

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Georgetown County

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAMONTE RIVERA,

APPELLANT

APPELLATE CASE NO. 2015-002292

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF GEORGETOWN) 2012-GS-22-955,956,957
2013-GS-22-854

STATE OF SOUTH CAROLINA,)
)
Plaintiff,) **Transcript of Record**
)
vs.)
) October 26, 2015
DAMONTE MARQUEZ RIVERA,)
)
Defendant.)

B E F O R E:

Honorable R. Knox McMahon
Georgetown County Courthouse
Georgetown, South Carolina

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Circuit Court Reporter

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1 OCTOBER 26, 2015 - DAY ONE

2 (On the Record - 12:06 P.M.)

3 (REPORTER'S NOTE: The following takes place outside the
4 presence of the Jury.)

5 MOTIONS:

6 THE COURT: How about your client, Mr. Edgemore?

7 MR. EDGEWORTH: He's here, Your Honor.

8 THE COURT: Any jurors in the courtroom? Any jurors?

9 All right. No one, no one -- no juror appears in the
10 courtroom at this time.

11 All right. And what case is this? I don't have the
12 indictment number or anything. Solicitor, if you'll just prep
13 the record.

14 MS. RICHARDSON: Your Honor, this is the State vs.
15 Damonte Rivera, it's 2012-GS-22-955, 956, 957 on the charges
16 of armed robbery, burglary in the first degree, kidnapping.
17 Also, 2013-GS-22-854, on the charge of murder. All of these
18 have been true billed by the Georgetown County Grand Jury.

19 THE COURT: All right. And Mr. Edgemore, is your client
20 present?

21 MR. EDGEWORTH: Your Honor, he is.

22 THE COURT: All right. Thank you. And you have certain
23 motions; is that correct?

24 MR. EDGEWORTH: I do, Your Honor.

25 THE COURT: All right. I'll be glad to hear from you.

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1 MR. EDGEWORTH: Thank you, Your Honor. And just to
2 remind Your Honor, it's Edgeworth.

3 THE COURT: I'm sorry?

4 MR. EDGEWORTH: It's Edgeworth, not Edgemore.

5 THE COURT: I'm sorry.

6 MR. EDGEWORTH: Not a problem.

7 THE COURT: Spell it for me again, E-D-G-E ---

8 MR. EDGEWORTH: --- W-O-R-T-H.

9 THE COURT: I apologize. Once I get them wrong, I don't
10 get them right. I apologize, Mr. Edgeworth.

11 MR. EDGEWORTH: Not a problem, Your Honor.

12 THE COURT: Yes, sir.

13 MR. EDGEWORTH: The motion we're making before you, this
14 morning, Your Honor, is a motion to sever the charges against
15 my client. As the Court is now aware, the armed robbery,
16 burglary and kidnapping charge stem from a, what they State is
17 calling an home invasion incident that occurred, I guess,
18 between the hours of 1:30 and 2:30 A.M. on the night of --
19 over the night of August 30th, early morning on August 30th.
20 And then there's a subsequent murder charge stemming from the
21 alleged murder of the -- one of the alleged codefendants that
22 would have arisen out of the home invasion. And what I am
23 asking the Court to do here is to sever those charges because
24 they do not really meet the standards of arising out of the
25 same set of circumstances that would warrant the Court to

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1 allow the charges to be tried together. In particular, I
2 would point the Court to the fact that this particular
3 example, it would be prejudicial to my client for a jury to
4 hear the facts or evidence that the State tends to produce
5 because the -- there is no forensic evidence against my client
6 at either crime scenes and the primary components of the
7 evidence that the State seeks -- well, at least to my
8 understanding seeking to introduce arises out of statements
9 made by individuals who would have no personal knowledge as to
10 the particulars related to either crime scenes. I believe
11 that essentially what would be happening here, Your Honor, the
12 Jury is gonna hear testimony and reach an illogical conclusion
13 based on circumstantial evidence and that, of course, would
14 prejudice my client into the Court -- or excuse me, the Jury
15 essentially having to pick a poison potentially as to a
16 verdict and I think that that would be prejudicial to my -- or
17 unfairly prejudicial to my client against the standards as we
18 show -- as I will hand up, if the Court needs another copy in
19 *State v Rice*, where it's clear that this -- it's a good
20 recitation of the standards that the Court must consider in
21 regard to the severance which would, of course, where the
22 offense was charged in separate indictments, the same general
23 nature involving connected transactions closely related in
24 time, place and character. Of course, the Court is within its
25 power so long as the Defendant's substantive rights are not

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1 prejudiced. And I think that's what would be going on here,
2 Your Honor, that the -- the State would be seeking to prove
3 the charges of the individual cases by the circumstantial
4 evidence, or excuse me, the circumstantial evidence arising
5 out of the separate cases and I believe that that's unfairly
6 prejudicial.

7 So, again, Your Honor, I would just ask the Court to
8 consider the Defendant's motion to sever the charges on that
9 basis and -- thank you, Your Honor.

10 THE COURT: Thank you, Mr. Edgeworth. Solicitor?

11 MS. RICHARDSON: Your Honor, we -- the State previously
12 handed up three cases for the Court's consideration. That is
13 *State v. Tucker*, which is 478 S.E.2d 260, and that is a 1996
14 Supreme Court case. Also, *State vs. Rice* which is the case
15 that Mr. Edgeworth just cited. And *State v. Simmons*. Your
16 Honor, it's the State's position that these incidents all
17 arise out of the same circumstances of a course of conduct and
18 the evidence requiring to prove one of the cases is evidence
19 that would be used in the other case as well.

20 The Court has found in *State v. Tucker* the charges can be
21 joined in the same indictment and tried together where (1)
22 they arise out of a single chain of circumstances; (2) are
23 proved by the same evidence; (3) are of the same general
24 nature; and (4), no real right of the defendant has been
25 prejudiced.

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1 Your Honor, as far as it arising as in number (1),
2 arising out of the same chain of circumstances, it's the
3 State's position that this was a continuous course of conduct
4 in that the three primary parties from the home invasion had
5 not separated at the time of the murder. Just to briefly go
6 over the facts again, the facts that the State would be
7 seeking to prove are that the they home invasion occurred in
8 the city limits of Georgetown in the early morning hours of
9 August 30th, 2012. Between 1:30 and 2:00 A.M. the 911 call
10 came in approximately at 2 -- I think it was 2:11 or shortly
11 after 2:00 in the morning. The murder also occurred that same
12 morning. Mr. Thomas' body was found, the Decedent is Alfonso
13 Terrell Thomas. His body was found shortly before 7:00 A.M.
14 that same morning also in the City of Georgetown but on the
15 other side of town, Your Honor.

16 When officers were processing the scene of the home
17 invasion, it involved basically three to four individuals
18 breaking into a residence at night while the individuals were
19 asleep including children. Forced entry was made. A door was
20 kicked in. That door had a replacement window in it that
21 contained, instead of plates of glass contained a sheet of
22 Plexiglas. That Plexiglas, in the course of the forced entry,
23 fell into the hallway of the home. When officers responded --
24 and Captain Small with the Georgetown Police Department is
25 here, Your Honor -- and were processing that scene there were

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1 footprints that were left and shoeprints that were left on
2 that Plexiglas as whoever walked into the home in the course
3 of the home invasion walked across that glass. Those were --
4 that was processed and footprints were processed and sent to
5 SLED. While they were still investigating the home invasion,
6 they received the call of the murder. During the home
7 invasion, certain items were taken from the victims including
8 a set of car keys and some cell phones. When officers went to
9 the scene of the murder, a cell phone was found in the
10 decedent's pocket. That cell phone, when turned on had the
11 name and phone number of the minor victim from the home
12 invasion. So, evidence found on the body of the murder victim
13 was the first evidence they had of the identity of the
14 perpetrators of the home invasion. Also, when they took the
15 shoes from the deceased's body and processed them at SLED,
16 they matched the shoeprints that were left at the scene of the
17 home invasion. In order to find out who the other parties
18 were that participated in the home invasion, the police
19 department had to trace the steps or find out who the murder
20 victim was with last. That led them to Mr. Rivera and a
21 Codefendant, Anthony Fraser. Search warrant of Anthony
22 Fraser's house yielded proceeds of the crime, car keys that
23 were stolen from the victims were found at Mr. Fraser's house.
24 Also, shoes taken from Mr. Fraser's house matched again
25 footprints that were found at the scene of the home invasion.

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1 There are multiple witnesses who put Mr. Rivera, Mr. Fraser,
2 and the deceased, Mr. Thomas, together before and after the
3 home invasion and shortly before Mr. Thomas' death.

4 Specifically, witnesses that will be integral to both
5 cases are Anthony Lawrence, Jasmine Williams. Also, Your
6 Honor, the Codefendant, the get-away driver, actually two
7 Codefendants are testifying or planning to testify against
8 this Defendant and will place him, Mr. Fraser and the decedent
9 together before and after the home invasion, dropped them all
10 off together at the residence of Mr. Lawrence where Ms.
11 Williams was present. So, that is four witnesses there that
12 would be integral to both of these cases.

13 Additionally, there are jail house informants, at least
14 three of those, who will say that Mr. Rivera admitted to them
15 that he was involved, that he was with Mr. Fraser and Mr.
16 Thomas, participated in the home invasion, and then
17 subsequently confessing to being involved in the murder,
18 admitting that, although he named Mr. Fraser as the trigger
19 man, that they were all in on that together. It's the State's
20 position that this all happened within the same night. That
21 meets prong number one, that they are proven by the same
22 evidence, because all this evidence, even if you try one, the
23 evidence would be practically the same for both cases. They
24 are of the same general nature. All of these are violent
25 crimes, murder, kidnapping, armed robbery and home invasion

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1 all involve the use of firearms. Additionally, as for all
2 being of the same general nature, *State v Rice* defines that
3 term to say that means they are interconnected.

4 Your Honor, the evidence we have and intend to present is
5 that the motive for the murder was to aid in Mr. Rivera and
6 Mr. Fraser's escape or getting away with the home invasion.
7 We will have evidence or testimony that Mr. Rivera indicates
8 that Mr. Thomas did not follow, follow the instructions of
9 Fraser and Rivera during the home invasion, that they saw him
10 as a weak link and they felt that if he were questioned by
11 police that he would be a snitch and would give information to
12 them. We have witnesses who will indicate that he was
13 silenced because dead men don't talk.

14 As for number four, no real right of the Defendant has
15 been prejudiced. Your Honor, it's the State's position that
16 if either of these cases were tried alone, if we tried the
17 murder, that the burglary would actually be admissible
18 evidence in the murder case because it sets up the chain of
19 circumstances, the fact that they were together and the motive
20 for the murder. So, even if we had the murder by itself, the
21 burglary would be able to come in. Also, if we were trying
22 just the burglary, it's the State's position that the murder
23 would come in. The cause and motive for the murder was the
24 burglary and was an attempt to silence a potential witness,
25 then that is evidence of guilt and evidence of flight and

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1 evidence of getting away and that would be admissible in the
2 burglary case.

3 Your Honor, in *State v. Tucker*, in that case we had three
4 burglaries of three different houses. The first one was a
5 home invasion\murder. All these occurred in that case between
6 two and four days of each other. The Court found that this
7 was a single chain of circumstances because when he -- when
8 Tucker committed the home invasion and murder first, he broke
9 in these houses a couple of days later basically as a hideout
10 or to get clothing and food so he could run from the police.
11 The Court found even though those were three separate victims,
12 three separate houses, two to four days part, that they would
13 all -- were basically would have been admissible in the trial
14 of either one of them.

15 And, Your Honor, in *State v. Simmons* the Court talks
16 about res gestae and the need that presenting both crimes
17 would be necessary for a full presentation of the case without
18 fragmentation. Again, Your Honor, it gives the context of the
19 crime and explains the facts so that it's more -- that it's
20 easier for the Jury to understand and doesn't lead to
21 speculation. If I tried just the burglary case, this Jury is
22 gonna hear where the cell phone came from. The cell phone
23 came out of the pocket of the deceased, that's gonna lead to
24 speculation. The shoes came from the decedent and tracking
25 the whereabouts of the decedent is how we got to the murder.

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1 So, in summary, Your Honor, it's the State's position
2 that these are all part of the same crime spree. That they're
3 all closely related, that it's the same evidence for both
4 cases and that it doesn't prejudice the Defendant because even
5 if we try one by itself, the evidence of the other one is
6 going to have to come in to explain the context and because it
7 would be admissible under other rules.

8 THE COURT: Thank you, Solicitor.

9 Mr. Edgeworth?

10 MR. EDGEWORTH: Thank you. A brief reply, Your Honor. I
11 would point out to the Court that although it seems that it's
12 an easy question for the Court to answer, that as the
13 Solicitor has just stated to the Court, all the physical and
14 forensic evidence point to other individuals and, thus, that's
15 what makes this case different than the cases that have been
16 submitted to the Court. If you're talking about a crime
17 spree, yes, there may be case law that suggests if a crime
18 happened on day one versus day three and then day five, and
19 maybe even include a murder, but none of those cases included
20 a murder of a codefendant and all the evidence in those cases
21 points to the decedent, the dead codefendant. He's the one
22 that had the most evidence against him. So, it would
23 prejudice my client in that regard if we're trying the case
24 where I cannot cross examine the decedent because he could've
25 just easily said, no, he wasn't there. So, my point in making

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1 that statement is that it does prejudice my client directly by
2 trying the cases together even though the, the way the
3 investigation kind of arrived at its conclusion may have
4 happened over the two sets of crime scenes to point to that
5 individual but none of that points to my guy, Mr. Rivera, my
6 apologies. Then that's why I believe -- that's why there's a
7 catchall for, for this type of inquiry which is the prejudice
8 to the Defendant. And I think it's extremely prejudicial to
9 allow the State to move forward on a case and -- by the way,
10 if we're talking about admissibility of evidence on a second
11 trial, I mean, that's for the next trial court to determine
12 whether it meets the Lyle components. But in any event, Your
13 Honor, it -- for them to try a case and essentially, you're
14 asking the Jury, okay, well, we don't have any evidence
15 linking the Defendant to the case, but everybody else was
16 there, so he must've been there, too. That's essentially what
17 they're asking the Court and they're using the two different
18 sets of circumstances to have the Jury reach that conclusion.
19 I think that's improper.

20 But in any event, Your Honor, I would ask the Court again
21 to consider severing the charges based on the fact that the
22 prejudice is so overwhelming due to the lack of direct
23 evidence against my client.

24 THE COURT: Thank you. Thank you very much, Mr.
25 Edgeworth.

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1 I reviewed the cases that were handed up both by the
2 Solicitor and the case pointed out by Mr. Edgeworth, *State v.*
3 *Rice*. *State v. Rice*, of course, involves a consolidation of
4 two separate charges. One being trafficking in cocaine charge
5 and another being a murder charge. The trafficking cocaine
6 charge arose from a traffic stop which occurred six or seven
7 weeks after the murder. And according to the Defendant, the
8 only connection between the two was that a weapon was found
9 with the cocaine. The Defendant alleges there was no nexus
10 between the two charges. The State alleges the drug
11 transaction was at the root of the murder itself. When you go
12 further down in this particular *Rice* case, it says where the
13 offense is charged in separate indictments for the same
14 general nature involving connected transactions, closely
15 related in time, place and character, the Trial Judge, has the
16 power in his discretion to award the indictments tried
17 together if the Defendant's substantive rights would not be
18 prejudicial. And it further, in citing *McCrary v. State* where
19 it talks about the same general nature, it says, offenses are
20 considered to be of the same general nature of where they are
21 interconnected, citing *State v. Grace*. Charges can be joined
22 in the same indictment and tried together where they arise out
23 of a single chain of circumstances, are approved by the same
24 evidence or of the same general nature and no real right of
25 the Defendant will be prejudiced.

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1 In the *Rice* case, the Court pointed out the information
2 regarding the cocaine trafficking was relevant to show the
3 complete, whole, unfragmented story regarding the murder to
4 the Jury. I looked at *Tucker*, I also looked at *Simmons*. I
5 believe *Simmons* was the two burglaries that occurred on the
6 same night in the Colonial Drive area of Columbia, South
7 Carolina on "Liberty Street". I go back to and I had the last
8 -- the first name wrong and the last name right -- *State v.*
9 *Rebecca M. Smith*, which is 309 S.C. 442. In that case, in a
10 dissent by then Justice, now Chief Justice Toal, she cites a
11 case, *U.S. v Masters*, 622 F.2d 83, Fourth Circuit 1980.
12 Evidence of other crimes is admissible pursuant to a res
13 gestae theory under the reasoning that events do not incur in
14 a vacuum and that the Jury has a right to hear what occurred
15 immediately prior to and subsequent to the commission of the
16 act so that they may realistically evaluate the evidence.
17 This is further highlighted in *State v. Rice* by the Court
18 stating, again, the information was relevant to show complete,
19 whole, unfragmented story regarding Johnson's murder.
20 Therefore, *Rice* was not prejudiced. I know of no standard
21 whereby you have to have forensic evidence to convict of
22 person for any particular crime. It may be helpful. It may
23 be helpful to the State in the prosecution of a case.
24 Sometimes forensic evidence can be helpful to the Defense but
25 I know of no requirement for that. These are totally

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1 interconnected crimes. And as far as confrontation of the, of
2 the victim, where you say, well, I can't cross examine the
3 victim, perhaps he would say he wasn't there or would have
4 said he wasn't there. And, of course, the Solicitor states
5 that dead men don't talk. Many times, dead bodies do. Many
6 times, the body of the victim is the friend of the law
7 enforcement and sometimes a friend of a defendant. But you
8 have on the body shoes that match to the crime scene of the
9 burglary, a shirt that is identified at the crime scene of the
10 burglary and a cell phone that is identified as coming from
11 the crime scene of the burglary. It's like Nathaniel
12 Hawthorne's "The Birthmark". You can't -- when you try to
13 extract a birthmark that wraps around the heart, you destroy
14 the soul. These cases are totally intertwined, they're tied
15 in on the same early morning hours, within five hours of each
16 other. *Rice* was six or seven weeks, *Tucker* was in two or
17 three days, *Woomer* was a crime spree and it goes on and on,
18 and you look at those other elements in the standard cited
19 under *Rice*, I would respectfully deny the motion to sever.

20 All right. Do you have other motions, Mr. Edgeworth?

21 MR. EDGEWORTH: I didn't know if Your Honor wanted to
22 take up -- I do have a motion for a *Franks* hearing and the
23 motions to suppress but you might want to strike the jury
24 first.

25 THE COURT: Let's see. There's a recent case on that.

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1 All right. Well, it's twenty-five minutes till 1:00.
2 We're supposed to start back at 1:30. Why don't we strike a
3 jury and then I'll hear whether or not he's entitled to a
4 *Franks* hearing.

5 MR. EDGEWORTH: Thank you, Your Honor.

6 MS. RICHARDSON: Thank you, Judge.

7 THE COURT: All right. Anything further?

8 MS. RICHARDSON: Not from the State, Your Honor.

9 THE COURT: All right. Thank you. Thank you very much.
10 1:30 it is.

11 (RECESS - 12:32 P.M.)

12 *****OFF THE RECORD*****

13 (On the Record - 1:36 P.M.)

14 BY THE COURT:

15 THE COURT: Are we ready for our Jury?

16 MS. RICHARDSON: State is ready, Your Honor.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: Defense is ready, Your Honor.

19 THE COURT: All right. Can you bring us our Jury?

20 (REPORTER'S NOTE: Jury Venire enters courtroom. 1:38 P.M.)

21 THE COURT: All right. Solicitor, you may call your
22 first case for trial.

23 MS. RICHARDSON: Your Honor, the State calls the State
24 versus Damonte Marquez Rivera. It's 2012-GS-22-956, on the
25 charge of burglary in the first degree; 2012-GS-22-955, on the

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1 charge of armed robbery; 2012-GS-22-957, on the charge of
2 kidnapping; and 2013-GS-22-854 on the charge of murder.

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

4 Mr. Edgeworth, you represent Mr. Rivera?

5 MR. EDGEWORTH: Yes, I do, Your Honor.

6 THE COURT: And is Mr. Rivera present in the courtroom?

7 MR. EDGEWORTH: He is, Your Honor.

8 THE COURT: Is he ready for trial?

9 MR. EDGEWORTH: Yes, Your Honor, he is.

10 THE COURT: All right. Thank you. Thank you very much.

11 Ladies and gentlemen of the jury panel, if you would
12 please give me your complete and undivided attention. We're
13 going to go through a procedure whereby we select a trial jury
14 for the first case that has been called to trial by the
15 Solicitor. Our purpose is to select a Jury that will be fair
16 and impartial to both Mr. Rivera and to the State. As part of
17 that process, I will qualify you. I will ask you certain
18 questions concerning your eligibility to serve as jurors in
19 the trial of this particular case. As you recall this
20 morning, you were qualified -- generally qualified to serve as
21 jurors in this court. Now, you will be qualified to serve as
22 jurors in the trial of this case. I would ask you, please,
23 during the proceeding, again, consider yourselves still under
24 oath, Madame Clerk having administered the oath to you this
25 morning. Please make sure your answers are full, complete and

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1 truthful.

2 Witness list, Solicitor?

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: And/or voir dire from either the State of the
5 Defense.

6 Thank you, Solicitor. Thank you, Mr. Edgeworth.

7 VOIR DIRE:

8 THE COURT: Ladies and gentlemen, I am going to publish
9 or read to you the four indictments that have been called for
10 trial. Indictments, ladies and gentlemen, are not evidence.
11 The indictments are the formal charging documents by which an
12 individual is placed on notice of charges that have been
13 brought against him or her. The indictment contains mere
14 allegations and in no way are the indictments evidence of the
15 allegations contained therein. I read these indictments to
16 you because of certain questions that I will ask you further
17 down the line to determine your qualifications.

18 Indictment number 2012-GS-22-00956. That indictment
19 reads that Damonte Marquez Rivera did in Georgetown County on
20 or about August 30th, 2012, while acting in concert with
21 others enter the dwelling of Walter Dozier without consent and
22 with the intent to commit a crime therein and when in
23 effecting entry or while in the dwelling or in immediate
24 flight the entering or remaining occurred in the nighttime
25 while armed with a deadly weapon by he or another participant

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1 in the crime. That is an indictment for burglary in the first
2 degree.

3 The next indictment 2012-GS-22-00955 reads that Damonte
4 Marquez Rivera did in Georgetown County on or about August
5 30th, 2012, the same date in the burglary indictment, while
6 acting in concert with others, while armed with a deadly
7 weapon, to wit, a handgun, did take and carry away the
8 personal property of Walter Dozier from or in the immediate
9 presence of Walter Dozier with the intent to deprive Walter
10 Dozier of possession by use of force, threats or intimidation
11 in violation of 16-11-338 of the Code of Laws of South
12 Carolina, that is an indictment for armed robbery.

13 The next indictment, 2012-GS-22-00957, alleges that
14 Damonte Marquez Rivera did in Georgetown County on or about
15 that same date, August 30th, 2012, while acting in concert
16 with others did unlawfully seize, confine, inveigle, decoy,
17 kidnap, abduct or carry away one "AW" initials only, date of
18 birth December 1st, 2001, without the authority of law in
19 violation of 16-3-910 of the Code of Laws of South Carolina.
20 And that is the indictment for kidnapping.

21 The next indictment, 2013-GS-22-00854, alleges that
22 Damonte Marquez Rivera did in Georgetown County on or about
23 August 30th, 2012 date along with a codefendant willfully
24 feloniously, intentionally killed the victim Alfonso Thomas
25 with malice aforethought either expressed or implied by means

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1 of a gunshot wound to the head and neck area and the victim
2 did die as a proximate result thereof on that same date,
3 August 30th, 2012 in Georgetown County in violation of 16-3-10
4 of the South Carolina Code of Laws, that is the indictment for
5 murder.

6 So, you have four indictments, burglary first degree,
7 armed robbery, kidnapping and murder. Again, the indictments
8 are not evidence. The indictments are the formal charging
9 documents by which an individual is placed on notice of the
10 charges that have been brought by him or her.

11 I'm gonna first introduce you to or have them introduce
12 themselves to you, the attorneys. The solicitor, Solicitor
13 Richardson, if you would please stand and introduce yourself
14 to the jury panel and any member of the Solicitor's staff that
15 will assist you in the prosecution of this crime.

16 MS. RICHARDSON: My name is Alicia Richardson and I'm the
17 Deputy Solicitor. Jimmy Richardson is the elected Solicitor
18 for both Horry and Georgetown Counties. I am going to be
19 assisted by Erin Bailey, who is a Senior Assistant Solicitor
20 with our office; Ricky Todd, Assistant Solicitor with our
21 office; I also have investigator Steven Brown and investigator
22 Ginger Pop. Also with me is Seth Oskin, he is a law clerk
23 with our office.

24 THE COURT: Thank you, Solicitor.

25 Mr. Rivera is represented by Josh Edgeworth. If you

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1 would please stand, introduce yourself and your client to the
2 jury panel.

3 MR. EDGEWORTH: Yes, Your Honor, thank you. Good
4 afternoon, I am Josh Edgeworth, an attorney with a practice
5 located in Pawleys Island, South Carolina; and this is my
6 client Damonte Rivera.

7 THE COURT: Would you please stand and face the jury
8 panel for me, Mr. Rivera.

9 (REPORTER'S NOTE: Defendant complies.)

10 THE COURT: Thank you. Thank you very much, Mr.
11 Edgeworth, Mr. Rivera.

12 MR. EDGEWORTH: Thank you, sir.

13 THE COURT: First, with the attorneys, is there any
14 member of the jury panel related by blood or marriage, have
15 any close, personal, business, social, professional
16 relationship with either of the attorneys, have you ever been
17 a party to a lawsuit in which the attorneys represented you or
18 the attorneys represented the opposing party? If so, please
19 stand.

20 (REPORTER'S NOTE: No response.)

21 THE COURT: Is any member of the jury panel related by
22 blood or marriage, have any social, personal, professional,
23 business relationship with any employee of the Georgetown
24 County Solicitor's office? If so, please stand.

25 (REPORTER'S NOTE: No response.)

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1 THE COURT: Is there any member of the jury panel related
2 by blood or marriage, close personal friends, have any social,
3 personal, business, professional relationship with any
4 employee of the Georgetown County Public Defender's office?
5 If so, please stand.

6 (REPORTER'S NOTE: No response.)

7 THE COURT: Mr. Rivera has stood and been introduced to
8 you. Is any of the jury panel related by blood or marriage,
9 personal friends, have any social, business, personal,
10 professional or know Mr. Rivera in any way? If so, please
11 stand.

12 (REPORTER'S NOTE: No response.)

13 THE COURT: The named alleged victim in the murder
14 indictment is one Alfonso Thomas. Is any member of the jury
15 panel related by blood or marriage, personal friends, have any
16 social, business, professional relationship, had any social,
17 business or professional relationship with Alfonso Thomas? If
18 so, please stand.

19 (REPORTER'S NOTE: No response.)

20 THE COURT: The name alleged in the kidnapping and armed
21 robbery indictment is Walter Dozier. Is there any member of
22 the jury panel related by blood or marriage, personal friends,
23 have any social, business, professional relationship with
24 Walter Dozier? If so, please stand.

25 (REPORTER'S NOTE: No response.)

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1 THE COURT: The indictments allege an incident that
2 occurred or about August 30th of 2012 involving a burglary,
3 armed robbery, kidnapping and murder in Georgetown County.
4 Does any member of the jury panel have any knowledge about the
5 case from any source whatsoever? If so, please stand.

6 Yes, if you would stand and give me your number and name,
7 please?

8 JUROR 121: Juror 121. You asked a question earlier
9 about if I knew of anyone. I used to be a mental health
10 counselor.

11 THE COURT: Yes, ma'am. Let me stop you right there,
12 please. Would you step up here for me? Step up here for me,
13 please.

14 (REPORTER'S NOTE: Sidebar held on the record but out of
15 hearing of jury panel.)

16 THE COURT: All right. Tell me your number and name
17 again.

18 JUROR 121: 121, Janet Reown.

19 THE COURT: Okay.

20 JUROR 121: I used to be a mental health counselor, so I
21 know a lot of people but it won't have any effect on what I
22 think but I just know ---

23 THE COURT: Now, when you say a lot people, tell me ---

24 JUROR 121: I do know of the family.

25 THE COURT: Which family?

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1 JUROR 121: The Thomas family.

2 THE COURT: The Thomas family?

3 JUROR 121: Yes.

4 THE COURT: Okay.

5 JUROR 121: But about the circumstances and all that
6 stuff that goes along with it, I don't have knowledge of that
7 but I can be impartial but I just ---

8 THE COURT: How do you know the Thomas family?

9 JUROR 121: Through my affiliation with the mental health
10 center and through my affiliation from living in the area.

11 THE COURT: Have you counseled Walter Thomas or any
12 member of the Thomas family?

13 JUROR 121: One of his aunts, many, many years ago.

14 THE COURT: Okay.

15 JUROR 121: But ---

16 THE COURT: Are you personal friend -- were you personal
17 friends with Mr. Thomas?

18 JUROR 121: No, no, no, but I just thought I needed to
19 say that.

20 THE COURT: Do you know of anything about the facts of
21 this case?

22 JUROR 121: No, none.

23 THE COURT: Do you know Walter Dozier?

24 JUROR 121: No.

25 THE COURT: Do you know Mr. Rivera?

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1 JUROR 121: No, I don't know him.

2 THE COURT: With the knowledge you have, in your mind,
3 you know yourself best, is there any reason you could not be a
4 fair and impartial juror ---

5 JUROR 121: I could be ---

6 THE COURT: --- for both Mr. Rivera and the State?

7 JUROR 121: I can be very fair.

8 THE COURT: And you haven't heard anything about this ---

9 JUROR 121: No, huh-uh (negative response).

10 THE COURT: All right.

11 JUROR 121: I just wanted to make sure I was in place.

12 THE COURT: All right. Thank you, ma'am. You may return
13 to your seat.

14 MS. RICHARDSON: Your Honor, he's not on any list but --
15 he's not on any list but Anthony Fraser was charged. If we
16 could just ask the Jury if they know his -- you know, just to
17 make sure there's no problem.

18 THE COURT: All right. What's his name?

19 MS. RICHARDSON: Anthony Fraser.

20 THE COURT: All right. Thank you.

21 (REPORTER'S NOTE: Sidebar concluded.)

22 THE COURT: Does any member of the jury panel have any
23 bias or any prejudice towards the parties, that being Mr.
24 Rivera or the State or towards the subject matter involved in
25 the case? If so, please stand.

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1 Yes, your number and name, please.

2 JUROR 89: 89, Carlton Linnen.

3 THE COURT: All right. Would you step up here for me,
4 please, Mr. Linnen.

5 (REPORTER'S NOTE: Sidebar held on the record but out of
6 hearing of jury panel.)

7 THE COURT: Tell me your number and name again.

8 JUROR 89: 89, Carlton Linnen.

9 THE COURT: Last name?

10 JUROR 89: Linnen, L-I-N-N-E-N.

11 THE COURT: Tell me your situation.

12 JUROR 89: I won't feel comfortable sending nobody to
13 jail for that long.

14 THE COURT: You don't -- the Jury doesn't send anybody to
15 jail. That has nothing to do with being a juror. The Jury
16 makes a decision on the facts of the case and applies it to
17 the -- applies it to the law as I tell them the law is and
18 they make a decision on whether the person is guilty or not
19 guilty. Tell me what you're thinking. Just tell me what
20 you're thinking.

21 JUROR 89: That I ain't want to be involved in that, all
22 that murder and all that. That's what I'm thinking, I mean --
23 I just don't want to be involved with somebody's demise like
24 that. I don't know if he guilty or not, I ain't know, but I
25 ain't want nothing to do with it. But I understand if they

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1 nothing I can do.

2 THE COURT: Based on that opinion that you hold, that you
3 don't want to have anything to do with it, can you be a fair
4 and impartial juror in the trial of this case for both Mr.
5 Rivera and the State?

6 JUROR 89: I don't believe so.

7 THE COURT: Can you tell me what kind of work you do?

8 JUROR 89: Utility operator at International Paper.

9 THE COURT: And what age are you?

10 JUROR 89: Twenty-four.

11 THE COURT: All right. I'm gonna excuse you from jury
12 service on the trial -- I'm gonna excuse you from the trial of
13 this case.

14 JUROR 89: This case.

15 THE COURT: I'm not excusing from the courtroom at this
16 time.

17 JUROR 89: Okay.

18 THE COURT: All right?

19 JUROR 89: All right.

20 THE COURT: You can return to your seat and do not say
21 anything to your fellow jurors. You got me?

22 JUROR 89: All right. Appreciate it.

23 (REPORTER'S NOTE: Sidebar concluded.)

24 THE COURT: Is there any member of the jury panel or has
25 any member of the jury panel or any member of your immediate

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1 family or close personal friend ever been a victim of or
2 accused of or convicted of committing a crime of personal
3 violence? If so, please stand.

4 (REPORTER'S NOTE: No response.)

5 THE COURT: All right. No one stands.

6 Ladies and gentlemen, I'm now gonna call a rather long
7 list of potential witnesses in the trial of this case. The
8 question, of course, is, is there any member of the jury panel
9 related by blood or marriage, close personal friends, have any
10 social, business, professional relationship with any of these
11 parties whose names I call. If so, please stand. I would
12 advise that the witnesses do not have to be present during
13 this proceeding. However, if they are present, I would ask
14 them to stand and face the jury panel when their names are
15 called. Of course, I'm sure you will hear many names on this
16 potential witness list which no one stands as I say their
17 name. They may not be here and they're not required to be
18 here.

19 The first six names are listed on the witness list as
20 victim witnesses: Valarie Thomas. This is Ms. Thomas to my
21 front left.

22 MS. THOMAS: Valarie Thomas, mother of Alfonso ---

23 THE COURT: Thank you, Ms. Thomas. You don't have to say
24 anything. Thank you very much though; that's very mannerly
25 but thank you -- thank you very much.

1 Meyon Shandail Thomas, which is Ms. Thomas also to my
2 front left. Thank you, Ms. Thomas.

Walter Stanley Dozier, Jr.; Antoinette Wilson; Alayah
W.
; Anthony Fraser. Again, ladies and gentlemen, is any
member of the jury panel related by blood or marriage, know,
personal friends, have any social, business or professional
relationship with any of those individuals whose names I just
called and/or who stood before you? If so, please stand.

9 All right. Let's see, this is Juror 131?

10	JUROR 121: 121.

11 THE COURT: 121, I was ten off. Step back up here for
12 me, please.

13 (REPORTER'S NOTE: Sidebar held on the record but out of
14 hearing of jury panel.)

15 THE COURT: All right. Of those that stood before you or
16 the names I called, did you know ---

17 JUROR 121: Yeah.

18 THE COURT: All of them?

19 JUROR 121: I know Valarie, I know I think -- I think I
20 know Stanley Dozier, I think, I'm not sure about him. You
21 said Antoinette ---

22 THE COURT: Wilson.

23 JUROR 121: I think that's her -- his aunt, is that his
24 aunt? Who else?

25 THE COURT: How do you know them?

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1 JUROR 121: Through my affiliation through the mental
2 health center and living in the community.

3 THE COURT: Do you know their relationship, if any, to
4 each other? Do you know if they're related to each other or
5 ---

6 JUROR 121: I kind of missed -- if Antoinette is
7 Valarie's sister, I believe, if that's her last name now. And
8 like I said, I'm not sure about the Stanley Dozier, but I know
9 a Stanley Dozier and I'm not sure if that's the same one. And
10 you called two more names.

11 THE COURT: Anthony Fraser.

12 JUROR 121: I don't think I know him.

13 THE COURT: I called Alayah W.

14 JUROR 121: Alayah W. I think I know her, too, but
15 -- and again, this still won't have any effect but I just want
16 you to know ahead of time.

17 THE COURT: Say again?

18 JUROR 121: This won't have any effect on my thinking or
19 I mean, my job as a juror but I just felt I need to let you
20 know.

21 THE COURT: Given the fact that you know these
22 individuals, you think -- you're telling me you can be a fair
23 and impartial juror in this case ---

24 JUROR 121: Oh, definitely.

25 THE COURT: --- for both Mr. Rivera and the State?

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1 JUROR 121: Yes, I can; yes, I can.

2 THE COURT: All right. You can stay with us. Thank you
3 very much.

4 (REPORTER'S NOTE: Sidebar concluded.)

5 THE COURT: The next five names listed as potential
6 witnesses, ladies and gentlemen. Jasmine Tiara Williams;
7 Anthony Lawrence, III; Joshua Taylor; Coleman Tudor, that's T-
8 U-D-O-R; Stephanie Sumpter. Again, has any member of the jury
9 panel related by blood or marriage, personal friends, have any
10 social business, professional relationship with any of those
11 individuals whose names I just called? If so, please stand.

12 (REPORTER'S NOTE: No response.)

13 THE COURT: The next five names: Walter Gibson; Fred
14 Alfred Baker; Craig Van Del Chestnut; Ernest Lee Lawrence;
15 Jemar Ward.

16 (REPORTER'S NOTE: No response.)

17 THE COURT: The next five names: Jasmine Greene; Monique
18 Grove; Candice Livingston; Trown Davis; Shakeem Geathers.

19 (REPORTER'S NOTE: No response.)

20 THE COURT: The next three names: Jasen Wade; Willie
21 Preston; Quanmaine Brown.

22 (REPORTER'S NOTE: No response.)

23 THE COURT: The next group of witnesses are identified as
24 Georgetown Police Department officers: Steven Church; Blair
25 Cribb; Derek Dmytruk, D-M-Y-T-R-U-K; John Gregory; James

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VOIR DIRE

1 Leewood; Scott Scogin.

2 (REPORTER'S NOTE: No response.)

3 THE COURT: Again, continuing with Georgetown Police
4 Department officers: Keith Small, this is officer Keith Small
5 to my front left, thank you; Jonell Sparkman; Kyle Walton;
6 Jasen Wade; Theresa Wallace; Aaron Lynn; James Burke; Officer
7 Rivers; Paul Egger; Heath Reisinger; Officer Coard; Officer
8 Sims; Kelvin Waites. Is any member of the jury panel related
9 by blood or marriage, personal friends, have any social,
10 business, professional relationship with any of those officers
11 whose names I just called or with any other witness? If so,
12 please stand.

13 THE COURT: All right. Let's see, Number 89; you may sit
14 down. Thank you. Thank you, very much. Number 121; you may
15 come forward again. Thank you.

16 THE COURT: And you other, let's see, three gentlemen; is
17 that right? I can't -- y'all can line up right here on the
18 Sheriff, if you want, right here at the end of the isle.

19 (REPORTER'S NOTE: Sidebar held on the record but out of
20 hearing of jury panel.)

21 JUROR 121: Again, my affiliation with the Sheriff's
22 Department.

23 THE COURT: Ma'am?

24 JUROR 121: Again, my affiliation with the Sheriff's
25 Department, working as a correctional officer in the past, I

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1 know these people. And I just -- I don't want to get caught
2 up in anything, so I do know who they are and I've worked with
3 them in the past. I've been away from the Sheriff's
4 Department for more than fifteen years, so ---

5 THE COURT: And when you say -- maybe I didn't track you
6 right.

7 JUROR 121: Okay. That's all right.

8 THE COURT: When you say you don't want to get caught up
9 in anything, how ---

10 JUROR 121: Right. I just want it to be known that I do
11 know these people, that's all. I've worked with them in the
12 past.

13 THE COURT: And how many years ago was it?

14 JUROR 121: It's more than fifteen because I worked with
15 them for thirteen, fifteen, more than fifteen years. But, of
16 course, when I see them, you know, they know who I am and we
17 speak to each other all the time. But, of course, this still
18 won't have any -- I'm very professional, so I know how to
19 separate.

20 THE COURT: And the fact that you know these people, you
21 can still be a fair and impartial juror in the trial of this
22 case for both Mr. Rivera and ---

23 JUROR 121: Definitely, definitely ---

24 THE COURT: --- and the State?

25 JUROR 121: --- definitely.

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1 THE COURT: All right. Thank you. Thank you very much.

2 JUROR 121: Don't call no more body I know.

3 THE COURT: Thank you. Thank you very much.

4 All right. Yes, sir. Your number and name?

5 JUROR 44: Number 44, Robert D. Flowers, Jr.

6 THE COURT: All right. Thank you. How you doing?

7 JUROR 44: All right, sir.

8 THE COURT: Tell me who you know.

9 JUROR 44: I know the name Jason Ward. I grew up with
10 him. He was my neighbor down the street. We grew up as kids
11 and then we keep in contact every once in a while. He's kin
12 to my -- Gerald Ward, they -- that's his uncle and Gerald Ward
13 is my uncle and ---

14 THE COURT: One by blood and one by marriage; is that how
15 it goes?

16 JUROR 44: Yes, sir.

17 THE COURT: Okay. Given those facts, can you be a fair
18 and impartial juror in the trial of this case for both Mr.
19 Rivera and the State?

20 JUROR 44: Sure.

21 THE COURT: Thank you. I believe you can stay with us.

22 44 will serve -- is that 44? 44 is staying with us,
23 Madame Clerk. You're staying with us. I'm just telling the
24 Clerk. Thank you.

25 Yes, sir. Your number and name?

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1 JUROR 146: 146, Devin Taylor.

2 THE COURT: 146, all right.

3 JUROR 146: I know Officer Sims. He was a few years
4 ahead of me in high school, but that's been eight years ago.
5 I mean, I haven't had any real -- I know him if I see him, but
6 no real contact, just wanted to get the -- say it just in
7 case.

8 THE COURT: Well, given that fact, can you be a fair and
9 impartial juror in the trial of this case for both Mr. Rivera
10 and the State?

11 JUROR 146: Yes, sir, I can.

12 THE COURT: Thank you. I believe you can stay with us.
13 Thank you.

14 JUROR 146: Thank you.

15 THE COURT: 146 is staying with us.

16 Number and name?

17 JUROR 69: Number 69, Gary Hendrix.

18 THE COURT: Good afternoon.

19 JUROR 69: Good afternoon. Jasen Ward, the policeman, I
20 know him from year ago I was -- actually did youth counseling
21 at the church and he was a youth member at the time. It's
22 been many years ago but -- probably twenty years ago but I do
23 know him and his family.

24 THE COURT: Given that fact, can you be a fair and
25 impartial juror in the trial of this case for both the State

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1 and the Defense?

2 JUROR 69: Yes, sir.

3 THE COURT: I believe you can stay with us. Thank you.

4 Yes, sir. Number and name?

5 JUROR 54: 54, Ronald Geddings.

6 THE COURT: All right.

7 JUROR 54: Yes, sir. How you doing?

8 THE COURT: I'm good.

9 JUROR 54: My ex-wife was convicted four or five years
10 ago and Keith Smalls was the arresting officer and I took
11 offense of some of his techniques. And also your district
12 attorney here, my son-in-law at one time shot a gun up in the
13 air in Merryville and the gun was registered to me and I'd
14 went to her to try to retrieve the gun and she had a very --
15 she and I had a very negative conversation. So, I do have a
16 little bias against her and Mr. Smalls and I just felt you
17 should know.

18 THE COURT: All right. Well, given those facts, can you
19 be a fair and impartial juror in the trial of this case for
20 both the State and the Defense?

21 JUROR 54: I can try; yes, sir. I'm not trying to get
22 out of anything, I just want it to be on the record.

23 THE COURT: No, no, I don't take it that you are. Like I
24 said, I wanted truthful and complete answers. I'm gonna set
25 you aside for the trial of this case.

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1 JUROR 54: Sir?

2 THE COURT: I'm gonna set you aside. You may return to
3 your seat and I'm gonna set you aside for the trial of this
4 case.

5 JUROR 54: Thank you.

6 JUROR 77: Juror 77, Julius Johnson.

7 THE COURT: Yes, sir. I'm sorry. Yes, sir.

8 JUROR 77: My wife is related to one of the witness' name
9 you called. I think the Fred Baker. You called a Fred Baker.

10 THE COURT: Yes, sir. What number is that?

11 MS. RICHARDSON: It should be right in the top.

12 THE COURT: What number is that, Solicitor?

13 MS. RICHARDSON: It should be right in the top in that
14 second grouping.

15 COURT REPORTER: It's Number 12, Judge.

16 THE COURT: Ma'am?

17 COURT REPORTER: It's Number 12.

18 THE COURT: So, Fred Alfred Baker.

19 JUROR 77: I think my wife is related to him. He is of
20 Georgetown?

21 THE COURT: Sir?

22 JUROR 77: I say, he is of Georgetown?

23 THE COURT: I don't know. Is he from Georgetown?

24 MS. RICHARDSON: Formerly.

25 THE COURT: Formerly.

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VOIR DIRE

1 JUROR 77: And I don't even know the relationship, I know
2 that she's related to the Bakers.

3 THE COURT: Let's say your wife is related to this Mr.
4 Baker ---

5 JUROR 77: Yes, sir.

6 THE COURT: --- could you be a fair and impartial juror
7 in the trial of this case to both the State and Mr. Rivera?

8 JUROR 77: I just wanted to inform the Court that my wife
9 is ---

10 THE COURT: Thank you. Thank you very much. I believe
11 you can stay with us.

12 JUROR 77: Uh-huh (affirmative response).

13 (REPORTER'S NOTE: Sidebar concluded.)

14 THE COURT: All right. The next group of potential
15 witnesses in the trial of the case are listed as officers,
16 Detention Center employees: Joanne Clarey. That appears to
17 be the only one that is an employee of the -- and officer at
18 the Detention Center. Next coroner/pathology: Kenny Johnson,
19 Coroner; Paulette Radcliffe, coroner's assistant; S. Erin
20 Presnell, pathologist; Eowyn Corcraine, pathology assistant.
21 Again, those names, is any member of the jury panel related by
22 blood or marriage have any social, business, professional
23 relationship with any of those individuals whose names I just
24 called? If so, please stand.

25 (REPORTER'S NOTE: No response.)

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VOIR DIRE

1 THE COURT: The next three names are listed as cell phone
2 companies. Ricardo Leal, Sprint; Jennifer A. Dalmida,
3 Verizon; Mital Shah, AT&T. The next group of names are listed
4 as State Law Enforcement Division: Jennifer Aycock, Whitney
5 Berry; Sheree Brown; Lesa Chapman; Patricia Crooks; Tom
6 Darnell; Verona Gibson; Gaile Heath; Maryann Boehm; Vicki
7 Hallman.

8 (REPORTER'S NOTE: No response.)

9 THE COURT: The next ten names are also with the State
10 Law Enforcement Division: Jessica Herron Stowe; Nikki Hughes;
11 Kimberly Mears; Ila Simmons; Courtney Smith; Amy Stephens; Ben
12 Vanadore; Amanda Webb; Amanda Webster; Doris Yarborough.

13 (REPORTER'S NOTE: No response.)

14 THE COURT: The next few witnesses are listed as Jeffery
15 Drayton, formerly Horry County Police Department; Barry
16 Powers, Drug Enforcement Unit; Charles Wood, Georgetown County
17 GIS; Robbie Owens, Georgetown 911 Communications.

18 (REPORTER'S NOTE: No response.)

19 THE COURT: Any additional witness name voir dire from
20 the State?

21 MS. RICHARDSON: We neglected to include Major Morton
22 with the Georgetown County Detention Center.

23 THE COURT: Baker Morton?

24 MS. RICHARDSON: Major Morton.

25 THE COURT: Major Morton with the Georgetown County

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VOIR DIRE

1 Detention Center?

2 MS. RICHARDSON: Yes, sir.

3 THE COURT: All right. Any additional potential
4 witnesses that you would like to add to the voir dire, Mr.
5 Edgeworth?

6 MR. EDGEWORTH: No, Your Honor.

7 THE COURT: Thank you. Thank you very much. So, as the
8 witnesses whose names have been called and/or who stood before
9 you, if you haven't already identified your particular status
10 or knowledge of those witnesses, is there any member of the
11 jury panel related by blood or marriage, personal friends,
12 have any business, social, professional relationship with any
13 of those individuals whose names I just called and/or who
14 stood before you? If so, please stand.

15 (REPORTER'S NOTE: No response.)

16 THE COURT: Any additional requested voir dire from the
17 State?

18 MS. RICHARDSON: No, Your Honor.

19 THE COURT: From the Defense, Mr. Edgeworth?

20 MR. EDGEWORTH: No, Your Honor.

21 THE COURT: Thank you. Thank you very much.

22 Finally, ladies and gentlemen, I have read the
23 indictments to you. You know the charges in the indictments,
24 burglary first degree, armed robbery, kidnapping and murder
25 that allegedly occurred on or about August the 30th, 2012.

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1 You've heard the name Walter Dozier of the alleged victim of
2 the burglary and armed robbery. You've heard the name of the
3 victim, alleged victim of the murder on that same date,
4 Alfonso Thomas. You've been introduced to Mr. Rivera and his
5 attorney, the Solicitor and staff members. You've been asked
6 a series of questions about your knowledge, if any, of the
7 case, heard anything from any source whatsoever and your
8 status of not being a victim of a crime and/or ever being
9 accused of a crime of personal violence. And you know the
10 purpose of this proceeding is to select a trial jury that
11 would be fair and impartial in the trial of this case. So, in
12 conclusion, knowing yourselves best, does any member of the
13 jury panel know any reason whatsoever why you feel like you
14 could not be a fair and impartial juror in the trial of this
15 case for both Mr. Rivera and the State? If so, please stand.

16 Yes, your number and name?

17 JUROR 22: 22, Penelope Christensen.

18 THE COURT: Any others?

19 (REPORTER'S NOTE: Sidebar held on the record of out of
20 hearing of jury panel.)

21 JUROR 22: I can't do this.

22 THE COURT: Say again.

23 JUROR 22: I can't do this.

24 THE COURT: You can't do it?

25 JUROR 22: No. I'm -- I am so stressed out right now I

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VOIR DIRE

1 can't -- if it were a traffic ticket or somebody's dog running
2 loose I could do it but I can't do this. I can't. I'm just
3 about to burst into tears.

4 THE COURT: Don't, don't worry, Ms. Christensen, I'm not
5 gonna make you do it.

6 JUROR 22: Okay. All right. Thank you.

7 THE COURT: Number 22 is set aside for the trial of this
8 case. You may return to your seat.

9 JUROR 22: Thank you.

10 THE COURT: All right. Yes, ma'am.

11 Any others? Any others? If it concerns you, it concerns
12 me. I need to know it now and not when you're sitting over
13 there as a member of this trial jury.

14 (REPORTER'S NOTE: No response.)

15 THE COURT: All right. No one stands. I find our panel
16 is qualified with the exception -- I have set aside Juror
17 Number 89 and Juror Number 22. Did I set aside any others
18 during the selection?

19 CLERK: 54.

20 THE COURT: 54 and -- and 54. All right. You give us a
21 jury list to me and my clerk and the court reporter, Madame
22 Clerk. All right.

23 CLERK: You want us to print out a clean ---

24 THE COURT: No, no, this is fine. I didn't know it was
25 over here.

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JURY SELECTION

1 JURY SELECTION:

2 All right. Strikes, solicitor?

3 MS. RICHARDSON: It'd be five and ten, Your Honor.

4 THE COURT: Do you agree with that, Mr. Rivera, ten for
5 the Defense, five for the State?

6 MR. EDGEWORTH: Yes, Your Honor.

7 THE COURT: All right. Thank you. Thank you very much.
8 Madame Clerk, if you would instruct our Jury and give us a
9 jury panel, please.

10 CLERK: When I call your name, would you bring your
11 belongings and just come stand right here where I am and face
12 the door just like this, all right, till I tell you whether to
13 take a seat in the jury box or return to your seat. All
14 right?

15 All right. Juror Number 43, Mark Eppley.

16 What says the State?

17 MS. RICHARDSON: Please present the juror.

18 CLERK: What says the Defense?

19 MR. EDGEWORTH: Court's indulgence.

20 THE COURT: Yes, sir.

21 MR. EDGEWORTH: Please swear the juror.

22 CLERK: Please take a seat in the jury box.

23 Juror Number 102, Cortney Miller.

24 What says the State?

25 MS. RICHARDSON: Please present the juror.

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JURY SELECTION

1 THE COURT: What says the Defense?
2 MR. EDGEWORTH: Court's brief indulgence.
3 Please excuse the juror from the trial of this matter.
4 CLERK: You may return to your seat.
5 Juror Number 11, April Palmer.
6 What says the State?
7 MS. RICHARDSON: Please present the juror.
8 CLERK: What says the Defense?
9 MR. EDGEWORTH: Court's brief indulgence.
10 Please excuse the juror in the trial of this matter.
11 CLERK: You may return to your seat.
12 Juror Number 118, Joy Putman.
13 What says the State?
14 MS. RICHARDSON: Please present the juror.
15 CLERK: What says the Defense?
16 MR. EDGEWORTH: Court's brief indulgence.
17 Please excuse the juror from the trial of this matter.
18 CLERK: You may return to your seat.
19 Juror Number 57, Joseph Goings.
20 What says the State?
21 MS. RICHARDSON: Please present the juror.
22 What says the Defense?
23 MR. EDGEWORTH: Brief indulgence.
24 Please swear the juror.
25 CLERK: Please take a seat in the jury box.

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JURY SELECTION

1 Juror Number 122, Eartha Rice.

2 What says the State?

3 MS. RICHARDSON: Please present the juror.

4 CLERK: What says the Defense?

5 MR. EDGEWORTH: Please swear the juror.

6 CLERK: Please take a seat in the jury box.

7 Juror Number 151, Lisa Unger.

8 What says the State?

9 MS. RICHARDSON: Please present the juror.

10 CLERK: What says the Defense?

11 MR. EDGEWORTH: Court's brief indulgence.

12 Please excuse the juror from the trial of this matter.

13 CLERK: You may return to your seat.

14 Juror Number 51, Erick Galicia.

15 Juror Number 51, Erick Galicia.

16 THE COURT: Wasn't that that gentleman that came late?

17 CLERK: Yes, sir.

18 THE COURT: Didn't I tell him to be back at 1:30?

19 CLERK: You did.

20 THE COURT: Issue a bench warrant for his arrest, please.

21 Thank you. Thank you very much.

22 CLERK: Juror Number 149, Thomas Traylor, Jr.

23 What says the State?

24 MS. RICHARDSON: Please excuse this juror.

25 CLERK: You may return to your seat.

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JURY SELECTION

1 Juror Number 112, Kristen Parotta.
2 What says the State?
3 MS. RICHARDSON: Please present this juror.
4 CLERK: What says the Defense?
5 MR. EDGEWORTH: Court's brief indulgence.
6 Please excuse the juror from the trial of this matter.
7 CLERK: You may return to your seat.
8 Juror Number 144, Alice Tan.
9 What says the State?
10 MS. RICHARDSON: Please present this juror.
11 CLERK: What says the Defense?
12 MR. EDGEWORTH: Please swear the juror.
13 CLERK: Please take a seat in the jury box.
14 Juror Number 169, Tanya Windley.
15 What says the State?
16 MS. RICHARDSON: Please excuse this juror.
17 CLERK: You may return to your seat.
18 Juror Number 15, Barbara Bryant.
19 What says the State?
20 MS. RICHARDSON: Please present this juror.
21 CLERK: What says the Defense?
22 MR. EDGEWORTH: Please swear the juror.
23 CLERK: Please take a seat in the jury box.
24 Juror Number 92, Annetta Marcum.
25 What says the State?

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JURY SELECTION

1 MS. RICHARDSON: Please present the juror.

2 CLERK: What says the Defense?

3 MR. EDGEWORTH: Court's brief indulgence.

4 Please swear the juror.

5 CLERK: Please take a seat in the jury box.

6 Juror Number 153, James Vega.

7 What says the State?

8 MS. RICHARDSON: Please present the juror.

9 CLERK: What says the Defense?

10 MR. EDGEWORTH: Please excuse the juror from the trial of
11 this matter.

12 CLERK: You may return to your seat.

13 Juror Number 38, Gloria Driggers.

14 What says the State?

15 MS. RICHARDSON: Please present the juror.

16 CLERK: What says the Defense?

17 MR. EDGEWORTH: What's the number, please?

18 CLERK: 38.

19 MR. EDGEWORTH: Thank you. Court's brief indulgence.

20 Please swear the juror.

21 CLERK: Please take a seat in the jury box.

22 Juror Number 27, Crystal Cribb.

23 What says the State?

24 MS. RICHARDSON: Please present the juror.

25 CLERK: What says the Defense?

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JURY SELECTION

1 MR. EDGEWORTH: Please excuse the juror from the trial of
2 this matter.

3 CLERK: You may return to your seat.

4 Juror Number 146, Devin Taylor.

5 What says the State?

6 MS. RICHARDSON: Please present the juror.

7 CLERK: What says the Defense?

8 MR. EDGEWORTH: Court's brief indulgence.

9 Please swear the juror.

10 CLERK: Please take a seat in the jury box.

11 Juror Number 61, Royce Green, III.

12 What says the State?

13 MS. RICHARDSON: Please present the juror.

14 CLERK: What says the Defense?

15 MR. EDGEWORTH: Madame Clerk, that number again, please?

16 CLERK: 60.

17 MR. EDGEWORTH: Thank you.

18 CLERK: Uh-huh (affirmative response).

19 MR. EDGEWORTH: Please excuse the juror from the trial of
20 this matter.

21 CLERK: You may return to your seat.

22 Juror Number 142, Jamila Sutton.

23 What says the State?

24 MS. RICHARDSON: Please excuse this juror.

25 CLERK: You may return to your seat.

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JURY SELECTION

1 Juror Number 90, Walter Linnen.

2 What says the State?

3 MS. RICHARDSON: Please excuse this juror.

4 CLERK: You may return to your seat.

5 Juror Number 94, Diane Maslowski.

6 What says the State?

7 MS. RICHARDSON: Please present the juror.

8 CLERK: What says the Defense?

9 MR. EDGEWORTH: Court's brief indulgence.

10 Please swear the juror.

11 CLERK: Please take a seat in the jury box.

12 THE COURT: Please -- Ms. Knox, you're already ahead of
13 me.

14 Juror Number 24, Donald Comis.

15 What says the State?

16 MS. RICHARDSON: Please excuse this juror.

17 CLERK: You may return to your seat.

18 Juror Number 168, Charles Wilson.

19 Any challenges from the State?

20 MS. RICHARDSON: No challenges.

21 CLERK: What says the Defense?

22 MR. EDGEWORTH: Please swear the juror.

23 CLERK: Please take a seat in the jury box.

24 Juror Number 124, William Roberts.

25 Any challenges from the State?

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JURY SELECTION

1 MS. RICHARDSON: None from the State.

2 CLERK: What says the Defense?

3 MR. EDGEWORTH: Please excuse the juror from the trial of
4 this matter.

5 CLERK: You may return to your seat.

6 Juror Number 173, Jesse Wright.

7 Any challenges from the State?

8 MS. RICHARDSON: None from the State.

9 CLERK: What says the Defense?

10 MR. EDGEWORTH: Please remind me of the juror number.

11 CLERK: 173.

12 MR. EDGEWORTH: Thank you. Swear the juror.

13 CLERK: Please take a seat in the jury box.

14 Juror Number 65, Evelyn Hansen.

15 Any challenges from the State?

16 MS. RICHARDSON: None from the State.

17 CLERK: What says the Defense?

18 MR. EDGEWORTH: Madame Clerk, if you would please remind
19 me of the juror number?

20 CLERK: 65.

21 MR. EDGEWORTH: Thank you. My apologies.

22 Please excuse the juror from the trial of this matter.

23 CLERK: You may return to your seat.

24 Juror Number 35, Levi Dickerson, Jr.

25 Any challenges from the State?

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JURY SELECTION

1 MS. RICHARDSON: None from the State.

2 CLERK: Any challenges from the Defense?

3 MR. EDGEWORTH: None from the Defense.

4 CLERK: Please take a seat in the jury box.

5 THE COURT: Two alternates, Madame Clerk. Strikes are
6 one for the State, two for the Defense, per alternate,
7 noncumulative.

8 CLERK: Okay. All right. Juror Number 156, Anthony
9 Ward.

10 What says the State?

11 MS. RICHARDSON: Please excuse this juror.

12 CLERK: You may return to your seat.

13 Juror Number 20, Wallace Castle.

14 Any challenges from the State?

15 MS. RICHARDSON: None from the State.

16 CLERK: What says the Defense?

17 MR. EDGEWORTH: Please excuse the alternate.

18 CLERK: You may return to your seat.

19 Juror Number 68, Carol Hazel.

20 Any challenges from the State?

21 MS. RICHARDSON: None from the State?

22 CLERK: What says the Defense?

23 MR. EDGEWORTH: Please swear the alternate.

24 CLERK: Please take a seat in the jury box.

25 For our second alternate, Juror Number 121, Janet Blair

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JURY SELECTION

1 Reown.

2 What says the State?

3 MS. RICHARDSON: Please present this juror.

4 CLERK: What says the Defense?

5 MR. EDGEWORTH: Please excuse the alternate.

6 CLERK: You may return to your seat.

7 Juror Number 157, Travis Ward.

8 What says the State?

9 MS. RICHARDSON: Please excuse this juror.

10 CLERK: You may return to your seat.

11 Juror Number 44, Robert Flowers, Jr.

12 Any challenges from the State?

13 MS. RICHARDSON: None from the State.

14 CLERK: What says the Defense?

15 MR. EDGEWORTH: Please excuse the alternate.

16 CLERK: You may return to your seat.

17 Juror Number 69, Gary Hendrix.

18 Any challenges from the State?

19 MS. RICHARDSON: None from the State.

20 CLERK: Any challenges from the Defense?

21 MR. EDGEWORTH: None from the Defense.

22 CLERK: Please take a seat in the jury box.

23 THE COURT: Any motions regarding the jury selection
24 process from the State?

25 MS. RICHARDSON: None from the State, Your Honor.

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JURY SELECTION

1 THE COURT: From the Defense?

2 MR. EDGEWORTH: None from the Defense, Your Honor.

3 THE COURT: All right. Thank you. Thank you very much.

4 Madame Clerk, instructions for the jury panel? Call
5 back after 6:00?

6 CLERK: You're gonna need the rest of them?

7 MS. RICHARDSON: After 6:00 tomorrow.

8 THE COURT: After 6:00 ---

9 CLERK: Call after 6:00 tomorrow.

10 THE COURT: --- Tuesday. All right.

11 Ladies and gentlemen of the jury panel that were not
12 selected for the trial of this case, momentarily, I'm gonna
13 release you from your jury service for the remainder of the
14 day, the evening and tomorrow. I'm going to ask you to please
15 call back your juror information number after 6 o'clock, after
16 1800 hours, Tuesday afternoon, Tuesday afternoon. If you call
17 that number after 6 o'clock, it will prompt you and give you
18 instructions concerning your jury service for the remainder of
19 the week.

20 Any further instructions, Madame Clerk?

21 CLERK: No, Your Honor.

22 THE COURT: All right. It has been my pleasure and
23 privilege to be with you this morning and this early afternoon
24 in Georgetown County. Thank you very much for your
25 willingness to fulfill your civic duty. Questions?

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BY THE COURT

1 Thank you very much. You are excused. Call back after 6
2 o'clock tomorrow evening.

3 (REPORTER'S NOTE: Remaining jury panel exits courtroom. 2:49
4 P.M.)

5 BY THE COURT:

6 THE COURT: If I could see the lawyers a minute, please.

7 (REPORTER'S NOTE: A bench conference was held off the record
8 in the presence of but out of hearing of the Jury.)

9 THE COURT: All right. Ladies and gentlemen of the jury
10 panel that were selected for the trial of this case,
11 momentarily, I'm going to release you from your jury service
12 for the remainder of the day and evening. This case is
13 similar to most cases, there are certain pretrial matters that
14 I must hear after the Jury is selected but before the Jury is
15 sworn. As a result of that, you never -- you never know what
16 kind of time that's gonna take. If I say ten minutes --
17 you'll find out two things about South Carolina Circuit Court
18 Judges this week or this however many days we may be here,
19 after being in my courtroom, we can't tell time and we have no
20 personality. So, you'll stay back there in that jury room
21 held captive for a period of time and I'll say I'll have you
22 back out here in fifteen minutes and an hour and forty-five
23 minutes later you're thinking, he's gone, he's forgotten us.
24 So, rather than hold you captive any longer today, I'm going
25 to release you with certain instructions that you must follow

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BY THE COURT

1 throughout the trial of this case and have you report back in
2 the morning. Give me just a moment.

3 I'll remind you throughout the course of this trial you
4 may not discuss this case with anyone, that includes your
5 fellow jurors, your family, your friends or anyone else. You
6 may not discuss this case with anyone until you've heard all
7 the evidence, all the testimony from the witnesses testifying
8 under oath from this witness stand, the law as I've told you
9 the law is, those instructions and then directed by the Court
10 to begin your deliberations with your fellow jurors in your
11 jury room. That is an instruction that you must follow as
12 these others are throughout the trial of this case. You may
13 not read, you may not watch, you may not listen to any news
14 reports about the case, should there be any, should there be
15 any. You decide the case based on the evidence and the
16 testimony you hear within this courtroom. And I'm gonna ask
17 you tomorrow morning, have you read anything, have you heard
18 anything, have you talked with anybody because you decide the
19 case based on what you hear in this courtroom and the law as I
20 tell you the law is. You certainly may not use your computer,
21 cellular phone or other electronic device with communication
22 capabilities while in attendance at trial or during
23 deliberations. We talked about that this morning to secure
24 them in your vehicle. If an issue comes up during the course
25 of -- if you need to use a telephone, if you'll just tell Mrs.

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BY THE COURT

1 Knox, if you tell Mrs. Knox, she'll get that information to
2 the Clerk or to me. So, please keep that in mind. These
3 devices, of course, may be used during luncheon recess and
4 overnight recess but they may not be used to obtain or
5 disclose information which is prohibited. And so think back
6 about how you gonna decide the case, the evidence and the
7 testimony in the courtroom.

8 So what is prohibited? Prohibited include but it is not
9 limited to information about a party, a witness, an attorney,
10 a court officer. Each of you know, it's just a few buttons
11 away to put any name on the internet or any residence on the
12 internet and, you know, it's like that commercial, you can't
13 believe everything on the internet. Well, not only can you
14 can't believe it, you can't look it up. You decide the case
15 in this courtroom.

16 You may not obtain any news accounts about the case
17 should there be any now or should there have been any in the
18 past. You may not obtain any information collected through
19 any juror research on any topics raised or testimony offered
20 during any witness. Somebody testifies to a particular topic,
21 a witness testifies to a particular process or items, you
22 don't go out and research it on your own. You listen to that
23 witness, you decide it in the in the courtroom, you determine
24 the believability or the credibility of that witness
25 uninfluenced by anything outside, uninfluenced by any research

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BY THE COURT

1 or information collected through juror research on any other
2 topic the juror might think would be helpful in deciding the
3 case. In other words, you don't hear something, you don't go
4 out and say, well, why didn't they think of this or why didn't
5 they think of that or why didn't they do this, you don't any
6 research on the internet, you don't do any independent
7 research. Don't talk until you've been directed to talk to
8 anyone about the case, no news accounts, no computers,
9 cellular phones, electronic devices in the jury room, no
10 research on the internet or independent.

11 All right. Any questions?

12 You don't want to know what time to come back in the
13 morning? Let's say 9:30. Be back promptly at 9:30 in the
14 morning. All right?

15 With that being said, do they go with our fine Bailiff,
16 Ms. Knox?

17 BAILIFF: We'll take the out through the jury room.

18 THE COURT: Which way do they go? Do they follow you?

19 BAILIFF: Out through the jury room, yes, sir.

20 THE COURT: All right. Well, that's a fine thing to do.
21 If y'all would follow your Bailiff, please.

22 Thank you very much.

23 (REPORTER'S NOTE: Jury exits courtroom. 2:56 P.M. The
24 following takes place outside the presence of the Jury.)

25 THE COURT: Any objection to anything I told the Jury

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MOTIONS

1 panel from the State?

2 MS. RICHARDSON: No, Your Honor.

3 THE COURT: Defense?

4 MR. EDGEWORTH: None from the Defense, Your Honor.

5 THE COURT: All right. And just tell me what motions you
6 have. I'm gonna take a fifteen-minute recess but tell me what
7 motions we have? *Franks* motion?

8 MR. EDGEWORTH: Yes, Your Honor. *Franks* motion and then
9 some motion in limine to suppress certain matters.

10 THE COURT: Okay. We'll take about a fifteen-minute
11 recess. Thank you. Thank you very much.

12 (RECESS - 2:58 P.M.)

13 *****OFF THE RECORD*****

14 (On the Record - 3:12 P.M.)

15 (REPORTER'S NOTE: The following takes place outside the
16 presence of the Jury.)

17 MOTIONS:

18 THE COURT: All right. Mr. Edgeworth, you have a motion?

19 MR. EDGEWORTH: Yes, Your Honor. I have a motion -- I'm
20 moving the Court on behalf of my client for a *Franks* hearing
21 to suppress information arising out of a search warrant and in
22 particular on or about September 5th, 2012, Investigator Aaron
23 Lynn obtained a search warrant for a teal Samsung cellular
24 phone bearing serial number R21C33FMPRX from Judge Mason on
25 that date. And in the affidavit in support of that search

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MOTIONS

1 warrant he specifically references the following, Your Honor,
2 and I'll provide the language to the Court at the appropriate
3 time or whenever you'd like. It says in part and among other
4 things, of course, the search warrant was executed to Anthony
5 Fraser's residence and keys stolen during the home invasion
6 were found in this residence of Anthony Fraser, a Codefendant
7 in this matter who has now pled. And the next sentence says
8 Damonte Rivera's cellular phone was seized as evidence. Now,
9 my position is that that sworn statement includes an omission
10 or inclusion of information that is -- that was misleading to
11 the judge at the time that issued the search warrant. Of
12 course, it makes it sound like that they executed the search
13 warrant at the purported Codefendant's home and that as part
14 of evidence seized during the search warrant they found, among
15 other things, Mr. Rivera's cell phone. So, our position is
16 that the misleading statement led to the seeking of the search
17 warrant or the search warrant being granted to obtain Mr.
18 Rivera's phone when in essence, as the facts will reveal, Your
19 Honor, Mr. Rivera's phone was in the possession of the
20 Detention Center and although there were phones obtained, and
21 I think this is what is the most glaring part, there were
22 phones found at Mr. Fraser's home as part of that search
23 warrant obtained from him. So, it's essentially misleading or
24 was intentionally misled by the investigator to obtain the
25 search warrants so that they could then obtain information

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1 from the cell phone companies to include a multitude of
2 information which we seek to suppress. The information that's
3 in those documents are voluminous, talking about dates and
4 times of cell phone calls and texts as well as essentially
5 tower information, like ping information from the cell company
6 and all of this is fruits of that poisonous tree. We would
7 ask the Court to grant us a *Franks* hearing so that the Court
8 can further explore the merits as well as the possibility of
9 suppressing that evidence.

10 THE COURT: Well, as I understand *Franks*, first, to
11 mandate an evidentiary hearing, there must be allegations of
12 deliberate falsehood or of reckless disregard for the truth as
13 to statements included within a warrant affidavit and those
14 allegations must be accompanied by an offer of proof. So,
15 before you can even have a *Franks* hearing, you've got to offer
16 proof that there was a deliberate falsehood or reckless
17 disregard for the truth included within the warrant affidavit.

18 So, you may call your first witness in that regard.

19 MR. EDGEWORTH: Well, Your Honor, that is essentially my
20 -- what -- that's comingling with my question that's gonna be
21 before the Court.

22 THE COURT: You can't be conclusory. You've got to make
23 an offer of proof that an officer deliberately mislead or
24 recklessly disregarded the truth in the affidavit. You can't
25 make a conclusory statement. That's got to be an offer of

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1 proof on the record. An attorney's statement is not an offer
2 of proof.

3 MR. EDGEWORTH: Yes, Your Honor. And I ---

4 THE COURT: You may call your -- sir?

5 MR. EDGEWORTH: I was gonna -- this kinda ties in with
6 part and parcel of this argument is that the investigator in
7 this particular case was -- subsequently resigned from the
8 police department as a result of losing evidence that's
9 associated with this particular case.

10 THE COURT: Well, call your witness. Call him.

11 MR. EDGEWORTH: To offer...

12 THE COURT: An offer of proof. Look, if I read *Franks* --
13 in *Franks v. Delaware* the United States Supreme Court held
14 that the Fourth and Fourteenth Amendment give an accused the
15 right in certain circumstances to challenge the veracity of a
16 search warrant affidavit after the warrant has been issued and
17 executed. That's citing *State v. Missouri*, also a South
18 Carolina case out of Kershaw County. This challenge may be
19 based on false information being included in the search
20 warrant affidavit or exculpatory material being admitted from
21 the affidavit. *Franks* outlined a two-pronged test challenging
22 the veracity of a search warrant. First, to mandate an
23 evidentiary hearing, there must be allegations of a deliberate
24 falsehood or a reckless disregard for the truth as to the
25 statements included in the warrant affidavit and those

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1 allegations must be accompanied by an offer of proof. At the
2 hearing, the accused has the burden of proving the allegations
3 of perjury or reckless disregard for the truth by a
4 preponderance of the evidence. The Defendant's attack has to
5 be more than conclusory and has to be supported by more than a
6 desire to cross examine. If -- I mean, that's the way I
7 understand it and the second prong has to get into -- the
8 second prong gets into falsehood or reckless disregard has
9 been established whether or not the remainder in the affidavit
10 is sufficient to establish probable cause. You have to put an
11 offer in the record more than conclusory statements before
12 you're even entitled to a *Franks* hearing, as I understand it.

13 MR. EDGEWORTH: Well, Your Honor, I understand the
14 Court's position in that regard but in this particular
15 occasion we're talking about an inclusion of a statement that
16 creates -- that creates the misleadingness and I don't think
17 the Judge is going to be -- Judge Mason, who signed the
18 warrant, is going to say, well, that misled me on the
19 inclusion of the facts and I can't -- I can't offer
20 Investigator Lynn without having the ability to cross examine
21 him as to whether there was additional evidence. And to say
22 that the Defendant is required to provide proof in advance of
23 the intent, I don't know that that was what was intended by
24 that ---

25 THE COURT: I didn't say that. I'm reading from the

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1 case.

2 MR. EDGEWORTH: Yes, Your Honor.

3 THE COURT: I didn't say the Defendant is required to
4 provide proof of intent. I'm just reading the language from
5 the case which actually was an Horry County case which was an
6 admission case, which was an admission case because they
7 didn't give the date of when the first drug purchase was made
8 from the location and it was inartfully drawn and they said,
9 well, it made it sound like the first drug transaction was
10 done within seventy-two hours when it had been done six or
11 seven months previously. But they put in the warrant within
12 seventy-two hours we saw him come out, we followed him, he had
13 drugs on him and such. So, that was an admission case. And
14 our Court of Appeals said -- affirmed it. And I'm reading
15 precisely from that language and it's on cert to the Supreme
16 Court, probably was argued this month I would imagine; I don't
17 know, I can't track them that well. But you can't -- you
18 can't -- as I understand *Franks*, you've got to have a
19 foundation before you're even entitled to a *Franks* hearing.
20 And I take it a hearing as being presenting witnesses, having
21 something on the record. And if you want to show me other
22 cases and I'm not correct, I certainly want to be correct.

23 MR. EDGEWORTH: No, Your Honor. I mean, I offered to the
24 Court the showing on the face of the affidavit that it's
25 misleading. It's ---

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1 THE COURT: May I see the affidavit?

2 MR. EDGEWORTH: Yes, Your Honor.

3 THE COURT: All right. Solicitor, do you have any
4 position?

5 MS. RICHARDSON: Yes, Your Honor. Just reading the
6 affidavit on its face, it lists a variety of things, not just
7 the facts that were developed from the search warrant of
8 Anthony Fraser's house, it talks about clothing descriptions,
9 it's just kind of a list of the evidence. Second of all,
10 there's no indication at all that this is a false statement.
11 The fact that Damonte Rivera's cell phone was seized as
12 evidence is a fact in this case. And these allegations that
13 it's misleading, based on the *Franks* case and the progeny in
14 South Carolina that addresses that, *State v. Davis* and *State*
15 *v. Jones*, he would have to show that that was a deliberate --
16 deliberately or recklessly misleading. Second of all, Your
17 Honor, I would argue that this also inevitable discovery of
18 this situation, a subsequent search warrant was issued in this
19 case for the cell phone based on advancements and technology
20 and it was reanalyzed. Additionally, the State issued a
21 subpoena duces tecum or as part of the subpoena for the phone
22 company in this case that they're subpoenaed to bring the
23 records anyway which is based on the telephone number. But
24 there's been no showing whatsoever that this was deliberate or
25 reckless.

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1 THE COURT: All right. Solicitor, do you want to call
2 any witnesses?

3 MS. RICHARDSON: I'm sorry, Your Honor, I ---

4 THE COURT: Do you want to call any witnesses?

5 MS. RICHARDSON: On that issue, no, Your Honor.

6 THE COURT: All right. Thank you.

7 MS. RICHARDSON: I think the burden would be on him to
8 ---

9 THE COURT: I agree the burden is on the Defendant.

10 In reviewing the search warrant document itself, although
11 I do not think there is compliance with *Franks* because they
12 have not meet the first prong of *Franks* being mandated an
13 evidentiary hearing being allegation of deliberate falsehood
14 or reckless disregard for the truth and these allegations must
15 be accompanied by an offer of proof. So, I don't think the
16 first prong has been met. However, in examining the affidavit
17 in the search warrant, and the foundation of the motion, the
18 language quoted in the motion is a search warrant was executed
19 at Anthony Fraser's residence and keys stolen during the home
20 invasion were found in his residence. Damonte Rivera's
21 cellular phone was seized as evidence. There is, of course,
22 two sentences and a period between the two. When I review the
23 affidavit itself, I find that according to what has been
24 presented to me, neither of these probable cause allegations
25 were false. So, Rivera has failed to satisfy the first prong

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1 of the *Franks* test. Now, obviously, there is no time placed
2 in there except we do know that afterwards, after the word,
3 the sentence, Damonte Rivera's cellular phone was seized as
4 evidence. Witnesses saw Rivera using his cellular phone on
5 the evening of the home invasion after the incident occurred..
6 That dates that back to the August 30th, 2012 date. So, I do
7 not think it's misleading or falsely misleading or reckless
8 disregard for the truth whatsoever or perhaps as our Court of
9 Appeals has said in *State v. Gore*, while we agree that this
10 sentence could have been artfully drafted, we disagree with
11 Gore's argument that it was deliberately misleading. I
12 disagree with Mr. Rivera's argument that it's intentionally
13 misleading. So, with that being said, I would deny the
14 Defendant a *Franks* hearing.

15 All right. Other motions, Mr. Edgeworth?

16 MR. EDGEWORTH: Pardon me, Your Honor, one moment.

17 I'm going take these in order, Your Honor, if I may ---

18 THE COURT: Sure.

19 MR. EDGEWORTH: --- individually. The State tends --
20 intends to offer evidence of -- or testimony rather from
21 individuals, and I believe they are listed in the potential
22 witness list, that are -- by the name if Trown Davis,
23 Quanmaine Brown and Joshua Taylor, who are -- or were
24 incarcerated and claimed to have made statements or Mr. Rivera
25 claimed -- they claimed that Mr. Rivera had made statements to

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1 them that were admissions. And I would posit to the Court
2 that based on the review of the timeframes in which these
3 gentlemen were incarcerated and due to the fact that some of
4 those statements are really hearsay upon hearsay that any
5 probative value would be substantially outweighed by the
6 danger and unfairness of the Jury's hearing the testimony from
7 these individuals. In other words, they claim that they heard
8 something while they were incarcerated when Mr. Rivera was
9 talking to someone else. And so, in that regard, as to those
10 statements, I would ask the Court to rule that that
11 information is excluded from the matter.

12 THE COURT: That would be hearsay. Statement of the
13 Defendant against his penal interest would be -- would not be
14 hearsay under 801(a)(d)(1) -- I don't know.

15 MR. EDGEWORTH: Right, Your Honor, but I believe in this
16 particular example, at least as to Mr. Quanmaine Brown has
17 testified that his information came from a codefendant.

18 THE COURT: Well, obviously, that may be hearsay but I
19 can't -- I mean, you -- first, you said one of them heard Mr.
20 Rivera talking with someone else. If he made statements
21 against his interest, well -- give me just a minute --
22 statements which are not hearsay, 801(d)(1)(D) -- it's
23 801(d)(2), admissions by a party opponent, the statement if
24 offered against a party and is (A) the party's own statement
25 in either an individual or a representative capacity. There

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1 is also a section concerning against a party's penal interest.
2 Now, if you want me to rule on evidence of what they're gonna
3 say -- well, let me hear from you, Solicitor.

4 MS. RICHARDSON: Your Honor, any statements that they
5 heard directly from the Defendant would not be hearsay as Your
6 Honor stated. If it's statements made by another individual,
7 which I believe he's talking about with some of the
8 information that Quanmaine Brown had from another codefendant,
9 I believe that would need to be proffered and Your Honor rule
10 on that if that issue arises. But as far as statements made
11 that they overheard or that this Defendant himself said under
12 801(d) would not be hearsay.

13 THE COURT: All right. Mr. Edgeworth?

14 MR. EDGEWORTH: Yes, Your Honor.

15 THE COURT: I guess she's saying as far as statements
16 made to Mr. Brown, there'd have to be an offer of proof and
17 I'll be delighted to hear it and rule on it at that -- if it
18 comes up and if at any time you think it comes -- it's going
19 to get near, you see it in the distance, just tell me you've
20 got a matter of law and I'll be glad to hear it.

21 MR. EDGEWORTH: Yes, Your Honor.

22 THE COURT: If the others are statements that were
23 directly related to a witness or overheard by a witness as to
24 Mr. Rivera, I think they would not be hearsay.

25 MR. EDGEWORTH: Yes, Your Honor.

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1 MS. RICHARDSON: And, Your Honor, some of these witnesses
2 are a combination of both. If that issue arises, I think we
3 can excuse the Jury and address that at the appropriate time.

4 THE COURT: Just make sure there's no hearsay in there,
5 Solicitor, in that regard. All right?

6 What's next, Mr. Edgeworth?

7 MR. EDGEWORTH: Just a few small matters, Your Honor. As
8 part of the State's or, excuse me, the law enforcement's
9 investigation that includes some of these interviews with
10 other inmates, et cetera, et cetera, are a part and parcel of
11 that, of those interviews was an investigation into another
12 homicide that was within Georgetown County and so I'm asking
13 the Court for an instruction that excludes any statements or
14 any innuendo or anything like that that could be coming from
15 these witnesses because that's one of the reasons why they
16 were there to do the interrogation/interview was to obtain
17 evidence regarding a totally different homicide and their
18 statements from those particular individuals that we're
19 referencing in the matter before. They're trying to elicit
20 testimony or, excuse me, statements from those persons
21 regarding a different homicide and I would just ask the Court
22 for an instruction that in no way, shape or form can that come
23 in because that was a very public matter in this community.

24 THE COURT: All right. Solicitor?

25 MS. RICHARDSON: Your Honor, what he is referencing is on

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1 or about August 17th of 2012, 17th and 18th, shortly before
2 this murder on August 30th, a young man was murdered by
3 gunshot at Club Isis in Pawleys Island in Georgetown County.
4 A number of these parties ---

5 THE COURT: How you spell Isis?

6 MS. RICHARDSON: It's like Isis, I-S-I-S, I think, and
7 that's before, you know, obviously the ISIS that's in the news
8 now. But a number of these individuals, including Mr. Rivera
9 and some of the other Codefendants in the case were questioned
10 about both of these cases. At least one of the witnesses in
11 this case, Mr. Trown Davis, is going to indicate that there
12 was some concern that Mr. Thomas may have had information
13 regarding that murder as well. There is also a statement that
14 was made by, by Anthony Fraser, the Codefendant that several
15 inmates overheard, I shoot them high, you shoot them low or
16 something to that effect where Mr. Fraser and Mr. Rivera were
17 pretty much joking about who was a better shot. Mr. Thomas,
18 who we believe Mr. Fraser may've actually fired the shot in
19 concert with Mr. Rivera, Mr. Thomas was shot in the head. The
20 victim in Club Isis was shot in the lower portion of the body.
21 So, those are the two instances where that could come up. And
22 again, that, that would be an adoption under 801, statements
23 by -- adoption of a statement made by another would be with
24 Mr. Fraser. But, Your Honor, if those issues come up, we
25 could stop at the appropriate time and address that. And

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1 obviously, if he opens the door on cross examination regarding
2 those issues. Those are the two instances ---

3 THE COURT: What is the relevancy of an unsolved?

4 MS. RICHARDSON: It's unsolved.

5 THE COURT: What's the relevancy of a 17 -- August 12
6 unsolved homicide as to the guilt or innocence of Mr. Rivera
7 for these crimes? What's the relevancy?

8 MS. RICHARDSON: Your Honor, the only thing would be in
9 the conversation where they're laughing and joking about the
10 two homicides, you know, together. That would be the only
11 indication there, but ---

12 THE COURT: But there's no -- he's not been charged,
13 there's no proof ---

14 MS. RICHARDSON: Nobody has been charged.

15 THE COURT: So, it would have to come under, would it
16 not, 404(b)?

17 MS. RICHARDSON: It would, it would, Your Honor. And --
18 but those are the two instances where it's subject to coming
19 up. Now, we can agree not to bring that up in our case but if
20 an issue arises because a lot of these witnesses have
21 information about both. If Mr. Edgeworth opens the door to
22 that, then we could take a break and ---

23 THE COURT: You're not standing on the same ground then.

24 MS. RICHARDSON: Right.

25 THE COURT: If he opens the door, you ---

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1 MS. RICHARDSON: If he opens the door. But there is --
2 but that is a danger, that is something I can caution the
3 witnesses about but both of them were questioned or both cases
4 were questioned by two different officers for several of the
5 witnesses.

6 THE COURT: Right now, I don't think it's admissible
7 under 404(b), right now. Now, if you want to make an offer of
8 proof -- y'all know what a motion in limine is worth.

9 MS. RICHARDSON: I know. I just wanted to ---

10 THE COURT: You know, Mr. Edgeworth that ---

11 MS. RICHARDSON: Those are the witnesses where it could
12 be a potential of being in an issue.

13 THE COURT: Well, unless I get an offer of testimony and
14 get -- rule on it, as far as a motion in limine, it's not
15 admissible under 404(b). Now, the -- if the ground shifts, if
16 the ground changes, the door is open, that's different but
17 please bring that up in front of me outside of the presence of
18 the Jury.

19 MR. EDGEWORTH: Yes, Your Honor.

20 THE COURT: All right. All right, Mr. Edgeworth.

21 MR. EDGEWORTH: Your Honor, at this time, I don't have
22 any further requests.

23 THE COURT: Sir?

24 MR. EDGEWORTH: At this time, I don't have any additional
25 requests.

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JACKSON V DENNO - JOHN GREGORY - DIRECT BY RICHARDSON

1 THE COURT: All right. Thank you. Thank you very much.
2 Solicitor?

3 MS. RICHARDSON: Your Honor, Mr. Rivera made two separate
4 recorded statements to law enforcement in the course of this
5 investigation. The State would seek to enter those into
6 evidence and we're prepared to do a *Jackson v. Denno* hearing
7 regarding their voluntariness at this time.

8 THE COURT: All right.

9 MS. RICHARDSON: You ready, Your Honor?

10 THE COURT: Yes, ma'am. You may call your witness.

11 JACKSON V. DENNO HEARING:

12 MS. RICHARDSON: The State calls John Gregory.

13 THE COURT: I can swear him in. Put your left on the
14 Bible right there.

15 JOHN ALBERT GREGORY, JR., HAVING BEEN
16 DULY SWORN, TESTIFIES AS FOLLOWS:

17 THE COURT: Thank you very much. Once you are seated, if
18 you would give your full name to our Court Reporter, spelling
19 your last.

20 MR. GREGORY: John Albert Gregory, Jr.

21 DIRECT EXAMINATION OF JOHN ALBERTY GREGORY, JR. BY MS.

22 RICHARDSON:

23 Q: Officer Gregory, where are you employed?

24 A: I'm currently employed at Horry County Police Department.

25 Q: And in September of 2012, where were you employed?

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JACKSON V DENNO - JOHN GREGORY - DIRECT BY RICHARDSON

1 A: At the Georgetown Police Department in the CID section.

2 Q: As an investigator?

3 A: Yes, ma'am.

4 Q: And how long were you with Georgetown?

5 A: Eight years.

6 Q: And did you participate and work on the case involving

7 Damonte Rivera, the home invasion and the murder of Mr.

8 Thomas?

9 A: I did.

10 Q: And on September 2nd, 2012, did you go to the Georgetown

11 County Detention Center to interview Mr. Rivera?

12 A: I did.

13 Q: And do you recall who was with you?

14 A: Investigator Lynn.

15 Q: Let me show you some -- are these -- we're gonna go ahead

16 and mark these as Court's exhibits or as State's exhibits for

17 this hearing. Miranda warning dated September 2nd, 2012; CD

18 containing an interview of Damonte Rivera on September 2nd,

19 2012; Miranda warning form dated September 10th, 2012; CD

20 marked as an Interview with Damonte Rivera, September 10th,

21 2012. I want to hand you up all of -- I'm gonna hand you up

22 State's One, which is the Miranda form from September 2nd and

23 State's Three, the Miranda form from September 10th. Do you

24 recognize those?

25 A: Yes, I do.

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JACKSON V DENNO - JOHN GREGORY - DIRECT BY RICHARDSON

1 Q: And did you execute those?

2 A: Yes, I did, ma'am.

3 Q: And tell -- just describe to the Court what you did with
4 reference to those forms.

5 A: I had -- as you can see their initialed here, read the
6 Miranda warning and then I had Mr. Rivera initial each one
7 saying that he understood his rights and then I asked him
8 whether he was gonna waive his rights or not waive his or
9 invoke his right to an attorney. In both cases, he invoked
10 his right -- or waived his rights to an attorney. This one
11 was conducted inside of the jail in the booking, the bond
12 court. And this was conducted at the Georgetown Police
13 Department.

14 Q: Okay. So, the September 2nd one was at the Detention
15 Center and the September 10th was at your Police Department?

16 A: Yes, ma'am.

17 Q: And the September 2nd one was audio recorded?

18 A: Yes, ma'am.

19 Q: And ---

20 A: And the other one was audio/video recorded inside of the
21 Police Department interview room.

22 Q: Okay. And you provided these to the State?

23 A: Yes, ma'am.

24 Q: Okay. All right. First let's go to the September 2nd
25 date. Had you interacted with Mr. Rivera before?

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JACKSON V DENNO - JOHN GREGORY - DIRECT BY RICHARDSON

1 A: Yes, I had.

2 Q: Okay. You were familiar with him?

3 A: Yes, I had.

4 Q: Had you questioned him before?

5 A: Yes.

6 Q: Did he appear to be under the influence of anything at the
7 time that you talked with him?

8 A: No, ma'am.

9 Q: He had actually been incarcerated the day before?

10 A: Yes.

11 Q: And can you describe his demeanor and what you did to make
12 sure he understood what was going on?

13 A: I was -- I read the Miranda warnings to him. I asked him
14 a couple of times if he understood them and he said yes. His
15 demeanor towards me, Mr. Rivera wasn't agitated towards me.
16 He seemed a little bit agitate towards Investigator Lynn on
17 multiple occasions during the interview.

18 Q: And did you have any concerns regarding his ability to
19 understand those questions?

20 A: No.

21 Q: Did you believe he could read the form?

22 A: Yes.

23 Q: And so on September 2nd, you and Investigator Lynn
24 conducted the interview and audio recorded it?

25 A: Yes, ma'am.

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JACKSON V DENNO - JOHN GREGORY - DIRECT BY RICHARDSON

1 Q: And the forms that I showed you, those are the original
2 forms?

3 A: Yes.

4 Q: And those -- are those the same as they were when you ---

5 A: Yes, the standard.

6 Q: Haven't been altered in any way?

7 A: No.

8 MS. RICHARDSON: Your Honor, I'd offer all of these into
9 evidence for the purpose of this hearing.

10 THE COURT: All right. Any objections for the purposes
11 of this hearing, Mr. Edgeworth?

12 MR. EDGEWORTH: No objection, Your Honor.

13 THE COURT: All right. That's One, Two -- what numbers?

14 MS. RICHARDSON: State's One, Two, Three and Four. It's
15 two CDs and two Miranda forms.

16 THE COURT: All right. One, Two, Three and Four is in
17 evidence for the purposes of this hearing. Without objection.
18 Thank you, Solicitor.

19 PLAINTIFF'S EXHIBIT NUMBER ONE, TWO, THREE AND FOUR

20 ADMITTED INTO EVIDENCE FOR JACKSON V. DENNO HEARING

21 BY MS. RICHARDSON:

22 Q: And did you threaten you, force him, promise him anything
23 to get him to talk with you?

24 A: I did not.

25 MS. RICHARDSON: Your Honor, at this time I'd like to

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JACKSON V DENNO - JOHN GREGORY - CROSS BY EDGEWORTH

1 publish and let Your Honor review both of these interviews.

2 THE COURT: All right. Yes, ma'am.

3 *****OFF THE RECORD*****

4 (REPORTER'S NOTE: State's Exhibit Number Two played for the
5 Court. Not transcribed herein.)

6 (On the Record.)

7 MS. RICHARDSON: Now, the September 10th interview.

8 *****OFF THE RECORD*****

9 (REPORTER'S NOTE: State's Exhibit Four played for the Court.
10 Not transcribed herein.)

11 (On the Record.)

12 MS. RICHARDSON: No further questions.

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

14 MR. EDGEWORTH: Briefly, Your Honor.

15 CROSS EXAMINATION OF JOHN ALBERT GREGORY BY MR. EDGEWORTH:

16 Q: Mr. Gregory, during that -- during the second video, did
17 there comes a point in time when Investigator Lynn referred to
18 two murders?

19 A: I don't recall. I believe -- I believe he did.

20 Q: And would that be a reference to the second murder, the
21 reference to the Isis murder?

22 A: I would be.

23 Q: Would you agree with me that after you and Investigator --
24 well, I guess you were the last one to leave, there was no
25 further interrogation at that point?

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1 A: No. I didn't speak with him again.

2 Q: And say that again?

3 A: I said, I did not -- I transported him but I didn't speak
4 with him again.

5 Q: I'm just saying, when you left prior to the recitation at
6 the end where Mr. Rivera was making remarks of no one in the
7 room.

8 A: Oh, yes. There was -- no one questioned him after that.

9 Q: All right. So, the interrogation would have ended at that
10 point, correct?

11 A: Yes.

12 Q: Okay. And would you agree with me that there is no value
13 in all the comments made after you left the room?

14 MS. RICHARDSON: Objection, Your Honor.

15 THE COURT: Yeah, that's not relevant to his testimony.
16 I mean it could be -- it could be valuable to some people but
17 not to others.

18 MR. EDGEWORTH: Thank you, Your Honor. No further
19 questions.

20 BY THE COURT:

21 THE COURT: All right. Any redirect, Solicitor?

22 MS. RICHARDSON: No, Your Honor, but I need to approach.

23 THE COURT: All right. Yes, ma'am.

24 (REPORTER'S NOTE: A bench conference was held off the
25 record.)

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1 THE COURT: All right. Any more testimony from this
2 officer?

3 MS. RICHARDSON: No, Your Honor.

4 THE COURT: All right. Thank you. You may step down. I
5 need to step out a few moments and make this call.

6 MS. RICHARDSON: Yes, Your Honor.

7 THE COURT: Thank you very much, Solicitor.

8 (RECESS - 4:45 P.M.)

9 *****OFF THE RECORD*****

10 (On the Record - 4:50 P.M.)

11 THE COURT: All right. Solicitor, you may call your next
12 witness.

13 MS. RICHARDSON: Your Honor, that's all the witnesses
14 I'll need.

15 THE COURT: Thank you. Mr. Edgeworth, does the Defendant
16 intend to present any evidence or testimony with the *Jackson*
17 *v. Denno*?

18 MR. EDGEWORTH: No, Your Honor.

19 THE COURT: All right.

20 All right. I'll be glad to hear from you, Mr. Edgeworth.

21 MR. EDGEWORTH: Your Honor, I don't think that in regards
22 to the voluntariness of the state -- of the statement do I
23 have a position on that other than other than admissibility
24 issues that would be -- I attempted to raise on cross
25 examination. I'm not sure if Your Honor wants me to dive into

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1 that or ---

2 THE COURT: So, as far as the voluntariness, you don't
3 question that it was in custody -- custodial interrogation, he
4 was properly Mirandized, he waived his Miranda rights and by a
5 preponderance of the evidence, the statement was given
6 voluntary?

7 MR. EDGEWORTH: Yes, Your Honor.

8 THE COURT: You have substance issues with it?

9 MR. EDGEWORTH: Yes, sir, Your Honor.

10 THE COURT: Tell me your substance issues?

11 MR. EDGEWORTH: Well, obviously, Your Honor, as the Court
12 has seen, the second part of the video, there is a component
13 in the second video gave September 10, 2012, there's a
14 reference by Investigator Lynn to two murders, one of which is
15 presumably the Isis murder that we discussed earlier in the
16 other motions as to asking the Court to a limiting instruction
17 as to testimony related to that murder and then secondarily,
18 the -- after the interrogation is over and the questioning is
19 over, the video tape is obviously left on, so -- and as the
20 Court saw there is statements made by the Defendant that I
21 believe would be prejudicial in effect which completely
22 outweighs the probative value of information gleaned from the
23 interrogation or the questioning. So, I would ask the Court
24 that should this be used at trial that it would, number one,
25 be muted or struck when the commentary about the second murder

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1 but, secondarily, also terminated at the point that the
2 questioning is ended.

3 THE COURT: All right. Thank you. Mr. Edgeworth.
4 Solicitor?

5 MS. RICHARDSON: Your Honor, the State would agree to
6 redact the reference to the two murders. And we could do that
7 ever how he wants but we can actually cut it if he would like
8 to do that so that it's more -- it flows better for the Jury.

9 As for the comments that were made after the
10 investigators left the room. It's clear that the Defendant
11 knew that those -- that it was being recorded and was
12 directing those comments at the camera. It's the State's
13 position that some of those comments are probative. In the
14 rap song and in the information that he gives, he is talking
15 about guns, he's talking about drugs, he is talking about
16 snitches. And what happens to snitches and what he believes
17 should happen to snitches based on -- and this is the song he
18 chose, he chose to say this knowing it was going to be videoed
19 and he wanted it recorded. Your Honor, part of the reason or
20 part of the information in this case, the motive for the
21 murder was to silence a snitch. And he talks in that song
22 about taking the -- that snitches get a automatic right for
23 SK7s, whatever it is. He's also talking about drugs.
24 Additionally, a motive for the home invasion was -- one of the
25 Codefendants will testify that they thought they would get

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1 marijuana from this home and marijuana was stolen from this
2 home.

3 THE COURT: All right. Solicitor, anything further?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right. Mr. Edgeworth, anything in reply?

6 MR. EDGEWORTH: Briefly, Your Honor, I would just state
7 to the Court that choosing a song that however information --
8 however inflammatory is not probative. It is lyrics to a
9 song. He's not sitting there making statements following
10 questioning. And although it appears on the video that he was
11 aware that the video was still on, I don't think that he
12 believed that the interrogation for which he voluntarily
13 appeared for was over when both of the investigators left the
14 room and therefore allowing the video, which is inflammatory,
15 would highly prejudice the Jury regardless of whether the
16 lyrics themselves may have somehow tangentially related to
17 theory that the State is going to put forth. It's a theory.
18 So, I would ask the Court to terminate the video at the time
19 that the investigators leave.

20 THE COURT: Thank you.

21 MR. EDGEWORTH: Thank you, Your Honor.

22 THE COURT: Is there a specific link between the rap song
23 on the video and the homicide of Mr. Thomas or the home
24 invasion, robbery and kidnapping in the Dozier home?

25 MS. RICHARDSON: Your Honor, the lyrics that he chose to

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1 say in this interview room, in that song it talks about drugs,
2 which is something that was stolen during the home invasion.
3 It talks about guns and holding guns and that sort of thing.
4 It also talks about witnesses testifying against other
5 individuals in court, other inmates, Codefendants and that
6 sort of thing. It talks about threats or using weapons
7 against those types -- or people who snitch, who talk, who
8 testify against other people. And it's the State's position
9 that that is the motive for this murder and that shows -- Mr.
10 Rivera chose this song, Mr. Rivera chose to rap, give his
11 version to a camera during an interrogation. And that is the
12 whole lifestyle he was embodying and the whole reason that
13 Terrell Thomas is dead because they thought he would testify.
14 And it's probative for that reason to show that he has
15 glorified to the point that he knows a song from start to
16 finish, he has glorified this lifestyle and he has embodied
17 and adopted this belief against people who testify against
18 others in court. And it's out of his own mouth that that's
19 apparently what he believes enough to quote it in an
20 interrogation room.

21 THE COURT: There's only two South Carolina cases I'm
22 familiar with with this issue. *State v. Cheeseboro*, which is
23 a Richland County murder case and *State v. Somerset*, which is
24 Charleston County murder case. In *Cheeseboro* although there
25 was no video, there was a rap song that was recovered from his

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1 prison cell that was introduced and y'all can read the opinion
2 but it was admitted but found to be a harmless error. In
3 *Somerset* there was a song entitled -- the lyrics containing
4 death threats against Scrooge (spelled phonetically) -- I'm
5 not sure who Scrooge was -- written, sung and produced in part
6 by the petitioner. Court of Appeals states -- excuse me --
7 the Supreme Court states that the Court of Appeals erred in
8 affirming the first two challenged rulings and they reverse
9 and remand for the a new trial. With regard to the rap lyrics
10 and any resulting prejudice, their admissibility at
11 Petitioner's next trial will depend in large part upon the
12 evidentiary showing made in that proceeding. Accordingly, we
13 do not address the merits of that issue here but admonish the
14 State and the Circuit Court among retrial to exercise caution
15 if this issue is raised.

16 Quite frankly, I couldn't track the entire lyrics. I'll
17 take it under advisement if you want to provide me with a
18 transcript of it, Solicitor.

19 MS. RICHARDSON: I can, Your Honor.

20 THE COURT: Or you, Mr. Edgeworth. I would think the
21 State may have more resources to produce that and you can
22 certainly get a copy of it. I'll be happy to look at it and
23 as I say, take it under advisement so I can precisely analyze
24 and compare it to both *Cheeseboro* and *Somerset* and I don't
25 know what has happened to *Somerset* since 2005. I don't think

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1 the issues have -- I don't think it's ever been addressed, you
2 know, what happens when there's a reversal. I don't know.

3 All right. Any other matters in the substance of the
4 statement, Mr. Edgeworth?

5 MR. EDGEWORTH: In regards to -- are we still talking
6 about the lyrics?

7 THE COURT: I'm gonna take that under advisement ---

8 MR. EDGEWORTH: Okay. Well, that's -- I have nothing
9 further.

10 THE COURT: --- until I can read the sung words, so to
11 speak.

12 MR. EDGEWORTH: Yes, Your Honor.

13 THE COURT: But do you have any other substantive area
14 besides the two murders? We're talking about two murders.

15 MR. EDGEWORTH: Nothing further, Your Honor.

16 THE COURT: That's going to be redacted and the lyrics.

17 MR. EDGEWORTH: Yes, Your Honor.

18 THE COURT: All right. All right. So, anything further
19 today then, solicitor?

20 MS. RICHARDSON: Your Honor, the only other thing is a
21 codefendant has pled guilty to these charges and I didn't know
22 if Mr. Edgeworth had a motion or anything you want to do to
23 with regard to that guilty plea.

24 THE COURT: To what?

25 MS. RICHARDSON: Of whether the Jury would be advised as

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1 to that guilty plea, if that's an issue that we need to
2 address if he intends to bring that out to the Jury.

3 MR. EDGEWORTH: As far as the guilty plea?

4 MS. RICHARDSON: Correct.

5 MR. EDGEWORTH: Has he pled?

6 MS. RICHARDSON: Anthony Fraser.

7 MR. EDGEWORTH: Oh, Anthony Fraser. I thought we were
8 talking about ---

9 MS. RICHARDSON: Anthony Fraser. And that's something --
10 I just wanted to see if that's something that we needed to
11 address.

12 THE COURT: You -- Mr. Edgeworth?

13 MR. EDGEWORTH: Well, Your Honor, it's certainly possible
14 that we would entertain the notion of making sure the Jury was
15 aware that someone has already accepted responsibility for
16 this crime.

17 THE COURT: You object to that, Solicitor?

18 MS. RICHARDSON: Your Honor, that brings up issues of
19 penalty and that sort of thing as well. I think that might be
20 something we need to ---

21 THE COURT: I thought -- all right. Well, look at that.
22 I thought there was a recent case with G. Thomas Cooper but
23 I'll look at that tonight. I better not rely this time of day
24 on my thought.

25 MS. RICHARDSON: Yes, sir.

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1 THE COURT: All right?

2 MS. RICHARDSON: All right.

3 THE COURT: I better not rely on that early in the day
4 either.

5 Anything further?

6 MS. RICHARDSON: No, Your Honor.

7 THE COURT: All right. We'll be in recess then to --
8 what time do you say y'all want to start? 9:30?

9 MS. RICHARDSON: 9:30. If you want us to be up here a
10 little earlier to address this issue?

11 THE COURT: Yes, we can do that. That'll be about 9:15.

12 MS. RICHARDSON: Thank you, Your Honor.

13 (RECESS - 5:10 P.M.)

14 *****OFF THE RECORD*****

15 END OF DAY ONE.

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1 **OCTOBER 27, 2015 - DAY TWO**

2 **(On the Record - 9:26 A.M.)**

3 (REPORTER'S NOTE: The following takes place outside the
4 presence of the Jury.)

5 BY THE COURT:

6 THE COURT: Good morning.

7 All right. First I think I understand we're waiting on
8 several jurors, number one. Number two, what matters were on
9 the agenda for this morning, Solicitor and Mr. Edgeworth?

10 MS. RICHARDSON: Your Honor, when were to finish up
11 discussion about the rap song that Mr. Rivera recited in his
12 interview. I do have a copy of the lyrics on that.

13 THE COURT: All right. Did you provide a copy of those
14 transcribed lyrics to Mr. Edgeworth?

15 MR. EDGEWORTH: Yes, Your Honor.

16 THE COURT: All right.

17 MS. RICHARDSON: These are just lyrics that are pulled
18 off of the internet, Your Honor.

19 THE COURT: Pulled of what?

20 MS. RICHARDSON: The internet, from a website that has
21 lyrics.

22 THE COURT: I'm not tracking. I thought -- I thought
23 they were gonna transcribe the lyrics that are on the State's
24 Exhibit. I'm not interested in the internet one.

25 MS. RICHARDSON: Okay.

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1 THE COURT: That's what I thought we were trying to do.
2 Are you telling me that the lyrics on the transcript are the
3 identical to the lyrics that are on the internet; I'm just not
4 tracking you.

5 MS. RICHARDSON: They pretty much are. I do have a
6 transcript that we did of it. It's not an official transcript
7 but I do have a transcript of Mr. Rivera's interview if you'd
8 like that.

9 THE COURT: Including all ---

10 MS. RICHARDSON: Including all of it.

11 THE COURT: That's -- that's what I'm interested in and
12 you provided that to Mr. Edgeworth?

13 MS. RICHARDSON: I haven't provided him that entire
14 transcription, but I can do that.

15 THE COURT: All right. When would that witness, the
16 detective, when would he be called as a witness?

17 MS. RICHARDSON: This afternoon, Your Honor.

18 THE COURT: All right. Well, that'll give me an
19 opportunity to look at this morning sometime.

20 MS. RICHARDSON: Okay.

21 THE COURT: All right. And if you want to make more
22 arguments depending on what my ruling is you can certainly do
23 so, Solicitor and Mr. Edgeworth.

24 MR. EDGEWORTH: Thank you.

25 THE COURT: And I didn't find any other cases except

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1 Cheeseboro and Somerset. And I didn't realize Somerset was
2 unpublished until I re-read it. So, it has no value. But of
3 course it wasn't an issue -- it did not become a deciding
4 issue in that case anyway.

5 MS. RICHARDSON: I didn't find any other State cases. I
6 found some Federal cases from other circuits.

7 THE COURT: Any other issues we need to take up before we
8 bring in our Jury? How about the issue on the charges and the
9 punishments on testifying witnesses, co-defendants? Have
10 y'all looked at that? The punishments, didn't y'all bring
11 that up yesterday?

12 MR. EDGEWORTH: Yeah, at the end, Your Honor, yes, there
13 was a conversation as to whether that would be addressed.

14 THE COURT: All right. Y'all done any research on that?

15 MR. EDGEWORTH: I have not, Your Honor.

16 THE COURT: When will those witnesses or witness come up,
17 Solicitor?

18 MS. RICHARDSON: Tomorrow and Thursday.

19 THE COURT: Okay. Well, the only case I found so far was
20 *Gravely* or *Gracely* and it just had to do with minimum
21 mandatory. I -- I've got my law clerk shepherdizing it.
22 Anyway, whenever y'all want to address that because I don't
23 even know what the agreement was or what witnesses have pled
24 to.

25 MS. RICHARDSON: Your Honor, the only other issue was the

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1 -- whether or not Mr. Edgeworth is gonna seek to exclude the
2 fact that the Co-defendant, Mr. Fraser, has already entered a
3 guilty plea.

4 THE COURT: Well, that -- that's what I was just talking
5 about that he's entered -- has he been sentenced?

6 MS. RICHARDSON: He has.

7 THE COURT: And he's entered a guilty plea. I mean, what
8 -- what's y'all's -- what's your position, Solicitor?

9 MS. RICHARDSON: Your Honor, the State has no objection
10 to -- to the -- to him having entered a guilty plea being
11 admitted. I would have an objection to penalty coming in
12 because that's not purview of the Jury.

13 THE COURT: I think if you look at *Gracely*, which is a
14 minimum mandatory drug case, the Supreme Court, I think you
15 need to look *Gracely*. Let me make sure I'm saying that right.
16 G-R-A-C-E-L-Y, 399 S.C. 363, 2012. And I think there's a more
17 recent case than that. Like I said, I've got Mr. Lyle
18 shepherdizing it now. *Gracely* has to do with minimum
19 mandatories and if -- and I don't know what Mr. Jenkins was
20 charged with. I don't know what he pled to. So, I -- I don't
21 know how to rule right now. I don't have enough information
22 to rule on it right now. But we'll take that up before Mr.
23 Jenkins; is that right; that's his name, Jenkins.

24 MS. RICHARDSON: It is. No, this Defendant is not
25 testifying. This Co-defendant that I'm talking about is not

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1 testifying.

2 THE COURT: Then I was tracking it all.

3 MS. RICHARDSON: Right. There are some testifying Co-
4 defendants where I think the issue of penalty and it may be a
5 different consideration as far as proffer agreements and what
6 they may have to benefit but as for Co-defendant Fraser, he
7 just -- he pled guilty and received twenty-two years. He is
8 not cooperated with the State.

9 THE COURT: I wasn't -- I wasn't tracking that issue. I
10 thought he was testifying. All right.

11 Mr. Edgeworth?

12 MR. EDGEWORTH: Your Honor, our position would be that --
13 that we're certainly entitled to bring it up if it becomes
14 necessary at the moment. Primarily, because you have the
15 State arguing that -- how many people are involved in the case
16 and that's central of part of our defense and then you've got
17 several cooperating, essentially cooperating Co-defendants and
18 the numbers don't necessarily jive as to how many people are
19 involved. So, it's important to bring out the fact that one
20 of the non-testifying Co-defendants has pled guilty.

21 THE COURT: And you don't have any objection to that,
22 Solicitor?

23 MS. RICHARDSON: No, Your Honor.

24 THE COURT: She just objects to the punishment.

25 MR. EDGEWORTH: And I don't -- I don't anticipate the

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1 necessity of discussing the punishment.

2 THE COURT: And I would -- I would agree with that. She
3 doesn't object to the fact a Co-defendant has pled guilty and
4 you do not intend to go into and will not go into whatever
5 punishment that Co-defendant, non-testifying Co-defendant,
6 received.

7 MR. EDGEWORTH: Yes, Your Honor.

8 THE COURT: All right. That issue is resolved.

9 MR. EDGEWORTH: Well, there we go. Thank you.

10 THE COURT: Thank you, Mr. Edgeworth. Thank you,
11 Solicitor.

12 Is our Jury present?

13 BAILIFF: I'll check, sir.

14 Yes, sir.

15 THE COURT: All right. Thank you. Anything additional
16 before we bring in our jury from the State, Solicitor?

17 MS. RICHARDSON: No, Your Honor.

18 THE COURT: From the Defense, Mr. Edgeworth?

19 MR. EDGEWORTH: Excuse me, Your Honor? I apologize.

20 THE COURT: Anything additional from the Defense before
21 we bring in our Jury?

22 MR. EDGEWORTH: No, Your Honor.

23 THE COURT: Thank you.

24 MS. RICHARDSON: I apologize, Your Honor. I need to pre-
25 mark some exhibits.

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1 THE COURT: All right. You may do so.

2 MS. RICHARDSON: Your Honor.

3 THE COURT: Yes, ma'am?

4 MS. RICHARDSON: The State intends to use what's been
5 marked as -- pre-marked for identification as State's Exhibit
6 Number Six and State's Exhibit Number Five as demonstrative
7 aid during opening statements.

8 THE COURT: Any objections, Mr. Edgeworth?

9 MR. EDGEWORTH: No, Your Honor, no objections.

10 THE COURT: And what is Six, Madame Solicitor?

11 MS. RICHARDSON: Number Six is a map of Georgetown, the
12 City of Georgetown.

13 THE COURT: An aerial map?

14 MS. RICHARDSON: An aerial map of the City of Georgetown
15 which spans out into certain areas of Georgetown County,
16 Maryville, and Debordieu.

17 THE COURT: And Five?

18 MS. RICHARDSON: Five is a zoomed in map of the City of
19 Georgetown.

20 THE COURT: A zoom in of Six?

21 MS. RICHARDSON: Yes, Your Honor, of just the city
22 without the other unincorporated areas.

23 THE COURT: All right. Thank you. Thank you very much.
24 Thank you. Mr. Roy, will bring our Jury, please?

25 DEPUTY: Certainly.

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1 THE COURT: Thank you.

2 (REPORTER'S NOTE: Jury enters courtroom. 10:00 A.M.)

3 THE COURT: Administer the oath to our Jury please.

4 CLERK: Ladies and gentlemen of the Jury, would you
5 please stand and raise your right hand. Do you solemnly swear
6 or affirm that you will truly try the issues joined in this
7 case and a true verdict render according to the law and
8 evidence, so help you, God? If so, please say I do.

9 (REPORTER'S NOTE: Jury unanimously responds affirmatively.)

10 CLERK: Thank you. You may be seated.

11 THE COURT: Good morning.

12 JURY: Good morning.

13 THE COURT: Ladies and gentlemen of the Jury panel, the
14 case we're about to try is the case of the State versus
15 Damonte Marquez Rivera, the Defendant seated to front right.
16 What I will now say is intended to serve as an introduction to
17 the trial of this case. These remarks are not an instruction
18 on the law in this case. I will instruct you on the law
19 applicable to this case during and -- during the trial and at
20 the end of the trial before you retire to consider your
21 verdicts. This is merely an explanation of the procedure that
22 we will follow in the trial so that you may better understand
23 what may be happening during the course of these proceedings.

24 The Defendant is charged by indictments filed in this
25 Court with the crimes of burglary first degree, armed robbery,

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1 kidnapping and murder. The elements of which will be
2 explained you later. Again, ladies and gentlemen, these
3 indictments are simply the formal charging documents by which
4 the case is brought before the Court. The indictments contain
5 mere allegations and in no sense are they evidence of the
6 allegations contained therein. The State, the party to my
7 front left, therefore has the burden of proving each of the
8 elements of the indictments beyond a reasonable doubt and that
9 burden remains on the State during and throughout the course
10 of this trial and during your deliberations until you reach a
11 verdict or verdicts based on the evidence convincing you of
12 the Defendant's guilt beyond a reasonable doubt if the State
13 meets that burden.

14 It will be your duty, ladies and gentlemen, to decide
15 whether the State has met its burden or not. Your purpose as
16 jurors is to find and determine the facts. You, ladies and
17 gentlemen, are the sole judges of the facts in this case. If
18 at any time I make any comment regarding the facts, you must
19 disregard it. You are determining -- to determine the facts
20 from the testimony you hear from the witnesses and any other
21 -- from the witness stand and any other evidence introduced
22 into court. It will be up to you to decide inferences which
23 you feel may properly be drawn from the evidence.

24 It is especially important that you perform your duty
25 of determining the facts diligently and conscientiously

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1 because ordinarily there is no way to correct an erroneous
2 determination of the facts by a Jury. On the other hand and
3 with equal emphasis, the same law that makes you the judges of
4 the facts makes me the judge of the law. The law as given by
5 the Court is the only law you may consider. You must accept
6 it and follow it even though you may disagree with it. I
7 cannot tell you what the facts are. You cannot disagree with
8 me about what the law is or what the law should be. Your job
9 is to take the law as I give it to you, apply it to the facts
10 as you find them from the testimony and any other evidence
11 that is introduced. After doing that, you will render your
12 verdicts, true and just verdicts, under the solemn oath that
13 you have just taken as jurors.

14 It is important that you keep an open mind and not decide
15 any issue in the case until all of the evidence has been
16 presented, the parties have made their closing arguments and I
17 have instructed you on the law in this case. It is your
18 solemn responsibility to determine the guilt or the innocence
19 of the Defendant and your verdicts must be based solely on the
20 evidence as it is presented to you in this trial and on the
21 law as instructed to you during and at the close of the trial.

22 In just a moment, the Solicitor will make what is called
23 an opening statement in which the Solicitor will explain to
24 you the issues in the case or at least what the Solicitor
25 thinks the issues are in the case. Mr. Edgeworth, the

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1 attorney for the Defendant, may also may an opening statement
2 although he is not required to do so. A criminal defendant in
3 South Carolina is always presumed to be innocent of the
4 charges brought regardless of the seriousness of those charges
5 and has no burden of proving himself or herself innocent.

6 What the attorneys tell you during their opening
7 statements is not evidence in the case. What they may tell
8 you during their closing arguments is not evidence in the
9 case. The questioning by the attorneys is not evidence in the
10 case. They're not sworn witnesses. That's the framework by
11 which the evidence, the testimony is extracted from those
12 sworn witnesses. It's the answers of the witnesses that's the
13 testimony in the case that you have to use and put in the
14 principle of your good judgment and your common sense and
15 determine the credibility or the believability of those
16 witnesses.

17 However, what the attorneys say is very important and I
18 would ask you to please pay close attention to them during
19 their openings, during their questioning and during their
20 closings. The evidence will be presented to you by the
21 testimony of the sworn witnesses from the witness stand and/or
22 any exhibits that may be introduced into evidence.

23 From time to time during the trial, you may hear one of
24 the attorneys say something like, Your Honor, I believe we
25 have a question or a matter of law to discuss with you or,

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1 Your Honor, may we approach the bench or sometime I myself
2 might find it necessary to excuse you from the courtroom for a
3 short while, while the attorneys and I can discuss a matter of
4 law. This is not to hide anything from you. The reason for
5 this is because you, again, are the judges of the facts in the
6 case and sometimes when I'm discussing matters of law with the
7 attorneys, it may be necessary for me to make some comment as
8 to the facts in concluding and ruling whether or not a
9 particular law applies. I am not supposed to and will not
10 tell you and will have no opinion of what I think the facts
11 are. So, I will excuse you from the courtroom while these
12 discussions take place so that in no way will you be
13 influenced by anything that I might say or do in connection
14 with the facts.

15 In determining what the true facts are in this case, in
16 using your good judgment and your common sense, you must
17 decide whether or not the testimony of the witnesses is
18 believable. It will be my responsibility to rule as a matter
19 of law as to whether certain testimony is admissible at all or
20 not. In other words, whether you hear that testimony or see
21 that testimony or that item of evidence comes into evidence,
22 but once the testimony is admitted, whether or not you believe
23 it is solely for you, the Jury, to determine.

24 In determining whether to believe a witness, you have a
25 right to consider the interest of any witness, the bias of any

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1 witness, the prejudice of any witness, the opportunity for the
2 witness to have seen the matters and things about which the
3 witness may testify and the way the witness acts, the demeanor
4 of the witness, while on the witness stand. You have the
5 right to consider anything that is in this record that will
6 help you evaluate the testimony of the witnesses. That means
7 it will be your duty to pay close attention to those
8 witnesses, to observe them, to listen to the witnesses, to pay
9 close attention to the attorneys and to the Court. Do not let
10 your thoughts wander, but give strict attention to the
11 testimony in this case so that at the end of all the
12 testimony, after the closing arguments by the attorneys and
13 the instruction on the law by the Court, you will be in that
14 position to determine what the true facts are and to apply the
15 law to those facts as you find them to be and thus render,
16 again, those true and just verdicts.

17 Ladies and gentlemen, just a -- several things
18 administratively. There is a sound system in the courtroom.
19 However, if you cannot hear, particularly those further away
20 from the -- from the witness stand or if you cannot see a
21 particular witness or an item of evidence, please get my
22 attention or the attention of one of our fine Bailiffs and I
23 will try to have that party speak up where you may -- if you
24 can't hear it, you won't be able to determine what the true
25 facts are. Also and I don't know what items of evidence, if

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1 any, may be introduced, nowadays so many times it's produced
2 by electronic means, photographs and such like that, but there
3 were times when photographs were handed to the foreperson of
4 the Jury and passed among members of the Jury while you're out
5 here in the jury box in the courtroom. Keep in mind, if I
6 allow an item of evidence -- an item into evidence, you can
7 look at all you wish here in the -- in the courtroom.
8 However, you will also have that item with you in your jury
9 room at the time of your deliberations. So seeing it out here
10 or observing it out here will not be the only opportunity, the
11 only time you will get to view those -- to view those items of
12 evidence.

13 I tell you this, this next anecdote because a juror
14 brought it to my attention at one time. From time to time,
15 you may see me on my computer. I don't tweet, I don't repeat,
16 I don't know what snapshot and hash tag is, I don't check my
17 email; I stay focused on the case. These are very good trial
18 lawyers. I may see what I perceive a legal issue lurking off
19 in the distance and I will do some research. That's all and
20 of course my, my law clerk keeps up with notes during the
21 trial and also does research for me. If that bothers you,
22 just please let me know and, and I will adjust accordingly.

23 Finally, what am I in charge of? I'm in charge of taking
24 breaks and I have a real simple rule, when I want to take a
25 break, we all take a break. It works out perfectly. This is

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1 not a judicial marathon; this is an important case, an
2 important case to Mr. Rivera, an important case to the State
3 of South Carolina. You sit out here too long and, you know,
4 sitting, listening, is not easy sometimes. You sit out here
5 too long, your thoughts start to wander; you won't be able to
6 determine what the true facts are. Please, please raise your
7 hand. You're probably not the only one that needs a break;
8 y'all will take y'all's break and we will take our break. As
9 I said, this is not a judicial marathon; it's a very, very
10 important case to the parties, both to the State and to Mr.
11 Rivera.

12 Any objections from the State to anything I have told the
13 Jury, Solicitor?

14 MS. RICHARDSON: No, Your Honor.

15 THE COURT: From the Defense, Mr. Edgeworth?

16 MR. EDGEWORTH: None, Your Honor.

17 THE COURT: All right. Solicitor, you may address the
18 Jury.

19 MS. RICHARDSON: May it please the Court?

20 THE COURT: Yes, ma'am.

21 OPENING STATEMENT BY RICHARDSON:

22 MS. RICHARDSON: Good morning. Alayah W. in the
23 green shirt on the front row was ten years old back in August
24 of 2012. School had just started back in Georgetown. The
25 night of August 29th, she ready for school the next day. She

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1 lived with her parents seated on the front row and she was the
2 big sister of the family. She had three little siblings. She
3 was the big sister. She went to bed. She had a little cell
4 phone and had an alarm set on her cell phone to get her up for
5 school the next day and she was sleeping with her little
6 brother; he was about two. Her little sister, who was a baby,
7 was sleeping with her parents and her other brother was in a
8 separate bedroom all snuggled down for the night. But what
9 she didn't know and her parents didn't know is there were
10 thieves in the night.

11 Alayah was awakened to a loud crashing sound. Someone
12 has kicked in the door of her house. It's 1:30 or 2 o'clock
13 in the morning. She hears people coming. A sheet of
14 Plexiglas as a replacement window that's on that door falls to
15 the ground. She hears voices that sound mad. She hears her
16 parents' reaction. Alayah is scared, but she's the big
17 sister. She takes the blanket and covers up her little
18 brother so nobody will see him, hides him from the danger, but
19 she wasn't protected. A man comes in her room, grabs her out
20 of her bed, around her neck and drags her to her parents'
21 room.

22 There are four people in her house. They have on masks
23 and they have a gun and they are threatening her daddy, they
24 are demanding money, passing that gun around, they're
25 threatening to kill, they want what they want, they want

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1 money. The gun is pointed at everybody. Momma is holding the
2 one-year-old. The man that grabbed Alayah -- they all had on
3 masks or t-shirts tied around their face -- had on an orange
4 Hawaiian shirt. Pretty unusual for a home invasion.

5 One of the men is tall. Her daddy's tall. He's as tall
6 or taller than her daddy, African Americans, he has a light
7 complexion. There's a shorter man with him passing the gun
8 back and forth, shorter than her momma, light complected.
9 There's another guy hanging out at the door. Nobody really
10 gets a great look at him. Daddy has a fire safe they make him
11 open. Nothing in it. They take some things from him, some
12 money. They pick up his pants off the floor. There's a
13 little bit of marijuana in his pants. They take everybody's
14 cell phone. They didn't have a house phone like a lot of
15 people do. Took Alayah's little cell phone, took her momma's
16 cell phone, took her daddy's cell phone. They take the car
17 keys and finally leave. No cell phones and the car keys were
18 gone. Luckily they remembered there was another -- there was
19 a set to a truck. The family loads up, four children, 2
20 o'clock in the morning and drive across town to his dad's
21 house. Their house is near the paper mill on Kaminski Street
22 on that end of Georgetown. His daddy lived sort of in the
23 middle of the town on Duke Street.

24 The police come, talk to them, get information from them,
25 go back to their house, take pictures, process the scene, they

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1 have to go to the police department. It's pretty much an all-
2 night thing.

3 Just before 7:00 in the morning, Alayah's cell phone
4 alarm starts going off and it's found in the pocket of a man
5 named Alfonso Thomas. Alfonso Thomas was laying face down on
6 a path by Beck School, Beck Administration Building with a
7 bullet hole in the back of his head. This child's cell phone
8 was found in the pocket of a dead man about five hours after
9 they called 911.

10 There's a path that runs by Bate -- the Beck school
11 building that connects the housing authority houses, Thornton
12 Hall Apartments. It's a shortcut to get through town to the
13 other side. A lot of parents use that path to take children
14 to school or to meet the school bus.

15 The morning of August 30th, parents taking their children
16 to school, Stephanie Sumpter walking her child to the bus stop
17 comes upon the body of Mr. Thomas and a few other individuals
18 who found him there. The police respond, they find that cell
19 phone in his pocket. They open it up, turn it on and the
20 screen says Layah. That's the same officer who had just been
21 at Alayah's house. So then they knew those two crimes were
22 connected.

23 Now, Alayah's house was broken into, her door that was
24 kicked in had some glass panels. The original glass had
25 fallen out and it was a replacement sheet of Plexiglas. That

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1 was kicked out and fell on the ground. The folks who broke
2 into her house walked across it and left shoeprints. The
3 shoes that Alfonso Thomas was wearing when his body was found
4 matched some of the shoeprints that were found on that
5 Plexiglas. So, it became imperative to know where was Alfonso
6 Thomas that night and who was he with because we know there
7 were at least four. Alfonso has a sister named Meyon. She
8 also goes by her middle name, Shandail, sometimes. Meyon got
9 the news. She wanted to know who had killed her brother.

10 Her brother had a friend they had known since childhood,
11 Anthony Fraser, big old tall fellow over six feet tall, light
12 complected. She gave information and found that her brother
13 had been with him at an apartment in Thornton Hall. Do you
14 remember how I told you that Beck School, there's this path,
15 it's called The Path, that runs beside the school to Thornton
16 Hall and the Housing Authority back into town, a shortcut.

17 Anthony Fraser had been at Thornton Hall in the early
18 morning hours of August 30th visiting Anthony Lawrence and
19 there was a girl there named Jasmine Williams. Now, Anthony
20 wasn't by himself. He was with Alfonso Thomas and he was with
21 Damonte Rivera. Damonte and Anthony had been to that house
22 earlier with Alfonso Thomas earlier that night, left and came
23 back. Anthony Fraser was seen them by the residents of that
24 house with them.

25 You'll hear from Anthony Lawrence and from Jasmine

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1 Williams and those two people put Anthony Fraser, Damonte
2 Rivera and the now deceased Alfonso Thomas leaving the house
3 together walking in the early morning hours around 3:00 to
4 4:00 in the morning. The same morning that Alfonso Thomas'
5 body was found at 7:00.

6 Anthony Fraser's house is searched. In that search up in
7 the rafters of the porch, up high, they found some keys,
8 Walter Dozier's keys. They also take some shoes. I already
9 told you Anthony Fraser was a tall guy. There are a size 12
10 shoes with dirt on them on that porch. Those shoes match
11 another set of shoeprints that were found on that piece of
12 Plexiglas I was telling you about. So, the police start
13 looking at -- who's with who, trying to figure everything out.
14 They end up talking with a guy named Shakeem Geathers.
15 Shakeem Geathers was driving the car that night. He and his
16 cousin named Jasen Wade. They picked up Anthony Fraser,
17 Tyrell Thomas or Anthony -- Alfonso Thomas Damonte Rivera.
18 Picked them up in Maryville just over the bridge headed into
19 Charleston, some apartments down there on the left, picked
20 them up from Maryville.

21 One of their other buddies had gotten in some trouble and
22 they needed some money. Shakeem Geathers is gonna tell you
23 they were gonna get it from Walter. He dropped them off, they
24 went in that house, came back out. There was some arguing in
25 the car. There was arguing in the car because Alfonso Thomas,

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1 the man in the orange shirt, the man that died that morning,
2 did not follow directions. He didn't shoot the child. He was
3 supposed to shoot a child so that Walter would tell him where
4 the money was that he thought he had.

5 You'll hear from some cell phone companies and they have
6 some cell phone records to show you some of the movements of
7 these parties that night.

8 Once Anthony Fraser and Damonte Rivera were arrested,
9 Damonte told his story to the a few people and you'll hear
10 what he said out of his own mouth to other folks about what
11 happened that night. He was charged with burglary, armed
12 robbery, kidnapping for what happened at their house that
13 night and he's charged with murder in the death of his Co-
14 defendant, Alfonso Thomas.

15 I'm asking that you listen to all of the witnesses and
16 evidence; there's going to be a lot. There's gonna be some
17 technical information that's gonna come out about these cell
18 phones and there's gonna be some other information where
19 people -- it's gonna seem real boring to you but that's what
20 we have to do, where people are just gonna talk about how they
21 handled the evidence because you're gonna hear some of that.
22 I'm gonna ask that you listen to all of that and at the end of
23 the day render a verdict of guilty against this man for what
24 happened to this family and to Alfonso Thomas.

25 Thank you.

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OPENING BY EDGEWORTH

1 THE COURT: Thank you, Solicitor.

2 Mr. Edgeworth?

3 MR. EDGEWORTH: Thank you, Your Honor. May it please the
4 Court?

5 THE COURT: Yes, sir.

6 OPENING STATEMENT BY EDGEWORTH:

7 MR. EDGEWORTH: Good morning, ladies and gentlemen of the
8 Jury.

9 MR. EDGEWORTH: My name is Josh Edgeworth and I represent
10 Mr. Damonte Rivera. The story that you have just heard is
11 certainly a series of unfortunate circumstances. It's
12 unfortunate that this family was disturbed in the middle of
13 the night. It was unfortunate that a man's life came to an
14 end. But it's just as unfortunate that Mr. Rivera is being
15 charged with a crime, especially when one gentleman has
16 already pled guilty to it.

17 Now, what can we say about that, that we have all found
18 ourselves in the middle of unfortunate circumstances? A weird
19 example would be, have you ever gotten a text message that
20 came across from your phone and you're like, look at it, who
21 is this and you have to text them back and say, who is this
22 and they write back and say, oh, I'm sorry, wrong number.
23 I have a very self-deprecating story. I found myself in a
24 very odd series of circumstances. About a year ago, a text
25 message comes to my phone and it's a woman in scantily clad

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OPENING BY EDGEWORTH

1 clothing saying Merry Christmas in some type of Christmas
2 lingerie. My wife sees the phone and she's like, what the
3 heck is this? Okay. She takes the phone and writes back, who
4 the heck is this. And the girl writes back, oh, my God, I
5 sent this to the wrong number. Now, as you can imagine, my
6 wife may be somewhat skeptical, right, she's sitting there
7 going how in the world could this possible happen to you if
8 it's not true. And I say, honey, I swear it ain't; I don't
9 even know who this person is. As you can tell, she's a lot
10 uglier than you; you are pretty and she's not. So, it kind of
11 washes itself away, right? A few months later on Valentine's
12 Day, the very same girl sends another similar message to my
13 phone and says, Happy Valentines Day, Baby, dressed again in
14 some other little scantily clad outfit. And again, my wife
15 gets the phone this time and I have no idea that she has it.
16 I'm -- my phone's not locked, no big deal, I'm not doing
17 anything wrong, right? She takes the phone, walks outside and
18 gets on the phone doing some due diligence. She's calling and
19 saying, hey, I have a family, I have four children, I just
20 need to know what's going on. And then the girl immediately
21 says, oh my, God, I've done it again. I drank two bottles of
22 wine and I sent that message. I'm so sorry. I'll never do it
23 again. And thankfully she hasn't because I found myself in
24 the middle of a circumstance of looking completely guilty when
25 I was not. I was innocent. So here you go.

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OPENING BY EDGEWORTH

1 The State has told you this story. They're gonna put up
2 their evidence and you're gonna hear, as you already have,
3 things like this. A shoeprint matched Mr. Fraser. A shoe
4 print matched Mr. Thomas. You will not hear a shoe print
5 matched Mr. Rivera. You heard there was a very odd shirt, an
6 orange shirt to a home invasion. That shirt was Mr. Thomas';
7 it was not Mr. Rivera. You will hear other things such as
8 well, guess what, we lost the bullet. You may say to
9 yourself, oh, what does that matter? It matters a lot.

10 You'll hear other testimony from individuals who have
11 already admitted or will be admitting guilt. What do they
12 have to gain or lose by that? The story will tell.

13 So, what I'm asking you today for the remainder of the
14 time that we have together, to listen to all of the evidence
15 that's gonna be presented by the State and also listen for the
16 things that you won't hear from the State because that is just
17 as important as what you do and at the end of the day, you'll
18 go back to that jury room and you'll say, Mr. Rivera is not
19 guilty. Thank you.

20 THE COURT: Thank you. Thank you, Mr. Edgeworth.
21 Solicitor, you may call your first witness?

22 MS. RICHARDSON: Your Honor, may we approach?

23 THE COURT: Yes, ma'am.

24 (REPORTER'S NOTE: A bench conference was held off the record
25 in the presence of but out of hearing of the Jury.)

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Alayah W. - DIRECT BY RICHARDSON

1 THE COURT: All right. Madame Juror that's outside of
2 the jury box, from time to time, the Solicitor and/or Mr.
3 Edgeworth may be using the screen and you won't have a -- you
4 won't have a screen in front of you. If you want to move up
5 to where you can share the screen. Okay. You can see it from
6 there? And if you need to move around in any way to see the
7 screen or if I can accommodate you in any way, just please let
8 me know.

9 JUROR: Thank you. We just want to make sure you're able
10 to view the same as the other -- as the other jurors. Okay.
11 All right. Thank you. Thank you very much.

12 Thank you, Solicitor. Thank you, Mr. Edgeworth.

13 Solicitor, you may call your first witness.

14 MS. RICHARDSON: The State calls Alayah W.

15 THE COURT: All right. If you'd come around and be sworn
16 for us please, Alayah W.

17 Alayah W. HAVING BEEN SWORN

18 TESTIFIES AS FOLLOWS:

19 CLERK: Okay. Please spell your full name and state your
20 name so Ms. Kay can put that in.

21 MS. Alayah W. A-L-A-Y-A-H, Alayah W.

23 CLERK: If you'll just have a seat right up there. Okay?

24 DIRECT EXAMINATION OF Alayah W. BY MS. RICHARDSON:

25 Q: Good morning, Alayah.

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Alayah W. - DIRECT BY RICHARDSON

1 A: Good morning.

2 THE COURT: You're probably gonna have to speak up for us
3 a little bit, Ms. Wilson, so all the individuals on the Jury
4 can hear you, okay?

5 A: Yes, sir.

6 THE COURT: All right. Thank you.

7 BY MS. RICHARDSON:

8 Q: Can you tell us how old you are?

9 A: Thirteen.

10 Q: And what month and year were you born?

11 A: December 1st, 2002.

12 Q: And in August of 2012, did you live in the City of
13 Georgetown?

14 A: Yes, ma'am.

15 Q: And who did you live with?

16 A: My mom and my dad.

17 Q: And who else lived there?

18 A: And my little sister and my two brothers.

19 Q: And what's your mom and dad's name?

20 A: Antionette Wilson and Walter Dozier.

21 Q: Can you speak up just a little bit more for me, okay, and
22 scoot up a little bit? And do you still live in Georgetown
23 now?

24 A: No, ma'am.

25 Q: And y'all live away a few hours?

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Alayah W. - DIRECT BY RICHARDSON

- 1 A: Yes, ma'am.
- 2 Q: And that was after this incident that you heard them
3 talking about?
- 4 A: Yes, ma'am.
- 5 Q: And do you remember that night, August 30th?
- 6 A: Yes, ma'am.
- 7 Q: August 29th and August 30th?
- 8 A: Yes, ma'am.
- 9 Q: Okay. Tell this jury where you were sleeping that night?
- 10 A: In my room with my brother.
- 11 Q: Okay. And what's his name and how old was he?
- 12 A: Keshawn D. and about two.
- 13 Q: Okay. And where was everybody else sleeping?
- 14 A: In their rooms, separate rooms. Well, my brother -- my
15 oldest brother was in his room and my parents was in their
16 room.
- 17 Q: And your oldest brother, what's his name?
- 18 A: Walter D.
- 19 Q: And how old is -- how old was he at the time?
- 20 A: About six.
- 21 Q: And the baby of the family, what's her name?
22 Shadonna D.
- 23 Q: How old was she at the time?
- 24 A: One.
- 25 Q: And where was she sleeping?

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Alayah W. - DIRECT BY RICHARDSON

1 A: With my parents.

2 Q: And can you tell us what's the first thing you remember
3 happening that night?

4 A: The only thing I heard like -- I heard the door going
5 down and glass falling and breaking and somebody come in my
6 room to get me and I just remember me covering up my brother
7 and then the person that came in my room grabbing me and
8 taking me into my parents' room.

9 Q: Why did you cover your brother up?

10 A: Because I didn't want them to take him or do anything to
11 him.

12 Q: And how many people came in your house?

13 A: I saw four, but I only saw three in the house.

14 Q: And can you describe them for us? Were they white or
15 African American?

16 A: They all were African American.

17 Q: Okay. And do you remember anything about their
18 descriptions or what they looked like?

19 A: Well, the person that grabbed me, I just remember him
20 having on a orange shirt and the person that had the gun had a
21 white shirt and he was tall with light skin.

22 Q: And did you see their faces?

23 A: No, they had everything covered up except their eyes.

24 Q: And when they -- when you grabbed out of your bedroom,
25 what happened next?

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Alayah W. - DIRECT BY RICHARDSON

1 A: The person that grabbed me had grabbed me around my neck
2 and took, like dragged me into my parents' room and sat me on
3 the bed with them, with my momma.

4 Q: Okay. And what were your mom and dad and little sister
5 doing at that time?

6 A: Well, my momma was on the bed holding my sister and my
7 dad was in the corner with just like holding his chest because
8 he didn't want the person that was -- was -- the person that
9 was -- that had me to shoot him I guess.

10 Q: So you saw a gun?

11 A: Yes, ma'am.

12 Q: Who had the gun?

13 A: The tall person, the tall person with the white shirt on.

14 Q: And what was he doing with the gun?

15 A: Aiming it at my dad.

16 Q: Okay. And was anybody saying anything, doing anything?

17 A: The only thing I heard was him demanding money.

18 Q: And do you remember how he said that? I mean was it real
19 nice like give me money, could I have some money, please?

20 A: No.

21 Q: How -- what did he say?

22 A: He was saying it mean like, like he was like just ready
23 to have vengeance, was ready to go, I guess.

24 Q: And, and what were you doing?

25 A: Sitting on the bed trying to calm, calm my momma down, to

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Alayah W. - DIRECT BY RICHARDSON

1 just not saying anything.

2 Q: Why did your mom need calming down? What was she doing?

3 A: She was just sitting there listening to the person, the
4 tall person with the gun.

5 Q: And what happened with the gun? Did the tall person keep
6 it the whole time?

7 A: Yes, ma'am.

8 Q: And did -- was the gun always pointed at your dad or what
9 happened with that?

10 A: He was pointing it back and forth from him and to my mom.

11 Q: And your mom was holding ---

12 A: My little sister.

13 Q: And did you hear any threats or anything like that?

14 A: The person, the tall person with the gun, he was saying
15 if we didn't give him anything that he was gonna shoot him, my
16 dad.

17 Q: And did you see if they got anything from your dad?

18 A: No.

19 Q: Did they get anything from you?

20 A: My phone.

21 MS. RICHARDSON: If I could have this marked.

22 BY MS. RICHARDSON:

23 Q: I'm going to show you what has been marked as State's
24 Exhibit Number Seven for identification. Do you recognize
25 that?

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Alayah W. - DIRECT BY RICHARDSON

1 A: Yes, ma'am.

2 Q: And what is that?

3 A: My phone -- my phone I had.

4 Q: Okay. And that's the phone that you had that night that
5 was stolen from you?

6 A: Yes, ma'am.

7 Q: And do you have a nickname?

8 A: Layah.

9 Q: Layah?

10 A: Yes, ma'am.

11 Q: And that's your name with the A removed?

12 A: Yes, ma'am.

13 Q: Okay. Let me show you what's been marked as State's
14 Exhibit Number Eight for identification. Do you recognize
15 that?

16 A: Yes, ma'am.

17 Q: Okay. And what is that?

18 A: My name.

19 Q: Okay. And is that how you had it on your phone the night
20 it was stolen?

21 A: Yes, ma'am.

22 MS. RICHARDSON: Your Honor, at this time, I'd offer
23 State's Seven and Eight into evidence?

24 THE COURT: Mr. Edgeworth?

25 MR. EDGEWORTH: No objection, Your Honor.

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Alayah W. - DIRECT BY RICHARDSON

1 THE COURT: State's Seven and Eight is in evidence
2 without objection.

3 STATE'S EXHIBITS NUMBER SEVEN AND EIGHT

4 ADMITTED INTO EVIDENCE

5 STATE'S EXHIBIT NUMBER NINE

6 MARKED FOR IDENTIFICATION

7 BY MS. RICHARDSON:

8 Q: All right. Now, Alayah, I'm gonna show you what's been
9 marked as State's Exhibit Nine for identification. Do you
10 recognize this shirt?

11 A: Yes, ma'am.

12 Q: And where do you recognize it from?

13 A: I recognize -- I remember it from when the dude that
14 grabbed me out of my bedroom, him wearing it.

15 Q: The guy that grabbed you out of your bed?

16 A: Yes, ma'am.

17 Q: Alayah, how did you feel during -- while this was going
18 on?

19 A: Scared.

20 Q: While they were in your house, were you able to leave if
21 you wanted to?

22 A: No, ma'am.

23 Q: And why not?

24 A: Because there was someone blocking the door.

25 Q: After they left, what did you and your family do?

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Alayah W. - CROSS BY EDGEWORTH

1 A: We gathered up the rest of my siblings and we left in the
2 truck.

3 Q: And where did you go?

4 A: To my granddad house.

5 Q: And that's Walter Gibson?

6 A: Yes, ma'am.

7 Q: And he lives in the City of Georgetown?

8 A: Yes, ma'am.

9 Q: And that's when the police were called?

10 A: Yes, ma'am.

11 Q: Now, when all of this was going on, how was your family
12 behaving? How were they acting?

13 A: Everybody was scared.

14 Q: And was your mom and dad, were they crying or were they
15 saying anything?

16 A: Nobody was really saying anything because I guess
17 everybody was like in shock.

18 Q: Okay. I have no further questions. Answer any questions
19 Mr. Edgeworth may have for you, okay?

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

21 MR. EDGEWORTH: Thank you, Your Honor, if it please the
22 Court.

23 CROSS EXAMINATION OF Alayah W. BY MR. EDGEWORTH:

24 Q: I just have a few questions for you. Okay? Now, just so
25 I'm sure that I heard you correctly, you said there -- there

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Alayah W. - CROSS BY EDGEWORTH

1 was four people at your house on the night of August ---

2 A: Yes.

3 Q: --- 29th and 30th; is that correct?

4 A: Yes, sir.

5 Q: And, and one of them was wearing an orange shirt; that's
6 your statement?

7 A: Yes, sir.

8 Q: Okay. Do you recall being interviewed by an investigator
9 on September 1st?

10 A: Yes, ma'am -- sir.

11 Q: That's okay. Do you recall sitting there at the table

12 ---

13 A: Yes, sir.

14 Q: --- in the little interview room?

15 A: Yes, sir.

16 Q: Do you recall at the time the shirt was sitting on that
17 table for about six minutes before the investigator came in?

18 A: No, sir.

19 Q: You don't recall that?

20 A: No, sir.

21 Q: Do you recall being in the room?

22 A: Yes, sir.

23 Q: Do you recall at that time telling the investigator that
24 it was not the shirt?

25 A: Yes, sir.

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Alayah W. - CROSS BY EDGEWORTH

1 Q: So, within a day or so after the incident, you told him
2 that the shirt that was just presented to you was not the
3 shirt; do you remember saying that?

4 A: Can you say that again?

5 Q: Sure. You were interviewed on September 1st, 2012; do
6 you recall that?

7 A: Yes, sir.

8 Q: Okay. And do you recall telling the investigator at that
9 time that the shirt he was showing you was not the shirt,
10 correct?

11 A: Yes, sir.

12 Q: And -- and so you -- when did you -- when in time did you
13 determine that the shirt that was presented to you today was
14 the shirt that you saw that night?

15 A: I remember that it was orange and it was -- it had like
16 little white stuff on it.

17 Q: So, as you sit here today, are you positive that was the
18 shirt or are you just believe it's the shirt because you were
19 shown it in court?

20 A: Positive.

21 Q: And when did you become positive?

22 A: Since the last time I saw it.

23 Q: And when was the last time you saw it? Do you recall the
24 last time you saw it before today?

25 A: Yes, sir.

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Alayah W. - CROSS BY EDGEWORTH

1 Q: Do you recall, when was that?

2 A: The last time I was here.

3 Q: The last time you were down here?

4 A: Yes, sir.

5 Q: Were you meeting with the prosecutor about the case?

6 A: Yes, sir.

7 Q: Were you shown the shirt at that time?

8 A: Yes, sir.

9 Q: And is that when you remembered that it was the right
10 shirt?

11 A: Yes, sir.

12 Q: Okay. All right. I have no further questions.

13 THE COURT: Thank you, Mr. Edgeworth.

14 Redirect, Solicitor?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: Thank you. Thank you very much, Alayah W.

17 You may step down.

18 All right. Solicitor, you may call your next witness.

19 MS. RICHARDSON: The State calls Walter Dozier.

20 THE COURT: Mr. Dozier, if you'd come around and be sworn
21 for us please.

22 WALTER DOZIER, HAVING BEEN SWORN

23 TESTIFIES AS FOLLOWS:

24 CLERK: Would you please state and spell your name for

25 Ms. Kay?

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WALTER DOZIER - DIRECT BY RICHARDSON

- 1 A: My name is Walter Dozier. W-A-L-T-E-R, Dozier, D-O-Z-I-
2 E-R.
- 3 CLERK: Thank you. Please have a seat.
- 4 DIRECT EXAMINATION OF WALTER DOZIER BY MS. RICHARDSON:
- 5 Q: Mr. Dozier, how old are you?
- 6 A: Twenty-eight.
- 7 Q: And how many children do you have?
- 8 A: I have four.
- 9 Q: And your girlfriend is Antionette Wilson?
- 10 A: Correct.
- 11 Q: And are you originally from Georgetown?
- 12 A: Yes, ma'am.
- 13 Q: And how long had you lived in Georgetown?
- 14 A: About twenty-five years, twenty-four years.
- 15 Q: In August of 2012, where were you living?
- 16 A: On 622 South Kaminski Street.
- 17 Q: And that's in the city limits of Georgetown?
- 18 A: Correct; yes, ma'am.
- 19 Q: In Georgetown County, South Carolina?
- 20 A: Correct.
- 21 Q: Okay. And whose house were you living in?
- 22 A: It was a rental house of my parents, George Dozier.
- 23 Q: And it's a trailer?
- 24 A: A trailer, correct.
- 25 Q: And you and Antionette and the four children lived there?

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WALTER DOZIER - DIRECT BY RICHARDSON

1 A: Yes, ma'am.

2 Q: And can you tell us what happened on the night of August
3 30th, 2012?

4 A: On that night, like I remember like 1 or 2 o'clock, I
5 hear a kick at the door.

6 Q: What were you doing?

7 A: I was sleeping at the time, laying down sleeping, me, my
8 girlfriend and my one-year-old daughter and at the time we
9 hear a kick at the door and glass falling. My room door was
10 not a very good door, so it had a little crack where you could
11 see the front -- the back red door and I saw some guys
12 storming in the house but by the time I really can get to the
13 door, which my room door had already got kicked in and ---

14 Q: Your bedroom door was closed?

15 A: Yes, it was closed, but it had like, it couldn't close
16 all the way, it was kind of cracked and that's when -- time I
17 got to the door, the door was kicked in.

18 Q: And then what did you see?

19 A: I see a tall guy, a little bit taller than me and I see a
20 short guy, a little bit taller than my girlfriend turn on my
21 room lights and approach me with a gun and demanded money.

22 Q: And were these white guys, African American?

23 A: African Americans.

24 Q: And can you describe their complexion?

25 A: Both kind of like brown skin or light skin.

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WALTER DOZIER - DIRECT BY RICHARDSON

- 1 Q: And how tall are you?
- 2 A: 6'2".
- 3 Q: And you said one of them was taller than you?
- 4 A: Yes, ma'am.
- 5 Q: Okay. So, could you see their faces?
- 6 A: Couldn't see their faces, they had masks like t-shirt
- 7 tied around their face, something like a Ninja style and
- 8 holding, holding a gun passing it back and forth pointing it
- 9 at me.
- 10 Q: And who else was in your bedroom at that time?
- 11 A: At the time of this, in the bedroom was two guys, me, my
- 12 girlfriend and my one-year-old daughter at the time.
- 13 Q: And what were they saying to you?
- 14 A: They was telling me, where the money at, we know you got
- 15 it, we got bills to pay. Just repeatedly demanding and
- 16 pointing the gun at me and my girlfriend. After the fact that
- 17 I told them that I didn't have no money, I told them I had --
- 18 I told them I had like \$40 whatever in my pants. They grabbed
- 19 my pants, but they stole -- thought that I had more money.
- 20 They demanded my cell phone, her cell phone, car keys. After
- 21 that they saw a safe that I had by my bed, but it didn't have
- 22 anything in it.
- 23 Q: Okay. And who opened that safe?
- 24 A: I did.
- 25 Q: Okay.

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WALTER DOZIER - DIRECT BY RICHARDSON

1 A: I mean at the time, I was scared and nervous for my
2 family. I didn't have a key to the safe so I ripped it open.
3 After that they forced me down into the corner where the safe
4 was at and later on after that, the tall guy stepped in the
5 hallway and passed the shorter guy the gun. At the time that
6 I could have kind of see from down the hallway that they was
7 bringing my daughter down the hallway.

8 Q: Okay. And was it one of the two guys in your bedroom
9 that brought your girl, your daughter in the hall?

10 A: No, it was of the -- one of the four guys that was
11 standing in the hallway brought my daughter down and that's at
12 the time that I could see the color, because they had all the
13 lights on in the house and I could have seen the color of his
14 shirt of the person that was bringing my daughter down the
15 hall.

16 Q: And at that was a third individual?

17 A: Correct.

18 Q: Okay. And can you describe what he looked like?

19 A: All I could see a Ninja style, real short guy, just with
20 an orange shirt and just -- just like kinda pushing my
21 daughter into the room onto the bed right beside my girlfriend
22 and my daughter.

23 Q: And what was -- what was everyone's reaction when she was
24 brought in the room?

25 A: My daughter was screaming at the time, mommy, mommy, and

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WALTER DOZIER - DIRECT BY RICHARDSON

1 just everybody reaction and my girlfriend reaction just we all
2 just trying to stay calm. I really didn't want them to say
3 anything too much. I just really wanted to do all the moving
4 and all the controlling so if anything was to happen, it would
5 happen to me.

6 Q: And once she -- and that was Alayah that was brought in
7 the room?

8 A: Correct.

9 Q: Once she was brought in, what happened?

10 A: Once she was brought in they still was demanding more
11 money. They took -- they took my pants and whatever I had in
12 my pants, my car keys and I also told them that I had a bag
13 full of money in the trunk of my car just so they can leave
14 out and at the time they said, well, basically if we don't
15 receive no money, burn him, burn him. So which in the case
16 burn to me is really shooting and kill him. And once they
17 left out the house, we had an extra spare key for our truck,
18 which where I grabbed my family up and we all left and went to
19 my dad's house.

20 Q: Okay. So who was saying burn him, burn him?

21 A: At the time, the tall guy -- the tall guy was saying burn
22 him, but the short guy had the gun at the time and the tall
23 guy was screaming burn him.

24 Q: And so you told them there was money in the car?

25 A: Yes.

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WALTER DOZIER - DIRECT BY RICHARDSON

1 Q: And was there money in the car?

2 A: No, there wasn't no money in the car. That was just me
3 thinking to get them out the house.

4 Q: And after that they left?

5 A: Yes, but they -- as they was leaving out, they did went
6 inside the car but after they searched my car they left.

7 Q: And did they tell you what it was they were looking or
8 what they thought you had?

9 A: They said they want money and heard that I had -- or
10 heard that I had marijuana also but which at the time, I
11 didn't have no marijuana.

12 Q: Okay.

13 A: I probably a little bag which at the time back then, I
14 used to smoke, but other than that there wasn't no money or
15 nothing like that or they probably felt that I had money
16 because my dad owned twenty-two houses and properties and I
17 also help him with that too and running the restaurant and
18 everything.

19 Q: Okay. So you -- at the time you were working for your
20 father?

21 A: I was working two jobs at the time. I was working at
22 Festiva and Waccamaw, I was working there, and at the time
23 that -- and at night-time I was helping my dad run his
24 restaurant. So I was working two jobs at the time.

25 Q: And what sort of business did your dad have at the

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WALTER DOZIER - DIRECT BY RICHARDSON

1 restaurant?

2 A: We do like, something like a bar and grill at night.

3 Q: Uh-huh (affirmative response).

4 A: Where we sell food and play music and sometimes we charge
5 at the door to come in. We do custom birthday parties or
6 somebody want a birthday party, whatever arrangements, we do a
7 lot of that at the time.

8 Q: And you handled that for your dad?

9 A: Yes, I was the one who, at the end of the night, who
10 really break everything down and take the money home and
11 everything. That was my job.

12 Q: So, on those occasions, would you have large amounts of
13 cash on you?

14 A: I mean, if it was an occasion I do but that specific
15 night I didn't.

16 Q: So what all was stolen from your house?

17 A: Cell phone, my girlfriend's cell phone, my daughter's
18 cell phone, car keys to my car, which is a Lincoln Town Car,
19 another car keys to another car out there that was a Lincoln,
20 another Lincoln and my business keys, which have car keys to
21 my dad's car too, which is Hummer car keys also.

22 Q: And did you provide the police with your -- you and your
23 girlfriend's cell phone numbers?

24 A: Correct.

25 Q: And did you try to locate those numbers, those phones?

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1 A: Yeah, at the time we was -- my dad called -- called it.
2 At the time, my phone was off, but my girlfriend's phone was
3 the one that continued to ring, ring, ring, but it wasn't
4 never no answer.

5 Q: So you never found your phones?

6 A: Never found my phone, no, none of us ever found our
7 phone.

8 Q: How did you feel while all this was going?

9 A: I felt scared. I felt that this would probably be the
10 end for me and my family. It took a whole toll on my life
11 with us moving five hours away now.

12 Q: Why did you move five hours away?

13 A: Because my family wasn't comfortable no more. It like at
14 the time the situation happened, I think I spent a week or two
15 weeks paying for hotel rooms just because they didn't want to
16 stay in the house anymore. I had to get family members to
17 help me out with my daughter taking her back and forth to
18 school because this fellow, not knowing who he really was at
19 the time, it just -- it was scary. It had been scary and it
20 took a whole toll on my life far as business wise. Like I was
21 fifty percent owner of my dad's business. Now I can even run
22 that fifty percent because my family don't want to move back
23 down here no more for me to even run my business like I
24 should. So it took a big toll on our life and made everything
25 hard.

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1 Q: So y'all just picked up and left and left your ---
2 A: Yeah, yeah, as soon as find something somewhere else we
3 left as soon as possible.
4 Q: And after -- that night after they left, did you have a
5 house phone?
6 A: No, I didn't have any house phones.
7 Q: Okay. So what did you do once they left?
8 A: Once they left, I drove to my dad's house and knocked on
9 the door and he used his cell phone to call the police, which
10 they came to his residence and then from his residence, the
11 officer at the time, sent the police to my residence on
12 Kaminski Street.
13 Q: And the police came to your house and ---
14 A: Yes.
15 Q: --- took pictures and that sort of thing?
16 A: They took pictures and things like that.
17 Q: All right. Let me show you what has been marked State's
18 Nine for identification purposes. Do you recognize this?
19 A: Glancing at the shirt, somewhat but not a clear, you
20 know, clearly, but at the night it was an orange shirt ---
21 Q: Okay.
22 A: --- similar to that nature.
23 Q: All right. If you would mark it State's Ten?
24 STATE'S EXHIBIT NUMBER TEN
25 MARKED FOR IDENTIFICATION

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WALTER DOZIER - DIRECT BY RICHARDSON

1 Q: I'm gonna show you what's been marked as State's Exhibit
2 Ten for identification. Do you recognize that -- those?

3 A: Yes, I do.

4 Q: Okay. And how do you recognize them?

5 A: Because I see the keys to my dad's shop and keys to my
6 dad's Hummer.

7 Q: Your dad has a Hummer?

8 A: My dad has a Hummer, 2003 Hummer, white.

9 Q: Okay. And are these the same keys that were ta-ken from
10 your home?

11 A: Correct, yes, ma'am.

12 Q: Okay. Let me show you what's been marked for
13 identification as State's Exhibit Number Eight, I mean, I'm
14 sorry, Number Eleven; what is that?

15 A: This is a picture of the trailer I was living in. That's
16 my white Lincoln and my other Lincoln LX I had.

17 Q: And is that an accurate reflection of how your house
18 looked on the night of August the 30th ---

19 A: Yes, ma'am.

20 Q: --- or the early morning hours? Let me show you what's
21 been marked as State's Exhibit Number Twelve. What is that?

22 A: This is a picture of my main door that I use and my front
23 porch where the glass got kicked out at.

24 Q: Okay. And is that an accurate reflection how it looked
25 on the morning of August 30th, 2012?

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1 A: Yes, ma'am.

2 Q: I show you what's been marked State's Exhibit Number
3 Fifteen. What is that?

4 A: This is right in front of the bathroom where the door got
5 kicked out at, the widow got kicked out.

6 Q: And is that an accurate reflection of how it was left on
7 the morning of August 30th, 2012?

8 A: Yes, ma'am.

9 MS. RICHARDSON: Your Honor, that -- at this time, I'd
10 offer these exhibits, that's Eleven, Twelve and Fifteen into
11 evidence?

12 THE COURT: Mr. Edgeworth?

13 MR. EDGEWORTH: No objection, Your Honor.

14 THE COURT: State's Eleven, Twelve and Fifteen is in
15 evidence without objection.

16 STATE'S EXHIBITS NUMBER ELEVEN, TWELVE AND FIFTEEN

17 ADMITTED INTO EVIDENCE

18 MS. RICHARDSON: And permission to publish these
19 electronically to the Jury now?

20 THE COURT: You may publish.

21 MS. RICHARDSON: And that's Number -- if you could put up
22 Number One, please?

23 THE COURT: Number One?

24 MS. RICHARDSON: Can we turn the monitor on?

25 BY MS. RICHARDSON:

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1 Q: Okay. Now that the Jury can see this, can you explain to
2 them what -- which of these houses is the one you lived in?

3 A: Yeah, the one that's -- if you looking at the picture,
4 the one on the right-hand side, which is the green and white
5 house.

6 Q: Okay. Or is sort of a blue color, the one on the right,
7 bluish?

8 A: It is like a bluish-green type color.

9 Q: Okay. The one that the car is parked in front of?

10 A: The one with the white Lincoln in front of it.

11 Q: Okay. What about the house on the side?

12 A: That's another one of my mother's rental houses.

13 Q: Okay. And I see a sign in the window of that house. Was
14 anybody living in that house at the time?

15 A: Not at the time, that house was for rent.

16 Q: Okay. And is there a house on the other side of you?

17 A: Yes, there is, but it's a house that was being built.

18 Q: Okay. So, was anyone living in that?

19 A: No, ma'am.

20 Q: Okay. Number Four. Okay. And can you explain to the
21 Jury what that is?

22 A: That's the main -- the main door that me and my family
23 used all the time and that's where the glass got kicked out
24 at.

25 Q: Okay. And that's the door they came in?

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- 1 A: Yeah, that's the door they came in.
- 2 Q: Okay. And State's Number Fifteen, which is Number 9.
- 3 Okay. And what is that?
- 4 A: That is the bathroom and that is the front door where the
- 5 glass got kicked out at and the glass right there on the
- 6 floor.
- 7 Q: Okay. And it covered the majority of the hallway?
- 8 A: Yes, because it's a very small hallway.
- 9 Q: Okay. And did you bother that glass or tamper with it
- 10 anyway till the police got there?
- 11 A: No, when I -- after they left, we went straight out. We
- 12 didn't bother to mess with nothing.
- 13 Q: Okay. And you had another way out of the house?
- 14 A: Yes, ma'am.
- 15 Q: Okay. Now, let me show you what's been marked as State's
- 16 Exhibits Twenty-four and Twenty-five for identification. Do
- 17 you recognize those?
- 18 A: Yes, that is my, my room door where they kicked the door
- 19 in.
- 20 Q: Okay. And is that photo an accurate reflection of how
- 21 your house looked and that door looked on the morning of
- 22 August 30th, 2012?
- 23 A: Yes.
- 24 MS. RICHARDSON: Your Honor, I'd offer State's Twenty-
- 25 four and Twenty-five into evidence and ask to publish to the

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1 Jury.

2 THE COURT: Mr. Edgeworth?

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: State's Twenty-four and Twenty-five is in
5 evidence without objection.

6 STATE'S EXHIBITS NUMBER TWENTY-FOUR AND TWENTY-FIVE

7 ADMITTED INTO EVIDENCE

8 BY MS. RICHARDSON:

9 Q: Okay. And that is Number Nineteen and Number Twenty.
10 And that you said was your bedroom door?

11 A: Yes, that is correct, my bedroom door.

12 Q: Okay. And then the next photo and what does that show?

13 A: That show where they kicked my bedroom door in?

14 Q: And is that damage that they caused?

15 A: Yes.

16 Q: Now, let me show you what's been marked State's Exhibits
17 Twenty-six, Twenty-seven and Twenty-eight for identification.
18 Do you recognize those?

19 A: Yes, ma'am.

20 Q: Okay. And what are they?

21 A: This is my bedroom after really throwing everything
22 around to show that I didn't have no money in the house.

23 Q: Okay. And are those photos an accurate reflection of how
24 your bedroom looked on the morning of August 30th, 2012 after
25 you reported this crime?

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1 A: Correct.

2 MS. RICHARDSON: Your Honor, I now offer Twenty-six,
3 Twenty-seven and Twenty-eight into evidence and ask that they
4 be published to the Jury?

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: No objection, Your Honor.

7 THE COURT: State's Twenty-six, Twenty-seven and Twenty-
8 eight is in evidence without objection.

9 STATE'S EXHIBITS NUMBER TWENTY-SIX, TWENTY-SEVEN

10 AND TWENTY-EIGHT ADMITTED INTO EVIDENCE

11 BY MS. RICHARDSON:

12 Q: Okay. And can you tell the Jury what this is?

13 A: This is my room after they basically thrown everything
14 around fighting to open the safe and where me, my daughter and
15 my girlfriend was sitting at.

16 Q: Okay. And that's the safe on the bed?

17 A: Correct.

18 Q: Okay. And that piece of foam or board that's on the bed,
19 what is that?

20 A: That -- that's the foam that comes inside the safe.

21 Q: Okay. And how did that safe get on the bed and who
22 opened it and removed that foam?

23 A: That's come from me picking the safe up from out the
24 corner of the bed, which where the teddy bear's at and me
25 pulling it open and shaking it like this on the bed -- over

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WALTER DOZIER - DIRECT BY RICHARDSON

1 the bed.

2 Q: Okay. Did anyone else touch it besides you?

3 A: I'm the only one that touched it.

4 Q: Okay. And then Number Twenty-three. Okay. And that's a
5 different view of the same room?

6 A: Yes.

7 Q: Okay. And where were you, using this picture, can you
8 describe where you were when the gunman were in your house?

9 A: Well, that's the -- well you see where the pillow is at;
10 that's where they me standing at the time, over there where
11 the pillow is at.

12 Q: Okay. And your family was where?

13 A: They was on, not that side of the bed where I was
14 standing at, but like the front side up and to the far corner.
15 From the picture before where the AC was at there was my
16 girlfriend and my daughter by the AC and my other daughter
17 right beside her and me in the corner where the pillow was at.

18 Q: Okay. And that's a closer view of the same area?

19 A: Correct.

20 Q: Okay. Now your boys, did they -- were they brought into
21 the bedroom or did anything happen to them?

22 A: No, they slept through the whole thing.

23 Q: Okay. I have no further questions. Answer any questions
24 that Mr. Edgeworth may have for you.

25 A: Okay.

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WALTER DOZIER - CROSS BY EDGEWORTH

1 THE COURT: Thank you, Solicitor. Mr. Edgeworth?

2 MR. EDGEWORTH: Yes, Your Honor. Thank you.

3 CROSS EXAMINATION OF WALTER DOZIER BY MR. EDGEWORTH:

4 Q: Mr. Dozier, do you recall how long it was from the time
5 that you heard the door kicked in until the time that the
6 thugs who came into your house left?

7 A: Do I recall the time?

8 Q: The time period; how long?

9 A: I can't recall how long. Probably about -- probably be
10 about -- I'd give it probably like ten minutes or so.

11 Q: And when you -- when the persons who came into your home
12 left, how long before you left to go to your father's house?

13 A: Probably right behind them, a few minutes right behind
14 them.

15 Q: A few minutes or immediately after they left?

16 A: Like after I heard no more noise or rattling outside, I
17 left.

18 Q: Is it fair to say that you never saw any faces?

19 A: I never saw any faces, but ---

20 Q: You never saw any faces?

21 A: I never saw any faces.

22 THE COURT: Let him finish his answer; you never saw any
23 faces, but what?

24 A: But I somewhat remember body stuff.

25 BY MR. EDGEWORTH:

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WALTER DOZIER - REDIRECT BY RICHARDSON

1 Q: Right and I'm only asking about faces, not about the
2 physique.

3 THE COURT: He can explain his answers, Mr. Edgeworth.

4 MR. EDGEWORTH: Yes, Your Honor.

5 THE COURT: Thank you. You may ask your next question.

6 MR. EDGEWORTH: All right. Thank you.

7 BY MR. EDGEWORTH:

8 Q: And were there four individuals that came into your home?

9 A: Yes.

10 Q: Thank you. I have no further questions.

11 THE COURT: Redirect, Solicitor?

12 REDIRECT EXAMINATION OF WALTER DOZIER BY MS. RICHARDSON:

13 Q: When you left, you had to gather up all the children and
14 load them in the vehicle and that sort of thing?

15 A: Yes, ma'am.

16 Q: Okay. And you had to find some keys?

17 A: Yes, ma'am.

18 Q: Did you see anyone in the area?

19 A: At the time, there was no one in the area.

20 Q: And did you know how the individuals left your house?

21 A: I just seen they left out the same door they came into.

22 Q: Okay. But as far as -- did you hear any vehicles or
23 anything like that?

24 A: I didn't hear any vehicles or nothing like that.

25 Q: Did you see what direction they went into?

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 A: No, I did not.

2 Q: Okay. But when you drove out leaving, you didn't see
3 anybody running or anybody on the streets?

4 A: No, when I left, I didn't see anyone nowhere.

5 Q: All right. I have no further questions.

6 THE COURT: Recross, Mr. Edgeworth?

7 MR. EDGEWORTH: No, Your Honor, no questions.

8 THE COURT: Thank you. Thank you very much, Mr. Dozier,
9 you may step down.

10 All right. Solicitor, you may call your next witness.

11 MS. RICHARDSON: The State calls Antionette Wilson.

12 THE COURT: All right. If you'd come around and be sworn
13 for us please?

14 ANTIONETTE WILSON, HAVING BEEN SWORN

15 TESTIFIES AS FOLLOWS:

16 CLERK: Thank you. Would you please spell your first
17 name for the Court Reporter?

18 MS. ANTIONETTE WILSON: It's Antionette. A-N-T-I-O-N-E-
19 T-T-E.

20 CLERK: Thank you. Have a seat please.

21 THE COURT: All right. Solicitor?

22 DIRECT EXAMINATION OF ANTIONETTE WILSON BY MS. RICHARDSON:

23 Q: Ms. Wilson, how old are you?

24 A: I'm thirty-three.

25 Q: And you have four children?

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 A: I do.

2 Q: All right. And although I know the Jury's heard it, just
3 kind of briefly tell us their names and ages?

4 A: Alayah W. she's thirteen; Shadonna D. she's
5 three; Keshawn D. he's five and Walter D. and he's
6 seven.

7 Q: And you're involved or you're in a relationship with
8 Walter Dozier

9 A: Yes.

10 Q: And y'all have been together for some time?

11 A: Yes.

12 Q: And where were you born and raised?

13 A: McClellanville, South Carolina.

14 Q: And how long -- and you lived in Georgetown in 2012?

15 A: Yes.

16 Q: And how long were you in Georgetown?

17 A: About six years.

18 Q: And in August of 2012, where did you live?

19 A:

20 Q: And that's in the city limits of Georgetown in Georgetown
21 County?

22 A: Yes.

23 Q: And you saw the photos that were displayed -- were you
24 able to see the photos of your home?

25 A: Yes.

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

- 1 Q: Okay. And that's where you lived?
- 2 A: Yes, ma'am.
- 3 Q: And can you tell this Jury what happened on the -- in the
4 early morning hours of August 30th of 2012?
- 5 A: We were asleep. Then we hear a noise at the door and
6 remember --- I remember hearing the window being shattered. I
7 remember Walter trying to go to the door, but the door was
8 kicked in before he could get there. I remember seeing two
9 guys came in with a gun.
- 10 Q: And where did they -- where did they come in?
- 11 A: Through the bedroom.
- 12 Q: And how did they get in your bedroom?
- 13 A: They kicked the door in.
- 14 Q: So they kicked the front -- the door to the house in and
15 the bedroom?
- 16 A: Bedroom; uh-huh (affirmative response).
- 17 Q: And who from your family was in your bedroom at that
18 time?
- 19 A: It was me, my one-year-old and Walter Dozier.
- 20 Q: Okay. And what was your reaction to this?
- 21 A: I was just shocked and scared.
- 22 Q: And what did you do?
- 23 A: Well, I know I held my daughter in my hand and was just
24 scared and frightened. I wasn't saying anything much. I was
25 just in shock, just trying to protect my one-year-old.

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 Q: And did, did she wake up?

2 A: She was up.

3 Q: And what about Walter; what was his reaction? What did
4 you see?

5 A: He was scared and basically trying to protect us and I
6 guess trying to keep all the attention on him so that, you
7 know, they wouldn't bother us.

8 Q: Okay. And how many did you say you saw in your room?

9 A: I saw two.

10 Q: And do you remember anything about their description or
11 how they looked?

12 A: There was a tall guy with a white shirt and a shorter
13 guy, I think he had on black.

14 Q: And when you say tall, tell me what you mean by that?

15 A: He was probably about 6'2" probably.

16 Q: As tall as Walter?

17 A: Yes.

18 Q: Okay. And what about the other guy?

19 A: He was maybe my height, 5'7", 5'8".

20 Q: And do you remember anything about their physical
21 description, their complexion or anything like that?

22 A: The tall guy, he was light-skinned.

23 Q: And did you see a weapon?

24 A: Yes, they had a gun.

25 Q: And what were they doing with the gun?

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 A: At first they was pointing at Walter. Then it was passed
2 to the guy that had on the black and it was pointed and me and
3 my daughter.

4 Q: And that's your baby daughter?

5 A: Yes, my one-year-old.

6 Q: And were they saying anything while they were pointing
7 this gun at you, this gun?

8 A: I know they were demanding money, just asking Walter
9 where the money.

10 Q: And did they just say that one time?

11 A: No, it was said plenty of times.

12 Q: And did they say anything else about the money or what
13 they were looking for?

14 A: They just kept saying I know you have money, where is the
15 money.

16 Q: And you saw the picture of the safe?

17 A: Yes.

18 Q: And how did that come to be open?

19 A: Walter ripped it open.

20 Q: And who saw the safe?

21 A: The two guys that was in the room.

22 Q: And your other children, where were they at this point?

23 A: My oldest son, he was in his room. My one-year-old was
24 in the room with me and the two-year-old, he was in the room
25 with my oldest daughter, Alayah, in her room.

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 Q: And what happened with Alayah?

2 A: I remember they brought her in and threw her on the bed
3 next to me.

4 Q: Who brought her in?

5 A: I didn't see who brought her in.

6 Q: Was it one of the other two guys?

7 A: I don't recall.

8 Q: And they put her on the bed with you?

9 A: Yes.

10 Q: Okay. And what was her reaction? How was she acting at
11 that point?

12 A: All I could hear her saying was mommy. She was scared.

13 Q: How did that make you feel?

14 A: I was scared also. I didn't know, you know, what to do.

15 Q: And did you hear any threats or anything of that nature?

16 A: I know one time I heard something -- I guess when it was
17 -- heard someone say if I hear about this on the street, I'm
18 coming to kill everybody or something like that.

19 Q: And did they make any threats towards Walter?

20 A: Yeah.

21 Q: And what was that?

22 A: Just like I said, if they hear about it they would come
23 back.

24 Q: Did you hear them say anything about burning somebody?

25 A: Yes. Yes.

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

- 1 Q: And did you know what that meant?
- 2 A: No, I didn't.
- 3 Q: What did you think it meant?
- 4 A: I thought they were gonna put him on fire.
- 5 Q: And as far as the gun, who was -- who was the gun pointed
- 6 at?
- 7 A: It was back and forth from Walter and then from me and m-
- 8 daughter, my one-year-old at the time.
- 9 Q: And some items were taken from your house?
- 10 A: Yes.
- 11 Q: What -- what was taken from you?
- 12 A: My cell phone.
- 13 Q: Okay. Where was your cell phone?
- 14 A: It was under my pillow.
- 15 Q: So how did they get that cell phone?
- 16 A: They just ask -- they just like asked for the cell phones
- 17 and they were like, we know y'all have cell phones. Walter
- 18 grabbed it from under the pillow and give it to them.
- 19 Q: Okay. So y'all gave it to them; they didn't ---
- 20 A: Yes, we did.
- 21 Q: And let me show you what's been entered into evidence as
- 22 State's Exhibit Seven and Eight and do you recognize these?
- 23 A: Yes, it's Alayah's cell phone.
- 24 Q: Okay. And this name Layah?
- 25 A: Yes, ma'am.

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ANTIONETTE WILSON - DIRECT BY RICHARDSON

1 Q: Is that what she goes by or a nickname for her?

2 A: Yes, ma'am.

3 Q: Okay. And who got her this telephone?

4 A: I did.

5 Q: Okay. And what did she use the phone for?

6 A: Just talking to her friends.

7 Q: Okay. Did she ever use it as a school alarm?

8 A: Yes, she did.

9 Q: Okay. And do you recall about what time all this
10 happened?

11 A: It was around 1:00 or 1:30.

12 Q: And in the middle of the night?

13 A: Yes.

14 Q: And did you see how they left?

15 A: They went out through the same door they came in.

16 Q: Okay. I have no further questions. Answer any questions
17 that Mr. Edgeworth may have for you.

18 THE COURT: Thank you, Solicitor.

19 Mr. Edgeworth?

20 MR. EDGEWORTH: Court's indulgence briefly, Your Honor.

21 THE COURT: Yes, sir, certainly.

22 MR. EDGEWORTH: Your Honor, I have no questions for this
23 witness.

24 THE COURT: Thank you. Thank you very much, Ms. Wilson,
25 you may step down.

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BY THE COURT

1 BY THE COURT:

2 All right. Perhaps now would be a good time to take our
3 morning recess. Ladies and gentlemen of the jury panel,
4 during this recess please remember, do not discuss the case
5 with anyone. That includes your fellow jurors or anyone else.
6 Remember to keep an open mind. Do not begin your
7 deliberations, no premature deliberations until you've heard
8 all the evidence, all the testimony, closing arguments by the
9 attorneys and the instruction on the law by the Court.

10 With that being said, you may go with your Bailiff to
11 your jury room and we'll take about a fifteen-minute recess.
12 Thank you. Thank you very much.

13 (REPORTER'S NOTE: Jury exits courtroom. 11:18 A.M.)

14 THE COURT: All right. Court will be in recess for
15 fifteen minutes. Thank you.

16 (RECESS - 11:19 A.M.)

17 *****OFF THE RECORD*****

18 (On the Record - 11:36 A.M.)

19 THE COURT: All right. Anything from the State before we
20 bring in our Jury, Mr. Edgeworth?

21 MR. EDGEWORTH: No, Your Honor, nothing from the Defense.

22 THE COURT: Anything from the -- excuse me, Mr.
23 Edgeworth. Anything from the State, Solicitor?

24 MS. RICHARDSON: No, Your Honor.

25 THE COURT: Bring us our Jury please.

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FRED BAKER - DIRECT BY RICHARDSON

1 (REPORTER'S NOTE: Jury enters courtroom. 11:39 P.M.)

2 REPORTER'S NOTE: (Jury enters courtroom 11:38 A.M.)

3 THE COURT: All right. Welcome back, ladies and
4 gentlemen of the jury panel. I hope you had a pleasant break.
5 We're continuing the trial of the case by the presentation of
6 evidence and testimony by the State in its case in chief if
7 you'd please continue to give the parties your complete and
8 undivided attention.

9 Solicitor, you may call your next witness.

10 MS. RICHARDSON: The State calls Fred Baker.

11 THE COURT: All right. If you'd come around and be sworn
12 for us please.

13 THE COURT: If you'd step around here for me please and
14 be sworn by the Clerk.

15 MR. BAKER: Yes, sir. Okay.

16 CLERK: Left hand on the Bible and raise your right hand
17 please, sir. There we go. And face this way.

18 FRED BAKER, HAVING BEEN SWORN

19 TESTIFIES AS FOLLOWS:

20 CLERK: Okay. Would you please spell your name for the
21 Court?

22 MR. BAKER: Fred Baker. F-R-E-D B-A-K-E-R.

23 CLERK: Thank you very much. Right up here, sir.

24 DIRECT EXAMINATION OF FRED BAKER BY MS. RICHARDSON:

25 Q: Mr. Baker, where do you live?

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FRED BAKER - DIRECT BY RICHARDSON

- 1 A: Right now I live at in Myrtle Beach.
- 2 Q: Okay. And before that, where did you live?
- 3 A: I lived in Thornton Hall in Georgetown, South Carolina,
- 4 Apartment 14.
- 5 Q: And that's on Legion Street or ---
- 6 A: I believe so, yes.
- 7 Q: Okay. And you were living in August of 2012?
- 8 A: Yes, ma'am.
- 9 Q: And how old are you?
- 10 A: Seventy.
- 11 Q: Okay. And were you working when you lived in Georgetown?
- 12 A: I was working at C&R Welding, my brother -- my brother
- 13 welding shop.
- 14 Q: Okay. And where is that welding shop?
- 15 A: On the corner, used to be Gee and Prince or Alex Alford
- 16 and Prince.
- 17 Q: So, what time would you have to be at work in the
- 18 mornings?
- 19 A: I be there at around 7 o'clock or 7:30.
- 20 Q: And how did you get to work?
- 21 A: Ride my bicycle.
- 22 Q: And what route or how -- where would you go -- which road
- 23 would you take to get there?
- 24 A: Well, as soon I left -- leave out of Thornton Hall, it's
- 25 a little path come out to the dumpster and there's a little

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FRED BAKER - DIRECT BY RICHARDSON

1 path behind Beck School and cut through the path of Beck
2 School, Beck School and cross Duke and High Market and that's
3 Baker Welding Shop right there.

4 Q: And that's kind of a shortcut so you ---

5 A: Yeah, it's a shortcut.

6 Q: --- don't have to go all the way around the block.

7 A: That's right.

8 Q: And that's the way you went every day?

9 A: Yes, ma'am.

10 Q: And you rode your bicycle?

11 A: Yes, ma'am.

12 Q: Do you remember the morning of August 30th of 2012?

13 A: Yes, ma'am.

14 Q: Why do you remember that day?

15 A: Well, I remember because that's something that'll be
16 there for a while.

17 Q: And why is that?

18 A: I went that way to work that morning, I was going my way
19 to work and I come across a body in the path.

20 Q: And do you know about what time it was?

21 A: Between 6:30 -- about quarter to 7:00, somewhere along
22 there.

23 Q: Okay. And do you -- do you use a cell phone?

24 A: No, ma'am, I don't have a cell phone.

25 Q: And you didn't have one then?

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FRED BAKER - DIRECT BY RICHARDSON

1 A: No, ma'am.

2 Q: So, could you tell if the person was still alive?

3 A: Not -- no, not when I -- I walk up to him and I seen the
4 body and I seen a puddle of blood that big around

5 (indicating). He had his face down like this right here and

6 was covered and I stand there and looked at him and I said

7 hey, hey, hey and he didn't say nothing, didn't move. I

8 didn't touch him or nothing like that so I turned around and I

9 went back to the house and then that's when I made a phone

10 call. Somebody else had already made some calls I imagine and

11 before we know it the police was there. I took my medicine

12 and I came back out -- my high blood and sugar medicine and I

13 went on and come back up and the police was already up there

14 then and I give what I -- the police what I seen and I went on

15 to work. I done what I had and that's all I could do.

16 Q: Okay. And let me show you what has been marked as State's

17 Exhibit Number Twenty-nine. Do you recognize this area?

18 A: Yes, ma'am, that's -- that's the little -- wooded little

19 area, brush area crossing the ditch.

20 Q: Okay.

21 A: That big canal ditch. Yes.

22 Q: Okay. And is this the path?

23 A: Yes, ma'am.

24 Q: Okay.

25 A: That's the pine tree. There's a pine tree right there on

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FRED BAKER - DIRECT BY RICHARDSON

1 the left-hand side and that's the little path right there.
2 Q: Okay. And there was a ditch here?
3 A: Yes, ma'am.
4 Q: That you had to cross?
5 A: Yes, ma'am.
6 Q: But you still were able to cross that ditch ---
7 A: Yes, ma'am, go around ---
8 Q: --- to use that path?
9 A: Yeah, go down in it and come back on the right and walk
10 through it, yes.
11 Q: But that's how it looked ----
12 A: Yes, ma'am.
13 Q: --- if you ---
14 A: Yes, ma'am, but -- but back then, yes, ma'am.
15 Q: And is that a accurate reflection or a good picture of
16 the way it looked that morning?
17 A: Yes, ma'am.
18 Q: Okay. And let me show you what's been marked as State's
19 Exhibit Number Thirty and do you recognize that?
20 A: Yes, ma'am.
21 Q: What is that?
22 A: That's a path with -- right there -- right there's some
23 boys right there.
24 Q: Okay. And is that how the path looked once you crossed
25 the ditch?

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FRED BAKER - DIRECT BY RICHARDSON

1 A: Yes, ma'am, that's a little crooked area right in there
2 and right out there, but yes, ma'am, and Beck School is
3 further up to the right.

4 Q: Okay. And is right there about where ---

5 A: Yes, yes, yes, ma'am, that's exactly ---

6 Q: That's about where you saw the body?

7 A: --- that's exactly right.

8 Q: And did you know who it was at the time?

9 A: No, ma'am.

10 Q: All right. I have no further questions. Answer any
11 questions Mr. Edgeworth may have for you.

12 THE COURT: All right. Thank you, Solicitor.

13 Mr. Edgeworth

14 MR. EDGEWORTH: No questions for this witness. No
15 questions for this witness.

16 THE COURT: Thank you very much, sir. You may step down.

17 A: All right, sir. I'm finished for the day?

18 MS. RICHARDSON: I'm asking he be excused from his
19 subpoena?

20 THE COURT: Any objections?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: You may step down and you may be excused.

23 A: Thank you, sir.

24 THE COURT: Thank you again for your time.

25 A: Thank you, sir. Thank you, sir.

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 THE COURT: All right. Solicitor?

2 MS. RICHARDSON: Your Honor, I neglected to do this
3 earlier, but I'd also ask that the Walter Dozier and
4 Antionette Wilson and Alayah W. be relieved from their
5 subpoenas?

6 MR. EDGEWORTH: I have no objection, Your Honor.

7 THE COURT: All right. They, they may be released.
8 Thank you, Solicitor.

9 You may call your next witness.

10 MS. RICHARDSON: The State calls Stephanie Sumpter.

11 THE COURT: All right. Ms. Sumpter, if you'd come around
12 and be sworn for us please?

13 CLERK: Place your left hand on the Bible and raise your
14 right hand, face this way.

15 STEPHANIE SUMPTER, HAVING BEEN SWORN

16 TESTIFIES AS FOLLOWS:

17 CLERK: Thank you. Would you please spell your name for
18 the Court?

19 MS. SUMPTER: S-T-E-P-H-A-N-I-E S-U-M-P-T-E-R.

20 CLERK: Thank you so much.

21 COURT REPORTER: Can you slide forward please just a
22 little bit? Thank you.

23 THE COURT: All right. Solicitor.

24 DIRECT EXAMINATION OF STEPHANIE SUMPTER BY MS. RICHARDSON:

25 Q: Ms. Sumpter, what city do you live in?

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

- 1 A: Georgetown.
- 2 Q: And how long have you lived in Georgetown?
- 3 A: About five years.
- 4 Q: And you have children?
- 5 A: Yes, ma'am.
- 6 Q: How many children do you have?
- 7 A: Three boys.
- 8 Q: And back in August of 2012, where did you live?
- 9 A: Georgetown Housing Projects.
- 10 Q: The Housing Authority?
- 11 A: Yes, ma'am.
- 12 Q: Is that off of Legion Street or in that area?
- 13 A: I think so.
- 14 Q: And at that time, where did your children go to school?
- 15 A: Georgetown High School and my oldest son, he was going to
- 16 Waccamaw.
- 17 Q: Okay. And what about their bus stop, where was -- where
- 18 were their bus stops?
- 19 A: His bus stop was at J.B. Beck School.
- 20 Q: So, his bus didn't come to the Housing Authority?
- 21 A: No, ma'am.
- 22 Q: Okay. So what was your usual routine on school mornings
- 23 regarding him?
- 24 A: I walked with him that morning, to go to school that
- 25 morning.

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 Q: Okay. And where would you walk him to?

2 A: To J.B. Beck School where the bus comes at.

3 Q: And how did you get to J.B. -- to where the bus stop was
4 at Beck School from the Housing Authority?

5 A: I walked behind I think it was Thornton Hall ---

6 Q: Okay.

7 A: --- through the path to get to the school.

8 Q: Okay. Was that a shortcut for you?

9 A: Yes, ma'am.

10 Q: Okay. And this path -- let me show you what's been
11 marked as State's Exhibit Number Twenty-nine; do you recognize
12 that?

13 A: Yes, ma'am.

14 Q: Okay. And what is that?

15 A: It's a path where you take to go -- it's a shortcut where
16 you can go to Beck School.

17 Q: Okay. And this is the path that you're talking about?

18 A: Yes, ma'am.

19 Q: Okay. And is this the way that it looked ---

20 A: Yes, ma'am.

21 Q: --- on August 30th, 2012?

22 A: Yes, ma'am.

23 Q: Okay. And what's right here on the front of this, like
24 if you're standing on the road?

25 A: It's a bush area and it's like a little ditch.

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 Q: So, to use this shortcut, you had to cross a little
2 ditch?

3 A: Yes, ma'am.

4 Q: All right. And do you remember the morning?

5 A: Yes, ma'am.

6 Q: Why do you remember it, August 30th?

7 A: Because that's the first time I ever saw a -- a dead body
8 laying there.

9 Q: So, on August 30, 2012, you were taking your son to the
10 bus stop?

11 A: Yes, ma'am.

12 Q: Tell this Jury when and where and what you saw.

13 A: When I walked through the path, I saw a person that's
14 laying there so first my first instinct was he may be hurt or
15 something like that so I turned around and I started running
16 and screaming.

17 Q: And what were you running and what were you screaming?

18 A: Because my instinct told me that something may be
19 happened to him and so I just ran out there and he was just
20 laying there.

21 Q: All right. Let me show you what's been marked as State's
22 Exhibits Thirty, Thirty-one and Thirty-two Look at those and
23 tell me if you recognize what you're looking at?

24 A: Yes, ma'am.

25 Q: Okay. What is Thirty-one?

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 A: It's the path.

2 Q: Okay.

3 A: That's the boy -- that's the victim, the one that died.

4 Q: Okay.

5 A: And also the same.

6 Q: And is that what you saw that morning?

7 A: Yes, ma'am.

8 Q: And is that an accurate reflection or a good picture of
9 what you saw on that path that morning?

10 A: Yes, ma'am.

11 MS. RICHARDSON: Your Honor, at this time, I offer
12 State's Thirty, Thirty-one and Thirty-two into evidence and
13 ask to publish them to the Jury; Mr. Edgeworth has already
14 viewed them?

15 MR. EDGEWORTH: No objection, Your Honor.

16 THE COURT: State's Thirty, Thirty-one and Thirty-two in
17 evidence without objection. You may publish.

18 STATE'S EXHIBIT NUMBERS THIRTY, THIRTY-ONE AND THIRTY-TWO

19 ADMITTED INTO EVIDENCE

20 BY MS. RICHARDSON:

21 Q: All right. So, is this the way -- Number -- State's
22 Exhibit Number Thirty, the picture that you're looking at, is
23 that the way the path would have looked that morning after you
24 crossed the ditch?

25 A: Yes, ma'am.

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 Q: And got through all this bushy stuff that we saw on
2 Thirty?

3 A: Yes, ma'am.

4 Q: And at the end of those markers, is that the body that
5 you saw?

6 A: Yes, ma'am.

7 Q: Okay. State's Number Thirty-four. If you could look at
8 that?

9 A: Yes, ma'am.

10 Q: And Number Thirty-two, which is Number Six, if we could
11 show that to the Jury?

12 A: Yes, ma'am.

13 Q: Okay. When you left the scene -- when you left, you came
14 running out?

15 A: Yes, ma'am.

16 Q: All right. How fast were you running?

17 A: Fast. I -- even think I left my son behind, but I think
18 he was right behind me.

19 Q: Did you leave anything else behind?

20 A: My shoes.

21 Q: You ran out of your shoes?

22 A: Yes, ma'am, my sandals.

23 Q: Okay. And when you left, did you see anybody?

24 A: When I left ---

25 Q: Where did you go?

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STEPHANIE SUMPTER - DIRECT BY RICHARDSON

1 A: When I left out the path, there was another guy, he was
2 like up ahead -- way up ahead so he heard me yelling and he
3 came back.

4 Q: Okay. And then where did you -- where did you go after?
5 Did you have a cell phone or anything like that?

6 A: No, ma'am, I went to Ms. Alberta Singleton apartment and
7 we had called the police.

8 Q: So you left from there and called the police?

9 A: Yes, ma'am.

10 Q: And once you called the police, what did you do?

11 A: I stayed outside at the scene for a minute and I left
12 because I was getting scared.

13 Q: Okay. And did you give your name and information to law
14 enforcement?

15 A: I don't recall.

16 Q: Okay. All right. But law enforcement did respond?

17 A: Yes, ma'am.

18 Q: Okay. All right. I have no further questions. Answer
19 any questions Mr. Edgeworth may have for you.

20 THE COURT: Thank you, Solicitor.

21 Mr. Edgeworth?

22 MR. EDGEWORTH: I have no questions for this witness,
23 Your Honor.

24 THE COURT: Thank you. Thank you very much. You may
25 step down, Ms. Sumpter.

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CRAIG SUMPTER - DIRECT BY RICHARDSON

1 A: All right.

2 MS. RICHARDSON: Your Honor, I'd ask that she be excused
3 from her subpoena as well, Your Honor?

4 THE COURT: Any objections, Mr. Edgeworth?

5 MR. EDGEWORTH: No objection, Your Honor.

6 THE COURT: Thank you. You may be excused, Ms. Sumpter.
7 Solicitor, you may call your next witness.

8 MS. RICHARDSON: The State calls Craig Chestnut.

9 CRAIG CHESTNUT, HAVING BEEN SWORN

10 TESTIFIES AS FOLLOWS:

11 CLERK: Please spell your name for the Court Reporter.

12 MR. CHESTNUT: C-R-A-I-G C-H-E-N-U-T.

13 DIRECT EXAMINATION OF CRAIG CHESTNUT BY MS. RICHARDSON:

14 Q: Mr. Chestnut, where do you live?

15 A: Landing.

16 Q: Is it Georgetown Landing?

17 A: Georgetown Landing.

18 Q: Okay. And that's the Housing Authority or near the
19 Housing Authority?

20 A: Yeah, next door to the Housing Authority.

21 Q: Okay. And is that where you lived in August of 2012?

22 A: Yes.

23 Q: And do you recall the morning of August the 30th, 2012?

24 A: Yes.

25 Q: And why do you remember that date?

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CRAIG SUMPTER - DIRECT BY RICHARDSON

1 A: Walking my son to school and the young lady running out
2 the path hollering and -- I ran to her and she said -- she
3 said somebody, I think somebody dead or something and I just,
4 you know, I say, you just joking. I ran in there and that's
5 when I picked her shoes up and brung them back to her and I
6 saw the body.

7 Q: Okay. So you went on the path after you heard somebody
8 coming up saying they had ---

9 A: Yeah, because ---

10 Q: --- seen a body?

11 A: --- yeah, I was taking my son to school.

12 Q: Okay. And you used that path as a shortcut?

13 A: Yeah, we did.

14 Q: And this is the path that goes by Beck School?

15 A: Yes, ma'am.

16 Q: Okay. And how far on the path did you go?

17 A: Where the trees at right there, when you come across you
18 can see everything through the path where the trees at.

19 Q: Okay. Now let me -- I'm gonna put it back on the screen,
20 but let me show you what's been marked as State's Exhibits
21 Thirty, Thirty-one and Thirty-two. Is that what you saw?

22 A: Yes, it is.

23 Q: Okay.

24 A: In the trees right there.

25 Q: The tree, the body was found by a tree; is that what

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CRAIG SUMPTER - DIRECT BY RICHARDSON

1 you're saying?

2 A: Yes.

3 Q: Okay. And did you recognize who it was?

4 A: I looked at his shoes, but I seen him, you know, like
5 earlier that other -- the next day, well the day before and I
6 seen -- I seen the shoes and I said, that looks like Terrell
7 and, you know ---

8 Q: You said it looks like who?

9 A: Terrell.

10 Q: Terrell.

11 A: Yeah, Terrell.

12 Q: And so what did you do at that point once you saw the
13 body?

14 A: I just grab her shoes and head back and I guess the
15 police had pulled up then.

16 Q: Okay. All right. And did you give your name and
17 information to the police?

18 A: Yes.

19 Q: And when you say Terrell, did you know who that was; did
20 you know his last name?

21 A: I ain't never knowed his last name.

22 Q: But you know whose child it was?

23 A: Yes.

24 Q: Okay. So what did you do at that point?

25 A: Well, they asked me would I go let Ms. Valerie know.

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CRAIG SUMPTER - DIRECT BY RICHARDSON

1 Q: And that's his mother?

2 A: Yes.

3 Q: And did you do that?

4 A: Yes.

5 Q: All right. I have no further questions. Answer any
6 questions that Mr. Edgeworth may have for you.

7 THE COURT: Thank you. Mr. Edgeworth?

8 MR. EDGEWORTH: No questions for this witness, Your
9 Honor.

10 THE COURT: Thank you. Thank you very much, Mr.
11 Chestnut. You may step down.

12 A: Yes, sir.

13 MS. RICHARDSON: Your Honor, I'd ask that he be excused
14 from his subpoena as well?

15 THE COURT: Any objections, Mr. Edgeworth?

16 MR. EDGEWORTH: No objections, Your Honor.

17 THE COURT: You may be excused.

18 All right. You may call your next witness.

19 MS. RICHARDSON: The State calls Ernest Lawrence.

20 CLERK: Place your left hand on the Bible and raise your
21 right hand.

22 MS. RICHARDSON: It's Anthony Lawrence, I'm sorry.

23 ANTHONY LAWRENCE, HAVING BEEN SWORN

24 TESTIFIES AS FOLLOWS:

25 CLERK: Would you state and spell your name again?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 MR. LAWRENCE: Anthony Lawrence. A-N-T-H-O-N-Y L-A-W-R-
2 E-N-C-E.

3 CLERK: Thank you very much. If you'll have a seat.

4 DIRECT EXAMINATION OF ANTHONY LAWRENCE BY MS. RICHARDSON:

5 Q: Would you state your full name again, please?

6 A: Anthony Lawrence.

7 Q: Okay. And, Mr. Lawrence, how old are you?

8 A: I'm twenty-nine.

9 Q: And in August of 2012, where did you live?

10 A: Lincoln, and I was at -- I don't know,
11 that so -- that was so long ago.

12 Q: Okay. Did you live in Thornton Hall Apartments?

13 A: Yeah, Thornton Hall, yes, ma'am.

14 Q: And did you live with anybody or did you live by
15 yourself?

16 A: No, I lived by myself.

17 Q: And do you know Anthony Fraser?

18 A: Yes, ma'am, that's supposed to be my cousin from where --
19 from what I talked to the family about, yes, ma'am.

20 Q: Okay. And does he have a nickname?

21 A: He go by B.I.

22 Q: Okay. And do you know or did you know Alfonso Terrell
23 Thomas?

24 A: I know of him. I mean I was locked up with him one time,
25 but to be honest, I didn't know him well.

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Q: And what about Damonte Rivera?

2 A: No, ma'am, not really. I just know he was my cousin's
3 friend, that's all I can tell you.

4 Q: Okay. Had you seen him before?

5 A: No, except for at my house that night.

6 Q: Okay. But you'd seen him before today; you've seen him
7 at your house before; is that what you just said?

8 A: Yes, ma'am, that's the most.

9 Q: And do you know what his nickname is?

10 A: Hammer.

11 COURT REPORTER: I'm sorry?

12 A: Hammer.

13 Q: Are you saying -- I'm asking if you know his nickname?

14 A: Yes, ma'am. Oh, that's -- I thought you were saying the
15 name, but yes, ma'am.

16 Q: Okay. And what is his nickname? I'm sorry, I didn't
17 understand what you were saying?

18 A: Okay. Hammer.

19 Q: All right. Do you remember the morning that Alfonso or
20 Terrell Thomas died? Do you remember that?

21 A: Yes. Yes, ma'am. Yes, ma'am.

22 Q: Okay. And the police came and talked to you about that?

23 A: Yes, ma'am.

24 Q: Okay. And that was August 30th, 2012; does that sound
25 right?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

- 1 A: You would know better than me right now.
- 2 Q: Okay. But you do remember the morning he died?
- 3 A: Yes, ma'am.
- 4 Q: And had you seen him that morning or night?
- 5 A: That night, yes, ma'am.
- 6 Q: Okay. And tell me about that. Where did you see him?
- 7 A: At my house that night. At my apartment that night on --
- 8 on, let's see, I guess that they came -- they came by and I
- 9 think they had cooked something to eat or something at my
- 10 house and ---
- 11 Q: And do you remember who he was with?
- 12 A: Yes, ma'am. My cousin B.I. and his own buddy, Hammer and
- 13 him, hisself.
- 14 Q: Those three?
- 15 A: Yes, ma'am, those three.
- 16 Q: Okay. Do you remember what time they came to your house?
- 17 A: It was probably like -- maybe like 2:00, 2:30, 3 o'clock,
- 18 something like that.
- 19 Q: And what did they do when they came to your house?
- 20 A: I mean, more than likely everybody was just -- just
- 21 talking, you know what I mean.
- 22 Q: Okay. Was anybody else a-t your house?
- 23 A: Oh, yes, ma'am, a girl named Jasmine.
- 24 Q: All right. Do you remember her last name?
- 25 A: No, ma'am.

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Q: A girl named Jasmine was at your house, too?

2 A: Yes, ma'am.

3 Q: And so when they came to your house, what did y'all do?

4 A: I mean -- most everybody -- we just sitting around and
5 talk -- I mean that's the most I can say we did. We all was
6 -- I mean -- whatever happened, I don't know anything about
7 it.

8 Q: Do you remember anything that they were wearing or
9 anything like that?

10 A: The only thing I can tell you when -- they -- he --
11 Terrell also went by Gucci, that's a name I can remember so
12 ---

13 Q: So, Terrell Thomas went by the nickname Gucci?

14 A: Yes, ma'am, that's the only name I know, so -- and then
15 the orange shirt that he had that they actually took from my
16 house, I can -- that's the only thing I can remember that he
17 had on was a orange shirt. Pants or anything, no, ma'am, I
18 can't tell you.

19 Q: Okay. And did they stay in your house the whole night or
20 what -- what did they do?

21 A: They stayed for maybe -- I don't know, maybe like a hour,
22 a hour and a half, something like that.

23 Q: Okay. And what did they do then?

24 A: They left and came back.

25 Q: They left your house and came back again?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

- 1 A: Yes, ma'am.
- 2 Q: Did you hear any conversations about why they were
3 leaving?
- 4 A: No, ma'am, none that I can remember.
- 5 Q: Okay. And when they got back what happened?
- 6 A: Nothing at all -- I mean, nothing, everybody just -- just
7 -- they just came back.
- 8 Q: Okay. And did they have any conversations about where
9 they had been ---
- 10 A: No, ma'am.
- 11 Q: --- or what they'd been doing?
- 12 A: No, ma'am.
- 13 Q: You didn't hear anything about that?
- 14 A: No, ma'am.
- 15 Q: And what about Jasmine, what was she doing?
- 16 A: She was actually -- she was actually laying down because
17 she just had got out like from, I think it was jail, if I'm
18 not mistaken as I -- if I'm not mistaken.
- 19 Q: Okay. And did she have interaction with them?
- 20 A: I don't -- I don't know ---
- 21 Q: All right.
- 22 A: Where did Jasmine sleep?
- 23 A: My house. She was in the room.
- 24 Q: What room?
- 25 A: My room.

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Q: The bedroom?

2 A: Yes, ma'am.

3 Q: Okay. Did anybody else go in that bedroom where she was?

4 A: I think Terrell did. I think Terrell went to talk to
5 her, yeah, Terrell, Gucci.

6 Q: Okay. He went in the bedroom with her?

7 A: Yes, ma'am.

8 Q: Okay. Did -- after he died, did Gucci's sister come see
9 you?

10 A: Yes, ma'am.

11 Q: And what's her name?

12 A: Meyon.

13 Q: Okay. And she was asking you about her brother being at
14 your house?

15 A: Yes, ma'am.

16 Q: And you told her that he had been there that night?

17 A: Yes, ma'am.

18 Q: And who he had been with?

19 A: Yes, ma'am.

20 Q: And that was Damonte Rivera or Hammer?

21 A: Yes, ma'am.

22 Q: And Anthony Fraser or B.I.?

23 A: Yes, ma'am.

24 Q: When -- so they were at your house for some period of
25 time that night?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 A: Uh-huh (affirmative response).

2 Q: And then they left?

3 A: Uh-huh (affirmative response).

4 Q: Do you know how they left?

5 A: No, ma'am, I don't remember.

6 Q: Okay. Do you know how they got to your house?

7 A: I think they had walked to get there.

8 Q: Okay. And do you know how they left the second time?

9 A: I think they walked the second time. No, somebody came
10 and picked them up one time. I think it was the second time
11 or like the time they left. The time they left the first time
12 and then when they came back I think they were walking, I
13 think.

14 Q: Okay. And do you know who picked them up or how do you
15 know somebody came and picked them up? Did you hear a phone
16 call or anything like that?

17 MR. EDGEWORTH: Objection, leading.

18 Q: I can -- I can rephrase. How do you know that someone
19 came and picked them up?

20 A: Because the car light was in the window.

21 Q: A car light was in the window?

22 A: Yes, ma'am.

23 Q: And that's when they left the first time?

24 A: Yes, ma'am.

25 Q: Okay. And what about when they got back?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 A: See now that part, all I did was heard the door knock or
2 a knock at the door. I didn't -- I didn't -- you know, I mean
3 I wasn't looking for them to -- I wasn't even looking for them
4 to come back. So I thought -- I mean when I got -- I heard the
5 knock to the door is when I got up and answered the door.

6 Q: Okay. And you let them back in?

7 A: Yes, ma'am.

8 Q: Okay. And when you back -- when you let them back in
9 that second time, what did they do?

10 A: They just came back in and stuff and just we started
11 talking again about much of nothing.

12 Q: And, and was it the first time or the second time when
13 Gucci went into the bedroom with Jasmine; do you remember?

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

15 Q: Okay. And did anybody have anything with them; did you
16 see a ---

17 A: I didn't take nothing different than what I did take the
18 first time. Yeah, I did see a gun, but I didn't think that
19 there was -- I mean, like I tell you, I don't know anything
20 about who did what, but that's all I can tell you.

21 Q: Okay. You saw a gun that night?

22 A: Yes, ma'am.

23 Q: All right. And who did you see the gun on?

24 A: That was B.I. had it, my cousin. What he did with it, I
25 don't know, that's all I'm saying.

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BY THE COURT

1 Q: Can you tell me what a lick is?

2 A: I mean, it can be anything. I mean ---

3 Q: If somebody says, we're gonna get a lick or we're gonna
4 go do a lick; do you know what that means?

5 A: In -- I mean -- one other way, yes, ma'am.

6 Q: Well, tell me?

7 A: It could be anything, like -- I mean it could be anything
8 like ---

9 THE COURT: Answer the question.

10 A: --- it could be anything ---

11 THE COURT: Sir, answer the question.

12 A: I am answering the question.

13 THE COURT: Answer the question.

14 A: I am answering the question.

15 THE COURT: Do you know what's behind that door; that's
16 where you fixing to go. Answer the question.

17 A: You know what, Judge, I remember I don't know what that
18 is.

19 THE COURT: Sheriff, take -- take this gentlemen into
20 custody. When you decide to answer the question, you let me
21 know. Let me know Sheriff, when he decides to answer the
22 question.

23 A: If you'd be quiet, I could have answered the question.

24 THE COURT: I'm gonna hold you in contempt. One more
25 sound out of you; you understand that, sir?

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VALERIE THOMAS - DIRECT BY RICHARDSON

1 All right. Solicitor, call your next witness.

2 MS. RICHARDSON: The State calls Valerie Thomas.

3 THE COURT: If you'd please come around and be sworn for
4 us, Ms. Thomas.

5 CLERK: Place your left hand on the Bible and raise your
6 right hand.

7 VALERIE THOMAS, HAVING BEEN SWORN
8 TESTIFIES AS FOLLOWS:

9 CLERK: Thank you. Would you please spell your name for
10 the Court?

11 MR. THOMAS: V-A-L-E-R-I-E T-H-O-M-A-S.

12 CLERK: Please have a seat.

13 DIRECT EXAMINATION OF VALERIE THOMAS BY MS. RICHARDSON:

14 Q: Ms. Thomas?

15 A: Yes.

16 Q: What city do you live in?

17 A: Georgetown, South Carolina.

18 Q: And how long have you been in Georgetown?

19 A: Forty-nine years.

20 Q: And do you have children?

21 A: Yes, ma'am.

22 Q: And tell me about them?

23 A: Yes, ma'am. Alfonso and Meyon Thomas.

24 Q: Okay. And can give me Alfonso's full name?

25 A: Alfonso Terrell Thomas.

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VALERIE THOMAS - DIRECT BY RICHARDSON

- 1 Q: And, and your daughter?
- 2 A: Meyon Shondrail (inaudible) Thomas.
- 3 Q: You might have to slow down on that?
- 4 A: Meyon.
- 5 Q: Okay.
- 6 A: Shandrail Thomas.
- 7 Q: She has a lot of other names?
- 8 A: Yes.
- 9 Q: Okay. What do -- and which one was the oldest?
- 10 A: Alfonso.
- 11 Q: Okay. And what was the age difference between him ---
- 12 A: Seventeen months apart.
- 13 Q: Okay. And did you call him Alfonso?
- 14 A: Terrell.
- 15 Q: And did you -- had -- did he have any other nicknames?
- 16 A: Me?
- 17 Q: Did he have any other nicknames?
- 18 A: Big T, Gucci, Fos.
- 19 Q: Okay.
- 20 COURT REPORTER: I'm sorry, what was the last one, the
- 21 last nickname?
- 22 A: Fos.
- 23 COURT REPORTER: Can you spell that for me?
- 24 A: F-O-S. Like Fos.
- 25 Q: And tell me about the last time you saw him before he

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VALERIE THOMAS - DIRECT BY RICHARDSON

1 died?

2 A: It was August 29th about 11:30 A.M. He got dressed at my
3 house and he went to Howard School to sign up for school.

4 Q: He went to Howard to sign up for school?

5 A: Yes, ma'am.

6 Q: And that's the Adult Education Center?

7 A: Yes, ma'am.

8 Q: And was he living with you?

9 A: No, ma'am, he was living with my grandkid's uncles.

10 Q: And do you recall what he was wearing?

11 A: Yes, the shirt you showed a few minute ago.

12 Q: Okay.

13 A: And his gray Jordan's. I can't remember the pants he had
14 on.

15 Q: So, I'm gonna show you what's been marked as State's
16 Exhibit Number Nine.

17 A: Yes, ma'am, that's his shirt. My sister brought him that
18 from New York.

19 Q: Thank you. And that's the last thing you saw him in?

20 A: Yes, ma'am.

21 Q: And when did you first find out that something had
22 happened to him?

23 A: 7:30 A.M. on August 30th when the knock came on my door.

24 Q: And what did you do then?

25 A: I went to the field and when I got there the officers

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VALERIE THOMAS - DIRECT BY RICHARDSON

1 were already there and they had already taped it off so I
2 couldn't go in the path and see him.

3 Q: And so did you wait there?

4 A: Yes, ma'am, I did.

5 Q: Which side of the path did you wait on, the side ---

6 A: Legion Alley.

7 Q: Okay. So ---

8 A: Behind Thornton hall and behind J.B. Beck School. The
9 same way you come through Thornton Hall and go across the
10 ditch, that's the side I was on.

11 Q: And could you see him?

12 A: No, ma'am, I couldn't.

13 Q: And when did you first find out for sure that that was
14 him?

15 A: After I left to go home and the officer called me back to
16 the scene and told me that it was him.

17 Q: Tell me about your son?

18 A: He was good. He was friends with everybody. He never
19 did nothing. If he argued with you, he'll come back and
20 apologize to you. He did that for everybody and I don't think
21 he deserved to die.

22 Q: Had he gone to Georgetown schools?

23 A: Yes, ma'am.

24 Q: And was -- what sort of classes was he in?

25 A: Special Education.

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VALERIE THOMAS - DIRECT BY RICHARDSON

1 Q: And he had always been a Special Education student?

2 A: Yes, ma'am.

3 Q: Do you know Anthony Fraser?

4 A: Yes, ma'am, I do.

5 Q: Tell me how you know him?

6 A: He used to live in my house and I know his father and I
7 know his family. I've known him since he was a young one.

8 Q: And when you say he used to live in your house, where was
9 that house?

10 A: On in Georgetown, South Carolina.

11 Q: And how long did you live on

12 A: Fourteen years.

13 Q: And so he -- he stayed in your house sometimes?

14 A: Yes, ma'am.

15 Q: And what did he call you?

16 A: Mom.

17 Q: And do you know Damonte Rivera?

18 A: Don't know him; know of him.

19 Q: Okay. And did your son spend time with Anthony Fraser?

20 A: Yes, ma'am.

21 Q: On the morning that your son's body was found, did you
22 see any of these boys?

23 A: Anthony Fraser came up to me on the scene and hugged me
24 and said, mom, I'm sorry.

25 Q: And did he -- did you see any more in that week?

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VALERIE THOMAS - CROSS BY EDGEWORTH

1 A: No, ma'am.

2 Q: I have no further questions. Answer any questions Mr.
3 Edgeworth may have for you.

4 THE COURT: Thank you. Thank you, Solicitor. Mr.
5 Edgeworth?

6 MR. EDGEWORTH: Briefly, Your Honor.

7 CROSS EXAMINATION OF VALERIE THOMAS BY MR. EDGEWORTH:

8 Q: Ms. Thomas?

9 A: Yes.

10 Q: Do you recall who came and knocked on your door around
11 7:30 A.M.?

12 A: Yes, Ryan Rowell.

13 Q: Okay. Thank you. I have no further questions.

14 THE COURT: Any redirect, Solicitor?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: Thank you. Thank you very much, ma'am, you
17 may step down.

18 All right. Solicitor, you may call your next witness.

19 MS. RICHARDSON: Your Honor, this may be a good time to
20 take a lunch break because the next one may take a little
21 longer.

22 THE COURT: All right. Thank you. Thank you very much.

23 Ladies and gentlemen of the Jury panel, momentarily we're
24 gonna take our luncheon recess. I'll remind you, during this
25 recess, you may not discuss this case with others, that

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BY THE COURT

1 includes your lunch mates, fellow jurors, family, friends or
2 anyone else. Do not read, watch or listen to any news reports
3 about the case, should there be any. Do not use your
4 computer, cellular phone or any other electronic device to
5 research any information which is prohibited. Information
6 which is prohibited includes, but it is not limited to the
7 following: Information about a party, an attorney, a witness,
8 a court officer; news accounts of the case, past or present,
9 should there have been any; information on research by a juror
10 on any topic that has been addressed in court that the juror
11 might think would be helpful in deciding the case or
12 information on any topic the juror might think would be
13 helpful in the case. Remember you decide the case based on
14 the evidence and the testimony presented before you in the
15 courtroom from the witnesses testifying under oath and any
16 exhibits that may be introduced into evidence.

17 Upon your return, I would like to give you your first
18 assignment as a juror -- as a Jury. I would like to you --
19 like for you to select one among your number to serve as the
20 foreperson of this Jury. The foreperson is the Jury's
21 spokesperson in the courtroom and also responsible for signing
22 and dating the verdict. It can be any one of you besides
23 either one of our fine alternates, although I'm sure either
24 one of them would make an excellent, excellent Jury
25 foreperson, they are not in the status of a primary juror at

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BY THE COURT

1 this time, but you can make your selection on whatever basis
2 you deem appropriate whether it's perhaps prior jury service
3 or prior experience in a particular field or endeavor or
4 whoever the last one is that gets back from lunch or whoever
5 is the first one is that gets back from lunch. It's whatever
6 you decide using your good judgment and your common sense in
7 selecting a foreperson for this trial jury.

8 With that being said, we'll take a -- what do y'all
9 generally take in Georgetown County an hour or hour and a
10 half, Solicitor or Mr. Edgeworth; I'm not familiar with the
11 terrain?

12 MS. RICHARDSON: Your Honor, we might need an hour and a
13 half. There may be some matters of law we need to take up.

14 THE COURT: All right.

15 MS. RICHARDSON: But we can come back earlier to handle
16 those.

17 THE COURT: All right. Well, then I'll give y'all a
18 recess of say be back at 2 o'clock; if you'd be back promptly
19 at 2 o'clock. Hope y'all have a pleasant lunch. When you get
20 back and you make that selection as foreperson, just write
21 that name down, knock on the jury room door and give to it
22 your Bailiff and when she gets it to me, we'll get you right
23 back out in the courtroom.

24 I hope y'all have a pleasant lunch. Thank you. Thank
25 you very much.

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BY THE COURT

1 (REPORTER'S NOTE: Jury exits courtroom. 12:25 P.M. The
2 following takes place outside the presence of the Jury.)

3 THE COURT: All right. Solicitor, anything further
4 before we take our luncheon recess?

5 MS. RICHARDSON: No, Your Honor.

6 THE COURT: Mr. Edgeworth?

7 MR. EDGEWORTH: Nothing, Your Honor, thank you.

8 THE COURT: All right. Sheriffs, I do not want Mr.
9 Anthony Lawrence and Mr. Rivera to be in contact with each
10 other in any way, shape or form. If Mr. Lawrence decides he
11 can show appropriate demeanor and respect and answer the
12 questions put before him, should he share that information
13 with you, I would certainly be delighted for him to retake the
14 witness stand.

15 Also yesterday I had issued a bench warrant for a juror.
16 I do not know if he has been incarcerated or not. He failed
17 to appear twice yesterday. Do any of you Sheriffs know?

18 DEPUTY: I'll see what I can find out.

19 THE COURT: All right. I'll have the Clerk check with
20 the General Sessions Coordinator because if he's been
21 incarcerated, I would like to get him over here this afternoon
22 and deal with him.

23 All right. If there's nothing further, we'll be in
24 recess until what you want to say, quarter to two, Solicitor?

25 MS. RICHARDSON: Yes, Your Honor.

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BY THE COURT

1 THE COURT: You said you may have a legal matter?

2 MS. RICHARDSON: Yes, Your Honor.

3 THE COURT: All right. Thank you. Thank you very much.

4 Thank you, Mr. Edgeworth.

5 (RECESS - 12:27 P.M.)

6 *****OFF THE RECORD*****

7 (On the Record - 1:55 P.M.)

8 (REPORTER'S NOTE: The following takes place outside the
9 presence of the Jury.)

10 THE COURT: Thank you. Good afternoon. Please be
11 seated. Thank you. Thank you very much.

12 MR. EDGEWORTH: I'm sorry, Your Honor.

13 THE COURT: That's quite all right.

14 All right. Anything from the State before we bring in
15 our Jury?

16 MS. RICHARDSON: Your Honor, I do have some more exhibits
17 that I want to go ahead and give to the Court Reporter to pre-
18 mark.

19 THE COURT: All right.

20 MS. RICHARDSON: We've already gone through; I'm just
21 gone give her a hand full now and then some later. These will
22 be pre-marked as State's Thirty-two -- Thirty-three through
23 Forty-nine.

24 THE COURT: Thirty-three through Forty-nine?

25 MS. RICHARDSON: Pre-marked for identification.

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BY THE COURT

1 THE COURT: Have you shown them to Mr. Edgeworth?

2 MS. RICHARDSON: I have.

3 MR. EDGEWORTH: Yes, Your Honor.

4 MS. RICHARDSON: And for description, these are
5 photographs from from the home invasion
6 scene, additional ones, and they're in order.

7 And, Your Honor, at this time, did you want to go ahead
8 and address the motion regarding the statements and the lyrics
9 or do you want to have time to review that?

10 THE COURT: I haven't had the opportunity ---

11 MS. RICHARDSON: Okay.

12 THE COURT: --- to review it. That witness is not gonna
13 testify today?

14 MS. RICHARDSON: Which one?

15 THE COURT: The witness, the officer with the video of
16 the Defendant, both the statement and the lyrics?

17 MS. RICHARDSON: He was, but we can flip that around
18 especially if we bring Mr. Lawrence back out.

19 THE COURT: All right. Where is -- where is my juror?
20 I had told him two o'clock to remain in the courtroom
21 throughout the trial this afternoon.

22 Any other motions before we bring in the jury panel,
23 Solicitor?

24 MS. RICHARDSON: No, Your Honor.

25 THE COURT: Mr. Edgeworth?

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BY THE COURT

1 MR. EDGEWORTH: None from the Defense, Your Honor.

2 THE COURT: All right. It is my understanding from the
3 Sheriff that Mr. -- Mr. Anthony Lawrence would like to appear
4 before the Court and retake the stand. Any objections to me
5 taking that matter up before he retakes the stand, Solicitor?

6 MS. RICHARDSON: No, Your Honor, but I was gonna go ahead
7 and call another witness who's been waiting here all day.

8 THE COURT: All right. Mr. Edgeworth, any objections?

9 MR. EDGEWORTH: I have no objection to that, Your Honor.

10 THE COURT: How long will your witness take; Mr. Lawrence
11 has been here for a while?

12 MS. RICHARDSON: I anticipate probably twenty to thirty
13 minutes depending on Mr. Edgeworth.

14 THE COURT: How much further examination do you think you
15 would have for Mr. Lawrence?

16 MS. RICHARDSON: A good bit.

17 THE COURT: A good bit?

18 MS. RICHARDSON: Yes, Your Honor.

19 THE COURT: All right. We will take your witness first.

20 MS. RICHARDSON: Thank you.

21 THE COURT: Did we find my juror, Sheriff?

22 DEPUTY: Your Honor, I did not go downstairs. He's not
23 on this floor. I'll walk downstairs and see if I can find
24 him.

25 THE COURT: You'll recognize him, won't you?

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BY THE COURT

1 DEPUTY: Yes, sir.

2 THE COURT: All right. See if you can find him; he has a
3 -- may not have his watch set right.

4 All right. This is our juror and tell me your name
5 again?

6 JUROR 51: Erick -- Erick Galicia.

7 THE COURT: All right. And you recall our conversation?

8 JUROR 51: Yes.

9 THE COURT: And you're gonna remain with us throughout
10 the afternoon; do you understand?

11 JUROR 51: Uh-huh (affirmative response).

12 THE COURT: And before I adjourn court today, I will
13 readdress you; you understand?

14 JUROR 51: Yes, sir.

15 THE COURT: And if we take a break, you can take a break,
16 but every time I look out here and I'm on this bench this
17 afternoon, I want to see you in the courtroom. Okay?

18 JUROR 51: Yes, sir.

19 THE COURT: Okay. Thank you. You can go back and have a
20 seat in the gallery. Thank you. Thank you very much.

21 All right. You may bring us our Jury please.

22 (REPORTER'S NOTE: Jury enters courtroom. 2:03 P.M.)

23 THE COURT: All right. This is Mr. Epley, No. 43; is our
24 Jury foreperson?

25 JUROR NO. 43: Yes, sir.

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BY THE COURT

1 THE COURT: Thank you. Thank you very much for
2 volunteering for that very important position. I will give
3 you further instructions concerning your duties and
4 responsibilities in that regard. Thank you all for serving.

5 I have -- and as far as seating arrangements, I have
6 observed jury panels over the course of many years, both from
7 where these fine attorneys are sitting and where I now sit and
8 I have not only observed, but studied them in some respect and
9 have found that jurors many times can be very territorial.
10 They like to sit in the same seat, the same place, each and
11 every time and have the same view and vision of the courtroom.
12 I need our foreperson to always maintain that seat where
13 you're now at. Our alternates and your seats are marked. Who
14 knew they'd need to mark seats for alternates in -- in
15 Georgetown County, but if y'all would always maintain that
16 seat. And of course, this young lady may also -- may maintain
17 her -- her seat. The others of you may sit wherever you would
18 like within the jury box and, of course, if you'd like the
19 same seat -- I like the same seat, I like the same view of the
20 courtroom -- you may certainly feel free to not maintain the
21 same seat.

22 All right. I hope y'all had a pleasant lunch. We're
23 continuing the trial of the case by the presentation of
24 evidence and testimony by the State in its case in chief.

25 Solicitor, you may call your next witness.

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JASMINE WILLIAMS - DIRECT BY RICHARDSON

1 MS. RICHARDSON: The State calls Jasmine Williams.

2 THE COURT: All right. If you would come around and be
3 sworn for us, please?

4 JASMINE WILLIAMS, HAVING BEEN SWORN
5 TESTIFIES AS FOLLOWS:

6 CLERK: Thank you. Would you please spell your name for
7 the Court Reporter?

8 MS. WILLIAMS: J-A-S-M-I-N-E. Last name?

9 CLERK: Yes, ma'am.

10 MS. WILLIAMS: W-I-L-L-I-A-M-S.

11 CLERK: Thank you, Ms. Williams, if you'll have a seat
12 right around here.

13 THE COURT: All right. Solicitor?

14 DIRECT EXAMINATION OF JASMINE WILLIAMS BY MS. RICHARDSON:

15 Q: Ms. Williams, what state do you live in now?

16 A: Delaware.

17 Q: Okay. And did you previously reside in Georgetown, South
18 Carolina?

19 A: I did.

20 Q: And how long did you live here?

21 A: About nine years.

22 Q: And were you living in Georgetown in August of 2012?

23 A: I was.

24 Q: And how -- how old are you?

25 A: Right now I'm twenty-two.

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1 Q: And where did you go to high school?

2 A: Georgetown.

3 Q: And do you recall the morning of or the night of August
4 29th to the morning of August 30th, 2012?

5 A: I do.

6 Q: And why does that date stick out in your mind?

7 A: Because I had just got released from jail.

8 Q: And did anything else happen that morning?

9 A: Yeah, when I was walking going to meet my uncle, I
10 noticed that there was police cars, SCDOT, yellow tape wrapped
11 around near the path or whatever behind Thornton Hall and I
12 didn't pay it no mind and stuff. Like Friday night of the
13 following week, I got a call -- my uncle got a call saying
14 that the detectives was at his house looking for me and I'm
15 like why, I just got out of jail, I promise I didn't do
16 nothing wrong. And then he was just like well do you remember
17 a person named Alfonso; I was like yeah or whatever like I
18 just saw him like last week and that's when I found out that
19 he had died.

20 Q: Okay. And you were in jail on August 29th, 2012?

21 A: I was. I got released at 12:01, but I didn't get to
22 Anthony's house until like 12:30, 12:35.

23 Q: Okay. So you left Georgetown County Detention Center on
24 the night of August 29th?

25 A: Yes.

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JASMINE WILLIAMS - DIRECT BY RICHARDSON

1 Q: At what time?

2 A: I got released at 12:01 and I caught a ride from a
3 person, she was locked up with me so I got dropped off at Food
4 Lion in Georgetown. I walked to the projects and I noticed
5 there was a police car following, I guess they was doing their
6 little patrol or whatever. So he went one way, I went the
7 other way. I went to Tony's house -- that's what I know him
8 by -- and I noticed he had a bike there and the light was on
9 so I tapped on the window and asked him was he busy. He was
10 like no, and that's when I told him, well, can I crash here
11 until I go to my uncle's house the following -- I mean his job
12 the following morning and he was like, sure and then I was
13 like, well, you know, there's a bike outside and he was like,
14 yeah, that's my cousins. I was like, okay, who's your cousin
15 and he was like, B.I., and he was like yeah and I was like,
16 really, I don't see the resemblance. And that's when I went
17 in there, laid down, changed out of my leggings and an hour
18 later or so that's when a knock got on the door. They came
19 in. It was Fonso, B.I. and Hammer and ever since then we was
20 just talking and chillin.

21 Q: Okay. So let -- let's start back at the beginning. So
22 August 29th, 12:01, so it switched over to August 30th; is
23 that right?

24 A: Right.

25 Q: Okay. And so when you say Tony, who are you talking

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1 about?

2 A: Anthony.

3 Q: Anthony. We've got a couple of Anthonys; which Anthony?

4 A: Lawrence, the one who house I was at at Thornton Hall.

5 Q: Okay. And you know him by Tony?

6 A: Yes.

7 Q: Okay. So what time do you think you got to his house
8 that morning?

9 A: About 12:30, 12:35.

10 Q: Okay. Now Anthony Fraser, do you know him or do you know
11 who he is?

12 A: I know him by B.I.

13 Q: Okay. That's his nickname, B.I.?

14 A: Yeah, that's what I know him as. I don't know the real
15 names.

16 Q: Okay.

17 A: Just nicknames.

18 Q: And do you know Damonte Rivera?

19 A: Hammer?

20 Q: You know him as Hammer?

21 A: Yes.

22 Q: Do you see him in the courtroom?

23 A: Yeah, I see him.

24 Q: Okay. And where is he? Can you point him out to us?

25 Let the record reflect that she's pointed out the Defendant.

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1 Now how do you know these two boys?

2 A: I know Hammer because my aunt, really not my aunt, you
3 know, like she used to look out for me or whatever, she was
4 real close with his mom; her name is Vickie or whatever, so I
5 called her Aunt Vickie, like she used to always look out,
6 always a very sweet lady. That was it and then I met Hammer
7 the first night when I got out of jail because his smile just
8 pretty much gave it away.

9 Q: Okay. And then how did you know Anthony Fraser?

10 A: Because -- just around town, around in the projects or
11 whatever.

12 Q: So just for Georgetown?

13 A: Uh-huh (affirmative response).

14 Q: So when you saw them both that night, you knew who they
15 were?

16 A: Right.

17 Q: Okay. And what about Alfonso Terrell Thomas; did you
18 know him?

19 A: I know him here and there because I'm real close with his
20 sister.

21 Q: Okay. And so when you got to Anthony Lawrence's house
22 that night, you said about 12:35 or that morning at 12:35 in
23 the morning?

24 A: Uh-huh (affirmative response).

25 Q: Who was there?

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- 1 A: Nobody, just him and a bike.
- 2 Q: Okay. And what time did someone come to his house?
- 3 A: Like 2:00.
- 4 Q: Okay. And who came to his house?
- 5 A: Fonso, B.I. and Hammer.
- 6 Q: Okay. And Fonso is?
- 7 A: Alfonso.
- 8 Q: Thomas?
- 9 A: Uh-huh (affirmative response).
- 10 Q: And B.I. and Hammer?
- 11 A: Right.
- 12 Q: And do you know how they got there?
- 13 A: No, I was in Tony's room laying down. I just heard a
- 14 knock at the door and Tony got up. He was like they here, you
- 15 want me to let them in? And I was like, it's your house, I
- 16 can't tell you what to let in. So, he let them in. I gave
- 17 them a hug, everybody except for B.I. and we just sat down.
- 18 We was talking. Fonso was like, how have I been and I was
- 19 like good, just got out. He was just pretty much giving me
- 20 words of encouragement. Then I got up, went in Tony's room,
- 21 they left, they came back and they went to the store to grab
- 22 Dutches.
- 23 Q: What's Dutches?
- 24 A: A cigarillo.
- 25 Q: And what did they -- did you -- did you see the

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1 cigarillos when you came back?

2 A: No, I was in the room. Tony came back and got me, he was
3 like, they back.

4 Q: Okay. And what are they used for?

5 A: To smoke. To break down the -- pretty much to smoke
6 weed.

7 Q: And was anybody smoking weed?

8 A: Yeah, I had a two Dutches. We all had two Dutches.

9 Q: And where did it come from?

10 A: I don't know. B.I. just pulled it out of his pocket.

11 Q: Okay. And so after they left and came back with the
12 cigarillos and then y'all all smoked?

13 A: Uh-huh (affirmative response) and I caught the munchies.

14 Q: Okay. And so what -- what happened then?

15 A: We was just pretty much talking and Hammer was just like
16 you need to just -- I can't really curse, just like you need
17 to start dealing with real niggers, excuse my french, instead
18 of these clowns out here and I was like, boy, ain't no real
19 niggers in Georgetown. And he was just like you see us three,
20 I was like, yeah, what about y'all. He was like you pretty
21 dealing with real niggers, you know, pretty much we're all
22 laughing and playing around. it wasn't nothing serious or
23 whatever. And that's whenever he got quiet. He was just on
24 his phone chilling. I got up, went in the room, B.I. came in
25 there for like thirty minutes. I told him to get out because

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1 I was trying to go to sleep. Fonso came in there. I was
2 asleep, he woke me up. And he was just like was you asleep
3 and I was like, I was until you woke me up or whatever. He
4 was just like, well, just sit up and talk to me for like
5 thirty minutes or so. So one thing led to another. We hooked
6 up. B.I. came back in, I guess he felt some type of way,
7 closed the door. Me and Fonso finished, got -- I went to
8 sleep and that was that.

9 Q: Okay. And did Fonso, Hammer and B.I. stay at the house
10 all night with y'all?

11 A: No.

12 Q: What happened to them?

13 A: They left.

14 Q: About what time did they leave?

15 A: About 3:30, 3:45.

16 Q: And did they leave together?

17 A: I'm assuming. Again, I was in Tony's room sleeping.

18 Q: And when they were there, did you hear them talking about
19 anything or know of anything that had happened?

20 A: No.

21 Q: Okay. And did you -- did you see anything that gave you
22 concern?

23 A: I just saw B.I. pull out a gun.

24 Q: Okay. And what kind of gun?

25 A: I don't know the name of them. I'm scared of guns. I

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1 just know it was a black one.

2 Q: Okay.

3 A: And he took it out of his basketball shorts and put it in
4 Tony's couch.

5 Q: And it was a handgun?

6 A: I guess -- if it's a little gun, I'm assuming so.

7 Q: Okay. And did you -- was there any discussion about the
8 gun?

9 A: He just said he wasn't gonna use it on nobody in the
10 house and I was just like, well, boy, put the gun up because I
11 don't like guns.

12 Q: Okay. And so then you left the next morning?

13 A: Yes.

14 Q: Okay. And went to your families'?

15 A: Uh-huh (affirmative response).

16 Q: Let me show you what has been marked as State's Exhibit
17 Number Nine. Do you recognize this?

18 A: I do.

19 Q: Okay. And what is it?

20 A: That's Fonso's shirt.

21 Q: And do you know it's Fonso's shirt?

22 A: Because he had it on.

23 Q: He had it on that night?

24 A: Yes.

25 Q: And did he stay in that shirt?

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1 A: No, he was unbuttoning it, when he went to Tony's
2 bathroom because Tony got a bathroom in his room.

3 Q: Okay. And so he unbuttoned it then?

4 A: Uh-huh (affirmative response).

5 Q: Okay. And did he take it off?

6 A: Uh-huh (affirmative response).

7 Q: I need you to say ---

8 A: Yes.

9 Q: --- yes or no. Did anybody else come to the house that
10 morning?

11 A: No.

12 Q: And this was at Thornton Hall?

13 A: Uh-huh (affirmative response). Yes, I'm sorry.

14 Q: And when you left the next morning, which direction did
15 you go in?

16 A: I took the long way because I really didn't know the path
17 like that. I heard of it but I never took it.

18 Q: And you said that Hammer was on the phone. Did you see
19 anybody else using their phone?

20 A: No, everybody -- you know how you like just pretty much
21 keep looking at the time then put it back. Nobody made no
22 phone calls.

23 Q: Okay.

24 A: When we was all sitting in the living room.

25 Q: Who had phones?

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JASMINE WILLIAMS - CROSS BY EDGEWORTH

1 A: Yeah, everybody had phones.

2 Q: Everybody there?

3 A: Except for me.

4 Q: All right. I have no further questions. Answer any
5 questions Mr. Edgeworth may have for you?

6 THE COURT: Thank you, Solicitor.

7 Mr. Edgeworth.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 CROSS EXAMINATION OF JASMINE WILLIAMS BY MR. EDGEWORTH:

10 Q: Ms. Williams, on -- on the night that we're talking
11 about, August 30th of 2012, you came to Mr. Lawrence's house
12 after you had gotten out of jail?

13 A: Yes.

14 Q: What were you in jail?

15 A: Shoplifting.

16 Q: Okay. And when, when you got to the house, you went into
17 the bedroom, correct?

18 A: I did.

19 Q: And you came out once, according to your testimony, when
20 the individuals came into the home?

21 A: I did.

22 Q: Had you smoked any marijuana before anyone came over?

23 A: No, I was sober.

24 Q: Okay. Now, when you -- when you went to the bedroom
25 after having conversations, which I guess you called casual

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1 conversations, nothing but chilling, with the individuals, did
2 you intend to go in the for the night?

3 A: Go in the room for the night?

4 Q: Right.

5 A: I did.

6 Q: And did you ever come back out?

7 A: No.

8 Q: So when, according to your testimony, B.I. came in?

9 A: B.I. came in first. He was trying to get up. I was like
10 nah, because I wasn't feeling him.

11 Q: When you say get up, you mean he was making sexual
12 advances towards you?

13 A: Trying to talk, yes.

14 Q: And, and you rejected those advances, correct?

15 A: I turned him down.

16 Q: And those advances lasted what, thirty minutes, forty-
17 five minutes?

18 A: Yeah, trying to get me to have sex with him. I was like
19 no, I'm chillin.

20 Q: And so after you went in the -- in the bedroom, Mr.
21 Fraser comes in, he's hitting on you for about thirty to
22 forty-five minutes and then you finally just tell him to get
23 out, correct?

24 A: Who, Fonso?

25 Q: Yeah.

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JASMINE WILLIAMS - CROSS BY EDGEWORTH

1 A: Yeah, after thirty or forty-five minutes he was just like
2 all right, I see you're not trying to give it up. I'm
3 leaving, dueces, I'm out.

4 Q: Okay. And then at that point, Mr. Alfonso came in,
5 correct?

6 A: Yeah, like two or three minutes later.

7 Q: Okay. Did, did Mr. Fraser leave the room completely
8 before Alfonso came in?

9 A: Yeah, he went out.

10 Q: Okay. So, it'd be fair to say that Mr. Fraser saw Mr.
11 Thomas go in the room, correct?

12 A: Yes.

13 Q: Okay. And then at that point, you engaged in sexual
14 intercourse with Mr. Thomas, correct?

15 A: Yes.

16 Q: And, and that episode lasted what another thirty, forty-
17 five mintues, an hour, how long?

18 A: About forty-five minutes.

19 Q: Okay. And during that time is when you're saying that he
20 went into the bathroom and took his shirt off, correct?

21 A: No, he took his shirt off before we got engaged into the
22 sexual intercourse.

23 Q: Was he already in the room, though?

24 A: No, I was in the room by myself. Then that's when B.I.
25 tried to come in and; I turned him down. Then Fonso came in,

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JASMINE WILLIAMS - CROSS BY EDGEWORTH

1 but I didn't turn him down.

2 Q: Okay. So then you have intercourse with ---

3 A: With Fonso.

4 Q: --- with Fonso and that lasted thirty or forty-five
5 minutes?

6 A: Correct.

7 Q: Okay. And then Alfonso leaves the room, correct?

8 A: Yes.

9 Q: Okay. Did -- was it during the intercourse or at what
10 point in time did Fraser come back and try to go in the room?

11 A: About after we was done. I was on my way to sleep and he
12 woke me up with the light.

13 Q: And so, so he was aware that you guys had sex that night?

14 A: I'm sure he -- yes, because he saw the basketball shorts
15 and stuff on the floor.

16 Q: Okay. And, and during that time period, you never left
17 the room, right?

18 A: No.

19 Q: Okay.

20 A: Never.

21 Q: So, it's fair to say you didn't see ---

22 A: When they left.

23 Q: --- when everybody left, correct?

24 A: I didn't until Tony came back and he was like they gone
25 and I was like okay.

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JASMINE WILLIAMS - REDIRECT BY RICHARDSON

1 Q: So, it's also fair to say then that it's possible if Mr.
2 Rivera was there that he left sometime during that hour and a
3 half, two hours that you were engaged in conversation and/or
4 sex with Mr. Fraser and Mr. Thomas, correct?

5 A: Yeah, he probably was in the -- in the living room still.
6 I don't know because I was in the room.

7 Q: Right, but so it's possible he left during that two-hour
8 time period, correct, you didn't see anybody leave?

9 A: No, I don't know who left. I just know Tony came back
10 and was like, they gone.

11 MR. EDGEWORTH: No further questions, Your Honor.

12 THE COURT: Redirect, Solicitor?

13 REDIRECT EXAMINATION OF JASMINE WILLIAMS BY MS. RICHARDSON:

14 Q: Did anybody else try to have sex with you that night or
15 make advances to you that night?

16 A: No, just B.I. He was the only one that was trying,
17 trying his hardest.

18 Q: Was anything else said to you in a sexual manner or
19 anything like that?

20 A: No.

21 Q: Okay. And what size apartment is this that Tony has?

22 A: It was a one bedroom, but it was big.

23 Q: Okay. It was a one bedroom?

24 A: Yes.

25 Q: Okay. And when you were -- were you able to see from the

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JASMINE WILLIAMS - REDIRECT BY RICHARDSON

1 room what was going on in the other room?

2 A: No, because the door was closed.

3 Q: Okay. And could you hear anything as far as that was
4 concerned?

5 A: Just voices -- voices, I didn't know what they were
6 talking about though.

7 Q: Okay. So when they first got there, before any of this
8 other stuff happened, when they first got there, you could
9 hear that they were in there?

10 A: No, Tony came and was like, well, they outside now and I
11 was like okay.

12 Q: Okay. All right. I have no further questions.

13 THE COURT: Any recross ---

14 MS. RICHARDSON: I'd ask this witness be excused.

15 THE COURT: --- any recross?

16 MR. EDGEWORTH: No recross, Your Honor.

17 THE COURT: Thank you. Thank you very much, Ms.
18 Williams, you may step down.

19 Any objections to this witness being excused?

20 MR. EDGEWORTH: No objection, Your Honor.

21 THE COURT: Solicitor?

22 MS. RICHARDSON: No, Your Honor.

23 THE COURT: And you may excused.

24 All right. Ready to recall that last -- the preceding
25 witness; is he ready, Sheriff?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 DEPUTY: I think so, yes, sir.

2 THE COURT: All right. Thank you.

3 All right. Mr. Lawrence, if you'd please come around and
4 rejoin us. You're still under oath, okay?

5 COURT REPORTER: You need to slide up please, sir.

6 THE COURT: All right. Solicitor, you may continue your
7 examination.

8 MS. RICHARDSON: The State moves for this witness to be
9 declared hostile or adverse for method of examination?

10 THE COURT: I don't think you have to do that anymore. I
11 think Rule 607 would handle that.

12 MS. RICHARDSON: Yes, Your Honor.

13 THE COURT: All right. I was trying to recall the name
14 of the Horry County case that was famous on that, but be that
15 as it may, you may cross examine under 607.

16 MS. RICHARDSON: Thank you, Your Honor.

17 THE COURT: All right.

18 DIRECT EXAMINATION CONTINUED OF ANTHONY LAWRENCE BY MS.

19 RICHARDSON:

20 Q: Anthony, do you go by Tony?

21 A: Yes, ma'am.

22 Q: Okay. And just to kind of go back over everything. In
23 August of 2012, you lived at Thornton Hall?

24 A: Yes, ma'am.

25 Q: And on that night, Anthony Fraser, B.I., Damonte Rivera,

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Hammer, and Alfonso Thomas came to your house?

2 A: Yes, ma'am.

3 Q: And do you recall being interviewed regarding this
4 matter?

5 A: Yes, ma'am.

6 Q: Okay. So, tell me again what time they got to your
7 house?

8 A: I'm guessing now, it's been so long, say about 2:00 or
9 3:00.

10 Q: And you were interviewed at the Georgetown County or the
11 Georgetown City Police Department on September 1st, 2012?

12 A: I guess so, yes.

13 Q: The same week that Mr. Thomas died, you were interviewed?

14 A: Yes, ma'am.

15 Q: Okay. And you were interviewed on that afternoon by
16 Aaron Lynn and Sergeant Church; do you remember that?

17 A: Yes, ma'am.

18 Q: And do you recall telling them that the three came to
19 your house around 11:30 or so that night?

20 A: If that's what I told them, I'm pretty sure that's what
21 it was because I mean it was closer to the date it was than
22 now. So ---

23 Q: Okay. Do you recall telling them that? Do you remember
24 that?

25 A: No, ma'am, I don't.

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Q: Okay. You just -- so, you can't remember it?

2 A: Yes, ma'am.

3 Q: Okay. And do you recall telling the officers that they
4 came at 11:30 or 12:00 and then left and came back again
5 around 2:00?

6 A: Yes, ma'am ---

7 Q: You do telling them that?

8 A: I remember telling them something like that.

9 Q: Okay. All right. And do you remember how they left the
10 first time?

11 A: No, I don't.

12 Q: And do you recall telling them that someone came and
13 picked them up?

14 A: Yes, ma'am.

15 Q: Okay. You do remember that?

16 A: Yes, ma'am.

17 Q: So, do you know how they left your house?

18 A: I don't know the exact person or anything but I was just
19 saying -- well, no, ma'am, I'm gonna just say no. I'll just
20 say no because I'm not really sure. I mean, it seem like it's
21 been so long so I'm not sure.

22 Q: So you don't remember?

23 A: No, ma'am.

24 Q: Okay. And do you recall hearing any conversations among
25 the three about a robbery?

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 A: No, ma'am.

2 Q: You do not remember hearing that?

3 A: No, ma'am. If you look at the report, I'm pretty sure I
4 don't have anything about that because I didn't hear anything
5 about that.

6 Q: So you deny having said anything about that?

7 A: Yes, ma'am.

8 Q: And, and you deny having said that in your interview?

9 A: Ma'am?

10 Q: You're saying you didn't say anything about that to the
11 police?

12 A: No, ma'am.

13 Q: Okay.

14 A: No, ma'am, because I didn't know anything about that ---

15 Q: Okay.

16 A: --- so, I couldn't have.

17 Q: All right. And did you hear them say anything about a
18 lick?

19 A: Well, actually the lick was to steal a four-wheeler from
20 what I was -- from what I was told because I, you know, yes,
21 ma'am, the lick was a four-wheeler.

22 Q: So, you heard them talking about a four wheeler?

23 A: Yes, ma'am.

24 Q: And did you see a gun?

25 A: I did.

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ANTHONY LAWRENCE - DIRECT BY RICHARDSON

1 Q: Okay. And who had the gun?

2 A: B.I.

3 Q: And did you prepare them anything to eat or did somebody
4 cook while they were at your house?

5 A: Yes, ma'am, someone cooked and they cooked for they
6 selves that night.

7 Q: Okay. And who was that?

8 A: Gucci, B.I. -- no, what his name was -- Terrell.

9 Q: Okay. So, Jasmine got there after she got out of jail,
10 so after midnight; that's right?

11 A: I guess. I guess that was the time, I don't know. I'm
12 not really sure.

13 Q: And when she got there, there was nobody there but you;
14 is that right?

15 A: Yes, ma'am.

16 Q: But Hammer, B.I. and Fonso had already been there one
17 time?

18 A: I can't really remember. I can't remember if they was
19 there before or after.

20 Q: Okay. So -- and do you recall telling the police, Erin
21 Lynn and Sergeant Church, during your interview that they had
22 been there and left before she got there; do you remember that
23 or can you not remember?

24 A: No, ma'am, I don't remember.

25 Q: Okay. And so when you say they came back at 2:00 in the

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1 morning?

2 A: Okay.

3 Q: Around 2:00; is that right? I'm asking you. Is that
4 right?

5 A: Well, yes, ma'am.

6 Q: And were you asleep at that time?

7 A: Yes, ma'am.

8 Q: And Jasmine was with you?

9 A: Yes, ma'am.

10 Q: Okay. And they -- them coming back woke you up; did it
11 wake you up?

12 A: Yes, ma'am.

13 Q: Okay. So, what did you do at that point?

14 A: I got up to socialize with them.

15 Q: And how did you socialize; what all did y'all do?

16 A: Nothing. I mean -- nothing.

17 Q: Did you smoke marijuana?

18 A: No, ma'am.

19 Q: Did they smoke marijuana?

20 A: No, ma'am.

21 Q: Did you see people with cell phones; did any of those
22 individuals have cell phones?

23 A: I think so. I'm not -- I think so. I think they did.

24 I'm not really remembering -- I mean, I'm not really sure, but
25 I kinda think they did.

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1 Q: And do you remember what Alfonso Thomas was wearing when
2 he got to your house?

3 A: Alfonso, which one was Alfonso again?

4 Q: Terrell, Alfonso Terrell Thomas?

5 A: All I remember -- all I remember now is a -- is a orange
6 shirt. That's the only thing I can -- that's the only thing I
7 can remember right now.

8 Q: And when you were interviewed by the police, you let them
9 search your house?

10 A: Yes, ma'am.

11 Q: And they brought you back a shirt they said they found in
12 your house?

13 A: Yes, ma'am, I believe so.

14 Q: Okay. And do you remember them showing you that shirt?

15 A: Yes, ma'am.

16 Q: Let me show you what's been marked as State's Exhibit
17 Number Nine to you and see if you recognize it.

18 A: It's an orange shirt.

19 Q: Do you recognize it?

20 A: I mean -- that is -- that was his shirt.

21 Q: Okay. That was whose shirt?

22 A: Alfonso.

23 Q: Okay. And was that the shirt he had on that night?

24 A: Yes, ma'am.

25 Q: And at some point did Jasmine go back to bed?

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- 1 A: Yes, ma'am.
- 2 Q: And did anybody go in the bedroom with her?
- 3 A: I know Alfonso went to talk to her.
- 4 Q: And did B.I. go talk to her?
- 5 A: Who?
- 6 Q: Anthony Fraser, B.I.?
- 7 A: I don't remember him talking to her now.
- 8 Q: And how long did the three of them stay at your house?
- 9 A: Maybe like, I don't know -- the second time it just
- 10 seemed like an hour probably. Whatever time it was, I think
- 11 it was about an hour.
- 12 Q: And did the three of them leave together?
- 13 A: Yes, ma'am.
- 14 Q: And did you see them leave together?
- 15 A: Yes, ma'am.
- 16 Q: Did anybody else come to your house?
- 17 A: No, ma'am.
- 18 Q: And did you see how they left?
- 19 A: No, ma'am.
- 20 Q: And do you know what time they left?
- 21 A: I don't remember, no, ma'am.
- 22 Q: Do you recall telling the police that they left between
- 23 3:00 -- 3:30 and 4:00?
- 24 A: If that's what I said, I believe that's what it was.
- 25 Q: But do you remember saying that? I know this has been

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1 years ago.

2 A: To be honest with you, no, ma'am.

3 Q: You just don't remember?

4 A: No, ma'am.

5 Q: Okay. And are you familiar with the path?

6 A: A little bit.

7 Q: Okay. And that's not far from your house at Thornton
8 Hall?

9 A: Yes, ma'am.

10 Q: And you've had a chance to review your interview that was
11 done on September 1st, 2012?

12 A: Yes, ma'am.

13 MS. RICHARDSON: Your Honor, at this point, the State
14 would seek to introduce the interview of Anthony Lawrence on
15 September 1st, 2012 at Georgetown Police Department as a prior
16 inconsistent statement?

17 THE COURT: All right. Would you have it marked for
18 identification?

19 MS. RICHARDSON: Yes, Your Honor.

20 THE COURT: What will it be, Fifty?

21 COURT REPORTER: Yes, sir.

22 THE COURT: Fifty, State's Fifty for ID.

23 MS. RICHARDSON: Your Honor, she's pulling the CD, but I
24 do have it electronically. The Court's indulgence? We have
25 the electronic format but they're going to get the CD.

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1 THE COURT: All right. Then it won't be published to the
2 Jury at this time, correct?

3 MS. RICHARDSON: Your Honor, I'm asking that we also
4 introduce that into evidence and publish it to the Jury.

5 THE COURT: All right. Well, I want to review it first.

6 MS. RICHARDSON: Okay.

7 THE COURT: That's why I asked to see it. Do I need to
8 do that outside the presence of the Jury or is the system such
9 that I can look at it and not the Jury?

10 MS. RICHARDSON: Your Honor, you would probably have to
11 look at it outside their presence.

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen, if you'd please step to your jury room momentarily
14 while I take up this matter of law. Do not discuss the case
15 during this brief recess.

16 (REPORTER'S NOTE: Jury exits courtroom. 2:38 P.M. The
17 following takes place outside the presence of the Jury.)

18 MS. RICHARDSON: Your Honor, this is a lengthy interview.

19 THE COURT: Well, let me ask first, do you have any
20 objections to it, Mr. Edge -- Edgeworth?

21 MR. EDGEWORTH: Yes, Your Honor, I actually do have an
22 objection primarily because due to the fact that the Solicitor
23 has engaged in cross examination, she actually lead him to
24 some of the inconsistencies to which he has already testified
25 and, quote/unquote, it could be if that's what I told him. So

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1 he's acknowledging already that he has potentially made a mis-
2 statement that has already been corrected due to the cross
3 examination. So, I don't know -- I don't know what else
4 they're seeking to do other than to just have this very
5 lengthy interview played for prejudicial purposes to the Jury.
6 I mean, he -- they went back and interrogated him on all the
7 inconsistencies of what they believe in the initial testimony
8 that -- preceding the contempt.

9 THE COURT: So what rule are you basing that objection
10 on?

11 MR. EDGEWORTH: Well, Your Honor, I'm just basing the
12 objection on the fact that in this particular instance, he --
13 he is not essentially made an inconsistent statement that has
14 not gone unclarified due to the cross examination. It's
15 already been clarified.

16 THE COURT: And that is -- that's the -- that's your
17 objection?

18 MR. EDGEWORTH: Yes, Your Honor.

19 THE COURT: Just a moment. I may not need to listen to
20 it if that's the objection. Hold on just a minute, Solicitor.

21 All right. Solicitor, for what purpose is the State
22 offering Mr. Lawrence's statement?

23 MS. RICHARDSON: Your Honor, pursuant to Rule 613 as a
24 prior inconsistent statement, Your Honor, he has not
25 unequivocally admitted to the substance of those statements.

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1 He has denied any statements regarding a robbery and he has
2 said repeatedly that he does recall making those inconsistent
3 statements regarding the timing of when everybody was there
4 and when they left. And for that purpose, Your Honor, the
5 State is seeking to offer extrinsic evidence of his prior
6 inconsistent statements since he is not equivocal about
7 admitting that he made this statement.

8 THE COURT: Thank you, Solicitor.

9 Anything further, Mr. Edgeworth?

10 MR. EDGEWORTH: No, Your Honor, I think it stands to
11 reason that he admits he took -- he made the statement. He
12 obviously acknowledges that he was -- the question was, do you
13 recall giving the statements to Investigator Lynn and Sergeant
14 Church and he said yes So, I don't -- I don't think -- I
15 don't think it's admissible.

16 THE COURT: I don't think he would have -- he has
17 specifically denied making certain statements. I don't think
18 just saying, yeah, I remember making the statement and then
19 denying parts of it cures it. So the -- under 613 the prior
20 statement given is admissible.

21 All right. If you'd bring us our Jury back, please?

22 MS. RICHARDSON: Your Honor, and just for housekeeping
23 matter, this disc is on another disc with a lot of other
24 interviews that have not been admitted or would not be
25 admitted at this time. The State is seeking permission to go

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1 ahead and introduce this as evidence and publish it from the
2 electronic version and then submit a clean copy that contains
3 just his interview so as not to -- so the disc wouldn't have
4 other items that are not admitted into evidence, just for
5 housekeeping and ease of the procedure right now.

6 THE COURT: And right now you're gonna publish it?

7 MS. RICHARDSON: And I'm gonna publish it right now but
8 introduce it into evidence and then bring in the actual CD and
9 we can review it just for time sake.

10 THE COURT: All right.

11 MS. RICHARDSON: If that's okay with Your Honor ---

12 THE COURT: And how long is it?

13 MS. RICHARDSON: --- and I apologize for not having it.
14 It is close to three hours, Your Honor. There is a portion of
15 it where he is not being interviewed that we could fast
16 forward through with it, if the Defense was agreeable to that
17 in the interest of completion -- of completeness, but it is --
18 it is close to three -- it is two hours and fifty three
19 minutes and sixteen seconds. So it is a long interview, but
20 there is some portion of that where he is alone in the room
21 but he does talk on the telephone. But it is a long
22 interview.

23 THE COURT: Well, unless y'all agree otherwise, two hours
24 and fifty three minutes is going to be published. If y'all
25 agree otherwise, that's fine with the Court. It's up to

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1 y'all.

2 MS. RICHARDSON: And I believe that would be the
3 Defendant's call because he would be entitled in the interest
4 of completeness to have the whole document published.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: Well, let's play the whole thing.

7 MS. RICHARDSON: Okay.

8 THE COURT: Say it again?

9 MR. EDGEWORTH: Play the whole thing.

10 THE COURT: Bring us our Jury please.

11 (REPORTER'S NOTE: Jury enters courtroom. 2:51 P.M.)

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen of the Jury, the State is now offering into evidence
14 a transcript of the statement given by Mr. Lawrence back
15 whatever date in September. What day was it, Solicitor?

16 MS. RICHARDSON: September 1st, 2012.

17 THE COURT: September 1st, 2012. It is in electronic
18 form. I'm allowing them to publish it. The statement is two
19 hours and fifty-three minutes. It's now 3 o'clock, right at 3
20 o'clock. So that would put us 4 o'clock, 5 o'clock, 5:53 at
21 the minimum for the publication of the statement. If during
22 the course of the publication, you need to take a break at any
23 time, just please raise your hand and we'll certainly take an
24 afternoon recess.

25 All right. Solicitor, you may publish subject to the

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1 previous objections of the Defense.

2 MS. RICHARDSON: Your Honor, Mr. Edgeworth and I do agree
3 to -- to fast forward until the detectives actually come in.

4 MR. EDGEWORTH: Yes, Your Honor, there's some dead time
5 in the beginning that we are consenting to move to.

6 THE COURT: All right.

7 MR. EDGEWORTH: Thank you.

8 THE COURT: Thank you. And of course after that, ladies
9 and gentlemen, after publication we will have continued
10 direct, then cross. As I say, if at any time you need to take
11 a break, any of you, just raise your hand. Thank you.

12 And, Solicitor, it is marked as State's Fifty and Mr.
13 Edgeworth.

14 STATE'S EXHIBIT NUMBER FIFTY

15 ADMITTED INTO EVIDENCE

16 *******OFF THE RECORD*******

17 (REPORTER'S NOTE: State's Exhibit Number Fifty played in
18 presence of the Jury.)

19 **(On the Record.)**

20 THE COURT: Would you pause this momentarily? Would you
21 pause it? Thank you.

22 Mr. Foreman, ladies and gentlemen of the Jury, I believe
23 we'll take an afternoon recess. We'll take about fifteen
24 minutes. Do not discuss the case during this brief recess.
25 Thank you. Thank you very much.

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1 You may go with your Bailiff to your jury room.

2 (REPORTER'S NOTE: Jury exits courtroom. 3:34 P.M)

3 THE COURT: All right. Mr. Lawrence, you may certainly
4 step down and refresh yourself during this brief recess.

5 Sheriff, he is not in custody of the Georgetown County
6 Sheriff Department at this time.

7 Please be back in fifteen minutes. Do not discuss the
8 case during this brief recess. Thank you.

9 Court will be in recess for fifteen minutes. Thank you
10 very much.

11 (RECESS - 3:35 P.M.)

12 *****OFF THE RECORD*****

13 **(On the Record - 3:49 P.M.)**

14 (REPORTER'S NOTE: The following takes place outside the
15 presence of the Jury.)

16 THE COURT: Anything from the State before we bring in
17 our Jury, Solicitor?

18 MS. RICHARDSON: Your Honor, just before we resume, it's
19 come to my attention, just to make sure we don't have any sort
20 of security issues or that anyone feels uncomfortable during
21 the process of this trial, particularly the witnesses, there
22 are some family members here that are not in the courtroom
23 right now, of Mr. Rivera's. They were in close proximity to
24 Mr. Lawrence when he went out for a smoke break. Our
25 investigators pretty much stuck with him or near him to make

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1 sure there was no, no problem there. So we may just need to
2 make sure that everybody goes their own way or that if -- or
3 that the witnesses have some security besides our office to
4 assist them in exiting.

5 THE COURT: All right. Well, I'll -- I'll leave that up
6 to the Sheriff. You know you certainly have my permission.
7 I'm no expert in security. I certainly don't want any witness
8 intimidated or feeling insecure in any manner.

9 MS. RICHARDSON: And I'm not saying anything was said,
10 but just the proximity ---

11 THE COURT: I understand.

12 MS. RICHARDSON: --- at least made our officers
13 uncomfortable regarding that.

14 THE COURT: All right. All right. Anything -- anything
15 from the Defense, Mr. Edgeworth?

16 MR. EDGEWORTH: Nothing at this time, Your Honor.

17 THE COURT: All right. And just to make sure I clarify
18 the record as far as my ruling is concerned -- to make sure I
19 clarify my ruling as to the admissibility of the document of
20 the transcript of Mr. Lawrence's prior statement. Under Rule
21 613(b), and I'm reading directly from *State v. Blalock*, 591
22 S.E.2d 632. Extrinsic evidence of a prior inconsistent
23 statement by a witness is not admissible unless the witness is
24 advised of the substance of the statement, the time and place
25 it was allegedly made and the person to whom it was made and

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1 is given the opportunity to explain or deny the statement. If
2 a witness does not admit that he made the prior inconsistent
3 statement, extrinsic evidence of such statement is admissible.
4 The central question therefore is whether Mr. Lawrence
5 admitted making an inconsistent statement in his testimony.
6 In determining whether a witness has admitted making a prior
7 inconsistent statement and therefore obviated the need for
8 extrinsic proof, the courts of our state and other
9 jurisdictions have held that the witness must admit making the
10 prior statement unequivocally and without qualification,
11 citing *State v. Bottoms*, where a witness admits unequivocally
12 that a prior inconsistent statement has been made by him, he
13 has thereby impeached himself and further evidence is
14 unnecessary and inadmissible. Generally, where the witness
15 has responded with anything less than an unequivocal
16 admission, prior courts have been granted wide latitude to
17 allow extrinsic evidence proving the statement. For example,
18 a witnesses' failure to fully recall his prior statement has
19 been found to be sufficient denial to allow extrinsic evidence
20 that's *State v. Brown* and *State v. Miller*, stating that a
21 witness may be impeached by proof of prior contradictory
22 statements where he merely testifies that he does not remember
23 and has no recollection of making the statement referred to.
24 Extrinsic evidence is also usually admitted when the witness
25 simply avoids any direct answer when confronted with the

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1 situation, for example, in *State v. Southerland*.

2 I find there was no clear and unequivocal denial. There
3 was, as far as the robbery and certain issues in which he did
4 not admit particular portions of the statement and there was
5 lack of memory, not a direct denial -- not a direct -- not
6 unequivocally denying the statement.

7 Now, I thought and I couldn't quite understand, I don't
8 know about the video quality itself and that'll be up to the
9 Jury, was there a question asked by an officer about gang
10 affiliation?

11 MS. RICHARDSON: I don't recall that, Your Honor.

12 THE COURT: All right.

13 MS. RICHARDSON: But I -- there may have been. I don't
14 recall that. Just to clarify the record, the State's position
15 was also that he gave inconsistent statements that he could
16 not recall regarding the timing on what time they -- when they
17 arrived, who came in, who left and that sort of thing.

18 THE COURT: Correct.

19 MS. RICHARDSON: So, it wasn't just about the lick, so to
20 speak, but it was also about the timing.

21 THE COURT: And there was no objection made as to that
22 regard. There was no objection made to the substance of the
23 statement; it's just that he admitted making the statement
24 generally, but as I understood the Defense's objection.

25 MS. RICHARDSON: Okay.

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1 THE COURT: But certainly for the record, that would be
2 on there.

3 Anything before we bring in our Jury?

4 MS. RICHARDSON: Your Honor, and I do have the CD where
5 we have placed just his interview to go ahead and mark and
6 give to the Court Reporter. That will be State's Fifty.

7 THE COURT: All right. Anything, Mr. Edgeworth, I
8 apologize.

9 MR. EDGEWORTH: No, sir. No, Your Honor.

10 THE COURT: Thank you.

11 BAILIFF: There's no one here for the Clerk.

12 THE COURT: Sir?

13 BAILIFF: There's no one here.

14 THE COURT: I don't need to swear anybody now.

15 BAILIFF: Okay.

16 THE COURT: And if I do, I can give them -- I can put
17 them under oath.

18 BAILIFF: Okay.

19 THE COURT: All right. We need to press on.

20 MS. RICHARDSON: And the Clerk did tell me she had
21 something to take care of and would be back.

22 THE COURT: But thank you, Roy. You can bring our Jury.
23 Thank you.

24 BAILIFF: Thank you. Okay.

25 THE COURT: Yes, sir.

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1 (REPORTER'S NOTE: Jury enters courtroom. 3:56 P.M.)

2 THE COURT: I'm informed by the Clerk through the Bailiff
3 that the Jury is having a hard time hearing the publication of
4 State's Exhibit Number Fifty.

5 MS. RICHARDSON: Okay.

6 THE COURT: All right. Ready to proceed?

7 MS. RICHARDSON: Yes, Your Honor. I'll try to adjust the
8 volume.

9 THE COURT: Again, ladies and gentlemen, welcome back.
10 We're continuing with the publication of State's Fifty. At
11 any time any of you need a recess, please raise your hand and
12 we'll certainly accommodate in that regard. That's you too,
13 Mr. Lawrence.

14 All right. You may continue, Solicitor.

15 CLERK: You want me to get it up here?

16 MS. RICHARDSON: We can try that. Is it -- is it -- Your
17 Honor, is it the volume or the quality?

18 JUROR: It's the quality. Maybe too much base; more
19 treble so we can distinguish the words; maybe I asked too
20 much.

21 THE COURT: What did you say, sir?

22 JURY: It's not ---

23 MS. RICHARDSON: I can try that. Let's see.

24 THE COURT: Solicitor, you and Mr. Edgeworth step up here
25 a moment.

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1 (REPORTER'S NOTE: A bench conference was held off the record
2 in the presence of but out of hearing of the Jury.)

3 THE COURT: All right. Thank you. You may continue
4 publishing State's Fifty.

5 *****OFF THE RECORD*****

6 (REPORTER'S NOTE: Continued playing of State's Exhibit Fifty
7 in the presence of the Jury.)

8 (On the Record.)

9 THE COURT: All right. Solicitor, do you have any
10 further questions for Mr. Lawrence?

11 MS. RICHARDSON: Just one or two follow up.

12 THE COURT: All right.

13 CONTINUATION OF DIRECT EXAMINATION OF ANTHONY LAWRENCE BY MS.

14 RICHARDSON:

15 Q: Mr. Lawrence, how do you get to live in Thornton Hall?

16 A: Say that one more time?

17 Q: Thornton Hall, how do you get to live in there; do you
18 have to make an application?

19 A: Yes, ma'am.

20 Q: And do you know how -- how did you qualify for that?

21 A: I'm on disability. I was in a motorcycle accident in
22 '07.

23 Q: Okay. And so you qualified because you're on disability?

24 A: Yes, ma'am.

25 Q: Okay. I have no further questions. Answer any questions

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1 that Mr. Edgeworth may have for you.

2 THE COURT: Thank you, Solicitor. Mr. Edgeworth.

3 MR. EDGEWORTH: Yes, thank you, Your Honor.

4 CROSS EXAMINATION OF ANTHONY LAWRENCE BY MR. EDGEWORTH:

5 Q: Mr. Lawrence, thank you for indulging us with that video.

6 Were you paying attention to the video while it was playing?

7 A: I tried, well, yes, sir.

8 Q: It was quite long, wasn't it?

9 A: Yeah.

10 Q: During that video, is it fair to say that the
11 investigators talked just as much if not more than you did?

12 A: Yeah.

13 Q: Did you feel like they were trying to lead you down a
14 road you didn't want to go?

15 A: Yeah. Yeah.

16 Q: Did you feel like they were putting words in your mouth?

17 A: Yeah.

18 THE COURT: Speak up a little for me, Mr. Lawrence.

19 Thank you.

20 BY MR. EDGEWORTH:

21 Q: In fact at one point in time, didn't you ask them that
22 you were done with this, to stop you wanted to be done?

23 A: Yeah, they wasn't trying to hear that, so ---

24 Q: Right. So, you just stayed there and you felt like you
25 needed to stay there?

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1 A: Yeah.

2 Q: Okay. On, on -- when you were listening to it, did you
3 notice that there were about three or four different time
4 tables they were talking about?

5 A: Yes, sir.

6 Q: Okay. And is it fair to say that you gave them about
7 three different times when you thought that Mr. Fraser, Mr.
8 Rivera and Mr. Thomas came to your house?

9 A: I guess. I mean, but I was still in the range of 12:00
10 and 12:30.

11 Q: Right. Okay. And you're talking about on one of the
12 occasions?

13 A: Say that one more time?

14 Q: Well, you testified, I believe, or at least the video
15 showed that you were talking about they came to your house on
16 multiple occasions; is that correct?

17 A: Yes, sir, that night, yes, sir.

18 Q: Okay. And -- and you were aware that, that Mr. Thomas
19 had sexual relations with Jasmine?

20 A: From what he said, yes, sir.

21 Q: Okay. And, and you were -- you were aware that Mr.
22 Fraser attempted to have sexual relations with Ms. -- with
23 Jasmine?

24 A: Yes, sir.

25 Q: Okay. And you -- they were trying to talk to you about

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1 her. Do you recall whether Mr. Fraser was upset about the
2 fact that he wasn't able to have sex with her?

3 A: I mean, he was, but I mean it wasn't like -- I mean it --
4 he was -- he was, I'm gonna say he was, yes, sir.

5 Q: Okay. And -- and when, when the -- when the three went
6 outside and you went to bed, did you go into your room right
7 away?

8 A: Yes, sir.

9 Q: Okay. And you said, I think your testimony was or,
10 excuse me, through the video anyways, said they stood outside
11 -- after Mr. Thomas had sex with Ms. Williams, y'all continued
12 to talk for approximately thirty minutes in the, in the living
13 room before they left; is that right?

14 A: Yes, sir.

15 Q: Okay. And then they went outside and you closed the door
16 behind them?

17 A: Yes, sir.

18 Q: And then you think they were out there talking for about
19 five minutes?

20 A: Yes, sir.

21 Q: Okay. At that point, did you see where they went?

22 A: No, sir.

23 Q: Did you see if they left together?

24 A: No, sir.

25 Q: Okay. So, it's possible then that they went three

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1 separate ways or two went with one and one went the other?

2 A: Yes, sir.

3 Q: Okay. Because you don't know, right?

4 A: No, sir.

5 Q: And you didn't hear any gunshots, correct?

6 A: No, sir.

7 Q: Okay. No further questions.

8 THE COURT: Redirect, Solicitor?

9 REDIRECT EXAMINATION OF ANTHONY LAWRENCE BY MS. RICHARDSON:

10 Q: That was the only night that all three of them were at
11 your house together?

12 A: Yes, ma'am.

13 Q: And there's no question that they came at some point and
14 left and then came back again?

15 A: Yes, ma'am.

16 Q: And when they walked out that last time, all three of
17 them walked out together out of your door?

18 A: Yes, ma'am.

19 Q: No further questions.

20 BY THE COURT:

21 THE COURT: Recross, Mr. Edgeworth?

22 MR. EDGEWORTH: None, Your Honor. Thank you very much.

23 THE COURT: Thank you. Any objection, Solicitor, to Mr.
24 Lawrence being released from his subpoena?

25 MS. RICHARDSON: No, Your Honor.

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1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: None from the Defense.

3 THE COURT: Thank you. Thank you very much, Mr.
4 Lawrence. You may step down and you are free to go.

5 A: I appreciate it.

6 THE COURT: Thank you. I appreciate it, too.

7 All right. Perhaps now would be a good time to take our
8 evening recess. Ladies and gentlemen, please remember my
9 instructions to you. Do not discuss this case with anyone,
10 family members, fellow jurors or anyone else. Do not read,
11 watch or listen to news -- any news accounts about the case,
12 should there be any. Do not do any independent investigation
13 or any investigation on the internet. Remember to keep an
14 open mind. Do not begin your deliberations until you've heard
15 all the evidence, all the testimony, closing arguments by the
16 attorneys, instructions by the Court and then directed by the
17 Court to begin your deliberations with your fellow jurors in
18 your jury room.

19 With that being said, I would ask you to please be back
20 promptly at 9:30 in the morning; if you'd please be back
21 promptly at 9:30 in the morning. Thank you very much for your
22 patience and attention you've shown all the parties throughout
23 the course of this trial. Thank you very much. You are now
24 excused. You may go with your Bailiff.

25 (REPORTER'S NOTE: Jury exits courtroom. 5:37 P.M. The

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1 following takes place outside the presence of the Jury.)

2 THE COURT: Anything further from the State?

3 MS. RICHARDSON: No, Your Honor. I think that's about
4 enough for the day.

5 THE COURT: Well, we can take up the lyrics.

6 MS. RICHARDSON: In the morning?

7 THE COURT: When you gonna call our witness?

8 MS. RICHARDSON: That witness, I'll wait for you. I've
9 got another -- I've got some other witnesses that'll go first
10 in the morning. I can wait for that officer.

11 THE COURT: Anything further from the Defense, Mr.
12 Edgeworth?

13 MR. EDGEWORTH: Nothing, Your Honor.

14 THE COURT: All right. Court will be in recess until
15 9:30. Thank you very much.

16 MR. EDGEWORTH: Thank you, Your Honor.

17 MS. RICHARDSON: Thank you, Your Honor.

18 (RECESS - 5:39 P.M.)

19 *****OFF THE RECORD*****

20 END OF DAY TWO.

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22

23

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25

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1 **OCTOBER 28, 2015 - DAY THREE**

2 **(On the record - 9:40 A.M.)**

3 (REPORTER'S NOTE: The following takes place outside the
4 presence of the Jury.)

5 THE COURT: Anything from the State, Solicitor?

6 MS. RICHARDSON: Your Honor, Judge King down in
7 Williamsburg had asked that we handle Shakeem Devins as a
8 witness because Mr. Charles Barr is his attorney and they have
9 a trial this afternoon. He was to be transported at 8 o'clock
10 this morning. There was an accident and he's coming from
11 Francis Marion.

12 THE COURT: I'm sorry, could you repeat that?

13 MS. RICHARDSON: He's coming from Charleston County and
14 he's being transported from that detention center. Our last
15 communications was he was about twenty minutes out. We do
16 have another witness that we can start with but I think she
17 got held up downstairs. She is on her way up. Okay. So, if
18 we -- just because we've changed the order so significantly
19 this morning I just need a few minutes and we should be able
20 to start very soon.

21 THE COURT: All right. Anything additional from the
22 State before we bring in our Jury? Do you have a witness here
23 you're gonna call?

24 MS. RICHARDSON: I am, but I just -- we're having to kind
25 of get him here a little earlier than we thought.

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1 THE COURT: Okay.

2 MS. RICHARDSON: So I just need a few minutes. She's on
3 her way up.

4 THE COURT: Okay. All right. That's fine.

5 MS. RICHARDSON: So just a few more minutes.

6 THE COURT: Any other matters we need to take up,
7 Solicitor?

8 MS. RICHARDSON: I don't -- I don't think so, Your Honor.
9 Oh, yes, there is one matter, I'm sorry. Mr. Rivera, there
10 was an officer involved in this case that was formally with
11 Georgetown Police Department, Aaron Lynn. He was disciplined
12 as a result of some lost evidence in this case. I have his
13 personnel file and we had statused this with Judge Culbertson
14 and it has been available in my office for review by all the
15 attorneys involved in the case. Mr. Edgeworth has been and
16 reviewed it. He asked me this morning for a copy of it. Your
17 Honor, I'm just asking for -- and I have provided that, but
18 I'm asking for a protective order that that -- that he keep
19 that and not provide copies to anyone else just because it
20 does contain personnel matters?

21 THE COURT: All right. Mr. Edgeworth?

22 MR. EDGEWORTH: Your Honor, my client has been extremely,
23 I guess, cooperative and involved in his defense and has
24 always requested of me copies of anything and everything
25 related to the case. During the status conference previously

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1 with Judge Culbertson, while there was no specific order, it
2 was essentially agreed upon between the attorneys, the
3 multiple attorneys involved in the case, that the -- so long
4 as the Solicitor provided us access to it. However, given the
5 fact that Investigator Lynn likely is going to testify here
6 soon, I have requested the copy and I know, now that my client
7 is aware that I have physical possession, he is going to want
8 to have possession and review it himself and he's reviewed
9 anything and everything involved.

10 THE COURT: Solicitor?

11 MS. RICHARDSON: Your Honor, the State is requesting a
12 protective order.

13 THE COURT: All right. He can view it with you, Mr.
14 Edgeworth. He cannot have -- he can have physical possession
15 of it in your presence and can review it with you.

16 MR. EDGEWORTH: Yes, Your Honor.

17 THE COURT: When y'all are in the presence of each other.
18 There will be no copies made, but then it can be -- there will
19 be a protective order on that if you would prepare the order,
20 Solicitor ---

21 MS. RICHARDSON: I will.

22 THE COURT: --- and show it to Mr. Edgeworth?

23 MR. EDGEWORTH: Yes, Your Honor, thank you very much.

24 THE COURT: All right. Yes, sir.

25 MS. RICHARDSON: Your Honor, if I can have just a few

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1 moments.

2 (RECESS - 9:43 A.M.)

3 *****OFF THE RECORD*****

4 (On the Record - 9:50 A.M.)

5 THE COURT: Anything from the Defense before we bring in
6 our Jury, Mr. Edgeworth?

7 MR. EDGEWORTH: Nothing from the Defense, Your Honor.

8 THE COURT: As far as the gallery is concerned, if you
9 see any cell phones on any person in the gallery ---

10 DEPUTY: Yes, sir.

11 THE COURT: I want you to see about it, Sheriff?

12 DEPUTY: We'll do it, sir.

13 THE COURT: All right. If your eyes fall on anybody in
14 the gallery beyond the bar that has a cell phone, seize it.

15 DEPUTY: We'll do it. Thank you, Your Honor.

16 (REPORTER'S NOTE: Jury enters courtroom. 9:52 A.M.)

17 THE COURT: Good morning. Welcome back. I hope y'all
18 had a pleasant evening. As you know, we're continuing the
19 trial of the case by the presentation of evidence and
20 testimony by the State in its case in chief. If you would
21 please continue to give the parties your complete and
22 undivided attention as you have done throughout the trial of
23 the case. Again, ladies and gentlemen, any time any of you
24 needs to take a break, just please raise your hands and y'all
25 can take y'all's break and we'll take ours. Thank you. Thank

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MEYON THOMAS - DIRECT BY RICHARDSON

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1 you very much.

2 Solicitor, you may call your next witness.

3 MS. RICHARDSON: The State calls Meyon Thomas.

4 THE COURT: All right. If you'd come around and be sworn
5 for us, please.

6 MEYON THOMAS, HAVING BEEN SWORN

7 TESTIFIES AS FOLLOWS:

8 CLERK: Thank you. Would you please spell your name for
9 the Court?

10 MS. THOMAS: M-E-Y-O-N T-H-O-M-A-S.

11 CLERK: Thank you very much. Please have a seat right
12 around here.

13 THE COURT: All right. Solicitor.

14 DIRECT EXAMINATION OF MEYON THOMAS BY MS. RICHARDSON:

15 Q: Ms. Thomas, do you live in Georgetown?

16 A: Yes, ma'am, I do.

17 Q: And how long have you lived in Georgetown County?

18 A: I'd say twenty-five years or more.

19 Q: And your brother was Alfonso Terrell Thomas?

20 A: Yes, he was.

21 Q: And what did you -- what did you call him; what names did
22 he go by?

23 A: They called him Fonz, Gucci, Terrell, Rell; he had plenty
24 of different nicknames.

25 Q: And you and he, your mother testified, are close in age?

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MEYON THOMAS - DIRECT BY RICHARDSON

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1 A: Yes, Terrell was my only brother.

2 Q: And y'all -- how far apart were you in age?

3 A: Seventeen months.

4 Q: Now August 30th, 2012, that's the day your brother died;
5 is that right?

6 A: Yes, ma'am, it was.

7 Q: And how did you find out about that?

8 A: That morning I got up, got my daughter ready for school
9 and when I went back to lay down, I got a knock at the door
10 and when I opened it, somebody was at the door saying that
11 they found my brother, but I didn't really take heed to it. I
12 was like, how did they find him, was he sleeping. They was
13 like, no, he's gone.

14 Q: And so what did you do at that point?

15 A: I guess what any, what any sister would do, I broke down.
16 I'm used to seeing him every day and he lived with me half the
17 time. I mean he was -- we was that close.

18 Q: When was the last time that you saw your brother alive?

19 A: The night before.

20 Q: And where did you see him?

21 A: He came to my house. When he came in, he said he was
22 coming to see my children because my kids and him were so
23 attached and I told him -- told him they was asleep because
24 they had school the next morning. So, my one year old was up
25 and he sat in the front room and played with him for a little

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1 while. And then he asked for something to eat and I told him
2 he could go fix him something to eat and after that he left.
3 He said if you don't see me again tonight, I'll see you in the
4 morning.

5 Q: And how did he leave? Did he drive, did he have a car?

6 A: I'm not even sure. I'm guessing he walked. I'm not even
7 sure cause it's not like he owned a vehicle, so...

8 Q: At that time, did he own a cell phone?

9 A: No, he did not.

10 Q: And had he -- had he been using a cell phone previously?

11 A: No. If he wanted to use the phone, he would ask me cause
12 he didn't have one at all.

13 Q: And what, what was he wearing?

14 A: He had on an orange shirt. I kinda said it was tie dyed,
15 but an orange Hawaiian shirt, some jeans and his gray and
16 black sneakers, Forces.

17 Q: And the shirt, are you familiar with that shirt?

18 A: Yes, because my aunt bought it.

19 Q: Let me show you what's been marked as State's Exhibit
20 Number Nine for identification. Do you recognize that?

21 A: Yes, I do; that was his shirt.

22 Q: And is that the shirt that you saw on him the night
23 before he died?

24 A: Yes, ma'am, it is.

25 MR. RICHARDSON: Okay. Your Honor, at this time I'd

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MEYON THOMAS - DIRECT BY RICHARDSON

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1 offer State's Exhibit Number Nine into evidence?

2 THE COURT: Mr. Edgeworth?

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: State's Nine is in evidence without
5 objection.

6 STATE'S EXHIBIT NUMBER NINE

7 ADMITTED INTO EVIDENCE

8 BY MS. RICHARDSON:

9 Q: Do you know Anthony Fraser?

10 A: Yes, ma'am, I do.

11 Q: And how long have you known him?

12 A: Most of my childhood. He practically lived at our house
13 for about -- on and off I'd say since he was about ten years
14 old.

15 Q: Okay. Did he have a nickname?

16 A: Recently, just two years ago they call him B.I.

17 Q: And do you know Damonte Rivera?

18 A: Yes, ma'am, I do.

19 Q: Okay. And how do you know him?

20 A: From childhood, projects. Me and my brother knew him and
21 his brothers.

22 Q: And did you know him by a nickname?

23 A: Yes.

24 Q: And what was that?

25 A: It was Hammer.

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1 Q: And after your brother died, did you see either -- either
2 Anthony Fraser or Damonte Rivera?

3 A: I saw both of them.

4 Q: Okay. Tell me where you saw Anthony Fraser?

5 A: Anthony Fraser came to my house and was asking me if I
6 was okay and ---

7 Q: And did you have people -- were people coming to your
8 house to see you?

9 A: Yes, ma'am.

10 Q: Okay. All right. And how many times did he come to your
11 house that week?

12 A: Anthony came on and off maybe three times a day since my
13 brother's murder.

14 Q: And what about Damonte Rivera, did you see him?

15 A: I only saw him twice. He passed by on a bicycle.

16 Q: So what did you do -- what did you do to try to find out
17 what happened to your brother?

18 A: By all means necessary, I did what any -- all sisters
19 probably would have done. I started retracing his steps from
20 the time I saw him at 11:30 that night to where they found him
21 out -- found him at in the path that morning.

22 Q: And you just talked to a variety of people?

23 A: Yes, ma'am. The first person was Anthony Fraser.

24 Q: Okay. And when you found at information, did you report
25 that to law enforcement?

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MEYON THOMAS - DIRECT BY RICHARDSON

1 A: I sure did.

2 Q: And through your discussions, were you able to find out
3 where you thought he had been that night?

4 A: Yes, ma'am.

5 Q: okay. And where did you determine or think that he had
6 been?

7 A: To Anthony Lawrence house in Thornton Hall.

8 Q: Okay. And once you had that information, what did you do
9 with it?

10 A: I went and go visited Anthony Lawrence.

11 Q: And did anybody go with you?

12 A: Anthony Fraser.

13 Q: And did you find out who he had been with that night?

14 A: Yes, ma'am, I have.

15 Q: Okay. And who did you, through your investigation,
16 determine he was with?

17 A: Anthony Fraser and Damonte Rivera.

18 Q: And were you surprised by the source of that information
19 or who you learned it from?

20 A: Yes, ma'am, I was because Anthony Fraser has been a
21 friend of the family for a long time, but as far as Damonte
22 Rivera, he -- I never even saw my brother hang out with him.
23 So, it was shocking to know that he had been with my brother
24 that night.

25 Q: But Anthony Fraser had been to your house several days?

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MEYON THOMAS - DIRECT BY RICHARDSON

1 A: Yes, ma'am, I'm talking about before and afterwards.

2 Q: Okay. And you didn't find out that your brother had been
3 with him until you to Anthony Lawrence's house?

4 A: Correct.

5 Q: And how did you feel about that?

6 A: I was confused, I was lost because you are able to take
7 me to this guy house and for the guy come out and say you have
8 been with my brother the night before, I'm wondering to myself
9 why wasn't you the one to tell me. I thought we was close
10 enough. We practically called Anthony Fraser our brother.

11 Q: And this was a few days after your brother's death that
12 you learned this?

13 A: Yes, ma'am.

14 Q: And did you go visit the scene of your brother's death?

15 A: I sure have.

16 Q: Did anybody go with you out there?

17 A: Yes, ma'am.

18 Q: And who was that?

19 A: It was Anthony Fraser, Jasmine Green and my cousin, Keone
20 Thomas.

21 Q: And that was the same week?

22 A: Yes, ma'am, this was right after I visited Anthony
23 Lawrence.

24 Q: And the path that he was found on, was there anything
25 significant about that path to your family?

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MEYON THOMAS - DIRECT BY RICHARDSON

1 A: Yes, ma'am, it has been. When my brother was a teenager,
2 I'll say about fifteen years old, he used to go through that
3 path all the time because we had a cousin that lived right
4 there. When he was fifteen years old, he got robbed in that
5 path. So his biggest fear is to ever go through especially at
6 nighttime unless he's going with somebody he knows.

7 Q: So given that, you felt like he was with someone?

8 A: Yes, ma'am, especially somebody he knows because if not,
9 he would take the long way around. He doesn't matter -- it
10 doesn't matter how long it takes, but he would never go
11 through that path after what he experienced as a teenager.

12 Q: And do you -- when you were growing up, you were actually
13 neighbors with Anthony Fraser?

14 A: Yes, ma'am, he lived right down the street.

15 Q: And you both were on Palm Avenue or Palm Alley?

16 A: Yes, ma'am.

17 Q: And how did you feel about Anthony Fraser's presence at
18 your house those few days after your brother's death?

19 A: At first before I learned that, he just sat around and it
20 was kinda odd that he really was sitting around with my
21 company and wouldn't say nothing and then just leave. He
22 would be in and out and then once I learned after Anthony
23 Lawrence, I still would see Anthony Fraser afterwards and I
24 kinda got scared because at that point, if you're not telling
25 me you was the last person to see my brother that night, I

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MEYON THOMAS - CROSS BY EDGEWORTH

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1 don't know what you're capable of and who you are.

2 Q: And how did you feel about seeing Damonte Rivera?

3 A: I wasn't necessarily sure about it. It just, that next
4 morning when I found out about my brother, he just happened to
5 pass by. I really didn't know too much about him.

6 Q: All right. I have no further questions for you. Answer
7 any questions that Mr. Edgeworth has.

8 THE COURT: Thank you, Solicitor.

9 Mr. Edgeworth?

10 MR. EDGEWORTH: Thank you, Your Honor.

11 CROSS EXAMINATION OF MEYON SHANDAIL THOMAS BY MR. EDGEWORTH:

12 Q: Good morning.

13 A: Good morning.

14 Q: Is it fair to say and I think you actually said it that
15 Mr. Fraser and your brother were very tight?

16 A: Yes, sir.

17 Q: They were really good friends?

18 A: Yes, sir.

19 Q: And if -- if he were walking on the path as you stated
20 where he wouldn't go there alone, would you -- would you think
21 it would be Mr. Fraser that went with him?

22 A: I'm not sure.

23 Q: You are aware that Mr. Fraser has pled guilty to the
24 murder of your brother, correct?

25 A: Correct.

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MEYON THOMAS - CROSS BY EDGEWORTH

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- 1 Q: So, it's likely he was with him?
- 2 A: Most likely he could be.
- 3 Q: Could be?
- 4 A: Most likely.
- 5 Q: Okay. And so when we're talking about your -- your
- 6 seeing Mr. Rivera, I think you stated it was the next day; is
- 7 that correct?
- 8 A: Morning, afternoon.
- 9 Q: He was on his bike?
- 10 A: Yes, ma'am, I mean, yes, sir.
- 11 Q: That's okay. And he didn't come and talk to you, right.
- 12 A: No, he hadn't.
- 13 Q: But Mr. Fraser came and talked to you numerous times; is
- 14 that right?
- 15 A: Yes.
- 16 Q: And he never mentioned anything about your, your
- 17 brother's passing other than to say how are you doing?
- 18 A: Correct.
- 19 Q: In hindsight, isn't that a little bit of odd behavior?
- 20 A: Right, correct.
- 21 Q: So, if Mr. Fraser came and talked to you knowing that he
- 22 had committed the murder and Mr. Rivera rode by your house and
- 23 didn't come talk to you at all, wouldn't it be fair to say
- 24 that he didn't even know about the murder?
- 25 MS. RICHARDSON: Your Honor, I -- I object to that

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1 speculation?

2 THE COURT: I will sustain the objection.

3 MR. EDGEWORTH: Thank you, Your Honor. No further
4 questions.

5 THE COURT: Thank you, Mr. Edgeworth.

6 Redirect, Solicitor?

7 MS. RICHARDSON: No, Your Honor.

8 THE COURT: Thank you, Ms. Thomas.

9 MS. RICHARDSON: Your Honor, if we could have a break at
10 this moment, the next witness is delayed in traffic.

11 BY THE COURT:

12 THE COURT: One of our witnesses this morning has been
13 delayed because of a traffic accident. That's why we were a
14 little late in calling you up from the jury room. He should
15 be here momentarily. Twenty minutes ago they said he fifteen
16 minutes -- he's in traffic. So, we'll take -- we'll take a
17 brief recess. Do not discuss the case during this recess.
18 Thank you. Thank you very much. You may go to your jury
19 room.

20 (REPORTER'S NOTE: Jury exits courtroom. 10:08 A.M.)

21 THE COURT: All right. Court is not in recess. You may
22 have a seat. For those of you who came in late, I announced
23 to the Court that as far as individuals in the gallery, if me
24 or one of the Sheriffs see a cell phone being possessed by any
25 individual in the gallery, it will be seized by the Sheriff's

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1 Department and I'll take that up at a later time. So, if you
2 have your cell phone, it needs to be off, it needs to be in
3 your pocket. If they see a cell phone it will be seized by
4 the Sheriff. That's for everyone that's beyond the bar on
5 both sides of the gallery.

6 Anything we need to take up now, Solicitor, as we wait
7 for our witness?

8 MS. RICHARDSON: No, Your Honor, I believe he's here and
9 I just need a few minutes to get him situated and then we'll
10 be able to start.

11 THE COURT: All right. Thank you. Just let me know when
12 y'all are ready.

13 MS. RICHARDSON: Okay. Thank you, Your Honor.

14 (RECESS - 10:10 A.M.)

15 *****OFF THE RECORD*****

16 (On the Record - 10:38 A.M.)

17 THE COURT: Thank you. Please be seated. Thank you.
18 Thank you very much.

19 All right. Anything from the State before we bring in
20 our Jury, Solicitor?

21 MS. RICHARDSON: No, Your Honor.

22 THE COURT: From the Defense, Mr. Edgeworth?

23 MR. EDGEWORTH: Nothing, Your Honor.

24 THE COURT: Again those of you in the gallery, I do not
25 allow cell phones. If you have your cell phone, it must

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1 remain in your pocket, it must be off. I have advised the
2 Sheriff's deputies if their eyes fall upon a cell phone out in
3 the gallery, please seize that and we can thereafter have a
4 contempt hearing in that regard. If anyone can't follow that
5 rule, you can certainly and should certainly leave at this
6 time.

7 (REPORTER'S NOTE: Jury enters courtroom. 10:40 A.M.)

8 THE COURT: All right. Welcome back, ladies and
9 gentlemen. I would like to share with you just a couple of
10 very brief comments. The attorneys were not on time this
11 morning; they were early. They were here early and they
12 worked very diligently and very hard to continue to try the
13 case before you, the trial jury and me, the Trial Judge.

14 Also, my Law Clerk and I, when we see -- we got here a
15 little bit early and Mr. Roy was kind enough to ask us and
16 guide us on a tour of your temporary home. I, of course, have
17 never been in a jury room except to tour one and it's very,
18 very nice pleasant quarters. Y'all have a wonderful facility
19 here in Georgetown County. I'm sure the walls may be getting
20 a closer in on you, but we certainly enjoyed that tour and
21 thank Mr. Roy for doing it for us.

22 Is Mr. Smalls in the courtroom with us today?

23 BAILIFF: He's in the back.

24 MR. SMALLS: Yes, Your Honor.

25 THE COURT: All right. We have a rookie.

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1 MR. SMALLS: Yes, sir.

2 THE COURT: All right. Our new -- our new rookie, Mr.

3 Smalls and of course, our young lady to our left.

4 All right. With that being said, Solicitor, you may call
5 your next witness.

6 MS. RICHARDSON: The State calls Shakeem Geathers.

7 THE COURT: All right. All right. If you'd come around
8 to my front left and be sworn for us please.

9 SHAKEEM GEATHERS, HAVING BEEN SWORN

10 TESTIFIES AS FOLLOWS:

11 CLERK: Thank you. Would you please spell your name for
12 the Court Reporter?

13 MR. GEATHERS: S-H-A-K-E-E-M G-E-A-T-H-E-R-S.

14 CLERK: Thank you, Mr. Geathers.

15 THE COURT: Good morning, Mr. Geathers. Make sure you
16 speak up for us so everyone on the jury panel can be able to
17 hear you, okay?

18 MR. GEATHERS: Yes, sir.

19 THE COURT: All right. Thank you.

20 Solicitor.

21 DIRECT EXAMINATION OF SHAKEEM GEATHERS BY MS. RICHARDSON:

22 Q: Mr. Geathers, how old are you?

23 A: Twenty-one.

24 Q: And where are you from?

25 A: McClellanville, South Carolina.

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1 Q: And where did you go to high school?

2 A: I went to Georgetown for two years then I went to Lincoln
3 for my last two years.

4 Q: And do you -- do you have a nickname that people call you
5 sometimes?

6 A: Keem.

7 Q: That's just a variation of your first name?

8 A: Yes, ma'am.

9 Q: Do you know Anthony Fraser?

10 A: Yes, ma'am.

11 Q: And how do you know him?

12 A: Through my younger home boys.

13 Q: Okay. And tell me -- and by home boys, you mean friends?

14 A: Yes, ma'am.

15 Q: And tell me who they are?

16 A: Shaheem, Bart.

17 Q: And Shaheem's last name?

18 A: Gardner.

19 Q: And does he have a nickname?

20 A: Sha.

21 Q: Okay. And is he actually from McClellanville or Santee?

22 A: Yes, ma'am.

23 Q: And that's over in Charleston County?

24 A: Yes, ma'am.

25 Q: Okay. And are you related to him?

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1 A: No, ma'am, not that I know of.

2 Q: Okay. And Bart, what's his real name?

3 A: Joshua.

4 Q: And what's his last name?

5 A: Taylor.

6 Q: And Bart's a nickname?

7 A: Yes, ma'am.

8 Q: And are you related to him?

9 A: Yes, ma'am.

10 Q: And what's your relation to him?

11 A: His momma and my momma like second, first cousins or

12 something like that.

13 Q: Okay. So, y'all are cousins?

14 A: Yes, ma'am.

15 Q: And do you know -- and those -- and that's how you know

16 Anthony Fraser ---

17 A: Yes, ma'am.

18 Q: --- is through them. Okay. And does -- do you know

19 Anthony Fraser's nickname?

20 A: B.I.

21 Q: And what about the Defendant, Damonte Rivera, do you know

22 him?

23 A: The same way I know Anthony.

24 Q: Okay. Through Bart or Joshua Taylor and Sha, Shaheem

25 Gardner?

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1 A: Yes, ma'am.

2 Q: And both of them are from the Santee or McClellanville
3 area?

4 A: Yes, ma'am.

5 Q: Okay. And growing up there, did, did people from there
6 usually come into Georgetown to do business and that sort of
7 thing?

8 A: Yes, ma'am.

9 Q: You're kind of out in the middle of nowhere between
10 Georgetown and Charleston?

11 A: Yes, ma'am.

12 Q: Okay. What about Jasen Wade; do you know him?

13 A: Yes, ma'am.

14 Q: And how do you know Jasen?

15 A: My grandma and his granddaddy grew up in the same house.

16 Q: Okay. So, y'all are cousins?

17 A: Yes, ma'am.

18 Q: And does he have a nickname?

19 A: Dro.

20 Q: And of these people, who are -- who are you the closest
21 to?

22 A: I say I -- I shared the same relationship with all of
23 them. I'm not really closer to one of them than the next.

24 Q: Okay. And did you know Alfonso Terrell Thomas?

25 A: I didn't know him at first.

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- 1 Q: Okay. When did you meet him?
- 2 A: Like a couple of days before the incident.
- 3 Q: Before the incident, do you mean his murder?
- 4 A: Yes, ma'am.
- 5 Q: Okay. And did he have a nickname?
- 6 A: Gucci.
- 7 Q: Gucci? Do -- at this time, did you have a car?
- 8 A: Yes, ma'am.
- 9 Q: Okay. And what kind of car did you have?
- 10 A: A '99 Honda Accord.
- 11 Q: And what color was it?
- 12 A: Purple.
- 13 Q: Okay. And did you have a job?
- 14 A: Yes, ma'am.
- 15 Q: And where were you working?
- 16 A: At Taco Bell in Mt. Pleasant.
- 17 Q: And do you remember August 29, August 30th of 2012?
- 18 A: Yes, ma'am.
- 19 Q: And can you tell me where you were on the night of August
- 20 29th, which was a Wednesday night?
- 21 A: In Maryville at Charlene's house.
- 22 Q: Okay. And when we talk about Maryville, that's just over
- 23 the bridge ---
- 24 A: Yes, ma'am.
- 25 Q: --- headed towards Charleston?

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- 1 A: Yes, ma'am.
- 2 Q: Okay. And Shaheem was living over there?
- 3 A: Yes, ma'am.
- 4 Q: Okay. And what was the name of the place he was living;
5 do you remember?
- 6 A: I don't know the name of the place.
- 7 Q: Okay. Is it apartments or a house?
- 8 A: Apartments.
- 9 Q: Okay. And near the water over there?
- 10 A: Yes, ma'am.
- 11 Q: Okay. And who was with you at Shaheem's house?
- 12 A: Me and Jasen.
- 13 Q: Okay. And was Shaheem there?
- 14 A: No, ma'am.
- 15 Q: Where was he?
- 16 A: At the Detention Center.
- 17 Q: Okay. So you were -- did y'all often go over there with
18 him? He lived with his family?
- 19 A: Yes, ma'am.
- 20 Q: His mother?
- 21 A: His mother and his brothers.
- 22 Q: Okay. So, did anybody else come over while you were
23 there?
- 24 A: Yes, ma'am.
- 25 Q: Okay. Tell -- just tell me what happened?

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1 A: That night, I think he went -- he got locked up earlier
2 that day and Damonte and Anthony and Gucci came over there and
3 we wanted to find a way to get Shaheem out of jail. So, we
4 was plotting around looking for things to do, like steal dirt
5 bikes or steal four wheelers or something and we just decided
6 to go to Walter's house.

7 Q: Okay. Where were you riding around looking for things to
8 steal?

9 A: Maryville.

10 Q: And what were y'all looking for?

11 A: Four wheelers, dirt bikes, thinks like that.

12 Q: Did you find any?

13 A: No, ma'am.

14 Q: So, at that point, what did you -- what was decided?

15 A: That we was gonna go to Walter's house because he had
16 some money or some weed.

17 Q: Okay. And do you know who Walter is?

18 A: No, ma'am.

19 Q: All right. So, who was driving?

20 A: Me.

21 Q: Okay. And who all was with you?

22 A: Me, Jasen, Anthony, Damonte and Gucci.

23 Q: Okay. And how did you get -- how did you know how to get
24 to Walter's house?

25 A: By Anthony and Damonte telling me where to go.

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1 Q: Okay. And they directed you to where the house was?

2 A: Yes, ma'am.

3 Q: And do you remember where it was or what it was near?

4 A: Yes, ma'am, near Howard's Basketball Center.

5 Q: It is near what?

6 A: Howard's Basketball Center.

7 Q: Howard Gym over there?

8 A: (Indicates affirmatively.)

9 Q: And is that kind of near the paper mill?

10 A: Yes, ma'am.

11 Q: And was this during the day time or at night time?

12 A: Nighttime.

13 Q: Okay. And do you know about time of night it was?

14 A: I don't know what time it was but it was kinda late.

15 Q: Okay. So, why were they going to Walter's house?

16 A: They figured he had ---

17 MR. EDGEWORTH: Objection, calls for speculation.

18 THE COURT: Overruled.

19 A: They figure that he had some money or some weed that we
20 could sell to help get Shaheem out of jail.

21 Q: Okay. And when you got to that area, who told you where
22 to go?

23 A: I don't remember.

24 Q: But you didn't know where it was on your own?

25 A: (Indicates negatively.)

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1 THE COURT: He ---

2 Q: You need to answer out loud.

3 A: I don't remember.

4 Q: Okay. Where did you park? Did you go up to the door?
5 Where did you take your car?

6 A: I parked -- at first I had parked at Howard Gym. Then
7 they told me -- Jasen told me that it was too hot to park at
8 the gym because anybody could ride by and the gym was closed
9 so nobody really supposed to be there, so I just have park by
10 the ice cream trucks in the grass.

11 MS. RICHARDSON: So but -- when you parked at Howard's
12 Gym, did everybody state in the car?

13 A: Only me and Jasen.

14 Q: Where did the other ones go?

15 A: They went behind the ice cream truck and I don't know
16 which house they went to but I just know they went behind the
17 ice cream truck, one the houses behind that.

18 Q: And what were you supposed to do?

19 A: Just stay in the car.

20 Q: Okay. And so Jasen told you he thought it would be hot
21 to stay at Howard's Gym?

22 A: (Indicates affirmatively.)

23 Q: And that means that you were worried that the police
24 would come by?

25 A: That's what I'm ---

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1 MR. EDGEWORTH: Objection, leading.

2 MS. RICHARDSON: I can rephrase.

3 BY MS. RICHARDSON:

4 Q: And when -- so you pulled off and went across the street?

5 A: Yes, ma'am.

6 Q: Okay. Or a little bit down the street?

7 A: Right across the street.

8 Q: And how, how long were they gone?

9 A: Seven, eight minutes at the most.

10 Q: And did you do anything, you or Jasen, while you were
11 waiting?

12 A: All we did was call on Anthony's phone to see what was
13 taking so long.

14 Q: Okay. You thought they were taking too long?

15 A: (Indicates affirmatively.)

16 Q: And so you started calling the phone?

17 A: Yes, ma'am.

18 Q: Just once or twice or how many?

19 A: Multiple times.

20 Q: And so then what did you do when they didn't come back?

21 A: I was like at the corner where the stop sign at and I
22 looked in the rear view mirror and I saw three of them in the
23 rear view mirror so I backed up and let them in the car.

24 Q: You were about to leave them?

25 A: Yes, ma'am.

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1 Q: Okay. And how were they dressed?

2 A: Shirts over their face, same way they went but shirt over
3 their face.

4 Q: Okay. Their shirts were over their face?

5 A: Covering their face, yes, ma'am.

6 Q: Okay. So did they -- so what about their body; was their
7 shirt on their body too?

8 A: Yeah, undershirts on but the shirt that they had over
9 their undershirt, that was on they face.

10 Q: Okay. And how -- were there any weapons or anything?

11 A: I didn't see any.

12 Q: Okay. You didn't see any?

13 A: No, ma'am.

14 Q: Okay. And who -- so again, just tell me the names of the
15 three who went?

16 A: In the house?

17 Q: Yeah?

18 A: Damonte, Anthony and Alfonso.

19 Q: Okay. And those are the same three that you picked back
20 up?

21 A: Yes, ma'am.

22 Q: Okay. And when you picked them back up, what was said?

23 A: They got back in the car. At first they was quiet.

24 THE COURT: Excuse me.

25 MR. EDGEWORTH: Objection; hearsay.

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1 THE COURT: Overruled.

2 MR. EDGEWORTH: At first it was quiet and then like I
3 started hearing people sucking their teeth -- one of them
4 sucking their teeth in the back and ---

5 Q: What does sucking your teeth mean to you?

6 A: Like (indicating). Like that.

7 Q: Okay. All right.

8 A: And one of them told Alfonso that he was stupid or
9 whatever and he should shoot the little girl so Walter would
10 give up the money or the weed and it just got quiet all of a
11 sudden.

12 Q: And what was their demeanor or attitude when they were
13 saying this?

14 A: Aggressive.

15 Q: And how many people were saying that; were you -- were
16 you and Jasen participating in that conversation?

17 A: (Indicating negatively.)

18 Q: Okay. So, who was participating in that conversation?

19 A: It was really Anthony at first, Damonte was quiet and --
20 and Anthony was just telling him he was stupid, he didn't
21 shoot the little girl.

22 Q: And then did Damonte ever say anything?

23 A: No, ma'am.

24 Q: And they were all angry in the car?

25 A: Yes, ma'am.

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1 Q: And did you -- how did you drive away from there? Did
2 you drive fast or slow ---

3 A: Normal speed.

4 Q: Okay. And did anybody give you any instructions about
5 how to drive?

6 A: No, ma'am.

7 Q: And did you stop at all the stop signs or anybody have a
8 problem with that?

9 A: (Indicates negatively.)

10 Q: Okay. So, when you left there, did they say -- did
11 anybody say anything about what they got? Did y'all get the
12 bond money?

13 A: Me -- me and Jasen asked them what they got -- like we
14 gave them a couple of cell phones and like a quarter bag or
15 several grams of reefer.

16 Q: Okay. Marijuana?

17 A: Yes, ma'am.

18 Q: And is that what -- what you expected to get?

19 A: No, ma'am.

20 Q: Is that what any of you had expected to get?

21 A: No, ma'am.

22 Q: And were there any discussions about that?

23 A: Not really, no, ma'am.

24 Q: And when you left there, where did you go?

25 A: I dropped them off at right there by the housing projects

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1 by the Landing.

2 Q: By Georgetown Landing and the Housing Authority?

3 A: Yes, ma'am.

4 Q: Okay. And do you know -- remember the name of that
5 complex or what people called it?

6 A: No, ma'am.

7 Q: Do you remember about old age or an old folks place or
8 anything like that?

9 A: I think that was the place.

10 Q: Okay. And do you know whose house you were dropping them
11 off at?

12 A: No, ma'am.

13 Q: Okay. And who did you drop off there?

14 A: Anthony, Damonte and Alfonso.

15 Q: And do you know about what time that was?

16 A: No, ma'am. I don't know. It was late though.

17 Q: And did you see them again before the sun came up?

18 A: No, ma'am.

19 Q: And how did Anthony, Damonte and Alfonso get to Shaheem's
20 house?

21 MR. EDGEWORTH: Objection, calls for speculation.

22 THE COURT: He can answer the question. I'm not sure it
23 does. Rephrase the question, Solicitor.

24 BY MS. RICHARDSON:

25 Q: Did you see how they got -- did you assist them in

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- 1 getting to Shaheem's house that night?
- 2 A: No, ma'am.
- 3 Q: And did you see how they came?
- 4 A: No, ma'am.
- 5 Q: But it's pretty far from -- to walk from the City of
- 6 Georgetown?
- 7 A: Yes, ma'am.
- 8 Q: And you had a cell phone that you were using?
- 9 A: Yes, ma'am.
- 10 Q: Okay. Did anybody else have cell phones prior to the
- 11 robbery? You were calling -- who was your contact person
- 12 through the robbery?
- 13 A: Anthony.
- 14 Q: Anthony. And did Jasen have a cell phone?
- 15 A: No, ma'am.
- 16 Q: And your cell phone, was that in your name or somebody in
- 17 the families' name?
- 18 A: I think it was in my dad's name.
- 19 Q: And what's your dad's name?
- 20 A: Isaiah Geathers.
- 21 Q: And I know this has been a couple of years ago, but do
- 22 you remember your number?
- 23 A: No, ma'am.
- 24 Q: But it was registered to your father?
- 25 A: Yes, ma'am.

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1 Q: Okay. So what did you and Jasen do after you dropped
2 those three off?

3 A: We went back to Shaheem's house.

4 Q: And did you go anywhere else?

5 A: No, ma'am.

6 Q: And when did you find out about Alfonso from Gucci?

7 A: The next morning.

8 Q: And you found out that he had died?

9 A: Found out that -- Shaheem's mom, she said that someone
10 was found in the -- in the path right by old Beck and at first
11 I didn't know who it was because I really didn't know his
12 name. I didn't know his name at first but then Jasen told me
13 who it was.

14 Q: Okay. And when you say the old Beck, you mean the old
15 Beck school building?

16 A: Yes, ma'am.

17 Q: Okay. And is that near Thornton Hall or the apartments
18 that you dropped them off at?

19 A: Yes, ma'am.

20 Q: And were you familiar with that path?

21 A: A little bit, yes, ma'am.

22 Q: Did -- when was the next time that you saw, if you did,
23 Damonte Rivera or Anthony Fraser?

24 A: The next day, the next morning.

25 Q: Okay. And where did you see them?

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1 A: At the park right there by, across from the police
2 station, the City Police Station.

3 Q: Okay. And whose house is that near?

4 A: Damonte's.

5 Q: And who -- who was at the park?

6 A: Damonte was at the park by himself.

7 Q: And did you talk to him?

8 A: Yes, ma'am.

9 Q: And what did y'all talk about?

10 A: At first I didn't talk to them because I was in the car
11 at first when I pulled up and Jasen got out the car and talked
12 to him, but then I had got out the car a couple of minutes
13 after Jasen had got out and Jasen told me to go pick up
14 Anthony.

15 Q: And so did you end up talking with him and Anthony?

16 A: Yes, ma'am, after I picked up Anthony.

17 Q: All right. And what did you and Damonte talk about?

18 A: They wasn't really talking to me. I was just like right
19 there just in their presence listening. It was like we asked
20 them what happened and they like didn't want to say nothing at
21 first and the next thing you know, like, Jasen kept just
22 asking them what happened, like what happened, and Damonte
23 just was like, he had to go.

24 Q: And who was he?

25 A: Alfonso.

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1 Q: He had to go. And what else?

2 A: He was -- he was like, he had to go because he probably
3 would have end up telling the police what happened and
4 everybody would went down.

5 Q: Okay. And how did that make you feel?

6 A: Scared at first.

7 Q: And after you left, did you have any more contact with
8 them?

9 A: I still had Anthony's number.

10 Q: Okay. And the police ended up calling you?

11 A: Yes, ma'am.

12 Q: They called your cell phone?

13 A: Yes, ma'am.

14 Q: And you came in to meet with them and you met with them a
15 couple of times or a few times?

16 A: Yes, ma'am.

17 Q: And did anybody talk with you or say anything to you
18 about talking to the police?

19 A: Everybody was telling me not to talk to them.

20 Q: And did -- did Damonte Rivera or Anthony Fraser try to
21 contact you?

22 A: Yes, ma'am.

23 Q: Okay. And how did Damonte try to contact you?

24 A: From the County Jail.

25 Q: And was that calls or letters or ---

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1 A: Calls, phone calls.

2 Q: And you -- you ended up being charged in this, too?

3 A: Yes, ma'am.

4 Q: And you gave statements to the police regarding your
5 involvement ---

6 A: Yes, ma'am.

7 Q: --- in the case. But you were not charged in the murder,
8 that's right?

9 A: Yes, ma'am.

10 Q: All right. I have no further questions. Answer any
11 questions that Mr. Edgeworth may have for you.

12 A: Yes, ma'am.

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

14 Mr. Edgeworth?

15 MR. EDGEWORTH: Thank you, Your Honor.

16 CROSS EXAMINATION OF SHAKEEM GEATHERS BY MR. EDGEWORTH:

17 Q: Now, Mr. Geathers, are you aware that the victims in this
18 case have testified that four individuals came into their home
19 in the robbery?

20 THE COURT: You can't pit witnesses. *State v. Battle* is
21 clearly on point; not admissible.

22 MR. EDGEWORTH: Thank you, Your Honor.

23 BY MR. EDGEWORTH:

24 Q: On the night of the incident, your testimony is, if I'm
25 not mistaken, that you did not see how the individuals got to

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SHAKEEM GEATHERS - CROSS BY EDGEWORTH

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1 your home; is that correct?

2 A: Yes, sir.

3 Q: Excuse me, Shaheem's home?

4 A: Yes, sir.

5 Q: And when you dropped them off, according to your
6 testimony, you said it was near Damonte's home?

7 A: When I dropped them off after the robbery?

8 Q: Well, after -- your testimony is that you dropped them
9 off after you picked them up; is that correct?

10 A: I don't understand your question.

11 Q: Sure. I'll rephrase that. You were heading down the
12 street, according to your testimony, and you stopped and
13 picked up the three individuals, Damonte, Fraser and Alfonso
14 Thomas; is that correct?

15 A: I picked them up before the incident?

16 Q: After the incident?

17 A: Where I dropped them off at?

18 Q: That's correct.

19 A: And I dropped them off right there by the Landing.

20 Q: Okay. And was it not your testimony that it was --
21 that's near Damonte's house?

22 A: No, sir.

23 Q: Okay. My apologies. All right. So in the, excuse me,
24 in the course of the investigation, you've spoken to law
25 enforcement on several occasions, correct?

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- 1 A: Yes, sir.
- 2 Q: Okay. And on one occasion, do you recall telling law
3 enforcement that you were working on the night of the
4 incident?
- 5 A: Yes, sir.
- 6 Q: And that wasn't true, was it?
- 7 A: No, sir.
- 8 Q: You were trying to hide your involvement at that time?
- 9 A: Yes, sir.
- 10 Q: Okay. But subsequent conversations with them lead you to
11 give the statement that you've offered here today; is that
12 correct?
- 13 A: Yes, sir.
- 14 Q: In fact you met with the Prosecutor prior to your
15 testimony this morning; is that correct?
- 16 A: Yes, sir.
- 17 Q: Okay. All right. Have you been offered a deal for your
18 testimony here today?
- 19 A: No, sir.
- 20 Q: You have not entered into a proffer agreement with the
21 State in regards to your testimony?
- 22 A: Yes, sir.
- 23 Q: Okay. So, you have been offered a deal?
- 24 A: Not really a deal but if that's what you want to call it.
- 25 Q: Well, have you -- have you pled guilty to any crime

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SHAKEEM GEATHERS - CROSS BY EDGEWORTH

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1 related to this matter?

2 A: No, sir.

3 Q: Do you intend to plead guilty to a crime in this matter?

4 A: Yes, sir.

5 Q: Okay. And that -- and do you know what that crime is?

6 A: No, sir.

7 Q: You do not know what it is?

8 A: (Indicates negatively.)

9 THE COURT: Answer out loud for me.

10 A: No, sir.

11 MR. EDGEWORTH: Your Honor, may I mark an exhibit?

12 THE COURT: Certainly.

13 MR. EDGEWORTH: May I approach the witness, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. EDGEWORTH:

16 Q: Mr. Geathers, I'm going to show you a document and ask if
17 you recognize it?

18 A: Yes, sir.

19 Q: Okay. And this is entitled State v. Shakeem Isaiah
20 Geathers and that was you?

21 A: Yes, sir.

22 Q: Okay. And it's addressed to Mr. Barr?

23 A: Yes, sir.

24 Q: Okay. And on the second page, that's your signature?

25 A: Yes, sir.

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1 Q: And it's dated September 10th, 2015, correct?

2 A: Yes, sir.

3 Q: Okay. Does this, having looked at this document, if you
4 need to look at it further please do, do you recognize this
5 document?

6 A: Yes, sir.

7 Q: And you believe it to be true and accurate to the best of
8 your knowledge?

9 A: Yes, sir.

10 MR. EDGEWORTH: Okay. Your Honor, I'd like to move this
11 into evidence?

12 MS. RICHARDSON: No objection, Your Honor.

13 THE COURT: May I see it please?

14 MR. EDGEWORTH: Yes, sir, absolutely.

15 THE COURT: All right. Defense One is in evidence
16 without objection?

17 MS. RICHARDSON: Without objection, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. EDGEWORTH: Thank you, Your Honor.

20 DEFENDANT'S EXHIBIT NUMBER ONE

21 ADMITTED INTO EVIDENCE

22 BY MR. EDGEWORTH:

23 Q: Now, Mr. Geathers, I'm gonna ask a few questions about
24 the document and if you need to see it again, please let me
25 know, okay?

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BY THE COURT

1 A: Yes, sir.

2 Q: It -- according to the document, the charges that you
3 intend to plead to are accessory before the fact and accessory
4 after the fact; is that correct?

5 A: Yes, sir.

6 Q: Okay. And as part of this agreement, it states Shakeem
7 Isaiah Geathers shall submit himself to a polygraph
8 examination?

9 A: Yes, sir.

10 MS. RICHARDSON: Your Honor, I object to any reference to
11 that.

12 THE COURT: It's in evidence. Y'all offered it in
13 evidence without objection. Are you gonna redact it now?

14 MS. RICHARDSON: I ---

15 THE COURT: You want to take it up outside the presence
16 of the Jury?

17 MS. RICHARDSON: Yes, Your Honor.

18 THE COURT: That's fine. Mr. Foreman, ladies and
19 gentlemen, step out momentarily. Do not discuss the case
20 while in the jury room.

21 (REPORTER'S NOTE: Jury exits courtroom. 11:11 A.M. The
22 following takes place outside the presence of the Jury.)

23 BY THE COURT:

24 THE COURT: All right. Solicitor?

25 MS. RICHARDSON: Your Honor, the State would reject --

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BY THE COURT

1 objects to any reference to this Defendant as to whether or
2 not he took a polygraph exam.

3 THE COURT: All right. Mr. Edgeworth?

4 MR. EDGEWORTH: Yes, Your Honor. Thank you. Obviously
5 I'm asking him about the contents of -- of the document that
6 is already in evidence and my intent would be simply be to
7 ask, Your Honor, whether he's complied with the document, the
8 requirements included in the document.

9 THE COURT: All right. That is not admissible. The
10 document in itself is admissible. It speaks for itself.
11 Whether or not he did or did not take a polygraph is not
12 admissible. The polygraph testimony, I know of two cases,
13 *State v. William Billy Pierce* and there's another more recent
14 case that Judge Newman tried, I was trying to look for it.
15 Give me just a moment. Well, I'm not gonna be able to find
16 that in the time. Polygraph testimony is not admissible. You
17 just want to ask him if he took a polygraph?

18 MR. EDGEWORTH: Yes, Your Honor. I'm not seeking to
19 reference any results. I'm seeking to determine whether he's
20 complied with the document, the terms of the document.

21 THE COURT: Well, with that question out there, why
22 wouldn't that not end up being misleading to the Jury. I mean
23 and then the Jury would have to speculate. Did he take it?

24 MR. EDGEWORTH: No, Your Honor.

25 MS. RICHARDSON: He didn't, but some other people did.

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BY THE COURT

1 So then we're gonna be in a whole different -- but he did not
2 and was not asked to.

3 THE COURT: Well that's not his fault that he didn't take
4 the polygraph.

5 MR. EDGEWORTH: The agreement came from the State, Your
6 Honor.

7 THE COURT: If you go to the doctor and they ask you if
8 you've checked your blood pressure, he doesn't have to take
9 his own blood pressure. He don't have to strap himself up.
10 So, I don't -- I don't see where that goes to his credibility
11 as to whether he did or didn't. He was never offered one.

12 MS. RICHARDSON: Your Honor, and, you know, in that
13 agreement, it's the State's discretion, it's not I will take
14 it, but it's if they're requested to take one.

15 THE COURT: Well, you can highlight what it says in the
16 document itself because it's in evidence.

17 MR. EDGEWORTH: I'm sorry, Your Honor, I could not hear
18 you?

19 THE COURT: You can highlight what it says in the
20 document itself because it's in evidence. But whether or not
21 he did or didn't take it is not proper.

22 MR. EDGEWORTH: So, no questions as to the document?

23 THE COURT: No, sir, I didn't say that. I said you can
24 highlight what it said in the document in Defense Exhibit
25 Number One. I mean, if -- I'm not redacting that part, but

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SHAKEEM GEATHERS - CROSS EXAMINATION BY EDGEWORTH

1 whether or not he took one, whether or not if he did take one
2 and passed one or failed one, those questions aren't relevant.

3 MR. EDGEWORTH: Yes, Your Honor.

4 THE COURT: Bring us our Jury please, Mr. Roy.

5 (REPORTER'S NOTE: Jury enters courtroom. 11:17 A.M.)

6 THE COURT: All right. Thank you, Mr. Edgeworth. Thank
7 you, Solicitor.

8 You may continue, Mr. Edgeworth.

9 MR. EDGEWORTH: Thank you, Your Honor.

10 BY MR. EDGEWORTH:

11 Q: Just briefly, Mr. Geathers, we were talking about the
12 agreement that you executed on September 10, 2015?

13 A: Yes, sir.

14 Q: I point to your attention back there and when you signed
15 this document, you read it before you signed it?

16 A: Yes, sir.

17 Q: In fact, you had Counsel with you when you did sign it?

18 A: Yes, sir.

19 Q: Okay. And in the incident that we're talking about here
20 occurred on or about August 29th-30th, 2012, correct?

21 A: Yes, sir.

22 Q: And can you recall how many times you've spoken to law
23 enforcement?

24 A: No, I don't remember. I'd say like three or four times.

25 Q: Three and four times. And according to this document,

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SHAKEEM GEATHERS - REDIRECT BY RICHARDSON

1 it's dated August 25th, 2015, did you speak to law enforcement
2 on that day?

3 A: No, sir.

4 Q: You did not speak to them on that day?

5 A: No, sir.

6 Q: Did you speak to them on September 10th, 2015, the day on
7 which it's signed?

8 A: No, sir.

9 Q: Is that the day when you determined that the information
10 that you had given to the Jury today was the true testimony?

11 A: Yes, sir.

12 Q: Okay. So, on September 10, 2015 is when you realized
13 these were the truth of the case?

14 A: Yes, sir.

15 MR. EDGEWORTH: I have no further questions, Your Honor.

16 THE COURT: Redirect, Solicitor?

17 MS. RICHARDSON: Thank you.

18 REDIRECT EXAMINATION OF SHAKEEM ISAIHAH GEATHERS BY MS.

19 RICHARDSON:

20 Q: Mr. Geathers, you were actually charged with accessory
21 after the fact, that was your warrant?

22 A: Yes, sir -- yes, ma'am.

23 Q: But you were indicted for six additional charges or six
24 charges altogether?

25 A: I don't remember how many charges it was. I know it was

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SHAKEEM GEATHERS - REDIRECT BY RICHARDSON

1 a lot.

2 Q: Okay. And has there been any specific agreement as to
3 what charges you would plead to?

4 A: No, ma'am.

5 Q: And has there been any specific agreement as to a
6 recommendation?

7 A: No, ma'am.

8 Q: That proffer just says that that will be taken into
9 consideration, your cooperation with the State?

10 A: Yes, ma'am.

11 Q: And when that proffer was signed, that's the first time
12 that you met with the State or the prosecution about this
13 case?

14 A: Yes, ma'am.

15 Q: Had -- and had you already given statements to law
16 enforcement about your involvement before you even had a
17 lawyer?

18 A: Yes, ma'am.

19 Q: Okay. No further questions.

20 THE COURT: Recross, Mr. Edgeworth?

21 MR. EDGEWORTH: Nothing further, Your Honor.

22 THE COURT: Thank you. Thank you, Mr. Geathers, you may
23 step down.

24 All right. Solicitor, you may call your next witness.

25 MS. RICHARDSON: Your Honor, the State calls Thomas

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THOMAS EDWARD DARNELL - DIRECT BY RICHARDSON

1 Darnell.

2 THOMAS EDWARD DARNELL, HAVING BEEN

3 SWORN TESTIFIES AS FOLLOWS:

4 CLERK: Thank you. Would you please state your name for
5 the Court Reporter and spell it?

6 MR. DARNELL: It's Thomas Edward Darnell. Last name is
7 spelled D-A-R-N-E-L-L.

8 CLERK: Thank you.

9 COURT REPORTER: I need you to slide forward just a
10 little bit, sir. If you'd slide over that way so I can see
11 you. Thank you so much.

12 DIRECT EXAMINATION OF THOMAS EDWARD DARNELL BY MS. RICHARDSON:

13 Q: Mr. Darnell, where are you employed?

14 A: I work at SLED in Columbia in the Forensic Laboratory.

15 Q: And what do you do there?

16 A: I'm a Latent Print Examiner, primarily -- it's my primary
17 duty. I also examine other types of evidence such as footwear
18 and tire tracks.

19 Q: And can you explain to me the process for examining
20 footwear?

21 A: When, when you examine footwear, of course I would have
22 unknown impressions that might come from a crime scene. Those
23 impressions are typically developed -- well, different ways
24 that could be developed once they -- once those impressions
25 come to me, then I would receive a pair of shoes, a pair of

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1 known shoes to compare to see if those impressions were made
2 by a certain pair of shoes. When I do an examination, I do a
3 visual of the shoe itself of the bottom of the shoe and then I
4 would make some test impressions to be able to -- and I would
5 use that as I make my comparison.

6 When I make a comparison, I'm looking for obviously the
7 same outsole first of all. If it's a Nike and I've got a Nike
8 shoe, obviously I'm in the right ballpark so to speak and then
9 I look for anything -- any wear characteristics in the shoe.
10 You know we all walk differently and you make -- you might
11 wear on your heel or your toe. I look for those types of
12 things and then I go one step further and look for random
13 identifying characteristics. That's what separates one shoe
14 from another. That would simply be like cuts, tears in your
15 shoe, anything that's been taken away just from normal wear
16 and tear. So the random identifying characteristics is what
17 separates the shoe and it allows me in some cases to be able
18 to identify a certain shoe as having made a certain
19 impression.

20 Q: And how long have you been with SLED?

21 A: Well, I'm actually retired. I actually -- I actually
22 retired from SLED in 2009 and I -- I've done some different
23 things. I've actually gone overseas and worked. I've worked
24 for the Sheriff's Department in Richland County for a year. I
25 returned to SLED in 2012. I was rehired in 2012 and I've been

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1 a part-time role at the current time. So I've been at SLED
2 about twenty-five years total.

3 Q: Can you -- can you tell us what your education,
4 experience and training is in regard to latent footwear
5 impressions?

6 A: Yes. I graduated from the University of South Carolina in
7 1982 with a degree in Criminal Justice. I started my career
8 in '82 with the Richland County Sheriff's office. I attended
9 the academy there as all law enforcement officers do. I --
10 I've been to a lot of courses at our local -- at our State
11 Academy. I've been to some courses out of state as well.
12 I've trained under the FBI Academy to meet their standards,
13 just courses all over the country in different latent print
14 development and footwear comparisons. I've taken courses
15 under nationally known and some internationally known
16 instructors in the various fields of Forensic Science and --
17 and I've also did -- and even early on I had to complete in-
18 house training program that took about eighteen months to
19 complete where I had to take a lot of tests and do a lot of
20 examinations on my own and some under supervision.
21 Additionally, I had to take -- I have to take a test every
22 year in each discipline to be able to say that I'm proficient,
23 to remain proficient in an area and also the laboratory that I
24 work for is an accredited agency, internationally accredited
25 and we have a lot of standards that we have to meet. And one

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1 of those to be tested proficient -- for proficiency each year.
2 So, like I said, I've had a lot of courses all over the place
3 in my career in-state as well as out-of-state.

4 MS. RICHARDSON: Your Honor, at this time, I'd offer him
5 as an expert in the area of latent footwear impressions?

6 THE COURT: Mr. Edgeworth?

7 MR. EDGEWORTH: No objection, Your Honor.

8 THE COURT: All right. Mr. Foreman, ladies and gentlemen
9 of the jury panel, normally a person cannot testify to opinion
10 testimony. Normally when a person testifies, they must
11 testify as to either what they saw, heard, sensed by smell,
12 touch something of that nature. However, there is an
13 exception when someone is qualified because of training,
14 education, experience in a particular art, science,
15 profession, craft or field. They are permitted to give their
16 opinions in certain areas if the Court qualifies them that way
17 and they can give the basis for those opinions. This witness,
18 Agent Thomas Darnell, will be qualified in the area of latent
19 footwear impressions and identifications to give opinion
20 testimony in that area and the basis for holding those prints.
21 That does not mean that you must accept the opinion or
22 opinions, but it is evidence for you, the Jury, to use in any
23 way you see fit or deem appropriate.

24 THE COURT: Thank you, Solicitor, you may continue.

25 BY MS. RICHARDSON:

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1 Q: And can you explain to us how you receive evidence at
2 SLED?

3 A: When evidence comes into SLED laboratory from the
4 outside, it always comes -- or if it doesn't come in in a
5 sealed container, it has to be placed in a sealed container.
6 In this case, everything was sealed properly when it came in
7 to the laboratory. When I say sealed, it's inside a box or
8 envelope or whatever it might be and it would have evidence
9 tape on it to show that it was not tampered with. It has
10 dates and initials as to when it was sealed. So in fact, we
11 won't even accept if it's not -- if it's not sealed properly.
12 It has to be sealed properly before we can even get involved
13 in the case.

14 Q: And in this case, for the home invasion that occurred on
15 August 30th, 2012, did you receive some shoes?

16 A: I did. I received several pair of shoes.

17 Q: All right. And I'm gonna -- did you bring your report in
18 with you?

19 A: I've got several reports and -- with me, yes, ma'am.

20 Q: Okay. These lab numbers are a little confusing?

21 A: Yes, ma'am.

22 Q: Would you explain to us the process for explaining -- for
23 assigning those lab numbers?

24 A: Yes, ma'am, I've actually got two separate lab numbers.
25 Basically when the evidence comes into the laboratory, it's --

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1 each item of evidence is first of all given an individual
2 number. That number stays with that item as it travels
3 through the laboratory. That never changes. In this case
4 I've got two laboratory numbers. Each case was -- was asked
5 to be cross referenced to the other if that makes sense.
6 Basically I got a pair of shoes under one case number and it
7 was asked to be compared to unknown impressions in another
8 case. So it -- it makes it a little -- it gets a little bit
9 confusing, but -- but we've got, you know, got my notes and so
10 forth where I can explain it to you.

11 Q: Okay. And can you tell me what case number or what
12 parties' case number L-1211288 was assigned to?

13 A: It -- well it -- I'm not sure what you're asking?

14 Q: As far as the victims; do you know which victim case that
15 is?

16 A: I actually -- I've got several victims listed here on one
17 of the reports that I have, a Dozier and two with the last
18 name Wilson. That's the two victims or that's the three
19 victims that I have listed on the report that I have.

20 Q: Okay. And then SLED lab number L-121187?

21 A: On that one I have the name Alfonso Thomas.

22 Q: And so you received items in both of those cases from the
23 Georgetown Police Department?

24 A: I did.

25 Q: And can you tell us in case 11288, your case number what

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1 Item 13 and Item 9.1 are?

2 A: Item 9.1 is a partial footwear impression that was found
3 on a glass window pane. The glass window pane came to SLED
4 from Georgetown Police Department and then I was able to mark
5 several areas of impressions and 9.1 was one that I did mark
6 as a partial footwear impression on the window pane. And then
7 Item -- was it 13?

8 Q: Yes.

9 A: Item 13 is one pair of Air Jordan shoes that were
10 received -- that were originally received, out of three, was
11 in a different case if that makes sense. Basically Item 13 is
12 one pair of Air Jordan shoes.

13 Q: Mark this. If you could pre-mark this; did you want to
14 look at these? Okay. All right. Okay. I'm gonna try to
15 show you what has been marked as State's Exhibit Number 120
16 for identification. Can you tell me if you recognize that?

17 A: Yes, I do.

18 Q: Okay. And can you -- there are some markings on the
19 outside of this package as well?

20 A: Correct.

21 Q: Now where ---

22 A: Lab number, item number and initials.

23 Q: Okay. And where would these markings have come from?

24 A: I, I would have put them there.

25 Q: Okay. So, can you tell us what State's 120 is?

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THOMAS EDWARD DARNELL - DIRECT BY RICHARDSON

1 A: State's 120; that is my Item 13, I believe. That is
2 correct.

3 Q: Item -- let's mark this. I'll let you look at your
4 markings. This is in L-1211288. I'm gonna just leave this up
5 here with you?

6 A: Okay. That one is actually Item 11.

7 Q: And that corresponds to the number on ---

8 A: Yes, that's actually Item 11 ---

9 Q: Okay.

10 A: --- in my report as Item 11, which is a pair of Air
11 Jordan shoes, size twelve.

12 Q: Okay.

13 A: That came from Mr. Fraser.

14 Q: Okay. If I could have this marked. All right. I'm
15 gonna hand you what's been marked as State's Exhibit Number
16 121 for identification. Will you look at the bag and the
17 contents and see if you recognize that.

18 A: Yes, this will be -- in my report it's listed as Item 13,
19 which is State's 121, and that is the Air Jordans size nine
20 that were received in another case.

21 Q: And that's again we're talking about SLED lab L-1211288?

22 A: Correct.

23 Q: Which is with the victims, Dozier and Wilson?

24 A: That's correct.

25 Q: Okay.

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1 A: Yes, ma'am.

2 Q: All right. Can you mark these? State's Exhibit 122 for
3 identification. Do you want me to open this or do you know
4 what ---

5 A: I fairly certain what's in it.

6 Q: Okay. Tell me about that?

7 A: That would be Item -- my Item Number 9, which I saw the
8 Item 9 is on the label on the outside. That is the window
9 pane that came in to SLED for examination.

10 THE COURT: Is 122 what you just said?

11 MS. RICHARDSON: Mark this one. If I could premark
12 these; it's six photos.

13 THE COURT: All right. Perhaps now, ladies and
14 gentlemen, we need to take a brief recess for about fifteen
15 minutes. Do not discuss the case during this recess. Thank
16 you very much. You may go to your jury room.

17 (REPORTER'S NOTE: Jury exits courtroom. 11:44 A.M.)

18 THE COURT: All right. Court will be in recess for
19 fifteen minutes.

20 MR. EDGEWORTH: Thank you, Your Honor.

21 (RECESS - 11:45 A.M.)

22 *****OFF THE RECORD*****

23 (On the Record - 12:08 P.M.)

24 MS. RICHARDSON: I'm ready, Your Honor,

25 THE COURT: Thank you very much.

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1 Mr. Edgeworth, anything before we bring in our Jury?

2 MR. EDGEWORTH: No, Your Honor.

3 (REPORTER'S NOTE: Jury enters courtroom. 12:09 P.M.)

4 THE COURT: All right. Welcome back, ladies and
5 gentlemen. We're gone continue the examination of Agent
6 Darnell by the State in its' case in chief. I don't like to
7 predict anything particularly in the future, but my intent and
8 my hope is to finish with this witness both direct and cross
9 examination before we take our luncheon recess. So if you'll
10 please continue to give the parties your complete and
11 undivided attention.

12 Solicitor?

13 MS. RICHARDSON: Thank you, Your Honor.

14 BY MS. RICHARDSON:

15 Q: I'm gonna hand you up what has been marked as State's
16 Exhibits 129, 130, 131 and 132 for identification. If you
17 could just tell me what these are?

18 A: Yes, ma'am. These -- these exhibits are photographs of
19 the -- of one shoe and it's a -- also a photograph of test
20 impression and it's also a photograph of a questioned
21 impression or a partial impression that was found on a window
22 pane. These are all just documents of those particular areas.

23 Q: Okay. And who would have taken those photographs?

24 A: I would have had these taken by our SLED photography
25 laboratory. That would be Ben Vanadore.

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1 Q: And the impressions, how -- how would those have been
2 created and who would have done that?

3 A: The test impressions is -- were directly created by me.
4 How, how we do that is simply apply, in this case, a red
5 powder, fingerprint powder, adhere the powder to the bottom of
6 the shoes and some of them would actually put the shoe on
7 their foot and then put a plastic bag over their foot and
8 actually wear the shoe and, and -- and walk onto a clear film
9 leaving the impression of the -- of the bottom of the shoe,
10 which would be used in making the comparison.

11 Q: Is there anything you do regarding what size person makes
12 those impressions?

13 A: Not, not really. We just try -- we try to, you know,
14 recreate the, the step as close as we can. Of course, we want
15 to find somebody with a foot that has about the same size, you
16 know, and in this particular shoe, I believe it was a size --
17 I think it was a nine, but we wanted to find someone that
18 wears a size nine and just simply put that person in this shoe
19 and let them walk on it on the transparency film.

20 Q: Okay. And those particular exhibits which are the
21 transparencies and impressions are which item number?

22 A: The -- let's see.

23 Q: Is it noted on the ---

24 A: Item 13.

25 Q: Item 13?

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1 A: It's my Item 13, which was a -- which was a size nine.

2 Q: And that is State's Exhibit Number Twenty-one; it's in
3 this stack?

4 THE COURT: Twenty-one?

5 Q: 121. And are those photos an accurate depiction of the
6 photos that were used for comparison and the impressions that
7 were used for comparison?

8 A: Yes, ma'am.

9 Q: And all of those were created from the Item Number 9,
10 which is in the big box here?

11 A: Right. The ---

12 Q: The questioned impressions?

13 A: Right. All of the unknown impressions or the partial
14 impressions that I found on this window pane came off of my
15 item number nine.

16 Q: Okay. So all of those that we just talked about relate
17 to the size nine shoes?

18 A: That's correct.

19 Q: Okay. Now I'm gonna hand you what -- what has been pre-
20 marked State's 133, 134, 135 and 136 and can you identify
21 those?

22 A: Yes, ma'am, this is the same type of evidence just from a
23 -- with a different shoe. Again the photograph of the
24 questioned impression, a photograph of the bottom of the shoe
25 and a photograph of the test impression and the test

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1 impression itself is in here with the -- with the red -- where
2 I made with the red powder, the same process; someone wore the
3 shoe and stepped onto the transparency film.

4 Q: Okay. And that would be based on the size twelve shoes?

5 A: That would be correct, size 12; that would be my Item
6 Number 11.

7 Q: Okay. Now you keep a chain of custody or a list of who
8 has handled these items when they come into SLED?

9 A: Yes, ma'am.

10 Q: Okay. And can you tell me as far as Item Number 9, this
11 window pane, who from SLED was involved and handled this
12 evidence?

13 A: The -- all the evidence when it first comes into SLED, it
14 goes into our central evidence control. We have technicians
15 that make sure everything is sealed properly and as I
16 mentioned earlier, if it's not sealed, it has to be sealed
17 before we'll accept it and then the technicians will accept
18 the evidence, they assign the item numbers to the items of
19 evidence, they assign a lab number to the -- to the actual
20 case and then the case will be placed in a secure area in the
21 -- in the evidence control department. I believe this
22 particular item of evidence was originally received by someone
23 by the name of Nicki Hughes and it was later transferred to
24 Vickie Holmes, who used to work in the department that I'm now
25 in. And then I actually received it from Vickie is where I

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1 got the evidence from.

2 Q: Okay. And when you received it again, I know you --
3 you've talked about your procedure, but when you received this
4 box containing -- or this window pane, had it been tampered
5 with or altered in any way?

6 A: No, ma'am, it was in a sealed container as it did when it
7 came in the laboratory and the first person to actually open
8 it would've been me.

9 Q: Okay. And as for the other items, 9.1 and 9.10, those
10 were items that you created?

11 A: Correct.

12 Q: Or your division created?

13 A: That's correct. That would be the two partial
14 impressions that were found on the window panes, two partial
15 shoe impressions.

16 MS. RICHARDSON: Your Honor, at this time, I'd offer
17 State's 129, 130, 131, and 132 into evidence.

18 THE COURT: Mr. Edgeworth?

19 MR. EDGEWORTH: No objection, Your Honor.

20 THE COURT: 129 State's through 132 is in evidence
21 without objection.

22 STATE'S EXHIBIT NUMBERS 129 THROUGH 132

23 ADMITTED INTO EVIDENCE

24 MS. RICHARDSON: Also, Your Honor, State's 133, 134, 135
25 and 136.

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1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: No objection, Your Honor.

3 THE COURT: 133 through 136 in evidence without
4 objection.

5 STATE'S EXHIBIT NUMBERS 133 THROUGH 136

6 ADMITTED INTO EVIDENCE

7 BY MS. RICHARDSON:

8 Q: Now, Agent Darnell, I'm gonna hand you what's been marked
9 as State's Exhibit 133 and that is the photograph that you
10 took from the window pane?

11 A: Right. I had taken this of a partial shoe impression
12 that actually came off the window pane itself.

13 MS. RICHARDSON: Okay. Your Honor, if I could ask him to
14 come around to Jury to publish these?

15 THE COURT: Yes, sir, certainly, just keep your voice up.
16 Give me a minute.

17 MS. RICHARDSON: Okay. I'm just gonna publish these to
18 the Jury. Can y'all see? You want to pass it around?

19 BY MS. RICHARDSON:

20 Q: Okay. And so, 136 is a photo of the bottom of a shoe?

21 A: Correct.

22 Q: And then 135 is the test impression just on regular
23 paper?

24 A: Right, just a photograph of the test impression.

25 Q: Okay. And then this, I'm gonna hand you 134. And how

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1 do you -- and that's the transparency and how do you use that
2 to compare?

3 A: Basically what I do, once I've made the transparency with
4 the red powder, this is where someone has stepped onto this
5 clear plastic or clear film. I just simply take the
6 transparency and I lay it on top of the impression from the
7 window pane and I -- I first tried to -- well, first of all I
8 want to make sure I've got the right shoe design and in this
9 case I did. And I look for random identifying
10 characteristics. In other words, the nicks and the tears and
11 the cuts in the shoe that I can easily see when I make the
12 transparency, okay, because those nicks and cuts will show up
13 in the transparency whenever you step onto this film. It's
14 just a, a easy way to help me locate the area of the shoe I'm
15 looking for to determine if this shoe made it or if another
16 shoe made it. So just by placing it on top, I can -- I can
17 find those characteristics that I'm looking for.

18 Q: And based on that, did -- in using those, you made a
19 comparison of those shoes?

20 A: I did.

21 Q: And I'm gonna show you what's been marked as State's
22 Exhibit 138 and tell us what that is?

23 A: State's -- State's 138 is a -- a chart that I prepared.
24 I've got some bright yellow arrows on there that, that show
25 random identifying characteristics in both the questioned

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1 impression as well as in the known impression. It was made by
2 the, again, putting the red powder on it. You can see and
3 this -- this is actually an enlargement of State's 133 is what
4 this is. And, for example, one that really sticks out is
5 you've got a what looks to be like a U-shape right here that's
6 designated by this arrow and I've got the same thing here.
7 My fingers were on the yellow arrow that I'm talking about.
8 I'm just pointing to a curved out, torn area of the shoe and
9 I've got -- I've got -- I think I've got four here marked and
10 each arrow corresponds. You can see the arrow with my finger
11 now it's at the top of the diamond. It's sort of squared off
12 a little bit and you can see that in both. And as I said,
13 I've got four marked on this particular impression and as a
14 result of this exam, I was able to determine that -- that this
15 shoe made this impression and no other based on the random
16 identifying characteristics that I found on both. They were
17 in -- they were in the exact same position. There was no
18 variation to it. They were located in the same spot. So I'm
19 able to say this -- this -- this shoe made by this test
20 impression made this impression which is here and it was found
21 on the window pane that I examined.

22 Q: Do you ever compare these two directly?

23 A: Well, I, I don't have it this large when I'm looking at
24 it. This, this -- the reason I've done this is to be able to
25 demonstrate to you, the Jury, that it will show you what I'm

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1 seeing. I mean, I -- I obviously have the ability to enlarge
2 it, but when I make an examination, I don't have it this large
3 initially, okay? I've actually -- I'm actually looking at
4 this.

5 Q: Okay. Your Honor, I'd at this time offer State's Exhibit
6 138 into evidence?

7 MR. EDGEWORTH: No objection.

8 THE COURT: 138 is in evidence without objection.

9 STATE'S EXHIBIT NUMBER 138

10 ADMITTED INTO EVIDENCE

11 BY MS. RICHARDSON:

12 Q: And publish it to the Jury. One more question, is this
13 photo that you have taken, is it to scale?

14 A: Yes, ma'am.

15 Q: Okay.

16 A: And the reason we make it to scale is so that we can --
17 it has to be natural size. It has to be -- it can't be --
18 when we do our examination, it has to be natural size. We
19 have to be able to look at and it just helps us to be able to
20 come to a definitive conclusion.

21 Q: Okay. All right. And let me -- I think I left them up
22 here. Let's do the same thing with State's 129. Again that's
23 the photo that was taken?

24 A: State's 129 is my item 9.1. It's a photograph of the --
25 of another impression that was found on the same window pane

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1 and it's also to scale. This is the natural size.

2 Q: And can you go through the same process and show us how
3 you compared that with the shoes that were placed into
4 evidence?

5 A: State's 132 is -- again it's the photograph of the
6 outsole of the shoe, the bottom of the shoe. And then
7 State's 130 is the transparency that I made by putting the red
8 powder on it, stepping onto the transparency. We actually wet
9 this first and then we squeegee the water off and then we step
10 onto the film and it leaves its impression behind. State's
11 131 is just a photograph of State's 130. And just as the
12 other footprint impression, I did the same thing. I took this
13 transparency, laid it on top of this impression. I was able
14 to find a large number of characteristics in both when I
15 compared the two together.

16 Q: And let me show you what's been marked as State's Exhibit
17 139 for identification and tell us what that is?

18 A: This is also a charted enlargement of the comparison I
19 made in this -- with this evidence I just testified to and it
20 has the yellow arrows that points to different characteristics
21 I found. This one, you'll see a lot more of -- I'm just gonna
22 point to some of the very obvious ones here. My index finger
23 -- I can point to those two there and then you'll see the same
24 two there. Does that make sense; do you see that? I've got
25 those characteristics marked. There's quite a few more in

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1 this one that I found in the previous one. Everybody walks
2 differently, everybody walks on different types of surfaces.
3 You know, when you get home, you can probably look at your
4 shoe and you'll probably see nicks and cuts all over your shoe
5 and that's what I'm looking at whenever -- whenever I do a
6 comparison and again, this -- this was determined to be a
7 positive identification. This shoe -- this shoe made that
8 impression that was found on the window pane.

9 MS. RICHARDSON: At this time, I'd offer to admit State's
10 139 into evidence?

11 THE COURT: Mr. Edgeworth?

12 MR. EDGEWORTH: No objection, Your Honor.

13 THE COURT: 139 is in evidence without objection.

14 STATE'S EXHIBIT NUMBER 139

15 ADMITTED INTO EVIDENCE

16 MS. RICHARDSON: And publish it to the Jury, Your Honor.

17 BY MS. RICHARDSON:

18 Q: Do you ever try to hold up the transparency to the
19 photos?

20 A: Not, not usually. We just typically just at a desk and
21 with good lighting and so forth, we light different angles and
22 just lay it right on top. I might hold it up just to maybe
23 get some -- get an orientation as to what part of the shoe I'm
24 looking for, but when the -- when we get down to it, I've
25 actually got the transparency on top of the questioned

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1 impression.

2 Q: Okay. If you could return back to the witness box.

3 Let me now show you what's been marked as State's Exhibit 137.

4 A: State's 137 is my laboratory report that was issued on
5 April the 2nd of 2013.

6 Q: Okay. And there are multiple comparisons in that report
7 regarding other items?

8 A: Yes, ma'am, there were multiple impressions of multiple
9 shoes that were compared in this case.

10 Q: Okay.

11 A: And reported in this report.

12 Q: But as far as identifications, the ones that you have
13 just testified are the identifications that you made?

14 A: Right, that was the two I was able to -- to identify as
15 having been made by a particular shoe.

16 Q: Okay. And that report generated is your opinion based on
17 your training and expertise in this area?

18 A: That is correct.

19 MS. RICHARDSON: Your Honor, at this time, I'd offer
20 State's Exhibit 137 into evidence?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: All right. State's 137 is in evidence
23 without objection.

24 STATE'S EXHIBIT NUMBER 137

25 ADMITTED INTO EVIDENCE

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1 MS. RICHARDSON: Your Honor, and also the other photos
2 that he testified to; 123, 124, 125, 126, 127, and 20 -- 128,
3 which are more photos of the size nine shoe. I'd offer those
4 in evidence as well.

5 MR. EDGEWORTH: No objection, Your Honor.

6 THE COURT: 123 through 128 is in evidence without
7 objection.

8 STATE'S EXHIBIT NUMBERS 123 THROUGH 128

9 ADMITTED INTO EVIDENCE

10 BY MS. RICHARDSON:

11 Q: Now, are there certain surfaces that are easier to get
12 impressions off of than others?

13 A: As far as footprint impressions?

14 Q: Yes.

15 A: Yes, ma'am, of course if it was -- if it was -- obviously
16 the smoother the surface -- impressions can also be taken out
17 of sand, you know, you find those at crime scenes from time to
18 time but, obviously, it's the smoother surface that would
19 render much better getting an impression that you can
20 identify.

21 Q: Thank you. I have no further questions. Answer any
22 questions that Mr. Edgeworth may have for you.

23 THE COURT: Thank you, Solicitor.

24 Mr. Edgeworth.

25 MR. EDGEWORTH: Thank you, Your Honor.

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1 COURT REPORTER: Sir, can I ask you to slide up?

2 MS. RICHARDSON: Your Honor, I'm gonna -- unless he needs
3 them, I'll set those down so they won't block anyone's view.

4 THE COURT: Okay. Thank you, Solicitor.

5 MR. EDGEWORTH: Thank you, Your Honor.

6 CROSS EXAMINATION OF THOMAS EDWARD DARNELL BY MR. EDGEWORTH:

7 Q: Good afternoon, sir. The items that you just testified
8 regarding the size twelve and size nine shoe, do you know from
9 whom they were taken?

10 A: I'm not sure of the twelve based on what I have here.
11 Actually, in my report and I might dig through my notes and
12 find something, but -- but I don't, I don't, I don't get too
13 concerned about what came from what person. I'm just dealing
14 with the shoes themselves. So, that's not something I would
15 typically be concerned with.

16 Q: I understand that, sir, I was just primarily trying to
17 figure out whether you -- well, did you take any notes as to
18 from whom the item was taken?

19 A: On the Item -- on my Item 13, I don't have a note here
20 and again, I'll get -- if I have a note that said it came from
21 that would be based on what was provided to me by the
22 submitting agency, in this case, Georgetown PD. The -- I
23 actually -- the Item 11, my Item 11, I have here that Fraser I
24 think is the name I have here in my notes.

25 Q: And what size shoe was that one?

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1 A: Twelve.

2 Q: That would be the shoe that you just testified in regards
3 to?

4 A: That would be one of them, yes, sir.

5 Q: Okay. And how about the other shoe?

6 A: I don't seem to have any notes in here about the other
7 one, just -- other than the fact, the fact it's a size nine.
8 I don't have the name in my notes beside that.

9 Q: Okay. And do you have a note as to where the shoe was
10 taken from?

11 A: No, sir, I don't.

12 Q: Was there ever a time that you came into possession of a
13 pair of shoes, Nike Air Force 1 or AF1, a white color, size
14 seven-and-a-half?

15 A: Yes, sir, I believe I did. Yes, I did.

16 Q: And do you know whose shoe that was?

17 A: I believe I've got a note here that those belong or came
18 from, what was provided to me is to a Damonte Rivera.

19 Q: My client, Mr. Rivera?

20 A: I, I assume. I just ---

21 Q: You just named Damonte Rivera, so I'll just assert that.

22 A: Okay.

23 Q: So, the impressions that you obtained from the -- the,
24 excuse me, I guess it's up there, the window pane and these
25 others that you just testified to, it would be accurate to say

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1 that none of those impressions came from the Nike Air Force 1,
2 white in color, seven -- size seven-and-a-half that came from
3 Mr. Rivera?

4 A: That, that would be correct.

5 Q: Thank you. I have no further questions.

6 REDIRECT EXAMINATION OF THOMAS EDWARD DARNELL BY MS.

7 RICHARDSON:

8 Q: And those shoes that Mr. Edgeworth is referencing, those
9 are Item Number 18; is that right?

10 A: Yes, ma'am, my Item Number 18.

11 Q: And when were they received, first received by SLED?

12 A: I received those, I want to say, it was around September
13 of this year.

14 Q: Okay. And did you know anything about those shoes or the
15 condition of those shoes as far as the wear, newness of them,
16 that sort of thing?

17 A: The shoes were fairly -- they hadn't -- they didn't
18 appear to have been worn very much. In fact, they actually
19 had a smell of almost being new somewhat, you know, I mean I'm
20 not saying that they were new, I'm just saying that they were
21 fairly, fairly good shape, didn't appear to have been worn a
22 great deal in my opinion.

23 Q: And but they weren't the batch of shoes that you got
24 initially?

25 A: No, ma'am.

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1 Q: Okay. And there's also mention of another pair of shoes,
2 of another item that was examined on your report?

3 A: Yes, ma'am.

4 Q: Okay. And when you say on your report something is
5 consistent with, can you tell us what that means?

6 A: When I say it, when I say that one impression is
7 consistent with a shoe, I'm saying that first of all, it has
8 the same design. It has the same shape and so forth but I was
9 unable to or I'm unable to find any random identifying
10 characteristics to where I can say that that impression was
11 made by a certain shoe. I can only say it was made by a shoe
12 like that or another shoe just like it. It's what I -- it's
13 what I mean when I say something is consistent or corresponds
14 with it.

15 Q: So, for instance, if it were, like in this case, a Air
16 Force 1, nine-and-a-half, you would say it would be consistent
17 with the Nike Air Force 1 of that type and close to that size?

18 A: Yes, ma'am, if it had the same design, the same -- and
19 Nike makes so many different variations of their -- of the
20 outsoles. But if it is the same design, if, if the outsoles
21 are the same from shoe to shoe, I'm saying that that
22 impression could have been made by either of those shoes that
23 has the same design, but I couldn't say exclusively to one or
24 the other because of lack of identifying characteristics and
25 sometimes that's because of the way that the impression was

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1 left or the way the person might've stepped or what have you,
2 could've caused there not to be any characteristics on the
3 search.

4 Q: Okay. Thank you. I have no further questions.

5 THE COURT: Recross, Mr. Edgeworth?

6 MR. EDGEWORTH: Yes, briefly, Your Honor.

7 RECROSS EXAMINATION OF THOMAS EDWARD DARNELL BY MR. EDGEWORTH:

8 Q: Mr. Darnell, I'm gonna show you what's now been marked as
9 Defendant's Exhibit Two for identification and ask if you
10 recognize that document?

11 A: Yes, sir, this would be a lab report that I issued on
12 September the 17th of this year..

13 Q: Okay. And I'm assuming at the moment that you're
14 familiar with the documents since you created them; is that
15 correct?

16 A: Yes, sir.

17 Q: Okay. And as I'm showing you the document, you're
18 showing where it says Item 9.3 partial footprint impression on
19 the window pane. That's maybe a separate impression that you
20 were testing; is that correct?

21 A: Right, that would be -- that .3 is -- is designated for a
22 particular impression and that same number stays with that
23 item all the way through, but that would be a separate
24 impression, yes, sir.

25 Q: And then so we have 9.3 and 9.5, so that's two separate

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1 impressions that you're testing, correct?

2 A: That's correct.

3 Q: And then you have also 9.6 that's noted?

4 A: Yes, sir.

5 Q: And this was tested against the -- the seven-and-a-half
6 size shoe?

7 A: Correct.

8 Q: And none of those, none of those impressions were made by
9 this, correct?

10 A: That would be -- that would be correct, yes, sir.

11 Q: So, it's fair to say that as we're sitting here today or
12 -- excuse me. Your Honor, I'd like to move this supplemental
13 report into evidence?

14 THE COURT: Solicitor.

15 MS. RICHARDSON: No objection, Your Honor.

16 THE COURT: Thank you. Defendant's Exhibit Number Two is
17 in evidence without objection.

18 DEFENDANT'S EXHIBIT NUMBER TWO

19 ADMITTED INTO EVIDENCE

20 MR. EDGEWORTH: My apologies.

21 BY MR. EDGEWORTH:

22 Q: To, to conclude the -- you've tested multiple
23 impressions, 9.1, 3, 5 and 6 that you were able to obtain off
24 of the item and none of those were a comparison to the shoe
25 that was provided to you from my client; is that correct?

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1 A: That's correct.

2 Q: Thank you. No further questions.

3 THE COURT: All right. Thank you. Thank you very much,
4 Mr. Edgeworth.

5 You may step down.

6 MS. RICHARDSON: Your Honor, and I'd ask that he be
7 excused from his subpoena.

8 THE COURT: He may be.

9 All right. Do you have another witness that will take us
10 up to about 1 o'clock, Solicitor? Is your next witness
11 lengthy?

12 MS. RICHARDSON: Yes, Your Honor, the next witness is
13 lengthy.

14 BY THE COURT:

15 THE COURT: All right. Perhaps now would be a good time
16 to take our -- perhaps now would be a good time to take our
17 luncheon recess, ladies and gentlemen. I remind you, during
18 this recess, you may not talk about the case to anyone and
19 that includes your lunch mate, fellow jurors, family, friends
20 or anyone else. Do not discuss the case with anyone. Keep
21 your own counsel. You may not watch, listen to news accounts
22 about the case. Do not do any investigation independently or
23 on the internet. Remember to keep an open mind and not begin
24 your deliberations until you've heard all the evidence, all
25 the testimony, closing arguments by the attorneys and

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1 instruction on the law by the Court until directed by the
2 Court to begin your deliberations with your fellow jurors in
3 your jury room.

4 I would ask you if you'd please be back promptly at 2
5 o'clock. Please be back promptly at 1400 hours, two o'clock.
6 I hope y'all have a pleasant lunch.

7 (REPORTER'S NOTE: Jury exits courtroom. 12:43 P.M. The
8 following takes place outside the presence of the Jury.)

9 THE COURT: All right. Solicitor, how many more
10 witnesses you think you have?

11 MS. RICHARDSON: In the whole case or for today? Your
12 Honor, I have four that are available for today depending on
13 the time.

14 THE COURT: All right. And all those are forensics?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: And that should take us through today?

17 MS. RICHARDSON: That'll take us through the day. It's
18 law enforcement and some other co-defendants.

19 THE COURT: All right. Anything, anything we need to
20 take up before we take our luncheon recess from the State,
21 Solicitor?

22 MS. RICHARDSON: No, Your Honor.

23 THE COURT: From the Defense, Mr. Edgeworth?

24 MR. EDGEWORTH: Nothing, Your Honor.

25 THE COURT: All right. Thank you. Thank you very much.

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1 We'll be in recess until 2 o'clock.

2 (RECESS - 12:45 P.M.)

3 *****OFF THE RECORD*****

4 (On the Record - 1:58 P.M.)

5 (REPORTER'S NOTE: The following takes place outside the
6 presence of the Jury.)

7 THE COURT: All right. Anything from the State before we
8 bring in our Jury?

9 MS. RICHARDSON: Your Honor, I'm waiting for the attorney
10 for the one of the witnesses to arrive. She's supposed to be
11 back at 2:00; she's just a few minutes ---

12 THE COURT: Be back when?

13 MS. RICHARDSON: At 2:00. It's just a few minutes before,
14 so if we could give her a few minutes.

15 THE COURT: And who is that?

16 MS. RICHARDSON: Laura Hiller with Jasen Wade.

17 THE COURT: The Bailiff informs -- was informed by one of
18 the jurors, 168, Mr., Mr. Wilson that he has trip, paid for
19 trip planned Friday.

20 MS. RICHARDSON: Okay.

21 THE COURT: I can address it now or we can just let it --
22 it's not Friday, it's Wednesday and we can press on. And I
23 may indicate to him I'll address it prior to that. I can do
24 it either way. If y'all want me to address it now, I'll do
25 so; if you want to wait, I'll do so.

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1 MR. EDGEWORTH: I have no preference, Your Honor.

2 THE COURT: Solicitor?

3 MS. RICHARDSON: Me either, Your Honor. I think we'll
4 know a little bit more at the end of the day how much is left.

5 THE COURT: All right.

6 MS. RICHARDSON: But I do believe we'll probably go into
7 at least Friday morning.

8 THE COURT: Before the State rests, is that what you're
9 saying?

10 MS. RICHARDSON: Not, not necessarily, but with closings
11 and all that, charges and ---

12 THE COURT: Yes; I understand.

13 MS. RICHARDSON: --- if the Defense puts up anything,
14 definitely.

15 Court's indulgence?

16 THE COURT: All right. We ready, Solicitor?

17 MS. RICHARDSON: Yes, Your Honor.

18 THE COURT: All right. Anything from the Defense before
19 we bring in the Jury, Mr. Edgeworth?

20 MR. EDGEWORTH: Nothing, Your Honor.

21 THE COURT: I would again ---

22 MS. RICHARDSON: I'm sorry. I did want to put on the
23 record as far as chain of custody regarding SLED. Mr.
24 Edgeworth and I are -- Edgeworth and I had agreed that we
25 would do some of the witnesses out of order based on SLED

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1 needing to travel back.

2 THE COURT: All right. All right. And I'll remind those
3 again in the gallery, if you have a cell phone, it needs to
4 remain in your pocket or your pocketbook, it needs to be cut
5 off. I have advised the officers if they see any cell phones
6 in the gallery, if they even see them, whether they go off or
7 not, I've advised the sheriffs to seize them at that time. If
8 you cannot refrain from having your cell phone in view of the
9 officers while you're in court, you need to leave now.

10 All right. Bring us our Jury please.

11 (REPORTER'S NOTE: Jury enters courtroom. 2:08 P.M.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen. I hope y'all had a pleasant lunch. Juror Number
14 168, I will address that issue that was brought up to me by
15 the Bailiff before the -- before the end of the day I'll
16 address that issue.

17 All right. Thank you. Thank you very much.

18 All right. Solicitor, you may call your next witness.

19 MS. RICHARDSON: The State calls Keith Small.

20 THE COURT: All right. If you'd come around and place
21 your left hand on the Bible and raise your right.

22 ROBERT KEITH SMALL, HAVING BEEN SWORN
23 TESTIFIES AS FOLLOWS:

24 THE COURT: Thank you. Thank you very much. You can
25 come around and be seated and once you're comfortably seated,

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1 state your full name for the record spelling your last.

2 MR. SMALL: My name is Robert Keith Small. R-O-B-E-R-T
3 S-M-A-L-L.

4 THE COURT: All right. Solicitor?

5 DIRECT EXAMINATION OF ROBERT KEITH SMALL BY MS. RICHARDSON:

6 Q: Mr. Small, if you would tell the Jury where you're
7 employed and what your rank and position is there?

8 A: I currently work for Georgetown City Police Department
9 and my rank is as a Captain. I'm over the Community Service
10 Division which is basically the other side of the house in the
11 police department, everything other than patrol. The marked
12 cars that you see answer the calls for service.

13 Q: And how long have you worked with Georgetown Police
14 Department?

15 A: I've been there for approximately twenty-three years.

16 Q: And have you been in other positions while you were
17 there?

18 A: Yes, ma'am.

19 Q: Okay. And what other positions have you held?

20 A: I've been a patrol officer, canine officer, narcotics
21 officer, narcotics supervisor, I've been an investigator,
22 criminal investigator, Criminal Investigation Division
23 supervisor and also Community Service Division supervisor to
24 name a few.

25 Q: And have you also been in the evidence room?

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1 A: Yes, ma'am, I have been the evidence custodian at one
2 point and currently I am over, that's part of my side and my
3 duties. I'm over the evidence custodian and the evidence
4 room.

5 Q: So, you're generally familiar with most of the areas of
6 operation of the Police Department?

7 A: Yes, ma'am.

8 Q: And how about the City of Georgetown in general, how
9 familiar would you say you are with the city and the streets
10 and the locations and things?

11 A: Real familiar.

12 Q: And were you working in the early morning hours of August
13 30th of 2012?

14 A: Actually, I was the supervisor for CID, Criminal
15 Investigations Division. As part of our duties, we -- we
16 don't have a twenty-four-hour-a-day investigator, so at night
17 after 5 o'clock, somebody's on call. That happened to be my
18 duties on that particularly given day. So, I was at home
19 subject to call for anything that happened and I was called by
20 patrol when they needed an investigator.

21 Q: And were you called out that morning?

22 A: Yes, ma'am, I was.

23 Q: On how many cases, how many crime scenes?

24 A: Initially, I was called out on the burglary at
and was continually working on that and during

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1 the time that I was working on with the crime
2 scene and follow-up with interviews and witnesses from the
3 victims, we had another incident that happened on the path
4 that cuts through between Legion Street and Church Street that
5 runs along the east side of the Beck Administration Building
6 that used to be the Beck Middle School. And then I responded
7 to that as patrol officers would have responded from a call
8 over dispatch radio that announced shots were fired and I
9 responded with them on that.

10 Q: Okay. I am going to show you some exhibits that have
11 been previously marked for identification and that's State's
12 Exhibit Six and Five and can you identify these for the Jury;
13 what is that, what is Number Five?

14 A: This is State's Exhibit Six and it's showing on the upper
15 portion of the left-hand side, this would be the Georgetown
16 proper area which would be on the north side of the bridge and
17 this would be the Maryville area and this side over here would
18 be like you're going to Pawleys Island, it would be over like
19 you're going to Debordieu that way.

20 Q: This is -- this is basically an aerial view ---

21 A: Yes, ma'am.

22 Q: --- of the City of Georgetown ---

23 A: Right.

24 Q: --- including some of the outlying areas?

25 A: Right.

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1 Q: The outer limits?

2 A: The city limits would stop right here for that particular
3 area.

4 Q: Okay. And the streets are marked as well?

5 A: Most of them are, yes, ma'am.

6 Q: And what is that one?

7 A: State's Exhibit Five.

8 Q: State's Exhibit Five, what is that?

9 A: It is a zoomed in picture of just a portion of that area,
10 which would be what I call the area like the city proper,
11 which would be everything on the other side of the Sandpit
12 River Bridge. So, this is the area where I said the city
13 limits stops going towards Debordieu and this would be like
14 the -- showing the Historic District downtown over to the west
15 side of the city.

16 Q: Okay. And have you had an opportunity to review these?

17 A: Yes, ma'am.

18 Q: And is this an accurate reflection of -- of the layout
19 and location of streets in the City of Georgetown?

20 A: Yes, ma'am.

21 MS. RICHARDSON: Your Honor, I'd offer both of these
22 exhibits into evidence at this time?

23 THE COURT: All right. Mr. Edgeworth, State's Five and
24 Six?

25 MR. EDGEWORTH: No objection, Your Honor.

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1 THE COURT: Five and Six into evidence without objection.

2 STATE'S EXHIBIT NUMBERS FIVE AND SIX

3 ADMITTED INTO EVIDENCE

4 BY MS. RICHARDSON:

5 Q: And on State's Exhibit Five, can you find the location
6 where you responded to the complaint of the home invasion?

7 A: Yes, ma'am.

8 Q: And would you mark that with this dot?

9 A: (Witness complies.)

10 Q: And can you find the area at Beck School that you were
11 referencing and mark it as well?

12 A: (Witness complies.)

13 MS. RICHARDSON: Your Honor, permission just to publish
14 this to the Jury just to show them locations?

15 THE COURT: Yes, ma'am, you may publish.

16 MS. RICHARDSON: It may be a little hard to see.

17 BY MS. RICHARDSON:

18 Q: And can you tell me the general nature of the first call
19 that you received?

20 A: Yeah, the general nature was I was informed on the phone
21 call that asked me to respond that we had basically a home
22 invasion in the middle of the night and that people had come
23 into the house and they had removed and taken items.

24 Q: And did you respond to that scene?

25 A: I did.

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1 Q: And is that the scene where the initial call came in from
2 law enforcement? Was the 911 call from that same address?

3 A: No, ma'am.

4 Q: Okay. Now where was law -- where was law enforcement
5 originally called to?

6 A: Over on Duke Street, which would have been like a half a
7 block over from where the City Police Department is, which is
8 actually where Mr. Dozier's father lives.

9 Q: And so which scene did you respond to; did you respond to
10 Duke Street or Kaminski Street?

11 A: I responded straight to

12 Q: And when you got there, who was there?

13 A: When I got there, Officer Dmytruk, who was on the patrol
14 shift that worked the 6:00 P.M. to 6:00 A.M. shift, he was
15 there along with some other members of his team and also Mr.
16 Dozier was there and his father was also there.

17 Q: And what about Ms. Wilson and the minor victim, were they
18 present at that time?

19 A: They may have been. I'm pretty sure -- I talked with
20 them, but I can't remember if they were there actually at that
21 time. I know that I talked with those two gentlemen as I came
22 up in the yard and then at that point, I kinda broke down
23 after talking with the patrol officer what I needed to be
24 doing and went to do that.

25 Q: And the other officers on the scene, what were they

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1 doing?

2 A: They were canvassing the exterior of the residence, going
3 down the streets, just trying to see if they could see
4 anything that may be potential evidence, seeing if there were
5 any other potential witnesses, you know, that were around that
6 may have seen or heard anything. They were doing those types
7 of things.

8 Q: And again, what time did that call come in?

9 A: The actual call came in somewhere around 2:11 in the
10 morning.

11 Q: Okay. And when you arrived, what did you do?

12 A: When I arrived, the first thing I did was try to link up
13 with somebody from the police department who was familiar with
14 -- who had already talked with the victims, had some idea of
15 what was going on and had an idea what was at the crime scene
16 and I got a brief overview of what they had to tell me. And
17 after that, I spoke with Mr. Dozier and talked with him a
18 second and then I surveyed the scene for myself and was
19 looking at what I had and what I needed to do and then I would
20 go into documenting and photographing everything and then just
21 chronologically processed things from the outside inward.

22 Q: Okay. First of all let me show you State's Exhibits that
23 are marked for identification Thirteen, Fourteen, Sixteen,
24 Seventeen, Eighteen, Nineteen, Twenty, Twenty-one, Twenty-two,
25 Twenty-three, Thirty-three, Thirty-four, Thirty-five, Thirty-

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1 six, Thirty-seven, Thirty-eight, Thirty-nine, Forty, Forty-
2 one, Forty-two, Forty-three, Forty-four, Forty-five, Forty-
3 six, Forty-seven, Forty-eight and Forty-nine; do you recognize
4 these photos?

5 A: Yes, ma'am.

6 Q: And are these the photos that you took of the crime scene
7 that night?

8 A: Yes, ma'am, these will be the photographs that I took
9 when I arrived on the scene and when I processed the scene at
10

11 Q: And those you provided to the State on a disc?

12 A: Yes, ma'am.

13 Q: Okay. And are those prints an accurate reflection of the
14 scene as it existed that night in the photos that you took?

15 A: Yes, ma'am, from the moment I got on the scene, yes,
16 ma'am.

17 MS. RICHARDSON: Okay. At this time, Your Honor, I'd
18 move to enter all of these exhibits into evidence?

19 THE COURT: What number did it start with, thirteen?

20 MS. RICHARDSON: I was trying to ---

21 THE COURT: Thirteen?

22 A: Number Thirteen.

23 THE COURT: Thirteen through Forty-nine ---

24 A: Yes, sir, Your Honor.

25 THE COURT: With the exception of Fifteen?

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1 COURT REPORTER: It's Thirteen through Twenty-three and
2 Thirty-three through Forty-nine.

3 THE COURT: All right. As to those, Mr. Edgeworth?

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: All right. Those items as documented by the
6 Court Reporter are in evidence without objection.

7 STATE'S EXHIBIT NUMBERS THIRTEEN THROUGH TWENTY-THREE AND

8 THIRTY-THREE THROUGH FORTY-NINE ADMITTED INTO EVIDENCE

9 BY MS. RICHARDSON:

10 Q: Okay. And I'm gonna show you some items that have
11 already been admitted into evidence previously; State's
12 Eleven, Twelve, Fifteen, Twenty-four, Twenty-five, Twenty-six,
13 Twenty-seven, Twenty-eight.

14 A: Yes, ma'am.

15 Q: And do you recognize those?

16 A: Those are also photographs that were taken at the same
17 time when I got to

18 Q: Okay.

19 A: On August the 30th.

20 Q: And what did you observe as far as the home when you
21 arrived, the condition of the home?

22 A: The -- just a visual examination of the crime scene
23 itself, I noticed where it appeared that the -- there was
24 entry made into the residence by the front door forcefully
25 pushing inward on the glass or the Plexiglas window and as I -

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1 - there was a loose key laying on the porch itself in front of
2 the door before you go into the front door. As I went into
3 the hallway when I entered the house, part of the -- if you
4 see in the photographs, the Plexiglas is just a big ole sheet
5 of glass, but if you notice, you'll see like a window pane has
6 the panes where they were just kinda like stick on window
7 panes. Part of that was also laying in the floor against the
8 wall. And then if you went down to the right from the front
9 door is where the master bedroom was and you could also see
10 that force had been used to enter the bedroom door because the
11 molding around the door and frame itself had been splintered
12 and pushed inward towards the inside of the bedroom. There
13 was a portable safe that was sitting on the master bed that
14 was open with the Styrofoam that's usually in the front to
15 keep things from beating around in it was also laying on the
16 bed. Pretty much that's what I noticed as I walked in and did
17 the initial survey.

18 MS. RICHARDSON: Okay. Your Honor, permission to publish
19 these photos to the Jury?

20 THE COURT: Yes, ma'am, you may publish.

21 BY MS. RICHARDSON:

22 Q: This is State's Exhibit Eleven and is that -- is that the
23 residence that you responded to?

24 A: The greenish-blue trailer that would be on your right as
25 you're looking at the picture in front of the white four-door

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1 vehicle; that would be the residence.

2 Q: Okay. State's Exhibit Number Thirteen which is Item 7.

3 Okay. And what is that?

4 A: That would be the front door and you can see part of
5 those panes that we were saying that wasn't attached to the
6 Plexi -- to the glass itself are still attached in the window,
7 but you can see where it's broken.

8 Q: And State's Exhibit Fourteen, Item Number 8?

9 A: That's just a closer zoomed in picture of the same front
10 door area where I was trying to capture, if you'd look at the
11 window sill on the left corner, you can see where there's a
12 separation from the force that was exerted on the window area
13 itself.

14 Q: And State's Exhibit Number Seventeen, Item 11?

15 A: This would be, once you got inside the front door, which
16 is straight across from a bathroom, the Plexiglas that was in
17 the window itself is laying right in the pathway of the door
18 and you can see part of the window panes in the picture on the
19 left side of the door frame.

20 Q: Okay. And when you examined that piece of Plexiglas, did
21 you notice anything about it?

22 A: Yes, ma'am, initially I just secured it at the scene and
23 I took it back to the office and at a later date after I had
24 finished -- the same morning but after I had finished
25 everything at the crime scene to have better lighting to look

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1 at it. In closer examination, I did notice that there were
2 several footwear impressions that were on the window itself
3 and I took photographs of them.

4 Q: And I want to show you or try to show you what has been
5 marked previously as State's Exhibit Number 122 and if you
6 could look in there. And do you recognize that?

7 A: Yes, ma'am.

8 Q: And what is that?

9 A: That's -- in the picture that's being viewed right now
10 that's the actual piece of Plexiglas that's laying on the
11 floor that you can see it almost looks like it's got the
12 window panes that you can see just from where it was painted
13 while the glass was attached and that's what's in the box
14 there, that square piece of Plexiglas.

15 Q: Okay. And did you alter or tamper with that item of
16 evidence in any way?

17 A: No, ma'am.

18 Q: And did you submit that evidence to the State Law
19 Enforcement Division?

20 A: I did, ma'am. I actually placed it in the box, used
21 items to keep it from rubbing because we didn't want the
22 footwear impressions to get smeared or rubbed off. So I
23 packaged it so it could not move in the box, secured it,
24 initialed it, dated it and it was then taken to SLED.

25 MS. RICHARDSON: Your Honor, at this time, I'd offer

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1 State's Exhibit Number 122 into evidence.

2 MR. EDGEWORTH: No objection, Your Honor.

3 THE COURT: State's 122 is in evidence without objection.

4 STATE'S EXHIBIT NUMBER 122

5 ADMITTED INTO EVIDENCE

6 MS. RICHARDSON: I think I've got them all mixed
7 together.

8 BY MS. RICHARDSON:

9 Q: Did you notice any sort of damage or problem with
10 anything else in the home; any other than the doors?

11 A: Just the front door, the main entrance that's on the
12 porch and also which would be on the south side of the house
13 and then the bedroom to the right. Before I process the
14 scene, I usually try to get as much information about what has
15 happened and some of that comes from the officer, some of that
16 comes from the victims themselves and that was the only doors
17 that were forced open. The young lady's bedroom, it was
18 learned through those discussions that her bedroom stays open
19 all the time because I was also looking at anything that
20 potentially needed to be processed that was touched or
21 anywhere evidence may practically be where it should be.

22 Q: Okay. And I point you to State's Exhibits Number Twenty-
23 four and Twenty-five. Let's start with Item 19. What is
24 that?

25 A: That appears to be the master bedroom door. You can see

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1 the hinges where the wood is torn away. If you were actually
2 standing looking at the door -- of course this is laying on
3 its side -- if you would rotate it ninety degrees up, you
4 would see that doorframe is actually pushed into the bedroom
5 and that's the way that piece of splinter that's sticking out
6 is pointing into the bedroom, but it's obvious that it was
7 forced to open the door.

8 Q: And Item Number 20, which is State's Twenty-five?

9 A: That, if you see where the black shoes and there's
10 someone standing there, that's actually the door that goes
11 into the bedroom. That corner, bottom corner of the door
12 would be the door you saw in the picture leaning inward and
13 this is just showing the -- I took overall pictures of the
14 bedroom. I tried to get just like if you were there all --
15 the whole entire room. This is a picture of down -- if you
16 walked in the bedroom, this would be the wall to your left.

17 Q: Okay. We can go to State's Thirty-nine, which is Item
18 34; can you tell me about that?

19 A: This is -- once I had left the residence, I had finished
20 there and I went back to the police department. I was
21 actually closely -- more closely examining just the piece of
22 glass itself to see what may be on there and as you can see
23 with the -- I'm using the reflection of a flashlight and the
24 overhead lights, you can start to see some different footwear
25 impressions showing up on the glass. In this particular

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1 picture, if you look right up at the top, you'll see a piece
2 of one and then you'll see another one just square in the
3 center and I'm trying to take a picture of the whole one in
4 the center in this particular picture.

5 Q: Okay. In State's Number Thirty-nine, can you kinda just
6 give us like a general description or way that you identified
7 this footprint just in layman's terms?

8 A: In layman's terms ---

9 Q: Just so we can label ---

10 A: --- yeah, in layman's terms, I was looking, like the
11 gentleman had said from SLED, there's a lot of different
12 footwear patterns. I just said a zig-zag, wavy line was the
13 type of footwear pattern that this particular shoe had.

14 Q: Okay. And State's Exhibit Number Forty-two, which is
15 Item Number 37, and that was another photo you took of the
16 Plexiglas?

17 A: Yes, ma'am, it was, with a different distinct footwear
18 pattern to it. You can see you got circles going out from a
19 design in the center and it has wording that's going down
20 through the design in the center, which is totally a whole
21 different design than this zig-zag line.

22 Q: Okay. And how would you kinda describe that one?

23 A: Just basically it had just a -- a pear-shaped or an odd-
24 shaped shape in front of circles is what I said.

25 Q: Okay. And Item number 48, State's Exhibit Forty-three; I

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1 mean Item 43, Exhibit Forty-eight, sorry.

2 A: This is still the same piece of Plexiglas. This was
3 another distinct footwear pattern that was different than the
4 other ones. It appeared to be either little squares or
5 diamonds, depending on how you look at it and that's generally
6 how I refer to that as like little diamonds.

7 Q: Okay. And after you finished processing this scene, what
8 did you do?

9 A: After I finished at the residence of
10 I spoke with Mr. Dozier and his family and I had them meet me
11 because I wanted to get a formal interview with them about
12 what took place and I had them come down to the police
13 department and then I interviewed them there.

14 Q: Okay. And about what time were those interviews?

15 A: The interviews were around the 4 o'clock hour to around
16 5:00, 5:30, around that time of the morning.

17 Q: And once those were completed, what did you do?

18 A: I, I was working on one other evidence that I had,
19 packaging it up, getting it ready to go into evidence and
20 during that timeframe, after finishing up with that and
21 finishing up with the evidence and packaging it is when the
22 other call came out.

23 Q: And what -- what call was that?

24 A: It came out over the police radio as a shots-fired call
25 and normally, to us, that means something -- shots were just

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1 fired; somebody just heard it like you heard a gun off next
2 door and then usually everybody's responding because they
3 think it's active -- somebody's actively shooting at that
4 time. So, that call came out over the radio. It came out at
5 Black River Road and that's the first initial address that we
6 responded to. As we were in route to that, we found out that
7 dispatch gave us a wrong address and they redirected us over
8 to the area of Legion Street and Church Street, the path
9 beside Beck Administration Building now.

10 Q: Okay. And was it -- when you got there was it actually a
11 shots-fired call?

12 A: Initially when I got there, of course, some of the folks
13 who were walking their kids and stuff there had said what they
14 found and I was one of the first officers on the scene there.
15 I went down the path from the same direction that they were
16 standing, which was on Legion Street and went to the south
17 down the path and, you know, went to where Mr. Thomas' body
18 was and I checked his pulse to make sure there was no vital
19 signs and at that point, from seeing what I initially seen
20 there from the pooling of the blood and where it had already
21 started to harden, it appeared obvious that it wasn't a shots-
22 fired call that had just happened. This has happened with a
23 little bit of time in between the time he was found and when
24 he was shot.

25 Q: So, what did you do at that point?

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1 A: At that point, I got on the radio and had all the patrol
2 units that were out at that time, we had just had a shift
3 change at 6 o'clock. So, folks who were working when the home
4 invasion happened would've got off and the folks who now on a
5 new shift. I had them to cordon of the area. I went to my
6 vehicle which was parked around the Legion Street side and got
7 the yellow police tape that you see all the time and put it up
8 on that end, had officers go down to the south end. There is
9 only two general ways onto that path. It's pretty isolated.
10 It's a ditch that runs all the way down the east side of it
11 and wooded area, there are housing developments with fences on
12 that side too, but I had the north side blocked off with an
13 officer and I then I sent the other ones around to the south
14 side to tape it off, block it off. And then I also, just
15 because of being doing this job for a while and being familiar
16 that sometimes folks show up out of nowhere, you know, to see
17 what's going on. I didn't want to take a chance that somebody
18 would just pop out in that long wooded area. So I put a
19 couple of officers along the wooded area just to make sure
20 somebody didn't walk through the woods and, and destroy
21 anything that was at the crime scene.

22 Q: And did you and your officers keep it secure until you
23 finished processing it?

24 A: Yes, ma'am, the -- there may have been officers that
25 changed posts, but we kept all the posts up until I had

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1 finished what I needed to do at the crime scene, the coroner
2 had came and did what he needed to do. And I had also called
3 central dispatch to call EMS because they wanted to come into
4 the crime scene and as I had surveyed coming in, I noticed
5 that there unique footwear patterns that were on that path
6 also and I didn't want those destroyed by people -- the gurney
7 coming down there or multiple people coming and going. So I
8 told them to stay out of the crime scene, not come down there
9 and I also asked them if they would speak to the coroner and
10 see if the coroner would give me time that I wouldn't touch
11 the body, mess with the body, because that's the coroner's
12 job, but I needed time to preserve and collect the evidence on
13 the scene and what we had and kinda gave him an overview of
14 what we had.

15 Q: And you may have covered this, but it was readily
16 apparent that there was no need for medical assistance?

17 A: Yes, ma'am. I checked his pulse and from the -- the
18 obvious signs of injury and from what was there, it was
19 obvious that there were no life signs, no pulse, no
20 respiration, no breathing or anything.

21 Q: And did you process that scene and photograph it as well?

22 A: Yes, ma'am. Basically, just as I do any crime scene, the
23 only difference here was now I knew all of a sudden, it's not
24 every day that we have a murder in the city and it's a -- what
25 we would call a major case so you know there's gone be a lot

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1 of work. So at that point, I was the only investigator at the
2 police department and it's still early in the morning. So I
3 went ahead and called out the other investigators that I had.
4 I called the SRO's at the schools, brought them over from the
5 school to relieve the patrol officers so the patrol officers
6 could go out and start talking with witnesses and gathering
7 more information and I put the School Resource Officers on the
8 perimeter of the crime scene just trying to get as many people
9 there and free up people to do what we needed to do.

10 Q: And was a crowd starting to gather?

11 A: Most of the foot traffic and the folks that came were on
12 the Legion Street side, which is behind Thornton Hall. If you
13 go down Lincoln Street, you got the Housing Authority which
14 there is quite a few apartments there and then you have
15 Thornton Hall and Georgetown Landing Apartments next to that.
16 So, I mean you've got a lot of apartments there, you've got a
17 lot of folks who use that path, a shortcut to go through
18 there. It's the time of the morning when school is taking in.
19 So, you know, there was quite a few people coming and going
20 and of course when word gets out in a small town like
21 Georgetown, something's happening, you've got folks coming out
22 for that too. So, there were a lot of foot traffic but they
23 were kept to the ends whether they were on the Church Street
24 end down by the old EMS shed or down on the Legion Street end
25 before you get to the ditch that goes into that property.

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1 Q: Okay. I'm gonna show you another large series of photos
2 and these have been pre-marked for identification. Okay. I'm
3 gonna let you look at State's Exhibits for identifications
4 Fifty -- Fifty-one through Seventy-five and now Seventy-six
5 through 105. And can you identify those photographs, just
6 generally?

7 A: These two groups of photographs would be photographs that
8 I took once I was at the scene over between Legion Street and
9 Church Street that runs along the property line of the Beck
10 Administration building. These would be all photographs that
11 were associated with Mr. Thomas' body.

12 Q: And these photographs were provided to the State in
13 digital form on a CD; is that right?

14 A: Yes, ma'am.

15 Q: And these printed photos, are those an accurate
16 reflections of the scene as you saw it that day and the
17 photographs that you took?

18 A: Yes, ma'am. You'll notice in some of them, they don't
19 have markers and some of them, they don't have a ruler and the
20 reason is that we normally take multiple pictures. One being
21 before we put anything in the picture and then we mark it with
22 a marker so you would know if you got -- if you're talking
23 about a picture, what item you're talking about there and the
24 ones that have a ruler in them, if forensics, when it gets to
25 SLED, is gonna do anything with it, they need to have a

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1 photograph that they can turn to a one-to-one representation
2 of the item so you put a known measurement device in there and
3 take a photograph straight on ninety degrees because if you
4 take it at an angle, it skews the measurement and we want them
5 to be able to blow it up real life, real size so they can do
6 what they need to do. That's why you'll see sometimes some
7 pictures have no marker device in it and then other times they
8 will.

9 Q: And also photos that have already been admitted into
10 evidence and that's State's Thirty, Thirty-one, Thirty-two and
11 the large one is State's Thirty-Nine; are those more of the
12 same -- more of the photos that you took?

13 A: Yes, ma'am.

14 Q: Okay.

15 A: Yes, ma'am.

16 Q: And as to this large photo, State's Number Twenty-nine,
17 can you explain what that is?

18 A: Yes, ma'am. Back on August the 30th, 2012, if you were
19 standing in the vicinity of where that ditch is that goes onto
20 the school property, this would be the view right there on the
21 Legion Street end that you would see if you were looking south
22 down the path towards where the body was found.

23 Q: So, were you able to see the body from the road?

24 A: No, ma'am, it was a lot of overgrown and trees hanging.
25 If you go by there today and you look at it today, it's been

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1 totally changed but that is a true accurate reflection of how
2 it looked at that time and the folks that were standing out
3 there, they could not see to -- because there was a bend --
4 there's a fence that you can't really see in that picture, you
5 can see it back here. The fence also had a bend in it and the
6 body was kinda on the other side of that bend.

7 MS. RICHARDSON: Your Honor, the Court's indulgence. We
8 want to publish these to the Jury but we'll try to line it up
9 so that we can do them in order.

10 THE COURT: All right. Fifty-one through 105 been
11 offered into evidence?

12 MS. RICHARDSON: I'm sorry, Your Honor. At this time,
13 I'd offer all of these into evidence.

14 MR. EDGEWORTH: No objection, Your Honor.

15 THE COURT: All right. Fifty-one through 105 is in
16 evidence without objection.

17 STATE'S EXHIBIT NUMBERS FIFTY-ONE THROUGH ONE HUNDRED FIVE

18 ADMITTED INTO EVIDENCE

19 BY MS. RICHARDSON:

20 Q: All right. Beginning with State's Exhibit Number Fifty-
21 one, Item 1; why did you take that photo?

22 A: There are, if you look in this picture, there are several
23 partial footwear patterns on the ground. On this particular
24 morning, weather-wise, when I responded to
25 on the way to that call, it actually stopped raining at about

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1 2:19 in the morning. Of course, this is around 7 o'clock hour
2 now, but it was -- looking at these shoe prints, it became
3 obvious that some were put there since the rain had stopped
4 and some of the footwear patterns that's on the path were
5 older. That's just the weather played a part in that, but in
6 this particular picture, there is some light footprints. You
7 can see some up in the upper right corner that kinda looks
8 like the diamond shape and you can see some other footwear
9 patterns over to your left side and some kinda in the center.

10 Q: And if we can scroll through State -- Number 2, State's
11 Fifty-two; yeah, and then Number Three?

12 A: Right in the ---

13 Q: Just State's Fifty-three and Number 4, which is State's
14 Fifty-four and did you take all those photos for the same
15 reason?

16 A: I did. I was just documenting and you see all of these
17 were done without any scale so these would have been my
18 preliminary photographs. And at this time, I was documenting
19 footwear patterns and fortunately in this particular case, I
20 had just worked so this is one of the first
21 indications that I got that something may be connected to the
22 home invasion just because of the footwear patterns started to
23 hit me as coincidental that there was more than one footwear
24 pattern that I had just seen over at
25 South Kaminski Street.

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1 Q: And how did you identify Mr. Thomas?

2 A: On that day how did I identify him?

3 Q: That morning how did you identify him?

4 A: It took a little while because no disrespect to Mr.

5 Thomas, I was working the exterior of the crime scene so I had

6 to wait for the coroner to get there before I could do

7 anything else, you know, to him. When I walked up to the

8 crime scene, I knew that there was some type of alarm or

9 something going off on his person, like he would have a cell

10 phone or something like that, but I had to wait till the

11 coroner got there to do anything with the body itself. So

12 eventually when Coroner Kenny Johnson got there, he assisted

13 me and took items out of -- out of Mr. Thomas' pocket one at a

14 time and I photographed them. We wrote notes to what they

15 were. And, on his person, he had proper ID and things that

16 identified him as Alfonso Thomas.

17 Q: Okay. Going through the pictures beginning back at

18 Number 7 now, which is State's Number Fifty-five and is that

19 the position that he was in?

20 A: Yes, ma'am, that would be before anybody had touched him

21 or moved him, that would be the position that he was found in

22 and just to give you some orientation to this picture. His

23 head would have been facing to the south, which would have

24 been the Church Street area that runs in front of the Beck

25 Administration Building. His feet would have been facing

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1 pointing towards Legion Street area or the back of Thornton
2 Hall, that area, and off to his -- if you're looking at the
3 picture, off to the way I'm sitting, the left side of the top
4 of the picture, that would be a ditch that runs down the whole
5 part of the property and the way that he is facing, he would
6 actually be facing the fence line of the Beck Administration
7 Building and facing the Beck Administration Building.

8 Q: In State's Number Fifty-six, which is Number 8, and in
9 this his clothing appears to be wet?

10 A: If you look at it, certainly the ground was extremely wet
11 because it had rained that night and if you'll look at him, he
12 -- his shirt is soaked up the moisture of the ground and the
13 top part is dry where on his back and you see is a different
14 color. You see how the shirt gets darker as it goes down
15 kinda where the water line is. So part of his shirt is dry
16 and part of his shirt was wet.

17 Q: Okay. And States Fifty-seven, which is Number 9?

18 A: These would be the shoes that he was wearing, the pants
19 that he was wearing, also kinda getting in the photograph --
20 and there are better photographs of this. This is just kinda
21 overall photographs, but when I viewed the body and I looked
22 at it, it was also apparent that his left foot appeared that
23 he was twisting or turning around at the time that he fell.

24 Q: And the shoes that he was wearing, were those collected?

25 A: Yes, ma'am.

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1 Q: Let me show you what's previously been marked as State's
2 Exhibit Number 121 for identification.

3 A: Yes, ma'am.

4 Q: Do you recognize the shoes in this bag?

5 A: Those would be the shoes that Mr. Thomas was wearing in
6 this photograph.

7 Q: And those shoes were collected by your department?

8 A: Yes, they were -- as proper procedure normally is, we
9 can't take any clothing or anything off of the deceased
10 especially if they're gonna go to an autopsy. That's what the
11 medical examiner does where he goes and they do their own
12 report and examination. So everything would have stayed
13 intact, went with him to the autopsy and then they sign it
14 over to us and it comes back to us.

15 Q: Okay. And then you would have put it in evidence?

16 A: Yes, ma'am.

17 Q: Okay. And then those items were taken to SLED to State
18 Law Enforcement Division?

19 A: Yes, ma'am.

20 Q: And other than the testing by SLED, have you altered --
21 have you altered these shoes in any way ---

22 A: No, ma'am, I didn't do any footwear pattern examination
23 of anything on those. They were simply sent to SLED to
24 compare to what we had on the crime scene photos and what we
25 had on the glass itself.

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1 Q: In addition they're identifiable by size and type and the
2 markings or the wear pattern on the bottom; is that right?

3 A: Yes, ma'am, if you look at the bottom of those shoes, it
4 has a zig-zag line pattern that you may've heard me talk about
5 before.

6 MS. RICHARDSON: Okay. Your Honor, at this time, I'd
7 offer State's 121 into evidence?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: State's 121 is in evidence without objection.

10 STATE'S EXHIBIT NUMBER 121

11 ADMITTED INTO EVIDENCE

12 BY MS. RICHARDSON:

13 Q: State's Number Sixty-one, which is Item 13, and again,
14 can you explain where the opening to the path would be?

15 A: Yes, ma'am. This picture would be taken facing back
16 towards Legion Street. From the left side of the photograph,
17 you can see the fence that I'm talking about and where the
18 corner is in the fence. Behind that corner, and you can
19 actually kinda see some folks standing out there and you can
20 even faintly make out the yellow tape way out there at the
21 opening, but that would be the Legion Street end that faces
22 out to a vacant field and then behind the fence line off to
23 the left, would be where Thornton Hall Apartments are.

24 Q: So, his feet are pointing towards Thornton Hall?

25 A: Yes, ma'am.

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1 Q: Okay. And State's Sixty-eight, which is Number 16?

2 A: This is a close-up of the blood pool that was by his body
3 and basically the photograph I'm taking, and this is one of
4 the indicators to me that it wasn't a shots-fired call, or
5 something that just had happened right before we got there.

6 One, because it was long enough to make a pooling of the
7 blood; two, you got the discoloration, the blackening of the
8 blood around the -- the outside, which was shallower.

9 Certainly a deeper pool takes longer for the blood to
10 coagulate. So those were the things that I was trying to put
11 into the photograph there is that we got a shots-fired call,
12 which means somebody -- immediately happened and obviously
13 this was not matching what our initial call was. So I was
14 trying to document that.

15 Q: And State's Number Sixty-six, which is Number 19 and that
16 shows -- that's the length of the blood pool ---

17 A: Yes, ma'am.

18 Q: --- is that correct?

19 A: Coming away from the body, the area that I took the
20 picture of would have been a little further out than that.
21 You know, down in the left bottom corner of the picture, it
22 would have been a little bit further out from the body, but
23 that would be on his left side away -- that's on the path and
24 you can see you got grass on the path and some dirt on the
25 path, a dirt area is kinda narrow where everybody walks and

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1 the rest of it is kinda grown up with grass.

2 Q: And State's -- State's Exhibit Sixty-seven, which is Item
3 20?

4 A: This is actually a close-up of the, the shoes that he's
5 wearing. You can actually now see the zig-zag pattern that's
6 on the bottom of the, the footwear pattern on the bottom of
7 the tennis shoe and it's a close-up of you can kinda see where
8 the dirt has adhered to the toe of his shoe, which matched
9 looking straight down at that impression on the ground where
10 he was -- it looked like he was pivoting or turning, putting
11 his pressure on that one foot at the time that he fell.

12 Q: And I'm gonna skip around some, State's Number Seventy-
13 nine, which is Number 32. Item Thirty-two, State's Exhibit
14 Seventy-nine.

15 A: This particular shirt, I was documenting because it was
16 on the path -- and just to clarify, my job when I go to a
17 crime scene, we don't always know what was there, what was put
18 there during the crime scene, can't always tell that and in
19 this particular case, you've got an area that is just a vacant
20 field that's out in the, you know, the edge of the property.
21 So, because the shirt was there, I can't just assume that it's
22 not part of this crime scene, so I document it, photograph it
23 and make notes about it. In this particular case, I noticed
24 that this shirt was completely soaked, completely wet, that
25 had debris where it had fallen out of the trees and landed on

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1 it, so it appeared to me through that, that it, number one,
2 that it had to be there before it rained that night and long
3 enough for debris to fall out and fall on top of it. So I
4 documented it because it was there but it appeared to have
5 been there longer than Mr. Thomas had been there.

6 Q: And State's Exhibit Number Eighty-two, which is Item 37
7 and this appears to be a longer view of the path; is that
8 right?

9 A: Yes, ma'am. Once again, this would be facing from the
10 Legion Street area looking back down towards where the body
11 is, which if you see the two officers whose standing in the
12 middle of the picture, they are further down from the body.
13 The body is between the front of the picture in them. The
14 body is in front of them, but if you look off to the left
15 center of the screen, you'll see that red and blue shirt. So
16 that gives you some idea where it was positioned as opposed to
17 where Mr. Thomas' body was.

18 Q: And the yellow markers that are out ---

19 A: The yellow ---

20 Q: --- tell us about those?

21 A: Yes, the yellow markers are each at some item of interest
22 along the route into there. A lot of them are footwear
23 impressions. Certainly, there's one at the shirt, there's one
24 at the body and -- but the majority of them are footwear
25 patterns that appeared to show that Mr. Thomas was walking

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1 from north to the south at the time that he was shot and fell
2 at that position.

3 Q: And if we could just publish as a group and in sequence
4 State's Number Eighty-three, which is 39; Eighty-four, which
5 40; Eighty-five which is our Item 41; Eighty-six, which is
6 Item 42; Eight-seven, which is Item 43; Eighty-eight, which is
7 Item 44; Eighty-nine, which is Item 45; Ninety, which Item 46;
8 Ninety-one, which is Item 47; Ninety-two, which is Item 48;
9 Ninety-three, State's Exhibit Ninety-three, which is Number 49
10 on our item numbers; Number Ninety-four, which is Item 50;
11 Number Ninety-five, which is Item 51; Number Ninety-six, which
12 is Item 52; Number Ninety-seven, which is Item 53; Exhibit
13 Ninety-eight, which is Item 54; Exhibit Ninety-nine, which is
14 Item 55. I've flashed those up in pretty quick succession,
15 but can you tell us what those were?

16 A: Basically that series of photographs would have been
17 after the coroner got there. That last long picture you saw
18 where the red-and-blue shirt was in front, that was the
19 coroner that was in the corner of that picture. But this is
20 after the coroner got there, he's actually taking the things
21 out of his pockets, we're documenting them, photographing them
22 and, you know, the different items that, the watch that he was
23 wearing, the watch that was in his pocket, the phone, all the
24 different forms of identification and paperwork that was on
25 him. All of that was what was actually on Mr. Thomas.

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1 Q: Okay. And as far as the telephone, is that what you
2 heard the sound coming from?

3 A: Yes, ma'am and once the coroner got there and I -- when
4 he -- when we got to the point where we could deal with Mr.
5 Thomas' body, I had him pull it out so we could cut it off,
6 the noise that it was making. And at that time, I also
7 noticed that the home screen or whatever you want to call it,
8 the screen that's normally on your phone when it's not in use,
9 that it had the -- it appeared to have the victim's name, one
10 of the victim's from minus one
11 letter of her name.

12 Q: And let me show you what's already been admitted into
13 evidence as State's Exhibit Number Eight?

14 A: Yes, ma'am.

15 Q: And is that what you're talking about?

16 A: Yes, ma'am, you can see the victim's name is part of the
17 saying that's on the phone.

18 Q: Okay.

19 A: And it's also got her -- her age with dollar signs in it.

20 Q: And when you saw that ---

21 A: When I saw that, once again, you know, when we get --
22 when we get called to a scene, we know zero, nothing about it.
23 And certainly in this occasion here, I left

the home invasion, and the next scene I'm working is
25 the murder of Mr. Thomas on this path and, you know, certainly

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1 what I had just seen with it being one investigator, all that
2 was my knowledge and I knew about it and the footwear
3 patterns, I had already picked that up, that's why I kept the
4 scene so secure and wouldn't even let the coroner come in and
5 so I didn't want to lose that and trying to get it done before
6 if it was gone rain again -- I didn't know how long that was
7 gone be; I just knew we had a break at the moment. And when I
8 got the phone and saw that, then it was really concrete in my
9 mind that there's a lot of similarities here; there's a lot of
10 things in common. So it appeared that the two instances were
11 linked somehow.

12 Q: So, at that point, is that when you began investigating
13 them in tandem or together?

14 A: Yes, ma'am, I mean that's when we knew that both cases
15 were probably gonna have similar evidence or information.

16 Q: And so, once you finished with the photographs and
17 collecting the evidence from the scene, then Mr. Thomas' body
18 was released to the coroner?

19 A: Yes, ma'am. Other than the last thing that we did was I
20 wanted to preserve the, the hands of Mr. Thomas for a forensic
21 test, potentially down the road, so we bagged his hands just
22 in case there were any physical evidence on his hands and they
23 would be examined once he got to the medical examiner and also
24 so if we wanted to do a GSR test, which is gunshot residue
25 test that nobody would be rubbing them, messing with them or

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1 contaminating them so we placed bags on his hands and then
2 allowed EMS in to transport him.

3 Q: And did you continue canvassing or looking over the area
4 at that point?

5 A: Once, you know, once Mr. Thomas was gone, certainly the
6 whole time that I'm there, there's other officers in the
7 department that are speaking with the general public, people
8 who are coming forward and telling us bits and pieces and
9 they're also asking to see if anybody heard gunshots trying to
10 get a timeline and those types things. So any information
11 that they got, I followed up on what I could there. I walked
12 the entire distance of that ditch looking for, because of the
13 rain, it kinda gave me a clean slate to look at, if you will,
14 because if there were any footwear impressions or anything
15 that got -- that would have gotten washed away before that
16 2:19 in the morning, so I had an opportunity to walk the whole
17 ditch bank. It's a pretty wide ditch so when you jump across
18 it, you land with a lot of force and you usually are gonna
19 make a mark on the other side of the ditch bank. So I was
20 looking to see, trying to find out which way any potential
21 people may have ran or, you know, left the scene. So I was
22 trying to look at that and document all that and I could find
23 nowhere along the ditch bank where anybody would have went
24 into the wooded area, which would have been back towards
25 Merriman Road, Hampton Court, that area. I also walked,

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1 there's -- in that square block, there are three different
2 paths that cut through Legion Street to Hampton Court, that
3 area. You know, one is right there, which is the path itself
4 and there's one in the middle of the block and then there's
5 one close to Merriman Road. They're all parallel, if you
6 will, the ditch bank and Merriman Road and I walked those same
7 paths looking for the same footwear pattern in case maybe a
8 suspect left and cut through there going to Hampton Court or,
9 you know, just looking to see where there was any evidence.
10 So I walked that whole entire block that morning and also the
11 vacant field that was plowed up where the -- Mr. Thomas' body
12 is, off across that ditch, there's a house there that's owned
13 by the Grove family and behind that house was a vacant field
14 that had been plowed and I walked through that to see if
15 anybody had cut through the wooded area and went through their
16 backyard and there were no fresh footprints back there either.
17 Q: And when you're talking about the ditch bank, you're
18 talking about the long ditch that runs beside of the path, not
19 the short ditch at the beginning?
20 A: No, I checked that too, but the long ditch is, is
21 probably almost two blocks long. I mean it's longer than a
22 city block, it's the whole property line of the Beck
23 Administration Building. So it goes all the way into -- in
24 the photographs it goes all the way from Legion Street to
25 Church Street.

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1 Q: And it's part of that fence?

2 A: It's -- would be outside at the fence, but the fence
3 would border it on the school district side and the ditch
4 would border it on the Merriman Road side.

5 Q: Are there any portions, though, on that wood side that
6 have some old fencing in the woods?

7 A: If you get on down towards Hampton Court, there is --
8 which is in the photographs that you were looking at where the
9 officers were standing, back behind them is about where
10 Hampton Court comes through there and there's -- and that's
11 fenced off. It goes back up into that subdivision. But down
12 on the Legion Street end, you can see a couple of places if
13 you walk the ditch where folks have cut through there over the
14 years, for whatever reason, but there's only a couple of
15 places where it's not thick that you wouldn't have to beat
16 your way through the wooded outline to get into. So I walked
17 the whole thing and there was no indication that anybody went
18 through there.

19 Q: So, after you finished canvassing the area, what did you
20 do at that point?

21 A: After I canvased the area, certainly we took everything
22 back that we had and secured the evidence and, at that point,
23 we discussed what we had, what everybody was doing. And at
24 that point, we would start following up on any information
25 that came in and we would start also trying to build a

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1 timeline for, you know, where Mr. Thomas was from, you know,
2 now we've found him here at 6:57 A.M., let's run that back and
3 see where it was. So we were trying to build a timeline of
4 where he was, who he was with and what had happened and now
5 this -- the investigation would have happened, you know,
6 continuously for days, weeks, months as information came in
7 and as we followed up on leads.

8 Q: And did you re-interview the victims based on a telephone
9 that you found?

10 A: Yes, ma'am. They positively identified that phone as the
11 young Wilsons' phone. And we, we also tried during that same
12 time period, immediately at the -- that morning, since we knew
13 other phones were taken, we had, we had -- we knew from the
14 victims and their family that they had already tried calling
15 the phone, but we also -- I tried -- I didn't -- exigent
16 circumstances would just mean it was an emergency type
17 situation because we knew we had somebody out there armed and
18 potentially dangerous. So, we tried to go through the phone
19 company of their phones and do what we call an active ping
20 where they don't call your phone, they don't ring your phone,
21 but they send a signal to your phone and they can tell where
22 it's at, whether by -- sometimes you're only gonna get a
23 general area because if they don't GPS, it's gonna give you a
24 cell tower, which that narrows it down quite a bit or you're
25 gonna get a GPS location which is better. What we found out

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1 -- and I tried that multiple times over multiple days on
2 multiple phones. Basically what we found out was that those
3 phones had already been shut off. There was no activity or
4 anything going on with them and they were not getting a
5 response to their pings for those phones.

6 Q: And that was Antoinette Wilson and Walter Dozier's
7 phones?

8 A: Dozier's phone.

9 Q: And did you ever recover those phones?

10 A: No, ma'am. We walked the roads and, and even back at 622
11 South Kaminski, we walked that area, down the streets and, you
12 know, thinking maybe somebody might have thrown or discarded
13 them along the way, but we never did locate those phones.

14 Q: And on the scene, on the path by Beck School, did you
15 locate any firearms, projectiles or anything like that?

16 A: No, ma'am.

17 Q: So, you never found a gun?

18 A: No, ma'am.

19 Q: And you began getting just tips in and information?

20 A: Yes, ma'am, along the way. Like I said, this was
21 certainly not a quick investigation. Along the way as we got
22 tips and information, we would follow up what came in and as
23 our job is to either rule it in or rule it out and we'd follow
24 up on those leads.

25 Q: Did you have any idea how many people you interviewed in

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1 this process?

2 A: Definitely over thirty. Formally over thirty people;
3 informally probably as many as fifty. Together the thirty on
4 top of would be twenty or so more at least. You know, just
5 talking with people on the street because folks would tell you
6 some information. And one of the things that we're trying to
7 determine is whether they had first-hand information or is it
8 something somebody told them, who told somebody that told
9 somebody and certainly if that was the case, then we'd go from
10 the person who told us to the person who told them to the
11 person who told them, trying to run it back to see if we could
12 get a eyewitness or a person who had first-hand information.
13 So, you know, we had quite a few leads or information that
14 came in over the months that this took place and followed them
15 all up.

16 Q: And did you also meet with Alfonso Thomas' family?

17 A: We did.

18 Q: And did that aid you in tracing his whereabouts the night
19 before he was murdered?

20 A: Yes, ma'am. Mr. Thomas' sister had did some digging on
21 her own and talked with some folks and what we knew that
22 sometimes with the police, folks don't always like to tell us.
23 Sometimes they feel more comfortable talking to somebody else
24 and a lot of times they find out things a lot quicker than we
25 will. It's just normal. So, she did find out some things and

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1 she made certain that she told the police department and in
2 this particular case, was one of the leads that came in was
3 about a gentleman called Anthony Lawrence.

4 Q: And Mr. Lawrence testified yesterday and we watched his
5 interviews at great lengths; is that right?

6 A: Yes, ma'am.

7 Q: And based on the information provided by Mr. Lawrence and
8 subsequently, I guess, by Ms. Williams as well, Jasmine
9 Williams?

10 A: Yes, ma'am.

11 Q: Did you develop or, or determine some persons of interest
12 who may have been with Alfonso Thomas the night or the morning
13 that he died?

14 A: Yes, ma'am, we did.

15 Q: And who were those individuals?

16 A: The -- that would Anthony Fraser, Damonte Rivera, that
17 they were with him at Mr. Lawrence's house along with Jasmine
18 Williams.

19 Q: And once -- and also you did recover the shirt ---

20 A: Yes, ma'am.

21 Q: --- that was at ---

22 A: We, we talked with Mr. Lawrence on multiple occasions.
23 Something that we noticed was that he was a little hard to
24 speak with, not because -- not because he was trying to be
25 mean or anything. He has been in an accident and if you had

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1 patience and you talked with him, he would -- he would say
2 things that you knew weren't crazy or off-the-wall because it
3 matched other information that we had. So we interviewed on
4 -- on several occasions and almost every occasion there was,
5 he'd sit there and think about it, there was something else
6 that he could recall that matched other evidence and things
7 that we had. He was cooperative. He didn't try to, you know,
8 not cooperate with us. He didn't want -- it was obvious he
9 didn't want to be there. It's not what he had on his list to
10 do but he let us go to his apartment, search it, that's where
11 we did find the orange shirt that Mr. Thomas was wearing that,
12 that night and, you know, he was forthcoming with a lot of
13 information with clothing on the gentleman when Mr. Fraser,
14 Mr. Rivera and Mr. Thomas was at his house. A lot of those
15 clothing descriptions were very similar to the clothing
16 descriptions that Mr. Dozier and his family gave to me when I
17 asked him what they were wearing. So there was a lot of
18 things that he was saying that was right on the money. You
19 know, it wasn't obvious that he was just making it up.

20 Q: And were you -- did you gather information and
21 photographs just to identify Damonte Rivera and Anthony
22 Fraser, just their driving record -- driving records, that
23 sort of thing, pictures?

24 A: Yes, ma'am.

25 Q: And in general, just in general, were you able to get a

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1 height on Mr. Fraser?

2 A: We knew, I mean, just from experience, knowledge, we knew
3 he was around 6'3" or so, 6'3", 6'4", a tall gentleman.

4 Q: And what about Mr. Rivera?

5 A: Just through history, we knew that Mr. Rivera was quite a
6 bit shorter than Mr. Fraser, or you know, 5'6" to 5'8",
7 somewhere in that height range.

8 Q: And you were able to determine complexions and that sort
9 of thing based on either your experience or photographs?

10 A: Yes, ma'am.

11 Q: And obviously you were easily able to get height and
12 weight on Mr. Thomas?

13 A: Yes, ma'am.

14 Q: And based on that information and that you had developed
15 and the information that you received from the victims, what
16 sort of determination did you make at that point?

17 A: Looking at the totality of the circumstances, the
18 information that we had from the victims, Mr. Lawrence, Ms.
19 Williams, everything was consistent and it appeared that, that
20 Mr. Fraser, Mr. Thomas and Mr. Rivera all matched the general
21 descriptions that were given.

22 Q: And once you had the information from Mr. Lawrence and
23 the shirt, the cell phone and the general physical
24 descriptions, did you seek to do any further searches or
25 investigations regarding that information?

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1 A: At that time, we did search warrants on several
2 residences, one of them being Mr. Fraser's residence. Search
3 warrants was derived for that along with an arrest warrant for
4 Mr. Fraser and that warrant was executed, which would have
5 been at the house on -- of his father and he was also
6 arrested, that would have been on September the 2nd. And
7 during that search of that house, we also took several shoes
8 that were of interest to us and also a search of the exterior
9 of the house up in the rafters over the backdoor, which
10 would've been on the west side of the house, we located a set
11 of keys and at further examination, we recognized what was a
12 Hummer key and we were familiar that Mr. Dozier's father had a
13 Hummer. So, certainly after that we also talked with them to
14 confirm the keys and we learned that those keys were indeed
15 items that were taken from Mr. Dozier's house at the time of
16 the home invasion.

17 Q: Let me show you what's previously been marked as State's
18 Exhibit Number Twenty for identification and do you recognize
19 those?

20 A: Yes, ma'am.

21 Q: Okay. And what are they?

22 A: Those are a pair of shoes that were found at Mr. Fraser's
23 father's house.

24 Q: Okay. And where at the house were they found?

25 A: Those were on the back porch. They appeared to have some

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1 dirt on them, like fresh dirt and they were also -- we were
2 speaking with Mr. Fraser's father and he also indicated that
3 those were Mr. Fraser's.

4 Q: Okay. And those are size twelves?

5 A: Yes, ma'am.

6 Q: And what did you do with -- with these shoes?

7 A: The shoes were taken into evidence and secured and
8 eventually they were sent off to SLED to be compared to the
9 other two crime scenes, one being the path and the one being
10 the home invasion,

11 MS. RICHARDSON: Your Honor, at this time, I would offer
12 State's Exhibit 120 into evidence?

13 MR. EDGEWORTH: No objection, Your Honor.

14 THE COURT: State's 120 is in evidence without objection.

15 STATE'S EXHIBIT NUMBER 120

16 ADMITTED INTO EVIDENCE

17 MS. RICHARDSON: Your Honor, if we might approach?

18 THE COURT: Yes, ma'am.

19 MS. RICHARDSON: If we may approach?

20 THE COURT: Sure.

21 (REPORTER'S NOTE: A bench conference was held off the record
22 in the presence of but out of hearing of the Jury.)

23 BY THE COURT:

24 THE COURT: All right. Madame forelady, ladies and
25 gentlemen of the Jury, perhaps now would be a good time to

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1 take our afternoon recess. I will remind you during this
2 recess, do not discuss the case with your fellow jurors. You
3 may step to your jury room. We'll take about fifteen minutes.
4 (REPORTER'S NOTE: Jury exits courtroom. 3:42 P.M.)

5 THE COURT: All right. Captain, you may certainly step
6 down and refresh yourself during this brief recess. You may
7 not discuss your testimony with anyone during this recess.
8 Thank you very much.

9 Court will be in recess for fifteen minutes.
10 (RECESS - 3:43 P.M.)

11 *****OFF THE RECORD*****

12 (On the Record - 4:03 P.M.)

13 THE COURT: Anything from the State before we bring our
14 Jury back out?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: Defense?

17 MR. EDGEWORTH: Nothing, Your Honor.

18 (REPORTER'S NOTE: Jury enters courtroom. 4:03 P.M.)

19 THE COURT: All right. Welcome back, ladies and
20 gentlemen. We're continuing the examination of Captain by the
21 Solicitor.

22 Solicitor, you may continue.

23 BY MS. RICHARDSON:

24 Q: Let me show you has been previously been marked for
25 identification as State's Exhibit Number Ten and do you

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1 recognize those?

2 A: Yes, ma'am, these would be the set of keys that I saw up
3 in the rafter at which would've been Anthony
4 Fraser's father's house where he was residing.

5 Q: Okay.

6 A: And where he was arrested at.

7 Q: And those are the keys that were identified by Mr.
8 Dozier?

9 A: Yes, sir, that -- yes, ma'am, this key I was holding up
10 is the -- has the Hummer symbol on it.

11 MS. RICHARDSON: Okay. At this time, I'd move State's
12 Exhibit Ten into evidence?

13 MR. EDGEWORTH: No objection, Your Honor.

14 THE COURT: State's Ten, did you say?

15 MS. RICHARDSON: Yes, Your Honor.

16 THE COURT: In evidence without objection.

17 STATE EXHIBIT NUMBER TEN

18 ADMITTED INTO EVIDENCE

19 BY MS. RICHARDSON:

20 Q: And were -- besides the shoes and the keys were other
21 items taken from Mr. Fraser's home?

22 A: There were, there was more than one set of shoes that was
23 taken from there and it was pretty much the most of the items,
24 the two sets of shoes, the keys that were taken from there.

25 Q: What about any telephones?

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1 A: We did take some phones that -- in a bedroom, the house
2 had multiple people who lived in it. Anthony Fraser, his
3 father, and Anthony Fraser's father's brother, but we did find
4 some phones in there. One of which Anthony Fraser's father
5 said was his and then we also took another phone that was in
6 that same general area.

7 Q: And were you able to identify who had been using that
8 phone?

9 A: One of them was identified as the phone that Anthony
10 Fraser was using.

11 Q: And did you seek subsequent searches of the data on that
12 telephone?

13 A: We did. We, we did search warrants on the phone company
14 requesting records of the data information, anything that they
15 could give us reference to that cell phone, telephone number.

16 Q: And when you said that you arrested Anthony Fraser, which
17 charges did you arrest him on?

18 A: On that particular day, the warrants that were obtained
19 were for the home invasion at Mr. Dozier's house. So, that
20 was for the burglary first and kidnapping and armed robbery.

21 Q: And what about Mr. Rivera?

22 A: At that particular time, he wasn't arrested, but
23 subsequently to that, it was learned that he was already in --
24 where he was located and then we also arrested him not too
25 much after that, the same day.

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1 Q: Okay. And was that for the same charges?

2 A: It was.

3 Q: Okay. And again that was based on the information that
4 you had gleaned thus far?

5 A: Yes, ma'am, basically from the information where we had
6 placed all three of them together along with all the
7 information that we've talked about so far.

8 Q: All right. And were you able to get a telephone from Mr.
9 Rivera?

10 A: During the investigation, a phone was received from Mr.
11 Rivera, yes, ma'am, it came -- I did not receive it. I had
12 knowledge of it because I was the supervisor over the Criminal
13 Investigation Division, so I know that they did receive one.

14 MS. RICHARDSON: If I could have this marked. If we can
15 mark this. What number are we up to?

16 COURT REPORTER: 140.

17 BY MS. RICHARDSON:

18 Q: Let me hand you what's been marked State's Exhibit 140
19 for identification purposes.

20 MR. EDGEWORTH: Your Honor, I'd like to renew my
21 objection to the admissibility of this item. I know that's
22 getting ready to be identified, but before the identification
23 process as I've already been shown the item. I can renew my
24 objection once again, but ---

25 THE COURT: Step up here a minute please, Mr. Edgeworth.

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1 MR. EDGEWORTH: Yes, sir.

2 (REPORTER'S NOTE: A bench conference was held off the record
3 in the presence of but out of hearing of the Jury.)

4 THE COURT: All right. At this point, it is subject to
5 your previous objection that I heard pre-trial ---

6 MR. EDGEWORTH: Yes, Your Honor.

7 THE COURT: --- Mr. Edgeworth and you may continue,
8 Solicitor.

9 MR. EDGEWORTH: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 BY MS. RICHARDSON:

12 Q: And can you identify that?

13 A: Yes, ma'am, this is a phone that was taken and identified
14 as Damonte Rivera's cell phone on the envelope, this is my
15 handwriting.

16 Q: Okay. And where was -- who was that item received from?

17 A: Lieutenant Clary, Lieutenant now, Georgetown County
18 Detention Center.

19 Q: Okay. And did you seek any information or searches
20 regarding this phone?

21 A: Yes, ma'am.

22 Q: Thank you. And personally, what did you do in that
23 regard?

24 A: We attempted to get the cell phone records. I also had
25 Investigator Gregory try to do the Cellebrite for the phone,

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1 but basically we tried to develop or get what records we could
2 off of the phone. I also, once that information was gathered,
3 I looked through the information, spoke with the phone carrier
4 for the phone and attempted to discuss with engineers and
5 stuff from the phone company on how to -- what information I
6 could glean from the phone, you know, what cell phone towers,
7 sectors, those type of things, trying to determine whether the
8 phone was of any use as to placing Mr. Rivera anywhere where
9 these crime scenes were and also during the investigation, we
10 had a statement from Mr. Rivera and also checking on the
11 potential alibi that he gave us to see if the phone gleaned
12 any information that was different than the alibi that he gave
13 us.

14 Q: And let me show you State's Exhibit 141 for
15 identification; do you recognize that phone?

16 A: This would be the phone that came off of Anthony Fraser.

17 Q: And that was at the time of his arrest?

18 A: Yes, ma'am, that was at the time of his arrest at

It was indicated that it was in his right front
20 pocket.

21 MS. RICHARDSON: At this time, Your Honor, I'd seek to
22 move State's Exhibit 141 into evidence.

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: State's 141 is in evidence without objection.

25 STATE'S EXHIBIT NUMBER ONE-FORTY-ONE

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1 ADMITTED INTO EVIDENCE

2 MS. RICHARDSON: Court's indulgence. And also, Your
3 Honor, I seek to move State's 140 into evidence.

4 THE COURT: Subject to previous objections?

5 MR. EDGEWORTH: Yes, Your Honor, thank you.

6 THE COURT: 140 is in evidence subject to previous pre-
7 trial objections and pre-trial ruling.

8 STATE'S EXHIBIT NUMBER 140

9 ADMITTED INTO EVIDENCE

10 BY MS. RICHARDSON:

11 Q: And at the point that you got these two phones into
12 evidence, did -- had you developed or charged or arrested
13 anybody else in connection with the home invasion?

14 A: Not initially. We were working off the information that
15 came from Jasmine Williams and Mr. Lawrence. We built off of
16 that information to get to the search warrants and the arrest
17 warrants for Mr. Rivera and Mr. Fraser and from the search
18 warrants where we gathered the keys and the phones and the
19 phone from the jail, then we went to dig deeper into the cell
20 phone information to glean what evidence or information we
21 could get from that and from that information, certainly we
22 were interested -- we had an idea of when the crime happened
23 at . So we started gleaning the
24 information and looking for, you know, who did they contact
25 shortly before that crime, who did they contact maybe during

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1 the crime, who did they contact after the crime. Once again
2 trying to rule them in, rule them out, to see where that
3 information would take us. And through that information, and
4 this was over days and weeks, the information gleaned and
5 continued to look at it and what was shown was that the
6 information from the phone companies that was consistent with
7 some of the phones being in the area where these crimes were
8 -- occurred, not, you know, potentially where they said I was
9 home all night and I didn't leave and also that we were able
10 to get a phone call list from one of the phones, just like you
11 have an address book with names and phone numbers. A lot of
12 the names in the phone were nicknames and we saw that there
13 was a phone number of interest that was high traffic around
14 the time of the home invasion and we started working that
15 angle of the investigation trying to figure out, according to
16 the phone logs, it was a Kem Dollar is the way the person's --
17 that would be their name and then it had a phone number and we
18 went about trying to find out who is Kem Dollar and we wanted
19 to talk with him to see what they were talking about around
20 the time before, during and after the robbery. I thought that
21 was pretty coincidental and interesting and we wanted to hear
22 what they had to say. So, we did our best to try to figure
23 out who Kem or Akeem Dollar was and we talked amongst
24 investigators, police officers, anybody that we could talk
25 with to see who they knew as Kem, who they knew as Kem Dollar,

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1 and we went about finding those folks and talking with them
2 and trying to match whether they had a phone number that was
3 the same. We also did a search warrant and -- for the phone
4 records for this Kem Dollar's phone number and I saw what that
5 had to say.

6 Q: Okay. And based on the records that you received, were
7 you able to tell who that phone number was -- who the
8 subscriber was of that phone number?

9 A: Yes, ma'am. Eventually, we learned that the phone
10 belonged to a Isaiah Geathers and at that time, we didn't know
11 that Isaiah -- you know, who Isiah Geathers was. We just had
12 a name and an address, but as we continued to follow-up on
13 that, I -- I called all the numbers in the phone log in the
14 phone history and I would talk with the folks on the phone and
15 -- and finally found out that it was Shakeem Geathers is who
16 that phone number belonged to, but it was in the name of his
17 father.

18 Q: Okay. And that's when you got Mr. Geathers in and began
19 talking with him?

20 A: That's when we started the process of trying to reach out
21 to him and get him in and I initially talked with him on the
22 phone and, of course, the first time, the person who answered
23 the phone didn't say that he was Shakeem Geathers, but
24 eventually he did say this is Shakeem Geathers, it's my phone
25 and eventually I did get him to come in and talk with me. He

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1 didn't have much to say at that time about -- other than it
2 was his phone; I don't normally keep my phone; I give somebody
3 my phone all the time when I'm at work or I'm here or there, I
4 let other people borrow it. I tried to get the phone off of
5 him hoping that he brought it with him that day, but he did
6 not have it on his person. He told me he left with somebody
7 at McDonalds right before he came to meet me because I had
8 just talked with him like two minute before he walked in the
9 police station and he had it because I called him on that
10 number and he didn't have it when he walked in the door or
11 back in the interview room. So, I mean basically he was just
12 saying that a lot of other folks had my phone, so I didn't
13 have it then. So, we continued the -- to dig deeper into the
14 phone pretty much trying to disprove or prove his story and
15 continued to call people that he talked to on a regular basis
16 in his phone and everybody I called from his mother, father,
17 grandfather, friends, none of them had ever heard anybody else
18 answer that telephone but Shakeem Geathers. It seemed like
19 every time they called it, he had the phone. He had also gave
20 us some other information along the way that we were able to
21 prove that was just straight-up false. So initially, a
22 warrant was done for him for false information during the
23 investigation and he was arrested on that, but subsequent to
24 that he invoked his rights. He did not give a statement on
25 that particular charge at that particular time. We continued

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1 our efforts and as the weeks went by, opportunity gave it
2 where we talked to him on several occasions and eventually
3 down the road, after he -- the evidence had piled up and --
4 and we had filled in a lot of the blanks that, you know, he --
5 he came and -- and set down and was interviewed and cooperated
6 and ---

7 Q: That was prior to any involvement or any proffer
8 agreement?

9 A: Yes, ma'am.

10 Q: Okay. And based on the information that you got from him
11 and the phone records, did you develop another person that was
12 involved in that -- that you felt was involved in the home
13 invasion?

14 A: Jasen Wade.

15 Q: And was there -- did he go by a nickname?

16 A: Dro.

17 Q: And so you continued your investigation by calling the
18 numbers on Mr. Rivera and Mr. Fraser's phone logs ---

19 A: Yes, ma'am.

20 Q: --- around the time? And at this point, you still had
21 not made any arrests for the murder of Mr. Thomas; is that
22 right?

23 A: No, ma'am, we didn't want to rush that investigation. We
24 -- they were in jail on the other charges. We were digging in
25 deeper. We wanted to try to figure out exactly who pulled the

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1 trigger, what happened so we -- we just continued that
2 investigation because we felt we still had a lot to learn and
3 we did not rush to any judgment or any charge on that
4 particular case.

5 Q: And without saying what anybody specifically told you,
6 did other witnesses come forward regarding the murder?
7 Without saying what they said, did you eventually have other
8 witnesses who came forward on the murder?

9 A: Yes, ma'am.

10 Q: Okay. And where were those witnesses -- where did they
11 come from; where did their information come from?

12 A: There were several different witnesses that had been
13 housed at the Georgetown County Detention Center with Mr.
14 Rivera and those folks, at the time we interviewed them, they
15 may have no longer been there, but that was kind of the area
16 where they were at one time and then we ended up getting the
17 information and we went and found them, wherever they may be,
18 and interviewed them and spoke with them.

19 Q: And based on that information, what did you do?

20 A: After we had the information that came from all those
21 witnesses and stuff, we ended up doing warrants for the murder
22 for Mr. Thomas and that -- charged Mr. Rivera and Mr. Fraser.

23 Q: I have no further questions. Answer any questions that
24 Mr. Edgeworth has for you?

25 THE COURT: Thank you, Solicitor.

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1 Mr. Edgeworth?

2 MR. EDGEWORTH: Court's indulgence. Thank you, Your
3 Honor.

4 CROSS EXAMINATION OF ROBERT KEITH SMALL BY MR. EDGEWORTH:

5 Q: Captain Small, correct?

6 A: Yes, sir.

7 Q: Thank you, sir. Captain Small, in -- you indicated that
8 this investigation took days and weeks, correct?

9 A: For the murder, yes, sir, and even on the murder. We
10 continued to get information even after the arrest. Arrest
11 does not stop the investigation.

12 Q: But you did make an arrest within two to three days of
13 the ---

14 A: Of the home invasion.

15 Q: --- home invasion?

16 A: Yes, sir.

17 Q: And leading up to that arrest, you executed a warrant on
18 Mr. Rivera's home; is that correct?

19 A: Yes, sir.

20 Q: Okay. And is it -- is it accurate to say that you did
21 not receive or take into possession any evidence involving
22 either the murder or the home invasion?

23 A: At the address of his mother, which is the only place we
24 knew that he was staying -- we didn't know where he was
25 actually living. That was the only address that we had. At

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1 that address, we did not find anything that linked to this,
2 either one of the incidents.

3 Q: Unlike your search warrant that you perfected on Mr.
4 Fraser's home, correct?

5 A: That's correct.

6 Q: And when you -- when you state that you were connecting
7 the individuals by way of their -- their descriptions, were
8 you using the generic descriptions that were provided to you
9 during your investigation?

10 A: Well, certainly we were looking at the best descriptions
11 that the witnesses and victims had given us making sure that
12 their height, weight, size, complexion, all that was in common
13 as well as the information that the other witness had gave
14 about who was together, that they talked about hitting a lick
15 and all that information too, saw them with a weapon. So, we
16 used all the information.

17 Q: And, and would it be accurate to say then that, that
18 there were no descriptions that were connected -- that were
19 the same in regards to someone identifying someone's clothing?

20 A: There were, there were similarities in the clothing
21 between Lawrence and Williams and Dozier and the Wilsons.
22 Yes, there were similarities.

23 Q: But you're saying similarities that you perceived, but
24 they weren't the exact same description, correct?

25 A: There wasn't a photograph of a pair of pants and, yes,

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1 this is the pair of pants that that individual was wearing. A
2 lot of it would've been was it a short-sleeved shirt, long-
3 sleeved shirt, what color was it, did they have a hat on, what
4 color was it, those were the similarities; certainly not name
5 brand an exact picture of an exact item.

6 Q: Right. And that's to say as well, no one identified any
7 individual by way of saying I saw this person at this scene
8 and you -- you executed an arrest warrant, correct?

9 A: Not -- no, sir. The Dozier -- Mr. Dozier or the Wilsons,
10 they did not see a face, know the identity of a person. The
11 best that they could give was the physical description, what
12 they were wearing, the masks on their face, what it was made
13 out of, what the gun looked like and that was the best that
14 they could do.

15 Q: Okay. And so you stated that you also -- well you spoke
16 to an individual by the name Shakeem Geathers, correct?

17 A: Yes, sir.

18 Q: And the information he was providing you pretty much all
19 along was just false information which is what lead to the
20 arrest for providing false information, correct?

21 A: That's correct.

22 Q: And, and then in regards to Mr. Wade, you spoke to him as
23 well?

24 A: I did not speak to Mr. Wade personally. I'm familiar
25 with the statement he gave because I watched it during the

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ROBERT KEITH SMALL - CROSS BY EDGEWORTH

1 investigation as I do what the other investigators do. So I
2 know what he said and the information that he gave, yes, sir,
3 but was I personally asking the questions, no, sir.

4 Q: And to your knowledge, did he admit any involvement?

5 A: In the home invasion or the murder?

6 Q: The home invasion?

7 A: Okay. He admitted to being with Mr. Rivera, being with
8 Mr. Geathers, being with Mr. Thomas, being with Mr. Fraser and
9 that they went to and that Mr. Rivera, Mr.
10 Fraser, Mr. Thomas got out of the car and that they went in
11 and that they waited on them. He discussed where they parked
12 at, which linked to other evidence that I had where a car had
13 parked, because during the interviews of Mr. Geathers and Mr.
14 Wade, those facts came out and no one else had that
15 information about that's where the getaway car parked, which
16 was behind the ice cream shop. So, there were details and
17 things that they said that I knew that the only way to have
18 those details would have been to be there.

19 Q: And I appreciate you answering that, but my question was
20 simply did he admit some involvement in the home invasion?

21 A: He admitted to being there. They were there to get
22 marijuana. He did not admit that he knew there was gonna be a
23 robbery.

24 Q: Fair enough. So, so subsequent to the arrest of, of Mr.
25 Fraser and Mr. Rivera, your -- you continued your

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ROBERT KEITH SMALL - CROSS BY EDGEWORTH

1 investigation into the -- into the murder, correct?

2 A: That's correct.

3 Q: Okay. But it wasn't until you got, basically what
4 amounted to, jailhouse snitch information, that you executed a
5 warrant for their arrest on the murder?

6 A: That may have been the last information that we got
7 before we did the warrants, but certainly along the way, even,
8 even back at the beginning, we look at the point when we were
9 doing the timeline for Mr. Thomas, you know, where he was, we
10 went back and tracked his movements for twenty-four hours
11 before he was found deceased on the path. And from the
12 timelines that we got, from what other witnesses talked about,
13 gunshots and other things, we knew that there was only a short
14 window between the time that all three of them were seen
15 together at Mr. Lawrence's house and from the time that the
16 crime was most likely committed, the murder, on the path.

17 Q: And again, I appreciate your answer, but what you stated
18 on direct examination was you obtained the warrant after you
19 had gotten information from individuals who came to you that
20 had been housed at the detention center; is that correct?

21 A: That's correct.

22 Q: All right. Thank you. So, if we're backtracking just a
23 little bit, the -- the items that you had or received from
24 your investigation such as the shoes. Were there any other
25 items that were sent to SLED for evaluation?

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ROBERT KEITH SMALL - CROSS BY EDGEWORTH

1 A: There were.

2 Q: Okay. Would they include a pair of shoes taken from Mr.
3 Rivera while he was housed at the detention center?

4 A: We went out to the jail, I did personally, and I got the
5 shoes that was in his personal property. That was done not
6 too long ago and certainly we were just trying to answer, fill
7 in any blanks potentially out there and make sure whether or
8 not those shoes matched any of the shoeprints that we had.

9 Q: Right. So, in essence, the investigation was ongoing up,
10 up until a month ago?

11 A: That's correct.

12 Q: And, and, and based on the testimony that I heard today,
13 those shoes did not match any of the footprints that were
14 found at the scenes, correct?

15 A: They did not.

16 Q: Okay. And, and based on your investigation, I'm assuming
17 that you made sure that you, you marked and found every
18 footprint, any identifying piece of information you could
19 while you were on the scene, correct?

20 A: We did. We tried to find it -- I did. I tried to find
21 anything that I could, yes, sir.

22 Q: Okay.

23 A: Now, I won't say I got everything. I did it as diligent
24 and thorough as I could, yes, sir.

25 Q: Okay. And yet none of the, none of the, the shoes

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 matched or the markings matched the shoes taken off of Mr.
2 Rivera?

3 A: Not by the time we got his shoes, no, sir.

4 MR. EDGEWORTH: Okay. I have no further questions at
5 this time, Your Honor.

6 THE COURT: Redirect, Solicitor.

7 Thank you, Mr. Edgeworth.

8 REDIRECT EXAMINATION OF ROBERT KEITH SMALL BY MS. RICHARDSON:

9 Q: When you initially did a search warrant at Rivera -- at
10 Mr. Rivera's house, you didn't collect any shoes at that time?

11 A: No, ma'am, we didn't take anything from Mr. Rivera's
12 mother's house.

13 Q: And why did you take shoes just a couple of months ago, I
14 think the SLED agent testified he got them in September?

15 A: Yes, ma'am. The reason was because we had not answered
16 your question whether those shoes matched or didn't match and
17 we didn't want to leave a, a question mark out there. So we
18 wanted to have a known versus unknown. So we sent those off
19 even though we knew that there had been time between the --
20 when the crime happened and the time that we sent those off to
21 be tested.

22 Q: And did you have indication that those were the shoes he
23 was wearing the night in question?

24 A: No, ma'am.

25 Q: And did you have any concern regarding whether those were

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 the correct shoes?

2 A: I did not believe that they were the same shoes. I knew
3 that he had more than one pair of shoes just from background
4 information that we've got where we're looking at stuff on
5 Facebook, different photographs that people had, seeing him in
6 a different pairs of shoes, but they were in evidence. We had
7 -- they were, they were available to us and we had them so we
8 wanted to know the answer to the question. But they did
9 appear to be newer shoes, not older shoes, but until we tested
10 them, we didn't know for sure.

11 Q: And as far -- Mr. Edgeworth asked you about the clothing
12 descriptions that came early on regarding the home invasion.
13 Were there any items of clothing that were unusual that were
14 mentioned?

15 A: There was a orange shirt that was worn by one of the
16 defendants. We spent time -- well, during the search of
17 Lawrence's house, of course that shirt was found and we went
18 through the different family members, the different witnesses
19 basically confirming whether that was his shirt or not and --
20 and you know, most of the witnesses said that that was his
21 shirt. There were some that when they looked at it that, you
22 know, they knew it was a orange shirt described it as stripes,
23 but they didn't get a good look at it as to the exact designs
24 or able to describe the designs that were on it.

25 Q: Okay. And what about hats, were there any mentions of

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 hats?

2 A: There were mention of hats, shorts, t-shirts, but there
3 was a, a sports team shirt that would have been gray and red
4 and that was a similarity or a commonality between witnesses
5 and Mr. Fraser.

6 Q: And Mr. Edgeworth has used the term jailhouse snitch and
7 asked about them coming to you for that information. Did all
8 the people you talked to actually voluntarily come to you?

9 A: A lot of them did not want anything to do with it. You
10 know, they didn't want to be involved. Some of the folks were
11 scared, but no, it's not like they beat our door down to
12 volunteer any information.

13 Q: And once you got the statements from these individuals,
14 did you do any other investigation or corroboration regarding
15 the information they provided?

16 A: Yes, ma'am, we did.

17 Q: And you indicated some information about determining
18 where the getaway car had been parked?

19 A: Yes, ma'am.

20 Q: Tell me about that?

21 A: At the -- when I worked the initial scene over at

after I finished the inside of the
23 house and collecting what I was gonna get from the residence
24 itself, I walked out looking for any footwear impressions,
25 anything that might have been discarded or dropped by one of

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 the suspects as they were leaving and as I walked the exterior
2 with my flashlight, I went all up and down the street behind
3 the house, but as I did, I noticed that there was a -- this
4 would have been to the west side of the Dozier residence and
5 on the Howard Gym side, if you're familiar with where Howard
6 School is, there was a -- behind the ice cream shop and
7 there's a daycare on the corner, there was a grass field there
8 and there was a place where a car took off from this grass
9 area and you could tell because of the rain and things that
10 had happened that that was fresh.

11 Q: And so when you say that was something that stuck out in
12 your mind regarding Wade and Geathers, it was that tire track?

13 A: Yes, ma'am, because we hadn't told anybody about that or
14 spoke about that and the only way somebody would have even
15 paid attention to it or knew it was there would ---

16 MR. EDGEWORTH: Objection, calls for speculation.

17 THE COURT: I'll allow the answer. Go right ahead.

18 A: The only way that somebody would have knew it was there
19 was because that's where they parked the car and through those
20 interviews, it was learned that the car was parked over at
21 Howard School, that they moved it from Howard School and --
22 and he described the exact spot where he parked it and that
23 coincided with the evidence that I had and that's one of the
24 -- one of the indicators that showed that -- to me that he was
25 telling the truth because he had facts, things that were

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 backed up by evidence that was there.

2 Q: Okay. Going back to this big map, State's Exhibit Number
3 Five, can you mark on there where that would have been,
4 approximately where that tire impression would have been?

5 A: (Witness complies.)

6 Q: Okay. And also can you mark where the search warrant --
7 warrants were executed, Rivera mother's house; what street is
8 that on?

9 A: That would be on Front Street.

10 Q: And Fraser's father's house; where would that ---

11 A: That would be on Palm Alley.

12 Q: Okay. And if you could mark those as well?

13 A: (Witness complies.)

14 Q: And are you able to see Maryville in that map?

15 A: No, ma'am.

16 Q: Okay. And on State's Exhibit Number Six, are you
17 familiar with where Shaheem Gardner lives?

18 A: Yes, ma'am.

19 Q: And what, what was that address for that area?

20 A: It's Martin Street and if you go all the way -- there is
21 three different apartment complexes on Martin Street, Place By
22 The Bay, Bayside. His was actually, you go all the way down,
23 it would be the last road on the right, the apartment right
24 next to the office.

25 Q: Okay. And if you wouldn't mind marking that one?

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ROBERT KEITH SMALL - REDIRECT BY RICHARDSON

1 A: (Witness complies.)

2 MS. RICHARDSON: Your Honor, I have no further questions.

3 THE COURT: Recross, recross, Mr. Edgeworth?

4 MR. EDGEWORTH: Nothing further, Your Honor.

5 THE COURT: Thank you. Thank you very much, Captain, you
6 may step down.

7 How long is your next witness, Solicitor?

8 MS. RICHARDSON: Should be pretty short, Your Honor.

9 THE COURT: Y'all up for another witness?

10 All right. Thank you.

11 Call your next witness, Solicitor?

12 MS. RICHARDSON: Your Honor, Court's indulgence; I need
13 to show this to Mr. Edgeworth.

14 THE COURT: All right. All I have to see is one head
15 nod.

16 MS. RICHARDSON: The State calls Blair Cribb.

17 And I've shown Mr. Edgeworth some exhibits I'm gonna pre-
18 mark for identification only.

19 THE COURT: All right. If you'd come around and be sworn
20 for us please.

21 BLAIR CRIBB, HAVING BEEN SWORN

22 TESTIFIES AS FOLLOWS:

23 CLERK: Thank you. Would you please spell your name for
24 the Court?

25 MR. CRIBB: It's Blair, B-L-A-I-R Cribb, C-R-I-B-B.

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BLAIR CRIBB - DIRECT BY RICHARDSON

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1 CLERK: Thank you very much.

2 DIRECT EXAMINATION OF BLAIR CRIBB BY MS. RICHARDSON:

3 Q: Officer Cribb, where are you employed?

4 A: Georgetown City Police Department.

5 Q: How long have you been there?

6 A: Approximately seventeen years.

7 Q: And what's your position and rank?

8 A: Sergeant and my -- and my position is Evidence Custodian
9 as of January 2015.

10 Q: And just kind of generally, what do you do as Evidence
11 Custodian?

12 A: When police officers get the evidence, they'll take it
13 and put it in lockers. It's like a wall with lockers and they
14 drop the key -- once they stick the evidence in that locker,
15 they'll drop the key and on the backside of that wall is an
16 evidence room, which is a chain link wall with -- then covered
17 up with a regular wall that looks like this, but it's chain
18 link on the inside so nobody can actually break in physically
19 on the room. So basically it's a secured room and then on the
20 inside of the lockers, I can open the lockers and pull the
21 evidence and I log the evidence in the -- in the room and put
22 it on a shelf and some of the evidence stays in the room; some
23 of the evidence needs to get tested, it'll go to SLED, which
24 I'll call SLED and make an appointment and I will take
25 whatever evidence needs to go to SLED, I'll take up to SLED to

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BLAIR CRIBB - DIRECT BY RICHARDSON

1 be analyzed and once they get done analyzing it, then I take
2 it, I'll go up to Columbia and I'll bring it back and stick it
3 back on the shelf that it belongs on in the evidence room.

4 Q: And you're in charge of keeping all those records and
5 logging all those items and paperwork?

6 A: I am.

7 Q: Okay. And who has access to your room, the evidence
8 room?

9 A: Myself and the second evidence custodian, which is
10 Captain Small.

11 Q: Let me show you what has been marked for identification
12 purposes only as State's Exhibit Number 142 and 143?

13 A: Yes.

14 Q: And without saying specifically what these are, are these
15 items that you received in evidence in this -- in this case
16 with Damonte Rivera?

17 A: I did.

18 Q: Okay. And when you received them, did you take them into
19 that secure evidence room?

20 A: I did. I took them in and logged them in.

21 Q: Okay. And then what did you do with them, did you
22 transport them to SLED?

23 A: I transported them to SLED to be analyzed.

24 Q: Okay. And did you alter, change or do anything to these
25 items while they were in your possession?

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KYLE WALTON - DIRECT BY RICHARDSON

1 A: Absolutely not.

2 Q: Okay. I have no further questions for this witness, Your
3 Honor.

4 THE COURT: Thank you.

5 Mr. Edgeworth?

6 MR. EDGEWORTH: No questions for this witness, Your
7 Honor.

8 THE COURT: Thank you. Thank you, Sergeant. You may
9 step down and you may be excused.

10 How long is your next witness, Solicitor?

11 MS. RICHARDSON: Also brief, Your Honor.

12 THE COURT: All right. Call your next witness.

13 MS. RICHARDSON: Kyle Walton. Your Honor, and we'd ask
14 that Officer Cribb be relieved from his subpoena?

15 THE COURT: He may be excused.

16 You have no objections do you, Mr. Edgeworth?

17 MR. EDGEWORTH: No, sir.

18 THE COURT: Thank you very much.

19 KYLE WALTON, HAVING BEEN SWORN

20 TESTIFIES AS FOLLOWS:

21 THE COURT: Please spell your last name for the Court?

22 MR. WALTON: W-A-L-T-O-N.

23 CLERK: Thank you.

24 DIRECT EXAMINATION OF KYLE WALTON BY MS. RICHARDSON:

25 Q: And would you tell us where you're employed and what your

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KYLE WALTON - DIRECT BY RICHARDSON

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1 rank is?

2 A: I'm with the Georgetown Police Department and I'm a
3 lieutenant.

4 Q: And how long have you been with the police department?

5 A: Twenty-three years.

6 Q: And what is your position there?

7 A: I'm the Assistant Patrol Division Commander.

8 Q: And what was your previous position?

9 A: Previously, I was the Training Officer and the Evidence
10 Custodian.

11 Q: Let me show you what has been marked as State's Exhibit
12 Number 121; do you recognize that?

13 A: Yes, ma'am.

14 Q: Okay. And what is that?

15 A: These are Air Jordan shoes.

16 Q: Okay. And did you take possession of those in your
17 position as evidence custodian?

18 A: Yes, ma'am.

19 Q: And did you alter, tamper with or do anything to those
20 shoes?

21 A: No, ma'am.

22 Q: Okay. And did you have occasion to transport them to
23 SLED?

24 A: Yes, ma'am.

25 Q: Okay. And you turned them over -- do you remember who

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KYLE WALTON - DIRECT BY RICHARDSON

1 you turned them over to?

2 A: No, ma'am, I remember the technician up there, but it was
3 at the State Law Enforcement Division.

4 Q: Is there something that would refresh your recollection;
5 is there a document there that would refresh your recollection
6 in that regard?

7 A: The -- the evidence login from SLED or the electronic
8 transfer of the evidence from myself to SLED.

9 Q: Okay. Court's indulgence, Your Honor. Is this the
10 document you're speaking of that would refresh your memory?

11 A: Yes, ma'am, the evidence Item Number was 305. On this
12 one it was Doris Yarborough.

13 Q: I have no further questions, Your Honor. Please answer
14 any questions that Mr. Edgeworth may have for you.

15 MR. EDGEWORTH: I have no questions for this witness,
16 Your Honor.

17 THE COURT: Thank you. Thank you very much, Lieutenant.
18 You may step down and you may be excused.

19 A: Thank you, Your Honor.

20 MS. RICHARDSON: And I would ask that he be released from
21 his subpoena as well, Your Honor.

22 THE COURT: I have, I've excused him.

23 A: Thank you.

24 THE COURT: You have other custodians here?

25 MS. RICHARDSON: No, Your Honor.

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BY THE COURT

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1 THE COURT: All right. Thank you. Any other short
2 witnesses?

3 MS. RICHARDSON: No, Your Honor.

4 BY THE COURT:

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 All right. Ladies and gentlemen of the jury panel,
8 perhaps now would be a good time to take our evening recess.
9 I remind you during this recess, do not speak with anyone
10 about the case, including your fellow jurors, family, friends
11 or anyone else. Do not read, watch, listen to any news
12 accounts about the case. Do not do any independent
13 investigation or any investigation on the internet. Thank
14 you. Thank you very much for your focus and attention today
15 and throughout the trial of this case and your patience with
16 the Court. I'm gonna excuse you and ask you to please return
17 promptly at 9:30 in the morning, promptly at 9:30.

18 I'm gonna ask Juror Number 168, 168 if you would just
19 stay with us a few minutes?

20 JUROR 168: Yes, sir.

21 THE COURT: All right. The -- the balance of the panel,
22 you are now excused to be back at 9:30 in the morning. Thank
23 you. Thank you very much. I hope y'all have a pleasant
24 evening.

25 (REPORTER'S NOTE: Jury exits courtroom. 4:57 P.M. The

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BY THE COURT

1 following takes place outside the presence of the Jury.)

2 THE COURT: If you'd step down here for me. The Bailiff
3 tells me today that you may have a trip planned?

4 JUROR 168: Your Honor, I did have a trip planned prior
5 to my jury summons that came in on Thursday for Monday show.
6 Of course had it come earlier then maybe those plans hadn't
7 had been made, but it's -- it's a gathering of some family
8 members out of town.

9 THE COURT: All right. And -- and you have that -- you
10 had that trip planned prior to jury service?

11 JUROR 168: Yes, sir.

12 THE COURT: Family members; do you want to go?

13 JUROR 168: You know I do.

14 THE COURT: Out of town?

15 JUROR 168: Yes, sir. To the mountains.

16 THE COURT: Sir?

17 JUROR 168: To the mountains.

18 THE COURT: Tell me your time frame for leaving?

19 JUROR 168: Early Friday morning. Meet up with some
20 family members, gonna do some hiking and travel the Blue Ridge
21 a little bit, staying overnight and coming back Sunday. Well,
22 staying a couple of nights and coming back Sunday.

23 THE COURT: All right. Do I have a Bailiff over here?
24 Would you just step out the jury room door for me with
25 Bailiff? If you would go out there with him for a moment,

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BY THE COURT

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1 please. I'll have you right back in here.

2 BAILIFF: Sure.

3 JUROR 168: Yes, sir.

4 THE COURT: Just step out for me momentarily.

5 (REPORTER'S NOTE: Juror 168 exits courtroom.)

6 THE COURT: All right. Solicitor, do you have -- you
7 have any position in the matter?

8 MS. RICHARDSON: Your Honor, we would like for him to
9 remain on the panel if at all possible. Today did go faster
10 that I had expected. Yesterday, of course, went slower than I
11 expected, but I think we may have a better idea tomorrow as to
12 how things are gonna go. And, of course, I don't know about
13 the Defense, if the Defense is gonna put up a case or not.

14 THE COURT: Are you telling me that the State will rest
15 tomorrow and we'll be able to -- the Defense will be able to
16 put up a case and we'll be able to close and charge tomorrow;
17 what day is tomorrow, Thursday; we'll be able to ---

18 MS. RICHARDSON: Your Honor, I can't promise that. I'll
19 try.

20 THE COURT: I'm not -- I'm not saying ---

21 MS. RICHARDSON: I'll try my best but that was my
22 original intention was to be able to do that, but I will try,
23 but I can't make any guarantees. Today did go a little faster
24 than I anticipated.

25 THE COURT: I'm, I'm not saying that you and Mr.

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BY THE COURT

1 Edgeworth have not moved the case along diligently, I didn't
2 mean it like that. I was just trying to mull in my mind if I
3 thought we would get that far, I would -- I would have him
4 remain if he -- if the case would be resolved, you know, by
5 tomorrow where he wouldn't be here Friday.

6 MS. RICHARDSON: I think we would have a better idea by
7 lunchtime tomorrow. I don't want to inconvenience him, but it
8 is a very important case both to the State and to the Defense.

9 THE COURT: All right. Would you -- Madame Bailiff,
10 would you ask the juror to step back out, please?

11 (REPORTER'S NOTE: Juror 168 returns to courtroom.)

12 THE COURT: I'm going to ask you to be back in the
13 morning at 9:30.

14 JUROR 168: Yes, sir.

15 THE COURT: I, I'll have a better feel administratively
16 for the case by lunchtime tomorrow. I won't forget about it;
17 I'll revisit it. Okay?

18 JUROR 168: Thank you, Your Honor.

19 THE COURT: And we thank you. And do not say anything to
20 your fellow jurors about me having a better idea about
21 anything.

22 JUROR 168: I understand.

23 THE COURT: Thank you very much. Have a pleasant
24 evening. See you in the morning.

25 (REPORTER'S NOTE: Juror 168 exits courtroom.)

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BY THE COURT

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1 THE COURT: Anything further from the State before we
2 take our evening recess?

3 MS. RICHARDSON: No, Your Honor.

4 THE COURT: Defense?

5 MR. EDGEWORTH: Nothing, Your Honor.

6 THE COURT: Thank you. Thank you very much. 9:30 in the
7 morning.

8 (RECESS - 5:02 P.M.)

9 *****OFF THE RECORD*****

10 END OF DAY THREE

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BY THE COURT

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1 OCTOBER 29, 2015 - DAY FOUR

2 (On the Record - 9:33 A.M.)

3 THE COURT: Anything from the State before we bring in
4 our Jury?

5 MS. RICHARDSON: Not at this time, Your Honor.

6 THE COURT: Excuse me, Mr. Rivera is not here.

7 (REPORTER'S NOTE: Defendant Rivera enters courtroom.)

8 MR. EDGEWORTH: Thank you.

9 THE COURT: All right. Anything from the State,
10 Solicitor?

11 MS. RICHARDSON: No, Your Honor.

12 THE COURT: The Defense, Mr. Edgeworth?

13 MR. EDGEWORTH: Nothing, Your Honor.

14 THE COURT: Again, those of you in the, in the gallery
15 behind the bar, I do not allow cell phones in sight in the
16 courtroom. I have informed the deputies if they see anyone in
17 the gallery with a cell phone to seize it. If you have it, it
18 needs to remain in your pocket and off. If you want to go
19 secure it somewhere else at this time, that's fine. I assume
20 if you stay in the courtroom, that you're not to have your
21 cell phone out in any manner.

22 Just let me know when all the jurors are here?

23 BAILIFF: They're here, sir.

24 THE COURT: Bring them on.

25 (REPORTER'S NOTE: Jury enters courtroom. 9:35 A.M.)

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JASEN WADE - DIRECT BY RICHARDSON

1 THE COURT: Good morning. Welcome back. I hope y'all
2 had a pleasant evening. As you recall we are continuing the
3 trial of the case by the presentation of evidence and
4 testimony by the State in its case in chief. As you have done
5 throughout the trial, if you would please to continue to give
6 the parties your complete and undivided attention. Thank you.
7 Thank you very much. Solicitor, you may call your next
8 witness.

9 MS. RICHARDSON: The State calls Jasen Wade.

10 THE COURT: All right. If you'd come around and be sworn
11 for us, please?

12 JASEN WADE, HAVING BEEN SWORN
13 TESTIFIES AS FOLLOWS:

14 CLERK: Would you please spell your name for the Court
15 Reporter?

16 MR. WADE: J-A-S-E-N W-A-D-E.

17 CLERK: Thank you very much. Please have a seat.

18 THE COURT: Please, please remember to keep your voice up
19 so everyone on the Jury can hear you.

20 COURT REPORTER: Can you slide up a little bit?

21 THE COURT: All right. Solicitor?

22 DIRECT EXAMINATION OF JASEN WADE BY MS. RICHARDSON:

23 Q: Mr. Wade, how old are you?

24 A: Twenty-two.

25 Q: And what city do you live in now?

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JASEN WADE - DIRECT BY RICHARDSON

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1 A: Georgetown.

2 Q: And how long -- have you always lived in Georgetown?

3 A: No, ma'am.

4 Q: Can you just kind of give us just a brief overview of how
5 long you've been in Georgetown and where you lived before
6 that?

7 A: I moved down in here in ninth grade. I was living in
8 Atlanta, Georgia before then.

9 Q: And can you speak up just a little bit?

10 A: I said I moved down in ninth grade. I was living in
11 Atlanta, Georgia before then.

12 Q: And do you have other family from Georgetown?

13 A: Yes, ma'am.

14 Q: Okay. And what about from South Santee or McClellanville
15 area?

16 A: Yes, ma'am.

17 Q: And do you go by a nickname or do you have a nickname?

18 A: Yes.

19 Q: And what is that?

20 A: Dro.

21 Q: And do you -- do you work anywhere or have family?

22 A: No, not at the time, I'm not working, but I do have
23 family. I got two kids.

24 Q: Do you know Anthony Fraser?

25 A: Yes, ma'am.

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JASEN WADE - DIRECT BY RICHARDSON

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- 1 Q: And how do you know him?
- 2 A: I know him from a family member. I don't know him that
3 well, just know him through family members.
- 4 Q: And who is that family member?
- 5 A: Joshua Taylor and Shaheem Gardner.
- 6 Q: Through Joshua Taylor and Shaheem Gardner?
- 7 A: Yes, ma'am.
- 8 Q: Okay. And how are you related to Joshua and Shaheem.
- 9 A: Through my mother.
- 10 Q: Are they cousins or ---
- 11 A: Cousins.
- 12 Q: And they are from where?
- 13 A: South Santee.
- 14 Q: South Santee. That's where your mom's family is from?
- 15 A: Yes, ma'am.
- 16 Q: Okay. And did -- does Anthony Fraser have a nickname?
- 17 A: No, not that I know of, but B.I., that's it.
- 18 Q: I didn't hear you?
- 19 A: B.I.
- 20 Q: B.I. okay. And do you know the Defendant, Damonte
21 Rivera?
- 22 A: Yes, ma'am.
- 23 Q: And how do you know Damonte?
- 24 A: Through family members.
- 25 Q: And which family members are those?

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JASEN WADE - DIRECT BY RICHARDSON

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- 1 A: Joshua Taylor and Shaheem.
- 2 Q: And how long have you known him?
- 3 A: Who, Mr. ---
- 4 Q: Mr. Rivera?
- 5 A: A couple of years or so.
- 6 Q: And where, where did you go to high school?
- 7 A: Georgetown and then I went to Howard.
- 8 Q: Did you ever go to school with any of these guys?
- 9 A: Yes, ma'am.
- 10 Q: Which ones did you go to school with?
- 11 A: I went to school with all both of them.
- 12 Q: So, Anthony Fraser and Damonte Rivera, you were in school
- 13 with them at some point at Georgetown High School?
- 14 A: Yes, ma'am.
- 15 Q: And Howard?
- 16 A: Yes, ma'am.
- 17 Q: And do you know or did you know how Alfonso Terrell
- 18 Thomas?
- 19 A: No, ma'am.
- 20 Q: Had you ever met him before?
- 21 A: No, ma'am.
- 22 Q: And did you meet him on one night?
- 23 A: Did I meet him on one night?
- 24 Q: Yeah, have you ever spent time with him?
- 25 A: Yes, ma'am.

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JASEN WADE - DIRECT BY RICHARDSON

1 Q: Okay. And did he have a nickname?

2 A: No, not that I know of.

3 Q: Okay. And do you recall the night of August 29th, 2012
4 and the morning of August 30th, 2012?

5 A: I seen him.

6 Q: Do you remember -- do you remember when Alfonso Thomas
7 died that morning?

8 A: No, ma'am, I wasn't there. I just heard about it.

9 Q: Okay. So, you remember the time frame I'm talking about?

10 A: Yes, ma'am.

11 Q: Okay. And do you remember where you were that Wednesday
12 night, August 29th or who you were with?

13 A: Yes, ma'am.

14 Q: Okay. Just tell me about that; tell me what happened
15 that night into that morning?

16 A: I was in Maryville. I was sitting down out at my
17 cousin's house. I was sitting in the car and we was smoking.
18 We was just sitting smoking. I had to work the next morning,
19 so we was just sitting around just chilling and we was smoking
20 and that's when they came over.

21 Q: Okay. Let's hold on just a minute. Okay. Can you get
22 -- I'm having a little bit of trouble hearing you. Can you
23 get a little closer to the microphone and maybe speak a little
24 slower and clearer?

25 A: Yes, ma'am.

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- 1 Q: Okay. So when you said we were at my cousin's house?
- 2 A: Uh-huh, (affirmative response).
- 3 Q: Who is that?
- 4 A: Shaheem.
- 5 Q: Shaheem Gardner?
- 6 A: Yes, ma'am, I was living with him at the time.
- 7 Q: You were living with Shaheem?
- 8 A: Yes, ma'am.
- 9 Q: And that's in Maryville?
- 10 A: Yes, ma'am.
- 11 Q: Okay. And what -- was that had an apartment or where,
- 12 where exactly was that?
- 13 A: It was in apartments.
- 14 Q: And do you know what street that was on?
- 15 A: Martin Street.
- 16 Q: The Martin Street apartments in Maryville, which is just
- 17 over the bridge from Georgetown and Charleston; is that right?
- 18 A: Yes, ma'am.
- 19 Q: Okay. And so who were -- you said and we were sitting, I
- 20 need you to kinda when you say we, say who that is. Okay? So
- 21 who were you sitting with?
- 22 A: Shakeem.
- 23 Q: Shakeem?
- 24 A: Yes, ma'am.
- 25 Q: All right. And what's Shakeem's name, full name?

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- 1 A: Shakeem Geathers.
- 2 Q: And does he have a nickname?
- 3 A: No, not that I know of.
- 4 Q: And how do you know Shakeem?
- 5 A: He's my cousin. We grew up together.
- 6 Q: So, you were sitting with Shakeem and where you -- at
- 7 Shaheem's house?
- 8 A: Yes, ma'am.
- 9 Q: And you were in a car; is that what you said?
- 10 A: Yes, ma'am.
- 11 Q: Okay. And whose car was that?
- 12 A: Shakeem's.
- 13 Q: All right. So, then tell me what happened?
- 14 A: We was sitting in the car. We was just smoking in the
- 15 car, me and -- I was getting ready to go to work for the next
- 16 morning. Prior to that, Shaheem had got locked up for a
- 17 little incident. The police came and got him and he got
- 18 incarcerated or whatever.
- 19 Q: Which one was that?
- 20 A: Sha -- Shaheem.
- 21 Q: Shaheem ---
- 22 A: Yes, ma'am.
- 23 Q: --- Gardner?
- 24 A: Yes, ma'am.
- 25 Q: Okay. Had gotten locked up.

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1 A: Uh-huh (affirmative response).

2 Q: All right. I'm sorry. Go ahead.

3 A: And then after that we was just sitting in the car
4 smoking and, you know, that's when they came over or whatever
5 ---

6 Q: Who is they?

7 A: Mr. Rivera, Mr. Fraser and the other guy; I don't know
8 that other guy's name. I asked him if they had some weed, you
9 know, just asked them if they had some weed. I was gone by
10 some weed to go to work with the next morning. They told us
11 yeah, we can get you some weed or whatever so they got in the
12 car and we gave them a ride to town. When we gave them a ride
13 to town, we stopped to get gas. We came into town and dropped
14 them off and all. We dropped by the school and all. They
15 went in and then they came back and gave us our weed.

16 Q: So, who all was in the car?

17 A: Me, Mr. Rivera, another guy and Mr. Fraser.

18 Q: And is that other guy, the guy who died?

19 A: I guess so.

20 Q: Alfonso Thomas?

21 A: Yes, ma'am.

22 Q: And so you rode and got gas?

23 A: Yes, ma'am.

24 Q: And then you went where in the city? Where did you go in
25 the city?

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1 A: We came to Georgetown.

2 Q: Okay. And went where?

3 A: I told you by Howard.

4 Q: Okay. So, when you said by the school, you meant Howard
5 School?

6 A: Yes, ma'am, by Howard School.

7 Q: Okay. And did you park there or what did you do?

8 A: Yes, I parked behind it.

9 Q: And who got out of the car?

10 A: Mr., Mr. Fraser, Mr. Rivera and that other guy.

11 Q: Okay. And where did -- where did they go?

12 A: I don't know where they went to.

13 Q: Did they leave the parking lot of Howard?

14 A: Yes, ma'am.

15 Q: And how long were they gone?

16 A: Probably about ten or fifteen minutes.

17 Q: Okay. And did y'all try to contact them?

18 MR. EDGEWORTH: Objection, leading.

19 THE COURT: Overruled, 611.

20 A: Shakeem called and was trying to call them on the phone
21 or whatever.

22 BY MS. RICHARDSON:

23 Q: Okay. And so then did y'all -- did y'all just sit there
24 or what did you do?

25 A: We started to pull out and when we started to pull off,

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JASEN WADE - DIRECT BY RICHARDSON

1 we seen them walking down the street. They got in the car,
2 gave us our weed and we asked them where they was going and we
3 dropped them off.

4 Q: Okay. And where was that?

5 A: At Thornton Hall.

6 Q: And you dropped off all three of them altogether?

7 A: Yes, ma'am.

8 Q: Did you later learn that something had happened to the
9 other guy that was with you?

10 A: Yes, ma'am, but when I found out about it was -- I just
11 heard about it.

12 Q: Okay. And do you recall what they were wearing?

13 A: No, ma'am, I don't know what no one was wearing.

14 Q: Okay. And did they -- did they come back with anything?

15 A: No, ma'am, I didn't see anything.

16 Q: Okay. What about, did you get -- what about marijuana?

17 A: Yes, I just got a blunt.

18 Q: From?

19 A: I don't know who gave me the blunt, but when they got in
20 the car, they just handed us the blunt and that was it.

21 Q: And was this in the daytime or at nighttime?

22 A: It was at night.

23 Q: All right. I have no further questions. Answer any
24 questions Mr. Edgeworth may have for you.

25 THE COURT: Thank you, Solicitor.

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JASEN WADE - CROSS BY EDGEWORTH

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1 Mr. Edgeworth?

2 MR. EDGEWORTH: The Court's brief indulgence?

3 Thank you, Your Honor.

4 CROSS EXAMINATION OF JASEN WADE BY MR. EDGEWORTH:

5 Q: Good morning, Mr. Wade.

6 A: Good morning.

7 Q: When you guys were -- you and Mr. Geathers were sitting
8 in his car and when you say smoking, you were smoking weed,
9 right?

10 A: Yeah.

11 Q: And then at some point, you ran out?

12 A: Yes, sir.

13 Q: And then, and then y'all called Mr. Fraser to come --
14 come and see if you can get some more weed?

15 A: I don't recall who called. I didn't have a phone at the
16 time.

17 Q: But Mr. Geathers had a phone, right?

18 A: Yes, sir.

19 Q: And he called and said, hey, we need to get some weed?

20 A: Yes.

21 Q: Okay. And then they came over and got -- and then they
22 went and got some weed, right?

23 A: Right.

24 Q: Okay. So, it was -- it was Mr. Fraser, the guy you don't
25 know who his name is, you and Mr. Geathers, right?

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JASEN WADE - CROSS BY EDGEWORTH

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1 A: Right.

2 Q: Okay. Now when -- my apologies one brief moment. You
3 had stated that -- that you knew Mr. Fraser -- or excuse me.
4 You knew Mr. Fraser?

5 A: No.

6 Q: You knew him from before -- you met him that night?

7 A: Yes, sir.

8 Q: But it appeared that you really didn't know his nickname;
9 is that correct?

10 A: No.

11 Q: Did you know his nickname because someone told you?

12 A: I mean, I heard it before, yeah.

13 Q: You had heard of it before?

14 A: Yeah.

15 Q: And then you, I think you said you knew Mr. Rivera from
16 school; is that correct?

17 A: Yes, sir.

18 Q: And you said you, you knew him from high school?

19 A: Howard.

20 Q: Howard?

21 A: Yeah.

22 Q: I'm sorry, I thought you said high school, my apologies.
23 And so other than that, it wasn't like you hung out with him
24 and, you know, were buddies and stuff like that?

25 A: No, sir.

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JASEN WADE - REDIRECT BY RICHARDSON

1 Q: And when you -- when you say that you got your -- you got
2 marijuana at some point during the night because that's what
3 you asked for, correct?

4 A: Yes, sir.

5 Q: Did you pay for it?

6 A: Yes, sir.

7 Q: So, you actually gave someone money so they could go and
8 get it, correct?

9 A: Yes, sir.

10 Q: Okay. And then they came back and they gave you a blunt?

11 A: Yes.

12 Q: That's like, a blunt is marijuana in a cigar or
13 cigarillo, something like that?

14 A: It was just, just the weed.

15 Q: Okay. All right. No further questions. Thank you, Your
16 Honor.

17 THE COURT: Redirect, Solicitor?

18 REDIRECT EXAMINATION OF JASEN WADE BY MS. RICHARDSON:

19 Q: You got the marijuana from them when they came back from
20 wherever they went after they left Howard School; is that
21 right?

22 A: Yes, ma'am.

23 Q: And did they say anything or give any instructions when
24 they got back in the car?

25 A: No, ma'am, just told us where they was going and we

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JASEN WADE - REDIRECT BY RICHARDSON

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1 dropped them off and no one said nothing.

2 Q: Okay. And how, how was the marijuana? How was it
3 packaged? How did you divide it?

4 A: We, we didn't divide it. They just gave us a blunt; it
5 was just a blunt.

6 Q: Okay.

7 A: It wasn't in a bag or nothing; it was just weed.

8 Q: Okay. And so they just gave you some. Did they give you
9 all they had, they give you some they had? What did they give
10 you?

11 A: I don't know what they had, they just gave us the blunt.

12 Q: All right. I have no further questions.

13 THE COURT: Mr. Edgeworth?

14 MR. EDGEWORTH: Nothing further, Your Honor.

15 THE COURT: Step down please, Mr. Wade.

16 You may call your next witness, Solicitor.

17 MS. RICHARDSON: Your Honor, the State's gonna call
18 Quanmaine Brown. They're bringing him now.

19 QUANMAINE BROWN, HAVING BEEN SWORN

20 TESTIFIES AS FOLLOWS:

21 CLERK: Thank you. Would you please spell your name for
22 the Court Reporter?

23 MR. BROWN: Q-U-A-N-M-A-I-N-E Brown.

24 CLERK: Thank you very much. Please take a seat around
25 here, sir.

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QUANMAINE BROWN - DIRECT BY RICHARDSON

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1 THE COURT: All right. Solicitor?

2 COURT REPORTER: I need you to slide your chair up
3 please. A little bit further. Slide your chair up. Thank
4 you.

5 THE COURT: All right. Mr. Brown, if you'd keep your
6 voice up for us please.

7 Solicitor?

8 DIRECT EXAMINATION OF QUANMINE BROWN BY MS. RICHARDSON:

9 Q: Mr. Brown, where are you from?

10 A: Andrews, South Carolina.

11 Q: Are you a lifelong resident of Andrews?

12 A: Yes, ma'am.

13 Q: And do you know the Defendant, Damonte Rivera?

14 A: Yes, ma'am.

15 Q: And tell me how you know him?

16 A: Through a mutual friend.

17 Q: And that friend's from Andrews?

18 A: Yes, ma'am.

19 Q: And, Mr. Brown, are you currently incarcerated at this
20 time?

21 A: Yes, ma'am.

22 Q: And you -- can you tell me about that, what charges
23 you're ---

24 A: I was indicted in the Federal Government for conspiracy
25 in the distribution of powder cocaine.

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QUANMAINE BROWN - DIRECT BY RICHARDSON

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1 Q: And so has that case been resolved?

2 A: Yes, ma'am.

3 Q: So, you're actually in federal custody right now?

4 A: Yes, ma'am.

5 Q: And where did you first meet Damonte Rivera?

6 A: Georgetown County in C pod, which is protective custody
7 pod.

8 Q: And that's Georgetown County Detention Center?

9 A: Yes, ma'am.

10 Q: Okay. And your friend introduced you there?

11 A: I was actually gonna turn myself into the Georgetown
12 County and he told me that Mr. Riveras was in C pod, for me to
13 go over and check him out.

14 Q: Okay. And did you do that?

15 A: Yes, ma'am.

16 Q: And while you were at the Georgetown County Detention
17 Center, did you also meet Anthony Fraser?

18 A: I'm not familiar with his government name, Anthony
19 Fraser.

20 Q: Okay. How about B.I.? Are you familiar with that name?

21 A: Yes, ma'am.

22 Q: Was he also there?

23 A: I, I believe that he was there but he never was housed in
24 the same pod with me and Riveras.

25 Q: Okay. And did you know Mr. Rivera by a nickname?

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QUANMAINE BROWN - DIRECT BY RICHARDSON

1 A: Hammer.

2 Q: And so you did as your friend asked and intro -- and met
3 Mr. Rivera?

4 A: Yes, ma'am.

5 Q: And tell me about that conversation -- well, first of
6 all, back up. When was that; do you remember what year that
7 was?

8 A: 2012, 2013; I don't know the exact date.

9 Q: And so you did have some conversations with him?

10 A: Yes, ma'am.

11 Q: Okay. Can you tell me how that started and what you
12 talked about?

13 A: When I first got in the C Pod he wasn't there because
14 they say he had went up front because of the news have his
15 picture on the news ---

16 MR. EDGEWORTH: Objection.

17 A: --- charging him with the murder. So he ---

18 THE COURT: Excuse me. Excuse me. Excuse me.

19 Objection?

20 MR. EDGEWORTH: As to hearsay.

21 THE COURT: All right. I don't think he's offering it
22 for the truth of the matter asserted, but I would sustain the
23 objection.

24 All right. Solicitor?

25 BY MS. RICHARDSON:

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QUANMAINE BROWN - DIRECT BY RICHARDSON

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1 Q: He was not in the same area with you at that time?

2 A: No, ma'am.

3 Q: Okay. And did he come back to where you were?

4 A: Yes, ma'am.

5 Q: Okay. And at that time, did y'all have some discussions?

6 A: Yes, ma'am.

7 Q: Okay. And what did y'all talk about?

8 A: I asked him because -- the next morning when we came out,
9 I said, man, I heard you got fucked up on a body and he was
10 like, yeah, I'll tell you about it when we come out here on
11 the next break. So, when we came out, he indicated to me that
12 he had pulled the move which he had went and robbed an
13 individual and upon him going to rob the individual, him and
14 his codefendant, B.I., the victim was supposed to kill the
15 Walter's little daughter, but he didn't. So being that he
16 didn't kill Walter's little daughter, he had B.I. to kill the
17 guy in the path.

18 Q: And when you said walked up on a body, tell me what, what
19 you mean by that?

20 A: Come again?

21 Q: When you started that conversation, you said I heard you
22 walked up on a body?

23 A: I said I heard you got fucked up on a body being ---

24 Q: Oh.

25 A: --- he got caught; he got charged with the murder.

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QUANMAINE BROWN - DIRECT BY RICHARDSON

1 Q: Okay. And did you and Hammer have any sort of -- other
2 sort of relationship; had you been talking regarding a friend
3 or anything like that?

4 A: No, ma'am.

5 Q: Did you have any discussions regarding his bond?

6 A: Oh, yes, ma'am.

7 Q: Tell me about that?

8 A: He indicated to me that if I would bond him out so he
9 would be able to care of the witnesses who was willing to come
10 back and testify against him, that he would be willing to come
11 and work with me as in to putting in some work meaning if I
12 had any problems that he would take care of it and he would
13 pay me back by going around and robbing individuals to get me
14 back my money.

15 Q: Okay. So, he asked you to put up his bond?

16 A: Correct.

17 Q: So that he could take care of ---

18 A: Anybody who was gonna testify against him, against him,
19 he was gonna stop them from testifying.

20 Q: And did he say how he was gonna do that or did you
21 understand how he was gonna do that?

22 A: He told me he was gone kill all of them?

23 Q: And did he give you any names of who those individuals
24 were?

25 A: He just stated that Dro and Keem was running their mouth.

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QUANMAINE BROWN - DIRECT BY RICHARDSON

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1 Q: And did you know who they were?

2 A: Yes, ma'am.

3 Q: And when he told you about the robbery of the home with
4 the little girl, did he -- was there any details about that;
5 can you kinda tell me exactly what he told you about that?

6 A: He just told me they went in there to rob the dude ---

7 Q: And did he say who the dude was?

8 A: He just gave me the name of Walter.

9 Q: Okay.

10 A: And he said that once they got in there, they robbed the
11 dude and the victim was supposed to kill the little girl but
12 he didn't, so ---

13 Q: And the victim, did you know who the victim was?

14 A: No, ma'am.

15 Q: But that was somebody that participated in the robbery
16 with him?

17 A: Correct.

18 Q: Okay. And he didn't, so he told, he told me that once
19 they got dropped off to go through the path to wherever they
20 were going, he went ahead and told B.I. to kill him and he was
21 bragging like trying to get me to bond him out, to assure me
22 like if I got him out that he would take care of any problem.
23 He was like, he was bragging that some of the dude's blood and
24 some of his brains was all over his clothing after he got
25 shot.

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QUANMAINE BROWN - DIRECT BY RICHARDSON

1 Q: And did he tell you how he told B.I. to kill the victim?

2 A: He just said that when they was walking in the path, he
3 like -- it was already understood between them two that if the
4 victim didn't kill the little girl, that one of them was gonna
5 kill the victim. So, he give him the nod like go ahead and
6 that's when he shot him.

7 Q: And he was -- and he told you that he was worried about
8 Dro and Keem running their mouth?

9 A: Correct and a few more people but I can't recall their
10 names.

11 Q: Okay. And did he say anything about B.I.?

12 A: He say he felt like B.I. was talking against him but he
13 wasn't sure, that it was just hearsay.

14 Q: Okay. And how did he act when he was talking about this?

15 A: In a bragging manner.

16 Q: Okay. And had you talked with him about your charges?

17 A: No, ma'am.

18 Q: Okay. And as far as Rivera, is that the -- although
19 you're friend knew him, is that the first time that you had
20 met him ---

21 A: Yes, ma'am.

22 Q: --- is in jail? Now, had you known B.I. before?

23 A: I seen him a few times.

24 Q: Okay. All right. I have no further questions. Answer
25 any questions Mr. Edgeworth may have for you.

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QUANMAINE BROWN - CROSS BY EDGEWORTH

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1 THE COURT: Mr. Edgeworth?

2 MR. EDGEWORTH: Thank you, Your Honor.

3 CROSS EXAMINATION OF QUANMAINE BROWN BY MR. EDGEWORTH:

4 Q: Mr. Brown, when you were incarcerated at Georgetown
5 County Detention Center, you keep on saying you were in the C
6 pod; what is that?

7 A: It's the protective custody pod that they took me from,
8 from the processing pod of moving me to PC pod.

9 Q: Why were you in the protective custody pod?

10 A: Because our mutual friend advised me that Mr. Riveras was
11 in the PC pod and to go check him out to see what was up with
12 him.

13 Q: Well, I mean did you have -- you didn't have the control
14 over where you were placed, correct?

15 A: The only thing you got to do is ask to be placed in
16 protective custody.

17 Q: I understand what you're saying but you don't have the
18 ultimate decision as to where you're placed, correct?

19 A: In that -- my description I asked to be placed in PC.

20 Q: Okay. Now when you were in the C pod, what -- how does
21 the day go in that place; what is your day like?

22 A: You just out walking around the pod for like I believe it
23 was a hour.

24 Q: So you get one hour a day, correct?

25 A: Correct.

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QUANMAINE BROWN - CROSS BY EDGEWORTH

1 Q: To just kinda be on your own; otherwise, you're in your
2 room?

3 A: If I'm not mistaken it's one hour a day. I can't
4 remember exactly, but I believe it's one in the afternoon and
5 one at night.

6 Q: Okay. So, so your testimony is that in the one hour that
7 you have free time, a guy that you met for the first time
8 tells you all these stories about that night?

9 A: Yes, sir.

10 Q: The first time you met him?

11 A: Yes, sir, we, we -- it wasn't the first time. We came
12 back out between me being housed in PC, he was just telling me
13 parts -- he was just telling me stories.

14 Q: He was telling you stories on one occasion, two
15 occasions?

16 A: No, it was twice, when he told me everything, twice.

17 Q: He told you the same thing twice?

18 A: He was finishing up where he started off in the
19 beginning.

20 Q: Having never met you before?

21 A: Never met me before.

22 Q: Offered you all that information. Okay. Now have, have
23 you been incarcerated with any -- with any of the other
24 individuals that you spoke of?

25 A: Yes, sir.

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QUANMAINE BROWN - CROSS BY EDGEWORTH

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1 Q: And who are they?

2 A: I just know them by their names, nicknames.

3 Q: Who are the nicknames?

4 A: Dro and Keem.

5 Q: Dro and Keem?

6 A: Yes, sir.

7 Q: Okay. Those are the two guys that say they're just
8 staying the car during the incident, correct?

9 A: Well, yes, sir.

10 Q: So, they had their incentive just to fish you a story,
11 right?

12 A: Come again?

13 THE COURT: Yeah, what was that question; I didn't
14 understand it?

15 MR. EDGEWORTH: Sure.

16 BY MR. EDGEWORTH:

17 Q: You were locked up with Dro and Keem, right?

18 A: Correct.

19 Q: At a different facility?

20 A: Correct.

21 Q: Okay. Did you talk to them?

22 A: Yes, sir.

23 Q: Okay. So, it's possible they fished you this story;
24 they, they fed it to you?

25 A: No, sir.

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QUANMAINE BROWN - REDIRECT BY RICHARDSON

1 Q: Okay. Now you currently have -- you've been convicted of
2 the conspiracy to distribute powder cocaine, correct?

3 A: Correct.

4 Q: Have you ever had any discussions with the State about
5 aiding you with any downward departures for that charge?

6 A: No, sir, I was never promised or offered anything in this
7 cooperation.

8 Q: Okay. So, you're just doing this out of the goodness of
9 your heart?

10 A: Correct.

11 Q: Okay. But you do realize that there -- that in federal
12 court, you can go back and request a downward departure under
13 Rule 35?

14 A: Actually, I won't be granted a Rule 35 on this because my
15 Rule 35 all my -- what's gonna come with me talking or
16 cooperating with the government on my codefendants, which I
17 didn't because I didn't know any of my codefendants ---

18 Q: Okay. So, but you're aware of a Rule 35?

19 A: Correct.

20 MR. EDGEWORTH: All right. I have no further questions
21 for this witness.

22 THE COURT: Redirect, Solicitor?

23 MS. RICHARDSON: Yes, sir.

24 REDIRECT EXAMINATION OF QUANMAINE BROWN BY MS. RICHARDSON:

25 Q: Where was your cell in reference to Rivera?

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QUANMAINE BROWN - REDIRECT BY RICHARDSON

1 A: It was maybe a door or two down.

2 Q: Okay. And is this all y'all talk about or did you talk
3 about other, other things?

4 A: We talked about a few more things.

5 Q: Okay. And you had some mutual friends and people and
6 that sort of thing?

7 A: Correct.

8 Q: And, I know you had this conspiracy, drug conspiracy
9 charge, were you known a certain way as far as in the drug
10 business?

11 A: Correct.

12 Q: Tell me about that.

13 A: Well, I had a name for myself being flashy, you know,
14 selling a lot of cocaine in Andrews, Georgetown, Kingstree
15 area, Myrtle Beach, Socastee, pretty much the surrounding Pee
16 Dee areas.

17 Q: So, he thought you had money; is that what you're telling
18 me?

19 A: Correct.

20 Q: And so when he was talking with you about all this, what
21 was he trying to, to get you -- he wasn't just offering this
22 to you -- is that what -- just for no reason?

23 A: Correct.

24 Q: He was trying to get you to do something for him?

25 A: Which was bail him out.

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QUANMAINE BROWN - REDIRECT BY RICHARDSON

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1 Q: And if you bailed him out, he was gonna help you?

2 A: Correct.

3 Q: And he was telling you what he had done before to try to
4 -- to let you know that he would help you?

5 MR. EDGEWORTH: Objection, leading.

6 THE COURT: Overruled under 611.

7 BY MS. RICHARDSON:

8 Q: Is that what was going on?

9 A: Correct.

10 Q: And you gave your information a while back to the
11 Georgetown Police Department?

12 A: Yes, ma'am.

13 Q: And when did you first have discussions with my office?

14 A: I can't remember the exact date.

15 Q: But was it just a couple of months ago; do you remember
16 that?

17 A: Yes, ma'am.

18 Q: We came to see you?

19 A: Yes, ma'am.

20 Q: And is that the first time as far as the State offering
21 any or asking you to help in this trial?

22 A: Yes, ma'am.

23 Q: Okay. And you've -- when you say you hadn't been offered
24 anything, you haven't given any specific time or anything like
25 that?

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QUANMAINE BROWN - RECROSS BY EDGEWORTH

1 A: Correct.

2 Q: But the State has agreed to write a letter and just let
3 your officers know that you did cooperate?

4 A: Correct, which my prosecutor doesn't wish to make a
5 recommendation for a Rule 35(b).

6 MS. RICHARDSON: I have no further questions.

7 THE COURT: Mr. Edgeworth?

8 MR. EDGEWORTH: Sure, one, Your Honor.

9 RECROSS EXAMINATION OF QUANMAINE BROWN BY MR. EDGEWORTH:

10 Q: So, your testimony is now that the State is helping you?

11 A: I never stated that the State was helping me.

12 Q: But the State is gonna write a letter for you, correct?

13 A: Correct, but my, my prosecutor assured me that this would
14 not result into a 35(b).

15 MR. EDGEWORTH: No further questions.

16 THE COURT: Thank you. Thank you, Mr. Brown. You may
17 step down.

18 A: Yes, sir.

19 MS. RICHARDSON: Your Honor, we need to take a short
20 recess at this time.

21 THE COURT: When you say short, you want me to give the
22 Jury a break?

23 MS. RICHARDSON: Yes, Your Honor, just a short one.

24 BY THE COURT:

25 THE COURT: All right. Thank you. Thank you very much.

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1 Ladies and Gentlemen, step to your jury room. Do not discuss
2 the case during this brief recess. Hopefully about fifteen
3 minutes. Thank you. Thank you very much.

4 (REPORTER'S NOTE: Jury exits courtroom. 10:09 A.M. The
5 following takes place outside the presence of the Jury.)

6 THE COURT: There was a time in the practice of law when
7 attorneys showed respect for the Court. Perhaps that time has
8 now passed. I have no moment whatsoever with somebody
9 respecting or disrespecting me personally; I don't care. But
10 as long as I wear this, attorneys are gonna respect the
11 authority of the Court. I will not entertain another
12 objection from a sitting attorney. If you're in front of that
13 bar, you are an Officer of the Court. You should have
14 respect, you should have the proper demeanor and you should
15 show that proper respect and demeanor to this, not me, as I
16 say, I could care less. Perhaps I don't deserve your respect,
17 perhaps I don't want your respect. When I sit up here, you're
18 gonna respect this Court. Court will be in recess for fifteen
19 minutes and don't be late.

20 MR. EDGEWORTH: Your Honor, my apologies, Your Honor.

21 THE COURT: I don't want an apology.

22 (RECESS - 10:11 A.M.)

23 *****OFF THE RECORD*****

24 (On the Record - 10:29 A.M.)

25 THE COURT: Anything from the State before we bring in

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BY THE COURT

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1 our Jury? Solicitor?

2 MS. RICHARDSON: Yes. Yes, Your Honor, we have ---

3 THE COURT: All right.

4 MS. RICHARDSON: First of all, it does appear that it's
5 gonna probably be at least an all-day process for the State's
6 case to finish.

7 THE COURT: All right.

8 MS. RICHARDSON: So may we need to go ahead and address
9 everything with that juror.

10 THE COURT: All right. With Mr. Williams, is that ---

11 MS. RICHARDSON: Williams or Wilson ---

12 THE COURT: Wilson, yes. I'll -- the State's position?

13 MS. RICHARDSON: Your Honor, I believe that they will get
14 -- I believe they won't get the case until probably at least
15 lunchtime tomorrow and in both fairness to the State and the
16 Defense, I hate for them to be rushed in deliberations. I
17 think that that could be a prejudice to both. So ---

18 THE COURT: All right. Mr. Edgeworth.

19 MR. EDGEWORTH: Yes, Your Honor, I'm in agreement. I
20 think that due to the length of the trial, it's best to sit an
21 alternate if that's the Court's decision or I would -- that's
22 my request.

23 THE COURT: All right. And as an aside, Mr., Mr.
24 Edgeworth, as far as an apology, I think apologies come from
25 actions.

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1 MR. EDGEWORTH: Yes, Your Honor.

2 THE COURT: And not words. I, I get over things very,
3 very quickly because, as I heard a ninety-one-year-old, last
4 living combat pilot of World War II say the other day, you
5 never know where you're at in your cycle of life, so I don't
6 hold on to things whatsoever but behavior makes for good
7 apologies.

8 MR. EDGEWORTH: Yes, sir.

9 THE COURT: With that being said, Madam Clerk, would you
10 prepare a cup with two names in it of our two alternates and
11 select one of the two alternates as a member of our primary
12 Jury? Any objections to that procedure?

13 MS. RICHARDSON: No, Your Honor.

14 MR. EDGEWORTH: None, Your Honor.

15 THE COURT: All right. And if you get an opportunity,
16 Google Jerry Yellin, Y-E-L-L-I-N. In his recent interview
17 when he was at Iwo as the last American Combat Pilot living
18 from World War II.

19 You pick it, Madam Clerk.

20 (REPORTER'S NOTE: Clerk draws name from cup.)

21 All right. Carol Hazel will be our replacement jury --
22 juror.

23 All right. Anything else, Solicitor?

24 MS. RICHARDSON: Your Honor, the only other thing we need
25 to address about a witness will be testifying later this

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1 morning is the issue regarding the rap songs at the end of the
2 Defendant's interview.

3 THE COURT: Yes, ma'am.

4 MS. RICHARDSON: The State has agreed to end the
5 interview before that portion begins. However, there are
6 other rap songs that are contained within the interview. I
7 feel like that the rap songs aren't necessarily inadmissible.
8 I've read the case law and some case law from other
9 jurisdictions regarding that. This case is distinguishable
10 from the *Cheeseboro* case. And then in most of the recorded
11 cases involving these rap songs, they are things that have
12 been composed by the Defendant and found in his property. So
13 a concern because that he's taken -- that the person is taking
14 artistic license or fiction, you know, glamorizing something
15 even though it may be related to the facts of the case, but
16 that genre of music often includes exaggerations and slang and
17 that sort of thing and there's a danger that it wasn't meant
18 as a statement against interest but was actually meant just as
19 an artistic creation.

20 The difference in this case is that he purposely adopted
21 that. Even said record this, looked at the camera and knew
22 that it was coming in. To me that's just like if he'd adopted
23 a quote from any other -- people often use -- people often use
24 literary works and that sort of thing to express their
25 feelings. They may read a poem or cite something about

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1 different things to sort of express their own feelings but,
2 having said that, I do recognize that sort of case law. There
3 are some rap songs in the middle of the interview. I don't
4 believe Mr. Edgeworth is requesting that those be removed or
5 redacted, I believe that would disrupt the flow of the video.
6 Additionally, Your Honor, there are some statements based on
7 recent case law, particularly the Brewer case.

8 THE COURT: That's that case out of Beaufort with the
9 video, with the hearsay statements?

10 MS. RICHARDSON: And with the burden-shifting statements.

11 THE COURT: Yes, ma'am.

12 MS. RICHARDSON: There were some statements in there
13 although Mr. Edgeworth didn't raise this issue, the State's
14 concerned that a few of those statements might be construed as
15 burden-shifting, particularly we -- we, of course, had already
16 agreed to redact the portion regarding, regarding two murders.
17 But particularly there were some statements regarding, this is
18 called evidence, what I have as evidence and what you gave me
19 was your evidence. We've agreed to redact that portion that
20 says and what you just gave me was your evidence.

21 THE COURT: All right.

22 MS. RICHARDSON: And your evidence is that you don't
23 know.

24 THE COURT: All right.

25 MS. RICHARDSON: And that's just out of an abundance of

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1 caution, Your Honor.

2 THE COURT: All right. So, so if I -- to make sure I'm
3 tracking, you are not gonna offer the rap song?

4 MS. RICHARDSON: At the end, the one at the end.

5 THE COURT: All right. All right.

6 Mr. Edgeworth?

7 MR. EDGEWORTH: Yes, Your Honor, thank you. Well, our,
8 our continued objection to the admission of the -- of the
9 entirety of the video due to the, the prejudicial effect, the
10 unfair prejudice to my client because of the banter itself.
11 Obviously, there's heightened emotions and, and, and the
12 nature like that that was caused during the interrogation and
13 I think that the Jury is gonna view that improperly or receive
14 that improperly because there are intermittent references to a
15 variety of things to include the antagonistic statements from,
16 from the investigators. So, I continue to -- well, I guess
17 kinda separating my two pieces, I'm still objecting to the
18 admission of the, of the, of the video as a whole and then
19 separately, the individual components of the little rap pieces
20 that are in there. I don't know that they're so glaring that
21 as to be unfair, but certainly the last part the State's
22 already conceded that they would -- they're removing -- and
23 I've been shown the video that it has been removed along with
24 the burden-shifting statements.

25 THE COURT: All right. Well I, I, I have obviously ruled

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1 already that the voluntariness of it and, of course, the Jury
2 would be charged on it as a statement and would have to
3 determine beyond a reasonable doubt whether or not the
4 statement was voluntary. And, of course, part and parcel of
5 that would be under the totality of the circumstances of the
6 conduct of the officers. So, in my view that could cut either
7 way. As you say, heightened, heightened emotions and all, you
8 know the Jury could find that whether I found it by
9 preponderance of the evidence, which I have, that it's
10 voluntary that on the totality of the circumstances it was not
11 voluntary and that kind of gives it the entire framework for
12 the Jury to look at. So, if she, if she redacts any perceived
13 evidence shifting and has redacted the reference to, to the
14 two murders, I would agree with that, number one. Quite
15 frankly, my ruling -- I, I appreciate the State conceding,
16 consenting, what have you, to the redaction of the, the rap
17 song. Much of that talks about -- much of it is self-serving
18 hearsay, quite frankly, the whole first part is self-serving
19 hearsay and then the second part is -- whatever the name of
20 the term, Mr. Big lyrics or what have you, is obviously might
21 have been relevant for Mr. Big, but clearly it's not relevant
22 for Mr. Rivera because he wasn't -- he wasn't alive in 1986 to
23 do those various things. But the other issue I have, if you
24 look at the transcript on Page 29 where Mr. Rivera states,
25 well, we ain't answering to more questions, if you don't like

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1 that, fuck that. And as you continue on, then the -- the
2 officer begins saying, referring to the fact that he is -- let
3 me see if I can find it in my notes. On the next page of the
4 transcript, Officer Gregory states, you just invoked your
5 rights and then two lines down, it's inaudible by Mr. Rivera,
6 and then he states, you just invoked your rights and then the
7 officer two lines down, there the time is 2:14 P.M. and the
8 Defendant had, the suspect had invoked his right to counsel.
9 And of course he continues making statements towards the --
10 directed towards the officer.

11 I think from the point of view if I've got an officer in
12 the statement saying three times that he's invoked his rights,
13 that everything beyond that should be redacted and that's
14 three pages before on the transcript of the, the part where
15 Mr. Rivera is in front of the video camera by himself. And
16 most of that part, although it's not custodial interrogation,
17 Mr. Rivera is certainly sharing with the officer his opinion
18 of the officer and not, not by any -- not quoting any literary
19 source that I'm familiar with unless perhaps it's Stephen King
20 or something like that. So, I think from that point on, that
21 going forward, an officer says three times he's invoked his
22 rights; I'm not gone disagree with that. You see that part,
23 Solicitor?

24 MS. RICHARDSON: I do, Your Honor. So, are you ruling
25 the remainder of that is not ---

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1 THE COURT: From the time he says he's invoked his
2 rights, it's not. It's hard to see where the officer asked
3 any more questions to where it's a custodial interrogation
4 although he does ask him about helping him out with a lawyer
5 and such like that, but ---

6 MS. RICHARDSON: Your Honor, that would be the State's
7 position is that he initiated that ---

8 THE COURT: Well, they should've stopped it. They
9 should've stopped when he said he wanted to stop. If, if they
10 would've gone out, there wouldn't have been no more, he'd have
11 just been on the video by himself. It's four pages and it's
12 not his -- what he thinks about the police is not relevant to
13 whether he's guilty or not guilty to the crimes charged.

14 So, my ruling is from that point on, aside what y'all
15 have agreed to strike on the two murders and the burden
16 shifting, it's not admissible.

17 MS. RICHARDSON: Your Honor, that may cause us to have to
18 take a little -- a little break to redact that real quickly.

19 THE COURT: All you have to do at that point is stop it.

20 MS. RICHARDSON: Okay.

21 THE COURT: I mean, that's -- for right now, all you have
22 to do is just stop it at that point because there's nothing
23 after that point -- y'all have agreed to remove certain
24 portions of it and then I've just added, but I haven't minced
25 it, I just said, after he invoked his rights, it's not

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1 admissible. And like I say, all you have to do at that point
2 is redact it, I mean, is stop it as far as the presentation to
3 the Jury. Of course, it would have to be redacted before it
4 went back to the jury room.

5 MS. RICHARDSON: Okay.

6 MR. EDGEWORTH: Thank you, Your Honor.

7 THE COURT: And, you know, re-reading *Cheeseboro*, I
8 always thought the ruckus was much more closely related to Mr.
9 Cheeseboro's crimes, both the crimes for which he was on trial
10 for and his live testimony and I thought it bonded a lot
11 better having to do with no fingerprints, this, that and the
12 other. It was more substantive in nature as to the crimes
13 than Mr. Cheese -- Cheeseboro was on trial for. However, the
14 Court said it was error and it's harmless error. Harmless
15 error to me is kinda like collateral damage. Collateral
16 damage is still damage; harmless error is still error. And I
17 think the State is wise in agreeing, consenting or going with
18 the redaction on the, the rap song.

19 MS. RICHARDSON: Your Honor, I thought we had an
20 agreement as far as that. I just want to make it clear for
21 the record it's my understanding that Mr. Edgeworth is
22 agreeing and I -- and, of course, with Your Honor's ruling,
23 and is not objecting to the tape other than what we've agreed
24 to and what Your Honor has ruled on. Is that my
25 understanding?

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1 THE COURT: Is that correct, Mr. Edgeworth?

2 MR. EDGEWORTH: Yeah, I think that, you know, it's cut
3 out anyways by the ruling because I think based on the page
4 number, I mean, there's -- that happens afterwards anyways.

5 THE COURT: What's that?

6 MR. EDGEWORTH: I think it's incidental.

7 THE COURT: All right.

8 MS. RICHARDSON: Your Honor, I'm gonna need a chance to
9 sort of review that because we had -- I had talked with you
10 about not admitting the other interview, but I may need to do
11 that at this point so we have to address that to make sure
12 there's no objection to that under ---

13 THE COURT: There's another interview?

14 MS. RICHARDSON: That you -- there was an audio only one.
15 It's not transcribed, Your Honor.

16 THE COURT: And it's at a separate time?

17 MS. RICHARDSON: It's earlier.

18 THE COURT: Ma'am?

19 MS. RICHARDSON: Yes, Your Honor, it's a separate
20 occasion.

21 THE COURT: All right. Well, it -- I mean, if you look
22 at the bottom of -- if you look at the bottom of Page 29 after
23 he says, after Mr. Rivera says, well, we ain't answering no
24 more questions if you don't like that, then it's inaudible and
25 it says Lynn, inaudible. And then it says the statement that

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1 we ain't -- well, this interviews over then; inaudible by
2 Officer Gregory; inaudible by Officer Lynn. Mr. Rivera
3 states, I don't -- to paraphrase, I don't care. Mr. Gregory,
4 okay. Mr. Rivera, you ain't telling me why, why I, why --
5 what would, inaudible. And then Mr. Gregory, Damonte, Mr.
6 Rivera are locked up for. And then Mr. Gregory, you invoke
7 your rights, inaudible, you just invoked your rights,
8 inaudible. Time of 2:14 and the Defendant had -- the suspect
9 had invoked his rights to counsel and then Mr. Rivera calls
10 him clown for real. And Mr. Lynn, well these clowns will put
11 you away for a long time. Rivera, let you tell it and you
12 think it's a joke and it's funny. None of that's relevant to
13 his guilt or innocence. It could be relevant to his attitude,
14 but that's not relevant to whether he did or did not commit
15 the crime.

16 But you take that good cop, bad cop statement to the
17 forty-eight man, the first forty-eight. Go back -- Lynn, Go
18 back and tell them boys how hard you and come in here and said
19 I rapped a little bit, inaudible. Again, you're a clown man;
20 response, inaudible. Rivera, You got any kids man? Lynn, And
21 when you go back out the door, inaudible. Rivera, Tell them
22 kids you a, paraphrase, well you're not a man -- tell your
23 kids you're not a man and you're not what's not a man and a
24 cracker. Gregory, Shut-up, man. Rivera, Bunk that, dude,
25 he's playing with it, man. Gregory, Chill out. Be, be right

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1 back to come get you. Yo, man, that's what I need. I ain't,
2 inaudible. Gregory, this exactly what I need, yo? Gregory,
3 What's up? Man, I need to find out what's going on, yo.
4 Gregory, It's called a Rule 5, you get -- you got a lawyer;
5 you got a lawyer and then they talk this entire time about
6 applying for a lawyer. That's not relevant. Talked about
7 signing a piece of paper for the lawyer, checking on it and of
8 course, Mr. Rivera, I know you can't -- can get any newspaper
9 subscription for me. Talk about the newspaper, what they
10 write about in the newspaper. He comments down at the bottom
11 at line 613 about the, I guess he's commenting on the evidence
12 they've stated they have against him, because you don't know
13 from Mr. Gregory's question, if there was one, it's inaudible.
14 And then at the bottom of that page that I have excluded, Page
15 32, that's where it's a statement -- it's called evidence what
16 I have. It's evidence and what you just gave me was your
17 evidence. So, that -- that feathers right into what you have
18 stated y'all have redacted anyway. What evidence do you --
19 and then Gregory says your evidence -- your evidence was that
20 you don't know. So, you don't remember. So I'd already
21 excluded that in my -- before I announced my ruling, that's on
22 that page. Rivera, No, now see y'all typed that up. Y'all
23 don't never type the whole thing up. Okay. Type what the
24 video shows. That's what I want to see. That is exactly.
25 Type that up. Type these f-ing raps up.

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BY THE COURT

1 So, that's part of that's the burden shifting also. I
2 didn't -- I didn't -- quite frankly I didn't realize that
3 because I -- ruling that it's not admissible from the time he
4 invokes his rights. You've got an officer saying three times
5 he's invoked his rights. I'm not -- I mean you've got an
6 officer saying that. And none of that conversation between
7 Mr. Rivera and the officer from that point in is (a)
8 admissible or; (b) in my opinion, it's not relevant. But you
9 need some time, you have another statement?

10 MS. RICHARDSON: I -- and, Your Honor, I believe you
11 reviewed that one yesterday, but I just wanted to make sure
12 because I, because I made the *Brewer* case, I just wanted to
13 make sure there weren't any concerns and that if Mr. Edgeworth
14 wanted to raise any issues, that he could because this -- this
15 interview does reference that interview.

16 THE COURT: All right. So, what are y'all asking me to
17 do?

18 MS. RICHARDSON: If I seek to, to admit that, I will --
19 we can stop and address it before I bring it front of the
20 Jury. I just, when you made your ruling, I didn't have time
21 to sort of scan it and look at it as a whole.

22 THE COURT: All right.

23 MS. RICHARDSON: So that -- that's the only issue I had.

24 THE COURT: All right. You want to press on now,
25 Solicitor and make that decision ---

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BY THE COURT

1 MS. RICHARDSON: Yes, Your Honor, we can press on now.

2 THE COURT: All right. Thank you. Anything further,
3 Solicitor?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: Mr. Edgeworth?

6 MR. EDGEWORTH: Nothing further, Your Honor.

7 THE COURT: Let see, I got to take care of Mr. Wilson.

8 (REPORTER'S NOTE: Jury enters courtroom. 10:56 A.M.)

9 THE COURT: Mr. Wilson, if you'd just step out for me a
10 minute.

11 JUROR 168: Yes, sir.

12 THE COURT: All right. Again, thank you. Welcome back,
13 ladies and gentlemen. Thank you again for your patience. As
14 we discussed, this is Juror Number 168 and we -- we, both the
15 State and the Defense, have discussed personal issues that he
16 had as far as tomorrow that preceded the -- his call to jury
17 service and his jury service. By agreement of the parties,
18 this Court is going to release you from your jury service for
19 the remainder of the day and remainder of the week. I know
20 your colleagues will be saddened to see you leave, Mr. Wilson,
21 and be no longer blessed by your presence in the -- in the
22 jury room, I'm sure. I appreciate very much your service.

23 JUROR 168: It was a pleasure serving, Your Honor.

24 THE COURT: You never -- you never know how long these
25 things can take.

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BY THE COURT

1 JUROR 168: Yes, sir.

2 THE COURT: I have watched the jury throughout and it
3 appears to be an outstanding group of citizens that you're
4 serving with; you being among them. I am going to release you
5 from your service. I would ask you, as the trial continues
6 that no one contact you in any manner. If they do, I would
7 ask you do not speak with them until such time you've heard
8 that your former colleagues have reached verdicts in the case,
9 okay?

10 JUROR 168: Yes, sir.

11 THE COURT: All right. Thank you. Thank you for being
12 with us. Thank you for your service.

13 JUROR 168: Thank you, Your Honor.

14 THE COURT: You're now free to go.

15 I knew y'all would miss him. Personality was all over
16 him. And not that he's the only one with personality; there
17 is now thirteen others.

18 Well, I had an election after I, after I decided to
19 release Mr. Wilson and the law is very scientific and very
20 precise in selecting our alternate jurors. We don't select
21 them by which one was called first. We actually put their
22 name in a cup and pick it out. Like I say, it's very precise
23 and very, very, very scientific. Sometimes you end up picking
24 the one -- I got a fifty/fifty chance, right, each and every
25 time.

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BY THE COURT

1 With that being said, Ms. Hazel, you have been promoted.
2 You are now a member of our primary Jury and you may certainly
3 come and join your colleagues although Mr., Mr. Hendricks also
4 is one of y'all's colleagues still in the status of an
5 alternate juror.

6 With that being said, again, thank you for your continued
7 service in this case. Please continue to give the parties
8 your complete and undivided attention.

9 Solicitor, you may call your next witness.

10 MS. RICHARDSON: The State calls Trown Davis.

11 THE COURT: All right. Mr. Davis, if you'd come around
12 and be sworn for us, please.

13 TROWN DAVIS, HAVING BEEN SWORN

14 TESTIFIES AS FOLLOWS:

15 CLERK: Would you please spell your first name for the
16 Court Reporter?

17 MR. DAVIS: T-R-O-W-N.

18 CLERK: T-R-O-W-N?

19 MR. DAVIS: Uh-huh (affirmative response).

20 CLERK: Thank you very much.

21 MR. DAVIS: You're welcome.

22 COURT REPORTER: I need you to pull that chair up as far
23 as you can get it.

24 THE COURT: Keep your voice up for us also, Mr. Davis.
25 Solicitor.

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TROWN DAVIS - DIRECT BY RICHARDSON

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1 DIRECT EXAMINATION OF TROWN DAVIS BY MS. RICHARDSON:

2 Q: Mr. Davis, in what state do you reside?

3 A: I live in St. John's, Florida, the outskirts of
4 Jacksonville.

5 Q: And how long have you been there?

6 A: I've been there for about two years.

7 Q: And where were you born and raised; where did you grow
8 up?

9 A: The Bronx, New York.

10 Q: And then did you move to South Carolina at some point?

11 A: Yeah, in, I would say about 2010, I moved to Charleston,
12 South Carolina.

13 Q: And in 2012, were you housed at Georgetown County
14 Detention Center?

15 A: Yes, ma'am.

16 Q: Okay. And what sort of charges were you in there on?

17 A: I had a heroin conspiracy charge.

18 Q: And was that a charge out of Georgetown County or was
19 that ---

20 A: No, it's out of Charleston.

21 Q: And that was actually a federal charge?

22 A: Yeah.

23 Q: And when you were in Georgetown -- first of all, do you
24 know people from Georgetown?

25 A: No.

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TROWN DAVIS - DIRECT BY RICHARDSON

1 Q: And when you were there, who were you in a cell with?

2 A: Hammer and Bart.

3 Q: And you pointed to the Defendant, Damonte Rivera; that's
4 who you identified as Hammer?

5 A: Yeah. Yes, ma'am.

6 Q: And who is Bart; do you know his name?

7 A: Joshua Taylor.

8 Q: And you were in a cell with both of them?

9 A: Yes.

10 Q: And do you know what block that was?

11 A: I'm not -- I mean it was G Block, but I don't know that
12 actual cell.

13 Q: And did anything happen or you overhear anything while
14 you were in, in that cell?

15 A: Yeah, he and -- him and Bart used to, I mean, talk a lot
16 and he basically, Hammer basically said that he, who was it --
17 I froze up for a second.

18 Q: Well, let me just -- did they talk about why they were in
19 there?

20 A: Yeah, they -- okay. He was talking about his robbery
21 charge and he was basically saying that ---

22 Q: And he is which one?

23 A: Hammer. Hammer was basically saying that they don't have
24 nothing on him ---

25 MR. EDGEWORTH: Hearsay.

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TROWN DAVIS - DIRECT BY RICHARDSON

1 THE COURT: Statements of the Defendant, that would not
2 be hearsay. Exception to the hearsay rule.

3 MR. EDGEWORTH: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 A: He was basically saying that the agents, I mean, they
6 don't have anything on him and, you know, screw them and he
7 basically said the only people who can get him in trouble is
8 Shah, Dro and Keem because they drove him to the scene of the
9 robbery.

10 BY MS. RICHARDSON:

11 Q: Okay. And what did he say about that; did ---

12 A: He said, well, he said that, I mean he called them -- he
13 said if them snitches tell -- he said if them snitches tell on
14 me, I'm gonna kill them.

15 Q: And that's a phrase he used, snitch or ---

16 A: Yeah.

17 Q: And did, did he tell you or did you hear any of the
18 details of the robbery?

19 A: He said he and it's another guy, am I allowed to say his
20 name?

21 Q: Yes.

22 A: B.I. and another guy named Gucci, I don't know who that
23 is, but they went over there and they robbed -- they went over
24 there and robbed them. And he basically said that the kid,
25 Gucci, he said that he was gonna tell. He said he was gone

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TROWN DAVIS - DIRECT BY RICHARDSON

1 tell, so he said somewhere by the path -- I don't know where
2 the path is, I don't know where that is, I'm not from here --
3 He said -- he said he was gonna leave him at the path.

4 Q: And did he say what had happened at the path? What did
5 -- leave him at the path, did you hear what that meant?

6 A: It means kill him.

7 MR. EDGEWORTH: Objection as to, excuse me, objection as
8 to speculation and I move to strike, Your Honor.

9 THE COURT: There's -- I would overrule the objection.
10 I'll cite the case outside the presence of the Jury.

11 MR. EDGEWORTH: Thank you, Your Honor.

12 THE COURT: Thank you.

13 BY MS. RICHARDSON:

14 Q: And did you ever hear how he was killed?

15 A: No.

16 Q: Did he ever indicate that he had actually died or was
17 dead?

18 A: Yeah, he -- oh, yeah, he also said they don't have
19 nothing on me because a dead man can't talk.

20 Q: Now, what were you doing when they were talking about
21 this?

22 A: I mean, I was just laying down in the bed. I usually
23 just meditate with the cover over my head and try to go --
24 because the lights is on, so -- the lights is still on so I'm
25 just trying to go to sleep.

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TROWN DAVIS - DIRECT BY RICHARDSON

1 Q: Okay. And what was his demeanor when he was talking
2 about Gucci's death?

3 A: I don't know, like how he always is, he think he big and
4 he bad but, to me, he a coward, so...

5 Q: Now, did you go forward -- did you approach law
6 enforcement about this?

7 A: No. I mean, really it wasn't none of my business. I was
8 there dealing with my own case. So, I don't -- I don't want
9 nothing -- to be honest with you, I don't want to be here, you
10 know. I have my own life. I have my family, you know, I've
11 moved on with my life, you know. So, I was subpoenaed to come
12 here so that's why I'm here.

13 Q: And you actually had to go to a court hearing in Florida?

14 A: I didn't have a choice.

15 Q: And were ordered to come here?

16 A: Uh-huh (affirmative response).

17 Q: So, after you heard this information, did you remain in
18 the cell with them?

19 A: Well, I usually write my -- I usually write my fiancée,
20 but my wife now, I usually used to write her all the time.
21 So, you know, I don't really, I didn't know nobody from here
22 so, you know, I wrote down, you know, what basically happened
23 and stuff that I heard, I wrote it out in a letter and I just
24 -- I was gonna mail it out, but then, you know, I just stuck
25 it in my legal mail and held on to it. Then I moved out

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TROWN DAVIS - DIRECT BY RICHARDSON

1 because I didn't feel like dealing with the, the drama. My
2 head was at a different place, so ---

3 Q: So you wanted to move out of their cell?

4 A: Yeah.

5 Q: Okay.

6 A: I mean, yeah.

7 Q: Where, where -- and law enforcement did come to talk with
8 you about this?

9 A: Yeah, I was in transit. I had got sentenced and they
10 just popped up on me in Ocilla, Georgia.

11 Q: Okay. So, you had already -- your charges had already
12 been handled?

13 A: Yeah, I was going to do my time.

14 Q: In the federal system?

15 A: Yeah.

16 Q: Okay. And are you still in federal custody; are you
17 still in jail?

18 A: No.

19 Q: You've completed the active portion of your sentence ---

20 A: Yes.

21 Q: --- your time? Okay. I have no further questions.

22 Answer any questions Mr. Edgeworth may have for you.

23 THE COURT: Thank you, Solicitor.

24 Mr. Edgeworth?

25 MR. EDGEWORTH: Thank you, Your Honor.

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TROWN DAVIS - CROSS BY EDGEWORTH

1 CROSS EXAMINATION OF TROWN DAVIS BY MR. EDGEWORTH:

2 Q: Mr. Davis, your testimony is that you came to the
3 Georgetown County Detention Center in 2012; is that correct?

4 A: Yes, I would think late, late December 2011 to maybe
5 January, February 2012, something like that along that line.

6 Q: Okay. And do you recall when you were transferred out of
7 Georgetown County Detention Center?

8 A: I'm gonna say, roughly probably March 2013.

9 Q: Okay. And so around what time did -- if you can recall,
10 was this conversation that you say happened between Mr. Rivera
11 and Mr. Taylor?

12 A: I'm not sure. I can't recall. I usually date my letters
13 and I'm not one hundred percent sure if I dated that letter
14 before I moved out or at the time, but it could have been
15 maybe September.

16 Q: And so if the incident that we're here for occurred in
17 late August or approximately August 30th, 2012, you would
18 agree with me that if this conversation ever took place, that
19 it would have taken place after that date?

20 A: I'm not sure. What are you trying to say?

21 Q: Well, you couldn't possibly have had a conversation with
22 Mr. Rivera and Mr. Taylor before the incident occurred,
23 correct?

24 A: No.

25 Q: Okay. So, if the incident we're here for occurred on or

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TROWN DAVIS - CROSS BY EDGEWORTH

1 about August 30th, 2012, then this alleged conversation you're
2 referring to would've happened after that, correct?

3 A: Possible.

4 Q: And you were housed in what block?

5 A: G.

6 Q: And you guys were all in the same room, how is that set
7 up? Is it a small room, big room? How many people were in
8 there?

9 A: It's made for two people so one person has to sleep on
10 the floor, so pretty much closed in. We're all basically next
11 to each other. There's a bunkbed and somebody has to sleep on
12 the floor.

13 Q: So, it was you, Mr. Rivera and Mr. Taylor in one room.
14 Who was sleeping on the floor?

15 A: Hammer.

16 Q: Mr. Rivera?

17 A: Yeah.

18 Q: Okay. Well, are you familiar with something called a
19 drill down detail report?

20 A: Nope.

21 Q: Okay.

22 A: No; huh-uh (negative response).

23 Q: It's a document that says like where you're housed at the
24 detention center?

25 A: Okay.

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TROWN DAVIS - CROSS BY EDGEWORTH

1 Q: All right. So, did you know that ---

2 MS. RICHARDSON: Your Honor, I object. He's already said
3 he's not familiar with that report.

4 THE COURT: I would sustain the objection.

5 MR. EDGEWORTH: Okay. Your Honor, may we approach?

6 THE COURT: Sure. Certainly.

7 (REPORTER'S NOTE: A bench conference was held off the record
8 in the presence of but out of hearing of the Jury.)

9 BY MR. EDGEWORTH:

10 Q: My apologies, Mr. Davis. So, okay now, just so I'm
11 absolutely certain and so the Jury knows as well, it was you,
12 Mr. Fraser and Mr. Taylor in the same room when this alleged
13 conversation took place?

14 A: Yes.

15 Q: Okay. And, and that's when happened on one incident,
16 correct?

17 A: I mean, yeah, I mean we were housed there for a while.
18 So, I mean, recurring conversations. He's talking about his
19 case daily.

20 Q: Okay. Well, well, how long were y'all in the same room;
21 do you remember?

22 MS. RICHARDSON: Your Honor, I -- I -- just something we
23 may can clarify, just an objection. I believe he just mis --
24 and probably by accident, just misspoke the names of his cell
25 mates.

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TROWN DAVIS - CROSS BY EDGEWORTH

1 THE COURT: I thought so, too, but I'm never sure of my
2 hearing, Solicitor.

3 MR. EDGEWORTH: I misspoke? My apologies. I'll clarify
4 that.

5 THE COURT: All right. Thank you.

6 MR. EDGEWORTH: Okay.

7 BY MR. EDGEWORTH:

8 Q: We'll make sure so the Jury is clear. It was you, Mr.
9 Rivera and Mr. Taylor in the same room?

10 A: Yes.

11 Q: Okay. And how long were y'all in the same room?

12 A: I'm not sure.

13 Q: Was it one day or more than one day?

14 A: No, I'm pretty sure it was weeks.

15 Q: Weeks in the same room?

16 A: Uh-huh (affirmative response).

17 MR. EDGEWORTH: I have no further questions, Your Honor.

18 THE COURT: Redirect, Solicitor?

19 MS. RICHARDSON: No, Your Honor.

20 THE COURT: Step out please, ladies and gentlemen
21 momentarily; step out please. This will be very momentarily.
22 Do not discuss the case during this brief recess.

23 (REPORTER'S NOTE: Jury exits courtroom. 11:15 A.M. The
24 following takes place outside the presence of the Jury.)

25 THE COURT: Mr. Davis, you may step down.

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TROWN DAVIS - CROSS BY EDGEWORTH

1 MS. RICHARDSON: Your Honor, and I would ask that he be
2 released from his subpoena because he is under court order
3 both from South Carolina and from Florida.

4 THE COURT: All right. Any objection, Mr. Edgeworth?

5 MR. EDGEWORTH: No objection, Your Honor.

6 THE COURT: All right. Thank you. Thank you for
7 responding to the subpoena, Mr. Davis.

8 A: I didn't have a choice.

9 THE COURT: Well, you made the right choice then.

10 MS. RICHARDSON: Your Honor, if I may have just a moment
11 to make sure that we get that taken care of, just a moment?

12 THE COURT: Yes, ma'am, certainly.

13 MS. RICHARDSON: Thank you, Your Honor.

14 THE COURT: All right. Bring us our Jury, please.

15 (REPORTER'S NOTE: Jury enters courtroom. 11:22 A.M)

16 THE COURT: All right. Our Jury is back in place.

17 Solicitor, you may call your next witness.

18 MS. RICHARDSON: Your Honor, the State calls John
19 Gregory.

20 THE COURT: All right. Officer Gregory, if you'd come
21 around and be sworn for us, please.

22 JOHN GREGORY, HAVING BEEN SWORN
23 TESTIFIES AS FOLLOWS:

24 CLERK: Thank you. Would you please spell your last name
25 for the Court?

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JOHN GREGORY - DIRECT BY RICHARDSON

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1 MR. GREGORY: G-R-E-G-O-R-Y.
2 CLERK: Thank you.
3 DIRECT EXAMINATION OF JOHN GREGORY BY MS. RICHARDSON:
4 Q: Officer Gregory, where are you employed?
5 A: I'm currently employed with the Horry County Police
6 Department.
7 Q: And prior to that, where did you work?
8 A: I worked for the Georgetown City Police Department.
9 Q: Okay. And how long were you with Georgetown?
10 A: Eight years.
11 Q: And how long total have you been in law enforcement?
12 A: Approximately eleven.
13 Q: And what was your position when you left Georgetown
14 Police Department?
15 A: I was an investigator in the CID Division.
16 Q: And were you working during August and September of 2012
17 as an investigator?
18 A: I was.
19 Q: And did you assist in the investigation of the burglary
20 and robbery of the home of Walter Dozier?
21 A: I did.
22 Q: And also of the murder of Alfonso Terrell Thomas?
23 A: I did.
24 Q: Let me show you what has been pre-marked for
25 identification as State's Exhibits 106, 107, 108, 109, 110,

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JOHN GREGORY - DIRECT BY RICHARDSON

1 111, 112, 113, 14, 15 -- I guess this is an easier way to do
2 it -- through 119, if you would take a look at these and see
3 if you recognize them?

4 A: I do recognize these photos.

5 Q: Okay. And can you tell us what they are?

6 A: These are the photos from the apartment that the
7 witnesses say that the deceased subject, Mr. Rivera and his
8 Codefendant left from that night and basically this is the
9 Apartment 112, this is where they were at. And the pictures,
10 if you put them in sequence, is basically me walking back
11 towards the general area where the deceased person was found
12 and taking photos.

13 Q: So you took those pictures?

14 A: Yes.

15 Q: And then you provided them to the State on a CD or in
16 electronic form?

17 A: Yes.

18 Q: And those printed photographs that you're looking at, are
19 they an accurate reflection of the scene as you saw it that
20 day and at -- and of the photos that you took?

21 A: Yes.

22 MS. RICHARDSON: Your Honor, at this time, I move to
23 enter State's Exhibits 106 through 119 into evidence?

24 MR. EDGEWORTH: No objection, Your Honor.

25 THE COURT: State's 106 through 119 is in evidence

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1 without objection.

2 STATE'S EXHIBIT NUMBERS 106-119

3 ADMITTED INTO EVIDENCE

4 MS. RICHARDSON: And seek permission to publish it the
5 Jury, Your Honor?

6 THE COURT: You may publish.

7 BY MS. RICHARDSON:

8 Q: What's being shown on the monitor is State's Exhibit
9 Number 106. Can you tell the Jury what that is a photograph
10 of?

11 A: It is a photograph of the front door of Anthony
12 Lawrence's apartment.

13 Q: Okay. And that's at Thornton Hall?

14 A: At Thornton Hall.

15 Q: Okay. And the buildings that we see on the other side of
16 the apartment, can you tell the Jury what those are?

17 A: These are another set of apartments that are separated by
18 a ditch and kind of a gravel parking lot.

19 Q: Is that the Landing?

20 A: The Landing, yeah.

21 Q: Georgetown Landing?

22 A: Yes.

23 Q: Okay. And do you recall which street this particular
24 apartment faces?

25 A: I believe it's Lincoln Street.

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JOHN GREGORY - DIRECT BY RICHARDSON

1 Q: Okay. And is it facing the direction of the path or back
2 in the direction of the Housing Authority?

3 A: It's facing the direction of the path. The front office
4 is -- if you look at that door, it's probably twenty to thirty
5 feet -- yeah, thirty feet to your left of the door, as you
6 face the door.

7 Q: Okay. And so if you go around the building, that's ---

8 A: Yeah, that's the back, the backend of the building.

9 Q: All right. And then if you could go to the next photo
10 and that's State's Exhibit 107 and that's just another picture
11 of the ---

12 A: A clear picture of Mr. Lawrence's front door.

13 Q: Okay.

14 A: A picture of the door.

15 Q: This is State's Exhibit 108?

16 A: That's a picture of me with my back to the door taking it
17 out as the view as if you would walk out of the apartment that
18 you could see.

19 Q: Okay. And so now can you tell us where that door faces?

20 A: That door faces Lincoln Street itself.

21 Q: Okay. And those buildings?

22 A: That is the headquarters of Georgetown Housing Authority
23 that is off to your right.

24 Q: All right. And this is State's Exhibit 109; can you tell
25 the Jury what that is?

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JOHN GREGORY - DIRECT BY RICHARDSON

1 A: This is, again facing back towards, I believe that's
2 Merriman turns into Lincoln Street; it's facing it would be
3 kind of the northeast or so. That awning leads to the -- a
4 breezeway, which is where the office is at.

5 Q: Next. Again it's State's 110; I believe that's a
6 duplicate or just a closer up picture the same; does that
7 sound right or look right?

8 A: Yes.

9 Q: Okay. And the next one?

10 A: It is the corner of the building that -- again, Lincoln
11 is to your left as we're looking. Back to the right is where
12 the crime scene was at for the deceased person in the
13 direction of the crime scene.

14 Q: And that was 111. 112?

15 A: This is standing on that corner looking back towards the
16 crime scene which is somewhere in those trees on the other
17 side of the cars there directly at -- if you look at that
18 white truck, it's a green car and a white truck and the path
19 starts right there (indicating).

20 Q: Okay. And then the next one is State's Exhibit 113?

21 A: And you can -- the path kinda starts in between that
22 silver sedan and that white truck. If you look at that kind
23 of V shape, the path starts right there. You go down to the
24 ditch and come up.

25 Q: And you took that standing on the yard of Thornton Hall?

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JOHN GREGORY - DIRECT BY RICHARDSON

1 A: Yes, I walked up a little -- I walked up -- me taking a
2 couple of more steps and then taking that picture as I walked.

3 Q: State's 114?

4 A: The back side of the -- this is where their -- this is
5 where the parking lot ends. That is the trash can for the
6 apartment complex and I believe that street, if I'm correct,
7 is Legion Street.

8 Q: Okay. And 115?

9 A: Again, the end of the parking lot, Legion Street and the
10 path is right in front of it there.

11 Q: Okay. And that is the parking lot to what?

12 A: To Thornton Hall apartments.

13 Q: Okay. And 116?

14 A: The path is at the pole, that white pole; that's Legion
15 Street. Legion Street goes from being paved to gravel. That
16 pole is where you dip down and walk into the ditch and come
17 out of the ditch and the path starts.

18 Q: Okay.

19 A: The path leads from Legion Street back to, I believe,
20 Church Street.

21 Q: Okay. And I'm gonna show you what's previously been
22 marked as State's Exhibit Number Twenty-nine and is that the
23 same pole you're talking about?

24 A: Yes.

25 Q: In that photo. May I publish this to the Jury, Your

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1 Honor?

2 THE COURT: Yes, ma'am.

3 BY MS. RICHARDSON:

4 Q: And again, where are you standing when you took this
5 photo showing the entrance of that path?

6 A: I am standing at the very, almost the very edge of the
7 Thornton Hall Apartment parking lot.

8 Q: And State's Exhibit Number 117?

9 A: That's at the edge of the parking lot looking back in the
10 direction I just came to give a reference of what the view is.

11 Q: State's 118?

12 A: Me standing probably at the middle of Legion Street
13 facing the path?

14 Q: Okay. And State's 119?

15 A: That is the view back from Legion Street where the stop
16 sign is at, that's Merriman Road.

17 Q: Okay. And is the path visible in that picture?

18 A: No, the path is off to my right.

19 Q: If you go to the next one. Okay and what is that one;
20 this is State's 119?

21 A: It's just an overall, again, picture of the area to give
22 you -- I went in and I came back out to show the area itself
23 to give reference.

24 Q: And again, the pole that's visible in the center of that
25 photo, is that just a pole and you're just pointed out in

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1 State's Exhibit Number Twenty-nine?

2 A: Yes, it is.

3 Q: Okay. And in your role as investigator, did you conduct
4 any searches of the houses of the suspects?

5 A: I did the -- his Codefendant. I executed that search
6 warrant.

7 Q: Okay. And that's on who?

8 A: Anthony Fraser, I'm sorry.

9 Q: And do you recall where Mr. Fraser resided?

10 A: Where he was apprehended?

11 Q: Which house; where did you ---

12 A: I believe.

13 Q: Okay. And let me -- Your Honor, may we approach?

14 THE COURT: Yes, ma'am.

15 (REPORTER'S NOTE: A bench conference was held off the record
16 in the presence of but out of hearing of the Jury.)

17 MS. RICHARDSON: Is there any way to just turn off the
18 Jury's monitor and just have these on?

19 CLERK: I don't know how; I'll find out.

20 MS. RICHARDSON: Your Honor, Court's permission for this
21 witness to come review some photos here before we publish them
22 to the Jury?

23 THE COURT: All right. Yes, ma'am, you want him to step
24 down, look at them and ---

25 MS. RICHARDSON: Yes, Your Honor, it is for ease of ---

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1 THE COURT: Yes, ma'am, to make sure they're the right
2 ones?

3 MS. RICHARDSON: I will.

4 THE COURT: All right. Would you do that for me, please?
5 Thank you.

6 MS. RICHARDSON: And my apologies, Your Honor.

7 THE COURT: That's quite all right.

8 (REPORTER'S NOTE: Witness reviews photographs.)

9 BY MS. RICHARDSON:

10 Q: Do you, Officer Gregory, do you recognize these photos?

11 A: Yes, these are photos of the -- during the execution or
12 after the execution of the search warrant, we took pictures of
13 the house and photos of the items that were taken from the
14 house and where they were located.

15 Q: And you provided these to the State electronically on
16 compact disc?

17 A: Yes, I did.

18 Q: And is that an accurate reflection of the photos that you
19 took that day that you provided to the State?

20 A: Yes, they are.

21 MS. RICHARDSON: Your Honor, at this time, I'd seek to
22 admit these photos into evidence as a compact disc. We will
23 -- I didn't mark -- the disc is actually being used and we
24 will substitute it ---

25 THE COURT: All right.

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1 MS. RICHARDSON: We substitute that back in or they're
2 being used electronically and we'll substitute the disc in.
3 So, that would be Defendant, I mean State's 144 being offered
4 into evidence with the actual disc being substituted after
5 publication.

6 THE COURT: And how many -- how many photographs is it,
7 Solicitor?

8 MS. RICHARDSON: That disc contains twenty -- it will
9 contain twenty-four items, Your Honor, twenty-four photos.

10 THE COURT: All right. Any objections, Mr. Edgeworth?

11 MR. EDGEWORTH: No objection, Your Honor.

12 THE COURT: All right, sir. What was that number?

13 MS. RICHARDSON: We seek permission to publish this to
14 the Jury, Your Honor.

15 THE COURT: All right. And give -- what was that number,
16 Ms. Richardson?

17 MS. RICHARDSON: 146.

18 COURT REPORTER: 144.

19 MS. RICHARDSON: 144.

20 THE COURT: 144 is State's 144 is in evidence without
21 objection.

22 STATE'S EXHIBIT NUMBER 144

23 ADMITTED INTO EVIDENCE

24 THE COURT: You may publish.

25 BY MS. RICHARDSON:

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1 Q: Thank you. This is the first photo on the CD identified
2 by the number DSC01397; do you recognize that or can you tell
3 us what it is?

4 A: This, yes, I do. This is the residence of Anthony Fraser
5 at

6 Q: Okay.

7 A: In the City of Georgetown.

8 Q: And this photo, which is 1398 on the disc?

9 A: That's the, the backside of the residence.

10 Q: Okay. And 1399?

11 A: This is -- there was a attached porch that you see, this
12 is the, I guess, attic crawl space of that -- of that -- of
13 that -- that porch.

14 Q: Okay. And I'm gone flip back to 1398; do you see that
15 addition on that photo?

16 A: Yes, where you see that fiber looking material that is --
17 that's the, the deck, the added attached porch.

18 Q: Okay. And 1400?

19 A: Again the crawl space, the attic space for that.

20 Q: And do you -- looking very closely, do you see anything
21 in the crawl space?

22 A: Yes, subsequently when I looked up, when I was executing
23 the search warrant and searching, I looked -- when I got to
24 the crawl space with a flashlight, I see a set of keys and
25 that object that you see that looks like two O type things are

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1 the keys.

2 Q: Okay. And this is 1401; is that a better photo of that?

3 A: Yes.

4 Q: 1402?

5 A: The keys again located in the crawl -- in the overhead
6 space at that time, attic.

7 Q: And what did you do with these keys?

8 A: From the home invasion, some of the items that were taken
9 were keys. These keys were taken to -- what made us -- what
10 made me think that they were the keys is that the victim's
11 father owned a Hummer and there are Hummer keys that. Then
12 there was -- one of those keys, white keys is like a Hummer
13 key and then there were a lot of keys, like little lock keys
14 and his father, the victim's father also had like a food
15 truck, so I kinda thought that was it. But the Hummer keys
16 are the things that made me think that -- those keys were
17 then subsequently taken to an address where Mr. Fraser --
18 where Mr. Dozier's father was at behind the -- kind of behind
19 the police department. It's been so long since I worked in
20 Georgetown, I don't know names of streets. But the keys were
21 taken there where the Hummer was at and the keys were placed
22 inside and inside a lock of the vehicle and they opened up the
23 door. So, we determined that those were the keys. And also
24 at that point, all the keys were, were being identified by --
25 by the victim and his father.

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1 Q: Okay. And victim was Walter Dozier and his father's name
2 is?
3 A: Is, I'm sorry.
4 Q: Would it be Walter Gibson?
5 A: Yeah, Walter -- Walter Gibson. I apologize.
6 Q: Okay. Let me show you what's been marked State's Exhibit
7 Number Ten?
8 A: These are the same keys.
9 Q: Those are the same keys?
10 A: Yes.
11 Q: Thank you. And 1403?
12 A: This is Mr. Frazier's bedroom and those are shoes.
13 Sergeant Smalls at the time said that there was a clear
14 footprint of a tennis shoe on a piece of glass. So, when I
15 executed the search warrant, all the shoes that were in their
16 residence, in his room, were taken into evidence.
17 Q: Okay. And that's additional photos of the shoes?
18 A: Yes.
19 Q: 1404, 1405, same thing as 1406?
20 A: Yes.
21 Q: More pictures of shoes?
22 A: This is a dresser in Mr. Frazier's bedroom that had cell
23 phones on it?
24 Q: Okay. And those cell phones were taken into evidence?
25 A: Yes, they were.

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1 Q: And was one of those cell phones actually taken from the
2 person of Mr. Fraser?

3 A: I don't believe so. Mr. Fraser, when we -- when we
4 executed the search warrant, Mr. Fraser was shirtless with a
5 pair of basketball shorts on and when I looked up out there,
6 I'm kinda short so I have to peek up. When I peeked up into
7 the window, he saw me and we executed the search warrant. So
8 they weren't kinda on him.

9 Q: And 1408, that's just a different view of the bedroom; is
10 that right?

11 A: Yes.

12 Q: 1525?

13 A: One the phones taken. Another phone on the table and
14 another phone on this table and a set of keys.

15 Q: The same set of keys?

16 A: Yes. A pair of tennis shoes taken from the bedroom.

17 Q: Okay. 1530?

18 A: Same shoe. The bottom tread of a shoe.

19 Q: Were any shoes taken from the porch of the house; do you
20 recall?

21 A: I don't recall.

22 Q: 1532 -- and these, I will just flip through 1533, 34, 35,
23 36. Okay, and what were all of those of? Those last shoes,
24 were those just more pictures of the shoes?

25 A: Yeah, more pictures of the same shoes.

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1 MS. RICHARDSON: I'd like to have this marked for
2 identification.

3 BY MS. RICHARDSON:

4 Q: Once you've collected these items from the scene, what did
5 you do with them?

6 A: I inventoried them and vouchered them and placed them
7 into evidence at Georgetown Police Department.

8 Q: Okay. Let me show you what's been marked for
9 identification as State's Exhibit 145. And do you recognize
10 this?

11 A: Yes, this is the voucher that I completed for the items
12 that were taken.

13 Q: Okay. And has, has that been altered or changed in any
14 way? Is that an accurate reflection of that?

15 A: Yes, it is, ma'am.

16 Q: And is that kept in the normal course of business with
17 Georgetown Police Department?

18 A: Yes, ma'am, in the records section.

19 MS. RICHARDSON: Okay. Your Honor, at this time, I'd
20 offer State's Exhibit 145 into evidence?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: State's 145 is in evidence without objection.

23 STATE'S EXHIBIT NUMBER 145

24 ADMITTED INTO EVIDENCE

25 BY MS. RICHARDSON:

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1 Q: Okay. And would you just publish for the Jury which
2 items you put in -- into evidence on that voucher and where
3 they were recovered?

4 A: A pair of gray Air Jordan's, the location was the rear
5 porch; a pair of white Air Force 1's located in subject, Mr.
6 Fraser's, bedroom; a set of keys, rafter of the rear porch;
7 one blue Samsung cell phone, top of dresser in suspect's
8 bedroom; one red LG cell phone, again top dresser -- top of
9 the dresser in suspect's bedroom; and another cell phone black
10 in color located in Mr. Fraser's front right pocket.

11 Q: Does that refresh your recollection regarding where
12 everything was recovered?

13 A: Yes.

14 Q: Okay. And would that be an accurate description of where
15 the items were found?

16 A: Yes.

17 Q: And once these items were found specifically the keys, at
18 Mr. Fraser's house, did you and your department seek a warrant
19 against him regarding the home invasion?

20 A: Yes.

21 Q: And did you also seek warrants against Mr. Rivera?

22 A: Investigator -- I handled the part with Mr. Fraser and
23 Investigator Lynn handled the section with Mr. Rivera.

24 Q: And then did you at any time participate in questioning
25 of Mr. Rivera?

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1 A: Yes, upon Mr. Rivera being arrested, I interviewed Rivera
2 twice.

3 Q: Let me show you what has been -- you want me to remark
4 it?

5 COURT REPORTER: Just introduce it again.

6 Q: Has been marked previously for identification as State's
7 Exhibit Number Three?

8 A: This is standard Miranda Warning form that's used during
9 interviews at the police department.

10 Q: Okay.

11 A: Anytime you interview somebody.

12 Q: Okay. And what is that -- when is that dated?

13 A: This -- the date of this one is 9/10/2012.

14 Q: Okay. And who, who -- whose signatures are on those
15 forms?

16 A: It's Mr. Rivera's signature and my signature in the
17 waiver of rights section.

18 Q: Okay. And is that form kept in the usual course of
19 business with the Georgetown Police Department?

20 A: Yes, ma'am.

21 MS. RICHARDSON: At this time, I'd move State's Exhibit
22 Number Three into evidence?

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: State's Three is in evidence without
25 objection.

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1 STATE'S EXHIBIT NUMBER THREE

2 ADMITTED INTO EVIDENCE

3 BY MS. RICHARDSON:

4 Q: Whenever you interview someone who's been taken into
5 custody, what procedure do you use?

6 A: Normally, the interview is conducted at the police
7 department. I bring you in, I say your -- the name, what the
8 date it is, why usually, sometimes I say why you're being
9 interviewed, who's in the room, and -- and the date and time.
10 And from that point, I usually go from that to giving you the
11 Miranda warning.

12 Q: And how -- what procedure do you use for doing that?

13 A: I, I read it myself to the -- to the person and ask the
14 person do they understand it and a little added thing that I
15 would do is after I've read it, I would say keeping these
16 rights in mind, would you -- before I said keeping your rights
17 in mind would you wish to speak with me. I would have you
18 initial each one of these lines on the Miranda form stating
19 that you understood it and then I would say keeping these
20 rights in mind, do you wish to speak with me.

21 Q: And is that the procedure you used with Mr. Rivera?

22 A: Yes, it was.

23 Q: And is that what you did with the checklist on that form?

24 A: Yes.

25 Q: And if the interview is conducted at a police department,

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1 do you have the capability of audio/video recording it?

2 A: It's audio/video recorded.

3 Q: Okay. And was your interview with Mr. Rivera audio/video
4 recorded?

5 A: It was.

6 Q: And did you provide a copy of that interview to the
7 State?

8 A: I did.

9 Q: And is that also kept in the normal course of business
10 with the Georgetown Police Department?

11 A: Yes, ma'am.

12 MS. RICHARDSON: Your Honor, at this time, I'd offer
13 State's Exhibit Number 146 into evidence labeled an interview
14 of Damonte Rivera 9/10/2012. I believe Mr. Edgeworth will
15 stipulate to authentication.

16 THE COURT: Mr. Edgeworth?

17 MR. EDGEWORTH: And, Your Honor, renewing our, our
18 objection as to the admissibility of the ---

19 THE COURT: All right. What number is it?

20 MS. RICHARDSON: 146.

21 THE COURT: State's 146 is in evidence subject to
22 previous objection.

23 MR. EDGEWORTH: Thank you, Your Honor.

24 STATE'S EXHIBIT NUMBER 146

25 ADMITTED INTO EVIDENCE

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1 BY MS. RICHARDSON:

2 Q: Now, prior to this date, did you generally know Mr.
3 Rivera?

4 A: Yes, I knew Mr. Rivera.

5 Q: And were you able to ascertain whether or not he was
6 under the influence of anything at the time that he was being
7 interviewed?

8 A: Yeah, he did not appear that he was under the influence.
9 He was brought over from the jail.

10 Q: And did you ask him some questions to make sure that he
11 was understanding the procedure?

12 A: Yes, I read again the Miranda, the Miranda form. I asked
13 him his date of birth, his middle name and kinda verified his
14 social security number by asking a couple of numbers of it.

15 MS. RICHARDSON: We can put that down for a moment.

16 And, Your Honor, at this time, I seek permission to publish
17 this interview to the Jury?

18 THE COURT: Yes, ma'am, you may publish.

19 MS. RICHARDSON: All right. Madam Clerk.

20 THE COURT: Yes, ma'am.

21 *****OFF THE RECORD*****

22 (REPORTER'S NOTE: State's Exhibit Number 146 played for Jury.
23 Not transcribed herein.)

24 (On the Record.)

25 THE COURT: Thank you, Solicitor. You may ask your next

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1 question.

2 MS. RICHARDSON: May I mark these as the next two.

3 BY MS. RICHARDSON:

4 Q: Let me show you what's been marked as State's Exhibit 147
5 and 148 for identification. Do you recognize those photos?

6 A: Yes, ma'am.

7 Q: And what are they?

8 A: These are photos of Mr. Rivera's Codefendant, Anthony
9 Fraser. This is a photo of the deceased, Alfonso Thomas.

10 Q: And are those the individuals that you showed him
11 pictures of during the interrogation?

12 A: Yes, ma'am.

13 MS. RICHARDSON: Your Honor, I'd offer these into
14 evidence?

15 THE COURT: Numbers again?

16 MS. RICHARDSON: 147 and 148.

17 THE COURT: Mr. Edgeworth?

18 MR. EDGEWORTH: No objection, Your Honor.

19 THE COURT: 147 and 148 State's in evidence without
20 objection.

21 STATE'S EXHIBITS 147 AND 148

22 ADMITTED INTO EVIDENCE

23 MS. RICHARDSON: Your Honor, if I may just show these to
24 the Jury?

25 THE COURT: Yes, ma'am.

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1 MS. RICHARDSON: Just let them pass them.

2 BY MS. RICHARDSON:

3 Q: And are you familiar with -- you've already testified
4 about the phones from Mr. Fraser's house that came into
5 evidence?

6 A: Yes.

7 Q: And Mr. Rivera's phone was also taken into evidence?

8 A: I believe it was taken from the jail. I wasn't familiar
9 with -- it was taken at the jail.

10 Q: And did you participate in a process called Cellebrite?

11 A: Yes, ma'am.

12 Q: And can you tell the Jury what that is?

13 A: It is a forensic -- it's a computer system. If you're
14 familiar with, say for instance, your cell phone, you buy a
15 new cell phone and there's a little box at Verizon that they
16 transfer the data to, that is merely a transfer one. There's
17 a forensic one that allows you to capture calls, cell phone
18 calls, pictures, text messages, movies and also delete it.
19 Sometimes you can, if the phone is, say for instance an
20 iPhone, you can pretty much almost get anything off of an
21 iPhone. The less technology in the phone, the, the less
22 you've got in the phone. But it basically is a -- it allows
23 you to capture the data that is inside of a phone and take it
24 into a reportable type, type file that makes a -- sometimes
25 you can get call loss, the phone loss, again cell phone calls,

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1 incoming/outgoing text messages and so forth.

2 Q: And were you able to get pictures as well?

3 A: Yes, ma'am.

4 Q: And did, did you use some pictures as well?

5 A: Yes, ma'am.

6 Q: And did, did you use some pictures that were taken off
7 both of those cell phones?

8 A: Yes, ma'am.

9 Q: And did, did y'all at the police department print out a
10 few of those pictures?

11 A: Yes, we did.

12 Q: Let me show you what's been marked as State's Exhibit
13 149; can you recognize that?

14 A: Yes.

15 Q: Tell me what it is?

16 A: It is a photo that was on the phone, one of the phones.

17 It's Mr. Rivera and Mr. Fraser and I didn't know who the other
18 person was that's in this photo.

19 Q: Okay.

20 MS. RICHARDSON: Your Honor, at this time, I'd move
21 State's 149 into evidence.

22 THE COURT: Mr. Edgeworth?

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: State's 149 is in evidence without objection.

25 STATE'S EXHIBIT NUMBER 149

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1 ADMITTED INTO EVIDENCE

2 MS. RICHARDSON: Seek permission to publish it to the
3 Jury?

4 THE COURT: Yes, ma'am, you may publish.

5 MS. RICHARDSON: Thank you.

6 BY MS. RICHARDSON:

7 Q: And just to clarify, the taller individual in that
8 picture, who is that?

9 A: That is Mr. Fraser.

10 Q: Okay. And the one in the center?

11 A: That is Mr. Rivera.

12 Q: Okay. And did, did you participate in the interview in
13 Georgia with Trown Davis?

14 A: I did, ma'am.

15 Q: And did you call and advise them of that interview or did
16 you just show -- or did y'all show up?

17 A: Kinda showed up. Mr. Davis came into play from another
18 individual that ---

19 Q: You just got some other information?

20 A: Some information and so forth and I didn't know who Mr.
21 Davis was. And, basically, I was transporting a federal
22 inmate back and forth from the jail for the DEA and it dawned
23 on me that it was Mr. -- when I asked him what his name was,
24 he said Trown Davis.

25 Q: Okay.

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1 A: I kinda briefly asked him, I said, hey, do you know -- he
2 smiled at me and that was it.

3 Q: And then later it was after that that you went?

4 A: Yes.

5 Q: Okay. But you approached him and went to see him?

6 A: Yes.

7 Q: Okay. I have no further questions. Answer any questions
8 that Mr. Edgeworth may have for you?

9 THE COURT: Thank you, Solicitor.

10 Mr. Edgeworth?

11 MR. EDGEWORTH: Thank you, Your Honor.

12 CROSS EXAMINATION OF JOHN GREGORY BY MR. EDGEWORTH:

13 Q: Mr. Gregory, you were involved in the investigation to
14 include the executing of the search warrant on Mr. Rivera's
15 home; is that correct?

16 A: No, I was not at Mr. Rivera's home.

17 Q: But you're, you're familiar with the fact that a search
18 warrant ---

19 A: Was conducted, yes, sir.

20 Q: Okay. And, and the search warrant that was executed on
21 Mr. Fraser's home, you were able to obtain items that you
22 relate to the home invasion; is that correct?

23 A: Yes, sir.

24 Q: Okay. To your knowledge, was there any items removed
25 from Mr. Rivera's home that relate to the home invasion?

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1 A: I -- not from -- the only thing I think that was taken
2 from Mr. Rivera's home, I believe a pair of shoes.

3 Q: Well, to your knowledge, was the shoes related in any way
4 to the home invasion?

5 A: I think it might have been for the, the sample of what
6 was on the glass to compare -- for comparison.

7 Q: In order to test it?

8 A: Yes. Comparison.

9 Q: Okay. Also, we obviously just sat here and watched the
10 interview you conducted. Who was the other individual in the
11 room?

12 A: Aaron Lynn.

13 Q: He was the other investigator you spoke of earlier?

14 A: Yes, sir.

15 Q: Okay. Now, obviously you, you were present during those
16 responses. Have you -- I'm assuming you've done a lot of
17 interrogations/interviews before, correct?

18 A: Yes, sir.

19 Q: And, and wouldn't it be fair to say then that if Mr.
20 Rivera, I believe his statements to you were that he was not
21 involved or didn't know anything, that this agitation that he
22 was showing would be typical?

23 MS. RICHARDSON: Your Honor, I object. That calls for
24 speculation.

25 THE COURT: Continue and let me finish listening to the

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1 question, please.

2 MS. RICHARDSON: I'm sorry, Your Honor.

3 MR. EDGEWORTH: Yes, Your Honor, I'll just start back.

4 BY MR. EDGEWORTH:

5 Q: You've interviewed a lot of people, correct?

6 A: Yes, sir.

7 Q: Okay. Investigated a lot of crimes?

8 A: Yes, sir.

9 Q: Okay. Do you believe you've interviewed people who
10 ultimately you decided had not done the crime?

11 A: Yes.

12 THE COURT: I don't think that would be admissible. What
13 other people have said and what he thought about what other
14 people said is not relevant in this case. So, I would sustain
15 that objection.

16 MR. EDGEWORTH: Okay.

17 THE COURT: You may ask your next question, of course.

18 MR. EDGEWORTH: Oh, okay. Certainly, Your Honor. I was
19 -- okay.

20 BY MR. EDGEWORTH:

21 Q: But you interviewed Mr. Rivera?

22 A: Yes.

23 Q: And you received his reaction, correct?

24 A: Yes.

25 Q: Okay. Is that a typical reaction for someone who

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1 believed they didn't do a crime?

2 THE COURT: It's not -- you have to rephrase your
3 questions. How, how another person may act may be totally
4 atypical to how Mr. Rivera may act. It's not how another
5 person acts, it's how -- he can testify as to his observations
6 of Mr. Rivera.

7 MR. EDGEWORTH: Absolutely.

8 BY MR. EDGEWORTH:

9 Q: Did you perceive him as being agitated?

10 A: Mr. -- he was agitated, not at me, I think he and Mr. --
11 he and Investigator Lynn might've had some issues with each
12 other, but there was some tension between the two of them.

13 Q: Okay. And but you're saying that the tension wasn't
14 necessarily between you and he?

15 A: No.

16 Q: Okay. Now, are you familiar with, excuse me -- my
17 apologies, Your Honor. All right. I'm just redirecting my
18 questions here. During the course of the investigation, you
19 worked with Mr. Lynn?

20 A: Yes.

21 Q: Okay. And he was there with you for -- or y'all took
22 different paths, taking different ---

23 A: I took different paths. I was assigned the home invasion
24 part of it and he was assigned the murder part of it.

25 Q: Now and then at that point, did there come a time where,

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1 where to your knowledge that, that he became no longer
2 employed by the Georgetown PD?

3 MS. RICHARDSON: Your Honor, I'm gonna object at this
4 point. I think we may have to take this up outside the
5 presence of the Jury.

6 THE COURT: All right. Step out please, momentarily,
7 ladies and gentlemen. Do not discuss the case during this
8 brief recess. Step to your jury room, please.

9 (REPORTER'S NOTE: Jury exits courtroom. 12:37 P.M. The
10 following takes place outside the presence of the Jury.)

11 THE COURT: All right. Solicitor.

12 MS. RICHARDSON: Your Honor, at this time I'd ask that
13 Mr. Edgeworth proffer or we outside of the presence of the
14 Jury, the information that he's seeking to gain. This does
15 involve a personnel matter but I believe it's gonna be matters
16 outside of the scope of the knowledge of this officer.

17 THE COURT: All right.

18 Mr. Edgeworth?

19 MR. EDGEWORTH: I'm unclear as to what I'm asked to do.
20 I mean, I can certainly proffer the information but I believe
21 it's certainly relevant because I also believe that the
22 individual or at least I suspect, I haven't confirmed it with
23 the State, that they do not intend to call that individual as
24 a witness in this case. So, the only way that I can elicit
25 this information is, is by other investigator's first-hand

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1 information.

2 THE COURT: Well, let me hear what you're trying to ---

3 MR. EDGEWORTH: Certainly.

4 THE COURT: --- elicit?

5 MR. EDGEWORTH: I was simply gonna ask, Your Honor -- ask
6 him the question, the line of questioning?

7 THE COURT: Yes, sir.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 PROFFER EXAMINATION OF JOHN GREGORY BY MR. EDGEWORTH:

10 Q: Mr. Gregory, did you work with Mr. Lynn?

11 A: I did, sir.

12 Q: And you're familiar -- are you familiar with both sides
13 of the investigation being the home invasion and the -- and
14 the murder?

15 A: Yes, sir.

16 Q: Okay. Did there -- did there come a time when Mr. Lynn
17 was no longer working for the police department?

18 A: There was.

19 Q: All right. Do you know the circumstances by which he
20 became unemployed?

21 A: I do.

22 Q: Okay. Is it true that a -- the bullet in question in
23 regards to this case was lost?

24 A: It was.

25 Q: And did there become circumstances in which an

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1 investigation took place as to how the bullet got lost?

2 A: Yes, sir.

3 Q: Okay. And at the conclusion of that investigation, to
4 your knowledge, was, was Mr. Lynn terminated?

5 A: Yes, sir.

6 MR. EDGEWORTH: And that would be the length of my
7 questions, Your Honor.

8 THE COURT: All right. Thank you. Thank you, Mr.
9 Edgeworth. All right.

10 Solicitor?

11 MS. RICHARDSON: Just a moment, Your Honor. Can I follow
12 up on that prior to the Jury coming back in, Your Honor?

13 THE COURT: Yes, ma'am, if you would like.

14 MS. RICHARDSON: Okay.

15 PROFFER EXAMINATION OF JOHN GREGORY BY MS. RICHARDSON:

16 Q: Do you know whether he was fired or whether he resigned?

17 A: To be honest with you, he was no longer employed. So, I
18 can neither say that he was terminated or he resigned. He
19 just ceased to work with me at the police department.

20 Q: Okay. But you weren't privy to the personnel issue?

21 A: No. The exact, the exact terminology of fired or
22 terminated; I was not privy to that.

23 MS. RICHARDSON: Okay. And, Your Honor, that was the
24 State's objection as to the actual personnel decision that he
25 would lack personal knowledge in that regard.

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1 BY THE COURT:

2 THE COURT: All right. All right, Solicitor.

3 Tell me how -- what's the relevancy of this, the fact
4 that an officer, former officer of the Georgetown Police
5 Department that was assigned to investigate a case that at
6 some unknown timeframe after he was assigned to investigate
7 the case, a bullet involved in that case was lost. A bullet
8 that if it's lost, I assume it's not going to be admitted into
9 evidence. Thereafter there was an investigation. I don't
10 know the results of the investigation, but thereafter the
11 officer was no longer employed there. How does that make any
12 fact an issue as far as the guilty or the innocence of Mr.
13 Rivera relevant?

14 MR. EDGEWORTH: Well, Your Honor, it's -- to my knowledge
15 and, and I'll certainly lean on the State here if I misspeak,
16 but the bullet was lost as it was being returned back from the
17 autopsy and ---

18 THE COURT: But, but that's not -- that's not what I'm
19 ruling on.

20 MR. EDGEWORTH: Sure.

21 THE COURT: I'm ruling on what has been asked of him,
22 what testimony has been proffered. I can't say well in that
23 case it's admissible. That hasn't been offered. I'm ruling
24 on the questioning by you and the responses by the detective
25 here, Detective Gregory. I -- nothing else is before me. I

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1 can only rule on what's before me. I can't rule on what your
2 knowledge is or what Ms. Solicitor's knowledge is. I got to
3 rule on what I can let the Jury hear or not hear from the
4 testimony of the sworn witnesses.

5 MR. EDGEWORTH: Yes, Your Honor.

6 THE COURT: That's all I can rule on. I don't, I don't
7 know -- that's what I don't understand. If you, if you'll
8 explain it to me, I'm certainly not saying -- well, right now
9 I'm saying I don't understand the relevancy is what I'm
10 saying.

11 MR. EDGEWORTH: Well, Your Honor, I guess my position is
12 simply nothing more than I don't believe that the other
13 witness is gonna be called and I need to elicit the testimony
14 from someone who has knowledge that, of these facts.

15 THE COURT: Well, you -- you've already put evidence in.
16 You've put in Defense One and Two. I don't know -- and of
17 course Mr. Rivera has a constitutional right to subpoena
18 witnesses to testify.

19 MR. EDGEWORTH: Yes, Your Honor.

20 THE COURT: In his, in his own behalf. I still don't
21 know what the relevance is. If I go to Rule 401, relevant
22 evidence means evidence having any tendency to make the
23 existence of any fact that is of consequence to the
24 determination of the action more probable or less probable
25 than it would have been without the evidence. And how is the

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1 fact that an officer lost -- that there was an investigation
2 and an assigned officer on the case, the investigation went
3 into a bullet being lost and then, at some point in time, the
4 officer was no longer employed there -- how is that of any
5 consequence to the determination of this action of whether or
6 not Mr. Rivera is guilty beyond a reasonable doubt or not
7 guilty? That's, that's, that's a dot I'm not able to connect.
8 I'm not tracking.

9 MR. EDGEWORTH: Yes, Your Honor. And, and the Defense's
10 position would be that, that, that it shows that there was
11 some flaws in the investigation which include, if we're asking
12 the Jury to reach a conclusion that, that they've reached --
13 they're also reaching a conclusion that Mr. Rivera is guilty
14 of a crime.

15 THE COURT: Now, ha, that's a great issue because that's
16 the progeny of *Brady v. Maryland*. If you're questioning him
17 as to the quality of the investigation, that's, that's a --
18 that's a different matter. That's a different matter. You
19 can, you can certainly -- quality of an investigation is
20 always relevant in a case. I'm not too sure you need the
21 personnel issue to do that though, Mr. Edgeworth.

22 What about that, Solicitor?

23 MS. RICHARDSON: Your Honor ---

24 THE COURT: What about the fact if he says was there a
25 bullet recovered in this case and what was the result of the

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IN THE COURT OF APPEALS

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R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

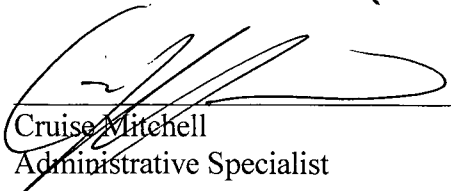
DAMONTE RIVERA,

APPELLANT

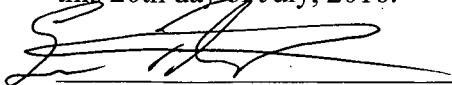
APPELLATE CASE NO. 2015-002292

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Damonte Rivera #345876 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 20th day of July, 2016.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of July, 2016.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.