

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County
Daniel F. Pieper, Circuit Court Judge

Opinion No. 2010-UP-331 (S.C. Ct. App. filed 6/28/2010)
05-GS-10-8601 & 8602

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

APPELLANT

APPENDIX

Volume 1

JOSEPH L. SAVITZ, III
Chief Appellate Defender

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

ANDREW JOHN SAVAGE, III
Savage and Savage, PA
PO Box 1002
Charleston, SC 29402

Attorney for Appellant

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DEBORAH R.J. SHUPE
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,	Respondent,
v.	
David M. Rocquemore,	Appellant.

Appeal From Charleston County
Daniel F. Pieper, Circuit Court Judge

Unpublished Opinion No. 2010-UP-331
Heard April 14, 2010 – Filed June 28, 2010

AFFIRMED

Andrew John Savage III, of Charleston, and Senior Appellate Defender Joseph L. Savitz III, of Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, Assistant Attorney General Deborah R.J. Shupe, all

of Columbia, and Solicitor Scarlett Anne Wilson, of Charleston, for Respondent.

PER CURIAM: David Rocquemore appeals his convictions and sentences for voluntary manslaughter and possession of a firearm during the commission of a violent crime. He argues the trial court erred in: (1) refusing to grant a mistrial when the State neglected to disclose that a sitting juror was a close cousin of an Assistant Solicitor and that the two had communicated during the trial; and (2) refusing to afford retroactive effect to the Protection of Persons and Property Act (the Act), sections 16-11-410 to 950 of the South Carolina Code (2003 & Supp. 2009), to the extent that it eliminates a duty to retreat in situation where a person is unlawfully and violently attacked in their vehicle. We affirm pursuant to Rule 220 (b)(1), SCACR and the following authorities:

1. The trial court did not err in refusing to grant Rocquemore a mistrial based on the State's failure to disclose. Assuming, without deciding, that the trial committed error, we find Rocquemore failed to demonstrate any prejudice. See State v. Culbreath, 377 S.C. 326, 331, 659 S.E.2d 268, 271 (Ct. App. 2008) ("Whether to grant or deny a mistrial motion is a matter within the trial court's sound discretion, and the court's decision will not be disturbed on appeal absent an abuse of discretion amounting to an error of law."); Smith v. State, 375 S.C. 507, 518, 654 S.E.2d 523, 529 (2007) (finding the trial court must ask whether potential jurors have any bias or prejudice against a party to ensure a fair and impartial jury); Culbreath, 377 S.C. at 331, 659 S.E.2d at 271 ("In order to receive a mistrial, a defendant must show error and resulting prejudice."); Felder v. Charleston County Sch. Dist., 327 S.C. 21, 26, 489 S.E.2d 191, 193 (1997) ("Substantial prejudice is required to establish a violation of due process.").

2. The trial court did not err in refusing to afford retroactive effect to the Act. See Graham v. Dorchester County Sch. Dist., 339 S.C. 121, 124, 528 S.E.2d 80, 82 (Ct. App. 2000) (finding as a general rule, statutes are presumed to be prospective rather than retrospective in nature unless retroactivity is expressly stated); State v. Bolin, 381 S.C. 557, 562, 673

S.E.2d 885, 887 (Ct. App. 2009) ("[T]he legislature clearly and unambiguously specified the Act be applied prospectively, the Act cannot be applied retroactively. . . . "); State v. Dickey, 380 S.C. 384, 405, 669 S.E.2d 917, 928 (Ct. App. 2008) (holding the Act applies prospectively and stating the "savings clause" of the Act specifically provides that the Act would not affect pending actions).

AFFIRMED.

SHORT, WILLIAMS, and LOCKEMY, JJ., concur.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

APPELLANT

Appeal from Charleston County
Daniel F. Pieper, Circuit Court Judge

Opinion No. 2010-UP-331

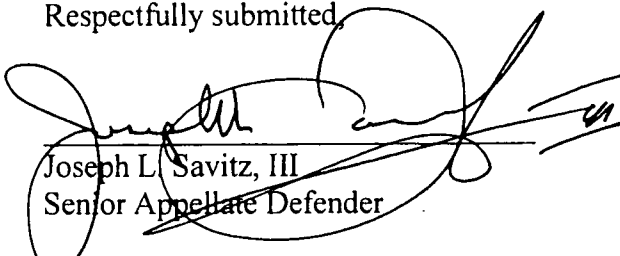
PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, counsel for David Rocquemore petitions the Court to rehear the first issue raised on appeal, which concerns the trial judge's refusal to grant a mistrial when the State neglected to disclose that a sitting juror was a close cousin of an Assistant Solicitor and that the two had communicated during the trial. The Court affirmed because it found "Rocquemore failed to demonstrate any prejudice."

The Court's unpublished opinion does not address the culpability of the Solicitor's Office, nor does it acknowledge the judge's refusal – and its own – to allow trial and appellate counsel access to the content of the text-messages sent and received by the Assistant Solicitor and his cousin during Rocquemore's trial. Both of these omissions bear directly on the question of prejudice.

For this reason, the Court should grant rehearing and reverse David Rocquemore's convictions for voluntary manslaughter and possession of a firearm during the commission of a violent crime.

Respectfully submitted,



Joseph L. Savitz, III
Senior Appellate Defender

This 7th day of July, 2010.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Daniel F. Pieper, Circuit Court Judge

THE STATE,

RESPONDENT,

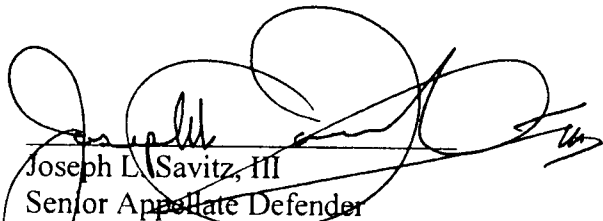
V.

DAVID M. ROCQUEMORE,

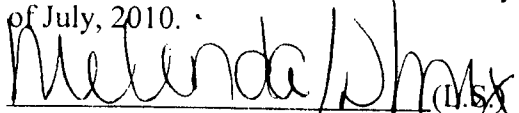
APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Deborah R.J. Shupe, Esquire, Assistant Attorney General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201, this 7th day of July, 2010.


Joseph L. Savitz, III
Senior Appellate Defender
ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 7th day
of July, 2010.


(11.5)

Notary Public for South Carolina

My Commission Expires: October 30, 2018.

The South Carolina Court of Appeals

The State,

Respondent,

v.

David M. Rocquemore,

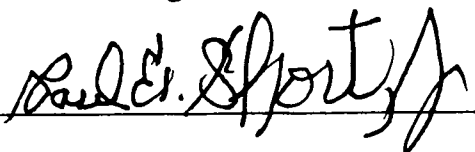
Appellant.

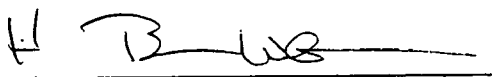
The Honorable Daniel F. Pieper
Charleston County
Trial Court Case No. 2005-GS-10-08601
2005-GS-10-08602

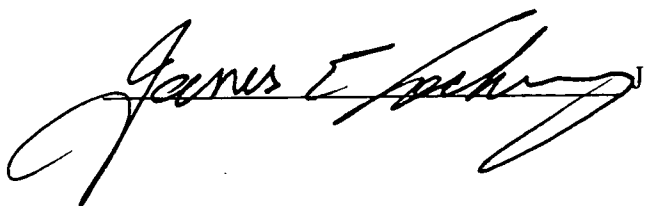
ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing.

It is, therefore, ordered that the Petition for Rehearing be denied.

 J.

 J.

 J.

Columbia, South Carolina
August 27, 2010

17465

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Daniel F. Pieper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID M. ROCQUEMORE,

APPELLANT

RECORD ON APPEAL

JOSEPH L. SAVITZ, III
Chief Appellate Defender

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

ANDREW JOHN SAVAGE, III
Savage and Savage, PA
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HENRY DARGAN MCMASTER
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PO Box 11549
Columbia, SC 29211

(803) 734-3727

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

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**** STATE'S EXHIBIT 50 HAS BEEN TRANSPORTED TO THE COURT OF APPEALS****

1 connected by marriage or have any social, business,
2 or professional dealing with Mr. Savage or
3 Ms. Williams or any dealings or connections to the
4 firm or anyone in that firm? If so, please stand.

5 (There was no response.)

6 THE COURT: Thank you.

7 Prosecuting the case on behalf of the
8 state is the Solicitor's Office. If you'll please
9 introduce yourself to the panel.

10 MR. DURANT: Thank you, Your Honor.

11 My name is Bruce Durant. I'm deputy
12 solicitor here in Charleston. I'll be trying this
13 case together with Jennifer Shealy. Assisting from
14 our office, as well, is Bryan Alfaro who is seated
15 down there at the other end of the table.

16 THE COURT: Are any of you related by
17 blood, connected by marriage, or have any social,
18 business, or professional dealings with Mr. Durant,
19 Ms. Shealy, or Mr. Alfaro, or any dealings or
20 connections with the Solicitor's Office? If so,
21 please stand.

22 (There was no response.)

23 THE COURT: At this point I'm going to
24 call out a list of names of individuals who may or
25 may not testify in the case. If any of you are

1 MR. SAVAGE: Defense is ready,
2 Your Honor.

3 THE COURT: All right. Ten and five,
4 Mr. Clerk. We'll draw two alternates.

5 THE CLERK: Yes, sir.

6 Ladies and gentlemen, if I call your
7 name, if you'll please gather your belongings, come
8 up to this podium, turn and face the parties. I'll
9 be asking the parties questions, and then I'll direct
10 you either to have a seat in the jury-box or have a
11 seat back in the audience.

12 Juror number 329, Donna McNeill.

13 MR. SAVAGE: 29?

14 THE CLERK: 329, Donna McNeill.

15 (White female approaches.)

16 MS. MCNEILL: Turn and then face out?

17 THE CLERK: Yes, ma'am.

18 What say you for the state?

19 MR. DURANT: Please present Ms. McNeill.

20 THE CLERK: What say you for the
21 defendant?

22 MR. SAVAGE: Swear the juror.

23 THE CLERK: Ms. McNeill, if you'll please
24 have a seat in the jury-box. You've been selected as
25 a juror in this case.

1 Juror number 202, Ashley Parks Gallagher.
2 (White female approaches.)

3 THE CLERK: What say you for the state?

4 MR. DURANT: Please present

5 Ms. Gallagher.

6 THE CLERK: What say you for the
7 defendant?

8 MR. SAVAGE: Swear the juror.

9 THE CLERK: Ms. Parks Gallagher, please
10 have a seat in the jury-box. You've been selected as
11 a juror in this case.

12 Juror number 320, John Gross.

13 (White male approaches.)

14 THE CLERK: What say you for the state?

15 MR. DURANT: Please present Mr. Gross.

16 THE CLERK: What say you for the
17 defendant?

18 MR. SAVAGE: Swear the juror.

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

22 Juror number 58, Kelly Dudley.

23 (White female approaches.)

24 THE CLERK: What say you for the state?

25 MR. DURANT: Please present Ms. Dudley.

1 THE CLERK: What say you for the
2 defendant?

3 MR. SAVAGE: Excuse the juror.

4 THE CLERK: Ms. Dudley, please have a
5 seat back in the audience. You've been excused from
6 the trial of this case.

7 Juror number 333, Laura Papagoda.

8 (White female approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please present Ms. Papagoda.

11 THE CLERK: What say you for the
12 defendant?

13 MR. SAVAGE: Excuse the juror.

14 THE CLERK: Ms. Papagoda, please have a
15 seat back in the audience. You've been excused from
16 the trial of this case.

17 Juror number 240, Belinda Shumpert.

18 (White female approaches.)

19 THE CLERK: What say you for the state?

20 MR. DURANT: Please present Ms. Shumpert.

21 THE CLERK: What say you for the
22 defendant?

23 MR. SAVAGE: Swear the juror.

24 THE CLERK: Ms. Shumpert, please have a
25 seat in the jury-box. You've been selected as a

1 juror in this case.

2 Juror number 314, Cecelia Dunleavy.

3 (White female approaches.)

4 THE CLERK: What say you for the state?

5 MR. DURANT: Please present Ms. Dunleavy.

6 THE CLERK: What say you for the
7 defendant?

8 MR. SAVAGE: Excuse the juror.

9 THE CLERK: Ms. Dunleavy, please have a
10 seat back in the audience. You've been excused from
11 the trial of this case.

12 Juror number 130, Pierre Jennings.

13 (White male approaches.)

14 THE CLERK: What say you for the state?

15 MR. DURANT: Please present Mr. Jennings.

16 THE CLERK: What say you for the
17 defendant?

18 MR. SAVAGE: May I approach, Your Honor?

19 THE COURT: Yes.

20 (There was an off-the-record bench
21 conference in the presence of the jury panel but out
22 of the hearing of the jury panel.)

23 (Said bench conference being concluded,
24 the following proceedings were had:)

25 THE CLERK: What say you for the

1 defendant?

2 MR. SAVAGE: Excuse the juror.

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

6 That's four strikes for the defendant.

7 Juror number 309, Austin Davey.

8 (White male approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please present Mr. Davey.

11 THE CLERK: What say you for the
12 defendant?

13 MR. SAVAGE: Swear the juror.

14 THE CLERK: Mr. Davey, please have a seat
15 in the jury-box. You've been selected as a juror in
16 this case.

17 Juror number 337, Sheryl Ransom.

18 (White female approaches.)

19 THE CLERK: What say you for the state?

20 MR. DURANT: Please present Ms. Ransom.

21 THE CLERK: What say you for the
22 defendant?

23 MR. SAVAGE: Excuse the juror.

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

1 THE CLERK: Mr. Lindon, please have a
2 seat in the jury-box. You've been selected as a
3 juror in this case.

4 Picking for the second alternate. Juror
5 number 301, Baloglu -- Carol Baloglu. I apologize.

6 MS. BALOGLU: That's okay.

7 (White female approaches.)

8 THE COURT: What's the number?

9 THE CLERK: 301.

10 What say you for the state?

11 MR. DURANT: Please present the juror.

12 THE CLERK: What say you for the
13 defendant?

14 MR. SAVAGE: Swear the juror, please.

15 THE CLERK: Ma'am, please have a seat in
16 the jury-box. You've been selected as a juror in
17 this case.

18 Your Honor, the jury has been selected
19 and are seated.

20 THE COURT: Any matters or motions
21 pertaining to the jury selection process or the
22 selected jury? State?

23 MR. DURANT: No, sir.

24 THE COURT: Defense?

25 MR. SAVAGE: No, sir.

1 (Detective Prindle enters the courtroom.)

2 DETECTIVE JEFFREY PRINDLE,
3 being first duly sworn by the clerk, is examined and
4 testifies as follows:

5 THE CLERK: Thank you. Be seated.
6 Please speak into the mike and state your full name
7 and spell your last name.

8 THE WITNESS: Detective Jeffrey Prindle,
9 P-R-I-N-D-L-E.

10 THE COURT: Before you get started,
11 Counsel.

12 Ladies and gentlemen, I neglected to tell
13 you, obviously it's a public courtroom, there'll be
14 people in and out the whole time, but if it gets to
15 be too distracting, if you'd let me know.

16 I only ask that you keep your attention
17 up here. I know it's human nature to want to keep
18 looking every time someone comes in and out of the
19 doorway, but please keep your attention on what's
20 going on on this half of the courtroom.

21 Go ahead.

22 MR. DURANT: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. DURANT:

25 Q. Good afternoon, Detective Prindle. Could you

1 please tell the jury where you're employed?

2 A. Charleston County sheriff's office.

3 Q. How long have you been employed by the
4 sheriff's office?

5 A. I've been employed there just over six years.

6 Q. And what do you currently do at the sheriff's
7 office?

8 A. Currently I'm assigned to the metro major case
9 unit where I'm a detective.

10 Q. And is that principally the drug unit?

11 A. Yes. Narcotics and narcotics investigations.

12 Q. What were you doing in August of 2005?

13 A. Sir, I was assigned to the uniform patrol
14 division.

15 Q. And in what district were you in the patrol
16 division?

17 A. The north division, sir.

18 Q. Now, does the north division include the area
19 of Woodside Manor subdivision?

20 A. Yes, sir, it does.

21 Q. And specifically the area of Berrywood and
22 Mixedwood Streets?

23 A. Yes, sir, it does.

24 Q. Could you just tell the jury where in
25 Charleston County that is, what area it's in?

1 A. It's off of Highway 78 in the Ladson area of
2 Charleston County.

3 Q. And so it is located in Charleston County; is
4 that correct?

5 A. Yes, sir, it is.

6 Q. Did you have an occasion to be dispatched to
7 the area of Berrywood and Mixedwood in the early
8 morning hours of August the 14th of 2005?

9 A. Yes, sir, I did.

10 Q. In reference to what?

11 A. It was a shots fired call, sir.

12 Q. And do you recall what time you were
13 dispatched to that area?

14 A. Yes, sir. 4:05 in the morning.

15 Q. And how long did it take you to arrive? What
16 time did y'all actually arrive on the scene?

17 A. Approximately seven minutes, sir. We arrived
18 at 4:12.

19 Q. Were you the only unit to respond?

20 A. No, sir, I was not.

21 Q. Were there other deputies on the scene?

22 A. Yes, sir, there was. Deputy Ford, Deputy
23 Church, and Reserve Deputy Moniz.

24 Q. What did you observe when you arrived on the
25 scene?

1 A. Sir, when I arrived on the scene, I noticed
2 some individuals that appeared to be restraining a
3 gentleman that was on the ground. I also observed
4 another individual that was laying on the ground
5 motionless in close proximity to them.

6 Q. And did you later obtain that person's
7 identity?

8 A. Yes, sir, both of them.

9 Q. Okay. And the injured party was
10 Herschel Denson; is that correct?

11 A. Yes, sir, it was Mr. Denson.

12 Q. And who was the person being restrained?

13 A. Mr. Rocquemore.

14 Q. Did you have the occasion -- and where were
15 they, Mr. Denson and Mr. Rocquemore, when you arrived
16 on the scene?

17 A. They were by a shallow ditch in the yard of
18 9752 Berrywood Drive.

19 Q. Okay. Did you have an occasion to attend to
20 the victim, Mr. Denson?

21 A. Yes, sir, I did.

22 Q. And what did you do exactly?

23 A. Sir, I checked for vitals, breathing and a
24 pulse.

25 Q. Was he breathing at the time?

1 A. Faintly.

2 Q. Were you able to detect a pulse?

3 A. A faint pulse, yes, sir.

4 Q. Was he responsive?

5 A. No, sir, he was not.

6 Q. Was he conscious?

7 A. No, sir, he was not.

8 Q. Did you observe any wounds?

9 A. No, sir, I did not, not at that time.

10 Q. Did you observe some wounds later?

11 A. I did after EMS arrived, sir.

12 Q. And what did you observe after EMS arrived?

13 A. What appeared to be a small entry wound from a
14 handgun, with very little bleeding, very little
15 exterior bleeding.

16 Q. Was EMS dispatched to the scene?

17 A. Yes, sir.

18 Q. And do you know how long it took them to
19 arrive?

20 A. Approximately five minutes, sir.

21 Q. Did Mr. Denson appear to be still alive when
22 the -- when the ambulance people got there?

23 A. He appeared to be, sir.

24 Q. Did the crime scene unit respond to the scene?

25 A. Yes, sir, they did.

1 Q. And did you take any further part in the
2 investigation that night?

3 A. No, sir, I did not. After my supervisor
4 arrived on the scene and the detectives, I was placed
5 in a patrol car to begin writing my incident report.

6 Q. Detective Prindle, I'd like you to take a look
7 at state's exhibit number one in evidence if you
8 would. And do you recognize that aerial photograph?

9 A. Yes, sir. It's Woodside Manor, Mixedwood and
10 Berrywood Drive.

11 MR. DURANT: May I approach the witness,
12 Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. DURANT:

15 Q. I'm going to hand you a laser pointer. If I
16 ask you anything that needs to -- you need to point
17 out, just hit that red star.

18 A. Okay.

19 Q. And referring to state's exhibit number one,
20 could you please point out to the jury where 9752
21 Berrywood Drive is?

22 A. I believe this is it right here, sir.

23 Q. Okay. And which direction did you respond to
24 the scene? Which direction were you coming from?

25 A. I was coming down Berrywood in this direction.

1 A. Which photographs, sir?

2 Q. Of this case.

3 A. I saw a few details, the videotape from Deputy
4 Ford's cruiser.

5 Q. All right. Well, then from the videotape, you
6 knew it was pretty much pitch black driving up?

7 A. Yes. The videotape was in black-and-white, so
8 the incident generally...

9 Q. And there was such difficulty in seeing
10 because of lighting, Deputy Ford actually used a
11 searchlight, looking for house numbers and whatnot,
12 going up the street?

13 A. Deputy Ford may have done that. I can't
14 answer.

15 Q. But it would be shown on the video?

16 A. I cannot answer that, sir.

17 Q. Now, did you interview anyone that night?

18 A. No, sir, I did not.

19 Q. And were you present when anyone was
20 interviewed that night?

21 A. I'm sure I was present, but I was in Sergeant
22 Palmer's vehicle.

23 Q. So you didn't participate in interviewing?

24 A. I did not participate in any interviewing, no,
25 sir.

1 Q. In reviewing your report, the notes that you
2 made that night, do you recall saying as you
3 approached the scene you saw a group of men fighting?

4 A. Yes.

5 Q. So there was actually a fight going on when
6 you got there?

7 A. It appeared to be some sort of altercation.

8 Q. In the old days they called it a fracas. Was
9 it a fracas?

10 A. I'm not familiar with that term, sir.

11 Q. A bunch of people flailing at each other?

12 A. I'm not familiar with that term, either, sir.

13 Q. Did the disturbance, if you will, continue
14 after you were there?

15 A. No, sir. The individuals were compliant from
16 the orders the deputies gave, from my understanding.

17 Q. So in reviewing the video, if the jury got to
18 see the video, they wouldn't see anybody flailing
19 away, punching, kicking somebody when they were down
20 on the ground? Of course, that wouldn't be on the
21 video if it stopped before you got there?

22 A. They would see that, yes.

23 Q. Did you see it?

24 A. Yes, I did.

25 Q. And, in fact, you were standing right next to

1 them when they did it?

2 A. I was standing in the general area.

3 Q. And did anybody attempt to stop that?

4 A. I did not, sir.

5 Q. When you approached the people who were
6 fighting and the people who were on the ground in the
7 ditch, was there an odor of alcoholic beverages in
8 the air?

9 A. Not that I can recall.

10 Q. In assessing the situation, as a uniform
11 officer or as a detective, does alcohol consumption
12 tend to inflate the threatening environment?

13 A. Sir, it's been my experience that alcohol has
14 different effects on different people. I can't
15 assertively say that it does or does not.

16 Q. So you don't have an opinion whether somebody
17 who's drinking and a bunch of fellows who have been
18 drinking all nightlong, whether that would tend to
19 make them a little bit more aggressive?

20 A. I have encountered individuals like that in
21 the course of my duties, sir.

22 Q. Have you ever noticed that people who aren't
23 consuming alcohol are generally not as aggressive
24 as people who have been partying and drinking all
25 night?

1 A. I can -- don't think I can -- I can give my
2 personal opinion on that, but I think emotions are
3 what affect people, sir.

4 MR. SAVAGE: Beg the Court's indulgence
5 for one moment.

6 BY MR. SAVAGE:

7 Q. Ms. Williams pointed out that I omitted to ask
8 you some questions.

9 A. Yes, sir.

10 Q. When you arrived, there were multiple parties
11 fighting. Is that correct?

12 A. I believe there was three people involved.

13 Q. And is that three people on one side and then
14 one on the other side?

15 A. From what I can remember, sir, there was, I
16 believe, two people, or what I remember, two people
17 that were involved with Mr. Rocquemore.

18 Q. And were you around when they were
19 photographed, that is, all the parties who were
20 present when they were photographed?

21 A. I may have been there, sir, but I don't
22 recall. After I was finished with the incident
23 report, I went home.

24 Q. While you were there, did you know whether the
25 vehicle in which the deceased and his friends were

1 THE COURT: Any objection?

2 MR. SAVAGE: I think the detective is
3 accessible. We don't have any problem with him...

4 THE COURT: All right. You'll be excused
5 for now, sir.

6 MR. DURANT: May we approach?

7 THE COURT: Yes, sir.

8 (There was an off-the-record bench
9 conference in the presence of the jury but out of the
10 hearing of the jury.)

11 (Said bench conference being concluded,
12 the following proceedings were had:)

13 THE COURT: All right. You may be
14 excused for now, sir. Thank you.

15 (The witness is excused from the witness
16 stand and leaves the courtroom.)

17 MR. DURANT: The state would call Kevin
18 Ford.

19 (Deputy Ford enters the courtroom.)

20 DEPUTY KEVIN FORD,
21 being first duly sworn by the clerk, is examined and
22 testifies as follows:

23 THE CLERK: Be seated. If you'll please
24 state your full name and spell your last name.

25 THE WITNESS: Kevin Christopher Ford,

1 F-O-R-D.

2 DIRECT EXAMINATION

3 BY MR. DURANT:

4 Q. Deputy, could you please tell the jury where
5 you're employed?

6 A. Charleston County sheriff's office.

7 Q. And you've been with the sheriff's office for
8 how long?

9 A. Nine years.

10 Q. What do you do now?

11 A. I'm in the patrol division.

12 Q. And were you doing the same thing in August of
13 2005?

14 A. Yes, I was.

15 Q. Were you in the same district that Deputy
16 Prindle was assigned to at that time, the north
17 district?

18 A. Yes, sir.

19 Q. In that capacity, did you have an occasion to
20 be dispatched to the area of Berrywood and Mixedwood
21 in the early morning hours of August 14th, 2005?

22 A. Yes, I did.

23 Q. In reference to what?

24 A. We originally got called for what was a shots
25 fired call. While we were in route, we were told

1 that somebody had actually been shot.

2 Q. And were you alone? Was anyone riding with
3 you that night?

4 A. I had Reserve Deputy John Moniz with me.

5 Q. And what other deputies were on the scene when
6 you arrived?

7 A. Deputy Jeff Prindle and Deputy Sheri Church.

8 Q. Do you recall who arrived first?

9 A. I was the first car in to the scene, but we
10 all arrived at roughly the same time.

11 Q. And what did you observe when you arrived in
12 the area of 9752 Berrywood Drive?

13 A. When I pulled up, I saw several subjects on
14 the ground, and one person was being restrained on
15 the ground. I believe another subject was standing
16 off to the side, and another individual was laying on
17 the ground behind where the other individual was
18 being restrained.

19 Q. Did anybody say anything upon your arrival?

20 A. When I began walking up, one of them said,
21 "That motherfucker shot him."

22 Q. Now, who was that person referring to?

23 A. I believe he was referring to the defendant,
24 Mr. Rocquemoire.

25 Q. This gentleman seated in the courtroom today?

1 A. Yes, sir.

2 Q. What happened when you got up to where the
3 defendant was being restrained?

4 A. Myself and Deputy Moniz started ordering the
5 two individuals that were holding him down to get
6 off. They complied with our orders. They began
7 getting off of him. At that time we started
8 restraining him.

9 Q. Okay. They put a -- gave him a couple licks,
10 too; did they not?

11 A. As they were coming off, I mean, it was a
12 pretty agitated scene. They were pretty agitated.
13 It took several orders to tell them to get off. One
14 of the individuals kicked him in the groin. I think
15 one more might have punched him.

16 Q. And what happened after you got these folks
17 off of Mr. Rocquemore?

18 A. Deputy Prindle went and began trying to give
19 aid to the victim. I told Deputy Moniz to hold him
20 there, and then I retrieved the weapon.

21 Q. Okay. Where was the defendant placed?

22 A. He was initially placed in my cruiser, in the
23 back seat of my cruiser.

24 Q. And were you able to locate a weapon at the
25 scene?

1 A. Yes, I was. On the back of a pickup truck on
2 a toolbox that was in the same yard where the
3 shooting occurred.

4 Q. How did you know to look in the truck?

5 A. When we were in route to the scene, the
6 dispatch had informed us there was a concerned
7 citizen relaying information. They told them that
8 somebody had placed the gun in the back of that
9 pickup.

10 Q. Did you check the weapon?

11 A. Yes, I did.

12 Q. And what was the condition of the weapon?

13 A. It was currently jammed with the slide back
14 with a casing jammed into it.

15 Q. And what kind of weapon was it?

16 A. It was a .45 caliber Highpoint semiautomatic.

17 MR. DURANT: Mark this as state's 49,
18 please, ma'am, for identification.

19 (State's Exhibit No. 49, gun, is marked
20 for identification.)

21 BY MR. DURANT:

22 Q. Officer, I hand you now what's been marked as
23 state's exhibit number 49 for identification purposes
24 only and ask if that appears to be the weapon you
25 recovered that night.

1 A. Yes, this appears to be it.

2 Q. What did you do with the weapon after removing
3 it from the truck?

4 A. I secured it in the trunk of my cruiser.

5 Q. And did you eventually turn the custody of
6 that weapon over to someone else?

7 A. Yes. Once the scene was secured, I turned it
8 over to TSU Deputy Owen.

9 Q. And who is TSU Deputy Owen?

10 A. He is a deputy within our crime investigation.

11 Q. Crime scene unit?

12 A. Yes, sir.

13 Q. Did you observe any other weapons in the area?

14 A. No, sir, I did not.

15 Q. Now, the people that were holding the
16 defendant down...

17 A. Yes, sir.

18 Q. --- were they responsive to your -- your
19 commands?

20 A. Yes, they were.

21 Q. Did they listen to what you told them to do?

22 A. Yes, sir, they did.

23 Q. Were they belligerent with you in any way?

24 A. No, sir.

25 Q. Did they appear to be falling down drunk?

1 A. Not that I observed.

2 Q. Did they appear to be incoherent?

3 A. No, sir.

4 Q. Where was the truck located where this weapon
5 was found?

6 A. It was within the same yard where the
7 defendant and the victim were when we got there, a
8 little further up towards the house.

9 Q. Okay. I want to show you a couple of exhibits
10 that are in evidence.

11 MR. DURANT: Court's indulgence for just
12 one moment.

13 BY MR. DURANT:

14 Q. First I'd like to do -- let me direct your
15 attention to state's exhibit number two. What's that
16 a photograph of?

17 A. That is my patrol vehicle.

18 Q. Okay. State's exhibit number three?

19 A. That is the trunk of my cruiser.

20 Q. State's exhibit number four?

21 A. That'll be the weapon I retrieved from the
22 truck.

23 Q. And state's exhibit number five?

24 A. That'll be the casing that was keeping the
25 weapon jammed.

1 Q. And then state's exhibit number 14?

2 A. That is the truck in the yard where the
3 shooting occurred, and that's the truck I retrieved
4 the weapon from.

5 Q. That is the truck you retrieved the weapon,
6 the one's that got Landmark Construction on it?

7 A. Yes, sir.

8 Q. And where roughly were the victim and the
9 defendant when you arrived on the scene?

10 A. The best of my recollection, the defendant
11 would have ---

12 Q. Here's a laser pointer if you need it right
13 there.

14 A. The defendant would have been laying right in
15 this area. The victim was just a little bit further
16 up, up here.

17 Q. Okay. Did the cruiser you were in that night
18 have an in-car video?

19 A. Yes, sir, it did.

20 Q. And did you activate that video on the way to
21 the scene?

22 A. Yes, sir. It automatically cut on when I
23 activated my emergency lights.

24 Q. And you're aware, of course, that the video in
25 your car was transferred to a compact disk format?

1 A. Yes, sir.

2 Q. You viewed that in my office; is that correct?

3 A. Yes, sir, I did.

4 MR. DURANT: This will be state's 50, I
5 believe.

6 (State's Exhibit No. 50, in-car video on
7 CD disk, is marked for identification.)

8 (Mr. Durant and Mr. Savage confer.)

9 MR. DURANT: Your Honor, I believe at
10 this time we would offer state's exhibit number 50
11 into evidence, I believe without objection.

12 THE COURT: Is that correct?

13 MR. SAVAGE: That's correct as long as
14 it's the same one we have.

15 THE COURT: All right. In evidence
16 without objection.

17 (State's Exhibit No. 50, in-car video on
18 CD disk, previously marked for identification, is
19 received in evidence.)

20 BY MR. DURANT:

21 Q. You've had an opportunity to review your
22 in-car video; is that correct?

23 A. Yes, sir, I have.

24 Q. And does it fairly and accurately depict the
25 scene as you found it when you arrived there?

1 A. Yes, sir.

2 MR. DURANT: Your Honor, I request at
3 this time the opportunity to publish state's exhibit
4 number 50 to the jury.

5 THE COURT: All right.

6 BY MR. DURANT:

7 Q. And, Deputy Ford, you may want to come down.
8 I'm going to ask you some questions as this tape is
9 being played.

10 A. Okay.

11 MR. DURANT: With the Court's permission,
12 may the witness come down, Your Honor?

13 THE COURT: Yes, sir.

14 (The witness leaves the witness stand and
15 stands at counsel table.)

16 (State's Exhibit No. 50 begins playback.)

17 MR. DURANT: Would you kill that light
18 some, Mike.

19 BY MR. DURANT:

20 Q. If you could tell the jury which road you're
21 on here now.

22 A. This would be Berrywood Drive in Woodside
23 Manor.

24 MR. DURANT: If you could kill those
25 lights for me, please. Thank you.

1 BY MR. DURANT:

2 Q. Those are streetlights along the left side
3 there?

4 A. Yes, sir.

5 Q. And this is the video from your car; is that
6 correct?

7 A. Yes, sir, it is. That's we're arriving on the
8 scene and located them.

9 Q. Those are the individuals you were talking
10 about?

11 A. Yes, sir. There's two individuals holding
12 down the defendant, Mr. Rocquemore. The victim is
13 just behind him. I don't believe you can see him
14 quite well at this time.

15 That's Deputy Moniz, and that's myself coming
16 in on the screen.

17 That would be Deputy Prindle.

18 You can see that's when he was kicked. That's
19 when they were getting off of him.

20 That's Deputy Church off to the right. She's
21 keeping people back. As you can see, they're being
22 compliant with her.

23 Q. So Deputy Church is watching the other
24 folks?

25 A. Yes, sir. She keeps them all off to the

1 right there to keep the scene safe where we're at.

2 Q. And where did she keep them safe?

3 A. There is a driveway, I believe. One of the
4 witnesses actually having a party lived in the house
5 right across the street. They were standing in the
6 driveway in that front yard.

7 Q. And she sat there and watched them?

8 A. Yes, sir.

9 And right now I'm just waiting on Deputy
10 Prindle. He's attending to the victim.

11 Q. That's him over on the far left?

12 A. He's off to the far left.

13 At this time I'm going back to my vehicle to
14 go get some gloves. You won't see it, off camera.

15 The truck is just off camera to the left. I'm
16 about to go up and retrieve the weapon.

17 And as you can see, again, Deputy Church is
18 having them stand back. He's giving her no problem.
19 They're off to the side.

20 Q. I can speed this up a little bit, with the
21 Court's permission.

22 A. That's just me coming back. You can see at
23 this time myself and Deputy Moniz are going to place
24 the defendant into my patrol vehicle.

25 Q. That's Deputy Prindle?

1 A. That's still Deputy Prindle attending to the
2 victim. At this time we're just waiting on EMS to
3 come to the scene.

4 As you see again there, he needs -- obviously
5 upset. Again Deputy Prindle asked him to go back.
6 They go back.

7 Q. You were aware, of course, that that was their
8 friend on the ground right there?

9 A. Yes.

10 MR. SAVAGE: Objection to the form of the
11 question.

12 THE COURT: Rephrase that question.

13 BY MR. DURANT:

14 Q. Were you aware that that was their friend on
15 the ground?

16 MR. SAVAGE: Objection to the form of the
17 question.

18 THE COURT: Pardon me?

19 MR. SAVAGE: Objection to the form of the
20 question.

21 THE COURT: Rephrase it again, please.

22 MR. DURANT: That's okay, Your Honor.

23 I'll withdraw it.

24 THE COURT: Go ahead.

25 BY MR. DURANT:

1 Q. Is the time in the upper right-hand corner
2 right?

3 A. To the best of my knowledge, yes.

4 Q. Had you already recovered the weapon at this
5 point?

6 A. I recovered the weapon before myself and
7 Deputy Moniz put the defendant in the vehicle.

8 Q. Okay. And this is the point where the
9 ambulance arrived?

10 A. That would be EMS, and I believe Fire also
11 arrived at that time.

12 MR. DURANT: Mr. Savage, do you want to
13 look at any more of the tape?

14 (State's Exhibit No. 50 ends playback.)

15 MR. DURANT: Would you please resume your
16 seat.

17 (The witness returns to the witness
18 stand.)

19 MR. DURANT: Would you please answer any
20 questions that Mr. Savage may have for you.

21 MR. SAVAGE: May it please the Court.

22 THE COURT: Yes, sir.

23 MR. DURANT: Your Honor, may I return the
24 exhibit to the court reporter?

25 THE COURT: Yes, sir.

1 where would that be in relationship to this locale?

2 A. It's approximately maybe two to three miles.
3 Woodside Manor would be going back towards
4 Summerville off of Highway 78 past the fairgrounds.

5 Q. North Trident Hospital?

6 A. Roughly five or six maybe, possibly.

7 Q. So if you went from North Trident Hospital on
8 78...

9 A. Yes, sir.

10 Q. --- to Summerville, just to give them an idea
11 of where it is, halfway? a quarter of the way?

12 A. About halfway.

13 Q. And had you been to this Woodside Manor
14 location as a deputy on other service calls?

15 A. Several occasions.

16 Q. It's what they call a high call area?

17 A. Yes, sir.

18 Q. A lot of activity for law enforcement?

19 A. Yes, sir.

20 Q. No surprise showing up there at four o'clock
21 in the morning for the shooting?

22 A. No, sir.

23 Q. Let's take a look at the video if we can. And
24 I think -- can you do it here? May I see that,
25 Deputy?

1 process about a suspect vehicle, a witness vehicle,
2 the injured party's vehicle, or anything like that?

3 A. Not that I remember.

4 Q. Let's look at the part of the video that when
5 Deputy Ford first comes up. Is it Woodside Manor?

6 A. Yes, sir. Woodside Manor on Berrywood Drive.

7 Q. And then stop it when you can see the vehicles
8 at the scene.

9 MS. SAVAGE: Sure.

10 BY MR. SAVAGE:

11 Q. If you'd like to step down or sit there,
12 whatever is best for you.

13 A. I don't want to block the view.

14 Q. Whatever is easier, you can have a seat or you
15 can stand up.

16 A. (The witness leaves the witness stand and
17 stands at lectern.)

18 (State's Exhibit No. 50 begins playback.)

19 MR. SAVAGE: Tell me if I'm I wrong, I
20 believe this is the initial part of the video?

21 MS. SAVAGE: This is the very beginning.

22 BY MR. SAVAGE:

23 Q. Very beginning when you go in, Deputy, off 78,
24 correct? You turned left on 78?

25 A. Yes, sir. I turned left on 78 onto Berrywood

1 Drive.

2 Q. What I'm looking for are vehicles in the
3 neighborhood. Pretty dark that night?

4 A. Yes, sir. Well, no, it's a little brighter.
5 That's when we're actually there.

6 Q. Somebody was using their searchlight, looking
7 for...

8 A. That was me. When we arrived, I was just
9 trying to see if I could locate them.

10 Q. Get the numbers? All right. If you would
11 stop right there. The vehicle on the right-hand
12 side, did you ever identify that vehicle?

13 A. Later on I was told that it was the
14 defendant's vehicle.

15 Q. Okay.

16 A. If that's the SUV.

17 Q. I don't know. I'm just asking. All right.
18 Let's keep going.

19 MS. SAVAGE: Normal speed?

20 MR. SAVAGE: Normal speed.

21 BY MR. SAVAGE:

22 Q. Stop. Any other vehicles seen there?

23 A. I believe there's one right in front of that
24 SUV.

25 Q. All right. Any other vehicles there?

1 A. Not that I remember. And off to my right at
2 all, if that's what you're asking.

3 Q. Put it there. Is there a vehicle to the right
4 there?

5 A. There is one a little bit further up from us,
6 yes.

7 Q. All right. Now, would you -- and this is as
8 you arrive, correct?

9 A. Yes, sir.

10 Q. And I'm looking at the screen. From where I'm
11 standing, the left side, it's sort of a blurry white
12 area. That's I assume where the fight was going on?

13 A. Well, where they were restraining him. Wasn't
14 really a fight when we arrived there.

15 Q. All right. Let's take it up to where the
16 first gentleman leaves the restraint, the restraining
17 action. Is that your -- that's you on the left.
18 Right?

19 A. Actually, I believe that's Deputy Moniz.

20 Q. All right. Stop, stop right here. That white
21 blur now is a little bit more visible, and you can
22 actually see, distinguish, maybe not know who they
23 are but you can distinguish the law enforcement from
24 the fellows who are there?

25 A. Yes, sir.

1 Q. And the fellow on the left who is crouched
2 down or -- do you know who that is?

3 A. I don't know him, no.

4 Q. And the fellow in the middle, the one that we
5 see from -- were you in the military?

6 A. No, sir.

7 Q. From the six o'clock position?

8 A. Okay.

9 Q. Do you know who that is?

10 A. I just know him from being on the scene. I
11 don't know any of them or can identify them.

12 Q. The fellow on the right-hand side, do you know
13 who that is?

14 A. Again, no.

15 Q. Now, the fellow on the right-hand side is not
16 engaged in the restraint?

17 A. No, he's not.

18 Q. The two fellows that we see, one in the center
19 and one to the left, are engaged in the restraint?

20 A. Yes, sir.

21 Q. And below them is Mr. Rocquemore?

22 A. Yes.

23 Q. And next to him, right next to him is the
24 fellow who was shot?

25 A. Yes, sir.

1 Q. Now, let's see what the fellow in the middle
2 does when he gets up. What is he doing now?

3 A. He strikes him.

4 Q. How many times?

5 A. It's hard to tell from the video. At least
6 once.

7 Q. And how many law enforcement officers are
8 standing there?

9 A. At that time I can make out at least three.

10 Q. And there were at least four in the area?

11 A. On the scene.

12 Q. Because three units came by and those units
13 contained four law enforcement officers?

14 A. That's correct.

15 Q. And you had been there enough time to go over
16 and observe what was happening?

17 A. Roughly. I mean, we'd been there maybe at
18 that point ---

19 Q. I'm not picking on you.

20 A. Yeah.

21 Q. But they were aware that law enforcement ---

22 A. Yes, sir.

23 Q. --- officers were standing right next to them?

24 A. Yes, sir.

25 Q. Now, let's see the second guy who gets up, the

1 guy on the left. Stop. What does he do?

2 A. He kicks him.

3 Q. Kicks who?

4 A. He kicks the defendant, Mr. Rocquemore.

5 Q. And that's right in front of three or four law
6 enforcement officers?

7 A. Yes, sir.

8 Q. Now, are any -- you said that they were acting
9 compliant?

10 A. They complied with us when we ordered them to
11 back away, back away from us, yes.

12 Q. But compliant, it isn't trying to imply that
13 they weren't assaulting and battering Mr. Rocquemore
14 in your immediate presence?

15 A. When we pulled up, no, they weren't.

16 Q. And they were not restrained. They actually
17 -- if you'd move forward -- leave the area and come
18 down to the left side of the video and go out of
19 vision?

20 A. Yes, sir.

21 Q. And in the video now, we can't see the other
22 vehicle we saw a little bit ago that was on the
23 right-hand side of the road?

24 A. You can vaguely make it out, yes, sir.

25 Q. As restrainer number one and restrainer number

1 two leave, where do they go?

2 A. I honestly couldn't tell you. My attention
3 was on the defendant.

4 Q. All right. Well, let's watch the video and
5 see where they go. Stop. Are these the two
6 gentlemen that I would refer to as restrainer number
7 one and restrainer number two?

8 A. That appears to be them, yes.

9 Q. And where did they go? Does this refresh your
10 memory?

11 A. I still couldn't tell you where they were when
12 they were out of the video. I know now they're
13 walking in front of my vehicle.

14 Q. Now, is there any law enforcement presence
15 with them at this time?

16 A. Directly with them? Not that I'm aware of.

17 Q. And where did they go?

18 A. I can't see them at this point. As I said, my
19 attention was on the defendant at that point. I am
20 actually going and retrieving the weapon. I don't
21 even think I'm there right now.

22 Q. Why was the vehicle that was parked -- whose
23 vehicle was parked right where they went?

24 A. I honestly couldn't tell you.

25 Q. Did you have any -- let me go through this,

1 then I'll come back. See if we can see anything
2 further. I believe what you'll see next is a female.
3 Was a female law enforcement officer present?

4 A. Deputy Church, yes.

5 Q. With the flashlight?

6 A. I believe actually -- she might have her
7 flashlight, or it might be the light off of her
8 taser.

9 Q. Her taser?

10 A. Yes, sir.

11 Q. Well, what was she doing with a taser if
12 everybody was compliant?

13 A. At this time we're still arriving. We don't
14 know who's who and what's going on. So she's just
15 trying to keep people away from us. They're not
16 actually trying to come forward. She might have just
17 had it out. I couldn't explain why that -- I mean, I
18 just can't speak for her.

19 Q. And certainly Mr. Rocquemoire was compliant?

20 A. At that point, yes.

21 Q. And the whole time he was there?

22 A. Well, he -- no, he never gave me any problem.

23 Q. But he's actually compliant. He's in
24 handcuffs.

25 A. Yes, sir.

1 Q. And he's not giving anybody a hard time,
2 particularly law enforcement?

3 A. No.

4 Q. So he's doing everything you ask him to do?

5 A. I would say so.

6 Q. And then the taser comes out. So who would
7 the taser be for if everybody's compliant?

8 A. It might have been a standard thing as they
9 were coming on the scene of a shooting. She might
10 have had it out from the time she got there. I can't
11 speak for Deputy Church.

12 Q. Now, this fellow that's walking over to the
13 injured party is his friend. Is that correct?

14 A. I could assume so, yes.

15 Q. And who is following him over there?

16 A. I don't see anybody following him at this
17 point.

18 Q. Well, let's watch. And what does she have in
19 her hand?

20 A. I can't tell. If you make it larger, I might
21 be able to see it better.

22 Q. And who is that? Another officer that comes
23 over to intervene?

24 A. That could either be myself or Deputy Moniz.
25 I'm not sure.

1 reported to the 911 operator that a car was leaving
2 the scene?

3 A. I don't recall that.

4 MR. DURANT: I have a matter of law,
5 Your Honor.

6 THE COURT: A matter of law?

7 MR. DURANT: Yes, sir.

8 THE COURT: Do we need to send the jury
9 out?

10 MR. DURANT: May we approach side bar
11 first?

12 MR. SAVAGE: Judge, I'll withdraw that.
13 We can come back later when we have a break and we
14 can argue it out. I'll go on to another matter.

15 THE COURT: All right. Go ahead.

16 BY MR. SAVAGE:

17 Q. I'm not going to discuss the 911 calls now.

18 A. Okay.

19 Q. But what I'd like to discuss is what you may
20 have overheard on the radio that night. Okay?

21 A. Pretty much.

22 Q. Was there a call for backup that night for
23 crowd control purposes?

24 A. We did call for more units.

25 Q. And was there a call out to the department,

1 conference in the presence of the jury but out of the
2 hearing of the jury.)

3 (Said bench conference being concluded,
4 the following proceedings were had:)

5 (Mr. Brown enters the courtroom.)

6 THE CLERK: This way, sir.

7 DEXTER BROWN,
8 being first duly sworn by the clerk, is examined and
9 testifies as follows:

10 THE CLERK: Thank you. Be seated. If
11 you'll speak into this mike and please state your
12 full name and spell your last name.

13 THE WITNESS: Dexter Brown, B-R-O-W-N.

14 DIRECT EXAMINATION

15 BY MS. KNEESE-SHEALY:

16 Q. Dexter, if you would, please, tell the jury
17 how old are you.

18 A. I'm 36.

19 Q. Thirty-six?

20 A. Yes.

21 Q. And where do you currently live?

22 A. 4418 Mixedwood Drive in Ladson.

23 Q. And that's in Woodside Manor?

24 A. Yes.

25 Q. Okay. If you would, please, tell the jury

1 where you're currently employed.

2 A. A.L. Corporation (phonetic).

3 Q. And what type of business is that?

4 A. It's a warehouse.

5 Q. And how long have you been working there?

6 A. A little over a year.

7 Q. And in what capacity do you work there?

8 What's your job there?

9 A. I'm assistant manager.

10 Q. Okay. Prior to working there, where did you
11 work?

12 A. Henry J. Lee.

13 Q. And what type of business is Henry J. Lee?

14 A. It's a bed distributor.

15 Q. And how long did you work with that company?

16 A. For a year and a half.

17 Q. And what was your role at that company?

18 A. I was assistant supervisor, and then I moved
19 to shift supervisor.

20 Q. Okay. Did you have the occasion to work with
21 Chris Thomas while you were ---

22 A. Yes.

23 Q. --- working there? Now, Dexter, back in 1999,
24 were you convicted of a crime?

25 A. Yes.

1 Q. Would you tell the jury, please, what you were
2 convicted of?

3 A. Trafficking in cocaine.

4 Q. Okay. And that was in North Carolina?

5 A. Yes.

6 Q. Now, focusing your attention then back to the
7 events in question, I want to ask you how you know
8 certain people who were involved back in August of
9 2005, okay? Tell us about Demar Denson, how did you
10 know him?

11 A. We grew up together.

12 Q. Okay. And when you say you grew up together,
13 about how long had you known Demar?

14 A. Twenty-five years.

15 Q. Okay.

16 A. A little bit more than 25 years.

17 Q. And the house that you are currently living
18 in, is that the house that you grew up in?

19 A. Yes.

20 Q. Are your parents still alive?

21 A. No. They're deceased.

22 Q. Okay. Have you lived in that house since they
23 both died?

24 A. Yes.

25 Q. And, now, did you and Demar work together?

1 A. No, we didn't.

2 Q. Okay. Were you aware of where Demar was
3 working?

4 A. Yes.

5 Q. And what was he doing?

6 A. Longshoreman.

7 Q. Longshoreman?

8 A. Yeah.

9 Q. Okay. Was there a time period from when y'all
10 were kids in school -- and did y'all go to school
11 together?

12 A. Yes.

13 Q. Where did you go to school?

14 A. R.B. Stall High.

15 Q. And after high school, was there a time period
16 when Demar actually lived elsewhere?

17 A. Well, yes.

18 Q. And that was more recently?

19 A. Yes.

20 Q. Okay. Where was he living?

21 A. Whenever he was -- he was going to school, he
22 was staying in Orangeburg.

23 Q. Okay.

24 A. Yeah.

25 Q. He was in college there?

1 A. College, yeah.

2 Q. So as it relates to Demar, could you describe
3 for the jury what type of relationship you had with
4 him once y'all got out of high school? Did y'all
5 still pal around together?

6 A. Yeah. We'd see each other from time to time
7 when he -- whenever he was around, you know.

8 Q. Okay. And his father actually still lives
9 over in Woodside Manor; is that correct?

10 A. Yes.

11 Q. What about Ronald and Rodney Gibbs? Could you
12 tell the jury, please, how you know both of those
13 gentlemen?

14 A. Grew up with them.

15 Q. And when you say grew up with them, did you go
16 to school with one of them?

17 A. Yes. Me and Ronald.

18 Q. Okay. Is Rodney older or younger than y'all?

19 A. Older.

20 Q. And what about your relationship with Ronald
21 once y'all got out of high school? Did he still live
22 around the Charleston area?

23 A. No. He -- basically, he went in the service
24 and, you know, he would come home from time to time,
25 and, you know, we would get together every now and

1 then whenever we see each other.

2 Q. Okay. So is it fair to say then that you
3 didn't see him quite as frequently as you ---

4 A. Right.

5 Q. --- did when you were growing up? What about
6 Rodney Gibbs? Did you have a relationship with
7 him ---

8 A. Yes.

9 Q. --- since he's older than y'all?

10 A. Yes.

11 Q. And tell us about Rodney. Did he still live
12 in Charleston?

13 A. No. He was gone for a while. He was gone,
14 too.

15 Q. And where was he gone as far as you know?

16 A. Merchant seaman.

17 Q. And how frequently, if at all, would you run
18 into Rodney?

19 A. Every -- same as Ronald, about the same.

20 Q. About the same as Ronald?

21 A. Yeah. Ronald, yeah.

22 Q. Now, Troy Eason, tell the jury, please, where
23 Troy lives.

24 A. Troy lives -- he's about five blocks away from
25 me.

1 Q. In the same neighborhood?

2 A. In the same neighborhood.

3 Q. Unlike Ronald and Rodney, did Troy stay in
4 Charleston or did he leave, as well?

5 A. He stayed in Charleston.

6 Q. So amongst those guys, Demar and Troy and
7 Ronald and Rodney, who would you have most contact
8 with?

9 A. Troy.

10 Q. With Troy. Keith Brown, who was he to you?

11 A. That's my brother.

12 Q. And you've told us then that you and Chris
13 Thomas worked together?

14 A. Uh-huh.

15 Q. Do you recall how long y'all had worked
16 together before the events in question?

17 A. About a year, a year and a half. For about a
18 year and a couple months.

19 Q. David Rocquemore, do you see him in the
20 courtroom?

21 A. Yes.

22 Q. Could you point him out to the jury?

23 A. Sitting over there (pointing).

24 Q. With the black suit on?

25 A. Yes.

1 Q. Prior to August 13th, 2005, had you ever had
2 the occasion to meet David Rocquemore?

3 A. No.

4 Q. That was the first time you had seen him?

5 A. That was the first time.

6 Q. If you would, Dexter, tell us a little bit
7 about the party you had a week ahead of time. Did
8 Ronald and Rodney Gibbs go to that party?

9 A. Yes.

10 Q. Did Demar Denson go to that party?

11 A. Yes.

12 Q. Did Troy Eason?

13 A. Yes.

14 Q. And in addition to those guys, were there some
15 young ladies there?

16 A. Yes.

17 Q. And who was cooking for that party?

18 A. Demar.

19 Q. Was Chris Thomas there?

20 A. No.

21 Q. And was David Rocquemore?

22 A. No.

23 Q. Now, during that party, were there plans made
24 for the following weekend?

25 A. Yes.

1 Q. Could you tell the jury about that, please?

2 A. Well, you know, one of the young ladies, she
3 said she wanted to -- wanted to have a cookout the
4 next weekend. She --- they had so much fun, they
5 wanted to -- they said they were going to have a
6 cookout the next weekend and told us we was invited.

7 Q. Okay. And tell the jury, did you plan on
8 going to that party?

9 A. Yes.

10 Q. And did you invite Chris Thomas to come join
11 you at the party?

12 A. Yes.

13 Q. Okay. So focusing your attention now on
14 August 13th, describe if you would to the jury where
15 that party took place. Was it in Ladson or a
16 different area?

17 A. Summerville.

18 Q. And could you tell us a little bit about that
19 party? What was it like?

20 A. It was just a -- like a settled party, you
21 know, just a little music, food, drinks, you know.

22 Q. And Chris Thomas actually arrived at the
23 party?

24 A. Yes.

25 Q. Did he in fact bring David Rocquemore with

1 him?

2 A. Yes.

3 Q. Okay. And tell us who else from the
4 neighborhood were -- were at the party.

5 A. It was Ronald, well, Rodney, Troy, me.

6 Q. And Demar, did he go?

7 A. Demar.

8 Q. Okay. Now, I think you described the party as
9 a settled party?

10 A. Yeah.

11 Q. Okay. Were there children at the party?

12 A. Yes, children.

13 Q. Were there older people at the party?

14 A. Yes. Well, around my age.

15 Q. Okay.

16 A. You know.

17 Q. And did anything eventful happen in that
18 party?

19 A. No.

20 Q. What happened as that party started winding
21 down? What did you then decide to do?

22 A. You know, everybody -- we had so much fun the
23 weekend before, so they was looking towards going
24 back to my house, but we wound up going to Troy's
25 house afterward.

1 Q. Okay. So tell us, if you would, when you left
2 that party who went to Troy's house.

3 A. It was me, Rocquemoore, Troy, and Demar.

4 Q. Okay. And what about Chris Thomas?

5 A. And Chris. Yes, he also was there.

6 Q. When you went to Troy's house, did any of the
7 young ladies go, as well?

8 A. Yes. The young ladies came.

9 Q. Okay. Could you describe for the jury how
10 long y'all stayed at Troy's house, if you remember?

11 A. Probably about 15, 20 minutes.

12 Q. And why was it that you stayed there such a
13 short period of time?

14 A. Because the music wasn't working over there at
15 his house.

16 Q. Okay. Where do y'all go once you leave Troy's
17 house?

18 A. To my house.

19 Q. Now, when you leave Troy's house, does Troy go
20 with you?

21 A. Yes.

22 Q. He goes with you?

23 A. With me when I leave. He goes with me, but --
24 well, I'm getting before myself, but he goes with me,
25 but he winds up leaving after I left with Rocquemoore.

1 Q. Okay. So ---

2 A. After that.

3 Q. --- Troy stays at his house at some point?

4 A. Yeah, at some point.

5 Q. Okay.

6 A. Uh-huh.

7 Q. When you went down to your house then, could
8 you tell us who all came to your house once you left
9 Troy's?

10 A. It was me, Rocquemore, Troy, Demar, and Chris.

11 Q. And then did Rodney ---

12 A. Then Ronald and Rodney.

13 Q. --- and Ronald come?

14 A. Yeah, they came afterward.

15 Q. Okay.

16 A. A little -- a little bit afterward.

17 Q. Were there any women at this party?

18 A. Yes.

19 Q. Okay. And do you recall how many women came
20 over there?

21 A. I think about five.

22 Q. Okay. And what about your brother Keith?

23 A. Yeah.

24 Q. Where is he?

25 A. He was in the house.

1 Q. He was inside the house?

2 A. Uh-huh.

3 Q. Now, you had told us about the party earlier
4 in the evening. Had you had anything alcoholic to
5 drink when you were there?

6 A. Yes.

7 Q. At the lady's house?

8 A. Uh-huh.

9 Q. And did you have some alcoholic beverages at
10 your house?

11 A. Yes..

12 Q. At some point do you leave your house that
13 evening?

14 A. Yes. Thirty minutes, about 30 minutes after I
15 got there, me and Rocquemore leave to go get some
16 beer.

17 Q. Okay. So just the two of you went?

18 A. Yes.

19 Q. And which vehicle did y'all take?

20 A. We took his.

21 Q. And do you remember what type of car he had?

22 A. I think it's a Suburban or a Tahoe.

23 Q. A big SUV?

24 A. A white SUV.

25 Q. Okay. When you go to get the beer, do y'all

1 come back to your house after that?

2 A. Yes.

3 Q. When you left to go get the beer, did you
4 leave all the other people at the party?

5 A. Yes.

6 Q. So were the girls at your house when you left?

7 A. Yes.

8 Q. Were Ronald and Rodney at your house when you
9 left?

10 A. Yes.

11 Q. Demar was at your house?

12 A. Yes.

13 Q. And Troy was at home?

14 A. Yes.

15 Q. Okay.

16 A. Troy had left, I think, after we left.

17 Q. When you get back to your house, could you
18 tell us if at some point you talked to Chris Thomas
19 and y'all have a conversation about what happened
20 while you were gone?

21 A. Yes. I was just wondering what -- what had --
22 when I got back, when I got back there, you know, I
23 seen the girls leaving, so I didn't understand why
24 they was leaving.

25 Q. Okay. Well, tell the jury a little bit about

1 that for us. You drive back up and where are the
2 girls?

3 A. They're in -- they're right in the front of my
4 house on the street in their cars.

5 Q. And is it -- could you describe for the jury
6 what your mood was when you learned that the girls
7 were leaving?

8 A. I was like, why are y'all leaving, you know?

9 Q. Okay. And did you know where Rodney and
10 Ronald ---

11 A. They had ---

12 Q. --- and Demar were?

13 A. They had left.

14 Q. Tell the jury, please, what you did as a
15 result of learning that the girls were leaving and
16 the guys had gone. What'd you then do? Did you call
17 somebody?

18 A. Yes. I called Troy.

19 Q. Okay. And tell us, please, what you asked
20 Troy when you called him.

21 A. I said, why did -- why did them guys left my
22 house unattended like that?

23 Q. Could you describe for us what your mood was
24 like when you called Troy? Were you ---

25 A. I was ---

1 Q. --- angry at him?

2 A. Yes. I was angry.

3 Q. Okay.

4 A. Uh-huh.

5 Q. Were you disappointed?

6 A. Yeah. Disappointed.

7 Q. Did Troy indicate they would come over and
8 talk to you about it?

9 A. Yes.

10 Q. Okay. So you were expecting Troy to come
11 over?

12 A. Yes.

13 Q. Now, let me ask you about a practice, and you
14 tell me whether or not it's unusual. Do people cut
15 their lights off when it's dark outside as they're
16 approaching houses?

17 A. Yeah. We did it all the time in the
18 neighborhood.

19 Q. Okay. And could you explain to us why y'all
20 would do that?

21 A. Just as soon as we get up on it, there might
22 be a lot of people in the road. We might just cut
23 the light off and just pull up.

24 Q. Now, you've lived in Woodside Manor then now
25 for over 20 years?

1 A. Yes.

2 Q. Has that neighborhood changed over the course
3 of those 20 years?

4 A. Yeah.

5 Q. Okay.

6 A. You can say.

7 Q. There are some people who've been there that
8 long and then there's some new blood?

9 A. Yeah. Right.

10 Q. When Ronald drives up in this vehicle, where
11 are you and where is Chris and where is David?

12 A. We was -- we're right there in the middle of
13 the road.

14 Q. When you say the middle of the road, where is
15 that in relationship to your driveway?

16 A. Right in front of my -- maybe to the left of
17 my driveway.

18 Q. Okay. And the cars that were parked outside
19 prior to Ronald coming were David's and Chris's?

20 A. Uh-huh.

21 Q. When you see Ronald's vehicle driving up,
22 could you tell us whether or not there was anything
23 unusual about the way they drove up?

24 A. Just cut the lights off.

25 Q. Okay. And you've indicated to us that that in

1 fact is not unusual?

2 A. No, it's not.

3 Q. When they got out of the car, was there
4 anything strange about the way they got out of the
5 car?

6 A. No.

7 Q. Tell the jury what the next thing you see
8 happen between Rocquemore and Chris Thomas. And let
9 me interrupt you and ask you, what was Rocquemore and
10 Thomas's mood like that the girls had left?

11 A. Well, they was pretty angry the girls were
12 leaving, too.

13 Q. Okay. And when Ronald and Troy and Demar and
14 Rodney drive up then, could you tell the jury what
15 happens next once they get out of the car? What's
16 the next thing that you recall?

17 A. Once they get out of the car -- I know I was
18 talking to the young ladies, and for whatever reason,
19 once they got out of the car, all -- everybody was
20 just right there in the crowd. For whatever the
21 reason, the arguing and stuff came on, I don't know.

22 Q. Okay.

23 A. But...

24 Q. So were you aware of what started the
25 argument?

1 A. No.

2 Q. And when you say argument, do you mean words
3 or do you mean fight?

4 A. Just -- just words and pretty much like chest
5 up, like close to each other, you know, I don't know.

6 Q. Okay. And when you say everybody, do you mean
7 -- tell us who you mean.

8 A. I meant Rocquemore and Demar.

9 Q. Rocquemore and Demar?

10 A. Yeah.

11 Q. Okay. And you saw no fighting, though?

12 A. No, ma'am.

13 Q. At some point does Chris Thomas indicate he's
14 going to do something?

15 A. I know he yelled and he blurted -- blurted out
16 something, but I don't know exactly what he said, but
17 I know he walked off and walked off and walked to his
18 car.

19 Q. Okay. And while you don't remember what he
20 said, what was your concern when he went to the car?

21 A. That he may be going to get something.

22 Q. What do you mean something?

23 A. I meant like a gun or a bat or whatever.

24 Q. Okay.

25 A. You know.

1 Q. So prior to his walking to his car, where had
2 he been standing?

3 A. Right back behind his trunk.

4 Q. Okay. And do you see Ronald Gibbs approach
5 Chris Thomas at that point?

6 A. Yes.

7 Q. You don't recall what was said by Chris
8 Thomas?

9 A. No. I don't recall.

10 Q. Now, after that occurs, do you see where David
11 Rocquemore goes?

12 A. I mean, I see him go to his truck.

13 Q. Okay. And if you would, tell this jury how
14 did that affect you when you saw David going to his
15 truck.

16 A. I mean, it just -- it was really sort of -- I
17 mean, I just thought that he was going to get a gun
18 or something and, you know, I don't know, so I just
19 ran.

20 Q. Okay.

21 A. You know.

22 Q. Now, when you saw David Rocquemore approaching
23 his vehicle, was anybody running after him?

24 A. No.

25 Q. Was anybody trying to hurt him?

1 A. Uh-uh.

2 Q. What did you do as a result of what you were
3 concerned about? What did you do?

4 A. I just left.

5 Q. And when you say you left, where did you go?

6 A. I ran through the back of -- my backyard and
7 in to the house, to the back of my house.

8 Q. Prior -- I'm sorry.

9 A. To the back -- back of my house, and I ran
10 through the back door.

11 Q. Let me ask you this question. Why would you
12 go to the back of your house to go in instead of go
13 in the front door?

14 A. Because the bushes was right there on the --
15 where the -- there's some bushes right there. So if
16 any -- any gunshots was to, you know, happen or
17 whatever, I was just protecting myself by running
18 through the backyard.

19 Q. And that's why you didn't go in through the
20 front?

21 A. Right.

22 Q. Okay. Now, at some point when you're going
23 behind the bushes and in the back of the house, do
24 you hear anything?

25 A. Yeah. I hear gunshots.

1 Q. Okay. And do you recall how many you heard?

2 A. I heard about three.

3 Q. When you -- you entered your house actually?

4 A. Yeah.

5 Q. Go in it? And where do you go once you go
6 inside your house?

7 A. I go straight to the front door.

8 Q. Okay. Do you ever go out of your front door?

9 A. No -- well, I opened the door and went out,
10 and as soon as I got to the front door, they was like
11 yelling, saying, "Call 911, Demar got shot."

12 Q. Okay. Now, tell this jury if you would,
13 please, at the end of your driveway, across the
14 street, is there a ditch?

15 A. Yes.

16 Q. Okay. Tell the jury where you saw or who you
17 saw outside the front door when you opened it.

18 A. It was Rocquemore, Ronald, Rodney, Troy, and
19 Chris.

20 Q. Okay. Could you see Demar?

21 A. Yes.

22 Q. Okay. And where was Demar?

23 A. Laying out in the ditch.

24 Q. Okay. Where was Ronald and Chris Thomas?

25 A. Ronald was standing up, and Chris was standing

1 up, and then Rodney -- Rodney and Troy had him
2 restrained on the ground.

3 Q. They had Rocquemore on the ground?

4 A. Rocquemore on the ground.

5 Q. Okay. And what were you being yelled at to
6 do?

7 A. Call 911.

8 MS. KNEESE-SHEALY: I beg the Court's
9 indulgence just a moment.

10 (Ms. Kneese-Shealy and Mr. Durant
11 confer.)

12 BY MS. KNEESE-SHEALY:

13 Q. Dexter, the next day -- well, I guess you were
14 still around when it became light outside; is that
15 correct?

16 A. Right.

17 Q. Were there any skid marks in the road?

18 A. No. Not that I know of.

19 MS. KNEESE-SHEALY: Okay. Well, let me
20 -- beg the Court's indulgence just a moment.

21 THE COURT: Yes, ma'am.

22 (Mr. Savage and Ms. Kneese-Shealy review
23 photos.)

24 MS. KNEESE-SHEALY: Your Honor, may I
25 approach the witness?

1 Can I get these marked for I.D.

2 (State's Exhibit No. 51, photo - skid
3 marks, is marked for identification.)

4 (State's Exhibit No. 52, photo - skid
5 marks, is marked for identification.)

6 BY MS. KNEESE-SHEALY:

7 Q. Mr. Brown, I'm going to show you what's been
8 marked for identification purposes only, 51 and 52,
9 and just ask you can you identify these shots, these
10 photographs.

11 A. Those -- those marks had been there.

12 Q. Okay.

13 A. Yeah.

14 Q. Well, let's do it this way if you don't mind,
15 Mr. Brown.

16 A. All right.

17 Q. First of all, are you familiar with those
18 areas?

19 A. Yes, I'm familiar with it.

20 MS. KNEESE-SHEALY: Your Honor, we would
21 offer these into evidence.

22 THE COURT: Any objection?

23 MR. SAVAGE: No, sir.

24 THE COURT: 51 and 52?

25 MS. KNEESE-SHEALY: Yes.

1 THE COURT: In evidence without
2 objection.

3 (State's Exhibits No. 51 and 52,
4 previously marked for identification, are received in
5 evidence.)

6 BY MS. KNEESE-SHEALY:

7 Q. Okay. And tell the jury, if you would, what
8 those photographs depict. What are those pictures
9 of?

10 A. Some skid marks.

11 Q. Okay. And where are those skid marks in
12 relationship to your house?

13 A. It's back like behind my house. I mean,
14 before you get to my house, coming down
15 Berrywood.

16 Q. Okay.

17 A. Yeah.

18 Q. And were those skid marks present before the
19 incident in question?

20 A. Yes, I think they were.

21 MS. KNEESE-SHEALY: Beg the Court's
22 indulgence just a moment.

23 I have no further questions. Please
24 answer any that the defense might have.

25 MR. SAVAGE: May it please the Court.

CROSS-EXAMINATION

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BY MR. SAVAGE:

Q. Good afternoon, sir. Dexter Brown, correct?

A. Yes.

Q. I'm Andy Savage, and I represent
Mr. Rocquemore. I've never seen you, I don't think;
is that right?

A. No, you haven't.

Q. Now, the prosecutor -- the prosecutor, do you
know the prosecutors?

A. Yes.

Q. And who are they?

A. Not really by name.

Q. All right. But these folks right here?

A. Yes.

Q. Have you met with them?

A. Yes, I met with them.

Q. And in meeting with them, did you discuss what
you were going to tell the jurors today?

A. Yes.

Q. And did you tell them the same statement that
you just told the jury?

A. Yes.

Q. And on how many occasions have you met with
them?

1 A. Two times.

2 Q. And did you, like, go over your testimony?
3 Did you change your testimony at all when you met
4 with them?

5 A. No.

6 Q. No? Did you add any more to the testimony
7 when you met with them?

8 A. No.

9 Q. Do you mean the testimony that you gave on
10 August 14th, 2005, you never suggested that there was
11 more to it until you arrived at your testimony today?

12 A. No.

13 Q. Now, you did give a statement to the police
14 that night?

15 A. Yes.

16 Q. That consists of about 35, 40 words?

17 MR. SAVAGE: May I approach the witness,
18 Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. SAVAGE:

21 Q. May I approach?

22 A. Yes.

23 Q. Are you familiar with this?

24 A. (The witness reviews document.) Yes, I'm
25 familiar with it.

1 Q. Now, is that the statement you gave on August
2 14th to the police about your knowledge of the events
3 that transpired early that morning?

4 A. Yes.

5 Q. And you were going to be truthful with them at
6 that time?

7 A. Yes.

8 Q. And accurate with them?

9 A. I was a little intoxicated, but yes.

10 Q. Oh, oh, oh, you were a little intoxicated. So
11 at the time you gave the statement, you didn't know
12 what was going on, but then when you met with the
13 prosecutor -- you weren't intoxicated when you met
14 with the prosecutor, were you?

15 A. No. I wasn't intoxicated then.

16 Q. Either time? So then when you met with the
17 prosecutor, you weren't drinking and you got the
18 story straight?

19 A. No, nothing like that.

20 Q. No?

21 A. I got the story straight. The same thing I
22 said there is the same thing I said now.

23 Q. Did you notice what your address was that
24 night?

25 A. (The witness further reviews document.) I

1 don't see no address.

2 Q. Don't see any address?

3 A. Uh-uh.

4 Q. You don't think the prosecutor might have
5 taken that off the copy he gave me, do you?

6 A. I don't know.

7 MR. SAVAGE: Do you have a complete copy
8 there I could look at?

9 (Ms. Shealy reviews documents.)

10 MR. SAVAGE: Is this the statement he
11 gave, or is that the one?

12 MS. KNEESE-SHEALY: Your Honor, I would
13 object. May we approach the bench?

14 (There was an off-the-record bench
15 conference in the presence of the jury but out of the
16 hearing of the jury.)

17 (Said bench conference being concluded,
18 the following proceedings were had:)

19 BY MR. SAVAGE:

20 Q. Mr. Brown, the statement that I showed you
21 that you said that you gave to the police that
22 morning...

23 MR. SAVAGE: Where is that, please? Can
24 I get this back from you?

25 BY MR. SAVAGE:

1 Q. Has this been changed in any way since you
2 gave it?

3 MS. KNEESE-SHEALY: Your Honor, I have
4 another objection.

5 THE COURT: Approach. If he wants to
6 show him his statement...

7 (There was an off-the-record bench
8 conference with the Court, Ms. Kneese-Shealy, and
9 Mr. Savage in the presence of the jury but out of the
10 hearing of the jury.)

11 MR. DURANT: May I approach, Your Honor?
12 Can I approach?

13 (Said bench conference continues with
14 the Court, Ms. Kneese-Shealy, Mr. Savage, and
15 Mr. Durant.)

16 (Said bench conference being concluded,
17 the following proceedings were had:)

18 BY MR. SAVAGE:

19 Q. Mr. Brown, I beg your indulgence. The
20 statement that I gave you, that I showed to you, are
21 you familiar with it?

22 A. Yes.

23 Q. And is there anything that has been changed or
24 taken out in any way of your statement?

25 A. No.

1 Q. Would you kindly look at the statement and
2 tell me the address?

3 A. There's no address on there.

4 Q. Was there an address on it when you gave it?

5 A. No.

6 Q. There wasn't?

7 A. Not that I remember.

8 Q. All right. Now, let's see the original,
9 please.

10 (Mr. Savage and Mr. Durant confer.)

11 BY MR. SAVAGE:

12 Q. Is this the original of the statement that you
13 gave?

14 A. (The witness reviews document.) Yeah, because
15 it has my handwriting on it.

16 Q. All right. And is that still there on the
17 statement that I showed you?

18 A. No, I don't see it on there.

19 Q. Thank you. Now, this is the statement that
20 you gave to the police the morning of August 14th
21 and, with all due respect, you said that you were
22 intoxicated at that time?

23 A. Right.

24 Q. And at that time, would it be fair to say that
25 you didn't have a clear recollection of what had

1 transpired immediately before that?

2 A. (There was no response.)

3 Q. Sir?

4 A. Yes.

5 (The trial is interrupted by cell phone.)

6 THE COURT: Someone take the phone,
7 please, Mr. Bailiff.

8 (There was off-the-record discussion
9 regarding the cell phone.)

10 THE COURT: Go ahead.

11 BY MR. SAVAGE:

12 Q. When the police interviewed you that night,
13 did you tell them all the information about what
14 happened earlier that night? Did you tell them that
15 you had been to two parties prior to that night?

16 A. Yes. I'd been to the one in Summerville.
17 Now, I'd just been to that one, in Summerville, one
18 party.

19 Q. What I'm going to do is to give you a copy of
20 your statement, then you can use that to refresh your
21 memory if you need to. Did you tell the police --
22 first of all, when you gave that statement you admit
23 you were intoxicated?

24 A. Yes.

25 Q. And the police knew you were intoxicated?

1 A. Oh, yeah.

2 Q. No question about the police knew you were
3 intoxicated?

4 A. Uh-huh.

5 Q. Breath reek?

6 A. Yes.

7 Q. All of you stumbling around and that, right?

8 A. Yes.

9 Q. And did you tell the law enforcement
10 authorities that night that you had been to a party
11 in Summerville?

12 A. Yes.

13 Q. Is it on the statement?

14 A. No, it's not on the statement.

15 Q. Did you tell the police that you had a party
16 at your house?

17 A. Yes.

18 Q. Did you tell them that there was any
19 disturbance at the party at your house between the
20 friends that you grew up with and one or two of the
21 women?

22 A. Yes.

23 Q. And is that in your statement?

24 A. No.

25 Q. Did you tell them or did you tell the jury

1 today that anybody took an umbrella between -- stuck
2 between their legs and started going after the women
3 in a sexually provocative way?

4 A. No.

5 Q. You didn't tell them?

6 A. No.

7 Q. Did you tell them Mr. Rocquemore wasn't
8 drinking that night?

9 A. No.

10 Q. He wasn't drinking?

11 A. I don't recall.

12 Q. You don't recall, but you don't recall that he
13 wasn't drinking or that -- did you see him with a
14 drink that night?

15 A. I don't recall. I wasn't paying attention.

16 Q. All right. Do you recall that he was very
17 quiet and composed and wasn't getting in anybody's
18 face or doing anything aggressive to anyone that
19 night?

20 A. Yes.

21 Q. When all this provocative throwing the drink
22 on people and what was going on in the party, the
23 dancing and the whooping and hollering, he wasn't
24 part of it, was he?

25 A. No.

1 Q. He wasn't engaged in any arguments with any of
2 the girls, he wasn't putting his hands on any of the
3 girls, he wasn't being aggressive to male or female
4 that night, was he?

5 A. No.

6 Q. Quiet guy. Barely said two words all night.
7 Correct?

8 A. Right.

9 Q. And he was the only sober one in the crowd, so
10 that when you wanted to go out and get more alcoholic
11 beverages for yourself and for your friends, he is
12 the one that drove?

13 A. Right.

14 Q. Designated driver, because he was sober. How
15 was he acting when you went and got the beer that
16 night? Was he quiet?

17 A. Yeah ---

18 Q. Was he peaceful?

19 A. --- quiet.

20 Q. Quiet guy?

21 A. Yeah.

22 Q. He wasn't agitated or aggravated to anybody?

23 A. No.

24 Q. Now, while you were at the store buying more
25 -- was it beer or booze, or what were you buying?

1 A. Beer.

2 Q. Was David aggravated or mad? Did he express
3 any ill will towards anyone?

4 A. No.

5 Q. When he got back to the scene, did his
6 attitude change? He stayed calm and peaceful the
7 whole time, didn't he?

8 A. Well, when we got -- when we got back, you
9 know, he was a little upset, all of us was a little
10 upset because the -- because the girls was leaving.

11 Q. But he didn't take any aggressive action
12 towards anybody. I mean, you've given statements.
13 You never said he did anything of any untowards
14 towards anyone else. He didn't shout at anybody. He
15 didn't cuss at anybody.

16 MS. KNEESE-SHEALY: Your Honor, I object
17 to the form.

18 MR. SAVAGE: This is cross-examination.

19 THE COURT: What's the nature of the
20 objection?

21 MS. KNEESE-SHEALY: The witness hasn't
22 answered a question. Mr. Savage is testifying, but
23 the witness hasn't responded.

24 THE COURT: Well, but I thought he was
25 trying to use it through inflection, but if the

1 objection is to ask a question, ask it in question
2 format.

3 MR. SAVAGE: I apologize.

4 BY MR. SAVAGE:

5 Q. (Reading): When I came back home and I had
6 some friends over, all of a sudden it was an
7 argument, and my friend got shot.

8 You didn't even say who was in the argument
9 until today. Isn't that correct?

10 A. Right.

11 Q. Or maybe when you met with the prosecutor.
12 But that night when the police wanted to know about
13 the argument, you didn't say quiet David Rocquemoire
14 was involved in the argument. It just came out
15 today. Correct?

16 A. Correct.

17 Q. "What time did the argument start?" I don't
18 know. That's what you told them?

19 A. I know. I didn't.

20 Q. "Do you know who shot?" No.

21 A. No, because when...

22 Q. You didn't know?

23 A. I don't know.

24 Q. You were tight.

25 A. No, sir.

1 Q. "Who else was inside your residence prior to
2 the shooting?" Gibbs, Gibbs, Denson, Brown, and
3 Eason.

4 I mean, I ask you if you'll look at it. Was
5 Rocquemore there? Didn't even mention him. He was
6 so insignificant that night you didn't even mention
7 him being at your party. Correct?

8 A. He was at the party.

9 Q. I didn't ask you that. Yes, he was at the
10 party.

11 A. Yeah.

12 Q. But you didn't know it. It's not in your
13 statement. Correct?

14 A. Just because it ain't in my statement...

15 Q. Doesn't mean it's not true, we know that. But
16 it wasn't in your statement about a shooting that you
17 claim that you witnessed that Mr. Rocquemore was
18 involved in. The truth is you didn't witness
19 anything. The truth is you were tanked, and when you
20 got home you went in the house. And now, because
21 your three friends that you grew up with are somewhat
22 suspect of being in trouble, you're taking their
23 side, aren't you?

24 A. No. I'm not taking nobody's side.

25 Q. Any driveby shootings in your neighborhood?

1 A. There's been a few shootings around there.

2 Q. Driveby shootings, when cars roll up at night,
3 they turn their lights off and they gun ---

4 MS. KNEESE-SHEALY: Objection, Your
5 Honor.

6 BY MR. SAVAGE:

7 Q. --- somebody down?

8 A. Not that I know of.

9 THE COURT: What is the objection?

10 THE WITNESS: There have been shootings,
11 but I -- I don't know of any driveby.

12 THE COURT: Hold on.

13 Approach the bench.

14 (There was an off-the-record bench
15 conference in the presence of the jury but out of the
16 hearing of the jury.)

17 (Said bench conference being concluded,
18 the following proceedings were had:)

19 THE COURT: All right. Go ahead.

20 BY MR. SAVAGE:

21 Q. Mr. Brown, there may be some reasons that
22 people drive with their lights out other than being
23 courteous to the neighbors; isn't that correct?

24 A. Well, I know why we do it, just when it's ---

25 Q. That's not the question I asked you. I asked

1 you if there are reasons that people drive with their
2 lights off other than being courteous to the
3 neighbors.

4 A. Right, there's various reasons.

5 Q. Now, you have testified to this jury that you
6 saw somebody -- was that Thomas or somebody, Thomas,
7 Chris, Chris Thomas?

8 A. Right.

9 Q. --- go to their car?

10 A. Right.

11 Q. And you immediately thought that they were
12 going to get a gun?

13 A. Right.

14 Q. Is that usual in your neighborhood?

15 A. I -- I don't know.

16 Q. Well ---

17 A. I don't know ---

18 Q. What would have made you thought that?

19 A. I mean, if he going to his -- I don't know.

20 Q. And you saw Chris Thomas leaving, and you
21 never told the police that that's what he did --
22 excuse me -- David Rocquemoire leaving, and you never
23 told the police that. Did you? Do you want to see
24 your statement again?

25 A. I didn't write it on the statement.

1 Q. Huh?

2 A. I didn't write it on the statement.

3 Q. You didn't tell them. The night you gave the
4 statement, you swore that it was true and correct to
5 the best of your knowledge. And you didn't say David
6 Rocquemore was going to his car. You didn't say you
7 saw Chris Thomas going to his car. You didn't say
8 that they were trying to leave and get out of there
9 or that David Rocquemore was going to his car to get
10 out of there because trouble had started. You didn't
11 say that David Rocquemore was beaten up that night.
12 Because you said you weren't there. Is that correct,
13 Mr. Brown?

14 A. What you mean by when you said I wasn't there?

15 Q. Well, you didn't tell the police that night
16 what happened leading up to the fight. You didn't
17 tell them about the parties, you didn't tell them
18 about the insults to the girls, you didn't tell them
19 that David Rocquemore was quiet and was not consuming
20 any alcohol that night, you didn't tell them that
21 David was calm and cool and collected when you got
22 back to the house that night, you didn't tell them
23 that David Rocquemore got aggravated about some girl
24 relationship that night, you didn't tell them that
25 Chris Thomas went to the trunk of his car that night,

1 you didn't tell them that David Rocquemore was
2 leaving that night, getting to his car. You didn't
3 tell them that ---

4 MS. KNEESE-SHEALY: Your Honor, I would
5 ask that the witness be asked a question, allowed the
6 opportunity to answer it, and then asked another
7 question.

8 MR. SAVAGE: This is a continuous
9 question, Your Honor.

10 THE COURT: I'll allow that because the
11 witness asked you to clarify. Go ahead.

12 BY MR. SAVAGE:

13 Q. All of these things that you've testified to
14 the jury today, you didn't tell the police when you
15 were interviewed. Now, did the police come back and
16 interview you again?

17 A. No.

18 Q. When you were interviewed by the prosecutor,
19 did you tell them all this?

20 A. Did I tell them that ---

21 Q. All the things that you testified to today?

22 A. Yes.

23 Q. Did you tell them that you left it out of your
24 statement? Did you write down a new statement? Did
25 you give them a statement truthfully -- let me get

1 the exact words -- true and correct to the best of
2 your knowledge?

3 A. (There was no response.)

4 Q. Sir?

5 A. Could you repeat that, please?

6 Q. Was that the complete statement you gave that
7 night, what you reviewed?

8 A. Yes, what I...

9 Q. Now, do you remember giving another statement
10 when the police came back and asked you further
11 questions about what you observed that night?

12 A. I didn't give no -- I didn't give no other
13 statement to another officer. Just that night.

14 Q. But did the police ever ask you questions
15 about what you observed that night? Either that
16 night or later in the day or another policeman? A
17 guy named Smith took the questions ---

18 A. Uh-huh.

19 Q. --- that you have in front of you, correct?

20 A. Correct.

21 Q. Did a detective by the name of Boyd ask you
22 questions later that night or the next morning?

23 A. I don't recall.

24 MR. SAVAGE: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. SAVAGE:

2 Q. (Mr. Savage tenders document to the witness.)

3 A. (The witness reviews document.) Yes.

4 Q. A different detective, but you told the jury
5 that you weren't questioned a second time. Now we've
6 established you were questioned a second time by a
7 detective. Correct?

8 A. Right.

9 Q. And, Mr. Brown, not to be rude, but people
10 forget?

11 A. Right.

12 Q. Right? So I take it in good faith that you
13 didn't remember giving a second statement.

14 A. Right.

15 Q. In the second statement, if I may, it says did
16 you hear what David and Demar -- I don't like using
17 first names, because I don't think ---

18 A. Right.

19 Q. --- I should. But the fellows that were
20 arguing, they asked you about that because the police
21 were interested in that.

22 A. Uh-huh.

23 Q. And they asked you what they were arguing
24 about, and what did you tell the jury today?

25 A. I don't know.

1 Q. You didn't say it was over some girls? The
2 girls had gone out?

3 A. No, I didn't say it was over some girls.

4 Q. Oh, I thought -- I'll let the jury judge that,
5 but I thought you said that he was aggravated because
6 the girls were gone. That's not correct?

7 A. I said David Rocquemore was -- that he was --
8 well ---

9 Q. What did you say that night?

10 A. --- no.

11 Q. No. Didn't know?

12 A. Right.

13 Q. You did tell them that you knew David from
14 Chris?

15 A. Right.

16 Q. And you told them that Chris was your friend
17 from work?

18 A. Right.

19 Q. And you told them that Demar was the guy you
20 grew up with?

21 A. Right.

22 Q. And you told them who told you to call 911?

23 A. (There was no response.)

24 Q. Yes?

25 A. Yes.

1 Q. And you told them when you got there who was
2 standing in the driveway?

3 A. When the cops got there?

4 Q. No. When you were standing outside in the
5 driveway when Demar pulled back up, who was standing
6 there?

7 A. Chris, David, and Keith.

8 Q. And what was the argument about? They asked
9 you this a second time.

10 A. I don't know.

11 Q. So at least on two occasions that night they
12 asked you about what the argument was about, and you
13 said you didn't know on two separate occasions?

14 A. Uh-huh.

15 Q. And when they asked you did you go back
16 inside, what did you say?

17 A. Did I go back inside?

18 Q. Uh-huh. When did you go back inside?

19 A. When David -- when David went to the trunk.

20 Q. All right. You didn't say anything about --
21 about Mr. Thomas. Is it Thomas Chris or Chris
22 Thomas? You didn't say anything about him?

23 A. (The witness nods head up and down.)

24 Q. Correct?

25 A. Right.

1 Q. And in your testimony today you were -- you
2 said you were getting scared because you thought that
3 Chris Thomas was going to get a gun?

4 A. Right.

5 Q. That's pretty important?

6 A. Uh-huh. Right.

7 Q. You didn't tell the police that?

8 A. I didn't tell them.

9 Q. Did you ever see David with a gun?

10 A. No.

11 Q. No?

12 A. (The witness shakes head from side to side.)

13 Q. David didn't start an argument when they came
14 back, flashing a gun and saying he was going to shoot
15 the MF-er or anything like that.

16 A. No.

17 Q. Did he? And after, after Chris Thomas -- now
18 I'm confused. I'm going to ask you based on what you
19 said today, not what you said that night, but you got
20 scared because you thought Chris Thomas was going to
21 his car, you automatically got scared even though you
22 didn't know whether he was getting in to get the heck
23 out of there or what.

24 A. Uh-huh.

25 Q. And then you saw your friend who you grew up

1 with, the guy in the Army -- what's his name?

2 A. Ronald.

3 Q. Ronald. Run over before Chris Thomas could do
4 anything. And what do you call it, bull rush? Is
5 that the term you used?

6 A. I think.

7 Q. Tell the jury what bull rush means.

8 A. I don't know exactly what it means.

9 Q. Well, tell them what he did. Tell them what
10 Chris Thomas did.

11 A. I don't know, but -- well, Ronald just grabbed
12 him and held him. I don't know what kind of move,
13 bull rush, I don't know the name of it, but he just
14 held him.

15 Q. And where was David Rocquemore at that time?

16 A. Just still everybody was right there in the
17 crowd.

18 Q. He hadn't done anything when the fight was
19 going on between your friend -- what's his name?

20 A. Demar.

21 Q. No. The guy that bull rushed the guy, the
22 Army guy?

23 A. Ronald.

24 Q. Ronald and Chris Thomas were fighting. Isn't
25 that correct?

1 A. No, they weren't fighting.

2 Q. Well, he knocked the heck out of him, didn't
3 he?

4 A. No, he ---

5 Q. Knocked him down on the ground, kept him on
6 the ground?

7 A. He just grabbed him and held him.

8 Q. Oh, he never threw him on the ground?

9 A. I -- not that I remember.

10 Q. And that was all before, whatever you don't
11 remember was before David went to his car?

12 A. Right.

13 Q. And you can't tell this jury why David was
14 going to the car, because maybe you did or maybe you
15 didn't see him and maybe somebody was following him
16 and somebody was beating on his back when he's going
17 to his car, preventing him from leaving, whether he's
18 getting in his car to get the heck out of the
19 neighborhood, because he was the only sober one
20 there that night.

21 MS. KNEESE-SHEALY: Your Honor, again ---

22 BY MR. SAVAGE:

23 Q. Isn't that correct? Isn't that correct?

24 A. I don't know if he was sober or not.

25 Q. So now you don't know whether he was drinking?

1 A. No.

2 Q. Did you see him drink that night?

3 A. I wasn't paying attention.

4 Q. In fact, you weren't paying attention so much
5 you didn't even put him in the police report that he
6 was even at the party. Isn't that correct?

7 A. Sir, I didn't put it in the statement.

8 Q. Even though that he was the guy who was
9 getting arrested that night right in front of you,
10 you didn't even put his name in the statement. Isn't
11 that correct?

12 A. I didn't put it in the statement.

13 MR. SAVAGE: Thank you, sir.

14 MS. KNEESE-SHEALY: Please the Court.

15 THE COURT: Yes, ma'am.

16 REDIRECT EXAMINATION

17 BY MS. KNEESE-SHEALY:

18 Q. Mr. Brown, let me ask you a question.

19 Mr. Savage asked you if there were other reasons to
20 turn off lights, and you knew what y'all's practice
21 was. Was there anything about the way Ronald was
22 driving down the street that caused you to be alarmed
23 about anything?

24 A. No.

25 MS. KNEESE-SHEALY: And may I approach

1 the witness, Your Honor?

2 THE COURT: Yes, ma'am.

3 BY MS. KNEESE-SHEALY:

4 Q. Mr. Savage asked you about the statements you
5 gave that night. Now, tell the jury why your memory
6 about those statements is a little unclear.

7 A. I was intoxicated.

8 Q. Okay. And, in fact, you realize now that you
9 made two statements?

10 A. Right.

11 Q. Okay. Tell me whether you need to refresh
12 your memory about anything, but the first statement,
13 they asked you to write it?

14 A. Yes.

15 Q. And I'll let you take a look at that.

16 A. Uh-huh.

17 Q. Could you tell the jury how lengthy that
18 statement was when you wrote out what had happened?

19 A. How lengthy?

20 Q. Yes. The top part where you write out what
21 happened.

22 A. Short.

23 Q. Okay. Are you someone who writes very often?

24 A. No.

25 Q. Do you have to do that ---

1 A. No.

2 Q. --- for your work or anything?

3 A. No.

4 Q. After you wrote out -- and tell the jury what
5 you told the police that evening.

6 A. (Reading): When I came back home and I had
7 some friends over, all of a sudden -- all of a sudden
8 it was a argument and my friend Demar Denson got
9 shot. When I heard the shots, I went into my house
10 to avoid from getting shot.

11 Q. Okay. Now, may I have that back again,
12 please? And after you wrote that brief description,
13 did the officers ask you more questions about what
14 had happened? Did they ask ---

15 A. Yes.

16 Q. --- you more?

17 A. Yes.

18 Q. Okay. And, in fact, a second officer
19 approached you and asked some other questions. Is
20 that correct?

21 A. Yes.

22 Q. And showing you this statement, on that
23 occasion did you write it or did the officer write
24 it?

25 A. The officer.

1 Q. Okay. And he was following up with some
2 questions?

3 A. Uh-huh. Yes.

4 Q. Would you tell the jury, please, when he asked
5 you when did you start walking back inside, what did
6 you indicate to the officer? When he asked you when
7 did you walk back inside, what did you indicate to
8 the officer?

9 A. When David went to his truck.

10 Q. When David went to his truck. When they asked
11 you what car did David go to, could you tell the jury
12 what you told the officer?

13 A. A white Suburban.

14 Q. When the officer asked you who was involved in
15 the argument, would you please tell the jury what you
16 told the officer on August 14th?

17 A. Demar and David.

18 Q. Demar and David. So, in fact, when you did
19 give your statement that evening, you told the
20 officers that it was Demar and David Rocquemoire who
21 were arguing?

22 A. Right.

23 Q. And you left and went inside once
24 Mr. Rocquemoire went to his vehicle?

25 A. Yes.

1 there was a note.

2 MR. DURANT: May I call the next witness,
3 Your Honor?

4 THE COURT: Pardon me?

5 MR. DURANT: May I call the next witness?

6 THE COURT: Hold on a second. I'm
7 reading a note from the jury.

8 I'll have to take this up at the
9 appropriate time. I don't know that it's going to be
10 a problem. Where is the juror?

11 A JUROR: (Raises hand.)

12 THE COURT: All right. I doubt that will
13 be a problem, but -- hopefully, it will not be a
14 problem.

15 All right. Call your witness.

16 MR. DURANT: Thank you, Your Honor. The
17 state would call Ronald Gibbs.

18 (Mr. Ronald Gibbs enters the courtroom.)

19 RONALD GIBBS, JR.,
20 being first duly sworn by the clerk, is examined and
21 testifies as follows:

22 THE CLERK: Be seated. If you'll state
23 your full name and spell your last name.

24 THE WITNESS: Ronald Gibbs, Jr.,
25 G-I-B-B-S.

1 DIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. Good morning, Mr. Gibbs. Could you please
4 tell this jury how old you are?

5 A. I am 37 years old.

6 Q. And where were you born and raised?

7 A. I was born in California. I was raised in
8 Charleston, South Carolina.

9 Q. And what part of Charleston, South Carolina?

10 A. Ladson.

11 Q. And specifically what area of Ladson?

12 A. Woodside Manor.

13 Q. Where are you employed?

14 A. United States Army.

15 Q. How long have you been in the United States
16 Army?

17 A. Fourteen years, sir.

18 Q. And what is your current duty? What are your
19 current duties with the U.S. Army?20 A. I'm with the special operations units out of
21 Iraq.

22 Q. And were you recently stationed in Iraq?

23 A. Yes. I just returned from Iraq.

24 Q. You're on leave right now?

25 A. Yes, sir.

1 Q. Do you have to return to Iraq?

2 A. Yes, sir.

3 Q. Are you married?

4 A. Yes, sir.

5 Q. Do you have children?

6 A. I have three.

7 Q. What are your children's ages?

8 A. 15, 13, and 10.

9 Q. And does your family live -- where does your
10 family live?

11 A. Fort Bragg. Well, Fort Bragg, sir.

12 Q. That's where you're -- they're in Fort Bragg?

13 That's where you're stationed, correct?

14 A. Yes, sir.

15 Q. In North Carolina?

16 A. Yes, sir.

17 Q. But you're in Iraq right now and just home
18 temporarily?

19 A. That's correct.

20 Q. How far did you go in school?

21 A. Two and a half years of college, and I'm still
22 continuing.

23 Q. Have you ever been arrested or convicted of a
24 crime?

25 A. No, sir.

1 Q. How do you know the victim in this case,
2 Demar Denson?

3 A. Well, Demar, he's basically a brother. We
4 grew up together since we lived in the neighborhood
5 since '78. And we grew up, went to college, he was
6 my roommate. And when I turned in to the Army, he
7 was still pursuing college. We've just been together
8 ever since.

9 Q. Okay. And, obviously, you didn't get to see
10 him as much when you -- you've been stationed
11 overseas, correct?

12 A. That's correct.

13 Q. Prior to Iraq, where were you stationed?

14 A. Korea.

15 Q. But do you have -- did you have the
16 opportunity to get together with Demar when you would
17 be in Charleston on leave?

18 A. Yes. When I come home on leave, the first
19 person usually to pick me up from the airport -- or
20 if I fly in straight to Charleston, he'll be the
21 first one to pick me up from the airport.

22 Q. Y'all went to the same schools together and
23 all of that?

24 A. Yes, sir.

25 Q. Do you know where Demar was working at the

1 time of his death?

2 A. Yes, sir. He was working for ILA,
3 longshoreman.

4 Q. And do you know how far Demar went in school?

5 A. Well, Demar graduated from Claflin University
6 in August 2005.

7 Q. And do you know when he graduated from Claflin
8 University in relation to his death in August of
9 2005?

10 A. Well, I want to say a month prior before he --
11 his death.

12 Q. What is your relationship with Troy Eason?

13 A. Same as Demar, brothers. We -- in fact, my
14 two closest brothers, we're always together.

15 Q. And y'all are all about the same age, you and
16 Troy and Demar?

17 A. Yes, sir.

18 Q. Now, who is Rodney Gibbs?

19 A. Rodney Gibbs is my oldest brother.

20 Q. And how much older? How old is Rodney?

21 A. Rodney's, I want to say, 43.

22 Q. So he is a good bit older than you and Demar?

23 A. Yes, he ---

24 Q. And Troy?

25 A. Yes, sir.

- 1 Q. What does Rodney do for a living?
- 2 A. Rodney is a merchant seaman.
- 3 Q. And as part of his job, is he out of town a
- 4 good bit as well?
- 5 A. Yes. He's all over the world.
- 6 Q. Do you know Dexter Brown?
- 7 A. Yes, sir.
- 8 Q. How do you know Dexter Brown?
- 9 A. We grew up together. He lives at the end of
- 10 my street.
- 11 Q. He lives in Woodside Manor?
- 12 A. Yes, sir.
- 13 Q. The same neighborhood you ---
- 14 A. Same neighborhood.
- 15 Q. Are you as close to Dexter as you are with
- 16 Troy and Demar?
- 17 A. No, sir.
- 18 Q. And why is that?
- 19 A. Kind of went our separate ways after high
- 20 school.
- 21 Q. Okay. Now, did you have the occasion to be in
- 22 the Charleston area in August of 2005?
- 23 A. That's correct, sir.
- 24 Q. And why were you here? Why were you in the
- 25 area?

1 A. I was here, I was on mid-tour leave. I was in
2 Iraq for -- I mean, excuse me, Korea and when
3 mid-tour leave came up and was trying -- I was trying
4 to get back for Demar's graduation, but it didn't
5 fall in time, so I came a month later.

6 Q. Okay. How long did your leave last?

7 A. Thirty days, sir.

8 Q. Now, moving on to the evening of August 13th
9 of 2005, early morning hours of the 14th of 2005, did
10 you have an occasion to be out with Troy and Demar
11 and your older brother?

12 A. Yes, sir.

13 Q. Where had y'all been that evening?

14 A. We went to a cookout in the Summerville area,
15 to over -- I don't recall the female's name, but...

16 Q. It was at some female's house?

17 A. Yes, sir.

18 Q. What kind of party was this?

19 A. It was more of a -- it was a cookout, but it
20 was family oriented. Her mother was there. They had
21 kids there, also.

22 Q. And you were there with who?

23 A. I was there with Rodney, Demar, and Troy.

24 Q. Okay. You were there with Demar and Troy and
25 Rodney?

- 1 A. Yes, sir.
- 2 Q. Was this gentleman there?
- 3 A. Yes, sir.
- 4 Q. And you subsequently learned his name is
- 5 Mr. Rocquemore?
- 6 A. That's correct.
- 7 Q. Was his friend Chris Thomas there?
- 8 A. Yes, sir.
- 9 Q. Prior to that party, had you ever seen either
- 10 one of those gentlemen before?
- 11 A. I'd never seen them before.
- 12 Q. Who were they at the party with?
- 13 A. They came with Dexter Brown.
- 14 Q. Now, how long were you at that party?
- 15 A. I'd say quite a while. I don't know a
- 16 specific time, but...
- 17 Q. Okay. And what was going on? Was there
- 18 drinking going on at the party?
- 19 A. Yes, sir.
- 20 Q. And were you drinking?
- 21 A. No, sir.
- 22 Q. And why were you not drinking?
- 23 A. I was the designated driver, sir.
- 24 Q. You drove to Summerville?
- 25 A. Yes, sir.

1 Q. Were there any problems between you and David
2 Rocquemore at that party?

3 A. No, sir.

4 Q. Were there any problems between Demar Denson
5 and Mr. Rocquemore at that party?

6 A. No, sir.

7 Q. Were there any problems between Rodney Gibbs
8 and David Rocquemore at that party?

9 A. No, sir.

10 Q. Was there any problem between anybody in the
11 group you were with and Mr. Rocquemore and/or his
12 friend Chris Thomas?

13 A. None at all.

14 Q. Now, after that party broke up, where -- who
15 did you leave with and where did you go?

16 A. I left with Rodney.

17 Q. Rodney, your brother?

18 A. Yes, my brother and Demar. We left. Dexter
19 -- after the party broke up, Dexter said he wanted to
20 have a after-party at his house, himself and -- we'll
21 go.

22 Q. Okay. And they left before you did?

23 A. Yes, I believe so.

24 Q. And who left -- and did y'all stay at the
25 party a little bit longer?

1 A. Yes.

2 Q. At the party in Summerville? And who did you
3 leave with?

4 A. Rodney and Demar.

5 Q. And Troy had left with Dexter?

6 A. Yes, sir.

7 Q. Now, y'all went to Dexter's house; is that
8 correct?

9 A. That's correct, sir.

10 Q. And where does Dexter live?

11 A. He lives on the corner of Mixedwood and
12 Berrywood, sir.

13 Q. Do you happen to know the address?

14 A. No, sir, I don't.

15 Q. If you don't, that's fine.

16 MR. DURANT: Just a moment, Mike. Not
17 yet. Put it up.

18 BY MR. DURANT:

19 Q. I'd like you to take a look at state's exhibit
20 number one if you would, please, sir.

21 MR. DURANT: May I approach the witness,
22 Your Honor?

23 BY MR. DURANT:

24 Q. This is a laser pointer, Ronald. Just point
25 there. Hopefully -- I'm not sure if it will show up

1 on there or not. Kind of...

2 A. All right, sir.

3 Q. If you would, just point out to the jury which
4 of those houses is Dexter's house.

5 A. That house right there, sir.

6 Q. Okay. Now, what happened when y'all -- what
7 happened when y'all got to Dexter's house?

8 A. When we got to Dex's house, myself and Demar,
9 we went inside the house, back in the -- his den
10 area. That's where most of the people were gathered
11 in the house there.

12 Q. Where was Rodney?

13 A. He was still outside.

14 Q. Okay. And who all was there at that time if
15 you remember?

16 A. There were some females, and there was Chris.

17 Q. Chris Thomas?

18 A. Yeah.

19 Q. Do you remember whether or not Troy was over
20 there at the time?

21 A. No. Troy, he -- he was home.

22 Q. Okay. He had left and gone home?

23 A. Yes, sir.

24 Q. By the time you got there? Now, what was
25 going -- what was going on at Dexter's house? Was

1 there a party there, too?

2 A. It was -- it was a party, it was more a
3 semi-party. Everybody is just talking amongst each
4 other and casual drinking.

5 Q. Okay. Did you drink at that party?

6 A. No, sir.

7 Q. Now, while you were there, did Dexter go
8 anywhere?

9 A. Yes, sir.

10 Q. And where did Dexter go and who did he go
11 with?

12 A. Dexter Brown and David Rocquemoire, they left
13 in a vehicle.

14 Q. Okay. And at the point up to this point that
15 he left, do you know where they were going?

16 A. No, sir.

17 Q. Up to this point had there been any
18 difficulties between any of your friends and David
19 Rocquemoire or his friend Chris Thomas?

20 A. None at all, sir.

21 Q. No cross words?

22 A. No, sir. Nothing.

23 Q. No arguments?

24 A. No arguments.

25 Q. No bad mood at all?

1 A. No bad mood, sir.

2 Q. Now, at some point you and Demar left the
3 party?

4 A. Yes, sir.

5 Q. Left the inside?

6 A. That's correct.

7 Q. And where were y'all going?

8 A. Outside.

9 Q. And was this when Mr. Rocquemore and Dexter
10 were still gone?

11 A. That's correct, sir.

12 Q. And where were y'all going, you and Demar?

13 A. We went outside to the driveway.

14 Q. Okay. Were y'all leaving the party or were
15 you just going outside, ---

16 A. Just ---

17 Q. --- with Rodney?

18 A. Just going out with Rodney, sir.

19 Q. Okay. And tell the jury what happened out
20 there.

21 A. We was outside, me and Demar was on a car, and
22 my brother Rodney was talking to a female. Two --
23 there was two females sitting on the car, on the
24 hood. And they was talking, and they was all ---

25 Q. And "they," they meaning who?

- 1 A. My brother. I can't -- I don't know the
2 female's name.
- 3 Q. You don't know the girl's name?
- 4 A. No. No, sir. They were talking. And another
5 female -- well, he was only talking to one female,
6 and the other female we heard cursing.
- 7 Q. Did that female appear to be intoxicated?
- 8 A. Yes, sir.
- 9 Q. And could you tell who she was cursing at?
- 10 A. She was cursing at my brother Rodney.
- 11 Q. Do you know why?
- 12 A. I have no idea, sir.
- 13 Q. Then what happened?
- 14 A. He threw a drink on her.
- 15 Q. And what did you do?
- 16 A. I said it's time to go. I told him that it's
17 time to go. Just time to go.
- 18 Q. Okay. So what did you do when you said it's
19 time to go?
- 20 A. I got them together, we got in the truck, and
21 we went to Troy Eason's house.
- 22 Q. Okay. So this would be you and who else?
- 23 A. Demar and my brother Rodney.
- 24 Q. And where does Troy Eason live in reference to
25 Dexter Brown's house?

- 1 A. He lives four blocks up the road from Dexter.
- 2 Q. The same neighborhood?
- 3 A. Same neighborhood.
- 4 Q. And what did y'all do at Troy's house?
- 5 A. Nothing. We went in the house, sat on the
- 6 sofa, turned the TV on, just...
- 7 Q. How did you get in Troy's house?
- 8 A. My brother had a key to Troy's house and...
- 9 Q. Was Troy still awake?
- 10 A. He was halfway sleeping. He was on the sofa.
- 11 Q. He was still clothed and all of that?
- 12 A. Yes, sir.
- 13 Q. Watching TV or doing what?
- 14 A. The TV was on. I think it was watching him.
- 15 Q. And what happened while you were -- what were
- 16 y'all doing at Troy's house?
- 17 A. Just sitting there, talking, and my brother
- 18 saying what was wrong with her that happened. Just
- 19 going through the other things, what happened.
- 20 Q. Okay. And what -- did anybody call while you
- 21 were at Troy's house?
- 22 A. Yes. When Dexter he called back at Troy
- 23 Eason's house, and he called, where did you guys go
- 24 and why did they leave. And he was talking to Troy.
- 25 I don't know exactly the words they said, but he

1 wanted us to come back. So we got in the truck, and
2 we went back to Dexter's house.

3 Q. Okay. And who went back to Dexter's house at
4 that point?

5 A. Myself, my brother Rodney, Demar, and Troy.

6 Q. Okay. So there were four of you in the
7 vehicle?

8 A. That's correct, sir.

9 Q. Who drove?

10 A. I drove.

11 Q. And do you recall who was in the front seat
12 with you?

13 A. I want to -- I want to say Rodney.

14 Q. Okay. The other two were in the back seat?

15 A. Yes, sir.

16 Q. Now, when -- what kind of car were you
17 driving?

18 A. Ford Explorer.

19 Q. What color?

20 A. Silverish brown.

21 Q. And which road did you come down and which
22 direction on state's exhibit one -- you can use the
23 laser pointer if you want -- to get to Troy's house
24 -- I mean, Dexter's house from Troy's house?

25 A. Came on Berrywood, came down -- straight down

1 Berrywood, sir.

2 Q. Okay. So kind of diagonally down to the
3 bottom left corner ---

4 A. Yes, sir.

5 Q. --- on that exhibit? And if you would, could
6 you tell the jury on state's exhibit number one where
7 you parked?

8 A. I came down the road, sir. I parked in this
9 area right here.

10 Q. Okay.

11 MR. DURANT: Could you kill that just a
12 second, Mike? Okay. Could you put it back up.

13 BY MR. DURANT:

14 Q. If I can refer your attention now to state's
15 exhibit number 19, could you show the jury where your
16 vehicle is in that photograph if it is at all?

17 A. Yes, sir. My vehicle's right there, sir.

18 Q. Okay. And is that on the inside of the crime
19 scene tape or outside of the crime scene tape?

20 A. That's outside.

21 Q. And that's where you parked your car?

22 A. Yes, sir.

23 Q. When you got there that night?

24 A. Yes, sir.

25 Q. And that's where that car remained until you

1 were allowed to leave by the police?

2 A. That's correct.

3 MR. DURANT: Could you kill that please,
4 sir.

5 Court's indulgence for just one moment.

6 THE COURT: Yes, sir.

7 MR. DURANT: Your Honor, with the Court's
8 permission, I'm going to have to bring the state's
9 exhibit.

10 THE COURT: All right.

11 (Mr. Durant retrieves exhibit.)

12 BY MR. DURANT:

13 Q. Referring now to state's exhibit number 50.

14 MR. DURANT: Mike, could you turn that
15 on.

16 (State's Exhibit No. 50 begins playback.)

17 BY MR. DURANT:

18 Q. Have you even had an opportunity to see this
19 video before?

20 A. Yes, sir.

21 Q. And how long ago?

22 A. Maybe a week ago, sir.

23 Q. And this is as the police are arriving at the
24 scene. Let me back this up just a little bit. Do
25 you know whose vehicle this is right there?

1 A. That's my vehicle, sir.

2 Q. Are you sure? I want you to get a little
3 closer. Let's step through this.

4 A. No, I take that back. That's...

5 Q. That's whose vehicle?

6 A. David Rocquemore's vehicle.

7 Q. Okay.

8 MR. DURANT: Mike, could we dim these
9 lights just a little bit. Thank you.

10 BY MR. DURANT:

11 Q. And do you know whose vehicle this is right
12 here, right in front of Mr. Rocquemore's vehicle?

13 A. Chris Thomas, sir.

14 Q. And do you know whose this vehicle is right
15 here?

16 A. That would be my vehicle, sir.

17 Q. Okay. So your vehicle essentially is off the
18 screen at the time the officer's car stops; is that
19 correct?

20 A. Yes, sir.

21 Q. And who is this?

22 A. That would be me, sir.

23 Q. And what are you doing?

24 A. Getting my I.D. card. I didn't want no
25 confusion with the police officers coming on the

1 scene.

2 Q. And what are you pointing out there?

3 A. Where the weapon is located, where I put the
4 weapon.

5 MR. DURANT: Thank you. If you will kill
6 that, Mike.

7 (State's Exhibit No. 50 ends playback.)

8 BY MR. DURANT:

9 Q. Now, when you pulled up to Dexter's house, was
10 there anybody outside?

11 A. Yes, sir.

12 Q. Do you know who that was, or did you know who
13 it was at the time?

14 A. Yes, sir.

15 Q. Who?

16 A. It was Dexter Brown, David Rocquemore, and
17 Chris Thomas.

18 Q. And what did you do as you were pulling up to
19 the residence?

20 A. When I pulled up, I actually had turned my
21 lights off.

22 Q. And why did you turn your lights off?

23 A. Something we do in the neighborhood since I've
24 been living there, only to drive up.

25 Q. Were you driving fast?

1 A. No, sir.

2 Q. Did you almost hit anybody in the road?

3 A. No, sir.

4 Q. Were you driving recklessly at all?

5 A. No, sir.

6 Q. Was anyone yelling out of the car?

7 A. Negative.

8 Q. And what happened after you pulled up in the
9 car on Berrywood at the corner of Berrywood and
10 Mixedwood?

11 A. I pulled up, I got out of the car, and I was
12 walking to the driveway, to Dexter Brown's driveway
13 where he's standing at. And I heard David Rocquemoire
14 saying, "Y'all niggers think y'all gangsters." And I
15 dismissed it as maybe he's just joking around.

16 Q. Do you know who he directed that comment to?

17 A. To my brother, Rodney.

18 Q. Okay. And you thought he was kidding or
19 something?

20 A. Yes, sir.

21 Q. And then what happened?

22 A. As I walked to the driveway, I seen him, him
23 and my brother, they was talking back and forth. And
24 I -- at that time I seen Demar gets in -- get between
25 David Rocquemoire and Rodney Gibbs.

1 Q. At this point was there anything more than an
2 argument, though?

3 A. No. That's all it was.

4 Q. Okay. So originally you saw your brother and
5 Rocquemore. Correct?

6 A. That's correct.

7 Q. And then you saw Troy get in between those
8 two?

9 A. No, sir. Demar.

10 Q. Excuse me. Demar get in between those two?

11 A. Yes, sir.

12 Q. And then what happened?

13 A. They got between, and I seen David Rocquemore
14 and he pushed Demar hand away and said "don't touch
15 me" and push his hand off. They was going back and
16 forth, and that's when I step in between, and I say
17 "we don't need no trouble, let's just -- just -- just
18 chill out."

19 Q. So you stepped in between who at that point?

20 A. David Rocquemore and Demar Denson.

21 Q. Okay. And David Rocquemore, meaning this
22 David Rocquemore right here?

23 A. Yes, sir.

24 Q. Now, what did Chris Thomas do when you stepped
25 in between David Rocquemore and Troy (sic)?

1 A. When I was between those two, Chris Thomas, he
2 said, "There's a lot of speaking going on, there's
3 lot of talking going on out here now, but when I get
4 to my trunk there won't be no talking." And at that
5 time ---

6 Q. And what did he do when he said that?

7 A. As he said that, he's walking back towards the
8 trunk of his car.

9 Q. And his car, referring once again to state's
10 exhibit number 19, is that the car you're referring
11 to?

12 A. Yes, sir.

13 Q. And do you know who opened the trunk of that
14 car?

15 A. Chris Thomas.

16 Q. And where were you in between Demar and
17 Rocquemoire when he made the statement that he was
18 going to his -- you can use, use the laser pointer if
19 you want -- when he made the statement he was going
20 to...

21 A. Right in front of the car, basically off to
22 the side grass of us when he was just still kind of
23 walking in between.

24 Q. Okay. Now, when he made that comment, what
25 did you think he was talking about?

1 A. A comment like that, I'm thinking going to get
2 a gun.

3 Q. So what did you do?

4 A. At that time he made that comment, I just
5 basically watched him all the way. I kind of
6 mirrored him, looking at him and see what he's doing.

7 Q. Were you walking along with him?

8 A. Yes, sir. I was on the -- excuse me -- on the
9 outside of the vehicle after he walked behind the
10 vehicle.

11 Q. And what did he do when he walked behind the
12 vehicle?

13 A. When he walked behind the vehicle, he -- I
14 watched him, he went to his trunk and he put his key
15 in his trunk and he opened his trunk. And at that
16 time...

17 Q. And what did you do when he opened his trunk?

18 A. At that time when he made an idle threat, I
19 didn't want this guy to get a gun and shoot, so I
20 tackled him to the ground.

21 Q. And where did you tackle him to the ground at?
22 If you can show ---

23 A. Right in between this area right here.

24 Q. Okay. In between the two cars?

25 A. Yes, sir.

1 Q. Were you partway on the road, in the road?

2 A. Say again, sir?

3 Q. Were you partway in the roadway, as well?

4 A. Yes, sir.

5 Q. Now, what did you do once you put him on the
6 ground?

7 A. I immediately started searching for a weapon.
8 I had him down on the ground, I had his hands pinned,
9 and I was making sure he didn't have a weapon on his
10 body.

11 Q. Okay. Let me ask you this question. Prior to
12 him going in his trunk, had you had any argument with
13 him or had any fight with Chris Thomas?

14 A. None at all.

15 Q. Did you strike him? I mean, did you hit him
16 in any way prior to him trying to go ---

17 A. No, sir.

18 Q. --- into his trunk?

19 A. No, sir.

20 Q. Okay. Now, tell me exactly what you did after
21 you tackled him and brought him to the ground.

22 A. When I tackled him, I had him pinned on the
23 ground, and I had my hands down by his waistline,
24 feeling on his body underneath. And he was trying to
25 struggle, so I'm trying to struggle with him, make

1 sure that he can't get his hands -- couldn't get his
2 hands and grab a weapon. And I didn't know if he --
3 and I was feeling on him. And when he was down on
4 the ground, I made him take his shirt off. I was
5 pulling his shirt off and I told him to take his
6 shirt off. I didn't want him to get one and stash it
7 in the back.

8 Q. Okay. And is that his shirt depicted in
9 state's exhibit number 19?

10 A. Yes, sir.

11 Q. While you were on the grass -- the ground with
12 Mr. Thomas, did you notice anything that
13 Mr. Rocquemore is doing?

14 A. When we was on the ground, we was facing --
15 our heads were -- between the ground, I seen his door
16 come open on the white truck. I seen the door, the
17 driver's side door come open.

18 Q. Okay. You couldn't see who opened the door?

19 A. No, sir, I couldn't see who opened the door.

20 Q. And while you were down on the ground,
21 struggling with Mr. Thomas, were you like punching
22 him or anything or -- or holding him?

23 A. I had him held down, sir.

24 Q. Okay. You weren't striking him with your fist
25 or anything like that?

1 A. No, sir.

2 Q. And what happened while you were on the ground
3 involved with Chris Thomas?

4 A. When I was down on the ground, I had him on
5 the ground, and I heard shots go off behind me.

6 Q. Okay. And what did you do when you heard the
7 shots?

8 A. After I heard the shots went off, I got up,
9 and from this point right here, I went to my left
10 over...

11 Q. Let me -- let me change exhibits if I could,
12 please, sir, back to number one. And if you would,
13 could you tell just roughly in the general area where
14 Mr. Thomas's car was parked on that aerial
15 photograph?

16 A. His car is parked right about here.

17 Q. Okay. Mr. Rocquemore's car was behind him?

18 A. Yes, sir, about this area right here.

19 Q. Okay. Now, when you got up and looked, where
20 was everybody?

21 A. They were down here in this area right here,
22 sir.

23 Q. In that yard, in that ditch right across the
24 street from Mr. Brown's house?

25 A. Yes, sir.

1 Q. Is that correct?

2 A. That's correct.

3 Q. And that was right after the shots fired?

4 A. Yes, sir.

5 Q. Immediately?

6 A. Yes, sir.

7 Q. And what did you see going on down there?

8 A. When I got up, I'm -- I turned around and when
9 I -- I seen Rocquemoire on the ground. But the first,
10 first thing I noticed was Demar, he was lying on his
11 back on the other side above the ditch. And I seen
12 my brother and Troy had Rocquemoire, they're --
13 they're screaming "he shot him, he shot him." And
14 one of the first things I went to do was, I was
15 calling, I said, "Where's the gun? Where's the gun?"

16 And the -- then David Rocquemoire said he
17 didn't have a gun, he didn't have a gun, you know.

18 I just went by him and my brother and Troy on
19 the ground, and I went to go tend to Demar to see if
20 he was breathing. He was breathing. He was
21 breathing his regular -- he was breathing on his own.

22 And I went back, "Where is the weapon? Where
23 is the weapon?"

24 And he said -- he said, Rocquemoire said,
25 saying he didn't have a weapon.

1 And my brother said, "Yes, he does, he have a
2 weapon. It's underneath him, it's underneath him."

3 I guess my brother had his finger in the
4 trigger well so he couldn't squeeze the trigger.

5 When I told him to give me the weapon, I say,
6 "Give me the weapon."

7 He said, "Oh, no, you guys are going to burn
8 me. Y'all are going to shoot me."

9 I said, "No, I'm not going to shoot you." And
10 I kept on saying "I'm not going to shoot you."

11 Then he told me, "Well, I don't have no -- I
12 don't have a weapon." Then he said, "Well, let me
13 give my weapon to my friend," which being Chris
14 Thomas was across the road.

15 And he started to walk over, and I told him to
16 get back across the road or I'm going to hurt you
17 this time. And he complied, he went back across the
18 road.

19 And he still had the weapon. He wouldn't let
20 the weapon go. He kept on insisting I was going to
21 kill him, was going to shoot him with his weapon.

22 Q. And did y'all use force to get this weapon
23 from Mr. Rocquemoire?

24 A. Yes, sir.

25 Q. And tell the jury what kind of force you used.

1 A. The force used, I kneed him. My brother --
2 Troy was on one side, and my brother was on one side,
3 and I was on the opposite from him, and I kneed him.
4 I kneed him to the side, kneed him to the neck, I
5 kneed him to his face.

6 Q. Okay. Did that work?

7 A. No, sir. He would not let go of the weapon.

8 Q. Were you able to eventually get the weapon
9 from him?

10 A. Yes, sir.

11 Q. And how?

12 A. I put my finger into his mouth, and I twist
13 and turned his head, a stress point, until he
14 released and gave up the weapon.

15 Q. And that's something you learned in the
16 military?

17 A. Yes, sir.

18 Q. And did he give up the weapon at that point?

19 A. That's correct.

20 Q. What did you do -- you got the weapon from him
21 yourself?

22 A. That's right, sir.

23 Q. And what did you do with the weapon?

24 A. When I got the weapon, I got up and tried to
25 drop the magazine and discharge the weapon, but there

1 was a round stuck in it. So before the weapon --
2 back off, I took it and I placed it on the truck that
3 was sitting in the yard.

4 Q. Now, when you say discharge the weapon, do you
5 mean shoot the weapon ---

6 A. No, just ---

7 Q. --- or unload the weapon?

8 A. Unload the weapon.

9 Q. And you couldn't do so because why?

10 A. There was a round stuck in the chamber.

11 Q. Okay. And what did you do with it then?

12 A. I took it and I placed it on the back of the
13 truck.

14 Q. And that was like a work truck in the front
15 yard of 9752 Berrywood?

16 A. Yes, sir.

17 Q. I hand you what's been previously marked as
18 state's exhibit number 49. Does that appear to be
19 the weapon you retrieved from the defendant, David
20 Rocquemore?

21 A. Yes, sir.

22 MR. DURANT: Kill that for just one
23 moment, Mike.

24 BY MR. DURANT:

25 Q. Referring to state's exhibit number 12, is

1 that the vehicle that you placed the weapon on?

2 A. Yes, sir.

3 Q. Did you make any effort to try to shoot
4 Mr. Rocquemore with that weapon?

5 A. Negative.

6 Q. Did you pistol-whip Mr. Rocquemore with that
7 weapon?

8 A. Negative. No.

9 Q. And so what else went on out there that night
10 after -- after you got the weapon?

11 A. After I got the weapon, I was -- got the
12 weapon, and I went back to check on Demar because his
13 breathing got shallow, and I started administering
14 first aid. Well, I ripped his shirt open to try to
15 see if he was bleeding on the back and where he got
16 hit. I only seen the one bullet shot, that on his
17 left side underneath, and I know he was starting to
18 gurgle and trying to breath, so I started
19 administering first aid.

20 And I'm still looking at -- trying to look at
21 them, because I'm facing kind of to the side, and
22 they're behind me on the other side. And they're
23 struggling in the ditch, and he was trying to get up.

24 So I'm finished with the first, then I go
25 back. We hold him down. I went back, left Demar

1 alone, and held him down till the cops came. And
2 that's when I got up and showed them my I.D. I
3 didn't want no confusion when the cops showed up.

4 Q. And that's when the tape picked up, right
5 there?

6 A. Yes, sir.

7 Q. Obviously, the police came out and
8 investigated that night.

9 A. Yes, sir.

10 Q. Correct? Did you give anybody a statement
11 that night?

12 A. Yes, sir.

13 Q. And where was that given?

14 A. Outside on, I believe, the side of the car, on
15 the car.

16 Q. Okay.

17 (State's Exhibit No. 53, photo - Ronald
18 Gibbs' hands, is marked for identification.)

19 (Mr. Durant and Mr. Savage confer.)

20 MR. DURANT: Your Honor, at this time we
21 would offer state's exhibit number 53, I believe
22 without objection.

23 THE COURT: Is that correct?

24 MR. SAVAGE: Correct, Your Honor.

25 THE COURT: All right. 53 in evidence

1 without objection.

2 (State's Exhibit No. 53, previously
3 marked for identification, is received in evidence).

4 MR. DURANT: Kill the lights a little bit
5 more for me, please.

6 BY MR. DURANT:

7 Q. Do you know whose hands those are showing?

8 A. Yes, sir. Mine, sir.

9 Q. And those are the clothes you were wearing
10 that night?

11 A. Correct, sir.

12 Q. Your right knuckles are scraped; is that
13 correct?

14 A. Yes, sir.

15 Q. And could you tell the jury how your knuckles
16 became scraped?

17 A. When Chris Thomas and I were on the ground
18 between -- on the streets. When I went to grab him,
19 I guess hit on the asphalt on the streets, I mean,
20 hitting the street with my hand.

21 Q. It was on the street when you were frisking
22 him?

23 A. Yes, sir.

24 Q. So that came from contact with the -- the
25 asphalt?

1 A. Yes, sir.

2 Q. While you were engaged with Chris Thomas?

3 A. Yes, sir.

4 MR. DURANT: Court's indulgence.

5 Could you please answer any questions
6 that Mr. Savage may have for you.

7 THE WITNESS: Yes, sir.

8 MR. DURANT: May I return the exhibit I
9 showed? To the court reporter?

10 CROSS-EXAMINATION

11 BY MR. SAVAGE:

12 Q. Good morning, sir.

13 A. Good morning, sir.

14 Q. Ronald Gibbs, correct?

15 A. Yes, sir.

16 Q. And, Mr. Gibbs, I don't think I've ever had an
17 opportunity to talk to you before.

18 A. That's correct.

19 Q. Thank you for your service to our country.

20 A. Thank you, sir.

21 Q. The understanding I have and what I heard this
22 morning from the prosecutor is that you were in the
23 service of your country, you were stationed in Korea
24 and you were home on TDY, temporary leave, and you
25 were stationed at Fort Bragg and that's in North

1 Carolina. Is that correct?

2 A. It's almost correct, but I was in Korea. I
3 was on 30 days.

4 Q. Thirty days.

5 A. On TDY, but I wasn't stationed in Bragg at the
6 time.

7 Q. You were in Korea?

8 A. Yes.

9 Q. And you were home on leave?

10 A. That's correct.

11 Q. And you left -- you left Korea. Did you go to
12 Charleston, or did you go to Fort Bragg?

13 A. I left Korea, and three months later I was at
14 Bragg. I got stationed back over in Iraq.

15 Q. And how long were you on leave at the time you
16 came to Woodside Manor?

17 A. Thirty days, sir.

18 Q. And so this was the very last day of your
19 leave?

20 A. No, sir.

21 Q. The question I asked is: You were in Korea,
22 you came back to Fort Bragg, how many days were you
23 in Fort Bragg before you came to Woodside?

24 A. No, sir. I was in Korea. My change of
25 station was to Fort Bragg, but that didn't happen at

1 the time. I came off a leave from Korea, which I was
2 returning back to Korea after leave. I still had
3 another year to go in Korea.

4 Q. I'm confused, myself. At the time of this
5 incident, were you in Fort Bragg, were you stationed
6 there?

7 A. I was stationed in -- in Korea.

8 Q. And you were on vacation?

9 A. Correct.

10 Q. And how long had you been on vacation?

11 A. I can't give you an exact time, what time.
12 I'd have to look at my paperwork.

13 Q. When you traveled from North Carolina, did you
14 travel -- the question is: Did you travel from North
15 Carolina to South Carolina?

16 A. No, sir. I flew in straight. I went from
17 Fort Drum to Korea back on the duty station. I
18 wasn't -- I just got stationed to Fort Bragg back in
19 April -- excuse me, June of 2006 -- excuse me, July
20 of 2006. When I came from -- I was never at Fort
21 Bragg when this incident happened.

22 Q. I misunderstood because I thought you were at
23 Fort Bragg. You were on leave?

24 A. That's correct.

25 Q. And where was your family?

1 A. In Charleston.

2 Q. And where were they staying in Charleston?

3 A. At my parents'.

4 Q. And where do your parents live?

5 A. Woodside.

6 Q. And that is how far away from where this
7 incident happened?

8 A. About four houses down, on the corner.

9 Q. And this is the incident that happened about
10 four o'clock in the morning. Correct?

11 A. I don't know what exact time it happened, sir.
12 I really wasn't...

13 Q. Now, earlier that evening, did you leave your
14 wife and three children and go to a party that some
15 females were having in Summerville?

16 A. No, I didn't leave them. They were at their
17 father's house.

18 Q. Did you go by yourself with your male friends
19 to Summerville?

20 A. That would be correct.

21 Q. And was there drinking there?

22 A. That's correct.

23 Q. And you stated to the jurors that you were not
24 drinking that night. You didn't comment on your
25 friends and your brother drinking. Were they

1 drinking?

2 A. Yes, sir.

3 Q. And what were they drinking?

4 A. I don't know offhand, but most likely it was a
5 beer or...

6 Q. Was it ice tea?

7 A. Could have been.

8 Q. Was it lemonade?

9 A. No, I wouldn't say there was lemonade there.
10 They had tea there.

11 Q. Was it booze?

12 A. They had booze there, also.

13 Q. And they had beer?

14 A. Yes, sir.

15 Q. And they had been drinking a good bit?

16 A. What's a good bit, sir?

17 Q. Well, what I would call a good bit is what
18 then would affect them, they -- it would change, it
19 would alter them, how they feel and how they act.

20 A. No, I wouldn't say. They was -- they was
21 normal.

22 Q. For instance, you didn't, you didn't drink
23 that night?

24 A. That's correct.

25 Q. Because you were driving?

1 A. That's correct.

2 Q. And I assume that you were driving because you
3 -- the ones that were with you couldn't drive?

4 A. No. It's just the law. If you drink, you
5 can't drive.

6 Q. And what is the purpose of that law?

7 A. Keep people safe.

8 Q. And it's because when they drink they act
9 differently?

10 A. That's true.

11 Q. And their perceptions are different?

12 A. That's true.

13 Q. The way they control themselves is different?

14 A. Yes. Yes, sir.

15 Q. And so when I ask you had they been drinking
16 that night, would it have been safe for them to
17 drive?

18 A. No, because that's why you have a designated
19 driver, sir.

20 Q. Yes, sir. Now, when you left that party, what
21 time -- well, start, what time did you get to the
22 party?

23 A. I want to say we got to the party around 8:00
24 that night.

25 Q. 8:00 in the evening?

1 A. Yes, sir.

2 Q. And still daylight?

3 A. I can't comment. I really don't remember,
4 sir.

5 Q. Why do you think it was eight o'clock in the
6 evening?

7 A. It was around that time. It's just because
8 that's what time when -- she said it was going to
9 start at 7:00. Dex said the party was going to start
10 at 7:00 -- I mean, the cookout was going to start at
11 7:00, and I know we left around about 8:00. I know
12 we left Woodside around about 8:00.

13 Q. And this wasn't Dexter's party? This was not
14 -- Dexter, you're referring to Mr. Brown?

15 A. Yes, sir, Dexter.

16 Q. This was not his party?

17 A. That's correct.

18 Q. This was Eleanor's (phonetic) party?

19 A. Who?

20 Q. Ladies in Summerville?

21 A. Yeah.

22 Q. A lot of ladies?

23 A. I wouldn't say a lot of ladies. A lot of
24 family members there.

25 Q. And what time did you leave that party?

1 A. I'd say around maybe midnight.

2 Q. Could it have been eleven o'clock?

3 A. I would say midnight, sir.

4 Q. Could it have been one o'clock in the morning?

5 A. I want to say midnight, sir.

6 Q. So you're pretty firm that it was at midnight?

7 A. I want to say that.

8 Q. Where did you go next?

9 A. Well, after we left there, Dex, I want to say
10 that he would have the after-party. Because it was
11 getting late, and she had her mother and kids there,
12 and she was cutting it down for the night. And Dex
13 wanted to have a -- that we "go over to my house" and
14 continue with the party.

15 Q. Did you go to Troy's house first?

16 A. No, sir.

17 Q. Were you ever in Troy's house that night?

18 A. Yes, sir. The night after we -- after we left
19 Dexter Brown's house.

20 Q. Before you got to Dexter's, go to Troy's?

21 A. No, sir.

22 Q. When you left the -- and I'll refer to the
23 party in Summerville, you don't know the name of the
24 lady who had the party?

25 A. That's correct?

1 Q. When you left the Summerville party, did you
2 go directly to Mr. Brown's house?

3 A. Yes, sir.

4 Q. And who accompanied you?

5 A. Rodney and Demar.

6 Q. And that's your brother?

7 A. Yes, sir.

8 Q. And your friend, your childhood friend you
9 grew up with, Demar?

10 A. Yes, sir.

11 Q. Now, where was Troy?

12 A. Troy rode out with Dexter.

13 Q. And where did Troy go?

14 A. I believe Troy went home.

15 Q. And this was at what time, sir?

16 A. It was -- he left before, so I don't know the
17 exact time, but they left before us.

18 Q. You left at?

19 A. Midnight.

20 Q. You're pretty sure of that?

21 A. I want to say midnight.

22 Q. Given an opportunity to say 11:00 or 1:00,
23 you're stuck with midnight. And Troy left before
24 that?

25 A. Yes.

1 Q. So he left at what time?

2 A. Before midnight. I know he left before us.

3 That's all -- he -- he left before us.

4 Q. And he went where?

5 A. When I met him, he was at his house. In
6 between from that party in Summerville to his house.
7 That's where I met him, at his house.

8 Q. He went home?

9 A. Yeah.

10 Q. As far as you knew?

11 A. Yes.

12 Q. At about 11:30, certainly before midnight?

13 A. I can't comment on that. I wasn't with him.

14 Q. Now, Demar was with you?

15 A. That's correct.

16 Q. And your brother was with you. Had they been
17 drinking at the lady's party in Summerville?

18 A. Yes.

19 Q. And did you go directly to Dexter's house?

20 A. Yes.

21 Q. And how long did it take to get from the party
22 in Summerville to the party at Dexter's house?

23 A. I -- I don't know, sir.

24 Q. An hour and a half?

25 A. No, sir.

1 Q. An hour?

2 A. No, sir.

3 Q. Forty-five minutes?

4 A. No, sir.

5 Q. Thirty minutes?

6 A. Maybe no more than 15 maybe.

7 Q. Fifteen minutes. So at or about 12:15 you
8 arrive to Mr. Brown's house, correct?

9 A. If that was the correct time, sir.

10 Q. Well, that's why I was asking you. I was not
11 there.

12 A. I wasn't pressed for time, sir. I was on
13 vacation.

14 Q. Well, you see, now we're getting to have a
15 little problem with the time. Now, you said that it
16 was at midnight that you left, so it was about 12:15
17 when you arrived at Mr. Brown's house?

18 A. No, sir. You asked me how much time we
19 arrived there. But I wasn't pressed for time. I was
20 on vacation.

21 Q. And would it be fair to say then that 15
22 minutes after you left the first party you arrived at
23 Mr. Brown's house?

24 A. No, I don't think it would be fair to say,
25 because you're trying to twist my words. So I'm

1 going to say we got to Dexter's house, I don't know
2 what time.

3 Q. Pardon me, sir?

4 A. I want -- I want to say we got to Dexter
5 Brown's house, but I'm not going to constrain myself
6 to a certain time where you're trying to set a
7 pattern for me.

8 Q. Well, you've refused to talk to me before
9 today, haven't you?

10 A. No. You never contacted me.

11 Q. Did you ever refuse to talk to our
12 investigator?

13 A. No, sir. It was outside, he approached me
14 Monday, after two years.

15 Q. I'm asking you yes or no, did you refuse to
16 talk to the investigator?

17 A. Do I have the right to answer?

18 Q. Yes. That's why I ask the question, sir.

19 A. That's what I'm trying to explain, sir.

20 MR. DURANT: Your Honor, if the witness
21 could answer and explain.

22 THE COURT: You can answer it, sir, then
23 you can explain it. Go ahead.

24 THE WITNESS: No.

25 THE COURT: Now, would you like to

1 explain?

2 THE WITNESS: Yes, I'd like to explain.

3 THE COURT: Go ahead.

4 THE WITNESS: After two years, your guy
5 approached us Monday. Two years, I say, approached
6 us Monday outside.

7 He said, "I'd like to speak to you."

8 I said, "You know, I have no problem
9 speaking to you as long as I can speak in front of
10 the solicitor," because right now I don't want my
11 words twisted in any manner or misrepresented in this
12 courtroom today.

13 BY MR. SAVAGE:

14 Q. So you have decided to talk in the courtroom
15 today?

16 A. When I get an opportunity, like I would speak
17 in front of the solicitor. I gave -- if Mr. Durant
18 was outside. I said I would like to have a solicitor
19 present when I speak.

20 Q. Let's get back to August 14th.

21 A. Yes, sir.

22 Q. After midnight or whatever time it was, you
23 arrived at Mr. Brown's house?

24 A. That's correct.

25 Q. And prior to that time, I believe, you said

1 Demar and your brother had been drinking?

2 A. That's correct.

3 Q. And when you arrived at Mr. Brown's house, who
4 was present at the house?

5 A. There were a couple of females. I know Chris
6 Brown (sic), Dexter, and David Rocquemore was at the
7 house.

8 Q. Do you know how many females were there?

9 A. No, sir.

10 Q. Do you know if anybody else was there?

11 A. Like?

12 Q. I don't want to twist your words or put words
13 in your mouth. I'm just asking you if there was
14 anybody else that was there.

15 A. There was people there. I know the people I
16 came with was there. And the people -- Dexter Brown
17 who owned the house was there. Chris Brown was
18 there, David Rocquemore was there, and the two
19 females I know for sure was there on the vehicle.

20 Q. Two, two females?

21 A. Yeah.

22 Q. Do you know how the females arrived at the
23 house?

24 A. I have no idea, sir.

25 Q. And were they there before you got there or

1 after you got there?

2 A. Before I got there, sir.

3 Q. And were they, those females, at the prior
4 party you had been at earlier?

5 A. Yes, sir.

6 Q. And did you have occasion to observe the
7 relationship between the females and any of the males
8 that were at the party?

9 A. No, sir.

10 Q. Were the females staying to themselves?

11 A. Everybody was talking amongst each other.
12 They -- I don't know if I can explain. They worked
13 together. I guess the females is a big group. They
14 all worked in one of these telephone companies
15 together. So they was in one part, and we was on one
16 side.

17 Q. But they were at the party?

18 A. Yes, sir.

19 Q. They were present and you observed them?

20 A. Yes, sir.

21 Q. And was there drinking at that party?

22 A. Yes, sir.

23 Q. And you didn't participate?

24 A. That's correct.

25 Q. And your brother and Demar participated, or

1 did they not?

2 A. Yes, sir.

3 Q. And what caused you to leave the party?

4 A. What party are you referring to, Dexter's or
5 Woodside?

6 Q. Mr. Brown's party.

7 A. Yes, sir. A heated argument between a female
8 and my brother.

9 Q. At that time, sir, was Mr. Rocquemoire present
10 at the party?

11 A. No, sir.

12 Q. Had he left the party before any argument, any
13 trouble started?

14 A. Yes, sir.

15 Q. Was he ever involved in any altercation, loud
16 aggressive talking, or any inappropriate behavior
17 prior to the argument you have addressed?

18 A. Which one? When the shooting or ---

19 Q. That caused you to leave the party.

20 A. No, sir.

21 Q. Was he quiet that night?

22 A. Yes, sir.

23 Q. And did you ever notice him drinking that
24 night?

25 A. Yes, sir.

1 Q. So you saw him drinking?

2 A. Yes, sir.

3 Q. Do you know whether that was booze or beer?

4 A. I don't think it was beer, sir, but he was
5 drinking.

6 Q. Could have been ice tea?

7 A. Yes, sir.

8 Q. Lemonade? He certainly wasn't acting
9 inappropriately, was he?

10 A. No, sir.

11 Q. And unlike Mr. Rocquemoire's actions, there
12 were people that were acting sexually aggressive
13 towards the females?

14 A. No, sir.

15 Q. Do you recall seeing Mr. Brown's father's cane
16 being tucked between the legs of your friends and
17 chasing after the females?

18 A. No, sir.

19 Q. You didn't see that? The only thing that you
20 saw was one instance of somebody throwing a drink on
21 the ladies?

22 A. No, sir. When you're talking about the cane,
23 I have no idea about the cane. But what led myself
24 and Demar outside, they was debating about something
25 and he's -- they was going at it. It was a debate,

1 that's all. There was no sexual explicit. I told
2 Demar let's go outside. Because that's what he liked
3 to do, he was debating at the time, and, you know,
4 "I'm a good guy." And that's all he was doing. They
5 was debating about something and then it got a
6 little...

7 Q. And he was pretty liquored up at that point?

8 A. No, sir.

9 Q. He had been drinking all night, but he wasn't
10 liquored up?

11 A. He wasn't drinking all night. What's drinking
12 all night, sir? Do we have a computation? I mean, I
13 won't elaborate on the situation, but I'm no expert
14 at that. If he had intoxication, I have to tell you
15 what's the legal limits for drunk.

16 Q. What time did Mr. Rocquemoire and Mr. Brown
17 leave the party?

18 A. I have no idea, sir.

19 Q. Was it shortly after you arrived?

20 A. I have no idea, sir.

21 Q. So it could have been ten minutes after you
22 arrived?

23 A. I have no idea, sir.

24 Q. But I guess we know what time the shooting
25 was, because that's what time the police were called;

1 is that correct?

2 A. What time they were called, I know we yelled
3 to call 911. I don't know what time that was.

4 Q. So what happened between the time that you got
5 to the party and the time the drink was thrown on the
6 lady at the party? It was just -- were people
7 playing cards? Were they dancing?

8 A. No. There was a little dancing inside the
9 den. There was nobody dancing with each other. It
10 was music playing, and people were just bobbing and
11 weaving, no dancing. And there was a discussion
12 between Demar -- I don't know what female it was.
13 There was a discussion between Demar and another
14 female.

15 Q. And when Mr. Brown left the party, did you
16 know he was leaving?

17 A. Yes, sir.

18 Q. Did you know what purpose he was leaving for?

19 A. No, sir.

20 Q. And did you know that Mr. Rocquemore was
21 leaving?

22 A. Yes, sir.

23 Q. And did you know what purpose he was leaving
24 for?

25 A. No, sir.

1 Q. How long before you left, approximately, did
2 they leave?

3 A. I couldn't tell you, sir. I really couldn't
4 tell you the time.

5 Q. Well, could you help the jury know whether it
6 was minutes or hours?

7 A. I would -- my best to say, probably to say 30
8 minutes to 45 minutes they -- they were gone I would
9 say about 30, 30 -- 30 to 45 minutes. I don't --
10 that's just a guess, I'd say a good guess, but the
11 exact time I do not know. I really do not know.

12 Q. In that time frame is they left that amount of
13 time before you left?

14 A. Say it again, sir?

15 Q. New question. You don't know what time they
16 came back, correct?

17 A. That's true.

18 Q. Because you were not there when they came
19 back?

20 A. That's correct.

21 Q. But the question was, how long was it before
22 you left that they left, and I think you said 30 to
23 45 minutes.

24 A. Yes, sir.

25 Q. So they were gone from the party a minimum of

1 30 to 45 minutes and then you left?

2 A. Yes, sir.

3 Q. Now, when you left, not you because I know you
4 were calm, cool, and collected that night, but was
5 anybody aggravated who left with you?

6 A. Besides, of course, the argument, and after
7 that argument, we got in the vehicle, and I said
8 let's go, and we left.

9 Q. And you wanted to leave that party because the
10 atmosphere at that party which was fueled by alcohol
11 consumption was getting a little rough?

12 A. No, sir. I left that party because -- it
13 wasn't about alcohol. It was just a better judgment
14 that I'm accustomed to use in a situation where you
15 see arguing and stuff, only one at home, we left, and
16 I didn't want to have it.

17 Q. When you left the party, did you take with you
18 anybody who was excited and aggravated and agitated?

19 A. I took my brother and Demar. I wouldn't say
20 he was aggravated and excited. He had an argument.

21 Q. But they were ---

22 A. Not belligerent.

23 Q. They were in such an emotional state that you
24 thought it would be best to take them away from the
25 party and go someplace else?

1 A. That's basically how you diffuse the situation
2 before coming to anything.

3 Q. The point being there was something to
4 dispute?

5 A. It was a better judgment call.

6 Q. And at that time Mr. Rocquemore hadn't been
7 there for 30 or 45 minutes and Mr. Brown hadn't been
8 there for 30 or 45 minutes?

9 A. That would be correct.

10 Q. Now, what time -- first of all, when you left
11 the party, did you drive along slowly without your
12 lights on?

13 A. No, sir. I turned my lights on.

14 Q. And did you drive off slowly?

15 A. Yes, sir.

16 Q. So there was no squealing of the tires?

17 A. I drive a Ford Explorer. I don't have that
18 much power to squeal.

19 Q. Did you drive off fast?

20 A. No, sir. I drove the normal speed.

21 Q. Would you have made any loud engine noises or
22 any tire noises when you left the party?

23 A. No, sir.

24 Q. When you left the party at Mr. Brown's house,
25 you don't recall what time it was?

1 A. That's true, sir.

2 Q. And where did you go from there?

3 A. I went to Troy Eason's house.

4 Q. Now, had it been a half hour, 45 minutes, an
5 hour, three hours, four hours since you had last seen
6 Troy Eason?

7 A. I don't know the exact time, but I -- I would
8 say around maybe two hours or so.

9 Q. Now, Mr. Eason -- Troy Eason; is that correct?

10 A. Yes, sir.

11 Q. --- was a friend of yours who grew up with you
12 and grew up with your brother and grew up with Demar,
13 was at his home. Correct?

14 A. Yes, sir.

15 Q. And hours later, you went back to his house
16 after there was a disturbance at Mr. Brown's house?

17 A. I won't say hours. I'm not -- going to
18 correct myself. I'm not going to say what time
19 because I don't know where you're going with the time
20 thing, but I'm not saying hours. We did go back to
21 Troy Eason's house. After we left Dexter Brown's
22 house, myself, Demar, and Rodney went back to Troy.

23 Q. To Troy's house?

24 A. Yes, sir.

25 Q. And how long were you there, sir?

- 1 A. I'm going to say maybe 15 minutes at tops.
- 2 Q. And do you know what time in the morning this
- 3 was?
- 4 A. No, sir.
- 5 Q. And you didn't go home at that time?
- 6 A. That's correct.
- 7 Q. And you determined, along with your three
- 8 friends, you went back to the scene of the earlier
- 9 disturbance. Correct?
- 10 A. No, that's not correct. Dexter Brown called
- 11 Troy Eason's house. And Troy Eason and Dexter was on
- 12 the phone, and he was -- I guess he asked Troy why
- 13 did we leave, and he asked what happened and said are
- 14 we going to come back. He asked us to come back to
- 15 the house. That's what happened.
- 16 Q. But there was no one at the house at that
- 17 point?
- 18 A. Apparently Dexter, David Rocquemoire, and Chris
- 19 Brown was at the house when I rolled up.
- 20 Q. And your knowledge of that is what somebody
- 21 else told you?
- 22 A. No. That's what I seen. I drove.
- 23 Q. Did Mr. Brown talk to you?
- 24 A. Mr. Brown talked to Troy, but when I pulled up
- 25 to the house ---

1 Q. As I say, Mr. Brown didn't talk to you?

2 A. That's correct, sir.

3 Q. So what you know about the conversation
4 between Mr. Brown and Mr. Eason, you heard from
5 somebody else?

6 A. That would be correct, sir.

7 Q. And when you got up to the house, the girls
8 have already left, the party was over?

9 A. Yes, sir.

10 Q. There was no party?

11 A. Yes, sir.

12 Q. And you have described in some detail to the
13 jury that a disturbance took place that wound up in a
14 shooting?

15 A. No, sir. I did not describe that. I said
16 there was a disturbance between my brother and a
17 female, which had nothing to do when the shooting
18 took place because they weren't there.

19 Q. We're talking about two different ---

20 A. Exactly. You're talking two different
21 incidents.

22 Q. I'm talking about when you returned to
23 Mr. Brown's house following your stay at Mr. Eason's
24 house.

25 A. Yes, sir.

1 Q. The party was over; isn't that correct?

2 A. Yes, sir.

3 Q. The girls had already vacated the premises?

4 A. Yes, sir.

5 Q. The party was shut down, nothing was going on,
6 yet you and your three friends came back to
7 Mr. Brown's house?

8 A. That's incorrect. Four friends, counting
9 myself. We all came back over to Mr. Brown's house
10 who called us. He wanted us to come back.

11 Q. And at the time you got back, the party was
12 over, the girls had gone already?

13 A. Okay.

14 Q. Is that true?

15 A. That would be true.

16 Q. And Mr. Eason who had been home for several
17 hours ---

18 A. I don't know where you get several hours from.

19 Q. You told me several hours. You told me at
20 least two.

21 A. I'm not -- as I told you, I wasn't even
22 counting time. I won't say what time, how long he'd
23 been home, but I didn't tell you several hours. It
24 wasn't several hours.

25 Q. But he came back with you...

1 A. Yes, sir.

2 Q. --- to the party...

3 A. Yes, sir.

4 Q. --- that didn't exist at that time?

5 A. Yes, sir.

6 Q. And you have described in some detail for the
7 prosecutor and to the jury about what happened after
8 you came back to Mr. Brown's house?

9 A. Say it again, sir?

10 Q. You have described to the prosecutor for the
11 benefit of the jury in some detail about what
12 happened after you came back to Mr. Brown's house for
13 the second time?

14 A. Yes, sir.

15 Q. And you also provided information to the
16 police department that night about what you observed
17 that night?

18 A. Yes, sir.

19 Q. In your statement to the police that you made
20 to Detective Boyd that night, do you recall telling
21 them that there wasn't any problem with anyone
22 associated with you before you left the party the
23 first time?

24 A. Yes, sir.

25 Q. And was that true?

1 A. Yes, sir.

2 Q. Well, didn't you testify today under oath that
3 some lady threw a drink on somebody who was with you
4 that night?

5 A. That wasn't -- when he asked the question, he
6 asked between David Rocquemoire. He didn't ask about
7 the lady. There wasn't any problems when -- it
8 states on the Q and A that did we have any problem
9 with David Rocquemoire at the party, and I said no.

10 Q. Well, certainly you've gone over your
11 statement with the prosecutor in the last week or two
12 in preparation for your testimony today, haven't you?

13 A. Yes, sir.

14 Q. Do you recall the police saying did you or any
15 of your friends who were at the party with -- you and
16 your friends who you were at the party with have any
17 problems prior to leaving the first time? Do you
18 remember them asking you that?

19 A. Can I see it, sir?

20 MR. SAVAGE: May I approach?

21 BY MR. SAVAGE:

22 Q. I have it marked in yellow.

23 A. (The witness reviews document.) Yes, sir.

24 Q. So is there some reason you didn't want the
25 police to know that night that there had been a

1 problem before you left, or did you just not think of
2 it at the time?

3 A. You said the first prior party? There was not
4 a problem. That was resolved. That's why we left
5 the party, sir.

6 Q. I'm sorry?

7 A. That the issue -- are you talking about the
8 first party, or are you talking about the second
9 party?

10 Q. I'm talking about what the police asked you.

11 A. Okay.

12 Q. What did the police ask you?

13 A. In that night he's asking from David
14 Rocquemore and them, we met them for the first time
15 over at the female's house in Summerville, at that
16 party did we have any problem, and I said no.

17 Q. The question was: Did you or any of the
18 friends you were with, at the party with, have any
19 problems prior to leaving the first time, and you
20 said no?

21 A. That's true.

22 Q. Did you ever indicate to the police that there
23 was a problem at the party that took place when David
24 Rocquemore wasn't even there?

25 A. No, sir. There was not a problem.

1 Q. But there was something that caused you to
2 leave the party?

3 A. Yes.

4 Q. Whatever you described as the problem with the
5 brother was. Now, when you returned to the party,
6 David Rocquemore and Mr. Brown were back at the
7 party. Correct?

8 A. Yes.

9 Q. And a fellow by the name of Mr. Thomas was at
10 the party?

11 A. Yes, sir.

12 Q. And Mr. Thomas is the same Mr. Thomas who had
13 been at the party all the night through with you and
14 your friends and the ladies and whatnot?

15 A. Yes, sir.

16 Q. Four of you got out of the car?

17 A. Yes, sir.

18 Q. And an argument ensued?

19 A. I wouldn't say argument. It was, this is the
20 exact words, "y'all niggers think y'all gangsters."

21 Q. And no one else said anything?

22 A. We dismissed that, that he's joking around.

23 Q. And no one bowed up to anybody?

24 A. No, sir.

25 Q. Well, if no one bowed up to anybody, then how

1 did some of these get their hands slapped?

2 A. About bow up, they was talking amongst each
3 other, and I got between. That's bowing up as you're
4 -- what you're saying, bowing up, fighting, sir?

5 Q. Well, I think you had testified to the jury
6 earlier that somebody slapped somebody's hands down.

7 A. Yes, sir. That -- I wouldn't consider that
8 bowing up. That's why I got between them and
9 diffused that.

10 Q. And then Mr. Thomas left and went towards his
11 car?

12 A. Yes, sir.

13 Q. And you ran after him. And what was the term
14 you described it as? Bull rushed him? What does
15 that mean, "I bull rushed him to the ground"?

16 A. First of all, I didn't run after him. I
17 walked and looked at him. Bull rush is a term we use
18 to take somebody down in the military.

19 Q. And you bull rushed him?

20 A. I took him down. I bull rushed him. That's
21 what I put on my paper.

22 Q. Did he have a weapon?

23 A. I didn't give him a chance to. I didn't see
24 if he had a weapon, but he -- he made an idle threat.
25 He reached in the trunk. When he was reaching in the

1 trunk and I couldn't -- you know, I'm not going to
2 let him grab a weapon. So at the time I had him on
3 the ground, I didn't know if he had a weapon or not.

4 Q. Did he have a weapon?

5 A. I didn't find a weapon on him, sir.

6 Q. And as that happened, you saw the car door to
7 Mr. Rocquemore's car open?

8 A. Yes, sir.

9 Q. And you didn't see who opened the door. Is
10 that correct?

11 A. Yes, sir.

12 Q. So you know nothing about what happened
13 between the time you bull rushed Mr. Thomas and the
14 time that you heard the shots fired?

15 A. That's correct, sir.

16 Q. So all your testimony about what happened at
17 Mr. Brown's house that night is unrelated to the
18 immediate disturbance which created the shooting of
19 the weapon. You didn't see the weapon, you didn't
20 see anybody with a weapon, you don't know whether
21 anybody was on top of somebody else or they were
22 fighting or what they were saying?

23 A. That's a false statement you just put it in.

24 Q. That's a false statement?

25 A. I seen your -- David Rocquemore with a weapon.

1 He had the weapon underneath his body.

2 Q. That was after the shooting.

3 A. After the shooting.

4 Q. What I'm asking you is if you can describe to
5 the jury so they can understand what led to the
6 shooting. What happened between the time you bull
7 rushed Mr. Thomas until the time you heard the shots
8 fired?

9 A. I will gladly tell them again. As we --
10 between us, when David Rocquemoire and Demar Denson
11 was walking, Chris Thomas made a statement and said,
12 "Hey, there will be -- there's a lot of talking going
13 on, there'll be no more talking once I get to the
14 trunk of my car."

15 And at that time, my focus was on Chris
16 Thomas. I watched him, and -- and I neared him on
17 the other side of his car, and he popped his trunk.
18 He'd made an idle threat regarding what he's going to
19 do with it.

20 When he reached his hands in there, I said I'm
21 not going to let this guy in there grab a gun, and I
22 bull -- that's what I call it whenever I say I bull
23 rushed him to the ground, which we call take down. I
24 took him down, I had him pinned down on the ground,
25 searching for a weapon, and as we're going there, I

1 seen David Rocquemore's door open up. I don't know
2 who went in the vehicle, but after -- shortly after
3 that, I heard firing behind me. I heard two shots go
4 off behind me, and they say "he shot Demar, he shot
5 Demar."

6 Q. But, Mr. Gibbs, the question, the question is
7 very simple, and I'd ask you to give it a very direct
8 answer. From the time you bull rushed Mr. Thomas and
9 till the time the shots were fired, you did not have
10 an opportunity to observe anything between
11 Mr. Rocquemore and the other people who were present;
12 isn't that correct?

13 A. True.

14 MR. SAVAGE: Beg the Court's indulgence
15 for one moment.

16 We have no further questions.

17 MR. DURANT: I have nothing on redirect,
18 Your Honor.

19 THE COURT: You may step down, sir.

20 THE WITNESS: Yes, sir.

21 MR. DURANT: Your Honor, may the witness
22 remain?

23 THE COURT: Any objection?

24 MR. SAVAGE: As long as he follows the
25 Court's instructions.

1 Are y'all ready?

2 MS. KNEESE-SHEALY: We're ready,

3 Your Honor.

4 THE COURT: Bring the jury in, please.

5 (Whereupon, the jury returns to the
6 courtroom at approximately 11:32 a.m.)

7 THE BAILIFF: The jurors are present,

8 Your Honor.

9 THE COURT: Thank you. Please be seated.

10 All right, ladies and gentlemen. We're
11 ready to proceed.

12 Call your next witness.

13 MS. KNEESE-SHEALY: Troy Eason.

14 (Mr. Eason enters the courtroom.)

15 TROY LEN EASON,

16 being first duly sworn by the clerk, is examined and
17 testifies as follows:

18 THE CLERK: Be seated. If you'll speak
19 into the mike and state your full name and spell your
20 last name.

21 THE WITNESS: Troy L. Eason, E-A-S-O-N.

22 DIRECT EXAMINATION

23 BY MS. KNEESE-SHEALY:

24 Q. Mr. Eason, if you would, please, tell the jury
25 how old you are.

1 A. I'm 37 years old.

2 Q. And where did you grow up?

3 A. Charleston. Ladson, South Carolina.

4 Q. Ladson, South Carolina?

5 A. Yes, ma'am.

6 Q. And how long have you lived in that area?

7 A. That particular area I've been in about 25
8 years.

9 Q. And when we're talking about that area, is
10 that Woodside Manor?

11 A. Yes, ma'am.

12 Q. Okay. Tell us about your background. Where
13 did you go to high school?

14 A. I went to R.B. Stall High School and graduated
15 from there and went to North Greenville Junior
16 College in Greenville, Colorado. I left there and
17 went to South Carolina State for a year.

18 Q. Okay. And when you went to North Greenville,
19 did Demar Denson go to college with you?

20 A. Yes, ma'am. We were roommates, actually.

21 Q. Y'all were roommates. Would you tell the jury
22 whether or not you've ever been arrested or convicted
23 of any crime?

24 A. No.

25 Q. Where are you currently employed?

1 A. I'm currently employed at Force Protection.
2 It's a defense contractor. We make armored vehicles
3 for the military.

4 Q. Okay. And where is that located?

5 A. It's in Ladson.

6 Q. And how long have you been working there?

7 A. About ten months.

8 Q. Prior to working -- and tell me the name
9 again. Force?

10 A. Force Protection.

11 Q. Force Protection. Prior to working there,
12 where did you work?

13 A. I worked at the College of Charleston for
14 about five years.

15 Q. And at the time of this incident, that being
16 August of 2005, were you working at the College of
17 Charleston?

18 A. Yeah, I was employed there at Charleston.

19 Q. What did you do for the College of Charleston?

20 A. I was a maintenance tech for the dormitories
21 and the sorority and frat houses.

22 Q. And you did that for five years?

23 A. Yes, ma'am.

24 Q. Tell us how you know Rodney Gibbs.

25 A. I know Rodney through Ronald Gibbs which is

1 his younger brother.

2 Q. And what kind of relationship do you have with
3 Rodney Gibbs?

4 A. Rodney is kind of like the older brother of
5 the group. He's always, you know, been the older one
6 of us, so he's always like an older brother to me.

7 Q. And did you know him as a child growing up
8 with Ronald?

9 A. Yes, ma'am.

10 Q. What has your relationship with Rodney been
11 since y'all have become adults?

12 A. It's been continuously the same since we were
13 little. Whenever he's home, we get in touch with
14 each other, get together. We always try to find each
15 other and get in touch with each other.

16 Q. Okay. And when you say when he's home, has he
17 lived elsewhere?

18 A. Yes. He lived in California for a while, and
19 he's a merchant seaman, so he travels a lot. So
20 whenever he gets a chance to come home, we try to get
21 together.

22 Q. And what about his brother Ronald? Describe
23 your relationship for us, if you would, with Ronald.

24 A. I met Ronald when I first moved into the
25 neighborhood, which is -- I actually met Demar first,

1 and he introduced me to Ronald. We all played Little
2 League football together, so we kind of -- we kind of
3 had, like, a reputation. The four of us got together
4 and we, you know, gelled together when we first met
5 each other.

6 Q. Okay. And what about Dexter Brown?

7 A. The same circumstances, just through the
8 neighborhood, from being kids running around the
9 neighborhood.

10 Q. Were you and Ronald and Rodney and Demar
11 closer friends than y'all were with Dexter?

12 A. Well, to say closer, we -- we all hung
13 together. But me, Ronald, and Rodney were -- yeah,
14 well, I guess we were closer. We were more -- their
15 families and more my families, they and my mom and
16 dad were like that.

17 Q. Okay.

18 A. So I guess we were closer, yes, ma'am.

19 Q. And tell us about Demar. Do you remember how
20 old you were -- you were when you met him?

21 A. Eleven, twelve years old.

22 Q. And was he living in Charleston at the time of
23 this incident?

24 A. Yes, he was living in Charleston.

25 Q. Had he been living in Orangeburg for some

1 time?

2 A. Yeah. He had -- he had just gone back to
3 school to finish up, and he was staying at
4 Orangeburg. And he would stay at my house at night,
5 too, to make the trip a little shorter.

6 Q. And do you remember where Demar was working at
7 the time?

8 A. He was working the Longshoreman Hall in
9 Charleston.

10 Q. Now, what about Chris Thomas and David
11 Rocquemoire? Had you met them prior to August 13th of
12 2005?

13 A. No. I never met them until that night.

14 Q. And do you see David Rocquemoire here today?

15 A. Yes, ma'am.

16 Q. And he's seated over to the left of you?

17 A. Yes, ma'am.

18 Q. Regarding August 2005 ---

19 A. Uh-huh.

20 Q. --- had there been a party at Dexter's house
21 the week before the incident in question?

22 A. Yes, ma'am. There was a cookout the week
23 before.

24 Q. And had you gone to that party?

25 A. Yes, I did.

1 Q. Do you recall whether or not Rodney and Ronald
2 had gone to that party?

3 A. Yes, they were. We all attended together.

4 Q. And when you were at Dexter's house that
5 weekend, was there an invitation extended to y'all
6 for the following weekend?

7 A. Yes, ma'am. Some -- some young ladies that
8 were there at the party invited us to a -- I think it
9 was a housewarming party she was having the following
10 week, and she wanted us to come out there.

11 Q. Did Demar have any role at the party at
12 Dexter's the week before? Was he doing anything?

13 A. Yeah. He was the -- folks call him the chef.
14 He was on the grill out there, actually, you know.

15 Q. Okay. Now, regarding the girl's party in
16 Summerville, did you have the occasion to go to that
17 party?

18 A. Yes, ma'am, I did.

19 Q. And how did you get over there?

20 A. I rode with Dexter.

21 Q. And when you got to that party, if you would,
22 describe for the jury what type of party that was.

23 A. It was a older crowd. I believe the parents
24 were there, and they were cooking, there was some
25 kids around, more like a family-type atmosphere.

1 Q. And were there alcoholic drinks served at that
2 party?

3 A. Yes, ma'am, there was.

4 Q. Did you have something alcoholic to drink ---

5 A. Yes, I did.

6 Q. --- while you were there? Do you remember
7 what you had?

8 A. I had Grey Goose and cranberry juice.

9 Q. Okay. Was there any kind of problem at that
10 party?

11 A. No, none whatsoever.

12 Q. When you were there, did you in fact meet
13 Chris Thomas and David Rocquemore?

14 A. Yeah. I believe Dexter introduced me to them.
15 I think Chris was there, a supervisor with him at his
16 job, and he just introduced them, and we all sat
17 around talking with each other for the night.

18 Q. Okay. Did you have any kind of problems with
19 Chris Thomas ---

20 A. No.

21 Q. --- or David Rocquemore?

22 A. None whatsoever.

23 Q. And was there a particular reason that that
24 young lady was having a party? Was it for a special
25 purpose?

1 A. I believe it was -- she just purchased a
2 house, and it was a housewarming party.

3 Q. Okay. When that party ended, what did you
4 then do?

5 A. We all left her house and went to my house.

6 Q. And when you say we all went, who all went
7 with you to your house?

8 A. Me, Dexter, a few of the ladies from the
9 party, Mr. Rocquemoore, and Chris ---

10 Q. Okay.

11 A. --- came to my house.

12 Q. And where were Rodney and Ronald and Demar as
13 far as you knew when y'all left the party?

14 A. They were still at the party when we left.

15 Q. Okay. When you got to your house, how long,
16 if you remember, approximately did y'all stay over
17 there?

18 A. A matter of 10, 15 minutes. It wasn't long at
19 all. It was -- there was a problem with my radio not
20 working, I didn't have anything to drink at the house
21 or anything like that, so I believe Dexter made a
22 suggestion that we go back to his house.

23 Q. Okay. And if you would, tell us who all went
24 back to Dexter's house.

25 A. The girls, I believe Chris, and

1 Mr. Rocquemore.

2 Q. And Dexter?

3 A. And Dexter, right.

4 Q. Did you in fact go?

5 A. Yeah, I went. I went back for like five, ten
6 minutes, and at that time it was late, so I came back
7 home and went and sat down on the couch.

8 Q. Okay. And tell us how long it takes to get
9 from Dexter's house to your house.

10 A. Two or three minutes. It's about four blocks
11 from my house.

12 Q. And so why did you decide to leave Dexter's?

13 A. I was tired, and really nothing going on, and
14 I was just ready to go home.

15 Q. Okay. When the evening continued, the early
16 morning hours, at some point do Ronald and Rodney and
17 Demar come back over to your house?

18 A. Yes, ma'am.

19 Q. Could you describe for the jury what happened
20 once they got over to your house?

21 A. I remember the door ringing and letting them
22 in -- actually, they had a key, so they came in and
23 we talked about what -- you know, what happened that
24 night. And about the same time, Dexter called me.

25 Q. Okay. Well, let me interrupt you for a

1 second. When they were telling you about what had
2 happened earlier, did Rodney explain to you about his
3 throwing a drink at a girl?

4 A. I don't believe he explained to me all that.
5 Not at that time, no.

6 Q. Okay. Did anybody else explain that to you?

7 A. No. Not at that time, no.

8 Q. So you were telling us about receiving a phone
9 call from Dexter.

10 A. Dexter, right.

11 Q. Tell us what that conversation involved.

12 A. It was more he -- he had gotten back and
13 noticed that everybody had left, and he was wondering
14 why everybody had left and why the girls, quote, why
15 the girls had left.

16 Q. Okay. Can you describe for us the tone in
17 Dexter's call?

18 A. It was more -- I think it was more of a --
19 hard to describe it -- what happened, you know, why
20 -- why the girls left, wondering what's going on,
21 what happened with the girls.

22 And I was like, I don't know, I'm not sure,
23 but these guys have got here now. So I said, if you
24 want, we'll come back down there, you know, find out
25 what's going on. He said all right. I said, well,

1 we're on the way back.

2 Q. Okay. And who in fact left your house to go
3 back to Dexter's?

4 A. Me, Demar, Rodney, and...

5 Q. Ronald?

6 A. Ronald.

7 Q. When y'all were making the decision to go back
8 to Dexter's, was anybody with you angry?

9 A. No. No.

10 Q. Did Dexter appear to be angry or frustrated
11 when he called?

12 A. I wouldn't say angry. Maybe frustrated that
13 the girls had left. You know, he wasn't like upset
14 or nothing.

15 Q. So what was the purpose then of y'all leaving
16 your house and going back to Dexter's?

17 A. It was, I guess, a courtesy. Because we
18 actually -- I believe they left Dex's house
19 unattended -- unattended, and we're just going -- you
20 know, go back and let him know what's going on.

21 Q. Okay. When you say they had left Dexter's
22 house unattended, what do you mean by that?

23 A. Well, you know, as we grew up we all spend
24 time at each other's house, and I guess when -- Dex
25 wasn't there at the time, so I guess he expected one

1 of us to be there to keep a eye on things at his
2 house.

3 Q. Okay. So y'all went back over to smooth
4 things over ---

5 A. Yes, ma'am.

6 Q. --- with Dexter? And, again, was anybody with
7 you, Ronald, Rodney, or Demar, angry when y'all were
8 heading over there?

9 A. No, ma'am.

10 Q. Troy, could you describe for the jury why you
11 made the decision to go back over there if you'd been
12 tired earlier in the evening?

13 A. It was more just to be -- settle the -- I
14 mean, to just explain to Dex what -- you know, what's
15 going on then, you know, going on that night. It was
16 just something we've always done. And I can't --
17 it's not like aforethought as to why we went back
18 over. Just something we've always done.

19 Q. Okay.

20 A. Just, you know...

21 Q. When you were traveling over there, was
22 anybody hanging out the window or whooping and
23 hollering?

24 A. No, ma'am. No, ma'am.

25 Q. And who drove back over there?

- 1 A. I believe Ronald drove.
- 2 Q. And whose vehicle were you in?
- 3 A. Ronald's.
- 4 Q. And when you were approaching Dexter's house,
- 5 at some point do you recall whether or not Ronald
- 6 turned the lights off in the vehicle?
- 7 A. Yes, ma'am. It was maybe 10, 20 feet from
- 8 where Dexter's house is, cuts the lights off. It's
- 9 something that we, you know, would always do that
- 10 late at night and, you know, stop doing -- disturbing
- 11 neighbors, whatnot. We always cut the radio down and
- 12 cut the lights off when we approach someone's house.
- 13 Q. Okay. So let me make sure I understand. You
- 14 grew up in Woodside Manor?
- 15 A. Yes, ma'am.
- 16 Q. Dexter grew up in Woodside Manor?
- 17 A. Yes, ma'am.
- 18 Q. Demar's father still lives in Woodside Manor?
- 19 A. Yes, ma'am.
- 20 Q. And the Gibbs also ---
- 21 A. Yes, ma'am.
- 22 Q. --- grew up in the same neighborhood?
- 23 A. Right.
- 24 Q. Was there any effort to appear
- 25 gangster-like ---

1 A. Uh-uh.

2 Q. --- by turning the lights off?

3 A. No, ma'am.

4 MR. SAVAGE: Object to the form of the
5 question.

6 MS. KNEESE-SHEALY: I'll move on.

7 THE COURT: Move on?

8 MS. KNEESE-SHEALY: I'll move on. Thank
9 you, Your Honor.

10 THE COURT: All right. I sustain that.
11 Go ahead.

12 BY MS. KNEESE-SHEALY:

13 Q. When you approached Dexter's house, would you
14 tell us, please, whether or not there was anyone in
15 the street or in the driveway?

16 A. I believe Dexter was standing in the driveway,
17 and Mr. Rocquemore and Chris were standing right in
18 the street, right there in the front of his house.

19 Q. Okay. And do you recall where Ronald parked
20 his car?

21 A. He parked up about ten feet in front of
22 Dexter's driveway.

23 MS. KNEESE-SHEALY: If we could pull up
24 state's exhibit number one.

25 Your Honor, may I approach?

1 THE COURT: Yes, ma'am.

2 (There was an off-the-record discussion
3 regarding laser pointer.)

4 BY MS. KNEESE-SHEALY:

5 Q. Now, Mr. Eason, are you familiar with what
6 this exhibit depicts, that being the area of
7 Mixedwood and Berrywood?

8 A. Yes, ma'am.

9 Q. That laser pointer I gave you...

10 A. Okay.

11 Q. --- if you will point that and show us in what
12 direction y'all came down the street.

13 A. We came from this direction here, from up
14 Berrywood here ---

15 Q. Okay.

16 A. --- and parked, I believe, in this area.

17 Q. And show us where Dexter's house is.

18 A. Dexter's house is here.

19 Q. Now, those dark areas on either side of the
20 driveway, could you tell us what those are? Are
21 those shrubbery?

22 A. Are you speaking of this area here?

23 Q. Yes.

24 A. That's just shrubbery that's in front of
25 Dexter's house.

1 Q. And show us, please, where Ronald pulled over.

2 A. He pulled over in this area here.

3 Q. And were there two other cars on the road as
4 y'all were approaching?

5 A. Yes, ma'am. Chris's car was here. And the
6 white Suburban, I believe it was, was parked here.

7 Q. Okay. Thank you.

8 MS. KNEESE-SHEALY: You can turn it off.
9 I'm sorry. You can turn that off now.

10 BY MS. KNEESE-SHEALY:

11 Q. As you were approaching then and parking, when
12 y'all got out of the vehicle was anybody in the car
13 angry?

14 A. No, ma'am, not at all.

15 Q. What happened once y'all got parked and got
16 out of the car?

17 A. We parked, got out of the car, was walking up
18 towards the -- Dexter's driveway, and Mr. Rocquemore
19 walked over and said, "Y'all think y'all some
20 gangsters for driving up with the lights off."

21 Q. And can you describe for the jury then what
22 happens after Mr. Rocquemore says that?

23 A. At the time he said that, he was approaching I
24 believe it was Rodney. He was approaching Rodney and
25 saying that, and Demar stepped in between them.

1 Q. Demar stepped in between them?

2 A. Yes, ma'am.

3 Q. Was there any exchange of arms or hands at
4 some point?

5 A. It was more of a brushing off or don't put
6 your hands on me like ---

7 Q. Okay.

8 A. --- like that, you know.

9 Q. Well, tell us who said what to whom.

10 A. I believe Demar said that to Mr. Rocquemore
11 and said don't put your hands on me.

12 Q. What had Mr. Rocquemore done prior to Demar
13 saying that?

14 A. He had pointed, you know, was pointing at him
15 or pointing at him like -- I guess he put his hands
16 on like his shoulder or something.

17 Q. Now, at any point after that happens, are any
18 -- exchange of blows? Did anybody hit anybody?

19 A. No, there wasn't no fight. It was more of a
20 everybody calm down, what's going on, what's going on
21 type of situation. It wasn't -- it was like trying
22 to diffuse the situation, I guess, everybody calm
23 down, what's going on. It was not a big deal.

24 Q. And what if anything does Chris Thomas then
25 say and do?

1 A. During the commotion of everybody calm down, I
2 could see him saying, well, soon there won't be any
3 noise as soon as I get to my trunk.

4 Q. I'm sorry. Could you say that a little bit
5 slower?

6 A. He said soon there won't be any noise as soon
7 as I get to my trunk. It was something to the sense
8 of that, what I can remember.

9 Q. And based on what Mr. Thomas said, what did
10 you think he meant?

11 A. I took it that he was getting a weapon from
12 out of his trunk.

13 Q. After he said that, where did he go?

14 A. Towards his trunk.

15 Q. And as he went to his trunk, did anybody out
16 there move towards him?

17 A. I believe Ronald kind of shadowed him towards
18 the trunk to see what he was going to get in the
19 trunk. And once he opened the trunk, Ronald pushed
20 him out of the way and put him on the ground and told
21 him you're not getting no gun out of the trunk.

22 MS. KNEESE-SHEALY: Beg the Court's
23 indulgence just a minute.

24 MR. DURANT: State's exhibit number 19.

25 BY MS. KNEESE-SHEALY:

1 Q. Showing you what has been previously marked as
2 state's exhibit 19, could you tell the jury, and use
3 the pointer, if you will, whose cars are whose out on
4 the street?

5 A. All right. This is the Explorer here. That's
6 Ronald's car. And this car is Chris's car. And I
7 believe this car is Mr. Rocquemore's car.

8 Q. And if you use the pointer to show us what
9 direction Chris Thomas was walking toward his car.

10 A. He was walking from over in this area towards
11 his car here and back to his trunk here and put -- I
12 guess he put his key in the trunk and was popping the
13 trunk.

14 MS. KNEESE-SHEALY: Thank you. You can
15 turn it off.

16 BY MS. KNEESE-SHEALY:

17 Q. And as Ronald then goes towards Chris, is he
18 dealing with Chris at that point?

19 A. Yeah. He -- he kind of tackled him and had
20 him on the ground and was patting him down to make
21 sure he didn't have a gun or anything on him.

22 Q. Would you tell us then what did Mr. Rocquemore
23 do while that's going on?

24 A. I seen him walk towards like on the other side
25 of the street towards his vehicle.

1 Q. Towards his what?

2 A. His vehicle.

3 Q. Okay. And as he's going towards his vehicle,
4 is anybody running up behind him?

5 A. No. Nobody's running behind him at all, no.

6 Q. So does anybody try to gang him?

7 MR. SAVAGE: Object to the form of the
8 question.

9 THE COURT: Rephrase the question.

10 BY MS. KNEESE-SHEALY:

11 Q. Could you describe whether or not anybody else
12 in the group was going towards him at some point?

13 MR. SAVAGE: Object to the form of the
14 question.

15 THE COURT: Observations, but without
16 leading. Go ahead.

17 BY MS. KNEESE-SHEALY:

18 Q. Mr. Eason, if you would, would you describe
19 what other people are doing at this point, please?

20 A. Ronald's with Chris Roc -- I mean, with Chris
21 Thomas, you know what I'm saying. And Mr. Rocquemore
22 was walking towards his car, and Demar is kind of
23 behind him, watching him and kind of watching so he
24 could see what's going on at the time. My attention
25 is more with Ronald and Chris there on the ground,

1 you know, and the next thing I know, that's when all
2 the other stuff happened.

3 Q. Okay. Well, first of all, I need you to speak
4 up a little bit for us.

5 A. Okay.

6 Q. If you need to get a little closer to the
7 microphone, do so. And if you would, describe for us
8 what then does happen.

9 A. From what I remember, Demar -- I mean, Ronald
10 had Chris on the ground, and my attention was at
11 that, and the next thing I know, I looked up and I
12 can remember -- excuse my language -- "yeah,
13 motherfucker, what y'all going to do now?" And I
14 looked up, and he had the gun on Demar.

15 Q. Who had the gun on Demar?

16 A. Chris (sic) Rocquemore.

17 Q. And where was Mr. Rocquemore standing?

18 A. Across the street, underneath the -- I
19 remember seeing him because he was underneath the
20 streetlight.

21 Q. And what was Demar doing?

22 A. He had his hands up with his hands like that
23 (demonstrating).

24 Q. Okay. And, again, just stay a little closer
25 to the microphone for me. When Demar put his hands

1 up like that, where then does he go?

2 A. He kind of -- he had the gun, and he kind of
3 went like he was going to pistol-whip him, and he
4 swung out, and Demar leaned -- leaned back, and I
5 guess the gun landed on the ground. And the next
6 thing I remember, he picked it up, came up, and shot
7 him.

8 Q. Okay. And let me get you to say the name of
9 the person that you're talking about instead of just
10 "he." Who took the gun and tried to hit Demar?

11 A. Mr. Rocquemoire.

12 Q. And once the gun fell, who picks the gun up?

13 A. He did.

14 Q. And at this point, where are -- are y'all in
15 relationship to Mr. Rocquemoire's car and the ditch
16 across the street from ---

17 A. We are more ---

18 Q. --- Dexter's?

19 A. We're more in front of Chris Thomas's car and
20 the street, that area I believe.

21 Q. After Mr. Rocquemoire picks up the gun, what
22 then happens?

23 A. During the time I'm going towards him, the
24 same time I hear the shots, and the second shot, and
25 that's when Demar kind of grabbed him, and the same

1 time Demar grabbed him, I got there and grabbed him
2 and tackled him to the ground.

3 Q. In what area are you tackling him to the
4 ground?

5 A. Across the street, like in the driveway right
6 across the street.

7 Q. And across the street from what?

8 A. From Dexter's house.

9 Q. Okay. So in comparison to where
10 Mr. Rocquemoire's car is, could you describe where
11 y'all were when the shots were fired?

12 A. Where we were from his car?

13 Q. Yes.

14 A. It was about 10, 20 feet away from his car, on
15 the other side of the street.

16 Q. On the other side of the street?

17 A. On the other side of it, yes.

18 Q. And where in relation to Mr. -- to Dexter
19 Brown's driveway?

20 A. Directly across the street from Dexter's
21 driveway.

22 Q. And could you see how far apart Mr. Rocquemoire
23 and Mr. Denson, Demar Denson, were when the shots
24 were fired? Could you see that?

25 A. I could see he was -- you know, I guess they

1 were maybe four or five feet away from me.

2 Q. You were telling us that at some point Demar
3 comes towards Mr. Rocquemore. When does that happen?

4 A. After the first shot.

5 Q. And at the time of the second shot, was there
6 still some distance between them?

7 A. Yes, ma'am.

8 Q. Now, at any point prior to the shots did you
9 see Demar Denson attack David Rocquemore?

10 A. Nobody laid a hand on him before that, before
11 that shot.

12 Q. And once the two shots were fired, at what
13 point does Mr. Rocquemore get on the ground?

14 A. It was immediately afterward because me and
15 Demar are trying to tackle him down on the ground.

16 Q. And when you got him on the ground, what were
17 you trying to get from him?

18 A. Well, he still had the weapon on him. He was
19 laying on the ground, like facedown on the ground and
20 had the gun pinned underneath him. And when he hit
21 the ground, it, you know, landed underneath him, and
22 Demar got up off of him and fell back into the ditch.
23 And Rodney came over and got on the other side. He
24 was holding his hand, trying to keep him -- keep him
25 from -- trying to get the gun away from him.

1 Q. Okay. Mr. Rocquemore was facing what way on
2 the ground?

3 A. He was facing towards Dexter's house.

4 Q. And was he on his stomach or on his back?

5 A. He was on his stomach.

6 Q. And the gun was where?

7 A. It was underneath him.

8 Q. And at the point that Demar goes and lays on
9 the ground near the ditch area, who is with you
10 trying to control Mr. Rocquemore?

11 A. Me and Rodney.

12 Q. You and Rodney?

13 A. Yes, ma'am.

14 Q. And were you able to get the gun away from
15 Mr. Rocquemore?

16 A. When we -- well, it took a while. He wouldn't
17 -- he wouldn't give it up. And we hit him on the
18 back of his head and we elbowed him and kneed him,
19 just to get the gun away from him, you know, where he
20 could not start shooting the rest of us like that.
21 So we're doing everything we could to get the gun
22 away from him.

23 Q. And you did say you were hitting and kneeling
24 him when he was on the ground?

25 A. Yes, ma'am.

1 Q. Had there been any hitting or kneeing of him
2 prior to him being on the ground?

3 A. There had been no contact whatsoever.

4 Q. Were you or Rodney ever able to get the gun
5 from him?

6 A. Not until Ronald came from across the street
7 and -- and did some type of pressure move on him, and
8 he gave up -- he gave up the weapon then.

9 Q. And could you see where Ronald put the gun?

10 A. He kind of grabbed it and I guess tried to
11 clear it, and he took it where the truck's parked in
12 the yard where we're at, and he put it on the back of
13 that truck.

14 Q. And that truck was parked behind the ditch?

15 A. Right. Behind the ditch.

16 Q. And that ditch area, was it sort of muddy in
17 that area?

18 A. Yes. It was muddy.

19 Q. Now, after Ronald got the gun away from
20 Mr. Rocquemoire, did you continue to hit or knee
21 Mr. ---

22 A. Yes.

23 Q. --- Rocquemoire?

24 A. Yes, I did.

25 MR. SAVAGE: Object to the form of

1 question and ask counsel not to lead this witness.

2 BY MS. KNEESE-SHEALY:

3 Q. Describe ---

4 THE COURT: Yeah, I sustain that.

5 Rephrase the question.

6 BY MS. KNEESE-SHEALY:

7 Q. Describe for the jury what you did in
8 relationship to Mr. Rocquemore after the gun was
9 taken from him.

10 A. After the gun was taken, I remember still
11 being on the back of him with my forearm like on the
12 back of his neck and just hitting him and asking him
13 why he did that, why he did that, why he did that.

14 Q. And why were you continuing to hit him?

15 A. My friend was laying in the ditch, dying. So
16 I was -- I was, you know, just upset. I didn't
17 understand why, you know, why it happened with him.

18 Q. Did you have the occasion that night to speak
19 to the police once they arrived?

20 A. Yes, I did.

21 Q. And would you tell the jury, please, where it
22 was that you actually gave them a statement? Where
23 were you?

24 A. At the police car.

25 Q. At the police what?

1 A. At the end of the police car.

2 Q. Okay. And when the police released y'all from
3 the scene, where did y'all go?

4 A. We came downtown to the emergency hospital to
5 check on Demar.

6 MS. KNEESE-SHEALY: I beg the Court's
7 indulgence just a moment.

8 BY MS. KNEESE-SHEALY:

9 Q. Mr. Eason, while you were out there that
10 evening, did you see anybody else with a gun?

11 A. No, ma'am.

12 Q. Did you have a gun?

13 A. No, ma'am.

14 Q. And when you described for us what happened,
15 could you tell us the difference between what you saw
16 and what you heard at the time of the shooting?

17 A. I'm not sure what you...

18 Q. When describing the shots, did you hear the
19 shots?

20 A. Yeah, I heard the shots.

21 Q. Okay. Were you able to actually see the
22 gunfire at that point?

23 A. No, because Demar's back was -- Demar's back
24 was to me and Rocquemoire was like directly in front
25 of him. So all I could really see was Demar like

1 this, and I could see him with his arm extended up
2 like that (demonstrating).

3 MS. KNEESE-SHEALY: I have no other
4 questions. Answer any that the defense may have.

5 THE COURT: Approach, please.

6 (There was an off-the-record bench
7 conference in the presence of the jury but out of the
8 hearing of the jury.)

9 (Said bench conference being concluded,
10 the following proceedings were had:)

11 THE COURT: All right, ladies and
12 gentlemen. Before cross-examination, we're going to
13 go ahead and break for lunch. I'll send you out.
14 Please give your pads to the bailiff on your way out.
15 We'll see you back at 1:30. Do not discuss the case
16 in any way. Thank you very much.

17 (Whereupon, the jury leaves the courtroom
18 room at approximately 12:00 noon.)

19 THE COURT: Please be seated.

20 Sir, you may step down during the lunch
21 break; however, you may not discuss your testimony
22 with anyone. Do you understand that?

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you. You may step
25 down.

1 (The witness leaves the witness stand.)

2 THE COURT: All right. See y'all after
3 lunch.

4 MS. KNEESE-SHEALY: Your Honor, what time
5 are we starting back?

6 THE COURT: 1:30.

7 (A lunch break is taken at approximately
8 12:00 noon.)

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1 AFTERNOON SESSION

2 (The trial reconvenes at approximately
3 1:30 p.m., the defendant being present with counsel,
4 and the following proceedings were had:)

5 THE COURT: Is the state ready?

6 MS. KNEESE-SHEALY: The state's ready.

7 THE COURT: Bring the jury in, please.

8 (Whereupon, the jury returns to the
9 courtroom at approximately 1:30 p.m.)

10 THE BAILIFF: Jurors are present,
11 Your Honor.

12 THE COURT: Thank you. Please be seated.

13 All right, ladies and gentlemen, we're
14 ready to proceed. The witness will return to the
15 witness stand, please.

16 (Mr. Eason enters the courtroom.)

17 TROY LEN EASON,
18 previously duly sworn by the clerk, resumes the
19 witness stand and is examined and testifies further
20 as follows:

21 THE COURT: Just remain under oath, sir,
22 and continue your examination.

23 Go ahead, Counsel.

24 MR. SAVAGE: May it please the Court.

25 THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. SAVAGE:

Q. Good afternoon, sir.

A. How you doing?

Q. Troy Len Eason; is that correct?

A. That's correct.

Q. I'm Andy Savage. I represent Mr. Rocquemore.

We haven't met before?

A. Okay.

Q. Correct, we have not met before?

A. No, sir.

Q. This incident happened in your neighborhood?

A. Correct.

Q. And this incident happened in your neighborhood with a friend of yours?

A. Brother of mine.

Q. Pardon me?

A. A brother of mine, yes, more than a friend.

Q. Brother being not biological, but in terms of your relationship y'all were very close?

A. Yes, sir.

Q. And the Gibbs brothers were brothers of yours at that time?

A. Yes.

Q. And y'all hung pretty close together, and this

1 incident caused you a lot of emotional trauma as a
2 result of the loss of your friend?

3 A. Yeah.

4 Q. Now, since that incident some two years ago,
5 almost two years ago, 23 months ago, have you seen
6 the Gibbs brothers?

7 A. Periodically, yes.

8 Q. And have you discussed this case with them?

9 A. Of course, yes.

10 Q. And have you discussed your testimony with
11 them?

12 A. We discussed the truth. We discussed what
13 happened that night.

14 Q. You did go over what you were going to testify
15 to, what they were going to testify to?

16 A. Yeah.

17 Q. And, of course, you did that with the
18 prosecutor?

19 A. Yes.

20 Q. And you went over the information that you
21 provided back when the incident happened, and then
22 there apparently were some things you learned from 23
23 months ago until today?

24 A. I'm not sure your question.

25 Q. Well, the night that incident happened you're

1 pretty much slammed?

2 A. I wasn't drinking at ---

3 Q. You had a good recollection of what happened
4 that night?

5 A. Yes, sir, I believe so, yes.

6 Q. And do you remember being interviewed by the
7 police?

8 A. I remember sitting in the car with -- watching
9 my friend's body get loaded in the ambulance and them
10 asking questions.

11 Q. And, of course, you've spoken to the police
12 since then?

13 A. I don't believe so, not the police, no.

14 Q. And you've spoken to the assistant prosecutor
15 since then?

16 A. Yes, sir.

17 Q. And, of course, you had an opportunity on more
18 than one occasion to correct any misstatements you
19 might have made in your earlier statement?

20 MR. DURANT: May we approach real
21 quickly, Your Honor?

22 THE WITNESS: Yeah.

23 THE COURT: Approach.

24 (There was an off-the-record bench
25 conference in the presence of the jury but out of the

1 hearing of the jury.)

2 (Said bench conference being concluded,
3 the following proceedings were had:)

4 THE COURT: Go ahead.

5 BY MR. SAVAGE:

6 Q. On the night of the incident, did you give the
7 police a statement?

8 A. Yes, I did.

9 Q. And since that night, have you had a chance to
10 correct any misstatement you might have made?

11 A. I'm not understanding what you mean by
12 correct, though.

13 Q. Is what you gave the police the night that you
14 were interviewed accurate?

15 A. At the time, considering what I been through
16 at that time, it was the best that I could relate,
17 yes.

18 Q. And the most important question that could be
19 answered that night was whether or not you saw the
20 shooting?

21 A. I guess that's what I really know that's the
22 most important.

23 Q. When you came to court today, you testified
24 for the benefit of the jury what you observed at the
25 time of the shooting?

1 A. Right.

2 Q. And you gave testimony today about at the time
3 of the shooting you saw Demar and how he was
4 positioned and whatnot?

5 A. Yeah.

6 Q. You gave some detail about that?

7 A. Right.

8 Q. Now, you were questioned the night of the
9 shooting, were you not, by the police about what you
10 observed?

11 A. Again, considering what was going on that
12 night, my friend was laying dead in the ditch, so it
13 should have been, it should be.

14 MR. SAVAGE: May I approach?

15 MS. KNEESE-SHEALY: Your Honor, I would
16 ask ---

17 THE COURT: Hold on a second.

18 Did you finish your statement?

19 THE WITNESS: Yes.

20 BY MR. SAVAGE:

21 Q. What I want to do is ask you if this is your
22 written statement that you gave them.

23 A. Yes, this is it.

24 Q. All right. Are you sure that's it?

25 A. (The witness further reviews document.) Yeah,

1 I'm pretty sure.

2 Q. Now, the night that you gave the statement,
3 you were upset. So you didn't give details about
4 what happened earlier in the evening?

5 A. That's -- I guess not, no.

6 Q. It's not a guessing game. This is serious
7 business. Either you did or you didn't.

8 A. No, I guess I didn't.

9 Q. Are you guessing or do you remember?

10 A. No, I didn't.

11 Q. Is there something ---

12 A. No, I didn't give any information about it.

13 Q. So the information about how this party, was
14 not given, the information about the cookout the week
15 before was not given, the names of the women you were
16 with that night were not given, and the details about
17 what you did that night was not given?

18 A. No.

19 Q. But the question that was important that night
20 about what you observed at the time of the shooting
21 was asked, and you answered and you gave the correct
22 statement. Correct?

23 A. The question that was important to me, was my
24 friend all right.

25 MS. KNEESE-SHEALY: Objection, Your

1 Honor. 613(b).

2 THE COURT: All right. Approach the
3 bench.

4 (There was an off-the-record bench
5 conference in the presence of the jury but out of the
6 hearing of the jury.)

7 (Said bench conference being concluded,
8 the following proceedings were had:)

9 BY MR. SAVAGE:

10 Q. The night of this incident, you gave a
11 statement; is that correct?

12 A. Yes, sir.

13 Q. Since that night, you have met with the
14 prosecutor on numerous occasions?

15 A. I wouldn't say numerous occasions.

16 Q. You met with him and reviewed your statement?

17 A. Yes.

18 Q. And have you changed your statement?

19 A. Not that I'm aware of, no.

20 Q. Was there anything in your original statement
21 that was untrue, false, or you didn't have proper
22 recollection that night?

23 A. Not that I'm aware of, no.

24 Q. Do you remember giving that statement to a
25 Charleston County sheriff's deputy?

1 A. Yes, sir.

2 Q. What time and place was that? In the patrol
3 car that morning?

4 A. Yes, it was in the patrol car that morning,
5 sir.

6 Q. The statement that I gave you, to be sure, is
7 this the statement that you gave them?

8 MR. SAVAGE: May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. SAVAGE:

11 Q. Specifically, were you asked the question did
12 you witness the shooting?

13 A. (The witness reviews document.)

14 Q. Bottom of the page?

15 A. Bottom of the first page?

16 Q. Yes, sir.

17 A. It's under the person who shot the gun, the
18 answer is no.

19 Q. Would you mind publishing, that means reading
20 to the jury, the last four lines?

21 THE COURT: Speak louder, pull that mike
22 to you. Madam Court Reporter can't hear you.

23 If you can't hear, you can ask the
24 witness directly.

25 THE COURT REPORTER: Thank you.

1 THE WITNESS: There is a "Q," means
2 question: Did you see Demar get shot? The answer
3 was, is "A," and I put: "No. Heard shots."

4 Another question: "Do you know the
5 person who shot the gun?" That's the last question
6 on the page. And my answer is no.

7 Q. And is this a truthful statement?

8 A. To the best of my knowledge, yes. Demar was
9 in front of him, so I couldn't see him shoot the gun,
10 but I seen the act of him pointing the gun at him and
11 heard the shots. So, to be technical, I didn't see
12 the bullet go in him, no.

13 Q. But the night ---

14 MS. KNEESE-SHEALY: Objection,
15 Your Honor.

16 MR. DURANT: He's making a statement and
17 admitted making the statement.

18 THE COURT: Approach.

19 (There was an off-the-record bench
20 conference in the presence of the jury but out of the
21 hearing of the jury.)

22 (Said bench conference being concluded,
23 the following proceedings were had:)

24 THE COURT: If it's just for the
25 clarification.

1 BY MR. SAVAGE:

2 Q. You've had a chance to look at this statement
3 you made that night?

4 A. Yes.

5 Q. And you've refreshed your memory with it?

6 A. Somewhat.

7 Q. And there's no question the night that you
8 gave a statement when the police asked you did you
9 see Demar get shot, you said no?

10 A. Yes.

11 Q. And you didn't say you didn't see him because
12 somebody was standing in front of you or anything
13 else about the fight, you didn't give any of those
14 details?

15 A. I mean, as when you witness something like
16 this, witness my best friend get shot for no apparent
17 reason, so, I mean, of course, some details are left
18 out of it. To the best of my knowledge, I answered
19 it the best I could at the time.

20 Q. And the details that you left out were that
21 you didn't see him get shot?

22 A. No, that's not what I said.

23 Q. How about earlier that evening? Where did you
24 go and who did you go with?

25 A. Earlier, I worked earlier that evening, I got

1 off, and I think we went shopping to get me some
2 clothes for -- for the cookout later on in the
3 evening.

4 Q. And did you go to a cookout?

5 A. Yes, we did.

6 Q. And what time was that?

7 A. I can't -- it was late evening. Maybe, you
8 know, right around six or seven o'clock.

9 Q. Six or seven o'clock?

10 A. I'm not particularly sure exactly what time it
11 was.

12 Q. And how long did you stay at that party?

13 A. Maybe two hours, two and a half hours.

14 Q. So would that have put you at eight or nine
15 o'clock?

16 A. Like I say, I'm not -- I know it was dark when
17 we got there. So it was late August, so it -- it
18 actually may have been later than that, actually.

19 Q. And about how long did you stay at that party?

20 A. It was like, like I said, about two hours.

21 Q. And had you been drinking that night?

22 A. Yes, sir.

23 Q. And were you drinking at that party?

24 A. Yes, I was.

25 Q. And that's the Grey Goose you were drinking?

1 A. Yes, sir.

2 Q. Were the people that you were with drinking?

3 A. Yes.

4 Q. It was a drinking party?

5 A. No. It was a housewarming party.

6 Q. Housewarming. And why did you decide to
7 leave?

8 A. It got late in the evening, the party was
9 winding down, so we decided to go back to my house.
10 Me and Rocquemoire and myself was at my -- actually
11 visiting my house.

12 Q. At that point did you and Mr. Rocquemoire or
13 anybody else have any confrontation or any problem?

14 A. We had no problem at all. He was a guest in
15 my house. We talked, and it was just a normal
16 evening.

17 Q. And he was being polite and engaging the whole
18 night?

19 A. I don't remember him talking much, you know,
20 during the whole evening, but there was no -- no type
21 of arguments or nothing.

22 Q. Were any of the ladies there at your house?

23 A. Yeah. A few of them came back to my house,
24 yes.

25 Q. And was there any problem with the ladies at

1 that point?

2 A. No, no problems at all.

3 Q. Now, had the ladies been drinking?

4 A. I'm pretty sure they were, yeah.

5 Q. And you left your house because the liquor ran
6 out?

7 A. No. We left my house because the stereo
8 wasn't working. I didn't have any liquor at my
9 house.

10 Q. And there was nothing to drink at your house?

11 A. Right.

12 Q. So you went to Dexter's house?

13 A. Right.

14 Q. Mr. Brown?

15 A. Right.

16 Q. And how long were you there?

17 A. No more than 10, 15 minutes.

18 Q. All right. And then did you go home?

19 A. Yes, I went home.

20 Q. And how did you get from Mr. Brown's house to
21 your house?

22 A. I believe Ronald dropped me off.

23 Q. And it's a couple blocks away?

24 A. Yeah. It's about four or five blocks.

25 Q. Now, you had gone to the first party about

1 eight or nine o'clock or maybe at dusk; would that be
2 fair to say? I'm not trying to put words in your
3 mouth.

4 A. A particular time, I couldn't -- you know, I
5 can't tell you.

6 Q. And you stayed there about two hours?

7 A. Yes, sir.

8 Q. And you left that party and you went to your
9 house?

10 A. Right.

11 Q. And it took about 15 or 20 minutes? I'm
12 asking. I don't know. How long did it take to get
13 from the first party to your house?

14 A. I would -- it would be more than 15 or 20
15 minutes. I'd say about 35 or 40 minutes.

16 Q. From Summerville to Ladson?

17 A. From -- we're in Knightsville. I'm -- we're
18 at an unfamiliar area, and so it was -- it was kind
19 of a, you know, slow riding on that one.

20 Q. And you stayed at your house for a few
21 minutes?

22 A. Yes.

23 Q. And then you went to Mr. Brown's house which
24 was a few minutes away?

25 A. Right.

1 Q. And you stayed there a few minutes?

2 A. Right.

3 Q. And you went home?

4 A. Right.

5 Q. What time did you get home?

6 A. I can't -- you keep asking me times. For me
7 to give you a specific time, I can't. I can't -- I
8 can't do that.

9 Q. I'm not asking for 11:09. I'm asking for it
10 was around midnight, you know, whatever time that you
11 can recall.

12 A. I guess it was later, later in -- later in the
13 evening at that time.

14 Q. Did you watch TV?

15 A. I remember cutting the TV on, yeah.

16 Q. Do you remember what was on?

17 A. No, I don't remember what was on.

18 Q. Was it the Late Show or the news or....

19 A. I don't remember what was on.

20 Q. And you stayed at home then?

21 A. Yeah.

22 Q. And was anybody at home with you?

23 A. No. I stayed by myself.

24 Q. And you were resting? You're relaxing?

25 A. Relaxing.

1 Q. At some point there was a knock on the door?

2 A. No. Actually, they have a key to my house, so
3 I believe they -- they came on in.

4 Q. And what was said to you at that time?

5 A. The actual words, I can't recall what was
6 said, but it was like, man, what a -- you know, it
7 was like discussing the night, you know, what went on
8 that night.

9 Q. And what was discussed?

10 A. The party, the girls maybe. I can't recall
11 specific, you know, conversations or whatnot.

12 Q. Well, did anybody say that a drink was thrown
13 in their face?

14 A. Not at that time.

15 Q. That they'd thrown a drink in somebody else's
16 face?

17 A. No. I remember ---

18 Q. That there was an argument?

19 A. I remember them saying there was an argument
20 with a girl, that the girls -- I remember that the
21 girls had left. That's why they came back to my
22 house. The girls had left.

23 Q. The girls had left, so that's why they came
24 back to your house?

25 A. Right.

1 Q. The party was over?

2 A. (There was no response.)

3 Q. I mean, you didn't say, well, let's go back
4 and party some more. You were already resting for
5 the evening. Correct? That's a question.

6 A. Repeat? I don't understand the question, what
7 you're trying to say.

8 Q. You went home, you went to the party, I guess
9 you didn't think much of the party so you left and
10 went home to your house?

11 A. Correct.

12 Q. Sometime later on somebody came to your house
13 with a key?

14 A. It was somebody -- it was Demar and my best
15 friends that I've known for 20 something years came
16 back to my house.

17 Q. Your best friends...

18 A. Right.

19 Q. --- came to your house at what time?

20 A. Again, you're trying -- I don't -- I can't
21 recall a specific time, you know, what time this was.

22 Q. Was it in the evening?

23 A. It was late, late evening.

24 Q. Was it early morning?

25 A. Again, you're trying to pin me to one -- it

1 was late. It was late evening. It was like late
2 evening.

3 Q. It was past the middle of the night?

4 A. If that's how you want to say it, I guess. I
5 don't know.

6 Q. I'm not trying to put words in your mouth. I
7 just want to try to get an idea of what was going on
8 at that time of the morning. They came back to your
9 house?

10 A. Correct.

11 Q. And as a result of them coming back to your
12 house, you got up and left with them to go back to
13 Mr. Brown's house?

14 A. Actually, Dexter called me and he's asking why
15 everybody left. And at the same time, you know, they
16 were coming back. So we're just talking about what
17 going on that night, and he was like, man, all the
18 girls left. I said, well, we'll come back over there
19 and find out what's going on.

20 Q. But the party was over?

21 A. I don't think it was a party per se at that
22 time, but he had some people over.

23 Q. I'm not sure what you're talking about now.

24 A. I'm not sure what you're ---

25 Q. Are you saying that that wasn't a party y'all

1 went there earlier?

2 A. That earlier in the evening, yes, there was a
3 party we went to. But to say at Dexter's house it
4 was a party, it wasn't. It was more of everybody
5 getting together afterwards.

6 Q. At Dexter's house, I think it's been referred
7 to as an after-hours party. Were people drinking?

8 A. No. I didn't see anybody drinking.

9 Q. No one was drinking at that party?

10 A. I wasn't.

11 Q. Was anybody else drinking?

12 A. I didn't -- I don't recall seeing anybody
13 drinking.

14 Q. Did you ever hear that somebody threw a drink
15 in somebody's face?

16 A. I was -- I was home. I didn't -- I heard that
17 afterwards.

18 Q. So you don't know whether anybody was drinking
19 that night?

20 A. I'm pretty sure they were. I mean, it was ---

21 Q. And you don't think it was a party going on?

22 MS. KNEESE-SHEALY: Your Honor, again, I
23 object.

24 THE WITNESS: I didn't -- again, I didn't
25 say that.

1 THE COURT: Hold on. Make sure the
2 witness can explain.

3 BY MR. SAVAGE:

4 Q. And when you got back to the ---

5 MR. SAVAGE: Excuse me, Judge.

6 BY MR. SAVAGE:

7 Q. When you got to Mr. Brown's house after
8 leaving it, there was no party.

9 A. After leaving?

10 Q. When you left Mr. Brown's house, there were a
11 lot of girls and men there?

12 A. Correct.

13 Q. And you don't know whether they were drinking
14 or not, but you left?

15 A. Correct.

16 Q. And when you got back there, there were no
17 girls there?

18 A. Right.

19 Q. There was no party?

20 A. Right.

21 Q. But you got in a car with your three lifelong
22 best friends to go back to Mr. Brown's house at a
23 time you don't recall?

24 A. It was late evening. I don't know the exact
25 time, though.

1 Q. Now, did you testify that it's customary in
2 your neighborhood to turn the lights out?

3 A. It's customary for us. I stay directly across
4 from my parents' house. So I have a lot of people
5 coming over there late, at late at night, so we
6 always cut the lights off, cut the radio off, just
7 not disturbing the neighbors.

8 Q. I believe that you have testified earlier
9 about the exhibit that the prosecutor had that
10 appears to be an aerial photograph or map of your
11 neighborhood?

12 A. Uh-huh.

13 Q. You testified about that?

14 MR. DURANT: Do you want that on the
15 screen?

16 BY MR. SAVAGE:

17 Q. Is this the same? Do you recognize this?

18 A. Yes.

19 Q. Where did you first see that photograph?

20 A. Where did I first see that photograph?
21 Actually, this is maybe the first time I've seen this
22 particular photograph.

23 MR. DURANT: This is state's one.

24 BY MR. SAVAGE:

25 Q. This is the first time you've seen that?

1 A. I mean, I've seen photographs of the -- of the
2 neighborhood like that, I mean.

3 Q. When is the first time you saw this particular
4 one?

5 A. I can't remember. That particular photograph,
6 I don't -- it doesn't stand out to me. I remember
7 seeing, looking at photographs. It was probably
8 certain photographs of the area and -- and the houses
9 and whatnot.

10 Q. But are you familiar with this photograph?

11 A. It doesn't stand out to me right now, it
12 doesn't.

13 Q. Is this not the same photograph you testified
14 about earlier?

15 A. I mean, I've seen it today, of course, but you
16 asked if I've seen it before today, and I don't
17 recall seeing this particular, though.

18 Q. But you look at this photograph and you
19 recognize what's in it?

20 A. Yeah.

21 Q. And I think you said earlier that you came
22 down Berrywood, and I am ---

23 A. I came down Berrywood this way.

24 Q. Is your ---

25 A. My house is up this way, so you can't ---

1 Q. But you came down this way?

2 A. Yeah.

3 Q. And you pulled off to the right-hand side of
4 the road?

5 A. We pulled off right here, right by Dexter's
6 driveway.

7 Q. Were the lights turned off?

8 A. The lights might have been turned off right in
9 this area here where that streetlight is at. Again,
10 this, you know, it's -- to recall exactly where he
11 turned the lights off, again, I can't -- I couldn't
12 tell you that, but it had to have been real close to
13 his house.

14 Q. And which neighborhood -- which neighbor were
15 you being courteous to, not to have the lights go in
16 their eye?

17 A. There's neighbors here across, there's
18 neighbors here across the street. There's a house
19 here that as we come down the street that the lights
20 will shine directly into their house there. So
21 there's a whole -- there's a whole group of people.

22 Q. And when you leave, of course, you don't put
23 the lights on when you leave and you wait a while to
24 turn them on till you get down the street?

25 A. Normally we -- you know, the normal location,

1 I park in that same spot. So if I was to leave, and
2 I'd probably go down this street and cut my lights on
3 when I get on the street here.

4 Q. But if somebody was parked here and had to
5 leave, they'd probably put their headlights in three
6 or four neighbors' yards?

7 A. I can't tell what somebody else would do. I
8 know what I would do.

9 Q. Well, when you drive, the headlights are
10 usually in the front of the car?

11 A. I believe all heads and tails is going to
12 be...

13 Q. And when the vehicle turns, your headlights
14 turn with them?

15 A. I guess that's right.

16 Q. So wherever the vehicle's facing, that's where
17 the headlights are?

18 A. I would assume so, yeah.

19 Q. And in order to go back around on the street
20 you came in, the headlights would go with the car in
21 the front of the car and follow around 360 degrees?

22 A. I guess so, yeah.

23 Q. No question about that?

24 A. No.

25 Q. So the question I ask you is: Do you put your

1 lights on when you take off?

2 A. It would depend on the type of, you know, what
3 -- how late the evening is or whatnot. I can only
4 say what we did that night. You know, other nights
5 maybe, maybe not, you know, maybe not have turned the
6 lights on or off. I've definitely done it plenty of
7 times. I pull in their driveway and cut the lights
8 off so I won't disturb -- maybe his mother is in
9 there sleeping or something, so...

10 Q. What size shirt do you wear, sir?

11 A. Hm, now?

12 Q. Yes.

13 A. Probably 3X, or do you want an actual number
14 size?

15 Q. Yes, sir. But numbers -- X's are good. How
16 about the night of this incident?

17 A. It would probably be a 3X, 2X or 3X shirt.

18 Q. And when you left that night, did you have a
19 shirt on?

20 A. Yes, I did.

21 Q. And did you leave a shirt behind?

22 A. I believe one of the detectives asked me for
23 the shirt I was wearing.

24 Q. So you left a shirt behind there?

25 A. I left it with an officer, yes.

1 Q. And what did it look like?

2 A. I don't know. Maybe a white -- white shirt,
3 I'm not sure.

4 Q. Now, have you seen your shirt since that
5 night?

6 A. No, I haven't.

7 Q. Did you have two shirts on that night?

8 A. Hm, I had an undershirt maybe.

9 Q. When you left the scene, did you have any
10 shirt on at all?

11 A. I had a -- no. Actually, I borrowed a shirt
12 from Dexter from his house and put on, because we
13 actually -- we actually left there and went to the
14 hospital.

15 Q. Now, the night that this happened, you talked
16 to the police, correct?

17 A. Correct.

18 Q. And did the police -- they took your shirt,
19 right?

20 A. Yeah.

21 Q. And did they photograph you?

22 A. I don't remember taking photographs, no.

23 Q. Do you remember somebody coming up and taking
24 a photo shot of your hands or your face or your
25 knees?

1 A. Again, but my intention was getting to the
2 hospital and finding out if my friend was okay, you
3 know, but whether somebody did or not, I couldn't --
4 I couldn't tell you.

5 Q. Were you wearing shorts or long pants?

6 A. I was wearing shorts.

7 Q. And you don't remember the police taking
8 pictures of you?

9 A. Not offhand, no, I don't.

10 Q. Is this the shirt that you were wearing that
11 night? (Counsel opens paper bag.)

12 A. It looks familiar, yes. It sure does.
13 Five-X? Okay.

14 Q. Was that your shirt?

15 A. Yeah, I think so.

16 Q. Do you know what the police did with this
17 shirt after they took it from you that night?

18 A. I don't have no idea.

19 Q. Do you know why they took it from you?

20 A. No, I don't.

21 MR. SAVAGE: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 MR. SAVAGE: Thank you.

24 BY MR. SAVAGE:

25 Q. Mr. Eason, thank you for your patience. I

1 just have one or two more questions. How well did
2 you know Dexter Brown?

3 A. Pretty well. But, again, childhood friends,
4 maybe sixth, fifth, sixth grade.

5 Q. And the night of this incident you were in his
6 house, were any family members of him in his house?

7 A. You're asking me were any what?

8 Q. Any of his family members in his house?

9 A. I think his brother might have been there,
10 Keith.

11 Q. That would be his brother Keith?

12 A. Right.

13 Q. And did you say that Mr. Brown called you to
14 ask you ---

15 A. Yeah.

16 Q. --- why you abandoned his house?

17 A. He didn't put it in them terms. He was just
18 calling and asking me why the girls left.

19 Q. So there was nothing about y'all abandoning
20 his house?

21 A. Yeah. He's just like why -- why is nobody
22 here, you know, why did everybody leave. So, you
23 know, he didn't say y'all abandoned my house, like
24 that. He didn't talk like that.

25 Q. But at his house his brother was there to keep

1 it secure?

2 A. Well, his brother is a little slow, so I guess
3 he really don't -- I don't know how to put it nicely.
4 He's just -- he's a little slow.

5 Q. Was he present when this incident took place?

6 A. Not that I recall, no.

7 Q. The car you came in at the end of the night is
8 parked right here next to the driveway of Mr. Brown's
9 residence?

10 A. It was more like towards -- it was like about
11 -- it was more in this area here than closer to the
12 driveway.

13 Q. I know the jury can see it, but the court
14 reporter can't tell in terms of its location. So if
15 you would use the street address and tell us in
16 relationship to the driveway to the street.

17 A. Far as distance from the street to the
18 driveway?

19 Q. No, sir. Where the car was parked.

20 A. I don't understand the question you're trying
21 to ask me.

22 Q. How far away was the car in which you traveled
23 back to Mr. Brown's house? How far away was that
24 car?

25 A. Parked from Mr. Brown's house?

1 Q. No. From the driveway.

2 A. From the driveway? A wild guess, maybe about
3 10 to 15 feet.

4 Q. And was there anything when you arrived in the
5 car -- you said there was no longer a party -- that
6 prevented you and your friends from getting back in
7 the car and leaving?

8 A. I guess not, no.

9 Q. And did you testify earlier that as soon as
10 you got back to the place where the party used to be,
11 the non-party at Mr. Brown's house, whatever, an
12 argument started?

13 A. Right.

14 Q. And did anyone that you were with get back
15 into the vehicle in which you came to leave?

16 A. No.

17 Q. But you could have if you wanted to?

18 A. Not with this Chris, whatever his name was,
19 going to his trunk to get a weapon.

20 Q. Oh. Now, Chris Thomas was going for a weapon?

21 A. I assume that's what he was going for, yes.

22 Q. Did you see a weapon?

23 A. He didn't get a chance to get -- to get a
24 weapon.

25 Q. And did he get a weapon?

1 A. Not that I'm aware of, no.

2 Q. Sir?

3 A. Not that I'm aware, no.

4 Q. And your attention ---

5 A. He didn't have a chance to. Ronald stopped
6 him from getting to the trunk.

7 Q. And your attention was directed to him and you
8 were watching him?

9 A. My attention was directed to the whole
10 situation that was going on.

11 Q. And David Rocquemoire left from the driveway to
12 go to his car?

13 A. Yes.

14 Q. And what was he doing?

15 A. Again, I can't -- I can't testify to what he
16 was doing.

17 Q. But he was followed to his car?

18 A. No, he wasn't followed to his car at all.

19 Q. Chris Thomas was allowed to go to his car ---

20 A. He wasn't allowed ---

21 Q. Excuse me ---

22 A. --- to go to his car.

23 Q. --- I'm asking a question. Thomas ---

24 THE COURT: Hold on a second. Let him
25 finish the question, then you can answer, sir.

1 Go ahead.

2 BY MR. SAVAGE:

3 Q. Thomas was going to his car?

4 A. Right.

5 Q. And he was jumped and knocked down? He was
6 bull rushed and knocked down?

7 A. He was prevented from getting a weapon out of
8 his trunk.

9 Q. And Mr. Rocquemore was going to his car and
10 everybody was just going to let him leave. Is that
11 correct?

12 A. If he wanted to get in the car, I'm pretty
13 sure he could have left. If he wanted ---

14 Q. He just ---

15 A. If he wanted to leave, I'm sure he could have
16 left.

17 Q. Thomas gets knocked down before Rocquemore
18 goes to his car?

19 A. Thomas made a statement that he was going in
20 the trunk to end this noise and went to his trunk and
21 opened the trunk. So, yes, he was stopped ---

22 Q. Thomas ---

23 A. --- from getting in his trunk.

24 Q. The question is: Did Thomas get knocked down
25 before Rocquemore went to his car?

1 A. I can't -- for that time, I mean, I can't
2 really say. Was it simultaneously? It might have
3 been. It could have been before he went to his
4 trunk. I don't know.

5 Q. And you followed Rocquemore to his car?

6 A. I followed Rocquemore to his car?

7 Q. Who followed him?

8 A. Nobody followed him.

9 Q. No one at all?

10 A. No. No.

11 Q. Just free to go?

12 A. It was more -- you know, the whole situation
13 was just crazy. It was more of why is he going to
14 his trunk, and paying attention to make sure he
15 didn't have a weapon, and at the same time he kind of
16 eased off to his car. So to say somebody was, you
17 know, following him to his trunk, nobody -- nobody
18 followed him to his trunk.

19 Q. The word is shadow.

20 A. Shadow?

21 Q. Did anybody shadow him ---

22 A. No.

23 Q. --- to his car?

24 A. Not that I'm aware of, no.

25 Q. But you were there and you were present?

TROY EASON - REDIRECT BY MS. KNEESE-SHEALY

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1 A. Yes, I was.

2 MR. SAVAGE: Thank you, sir.

3 MS. KNEESE-SHEALY: May it please the
4 Court.

5 THE COURT: Yes, ma'am.

6 REDIRECT EXAMINATION

7 BY MS. KNEESE-SHEALY:

8 Q. Mr. Eason, you were asked about Keith Brown,
9 Dexter's brother?

10 A. Right.

11 Q. And I think you testified that he's sort of
12 slow?

13 A. Yeah.

14 Q. Do you know where he lives now?

15 A. I believe he stays in a home somewhere in
16 downtown Charleston now.

17 Q. And when you say in a home, do you mean for
18 his mental condition?

19 A. Yes, ma'am.

20 MR. SAVAGE: Leading question.

21 THE COURT: I sustain that.

22 MS. KNEESE-SHEALY: Thank you, Your
23 Honor.

24 BY MS. KNEESE-SHEALY:

25 Q. You have described to us that you gave a

1 statement that evening, and Mr. Savage asked you
2 about that.

3 A. Right.

4 Q. Explain to us, if you would, what was going on
5 when you were asked to give a statement.

6 A. It was more of -- I was more concerned about
7 what happened with my friend, because the last sight
8 I saw him he was going in an ambulance and them
9 giving CPR on his chest. So it was more -- my
10 attention was more on -- you know, concerned what's
11 going on with him.

12 Q. Okay. And when you gave your statement, where
13 were you when the officers asked you to write it
14 down?

15 A. In the actual police car, sitting in the
16 police car.

17 Q. And ---

18 A. Directly across from where he was laying at.

19 Q. Okay.

20 MR. DURANT: This would be state's 14.

21 BY MS. KNEESE-SHEALY:

22 Q. Mr. Eason, showing you what's been marked as
23 state's exhibit number 14, could you describe that
24 area to the jury?

25 A. Yeah. That's the -- that's the ditch where he

1 was laying.

2 Q. Where Demar was laying?

3 A. Yeah.

4 Q. And when you were asked to give the statement,
5 where were you?

6 A. I was sitting in the patrol car, maybe in this
7 area here.

8 Q. And where was Demar at that point?

9 A. The paramedics were putting him on the
10 stretcher and putting him in the ambulance.

11 Q. When you were asked to give your statement at
12 that point, did you give every detail that you knew?

13 A. That I -- that I possibly could at the time,
14 yeah.

15 Q. At that time. And Mr. Savage asked you about
16 statements regarding whether or not you saw Demar
17 shot.

18 MS. KNEESE-SHEALY: May I approach the
19 bench ---

20 THE COURT: Yes, ma'am.

21 MS. KNEESE-SHEALY: --- the witness, Your
22 Honor.

23 BY MS. KNEESE-SHEALY:

24 Q. Could you read for the jury the statement
25 before the isolated one Mr. Savage asked you?

1 A. I said: The next thing I saw was the guy
2 tried to pistol-whip Demar with the gun and ran over
3 to stop him and heard two shots.

4 Q. So when you gave your statement, you tried to
5 give the details you could recall at that point?

6 A. Correct.

7 Q. And just to make sure we're clear, would you
8 describe for us again what you see and what you hear
9 at the time of the shooting?

10 A. I hear, "What y'all motherfuckers going to do
11 now?" And then at the same time, I'm turning towards
12 that and I seen him try to pistol-whip him with the
13 gun. It drops. He picks it up. And Demar is like
14 in front of me. I'm looking -- let's say like I'm
15 looking over his shoulder, seeing Rocquemoire and
16 seeing Demar like this, and I heard the two shots.

17 Q. So when the officers asked you did you see
18 Demar get shot, and you answered, "No. I heard the
19 shots."

20 A. Right.

21 Q. That's what you're saying today?

22 A. Exactly what I'm saying.

23 Q. Now, when your attention was with Chris Thomas
24 and y'all see David Rocquemoire approach his
25 vehicle...

1 A. Right.

2 Q. --- please tell the jury whether anyone
3 prevented Mr. Rocquemore from getting in that car and
4 leaving.

5 A. Nobody -- nobody. I -- it's been two years,
6 and I wish it would have happened ---

7 MR. SAVAGE: We have an objection on the
8 type of questions. They're constantly leading
9 questions.

10 THE COURT: Refrain from leading,
11 Counsel. Go ahead.

12 MS. KNEESE-SHEALY: Would you like for me
13 to restate that, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. KNEESE-SHEALY:

16 Q. Mr. Eason, describe for the jury, please, what
17 everyone else was doing as it related to
18 Mr. Rocquemore at his car.

19 A. Nobody was -- was following him, nobody
20 touched him, nobody -- it wasn't really even an
21 argument. That's why, to me, it was so senseless.
22 Because maybe I could accept it more if it was an
23 argument or we had hostilities towards him, but it
24 was just cool out, cool out, cool out, him going to
25 the trunk, get to the car, and him going to his car,

1 and then in a matter of seconds, you know, everything
2 -- everything went down.

3 MS. KNEESE-SHEALY: Beg the Court's
4 indulgence.

5 THE COURT: All right.

6 MS. KNEESE-SHEALY: I have no further
7 questions, Mr. Eason. Please answer any more that
8 Mr. Savage may have.

9 RE-CROSS-EXAMINATION

10 BY MR. SAVAGE:

11 Q. Mr. Eason, certainly you were upset that
12 night?

13 A. Still upset.

14 Q. But you didn't even tell the police officers
15 who fired the weapon that night, correct? You said
16 you didn't know who it was?

17 A. No, that's not what I said. There was only
18 one person with a weapon, so...

19 Q. So it should have been a pretty simple
20 question asked and answered. Did they ask you, "Do
21 you know the person who shot the gentleman?"

22 A. He asked me if I knew him as in
23 relationship-wise, and I told him no.

24 Q. You didn't tell him he was a fellow that was
25 at the party earlier, you didn't tell him his name,

1 you didn't tell him you had been with him all earlier
2 that evening?

3 A. No, I didn't elaborate too much on the
4 question. Again, I was concerned about my friend.

5 Q. You didn't tell them that night that the gun
6 was on the pavement, that it fell on the pavement ---

7 A. Again, this is right after ---

8 Q. Excuse me. I need to ask the question.

9 THE COURT: Hold on a second. One at a
10 time.

11 BY MR. SAVAGE:

12 Q. That the gun went down on the pavement and
13 there was a scramble to pick up the gun?

14 A. No.

15 Q. You didn't tell them that?

16 A. No, I didn't say that. That isn't what
17 happened.

18 Q. You told that to the jury today?

19 A. I didn't say anything about scrambling to get
20 the gun. I told you he picked the gun up.

21 Q. Was Mr. Demar pistol-whipped?

22 A. No.

23 Q. Didn't you say the words he tried ---

24 A. He attempted ---

25 Q. --- to pistol-whip him?

1 A. He attempted to pistol-whip him.

2 Q. And during that is when the gun went on the
3 pavement?

4 A. Correct.

5 Q. The gun hadn't been fired at that point?

6 A. No, I guess not, no.

7 Q. And then Mr. Rocquemore picked the gun up?

8 A. Right.

9 Q. Is that the truth?

10 A. Everything I said today is the truth.

11 MR. SAVAGE: Thank you, sir.

12 THE WITNESS: You're welcome.

13 MS. KNEESE-SHEALY: Beg the Court's
14 indulgence just one moment.

15 THE COURT: All right.

16 MS. KNEESE-SHEALY: I have no further
17 questions, Your Honor.

18 THE COURT: You may step down.

19 MS. KNEESE-SHEALY: You Honor, I would
20 ask that Mr. Eason be allowed to sit in the
21 courtroom.

22 THE COURT: Any objection?

23 MR. SAVAGE: No, sir.

24 THE COURT: All right, sir. You may step
25 down. You may stay in the courtroom. You may not

1 discuss your testimony with anyone. Do you
2 understand?

3 THE WITNESS: Yes, sir.

4 (The witness is excused from the witness
5 stand.)

6 MS. KNEESE-SHEALY: The state calls
7 Rodney Gibbs.

8 (Mr. Rodney Gibbs enters the courtroom.)

9 THE COURT: Come forward, sir, and be
10 sworn.

11 THE CLERK: This way, sir.

12 RODNEY GIBBS,
13 being first duly sworn by the clerk, is examined and
14 testifies as follows:

15 THE CLERK: Be seated. If you'll please
16 speak into the mike and state your full name and
17 spell your last name.

18 THE WITNESS: Rodney Lavalley (phonetic)
19 Gibbs, G-I-B-B-S.

20 DIRECT EXAMINATION

21 BY MS. KNEESE-SHEALY:

22 Q. Mr. Gibbs, would you tell the jury, please,
23 how old you are?

24 A. Forty-three.

25 Q. And tell us about your educational background.

1 A. I attended R.B. Stall High School. I finished
2 the night program. I had a little bit of college.

3 Q. And would you tell us your marital status?

4 A. Divorced.

5 Q. Do you have any children?

6 A. Two girls.

7 Q. And how old are your girls?

8 A. 25 and 19 years old.

9 Q. Where do they live?

10 A. South Carolina and California.

11 Q. You've never been convicted of a crime, or
12 have you ever been convicted of a crime?

13 A. No.

14 Q. Tell us about your occupation. What do you do
15 for a living?

16 A. I work for MSC, Military Sealift Command.

17 Q. What does that mean? What is that?

18 A. We supply the Navy vessels out that are
19 overseas with ammo and food.

20 Q. And how long have you been with them?

21 A. About eight years.

22 Q. Are you employed as a government employee?

23 A. Yes, ma'am.

24 Q. But you're not in the Navy?

25 A. Not in the Navy.

1 Q. And where are you currently based?

2 A. San Diego, California.

3 Q. Do you recall where you were based in August
4 of 2005?

5 A. San Diego, California.

6 Q. And when you say San Diego, do you have to go
7 overseas as part of your job?

8 A. Yes. When I'm assigned to a job, I go to
9 Singapore, Japan, Guam, Dubai, wherever they send me.

10 Q. Okay. And prior to working with the Sealift
11 Command, what type of work were you doing?

12 A. Computer graphic arts.

13 Q. And where were you doing that work?

14 A. Sacramento, California.

15 Q. Ronald, if you'd tell us, please, is related
16 to you how?

17 A. He's my younger brother.

18 Q. And do you know Dexter Brown or did you know
19 him?

20 A. Yes. I know Dexter through my brother.

21 Q. And how long have you known Dexter Brown?

22 A. Over 25 years.

23 Q. What about Troy Eason?

24 A. Troy is closer to me. He's like a younger
25 brother, but I know him also through my brother.

1 Q. Okay. And what about Demar? Tell us how you
2 knew Demar.

3 A. The same. He was like a younger brother, and
4 I know him through my younger brother.

5 Q. And were you aware of where Demar was working
6 during this time period in August 2005?

7 A. Demar was a longshoreman.

8 Q. Had you come into town for any particular
9 reason back in August of 2005?

10 A. Yes. I came back to watch Demar graduate from
11 college.

12 Q. Okay. And did you attend that graduation with
13 anyone else in your family?

14 A. Yes. My mother and father also attended.

15 Q. And what about Chris Thomas and David
16 Rocquemoire? Could you tell the jury how long you had
17 known them?

18 A. Just the night of the party.

19 Q. And where was it that you first met them?

20 A. It'd be Dexter's house.

21 Q. Had you seen them earlier in the evening at a
22 party in Knightsville or Summerville?

23 A. Yes.

24 Q. Okay. And was there any problem when you met
25 them over at the ---

1 A. No problem at all.

2 Q. --- house there?

3 A. No problem at all.

4 Q. Why don't you describe for us how that party
5 was, the first party you went to at the young lady's
6 house.

7 A. It was a family atmosphere. I guess it was a
8 graduation college party, a housewarming party also.
9 And there was her family there, kids there, and we
10 were there.

11 Q. Now, prior to going over to her house, did you
12 and anyone else go shopping?

13 A. Yeah. Me and my brother and Demar. I bought
14 some sandals and a short outfit, and my brother he
15 bought something. I think we both bought Demar's
16 outfit.

17 Q. Okay. And y'all were buying outfits for what?

18 A. The party.

19 Q. When you went over to the young lady's house
20 in Summerville, did you have anything alcoholic to
21 drink?

22 A. Not until I got there.

23 Q. Not until you got to the party?

24 A. Yes.

25 Q. Okay. What did you have at the party? Do you

1 recall?

2 A. Grey Goose and cranberry.

3 Q. And do you recall about how long y'all stayed
4 over there or what caused y'all to leave that party?

5 A. We was over there a while, I couldn't estimate
6 the time, but the party was about to end so we
7 started leaving. We laid around -- we laid around a
8 little bit, but when the party ended then we -- we
9 left.

10 Q. Okay. And do you recall whether or not Dexter
11 and Troy stayed as long as y'all did or who left
12 first or do you recall?

13 A. We left later. But Troy and Rocquemore and
14 Dexter left, and I can't remember the other guy's
15 name.

16 Q. That was with Rocquemore?

17 A. Yes.

18 Q. Okay. Now, when you left the young lady's
19 house in Summerville, you rode with whom where?

20 A. I rode with my brother. We went to Dexter's
21 house.

22 Q. Okay. And where was Demar?

23 A. With him.

24 Q. And when you got to Dexter's house, could you
25 describe for the jury, if you would, what was going

1 on over there?

2 A. It was like an after-party. We went into the
3 house. It was a little smokey for me so I stepped
4 outside.

5 Q. When you say smokey, what are you talking
6 about?

7 A. People were smoking in the house.

8 Q. Smoking cigarettes?

9 A. Cigarettes, yeah.

10 Q. Okay. And when you walked outside, tell the
11 jury, if you would, who you saw and what happened
12 next.

13 A. When I stepped outside, there was a young lady
14 and her friend sitting on a car. And the young lady
15 that I was talking to at Dexter's party the week
16 before called me over, and we started talking a
17 little bit. And for some crazy reason, her friend
18 just started cussing at me, was belligerently just
19 going off for no reason, I don't know why. But the
20 young lady was walking away, so I started walking
21 away with her. And the friend continued to curse,
22 and I poured a drink on her.

23 Q. Okay. And when you say you poured a drink on
24 her, is that something you're proud of?

25 A. Not proud at all.

1 MR. SAVAGE: Objection to the form of the
2 question, Your Honor. It's continuous leading.

3 THE COURT: Go ahead. I'll allow that.

4 MS. KNEESE-SHEALY: Thank you, Your
5 Honor.

6 THE COURT: Go ahead.

7 BY MS. KNEESE-SHEALY:

8 Q. After that occurs, what do y'all do next?

9 A. We go to Troy's house.

10 Q. Okay. And who went to Troy's house?

11 A. Me and my brother and Demar.

12 Q. Now, prior to walking outside at Dexter's
13 house and the incident occurring with the girl, had
14 Dexter and Rocquemoore left to go anywhere or were
15 they still there?

16 A. No. I think they left. They went -- they did
17 leave. They went to go get beer.

18 Q. And when y'all left Dexter's house, where were
19 the girls as far as you knew?

20 A. They left.

21 Q. When you went back to Troy's house, do you
22 recall how you got into Troy's house?

23 A. We just walked in. He -- he leaves the door
24 open.

25 Q. Okay. Do you have a key, or did anybody have

1 a key to the house as far as you know?

2 MR. SAVAGE: Objection to the form of the
3 question, Your Honor. Your Honor, this is getting to
4 be a continuous objection to the form of the
5 question.

6 MS. KNEESE-SHEALY: Your Honor, I don't
7 believe that was asked in a leading fashion. I asked
8 whether anyone had a key.

9 MR. SAVAGE: Object to the ---

10 THE COURT: No, I'll allow that. I mean,
11 if you're asking him did anyone have a key to his
12 place?

13 MS. KNEESE-SHEALY: Yes.

14 THE COURT: I'll allow that. Go ahead.

15 THE WITNESS: I don't recall a key.

16 BY MS. KNEESE-SHEALY:

17 Q. When y'all went over to Troy's house, could
18 you describe your mood at that time?

19 A. Mellow. I wasn't upset about anything.

20 Q. Was anyone upset that was with you?

21 A. No.

22 Q. And when at Troy's house did a phone call come
23 in that you were aware of?

24 A. I heard the phone ring. And I went to the
25 bathroom. I guess Troy was talking to Dexter because

1 when I came out of the bathroom he said let's go down
2 to Dexter's house or Dexter wants us to come down to
3 his house and talk about what went down.

4 Q. Would you describe for the jury what the mood
5 of you and Rodney -- excuse me, I'm sorry -- you and
6 Ronald, Troy, and Demar were when y'all left Troy's
7 house?

8 A. There wasn't really a mood. We just knew we
9 were going down to Dexter's house, a friend of ours.

10 Q. When you travel down to Dexter's house, who
11 was driving?

12 A. My brother was driving, I was sitting behind
13 him, Troy was up front, and Demar was sitting behind
14 Troy.

15 Q. And as Ronald was driving over there, was
16 anybody in the car hanging out the windows or doing
17 anything crazy?

18 A. No ---

19 MR. SAVAGE: Form of the question.

20 MS. KNEESE-SHEALY: I don't believe
21 that's ---

22 THE COURT: Go ahead. There's some
23 leeway.

24 MS. KNEESE-SHEALY: --- leading, either.

25 THE COURT: I'll allow it. Go ahead.

1 BY MS. KNEESE-SHEALY:

2 Q. I'm sorry. Go ahead and answer that question.

3 A. No.

4 Q. When Ronald approached Dexter's house, could
5 you describe for the jury what if anything he did
6 with the lights on the car?

7 A. He turned them off.

8 Q. And could you tell us whether or not that's a
9 practice that you also...

10 A. Yes. He pretty much probably learned it from
11 me because we do that to everyone's house that we go
12 into. We turn the lights off so we don't flash
13 inside the house.

14 Q. And how long had you lived in the Woodside
15 Manor neighborhood?

16 A. Hm. Maybe 15 years before I left.

17 Q. Before you left?

18 A. Yeah.

19 Q. Showing you what's been marked as state's
20 exhibit number one -- do you have a clicker up there
21 with you, Mr. Gibbs?

22 A. I guess this is it?

23 Q. State's exhibit number one depicts Berrywood
24 where it meets Mixedwood. Are you familiar with that
25 area?

- 1 A. Yes.
- 2 Q. Would you show the jury, please, in what path
- 3 y'all took to Dexter's house?
- 4 A. From Troy's house?
- 5 Q. Yes.
- 6 A. Came down this way right here.
- 7 Q. And do you recall where Ronald parked his
- 8 vehicle?
- 9 A. Parked right here.
- 10 Q. Could you show us with that laser pointer,
- 11 please, where Chris Thomas's vehicle was parked?
- 12 A. About there.
- 13 Q. Could you show us where David Rocquemore's
- 14 vehicle was parked?
- 15 A. Behind it.
- 16 Q. Do you see those dark areas on either side of
- 17 the driveway of Dexter's house?
- 18 A. Are you talking about these?
- 19 Q. Yes.
- 20 A. This? The bushes?
- 21 Q. Yes, what those are. What are they?
- 22 A. They look like bushes.
- 23 Q. Okay. And could you show us the area of where
- 24 a ditch is located across from Dexter's house?
- 25 A. Right here.

1 Q. Now, are you familiar with where some
2 streetlights may be on that street?

3 A. Right here. Right here.

4 Q. Thank you.

5 MS. KNEESE-SHEALY: Thank you. You can
6 turn that off now. Thank you.

7 BY MS. KNEESE-SHEALY:

8 Q. When Ronald parked the vehicle and y'all got
9 out of the vehicle...

10 A. Yes.

11 Q. --- would you describe for the jury, please,
12 what happens at that point?

13 A. That's when Rocquemore walked up. After we
14 got out of the car, the truck, Rocquemore walked up
15 and he said, "You niggers think y'all gangsters."

16 And I was like, what? And I threw my hands
17 down and said, "No, it's not even like that."

18 And Demar stepped -- Rocquemore was walking
19 closer to me, and then Demar stepped in between
20 Rocquemore and myself. And after that, my brother
21 stepped in between Rocquemore and Demar. My brother
22 was kind of pushing Demar away.

23 And as they were doing that, Thomas, Thomas
24 said something to the effect of "y'all talking shit
25 now. By the time I get to my -- when I pop this

1 trunk open, it's going to get quiet around here."

2 But when -- while he was doing that, he was walking
3 toward the back of his car. The trunk was already
4 popped open when he said, "When I go in my trunk, you
5 guys are going to get quiet around -- it's going to
6 get quiet around here."

7 Q. Mr. Gibbs, let me back you up just a little
8 bit. When -- when y'all get out of the vehicle...

9 A. Uh-huh.

10 Q. --- and Mr. Rocquemoire was approaching you...

11 A. Yes.

12 Q. --- I believe you indicated Demar got in
13 between y'all?

14 A. Yes.

15 Q. Is there any physical contact between Demar
16 and Rocquemoire at that point?

17 A. Yes. He -- he was pointing like this at first
18 (demonstrating).

19 Q. Who was?

20 A. Rocquemoire was pointing like this
21 (demonstrating). "Y'all motherfuckers, y'all niggers
22 think y'all gangsters."

23 And that's when I did like I threw my hands
24 down and said, "It's not even like that."

25 And Demar got in between the two of us. He

1 put his hands on Demar and said, "You motherfucker,
2 you think you're a gangster."

3 And Demar hit his hand and said, "Get your
4 hands off me."

5 Q. Prior to the statement that you heard
6 Mr. Thomas make, was there any exchange of blows or
7 any other type of ---

8 A. No, just ---

9 Q. --- physical contact?

10 A. Just the hand thing.

11 MS. KNEESE-SHEALY: May I ask to put up
12 state's exhibit number 19.

13 BY MS. KNEESE-SHEALY:

14 Q. Using that laser pointer, could you point out
15 the vehicles that are depicted in state's exhibit
16 number 19?

17 A. This one right here, that's my brother's
18 truck. This one right here is Thomas's car. This is
19 Rocquemoore's truck.

20 Q. Would you show the jury, using the pointer, in
21 what direction Chris Thomas was walking after he made
22 his comment?

23 A. From the driveway, alongside here.

24 Q. And after he said that and was walking in that
25 direction, what happened with the people who were out

1 that evening outside of Dexter's house? Who did
2 what? Where does Ronald go?

3 A. Okay. My brother broke away from Demar and
4 myself, following Chris, and then right about this
5 area.

6 Q. Okay. Thank you. And where does Ronald
7 actually go?

8 A. He's like alongside the same way, right here.

9 Q. Okay. And at some point does he reach Chris
10 Thomas or not?

11 A. Yes. He grabs him after he says that.

12 Q. And when Ronald is dealing with Chris Thomas,
13 what if anything do you see Mr. Rocquemoire do?

14 A. He kind of slipped away. Because I'm focused
15 on my brother, I'm looking at my brother, and
16 Rocquemoire kind of slips away. He doesn't say
17 anything. And then he's in -- he slips away, he's in
18 his car, he's hovered over in the driver's seat with
19 the door open, in his car, but he doesn't say
20 anything.

21 Q. Let me ask you, do you or Troy or Demar follow
22 Rocquemoire to his vehicle?

23 A. No. Not me and Troy, because we're -- I'm
24 talking to Dexter Brown at this time. I think Demar
25 was across the street. He -- he wasn't following

1 him, but I think he kept his eye on him.

2 Q. Okay. And if you would, show us what you mean
3 by across the street.

4 A. It's not on here, but...

5 Q. Okay. Well, just point ---

6 MR. DURANT: Do you want state's one
7 again?

8 BY MS. KNEESE-SHEALY:

9 Q. We'll go back to state's number -- state's
10 one, Mr. Gibbs. Hang on just a second. Okay. If
11 you can get yourself acclimated. Where is ---

12 A. Demar ---

13 Q. Where is Demar when Mr. Rocquemore approaches
14 his vehicle?

15 A. Demar is right about here.

16 MS. KNEESE-SHEALY: Your Honor, I'd ask
17 that the witness be allowed to step down for a
18 moment.

19 THE COURT: You may step down.

20 BY MS. KNEESE-SHEALY:

21 Q. Mr. Gibbs, if you'll come on down.

22 A. (The witness leaves the witness stand and
23 stands in front of the jury-box.)

24 Q. Now, if you would, will you show the jury what
25 you saw Mr. Rocquemore doing at his vehicle.

1 A. His door was open, the driver's side door was
2 open.

3 Q. Let me tell you this. You're going to have to
4 talk loud enough that all of the jury can hear you
5 and so the court reporter and the judge and
6 Mr. Savage can hear you.

7 A. He was at his driver's side door, leaning over
8 like this (demonstrating).

9 Q. Where were his feet?

10 A. On the street.

11 Q. And what do you then see him do?

12 A. I see him slam the door, and he comes up.
13 Demar was behind him, closer to the -- to the
14 driveway.

15 Q. Why don't you get that laser pointer for us.

16 A. (The witness complies.) His truck was right
17 about here, and he bounces over to Demar in this
18 area, because Demar was under the light. I could see
19 his face with his hands up.

20 After Rocquemoire came out and slammed the
21 door, and he comes out, "Now what? Now what y'all
22 going to do?"

23 He bounces over to Demar, and he points the
24 gun at Demar like this (demonstrating).

25 Q. Let me interrupt you for a second. When he

1 says "what you going to do," what if anything is in
2 his hand?

3 A. The gun.

4 Q. And then what does he do with the gun?

5 A. Points the gun at Demar.

6 Q. And at that point is Demar under the light or
7 near Mr. Rocquemore's car?

8 A. Demar took a couple of steps back. So he's
9 like at the edge of that, at the edge of this, right
10 about here, on the driveway.

11 Q. Okay. And using that laser pointer, could you
12 explain to us what happens between Mr. Rocquemore and
13 Demar after he has the gun pulled on him? What
14 direction are they going?

15 A. Okay. Demar is right here. Rocquemore is
16 walking him around.

17 Q. Now, what do you mean by that?

18 A. Okay. He points the gun at Demar like this.

19 Q. And speak louder for me.

20 A. Okay. He's pointing the gun at Demar, and he
21 walks Demar around like this. So Demar ended up
22 right here, and Rocquemore is where Demar was earlier
23 (demonstrating).

24 Q. Okay. And if you could, describe for us then
25 what happens. You can go ahead and take a seat back

1 up now.

2 A. (The witness returns to the witness stand.)

3 Q. What happens once they get in that position?

4 A. Demar has his hands up like this. Then
5 Rocquemoire takes a step in, and he tries to hit him
6 with the gun. He drops the gun. I'll have to stand
7 up again.

8 Q. Okay. Well, go ahead. Come back down.

9 A. (The witness leaves the witness stand and
10 stands in front of the jury-box.)

11 He tries to pistol-whip him, and Demar throws
12 his self back like this. Rocquemoire drops the gun,
13 and he picks the gun up, and he stumbles, and he pops
14 one off. Then he stumbled a little bit more, and he
15 shoots another one off, and Demar ---

16 Q. I'm sorry. Go ahead.

17 A. At that time Demar is like this, going at him,
18 but it was still a distance. Then he went in a
19 little bit more, and then another shot, and then he
20 was on top of him.

21 Q. If you would, just using your voice, describe
22 how quickly the shots were to each other.

23 A. It was like pop, pop.

24 Q. And would you describe for the jury how far
25 apart Mr. Rocquemoire and Mr. Denson were when the

1 shots occurred?

2 A. Like I said, he was kind of stumbling like
3 this. So when he shot the first shot, he was like
4 this. And if the gun was right here, then Demar was
5 like this (demonstrating).

6 Q. After Demar gets shot twice, where does he
7 then go?

8 A. Demar?

9 Q. Uh-huh.

10 A. He's on Rocquemore. They're in the ditch.
11 They end up in the ditch by this time.

12 MS. KNEESE-SHEALY: Okay. If I could see
13 state's exhibit number 14.

14 (The witness returns to the witness
15 stand.)

16 BY MS. KNEESE-SHEALY:

17 Q. Okay. Mr. Gibbs, looking at what's been
18 marked as state's exhibit number 14, could you
19 describe for us -- if you need to use the pointer, do
20 so...

21 A. Okay.

22 Q. --- where Demar goes, what -- after he's shot?

23 A. They -- they were wrestling around right here.
24 Demar, I guess, realized he was shot. He rolls over,
25 and he ends up right along here.

1 Q. Okay. And at that point where is
2 Mr. Rocquemore and where are you?

3 A. Okay. After the second shot, Troy is on
4 Mr. Rocquemore with Demar, and they're -- and then I
5 ended up on him right about here. We're laying this
6 way, and Demar is laying that way by his self.

7 Q. And where is Dexter's driveway in comparison
8 to where this ditch is?

9 A. It's directly in front.

10 Q. Across the street?

11 A. Across the street.

12 Q. Now, once Troy has Mr. Rocquemore down, could
13 you describe for the jury whether or not you or Troy
14 strike Mr. Rocquemore in any fashion?

15 A. After the shots, yeah, we did hit him.

16 Q. What do you recall doing to Mr. Rocquemore?

17 A. I'm holding the gun, and he's telling my
18 brother that he didn't have a gun, after he shot
19 Demar. My brother hit him a couple times. He hit
20 him a couple times, asking for the gun. He's laying
21 on the gun like this, he wouldn't give it up, but my
22 hand is on the gun.

23 He said, "I don't have a gun."

24 And I'm -- I'm looking at my brother and
25 saying, "Yes, he does. I have my hand on the gun

1 right now."

2 Q. Well, come on back down for us, if you would
3 again, and you may need to step a little further
4 back, but try to describe for us, if you could, how
5 you had your hand on the gun.

6 A. (The witness leaves the witness and stands in
7 front of the jury-box.) Rocquemore is laying right
8 here.

9 Q. You've got to talk louder.

10 A. Rocquemore is laying right here. I'm behind
11 him like this, holding his waist and holding the gun
12 underneath him, and he's holding it like this by his
13 stomach.

14 Q. Were you and Troy, were y'all able to get the
15 gun from ---

16 A. No.

17 Q. --- Rocquemore? You can go ahead and have a
18 seat.

19 A. (The witness returns to the witness stand.)

20 Q. And who in fact got the gun from Rocquemore?

21 A. My brother.

22 Q. And after Ronald got the gun, what did he do
23 with the gun?

24 A. He walked away. He tried to -- to get the
25 round out of the chamber and drop the magazine, but

1 it -- nothing would happen. So he put it on a truck,
2 that white truck right there.

3 Q. Okay. After the gun was taken from
4 Rocquemoire, did you continue to hit or kick or knee
5 Mr. Rocquemoire?

6 A. We were -- I was talking to him. Yeah, I did
7 hit him. I did hit him.

8 Q. Did you do anything else to him that you
9 remember?

10 A. I stood up and I kicked him.

11 Q. Okay. And what was Mr. Eason doing to him?

12 A. He punched him a couple of times.

13 Q. Now, prior to the shots being fired, did you
14 witness anyone strike Mr. Rocquemoire?

15 A. No.

16 Q. Was there any jumping of Mr. Rocquemoire?

17 A. No.

18 Q. And was there any pulling Mr. Rocquemoire from
19 his truck?

20 A. No.

21 Q. Were you asked after this event, while the
22 police officers were still there, to give a
23 statement?

24 A. yes.

25 Q. And could you describe for the jury what was

1 going on when you were asked to give a statement?

2 A. EMS was there, and the police was there. They
3 asked me to give a statement. I was starting the
4 statement on my brother's truck because they asked me
5 to do it, but my concerns was on Demar. I didn't
6 care about the statement, I didn't know what the
7 statement was going to be about, I just wanted to see
8 what's going on with Demar.

9 Q. When the police allowed you to leave the scene
10 that evening, where did you go?

11 A. To the hospital.

12 MS. KNEESE-SHEALY: I beg the Court's
13 indulgence just a moment.

14 BY MS. KNEESE-SHEALY:

15 Q. What did you find out when you got to the
16 hospital?

17 A. Demar passed away.

18 MS. KNEESE-SHEALY: I have nothing
19 further. Please answer anything that the defense may
20 have.

21 THE COURT: Does anybody need a break?

22 All right. Go ahead.

23 If so, raise your hand.

24 Go ahead.

25 MR. SAVAGE: Please the Court.

CROSS-EXAMINATION

1
2 BY MR. SAVAGE:

3 Q. Good afternoon, sir.

4 A. How you doing.

5 Q. You are Rodney Gibbs?

6 A. Yes, sir.

7 Q. I'm Andy Savage, and I represent
8 Mr. Rocquemore. Nice to meet you, sir.

9 A. Nice meeting you.

10 Q. The time you left the scene where the shooting
11 took place was what time, sir?

12 A. I couldn't estimate a time.

13 Q. The prosecutor asked you a statement where you
14 went and you said to the hospital?

15 A. Yes.

16 Q. Do you recall what time you got to the
17 hospital?

18 A. No.

19 Q. Before leaving the scene, you gave a statement
20 to the police?

21 A. Yes.

22 Q. And in that statement they asked you different
23 things about what you observed?

24 A. I wrote down what I wrote down.

25 Q. The things you observed?

1 A. Yes.

2 Q. And at that time, had you been drinking a good
3 bit?

4 A. No.

5 Q. You hadn't been drinking?

6 A. I'd been drinking, but not a good bit. What's
7 a good bit?

8 Q. Well, where -- did you have a buzz?

9 A. I had two drinks.

10 Q. Was it enough to consume alcohol that you
11 wouldn't normally throw a drink in a lady's face, but
12 that night you did?

13 A. Could you repeat the question?

14 Q. In other words, do you usually go around
15 throwing drinks in ladies' faces, or maybe the
16 alcohol had some influence on you that made you less
17 inhibited about what you were doing that night?

18 A. Neither.

19 Q. So the alcohol had nothing to do with throwing
20 the drink in the lady's face?

21 A. No.

22 Q. Now, did David Rocquemore that evening express
23 himself in any antagonistic way towards you, your
24 friends, or the ladies?

25 A. Excuse me?

1 Q. At the party that night, did Mr. Rocquemore
2 act up at all?

3 A. No.

4 Q. Was he drinking that night?

5 A. I can't tell you.

6 Q. Did he appear to be drinking that night?

7 A. Well, he had a cup, but I couldn't tell you
8 what was in it.

9 Q. But he wasn't acting like he had been
10 drinking?

11 A. I wouldn't know.

12 Q. Well, you know how people act when they've
13 been drinking?

14 A. Are you trying to say he was drunk, if he was
15 drunk?

16 Q. No, I'm not saying drunk. I'm saying was he
17 acting like either real giddyish happy because he had
18 been drinking, or was he stumbling around, or was his
19 speech slurred? Was he acting up?

20 A. He was quiet. He was pretty quiet.

21 Q. Pretty quiet. Now, what time did you go to
22 the party in Summerville?

23 A. I don't really recall.

24 Q. And what time did you leave the party in
25 Summerville?

1 A. I couldn't give you a specific time, but it
2 was late.

3 Q. And what time -- did you go to Mr. Eason's
4 house, or did you go directly to Mr. Brown's house?

5 A. We went to Mr. Brown's house.

6 Q. So you didn't stop by Mr. Eason's house on the
7 way to Mr. Brown's house?

8 A. No.

9 Q. Why was that?

10 A. Because he's -- I was riding with my brother.
11 So I wasn't driving.

12 Q. Well, how would you know to go to Mr. Brown's
13 house and not to Mr. Eason's house?

14 A. I was riding with my brother. He knew to go.

15 Q. Was Mr. Eason present at Mr. Brown's house
16 when you got there?

17 A. I don't recall.

18 Q. Who was present when you arrived at
19 Mr. Brown's house?

20 A. A couple of girls, Rocquemore, Mr. Brown, a
21 few other people. I was in the house briefly and I
22 came out.

23 Q. What were the names of the women who were
24 there that night?

25 A. I have no idea.

1 Q. If you saw them today, would you be able to
2 verify that those are the people?

3 A. No.

4 Q. Did you tell the police that night or have you
5 told -- you met with the solicitor, I suppose, the
6 prosecutor?

7 A. We've talked.

8 Q. You talked? Have you reviewed your testimony
9 with them?

10 A. I talked about what I wrote on my statement.

11 Q. This stuff and all that, did you go over that
12 with them? Sir?

13 A. Yes.

14 Q. Did you tell them about the girl whose face
15 you threw the drink in?

16 A. Yes.

17 Q. So they knew that there were witnesses at the
18 party other than you and your lifelong friends? The
19 police? The prosecutor?

20 A. Witnesses to what?

21 Q. That there were people at the party that
22 night...

23 A. Yes.

24 Q. --- that was not Mr. Rocquemoire, not
25 Mr. Thomas, not you, not your brother, not Demar, and

1 not Mr. Eason. Correct?

2 A. There were people at the party, yes.

3 Q. And sometimes those witnesses are called
4 independent witnesses, people who don't have a stake
5 in the action, for instance ---

6 MS. KNEESE-SHEALY: Objection to his
7 testifying instead of asking questions.

8 THE COURT: You want to ask him what ---
9 BY MR. SAVAGE:

10 Q. An independent witness. Mr. Rocquemore is not
11 independent, is he? He's on trial.

12 A. He was there.

13 Q. He was there, he was a witness, but he's on
14 trial today. And Mr. Thomas is the person that you
15 said was going to his trunk. He's not independent,
16 because he was involved.

17 A. Rocquemore was involved, too.

18 Q. And so he was involved. And Mr. Eason was
19 involved? Wasn't he?

20 A. In the situation?

21 Q. Yes, sir.

22 A. Yes.

23 Q. And your brother was involved?

24 A. I was involved, too.

25 Q. But the girls who were at the party who

1 observed what took place at the party before what
2 we're here about, they weren't fighting with anybody?

3 A. Not while they're fighting, no.

4 Q. They weren't friends of Mr. Rocquemore, were
5 they?

6 A. I have no idea.

7 Q. They're not friends of yours or anybody else
8 who's testified?

9 A. They're good friends of Dexter's.

10 Q. Dexter's. And they are -- they were there
11 that night, and they observed what happened in terms
12 of your behavior, your brother's behavior, Demar's
13 behavior, Mr. Eason's behavior, Mr. Rocquemore's
14 behavior, and Mr. Thomas's behavior?

15 A. My ---

16 Q. They were there?

17 A. Like I told you, I don't know. I can't recall
18 if Troy was there or not, but...

19 Q. Now, you have testified that Mr. Rocquemore
20 was well behaved?

21 A. He was quiet.

22 Q. Quiet. He was not present when you acted up
23 when you had the problem with the lady?

24 A. I didn't act up. I made a mistake.

25 Q. And the mistake was throwing a drink in her

1 face?

2 A. Dumb mistake.

3 Q. And prior before that, did you take
4 Mr. Brown's daddy's cane and do anything sexually
5 suggestive to any of the women?

6 A. No.

7 Q. Did anybody else?

8 A. I have no idea.

9 Q. Do you recall what time you got to Mr. Brown's
10 house?

11 A. No.

12 Q. Did you go directly from the party in
13 Summerville to Mr. Brown's house?

14 A. Yes.

15 Q. Is that the party in Summerville where there
16 were children at grandma's and it was a
17 graduation/homecoming/housewarming party?

18 A. Housewarming party and graduation, yeah.

19 Q. At what time did that party close down?

20 A. Late in the night.

21 Q. And could you tell us what late means?

22 A. Late in the night, real late in the night.

23 Q. They call the late news Late News at eleven
24 o'clock. Was it ---

25 A. Later than 11:00.

1 Q. Was it later than midnight?

2 A. I don't know the exact time. I couldn't
3 estimate on that.

4 Q. How long did it take you to get from
5 Summerville to Mr. Brown's house?

6 A. I have no idea.

7 Q. You lived there all your life and you don't
8 recall?

9 A. No. I wasn't tracking time.

10 Q. You went directly there?

11 A. I went directly from the party to Mr. Brown's
12 house.

13 Q. Was there booze at Mr. Brown's house?

14 A. Yes.

15 Q. And did you partake?

16 A. I had a glass.

17 Q. Just one?

18 A. Yes.

19 Q. How long were you there?

20 A. I don't remember.

21 Q. You don't remember. One drink?

22 A. Excuse me?

23 Q. One drink is what you had?

24 A. I didn't drink the drink. I had a glass.

25 Q. Oh. So you had a glass, but you didn't drink

1 it?

2 A. Yes.

3 Q. The whole time you were there, you had nothing
4 to drink?

5 A. No.

6 Q. How long had you been there before
7 Mr. Rocquemore left?

8 A. I don't remember.

9 Q. Do you remember him leaving?

10 A. Yes.

11 Q. And how did he leave?

12 A. With Dexter in his car.

13 Q. And where was his car parked when he left?

14 A. Where was it parked when he left?

15 Q. Yes, sir. Where was he parked when he got in
16 the car with Dexter to leave?

17 A. I didn't pay attention to that.

18 Q. Well, you were outside?

19 A. I was inside when they left.

20 Q. So you don't know where his car was when you
21 got there? He was there when you got there?

22 A. Yeah.

23 Q. And where was his car then?

24 A. I wasn't paying attention to that.

25 Q. And you don't know when he left. Do you know

1 how long he was gone?

2 A. No.

3 Q. Were you there when he got back?

4 A. No.

5 Q. Did all the trouble that took place take place
6 while he was gone?

7 A. The drink that I had, yeah, the cup that I
8 had, there was a little trouble with the young lady.

9 Q. And did your brother say it's time to leave?

10 A. Yes.

11 Q. And he got you and your friends and you left?

12 A. Yes.

13 Q. Did you go home?

14 A. I went to Troy's house.

15 Q. Did you go home?

16 A. Troy's house.

17 Q. Did you go home?

18 A. I went to Troy's house.

19 Q. The answer is no?

20 A. I went to Troy's house.

21 THE COURT: Sir, he's asking you to
22 answer yes or no.

23 THE WITNESS: No.

24 BY MR. SAVAGE:

25 Q. You lived in the neighborhood?

1 A. Yeah.

2 Q. And you didn't go home?

3 A. No.

4 Q. Do you know what time of the morning it was?

5 A. No, I don't.

6 Q. Do you know what time Mr. Eason had left the
7 party?

8 A. No, I don't.

9 Q. Did you know whether it was 10 minutes, 30
10 minutes, an hour, or four hours?

11 A. I don't recall.

12 Q. Was it closer to four hours or ten minutes?

13 A. I don't recall.

14 Q. But you did go to Mr. Eason's house at that
15 time of the morning when you left the party?

16 A. I went to ---

17 Q. And got ---

18 A. I went to Mr. Eason's house after I had poured
19 the drink on the girl.

20 Q. And then the three of you who left the party
21 came back with four people to Mr. Brown's house?

22 A. Yes.

23 Q. And when you rolled up at the party, you could
24 immediately tell that the party was over?

25 A. Well, that the party was over, I guess, when I

1 poured the drink on the girl.

2 Q. So when you left the party there was trouble,
3 you all had to leave the party, your brother
4 encouraged everybody to get in the car and leave, and
5 you went to Troy's house?

6 A. We didn't have to leave. We just decided to
7 leave.

8 Q. Your brother decided you should leave. Is
9 that correct?

10 A. Yes, I guess.

11 Q. And y'all left the party because there was a
12 problem at the party? Whatever that was, there was a
13 problem and that's why you left?

14 A. I guess.

15 Q. And you went to Mr. Eason's house?

16 A. Yes.

17 Q. And then the four of you came back to where
18 the party was, where the problem was ---

19 A. Because Dexter had called.

20 Q. Let me ask the question, and I'll be glad to
21 let you ---

22 A. Excuse me.

23 Q. --- explain your answer.

24 THE COURT: Hold it. Go ahead. One at a
25 time.

1 BY MR. SAVAGE:

2 Q. When you left the party, the party -- the
3 reason to leave the party, because there was a
4 problem. You then went to Mr. Eason's house four
5 blocks away, and four of you came back the day --
6 where the party had been. And when you left the
7 party, there was a problem there. And you came back.

8 A. Yes.

9 Q. And the party was over?

10 A. Yes.

11 Q. People were leaving and people had left.

12 Correct?

13 A. No. People weren't leaving when we came back.

14 Q. Were people ---

15 A. They were -- they were already gone.

16 Q. They were gone?

17 A. Yes.

18 Q. And the people who were left were at the edge
19 of the driveway?

20 A. The people that were there, Mr. Brown and
21 Mr. Rocquemore and Mr. Thomas.

22 Q. And Mr. Thomas and Mr. Rocquemore were between
23 the door and their car? That's where they were
24 physically located?

25 A. They were on the driveway.

1 Q. And that's located between the door and their
2 car?

3 A. Technically, it's between the door and the
4 street.

5 Q. And the car was parked on the street?

6 A. Away from the door.

7 Q. To get ---

8 A. Down the street.

9 Q. Let me ask you this question. To get from --
10 first of all, was Mr. Rocquemoire inside the house
11 while you were there?

12 A. No.

13 Q. He wasn't? Where was he?

14 A. I have no idea.

15 Q. During the party, did he leave the party?

16 A. I don't know what part of the house he was in,
17 if he was in the house at all. He could have been in
18 the backyard.

19 Q. He could have been where?

20 A. I have no idea.

21 Q. So you don't know whether he stayed in the
22 house during the party or not?

23 A. I know he left to go to get beer.

24 Q. And when he left to go get beer, where did he
25 leave from?

1 A. He left from the house.

2 Q. Inside the house?

3 A. I don't know if he was inside or not.

4 Q. And then in order to get from the house to the
5 car, he had to be in the driveway where he was
6 standing when y'all rolled up. Isn't that correct?

7 A. Can you repeat that?

8 Q. In order for him to go from the party to his
9 car, to leave the party that was over, he had to walk
10 down the driveway and then down the street. Isn't
11 that correct?

12 A. Yeah, because maybe some -- like I said, I
13 don't know if he was in the house or in the driveway,
14 but I do know he left.

15 Q. But when y'all rolled up, clearly the party
16 was over?

17 A. Yes.

18 Q. But you pulled up the street, and the four of
19 you got out of the car to come back?

20 A. Yes.

21 Q. All four of you got out of the car?

22 A. Yes.

23 Q. Now...

24 MR. SAVAGE: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

1 BY MR. SAVAGE:

2 Q. And I realize that you were in a -- had been
3 involved in an incident that created a lot of trauma
4 with you, but the police did ask you questions that
5 night?

6 A. They asked me to make a statement.

7 Q. And you remained at the scene where the
8 incident took place for hours following the incident?

9 A. I can't recall if it was hours, but it was
10 some time.

11 Q. Well, was it dark out when the incident took
12 place?

13 A. Yes.

14 Q. Was it light out when you left?

15 A. Yes.

16 Q. And in between the dark hours and the light
17 hours, did the police take photographs of you?

18 A. Yes.

19 Q. And it was light out when they took those
20 photographs?

21 A. It was dark.

22 Q. Have you seen those photographs?

23 A. Yes, I have.

24 Q. And those were some hours after the incident?

25 A. Yes.

1 Q. So I don't want the impression to be left that
2 you went immediately to the Medical University. You
3 stayed there, correct?

4 A. Yes.

5 Q. Who else stayed there?

6 A. My brother and Troy.

7 Q. And Mr. Eason?

8 A. Yes.

9 Q. Have you seen any photographs of Mr. Eason
10 when you were meeting with the prosecutors?

11 A. Yes.

12 Q. You have?

13 A. Of his shirt.

14 Q. Did you see any photographs of him?

15 A. Just me and my brother. No.

16 Q. Did you tell at any time in those hours that
17 you stayed at the scene following the incident that
18 Mr. Rocquemoire went to his car to get a gun?

19 A. Could you repeat the question?

20 Q. In the time frame in which you remained where
21 the incident occurred, did you ever tell the police
22 that Mr. Rocquemoire went to his car to get a gun?

23 A. The police didn't interview me like that.

24 Q. Pardon me?

25 A. The police didn't interview me.

1 Q. The police didn't interview you?

2 A. No. They just asked me to make a statement.

3 Q. Did they ask you a series of questions?

4 A. No.

5 Q. Are you Rodney L. Gibbs?

6 A. Yes.

7 MR. SAVAGE: May I approach, Your Honor?

8 THE COURT: Yes.

9 BY MR. SAVAGE:

10 Q. Does this document -- do you recall seeing
11 this before? Does this refresh your memory in any
12 way?

13 A. (The witness reviews document.) This is my
14 statement.

15 Q. So you did make a statement?

16 A. I said that.

17 Q. Maybe I misinterpreted, and I apologize, but
18 you did make a statement that night?

19 A. I said I made a statement.

20 Q. And they asked you do you know who shot Demar?

21 A. No, I didn't know him.

22 Q. Did you tell them that he went to his car?

23 Did you tell them any of the information that you
24 provided to the jury today? Did you describe who was
25 leaning over and who was standing up, how close they

1 were, where on the street they were? Did you tell
2 them that Demar shadowed ---

3 A. He didn't interview me like that. He just
4 asked me to make a statement. So I made a statement.

5 Q. And you put in the statement what you thought
6 was important?

7 A. Yes.

8 Q. You didn't put in the statement that Demar and
9 you went over to follow David Rocquemoire when he was
10 trying to get in his truck, did you?

11 A. Because we didn't do that.

12 Q. And you didn't tell them that you beat on
13 Mr. Rocquemoire while he was trying to get in his
14 truck?

15 A. We didn't do that either.

16 Q. And did you lose your jewelry that night?

17 A. No.

18 Q. Did you lose what was on your hands that
19 night?

20 A. One of the policemen grabbed my watch,
21 loosened it up, and gave it back. You know, I
22 connected it back onto my arm. That's what -- I
23 didn't have any jewelry to lose.

24 Q. You didn't drop anything during the fight that
25 night?

1 A. No.

2 Q. Do you know who did?

3 A. No.

4 Q. Did you ever see any jewelry about the ground
5 where the fight took place?

6 A. No.

7 Q. You're not saying it didn't happen; it's just
8 that you didn't see it?

9 A. I didn't see it.

10 Q. The question I'm going to ask you is because
11 the court reporter writes everything down, and she
12 can't write down what she observes, she can only
13 write down what she hears. And as I followed you and
14 Ms. Shealy, you were describing how Demar
15 was shot?

16 A. Yes.

17 Q. And you described that he was standing where I
18 am, facing Mr. David Rocquemore, and that
19 Mr. Rocquemore was crouched down close to the
20 ground?

21 A. Stumbling, yeah.

22 Q. And so when he turned around and shot, he was
23 firing in an upward trajectory, the bullet was rising
24 before it hit the deceased?

25 A. All I know is he was shooting as he was

1 stumbling.

2 Q. But you pointed out to the jury precisely how
3 Mr. Rocquemoire was when the weapon was fired. Isn't
4 that correct?

5 A. He pointed the gun at Demar. Whether it
6 was ---

7 Q. But for purposes ---

8 A. --- up or down, I -- I didn't focus on that.
9 I just knew he shot.

10 Q. But for purposes of the record, when you did
11 that, you were crouched with your knees close to the
12 ground with the pistol being held in an upward
13 trajectory, isn't that correct, in your demonstration
14 for the prosecution?

15 A. Yes.

16 Q. And that's still your testimony?

17 A. Yes.

18 Q. And your testimony is that after, after he was
19 shot not once but twice, he continued to lunge and go
20 after Mr. Rocquemoire?

21 A. Yes.

22 Q. He did? He wasn't going after Mr. Rocquemoire
23 until after he was shot not once ---

24 A. No.

25 Q. --- but twice and then went after

1 Mr. Rocquemore?

2 A. His hands were up. Mr. Rocquemore dropped the
3 gun and came up shooting.

4 Q. And nobody had any attempt to pick up the gun?
5 Nobody saw the gun and tried to jump on it or grab it
6 or to get it away from him?

7 A. I tried to. But I couldn't make it over there
8 because Dexter Brown grabbed my arm.

9 Q. Dexter Brown. Dexter Brown?

10 A. Yes.

11 Q. Your friend?

12 A. Yes.

13 Q. Grabbed your arm so that you couldn't go
14 protect him?

15 A. No. He grabbed my arm, and he just stated,
16 "This stuff has to stop and stop from in front of my
17 house."

18 Q. And I'm sure Mr. Brown was there and saw that,
19 also?

20 A. I couldn't recall. He -- as far as I'm
21 concerned, I believe he was outside, but I was
22 concerned about my brother and Demar.

23 Q. But you're saying that you couldn't grab the
24 gun, you didn't try to grab the gun, you didn't ---

25 A. No.

1 Q. --- try to beat on David Rocquemore?

2 A. No.

3 Q. Nobody tried to ---

4 A. No.

5 Q. --- beat on him because Dexter Brown was
6 standing there and holding you away?

7 A. In the driveway, his driveway.

8 MR. SAVAGE: Beg the Court's indulgence
9 one moment.

10 THE COURT: Yes, sir.

11 (Mr. Savage and Ms. Savage confer.)

12 BY MR. SAVAGE:

13 Q. The cooperation you gave the police that
14 night, providing a statement, is it your testimony
15 that was given before the EMS left?

16 A. Would you repeat that again?

17 Q. The statement you gave to the law enforcement
18 authorities that evening...

19 A. Yes, sir.

20 Q. --- that morning, I believe I heard you say
21 earlier in response to the prosecutor's question that
22 it was given before your friend left in the EMS?

23 A. It was given while EMS was there.

24 Q. So if we were to look at the records of what
25 time the EMS departed the scene, we would know what

1 time you gave the statement?

2 A. I guess you would.

3 Q. And you remained at the scene for hours
4 following that?

5 A. I stayed until my brother gave his second
6 statement and after that we left.

7 Q. All right. But you were photographed?

8 A. Yes.

9 Q. And it was daylight at that time?

10 A. No, it was -- it was still dark.

11 Q. It was dark?

12 A. Semi-dark and sort of changing into the
13 morning.

14 Q. And when the police had further questions for
15 you about what your role was in the offensive conduct
16 that evening, you refused to give any further
17 statements?

18 A. He asked to me -- for me to give another
19 statement, and I refused because I wanted to see
20 Demar.

21 MR. SAVAGE: Thank you, sir.

22 MS. KNEESE-SHEALY: Beg the Court's
23 indulgence just one moment.

24 (Ms. Kneese-Shealy and Mr. Durant
25 confer.)

1 REDIRECT EXAMINATION

2 BY MS. KNEESE-SHEALY:

3 Q. Mr. Gibbs, where were you when the officer
4 asked you to give a second statement?

5 A. In the car.

6 Q. In the car?

7 A. Yes.

8 Q. And where -- who was in the car with you?

9 A. No one.

10 Q. Where were y'all getting ready to go?

11 A. To the hospital.

12 Q. And why did you not give the second statement?

13 A. I was concerned about Demar. I just wanted to
14 get to the hospital and see what's going on.15 MS. KNEESE-SHEALY: I have no further
16 questions, Your Honor.

17 THE COURT: Anything else, Mr. Savage?

18 MR. SAVAGE: No, sir.

19 MS. KNEESE-SHEALY: Your Honor, we would
20 ask that Mr. Gibbs also be allowed to remain in the
21 courtroom.

22 MR. SAVAGE: No objection.

23 THE COURT: You may remain, step down,
24 sir, and remain in the courtroom. You may not
25 discuss your testimony with anyone. Do you

1 Q. And do you know who bagged his hands?

2 A. Yes. It was Lieutenant Scarborough.

3 Q. Did you assist anyone with regard to any
4 forensic collection in regard to the defendant's
5 hands?

6 A. I'm sorry, sir, I didn't hear you.

7 Q. Did you assist anyone regarding any forensic
8 collection from the defendant's hands?

9 A. Yes. I assisted Investigator Hodge with
10 collecting the GSR collection kit.

11 Q. And what is a GSR collection kit?

12 A. GSR is gunshot residue.

13 Q. But it was actually -- the sample was actually
14 collected by Investigator Hodge; is that correct?

15 A. That is correct.

16 Q. Once being briefed by Deputy Ford, did you
17 have an opportunity to collect a weapon at the scene?

18 A. Yes, I did.

19 Q. And what type of weapon was that?

20 A. It was a Highpoint .45 caliber semiautomatic
21 handgun.

22 Q. And where did you obtain that weapon from?

23 A. It was ---

24 Q. Who did you obtain that weapon from? Who or
25 where?

1 A. From Deputy Ford. It was secured in the trunk
2 of his patrol cruiser.

3 Q. And how did you go about collecting that
4 weapon?

5 A. First, before I touched it, I photographed the
6 handgun in the cruiser. I observed that it was
7 jammed. I took a close-up of the chambered area with
8 one round in the chamber.

9 After photographing it, I picked the handgun
10 up and cleared it, having one round ejected into --
11 removed from the gun in Deputy -- from the gun, into
12 the trunk of Deputy Ford's cruiser.

13 At that point I stopped and photographed the
14 round that was ejected, the firearm a second time, as
15 well as the magazine which was removed from the
16 handgun.

17 Q. And what was the serial number on that weapon
18 if your notes reflect?

19 A. The serial number was 342029.

20 Q. I hand you what's previously been marked as
21 state's exhibit number 49 for identification, ask if
22 you recognize that weapon and, if so, how.

23 A. Yes, I do recognize the weapon. It's a
24 Highpoint .45 caliber. The serial number, as I
25 indicated, is 342029.

1 Q. Does that weapon appear to be in substantially
2 the same condition as it did when you collected it on
3 the morning of August 14th, 2005?

4 A. Yes, it does.

5 MR. DURANT: Your Honor, at this point
6 we'd offer state's 49 into evidence.

7 THE COURT: Any objection?

8 MR. SAVAGE: Without objection. Of
9 course, I don't know what type of tags are on it. We
10 don't object to the evidence.

11 THE COURT: All right. State's 49 in
12 evidence without objection.

13 (State's Exhibit No. 49, previously
14 marked for identification, is received in evidence.)

15 BY MR. DURANT:

16 Q. Did you have an opportunity to run a trace on
17 that weapon?

18 A. Yes, I did.

19 Q. Were you able to determine who the gun was
20 registered to?

21 A. Yes. We conducted an ATF trace, and it came
22 back registered to a David Rocquemore.

23 Q. And did it indicate when the weapon was
24 purchased?

25 A. One second, I'll refer to my notes. The

1 purchase date on the weapon was March 14th, 2003.

2 Q. And where purchased?

3 A. Mickalis Pawnshop in Summerville.

4 (Mr. Durant and Mr. Savage confer.)

5 MR. DURANT: May I approach the court
6 reporter, Your Honor?

7 THE COURT: Yes.

8 (State's Exhibit No. 55, one live .45
9 caliber round recovered from gun chamber, is marked
10 for identification.)

11 (State's Exhibit No. 56, three live .45
12 caliber rounds recovered from gun magazine, is marked
13 for identification.)

14 BY MR. DURANT:

15 Q. I hand you what's been marked as state's
16 exhibit number 55 and ask you to take a look at that
17 exhibit, tell me if you recognize it, and tell what
18 it is.

19 A. It's a .45 caliber round, live round that was
20 -- that was recovered from the chamber of the
21 handgun.

22 Q. That was the one that was jammed in the
23 handgun?

24 A. Yes, sir.

25 Q. And you're the one who packaged that?

1 after discharging a weapon will diminish or remove
2 it.

3 If you're perspiring, now, let's say it's on
4 the back of your palm, if you're perspiring and you
5 wipe your hands, the back of your hands off, you have
6 effectively removed the materials from the back of
7 your hands.

8 Q. And which of the exhibits that I've handed
9 you, those being items 59 and 60, came from David
10 Rocquemoire?

11 A. This would be state's I.D. 59.

12 Q. Regarding state's I.D. 60, did you receive a
13 kit from Herschel Demar Denson?

14 A. Yes, I did.

15 Q. Could you tell the jury, please, after
16 analyzing that kit, what did you determine regarding
17 Mr. Denson?

18 A. I found the quantity of metals detected on the
19 back of the right hand may be associated with gunshot
20 residue.

21 What we found was, is when we ran a
22 quantitation on his samples, the samples found on the
23 back of the right hand had sufficient amount to
24 indicate there may be gunshot residue there, but it
25 was not a very strong amount. Very, very weak. It's

1 actually borderline as far as the amount that we
2 found.

3 Q. What does your analysis indicate regarding
4 Mr. Denson's proximity to a fired weapon?

5 A. Again, because of the fact he could have
6 received this by -- he could have discharged a
7 weapon, the material could have been gotten on the
8 back of the hands from discharging a weapon, or he
9 could have been fired or shot at.

10 If you're shooting at someone, again, you can
11 also get this material; but because the levels are so
12 low, he could not have been real close to someone.

13 You have to be far enough away that the cloud
14 will not reach you. In the case of a large caliber
15 weapon, then you project out four or five or six
16 feet, depending upon the round, the shot.

17 So you have to be far enough away you're not
18 getting a large amount, but you're close enough to
19 get some on your hands.

20 Q. Lieutenant Powell, if you could, please, tell
21 us again about gunpowder residue. You've been
22 discussing gunshot residue.

23 A. Yes, ma'am.

24 Q. Now, tell us again what is gunpowder residue.

25 A. Gunpowder is the principal component that's

1 found in the bullet that causes it to separate.

2 When you open up a bullet and look at, it's
3 going to be the round and only round-looking material
4 that's going to be silver-gray in color, and it's
5 what we normally see when you pour out what's found
6 inside of a cartridge case.

7 When this weapon is discharged, the gunpowder
8 itself is pushed out along with the gunshot, coming
9 out in a spread. As it leaves the end of the barrel,
10 it will spread like a water hose will spray out in a
11 cone-like fashion. As it goes, it continues to
12 spread and slow down to the point where it will
13 finally stop.

14 In this case, what we were looking for is see
15 if we could look at the garment to see if there was
16 any gunpowder on the garment.

17 If you're close to the weapon when you're
18 shot, you will get a lot of materials on you from --
19 from this weapon or a lot of gunpowder.

20 As you move back further and further away, you
21 get less and less gunpowder to a point where you will
22 get no gunpowder on your clothing.

23 And so we ran a test to see how far away was
24 the garment, while being worn by the victim, from the
25 gun when it was discharged.

1 Q. Let me back you up for a moment and ask you,
2 are there any types of time constraints when you're
3 examining garments?

4 A. Normally, no. Now, I say that. The material
5 once it's collected on the garment, if the garment
6 has -- is not washed or something done with it, the
7 material will stay there for -- forever.

8 So you have to physically take the garment and
9 put it through some type of cleaning action to remove
10 the particles. Other than cleaning it, it will stay
11 forever.

12 Q. And at the request of the Solicitor's Office,
13 then, you did look at an item of clothing in
14 relationship to this matter, that being a shirt of
15 Herschel Demar Denson?

16 A. Yes, ma'am, that is correct.

17 MS. KNEESE-SHEALY: May I approach again,
18 Your Honor?

19 THE COURT: Yes, ma'am.

20 BY MS. KNEESE-SHEALY:

21 Q. Showing you, Mr. Powell, what has previously
22 been marked as state's exhibit number 69, could you
23 tell the jury whether or not you performed any type
24 of analysis on this garment?

25 A. Yes, ma'am. That shirt was delivered to me

1 just recently. I was asked to run analysis on the
2 garment to see if I found any bullet holes. On
3 examining, I found two holes that I believe were
4 consistent with a bullet. I ran an analysis on both
5 of those holes and rendered a conclusion as to my
6 findings.

7 Q. Okay. First let me ask you, you said that you
8 were just asked recently to do that?

9 A. Yes, ma'am.

10 Q. If I were to tell you this incident occurred
11 in August of 2005, could you tell the jury whether or
12 not you would have any concern with doing this type
13 of examination as recently as a couple of weeks ago?

14 A. There would be no concern on my part as long
15 as the garment had been properly stored. In this
16 case, it had been. There was no mold or anything to
17 be able to really cause a problem with the test. So
18 it was perfectly fine in the condition it was
19 delivered to me.

20 Q. Okay. And, first, if you would tell us all
21 the types of analyses you did on this shirt.

22 A. The very first thing that I did on the garment
23 is I took and I laid it out on a piece of what's
24 called butcher paper, or white paper, to be able to
25 see if I could understand what was -- where the holes

1 were at in the garment. We must try to piece it back
2 together. So I try to actually fold it back and be
3 able to put all the cuts so that we have everything
4 back together. I then do a visual examination of the
5 garment to see what I -- what holes are there.

6 Once I finish with my visual examinations, I
7 will note any holes I think are bullet holes and then
8 place them under a microscope. With a microscope,
9 I'm looking for further detail to help me understand
10 what is there.

11 For example, if a bullet passes through a
12 garment, the garment itself will actually try to hold
13 onto the bullet as the bullet's passing through. So
14 it will wipe off any debris that's around that
15 bullet. We call that bullet wipe. There'll be a
16 little small ringlet that will be around the hole.
17 So I'm looking to see if I can see any of that.

18 I will look in and out from the hole to see if
19 I can find any gunpowder particles, see anything that
20 may be there.

21 Once I've finished with my microscopic
22 examination, I then take -- took the garment and I
23 did a chemical testing where I ran the test looking
24 for gunpowder as well as lead.

25 After performing these two examinations, I

1 made notes as to what I found and then reported them
2 in a report.

3 Q. Okay. Would you mind putting on a pair of
4 gloves and stepping down in front of the jury for me?

5 A. Sure. (The witness complies.)

6 (The witness leaves the witness stand and
7 stands in front of the jury-box.)

8 Yes, ma'am.

9 Q. Okay. If you would please, point out the
10 holes that you found.

11 A. The two holes that I found, and you will note
12 that they're -- you'll see the blue around where I've
13 actually taken a felt tip pen and was marking a piece
14 of paper that was underneath there.

15 These were the two holes that I was examining
16 to see what kind of material was around them. Both
17 of these were examined with chemically to be able to
18 see if I could process anything on the surface.

19 The surface itself is fairly open to
20 examination due to the fact there's not a lot of
21 blood, there's not a lot of material to interfere
22 with my test. So it was a very clean field to be
23 able to see any particles that may have been there.

24 Normally, if I find gunpowder particles, I
25 will find hundreds of them. They will all be around

1 in a cone-shape fashion around the hole. In this
2 case, I did not find that at all. I found no
3 gunpowder particles on either hole in this garment.

4 I did find in one of the holes a little bit of
5 lead which is consistent with what's called the
6 passage of a bullet. It wasn't a complete ring. It
7 was just a little small circular -- circular
8 component around the hole. The other portion was
9 gone either because the fabric broke up when the
10 bullet came through or whatever, I'm not sure.

11 The other hole, I found no lead around it. It
12 looked like it was torn. The bullet obviously as
13 it's going through tore the fiber up, so there was no
14 lead particle.

15 But in both holes, I did not find any
16 gunpowder particle, and I did not find any pattern of
17 lead around the hole.

18 I did find -- and you may be able to see it --
19 a little bit of lead that's going to look like a
20 reddish-wine color right over here to the side, but
21 it was very, very faint. It was not associated with
22 either hole. It's from some other source that has
23 contaminated this garment with just a little light
24 dusting of some reddening on it.

25 Q. Let me ask you a couple of questions about

1 what you've said so far. Regarding the bullet wipe,
2 the semi -- the little area that you saw, does the
3 bullet wipe have anything to do with the distance of
4 a shot?

5 A. No, ma'am. The bullet wipe just means that a
6 bullet went through it.

7 And most weapons can fire up to a mile and a
8 half, and you can get bullet wipe anywhere in that
9 distance. It has nothing to do with how far away a
10 weapon was from a person.

11 Q. And I think you've told us that you do a
12 chemical test and a microscopic test?

13 A. Yes, ma'am.

14 Q. As it relates to the bullet wipe, is there a
15 difference between how you evaluate bullet wipe for
16 purposes of a microscopic test compared to a chemical
17 test?

18 A. Yes. What I'm looking for visually, is I'm
19 looking to see if I can find the material having a
20 uniformity around it. I'm looking for certain
21 characteristics that I can see with my naked eye.
22 Then I take and amplify that with a microscope.

23 The chemical process tells me that it is
24 bullet wipe. Until I perform the chemical, I do not
25 know if I'm looking at lead or maybe looking at

1 grease or some other type of material previously on
2 that bullet. So I must process it first with the
3 chemical to bring out the lead to know if it's lead
4 or not.

5 Q. And as it relates to -- as it relates to the
6 presence or absence of gunpowder, would you explain
7 again to the jury what your conclusion was?

8 A. As far as gunpowder, I found no gunpowder at
9 all on either hole.

10 That would mean that this garment would have
11 to be far enough away from the end of the barrel --
12 now, we're measuring from the end of the barrel, not
13 the person holding the weapon, but from the end of
14 the barrel to this garment has to be far enough away
15 that the powder particles cannot make it to this
16 garment.

17 That distance could be anywhere from three to
18 six foot where you would not get any kind of
19 material, making it out to a mile and a half.

20 Q. Okay. Explain to us then again what
21 conclusion you can reach about the distance between
22 the barrel and the clothing?

23 A. This garment was far enough away from the
24 weapon when it was discharged both times that no
25 gunpowder particles made it to this garment.

1 Q. And do you have an opinion as to how close it
2 could have conceivably been for there to be no
3 gunpowder residue?

4 A. Most weapons, it will begin to disappear or it
5 can be gone at four foot. It depends upon the
6 ammunition, which could factor it up to six foot.
7 Four to six foot is usually the range where the
8 material will drop off.

9 In this case, we have another factor to
10 consider, though. The victim had a little bit of gun
11 primer on his hands. So he -- it appears that he was
12 close enough to get the primer to be projected onto
13 the hands but far enough away that the gunpowder was
14 not able to get to him.

15 So that makes it a very narrow range, about
16 three foot where you could have that happen. And
17 what I mean by that, three, four to six foot, maybe
18 seven foot. Again, I'm just -- it's a best
19 understanding of the principle of -- of what's
20 happened with it.

21 Now, what I'm describing was someone had --
22 was being shot at and had their hand out. Their hand
23 would be closer to the gun. They could get materials
24 on their hand and still not get anything on their
25 garment.

1 A. Yes, sir, that is correct.

2 Q. And you stand by those?

3 A. Yes, sir, I do.

4 Q. And what I sense from your testimony is that
5 the parties who were involved, the target and the
6 shooter, were in somewhat close proximity. The exact
7 number of inches -- I know at the crime scene they
8 put little things up and you can measure one-eighth
9 of an inch. You're not into that?

10 A. No, sir. And you would never want to do that
11 with what I'm doing, because of the fact that
12 ammunition has variables with it. So you take a box
13 of ammunition, as you discharge those weapons at the
14 same distance you will get little bit differences in
15 the pattern. That's why we try to do what's called a
16 range. This is dealing with the variables that
17 account for that.

18 Q. But you would consider, in layman's terms, in
19 regular terms, that the objects, that is, the party
20 that was killed and the person who was doing the
21 shooting, were in close range?

22 A. Yes, sir. It is not uncommon for most -- most
23 situations for people to be fairly close. Five to
24 six feet between each other is usually where most gun
25 battles occur.

1 Q. And in this case, it could have been less than
2 that. What we know is, it wasn't a contact, it
3 wasn't a touching.

4 A. No, sir. It was not a contact, and it was not
5 a near contact. It had to be far enough away that no
6 gunpowder was deposited on the garment.

7 Q. But there was what you believe to be some sort
8 of evidence on the hands of the person who is the
9 target?

10 A. There -- we've gotten materials which may be
11 consistent with gunshot residue. What I found was,
12 was marginal amounts of lead and antimony on the back
13 of his right hand which may be consistent with
14 gunshot residue.

15 Q. And there are actually three different metals
16 that you're looking for; is that correct?

17 A. Yes. We -- we look for three metals
18 generally: barium, antimony, and lead. However, in
19 this case, we have a trip or, if you will, a
20 threshold where we have two metals which are very
21 rare compared to the third.

22 We -- if we have something that's elevated
23 enough, we take that and we report that. In this
24 case, we said may be consistent with being our
25 weakest match because of the fact that they just do

1 I can't say likely fired a weapon. He could have
2 fired a weapon.

3 Q. And there was no evidence on the back of his
4 right hand?

5 A. No, sir. There was no evidence.

6 Q. Was there any evidence on his left-hand palm
7 or his left hand -- left-hand palm or the left hand
8 on the back his hand?

9 A. No, sir. The only area that had any evidence
10 that there was gunshot residue was going to be on the
11 right palm.

12 Q. Would it be fair to say that your analysis of
13 the fellow who was shot is that at least his right
14 palm hand was between the barrel of the weapon and
15 his shirt?

16 A. Are you referring to the victim, sir?

17 Q. Yes, sir.

18 A. Okay. The victim hand would have had to be
19 between the gun and the shirt, yes, sir. That would
20 be one way that he'd get this material on the hands.

21 Q. So I'm demonstrating now by holding up my
22 hands, perpendicular to the floor, on my shoulders.

23 A. Yes, sir.

24 Q. That position would not have been possible?

25 A. No, sir. If you were standing -- and you had

1 to be closer, because you're too far away at this
2 point. But if I were shooting at you, like that, the
3 only area that you'd be able to get residue on the
4 palm of your hands would be because you've got your
5 palms out towards the gun. You must have the surface
6 that's going to get the gunshot residue from the gun
7 towards the gun.

8 Q. If the person was swinging towards the barrel
9 or lunging towards the barrel, would that be
10 consistent with your laboratory findings?

11 A. You could be swinging, you could be projecting
12 your hands as a punch. You would just have to have
13 enough distance between you not to get any gunpowder
14 on the garment.

15 Q. And, of course, that would depend on the size
16 of the person and whatnot?

17 A. Yes, sir. Those factors are dictated by the
18 length of the arm and things like that.

19 Q. Now, if immediately adjacent to the parties
20 involved, that is, the shooter and the party, there
21 were other parties standing there, would any evidence
22 from the explosion of the projectile at the time it
23 was discharged from the weapon, would that cloud also
24 go in other areas?

25 A. Yes. If someone is standing adjacent to a

1 Q. If you need it, this is a laser pointer. Just
2 hit the red dot right there.

3 A. Okay. There is the fatal gunshot wound. He's
4 a broader man than this picture actually depicts, so
5 this is -- this looks sort of like it's in the
6 middle. It's actually more to the left. So it's the
7 upper left abdomen. There's a second one here, close
8 to his left armpit. And both of these are entrance
9 wounds.

10 Q. Okay. Were there exit wounds associated with
11 either shot?

12 A. No. The bullets were both within the body.

13 Q. And I believe in your autopsy report you
14 designated one of those wounds as "A" and one of
15 those wounds a "B." Which one did you designate "A"
16 and which one did you designate "B"?

17 A. We called this one "A," and we called that one
18 "B."

19 Q. Okay. Let's start with gunshot -- the one you
20 designated as Gunshot "A." Obviously, we can see the
21 point of entry there. Did you detect any soot or
22 stippling around or visualize any sort of stippling
23 around that wound?

24 A. No.

25 Q. And for the jury's benefit, what is soot or

1 stippling? Soot and stippling, I should say.

2 A. Well, if the gunshot wound had been close, if
3 there'd been contact, near contact, or very close,
4 then you would expect to see evidence of damage from
5 the heat of the gases coming out of the barrel of the
6 gun, or the stippling, the tattooing, from the powder
7 that comes out after the bullet.

8 Q. And did you observe anything around the wound
9 or inside the wound that indicated that that was a
10 close gunshot wound?

11 A. No.

12 Q. Of course, clothing makes a difference in your
13 ability to ---

14 MR. SAVAGE: Form of the question,
15 Your Honor.

16 THE COURT: Restate the question.

17 BY MR. DURANT:

18 Q. Would the clothing -- would clothing have any
19 effect on your ability to determine whether there was
20 soot, soot or stippling?

21 A. Right. If there were clothing, you'd expect
22 to find the stippling, the soot, on the clothing
23 rather than on the skin.

24 Q. Okay. Now, say, for example, even assuming
25 for purposes of your testimony that clothing was

1 worn, would there be any -- would there be any
2 observable evidence of a close gunshot wound if there
3 was a contact wound?

4 A. Right. You can -- you can tell a contact
5 wound. And in this case, there were two layers of
6 clothing on his skin, and you could -- you could
7 determine that was a contact wound on all three
8 layers.

9 Q. Okay. Including the body?

10 A. Right.

11 Q. Correct? And that would be for what, why, for
12 what reason would you be able to determine that?

13 A. If -- if there were a contact wound, the first
14 thing that comes out of the barrel of the gun are
15 gases, and they're very hot, and if there were a
16 contact wound, that would actually penetrate the body
17 so that there would be damage to the underlying skin.
18 The gases go in and bounce back out and sort of lift
19 the skin up.

20 There are characteristic changes around the
21 borders of the wound if they're a contact, also
22 caused by the same thing, the heat plus the -- the
23 soot, the powder. These things penetrate into the
24 body so that you find the substance to be substances
25 under the skin, in the skin and under the skin, and

1 you can't wash it off.

2 Q. And just so for the jury's edification, what
3 is considered a close gunshot? What is considered a
4 contact gunshot wound for forensic purposes?

5 A. Contact wounds, you have hard contact and then
6 you have soft contact. In other words, it's a little
7 different in which the gases don't penetrate the
8 skin, and there are patterns related to the soft
9 contact that are characteristic of it. So you can
10 pretty much tell. If it's hard against the skin, if
11 it's touching the skin but not hard against it, those
12 things are pretty clear.

13 Then back out to about six inches or so would
14 be something that you'd call close, perhaps back out
15 to a foot. And by close, what I mean is that we can
16 see evidence that the powder actually hit the skin or
17 the clothing and stuck to it, whereas if the gun is
18 back more than a foot, some -- depending on the
19 nature of the gun and the nature of the bullet and so
20 forth, the kind of gun, it could be more than a foot.
21 It could be out to a couple of feet, maybe even three
22 feet. So the farther back you get, the less likely
23 that you'll see the soot on the clothing or on the
24 skin. Is that clear?

25 Q. Yes, sir. Now, to be clear, you're not a

1 trace analyst, are you?

2 A. No.

3 Q. Okay. And so when you look at things as a
4 medical examiner, do you examine in reference --
5 well, like clothing, for example, do you examine
6 clothing, clothing microscopically?

7 A. Not ordinarily, no.

8 Q. Okay. Just what you can see with the visual
9 eye; is that correct?

10 A. Right.

11 Q. But just to back up, was there any indication
12 from the wound itself that Gunshot Wound "A" was a
13 close gunshot?

14 A. No. We -- and might as well get this
15 straight. We originally questioned Gunshot Wound
16 "B."

17 Q. Well, we'll get to that in a moment.

18 A. Okay.

19 Q. Okay? Were you able to determine a trajectory
20 for Gunshot Wound "A"?

21 A. Right. The bullet went in slightly downward
22 and slightly backward, so you can see where it went
23 in, and it ended up on the -- underneath the shoulder
24 blade on the left side. It went sort of almost
25 straight back and slightly downward.

1 Q. And when you say slightly downward, you're
2 talking how much of a slightly downward?

3 A. Oh, 5 to 10 degrees.

4 Q. About this? (Indicating.)

5 A. About that, yeah. (Indicating.)

6 Q. Okay. Was that projectile recovered?

7 A. It was.

8 Q. And that projectile was later turned over to
9 Brian Hodge at the sheriff's office; is that correct?

10 A. Correct.

11 Q. Could Gunshot "A" in and of itself have been
12 fatal?

13 A. Probably not.

14 Q. Okay. Let's move on to Gunshot "B" if you
15 would. Would you describe the point of entry with
16 regard to Gunshot "B"?

17 A. Gunshot Wound "B" entered the lower rib cage,
18 upper abdomen, on the left-hand side. It then went
19 down and back so that it sort of nicked the head of
20 the pancreas which is on the left-hand side inside
21 the abdomen, and it went through the aorta at the
22 level of the renal arteries, the two big arteries
23 that come down and go to the kidneys. So it went
24 through the aorta at that level.

25 Q. And what is the aorta?

1 A. It's the largest artery in the body. And at
2 this point, it would have been delivering blood to
3 the kidneys, to the lower intestines, to the pelvis,
4 and to the legs.

5 Q. And...

6 A. And the bullet then went on close to the
7 adrenal on the other side. It went through the
8 intestines, and it was found in the lower abdomen on
9 the right side.

10 Q. And what was the effect of the projectile
11 having perforated the abdominal aorta?

12 A. That's a fatal wound. It nearly always is.

13 Q. And why?

14 A. The aorta is a big vessel. It's cone-shaped,
15 so it starts off, when it leaves the heart, larger
16 than it is when it gets down here.

17 It's already delivered blood to the head and
18 the arms, so as it goes it becomes smaller and
19 smaller in diameter. It's about the size of a small
20 garden hose at the point in this case where the
21 bullet went through.

22 The pressure in it is essentially the same as
23 the pressure in the heart, it's a high blood
24 pressure, and a tear in the aorta, a perforation at
25 that point, would have allowed massive rapid

1 hemorrhage. A person with a wound like that would be
2 unconscious in a matter of a minute or so.

3 Q. How long before someone would be incapacitated
4 from an injury such as -- such as that one?

5 A. It would have been almost instant. It would
6 have been a matter of seconds.

7 Q. Now, from your visualization of the actual
8 gunshot wound itself and the interior of the gunshot
9 wound, did you see any indication that this wound was
10 a close gunshot wound?

11 A. When we looked at this gunshot wound
12 originally, there was a sort of gray marking on a
13 portion of it which we weren't certain about, but we
14 thought this probably represented some powder
15 residue.

16 And Doctor -- Dele who -- Dr. Adeagbo, who was
17 our Fellow at the time, thought it was close, and I
18 wasn't sure. I thought it might or might not be, and
19 we ended up classifying it as being a close range
20 gunshot.

21 Later, after this case came up and we began
22 looking at it again, the question again was raised as
23 to how close was it, and we said we can't be entirely
24 sure, but we think it's close, but we're not sure.

25 We had good photographs of it, and I showed

1 and led to massive hemorrhage and death.

2 Q. Okay. And, essentially, he bled to death
3 internally, correct?

4 A. Correct.

5 Q. Now, as part of an autopsy, is a toxicology
6 screen also performed?

7 A. Toxicology is standard, and we did toxicology
8 in this case.

9 Q. And what were the toxicology results with
10 regard to Mr. Denson's ethanol level?

11 A. I'd have to look to be sure, but I think it
12 was .114, which is slightly above the .1 level.

13 Q. Okay. And how about the drug screen? What
14 were the results of the drug screen?

15 A. The drug screen was negative.

16 Q. And a drug screen is for, generally, narcotics
17 and drugs subject to abuse; is that correct?

18 A. That's correct.

19 Q. Cocaine, marijuana, things of that nature?

20 A. Right.

21 MR. DURANT: Could you please answer any
22 questions Mr. Savage may have for you.

23 THE WITNESS: I'd be glad to.

24 MR. SAVAGE: Please the Court.

25 THE COURT: Yes, sir.

1 MR. SAVAGE: If it please the Court, the
2 defense calls Michele Powe.

3 (Ms. Powe enters the courtroom.)

4 MICHELE POWE,
5 being first duly sworn by the clerk, is examined and
6 testifies as follows:

7 THE CLERK: Be seated. If you'll please
8 speak into the mike and state your full name and
9 spell your last name.

10 THE WITNESS: My name is Michele Powe.
11 My last name is "P" as in Paul O-W-E.

12 DIRECT EXAMINATION

13 BY MR. SAVAGE:

14 Q. Good morning, Ms. Powe.

15 A. Good morning.

16 Q. Would you kindly introduce yourself to the
17 jurors by way of giving an explanation of where you
18 live and where you work?

19 A. I currently reside in West Ashley, and I
20 currently work at Beneficial Financial Services.

21 Q. When is the first time you had an opportunity
22 to speak to me or anyone from my office?

23 A. I actually spoke with you I believe it was on
24 Friday.

25 Q. Of what week?

1 A. Of this past week.

2 Q. Did you respond to questions about your social
3 life and your whereabouts in August of 2005?

4 A. I did.

5 Q. Were you with a number of your friends that
6 night?

7 A. Yes.

8 Q. If you would tell the members of the jury who
9 you were with, what their relationship is to you, and
10 where you were.

11 A. I actually was with two of my friends, Monique
12 and Diana. We both -- we all worked at Verizon
13 Wireless at the time. I'm sorry, what was the other
14 question?

15 Q. You testified that you were with two friends,
16 you've named them, and that y'all worked at some
17 location.

18 A. Right.

19 Q. Where was that?

20 A. Verizon Wireless.

21 Q. And did you have occasion to be with them on
22 the evening of August 13th and the morning of August
23 14th?

24 A. I did.

25 Q. And if you would tell the jury where you were,

1 why you were there, who was there.

2 A. Well, we were going to a housewarming party,
3 this was another young lady that worked with us, went
4 to her house and to a party in Summerville. And that
5 was me, Monique, and Diana that went to that party.

6 Q. At the party were there males and females?

7 A. Yes.

8 Q. And did you know the other females who were
9 present?

10 A. I knew some of them because there was a lot of
11 employees of Verizon there.

12 Q. And how about the males?

13 A. There were some employees of Verizon there
14 that were males, but some others that I didn't know.

15 Q. Were you introduced to anybody there or did
16 you recognize anybody there by the name of Gibbs?

17 A. Yes.

18 Q. If you would tell the jury, if you would,
19 please, your relationship, how you know them, if you
20 met them that night.

21 A. I had actually met the Gibbs brothers a week
22 ago at a cookout at Dexter's house.

23 Q. And other than that occasion, did you know
24 them?

25 A. I didn't know them, no.

1 Q. Did they have anybody with them?

2 A. They did have two people, two other people
3 with them.

4 Q. Do you know their names?

5 A. Yes.

6 Q. If you would tell the jury their names,
7 please.

8 A. One was Troy. And the other person was, as I
9 called him, Chef because that's how he was introduced
10 to me, but his name was Demar. His actual name was
11 Demar Denson.

12 Q. Were there any other males there that night, a
13 fellow by the name of Thomas or Chris, Thomas Chris
14 or Chris Thomas, or anything like that?

15 A. Yes, he was there.

16 Q. Could you tell the jury your familiarity with
17 him?

18 A. Dexter introduced him to us as his supervisor
19 from work.

20 Q. Was anybody else introduced to you at that
21 time?

22 A. At that time, Chris introduced his friend
23 David.

24 Q. And do you recall his last name?

25 A. I believe it's -- well, no, I really don't.

1 Q. Tell us a little bit about the party in
2 Summerville, what time if you recall when you
3 arrived, what was the nature of the party, was it
4 music or cards or whatever. If you would give us a
5 little feel for what was going on that night.

6 A. Okay. I think I got there -- I think we all
7 got there probably -- I'm thinking it was after
8 eleven o'clock. There was a lot of food. There was
9 food, there was drinks. Just an adult party. It was
10 a housewarming.

11 Q. And the sequence of people who arrived, do you
12 know whether some people were there before you or
13 some people came after you?

14 A. Well, when we ---

15 Q. Particularly the people that you've already
16 discussed with the jury.

17 A. When we walked in, they -- Rodney and Ronald
18 Gibbs were already there with Troy and Chef, Demar.

19 Q. And do you know about any of the other males
20 that you've described to the jury, whether they were
21 there or not?

22 A. I believe -- I'm not sure about Chris or
23 David. I just know that they were there at the
24 party, but I don't know if they were there before.

25 Q. And what was the interaction? What was the

1 social activity going on at that party?

2 A. Just music was playing, some people were in a
3 sitting area. I mean, just general festive
4 atmosphere, not -- everything was positive. Nothing,
5 you know, wrong with it.

6 Q. Do you recall how long you stayed at the party
7 or where you went next or why you left the party?

8 A. Well, it looked like the party was winding
9 down. A lot of people had already started leaving.
10 So we decided to leave, as well. And it was -- and
11 Dexter was like, you know, it's really winding down,
12 let's just go, we can all go back to my house.

13 Q. And do you recall Dexter's last name?

14 A. No, I don't.

15 Q. But he is the one who suggested to leave?

16 A. Right.

17 Q. And did you in fact leave?

18 A. We did leave.

19 Q. And the women who were with you, how many of
20 them went with you, or did y'all go together in the
21 same car, did you travel in separate vehicles or ---

22 A. Right. We were all in the same car, Monique
23 Diana, and I. We drove -- we arrived at the same
24 time.

25 Q. And where did you go?

1 A. We ended up first at Troy's house.

2 Q. And is that Mr. Eason?

3 A. Yes.

4 Q. Troy Eason?

5 A. Right.

6 Q. And how long did you stay at his house?

7 A. It couldn't have been anymore -- it was like
8 probably between five and ten minutes. It wasn't
9 long at all.

10 Q. And do you recall who was at Mr. Eason's house
11 or Troy's house?

12 A. Dexter, myself, Diana, Monique, I believe it
13 was Doris. I mean, not everybody got out of their
14 vehicles because it was going to be a short stop.

15 Q. Now, prior to going to Mr. Eason's house, did
16 you have an opportunity to observe Mr. Rocquemoire at
17 the party?

18 A. Yes.

19 Q. And was he drinking and was he -- what was his
20 affect? What was his personality that night?

21 A. I mean, I think he was -- he was quiet. I
22 think he was maybe drinking a Sprite or something.
23 He wasn't -- he didn't say too much.

24 Q. And it's my understanding you just met him
25 that evening?

1 A. Right.

2 Q. No prior relationship with him?

3 A. No.

4 Q. Have you actually seen him since that night,
5 before today, until today?

6 A. No. I've just seen him today.

7 Q. Have you spoken to him in that time period?

8 A. No.

9 Q. When you left Mr. Eason's home, where did you
10 next go?

11 A. We went to Dexter's house.

12 Q. And that would be Dexter Brown?

13 A. Right.

14 Q. And what went on there? If you would tell the
15 jury who was there, the atmosphere, and the
16 personalities, what was going on.

17 A. Well, when we arrived at Dexter's house, we
18 all basically went down in the den area. Dexter
19 turned on some music, and we just -- some people went
20 upstairs in the kitchen area and started playing,
21 started a Spades game, a card game. And basically it
22 was just a general party atmosphere, just everybody
23 having fun.

24 Q. And were people drinking?

25 A. Right. There were some drinks. We had --

1 there were some people fixing drinks for everybody
2 and, yes, there was alcohol available.

3 Q. So was everybody feeling good?

4 A. Dexter especially, but I personally -- I had
5 one drink at Alma's and then -- and that was my
6 second drink there at Dexter's.

7 Q. And when I say feeling good, I think there's
8 double meaning to that. I mean, was everybody in a
9 jovial party spirit ---

10 A. Right.

11 Q. --- were they angry people, or were they...

12 A. No. Nobody was angry. Everybody was --
13 right, it was a festive atmosphere. Everybody was
14 having a good time.

15 Q. And I guess the second type of meaning that
16 could be is whether people were drinking in excess.

17 A. Right.

18 Q. Was anybody drinking in excess, or as the
19 night went on did you notice that some people were
20 acting perhaps with the encouragement of alcohol?

21 A. Just Dexter was getting funnier by the moment,
22 but no, everybody else was just -- you know, it got a
23 little bit louder. You know, people start talking a
24 little bit loud, and then just making remarks at the
25 cards game, playing the Spades and, you know,

1 slapping their cards down and doing things like that.

2 Q. But there were no fisticuffs, and there's no
3 cussing ---

4 A. Oh, no. No.

5 Q. --- or any antagonism ---

6 A. No.

7 Q. --- among the partygoers.

8 A. No.

9 Q. Now, did that atmosphere change at any time
10 during the course of the night? Well, first -- I
11 apologize. After you got there, did anybody leave,
12 and did you notice that anybody that came with you
13 left?

14 A. I did notice at one point that Troy left. He
15 maybe was there maybe about 10 or 15 minutes, then he
16 left.

17 Q. And but -- again, I'm apologizing, but I go
18 back to the question I asked you. At any time did
19 that atmosphere change? The festive atmosphere, the
20 partying atmosphere?

21 A. No. And -- inside the house, no.

22 Q. How about outside the house?

23 A. The atmosphere did change after a while
24 outside the house, yes.

25 Q. What I'd like you to do is tell the jury what

1 happened without me having to ask you very specific
2 questions. If you would just tell the jury like you
3 were telling a friend what happened that night, from
4 the time that the party atmosphere was feeling good
5 to the time that it went in a different direction.
6 Just try to explain to the jury so they can in their
7 minds picture what was going on.

8 A. Okay. Well, again, we were in the den, and
9 the music was playing. Some people were drinking.
10 Everything was festive for a while, and then I'd say
11 about -- I think I'd been there about -- I mean,
12 between 30, 30 minutes, 30-40 minutes, and then Chef,
13 or a/k/a Demar, and the Gibbs brothers came back.
14 They -- they came to the house.

15 And Chef -- it was still a festive atmosphere.
16 He did start like doing a little dance with Dexter's
17 momma's cane, and but everybody was laughing at him.
18 It was still a festive atmosphere.

19 The only time the atmosphere changed, just to
20 give you a little -- a little scenario, I know that
21 Rodney went outside with his friend and then his
22 brother Ronald followed him a little while after
23 that. And my friend Diana, she started not feeling
24 well, and so she wanted to go outside to get some
25 air. So I went to the kitchen and got her a cup of

1 ice, and I said I would come outside with her, you
2 know, just so -- make sure she was okay.

3 So Diana and I both walked to the front of the
4 house. And she sat on top of a car that was like
5 parked in the driveway. And everything was still
6 fine until Rodney started coming on to me, basically,
7 expressing his interest, and I was just letting him
8 down gently, but he wasn't -- I guess he wasn't
9 taking no for an answer or the lack of interest in a
10 very good way.

11 So, basically, as the conversation went on,
12 you know, I did tell him, you know, no, I'm not
13 interested, you know, but, you know, everything's
14 good, you know, everything's fine.

15 And then, you know, like, Diana, her head was
16 really pounding, and she basically said to us, she
17 said -- well, said to him that "My friend -- my
18 friend is not interested, you know, would you stop
19 bothering her?" She's like, "And my head is
20 pounding, so the both of you stop talking." And
21 that's what she said.

22 And, you know, he was just basically ignoring
23 her and was just saying -- you know, still trying to
24 come on to me.

25 And then, I don't know, the conversation kept

1 going back and forth between me and him, and I'm
2 still trying to just tell him, you know, I'm just
3 really not interested.

4 And then Diana was just like, you know, "Y'all
5 really need to stop talking because my head is
6 hurting."

7 And I'm saying, "Really I'm -- I'm not."

8 And he just -- he just basically said -- he
9 turned to Diana after she said her head was pounding,
10 and he just told her "No more talking to you. You
11 need to shut up."

12 And, you know, Diana looked at him and said,
13 you know, "No, I don't need to shut up. She said
14 she's not interested. So, you know, you shut up."

15 And then he started using -- I don't want to
16 use the language, but he said sort of "Shut the F
17 up."

18 And then when she said, "Shut -- shut me up,"
19 that's when he threw a drink in her face.

20 And that, to me, besides him coming on to me
21 even though I wasn't interested, I think that was the
22 turning point in the atmosphere, right there.

23 Q. Now, after the atmosphere turned, do you
24 recall where Mr. Brown or Mr. Rocquemoire were?

25 A. They had left prior to that. They had went to

1 the store.

2 Q. And at the time that they left, was the feel
3 good atmosphere still in play at the party?

4 A. Yes.

5 Q. And, again, Mr. Rocquemoire's affect that
6 night, his personality, if you would describe it up
7 until the point that he left.

8 A. Very quiet, very -- very cordial when he did
9 say something. I mean, you know, no negative vibe
10 from him at all.

11 Q. Did you see him hitting on anybody or trying
12 to solicit the attention of a female or interfere
13 with the attention a female was giving somebody else
14 or anything of that nature?

15 A. No. No.

16 Q. Was he acting as a gentleman?

17 A. Very much so.

18 Q. Now, following the episode that you described
19 outside, did that initiate the breakup of the party?

20 A. Well, basically, because since the majority of
21 the people at the party were females and we were
22 leaving. We basically were leaving, so...

23 Q. Now, in addition to the two women who traveled
24 with you in your vehicle, were there other women
25 present?

1 A. Yes.

2 Q. And how many other women?

3 A. There were two other women present.

4 Q. And how many vehicles did they come in?

5 A. I believe they drove separate vehicles.

6 Q. So there were three vehicles and five women?

7 A. Right.

8 Q. And did you all leave at that time, or was
9 there a discussion, or was there -- what led to you
10 leaving and did you leave?

11 A. Well, after he threw the drink in Diana's
12 face, I, you know, tried to get the -- as much
13 alcohol out of her eye because she couldn't see, and
14 then he was coming toward her like, you know, very
15 aggressively, like, you know, he wanted to do
16 something, like almost to the fact that I believed he
17 was going to hit her.

18 So I sort of stood in the -- in between both
19 of them and put my hand out, and I was calling to his
20 brother Ronald, which I call -- I was introduced to
21 him as Nook -- and I said, "Nook, come get your
22 brother, come get your brother." Because, you know,
23 Diana is on this side of me, trying to hold her back,
24 and he's coming toward her and I'm pushing him back.

25 So, finally -- you know, Ronald was leaning

1 against another car that was parked there on the
2 grass -- he grabbed his brother by the back of his
3 shirt and pulled him back.

4 And his brother Rodney just sort of hit his
5 hand away and told him to get, you know, his M-F-ing
6 hands off him. And, you know, then he just stalked
7 off, like cursing, you know, saying like bad things
8 about Dee Dee and myself.

9 Q. So at that point, the type of language that
10 was used changed fairly dramatically?

11 A. It did.

12 Q. And I don't want to embarrass you in a public
13 setting, but the -- but the type of language that was
14 used was not the type of language that had been used
15 earlier in the evening?

16 A. That's correct.

17 Q. And it's not the type of language that was
18 respectful, to say the least?

19 A. Very disrespectful.

20 Q. And there was also physical touching at that
21 point from the time that the drink was thrown on your
22 friend? And I understand it was in her eyes and her
23 face and ---

24 A. Right. It was like part -- mainly on her and
25 partly on me.

1 Q. When the drink was thrown, the action didn't
2 dissipate or didn't stop? It continued on to the
3 point where somebody had to intervene?

4 MR. DURANT: Form of the question, Your
5 Honor. Leading.

6 THE COURT: Restate that, Counsel.

7 BY MR. SAVAGE:

8 Q. Did you intervene at that point physically?

9 A. I did. I had to get in between the -- the two
10 of them.

11 Q. And did any of the males who were there
12 intervene?

13 A. Not at first, not until I had -- I had to get
14 pretty loud and call his brother to come get him.
15 And he was leaning against a vehicle in the front
16 yard, a couple of feet away, and wasn't doing
17 anything. Just watching, wasn't doing anything.

18 Q. Now, who were the first parties to leave?
19 Bad, bad choice of words. Who were the first people
20 to leave the party?

21 A. As far as after that incident?

22 Q. Yes, ma'am.

23 A. It was the Gibbs brothers and Chef.

24 Q. Three, three males?

25 A. Three males.

1 Q. And do you remember who was driving the car?

2 A. Rodney was driving the car.

3 Q. Now, one of them had a nickname that we hadn't
4 heard until you said that. What was the nickname?

5 A. Ronald's nickname is Nook.

6 Q. And he was the one who was driving the car?

7 A. No. His brother Rodney was driving the car.

8 Q. Which one is the Army guy?

9 A. That's Nook. That's Ronald.

10 Q. And was he driving the car?

11 A. No.

12 Q. Where was he?

13 A. He was in the passenger seat.

14 Q. And do you remember the type of car they had?

15 A. It was a Ford Explorer, SUV.

16 Q. Now, would you describe to the jury when they
17 left the party how they left, and how did they drive
18 away, if you will?

19 A. Well, Rodney, as -- as I said before, he
20 stalked off and he was -- he was steady cursing,
21 M-F-ing this, M-F-ing that. He gets into the
22 vehicle. They -- Ronald gets in the back on the
23 side, Chef gets in the backseat, and then he just
24 floors it, and he turns that vehicle like somebody
25 was chasing him. We heard the tires, like,

1 squealing, and then he took -- takes on off like -- I
2 mean, driving extremely fast down the road.

3 Q. Did you ever return to the party that night?

4 A. No.

5 Q. Did you ever return to the scene that night?

6 A. No.

7 Q. When you left the party, was Mr. Rocquemore
8 still there?

9 A. When I left the party? He had just pulled up
10 with Dexter right before we left.

11 Q. And how was that in relationship to the
12 squealing of the tires and leaving the scene of the
13 other people?

14 A. That they had left before Dexter and David had
15 pulled up.

16 Q. They being the Gibbs brothers ---

17 A. Right.

18 Q. --- and Mr. Eason had left before
19 Mr. Rocquemore's return. And when Mr. Rocquemore
20 returned, had his affect or his personality changed
21 in any way?

22 A. No. He had just pulled up with Dexter from
23 the store.

24 Q. And describe for the jury his personality or
25 how he was at that time. Was he calm, agitated, or

1 aggravated?

2 A. I mean, very calm. I mean, he just pulled up.
3 They just came back from the store. And Dexter, you
4 know, hopped out of the vehicle and saw that we were
5 leaving and -- and asked us why we were leaving.

6 Q. Again, Ms. Powe, you haven't seen
7 Mr. Rocquemoire or talked to him in the last 23
8 months?

9 A. No.

10 Q. And you were invited to the party by
11 Mr. Dexter Brown?

12 A. Right.

13 Q. No relationship to Mr. Rocquemoire at all?

14 A. No.

15 MR. SAVAGE: Kindly answer any questions
16 that the prosecutor may want to ask you.

17 THE WITNESS: Okay.

18 CROSS-EXAMINATION

19 BY MR. DURANT:

20 Q. Good morning, Ms. Powe.

21 A. Good morning.

22 Q. My name is Bruce Durant. I'm with the
23 Solicitor's Office. And to be clear, you were not
24 out there when the shooting takes place ---

25 A. That's correct.

1 Q. --- is that correct?

2 A. That is correct.

3 Q. And the only thing that you know about the
4 shooting basically comes from Chris Thomas; is that
5 correct?

6 A. That's correct.

7 Q. And it comes from Chris Thomas because you
8 subsequently dated Chris Thomas, correct?

9 A. We went out on a couple of dates. That's
10 correct.

11 Q. And Chris Thomas is Mr. Rocquemore's best
12 friend?

13 A. I don't know. I guess. They came together.
14 I don't know.

15 Q. And to be sure, you were at Alma Boone's
16 party. Was it Alma Boone?

17 A. I know her as Alma. I didn't know her last
18 name.

19 Q. And there were no problems at Alma Boone's
20 house ---

21 A. That's ---

22 Q. --- is that correct?

23 A. That's correct.

24 Q. And you had met the Gibbs and Troy and Demar
25 the previous week, did you say? Were they ---

1 A. At a cookout the previous, right.

2 Q. No problems out of them then?

3 A. No.

4 Q. Correct?

5 A. That's correct.

6 Q. And at Alma's party, all of these same parties
7 were involved. There was -- was there any bad blood
8 between the Gibbs or Chef or Troy with David
9 Rocquemore?

10 A. No.

11 Q. Or with his friend Chris Thomas?

12 A. No.

13 Q. Was there any problem between them and the
14 Gibbs and -- everybody was happy, correct?

15 A. Yeah, everybody was fine. No problem.

16 Q. And then y'all get to Dexter's house
17 eventually, and people inside, and it's a festive
18 atmosphere, as well.

19 A. Uh-huh.

20 Q. Correct?

21 A. That's correct.

22 Q. Chef was happy, wasn't he?

23 A. Very.

24 Q. Yeah. He had -- he had Dexter's mother's cane
25 and was -- that's what he was doing this dirty

- 1 dancing with; is that correct?
- 2 A. That is correct.
- 3 Q. And y'all thought that was funny, correct?
- 4 A. I did.
- 5 Q. I mean, people were laughing, correct?
- 6 A. Uh-huh.
- 7 Q. He was going from room to room. I think
- 8 everybody thought it was funny except maybe Dexter.
- 9 Is that correct?
- 10 A. Dexter didn't think it was too hot.
- 11 Q. Because he was using his momma's cane?
- 12 A. That's correct.
- 13 Q. But that happened in your presence, correct?
- 14 A. Uh-huh.
- 15 Q. And Demar wasn't angry with anyone, was he?
- 16 A. No.
- 17 Q. And there was no bad blood between Demar and
- 18 David Rocquemoire inside that house, correct?
- 19 A. That's correct.
- 20 Q. Nor between Demar and Chris Thomas?
- 21 A. That's correct.
- 22 Q. There was basically no blood at all -- bad
- 23 blood between anybody inside that house; is that
- 24 correct?
- 25 A. That's correct.

1 Q. Okay. And the incident you described with
2 Rodney, that was basically between Rodney and
3 Ms. Jenkins? Is that -- excuse me. Is it Diana
4 Jenkins, is that her last name?

5 A. Diana. Right.

6 Q. Okay. That occurred outside, correct?

7 A. That's correct.

8 Q. Chris Thomas wasn't outside?

9 A. No.

10 Q. David Rocquemore wasn't outside?

11 A. Well, he wasn't there.

12 Q. He wasn't there at all, correct?

13 A. Right.

14 Q. So it was just you and Diana and the two Gibbs
15 brothers?

16 A. And Chef was outside, as well.

17 Q. And Chef was outside, as well, originally?

18 A. Right.

19 Q. Or did he come back out later?

20 A. No. He was outside.

21 Q. Okay. And so basically the -- the only
22 problem you describe was between Rodney and Diana,
23 correct?

24 A. I wouldn't -- I didn't -- I wouldn't describe
25 it as a problem. I mean, I was just ---

1 Q. Well, the altercation was between Rodney and
2 Diana, correct?

3 A. That's correct.

4 Q. Okay. And he was cursing?

5 A. He was definitely cursing.

6 Q. She was cursing?

7 A. I really don't recall her cursing. I remember
8 her saying she couldn't see because of the alcohol in
9 her eye.

10 Q. And she was trying to get at him, and you --
11 and he was trying to get at her, according to you,
12 and you stepped between them ---

13 A. He came towards her first, because she was
14 still trying to get the alcohol out of her eye.

15 Q. Okay. And other than this incident with
16 Rodney, did you observe Demar do anything untoward
17 that night or -- or vicious or bad temper or any type
18 of that?

19 A. No. No.

20 Q. Or Ronald or Nook as you know him?

21 A. I didn't observe him to do anything.

22 Q. Or Troy?

23 A. Well, Troy wasn't -- wasn't even there that
24 long.

25 Q. Wasn't even there, correct?

1 A. Right.

2 Q. And after this incident, all the girls left?

3 A. That's correct.

4 MR. DURANT: Court's indulgence.

5 (Mr. Durant and Ms. Kneese-Shealy
6 confer.)

7 BY MR. DURANT:

8 Q. Did you have an opportunity to talk to Chris
9 Thomas after this incident where the drink got thrown
10 on Diana?

11 A. Do you mean like...

12 Q. I mean, did you see Chris Thomas after the
13 incident where the drink got thrown on her? Did you
14 ever go back inside the house, for example?

15 A. No. No. I told Chef to go get my phone and
16 Diana's belongings off of the table and told him we
17 wanted to go.

18 Q. Okay. So Chef went in and ---

19 A. Chef went in and got my things for me.

20 Q. And did that for you?

21 A. Right.

22 Q. Okay. And you said that Dexter and Rocquemore
23 showed up and tried to talk y'all into staying?

24 A. Dexter -- no. Dexter came out of the vehicle
25 and said, you know, where are y'all going?

1 Q. Okay.

2 A. And I told him -- you know, then I told Dexter
3 what happened.

4 Q. And so, now, do you even -- do you even see
5 Mr. Rocquemore?

6 A. He was sitting in the vehicle. He wasn't -- I
7 mean, I'm sure he probably could hear, but ---

8 Q. Okay.

9 A. --- I mean, he was in the vehicle.

10 Q. So he never got out of the vehicle while y'all
11 were --

12 A. No, because he -- he hadn't parked his car
13 yet.

14 MR. DURANT: Okay. Court's indulgence
15 one moment.

16 Thank you. I have no further questions,
17 Ms. Powe.

18 MR. SAVAGE: No further questions for
19 this witness.

20 THE COURT: You may step down. Thank
21 you.

22 THE WITNESS: All right.

23 (The witness is excused from the witness
24 stand.)

25 MS. WILLIAMS: Your Honor, may we

1 Bring the jury in, please.

2 (Whereupon, the jury returns to the
3 courtroom at approximately 11:23 a.m.)

4 THE BAILIFF: The jurors are all seated,
5 Your Honor.

6 THE COURT: Thank you. Please be seated.
7 Call your witness.

8 MS. WILLIAMS: Your Honor, the defense
9 would call Dileatha Washington to the stand.

10 (Ms. Washington enters the courtroom.)

11 DILEATHA WASHINGTON,
12 being first duly sworn by the clerk, is examined and
13 testifies as follows:

14 THE CLERK: Thank you. Be seated. If
15 you'll state your full name and spell your last name.

16 THE WITNESS: Dileatha Nicole Washington,
17 W-A-S-H-I-N-G-T-O-N.

18 DIRECT EXAMINATION

19 BY MS. WILLIAMS:

20 Q. Good morning, Ms. Washington.

21 A. Good morning.

22 Q. You were running a little late this morning.
23 I'd like to give you a moment to catch your breath.

24 A. Thank you. I appreciate it.

25 Q. Ms. Washington, tell the jury what you do for

1 a living.

2 A. I work for Verizon. I work as the quality
3 assurance coordinator for Verizon.

4 Q. How long have you worked there?

5 A. Six and a half years.

6 Q. Do you have any jobs on the side?

7 A. Yes. I am a full-time singer. I sing jazz,
8 blues, gospel.

9 Q. What kind of events do you sing at,
10 Ms. Washington?

11 A. I sing at South Carolina, Augusta Symphony. I
12 sing for different, different actual -- concert
13 style.

14 Q. Ms. Washington, have we met before?

15 A. Just on yesterday.

16 Q. And so it was that one time on yesterday?

17 A. Absolutely.

18 Q. And when I met with you, did we discuss the
19 events of August 13th and August 14th, 2005?

20 A. Yes, we did.

21 Q. I want to take you back to 2005, on August the
22 13th of 2005. Can you describe to the jury what your
23 plans were for the evening?

24 A. We were just actually at a cookout gathering,
25 a few of my coworkers, my friends, just literally

1 hanging out.

2 Q. Now, when you say we, can you tell the jury
3 who you were with? Who were your female friends?

4 A. In the beginning, at the very first place
5 where we attended the cookout, it was Alma Boone,
6 Diana -- Diana. There's Doris Tucker. I can't
7 remember everyone's last name. Dexter was there. A
8 few of Dexter's friends were there. Mr. Rocquemore
9 was there. Chris. There was Chef. I can't even
10 begin to tell you everyone's name.

11 Q. So it was a group of adults?

12 A. Yes. Very much.

13 Q. Where was this party?

14 A. We first started out at Alma Boone's residence
15 in Summerville. And then we also -- we migrated to a
16 friend of Dexter's which is Troy's house over in
17 Summerville and ---

18 Q. Let me back you up, Ms. Washington. I don't
19 mean to interrupt.

20 A. No.

21 Q. Let's talk about Ms. Boone's party before we
22 -- before we jump ahead.

23 A. Okay.

24 Q. Was there alcohol at the party?

25 A. Oh, yes. Alma keeps a full -- an actual full

1 bar, but no one was really drinking at Alma's house
2 as much. But she keeps it stocked. That's just her
3 nature.

4 Q. Was there music at the party?

5 A. The music was there. It was not -- it wasn't,
6 you know, very good music, as I -- as I would say.
7 That was one of the reasons for us migrating over to
8 another party, because the music wasn't very good at
9 Alma's house. But there was music.

10 Q. Let me ask you about some of the people that
11 you've named, whether or not you know their full
12 names or how long you've -- how long you've known
13 them. Tell me about your relationship with Dexter
14 Brown.

15 A. Dexter and I are friends. We've been friends
16 for about -- well, about two and a half years. When
17 I came to Charleston, we met.

18 Q. Did Dexter invite you to Alma's party that
19 night?

20 A. No. Actually, I invited Dexter who was a
21 friend to Alma's party. Alma actually formally
22 invited them on the previous week. We were at a
23 cookout at Dexter's house.

24 Q. Okay.

25 A. And Chef was cooking, and Alma started

1 cooking, and she invited him over to cook at her
2 house.

3 Q. And when you say Chef, do you know his real
4 name?

5 A. I'm not at all certain. I can't remember
6 exactly what his name is. We -- I just remember them
7 calling him Chef.

8 Q. Do you know him to become the deceased in this
9 incident?

10 A. Yes, I'm aware of that.

11 Q. Does the name Demar ring a bell?

12 A. Yes, that's it. Demar.

13 Q. Are you and Dexter still friends?

14 A. Dexter and I? Yeah, very much so.

15 Q. When is the last time you saw Dexter?

16 A. Last week. I just spoke with him a few days
17 ago.

18 Q. So this event, the events of August 14th, did
19 not change the nature of your -- of your relationship
20 with Mr. Brown; is that correct?

21 A. No. Not at all.

22 Q. Now, let me ask you about some of the people
23 who were there at the time. Do you know a fellow by
24 the name of Ronald Gibbs?

25 A. Yes, I've heard of him. Yes, I've seen him.

1 I know who he is, yes.

2 Q. And when did you meet Mr. Gibbs?

3 A. At the party, at the gathering, the cookout.

4 It really wasn't a party. It was a cookout.

5 Q. At Alma's house?

6 A. Yeah.

7 Q. The first time you met him, that night?

8 A. If I can remember correctly. I'm not quite
9 certain if he was at the previous party the week
10 before. I don't know him very well.

11 Q. Do you know somebody by the name of Rodney
12 Gibbs?

13 A. Yes. He was there. They're brothers if I'm
14 not mistaken.

15 Q. Okay. And when did you meet him?

16 A. At the same time.

17 Q. Do you know anyone by the name of Chris
18 Thomas?

19 A. Yes. He was there, as well. Very skinny,
20 he's kind of skinny, kind of tall.

21 Q. When did you meet Mr. Thomas?

22 A. Same time.

23 Q. And how about the defendant, Mr. Rocquemore?

24 A. The same time. I met him at Alma's. In the
25 same time that they were at Alma's house, the first

1 time I met him. And then we all migrated over to
2 Troy's and Dexter's house.

3 Q. Now, let's talk about the migration. When you
4 left the party, was there a particular reason you
5 left Alma's house?

6 A. Yeah. Really because the music was not
7 adequate. It was really soft. And she was pulling
8 it in from an actual television. So we just went
9 over to -- to Dexter's house. That was really the
10 main reason for going to that house.

11 Q. Did anything unusual happen at Alma's?

12 A. There was a -- if I'm not mistaken, there was
13 an altercation between -- not really an altercation.
14 It was just, you know, Alma's male friend was there,
15 and he was maybe not as happy to see all the guys at
16 Alma's house, so he was a little jealous. So that
17 was another reason why we left. We didn't want it to
18 actually, you know, turn into anything else, so we
19 left.

20 Q. Who decided you were all going to go to
21 Dexter Brown's house?

22 A. Between Dexter and myself, we walked around
23 and kind of started, you know, "Do y'all want to go?"
24 And everybody was okay with it.

25 Q. Do you know at what point everyone left the

1 party? Did y'all leave together, everyone you
2 mentioned today?

3 A. Well, all that I can remember, we all left
4 together. We followed each other, car after car
5 after car.

6 Q. Did you drive yourself?

7 A. Yes, I did.

8 Q. Had you been drinking alcohol at Alma's house?

9 A. I didn't drink at Alma's house. I didn't
10 drink at Alma's house. I didn't start drinking until
11 I was at Dexter's house when I had a Tom Collins.

12 Q. And you made a pit stop along the way at
13 Troy's house. Why were you there?

14 A. And I can't even begin to remember anything
15 about why we stopped at Troy's house. I think we
16 actually went there because it was supposed to be
17 better music, but it didn't turn out that way, so we
18 ended up at Dexter's house.

19 Q. Do you know what time you arrived at
20 Dexter Brown's house?

21 A. Hm, can't be certain to say, but it was
22 probably around -- very close to about 11:00, 10:00
23 or 11:00. It may have even been 12:00. I'm not
24 certain of the time.

25 Q. Were you watching the clock that night?

1 A. No, not at all.

2 Q. When you arrived as Dexter's, who was with you
3 to the best of your recollection?

4 A. There was -- I call her Dee Dee, Diana was
5 there. Michele was there if I'm not mistaken.
6 Myself. Dexter. Mr. Rocquemore was there. Chris.
7 All of those guys were there. Chef was there, which
8 is Demar. And...

9 Q. Dileatha, let me -- let me help you out a
10 little bit.

11 A. Yeah. There was quite a lot of them.

12 Q. When you say -- when you say all of those
13 guys, was Ronald Gibbs at Dexter's?

14 A. Ronald was there.

15 Q. Was Rodney Gibbs at Dexter's?

16 A. Yes, if I'm not mistaken.

17 Q. And was Troy Eason at Dexter's?

18 A. I'm not certain of Troy.

19 Q. You don't remember if Troy was ---

20 A. I don't remember Troy.

21 Q. --- at Dexter's party? Did he remain inside,
22 or was he outside?

23 A. I know that he didn't, like, come immediately
24 right after us. I don't remember him being there.

25 Q. Okay. Describe the party at Dexter's. What

1 were y'all doing?

2 A. Turned the music on, and maybe kind started --
3 started chilling, laughing, talking to each other.
4 Dancing. It was just like a -- like a regular,
5 regular gathering. We had a few drinks.

6 When I say a few drinks, I -- I remember,
7 myself, I drank maybe about two Tom Collins, because
8 it was the first time being introduced to Tom
9 Collins. And it was okay.

10 And what happened was, we ran out of mixture.
11 So that's when Dexter and David decided to go to the
12 store and get some.

13 Q. Now, let me ask you, who introduced you to Tom
14 Collins?

15 A. Doris Tucker.

16 Q. And was she mixing the drinks?

17 A. Yes.

18 Q. Was everyone drinking?

19 A. No, not everyone. I remember that the guys
20 were already feeling rather juiced. Most of them,
21 not all of them.

22 And the girls were not -- they weren't -- they
23 weren't drinking that much. They were pretty much
24 sipping, in a sense. No, the girls weren't
25 intoxicated if that's what you're looking for.

1 Q. Now, when you say the guys were feeling
2 juiced, did anyone exhibit drunken behavior? Did you
3 witness anything?

4 A. I did. That's when Chef decided that he was
5 going to be just a little forward with -- with Doris.
6 He began to make sexual advances toward her.

7 And when I say that, I mean, you know, that he
8 was literally, like, in her space. And she just
9 wanted him -- you know, him out of her space. And
10 she kept telling to leave, got to move, got to go,
11 you know, leave me alone, get out of my space, you
12 know.

13 Q. And did he stop when she asked him to get out
14 of her space?

15 A. He didn't stop.

16 Q. How did he -- how did she get him to stop?

17 A. It was pretty much, if I'm not mistaken, she
18 shoved him, and he fell back on the table. I don't
19 remember anything really breaking, but I do remember
20 a loud bang. What I'm saying is the table was rather
21 strong. He got right up.

22 Q. Did you feel like he was being aggressive?

23 A. Very much so.

24 Q. Was it inappropriate?

25 A. Very much so.

1 Q. Did he make any sexual gestures towards her?

2 A. Yeah. He kind of had -- I don't remember
3 exactly what he had, but he had something that he
4 was, like, moving back and forth between his legs
5 near his penis.

6 Q. Did you witness Doris get ---

7 A. Yes, very much. She -- I witnessed her. She
8 pushed him away. And one of the guys actually had to
9 take him out because he wouldn't stop.

10 Q. Did she have to push him because he was close?

11 A. Yeah. He was very close.

12 Q. He was relentless?

13 A. He was.

14 Q. And how did he come to back off and leave the
15 room?

16 A. The guy -- well, he fell down, and then they
17 got him. They got him up, and they took him out of
18 the room. And I think there might have been maybe
19 two or three guys, you know, telling him, "Stop, man,
20 stop. She don't want -- she don't want you to do
21 this. Stop."

22 Q. They were telling him to stop?

23 A. Yeah. They was telling him to stop.

24 Q. And they actually removed him from the room?

25 A. Uh-huh. Yes, they did.

1 Q. And do you remember who those men were?

2 A. Not exactly. It was maybe like two or three
3 people.

4 Q. After that, describe how the party continued.
5 Did that mess up everyone's good time?

6 A. Kind of. Yeah, because -- it was okay, it
7 wasn't the same, everybody was kind of like they were
8 shaken, but we -- we -- we continued. You know, we
9 continued to just laugh and talk and -- and, you
10 know, just hang out. And then we found a little
11 later that Dee Dee was like feeling sick or whatever
12 and had to -- she went outside.

13 Q. Now, let me ask you. At some point, did
14 Dexter who was the host of the party and
15 Mr. Rocquemore leave?

16 A. Yes. They did leave.

17 Q. Do you know why they left?

18 A. Uh-huh.

19 Q. Why?

20 A. They -- they went to get more drinks.

21 Q. Okay. Because the party was beginning to run
22 low?

23 A. Yeah.

24 Q. So you all planned ---

25 A. But there was -- there was not a lot of drinks

1 there from the beginning, though. It was a small
2 amount from the previous week, so there wasn't a lot
3 there.

4 Q. So y'all had planned on continuing the party?

5 A. Yes. We did.

6 Q. Was Mr. Rocquemore present for the incident
7 where Chef or Demar Denson when he was in Doris's
8 space and she had to get him off?

9 A. I don't think so. I don't remember him being
10 there.

11 Q. Okay. Let me ask you, you said Dee Dee was
12 feeling sick. What was wrong with her?

13 A. Dee Dee went outside to get some air. She
14 went outside. And when I say Dee Dee, Diana went
15 outside. And she was sitting on a car. I remember
16 looking out the door and to check on her, and she was
17 sitting on a car.

18 Q. How long after the incident with Chef did this
19 occur that Dee Dee went outside?

20 A. I can't remember exactly the time frame. But
21 it -- it wasn't long. It wasn't that long.

22 Q. Okay. Let me ask you, was Dee Dee drunk?

23 A. No.

24 Q. She wasn't feeling sick because she was
25 intoxicated?

1 A. Well, to my -- the best -- the best of my
2 knowledge, she was not drunk.

3 Q. Did you witness her doing anything that would
4 indicate to you that she was drunk?

5 A. No. Not at all.

6 Q. And were you drunk at the party?

7 A. No. Actually, I'd had, like I said, maybe two
8 drinks. But the alcohol was not -- it wasn't
9 stocked, like it wasn't -- there wasn't a lot of
10 alcohol there.

11 Q. Do you consider yourself a heavy drinker?

12 A. Oh, no, not at all.

13 Q. Is it a rare occasion to go out and drink?

14 A. Very rare.

15 Q. But do you feel like you were aware what was
16 going on?

17 A. Yes. Everybody was very, very, you know,
18 knowledgeable about what was going on the entire
19 time. We weren't drinking like that, you know.

20 Q. Were you outside with Dee Dee when she was
21 feeling bad?

22 A. No. I didn't go outside with Dee Dee. I just
23 -- I literally just walked to the door, and I looked
24 at her just to see. She was sitting on a car, and
25 then I went back in the house.

1 Q. Who was outside with her?

2 A. I think that was Michele and some guys that
3 were standing up in front of her.

4 Q. Do you know who the guys were?

5 A. There was Chef out there. And if I'm not
6 mistaken, Ronald was out there. A few guys was out
7 there.

8 Q. And when you looked out the door, what did you
9 see?

10 A. That she was sitting on the car.

11 Q. And nothing unusual was going on?

12 A. No.

13 Q. Okay. What happened next?

14 A. I went back inside. And I was talking, was
15 laughing with everybody.

16 Q. Who remained at the party at this point?

17 A. I don't remember anybody really leaving at
18 that point other than Dexter and Mr. Rocquemore.
19 They went to get some more drinks.

20 Q. So everyone who had been there before ---

21 A. Yeah.

22 Q. --- were still at the party at this point?

23 A. Absolutely.

24 Q. Okay. You're back inside. Anything unusual
25 that happened later on?

1 A. No. The only thing I can remember was, you
2 know, just talking to Doris and playing cards, and
3 playing Spades. Everybody was having fun.

4 Q. At some point, did your friends come back in
5 the house?

6 A. Yes. Dee Dee ---

7 Q. What had happened?

8 A. Dee Dee came inside, and she came inside the
9 house, and she was just like really, really upset.
10 She said that -- Michele was actually saying someone
11 -- someone threw -- well, not someone, they named
12 him, Chef threw a drink in -- in her face.

13 Q. Now, are you sure that it was Chef that threw
14 the drink?

15 A. No. I can't be certain of that. I wasn't
16 outside.

17 Q. You just know he was out there?

18 A. Exactly.

19 Q. You know that it was one of the men who was
20 outside?

21 A. Yeah. It was one of the guys outside that --
22 that allegedly threw the drink in her face.

23 Q. So did Dee Dee have alcohol on her face?

24 A. Dee Dee was very wet. Her hair was wet. Her
25 face was wet. Her shirt was wet. She was wet. She

1 was soaked.

2 Q. Was she was crying?

3 A. She was very much crying.

4 Q. Was she upset?

5 A. Very, very much so.

6 Q. What was the atmosphere at that point?

7 A. Very upset. Everyone was very upset at that
8 point, including myself. Just to have someone throw
9 a drink in your face, very inappropriate.

10 Q. And what did you do next?

11 A. Yeah. We all had a few words, you know,
12 literally, inside the house, and we were very --
13 everybody was very upset, and I'm sure there was some
14 profanity. Everybody's upset and we were mad, very
15 mad that the drink was thrown in her face. And we
16 went outside to start to look for the guys, but when
17 we went outside to look for them, they were gone.
18 They weren't there.

19 Q. The person who had thrown the drink was gone?

20 A. Gone.

21 Q. Were any of the guys still outside?

22 A. They were gone.

23 Q. Do you know who left at that point?

24 A. No. I'm not sure who actually left at that
25 point. I just know that we were -- I was literally

1 trying to get the girls out of there because --
2 because we were very upset. And I assure you that,
3 you know, we were going outside to look for them and
4 it was not going to be very nice.

5 Q. You were going to have a few words?

6 A. Yeah.

7 Q. You were upset about your friend?

8 A. Yeah. Very.

9 Q. Okay. At what point did you leave after that,
10 Dileatha?

11 A. We got in the car, and we left. I got the
12 girls in the car. Everybody pulled off and we left.
13 Maybe three or four cars, the girls, that we were
14 riding in, and we all left.

15 And we pulled out, and we went down the road,
16 turned around the corner, and maybe parked pretty --
17 you know, maybe about two houses down the road. And
18 we stopped, just to gather -- you know, stop to talk
19 before everybody go their own way, separate ways.

20 And when we did stop, we talked, and we're
21 still upset. And everybody was, you know, like, you
22 know, I can't believe this happened, why would he do
23 such a thing like this, what did you say to him, what
24 did you do to him, you know, trying to just see
25 exactly what happened.

1 Q. To your knowledge, did Dee Dee do anything to
2 invite having the drink thrown on her?

3 A. No. Not at all.

4 Q. And to your knowledge, did Doris do anything
5 earlier in the night to invite Chef ---

6 A. Not at all. Not at all.

7 Q. Now, when you stop at -- in the safe spot, can
8 you tell me how did y'all find out what had happened
9 later in the night?

10 A. We were, yes, at the safe spot, as you were
11 saying, and I received a phone call from Dexter. And
12 we were talking on the phone. He was asking me why
13 did you leave, you know, what's wrong, what's going
14 on, what's the problem, y'all come back. And he was
15 trying to get us to come back to the party.

16 And we were, no, we're not coming back. If we
17 do, things are going to -- you know, we probably were
18 ready to hurt your friend, so, but ---

19 Q. When you talked to Dexter, he had no idea why
20 you left?

21 A. Right. He didn't know why.

22 Q. Do you know what the time frame was in between
23 when you left and when you actually talked to Dexter?

24 A. It was a while. It was a while. When I say a
25 while, I don't know exactly how long, but it was --

1 it was a good time.

2 Q. Dileatha, I know -- I know this is tough, but
3 when did you find out that someone actually got shot
4 that night?

5 A. I was on the phone talking to Dexter. When I
6 was talking to Dexter, he was trying to, you know,
7 find out why we left. And I told him that Dee Dee
8 had a drink thrown in her face by one of his friends,
9 and it wasn't cool, and we didn't appreciate it.

10 And, you know, we were just going through the
11 whole thing. You know, what -- what happened, why,
12 why would somebody throw a drink in Dee Dee's face,
13 you know.

14 And so he was like, "Who did it?"

15 And I said, "I don't know, but I know it was
16 one of your friends that did it."

17 And Dexter -- you know, literally, we were
18 talking on the phone this entire time, and he was
19 screaming and yelling out, he started to yell out,
20 "Oh, my God, oh, my God, they shot him, they shot my
21 friend, they shot him," and "they shot my boy."

22 And we were on the phone while -- while this
23 happened.

24 Q. Are you -- at this point, are you and the
25 girls still pulled over at the safe spot away from

1 the party?

2 A. Yes.

3 Q. Regrouping?

4 A. Yes.

5 Q. And who did you think had been shot?

6 A. Well, at the time, we -- I thought he said
7 Chris. So I'm telling the girls, oh, my God, Chris
8 got shot, Chris was shot.

9 And she's like -- then and everybody is like,
10 what do you mean? what happened? what's going on?
11 And we were like "oh, my," just frantic. Everybody's
12 upset, and we were like, oh, my God, I'm glad we're
13 not there, I'm glad we're not there, we got out just
14 in time before -- you know, before the craziness
15 happened.

16 And all this time, we're thinking it was Chris
17 who got shot.

18 Q. Now, let me ask you, during the incident, the
19 drink-throwing on -- on Diana, was David at the party
20 when that happened?

21 A. David was at the party.

22 Q. David Rocquemoire?

23 A. He was at the party, you know, for a while,
24 but he went and left with Dexter.

25 Q. So when the drink is actually thrown, he ---

1 A. He wasn't there, no.

2 Q. He was at the store?

3 A. He was at the store ---

4 Q. With Dexter?

5 A. When Dexter was at the store.

6 Q. During the sexual incident with Ms. Doris
7 involving Chef, was David -- was David Rocquemore at
8 the party?

9 A. I'm not certain. I don't think he was in
10 there. I don't think he was in there at all.

11 Q. Did you have much interaction with
12 Mr. Rocquemore?

13 A. Not much. He was very quiet. Very, very
14 quiet. Didn't say much. Very -- he seemed like a
15 very -- a gentleman to me. We wanted to know who he
16 was.

17 Q. And that demeanor was throughout the whole
18 night?

19 A. Uh-huh. He was very consistent.

20 Q. Have you spoken with him at all since this
21 happened?

22 A. Not at all.

23 Q. Have you seen him?

24 A. No, I haven't. This is my first time.

25 Q. Dileatha, let me ask you. Did the police ever

1 take a statement from you?

2 A. They did.

3 Q. And did you report to them the incidents
4 between Dee Dee/Diana and the drink thrower, and Chef
5 and Doris?

6 A. Yes, I did.

7 Q. Did you report a problem?

8 A. I did.

9 Q. Did the police ever come back to follow up on
10 what the problem may have been?

11 A. Not at all.

12 MS. WILLIAMS: The Court's indulgence for
13 one moment, Your Honor.

14 (Ms. Williams and Mr. Savage confer.)

15 MS. WILLIAMS: We have nothing further.
16 If you'd please answer Mr. Durant's or Ms. Shealy's
17 questions.

18 CROSS-EXAMINATION

19 BY MR. DURANT:

20 Q. To be sure, you and I have never spoken; is
21 that correct?

22 A. That is correct, we have not spoken.

23 Q. And my investigator, Matt Casey, tried to talk
24 to you right outside, and you refused to talk to him;
25 is that correct?

1 A. That is correct. I didn't even know who he
2 was.

3 Q. And you told him that you didn't want to talk
4 to him or anybody else from the state, correct?

5 A. Right. I assumed I would answer any questions
6 inside.

7 Q. Where is Doris Tucker today?

8 A. If I'm not mistaken, she's now transferred to
9 Landover, Maryland.

10 Q. And to be quite honest, you weren't outside
11 when Dee Dee had the drink thrown on her, correct?

12 A. That's correct, uh-huh.

13 Q. Okay. So you don't know what she did or
14 what she may have done to contribute to that,
15 correct?

16 A. That is correct. I was not present.

17 Q. Now, you were at Alma's house earlier?

18 A. Uh-huh.

19 Q. Is that true?

20 A. That's true.

21 Q. And so was Chef?

22 A. Yes.

23 Q. And so were the Gibbs brothers, Ronald and
24 Rodney?

25 A. Yes.

1 Q. And so was Troy Eason?

2 A. That's correct, if I'm not mistaken. I'm not
3 sure.

4 Q. And so was David Rocquemore?

5 A. Yes.

6 Q. And so was Chris Thomas?

7 A. Correct.

8 Q. And so was Dexter Brown?

9 A. Dexter was there.

10 Q. Okay. And was there any problem between any
11 of those people?

12 A. Not that I can really remember an actual
13 problem. Like I said, Alma's male friend came, and,
14 you know, he wasn't very pleased with all the guys
15 there, so we left.

16 Q. Okay. But, I mean, that was between Alma and
17 her boyfriend.

18 A. Right.

19 Q. That didn't cause --- there was no -- there
20 was no tension there or a fight there between
21 Mr. Rocquemore and Mr. Thomas and Dexter's friends,
22 correct?

23 A. No. No.

24 Q. It was a jovial atmosphere at least until the
25 boyfriend got jealous. Is that correct?

1 A. It was -- it was rather calm, I would say.

2 Q. Okay. And you did give a statement to the
3 police that night?

4 MR. DURANT: May I approach the witness,
5 Your Honor?

6 THE COURT: Yes.

7 BY MR. DURANT:

8 Q. I'd like to show a statement to you and
9 ask you if that is the statement you gave to the
10 police.

11 A. It is indeed.

12 Q. Okay. Did you have an opportunity to review
13 that statement in preparation for your testimony...

14 A. I read it.

15 Q. --- today?

16 A. I read through it just on yesterday.

17 Q. Okay.

18 A. And it is still consistent with what I am
19 saying today.

20 Q. Okay. But you don't mention anything in there
21 about Doris shoving Chef?

22 A. I'm sorry, I couldn't understand. You were
23 turned away.

24 Q. You didn't say anything in your statement
25 about Doris having to shove Chef; is that correct?

1 A. No, I didn't go into any great detail. I
2 didn't know I had to.

3 Q. And as a matter of fact, you said Demar was
4 dancing provocatively. Correct?

5 A. I did mention that.

6 Q. Yeah. In front of Doris. And Doris asked him
7 to stop.

8 A. Uh-huh.

9 Q. And then Demar stood over Doris, and she asked
10 him to move out of her space. Correct? Is that what
11 you said?

12 A. That's correct.

13 Q. And then you said: For a moment Demar did not
14 move, then another -- then another guy took Demar
15 outside.

16 A. (The witness nods head up and down.)

17 Q. What you told the police, correct?

18 A. Uh-huh. That's correct.

19 Q. Would you admit that's slightly a different
20 version than what you told the jury here today?

21 A. Well, I went into great detail today. I
22 didn't write it down, but I did go into great detail
23 today if that's all right.

24 Q. And then you said this incident -- I believe
25 you said today that Dee Dee came in and said Chef had

1 thrown a drink on her. Is that correct? That's what
2 your testimony to this jury was?

3 A. Well, I'm not all that certain who threw
4 the drink, but I knew she had a drink thrown in
5 her face.

6 Q. Okay.

7 A. I can't be certain who threw it.

8 Q. Do you remember telling the detective that Dee
9 Dee had a drink thrown in her face by Rodney instead
10 of Chef?

11 A. No. I can't be certain today. Again,
12 whatever I wrote down, that's -- that's what I
13 remember at the time.

14 Q. And the girls were angry. Correct?

15 A. I'm sorry?

16 Q. The girls were angry about that incident?

17 A. About the drink being thrown on her?

18 Q. Yes.

19 A. Absolutely. So was I.

20 Q. And -- and you were one of the girls, correct?

21 A. Yes.

22 Q. You were one the girls there, and you were
23 angry, as well?

24 A. Yes.

25 Q. And Chris Thomas was there?

- 1 A. Chris was there.
- 2 Q. He was angry?
- 3 A. That the drink was thrown on her?
- 4 Q. Correct.
- 5 A. I'm not sure of that now.
- 6 Q. He was angry because the girls were leaving?
- 7 A. I am not -- I'm not certain to say about that.
- 8 Q. And Dexter was upset because the girls were
- 9 leaving...
- 10 A. No, I didn't ---
- 11 Q. --- is that correct?
- 12 A. --- speak to Dexter until later.
- 13 Q. But he was upset because the girls had left?
- 14 A. He was upset because when -- because someone
- 15 actually had had some sort of conflict at his home.
- 16 That was his main concern. And he stated that
- 17 several times.
- 18 Q. And ---
- 19 A. He could not believe that it happened at his
- 20 house.
- 21 Q. Okay. And did you observe any altercation
- 22 between David Rocquemore -- Rocquemore or Chris
- 23 Thomas on one side and Demar Denson, the Gibbs
- 24 brothers, and Troy Eason on the other side at any
- 25 time during this entire evening?

1 A. Not at all.

2 Q. Now, you say at some point after y'all -- this
3 incident occurred, with whatever occurred with Dee
4 Dee and -- who came inside the house and told you
5 about it?

6 A. Both the girls came inside, Dee Dee and
7 Michele.

8 Q. So they actually came back inside the house?

9 A. Yeah. They went inside the door.

10 Q. Okay. Did you ever see Chef or Ronald or
11 Rodney or any of them come back in the house once
12 they had left originally with Demar?

13 A. No. Not that I remember.

14 Q. So as far as you know...

15 A. They were gone.

16 Q. --- when you went outside, they were gone,
17 correct?

18 A. Right.

19 Q. How much later did Dexter call you on the
20 telephone?

21 A. It was much later when Dexter called me on the
22 phone.

23 Q. Maybe an hour?

24 A. No, I wouldn't say that long.

25 Q. Thirty minutes?

1 A. I can't be certain.

2 Q. Okay. But it was a good ---

3 A. It was a good while.

4 Q. It was good while later?

5 A. Uh-huh.

6 Q. It wasn't just like boom-boom?

7 A. No.

8 MR. DURANT: Court's indulgence. I have
9 nothing further.

10 THE COURT: Any follow up?

11 MS. WILLIAMS: Your Honor, just briefly.

12 REDIRECT EXAMINATION

13 BY MS. WILLIAMS:

14 Q. Dileatha, could you tell the jury if
15 Mr. Rocquemoire or his friend Chris Thomas had any
16 connection with you or your girlfriends beyond being
17 at the same party and interacting that night?

18 A. None at all. Not -- not that I know of, as
19 far as my friends or myself, I know not myself,
20 nobody had contact other than that night.

21 Q. And all interaction that night was friendly?

22 A. Very much so. Very much so.

23 MS. WILLIAMS: Judge, I have nothing
24 further. I would ask ---

25 MR. DURANT: I just have one after that.

1 RE-CROSS-EXAMINATION

2 BY MR. DURANT:

3 Q. Were you aware that Chris Thomas and Michele
4 Powe actually dated one another after this?

5 A. Absolutely not.

6 MR. DURANT: Okay. Thank you.

7 THE COURT: You may step down, ma'am.

8 THE WITNESS: Thank you.

9 MS. WILLIAMS: Thank you, Judge. I'd ask
10 that Ms. Washington be excused.

11 THE COURT: Any objection?

12 MR. DURANT: No objection.

13 THE COURT: You may be excused.

14 THE WITNESS: Thank you.

15 (The witness is excused from the witness
16 stand and leaves the courtroom.)

17 THE COURT: All right, ladies and
18 gentlemen. We're at that point we usually take our
19 lunch break, so I will send you to lunch. If you
20 will report back at 1:30. Do not discuss the case in
21 any way whatsoever. Make sure you give your pads to
22 the bailiff on your way out. Have a good lunch.
23 We'll see you back then.

24 (Whereupon, the jury leaves the courtroom
25 at approximately at 11:55 a.m.)

AFTERNOON SESSION

(The trial reconvenes at approximately 1:35 p.m., the defendant being present with counsel, and the following proceedings were had:)

THE COURT: Are y'all ready?

MR. SAVAGE: Judge, I have one matter that came up. I hope it's not too complicated. There is a member of the jury who's related to an assistant solicitor.

THE COURT: How did -- how did that come up?

MR. SAVAGE: It just came up.

THE COURT: I mean...

MR. SAVAGE: So I ---

THE COURT: --- by what means did it come up? Did a juror talk with somebody? Because no one told me.

MR. SAVAGE: That's the point. The point is that I was told that you were told that he was related to a member of the Solicitor's Office during the time of qualification at the beginning of the matter, that the assistant solicitor reported it to Mr. Alfaro who is sitting as third chair for the prosecution.

THE COURT: If he told me at

1 qualification, I would have told him to bring it up
2 before this.

3 MR. SAVAGE: I don't know whether it's a
4 problem. Can I explain what was reported to me?

5 THE COURT: Yes, sir.

6 MR. SAVAGE: Michael Nelson is an
7 assistant solicitor. Over the weekend, at some point
8 in time, somebody brought to the attention of my
9 office that a relative of Michael Nelson was on the
10 jury that's sitting on this case.

11 Before I approached the Court, I talked
12 to Michael Nelson. Michael Nelson said that he
13 talked to Mr. Alfaro, who is sitting as a prosecutor
14 in this case, before the jury was selected.

15 Mr. Nelson has reported to me that that
16 juror has called him since he was seated on the
17 panel, but Mr. Nelson also told me that he refused to
18 talk to him and hung up. It just creates a concern.

19 THE COURT: Did the juror ---

20 MR. SAVAGE: He then told me ---

21 THE COURT: --- try to talk to him about
22 the case?

23 MR. SAVAGE: I don't know whether he --
24 he's his cousin.

25 THE COURT: First of all, I'm trying to

1 remember if anyone even said that at qualification
2 because I don't even remember that.

3 MR. SAVAGE: I was present, and I didn't
4 hear it. Certainly, I would have made some record of
5 that.

6 THE COURT: Well, she makes a note when I
7 talk to a juror.

8 MR. SAVAGE: Whether or not that was
9 reported to the bench outside our presence or
10 whatever.

11 THE COURT: What is the juror's name so
12 she can check?

13 MR. SAVAGE: I think it's Davies.
14 Davies?

15 THE COURT: She writes it down what
16 they're telling me. I don't even remember that. But
17 if they did, I would have told him to bring it up at
18 selection.

19 (The law clerk reviews notes.)

20 THE COURT: And, actually, the court
21 reporter has that information, also.

22 MR. SAVAGE: D-A-V-I-E-S.

23 THE COURT: Madam Court Reporter, can you
24 look for that.

25 THE COURT REPORTER: Yes, sir.

1 MR. SAVAGE: He says that he owns a
2 painting company, and his wife works at Barnes &
3 Noble, he's 28 years of age. It's juror number 309.

4 THE COURT: Is it Austin Davey?

5 MR. SAVAGE: Excuse me. It's D-A-V-E-Y.

6 THE COURT: I don't even remember him
7 approaching me, to tell you the truth. Were you at
8 qualification?

9 MR. SAVAGE: Yes, sir.

10 THE COURT: Did he approach the bench?

11 MR. SAVAGE: We have no notes of it.

12 THE COURT: I've got a note that says he
13 owned a painting company and his wife works at the
14 Barnes & Noble. I don't have anything other than
15 that. So we'll have to check with the court reporter
16 to refresh my memory because I don't recall that.
17 Sometimes people will say that they know someone in
18 the Solicitor Office, but let's try to find out.

19 MR. SAVAGE: I don't think anybody can
20 answer this, but I don't doubt the integrity ---

21 THE COURT: We're not seeing that he
22 stood up, but I don't know if you want me to pursue
23 it any further or not, or if you just need time to
24 think about it.

25 MR. SAVAGE: This information came to me

1 after 1:30 today. Now...

2 THE COURT: Well, I'm kind of curious if
3 he told you that he came to the bench and disclosed
4 it.

5 MR. SAVAGE: Mr. Michael Nelson is the
6 assistant solicitor in the Ninth Circuit Solicitor's
7 Office.

8 THE COURT: Okay. Do y'all have any
9 recollection of him approaching the bench?

10 MR. DURANT: Personally, I do not,
11 Your Honor.

12 THE COURT: Well, let's see.

13 THE COURT REPORTER: Can we go off the
14 record?

15 THE COURT: Yes, ma'am.

16 (There was off-the-record discussion.)

17 (A break was taken at approximately
18 1:39 p.m.)

19 (The trial reconvenes at approximately
20 1:55 p.m., the defendant being present with counsel,
21 and the following proceedings were had:)

22 MR. SAVAGE: Judge, at approximately 1:40
23 today, a little bit before, Mr. Durant and I had an
24 opportunity to speak to Assistant Solicitor Michael
25 Nelson who is a person in the Ninth Circuit

1 Solicitor's Office.

2 Prior to that time, ten minutes previous
3 to that, I had an opportunity to speak individually
4 with him. Neither I nor any member of my office or
5 staff had spoken to Michael Nelson until 1:30 today.

6 Over the weekend, attention was -- it was
7 brought to our attention to somebody in our office in
8 my absence that there was a member of the seated
9 panel who is related to one of the assistant
10 solicitors and that it was more than just a typical
11 first-cousin relationship. The word that was
12 described, "like brothers."

13 I had an opportunity to speak to
14 Mr. Nelson. He reported that he -- at that time he
15 reported that he had brought that to the attention of
16 one of the prosecutors trying this case, that
17 following the empaneling of the jury that he sat in
18 the courtroom.

19 What he added in the most recent
20 conversation is that he was asked to leave the
21 courtroom by Your Honor because of his relationship
22 with the jury member.

23 I'm just -- I'm not at all being
24 accusatory. I'm just trying to relate what he said,
25 that he was asked to leave the courtroom because of

1 his relationship to the panel member.

2 THE COURT: I think he just assumed that.

3 MR. SAVAGE: And he may have well assumed
4 many things in this case, Your Honor.

5 THE COURT: I just generally told him to
6 leave the courtroom.

7 MR. SAVAGE: He then provided some
8 additional information about the relationship between
9 Mr. Nelson and the juror and the Court that I don't
10 think is necessary to go into at this point, and also
11 said that he believed but he didn't have firsthand
12 knowledge that the relationship between Mr. Nelson
13 and the juror was reported to the Court. He backed
14 off on that a little bit.

15 What he did report, however, is a little
16 bit more alarming; and that is, that he has been
17 contacted on multiple occasions, starting after the
18 empaneling of the jury, as recently as noontime
19 today, by text and by telephone. If he had been
20 told either ---

21 THE COURT: But he did finally break the
22 contact with him?

23 MR. SAVAGE: During the lunch recess
24 today, he was contacted by the juror. Now, that may
25 be the normal practice of the cousins, but that --

1 and I'm not going into and I'm not being accusatory
2 at all of Mr. Nelson or anyone else about the
3 conversations; but Mr. Nelson says, and I take him at
4 his word, that he did not respond or he said he
5 couldn't respond, whatever he said, that Judge Pieper
6 said I couldn't talk, whatever that was; but it seems
7 to me that if it was told to the juror a week ago by
8 Mr. Nelson, then there shouldn't have been any cause
9 for the juror to be texting him or calling him at
10 lunch recess today.

11 And it would appear, regardless of what
12 the relationship is with Mr. Nelson, that we're past
13 that. The new grounds is that he's failed to follow
14 the directions of the Court. It's just...

15 THE COURT: What are you asking the Court
16 to do?

17 MR. SAVAGE: I think he should be
18 dismissed, Judge. We have two extra jurors.

19 THE COURT: Well, if he's been texting
20 the solicitor as of today, I don't have a problem
21 letting him go.

22 MR. SAVAGE: Your Honor, I wish you would
23 ask Mr. Nelson. Mr. Durant was present, but
24 Mr. Nelson has the actual firsthand.

25 THE COURT: Well, we have gone to

1 check -- just to assure you, first of all, I was just
2 joking with Mr. Nelson when I told him to get out,
3 after one plea, if he had any connection to a juror.

4 We have gone and checked our notes twice,
5 and we don't have any recollection of him standing up
6 at all and disclosing that. So if he disclosed it,
7 it wasn't to me. I'm totally unaware of it.

8 I don't have any problem dismissing the
9 juror.

10 MR. SAVAGE: Thank you.

11 MR. DURANT: I have no problem with that,
12 as well, Your Honor.

13 THE COURT: I mean, I'd be happy to ask
14 him, too, on the record, if he said anything to
15 anyone, or anything that you would like to do, or ask
16 him if he disclosed that to me, but whatever you
17 prefer because I really don't have any hesitation.

18 MR. SAVAGE: Here's the -- what concerns
19 me the most is that if he's text'd today. And that's
20 the -- that's the huge...

21 THE COURT: Well, that concerns me, also.

22 MR. SAVAGE: The question then would
23 become whether his relationship or his interest or
24 his bias, if there is one -- I'm not saying there is
25 one -- was passed on and tainted any other jury

1 members.

2 THE COURT: I'll be happy to ask him.

3 MR. SAVAGE: I think that would be
4 appropriate.

5 THE COURT: Bring Mr. Davey in, please.
6 Do you agree?

7 MR. DURANT: I have no problem with that,
8 Judge.

9 THE COURT: Bring Mr. Davey in, please.
10 (The bailiff leaves the courtroom.)

11 THE COURT: Mr. Savage, I just want to
12 personally assure you I would never do such a thing.

13 MR. SAVAGE: Judge, I have no doubt about
14 that. I didn't ask for a recusal of the Court.

15 THE COURT: I understand, but I just want
16 you to personally know I would never do such a thing.

17 MR. SAVAGE: Thank you.

18 THE COURT: I do joke around with all the
19 people that work in this building every now and then,
20 but that's about it.

21 MR. SAVAGE: Judge, the highest
22 compliment that the judge can receive on the circuit
23 bench is that you are right behind Hamilton Smith
24 (phonetic). I've heard that comparison on numerous
25 occasions.

1 THE COURT: Well, I appreciate the
2 comment. Thank you. As you've seen throughout this
3 trial, I try to disclose anything that could
4 potentially be a problem.

5 (Whereupon, Mr. Davey, Juror No. 309,
6 enters the courtroom.)

7 THE COURT: Mr. Davey, would you come
8 forward, please? I just need to ask you a couple of
9 questions if you don't mind.

10 MR. DAVEY: All right.

11 THE COURT: And nothing -- it's just
12 stuff I need to know, okay? First of all, we have an
13 understanding that you may have some connection with
14 someone in the Solicitor's Office?

15 MR. DAVEY: My cousin works there.

16 THE COURT: All right. At the jury
17 qualification, did you approach the bench and
18 disclose that?

19 MR. DAVEY: No, sir.

20 THE COURT: Okay. And do you remember my
21 question when I indicated that does anyone have any
22 connection to the Solicitor's Office or anything?

23 MR. DAVEY: I just thought...

24 THE COURT: All right. You mean you just
25 -- you didn't understand that or...

1 MR. DAVEY: I just...

2 THE COURT: You're not in trouble or
3 anything. I just need to know.

4 MR. DAVEY: Well, somebody stood up and
5 you asked if that was going to have any affect, you
6 know. And it wouldn't, wouldn't affect me.

7 THE COURT: But you didn't disclose?

8 MR. DAVEY: Right.

9 THE COURT: Okay. Now, have you been
10 trying to make any contact with Mr. Nelson since this
11 trial has begun?

12 MR. DAVEY: We've talked.

13 THE COURT: You have talked? What about?

14 MR. DAVEY: Not on that. Just like...

15 THE COURT: Have you talked about this
16 case in any way?

17 MR. DAVEY: No. About his wedding and
18 stuff.

19 THE COURT: All right. And have you
20 disclosed to the jurors in any kind of way that you
21 have some connection with him?

22 MR. DAVEY: No.

23 THE COURT: Has that come up in any kind
24 of way?

25 MR. DAVEY: No, sir.

1 THE COURT: Have you discussed this case
2 in any way?

3 MR. DAVEY: No, sir.

4 THE COURT: All right. If you'll just
5 step outside for a moment.

6 MR. DAVEY: All right.

7 THE COURT: Thank you.

8 (Whereupon, Mr. Davey, Juror No. 309,
9 leaves the courtroom.)

10 THE COURT: I was fairly positive he
11 didn't disclose that at qualification. So just to --
12 that makes me feel a little better.

13 What do you wish for me to do? Any
14 further questioning?

15 MR. SAVAGE: No further question.

16 THE COURT: Anything further from the
17 state?

18 MR. DURANT: No, sir, Your Honor.

19 THE COURT: All right. Bring him in for
20 a second.

21 MR. SAVAGE: Judge, I ask you to instruct
22 him not to discuss it with anyone.

23 THE COURT: I will.

24 MR. SAVAGE: On the jury or ---

25 THE COURT: All right.

1 (Whereupon, Mr. Davey, Juror No. 309,
2 returns to the courtroom.)

3 THE COURT: Mr. Davey, just in an
4 abundance of caution, because that has caused some
5 confusion, I'm going to go ahead and excuse you from
6 this case. Just call back after six o'clock for any
7 instructions about tomorrow.

8 MR. DAVEY: All right.

9 THE COURT: Just give your pad to the
10 bailiff. Thank you, though, for your service.

11 MR. DAVEY: Yes, sir. All right.

12 THE CLERK: He's excused.

13 THE COURT: You're excused for the rest
14 of the week.

15 MR. DAVEY: Pardon me?

16 THE COURT: Sorry. They don't need you
17 tomorrow.

18 MR. DAVEY: Oh.

19 THE COURT: Thank you.

20 (Mr. Davey, Juror No. 309, is excused
21 from the jury and leaves the courtroom.)

22 THE COURT: Anything else?

23 MR. SAVAGE: Judge, how will you handle
24 an instruction to the jurors?

25 THE COURT: I'm going to tell them that

1 one of the jurors has been excused and -- oh, bring
2 that juror back in. I forgot. I need that juror
3 back in. I meant to instruct him not to discuss this
4 case in any way.

5 (Whereupon, Mr. Davey returns the
6 courtroom.)

7 THE COURT: I'm sorry, sir. I also meant
8 to instruct you, you are not to discuss this case in
9 any way ---

10 MR. DAVEY: All right.

11 THE COURT: --- or contact the solicitors
12 or Mr. Nelson or anyone until this case is over. Do
13 you understand?

14 MR. DAVEY: Yes, sir.

15 THE COURT: Thank you.

16 (Whereupon, Mr. Davey leaves the
17 courtroom.)

18 MR. SAVAGE: The defendant is ready to
19 proceed.

20 THE COURT: Are you ready?

21 MR. DURANT: There's one other thing I
22 want to put on the record, Your Honor.

23 Last Wednesday, I was accused in this
24 courtroom of providing the defense with a doctored
25 exhibit. I have now confirmed through defense

1 THE COURT: All right. Ms. Baloglu.

2 I needed to relieve one of the jurors,
3 ladies and gentlemen, so you'll know why you're one
4 person short. Don't read anything into that as far
5 as the case or anything. Sometimes that happens when
6 people become aware of certain circumstances or they
7 may end up knowing someone that they didn't disclose
8 at the beginning or realize. So that's why we have
9 alternates.

10 So, ma'am, you'll go ahead and serve as a
11 regular juror now, and we'll have one alternate.

12 (Whereupon, Carol Baloglu, Juror No. 301,
13 is seated on the jury.)

14 THE COURT: Are y'all ready?

15 MR. DURANT: Yes, sir, Your Honor.

16 THE COURT: Call your next witness.

17 MR. SAVAGE: Christopher Thomas.

18 (Mr. Thomas enters the courtroom.)

19 CHRISTOPHER THOMAS,
20 being first duly sworn by the clerk, is examined and
21 testifies as follows:

22 THE CLERK: Be seated. If you'll state
23 your full name and spell your last name.

24 THE WITNESS: Christopher Thomas. The
25 last name is spelled T-H-O-M-A-S.

DIRECT EXAMINATION

1
2 BY MR. SAVAGE:

3 Q. Good afternoon, Mr. Thomas.

4 A. How you doing, sir.

5 Q. Mr. Thomas, your presence today is to testify
6 as to your knowledge of the events of August 13th and
7 14th, 2005. I understand that you were present at
8 the party that occurred in the Ladson area of
9 South Carolina that evening?

10 A. Yes, sir.

11 Q. If you would, tell the members of the jury
12 your recollection of the events up until such time as
13 the party transferred to Mr. Dexter Brown's. You
14 don't have to go into a lot of detail, but just give
15 them a summary of what you were doing, who you were
16 with, who was there, where you had been.

17 A. Okay. Dexter, myself, and Dave caravanned ---

18 Q. Excuse me. The jurors don't know who ---

19 A. Myself.

20 Q. --- Dexter, nicknames, and all that. If you
21 would give as much names as you can, if it's Dexter
22 Smith or Dexter Jones ---

23 A. All right.

24 Q. --- or whoever.

25 A. Dexter Brown, David Rocquemoire, and myself

1 Chris Thomas, we went to a party in Summerville,
2 which was a card party where we played cards and ate
3 fish.

4 Q. At some time did you leave that party?

5 A. Yes, sir.

6 Q. Where did you go next?

7 A. From that party, we went to one of Dexter's
8 friend's house. I'm not sure of his name.

9 Q. And when you left that party, where did you
10 go?

11 A. We were there a brief time. From there we
12 went to Dexter's house.

13 Q. Dexter Brown?

14 A. Dexter Brown, yes, sir.

15 Q. Now, would you indicate to the jury the people
16 who were at the party which is called party number
17 one, little party number two, and party number three?
18 Were they the same cast of partygoers?

19 A. Well, at party number one, not everyone went
20 to party number two and three.

21 Q. And party number three, had everybody -- would
22 it be fair to say everybody at party number three had
23 been at party number one?

24 A. Yes, sir.

25 Q. And men and women included?

1 A. Yes, sir.

2 Q. Now, did it come to a time at party number
3 three when anyone left the party?

4 A. Yes, sir.

5 Q. And who would that have been?

6 A. Three gentlemen, I'm not sure of their names,
7 but they did leave the party at one time.

8 Q. Okay. Party number two, did the people from
9 party number two go to party number three?

10 A. Yes, sir.

11 Q. And at party number two, the people who were
12 there, did any one of those individuals leave?

13 A. Yes, sir.

14 Q. And how much time at the party number three
15 did -- I'm getting confused.

16 A. I'm listening.

17 Q. All right. How much longer after you got to
18 the final party, the party number three, did the
19 fellows from party number two leave?

20 A. I'm not sure of the time, sir.

21 Q. And at party number three, did Mr. Rocquemore
22 and Mr. Brown leave?

23 A. Yes, sir.

24 Q. And while they were gone, did anything happen?

25 A. Yes, sir.

1 Q. And were you involved in that?

2 A. No, sir.

3 Q. Mr. Brown wasn't involved in it?

4 A. No, sir.

5 Q. Mr. Rocquemore wasn't involved in it?

6 A. No, sir.

7 Q. And when Mr. Rocquemore and Mr. Brown returned
8 to the party, had the people who were involved in
9 whatever that was, had they left?

10 A. Yes, sir.

11 Q. Male?

12 A. Males.

13 Q. And how about females?

14 A. The females left, as well, sir.

15 Q. So if anything untowards had happened at that
16 time when Mr. Brown and Mr. Rocquemore were not
17 there, everybody who was involved had left when they
18 returned?

19 A. Yes, sir.

20 Q. Was the attitude or affect or the personality,
21 or however you want to describe it, the attitude of
22 Mr. Rocquemore, the same when he returned to the
23 party after everybody had left as it was before he
24 left the party?

25 A. Yes, sir.

1 Q. Did you notice any change in his disposition
2 at all?

3 A. No, sir.

4 Q. Now, following his return to the party, what
5 -- what did you do and what did they do?

6 A. When you say his return to the party, Dave and
7 Dexter?

8 Q. Yes, sir. That's -- I'm at party number
9 three.

10 A. Uh-huh.

11 Q. And I'm at a time when somebody left, when
12 Mr. Brown and Mr. Rocquemoire left and while they were
13 gone something happened, and when they returned
14 that's the time frame I'm in now.

15 A. Okay.

16 Q. Those are the questions I'm going to be
17 asking you about.

18 A. Yes, sir.

19 Q. At that time. Now, were you still present
20 when Mr. Rocquemoire and Mr. Brown came back to the
21 party?

22 A. Yes, sir.

23 Q. And where were you when they returned?

24 A. Standing in the middle of the street in the
25 front of Dexter Brown's driveway.

1 Q. And who was present at that time, the time
2 that Mr. Brown and Mr. Rocquemore returned?

3 A. No one, sir. Me.

4 Q. And when they returned, was anybody else
5 present at that time?

6 A. No, sir.

7 Q. And did there come to be a time when other
8 people arrived back at party number three?

9 A. Yes, sir.

10 Q. When you were standing in the driveway when
11 Mr. Brown and Mr. Rocquemore returned, party number
12 three was over?

13 A. Pretty much. Yes, sir.

14 Q. Everybody had left except you?

15 A. Yes, sir.

16 Q. And Mr. Brown's brother.

17 A. Yes, sir.

18 Q. That's Keith Brown?

19 A. I believe that's his first name.

20 Q. And when Mr. Brown and Mr. Rocquemore
21 returned, how much time if you know -- and it doesn't
22 have to be precise, but try to give the jury an idea
23 of how much time elapsed, how much time passed
24 between the time they returned to the party and then
25 others return to the party.

1 A. I'm not sure of the time, but shortly after,
2 sir.

3 Q. Shortly?

4 A. Shortly.

5 Q. After? Whatever shortly after means, but not
6 a long period of time?

7 A. Not a long period of time.

8 Q. Now, at that time, tell the jurors what
9 happened. And what I think they would like to hear
10 is: Who came, how did they come, what the atmosphere
11 was like at the time they returned; what was the
12 atmosphere among you, Mr. Brown, Mr. Rocquemore; what
13 was the atmosphere among the people who returned to
14 the party. And if you can identify them, please tell
15 us the type of vehicle they came in and how many
16 people were in it.

17 A. Okay. When Dexter and Dave arrived back to
18 the party, I was standing in the middle of the
19 street. Dexter noticed that cars were gone, and he
20 had asked me what happened.

21 And I told him, prior to them pulling up, I'm
22 not sure of the gentleman, but a young lady had got
23 some beer poured on her or in her face, and they had
24 shortly left.

25 Shortly after that, a vehicle comes flying

1 down the streets with no lights on, a gentleman
2 hanging out the window, yelling all kind of stuff,
3 sorts of things. And they pulled in front of
4 Dexter Brown's house. They get out of the car in an
5 aggressive manner, traveling towards myself Chris,
6 Dexter Brown, and David Rocquemore.

7 Q. And what happened?

8 A. There was a little bit of arguing, arguing
9 going on. One gentleman started to put his hands in
10 David Rocquemore's face like this (demonstrating).
11 David slapped his hand down (demonstrating), and we
12 began to fight.

13 Q. Was there anything that you did or anybody who
14 was with you that provoked that change?

15 A. No, sir.

16 Q. Was that the same type of atmosphere that
17 existed earlier in the evening at party number three?

18 A. When you say atmosphere, are you...

19 Q. Well, you said that people came and they acted
20 aggressively. I'd like you to describe that, but had
21 that type of action -- was that a change or was that
22 a continuation?

23 A. No. That was a change in -- in actions, sir.
24 Prior to them leaving the party, we were just inside
25 of the house, and one of the gentlemen seemed to be a

1 little intoxicated.

2 Q. But in terms of people being angry or ---

3 A. No, sir.

4 Q. --- having bad feelings, there weren't any, at
5 least inside the house?

6 A. No, sir.

7 Q. So how did you react, though? Were you
8 surprised when -- were those the same people who had
9 been at the party earlier?

10 A. Yes, sir. I was very much surprised. I
11 didn't know what triggered their actions.

12 Q. What did you decide to do at that time?

13 A. Well, when the blows -- well, when the blows
14 started to be thrown, I sort of put my dukes up, and
15 I got charged by one gentleman. A tall light-skinned
16 gentleman rushed -- rushed me. As he did that, I
17 turned to go to my trunk to try to get something to
18 hit him with, and he tackled me.

19 Q. Did you -- did you ever get to your trunk?

20 A. I got to the trunk, but I didn't get in to it.

21 Q. Did you open the trunk?

22 A. No, sir.

23 Q. Did you have a key out? Was your key in the
24 lock that opened the trunk?

25 A. No, sir.

1 Q. All right. I want to show you state's exhibit
2 number 16, please, and ask you if you can identify
3 it. Maybe it's 19. I apologize. On the screen
4 before the jury and before the witness is state's
5 exhibit number 19. Do you recognize that photograph?

6 A. Yes, sir.

7 Q. Do you recognize the objects within the
8 photograph?

9 A. Yes, sir.

10 Q. Starting on the right-hand side as the jurors
11 view the screen, please describe what's in the
12 photograph.

13 A. On the right-hand side, I see the -- the front
14 end of Dave's car. Right in front of it, I see my
15 car with the trunk open. And it looks like something
16 on the floor right there in the street.

17 Q. Now, what type of vehicle is that that's your
18 car?

19 A. I drive a Dodge Stratus '97.

20 Q. And what do you use that car for?

21 A. I use it for transportation to and from work,
22 and I also use it -- I own a side business where I do
23 floors, and I use it to transfer my material.

24 Q. For your business?

25 A. Yes, sir.

1 Q. Such as cleaning materials?

2 A. Mop, bucket, a stripping machine, and --
3 that's about it.

4 Q. And all that material was inside the trunk of
5 your car?

6 A. The buffing machine was not, but I do have mop
7 heads, my buckets, and a couple other things back
8 there. I'm not sure right now.

9 Q. Tell us about the object that's in the
10 left-hand side of the screen on the pavement.

11 A. I don't know what that is, sir.

12 Q. Is that any article of clothing that you had
13 or might have lost that evening?

14 A. No, sir.

15 MR. SAVAGE: Beg the Court's indulgence.

16 May I approach the court reporter?

17 THE COURT: Yes, sir.

18 (Mr. Savage reviews exhibits.)

19 BY MR. SAVAGE:

20 Q. Mr. Thomas, I'm going to look for the computer
21 image of this one. I'm going to try to show you
22 another image and ask if you can identify it. It's
23 state's -- excuse me -- defendant's 14.

24 (There was off-the-record discussion
25 regarding projection equipment.)

1 BY MR. SAVAGE:

2 Q. Do you recognize the photograph?

3 A. Yes, sir.

4 Q. Do you recognize the objects in the vehicle
5 within the photograph?

6 A. Yes, sir.

7 Q. Do you recognize that there are objects on top
8 of the windshield of your vehicle?

9 A. Yes, sir.

10 Q. And do you know what they are?

11 A. I can see a watch that looks to be broken.

12 Q. And anything else?

13 A. I see something near the windshield, but I
14 can't make out what it is.

15 Q. Are any of those items yours, any of the items
16 in defendant's 14 which you're seeing right now?

17 A. No, sir.

18 Q. Do those belong to you?

19 A. No, sir.

20 Q. Now, the location of those items in
21 relationship to the driveway where you were standing
22 and where the initial confrontation occurred and
23 Mr. Rocquemoire's vehicle, tell the jury, if you
24 would, the location. Where were those objects in
25 relationship to Mr. Rocquemoire's car and where the

1 initial confrontation took place?

2 A. It looks to me that those objects are on top
3 of my car which is in front of Dave's vehicle
4 approximately ten feet.

5 MR. SAVAGE: Mark this as defendant's
6 next, please.

7 (Defendant's Exhibit No. 26, photo -
8 Chris Thomas' vehicle, is marked for identification.)

9 MR. SAVAGE: May I approach the witness,
10 Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. SAVAGE:

13 Q. Mr. Thomas, do you recognize this photograph
14 and the objects in that photograph?

15 A. It looks to be the same type of photograph.
16 My car, the same stuff in the trunk, that's it.

17 Q. The same location?

18 A. Yes, sir.

19 Q. The same date?

20 MR. SAVAGE: Your Honor, we'd offer this
21 as defendant's, defendant's exhibit 26.

22 MR. DURANT: No objection.

23 THE COURT: Defendant's 26 in evidence
24 without objection.

25 MR. SAVAGE: Thank you, Your Honor.

1 (Defendant's Exhibit No. 26, previously
2 marked for identification, is received in evidence.)

3 BY MR. SAVAGE:

4 Q. Mr. Thomas, before I distracted you -- we got
5 into a lot of other things -- we were talking about
6 you were standing there with two people, a car came
7 up, there was a confrontation, fists started to fly,
8 and you went towards your vehicle.

9 A. Yes, sir.

10 Q. Going back to that point in time now, I had
11 asked you, I believe I'd asked you if you had a key
12 to open your trunk.

13 A. I do have a key, but I didn't have the key
14 then to open the trunk.

15 Q. Tell the jury, if you know, how the trunk was
16 opened.

17 A. Well, the latch on my trunk has -- had
18 previously been broken from me putting supplies in
19 there and buckets, and it would latch, you know, sort
20 of, and I could -- there was a way for me to keep it
21 closed.

22 The gentleman that tackled me, tackled me onto
23 the trunk with a good force, and it threw it -- threw
24 the hinge off. And that's how the trunk popped open,
25 'cause it wouldn't close after that.

1 Q. I want to show you defendant's 26 and ask you
2 if this photograph's -- would assist you in
3 describing to the jury, and I'll put it up if it
4 does, where -- where you hit.

5 A. Yes, sir.

6 MR. SAVAGE: Let me put it up there.

7 BY MR. SAVAGE:

8 Q. All this technology is not working. Would you
9 mind stepping down, please?

10 A. (The witness leaves the witness stand and
11 stands in front of the jury-box.)

12 Q. Mr. Thomas, if you'd stand back here. This is
13 for the jury. We're not able to put this up ---

14 A. Okay.

15 Q. --- for a visual, but it's important to the
16 jury to know what's in this picture.

17 A. Okay.

18 Q. They will have this picture with them. They
19 can look at it later. If you would take the picture
20 and show them where they can look, where they can
21 examine the photograph to look for what you have
22 described as the popping open, what caused the
23 popping open of the trunk. Just stay right here.

24 A. Here you can see in this -- in this scene or
25 this picture, there are scuff marks on the back of

1 this hood where the brake light is present. You can
2 see there, there is a lot of scuff marks on there,
3 like I was pushed on there or what have you.

4 Also, at the bottom of this, you can see where
5 the rubber seal is broken, which right below that is
6 where the trunk latch is broken.

7 Q. Thank you. Kindly return to your seat.

8 A. (The witness returns to the witness stand.)

9 Q. Now, prior to the incident that night, were
10 those scuff marks there?

11 A. No, sir.

12 Q. And are you positive those scuff marks and
13 that jolting of the -- of the trunk is what caused
14 that trunk to pop open?

15 A. Yes, sir.

16 Q. Now, in that trunk or in your vehicle, did you
17 have any weapons?

18 A. No, sir.

19 Q. Did you have a gun?

20 A. No, sir.

21 Q. Did you have anything, a taser or a
22 long-bladed knife or a club or anything of that
23 nature?

24 A. No, sir.

25 Q. Do you know where Mr. Rocquemore was the last

1 time you saw him?

2 A. Yes, sir.

3 Q. And when I say the last time you saw him, I'm
4 talking about this night. By the way, have you seen
5 Mr. Rocquemore at all since this night?

6 A. No, sir.

7 Q. Have you spoken to him at all since the night,
8 this night?

9 A. No, sir.

10 Q. Have you discussed the testimony today with
11 Mr. Rocquemore?

12 A. No, sir.

13 Q. But the last time you saw him that night,
14 where was he?

15 A. In the police car.

16 Q. All right. Maybe I don't know how to ask the
17 question. Where was he before you went to your car?

18 A. Dave, when I made a dash to my car, I saw -- I
19 saw Dave running or trying to get to his car.

20 Q. And were you able to see anything after that?
21 If you were, explain what it is. If you were not
22 able to, explain why you couldn't see it.

23 A. I couldn't see much after that, due to the
24 fact that I was being held down by one of those
25 gentlemen, the tall light-skinned gentleman.

1 Q. Could you hear anything at that time?

2 A. Yes.

3 Q. And what could you hear?

4 A. I heard scuffling. It sounded like, you know,
5 a fight. I also heard seemed to be like some -- a
6 metal, something hard hit the ground. And after
7 that, shortly after, I heard two shots.

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

9 THE COURT: Okay.

10 BY MR. SAVAGE:

11 Q. When you were on the ground, your vision of
12 what was going on, I take it, was blocked or you
13 were...

14 A. Yes, sir.

15 Q. --- in a position that you couldn't see?

16 A. Couldn't see. It was towards the trunk.

17 Q. But you could hear?

18 A. Yes, sir.

19 Q. And the timing of what you heard is critical.
20 Tell the jury, if you can remember, if it's clear to
21 you, what you heard in terms of running, punching,
22 hollering, language, that sort of thing.

23 A. Well, the only thing that I basically heard
24 prior to the fight were the guys were telling Dave
25 and myself that we didn't belong, you know, up there

1 in the area.

2 During the struggle, all I just could hear was
3 just scratching and, you know -- (knocks on witness
4 stand). Just sound like a struggle.

5 Q. You could hear a struggle?

6 A. (The witness nods head up and down.)

7 MR. SAVAGE: Kindly answer any questions
8 the prosecutor might have for you, Mr. Thomas.

9 CROSS-EXAMINATION

10 BY MR. DURANT:

11 Q. Now, when these shots, when you heard these
12 shots, the fellow that had you on the ground let you
13 up?

14 A. Not right away, but shortly after.

15 Q. Okay. And when he let you up, where was
16 everybody?

17 A. I saw two people on top of Dave beating --
18 beating him. The other gentleman let me go and ran
19 over there.

20 Q. Okay. And I'm going to show you an exhibit.
21 Excuse me, let me get the number on this. I think
22 it's state's 34. You have not seen this exhibit
23 before, have you; is that correct?

24 A. No, sir.

25 Q. And do you recognize whose car this would be?

1 A. It looks to be Dave's vehicle.

2 Q. And this would be your vehicle here?

3 A. Yes, sir.

4 Q. And is this area over here where you saw them
5 holding Mr. Rocquemore down on the ground?

6 A. Yes, sir.

7 Q. And this vehicle here would be the vehicle
8 that the guys arrived in?

9 A. Yes, sir.

10 Q. Okay. Now, to be clear, you are a friend of
11 David Rocquemore?

12 A. Yes, sir.

13 Q. And I believe when you were interviewed at
14 your home by Mr. Casey, you said y'all were very,
15 very close?

16 A. Yes, sir.

17 Q. And you have testified that you haven't met
18 with Mr. Rocquemore, but you must have met with
19 Mr. Rocquemore's attorneys on a number of occasions?

20 A. Yes, sir.

21 Q. And that night you were, of course, questioned
22 by police. Correct?

23 A. Yes, sir.

24 Q. Two different detectives, one was Detective
25 Smith and one was Detective Boyd. Do you remember

1 that?

2 A. Yes, sir.

3 Q. And you gave each of them a statement.

4 Actually, you gave a statement to Detective Smith,
5 correct?

6 A. I believe so. I'm not sure of the officer's
7 name.

8 Q. And then another male detective came back and
9 asked you some additional questions?

10 A. Yes, sir.

11 Q. Is that correct? Do you remember that? And
12 do you remember...

13 MR. DURANT: May I approach the witness,
14 Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. DURANT:

17 Q. --- those being the statements, the two
18 statements that you gave?

19 A. Yes, sir.

20 Q. Okay. That is your signature on there?

21 A. Yes, sir.

22 Q. And these statements were given right after
23 the incident occurred. Is that correct?

24 A. Yes, sir.

25 Q. And referring to the first statement, the

1 three-page statement that you gave to Detective
2 Smith. And you told Detective Smith about the girl
3 coming in and saying she had a beer thrown on her,
4 correct?

5 A. Yes, sir.

6 Q. And you told Detective Smith that you went
7 outside to see what was going on. Correct?

8 A. I -- yes, sir.

9 Q. And then the two or three guys pulled out and
10 they got out of the car and started shouting which
11 led to a fight?

12 A. That's not the same time, sir.

13 Q. Well, I mean, is that what your statement says
14 in that ---

15 A. Yes, sir.

16 Q. --- report? Okay. That the two or three guys
17 pulled up, they got out of the car and started
18 shouting which led to a fight. Correct? That's what
19 you told them?

20 A. Yes, sir.

21 Q. You said: One guy grabbed me and held me, and
22 I heard two shots. Correct?

23 A. Yes, sir.

24 Q. And you then -- you told Detective Smith you
25 didn't know why the argument started. Correct?

1 A. Yes, sir.

2 Q. And you told Detective Smith you did not see
3 anyone with a gun?

4 A. Correct, sir.

5 Q. And then Detective Boyd came back and asked
6 you some additional questions?

7 A. Yes, sir.

8 Q. And he asked you what happened when the three
9 guys got out of the Explorer, and you told him they
10 began to argue with David about in the truck not
11 having the lights on?

12 A. Okay.

13 Q. Okay? So Dave was arguing with them about not
14 having the lights on in the truck?

15 A. No, sir.

16 Q. Okay. Well, that's what your statement says.
17 You admit that's what your statement says?

18 A. I didn't say Dave was arguing, sir.

19 Q. Well, why would they have let -- argued with
20 David about the lights not being on in the truck
21 unless David said something to them about it?

22 A. Dave did mention to them driving down the
23 street with the lights off.

24 Q. In fact, he accused them of being a bunch of
25 gangsters?

1 A. I didn't hear that, sir.

2 Q. And they told Dave not to worry about the
3 lights?

4 A. I didn't hear that either, sir.

5 Q. But that's in your statement, correct?

6 A. I can't remember that.

7 Q. And the detective asked you how the fight
8 started, correct?

9 A. Yes, sir.

10 Q. And you said that -- and, first of all, you
11 don't say anything in that statement about them
12 driving down the road fast and almost hitting you
13 with the car and yelling out the window or anything
14 like that. Would you admit you don't say anything in
15 either one of those statements about that?

16 A. I do say that they were driving down the
17 street with their lights off, sir. I did not say
18 that they tried to hit us.

19 Q. Or that they were driving fast or that anybody
20 was yelling out of the window. You have to admit
21 that that's not in that statement, either one of
22 those statements. Correct?

23 A. Correct.

24 Q. And Detective Boyd asked you how the fight
25 started. And you said to Detective Boyd that the guy

1 that got shot approached us, me and Dave, he put his
2 hand in Dave's face, and they began to fight. Now,
3 are you meaning him and Dave, the guy that got shot
4 and Dave?

5 A. Yes, sir.

6 Q. Then your next sentence says: I ran to my
7 trunk to act as if I was getting something. Correct?

8 A. Yes, sir.

9 Q. And what were you acting like you were
10 getting, sir?

11 A. Anything bigger than my fist that I can use
12 for a defense.

13 Q. You were going to your car to get a weapon.
14 Correct?

15 A. I was going to my car to get something to
16 defend myself with.

17 Q. Exactly. And you told them that, too, didn't
18 you?

19 A. No, sir.

20 Q. So you didn't say that? You just went to your
21 car and didn't say a word?

22 A. Yes, sir.

23 Q. Okay. And some big guy grabbed you and held
24 you down. That's what you said?

25 A. Yes, sir.

1 Q. That's exactly how you put it. "I ran to my
2 trunk to act if I was getting something, and some big
3 guy grabbed me and held me down"?

4 A. Yes, sir.

5 Q. And then you say: "They started to fight, and
6 Dave ran to his car." That's what you told Detective
7 Boyd, correct?

8 A. I believe so, sir.

9 Q. It's right there in your statement, but you
10 can read it and tell me if you didn't say it. Is it
11 in the statement or not? The top of page two.

12 A. (The witness reviews document.) Yes, sir.

13 Q. And he asked you to describe the fight between
14 Dave and the guy that got shot. Correct?

15 A. Yes, sir.

16 Q. And you told him that the guy that got shot
17 was in Dave's face, and Dave knocked his hand down
18 from his face, and they started fighting?

19 A. Correct.

20 Q. Those two?

21 A. No, sir.

22 Q. It's what you put -- that's what you told him,
23 right?

24 A. That is what I said, but that isn't -- it's
25 not what happened.

1 Q. And you were asked specifically after that:
2 Did you see any actual blows exchanged or any pushing
3 or shoving between David and the other two guys?
4 Your answer was no. Correct?

5 A. Yes, sir.

6 Q. And then you elaborate: "No. Just Dave
7 slapping the hand"?

8 A. That's all I saw.

9 Q. And you didn't see anything else, correct?

10 A. They began to fight. I didn't have my
11 eyes ---

12 Q. You didn't see anything from that point.
13 Correct?

14 A. No, sir.

15 Q. You didn't say anything about hearing anything
16 hit the ground in your original statement. Correct?

17 A. Correct.

18 Q. And to move backwards a little bit, you were
19 at the party in Summerville with David, correct?

20 A. Yes, sir.

21 Q. And Dexter. And everyone was very cordial at
22 that party. Correct?

23 A. Yes, sir.

24 Q. And at that same party, the guy that got shot
25 and his friends were at the same party; is that

1 correct?

2 A. Yes, sir.

3 Q. And there were no problems at that party?

4 A. I don't agree with that, sir.

5 Q. Okay. You didn't say anything about that?

6 A. Sir, I didn't remember at the time.

7 Q. Oh, okay. You seem to -- your memory seems to
8 be improving with two years of age; is that correct?

9 A. As you guys call me and come visit me and
10 question me, my memory, you know, it goes back and
11 replays the incident.

12 Q. And more and more details get added all the
13 time?

14 A. I'm not saying that, but I'm noticing I'm --
15 there's a few things that, you know, I may remember.

16 Q. Is there -- but you would admit that you never
17 said anything in either one of your statements or
18 when you were interviewed by Mr. Casey or to this
19 jury today that there had been any kind of bad blood
20 between any of you and David Rocquemoire before they
21 come -- that time that they came driving up and
22 approached y'all aggressively? That's your
23 testimony?

24 A. No bad blood, sir.

25 Q. Okay. So they had no reason, you would agree,

1 to be angry with you or David Rocquemore at the time
2 they came back to Dexter's house?

3 A. Not to my knowledge, they didn't have any
4 reason. We didn't give them a reason.

5 Q. Okay. Now, were you angry because they'd run
6 the girls off?

7 A. No, sir.

8 Q. Was David Rocquemore angry because they had
9 run the girls off?

10 A. Not to my knowledge.

11 Q. Was Dexter Brown angry because they had run
12 the girls off?

13 A. Not to my knowledge.

14 Q. So y'all had no reason to be angry yourselves?

15 A. I can speak for me.

16 Q. Okay. But you were cool, calm, and collected?

17 A. Yes, sir.

18 Q. The fact of the matter is, Mr. Thomas, you
19 started this whole thing, didn't you?

20 A. No, sir.

21 Q. And up until the time you went to your trunk
22 and you announced that you were getting a weapon,
23 that this was just basically an argument?

24 A. No, sir.

25 Q. And you turned it into a deadly encounter by

1 claiming to go get a weapon out of your car, when
2 none of those guys had a weapon. You would
3 acknowledge that, correct?

4 A. I don't know what they had on their person.

5 Q. You didn't see anybody have -- with a weapon,
6 correct?

7 A. No, sir.

8 Q. You didn't hear anybody threaten to have a
9 weapon, did you?

10 A. No, sir.

11 Q. The only person that threatened to get a
12 weapon out there was yourself?

13 A. I didn't threaten to get a weapon. I made a
14 motion to go get it.

15 Q. Okay.

16 A. Why would I tell someone I'm going to get a
17 weapon? That would defeat the purpose.

18 Q. So, but you can make -- you make no bones
19 about the fact that you went to the car to act as if
20 you were getting something?

21 A. I was going to get something.

22 Q. And the fact of the matter is, had you not
23 done that, then probably no one would have been shot
24 that night?

25 A. No, sir, because I reacted after the fight

1 started.

2 Q. The fight didn't involve you.

3 A. Yes, it did. I was attacked -- or approached
4 by the taller gentleman.

5 Q. You didn't say anything in your statements
6 about being attacked by the taller gentleman until
7 you said you went to your car to get something?

8 A. No, sir, but I know how it happened.

9 Q. I know how you've changed your story today,
10 but back then when you gave the statement you said
11 nothing about that, did you?

12 A. Back then I was a little nervous and shook up,
13 sir.

14 Q. Back then maybe you were telling the truth,
15 sir?

16 A. I'm telling the truth now, sir.

17 Q. And when you got -- and when you were let up,
18 those folks were across from David -- from
19 Dexter Brown's house, correct?

20 A. Correct.

21 Q. And they had David down on the ground?

22 A. Yes, sir.

23 Q. And they got a weapon from him?

24 A. I guess, sir.

25 Q. You saw it?

1 A. No, I didn't actually see it.

2 Q. Okay. David wanted you to come across the
3 street and get the weapon, didn't he?

4 A. Correct.

5 Q. And the guy said you stay where you are?

6 A. I didn't remember anyone saying that to me,
7 sir.

8 Q. And who else had their shirt off that night,
9 sir?

10 A. I don't know if anyone had their shirt off.

11 Q. Well, there's a shirt in the road right there
12 where you got tackled?

13 A. It's not mine.

14 Q. Okay. Well, we know it's not the other
15 fellows' because we saw them when the police drove up
16 on their surveillance -- on their in-car video. They
17 all had shirts on.

18 A. Did they video me? Was I on video?

19 Q. No, sir, you're not on video.

20 A. Was I on video with a shirt off, sir?

21 Q. You weren't on video.

22 A. Okay.

23 Q. Okay. The other guys had their shirts on.

24 Did Dexter Brown have his shirt on?

25 A. I don't know.

1 Q. Why would he not have his shirt on?

2 A. I don't know.

3 Q. David Rocquemore had his shirt on. Correct?

4 A. Chris Thomas had his shirt on, too, sir.

5 Q. The guy that got killed had his shirt on. And
6 we know the other three people had their shirts on.
7 So whose shirt was it?

8 A. It's not mine, sir. I had my shirt on.

9 MR. DURANT: Court's indulgence.

10 BY MR. DURANT:

11 Q. And you also say that the jewelry didn't
12 belong to you?

13 A. Yes, sir.

14 Q. And so I don't guess that you pulled that
15 chain and that watch off as you were going to your
16 car to get your weapon out of the trunk?

17 A. No, sir.

18 Q. Were you going to rumble with these guys?

19 A. Would they allow me to take my chain and my
20 necklace off and run to the trunk?

21 Q. They didn't allow you to get your weapon, did
22 they?

23 A. I didn't have a weapon. Did the police find
24 one in the trunk?

25 Q. But you sure told them that you had one?

1 A. No, sir.

2 MR. DURANT: Thank you. I have no
3 further questions ---

4 THE WITNESS: Thank you.

5 MR. DURANT: --- for this witness.

6 MR. SAVAGE: Please the Court.

7 THE COURT: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. SAVAGE:

10 Q. Mr. Thomas, the night of this incident, did
11 you cooperate to the best of your ability with the
12 detectives?

13 A. Yes, sir. I even sat in Dexter's driveway,
14 Indian-style, waiting on the police to come.

15 Q. Do you know how many detectives were there
16 that night, or do you have any idea?

17 A. It just was a lot of cars. I don't know, sir.

18 Q. And every one of them who asked you a question
19 about anything, did you answer that to the best of
20 your ability to give them honest and truthful
21 answers?

22 A. Yes, sir.

23 Q. Is there any question that you refused to
24 answer, or is there anything you refused to do to
25 accommodate the law enforcement community that were

1 there that night?

2 A. No, sir.

3 MR. SAVAGE: Thank you, sir.

4 MR. DURANT: Nothing further, Your Honor.

5 THE COURT: You may step down, sir.

6 Thank you.

7 (The witness is excused from the witness
8 stand.)

9 MR. SAVAGE: The defense calls
10 David Rocquemore.

11 THE COURT: Before you do that, let's
12 take a short break, and then we'll pick up with that.

13 MR. SAVAGE: Yes, sir.

14 THE COURT: Ladies and gentlemen, I'll
15 send you to the jury room. Do not discuss the case
16 in any way. Thank you very much.

17 (Whereupon, the jury goes to the jury
18 room at approximately 2:47 p.m.)

19 THE COURT: Thank you.

20 (A break is taken at approximately
21 2:47 p.m.)

22 (The trial reconvenes at approximately
23 3:07 p.m., the defendant being present with counsel,
24 and the following proceedings were had:)

25 THE COURT: Thank you. Please be seated.

1 Are y'all ready to proceed?

2 MR. DURANT: Yes, sir, Your Honor.

3 THE COURT: Defendant?

4 MR. SAVAGE: Judge, we just have that
5 issue on the pre-Miranda silence. I don't know
6 whether that's going to be something that comes up
7 during the testimony or cross-examination.

8 Our position is that it's disingenuous to
9 call it pre-Miranda. It's pre-arrest silence. From
10 looking at the video, it appears Mr. Rocquemore was
11 under arrest and protected by Miranda from the moment
12 the police showed up.

13 We offer one additional thing. He's
14 under investigation for some time, he was a suspect,
15 he was placed under arrest.

16 We also then have the medical situation,
17 what his medical condition was at the time.

18 THE COURT: Well, that's the thing we
19 left it at. I thought we said if something came out
20 inappropriately, you were going to bring it to the
21 Court's attention.

22 Are you planning on getting into this
23 issue?

24 MS. KNEESE-SHEALY: Yes, I am, Your
25 Honor.

1 THE COURT: All right. I'll hear you out
2 on that.

3 MS. KNEESE-SHEALY: Your Honor, it would
4 be my position that under *State vs. Weston, Jenkins*
5 *vs. Anderson, Fletcher vs. Weir*, and *State vs. Bell*
6 that post-arrest/pre-Miranda silence is appropriate
7 for me to cross-examine the defendant about.

8 THE COURT: Well, then I guess I should
9 have been more specific. You're only going to get
10 into it on cross-examination?

11 MS. KNEESE-SHEALY: That's correct.

12 THE COURT: That is how I thought we left
13 it, that if he testified that -- you even
14 acknowledged, Mr. Savage, when it could come up.

15 MR. SAVAGE: I didn't want them to jump
16 up and do that. I think there's some additional
17 concerns with them doing that. I didn't want to have
18 to necessarily make that objection before the jury.
19 That's an issue that would be ---

20 THE COURT: Well, how would it -- give me
21 an example how it may be prejudicial.

22 MS. KNEESE-SHEALY: Your Honor, I have
23 Detective Stanley here if we need to get it on the
24 record. The first responding officer indicated they
25 arrived at the scene at 4:05 a.m. Detective Stanley

1 can testify in camera, Your Honor, I can offer to the
2 Court, that he read his -- he read Mr. Rocquemore his
3 Miranda warnings at 6:05 in the morning.

4 I think it's appropriate under our case
5 law that I am allowed to inquire of Mr. Rocquemore
6 regarding his silence from 4:05 a.m. to 6:05 a.m. and
7 explain what his position regarding the facts that
8 gave rise to the shooting were.

9 THE COURT: Yes, sir. Do you wish to
10 respond?

11 MR. SAVAGE: Judge, there are two issues.
12 One, he was in custody at that time. He was under
13 arrest immediately when the police officers arrived.
14 And he had a medical condition that prevented his
15 examination. In fact, during his interrogation is
16 when the EMS was sought by the detectives for a
17 second examination.

18 THE COURT: Well, I'm kind of curious,
19 because if he had some medical condition and he's
20 testifying, why can't that be said? Couldn't that be
21 inquired about?

22 MR. SAVAGE: They certainly can inquire
23 about his medical condition. I think everybody
24 agrees what his medical condition was at the time.

25 THE COURT: Well, I mean, why -- if they

1 indicate, well, you didn't say or do anything during
2 this period of time, if he calls into question
3 something that prompts that, why wouldn't his
4 response be that, you know, I was precluded from
5 doing anything because of my condition?

6 MR. SAVAGE: I think it would.

7 THE COURT: Well, I mean, what stops the
8 state from doing that?

9 MR. SAVAGE: From asking him why he
10 didn't give the statement he's giving today?

11 THE COURT: What happened between the
12 period of this and that, and why wasn't anything
13 said.

14 MR. SAVAGE: Because he has no obligation
15 to say anything, number one. Number two, he was
16 incapable and not competent to make a statement at
17 the time.

18 THE COURT: All right. Why was he not
19 competent to make a statement, medically?

20 MR. SAVAGE: Medical reasons.

21 THE COURT: What was the medical reason?

22 MR. SAVAGE: I believe he was suffering
23 from concussions. He was hospitalized -- excuse me.
24 He was taken to a hospital.

25 MS. KNEESE-SHEALY: Your Honor, as I

1 understand it, he was taken to the hospital or told
2 to take some Tylenol for his headache and put some
3 ice on his abrasions. It was nothing that amounted
4 to his not being able to speak or to address anyone.

5 THE COURT: What was the other case you
6 cited? Under *Weston*, I don't see why *Weston* says
7 much about it.

8 MS. KNEESE-SEALY: *Jenkins vs. Anderson*,
9 Your Honor, *Fletcher vs. Weir*, and *State vs. Bell*.
10 And, Your Honor, do you want me to continue regarding
11 the case law?

12 THE COURT: Go ahead.

13 MS. KNEESE-SHEALY: In essence, what the
14 case law sets forth is: A person is entitled to
15 Miranda warnings, and once the Miranda warnings are
16 read, it would then be inappropriate, if they chose
17 to remain silent, to then comment on their silence,
18 but these cases draw the distinction between that
19 time period prior to the Miranda warnings being read.

20 And, Your Honor, Mr. Savage has made an
21 issue in this case regarding the absence of a search
22 of the victim's vehicle. And, certainly, had
23 Mr. Rocquemoire indicated at the scene that evening to
24 the officers who were present, prior to the Miranda
25 warnings being read, what I am assuming his version

1 is going to be today in court, perhaps that would
2 have been handled differently. So Mr. Savage has
3 also made that time period an issue.

4 THE COURT: Have you looked at *State vs.*
5 *Weston*, Mr. Savage?

6 In *Doyle vs. Ohio*, the United States
7 Supreme Court held that the due process clause in the
8 Fourteenth Amendment is violated when a state
9 prosecutor seeks to impeach a defendant's exculpatory
10 story, told for the first time at the trial, by
11 cross-examining him about his post-arrest silence
12 after receiving Miranda warnings.

13 *Doyle* also prohibits the state from
14 commenting upon the defendant's request for an
15 attorney.

16 The rationale for *Doyle* is that it would
17 be a violation of due process to allow comment on the
18 silence when Miranda warnings have been -- have been
19 encouraged.

20 Subsequent to *Doyle*, in *Fletcher vs.*
21 *Weir*, 455 U.S. 603, the Supreme Court clarified that
22 *Doyle* was applicable only in situations in which the
23 government had induced, via Miranda warnings, a
24 defendant's belief that his exercise of a
25 constitutional right would not be used against him.

1 In the absence of the sort of affirmative
2 assurances embodied in the Miranda warnings, we do
3 not believe that it violates due process of law for a
4 state to permit cross-examination as to post-arrest
5 silence when a defendant chooses to take the stand.

6 And that goes back to what my initial gut
7 reaction was when we talked about it at pretrial.
8 And if he takes the stand, I'm not sure what the
9 issue is.

10 MR. SAVAGE: Beg the Court's indulgence.

11 (Mr. Savage and the defendant confer.)

12 THE COURT: And she is specifically
13 talking about a period of time before that all took
14 place. Is that correct?

15 MS. KNEESE-SHEALY: That's correct,
16 Your Honor. And the way I thought I could handle it
17 when cross-examining Mr. Rocquemore is to specify
18 those time periods so we don't spill over to
19 post-Miranda.

20 THE COURT: I mean, they went on,
21 Mr. Savage, to say that *Doyle* is simply inapplicable.
22 Unlike *Doyle*, in this case, the person was not under
23 arrest at the time they told him he needed a lawyer
24 nor had he been given Miranda warnings. Under
25 *Fletcher*, it is clear that *Doyle* is inapplicable to

1 reference to his statement to his friend. And they
2 cite another jurisdiction for that, too. That was
3 2006.

4 MR. SAVAGE: I understand the Court's
5 ruling, Your Honor.

6 THE COURT: All right.

7 MR. SAVAGE: I take exception to it, and
8 I'd like explain the exception ---

9 THE COURT: Yes, sir.

10 MR. SAVAGE: --- in case it becomes an
11 issue.

12 THE COURT: Yes, sir.

13 MR. SAVAGE: The exception would be based
14 on the encouragement of law enforcement to delay,
15 intentionally delay. And I'm not saying it was done
16 in this case. The extent of the public policy
17 argument would be that the delay in interrogation can
18 afford them that opportunity of cross-examining him
19 on his pre-Miranda silence.

20 So I believe if Miranda is a
21 constitutional right, which I believe it is now, that
22 that would be in violation of that, because it would
23 encourage a period of time before he's given an
24 opportunity to exercise his Miranda rights when he
25 knows that he is entitled to Miranda and is silent on

1 that basis.

2 But I understand the Court's ruling.

3 THE COURT: Well, I mean, but that's a
4 different spin on it, if you're saying that law
5 enforcement intentionally chose a course of conduct
6 to induce him?

7 MR. SAVAGE: I don't know that they did
8 or not, but certainly that's a public policy issue.

9 They interviewed everybody else at the
10 scene. They interviewed everybody else immediately.
11 In fact, they couldn't photograph, they say, one of
12 them because they are busy interviewing him.

13 And they had that opportunity. It's not
14 that they didn't have the opportunity to interrogate
15 him at the scene. They chose not to. That was not a
16 Rocquemore choice.

17 THE COURT: Well, my concern, to
18 interrupt you, is when you say you don't know whether
19 they did or not.

20 MR. SAVAGE: Correct.

21 THE COURT: If you don't know whether
22 they did or not, I do not either, and there is
23 nothing then postured for the Court as far as
24 testimony is concerned.

25 MR. SAVAGE: The posturing is that they

1 interviewed everybody else at the scene. He was
2 obviously kept there at some time. They photographed
3 him at the scene. They could have interviewed him at
4 the scene and said "what happened?" They chose not
5 to do that. And I'm not attributing any ill motive
6 on their part, but if the Court's ---

7 THE COURT: Well, what I was asking you,
8 are you telling me there is a sufficient basis in the
9 record for all of those statements, or does testimony
10 need to be presented on that issue?

11 MR. SAVAGE: If we're allowed to, we
12 would seek to present testimony. I'm not saying what
13 the testimony would be. I'm hopeful. But I would --
14 I would like to further the record-building by
15 questioning the detectives.

16 THE COURT: She's prepared to offer that
17 testimony.

18 MS. KNEESE-SHEALY: I have one detective
19 here, Your Honor. I don't have all the first
20 responding officers here. Would you like for me to
21 begin with ---

22 THE COURT: That's fine.

23 MS. KNEESE-SHEALY: --- okay, with the
24 detective that's here? We would call Detective
25 Stanley to the stand.

1 DETECTIVE DONALD G. STANLEY,
2 being first duly sworn by the clerk, is examined and
3 testifies as follows:

4 THE CLERK: If you'll please state your
5 full name and spell your last name.

6 THE WITNESS: Donald Gene Stanley,
7 S-T-A-N-L-E-Y.

8 DIRECT EXAMINATION (IN CAMERA)

9 BY MS. KNEESE-SHEALY:

10 Q. Detective Stanley, would you advise the Court,
11 please, where you were employed on August 14th, 2005?

12 A. Charleston County sheriff's office.

13 Q. And what was your position then?

14 A. Detective.

15 Q. What is your connection with the case of The
16 State vs. David Rocquemoire?

17 A. I'm the case agent for this case.

18 Q. And did you appear at the scene the morning in
19 question, that being August 14th, 2005?

20 A. Yes, I did.

21 Q. Do you recall what time you got there?

22 A. I don't recall. I was in Mount Pleasant
23 interviewing somebody else on a separate case when
24 the call went out. I transported them to their
25 residence in Charleston National, and then I

1 responded to the scene.

2 Q. I need you to speak up just a little bit.

3 A. Sure.

4 Q. I'm having a little hard time hearing you.

5 When you arrived at the scene, where was David
6 Rocquemore?

7 A. He was in the back of a patrol car.

8 Q. And could you describe for the Court what you
9 did at the scene prior to, in fact, giving
10 Mr. Rocquemore his Miranda warnings?

11 A. At the scene, we established the number of
12 people that we had there that needed to be
13 interviewed, went ahead and got supervisors and
14 detectives in route to assist in doing that. Had
15 crime scene units in route.

16 Q. Had the crime scene what?

17 A. Units in route to the scene. After they
18 arrived, we went ahead and start taking photographs
19 of Mr. Rocquemore, obtain a GSR kit. And we then
20 decided that we were going to transport him back to
21 our station, and at that point we advised him of his
22 Miranda rights and go ahead and start the interview
23 process.

24 One other thing. I mean, we did try to
25 expedite getting him back to the station. We even

1 ran blue lights and sirens while on 26 to -- to get
2 through traffic.

3 Q. Okay. When you indicate that you intended to
4 take him back to the station, what was the purpose of
5 taking him back there?

6 A. To get him in a proper interview environment.
7 There were a lot of people still at the scene. The
8 scene was, in some respects, a hostile environment
9 for him to be in with some of the other people that
10 were there that had been involved in this incident.
11 And at that time, they were unaware that the victim
12 had -- had expired, and we didn't want them to find
13 that out when he was there.

14 Q. Okay. And of the various things you said were
15 occurring at the scene, whose role was it to oversee
16 all of that?

17 A. As the case agent, I basically directed a lot
18 of who we wanted to get to come to the scene as far
19 as interviewing and whatnot. In actuality, the top
20 ranking supervisor would have been Lieutenant Tittle,
21 and he would have overseen everything.

22 Q. Was there any effort on your part to delay
23 questioning Mr. Rocquemore?

24 A. Not at all.

25 Q. And where were you when you actually gave him

1 his Miranda warnings?

2 A. At my office in my interview room.

3 Q. And what time was it that those were read to
4 him?

5 A. 6:05 a.m.

6 MS. KNEESE-SHEALY: Beg the Court's
7 indulgence one moment.

8 I have no further questions. Answer any
9 Mr. Savage may have.

10 THE WITNESS: Sure.

11 CROSS-EXAMINATION (IN CAMERA)

12 BY MR. SAVAGE:

13 Q. Good afternoon, sir.

14 A. Good afternoon.

15 Q. You may have already testified to this, and I
16 wasn't listening as closely as I should have. What
17 time did you arrive at the scene?

18 A. I'm not sure of the exact time. As I -- I was
19 in Mount Pleasant interviewing somebody on an
20 unrelated case when this occurred, and I was at our
21 substation which is over off the Isle of Palms
22 Connector at that time. I transported that person
23 back to Charleston National, dropped them off at
24 their residence, and then I responded to Woodside
25 Manor.

1 Q. So you were in Mount Pleasant, went to the
2 Isle of Palms, went to Charleston National before you
3 went to ---

4 A. I was -- when the call went out, I was at our
5 substation at the Isle of Palms Connector. And I
6 take -- I took the victim in that case back to
7 Charleston National, then I responded via 526 back
8 over to I-26 and up to Woodside. I would estimate
9 probably 30 minutes, 35 minutes.

10 Q. During the time period that Mr. Rocquemoire was
11 at the scene prior to your arrival, do you know where
12 he was?

13 A. The best of my -- prior to my arrival?

14 Q. Yes, sir.

15 A. Prior to my arrival, the best of my knowledge,
16 he was in the back of a patrol car, but...

17 Q. And who was in that patrol car?

18 A. As far as I know, he was. By himself.

19 Q. And do you know how -- what length of period
20 of time he was detained, arrested, handcuffed, and
21 placed in the back of the patrol car by himself prior
22 to your arrival?

23 A. I would assume as soon as the deputies got on
24 the scene that they handcuffed him and put him in a
25 patrol car. And from what I know of the video, the

1 in-car video, the deputies out there were trying to
2 maintain the scene and protect the crime scene. So I
3 would assume he was sitting by himself in the car the
4 entire time.

5 Q. So the entire time from the time he was
6 arrested till the time you arrived on the scene, he
7 was in the back of a patrol car by himself?

8 A. The best of my knowledge. I can't testify to
9 something I didn't witness.

10 Q. Now, how long after you arrived did you remove
11 him from the scene?

12 A. I would estimate probably -- probably 30 to 45
13 minutes.

14 Q. And during the time period in which you arrive
15 at the scene, did the EMS attend to him while you
16 were there?

17 A. EMS did respond. They checked him, and they
18 said there was nothing wrong with him, and they
19 cleared the scene.

20 Q. And how long a period of time would that have
21 been?

22 A. Period of time when what would have been?

23 Q. In which he was in custody -- not in custody,
24 but how long was he under the care and the
25 observation of the medical personnel?

1 A. I am not sure.

2 Q. Who transported him from the scene to a better
3 place to interview him?

4 A. One of our deputies, I'm not sure which. I
5 believe it was possibly Deputy Moniz, and Lieutenant
6 Scarborough followed behind him, and I followed
7 behind Lieutenant Scarborough.

8 Q. Were you the one who questioned him at the
9 headquarters?

10 A. I provided his Miranda warnings at
11 headquarters. I never questioned him.

12 Q. And why didn't you question him?

13 A. Because he decided he would have the presence
14 of an attorney. At that time I tried to ---

15 THE COURT REPORTER: Excuse me. Please
16 repeat that.

17 THE WITNESS: At that time he requested
18 the presence of an attorney.

19 BY MR. SAVAGE:

20 Q. And prior to the time he requested to speak
21 with his attorney, why did you stop questioning him?

22 A. I'm not sure I understand the question.

23 MR. SAVAGE: May I approach, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. SAVAGE:

1 Q. Are these your handwritten notes of your
2 interrogation of Mr. Rocquemore?

3 A. Yes, sir.

4 Q. What time did he ask for his attorney?

5 A. 6:12.

6 Q. What time did he -- what time did you stop
7 questioning him to contact EMS?

8 A. That would be at 6:11.

9 Q. So prior to his invoking his Miranda rights,
10 you stop the interrogation to seek medical help?

11 A. Yes, sir.

12 Q. And in your report, you indicated that his --
13 his health was going downhill and that's why you --
14 why you called EMS?

15 A. I wouldn't say his health was going downhill.
16 He complained that his head was hurting, so I
17 summoned EMS.

18 Q. What time was he photographed at the scene of
19 the crime?

20 A. I have no idea what time it was.

21 Q. Do you know who photographed him?

22 A. I believe that would have been Investigator
23 Owen, but I'm not sure.

24 Q. Do you know what time Investigator Owen
25 arrived at the scene of the crime?

1 A. No, I do not.

2 Q. But that would be reflected on the scene log;
3 would it not?

4 A. It should be, yes.

5 MR. SAVAGE: May I approach, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. SAVAGE:

8 Q. Is Detective Owen 9608?

9 A. I'm not sure what his -- that is him.

10 Q. And what time did he arrive?

11 A. It says he arrived at 4:58.

12 Q. Did anybody question him at that time?

13 A. Not to my knowledge, no, sir.

14 Q. What time did the other detectives arrive?
15 Detective Smith?

16 A. I would have to look at the crime scene log.
17 I don't know off the top of my head. I know
18 Detective Smith wasn't far behind me because she had
19 been assisting me on the case in Mount Pleasant.

20 Q. Was Detective Smith the first detective who
21 arrived on the scene?

22 A. I believe there's also a page two of this.

23 Q. Well, it's in chronological order; is it not?

24 A. No. I see here there are times that are not
25 in chronological order.

1 Q. So crime scene logs, is it your testimony that
2 crime scene logs are not kept in chronological order?

3 A. Typically, they are kept in chronological
4 order.

5 Q. Is there anything out of chronological order
6 on the page that I've shown you?

7 A. Some of the times are not in chronological
8 order.

9 Q. Such as?

10 A. Such as when EMS arrived for the suspect.
11 They have it listed on here before Lieutenant
12 Scarborough is listed on here.

13 Q. And what time is that?

14 A. EMS?

15 Q. Whichever one's out of order.

16 A. They have EMS listed at 4:45 and Lieutenant
17 Scarborough listed at 4:29.

18 Q. And what time does it have Detective Smith
19 arrive?

20 A. 4:32.

21 Q. Do you have any reason to believe that that's
22 inaccurate?

23 A. No, sir.

24 Q. And when was the second officer, what time did
25 they arrive? The second detective, I'm sorry,

1 Detective ---

2 A. I believe it also said 4:32. 4:32 is what it
3 says.

4 Q. And did Detective Smith participate in taking
5 statements that night?

6 A. She did, yes.

7 Q. And was she the first detective to take a
8 statement?

9 A. I don't know who the first detective to take a
10 statement was, but I do know that she initiated
11 taking statements from some of the witnesses out
12 there.

13 Q. And did she question the suspect, as you've
14 identified him, Mr. Rocquemoire?

15 A. No, not to my knowledge, no, sir.

16 Q. Is there anything that prevented her from
17 questioning Mr. Rocquemoire at that time?

18 A. Only the fact that we were establishing the
19 crime scene, what needed to be protected, attempting
20 to identify who all the witnesses were, and how
21 many people we were going to need to interview
22 people.

23 Q. Is there one other interview, one other
24 interview that took place outside the crime scene?

25 A. I don't know who you're referring to.

1 Q. Did you interview Mr. Dexter Brown?

2 A. I didn't interview Mr. Dexter Brown, no, sir.

3 Q. Now, Detective, I don't want to be picking at
4 you, and I don't really mean in any way to be
5 disrespectful, but my understanding is you're the
6 head investigator in this case.

7 A. Correct.

8 Q. And if you don't know, you certainly have the
9 opportunity to look in your file and answer these
10 questions. These are not difficult questions.

11 A. Correct.

12 Q. Where was Dexter Brown interviewed?

13 A. He was interviewed at the scene.

14 Q. Where was Troy Eason interviewed?

15 A. The best of my knowledge, at the scene.

16 Q. Where was Mr. Ronald Gibbs interviewed?

17 A. At the scene.

18 Q. Where was Mr. Rodney Gibbs interviewed?

19 A. At the scene.

20 Q. Where was Mr. David Rocquemore attempted to be
21 interviewed?

22 A. At our office.

23 Q. As the results of the interviews of Mr. Eason,
24 Mr. Ronald Gibbs, Mr. Rodney Gibbs, Mr. Dexter Brown,
25 did you ever return to a third location or a second

1 location to interview them to further investigate the
2 statement that they had given you?

3 A. Detective Boyd followed up on investigation on
4 -- on statements with them.

5 Q. Pardon me?

6 A. Detective Boyd followed up on statements with
7 several of these people at the scene. I don't know
8 where at at the scene.

9 Q. But did he ever go to their homes or anything,
10 or did he call these witnesses to the workplace there
11 at the headquarters to interview them?

12 A. Not those particular witnesses, no.

13 Q. And those were the witnesses who were there
14 present at the time of the shooting?

15 A. Yes, sir.

16 Q. How about that guy Timothy somebody -- was it
17 Timothy? Chris Thomas. Where is he interviewed?

18 A. Mr. Thomas, I believe, was interviewed at the
19 scene.

20 Q. So everybody is interviewed at the scene
21 except that somebody decided not to interview
22 Mr. Rocquemoire at the scene?

23 A. It was my decision not to interview
24 Mr. Rocquemoire at the scene because the scene could
25 have been become very hostile. He could have, in

1 turn, became a victim while we were there if they
2 would have found out that the victim in this case was
3 deceased.

4 Q. Thank you.

5 A. I did it for safety purposes.

6 MR. SAVAGE: Thank you, sir.

7 MS. KNEESE-SHEALY: I have no further
8 questions.

9 THE COURT: You may step down, sir.

10 THE WITNESS: Thank you.

11 (The witness leaves the witness stand.)

12 MS. KNEESE-SHEALY: I have nothing
13 further.

14 THE COURT: Any further argument?

15 MR. SAVAGE: Number one, Judge, they had
16 an opportunity to interview him at the scene. They
17 chose not to do that. For whatever reason they did,
18 it's inconsistent if they're interviewing Mr. Thomas
19 and the others.

20 Number two, he apparently wasn't with
21 anybody at the time they claim he was silent. Unless
22 he was talking to himself, there was no one else to
23 talk to.

24 THE COURT: Well, where is the type of
25 assurance that they're looking for that that would

1 not be used against him that underlie -- underlies
2 this policy in these cases?

3 MR. SAVAGE: Provided by the state?

4 THE COURT: Yeah.

5 MR. SAVAGE: I would just say, Judge,
6 there's an evolution in this. You know, Chief Judge
7 Karen Henderson tried to do away with Miranda not
8 very long ago. They took a back swing on that since
9 that attempt, where Miranda is now much more grounded
10 in constitutional law.

11 And it's not uncommon for civilians to
12 know their Miranda rights. It's something that we
13 see daily. They read about it daily, and they see it
14 on TV. It's on entertainment shows. It's on news
15 shows. And we would say that he was possessive of
16 that knowledge at that time.

17 THE COURT: We would "say"?

18 MR. SAVAGE: And for the limited purpose
19 of asking him his knowledge of that area, Your Honor,
20 I would call Mr. Rocquemoire to the witness stand.

21 THE COURT: Present whatever you need to
22 present during this in-camera hearing. But, again,
23 like I keep saying, the record is the record. We
24 can't "say" what the record is.

25 MR. SAVAGE: David Rocquemoire.

1 DAVID ROCQUEMORE,
2 being first duly sworn by the clerk, is examined and
3 testifies as follows:

4 THE CLERK: Be seated.

5 THE COURT: Let me just advise you of
6 something, sir. Do you understand you don't have to
7 testify in any way whatsoever?

8 THE WITNESS: Yes, sir.

9 THE COURT: Also, do you understand that
10 although this is a -- you may take your seat -- this
11 hearing is being offered just for a limited purpose
12 and cannot be used against you if you do not testify.

13 If you, nevertheless, decide to testify
14 during the trial and you say anything here now that's
15 inconsistent with your testimony at trial, it can be
16 used against you.

17 Do you understand that?

18 THE WITNESS: Yes, sir.

19 THE COURT: Do you wish to proceed?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Go ahead.

22 THE CLERK: Please state your full name
23 and spell your last name.

24 THE WITNESS: David Rocquemore,
25 R-O-C-Q-U-E-M-O-R-E.

1 DIRECT EXAMINATION (IN CAMERA)

2 BY MR. SAVAGE:

3 Q. Do you remember being taken into custody by
4 the police department on August 14th?

5 A. Yes, sir.

6 Q. Was your memory clear at that time? Tell me
7 what your physical and mental condition was at that
8 time.9 A. At the time, sir, my memory and my mental
10 state was -- it was -- I'm not going to say depleted,
11 but I didn't have full use of it due to the fact that
12 I had severe blows received to the head, and it was
13 just a -- a terrible situation that I was in.14 Q. We're going to get into that. But from the
15 time that you hit the ground to the time you were in
16 the patrol car, do you have a clear memory of that?

17 A. No, sir.

18 Q. When you were in the patrol car, did anybody
19 approach you that you recall?

20 A. No, sir.

21 Q. Do you remember being photographed?

22 A. No, sir.

23 Q. Now, prior to that date, were you aware of the
24 constitutional protections for people accused of
25 criminal activity?

1 A. Yes, sir.

2 Q. And tell the Court, if you will, your
3 understanding. Not now, not at the time of the
4 incident, but prior to the incident.

5 A. Prior to the incident, I have an aunt that's a
6 veteran of a police department, and I was always told
7 if a situation may arise that you just don't say
8 anything until, you know, you've got an attorney
9 present.

10 Q. Is that aunt present in the courtroom today?

11 A. Yes, sir.

12 Q. Would you point her out to the Court?

13 A. I can't see her back there, sir.

14 Q. How long was she ---

15 A. She -- she's right there. I can see her.

16 Q. How long was she in law enforcement?

17 A. For twenty-plus years, sir.

18 MR. SAVAGE: Kindly answer any questions
19 the prosecutor might have about this aspect of the
20 case.

21 THE WITNESS: Yes, sir.

22 MS. KNEESE-SHEALY: I have no questions,
23 Your Honor.

24 THE COURT: You may step down, sir.

25 Thank you.

1 (The witness leaves the witness stand and
2 returns to defense counsel table.)

3 THE COURT: Anything further?

4 MR. SAVAGE: That's all we have.

5 THE COURT: All right. I'm still not
6 convinced, in the absence of some type of affirmative
7 or implicit assurance such as that found in Miranda
8 and in policies that underlie that type of implicit
9 assurance that is found as the lynchpin of the
10 Miranda analysis, that -- that the state would be
11 precluded from cross-examining a defendant who
12 voluntarily takes the stand on any post-arrest
13 silence.

14 The *Weston* case seems to support that
15 analysis. The *Bell* case seems to support that
16 analysis and does not even use arrest as a guiding
17 dispositive factor. So it's the assurance of it that
18 seems to trigger their concerns of the policy
19 underlying these cases post-*Doyle*.

20 So I will allow it. Anything further?

21 MR. SAVAGE: Judge, would there be any
22 parameters on that, Judge? I'm not sure what exactly
23 would be the silent period.

24 THE COURT: Well, I understood from the
25 state that it's a period from approximately 4:00 to

1 6:00. Is that what you...

2 MS. KNEESE-SHEALY: 4:05 to 6:05.

3 THE COURT: 4:05 to 6-0...

4 MS. KNEESE-SHEALY: 05, Your Honor.

5 THE COURT: 6:05. That's what she
6 indicated earlier, 4:05 to 6:05.

7 MR. SAVAGE: Thank you.

8 THE COURT: Anything in regard to that
9 time period?

10 MS. KNEESE-SHEALY: Your Honor, I have
11 two other matters regarding the cross of
12 Mr. Rocquemore.

13 On the morning of August 14th, he was
14 taken to the hospital. I have a good faith basis to
15 believe that he was using marijuana, Your Honor, the
16 evening in question, and I do intend to ask him about
17 that.

18 THE COURT: All right. Any matters
19 pertaining to that?

20 MR. SAVAGE: That's the first I've heard
21 of it, Your Honor.

22 THE COURT: Pardon me?

23 MR. SAVAGE: That's the first I've heard
24 of it.

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

1 MR. SAVAGE: If they have a legal urine
2 sample, a urine-drug sample that they have obtained
3 lawfully, then I think we should address that. And I
4 don't believe ---

5 THE COURT: Well, let me stop you with
6 that. I thought you indicated at pretrial that
7 you're not going to go into the issue of marijuana
8 use.

9 MS. KNEESE-SHEALY: In the case in chief,
10 Your Honor.

11 THE COURT: In the case in chief?

12 MS. KNEESE-SHEALY: Yes, Your Honor.

13 THE COURT: Well, why would that not be
14 part of the same set of circumstances? Their proof
15 would be, if they ask him, they're stuck with his
16 answer, unless other witnesses who testify to the
17 same extent, Mr. Savage.

18 But why would the use of marijuana be any
19 different than the use of alcohol if you're relating
20 setting forth the grounds involved in what was
21 transpiring at that moment?

22 MR. SAVAGE: They say they have a good
23 faith reason to believe that. I'm not aware of what
24 that good faith reason would be.

25 MS. KNEESE-SHEALY: Your Honor, he's

1 been provided with a copy of the records from
2 Bon Secours/St. Francis Hospital where
3 Mr. Rocquemoire's urine sample was taken. The lab
4 reports reflects a positive testing result from that.
5 And let me spell it because I'm not sure of the
6 pronunciation of it, C-A -- C-A-N-N-A-B-I-N-O-I-D.

7 THE COURT: All right.

8 MR. SAVAGE: Now, let's assume that's
9 correct, and I don't know that it is or it isn't,
10 that doesn't mean he was smoking marijuana that
11 night. That means he was smoking within 28 days.

12 What the state failed to say is they
13 issued a magistrate's subpoena, which is a nullity in
14 the law in South Carolina, to obtain those records.

15 They have failed to tell the Court that
16 that's not a medical -- that it's a medical test,
17 not a forensic test that was blood and urine or
18 whatever.

19 So if they're going to go into that and
20 question about it, then I have to call some physician
21 in here or toxicologist, whatever, saying he could
22 have been smoking three weeks, three-and-a-half
23 weeks, four weeks before that.

24 It gets into speculation and conjecture.

25 THE COURT: Well, during two or three

1 weeks before, that's true, but what -- is the issue
2 whether or not someone was smoking the night in
3 question?

4 MS. KNEESE-SHEALY: I think that in that
5 Mr. Savage has been consistently indicating that his
6 client was not drinking, that I have a good faith
7 basis to ask his client was he smoking marijuana.

8 We're not talking about the admission of
9 the document itself. We're asking whether or not I
10 can cross-examine him accordingly.

11 THE COURT: What stops her from asking if
12 people were using drinking or if people were using
13 drugs at the party?

14 MR. SAVAGE: If he says no, that's the
15 end of it.

16 THE COURT: That's exactly what I said,
17 Mr. Savage. That's exactly what I said. Unless
18 there's some witnesses that say otherwise, they're
19 stuck with his answer.

20 MR. SAVAGE: When you said witnesses, I
21 thought you meant medical records, and I apologize.

22 THE COURT: Well, I think in the normal
23 course of exploring all of the circumstances, it's
24 proper fodder for cross-examination in light of your
25 questions thus far: Yeah, were people drinking?

1 people using drugs? What was going on? Was it
2 hostile; was it not? I mean, those are all
3 circumstances of the whole self-defense concept,
4 also.

5 MR. SAVAGE: What I wouldn't want them to
6 do is to take some document and say explain this.

7 THE COURT: I don't think that they're
8 going to be able to use that document that way
9 without a proper foundation. I'll just leave it at
10 that at this point.

11 MR. SAVAGE: Thank you.

12 MS. KNEESE-SHEALY: And, Your Honor, one
13 remaining issue is, there was a marijuana cigar found
14 in the defendant's car, and I also intend to question
15 him regarding that.

16 THE COURT: Okay. Are you going to ask
17 him first was anyone using it at the party? Was he
18 using it -- doing it in the car?

19 MS. KNEESE-SHEALY: I intend to ask him
20 about his use of it, Your Honor.

21 THE COURT: I understand.

22 MS. KNEESE-SHEALY: I don't think there's
23 any -- I don't have a good faith basis to ask whether
24 anybody else was using it.

25 THE COURT: Then if he says no, you're

1 stuck with that answer.

2 MS. KNEESE-SHEALY: I understand that.

3 THE COURT: Okay.

4 MS. KNEESE-SHEALY: And so the same
5 applies, Your Honor, to the marijuana cigar?

6 THE COURT: Well, if he says that he was
7 not -- and I'll hear what opposing counsel has to say
8 -- but if he denies something that was in fact true,
9 then that's a whole other basis for admission.

10 MR. SAVAGE: The only thing that's
11 relevant is if the cigar were being used that night.

12 THE COURT: I agree. That's why I asked
13 if she was first going to ask him if he used it.

14 MR. SAVAGE: They can't say were you
15 carrying marijuana around with you. The question is,
16 were you using marijuana that night.

17 If he had a cigar in his glove box or
18 wherever it was and it had no relevance to the issues
19 before the Court at the time, it's not relevant.

20 And we would object to any imposition
21 beyond -- if they say was everybody smoking marijuana
22 that night, were you smoking that night, was
23 Mr. Brown smoking, whoever, whatever that answer is,
24 then it may or may not open up the next question.
25 But if the answer is no, it's closed. They can't go

1 on and say did you have a stogie in your car.

2 THE COURT: Anything else?

3 MS. KNEESE-SHEALY: Your Honor, I think
4 that I am entitled to ask him were you smoking
5 marijuana that evening. Even if he says no, I
6 think I'm then -- I am then able to ask him did you
7 have a marijuana cigar in your automobile that
8 evening.

9 MR. SAVAGE: There's no relevance.

10 THE COURT: Well, how does that show that
11 he was smoking?

12 MS. KNEESE-SHEALY: Well, Your Honor, for
13 -- for impeachment purposes, I think the jury can
14 draw their own conclusion. If he's asked whether he
15 smoked any and he says no, I think I'm at least
16 entitled to say did you have a marijuana cigar in
17 your vehicle.

18 MR. SAVAGE: If he had smoked it, if
19 there was an aroma in the car, if there were ashes in
20 the car, if his clothing smelled like marijuana, if
21 he was acting like he had smoked marijuana, whatever,
22 but there's nothing -- there's nothing that relates
23 marijuana to this incident. All it is, is an attack
24 on his character.

25 THE COURT: Yeah, I'm inclined to think

1 that once it makes that shift over to that, then
2 you're going to need to have some -- to have some
3 kind of clear and convincing evidence to demonstrate
4 that that took place.

5 MS. KNEESE-SHEALY: I'm sorry, I didn't
6 hear the last ---

7 THE COURT: I think that once you make
8 that shift to where it becomes a character analysis,
9 to make that kind of leap, you're going to have to
10 have clear and convincing evidence to be able to make
11 that analysis.

12 MS. KNEESE-SHEALY: Well, Your Honor,
13 just to make sure my point is clear, if I ask him did
14 you smoke marijuana that evening and he says no, I
15 think that in that this is cross-examination I am
16 entitled then to ask whether or not he had marijuana
17 in that vehicle because he -- that the jury should be
18 entitled to hear that, if he denies it and yet there
19 is a marijuana cigar in his car. He still can answer
20 the question however he chooses to answer the
21 question.

22 THE COURT: Well, you're trying to
23 suggest that because it was in the car he was smoking
24 it that evening.

25 MS. KNEESE-SHEALY: I don't know the

1 answer to that, Your Honor, but I certainly think if
2 he just -- if he were to say no, and I don't know
3 that he is going to say no, that I -- I mean, there's
4 no question there was a marijuana cigar in the
5 vehicle. If he then says no, there was not a
6 marijuana cigar in the vehicle, then I'm put in a
7 position ---

8 THE COURT: Had it been used or lit or
9 whatever the word is for it?

10 MS. KNEESE-SHEALY: I don't know, Your
11 Honor. I don't know.

12 THE COURT: I mean, well, some of that
13 would be important to know.

14 MS. KNEESE-SHEALY: I beg the Court's
15 indulgence just one moment.

16 (Ms. Kneese-Shealy and Mr. Durant
17 confer.)

18 MS. KNEESE-SHEALY: And I apologize, Your
19 Honor. What was your last question?

20 THE COURT: Was there -- I mean, did it
21 look like it -- I don't know that you can tell these
22 things.

23 MS. KNEESE-SHEALY: Well, I don't know
24 either, Your Honor.

25 THE COURT: Was it recently used or lit

1 or half-burned or whatever the magic language is?
2 I'm sorry, it's not even my terminology here, so...

3 MS. KNEESE-SHEALY: Yes, sir. I'm
4 not sure that you can tell by looking at it whether
5 it had been used. I think I am entitled to ask
6 him if he used it.

7 THE COURT: Well, if you can't tell that
8 it had been used, then I can't say that it's
9 appropriate to make the linkage that it was done on
10 that night in question.

11 MS. KNEESE-SHEALY: Well, it's present in
12 his vehicle.

13 THE COURT: You're using it ---

14 MS. KNEESE-SHEALY: And he has it.

15 THE COURT: You're using it only for the
16 purpose that he had something in the past that
17 suggests he was doing it that evening and that that
18 converts it into a clear and convincing analysis, and
19 I'm not prepared to do that.

20 If you told me it was half-smoked or
21 whatever the word is and looked like it had been used
22 on the evening in question -- if that can even be
23 ascertained, I don't know -- that's different.

24 MS. KNEESE-SHEALY: Well, it would be
25 just ---

1 THE COURT: That's different.

2 MS. KNEESE-SHEALY: Your Honor.

3 THE COURT: You know, if it was unused,
4 it does not lend itself to the inference that you
5 wish to make that he had used it on the evening in
6 question.

7 MS. KNEESE-SHEALY: But, Your Honor, if I
8 cannot tell, it doesn't lend itself that it wasn't
9 used.

10 THE COURT: Well, but it does beg the --
11 what it begs us to do is to ask whether someone else
12 can tell, not that you or I can tell.

13 (Ms. Kneese-Shealy and Mr. Durant
14 confer.)

15 MS. KNEESE-SHEALY: Your Honor, we have
16 looked at the item notes, and the detective has
17 advised me that it does not look like it has been
18 used.

19 THE COURT: Well, I don't think it lends
20 itself well to that inference then, and I'll let you
21 ask him if anyone was using marijuana that night, or
22 drugs or whatever word, and ask him if he had been,
23 and you're stuck with his answer.

24 MS. KNEESE-SHEALY: Yes, sir.

25 THE COURT: All right.

1 MS. KNEESE-SHEALY: Thank you, Your
2 Honor.

3 THE COURT: Unless you -- I mean, I
4 assume you had an opportunity -- unless you have
5 other witnesses, you are free to ask them the same
6 thing, but -- who were there.

7 MS. KNEESE-SHEALY: Yes, sir. Thank you.

8 THE COURT: Are y'all ready?

9 MR. SAVAGE: Defense is ready.

10 MR. DURANT: Yes, sir, Your Honor.

11 THE COURT: Bring the jury in, please.

12 (Whereupon, the jury returns to the
13 courtroom at approximately at 3:55 p.m.)

14 THE BAILIFF: Your Honor, all jurors are
15 seated.

16 THE COURT: Thank you. Please be seated.
17 We're ready to proceed.

18 MR. SAVAGE: Yes, Your Honor. The
19 defense calls David Rocquemore.

20 DAVID M. ROCQUEMORE,
21 being first duly sworn by the clerk, is examined and
22 testifies as follows:

23 THE CLERK: Be seated. If you'll please
24 state your full name and spell your last name.

25 THE WITNESS: David Rocquemore,

1 R-O-C-Q-U-E-M-O-R-E.

2 DIRECT EXAMINATION

3 BY MR. SAVAGE:

4 Q. I'll say good afternoon even though we have
5 been sitting next to each other for a week and a
6 half, haven't we, Mr. Rocquemore.

7 A. Yes, sir.

8 Q. Early on August 14th, you and Mr. Brown went
9 to the store?

10 A. Yes, sir.

11 Q. And tell the jury, if you would, let's get
12 right to it, what happened when you returned.

13 A. Me and Dexter Brown came back from the store.
14 We then -- as we were approaching his house, I
15 decided to pull up directly behind Christopher
16 Thomas's vehicle.

17 At that time, I think -- I'm not sure the
18 young lady, but there was another young lady, and
19 there's a young lady in the vehicle that briefly said
20 something, you know, to Dexter as far as the incident
21 that had taken place, she had -- she pulled off.

22 After that, Dexter and myself, we then got out
23 of the vehicle and started to walk towards his house.
24 Christopher Thomas then met us at the -- at the end
25 of the driveway, and he begins to tell us ---

1 Q. Mr. Rocquemore, if you would, if you'd say
2 this in pieces so the jury can absorb it. Is that
3 the same driveway that they've seen the pictures of
4 and that sort of thing? Put ---

5 A. Yes, sir.

6 Q. They haven't been there. So you've got to put
7 what you have into their minds slowly.

8 A. We began to walk towards Dexter Brown's
9 driveway, myself and Dexter. As we approached Dexter
10 -- Dexter Brown's driveway, Christopher Thomas then
11 began to explain to us what had taken place while we
12 -- while we were gone to the store.

13 Q. And at that point, where were y'all located?

14 A. We were standing at the driveway, close to the
15 street.

16 Q. While you were standing there, what happened
17 next, and how much time passed between the time you
18 got there and the next incident?

19 A. Well, while we were standing, Christopher
20 Thomas was explaining to Mr. Brown exactly what had
21 -- what had happened.

22 There -- there was -- not a revving of an
23 engine, but you could hear a vehicle coming down the
24 street, loud profanities and noises coming from the
25 vehicle. At that time, I noticed a truck, an SUV,

1 approaching us.

2 I then turned to Dexter and pointed, just
3 asked him, you know, if he knew -- if he knew who was
4 in the vehicle or if he knew the vehicle. And before
5 he even answered, I ---

6 Q. At that time, you were at the edge of the
7 driveway?

8 A. Yes, sir.

9 Q. And you're pointing at the vehicle coming down
10 the road?

11 A. Yes, sir.

12 Q. Describe that vehicle if you can. Was there
13 anything unusual about it?

14 A. Well, the lights on the vehicle was off, and
15 it was like -- it was the same SUV that we have been
16 seeing all the different pictures that the detectives
17 had the pictures of.

18 Q. That you have been seeing in court?

19 A. Yes.

20 Q. So you've pointed at this vehicle?

21 A. Correct.

22 Q. Does the vehicle stop?

23 A. Yes. The vehicle stops directly in front of
24 us. Upon the vehicle stopping, the doors come open,
25 two individuals come directly towards me in my

1 direction.

2 At that time, the two individuals that came to
3 me began to curse and scream, asking -- excuse my
4 language, but "Who the 'F' was I to point at their
5 truck, was I -- were I familiar with where I was at,"
6 and saying things like I didn't belong over here and
7 you better understand where you're at and things like
8 that.

9 Q. Did you watch the vehicle at that time, or did
10 you watch the people who were in front of you at that
11 time?

12 A. My attention was on the two individuals that
13 were directly in front of me.

14 Q. Do you know what was going on with other
15 people around you?

16 A. No, sir.

17 Q. Now, did that verbal confrontation escalate to
18 something more than that?

19 A. Well, the two individuals that approached me,
20 I'm not sure of the guys' name, one of the
21 individuals began to put his -- put his finger in my
22 face and poke my chest as he was continually cursing
23 and telling me I didn't belong there. At that time,
24 I knocked his hand away from me. Shortly after that,
25 he swung, he swung a punch. I took off running to my

1 vehicle, to my truck.

2 Q. Why were you running to your vehicle?

3 A. For protection, for cover, just I just wanted
4 to get away from those guys.

5 Q. And when you went to your vehicle, did anyone
6 follow you, or did you see anybody else around, or
7 did you know what else was going on?

8 A. I was being hit from behind and pulled and
9 just beat. I was just beat. I was being beat up.

10 Q. Now, did you -- you say you went to your
11 truck.

12 A. Yes.

13 Q. In the courtroom we call them vehicles, I
14 guess, but you went to your truck?

15 A. Yes, sir.

16 Q. And did you open the door?

17 A. Yes. I opened the door, and as I was trying
18 to get into my truck, I was then -- I was continuing
19 to be hit and pulled, prevented -- preventing me to
20 get to my truck.

21 I was -- I was able to get myself half into my
22 truck and just hold on to stay inside my truck with
23 the steering wheel and the console. At the same time
24 I was being hit and pulled, I continued to just swing
25 and kick.

1 MR. SAVAGE: May I approach, Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. SAVAGE:

4 Q. Mr. Rocquemore, I want to stand about a short
5 distance away from you, and what I'd like to do is
6 try to give a visual for the jury, if they can see
7 and hear, about you trying to get into your truck.
8 The door would open...

9 A. Yes, sir.

10 Q. --- from right to left; is that correct?

11 A. Yes, sir.

12 Q. Then you would try to -- if you were going to
13 get in the car, you ---

14 MS. KNEESE-SHEALY: Your Honor, I have an
15 objection to the form of the question.

16 THE WITNESS: Yes, sir.

17 THE COURT: Rephrase that question,
18 Counsel.

19 BY MR. SAVAGE:

20 Q. Do you have a truck on your door?

21 A. Pardon me?

22 Q. Do you have a truck on your door?

23 A. You said a truck?

24 Q. Do you have a door on your truck? Excuse me.

25 A. Yes, sir.

1 Q. I'd better rephrase it. Did you try to open
2 the door?

3 A. Yes, sir.

4 Q. When you tried to open the door, what was the
5 purpose of opening the door?

6 A. So I could get inside of my truck and lock the
7 doors and pull off.

8 Q. And were you able to get in your truck?

9 A. No, sir, not completely.

10 Q. What prevented you from getting inside your
11 truck?

12 A. I was being beat up by two individuals, being
13 grabbed and -- basically, the attempt was, I guess
14 they were trying to drag me from my truck.

15 Q. Now, you apparently weren't dressed that night
16 like you are today?

17 A. Not at all, sir.

18 Q. And the photograph that the prosecutor showed
19 the jury, did that depict the type of clothing you
20 had on?

21 A. Yes, sir, relaxed clothes.

22 Q. Why don't you just refresh their memory with
23 what type of pants or shorts or whatever you had on.

24 A. Well, I just had on a basic white T-shirt, and
25 I had on some -- some cotton capris, like long

1 shorts.

2 Q. And as you were getting in the truck, was your
3 clothing being pulled?

4 A. Yes, sir.

5 Q. And did you try in any way to prevent yourself
6 from being pulled out of the truck?

7 A. Yes. Like I said ---

8 Q. Describe to the jury in some detail how you
9 did that.

10 A. Well, while I was being beaten and pulled, I
11 just continued to hold on to the steering wheel and
12 console of my truck. I just -- with my right hand
13 and my right leg. I just continued to just punch and
14 kick.

15 Q. Now, let's think about if you're behind a
16 steering wheel, which is right and which is left.
17 Were you trying to hold on with one side of your body
18 and to be ---

19 MS. KNEESE-SHEALY: Objection.

20 BY MR. SAVAGE:

21 Q. --- able to protect it on the other side?

22 THE COURT: Hold on. What's ---

23 MS. KNEESE-SHEALY: Object to the form.

24 BY MR. SAVAGE:

25 Q. How did you try ---

1 THE COURT: I'll allow that. Go ahead.

2 BY MR. SAVAGE:

3 Q. --- to protect yourself?

4 A. I held on with my right hand, and I just
5 fought for dear life with what's -- with the left
6 side of my body being all punched and kicked and...

7 Q. And it was the left side of your body that was
8 exposed?

9 A. Yes, sir.

10 Q. What did you do next, and why did you do what
11 you did?

12 A. Excuse me. I -- I continued to hold, to try
13 to keep myself inside of my vehicle. After a failed
14 attempt, I reached in my console and grabbed my
15 firearm. And I still didn't want to shoot nobody.
16 So they -- I was still being beaten and still being
17 pulled on. I was drug from my vehicle. And still
18 not wanting to shoot anybody, I made an attempt to --
19 to strike one or two individuals.

20 Q. When you got out of your vehicle, where was
21 the weapon? Where was the gun?

22 A. Well, I had it in my hand.

23 Q. And what was your intent at that time how to
24 use the gun?

25 A. Well, I just swung it. I mean, I just -- in

1 the heat of the moment, I -- I just grabbed it from
2 my console. I didn't know what direction it was in.
3 I just grabbed it to use it to strike. I just -- I
4 just wanted to hit one of the guys with it.

5 Q. Did you fire the weapon? Did you fire the gun
6 at that time?

7 A. No, sir.

8 Q. Explain to the jury your mindset at that time.
9 You have a gun in your hands. How would you use that
10 gun, and what reason did you use the gun?

11 A. When I grabbed my gun, as I said, I -- my
12 intention was never to shoot anybody. My intention
13 was to just -- I just tried to strike somebody with
14 it.

15 Q. Did you shoot the gun at that point?

16 A. No, sir.

17 Q. What did you do with the gun?

18 A. I made an attempt to -- to hit somebody with
19 it, and I dropped it.

20 Q. But why were you trying to hit somebody with
21 it?

22 A. I didn't want to shoot anybody.

23 Q. But why would you hit somebody with a gun?
24 What were they doing to you?

25 A. They were beating on me. So they would leave

1 me alone.

2 Q. Did they leave you alone?

3 A. No, sir.

4 Q. Did you swing at them?

5 A. With -- with my gun I did.

6 Q. And what happened to the gun at that time?

7 A. Well, it came out of my hand. And after I
8 dropped my gun, after swinging it, with all my
9 beating, I tried to pick it up. And as I went for
10 it, everybody else, you know, just went for it. And
11 at that time, once I grabbed it, I tried to just run.
12 I just tried to run.

13 Q. Was the gun actually on the ground, or did it
14 slip, or where was the gun when it was -- when you
15 picked it back up?

16 A. It was on the ground.

17 Q. And where -- do you know who or how many were
18 around you at that point in time?

19 A. No, sir.

20 Q. Can you give the jury an idea of that? Were
21 you there by yourself? Were there other people
22 there, and what were they doing?

23 A. I don't -- I'm not sure. When I picked --
24 after I picked my gun up off the ground, I just tried
25 to run. I was still being beaten and pulled and

1 kicked.

2 Q. After you picked up the gun, were you
3 continued to be beaten?

4 A. Yes, sir.

5 Q. What happened next?

6 A. I was still being beat. It was as if they
7 were just -- they just wouldn't stop. They were
8 saying they were going to kill me, and, you know, I
9 was just being beat.

10 Q. Do you know whether they had any weapons or
11 not?

12 A. I'm not sure.

13 Q. Did they act like they had any weapons?

14 A. They acted like they wanted to kill me or hurt
15 me. I'm not sure, sir. I don't know.

16 Q. Was the gun visible? Did people see the gun
17 when you got the gun out of the car?

18 A. I would assume so, yes.

19 Q. And did anybody change their behavior...

20 A. No, sir.

21 Q. --- towards you?

22 A. No, sir.

23 Q. The gun didn't scare anyone?

24 A. No, sir.

25 Q. Then what happened?

1 A. Well, after I tried to run -- run, just run
2 for my truck, run. The individuals still continued
3 to beat me, and as I was being beaten and pulled on
4 and just from every angle, and I had already been --
5 as they began to fall on top of me, I fell to the
6 ground with just my weapon.

7 Q. And do you remember shooting your weapon?

8 A. I -- I just remember a loud noise.

9 Q. And could you identify the people who were
10 around you at that time?

11 A. No, sir.

12 Q. And do you know how many people were around
13 you at that time?

14 A. No, sir.

15 Q. And do you know how far away from you they
16 were at that time?

17 A. No, sir.

18 Q. What do you remember next?

19 A. I mean, even after I was on the ground, I was
20 still being beaten. I just remember when the police
21 picked me up.

22 Q. Now, earlier in that evening, who did you go
23 out with?

24 A. I was -- I went to a party with Christopher
25 Thomas.

1 Q. During that party or any subsequent time for
2 which you've recently described for the jury, did you
3 have any problems with anybody?

4 A. No, sir.

5 Q. Did anybody have any problems with you?

6 A. No, sir.

7 Q. And do you have any idea of what the problem
8 was at the time the fight started, what was being
9 said to you, or -- or any explanation of what
10 happened?

11 A. I mean, after they got out of their -- out of
12 their truck, they just -- they just were saying,
13 like, you don't belong here, do you.

14 Q. Now, let's talk about your truck. Was there a
15 weapon in your truck that night?

16 A. Yes, sir.

17 Q. And is that the gun that's been described in
18 the trial?

19 A. Yes, sir.

20 Q. And had that gun been in the truck all night?

21 A. Yes, sir.

22 Q. Had you at any time touched that gun before
23 what you've described to the jury?

24 A. No, sir.

25 Q. Now, at that time were you -- where were you

1 living?

2 A. I was living at 153 Jupiter Lane, Sunburst
3 Lakes, Summerville.

4 Q. And who lives in that house?

5 A. My mom and my dad.

6 Q. And do you have any brothers or sisters?

7 A. Yes.

8 Q. And were you working at that time? Did you
9 have a full-time job?

10 A. Yes, sir, I was.

11 Q. And what type of job did you have?

12 A. I was working for Getrag Precision Gears on
13 Leeds Industrial Park.

14 Q. And at some time before that, had you worked
15 at a job with a fellow by the name of Thomas?

16 A. Yes, sir.

17 Q. And is that how you knew the people to make
18 the social connections to be where you were that
19 night?

20 A. Well, yes, he -- he invited me to -- to a
21 party he was invited to.

22 Q. Now, prior to that night, had you ever had any
23 involvement with law enforcement authorities for any
24 wrongdoing on your part?

25 A. Not at all.

1 Q. Had you ever had any problems with anger
2 management or being a bully or anything when you were
3 in school or anything else?

4 A. No, sir.

5 Q. You have said and I should recall where you
6 were working at that time. Where was your full-time
7 job?

8 A. At Getrag Precision Gears in Leeds Industrial
9 Park.

10 Q. And how many hours a week did you work there?

11 A. Forty.

12 Q. And what type of job was that?

13 A. We made gears for Cummins Diesel Engines, and
14 I worked in the heat treatment department.

15 Q. And while you were working there, did you have
16 any part-time jobs?

17 A. Yes, sir. I ran my own business called
18 Frontline Enterprise.

19 Q. And how long had you done that?

20 A. I had done that for maybe -- I'll say six
21 months to a year.

22 Q. Now, that type of job that you had, Frontline
23 Enterprises?

24 A. Yes, sir.

25 Q. What type of job was that?

1 A. Well, I -- I would sell retail, sports --
2 sporting goods, sold sneakers, handbags for women,
3 and children -- children's clothes, accessories. I
4 did custom, customized -- customized gold teeth.
5 Just like kind of like a variety -- a variety store
6 out of the back of my truck.

7 (Mr. Savage and Ms. Savage confer.)

8 BY MR. SAVAGE:

9 Q. State's exhibit number 45 is a photograph
10 that's now before the jury.

11 A. Yes, sir.

12 Q. And if you would, would you describe the type
13 of vehicle that is, the type of truck that is?

14 A. It's a GM, a GMC Yukon. Six doors, including
15 the two in the rear.

16 Q. Is that the truck that you were driving August
17 13th?

18 A. Yes, sir.

19 Q. And if you would -- do you have that little
20 clicker thing?

21 A. Yes, sir.

22 Q. May I take a look at it?

23 (There was off-the-record discussion
24 regarding the laser pointer.)

25 BY MR. SAVAGE:

1 Q. I would like point to different portions of
2 that photograph and ask you if you can describe what
3 this object is.

4 A. That was my table that I used.

5 Q. What do you mean a table that you used? What
6 did you use it for?

7 A. I used -- the table that I used to set my
8 stand up. To, you know, set my merchandise on so
9 when customers come by, they can look at it and -- or
10 pick and choose to see what they would like for
11 themselves or...

12 Q. And when you set this table up, where was the
13 locale that you used to set it up?

14 A. I used -- well, I used to set up my -- my
15 storefront at the side of a little gas station on
16 Orangeburg Road down the street from where I live at,
17 with permission.

18 Q. Now, is that in -- what county?

19 A. It's in Dorchester County.

20 Q. Who were the type of customers that you would
21 have that would come and view your merchandise and
22 purchase from you? What's the nature of the
23 business? Who would do business with you?

24 A. Well, all -- all walks of life. Men, women,
25 white, black, business people. I also had Dorchester

1 County sheriffs and a couple officers, for them to
2 purchase from me, and I had a few Summerville's
3 police department that made purchases from me.

4 Q. Did you have, like, regular customers?

5 A. Yes, sir.

6 Q. Now, in these red boxes, what was in these
7 boxes?

8 A. Sneakers, Nike shoes.

9 Q. And if you look up close at that photograph,
10 could you tell the type of sizes you carry?

11 A. I carried all sizes, a variety of sizes.

12 Q. And would it be displayed on those boxes, if
13 the jury looked at the picture later on?

14 A. Yes.

15 Q. And what were these things in the middle?

16 A. Those were my handbags, some of the handbags
17 that I would take with me.

18 Q. Are they in containers or bags?

19 A. Well, I just kept those bagged due to the size
20 of the different handbags.

21 Q. Okay. And what is this material over here?

22 A. Those are -- those are mostly Jordans.
23 They're just different Brands. Those are Jordans.
24 The ones in the orange boxes are just regular Nikes.

25 Q. And this document that we're trying to bring

1 closer to the attention of the -- of the jury at this
2 time, it appears to be a paper taped to the back of
3 your door.

4 A. Yes, sir.

5 Q. And what is this document?

6 A. That's my Dorchester County business license.

7 Q. And was that part of your business? I mean,
8 that particular business, the selling business, that
9 you had to obtain a license and you're documented
10 with the county and the...

11 A. Yes, sir.

12 Q. --- jurisdiction? And was that displayed
13 appropriately and prominently when you would sell
14 your wares?

15 A. Yes, sir.

16 Q. What was the reason you had a gun in your
17 truck on the night of August 13th-14th?

18 A. Well, mostly in my -- in my car, that's where
19 I would keep it at. Due to the nature that I dealt
20 with on a cash only and a high volume of cash and
21 merchandise, I'd always hide it in my vehicle.

22 Q. Did you ever use that weapon against anyone
23 from the time you had it?

24 A. No.

25 Q. At the time you had it, did you fill out all

1 of the appropriate forms that are requested by the
2 government to be able to do a background check on you
3 and make sure that you were an authorized party to
4 have that type of gun?

5 A. Yes, sir, I did.

6 Q. Were you carrying that gun legally and
7 lawfully at all times in which you had it?

8 A. Yes, sir, I was.

9 Q. What was the reason you retrieved, why you
10 took that gun from the vehicle four o'clock in the
11 morning August 14th?

12 A. To defend myself with it.

13 Q. When you retrieved that gun, when you took
14 that weapon out of the car, did you fire it
15 immediately?

16 A. No, I didn't.

17 Q. Did you try to use other ---

18 MS. KNEESE-SHEALY: Object to the form.

19 THE COURT: Rephrase that, Counsel.

20 BY MR. SAVAGE:

21 Q. How did -- how did you try to use that weapon
22 before you fired it?

23 A. I just used it like -- I was trying to use it
24 like you would use any other object in a swinging
25 motion to defend yourself.

1 Q. Before you used the gun, what other actions
2 did you take to defend yourself before you even got
3 the gun?

4 A. I -- I tried to run.

5 Q. And after you ran, was running away
6 successful?

7 A. No.

8 Q. Did you try to get in your car?

9 A. Yes, sir.

10 Q. Your truck?

11 A. Yes, sir.

12 Q. Were you prevented from getting in your truck?

13 A. Yes, sir.

14 Q. What did you do at that time when you were
15 trying to get into your truck? What did you do to
16 protect yourself?

17 A. I just -- I was just swinging and kicking. I
18 was just holding on.

19 Q. Was that successful?

20 A. No, sir.

21 Q. And then you retrieved your gun?

22 A. Yes, sir.

23 Q. And did you -- again, you've told us several
24 times, you didn't fire that gun when you get it?

25 A. No, sir.

1 Q. You tried to use that as you would a hammer or
2 a mallet or a wrench or ---

3 A. Yes, sir.

4 Q. --- a broomstick or any other object?

5 A. Just as a -- just another heavy -- a heavy
6 object.

7 Q. At the time you fired the gun, had all other
8 attempts to get these fellows off you failed?

9 A. None of them worked.

10 MR. SAVAGE: Kindly answer any questions
11 the prosecutor might have.

12 THE WITNESS: Yes, sir.

13 MS. KNEESE-SHEALY: May it please the
14 Court.

15 THE COURT: Yes.

16 CROSS-EXAMINATION

17 BY MS. KNEESE-SHEALY:

18 Q. Mr. Rocquemore, as I understand your
19 testimony, you got beat that night?

20 A. Yes, ma'am.

21 Q. And beat?

22 A. Yes, ma'am.

23 Q. And beat?

24 A. Yes, ma'am.

25 Q. And beat?

1 A. Yes, ma'am.

2 Q. Well, let's go over your injuries a little
3 bit. You saw the photographs that were presented in
4 the courtroom, didn't you?

5 A. Yes, ma'am.

6 Q. And you actually went to the hospital that
7 evening; did you not?

8 A. Yes, ma'am.

9 Q. You had a swollen lip, didn't you?

10 A. I had a busted lip, ma'am.

11 Q. A busted lip?

12 A. Yes, ma'am.

13 Q. Okay. You had a busted lip. You had an
14 abrasion on your forehead; did you not?

15 A. My head was -- it was messed up.

16 Q. Your head was messed up?

17 A. Yes. I don't ---

18 Q. Is that what you're saying?

19 A. Yes, ma'am. I don't know, even know what the
20 abrasion is.

21 Q. You don't know -- okay. You don't know what
22 an abrasion is. When you got to the hospital, you
23 went to the emergency room; is that correct?

24 A. No. I'm not sure where I was at or where they
25 took me to.

1 Q. You recall going to the hospital; do you not?

2 A. Yes, I went to the hospital.

3 Q. You recall the hospital then x-raying you; do
4 you not?

5 A. I'm not sure what they were doing, ma'am.

6 Q. You don't know what an x-ray is,
7 Mr. Rocquemore?

8 A. Yes, ma'am.

9 Q. You do know what an x-ray is?

10 A. Yes.

11 Q. Do you recall being x-rayed while you were
12 there?

13 A. I'm not sure, ma'am. They did numerous things
14 to me.

15 Q. Okay. They did numerous things to you. They
16 were checking you out; is that correct?

17 A. That's right.

18 Q. Because you had told the officer you had had a
19 headache; is that right?

20 A. I'm -- I don't recall telling the officer
21 that, ma'am.

22 Q. You don't recall telling him that? Did you --
23 while you were at the emergency room, did they put a
24 cast on anything?

25 A. No, ma'am.

1 Q. Did they give you any prescription painkiller?

2 A. No, ma'am.

3 Q. They told you to take some Tylenol and put ice
4 on your wounds; is that correct?

5 A. They never -- they didn't tell me anything.
6 They just told the officers that they could take me
7 back.

8 Q. They could take you back to the jail; is that
9 correct?

10 A. Yes, ma'am.

11 Q. And so the same morning that you went to the
12 hospital you were then released that same day; is
13 that correct?

14 A. Yes, ma'am.

15 Q. They didn't keep you overnight?

16 A. No, ma'am.

17 Q. They didn't put a cast on anything?

18 A. No, ma'am.

19 Q. And do you recall them giving you a Tylenol or
20 a Motrin while you were there?

21 A. I don't think they gave me anything.

22 Q. You don't think they gave you anything?

23 A. Not that I can recall, ma'am.

24 Q. Okay. So there you were at a hospital, being
25 seen by a doctor, and they didn't even give you a

1 Tylenol. Is that what your testimony is?

2 A. Like I said, I don't -- I'm really not sure.

3 Q. But you were beat?

4 A. Yes, ma'am.

5 Q. And beat?

6 A. And beat.

7 Q. And beat?

8 A. Yes, ma'am.

9 Q. And you were beaten by not one and not two but
10 three people? Is that your testimony?

11 A. I'm not sure how many people I was beaten by.

12 MS. KNEESE-SHEALY: If you could pull up
13 state's 19.

14 I beg the Court's indulgence just a
15 moment.

16 BY MS. KNEESE-SHEALY:

17 Q. Showing you what has previously been marked as
18 state's exhibit number 34.

19 MS. KNEESE-SHEALY: And could we lower
20 the lights a bit, please.

21 BY MS. KNEESE-SHEALY:

22 Q. This is a picture taken of you at the
23 hospital; is that correct?

24 A. Yes, ma'am.

25 Q. Okay. Could we see 35? And I see a dark area

1 on your forehead. That came from these beatings?

2 A. My -- my face didn't look like that before I
3 was beaten up.

4 Q. Oh, you're saying this isn't an accurate
5 photograph?

6 A. It's an accurate photograph, yes, ma'am.

7 Q. Okay. But you're saying that's not what it
8 looked like?

9 A. I didn't -- I didn't have a chance to look at
10 my injuries, ma'am.

11 Q. You agree, do you not, that you're sitting in
12 a hospital bed, Mr. Rocquemore?

13 A. Yes, I am.

14 Q. You agree, do you not, that you were released
15 from the hospital that day?

16 A. I was.

17 MS. KNEESE-SHEALY: Could we see the next
18 exhibit, please.

19 BY MS. KNEESE-SHEALY:

20 Q. And, again, this is you, Mr. Rocquemore, in
21 the hospital that day; is that correct?

22 A. Yes, ma'am.

23 Q. And this is the head that got beaten and
24 beaten and beaten?

25 A. Yes, ma'am.

1 Q. Next exhibit, please. And this is the hand
2 that tried to swing at people and get them out of
3 your way?

4 A. That would be my left hand, ma'am.

5 Q. That would be your left or would not?

6 A. It is.

7 Q. Is that your left hand?

8 A. Yes, ma'am.

9 Q. And is that the hand that you were using when
10 you were swinging in the car while holding on to
11 something else with your other hand?

12 A. Yes, ma'am.

13 Q. Okay. And so those swinging efforts caused
14 that hand. Is that correct?

15 A. Can you repeat the question, Ms. Prosecutor?

16 Q. Is that a picture of your hand while you're
17 sitting in the hospital bed on August 14th?

18 A. Yes, it is.

19 Q. Okay. Is that the hand you used to swing
20 supposedly at people that evening?

21 A. Yes.

22 MS. KNEESE-SHEALY: Can we see the next
23 exhibit.

24 BY MS. KNEESE-SHEALY:

25 Q. And, similarly, that's the palm of your hand?

1 A. Yes, ma'am.

2 MS. KNEESE-SHEALY: Thank you. You can
3 take that off. Take that off, please.

4 BY MS. KNEESE-SHEALY:

5 Q. So just to make sure I understand then, when
6 those medical personnel were checking you all out,
7 you left, having not gotten any painkiller including
8 an over-the-counter Tylenol or Motrin; is that
9 correct?

10 A. Like I said, I don't -- I can't recall getting
11 anything; but due upon my arrival to the Charleston
12 Detention Center, I was placed in a medical unit, and
13 that's where I received treatment.

14 Q. Okay. And is the treatment that you received,
15 that was for your injuries to your face and to your
16 hands?

17 A. Well, they -- what they had to do was just
18 monitoring me.

19 Q. They were what?

20 A. Monitoring me. Due to the swelling issue,
21 they -- monitored my head trauma.

22 Q. I'm sorry, I'm having a hard time hearing you.
23 They were minor? Is that what you said?

24 A. No, ma'am. I said they were monitoring.

25 Q. Oh. They were monitoring you?

1 A. Yes, ma'am.

2 Q. And that's because you had come in from the
3 hospital when you were booked in; is that correct?

4 A. It was really the swelling to my head, yes,
5 ma'am.

6 Q. Because of the swelling to your head?

7 A. Yes, ma'am. And all of the bruises and, you
8 know, just what they were able to see with their
9 eyes.

10 MS. KNEESE-SHEALY: Okay. Now, if I
11 could have state's exhibit 45 brought back up,
12 please.

13 BY MS. KNEESE-SHEALY:

14 Q. Tell me the name of your side business again.
15 Frontline Enterprise?

16 A. Yes, ma'am.

17 Q. And did I understand you correctly to say you
18 sell customized gold teeth out of the back of your
19 car or out -- off the table?

20 A. Well, that's one of the items that I would
21 show.

22 Q. Okay. And this reflects the back of your
23 vehicle where the sneakers are?

24 A. Yes, ma'am.

25 Q. And when you said that there were pocketbooks

1 in the black bag, are those knock-off pocketbooks?

2 A. No, ma'am.

3 Q. You sell -- what kind of pocketbooks do you
4 sell?

5 A. Different, a different variety of pocketbooks,
6 ma'am.

7 Q. Do you sell Louis Vuitton bags?

8 A. Yes, ma'am.

9 Q. You do sell Louis Vuitton bags?

10 A. Yes, ma'am.

11 Q. And tell me again where you set that table up.
12 Where is that?

13 A. Down the street from where I lived at,
14 at E S Arco (phonetic) gas station on Orangeburg
15 Road.

16 Q. And you're telling this jury those are real
17 Louis Vuitton bags?

18 A. Yes, ma'am.

19 Q. That you've got in a garbage bag in the back
20 of your car; is that correct?

21 A. Yes, ma'am.

22 Q. In looking in the back of your car, it's true,
23 isn't it, that there is nothing missing from back
24 there. Is that correct?

25 A. I wouldn't say that, ma'am.

1 Q. You wouldn't say there is nothing missing?

2 A. I'm really not -- I'm really not sure if there
3 were items -- items missing or not. From that
4 picture, I can't tell, also, ma'am.

5 Q. Well, what do you mean by the picture you
6 can't tell? You're not able to see it, or you
7 just...

8 A. Well ---

9 Q. --- don't remember?

10 A. Well, in my -- I had -- I had merchandise from
11 the rear of my vehicle all the way to the front
12 seats. Where the seats are laying down, I had -- my
13 back was completely full of merchandise.

14 Q. The back was full of merchandise?

15 A. The back of the truck.

16 MS. KNEESE-SHEALY: Okay. Could I see
17 state's exhibit 45, please. Is that 44? Forty-four.

18 I beg the Court's indulgence just one
19 moment.

20 THE COURT: All right. Well, wait a
21 minute.

22 MS. KNEESE-SHEALY: I've got -- could we
23 -- we should take that off for just a second, please.

24 May I approach the court reporter,
25 Your Honor?