell the jury what that's a
4 picture of.

5 A This is a photograph of the victim as she was
6 found when I entered the residence.

7 Q Okay.

8 A It's -- she was found lying on the bed. This is
9 the north wall on the end of the mobile home of the
10 residence and of course the bed she was found on.

11 Q Okay. And is that the way you saw her when you
12 first entered the room?

13 A That's when I first entered the room, that's
14 exactly how she was found, or I found her.

15 Q And in that picture did you see any injury to the
16 victim?

17 A The only thing I could tell was there was some
18 type of blood letting on the front of the shirt itself.
19 I could also determine from there that she had been --
20 EMS had been on the scene because of the leads that
21 were there. So it was -- was reasonable for me to
22 assume that EMS was there prior to my arrival.

23 Q Okay. And they were trying to use some sort of
24 rescue type?

25 A That's correct.

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1 Q Publishing to the jury now State's Evidence No.
2 58. But to your knowledge, she was not moved other
3 than EMS trying to assist with some sort of effort to
4 resuscitate her?

5 A That is correct.

6 Q Okay. Now, you stated you saw an entry wound in
7 the left chest on that victim; is that correct?

8 A That is correct.

9 Q In fact, that's documented in this picture; is
10 that correct?

11 A You can see -- you can see on the front of her
12 shirt some blood discoloration there on the front of
13 her shirt.

14 Q Now, as part of your investigation, do you also
15 look for a exit wound from the victim?

16 A Yes, ma'am. After the initial photographs were
17 taken and the searching is complete, prior to the
18 victim being moved or taken away to whatever, wherever
19 she would go to next, in this case Grand Strand
20 Regional Medical Center, we search to see if there is
21 any type of exit wounds or any other type of wounds to
22 the -- to the victims.

23 We did not find any exit wounds. So therefore,
24 we -- that would not -- we would not look for an exit
25 -- a bullet, a fired bullet, in any other part of the

1 room. So the bullet never -- it entered but did not
2 exit her.

3 Q Okay. Did you attend the autopsy in this case?

4 A Yes, ma'am.

5 Q Okay. And is that the usual practice?

6 A Yes, ma'am.

7 Q Okay. Were you able to obtain the bullet from
8 this victim at the autopsy?

9 A I did receive a fired bullet from Dr. Proctor
10 during the autopsy at the Grand Strand Regional Medical
11 Center.

12 Q Okay. Once you received that bullet, what did you
13 do with it?

14 A I took that bullet and I placed it into evidence
15 for it to be transferred to SLED where their firearms
16 department could test it against any knowns.

17 Q Okay. And while you were at the autopsy, did you
18 learn what part of the body that bullet was removed
19 from?

20 A It was from the back, yes, ma'am.

21 Q Okay. Now, after you went to the autopsy and
22 evidence was collected within the house, was all of
23 that evidence sealed and put into the evidence room at
24 ML Brown?

25 A That is correct.

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1 Q Okay. And is that usual practice?

2 A Yes, ma'am.

3 Q Okay. And to your knowledge, has this evidence in
4 any form or fashion been tampered with?

5 A No, ma'am.

6 Q Okay. Has it been out of your control or the
7 evidence custodian's control other than examination by
8 SLED at any point?

9 A No, ma'am.

10 Q Okay. And if you don't mind, tell the jury what
11 evidence you collected total from that residence.

12 A From the residence I collected a total of ten
13 separate items. There was a black plastic third round
14 capacity SKS magazine with eight live 7.6 two by
15 39-millimeter rounds, an SKS rifle which is a 7.6 two
16 by 39-millimeter rifle, a brown colored Perry Ellis bag
17 with handles. Inside of the bag was located a Ruger
18 .44 caliber Redhawk handgun with a trigger lock. Also
19 in the bag was a 40 -- a box of Remington .357 rounds.

20 Also inside the bag were two glass anchor
21 measuring cups. One was a one-cup measuring cup, the
22 other was a two-cup measuring glass. Also in the bag
23 was a clear plastic bag containing an off-white
24 substance, and then also another separate bag, a clear
25 plastic bag, another off-white substance. Also in the

1 bag was one spoon and one fork.

2 Also collected from the residence was a projectile
3 from the -- from the fired bullet from the kitchen
4 cabinet, another projectile from the front entrance
5 door frame, a fragment or jacketing from the floor on
6 the west side of the living room that was up under the
7 couch, an LG cell phone and Samsung charger.

8 Also collected was a GR -- a GSR, which is a
9 gunshot residue kit, was from Carlton Watts. And from
10 outside of the residence were tire castings and shoe
11 wear castings that were from Colleta Court.

12 Q Okay. And are you reading off a evidence document
13 sheet?

14 A It's -- it's not an evidence document sheet, but
15 it's a sheet that mimics the evidence record that I
16 turn in, that I make and turn in to the evidence
17 section.

18 Q Okay. And is that kept in the normal course of
19 business?

20 A Yes, ma'am.

21 Q Okay. And are those documents, can you tamper
22 with them in any form or fashion?

23 A No, ma'am.

24 Q So they are kept in such a manner during the
25 regular course of business that they cannot be tampered

1 with?

2 A That is correct.

3 Q Okay. Now, if you don't mind, you read that
4 several bullets and bullet fragments had been
5 collected; is that correct?

6 A That's correct.

7 Q Okay. If you don't mind, on this diagram show me
8 where you collected these particular items.

9 A Okay. From the front doorway, this is where one
10 of the bullet fragments or projectiles was located.
11 This is the one in the door frame, the front entrance
12 (indicating). This is from the cabinet in the kitchen
13 that were fragments, and under the couch there in the
14 living room (indicating).

15 Q Okay. And as to the fragments here and here
16 (indicating), what direction did it appear to be coming
17 from?

18 A Appeared to be coming from north to south.

19 Q Okay. And there was a bullet hole in the TV; is
20 that correct?

21 A That's correct. From -- and it appeared to be
22 coming from south to north.

23 Q Okay. So the entry into the television was
24 through the front of the TV?

25 A Yes, ma'am.

1 Q Okay. And that direction appeared to be coming
2 from this end of the mobile home to this end
3 (indicating)?

4 A Yes, ma'am.

5 Q Was a bullet ever collected from that bullet hole?

6 A No, ma'am.

7 Q Okay.

8 (WHEREUPON, State's Exhibit Nos. 64 through 66
9 were marked for identification only.)

10 Q In your records, in the evidence records that are
11 kept in the normal course of business, does it indicate
12 how many guns were collected from that house, handguns?

13 A Yes, ma'am.

14 Q Okay. How many handguns were collected from the
15 house?

16 A One handgun, a .44 caliber Redhawk Ruger.

17 Q Okay. And were any other guns collected and
18 placed into evidence from that house?

19 A From the residence there was also a -- an SKS 7.62
20 rifle. And approximately two weeks later a .357 Taurus
21 revolver was turned in to evidence by Detective
22 Vescovi.

23 Q Okay. So three guns were put into evidence that
24 were found from that house, two handguns and one rifle?

25 A Yes, ma'am.

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1 Q Okay. And if I showed you those handguns, would
2 you be able to identify them as the handguns that were
3 placed into evidence from that residence?

4 A Yes, ma'am.

5 Q Okay. I'm showing you now what's been marked,
6 let's start with State's Exhibit No. 65. Do you
7 recognize that?

8 A Yes, ma'am. It is the Ruger .44 caliber Redhawk
9 that I retrieved out of the closet, out of the Perry
10 Ellis bag.

11 Q Okay. And where was that located in the house?

12 A It was located in the bedroom on the north end of
13 the residence where the victim was located.

14 Q Okay. And you are able to identify that being the
15 gun that came out of the house?

16 A That is correct.

17 Q Okay.

18 MS. LIVESAY: Your Honor, at this time the State
19 asks to place State's Exhibit No. 65 into evidence and
20 publish it to the jury.

21 THE COURT: Any objection?

22 MR. FREDERICK: None.

23 MR. CANTY: None, Your Honor.

24 THE COURT: All right. It's in evidence without
25 objection.

1 (WHEREUPON, State's Exhibit No. 65 was admitted in
2 evidence.)

3 Q Okay. And if you don't mind, tell the jury what
4 this is.

5 A It is a revolver, or a .44 caliber revolver.

6 Q And what kind of caliber of bullet does this
7 shoot?

8 A .44.

9 Q Okay. And it shoots how many bullets at one time?

10 A One per trigger pull.

11 Q Okay. Now, explain to the jury the difference
12 between this gun which is a revolver and a automatic,
13 one that you put the clip into.

14 A A semi-automatic is -- the difference between a
15 revolver and a semi-automatic is...

16 Q When you shoot -- if you don't mind, when you
17 shoot a revolver, explain to the jury and the Court the
18 difference between what happens with the bullet and the
19 casing.

20 A The casing on a revolver stays inside the
21 cylinder, the six cylinders. So if it's fired six
22 times, the casing stays inside of the cylinder, unless
23 manually opened and dumped. In a semi-automatic weapon
24 it actually ejects out of the side port either to the
25 right -- different types of weapons eject different

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1 ways, but for the most -- majority of weapons, they
2 eject out to the right in a semi-automatic.

3 Q Okay. So in the revolver, once you shoot that
4 bullet the casing stays in the gun?

5 A Yes.

6 Q There is nothing else to collect other than the
7 bullet?

8 A That's correct.

9 Q Okay. In a semi-automatic when you shoot it, the
10 bullet goes out, and the casing ejects out of the gun?

11 A That's correct.

12 Q So then there would be two pieces of evidence to
13 collect, the bullet as well as the casing?

14 A That's correct.

15 Q Okay. Now, I'm showing you what's been marked
16 State's Exhibit 64. If you don't mind, please check
17 the records as to the evidence record that's kept in
18 the normal course of business, and tell me if this
19 Taurus, if this handgun was put into evidence.

20 A Yes, ma'am. It's -- this handgun was placed into
21 evidence by Detective Vescovi.

22 Q So this Taurus was collected from the house and
23 put into evidence?

24 A That's correct.

25 Q Okay. If you don't mind, tell the jury how many

1 bullets this revolver holds.

2 A Five.

3 Q Okay. And tell the jury, if you don't mind, what
4 kind of caliber this revolver fires.

5 A A .357 round R .38 caliber round.

6 Q Now, I'm going to show you what's been marked as
7 State's Evidence No. 66. If you don't mind looking at
8 your evidence documentation, tell the jury what that
9 is.

10 A These are the five spent shell casings that were
11 recovered out of the Taurus .357 that Detective Vescovi
12 turned in to evidence.

13 Q Okay.

14 MS. LIVESAY: At this time the State wishes to
15 place State's Exhibit No. 66 into evidence. It's been
16 marked as one item, but it's five casings.

17 THE COURT: Any objection?

18 MR. FREDERICK: No objection.

19 MR. CANTY: None, Your Honor.

20 THE COURT: All right.

21 (WHEREUPON, State's Exhibit No. 66 was admitted in
22 evidence.)

23 Q Okay. Now, I never got a pocket knife when I need
24 one. I wanted to show these. Mr. Caulder, if you
25 don't mind, tell the jury what this is.

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1 A It is the actual casing that fits into the
2 cylinder of the weapon. It houses the primer, the --

3 Q Okay. And is this what is left in the revolver
4 after the gun is shot?

5 A That's correct.

6 Q Okay. And when you look at the inside of the
7 casing, you can tell it's hollow where the bullet has
8 been ejected; is that correct?

9 A That's correct.

10 Q Now, if this bullet was put in a semi-automatic,
11 is this the part that would be ejected out of that gun?

12 A A similar casing would be ejected, yes, ma'am.

13 Q Okay. But if a person's shooting a revolver,
14 there is no casing to collect; is that correct?

15 A Not if they do not empty the cylinder.

16 Q Okay. And this is what caliber of bullet again?

17 A .357.

18 Q Okay. And this is what caliber of handgun?

19 A .357.

20 Q Okay. And if you don't mind, look at this bullet
21 and tell me whether or not you can decipher -- could
22 you decipher the brand of the bullet just by looking at
23 it?

24 A Yes, ma'am. It would be stamped on the head of
25 the actual casing. It is in the case RP, which is a

1 Remington .357 Magnum round.

2 Q Okay. And these casings came out of that .357?

3 A That's correct.

4 Q Okay. Now, and you stated earlier that there were
5 additional fragments or bullets collected from inside
6 the house; is that correct?

7 A That's correct.

8 Q As well as one from the autopsy; is that correct?

9 A That's correct.

10 (Discussion off the record.)

11 THE COURT: Y'all come up and talk to me just one
12 second.

13 (WHEREUPON, a bench conference was held off the
14 record in the presence of the jury but out of the
15 hearing of the jury.)

16 THE COURT: After a conference with counsel,
17 State's-64 is into evidence without objection.

18 (WHEREUPON, State's Exhibit No. 64 was admitted in
19 evidence.)

20 THE COURT: You may proceed.

21 MS. LIVESAY: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibit Nos. 67 through 71
23 were marked for identification only.)

24 Q Investigator Caulder, I'm going to show you what's
25 been marked as State's Exhibits 67 through 71. If you

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1 don't mind, would you identify them for the Court and
2 whether or not you collected them.

3 A Exhibit 67 is our projectiles that were recovered,
4 our fragments that were recovered, projectile and
5 fragments that were recovered from the kitchen
6 counter -- or kitchen cabinet and the living room of
7 the residence. Exhibit 68 is a projectile jacketing
8 from the floor on the west side of the living room or
9 an actual -- the actual jacket from a fired bullet. 69
10 is a projectile fragment that was turned in by
11 Detective Vescovi.

12 Exhibit 70 is the fired bullet that was collected
13 from the autopsy, it was collected from the back of the
14 victim. 71 is a projectile from the front entrance
15 door, the fired bullet from the front entrance door of
16 the residence.

17 Q And were all of those the fragments or bullets you
18 collected either from the house or the autopsy?

19 A That's -- other than the one with the exception
20 from Detective Vescovi.

21 MS. LIVESAY: Your Honor, at this time the State
22 asks to move State's Exhibit 67 through 71 into
23 evidence and publish it to the jury.

24 THE COURT: Any objection?

25 MR. FREDERICK: No objection.

1 MR. CANTY: None, Your Honor.

2 THE COURT: All right. So it's in evidence
3 without objection.

4 (WHEREUPON, State's Exhibit Nos. 67 through 71
5 were admitted in evidence.)

6 THE COURT: You may proceed. Thank you.

7 MS. LIVESAY: Thank you.

8 Q I'm showing you now what's been marked as State's
9 Evidence No. 70. And is this the bullet that came from
10 the autopsy?

11 A Yes, ma'am.

12 Q Okay. And this is the part that comes out of the
13 casing; is that correct?

14 A That's correct, ma'am.

15 Q Okay. And this is the complete bullet that was
16 collected from that victim?

17 A That is correct.

18 Q Okay. Now, I'm going to ask you about 67, 68, 69
19 and 71. Are these complete bullets?

20 A No, ma'am. Some of them are fragments, they are
21 not what -- and I'm not a firearms expert -- but not
22 what I'd call a complete bullet. Some of them are the
23 jacketing. One of them is the jacketing from the
24 exterior which is my number six, or State's Exhibit 68,
25 is just the jacketing from around the bullet.

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1 State's Exhibit 67 is the actual fragments and one
2 piece of -- all right, one bullet, one fired bullet.
3 And the other fragment's from another piece of bullet
4 that was collected out of the cabinet.

5 Q Okay.

6 A State's Exhibit 69 is not -- it just appears to be
7 the jacketing or a fragment that was collected from the
8 residence by Detective Vescovi and turned in to me.
9 And 69 -- or, excuse me, State's Exhibit 71 is a -- is
10 the actual bullet itself, a fired bullet, in good
11 shape.

12 Q Okay. The State is publishing 69 through 71. So
13 what we're looking at now are fragments of the bullets
14 that were fired?

15 A Are the actual fired bullet and fragments, yes,
16 ma'am.

17 Q And your records show that these were collected
18 from the inside of that house?

19 A That's correct.

20 Q Publishing State's Evidence 67 and 68. Now, there
21 were two bullet holes in the residence that no fragment
22 or bullet was ever collected from; is that correct?

23 A Yes, ma'am. One in the television and one in the
24 floor of the hallway leading to the north end of the
25 residence.

1 Q Okay. And was there ever a shell casing collected
2 from those shots, either?

3 A No shell casings were collected from anywhere in
4 the residence.

5 Q Okay. So we have these fragments that were found
6 from the house; is that correct?

7 A That's correct.

8 Q And a bullet from the autopsy?

9 A That is correct.

10 Q And there are no shell casings found anywhere in
11 that mobile home?

12 A No, ma'am.

13 Q Okay. Does that indicate to you anything as to
14 the type of gun that was used?

15 A Yes, ma'am. It's usually indicative that a
16 revolver was used in the shooting.

17 Q Okay.

18 A Normally you would find -- with a semi-automatic
19 you normally would find casings ejected somewhere,
20 generally hidden under something because they tend to
21 get kicked around. And during a scuffle or something
22 like that they generally get kicked around. But when
23 they are ejected, they're usually under something. You
24 normally with a semi would find a casing. With
25 revolvers you never find a casing.

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1 Q Okay. And correct me if I'm wrong, looking at now
2 what I'm showing State's Evidence No. 1, the evidence
3 you collected, and correct me if I'm wrong, I'm just
4 trying to make sure I'm clear, from this house as to
5 the bullet holes and the fragments, indicate there were
6 shots coming from this direction from the end of this
7 bedroom down this way (indicating); is that correct?

8 A That's correct.

9 Q And also shots being fired from this end of the
10 house towards the north way (indicating)?

11 A That's correct.

12 Q Shots being fired both directions?

13 A Yes, ma'am.

14 Q Okay.

15 (WHEREUPON, State's Exhibit No. 72 was marked for
16 identification only.)

17 Q Now, on this diagram, if you don't mind, there's
18 also a indication here of a number six; is that
19 correct?

20 A That's correct.

21 Q If you don't mind, tell the jury what was
22 collected there.

23 A Number six was a projectile jacketing from the
24 floor that was up under the couch.

25 Q Okay. So that would indicate, just so I'm clear,

1 that shots were fired this direction from the house
2 (indicating), the victim's room or where the victim was
3 found in this direction?

4 A That's correct.

5 Q Okay. And this is towards the front door?

6 A Yes, ma'am.

7 Q Okay. There were also shots fired from this
8 direction this way (indicating)?

9 A Yes, ma'am.

10 Q Okay. And also shots fired back from this
11 direction going towards this bedroom (indicating)?

12 A Yes, ma'am.

13 Q Okay. I'm showing you now what's been marked as
14 State's Exhibit No. 72. What is that?

15 A That is the victim's shirt that I recovered at the
16 time of the autopsy.

17 Q Okay. And you collected that from Dr. Proctor?

18 A Yes, ma'am.

19 Q Okay. And was it sealed upon you collecting it?

20 A Yes, ma'am.

21 Q Okay.

22 MS. LIVESAY: Your Honor, at this time the State
23 wishes to move State's Exhibit 72 into evidence and
24 published it to the jury.

25 THE COURT: Any objection?

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1 MR. FREDERICK: No objection.

2 MR. CANTY: None, Your Honor.

3 THE COURT: All right. State's-72 is in evidence
4 without objection. You may show it to the jury.

5 (WHEREUPON, State's Exhibit No. 72 was admitted in
6 evidence.)

7 MS. LIVESAY: Thank you, Your Honor.

8 Q Is this the shirt you collected from autopsy?

9 A Yes, ma'am.

10 Q Okay. If you don't mind, is there anything on
11 this shirt that indicates a wound?

12 A On the front, the front of the shirt is a actual
13 hole where a bullet entered, where the bullet entered
14 her chest.

15 Q And does the back indicate anything about that
16 wound?

17 A No, ma'am.

18 Q Okay. And are there any holes on the back to
19 indicate any sort of exit wound?

20 A No, ma'am.

21 Q Okay. Are there any other holes in this shirt
22 other than that one?

23 A No, ma'am.

24 Q Okay. And is this the shirt she had on when you
25 saw her in the bed?

1 A Yes, ma'am.

2 Q Did you look around that bed where the victim was
3 on top?

4 A On top the bed, yes, ma'am.

5 Q Okay. Did you see any kind of weapon near her?

6 A No, ma'am.

7 Q Okay. And did you take some pictures of that den
8 area when you first walked in that house?

9 A Yes, ma'am.

10 Q Okay. And was there anything on the couch to
11 indicate to you somebody had been in that bedroom or
12 that particular den area?

13 A As soon as you walk in or as soon as you open the
14 door to the residence, you can see the couch on the far
15 wall of the living room. There was a comforter or a
16 blanket that was on the bed -- or on the couch along
17 with a pillow. The actual blanket or comforter had
18 been thrown off onto the floor. It was half on the
19 couch and half on the floor, like somebody was laying
20 there and then in a hurry got up and sashayed the
21 blanket off.

22 Q Okay. I'm showing you now what's already in
23 State's evidence as No. 14. Do you recognize that
24 picture?

25 A Yes, ma'am.

1 Q Did you take that picture?

2 A Yes, ma'am.

3 Q Okay. And does that picture show the pillow and
4 the comforter on that front couch?

5 A Yes, ma'am.

6 Q Does it also show the bullet hole in the TV?

7 A You can kind of see it if you look between the
8 actual television program that's on, between the one
9 and the zero that's there, you can see the actual
10 discoloration in the actual television. And that's the
11 actual bullet hole.

12 Q Okay. And was the TV on when you came in?

13 A Yes, ma'am.

14 Q Showing the jury now again State's Evidence No.

15 14. Did you collect a gun or a knife or anything from
16 that couch?

17 A No, ma'am. The only thing recovered, and that was
18 from under the couch, was the bullet jacket.

19 Q How about a gun or a knife anywhere in that den
20 room?

21 A No, ma'am.

22 Q When you came in and saw the victim on the bed,
23 did she have any kind of weapon on her?

24 A No, ma'am.

25 Q When you saw that victim on the bed, what all was

1 she wearing?

2 A She had on the green-colored shirt and a pair of,
3 it was sweat slacks or sweat pant type pants.

4 Q Okay. Did she have any shoes on?

5 A Not that I recall.

6 Q Okay. Did she have any socks on?

7 A Not -- I don't remember. If I could look back at
8 a photograph maybe.

9 Q I'm going to show you what's State's Evidence No.
10 58, it's already been published. Do you see any shoes
11 on her?

12 A No, ma'am.

13 Q Do you see any socks on her?

14 A No, ma'am.

15 Q Do you see anything in her hands or any weapon on
16 her anywhere?

17 A No, ma'am.

18 Q Did you collect any evidence to lead you to
19 believe anything other than this was a unarmed
20 19-year-old girl laying on the couch watching
21 television?

22 A No, ma'am.

23 (WHEREUPON, State's Exhibit No. 73 was marked for
24 identification only.)

25 Q Showing you what's been marked State's Exhibit 73.

1 What is that?

2 A That is the box of Remington .357 ammunition that
3 I recovered out of the Perry Ellis bag that was in the
4 closet in the bedroom where the victim was found.

5 Q And where was that found?

6 A In the closet. It's inside of the Perry Ellis bag
7 that was in the closet in the bedroom on the north end
8 of the residence where the victim was located.

9 Q Okay. And what else was found in that closet in
10 that bedroom?

11 A The SKS rifle along with the magazine that went
12 with the rifle, the Perry Ellis bag, the box, the .357
13 rounds, 40 of them, two glass anchor measuring cups
14 that were in the bag, the plastic bags containing the
15 off-white substance and the spoon and the fork.

16 Q Okay.

17 MS. LIVESAY: And at this time the State wishes to
18 move 73 into evidence and publish it to the jury.

19 THE COURT: Any objection?

20 MR. FREDERICK: No objection.

21 MR. CANTY: None, Your Honor.

22 THE COURT: All right, it's in evidence without
23 objection.

24 (WHEREUPON, State's Exhibit No. 73 was admitted in
25 evidence.)

1 MS. LIVESAY: Thank you, Your Honor.

2 Q And just so I'm clear, what caliber of bullet is
3 this?

4 A .357.

5 Q Okay. And the brand is what?

6 A Remington.

7 Q Okay. And the shell casings out of State's
8 Evidence No. 64 was what brand?

9 A Remington.

10 Q Okay. Now, you named another weapon that was in
11 the closet; what was that?

12 A It was a Ruger .44 caliber revolver.

13 Q Okay. And was there another gun of any kind in
14 that closet?

15 A The SKS rifle.

16 Q Okay. Is there anything to indicate that that
17 rifle was shot?

18 A No, ma'am.

19 Q Okay. Were there any rifle cartridges, fragments,
20 anything found in the home?

21 A Other than the rounds that were found in the
22 closet with it, no, ma'am.

23 Q Okay. So other than the rounds that were found in
24 a box like this (indicating)?

25 A Yes, ma'am.

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1 Q Okay. But nothing to indicate that it had been
2 fired in any form or fashion?

3 A No, ma'am.

4 Q And the only bullets were in a box just like this?

5 A Yes, ma'am.

6 Q Okay. Now, what else was found? It was the .44
7 Magnum in the closet which would be this weapon; is
8 that right?

9 A Yes, ma'am.

10 Q Did you find any .44 bullets anywhere in that
11 house, caliber bullets?

12 A No, ma'am.

13 Q Okay. When you found this weapon, did you
14 indicate on your evidence sheet whether or not it was
15 loaded?

16 A I indicated on there -- I was unable to check it.
17 It didn't appear to be loaded, but I could not open
18 the cylinder because there was a trigger lock in place,
19 and we did not have a key.

20 (WHEREUPON, State's Exhibit No. 74 was marked for
21 identification only.)

22 Q I'm showing you what's been marked as State's
23 Exhibit 74. Do you recognize this?

24 A Appears to be the trigger lock that was inside of
25 the trigger on the .44 caliber.

1 MS. LIVESAY: Your Honor, at this time the State
2 moves 74 into evidence and publish it to the jury.

3 THE COURT: Any objection?

4 MR. FREDERICK: No objection.

5 MR. CANTY: None, Your Honor.

6 THE COURT: All right. It's in evidence without
7 objection.

8 (WHEREUPON, State's Exhibit No. 74 was admitted in
9 evidence.)

10 MS. LIVESAY: Thank you, Your Honor. At this time
11 the State shows 74 to the jury.

12 Q So this is the lock that was on this handgun?

13 A Yes, ma'am.

14 Q Okay. Which made it unable to fire; is that
15 correct?

16 A That is correct.

17 Q Okay. In fact, you couldn't even open the
18 cylinder; is that correct?

19 A We did -- we were able to open -- finally get the
20 cylinder open, but the trigger was unable to be fired.

21 Q Okay. When you opened the cylinder, was this gun
22 loaded?

23 A No, ma'am.

24 Q Were any .44 caliber bullets, fragments, anything
25 found in that house?

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1 A No, ma'am.

2 Q Okay. Now, you said that there was the bullets
3 for the rifle; is that correct, in the closet?

4 A Yes, ma'am.

5 Q The rifle itself?

6 A Yes, ma'am.

7 Q The .44 with the lock on it?

8 A Yes, ma'am.

9 Q Okay. But the two guns in the closet, nothing
10 indicates that those guns were fired?

11 A No, ma'am.

12 Q Okay. And, in fact, both were unloaded?

13 A At the time, yes, ma'am.

14 Q Not loaded?

15 A Not loaded. They did not have any rounds in the
16 chamber, that's correct.

17 Q Okay. And you said you found a Perry Ellis bag?

18 A Yes, ma'am.

19 Q And what was in that Perry Ellis bag?

20 A The Ruger, the .357, Remington .357 rounds, the
21 Winchester 7.62 rounds, the two glass measuring cups,
22 the two plastic bags with the off-white substance and
23 the spoon and the fork.

24 Q Okay. Now, did you collect any cash from anyone
25 that was placed into evidence?

1 A I did not.

2 Q Okay.

3 A Nor do I know of any.

4 Q Was cash ever placed into evidence?

5 A I do not know.

6 Q Okay. Investigator Caulder, I'm showing you
7 what's been marked State's Exhibit 53, 54, 55 and 57.
8 Do you recognize those pictures?

9 A Yes, ma'am.

10 Q And what are those pictures of?

11 A Those pictures of the Chevy -- the Chevrolet Astro
12 van that I processed at the ML Brown building
13 impound -- impound lot.

14 Q Okay. And do you have knowledge as the crime
15 scene investigator where the van came from?

16 A I don't know, recollect where the street it was
17 located off of. I know it was in the area. We had a
18 different investigator respond out there to the where
19 it was located to secure the van. The van was towed
20 from its location to the police department.

21 Q Okay. And is this the van that you fingerprinted?

22 A That is correct.

23 Q Okay. And is this the location where you
24 fingerprinted it?

25 A Yes, ma'am.

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1 Q Okay.

2 MS. LIVESAY: At this time the State wishes to
3 place, 53, 54, 55, 56 and 57 into evidence.

4 THE COURT: Any objection to those?

5 MR. FREDERICK: No objection.

6 MR. CANTY: None, Your Honor.

7 THE COURT: All right. So they are in evidence
8 without objection.

9 (WHEREUPON, State's Exhibit Nos. 53 to 57 were
10 admitted in evidence.)

11 MS. LIVESAY: Thank you. At this time the State's
12 publishing these pictures.

13 Q This is State's Evidence No. 57. What are you
14 documenting in this picture?

15 A That's the passenger side of the van, and those
16 little white backing cards are -- is the -- are the
17 actual lifts where I put the lifting tape over the
18 prints that I located. And I'm just documenting where
19 they are on the van.

20 Q So this is documenting that indeed the
21 fingerprints that you were able to match up came from
22 this passenger door area?

23 A Yes, ma'am.

24 Q Okay. Now, we didn't talk about any fingerprints
25 in the house. Did you dust for fingerprints in the

1 house?

2 A No, ma'am, because the house was locked.

3 Q And if you don't mind, please tell the jury why
4 you did not do that.

5 A From the -- we did not dust the residence. From
6 the information was garnered that the entry was made
7 forcibly at the front door. They came in, the shooting
8 incident occurred, and they were gone. There was
9 nothing as far as that they indicated that present time
10 other than the back bedroom, the south end bedroom of
11 the residence. And the information garnered is that
12 they were masked or hooded or -- and possibly wearing
13 gloves when they came in and started firing.

14 At that point in time there would have been no
15 attempt because chances are better than not the only
16 prints that could possibly would have been located
17 would have been the persons that had the right to be in
18 the home, which was the person who stayed in the south
19 bedroom, the victim, and the victim's boyfriend.

20 Q Now I'm showing you what's been marked as State's
21 Evidence No. 54 and State's Evidence No. 25. If you
22 don't mind, look at the license plates and tell me if
23 that's the same vehicle.

24 A Yes, ma'am.

25 MS. LIVESAY: At this time the State is publishing

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1 25, which was put into evidence through Tiffany Oliver,
2 and State's-54 that was put into evidence through
3 Robbie Caulder.

4 Q So the van that was collected from Tiffany Oliver,
5 the lady that testified earlier, with this license
6 plate is the same van that you fingerprinted?

7 A Yes, ma'am.

8 Q Now, when you took pictures of the front of the
9 house, was there a light on when you went out to that
10 house?

11 A There was light on inside the house, yes, ma'am.

12 Q How about on the outside of the house?

13 A Not that I can recall.

14 Q If I showed you the picture, would it refresh your
15 memory?

16 A Yes, ma'am.

17 Q I'm showing you now what's been already placed
18 into evidence through Mr. Watts as State's Evidence No.
19 3 and No. 6. Do you recognize these pictures?

20 A Yes, ma'am.

21 Q Did you take them?

22 A Yes, ma'am.

23 Q Is there a light on in the front of the house?

24 A No, ma'am.

25 Q Is there any light on the outside, the back of the

1 house?

2 A No, ma'am.

3 Q Okay. Showing the jury State's Evidence 3 and 6.

4 Now, Mr. Caulder, the front of this mobile home on
5 State's Evidence No. 3 looks standard to me. Is there
6 anything about it that is significant to you?

7 A No, ma'am. This is one of the mobile homes I've
8 seen.

9 Q Sometimes people put signs on their house with
10 their last name or Caulder's home on it. Did you see
11 anything like that on this house?

12 A No, ma'am.

13 Q And approximately how many mobile homes were out
14 there in that neighborhood?

15 A I'd say in excess of ten.

16 Q Okay. And was there anything significant about
17 this one to indicate who lived there?

18 A Not other than the two vehicles that were in the
19 back if they were home, if the -- you know, if the
20 owners were home. But nothing stood out other than it
21 was just a standard white vinyl sided or like sided
22 mobile home that was -- that's in a mobile home park.

23 Q Okay. And you were in that neighborhood in
24 general collecting evidence; is that correct?

25 A That's correct.

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1 Q Okay. Was there anything about this mobile home
2 to indicate this one was any different than any other
3 mobile home in that neighborhood?

4 A No.

5 Q Okay. Was there anything to indicate who lived in
6 this particular mobile home from the outside?

7 A No, ma'am.

8 Q Okay. Mr. Caulder, did you do anything else to
9 further your investigation in this case?

10 A Other than the initial scene, the autopsy, the
11 processing and the latent print work, no, ma'am, other
12 than take a few items in regards to this case up to the
13 State laboratory.

14 Q Okay. If you don't mind, tell the Court and the
15 jury -- and you said SLED?

16 A Yes, ma'am.

17 Q And what does that stand for, for the Court and
18 the jury?

19 A SLED is the State Law Enforcement Division.

20 Q Okay. And if you don't mind, tell the jury what
21 items you took to SLED for further examination.

22 A All of the -- the bullet -- bullet fragments, the
23 bullets themselves, the .44 caliber and .357 all were
24 taken as well as the bullet that was recovered from the
25 victim, were taken to SLED to be for the firearms

1 technicians to look and compare the fired bullets to
2 the weapons that were recovered.

3 Q Okay. So for further examination?

4 A Yes, ma'am.

5 Q Okay. And did you hand these items over to Jamie
6 Green at SLED to further examine them?

7 A Yes, ma'am.

8 Q Okay. And Jamie Green does the ballistics at
9 SLED; is that correct?

10 A That's correct.

11 Q If you don't mind, explain to this jury just a
12 little bit about what ballistics are.

13 A Ballistics are the -- pretty much it just gives
14 the information on the firearm itself. When a round is
15 fired or a bullet is fired out of a weapon, it marks
16 different types of striations from the barrel imparted
17 onto the bullet when it's fired out.

18 They also, the primer location or the firing pin
19 location is indicated on the casing itself. Not in
20 this case, but the officer can tell --

21 MR. FREDERICK: I think we're going to need to
22 qualify him as an expert to hear this testimony.

23 MR. CANTY: You know, I believe he stated that
24 he's not an expert.

25 MS. LIVESAY: I'm not going to go into it any

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1 further with that, Your Honor.

2 THE COURT: All right, very good.

3 MS. LIVESAY: I was just laying the foundation
4 for why it was taken.

5 THE COURT: All right, it doesn't matter. If
6 you're going to stop, then that will be the end of it.

7 MS. LIVESAY: Okay.

8 Q Was anything else taken to SLED?

9 A There was some gunshot residue kits were taken to
10 SLED. And I'm not too familiar with what else, if
11 anything else was taken.

12 Q Okay. But you know for sure the gun items that
13 are up here were taken?

14 A That is correct.

15 Q And you took them yourself?

16 A Yes, ma'am.

17 Q Okay. And you handed those to the ballistics guy?

18 A Yes, ma'am.

19 Q Okay.

20 MS. LIVESAY: No further questions for this
21 witness, Your Honor.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. FREDERICK:

25 Q What were the actual dimensions of the trailer?

1 You measured the dimensions; right?

2 A Yes, sir.

3 Q Okay.

4 A It's 65 foot from north to west, 13 foot east --
5 east to west.

6 Q 13?

7 A It's 13 foot east to west.

8 Q And you said 65; correct?

9 A North to south, yes, sir.

10 Q Okay. The guns, the drugs, the paraphernalia for
11 cooking the drugs, that box of .357 ammunition, all of
12 that stuff that you took from the room, just to be
13 clear, the intruders didn't leave that stuff; right?

14 A I wouldn't have thought they'd left it. Where
15 they were located would not be indicative that they
16 left them there, that they were stored in there for a
17 purpose.

18 Q More than likely it belonged to the resident?

19 A Yes, sir.

20 Q Okay. And did you execute the search warrant?

21 A Yes, sir.

22 Q Okay. And you searched the room?

23 A Yes, sir.

24 Q But the .357, the Magnum, that was not found until
25 two weeks later. Was it hidden?

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1 A From my understanding from talking with Detective
2 Vescovi who recovered it from the victim's father, it
3 was -- from my understanding it was located between
4 some drawers on the bed and under the mattress on the
5 bed. I'm not quite sure where. It was located
6 somewhere because it was a -- the bed had like pull-out
7 drawers on the bottom, and the mattress sat on top of
8 that. And between the pull-out drawers on the bottom
9 of the mattress is where the gun was located.

10 Q And did you not look there?

11 A No, sir, I did not.

12 Q Did anybody look there?

13 A No, sir. Other than the victim's father when he
14 was tearing the bed down.

15 Q Okay. So the victim's father found -- okay. You
16 said that casings are ejected from a semi-automatic
17 weapon?

18 A Yes, sir.

19 Q And with a revolver the casings stay inside the
20 cylinder?

21 A Yes, sir.

22 Q Okay. The box of unfired .357 ammunition that was
23 found?

24 A Yes, sir.

25 Q That was not taken to SLED; was it?

1 A The box of .357 rounds that were found, no, sir,
2 were not taken to SLED.

3 Q Okay. How many bullets or bullet fragments were
4 found in McElveen's bedroom?

5 A I don't know who McElveen is.

6 Q Rodney McElveen.

7 A If you tell me which bedroom it is, I can.

8 Q The bedroom that Keia was shot or that Keia
9 expired in.

10 A No projectiles were found in that room, no
11 fragments.

12 Q How many holes were in the wall behind the bed in
13 that room?

14 A None.

15 Q Okay. No ejected casings in that room?

16 A No, sir.

17 Q No holes anywhere in the walls, in the bed?

18 A Just the victim.

19 Q And what is an SKS?

20 A It's just a -- just a manufacturer of a -- of a
21 rifle. It's just -- what it stands for, I don't know.
22 It's just the -- it's just a name brand or an off name
23 of a rifle.

24 Q What's its functionality?

25 A It's a semi-automatic rifle.

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1 Q How big is it?

2 A The one that was recovered, approximately about
3 three and a half, four foot long. It's like any normal
4 rifle.

5 Q Like a normal rifle?

6 A Yeah.

7 Q Okay. Was this a military issued weapon?

8 A It can be, yes, sir.

9 Q Okay.

10 MR. FREDERICK: That's all the questions I have.

11 THE COURT: Mr. Canty?

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

13 CROSS-EXAMINATION

14 BY MR. CANTY:

15 Q Five times 13 is 65; correct?

16 A Yes, sir.

17 Q So it says, not to scale. The length of this
18 trailer is five times the width, it's a 13 by 65
19 trailer. So the length of this hallway would be
20 underrepresented on this diagram?

21 A Oh, yes, sir. The whole diagram there is not to
22 scale.

23 Q Okay. And this aerial photograph would give a
24 better idea of the length-to-width ratio of this mobile
25 home?

1 A It's kind of small. It's about six inches.

2 Q But you can tell how long it is relative to how
3 wide it is?

4 A Yes, sir.

5 Q Okay. Tell the jury how many fingerprints of
6 Carnail Graham you found.

7 A None.

8 Q And when you attended the autopsy, were you able
9 to identify even approximately the caliber of the
10 bullet that caused her death?

11 A I did no -- I did not, no, sir.

12 Q You knew it wasn't a 7.62 round?

13 A That's correct.

14 Q And you found some 7.62 ammunition?

15 A Yes, sir.

16 Q That would fit the SKS assault rifle?

17 A Yes, sir.

18 Q That wasn't fired. If he had fired that, it would
19 have gone through several mobile homes; isn't that
20 right?

21 A I have seen it be a long way --

22 MS. LIVESAY: Your Honor, at this time I'm going
23 to object. I think we've all agreed that he's not a
24 firearms expert in this case.

25 THE COURT: Mr. Canty, your objection is

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1 sustained.

2 MR. CANTY: Very well. Thank you, Your Honor.

3 Q So you found some .357 ammunition in the bedroom?

4 A Yes, sir.

5 Q But you didn't send that to SLED?

6 A No, sir.

7 Q Now, in the photographs that you have produced, do
8 you recall some photographs of two blobs on the dirt
9 road near the scene?

10 A Yes, sir.

11 Q And you put those there; right?

12 A Yes, sir. Casting stone, yes, sir.

13 Q And is that Plaster of Paris or some similar
14 material?

15 A Demo stone, yes, sir.

16 Q Okay. And you got a cast of the tire track that
17 was there?

18 A Yes, sir.

19 Q And you got a cast of the something else; what
20 else did you get a cast of?

21 A Shoe impressions.

22 Q All right. And that was based -- what led you to
23 that spot to make those impressions?

24 A During the initial response, information that was
25 coming into officer -- road officers and Detective.

1 Vescovi and other detectives up there, information came
2 to them that there were witnesses that there had been a
3 van parked suspiciously at the end of Colleta Court.

4 And they asked me to go around to that -- to this
5 end of Colleta Court (indicating) and see if I could
6 find anything of value or anything to corroborate any
7 of the stories that were coming out about information
8 of a van and someone person running to the van and
9 meeting up with the van in this area (indicating).

10 Q So this was the scene of the shooting?

11 A Yes, sir.

12 Q Rendezvous, people on foot and the van
13 approximately right here (indicating)?

14 A Yes, sir.

15 Q And based on information at the scene, you made
16 those casts down there, at the end of Colletta Court?

17 A Here and here (indicating).

18 Q Okay. But there's two of them right next to each
19 other. Are those two at the end of Colleta Court?

20 A Yes, sir, if I recall correctly.

21 Q And was your information that someone had been on
22 foot outside the van talking to the driver of the van?

23 A Yes, sir.

24 Q Now, of the shots fired -- and I understand you're
25 not a ballistics expert, you testified at length as far

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1 as the bullet holes that you observed and the bullets
2 that you recovered -- is it fair to say that from the
3 bedroom where the decedent was found, that five shots
4 were fired down that hallway?

5 A It's safe to say at least three.

6 Q And they were .357s, as far as you could tell?

7 A They were just bullet fragments is all I could
8 tell you.

9 Q Okay. And there were no bullet holes inside this
10 bedroom (indicating)?

11 A No, sir.

12 Q Was there a bullet hole in the ceiling right
13 outside the bedroom?

14 A Yes, sir.

15 Q And that was fired in a north to south direction?

16 A Give me just one second. Yes, sir, it was fired
17 from the -- where the victim was found towards the
18 kitchen and living room area, the front entrance door,
19 from north to south.

20 Q And there was another bullet hole in the floor
21 which led you to believe that it was fired south to
22 north?

23 A Yes, sir.

24 Q And that bullet was not recovered?

25 A That is correct.

1 Q Okay. And if I understand correctly, there was
2 another bullet fired that entered this wall, exited
3 this wall (indicating), struck the television?

4 A Yes, sir. That appeared to be the path of the
5 bullet itself.

6 Q And that bullet was not recovered?

7 A That is correct.

8 Q But the bullet fragment was found on the floor
9 behind the television?

10 A There was -- I recall one on the floor behind the
11 television, the near the couch. Detective Vescovi
12 recovered or brought one and turned one into evidence.
13 I mean, I'm not sure where that one was located, could
14 have been that point. All of the ones I recovered was
15 under the couch, the cabinet and the door.

16 Q Okay. Other than the bullets fired north to
17 south, to the best of your knowledge are you aware of
18 any bullet holes or any other information that you
19 observed at the scene that would lead you to believe
20 that there were more than two bullets fired other than
21 in a north south direction?

22 A Other than two guns or two weapons?

23 Q No, no. My question is this: We've got some
24 rounds fired down this hallway north to south, one in
25 the ceiling, one in the cabinet, one in the door,

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1 etcetera. We've got one round, south to north in the
2 floor here that was not recovered. Another round in --

3 THE COURT: Is that a yes?

4 THE WITNESS: Yeah -- I'm sorry, Your Honor, yes,
5 sir.

6 Q Another round in this wall, out this wall
7 (indicating), in the television?

8 A Yes, sir.

9 Q Not recovered?

10 A Yes, sir.

11 Q Besides that round and that round, do you have any
12 information that any other rounds were fired?

13 A No, sir.

14 Q Okay. You did not go to the scene where the van
15 was recovered?

16 A No, sir, I did not go to the scene.

17 Q Who did that?

18 A Investigator Don McGower in the -- with the crime
19 scene unit responded out, secured the van, and then it
20 was towed by our tow company back to the Horry County
21 Police Department.

22 Q Okay. And forgive me because we need to back up a
23 minute. Those plaster casts that you made at the scene
24 of the shoe print and the tire print, the tire matched
25 the van; correct?

1 A We -- to my knowledge, there was no comparison
2 made between the two.

3 Q And actually it became unnecessary --

4 A Yes, sir.

5 Q -- to compare the two. Now, what about the shoe
6 print cast?

7 A It was never compared to anyone. No shoes were
8 brought to me other than one set that it did not match,
9 it was similar to but did not match to the casting.

10 Q Where is the shoe print casting?

11 A The shoe print, of the unknown or of the known?

12 Q The unknown, the one you obtained at the scene
13 when you poured the Plaster Paris like material on the
14 shoe print, it congealed, it hardened, and you took
15 that with you?

16 A Um-hum. Yes, sir.

17 Q Where is it?

18 A It's -- it's behind you.

19 Q Over there?

20 A Yes, sir.

21 Q Okay. And that was from the scene next to where
22 you were informed the van was parked?

23 A Yes, sir.

24 Q All right. Now, I think you've indicated more
25 than once that it was two weeks later that the .357

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1 Magnum pistol was found. In fact, it was eight days
2 later; isn't that correct?

3 A It says -- it's in my notes, it says two weeks
4 after the incident.

5 Q It wasn't the 16th, this happened on the 8th,
6 eight days later?

7 A I'll take -- I'll take your word for it.

8 Q So you conducted the search, you recovered drugs,
9 you recovered firearms, you recovered ammunition,
10 bullet fragments, etcetera, but you did not find that
11 pistol that night?

12 A That is correct.

13 Q And how long was it after the shooting that you
14 sent the bullets and the bullet fragments to SLED along
15 with the pistols for analysis?

16 A When I took them was last week.

17 Q How long after the shooting did they initially go
18 to SLED, if you know?

19 A I don't know. That's -- it's evidence, it's
20 questions I don't know.

21 Q Okay. Well, here's my question. The .357
22 ammunition never went to SLED --

23 A That's correct.

24 Q -- correct? When you sent the .357 revolver, is
25 there a reason why the ammunition did not go with it?

1 A No, sir. No -- no good nor bad reason. SLED has
2 their own supply, from my understanding, of ammunition
3 so...

4 Q And do you know whether -- I think you testified
5 this is Remington .357 Magnum ammunition --

6 A Yes, sir.

7 Q -- in the box. And these are Remington .357
8 shells removed from the cylinder and the gun?

9 A Yes, sir.

10 Q Okay.

11 A From the head stamp that's on both.

12 Q And you don't -- since you're not an expert, you
13 don't have any opinion as to whether or not it would be
14 useful to have that ammunition for comparison purposes?

15 A I wouldn't have -- no, sir, I would not have an
16 opinion.

17 Q Now, you carry a handgun, I see that.

18 A Yes, sir.

19 Q And it's a semi-automatic weapon?

20 A That is correct.

21 Q .40 caliber?

22 A Yes, sir.

23 Q It's police -- common police issue?

24 A Yes, sir.

25 Q Would you mind very carefully just showing the

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1 jury what that looks --

2 THE COURT: It's not necessary, Mr. Canty. It has
3 no relevance to this case. No, sir.

4 THE WITNESS: I don't have it anyway, Your Honor.

5 THE COURT: All right, thank you.

6 Q A semi-automatic pistol would be distinctively
7 different in appearance from a revolver?

8 A Yes, sir.

9 Q Now, I think you indicated that shots plural had
10 been fired back towards the bedroom. And, in fact, you
11 said there was one shot fired south to north that went
12 through the floor here (indicating), and you never
13 recovered that bullet?

14 A That's correct.

15 Q And there was another shot fired from near the
16 back door in the living room?

17 A Yes, sir.

18 Q No other shots?

19 A No, sir.

20 Q So only one shot towards the bedroom that you're
21 aware of?

22 A That I'm aware of, yes, sir.

23 Q The nightstand and the dresser in Mr. Watts' room,
24 that is the southern most bedroom down here
25 (indicating), as I understand you indicate had been

1 overturned?

2 A Yes, sir.

3 Q As if someone were ransacking, searching?

4 A Yes, sir. It's the way that it appeared.

5 Q And it would be inferable that it would be the
6 perpetrators who had done that?

7 A Yes, sir, that's what one would tend to think.

8 Q It would be unlikely Mr. Watts did it himself?

9 A No, sir.

10 Q And you did not dust for prints?

11 A No, sir.

12 Q You have information that the perpetrators were
13 masked and wearing gloves?

14 A Yes, sir. That was my initial -- what initially
15 was told to me.

16 Q What about DNA, you collected some DNA at some
17 point?

18 A I swab -- for the most part, when we collect these
19 items, we'll swab the handguns and things like that to
20 see if there is any possibly touch DNA being to send to
21 the State lab to determine if there is any touch DNA on
22 the actual firearm itself or weapons or anything that
23 we can try and get DNA from.

24 Q DNA was collected in this case, was it not?

25 A If it were, I have no knowledge.

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1 MR. CANTY: Very good. That's all I have.

2 THE COURT: Redirect?

3 MS. LIVESAY: Just a few, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Mr. Caulder, you remember yesterday and this
7 morning we talked a little bit about AFIS and the
8 fingerprints?

9 A Yes, ma'am.

10 Q And how that works?

11 A Yes, ma'am.

12 Q Okay. And there's a standard with a number and a
13 identification for that print; is that correct?

14 A That is correct.

15 Q Kept by SLED?

16 A Yes, ma'am.

17 Q Is there anything like that for shoe prints or
18 tire prints?

19 A No, ma'am.

20 Q Okay. So there's no way you can match up a
21 specific tire print or shoe print to one particular
22 person?

23 A You may have to dumb down that question a little
24 bit. You're asking if I could take a known and compare
25 it to an unknown?

1 Q No. Is there a database of known prints?

2 A There is a database, but it is -- it is kept at --
3 it only identifies a shoe type. It's the only database
4 that's collected or housed that I'm aware of. It's at
5 the Federal Bureau of Investigation. But it just tells
6 you what type of tire or type of shoe tread, who is the
7 manufacturer of it.

8 Q Okay. But there is no way to match that print to
9 Robbie Caulder, that shoe print to Robbie Caulder?

10 A No, ma'am, not without --

11 Q Or John Smith?

12 A Not without having the known print.

13 Q Okay. Is there a database full of known prints
14 that matches a shoe print to an individual?

15 A No, ma'am.

16 Q So there is no way to put it in somewhere and they
17 identify, yes, this shoe print belongs to Joe Smith?

18 A No, ma'am.

19 Q Okay. Is there a way to match up a tire print to
20 a certain vehicle?

21 A Yes.

22 Q And how do you do that?

23 A You would do it the same way that you would do it
24 with a fingerprint. You would take that unknown tire
25 impression that you had, and you take the known

1 impression you have. You'd have to -- in this case
2 could have been that the van -- could have been you
3 take a -- you outline the tire with black ink. The
4 tire of the vehicle is then pushed or rolled onto clear
5 paper or white paper. The impression is laid out,
6 marked and identified by the investigator making the
7 actual impression.

8 Then the two are laid down side by side, and then
9 you look for those individual characteristics within
10 the print. First you identify if you have the same
11 type of tire, same manufacturer, same tread pattern.
12 Then you start individualizing the characteristics
13 inside of the tire.

14 As far as the wearing goes, there's a certain wear
15 pattern, wet pattern on the tire or certain cuts,
16 nicks, scrapes inside the tire that can be determined
17 from the unknown to the known.

18 Q Did you do that in this case?

19 A No, ma'am, I did not.

20 Q Why not?

21 A I was not requested to.

22 Q Okay. Now, as to the unfired bullets that were
23 not sent to SLED, these bullets here?

24 A Yes, ma'am.

25 Q Why weren't they sent to SLED?

1 A They were not requested either.

2 Q Okay.

3 A To my knowledge, they never requested for me to
4 get sent.

5 Q Okay. Would there be any evidence to collect off
6 bullets that have never been shot or placed into a
7 weapon?

8 A No, ma'am.

9 Q Okay. So there would be no evidence to collect
10 off of it?

11 A Not from me, no, ma'am.

12 Q Okay. Now, we talked about the shoe prints, so
13 there's no way, no database to put a certain shoe print
14 on a particular individual?

15 A Yes, ma'am.

16 Q Okay.

17 A There is no database.

18 Q Okay. And the only way to do it with a tire print
19 is to have the actual vehicle and the mold?

20 A That's correct.

21 Q Okay. Now, we talked a little bit about the
22 dimensions of this mobile home.

23 A Yes, ma'am.

24 Q Okay. If you don't mind, how far is it from this
25 right here, this area, this den area, to this bedroom

1 (indicating)?

2 A 14 foot.

3 Q Okay. From this end to this end (indicating)?

4 A Yes, ma'am.

5 Q And how far is that in this courtroom?

6 A That's a hard question. 14 foot is probably from
7 where I sit until about your table.

8 Q Okay. So from here to my table (indicating)?

9 A Probably just the length of that (indicating).

10 Q The jury box?

11 A Yes, just the jury box.

12 Q Okay. So from this end of the jury box to this
13 end of the jury box is the same as that hallway?

14 A A little less than that. It's probably about 18
15 foot there, so...

16 Q Okay.

17 MS. LIVESAY: No further questions, Your Honor.

18 THE COURT: Anything on those questions, Mr.

19 Frederick?

20 MR. FREDERICK: Yes, sir, briefly.

21 THE COURT: Go ahead.

22 RECROSS-EXAMINATION

23 BY MR. FREDERICK:

24 Q Did you determine the shoe size from those molds?

25 A No, sir, I did not determine any. I was not

1 requested to look at any shoe impressions or tire
2 impressions after the initial castings, so I did not
3 determine any information from that.

4 Q Okay. And the prosecutor was asking you, there's
5 no database of shoe wear. But you do compare shoes in
6 these cases; don't you? Not this case, I understand,
7 but in this type of case is that not a form of evidence
8 that you present?

9 A We normally what is requested of an investigator
10 or detective when they are out investigating, if they
11 have -- if we have some type of evidence that is
12 collected such as tire wear, shoe wear, we request that
13 if they want it compared, that whomever did the
14 interview or, you know, had developed a suspect or a
15 lead in the case to try and get any of the known shoes
16 or vehicles that that person has so we can make those
17 impressions. So if cases like this come up in court,
18 we don't get stuck on the stand with me looking like
19 I'm looking right now.

20 Q I understand.

21 A In this. So -- but normally it's most cases it's
22 still not done unless we are actively pursuing it
23 throughout the case ourselves.

24 Q I understand. And you're aware that in this case
25 a number of people were interviewed?

1 A Yes, sir.

2 Q Okay.

3 A Well, I -- normally after the initial scene --

4 Q You didn't conduct any?

5 A -- I don't...

6 Q You didn't conduct interviews yourself?

7 A No, sir.

8 Q I understand. And the only reason that this, what
9 do we call it, mold?

10 A Casting.

11 Q The only reason this casting was not analyzed is
12 because they didn't ask you to?

13 A That is correct.

14 Q We didn't --

15 A There was nothing -- there was no -- there was no
16 shoe impressions. There were no shoes given for
17 impressions to be collected so that a comparison could
18 be made.

19 Q Okay. And you're not the person who collects
20 shoes from suspects or witnesses; right?

21 A No, sir. Unless they call us -- unless it's on
22 the search warrant we'll go out and we'll collect shoes
23 or if -- sometimes in some instances they will when
24 they are interviewing someone or making an arrest in a
25 case, they will say, look, we're getting ready to take

1 the guy down to J. Reuben, you know, do you want to
2 collect anything, do you want to take his clothing or
3 anything like that.

4 Then at that point we would go ahead and take it
5 while we have them there. Give them a suit, you know,
6 take them down to county lock-up.

7 Q Okay.

8 A It did not happen in this case, but it has
9 happened.

10 Q Did you personally collect a casting?

11 A From the scene?

12 Q Yes.

13 A Yes, sir.

14 Q Okay. And that casting is over there at the
15 prosecutor's table right now?

16 A Yes, sir.

17 Q Is there any other evidence that you personally
18 collected that has not been introduced into evidence at
19 this point?

20 A Just the casting and the rifle, as we mentioned.

21 Q The SKS?

22 A Yes. It's been mentioned, but it's not been --

23 MS. LIVESAY: Your Honor, we're certainly not
24 keeping Mr. Frederick from introducing anything he
25 wants to, we have it here available.

JOHN ROBERT CAULDER-RECROSS BY MR. CANTY

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1 THE COURT: Solicitor, that's not a proper
2 objection. You may continue, Mr. Frederick.

3 MR. FREDERICK: No more questions.

4 THE COURT: Mr. Canty?

5 MR. CANTY: Thank you, Your Honor, very brief.

6 RECROSS-EXAMINATION

7 BY MR. CANTY:

8 Q Just two questions. If this trailer is 65 feet
9 long, then the distance from there to there would be
10 about 32 and a half feet (indicating); wouldn't it?

11 A You know, I think there's some miscommunication.
12 The exterior of that residence is 65 foot long and 13
13 foot wide. The interior is not going to be the same as
14 the exterior.

15 Q So it's a few inches of exterior wall there, and
16 there's a few inches of exterior wall there
17 (indicating)?

18 A Yeah. And then you take into consideration all
19 the whatever, the wooding that's used in a mobile home.
20 I don't know what size wood was used in that. But,
21 yes, you would take off the interior walls would be in
22 somewhat, not much, but it wouldn't be 65 foot on the
23 interior.

24 Q Two by fours there, so four inches, four inches?

25 A Yes, sir.

1 Q Okay. And halfway down that mobile home would be
2 32 and a half feet minus whatever the thickness of that
3 wall is?

4 A Yes, sir.

5 Q And then we know this dimension is 13 feet
6 (indicating), and I think you said she was on the
7 couch. So she had to go to the other side of the
8 mobile home and then down to the point where she was
9 found; correct?

10 A That's what was -- it appeared. The scene
11 appeared to be that someone was lying to the couch at
12 during a point. She was found in the bedroom.

13 Q Okay. And if that shoe casting was of a size six
14 and a half shoe, that would exclude someone who wore a
15 size 11 from making that cast; isn't that correct?

16 A That would be correct, yes, sir.

17 MR. CANTY: That's all I have.

18 THE COURT: You may step down, sir.

19 THE WITNESS: Thank you, Your Honor.

20 (Witness excused.)

21 THE COURT: All right, ladies and gentlemen, we're
22 going to take a short break for about ten minutes. Go
23 to your jury room, and we'll reconvene thereafter.
24 Everyone else remain seated while the jury retires.

25 (WHEREUPON, the jury exited the courtroom at 11:29

JASMINE TELL-DIRECT BY MS. LIVESAY

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1 the clerk right over here, please.

2 JASMINE TELL, after being duly sworn, testified as
3 follows:

4 CLERK OF COURT: Please be seated. State your
5 full name, spell your last name for the Court, please.

6 THE WITNESS: Okay. My name is Jasmine Tell. The
7 last name is spelled T-E-L-L.

8 THE COURT: Go ahead, solicitor.

9 MS. LIVESAY: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. LIVESAY:

12 Q If you don't mind, Ms. Tell, tell the jury where
13 you're currently employed.

14 A Verizon Wireless.

15 Q And how long have you been employed there?

16 A For nine years.

17 Q Okay. And if you don't mind, tell them what your
18 current responsibilities are.

19 A I respond to the appearance portion in testimony
20 of the court subpoenas submitted to us.

21 Q Okay. And were you subpoenaed for this case?

22 A Yes.

23 Q Okay. And did we ask you to provide some records?

24 A Yes.

25 Q And are those records kept in the normal course of

1 business?

2 A Yes, they are.

3 Q Okay. And have they been tampered with in any
4 form or fashion?

5 A No.

6 Q Okay. And if you don't mind, tell the jury what
7 phone number you've brought the records from -- for.

8 A Okay. I have records for phone number

9 --

10 Q Okay. And does -- do those records include who
11 the subscriber was during 2011?

12 A Yes.

13 Q And who is that subscriber?

14 A The first name is Thomas, the last name is James.

15 Q Okay.

16 MS. LIVESAY: Can I have these records, I'm going
17 to get them marked.

18 (WHEREUPON, State's Exhibit No. 29 was marked for
19 identification only.)

20 THE WITNESS: There's actually a second phone
21 number in there.

22 Q Okay. If you don't mind, show me which records
23 are 855.

24 A These. Sorry, 855.

25 Q And these records were brought to the courthouse

JASMINE TELL-CROSS BY MR. FREDERICK

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1 from you; is that correct?

2 A Yes.

3 Q And there's no way to tamper in any form or
4 fashion the information on the records?

5 A No.

6 MS. LIVESAY: Your Honor, at this time the State
7 asks to put State's Exhibit 29 into evidence.

8 THE COURT: Any objection?

9 MR. FREDERICK: No objection.

10 MR. CANTY: None, Your Honor.

11 THE COURT: All right. So State's-29 is in
12 evidence without objection.

13 (WHEREUPON, State's Exhibit No. 29 was admitted in
14 evidence.)

15 MS. LIVESAY: No further questions from me, Your
16 Honor.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. FREDERICK:

20 Q There is a second phone number that we talked
21 about earlier?

22 A Yes.

23 Q That was --

24 MS. LIVESAY: Your Honor, at this time I'm going
25 to object to the relevance as to the phone number he's

1 getting into at this time.

2 MR. FREDERICK: Judge, she just stipulated to it.

3 THE COURT: Madam forelady, ladies and gentlemen,
4 y'all go to the jury room for just a few minutes,
5 please. Thank you very much.

6 (WHEREUPON, the jury exited the courtroom at
7 2:17 p.m.)

8 THE COURT: Why don't you have the witness answer
9 a few questions so we know the phone number, who it
10 relates to, so I have some idea what we're arguing
11 about here; okay?

12 MR. FREDERICK: Yes, sir.

13 Q That number was ; that is right?

14 A Yes.

15 Q And --

16 THE COURT: I'm sorry, tell me the number again,
17 843 what?

18 MR. FREDERICK:

19 THE COURT: All right, go ahead.

20 Q And would the subscriber be Sha'Rah McCray; is
21 that right?

22 A It says Sha, S-H-A.

23 Q Okay.

24 A McCray, M-C-C-R-A-Y.

25 Q Okay. And is that a Verizon cell phone, were

JASMINE TELL-CROSS BY MR. FREDERICK

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1 (WHEREUPON, Defendant's Exhibit No. 1 was marked
2 for identification only.)

3 THE COURT: All right. Ask the jury to come back
4 in, please. And, again, Mr. Frederick, I'll accept it
5 based upon the stipulation that the parties have about
6 the exhibit.

7 MR. FREDERICK: Yes, sir.

8 THE COURT: All right. Thank you.

9 (WHEREUPON, the jury came into open court at
10 approximately 2:24 p.m.)

11 THE COURT: Mr. Bailiff, if you could, could you
12 get those exhibits and hand them to the court reporter,
13 please. Just put right there in front of her on top of
14 the other ones there.

15 All right. Mr. Frederick you may continue, sir.

16 MR. FREDERICK: Thank you, judge.

17 Q So you did look at a number which is
18 ; is that right?

19 A Yes.

20 Q Okay. And that number, the subscriber is a Sha
21 McCray?

22 A Yes.

23 Q Spelled S-H-A, M-C-C-R-A-Y?

24 A Yes.

25 Q Okay.

1 MR. FREDERICK: And, judge, at this time I would
2 move that particular phone number into evidence.

3 THE COURT: All right. As Defendant's-1?

4 MR. FREDERICK: As Defendant's Exhibit 1.

5 THE COURT: All right. And that's Defendant's-1
6 for both defendants; correct, Mr. Canty?

7 MR. CANTY: Yes, Your Honor.

8 THE COURT: All right, very good.

9 (WHEREUPON, Defendant's Exhibit No. 1 was admitted
10 in evidence.)

11 THE COURT: And what I'm going to do is allow
12 Defendant's-1 pursuant to the stipulation that we put
13 on the record, all right. You may continue, sir.

14 MR. FREDERICK: That's all the questions that I
15 have.

16 THE COURT: All right, very good.
17 Cross-examination, Mr. Canty?

18 MR. CANTY: None, thank you, Your Honor.

19 THE COURT: Any further questions, redirect,
20 solicitor?

21 MS. LIVESAY: No, sir, Your Honor.

22 THE COURT: All right, ma'am, do you wish the
23 witness to be excused?

24 MS. LIVESAY: Yes, please.

25 THE COURT: Any objection, gentlemen?

JAMES GREEN-DIRECT BY MS. LIVESAY

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1 MR. FREDERICK: No objection.

2 MR. CANTY: None, Your Honor.

3 THE COURT: All right, ma'am, you're released from
4 your subpoena, you may go back to your regular duties.

5 THE WITNESS: All right, thank you.

6 (Witness excused.)

7 THE COURT: Next witness, please, ma'am.

8 MS. LIVESAY: Your Honor, at this time the State
9 calls Jamie Green to the stand.

10 THE COURT: All right sir, just come on up here
11 and meet the clerk, please.

12 JAMES W. GREEN, after being duly sworn, testified
13 as follows:

14 CLERK OF COURT: State your full name, spell your
15 last name for the Court, please.

16 THE WITNESS: James William Green, G-R-E-E-N.

17 THE COURT: All right.

18 MS. LIVESAY: One second, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. LIVESAY:

21 Q Mr. Green, where are you currently employed?

22 A By the South Carolina Law Enforcement Division,
23 commonly referred to as SLED.

24 THE COURT: All right, sir, you're going to have
25 to scoot up closer to that microphone and speak up.

1 THE WITNESS: I'm employed by SLED.

2 Q Okay. And how long have you been working at SLED?

3 A Since June of 2005.

4 Q Okay. And what kind of training or education do
5 you have in order to work at SLED in your particular
6 field?

7 A I have a bachelor's and master's degree from
8 Charleston City University. When I was hired at SLED,
9 I began the firearms and tool mark course of
10 instruction, which is a roughly three to
11 three-and-a-half-year training program, apprentice type
12 fashion, studying for court qualified examiners.

13 Q And what are your current responsibilities?

14 A I examine firearms and firearms-related evidence,
15 tools and tool mark-related evidence and process the
16 evidence for all 46 counties in the State.

17 Q And have you ever been qualified as an expert?

18 A Yes, ma'am.

19 Q And what were you qualified as an expert in?

20 A Firearms identification.

21 Q Okay. And how many times have you been qualified
22 as an expert?

23 A 31.

24 Q Okay. And in what court were you qualified?

25 A Excuse me?

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1 Q In what court, general sessions, magistrate's
2 court?

3 A General sessions and federal.

4 Q Okay.

5 MS. LIVESAY: Your Honor, at this time the State
6 offers James Green as an expert.

7 THE COURT: In the field of firearms examination;
8 is that correct?

9 MS. LIVESAY: Yes, sir, Your Honor.

10 THE COURT: All right. Do you wish to voir dire
11 the witness or challenge the State's offer?

12 MR. FREDERICK: No voir dire and no objection,
13 judge.

14 THE COURT: All right, very good. Mr. Canty?

15 MR. CANTY: I understood him to say firearms
16 identification. I don't have any objection to what the
17 solicitor wants to characterize it as, but I want to
18 include firearms identification.

19 THE COURT: Firearms identification and
20 examination.

21 MR. CANTY: Very good, thank you.

22 THE COURT: Any objection with that,
23 Mr. Frederick?

24 MR. FREDERICK: No, sir.

25 THE COURT: All right, very good. He's qualified

1 to give his opinion in the field of firearms
2 examination and identification.

3 MS. LIVESAY: Thank you.

4 Q And if you don't mind, Mr. Green, explain the
5 firearms you get in to examine and what kind of
6 examinations you do.

7 A Okay. If we don't have any firearms submitted, if
8 it's just fired ammunition components, like they fired
9 bullet or fired cartridge cases, we examine those
10 microscopically using the comparison microscope. And
11 what that is is two microscopes joined together by a
12 single optical bridge that allows us to look at two
13 objects simultaneously under different lighting to see
14 if there's any correspondence or similarities between
15 the two.

16 If there is a firearm submitted, what we'll do is
17 we'll do the same thing, we'll look at the fired
18 ammunition components. And then we'll test fire the
19 firearm and retrieve specimens that we know came from
20 that firearm because we fired them ourselves. Then
21 we'll compare the test specimens against each other,
22 and then we'll look at those versus the other items
23 submitted to see if they were fired by the same firearm
24 or by a different firearm or by a firearm not
25 submitted.

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1 Q And who do you do these examinations for?

2 A Whoever submits evidence to the lab, which is any
3 of the 46 counties in the State.

4 Q Okay. And do you know anything about the case
5 other than the firearms that come in?

6 A No, ma'am.

7 Q Okay. And if you don't mind, tell the jury how
8 you -- do you just get the firearms with a certain case
9 number and perform the examination?

10 A Yes, ma'am. We are notified that we are given an
11 assignment. They usually come in batches when the
12 submitting agency brings evidence in. They bring it
13 into our evidence control department where it's logged
14 in, it's given a SLED laboratory case number, and each
15 item of evidence is given a separate item number. And
16 that is all electronically tracked.

17 All the evidence is sealed and put on a shelf
18 awaiting whichever analyst is assigned the case number.
19 We will then go down to evidence control department and
20 pick up the evidence where the bar codes are scanned
21 and electrically transfers the evidence into our
22 custody when we physically take custody of it.

23 We'll then go back to our office and put the
24 evidence in our secure evidence locker where it stays
25 under seal and key until which time we are able to open

1 it and work on the case.

2 Q And how many examinations have you done over the
3 years approximately?

4 A It's in the tens of thousands.

5 Q Okay. And are you familiar with lab number
6 L11-13184?

7 A Yes, ma'am.

8 Q Okay. And how did you become familiar with the
9 evidence in that particular lab number?

10 A When this case was originally submitted, it was
11 assigned to Dan DeFreese. As part of our quality
12 control system in the laboratory, anytime a case is
13 worked and a report is going to be issued, the evidence
14 is looked at by a second qualified examiner who also
15 renders an opinion. We call that a micro verification.

16 Once the results are micro verified, the analyst
17 or the examiner prepares a report, and then whoever
18 micro-ed the case reviews the case file for technical
19 accuracy, for grammar, for clerical issues, and then
20 the report is approved.

21 In this case I did that. This case was also
22 resubmitted, and I examined all the evidence myself,
23 test firing the firearms by myself and comparing those
24 test specimens with the evidence items submitted. And
25 then I had the case micro verified, and then a report

1 was issued.

2 Q And were more than one report done in this case?

3 A Yes, ma'am.

4 Q And could you please explain to the jury why.

5 A In most cases where there's not a resubmission of
6 evidence like this, when we test fired the firearm, we
7 say we know those bullets and cartridge cases came from
8 that gun because we test fired them ourselves. Since
9 Dan originally worked this case and test fired the
10 case, I couldn't say that I know with 100 percent
11 certainty that those bullets and cartridge cases came
12 from that gun because I didn't fire it.

13 The evidence was resubmitted, and now I can say
14 that I know those bullets, my test specimens I created
15 came from those guns because I fired them myself.

16 Q And who did the first examination?

17 A Dan DeFreese.

18 Q And does he also work at SLED?

19 A Yes, ma'am.

20 Q And was he available for court this week?

21 A No, ma'am, he was not.

22 Q And did he do a report?

23 A Yes, ma'am, he did.

24 Q And did you participate in his examination?

25 A Yes, ma'am. I micro verified it and I

1 administratively reviewed his report and his case file.

2 Q And when you did the second examination, did you
3 find was there anything different between what you
4 found and what Dan DeFreese found?

5 A No, ma'am.

6 Q Okay. So all of the findings were the same?

7 A Correct.

8 Q Okay. And you were available for court this week
9 obviously?

10 A Yes, ma'am.

11 Q Okay. If I show you these items, can you identify
12 if these were the items that were sent to SLED from
13 Horry County?

14 A Yes, ma'am.

15 Q I'm showing you now State's Evidence 69, 70, 71,
16 67, 68, 66.

17 A Ladies and gentlemen of the jury; if y'all bear
18 with me for a second, when evidence items are submitted
19 to SLED, I said they get their own item number and
20 their own lab number, if the items are big enough, we
21 will actually mark on them with an electronic pencil or
22 like a Dremel tool a laboratory item number, the
23 laboratory case number, the item number and our
24 initials. So if you see me rolling the items around
25 and looking at it, that's what I'm doing because I'm

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1 looking for my markings on these bullets and cartridge
2 cases.

3 State's Exhibit 66 are five fired cartridge cases
4 which were submitted as SLED item five.

5 Q You can take it out if you need to.

6 A State Exhibit 67 is item six from SLED. State's
7 Exhibit 68 is SLED item eight which I've examined.
8 State's Exhibit 69 is SLED item ten. State's
9 Exhibit 70 is SLED item nine. And State's Exhibit 71
10 is SLED item seven. All of these items or State's
11 exhibits have my markings on them.

12 Q And Agent Green, I'm going to show you what's in
13 as State's Evidence 64 and 65.

14 A State's Exhibit 64 is the Taurus .357 Magnum, a
15 revolver that was submitted in this case as item five.

16 Q State's Evidence 65?

17 A 64 was the Taurus. And State's Exhibit 65 is the
18 Ruger .44 Magnum revolver that was submitted as SLED
19 item four.

20 Q Okay. And all of those items were submitted to
21 SLED?

22 A Yes, ma'am.

23 Q Okay. And the examination you performed on them
24 was able to determine what gun those bullets or
25 fragments were fired from?

1 A Yes, ma'am. We were able to draw a conclusion on
2 those.

3 Q Okay.

4 MS. LIVESAY: Your Honor, if you don't mind, I'm
5 going to ask him to step down so we can go through each
6 fragment with the jury, because this is complex
7 testimony.

8 Q Do you mind stepping down, Mr. Green.

9 THE COURT: As long as he will keep his voice up
10 and speak loudly. Other than that, you're going to
11 have to sit back down.

12 MS. LIVESAY: I'm going to get those two guns,
13 give me one second.

14 Q Okay. If you don't mind, go through each of these
15 pieces of evidence. Tell the jury about what test you
16 performed and whether or not you were able to determine
17 one of these firearms shot out that fragment or bullet.

18 A Yes, ma'am. Okay. First thing, with the five
19 fired cartridge cases, whenever cartridge cases are
20 indicated as having been removed from a particular
21 firearm, we will not do any examination on them. The
22 reason being if we have law enforcement agencies
23 telling us they took them out of a particular firearm,
24 it's almost counterproductive for us to go ahead and
25 prove that they came out of the firearm.

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1 So State's Exhibit 66, the cartridge cases, we did
2 not perform any examination on them other than saying
3 we did receive them and they were here. And they were
4 said to have been removed from State's Exhibit 64.

5 Q And what kind of caliber of gun is this?

6 A It's a .357 Magnum caliber.

7 Q Okay. And what kind of caliber of bullet is this?

8 A These are all .357 Magnum caliber cartridge cases.

9 Q Okay. If you don't mind, can we go over State's
10 Evidence No. 68, or in the order you feel comfortable.

11 A Okay. Well, first, State's Exhibit 65 did not
12 fire any of the evidence I've submitted in this case.
13 There was a caliber difference, so that can just be set
14 aside. It was just there, it had nothing to do with
15 the other evidence items.

16 As I said before, when we get evidence items like
17 fired ammunition components, what we'll do is we'll
18 look at them microscopically. A firearm is created
19 taking a barrel, they go through and they make the
20 grooves of the barrel. And that -- the grooves and the
21 lands make up the rifle. And if you can think of
22 rifling as a set of helical grooves placed in the
23 barrel to impart spin on the bullet.

24 (Court reporter asks for clarification.)

25 THE WITNESS: It's a series of helical grooves

1 placed in the board of a barrel to impart spin on the
2 bullet.

3 Now, basically it's like a quarterback throwing a
4 football distance. He throws it in a nice, tight
5 spiral, it's very accurate and it goes a long way.
6 That's what rifling does in the bullet, it grabs the
7 bullet, engages the bullet and then causes it to spin
8 in the barrel. That's what rifling is.

9 A by-product of that rifling is it leaves marks on
10 the bullet as it passes down the barrel that lets us
11 identify it back to a barrel or another bullet in the
12 absence of a firearm.

13 So if we were looking at these microscopically,
14 like at State's Exhibit 68, I looked at State's
15 Exhibit 68, which is SLED item eight, with test bullets
16 I fired through the barrel of the State's Exhibit 64
17 revolver. And I was able to determine and I concluded
18 that this bullet jacket fragment was fired by this
19 revolver.

20 Q Now, let me ask you this, because I'm in no way as
21 informed as you are. Do any two guns make the same
22 markings on a bullet?

23 A There have been so many firearms made since they
24 were first invented in like the 1400s, that it would be
25 impossible for us to look at all of them. The

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1 Association of Firearm and Toolmark Identification and
2 the Association of Firearms and Toolmark Examiners area
3 of identification states that the agreement we see is
4 of such quantity and quality, that the probability of
5 that ever being reproduced is so remote, it's a
6 practical impossibility.

7 So the markings I saw on the bullet State's
8 Exhibit 68 and bullets fired by State's Exhibit 64 rose
9 to that threshold of me to be able to say in my opinion
10 that this bullet jacket was fired by that revolver.

11 Q Okay.

12 A And there have been studies conducted of
13 consecutively made barrels. And if you're ever going
14 to get any agreement between barrels, you would think
15 it was those made one right after the other, after the
16 other, after the other, using the same tool. I
17 participated in two of those studies, and you can
18 differentiate between bullets fired from the first
19 barrel to bullets fired from the second barrel all the
20 way down to like the tenth barrel. There's slight
21 similarities but not enough that if you're trained to
22 know what you're looking for would cause it to trip up.

23 Q So the markings on this fragment are unique to
24 this gun?

25 A Yes, ma'am.

1 Q Okay.

2 THE COURT: Solicitor, when you ask the question,
3 since there are so many exhibits, make sure you refer
4 to the exhibit number, please, ma'am.

5 MS. LIVESAY: Yes, sir.

6 THE WITNESS: Talking about the 67 since it's kind
7 of --

8 Q Okay.

9 A State's Exhibit 71, same thing. I looked at it
10 microscopically, and there was agreement on State's
11 Exhibit 71 and on test bullets fired by State's
12 Exhibit 64. So I concluded that State's Exhibit 71 was
13 also fired by State's Exhibit 64.

14 Now, we did the same thing with State's Exhibit
15 69, which was SLED item ten, and agreement was there.
16 And I also concluded that State's Exhibit 69 was fired
17 by State's Exhibit 64.

18 All right. State's Exhibit 67, when it came in,
19 it came in in multiple pieces. We had a complete fired
20 bullet, three fired bullet jacket fragments, a lead
21 fragment and a piece of plastic. We'll start with the
22 plastic. The piece of plastic in State's Exhibit 67
23 was not consistent with any emission component, and it
24 did not bear any markings of value so I could say it
25 was fired by a particular firearm.

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1 The lead fragment in State's Exhibit 67 was
2 consistent with being a lead core and jacketed bullet.
3 And when bullets are made, drawn jackets or bullets are
4 made, basically they have, they call it toughing core,
5 they have a jacket which is made of copper or some type
6 of alloy, and they put a lead core inside it. Whenever
7 a bullet strikes something hard, they tend to come
8 apart. So that's why on like State's Exhibit 68 it's
9 just a jacket fragment, the core is missing.

10 So State's Exhibit 67 the lead fragment was
11 consistent with being a core; however, it's too damaged
12 to give a caliber. Just to say it was consistent with
13 being a core.

14 There was two -- there was a complete fired bullet
15 in State's Exhibit 67. I looked at that with test
16 specimens from item 60 -- excuse me, State's Exhibit
17 64. And the complete fired bullet which you can see
18 right here (indicating) was also fired by State's
19 Exhibit 64.

20 We have a second bullet fragment which is just a
21 jacket, and you can see the complete base. So at one
22 time that was a complete separate fired bullet. That
23 was also fired by State's Exhibit 64. The two jacket
24 fragments with item 64, State Exhibit 67, they were too
25 damaged for me to tell the caliber. They are just

1 little un-ejected fragments. And they did not have
2 enough information on there for me to make a definite
3 conclusion, so they got inconclusive answer.

4 What that means is, it's kind of fancy for I don't
5 know. They have similarities between test bullets
6 fired by State's Exhibit 64, but not enough for me to
7 say they were fired by it and not enough for me to say
8 they were not fired by it. So they're inconclusive.
9 They could have been fired by State's Exhibit 64, but
10 once again, they were not fired by the .44 Magnum,
11 which I believe was Exhibit 65.

12 And then we have State's Exhibit 70.

13 Q Before we get into that, if you don't mind, I've
14 got one question. How many bullets are accounted for
15 in looking at these bullets and fragments?

16 A State's Exhibit 67, 68, 69 and 71 account for five
17 fired bullets.

18 Q Okay. And all five fired bullets came in your
19 opinion, your expert opinion, from State's Evidence 64?

20 A Yes, ma'am.

21 Q Okay. Now, this is a revolver. How many bullets
22 does this revolver hold?

23 A It's a five-shot revolver, you can see there are
24 five chambers inside the cylinder.

25 Q So this gun shoots five bullets?

JAMES GREEN-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am, before reloading, or all five if you
2 shoot five.

3 Q Okay, holds five. And you've accounted for five
4 bullets here?

5 A Yes, ma'am.

6 Q And they all match this gun?

7 A Yes, ma'am.

8 Q Okay. Tell us about the last bullet that was
9 submitted.

10 A State's Exhibit 70, whenever we get bullets or
11 cartridge cases, the first thing we do before we even
12 try to look at guns submitted is we try to determine a
13 caliber. We do that by looking at the observable
14 pistol characteristics, or what we call the OPC's. As
15 for the weight of the bullet would be basically how it
16 looks and the diameter of the base.

17 State's Exhibit 70, when I examined it I
18 determined it was most consistent with bullets loaded
19 in some .357 Magnum caliber cartridges. So this is the
20 correct caliber for using this firearm. However, when
21 barrels are created, the manufacturer determines how
22 many lands and grooves are in each barrel. State's
23 Exhibit 64 is rifled with five grooves, right twist.

24 State's Exhibit 70 was fired out of a barrel rifle
25 with six grooves, right twist. So as State's Exhibit

1 64 is submitted to you, it could not be fired from
2 State's Exhibit 70 based on the number of landing
3 groove differences or what we would call class
4 characteristic differences.

5 Q Now, is this the only intact bullet that we sent?

6 A There are two others, but they were both fired by
7 State's Exhibit 64.

8 Q Okay. So is there any possible way for this gun
9 to have fired that bullet?

10 A No, ma'am.

11 Q And these other five, there's no doubt in your
12 mind that it's fired by this weapon?

13 A Correct.

14 Q If you don't mind, have a seat back in the witness
15 box, I got a few more questions. Now, if you don't
16 mind, was there anything -- this is a .357; is that
17 correct?

18 A Yes, ma'am.

19 Q Okay. And this one did not match this gun; is
20 that correct?

21 A Correct.

22 Q Is there any possible way that this bullet could
23 have shot out of that .44 Magnum?

24 A No, ma'am. If it did, the rifling engagement
25 would have -- since the .44 Magnum barrel is bigger

JAMES GREEN-CROSS BY MR. FREDERICK

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1 than the .357 Magnum bullet, the rifling engagement
2 would have been sporadic as the bullet would have been
3 bouncing down the barrel.

4 Q Okay. So just due to the caliber of this bullet
5 and that gun, it could not have fired from that -- that
6 particular weapon?

7 A Yes, ma'am.

8 Q Okay.

9 MS. LIVESAY: No further questions for this
10 witness, Your Honor.

11 THE COURT: All right. Mr. Frederick?

12 CROSS-EXAMINATION

13 BY MR. FREDERICK:

14 Q Do you have a copy of both reports?

15 A Yes, sir.

16 Q Okay. The first report was authored by Dan
17 DeFreese; is that right?

18 A Yes, sir.

19 Q In December of 2011?

20 A Yes, sir.

21 Q Okay, just to identify it. The second report was
22 authored by yourself, and that was last week; right?

23 A Yes, sir.

24 Q Okay. Handing these to you, I represent those are
25 the reports, but will you look at those and confirm

1 that.

2 A Yes, sir.

3 THE COURT: I'm sorry, you have to speak up what
4 your answer is.

5 THE WITNESS: Yes, those are the reports.

6 MR. FREDERICK: I want to mark these.

7 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were
8 marked for identification only.)

9 Q Now, I'm handing you back what has been marked for
10 identification as Defense Exhibits 2 and 3. And,
11 again -- I kind of did that out of order -- again, are
12 those the reports?

13 A Yes, sir.

14 Q Okay.

15 MR. FREDERICK: Your Honor, at this time I would
16 move Defendant's Exhibit 2 and 3 into evidence.

17 THE COURT: Could he identify the date of two and
18 the date of three, please.

19 THE WITNESS: Yes, sir. Defense Exhibit 2 is
20 dated October 7th, 2014, and Defense Exhibit 3 is dated
21 December 12th, 2011.

22 THE COURT: All right. Mr. Canty, they are being
23 submitted on behalf of the Defendant Graham also?

24 MR. CANTY: Without objection by Defendant Graham.

25 THE COURT: All right. So you are not offering

1 them into evidence?

2 MR. CANTY: Without objection. That's correct, we
3 are not offering them, but we are not objecting.

4 THE COURT: All right, very good. Any objection,
5 solicitor?

6 MS. LIVESAY: No, sir.

7 THE COURT: All right. So they are in evidence
8 without objection.

9 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were
10 admitted in evidence..)

11 Q Now, let's look at these for just a minute, okay.
12 Looking at Defense Exhibit No. 3 which is the 2011
13 report, page two, item six, can you read the entire
14 first sentence for us.

15 A Yes, sir. Item six, one fired bullet, three fired
16 bullet jacket fragments, one lead fragment and one
17 plastic fragment received in the container marked,
18 parenthesis, number sign CS4, dot, dot, dot, fired
19 projectile from kitchen cabinet, dot, dot, dot, closed
20 parenthesis.

21 Q And when it says fired projectile, that is
22 singular; right?

23 A Yes, sir.

24 Q Okay. And on Defense Exhibit No. 2, the 2014
25 report, has the section that says, fired projectile,

1 singular, being removed from the report?

2 A Yes.

3 Q And I'll allow you to explain that.

4 A Okay. Inside the quotation marks is just what the
5 submitting agency submits it as. So if there's large
6 numbers of items, an investigator who was actively
7 investigating the case, they may not necessarily be the
8 one who submits stuff to the laboratory for
9 examination.

10 So we will sometimes put those in our report to
11 let them know that even though they may not know the
12 SLED item number of the particular item of evidence,
13 they -- they know that we know which one they're
14 referring to because it's what they said, it was from
15 the kitchen floor, from the kitchen cabinet or
16 wherever. So everything in quotation marks in the
17 reports is just what the submitting agency logged it in
18 as.

19 Q Okay. And so what that means, neither you nor
20 Mr. DeFreese authored that, you know, projectile, they
21 just copied it; Mr. DeFreese copied it from the box or
22 packaging?

23 A Yes, sir.

24 Q Okay. So whoever authored it labelling that
25 packaging, labeled it as projectile?

1 A Correct.

2 Q Which is singular?

3 A Correct.

4 Q Okay. Now, looking at No. 2, the 2014 report,
5 still on page two under item six, the first bullet
6 point states, item six was comprised of at least two
7 fired bullets; correct?

8 A Yes, sir.

9 Q That's the report you authored last week?

10 A Yes, sir.

11 Q Okay. Looking at Exhibit 3, the 2011 report,
12 that's not there; is it?

13 A Not in that form, no, sir. But it is stated.

14 Q Could you please read to me where it says, item
15 six was comprised of at least two fired bullets.

16 A Like I said, it's worded differently, but it says,
17 the bullet and the fragment with the bullet's base
18 resulted from the firing of two cartridges.

19 Q Okay. So it's worded differently, the language
20 you just said, and I'm going to come back to that in a
21 second, but it does not say the words, at least two
22 fired bullets?

23 A Correct.

24 Q Okay. Now, in Exhibit 3, the 2011 report, still
25 under item six, I guess the second paragraph, one, two,

1 three, fourth -- third line towards the end, the bullet
2 and the fragment with the bullet's base resulted from
3 the firing of two cartridges, that's the part that you
4 just read?

5 A Correct.

6 Q Okay. Now, on page three of the 2011 report which
7 is Exhibit 3, do you see the section at the end of item
8 nine? And I'm going to back up for a minute. Item
9 nine is the bullet that was taken from Keia?

10 A Yeah, it's the bullet from autopsy, yes.

11 Q Okay, the bullet from the autopsy. Does it say
12 there, item nine may be suitable for identification
13 with the firearm in which it was fired but was not
14 suitable for IBIS entry?

15 A Yes, sir.

16 Q Can you explain what IBIS is.

17 A IBIS stands for the Integrated Ballistic
18 Identification System. It's a computerized database of
19 individually fired bullets and fired cartridge cases.
20 And it's owned by the ATF, The Bureau of Alcohol
21 Tobacco and Firearms. It's a national network of
22 images to where if we get a case in Columbia, South
23 Carolina, we can search through the database and see if
24 the same firearm may have been used in Washington state
25 or New York state. That's what IBIS is.

JAMES GREEN-CROSS BY MR. FREDERICK

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1 Q So basically it's -- you can use it to try to get
2 a hit basically on a bullet or a firearm that has
3 previously been entered into it?

4 A Yes, sir. It's a way to develop possible links
5 between previously unrelated crimes.

6 Q Okay. And on the 2011 report, it did state, this
7 was not suitable for IBIS entry?

8 A Correct.

9 Q On the last week report, Exhibit No. 2, that
10 sentence was deleted; is that right?

11 A It was not deleted. That's like a horrible word.
12 It was not included. Since roughly mid 2011 we no
13 longer entered bullets into IBIS. The reason being is
14 that when we went to a meeting in 2007 of the South
15 Carolina, North Carolina IBIS users, the ATF
16 representative told us it was almost like 200,000 man
17 hours spent on bullet entries and with almost no
18 results. I think there were seven deaths nationwide in
19 2007 on bullets, and they were in the thousands on
20 cartridge cases.

21 The reason being is the database doesn't -- at
22 that time did not have the imaging software needed to
23 take images of the bullets. What it does is it takes
24 -- if you think about the paper clip, how small it is
25 and how thin it is, it takes an image that size. And

1 then it rotates the bullet slightly, overlaps the image
2 and goes all the way down and maps the entire surface
3 of the bullet on the fired lands.

4 And the imaging software was not capturing the
5 lighting correctly. So the ATF, it's their machine,
6 they stopped entering bullets, so SLED followed suit
7 and we stopped entering bullets as well.

8 Q So even though it is not in your report, the 2014
9 report, is it your opinion that the bullet still is not
10 suitable for IBIS entry?

11 A Yes, sir. It was -- most of the markings it had
12 on it were up forward in the land where IBIS takes
13 pictures at the very basic land. So had we still been
14 entering bullets into IBIS, I would not have entered
15 SLED item number nine in IBIS at this time.

16 Q Okay.

17 MR. FREDERICK: Thank you. That's all I have,
18 judge.

19 THE COURT: Mr. Canty?

20 MR. CANTY: Thank you, Your Honor. May it please
21 the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. CANTY:

25 Q Mr. Green, are you familiar what's known as a Colt

1 model 1911?

2 A Yes, sir.

3 Q 1911 refers to the first year of production of
4 that pistol; is that correct?

5 A It was produced in 1910, but it was adopted by the
6 Army for use in 1911. But yes, sir.

7 Q If somebody says a model 1911, they are talking
8 about a Colt 45?

9 A Or the hybrids, yes, sir.

10 Q Or it's been copied in a hundred different ways?

11 A Yes. There are very many different makes, but
12 yes, sir. If somebody says a 1911, I know what they're
13 referring to, yes, sir.

14 Q And as a SLED agent, you are issued a handgun by
15 the State; is that correct?

16 A Yes, sir.

17 Q And is that a Glock .40 caliber?

18 A Yes, sir, it is.

19 Q And do you happen to have it with you at this
20 time?

21 A No, sir.

22 Q All right. It's a semi-automatic handgun as well?

23 A Yes, sir, it is.

24 Q Okay. And these handguns are revolvers, they are
25 referred to as revolvers because they have a revolving

1 cylinder that holds the magazine; correct?

2 A Yes, sir. The revolver holds the cartridges in
3 the chambers.

4 Q And this is also a revolver?

5 A Yes, sir.

6 Q And they're very distinctive in appearance.

7 Someone with any experience with pistols would know the
8 difference between a revolver and a semi-automatic
9 pistol?

10 A Yes, sir, if you're familiar with firearms you
11 should --

12 Q And a semi-automatic pistol --

13 THE COURT: I'm sorry to interrupt, Mr. Canty, but
14 if you're referring to a particular item, you need to
15 use the exhibit number because we won't be able to tell
16 later on what it is.

17 MR. CANTY: I apologize, Your Honor.

18 Q 64 being the .357 Magnum revolver, 65 being the
19 .44 caliber revolver. And a semi-automatic pistol
20 operates on a different principle; correct?

21 A Yes, sir.

22 Q The revolver, when you pull the trigger, it does
23 several things. It cocks the handle, it rotates the
24 cylinder and aligns the cartridge with the barrel. And
25 you continue to pull the trigger, the hammer is

JAMES GREEN-CROSS BY MR. CANTY

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1 released, a firing pin strikes the primer in the base
2 of the cartridge, which ignites the propellant, the
3 projectile departs the barrel?

4 A Yes, sir.

5 Q And if you don't do anything else, that's all that
6 happens?

7 A Correct.

8 Q The next time you pull the trigger, again, the
9 barrel will rotate and the handle will come back, and
10 the next cartridge will line up with the barrel -- or
11 the cylinder will rotate, line up with the barrel, and
12 the same thing happens?

13 A Correct.

14 Q In a semi-automatic weapon, typically the magazine
15 is in a clip that slides into the handle?

16 A Yes, sir.

17 Q And when you cock that weapon, you move one round
18 into the chamber and then engage it; is that correct?

19 A Yes, sir. When the slide goes forward, it takes a
20 cartridge off the magazine and loads it into the
21 chamber.

22 Q And the magazine clip that's in the barrel is --
23 rather in the handle -- is spring loaded?

24 A Correct.

25 Q Those unspent cartridges in the magazine are under

1 tension, so that when the slide comes back and there's
2 an opening above it, the next round is literally forced
3 by the spring into the chamber?

4 A Yes, sir.

5 Q The slide goes forward and at that point you pull
6 the trigger again, again the hammer strikes the firing
7 pin, the firing pin strikes the primer, the primer
8 ignites the propellant, the bullet exits the gun?

9 A Correct.

10 Q And part of that energy is used to drive the slide
11 backward?

12 A Yes, sir.

13 Q And either by spring load or by that gas powered,
14 the spent shell is ejected out the side?

15 A Correct.

16 Q So the functions are different?

17 A Yes, sir, they are.

18 Q And the semi-automatic can, in fact, be
19 mechanically altered to become fully automatic, so all
20 you do is hold down the trigger and it keeps firing
21 until it expends the magazine?

22 A Correct.

23 Q Okay. Now, anyone with any familiarity with
24 weapons would readily at a close distance, say two or
25 three feet, know the difference between a revolver and

JAMES GREEN-CROSS BY MR. CANTY

1 a semi-automatic weapon?

2 A Yes, sir.

3 Q And a .357 is typically a revolver; is that
4 correct?

5 A Typically, yes, sir.

6 Q And there's, in fact, only one manufactured, they
7 are rather expensive and rather rare gun that is a .357
8 semi-automatic?

9 A Yes, sir.

10 Q So the vast majority, maybe 99 percent of .357s
11 are going to be revolvers?

12 A Yes, sir.

13 Q Like this one. Now, the .40 caliber Glock that
14 you carry is the semi-automatic, and the Colt model
15 1911 is also a semi-automatic, distinctively different
16 appearance?

17 A Yes, sir.

18 Q Okay. And are you familiar with any .40 caliber
19 revolvers?

20 A No, sir. I know Ruger had toyed around with
21 making one, but I don't know if they produced it or not
22 yet.

23 Q Virtually all .40 calibers are semi-automatics?

24 A Correct.

25 Q And easily distinguished from a revolver at very

1 close range?

2 A Yes, sir.

3 Q In your analysis of the cartridges, the bullets,
4 the handguns associated with this case, would you have
5 liked to have known that there was a box of .357
6 ammunition found in the room where the revolver and the
7 victim were found?

8 A Sometimes it can be helpful, sometimes it's just
9 extraneous items of evidence.

10 Q Is it typical for you upon receiving evidence such
11 as this, and I assume that this is fairly run of the
12 mill for your lab, for your analysis, you get a
13 collection of cartridges and handguns?

14 A Yes, sir.

15 Q And nothing extraordinary about this set of
16 evidence?

17 A No, sir.

18 Q Would you have called back to the law enforcement
19 agency and requested or inquired, did you find any
20 ammunition of the same caliber in the room with the gun
21 and the victim?

22 A Not normally, no, sir.

23 Q That's not the sort of inquiry you make?

24 A Not normally, not something we do, no, sir.

25 Q And wouldn't you ordinarily expect that when

JAMES GREEN-REDIRECT BY MS. LIVESAY

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1 ammunition of the same caliber as the weapon is found
2 in close proximity to the weapon, that unless it's a
3 large quantity, that at least some exemplar come with
4 the weapon?

5 A Some agencies do submit some, some do not.

6 Q Okay. Are you aware in this case of how many
7 shots were fired that were not attributed to that
8 particular .357 Magnum?

9 A No, sir. The only thing I'm aware of is what was
10 submitted to the laboratory.

11 MR. CANTY: I think that's all I have, Your Honor.

12 THE COURT: Any redirect?

13 MS. LIVESAY: Yes, sir, just a couple questions.

14 REDIRECT EXAMINATION

15 BY MS. LIVESAY:

16 Q Just so I'm clear, these two reports you're
17 familiar with that are Defendant's Evidence 2 and 3?

18 A Yes, ma'am.

19 Q Okay. And you worked on both in some form or
20 fashion?

21 A Correct.

22 Q Okay. Do either report say that this bullet,
23 State's Evidence No. 70 from the autopsy, come from
24 that gun?

25 A No, ma'am.

1 Q Okay. And is there any way possible it could have
2 come from that gun or the .44?

3 A No, ma'am.

4 Q Okay. Now, I have a question about, this is a,
5 what kind of caliber gun?

6 A It's a .357 Magnum.

7 Q Okay. And --

8 THE COURT: Which one is that, ma'am? You've got
9 it, you didn't say what's the exhibit number.

10 MS. LIVESAY: Okay, I'm sorry, Your Honor.

11 Q What is State's Evidence No. 64?

12 A Would you like me to read you my description from
13 the report?

14 Q Yes.

15 A Okay. Reading from Defense Exhibit 2, State's
16 Exhibit 64, SLED item five, is one Taurus model 605
17 revolver, .357 Magnum caliber, serial number SJ84155,
18 with five fired .357 Magnum caliber cartridge cases.

19 Q Okay. And does this -- does this look like a
20 .357?

21 A It looks like a revolver, yes, ma'am.

22 Q Okay. And does it -- does a .38 caliber also look
23 similar to this?

24 A Yes, ma'am.

25 Q Okay. And a .38 doesn't shoot a .357; is that

1 correct?

2 A You can shoot a .38 in a .357, but you cannot
3 shoot a .357 in a .38 because of the difference in the
4 length of the cartridges.

5 Q Okay. So they are two different caliber guns?

6 A Yes, ma'am.

7 Q But the guns look similar; would you agree with
8 that?

9 A Yes, ma'am.

10 Q Okay. And, in fact, Mr. Canty was asking you
11 about a .40 caliber; is that correct?

12 A Yes, ma'am.

13 Q Okay. And a .40 is usually a semi-automatic; is
14 that right?

15 A Usually, yes, ma'am.

16 Q Okay. Is it always a semi-automatic?

17 A Well, there are some submachine guns that are
18 chambered in that. Like I said, they are talking about
19 making one in a revolver, but generally they are
20 semi-automatic pistols, yes, ma'am.

21 Q Okay. But it is possible it can be a revolver or
22 a semi-automatic?

23 A I don't know if they've made the revolvers or not
24 yet. I know they were talking about it.

25 Q Okay. Is there anything that distinguishes those

1 two reports?

2 A Is there anything distinguish, you mean -- I'm
3 sorry, can you --

4 Q Any differences at all.

5 A Other than the wording and the author, no.

6 Q Okay. And there's no way on any day or any
7 circumstances this bullet could have been shot by the
8 Taurus, the one from the autopsy?

9 A No, ma'am.

10 Q Okay. Did you -- were you ever able to decipher
11 what gun this bullet came from?

12 A During the course of our examinations --

13 THE COURT: And which one are you referring to,
14 ma'am, what exhibit number?

15 MS. LIVESAY: State's Evidence No. 70.

16 THE WITNESS: State's Exhibit 70. When we do an
17 examination and like in this case and I concluded that
18 State's Exhibit 70 was not fired by State's Exhibit 64
19 or -- what's the other one?

20 Q The .44 is State's Evidence 65.

21 A So State's Exhibit 70 was not fired by 64 or 65.
22 What I went and did is I measured the land dimensions
23 and the groove dimensions for the rifle. And we have a
24 GRC database, or general rifling characteristics
25 database, that's provided to us by the FBI. I put

JAMES GREEN-RECROSS BY MR. FREDERICK

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1 those land and groove widths into the program along
2 with the caliber and the direction of the twist and the
3 type of rifling conventional. And it will give us a
4 list of possible firearms that we know of that could
5 have fired that bullet.

6 Q Okay. So the gun that fired this bullet has never
7 been turned in to SLED, you were never able to match
8 that bullet with a certain gun?

9 A No, ma'am. There has not been a gun submitted in
10 this case that we could compare with that or match.

11 Q Okay.

12 MS. LIVESAY: No further questions, Your Honor.

13 THE COURT: Mr. Frederick?

14 MR. FREDERICK: Very briefly.

15 THE COURT: Yes, sir.

16 RECROSS-EXAMINATION

17 BY MR. FREDERICK:

18 Q Let me make sure that I understand. You just said
19 this, but it can be confusing. You can shoot a .38
20 caliber bullet from a .357, but you cannot shoot a .357
21 caliber from a .38; is that right?

22 A Yes, sir. The difference in cartridge length
23 won't let it go in the chamber of the revolver or the
24 cylinder.

25 Q Okay.

1 A So since the .38 Special is shorter than the .357
2 Magnum, the .38 Special cartridge will fit in the .357
3 Magnum caliber revolver. But you can't put a .357
4 Magnum caliber revolver in a .38 special caliber
5 firearm and fire it.

6 Q Okay. And apart from item six, would you agree,
7 looking at the reports after item six, apart from item
8 six, you have identified three bullet or bullet
9 fragments that are associated with that .357 apart from
10 item six?

11 A Right, yes, sir.

12 MR. FREDERICK: Okay.

13 THE COURT: Mr. Canty?

14 MR. CANTY: Very briefly, Your Honor.

15 RECROSS-EXAMINATION

16 BY MR. CANTY:

17 Q Mr. Green, would you tell the jury how many .40
18 caliber revolvers you have seen.

19 A None.

20 Q And during your tenure, how many pistols have come
21 into the SLED lab that you have either examined
22 personally or as a supervisor you have reviewed the
23 examination of?

24 A In the thousands.

25 Q And tell the jury how many semi-automatic .357s

JAMES GREEN-RECROSS BY MR. CANTY

1 you have seen among those as well.

2 A One.

3 Q Very good.

4 MR. CANTY: That's all I have.

5 THE COURT: Anything on that, solicitor?

6 MS. LIVESAY: No, sir.

7 THE COURT: All right. You may step down, sir.

8 The exhibits, if you just hand those to the --

9 THE WITNESS: They're all down there.

10 THE COURT: They're all down there, great.

11 (Witness excused.)

12 THE COURT: All right, ladies and gentlemen of the
13 jury, we'll take a short break, if you go to your jury
14 room for about ten minutes, please. Thank you.
15 Everyone else remain seated, please.

16 (WHEREUPON, the jury exited the courtroom at
17 3:19 p.m.)

18 THE COURT: Yes, solicitor.

19 MS. LIVESAY: Your Honor, can we excuse Mr. Green?

20 THE COURT: Yes, ma'am. I didn't know if you were
21 going to keep him available to your subpoena until
22 after defense expert testified or not. If you want to
23 excuse him, you can excuse him.

24 MR. FREDERICK: No objection.

25 MS. LIVESAY: No, sir, Your Honor.

1 clerk, please, sir.

2 MR. FREDERICK: Judge, can we approach for just a
3 minute?

4 THE COURT: Sure. Y'all come up here.

5 MR. FREDERICK: Okay.

6 (WHEREUPON, a bench conference was held off the
7 record in the presence of the jury but out of the
8 hearing of the jury.)

9 THE COURT: Go ahead and swear him in, please,
10 ma'am.

11 TERRY BEASE, after being duly sworn, testified as
12 follows:

13 CLERK OF COURT: Please be seated. State your
14 full name, and spell your last name for the Court.

15 THE WITNESS: Terry Bease, B-E-A-S-E.

16 THE COURT: Go ahead, solicitor.

17 MS. LIVESAY: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. LIVESAY:

20 Q You ready?

21 A Yeah.

22 Q Terry, if you don't mind, tell the jury how old
23 you are.

24 A 25.

25 Q And where are you from?

TERRY BEASE-DIRECT BY MS. LIVESAY

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1 A Conway, South Carolina.

2 Q And do you still live in Conway?

3 A Yes, ma'am.

4 Q Okay. Are you currently working anywhere?

5 A No, ma'am.

6 Q Okay. And tell the jury, do you know the
7 defendants in this case?

8 A Yes, ma'am.

9 Q And how do you know them?

10 A Childhood friend.

11 Q Okay. And, oh, so you've been friends with them
12 since childhood?

13 A Yes, ma'am.

14 Q Okay. And who are the defendants?

15 A Cutty and Dubba.

16 Q Okay. And you don't have to look over there.

17 Cutty is the one without the tie; is that correct?

18 A Yes.

19 Q Okay. Now, do you also know the victim in this
20 case, Keia Pertelle?

21 A Yes, ma'am, I do.

22 Q Okay. And how do you know Keia?

23 A Childhood friend.

24 Q Okay. So you have hung out with all these people
25 since you were a child?

1 A Yes, ma'am.

2 Q Okay. And is there any relationship between you
3 and Keia, cousins, friends, what is that?

4 A Friends.

5 Q Okay. And you grew up with her as well?

6 A Yes, ma'am.

7 Q Okay. And did you know where she lived at that
8 time?

9 A No, ma'am.

10 Q Okay. Now, do you remember the night that Keia
11 was shot?

12 A Yes, ma'am.

13 Q Okay. And if you don't mind, tell the jury just a
14 little bit about what you were doing that night.

15 A I was on the couch asleep, and I got a phone call
16 saying she was shot. So I got up and went and picked
17 my cousin up and went out there. That was it.

18 Q Okay. And who were you with before you got this
19 information?

20 A Howard.

21 Q Okay. And what's Howard's last name; do you know?

22 A Nu-uh.

23 Q Okay. So y'all were just hanging out prior?

24 A Yes, ma'am.

25 Q Okay. Now, I'm going to show you what's already

TERRY BEASE-DIRECT BY MS. LIVESAY

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1 been placed into evidence as State's Evidence No. 29.

2 Okay. You mind looking on with me, okay. Do you

3 recognize whose phone number is?

4 A Yes, ma'am.

5 Q And whose phone number is that?

6 A Cutty.

7 Q Okay. And was that his phone number around

8 November 8th, 2011?

9 A Yes, ma'am.

10 Q Okay. Now, do you remember what your phone number

11 was that night?

12 A

13 Q Okay. Now, can you look through these phone

14 records, these are the phone records; can you see what

15 the date of the phone records are? Tell the jury.

16 A Yes, ma'am.

17 Q What is it?

18 A 11/8/2011.

19 Q Okay. And is that the night Keia was shot?

20 A Yes, ma'am.

21 Q Okay. Did you talk to Cutty or Dubba that night?

22 A No, ma'am, I didn't.

23 Q How about during the day?

24 A No, ma'am, I didn't.

25 Q Okay. Now --

1 THE COURT: Can you tell me -- I'm sorry, I
2 didn't -- can you tell me the date again, please.

3 THE WITNESS: It was 11/8/2011. Yeah.

4 THE COURT: Thank you.

5 Q And -- sorry, I'll let you put your hand down --
6 now, do you recognize your phone number on these phone
7 records?

8 A Yes, ma'am.

9 Q Okay. And if you don't mind, tell the jury again
10 what your phone number is.

11 A

12 Q Okay. And do you see your phone number on these
13 phone records?

14 A Yes, ma'am.

15 Q Okay. And can you tell the jury the date and time
16 that that phone call took place.

17 A 11/8/2011, 13 -- 3:18.

18 Q Okay. And did you talk to Cutty that night?

19 A No, ma'am, I didn't.

20 Q Okay. So if someone called from this number, it
21 was not Cutty?

22 A It wasn't Cutty.

23 Q Okay. Now, is your phone number anywhere else on
24 these phone records?

25 A No, ma'am, it ain't.

TERRY BEASE-DIRECT BY MS. LIVESAY

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1 Q Okay. And the call that's showing Cutty's number
2 and your number was 3:18, it was I say nighttime but
3 early morning when Keia was killed?

4 A That's correct.

5 Q Okay. But you did not talk to Cutty?

6 A No, ma'am, I didn't.

7 Q And you've known him for how long?

8 A I would say about 15 years.

9 Q Okay. So you would recognize his voice if you
10 heard it?

11 A Yes, ma'am, I would.

12 Q Terry, you did -- you testified that you -- did
13 you go out to her -- Keia's house?

14 A Yes, ma'am. After the fact.

15 Q Okay. And do you know her family?

16 A Yes, ma'am.

17 Q And is that why you went out there?

18 A Yes, ma'am.

19 Q Okay. And how did --

20 A Yes, ma'am.

21 Q That's okay. And how did you know she had been
22 shot?

23 A Because I got a phone call saying she had been
24 shot.

25 Q Okay. Now, you said that you know Cutty and

1 Dubba; is that correct?

2 A I wanted to say but it wasn't him.

3 Q And I'm calling you Terry Bease today, but do you
4 have another name people call you?

5 A Butta One.

6 Q Okay. And do you have any other names people call
7 you?

8 A Some people call me Lil Papi, that's about it.

9 Q Okay, okay. Now, have you ever been in trouble
10 before?

11 A Yes, ma'am.

12 Q Okay. And what were you in trouble for?

13 A Possession with intent to distribute marijuana.

14 Q Okay. And is that all over now?

15 A Yes, ma'am.

16 Q Okay. And are you telling this jury the truth
17 today?

18 A Yes, ma'am, I am.

19 Q Okay. Have you said anything ever any different
20 than what you're telling this jury today?

21 A No, ma'am, I did not.

22 Q Okay.

23 MS. LIVESAY: No further questions for Mr. Bease.

24 THE COURT: Mr. Frederick?

25 CROSS-EXAMINATION

TERRY BEASE-CROSS BY MR. FREDERICK

1 BY MR. FREDERICK:

2 Q Little Papi; right?

3 A Yes, sir.

4 Q Okay. You are a drug dealer?

5 A Yes, sir.

6 Q Okay. Tell the jury.

7 A Yes, I am.

8 Q You're a Crip, too?

9 A No, I'm not.

10 MS. LIVESAY: Your Honor.

11 THE WITNESS: No, I'm not.

12 Q Tell the jury.

13 THE WITNESS: No, I am not.

14 THE COURT: Yes, ma'am, do you have an objection?

15 MS. LIVESAY: Not at this time, Your Honor, but

16 I'm going to ask some follow-up questions, because I do

17 believe the question that Mr. Frederick just asked has

18 opened --

19 THE COURT: All right. Well, we'll deal with

20 that, then, in the redirect. All right. Go ahead,

21 Mr. Frederick.

22 Q On this day we're talking about, you know that

23 Lavena Jackson was at Keia's house that day; is that

24 true?

25 A Excuse me?

1 Q Those phone records that she was just showing you,
2 you spoke to Lavena Jackson on that day also, earlier
3 that day; didn't you?

4 A Yes, sir.

5 Q Okay. And Lavena Jackson was over at Keia and
6 Splurge's house; wasn't she?

7 A I don't know. I have no idea.

8 Q You have no idea?

9 A I didn't have no idea she was over there, sir.

10 Q Tell the jury if you were or were not involved in
11 setting up this robbery.

12 A I was not involved in setting up this robbery.

13 Q Okay. Did you get a phone call from Lavena
14 Jackson?

15 A I can't remember.

16 Q Okay.

17 MR. FREDERICK: Court's indulgence.

18 THE COURT: Yes, sir.

19 Q At 3:18 in the morning, that record you're looking
20 at just now, you're saying that was not you talking
21 with Cutty?

22 A Yes, sir, that's correct.

23 Q Okay.

24 MR. FREDERICK: No more questions, judge.

25 THE COURT: Mr. Canty?

TERRY BEASE-CROSS BY MR. CANTY

1 MR. CANTY: Thank you, Your Honor. May it please
2 the Court.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. CANTY:

6 Q So you do know Lavena Jackson?

7 A Yes, sir.

8 Q And you have no recollection whether or not you
9 spoke to her, say, in the nine hours before Keia was
10 shot?

11 A I may have spoke with her once or twice, but
12 that's about it.

13 Q Okay. Now, do you know Keia's cousin that was
14 also in the mobile home, Mr. Watts?

15 A Do I know him, yes, sir.

16 Q Yes, sir. How well do you know him?

17 A Childhood friend.

18 Q And Dubba's your childhood friend; correct?

19 A Yes, sir.

20 Q And Mr. Watts and Dubba, they know each other?

21 A They should.

22 Q Childhood friends?

23 A They should.

24 MR. CANTY: That's all I have, Your Honor.

25 THE COURT: Any redirect, solicitor?

1 MS. LIVESAY: Yes, sir, Your Honor, just very
2 briefly.

3 REDIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Mr. Bease, do you remember when Mr. Frederick
6 asked you if you were a drug dealer?

7 A Yes, ma'am.

8 Q And what was your answer?

9 A Yes.

10 Q Okay. Now, have you ever known Cutty or Dubba to
11 have a job?

12 A No, ma'am.

13 Q Okay. And you've known them since childhood?

14 A Yes, ma'am.

15 Q Okay. Are these close friend of yours?

16 A Yes, ma'am.

17 Q Okay. If you don't mind, what do they do for a
18 living?

19 MR. CANTY: Your Honor, I'm going to object if I
20 may approach.

21 THE COURT: Yes. Mr. Frederick, you want to come
22 around.

23 (WHEREUPON, a bench conference was held off the
24 record in the presence of the jury but out of the
25 hearing of the jury.)

TERRY BEASE-REDIRECT BY MS. LIVESAY

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1 THE COURT: Go ahead, solicitor.

2 MS. LIVESAY: Okay.

3 Q Terry, strike that last question I asked. Have
4 you ever known these two to have any eight-to-five job?

5 A Excuse me?

6 Q From eight, like at Wal-Mart or meaningful
7 employment?

8 A No, ma'am.

9 Q Okay. And you've known them since childhood?

10 A Yes, ma'am.

11 Q Okay. Now, did Keia have a job?

12 A Not that I was aware of.

13 Q Okay.

14 MR. FREDERICK: Your Honor, can I just hold the
15 exhibit she was showing him?

16 THE COURT: Yes, sir.

17 MR. FREDERICK: Do you know where it is? Where'd
18 you put it? The exhibit you showed him, where did you
19 put it?

20 MS. LIVESAY: Oh, this was the phone records I
21 showed him.

22 MR. FREDERICK: Thank you.

23 THE COURT: Anything else, solicitor?

24 MS. LIVESAY: No, sir, Your Honor.

25 THE COURT: Mr. Frederick, on those questions just

1 asked.

2 RE CROSS-EXAMINATION

3 BY MR. FREDERICK:

4 Q I'm not trying to hide anything, Thomas is not
5 trying to hide anything. He's a drug dealer too; ain't
6 he?

7 A I'm not sure.

8 Q You don't know. You don't deal drugs with him?

9 A Only thing he did was made music with me. That's
10 all that I know.

11 (Court reporter asks for clarification.)

12 THE WITNESS: I said, he make music, that's all
13 that I know.

14 Q When he makes music, that's at Billy Freshley's
15 house?

16 A Correct.

17 Q And Billy's got a studio in his house?

18 A Correct.

19 Q Okay. And a bunch of you guys record at that
20 studio?

21 A That's correct.

22 Q You don't know if he's a drug dealer, but you are
23 a drug dealer?

24 A Yes, sir.

25 Q Okay. And you're not a Crip?

TERRY BEASE-RECROSS BY MR. FREDERICK

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1 A No, sir.

2 MR. FREDERICK: Court's indulgence. That's all,
3 judge.

4 THE COURT: Mr. Canty, on the questions that were
5 asked?

6 MR. CANTY: Nothing further, Your Honor.

7 THE COURT: All right. Do you wish the witness to
8 be excused?

9 MS. LIVESAY: Yes, sir, Your Honor.

10 THE COURT: All right, sir. You are released from
11 your subpoena, you may go back to your --

12 MR. FREDERICK: Judge, we would ask that he be
13 subject to recall.

14 THE COURT: All right. If the Court calls you,
15 you have to come back, but you can leave now.

16 THE WITNESS: All right.

17 THE COURT: Thank you, sir.

18 (Witness excused.)

19 MR. FREDERICK: Judge, we would ask that we get a
20 phone number from this witness because --

21 THE COURT: Solicitor, do you have a way to
22 contact the witness?

23 MS. LIVESAY: For Mr. Bease, yes, sir, I've got a
24 phone number for him. It's in my --

25 THE COURT: All right.

1 MS. LIVESAY: I got it on my notes.

2 THE COURT: You can get it from the solicitor,
3 then.

4 MR. FREDERICK: And, judge, I would ask that we
5 instruct him what will happen if he does not return.

6 THE COURT: Sir, I've told him to be available.
7 And if there is some issue, then we'll deal with it at
8 the time, all right. Thank you.

9 Your next witness, please, ma'am.

10 MS. LIVESAY: Thank you, Your Honor. At this time
11 the State calls Howard Parker to the stand.

12 MR. FREDERICK: Judge, we're going to have to have
13 another conference.

14 THE COURT: All right, very good. Go ahead, y'all
15 go call him. Y'all come up here.

16 HOWARD PARKER, after being duly sworn, testified
17 as follows:

18 (WHEREUPON, a bench conference was held off the
19 record in the presence of the jury but out of the
20 hearing of the jury.)

21 THE COURT: All right, solicitor, you may proceed,
22 ma'am.

23 MS. LIVESAY: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. LIVESAY:

HOWARD PARKER-DIRECT BY MS. LIVESAY

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1 Q If you don't mind, state your name for the record.

2 A Name's Howard Parker.

3 Q Okay. And make sure you speak into that
4 microphone, Mr. Parker, so these people back here can
5 hear too. Now, how old are you, Mr. Parker?

6 A 46.

7 Q Okay. And where are you from?

8 A Conway.

9 Q Conway?

10 A Yes.

11 Q You lived here all your life?

12 A Yes.

13 Q Okay. And where are you currently working?

14 A Disabled.

15 (Court reporter asks for clarification.)

16 THE WITNESS: I'm disabled.

17 Q Okay. And do you know the defendants in this
18 case?

19 A Yes, I do.

20 Q And who are they?

21 A Dubba and Cutty.

22 Q Okay. And how long have you known them?

23 A All my life.

24 Q Okay. Now, do you know why we're here today?

25 A Yes.

1 Q And do you remember, I keep saying night, but it's
2 early morning hours of November 8th, do you remember
3 that night that Keia was shot?

4 A Yes.

5 Q Okay.. And Keir Johnson isn't in this courtroom,
6 but do you know him?

7 A Who?

8 Q Bootsie.

9 A Yes.

10 Q Okay. You know Bootsie?

11 A Yes.

12 Q Okay. And do you know his real name?

13 A No.

14 Q Okay, okay. And do you remember the night that
15 Keia was shot?

16 A Yes.

17 Q And did you know the victim, Keia Pertelle?

18 A Yes.

19 Q And if you don't mind, tell the jury how you knew
20 her.

21 A I knew her -- I knew her family all my life. I
22 knew her father, her mother.

23 Q Okay. So you knew all these people?

24 A Yes.

25 Q Okay. Now, if you don't mind, do you know at that

HOWARD PARKER-DIRECT BY MS. LIVESAY

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1 time what kind of car or van Bootsie drove around in?

2 A It was a brown, I think, Astro van.

3 Q Okay. So you would recognize it if you saw it out
4 in Conway?

5 A Yes.

6 Q Okay. Did you see that van out one or more times
7 the night that Keia was killed?

8 A Twice.

9 Q Okay. When was the first time you saw that van?

10 A It was on 501 at, I believe, the Safeway station,
11 gas station.

12 Q Okay. And that's Safeway in downtown Conway?

13 A This was at Ninth Avenue and 501.

14 Q Okay. And when you saw the van then, was Bootsie
15 in the van?

16 A He was outside the van.

17 Q Okay.

18 A Standing outside.

19 Q Okay. And did you see other people in the van?

20 A Yes. But I couldn't recognize who it was.

21 Q Okay. And did you recognize any of those people?

22 A No, I did not.

23 Q Okay. And that was -- what time was that; do you
24 remember?

25 A Maybe around 11 or so.

1 Q Okay. Now, did you see the van a second time?

2 A Yes.

3 Q Okay. And about what time was it the second time
4 you saw the van?

5 A Between 12 and 2, so at like one, between one and
6 two somewhere.

7 Q Okay. Sometime after 12?

8 A Yes.

9 Q Okay. Later on in that night?

10 A Yes, ma'am.

11 Q Okay. And who were you with?

12 A I was with a friend of mine, I was riding.

13 Q Who?

14 A A friend of mine.

15 Q Okay, okay. Did you see the guy that was just in
16 here testifying?

17 A No, I did not.

18 Q Okay. So you were in the car with Terry Bease?

19 A Yes.

20 Q Okay. And what is his nickname?

21 A Butta One.

22 Q Okay, so that's Butta One. And you and him were
23 hanging out that night?

24 A Yes.

25 Q Okay. And just so I'm clear, y'all were together

HOWARD PARKER-DIRECT BY MS. LIVESAY

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1 when you saw the van the second time?

2 A Yes.

3 Q Okay. And if you don't mind, tell the jury what
4 you saw when you saw the van the second time that
5 night.

6 A I saw the van pulled up at this house we were at,
7 and it was -- I think it was three people in the van,
8 one person in there I couldn't see, was only a
9 silhouette.

10 Q Make sure you speak up, Mr. Parker.

11 A It was approximately three people in the van when
12 it pulled up. I didn't see the three people get out.
13 I saw Bootsie get back in the van and Cutty get back in
14 the van. There was a third person in there. I could
15 only see the silhouette because I was sitting in the
16 car like a couple feet away.

17 Q Okay. So just so I'm clear, total the second
18 time, how many people did you see in that van whether
19 you could identify them or not?

20 A Three.

21 Q Three, okay. How many people could you identify
22 out of the three?

23 A Two.

24 Q Okay. And if you don't mind, tell the jury the
25 two people that you could identify out of the three.

- 1 A Bootsie and Cutty.
- 2 Q Okay. And Cutty is the guy sitting over there?
- 3 A Yes.
- 4 Q And Bootsie, you don't know his real name, but
- 5 it's Keir Johnson.
- 6 A Yes.
- 7 Q Okay. And this was sometime after 12 o'clock?
- 8 A Yes.
- 9 Q Okay. Did you see that van again after that
- 10 timeframe?
- 11 A No.
- 12 Q Okay. And when you saw the van the second time,
- 13 was it still in Conway, were you still --
- 14 A Yes, yes.
- 15 Q -- in the Conway area?
- 16 A Yes.
- 17 Q Okay, okay. And what happened after you saw the
- 18 three guys take off in the brown van, what --
- 19 A We left --
- 20 Q What did --
- 21 A Me and Butta --
- 22 Q -- you do next?
- 23 A Me and Butta One, we continued to sit in the car.
- 24 And then we left like a few minutes later and we went
- 25 back to -- be back home to where we live, and we sat in

1 the car.

2 Q Okay. So y'all just hung out?

3 A Yes.

4 Q Okay. And --

5 A We were buying some cereal or something, buying
6 from Wal-Mart or something, then we came back to the
7 house.

8 Q Okay. And how did you find out that Keia Pertelle
9 had been shot?

10 A I didn't find out at that very moment, but Butta
11 One was in the car. He dozed off to sleep, and his
12 phone rang. He didn't answer it then. And then it
13 rang again when he got -- when he answered it, he said,
14 I got to go, he said, you want to ride with me, he
15 said, something happened, you know.

16 So I said, something happened. I went -- luckily
17 I didn't know until he came back or, you know, other
18 people had already started to talk about it before he
19 got back in there. That's when, you know, he had -- he
20 went to the scene evidently.

21 Q Okay. Now, did you give this information to the
22 police before today?

23 A Yes.

24 Q Okay. And how soon, do you know or remember how
25 soon it was after she was shot that you went to the

1 police with this information?

2 A They came to me the day of, later that evening.

3 Q Okay. And at that time that you went to the
4 police with this information, did you have any pending
5 charges?

6 A No, ma'am.

7 Q Okay. If you don't mind, tell the jury then why
8 you came to the police with this information.

9 A Because I know Keia and I know her father, I know
10 her family.

11 Q Okay. But you weren't expecting anything in
12 return?

13 A No, ma'am.

14 Q Okay. And you had no pending charges at that
15 time?

16 A No, ma'am.

17 Q Okay. And were you telling the truth when you
18 came forward then?

19 A Yes.

20 Q Okay. And are you telling the truth today?

21 A Yes, ma'am.

22 Q Okay. And you have known these two boys basically
23 all your life?

24 A Yes, ma'am.

25 Q Okay. Now, if you don't mind, tell the jury what

1 your relationship was with them.

2 A We were all friends, we were all friends.

3 Q Okay. All friends?

4 A Yes.

5 Q Okay. Now, Mr. Parker, have you been in trouble
6 before?

7 A Yes.

8 Q Okay. And have you pled guilty to some stuff?

9 A Yes.

10 Q Okay. But you're up here today telling the truth?

11 A Yes, ma'am.

12 Q Okay. And is all of that stuff in the past?

13 A Yes, ma'am.

14 Q Okay. And did you have any pending charges on you
15 now?

16 A No, nothing, not that I'm aware of, ma'am.

17 Q Okay. And did you have any pending charges when
18 you came to the police in 2011?

19 A No, ma'am.

20 Q Okay. And are you expecting anything in return
21 for your testimony today?

22 A No, ma'am.

23 Q Okay. But you have been in trouble before for
24 some stuff like burglary and shoplifting?

25 A Yeah.

1 Q Okay. And you're being honest today with the
2 Court about that?

3 A Yes.

4 Q Okay. A couple more questions, Mr. Parker. Two
5 more just for clarification. Have you ever been in
6 trouble for drugs as well?

7 A Yes.

8 Q Okay, okay. And now you're not working, you're
9 disabled?

10 A Yes, ma'am.

11 Q Okay. I just got one more question about what you
12 saw that night, just so it's clear and I can get a
13 clear picture in my mind what you saw.

14 When you saw the van that second time, just to
15 bring you back to what I'm going to ask about, the
16 second time --

17 A Yes.

18 Q -- who -- can you tell the jury who was driving
19 the van the second time?

20 A Bootsie was driving.

21 Q Okay. Okay. And what van was he driving?

22 A Brown Astro van.

23 Q Okay. And who was the other person you could
24 identify?

25 A Cutty.

HOWARD PARKER-DIRECT BY MS. LIVESAY

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1 Q Okay. And if you don't mind, could you give the
2 Court and jury any description of who that third person
3 was; were they black, white, Hispanic, could you see
4 them well enough to give any description?

5 A No. Alls I -- all I could see was a silhouette,
6 you know.

7 Q Okay.

8 A And I know it had to be a short person, so I don't
9 know, I couldn't -- there's no way I could tell who it
10 was. All I know it was another person in the van, I
11 didn't know.

12 Q Okay.

13 A It was a small -- looked like a small person about
14 my size, because only his head was up above the seat.

15 Q Okay. And the third person you can't tell
16 anything about?

17 A No.

18 Q You just know it was somebody else in there?

19 A Yes. Yes.

20 MS. LIVESAY: No further questions, Your Honor.

21 THE COURT: Mr. Frederick?

22 MR. FREDERICK: Yes, sir. Sorry, judge.

23 THE COURT: That's all right.

24 MR. FREDERICK: Just a moment, she is locating a
25 transcript.

1 THE COURT: All right, go ahead.

2 CROSS-EXAMINATION

3 BY MR. FREDERICK:

4 Q I'm going to hand you these for right now. And
5 don't read from them, okay. They are just for
6 reference, I may refer to them in a minute.

7 So, Terry Bease, I know you call him Butta One.
8 He also goes by Lil Papi; right?

9 A Yes.

10 Q Okay. I'll fix this so they can hear both of us.
11 Now, when you went to the police and talked to them,
12 that was two different times; right?

13 A Yes.

14 Q Okay. And at least one time, or was it both, you
15 talked to Detective Vescovi who's the gentleman sitting
16 behind the prosecutor's table?

17 A I don't remember him, but I talked to several
18 detectives. I don't remember him specific.

19 Q You don't remember specifically who you talked to?

20 A No.

21 Q Okay. When you spoke to the detective, he was
22 checking phone numbers in your phone; do you remember
23 that?

24 A It was 2011, I don't remember. If it -- if it's
25 in there, then that's what you get. He did check the

1 numbers on my phone.

2 Q Okay. Let me refer you to, you've got a thin one,
3 the transcripts in front of you, there's a thin one and
4 there's a thick one.

5 A Yes.

6 Q Look at the thick one. And do you see at the
7 bottom right-hand corner the pages, it starts with
8 1985?

9 A Yes.

10 Q Okay. Flip back to 2006, 2-0-0-6.

11 A I'm there.

12 Q Are you there?

13 A Yes.

14 Q Okay. And at the top, I'm going down to lines one
15 through four, the detective was asking you if the names
16 would show up if they typed the number into the phone;
17 right?

18 A Yes.

19 Q Okay.

20 MS. LIVESAY: Your Honor, if I may?

21 THE COURT: Yes, ma'am.

22 MS. LIVESAY: I believe I do have an objection
23 because I'm not sure how this --

24 THE COURT: All right, very good. Y'all come and
25 talk to me for a second, please.

1 steps of the impeachment process.

2 THE COURT: All right, very good. Ask the jury to
3 come back.

4 MS. LIVESAY: Your Honor, did we make a finding on
5 the third-party guilt?

6 THE COURT: No, ma'am. It's not -- it's not an
7 issue right now. I'm going to allow him to ask the
8 questions. He may or may not be able to raise that
9 issue to the jury later on. We'll just have to see
10 that later on.

11 (WHEREUPON, the jury came into open court at
12 approximately 4:30 p.m.)

13 THE COURT: All right. Go ahead, Mr. Frederick.

14 Q I'm going to rewind a little bit; okay, Howard?
15 All right. On November 22nd, 2011, did you give a
16 statement to Detective Freebowitz and/or Detective
17 Vescovi?

18 A I already stated that I do not remember who the
19 detective was, but I did make a statement to the
20 detectives. I already said that.

21 Q Okay.

22 A Okay.

23 Q And when you spoke with them, did you show them
24 your phone and type some numbers into your phone?

25 A Yes, sir, I did.

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1 Q Okay. And was one of those numbers

2 ?

3 A I don't know any -- if it has a number, that's

4 what this paper says. I never know the number on it,

5 but it has these numbers on it, , that's

6 not even a valid number.

7 Q Okay. And when that what you say is an invalid

8 number was typed into your phone, was that Mike Pyatt's

9 phone number?

10 A No, it was not, and it is not. You reading from

11 the --

12 THE COURT: All right. Sir, all right, let's be

13 clear about this. Put the paper down. Don't look at

14 the paper. All right?

15 MR. FREDERICK: He's saying not to look at it.

16 THE COURT: Don't look at the paper; all right?

17 THE WITNESS: Okay, okay.

18 THE COURT: Put it down.

19 THE WITNESS: All right.

20 THE COURT: You answer the questions.

21 THE WITNESS: All right.

22 THE COURT: Only if, only if Mr. Frederick asks
23 you to look at it do you look at it.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. So you answer the

1 questions. And then only if you're directed to look at
2 it by Mr. Frederick in response to a direct question do
3 you look at it; okay?

4 THE WITNESS: Yes, sir.

5 THE COURT: Very good. Go ahead, Mr. Frederick.

6 Q I'm going to come back to the question I just
7 asked you. During this meeting on the same date,
8 November 22nd, 2011, did you type the number into your
9 phone ?

10 A I don't remember. But I did type some numbers.

11 Q And on that date, did you tell the detective that
12 was Billy Freshley's phone number?

13 A No, I did not. I do not have Billy Freshley's
14 phone number.

15 Q Okay. Would you please refer to page 2005 in the
16 same transcript you were just looking at, line number
17 nine.

18 A Yes.

19 Q Does it say, detective asks, ?

20 A Yes, that's what it says.

21 Q And your response in the transcript was, sound
22 like Billy number.

23 A That's what it says, it sounds like Billy's
24 number.

25 Q Okay. And did you then say to the officer, the

1 detective, that you listed it as suspect because you
2 weren't sure?

3 A That's right.

4 Q Okay. Moving on, don't look at the transcript for
5 just a moment, did a detective have you type in
6 ?

7 A I'm not sure, but he had me type in numbers. That
8 sounds like a number that he had me type in.

9 Q Okay. And did you respond to him, that's Mike
10 Pyatt?

11 A Yes, I did.

12 Q Okay. Same day, same interview. Did the
13 detective ask you to put in the number ?

14 A Sir, again, I'm not sure what numbers he asked me
15 to put in, but he did ask me to put in some numbers.
16 That's all I remember.

17 Q And did you respond to him, that was Little D,
18 Little Manzy?

19 A I do not have his number. If I did respond to
20 him, then that -- then it was a speculation because I
21 don't have Little Manzy's number.

22 Q Will you please look at 2006.

23 A I'm here.

24 Q Okay. Line number six, is this correct, detective
25 says, all right. And 655, comma, he starts over,

1 ?

2 A Yes, sir.

3 Q And your response was, Little D probably, Little
4 Manzy. Yeah, that's Little Manzy. His daddy name is
5 Manzy.

6 A Yes, this is what I said.

7 Q Can you describe Little Manzy for us.

8 A Little --

9 Q Don't read it, don't -- I'm asking you, don't
10 read.

11 A Okay.

12 Q Can you describe Little Manzy.

13 A Describe him, he's about my height, he's fair
14 skinned, and he has fair hair. He has like curly hair.

15 Q Can you stand up for us for just a minute.

16 A (Indicating.)

17 Q Okay, have a seat.

18 THE COURT: You can sit back down. Thank you,
19 sir.

20 Q And he's got light skin?

21 A I said fair skin.

22 Q Does fair mean light to you?

23 A Brown skin, it's like -- it's not dark.

24 Q But, right, light brown; is that right?

25 A Yes, sir.

1 Q Okay. Does he have any other names?

2 A Not that I'm aware of.

3 Q Okay. Did the detective during that interview ask
4 you to identify another number, ?

5 A Again, sir, I'm not sure. He asked me to do a lot
6 of numbers, but presuming yes.

7 Q I understand. And did you identify that number as
8 Cutty?

9 A I don't remember. If it was written down there,
10 that's what it is. I'm not trying to --

11 Q I understand, you're not trying to be difficult, I
12 get it. Let me refer you to the same page, line 13.

13 A I'm there..

14 Q ?

15 A Yes.

16 Q And your response was, Cutty?

17 A Yes.

18 Q Okay. Lil Manzy is, is he Puerto Rican, Hispanic,
19 Latino?

20 A I don't know what he is. He black, that's all I
21 know.

22 Q Okay.

23 A I don't know what his origin is.

24 Q All right. Did you also speak with the detectives
25 on December 16th, 2011?

1 A I'm pretty sure that's correct, sir. But I -- I
2 can't remember all of those dates, but I'm pretty sure
3 that's correct.

4 Q Okay. Is Lavena Jackson Keia's cousin?

5 A As far as I know, yes.

6 Q Okay. Did Lavena Jackson call Terry Bease and set
7 up this robbery?

8 A There's no way -- there's no way that I can -- I
9 can know that.

10 MS. LIVESAY: Your Honor, I'm going to have to
11 object to whether or not Lavena Jackson called Terry
12 Bease that night. I'm not sure how that's relevant.

13 THE COURT: Well, he's already said that there's
14 no way that he can know it, that's true. Go ahead.

15 Q On December 16th, 2011 when you met with the
16 detectives, did you tell them that you knew that Lavena
17 Jackson set up this robbery by calling Terry Bease?

18 A No, sir, I don't remember that. If I did, it --
19 that's incorrect. There's no way I could know what she
20 said, I don't know.

21 MS. LIVESAY: Your Honor, again, I'm going to have
22 to --

23 THE COURT: I'm going to allow the question.

24 Q I'm going to refer you to the very thin one, okay.

25 A Okay.

1 Q And there is a typo in here, you'll see it. But
2 line three, Parker, that's you?

3 A Yes.

4 Q Stated, I didn't know what happened until that
5 night. The deceased girl's cousin was feeding info to
6 Lil Papi.

7 A That's incorrect, sir.

8 Q You never said that?

9 A I said that, I said that. But I said that's
10 incorrect. I, you know...

11 Q Is Lavena Jackson in the courtroom right now?

12 A I don't know.

13 Q Okay. Lil Papi's real name is Terry Bease; is
14 that right?

15 A Yes.

16 Q Lavena Jackson is Keia's cousin; is that right?

17 A I don't know.

18 Q You don't know if she's his cousin?

19 A I don't know -- I know they are related, I don't
20 know if she's his cousin, I don't know if she's her
21 aunt, her sister, I don't know.

22 Q Okay. The information that you were giving the
23 detective was that McElveen would be a good person for
24 them to hit a lick on; is that true?

25 A Who is McElveen?

1 Q Rodney McElveen AKA Splurge; is that true?

2 A I don't remember that, sir.

3 Q Okay. Referring you to line ten on the same page,
4 same interview, you said, she told them what would be a
5 good time for them to go and make a lick; is that true?

6 A On line what?

7 Q Line ten.

8 A Line ten. What is there, sir, that's incorrect.
9 And like I said, that was 2011 or whenever, that's
10 incorrect. I have no knowledge of that. If I said
11 that, then I was -- then I was lying or either wrong.
12 That's not correct.

13 Q If you said it, you were lying?

14 A Yes, that's what I said.

15 Q I understand. And you said, it was supposed to be
16 a lick for coke and money.

17 A I had no knowledge of that either, sir, but it's
18 right here. I had no knowledge of anything about that
19 robbery, I was in a whole different place.

20 Q And you went on to tell the detectives, so the
21 information from Lil Papi goes to Billy?

22 A That's what the transcript says.

23 Q But you don't remember that?

24 A I do not remember any of that, sir.

25 Q Billy is Billy Freshley; is that right?

1 A Yes.

2 Q That's Billy Freshley that has a studio in his
3 house?

4 A I don't know if he has a studio in his house, sir.

5 Q Have you been to his house?

6 A I don't know if he has a studio or not.

7 Q Have you been to his house?

8 A No, I been in his yard, I ain't been in his -- I
9 didn't know it was his house at that time. I didn't
10 know, I don't know where he live.

11 Q You didn't know it was his house?

12 A I did not know at the time that that was his
13 house.

14 Q Okay. Now you know it was his house; is that what
15 you said?

16 A I still don't know if it was his house.

17 Q Did you say it was his house on your direct
18 testimony?

19 A I was speculating, sir. I have no knowledge of
20 where Billy Freshley stays. I have no knowledge,
21 nothing of Billy Freshley. I don't know anything about
22 Billy Freshley.

23 Q Okay. They also called him Big Billy?

24 A I don't -- sir, again, I don't have any knowledge
25 about Billy Freshley. I only know him by passing.

1 Q When you were there at Billy Freshley's house --
2 let me ask you this. Is it true that you knew about
3 this because you were in the car with Terry Bease, and
4 he was on his car phone when they talked?

5 A I know nothing of this robbery, I know nothing of
6 this crime other than what I told police. What I heard
7 was hearsay. I know nothing else other than this
8 crime. I don't know anything about this crime. I know
9 nothing before or -- only thing I know is what happened
10 after. I don't know anything before this crime.

11 Q Okay. Let me refer you to the interview on
12 December 16th, 2011. Did you say to the detective --
13 detective asked you, line 16, how do you know he
14 received a call. And your response was, because we
15 were in the same vehicle, it was on the car phone.

16 A Sir, yes, it says it right here on the line, sir.
17 But I do not remember anything. I cannot know what he
18 was talking -- when he was talking, he was talking on
19 the phone in his hand, that's what -- so I don't know
20 what he said, I don't know what was said.

21 Q Did you also tell the detective, she saw when the
22 drugs and money came in?

23 A Sir, how could I know -- I wouldn't be -- how
24 could I know when she did -- no, I did not. I don't
25 remember that, sir.

1 Q When you were there at Billy Freshley's house,
2 there was a van with Lil Bootsie in it?

3 A Yes, sir.

4 Q Okay. And you didn't know his real name?

5 A No, sir.

6 Q Okay. You said there are two or three individuals
7 in the van?

8 A Yes, sir..

9 Q Okay. One person in the van was Cutty; right?

10 A Yes, sir.

11 Q Okay. And this is Cutty?

12 A Yes, sir.

13 Q Okay. There was another short person in the van;
14 is that true?

15 A Yes, sir..

16 Q Really short, like five-two, five-three?

17 A I said a person about my height. I'm five-four.

18 Q Okay. Dominique was there; is that true?

19 A Who?

20 Q Dominique.

21 A Listen, when I do that -- I stated who was in the
22 car, Bootsie and Cutty. I didn't -- I didn't state
23 anything about Dominique was in the car, I don't know
24 what you're talking about.

25 Q Okay. Is Dominique in the audience?

1 A I don't know who's out there.

2 Q Okay. On December 16th, 2011, did you tell the
3 detective that Dominique was there?

4 A I do not remember.

5 Q Can I refer you to the next page, 1983, line five,
6 did you not say to the detective, Dominique was there?

7 A Sir, these are not -- these are not accurate
8 statements. I did say that, these are not accurate
9 statements. This was just I was insinuating, you
10 understand what I'm saying. None of this is law.

11 Q It's not law?

12 A Yeah. No, sir.

13 Q I feel you. Moving on, was Dominique acting
14 nervous?

15 A I didn't see Dominique, sir.

16 Q I'm going to refer you to -- well, let me ask you
17 the question. Did you tell the detective on
18 December 16th, 2011 that Dominique was acting nervous?

19 A I don't remember.

20 Q Let me refer you to -- oh, I'm sorry. Did you
21 tell the detective Billy was acting nervous?

22 A No, I did not, sir. I do not remember that.

23 Q Let me refer you to line five, at the end of line
24 five. Does it say -- did you say, and Billy was acting
25 nervous?

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1 A Yes. I see it here.

2 Q While you were there, did Lil Papi get a cousin
3 from his cousin Ray?

4 A Did he get a what?

5 Q A call, I'm sorry.

6 A I don't who called him, he got a call. He said it
7 was his cousin, that's all I know.

8 Q Is Red Mike Pyatt?

9 A No, he's not.

10 Q Okay. On the night of the murder, were you
11 driving around in a car with Lil Papi?

12 A Yes, I was.

13 Q Okay. You stopped at the studio?

14 A I stopped at the house. By the time we got to --

15 Q That's right.

16 A -- the studio, I got --

17 Q That's right. You didn't know there was a studio
18 there.

19 A Okay.

20 Q Did you tell the detective on November 22nd, 2011
21 that you stopped by the studio?

22 A Yes.

23 Q Did you forget it was a studio between now and
24 then?

25 A All right, the night that I stopped there, I did

1 not know it was a studio. Afterwards I found out that
2 it's a house, slash, studio, okay.

3 Q And you forgot between that point and now?

4 A No, I didn't forget between that point and now. I
5 just stated that I did not know it was a studio because
6 you was talking about the time in question of the
7 night. And I did not know it was a studio then. I
8 later found out that it was a slash studio where you
9 recorded music at.

10 Q Okay.

11 A Okay.

12 Q Billy was in the yard talking to you?

13 A He was not talking to me, he was talking to Butta
14 One.

15 Q And you were with Butta One?

16 A Yes. I was in the driver's seat, he was on the
17 passenger -- he was on the driver's side talking to
18 Butta One. My back seat back they were talking.

19 Q I got you. Was the van full of people?

20 A I said it was three people in the van when the
21 van left, the driver, the passenger and somebody in the
22 back that I could not identify.

23 Q Would you characterize that as the van was loaded?

24 A Where the van was at, when the van was at the
25 studio, slash, house, there was three people in it.

1 Now, I saw -- some people say it's loaded, some
2 people -- there was three people in the van.

3 Q Okay. And that was a brown Astro van; right?

4 A Correct.

5 Q Okay. Did two people come running out of the
6 house and get in the van?

7 A They were not running, they were walking at a fast
8 pace. They were running, whatever you call it. Yes,
9 two people came out of the house and entered the van.

10 Q That was around one or 2 o'clock in the morning?

11 A Somewhere around there, sir.

12 Q One or 2 o'clock in the morning?

13 A Between 12 and 2, 12 and 2, 12 and 1. I don't
14 know exactly what time it was.

15 Q Okay. You stayed behind and you talked some with
16 Lil Papi and Billy; is that right?

17 A I did what?

18 Q Talked some with Lil Papi and Billy.

19 A I didn't talk to Billy. Me and Billy don't talk.
20 Billy and Little Papi was talking, we ain't going to
21 talk. I backed the seat back and they talked.

22 Q Okay. You just said the van had three people in
23 it; right?

24 A Yes, I did.

25 Q Okay. When you talked to the detectives on

1 November 22nd, 2011, did you tell the detective that
2 the van had five or seven people in it?

3 A That was when I saw the van at the Safeway
4 station. That's what I was referring to, sir.

5 Q And was that before or after the studio?

6 A This was around 11, was actually before they were
7 at the house by the high -- middle school.

8 Q All right.

9 A That was before then.

10 Q Now, I want to be clear about which time we're
11 talking about, if you can clarify that.

12 A Yes.

13 Q At what point was Guy Holmes in the car?

14 A I never saw him in there, sir.

15 Q On November 22nd, 2011, did you tell the detective
16 that Guy Holmes was in the van?

17 A Sir, I do not remember that, sir.

18 Q If I can refer you to the larger transcript, page
19 number 1991, lines 7 through 14, can you read them for
20 us.

21 A Seven through fourteen?

22 Q Yes, sir.

23 A Take the mini pool up with who you said was in the
24 van was full. The mask --

25 Q It's a typo.

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1 A Who?

2 Q The van full.

3 A I don't know, line eight, must be the man swore or
4 something like that. He had five, seven --

5 MS. LIVESAY: Your Honor, are we refreshing his
6 memory at this point?

7 MR. FREDERICK: We are not refreshing his
8 recollection, judge. I'm sorry for jumping in. But we
9 are impeaching the witness with a prior inconsistent
10 statement which is a completely separate --

11 THE COURT: Are you asking him to read it; is that
12 what you are asking him to do right now?

13 MR. FREDERICK: Well, judge, either way. I've
14 read it to him, he can read it himself. Either one is
15 acceptable.

16 THE COURT: I think it would probably be better if
17 you ask him the question if he said that.

18 MR. FREDERICK: Would you --

19 THE COURT: And then point it out to him and say
20 did you say that.

21 MR. FREDERICK: Would you prefer that I read it if
22 we need to read it?

23 THE COURT: Yes, sir.

24 MR. FREDERICK: Okay.

25 THE COURT: If it needs to be read, yes, sir.

1 MR. FREDERICK: I understand.

2 Q Did you say to the detective, I know these guys,
3 these are everyday, some people was like Guy, oh, he's
4 a Holmes. Detective asks, Guy Holmes was in the van?
5 You respond, yeah. And Cutty came out to the van and
6 got in the van. If you don't --

7 A Can I -- can I look at it, the paper, Your Honor?

8 Q If you don't remember saying it, it's okay to just
9 say --

10 A I don't remember, I don't remember saying it, but
11 it's here. And it says that I was looking at it or I
12 was looking at the back at a silhouette; okay?

13 Q Yes. Yes.

14 A And it looked like the people who -- like it
15 looked like Guy.

16 Q Okay.

17 A I never said that it was definitely Guy.

18 Q Please look at line 13. Did he say, the detective
19 asked you, Guy Holmes was in the van. And did you
20 respond, yeah?

21 A That was an unsure statement. I did respond to
22 that, yeah, but it was an unsure statement. Because I
23 said in the beginning I looking at a silhouette, and I
24 was not sure who it was.

25 Q And let me tell you, it's okay if you explain it,

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1 you can do that, okay. Now, just a minute ago you were
2 telling us this was at a Safeway; right?

3 A Yes, sir.

4 Q Okay. On November 22nd, 2011, did you tell the
5 detective that this was the studio?

6 A Sir, yes. No, I can't -- I can't say yes to that.
7 I saw them at the -- at the Safeway, that was one time,
8 and then at the studio was a different time. The first
9 time at the Safeway was around 11 or something, and the
10 next time was after 12, between 12 and another one.

11 That's why I saw them at the studio, so I did see them
12 at both places and I did say -- make that statement.

13 Q But you didn't tell the detective that on
14 November 22nd; did you?

15 A It's the transcript; right? I told him that.

16 Q I'm not sure it is, actually.

17 A Okay.

18 Q You show me.

19 A I thought you were asking me -- no, I thought you
20 were asking me things that came from the transcript
21 that I said.

22 Q Yeah. You're telling us on the witness stand that
23 you went to the Safeway; is that right?

24 A I didn't say I went to the Safeway, I said I was
25 passing the Safeway, and I saw the van at the Safeway.

1 I did not -- I did not one time in my statement say
2 that I was at the Safeway.

3 Q Okay. On November 22nd, 2011, and we're on the
4 same page, after line 13, detective, Guy Holmes was in
5 the van. Parker, yeah. And Cutty came out to the van
6 and got in the van. Line 15, detective, from Billy
7 Freshley's place. Line 16, Parker, from the house.
8 Line 17, detective, from the studio. Line 18, Parker,
9 yeah.

10 A All right. Yes, sir, I said that.

11 Q Did you say that to the detective?

12 A It says that. But if you go through line -- line
13 number nine and go back to where I said it was a
14 silhouette, and I was not sure who that was, then that
15 will explain the rest of the -- of what you just read.
16 Because I was not sure that it was Guy. You know, I
17 couldn't put my head on the chopping block saying it
18 was him, because it was a silhouette that I saw.

19 Q Okay. And, Again --

20 A That's just a...

21 Q It's okay if you explain your answer, that's okay.
22 Now, November 22nd, 2011, did you tell the detective
23 that Kendall Jackson was in the van?

24 A I don't remember him, sir. And yet again, sir,
25 those are just speculation. I don't -- I don't know

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1 what you're talking about because the people I -- I
2 couldn't see who was in the van when it was at the
3 Safeway station. I was passing by..

4 Now, my statement is that I saw three people in
5 the van when it was at the studio. That's my sure
6 statement. I saw the two people who were in there and
7 a third silhouette that I didn't know who it was.
8 Anybody else that you -- you can bring up all the names
9 you want to, I don't -- I was not -- I'm not sure that
10 any of those people was in the van or any of these
11 people had anything to do with it. I'm trying to be
12 helpful here, you understand, I don't -- but you...

13 Q I understand. On November 22nd, 2011, I'm on page
14 1992 of the thick transcript.

15 A What you say, 2000 what?

16 Q 1992. Detective, line six, asks something about a
17 Kendall.

18 MS. LIVESAY: Your Honor, the witness has already
19 been asked and answered that he is speculating that
20 these people could have possibly been in the van, and
21 they were silhouettes.

22 THE COURT: I appreciate that. And you can ask
23 that question on redirect. I'm going to allow
24 Mr. Frederick to ask the question. And if he needs to
25 refer to the transcript, then he can refer to the

1 transcript.

2 Go ahead, Mr. Frederick, why don't you ask the
3 question again, and then go to the transcript if you
4 need it; please.

5 MR. FREDERICK: Yes, sir.

6 Q Once again, Howard, was Kendall Jackson in the
7 van?

8 A No, sir, he was not.

9 Q Okay.

10 A Can I explain this, sir.

11 Q You are free to explain, yes, sir.

12 A This was just speculation. The only people I saw
13 in the van that I can say that I saw in the van when I
14 passed the van at the store, once again, I did not see
15 who was in the van. I know it was several people in
16 the van because I was passing by. I was making a left
17 on 501 by the Safeway station. I did not see who was
18 in the van.

19 And those things that you see right there, I'm
20 just -- I was just talking. I did not see any one of
21 these people on that night or the night of the -- all
22 the people that I see, all I came here to testify is
23 that I saw Cutty and Bootsie in that van and the
24 silhouette of the people. I don't know where this -- I
25 don't know why this is being pulled up.

1 Q Okay, I understand. You did not tell the
2 detective --

3 A I told him --

4 Q Let me finish my question, please, sir, before you
5 answer. The court reporter has to take down what each
6 of us are saying.

7 A Yes, sir.

8 Q On November 22nd, 2011, you did not tell the
9 detective this was speculation; did you?

10 A I did not.

11 Q Was that an answer?

12 A I did not.

13 Q Okay. On November 22nd, 2011, for your reference
14 I'm on page 1992 of the thick transcript, the
15 detective, line six, says something about a Kendall.
16 You respond, yeah, Kendall Jackson, yeah, um, Jackson.
17 Detective, Jackson? Parker, yeah. Detective, was he
18 in the van or was he at the house? Parker, he was in
19 the van. Detective, he was in the van? Parker, yeah.

20 A You need an answer?

21 Q Detective, so Kendall who, Kendall Jackson or
22 Johnson? Parker, no, Jackson.

23 A Okay. You want me to answer?

24 Q Did you say that to the detective?

25 A Yes, I did say that, sir. But I was speculating,

1 sir. I did -- I did not see Kendall. I didn't see
2 Kendall none that night, none the day before, any of it
3 before or any of these other people here, other than
4 people that I said.

5 Q Were you lying to the detectives?

6 A Yes. Yes, I was lying. If that's what you want
7 to hear, yes.

8 Q I'm asking you the question. It's not what I want
9 to hear.

10 A Yes. Yes.

11 Q Okay. Why were you lying to the detectives?

12 MS. LIVESAY: Your Honor, he's already answered
13 that he was speculating those people were in the van.
14 Now he's being questioned constantly regarding the same
15 people and the same question. He's already answered
16 it. I think we've moved from impeachment to badgering
17 this witness.

18 He has said he speculated those people were in the
19 van. He pointed out to Mr. Frederick in the transcript
20 these were silhouettes I saw in the van. So I was
21 speculating these people that hang out day in and day
22 out together. He has already answered that question
23 about Kendall Jackson, Guy Holmes, all of these people
24 that he was speculating was in the van.

25 THE COURT: Thank you, ma'am. Your objection is

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1 denied. You may continue, Mr. Frederick.

2 MR. FREDERICK: Thank you, judge. Court's
3 indulgence for just one moment, judge.

4 THE COURT: Yes.

5 MR. FREDERICK: No more questions, judge.

6 THE COURT: Mr. Canty?

7 MR. CANTY: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. CANTY:

10 Q Mr. Parker, you told the detectives what you
11 thought happened that night; didn't you?

12 A Yes, sir.

13 Q And in these transcripts of both of these
14 interviews, at no time did you indicate to the
15 detective Carnail Graham had anything to do with this;
16 did you?

17 A I did not, sir.

18 Q Okay. And you know Carnail how long?

19 A I know him all his life, sir.

20 Q And he's about six foot two; isn't he?

21 A Yes.

22 Q Okay. And what is your shoe size?

23 A Six and a half.

24 THE COURT: You can sit down, sir.

25 Q You indicated to the detective that Lavena had

1 called Lil Papi, told him that the stuff was at the
2 house, told him where the dope was; is that correct?

3 A Sir, I -- I answered that question. There's no
4 way I could have told that, and it's incorrect. I
5 don't know what she said on the phone, I didn't know
6 that she -- her on the phone with.

7 Q Unrelated to that phone call, did you tell the
8 detective, she told him the time, she told him where
9 the dope was and the money?

10 A Sir, again, I tell you that, no, I don't remember
11 that, sir. And if you want to refer to it. I
12 couldn't -- that could not have been correct, and I
13 couldn't tell who he was talking to on the phone or
14 what they were saying or what they were talking about.

15 Q Do you remember the detective asking you,
16 basically what happened is that something that was
17 supposed to be a plain robbery turned into a murder
18 that wasn't supposed to happen, and you answered yes?

19 A I'm just talking, sir.

20 Q Okay.

21 A He's asking me -- he's asking me a question, and
22 I'm giving him my answer, not -- it's not a true or
23 false answer, do you understand what I'm saying. I'm
24 giving him my answer, I'm giving him what I think, you
25 know, which -- and that is not law.

1 Q You told the detective also, he asked you, why
2 were they going to the crime scene. You said, I don't
3 know. They were going to check it out. One of them
4 had prior knowledge of what was going on in order for
5 him to get the call that he got, he got a call before
6 anybody else.

7 A Sir?

8 Q I understand you got a call from the people who
9 were doing the robbery. Is that correct?

10 A Sir, it goes back to the -- it goes back to the
11 same answer I gave before. It's no way I could -- I
12 knew anything. I didn't know anything about this crime
13 before it happened. The only information I got about
14 it is after it happened, sir.

15 Q And --

16 A I'm having a conversation with the -- with the
17 detective. I'm just having a conversation with him.

18 Q You identified Little Manzy to the detective as
19 the little short dude with the Puerto Rican hair.

20 A Because he called out a number -- yes, I did --
21 because he called out a number to me, and he asked me
22 whose number was this. And when I punched it in my
23 phone, his name came up.

24 Q You told the detective you and Bootsie had the
25 same shoe size; correct?

1 A The detective told me that, sir. I was there with
2 the interview, he asked me for -- he asked me for a
3 cast of my shoe, and he said that the person that made
4 the phone call there wears six and -- had on a size six
5 and a half --

6 MR. FREDERICK: Your Honor, can we get him to
7 speak into the microphone?

8 THE COURT: Yes. You need to speak into the
9 microphone.

10 THE WITNESS: When we were having the interview,
11 he later turned the interview against me, and he told
12 me -- I had on a pair of black Converse -- and he told
13 me that do I mind giving him a cast of my shoe, and I
14 gave him a cast of my shoe. And he said that the
15 person that made the -- the person that made some call,
16 some -- a distress call or something from scene also
17 wore a six and a half Converse or Nike shoe.

18 Q The detective said to you, there was a shoe print
19 right beside that --

20 THE COURT: Mr. Canty?

21 Q -- van; is that correct?

22 A Yeah.

23 THE COURT: Y'all come up and talk to me just a
24 second.

25 MR. CANTY: Your Honor, I'll withdraw the question

HOWARD PARKER-REDIRECT BY MS. LIVESAY

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1 if that will move things along. And I'll conclude my
2 cross.

3 THE COURT: All right, that's fine. All right,
4 thank you. Any redirect, solicitor?

5 MS. LIVESAY: Just two questions.

6 REDIRECT EXAMINATION

7 BY MS. LIVESAY:

8 Q I know you're tired, Howard, I'm going to make it
9 brief. How long have you been hanging out with these
10 guys?

11 A All of my life. I'm 46, they are like half --
12 half my age, you know what I'm saying. I knew their
13 mothers, their parents, all of them, everybody before,
14 before all of this.

15 Q Okay. So you've hung out with these guys all of
16 your life?

17 A Yes. Yeah, almost on a daily basis.

18 Q Okay. And when you found out about what happened
19 to Keia, did you go to the police?

20 A Actually, they came to me, they came to me. They
21 saw me on like the same day of, they pulled up at my
22 house. It was Detective Cootaman (phonetic) and Rob
23 Baker. That was -- that was the first time that I
24 come.

25 Q And when you went to the police, did you have any

1 pending charges or anything to gain from what you told
2 them?

3 A No, ma'am, no.

4 Q And do you have any pending charges and anything
5 to gain from your testimony today?

6 A No, ma'am.

7 Q Okay. And these boys are your friends?

8 A Yes.

9 Q And how about Bootsie, is he your friend?

10 A Yes.

11 Q Okay. And you're not getting anything out of
12 testifying one way or the other?

13 A No, ma'am, nothing but a headache.

14 Q Okay. And there were a lot of questions asked
15 about a lot of different people?

16 A Yeah.

17 Q Okay. Who were the two people that you know for
18 sure you saw in that van around 2 o'clock?

19 A Cutty and Bootsie.

20 Q Okay.

21 MS. LIVESAY: No further questions, Your Honor.

22 THE COURT: Mr. Frederick?

23 MR. FREDERICK: On the new questions.

24 THE COURT: Yes, sir, on the new questions.

25 RECROSS-EXAMINATION

1 BY MR. FREDERICK:

2 Q Didn't you say earlier that you went to the
3 police? When she was asking you the questions, didn't
4 you say that?

5 A Yes, I went to the police. The police came to me
6 personally, they -- and they -- we were having a
7 conversation in the car, Cootaman because I know him,
8 not Cootaman, but Tyrone Williams, a Detective Tyrone
9 Williams, and Detective Robbie, they came by my house
10 and they were like unofficially talking to me, and
11 that's how -- that's how this all came about.

12 Q And you got nothing out of this, you get nothing
13 out of testifying; right?

14 A No, I do not, sir.

15 Q Okay. Well, considering what we just heard that
16 what your shoe size is --

17 A Yes, sir.

18 Q -- you hadn't been charged with murder; is that
19 something?

20 A Sir, I've never been -- I've never been charged
21 with murder, I've never been a suspect in this case.

22 MS. LIVESAY: Your Honor?

23 THE WITNESS: I don't know what you getting at.
24 The guy was sitting and he ask me, well, what size shoe
25 do I wear. He asked me did I mind giving a shoe. I

1 have never been questioned in this case as a suspect or
2 anything because I was nowhere near the crime. I know,
3 I can sustain where I was at every minute of that
4 night. So I don't know where you -- where you getting
5 that, you know what I'm saying.

6 I don't have anything to gain from this testimony
7 and -- or anything else, other than this evidence is
8 tieing me up, and you cross -- trying to cross me up.

9 THE COURT: Order.. Move on.

10 MR. FREDERICK: That's it, judge.

11 THE COURT: Mr. Canty?

12 MR. FREDERICK: Thank you.

13 MR. CANTY: Nothing further, Your Honor.

14 THE COURT: All right, thank you. Step down, sir.

15 (Witness excused.)

16 THE COURT: All right, ladies and gentlemen, we're
17 going to conclude for the evening. Remember the
18 instructions that I have given you every time you left,
19 don't talk about the case, don't allow anybody to talk
20 to you about it. You're not investigators, not
21 researchers, can't talk to anybody at home about this
22 case. Y'all aren't supposed to be talking about this
23 case together.

24 So with that, again, tomorrow morning, downstairs,
25 jury assembly room 9:15. 9:15 tomorrow morning jury

1 courtroom, you have to decide the case solely and
2 completely on the facts and evidence you hear in the
3 courtroom.

4 So remember, you can't talk about it with anybody,
5 you can't let anybody talk to you about it, and you
6 can't look up anything or read anything about this case
7 until it's over; all right? Thank y'all very much.

8 All right. Solicitor, your next witness, please,
9 ma'am.

10 MS. LIVESAY: Thank you, Your Honor. At this time
11 the State calls Keir Johnson.

12 THE COURT: All right.

13 MR. FREDERICK: Judge, similar to some of the
14 other witnesses --

15 THE COURT: All right. Yeah, gentlemen, y'all
16 come on over here and talk to me. Go ahead and place
17 him under oath.

18 KEIR L. JOHNSON, after being duly sworn, testified
19 as follows:

20 CLERK OF COURT: Please be seated.

21 (WHEREUPON, a bench conference was held off the
22 record in the presence of the jury but out of the
23 hearing of the jury.)

24 THE COURT: Madam forelady, ladies and gentlemen
25 of the jury, go to your jury room. Thank you, ma'am.

1 Sorry.

2 (WHEREUPON, the jury exited the courtroom at
3 10:04 a.m.)

4 THE COURT: All right. Let's probe the issue
5 about the NCIC, and let's see if we can't get through
6 that part of it first and then go to the issue of the
7 bonding. So what is it, what charges would the defense
8 like to ask about?

9 MR. FREDERICK: Judge, if I may just read to the
10 Court from the NCIC. First of all, there is a
11 conviction in 2008, and the NCIC says juvenile arrest,
12 and it does not say what the charge was.

13 THE COURT: All right. Well, it's your position
14 that juvenile crimes are part of the --

15 MR. FREDERICK: It is, judge. And we have a case
16 on point if you need it.

17 THE COURT: All right. Well, let me see it,
18 please.

19 MR. FREDERICK: Just a moment, judge.

20 THE COURT: All right. And do we know what the
21 crime was?

22 MR. FREDERICK: Well, we don't, judge. But that
23 information is uniquely within the province of the
24 prosecutor's office, since they did prosecute --

25 THE COURT: Solicitor, do you know what it is?

1 MS. LIVESAY: As to the DJJ charge, normally
2 that's confidential. I would have to pull his file
3 probably out of archives, because I think it's from
4 2008. Normally the NCIC doesn't even show juvenile
5 convictions or non-convictions. So I could probably
6 pull the file or see if it's still in the computer and
7 see what that charge is. But normally --

8 THE COURT: Well, call downstairs and have
9 somebody downstairs start working on it.

10 MS. LIVESAY: Okay.

11 THE COURT: Because you can't leave. All right,
12 go on.

13 MR. FREDERICK: Judge, what I'm doing, I'm
14 skimming through a series of cases looking for the one
15 that deals with --

16 THE COURT: Okay, all right. Go ahead.

17 MR. FREDERICK: The list that I'm going off of
18 only has the South Carolina cases. The case that I'm
19 referring to is a US Supreme Court case from Alaska,
20 judge, and it dealt with a cooperating witness who had
21 a juvenile conviction. It was either a juvenile
22 conviction or a juvenile case that was still pending,
23 and I think it was Alaska versus Davis, judge.

24 THE COURT: All right. And so there -- whatever
25 Alaska's rules exactly like Rule 609?

1 MR. FREDERICK: Judge, it's the US Supreme Court
2 took the case.

3 THE COURT: Well, I understand that. But it would
4 be based upon that state's rule of evidence.

5 MR. FREDERICK: No, sir. It would be based on a
6 federal constitutional right. That is why the US
7 Supreme Court had jurisdiction over the case.

8 THE COURT: Okay. Let me see the case.

9 MR. FREDERICK: We don't have a copy of the case,
10 judge.

11 THE COURT: Okay.

12 MR. FREDERICK: It's Alaska v. Davis, it's a
13 United States Supreme Court case.

14 THE COURT: All right. Well, let's just see if we
15 can figure out, the State can figure out what the
16 juvenile record is.

17 MR. FREDERICK: Yes, sir.

18 THE COURT: We'll go from there. If we can't
19 figure out what it is, I'm not going to -- we'll just,
20 let's continue on.

21 MR. FREDERICK: Okay. Should we go to the next
22 one?

23 THE COURT: What's the next case, what's the next
24 charge?

25 MR. FREDERICK: In 2013 in April, he was charged

1 with burglary in the first degree, and that was
2 dismissed by this solicitor's office. In 2013 he was
3 also charged with assault and battery in the first
4 degree, and that was dismissed by this solicitor's
5 office.

6 In 2013 he has a conviction for petty larceny
7 which is a crime of dishonesty. Those are the only
8 ones that would be admissible that the NCIC is
9 reflecting.

10 THE COURT: All right. Mr. Canty?

11 MR. CANTY: Your Honor, I think perhaps the more
12 pertinent part is the date of disposition, the date
13 that these charges were dismissed. At the time of this
14 crime, Mr. Johnson was out on bond for that burglary
15 first degree and possession of a weapon during a
16 violent crime. After five and a half months in jail he
17 changed his story and implicated my client, and within
18 a very short time thereafter those charges were
19 dismissed. While he was out on bond, he was rearrested
20 not once, not twice, not three times, not four times --

21 THE COURT: Mr. Canty, again, a jury is not here,
22 I don't need these extraneous comments, please. I told
23 you that once.

24 MR. CANTY: I apologize, Your Honor, but in terms
25 of --

1 THE COURT: If you want to tell me it's six times,
2 tell me it's six times.

3 MR. CANTY: Six times, Your Honor.

4 THE COURT: Thank you.

5 MR. CANTY: He has been running through the
6 raindrops without getting wet, judge.

7 THE COURT: All right. You've got something that
8 that shows that he was arrested and given bond six
9 times, you said you have some kind of printout?

10 MR. CANTY: Yes, Your Honor. I have the judicial
11 department database printout.

12 THE COURT: All right, let me see it.

13 MR. CANTY: And supporting documents. And it will
14 also reflect that these charges were dismissed shortly
15 after he gave his statement implicating my client, his
16 first statement. As I've indicated before, he's given
17 a total of four statements.

18 THE COURT: All right, sir.

19 MR. FREDERICK: Judge, if I may, I can hand the
20 clerk the citation.

21 THE COURT: All right, very good.

22 MR. CANTY: This is the index of charges.

23 THE COURT: All right, sir.

24 MR. CANTY: And these show the disposition of the
25 individual cases and the time, the date of disposition.

1 MS. LIVESAY: Do you have a copy of that for us,
2 whatever you passed up there?

3 THE COURT: He doesn't.

4 MS. LIVESAY: Okay.

5 THE COURT: Solicitor, he does not.

6 MR. CANTY: Well, I told Your Honor there are
7 three copies in that stack I just gave you.

8 THE COURT: Well, then, why don't we separate out
9 the copies then. So do you have -- you've given them a
10 copy, great. Okay.

11 So let me ask a question, Mr. Canty. And we have
12 to establish the time that he was arrested on whatever
13 date for this particular matter, the matter we're here
14 about, whatever date he was arrested for that.

15 MR. CANTY: He was arrested on the day of the
16 crime charged with use of a vehicle without the owner's
17 consent.

18 THE COURT: All right.

19 MR. CANTY: He made bond a day or two later.

20 THE COURT: All right.

21 MR. CANTY: The detective's search warrants
22 produced cell phone data. Approximately three weeks
23 later he was arrested and charged with murder.

24 THE COURT: All right. So we'll start with that.
25 Start with what he's charged with, with murder for this

1 particular crime.

2 MR. CANTY: Yes, sir.

3 THE COURT: All right. So he's arrested for
4 murder. And then after that at some point in time, he
5 gives a statement or he gets bond; what happens?

6 MR. CANTY: He sits in jail for five and a half
7 months, and then he changes his story and implicates my
8 client and Bobby Frederick's client.

9 THE COURT: All right. He gave a story before?

10 MR. CANTY: Yes.

11 THE COURT: All right.

12 MR. CANTY: He said he was carjacked, someone
13 stole his van.

14 THE COURT: All right.

15 MR. CANTY: Five and a half months in jail, he
16 says I want to talk, and he tells his story and says it
17 was Carnail and Cutty that were with him.

18 THE COURT: All right. And he gets bond?

19 MR. CANTY: Not only that, judge, he gets bond, he
20 gets a first degree burglary dismissed and.

21 THE COURT: Okay. A first degree burglary from
22 this particular case?

23 MR. CANTY: It's been pending since 2009.

24 THE COURT: A completely different -- a completely
25 different matter?

1 MR. CANTY: Correct. Charged with possession of a
2 firearm during a violent crime and first degree
3 burglary are dismissed after he changes history.

4 MR. FREDERICK: After he's charged with murder,
5 judge.

6 THE COURT: All right, okay. Now --

7 MR. CANTY: And he makes bond.

8 THE COURT: All right. Now, the matters that
9 he -- that are either dismissed or he makes bond on or
10 is granted bond on after he's charged with murder in
11 this case, all right, those ones, of those how many
12 would fall within a classification of 609, of those six
13 that you said?

14 MR. CANTY: Aside from the burglary and possession
15 of a firearm and the use without permission, both of
16 which predated him being charged with murder, he was
17 being held, I believe, without bond for murder. And
18 suddenly he had bond set, and he was released on bond.

19 THE COURT: All right.

20 MR. CANTY: The burglary and the gun charge were
21 dismissed. He is subsequently, actually this calendar
22 year, arrested three times, but each time it was for a
23 misdemeanor, it was for a summary court offense.

24 THE COURT: All right. So it is not for an
25 offense that he could be impeached upon under 609, or

1 yes?

2 MR. FREDERICK: That is, judge. Because the State
3 was prosecuting him while he was cooperating with the
4 State after he was charged with murder. The charges
5 are dismissed. The dismissal of those charges goes to
6 impeachment, bias and credibility.

7 MR. CANTY: Compensation of --

8 THE COURT: What were the charges?

9 MR. CANTY: The...

10 THE COURT: So those are the three, three charges?

11 MR. CANTY: Trespass last month, trespass in July.
12 There was two counts of failure to appear in May,
13 burglary first and assault and battery first in April
14 of 2013, dismissed September of 2013. April of 2013
15 assault and battery third, petty larceny and malicious
16 injury. He did not post bond on that charge, he pled
17 guilty and has got -- received time served. He was
18 released May 29th, 2013. And the other one --

19 THE COURT: What were those three charges?

20 MR. CANTY: Assault and battery third degree,
21 petty larceny and malicious injury. It doesn't say to
22 persons or property.

23 THE COURT: All right. So those were all
24 magistrate court offenses?

25 MR. CANTY: That's correct.

1 THE COURT: That he pled guilty.

2 MR. CANTY: Larceny is a crime of dishonesty.

3 THE COURT: Which is?

4 MR. CANTY: Larceny.

5 THE COURT: There was a petty larceny?

6 MR. CANTY: Correct, Your Honor.

7 THE COURT: All right. So you can ask him about
8 the petty larceny, not the other two.

9 MR. CANTY: All right.

10 THE COURT: He pled guilty to those, those are
11 convictions. You can ask him about the petty larceny,
12 a crime of dishonesty.

13 MR. CANTY: And that's it, judge.

14 THE COURT: All right. So I just want to be -- I
15 want to be clear about this as to what you're asking to
16 do. You want to basically establish a timeline with
17 him that you were charged with murder on X date for
18 this crime, okay. Thereafter, six months later,
19 whatever it was, you made a statement to police that
20 implicated the two defendants on trial here today.

21 MR. CANTY: That's correct, judge.

22 THE COURT: All right. Thereafter, this is what
23 happened, you were given bond on the current murder
24 charge, all right. Also you had a pre-existing crime
25 of burglary first --

1 MR. CANTY: And a gun charge.

2 THE COURT: -- and a gun charge. And those were
3 dismissed by the State.

4 MR. CANTY: Yes.

5 THE COURT: All right. And then you would also
6 want to ask him, and assuming the answer is yes, then
7 that's the end of it, all right. You know, and we're
8 not asking expansive questions here, we're being very
9 direct and to the point is what I'm trying to say to
10 you, Mr. Canty. You're going to be asking very direct
11 questions. You know, you were charged with murder on
12 this date.

13 Thereafter you made a statement and implicated the
14 two defendants. Thereafter you got bond on this -- on
15 that murder charge. Thereafter, the State dismissed a
16 pre-existing burglary first and gun charge. Thereafter
17 you were convicted of petty larceny. What else?

18 MR. CANTY: Well, the others are summary court
19 offenses, but he was --

20 THE COURT: All right. Well, the two convictions
21 then. You can't ask him about those that were summary
22 court, you know, 30-day offenses. You can't ask him
23 about those two convictions that he pled guilty to, so
24 you can't ask him about those. Is there anything else?

25 MR. CANTY: I don't think so, judge.

1 THE COURT: All right. So --

2 MR. CANTY: We may have some --

3 MS. LIVESAY: Your Honor?

4 THE COURT: Solicitor, I'll get to you in just a
5 minute. Please, sit down. I'm talking to them, I'll
6 give you a full and complete opportunity in just a
7 minute. Yes, sir.

8 MR. FREDERICK: Judge, not anything as to what the
9 charges were, but to save us some time anticipating
10 objections, is it okay if I go through a few things?

11 THE COURT: Yeah. Is it on this what we're
12 talking about now, or is this something new?

13 MR. FREDERICK: No. Exactly what we're talking
14 about now.

15 THE COURT: All right. Go ahead.

16 MR. FREDERICK: Just the length of the sentences
17 is admissible under several South Carolina --

18 THE COURT: The length of what sentences?

19 MR. FREDERICK: The sentence of anything that he
20 is charged with or was dismissed during the pendency of
21 this case.

22 THE COURT: You're talking about the burglary
23 first and the possession of a weapon; right?

24 MR. FREDERICK: And the murder that he's charged
25 with.

1 THE COURT: No, sir.

2 MR. FREDERICK: Judge --

3 THE COURT: No, sir, no. No.

4 MR. FREDERICK: Will you allow me to hand you
5 these cases?.

6 THE COURT: No. Okay. You're going to be able to
7 ask him -- he's still charged with murder.

8 MS. LIVESAY: Yes, sir. .

9 THE COURT: All right, he's still charged with
10 murder. They haven't dismissed that, they haven't made
11 a deal with him on that.

12 MR. FREDERICK: Judge, if you'll allow me, I'll
13 hand you the cases that say it's reversible error not
14 to allow that.

15 THE COURT: So all right, go ahead. Go ahead.

16 MR. FREDERICK: First is...

17 MR. CANTY: Your Honor, might I?

18 MR. FREDERICK: Going to separate out the cases,
19 judge.

20 THE COURT: Go ahead, Mr. Canty.

21 MR. CANTY: While there may be no deal with this
22 witness, either he is under the impression that there
23 is or he has related to third parties that he has a
24 deal.

25 THE COURT: Well, you can ask him if he hopes to

1 get a deal or he expects to get a deal or he thinks
2 he's going to get a deal. You're certainly going to be
3 able to ask him that.

4 MR. CANTY: Very good, thank you.

5 MR. FREDERICK: I apologize, judge, I'm collating.

6 THE COURT: If you just want to tell me the
7 Southeast cite, I'll be glad to look it up. I'd rather
8 do that.

9 MR. FREDERICK: Just ten seconds, judge.

10 THE COURT: I know. But could you tell me a
11 Southeast cite.

12 MR. FREDERICK: There are a number of cases. The
13 first is --

14 THE COURT: Well, how about the one that you
15 really want to rely on.

16 MR. FREDERICK: Sir, the first is State versus
17 Pradubsry. And the citation Southeast is 743 S.E.2d
18 98, and it's a 2013 case.

19 THE COURT: All right, very good. Thank you.

20 MR. FREDERICK: May I approach?

21 THE COURT: Sure. Just stick them over there. So
22 what is it you want to ask him?

23 MR. FREDERICK: Judge, the first case is
24 State versus --

25 THE COURT: No. What is it, what is the question

1 you want to ask the witness?

2 MR. FREDERICK: The length of the potential
3 sentences for pending charges including murder, judge.

4 THE COURT: All right. Well, what other pending
5 charge does he have except murder?

6 MR. FREDERICK: And the charges that the
7 solicitor's office dismissed during the pendency of
8 this murder. And the first case is State versus
9 Pradubsry which states that a defendant --

10 THE COURT: I've read the case. I've read the
11 case, thank you.

12 MR. FREDERICK: Okay.

13 THE COURT: I've read it.

14 MR. FREDERICK: That one deals with the length of
15 the sentence. Moving on, State versus Brown. And in
16 the stack of cases I handed to Your Honor, they're
17 actually -- I'm reading from the bottom up because I
18 collated them just now.

19 THE COURT: Let me ask you a question.

20 MR. FREDERICK: Yes, sir.

21 THE COURT: In the first one that you talked
22 about, were they talking about the sentences that were
23 the same as the defendant who was on trial?

24 MR. FREDERICK: Yes, sir.

25 THE COURT: The crimes were the same?

1 MR. FREDERICK: If I may read you a quote from the
2 case, the South Carolina Court of Appeals reaffirmed
3 that --

4 THE COURT: Okay. I appreciate that part. What
5 I'm getting to then is you want to ask him about
6 burglary first and possession of a weapon about; is
7 that right, besides the murder --

8 MR. FREDERICK: Yes, sir.

9 THE COURT: -- you want to ask him that?

10 MR. FREDERICK: Yes, sir.

11 THE COURT: Okay.

12 MR. FREDERICK: But the State versus Pradubsry,
13 just one quote from the case. The defendant must be
14 permitted to cross-examine a cooperating witness on the
15 length of a potential sentence that the witness -- of
16 the witness' charges, even though it may inform the
17 jury as to the potential sentence that the defendant
18 faces.

19 THE COURT: Okay. So that's for murder?

20 MR. FREDERICK: Yes, sir, that deals with the
21 murder.

22 THE COURT: Okay.

23 MR. FREDERICK: Moving on to State versus Brown --

24 THE COURT: What's the southeast cite?

25 MR. FREDERICK: Southeast citation is 399 S.E.2d

1 593, it is a 1991 case from the South Carolina Supreme
2 Court. This case held that it was reversible error not
3 to permit the defendant to cross-examine a codefendant
4 whose charges had been reduced from trafficking and
5 cocaine to conspiracy, to cross-examine the witness on
6 the potential penalties that the codefendant faced on
7 the original trafficking charges.

8 THE COURT: So that goes back to the same issue
9 about the murder.

10 MR. FREDERICK: What is it?

11 THE COURT: The same issue that you be allowed to
12 ask him what the penalty for murder is.

13 MR. FREDERICK: Well --

14 THE COURT: It's not the issue of burglary first
15 and possession of the weapon.

16 MR. FREDERICK: No, judge, actually I don't think
17 he's had any charges reduced, so that one would not
18 apply.

19 States versus Elijah Smith, Southeastern second
20 citation is 446 S.E.2d 411, South Carolina Supreme
21 Court 1994, held that it was error not to permit
22 cross-examination of an eye witness about his pending
23 but unrelated charges.

24 THE COURT: Okay. Well, they're not pending, but
25 I'm going to allow you to ask him if they were

1 dismissed.

2 MR. FREDERICK: Yes, sir. State versus Jeffrey
3 Jones, citation is 541 S.E.2d 813. The South Carolina
4 Supreme Court held that it was reversible error not to
5 allow defense counsel to cross-examine a cooperating
6 witness regarding their prior plea bargaining with the
7 prosecutor's office in unrelated cases.

8 THE COURT: Okay. Again, I'm going to ask -- I'm
9 going to allow, it doesn't sound like, and I may be
10 misunderstanding this, but it doesn't sound like there
11 was any plea bargaining, it was just that the State
12 dismissed the charges. But I'm still going to allow
13 you to ask, were they dismissed.

14 MR. FREDERICK: Judge, we would like to ask him
15 about his prior plea bargaining with the prosecutor's
16 office. His knowledge of the system and how to plea
17 bargain goes directly to his bias and impeachment --

18 THE COURT: Well, no. You can ask him, did he
19 discuss the dismissal of those, did they dismiss them
20 so he would testify in this case, you can ask him those
21 kind of questions. You can't ask him about general
22 questions about what do you know about plea bargaining
23 and how do you plea bargain, you can't ask him that.

24 MR. FREDERICK: Well, judge, I'd ask you to read
25 this case.

1 THE COURT: So you want to have a general
2 discussion about the law with this defendant?

3 MR. FREDERICK: Not the law, judge. His own
4 experience with plea bargaining --

5 THE COURT: No, sir.

6 MR. FREDERICK: -- and he has plenty.

7 THE COURT: No, I'm not going to allow you to do
8 that.

9 MR. FREDERICK: So it's your ruling that --

10 THE COURT: I'm not going to allow you to ask him
11 general questions about plea bargaining. That's what
12 I'm not going to allow you to do.

13 MR. FREDERICK: Will you allow us to ask specific
14 questions about plea bargaining and --

15 THE COURT: Something that has to do with, did you
16 plea bargain with the State to dismiss the burglary
17 charge so that you would testify here, that kind of
18 question, yes.

19 MR. FREDERICK: Okay. I want to be clear, judge,
20 for the record.

21 THE COURT: Yes, sir.

22 MR. FREDERICK: Am I not permitted to ask this
23 witness -- can I proffer a question without him
24 answering?

25 THE COURT: Sure, go ahead.

1 MR. FREDERICK: Don't answer it. You have
2 experience in plea bargaining when you're charged with
3 crimes; don't you? Don't answer it.

4 THE COURT: No. You can ask him do you know what
5 a plea bargain is. Do you know what plea bargain is,
6 okay. If he says yes, did you plea bargain with the
7 State to dismiss the burglary second and the weapons
8 charge.

9 MR. FREDERICK: Yes, sir.

10 THE COURT: If he says no, you can ask, did you
11 discuss with the State that if they dismiss the
12 burglary and the gun charge that you testify in this
13 case. You can ask him some question about that that
14 ties the testimony to the dismissal, but not general
15 questions about what do you know about the law or how
16 do you bargain or how do you -- how do you work the
17 system in some way, can't ask those questions:

18 But if you tie it directly to the dismissal of the
19 charge to you testifying here today or giving a story
20 here today or giving a statement against these
21 defendants here today, you can ask that question, if
22 you're tieing it directly to in your question to what
23 he's doing here today.

24 MR. FREDERICK: Judge, and I'll do what you ask
25 me.

1 THE COURT: All right.

2 MR. FREDERICK: But the case does say that it is
3 reversible error.

4 THE COURT: I appreciate that. I'm not going to
5 allow you to have a general discussion of the law with
6 him.

7 MR. FREDERICK: Not discussing the law, judge.

8 THE COURT: Yes, you are. You are trying to get
9 him to define the law, and that's not --

10 MR. FREDERICK: No, sir. I would not ask him to
11 define the law. His personal experience with plea
12 bargaining.

13 THE COURT: No. Because then you'll be going into
14 matters that you can't go into, what other crimes were
15 you plea bargaining in or whatever.

16 MR. FREDERICK: Judge, I'm asking to you read
17 State versus Jeffrey Jones, judge.

18 THE COURT: Tell me the Southeast cite.

19 MR. FREDERICK: It's 541 S.E.2d 813.

20 THE COURT: Okay. That's State versus -- well,
21 maybe it's not, that's -- I'm sorry.

22 MR. FREDERICK: Jeffrey Jones.

23 THE COURT: Jeffrey Jones. No, this was the
24 previous one. I was looking at Elijah Smith, I'm
25 sorry.

1 MR. FREDERICK: South Carolina Supreme Court 2001.

2 THE COURT: Okay. Shush for a minute if you want
3 me to read it.

4 MR. FREDERICK: Okay.

5 THE COURT: That's not what it's saying. It was
6 talking about specific matters that this defendant had
7 engaged in with the State about his specific crimes,
8 about a particular crime and his specific dealings with
9 the State on that crime, not some general question
10 about plea bargaining or general questions about the
11 law, which I said I'm not going to allow you to ask.

12 But again, the specific things that he's been
13 charged with, I'm allowing you to ask those.

14 MR. FREDERICK: Yes, sir.

15 THE COURT: You can ask him, did you enter into
16 discussions with plea bargains, have some kind of
17 conversation with the State about dismissing the
18 burglary charge and the possession of a weapon charge
19 so that you'd be here to testify against these two
20 defendants. Okay, I'm allowing you to do that.

21 MR. FREDERICK: And we may have had a
22 miscommunication because, I mean, I said it earlier, I
23 did not intend to ask him what is the law about plea
24 bargaining in general.

25 THE COURT: All right.

1 MR. FREDERICK: It's specifically his dealings
2 with the solicitor's office on his charges.

3 THE COURT: Okay, that were dismissed. And I said
4 I was going to allow you to do that, can -- you know,
5 did you engage in any kind of discussions, plea
6 bargains, conversations with the State to dismiss those
7 charges in exchange for your testimony here today. You
8 can ask him those questions.

9 You just can't ask him, do you know how to plea
10 bargain with the State, do you know what -- do you know
11 what, you know, some aspect of the law is how you deal
12 with the State. We're not engaging in those
13 conversations. But you tie it to what got dismissed,
14 you tie it to this crime, you can ask him.

15 MR. FREDERICK: I think we're on the same page.

16 THE COURT: All right. Well, we'll see.
17 Hopefully we are. All right, but -- all right, so,
18 again, we got a timeline, charged for murder. And I
19 haven't gotten to you yet, solicitor, I haven't gotten
20 to you yet. I'm trying to get this part firmed up
21 before I get to you; okay?

22 MS. LIVESAY: Yes, sir.

23 THE COURT: All right. I haven't forgotten about
24 you. Just haven't gotten done with them yet, all
25 right.

1 MR. FREDERICK: I just have a couple more.

2 THE COURT: All right.

3 MR. FREDERICK: Judge, State versus Mizzell which
4 is a 563 S.E.2d 315, a 2002 case, even if he says on
5 the stand, I don't have any plea agreement with the
6 State, we still are permitted to ask him the length of
7 the potential sentence and impeach him with it.

8 THE COURT: Of the murder, what he's charged with?

9 MR. FREDERICK: Well, the murder and the cases
10 that were dismissed during the pendency of the murder,
11 the relevant cases.

12 THE COURT: All right. Go ahead.

13 MR. FREDERICK: Next, I'm skipping State versus
14 Sims because it just covers the potential penalties
15 again. But judge, State versus Gracely, 731 S.E.2d 880
16 (2012), the South Carolina Supreme Court held that the
17 defendant must be permitted to question in that case
18 the codefendants not only as to the maximum potential
19 sentence, but also as to the mandatory minimum sentence
20 that they faced.

21 THE COURT: Well, that's the sentence, okay. You
22 know, murder is 30 years to life.

23 MR. FREDERICK: The difference is --

24 THE COURT: All right, we have to stop. They took
25 out one of the defendants.

1 MR. FREDERICK: That was the last one.

2 THE COURT: All right. We got to stop. Mr.
3 Canty, I assume there was some kind of emergency?

4 MR. CANTY: He indicated that he needed a rest
5 break, Your Honor. I can -- the deputy asked me if he
6 could --

7 THE COURT: All right. That's fine, okay. It
8 doesn't matter. As long as he's out, then we have to
9 stop. So let's just not worry about it.

10 MR. FREDERICK: Would this be a good time for us
11 to take a break?

12 THE COURT: Might as well. Let's not worry about
13 it, please.

14 (WHEREUPON, a brief recess was taken at
15 10:40 a.m.)

16 THE COURT: Thank you very much, you may be
17 seated. All right. So before I get to the solicitor,
18 let me be clear and so I understand and let's make sure
19 we're all on the same page here on the defense.

20 What you're asking to do is to establish with, on
21 cross-examination with this witness, when he was
22 charged with murder for this particular crime, the date
23 or whenever he thereafter made a statement that
24 implicated the two defendants; that thereafter the
25 date, whenever that was, that he was granted bond on

1 the murder charge, that thereafter the State of South
2 Carolina dismissed a burglary first charge and a
3 weapons charge; and that thereafter he was convicted of
4 petty larceny or pled guilty to petty larceny.

5 Is that correct, Mr. Canty?

6 MR. CANTY: That is, Your Honor.

7 THE COURT: Mr. Frederick, is that correct?

8 MR. FREDERICK: Yes, sir.

9 THE COURT: All right. And in that you would also
10 like to ask the defendant, you are charged with the
11 crime of murder. Do you know that murder carries 30 to
12 life? Is that the question you want to ask,
13 Mr. Frederick?

14 MR. FREDERICK: Yes, sir, Your Honor.

15 THE COURT: All right, okay. And whether he says
16 yes or no to the question is irrelevant. I mean,
17 there's no follow up to that, you ask the question. If
18 he doesn't know he doesn't know, if he does know he
19 does know.

20 Now, you wanted to, and let me also understand,
21 you wanted to ask him, you had two charges dismissed.
22 Do you understand that burglary first carries the
23 sentence of up to 30 years? Is that right,
24 Mr. Frederick?

25 MR. FREDERICK: Burglary first degree is 15 to

1 life.

2 THE COURT: 15 to life, I'm sorry. That would be
3 pre assault, 15 to life.

4 MR. FREDERICK: Yes, sir.

5 THE COURT: So you want to ask him that?

6 MR. FREDERICK: Yes, sir.

7 THE COURT: All right. You know that burglary
8 first degree charge carries a sentence of 15 to life?

9 MR. FREDERICK: Yes, sir.

10 THE COURT: And possession of a weapon in a
11 violent crime is zero to five.

12 MR. FREDERICK: Yes, sir, it is.

13 THE COURT: And you want to ask him that?

14 MR. FREDERICK: Yes, sir.

15 THE COURT: All right. Anything else?

16 MR. FREDERICK: I think that's all, judge.

17 THE COURT: Mr. Canty?

18 MR. CANTY: That's all, Your Honor.

19 THE COURT: All right. Now, solicitor.

20 MS. LIVESAY: Thank you, Your Honor.

21 THE COURT: Now that we know what they want to
22 ask, you tell me what you want to.

23 MS. LIVESAY: Thank you, Your Honor. First, I
24 just want to let the Court know I am familiar, I didn't
25 have the cases, but I am familiar with the burglary

1 first and the A and B first degree that they're
2 referring to.

3 That incident happened on April 28th, 2013. That
4 incident did not involve a random person, the incident
5 involved a lady named Ladesha Hill. Ladesha Hill was
6 the only victim and witness in that case. Ladesha Hill
7 since then has been shot in the neck and is deceased.

8 So the State's argument would be that in my
9 opinion, Mr. Johnson had already given us that story.
10 He had already said it was Dubba and Cutty. We then
11 arrested these two defendants. We had no need to give
12 him anything, he had already given us that statement to
13 the solicitor's office, and we had already handed it
14 over to the defendants. So he didn't need anything in
15 return, he had already given that statement.

16 Second of all, I think it is extremely prejudicial
17 to bring up and insinuate that the State dismissed
18 charges in exchange for testimony. This was back in
19 2013. The first problem is he had already given that
20 statement. We had no reason to dismiss the charges.

21 Secondly, the charges were dismissed in a case
22 that involved his girlfriend who was the only victim or
23 witness who was shot shortly later, which would, to me,
24 make the case impossible to prosecute. So they want to
25 insinuate on a case that we had no victim on and she

1 was the only witness and get up here and say, well,
2 wasn't that dismissed because you're testifying for the
3 State.

4 A trial date had not even been set. There had
5 no -- there was no trial date, A, in sight, he had
6 already given the statement. And, B, the case wasn't
7 prosecutable, period. It had nothing to do with any
8 negotiations regarding this case. We had a situation
9 where he broke into his girlfriend's home. There was
10 nothing given in exchange for his testimony today
11 regarding those charges.

12 THE COURT: Were you the prosecutor on that other
13 charge or somebody else?

14 MS. LIVESAY: I was not. I went out on the case
15 when she was shot.

16 THE COURT: Okay. But so as far as that case
17 being dismissed, was that your decision or some other
18 solicitor's decision?

19 MS. LIVESAY: That was some other solicitor's
20 decision.

21 THE COURT: And do we know who that is?

22 MS. LIVESAY: Yes, sir. That was Heather von
23 Herrmann.

24 THE COURT: Okay.

25 MS. LIVESAY: I could have her come up here, but I

1 have spoken with her about the case and I have spoken
2 to Mr. Hazzard. And I trust what Mr. Hazzard is
3 telling me, those charges were not dismissed in any
4 connection with this case or have anything to do with
5 this testimony.

6 THE COURT: Well, it may be that the Court might
7 allow the calling of Ms. Von Herrmann in the State's
8 case once this witness is done for you to ask the
9 question, you know, establish that she was the
10 solicitor over the case, obviously no longer with the
11 solicitor's office, but was the solicitor in charge of
12 the case and dismissed the case and why did you dismiss
13 it. So to get that fact in front of the jury. So I
14 might very well allow that.

15 But I think it is proper to allow that timeline to
16 be established. There might be an extremely valid
17 reason why the State dismissed it. But I think the
18 jury is entitled to know that part of it. So I will
19 allow you, if you want to, to later call in your case
20 in chief Ms. Von Herrmann to say, you know, establish
21 she is the solicitor and why she dismissed the charge,
22 all right. But I'm going to allow the defense to ask
23 the question; all right?

24 MS. LIVESAY: Yes, sir. And he knows, I'm going
25 to ask him as well. Obviously he knows --

1 THE COURT: All right. Well, that is fine, but --

2 MS. LIVESAY: -- she was shot.

3 THE COURT: -- I'm just telling you, if you want
4 to call Ms. Von Herrmann, I'm going to allow you to do
5 that.

6 MS. LIVESAY: Yes, sir.

7 THE COURT: So that the full and complete picture
8 of what occurred or didn't occur will be for the jury
9 for their consideration however they want to consider
10 it. Yes, sir, Mr. Frederick.

11 MR. FREDERICK: Just, I mean, I don't know how far
12 we want to take this, but if she's going to ask him,
13 was this girl shot and that's why his charges were
14 dismissed, I want to know who shot her and how it
15 happened.

16 THE COURT: I don't know that it would be the best
17 to be asking this particular witness --

18 MR. FREDERICK: It was his girlfriend.

19 MS. LIVESAY: It's unsolved, Your Honor, we
20 never --

21 THE COURT: I appreciate that. But I don't --
22 this witness did not make the determination to dismiss
23 the case, okay. It was the assistant solicitor in
24 charge of that case that made the decision to dismiss
25 the case. That's the person to ask. That's the person

1 you need to ask, solicitor.

2 You don't need to ask this person who wasn't in
3 charge of prosecuting or dismissing the case why it was
4 dismissed. That's not an issue for this witness,
5 that's an issue for the person who actually dismissed
6 it.

7 Yes, sir, Mr. Canty.

8 MR. CANTY: Your Honor, maybe I'm misapprehending
9 something. My concern was a first degree burglary gun
10 charge that was dismissed in May of 2012 immediately
11 after he gave that statement implicating my client. I
12 don't know anything about the assault and battery
13 first.

14 MR. FREDERICK: It's on his NCIC.

15 MR. CANTY: They are two different cases.

16 THE COURT: All right. All right, so then when I
17 asked you what you wanted to ask him, that wasn't
18 exactly right. All right. So apparently what we want
19 to do is establish when he was charged with murder,
20 when he gave the statement implicating the defendants,
21 when he got out on bond, when the burglary and the
22 weapons charge was dismissed, when the burglary and the
23 assault and battery charge was dismissed, when he was
24 convicted for petty larceny. That's what we want to
25 ask him.

1 MR. CANTY: Thank you, Your Honor.

2 THE COURT: Okay, is that correct?

3 MR. CANTY: That's my understanding, judge.

4 THE COURT: Mr. Fredrick?

5 MR. FREDERICK: Yes, Your Honor.

6 THE COURT: All right, all right. So okay, I did
7 not understand that from y'all. I was understanding
8 there was one set of charges, not two set of charges,
9 from the way y'all were explaining it to me. I did not
10 understand that. So I'm sorry, but I'm just saying
11 just that I did not understand that.

12 MR. FREDERICK: I don't know if any of them are
13 connected or not, judge.

14 THE COURT: Okay. But the last timeline we talked
15 about, that's what y'all want to do; correct?

16 MR. FREDERICK: Yes, sir.

17 THE COURT: All right, very good. All right,
18 solicitor, I'm going to allow him to ask those
19 questions. If there is a reason why -- solicitor, if
20 there's a reason why the burglary first and the weapons
21 charge was dismissed, if there was a reason why the
22 burglary first and the assault and battery case was
23 dismissed, you'll be allowed to ask the solicitor who
24 dismissed the charges why they were dismissed.

25 We're not asking this witness, he's not in charge

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1 of that. The person that's in charge of it is the
2 solicitor that controls that case, that's who we ask.
3 If you want to call them, fine. If you don't want to
4 call them, that's fine too.

5 MS. LIVESAY: Yes, sir, Your Honor.

6 THE COURT: All right. But I'm allowing you to
7 call them if you want to, all right. Okay. Ask the
8 jury to come in.

9 (WHEREUPON, the jury came into open court at
10 approximately 11:06 a.m.)

11 THE COURT: All right. Solicitor, you ready to
12 proceed?

13 MS. LIVESAY: Thank you, Your Honor.

14 THE COURT: All right, sir, if you would state
15 your full name for the record, please.

16 THE WITNESS: Keir Lamont Johnson.

17 THE COURT: All right. Now, you need to find the
18 microphone, get right behind it and speak directly into
19 that microphone.

20 THE WITNESS: Keir Lamont Johnson.

21 THE COURT: All right, very good, sir. Go ahead,
22 solicitor.

23 MS. LIVESAY: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. LIVESAY:

- 1 Q And Keir, what do people call you?
- 2 A Bootsie.
- 3 Q Okay. And where are you currently living?
- 4 A Conway.
- 5 Q And just what area?
- 6 A Huh. It's called --
- 7 Q In Horry County?
- 8 A Conway, South Carolina.
- 9 Q Okay. And where are you from?
- 10 A Baltimore, Maryland.
- 11 Q Okay. And how far did you go in school?
- 12 A Eleventh. Eleventh grade.
- 13 Q Make sure you talk to here. I guess it's probably
- 14 not as bad for you, how about that.
- 15 A Eleventh grade.
- 16 Q Okay, there you go. What grade?
- 17 A Eleventh.
- 18 Q Okay. Were you always in regular classes?
- 19 A Yes, ma'am.
- 20 Q Okay.
- 21 A Well, until I came down. Like I was in regular
- 22 classes down here, but in Baltimore I went.
- 23 Q But you did not graduate?
- 24 A No, ma'am.
- 25 Q Okay. Are you working anywhere?

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1 A No, ma'am.

2 Q Have you ever worked anywhere?

3 A One time at United Van Lines.

4 Q Okay. And how do you get money?

5 A I hustle.

6 Q Okay. Now, are you familiar with why we're here
7 today?

8 A Yes, ma'am.

9 Q Okay. And have you been promised anything to
10 testify today?

11 A No, ma'am.

12 Q Okay. And have you received anything in exchange
13 for your testimony?

14 A No, ma'am.

15 Q Okay. Now, do you know these two guys?

16 A Yes, ma'am.

17 Q Okay. And what are their names?

18 A Dubba and Cutty.

19 Q Okay. And how long have you known them?

20 A I came down here in 2005, I met Cutty around that
21 time. But Dubba was locked up, I didn't meet him yet.
22 I probably met him probably around 2007 or 2008 with
23 him.

24 Q Okay. Now, are you close friends with them?

25 A I was. I was.

1 Q Okay. And are y'all in any sort of group
2 together?

3 A Just -- no, I don't -- no, not really. We just
4 hanging out with Levi Corner together.

5 Q Okay. Now, do you have any tattoos?

6 A Yes, ma'am.

7 Q Okay. And you got a couple on your hands; is that
8 right?

9 A Yes, ma'am.

10 Q And what is that for?

11 A Levi Corner.

12 Q Levi Corner?

13 A Yes, ma'am.

14 Q Okay. And if you don't mind, tell this jury what
15 Levi Corner is.

16 A That's it, Levi Corner, Hemingway Street.

17 Q Okay. And is anybody else associated with Levi
18 Corner?

19 A No. There's a couple other people, but not
20 that -- I don't know too many of them.

21 Q Let me ask you this, does Dubba have any tattoos
22 that are significant to you?

23 A Yes, ma'am.

24 Q Okay.

25 THE COURT: All right, You need to speak up.

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1 MR. CANTY: Objection, relevance. Objection,
2 relevance, Your Honor.

3 THE COURT: All right. I'm going to allow the
4 question right now, but you got to speak up, sir.

5 Q Does he have any names tattooed on him?

6 A Yes, ma'am.

7 Q Okay. Whose name that you know is tattooed on
8 him?

9 A Mine.

10 Q And how about Cutty's?

11 A Yes, ma'am.

12 Q Okay. So yours and Cutty's name is tattooed on
13 Dubba?

14 A Yes, ma'am.

15 Q Okay. Are any names tattooed on you?

16 A No, ma'am. Well, I got like my brothers and
17 sisters that passed, but like that's it really.

18 Q Okay. And are there any other names tattooed on
19 him?

20 A I don't know. I don't know.

21 Q Okay. But you know those two names are, yours and
22 Cutty's?

23 A Yes, ma'am.

24 Q Okay. Now, do you remember back in November 8th
25 of 2011?

1 A Little bit of it, yes, ma'am.

2 Q Okay. And do you remember what happened that
3 night?

4 A Yes, ma'am.

5 Q Okay. And is that the night that Ms. Keia
6 Pertelle was shot?

7 A Yes, ma'am.

8 Q Okay. If you don't mind, tell the jury what
9 happened that night. And make sure you speak loud
10 enough for all these people to hear, even the lady on
11 the end.

12 A Okay. Dubba had called me and told me he wanted
13 me to come --

14 Q Speak right in there.

15 MR. FREDERICK: Judge, I cannot hear what he's
16 saying.

17 THE COURT: All right.

18 THE WITNESS: Dubba had called me and told me he
19 wanted me to take him to go buy some drugs, so I came
20 and picked him and Cutty up. We went to Splurge house,
21 I parked on the back road. They went into the house.
22 I thought they were going to go buy some drugs. So I
23 was talking to Conswella. She was at the van talking
24 to me, and she was asking me was I staying out of
25 trouble and stuff. And I was like, yes, ma'am.

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1 So that's when the man had came outside, and he
2 was -- he looked at the van, so I pulled off and
3 circled the block one time. And I came back in the
4 same spot. So Conswella was still standing there, and
5 me and her was talking. And that's when by then she
6 went in the house, and I seen Cutty and Dubba coming
7 toward the van. That's when I got in the van, and they
8 told me to go.

9 When I went I made a left. When I made that left
10 turn, I was going down a little bit, and I seen the
11 Horry County Police come up. And that's when they
12 swerved around, and Dubba was like, go, go, go. So I
13 hit the gas, and I got -- and I was parked in
14 somebody's backyard and got out of the van, and we went
15 in the woods or whatever.

16 That's when I called Mike Pyatt to come pick me
17 up, and he came and picked me up and took me to my
18 grandmom's house. That's when by then, the homicide
19 man was at my ex-girlfriend Tiara Brown house. And he
20 told me to come over there, write a statement. No, the
21 city police officer was there first, then he told me to
22 come. Because I told him I had got robbed of the van.

23 That's when I went over there and wrote a
24 statement. And by then the homicide, I don't know his
25 name, but -- but he was the one that interrogated me,

1 but it was another short dude. But he came and he told
2 me to get in the car. And I was like, for what. He
3 was like, for a murder went on. And I was like, I
4 don't know nothing about no murder because I didn't.

5 So that's when he took me to the ML Brown
6 Building. And I'm not going to lie, I lied about
7 getting robbed of the van and stuff. So that's when he
8 was saying he knew I had something to do with it. But
9 I didn't -- I told him I didn't.

10 So five months later, that's when my grandmom had
11 went to talk with Mr. Hazzard, and he have assigned to
12 my case. And that's when he was telling me just to go
13 ahead and tell the truth. And I just explained to him,
14 so that's when we went down there to ML Brown building
15 and let them know what had happened.

16 Q All right. Let me ask you this. That night did
17 you ever talk to Cutty on the phone before you picked
18 him up?

19 A No, ma'am, not that I recall.

20 Q And you would recognize his voice?

21 A Yes, ma'am.

22 Q Okay. Now, I'm going to show you State's Evidence
23 No. 29. These are phone records, okay. Do you mind
24 taking a look at them..

25 A No, ma'am.

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 Q Now, if you don't mind, do you see your phone
2 number up here?

3 A Yes, ma'am, the 443 number.

4 Q Okay. If you don't mind, go ahead and tell the
5 jury what your full phone number is.

6 A I can't remember it, that was a long time. But I
7 remember that's a part of it. I'm from Baltimore, but
8 I know it's a 443 number.

9 Q Okay. So your area code was not 843, it was 443?

10 A 443.

11 Q Okay. And do you recognize this number as

12 --

13 A That's Cutty's, Cutty number.

14 Q That's Cutty's phone number?

15 A Yeah.

16 Q Would you agree these phone records show some
17 phone calls between your phone and Cutty's phone
18 number?

19 A Yes, ma'am.

20 Q Okay. But you're telling me today you did not
21 talk to him?

22 A No, ma'am.

23 Q Okay. So somebody else would have had to call you
24 from that phone number?

25 A Carnail Graham.

1 Q Sir?

2 A Carnail Graham called me from that number.

3 Q One more time.

4 A Carnail Graham called me from that number.

5 Q Okay. So but you know it wasn't Cutty calling
6 from his phone number?

7 A Yes, ma'am.

8 Q Okay. Now, at that time, how many phones did you
9 have?

10 A Two.

11 Q Okay. And would you recognize them now if you saw
12 them?

13 A Yes, ma'am.

14 MS. LIVESAY: Can you mark these for me, please.

15 (WHEREUPON, State's Exhibit Nos. 75 and 76 were
16 marked for identification only.)

17 Q Thank you. I'm showing you now State's Exhibit 75
18 and 76. Do you recognize those phones?

19 A Yes, ma'am.

20 Q And are both of them yours?

21 A Yes, ma'am.

22 Q And you --

23 A I had a purple phone too, but I don't see it here.
24 They seized that too.

25 Q Okay. So you got more phones than these two?

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am.

2 Q Okay. But these were definitely your two?

3 A Yes, ma'am.

4 Q And there's another one that we don't have?

5 A Yes, ma'am.

6 MS. LIVESAY: Okay. Your Honor, at this time the
7 State wants to put 75 and 76 into evidence.

8 THE COURT: Any objection?

9 MR. FREDERICK: No objection, judge.

10 MR. CANTY: No objection, Your Honor.

11 THE COURT: All right. In evidence without
12 objection.

13 (WHEREUPON, State's Exhibit Nos. 75 and 76 were
14 admitted in evidence.)

15 Q And these are 443 numbers?

16 A Yes, ma'am.

17 Q And there's a third one somewhere we never
18 collected?

19 A Yes, ma'am.

20 Q Okay. Now, let me ask you this, how many phones
21 did Cutty have at that time?

22 A Two phones.

23 Q How many?

24 A Two.

25 Q Okay. And how about Dubba?

1 A Two.

2 Q Okay. So it wasn't unusual for people to have
3 multiple phones?

4 A No, ma'am.

5 Q And use multiple phones?

6 A No, ma'am.

7 Q Okay. Now, that night you only had conversations
8 with Dubba; is that right?

9 A Yes, ma'am.

10 Q Okay. And you were in what kind of van?

11 A Astro van, a brown.

12 Q Okay. And was that your van?

13 A No. My ex-girlfriend, Tiara Brown.

14 Q Okay. And did you drive that van a lot?

15 A Yes, ma'am.

16 Q Okay. And do you remember about what time you
17 picked them up?

18 A Around 1:40 something, around that time.

19 Q Okay. And did you pick them up somewhere in
20 Conway?

21 A Yes, ma'am.

22 Q Okay. Was there anybody else that you picked up
23 in that van?

24 A No, ma'am.

25 Q Okay. Now, and y'all were set to go where?

KEIR JOHNSON-DIRECT BY MS. LIVESAY

1 A Splurge house.

2 Q Okay.

3 THE COURT: And I'm sorry, I didn't hear that.

4 THE WITNESS: Splurge house.

5 THE COURT: Thank you.

6 Q And did you know where Splurge's house was?

7 A No, ma'am.

8 Q Okay. How did you know how to get there?

9 A From Dubba.

10 Q Okay. So he knew which house it was?

11 A Yes, ma'am.

12 Q And that area, is that called Brown Swamp?

13 A Yes, ma'am.

14 Q Okay. And do you pick up or drop off anybody from
15 the time you picked these boys up in Conway until the
16 time you got to that trailer in Brown Swamp?

17 A Earlier that day but not around the time this had
18 happened, no.

19 Q What now?

20 A Earlier that day but not around the time this had
21 happened.

22 Q Okay. So earlier that day you had been picking up
23 people and dropping them off?

24 A Yes, ma'am.

25 Q Okay. But this particular time all three of y'all

1 went from Conway to Brown Swamp?

2 A Yes, ma'am.

3 Q Okay. Now, do you remember that area, that mobile
4 home park?

5 A No, ma'am.

6 Q Okay. Was there more than one mobile home out
7 there?

8 A Yes, ma'am.

9 Q Okay. How did you know which one was Splurge and
10 Keia's?

11 A Dubba had told me.

12 Q Okay.

13 A And I seen the car over there in the backyard.

14 Q Okay. Now, do you remember how many cars were
15 parked up at that mobile home that night?

16 A It was Splurge car and Keia Pertelle truck.

17 Q What?

18 A It was Splurge car and Keia Pertelle truck.

19 Q Okay. So y'all saw the two vehicles at the mobile
20 home?

21 A Yes, ma'am.

22 Q Now, if you don't mind, you turn in there, and
23 where do you drop them off at?

24 A I drop them off right diagonal behind their house,
25 but we on the next road over.

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 Q Okay. Okay. So there's two roads going into this
2 neighborhood?

3 A Yes. It's more than two.

4 Q I mean two dirt paths?

5 A Yes, ma'am.

6 Q Okay. Two dirt paths?

7 A Yes, ma'am.

8 Q And you dropped them off on the path behind where
9 Splurge's house was?

10 A Yes, ma'am.

11 Q Okay. And then what did you do?

12 A I drove up by like the little woods and backed up
13 toward the woods by Conswella house.

14 Q Okay. And what were the three of y'all wearing
15 that night?

16 A I had on a blue -- I had on a blue V-neck shirt
17 with some blue and white -- no, a black V-neck shirt
18 with some blue and white cargo shorts with some blue
19 and white Jordan Force. And Dubba and Cutty had on
20 blue pants and black shirt.

21 Q Okay.

22 A I don't know what kind of shoes.

23 Q When you or y'all were on the way to Brown Swamp
24 and when you dropped them off, at any point did you see
25 a gun at that time?

1 A No, ma'am.

2 Q Okay. And did you have a gun on you?

3 A No, ma'am.

4 Q Okay. So you park at the end of the road, and are
5 you just waiting for them?

6 A Yes, ma'am.

7 Q Okay. So then what happens?

8 A I was talking to Conswella, and that's when like
9 the dude had came outside. He was a couple of trailers
10 down, he had came outside to the front yard. That's
11 when I drove -- he looked at the van, I drove off,
12 circled the block, came backed and parked right there
13 again.

14 And that's when Conswella still was standing right
15 down there, and me and her was talking. And that's
16 when she went in the house, then Cutty and was coming
17 right behind Dubba -- I mean, right behind Splurge
18 house.

19 Q Okay. So when you -- just so I'm clear, and
20 you're kind of hard to hear, so I want to make sure I'm
21 understanding. You correct me if I'm wrong, okay. So
22 you see somebody in the neighborhood?

23 A Yes, ma'am.

24 Q So you kind of drive off a little bit?

25 A Yes, ma'am.

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1 Q To kind of avoid anybody noticing you?

2 A Yes, ma'am.

3 Q And then you drive back into the neighborhood and
4 park again?

5 A Yes, ma'am.

6 Q Okay. Then you see Dubba and Cutty coming out?

7 A Yes, ma'am.

8 Q And that's when you drive up and pick them up?

9 A Yes, ma'am.

10 Q Okay. When they get in your van, what did they
11 say, if anything?

12 A They didn't say nothing at first until like I
13 turned off, and the police was coming up. And that's
14 when Dubba was like, I think I just killed that bitch,
15 I think I just killed her.

16 Q What?

17 A They didn't say nothing at first until I turned
18 and made the left, and the police was -- the Horry
19 County Police was coming up, we was coming down. And
20 that's when Dubba started looking in the mirror, he was
21 like, he turning around, he turning around. He was
22 like, I think I just killed that motherfucker, I think
23 I just killed that motherfucker. That's when he told
24 me to go.

25 Q Who said that?

1 A Dubba, Carnail Graham.

2 Q Okay. Did you see a gun at that point?

3 A He start throwing the gun out the window.

4 Q Okay. And were both guns thrown out the window?

5 A Yes, ma'am.

6 Q Okay.

7 MR. CANTY: Objection to the leading, Your Honor.

8 THE COURT: Please don't lead your witness, ma'am.

9 MS. LIVESAY: Yes, sir.

10 Q And then you went and parked where?

11 A Behind somebody's house, I don't know where it is.

12 Q Okay. And then did -- how did you get back into

13 Conway?

14 A Mike Pyatt, he had came and picked me up.

15 Q Okay. And where did he take you?

16 A He took me to my grandmother house in Cotton

17 Project.

18 Q Okay. Now, where did Dubba and Cutty go when they

19 jumped out of the van?

20 A They went in the woods. I don't know where

21 they -- where they went after that.

22 Q Okay. Now, when you first got to your

23 grandparents' house, had anybody called the police

24 about the van?

25 A I told my girl to call the police and tell them,

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 report the van stolen because I lied and say I got
2 robbed of the van.

3 Q Okay. And why did you do that?

4 A Because I didn't want to go to jail for driving
5 without a license and stuff and put the police on a
6 high speed chase.

7 Q Okay, okay. Now, were you ultimately arrested for
8 what happened that night?

9 A I wasn't arrested for the murder. They had
10 arrested me for driving without permission with
11 intention to deprive. And I had to bond out the next
12 day.

13 Q Okay. And what charge is currently pending on
14 you?

15 A Murder charge.

16 Q Okay. And do you understand what that charge
17 carries?

18 A No, ma'am.

19 Q Okay. And have you been promised anything for
20 your testimony today?

21 A No, ma'am.

22 Q Okay. Now, at some point did you tell the police
23 the truth?

24 A Yes, ma'am. When I talked to my lawyer and he
25 had -- and he came and talked to me, he was like, just

1 tell the truth about what happened.

2 Q Okay. And is your lawyer in the courtroom today?

3 A Yes, ma'am.

4 Q Where is he?

5 A Mr. Hazzard.

6 Q Okay. Now, about how long were you in jail before
7 you bonded out?

8 A On what charge?

9 Q I'm sorry?

10 A On what charge?

11 Q For the charge you're on now.

12 A Six months.

13 Q Okay. And had you told the truth before you got
14 out, before you bonded out?

15 A Yes, ma'am.

16 Q Okay. Now, during the time you were in jail, was
17 anything going on?

18 A Not at that time, but the time that I just came
19 home for -- like not -- not the first time whatever,
20 but the time like when we all was locked up together,
21 like I kept getting in fights and going to the hospital
22 over it. They got the records.

23 Q What now?

24 A I say like this time right here I kept getting in
25 fights over this, and I went into the hospital a couple

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 times. Like J. Reuben Long got the records.

2 Q Okay. So you had gotten into some fights at the
3 jail?

4 A Yes, ma'am.

5 Q Okay. And it was over this stuff?

6 A Yes, ma'am.

7 Q What you mean, over this stuff?

8 A Over this murder charge.

9 Q Okay.

10 (WHEREUPON, State's Exhibit No. 77 was marked for
11 identification only.)

12 MS. LIVESAY: Thank you.

13 Q Mr. Johnson, I'm showing you now what's been
14 marked as State's Exhibit 77.

15 A Yes, ma'am.

16 Q Have you seen that before?

17 A Yes, ma'am.

18 Q Okay. What is it?

19 A It's a statement saying that Dubba and --

20 MR. FREDERICK: Judge, I cannot hear this.

21 THE WITNESS: It was a statement that's saying

22 Dubba didn't may have nothing to do with it, but Capone

23 had Randy (phonetic) in a reckless state, Randy was

24 like because Dubba kept sending people to fight me and

25 stuff. But I already have what my lawyer, and he knew

1 what was going on.

2 Q Okay. So did you sign that voluntarily?

3 A I signed it because they told me to sign it, or I
4 was going to keep getting in fights. And they were
5 going -- they were threatening me.

6 Q Okay. But did you write it?

7 A No. You can see that's two different
8 handwritings.

9 Q Okay.

10 MS. LIVESAY: Your Honor, at this time the State
11 wishes to put in 77 into evidence.

12 THE COURT: Any objection?

13 MR. FREDERICK: Not at all, judge.

14 MR. CANTY: None, Your Honor.

15 THE COURT: It's in evidence without objection.

16 (WHEREUPON, State's Exhibit No. 77 was admitted in
17 evidence.)

18 Q Now, that statement there, is that true?

19 A No, ma'am.

20 Q Okay. Since you've been able to get out of jail,
21 have you ever changed your story from that it was Dubba
22 and Cutty that went in that mobile home?

23 A No, ma'am.

24 Q Okay. And during the time all this was going on,
25 were you close friends with these boys?

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1 A Yes, at first.

2 Q Okay. And your name is on --

3 A Yes, ma'am.

4 Q -- Dubba? And so is Cutty's?

5 A Yes, ma'am.

6 Q Okay. Now, since you have come forward and told
7 the truth, has anything else happened?

8 A Just one time when I got into it when the dude had
9 pulled -- one time I had gotten into it when a dude had
10 pulled a gun out on me. But it wasn't -- it was just
11 like the police just told like me just go in the house
12 or whatever, they had a lock -- they were trying to
13 lock me up. The landowner had came outside, outside
14 the office, but he was watching me the whole time on
15 video.

16 Q Now, earlier in this trial you've be sequestered;
17 is that right?

18 A What's that mean?

19 Q You haven't been able to sit in the courtroom
20 while witnesses have been testifying?

21 A No, ma'am.

22 Q Okay. And you didn't even get to see opening
23 statements; is that right?

24 A No, ma'am.

25 Q Okay. Are you in fear from testifying to this

1 information today?

2 A No, ma'am.

3 Q Okay. Is there anyone that you're afraid of?

4 A No, ma'am.

5 Q Okay. And is what you're telling me today the
6 truth?

7 A Yes, ma'am.

8 Q Okay. Now, earlier before you got in here,
9 Mr. Frederick said that you were being dishonest.

10 MR. FREDERICK: Objection, Your Honor.

11 THE COURT: Solicitor, rephrase your question.

12 Q Were you scared to tell the truth?

13 A Yes, ma'am.

14 Q Okay. And is that why you originally lied to the
15 police?

16 A Yes, ma'am.

17 Q Okay. And since then have you told the truth?

18 A Yes, ma'am.

19 Q Okay. Now, since this charge, have you been in
20 any trouble?

21 A Yes, ma'am.

22 Q Okay. And since that point, has anybody promised
23 you anything in return for your testimony?

24 A No, ma'am.

25 Q Has anybody done anything since the day you made

KEIR JOHNSON-DIRECT BY MS. LIVESAY

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1 this statement in return for your testimony?

2 A No, ma'am. Just my lawyer, he was getting my
3 charges dismissed. Like it wasn't the solicitor, my
4 lawyer was going to court and getting them dismissed.

5 Q Okay. And you are still currently charged with
6 murder?

7 A Yes, ma'am.

8 Q And you understand that?

9 A Yes, ma'am.

10 Q Okay. And you haven't been promised anything?

11 A No, ma'am.

12 Q Mr. Johnson, I'm showing you State Evidence No.
13 56. Does that look familiar to you?

14 A That was my girl van, the van I was driving.

15 Q Okay. So that was the car or van you were driving
16 that night?

17 A Yes, ma'am.

18 Q Okay.

19 MS. LIVESAY: I'm going to publish this to the
20 jury, State's Evidence No. 56.

21 Q Now, Mr. Johnson, a lot of names have been brought
22 up in this trial, Billy Freshley, a guy named Lil
23 Manzy, all these different names. Were any of those
24 people in that van that night in Brown Swamp?

25 A No, ma'am.

1 Q Okay. And are those people your friends?

2 A Them like my family.

3 Q Okay. And have you got any reason other than it's
4 the truth to say that it was Dubba and Cutty?

5 A I'm telling the truth, it was the truth.

6 Q Okay.

7 MS. LIVESAY: No further questions of this
8 witness, Your Honor.

9 THE COURT: Cross-examination, Mr. Frederick.

10 MR. FREDERICK: Yes, sir. Just a minute, judge,
11 I'm almost ready.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MR. FREDERICK:

15 Q Keir, you don't need to look at these yet, I'm
16 just setting them there in case we need them, okay.
17 Keir, am I pronouncing your name right?

18 A Yes, sir.

19 Q Okay. Can you just think back for a minute.

20 A Yes, sir.

21 Q And tell us how many times since this began just
22 dealing with this case, that you have talked with
23 either investigators or solicitors or employees of the
24 solicitor's office.

25 A I don't know.

1 Q You don't know?

2 A I don't -- I can't recall how many times I talked
3 to them. Ask my lawyer, he right there.

4 Q Was it more than one?

5 A About -- I don't know -- he's right there, I can't
6 recall.

7 Q Have you ever talked with investigators?

8 A Yes, sir.

9 Q Okay. So at least once?

10 A Yes, sir.

11 Q Okay. Was it less than ten or more than ten?

12 A I don't know. Like I say, ask my lawyer.

13 Q Okay. Before testifying today, I know that you've
14 been sequestered. Have you spoken with the solicitor
15 about your testimony?

16 A What? Rephrase that.

17 Q I could not hear what you said.

18 A I said can you rephrase that. I can't understand
19 you, sir.

20 Q Have you spoken with this lady here or this lady
21 here (indicating) or anybody sitting back there or
22 anyone from their office this week?

23 A They just told me that I had -- they wanted me to
24 come to court. That's all that we talked about. Like
25 they said they wanted me to come to court and testify,

1 and we didn't really -- that's all they talked about to
2 me.

3 Q Okay. And I just want to clarify one thing from
4 your direct examination. The prosecutor asked you a
5 question which was, at some point did you tell the
6 police the truth, and your answer was, yes, ma'am,
7 after I talked to my lawyer?

8 A Yes, sir.

9 Q Then you told them the truth?

10 A Yes, sir.

11 Q When did you get a lawyer?

12 A Probably about three months after I been in jail.

13 Q So about three months after you were charged?

14 A No. It was about two, two and a half months, two
15 and a half months. Ask him, he right there.

16 Q And I want to make sure that I heard this right
17 too. The solicitor's office, I think you said, has not
18 offered you any deals?

19 A No, sir.

20 Q But your attorney told you that he was going to
21 get your case dismissed?

22 A Yes, sir. Now, won't you try to get your client's
23 case dismissed?

24 Q Yes.

25 A All right.

1 Q Okay. That is what you said?

2 A Yes, sir.

3 Q Okay. Whose van was it?

4 A It was my ex-girlfriend, Tiara Brown.

5 Q Okay. Did it actually belong to her mother?

6 A That's what she said, but she was driving it all
7 the time.

8 Q Okay. Do you know who that van went to after the
9 police released it?

10 A No, sir.

11 Q You have --

12 A No, sir, I didn't see them after that.

13 Q You never seen the van since then?

14 A I never seen the girl after that.

15 Q Haven't seen the van since then?

16 A No, sir.

17 Q Haven't driven it, not once?

18 A No, sir.

19 Q Okay. Also on direct examination, I think that
20 you said that you and Cutty and Dubba dropped off the
21 van and left it in somebody's yard?

22 A Yes, sir.

23 Q Was it just a yard, or did you know the person
24 whose yard --

25 A I didn't know the people.

1 Q You never met them?

2 A No, sir.

3 Q Okay. And something else from your direct
4 examination. You did say Mike Pyatt came to pick you
5 up; right?

6 A Yes, sir.

7 Q Okay. And just to be clear, this is the first
8 time that you said that; right?

9 A No, sir. I been telling my lawyer, I been telling
10 my lawyer about it.

11 Q Did you also tell that to the investigators?

12 A No, sir.

13 Q You didn't tell that to the investigators?

14 A No, sir. I don't think -- I can't recall did I or
15 not. That was three years ago. I know that I told my
16 lawyer, and he talked to the solicitor about it.

17 Q Okay. And let me caution you because we really
18 can't talk about what your lawyer does or says. That's
19 covered by what's called attorney/client privilege;
20 okay? I'm not asking you any questions about what your
21 lawyer is doing.

22 A Well, you asked me a question, I told you the
23 truth.

24 Q Okay. Now, on direct examination you also said,
25 Carnail Graham called me from that number. Do you

1 remember saying that?

2 A Yes, sir.

3 Q You have never said that before today; have you?

4 A Yes, I did. I did say that today.

5 Q Before today.

6 A Oh. Yeah, I said that plenty of times before
7 today.

8 Q You told the investigators that?

9 A Yes, sir.

10 Q Are you positive about that?

11 A I'm positive I told them.

12 Q Okay. And you didn't pick anyone else up in the
13 van?

14 A No, sir.

15 Q Okay. Now, Billy Freshley's phone number is
16 ?

17 A That was three -- like I told you before, that was
18 three years ago, I don't know his number, what the
19 number was. I can't recall.

20 Q Okay. On April the 24th, 2012, did you meet with
21 Detective Vescovi?

22 A I don't know.

23 Q Detective Vescovi is, I'll represent to you,
24 that's this man here (indicating).

25 A Yes, sir.

1 Q And did you tell him that Billy Freshley's number
2 was ?

3 A It was three years ago, I should -- yeah, I might
4 have told them. I don't -- I can't recall right now
5 because it was three years ago. But if I did, then
6 yes.

7 Q Okay. The prosecutor covered this briefly in the
8 direct examination, but what I've just handed to you
9 is --

10 A I know what it is.

11 Q -- State's Exhibit 77?

12 A Yes, sir.

13 Q In that letter that is now in evidence, did you
14 say that you wanted to recant your statement because
15 that statement was partial truth, bear with me, and the
16 reason for your change of heart is because Carnail
17 Graham was not the shooter, nor was he at the scene of
18 the incident while it took place. And the only reason
19 I was told to put Graham into the situation is because
20 I was told --

21 MS. LIVESAY: Your Honor, is there a question, or
22 are we just reading the transcript?

23 MR. FREDERICK: It's a question, did he say it.
24 And it's in evidence, judge.

25 THE COURT: I appreciate it's in evidence. Is it

1 one sentence or two sentences?

2 MR. FREDERICK: I'll break it up.

3 THE COURT: All right, very good.

4 Q Did you say that you wanted to recant your
5 statement?

6 A I didn't say nothing, Capone there wrote that.

7 Q And what is his real name?

8 A I don't know.

9 Q Say it again.

10 A I do not know, sir.

11 Q Say the nickname again.

12 A Capone.

13 Q Like Al Capone?

14 A (Shrugging shoulders.)

15 Q Okay. Did you say that the reason for your change
16 of heart is because Carnail Graham was not the shooter?

17 A I just told you, sir, I didn't write nothing.

18 Q I understand. Did you say that Carnail Graham was
19 not at the scene of the incident?

20 A I didn't say anything, sir. I didn't write that
21 letter.

22 Q Did you say that you were told to put Graham into
23 the situation?

24 A I didn't say anything, sir. I didn't write that
25 letter.

1 Q Did you say that the reason you were told to do
2 that is because your family wouldn't live to see the
3 next day?

4 A I didn't write that, sir. Somebody else wrote
5 that letter.

6 Q Did you say your family wouldn't live to see the
7 next day if you gave the actual suspect's names?

8 A I didn't write that, sir, somebody else wrote that
9 letter.

10 Q Did you say that the person who told you, who
11 forced you to do that was the actual suspect?

12 A I didn't write that letter, somebody else did,
13 sir.

14 Q Did you say, I, Keir Lamont Johnson, make this
15 statement --

16 MS. LIVESAY: Your Honor?

17 THE COURT: Yes, ma'am.

18 MS. LIVESAY: I'm confused. Is this from an
19 interview, or is this from the affidavit?

20 THE COURT: He says he is reading from State's-77
21 a sentence.

22 MS. LIVESAY: Okay, so that's the affidavit. I'm
23 just making sure, Your Honor.

24 THE COURT: All right, go ahead. Go ahead,
25 Mr. Frederick.

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1 MR. FREDERICK: Yes, sir.

2 Q Did you say, I, Keir Lamont Johnson, make this
3 statement on my own account with no pressure?

4 A I didn't write that, sir, somebody else wrote that
5 letter.

6 Q Did you say, Mr. Carnail Graham did not have
7 anything to do with the death of Ms. Keia Pertelle?

8 A I didn't write that, sir, somebody else wrote that
9 letter.

10 Q Did you say, he is very much innocent of the
11 charges placed on him?

12 A I didn't write that, sir, somebody else wrote that
13 letter.

14 Q Did you sign that letter?

15 A Yes, sir.

16 Q You did?

17 A Because I was threatened.

18 Q Okay. Was Henry McElveen your cellmate at J.
19 Reuben Long?

20 A We was in the same part, he wasn't my cellmate.

21 Q Is that Capone?

22 A Who?

23 Q Is he Capone?

24 A No. That's Splurge.

25 Q That's somebody different?

1 A Yes, sir.

2 Q Okay. Did you tell --

3 A I'm sorry, I think -- yeah, that's Splurge.

4 Because I remember the last name McElveen.

5 Q Henry McElveen.

6 A I just know last name McElveen.

7 Q There's also a Rodney McElveen who is Splurge.

8 A No. I told you I didn't know of a McElveen.

9 Q Okay. Was an individual named Henry McElveen, not
10 Rodney, Henry McElveen your cellmate at J. Reuben Long?

11 A I don't know who that is, sir.

12 Q Do you not know the name of your cellmate?

13 A I do not know who that is, sir.

14 Q The question is, do you know the name of your
15 cellmate?

16 A I just told you I do not know who that is, sir.

17 THE COURT: Are you asking him who his cellmate
18 was?

19 Q Who was your cellmate?

20 A I had so many cellmates that I don't know who that
21 is, sir.

22 Q Okay. Did you tell Henry McElveen that you lied
23 about Thomas and Carnail?

24 A I didn't say nothing about no case, sir.

25 Q Oh, you didn't talk to anybody at the jail?

1 A No, sir.

2 Q About the case?

3 A No, sir. Well, except my lawyer.

4 Q You weren't asking people, how much time do I get
5 for just being the driver?

6 A No, sir.

7 Q You didn't tell people that you thought you had a
8 plea deal for 12 years?

9 A No, sir.

10 Q Okay.

11 A Why I'm going to say that if I know I ain't got no
12 plea deal.

13 Q Did you tell Henry McElveen that you lied because
14 the people you were with would kill your family?

15 A No, sir.

16 MR. FREDERICK: Will you mark this, please.

17 (WHEREUPON, Defendant's Exhibit No. 4 was marked
18 for identification only.)

19 MR. FREDERICK: Thank you.

20 Q Keir, I'm showing you what's marked Defense
21 Exhibit 4. Do you recognize that?

22 A Not that I recall, sir.

23 Q Okay. Did you have Henry McElveen, your cellmate,
24 write your letters for you?

25 A Sir, I just told you I didn't -- I do not know who

1 that is. I had nobody write my letters. I know how to
2 read, I know how to write.

3 Q What kind of classes were you in in school?

4 A Sir, that ain't -- just that ain't got nothing to
5 do with --

6 Q Answer the question.

7 THE COURT: Let's stop right here, all right.

8 MR. FREDERICK: Yes, sir.

9 THE COURT: If you have a problem, I'll take care
10 of it. You do not.

11 MR. FREDERICK: I understand.

12 THE COURT: Sir, unless there's an objection, you
13 need to respond to the question. If you know the
14 answer, answer the question. If you don't know the
15 answer, you say that.

16 THE WITNESS: I don't know the answer.

17 Q Were you in special education classes in school?

18 A When I was little, sir.

19 Q Okay. Did you have your roommate, Henry McElveen,
20 write your letters for you?

21 A No, sir.

22 Q After he wrote those letters, did you sign them?

23 A No, sir. Not that I recall.

24 Q Did you have your roommate, Henry McElveen, write
25 a motion for bond revocation hearing for you in July of

1 last year?

2 A No, sir. I know how to do that myself.

3 Q Okay. Did you have him write for you that you
4 were given a proffer agreement, and the solicitor gave
5 you a bond?

6 A No, sir.

7 Q Did you have him write for you that you went to
8 court on June 14th, last year, and neither the
9 solicitor or your lawyer showed up?

10 A No, sir.

11 Q Did you have him write for you that the judge said
12 you'd have to stay in jail until you could get back
13 into court?

14 A No, sir.

15 Q Did you have him write for you in this motion that
16 you would like to reschedule the hearing?

17 A No, sir. My lawyer was always in court with me.

18 Q Did you file with the clerk's office --

19 A Let me see that, sir.

20 Q -- this motion? I'm showing you --

21 A If that's the same motion right there --

22 Q It is the same motion.

23 A -- then no, sir.

24 Q Defendant's Exhibit 4.

25 MR. FREDERICK: Judge, I would move this in the

1 record into evidence as a public record. It is filed.

2 THE COURT: All right, hold on a second. Any
3 objection, solicitor?

4 MS. LIVESAY: I don't, Your Honor.

5 THE COURT: Without objection.

6 MR. FREDERICK: Defense Exhibit 4. And judge I,
7 assume Mr. Canty has no objection.

8 MR. CANTY: Without objection, Your Honor.

9 (WHEREUPON, Defendant's Exhibit No. 4 was admitted
10 in evidence.)

11 Q I'm going to show you one more time Defense
12 Exhibit 4 and ask you if that is your signature.

13 A No, sir. I know how to write my own.

14 Q In April of 2012, were you released on a \$30,000
15 bond?

16 A I don't know, sir. My sister and -- my two
17 sisters that sitting in the back, they pulled the one
18 that going to sign my bond paper, my bond, so I don't
19 know.

20 Q You don't know how much your bond was?

21 A No, sir. You going to have to ask my lawyer. My
22 lawyer is right there (indicating).

23 Q Did the judge tell you how much your bond was?

24 A I didn't go in front of no judge, sir.

25 Q Very good. Is the reason you didn't go in front

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1 of a judge because your --

2 A My lawyer is right there, he went for me.

3 Q Mr. Johnson, please let me finish the question
4 before you answer.

5 THE COURT: Sir, again, I don't need to cover this
6 again. If you got a problem, let me take care of it.

7 MR. FREDERICK: Judge, would you?

8 THE COURT: Thank you. Yes, sir. Again, sir, you
9 listen to the question. You let the lawyer answer, or
10 ask the question fully.

11 THE WITNESS: Yes, sir.

12 THE COURT: Then you answer it. If -- he will not
13 interrupt you and you can give your complete answer,
14 whatever it is. If you need to explain your answer,
15 you can explain your answer; okay?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. Go ahead and ask your
18 question again, Mr. Frederick.

19 Q Is the reason that you did not go in front of a
20 judge because your attorney and the prosecutor
21 consented, meaning agreed to, let you out on that bond?

22 A Sir, I do not know. My lawyer went and got me my
23 bond, sir.

24 Q Okay.

25 (WHEREUPON, Defendant's Exhibit No. 5 was marked

1 for identification only.)

2 MS. LIVESAY: Can I see what he's showing him,
3 Your Honor?

4 MR. FREDERICK: Yes, I'm sorry.

5 Judge, I would move into evidence what has been
6 marked Defendant's Exhibit 5 as a public record.

7 THE COURT: Any objection to Defendant's-5?

8 MS. LIVESAY: Yes, sir, Your Honor. It appears
9 that has got a --

10 THE COURT: All right, hold on a second. Let me
11 look at it, please.

12 MR. FREDERICK: Yes, sir.

13 THE COURT: All right. What's your objection,
14 solicitor?

15 MS. LIVESAY: Your Honor, this is -- appears to be
16 some sort of agreement with Mr. Hazzard and Ms. von
17 Herrmann. I'm not sure that I see Keir Johnson's
18 signature on it or any indication how he would be aware
19 of this agreement other than through his attorney.

20 THE COURT: Well, I appreciate that. I'm going to
21 allow it into evidence for whatever consideration the
22 jury wants to give it, if any.

23 MR. FREDERICK: Thank you. Again, that's
24 Defendant's Exhibit 5.

25 THE COURT: Any objection, Mr. Canty?

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1 MR. CANTY: None, Your Honor.

2 THE COURT: All right, it's in evidence. Thank
3 you.

4 (WHEREUPON, Defendant's Exhibit No. 5 was admitted
5 in evidence.)

6 (WHEREUPON, Defendant's Exhibit No. 6 was marked
7 for identification only.)

8 Q Keir, and am I pronouncing your name right?

9 A Yes, sir.

10 Q Okay. I'm handing you what's been marked for
11 identification purposes only as Defense Exhibit 6. Did
12 you have your roommate, Henry McElveen, write this
13 motion for you?

14 A No, sir.

15 Q Did you write this motion?

16 A No, sir.

17 Q Keir --

18 A I did write letters, but I didn't write that one.

19 Q Did you file pro se -- do you understand what that
20 means, pro se?

21 A For -- for like a motion, motion to something.

22 Q Did you file on your own, meaning your attorney
23 did not file it --

24 A Yes, sir.

25 Q -- this motion?

1 A This one right here that's in front of me?

2 Q Yes.

3 A Yes, sir.

4 Q You did?

5 A Yes, sir.

6 Q Who wrote it?

7 A I did.

8 Q You just said you didn't a minute ago.

9 A You said this one right here (indicating). You
10 asked -- you talking about a whole different other one.
11 I thought you were talking about a whole different
12 other one.

13 Q Okay. I'm not trying to confuse you, Keir.

14 A I'm not, I ain't -- I'm not confused, sir.

15 Q Okay.

16 THE COURT: So let's be clear which exhibit
17 number, which one we're talking about.

18 Q Look at it. Keir, did you file Defense Exhibit
19 No. 6?

20 A Yes, sir.

21 Q Okay. And in this motion did you say -- well, let
22 me say this, in this motion are you asking the Court to
23 let you out on bond?

24 A Yes, sir.

25 Q And in this motion, March of 2012, do you see

1 that?

2 A Yes, sir.

3 Q In this motion did you say you're not a flight
4 risk?

5 A Yes, sir.

6 Q Did you say that you never miss a court date?

7 A Yes, sir.

8 Q And stop there for a minute. Have you ever missed
9 a court date?

10 A No, sir. I came down here one time when I just
11 forgot, my lawyer right there and he say the same
12 thing, I just haven't got -- I had came to court, but I
13 just haven't gotten the -- you know how you sign in and
14 sign out in the little book out front. I forgot to
15 sign in, that's the reason why they gave me the bench
16 warrant.

17 But when I got in court the next month they had it
18 lifted. Well, my lawyer's got it lifted because he
19 told the judge that I was here, and he showed him the
20 paperwork where I was here.

21 Q Okay. So the Court issued a bench warrant for
22 failure to appear?

23 A Yes, sir.

24 Q Is that what you're saying?

25 A Yes, sir.

1 Q And you were arrested on it?

2 A Yes, sir.

3 Q And then you straightened it out later and you got
4 back out; right?

5 A Yes, sir.

6 Q That was last year?

7 A I was locked up -- I was already incarcerated,
8 that's why they gave me a bench warrant too. Which one
9 is you talking about, the trespassing or the like the
10 burglary or what? What you talking about, what charge
11 you talking about on there?

12 THE COURT: Answer the questions that are asked;
13 all right?

14 THE WITNESS: I don't know which --

15 THE COURT: I appreciate that. Just listen to the
16 question asked by the attorney. And if you don't
17 understand it, then you ask him to repeat it or ask it
18 differently.

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Just listen to the
21 question asked.

22 THE WITNESS: Yes, sir.

23 Q Keir, in this motion which is Defense Exhibit 6,
24 did you say, also, I know that my charges are extremely
25 serious?

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1 A Yes, sir.

2 Q And did you say, but I'm innocent?

3 A Yes, sir.

4 Q And I hope the courts and the solicitor give me an
5 opportunity to prove myself guilt free?

6 A Yes, sir.

7 Q Of these following charges, murder?

8 A Yes, sir.

9 Q Okay. And you said you never missed a court date?

10 A I said I never missed a court date, yes, sir.

11 Q But you were picked up on a bench warrant for
12 failure to appear?

13 A Yes, sir. Because I didn't sign -- I didn't sign
14 in or sign out. That's the only reason why. The
15 solicitor had it lifted because she say she remember me
16 talking to her.

17 Q And do you understand that this is a sworn
18 statement, you had it notarized?

19 A Yes, sir.

20 Q Okay.

21 MR. FREDERICK: Your Honor, I'd move Defense
22 Exhibit 6 into the record as a public record. It was
23 filed with the clerk's office.

24 THE COURT: Any objection with Defendant's-6?

25 MS. LIVESAY: I haven't seen it, Your Honor, I'm

1 not sure. Is that the motion?

2 MR. FREDERICK: Didn't I hand it to you? Judge, I
3 just need a drink of water, please.

4 THE COURT: Yes, sir. Any objection?

5 MS. LIVESAY: No, sir, Your Honor.

6 THE COURT: Mr. Canty?

7 MR. CANTY: None, Your Honor.

8 THE COURT: All right. Defendant's-6 is in
9 evidence without objection.

10 (WHEREUPON, Defendant's Exhibit No. 6 was admitted
11 in evidence.)

12 THE COURT: You may proceed, sir.

13 MR. FREDERICK: Thank you.

14 Q Do you know Brandon Wells?

15 A No, sir, not that I recall.

16 Q You never met him?

17 A Not that I recall, sir.

18 Q Do you know B-Wells?

19 A Who?

20 Q B-Wells.

21 A No, sir.

22 Q You never met him?

23 A No, sir.

24 Q Do you know a Donavan Johnson?

25 A No, sir.

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1 Q 110?

2 A No, sir.

3 Q Never met him?

4 A I heard of him, but I don't know him like that.

5 Q You heard of him?

6 A Yes, sir.

7 Q But you never met him?

8 A No, sir. You had -- this is Conway, you hear
9 about a lot of people.

10 Q Okay. Do you know Sha McCray?

11 A No, sir.

12 Q Migo?

13 A No, sir.

14 Q Lil Manzy?

15 A Yes, sir. I know him.

16 Q You know Lil Manzy?

17 A Yes. That's my cousin.

18 Q Lil Manzy is your cousin?

19 A Yes, sir.

20 Q And you don't know what his name is?

21 A Yeah, I know his. But you said -- you said the
22 whole name wrong.

23 Q Say it for us.

24 A Sha'Rah McCray. You said the whole name wrong.

25 Q Okay. Sha'Rah, you don't ever call him Sha, which

1 is short for Sha'Rah?

2 A No, sir.

3 Q Okay. I didn't mean to confuse you, Keir. Do you
4 know Sha'Rah McCray?

5 A Yes, sir.

6 Q And he goes by Lil Manzy?

7 A Yes, sir.

8 Q Migo?

9 A Yes, sir.

10 Q Lil Deep?

11 A No, sir.

12 Q In 2013, that's last year --

13 A Yes, sir.

14 Q -- you had a burglary first degree charge?

15 A Yes, sir.

16 Q That charge was dismissed?

17 A On my lawyer behalf. My lawyer went to court and
18 got it dismissed for me.

19 Q So the charge was dismissed?

20 A Yes, sir.

21 Q And you were charged with murder in 2011?

22 A Yes, sir.

23 Q Does that sound right?

24 A Yes, sir.

25 Q And then last year your burglary first degree

1 charge was dismissed?

2 A Yes, sir.

3 Q You understand that burglary first degree carries
4 a mandatory minimum of 15 years?

5 A No, sir.

6 Q And up to life in prison?

7 A No, sir.

8 Q Last year also while this case is pending, you had
9 an assault and battery first degree charge dismissed?

10 A All that was together, the burglary first, assault
11 and battery and all that. The petty larceny, all that
12 was together in court at the one time.

13 Q The burglary first degree?

14 A All that was together.

15 Q There was also an assault and battery first
16 degree, yes?

17 A Third degree, petty larceny, yeah, all that was
18 together.

19 Q I didn't ask you about the third degree. Were you
20 charged with assault and battery first degree?

21 A Yes, sir.

22 Q Okay. Was that dismissed last year?

23 A Yes, sir.

24 Q And you understand that that charge carries up to
25 ten years in prison?

1 A No, sir.

2 Q Last year while this case was pending, you were
3 convicted of petty larceny?

4 A Yes, sir. I pleaded guilty to it.

5 Q That's stealing?

6 A Huh?

7 Q Right?

8 A What?

9 Q Petty larceny means stealing?

10 A No. That wasn't -- I didn't steel nothing.

11 Q You were innocent?

12 A Yes, sir.

13 Q Okay.

14 A I pleaded guilty so I can make bond.

15 Q Okay. Last year --

16 MR. FREDERICK: Beg the Court's indulgence.

17 Q In 2012 you had another charge for possession of a
18 weapon during the commission of a violent crime?

19 A Yes, sir.

20 Q And it was dismissed?

21 A Yes, sir.

22 Q You understand possession of a weapon during the
23 commission of a violent crime carries up to five years
24 in prison?

25 A No, sir.

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1 Q That charge was dismissed right after you gave
2 your statement to the detective; wasn't it?

3 A To tell you the truth, that happened after this
4 murder charge, sir.

5 Q It happened after the murder charge?

6 A That burglary first and all happened after this
7 murder charge, so how could I give a statement if it
8 happened after this murder charge, sir.

9 Q I want to make sure I'm not confusing you. The
10 statement I'm referring to is about the murder charge,
11 after the murder charge.

12 A No. The murder charge happened -- how did this
13 happen -- the murder charge happened in 2011, I quote
14 that when you said 2013, so how did I have the burglary
15 first before the murder.

16 Q Okay. And I don't want you to misunderstand me, I
17 don't want you to get into the details. But just to be
18 clear, possession of a weapon during commission of a
19 violent crime was dismissed in 2012?

20 A Yes, sir.

21 Q You say yes?

22 A Yes. It couldn't have been. No, because this
23 happened in 2000 -- 2013. The burglary first and all
24 that happened 2013, so I don't see -- your paperwork
25 messed up, sir.

1 Q Okay. And on all these cases, you have some
2 experience with plea bargaining with the prosecutor's
3 office; don't you?

4 A No, sir.

5 Q You know how to get yourself out of trouble?

6 A Get a lawyer.

7 MS. LIVESAY: Your Honor, at this point I'm going
8 to ask --

9 THE COURT: I'm going to allow that particular
10 question and answer.

11 Q You know how to get yourself out of trouble?

12 A Yes, sir. Get a lawyer.

13 Q You got a good lawyer?

14 A Yes, I do.

15 Q I agree. You're charged with murder?

16 A Yes, sir.

17 Q You know that murder carries no less than 30
18 years?

19 A No, sir. You just asked me that same question,
20 though.

21 Q It wasn't me.

22 A Yes, you did, sir.

23 THE COURT: All right. Let's not have a
24 discussion. Please just listen to the question, and
25 answer the question again. If you can't answer the

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1 question, just say you can't answer it.

2 THE WITNESS: I can't answer it, sir.

3 Q Then you know that if you're convicted of murder,
4 you can get up to life in prison the rest of your life?

5 A I know now.

6 Q Okay. Everything that you do from the beginning,
7 everything that you say is calculated to save yourself;
8 isn't that true?

9 A No, sir. Because I don't got no agreement on
10 nothing.

11 Q You don't want to get killed; do you?

12 A No, sir.

13 Q You don't want your grandmamma's house to get shot
14 up; do you?

15 A No, sir. Would you?

16 Q And you don't want to go to prison for the rest of
17 your life; do you?

18 A I know that I had a part in it, and if it happened
19 it happened. But at the same time, I'm not going to go
20 down for nothing I didn't do. I take my part.

21 Q You're innocent?

22 A Yes, sir.

23 Q If you go to prison, you're not going to see your
24 girl again; are you?

25 A I'll be able to see her, she can come visit.

1 Q If you go to prison, you won't ever be a father to
2 your children; will you?

3 A I don't have any kids, sir.

4 Q That's interesting.

5 A I have step kids.

6 Q I'm going to come back to that in a minute.

7 A Yes, sir.

8 Q Is that your answer?

9 A I don't have no kids, sir.

10 Q You know what jail is like; don't you?

11 A Yes, sir.

12 Q You want to be free; don't you?

13 A Anybody would want to be free. Yes, I want to be
14 free, sir.

15 Q Okay. You don't care who you hurt or who you lie
16 about, so long as you save yourself?

17 A I'm not -- I don't lie.

18 Q You don't lie?

19 A No, sir, not about this.

20 Q We're going to come back to that in a minute.

21 A I ain't going to sit here and lie about it.

22 Q We'll come back to that again in a minute.

23 MR. FREDERICK: Beg the Court's indulgence.

24 (WHEREUPON, Defendant's Exhibit No. 7 was marked
25 for identification only.).