

VOLUME I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

Roger E. Henderson, Circuit Court Judge

RECEIVED
JUN 14 2016
SC SUPREME COURT

QUENTIN JENKINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002181

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2007-GS-10-4660,
4661, 4662, 4663

STATE OF SOUTH CAROLINA
Plaintiff

v.

QUINTON R. JENKINS,
Defendant.

TRANSCRIPT OF RECORD

FEBRUARY 4, 2008
CHARLESTON, SOUTH CAROLINA
VOLUME 1

B E F O R E :

THE HONORABLE DEADRA L. JEFFERSON, JUDGE

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MR. WILLIAM RUNYON, ESQUIRE
REPRESENTING THE DEFENDANT

ANNE BOULEY MEYER, RPR
CIRCUIT COURT REPORTER

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1 THE COURT: Does the defendant wish to have a
2 formal arraignment?

3 MR. RUNYON: The Formal arrangement is waived,
4 Judge. Enter a plea of not guilty.

5 THE COURT: Are all these cases being tried,
6 that being two counts of possession of a firearm
7 during the commission of a violent crime and two
8 counts of murder?

9 MR. WILLIAMS: Yes, Your Honor,
10 2007-GS-10-4660, 4661, 4662 and 4663.

11 THE COURT: Defendant is waiving formal
12 arraignment, correct, Mr. Runyon?

13 MR. RUNYON: That's correct, Your Honor he is
14 entering a plea of not guilty.

15 MR. WILLIAMS: Can we approach, Your Honor?

16 THE COURT: Yes.

17 (Whereupon, a discussion was held at the bench
18 off the record.)

19 THE COURT: Are there any pretrial motions that
20 will need to be heard other than what we just
21 discussed?

22 MR. WILLIAMS: Apart from that, Your Honor, I
23 believe there is the search warrant that we would need
24 to do a pretrial motion on as well as to the photo
25 lineups conducted.

1 THE COURT: So we need a Neil versus Biggers.
2 what was found pursuant to the search warrant?

3 MR. WILLIAMS: Your Honor, there was several
4 items. The most important was an unfired cartridge
5 that is very similar to the shell casings that were
6 found at the scene.

7 THE COURT: Repeat that, there is an echo in
8 here and it's difficult to hear.

9 MR. WILLIAMS: A .9mm cartridge, unfired
10 bullet, that was found at the defendant's home. There
11 were some other things found at his home, some scales
12 and some other pills that were analyzed. I don't
13 intent to necessarily argue to the jury that those are
14 as relevant as the .9mm cartridge, but certainly the
15 cartridge is --

16 THE COURT: How are the scales or the pills
17 relevant to the murder?

18 MR. WILLIAMS: Your Honor, in this case the
19 allegation or the theory is that there was a drug deal
20 that was going on and that the defendant was a part of
21 that drug deal. And certainly him having that type of
22 paraphernalia in his house is consistent with the
23 theory that the state's witnesses will articulate.

24 THE COURT: Who issued the search warrant?

25 MR. WILLIAMS: Your Honor, I believe Judge

1 Gosnell. Detective David Osborne was the witness that
2 I intend to present.

3 THE COURT: How long will it take us to deal
4 with that issue?

5 MR. WILLIAMS: 15, 20 minutes, Judge, I don't
6 think it takes a long time.

7 MR. RUNYON: Judge, these are kind of for the
8 record things, and I think we might have half hour, 45
9 minutes, hour at the most to put everything in on the
10 record and move on.

11 THE COURT: The Neil versus Diggers I would not
12 do until it's time to deal with that witness. I'm not
13 going to take that up pretrial if I can do that
14 because I can do that in-camera and preserve that
15 issue at the same time instead of doing it twice.

16 But I would ask that there be no mention of it
17 during the course of opening argument. The search
18 warrant is another issue and we would need to do that
19 before the jury is sworn. We might be able -- we will
20 have to see how long it takes us to select the panel.

21 Okay, what was the other issue that we were
22 discussing at the bench?

23 MR. RUNYON: At the bench the issue we
24 discussed which -- well, Mr. Williams advised me this
25 morning that one of his witnesses, Mr. Simmons, is --

1 THE COURT: Who is Mr. Simmons?

2 MR. RUNYON: Mr. Simmons is a codefendant who
3 testified in the first trial of Mr. Batiste and has
4 been a resident at the Charleston County Jail. Mr.
5 Simmons has allegedly received notes which might be
6 interpreted as being inculpatory from Mr. Jenkins. We
7 have not -- don't have copies of those.

8 Mr. Williams advised me this morning, just
9 before you came in, that he had these potential notes.
10 I advised him I would object to offering them as
11 exhibits on several grounds. At least the first
12 ground was that we have not had the opportunity to
13 have them authenticated, and we have other grounds,
14 chain of custody, what have you.

15 But the primary thing is the question of
16 possibly having to have them analyzed for handwriting
17 and so therefore we would object to, A, them being
18 mentioned in opening; B, Mr. Simmons testifying to
19 them until the -- we, A, have been presented with them
20 and had an opportunity to analyze them.

21 THE COURT: Mr. Williams.

22 MR. WILLIAMS: Your Honor, I normally would not
23 bring this up this late intentionally, I was not aware
24 of the information until over the weekend. I have not
25 seen the notes or the letters at this point, Your

1 Honor. I brought it up to Mr. Runyon because I did
2 think it was something we needed to address.

3 Mr. Simmons I think is bringing that
4 information with him. He is being transported this
5 afternoon and should be here about 1:30. I had him
6 brought over, Your Honor, more because he was a
7 witness in one of the lineups. Obviously he is not
8 necessary at this point for that. But we can get that
9 information from him I hope this afternoon. I will
10 share it with Mr. Runyon, and we can evaluate it for
11 its relevance at that time.

12 I certainly, Your Honor, don't intend to
13 mention it in my opening. I agree with Mr. Runyon
14 that he does need maybe a day or two to review those.
15 But at this point it's maybe not necessary, but I
16 certainly understand he would need at least a day.

17 THE COURT: So is it the state's representation
18 that you are not certain whether you are going to
19 admit the documents because you have not seen them and
20 you don't know the substance.

21 MR. WILLIAMS: That's correct, Your Honor. If
22 they say what I think they say which is something to
23 the effect of the defendant telling the witness, if
24 push comes to shove I will take the charge, something
25 to that effect, then I do intend to produce them.

1 So I do want to see them. But I have not seen
2 them and I cannot say for sure what they contain, but
3 that's what has been represented to me.

4 THE COURT: I don't think that's a basis for
5 continuance. I do think that you should have the
6 ability to have a handwriting expert observe them or
7 look at them so that they can compare a known example
8 of your client's handwriting to the notes, and so that
9 you can engage in any sort of -- if you want to
10 present the handwriting expert in your client's case
11 or if you want to aid you in cross-examining the
12 witness.

13 However, I do not agree with Mr. Williams that
14 it should take two days. I think now that you are
15 aware you certainly can put someone to work today to
16 go and identify a handwriting expert so that as soon
17 as the information is available to us today at 1:30
18 that copies can be made and that you can provide an
19 exemplar from your client so that your handwriting
20 person can make an evaluation of them as soon as
21 possible.

22 If necessary, then we will -- I will cross any
23 issue of delay at that time. And certainly I will not
24 deny your client the ability to do that. But I do
25 think planning is everything and there is nothing that

1 precludes you from identifying someone now and having
2 that person on notice. This happens all the time;
3 handwriting as well as other experts are used to this.
4 And there is nothing that precludes from you putting
5 that person on notice that those items will be
6 forthcoming so that we can eliminate any sort of
7 delay.

8 Now is there anything else we need to take up
9 pretrial before we begin jury selection, from the
10 state?

11 MR. WILLIAMS: Your Honor, I did want to, and
12 Mr. Runyon agreed with me on this, I just want to put
13 it on the record, that the prior convictions of the
14 codefendant in this case, Mr. Batiste, will not be
15 something is able to be argued about either by the
16 state or the defense in the sense that this jury does
17 not need to hear the fact that the codefendant has
18 already been convicted. That's not relevant to the
19 case against this defendant.

20 THE COURT: Mr. Runyon.

21 MR. RUNYON: Judge, I agree. My client's
22 innocence in this case doesn't rest upon his
23 conviction of Mr. Batiste. This is a mere presence
24 case, Judge.

25 THE COURT: Is there anything else before we

1 bring the panel in for jury selection from the state?

2 MR. WILLIAMS: No, Your Honor.

3 MR. RUNYON: No, Your Honor.

4 THE COURT: Mr. Davis, you all bring the jury
5 in for me, please.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: Ladies and gentlemen, we appreciate
8 your patience. We are going to select a jury this
9 morning for the state versus Quentin R. Jenkins,
10 indictment 2007-GS-10-4660, which is an indictment for
11 murder and that indictment alleges as follows: That
12 in Charleston County on or about January 4th, 2007,
13 with malice aforethought, Quentin R. Jenkins did kill
14 and murder Kareem Shakoor by means of shooting, and
15 that Kareem Shakoor did die in Charleston County as a
16 proximate result thereof on January 4, 2007 alleging a
17 violation of code section 16-3-10 of the code of laws
18 as amended, and alleging such to be against the peace
19 and dignity of this state and contrary to the statutes
20 as provided.

21 And indictment 2007-GS-10-4661, an indictment
22 for murder. And that indictment alleges as follows:
23 That in Charleston County on or about January 4, 2007,
24 that with malice aforethought, Quentin R. Jenkins did
25 kill and murder Channing Walker by means of shooting,

1 and that Channing walker did die in Charleston County
2 as a proximate result thereof on January 4th, 2007,
3 alleging a violation of code section 16-3-10 of the
4 code of laws as amended.

5 Indictment 2007-GS-10-4662, an indictment for
6 possession of a firearm during the commission of a
7 violent crime. And that indictment alleges that in
8 Charleston County, South Carolina, on or about January
9 4, 2007 the defendant, Quentin Ralph Jenkins, did
10 possess a handgun, or visibly display what appeared to
11 be a handgun, during the commission or attempted
12 commission or murder, a violent crime, alleging a
13 violation of code section 16-23-490 of the code of
14 laws as amended.

15 And indictment 2007-GS-10-4663, an indictment
16 for possession of a firearm during the commission of a
17 violent crime. And that indictment alleges that in
18 Charleston County, South Carolina on or about January
19 4, 2007, the defendant, Quentin Ralph Jenkins, did
20 possess a handgun or visibly display what appeared to
21 be a handgun during the commission or attempted
22 commission of murder, a violent crime, alleging a
23 violation of code section 16-23-490 of the code of
24 laws as amended.

25 Ladies and gentlemen, we are going to go

1 through a process that is called voir dire which is
2 simply a fancy way of the Court saying that we are
3 going to ask you a series of questions that will
4 enable the attorneys to more efficiently exercise
5 their preemptory challenges in jury selection.

6 If a question applies, I'm going to ask that
7 you stand and in a loud, clear voice state your name
8 and your juror number and an answer to the question if
9 applicable. Please remain standing until the Court
10 has concluded questioning you.

11 I ask counsel for the state to stand and
12 introduce themselves and anyone who will be assisting
13 them in the trial of this case, and publish the names
14 of the members of your office. And also if counsel
15 for the defense would provide us with the same
16 information as well as introducing your client to the
17 panel. You may proceed, Mr. Williams.

18 MR. WILLIAMS: Good afternoon, folks, my name
19 is Nathan Williams. I'm Assistant Solicitor here in
20 the 9th Circuit, Charleston and Berkeley Counties.
21 Working with me assisting in the trial is Assistant
22 Solicitor Kim Steele. I'm going to read off a list of
23 the other attorneys in our office and it's a long one
24 so bear with me.

25 Scarlet Wilson. Bruce Durant. Nick Bianchi.

1 Stephanie Bianco. Julie Cardillo. Michael Dewasy.
2 Rutledge Durant. Ray Ervine. Shawn Goodrich.
3 Elizabeth Gordon. Amy Harrell. Debbie Herring-Lash.
4 Trip Lawton. Peter McCoy. Kevin Hales. Kris Neely.
5 Michael Nelson. Michael Sahn. Roy Sanders. Dale
6 Savage. Tyler Schachte. Jennifer Shealy. Chad
7 Simpson. Jim Stack. Greg Voigt. Burns Wetmore.

8 THE COURT: Thank you. Mr. Runyon, you may
9 proceed.

10 MR. RUNYON: Ladies and gentlemen of the jury,
11 my name is William Runyon, I'm defense counsel for Mr.
12 Jenkins.

13 THE COURT: If you would introduce your client
14 to the panel.

15 Sir, stand and turn and face the panel, please.

16 MR. RUNYON: This is Mr. Quentin Jenkins, the
17 defendant in the case.

18 THE COURT: Thank you.

19 Is there any member of the panel related to
20 Quentin Ralph Jenkins, or any of the members of the
21 family of Kareem Shakoor or Channing Walker, if so
22 please stand at this time.

23 Does any member of the panel have a close
24 personal or social relationship with Quentin Ralph
25 Jenkins or any members of the families of Kareem

1 Shakoor or Channing Walker, if so please stand at this
2 time.

3 Yes, sir.

4 PROSPECTIVE JUROR: I'm a manager at Roper
5 Hospital and Vera Jenkins works for me.

6 THE COURT: I'm sorry, I can't hear you, sir.

7 PROSPECTIVE JUROR: Vera Jenkins works for me.
8 I think that's his mother.

9 THE COURT: Of Mr. Jenkins?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Sir, would you tell us your name
12 and juror number.

13 PROSPECTIVE JUROR: Bernard Caraviello, Number
14 53.

15 THE COURT: Thank you. Sir, as a result of
16 this experience do you feel you can remain fair and
17 impartial and render a fair and impartial decision in
18 this case based solely on the evidence as it will be
19 presented and on the law as the court will instruct?

20 PROSPECTIVE JUROR: Yes, ma'am.

21 THE COURT: Thank you, sir, you may take your
22 seat.

23 Yes, ma'am.

24 PROSPECTIVE JUROR: I'm -- Kareem, when he was
25 little, he was a little boy, he was used to play with

1 my children, my boys.

2 THE COURT: The deceased, correct?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Please tell me your name and your
5 juror number.

6 PROSPECTIVE JUROR: My name is Cory Campbell,
7 my juror number is 49.

8 THE COURT: Did you say Cory Campbell, 49?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Ma'am, as a result of this
11 experience do you feel that you can remain fair and
12 impartial and render a fair and impartial decision in
13 this case based solely on the evidence as it will be
14 presented and on the law as the Court will instruct?

15 I need you to tell me yes or no.

16 I cannot hear you.

17 PROSPECTIVE JUROR: I don't know.

18 THE COURT: There is no right answer, there is
19 no wrong answer only you can answer it but it does
20 require a yes or a no. I just need you to be honest
21 with yourself.

22 PROSPECTIVE JUROR: well, he was close to my
23 boys. He grew up away from them, but they was little
24 together and I remember, you know, they spent a lot of
25 time at my house when he was little. As they grew up

1 my boys and him grew apart because they moved away
2 from the area where we live in, the neighborhood area
3 and they went to school together.

4 But Kareem grew up and his parents moved away
5 from the city so.

6 THE COURT: Do you feel you can be fair and
7 impartial?

8 PROSPECTIVE JUROR: I will try.

9 THE COURT: Okay, ma'am, I have to have a
10 definitive answer it requires a yes or a no. Only you
11 can answer that question. And there is no right or
12 wrong answer. You have to be honest with yourself,
13 and you have to be able to be fair and impartial and
14 render a decision based only on the evidence and on
15 the law.

16 If you cannot do that I need you to tell me
17 whether you cannot do it or whether you can do it.
18 Don't create any conflict in your heart. You need to
19 be honest with yourself. Both the state and the
20 defense are entitled to an impartial juror.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: I can't hear you.

23 PROSPECTIVE JUROR: I understand. I
24 understand. I don't want to.

25 THE COURT: Are you telling me you don't feel

1 you can be impartial?

2 PROSPECTIVE JUROR: No. Because --

3 THE COURT: I don't need you to tell me why. I
4 can tell you're conflicted and like I said this is for
5 the benefit of the entire panel. There is no right or
6 wrong answer. We can't answer these questions for
7 you. Only you can search your heart and tell us. You
8 don't have to explain, I just need you to be honest
9 with yourself and provide the Court with a yes or no
10 answer.

11 Number 49 will be exempt from this trial only.
12 Ma'am, you may take your seat.

13 Yes, ma'am in the back I believe you're number
14 140.

15 PROSPECTIVE JUROR: 140, yes.

16 THE COURT: And your name, please, for the
17 record.

18 PROSPECTIVE JUROR: Hattie Jenkins.

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR: Kareem was my neighbor.

21 THE COURT: Ma'am, as a result of this
22 experience do you feel that you can remain fair and
23 impartial and render a fair and impartial decision in
24 this case based solely on the evidence as it will be
25 presented and on the law as the Court will instruct?

1 PROSPECTIVE JUROR: I can't do it.

2 THE COURT: Okay. Ma'am, you will be exempt
3 from this trial only.

4 The following are a list or potential witnesses
5 in this case. I would ask that you listen very
6 carefully. Alfonza Jones Jr., of Ladson. Aneesa
7 Shakoor of North Charleston. Kareem Abdul Shakoor of
8 North Charleston.

9 John Gianatas of Charleston. Deborah Heyward
10 of Charleston. Will Crosby of Charleston. Michael
11 Hodges of Charleston. Michael Johnson of Charleston.
12 Officer Ratliffe. Officer Henry Homer. Officer
13 Weirsma. Sgt. Steve Hood. Officer Henry Middleton.
14 Officer Rene Charles. Jennifer Wooley.

15 Officer Anita Maestas. Kalisha Gill. Kathleen
16 Butler. Investigator Van Horn. Sgt. Roberts.
17 Elizabeth Williams Mitchell. Detective Barry
18 Goldstein. Detective David Osborne. Detective Jerome
19 Flemming. Officer -- and all of the former witness
20 that I just listed are from the Charleston Police
21 Department.

22 Officer Andres of the North Charleston Police
23 Department. Officer L. Brown. Officer Kosarko. And
24 officer M. Hicks of the Charleston Police Department.
25 Brittany Allan. Bernard Green. Travis Simmons, all

1 of Charleston.

2 Agent Ella Simmons of the South Carolina Law
3 Enforcement Division. Agent Kenneth Whitler,
4 Charleston Police Department. Dr. Erin Presnell of
5 MUSC. And Dr. Cynthia Schandl of MUSC.

6 Is there any member of the panel related by
7 blood or marriage to any of the people that I've just
8 listed, or does anyone have a close personal, social,
9 or business relationship with any of these
10 individuals, if so please stand at this time.

11 Yes, sir.

12 PROSPECTIVE JUROR: Yes, ma'am, I worked for 11
13 years with Charleston Police Department, several of
14 the witnesses.

15 THE COURT: Sir, if you would tell me your name
16 and juror number.

17 PROSPECTIVE JUROR: Frank Proietti, 313.

18 THE COURT: Sir, as a result of this experience
19 do you feel that you can remain fair and impartial and
20 render a fair and impartial decision in this case
21 based solely on the evidence as it will be presented
22 and on the law as the Court will instruct?

23 PROSPECTIVE JUROR: Yes, ma'am.

24 THE COURT: Thank you, sir, you may take your
25 seat.

1 Has any member of the panel ever been
2 represented by any of the attorneys involved in this
3 case or anyone with whom they practice law, if so
4 please stand at this time.

5 Has any member, or does any member of the panel
6 -- I apologize, let me rephrase that. Is there any
7 member of the panel related by blood or marriage to,
8 have a social relationship with any of the attorneys
9 involved or anyone with whom they practice law, if so
10 please stand at this time.

11 Yes, sir.

12 PROSPECTIVE JUROR: 56, Anastasios Chakeris.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR: I'm an attorney, I
15 represented Mr. Voigt.

16 THE COURT: I'm sorry, I can't hear you.

17 PROSPECTIVE JUROR: I'm an attorney and I have
18 represented Greg Voigt.

19 THE COURT: As a result of that experience do
20 you feel that you can remain fair and impartial, and
21 render a fair and impartial decision in this case
22 based solely on the evidence as it will be presented
23 and on the law as the Court will instruct?

24 PROSPECTIVE JUROR: Yes, ma'am.

25 THE COURT: Thank you, sir, you may take your

1 seat.

2 Has any member of the panel formed or expressed
3 an opinion about any issue or matter involved in this
4 case, if so please stand at this time.

5 Is there any member of the panel aware of any
6 bias or prejudice toward either the state or the
7 defense in this case, if so please stand at this time.

8 Is there any member of the panel who's a member
9 of or contributor to any group which has as its
10 primary concern the promotion of law enforcement or
11 victims rights. These groups would include but are
12 not limited to Mother's Against Drunk Drivers,
13 Student's Against Drunk Drivers, Citizens Against
14 Violent Crime, People Against Rape, or Citizens
15 Advocating a Return to Decency and Ethics, if so
16 please stand at this time.

17 Does any member of the panel have any
18 religious, moral or philosophical beliefs that would
19 interfere with their sitting in judgment of their
20 fellow human beings, if so please stand at this time.

21 Is there any member of the panel who has what
22 they would consider to be an unpleasant experience
23 with law enforcement, if so please stand at this time.

24 Does any member of the panel have family
25 members currently being prosecuted by the 9th Circuit

1 Solicitor's Office, if so please stand at this time.

2 Does any member of the panel have a family
3 member who is incarcerated at a state penitentiary, if
4 so please stand at this time.

5 Yes, ma'am.

6 PROSPECTIVE JUROR: Lisa Pham, number 216.

7 THE COURT: Yes, ma'am.

8 PROSPECTIVE JUROR: My brother is in
9 Perryville.

10 THE COURT: Ma'am, as a result of this
11 experience do you feel that you can remain fair and
12 impartial, and render a fair and impartial decision in
13 this case based solely on the evidence as it will be
14 presented and on the law as the Court will instruct?

15 PROSPECTIVE JUROR: Yes, ma'am.

16 THE COURT: Thank you, ma'am, you may take your
17 seat.

18 Yes, ma'am.

19 PROSPECTIVE JUROR: Marie McDermott, 178.

20 THE COURT: Yes, ma'am.

21 PROSPECTIVE JUROR: I have a nephew through
22 marriage, he's in jail for bank robbery.

23 THE COURT: You can remain standing for me.

24 Yes, ma'am.

25 PROSPECTIVE JUROR: Pamela Washington, 319. My

1 fiance is incarcerated at Perry Correctional
2 Institute.

3 THE COURT: As a result of these experiences do
4 you both feel that you can remain fair and impartial,
5 and render a fair and impartial decision in this case
6 based solely on the evidence as it will be presented
7 and on the law as the Court will instruct? Number
8 178?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Thank you, ma'am.
11 Number 19?

12 PROSPECTIVE JUROR: Yes, ma'am.

13 THE COURT: Thank you, you may both take your
14 seats.

15 Is there any member of the panel who has been
16 exposed to any media coverage about this case, that
17 include anything that could have been found on the
18 radio, television, newspaper or Internet, if so please
19 stand at this time.

20 Does any member of the panel know of any reason
21 whatsoever why he or she should not serve as a juror
22 in this case, with particular emphasis being placed on
23 your ability to be fair and impartial to both the
24 state and the defense, if so please stand at this
25 time.

1 Are there any additional questions from the
2 state?

3 MR. WILLIAMS: No, Your Honor.

4 THE COURT: From the defense?

5 MR. RUNYON: None, Your Honor.

6 THE COURT: Ladies and gentlemen -- the strikes
7 will be 10 and 5. Ladies and gentlemen, if you hear
8 your name called please come forward. Mr. Major, if
9 you could demonstrate for me, please.

10 If you would come forward with all of your
11 personal belongings and stand as Mr. Major is standing
12 in front of the podium, facing back toward the panel.
13 Thank you.

14 Also like an airline attendant, buckle your
15 belt. Little levity for Monday morning. Again if
16 your name is called please do as Mr. Major
17 demonstrated for you.

18 THE CLERK: Juror Number 239, Maria Schaffer.
19 what say you for the state?.

20 MR. WILLIAMS: Please submit the juror.

21 THE CLERK: What say you for the defense?

22 MR. RUNYON: Please excuse the juror, Mr.
23 Clerk.

24 THE CLERK: Ms. Schaffer, please have a seat
25 back in the audience. You have been excused from the

1 trial in this case.

2 Juror Number 264, Jack Summers.

3 What say you for the state?

4 MR. WILLIAMS: Please submit the juror.

5 THE CLERK: What say you for the defendant?

6 MR. RUNYON: Swear the juror, please.

7 THE CLERK: Mr. Summers, please have a seat in
8 the jury box, you have been selected as a juror in
9 this case.

10 THE CLERK: Juror Number 43, Kim Bryant.

11 What say you for the state?

12 MR. WILLIAMS: Court's indulgence.

13 Please excuse the juror.

14 THE CLERK: Mr. Bryant, please have a seat back
15 in the audience, you have been excused from the trial
16 in this case.

17 Jury Number 119, Joseph Haigler.

18 What say you for the state?

19 MR. WILLIAMS: Please submit the juror.

20 THE CLERK: What say you for the defendant?

21 MR. RUNYON: Please swear the juror.

22 THE CLERK: Mr. Haigler, have a seat in the
23 jury box. You have been selected as a juror in this
24 case.

25 Juror Number 137, Joanna Hoover.

1 What say you for the state?

2 MR. WILLIAMS: Please submit the juror.

3 THE CLERK: What say you for the defendant?.

4 MR. RUNYON: Please excuse the juror, Mr.

5 Clerk.

6 THE CLERK: Ms. Hoover, please have a seat back
7 in the audience, you have been excused from the trial
8 in this case.

9 Juror Number 203 Michael Netter.

10 What say you for the state?

11 MR. WILLIAMS: Please submit the juror.

12 THE CLERK: What say you for the defendant?

13 MR. RUNYON: Please excuse the jury, Mr. Clerk.

14 THE CLERK: Mr. Netter, have a seat back in the
15 audience, you have been excused from the trial in this
16 case. That's three strikes for the defendant.

17 Juror Number 226, Karen Ratliff.

18 What say you for the state?

19 MR. WILLIAMS: Please submit the juror.

20 THE COURT: What say you for the defendant?

21 MR. RUNYON: Swear the juror, please, Mr.

22 Clerk.

23 THE COURT: Ms. Ratliff, please have a seat in
24 the jury box, you have been selected as a juror in
25 this case.

1 Juror Number 309, Matthew Maurer.

2 what say you for the state?

3 MR. WILLIAMS: Please submit the juror.

4 THE CLERK: what say you for the defendant?

5 MR. RUNYON: Swear the juror, please, Mr.

6 Clerk.

7 THE CLERK: Mr. Murer, please have a seat in
8 the jury box, you have been selected as a juror in
9 this case.

10 Juror Number 58, Theresa Chiarito.

11 THE COURT: Mr. Major, if you would assist her.

12 THE CLERK: what say you for the state?

13 MR. WILLIAMS: Court's indulgence.

14 Please submit the juror.

15 THE CLERK: what say for the defendant?

16 MR. RUNYON: Swear the juror, please, Mr.

17 Clerk.

18 THE CLERK: Ms. Chiarito, the bailiff will
19 assist you the jury box. You have been selected as a
20 juror in this case.

21 THE COURT: Seat her in the front chair so that
22 she doesn't have to go a long discontinue.

23 THE CLERK: Juror Number 276, Leo Vogel.

24 what say you for the state?

25 MR. WILLIAMS: Please submit the juror.

1 THE CLERK: What say you for the defendant?

2 MR. RUNYON: Please excuse the juror.

3 THE CLERK: Mr. Vogel, please have a seat back
4 in the audience, you have been excused from the trial
5 of this case.

6 Juror Number 231, Richard Dean Richardson.

7 What say you for the state?

8 MR. WILLIAMS: Please submit the juror.

9 THE CLERK: What say you for the defendant??

10 MR. RUNYON: Please swear the juror, Mr. Clerk.

11 THE CLERK: Mr. Richardson, please have a seat
12 in the jury box, you have been selected as a juror in
13 this case.

14 Juror Number 4, Shaun Allega.

15 What say you for the state?

16 MR. WILLIAMS: Please submit the juror.

17 THE CLERK: What say you for the defendant?

18 MR. RUNYON: Please excuse the juror, Mr.
19 Clerk.

20 THE CLERK: Mr. Allega, you have been excused
21 from the trial in this case. Have a seat in the
22 audience. That's five strikes for the defendant.

23 Juror Number 126, John Harelston.

24 What say you for the state?

25 MR. WILLIAMS: Please excuse the juror.

1 THE COURT: Mr. Harleston, please have a seat
2 back in the audience. You have been excused from the
3 trial in this case. That's two strikes for the state.

4 Juror Number 11, James Arnett.

5 What say you for the state?

6 MR. WILLIAMS: Please submit the juror.

7 THE CLERK: What say you for the defendant?

8 MR. RUNYON: Please excuse the juror, Mr.
9 Clerk.

10 THE COURT: Mr. Arnett, please have a seat back
11 in the audience. You have been excused from the trial
12 in this case.

13 THE CLERK: Juror Number 187, Richard Miller.
14 What say you for the state?

15 MR. WILLIAMS: Please submit the juror.

16 THE CLERK: What say you for the defendant?

17 MR. RUNYON: Swear the juror, please, Mr.
18 Clerk.

19 THE CLERK: Mr. Miller, please have a seat in
20 the jury box. You have been selected as a juror in
21 this case.

22 Juror Number 68, John Todd Craig.

23 What say you for the state?

24 MR. WILLIAMS: Please submit the juror.

25 THE CLERK: What say you for the defendant?

1 MR. RUNYON: Please swear the juror, Mr. Clerk.

2 THE CLERK: Mr. Craig, please have a seat in
3 the jury box, you have been selected as a juror in
4 this case.

5 Juror Number 302, Bonnie Campbell.

6 what say you for the state?

7 MR. WILLIAMS: Please submit the juror.

8 THE CLERK: what say you for the defendant?

9 MR. RUNYON: Please excuse the juror, Mr.
10 Clerk.

11 THE CLERK: Ms. Campbell, please have a seat
12 back in the audience. You have been excused from the
13 trial in this case. Seven strikes for the defendant.

14 Juror Number 252, Mary Smalls.

15 what say you for the state?

16 MR. WILLIAMS: Please submit the juror.

17 THE COURT: what say you for the defendant?

18 MR. RUNYON: Please swear the juror, Mr. Clerk.

19 THE COURT: Ms. Smalls, please have a seat in
20 the jury box. You have been selected as a juror in
21 this case.

22 Juror Number 246, Theodore Simmons.

23 what say you for the state?

24 MR. WILLIAMS: Please submit the juror.

25 THE CLERK: what say you for the defendant?

1 MR. RUNYON: Please swear the juror, Mr. Clerk.

2 THE CLERK: Mr. Simmons, please have a seat in
3 the jury box, you have been selected as a juror in
4 this case.

5 Jury Number 74, John Gay Gant.

6 What say you for the state?

7 MR. WILLIAMS: Please submit the juror.

8 THE CLERK: What say you for the defendant?

9 MR. RUNYON: Please excuse the juror, Mr.
10 Clerk.

11 THE CLERK: Mr. Juror, please have a seat in
12 the audience, you have been excused from the trial in
13 this case.

14 Juror Number 313, Frank Proietti.

15 What say you for the state?

16 MR. WILLIAMS: Please submit the juror.

17 THE CLERK: What say you for the defendant?

18 MR. RUNYON: Please excuse the juror, Mr.
19 Clerk.

20 THE CLERK: Mr. Juror, please have a seat in
21 the audience, you have been excused from the trial in
22 this case. That's nine strikes for the defendant.

23 Juror Number 319, Pamela Washington.

24 What say you for the state?

25 MR. WILLIAMS: Please excuse the juror.

1 THE COURT: Ms. Washington, please have a seat
2 pack in the audience, you have been excused from the
3 trial in this case. That's three strikes for the
4 state.

5 Juror Number 255, Henry Smith.

6 What say for the state?

7 MR. WILLIAMS: Please submit the juror.

8 THE CLERK: What say you for the defendant?

9 MR. RUNYON: Swear the juror, please, Mr.

10 Clerk.

11 THE CLERK: Mr. Smith, please have a seat in
12 the jury box. You have been selected as a juror in
13 this case.

14 Juror Number 53 Bernard Caraviello.

15 What say you for the state?

16 MR. WILLIAMS: Please excuse the juror.

17 THE CLERK: Sir, please have a seat back in the
18 audience, you have been excused from the trial in this
19 case. Four strikes for the state.

20 Juror number 10, Ross Andrews.

21 What say you for the state?

22 MR. WILLIAMS: Court's indulgence.

23 Please excuse the juror.

24 THE CLERK: Mr. Andrews, please have a seat
25 back in the audience, you have been excused from the

1 trial in this case. That's five strikes for the
2 state.

3 Juror Number 178, Mary McDermott.

4 Any challenge from the state?

5 MR. WILLIAMS: None.

6 THE CLERK: What say you for the defendant?

7 MR. RUNYON: Swear the juror, please, Mr.
8 Clerk.

9 THE COURT: Ms. McDermott, please have a seat
10 in the jury box, you have been selected as a juror in
11 this case.

12 THE COURT: Two alternates, strikes are one and
13 two.

14 THE CLERK: Juror Number 295, Harry Withers.
15 What say you for the state?

16 MR. WILLIAMS: Please submit the juror.

17 THE CLERK: What say you for the defendant?

18 MR. RUNYON: Swear the juror, please, Mr.
19 Clerk.

20 THE CLERK: Mr. Withers, please have a seat in
21 the jury box, you have been selected as a juror in
22 this case.

23 Juror Number 135, Mary Holmes.

24 What say you for the state?

25 MR. WILLIAMS: Please submit the juror.

1 THE CLERK: What say you for the defendant?

2 MR. RUNYON: Please swear the juror, Mr. Clerk.

3 THE CLERK: Ms. Holmes, please have a seat in
4 the jury box, you have been selected as a juror in
5 this case.

6 Your Honor, the jury has been selected and
7 seated.

8 THE COURT: Are there any motions regarding the
9 selection of the jury from the state?

10 MR. WILLIAMS: No, Your Honor.

11 THE COURT: From the defense?

12 MR. RUNYON: None from the defense, Your Honor.

13 THE COURT: To the balance of the panel, we
14 than you for your time and attention this morning. We
15 know it has been taxing. I hope you all have a great
16 afternoon. You are excused with the Court's thanks.
17 Please call the jury information line after 6 o'clock
18 this evening for further instructions. Have a good
19 day.

20 (Whereupon, the prospective jurors exit the
21 courtroom.)

22 THE COURT: To the remaining panel. Ladies and
23 gentlemen, you have been selected for the case of
24 State of South Carolina versus Quentin Jenkins. We
25 anticipate -- we have some matters of law that we need

1 to take up which will probably require that we -- we
2 would normally resume at 2:30, but I'm going to ask
3 that you all -- I have some other matters also that I
4 need to dispose of that are unrelated to this case.
5 It's going to take me beyond lunch, then I will have
6 to break for lunch, then resume the hearing in this
7 matter.

8 So I'm going to ask that you return at 3
9 o'clock. During this break please do not discuss the
10 case among yourselves or with anyone else. Please do
11 not speculate about what you think the case may or
12 could be about. Please do not allow yourself to be
13 exposed to any media coverage about this case; that
14 includes anything that can be found on the radio,
15 television, Internet or otherwise.

16 And please don't do any independent research of
17 any type about any issue or matter in this case on the
18 Internet or using any other type of research.

19 We appreciate your patience. I know it seems
20 like a long break. I anticipate I probably won't be
21 done here for at least another 30 minutes. And then
22 I'd hate for you all to be sitting in the jury room.
23 The jury room that you all will be in has no windows.

24 If you are like me, sitting for an additional
25 30 minutes without windows would be trying on my

1 patience. So I would rather you all be out enjoying
2 the air, running errands, or making more efficient use
3 of your time than waiting on us while we conclude
4 those matters.

5 You will return directly to your jury room.
6 And again please don't have any contact with anyone in
7 or about the courthouse. I would not want for you to
8 be speaking to a witness and to have that conversation
9 observed by someone and misconstrued. The bailiffs
10 are going to show you how to regain entry directly to
11 the jury room. If you would go with them, we
12 appreciate your patience and we will see you at 3
13 o'clock.

14 (Whereupon, the jurors exit the courtroom.)

15 THE COURT: Okay. We will be at ease until
16 2:30 we will resume this hearing. I have to do a plea
17 and I have a meeting at 1:00. So I'm a little pressed
18 for time. So we will start back at 2:30.

19 MR. WILLIAMS: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 (Whereupon, a recess was taken.)

22 THE COURT: Is the state ready to proceed?

23 MR. WILLIAMS: Yes, Your Honor. I want to take
24 up two matters if we can.

25 THE COURT: Sure.

1 MR. WILLIAMS: For scheduling. Your Honor, Mr.
2 Simmons, who was a witness who had the notes from the
3 defendant, I met with him and he says that he was
4 pulled out of his cell and brought over.

5 THE COURT: So he does not have the notes? So
6 it's a non-issue then?

7 MR. WILLIAMS: Well, no, Your Honor. I think
8 that I haven't seen them yet. I can present them to
9 Mr. Runyon tonight. I will go over to the jail and
10 get.

11 THE COURT: You mean the Charleston County
12 jail?

13 MR. WILLIAMS: Yes.

14 THE COURT: Not the Department of Corrections.

15 MR. WILLIAMS: Yeah, I'm sorry. He was brought
16 over from the jail. He said the notes are still
17 there.

18 THE COURT: Why can't we just send somebody for
19 them now?

20 MR. WILLIAMS: I would do that, Your Honor, I
21 don't know if I can get them out of the cell.

22 THE COURT: The director of the jail can.

23 MR. WILLIAMS: We can do that. I can send an
24 investigator over or somebody to pick them up. I just
25 don't know enough about how the jail operates to know

1 if that's feasible.

2 THE COURT: I don't know who is in charge over
3 there anymore, it used to be Mr. Fisher.

4 MR. WILLIAMS: I think Mr. Lucas is in charge
5 there.

6 THE COURT: I would imagine if you called him
7 and it's authorized that they can -- well, it doesn't
8 have to be authorized, you don't have any
9 expectations, they're just communications.

10 MR. RUNYON: Judge, for the record, we would
11 have absolutely no objection to designating an
12 authority at the jail picking up these items in Mr.
13 Simmon's personal belonging and submitting them to the
14 solicitor. We would not raise any issue on chain of
15 custody or anything like that.

16 THE COURT: Okay.

17 MR. RUNYON: That would probably be the
18 simplest.

19 THE COURT: Why don't we see if we can do that.
20 I imagine that they can.

21 MR. WILLIAMS: I just need to get somebody from
22 my office over here which I don't have right now.

23 Your Honor, the other thing was I had made
24 duplicates of the all photographs that were evidence
25 in the codefendant's trial, however there are several

1 items of physical evidence that I cannot obviously
2 duplicate. I talked to Mr. Runyon, I would suggest to
3 the Court that we simply use the same numbers as were
4 used in the last trial and that wouldn't require any
5 duplication of stickers.

6 There is a chain that is kept by the clerk's
7 office, I believe, my investigator is in that chain,
8 and we can certainly notate and put on the record
9 where the exhibits were as long as they're in a
10 separate box.

11 THE COURT: Why don't you be more specific.
12 Tell me what it is you're speaking about.

13 MR. WILLIAMS: Your Honor, they --

14 THE COURT: Just tell me in general what they
15 are.

16 MR. WILLIAMS: They are gunshot residue kits,
17 there are sample kits, there are several shell
18 casings, there are unfired cartridges, and I believe
19 that's it. It's GSR kits, fingerprints as well.

20 THE COURT: So what you are going to do is use
21 the same numbers and then on any appeal, you're right
22 they can't duplicate it, so I guess they would have to
23 be considered by the appellate court in some
24 consolidated record I would imagine.

25 Although I doubt the appellate court would be

1 look at that type of physical evidence.

2 MR. WILLIAMS: I don't know enough, Your Honor,
3 to be honest, about the court of appeals.

4 THE COURT: I doubt they will be looking at
5 bullet casings. I can pretty much assure you.

6 MR. WILLIAMS: It would keep the exhibits
7 cleaner, and I know the court reporter was amenable to
8 that.

9 THE COURT: well, when the appellate court
10 considers a record, there are designations that are
11 made. I've never known anyone to designate a shell
12 casing. They may make reference to them.

13 Now in some retrial, if it were to be remanded
14 or reversed, it would be important. Those items would
15 need to remain together in the evidence locker with
16 the clerk's office.

17 MR. WILLIAMS: And I think that's -- we
18 probably covered that by being in the chain of custody
19 of the clerk's office. There is a chain reflected,
20 those items were moved to the codefendant's trial.

21 THE COURT: I think you need -- we can work
22 this all out at the conclusion of the trial, but I
23 think you would need to make some reference or some
24 cross-reference or some index for the Clerk of Court's
25 benefit so that they will be aware that the items are

1 in both files so to speak, both cases not both files.

2 MR. WILLIAMS: Can we just use the same numbers
3 so we don't have to duplicate the stickers.

4 THE COURT: I think you all agreed to that and
5 I think that is an appropriate way to handle that.

6 MR. WILLIAMS: Thank you, Your Honor, that's
7 all I have.

8 THE COURT: That's correct, Mr. Runyon?

9 MR. RUNYON: That's correct, Your Honor.

10 THE COURT: Ready to proceed with the search
11 warrant issue?

12 MR. WILLIAMS: Yes, Your Honor, state calls
13 Detective David Osborne.

14 MR. DAVID OSBORNE,
15 after having first been duly sworn to state the truth,
16 the whole truth and nothing but the truth, testified
17 on his oath as follows:

18 THE COURT: You may proceed, Mr. Williams.

19 MR. WILLIAMS: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 DIRECT EXAMINATION

22 BY MR. WILLIAMS:

23 Q Sir, where do you work?

24 A Charleston Police Department.

25 Q what do you do at the police department?

1 A I'm a violent crimes detective.

2 Q How long have you worked in law enforcement?

3 A Going on 11 years now.

4 Q In this case were you involved in the

5 investigation of Quinton Jenkins?

6 A Yes.

7 Q During that investigation were you involved in
8 the execution of a search warrant on his house?

9 A Yes.

10 Q What was the procedure in obtaining the search
11 warrant?

12 A The -- I believe it was on January 10th of
13 2007, we had obtained what we felt to be probable
14 cause to search his residence in relation to that
15 investigation. I prepared a search warrant for
16 evidence as it related to that case. I met with Judge
17 Gosnell who reviewed and signed the search warrant.

18 (Whereupon, Court's Exhibit No. 1 is marked for
19 identification.)

20 Q (By Mr. Williams) I'm going to hand you what
21 has been marked Court's Exhibit 1 for identification
22 purposes. Can you tell me what that is?

23 A That's the search warrant that I met with Judge
24 Gosnell.

25 Q And it consists of about five pages?

1 A Yes.

2 Q Your signature is on that warrant?

3 A Yes.

4 Q And when you took it to Judge Gosnell, did you
5 read to him anything or supply him with what we call
6 probable cause in the case?

7 A Yes.

8 Q Is that contained in the search warrant?

9 A Yes, sir.

10 Q Was there any information, any oral information
11 that was given to supplement what's in the face of the
12 warrant or what is on that search warrant?

13 A Not that I can recall, no.

14 Q Was there anybody else there with you swearing
15 out the warrant?

16 A No, sir.

17 Q Did they provide -- I'm sorry. After the judge
18 signed -- Judge Gosnell signed the warrant, what did
19 you do?

20 A Well, the next morning we got CPD officers
21 together and we executed the warrant at the residence
22 the next morning.

23 Q Was there anything -- was it the place
24 identified in the search warrant as the address?

25 A Yes.

1 Q Was there anything recovered in that search
2 warrant, in the execution?

3 A Yes.

4 Q What was recovered?

5 A If I can look at my report I will give you a
6 complete list.

7 Q Is that list on the tabulation along with the
8 warrant?

9 A Yes, it would.

10 Q Recovered four white pills from the top dresser
11 of Quinton Jenkins' room. We recovered four pink pill
12 on the headboard also from Quinton Jenkins' room.
13 South Carolina ID also in Mr. Jenkins's r. A Crown
14 Royal bag with ammunition located in the second drawer
15 of a dresser in Mr. Jenkins's room. Nine white pills
16 and one white tablet in a shoe box under the bed in
17 which we located Mr. Quinton Jenkins. And black
18 Reebok shoes in the garage and two scales which were
19 in a plastic bag under the house.

20 Q Those items were placed into evidence once they
21 were seized?

22 A Yes, sir.

23 Q They are available in court today?

24 A Yes, sir.

25 Q After those items were seized and the

1 tabulation was filled out, what was done with the
2 search warrant or with the paperwork involved?

3 A Well, I typed up the return and Detective
4 Sergeant Barry Goldstein actually swore out the return
5 to Judge Gosnell.

6 Q And that is with you today as well?

7 A Yes.

8 Q As far as that exhibit. Does it indicate when
9 that return was filed?

10 A Yes.

11 Q Was it within ten days of the day it was
12 executed?

13 A The return was signed by Judge Gosnell on the
14 16th of January.

15 Q It would have been six days after it was
16 executed?

17 A Yes. Well, five.

18 Q Five days, five or six. If you can hand me
19 that exhibit. And on Page 2 and 3 is your statement
20 of probable cause that you gave the judge?

21 A Yes.

22 Q And nothing was done to supplement that?

23 A No.

24 MR. WILLIAMS: Show it to defense counsel, Your
25 Honor.

1 MR. RUNYON: No objection as to the document,
2 Judge.

3 MR. WILLIAMS: Tender that to the Court, Your
4 Honor.

5 THE COURT: Admitted for purposes of the
6 in-camera hearing only. Did you have it marked for ID
7 already?

8 MR. WILLIAMS: Yes, Your Honor, it's marked
9 Court's 1.

10 THE COURT: Thank you.

11 Q (By Mr. Williams) Detective, did you see
12 Quinton Jenkins at the house that night?

13 A Yes, I did.

14 Q Do you see him in court today?

15 A Yes, I did.

16 Q Can you point to him and describe what he is
17 wearing?

18 A He is seated at the defense table wearing all
19 blue, button-down shirt.

20 Q The items that were seized were found in the
21 same room as he was?

22 A All but the two plastic scales and the shoes.
23 The plastic scales were in the house and the shoes
24 were in the garage.

25 Q There was an identification card found?

1 A Yes.

2 Q Where was that?

3 A That was in the same room.

4 Q That was Quinton Jenkins' ID?

5 A Yes, sir.

6 MR. WILLIAMS: Thank you. Nothing else for
7 this witness, Your Honor.

8 THE COURT: Any questions for the witness, Mr.
9 Runyon?

10 MR. RUNYON: No, Your Honor, we have no
11 questions for this witness.

12 THE COURT: Sir, you may step down.
13 Any further witnesses from the state?

14 MR. WILLIAMS: No, Your Honor.

15 THE COURT: Anything from the defense?

16 MR. RUNYON: No, Your Honor. Obviously subject
17 to objection to relevance and what have you, obviously
18 on this we have no objection.

19 THE COURT: So you're not objecting to the
20 sufficiency of the warrant, correct?

21 MR. RUNYON: Not objecting to the sufficiency
22 of the warrant, Judge.

23 THE COURT: Or any of the items that were
24 seized?

25 MR. RUNYON: Well, no, other than relevance.

1 THE COURT: As it relates to the warrant is
2 what my --

3 MR. RUNYON: As it relates to the warrant it's
4 all proper and ordinary on its face, Judge.

5 THE COURT: That concludes the prehearing
6 in-camera on that issue.

7 From the state?

8 MR. WILLIAMS: Nothing else, Your Honor, on
9 that.

10 THE COURT: From the defense?

11 MR. RUNYON: No, Your Honor.

12 THE COURT: Okay. It is about ten of 3:00.
13 You get yourselves organized, we have ten minutes
14 before the jury arrives. I assume there is nothing
15 else we needed to take up?

16 MR. WILLIAMS: No, Your Honor. I will let the
17 Court know since we have a minute, I have about four
18 witnesses I believe, three or four this afternoon, I
19 expect it should take us to right about 5:00.

20 THE COURT: We're going to have to break a
21 little earlier than that, I have another meeting
22 unfortunately that is totally unrelated to this but
23 administrative in its nature and something I have to
24 deal with, and I apologize.

25 But at the rate that we are moving we may well

1 be able to do them all. So don't excuse them, keep
2 them here and we will do our best to try to finish all
3 of them today.

4 MR. WILLIAMS: Thank you, Your Honor.

5 THE COURT: We will be at ease until 3:00 at
6 which time we will resume the trial with the Court's
7 opening instruction and opening argument. To the
8 extent that you all can, you can premark any exhibits
9 to make it a little easier for the court reporter.

10 MR. RUNYON: Judge, I think we gotten it all
11 worked out by the exhibits we can duplicate, just for
12 the record, the exhibits we can duplicate have been
13 duplicated, and we have gotten this logistics problem
14 marking things from the prior trial so it wouldn't
15 tell the jury there was a prior trial of any kind. So
16 I think we have gotten through that already.

17 we worked a short time during lunch, and my
18 learned friends over there finally figured out how
19 they felt comfortable doing that.

20 THE COURT: well, I just wanted to give you the
21 ability to do that during the break to the extent that
22 we can make things move a little more smoothly.

23 MR. WILLIAMS: Thank you, Your Honor.

24 THE COURT: You're welcome. We will be at ease
25 until 3:00.

1 (Whereupon, a recess was taken.)

2 THE COURT: Is the state ready to proceed?

3 MR. WILLIAMS: Yes, Your Honor.

4 THE COURT: Is the defense ready to proceed?

5 MR. RUNYON: We are ready, Your Honor.

6 THE COURT: Okay. Any exception to note-taking
7 -- we will allow the jury to take notes and give them
8 instructions regarding that -- from the state?

9 MR. WILLIAMS: No, Your Honor.

10 THE COURT: From the defense?

11 MR. RUNYON: No, Your Honor.

12 THE COURT: Please bring in the jury, I will
13 appoint the foreperson.

14 Madam Clerk, ready to swear the jury?

15 THE CLERK: Yes, ma'am.

16 (Whereupon, the jurors enter the courtroom.).

17 THE COURT: Who are the alternates? I need all
18 this row to slide down for me. The alternates will
19 sit in the last two seats of the back row. Thank you.

20 Ladies and gentlemen, if you would stand for
21 me, please, and raise your right hand for the clerk to
22 administer the oath.

23 (Whereupon, the jury panel is sworn in by the
24 clerk.)

25 THE COURT: You may be seated, ladies and

1 gentlemen.

2 Ladies and gentlemen, as I indicated you have
3 been chosen as jurors in the case of state versus
4 Quinton Jenkins. I generally allow the jury to elect
5 their foreperson, but in the interest of time I have
6 appointed a foreperson, that being Number 226.

7 The foreperson is your spokesperson here in the
8 courtroom. They don't have any greater vote or voice
9 than you do, it's simply an administrative function.
10 That person simply fills out the verdict form, and if
11 there are any questions during jury deliberations,
12 that person writes them out for presentation to the
13 court.

14 Again I emphasize that that person has no
15 greater vote or voice than you do, it's simply an
16 administrative function. And in the interest of time
17 I have taken care of that.

18 Ladies and gentlemen, as I have indicated the
19 case that we are about to try is the case of the state
20 of South Carolina versus Quinton R. Jenkins. What I
21 will now say is intended to serve as an introduction
22 to the trial of this case.

23 These remarks are not a charge on the law. I
24 will instruct you on the law applicable to this case
25 at the end of the trial before you retire to consider

1 your verdict. This is merely an explanation of the
2 procedure that we will follow in the trial of this
3 case so that you may better understand what may be
4 happening.

5 During the course of this trial you will be
6 given the opportunity to take notes. The bailiff will
7 pass out pads to you along with some pens, and I'm
8 going to give you some additional instructions
9 regarding note-taking at the conclusion of the
10 instruction. There is a white sticker that is on the
11 top of each pad. And if you would write your juror
12 number on there so that you will be able to identify
13 your notes.

14 The defendant is charged by four indictments
15 filed in this court with the crimes of murder and
16 possession of a firearm during the commission of a
17 violent crime, the elements of which I will explain to
18 you at the conclusion of the trial after you've heard
19 all of the evidence, the attorneys closing arguments,
20 and during the Court's instruction you will hear the
21 elements of each of those offenses.

22 The indictments are simply the charges by which
23 this case is brought into court, and they are not, in
24 any sense, evidence of the allegations they contain.
25 The defendant has pled not guilty to the indictments.

1 The state therefore has the burden of proving each of
2 the elements of the indictments beyond a reasonable
3 doubt. And it will be your duty, ladies and
4 gentlemen, to decide whether the state has met that
5 burden or not.

6 Your purpose as jurors is to find and determine
7 the facts. You are the sole judges of the facts in
8 this case. If at any time I make any comment
9 regarding the facts, you must disregard it. You are
10 to determine the facts from the testimony you hear and
11 the other evidence introduced in court.

12 It is up to you to determine the inferences
13 which you feel may be properly drawn from the
14 evidence. It is especially important that you perform
15 your duty of determining the facts diligently and
16 conscientiously, because ordinarily there is no way to
17 correct an erroneous determination of facts made by a
18 trial jury.

19 On the other hand, and with equal emphasis the
20 same law that makes you the judges of the facts, makes
21 me the judge of the law. You law as given by the
22 Court is the only law that you may consider. You must
23 accept and follow it as I instruct it, even though you
24 may disagree with what I tell you the law is.

25 I cannot tell you what the facts are and you

1 cannot disagree with the Court about what the law is
2 or what the law should be. Your responsibility is to
3 take the law as I instruct it, and to apply it to the
4 facts as you find them from the testimony of the
5 witnesses and any other evidence that is introduced.
6 After doing that you will render your verdict, a true
7 and just verdict, under the solemn oath that you have
8 taken as juror in this case.

9 Until I advise you to begin your deliberations
10 you must not discuss this case with anyone; that
11 includes your fellow jurors, your family members and
12 your friends, and anyone involved in the case. After
13 the case is submitted to you, you must discuss it only
14 in the jury room among your fellow jurors.

15 The attorneys and the parties have been advised
16 that they're not to speak with you at all. So if you
17 should see them in a local restaurant or on the street
18 or in the parking garage, or even in the lobby of the
19 courthouse, and they don't speak, please don't think
20 that they're being unfriendly, please know that they
21 are strictly adhering to the Court's instructions.

22 During the trial you are instructed that you
23 are not to read, listen to or watch any news reports
24 about this case. This includes anything that may be
25 in the newspapers, radio, television or Internet. And

1 in addition, you are strictly instructed that you are
2 not to do any Internet searches of any type regarding
3 any issue or matter involved in this case, whether
4 before or during the course of the trial.

5 It is essential that you keep an open mind and
6 not decide any issue in this case until all of the
7 evidence has been presented, the attorneys have
8 provided their closing arguments, and I have
9 instructed you on the law applicable to this case.

10 It is your solemn responsibility, ladies and
11 gentlemen, to determine the guilt or innocence of the
12 defendant. And your verdict must be based solely on
13 the evidence as it is presented to you in this trial
14 and on the law as I will instruct you during and at
15 the conclusion of this trial.

16 In just a moment the solicitor will make what
17 is called an opening statement in which the solicitor
18 will explain to you the issues in this case. Or at
19 least what he believes or she believes the issues to
20 be in this case.

21 The attorney for the defense may also make an
22 opening statement although he is not required to do
23 so. What the attorneys tell you during their opening
24 statements is not evidence in this case. It is only
25 their contention as to what they believe the issues to

1 be.

2 The evidence in this case will be presented to
3 you by testimony by sworn witnesses from the witness
4 stand and through exhibits that may be introduced into
5 evidence.

6 From time to time during the course of the
7 trial you may hear one of the attorneys say something
8 like, Your Honor, I object. Just as in sports,
9 business, or any other structured activity there are
10 certain rules that we must obey in the presentation of
11 evidence. They ensure that you receive the most
12 trustworthy and reliable evidence available.

13 An objection is the procedure that an attorney
14 uses to call a possible violation of those rules to my
15 attention as the Judge of this court. And for this
16 reason you should not hold an attorney's objection
17 against him nor her, nor should you conclude from the
18 Court overruling or sustaining an objection that I
19 favor one side or the other.

20 Also from time to time you may hear the
21 attorneys say something like, Your Honor, we have a
22 matter of law to discuss, or they may ask to approach
23 the bench, or I may ask them to approach the bench, or
24 it may be necessary for us to excuse you from the
25 courtroom for a short while so that the attorneys and

1 I can discuss matters of law.

2 The reason that we do this as I have explained,
3 you are the sole judges of the facts in this case and
4 the law does not permit me to have an opinion.

5 Sometimes when I'm discussing matters of law with the
6 attorneys such as to whether a particular evidentiary
7 rule applies, or a statute or rule of procedure, it
8 might be necessary for me to make some comment about
9 the facts in connection with ruling. And for these
10 reasons we exclude you from the courtroom while these
11 discussions take place to that in no way will you be
12 influenced by anything that the Court may say or do in
13 connection with the facts of this case.

14 In determining what the true facts are in this
15 case, you must decide whether or not the testimony of
16 the witnesses is believable. It will be my
17 responsibility to rule as a matter of law to rule as
18 to whether certain testimony is admissible at all or
19 not. But once it is admitted, whether or not you
20 believe it is solely a matter for you to determine.

21 In deciding whether to believe a witness you
22 have the right to consider the interest of any
23 witness, the bias of any witness, the prejudice of any
24 witness. The opportunity for the witness to have seen
25 the matters and things about which the witness may

1 testify. And the way the witness acts on the witness
2 stand, or what we call demeanor.

3 You have the right to consider anything that is
4 in the record that will help you evaluate the
5 testimony of the witnesses. That means that it is
6 your duty to pay close attention to these witnesses,
7 to observe them, to listen to them, and to pay close
8 attention to the attorneys and the Court.

9 Although I know it is very difficult, please do
10 not allow your thoughts to wander. But give strict
11 attention to the evidence and the testimony and the
12 arguments of counsel and the instructions on the law
13 as given by the Court. So that you will then be in a
14 position to determine what the true facts are, and
15 apply the law to those facts, and thus render a true
16 and just verdict in this case.

17 During the course of this trial you will also
18 be given the opportunity to take notes. Please don't
19 feel compelled to take notes. Note-taking is a
20 privilege that you may choose to exercise, or choose
21 not to exercise. Not everyone finds note-taking
22 helpful to them.

23 If you should decide to take notes, as I have
24 indicated you are the facts finders, and you must rely
25 on your powers of observation. So please do not allow

1 note-taking to become a distraction to you. And
2 please do not try to record everything that is said,
3 it is simply impossible.

4 You may want to keep a main outline of points
5 that are being made. And once you are sent to the
6 jury room to deliberate you may want to take a few
7 moments to review your notes and allow them to refresh
8 your recollection of general arguments that have been
9 made and the evidence that has been presented.

10 During breaks and recesses your notes will have
11 to be left in your seats. And during the evening
12 recesses please rest assured that we will secure your
13 notes and no one will invade your privacy by reading
14 them. I will remind you that your notes are for your
15 specific and your individual purposes, they are not to
16 be shared with anyone. They are to be used only for
17 the purpose of refreshing your own recollection.

18 Please be reminded that juror notes should not
19 be given any greater weight than the individual
20 recollection of the other jurors. The individual
21 recollections of other jurors should be considered
22 just as reliable as notes taken by other jurors.

23 Madam Forelady, it will be your responsibility,
24 as I've indicated, to preside in the jury room and to
25 fill out the verdict and to write notes on behalf of

1 the jury during jury deliberation. But I will give
2 you further instruction regarding that at the
3 conclusion of the trial.

4 In order to preserve everyone's rights, I will
5 give everyone an opportunity to object to anything
6 that the Court has said by way of opening instruction.

7 Are there any exceptions from the state?

8 MR. WILLIAMS: None, Your Honor.

9 THE COURT: From the defense?

10 MR. RUNYON: None, Your Honor.

11 THE COURT: And just by way of housekeeping, no
12 one is to come in or out of this courtroom while the
13 Court is speaking or when the attorneys are speaking.
14 I gave that instruction last week, it is not being
15 followed, you should advise your respective offices
16 because the next person that does it will be fined.

17 You may proceed.

18 MR. WILLIAMS: Thank you, Your Honor. May it
19 please the Court.

20 THE COURT: Yes.

21 MR. WILLIAMS: This is a case about choices,
22 and a case about consequences. It's about the choices
23 of four young men to get involved in a drug
24 transaction. To exchange, to go out and try to sell,
25 Ectasy pills. Two of those young men, Channing Walker

1 and Kareem Shakoor, paid the ultimate price. They are
2 murdered, gunned down in McDonald's parking lot far
3 away from their families, away from their home, taken
4 too soon, and taken far too tragically.
5 Two other young men are on trial for murder. And this
6 week, this afternoon, we take up the trial of one
7 those men, Quinton Jenkins.

8 Now on January 4, 2007 Quinton Jenkins and
9 Jabez Batiste were partners in crime. You'll hear in
10 this case and you'll find that on January 4th of 2007,
11 everything started in this car. That car was borrowed
12 by Jabez Batiste from his girlfriend and you'll hear
13 from her, a young lady named Brittany. And
14 Jabez Batiste got that car and he was going to go do a
15 drug transaction, he was going to meet Kareem Shakoor,
16 and he was going to get some Ecstasy pills, about 25 of
17 them. What you'll hear in this case is that defendant
18 went along with Jabez Batiste, because Jabez Batiste
19 wasn't going to go alone, he was going to get some
20 other people to go with him, to work with him as
21 partners in crime. And he went by and picked up three
22 young men, three men; Travis Simmons, Bernard Green,
23 and this defendant, Quinton Jenkins.

24 And they got into this vehicle, it's a Buick,
25 and started driving over to the McDonald's in west

1 Ashley. And as they were driving they talked about
2 this drug deal, and they talked about it a little bit
3 more. They all agreed that it was going to be a
4 ripoff. If the price wasn't right they were going to
5 take those Ecstasy pills from those two young men,
6 Channing Walker and Kareem Shakoor.

7 And as they drove over, they all talked about
8 that. And when they got there, this parking lot,
9 that's what happened. The McDonald's you'll hear
10 about and you'll see about is over at Sam Rittenberg
11 and Orange Groove, that little area right where Cross
12 Grove goes across the North Bridge at the Ashley
13 River. There is a McDonald's there, a Burger King, a
14 couple of strip malls in that little area.

15 And they all drove, the defendant, Jabez
16 Batiste, Bernard Green and Travis Simmons over to this
17 McDonald's to do the drug deal. In fact, do a little
18 bit more if the price wasn't right, take those pills
19 if they had to.

20 Two men get out of the car, Jabez Batiste and
21 his partner in crime Quinton Jenkins. what you'll
22 hear is that they went over to the car and they spoke
23 with Mr. Shakoor and Mr. Walker, talked about this
24 drug transaction.

25 You'll hear that after they went to the

1 victims' car, the shooting started. And you'll hear
2 this from witnesses, they went over once. Went a
3 second time. Right there in that parking lot as they
4 were at the victims' car the shooting starts. Kareem
5 Shakoor is shot in the back four times. One of the
6 bullets actually comes through the front of his chest
7 and kills him, hits his heart. He falls down there in
8 the parking lot and died in the dark, alone, by
9 himself, crawling toward the front door of McDonald's.

10 Channing Walker was shot several times right in
11 the driver's side door of the car that the victims
12 drove over there. And you'll see evidence in this
13 case that one shot looked like it was fired directly
14 above him, hit him right in the center of the chest.
15 There is actually a bullet projectile, a piece of
16 lead, right underneath his body where it went through
17 and stopped on the concrete. That's where Channing
18 Walker died, right inside that door, shot by these two
19 partners in crime, Jabez Batiste and this defendant,
20 Quinton Jenkins.

21 The next thing that happens is this defendant
22 and Jabez Batiste run back to the car. And you'll
23 hear how Travis Simmons and Bernard Green never got
24 out of the car. They stayed in the car, heard the
25 shooting, and then these two defendants ran back to

1 the car together, jumped in the car together, and
2 Travis Simmons then took off with the vehicle and they
3 left.

4 After the murders everybody sort of went their
5 separate ways. You'll hear how Travis Simmons and
6 Jabez Batiste went one place. This defendant along
7 with Bernard Green went a separate way.

8 what they did have were stolen property, and
9 the drugs. You'll hear evidence in this case that
10 they did ripoff Channing Walker and Kareem Shakoor.
11 You'll hear about how there was a necklace stolen from
12 Kareem Shakoor, other drugs were stolen from Kareem
13 Shakoor before he was murdered.

14 And then the City of Charleston Police
15 Department gets involved. And you are going to hear a
16 lot of testimony, you deserve to hear all of that,
17 about how they conducted their investigation. About
18 how they checked the crime scene and found eight shell
19 casings from a semiautomatic handgun there in the
20 parking lot of the crime scene. How they all came
21 from the same gun. The State Law Enforcement Division
22 will show that all these casings came from one place,
23 one gun, fired by the same weapon.

24 You were going to hear from Detective Osborne,
25 Detective Goldstein, Detective Flemming. They are

1 going to talk about how they started their
2 investigation and everything they went through,
3 followed up leads, checking cell phones, talking to
4 people. Doing everything you expect to hear
5 detectives do.

6 And as a result of that, two men are charged
7 with murder, Quinton Jenkins, Jabez Batiste. And
8 murder isn't all that complicated, at least in a case
9 like this. When somebody gets shot down in a parking
10 lot, it's pretty much always going to be murder.
11 Shooting somebody in the back, shooting them while on
12 the ground, that's murder.

13 what you are going to hear in this case also is
14 a theory called, the hand of one is the hand of all.
15 Now I'm going to read that to you. It is something I
16 want you to keep in mind as this trial progresses. I
17 believe the judge will tell you this later, she will
18 instruct you on the law. But it says: A person who
19 joins with another to accomplish an illegal purpose is
20 criminally responsible for everything done by the
21 other person which occurs as a natural consequence of
22 the acts done in carrying out the common plan and
23 purpose.

24 And that's a long explanation. But what it
25 comes down to is if you are doing an illegal act, and

1 the natural consequence of that is something else
2 illegal, you are just at responsible. And you are
3 going to hear in this case how doing a drug deal is
4 certainly unlawful. And I submit to you, and I will
5 at the end of this case, that murder is a natural
6 consequence. People getting shot is a natural
7 consequence of drug deals and drug rip-offs. And I
8 want you to keep that in mind.

9 The purpose of getting out of the car, the
10 defendant and Jabez Batiste both did that. A drug
11 deal is certainly an illegal purpose. Two other young
12 men in this case, Travis Simmons and Bernard Green,
13 didn't get out of the car. They stayed inside. And
14 there is going to be some distinction between those
15 two groups of people.

16 I want you to think about through this trial
17 what the natural consequence of those acts are.
18 The illegal purpose of a drug deal, the natural
19 consequences, shooting, and in this case murder.

20 Staying inside the car, you are going to hear
21 that Mr. Simmons and Mr. Green are being held
22 accountable for accessory to murder for staying inside
23 the car.

24 You are going to hear a lot of testimony in
25 this case. And I'm going to ask you to listen to it

1 closely. And I will point out some things that you
2 are certainly not going to hear. You are not going to
3 hear one person say, you know what, I saw Quinton
4 Jenkins, recognized his face, you are not going to
5 hear anybody say, I saw him shooting both those young
6 men out in that parking lot.

7 You are not going to hear from witnesses that
8 are always going to be the people you'd like to hear
9 from in every case. Sometimes you cannot pick your
10 family and you cannot always pick your witnesses. You
11 are going to hear from a couple of people, Travis
12 Simmons and Bernard Green, were exactly what you
13 expect to see out there in the middle of a murder.
14 You are going to hear from both of them.

15 And I submit to you, you are going to hear
16 plenty of evidence in this case that shows the person
17 that pulled that trigger was Quinton Jenkins. You are
18 going to hear evidence, although nobody is going to
19 identify his face per se, you are going to hear
20 testimony about who it was that was shooting the gun,
21 his build, his stature. You'll hear some other
22 things.

23 And I'm just going to submit to you that at the
24 end of this case I think you will be able to find
25 beyond a reasonable doubt that this defendant was the

1 one shooting Channing walker, the one shooting Kareem
2 Shakoor. I submit to you something else, that in this
3 case you don't need to know all that. The law says if
4 you are simply involved in an illegal transaction, a
5 drug deal, you are a part of that, you are a partner
6 in crime on that drug deal, you are responsible for
7 any murders that result even if you don't pull the
8 trigger.

9 You are going to hear evidence I think that
10 does prove he pulled the trigger. You are going to
11 hear plenty of evidence that he was involved in an
12 unlawful act that resulted in the death and that also
13 results in murder.

14 Quite simply you are going to hear about
15 choices and about consequences. The choice by this
16 defendant to get involved in a drug deal, the
17 consequence, liability for murder. At the end of this
18 trial when you come back, I'm going to ask you to hold
19 him accountable for those crimes.

20 MR. RUNYON: Madam Forelady, ladies and
21 gentlemen of the jury, I'm not going to take a lot of
22 time up here primarily because you don't have any
23 evidence in front of you. We have had a nice
24 presentation with the Power Point, all that sort of
25 stuff. What I ask you to do is listen to the real

1 evidence.

2 And Mr. Williams kindly told you some of the
3 problems they are going to have when he said, well no
4 one is going to say that Quinton Jenkins shot anybody,
5 no one is going to say they saw him shoot. No one is
6 going to say that they saw Mr. Batiste shooting, all
7 that sort of stuff.

8 what you are going to have to do is listen for
9 the evidence, the physical evidence too, the physical
10 evidence that's going to allow you to determine
11 whether or not it happened like the state says it
12 happened. I suggest to you that you are going to have
13 to conclude that it didn't happen that way as he said
14 up here.

15 He talks about choices, and under the state's
16 theory four people, four people made a choice,
17 according to the state's theory, to go do a drug deal.
18 But what the consequences are of that, there are two
19 people who are deceased, but the consequences of that
20 are that the state has chosen to only charge two as
21 the killers.

22 And I'd like you to listen to the evidence and
23 figure out how they did the meeny-miny-moe, so to
24 speak, of who is the person and who isn't the person.
25 You're going to hear from all these people. There is

1 no sense sitting up here belaboring everything.
2 You're going to have to hear the evidence. And once
3 you hear the evidence, the two-car doors, the physical
4 evidence of where people were, and where people
5 weren't, and then you are going to have to decide
6 whether or not Quinton Jenkins was in any position to
7 shoot anybody.

8 It's just going to be that simple, and also
9 that complicated. I want to thank you for your
10 attention in this case. We are not here for a very
11 complex, complicated matter. Two people are deceased.
12 The state says, somebody shot them, we think he was
13 one of them. We got these other two people that may
14 have been involved in them, we don't think they're the
15 ones who did it. And you are going to listen to the
16 evidence that they have and you're going to listen to
17 the evidence that they don't have. After that,
18 we are all going to be able to have a chance to talk
19 to you and try to put all of this in focus. And at
20 that point in time you will be able to talk about it
21 more intelligently. Thank you.

22 THE COURT: State may proceed.

23 MR. WILLIAMS: Thank you, Your Honor. State
24 calls John Gianatas.

25 THE COURT: Sir, if you would come to the

1 witness stand to be sworn.

2 MR. JOHN GIANATAS,
3 after having first been duly sworn to state the truth,
4 the whole truth and nothing but the truth, testified
5 on his oath as follows.

6 THE COURT: Thank you, you may proceed.

7 MR. WILLIAMS: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 DIRECT EXAMINATION

10 BY MR. WILLIAMS:

11 Q Mr. Gianatas, where do you work?

12 A I work for the North Charleston sewer district.

13 Q What do you do for the sewer district?

14 A I'm an inspector form them.

15 Q How long have you worked there?

16 A Going about 14 months.

17 Q where did you work prior to working for North
18 Charleston?

19 A Charleston County Sheriff's Office.

20 Q what did you do at the Sheriff's office?

21 A Deputy sheriff 27 years retired.

22 Q You retired from the Sheriff's Office?

23 A Yes, sir, I did.

24 Q As a deputy?

25 A Yes, sir.

1 Q Do you recall January 4, 2007?

2 A Yes, sir, I do.

3 Q What were you doing that day or where were you
4 at that evening?

5 A I was visiting my mother at a nursing home
6 called Heartland on frontage road.

7 Q Where is that located relative to the City of
8 Charleston?

9 A Off of Sam Rittenberg by Orange Grove.

10 Q That's in Charleston County?

11 A Yes, sir, it is.

12 Q About what time were you over at the facility?

13 A I was visiting my mother around 6:00 p.m.

14 Q About what time would you say you left?

15 A Around 7:45.

16 Q Where did you go when you left, which
17 direction?

18 A I took a left out of the nursing home onto the
19 frontage road heading towards Orange Grove and Burger
20 King and McDonald's.

21 Q Does the road run parallel to anything else?

22 A It just runs along Sam Rittenberg and meets at
23 Orange Grove.

24 Q And as you were driving along there did you
25 notice anything?

1 A Yes, sir, I did.

2 Q What did you notice?

3 A Just as I approached Burger King on my
4 left-hand side, the entrance there, I heard about five
5 gunshots.

6 Q Mr. Gianatas, I'm going to hand you what has
7 been marked State's proposed Exhibit 27 and 28. Do
8 you recognize both of those?

9 A Yes, sir.

10 Q Does that show that area you were just speaking
11 of?

12 A Yes, sir.

13 Q If you hand those back to me.

14 MR. WILLIAMS: Your Honor, I will move for the
15 admission of State's proposed 27 and 28.

16 THE COURT: Any objection?

17 MR. RUNYON: We just need a little foundation.

18 MR. WILLIAMS: Your Honor --

19 THE COURT: No speaking objections.

20 MR. RUNYON: I'm sorry.

21 THE COURT: Is there any objection?

22 MR. RUNYON: Yes, Your Honor, we object.

23 THE COURT: Foundation?

24 MR. RUNYON: May we approach?

25 THE COURT: Yes.

1 (Whereupon, a discussion was held at the bench
2 off the record.)

3 THE COURT: Sustained. You may proceed.

4 Q (By Mr. Williams) Mr. Gianatas, I'm going to
5 ask you a couple more questions about the photos.
6 what time of evening was it that you were out there?

7 A It was nighttime, it was dark.

8 Q And the proposed exhibits show a different time
9 of day?

10 A Yes, sir, daylight.

11 Q But apart from the time of day, does that
12 fairly and accurately otherwise represent the way the
13 scene appeared that night?

14 A Yes.

15 Q These are the same but during the daytime?

16 A Yes, sir.

17 Q And obviously this did not show the same cars
18 that were out there and things like that?

19 A No, sir.

20 MR. WILLIAMS: Your Honor, I move for admission
21 of the exhibits.

22 MR. RUNYON: No objection, Judge

23 THE COURT: Marked and admitted without
24 objection.

25 (Whereupon, State's Exhibit Nos. 27 and 28 are

1 admitted into evidence.)

2 Q (By Mr. Williams) Mr. Gianatas, I'm going to
3 put up State's Exhibit 27. I will get as much focus
4 as I can on that. I'm going to hand you a laser
5 pointer. Just press up on the top there.

6 I believe you were telling the jury that you
7 were driving along the frontage road. Do you see the
8 frontage road in this exhibit?

9 A Yes, I do. Right here.

10 Q Can you identify -- you are indicating the road
11 on the front of the exhibit?

12 A Yes, sir.

13 Q You say as you pulled up to that frontage road
14 you turned or did something or heard something?

15 A Yes. I stopped at the entrance on the frontage
16 road going to Burger King, I stopped right there after
17 I heard some gunshots.

18 Q Does this show sort of your perspective,
19 although it's a different time of day?

20 A I was farther back, yes.

21 Q Does this show your viewpoint or what would
22 have been your viewpoint?

23 A When I proceeded forward later, yes.

24 Q As you pulled up there, you say you heard
25 gunshots. How many did you hear?

1 A I heard around, I think it was around five.

2 Q What was the sequencing or timing of those
3 gunshots, how did they sound?

4 A It was bang, bang, bang -- bang, bang.

5 Q And you are indicating a pause between the two
6 sets of three and then a short pause, maybe a second,
7 and then two more?

8 A Yes, sir.

9 Q What did you see or what did you do as this was
10 happening?

11 A At this time I stooped my vehicle and I was
12 just kind of looking to my left. And I started to
13 move forward just real slow towards Orange Grove Road.
14 And right about in here, (witness indicating), there
15 is a lot of bushes. I couldn't see across to the
16 parking lot there at McDonald's.

17 And I really didn't know where the shots come
18 from other than my left. And I started moving real
19 slow at this time and I saw the subject running.

20 Q Where did you see that person?

21 A Right by where this tree was at, on the other
22 side of wall in McDonald's parking lot. (witness
23 indicating.)

24 Q Could you tell where they were returning to?

25 A He was running towards Sam Rittenberg, this

1 direction, this way. (Witness indicating.)

2 Q Did you get a good enough look at the person's
3 face where you would be able to identify them again?

4 A No, sir.

5 Q Could you tell how big they were, their
6 stature?

7 A This was a slim, young black male.

8 Q Could you tell about how tall he may or may not
9 be, height, weight, any of those things?

10 A Not his height exactly until he got to the car,
11 kind of top of the car.

12 Q Which car are you talking about?

13 A The car that was parked down over here on the
14 far side.

15 Q So tell the jury about that car. When did you
16 first notice the car over there?

17 A I noticed the car when the black male was
18 running towards that area. Just when he got to the
19 car he stopped and I looked back to my left and see
20 who was after him. And by the time I looked back he
21 was gone.

22 Q Was there anybody after him as you said?

23 A I didn't see anybody.

24 Q So just the one person running towards the car?

25 A That's all I saw.

1 Q Could you tell when he got towards the car
2 approximately how big or how tall?

3 A Real slim young male. Just barely at the top
4 of the roof. All I could see was the door glass up to
5 the roof because of the wall.

6 Q Like it is in this photo?

7 A Yes, sir.

8 Q Could you tell how tall he was?

9 A No, sir, I couldn't tell.

10 Q As he ran towards -- that one person ran
11 towards the car were you able to see that car?

12 A Yes, sir, I could see the top part of it.

13 Q Could you tell what color it was, make, model,
14 any of those things?

15 A Not to me because of the lighting, the
16 darkness. It looked like it was a dark color at the
17 top now.

18 Q Can you tell if it was a two-door, four-door?

19 A No, I couldn't tell you.

20 Q You say that person got inside the car?

21 A That's when I looked back so quickly he was
22 gone. I didn't see him nowhere else. I presume he
23 was in the car.

24 Q Could you tell where he got inside the car if
25 he did?

1 A No, I can't.

2 Q After you saw that person run towards the car
3 and then disappeared, what did you do?

4 A I just sat there, just stopped where I was at
5 and just watched. And I backed up a little bit and
6 proceeded out of Burger King.

7 Q After that, let me ask you how long did that
8 take? How many seconds would you say?

9 A Not very long. By the time I looked back, I
10 didn't see him and the car was already starting to
11 move forward now.

12 Q Once you saw that car go forward, what did you
13 do?

14 A I just moved up closer to the stop sign and
15 stopped right there. As the vehicle approached in
16 front of McDonald's it was kind of lit up from the
17 lights inside it, I could see into the vehicle.

18 Q What did you say when you could see inside that
19 vehicle?

20 A I could see basically like a driver and it
21 looked like a possible passenger in the front seat.
22 By that time I saw somebody duck across. I don't know
23 if it was the front seat or back seat and disappeared
24 and went down.

25 Q So could you tell how many other people were in

1 the car?

2 A No. To me looked like maybe possibly three.

3 Q Could there have been more or less?

4 A I'm not really sure.

5 Q After you saw that happened as the car was
6 moving forward, what did you do?

7 A The car went down. I lost a little bit of
8 sight of it, then it turned onto Sam Rittenberg
9 towards Highway 7 or 171 and I lost sight of it.

10 Q After you saw the vehicle leave, what you did
11 do?

12 A I stopped right here, and I made a left turn on
13 Orange Grove Road. (Witness indicating.)

14 Q where did you go after you turned left?

15 A went this way here, left on Orange Grove Road
16 was an entrance to the McDonald's. I took a right
17 into there and then another right and then I stopped.
18 (Witness indicating.)

19 Q Is that approximately in the area where you saw
20 the people running, or the person running?

21 A From that tree.

22 Q Yeah.

23 A All the way down on the McDonald's side.

24 Q where would you say you pulled in and stopped
25 at approximately?

1 A Back right in here. (Witness indicating.)

2 Q I'm going to put up State's Exhibit 28. Does
3 that show approximately that same area again?

4 Obviously taken at a different day and time?

5 A Yes, sir. Back down here. (Witness
6 indicating.)

7 Q What did you see when you stopped your car?

8 A When I pulled in and stopped I saw a young
9 black male laying on his side, left hand holding
10 himself up. A red looking Honda with two doors open,
11 the front passenger and the driver. And I just
12 staring at the light to see what he was doing.

13 Q Mr. Gianata, I'm going to show what has been
14 marked State's Proposed Exhibits 21, 22, 7 and 5. If
15 you could take a look at those. And hand them back to
16 me when you are done.

17 A Yes, sir.

18 Q Do you recognize those photos?

19 A Yes, I do.

20 Q Do those show what you saw that night?

21 A Yes, they do.

22 MR. WILLIAMS: Your Honor, I showed these to
23 defense counsel. I move for the admission of State's
24 21, 22, 5 and 7.

25 MR. RUNYON: No objection, Your Honor.

1 THE COURT: Marked and admitted without
2 objection.

3 (Whereupon, State's Exhibit Nos. 5, 7, 21 and
4 22 are admitted into evidence.)

5 Q (By Mr. Williams) Sir, you said that you saw a
6 red car. I'm going to put up State's Exhibit 7, it's
7 right over the top of the other one. Can you tell the
8 jury what that shows?

9 A It shows a red Honda that was in McDonald's
10 parking lot with both doors open.

11 Q If you could tell the jury approximately where
12 that Honda was located relative to the daytime
13 pictures so that they have some kind of orientation?

14 A Right here is the investigator's car right
15 here. And right over here is a tree. Right in front
16 of the tree. (Witness indicating.)

17 Q So the Honda in the picture on the left is
18 where that white Taurus over here?

19 A It's closer on this side over here right in
20 front of the tree. (Witness indicating.)

21 Q Now there was an individual you said you saw
22 going across the parking lot. I'm going to show you
23 State's 21, put that in as well. Can you tell the
24 jury what that shows?

25 A This shows the male that was in the parking

1 lot, I saw him leaning on his left side.

2 Q was there another individual in the parking lot
3 that you saw?

4 A Yes, sir. I finally noticed a person laying on
5 the ground by the driver's side.

6 Q And can you see that in the exhibit as well?

7 A Yes, sir, right there. (witness indicating.)

8 Q I'm also going to show you State's 22. Does
9 that show that same reference you just made?

10 A Yes, sir, without the tarp.

11 Q And obviously with the other individual there
12 was no tarp on him either?

13 A Yes, sir.

14 Q Before we started talking about these photos
15 you said as you walked through the lot you saw a young
16 man on his arm. Was he conscious?

17 A Yes, he was leaning on his side. I was still
18 sitting in my vehicle. He was leaning on his left
19 side and his left hand was holding himself up.

20 Q What happened as you watched him if you did?

21 A I just kind of watched him, decided to stay
22 where I was at for right now. I watched him very
23 slowly do down, slowly, slowly until he just laid
24 down. And that was it, he didn't move again.

25 Q And you saw this from your car?

1 A Yes, sir.

2 Q what did you see next or what did you do next
3 after you saw that?

4 A I was working on the phone with 911 talking to
5 the city dispatchers. And I advice them they had a
6 shooting at McDonald's at Orange Grove and Highway 7.
7 And told them to send police out there and EMS. And
8 by that time I stepped out of the vehicle and just
9 walked up a little bit and that's when I saw the other
10 person on the driver's side laying on the ground. I
11 couldn't tell if he was up or down, face-up or
12 face-down. I told her there was another one on the
13 ground, it doesn't look good. She told me EMS was on
14 the way.

15 Q Did you approach the second person that you saw
16 out there?

17 A No, I went back to my vehicle.

18 Q At that point when you went back to your
19 vehicle, what did you do?

20 A I just hung up from the 911, just sat there.

21 Q Did the police show up?

22 A Yes, sir a subject, a corporal maybe, in an
23 unmarked vehicle showed up.

24 Q Approximately how long would you say you were
25 there before the officer showed up?

1 A Not very long, five minutes.

2 Q In that time that went by between when you got
3 back in your vehicle and this officer showed up, did
4 anybody come out there and move anything or was there
5 any cars going through that area?

6 A No, just me. There was a car now going through
7 the drive-through window still getting food.

8 Q Did anybody walk up to the area or see where
9 these young men were at?

10 A No I saw people looking out the window at
11 McDonald's.

12 Q When the police showed up did you talk to
13 anybody?

14 A No, sir.

15 Q Did you eventually -- I should say, did you
16 stay on the scene?

17 A I stayed on the scene.

18 Q Were you talked to eventually?

19 A Right.

20 Q Who did you talk to if you recall?

21 A Detective Wilson.

22 Q You gave him a statement?

23 A Yes, sir.

24 MR. WILLIAMS: No further questions for this
25 witness, Your Honor, thank you.

1 THE COURT: Any questions for the witness, Mr.
2 Runyon?

3 MR. RUNYON: Briefly, Judge.

4 THE COURT: You may proceed.

5 CROSS EXAMINATION

6 BY MR. RUNYON:

7 Q Good afternoon, Mr. Gianatas.

8 A Mr. Runyon.

9 Q Good to see you again.

10 A Same.

11 Q All right. Now you were a deputy sheriff for
12 27 years?

13 A Yes, sir.

14 Q And you are pretty -- you were trained to be an
15 observer?

16 A Yes, sir.

17 Q And what you observed was a slim black male
18 running towards a car?

19 A Yes, sir.

20 Q And do you know what side of the car that slim
21 black male got in?

22 A No. When I turned and looked the other way,
23 when I looked back he was already in the vehicle
24 looked like.

25 Q So you don't know whether it was the driver,

1 passenger or whatever?

2 A No, sir.

3 Q And then you saw the vehicle leave?

4 A Yes, sir.

5 Q And kind of drive in front of you?

6 A Yes, sir.

7 Q And head down Sam Rittenberg towards someplace?

8 A Yes, sir.

9 Q And you don't know who was driving?

10 A No, sir.

11 Q Then you went over and made the observations
12 and you called 911?

13 A Yes, sir.

14 Q You stayed on the scene?

15 A Yes, sir.

16 Q Because at this time you were retired from the
17 sheriff's department, weren't you?

18 A Yes, sir.

19 Q And you were trained to do what you did; isn't
20 that correct?

21 A Yes, sir.

22 Q In the past. You weren't a police officer --

23 A Preserve the crime scene, yes, sir.

24 Q Yes. And so other than what you observed you
25 are not really sure what happened, what went down, who

1 was doing what?

2 A No, sir. I can't identify nobody.

3 Q All right. Did you see in the course of
4 observing this one person, that person have any kind
5 of firearm or what might appear to be a firearm in
6 their hand?

7 A I couldn't tell you that. I did not see
8 anything.

9 MR. RUNYON: No further questions, Judge.

10 THE COURT: Any redirect of the witness?

11 MR. WILLIAMS: Briefly, Your Honor.

12 THE COURT: You may proceed.

13 REDIRECT EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Gianatas, going back to the firearm. If he
16 had had one, do you think you would have been able to
17 see it?

18 A With the wall there, I could see him only from
19 his waist up, possibly.

20 Q If it would have been below his waist or his
21 side?

22 A I would not have seen it.

23 MR. WILLIAMS: Thank you. Nothing else.

24 THE COURT: Any objection to the witness being
25 excused from the state?

1 MR. WILLIAMS: No, Your Honor.

2 THE COURT: From the defense?

3 MR. RUNYON: No, Your Honor.

4 THE COURT: Sir, you are excused.

5 You may call your next witness.

6 MR. WILLIAMS: Thank you, Your Honor. State
7 calls Deborah Heyward.

8 MS. DEBORAH HEYWARD,

9 after having first been duly sworn to state the truth,
10 the whole truth and nothing but the truth, testified
11 on her oath as follows:

12 THE COURT: You may proceed.

13 MR. WILLIAMS: Thank you.

14 THE COURT: You're welcome.

15 DIRECT EXAMINATION

16 BY MR. WILLIAMS:

17 Q Ma'am, where do you work?

18 A At Burger King.

19 Q Where is that located?

20 A On Sam Rittenberg Boulevard.

21 Q Is that Charleston County?

22 A Uh-hum.

23 Q What do you do there.

24 A A manager.

25 Q How long have you worked there?

1 A About two years.

2 Q Were you working there back on January 4th of
3 2007?

4 A Yes.

5 Q Do you recall what your job was? what you were
6 doing that evening?

7 A Yes, I was usually check my parking lot at
8 night. I was doing parking lot check.

9 Q what does that mean?

10 A Because, you know, check and see if anything,
11 you know, like trash around the building.

12 Q Do you know about what time that would have
13 been?

14 A No, I can't recall.

15 Q was it dark out?

16 A Yeah, it was dark.

17 Q And as you were out there doing the parking lot
18 check did you hear anything or see anything?

19 A Yeah, I heard what sounded like firecrackers.
20 I never heard a gunshot before, so, I heard
21 firecrackers.

22 Q which direction or could you tell where they
23 were coming from?

24 A Yeah, McDonald's parking lot.

25 Q where is that relative to the Burger King?

1 A Right across the street from where we are.

2 Q I'm going to show you State's 27. Does that
3 show the parking lot of McDonald's?

4 A Yes, sir.

5 Q About how close were you to that parking lot
6 when you heard the firecrackers?

7 A Our building is all the way across the street,
8 so I don't know how far it is. But it's right across
9 the street. It's not that far.

10 Q When you heard the firecracker did you look
11 anywhere?

12 A Yeah, I looked over in that direction and I saw
13 about five young men over there.

14 Q About five what?

15 A Young men.

16 Q Did you get an exact count when you looked over
17 there?

18 A I saw about four to five.

19 Q Four or five?

20 A Uh-hum.

21 Q And when -- what I want to ask about is the
22 firecrackers before we get any further. Before you
23 looked over there how many sounds would you say you
24 heard? How many cracks or firecracker sounds?

25 A About two to three, maybe more.

1 Q And after you heard that two or three, did you
2 hear more?

3 A Yeah, when I came back in the building and I
4 called my boss and told her that I saw someone got
5 shot.

6 Q I'm going to back you up a little bit. You
7 hear the first firecracker sound, is that two or
8 three?

9 A It's about three.

10 Q And then did you hear more firecracker sounds
11 or more gunshots?

12 A Yes, then I ran back in the building.

13 Q How much time would you say in seconds, if you
14 can, between the first firecracker gunshots you heard
15 and the second ones?

16 A I'm sorry?

17 Q How much time would you say was between the
18 first gunshots you heard and the ones that you heard
19 right after that set?

20 A It was right after each other.

21 Q More than a second?

22 A Uh-hum.

23 Q More than two seconds?

24 A I did not count the time.

25 Q I know. I want you tell us to the best of your

1 recollection approximately. It obviously wasn't ten
2 minutes?

3 A No it wasn't ten minutes. It was like I guess
4 three to four seconds after each other.

5 THE COURT: I'm sorry, ma'am, we couldn't hear
6 your last answer, can you repeat it.

7 THE WITNESS: I guess three to four seconds
8 after each other.

9 Q (By Mr. Williams) So you hear two or three
10 shots, three or four seconds go by then you hear more?

11 A Uh-hum.

12 Q Now when you look over after hearing those
13 first shots what do you see?

14 A I saw, when I heard the first one I saw one of
15 the guys went down.

16 Q Say that again?

17 A I saw one of the guys went down.

18 Q When you say went down, what do you mean?

19 A Got shot.

20 Q How do you know he got shot?

21 A Because I saw something that looked like a gun
22 when one of the guys was holding it.

23 Q When you say it looked like a gun what do you
24 mean? What did it look like?

25 A He was pointing at it.

1 Q It was what?

2 A The person was pointing at him, that's when I
3 heard the firecracker and that's when the person went
4 down.

5 Q So you see somebody holding something, could
6 you tell what color it was that they were holding?

7 A No, it was dark.

8 Q About how big was it, bigger than a hand,
9 bigger than a football, smaller than, approximately?

10 A I couldn't tell.

11 Q Was it's consistent with the size of a gun?
12 What you know a gun to be?

13 A Yeah.

14 Q And you say as the sound went off he was
15 pointing it. What do you mean by pointing it?

16 A He was pointing at the person that got shot.

17 Q And the person that got shot, what was he doing
18 if you could tell?

19 A He was just standing there by the car.

20 Q And when you say by the car, can you tell from
21 that picture that's behind you where the car would be?
22 Let me give you the laser pointer. Just press up on
23 this.

24 A Right over here. (Witness indicating.)
25 Because that's the McDonald's drive-thru right there.

1 Q So there was a person standing there and you
2 said they got shot?

3 A Right.

4 Q What happened to that person that got shot?

5 A The person went down.

6 Q And after that person fell, what did you see if
7 anything?

8 A I saw when the person was running, the person
9 had long dreads, and that's when the second person got
10 shot.

11 Q When you say he was running, where was he
12 running to or which direction if you can show?

13 A The car was up in here and he was running like
14 in that direction. (Witness indicating.)

15 Q Toward McDonald's.

16 A Uh-hum.

17 Q You say he got shot, did you see who was doing
18 the shooting?

19 A I couldn't tell who it was, no.

20 Q Let me ask it a different way. Was it the same
21 person or a different person?

22 A It was the same person.

23 Q And did he have to turn or anything to shoot
24 him, did you see?

25 A I don't remember.

1 Q So the same person that shot the person by the
2 car shot the person running towards the McDonald's?

3 A Yeah.

4 Q Can you tell approximately where he was
5 standing when he was doing the shooting on that
6 picture?

7 A No.

8 Q Was he in that same type area where the people
9 that got shot were?

10 A Right.

11 Q After he did the shooting, after that person
12 shot -- let me ask you this, did you see the second
13 person that got shot go anywhere or where they went?

14 A The only thing I saw when the second one got shot he
15 was like running that direction and he went down and
16 fell and that's it. That's all I remember.

17 Q When you say that direction you mean toward
18 McDonald's from the car?

19 A Right.

20 Q And he fell on the way?

21 A Uh-hum.

22 Q After you saw those two people get shot what
23 else did you see if you remember?

24 A That's when I saw the person get in the other
25 car and they drove off.

1 Q Did you see what kind of car it was?

2 A It was a light colored car.

3 Q Light color?

4 A Uh-hum.

5 Q Did you see where that car went?

6 A It went towards -- there is a gas station right
7 across the street, they went that way.

8 Q Towards the front of the McDonald's?

9 A Yeah.

10 Q I think that's Orange Grove.

11 A Yeah.

12 Q Did you see where the car went after it went
13 towards the front?

14 A No.

15 Q What did you do after you saw these two
16 shootings and the car leave?

17 A First I called my manager and I told her what
18 happened. And we had like a CDN, which is like a
19 district manager over all the Burger Kings, and he
20 told me to lock the doors and call the police and
21 that's what I did.

22 Q Did the police come talk to you?

23 A Yes.

24 Q You gave them a statement?

25 A Uh-hum.

1 Q In that statement you told the officers how
2 tall the person was that did the shooting; is that
3 right?

4 A Right.

5 Q And do you remember about now about how tall he
6 was?

7 A Like I said I'm like 5'1" so the person had to
8 be like 5'3".

9 Q So the person you saw doing the shooting was
10 about 5'3" tall?

11 A (Affirmative head shake.)

12 Q Is that yes?

13 A Yes.

14 Q I want to ask you about that person in
15 comparison to the other people out in the lot. You
16 said there were four or five people all in that area.
17 would you say there was anybody else out there that
18 was that short, 5'3" or shorter?

19 A They were taller.

20 Q All of them were taller?

21 A Uh-hum.

22 Q when you say taller, what do you mean? How
23 much taller?

24 A I guess about I knew more than 5'3", I guess
25 5'7".

1 Q were they about my height?

2 A No, shorter.

3 Q So a couple inches shorter than me maybe?

4 A Uh-hum.

5 Q But no shorter than you said 5'7"?

6 A Right.

7 Q So was that one person definitely shorter than
8 the rest?

9 A Yeah, there was one -- well 5'3' shorter, yeah.

10 Q But what I'm getting at is apart from the
11 actual measurements one was clearly shorter than the
12 others?

13 A Right.

14 Q And that was the one doing the shooting?

15 A Right.

16 Q Did you get a look at his build whether he was
17 heavy or light or any of those things?

18 A No.

19 Q when the police came and talked with you, you
20 gave a statement?

21 A Right.

22 Q Wrote out a statement for them?

23 A Right.

24 Q Do you remember every single detail of that
25 night to this day?

1 A No.

2 Q But you do remember absolutely the person that
3 was doing the shooting 5'3" in your opinion?

4 A Yeah. Well I can't determine that far.

5 Q But definitely short and shorter than the rest?

6 A Uh-hum.

7 MR. WILLIAMS: Nothing further from this
8 witness, Your Honor.

9 THE COURT: Any cross-examination of the
10 witness?

11 MR. RUNYON: Briefly, Judge.

12 THE COURT: You may proceed.

13 CROSS-EXAMINATION

14 BY MR. RUNYON:

15 Q Ms. Heyward, you worked in the Burger King
16 which was right across the road?

17 A Uh-hum.

18 Q Okay. And you base your estimation on height
19 of the one person you are talking about based upon
20 he's slightly taller than you are?

21 A Right.

22 Q And -- but you indicated that when you looked
23 over there there were four or five people over there?

24 A Uh-hum.

25 Q And two people went down?

1 A Right.

2 Q And then did you see what two more people or
3 three people still standing?

4 A I can't remember.

5 Q Okay. You got to speak up.

6 A I can't remember. I cannot remember. Like I
7 said four or five. Because McDonald's parking lot was
8 packed that night so I can't say all of them be
9 together.

10 Q Okay. And you can't recall what these folks
11 looked like?

12 A No.

13 Q Other than maybe one of them -- the short one
14 was -- maybe there was a short one about 5'3"?

15 A Right.

16 Q And you couldn't tell weight? Like for example
17 you can tell I have had one too many whoppers; can't
18 you?

19 A Yeah.

20 Q But nothing like that with regards to these
21 people you saw over there?

22 A No.

23 Q And you know nothing about what happened or
24 what was going to happen or what brought about
25 whatever occurred?

1 A No.

2 Q And basically you are testifying to what you
3 saw in a very small amount of time in the dark?

4 A Right.

5 Q Okay.

6 MR. RUNYON: No further questions, Judge.

7 THE COURT: Any redirect of the witness?

8 MR. WILLIAMS: Briefly, Your Honor.

9 THE COURT: You may proceed.

10 REDIRECT EXAMINATION

11 BY MR. WILLIAMS:

12 Q Ms. Heyward, I want to ask you only about your
13 ability to perceive faces that night. You mentioned a
14 little bit with Mr. Runyon. Were you able to see
15 anybody's face at the time well enough to be able to
16 identify them later?

17 A No.

18 Q So that was true at the time the night of you
19 didn't see anybody good enough then either, did you?

20 A No.

21 Q And to this day you still don't have any
22 recollection, it's not like you forget that you just
23 never knew it?

24 A Right.

25 MR. WILLIAMS: Thank you, nothing else, Your

1 Honor.

2 THE COURT: Any objection to the witness being
3 excused from the state?

4 MR. WILLIAMS: No, Your Honor.

5 THE COURT: From the defense?

6 MR. RUNYON: No, Your Honor.

7 THE COURT: Ma'am, you are excused.

8 You may call your next witness.

9 MR. WILLIAMS: State calls Aneesa Shakoor.

10 MS. ANEESA SHAKOOR,
11 after having first been duly sworn to state the truth,
12 the whole truth and nothing but the truth, testified
13 on her oath as follows.

14 THE COURT: Thank you. You may proceed.

15 MR. WILLIAMS: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. WILLIAMS:

18 Q Ma'am, you knew Kareem Shakoor?

19 A My baby.

20 Q Your son?

21 A I'm sorry.

22 Q It's okay, take your time.

23 A Yes, he is my son.

24 Q Did you have any contact with him --

25 THE COURT: Is there tissue up there?

1 MR. WILLIAMS: She has some.

2 THE COURT: Thank you.

3 You may continue, Mr. Williams.

4 Q (By Mr. Williams) Ms. Shakoor, did you have
5 contact with your son on January 4th of 2007 of last
6 year?

7 A Yes, I did.

8 Q when did you see him that day?

9 A I saw him on -- when he got ready for work that
10 morning. He called me to the breakfast table as he
11 always did, and then he left at about 6:30 a.m. and
12 was always kissing me, told me he loved me, said that
13 every morning.

14 Q when he left, what vehicle did he take?

15 A He took my vehicle.

16 Q which car is that?

17 A It was a '97 Honda Civic.

18 Q And did he drive that often?

19 A Yes, he did.

20 Q Did you allow him to drive it?

21 A Yes. It took less gas than his huge Lincoln so
22 he drove it often.

23 Q Did he have custody of the vehicle all day?

24 A Yes.

25 Q Where did you go that day?

1 A I went to the airport. I was going to Florida
2 to visit my eldest son.

3 Q And did you speak with Kareem at all any
4 further that day?

5 A Yes, but I couldn't get a flight out. For some
6 reason I just couldn't get a flight out. And I spoke
7 with him and he was at work and he said that Channing
8 could take me because his department wasn't working,
9 he wasn't going to be able to get off.

10 Q And who was Channing?

11 A Co-worker and friend of his. They work at
12 Jones together.

13 Q Channing walker?

14 A Yes.

15 Q Had you met Channing walker before?

16 A Yes.

17 Q Was he friends with your son?

18 A Yes.

19 Q You are -- you lived with your son at the time?

20 A Yes, I did.

21 Q About how long had he been living with you at
22 that point?

23 A For 20 years.

24 Q His whole life?

25 A Yes.

1 Q Did you see him pretty much every day?

2 A Yes.

3 Q Did he have a necklace that he wore?

4 A Yes, he did.

5 Q What did the necklace look like?

6 A It was a necklace with a round symbol that the
7 young people wear with a smiley face and a frown in
8 the opposite direction.

9 Q Do you know about how long he had owned that
10 necklace for?

11 A Gosh, I guess -- I don't know. It's like he
12 had it forever, a year or so.

13 Q Did he wear every day?

14 A Yes, he kept it on like I do my bangle. It's a
15 piece that he kept on in the shower. He just wore it
16 all the time.

17 Q And did he have earrings?

18 A He had one, a little diamond stud.

19 Q Did he wear that every day?

20 A Yes.

21 Q Was he wearing both of them when you saw him
22 that day?

23 A Yes. The last time I saw my son he did have
24 them both.

25 Q And when was the last time you saw your son

1 alive?

2 A January 4th about 6:30 a.m.

3 Q Ms. Shakoor, I'm going to put up over your
4 shoulder, right shoulder there, State's No. 22. Do
5 you recognize the car there?

6 A Yes, I do.

7 Q Is that the red Honda you were speaking of?

8 A It is.

9 Q I'm going to show you State's 7, it's the same
10 vehicle?

11 A That is.

12 MR. WILLIAMS: Nothing further from this
13 witness, Your Honor.

14 THE COURT: Any questions for the witness?

15 MR. RUNYON: I have no questions of this
16 witness, Your Honor.

17 THE COURT: Any objection to the witness being
18 excused from the state?

19 MR. WILLIAMS: None, Your Honor.

20 THE COURT: From the defense?

21 MR. RUNYON: None, Your Honor.

22 THE COURT: Ma'am, you're excused.

23 You may call your next witness.

24 MR. WILLIAMS: May we approach, Your Honor?

25 THE COURT: You may.

1 (Whereupon, a discussion was held at the bench
2 not on the record.)

3 (In open court.)

4 THE COURT: Ladies and gentlemen, we are going
5 to take advantage of this break in testimony to take
6 our afternoon recess. We are breaking early today due
7 to some logistics issues. But we feel you probably
8 will welcome it since you all have had a fairly long
9 day today.

10 We will resume trial in the morning at 9:30.
11 We ask that you return directly to your jury room at
12 that time. And at that time we anticipate beginning
13 promptly and resuming the testimony of the witnesses.
14 Please leave your notepads in your seats, we will make
15 sure they are secured during the recess.

16 Also during this break please do not discuss
17 the case among yourself or with anyone else. And I
18 know it is very difficult because whenever you have
19 jury duty people always ask, well, what kind of case
20 are you hearing? And of course your natural
21 inclination is to answer. I would ask that you not do
22 that. And you can simply say that the Court has
23 instructed us not to do that.

24 Because when you begin to talk about what you
25 have heard requires you to process it and to draw

1 conclusions based upon it. And that by its very
2 nature is deliberations. And you are prohibited from
3 doing that until you've heard all the testimony,
4 arguments from counsel, and the Court's instructions
5 on the law. And that's why it is so very important
6 that you not do that.

7 Also, if there are any media reports about this
8 case, I suspect that there will be this evening and
9 maybe even in the morning, we would ask that you not
10 allow yourself to be exposed to any reports of any
11 kind, that includes anything that could be on the
12 radio, television, Internet or otherwise.

13 And please don't do any independent research if
14 any type of anything on the Internet. I know it can
15 be tempting, but I would ask that you strictly not do
16 that. Again you must be confined to the evidence that
17 is presented from the sworn witnesses and the evidence
18 that is introduced into the record. Also you
19 will hear us say this over and over again, but it
20 comes out of well-founded experience. Please don't
21 have any contact with anybody in or about the
22 courthouse, because even the most innocent
23 conversation could be misconstrued.

24 Also I apologize that you all had to see me in
25 my housekeeping function in terms of courtroom

1 decorum, but when people come in and out of the
2 courtroom it is very distracting. This courtroom
3 doesn't have any windows, and as the fact finders it
4 is so essential that you all have rapt attention not
5 only to the lawyers but to the witnesses. And it is
6 extremely disruptive and disrespectful to the jury
7 when we have disturbances in the gallery.

8 So I appreciate you all indulging us.
9 Sometimes it's that old adage that familiarity breeds
10 contempt. So I appreciate you all allowing me to take
11 care of that little bit of housekeeping.

12 I hope you have a great evening. We will see
13 you in the morning at 9:30. Hopefully we will have
14 some donuts for you and some coffee. So if you leave
15 your notepads we appreciate it. And we will see you
16 in the morning. If you will go with the bailiffs,
17 please.

18 (Whereupon, the jurors exit the courtroom.).

19 THE COURT: Okay, anything before we break for
20 the evening from the state?

21 MR. WILLIAMS: Not right now, Your Honor. I
22 will discuss it with Mr. --

23 THE COURT: I understand you all have the
24 notes; is that correct?

25 MR. WILLIAMS: Judge, I was handed the

1 envelope. I'm not quite sure what they are to be
2 honest. I'm not sure. I know we called the jail,
3 this may be Mr. Jenkins information, I have not looked
4 at it.

5 THE COURT: Do you want me to look at them to
6 make sure none of it is attorney/client privilege?

7 MR. WILLIAMS: That's my concern about it.
8 Looks like they took this out of Mr. Jenkins' cell,
9 not the witness's cell. That worries me if that's
10 what he did.

11 THE COURT: Don't even open them and that
12 eliminates any issue. I will wait one second, Mr.
13 Runyon, let's deal with this.

14 Is John Mitchell the witness?

15 MR. WILLIAMS: No, Your Honor, the witness is
16 Travis Simmons. Just looking at that, Your Honor, I
17 don't know if they got --

18 THE COURT: It looks like these are letters
19 that the defendant may have written to some other
20 people.

21 MR. WILLIAMS: That's why I did not want to
22 look them. My understanding -- I'm afraid, Your
23 Honor, that the jail took the information out of Mr.
24 Jenkins' cell and not out of Travis Simmons'.

25 THE COURT: Tell you what we're going to do is

1 we're going to return these to his counsel, these are
2 addressed to a John Mitchell from Mr. Jenkins. The
3 record should reflect that the state did not open the
4 letters.

5 The Court has opened them. And frankly I have
6 not read them. I just actually have done a cursory
7 review who they're addressed to and they are certainly
8 not address to the witness that we are concerned
9 about, and they certainly are not the subject of
10 disclosure. One is from Antwan Boliege (phonetic)
11 and the rest are to John Mitchell. And it appears
12 they went to the wrong cell.

13 what we will do, I will give these to you, Mr.
14 Runyon, and you can return these to your client.

15 MR. RUNYON: And, Your Honor, for the record,
16 we have been trying to facilitate things. I know we
17 are adversarial in this proceeding but we have been
18 trying to be as accommodating as possible. We had
19 talked about the notes of the -- alleged notes that
20 were Mr. William's referencing being retrieved by --
21 initially there was some impression it might be being
22 retrieved by jail personnel and then transported down
23 here.

24 I want to make it clear on the record that,
25 because we talked about perhaps having an investigator

1 from the solicitor's office go up and bring them down
2 here, we had no objection to that procedure. we have
3 know objection to that procedure as long as it's a
4 sworn law enforcement officer who will follow the
5 directives of the jail, of the solicitor and is
6 bringing these items to court.

7 By doing that what we are doing is we are
8 waiving -- we are not raising any issue of chain of
9 custody from the time it comes from the cell forward.
10 we want that for the record, Judge.

11 And as it relates to -- as it relates to that
12 Judge, it's not to suggest however that we are
13 stipulating, A, that they're admissable, or B, that
14 they're relevant.

15 THE COURT: And the Court's understanding did
16 not believe that to be your perspective. I think the
17 issue is going to end up being moot because he's going
18 to go back to the jail tonight and he'll bring them, I
19 imagine, with him tomorrow.

20 MR. RUNYON: I don't know, Judge.

21 MR. WILLIAMS: I'm hoping to get them myself
22 tonight with an investigator, Your Honor. I don't
23 trust he'll bring them tomorrow anymore than he did
24 today.

25 THE COURT: As soon as you all get them in your

1 possession then fax them on to Mr. Runyon so he won't
2 have to wait until the morning.

3 MR. WILLIAMS: I will do the best I can, Your
4 Honor.

5 THE COURT: Okay. Is there anything else we
6 need to take up before we adjourn?

7 MR. WILLIAMS: No, Your Honor.

8 MR. RUNYON: No, Your Honor.

9 THE COURT: Thank you all very much. I will
10 see you in the morning at 9:30.

11 (Whereupon, the proceedings in this matter
12 before the Court were adjourned for the evening.)

13 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER, official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 4th day of February, 2008.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

-----*Anne Bouley Meyer*-----

Anne Bouley Meyer, RPR
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2007-GS-10-4660,
4661, 4662, 4663

3 STATE OF SOUTH CAROLINA)

4 Plaintiff)

5 V.)

TRANSCRIPT OF RECORD

6 QUINTON R. JENKINS,)

7 Defendant.)
8

9 FEBRUARY 5, 2008
10 CHARLESTON, SOUTH CAROLINA
11 VOLUME 2

12
13 B E F O R E:

14 THE HONORABLE DEADRA L. JEFFERSON, JUDGE
15
16
17

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

19 MR. NATHAN WILLIAMS, Assistant Solicitor
20 MS. KIM STEELE, Assistant Solicitor
21 REPRESENTING THE STATE

22 MR. WILLIAM RUNYON, ESQUIRE
23 REPRESENTING THE DEFENDANT

24 ANNE BOULEY MEYER, RPR
25 CIRCUIT COURT REPORTER

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6	In Evidence	172:25	
7	7	Photo	
	In Evidence	89:13	
8	8	Photo	
9	In Evidence	126:10	
10	10	Photo	
	In Evidence	177:1	
11	13	Photo	
12	In Evidence	162:24	
13	14	Photo	
	In Evidence	154:15	
14	15	Photo	
15	In Evidence	154:15	
16	16	Photo	
	In Evidence	172:25	
17	17	Photo	
18	In Evidence	162:24	
19	19	Photo	
	In Evidence	154:15	
20	20	Photo	
21	In Evidence	162:24	
22	21	Photo	
	In Evidence	89:13	
23	22	Photo	
	In Evidence	89:13	
24	In Evidence	154:15	
25	23	Photo	
	In Evidence	177:1	

1	26	Photo	
2	In Evidence	162:24	
3	27	Photo	
4	In Evidence	82:9	
5	28	Photo	
6	In Evidence	82:9	
7	29	Photo	
8	In Evidence	198:20	
9	30	Photo	
10	In Evidence	198:20	
11	31	shell casing	
12	In Evidence	162:24	
13	32	shell casing	
14	In Evidence	158:2	
15	33	projectile	
16	In Evidence	162:24	
17	34	projectile	
18	In Evidence	162:24	
19	35	fired shell casing	
20	In Evidence	158:2	
21	36	projectile	
22	In Evidence	160:3	
23	38	Projectile	
24	In Evidence	158:2	
25	In Evidence	158:2	
26	39	shell casing	
27	In Evidence	162:24	
28	40	Photo	
29	In Evidence	198:20	
30	41	Photo	
31	In Evidence	205:6	
32	42	Photo	
33	In Evidence	198:20	

1	43	Photo	
2		In Evidence	198:20
3	44	Photo	
4		In Evidence	198:20
5	45	Photo	
6		In Evidence	198:20
7	46	Photo	
8		In Evidence	198:20
9	47	Photo	
10		In Evidence	198:20
11	48	Photo	
12		In Evidence	354:4
13	49	Photo	
14		In Evidence	354:4
15	50	Photo	
16		In Evidence	354:4
17	51	Photo	
18		In Evidence	354:4
19	52	Photo	
20		In Evidence	354:4
21	53	Photo	
22		In Evidence	198:20
23		In Evidence	320:25
24	54	Photo	
25		In Evidence	224:2
		In Evidence	392:3
26	55	Photo	
27		For Identification	137:3
28	56	Photo	
29		In Evidence	354:4
30	57	Photo	
31		In Evidence	354:4
32	58	Photo	
33		In Evidence	354:4

1 three or four that followed after that.

2 Q When you first looked over there, was that
3 before or after you heard the shots?

4 A That was as I heard the shots, as I heard them.
5 I started looking around and glancing and from where
6 the sound came from and then focused on the
7 McDonald's.

8 Q When you looked up and focused, what did you
9 see?

10 A I seen four gentlemen on the side of
11 McDonald's. From the view I was at I could only see
12 the driver-thru window and the left parking lot where
13 I seen the red car was parked. One gentleman broke
14 off running toward McDonald's, and one other gentleman
15 looked like he dove in the car, and two other
16 gentlemen ran and jumped into the back of a gold car.

17 Then I proceeded to put the gas cap on and
18 called the police to find out if that was gunshots in
19 fact that I heard.

20 Q I'm going to back up just a little bit. You
21 talked about the red car. Do you see that red car in
22 the exhibit?

23 A Yes, sir.

24 Q Is that the one, the red Honda?

25 A Yes, sir.

1 Q Now you talked about four gentlemen in the
2 parking lot. Can you tell in this photo approximately
3 where they would have been?

4 A About right here. (Witness indicating.) I saw
5 from this direction one gentleman go that way, and I
6 never seen him again. One gentleman come toward the
7 car which I never seen him again. The other two
8 gentlemen run and jump in the car that was right there
9 and proceeded on out the front of the McDonald's.

10 Q Was your view or your range of sight cut off by
11 the corner of the building at all?

12 A Yes, sir, it was.

13 Q But you could still see the red car?

14 A Yes, sir. I could see the rear-end of the car.

15 Q Now. I want to ask you about the people that
16 were going different directions. You say one person
17 was running, you say he disappeared?

18 A Yeah, I never -- I did not see, I did not
19 exactly understand what had happened at the moment. I
20 did not know if it was some teenagers playing with
21 fireworks and what have you, and they were all jumping
22 and dodging or whatever, bottle rocket wars or some
23 stuff like that, you know, it was before.

24 But the two gentleman I remember seeing run came
25 around. And as the car was anxiously trying to move,

1 one of them jumped in the back, the other one slid in
2 the side and they proceed to take off. And they were
3 stopped because the car that was leaving McDonald's
4 was in front of them, so that gave me a few minutes to
5 get on the phone with the police as they were leaving.

6 Q You say two men disappeared or you did not see
7 them again, can you explain that any better?

8 A well, it was as if I, you know, from the
9 distance I was at I could not really decipher
10 anything. I just seen some flashes and four gentlemen
11 and people -- I don't know.

12 I understand now what had happened, but at the
13 time all I had seen, like I said, the two gentlemen
14 remain standing was running toward the car. One tried
15 to run, as I said, that direction. I didn't really
16 understand. I thought the other guy must have jump
17 into the red car or attempted to.

18 But basically I focused on where the guy, the
19 guys that were running what was going on and I was on
20 the phone with the police at the time too trying to
21 figure it out.

22 Q The gentleman that you said was running toward
23 the McDonald's, or you indicated was running toward
24 the McDonald's, and the gentleman you thought was
25 jumping into the red car, was what you saw consistent

1 with them getting shot?

2 A Yes, sir.

3 Q And the other two gentlemen -- let me backup a
4 little bit. From where you were at were you able to
5 tell how tall or see anybody's face well enough to
6 describe?

7 A No, sir. I was a good 100, maybe 150 yards
8 away so all I could do was to see the car and the
9 gentlemen.

10 Q were you able to see their faces well enough to
11 be able to identify them later?

12 A No, sir, I wasn't.

13 Q Were you able to see their size or build or
14 hair styles?

15 A No, sir, I wasn't.

16 Q So when the two people that were still standing
17 ran towards the car, tell the jury what that was or
18 what happened?

19 A Well at that time there was so much commotion,
20 I'm still trying to backtrack and remember it. But
21 basically as I said from my view all I could see is
22 the corner of the McDonald's playland and that side of
23 the parking lot.

24 The gold car that was running adjacent, running
25 parallel to McDonald's drive-thru as -- as I am

1 looking the two gentlemen are running towards the car
2 which is basically where this police car is right
3 here. All I could see from this vantage point right
4 here, this little area was all I could see.

5 The two gentlemen, the car was rolling, he was
6 anxiously trying to get the back door. When the back
7 door was opened, one guy, you know, one of the
8 gentleman jumped in slid over, the other gentleman
9 jumped in and the car the car tried to take off.
10 That's when I knew something was not right. (Witness
11 indicating.)

12 Q When you saw those two doing that, did it
13 appear that they were acting together, did it appear
14 as though they were adversarial at all?

15 MR. RUNYON: Objection, Your Honor.

16 THE COURT: Basis.

17 MR. RUNYON: Conclusion. Lack of foundation.

18 THE COURT: It's actually leading. You may
19 rephrase.

20 Q (By Mr. Williams) Based on your observations
21 did you have any opinion as to whether the two of them
22 were working together?

23 A Yes, sir, I did. My opinion was they were
24 together of course. They were a couple steps aside
25 each other and one guy jumps in and slides over for

1 the next guy to get in.

2 Like I said at the time I didn't really --
3 wasn't even sure it was gunshots. I'm just -- I
4 thought it might be kids playing with fireworks or
5 what have you. So I proceeded to call 911 and as the
6 operator told me it was gunfire, I was pulling out of
7 the gas station and proceeded to chase the car down as
8 I was on the phone.

9 Q Why did you do that?

10 A I don't even know. When the 911 operator told
11 me that it was gunshots, I just stayed focused on the
12 car to give them as much information as I could. Like
13 I said, a couple nights before there were some
14 gunshots outside my apartment that -- toward my
15 neighbors and it just scared the heck out of me and my
16 lady.

17 And so this incident kind of really aggravated
18 me because I was getting tired of all that around my
19 neighborhood. And basically I really don't know why I
20 started chasing them. I normally should have heard
21 gunshots and turned around and went the other way.

22 Q When -- tell me about the car pulling out or
23 the car that the two people jumped into. What did you
24 see?

25 A As I described I couldn't -- it was so -- I'm

1 on the phone and trying to drive, put my gas cap on
2 and get in the car. And the only -- they got slowed
3 -- the car got slowed down because like I said there
4 was another car trying to leave the parking lot.

5 And they finally get out of the parking lot
6 about the time they're passing me and I'm pulling out
7 so I couldn't really get a model of the car. I knew
8 it was a gold four-door sedan with tinted windows. As
9 it passed, I tried to get a tag number. It being dark
10 at night, I couldn't really even get a tag number.

11 The distance from me to the road, I wouldn't
12 really be able to decipher. I know a South Carolina
13 state tag has a palm tree in the middle, so to me it
14 looked like it was a consistent row with numbers, but
15 I just tried to focused and get as much information as
16 I could.

17 I didn't know -- I had a view of the back of
18 the car a lot. I knew that it had a slight large over
19 the trunk lid, I could give a good description of
20 that, and recognize the car when I seen it.

21 Q when the car pulled out, you said there was
22 another car that kind of got in the way. Did you see
23 where that car came from?

24 A That car I believe was leaving the drive-thru.

25 Q Did it appear to be related to the vehicle

1 where the people jumped in?

2 A No, it didn't.

3 MR. RUNYON: Objection, Your Honor.

4 THE COURT: Basis.

5 MR. RUNYON: No foundation for asking the
6 conclusion of the witness.

7 THE COURT: Please restate the question.

8 Q (By Mr. Williams) Did it appear to you, based
9 on what you saw, that there was any connection between
10 those two cars?

11 A No, sir.

12 THE COURT: Overruled.

13 Q (By Mr. Williams) Why is that?

14 A Because the gold car was eventually trying to
15 get out of the parking lot, whereas the car that was
16 in front to me appeared to be confused. They were
17 waiting on traffic. And if anybody leaves from the
18 front of that McDonald's instead of going to the
19 traffic light you have to wait because that's where
20 the road splits off. And you have to cross over one
21 lane of traffic to get to the median to get over to
22 the next one.

23 The gold car was just anxiously trying to get
24 around it. And as the blue or the darker colored car
25 moved forward just enough, the gold car whipped around

1 and took off and went across all four lanes of traffic
2 to my side of the road.

3 Q The gold car that you saw that night, would you
4 recognize it if you saw a picture of it?

5 A Yes, I would.

6 Q I'm going to hand you what has been marked
7 State's proposed 55. Do you recognize that?

8 A Yes, sir, I do.

9 Q What is that?

10 A That appears to be the car I had seen or a car
11 exactly the same model.

12 MR. WILLIAMS: Show this to defense counsel,
13 Your Honor.

14 MR. RUNYON: Your Honor, we have no objection
15 to Plaintiff's Exhibit No. 55 being marked for ID.

16 THE COURT: Please approach.

17 (Whereupon, a discussion was held at the bench
18 not on the record.)

19 (In open court.)

20 THE COURT: Marked for ID only.

21 Q (By Mr. Williams) Mr. Crosby, when you saw
22 that car how close were you to the car, how close was
23 the car to you?

24 A At the time they were pulling out of McDonald's
25 so like I said maybe 150 yards away. As I am pulling

1 out of the gas station they come across the lane of
2 traffic right past the gas station I was pulling out
3 of at the time.

4 I was on the phone, so the car literally passed
5 10 yards in front of me as it went by in traffic as I
6 was pulling out of the gas station.

7 Q Did you follow the vehicle or follow that car?

8 A Yes, sir, I did.

9 Q which way did you follow it?

10 A I pulled out of the gas station and I took a
11 right which would be where it starts Sam Rittenberg
12 Boulevard. Due to the traffic situations and me being
13 on the phone, I couldn't keep up with them but for
14 maybe 100 yards. And I couldn't, you know, I got -- I
15 lost them because of traffic I couldn't get around
16 some other cars and by that time I was on the phone
17 with the police.

18 I just lost track with them. I couldn't -- by
19 the time I sped up and got to the second stoplight
20 down I had last visual with them but stayed going that
21 direction until the police pursued the chase.

22 Q The time where you were close enough to the car
23 to get a good look at it, did you see how many people
24 were inside?

25 A Yes, sir. They passed, like I said, 10 yards

1 in front of me when I was in the gas station. I
2 counted four gentlemen.

3 Q You say four, where were they seated inside the
4 vehicle?

5 A Two front, two back.

6 Q Did you see them well enough to get a look at
7 their face?

8 A No, sir, I did not.

9 Q Did you see them well enough to tell the
10 general skin color?

11 A Yes, it was four black gentlemen. As I gave my
12 statement, it being dark at night, I told them that it
13 would be four black gentlemen, dark skin gentlemen,
14 but was not Caucasian.

15 Q After you had followed or lost track of the
16 vehicle, where did you go?

17 A I went back home.

18 Q Did the police later get in contact with you?

19 A Yes, sir. About an hour and a half later I had
20 a phone call from an investigator and I met him and
21 gave him my statement.

22 Q And you gave him a written statement?

23 A Yes, sir.

24 Q Mr. Crosby, I want to ask you quickly about the
25 timeframe. Were you keeping track of time that night?

1 A Not really.

2 Q It was dark out?

3 A Yeah, it was dark out. I'm not saying it was
4 so late because there was so much traffic out, but I
5 would say between 9:30 and 11 o'clock timeframe maybe.

6 Q Could it have been as early as 6:00 or 7:00?

7 A Soon after -- yeah, it was soon after dark so
8 there was a lot of traffic still moving. So I know
9 that when I gave my statement to the police officer
10 that was around midnight by the time he talked to me.
11 I could not tell you. It has been a year and a few
12 months ago, so.

13 Q So it was shortly after dark and a lot of
14 traffic?

15 A Right, yes.

16 MR. WILLIAMS: Thank you. Nothing else, Your
17 Honor.

18 THE COURT: Any questions for the witness?

19 MR. RUNYON: Yes, briefly, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. RUNYON:

22 Q Mr. Crosby, you saw four people in the car?

23 A Yes, sir.

24 Q At the time you heard noises you saw at least
25 two people running to the gold car that you followed?

1 A Yes, sir.

2 Q Do you know if any of the people in the car had
3 exited the car and got back in or you just saw two
4 people?

5 A I had no idea, sir, all I saw was them getting
6 into a car. I had know idea, never watched the
7 situation until then.

8 Q All right. until you heard the noises?

9 A Pardon?

10 Q until you heard the noise?

11 A Yes, sir.

12 Q And you attempted, as a good citizen, to follow
13 the automobile and you lost it in traffic?

14 A Yes, sir.

15 Q And what occurred was this whole thing occurred
16 shortly after you went to dinner; isn't that correct?
17 After you ate supper?

18 A I cannot really tell you if I ate supper that
19 day. I was on my way home, I do know that. And I had
20 some errands to run and stuff like that so I was
21 gassing up to go home and call it a night.

22 Q So it was probably a little before 10:00 to 11
23 o'clock?

24 A Probably so, yes, sir, because there was plenty
25 of traffic out.

1 Q And you don't remember if you ate supper that
2 night, but the simple fact it was earlier in the
3 evening then 10:00 to 11:00?

4 A Yes, sir.

5 Q Now as it relates to the sound you heard, you
6 heard what sounded like four to six shots?

7 A Yes, sir.

8 Q All right.

9 A I called 911 to verify that what I heard was
10 gunshots as I stayed focused on the McDonald's. And
11 when they said it was, that's when I started doing
12 what I did.

13 Q Did you see either of the subjects that you say
14 ran to the car and got in, did you see any of them
15 with -- can you see them clear enough to tell whether
16 or not they had a weapon in their hand?

17 A No, sir, I cannot.

18 Q Now, one of the things you said was that you
19 saw people, at least two people run and get in the
20 gold car?

21 A Yes, sir.

22 Q And one of them slid -- and someone slid over
23 so that someone could get in the car?

24 A Yes, sir.

25 Q Where was that sliding over occurring, in the

1 front or back?

2 A Backseat.

3 Q Backseat?

4 A Yes, sir.

5 Q All right. And you don't know what happened
6 before, you -- all you are reporting is what you
7 recall, honestly recall --

8 A Yes, sir. I was pumping gas, heard some
9 gunshots, saw two guys jump in the car, four gentlemen
10 roll off, that's what I recall.

11 Q And it's real hard to get out of McDonald's
12 parking lot if you try to get on to Sam Rittenberg,
13 isn't it?

14 A Yes. Unless you go to the Orange Grove light.

15 Q And most people go out the Orange Grove?

16 A Right, sir.

17 Q If you know the area and if you are really
18 smart about it, right?

19 A Yes, sir.

20 Q Because you have been to that McDonald's
21 before?

22 A Yes, sir, I have.

23 MR. RUNYON: No further questions, Judge.

24 THE COURT: Any redirect of the witness?

25 MR. WILLIAMS: None, Your Honor.

1 THE COURT: Any objection to the witness being
2 excused from the state?

3 MR. WILLIAMS: No, Your Honor.

4 THE COURT: And the defense?

5 MR. RUNYON: None from the defense, Judge.

6 THE COURT: Sir, you are excused.

7 You may call your next witness.

8 It appears we got the AC fixed. I don't know.
9 if you all are feeling the difference but I am.

10 MR. WILLIAMS: State calls Henry Comer.

11 MR. HENRY CHARLES COMER,
12 after having first been duly sworn to state the truth,
13 the whole truth and nothing but the truth, testified
14 on his oath as follows:

15 THE COURT: You may proceed.

16 MR. WILLIAMS: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. WILLIAMS:

19 Q Sir, where do you work?

20 A Charleston City Police Department.

21 Q What do you do with the Police Department?

22 A I'm investigator in the traffic division.

23 Q How long have you been involved in law
24 enforcement?

25 A 21 and a half years.

1 Q Is that all with the City Police Department?

2 A City Police and the Lake Charles City Police
3 Department in Louisiana.

4 Q Were you working on January 4th, 2007?

5 A Yes, I was.

6 Q What were your duties that day or that night?

7 A I was, like I said I'm an investigator with the
8 traffic division, I was going from house to house
9 investigating accidents.

10 Q As you were doing that, did you receive a call?

11 A I call went out reference to a shooting at
12 McDonald's.

13 Q Where were you at when that call went out?

14 A Almost basically in front of it.

15 Q How close or how far would you say you were
16 from the McDonald's?

17 A When the call went out 600 feet, 700 feet.

18 Q What did you do after you heard that call?

19 A I pulled into the McDonald's parking lot.

20 Q Which direction did you pull in from, do you
21 recall?

22 A I pulled in off Highway 7, Sam Rittenberg, and
23 came around the back of the building to the other
24 side.

25 Q Is the McDonald's, is that in Charleston

1 County?

2 A Yes.

3 Q When you pulled into the parking lot, what did
4 you find?

5 A I found two people were down. Basically would
6 be the east side of McDonald's in the parking lot.

7 Q Let me show you what has been admitted as
8 State's Exhibit 21. Do you recognize that photograph?

9 A Yes, sir. It's a photograph of the parking lot
10 where one of the parties were down.

11 Q Can you, using the laser pointer up there, can
12 you tell the jury where the two individuals were
13 general speaking?

14 A Yes, one was laying right here by the vehicle
15 on the ground. (Witness indicating.) And the other
16 one was across the parking lot towards the building
17 itself laying right there on the ground.

18 Q What are your general duties when you are a
19 first responder on a scene? I realize you weren't
20 called out for this, but as an officer when you first
21 respond what do you generally try to do?

22 A The first thing you do is basically check on
23 the victims. The second one is you preserve the scene
24 to make sure nobody comes in and out of the scene.

25 Q Did you check on the victims in this case?

1 A Correct. I parked my car basically over here
2 when I first got there to cut off any vehicles from
3 coming through. And then I walked to check on both
4 victims.

5 Q What did you find when you checked on the two
6 individuals in the parking lot?

7 A Both of them were deceased.

8 Q After you checked on the two victims, you said
9 normally you preserve the area. Did you do that here?

10 A Correct.

11 Q How do you go about preserving the area?

12 A Like I said I put my vehicle right here so that
13 nobody would come through. I called for a second unit
14 to block off the other side and I stood in foot in the
15 area to make sure nobody comes in and out of the area.

16 Q Did anybody come in and out of the area while
17 you were there?

18 A No except for emergency people, EMS.

19 Q Did EMS come out?

20 A Yes, sir.

21 Q Did detectives come out to investigate the
22 case?

23 A Yes, they did.

24 Q And crime scene?

25 A Yes, sir.

1 Q would the case then be turned over to them?

2 A That's correct.

3 Q Did you maintain that scene and that area until
4 other investigators or assigned investigators showed
5 up?

6 A That's correct.

7 Q Was it tampered with at all or anybody mess
8 with any of the evidence?

9 A No, sir.

10 MR. WILLIAMS: Nothing else for this witness.

11 THE COURT: Any cross?

12 MR. RUNYON: Good morning, Mr. Comer.

13 THE WITNESS: Hey.

14 MR. RUNYON: Good to see you again.

15 THE WITNESS: Good to see you.

16 MR. RUNYON: Your Honor, we have no questions
17 for Mr. Comer.

18 THE COURT: Any objection to the witness being
19 excused or does he need to be excused subject to being
20 recalled?

21 MR. WILLIAMS: I have no objection.

22 MR. RUNYON: None from the defense, Your Honor.

23 THE COURT: Sir, you are excused.

24 You may call your next witness.

25 MS. STEELE: Your Honor, I need to check the

1 hall for a moment.

2 State calls Officer Weirsma.

3 MR. RICHARD WEIRSMAN,

4 after having first been duly sworn to state the truth,
5 the whole truth and nothing but the truth, testified
6 on his oath as follows:

7 THE COURT: You may proceed.

8 MS. STEELE: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. STEELE:

11 Q Officer Weirsma, what law enforcement agency
12 are you employed by?

13 A City of Charleston Police Department.

14 Q What is your position with the City of
15 Charleston Police Department?

16 A Currently assigned with the crime scene unit.

17 Q How long have you been employed with the police
18 department?

19 A About three years now.

20 Q How about in the crime scene unit, all three
21 years?

22 A I have been in the crime scene unit for just
23 over a year now.

24 Q And what is your previous law enforcement
25 experience?

1 A Prior to that I was a police officer in
2 Michigan for seven years.

3 Q And with the crime scene, what are your present
4 duties?

5 A Present duties are respond to various crimes,
6 photograph, document, collect any evidence that might
7 be needed for any prosecution.

8 Q Were you employed in that capacity with crime
9 scene on January 4th of 2007?

10 A Yes, I was.

11 Q And on January 4th of 2007 were you involved in
12 an investigation involving a shooting that occurred at
13 the McDonald's on Sam Rittenberg Boulevard?

14 A Yes, I was.

15 Q How did you become involved in that?

16 A I heard the initial call go out with the
17 shooting and at that time I responded. By the time I
18 got there there was a couple of officers there and EMS
19 arrived either just before or just behind me.

20 Q Do you know about what time you arrived on scene?

21 A It was approximately ten minutes after 8:00 in
22 the evening.

23 Q And were you the first crime scene officer to
24 arrive?

25 A Yes.

1 Q what do you normally do when you respond to a
2 crime scene? what is your normal approach?

3 A First thing is to make sure the scene is
4 secure. After that to look at the scene and basically
5 size up what I am going to need to do, what may need
6 to be collected, what needs to be documented, make
7 mental notes to myself what I need to do.

8 Q And is that what you did in this case on this
9 night, January 4th?

10 A Yes.

11 Q And were you the lead crime scene officer?

12 A Yes.

13 Q And as lead crime scene officer did you have
14 more responsibility than normal?

15 A Yes. My job was also to collect the evidence,
16 make sure it was packaged and sent to the proper
17 evidence lockers, and also make sure that all of the
18 paperwork was completed.

19 Q Were you in charge of organizing other officers
20 from crime scene and their tasks?

21 A Yes, if tasks needed to be done I was to assign
22 the officers to complete them.

23 Q And when you arrived on the scene at McDonald's
24 that night, what did you first observe? A
25 when I first arrived I could see two victims. One was

1 laying on the ground next to a red car. The other one
2 was across the parking lot laying in the middle of a
3 parking space.

4 I could see both were laying on the ground.
5 Both had obvious wounds.

6 Q I'm going to show you what has been marked as
7 State's Exhibits 66 and 67. If you could look at
8 those for just a moment.

9 Do you recognize those?

10 A Yes, I do.

11 Q And what are they?

12 A They're images of what the crime scene looked
13 like.

14 Q Was that sketch done by you?

15 A No, it was not.

16 Q Do you know who that sketch was done by? Was
17 it done by our office?

18 A Yes, it was done by the solicitor's office.

19 Q Prior to you being here today have you reviewed
20 that sketch before?

21 A Yes, I have.

22 Q And does it depict the scene, does it give an
23 accurate depiction of what the scene looked like that
24 night and where the items were located?

25 A Yes, it does.

1 MR. RUNYON: We have no objection.

2 THE COURT: Marked and admitted without
3 objection.

4 MS. STEELE: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 (Whereupon, State's Exhibit No. 67 is admitted
7 into evidence.)

8 Q (By Ms. Steele) Officer Weirsma, I am going to
9 show you what has been marked as State's Exhibit 66.
10 And is that -- does that depict the crime scene that
11 you saw when you arrived?

12 A Yes, it does.

13 Q And where is that car parked exactly? If you
14 can kind of tell the jury where in the McDonald's
15 parking lot it's parked?

16 A It's parked along a row that is directly in
17 line with Orange Grove Road.

18 Q Okay. And is this Mr. Channing Walker?

19 A Yes, it is.

20 Q I'm going to move this down some. Is that an
21 accurate depiction of where, right here, where Kareem
22 Shakoor was found in relation to the car?

23 A Yes, it was.

24 Q I'm going to call your attention back to the
25 items around the car. What items were located near

1 and around the red Honda? If you can go through some
2 of those.

3 A A fired shell casing that I listed as 4-A was
4 located under the right rear of the vehicle.

5 Q Okay. Bear with me for one moment. I am going
6 to show you what has been marked as Plaintiff's
7 Exhibits 1, 4, 14, 15, 19, 3, 5 and 22. If you could
8 look at those for just a moment.

9 Do you recognize those?

10 A Yes.

11 Q Do those pictures fairly and accurately
12 represent what you saw that evening?

13 A Yes, they do.

14 Q Have those photographs been altered in any way?

15 A No.

16 MR. RUNYON: No objection, Judge.

17 THE COURT: Marked and admitted without
18 objection.

19 MS. STEELE: Thank you.

20 (Whereupon, State's Exhibit Nos. 1, 3, 4, 5,
21 14, 15, 19 and 22 are admitted into evidence.)

22 Q (By Ms. Steele) Officer Weirsma, I believe
23 there was something you marked as 4-A?

24 A Yes, sir, a fired shell casing.

25 Q A fired shell casing. Can you show with the

1 pointer, with the laser pointer, can you show the jury
2 where that was located.

3 A (Witness indicating.)

4 Q Okay. I'm going to show you what has been
5 marked State's Exhibit 1. Is that the shell casing
6 that was located?

7 A Yes, it is.

8 Q If you could tell the jury, up on the top left
9 of the car, what was that item that was located?

10 A It was another fired shell casing that I
11 labeled as 8-A. It was located near the front left of
12 the vehicle.

13 Q I'm going to show you what has been marked as
14 State's Exhibit 4. If you can show the jury where
15 that shell casing was located?

16 A (Witness indicating.)

17 Q If you can point again to where the shell
18 casing was located?

19 A (Witness indicating.)

20 Q And that was located at the front left-hand of
21 the car?

22 A Yes.

23 Q If you could show the jury, Number 11-A here,
24 that says underneath the vehicle. What was located
25 there?

1 A The lead fragment from a projectile.

2 Q Can you explain to the jury what a lead
3 fragment from a projectile is?

4 A The projectile is the part of the bullet that
5 actually comes out of the gun. Quite often, depending
6 on what kind of round it is, the projectile will have
7 a copper jacketing on it to hold it together. And
8 inside that copper jacketing is the lead core, and
9 that's basically what a bullet is is the lead core.

10 Q And that was found underneath the vehicle?

11 A Yes, it was.

12 Q Was that found before or after the vehicle was
13 removed?

14 A That was found after the vehicle was removed.

15 Q I'm going to show you what has been marked as
16 State's Exhibit 15. Can you explain to the jury what
17 is in that picture?

18 A These are spray paint marking that we made of
19 the car before we moved it. The two brackets on
20 either side are where the rear tires were, the rear
21 brackets are the rear tires. The number 11 in the
22 middle is where we found the projectile.

23 Q And I am going to show you what has been marked
24 State's Exhibit 14. If you can show the jury with the
25 pointer where the projectile is?

1 A (Witness indicating.)

2 Q I'm going to show you State's Exhibit 19. Is
3 that just a close-up version of that projectile?

4 A Yes, it is.

5 Q I am going to show you what has been marked as
6 State's Exhibits 32, 35 and 38. If you could look at
7 those for a minute.

8 Do you recognize those items?

9 A Yes, I do.

10 Q And what are they?

11 A These are items I collected at the scene.

12 Q And those were collected by you?

13 A Yes.

14 Q Have they been changed or altered in any way?

15 A No. Some writing from the analysis but, no,
16 they haven't been altered.

17 Q And when you collected these items what did you
18 do with them?

19 A When I collected them they're placed in
20 packaging of some kind, in this case a small cardboard
21 box. Each box is initialed by me, also put the case
22 number and the item number on there, and that box is
23 sealed.

24 That box then goes into another envelope which
25 is sealed, my initials go on it, along with the case

1 number and the item number.

2 MR. RUNYON: No objection, Judge.

3 THE COURT: Marked and admitted without
4 objection.

5 MS. STEELE: Thank you, Your Honor.

6 (Whereupon, State's Exhibit Nos. 32, 35 and 38
7 are admitted into evidence.)

8 Q (By Ms. Steele) Officer Weirsma, I'm going to
9 show you briefly on the projector what has been marked
10 as State's Exhibit 32. Can you tell the jury what
11 that is?

12 A Yes, it's a fired shell casing.

13 Q And where was that one located?

14 A That one was located, it's 8-A. That was
15 located near the left front of the vehicle.

16 Q And can you explain to the jury what a shell
17 casing is?

18 A The shell casing is the part of the bullet that
19 contains the primer and the gunpowder. Once the
20 gunpowder is ignited it pushes the projectile out and
21 the shell casing is ejected from -- either is ejected
22 or remains in the gun depending on what type of gun it
23 is.

24 Q And showing you what has been marked as State's
25 Exhibit 35. Explain to the jury what that is?

1 A That's another fired shell casing.

2 Q Okay. On State's Exhibit 66, is that the shell
3 casing that was 4-A, marked 4-A?

4 A Yes.

5 Q I'm going to show you what has been marked
6 State's Exhibit 38, if you see that. Can you explain
7 to the jury what that item is?

8 A That's the lead fragment from the projectile
9 that was recovered from underneath the car.

10 Q okay. Officer Weirsma, on this sketch there is
11 also a projectile marked away from the car; is that
12 correct?

13 A Yes.

14 Q And what was that one labeled?

15 A It was labeled as 5-A.

16 Q I am going to show you what has been marked as
17 State's Exhibits 3 and 5. Do you recognize that?

18 A yes, I do.

19 Q Let me show you what has been marked as State's
20 Exhibit 36. Do you recognize that item?

21 A Yes, I do.

22 Q What is that item.

23 A This is a projectile labeled 5-A.

24 Q Is this a projectile that was recovered from
25 the scene and marked like the others?

1 A Yes, it is.

2 MR. RUNYON: No objection, Your Honor.

3 THE COURT: Marked and admitted without
4 objection.

5 MS. STEELE: Thank you.

6 (Whereupon, State's Exhibit No. 36 is admitted
7 into evidence.)

8 Q (By Ms. Steele) I'm going to show you two
9 pictures. The first one is marked State's Exhibit 5.
10 And do you see where that projectile 5-A was located?

11 A Yes.

12 Q In relation to the car?

13 A Yes, I do. (Witness indicating.)

14 Q Now I'm going to show you State's Exhibit 3,
15 was that marked by you?

16 A Yes, it was. (Witness indicating.)

17 Q I'm going to show you State's Exhibit 36. And
18 this item right here, what is that item if you could
19 explain to the jury?

20 A That is the projectile, the lead part that is
21 still covered by the copper jacketing.

22 Q And I am going to show you State's 67 again.
23 Officer Weirsma, I want to go through the items that
24 are found -- that were located around Channing Walker.
25 What items were located near Mr. Walker?

1 A A fired shell casing that I labeled as 7-A was
2 found next to Channing Walker.

3 Q Any other items that were located around Mr.
4 Walker?

5 A Yes, there was a projectile that I labeled as
6 10-A that was located underneath his head.

7 Q That was located where?

8 A Underneath his head.

9 Q That was marked as 10-A?

10 A Yes.

11 Q Can you show the jury on the sketch where that
12 was located?

13 A (Witness indicating.)

14 Q And from looking at the sketch there was a cell
15 phone located near him?

16 A Yes. There was a Motorola cell phone and also
17 a set of keys that were located next to him.

18 Q I am going to show you what has been marked as
19 State's Exhibit 26, 20, 17, 2, and 13. I am also
20 going to show you what has been labeled as State's
21 Exhibit 31, 39, 34 and 33.

22 If you could look at all those items.

23 Do you recognize the first set of items I gave
24 you?

25 A Yes.

1 Q And what were those?

2 A The copper jacketing is 9-A. This was located
3 next to Channing walker's head. And then there is
4 also a projectile, lead from a projectile, I listed as
5 10-A also found next to Channing walker.

6 Q And those are items I handed you there, are
7 those items that you collected on the scene that
8 night?

9 A Yes, they were.

10 Q were they labeled just like the other
11 projectile and shell casing that you talked about?

12 A Yes.

13 Q The first set of photos I showed you, do you
14 recognize those?

15 A Yes.

16 Q And were those taken that evening?

17 A Yes.

18 Q Are those pictures, are they a fair and
19 accurate representation of what you saw that evening?

20 A Yes.

21 Q And were they altered in any way?

22 A No.

23 MR. RUNYON: No objection, Judge.

24 THE COURT: Marked and admitted without
25 objection.

1 MS. STEELE: Thank you, Your Honor.

2 (whereupon, State's Exhibit Nos. 2, 13, 17, 20,
3 26, 31, 33, 34 and 39 are admitted into evidence.)

4 Q (By Ms. Steele) Let me show you what has been
5 marked as State's 31. If you can tell the jury what
6 that item is?

7 A It's a fired shell casing. I labeled it as 6-A
8 located to the left and rear of the vehicle.

9 Q Can you point to the jury on the diagram where
10 that was located?

11 A (Witness indicating.)

12 Q Okay. I am going to show you what has been
13 marked as State's 39, can you explain to the jury what
14 that item is?

15 A Yes. It's another shell casing I listed as 7-A
16 that was found next to Channing Walker.

17 Q And again on the diagram, would you show the
18 jury where that one was located?

19 A (Witness indicating.)

20 Q I am going to show you what has been marked as
21 State's Exhibit 2. Can you show the jury what is in
22 that picture?

23 A Yes. It's the fired shell casing right there.

24 Q And that was located right next to Mr. Walker?

25 A Yes.

1 Q I am going to show you what has been marked as
2 State's Exhibit 33. If you could explain to the jury
3 what that item is?

4 A It's a lead fragment from a projectile that I
5 labeled as 10-A that was found underneath Channing
6 walker.

7 Q Again can you show the jury on this diagram
8 where that item was located?

9 A (Witness indicating.)

10 Q And I want to show you what has been marked as
11 State's Exhibit 34. If you could explain to the jury
12 what that item is?

13 A Yes, that's a copper jacketing from a
14 projectile that I labeled as 9-A. And that was
15 located next to Channing walker's head.

16 Q Let me show you what has been marked as State's
17 Exhibit 13. Is that a picture of that projectile?

18 A Yes, it is.

19 Q I am going to show you what has been marked as
20 State's Exhibit 17. If you could explain to the jury
21 what those two items are and where those were found?

22 A This is a set of car keys or set of keys I
23 labeled as 1-A2, these were found next to Channing
24 walker. The other one is the projectile that was
25 found underneath, again underneath Channing walker. I

1 believe it was 10-A.

2 Q The projectile was found where?

3 A Underneath Channing walker.

4 Q Okay. I am going to show you what has been
5 marked as State's Exhibit 20. If you could tell the
6 jury what that item is and where it was located?

7 A Yes. This was a Motorola cell phone I labeled
8 as 1-A1 and that was located next to Channing walker.

9 MS. STEELE: Court's indulgence for one moment.

10 THE COURT: Uh-hum.

11 Q (By Ms. Steele) I am going to show you what
12 has been marked as State's Exhibit 26. If you could
13 show the jury where the items are that you just talked
14 about, the keys and projectile and the phone, in
15 relation to Mr. walker?

16 A I believe these are the keys right here. This
17 white spot right here is the projectile.

18 Q You mentioned that those were found under the
19 victim. Was he moved?

20 A Yes. He had been moved by EMS when they first
21 arrived on scene so that they could do their
22 treatment.

23 Q When you arrived on the scene was Mr. walker
24 facedown?

25 A At that time, yes, he was facedown and the

1 coroner later moved him when she came to the scene.

2 Q Okay. I am now going to show you what has been
3 marked as State's 66 again. Let me backup.

4 I am going to show you what has been marked
5 State's Exhibit 16, 18, 24, 25, 11 and 6. Do you
6 recognize those pictures?

7 A Yes, these are photos I have taken of the
8 scene.

9 Q They're a fair and accurate description of what
10 you saw that evening?

11 A Yes.

12 Q Have they been altered in any way?

13 A No.

14 MR. RUNYON: Your Honor, may we approach?

15 THE COURT: Uh-hum.

16 (Whereupon, a discussion was held at the bench
17 not on the record.)

18 (In open court.)

19 THE COURT: Madam Forelady, ladies and
20 gentlemen, I have a matter to take up outside your
21 presence. During the break please do not discuss the
22 case. Please place your notepads in your seats. This
23 should be fairly brief.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Do you have a problem with Number

1 18, Mr. Runyon?

2 MR. RUNYON: Well, yes, I do, Judge.

3 THE COURT: Why?

4 MR. RUNYON: I have to tell you for the record
5 that that's not the worst crime scene photo I have
6 seen.

7 THE COURT: Well, there is no blood, there is
8 nothing. That just shows police officers, that's why
9 I asked what would the objection be to that photo?

10 MR. RUNYON: Well, it would be the same as with
11 the others except those two --

12 THE COURT: Well the others are in a different
13 category, 6 and that are not in the same category,
14 that's why I'm trying to resolve those first. As well
15 as Number 16, frankly.

16 MR. RUNYON: 16 and 18, Judge, I have to
17 concede they are not the worse crime scene photos I
18 have ever scene.

19 THE COURT: They're very innocuous. They don't
20 show any blood, they simply show an accurate depiction
21 of how the body is found.

22 What is the objection to 16, 18 and 6? I
23 already am anticipating what the objects to the other
24 three. I'm trying to figure out what's the objection
25 to 6, 16 and 18?

1 MR. WILLIAMS: Your Honor, Mr. Runyon may not
2 realize there is actually a lead fragment on the skin
3 in that photograph.

4 THE COURT: Actually, I'm trying to figure out
5 why you need both of them because -- I'm referring to
6 16 and 18. One's a far away picture of the lead
7 fragment and one is a close-up picture of the lead
8 fragment.

9 MR. WILLIAMS: We probably don't need both.

10 MR. RUNYON: I realize what they're showing,
11 Judge, I'm still objecting.

12 THE COURT: What is the basis of the objection
13 to 16 and 6?

14 MR. RUNYON: Judge, may I see 16 and 6?

15 THE COURT: Uh-hum.

16 MR. RUNYON: Judge, I have to, like I said, I
17 place 16 and 6 in the same category as the other
18 three. Although we have to concede there is no blood,
19 it's not a gory photo, we just think that they're
20 going to have testimony from the medical examiner
21 later on. And --

22 THE COURT: They're entitled to show malice.
23 They're entitled to show where the body was found.
24 They are not entitled to show blood and gore because
25 that does appeal to the prejudices of the panel.

1 That's why I asked about 6 and 16, they don't
2 fall into the same category as the other three
3 photographs. They only show an accurate depiction of
4 the scene. They don't show any blood. 16, that's why
5 I picked 16, it's a close-up of the lead fragment, it
6 only shows the ear of the descendant. I don't think 6
7 or 16 are objectionable. I will admit those subject
8 to your objection.

9 Number 18 is out, it's cumulative. Now as
10 regards to 1, 24 and 25, I need to know for what
11 purpose they are being offered from the state.

12 MR. WILLIAMS: Can I see? I guess the
13 totality, they all show -- I think the biggest thing
14 are the injuries, but really the injuries tie to
15 malice.

16 I believe the one shot clearly shows that Mr.
17 Shakoor was shot in the back. Not only does that
18 corroborate witnesses we have already heard, it also I
19 think demonstrates a level malice that we need to
20 prove.

21 THE COURT: What does 24 depict?

22 MR. WILLIAMS: Can I see it, Judge?

23 THE COURT: Uh-hum.

24 MR. WILLIAMS: It shows I think a couple
25 different things. It corroborates Mr. Gianatas who

1 said that's where the victim was at. And I think it
2 also shows --

3 THE COURT: why do you need both of them if
4 they both show where he is at?

5 MR. WILLIAMS: Your Honor, I guess I
6 understand, they are slightly different. I think the
7 one clearly shows the shot to the back and the other
8 doesn't, it's a difference.

9 THE COURT: So what does the other show that
10 the other one does not show?

11 MR. WILLIAMS: I believe it also shows where
12 the money is in his hand as well as the cell phone.

13 THE COURT: That's a different one. I'm
14 talking about these two. What does this one show that
15 this one doesn't show? I'm referring to 24 and 25.
16 What does 24 show that 25 does not show?

17 MR. WILLIAMS: I thought it I showed the cell
18 phone.

19 THE COURT: Actually number 11 shows the cell
20 phone and the money.

21 MR. WILLIAMS: We can probably get around the
22 one by using the other two.

23 THE COURT: Number 24 is out as cumulative.
24 Now do you have black and white photos of these? I'm
25 referring to 25 and 11.

1 MR. WILLIAMS: We don't have black and whites
2 of any of them.

3 THE COURT: Can you make black and whites of
4 them? I assume they came off of your computer.

5 MR. WILLIAMS: We can simply photocopy them and
6 select black and white and they will come out that
7 way.

8 THE COURT: What is the objection, Mr. Runyon?

9 MR. RUNYON: Weill, Judge, we are talking about
10 this is a murder case, death is never pretty. Frankly
11 those photos are just to show the blood, the gore, the
12 condition of someone after death.

13 They're going to have testimony from medical
14 examiners as to where people were shot, et cetera, et
15 cetera. They don't need to the show the blood and the
16 gore to make the point quite frankly, Judge.

17 THE COURT: Anything further from the state?

18 MR. WILLIAMS: No, Your Honor, we can get black
19 and white copies if the Court please. At least
20 produce them.

21 THE COURT: 6 and 16 are in subject to the
22 objection. Is the State withdrawing 18 and 24?

23 MR. WILLIAMS: I believe -- yes, Your Honor,
24 both of those.

25 THE COURT: 18 and 24 are withdrawn.

1 THE COURT: Number 11 and 25 are admitted
2 subject to the objection. Number 11 is an accurate
3 depiction of the scene and body as it was found
4 regarding the money and the cell phone and it
5 corroborates other testimony.

6 Number 25 is also an accurate depiction of how
7 the body was found, and it also satisfies the element
8 of malice. However, I am directing that the state
9 make black and white copies of the photos. There is
10 nothing to be gained by showing blood. Although on a
11 scale of 1 to 10, these are probably the least -- I
12 don't want to use word gory, I don't want to seem
13 harsh in my description, but probably they are not in
14 terms of the worst photos I have ever seen.

15 However, I see nothing to be proven, at least
16 that meets the elements that the state is required to
17 prove, by showing the blood. And those which they
18 seek to introduce can be shown by black and white
19 photos. I don't want to run the risk of arousing the
20 passions or prejudices of the jury.

21 So these will be marked, 11 and 25, will be
22 remarked as Court's Exhibits for the purpose of any
23 appellate record, but they will be substituted with
24 black and white photos.

25 (Whereupon, State's Exhibit Nos. 6, 16, 11A and

1 25A are admitted into evidence.)

2 We will take a break to allow the state to
3 accomplish that. Also you all take a break too, we
4 have been sitting a little while, everybody probably
5 needs a restroom break. Take ten minutes and we will
6 resume.

7 (Whereupon, a recess was taken.)

8 THE COURT: Is the state ready to proceed?

9 MS. STEELE: Yes, Your Honor.

10 THE COURT: Is the defense ready to proceed?

11 MR. RUNYON: Yes, Your Honor.

12 MR. WILLIAMS: Judge, we have the copies. Do
13 you want to look at them?

14 THE COURT: Yes, could I please?

15 MR. RUNYON: We have seen the black and white
16 photos, Judge.

17 THE COURT: Marked as 11A and 25A, and the
18 other is are marked as Court's exhibits.

19 Please bring in the jury.

20 (Whereupon, the jurors enter the courtroom.)

21 THE COURT: Thank you, ladies and gentlemen, we
22 will now resume with the witness's testimony.

23 You may proceed.

24 MS. STEELE: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 MS. STEELE: Your Honor, I would move to admit
2 11A, 25A --

3 THE COURT: They have been admitted subject to
4 the objection.

5 MS. STEELE: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 Q (By Ms. Steele) Officer weirsma, I'm going to
8 backup a minute and show you what has been marked
9 state's 16. Do you recognize that photo?

10 A Yes, I do.

11 Q what is that a photo of?

12 A That is a photo of Kareem Shakoor -- I
13 apologize, that is a photo of Channing walker.

14 Q Channing walker?

15 A Yes.

16 Q And could you show the jury with your laser
17 marker what is located on his neck. what is that
18 item?

19 A It's a small lead fragment or copper fragment.

20 Q And again what exactly is a copper lead
21 fragment?

22 A It is part of the projectile, part of the
23 bullet that somehow wound up there.

24 Q Okay. And I am going to show you what has been
25 marked as State's Exhibit 25A. Do you recognize that

1 photo?

2 A Yes, I do.

3 Q who is that a photo of?

4 A That is a photo of Kareem Shakoor.

5 Q And could you show the jury what this mark is
6 right here?

7 A That is actually a bloodstain on the back of
8 his shirt.

9 Q And is there an injury?

10 A Yes. Right in the center is an injury.

11 Q what kind, type of an injury?

12 A Bullet hole, bullet wound.

13 Q All right. And I am going to show you what has
14 been marked as State's Exhibit 11A. Do you recognize
15 that photo?

16 A Yes, it's also a photo of Kareem Shakoor.

17 Q That's Kareem Shakoor's hand; is that correct?

18 A Yes, it is.

19 Q And that two items that are located in his
20 hand?

21 A A Sony Erickson cell phone which is labeled as
22 2-A1, and a \$10 bill labeled as 2-A2.

23 Q I am going to show you what has been marked as
24 State's Exhibit 6. Do you recognize that photograph?

25 A Yes, I do.

1 Q And what is that a photograph of?

2 A It's a photograph of blood drops we found in
3 the parking lot.

4 Q Where were the blood drops or who were the
5 blood drops near?

6 A They were near Kareem Shakoor.

7 Q And did they have kind of -- can you show on
8 the picture about where they were located in relation
9 to Mr. Shakoor and the car?

10 A They were located in this area between Mr.
11 Shakoor and the car. (Witness indicating.)

12 Q Did they appear to be a trail from one to the
13 other?

14 A Yes, it did.

15 Q I am going to show you what has been marked as
16 State's Exhibit 10 and 23. Do you recognize those?

17 A Yes, I do.

18 Q Do those fairly and accurately represent the
19 scene and what was located that evening?

20 A Yes, they do.

21 MR. RUNYON: We have no objection to State's
22 Exhibit 23 and 10.

23 THE COURT: Marked and admitted without
24 objection.

25 MS. STEELE: Thank you.

1 (Whereupon, State's Exhibit Nos. 10 and 23 are
2 admitted into evidence.)

3 Q (By Ms. Steele) I am going to show you what
4 has been marked as State's Exhibit 10. Do you
5 recognize that photograph?

6 A Yes, I do.

7 Q When you arrived on the scene that night, was
8 the driver's side door opened?

9 A Yes.

10 Q So it was like as it is depicted in that
11 picture?

12 A Yes, it is.

13 Q Was the passenger side open or closed; do you
14 recall?

15 A I believe that side was also open.

16 Q And I am going to show you what has been marked
17 as State's Exhibit 23. Do you recognize those?

18 A Yes, it's the inside of the car.

19 Q And the keys in the ignition in that photo?

20 A Yes.

21 Q They were in the ignition when you all arrived?

22 A Yes.

23 Q And is that a different set of keys than the
24 set of keys that you found next to the body of
25 Channing Walker?

1 A Yes, it's a separate set of keys.

2 Q Okay. Was -- do you recall if there was any
3 jewelry located on either victim that evening?

4 A I don't recall any. None was collected by
5 myself and I don't recall seeing any at the scene.

6 Q There were no items of jewelry, necklace,
7 earrings, located anywhere around the crime scene?

8 A No.

9 Q And what did you do with all the evidence when
10 you were done collecting it and photographing it?

11 A Once I photographed it and collected it I took
12 it back to our office where everything was sealed.
13 Same thing, each package was sealed, my initials, the
14 case number and the item number were placed on it and
15 then it was all placed in evidence at our office, the
16 crime scene office.

17 Q And what about the two cell phones? Were those
18 turned over to anyone in particular?

19 A Yes. The two cell phones were packaged by
20 myself and Sgt. Roberts of our evidence unit responded
21 to the scene and he took custody of the two cell
22 phones.

23 Q And how many different crime scenes, so to
24 speak, did you have in this case?

25 A In this case there was the initial crime scene

1 which was at the McDonald's. The autopsy was
2 considered a separate crime scene. And then
3 subsequent vehicle searches, search warrants on the
4 vehicles were separate crime scenes.

5 Q Do you know who handled each crime scene?

6 A I believe Anita Maestas did the vehicle search.
7 Henry Middleton also did a vehicle search. And Sgt.
8 Hood did the autopsy.

9 Q who did the autopsy?

10 A Sgt. Hood.

11 Q Okay. And what was done with the red Honda
12 again?

13 A The red Honda was towed from McDonald's to our
14 office. we have a bay where we can put cars in our
15 office to be processed later. It was placed in that
16 bay until it was processed.

17 Q I am going to show you again what has been
18 marked as State's Exhibit 39. Showing you what has
19 been marked State's Exhibit 39. Can you again tell
20 the jury what this item is?

21 A This is a fired shell casing.

22 Q Okay. And could you read what is on -- what is
23 this part of the shell casing called?

24 A The outside is just the little lip. The inside
25 right here is the primer that actually starts the

1 gunpowder.

2 Q Okay. And the stamping on the head of this
3 shell casing, can you read that?

4 A Right the stamping reads RP 9mm Luger.

5 Q And there were a total of I believe four shell
6 casing you found at the crime scene that evening?

7 A Yes.

8 Q And were each of those shell casing marked 9mm
9 Luger?

10 A Yes. They were all marked RP 9mm Luger.

11 Q They were all identical?

12 A Yes.

13 Q Officer, how are shell casing discharged from a
14 gun?

15 A It depends what type of gun. In the case of a
16 revolver once the bullets are fired the cylinder on
17 the revolver has to be opened and then manually dumped
18 out or extracted.

19 And in a semi-automatic handgun the -- when the
20 slide comes back it ejects the spent or fired shell
21 casing and loads a live round into the gun.

22 Q So in the automatic the shell casing is
23 automatically ejected; is that correct?

24 A Right, it's automatically ejected from the gun.

25 Q Do the shell casings found at the scene come

1 from a revolver?

2 A I don't believe so, no.

3 Q Given the shell casings all have the same type
4 stamp on them, 9mm Luger, can you tell if those shell
5 casings came from the same or similar gun?

6 A I can tell they're all the same type of
7 ammunition, they all have a circular stripe on the
8 primer that was similar to all of them.

9 whether or not -- I can't say if they were
10 fired from the same gun or not.

11 Q Correct. But they were all marked, they're all
12 the same type.

13 A Yes, they were all the same type and they all
14 had a similar primer stripe on it.

15 Q If a revolver was fired at this crime scene,
16 would you expect to see a shell casing?

17 A No, not unless somebody may have dumped it out.
18 But normally no, they stay in the gun.

19 Q And talking about projectiles, why do you
20 sometimes find projectiles and sometimes not?

21 A A lot of it depends on what they strike. You
22 know, if they don't strike anything a projectile can
23 go quite a-ways. If it strikes something in its path
24 they lose energy and they may just drop in place, or
25 they may skip and end up in some funny places

1 sometimes.

2 Q Okay. And the projectile, the kind of form
3 shape on the projectile, what does that indicate?

4 A That indicates that it struck something.

5 Q Struck something?

6 A Usually something fairly hard.

7 Q Okay. I am going to show you what has been
8 marked States Exhibit -- again, here you have a
9 projectile in the middle; is that correct?

10 A That's correct.

11 Q And it's in a pool of blood.

12 A Yes.

13 Q What is the projectile being found in a pool of
14 blood indicate when found at the crime scene?

15 A To me it indicates that the projectile was fired
16 through something, impacted on the ground, and then
17 the blood pooled around it. The top of it, the
18 projectile is clean so the blood did not drip on it it
19 just pooled around it.

20 Q Can you tell if it would be fired from close
21 range or not?

22 A I would say close range because it impacted the
23 surface like that. It's very deformed and flattened.
24 The texture on the other side is actually very similar
25 to the asphalt that it impacted on. I would say it's

1 from a close range.

2 Q And this is the -- is this the projectile that
3 was found under the body of Channing Walker?

4 A Yes, it was.

5 Q Okay.

6 MS. STEELE: Court's indulgence for a moment.

7 Q (By Ms. Steele) Briefly, Officer Weirsma, this
8 projectile being found in the pool of blood under the
9 body of Channing Walker, I know you said the top of it
10 is clean. Is that indicative of someone firing at
11 close range over Channing Walker.

12 MR. RUNYON: Objection, Your Honor.

13 THE COURT: Basis? Please approach.

14 (Whereupon, a discussion was held at the bench
15 not on the record.)

16 (In open court.)

17 THE COURT: Sustained, foundation.

18 Q (By Ms. Steele) Officer Weirsma, as part of
19 your training were you trained in firearms?

20 A Yes, I received some training in firearms.

21 Q What kind of training do you have?

22 A Just initial recognition, operation, how --
23 basically just how it works.

24 Q Do you have any training in the recovery of
25 shell casings and projectiles?

1 A In the recovery, yes.

2 Q Have you testified previously regarding shell
3 casings and projectiles found at crime scenes?

4 A Yes.

5 Q And are you familiar with finding certain
6 projectiles and shell casings at different crime
7 scenes that you have processed in your experience and
8 in your training?

9 A Yes.

10 Q Officer Weirsmas, in this case, the projectile
11 that was located under -- projectile in here that's
12 located under Channing Walker's body, does that
13 indicate anything to you that it's found in a pool of
14 blood and that the top of it is clean?

15 MR. RUNYON: Same objection, Judge.

16 THE COURT: Sustained, lack of foundation.
17 outside the ambit of his knowledge.

18 Q (By Ms. Steele) Officer Weirsmas, were you
19 trained in crime scene reconstruction?

20 A No.

21 Q Were not?

22 A No.

23 MS. STEELE: That's all the questions I have
24 for this witness, Your Honor.

25 THE COURT: Any cross for the witness?

1 MR. RUNYON: Yes, Your Honor.

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. RUNYON:

5 Q officer weirsma, probably a lot easier to find
6 evidence in an outside crime scene than south carolina
7 than it is in michigan, right?

8 A well --

9 Q In January?

10 A In January, yes.

11 Q Now, you were -- you spent some time denoting
12 on that diagram where certain things were,
13 particularly with regard to shell casings?

14 A Yes.

15 Q And you have testified that in an automatic --
16 first it is automatic, basically a semiautomatic
17 weapon the shell casing is ejected?

18 A Yes.

19 Q And usually they are ejected to the right,
20 correct?

21 A Correct.

22 Q There might be a few guns around that eject to
23 the left, but they usually eject to the right,
24 correct?

25 A Correct.

1 Q And where the shell casing is located doesn't
2 necessarily indicated where that weapon was fired
3 from; isn't that correct?

4 A Correct.

5 Q And the number of shell casings doesn't
6 necessarily indicate how many weapons, one, two, or
7 what have you; isn't that correct?

8 A Correct.

9 Q You collect this evidence and you denote it on
10 diagrams for later evidentiary purposes?

11 A Yes, sir.

12 Q And for consideration what may or may not have
13 occurred, but that's not your job. Your job is to
14 collect the evidence and really document it as to
15 where it was and when it was?

16 A Correct.

17 Q And the same with these fragments or these
18 bullets that you found on the concrete, or the asphalt
19 actually. Wasn't it asphalt?

20 A Yes.

21 Q The type of material that the fragment hits, no
22 telling where it could bounce to or roll to, correct?

23 A That's correct.

24 Q And the same with shell casings?

25 A That's correct.

1 Q So that the location of the shell casings
2 doesn't physically indicate the location of a shooter
3 or shooters?

4 A Correct.

5 Q Okay. And the -- you were asked a question
6 with regards to the Luger 9mm ammunition?

7 A Yes.

8 Q Yes. That's a very common ammunition?

9 A Yes.

10 Q You can buy it anywhere?

11 A Yes.

12 Q And the ammunition, it's your experience as an
13 evidence technician, does the ammunition necessarily
14 indicate the make or model of the weapon?

15 A No.

16 Q And so that, for example, I don't know what
17 kind of ammunition you use in your weapon, do you have
18 .4-caliber or 9mm?

19 A We have a .45-caliber.

20 Q Let's just talk about the .45-caliber weapon
21 because you are most familiar with that, at least for
22 the time being until they give you something
23 different, right?

24 A Correct.

25 Q Okay. You might be issued some ammunition by

1 the city police department?

2 A Yes.

3 Q Or you can go out and you can purchase
4 .45-caliber ammunition at the appropriate gun store or
5 gun shop, what have you, correct?

6 A Yes.

7 Q And it would be interchangeable with the
8 ammunition you might be issued, correct?

9 A Yes.

10 Q As it relates to -- strike that. Going back to
11 the car, the Honda or the Accord, did you document any
12 blood within the automobile itself?

13 A No, sir, I did not process the inside of the
14 vehicle.

15 Q You didn't process the inside of the vehicle at
16 all?

17 A No.

18 Q Obviously it must have been processed, you just
19 didn't process it?

20 A Correct.

21 Q Okay. Now, just to reiterate where the shell
22 casings were found, they could have gotten there by
23 being ejected from a weapon and bouncing, they could
24 have gotten kicked by someone at the crime scene or
25 someone involved in the actual crime, correct?

1 A Correct.

2 Q As it relates to the diagram that was pretty
3 meticulously drawn and you've meticulously testified
4 to, that was a depiction of the way things were that
5 particular night when you got there?

6 A Right.

7 Q And what you found on the ground?

8 A Correct.

9 Q And basically doesn't tell how many people were
10 there other than the two victims?

11 A Correct.

12 Q Where anybody was standing?

13 A Correct.

14 Q Okay. And you just very efficiently documented
15 the crime scene and collected the evidence, documented
16 the evidence for chain of custody and that was your
17 role in this investigation?

18 A Yes.

19 MR. RUNYON: Thank you, no further questions.

20 THE COURT: Any redirect of the witness?

21 MS. STEELE: Briefly, Your Honor.

22 THE COURT: You may proceed.

23 REDIRECT EXAMINATION

24 BY MS. STEELE:

25 Q Officer Weirsma, I believe you said that the

1 shell casings are ejected from the revolver on the
2 right side; is that correct?

3 A From an automatic, yes.

4 Q From an automatic on the right side?

5 A Yes.

6 Q That's if you're holding a gun straight like
7 this? (Indicating.)

8 A Correct.

9 A If you are holding a gun like this (indicating)
10 they would eject straight up in the air?

11 A Yes.

12 Q If you are holding a gun like this (indicating)
13 they would be --

14 A Straight down, yes.

15 Q Straight down. There is no way to tell from
16 the shell casings that were found which way that gun
17 was being held or fired that night, correct?

18 A Correct.

19 MS. STEELE: No further questions, Your Honor.

20 THE COURT: Any objection to the witness being
21 excused?

22 MR. RUNYON: I just have one.

23 THE COURT: You may proceed.

24 RECROSS-EXAMINATION

25 BY MR. RUNYON:

1 Q Officer weirsma, does not matter how you are
2 holding it, the shell casing is still is ejected from
3 the right side of the weapon?

4 A Correct.

5 MR. RUNYON: No further questions.

6 THE COURT: Anything further from the state?

7 MS. STEELE: No, Your Honor.

8 THE COURT: Any objection to the witness being
9 excused?

10 MR. RUNYON: None from the defense, Your Honor.

11 THE COURT: From the state?

12 MS. STEELE: None from the state, Your Honor.

13 THE COURT: Sir, you are excused.

14 You may call your next witness.

15 MS. STEELE: State calls Officer Steve Hood.

16 MR. STEVEN HOOD,

17 after having first been duly sworn to state the truth,
18 the whole truth and nothing but the truth, testified
19 on his oath as follows:

20 THE COURT: You may proceed.

21 MS. STEELE: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. STEELE:

24 Q Officer Hood, what law enforcement agency are
25 you employed by?

1 A I'm employed by the Charleston City Police
2 Department.

3 Q And what is your position with the Charleston
4 Police Department?

5 A I'm a crime scene investigator for Charleston
6 Police Department.

7 Q And how long have you been employed with the
8 Charleston Police Department?

9 A 31-and-a-half years.

10 Q And of those 31-and-a-half years how many years
11 have you been with the crime scene unit?

12 A Total with broken service because I made some
13 changes within the department over the years, about 20
14 years doing crime scene.

15 Q Okay. Do you have previous law enforcement
16 experience before being with the Charleston Police
17 Department?

18 A No. I came to Charleston Police Department
19 right out of college.

20 Q Okay. What are your present duties as a crime
21 scene investigator?

22 A Present duties as a crime scene investigator is
23 to respond to a crime scene, evaluate the scene,
24 document photographically, on paper, collect evidence,
25 process for latent fingerprints and assure that the

1 evidence is collected and preserved for future
2 analysis.

3 Q And were you employed in your present capacity
4 on January 4th of 2007?

5 A I was.

6 Q And were you involved in an investigation
7 involving a shooting at McDonald's on Sam Rittenberg
8 Boulevard?

9 A Yes.

10 Q How did you become involved in that?

11 A There was two crime scene officers on duty at
12 the time. I think there was Charles and Weirisma. And
13 they had called me up because of the major call. And
14 I was called on out to assist.

15 Q When you say major call?

16 A Homicide. Something a homicide, as opposed to
17 like a B and E into a vehicle.

18 Q Okay. What did you do when you first arrived
19 at the scene?

20 A When I first arrived at the scene I had, well I
21 went and got our big crime scene unit in case we
22 needed some additional equipment. And then I had
23 Charles and Weirisma, Rich Weirisma, fill me in on what
24 took place.

25 Then I just assisted mainly with marking items

1 of evidence for future documentation. And assisted
2 one of the crime scene officers with GSR'ing the
3 victims and printing them for identification.

4 Q And when you arrived on the crime scene, what
5 did you first observe?

6 A I first observed a vehicle to the left side of
7 the parking lot which would be pointing toward Orange
8 Grove Road. And two deceased individuals covered up
9 by tarps in the parking lot.

10 Q And was one of your tasks that evening marking
11 evidence?

12 A It was identifying evidence that was about the
13 scene and marking it and so we can collect it later.
14 And then put it into a diagram.

15 Q And how is evidence marked at the scene?

16 A Usually they're marked -- well they are marked
17 with after we have documented them, we will then mark
18 them with numbers one through whatever. In this case
19 I think they were yellow numbers.

20 Q Placards?

21 A Yeah, that stood up like tents. And they were
22 1, 2, 3, et cetera.

23 Q And did you take any measurements or anything
24 of the crime scene?

25 A Yes, we did. That was the thing that I

1 primarily did at the scene was to document and take
2 measurements of where each item of evidence was
3 located prior to collection.

4 Q Let me show you what has been marked as State's
5 Exhibit 66. Do you recognize that?

6 A This is a portion of the scene, it's the
7 portion of where the vehicle and the deceased were
8 found.

9 Q Both deceased were found. Does it say both
10 deceased?

11 A It does.

12 Q I can't fit it all quite in. Is that an
13 accurate depiction of the crime scene that evening and
14 where all of the items were located?

15 A Yes, it is.

16 Q After you were done marking evidence and taking
17 measurements, what other tasks did you perform that
18 evening?

19 A Actually doing the GSR on the victim before
20 they were removed.

21 Q Can you explain to the jury what GSR is?

22 A GSR stands for gunshot residue. Any time a
23 weapon is fired the gasses from the powder and primer
24 are vented out. And they have a tendency to stick to
25 the hands or to other surfaces. And what the GSR

1 collection is is going and collecting particles on the
2 hands. And they're not visible until they're sent off
3 to the lab.

4 There are two ways, one is sticky stub which is
5 just an aluminum rod with a sticky material on it
6 which is dabbed on the surfaces of the hand, the back
7 and the front. And then the other one is using a
8 nitric acid swab to collect any other residue.
9 They're packaged up after that.

10 Q And did you participate in collecting the
11 gunshot residue on this night?

12 A Yes, I did.

13 Q And was the gunshot residue taken from both
14 hands of each victim?

15 A The gunshot residue is done on both hands of
16 each individual that we perform the test on.

17 Q And you said you did assist in the collecting
18 of the gunshot residue, taking the prints from each of
19 the -- both victims in this case, both victims
20 Channing Walker and Kareem Shakoor that were found on
21 the scene?

22 A Correct.

23 Q And what did you do with those kits after you
24 are done collecting the strips?

25 A Once they are, with any kind of evidence such

1 as that is consider evidence, it is taken back to our
2 office, it is labeled and it is put into a locker
3 until further analysis or whatever is going to occur
4 with that item of evidence.

5 Q Was a car located on the scene?

6 A A car was located on the scene.

7 Q And what was done with that car?

8 A On the scene it was photographed. It was
9 examined exteriorly, looking into the vehicle to see
10 what we can see. And after it was documented and we
11 were able to put it in place, then it was towed to the
12 crime scene office awaiting a search warrant.

13 Q Do you remember what kind of car that was and
14 what color it was?

15 A I know it was a red car. And it was a Honda
16 Civic.

17 Q You said it was towed back to your office?

18 A It was towed back to the crime scene office,
19 correct.

20 Q I am going to show you what has been marked as
21 State's Exhibits 53, 29, 30, 40, 42, 43, 44, 45, 46
22 and 47.

23 If you could take a moment and look at those.

24 A Yes, ma'am. This is the vehicle that we had in
25 our processing bay at the crime scene office on that

1 evening.

2 Q Do these pictures show a fair and accurate
3 depiction of what the car looked like when it was
4 towed to the crime scene office?

5 A It's does.

6 Q Have the pictures been changed or altered in
7 any way?

8 A No, they haven't.

9 MR. RUNYON: We have no objections to the
10 series of photographs, Your Honor.

11 THE COURT: Marked and admitted without
12 objection.

13 MS. STEELE: Thank you Your Honor.

14 (Whereupon, State's Exhibit Nos. 29, 30, 40,
15 42, 43, 44, 45, 46, 47 and 53 are admitted into
16 evidence.)

17 Q (By Ms. Steele) Let me show you what has been
18 marked as State's Exhibit 43. Is that a picture of
19 the car that was located at the crime scene and towed
20 to the crime scene office?

21 A Yes, it is.

22 Q And what was done? Why was this car towed to
23 your crime scene office?

24 A The car was towed to the crime scene office
25 since it was involved in the crime. It had evidence

1 that appeared to pertain to the particular crime. So
2 that's why it was towed to our office for further
3 processing.

4 Q And did you participate in the further
5 processing of that car?

6 A Yes, I did.

7 Q And what type of processing did you do?

8 A Primarily what I did is I took some photographs
9 and I was looking for other additional evidence in the
10 car. And the picture that we are looking at now
11 depicts a hole in the door.

12 Q okay. And the green -- or the rod that is
13 sticking through the door, what is that? Can you
14 explain to the jury what that is?

15 A The rod that is sticking in the door is just a
16 green fiberglass dowel that we use to attempt to
17 determine the path that a projectile -- when I say
18 projectile I am talking about bullet -- the path that
19 that projectile may have taken.

20 Q Let me show you a picture of Plaintiff's
21 Exhibit 44. Can you show the jury what that is a
22 picture of in the door?

23 A As you see the trajectory rod is the green rod.
24 The red is the door itself. The hole is a hole where
25 a projectile has come through. The way it is bulging

1 out shows the bullet came this way. (witness
2 indicating.)

3 Q Is this the only bullet hole that is located,
4 again Plaintiff's Exhibit 43, is that the only bullet
5 hole that was found in that car?

6 A That's the only bullet hole I dealt with
7 because there was another crime scene officer looking
8 at the vehicle at the scene.

9 Q And with these rods that you are putting
10 through the door, you said they're to indicate the
11 path that the bullet may have taken through the door;
12 is that correct?

13 A The path that the bullet, the flight of the
14 bullet from when it left the weapon.

15 Q I am going to show you what has been marked as
16 State's Exhibit 30. And in this picture the door is
17 wide open and you have a rod going through it. What
18 does that indicate? What does that tell you about the
19 bullet?

20 A On this particular bullet hole, it told me that
21 that projectile had gone through the interior of the
22 car door and exited on the outside skin of the car.
23 And this is just showing the path where the bullet had
24 gone through the upholstery, and then on the inside
25 door which you saw was the green rod protruding on the

1 other side from where the entry point was.

2 Q And State's Exhibit 45, again with the door
3 open. Does that show the same path that the bullet
4 could have taken through that door?

5 A Yes. It shows the path that the projectile
6 would have taken.

7 Q I am going to show you State's Exhibit 40. Is
8 that a picture of the same bullet hole but with the
9 door closed?

10 A Yes.

11 Q And what does that trajectory show you?

12 A That picture is showing that the rod is passing
13 through, through the door, and it shows it's going in
14 a downward trajectory. Because this side over here is
15 a little bit higher. So it is going at an angle down.
16 Inside to out, up to down.

17 Q And based on your training and experience in
18 this case if the door was closed the bullet could have
19 come from inside the car; is that correct?

20 A Would you repeat that? I'm not quite
21 understanding what you are requesting please.

22 A The green rod going through the door, if the
23 door was closed, does that green rod indicate that the
24 bullet would have -- could have been fired from inside
25 or outside of the car?

1 A The bullet could have been fired inside or
2 outside depending on the position of the door at the
3 time the bullet hit it.

4 Q In this scenario if the door was closed when
5 the bullet was fired?

6 A In this scenario it shows that it was possible.

7 Q And State's Exhibit 30 again. If the door was
8 open, it's possible that the bullet -- does this
9 trajectory show it's possible that the bullet could
10 have been fired from outside the car?

11 A This is also suggestive that the projectile
12 could have been shot in the door while the door was
13 open.

14 Q And let me show you State's Exhibit 42. Can
15 you explain to the jury the location of the green rod
16 in this picture and it's purpose?

17 A The location of this particular rod in this
18 photo shows that it is going over the back of the
19 passenger seat.

20 what I was attempting to do there was once we
21 had the trajectory rod in showing which way the bullet
22 was going, then what I would do is I would add more
23 rods to it to get an idea of where that bullet may
24 have come from. What this does, I am just extracting
25 that and taking the rod out further just to show the

1 possibility of that bullet coming from that position.

2 Q And State's Exhibit 47, is that the same rod
3 just a picture of the front half of it?

4 A That is the same rod just from the opposite
5 side of the car with the car door closed. Just
6 showing one possible path of the bullet.

7 Q And are you able to tell when the bullet was
8 fired if the door was opened or closed?

9 A I could not tell you if it was open or closed.

10 Q Okay. Can you tell from the bullet hole and
11 the trajectory how close the gun was when it was fired
12 through the door?

13 A No. As far as distance that the muzzle of the
14 gun was from the door, no, ma'am.

15 Q After you were done processing the car and
16 recreating the trajectory, what else did you do in
17 this investigation?

18 A With the vehicle?

19 Q Well, were you done with the vehicle at that
20 point?

21 A At that point when I finished with this, and
22 collecting a couple of items, then the car was
23 released after the detective said that it was -- he
24 was satisfied with the examination of that vehicle.

25 Q Did you collect or recover any other items from

1 the car?

2 A Yes, ma'am.

3 Q What were those items?

4 A I collected a brown leather jacket from the
5 backseat. One CD in a case. A plastic sandwich bag
6 with cookies.

7 Q Show you what has been marked State's Exhibit
8 41. Do you recognize that photograph?

9 A Yes, ma'am. That is the bag of cookies and the
10 brown jacket that I got from the back seat.

11 Q Has that photograph been altered or changed in
12 any way?

13 A No, ma'am.

14 Q Is that an accurate description of where those
15 items were located in the car that evening?

16 A It's an accurate description, yes.

17 MR. RUNYON: Your Honor, no objection to
18 State's Exhibit 41.

19 THE COURT: Marked and admitted without
20 objection.

21 MS. STEELE: Thank you Your Honor.

22 (Whereupon, State's Exhibit No. 41 is admitted
23 into evidence.)

24 Q (By Ms. Steele) Let me show you State's
25 Exhibit 41. Is that the brown jacket and cookies that

1 were located in the car?

2 A Yes, it is.

3 Q And this item right here?

4 A That's the plastic sandwich bag with cookies.

5 Q Okay. Were these two items located in the
6 front seat or back seat?

7 A There were located in the back seat.

8 Q And after collecting these items, was that the
9 end of your involvement in processing the red Honda?

10 A Yes, it was.

11 Q Okay. And what else did you do in the
12 investigation after you were done with the red Honda?

13 A After that I finished up and I had went home
14 for the evening.

15 Q Was there any other type of crime scene in this
16 case that you participated in?

17 A Other than the one, the original scene at the
18 McDonald's restaurants?

19 Q Yes.

20 A No.

21 Q Did you attend the autopsy?

22 A Yes, I did. I did attend the autopsies.

23 Q And did you attend the autopsy of Channing
24 walker and Kareem Shakoor?

25 A I did.

1 Q And do you know when and where those autopsies
2 were performed?

3 A They were performed at Medical University,
4 second floor autopsy room, on the 5th.

5 Q And what was the purpose of your attending
6 those autopsies?

7 A The purpose of me attending an autopsy or post
8 is to be there if there is any questions that the
9 medical examiner may have, that is the one that
10 actually does the autopsy; to collect any evidence;
11 and be kind of a liaison between the autopsy and the
12 detective at the time.

13 Q And did you collect evidence from this autopsy?

14 A I did.

15 Q Okay. what evidence, what items did you
16 collect?

17 A Anything that was related to either victim,
18 their clothing or anything that was taken from the
19 bodies would have been turned over to me.

20 Q I am going to show you what has been marked as
21 State's Exhibit 81. Do you recognize that?

22 A Should I open it?

23 Q Yes.

24 A I think it's heat sealed. For me to open it
25 I'd have to actually cut the bag.

1 Q Scissors?

2 A Yes, ma'am. If you have no objections I can
3 get into this bag by punching a hole in the plastic so
4 I can actually look at it.

5 THE COURT: We are going to get a pair of
6 scissors. One moment.

7 Q (By Ms. Steele) Thank you. Did you need the
8 scissors again?

9 A No, ma'am. Yes, I recognize this. This is the
10 packaging that I put this projectile in. I collected
11 it from the autopsy from a Dr. Presnell. And this
12 particular item came from the deceased Channing
13 walker.

14 Q Okay.

15 A And it is a fired bullet or projectile.

16 Q Okay.

17 MR. RUNYON: No objection, Your Honor.

18 THE COURT: Marked and admitted without
19 objection.

20 MS. STEELE: Thank you, Your Honor.

21 (Whereupon, State's Exhibit 81 is admitted into
22 evidence.)

23 Q (By Ms. Steele) After you obtained this
24 projectile from the autopsy, what other items did you
25 collect?

1 A I collected all the personal clothing and other
2 small items that may have been within the clothing.
3 Anything regarding to each of those victims that were
4 collected and tagged separately from one another.

5 Q And are those items in the courtroom today?

6 A They're in the box in the back.

7 Q And you've looked at those?

8 A I have looked at those prior, yes, ma'am.

9 Q Were there any jewelry that were recovered from
10 either victim at the autopsy?

11 A From Channing Walker there was a gray and
12 yellow color wristwatch which was given to the
13 coroner. I did not take that into custody because it
14 was jewelry.

15 Q And the other items, were the other items
16 mainly clothing?

17 A Clothing, fingernail clippings, hair, blood,
18 tube of blood.

19 Q But was there a necklace or earrings or
20 anything like that located on either victim at the
21 autopsy?

22 A I'm just referring to --

23 Q That's fine, take your time.

24 A As far as jewelry, the only thing was the
25 watch.

1 Q Okay. So the watch was -- if there was other
2 jewelry it would have been located; is that correct?

3 A If it accompanied the deceased to the autopsy
4 room, it would have been accounted for there.

5 Q And, Officer, I'd like to backup for just a
6 second. You said you collected gunshot residue. Did
7 you also do any gunshot residue testing on the red
8 car?

9 A I did not. I believe there was two of us, let
10 me backup. There was Anita Meastas, she initiated the
11 search warrant, and I followed up on it. Because what
12 had happened is when the car was brought in that
13 evening it sat in the bay until a search warrant was
14 secured. Then Ms. Maestas came in and she started on
15 that vehicle until I came in that evening.

16 Q Okay.

17 A No, but I did not personally collect any GSR
18 off that vehicle.

19 Q The gunshot residue that you collected was just
20 off of both victims at the scene at McDonald's; is
21 that correct?

22 A That's correct.

23 MS. STEELE: Those are all the questions I have
24 for this witness, Your Honor.

25 THE COURT: Any questions for the witness?

1 MR. RUNYON: Yes, Your Honor

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. RUNYON:

5 Q Officer Hood.

6 A Yes, sir.

7 Q Good to see you again. Kind of briefly, your
8 analysis with the green tube, so to speak, or green
9 stick just indicates where the shot could have come
10 from that pierced the door had it been shot from say
11 inside the car, assuming the door was closed?

12 A Assuming the door was closed, the way the
13 trajectory rods were?

14 Q Yes.

15 A That is a possibility, yes, sir.

16 Q So there is no question about the fact that in
17 your analysis that a projectile went through the
18 upholstery and came out the metal side of the door?

19 A No, sir, that is correct.

20 Q You don't know whether the door was open or
21 closed, but that's how the projectile went?

22 A In to out, yes, sir.

23 Q Now, as it relates to the gunshot residue
24 collection that you did --

25 MR. RUNYON: Permission to approach, Your

1 Honor?

2 THE COURT: You may.

3 Q (By Mr. Runyon) If you were called in here and
4 said, I'm not going to tell you why but we want you to
5 do a gunshot residue collection on Bill Runyon. How
6 would you do that?

7 A Okay. What I would do is I would get -- there
8 is a prepackaged collection kit.

9 Q Right.

10 A And it consists of some sticky rods, nitric
11 acid and swab. And what I would do is I would put on
12 a pair of gloves to keep from cross-contamination on
13 my part. And then I would go ahead and administer the
14 sticky stubs first, one hand at a time.

15 I would say, please give me your right hand and
16 I would do your right palm. And I would put that in
17 its own case. What I would do, your right hand, then
18 I would finish with the palm and I would put it in the
19 container labeled palm. And then I would do the next
20 one called the back. And I would stub all the back
21 surface of your palm, put that in the plastic
22 container, put that aside. I would do the same for
23 the other hand.

24 Then I would do the second collection called
25 the swabbing. And I would get nitric acid, five

1 percent nitric acid, and I would put a couple drops on
2 each swab and I would do the same thing. I would do
3 the palm, and I would do the back and they would go in
4 their respective labeled containers.

5 And after the test was completed they would all
6 be packaged up in one envelope for sending off to SLED
7 for analysis later on.

8 Q And that analysis would determine whether or
9 not there was any gunshot residue present on the -- in
10 those test kits?

11 A If there was any -- the test was designed to
12 potentially pick up particles from a given surface,
13 and this particular instance it was the hands of the
14 victims.

15 Q Okay. And now the -- can you see gunshot
16 residue on the victim hands or my hand for example?

17 A No, you can't.

18 Q So if before I came to the courthouse today I
19 stopped by the gun shop and did some firing at a
20 target, you couldn't tell that just by looking at my
21 hands?

22 A No.

23 Q Okay. Now as it relates to that, if I wash my
24 hand, took a shower or what have you, you wouldn't
25 expect to get any gunshot residue, would you?

1 A I would expect it may have been diluted or
2 washed away if you had the chance to do so.

3 Q But on the night in question you took the
4 gunshot residue, as you've demonstrated on my hands,
5 from the two victims, you packaged it appropriately,
6 marked it for the chain of custody so that it can be
7 tested later on?

8 A Correct.

9 Q All right.

10 MR. RUNYON: No further questions, Judge.

11 THE COURT: Any redirect of the witness?

12 MS. STEELE: Yes, Your Honor.

13 THE COURT: You may proceed.

14 REDIRECT EXAMINATION

15 BY MS. STEELE:

16 Q Officer Hood, if you fired a gun, if someone
17 fired a gun, how long would the gunshot residue remain
18 on their hands, about how long?

19 A The way it is explained by SLED, if it's a
20 living individual, six hours is the max because of
21 absorption, robbing off. If it's a deceased
22 individual then those particles have a tendency or can
23 stay on there for a very long time.

24 Q When you say for a very long time, hours, days?

25 A We are talking living or deceased individual?

1 Q Deceased.

2 A Deceased, that would be hard to say because
3 there are a lot of variables, cooling of the body
4 after going into the autopsy room, et cetera. I could
5 not honestly say an exact time.

6 Q And could gunshot residue be found on someone's
7 hands from something other than firing a gun? Such as
8 being in close proximity to a gun being fired?

9 A Yes. It can be transferred from being in close
10 proximity if a gun was fired even though you did not
11 fire that weapon.

12 Q It could still be found on the person's hands?

13 A It could be found.

14 MS. STEELE: That's all I have, Your Honor.

15 THE COURT: Any objection to the witness being
16 excused from the state?

17 MS. STEELE: No, Your Honor.

18 THE COURT: From the defense?

19 MR. RUNYON: No, Your Honor.

20 THE COURT: Sir, you are excused.

21 THE WITNESS: Thank you

22 THE COURT: Counsel approach for me, please.

23 (Whereupon, a discussion was held at the bench
24 not on the record.)

25 (In open court.)

1 THE COURT: State may proceed.

2 MR. WILLIAMS: Thank you, Your Honor. State
3 calls Alfonza Jones.

4 MR. ALFONZA JONES,
5 after having first been duly sworn to state the truth,
6 the whole truth and nothing but the truth, testified
7 on his oath as follows:

8 THE COURT: You may proceed.

9 MR. WILLIAMS: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. WILLIAMS:

12 Q Mr. Jones, you don't want to be here today, do
13 you?

14 A No.

15 Q why don't you want to be here?

16 A You making me be here.

17 Q You got a subpoena to be here?

18 A Uh-hum.

19 Q without that subpoena you wouldn't have wanted
20 to show up?

21 A No.

22 Q You gave a statement though in this case; is
23 that correct?

24 A what statement?

25 Q You gave a written statement to the police?

1 A I don't know.

2 THE COURT: Sir, I need you to speak directly
3 into the microphone and say yes or no.

4 You may continue.

5 Q (By Mr. Williams) Do you remember a fellow
6 named Kareem Shakoor?

7 A Yes.

8 Q Do you remember a guy named Channing Walker?

9 A Uh-hum.

10 Q How do you know Kareem Shakoor and Channing
11 Walker?

12 A I used to work with Kareem. Kareem was my
13 homeboy when we started working together. I knew
14 Channing through work.

15 Q How long ago was it when you first met Kareem?

16 A Probably a couple years now.

17 Q Where did you work with him at?

18 A Norton's.

19 Q What was that?

20 A Norton's.

21 Q What did you do there with Kareem?

22 A We like -- it was like a clothing company, we
23 had our machine, like little walkie.

24 Q Were you friends with Kareem?

25 A Excuse me?

1 Q Were you friends with him?

2 A Yes, sir.

3 Q How about Channing Walker, were you friends
4 with him?

5 A I know him through work. I don't know him
6 outside of that.

7 Q Do you remember the day, January 4th, the day
8 that Kareem was killed?

9 A Uh-hum.

10 Q Did you see him that day?

11 A Yes, sir.

12 Q Where did you see him?

13 A At work.

14 Q About what time would you say you first saw
15 Kareem Shakoor at work?

16 A About 7 o'clock. About 6:30, 6:45.

17 Q While you were at work did he say he had a plan
18 to do anything that night?

19 A Yeah.

20 MR. RUNYON: Objection, Your Honor.

21 THE COURT: Basis?

22 MR. RUNYON: Hearsay.

23 THE COURT: Please approach.

24 (Whereupon, a discussion was held at the bench
25 not on the record.)

1 (In open court.)

2 THE COURT: Overruled, you may proceed.

3 Q (By Mr. Williams) Mr. Jones, going back to the
4 question. Did you hear him say anything about what he
5 planned to do that day or after work?

6 A Yes, sir.

7 Q What did he say?

8 A He said he had to catch a sale.

9 Q He had to catch a sale?

10 A Yeah.

11 Q Did he say anything beyond that?

12 A No, sir.

13 Q Did he ever wear any jewelry?

14 A Yes, sir. He always wear jewelry, even at
15 work.

16 Q Do you remember what the jewelry looked like?

17 A Looked like a smiley face and a frown, like a
18 theater thing.

19 Q Was that on a chain or was it bracelet?

20 A Yeah, it was earring and on a chain.

21 Q That was like a necklace?

22 A Yes, sir.

23 Q Did he ever wear any diamond earrings?

24 A Yes, sir.

25 Q As far as the diamond earring and the chain,

1 did you see him wearing those on January 4th, 2007?

2 A Yes, sir.

3 Q What was the last time you saw Kareem alive?

4 A After he left work he called me, like I wanted
5 to say probably 10 or 15 minutes before he got killed,
6 before he got killed.

7 Q And that was the last time you saw him was when
8 he left work that day?

9 A Yes, sir.

10 Q Did he have the necklace on?

11 A Yes, sir.

12 Q Did he have the earring in his ear?

13 A Yes, sir.

14 MR. WILLIAMS: Nothing else, thank you.

15 THE COURT: Any questions for the witness?

16 MR. RUNYON: Very briefly.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. RUNYON:

20 Q Sir, as I understand you said that the deceased
21 was going to make a sale?

22 A Uh-hum.

23 Q Is that a yes?

24 A Yes, sir.

25 Q Okay. You don't have to say sir to me but I'm

1 trying to make sure it's yes.

2 A Oh, okay, yeah.

3 Q If the answer is no, say no. How long -- and
4 you knew the deceased for a good long time?

5 A Yes, sir..

6 Q Okay. Did you ever go have a beer with him or
7 socialize with him?

8 A Yes, sir.

9 Q Okay. Did you and the deceased ever socialize
10 with Quinton Jenkins?

11 A No, sir. I don't even know who he is.

12 MR. RUNYON: No further questions, Judge.

13 THE COURT: Any redirect?

14 MR. WILLIAMS: No, Your Honor. Thank you.

15 THE COURT: Any objection to the witness being
16 excused?

17 MR. WILLIAMS: No, Your Honor.

18 MR. RUNYON: None from the defense.

19 THE COURT: Sir, you are excused.

20 You may call your next witness.

21 MS. STEELE: States calls Henry Middleton.

22 MR. HENRY MIDDLETON,
23 after having first been duly sworn to state the truth,
24 the whole truth and nothing but the truth, testified
25 on his oath as follows:

1 THE COURT: You may proceed.

2 MS. STEELE: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 DIRECT EXAMINATION

5 BY MS. STEELE:

6 Q Mr. Middleton, what law enforcement agency are
7 you employed by?

8 A Charleston Police Department.

9 Q What is your position with the Charleston
10 Police Department?

11 A Crime scene technician.

12 Q How long have you been employed there?

13 A 11 years.

14 Q And what are your present duties as a crime
15 scene technician?

16 A We go to crime scenes, we go to automobile
17 accidents, take photographs; burglaries and process
18 for latent fingerprints and/or take photographs of
19 damages.

20 We collect items of -- that we decide has
21 evidentiary value and process them. If additional
22 processing need to be, either for fingerprints or to
23 dry them to prepare them for court for later
24 testimony.

25 Q And have you had training in the collection of

1 fingerprints?

2 A Yes, I have.

3 Q What type of training?

4 A I have attended many, many classes in different
5 places on how to take photographs, how to collect
6 evidence, how to preserve evidence and how to even
7 have court testimony as a matter of fact.

8 Q And as part of your position with the
9 Charleston Police Department evidence unit, did you
10 have occasion to process a grey Buick with license
11 plate : : : ?

12 A I did.

13 Q And on what date did that occur?

14 A On January 11th of 1907 -- 2007, excuse me.

15 Q And how did that car come into your possession?

16 A It's came in as a search warrant to have
17 several things done with it.

18 Q And where was the car located when you
19 processed the car?

20 A It was located in the crime scene office.

21 Q Okay. I am going to show you what has been
22 marked state's Exhibit 55 and State's Exhibit 54. Do
23 you recognize those photos?

24 A Yes, I do.

25 Q And what are those photos of?

1 A These are photos of the car I processed in the
2 crime scene office in January of '07. January 11,
3 '07.

4 Q Okay.

5 MR. RUNYON: I have no objection, Judge.

6 MS. STEELE: State moves --

7 THE COURT: Marked and admitted without
8 objection. What are the numbers?

9 MS. STEELE: Thank you, Your Honor. The
10 numbers are 54 and 55. And, Your Honor, I believe
11 state's 55 has already been entered into evidence.

12 MR. RUNYON: That's correct, Your Honor.

13 (Whereupon, State's Exhibit No. 54 is admitted
14 into evidence.)

15 Q (By Ms. Steele) Mr. Middleton, if you would
16 look behind you just a second. Is that a photograph
17 of the gray Buick that you processed on that day?

18 A Yes.

19 Q I am going to show you what has been marked
20 State's Exhibit 55. Is that a picture of the back of
21 that vehicle?

22 A That looks like the picture. I can't see the
23 license plate number, but that looks like a picture
24 that I took, yes.

25 Q I'm going to hand you State's Exhibit 55 again.

1 I know the picture is not very clear on the ELMO, but
2 can you read the license plate on that picture?

3 A -- I can't see the last letter, looked
4 like an .

5 Q Okay. And what did you do as a result of that
6 search warrant? What was the first thing that you did
7 with the car?

8 A The first thing that I did with the car was to
9 photograph it.

10 Q Okay. And were any items found in the car?

11 A There was one item that was found in the car
12 that I was looking for and that -- there was one item
13 found in the car, it wasn't one that I was looking
14 for, excuse me.

15 Q Okay. What items were found in the car?

16 A The item that I listed that was found in the
17 car was a new prescription for Lipator.

18 Q Okay. And after photographing the car and just
19 taking inventory of the items in it, did you process
20 the car for fingerprints?

21 A I did.

22 Q And can you explain to the jury -- well first
23 of all, did you process the inside of the car or
24 outside of the car for fingerprints?

25 A I processed both outside and the inside.

1 Q Okay. And can you explain to the jury how you
2 process a car for fingerprints?

3 A The process that I use is a simple black powder
4 to look for fingerprints. Essentially what happens is
5 wherever a person touches something, the oil from
6 their skin is left on the surface of those items,
7 especially if those items are smooth and/or shiny
8 items or items that objects that are not rough in
9 appearances.

10 And what I do with the fingerprint powder is
11 just pass it across it, and then the oils from the
12 skin or from the body that touches these items is
13 attached to that surface.

14 In the case of fingerprints and handprints, it
15 is attached to it and leaves a pattern of that
16 person's fingerprint on that surface. And that's what
17 we, when we try to collect, we collect it by sticking
18 a clear tape to that surface and that print will
19 adhere to that surface on the tape and we apply that
20 to just a white card. Then you can see the shape of
21 the fingerprint. You can see the ridges and the
22 detail of the fingerprint left on that.

23 And then it's not able to be moved again. If
24 the tape is torn off of that card, the fingerprint is
25 torn up. But you can never take that off that again.

1 Q And is that process done the same for the
2 interior of the car and the exterior?

3 A It is, yes.

4 Q And were you able to lift any fingerprints from
5 the car?

6 A Yes. I lifted several prints from the car.

7 Q Do you know how many?

8 A It looks like four cards were made. One from
9 the rearview mirror; and one from the driver's side
10 rear window; and one from the trunk, on the top of the
11 trunk; and one from the rear window inside.

12 Q I am going to show you what has been marked
13 State's Exhibit 75. Do you recognize that?

14 A Yes. This is where I placed my prints whenever
15 I collected them.

16 Q Are those the four print cards that you
17 collected?

18 A Yes, they are.

19 Q Okay. And after you are done collecting them,
20 what do you do with them?

21 A I collect them, I seal them in the sleeve, put
22 them in this envelope, and put them in a locked box
23 and the ladies from our fingerprint section will come
24 and pick them up at a later date, usually the next
25 morning.

1 MR. RUNYON: Judge, I have no objection.

2 THE COURT: Marked and admitted without
3 objection. Please publish the number for the court
4 reporter.

5 MS. STEELE: Thank you, Your Honor, State's
6 Exhibit 75.

7 THE COURT: Thank you.

8 (Whereupon, State's Exhibit No. 75 is admitted
9 into evidence.)

10 Q (By Ms. Steele) And again, the fingerprints
11 that are placed on each card, did you mark on each
12 card where the fingerprint is recovered from?

13 A Yes, I do.

14 Q And then is that how you mark it?

15 A I usually draw the area where, something close
16 to the area where the fingerprint is lifted from and I
17 will mark an X on that. And then I will describe it
18 up here. That's where that is the description there.

19 Q And then the fingerprint is placed on the back
20 of each card?

21 A Yes.

22 Q Is that what the fingerprint looks like after
23 it's collected?

24 A Yes, it is.

25 Q Okay. And again, can you tell the jury where

1 each fingerprint, where each lift was collected from?

2 A Yes. One lift was collected from the top of
3 the trunk, which is outside. And one from the
4 driver's side rear window, which is also outside.
5 From the inside a print was taken from -- excuse me I
6 made a mistake here. One was taken from the rearview
7 mirror and one from the driver's side rear window and
8 then one from the top of the trunk and one from the
9 rear window on the inside of the car.

10 Q And would you expect to find more fingerprints
11 on the outside or the inside of a car?

12 A Well the surface on the inside of a car just
13 don't lend itself to this type of print collection as
14 does the outside of the car. Generally I expect to
15 find more prints on the outside of the car.

16 Q Is that because of surfaces?

17 A Because of the surfaces, yes.

18 Q Mr. Middleton, you said you found a
19 prescription in the car, some pills, a prescription of
20 some sort?

21 A Yes.

22 Q Do you know who that prescription was for?

23 A It was for Calvin Island.

24 Q Okay.

25 MS. STEELE: No further questions for this

1 witness.

2 THE COURT: Any questions for the witness?

3 MR. RUNYON: Your Honor -- good afternoon, Mr.
4 Middleton, good to see again.

5 We have no questions of this witness.

6 THE COURT: Any objection to the witness being
7 excused from the state?

8 MS. STEELE: No, Your Honor.

9 THE COURT: From the defense?

10 MR. RUNYON: No, Your Honor.

11 THE COURT: Sir, you are excused.

12 THE WITNESS: Thank you.

13 THE COURT: Madam Forelady, ladies and
14 gentlemen, we are going to take advantage of this
15 break in testimony to take our luncheon recess. We
16 are going to break until 2:15. During the recess
17 please do not discuss this case among yourselves or
18 with anyone else. Please do not allow yourselves to
19 be exposed to any media coverage regarding this case.

20 Again, please don't have any contact with
21 anyone in or about the courthouse. Please leave your
22 notepads in your seat. And also please return
23 directly to your jury room by 2:15. I hope you all
24 enjoy a great lunch. We will see you at that time.
25 If you go with your caretakers.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: Is there anything before we break
3 for lunch and recess from the state?

4 MR. WILLIAMS: No, Your Honor.

5 THE COURT: From the defense?

6 MR. RUNYON: No, Your Honor.

7 THE COURT: Have a good lunch. I will see you
8 all at 2:15.

9 (Whereupon, a recess was taken.)

10 THE COURT: Is the state ready to proceed?

11 MR. WILLIAMS: Yes, Your Honor.

12 THE COURT: Defense ready to proceed?

13 MR. RUNYON: Yes, Your Honor.

14 THE COURT: Please bring in the jury.

15 (Whereupon, the jurors enter the courtroom.)

16 THE COURT: Thank you, ladies and gentlemen,
17 you may be seated. I hope you all had a good lunch.
18 We will now resume with the trial. The state may
19 proceed.

20 MR. WILLIAMS: Thank you, Your Honor.

21 State calls Detective Barry Goldstein.

22 MR. BARRY GOLDSTEIN,
23 after having first been duly sworn to state the truth,
24 the whole truth and nothing but the truth, testified
25 on his oath as follows:

1 THE COURT: You may proceed.

2 MR. WILLIAMS: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 DIRECT EXAMINATION

5 BY MR. WILLIAMS:

6 Q Sir, where do you work?

7 A Charleston Police Department.

8 Q What do you do for the police department?

9 A I'm a criminal investigator assigned to
10 central investigative unit.

11 Q What does that mean? What do you do?

12 A My responsibility is to investigate crimes. I
13 am assigned to the violence crime unit, so any violent
14 crimes that come into the office. I work with other
15 detectives up there on investigations.

16 Q What does your office consider violent crimes
17 that you would be assigned?

18 A Homicide, any type of suspicious death,
19 aggravated sexual assaults, any aggravated type
20 incidents that may take place.

21 Q How long have you been working in law
22 enforcement?

23 A 30 years.

24 Q How long have you been working as a detective?

25 A 21 years.

1 Q Approximately how many homicides have you said
2 you investigated in your career?

3 A Over 200.

4 Q Were you involved in a homicide investigation
5 back on January 4th, 2007?

6 A Yes, I was.

7 Q How did you get involved in that investigation?

8 A I was the duty detective, my responsibility was
9 calls between the hours of 4:00 p.m. and 12:00 a.m. in
10 the City of Charleston.

11 Q What exactly is a duty detective?

12 A If an investigative type crime comes in, which
13 could be a robbery, could be a shooting, could be a
14 stabbing, it is my responsibility to go out and do the
15 preliminary investigation along with the crime scene
16 unit and get any statements or track down any
17 immediate leads until detectives may come in the next
18 day or later that evening.

19 Q On January 4th did you get called out?

20 A I did.

21 Q How did that happen?

22 A I was at the Charleston Police Department on
23 Lockwood Boulevard when a radio call went out for an
24 incident at McDonald's at 1201 Sam Rittenberg
25 Boulevard which was up off Highway 7 in the North

1 Bridge neighborhood of Charleston. I left Lockwood
2 Boulevard to respond over there.

3 When I was traveling over there I heard over
4 the police radio Officer Henry Comer, he is assigned
5 to the traffic division he was right there at the
6 traffic light which is at Sam Rittenberg and Orange
7 Grove. He pulled into the parking lot and called in
8 on the radio that two persons were down in the parking
9 lot area.

10 Q Did you respond to that scene?

11 A I did.

12 Q What did you find when you arrived?

13 A There were two persons, both being deceased.
14 There was a deceased male figure in the doorframe of
15 the driver's door of the vehicle. The vehicle was
16 facing Orange Grove Road which was North Bridge.

17 The driver's door was open some. The deceased
18 was lying there. Behind the vehicle towards the
19 building, which would have been estimation 20 to 25
20 feet, there was another deceased male figure lying in
21 the parking lot.

22 Q Now you mentioned earlier when you get called
23 out to a crime scene or as an on-call detective, there
24 were certain things you did like follow up leads.
25 What were the things you did in this case after you

1 got to the scene of the crime?

2 A We had a -- being a business that was open, it
3 was 8 o'clock at night, shortly after 8:00, another
4 detective that responded was Melvin Magwood. I
5 directed him to go inside McDonald's, separate the
6 employees, and try to find any witnesses or take any
7 statements which he did.

8 I went and checked later, which would
9 have been approximately 45 minutes to an hour, he had
10 all the witnesses separated and he was in the process
11 of questioning them. And these people were working at
12 the time of the incident, but they didn't observe any
13 of the incident that took place outside.

14 Q You spoke with those witnesses, anybody that
15 was inside the McDonald's, you or Detective Magwood
16 had contact with?

17 A That's correct.

18 Q You said they weren't helpful in your
19 investigation?

20 A No. We took documentation, name, address, et
21 cetera, so we would know who was working, who was on
22 duty at the time.

23 Q Did you check for surveillance equipment inside
24 McDonald's?

25 A I did. On the side of the building by the

1 drive-thru you could see the bubble which is a
2 surveillance camera, which I have seen in the past at
3 other locations. I asked management if they could
4 rewind the tape to approximately the time of this
5 incident and management told me the machine was not
6 operating.

7 In fact, she told me the machine went down,
8 which meant wasn't operating, shortly after 4 o'clock
9 that day.

10 Q Did you do everything you possibly could to get
11 any kind of surveillance tape off that machine?

12 A I asked her if she could call any supervisor,
13 if there was any other way that we could get that tape
14 and I had a negative result.

15 Q Apart from Detective Magwood, were there any
16 additional detectives involved in the investigation?

17 A Yes.

18 Q What other detectives were involved?

19 A David Osborn worked with me on this case.
20 Later on into the investigation Jerome Fleming worked
21 with me where he had done a canvas of the Burger King.
22 Burger King is across the street and I asked him to go
23 over there and locate any witnesses and make any
24 documentations that they may have seen.

25 Q And you also mentioned earlier that you make

1 contact with crime scene officers. Were there crime
2 scene officers out there that night?

3 A They responded, yes.

4 Q Do you recall who it was?

5 A Rene Charles would have been processing the
6 scene along with taking photographs. Steve Hood, Judy
7 Gordon, Officer Weirsma. Any other ones I don't
8 recall because there was so much going on at the time.

9 Q You would have had contact with those officers
10 as well?

11 A Yes, sir.

12 Q As far as -- you also mentioned as an on-call
13 detective you would be the first one assigned, but
14 later there may be other detectives that sort of take
15 the case. Did that happen here?

16 A Yes, it did.

17 Q What happened?

18 A I began working the case along with David
19 Osborn where we would track down -- David is good with
20 the cell phones and tracking down records, et cetera.
21 And he started working on cell phones that were found
22 at the scene. And we were able to develop a suspect
23 from that.

24 Q Let me go back just a little bit first. You
25 said there was a Burger King next door. Did somebody

1 go over there and speak with the folks that may or may
2 not have been working there.

3 A I believe that would have been Jerome Fleming.

4 Q And you would have used his investigation as
5 part of the overall investigation?

6 A Yes.

7 Q Apart from the Burger King and the McDonald's,
8 do you know if there were any other witnesses that
9 were developed outside in the parking lot?

10 A The police department received a phone call,
11 and the information was related to me -- there is an
12 Exxon gas station across the street on the Sam
13 Rittenberg side of Orange Grove, so it's opposite
14 McDonald's -- where an individual from
15 had called -- that's about a mile and a half or
16 two miles down Highway 7 -- that he had seen a vehicle
17 speed off from the direction of McDonald's. He tried
18 to follow it but because of its pace he lost track of
19 it.

20 Q And he was spoken to as well by a detective out
21 of your office?

22 A Another investigator, yes.

23 Q Did you know Mr. Gianatas at the time?

24 A I do know Gianatas, yes.

25 Q Did you see him that night?

1 A I did. He works for North Charleston sewer
2 district. He came over on his own and stopped. He
3 was on the frontage road coming from Manor Care, he
4 had a family member who was in there.

5 And he was coming down the frontage road from
6 Manor Care towards McDonald's when he observed the
7 commotion in the McDonald's lot and he stopped on his
8 own at which time I took a written statement from him.

9 Q Had you known him prior to that night?

10 A I've known him for many years.

11 Q Through law enforcement?

12 A He is a retired policeman, yes.

13 Q Now you mentioned a moment ago that there were
14 some cell phones that you all looked at. Where did
15 those cell phones come from?

16 A The cell phones would have come from the
17 deceased's in the parking lot.

18 Q And you said Detective Osborne looked at those?

19 A Yes, sir.

20 Q And based on what Detective Osborne said you
21 all sort of developed some individuals as suspects?

22 A Yes.

23 Q What was the next thing that you did in the
24 investigation?

25 A Suspect that was developed would have been a

1 gentleman by the name of Jabez Batiste. And he lived
2 over in the 1 subdivision which is located off
3 Highway 17 south. I went over there and met with his
4 father, and had a search warrant looking for a 9mm
5 firearm.

6 Q What was the relevance of a 9mm at that point
7 in time?

8 A Recovered casings, which is the jacket of a
9 bullet, the casings were recovered, 9mm's were
10 recovered in the parking lot of McDonald's.

11 Q This was based on information in part at least
12 that Detective Osborne had gotten off the cell phones?

13 A Yes. What he was doing, he was calling back
14 phone numbers that were in the history of the phone.

15 Q And you say that you went to execute a search
16 warrant?

17 A I did.

18 Q What is a search warrant?

19 A A search warrant is when an officer develops
20 probable cause or belief that there might be
21 contraband or evidence of a crime that might be needed
22 to prove the case. And the officer will document a
23 description of the residence or vehicle, whatever you
24 are looking for, then you have to be explicit on
25 exactly what you are looking for.

1 In this case would be an unknown caliber
2 firearm, being 9mm. Then I would have to state my
3 probable cause, which would be a shooting incident
4 took place at the McDonald's; date and time; on Sam
5 Rittenberg; and that two persons were killed; and that
6 in the parking lot were 9mm casings; and that through
7 the investigation, which the officer will testify to
8 later on, it is believed that this firearm may or may
9 not be inside the residence of Jabez Batiste.

10 Q And you went and swore this paperwork out in
11 front of a magistrate?

12 A Yeah. Once you document it and meet with the
13 magistrate, they read the probable cause. If they
14 find it to be sufficient they will sign it and the
15 police have within ten days to serve this warrant and
16 return it to the magistrate which we did.

17 Q Did you go to serve that warrant?

18 A I did.

19 Q What was the day that you went to serve the
20 warrant?

21 A It will be reflected in my notes here to get
22 the exact date.

23 Q Do you have your reports with you?

24 A Yes, I do.

25 Q Feel free to make reference if you need them.

1 A The date in my report that I wrote reflects
2 January 10th, '07.

3 Q So this was actually six days after the evening
4 when the murders and the homicides occurred?

5 A Yes.

6 Q And during those six days, Detective Osborne
7 was checking those leads and doing those things you
8 just talked about briefly?

9 A Yes.

10 Q So on the 10th of January, where did you go to
11 execute the search warrant?

12 A The address is , ,
13 subdivision. It was an address that we had recovered
14 through records that Mr. Batiste lived.

15 Q And what did you do when you got to that
16 residence?

17 A I met with his father, Alan Batiste.

18 Q Did you actually execute the search warrant or
19 what happened when you got there?

20 A No. I spoke to Mr. Batiste, he invited me in.
21 His wife had just gotten out of the hospital for an
22 unknown illness, she was in a wheelchair. So instead
23 of aggravating the circumstances of going through
24 their entire house looking for his firearm and just
25 disrupting their life, I asked if Mr. Batiste would

1 surrender a firearm so that I may have it matched down
2 the road later on in the investigation.

3 Mr. Batiste did surrender a 9mm rifle type
4 firearm.

5 Q When you say rifle type firearm, what do you
6 mean?

7 A It's a long type rifle with a stock on it or
8 clip.

9 Q You are indicating with your hands about 3
10 feet, maybe 4 feet long?

11 A Could be.

12 Q Did you see the gun in this case?

13 A I did. It was in a burgundy canvas cover with
14 a magazine and some extra rounds.

15 Q Is there any way that could be collapsed down
16 into a working firearm without disabling it?

17 A Yes.

18 Q If you break it down would it function still,
19 if you took the barrel off or any of those things?

20 A I'm not familiar with firearms, you have to
21 have a barrel to discharge, yes.

22 Q It was definitely different than a pistol?

23 A Absolutely, yes, sir.

24 Q If you can tell the jury so that they
25 understand sort of what you are talking about. How is

1 the long gun different than a .9mm handgun?

2 A Handgun is exactly what it says, it's a hand --
3 fits in the palm of your hand .9mm will have a clip on
4 it and when the trigger is pulled it will start
5 throwing these jackets, these metal casings; same
6 thing as this gun can do.

7 Q What is the size difference between the handgun
8 and long gun? Between a .9mm pistol, and a .9mm long
9 gun as you recovered?

10 A A pistol is a smaller firearm.

11 Q And a long gun is a lot longer than what a
12 handgun?

13 A Somebody would see a rifle if somebody was
14 holding it. For instance if it was used in this
15 incident, somebody, a witness, would be able to
16 describe somebody holding a rifle type gun.

17 Q And you didn't have anything like that in this
18 case?

19 A No, sir.

20 Q What else did you do with that gun to exclude
21 it or to determine if it was used in this crime?

22 A I went ahead and took the firearm based on the
23 fact that there is a way, a ballistic test, done at
24 Charleston County Sheriff Office. And what they do is
25 they're able to fire this rifle into a tank. And

1 between the ridges -- and this is generally speaking
2 -- between the ridges and grooves they exam the bullet
3 that comes out of this long gun and the casing, which
4 is the way the hammer would strike it on the backside,
5 and they're able to say if the casings we found at
6 McDonald's were the same casings being done in this
7 experiment at the ballistics place.

8 Q what did you determine through your
9 investigation about that?

10 A The examiner for the Charleston County
11 Sheriff's Office said that this rifle, which I'm
12 explaining to the jury, was not involved in this case.

13 Q So you excluded that rifle?

14 A Yes, I did.

15 Q Based on the size as well as comparisons done
16 with the casings?

17 A Yes, sir.

18 Q Was there anything else that you recovered from
19 the home of Jabez Batiste?

20 A No, sir.

21 Q After you went and got that long gun and then
22 excluded it through the city police department --
23 excuse me, through the sheriff's office, what was your
24 next step, what was your next role in the
25 investigation?

1 A I would have gone down to another address which
2 would have been , which is an address
3 of a gentleman by the name of Michael Johnson.

4 Q Had he been developed by Detective Osborne as
5 well as somebody to talk to?

6 A He was.

7 Q Did you speak with him?

8 A No, not at that residence.

9 Q Did you later find him?

10 A I believe so, yes.

11 Q And did you get a statement from Michael
12 Johnson when you did eventually find him?

13 A Could have. I don't remember if I took the
14 statement or if other officers did.

15 Q And what was your next step in the
16 investigation, if you recall? By all means make
17 reference to your notes if you need to.

18 A From there I met with Michael Johnson's family
19 -- and mother and father that is -- and they gave us
20 consent to search his room. They had not seen him in
21 quite a while. Searched his room. No evidence or
22 anything relating to this crime was recovered.

23 Q And what was your next step in your
24 investigation?

25 A After that would have been an arrest warrant

1 and a search warrant for the address of . . .
2

3 Q And whose residence was that?

4 A Quinton Jenkins.

5 Q You talked earlier about the search warrant
6 process, did you go through that same process, or you
7 and other detectives go through that same process in
8 this case?

9 A Yes, sir.

10 Q Do you recall who swore out the affidavit or
11 information to the magistrate?

12 A I'd have to look at the affiant, which is the
13 person responsible for the data up above.

14 Q I'm going to hand you a document. If you just
15 look at that quietly, or refer to it if you need to.

16 A You want me answer that, sir?

17 Q Yeah.

18 A The affiant on here is David Osborne.

19 Q And he swore out that search warrant in front
20 of the magistrate?

21 A Yes, sir.

22 Q Were you involved in the execution of that
23 search warrant?

24 A I was.

25 Q What was the date that the search warrant was

1 executed?

2 A January 11, 2007, approximately 10:00 a.m.

3 Q What happened when you went to execute the
4 search warrant? How did it proceed?

5 A My responsibility was I set up the officers on
6 the exterior. I assigned officers to make an interior
7 entry. I went to the rear corner of a house, of the
8 house. And what we do is we will have officers in the
9 rear on each corner to cover the doorframes in case
10 the subject we are looking for exits or even if they
11 come out of the window.

12 There was a team that knocked on the door and
13 it was able to take Mr. Jenkins into custody without
14 any incident.

15 Q Do you recall what Detective Osborne's role was
16 in the search warrant?

17 A In the search warrant he would have been one of
18 the people searching.

19 Q So you weren't inside actually looking for
20 things, that would have been Detective Osborne or
21 other people?

22 A No. My responsibility was I asked Mr. Jenkins'
23 parents, mother and father, and a younger female
24 persons in the house, I'm not sure what relative of
25 what it was, if they would come into the living room

1 and just sit there with me.

2 And I explained to them this case along with
3 what we were searching for. And explained to them
4 what the search warrant was for, in all fairness to
5 them.

6 Q And do you recall what was recovered out of
7 that residence pursuant to the search warrant?

8 A Yes.

9 Q What was that?

10 A There was some .9mm bullets. There were some
11 pills. There was a scale found underneath the house
12 on the exterior.

13 Q And those items would have been recovered by
14 Detective Osborne?

15 A Yes.

16 Q But as an investigator in the case you were
17 certainly aware of that as part of the investigation?

18 A Yes, sir.

19 Q After the items seized on the 11th of January,
20 what was your next step or your role in the
21 investigation?

22 A I wanted to explain to the parents, shows them
23 everything that we had, explained it to them. And
24 then once we have completed this task we left and went
25 on to the police department.

1 Q Do you recall dealing or talking with Ms.
2 Brittany Allen?

3 A Yes.

4 Q How did you come into contact with, or what was
5 the relevance of Brittany Allen at that point in your
6 investigation?

7 A Found out that the vehicle that was used on the
8 night in question was a vehicle that is owned by Carl
9 Allen. Carl Allen is her father.

10 Q Could it be Calvin Allen?

11 A Calvin Allen. They reside at [REDACTED]
12 in the [REDACTED]. So I went over to the
13 residence that night and met with family members, both
14 parents, explained to them the situation.

15 And at that time their daughter was up in
16 Denmark Tech, that's where she attended school. The
17 vehicle was on the outside of the house. Calvin
18 Allen, who the vehicle was registered to, signed a
19 consent form for us to process the vehicle for any
20 latents or any other evidence, latent prints,
21 fingerprints, or any other evidence that maybe in the
22 auto.

23 At this point I called the tow service,
24 Jennings, and they towed the vehicle over to the crime
25 scene office west of the Ashley to be processed.

1 Q Do you recall exactly what day that was?

2 A I believe it to be a Friday evening because I
3 had to go back over there on Saturday.

4 Q Do you recall talking to Ms. Brittany Allen on
5 the telephone at all about it?

6 A Yes.

7 Q And where did you get the information about
8 where the car would be located? who let you know
9 where the car would be, was it Ms. Allen or do you
10 recall?

11 A How we found it over there on : : :?

12 Q Did Ms. Allen tell you where it would be
13 located when you talked to her on the phone?

14 A Yeah.

15 Q I'm going put to up over your shoulder there
16 State's 55. Is that the vehicle you are talking
17 about?

18 A That's correct. It's a Buick Century.

19 Q After you sent the vehicle to be -- do you
20 recall did Officer Middleton or Mr. Middleton have
21 something to do with the processing? was he involved
22 in that?

23 A He could have been. He is assigned to the
24 crime lab. And what they do is once they complete
25 whatever their task is, they document in their report

1 form and that's what they bring to court later on.

2 Q After you dropped off the vehicle to be
3 processed by crime scene, what was your next role in
4 the case?

5 A I interviewed Brittany Allen, taken a written
6 statement from her.

7 Q And did you -- you said you met her in person
8 and took a written statement?

9 A I did.

10 Q After you spoke with Ms. Allen, what was the
11 next thing that you did?

12 A We continued to investigate. I worked with
13 Osborne on the cell phones records.

14 Q And were subpoenas done on the cell phones to
15 try to obtain information?

16 A Yes.

17 Q Is that a normal investigative technique that
18 you use?

19 A It is.

20 Q At some point did you respond to the west
21 Ashley High School?

22 A We did.

23 Q Do you recall approximately what day that was?

24 A That will be on January 23rd, '07 at about 10
25 o'clock. Myself and officer Antonio responded out to.

1 West Ashley High School to serve an arrest warrant.

2 Q And who was that to be served upon?

3 A Travis Delaney Simmons.

4 Q And I want to backup a little bit, Detective.

5 Although you were the lead detective in this case, who
6 would you say was doing the bulk of the investigation?
7 You mentioned earlier that sometimes other detectives
8 get assigned a case even though you may be the initial
9 lead detective. Who was doing the bulk of the
10 investigation in this case?

11 A David Osborne.

12 Q So while there was a time gap between the 11th
13 and the -- sorry, the 13th when you would have talked
14 to Ms. Allen, and the 23rd when you went to serve
15 arrest warrants on Travis Simmons, although you may
16 not having been doing anything, other detectives were
17 certainly developing those other individuals,
18 obtaining those warrants and doing that work?

19 A Yes, sir. As a detective assigned to the case
20 you are responsible for the investigation, but with
21 the other investigators being apart of it I would
22 designate different tasks that would have to be done.
23 These officers would go out and complete it and
24 document it later on.

25 And then at the end we would put together

1 whatever the end result was. So I may not be in touch
2 with every piece of the case, but there is an
3 investigator that was, that covered it.

4 Q And what detective would you say did the bulk
5 of the investigation in this case?

6 A David Osborne.

7 Q When you went to arrest Travis Simmons, did he
8 give you a written statement?

9 A I believe he gave us a statement, yes, sir.

10 Q And did you already mention that at the time of
11 the search warrant, arrest warrants were already in
12 place for Quinton Jenkins?

13 A Yes.

14 Q Was he arrested on those warrants at the time
15 of the search warrant?

16 A Yes.

17 Q Do you recall if Bernard Green was charged in
18 the case?

19 A He was.

20 Q And do you recall if he gave a statement as
21 well?

22 A Yes, he did.

23 Q And Jabez Batiste, the person we talked about
24 initially, was he later charged?

25 A Yes, he was.

1 Q And in that process, what were the charges that
2 you initially had?

3 A Murder.

4 Q And that was on who? Who was charged with
5 murder?

6 A Would have been Jabez Batiste, Quinton Jenkins,
7 Bernard Green and Travis Simmons.

8 Q One of those individuals had a case dismissed
9 at prelim?

10 A Yes, sir.

11 Q That was actually a new charge was made on, I
12 believe it was Bernard Green; do you recall that?

13 A Yes, sir.

14 Q Were you a part of it?

15 A I was a part of the prelim. It was my
16 testimony and Judge Gosnell decided to amend the
17 charge.

18 Q And that was amended to accessory after the
19 fact?

20 A Yes, sir.

21 Q There was no agreement you had with Bernard
22 Green to do that, that was the Judge's decision; is
23 that right?

24 A That was between the defense attorney, the
25 prosecutor assigned to preliminary court and Judge

1 Gosnell.

2 Q The Judge made that decision, it wasn't an
3 agreement or deal in that sense?

4 A No, sir.

5 Q Detective Goldstein, I want to cover one more
6 thing with you. The individual we talked about as
7 Quinton Jenkins, the one whose house you went in and
8 executed the search warrant, do you see him in court
9 today?

10 A Yes.

11 Q Can you point him out for me and describe what
12 he is wearing?

13 A Right over here. Appears to be a light colored
14 shirt at this table.

15 MR. WILLIAMS: Your Honor, can the record
16 reflect the identification?

17 THE COURT: Let the record so indicate.

18 Q (By Mr. Williams) Detective, you actually had
19 a chance to see him walking through his house when he
20 was arrested?

21 A No, I didn't. He was being put into a police
22 car.

23 Q Did you see him walking or did you see him
24 standing up?

25 A I did see him standing up getting into a car.

1 Q Approximately how tall would you say he is?

2 A 5'4" or 5'5".

3 MR. WILLIAMS: Thank you, I have nothing else.

4 THE COURT: Any questions for the witness?

5 MR. RUNYON: Yes, Your Honor.

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 BY MR. RUNYON:

9 Q Good afternoon, Mr. Goldstein.

10 A How are you doing, sir.

11 Q Good to see you again.

12 A Yes, sir.

13 Q All right. You basically have described the
14 umbrella of the -- you were the mainstay of the
15 umbrella of the investigation, however you want to
16 refer to it, there were a lot of people working on
17 this case?

18 A Yes, sir.

19 Q And as a result of a lot of detective work, you
20 checked on some cell phone calls, you and Mr. Osborne?

21 A Yes, sir.

22 Q And were there any telephone calls to Mr.
23 Quinton Jenkins in either of these cell phones that
24 you checked out to your recollection?

25 A I did not handle any of the cell phone calls

1 nor the telephones, Detective Osborne would have to
2 testify to that.

3 Q So you personally know of -- you can't say that
4 there is, you can't say that there isn't, you just
5 don't know?

6 A That is correct.

7 Q Now insofar as -- you made the return on the
8 search warrant?

9 A Yes, sir.

10 Q Okay. And there were -- get right to the
11 point. There were two 9mm bullets, what people would
12 commonly refer to as a bullet, recovered in the search
13 of Mr. Jenkins' house, correct?

14 A Yes.

15 Q All right. Was that the same kind of
16 ammunition that was found at Mr. Batiste's house?

17 A The brand, it's unknown to me.

18 Q But -- okay, let me start, I'm not trying to
19 trick you, we have been around the block too many
20 times together for me to try to trick you, you know
21 that?

22 A Yes, sir.

23 Q Were they both 9mm bullets, the same kind of
24 9mm, not referring to brand now, they both the same
25 kind of .9mm bullets at Mr. Batiste's house and at Mr.

1 Jenkins' house?

2 A Yes.

3 Q And there were two at Mr. Jenkins' house?

4 A Yes, sir.

5 Q Okay. And there were some pills found at Mr.
6 Jenkins' house as a result of this search?

7 A Yes, sir.

8 Q What kind of pills were those?

9 A They were not any type of prescription bottle,
10 they were loose pills. And when I showed the pills to
11 his mother, she described them as a prescription or
12 something for her son.

13 We had them tested at the Charleston laboratory
14 where they can examine this and they did not turn out
15 to be illegal. They are not illegal drugs.

16 Q All right. So you got some two bullets and
17 some legal pills?

18 A Yes, sir.

19 Q In Mr. Jenkins' room?

20 A Yes, sir.

21 Q And under the house someone found a scale?

22 A Yes.

23 Q And that is essentially, other than Mr. Jenkins
24 himself, that's essentially what you got from Mr.
25 Jenkins' house?

1 A Yes, sir.

2 Q Okay. Now, do you have any of the ammunition
3 that you seized from Mr. Batiste's house, do you know?
4 or did you send all that out to be tested?

5 A I sent it to be tested. I returned the firearm
6 to his dad.

7 Q Okay. What about the ammunition?

8 A I probably would have returned that to him
9 also.

10 Q Now. Just so it's kind of clear, I don't
11 always understand everything. So, please, I apologize
12 for asking the same question maybe a different way.

13 There is no question that the ammunition, not
14 brand new or not make and not manufacturer, but the
15 ammunition at Mr. Batiste's house that fit that rifle
16 was the same kind of ammunition that was found in Mr.
17 Jenkins' house?

18 A Yes.

19 Q Now at any time in the course of this
20 investigation did you recover any firearms from Mr.
21 Jenkins?

22 A No, sir.

23 Q At any time during this investigation did you
24 recover any firearms from Mr. Batiste?

25 A No, sir.

1 Q At any time during this investigation did you
2 recover firearms from anybody? When I say recover I'm
3 not talking about the firearm that Mr. Batiste's
4 father had, but that you took into evidence and that
5 was checked into evidence as evidence in this case?

6 A No firearms were recovered.

7 Q Okay. Now we heard some testimony earlier on
8 about some jewelry that Mr. Shakoor wore, I believe,
9 subject to being corrected on that. Anyway, about a
10 necklace and some earrings, what have you.

11 Did you recover in the course of this
12 investigation directed by you any type of jewelry that
13 would fit the description of the jewelry that Mr.
14 Shakoor wore from anybody?

15 A No, sir.

16 Q Okay. Now in the course of doing an
17 investigation, you all also know how to track down
18 things like people pawn something, or what have you.
19 One of your staff probably checked to make sure nobody
20 sold it, at least through ordinary channels?

21 A Yes, sir.

22 Q Okay. Now let's go back to the video
23 surveillance system at the McDonald's. In the course
24 of your experience as a police officer, and
25 investigating various kinds of cases, homicides, armed

1 robberies, things of that sort, video surveillance
2 systems are not uncommon in places of business today,
3 are they. would that be a fair statement?

4 A Correct.

5 Q And but what happened at McDonald's was that
6 the recording device broke down?

7 A Malfunctioned in some way.

8 Q Malfunctioned, so it wasn't working?

9 A No, sir, it wasn't.

10 Q For whatever reason?

11 A Correct.

12 Q And nobody who was working in there, if the
13 monitors were on, nobody in there even watched the
14 monitors, at least they didn't give you any statement
15 to that effect?

16 A That is correct.

17 Q And the lady working the -- it was a lady,
18 wasn't it, working the drive-thru window that night?

19 A To the best of my recollection.

20 Q About medium height?

21 A I don't recall. There was about eight or nine
22 employees on duty that night.

23 Q Okay. well, anyway the lady working the
24 drive-thru window, she didn't see anything after the
25 initial commotion and so you didn't get any statements

1 from anybody in the place of business; is that
2 correct?

3 A That is correct.

4 Q Now going back to Mr. Quinton Jenkins, you
5 arrested him and did you ascertain where he was
6 working at the time?

7 A Taco Bell which is located on Ashley River
8 Road.

9 Q Okay. And that is a new Taco Bell?

10 A Yes, sir. It's right outside Ashley
11 Villainaryville by Ryan's Steakhouse.

12 Q Right by that hamburger place?

13 A Right.

14 Q Unfortunately I know where all the good places
15 to eat are. Now both of those -- excuse me, strike
16 that. Have you ever been in that Taco Bell for any
17 investigative reasons?

18 A One time.

19 Q All right. They have a video surveillance
20 system?

21 A I did not go in there for that reason.

22 Q You went in there to eat?

23 A I went in there to check the business license
24 when it first opened to find out whether they were in
25 the City of Charleston or Charleston County.

1 Q You did not check to see if they had a video
2 surveillance system?

3 A It's unknown to me.

4 Q All right. What about the Burger King across
5 the way, another one of my favorite places. Did
6 anybody check to see if they had a video surveillance
7 system that covered that side of the building?

8 A I'm unaware if anybody checked. I did not
9 check.

10 Q So, what we know about what happened that
11 night, so to speak, is what people honestly tried to
12 recall and tell the police department, and you all did
13 a pretty exhaustive investigation to try to gather
14 evidence of facts and items of evidence; isn't that
15 correct?

16 A Yes, sir.

17 Q To your recollection, you have no knowledge of
18 any telephone calls made to Mr. Quinton Jenkins by
19 anybody, would that be a fair statement?

20 A That is a fair statement, yes, sir.

21 Q And as a result of your investigation or the
22 investigation of Charleston City Police Department
23 that you headed up, do you have any knowledge as to
24 whether or not Quinton Jenkins knew either of the
25 victims in this case?

1 A That is unknown to me.

2 Q Michael Johnson, does Mr. Quinton Jenkins know
3 Mr. Michael Johnson?

4 A That's unknown to me.

5 Q Okay. Now during the course of the search
6 warrant at Mr. Jenkins' home, actually it's his
7 mother's home, he lives there, right?

8 A Yes, sir.

9 Q It's we own our houses even though we own them,
10 so to speak, it's kind of like at your house probably,
11 right?

12 A Excuse me, sir?

13 A It's probably like your house too, the kids
14 really don't like run the place?

15 A Okay, yes.

16 Q Now did anyone in the course of that search
17 check for any things such as dirty clothes or anything
18 of that which could be tested for gunshot residue?

19 A No, sir.

20 Q Okay. Did anyone ascertain during the course
21 of the investigation what clothing on the night of the
22 alleged shooting Mr. Jenkins may have in fact been
23 wearing?

24 A I don't recall.

25 Q Okay. Now Taco Bell, just checked with the

1 business license, you really ought to eat there when
2 you got some time. Taco Bell stays open very late at
3 night, doesn't it?

4 A Until about 2:00 a.m., 3:00 a.m. in the
5 morning.

6 Q And then they open up early in the morning?

7 A Yes, sir.

8 Q So they have two or three shifts of people who
9 work there?

10 A Yes, sir.

11 Q Okay. Did anyone, during the course of the
12 investigation, check to see, to ascertain the source
13 of the ammunition that was in the Jenkins' home?

14 A I spoke to his parents, his mother, the mother
15 and father, at the time of the recovery.

16 Q Okay. When I say that did anybody check to see
17 who may have bought it or how it got there, any of
18 that sort of thing?

19 A His mom had made a statement to me after I
20 showed her the bullets and pills because she explained
21 to me what the pills were along with the scales that
22 she had not gotten to check his room this week.
23 That's all she said.

24 Q Okay.

25 A So where the bullets came from, I do not know.

1 Q But there are records kept on purchases of
2 ammunition at gun shops and other stores that sell
3 ammunition; is that not correct?

4 A Yes, sir. By law people have to produce
5 identification, be over the age of 21, at which time a
6 record is made if the ammunition is brought legally
7 from a commercial store.

8 Q And how old was Mr. Jabez Batiste at the time
9 of the shooting? You can check your notes there if
10 you recall?

11 A I don't have that documentation with me, sir.

12 Q Okay. As it relates to the McDonald's on that
13 particular evening, admittedly this was in the early
14 evening and there -- that's a kind of busy area, but
15 is there any way to ascertain how many people may or
16 may not have been there and ordered goods at the time
17 of the -- hamburgers and what have you -- at the time
18 of the shooting?

19 A It's unable to even guess whether there were
20 persons there or not. As you said, or as I will
21 answer, 8 o'clock at night could be a busy time in the
22 business. But for the police to be able to come up
23 with a number, that's unknown to us.

24 And we did not -- I received approximately two
25 or three calls from people that may have been at

1 McDonald's either before, couldn't have been after,
2 but it would have been before and they didn't see
3 anything.

4 Q Okay.

5 MR. RUNYON: I have no further questions of
6 this witness, Your Honor.

7 THE COURT: Any redirect of the witness?

8 MR. WILLIAMS: Briefly, Your Honor.

9 THE COURT: You may proceed.

10 REDIRECT EXAMINATION

11 BY MR. WILLIAMS:

12 Q Detective, do you have a copy of the search
13 warrant return up there with you?

14 A I do.

15 Q Does it indicate on it how many 9mm live rounds
16 were recovered from Mr. Jenkins' house?

17 A No, it doesn't.

18 Q Were you the one that actually collected the
19 rounds or seized them, or was that Detective Osborne?

20 A That would be Osborne.

21 Q Could it have been just one round as opposed to
22 two as you testified earlier?

23 A Could have been.

24 Q Detective Osborne would know better about that
25 since he seized them?

1 A Yes.

2 MR. WILLIAMS: Thank you, nothing else.

3 THE COURT: Any objection to the witness being
4 excused from the state?

5 MR. WILLIAMS: No, Your Honor.

6 THE COURT: From the defense?

7 MR. RUNYON: No, Your Honor.

8 THE COURT: Sir, you are excused.

9 THE WITNESS: Thank you, ma'am.

10 THE COURT: You're welcome.

11 You may call your next witness.

12 MR. WILLIAMS: Thank you, Your Honor. State
13 calls Detective Jerome Fleming.

14 MR. JEROME FLEMING,
15 after having first been duly sworn to state the truth,
16 the whole truth and nothing but the truth, testified
17 on his oath as follows:

18 THE COURT: You may proceed.

19 MR. WILLIAMS: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. WILLIAMS:

22 Q Sir, where do you work?

23 A City of Charleston Police Department.

24 Q What do you do with the police department?

25 A I'm an investigator assigned to the violent

1 crime unit.

2 Q How long have you been working in law
3 enforcement?

4 A I have been working with Charleston Police
5 Department for 12-and-a-half years.

6 Q How long have you been a detective or
7 investigator for?

8 A I have been assigned to the violent crimes unit
9 for a period of five years.

10 Q Were you involved in an investigation back on
11 January 4th of 2007?

12 A Yes, I was.

13 Q How did you get involved in that investigation?

14 A I was off duty at the time of the occurrence
15 and working an off-duty job. And I heard the call go
16 out over the radio with officers being dispatched to
17 that location.

18 And spoke with Sgt. Goldstein, who was working
19 the nightshift at that time, and responded to the
20 incident location.

21 Q Where was the incident location?

22 A It was the parking lot of the McDonald's
23 restaurant located at Sam Rittenberg.

24 Q What did you find or what was the scene like
25 when you arrived?

1 A When I arrived on scene of course the area was
2 cordoned off, being taped off by the earlier
3 responding units there. I observed a red in color
4 vehicle parked in the parking lot with both doors
5 open. And two bodies that were covered with a tarp at
6 that particular time in the parking lot in close
7 proximity of the vehicle.

8 Q Who was the lead detective in the case when you
9 got there?

10 A When I arrived on the scene I took my
11 directions from Sgt. Goldstein.

12 Q What other detectives, if you recall, were
13 involved in the investigation?

14 A I --

15 Q When I say that, violent crime detectives?

16 A It would be, I believe, the entire unit
17 responded there. I know I did see Detective Osborne,
18 I believe Sgt. Goldstein, and Sgt. Gordon and myself I
19 believe.

20 Q Now when you say you took direction from Sgt.
21 Goldstein, what was your role as a detective in this
22 case, or at the direction of Sgt. Goldstein, what did
23 he have you do?

24 A Well when I initially arrived on scene, he
25 advised me that the Detective Magwood was inside the

1 McDonald's restaurant business itself getting
2 statements from the -- whomever was inside, the
3 workers and whenever customers were inside. And he
4 asked me to go inside the restaurant to get statements
5 from the people inside.

6 Q And that was in the McDonald's?

7 A That was in the McDonald's restaurant, yes.

8 Q Did you do that?

9 A I went inside and took statements from the
10 people inside the restaurant there. And which
11 basically their statement was said that no one really
12 saw, they heard the shooting, but no one really saw
13 what took place in the parking lot.

14 Q And after you took those statements from the
15 people inside the McDonald's, what did you do?

16 A After leaving the McDonald's Restaurant I
17 advised Sgt. Goldstein, at which time we had received
18 information that there were possible witnesses at the
19 Burger King Restaurant located across the street on
20 Orange Grove road from the McDonald's parking lot.

21 Q Did you go over there?

22 A Yes, I did.

23 Q What did you do when you went to the Burger
24 King, or what happened?

25 A I went there, I spoke with a manager there, I

1 believe her name was Deborah Heyward, and got a
2 written statement from her.

3 Q Was she helpful to your investigation?

4 A Yes, she was.

5 Q Did she give you a statement, a written
6 statement of what she saw?

7 A Yes, she did.

8 Q Did you speak to anyone else or check for more
9 witnesses at the Burger King?

10 A Yes, but I think it proved negative.

11 Q So there was nobody else that was helpful
12 besides Ms. Heyward?

13 A I don't believe there was.

14 Q Do you remember if you checked for surveillance
15 equipment there?

16 A I did not, no.

17 Q Do you know if anybody else checked to your
18 recollection?

19 A I don't -- well no one informed me whether or
20 not it had been checked or what have you. As I said,
21 I did receive that information to go to the Burger
22 King from someone else.

23 Q What was your next role in the investigation
24 after going to the Burger King and speaking with Ms.
25 Heyward?

1 A To get into details in regard to her statement?

2 Q No, after you took her statement.

3 A After I took her statement I believe as the
4 investigation went on I was working with Detective
5 Osborne in regards to the cell phone records of the
6 victim.

7 Q And so when you say that, Detective Osborne was
8 doing something?

9 A Yes.

10 Q And you were assisting him?

11 A Yes.

12 Q What were you assisting Detective Osborne in
13 doing?

14 A Well, we received the cell phone records back
15 and we were trying to identify the people from calls
16 that were made or received.

17 Q This was off the victim's cell phone?

18 A It was from the victim's cell phone, correct.

19 Q And based on that information, what did you do
20 by yourself or with anybody else?

21 A Well, based on that information we established
22 the identity of one of the suspects from this incident
23 as being Jabez Batiste. Found out his whereabouts,
24 and we drove to his location being Denmark Tech.

25 Q Where is that?

1 A It's asking me what city, oh boy. It's out of
2 town.

3 Q Is it Bamberg County?

4 A It's in Bamberg County, yes.

5 Q Who went out to Denmark Tech to see Mr.
6 Batiste?

7 A Detective Osborne and myself. We traveled up
8 there to do a search warrant and also to get, to
9 interview him.

10 Q Did you obtain a search warrant for his dorm
11 room or his residence up there?

12 A Yes, we did.

13 Q And who executed that search warrant?

14 A I executed the search warrant on his dorm room.

15 Q Was anything recovered?

16 A No.

17 Q As you were executing the search warrant, did
18 you all see Jabez Batiste?

19 A Yes, he did -- he was located there on campus.
20 And from -- after being located he went with Detective
21 Osborne to the police station there, police
22 headquarter there on campus for an interview.

23 Q Did he give a statement to Detective Osborne?

24 A Yes, he did.

25 Q Did you later speak with him as well?

1 A Yes, I did.

2 Q Did he give you a statement as well?

3 A Yes, he did.

4 Q After you obtained the statement from Mr.
5 Batiste, what did you all do? What was the next step
6 that you were involved with?

7 A After we obtained his statement, we asked him
8 to come back to Charleston with us in regards to
9 identifying the other people that were involved in the
10 incident.

11 Q Did he take you anywhere?

12 A Yes. On our return back to Charleston from
13 Denmark Tech we drove by or he took us to the
14 McDonald's restaurant, the parking lot there, and
15 showed us where their vehicle was parked in relation
16 to the victim's vehicle.

17 Q Did he take you to any residences?

18 A He took us to a residence at I believe
19 , located in the subdivision.

20 Q And do you recall any other residences he may
21 have taken you by?

22 MR. RUNYON: May we approach a moment?

23 THE COURT: Sure.

24 (Whereupon, a discussion was held at the bench
25 off the record.)

1 (In open court.)

2 THE COURT: You may proceed.

3 Q (By Mr. Williams) I believe, Detective, you
4 testified a minute ago that you went along with Jabez
5 Batiste to [REDACTED]?

6 A The -- I know it was a residence in the [REDACTED]
7 subdivision.

8 Q Do you recall if he took you anywhere else, you
9 went anywhere else with Mr. Batiste?

10 A Basically he took us the route of travel that
11 they did that night in the returning and dropping
12 people off.

13 Q Did he point out other residences to you,
14 without getting into maybe addresses or anything like
15 that, if you recall?

16 A I only recall one residence where he said --

17 Q I don't want to get into what he said.

18 A I'm sorry. The only residence where the two
19 subjects were dropped off at:

20 Q Was Detective Osborne with you that whole time?

21 A Yes.

22 Q After you all spoke with Jabez Batiste and
23 drove around those different places, was he then
24 released or free to go?

25 A Yes, sir.

1 Q And based on the information he gave you, did
2 you obtain warrants in this case, or at least in part
3 on the information he gave you at that point?

4 A Not at that particular time, no. No warrants
5 were drawn up on that particular night.

6 Q What was your next role in the case as far as a
7 detective?

8 A I know that we did return to that address that
9 he identified to us and I believe we made contact with
10 Bernard Green.

11 Q And do you recall getting a statement from Mr.
12 Green?

13 A Yes. He accompanied us to the police
14 department and provided a written statement.

15 Q Is there anything else you did in the case as
16 far as assisting Detective Osborn or independently?

17 A I don't believe so other than the interviews.

18 Q Is it fair to say, Detective, that you were
19 assisting either Detective Osborn or Detective
20 Goldstein in your role as an investigator in this
21 case?

22 A Yes.

23 MR. WILLIAMS: No further questions, Your
24 Honor. Thank you, Detective.

25 THE COURT: Any questions for the witness?

1 MR. RUNYON: One moment, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. RUNYON:

4 Q Did you ride in the police car with Mr. Jabez
5 Batiste to [REDACTED] ?

6 A I don't know the street, as far as when you say
7 drive. He took us on a route to say where they
8 traveled to get from the scene of the incident.

9 Q Certainly didn't go down [REDACTED] did
10 you, sir?

11 A I do not know. I don't recall at this time.

12 Q Okay. That's fair enough. You don't recall
13 going anywhere near [REDACTED] when you were
14 taking your little caravan with Mr. -- I'm not being
15 deprecating -- with Mr. Batiste?

16 A I do not recall.

17 Q Okay.

18 MR. RUNYON: No further questions, Judge.

19 THE COURT: Any redirect of the witness?

20 MR. WILLIAMS: No, Your Honor.

21 THE COURT: Any objection to the witness being
22 excused from the state?

23 MR. WILLIAMS: No, Your Honor.

24 THE COURT: From the defense?

25 MR. RUNYON: No, Your Honor.

1 THE COURT: Sir, you are excused.

2 THE WITNESS: Thank you.

3 THE COURT: Madam Forelady, ladies and
4 gentlemen, you all have been sitting about an hour and
5 15 minutes. I'm going to give you a brief break to
6 refresh yourselves. During the break please do not
7 discuss the case. Please leave your notepads in the
8 seats and we will be out ten minutes.

9 I think that clock is 3:30, we will go 3:40.
10 we will be out until 3:40 or 3:45, somewhere around
11 there. If you need anything please let the bailiffs
12 know.

13 (Whereupon, the jurors exit the courtroom.)

14 THE COURT: Is there anything before we break
15 from the state?

16 MR. WILLIAMS: No, Your Honor.

17 THE COURT: From the defense?

18 MR. RUNYON: No, Your Honor.

19 THE COURT: We will be at ease for about ten
20 minutes.

21 (Whereupon, a recess was taken.)

22 (Whereupon, State's Exhibit Nos. 82, 83 and 84
23 are marked for identification.)

24 THE COURT: Is the state ready to proceed?

25 MR. WILLIAMS: Yes, Your Honor.

1 THE COURT: Is the defense ready to proceed?

2 MR. RUNYON: Yes, Your Honor.

3 THE COURT: I appreciate you all bearing with
4 me, I'm not feeling the best. I'm dragging just a
5 little. Please bring in the jury.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: You may be seated. Ladies and
8 gentlemen, we will now resume the testimony. I hope
9 you enjoyed your break.

10 You may resume, Mr. Williams.

11 MR. WILLIAMS: Thank you. The state calls
12 Detective David Osborne.

13 THE COURT: The witness will come to the stand
14 and be sworn.

15 MR. DAVID OSBORNE,
16 after having first been duly sworn to state the truth,
17 the whole truth and nothing but the truth, testified
18 on his oath as follows:

19 THE COURT: You may proceed.

20 MR. WILLIAMS: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 DIRECT EXAMINATION

23 BY MR. WILLIAMS:

24 Q Sir, where do you work?

25 A At Charleston City Police Department.

1 Q what do you do for the police department?

2 A I'm a detective in the violent crimes unit.

3 Q How long have you been in law enforcement?

4 A Going on 11 years now.

5 Q How long have you been with the city police
6 department?

7 A Going on six years.

8 Q Before you worked with the City of Charleston,
9 where were working in law enforcement?

10 A With the New Orleans Police Department.

11 Q What was your job there? What did you do in
12 New Orleans?

13 A I worked as a patrolman for a year, I worked in
14 a task force for two years, and I was a robbery
15 detective for the last two or three years.

16 Q When you came to the City of Charleston, what
17 did you start out as at the city police department?

18 A I worked West Ashley, I was a patrolman there
19 for two years. For a short time I was a team
20 detective, team investigator in West Ashley. Then I
21 went to central. I worked as a robbery detective
22 basically for a year. And over the last year I have
23 been in the violent crimes unit.

24 Q When you say you worked as a patrol officer at
25 West Ashley and then as a team detective, what does

1 that mean?

2 A As a patrolman I would answer just general
3 calls in west Ashley. Anytime you call 911 for the
4 police I was one of the uniformed guys that showed up.
5 As a team detective I worked in west Ashley. Any
6 minor crimes, any misdemeanors like just general
7 thefts, I would have been assigned those cases.

8 Q Fair to say over those couple years or few
9 years you pretty much knew every street and every area
10 in west Ashley?

11 A I was pretty familiar, yes, sir.

12 Q As a violent crime detective with the City of
13 Charleston Police Department, did you become involved
14 with a murder investigation back on January 4th, 2007?

15 A Yes, I did.

16 Q How did you get involved in the case?

17 A I believe I was off that night and I was called
18 in saying that there was a double homicide at
19 McDonald's.

20 Q Who was the lead detective when you first got
21 involved?

22 A Detective Sgt. Barry Goldstein.

23 Q And what was your role in the investigation,
24 how would you describe it?

25 A Well when I showed up the first thing I would

1 have did was I met with him and he briefed me
2 concerning what was going on. And he directed me to
3 go to the Burger King to canvas that with Detective
4 Jerome Fleming.

5 Q And did you have a chance to look at the crime
6 scene or do any of those things?

7 A Yes. Before I went over there he gave me a
8 brief overview of what we had.

9 Q What did you see at the crime scene or did you
10 notice anything?

11 A Well I saw it was a red Honda parked out there
12 in the McDonald's parking lot. As I recall the
13 driver's side door was open, the passenger side door
14 was open, it was a two-door. The passenger side seat
15 was pushed forward.

16 There was an individual on the ground away from
17 the vehicle, to the back of the vehicle, he was
18 deceased, that was Kareem Shakoor. And the driver's
19 side door on the ground was Channing Walker, he was
20 also deceased. There were shell casings all around
21 the scene, inside the car and outside the car. There
22 was a blood trail leading from the back of the car to
23 Kareem's body.

24 Q Did you see any cell phones out there?

25 A Yes. I believe there was cell phones by each

1 of the individuals.

2 Q And based on what you saw was that of any
3 importance to you, the scattering of the shells, the
4 locations of the bodies, the blood trail, at least
5 that early point in time?

6 A Talking with Detective Goldstein it just seemed
7 apparent to us that, well, it just seemed at least
8 another person, and that third person at some point
9 may have been inside of the vehicle seeing that the
10 backseat was pushed forward.

11 And the fact that they were inside the vehicle
12 it would seem to at least let you believe that the
13 victims were familiar in some way at least one of the
14 perpetrators.

15 Q And after you looked over the crime -- tell me
16 about the blood trail, where did that lead?

17 A I think from what I can recall it picked up
18 toward the back of the vehicle and it led pretty much
19 right to Kareem's body.

20 Q And you said that after you looked at the scene
21 you went somewhere else at the direction or at least
22 working with Detective Goldstein?

23 A I went across the street to the Burger King.

24 Q What did you do when you went there?

25 A Met with some of the employees there.

1 Detective Fleming was already interviewing one of the
2 employees. Did not find anyone there that had seen
3 anything relevant to the investigation.

4 Q And did you make inquiries about whether they
5 had surveillance equipment?

6 A I did. I cannot recall exactly who I spoke to
7 but I can say that the surveillance video was of no
8 use to us.

9 Q After you spoke with the employees at the
10 Burger King, what was your next step or your next role
11 in the investigation?

12 A Again I would have went back, we would have
13 taken a closer look at the crime scene. I also recall
14 running a license plate on the red Honda and it came
15 back to an address on

16 Myself and Detective Gordon went to that
17 address to try to make contact with some of the family
18 members or somebody who knew the victims.

19 Q Did you get a name off the plate on the red
20 Honda?

21 A We did. I want to say Sequina (phonetic)
22 Shakoor I believe.

23 Q And you said you went to which
24 was an address that came off the DMV records?

25 A Yes.

1 Q what did you find when you went to

2

3 A I spoke to an elderly lady who had lived there
4 for a little while and she wasn't familiar with
5 anybody named Shakoar.

6 Q Let me back up a little bit. what were you
7 trying to do at that point in time? what was your
8 reason for running that record or what was your
9 thought process at that point in the investigation?

10 A well twofold. Basically to make a notification
11 to the family members of the deceased and to also try
12 to get some sort of timeline of where these
13 individuals had come from.

14 Q And you say that you went to the house on
15 . what did you do after you went to the house
16 on

17 A when we met with negative results there,
18 checked DMV records. And I believe off of the
19 driver's license, I want to say for Kareem, was an
20 address on and --

21 Q Go ahead.

22 A And myself and Detective Gordon, and I believe
23 coroner Judy Copeland, went to that address.

24 Q Did you speak with anybody there?

25 A Yes. We spoke to Kareem's father at first.

1 Q Did you inform him of what had happened?

2 A Yes.

3 Q What was the next thing that you did?

4 A From there we looked out again off the driver's
5 license of Channing walker we obtained an address in
6 Hanahan. So again us three went to Hanahan with a
7 Hanahan police officer and spoke to two cousins of
8 Channing walker.

9 Q Did you obtain any information that was helpful
10 to you in talking to those cousins?

11 A From both of the sets of family members we
12 learned that the two individuals, Channing and Kareem,
13 had worked together at Jones Apparel.

14 Q And after you spoke with both families, what
15 did you do?

16 A Went back to the station and all the detectives
17 sort of got together and started comparing notes of
18 where we were at. First thing we started doing was
19 looking at the cell phones. I began by looking at
20 Channing walkers cell phone records.

21 Q And at some point did you go back to Kareem
22 Shakoor's house to see if he had any notebooks or
23 anything like that?

24 A Yes, that would have been I believe the very
25 next afternoon.

1 Q So, you said the first thing you did was before
2 that was check Channing's phone?

3 A That was the first phone I checked, yes.

4 Q What was your thought process in checking the
5 cell phones? What were you trying to find?

6 A Well again back to it just seemed like the
7 individuals had met someone there. It seemed likely
8 to me that if they had met them there perhaps they
9 called them to arrange the meeting there.

10 Q And the cell phone that you said was
11 Channing's, that was the one from the scene?

12 A Yes.

13 Q What did you do with that phone to start
14 looking at it or how did you look at it?

15 A Went through the call log.

16 Q What did you do when you found -- did you find
17 anything in the call log?

18 A I did. I believe the name of the first
19 individual was Andrea Butler, she lived in
20 Summerville. Myself and Detective Goldstein went out
21 there, would have been the next morning, about 4
22 o'clock that morning but it was the same night, and we
23 spoke to her. And she did not have any relevant
24 information to the homicides.

25 Q And after you made contact with that

1 individual, what was the next thing you did?

2 A The next day I, again dealing with Channing's
3 phone, I spoke to Natasha Wright I think her name is,
4 and she was again an acquaintance of Channing. I
5 believe myself and Detective Burkhardt went out to her
6 place of employment which was on
7 and again she did not have any information concerning
8 the homicides.

9 Q And after you had talked to those two
10 individuals off of Channing Walker's cell phone, what
11 was your next step?

12 A I think that is when we, myself and Detective
13 Burkhardt went to the Shakoor's residence thinking we
14 may be able to find some artifacts or something in his
15 room or residence that might help lead to the identity
16 of the perpetrators.

17 Q Did you speak to his family again?

18 A Yes.

19 Q Did you get a chance to look around his room?

20 A We did. They allowed us to look in his room.
21 We also took one of his journals where he wrote down
22 poetry and whatnot.

23 Q Did you get any information out of that
24 journal?

25 A Not that I can recall that was helpful to this.

1 Q Do you recall if any subpoenas were generated
2 at that point in time?

3 A We were working on all of that at the same
4 time. When I was going through the call log, all you
5 get when you look at the call log obviously is just a
6 number, or you may get a contact name. But without
7 knowing who that was, we were composing many subpoenas
8 at that point to try to identify those individuals.

9 Q And as you worked on that and went through
10 those phone logs, what was the next thing you did that
11 was helpful in the investigation?

12 A I believe it was on the 8th, January the 8th
13 I started focusing more on Kareem's cell phone. And I
14 noticed that there was a phone call on his phone, one
15 that started at 7:48 by the same number, and another
16 one at 7:54.

17 Q I'm going to stop you there, I want to make
18 sure I have this clear. You first got up to the scene
19 on the evening of the 4th of January?

20 A Yes, sir.

21 Q And between the 4th and the 8th I believe you
22 said, you had checked with Channing Walker's phone,
23 gone through that, looked at getting subpoenas for
24 some of the information, and gotten the information
25 out of Kareem's bedroom?

1 A Yes.

2 Q But you had not looked at his phone yet?

3 A No.

4 Q That again, that you said was the 8th I
5 believe?

6 A Right. That's when I really started looking at
7 it more closely.

8 Q So what happened when you started looking at
9 Kareem's phone?

10 A There was one number, like I said, that just
11 sort of popped out to me as being a number of interest
12 that I should investigation a little bit.

13 Q What was it that popped out about the number?

14 A The timeframe was the biggest one. We
15 estimated the shooting at being 8:01 p.m. and these
16 two phone calls were made by the same number, "As" is
17 what the contact was in the phone, at 7:48 and at
18 7:54. That's within minutes of what we estimate the
19 shooting to be.

20 Q Once you saw those two phone calls within close
21 proximity of when you thought the shooting occurred,
22 what did you do?

23 A We had already had a subpoena in place, the
24 subpoenas take days for the companies to honor, so I
25 went ahead and tried to call the number and make

1 contact with the individual.

2 Q And did you talk to anybody?

3 A Yes.

4 Q Who did you talk with?

5 A An individual who identified himself as Jabez
6 Batiste.

7 Q And did he talk to you about anything that was
8 helpful in your investigation?

9 A He had provided me with a few names of
10 individuals that he was with. He stated that he had
11 knew Kareem and but he didn't have anything to do with
12 the shooting, no knowledge of that. But that he was
13 in , which is in West Ashley I
14 would say maybe a few miles from McDonald's at the
15 timeframe.

16 And I believe he said something along the lines
17 that he was just speaking to him concerning some rap
18 shoot, or something that they were maybe going to try
19 to coordinate in Columbia.

20 Q At that point, what was your next step in your
21 investigation?

22 A Well what I did was I tried to identify these
23 individuals that Jabez had mentioned. We got single
24 photographs of all the people he said he was with. I
25 believe there was four or five altogether.

1 And being that both of the two victims,
2 Channing and Kareem, worked at the same place, we went
3 to Jones Apparel to see if anyone there had any
4 information.

5 Q And of those -- you say you then went to Jones
6 Apparel?

7 A Yes.

8 Q Did you speak with anybody there?

9 A Spoke to a female first, she didn't really have
10 any information concerning the murder, but she did
11 state with Alfonza Jones knew both of the victims and
12 maybe that would be a person we can talk to.

13 Q Did you then speak with Mr. Jones?

14 A Yes, we did.

15 Q Did he give you a written statement?

16 A Yes, sir.

17 Q Did he talk to you about Channing and Kareem?

18 A Yes.

19 Q After speaking with Alfonza Jones about Kareem
20 Shakoor and Channing walker, did that change your
21 investigation? How did that conversation affect your
22 investigation?

23 A well, based on that conversation I felt that
24 there was enough evidence at that point to obtain a
25 search warrant for Jabez Batiste's dormitory. He told

1 me he went to Denmark Tech during my earlier
2 conversation and he told me his dormitory room number.

3 So based on my conversation with Alfonza, I
4 obtained a search warrant to search Jabez Batiste's
5 dormitory for evidence.

6 Q And what was it you heard from Mr. Jones that
7 made you think that Mr. Batiste would be somebody to
8 execute a search warrant on?

9 A Well he identified Jabez from his photograph
10 and stated that he had been with Kareem on a previous
11 drug transaction and Jabez was the individual that
12 Kareem had sold drugs to. Based on that, and again
13 back to what we were saying concerning the crime
14 scene, it just seemed like the individuals knew each
15 other and it was possibly a drug transaction with that
16 money laying around, seemed to me we had enough
17 evidence to try to search Jabez's apartment.

18 Q So I want to make sure we have it straight,
19 there is a lot going on now. You talked to Jabez
20 Batiste on the phone based on the cell phone log?

21 A Right.

22 Q And he tells you he doesn't know anything about
23 it?

24 A That's right.

25 Q But then you talk to Alfonza Jones and he tells

1 you something different?

2 A That's right.

3 Q About Jabez?

4 A Yes. And he also states that he had called --
5 I recall he stated that Kareem had called Jabez just
6 prior to the drug deal. And again that seemed to
7 verify the phone records and that Kareem had called
8 Jabez just before the murders.

9 Q So you now know a little bit more about Jabez
10 Batiste than he told you?

11 A That's right.

12 Q And based on that you get the search warrant?

13 A Yes.

14 Q Who was working with you when you go to execute
15 the search warrant?

16 A Jerome Fleming.

17 Q And what did you all do or where did you all go
18 to execute that?

19 A Went to Denmark Tech in Bamberg County. Made
20 contact with Chief Judy Hallman, she's the Denmark
21 Tech police chief. And she assisted us by taking us
22 to Jabez's apartment.

23 Q And did you get a search warrant?

24 A Yes.

25 Q Did you execute that search warrant?

1 A We did.

2 Q And who actually physically executed the search
3 warrant?

4 A At first it was myself, Chief Hallman,
5 Detective Fleming. And as we were searching the
6 dormitory room, Chief Hallman advised me that Jabez
7 was seen walking towards the dormitory. So I broke
8 off from the search warrant, Jerome continued to do
9 the search warrant, and I met up with Jabez in the
10 hallway.

11 Q Did Detective Fleming finish executing the
12 search warrant?

13 A Yes, he did.

14 Q Searching the room?

15 A Yes.

16 Q Did he find anything in Jabez Batiste's dorm
17 room?

18 A No, sir.

19 Q You said as that was going on Jabez Batiste
20 walked up. What happened when he walked up?

21 A I made contact with him. I informed him that I
22 was the individual that had spoken to him, that we had
23 a search warrant to search his dormitory and asked if
24 he would be willing to speak with me at the Denmark
25 Tech police station concerning the murders and he said

1 he would.

2 Q And did you get a chance to speak to him?

3 A Yes.

4 Q Did he give you a statement?

5 A Yes.

6 Q Did Detective Fleming ever become involved in
7 the statement?

8 A Yes.

9 Q And did Detective Fleming also speak with him?

10 A Yes.

11 Q How many statements did you obtain from Jabez
12 Batiste?

13 A Two written statements.

14 Q And did they change? Did he change his
15 statement up from one to the other?

16 A Yes, sir.

17 Q How -- I don't want to get into what he changed
18 or what he said, but I want to get into how he changed
19 the statement. Did you have to push him on it or how
20 did that work?

21 A I think Detective Fleming did a great job in
22 interviewing him. And I think that the statement
23 changed in the sense that his involvement in the
24 statement became more involved with the second
25 statement as it did the first.

1 Q About how long would you say his written
2 statement was, how many pages?

3 A If I could look. The one he gave me was seven
4 pages. And one he gave Jerome was also seven pages.

5 Q Did he talk about other individuals in those
6 statements?

7 A Yes.

8 Q Did he give you some account of what happened?

9 A Yes.

10 Q And after he spoke with you, what happened?

11 A At the conclusion of that we asked him if he
12 would be willing to relocate with us back to
13 Charleston to help identify these other individuals
14 that were involved.

15 Q And was what he told you in those statements
16 helpful in your investigation?

17 A Yes.

18 Q Based on with a he told you, what did you do?

19 A Well we relocated back to Charleston, I was
20 driving. Jabez -- the first thing we did when we went
21 into Charleston from 26 I turned on to Cosgrove and we
22 went by the McDonald's. And I had him point out to me
23 where the vehicle that he was in parked, and where the
24 red Honda was parked in the McDonald's parking lot and
25 he did.

1 Q You said earlier he had given you information
2 on others individuals. Did he take you to the homes
3 of those other individuals?

4 A Right after that we took the same path that he
5 took in dropping off the other individuals.

6 Q Did he point out the places where those people
7 were dropped off?

8 A That's the next thing we did. He took us by
9

10 Q Do you know who lives there?

11 A Well, on he stated that that's where
12 a lot of those guys hung out. Bernard Green, Travis
13 Simmons, he said a lot of times you find them there.

14 Q Did he take you anywhere else after that?

15 A Next we went to . He pointed out I
16 believe it was .

17 Q And do you know who lives there?

18 A At that time all we knew was Q.

19 Q Somebody named Q?

20 A That's all we knew at that time. And in fact
21 he didn't know Bernard Green, I think he just knew him
22 as BG. And Travis just as Travis. So we were just
23 working off first names and nicknames at that point.
24 So that's why we needed to know where they stayed at.

25 Q After you went to the residence on | --

1 let me ask you, did you later find out through
2 investigation who lived at ?

3 A Yeah. We went to one more address on
4 , that's where he pointed out Travis Simmons's
5 house. Well, we later found out it was Travis
6 Simmons, at that time we only knew him as Travis. But
7 then we went back to the stations and that's when we
8 started looking through CPD arrest records, DMV,
9 whatever we could do to locate the individuals at
10 those residences that might match up to the
11 descriptions.

12 Q And did you determine through other
13 investigative means who resided at ?

14 A Yes.

15 Q who was it that lived there?

16 A Quinton Jenkins.

17 Q So you went by , you went by
18 , and you went by -- what was the third
19 address?

20 A .

21 Q . Are those all in west Ashley?

22 A Yes.

23 Q About how close or how far from the McDonald's
24 are all those addresses?

25 A Not far. All of those addresses are right off

1 61 near Ashley Hall. I would probably say maybe three
2 miles, four miles.

3 Q Is this correct?

4 A Yes.

5 Q Over by the station?

6 A Yes, right.

7 Q So after you spoke with Jabez Batiste and he
8 pointed out those residences and gave you a statement,
9 what else did you do? What was the next step in your
10 investigation?

11 A Well when we got to the station we composed
12 photographic lineups with who we thought he could be
13 talking about with Travis and Q. And we thought them
14 to be possibly Travis Simmons and Quinton Jenkins. At
15 that point we couldn't identify the BG individual.

16 Q Did you get information to confirm that through
17 Jabez Batiste?

18 A Put together a photographic lineup, read the
19 admonition statement to him, presented the
20 photographic lineups, and he positively identified
21 both of those individuals.

22 Q After you got that information from Jabez
23 Batiste, what did you do?

24 A He made a phone call to his father, I believe,
25 and his father came to the station and picked him up.

1 I then went, based on the information that he
2 provided, I obtained arrest warrants for Quinton
3 Jenkins for two counts of murder, and a search warrant
4 to his residence at

5 Q And that was based on the information that he
6 gave you in the statement at the police station?

7 A which also seemed to corroborate his Heyward's
8 statement.

9 Q When you say that, what do you mean by Ms.
10 Heyward's statement?

11 A Ms. Heyward had identified the shooter as being
12 very small, very short, 5'3", skinny. And the
13 description and CPD arrest records was 5'5" for
14 Quinton.

15 MR. RUNYON: Your Honor, may we approach the
16 bench?

17 THE COURT: You may.

18 (Whereupon, a discussion was held at the bench
19 not on the record.)

20 THE COURT: Madam Forelady, ladies and
21 gentlemen, I have a matter of law that I need to take
22 up outside your presence. It should be very brief.
23 During the break please do not discuss the case.
24 Please leave your notepads in your seats.

25 (Whereupon, the jurors exit the courtroom.).

1 THE COURT: Okay, he did make reference to the
2 CPD arrest record. He did not quantify in terms of
3 time. As I heard it I thought he was talking about
4 the arrest for this offense. I didn't think he was
5 talking about a previous arrest.

6 But out of an abundance of caution I'm going to
7 give a curative instruction to disregard that last
8 question and the last answer. The motion for mistrial
9 is denied. There is no compelling reason to grant a
10 mistrial where a curative instruction can remedy and
11 potential that the jury may have heard something that
12 is impermissible.

13 I'm not certain that they did. But out of an
14 abundance of caution, anything that raises the specter
15 of a previous arrest is inappropriate as it reflects
16 the previous record potentially of the defendant.

17 Again, from the context of the answer, it could
18 have been this arrest. But I will caution the
19 solicitor's office the make sure that your witnesses
20 are clear that they are to make no reference to any
21 previous record potentially of this defendant, or any
22 previous arrests. It is completely impermissible.

23 MR. WILLIAMS: Your Honor, I would just ask --
24 I will put on the record for Detective Osborne's
25 benefit that we won't refer to any arrest records, we

1 will simply refer to records if that's the case, or to
2 booking photographs simply booking -- I guess
3 photographic records.

4 THE COURT: why would you need to make
5 reference to any of it?

6 MR. WILLIAMS: I hope I don't need to, Judge,
7 but sometimes --

8 THE COURT: He doesn't need to. He is aware
9 now that he doesn't need to.

10 MR. WILLIAMS: And, Judge, the only other thing
11 is we will bring in the booking report in this arrest.
12 So I would ask that --

13 THE COURT: This arrest is permissible. That's
14 a part of the investigation. Any previous arrests are
15 not permissible.

16 MR. WILLIAMS: I understand.

17 THE COURT: They are completely irrelevant.

18 MR. WILLIAMS: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 Please bring in the jury.

21 (Whereupon, the jurors enter the courtroom.)

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

23 Ladies and gentlemen, we appreciate your
24 patience. I instruct you that you are to disregard
25 the last question and last answer in its entirety.

1 You are to give it absolutely no consideration in your
2 deliberations. And it is not to be discussed in
3 any way during the course of deliberations.

4 Mr. Williams, you may proceed.

5 MR. WILLIAMS: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 Q (By Mr. Williams) Detective, I believe we left
8 off with you said that there were things about Deborah
9 Heyward's statement regarding the height of people she
10 had seen out there. Did you have information
11 regarding the height of all of the people involved,
12 without getting so much into the information, what did
13 your investigation tell you about the height of the
14 all individuals involved, or their size for that
15 matter?

16 A You want me to just tell you what their size
17 was?

18 Q What your conclusions were.

19 A Well, from what I could tell we had an
20 individual, Jabez Batiste, who was 5'10", taller.
21 Bernard Green was also taller. Travis Simmons I would
22 describe as being average. And Quinton Jenkins being
23 much shorter than average.

24 Q And that was you say that was consistent with
25 what Ms. Heyward said as well?

1 A Ms. Heyward's description of the shooter was
2 5'3". Jabez identified the shooter as being shorter
3 than average.

4 Q So, what you heard from Jabez Batiste was
5 corroborated by Ms. Heyward as well?

6 A Right.

7 Q And you used that information, both of those
8 individuals then, to obtain arrest warrants on Quinton
9 Jenkins?

10 A It was the totality, yes.

11 Q When you got these arrest warrants, do you
12 recall what day it was?

13 A On the 10th.

14 Q And when you got the arrest warrants, did you
15 get anything else at the same time?

16 A I got a search warrant for his -- Quinton
17 Jenkins' residence, i |. |.

18 Q And how do you go about getting a search
19 warrant?

20 A Similar way to the arrest warrant, you compose
21 the arrest warrant and search warrant. I met with
22 Judge Gosnell and he reviewed all three warrants, and
23 he swore them out to me as to their truthfulness.

24 Q Once you obtained those documents, what did you
25 do?

1 A Well we elected, after speaking to Detective
2 Sgt. Goldstein, we elected to execute the warrants in
3 the morning.

4 Q Now I want to go back a little bit, I think we
5 brought up Detective Goldstein. While you were in
6 Bamberg, was he doing anything in Charleston?

7 A He was executing the warrant on , another
8 one of the Jabez Batiste's residences..

9 Q And did Detective Goldstein obtained anything
10 out of the Jabez Batiste residence while you were out
11 in Bamberg talking to him?

12 A I didn't see it but it was described as a 9mm
13 long handgun or rifle.

14 Q And Detective Goldstein would have been
15 responsible, in this case he made this exclusionary
16 decision about that item?

17 A Right.

18 Q While you were -- you said you made a decision
19 to go the next day to execute the arrest warrant and
20 the search warrant?

21 A Yes, sir.

22 Q At what time did you go to do that?

23 A We got there about 9:45, 10 o'clock in the
24 morning.

25 Q What happened when you got there?

1 A Detective Goldstein had arranged officers
2 around the residence. Myself and a couple other CPD
3 detectives made contact through the front door. I
4 knocked on the door and a female who identified
5 herself as Quinton Jenkins' mother answered the door.

6 I informed her that we had arrest warrants and
7 search warrants.

8 Q What did you do at that point after you spoke
9 with the woman at the door?

10 A She stated that Quinton was inside his room,
11 she pointed to the room. I went inside there with a
12 couple other officers while Detective Goldstein stayed
13 with the family.

14 And when I got into the room Quinton was
15 sleeping on the top of the bunk bed.

16 Q Did you arrest him at that point?

17 A Yes, sir.

18 Q Did you execute the search warrant at that
19 point?

20 A Yes. He was arrested, you know, given the
21 opportunity to get shoes on and whatnot, and then he
22 was taken outside and placed inside the police car. I
23 stayed with the search warrant.

24 Q When you actually arrested, or when you
25 actually came in contact with Quinton Jenkins, about

1 how big was he at the time. I estimate him to be
2 5'3", 5'5".

3 Q Approximately how much would you say he weighs,
4 or weighed at the time?

5 A 90 pounds, 100 pounds, something like that.

6 Q When you go about executing a search warrant,
7 what is the process? What do you do?

8 A Well the first thing we do is make sure that
9 the area is safe for us to search. You know, we --
10 the individuals, we try to get them in one area. In
11 this case the family was being cooperative with us and
12 they stayed in the living room while the other
13 officers broke down.

14 And some officers would search one area,
15 another officer would -- we split up into groups. I
16 was on the search team that was searching Quinton
17 Jenkins' room. Other officers took up different areas
18 throughout the residence.

19 Q You say you were in the room searching?

20 A Yes.

21 Q As you searched, what was found in the
22 defendant's bedroom?

23 A All right. We found four white pills from a
24 top dresser drawer. And a piece of paper which has, I
25 guess, cooking instructions for crack cocaine.

1 We found four pink pills in a cup at the
2 headboard of the top mattress on the bunk bed, along
3 with a South Carolina ID in the name of Quinton
4 Jenkins.

5 Found a Crown Royal bag containing ammunition
6 from the second drawer of the dresser also in the
7 room. Found nine white pills and a white tablet in a
8 shoe box under the bed. Found black Reebok shoes from
9 the garage. And the last thing we did was looked than
10 the outside of the house and I found two plastic
11 scales underneath the house in a crawlspace wrapped up
12 in a plastic bag.

13 Q I want to go through those one at a time.
14 Let's talk about the pills first. Once those were
15 seized, did you have those examined?

16 A Yes.

17 Q And pursuant to the examination, did you have
18 any conclusions about the legality or illegality?

19 A As I understand they did not come back as
20 contraband, illegal in anyway.

21 Q So they weren't something that concerned you as
22 far as being illegal?

23 A Right.

24 Q I want to talk about next the cartridges you
25 said you found. Where were they found?

1 A They were found in a Crown Royal bag, and it
2 was in the second drawer of a dresser in the room.

3 MR. RUNYON: Your Honor, may we approach?

4 THE COURT: Uh-hum.

5 (Whereupon, a discussion was held at the bench
6 not on the record.)

7 (In open court.)

8 THE COURT: Madam Forelady, ladies and
9 gentlemen, I have a matter of law to take up with the
10 attorneys. It should be fairly brief. During the
11 break please do not discuss the case. Please leave
12 your notepads in your seats.

13 (Whereupon, the jurors exit the courtroom.)

14 THE COURT: Okay, what is it in the Crown Royal
15 bag?

16 MR. WILLIAMS: Your Honor, I know there is one
17 shotgun shell, a live round. I believe one 9mm live
18 round. There is a casing from a .36, I'm sorry .38
19 special, it's just a casing. A live .38 special
20 round. Two live .38 special rounds. I believe what
21 is a .22-caliber round and then there are actually two
22 shotgun shells.

23 So in total the 9mm round. There is one 9mm
24 round, your Honor. There is two what I believe are
25 .22-caliber rounds, I'm no expert on that. Three live

1 .38 special rounds. As well as a casing that looks
2 like it's from one of those same rounds. Two shotgun
3 shells, one looks like a .12-gauge, both are actually
4 .12-gauge, they are different types of shot it looks
5 like. And a firecracker that was found in that same
6 bag.

7 THE COURT: What is that caliber of guns that
8 were used to kill the deceased?

9 MR. WILLIAMS: Your Honor, we know that at
10 least one was a .9mm, we believe semiautomatic. Your
11 Honor, there may have been a second gun involved, we
12 don't have a caliber on that. We believe it was a
13 revolver, but we certainly don't have a make or -- I
14 think there will be testimony, Your Honor, that there
15 was a codefendant that had a revolver in this case.

16 THE COURT: Tell me what facts or consequences
17 this makes more or less probable.

18 MR. WILLIAMS: Your Honor, I think it goes to
19 quite simply the defendant's knowledge of the 9mm
20 casing. And by that I mean having one bullet is
21 something that a defendant could not know about.
22 Having --

23 THE COURT: Well let me just assume that any
24 ammunition that relates to the actual caliber of guns
25 used is relevance. Why is the other stuff relevant?

1 MR. WILLIAMS: Because I think it tends to show
2 he would have greater knowledge of 9mm round than he
3 would if it was on its own.

4 Mr. Runyon is going to argue, I suspect, and
5 the jury can infer even without his argument, that he
6 wouldn't even know that the bullet was there. I think
7 it's a very hard thing to show when there is that many
8 other bullets there. So I think it goes to his
9 knowledge that it would be there.

10 Having that many bullets is something you
11 wouldn't be able to overlook. And it may have the
12 appearance that he could have not known it was there.
13 Mr. Runyon has already argued these bullets are
14 common, these bullets are this, these bullets are
15 that.

16 And I think my argument is, that maybe, but
17 having all these bullets isn't all that common. So as
18 much as he may think it's common, it's not in this
19 case and. And I need to be able to rebut that
20 inference of I guess commonality by showing the
21 specific characteristics of what was found in this
22 defendant's room.

23 THE COURT: Mr. Runyon.

24 MR. RUNYON: Judge, what I've argued is is that
25 the .9mm -- my question was is that the 9mm ammunition

1 is common and commonality. And that as a practical
2 matter the only gun, the caliber of gun that we have
3 had mentioned in this entire case is 9mm.

4 So to jump to the possible speculation that
5 there was a .38, and there certainly wasn't a shotgun.
6 I mean and contrary to popular belief, you know, you
7 go in people's houses in South Carolina and a lot of
8 people have different kinds of weapons and what have
9 you, even Democrats.

10 So as a practical matter, Judge, I think we are
11 dealing with a case where they say these people were
12 killed with a .9mm shot which is what all of the
13 evidence, the SLED and everything else says. Certainly
14 his having the 9mm shell is thoroughly relevant.
15 shotgun shells, .22-caliber shells .38 --

16 THE COURT: Are you in fact going to argue that
17 he did not know these were in this bag and that they
18 accidentally ended up there?

19 MR. RUNYON: No. I'm mean how can I argue
20 that? It was in his room, under his care, custody and
21 control. He had the .9mm shell. Now I will argue
22 that that doesn't mean he had a gun to fit it. But I
23 mean that's --

24 MR. WILLIAMS: Your Honor, I think he has
25 already argued that that's perfectly common, you can

1 buy those anywhere. And I don't think that argument
2 applies to this defendant when taking into account the
3 other things found in combination with that shell.
4 And Mr. Runyon has already made that argument.

5 MR. RUNYON: Judge, as it relates to .9mm
6 ammunition. As a matter of fact, their own discovery
7 says -- has the SLED report in here that says there
8 are 25 different .9mm guns that the ammunition that
9 they examined up at SLED could possibly have come
10 from. There is no mention of any --

11 THE COURT: Have you had any tests run on this
12 ammunition to see whether it matched any of the weapon
13 that were potentially used?

14 MR. WILLIAMS: Your Honor, the head stamp is
15 the same as the head stamp on the casings we found. I
16 don't believe they ran a test on that.

17 THE COURT: You're saying the head stamp on
18 this ammunition is the same as the head stamp on the
19 weapons that were used? Ammunition that was used?

20 MR. WILLIAMS: Your Honor, the casings from the
21 scene were all tested and came back from the same gun.
22 However the live round was not sent for comparison.
23 However, Your Honor, it's a comparison I'm going to
24 basically do by holding the two of them up together in
25 court. It's literally the same casing, so.

1 It's got the RP .9mm head stamp on the casing
2 itself. As I just remind you, he's already argued the
3 commonness of that. And I think my argument is
4 simply, if he is going to open that door I can show
5 that alone might be common, but this combination isn't
6 common. That's where I think the relevance lies.

7 MR. RUNYON: And, Your Honor, that argument is
8 totally speculative on the part of the state. If they
9 want to show that, they're going to have a firearms
10 expert in here tomorrow probably from SLED who can get
11 on the stand and say, well, you know it's not really
12 common for people to have different kinds of
13 ammunition, et cetera, et cetera, et cetera.

14 I mean with all do respect to Mr. Osborne, I
15 don't think he can testify to that. But the simple
16 fact of the matter is is that the relevance of the
17 seizure is as to the .9mm.

18 THE COURT: There is no indication that a live
19 shotgun, that any shotgun was used in this incident;
20 is that correct?

21 MR. WILLIAMS: That's correct.

22 MR. RUNYON: None whatsoever, Judge.

23 THE COURT: There were only two of those,
24 correct?

25 MR. WILLIAMS: There are two and they're both

1 different, they're different shells.

2 THE COURT: Can I see them, please? Different
3 colors, different pellets.

4 Can I see what else was in there, please?

5 Actually, I'm going to let it be marked as a
6 Court's Exhibit. Everything in the Crown Royal bag is
7 in with the exception of the two live shotgun shells.
8 while they were found pursuant to a valid search
9 warrant, the Court does not find them probative of any
10 issue and finds that they are more prejudicial than
11 probative.

12 However, the other ammunition is in as it is
13 probative on the issue of the defendant's knowledge,
14 the ammunition which is relevant to the weapons that
15 were used in this offense.

16 Please bring in the jury.

17 However, if the door is open regarding -- I'm
18 not eliminating the state's ability in their case in
19 rebuttal to revisit the issue if that door is opened
20 in any way.

21 MR. WILLIAMS: Thank you.

22 THE COURT: You are welcome.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: Thank you, ladies and gentlemen, we
25 appreciate your patience. You may be seated.

1 You may resume cross-examination (sic) of the
2 witness.

3 MR. WILLIAMS: Thank you, Your Honor.

4 THE COURT: You're welcome.

5 Q (By Mr. Williams) Detective, I believe where
6 we left off you talked about some pills that were
7 found during the execution of the search warrant, and
8 we started talking about some cartridges that were
9 found?

10 A Yes.

11 Q You said they were in a Crown Royal bag?

12 A Yes.

13 Q I'm going to show you what has been marked
14 State's proposed Exhibit No. 53. Do you recognize
15 that item?

16 A Yes.

17 Q Is that the Crown Royal bag?

18 A Yes.

19 Q If you can just look inside. Is that the
20 ammunition that was found as well?

21 A Yes.

22 MR. WILLIAMS: Your Honor, I showed this to
23 defense counsel.

24 MR. RUNYON: Your Honor, we have previously
25 seen it. Subject to our objection.

1 THE COURT: Marked and admitted subject to the
2 objection.

3 (Whereupon, State's Exhibit No. 53 is admitted
4 into evidence.)

5 Q (By Mr. Williams) Detective, first of all tell
6 me what were the total number of items found -- or
7 what are the total number of items we are looking at
8 here that's in State's Exhibit 53 I believe it was.

9 A Eight items were found inside the bag I'm
10 looking at right here.

11 Q What are those eight items that we are looking
12 at?

13 A Two of the items, they're stamped with R, I
14 assume it's Remington, they look like they're
15 .22-caliber bullets. One of the items is stamped RP
16 .38 special, and it's just a fired shell casing.

17 One is just a firecracker. Three of the items
18 are silver and they're stamped RP .38 special, they're
19 the full bullets. And the last item here is a full
20 bullet and it's stamped .9mm Luger RP.

21 Q If you could hand me that. I'm going to show
22 first of all what you said were the three RP .38
23 special live rounds. Those are on the overhead there
24 behind you. I'm going to the head stamp. I'm going
25 to try to zoom in.

1 Can you tell the jury looking at that what the
2 head stamp is?

3 A I think that's RP .9mm.

4 Q I'm sorry, let me show them to you. Couldn't
5 get it off the overhead.

6 A No, that's the .38.

7 Q So those are the .38 special rounds?

8 A .38 special RP.

9 Q You said there was also a casing that was
10 similar, but a fired shell casing?

11 A Right.

12 Q And that's this item?

13 A Yes.

14 Q And that's the same as those other three live
15 rounds?

16 A Right, except it was fired.

17 Q There were two other smaller caliber
18 cartridges, those were found as well?

19 A Yes.

20 Q And finally there was a 9mm Luger; is that
21 this?

22 A Right, RP.

23 Q And was that similar to other items that were
24 found?

25 A It's the same brand stamp and same caliber as

1 the fired shell casings found from the scene.

2 Q I'm going to show you State's Exhibit 31. It
3 has been admitted as State's 31. Do you recognize the
4 casing inside there as something that would have been
5 collected?

6 A Says .9mm RP Luger, says from weirsma the night
7 of the homicide.

8 Q I'm going to do the best I can with this.

9 MR. WILLIAMS: Your Honor, if I can have a
10 second.

11 THE COURT: Take your time.

12 Q (By Mr. Williams) Detective, if you could do
13 the best you can to show the jury how it is that these
14 two are similar?

15 A Well, the marking is identical RP, RP, Luger
16 .9mm, Luger .9mm. One is a live round, the one we got
17 from the Crown Royal bag, and the other one is fired,
18 that's the one that weirsma recovered from the crime
19 scene.

20 Q Although it's not as good as the overhead, you
21 have looked at the two of them and they are similar?

22 A Yes.

23 Q And where were those items found inside of his
24 room?

25 A They were found -- the Crown Royal bag was

1 found in the second drawer of the dresser that was
2 located in the room that we found Quinton Jenkins.

3 Q I'm going to show you what has been marked
4 State's proposed 84. Do you recognize that as well?

5 A This is Quinton's South Carolina ID in addition
6 to the cooking instructions that we found.

7 Q What were the cooking instructions for?

8 A For crack cocaine.

9 Q Like a recipe of how to produce that?

10 A Yes.

11 Q If you could hand that to me.

12 MR. RUNYON: No objection.

13 THE COURT: Marked and admitted without
14 objection.

15 (Whereupon, State's Exhibit 84 is admitted into
16 evidence.)

17 Q (By Mr. Williams) I'm going to show you what
18 has been admitted as State's -- overhead, that's the
19 driver's license?

20 A Yes.

21 Q That listed his height as 5'5" and about 110?

22 A Yes.

23 Q Does that sound about accurate from your
24 experience from seeing him?

25 A It seems like it would be accurate, yeah.

1 Q Finally, Detective, I want to show you what has
2 been marked now State's proposed 82 and 83. Do you
3 know what those items are?

4 A Yes. Those are the two scales that I found
5 under [redacted], Quinton's house.

6 Q They weren't in his bedroom?

7 A No.

8 Q Underneath in a crawlspace I think you said?

9 A Yes.

10 MR. WILLIAMS: Show these to defense counsel.

11 (Whereupon, a discussion was held at the bench
12 not on the record.)

13 (In open court.)

14 THE COURT: Overruled.

15 MR. WILLIAMS: Your Honor, I move to admit 82
16 and 83.

17 THE COURT: Marked and admitted subject to the
18 objection.

19 (Whereupon, State's Exhibit No. 82 and 83 are
20 admitted into evidence.)

21 Q (By Mr. Williams) Detective, if you could just
22 tell the jury what these items are in your experience,
23 or what they are commonly used for?

24 A Scales like that could be used -- well, I mean
25 generally speaking they're used for measuring out some

1 sort of narcotic, it could be cocaine, it could be
2 marijuana, it could be anything along those lines.

3 Q It could also be for benign purposes to weigh
4 anything?

5 A Sure. You would not think it would be under
6 the house.

7 Q That's where you found these?

8 A Right.

9 Q You had mentioned, talking about the pills, the
10 live rounds, and the one casing, the scales and the ID
11 along with the recipe, you also mentioned a pair of
12 shoes that were seized. Tell the jury about where you
13 found those and why you seized them?

14 A Those were found inside of the garage, and we
15 were provided a description by Mr. Batiste of what
16 Quinton Jenkins was wearing on the night of the
17 murders. And black shoes was part of that
18 description.

19 Q Did you get a description of other clothing
20 from him as well?

21 A I cannot recall exactly without looking at it,
22 but it was a nylon jacket I think and I think blue
23 jeans maybe.

24 Q And did you search for those things at Quinton
25 Jenkins' residence?

1 A Yes.

2 Q Were you able to find any of those things at
3 least to seize?

4 A No. The shoes were the only clothing that
5 seemed like it may match.

6 Q And this was on the 11th of January?

7 A Yes.

8 Q So it would have been nine days after the
9 murders? Actually I take that back.

10 A Seven.

11 Q Seven days. Was there anything that we haven't
12 talked about that was searched, the shoes, the
13 cartridges, scales, pills, that was everything you
14 seized?

15 A Yes, sir.

16 Q After you seized those items and had arrested
17 Mr. Jenkins, what did you do at that point?

18 A From there we went to [redacted] in an effort
19 to try to locate Travis Simmons. We located an
20 individual Michael Johnson instead. Michael seemed
21 like he might have information relevant to the case.
22 Detective Burkhardt handled that interview while myself
23 and Detective Fleming went and tried to locate --
24 well, actually as part of that interview Detective
25 Burkhardt notified me and Detective Fleming that

1 coincidentally BJ used to work at Burger King, which
2 was right across the street from the murders.

3 So we went there trying to figure out who BJ
4 was. Spoke to an individual there who stated that BJ
5 was Bernard Green.

6 Q So you got a statement from Michael Johnson?

7 A Yes.

8 Q And you also learned the identification of the
9 person named BJ as being Bernard Green.

10 A with the help of Michael Johnson, yes.

11 Q Did you go talk to anybody at that point,
12 anybody else?

13 A well, I mean backing up a little bit, we did
14 have a detective go by Taco bell and speak to
15 management there, when we had learned that Quinton
16 Jenkins was at work that night, to try to figure out
17 what time he showed up for work, you know, to see if
18 he had an alibi.

19 Q Did you make a determination as to when or if
20 he went to work that night?

21 A well, we obtained a copy of his paycheck
22 verification report. And the report showed on the
23 night of the murder he had clocked in at 8:57 p.m. The
24 time of the shooting we estimated as being 8 o'clock.

25 Q You then, after checking with Quinton Jenkins'

1 employer, talking to Michael Johnson, did you then
2 talk to Travis Simmons?

3 A Myself and Detective Fleming went to West
4 Ashley High School and spoke to Travis Simmons.

5 Q Did he give you a statement?

6 A Yes.

7 Q Did you every manage to catch up and speak with
8 Bernard Green?

9 A The next day.

10 Q And did he give you a statement?

11 A Yes.

12 Q After you spoke with Bernard Green, did you
13 then begin to obtain arrest warrants in this case?

14 A Well not immediately. Quinton Jenkins had been
15 arrested, so at that point we basically just started
16 getting everything that we had together. And we just
17 started trying to determine exactly how we would
18 proceed with the other individuals and how we would
19 charge them.

20 Q Based on the information you had from all of
21 those people who you ended up -- I'm talking about
22 Travis Simmons, Bernard Green, what did you do with
23 that information at that point?

24 A We eventually ended up obtaining arrest warrant
25 for two counts of murder for everyone involved, Travis

1 Simmons, Bernard Green, Jabez Batiste, and Quinton had
2 already been arrested. And I believe Quinton was
3 additionally charged with possession of a firearm
4 during the commission of a felony.

5 Q And you were here when Detective Goldstein
6 testified?

7 A Yes.

8 Q The charge on Bernard Green was adjusted to
9 accessory after the fact by the magistrate.

10 Q Yes.

11 A Did you make any agreement with Bernard Green
12 to do that?

13 A No, not at all.

14 Q You had a chance to meet several times with
15 Jabez Batiste.

16 A (Affirmative head shake.)

17 Q Is that yes?

18 A Yes.

19 Q About how tall would you say Jabez Batiste is?

20 A I would say he's probably 5'9", 5'10", close to
21 200.

22 Q How was he built?

23 A Medium to stocky build.

24 Q And when he was -- he was arrested on the
25 warrants for murder; is that correct?

1 A Yes.

2 Q And when somebody is arrested they get booked
3 through the intake?

4 A Yes.

5 Q Did you review his booking report for this
6 case?

7 A I did.

8 Q Do you recall what he was booked in as far as
9 his size?

10 A It was either 5'9" or 5'10" and I believe the
11 weight they had listed at 190.

12 Q And Quinton Jenkins would have gone through
13 that same process?

14 A Yes.

15 Q What was he booked in as?

16 A I believe they said 5'5". I can't remember the
17 weight.

18 Q The person we have talked about as Quinton
19 Jenkins, do you see him in court?

20 A I do.

21 Q Can you point to him for me and describe what
22 he is wearing?

23 A He is seated at the defense table wearing a
24 short-sleeved button-down grayish type shirt.

25 MR. WILLIAMS: Your Honor, can the record

1 reflect the identification.

2 THE COURT: Let the record so indicate.

3 MR. WILLIAMS: No further questions for this
4 witness, Your Honor.

5 THE COURT: Any questions for this witness?

6 MR. RUNYON: Yes, Your Honor.

7 THE COURT: You may proceed.

8 CROSS-EXAMINATION

9 BY MR. RUNYON:

10 Q Detective Osborne, you went to -- Quinton
11 Jenkins went to work at Taco bell at 8:57?

12 A Yes, sir.

13 Q within 60 minutes of allegedly committing a
14 murder or two murders?

15 A That's what it looks like.

16 Q Okay. And you went to Taco Bell, didn't you?

17 A I'm sorry, say that again?

18 Q Did you go to Taco Bell?

19 A No, it wasn't me.

20 Q Did you ascertain whether or not they wear
21 uniforms at Taco Bell?

22 A No, I'm not sure.

23 Q You are not sure, all right. Did you have the
24 shoes you seized tested for blood or any match to the
25 parking lot surface of McDonald's?

1 A No, sir.

2 Q Okay. So the shoes don't indicate anything
3 other than that's what someone said he may have been
4 wearing that night.

5 A That's correct.

6 Q And no one told you that he went to work that
7 night other than his employer?

8 A No. I believe that the reason why we went
9 there in the first place was because I think a family
10 member had told us during the execution of the search
11 warrant that he was at work that night. So we went to
12 go see what time he actually showed up to work.

13 Q And he did go to work?

14 A Yes. According to the records he was there.

15 Q And that was his usual shift?

16 A That I don't know. I assume so.

17 Q So it was his usual shift. Now let me ask you
18 this, did anybody have any -- was there any evidence
19 collected that a .22-caliber weapon was utilized in
20 this incident?

21 A The only thing I would say to that is that we
22 have projectiles and we can't determine what caliber
23 those projectiles may have come from. It could have
24 been a .22, it could have been a .38, we don't know.
25 All we know is that we know that there were found 9mm

1 shell casings.

2 Q Well we're going to hear from the people from
3 SLED probably tomorrow. But as a practical matter,
4 how many guns were supposedly used in this whole thing
5 by the way?

6 A Well, we can't say for sure. What we can say
7 is we know there was a 9mm used. And all of the shell
8 casings, as I understand them, from the 9mm came from
9 one gun.

10 Q Okay. And there was no grassy knoll in this
11 parking lot, was there?

12 MR. WILLIAMS: Your Honor, I object to the
13 relevance.

14 THE COURT: I want to hear --

15 MR. RUNYON: Let me rephrase the question.

16 THE COURT: Please do. Thank you.

17 Q (By Mr. Runyon) How many guns, if we know,
18 were used in this incident?

19 A The one thing I can tell you for sure is that
20 there was at least one.

21 Q And there could have been more based upon
22 physical evidence and what have you?

23 A We just can't know for sure.

24 Q And as a matter of fact you heard Sgt. Hood
25 with his examination of the hole in the door and how

1 it went all the way to the backseat, and that was a --
2 just thinking if someone fired from the back, that was
3 his speculation so to speak?

4 A He was showing different --

5 Q Angles?

6 A Different possibilities.

7 Q Yes. And you went to the parking lot and we
8 have heard a lot about preserving the crime scene,
9 correct?

10 A Yes, sir.

11 Q And one of the things you want to do is you
12 want to preserve things kind of as they were, that's
13 why they put the tape around and all that sort of
14 stuff, correct?

15 A Yes, sir.

16 Q And you all are very well trained and very
17 careful about preserving the crime scene?

18 A Do the best we can.

19 Q And you do that pretty good, too. And when you
20 got there, in the red car there was someone laying by
21 the open driver's side door, and there is someone
22 laying kind of across the parking lot in the parking
23 places, and the passenger side seat was folded
24 forward?

25 A That's correct.

1 Q Okay. And this was a two-door car?

2 A That's correct.

3 Q So if you want to get into or out of a two-door
4 car in the back you've got to fold the seat forward?

5 A I would think so, yes, sir.

6 Q So now do we know how many people were in the
7 red car when it entered the parking lot?

8 A Well, I mean we can based on the statements
9 that we obtained we can go on how many people were in
10 the red car when it got to the parking lot. But based
11 on physician evidence, no, sir.

12 Q Now do you have -- and you all did exhaustive
13 work. A lot of people don't understand that when you
14 have cell phones you really don't have privacy, do you?

15 A We have to get orders to get some of those
16 records.

17 Q Well I understand. But what I mean is you can
18 get an order or subpoena or what have you, and cell
19 phones are a lot easier and quicker to get records on
20 than say wiretaps or anything like that, correct?

21 A Yes. I guess --

22 Q Or a PIN register or a land line?

23 A Well a PIN register would take longer, that's
24 right.

25 Q That's right. But you got the cell phone

1 records for those two phones and those cell phones
2 records lead you to Quinton Jenkins?

3 A Eventually, yes, sir.

4 Q The cell phones records themselves, did they
5 lead you to Quinton Jenkins?

6 A No, sir.

7 Q Okay. When you spoke with Mr. Jones about what
8 one of the victims was going to do that evening about
9 making a sale, essentially told you there was going to
10 be drug sale that night, that's where the man went,
11 correct?

12 A Yes, sir.

13 Q Did you find out where Mr. Jones was that
14 night?

15 A He stated that he was home with his mother. We
16 spoke to his mother, his mother said, yes, he was home
17 that night.

18 Q Okay. Now, and as a practical matter you
19 uncovered evidence as a result of an investigation
20 that there had been a previous drug transaction -- if
21 I am incorrect, correct me because I am getting old
22 now and I may not remember accurately. But that there
23 was in fact a drug transaction between Mr. Batiste and
24 Mr. Shakoor prior to this particular night?

25 A Yes.

1 Q And we don't know where that was, do we?

2 A If you let me look at his statement I think he
3 did say.

4 Q All right.

5 A It was at the Food Lion parking lot at
6 Dorchester and Leeds.

7 Q Okay.

8 A He put the night he thought it was on Friday
9 December 29, 2006.

10 Q So he and Mr. Shakoor had an ongoing business
11 relationship, at least a burgeoning business
12 relationship, right?

13 A Starting -- I mean -- oh, you mean Jabez and
14 Kareem?

15 Q Yeah.

16 A They certainly seemed to have a history, yes.

17 Q And that Food Lion on Dorchester Road on that
18 particular night in question, there was no mention or
19 evidence that Quinton Jenkins was there, was there?

20 A No.

21 Q All right. Now obviously seven days, seven or
22 eight days later when you arrest someone, you are not
23 going to have gunshot residue test made on them or
24 what have you because people wash their hands and take
25 showers and what have you.

1 But there was no other -- there was nothing
2 else seized from Mr. Jenkins' room other than the
3 legal pills, right?

4 A Right.

5 Q And by the way there was this instructions for
6 cooking crack, right?

7 A Yes, sir.

8 Q Now -- excuse me I drop things. I just haven't
9 started falling down yet.

10 Now these cooking instructions are opening
11 Plaintiff's Exhibit No. 84, these cooking
12 instructions, you opened them, correct?

13 A It has been a while since I looked at that, but
14 yes.

15 Q And this is a recipe that you get off the
16 Internet; isn't it?

17 A I wouldn't know.

18 Q Well, now wait a minute now, Mr. Osborne. You
19 are a very competent detective, and you do a lot of
20 drug investigations; don't you?

21 A Not so much.

22 Q Not so much? Not so much anymore?

23 A When I worked in New Orleans we dealt with more
24 drugs than I have since I have come here that's for
25 sure.

1 Q Cooking crack is not a big state secret, is it?

2 A I would say no.

3 Q That comes off somebody's word processor or
4 something, doesn't it?

5 A I would definitely say this came off a
6 computer, yes.

7 Q All right. By the way, how could you leave New
8 Orleans and all that good food down there?

9 A It wasn't easy.

10 Q All right. As it relates to the red
11 automobile, did you ascertain how it came to pull into
12 that area of McDonald's parking lot? Was it
13 prearranged or could you even, did your investigation
14 even reveal how that came about?

15 A You mean how they got into the parking lot,
16 whether they came in the Orange Grove side or Sam
17 Rittenberg?

18 Q Well, there are only two ways in so they came
19 in one of those ways. So as far as parking where they
20 parked the red car, was that by prearrangement with
21 Mr. Batiste, or was it just they decided to pull in
22 there? I mean if you have any evidence.

23 A I'm not sure I remember that actually.

24 Q Okay. But had the surveillance system at
25 McDonald's been working, everything would have been on

1 tape, wouldn't it?

2 A Well that depends on if they had outside
3 surveillance video, if it was pointing in that
4 direction, if it was sufficient quality to be able to
5 see anything from it, all those factors would have had
6 to play in.

7 But if those factors were right then, yes, it
8 would have shown that.

9 Q Okay. And were you involved in ascertaining
10 about the surveillance system at McDonald's being
11 broke down?

12 A No, sir.

13 Q Certainly if you work in the fast food industry
14 you know about those surveillance things, don't you?

15 A Yes.

16 Q Because across the street, and another one of
17 my favorite places, or used to be before the 5
18 bypasses, Burger King they have a surveillance system
19 but it wasn't any help in this situation?

20 A That's right.

21 MR. RUNYON: No further questions, Your Honor.

22 THE COURT: Any redirect of the witness?

23 MR. WILLIAMS: Yes, Your Honor.

24 THE COURT: You may proceed.

25 REDIRECT EXAMINATION

1 BY MR. WILLIAMS:

2 Q Detective, I want to first follow up on the
3 questions Mr. Runyon asked about the December 29th
4 incident. And I believe what he asked you about was
5 what Jabez Batiste told you about that incident, who
6 he was with and who he was buying drugs from?

7 A I understood it to mean what Alfonza Jones told
8 me about the transaction.

9 Q Do you recall Mr. Runyon asking you about where
10 it happened and who was there?

11 A Yes.

12 Q Given that question from Mr. Runyon, do you
13 have information that would tell you how many people
14 were with Jabez Batiste that night?

15 A Alfonza stated that he was with Kareem when he
16 met four black males in the Food Lion parking lot at
17 Dorchester and Leeds.

18 Q And he didn't identify this defendant as one of
19 those people?

20 A No, he did not.

21 Q But he did say there were three other people
22 along with Jabez Batiste?

23 A Yes.

24 Q That's in essence when Jabez Batiste went to
25 make a drug deal with Kareem Shakoor he brought three

1 other people with him?

2 A Right. But in all fairness at that time we
3 didn't even know who Quinton Jenkins was.

4 Q So you didn't give anything to Mr. Alfonza
5 Jones that had a picture of Quinton Jenkins?

6 A That's right.

7 Q I want to ask you also about the information
8 Mr. Runyon asked you about the Burger King. And he
9 had -- I'm sorry about Taco Bell, and he had said the
10 only information you had was from the family. Do you
11 recall that question from him?

12 A Right. I thought he was trying to ask me the
13 only information that we had that Quinton Jenkins was
14 there was the paycheck verification sheet to which I
15 answered, no, the family told us that Quinton was also
16 at work that night.

17 Q Do you recall a statement given by a gentleman
18 named Michael Hodges?

19 A I know he gave a statement to Detective
20 Burkhardt.

21 Q Is that something you would have reviewed in
22 your investigation but perhaps don't remember?

23 A Yeah. I would have to go back and look at
24 that.

25 Q If you saw that again would that refresh your

1 recollection?

2 A I have that right here.

3 Do you want me to answer regarding that
4 specific --

5 Q Have you had a chance to look at that and now
6 remember things?

7 A I see.

8 Q Now I just want to ask questions, I don't want
9 to get too far ahead of ourselves. You have had a
10 chance to read through that and you now remember
11 things the Michael Hodges may have said?

12 A Right.

13 Q Did he tell you anything or did you know
14 anything from him that involved the defendant going to
15 Taco Bell?

16 A Well he told Detective Burkhart, the question
17 was: Did Quinton go to work that night? Meaning the
18 night of the murder.

19 And Michael Hodges stated: Yes, he went home
20 first. He said he had to be at work at 9:00 p.m. at
21 Taco Bell.

22 Q And that part of the conversation that Michael
23 Hodges said happened was after the murders would have
24 occurred?

25 A Correct.

1 MR. WILLIAMS: Nothing else, Your Honor. Thank
2 you, Detective.

3 THE COURT: Any objection to the witness being
4 excused?

5 MR. RUNYON: I just have one question.

6 THE COURT: Certainly, you may ask the
7 question.

8 RECROSS EXAMINATION

9 BY MR. RUNYON:

10 Q So as a result of all this we now know that Mr.
11 Alfonza Jones -- you have been in the courtroom during
12 the whole course of this trial right?

13 A Yes.

14 Q Alfonza Jones, the same Alfonza Jones who came
15 in here to testify today?

16 A Yes.

17 Q Was part of Mr. Shakoor's posse, right?

18 A He was friends with Kareem, yes.

19 Q Well more than friends. I mean when you take
20 him on a drug deal, it's more than your friend; isn't
21 that right?

22 A Okay.

23 Q Okay.

24 MR. RUNYON: No further questions, Judge.

25 THE COURT: Any further questions from the

1 state?

2 MR. WILLIAMS: No, Your Honor.

3 THE COURT: Any objection to the witness being
4 excused?

5 MR. WILLIAMS: No, Your Honor.

6 THE COURT: From the defense?

7 MR. RUNYON: None from the defense, Your Honor.

8 THE COURT: Sir, you are excused.

9 Madam Forelady, ladies and gentlemen, we are
10 going to take advantage of this break in testimony to
11 take our evening recess. We appreciate you indulging
12 us. We know we have gone a little beyond 5:00. I did
13 not want to break in the testimony of a witness.

14 We will resume the trial of this matter in the
15 morning at 9:30. I ask at that time you return
16 directly to your jury room. Please so not discuss
17 this case among yourselves or with anyone else during
18 the break. Please did not allow yourself to be
19 exposed to any media accounts about this case, that
20 includes anything that would be on the radio,
21 newspapers or television or on the Internet. And
22 please don't do any independent research of any type
23 regarding anything on the Internet.

24 Again when you return to the courthouse in the
25 morning, please don't have any contact with anyone in

1 or about the courthouse. We would hate for an
2 innocent conversation to be observed and misconstrued.

3 I believe I told we are starting at 9:30. We
4 think we have gotten the temperature situation
5 resolved so that is of great relief. If you would
6 leave your notepads in your seats. Again you return
7 directly to your jury room. Hope you all have a good
8 evening. If anyone feels they need to be escorted to
9 the garage -- I don't think it's dark yet, but if it
10 is please let the bailiffs know and I will make sure
11 that you are escorted. Have a good evening.

12 (Whereupon, the jurors exit the courtroom.)

13 THE COURT: Is there anything before we adjourn
14 for the evening from the state?

15 MR. WILLIAMS: No, Your Honor.

16 THE COURT: From the defense?

17 MR. RUNYON: No, Your Honor.

18 THE COURT: Have a good evening and I will see
19 you all in the morning at 9:30.

20 (Whereupon, the proceedings in this matter
21 before the Court were adjourned for the evening.)

22 * * * * *

23

24

25

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER,
Official Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete transcript of
record of all the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in the
Circuit Court for Charleston County, South Carolina, on the
5th day of February, 2008.

I do further certify that I am neither of
kin, counsel, nor interest to any party hereto.



Anne Bouley Meyer, RPR
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2007-GS-10-4660,
4661, 4662, 4663

3 STATE OF SOUTH CAROLINA)

4 Plaintiff)

5 V.)

6 QUINTON R. JENKINS,)

7 Defendant.)
8

TRANSCRIPT OF RECORD

9 FEBRUARY 6, 2008
10 CHARLESTON, SOUTH CAROLINA
11 VOLUME 3

12
13 B E F O R E :

14 THE HONORABLE DEADRA L. JEFFERSON, JUDGE
15
16
17

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

19 MR. NATHAN WILLIAMS, Assistant Solicitor
20 MS. KIM STEELE, Assistant Solicitor
REPRESENTING THE STATE

21 MR. WILLIAM RUNYON, ESQUIRE
22 REPRESENTING THE DEFENDANT

23 ANNE BOULEY MEYER, RPR
24 CIRCUIT COURT REPORTER
25

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1 THE COURT: Is the state ready to proceed?

2 MR. WILLIAMS: I have one thing. Courthouse
3 security -- I wanted to have Mr. Travis Simmons
4 dressed out. They wanted me to have Your Honor say
5 that that was okay I think for security purposes.

6 THE COURT: Where is he located?

7 MR. WILLIAMS: He was in the lock-up. I had
8 clothes brought down.

9 THE COURT: That's fine. Is that going to
10 delay us? Is he your next witness?

11 MR. WILLIAMS: No. They just needed to ask for
12 their purposes.

13 THE COURT: Go ahead and get him dressed out.

14 MR. WILLIAMS: I probably won't call him until
15 this afternoon.

16 THE OFFICER: Thank you, Judge.

17 THE COURT: You're welcome.

18 Is the state ready to proceed?

19 MR. WILLIAMS: Yes, Your Honor.

20 THE COURT: Is the defense ready to proceed?

21 MR. RUNYON: Yes, Your Honor.

22 THE COURT: please bring in the jury.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: Mr. Robinson, if you can pass out
25 the jurors' notebooks, please.



1 Does everyone have their notebook?

2 Ladies and gentlemen, I hope you had a restful
3 evening. We will now resume with testimony.

4 The state may proceed.

5 MS. STEELE: Thank you, Your Honor. The State
6 calls Anita Maestas.

7 MS. ANITA MAESTAS,
8 after having first been duly sworn to state the truth,
9 the whole truth and nothing but the truth, testified
10 on her oath as follows:

11 THE COURT: You may proceed.

12 MS. STEELE: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. STEELE:

15 Q Ms. Maestas, what is your occupation?

16 A I'm a crime scene technician.

17 Q And what law enforcement agency are you
18 employed by?

19 A I work with the Charleston City Police
20 Department.

21 Q How long have you been with the Charleston City
22 Police Department?

23 A For seven years.

24 Q And what is your previous law enforcement
25 experience?

1 A I have been doing four years for crime scene, I
2 did three years in our crime lab, and I have done six
3 years as a police dispatcher.

4 Q And you are -- what is your present position?

5 A It's crime scene technician.

6 Q And what are your duties as a crime scene
7 technician?

8 A We go out to calls that have been called into
9 the department reference to any type of crimes. It
10 can be B and E's to vehicles, to homicides. We
11 process all possible crimes for evidence processing
12 for fingerprints, photographs.

13 Q Does that include the collection of evidence?

14 A Yes, ma'am.

15 Q Were you involved in an investigation of a
16 shooting that occurred at McDonald's Sam Rittenberg in
17 January of 2007?

18 A Yes, ma'am, I was.

19 Q And how did you become involved in that?

20 A The vehicle was towed back to our crime scene
21 office to the bay, and I was oncoming crime scene
22 technician and was assigned to process the vehicle.

23 Q And what vehicle was that?

24 A It was a red Honda.

25 Q And what did you do with the red Honda when it

1 was at your office?

2 A The first thing we do is we document the
3 vehicle as it comes into the office. we photograph
4 it. Once we photograph it we will examine the vehicle
5 for any possible evidence, and then we process it for
6 latent fingerprints.

7 Q Did you collect any items from the vehicle
8 during the processing?

9 A I believe we did. Yes, I did.

10 Q What items were those?

11 A Collected four fired shell casings from the
12 vehicle.

13 Q I'm going to show you what has been marked as
14 State's Exhibit 72, 74, 73, 71. Do you recognize
15 those?

16 A Yes, I do.

17 Q And how do you recognize those?

18 A When we collect evidence we package it, we seal
19 it, we put an evidence sticker on it which has our
20 name on it, the case number and our initials on the
21 evidence as well.

22 Q And do those all have that information on it?

23 A Yes, ma'am, they do.

24 Q And what are those four items?

25 A They are evidence number for my purposes A-12,

1 A-13, A-14 and A-15.

2 Q And what is the object that is in each one?

3 A The fired shell casings that were collected
4 from the vehicle.

5 Q I'm also going to show you State's Exhibit 52,
6 65, 49, 50, 51, 48, 56, 57, 58, 59, 60, 61, 62, 63,
7 and 64. Take a moment to look at those.

8 Do you recognize those?

9 A So far, yes. The ones I have looked at they're
10 photographs of the vehicle before we processed it; and
11 then of the evidence that we found in the vehicle; and
12 also photographs of the fingerprints before we
13 actually lifted them off the vehicle in the location
14 of where they were found. Q And is that an
15 accurate depiction of how the car looked that day
16 before and during it was processed?

17 A Yes, ma'am.

18 Q Have these been altered or changed in any way?

19 A It does not appear that they have, no.

20 MR. RUNYON: We have no objection to any of
21 these.

22 MS. STEELE: State would move to admit these
23 into evidence, Your Honor.

24 THE COURT: Marked and admitted without
25 objection.

1 (Whereupon, State's Exhibit Nos. 48, 49, 50,
2 51, 52, 56, 57, 58, 59, 60, 61, 62, 63, 64, 71, 72, 73
3 and 74 are admitted into evidence.)

4 Q (By Ms. Steele) Ms. Measta, you said you
5 collected four shell casings; is that correct?

6 A Yes, ma'am.

7 Q Did you label those shell casings?

8 A Yes, ma'am. When we take our photographs we
9 take an overall photograph to get an orientation of
10 where the evidence is. Then we also put a marker on
11 it to identify the number. We take another photograph
12 with that before we actually collect it.

13 Q And are they given numbers?

14 A Yes, ma'am.

15 Q And what number were assigned to each shell
16 casing?

17 A A-12, A-13, A-14 and A-15.

18 Q Let me show you what has been marked State's
19 Exhibit 52. Do you recognize that?

20 A That's the photograph of evidence number A-12.

21 Q And what is that object?

22 A A-12 states it's a .9mm Luger RP, and that was
23 found on the windshield under the wiper blade of the
24 vehicle.

25 Q Was it found on the outside?

1 A Yes. That was one that was found on the
2 outside of the vehicle.

3 Q I'm going to show you State's Exhibit 55.

4 A That's a photograph facing the vehicle where
5 the fired shell casing was located.

6 Q Do you have a pointer there? Could you show
7 the jury where that is?

8 A I believe, looking at this photo, I believe
9 that is going to be the fired shell casing there.
10 (Witness indicating.)

11 Q I am going to show you what has been marked as
12 State's Exhibit 21. Is that the fired shell casing
13 that was found on the windshield?

14 A I believe so. As you can see when she pulled
15 it down there is a 12 on there, right there, that
16 signifies what that item is.

17 Q And the next shell casing, would that be number
18 A-13?

19 A Yes, ma'am.

20 Q I am going to show you State's Exhibit 49.

21 A This is a photograph taken from the driver door
22 into the vehicle. And 13 is in the driver's seat
23 itself. This is, like I said, an overall shot. The
24 shell casing is actually right up underneath that
25 marker.

1 Q It's underneath the 13?

2 A Yes. The markers have an L-shape at the very
3 end, we try to block it in to show a ruler with the
4 number on it.

5 Q I'm going to show you what has been marked as
6 State's Exhibit 50.

7 A There we have got the ruler, number 13, and
8 that the fired shell casing that's in the driver's
9 seat.

10 Q And what kind of shell casing was that?

11 A A-13 was again RP .9mm Luger.

12 Q Showing you what has been marked as State's
13 Exhibit 72.

14 A Yes.

15 Q Is that the shell casing that was found?

16 A Yes, ma'am.

17 Q On the driver's seat?

18 A Yes, ma'am.

19 Q Okay. I am going to show you again real quick,
20 State's Exhibit 49 again.

21 A Again this is an overall shot we took from
22 looking into the vehicle and you can see that this
23 item here on the floorboard on the driver's side is
24 going to be evidence number A-14 which was another
25 fired shell casing.

1 Q I'm going to show you Exhibit 51. Is that a
2 close-up of that shell casing?

3 A Yes, ma'am.

4 Q I am going to show you State's Exhibit 73.

5 A Yes. You can see the A-14 is marked, and there
6 is a fired shell casing.

7 Q Is that the shell casing that was found on the
8 floorboard of the driver's seat?

9 A Yes, ma'am.

10 Q And what kind of shell casing was that?

11 A That shell casing was a WIN .9mm Luger.

12 Q And is that different from the other two shell
13 casings that were found?

14 A They're all .9mm shell casings but they are
15 different brands; RP is a brand, WIN is a brand. It's
16 a different manufacturer.

17 Q I am going to show you State's Exhibit 72
18 again, and State's Exhibit 73.

19 A They're hard to see. On the head stamp of the
20 fired shell casings the manufacturer will stamp their
21 abbreviation for their company and the caliber and the
22 type of ammunition it is.

23 And it's hard to see but I believe that says
24 RP .9mm Luger. And that -- there you go -- you can
25 see where it says WIN there .9mm Luger. Same caliber

1 just different manufacturers.

2 Q They're just a different brand of shell casing?

3 A Yes, ma'am.

4 Q I am going to show you what has been marked as
5 State's Exhibit 48. Is that the fourth shell casing
6 that was found?

7 A Yes, ma'am. Shows Number 15.

8 Q Where was that shell casing found?

9 A A-15 was located under the passenger front
10 seat. From the shot it's hard to see, you can see
11 that's the bar from underneath, actually photographed
12 it up underneath the seat of the vehicle.

13 Q I am going to show you what has been marked
14 State's Exhibit 74. Is that the shell casing that was
15 found underneath that seat?

16 A Yes, ma'am, it is.

17 Q And what type of shell casing was that?

18 A A-15 was an RP .9mm Luger as well.

19 Q All right. So is that three RP .9mm Lugers and
20 one WIN .9mm Luger that was found?

21 A Yes, it was.

22 Q And can the same -- can all four of these shell
23 casings fit into the same gun?

24 A Yes, they're all .9mm Lugers. The .9mm
25 caliber, and that's what is going to fit in the

1 weapon, the RP and the WIN, there is Machester, there
2 is Federal, there are several different brands, they
3 can all fit in the same as long as it has the same
4 caliber, and that's what you are looking for.

5 Q After you were done collecting the shell casing
6 from inside the car, what was your next step in
7 processing the car?

8 A Once we check the vehicle for any possible
9 evidence, we collected the fired shell casings, we
10 then processed the vehicle for any latents.

11 Q And as part of the crime scene, have you had
12 any training in fingerprinting processing for latent
13 prints?

14 A Yes, ma'am. We receive in-house training and
15 ongoing training as will with the department. But
16 I've also attended the National Forensic Academy. I'm
17 also certified as a crime scene analyst with the
18 International Association of Identification.

19 Q What kinds of surfaces can a person leave a
20 fingerprint of a palm print on?

21 A The ideal surfaces for leaving any type of
22 fingerprints is going to be a smooth, clean surface.

23 Q And did you test this red Honda for
24 fingerprints and palm prints?

25 A We did.

1 Q Did you test the inside of the car and the
2 outside of the car?

3 A When we process the vehicle we do process any
4 viable portion of the car, that does include the
5 exterior and the interior. The interior of the
6 vehicle does not lead to as many latents being
7 recovered because the surfaces of the inside of the
8 vehicle are usually the fabric or the plastic with a
9 rough surface.

10 The windows are smooth so these sometimes yield
11 something. But the general interior of a vehicle
12 doesn't give us as many results.

13 Q And can you explain the process that you take
14 when you process the car for latent prints?

15 A Certainly. What we use is black powder, that's
16 what it's labeled, it's black fingerprint powder. And
17 we will take a fiberglass brush and basically just
18 brush on this powder.

19 Once we see -- what happens is that it adheres
20 to any residue that has been left behind on the
21 fingerprints, and then we will actually just add more
22 powder until the fingerprints are actually visible,
23 because a latent fingerprint is not visible usually to
24 the naked eye, so we have to put powder on there so we
25 can actually see it.

1 Once we can see that there is something there,
2 either with enough detail or not enough detail, we can
3 lay down tape. Once we lay the tape down, it adheres
4 to the powder, we will pull it up, put it on to the
5 backing card, and we will label it, where we collected
6 it from, and then we will turn them in. Q

7 Can you explain to the jury briefly what a latent
8 print is, the term latent?

9 A A latent fingerprint is a fingerprint that's
10 invisible. You can't normally see it. Fingerprints
11 are oils and dirt that are on your fingers that you
12 push down onto a surface, and that's what is being
13 left behind. It's an impression of your ridges on
14 your hands from the oils and sweat that you have on
15 your body normally.

16 And you can't normally see them if they're
17 latent. You have the actual develop them up and
18 that's what we use as some type of powder or some
19 other chemical. Sometimes we can use chemicals if
20 it's a non-porous surface or porous surface depending.

21 Q And how many latent prints were lifted from the
22 red Honda in this case?

23 A Let me confirm, there was 13 latent prints from
24 the vehicle.

25 Q Let me show you what has been marked as State's

1 Exhibit 56. Can you show the jury, or explain to the
2 jury what the tape is here?

3 A That's the tape we lay down on possible areas
4 that have fingerprints. This is an overall photograph
5 of where those fingerprints are located and they're
6 numbered that way when we pull them up and put them on
7 a card so we can verify where they were collected
8 from.

9 Q And can you tell what this picture, what number
10 was given these two prints?

11 A Not from this picture itself. There is another
12 photograph that was taken that was a close-up that
13 actually shows the numbers on them.

14 Q I'm going to show you State's Exhibit 57?

15 A Okay. And that's a close-up of them. And the
16 top one is going to be number one. And the bottom is
17 number two.

18 Q And those prints, were they found here on the
19 back of the car?

20 A Yes. It's the rear passenger -- or passenger
21 side panel of the vehicle.

22 Q Okay. I'm going to show you State's Exhibit
23 58. would you tell the jury what those are again?

24 A This is again a close-up of the fingerprints,
25 the number of prints that we collected. And this is

1 going to be the back passenger side window. And it's
2 got -- this one is showing fingerprints number three,
3 four, five and six.

4 Q And showing you State's Exhibit 56 again?

5 A It's these four on that last photo, that's
6 going to be three, four, five and six it's these four
7 right there. (Witness indicating.)

8 Q And let me show you State's Exhibit 59.

9 A And there is seven, eight. It's that same
10 window but up further. You do close-ups, one a
11 close-up where you can see them. You have to take
12 multiple shots usually.

13 Q And then is there another?

14 A Yes, number nine is right there on the side.

15 Q Where is that located?

16 A I believe -- I don't have it listed on here,
17 but it's on the back passenger I think frame, window
18 area. It's on the same side of the back passenger
19 door -- window, I'm sorry -- of the vehicle.

20 Q I'm going to show you State's Exhibit 60. What
21 is that a picture of?

22 A That's going to be another fingerprint, a
23 close-up, and it is of number 10.

24 Q Do you know what door that picture was taken
25 from?

1 A It's going to be exterior of the passenger door
2 above the handle.

3 Q Passenger door?

4 A Yes, ma'am.

5 Q I am going to show you State's Exhibit 61. Is
6 that a picture of the 11th print that was lifted?

7 A Yes, ma'am, it is.

8 Q And State's Exhibit 62. Is that a picture of
9 the same print?

10 A It is the same print, it's just an overall shot
11 to show the location of where it was recovered from.

12 Q I am going to show you State's Exhibit 63.
13 Tell me what number that print is?

14 A It's a little backwards but it is number 12. I
15 believe number 12 was on the windshield on the
16 interior. We marked it, it looks a little backwards
17 but that's going to be number 12.

18 Q All of the first prints that you talked about,
19 1 through 11 were all those located on the outside of
20 the vehicle?

21 A Yes, ma'am, they were.

22 Q And then number 12 you said is located on the
23 inside windshield?

24 A Yes, ma'am.

25 Q I'm going to show you State's Exhibit 64.

1 A That's going to be lift number 13, and that's
2 on the rearview mirror on the inside of the vehicle.

3 Q And when you lifted these prints you said
4 something about putting them on a card; is that
5 correct?

6 A Yes, ma'am. To be able to see them you have to
7 put them on a contrasting backing. We have little
8 white fingerprints cards where we can put the
9 fingerprint with the tape on the glossy side you can
10 actually -- the examiners can actually see the
11 fingerprint and the details. And on the back we can
12 draw sketch that shows where it was recovered from and
13 list the case number and the date and our initials or
14 our name put on there to know where we collected the
15 print from.

16 Q I am going to show you what has been marked
17 State's Exhibit 76. If you could take a moment to
18 look at that.

19 A These are the fingerprints cards that I used
20 and collected the fingerprints on.

21 Q And after you were done putting the prints on
22 those cards and doing the diagrams, what do you do
23 with all of those?

24 A As with evidence we put them in a container
25 which is this plastic bag. We seal it. We go ahead

1 and label or packaging and then we drop it into the
2 lockbox for an identification specialist to come and
3 pick them up so that they can do the examination of
4 the fingerprints.

5 Q And did you label the front of that?

6 A Yes, ma'am. It has the case number, the date,
7 location and my name.

8 Q Thank you.

9 MR. RUNYON: No objection, Your Honor.

10 THE COURT: Marked and admitted without
11 objection.

12 MS. STEELE: Thank you, Your Honor.

13 (Whereupon, State's Exhibit 76 is admitted into
14 evidence.)

15 Q (By Ms. Steele) Ms. Maestas, I am going to
16 show one of these as an example of part of State's
17 Exhibit 76. What does that side of the card show?

18 A That is the glossy side where the fingerprint
19 is, the tape where we lay it down on to the card.

20 Q And the back of the card?

21 A That's where we do all our information, where
22 we say we located it and sign it and put the case
23 number on it.

24 Q And that's done on all 14 of these?

25 A Yes, ma'am, they are.

1 Q Ms. Maestas, on one -- let me show you State's
2 Exhibit 60 again. I believe you said that was the
3 passenger side door?

4 A Yes, ma'am.

5 Q And is the print found on top of this door
6 consistent with maybe someone opening that door to get
7 into the car?

8 A It can be. When we lift the print, sometimes
9 the way they're placed, there is no way I could
10 absolutely positively say that's what happened how the
11 print was laid. But it could be possible that that
12 was what was occurring.

13 Q And did you find any bullet holes in the car?

14 A Let me confirm and make sure. I believe so we
15 did. There was one bullet hole in the driver side
16 door.

17 Q And were you able to tell from that bullet hole
18 if that was consistent with -- if the door was closed,
19 was it consistent with a gun being fired from inside
20 the vehicle outside or outside in?

21 A Sgt. Hood is one that did the trajectory on the
22 bullet hole itself. I do state in my report that it
23 did appear to have an entrance of the interior of the
24 door and an exit to the exterior of the door; which is
25 generally you get a smaller hole on the entrance side

1 from the outside, and you usually have a larger hole.
2 But I did note that in my report, yes.

3 Q Do you know when the crime occurred if that
4 door was open or closed?

5 A I wasn't there at the original scene, the
6 vehicle was brought into the crime scene office
7 afterwards, so I couldn't tell you.

8 Q Ms. Maestas, did you test the inside of the car
9 for gunshot residue?

10 A Yes, we did.

11 Q And how do you go about doing that?

12 A We have gunshot residue kits that we normally
13 use. Most of the time it's done for hands, but we can
14 also use them for other items as well. We did the
15 inside passenger door of the vehicle.

16 Q Okay. Was any gunshot residue located?

17 A I'm not aware of the findings of the report.

18 Q But you did test?

19 A I did test it and I turned them into the
20 evidence. And I'm not aware of what the findings
21 were.

22 Q Okay.

23 MS. STEELE: That's all the questions I have
24 for this witness, Your Honor.

25 THE COURT: Any questions for the witness?

1 MR. RUNYON: Yes, Your Honor.

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. RUNYON:

5 Q Good morning, Ms. Maestas.

6 A Good morning.

7 Q As I understand it what occurs is you come to
8 work in the morning or evening, whichever the case may
9 be, whichever shift you're assigned to, and you go to
10 the evidence area or bay or garage of whatever you
11 want to refer to it as, and there will be a vehicle
12 parked in the parking place for you to process?

13 A The way it normally works, we have a duty
14 shift, we come on duty. Most of the time if we are
15 not getting on a call, we take the calls as they come
16 in, if we are not actively on a call, we will go back
17 to the office.

18 That day when I came on duty I didn't have any
19 call pending so I went straight to the office. That's
20 when I was notified that there was a car in the back
21 that needed to be processed. And since I was on duty
22 they asked me to do it.

23 Q Maybe I mislead you talking about the time of
24 day and what have you.

25 A That's okay.

1 Q You know, you earn your salary, no question
2 about that. But you go to the evidence area where
3 vehicles are and you find -- it's like a garage,
4 right?

5 A It's similar to, yes. It's a storage area
6 where it's got -- it does have a roll door that we
7 keep secured and locked.

8 Q And were you in charge of getting the
9 automobile to that location?

10 A No, I was not.

11 Q Okay. And how did that automobile get to that
12 location to your knowledge?

13 A To my knowledge the officers that were on the
14 scene, the crime scene officers on scene, had the
15 vehicle towed to the crime scene office.

16 Q Okay. Do you know whether or not the towing
17 company used roll-back truck or whether they towed it
18 from the front or from the rear?

19 A I have no information on what type of truck was
20 used to bring the vehicle in.

21 Q So as a practical matter when you processed
22 the, particularly the interior of the vehicle, you
23 found these shell casings in the vehicle and those
24 were the locations when you opened the door, so to
25 speak, and started looking?

1 A Yes, sir. The photographs are what I saw when
2 I started to process the car.

3 Q So, you are not testifying that those were the
4 locations of the shell casings on the scene, are you,
5 you are just saying the locations of shell casings in
6 your evidence area?

7 A Right. When I got to the vehicle to process
8 the vehicle, all I can attest to is that is where
9 those items were when I got to the car and I
10 photographed them.

11 Q Okay. And how long have you worked for CPD as
12 an evidence tech?

13 A Seven years for Charleston City Police
14 Department, three years in our crime lab. I have done
15 a little over four years as a crime scene technician.

16 Q And would you -- you are familiar with
17 vehicles, are you not?

18 A Yes, sir, to an extent.

19 Q How many vehicles have you processed roughly?

20 A Goodness. We do recovered stolen autos, we do
21 break-ins to cars. I cannot even think of how many
22 cars I have processed over a span of four years. It's
23 a lot.

24 Q And on the interiors and on the interior where
25 you find things can be affected by the method of

1 towing, can't they?

2 A I can't say that it can't be affected. Most
3 areas that are plausible for getting fingerprints on
4 the inside of a vehicle are going to be the rearview
5 mirror, the inside of the window, the door handles if
6 they're a smooth surface sometimes the door handles on
7 the older cars are metal. Sometimes the clasp of the
8 seatbelt, you can try those, the little metal piece
9 that goes in.

10 Most of the areas when they're towing we remind
11 them to where gloves. But the steering wheel and
12 where they have to do the ignition -- it depends on
13 the car. Sometimes there's a surface that's
14 plausible, but a lot of times with the cars, those
15 areas are not great for getting fingerprints.

16 Q I apologize, I'm not referring to where the
17 fingerprints are.

18 A Okay.

19 Q Okay. I'm referring to the shell casings that
20 were on basically the floorboard of the car.

21 A I'm sorry, I misunderstood.

22 Q I apologize because I don't always make myself
23 clear. I'm not the most articulate person in the
24 world, okay. I apologize.

25 So where the shell casings were found, where

1 you found them, you opened the car doors to process
2 the vehicle, correct?

3 A Right.

4 Q Okay. And the locations of where those shell
5 casings may have been within the car can be affected
6 by towing as it's --

7 A I'm sorry, yes. And again I don't know what
8 type of vehicle they used to tow the vehicle to our
9 office, but the fired shell casings are round and, you
10 know, when you are pulling a vehicle there is that
11 chance that they can roll, you know.

12 So I mean originally they could have been two
13 inches further down or there is no way for me to know
14 where they were originally. Just I can say that's
15 where there were when I saw it. But for towing they
16 can roll, it is possible.

17 Q I just wanted to clarify that. Thank you,
18 ma'am.

19 A Not a problem. Thank you.

20 THE COURT: Any redirect?

21 MS. STEELE: No, Your Honor.

22 THE COURT: Any objection to the witness being
23 excused.

24 MS. STEELE: None from the state, Your Honor.

25 MR. RUNYON: None from the defense, Your Honor.

1 THE COURT: Thank you, ma'am, you are excused.
2 Call your next witness.

3 MS. STEELE: State calls Kalisha Gill.

4 MS. KALISHA GILL,
5 after having first been duly sworn to state the truth,
6 the whole truth and nothing but the truth, testified
7 on her oath as follows.

8 THE COURT: You may proceed.

9 MS. STEELE: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 DIRECT EXAMINATION

12 BY MS. STEELE:

13 Q MS. Gill, what is your occupation?

14 A I'm a latent fingerprints examiner for the
15 Charleston Police Department.

16 Q And how long have you been employed by the
17 Charleston Police Department?

18 A Six years.

19 Q And what are -- what position do you hold
20 again?

21 A It's called latent fingerprint examiner.

22 Q And what are your official duties as a latent
23 fingerprint examiner?

24 A I analysis and compare latent fingerprints that
25 are taken from a crime scene to a known individual. I

1 also operate the Automated Fingerprint Identification
2 System known as AFIS. And I verify other latent
3 fingerprints.

4 Q How long have you been employed in this type of
5 work?

6 A Six years.

7 Q And what specialized education and training
8 have you received to become a fingerprints examiner?

9 A In May of 2000 I graduated from the University
10 of Arizona with a bachelor's of science degree. After
11 that I enrolled in the course through the United
12 State's Department of Justice which dealt with
13 fingerprint, recognizing fingerprint patterns and also
14 classification of fingerprints.

15 After I got hired at the police department they
16 sent me to basic fingerprint course through the South
17 Carolina criminal justice academy. I have also been
18 to a ridgeology science workshops, palm print
19 symposium, crime scene technique for investigators, I
20 have completed advanced fingerprint identification
21 course, and my most recent accomplishment is to become
22 a certified latent examiner through the international
23 identification -- International Association for
24 Identification.

25 Q And have you had occasion to identify persons

1 by comparing latent prints with ink prints before?

2 A Yes, I have.

3 Q And about how many times?

4 A I would say between training and actual case
5 work more than 10,000 times.

6 Q Have you ever qualified as an expert in
7 fingerprint analysis in a court?

8 A Yes, I have.

9 Q Which court?

10 A Magistrate, general sessions and federal.

11 Q Have you qualified in general sessions courts,
12 these general sessions court in Charleston County
13 before?

14 A Yes, ma'am.

15 Q And about how many times have you qualified as
16 an expert total?

17 A I think it's about 13 times.

18 Q And have you ever failed to qualify as an
19 expert?

20 A No.

21 MS. STEELE: Your Honor, the state would move
22 to have Ms. Kalisha Gill qualified as an expert
23 fingerprints analyst.

24 THE COURT: Any questions?

25 MR. RUNYON: No objection, Judge.

1 THE COURT: So admitted.

2 MS. STEELE: Thank you, Your Honor.

3 Q (By Ms. Steele) Can you explain to the jury
4 the difference between an ink print and a latent
5 print?

6 A If you look at the tips of your fingers you can
7 see raised ridges, these are called friction ridges.
8 When a thin layer of ink is applied to the ridges and
9 rolled on a standard fingerprint card from nail to the
10 other side of your nail it leaves behind a visible
11 impression which is called an ink fingerprint or known
12 fingerprint.

13 A latent fingerprint is something -- latent
14 refers to something that is hidden. So a latent
15 fingerprint is an invisible impression of those
16 friction ridges that can be left behind when an object
17 is touched. It's left behind in the form of dirt or
18 perspiration or contaminants that are on your fingers.
19 Through the use of chemicals and fingerprint powder,
20 the invisible latent print becomes visible for
21 comparison purposes.

22 Q And is another word for an ink print a known
23 print?

24 A Yes.

25 Q And how do you go about making an

1 identification by comparing latent prints to known
2 prints?

3 A I use three levels of detail. The first level
4 of detail is the pattern type, the second level of
5 detail is the point or minutia, and the third level of
6 detail is referred to the actual ridge itself.
7 If you go from the first level to the third level you
8 start as dealing with the most generic or general
9 features of the fingerprint to the most specific
10 features.

11 If you have a latent fingerprint and ink
12 fingerprint side by side, you first look at the latent
13 fingerprint and try to determine the pattern type.
14 There were three types of patterns which are loops,
15 arches and whirls. If you can determine the type, the
16 pattern type in the latent fingerprint then you move
17 to the ink fingerprint and look for that same pattern
18 type. If they are in agreement you can move on to the
19 second level of detail which deals with the point.

20 The first level of detail is usually looked at
21 without a magnifying glass, you can see it with your
22 naked eye. Continuing to the second level of detail
23 you need a magnifying glass and pointers. You look at
24 the latent fingerprint and try to find a target group
25 of points, which is just a cluster of three or four

1 points together in the latent fingerprint. Then you
2 move over to the ink fingerprint and try to find that
3 same target group.

4 If you find that same target group or cluster
5 points in the ink fingerprint which are in the same
6 relative position, then it's continuous repetition of
7 going back and forth with the latent fingerprint to
8 the ink fingerprint counting ridges and trying to find
9 more points.

10 At the same time as you are looking at the
11 points or the second level of detail, you also look at
12 third level of detail which deals with actual ridge
13 itself. You look at the thickness and the size of
14 that ridge, the space between ridges which is called
15 the furrows, and the pores that are located on the
16 ridge itself.

17 Once you have all three levels in agreement,
18 then you can determine if the latent fingerprints and
19 the ink fingerprints are made by one and the same
20 finger.

21 Q And in this case did you compare known ink
22 prints with latent prints?

23 A Yes, I did.

24 Q I'm going to show you what has been marked
25 State's Exhibit 75 and State's Exhibit 76. If you can

1 look at those. Do you recognize State's Exhibit 75?

2 A Yes, ma'am, I do.

3 Q And what is that?

4 A This is an envelope containing four latent
5 fingerprints that were submitted by one of our crime
6 scene offices, Henry Middleton.

7 Q And how did you obtain those?

8 A How did I obtain them?

9 Q Yes. How does the process work?

10 A From our crime scene office.

11 Q And when you obtained those four latent prints,
12 did you compare them to known prints of any
13 individuals?

14 A Yes, ma'am.

15 Q Who were the individuals that you compared
16 those prints to?

17 A There were six different people that were
18 compared. Do you want me to list them?

19 Q Please.

20 A Jabez Batiste. Quinton Jenkins, Bernard Green,
21 Travis Simmons, Kareem Shakoor and Channing walker.

22 Q And you said there were four latent prints that
23 compared those to?

24 A Yes.

25 Q Are they numbered one through four?

1 A Yes, they are.

2 Q On latent lift number one, what was the result
3 of your comparison to the latent print and the known
4 ink print of those individuals that you mentioned?

5 A Latent lift number one which was taken from a
6 rearview mirror was identified as the right thumb
7 finger of the card bearing the name Jabez Batiste.

8 Q Okay. And what about the latent lift labeled
9 number two?

10 A Label lift number two is considered as
11 non-comparable which means that it lacks the quantity
12 and quality to make an identification. There is not
13 enough detail in it.

14 Q So it was not able to be compared; is that
15 correct?

16 A Yes.

17 Q And what about latent print number three?

18 A Latent print number three is also marked
19 non-comparable.

20 Q What about latent print number four?

21 A Latent print number four is a palm print that
22 was not identified to anybody.

23 Q And where was that one located?

24 A That was taken from the top of trunk.

25 Q And did it have quality to be compared to a

1 known print?

2 A Yes, it did.

3 Q But it just did not match one of these
4 individuals; is that correct?

5 A Yes. Kareem Shakoor and Channing Walker we did
6 not have palm prints available to compare, but the
7 other four did not match up.

8 Q Okay. I believe it's next exhibit, State's
9 Exhibit 76. What are those items?

10 A These are 13 latent fingerprints that were
11 taken from our crime scene office Anita Maestas.

12 Q Do you know what car those were taken from, is
13 it labeled on there?

14 A I don't see anything identifying a car.

15 Q But those are the ones taken by Anita Maestas?

16 A Yes, ma'am.

17 Q How many prints, print cards were in there?

18 A 13.

19 Q Okay. And did you take those 13 cards and
20 compare them, those 13 latent prints and compare them
21 with prints of known individuals?

22 A Yes, the same six individuals.

23 Q Okay. And what was the result of your
24 comparison of each? If we can start with latent lift
25 number one?

1 A Sorry, they're not in order.

2 Q Take your time.

3 A Latent lift number one was taken from passenger
4 rear near the trunk. And this one possesses the
5 quality to be compared but it did not match up to
6 anybody.

7 Q Okay. And latent lift number two?

8 A Latent lift number two was also taken from the
9 passenger rear near the trunk. And that one was
10 identified to the number six finger, which is the left
11 thumb finger, of the card being the name Quinton
12 Jenkins.

13 Q Latent lift number three?

14 A Latent lift number three was taken from the
15 passenger rear window and that one was identified to
16 the number eight finger, which is the left middle
17 finger, of the card bearing the name Quinton Jenkins.

18 Q And what were the results on latent lift number
19 four?

20 A Latent lift number four was taken from the
21 passenger rear window, was identified to the left palm
22 of the card bearing the name Quinton Jenkins.

23 Q And what were the results of latent lift number
24 five?

25 A Number five was also taken from the passenger

1 rear window, and that was also identified to the left
2 palm of the card bearing the name Quinton Jenkins.

3 Q And what were the results of latent lift number
4 six?

5 A Latent lift number six, also taken from the
6 passenger rear window, was identified as number eight
7 and number nine fingers, which is the left middle
8 finger and left ring finger of the card bearing the
9 name Quinton Jenkins.

10 Q There are two fingers on that card that match?

11 A Yes, ma'am.

12 Q And do they both belong to Quinton Jenkins?

13 A Yes.

14 Q And latent lift number seven, what were the
15 results of those?

16 A Number seven was also identified as the number
17 eight, number nine and ten, which is the left middle,
18 left ring and left little fingers of the card bearing
19 the name Quinton Jenkins.

20 Q And where was that print found?

21 A This was taken from the passenger rear window.

22 Q Again that's three?

23 A Three fingerprints.

24 Q All belonging to Quinton Jenkins; is that
25 right?

1 A Yes.

2 Q What were the results of latent lift number
3 eight?

4 A Latent left number eight, also taken from the
5 passenger rear window, was identified to the left palm
6 of the card bearing the name Quinton Jenkins.

7 Q What were the results of latent lift number
8 nine?

9 A Latent lift number nine, also taken from the
10 passenger rear window, was not identified to anybody.

11 Q And the results, what were the results of
12 latent lift number ten?

13 A Number ten was taken from a passenger door
14 above the handle, and it was identified to the right
15 thumb finger of Jabez Batiste.

16 Q And what were the results of latent lift number
17 eleven?

18 A Latent lift eleven was taken from the driver's
19 front fender near the headlight and it was not
20 identified to anybody.

21 Q And the results of latent lift number twelve?

22 A Latent lift number twelve was taken from the
23 interior windshield driver's side, was not identified
24 to anybody.

25 Q And lastly, what were the results of latent

1 lift number thirteen?

2 A Latent lift number thirteen taken from the
3 rearview mirror was also not identified.

4 MS. STEELE: Court's indulgence one moment.
5 State has no further questions of this witness.

6 THE COURT: Any questions for the witness?

7 MR. RUNYON: Briefly, Your Honor.

8 THE COURT: You may proceed.

9 CROSS-EXAMINATION

10 BY MR. RUNYON:

11 Q Ms. Gill, you've identified prints basically on
12 the passenger side of the car, whatever car that was,
13 of Quinton Ralph Jenkins, at the right rear of the car
14 that would be Mr. Jenkins left hand?

15 A Yes, sir.

16 Q Okay. And then you had, on the passenger side,
17 you had a fingerprint you identified as coming from
18 Mr. Jabez Batiste; would that be correct? I think it
19 was number ten.

20 A Yes, number ten, right. It was taken from the
21 passenger door above the handle.

22 Q Right. And that's on the right-hand side of
23 the car, whatever car it was?

24 A Yes, sir.

25 Q Okay. Now latent lift number eleven was on the

1 driver's front fender near the headlight. That would
2 be on the left-hand side of the car. And could you
3 tell the position of the finger from the evidence that
4 you were given?

5 A No, I can't tell the position.

6 Q But it was the -- could you tell whether it was
7 the right or left hand?

8 A This fingerprint on the latent life number
9 eleven looks like a palm print. I can't tell right
10 now which hand it was from.

11 Q Okay. What about latent number twelve on the
12 interior window, driver's side?

13 A Latent lift number twelve is a finger, but no I
14 can't tell which hand it came from.

15 Q And as it relates to number three would be the
16 same answer?

17 A You said number three?

18 Q I'm sorry, number thirteen. Number 13 taken
19 from the rearview mirror is also a finger. And the
20 pattern type is a right loop so it's more indicative
21 of being on the right hand, but it's not a definite.

22 Q Okay. So we know that at some point in time in
23 some context Mr. Jenkins put his hand on the window of
24 some car and you examined those prints that were
25 lifted and identified Mr. Jenkins's handprint and

1 fingerprint?

2 A Yes, sir.

3 MR. RUNYON: Okay, no further questions, Judge.

4 THE COURT: Any redirect of the witness?

5 MS. STEELE: No, Your Honor.

6 THE COURT: Any objection to the witness being
7 excused from the state?

8 MS. STEELE: No, Your Honor.

9 THE COURT: From the defense?

10 MR. RUNYON: No, Your Honor.

11 THE COURT: Ma'am, you are excused.

12 You may call your next witness.

13 MS. STEELE: State calls Brittany Allen.

14 MS. BRITTANY ALLEN,

15 after having first been duly sworn to state the truth,
16 the whole truth and nothing but the truth, testified
17 on her oath as follows:

18 THE COURT: You may proceed.

19 MS. STEELE: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. STEELE:

22 Q Ms. Allen, how old are you?

23 A 19.

24 Q And where do you live?

25 A In Charleston. But I attend Denmark Tech right

1 now.

2 Q So do you live at Denmark Tech during the week
3 while you are at school?

4 A Yes, ma'am.

5 Q Do you come home on the weekend?

6 A Uh-hum, stay with my parents in Charleston.

7 Q Okay. How long have you been a student at
8 Denmark Tech?

9 A For two semesters. This is my last semester.

10 Q Do you know Jabez Batiste?

11 A Yes, ma'am.

12 Q How do you know him?

13 A I used to date him.

14 Q When did you date him?

15 A My freshman year in high school we dated off
16 and on.

17 Q Okay. And were you dating him later after high
18 school?

19 A Yes, ma'am.

20 Q Were you dating him while you were a student at
21 Denmark Tech?

22 A Yes, ma'am.

23 Q About how long have you all been -- did you all
24 date?

25 A Since August of that year.

1 Q Okay. Were you all dating on -- what year
2 would that have been?

3 A '06.

4 Q Okay.

5 A Yeah, August '06 up until January.

6 Q Were you all dating on January 4th of 2007?

7 A Yes, ma'am.

8 Q Okay. Did you see Jabez on January 4, 2007?

9 A Yes, ma'am.

10 Q When did you see him?

11 A That night when I let him hold my car.

12 Q I didn't hear the last part, can you repeat it?

13 A I said that night I let him hold my car.

14 Q Okay. How did you come in contact that night
15 with Jabez?

16 A He called me, asked me what I was doing, he
17 told me he wanted to hold my car. I told him I was
18 going to the mall and it was fine.

19 Q Did you pick Batiste up that evening?

20 A Yes, ma'am.

21 Q Okay. And what car were you driving?

22 A A gray Buick Century.

23 Q Okay. I'm going to show you what has been
24 marked State's Exhibit 54. Do you recognize that?

25 A Yes, ma'am, that's my car.

1 Q what is it a picture of?

2 A My car.

3 Q what kind of car?

4 A Gray Buick Century.

5 Q Okay.

6 MS. STEELE: Your Honor, state would move to
7 admit State's Exhibit 54.

8 MR. RUNYON: I thought we already admitted it,
9 Judge, but if we hadn't I have no objection.

10 THE COURT: Marked and admitted without
11 objection.

12 (Whereupon, State's Exhibit 54 is admitted into
13 evidence.)

14 MS. STEELE: Thank you, Your Honor.

15 THE COURT: You're welcome.

16 Q (By Ms. Steele) Ms. Allen, I'm going to show
17 you State's Exhibit 54 behind you. Is that the car
18 that you were driving on January 4, 2007?

19 A Yes, ma'am.

20 Q And about what time did you go to pick up Jabez
21 that evening?

22 A I think six o'clock.

23 Q who else was with you?

24 A My best friend Sophia.

25 Q And was it just the three of you in the car?

1 A Yes, ma'am.

2 Q Okay. Where were you all going?

3 A To the mall.

4 Q What mall?

5 A Citadel Mall.

6 Q Okay. And did you have a plan of what you all
7 were going to do when you got there?

8 A Jabez said if he could hold my car and I told
9 him drop me off the mall, that was fine, I would call
10 him when I was ready.

11 A And did you drive to the mall?

12 A Uh-hum.

13 Q And when you got there did you stay at the
14 mall?

15 A Yes, I stayed there and Jabez took my car. Me
16 and Sophia left.

17 Q Did Sophia stay at the mall with you?

18 A Uh-hum. Yes, ma'am.

19 Q And did Jabez take the car while the two of you
20 remained at the mall?

21 A Yes, ma'am.

22 Q And at that time did you tell him what time to
23 come pick you up?

24 A No. I told him I was going to call him when I
25 was ready.

1 Q Okay. On the way -- backup for a minute. On
2 the way to the mall, was there any talking going on in
3 the car?

4 A Yes, Jabez was on his cell phone.

5 Q Okay. Could you tell who he was talking to?

6 A No.

7 Q Did you understand what he was saying?

8 A It was unclear. It was code words.

9 Q What do you mean by codes?

10 A He wasn't giving full sentences; it was, where
11 you at, what you doing, what time.

12 Q Okay. But you don't know who was talking to?

13 A No, ma'am.

14 Q And did you call him when you were done and
15 ready to be picked up from the mall?

16 A Yes, ma'am.

17 Q About what time was that?

18 A About eight o'clock.

19 Q Okay. And did you reach him the first time
20 when you called him?

21 A Yes, ma'am.

22 Q Okay. And based on that conversation was it
23 your understanding that he was going to come and pick
24 you up?

25 A Yes.

1 Q Did he come and pick you up?

2 A No, ma'am.

3 Q What did you do after he didn't come get you?

4 A 15 minutes later I called him back.

5 Q Okay. And did you speak to him again?

6 A Yes.

7 Q Okay. And based on that conversation that you
8 had with him, did you ask him to come pick you up
9 again?

10 A Yes.

11 Q And based on your conversation with him was it
12 your understanding that he was going to come that time
13 and get you?

14 A He was going to send somebody out to come get
15 me.

16 Q Send somebody to come get you?

17 A Uh-hum.

18 Q Was someone sent to come get you?

19 A No, ma'am.

20 Q All right. How did you -- well, at that point
21 were you mad?

22 A Yes, ma'am.

23 Q Had he ever left you stranded like that before?

24 A No, ma'am.

25 Q Had you ever let him use your car before?

1 A Yes, ma'am.

2 Q About how many times would you say?

3 A Two or three times.

4 Q And who does that car belong to?

5 A My father.

6 Q Are you supposed to be letting other people use
7 that car?

8 A No, ma'am.

9 Q Did you get in trouble from your parents for
10 doing that?

11 A Yes, ma'am.

12 Q How did you get home from the mall?

13 A I caught a ride. I saw my brother's best
14 friend and I asked him.

15 Q Where did you see your brother's best friend?

16 A He was walking out of the mall.

17 Q Okay. What is his name?

18 A Nardo.

19 Q And did you just happen to see him there?

20 A Yes.

21 Q And did you ask him for a ride home?

22 A Yes.

23 Q Did he take you from the mall?

24 A Uh-hum.

25 Q Where did he take you?

- 1 A To : : : Apartments.
- 2 Q Okay. And how did you get to your car that
- 3 night? Did you get your car that night?
- 4 A Yes, ma'am.
- 5 Q How did you get your car?
- 6 A I got it from in front of the Quick Stop in
- 7 front of the apartments. He took me there.
- 8 Q who took you there?
- 9 A Nardo.
- 10 Q So he took you to the Quick Stop?
- 11 A Uh-hum.
- 12 Q And where is that again?
- 13 A It's right in front of the apartments.
- 14 Q In front of the apartments?
- 15 A Yes, ma'am.
- 16 Q How did you know that your car was there?
- 17 A Last conversation with Jabez he told me that.
- 18 Q Okay. That that's where it was going to be?
- 19 A Uh-hum.
- 20 Q Was anybody with the car when you arrived?
- 21 A No, ma'am.
- 22 Q It was just out in the gas station?
- 23 A Yes, ma'am.
- 24 Q where were the keys?
- 25 A In the seat.

1 Q In the front seat, back seat?

2 A Front seat.

3 Q Driver's side?

4 A Yes, ma'am.

5 Q Okay. And then what did you do after you got
6 your car?

7 A Me and Sophia got in the car. I took Sophia
8 home and I went straight home.

9 Q Did you talk to Jabez later that night?

10 A No.

11 Q Did you talk to Jabez the next day?

12 A Yes, ma'am.

13 Q And when did you go back to school?

14 A I left that Sunday.

15 Q That Sunday?

16 A Uh-hum.

17 Q Do you know when Jabez left to go back to
18 school?

19 A Saturday.

20 Q When you got back to -- when you left on
21 Sunday, were you going back to Denmark Tech?

22 A Yes, ma'am.

23 Q After you were at Denmark Tech did -- were you
24 contacted by a detective or police officer with the
25 Charleston Police Department?

1 A Yes, ma'am, a couple of days later.

2 Q Couple of days later?

3 A Uh-hum.

4 Q what did they say -- or what was that
5 conversation -- what were they contacting you in
6 reference to?

7 A My car.

8 Q okay. And did you tell them where the car was?

9 A Yes.

10 Q Okay. And where was the car?

11 A My father had it at that time.

12 Q And where was your -- you said earlier, does
13 your father live in Charleston?

14 A Yes.

15 Q Okay. And did you tell the detectives where
16 the car was?

17 A Uh-hum.

18 Q Okay. And do you know if detectives went to
19 your house and --

20 A Yes, ma'am. They went to the house and they
21 took the car.

22 Q Okay. Did detectives ever question you about
23 the night that you let Jabez use the car?

24 A Yes.

25 Q Okay. About when was that, do you know?

1 A I would say that that Tuesday after we was in
2 school.

3 Q Okay. And did he question you -- who
4 questioned you about that night; do you remember?

5 A I talked to Detective Goldstein that Friday.

6 Q That Friday?

7 A Uh-hum. And I gave him a statement.

8 Q Earlier you said Tuesday. Is Tuesday the day
9 that the detective first called you about the car?

10 A Yeah, the first detective when he picked Jabez
11 up from school.

12 Q And on Friday you talked to Detective
13 Goldstein, correct?

14 A Uh-hum.

15 Q Did you give Detective Goldstein a written
16 statement about that night?

17 A Yes, ma'am.

18 Q Okay.

19 MS. STEELE: I have no further questions for
20 this witness.

21 THE COURT: Any questions for the witness?

22 MR. RUNYON: Very briefly.

23 THE COURT: You may proceed.

24 CROSS-EXAMINATION

25 BY MR. RUNYON:

1 Q This is your car but your daddy pays for it,
2 right?

3 A Right, it's actually my father's car.

4 Q Well no problem with you saying it's your car.
5 You said something about there was -- that you were
6 aware that Jabez was picked up from Denmark Tech?

7 A From the police.

8 Q Now after that point in time did you in fact
9 see him again?

10 A Yes, he did come back to school.

11 Q Okay. So he came back to school -- by the way,
12 what do you study at Denmark Tech?

13 A What I'm studying? I was studying barbering at
14 that time.

15 Q Okay. And but this car incident kind of made
16 you a little angry with Jabez for stranding you at the
17 mall and what have you, correct?

18 A Yes, sir.

19 Q And you didn't date him, other than seeing him
20 at school you did not date him after that?

21 A No.

22 Q And of course on the -- by the way, do you know
23 Mr. Quinton Jenkins?

24 A No.

25 Q Have you ever seen him before?

1 A No.

2 Q Ever seen Jabez with him?

3 A No.

4 Q Have you ever heard of Mr. Batiste refer to
5 him?

6 A No.

7 MR. RUNYON: No further questions, Your Honor.

8 THE COURT: Any redirect?

9 MS. STEELE: No, Your Honor.

10 THE COURT: Any objection to the witness being
11 excused from the state?

12 MS. STEELE: Nothing from the state, Your
13 Honor.

14 THE COURT: From the defense?

15 MR. RUNYON: None from the defense.

16 THE COURT: Ma'am, you are excused.

17 Madam Forelady, ladies and gentlemen, we are
18 going to take advantage of this break in the testimony
19 to take a short recess and allow you to refresh
20 yourselves. During the break do not discuss the case
21 among yourselves. Place your notepads in your seats.

22 We will break until about five after 12:00
23 which gives you a little over ten minutes. If you
24 need anything please let the bailiffs know.

25 (Whereupon, the jurors exit the courtroom.)

1 THE COURT: You may be seated. Just as a
2 reminder to the gallery, please turn all your cell
3 phones and other electronic devices off. If they go
4 off the deputies will confiscate them and they will
5 not be returned to you.

6 we will be at ease for ten minutes.

7 (Whereupon, a recess was taken.)

8 THE COURT: Is the state ready to proceed?

9 MR. WILLIAMS: Yes, Your Honor.

10 THE COURT: Is the defense ready to proceed?

11 MR. RUNYON: Yes, Your Honor.

12 THE COURT: Please bring in the jury.

13 (Whereupon, the jurors enter the courtroom.)

14 THE COURT: You may be seated. Ladies and
15 gentlemen, I hope you enjoyed your break. We will now
16 resume the testimony. You may call your next witness.

17 MR. WILLIAMS: Thank you, Your Honor. State
18 calls Bernard Green.

19 Your Honor, I'm going to take a witness out of
20 order. State calls Travis Simmons.

21 MR. TRAVIS D. SIMMONS,
22 after having first been duly sworn to state the truth,
23 the whole truth and nothing but the truth, testified
24 on his oath as follows:

25 THE COURT: You may proceed.

1 MR. WILLIAMS: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. WILLIAMS:

4 Q Mr. Simmons, do you see the microphone there in
5 front of you?

6 A Yes, sir.

7 Q You're talking plenty loud now. I ask as you
8 testify today you try to keep your voice up so that it
9 gets through that microphone. Can you do that?

10 A Yes, sir.

11 Q Do you remember January 4, 2007?

12 A Yes, sir.

13 Q Back on January 4th did you know a person named
14 Jabez Batiste?

15 A Yes, sir.

16 Q How long had you known Jabez Batiste for?

17 A I had known him for like a couple of months.

18 Q How about a person named Bernard Green?

19 A Yes, I know him also.

20 Q How long had you known Bernard Green for?

21 A I had known him since probably like when I was
22 9th grade year.

23 Q And do you know a person named Quinton Jenkins?

24 A Yes, sir.

25 Q How did you know Quinton Jenkins?

1 A well, he went to middle school with me.

2 Q How long had you known him for?

3 A Probably like five years.

4 Q would you say you sort of grew up with him?

5 A Yeah.

6 Q would you say you were friends with him?

7 A Yes, sir.

8 Q On January 4th, 2007, were you in contact with
9 Jabez Batiste?

10 A Yes, sir.

11 Q At what time or about when did Mr. Batiste
12 contact you?

13 A It was probably like around 7:00 or something
14 like that, I'm not sure.

15 Q Evening, morning?

16 A It was like at nighttime.

17 Q How did he get a-hold of you?

18 A He called me on the cell phone.

19 Q And when he talked to you, did he tell you that
20 he planned to do anything?

21 A No, not at that time.

22 Q At some point did you see him?

23 A I saw him when I came to meet him at : .

24

25 Q where is : ?

- 1 A It's off Highway 61.
- 2 Q About what time would you say you met Jabez
- 3 Batiste?
- 4 A It was probably like 30 minutes after he called
- 5 me.
- 6 Q Did he have a car?
- 7 A Yes, sir.
- 8 Q What kind of car did he have?
- 9 A It was a Buick.
- 10 Q Do you remember two-door, four-door, color or
- 11 anything like that?
- 12 A It was four doors and it was tan.
- 13 Q When he came to get you, did he tell you
- 14 anything about a plan or what you all were going to
- 15 do? Did you talk about that?
- 16 A At that time he just told me that he had to
- 17 pick up two people and we were supposed to go to
- 18 McDonald's.
- 19 Q Did he say what two people?
- 20 A He said Quinton and Bernard Green.
- 21 Q And did you all do that?
- 22 A Yes, sir.
- 23 Q Who drove?
- 24 A I drove.
- 25 Q Why did you drive?

1 A Because no one else had a license and he said
2 he wanted me to drive because I had a license.

3 Q And who was it that said that?

4 A Jabez.

5 Q Now you say you were at
6 and you were going to go get some other people, did
7 you all do that, you and Jabez?

8 A Yes, sir.

9 Q Where did you go to?

10 A We went off.

11 Q Do you know whose house that was?

12 A That was Quinton's house.

13 Q What happened when you got over to ?

14 A Then that's when Bernard got in the car. And
15 then him and Batiste was talking. And then there was
16 like having a little side conversation saying they
17 about to rob somebody for 25 bucks.

18 Q I want to back up a little bit. As you all
19 were going over to , was Jabez Batiste on his
20 cell phone?

21 A I think he was.

22 Q Could you tell who he was talking to?

23 A No, I didn't know.

24 Q Did you hear anything that he was saying?

25 A I wasn't paying attention to it.

1 Q When you got to I you said that Bernard
2 got in the car and then there was a conversation
3 between Jabez and Bernard?

4 A Yes, sir.

5 Q How long did that conversation take?

6 A Probably like five minutes.

7 Q Did anyone else come out to the car?

8 A Quinton came to the car afterwards.

9 Q And what happened when Quinton came to the car?
10 was anything said by Quinton or that Quinton could
11 hear?

12 A Jabez said, repeated that he said he was
13 supposed to rob him for 25 pills. And that's when
14 Bernard said that he was just there for the ride.

15 Q Bernard Green said that?

16 A Yes, sir.

17 Q When Jabez said that thing about robbing
18 somebody for 25 pills, what did Quinton Jenkins do?

19 A He didn't say anything, he was just sitting
20 there.

21 Q Was it said loud enough where he could hear it?

22 A Yes, sir.

23 Q And obviously Bernard Green responded so he
24 could hear it?

25 A Yes, sir.

1 Q where were you all inside the car at that
2 point, who was seating where?

3 A I was sitting in the driver's seat and Jabez
4 Batiste was sitting in the passenger seat.

5 Q Front or back?

6 A In the front. And Bernard Green was sitting
7 behind me, and Quinton was sitting on the passenger
8 side in the back.

9 Q Did you see anybody with any kind of weapon at
10 that point?

11 A No, not at that time.

12 Q So what happens after Bernard Green gets in the
13 car, Quinton Jenkins gets in the car, and Mr. Batiste
14 says those things about robbing somebody for pills.
15 what happens next?

16 A That's when we proceeded to go to McDonald's.

17 Q where is the McDonald's?

18 A It's off of Cosgrove Bridge.

19 Q And what happened as you were driving there?
20 was there any conversation or anything said that Mr.
21 Jenkins would hear or that he said?

22 A I believe they were talking but I'm not sure
23 what they were saying.

24 Q Do you recall the general context without going
25 into specific words?

1 A I think they probably was talking about the
2 situation where they were about to rob someone.

3 Q So there was still talk about a robbery?

4 A Yes, sir.

5 Q It was loud enough where you could hear it?

6 A Yes, sir.

7 Q Was it loud enough where Quinton Jenkins could
8 have heard it?

9 A Yes, sir.

10 Q Now you said earlier that Bernard Green had
11 said, I'm just along for the ride?

12 A Yes, sir.

13 Q Did Quinton Jenkins ever say that?

14 A No, sir.

15 Q Now you say you all went to the McDonald's.
16 What happened or how did you drive into the
17 McDonald's? What area did you go in?

18 A We came in off of the Orange Grove way between
19 like -- between the street with the Burger King.

20 Q Mr. Simmons, I'm going to give you this laser
21 pointer, if you just press the top there. If you
22 could look over your shoulder right behind you there,
23 putting up State's 27.

24 Do you recognize what is shown in that exhibit?

25 A Yes, sir.

1 Q what is it?

2 A That the McDonald's.

3 Q And is that the road you drove in on?

4 A Yes, sir.

5 Q Now I want to show you State's 28 as well. Do
6 you recognize that area?

7 A Yes, sir.

8 Q Same area just different perspective?

9 A Yes, sir.

10 Q If you could tell the jury what happened as you
11 drove in that parking lot? How did you know where to
12 go, or what happened?

13 A Right before we pulled in the parking lot Jabez
14 called him on the phone and he asked him what color
15 car he was driving. Then he said, oh, a red Honda.
16 Then I asked him, that's when I was coming in. And he
17 asked me -- I asked him where to park at and he told
18 me to park by the red Honda.

19 Q In this that picture behind you, can you show
20 the jury approximately where the red Honda would have
21 been?

22 A Probably right around there. (witness
23 indicating.)

24 Q You said you were told to park by the red
25 Honda, did you do that?

1 A Yes, sir.

2 Q where did you park?

3 A I probably parked like right there. (witness
4 indicating.)

5 Q Did you put the car in park and turn it off,
6 was it running, what happened when you parked?

7 A I put it in park and turned it off.

8 Q And when you did that what happened next? who
9 did what?

10 A That's when Jabez and Quinton got out of the
11 car.

12 Q Did you see any kind of weapons at that point?

13 A No, sir.

14 Q When they got out of the car where did they go?

15 A They went to the right towards the red Honda.

16 Q I am going to show you State's 22. Do you
17 recognize that car?

18 A Yes, sir.

19 Q what do you recognize it as?

20 A That was the red Honda that was out there that
21 night.

22 Q And does that basically show the perspective
23 you would have seen from where you were parked?

24 A Yes, sir.

25 Q Now when you saw the red Honda, was there

1 anybody inside?

2 A Yes, sir.

3 Q How many people were inside?

4 A There was two people.

5 Q where were they?

6 A One person was in the drive's seat and the
7 other person was in the back seat.

8 Q could you tell if the person in the back was on
9 the drive's side or passenger side?

10 A I'm not sure but I believe it was driver's
11 side.

12 Q And the person in the front seat, was he
13 driver's side or passenger side?

14 A He was in the driver's side.

15 Q Do you recall if the doors were open or closed?

16 A They were closed.

17 Q And you said that Quinton and Jabez got out,
18 where did they go?

19 A They went toward the driver's side of the
20 window of the other car.

21 Q Can you show approximately with the laser
22 pointer where they would have went to?

23 A Probably like right there. (Witness
24 indicating.)

25 Q And could you see what they did when they went

1 there?

2 A They were just holding a conversation.

3 Q Could you hear the conversation?

4 A No, sir.

5 Q who were they talking to, both people or just
6 one?

7 A I'm not sure.

8 Q About how long would you say the conversation
9 lasted?

10 A Probably about two minutes.

11 Q Could you tell who was doing the talking,
12 Quinton or Jabez?

13 A No, sir, I did not pay attention.

14 Q was Quinton Jenkins close enough or was Jabez
15 Batiste close enough to each other where they probably
16 would have been able to hear each other if they were
17 talking in a normal voice?

18 A Yes, sir.

19 MR. RUNYON: Objection, Your Honor.

20 THE COURT: Basis?

21 MR. RUNYON: Conclusion of the witness.

22 THE COURT: Please approach.

23 (whereupon, a discussion was held at the bench
24 not on the record.)

25 THE COURT: Objection is sustained.

1 Q (By Mr. Williams) Mr. Simmons, how close
2 together were Mr. Batiste and this defendant when that
3 conversation was being held at the side of the car
4 there?

5 A I would say no more than five feet.

6 Q After that conversation was done -- or I should
7 say what happened as they were at the side of the car,
8 did they go anywhere?

9 A Jabez and Quinton, they came back to the car
10 and then Jabez he asked for some more money because he
11 said he needed more money to make it look real.

12 Q Now where was Quinton Jenkins when Jabez
13 Batiste said this?

14 A He came back to the car also.

15 Q How close was he to Jabez Batiste when Jabez
16 Batiste said this?

17 A Probably about the same distance.

18 Q Was he paying attention to the conversation,
19 looking and reacting to it?

20 A Yes, sir.

21 Q Did he seem to be comprehending what was going
22 on from your observation of Mr. Jenkins?

23 A Yes, sir.

24 Q After Mr. Batiste said those things what
25 happened after he asked for some more money to make it

1 look real?

2 A That's when I gave him some more money that I
3 had. Probably no more than 10 dollars.

4 Q Do you recall if it was a single bill, several
5 bills?

6 A I'm not positive.

7 Q Do you think you gave him about 10 dollars?

8 A Probably.

9 Q And when you gave them those 10 dollars, where
10 was Quinton Jenkins?

11 A He was on the other -- on the left-hand side of
12 him.

13 Q Of Mr. Batiste?

14 A Yes, sir.

15 Q After Jabez Batiste took the money from you
16 what did he do and what did Quinton Jenkins do?

17 A That's when they returned to the other vehicle.

18 Q And when they returned to the vehicle, where
19 did they go?

20 A They went back to the driver's side of the
21 window.

22 Q And what happened at the driver's side of the
23 window?

24 A Then they started talking to them again. And
25 then that's when I turned my head and looked away.

1 And Bernard said that they giving it up now.

2 Q And was that something that Bernard would have
3 been immediately perceiving, something he would have
4 been seeing as he said it?

5 A Yes, sir.

6 Q when you say they were at the driver's side,
7 did you ever see them on the other side of the car?

8 A No, sir.

9 Q You never saw them go to the passenger side?

10 A No, sir.

11 Q Do you recall where they were at, the last
12 place you saw them, when they were at the car. Can
13 you show on the picture?

14 A Right there. (Witness indicating.)

15 Q And how long was it before you heard Bernard
16 then say, the boys are giving it up now?

17 A It was probably about like no more than two
18 minutes.

19 Q So there was a little bit of time that went by?

20 A Yes, sir.

21 Q If Mr. Batiste, Jabez Batiste or the defendant
22 Quinton Jenkins had gone to the other side of the car
23 would you have seen that?

24 A I wasn't paying attention but they could have.

25 Q when you heard Bernard Green saying that, what

1 was the next thing that happened after?

2 A Then that's when like probably a couple of
3 seconds went by and then I heard gunshots.

4 Q Did you react in any way when you heard the
5 gunshots?

6 A When I heard the first one then I looked to the
7 right.

8 Q And what did you see when you looked to the
9 right?

10 A I saw like the flash in the air like from the
11 gun being fired.

12 Q When you say a flash in the air, can you show
13 the jury approximately on the exhibit behind you where
14 that would have been?

15 A It was right there. (Witness indicating.)

16 Q Was that the -- I want to ask you, you heard --
17 how many gunshots in total, or how many sounded like a
18 gunshot did you hear in this whole incident?

19 A I'm not sure but it was more than five.

20 Q And you said this earlier that you heard one
21 and then turned your head. Was there -- when you saw
22 the flash was there a sound that came from that flash?

23 A Yes, sir.

24 Q So when you saw the flash what did you hear?

25 A That's when I heard the gunshot after that.

1 Q And the one that you saw flash, would that have
2 been the first shot you heard or the second shot?

3 A When I heard the first shot fired, that's when
4 I turned and looked and I saw the flash.

5 Q So there was one shot that went off that you
6 didn't see, and then you saw the flash at the top of
7 the car?

8 A Yes, sir.

9 Q Did you see anybody inside the car?

10 A I did not pay attention.

11 Q Did you see anybody on the other side of the
12 car where the flash was coming from?

13 A I couldn't see.

14 Q Could you tell if there were people over there
15 at all?

16 A No, sir.

17 Q You just saw the flash?

18 A Yes, sir.

19 Q After you saw that flash, what was the next
20 thing you saw or next thing you looked at?

21 A That's when they turned back and then I started
22 the car.

23 Q When you started the car, what was going on?

24 A Then that's when the gunshots was finishing up
25 and then that's when I waited for Jabez and Quinton to

1 come back to the car.

2 Q where were -- what were you doing as those
3 shots were going off? were you driving the car,
4 putting it in gear, anything like that?

5 A I was just waiting for them to come back to the
6 car. I still had it in park.

7 Q Did you put it in gear to pick them up?

8 A I waited for them. After they got in the car,
9 that's when I put it in gear.

10 Q Okay. Now who got in the car first?

11 A Jabez.

12 Q And what part of the car did he get into?

13 A He got in the passenger front seat.

14 Q Who got in the car second?

15 A Quinton.

16 Q Where did he get in?

17 A He got in the back passenger seat.

18 Q Now while all this was going on, what was
19 Bernard Green doing?

20 A He is just sitting in the back seat.

21 Q Could you tell if he was ducking down or if he
22 was looking or anything that he was doing?

23 A I'm not sure.

24 Q I'm going to ask you this, we haven't covered
25 it yet. Were you scared?

1 A Yes, sir.

2 Q What were you scared of?

3 A Because I did not know if we were being shot at
4 or what was going on.

5 Q After Jabez Batiste and the defendant Quinton
6 Jenkins got in the car, what happened?

7 A Then that's when Jabez said go, and he was like
8 go, go, go. And then that's when I put the car in
9 reverse and then I backed up. And then I put the car
10 back in drive and then I went out the other way.

11 Q You say the other way, what other way did you
12 go?

13 A The way for Cosgrove.

14 Q And which direction did you drive?

15 A I went to the left.

16 Q Do you know what road that is?

17 A I'm not sure.

18 Q Do you know if you went down Sam Rittenberg?

19 A That could have been the road.

20 Q And as you were driving, what was the
21 conversation about what just happened in the car?

22 A Jabez asked Quinton, he said, why did you do
23 it? He said that they were moving too much. And then
24 BJ asked him and that's when he said he didn't know.

25 Q So Jabez Batiste said, why did you do it?

1 A Yes, sir.

2 Q And who said, they moved too much?

3 A Quinton.

4 Q And then BJ said something?

5 A Yes, sir.

6 Q What did he say?

7 A He asked him the same question.

8 Q Why did you do it?

9 A Yes, sir.

10 Q And who responded?

11 A Quinton.

12 Q And what did he say?

13 A He said that he didn't know.

14 Q I want to go back a little bit and ask you

15 another set of questions I think I missed. Did you

16 see any guns when all this stuff was going on?

17 A I saw a gun when he was on the way to

18 McDonald's.

19 Q Okay, tell me about that. What gun did you see

20 on the way to McDonald's?

21 A Jabez had a .22 revolver.

22 Q When you say a revolver, what's a revolver?

23 A It's like a type gun like you can spin it and

24 then you can put the bullets in it.

25 Q And do you know what a semiautomatic is?

1 A Yes, sir.

2 Q You know how a semiautomatic ejects casings?

3 A Yes, sir.

4 Q He didn't have -- Jabez didn't have one of
5 those?

6 A No, sir.

7 Q And did you see that gun any later that day?

8 A No, sir.

9 Q Did you see it at all in the parking lot?

10 A No, sir.

11 Q Did you see anybody trying to put it anywhere?

12 A No, sir.

13 Q When you were driving the car away did you see
14 the gun at all?

15 A Jabez had the gun, he was trying to see if it
16 would fit behind the glove compartment. He couldn't
17 get it to fit there so that's when he just put it -- I
18 don't know where he put it at, I know he still had it.

19 Q And that was the same revolver?

20 A Yes, sir.

21 Q And you know the difference between a revolver
22 and a semiautomatic?

23 A Yes, sir.

24 Q Once you all were driving and those things were
25 said back to Quinton saying he didn't know why the

1 guys were moving too much, where did you all go, what
2 happened next?

3 A We went and we dropped off Bernard and Quinton
4 off in I .

5 Q Where is I ?

6 A That's off -- you can come to it off of 61.

7 Like across the street from :

8 Q And who did you drop off there?

9 A Quinton and Bernard.

10 Q Was there anything else that was said about the
11 shootings at that point in time?

12 A No, not at that time.

13 Q Did anyone ask anybody else why it happened or
14 why they did it?

15 A No, sir. At that time I didn't know, I wasn't
16 really paying attention after that.

17 Q Was there any kind of anything that happened
18 with -- did you see any pills or any kind of other
19 items?

20 A Well, when we dropped them off that's when
21 Quinton said he had want the chain, and Jabez said, I
22 will give you the pills, and he said, no, I want the
23 chain. So then that's when Jabez gave him the chain.

24 Q You said that Quinton said he wanted the chain?

25 A Yes, sir.

1 Q Did he say why?

2 A No, sir.

3 Q Did you ever see any pills?

4 A No, sir.

5 Q How about a chain?

6 A When Jabez passed it.

7 Q Who did he pass it to?

8 A He passed it to Quinton.

9 Q Do you recall what it looked like?

10 A It was like two faces on the chain, on the
11 charm, and it was like a happy face and a sad face.

12 Q And you saw that yourself?

13 A Yes, sir.

14 Q Quinton Jenkins got that chain?

15 A Yes, sir.

16 Q After Quinton Jenkins got the chain, what was
17 the next thing that happened?

18 Q That's when they, Quinton and Bernard got out
19 of the car.

20 Q And what did you do at that point?

21 A That's when me and Jabez went back to . . .

22

23 Q What did you all do, you and Jabez, when you
24 got to ?

25 A Then we parked the car and then both of us

1 ended up going our different ways at that time.

2 Q where did you all park the car?

3 A It was in like a when you first go in :

4 to the right, then it was like in the
5 apartment complex.

6 Q Is there a party store right there?

7 A There wasn't a party store, it was like inside

8 :

9 Q Was it by the party store or was it far from
10 the party store?

11 A It was walking distance of the party store.

12 Q And where were the keys to the car left? What
13 was the last place you left them?

14 A I still had the keys at that time. Then I was
15 about to give the keys back to Jabez, but when I
16 looked he already was gone. But then he called later
17 on the cell phone and then he wanted to talk to my
18 cousin Michael. And then I gave Michael the keys to
19 give to Jabez.

20 Q So you got the keys back to Michael to Jabez?

21 A Yes, sir.

22 Q What is Michael's last name?

23 A Johnson.

24 Q After you went your separate ways, did you see
25 Quinton Jenkins again?

1 A Yes, sir.

2 Q When did you see him again?

3 A I'm not sure what day it was, but he was over
4 at my house.

5 Q And why was he at your house?

6 A We was just hanging out.

7 Q Did you all talk about what happened or did he
8 tell you what happened?

9 A Yes, sir.

10 Q What did he say?

11 A He was talking about when he shot them, he said
12 the first guy he shot him. And then he said he heard
13 the second guy saying, ah, ah, I'm trying to get out
14 of the car, then he shot the second guy.

15 Q Did he say where he shot the guys?

16 A No, sir.

17 Q Do you recall him saying anything else about
18 the shootings?

19 A No, sir, not at that time.

20 Q Did you talk to him any other time about the
21 shootings that you recall?

22 A He wrote me a letter.

23 Q But as far as actually talking to him, you
24 don't recall talking to him at all about the shootings
25 in person?

1 A No, sir.

2 Q You got picked up and arrested as a result of
3 all this; is that right?

4 A Yes, sir.

5 Q When did they finally come pick you up?

6 A I believe it was January 23rd.

7 Q And prior to that you had actually given a
8 statement before you got arrested; is that right?

9 A Yes, sir.

10 Q When was it that you gave a statement to the
11 police?

12 A I'm not sure what day it was.

13 Q Was it shortly after the murders, approximately
14 how long after, do you recall?

15 A Probably like a week after I believe; week or
16 two.

17 Q Did you tell the police the truth when you
18 talked to them?

19 A No, sir.

20 Q Why didn't you tell them the truth?

21 A Because I felt I might have been in the wrong.

22 Q Do you think you were in the wrong?

23 A Yes, sir.

24 Q What did you do that was wrong?

25 A I was just basically a part of the crime

1 because I was the driver.

2 Q Were you scared when the police talked to you?

3 A Yes, sir.

4 Q You knew what you did was wrong, right?

5 A Yes, sir.

6 Q Driving people there and driving away?

7 A Yes, sir.

8 Q Why didn't you just tell the police the truth
9 at that time?

10 A Because I did not want to incriminate myself in
11 any way because I didn't know the laws or anything
12 like that.

13 Q Had anybody else talked to you about what to
14 say at that point in time, anybody get a story
15 together?

16 A No, sir.

17 Q Once you got arrested, you actually got charged
18 with murder, two counts of murder and I believe two
19 counts of possession of a firearm and a violent crime,
20 right?

21 A Yes, sir.

22 Q Do you have a lawyer?

23 A Yes, sir.

24 Q And it is your understanding that what you are
25 going to be convicted of, or what you are going to

1 plead guilty to, is accessory after the fact to murder
2 which carries zero to 15 years?

3 A Yes, sir.

4 Q Is that because of what you did?

5 A Yes, sir.

6 Q And you realize that you could get up to 15
7 years in prison for it?

8 A Yes, sir.

9 Q And you are testifying here despite that?

10 A Yes, sir.

11 MR. WILLIAMS: Thank you, I have no further
12 questions.

13 Your Honor, can I ask one more question?

14 THE COURT: Yes.

15 Q (By Mr. Williams) I forgot this one. Travis,
16 the person we have talked about Quinton Jenkins, do
17 you see him in court today?

18 A Yes, sir.

19 Q Can you point to him for me and describe what
20 he is wearing?

21 A He's over there. Like he got on I believe it's
22 a white or tan shirt on and he has black pants.

23 Q How tall are you?

24 A Probably like 5'10".

25 MR. WILLIAMS: Thank you, nothing else, Your

1 Honor.

2 THE COURT: Any questions for the witness?

3 MR. RUNYON: Yes, Your Honor.

4 THE COURT: You may proceed.

5 CROSS-EXAMINATION

6 BY MR. RUNYON:

7 Q Mr. Simmons, pleading to accessory after the
8 fact of murder means you don't go to prison for the
9 rest of your life; isn't that correct?

10 A Yes, sir.

11 Q And you understand that, don't you?

12 A Yes, sir.

13 Q Now when you talked to Mr. Osborn, the
14 gentleman right there, you lied to him according to
15 what you just said, right?

16 A Yes, sir.

17 Q And you lied to him because you didn't want to
18 incriminate yourself?

19 A Yes, sir.

20 Q All right. And you said that Quinton Jenkins
21 -- actually didn't you say that nobody talked about
22 anything on the way over to McDonald's?

23 A That's what I said in my first statement.

24 Q That's right. And is that the truth or was
25 that a lie?

1 A That was a lie.

2 Q Okay. So what you are saying here today is the
3 truth but what you said then was a lie?

4 A Yes, sir.

5 Q Okay. Now did you ever see Quinton Jenkins
6 with any kind of firearm on that day?

7 A No, sir.

8 Q Okay. Did you ever see Quinton Jenkins shoot
9 anybody on that particular day?

10 A No, sir.

11 Q Okay. And you are saying that Quinton Jenkins
12 never went to the left side of that red car?

13 A I said I never saw anyone go there.

14 Q Okay. Let me ask you this, Mr. Simmons.
15 According to you everybody in the car was talking
16 about going and stealing stuff, stealing some drugs
17 from these folks, right?

18 A Yes, sir.

19 Q And you are just sitting over there in the
20 driver's seat of the car that you don't know who owns
21 it?

22 A No, sir.

23 Q And you're just sitting there waiting for
24 whatever to happen to happen?

25 A Yes, sir.

1 Q And you are thinking about Super Bowl of
2 whatever you were thinking about, right?

3 A Yes, sir.

4 Q And you paid no attention to what was happening
5 at that car?

6 A No, sir.

7 Q And you were paying no attention to how many
8 people were involved in that car or around that car?

9 A No, sir.

10 Q I beg your pardon?

11 A I paid attention when they first went to the
12 car, but after they were there then I looked away and
13 I wasn't paying attention after that.

14 Q After that. So did anybody else come up?

15 A I'm not sure.

16 Q You're not sure, all right. Let's go back a
17 little bit and talk about at this time what was your
18 occupation?

19 A Me, my job?

20 Q Yeah.

21 A I was helping my father at his store.

22 Q And you were going to school?

23 A Yes, sir.

24 Q And you were dealing drugs?

25 A No, sir.

1 Q You never dealt drugs?

2 A No, sir.

3 MR. WILLIAMS: Your Honor, I object at this
4 point.

5 THE COURT: Basis?

6 MR. WILLIAMS: Asked and answered.

7 THE COURT: I'll give him latitude, he can
8 answer the question.

9 MR. WILLIAMS: Your Honor, I will also object
10 as to relevance.

11 THE COURT: Overruled.

12 Q (By Mr. Runyon) You are saying you never dealt
13 drugs in your life?

14 THE COURT: Sustained, asked and answered. You
15 asked the question twice.

16 MR. RUNYON: All right.

17 Q (By Mr. Runyon) So on the day in question, you
18 talked to Mr. Jabez about going to McDonald's to do
19 what now?

20 A He, after I was in the car that night, I heard
21 him say that he was supposed to rob someone for 25
22 pills.

23 Q To whom was he talking when he said this?

24 A He was talking to Bernard.

25 Q He was talking to Bernard?

1 A Yes, sir.

2 Q He wasn't talking to you?

3 A No, sir.

4 Q By the way, did you ever go to Food Lion with
5 Mr. Jabez?

6 A No, sir.

7 Q Back in December?

8 A No, sir.

9 Q Okay. But when Mr. Jabez came back to the car
10 and he said he needed some more money you gave him
11 some money?

12 A Yes, sir.

13 Q But you weren't involved in the drug deal?

14 A No, sir.

15 Q Now when you got to McDonald's Mr. Jenkins,
16 according to you, and Mr. Batiste got out of the car?

17 A Yes, sir.

18 Q And were you -- just clarify, were you parked
19 facing the same way the Honda was?

20 A Yes, sir.

21 Q So they got out on the right-hand side of the
22 car?

23 A Yes, sir.

24 Q And they just walked right over to the car,
25 because I mean it was only like a parking space away,

1 right?

2 A Yes, sir.

3 Q All right. And that's when Quinton pulled out
4 the gun and started shooting?

5 A No. when they first went to the car that's
6 when they held a conversation at first and then Jabez
7 came back to the car with Quinton and asked for more
8 money.

9 Q Okay. And when did Quinton pull out the gun
10 and started shooting according to what you said?

11 A I never saw him pull out a gun.

12 Q And you never saw him shoot anybody, did you?

13 A No, sir.

14 Q Okay. when he came back to the car, based on
15 what you are saying, when he came back to the car with
16 Mr. Batiste, did he have a weapon in his hand?

17 A No, sir, not in my sight.

18 Q Not in your sight. Later on, I believe you
19 said you were with Mr. Jenkins some few days later,
20 right?

21 A Yes, sir.

22 Q And where did he say he got rid of the gun?

23 A He never said.

24 Q Okay. where did he say he got that gun by the
25 way?

1 A He never told me.

2 Q He never told you. Now when did you decide to
3 -- when did you decide that your statement on the 11th
4 was a lie?

5 A I knew it when I first stated it.

6 Q Okay. When did you decide to tell the truth?

7 A After I had some time to think about it.

8 Q And after you were offered something, right?

9 A After I was offered something?

10 Q After you were offered a deal?

11 A I wasn't offered a deal.

12 Q You weren't offered a deal?

13 A It wasn't anything promised me.

14 Q Accessory after the fact of murder is not
15 promised to you?

16 A That was a plea that I was supposed to enter
17 pleading to.

18 Q I understand but that was the deal, wasn't it?

19 A It was nothing promised to me.

20 Q Okay. So what you are saying today is you are
21 testifying despite the fact that you might have to
22 plead to murder, right, is that what you are saying?

23 A I have to plea to accessory after the fact.

24 Q So you don't have to plead to murder?

25 A No, sir.

1 Q You don't have to face life in prison?

2 A No, sir.

3 Q And you knew that when you decided to, quote,
4 tell the truth, right?

5 A I decided to tell the truth when I just had
6 time to think about it.

7 Q Okay. And when was that?

8 A I'm not sure what date.

9 Q Not being a particular date, six months ago,
10 eight months ago?

11 A Truthfully, I'm not sure.

12 Q And you said that Bernard was in this whole
13 thing up to his hips too. He knew everything, right?

14 A I'm not sure he knew but basically probably.

15 Q Well, you all were talking all the way over to
16 McDonald's about stealing drugs?

17 A Yes, sir.

18 Q About stealing drugs?

19 A Yes, sir.

20 Q And Mr. Batiste was talking to you, correct?

21 A He was talking to Quinton.

22 Q He was talking to Quinton?

23 A At what time?

24 Q On the way over to McDonald's when all this
25 conversation going on about ripping these people off

1 for drug.

2 A He wasn't talking to me, I wasn't sure who he
3 was talking to. But before we left he was talking to
4 Bernard about it.

5 Q He was talking to Bernard about it?

6 A Yes, sir.

7 Q Mr. Bernard Green?

8 A Yes, sir.

9 Q And Bernard Green -- had Quinton gotten in the
10 car at that point in time?

11 A Quinton got in afterwards and then he stated it
12 again.

13 Q So basically what you are saying is that those
14 people, not where they are now, but those people shot
15 in the car?

16 A I'm not sure.

17 Q You are not sure?

18 A No, sir.

19 Q Did you even look over there?

20 A I looked over there after I heard the first
21 shot.

22 Q All right. And where were the people?

23 A I'm not sure, I didn't pay attention.

24 Q You did not see the driver?

25 A No, sir.

1 Q You didn't see the passenger?

2 A Not when I looked. When the shot was fired I
3 didn't really pay attention. I just looked and I saw
4 the flash from the gun but I did not observe the area.

5 Q Okay. You saw the flash from the gun. Take
6 your pointer and show me where the flash was?

7 A Probably over there. (Witness indicating.)

8 Q Probably over there, on the right-hand side of
9 the red car?

10 A Yes, sir.

11 Q The side that Quinton never went to?

12 A I'm not sure.

13 Q Okay. He either did go over there or he
14 didn't?

15 A I didn't see him go over there.

16 Q You didn't see him go over there?

17 A No, sir.

18 Q All right. When you looked over there did you
19 see Quinton Jenkins?

20 A When -- not after, not after the situation was
21 in the process. Like after the shot was fired when I
22 looked up I didn't see him.

23 Q You didn't see him at all?

24 A No, sir.

25 Q And you don't know where he was?

1 A No, sir.

2 Q You don't even know if he was by the car when
3 the gun was fired, or a gun or guns were fired?

4 A No, sir.

5 Q Okay. Now did you know either of the people in
6 that car?

7 A No, sir.

8 Q All right. And you never spoke to anybody that
9 was identified that was in that car, did you?

10 A No, sir.

11 Q All right. After you left the car by the
12 , what did you do -- where
13 did you and Mr. Batiste go?

14 A Batiste already had left when I first got --
15 when we first got out of the car. Then I wasn't sure
16 where he went.

17 Q He just walked off?

18 A Yes, sir.

19 Q And so you just said, well, you know -- what
20 did you do?

21 A That's when I had locked the car door again. I
22 walked off away from the car.

23 Q Okay. So you locked the car door, and does it
24 have electronic locks on it or electric lock on it?

25 A I don't remember.

1 Q where did you leave the key?

2 A I still had the key.

3 Q So when you left after leaving the car you left
4 with the key?

5 A Yes, sir.

6 Q Okay. So you walked away from that Buick and
7 you had the key right there in your pocket?

8 A Yes, sir.

9 Q Okay. Did you ever go back to the car?

10 A No, sir.

11 Q So you never took the key back?

12 A I gave it -- I gave the key to my cousin and
13 then my cousin gave the key back to Jabez.

14 Q Okay, your cousin gave the key to Jabez?

15 A Yes, sir.

16 Q And when was that?

17 A That was like I'm not sure how long after, but
18 then Jabez called on the cell phone.

19 Q Was it an hour, two hours, three hours, next
20 day?

21 A It was like that same night, probably I would
22 say no more than two hours.

23 A No more than two hours, okay. And you had to
24 drive the car because Mr. Batiste didn't have a
25 driver's license?

1 A No, not after he came back.

2 Q Well if he didn't have a driver's license when
3 you went, he didn't have a driver's license when you
4 came back, right?

5 A I didn't drive the car after he came back.

6 Q You drove the car?

7 A Yes, sir.

8 Q Okay. And that was because Mr. Batiste didn't
9 have a driver's license?

10 A Yes, sir.

11 Q Okay. What were you wearing that night?

12 A I believe I had a red shirt and I think black
13 pants. I'm not sure.

14 Q Okay. And what did Mr. Jenkins, what was he
15 wearing?

16 A I'm not sure. I can't remember.

17 Q You can't remember?

18 A No, sir.

19 Q Okay. Where did he have the weapon?

20 A I never saw him with a weapon.

21 Q Okay. Now did you see anything on him that
22 looked like a weapon?

23 A No, sir.

24 Q Okay. Now when you gave your original
25 statement you didn't tell Mr. Osborn anything about

1 Jabez giving Quinton Jenkins a chain, did you?

2 A No, sir.

3 Q Okay. What about the earrings?

4 A I don't know anything about any earrings.

5 Q You don't know anything about any earrings?

6 A No, sir.

7 Q So you don't know who got earrings or what have
8 you?

9 A No, sir.

10 MR. WILLIAMS: Your Honor, I object to that.

11 THE COURT: Basis?

12 MR. WILLIAMS: Says he didn't have knowledge.

13 THE COURT: Please approach, no speaking
14 objections.

15 (Whereupon, a discussion was held at the bench
16 off the record.)

17 THE COURT: You may proceed, rephrase.

18 Q (By Mr. Runyon) Mr. Jabez, did you ever see
19 Mr. Jenkins or even Mr. Batiste leaning over either
20 body?

21 A Leaning over? Leaning over what?

22 Q Leaning over either body?

23 A No, sir.

24 Q Did you ever see one of them kneeling on the
25 ground, getting anything from either body?

1 A No, sir.

2 Q Okay. That was the hard part, getting up. And
3 so you know nothing about any earring, you know
4 nothing about the chain other than Jabez gave Mr.
5 Jenkins the chain?

6 A Yes, sir.

7 Q Okay. Now what did you get out of all this?

8 A Nothing.

9 Q What were you supposed to get out of all this?

10 A Jabez said he would give me some money.

11 Q Okay. So you were supposed to be paid to be
12 the driver?

13 A Yes, sir.

14 Q And how much were you supposed to be paid?

15 A He didn't say.

16 Q Beg your pardon?

17 A He didn't say.

18 Q And let's go back. I just got -- when did he
19 tell you he would pay you for driving?

20 A That was after the situation already happened.

21 Q The situation had already happened?

22 A Yes, sir.

23 Q So on the way over when he was talking about
24 stealing drugs and what have you, he didn't tell you
25 he was going to give you some money then?

1 A No, sir.

2 Q He told you he'd give you some money
3 afterwards?

4 A Yes.

5 Q And you were all for that, weren't you?

6 A Yes, sir.

7 Q And the reason why you were all for that is
8 because you had done a job here, you'd driven the car,
9 right?

10 A Right. I just felt like I needed more money.

11 Q I beg your pardon?

12 A I said I just felt like I needed more money.

13 Q You needed more money?

14 A Right.

15 Q All right. Now let's -- let me figure that
16 out. And if you could talk into the microphone I sure
17 would appreciate it because I'm having trouble hearing
18 you.

19 You figured after you got back to
20 Apartments that you needed more money?

21 A No. He didn't, but afterwards when he called
22 me and then he said he would give me some money and I
23 didn't turn it down because I felt like I needed
24 money.

25 Q You needed money, you didn't need more money

1 you just needed money?

2 A Yes, sir.

3 Q And how much did you all talk about?

4 A He didn't say anything but he said in a month.

5 Q Okay. So when you went back after you dropped
6 Mr. Green and Quinton off you went back to :

7 Apartments?

8 A Yes, sir.

9 Q Did you meet up with anybody back there?

10 A No, sir. I saw my cousin Michael Johnson and
11 Andre.

12 Q But Mr. Batiste didn't stay around?

13 A No, sir. I wasn't sure where he was at at the
14 time.

15 Q So did you do anything with those two people,
16 watch TV, order pizza, what was it?

17 A They were ordering pizza.

18 Q Okay. And who paid for the pizza, if you
19 remember?

20 A I'm not sure.

21 Q Well, if you gave Mr. Batiste 10 dollars that
22 night, how much money did you have in your pocket
23 roughly if you remember?

24 A I'm not sure.

25 Q You at least had 10 dollars?

1 A I probably had, it wasn't any more than 20.

2 Q Okay. You didn't have any more than 20, you
3 had already given him 10?

4 A Yes, sir.

5 Q At any -- strike that. When Mr. Batiste, based
6 on what you said, and Mr. Jenkins came back to the car
7 and Mr. Batiste asked you for, quote, more money?

8 A Yes, sir.

9 Q Where was Mr. Jenkins at that point in time?

10 A I say no more than five feet away.

11 Q Five feet away which way if you recall?

12 A He was on the left side of him.

13 Q Left side of?

14 A Batiste.

15 Q Beg your pardon?

16 A He was on the left side of Batiste.

17 Q He was on the left side of the Batiste but on
18 the right side of the car or driver's side of your
19 car?

20 A It was on the passenger side.

21 Q Okay. And then when Batiste turned to go back
22 to the car, where did Mr. Jenkins go?

23 A He went back to the car with him.

24 Q You are sure about that?

25 A Yes, sir.

1 Q And you are sure he never went to the passenger
2 side of that car?

3 A I never saw him go to the passenger side.

4 Q Okay. And now you see the picture there with
5 someone covered by a tarp which everyone knows is a
6 body at this point in time?

7 A Yes, sir.

8 Q Was that that position of that person when you
9 drove off?

10 A I wasn't paying attention.

11 Q Okay. Was the person, other person that you
12 say was in the car, were they still in the car when
13 you drove off?

14 A I didn't observe the area that good.

15 Q So all this shooting and you didn't look?

16 A No, sir.

17 Q Now, Mr. Simmons, you took Mr. Jenkins back to
18 as you described it?

19 A Yes, sir.

20 Q Because he told you he had to go to work,
21 didn't he?

22 A Yes, sir.

23 Q And was he wearing his Taco Bell uniform at
24 that time?

25 A I'm not sure. I can't remember.

1 Q Can't remember. Could he have been wearing it?

2 A He probably -- I don't know, he could have
3 been.

4 Q Okay. Did you -- and you don't know where
5 weapons came from and you don't know where weapons
6 went to?

7 A I didn't know where they went to but I remember
8 Jabez had one on the way there.

9 Q And that's the revolver?

10 A Yes, sir.

11 Q And where did he carry that on his person, just
12 stick it in his belt?

13 A I'm not sure where he put it.

14 Q Was it short barrel, long barrel?

15 A It was probably short barrel. Wasn't any
16 longer, probably no longer than that right there.
17 (Witness indicating.)

18 Q Okay. If you know of your own knowledge tell
19 us, don't tell us what someone told you, do you know
20 if Mr. Batiste, did Mr. Batiste say he knew these
21 people that you all were going to go meet?

22 A He didn't say anything to me about it.

23 Q Did he say anything to BJ or Mr. Jenkins about
24 that?

25 A I'm not sure.

1 MR. RUNYON: No further questions, Judge.

2 THE COURT: Any redirect of the witness?

3 MR. WILLIAMS: Thank you, yes, Your Honor.

4 THE COURT: You may proceed.

5 MR. WILLIAMS: Thank you.

6 REDIRECT EXAMINATION

7 BY MR. WILLIAMS:

8 Q Mr. Simmons, I want to go back to some of the
9 things Mr. Runyon asked you about, and that was what
10 you were paying attention to when gunshots were going
11 off. What were you able to focus on in that
12 situation?

13 A When the gunshot was fired?

14 Q Yeah.

15 A After the first shot or?

16 Q Right after the first shot.

17 A After the first shot, that's when I looked over
18 towards the car. But then all I saw was like the
19 flash from the gun.

20 Q You testified earlier that were afraid you
21 might be getting shot at?

22 A Yes, sir.

23 Q Why were you afraid of that?

24 A Because I know, well, of course it happens but
25 I wasn't sure if they had a gun or not.

1 Q So when you were looking over there were you
2 concerned about yourself or about seeing what was
3 going on?

4 A I was concerned about myself.

5 Q And what were you trying to, I guess, pay
6 attention to or look for when you looked over there,
7 people's faces or dangers?

8 A Dangers.

9 Q So when Mr. Runyon asked you about not being
10 able to see, you weren't really looking for anybody,
11 were you?

12 A No, sir.

13 Q Mr. Runyon asked you about Jabez Batiste
14 calling you and talking to you about money. When was
15 it that he called you in that conversation about him
16 giving you money?

17 A That was afterwards. Like that was after I
18 already returned to my house.

19 Q About how long in hours afterwards, same day,
20 different day?

21 A It was the same day. I'm not sure how long
22 after it was.

23 Q Prior to that had there been any discussion of
24 you getting anything for what happened?

25 A No, sir.

1 Q And when he spoke with you about giving you
2 money, was it in the context of keeping your mouth
3 shut, or was it in the context of a reward for what
4 you did?

5 A He just said that he was going to give me some
6 money, he didn't say what for.

7 Q I want to finally ask you about some of the
8 things you talked about and it was on really the level
9 of your involvement in the case. You never got out of
10 the car; is that right?

11 A No, sir.

12 Q You did not know there was going to be anybody
13 getting shot?

14 A No, sir.

15 Q And from what you testified to before it
16 sounded like in the car afterwards people were asking
17 Quinton Jenkins why he shot people?

18 A Yes, sir.

19 Q Did people seem surprised that Quinton Jenkins
20 did that?

21 A Yes, sir.

22 MR. RUNYON: Objection.

23 THE COURT: Basis?

24 MR. RUNYON: Calls for a conclusion.

25 THE COURT: Please approach.

1 (Whereupon, a discussion was held at the bench
2 not on the record.)

3 THE COURT: Sustained, speculation.

4 Q (By Mr. Williams) Mr. Simmons, based on your
5 observations from what you could see of other people
6 in the car, not what you might think they were
7 thinking but from what you could see, did Jabez
8 Batiste or Bernard Green seem surprised by what Mr.
9 Jenkins did?

10 A Yes, sir.

11 Q Why was it or what did you see or what was it
12 that they were doing that showed surprise?

13 A Like facial expressions.

14 Q Were they saying anything?

15 A No, he just asked him why you did it. But then
16 like you could also could tell in their voice like
17 they sounded like it wasn't expected.

18 MR. WILLIAMS: No further questions, Your
19 Honor, thank you.

20 THE COURT: Any objection to the witness being
21 excused from the state?

22 MR. WILLIAMS: No, Your Honor.

23 THE COURT: From the defense?

24 MR. RUNYON: No, Your Honor.

25 THE COURT: Sir, you are excused.

1 I am Forelady, ladies and gentlemen, we are going
2 to take advantage of this break in testimony to take
3 our lunch recess. We will break until 2:30, that give
4 you an hour and 15 minutes for lunch.

5 During the break please do not discuss the case among
6 yourselves or with anyone else. Please do not allow
7 yourselves to be exposed to any media coverage about
8 the case. Again please do not have contact with
9 anyone in or about the courthouse. Please leave your
10 notepads in your seat and see you promptly at 2:30.

11 You may go with your caretakers.

12 (Whereupon, the jurors exit the courtroom.)

13 THE COURT: Anything before we break for lunch
14 from the state?

15 MR. WILLIAMS: No, Your Honor.

16 THE COURT: From the defense?

17 MR. RUNYON: No, Your Honor.

18 THE COURT: How many additional witnesses do
19 you anticipate calling, Mr. Williams? I guess the
20 question to ask is are you call everybody to the list?
21 I'm asking for planning purposes.

22 MR. WILLIAMS: No, Your Honor.

23 THE COURT: How many remaining witnesses do you
24 believe?

25 MR. WILLIAMS: I believe a total of seven.

1 THE COURT: Tell me on the list who you will
2 not be calling.

3 MR. WILLIAMS: I'll tell you who I am calling.
4 I'm going from the bottom, Judge. Dr. Schandl, Dr
5 Presnell, Agent Whitler, Agent Simmons, we just called
6 Travis Simmons, Bernard Green.

7 THE COURT: Okay.

8 MR. WILLIAM: And then the first page number
9 seven and number eight, Michael Hodges and Michael
10 Johnson.

11 THE COURT: Okay. Now is the defendant going
12 to call any witnesses?

13 MR. RUNYON: We don't think so, Judge.

14 THE COURT: I'm not binding you to it, I need
15 to know for planning purposes.

16 MR. RUNYON: We don't think so, Judge.

17 THE COURT: Enjoy Your lunch. See you at 2:15.

18 MR. WILLIAMS: Thank you.

19 (Whereupon, a recess was taken.)

20 THE COURT: Is the state ready to proceed?

21 MR. WILLIAMS: Yes, Your Honor.

22 THE COURT: Is the defense ready to proceed?

23 MR. RUNYON: Yes, Your Honor.

24 THE COURT: Please bring in the jury.

25 (Whereupon, the jurors enter the courtroom.)

1 THE COURT: Ladies and gentlemen, I hope you
2 enjoyed your lunch. We will now resume the trial.

3 You may call your next witness.

4 MR. WILLIAMS: Thank you, Your Honor. The
5 state calls Bernard Green.

6 MR. BERNARD GREEN,
7 after having first been duly sworn to state the truth,
8 the whole truth and nothing but the truth, testified
9 on his oath as follows:

10 THE COURT: You may proceed.

11 MR. WILLIAMS: Thank you, Your Honor.

12 THE COURT: You're welcome.

13 DIRECT EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Green, how old are you?

16 A 19.

17 Q About how tall are you?

18 A 6'1", 6'2".

19 Q Do you know somebody named Jabez Batiste?

20 A Yes, sir.

21 Q How long have you known Jabez Batiste.

22 A Like two, three months.

23 Q And I want to go back to January of last year,
24 January of 2007. In January of 2007 how long had you
25 known Jabez Batiste for?

1 A Like two or three months.

2 Q Did you know somebody named Travis Simmons?

3 A Yes, sir.

4 Q How long had you known Travis Simmons for at
5 that time?

6 A Probably a year.

7 Q Did you know Quinton Jenkins?

8 A Yeah.

9 Q How long did you know Quinton Jenkins for?

10 A A couple of years.

11 Q Had you seen all of them on January 4th, 2007?

12 A Yes, sir.

13 Q How did you first come into contact with any
14 one of them? Who was the first person you saw that
15 day?

16 A Quinton.

17 Q When did you see Quinton?

18 A Earlier that morning.

19 Q What were you doing with Quinton that day?

20 A Chilling.

21 Q Where at?

22 A At Michael's house.

23 Q You say Michael's, what's Michael's last name?

24 A Hodges.

25 Q And when you say chilling, what do you mean by

1 that?

2 A sitting around drinking beer, talking.

3 Q about what time did you first come in contact
4 with Quinton Jenkins that day?

5 A 11:00, 12:00.

6 Q In the morning?

7 A Yes, sir.

8 Q At some point did somebody call you that day,
9 did Jabez Batiste call you?

10 A Yeah, I think so.

11 Q About what time did Jabez Batiste call you?

12 A Couldn't be sure it was -- I am not sure.

13 Q You said you got over to Michael Hodges' house
14 about 11:00 or 12:00. About how long after you got
15 there would you say he called you?

16 A It was dark.

17 Q It was getting dark or it was dark?

18 A It was dark.

19 Q When Jabez Batiste called you, did he tell you
20 that there was any kind of plan he had for the
21 evening?

22 A No, sir.

23 Q Did he ask to meet with you?

24 A No, sir.

25 Q When he called you, did you do anything in

1 response to his call?

2 A No. I mean we got up and left.

3 Q where did you go?

4 A We went to Quinton's house.

5 Q where was Quinton's house?

6 A Down the road.

7 Q Do you know what street Quinton lived on?

8 A

9 Q why did you and Quinton both go to ?

10 A We was supposed to be going to McDonald's.

11 Q what do you mean?

12 A well, we all thought we were going to

13 McDonald's.

14 Q why were you going to McDonald's?

15 A I wouldn't know.

16 Q Did somebody talk to you about it?

17 A No, sir.

18 Q So why did you think you were going to

19 McDonald's?

20 A Somebody did tell me we was going to

21 McDonald's, yeah.

22 Q who told you that?

23 A Quinton.

24 Q And when you were walking with -- when you went

25 over to | with Quinton, did he talk to

1 anybody?

2 A No, sir.

3 Q Did you see him the whole time you were over at
4 his house?

5 A No, I wasn't in the house.

6 Q Did you talk to Jabez Batiste any more while
7 you were over at Quinton's house?

8 A No, sir.

9 Q Did you see him there?

10 A Yes, sir.

11 Q when did you see him?

12 A He pulled up shortly after we got there.

13 Q who was he with, if anybody?

14 A Travis.

15 Q when Jabez pulled up, did you know that he was
16 going to come over there?

17 A No, not -- I know somebody was coming but I
18 didn't know who it was.

19 Q How did you know somebody was coming over?

20 A Quinton told me.

21 Q what did Quinton tell you?

22 A Somebody's coming to pick us up to take us to
23 McDonald's.

24 Q Do you know who it was that told him that?

25 A No, sir.

1 Q when Jabez pulled up, you said Travis was with
2 him?

3 A Yes, sir.

4 Q Where were the two of them at inside the car?

5 A Travis was in the driver's seat and Jabez was
6 in the passenger.

7 Q Jabez, you mean Jabez Batiste?

8 A He was passenger.

9 Q What kind of car was it?

10 A I ain't know exactly.

11 Q Two-door, four-door?

12 A Four door.

13 Q Big car, small car?

14 A Big.

15 Q What did you do when you went out to the car?

16 A Got in the driver's passenger.

17 Q Do you remember talking to Jabez Batiste in the
18 car?

19 A No, sir.

20 Q Do you remember him, did he tell you anything
21 about going to McDonald's or what was going to happen?

22 A No, sir.

23 Q Did you know when you were in the car what was
24 going to happen?

25 A No, sir.

1 Q why did you get in the car?

2 A Because Quinton asked me to.

3 Q When did Quinton ask you to?

4 A I mean, he didn't ask me to go in the car, he
5 said we were going someplace so I just got in the car.

6 Q Did you know where you were going?

7 A Yeah, McDonald's. Yeah.

8 Q When -- did anybody else come out to the car
9 while you were out there?

10 A No, sir.

11 Q What happened while you were inside the car?

12 A We were sitting there basically listening to
13 music.

14 Q While you were listening, did anybody come out?

15 A Quinton came out of the house.

16 Q When did Quinton come out of the house?

17 A Shortly. I mean like maybe five minutes.

18 Q When Quinton came out was there anything talked
19 about that you recall?

20 A No, sir.

21 Q Did anybody talk about where you all were
22 going?

23 A No.

24 Q Do you remember anybody saying anything about
25 going to McDonald's?

1 A we knew, we already had that established so.

2 Q Did you know what they planned on doing over
3 there?

4 A No, sir.

5 Q At some point did you find out what was going
6 to happen over there?

7 A Yes, sir.

8 Q When did you find out what was going to happen?

9 A When we got close to McDonald's.

10 Q When you say close, what do you mean?

11 A Like when he was about to turn in.

12 Q As you were diving to McDonald's, what was
13 talked about?

14 A Nothing really. When we got close there they
15 said they about to go buy some drugs.

16 Q Did anybody talk about robbing anything at that
17 point?

18 A No, sir.

19 Q Do you remember anybody say anything about
20 taking things?

21 A Bez said if they were too high he was going to
22 take it.

23 Q Who said that?

24 A Bez.

25 Q Where was Bez at when he said if it was too

1 high they were going to take it?

2 A Front passenger.

3 Q And you were in the back driver's side?

4 A Yes, sir.

5 Q Did he say it loud enough where you could hear
6 it?

7 A He said -- yeah, well the whole car could hear
8 him.

9 Q It was loud enough where you think everybody
10 else could have heard him?

11 A Yes, sir.

12 Q Did Quinton Jenkins say anything or do anything
13 when that was said?

14 A No, sir.

15 Q Where were you all, where was the car relative
16 to McDonald's when that was said or when you remember
17 that was said?

18 A We were about to turn in.

19 Q When you all turned in, what happened after
20 that statement was made?

21 A We drove around and went and parked.

22 Q And do you remember Jabez being on the cell
23 phone at all?

24 A I think he was.

25 Q Do you remember what he was saying on the cell

1 phone?

2 A No, sir.

3 Q Do you recall where you all were at as far as
4 close to McDonald's while he was on the cell phone?

5 A I think we were already in the parking lot when
6 he was on the cell phone.

7 Q When you all pulled in where did you park?

8 A On the side where the drive-thru window is at.

9 Q Do you know why you all parked in that spot?

10 A No, sir.

11 Q When you parked in that spot, did you see
12 another car in the parking lot?

13 A There was a couple cars in the parking lot,
14 yes, sir.

15 Q Was there a red car there?

16 A Yes, sir.

17 Q Did you know anything about the car when you
18 all pulled in that you were aware of?

19 A No, sir.

20 Q Was anything said about the red car?

21 A No, sir.

22 Q I'm going to put over right behind you in a few
23 seconds a diagram. Push up on that and it will give
24 you a lazer pointer. Okay.

25 Over behind you there is State's Exhibit 28.

1 Do you recognize that area?

2 A Yes, sir.

3 Q Is that the parking lot you were talking about?

4 A Yes, sir.

5 Q Can you show the jury with the laser pointer
6 where it is you recall parking?

7 A Somewhere right here. (Witness indicating.)

8 Q Do you recall where the red car was at?

9 A Somewhere right here. (Witness indicating.)

10 Q I going to put up State's 10. Did you
11 recognize that?

12 A Yes, sir.

13 Q What is it?

14 A That red car.

15 Q When you pulled into the parking lot, where did
16 you all go? Park?

17 A Yes, sir.

18 Q Did you notice anything about the red car if
19 there was people in it or not?

20 A Yeah.

21 Q What did you notice?

22 A Two people in the car.

23 Q Where were they at in the car?

24 A One was in the driver's seat and one was in
25 the, I think the back seat.

1 Q Did you recognize the two people in the car?

2 A No, sir.

3 Q And when you pulled up, what happened, what did
4 people do?

5 A Got out of the car.

6 Q Who got out?

7 A Travis and Quinton -- not Travis and Quinton,
8 Bez and Quinton.

9 Q Where was Travis?

10 A In the driver's seat.

11 Q Did he ever get out of the car?

12 A No, sir.

13 Q Did you get out?

14 A No, sir.

15 Q Why not?

16 A Didn't nobody ask me to.

17 Q So you said that Jabez and Quinton got out?

18 A Yes, sir.

19 Q Where did they go?

20 A To the red car.

21 Q When you say to the red car, can you show the
22 jury with the laser pointer where at in the red car
23 they went?

24 A The passenger side.

25 Q And when they went to the passenger side was

1 that the first time they got out or the first time
2 they went there or second time?

3 A First.

4 Q When they went over there, what did you see
5 happen?

6 A I mean they was standing there for a minute
7 then they came back.

8 Q Now when you say they went to the passenger
9 side could you see what they were doing?

10 A No, sir.

11 Q When they came back what happened?

12 A Someone, I mean Jabez asked for some money.

13 Q Who did he ask?

14 A I think he was just asking, he didn't say
15 nobody's name.

16 Q Did anybody give him money?

17 A I think Travis.

18 Q Did you give him money?

19 A No, sir.

20 Q When they went, are you positive that they went
21 to the passenger, not the driver's side the first time
22 they went over there?

23 A Not too sure. I think they went to the
24 passenger side.

25 Q They came back, and did you see how much money

1 they got from Travis or how much Jabez got from
2 Travis?

3 A No, sir.

4 Q when they went to the car, who -- what were
5 they doing over there, could you tell?

6 A No, sir.

7 Q were they talking to anybody?

8 A I mean they were talking to the people in the
9 car.

10 Q when they came back did they say anything to
11 you or to Travis?

12 A No, he just asked for money.

13 Q Did he say why he wanted the money?

14 A No.

15 Q when he said that about the money, how close or
16 how far was Quinton Jenkins from Jabez Batiste?

17 A I'm not sure where he was at.

18 Q So did you see Quinton there with him?

19 A Yeah. I just didn't sure where he was standing
20 at right then.

21 Q was he between the red car and your car?

22 A I think so.

23 Q And after Jabez got the money from Travis,
24 where did they go?

25 A Back to the car.

1 Q where did they go with regards to the red car
2 the second time they went over?

3 A Back to the driver's passenger -- I mean back
4 to the passenger side.

5 Q Could you see where they were standing when
6 they went to that side?

7 A I don't know what you mean by standing.

8 Q Where did they go, can you indicate on the?

9 A (Witness indicating.)

10 Q So back to the passenger side?

11 A Yes, sir.

12 Q Could you tell if the doors were open or closed
13 on the car?

14 A I think it was open.

15 Q What doors do you think were open, if any?

16 A The passenger door.

17 Q And did you see where Jabez and Quinton went or
18 what they did when they went over there?

19 A No, they just went back over there.

20 Q Do you recall ever saying that, them boys are
21 giving it up now?

22 A No, sir.

23 Q Is it possible you could have said that?

24 MR. RUNYON: Your Honor, leading.

25 THE COURT: Sustained, leading. You may

1 rephrase.

2 Q (By Mr. Williams) Do you remember saying
3 anything?

4 A No, sir.

5 Q Could you have said things?

6 A I probably could, but I don't think I said
7 that.

8 Q When Jabez and Quinton went back over there,
9 what were they going over there to do from what you
10 knew?

11 A I guess go buy drugs.

12 Q Had there been anything, you just said earlier
13 there was talk about if the price was too high they
14 would take them?

15 A Yes, sir.

16 Q Had you seen any guns out there?

17 A Well, I saw Bez went into the glove compartment
18 and reached for something, but I'm not sure what it
19 was.

20 Q When did he do that?

21 A That was around the time we first got there.

22 Q And when you say he reached for something, did
23 you see anything in his hand after he reached?

24 A No, sir.

25 Q Did you notice any kind of handle in his hand

1 or anything like that?

2 A I saw a piece of it, but.

3 Q Did it look like a piece of a gun handle?

4 A It could have been, yes, sir.

5 Q Are you sure you didn't see him with a gun at
6 all?

7 A No, sir.

8 Q But you saw something in his hand?

9 A Yes, sir.

10 Q When they went over to the passenger side the
11 second time, what happened then?

12 A They standing there and then like I saw a flash
13 and that's when I heard gunshots.

14 Q When you looked over, did you see the shots?

15 A No, sir.

16 Q Did you see the flash?

17 A I just saw a flash.

18 Q When you saw the flash, what did you see at the
19 Honda?

20 A I mean they was standing there, so.

21 Q Was there anybody inside the car?

22 A Jabez.

23 Q Tell me, with the laser pointer, where Jabez
24 was at inside the car?

25 A In the front -- I mean the front passenger

1 jury.

2 Q And where was Quinton Jenkins?

3 A By the passenger door. (witness indicating.)

4 Q was he standing up or inside the car?

5 A Standing up.

6 Q The two people that were inside the car, where
7 were they?

8 A One in the driver's seat and I think one was in
9 the back seat.

10 Q When you saw that flash, where did it come
11 from?

12 A The front seat.

13 Q Can you show the jury where you saw the flash.

14 A Right there someplace. (witness indicating.)

15 Q was that the -- before that flash did you hear
16 any gunshots?

17 A No, sir.

18 Q After that flash what was the next thing you
19 saw?

20 A I ducked.

21 Q why did you duck?

22 A Because I heard the first gunshot.

23 Q what was it about the gunshot that made duck?

24 A Bullets, I'm not trying to get shoot.

25 Q why did you think you might got shot?

1 A Because somebody was shooting.

2 Q So you ducked down and what did you hear at
3 that point? Or if you saw anything, what did you see?

4 A All I hear was gunshots again.

5 Q When you say you heard gunshots, what did they
6 sound like?

7 A Gunshots.

8 Q How many?

9 A Oh, like five, six, around that number.

10 Q Could you tell generally where they were coming
11 from?

12 A No, sir.

13 Q Would you say they were coming from the same
14 area or different area from where you saw the flash?

15 A I'm not sure.

16 Q And when you heard the shots, were they in one
17 series or was there a separate series of shots?

18 A I think one series.

19 Q What was Travis doing while this was going on?

20 A Sitting in the front seat.

21 Q Could you tell if he was trying to drive or
22 anything like that?

23 A No, sir.

24 Q Were you looking to see if he was?

25 A No, sir.

- 1 Q After you heard the shots, what happened?
- 2 A That's when everybody came back to the car.
- 3 Q When you say everybody, who came back to the
- 4 car?
- 5 A Bez and Quinton.
- 6 Q Where was the car at when they came back to it?
- 7 A Still sitting in the same spot.
- 8 Q Had it started to move yet?
- 9 A No, sir.
- 10 Q Who came back to the car first?
- 11 A Bez.
- 12 Q And how far after Bez got to the car did
- 13 Quinton get to the car?
- 14 A Right behind him.
- 15 Q What part of the car did they get into?
- 16 A Bez got in the front seat and Quinton got back
- 17 in the back seat.
- 18 Q What happened after Jabez and Quinton got back
- 19 in the car?
- 20 A They started saying go.
- 21 Q Did that happen, did you go?
- 22 A Yes, sir.
- 23 Q Did you see anybody out there injured?
- 24 A No, sir.
- 25 Q As you all left, as you went, which direction

1 did you go?

2 A Out the front side in the front of the store.

3 Q As you went out the front was anybody talking about
4 what just happened?

5 A No, sir.

6 Q Did anybody ask, what did you do that for or
7 why did that happen?

8 A We asked what happened, but you know.

9 Q Did anybody say what happened?

10 A No, sir.

11 Q Do you remember Quinton Jenkins ever saying why
12 it happened?

13 A No, sir.

14 Q As you drove did anybody say why it just
15 happened the way it did?

16 A Nobody said nothing about it.

17 Q As you all went back, as you drove, which way
18 did you drive or where did you go to?

19 A We got on Sam Rittenberg and then went inside

20

21 Q where did you go to in ?

22 A My house.

23 Q That's on ?

24 A Yes, sir.

25 Q what happened or did anybody get out of the car

1 there?

2 A Me and Quinton.

3 Q Did you talk to Quinton at that point about
4 what happened?

5 A No, sir.

6 Q Did you ever say anything to Quinton at that
7 point about the situation?

8 A No, sir.

9 Q why not?

10 A Because I mean I did not need to know really
11 too much of what happened.

12 Q why didn't you want to know what happened?

13 A I just didn't want to know.

14 Q What did you and Quinton do when you got out of
15 car over at 1700 17?

16 A We went into the backyard.

17 Q was there anybody else in the backyard?

18 A Yeah.

19 Q who was back there if you recall?

20 A Mike, Snoop, this has been a long time.

21 Q when you say Mike you mean Michael Hodges?

22 A Yes.

23 Q Did Quinton talk to Mike Hodges?

24 A Yeah, I think so.

25 Q Do you recall hearing any conversation or hear

1 Quinton say anything about happened in the backyard?

2 A I didn't hear him say nothing about, you know,
3 to nobody, but no.

4 Q When Quinton got out of the car did he talk to
5 Jabez at all?

6 A No, sir.

7 Q Was there any kind of jewelry around?

8 A I think there was a chain.

9 Q Tell the jury about the chain, what happened?

10 A We was on -- I don't know, it was a little
11 argument over the chain.

12 Q When you say a little argument, what do you
13 mean?

14 A I want the chain, I want the chain, stuff like
15 that.

16 Q Who was arguing with who?

17 A Bez and Quinton.

18 Q Who was telling who they wanted the chain?

19 A Both of them.

20 Q Who had the chain?

21 A Jabez.

22 Q Did he have any pills?

23 A I think so, yeah.

24 Q Did you see the pills?

25 A No, sir.

1 Q why did you think he had pills?

2 A I guess he took them.

3 Q why did you think he had pills? I'm not asking
4 where he got them from, I'm asking you why you think
5 he had them?

6 A I don't know.

7 Q Did you ever see them?

8 A Uh-uh.

9 Q Did he say anything about them to Quinton?

10 A No.

11 Q But you knew he was going to get pills?

12 A Yes, sir.

13 Q You say that they argued about the chain, they
14 both said they wanted it?

15 A Yes, sir.

16 Q You said you saw that Jabez had it, where did
17 he get it from as you were sitting there, was it in
18 his pocket, was it on the ground, where did it come
19 from?

20 A I think it was in his hand.

21 Q When he was arguing about it, did he give it to
22 anybody?

23 A I don't know who got the chain. I think -- I'm
24 not sure.

25 Q Do you remember seeing him give it to Quinton?

1 A I'm not really -- I think he did but I'm not
2 positive that he did.

3 Q But they were arguing about it?

4 A Yes, sir.

5 Q Did you see the chain?

6 A No, sir, not clear enough.

7 Q Did you see anything on it like an emblem or
8 anything like that?

9 A It had a charm, yes.

10 Q What did the charm look like?

11 A I did not see it clear enough.

12 Q So it had a charm. About how big was the
13 charm?

14 A (Witness indicating.) About that big.

15 Q Good size charm?

16 A Yes, sir.

17 Q After you went back to Michael Hodges -- I'm
18 sorry -- Michael Hodges' house, did you talk to
19 anybody else about this case as far as what happened?

20 A No, sir.

21 Q Did you ever talk to Quinton about it again?

22 A No, sir.

23 Q You talked to the police about it?

24 A Yes, sir.

25 Q Did you tell them the truth about what

1 happened?

2 A Yes, sir.

3 Q The first time?

4 A Yes, sir.

5 Q Did you tell them you knew there was going to
6 be a drug deal that was going to happen or a drug
7 rip-off?

8 A Yeah.

9 Q You told them that the first time?

10 A No. I told them I can't remember what I said
11 the first time.

12 Q When you talked to them the first time were you
13 trying to stay out of trouble?

14 A Yes, sir.

15 Q So did you tell them the whole truth that time?

16 A No, sir.

17 Q You ended up getting charged with murder?

18 A Yes, sir.

19 Q Was there a preliminary hearing on that case?

20 A Yes, sir.

21 Q What happened with the charge at the
22 preliminary hearing?

23 A They dropped it.

24 Q Who dropped it?

25 A The judge.

1 Q There was no agreement for that charge to be
2 dropped against you, was there?

3 A No, sir.

4 Q In fact right now are you charged at all right
5 now?

6 A Yes, sir.

7 Q what are you guilty of in this case?

8 A Being there.

9 Q Is there a charge that goes along with that?

10 A Misprision of a felony.

11 Q And your understanding is that you are actually
12 going to plead guilty to accessory after the fact of
13 murder?

14 A I don't know.

15 Q You talked to your lawyer about that?

16 A Uh-uh, not yet.

17 Q And you were willing to come in and say what
18 you remember and what you knew about the case even
19 though you are charged with a crime right now?

20 A Yes, sir.

21 Q what was it that you did wrong in this case?
22 what did you do that got you into trouble?

23 A Being there.

24 Q what was it about being there?

25 A I guess just being there and not telling all I

1 know the first time with that.

2 Q I want to ask you, Bernard, about your memory.

3 How good is your recollection of these events?

4 A Not really that good.

5 Q Do you want to be in here testifying?

6 A No, sir.

7 Q Do you want to have any part of this?

8 A No, sir.

9 Q why?

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

11 Q Quinton Jenkins is a friend of yours, isn't he?

12 A Yes, sir.

13 Q You don't want to get him in trouble, do you?

14 A I mean I don't want I suppose.

15 Q You do or you don't?

16 A I mean I wouldn't want to get nobody in trouble
17 actually.

18 Q So if it wasn't for the subpoena that you were
19 served with, you wouldn't be here at all?

20 A No, sir.

21 MR. WILLIAMS: Nothing else, thank you.

22 THE COURT: You may proceed.

23 CROSS-EXAMINATION

24 BY MR. RUNYON:

25 Q Mr. Green.

1 A Yes, sir.

2 Q Essentially, as I understand your testimony,
3 the -- basically you and Quinton are kind of in the
4 same boat, you are both just there?

5 A Yes, sir.

6 Q Okay. Quinton may have gone over by the car
7 but all were just both there?

8 A Yes, sir.

9 Q whatever the deal was going down was Mr.
10 Batiste's deal?

11 A To my understanding, yes.

12 Q Now you never saw Mr. Jenkins with a weapon of
13 any kind?

14 A No, sir.

15 Q And you did see Mr. Batiste in the car?

16 A Yes, sir.

17 Q In the red car?

18 A Yes, sir.

19 Q Do you know if he opened the door of that car?

20 A I'm not sure.

21 Q Okay. And Quinton was standing toward the back
22 of the car? Let's turn this back on.

23 A He was standing somewhere right here. (Witness
24 indicating.)

25 Q kind of by the back passenger window so to

1 speak?

2 A Yes, sir.

3 Q And do you know if he was leaning on the car,
4 was he just standing there?

5 A I'm not sure.

6 Q I mean what you could see, was he doing
7 anything?

8 A No, sir.

9 Q okay. And you all got out of the car, whose
10 house did you all get off at?

11 A Michael Hodges.

12 Q Okay. And at Michael Johnson's (sic) house,
13 did Quinton produce a weapon of any kind to get rid of
14 or anything like that?

15 A No, sir.

16 Q All right. How was he dressed that day, was he
17 in his Taco Bell uniform?

18 A Yes, sir.

19 Q And other than the discussion of -- strike
20 that. As it relates to Mr. Travis Simmons who was
21 driving the car.

22 A Yes, sir.

23 Q He gave Mr. Batiste some money, did he not?

24 A Yes, sir.

25 Q You don't know how much?

1 A No, sir.

2 Q And so Mr. Batiste was funding whatever -- Mr.
3 Simmons was funding at least help funding whatever Mr.
4 Batiste was doing?

5 A That's right.

6 Q And you weren't funding anything that day, that
7 night, were you?

8 A No, sir.

9 Q As a matter of fact would it be a fair
10 statement to say maybe you thought you would get
11 something to eat when you went to McDonald's?

12 A Yes, sir.

13 Q If Quinton paid for it?

14 A Yes, sir.

15 Q And you thought there was actually going to be
16 up purchasing of McDonald's burgers?

17 A Yes, sir.

18 Q And did you see -- did you say you saw a flash
19 inside of that car?

20 A Yes, sir.

21 MR. RUNYON: No further questions, Judge.

22 THE COURT: Any redirect of the witness?

23 MR. WILLIAMS: Briefly, Your Honor.

24 THE COURT: You may proceed.

25 REDIRECT EXAMINATION

1 BY MR. WILLIAMS:

2 Q Your Honor, I want to go over what Mr. Runyon
3 started talking about which is, you didn't get out of
4 the car?

5 A No, I didn't.

6 Q why didn't you get out?

7 A Because I mean I don't really know why I didn't
8 get out. I didn't get out.

9 Q Quinton got out?

10 A Yes, sir.

11 Q And from what you could tell he was with Jabez
12 Batiste everywhere he went?

13 A Yeah.

14 Q why didn't you do that?

15 A I don't know. I didn't.

16 MR. WILLIAMS: Nothing else, Judge.

17 THE COURT: Any objection to the witness being
18 excused from the state?

19 MR. WILLIAMS: No, Your Honor.

20 THE COURT: From the defense?

21 MR. RUNYON: No, Your Honor.

22 THE COURT: You are excused. You may call your
23 next witness.

24 MR. WILLIAMS: Thank you, Your Honor. State
25 calls Michael Johnson.

1 MR. MICHAEL JOHNSON,
2 after having first been duly sworn to state the truth,
3 the whole truth and nothing but the truth, testified
4 on his oath as follows:

5 THE COURT: You may proceed.

6 MR. WILLIAMS: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. WILLIAMS:

9 Q Mr. Johnson, you know Jabez Batiste?

10 A Yes.

11 Q Friends with him?

12 A Yeah.

13 Q If you went back to January 4th, 2007?

14 A Yeah, I know him.

15 Q Did you see him that day?

16 A Uh-hum.

17 Q Where did you see him that day?

18 A My sister's house.

19 Q Where is your sister's house?

20 A Apartments.

21 Q Had you seen him earlier that day?

22 A Yeah, I seen him. Uh-hum.

23 Q When did you see him?

24 A He come to my cousin's house.

25 Q Who is your cousin?

1 A Travis Simmons.

2 Q Did you see him with a gun?

3 A If I seen him with a gun that day?

4 Q Yeah, Jabez with a gun that day?

5 A Yeah, I seen him with a gun.

6 Q was it a revolver?

7 A Yeah.

8 Q what caliber?

9 A .22.

10 Q Did he have that a lot, carry it a lot?

11 A Yeah.

12 Q That was on January 4th, 2007?

13 A Yes.

14 Q Some people got killed that night; is that
15 right?

16 A Yeah.

17 Q Did you see Jabez after that?

18 A Yeah.

19 Q Did you see him with a gun after that?

20 A No.

21 Q You know Quinton Jenkins?

22 A Yeah.

23 Q Do you see him before those people got killed?

24 A No.

25 Q Did you see him after?

1 A Uh-uh.

2 Q Do you remember him telling you about what
3 happened in that car?

4 A No.

5 Q You never saw Quinton Jenkins afterwards?

6 A No.

7 Q Never talked to him about anything that
8 happened in the back of that car?

9 A No.

10 Q If somebody else said you said that, would they
11 not be telling the truth?

12 MR. RUNYON: Objection, Your Honor.

13 THE COURT: Basis.

14 MR. RUNYON: He's asking him to --

15 THE COURT: No speaking objections. Please
16 approach.

17 (Whereupon, a discussion was held at the bench
18 not on the record.)

19 THE COURT: The objection is sustained.

20 Sir, if you can speak directly into the
21 microphone please.

22 You may continue, Mr. William.

23 MR. WILLIAMS: Thank you.

24 Q (By Mr. Williams) Mr. Johnson, do you know
25 this fellow in the front row, Jim Neasmith (phonetic)?

1 A Uh-hum.

2 Q He works with my office, the solicitor's
3 office?

4 A Yeah.

5 Q He got you here to court today?

6 A Uh-hum.

7 Q You did not want to be here otherwise, right?

8 A Nope.

9 THE COURT: I need you to remove your hand from
10 your mouth. And I need you to speak clearly and
11 loudly and answer yes or no. And speak directly into
12 the microphone.

13 Q (By Mr. Williams) You told him what Quinton
14 told you, didn't you?

15 A I didn't tell him nothing.

16 Q I'm sorry?

17 A I didn't tell him nothing.

18 Q You did not tell the investigator anything
19 about what Quinton told you?

20 A I didn't tell a statement.

21 Q The question is, did you tell Mr. Neasmith, the
22 investigator with the solicitor's office, what Quinton
23 told you?

24 A You got a statement, you read the statement,
25 that's what you know.

1 Q Mr. Johnson, I'm asking you what you told him
2 not what you say?

3 A I can't tell you more than what the statement
4 say.

5 Q Did you tell --

6 A No.

7 Q You didn't tell him anything about Quinton?

8 A I tell him what the statement says.

9 Q You don't want to be here, do you?

10 A No.

11 MR. WILLIAMS: Nothing else.

12 THE COURT: Any questions from the witness?

13 MR. RUNYON: Just one question.

14 CROSS-EXAMINATION

15 BY MR. RUNYON:

16 Q When you made that statement at the solicitor's
17 office, did you tell the truth?

18 A What statement? Yeah.

19 Q Are you telling the truth today as you sit
20 there?

21 A Uh-hum.

22 MR. RUNYON: No further questions.

23 THE COURT: Any redirect?

24 MR. WILLIAMS: No, Your Honor.

25 THE COURT: Any objection to the witness being